

**City of Port Colborne
Special Council Meeting 13-19
Minutes**

Date: May 13, 2019

Time: 6:30 p.m.

Place: Council Chambers, Municipal Offices, 66 Charlotte Street, Port Colborne

Members Present: M. Bagu, Councillor
E. Beauregard, Councillor
G. Bruno, Councillor
R. Bodner, Councillor
F. Danch, Councillor
A. Desmarais, Councillor
D. Kalailieff, Councillor
W. Steele, Mayor (presiding officer)
H. Wells, Councillor

Staff Present: E. Acs, Planner
D. Aquilina, Director of Planning & Development
T. Cartwright, Fire Chief
A. Grigg, Director of Community and Economic Development
A. LaPointe, Manager of Legislative Services/City Clerk
C. Lee, Director of Engineering & Operations
S. Luey, Chief Administrative Officer
H. Mahon, Planning Technician/Clerk (minutes)
C. McIntosh, Deputy Clerk
P. Senese, Director of Corporate Services

Also in attendance were interested citizens, members of the news media and WeeStream.

1. Call to Order:

Mayor Steele called the meeting to order.

2. National Anthem:

Those in attendance stood for O Canada.

3. Confirmation of Agenda:

No. 80 Moved by Councillor H. Wells
Seconded by Councillor G. Bruno

That the agenda dated May 13, 2019 be confirmed, as circulated or as amended.
CARRIED.

4. **Disclosures of Interest:**

Nil.

5. **Public Hearing Under the Planning Act:**

Official Plan Amendment and Application for Zoning By-law Amendment

Planning and Development Department, Planning Division, Report No. 2019-64, Public Meeting Report for Official Plan Amendment D09-01-19 and Zoning By-law Amendment D14-03-19, 170 Welland Street, City Lands on Lake Road and Transport Canada Lands on the East Side of the Welland Canal

(i) Purpose of Meeting:

Evan Acs advised that the purpose of this meeting, pursuant to Sections 22 and 34 of the Planning Act, is to consider an application initiated by the City of Port Colborne for the properties known as Part Lot 27 Concession 1, formerly in the Township of Humberstone, now in the City of Port Colborne, Regional Municipality of Niagara, municipally known at 170 Welland Street, s/s Lake Road and all lands under federal government ownership on the east side of the Welland Canal.

The application for Official Plan Amendment proposes to change the designation of these lands in the East Waterfront Secondary Plan from “Parks and Open Space” to “Industrial Areas”.

The application for Zoning By-law Amendment proposes to change the zoning at 170 Welland Street from “P-CH” (Public and Park with Conversion Holding) to “Light Industrial”. The zoning for Transport Canada lands will change from “P-CH” to “Heavy Industrial”. The zoning for the City-owned land on Lake Road will change from “Light Industrial” to “Heavy Industrial”.

(ii) METHOD OF NOTICE

Notice of the Public Meeting was administered in accordance with Sections 22 and Sections 34 of the Planning Act, as amended, and Section 3 of Ontario Regulation 543/06 and Section 5 of Ontario Regulation 545/06.

The Notice of Public Meeting was circulated to required agencies, and property owners within 120 metres of the property on April 23rd, 2019. Public notice signs were posted on the properties on April 23rd, 2019. A public notice was also posted

on the City's website on April 23rd, 2019. A public notice appeared in The Port Colborne Leader on April 25th, 2019.

Staff hosted a public open house on April 29th 2019. The open house was attended by a number of residents and property owners from the East Village.

(iii) EXPLANATION OF PROCEDURE TO BE FOLLOWED

Mr. Acs advised that the procedure to be followed this evening will be to present DEPARTMENT OF PLANNING & DEVELOPMENT REPORT 2019-64, to receive questions of clarification from Council to Planning Staff, to open the meeting to the public for comments and questions, to announce the requirements under the Planning Act for written notice of passage of the proposed zoning by-law amendment, and to provide a brief explanation of future meetings regarding the application.

(iv) PRESENTATION OF APPLICATION FOR ZONING BY-LAW AMENDMENT

At this time, Mr. Acs presented Planning and Development Public Hearing Report 2019-64 accompanied by a Power Point presentation.

The subject properties are located on the west side of Welland Street and the south side of Lake Road. The properties are currently vacant, except for an industrial facility at 170 Welland Street. The properties are located in the "East Village" neighbourhood of Port Colborne and are predominately surrounded by residential uses, with some commercial uses on the east side of Welland Street and the north side of Lake Road. To the west of the subject properties is the Welland Canal with industrial uses along its edge.

The City of Port Colborne's Official Plan designates the properties Parks and Open Space. Land uses in the Parks and Open Space designation include public landscaped open space, playgrounds and sports fields not administered by a school board; cultural and recreational facilities such as arenas; museums, halls, swimming pools, docks and publicly operated golf courses; linear parks and public open spaces such as multi-use trails and pathways and on-road bicycle routes.

The application for Official Plan Amendment proposes to change the Official Plan designation to Industrial Areas. Land uses in the Industrial Areas designation include manufacturing and fabricating; assembling; processing; servicing and repairing; warehousing and storage; shipping and receiving; offices as an accessory or secondary use; commercial activities that provide amenities to employees during the workday, as an accessory use, medical marihuana production facilities; industrial activities related and proximate to the canal and harbour such as ship dockage and repair; and accessory uses such as parking garages.

Most of the subject properties are zoned P-CH (Public and Park with Conversion Holding). The Public and Park zone permits Cemetery; Community Garden; Conservation Use; Cultural Facility; Food Vehicle; Park; Public Use; Recreation Use; and Uses, structures and buildings accessory thereto. The Conversion Holding symbols requires a Record of Site Condition to be filed with the Ontario Ministry of the Environment before Public and Park zone uses can be established on the property.

The City-owned land on Lake Street is zoned Light Industrial. The Light Industrial zone permits Adult Oriented Entertainment Establishment; Car wash; Contractor's Yard; Crematorium; Education Facility; Industry, Light; Medical Marihuana Production Facility; Motor Vehicle Repair Garage; Public Use; Research Facility; Transportation Depot; and Uses, structures and buildings accessory thereto and does not include obnoxious, dangerous or offensive trades.

The zoning for property at 170 Welland Street is proposed to change to Light Industrial. The zoning of the other properties subject to this application are proposed to change to Heavy Industrial. The Heavy Industrial zone permits Adult Entertainment Establishment; Bulk Fuel Depot; Car Wash; Contractor's Yard; Crematorium; Education Facility; Heavy Equipment Sales and Service; Industry, Heavy; Industry, Light; Medical Marihuana Production Facility; Motor Vehicle Repair Garage; Public Uses; Research Facility; Transportation Depot; and Uses, structures and buildings accessory thereto and does not include obnoxious, dangerous or offensive trades.

Mr. Acs advised that at its January 28th, 2019 meeting Council provided the following direction to staff: "That Planning and Development staff be directed to bring forward applications under the Planning Act to propose changes in land use for certain properties within the East Waterfront Secondary Plan Area that are federally and privately owned from Parks and Open Space to Industrial/Employment purposes."

The application for Official Plan Amendment proposes to change the designation of these lands in the East Waterfront Secondary Plan from "Parks and Open Space" to "Industrial Areas".

The application for Zoning By-law Amendment proposes to change at the zoning at 170 Welland Street from "P-CH" (Public and Park with Conversion Holding) to "Light Industrial". The zoning for Transport Canada lands will change from "P-CH" to "Heavy Industrial". The zoning for the City-owned land on Lake Road will change from "Light Industrial" to "Heavy Industrial".

Mr. Acs advised that comments in full have been circulated to Mayor, Councillors and Clerk and provided a summary of submitted written comments:

Larry Rosnuk, 62 Fraser Street

- Application should be delayed for additional input.
- Would like to see heavy industrial changed to light industrial with bird sanctuary at the southern end of the “slag spit” protected with public access along Lake Erie shoreline.

Debbie Gravelle, 177 Welland Street

- Lives directly across from 170 Welland Street.
- Concerned about drop in property value resulting from re-zoning.
- Concerned about potential businesses using 170 Welland Street and impact on her property.

Tina Whitwell, 83 Welland Street

- Concerned about decline in property values and ability to sell property if applications approved.
- Concern about noise, traffic and pollution from sites diminishing enjoyment of property.

Loretta Vanderhoeck, 117 Fares Street

- Uses on property unsightly - view from west street is not slightly for tourists.
- Concerns about dust and health issues with wind blowing material stored on site into East Village.
- Concern about ability to sell home if applications approved.

Glenn Hamilton, 217 Welland Street

- Concerns about pollution, noise, odour, traffic and other impacts on residents

Michael Tenszen, 2-576 Fielden Avenue

- Great opportunity for the City to create a large lake and canal-side park with bird sanctuary at this property.
- Opposed to establishment of heavy industrial park on this site due to concerns of impact on natural environment.
- There are other options for locating an industrial park in Port Colborne.

David Henderson, no address given

- Concerns about intake source for municipal water system and impact industry may have.
- Notes that the intake protection zone is the most vulnerable in Niagara.

Tracy Pybus, 187 Oakwood Street

- Opposed to change to industrial uses. Would like to see more greenspace.

Tina Gifford, no address given

- Legacy of industrial contamination in Port Colborne
- Would prefer to see greenspace, residential and parks.

Linda and Harry Talving, no address

- Would like to see protection for bird habitats at the southern end of the “slag spit” as it is an important nesting area for gulls.
- Would prefer to see remaining land rezoned to light industrial.

Ines Mundt, 35 Canal Bank Road

- Moved to Port Colborne for environment and lifestyle.
- See great potential for tourism. Wondering why city is taking step back converting park land to industrial land.
- Concerns about pollution and contamination.

H Stengel, 192 Fares Street

- Opposed to rezoning.
- Neighbourhood is impacted by other industries in area. Does not want to see expansion.
- Concerned about bird nesting area.

Leo Talving, no address given

- Prefer to see light industrial instead of heavy industrial.
- Southern portion of slag spit is important bird area that would be protected.

Barbie Horton, no address given

- Opposed to application.
- Concern about water contamination, air quality, dust and noise.

Rene Sinko, 196 Fares Street,

- Opposed to application. Would prefer to see something that will improve the east side.

Catharine Parry, no address given

- Prefers original vision stated in East Waterfront Community Improvement Plan. Feels proposed application will take city in opposite direction.
- Opposed to application.

