

Public Comments and Responses – Mineral Aggregate Operations

Official Plan and Zoning By-law Amendments – Files D09-01-20 & D14-03-20

Note: Comments have been summarized in the chart below. The full comments can be found in the pages following the chart.

Commentor	Comment	Response
Barbara and Larry Butters – 1152 Weaver Road – Comment 1	Concerns respecting the vulnerable aquifer. The answer is to protect the aquifer as it is an important source of water for rural residents, farms, businesses etc.	Thank you. The comment has been noted and will be considered through the preparation of the final drafts of the amendments.
Thomson Rogers LLP on behalf of Port Colborne Quarries Inc. – Comment 1	Would like further confirmation that Special Provision MAO-38-H will not be impacted as a result of this application.	This is correct. The amendments will not impact or remove this existing approval.
Thomson Rogers LLP on behalf of Port Colborne Quarries Inc. – Comment 2	Suggest revised wording with respect to the D6 Guidelines and the required separations from sensitive land uses.	This comment has been noted.
Thomson Rogers LLP on behalf of Port Colborne Quarries Inc. – Comment 3	Suggest revised wording for the definition of Mineral Aggregate Related Use.	This comment has been noted.
Thomson Rogers LLP on behalf of Port Colborne Quarries Inc. – Comment 4	The comments above apply equally to section 2.27 (a) (i) of the ZBA.	This comment has been noted.
Thomson Rogers LLP on behalf of Port Colborne Quarries Inc. – Comment 5	Note that section 28.4 is redundant given that all of the permitted accessory uses listed in [section 28] would be permitted in any event given the definition of Mineral Aggregate Operation in the parent Zoning By-law.	This comment has been noted.
Jack Hellinga – 770 Highway 3 – Comment 1	Provides excerpts from Ontario Regulation 466/20	Thank you. The comment has been noted and will be

	under the Aggregate Resources Act respecting the storage of recyclable asphalt within 30 metres of a body of water or within two metres of the groundwater table.	considered through the preparation of the final drafts of the amendments.
Jack Hellinga – 770 Highway 3 – Comment 2 (oral at Open House)	Concerns with respect to the definitions for ancillary and accessory not being interchangeable. Precise identification should be provided.	Thank you. The comment has been noted and will be considered through the preparation of the final drafts of the amendments.
Jack Hellinga – 770 Highway 3 – Comment 3 (oral at Open House)	Concerns with the separation distances proposed required from sensitive uses. Suggested to specify that it is measured between property lines of sensitive land uses.	The comment has been noted and will be considered through the preparation of the final drafts of the amendments.
Jack Hellinga – 770 Highway 3 – Comment 4 (oral at Open House)	Suggests the definition of MAO should be revisited to only include virgin aggregate and not off-site imported materials.	Comment received.
Jack Hellinga – 770 Highway 3 – Comment 5 (oral at Open House)	Clarification related to the history of the application.	Comment received.
Harry Wells – 548 Highway 3 – Comment 1 (oral at Open House)	Question regarding the highly vulnerable aquifer included in the new Regional Official Plan.	Mary Lou Tanner provided a response at the Open House, however, further follow up may be required.
Harry Wells – 548 Highway 3 – Comment 2 (oral at Open House)	Question regarding the site alteration by-law update and potential tools that may be able to be used to protect the aquifer.	David Schulz provided a response that the site alteration by-law will be brought up to speed with new Ontario Regulations, however, further follow up may be required.
Gary Gaverluk – 21 Woodside Drive – Comment 1 (oral at Open House)	Question pertaining to prohibited uses and including asphalt and concrete recycling within them.	Response provided by Mary Lou Tanner of where these uses can and cannot take place under provincial policy.

David Schulz

From: Barbara Butters [REDACTED]
Sent: June 15, 2022 8:09 AM
To: David Schulz
Subject: Re: D09-01-20 & D14-03-20 Notice of Open House & Public Meeting - Mineral Aggregate and Petroleum Resources - Proposed OPA & ZBA - City of Port Colborne

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Thank you David . We will be away but will add my comment here if thats ok .

My main concern has been , will always be - how do we protect the aquifer ? Do we allow more activity below the water table in any pit that has the potential to contaminate the aquifer ? If the answer is no - we do not allow more than presently there , if the answer is that we always look thru the lens of protection of this important source of water to rural residents , businesses , farms and wildlife first , then demonstrate that in the language of city documents . Which includes Official Plan , zoning etc . Be very clear that this will be the determining factor in any development piece . Anything less puts our water source at dire risk .

My thanks for the opportunity to comment .

Barbara and Larry Butters
1152 Weaver rd
Port Colborne Ont L3K5V3

THOMSON ROGERS

LAWYERS

David N. Germain

SENT BY EMAIL

June 24, 2022

Mayor Steele and Members of City Council
c/o Mr. David Schulz, Senior Planner
City of Port Colborne
66 Charlotte Street
Port Colborne ON
L3K 3C8

Dear Mayor Steele and Members of Council:

**City of Port Colborne Proposed OPA and ZBA re: Mineral Aggregate Operations
City Files D09-01-20 and D14-03-20
Port Colborne Quarries Inc. re Land Use Approvals
Our File No. 500725**

We are the solicitors for Port Colborne Quarries Inc. ("PCQ") which owns and operates the Port Colborne Quarry in the City of Port Colborne.

