



Subject: Public Meeting Report for Official Plan and Zoning By-law Amendments to the Mineral Aggregate Operation Policies, Files D09-01-20 and D14-03-20

To: Council - Public Meeting

From: Development and Legislative Services Department

Report Number: 2022-157

Meeting Date: July 19, 2022

Recommendation:

That Development and Legislative Services – Planning Division Report 2022-157 be received for information.

Purpose:

The purpose of this report is to provide Council with information regarding proposed changes to the Mineral Aggregate and Petroleum Resources designation of the Official Plan and changes to Mineral Aggregate regulations under Zoning By-law 6575/30/18. The entire municipal boundary of Port Colborne is subject to the proposed amendments.

Background:

As Council is aware, there has been significant public interest in the Mineral Aggregate Operation Zone of the Zoning By-law in relation to the provisions of asphalt and concrete manufacturing.

In response to Council direction and the public interest, proposed amendments were brought forward to Council in late 2020 and early 2021, however the reports were deferred due to concerns raised by Council and public stakeholders.

In the spring of 2021, the City retained an independent planning firm, NPG Planning Solutions, to research and present a recommended approach to amending the policies and provisions of the Mineral Aggregate sections of the Official Plan and Zoning By-law. It should be noted that staff have been working closely in consultation with NPG to bring

forward these proposed amendments. Proposed amendments were presented to Council through a Public Meeting on January 18, 2022. The Public Meeting allowed NPG, staff, and Council to receive comments and submissions on the amendment presented at the time.

Following the public input, NPG Planning Solutions has presented a revised approach on the proposed amendments. Due to the nature of the changes, it is necessary to hold a subsequent Public Meeting. The revised approach can be summarized as follows:

Changes to the Official Plan:

- Amend Section 10: Mineral Aggregate and Petroleum Resources to require a Zoning By-law Amendment to permit Mineral Aggregate Related Uses such as: Asphalt/Concrete Plants, Aggregate Plants/Depots and Asphalt Recycling when proposed as a principal use.
- New criteria is proposed to be added to the Official Plan that will provide direction on the evaluation of potential site-specific Zoning By-law Amendments for a Mineral Aggregate Related Use such as:
 - The protection of the environment;
 - The protection of ground water; and
 - The separation from sensitive land uses.

Changes to the Zoning By-law:

- Add a new General Provision (subsection 2.27 - Uses Related to Mineral Aggregate Operation) which establishes specific provisions that apply to new stand-alone Mineral Aggregate Related Uses such as:
 - Minimum separation of 300 metres from any residential use;
 - The use shall be enclosed by a security fence or located within a fireproof building; and
 - The use shall be subject to site plan control.
- Amend the existing Mineral Aggregate Operation (MAO) Zone to include a specific list of permitted accessory uses (new subsection 28.4).
- Add definitions for each accessory use.

The specific amendments are explained in further detail through NPG's Update Memo found in Appendix A to this report.

Internal Consultations:

The Notice of Open House and Public Meeting was circulated on June 9, 2022, to internal departments and agencies. As of the date of preparing this report, no comments have been received.

Public Engagement:

A virtual Open House for these proposed amendments was held on June 27, 2022. A presentation was provided by NPG and questions and comments were received from the public. The Open House was attended by roughly a dozen members of the public.

The Notice of Open House and Public Meeting was provided in the Niagara This Week newspaper on June 9, 2022, as well as circulated to all members of the public that have commented or provided submission on these files thus far. Also, copies of the proposed amendments and NPG's Update Memo have been available for public review on the City's website under "Current Applications" since June 9, 2022. As of the date of preparing this report, the following new comments have been received by members of the public. It is noted that the comments received previously and the responses to them can be found in NPG's Update Memo-Appendix A.

Barb and Larry Butters – 1152 Weaver Road

- Concerns with the protection of the aquifer.
- The lens of protection of the important source of water should always be looked through first and this should be reflected in the proposed amendments.

Thomson Rogers Lawyers on behalf of Port Colborne Quarries

- Requests some updated wording in the proposed amendments regarding the D6 guideline minimum setbacks.
- Requests rewording the definition for Mineral Aggregate Related Use

Jack Hellinga – 770 Highway 3

- Would like the City and NPG to be aware of a reference under Ontario Regulation 466/20 under the Aggregate Resources Act, restricting recyclable asphalt from being stored within 30m of a body of water, or within two metres of the groundwater table.

A summary of the new concerns raised at the Open House, in addition to the above comments in full, have been provided in Appendix D. As mentioned above, comments received on the January 2022 rendition of the amendments along with responses can be found in NPG's Update Memo-Appendix A.