Mitch Carriere, 173 Welland Street

- Has owned property across the street for over twenty years. Pollution, noise and dust from existing industries is an on-going problem. Adding more industrial uses will make problem worse.
- Concern about impact on property value.
- Concern about impact on West Street, Canal Days and tourism.
- Application will negatively impact quality of life in East Village.
- Opposed to application.

Rober Szabari, 131 Welland Street

- Opposed to application.
- Lives across street and will be directly impacted.
- Light and heavy industrial is not correct fit for neighbourhood.
- Priority should be environment and residents.
- Concern about property value, water and air quality.

City and Agency Comments

Drainage Superintendent

- No Concern.

Regional Municipality of Niagara

- Requested extension for submitting comments.

(v) QUESTIONS OF CLARIFICATION TO PLANNING STAFF/APPLICANT

At this time, Mr. Acs asked if there are any questions of clarification by Council.

Councillor Bruno asked for clarification of zoning for Allied Marine. Mr. Acs identified the Allied Marine property as being Light Industrial as well as the City owned property to the south east of Allied Marine. The rationale for rezoning lands fronting Welland Street from P-CH to Light and Heavy Industrial was also discussed. Mr. Acs noted that exemptions could be made to prohibit uses such as Medical Marihuana facilities.

Councillor Desmarais noted that she has received a substantial number of emails and personal phone calls regarding the proposed re-zoning. She questioned whether the Dwor property could be discussed separately from the remaining parcels. Mr. Acs advised that this could be done under the direction of Council. Councillor Desmarais also requested that the medical marihuana and adult entertainment uses be removed from the permitted uses.

Councillor Wells questioned Mr. Acs on the Provincial Policy statement regarding having Heavy and Light Industrial uses permitted within a certain distance from sensitive land uses. Discussion commenced and Mr. Acs noted that as no specific type of industry has been proposed yet it is difficult to ascertain. Preference would be for Site Plan control. Councillor Wells asked that the Ministry's guidelines be considered when finalizing the zoning. Councillor Bodner asked that they be provided a schedule which visually identifies the distance between the sensitive land uses and industrial uses. Mr. Acs concurred that this could be done.

Councillor Kalailieff questioned why the lands which had been originally designated as industrial were rezoned to Park and are now being changed back to Industrial. Mr. Acs advised that the direction to rezone had been received from Council. Councillor Bagu questioned whether the City was acting as an agent for Transport Canada. Mr. Acs responded that the Federal level does not have regard for the zoning bylaw at the municipal level.

Before opening the meeting to the public Mr. Acs read the following cautionary statements:

"If a person or public body does not make oral submissions at a public meeting or make written submissions to the City of Port Colborne before a decision on the proposed Zoning By-law Amendment is passed by Council, the person or public body is not entitled to appeal the decision of the City of Port Colborne Council to Local Planning Appeal Tribunal. " and;

"If a person or public body does not make oral submissions at a public meeting, or make written submission to the City of Port Colborne before a decision on the proposed Zoning By-law Amendments is passed by Council, the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there is reasonable grounds to do so."

Mr. Acs advised that for any interested members of the public there is a sign-in sheet located at the back of the room, to request future notices regarding this application.

(vi) ORAL PRESENTATIONS AND/OR QUESTIONS BY PUBLIC

At this time Mr. Acs invited any members of the public who wish to speak to the applications to do so.

Larry Rosnuk of 62 Fraser Street addressed Council. Mr. Rosnuk advised that he had submitted a report to Council on the proposed rezoning. He would prefer to see Heavy Industrial changed to Light Industrial. He noted that the Hazard lands along the shoreline cannot be developed anyway and would like to see it left alone and protected as a bird sanctuary. He noted that it is currently the 2nd largest

nesting ground for sea gulls in Ontario. He is in favour of having the lands rezoned for Light Industrial use and noted that operations like Allied Marine are a clean Industrial use. He also asked that the decision be delayed until further input could be provided and would like to hear the comments from the NPCA.

Janet Henderson of 2199 Babion Road addressed Council. She questioned who was responsible for the rezoning proposal. Mayor Steele responded that he was responsible. He explained that the owner of Dwor Metals had requested that it be changed back to Light Industrial. Until recently the property has always been Light Industrial and in reality it can never be used for Parkland. Transport Canada will continue to keep it for marine use only.

Janet Henderson questioned whether Council is aware of the water intake risks by making it Industrial. There was some discussion about comments to be received from the NPCA. Mr. Acs advised that the NPCA is a commenting agency not an approval authority. Ms. Henderson wanted it to be noted on record that there could be possible contamination to the water supply if Heavy Industrial were to be located next to the water intake.

Lori Vanderende of 5489 Sherkston Road addressed Council. Ms. Vanderende recalled locations such as Chippawa, N-O-T-L, and Port Weller who have gone through revitalization and now benefit from having cleaned up their waterways and developing their tourism industry. She is a water advocate and warned about the Walkerton experience. She noted how Cleveland now has a beautiful conservation area. She questioned why it is only Port Colborne that has an Industrial problem. She is opposed to rezoning the land to industrial and is in favour of tourism and conservation efforts.

Keith Barre of 201 Mitchell Street addressed Council and advised that he was just there as an observer.

Art Stead of 5 Maple Street addressed Council. Mr. Stead was Director of Parks and Recreation for 26 years. He is opposed to changing the property back to any kind of Industrial use and would like to keep it as Parks and Open Space. He believes there is always room for improvement and also has concerns about the drinking water and its proximity to the water intake. He is concerned about the dust problem which has existed since 1969. He asked that Council postpone their decision and would like to see proper testing on the drinking water.

Councillor Desmarais asked that the following motion be brought forward at this time.

No. 81 Moved by Councillor A. Desmarais
 Seconded by Councillor G. Bruno

That the application to rezone the property located at 170 Welland Street

Planning and Development Department, Planning Division, Report No. 2019-66 Subject: Public Meeting Report for Zoning By-law Amendment, D14-02-19, 45-53 West Side Road

(i) Purpose of Meeting:

Mr. Acs advised that the purpose of this meeting, pursuant to Sections 34 of the Planning Act, is to consider an application initiated by agent John Redekop for owner Terry St Amand for the property legally known as Block A on Plan 69/NP828, in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 45-53 West Side Road.

The application for Zoning By-law Amendment proposes to change the zoning from Commercial Plaza to CP-50, a special provision adding a motor vehicle gas station and a car wash as permitted uses to the property.

(ii) METHOD OF NOTICE

Mr. Acs advised that Notice of the Public Meeting was administered in accordance with Sections 34 of the Planning Act, as amended, and Section 5 of Ontario Regulation 545/06.

The Notice of Public Meeting was circulated to required agencies, and property owners within 120 metres of the property on April 18th, 2019. Public notice signs were posted on the properties by April 23rd, 2019. A public notice was also posted on the City's website on April 18th, 2019.

Staff hosted a public open house on April 30th 2019. No members of the public attended the meeting.

(iii) EXPLANATION OF PROCEDURE TO BE FOLLOWED

Mr. Acs advised that the procedure to be followed this evening will be to present DEPARTMENT OF PLANNING & DEVELOPMENT REPORT 2019-66, hear any comments from the applicant, receive questions of clarification from Council to the applicant or Planning Staff, open the meeting to the public for comments and questions, announce the requirements under the Planning Act for written notice of passage of the proposed zoning by-law amendment, and to provide a brief explanation of future meetings regarding the application.

(iv) PRESENTATION OF APPLICATION FOR ZONING BY-LAW AMENDMENT

At this time, Mr. Acs presented Planning and Development Public Hearing Report 2019-66.

The subject property is located at the south-west corner of West Side Road and Main Street West and is presently occupied by a commercial plaza. Surrounding landuses include commercial, across Main Street West, institutional and park, across West Side Road, and park and residential to the south and southwest.

The City of Port Colborne's Official Plan designates the property as Commercial Plaza. Land uses in the Commercial Plaza designation include retail stores; offices; restaurants; service businesses; movie theatres; and places of amusement or recreation.

The subject property is zoned Commercial Plaza. The Commercial Plaza zone permits Animal Care Establishment; Day Care; Drive-Thru Facility; Existing Motor Vehicle Gas Station; Existing Motor Vehicle Repair Garage; Medical Clinic; Office; Personal Service Business; Place of Worship; Public Use; Recreation Facility; Restaurant, Fast Food; Restaurant, Full-Service; Restaurant, Take-Out; Retail Store; Service Commercial; Studio; Veterinary Clinic; and Uses, structures and buildings accessory thereto.

The applicant is seeking to add a motor vehicle gas station and car wash to the permitted uses on the property. The zone only allows existing motor vehicle gas stations, meaning establishing a new existing motor vehicle gas station requires a zoning by-law amendment.

The application for Zoning By-law Amendment proposes to change the zoning from Commercial Plaza to CP-50, a special provision adding a motor vehicle gas station and a car wash as permitted uses to the property. Special provisions are also being sought to reduce the corner side yard setback, parking requirements and minimum landscape area. These changes are being sought to build a motor vehicle gas station, car wash and two new commercial structures on this property.

The applicant would like to add a motor vehicle gas station, car wash and additional commercial units to the property, which requires the zoning change to add uses, reduce setbacks and parking requirements.

Mr. Acs then provided a summary of the submitted written comments:

Ritesh Malik, 599 Main Street West

- Concerns about lower growth rate in Port Colborne and ability to absorb new commercial uses.
- Concerns about potential competition from new gas station across the street from a gas station currently being built. Expensive construction costs have reduced profitability.
- Competing businesses in close proximity will make further commercial developments at 599 Main Street West difficult.
- Strongly opposed to zoning by-law amendment.

City and Agency Comments

Drainage Superintendent

- No Concern.
-

Regional Municipality of Niagara

- Not opposed.

(v) COMMENTS OF APPLICANT

At this time, Mr. Acs invited the applicant to comment.

Michael Allen of ACK Architects addressed Council. Mr. Allen provided some background information pertaining to the development. The site is currently underutilized and this development will improve and provide additional commercial services to the site. The side yard setback is not extensive and the addition of landscape coverage will improve the look of the property. Port Colborne's current parking requirements are more restrictive than St. Catharines and Niagara Falls. Instead of a large asphalt parking lot the added business and landscaping will be an improvement.

