



PORT COLBORNE

**Subject: Proposed Official Plan and Zoning By-law Amendment –
Port Colborne Quarries Pit 3 Expansion – Files: D09-02-21
& D14-09-21**

To: Council - Public Meeting

From: Development and Legislative Services Department

Report Number: 2023-42

Meeting Date: March 7, 2023

Recommendation:

That Development and Legislative Services Department – Planning Division Report 2023-42 be received for information.

Purpose:

The purpose of this report is to provide Council with information regarding applications received for proposed Official Plan and Zoning By-law Amendments to facilitate the expansion to the Port Colborne Quarries' ("PCQ") Pit 3.

Background:

Applications

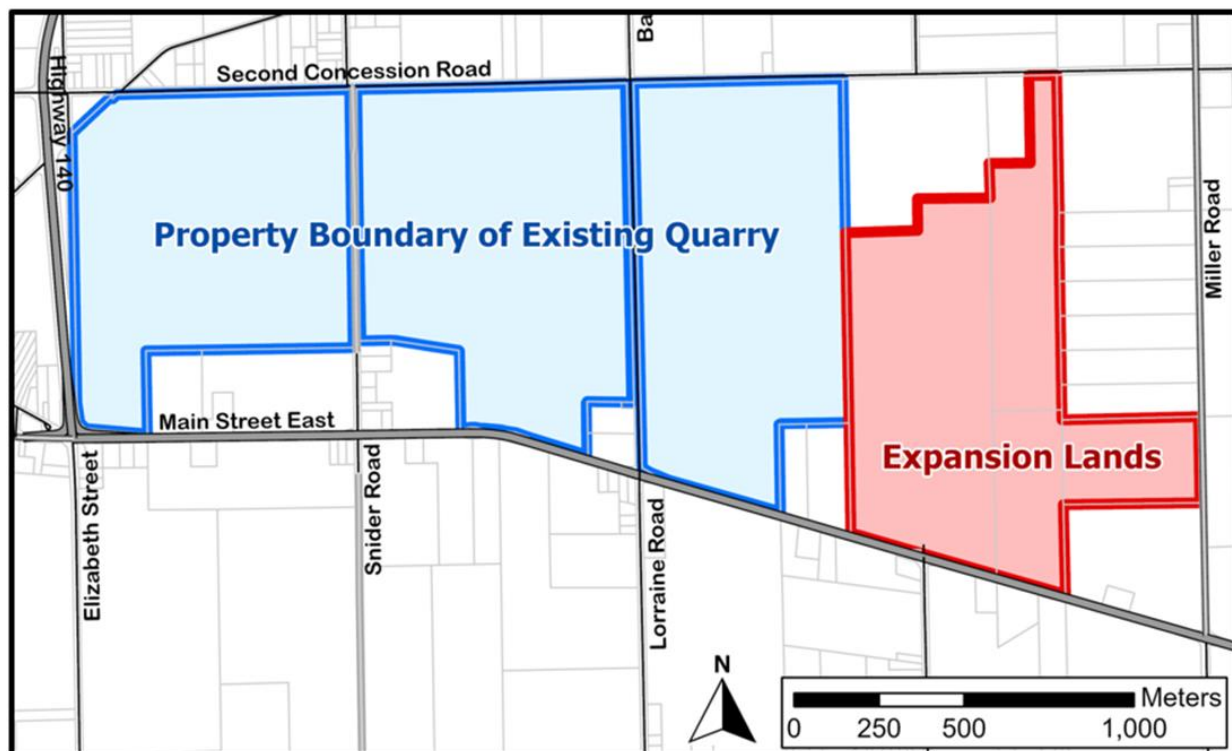
The City of Port Colborne (the "City") received applications for Official Plan and Zoning By-law Amendments on March 17, 2021. The applications were deemed complete on July 8, 2021. A public open house was held jointly with the Niagara Region (the "Region") on September 9, 2021, to hear comments from interested members of the public. Port Colborne Quarries Inc. is represented by their authorized agent, David Sisco of IBI/Arcadis Group (the "applicant").

The application for Official Plan Amendment (OPA) proposes to change the designation of the subject lands from Agricultural to Mineral Aggregate Operation. The application also proposes to add a Special Policy Area to permit the proposed expansion of the quarry.

The application for Zoning By-law Amendment (ZBA) proposes to change the zoning of the subject lands from Agricultural (A) to Mineral Aggregate Operation (MAO), as well as reduce the minimum setback from a Provincial Highway from 90 metres to 30 metres.

Location

The lands are immediately adjacent to the PCQ operation to the west along Highway 3. Legally the lands are described as Part Lot 17, 18, 19, Concession 2, and located on the north side of Main Street East/Highway 3, south of Second Concession Road, and west of Miller Road. The total area to be licensed is 106.29 hectares, of which 71.12 hectares is proposed to be extracted. The lands subject to the applications (in red) are shown below.



Associated Applications

In addition to the Local OPA and ZBA, the applicant has also submitted a complete application for a Regional Official Plan Amendment (ROPA) to the Niagara Region to permit the proposed quarry expansion. A separate Public Meeting for the ROPA application will be held at the Regional Planning and Economic Development Committee on Wednesday, March 8, 2023.

The applicant has also applied for a Category 2 (Below Water Quarry) – Class A Licence to the Ministry of Natural Resources and Forestry (MNR) under the *Aggregate*

Resources Act (ARA). The ARA application process includes a separate public consultation and notification process. Any comments or objections submitted to the Region or City with respect to the Planning Act applications should also be submitted to the MNRF referencing the ARA application.