We are writing to provide submissions on behalf of PCQ regarding the City's proposed official plan amendment ("OPA") and zoning by-law amendment ("ZBA") dealing with mineral aggregate related uses. We request that these submissions be provided to members of City Council in advance of the public meeting on these amendments, which we understand is scheduled for July 19, 2022. We also request that notice of any decision made by Council with respect to these amendments be provided to the undersigned as well as to Mr. David Sisco at [REDACTED].

General Comments

This letter follows previous comments made on behalf of PCQ by Mr. Sisco, in a letter dated Oct. 2, 2020 as well as by my colleague Mr. Wilker in letters dated Nov. 3, 2020, Dec 11, 2020, Feb 5, 2021 and March 8, 2021. It also follows a telephone conference held between representatives of PCQ and the City's planning consultants on January 5, 2022.

By email dated January 6, 2022, the City's planning consultants confirmed that the intent of the OPA and ZBA is not to impact existing operations, permissions already in place (including Special Provision MAO-38(H)), or applications currently being processed. This is appropriate and should be confirmed in the forthcoming planning report. Our client will be relying on this confirmation.

The Proposed OPA

The proposed policy 3.16.20(a) requires that Mineral Aggregate Related Uses, as the principal use of a lot, be located a minimum of 300 metres from any residential use. We understand that this minimum separation distance is based on the MECP's D6 guideline. This policy should permit flexibility where it can be demonstrated, through site specific studies, that mineral aggregate related uses can be located closer to residential uses while meeting all applicable standards. Without such flexibility, the policy is arbitrary and not science-based. We note that the D6 Guidelines are themselves implemented flexibly where site-specific studies justify a departure from the rules of thumb set out in the guideline. We therefore request the following revised wording:

- a) The use, excluding offices and parking shall be located a minimum of 300 metres from any residential use, except where the proponent demonstrates through site specific studies that this separation distance can be reduced while maintaining compliance with all applicable standards.*

The definition of Mineral Aggregate Related Uses is ambiguous, in that it does not clearly exclude all such uses undertaken in association with a Mineral Aggregate Operation. We understand that the City's intent is that this definition should apply only to stand-alone uses. We therefore request rewording the relevant definition as follows:

Mineral Aggregate Related Use: means uses such as Asphalt Plan, Permanent; Asphalt Plant, Portable; Concrete Plants; Aggregate Depots; Recycling of Asphalt; and/or Aggregate Plants where any such use is undertaken a principal use of a lot. A Mineral Aggregate Related Use does not include any use undertaken in association with a Mineral Aggregate Operation.

This change is required to resolve uncertainty that would otherwise result from overlap between this definition and the definition of Mineral Aggregate Operation in the parent Official Plan. It is also necessary to ensure that the Official Plan is not rendered inoperative pursuant to s. 66 of the *Aggregate Resources Act*.

The Zoning By-law Amendment

Our comments regarding policy 3.16.20(a) in the Official Plan amendment apply equally to s. 2.27(a)(i) of the ZBA. We therefore request the same revised wording as above.

We note that the proposed s. 28.4 is redundant given that all of the permitted accessory uses listed in this section would be permitted in any event pursuant to part (b) of the definition of Mineral Aggregate Operation in the parent Zoning by-law.

Conclusion

We trust the foregoing is satisfactory. We would be pleased to have further discussions with City staff or planning consultants as required.

Yours very truly,



David N. Germain

DNG/dng

cc: Client
David Sisco, IBI Group
Amber LaPointe, City Clerk

David Schulz

From: Jack Hellinga [REDACTED]
Sent: June 28, 2022 2:01 PM
To: David Schulz
Subject: References for OP and ZBL Amendments to MAO Ancillary Uses

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Afternoon David,

Below is **the reference** I made at the Open House last evening regarding asphalt storage and processing within 2 metres of the groundwater table. This should be specifically stated in the OP and ZBL amendments. Only part of O.Reg. 466/20 is copied.

ONTARIO REGULATION 466/20

made under the

AGGREGATE RESOURCES ACT

(2) Subsection 0.13 (1) of the Regulation, as made by subsection (1), is amended by adding the following paragraphs:

- 26. Only scrap generated directly as a result of the aggregate operation may be stored on the site.
- 27. All fluid shall be drained from any discarded equipment, machinery or motor vehicle prior to storage and disposed of in accordance with the *Environmental Protection Act*.
- 28. A licensee or permittee shall take all reasonable measures to prevent fly rock from leaving the site during blasting if a sensitive receptor is located within 500 metres of the boundary of the site.
- 29. Recyclable asphalt shall not be stored within 30 metres of a body of water or within two metres of the groundwater table.**
- 30. Recyclable asphalt and recyclable concrete shall not be stored on a site where the site plan does not permit processing of materials.
- 31. Rebar or other structural metal shall be separated from recyclable aggregate material during processing.
- 32. Recycling activities on the site shall not interfere with the operational phases of the site or with the rehabilitation of the site.

Respectfully,
Jack S Hellinga