(vi) QUESTIONS OF CLARIFICATION TO PLANNING STAFF/APPLICANT

At this time, Mr. Acs asked if there any questions of clarification for myself.

As there was no further discussion Mr. Acs then read the following cautionary statements into the record:

"If a person or public body does not make oral submissions at a public meeting or make written submissions to the City of Port Colborne before a decision on the proposed Zoning By-law Amendment is passed by Council, the person or public body is not entitled to appeal the decision of the City of Port Colborne Council to Local Planning Appeal Tribunal." And;

"If a person or public body does not make oral submissions at a public meeting, or make written submission to the City of Port Colborne before a decision on the proposed Zoning By-law Amendments is passed by Council, the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there is reasonable grounds to do so."

Mr. Acs also advised that for any interested members of the public there is a sign-in sheet located at the back of the room to request future notices regarding this

application.

(vii) ORAL PRESENTATIONS AND/OR QUESTIONS BY PUBLIC

Nil.

(viii) ANNOUNCEMENT RESPECTING WRITTEN NOTICE OF
PASSAGE OF THE ZONING BY-LAW AMENDMENT

Mr. Acs then advised if anyone wishes “to be notified of the approval of the zoning by-law amendment you must make a written request to the clerk. Only those persons and public bodies that give the clerk a written request for the notice of the adoption and passing of a zoning by-law amendment will be given notice.”

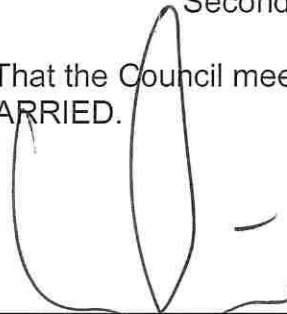
(ix) EXPLANATION OF FUTURE MEETINGS

Mr. Acs advised that this concludes the PUBLIC HEARING UNDER THE PLANNING ACT. The proposed Zoning By-law Amendment will be placed on Council’s agenda at a future meeting.

7. Adjournment

No. 83 Moved by Councillor H. Wells
Seconded by Councillor G. Bruno

That the Council meeting be adjourned at approximately 8:10 p.m.
CARRIED.



William C. Steele
Mayor

Amber LaPointe
City Clerk

Minutes prepared by the Department of Planning and Development.

/hm

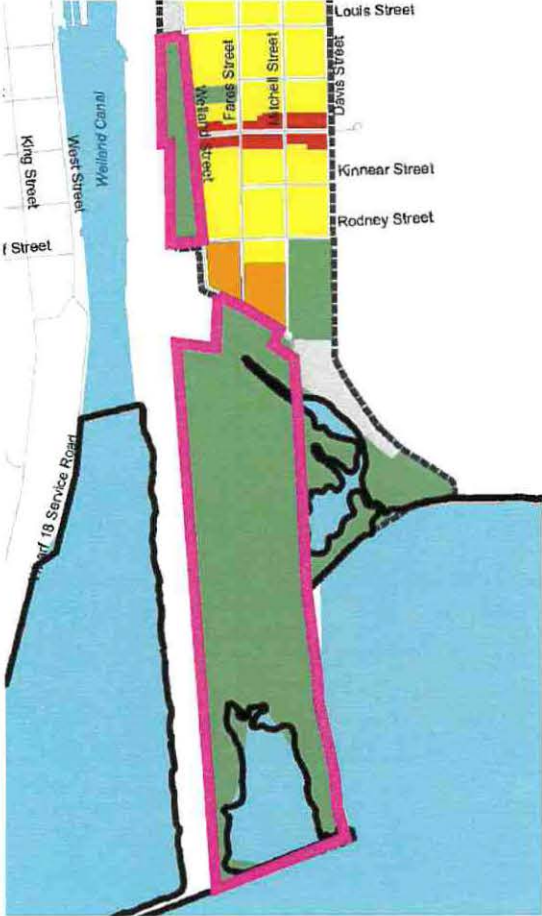
Proposed Official Plan and Zoning
By-law Amendment for
170 Welland Street, City Lands on Lake
Road and Transport Canada Lands on
the East Side of the Welland Canal

File: D09-01-19 & D14-03-19

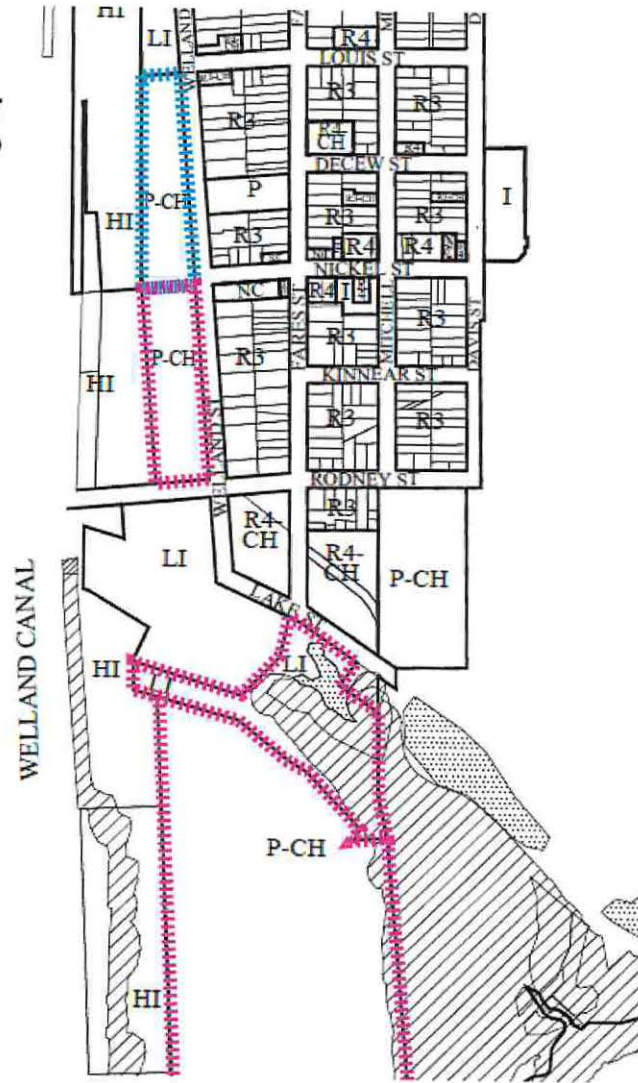
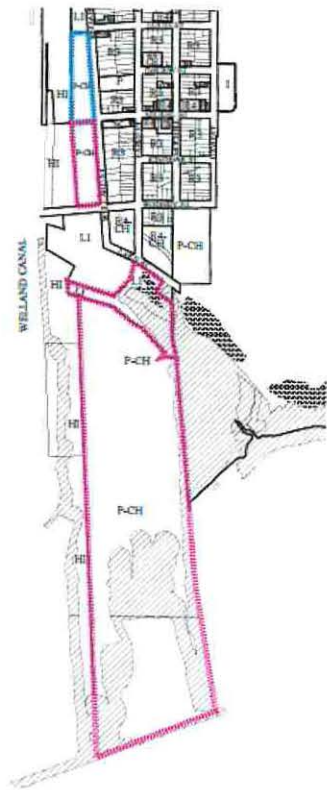
Location & Context



Current Official Plan Designation



Current Zoning



Purpose of Application

- At its January 28th, 2019 meeting Council provided the following direction to staff:

“That Planning and Development staff be directed to bring forward applications under the Planning Act to propose changes in land use for certain properties within the East Waterfront Secondary Plan Area that are federally and privately owned from Parks and Open Space to Industrial/Employment purposes.”

Purpose of Application

- The application for Official Plan Amendment proposes to change the designation of these lands in the East Waterfront Secondary Plan from “Parks and Open Space” to “Industrial Areas”.
- The application for Zoning By-law Amendment proposes to change at the zoning at 170 Welland Street from “P-CH” (Public and Park with Conversion Holding) to “Light Industrial”. The zoning for Transport Canada lands will change from “P-CH” to “Heavy Industrial”. The zoning for the City-owned land on Lake Road will change from “Light Industrial” to “Heavy Industrial”.

Public Comments

- Comments have been received from:
 - Larry Rosnuk, 62 Fraser Street
 - Debbie Gravelle, 177 Welland Street
 - Tina Whitwell, 83 Welland Street
 - Loretta Vanderhoeck, 117 Fares Street
 - Glenn Hamilton, 217 Welland Street
 - Michael Tenszen, 2-576 Fielden Avenue
 - David Henderson, no address given
 - Tracy Pybus, 187 Oakwood Street
 - Tina Gifford, no address given
 - Linda and Harry Talving, no address given
 - Ines Cohrs Mundt, 35 Canal Bank Road
 - H Stengel, 192 Fares Street
 - Leo Talving, no address given
 - Barbie Horton, no address given
 - Irene Sinko, 196 Fares Street
 - Catharine Parry, no address given
 - Mitch Carriere, 173 Welland Street
 - Robert Szabari, 131 Welland Street

City and Agency Comments

- Drainage Superintendent
 - No Concern.
- Regional Municipality of Niagara
 - Requested extension for submitting comments.

Proposed Zoning By-law Amendment for 45-53 West Side Road

Owner: Terry St Amand

Agent: John Redekop & Michael Allen

File: D14-02-19

Location & Context



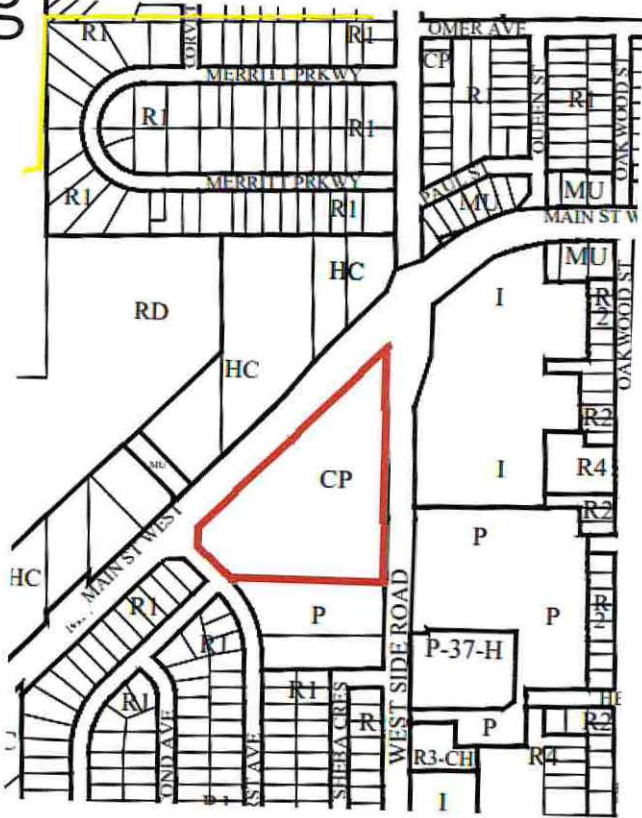
Purpose of Application

- The application for Zoning By-law Amendment proposes to change the zoning from Commercial Plaza to CP-50, a special provision adding a motor vehicle gas station and a car wash as permitted uses to the property. Special provisions are also being sought to reduce the corner side yard setback, parking requirements and minimum landscape area. These changes are being sought to build a motor vehicle gas station, car wash and two new commercial structures on this property.