Discussion:

Planning Documents

This application will be reviewed under the consideration of several publications of planning legislation and policy including the *Planning Act*, R.S.O., 1990, as amended, the *Provincial Policy Statement (2020)*, *A Place to Grow: Growth Plan for the Greater*

Golden Horseshoe (2019), the Regional Official Plan, the City of Port Colborne Official Plan and the City of Port Colborne Comprehensive Zoning By-law 6575/30/18.

Planning Act

Section 2 of the *Planning Act* outlines matters of provincial interest.

Section 3 of the Act requires that, in exercising any authority that affects a planning matter, planning authorities “shall be consistent with the policy statements” issued under the Act and “shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be”.

Section 21 of the Act allows for the consideration of an Official Plan Amendment (OPA).

Section 34 of the Act allows for the consideration of a Zoning By-law Amendment (ZBA).

Provincial Policy Statement (2020)

The *Provincial Policy Statement (PPS)* provides policy direction on matters of provincial interest related to land use planning and development. The PPS provides for the long-term protection of mineral aggregate and petroleum resources and limits what can and cannot be done in areas with known resources. It is important to note to Council that the following definition for a Mineral Aggregate Operation is provided as follows:

Mineral Aggregate Operation: means

- a) lands under license or permit, other than for wayside pits and quarries, issued in accordance with the Aggregate Resources Act;*
- b) for lands not designated under the Aggregate Resources Act, established pits and quarries that are not in contravention of municipal zoning by-laws and including adjacent land under agreement with or owned by the operator, to permit continuation of the operation; and*
- c) associated facilities used in extraction, transport, beneficiation, processing or recycling of mineral aggregate resources and derived products such as asphalt and concrete, or the production of secondary related products.*

This definition allows for associated facilities used in extraction, transport, beneficiation, processing or recycling of mineral aggregate resources including the production of asphalt and concrete. These associated uses alongside a mineral aggregate operation are permitted under the current Provincial policy direction. The amendments proposed are only proposed to amend the requirements for associated facilities when they are proposed as a principle use on a site.

These proposed amendments will be further evaluated under section 2.5 of the PPS through the formal recommendation report.

Growth Plan for the Greater Golden Horseshoe (2019)

Much like the PPS, the Growth Plan directs municipalities to develop and implement policies and other strategies to conserve mineral aggregate resources. These proposed amendments will be evaluated under section 4.2.8 of the Growth Plan through the formal recommendation report.

Niagara Region Official Plan

Chapter 6 of the current in-force Niagara Region Official Plan (ROP) provides further policy direction to implement Provincial objectives for Mineral Aggregate Operations. It is also noted that Schedules D1, D2, and D3 of the ROP identify potential resource areas across the Region and local municipal official plans are required to conform to the schedules and policies of the ROP. City Planning staff will look to formal comments provided by Regional Planning staff on these proposed amendments to comment on conformity to the ROP. These formal comments will be included as part of the future recommendation report and will represent an important piece of staff's recommendation on these amendments. City staff will also review and analyze the relevant policies to ensure conformity to the ROP in the future recommendation report.

City of Port Colborne Official Plan

The proposed amendment to the Official Plan proposes to require site-specific Zoning By-law Amendments when a Mineral Aggregate Related Use is proposed as a principle use on a site and not proposed alongside a mineral aggregate operation. Stand-alone associated facilities subject to a site-specific Zoning By-law Amendment would be evaluated against new criteria established in the Official Plan and be directed to the City's existing Industrial Areas. The proposed amendment in full can be found in Appendix B. The proposed amendment does not change the City's current policies for Mineral Aggregate Operations, as defined, which under Provincial policy direction allows associated facilities such as asphalt and concrete processing for example, when established alongside a mineral aggregate operation.

City of Port Colborne Zoning By-law 6575/30/18

The proposed amendment adds a new General Provision (subsection 2.27 - Uses Related to Mineral Aggregate Operation) which establishes specific provisions that apply to new stand-alone Mineral Aggregate Related Uses. These represent the base general provisions which would apply to a new principal use, permitted by site-specific Zoning By-law Amendment, in an Industrial Zone category. The proposed amendment in full can be found in Appendix C.

Financial Implications:

There are no financial implications.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
 - Governance: Communications, Engagement, and Decision-Making
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Conclusion:

Planning staff are not providing a recommendation on the proposed Official Plan and Zoning By-law Amendments at this time in order to allow all agency, public and Councillor comments to be received and considered prior to a decision being made. The recommendation report will return to a future regular meeting of Council.

Appendices:

- a. NPG Planning Solutions – Project Update Memo and Previous Public Comments
- b. Draft Official Plan Amendment
- c. Draft Zoning By-law Amendment
- d. New Public Comments

Prepared by,

David Schulz, BURPI, MCIP, RPP
Senior Planner
(905) 835-2900 x202
david.schulz@portcolborne.ca

Respectfully submitted,

Denise Landry, MCIP, RPP
Manager of Planning Services
(905) 835-2900 x203
denise.landry@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.