JART Process

To coordinate the technical review of the applications - a Joint Agency Review Team (JART) was formed. The JART is a team of planning staff from the Region, the City, and the Niagara Peninsula Conservation Authority (NPCA). The purpose of the JART is to share information, resources, and expertise so that the application and the associated studies are reviewed in a streamlined and coordinated manner. Staff from applicable provincial ministries have been engaged through the JART process as well.

The JART does not make a recommendation on the application, rather the JART works to:

- ensure that the required range of studies and work is completed by the applicant;
- ensure that the studies are sufficient in terms of their technical content;
- review of the studies and work of the applicant either by technical staff or by peer reviewers;
- ensure a coordinated public and stakeholder consultation and engagement process; and
- prepare a technical JART report on the application once all reviews are complete.

The JART report will be used independently by planning staff at the Region and City as the technical basis to develop a recommendation report.

Materials Submitted in Support of the Applications

In support of the applications, the applicant has provided numerous technical studies and reports. The Region, on behalf of the JART has retained an Aggregate Advisor and several third-party peer reviewers to assist with the review of many of the technical studies.

In addition to the technical studies/reports, the ARA Site Plans have been under review as part of the application process. If approved, the ARA Site Plans are the primary tool used by the Province to enforce the conditions and other aspects of the quarry's ongoing operations. The mitigation measure and recommendations of each of the technical studies/reports are included as part of the Site Plans and/or associated Site Plan Notes.

An index of all materials submitted to date has been attached as Appendix C. The materials can be accessed via the Port Colborne Quarries website at

www.portcolbornequarries.ca.

Discussion:

These applications will be reviewed with consideration of applicable polices under the *Provincial Policy Statement (2020)*, *A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019)*, the *Regional Official Plan (2014)*, the *City of Port Colborne Official Plan* and the *City of Port Colborne Comprehensive Zoning By-law 6575/30/18*.

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. The proposed amendments will be predominantly evaluated under Section 2.5 – Mineral Aggregate Resources of the PPS, however, a review of the amendments against the entirety of the PPS will also be conducted as part of the recommendation report to be considered at a future Council meeting.

Growth Plan for the Greater Golden Horseshoe (2019)

The *Growth Plan for the Greater Golden Horseshoe (Growth Plan)*, much like the PPS, directs municipalities to implement and maintain polices and other strategies to conserve mineral aggregate resources. The proposed amendments will be predominantly evaluated specifically under section 4.2.8 – Mineral Aggregate Resources of the Growth Plan through the future recommendation report.

Niagara Region Official Plan (2014)

The new Niagara Official Plan (NOP) was recently approved on November 4, 2022, with modifications by the Ministry of Municipal Affairs and Housing. Policy 7.12.2.5 of the NOP states that development applications deemed complete prior to the date of the NOP approval shall be permitted to be processed under the 2014 Regional Official Plan (ROP) policy regime. As the applications for ROPA, Local OPA, and ZBA were all deemed complete on July 8, 2021, the applications will be reviewed under 2014 ROP.

Chapter 6 of the 2014 ROP provides policy direction on Mineral Aggregate Operations to lower-tier municipalities 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. The applications will be reviewed under the above-noted chapter.

City of Port Colborne Official Plan

As noted above, the application for OPA proposes to change the land use designation of the subject lands from Agricultural to Mineral Aggregate Operation, along with a special policy area to permit the expansion of the quarry. The application will be reviewed against the policies provided in Section 10 - Mineral Aggregate and Petroleum Resources of the Official Plan. The draft Official Plan Amendment can be found in Appendix A.

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

The application proposes to change the zoning of the subject lands from Agricultural (A) to Mineral Aggregate Operation (MAO). Additionally, a special provision of the MAO zone has been proposed, requesting the minimum setback from a Provincial Highway to be reduced from 90 metres to 30 metres. The draft Zoning By-law Amendment can be found in Appendix B.

Internal Consultations:

As referenced in the Background section of this report, the applications have been actively reviewed by relevant staff and departments from the Niagara Region, NPCA and City through the JART process. Additionally, the JART has retained peer reviewers to review several of the technical studies referenced in Appendix C.

Financial Implications:

Currently, there are no financial implications with respect to this information report. Through the Region's Cost Acknowledgement Agreement with the applicant, it has been agreed upon that the costs associated with the application, including the JART's Aggregate Advisor and peer reviewers, will be borne by the applicant. In accordance with the City's 2021 Rates and Fees that were in place at the time of the application, the City has received \$75,239 to offset the City's staff time involved in the application.

Public Engagement:

The Notice of Public Meeting has been circulated in accordance with Sections 21 and 34 of the *Planning Act*. Notice was provided via the Niagara This Week newspaper on February 9, 2023. Additionally, Notices were mailed to property owners within 120 metres of the lands subject to the applications, and the applicant placed a Public Notice sign on the property. The Notice was also posted on the City's website under "Current Applications", and individual notices were mailed or emailed to any members of the

public that have submitted comments on the applications to date. Comments received from the public on this application will be included and responded to in the future recommendation report.

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
 - Attracting Business Investment and Tourists to Port Colborne
 - People: Supporting and Investing in Human Capital
 - 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 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. Draft Official Plan Amendment
- b. Draft Zoning By-law Amendment
- c. Index of Application Materials

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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.