Current Official Plan Designation



Current Zoning



Public Comments

- Ritesh Malik, 599 Main Street West
 - Concerns about lower growth rate in Port Colborne and ability to absorb new commercial uses.
 - Concerns about potential competition from new gas station across the street from a gas station currently being built. Expensive construction costs have reduced profitability.
 - Competing businesses in close proximity will make further commercial developments at 599 Main Street West difficult.
 - Strongly opposed to zoning by-law amendment.

City and Agency Comments

- Drainage Superintendent
 - No Concern.
- Regional Municipality of Niagara
 - Not opposed.

City of Port Colborne
RECEIVED

MAY 13 2019

CORPORATE SERVICES
DEPARTMENT

Attn: Amber LaPoint,
City Clerk,
66 Charlotte Street,
.Port Colborne. ON,
L3K 1E3
May 13 2019

Response to:

The Proposed Official Plan & Zoning By-Law Amendment 170 Welland Street,
City Land on Lake Road
And Transport Canada Lands
Files 009-01-19 & D14-03-19
From: Larry Rosnuk
62 Fraser Street,
Port Colborne.
ON L3k 1E3



Section 224 of the Municipal Act 2001 states:

It is the role of council,

- a) to represent the public and to consider the well-being and interests of the municipality;
- b) to develop and evaluate the policies and programs of the municipality;
- c) to determine which services the municipality provides;
- d) to ensure that administrative practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- d) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- e) to maintain the financial integrity of the municipality; and
- f) to carry out the duties of council under this or any other Act.

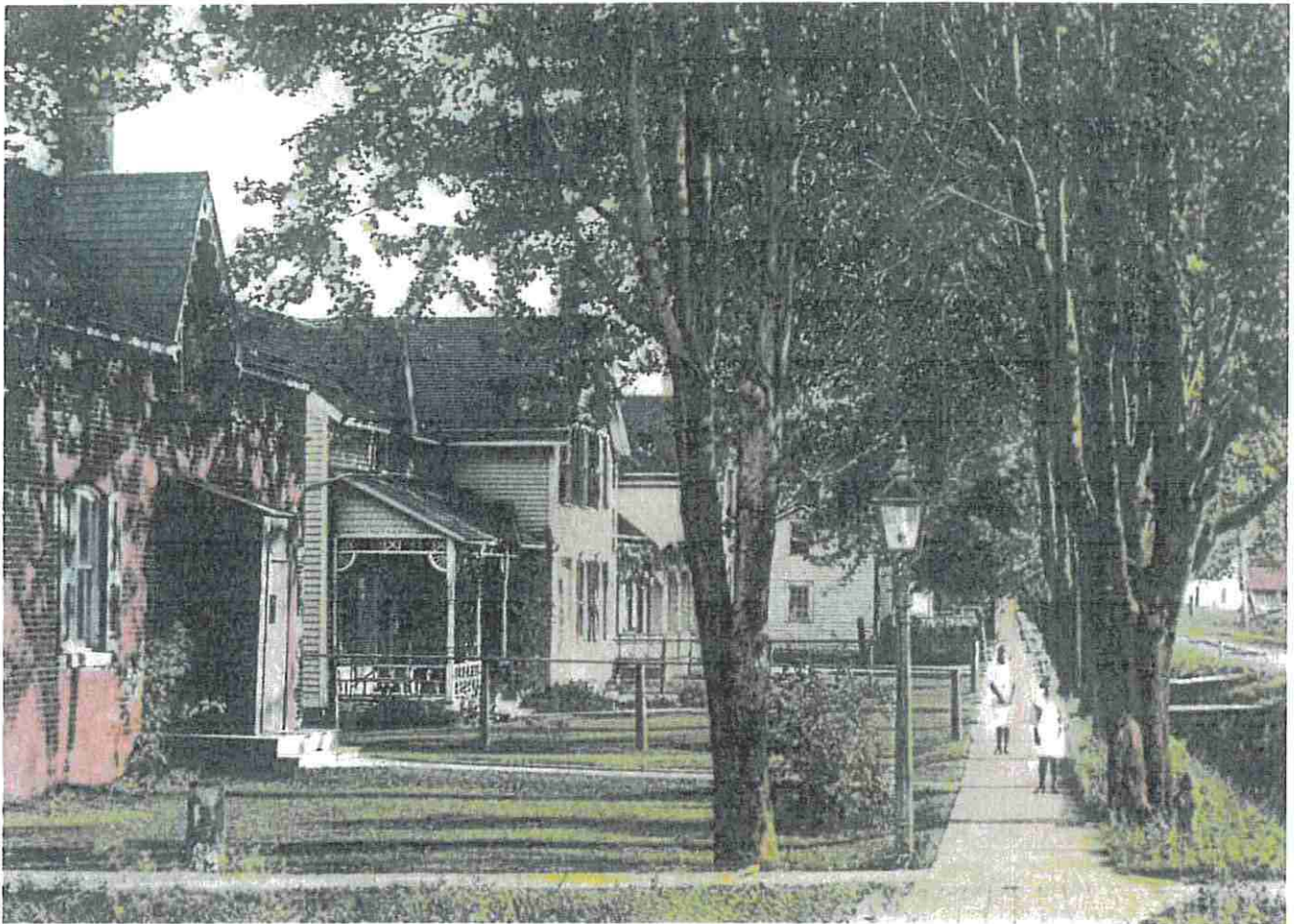
Role of Head of Council

The mayor is head of council and presides as the chair at all meetings of council.

Section 225 of the Municipal Act 2001 states:

It is the role of the head of council,

- a) to act as chief executive officer of the municipality;
- b) to preside over council meetings so that its business can be carried out efficiently and effectively;
- c) to provide leadership to the council;
- d) without limiting to clause (c), to provide information and recommendations to the council with respect to the role of council as described in clauses 224 (d) and (d.1);
- d) to represent the municipality at official functions; and
- e) to carry out the duties of the head of council under this or any other Act.



Port Colborne

East

Waterfront Community

Improvement Plan and

Draft Secondary Plan March 2012

[http://portcolborne.ca/fileBin/library/East%20Waterfront%20CIP%20-%20FINAL%20VERSION%20\(high%20res\).pdf](http://portcolborne.ca/fileBin/library/East%20Waterfront%20CIP%20-%20FINAL%20VERSION%20(high%20res).pdf)

Motion by Councillor Beauregard Re:
Rezoning of **Certain** lands within the East
Waterfront Secondary Plan Area to
Industrial/Employment Purposes

That Planning and Development staff be
directed to bring forward applications under
the Planning Act to propose changes in land
use for **certain** properties within the East
Waterfront Secondary Plan Area that are
federally and privately owned from Parks
and Open Space to Industrial/Employment
purposes.

Note: Notice of Motion was given at the
January 14, 2019 Council meeting.

CARRIED
REGULAR MEETING 04-19
JAN 28 2019

certain | 'sɜ:tn|

adjective

1 *known for sure; established beyond doubt: it's certain that more changes are in the offing | she looks certain to win an Oscar.*

• *having complete conviction about something; confident: are you absolutely certain about this? | true and certain knowledge of the essence of existence.*

2 [attrib.] *specific but not explicitly named or stated: he raised certain personal problems with me | the exercise was causing him a certain amount of pain.*

• *used when mentioning the name of someone not known to the reader or hearer: a certain General Percy captured the town.*

pronoun (certain of)

some but not all: certain of his works have been edited.

Abuse of process is a cause of action in tort arising from one party making misusing or perversion of regularly issued court **process** (civil or criminal) not justified by the underlying **legal** action. It is a common **law** intentional tort.

"[A]buse of process (is) the intentional use of legal process for an improper purpose incompatible with the lawful function of the process by one with an ulterior motive in doing so, and with resulting damages."

Section 27: Heavy Industrial Zone (HI)

27.1 General

- a) No person shall use any lot or erect, alter or use any building or structure in any Heavy Industrial (HI) Zone except in accordance with the applicable provisions of Sections 2, 3 and 27.
- b) In addition to Section 27.1 (a), any lot may be subject to additional regulations or restrictions by the City, upper tier government or agencies as indicated in Section 1.3.

27.2 Permitted Uses - Principal

- a) Adult Entertainment Establishment;
- b) Bulk Fuel Depot
- c) Car Wash;
- d) Contractor's Yard;
- e) Crematorium;
- f) Education Facility;
- g) Heavy Equipment Sales and Service;
- h) Industry, Heavy;
- i) Industry, Light;
- j) Medical Marihuana Production Facility;
- k) Motor Vehicle Repair Garage;
- l) Public Uses;
- m) Research Facility;
- n) Transportation Depot; and
- o) Uses, structures and buildings accessory thereto and does not include obnoxious, dangerous or offensive trades

27.3 Permitted Uses – Accessory

- a) Food Vehicle;
- b) Office;
- c) Retail Store;

- d) Restaurant, Fast-Food;
- e) Restaurant, Full-Service; and
- f) Restaurant, Take-Out

27.4 Zone Requirements

- a) Minimum Lot Frontage 30 metres
- b) Minimum Front Yard 7.5 metres
- c) Minimum Front Yard abutting a Residential or Agricultural Zone 15 metres
- d) Minimum Interior Side Yard 10 percent of lot frontage or 3 metres, whichever is less
- e) Minimum Interior Side Yard abutting a Residential or Agricultural Zone 15 metres
- f) Minimum Interior Side Yard abutting a Railroad or Hydro Right-of-Way 1.5 metres
- g) Minimum Rear Yard 8 metres
- h) Maximum Building Height 11 metres
- i) Maximum Building Height abutting a Residential Zone 8 metres
- j) Outside Storage is permitted only in the rear yard and interior side yard.
- k) The gross floor area of the permitted accessory use(s) shall not exceed 15% of the total gross floor area of the principal use(s) on the lot.
- l) Corner walls facing a public road shall not be constructed of concrete blocks unless the blocks are decorative masonry units; or used in a decorative pattern or surfaced with stucco; or with a permanent coloured finish which does not include paint.
- m) In addition to the general parking provisions of Section 3 of this By-law all parking areas in the front yard and/or corner side yard shall be:
 - i) Paved with concrete or asphalt;
 - ii) Defined by poured concrete curbing; and

- iii) Clearly marked with pavement markings for each parking space
- n) Vehicle wash bays other than those located entirely within an enclosed building are not permitted in a yard abutting a Residential use.
- o) Outdoor storage and outdoor processing is subject to the provisions outlined in Section 2.18 and the following:
 - i) Outdoor storage and outdoor processing is not permitted in any yard that abuts a highway or an arterial collector road;
 - ii) No outdoor scrap yard, recycling storage yard or outdoor processing shall be located closer than 150 metres to any Residential use;

27.5 Additional Zone Requirements – Medical Marihuana Production Facility

- a) Minimum Lot Frontage 30 metres
- b) Maximum Lot Coverage
 - i) Lots less than 5 hectares 30 percent
 - ii) Lots 5 hectares to 10 hectares 10 percent
 - iii) Lots greater than 10 hectares 5 percent
- c) Minimum Front Yard 30 metres
- d) Minimum Interior Side Yard 16 metres
- e) Minimum Corner Side Yard 30 metres
- f) Minimum Rear Yard 30 metres
- g) Minimum Separation to Sensitive Land Use 150 metres
- h) Where a lot line of a lot containing a Medical Marihuana Production Facility abuts a sensitive land use, then that part of said lot directly adjoining such lot line shall be used for no purpose other than a planting strip having a minimum width of 1.5 metres, measured perpendicularly to said lot line.
- i) Outside storage of goods, materials or other supplies is not permitted.
- j) Where a building or structure consists of more than 40% glass and where artificial lighting is required an opaque fence shall be provided and

maintained adjacent to every portion of any lot line that abuts a sensitive land use.

- k) 1 parking space shall be provided for every employee on the largest shift.
- l) Servicing for the facility shall be designed by a Qualified Professional, identifying the source of irrigation water, water quantities required and the effects of same on the groundwater table and nearby wells.

Section 26: Light Industrial Zone (LI)

26.1 General

- a) No person shall use any lot or erect, alter or use any building or structure in any Light Industrial (LI) Zone except in accordance with the applicable provisions of Sections 2, 3 and 26.
- b) In addition to Section 26.1 (a), any lot may be subject to additional regulations or restrictions by the City, upper tier government or agencies as indicated in Section 1.3.

26.2 Permitted Uses - Principal

- a) Adult Oriented Entertainment Establishment;
- b) Car wash;
- c) Contractor's Yard;
- d) Crematorium;
- e) Education Facility;
- f) Industry, Light;
- g) Medical Marihuana Production Facility;
- h) Motor Vehicle Repair Garage;
- i) Public Use;
- j) Research Facility;
- k) Transportation Depot; and
- l) Uses, structures and buildings accessory thereto and does not include obnoxious, dangerous or offensive trades

26.3 Permitted Uses – Accessory

- a) Food Vehicle;
- b) Office;
- c) Retail Store;
- d) Restaurant, Fast-Food;
- e) Restaurant, Full-Service; and
- f) Restaurant, Take-Out

26.4 Zone Requirements

- | | | |
|----|---|---|
| a) | Minimum Lot Frontage | 30 metres |
| b) | Minimum Front Yard | 7.5 metres |
| c) | Minimum Front Yard abutting
a Residential or Agricultural Zone | 15 metres |
| d) | Minimum Interior Side Yard | 10 percent of lot frontage
or 3 metres, whichever is
less |
| e) | Minimum Interior Side Yard abutting
a Residential or Agricultural Zone | 15 metres |
| f) | Minimum Interior Side Yard abutting
a Railroad or Hydro Right-of-Way | 1.5 metres |
| g) | Minimum Rear Yard | 8 metres |
| h) | Maximum Building Height | 11 metres |
| i) | Maximum Building Height abutting
a Residential Zone | 8 metres |
| j) | Outside Storage is permitted only in the rear yard and interior side yard to
a maximum of 10 percent of the total gross floor area on the lot. | |
| k) | The gross floor area of the permitted accessory use(s) shall not exceed
30% of the total gross floor area of the principal use(s) on the lot. | |
| l) | Corner walls facing a public road shall not be constructed of concrete
blocks unless the blocks are decorative masonry units; or used in a
decorative pattern or surfaced with stucco; or with a permanent coloured
finish which does not include paint. | |
| m) | In addition to the general parking provisions of Section 3 of this By-law all
parking areas in the front yard and/or corner side yard shall be: | |
| | i) | Paved with concrete or asphalt; |
| | ii) | Defined by poured concrete curbing; and |
| | iii) | Clearly marked with pavement markings for each parking space |
| n) | Vehicle wash bays other than those located entirely within an enclosed
building are not permitted in a yard abutting a Residential use. | |

- o) Outdoor storage is subject to the provisions outlined in Section 2.18 and the following:
 - i) Outdoor storage is not permitted in any yard that abuts a highway or an arterial collector road;
 - ii) No outdoor scrap yard, recycling storage yard or outdoor processing shall be located closer than 150 metres to any Residential use.

26.5 Additional Zone Requirements – Medical Marihuana Production Facility

- a) Minimum Lot Frontage 30 metres
- b) Maximum Lot Coverage
 - i) Lots less than 5 hectares 30 percent
 - ii) Lots 5 hectares to 10 hectares 10 percent
 - iii) Lots greater than 10 hectares 5 percent
- c) Minimum Front Yard 30 metres
- d) Minimum Interior Side Yard 16 metres
- e) Minimum Corner Side Yard 30 metres
- f) Minimum Rear Yard 30 metres
- g) Minimum Separation to Sensitive Land Use 150 metres
- h) Where a lot line of a lot containing a Medical Marihuana Production Facility abuts a sensitive land use, then that part of said lot directly adjoining such lot line shall be used for no purpose other than a planting strip having a minimum width of 1.5 metres, measured perpendicularly to said lot line.
- i) Outside storage of goods, materials or other supplies is not permitted.
- j) Where a building or structure consists of more than 40% glass and where artificial lighting is required an opaque fence shall be provided and maintained adjacent to every portion of any lot line that abuts a sensitive land use.
- k) 1 parking space shall be provided for every employee on the largest shift.

- I) Servicing for the facility shall be designed by a Qualified Professional, identifying the source of irrigation water, water quantities required and the effects of same on the groundwater table and nearby wells.

Section 32: Public and Park (P)

32.1 General

- a) No person shall use any lot or erect, alter or use any building or structure in any Public and Park (P) Zone except in accordance with the applicable provisions of Sections 2, 3 and 32.
- b) In addition to Section 32.1 (a), any lot may be subject to additional regulations or restrictions by the City, upper tier government or agencies as indicated in Section 1.3.

32.2 Permitted Uses

- a) Cemetery;
- b) Community Garden;
- c) Conservation Use;
- d) Cultural Facility;
- e) Food Vehicle;
- f) Park;
- g) Public Use;
- h) Recreation Use; and
- i) Uses, structures and buildings accessory thereto

32.3 Zone Requirements

- | | |
|-------------------------------|---|
| a) Minimum Lot Frontage | no minimum |
| b) Minimum Lot Area | no minimum |
| c) Minimum Front Yard | 8 metres |
| d) Minimum Lot Depth | no minimum |
| e) Minimum Interior Side Yard | 4.5 metres or half the height of the building, whichever is greater |
| f) Minimum Corner Side Yard | 7.5 metres |
| g) Minimum Rear Yard | 7.5 metres |
| h) Maximum Lot Coverage | 20 percent |

- i) Maximum Height no maximum
- j) Minimum Landscaped Open Space 30 percent

Section 35: Hazard Zone (H)

35.1 General

- a) No person shall use any lot or erect, alter or use any building or structure in any Hazard (H) Zone except in accordance with the applicable provisions of Sections 2, 3 and 35.
- b) In addition to Section 35.1 (a), any lot may be subject to additional regulations or restrictions by the City, upper tier government or agencies as indicated in Section 1.3.

35.2 Permitted Uses

- a) Boat House;
- b) Boat Ramp;
- c) Conservation Uses;
- d) Dock;
- e) Existing Agricultural Uses, excluding buildings and structures;
- f) Flood and Erosion Protection Works;
- g) Forestry Uses;
- h) Passive Recreation Use; and
- i) Public Use

35.3 Zone Requirements

- a) Where a Hazard Zone is shown on the Maps in Section 39, it includes hazards associated with the Lake Erie Shoreline, such as flooding, erosion or dynamic beach hazards as per the Niagara Peninsula Conservation Authority's Regulation of Development, Interference with Wetlands and Alteration to Shorelines and Watercourses O. Reg 1-55/05.
- a) Notwithstanding the permitted uses, where a lot is subject to a Hazard Zone, no uses and no buildings or structures or an expansion to an existing building or structure shall be permitted until a permit for development or site alteration is issued by the Niagara Peninsula Conservation Authority.
- b) Minimum Lot Frontage as existing
- c) Minimum Lot Area as existing
- d) Minimum Front Yard 15 metres

- e) Minimum Side Yard 7 metres
- f) Minimum Rear Yard 7 metres except the minimum rear yard shall be 30 metres from the 1 in 100 year flood line as determined by the Niagara Peninsula Conservation Authority

35.4 Additional Zone Requirements – Boat House, Boat Ramp, Dock

- a) Minimum Rear Yard No minimum



- [OUR WORK](#)
- [GET INVOLVED](#)
- [ABOUT US](#)
- [KIDS & FAMILY](#)
- [EDUCATIONAL RESOURCES](#)
- [MAGAZINES](#)
- [LATEST NEWS](#)

- [DONATE](#)

The Great Lakes—Michigan, Superior, Huron, Erie, and Ontario—form the largest-surface freshwater system in the world, together holding nearly one-fifth of the Earth's surface freshwater. The Great Lakes have over 10,000 miles (16,000 kilometers) of shoreline and serve as a drain for more than 200,000 square miles of land, ranging from forested areas to agricultural lands, cities, and suburbs.

The Great Lakes watershed includes some of North America's more fascinating wildlife, such as the [gray wolf](#), [Canada lynx](#), [moose](#), and [bald eagle](#). The lakes

themselves are home to numerous fish, including lake whitefish, walleye, muskellunge, and trout. Millions of migratory birds pass through the region during their spring and fall migrations.

Climate change has the potential to profoundly influence water supply and its quality for the Great Lakes from the surrounding watershed. To maintain healthy lakes it will be important to monitor and manage impacts in the watershed, such as storm surge inputs and erosion. The altering of hydrological cycles by global warming may even require that stormwater and wastewater treatment infrastructures are redesigned or upgraded.

The Great Lakes Regional Collaboration process recommended major restoration of the Great Lakes at a cost of about \$20 billion over five years. If implemented, this could result in \$80-\$100 billion in short and long-term economic benefits to the regional and national economies and is a worthy cause. However, to be effective, these assessments and the restoration efforts must take into account climate change.

Great Lakes Regional Center

Since 1982, the National Wildlife Federation's [Great Lakes Regional Center](#) has been a leader in protecting the Great Lakes for the wildlife and humans that depend on this invaluable resource. The Great Lakes Regional Center does [important work](#) to protect and improve the area in many ways, with focuses on:

- [restoring the Great Lakes](#)
- stopping invasive species
- safeguarding the Great Lakes from the effects of climate change
- [reducing the pollution causing climate change](#)
- defending the Great Lakes from oil pipeline spills
- saving Lake Superior from sulfide mining
- sustaining healthy lake levels and flows of water
- [guarding water quality](#)
- improving the environments where people live
- [connecting kids with nature](#)
- revitalizing the Huron River Corridor in Southeast Michigan

Port Colborne (breakwater and mainland) (ON019)

Port Colborne, Ontario

Latitude 42.871°N

Longitude 79.256°W

Altitude 175m

Area 2.00km²

Site Description

Port Colborne is located on the northern shore of Lake Erie at the eastern end of the Lake. The site is comprised of colonies at two locations: on a breakwater, which is located 1 km offshore, to the southwest of the mouth of the Welland Canal; and on a landfill at the southernmost tip of the Algoma Property on the immediate east side of the mouth of the Welland canal.

Construction of the breakwater started in 1901 in association with the operation of the third Welland Canal (part of the St. Lawrence Seaway System). In 1903, a lighthouse was built at the east end of the structure, and a helipad was constructed close by in 1987. The breakwater is about 700 m long east-west, with a south arm about 400 m long. A pile of loosely scattered limestone boulders and gravel occurs at the intersection of the two arms. The mainland site is a human-created landfill stretching along the east side of the Welland Canal. It has a rock base, and a thin layer of organic material that supports grass and other herbaceous plants.

Birds

Large numbers of Common Terns and Ring-billed Gulls nest at these two colonies. The Common Terns are restricted to the Breakwater site, while the Ring-billed Gulls nest at both locations. A peak of 1,311 pairs of Common Terns was recorded at the breakwater site in 1987; however, a major storm on 5 December 1987 washed all of the nesting material into the lake, leaving behind bare concrete slabs. Rock and gravel material was hand-shoveled from the rock pile and redistributed along the east arm in subsequent years. The numbers of nesting terns dropped slightly after this event, with the long term average (over 14 years) being about 1,000 pairs (over 2% of the estimated North American breeding population).

The Ring-billed Gulls nest primarily on the mainland site. In 1990, 43,590 pairs were estimated there, along with 2,500 pairs on the breakwater. This may represent as much as 5% of the estimated North American breeding population.

In addition to Ring-billed Gulls and Common Terns, about 175 pairs of Herring Gulls nest at the colonies, and in 1997 a pair of Great Black-backed Gulls nested there for the first time.

Conservation Issues

The Common Tern and Ring-billed Gull colonies at Port Colborne are the subject of a long term study being undertaken by researchers from Brock University in St. Catharines. The main threats to the colonies are human disturbance and substrate alteration. In addition, the Common Terns are especially susceptible to pressure from the Ring-billed Gulls; in particular the occupation of suitable nesting habitat, as well as egg and chick predation. Despite intense management, the Ring-billed Gulls appear to be gaining control of the Common Tern nesting areas. The number of nesting tern pairs was below 600 (21 May 1998) for the first time since the late 1970s. Management of the breakwater colony is being supervised by researchers from Brock University.

Ontario Field Ornithologists

- [Home](#)
- [About Us](#)
- [Field Trips](#)
- [Learn About Birds](#)
- [Where to See Birds](#)
- [Using eBird](#)
- [Ontario Checklist](#)
- [OBRC](#)
- [Events](#)
- [Photos](#)



BIRD PROTECTION LAWS

- [ARTICLES](#)

By Ron Pittaway

This article first appeared in *OFO NEWS* 12: 3, October 1994 and was updated in July, 2001.

Posted 8 September 2006 to *Ontbirds* and *BirdChat*. Revised 14 September 2006.

Which laws protect birds? What is prohibited? Who enforces bird laws? What are the penalties?

In Canada, jurisdiction over birds is divided between the federal and provincial governments.

Here is a summary of the federal and provincial laws that protect and regulate the use of birds in Ontario.

Please contact Ron if you have further questions. Ron Pittaway, 9 Lichen Place, Toronto ON M3A 1X3, or [send an email](#).

MIGRATORY BIRDS CONVENTION ACT

(FEDERAL) [TOP](#)

This is the most important law protecting birds in Canada. Most birds in Ontario are protected by this Act. The *Migratory Birds Convention Act (MBCA)* was completely updated for the first time in June 1994. The new Act strengthens the enforcement provisions and significantly increases the penalties. The original *MBCA* was passed in 1917 to meet the terms of an agreement signed with the United States to protect birds such as waterfowl and shorebirds, which were being subjected to uncontrolled hunting. Also included were "good" birds such as most songbirds, considered beneficial to humans because they eat insects and weed seeds. However, birds deemed at that time to be vermin or harmful to humans such as hawks, owls, crows and cormorants were left under provincial jurisdiction.

The name "Migratory" is somewhat misleading because some migratory birds like the Merlin are *not* protected by the *MBCA* while some non-migratory species like the Downy Woodpecker are! The birds covered by the *MBCA* in Ontario are: loons, grebes, shearwaters, fulmars, storm-petrels, gannets, anhingas, herons, bitterns, ibises, storks, swans, geese, ducks, rails, gallinules, coots, cranes, shorebirds, jaegers, gulls, terns, skimmers, alcids, pigeons, doves (except Rock Dove), cuckoos, goatsuckers, swifts, hummingbirds, woodpeckers, tyrant flycatchers, larks, swallows, titmice, chickadees, nuthatches, creepers, wrens, kinglets, gnatcatchers, thrushes, mockingbirds, thrashers, catbirds, pipits, silky-flycatchers, shrikes, vireos, wood warblers, tanagers, cardinals, sparrows, buntings, meadowlarks, bobolinks, orioles and finches.

The *MBCA* generally does not protect introduced species such as the European Starling and House Sparrow. See the *Fish and Wildlife Conservation Act (Ontario)* for birds regulated by the province.

Except under the authority of a permit, the *MBCA* prohibits the hunting, collecting, trapping, mist-netting and banding of birds, the collecting of eggs and nests, the possession of birds found dead, and the keeping of captive birds. Permits to possess or collect migratory birds are issued by the Canadian Wildlife Service (CWS) but these permits are virtually impossible for an individual to obtain. However, permits are issued to agencies that work with birds such as the Ministry of Natural Resources (MNR), Canadian Museum of Nature, Royal Ontario Museum and universities. Hunters may possess or have their migratory gamebirds mounted by a taxidermist under the authority of their Migratory Bird Hunting Permit. Taxidermists must have a permit from the CWS for migratory birds. Permission for the collection or possession of provincially regulated birds for educational and scientific purposes comes from the MNR. The MNR also issues possession permits for provincial birds that died of natural causes or were killed accidentally.

The *MBCA* regulates the hunting of ducks, geese, rails, American Coot, Common Moorhen, American Woodcock and Common Snipe in Ontario. Regulations governing open seasons and possession limits of migratory gamebirds are set each year. There is no hunting season for Harlequin Duck in Ontario. The decision to close the season was based on recommendations by the MNR and CWS because of its low numbers.

Enforcement of the *MBCA* in Ontario is handled jointly by the CWS, MNR and RCMP. The maximum penalties are: (1) for a corporation a \$250,000 fine and (2) for an individual a \$100,000 fine or imprisonment for five years or both.

An excellent publication entitled "Birds Protected in Canada Under the *Migratory Birds Convention Act*" is available free. Write to: Publications, Canadian Wildlife Service, Ottawa ON K1A 0H3 or phone (819) 997-1095.

ARTICLES

By Ron Pittaway

This article first appeared in *OFO NEWS* 12: 3, October 1994 and was updated in July, 2001. Posted 8 September 2006 to Ontbirds and BirdChat. Revised 14 September 2006.

Which laws protect birds? What is prohibited? Who enforces bird laws? What are the penalties? In Canada, jurisdiction over birds is divided between the federal and provincial governments. Here is a summary of the federal and provincial laws that protect and regulate the use of birds in Ontario.

Please contact Ron if you have further questions. Ron Pittaway, 9 Lichen Place, Toronto ON M3A 1X3, or [send an email](#).

MIGRATORY BIRDS CONVENTION ACT (FEDERAL) TOP

This is the most important law protecting birds in Canada. Most birds in Ontario are protected by this Act. The *Migratory Birds Convention Act (MBCA)* was completely updated for the first time in June 1994. The new Act strengthens the enforcement provisions and significantly increases the penalties. The original *MBCA* was passed in 1917 to meet the terms of an agreement signed with the United States to protect birds such as waterfowl and shorebirds, which were being subjected to uncontrolled hunting. Also included were "good" birds such as most songbirds, considered beneficial to humans because they eat insects and weed seeds. However, birds deemed at that time to be vermin or harmful to humans such as hawks, owls, crows and cormorants were left under provincial jurisdiction.

The name "Migratory" is somewhat misleading because some migratory birds like the Merlin are *not* protected by the *MBCA* while some non-migratory species like the Downy Woodpecker are! The birds covered by the *MBCA* in Ontario are: loons, grebes, shearwaters, fulmars, storm-petrels, gannets, anhingas, herons, bitterns, ibises, storks, swans, geese, ducks, rails, gallinules, coots, cranes, shorebirds, jaegers, gulls, terns, skimmers, alcids, pigeons, doves (except Rock Dove), cuckoos, goatsuckers, swifts, hummingbirds, woodpeckers, tyrant flycatchers, larks, swallows, titmice, chickadees, nuthatches, creepers, wrens, kinglets, gnatcatchers, thrushes, mockingbirds, thrashers, catbirds, pipits, silky-flycatchers, shrikes, vireos, wood warblers, tanagers, cardinals, sparrows, buntings, meadowlarks, bobolinks, orioles and finches.

The *MBCA* generally does not protect introduced species such as the European Starling and House Sparrow. See the *Fish and Wildlife Conservation Act (Ontario)* for birds regulated by the province.

Except under the authority of a permit, the *MBCA* prohibits the hunting, collecting, trapping, mist-netting and banding of birds, the collecting of eggs and nests, the possession of birds found dead, and the keeping of captive birds. Permits to possess or collect migratory birds are issued by the Canadian Wildlife Service (CWS) but these permits are virtually impossible for an individual to obtain. However, permits are issued to agencies that work with birds such as the Ministry of Natural Resources (MNR), Canadian Museum of Nature, Royal Ontario Museum and

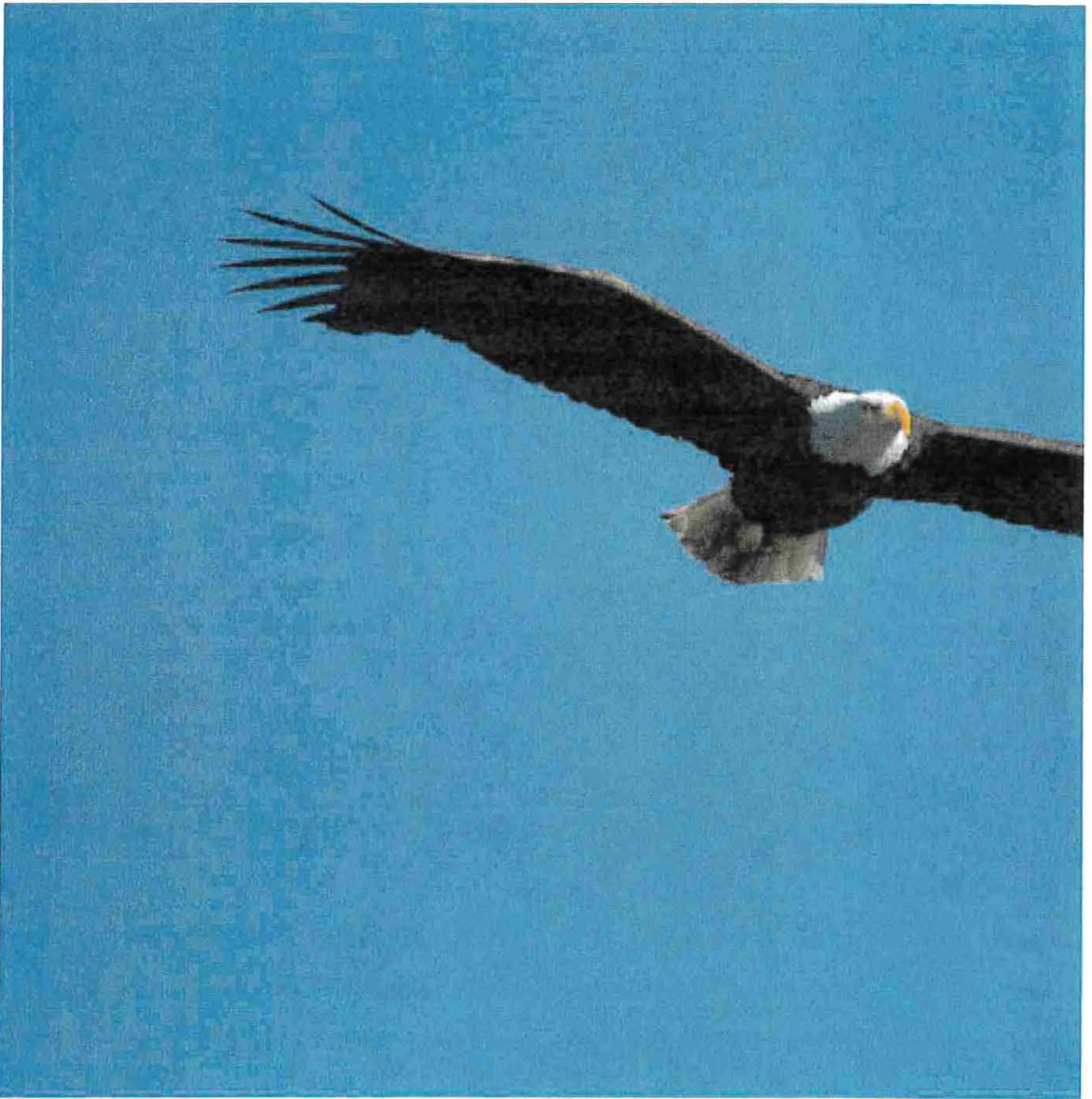
universities. Hunters may possess or have their migratory gamebirds mounted by a taxidermist under the authority of their Migratory Bird Hunting Permit. Taxidermists must have a permit from the CWS for migratory birds. Permission for the collection or possession of provincially regulated birds for educational and scientific purposes comes from the MNR. The MNR also issues possession permits for provincial birds that died of natural causes or were killed accidentally. The *MBCA* regulates the hunting of ducks, geese, rails, American Coot, Common Moorhen, American Woodcock and Common Snipe in Ontario. Regulations governing open seasons and possession limits of migratory gamebirds are set each year. There is no hunting season for Harlequin Duck in Ontario. The decision to close the season was based on recommendations by the MNR and CWS because of its low numbers.

Enforcement of the *MBCA* in Ontario is handled jointly by the CWS, MNR and RCMP. The maximum penalties are: (1) for a corporation a \$250,000 fine and (2) for an individual a \$100,000 fine or imprisonment for five years or both.

An excellent publication entitled "Birds Protected in Canada Under the *Migratory Birds Convention Act*" is available free. Write to: Publications, Canadian Wildlife Service, Ottawa ON K1A 0H3 or phone (819) 997-1095.

Ontario's *Endangered Species Act (ESA)* currently protects 11 species of birds and their habitats in Ontario: American White Pelican, Bald Eagle, Golden Eagle, Peregrine Falcon, King Rail, Piping Plover, Eskimo Curlew, Loggerhead Shrike, Kirtland's Warbler, Prothonotary Warbler and Henslow's Sparrow. Under the *ESA*, it is prohibited to wilfully kill, injure or interfere with an endangered species, or to interfere with or destroy the habitat of an endangered species. Note that the habitat of an endangered species is also protected! The key word in this Act is "wilfully". Therefore to obtain a conviction, the Crown must prove that the defendant acted intentionally. Conservation Officers with the MNR are chiefly responsible for enforcement. A person convicted under the *ESA* "is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years, or to both". There is *no federal Endangered Species Act* in Canada, but one is under consideration.

In addition, the national Committee on the Status of Endangered Wildlife in Canada (Cosewic) lists Northern Bobwhite, Barn Owl, and Acadian Flycatcher as endangered in Ontario but this gives them no extra protection.



Bald Eagle

Photo: Jeremy Ritchie

FISH AND WILDLIFE CONSERVATION ACT (ONTARIO) TOP

This Ontario law generally applies only to those birds not covered by the federal MBCA. Birds protected by the *Fish and Wildlife Conservation Act* (FWCA) are: pelicans, cormorants, vultures, ospreys, kites, eagles, hawks, caracaras, falcons, partridges, pheasants, grouse, ptarmigan, turkey, quail, owls, kingfishers, jays, nutcrackers, magpies and ravens. The FWCA does not protect the following six birds or their nests and eggs in most of Ontario: American Crow, Brown-headed Cowbird, Common Grackle, Red-winged Blackbird, European Starling, and House Sparrow. However, the Act does protect these six birds in provincial parks and provincial crown game preserves. Rock Doves are also not protected because they are introduced domesticated

birds gone feral. However, one must have a hunting licence to hunt even unprotected birds. In addition, the *FWCA* regulates the seasons and limits of gallinaceous birds; that is, partridge, pheasant, grouse, ptarmigan, turkey and quail, which may be hunted with a provincial hunting licence. Interestingly, the *FWCA* allows the killing of birds, except birds protected by the *MBCA* and the *ESA*, in defence of property. For example, farmers do not need a permit to kill a hawk attacking their chickens.

The *FWCA* prohibits the hunting, trapping and collecting of birds without the proper licence or scientific permit. Importantly, the use of poison to kill birds is strictly prohibited. Furthermore, the Act prohibits the taking or possession of eggs and nests of those species protected by the Act without a permit.

You may possess birds (but *not* birds protected by the *MBCA*) found dead that were killed by natural or accidental causes. In general, dead birds in your possession must be reported to the MNR within five working days, except birds of prey, which must be taken to the MNR for inspection within two working days. For example, if you find a dead owl hit by a car, the MNR may issue you a permit to keep the bird or to have it mounted by a taxidermist, provided an inspection shows the bird died accidentally or of natural causes. However, hunters may have their gallinaceous gamebirds mounted under the authority of their provincial hunting licence.

Enforcement of the *FWCA* is done mainly by Conservation Officers employed by the MNR. The general penalty is a fine of not more than \$25,000, to imprisonment for a term of not more than one year, or both.

- o [NEWS](#)
- o [SPORTS](#)
- o [LIVING](#)
- o [OPINION](#)
- o [WHAT'S ON](#)
- o [HOMEFINDER](#)
- o [CLASSIFIEDS](#)
- o [OBITUARIES](#)
- o [SEARCH](#)

[Home](#) / [News](#) / [Business](#) / [Is Hamilton Set To Become King Of The...](#)

Is Hamilton set to become king of the Great Lakes superhighway?

More than \$3 billion dollars in cargo was handled by the port authority in 2018

NEWS May 07, 2019 by Kathy Renwald Special to The Hamilton Spectator

Great Lakes bulk carrier freighter Ojibway sails into Hamilton Harbour through the Burlington Ship Canal in August of 2018. - Gary Yokoyama, The Hamilton Spectator

Is Hamilton about to become the kingpin in a new Great Lakes superhighway, a highway that would move cargo across the great lakes on tankers and freighters?

The epicentre of the marine transportation network would be right at the foot of James Street North in the Hamilton Port Authority building.

In February, the Federal Government announced their intent to amalgamate the Hamilton Port Authority with the Oshawa Port Authority.

That change is coming in weeks according to port authority president and CEO Ian Hamilton.

"The Hamilton Port Authority will be dissolved, the Oshawa Port Authority will be dissolved, and a new combined port authority will be created."

While that announcement caught many politicians by surprise, it was clear at the Hamilton Port Authority's annual general meeting May 3, that the HPA was pushing the federal government for this amalgamation.

"They knew what our vision was, and we advocated for this regional port model," Hamilton says.

But expansion plans could move beyond the port in Oshawa. Hamilton's port is the biggest on Lake Ontario, and the busiest on the Great Lakes, but HPA has just 50 acres of developable land, according to Hamilton.

So the HPA is also looking at bringing facilities along the Welland Canal into the regional network, and hinted at opportunity in Toronto's port.

More than \$3 billion dollars in cargo was handled by the HPA in 2018, the best year in over a decade Hamilton reported at the AGM. Much of the growth comes from the handling of agricultural products as the port continues to diversify its business from heavy reliance on steelmaking.

YOU MIGHT BE INTERESTED IN...

LOCAL

Hamilton councillor seeks goal of zero plastic...

BUSINESS

Chinese woman's secret arrest hints at wider...

OPINION

Graham Rockingham: McMaster, Mahler and the search...

While the port of Oshawa handles similar cargo, it recently lost \$4 million dollars in an arbitration award over a failed ethanol project.

Unconcerned about taking on Oshawa's debt, Hamilton says the amalgamation aligns with the HPA vision to build a Great Lakes transportation network, since "the province has no marine strategy."

It's clear the idea resonates at the federal level. Last month a federal committee looking at establishing a Canadian transportation and logistics strategy recommended increased use of the St. Lawrence Seaway, and Welland Canal as a way of moving more goods and reducing trucks on the QEW. The committee report suggested underused federal lands along the Welland Canal could be used for cargo handling as the "Port of Hamilton is at maximum capacity."

While the amalgamation of the Hamilton and Oshawa ports appears to be the beginning of a new marine network, both cities at the municipal level are jockeying for top billing. The City of Hamilton plans to ask the Minister of Transport that the new entity be called the Hamilton-Oshawa Port Authority, while Oshawa is making the same request in reverse order.

"It's up to the federal government to come up with the name," Hamilton says.

It may not be long before the big letters come off the Hamilton Port Authority building just like they did when the name was

changed from the Hamilton Harbour Commissioners. It will be another chapter of Hamilton history that began in 1912, assigned to the scrapbooks.

It's not a change that will bother most people Ian Hamilton believes.

"I don't think so, I think people are more concerned that we fulfill our mandate."

CERTIFIED PRE-OWNED **FINANCE SPECIALS**

0.9% FOR 2 YRS O.A.C.

3.99% FOR 4 YRS O.A.C.

ON SELECT PRE-OWNED CERTIFIED VEHICLES ASK FOR BONNIE OR TRACY

915 Niagara Street, Welland, ON
905-735-3690

www.davidsonpreowned.com

THE ADVANTAGES:

- * 150+ Point Inspection
- * Manufacturer's Warranty
- * 24HR Roadside Assistance
- * Exchange Privilege

DAVIDSON

RAISING THE LIMITS?: Ontario is reviewing the speed allowed on provincial highways // CANADA & WORLD, E

2016

MONDAY, MAY 6, 2019

WELLAND TRIBUNE



Angler to the c
the bo:
at Port
Colbor
Knoll L
Park S
High w
levels
already
pushir
west l.
ramp
the pa
beside
puttir
ramp
water

32/
37

DAVE JOHNSON THE WELLAND TRIBUNE

Lake Erie reaching record levels

Brock professor suggests people take a good look at shoreline development

DAVE JOHNSON
The Welland Tribune

Municipalities need to start rethinking how they plan devel-

comes.

This year, she's keeping an eye on Lake Erie. She says it has hit levels not seen since records were set in 1985.

Data from the federal Canadi-

Commission, controls the outflow from the dam and was releasing water at a rate of 6,300 cubic metres per second on Saturday. It released 10,400 cubic metres per second for a two-month period in 2017 during the record high water levels.

Vasseur says there needs to be a balance between how much is

away from the shoreli- reason for that, she sa people were always w about the possibility c and associated surges

But that changed ov and people in the Mar along the lakes move closer to the water's e they may now have to



33/37

CONCERNS ABOUT PROPER NOTIFICATION

At the recent Port Colborne Strategic Planning Session concerns were raised about The Cities ability to properly inform the public about what the CITY IS DOING AND ABOUT WHAT THE CITY HAS TO OFFER.

I am sure that Planning did its due diligence with respect to notification but I ask was it adequate in this matter considering the methods used?

When I was handing out flyers trying to notify the residents about this matter I found out that in the area between West Street and King Street only one person had heard something about this matter but did not know anything about the issue and ALL the OTHERS many Business owners knew NOTHING AT ALL about this matter. There was even a member of the BIA who lives in the area who had heard NOTHING!

The Leader is NOT DELIVERED in the downtown core!
How many people get the Welland Tribune? How many other agencies were sent a notice?

For example as stated in the Section 35 Hazard Zone (h) in the planning documents " The Niagara Peninsula Conservation Authority Which regulates Lake Erie Shoreline and Interference with Wetlands and Alteration to Shorelines and Watercourses. Was this agency asked for comments ?

And what about COMMENTS FROM THE REPRESENTATIVES FOR

Fish and Wildlife Conservation Act, 1997, S.O. 1997, c. 41 - Ontario.ca

Navigation Protection Act - Transport Canada

Ontario Water Resources Act, R.S.O. 1990, c. O.40 - Ontario.ca

And how many others involved with this issue.

Why are we the APPLICANT and not the Department of Transport?
Why are we doing the DIRTY WORK of the Federal Government?

WATER, WATER, WATER

THIS WAS THE RALLYING CALL OF THE FIRST DAY ON THE RECENT STRATEGIC PLANNING SESSION AND THIS WAS RECOGNIZED AS THE GREATEST ATTRIBUTE OF THE CITY OF PORT COLBORNE.

If the south end of this area was open to the public and made into a GULL SCANTUARY we would be adding to what has been decided to be our greatest asset.

We have seen recently the high water in the Great lakes reaching Record Levels and the damage that this can cause as you all well are aware of the repairs that were needed to the boat launch area.

The picture that is included, that a friend took, during a high wind event on

Tuesday, November 06, 2018.

This is a picture of the Welland Canal OVERFLOWING the West Wall around the area of the viewing platform at the south end of the Promenade.

I am certain with these new norms that the Hazard Lands in the concerned area would be GREATLY INCREASED and these lands are necessary for the e “ Ebb and Flow “ of the Lake to prevent erosion and flooding.

It is my FEAR that if the south end of this area is zoned Heavy Industry the large pile of material that is I would guess over 30 feet high that this material will be pushed into the lagoon in order to create more space.

Our DRINKING WATER SOURCE is downstream from this area and when the locks are closed ALL THE WATER flows down the Weir and passes in front of our water intake. The difference between Heavy Industry and Light Industry makes a great difference here.

The chance of a major contamination spill greatly increases with Heavy Industry

Do you remember the last time that we had a spill in the canal?

Do you want the City to go through this again?

Liability

This of course is one of my greatest concerns.

Why are we doing THHE DIRTY WORK of the Federal Government?

Why is The City of Port Colborne the Allpicant?

Any property owner can come forward and make an application to change their zoning, all owners in this area were giver proper notification at the time when this area was changed to Parks and Open Space and HI-holding.

If they had any concern that was the time to make their voices heard.

What's the expression " USE IT OR LOSE IT " ?

As the APPLICANT, I wonder if as the enabler to this change if we will not be held liable for future damages due to pollution, flooding, erosion and degradation of quality of life.

The example that comes to mind: if I throw a party and I supply the alcohol and one of my guests drinks too much and gets into an accident and causes bodily harm not only is **he held responsible but so am I**.

I certainly believe that this is part of the so-called Great Lakes Superhighway / Marine Transportation Corridor, presently being pushed by the Federal Government, we are being Federally motivated with POLITICAL INTERFERENCE!
Why are they not the APPLICANT?

And are we going to be holding the bag?

JOBS, JOBS, JOBS

Part of the original motion mentioned Employment purposes, and what community does not want employment In fact it is the rallying cry of all politicians “ **I will create more jobs** “ But the real question is what kind of jobs?

The main driver of the economy is HOUSING and CONSUMERISM and the main driver of employment is small business.

A prime example of this in Port Colborne is Allied Marine on the east side.

A LIGHT INDUSTRY.

They own their property and they provide very good high skilled employment, they take pride in their work and property. There is NO junk outside and their work space is clean, modern and they have the latest in technology for their industry.

This is what we want in Port Colborne !

We should hold up a banner “ **PORT COLBORNE OPEN FOR MARINE LIGHT INDUSTRY** “

We should NOT expand heavy industry and we should Not encourage more. Port Colborne deserves better! The heavy industry that we now have is creating enough problems and they seem not to be able control the nuisance that they now cause.

TAXES

If one examines the tax rolls you will find that Heavy Industry pays very little in taxes, as they can essentially operate on vacant industrial land and run a business out of a trailer with a few “ Johnny-on-the-spots “

For all the disturbance they make in the community they are not good corporate entities and contribute little to the community and the jobs that they create are not the best and endanger their workers and the environment around them.

They have a **LARGE AND HEAVY CARBON FOOTPRINT.**

Where as Light Industry/manufacturing has a physical presence in plant and buildings that contribute greatly to the tax base and they tend to provide better paying and more skilled jobs in a cleaner and healthier work environment.

