

**City of Port Colborne
Special Council Meeting 06-18
Minutes**

Date: March 26, 2018

Time: 6:30 p.m.

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

Members Present: R. Bodner, Councillor
B. Butters, Councillor
F. Danch, Councillor
A. Desmarais, Councillor
Y. Doucet, Councillor
D. Elliott, Councillor
B. Kenny, Councillor
J. Maloney, Mayor (presiding officer)

Absent: J. Mayne, Councillor (due to illness)

Staff Present: D. Aquilina, Director of Planning and Development
M. Bendia, Deputy Fire Chief
A. LaPointe, Manager of Legislative Services/City Clerk
S. Shypowskyj, Manager of Projects and Design
S. Luey, Chief Administrative Officer
H. Mahon, Planning Technician/Clerk (minutes)
P. Senese, Director of Corporate Services

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

1. Call to Order:

Mayor Maloney called the meeting to order.

2. National Anthem:

Joel Longfellow sang O Canada.

3. Confirmation of Agenda:

No. 37 Moved by Councillor B. Kenny
Seconded by Councillor A. Desmarais

That the agenda dated March 26, 2018 be confirmed, as
circulated or as amended.

CARRIED.

4. Disclosures of Interest:

Nil

5. Public Hearing Under the Planning Act:

Proposed New Second Draft City of Port Colborne Comprehensive Zoning By-law
Planning and Development, Planning Division, Report No. 2018-37, Subject:
Second Public Meeting – Proposed New Comprehensive Zoning By-law

(i) Purpose of Meeting:

Mr. Aquilina advised that the purpose of this meeting, pursuant to Section 34 of the *Planning Act*, is to consider a new Comprehensive Zoning By-law for the City of Port Colborne.

Mr. Aquilina provided background information and noted that Council requested a second public meeting at the February 26, 2018 meeting.

(ii) Method of Notice

Mr. Aquilina advised that Notice of the Public Meeting was administered in accordance with Section 34 (13) of the *Planning Act*, as amended, Section 5 of Ontario Regulation 545/06. The Notice of Public Meeting was advertised in the Welland Tribune on March 6, 2018, posted on the City's website as well as the City's Facebook and Twitter accounts.

(iii) Explanation of Procedure to be Followed

Mr. Aquilina outlined the procedure to be followed: PowerPoint presentation of Department of Planning and Development Report 2018-37; opportunity for Councillors to ask questions or seek clarification from the Director of Planning and Development; opportunity for the public to provide comments or ask questions; announcement of the requirements under the *Planning Act* for written notice of passage of the zoning by-law; and provision of a brief explanation of the next steps.

(iv) Presentation of the Zoning By-Law Amendment

Mr. Aquilina provided a PowerPoint presentation (attached) summarizing Planning and Development Department, Planning Division Report 2018-37. Mr. Aquilina advised that the proposed new zoning by-law will replace the existing 1982 zoning by-law. Mr. Aquilina noted that the zoning by-law controls how land may be used, where buildings and structures can be located, lot sizes and dimensions, parking requirements, lot coverage, building heights, setbacks from property lines, etc.

Mr. Aquilina advised that a Public Open House was held on March 30, 2017 followed by a statutory Public Meeting on June 12, 2017. Public input was received prior to March 1, 2018. Mr. Aquilina further advised that on February 26, 2018, Council directed that a second Public Meeting be held. Mr. Aquilina also advised that the proposed new zoning by-law is posted on the City's website.

Mr. Aquilina advised that the second draft of the proposed new zoning by-law includes tracked changes as presented in Planning and Development Department, Planning Division Report 2018-14 and additional public input. Mr. Aquilina explained the changes between the first and second drafts of the proposed new zoning by-law.

Changes to the proposed new zoning by-law include a new Table of Contents; the requirements for accessory lot coverage has been increased from 3% to 5%; the total lot coverage requirements for the Rural, Hamlet and Recreation Resort zones has been increased from 10% to 15%; the HC zone will now allow for motor vehicle sales and auto service and repair; changes include the permission of single detached dwellings in the R3, R4, RD & HD zones; and the Downtown Commercial zone permits apartment buildings. Other changes include the permission of a semi-detached dwelling in the R4 zone and changes to Schedule A6 (R4 to R2) and A7 (RT to R4). There are 150 pages of text and 9 new zoning schedules (maps).

Mr. Aquilina referenced the public information process including the Public Open House held on March 30, 2017 at which approximately 25 people were in attendance. Draft zoning maps have been available and on display

since December 2016 as well as draft text made available and online. Staff have continued communicating with the public and agencies and have made minor changes. Mr. Aquilina noted that the Region requested definition pertaining to Agricultural uses, the MDS as well as noxious use.

Mr. Aquilina made reference to item 28.3(c) and advised that he was made aware of the change to the proposed new zoning by-law after the public hearing was held and noted that there is no record nor is staff available to comment as to why the change was included as a new provision. Mr. Aquilina advised that does not have an analysis as to why the 300m restriction was included.

Mr. Aquilina outlined the next steps to be taken in the process which are to review and address public and agency comments, make appropriate changes if required and to provide a recommendation report for Council's consideration at a future meeting.

(v) Questions of Clarification from Council

Councillor Kenny questioned Mr. Aquilina as to why he was not aware of the item regarding the 300m buffer restriction. Mr. Aquilina advised that it could only have been himself or a former planner who could have made the change and he believes a former draft was inadvertently used. He also advised that he was only just made aware of this recently. In the first draft the item was not included was likely was inserted after the last public hearing.

Councillor Desmarais questioned whether the 300m restriction should be included. Mr. Aquilina advised that the by-law must abide by the distance prescribed by the Province. Councillor Desmarais questioned whether the 90m buffer needs to be used. Mr. Aquilina responded that the Ministry of Natural Resources regulates quarries. Mr. Aquilina requested more time to address this issue.

Councillor Doucet questioned whether the 300m restriction could have been an administrative error. Mr. Aquilina advised that he would like to question the former planner as to the details but it is not possible for a couple of weeks.

Councillor Butters questioned the definition of an aggregate operation and how it can allow for an asphalt or concrete operation. Discussion commenced regarding the uses by the quarry. Councillor Butters expressed concern on behalf of the neighbours and the environment if this use was permitted and noted preference for having the use removed.

Councillor Bodner concurred with Councillor Butters and suggested that if the quarry wants to add this use later they can make application.

Councillor Elliott requested further enquiry regarding the secondary permitted uses. Mr. Aquilina concurred that this could be done.

Mr. Aquilina 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 the proposed comprehensive zoning by-law is approved, the person or public body is not entitled to appeal the decision of the City of Port Colborne to the Ontario Municipal Board."

And;

"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 the proposed comprehensive zoning by-law is approved the person or public body may not be added as a party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to add the person or public body as a party.”

Mr. Aquilina also advised about the availability of a sign-in sheet to request future notices regarding the application.

(vi) Oral Presentations and/or Questions by Public

Harry Wells of 548 Highway 3 East addressed Council and provided a Power Point presentation (attached). Mr. Wells presented Schedule “C” of the Official Plan showing the Mineral Aggregate and Petroleum Resources and noted the potential area where the aggregate sector could expand with potential impact for contamination into the high vulnerable aquifer areas.

Mr. Wells referenced the purpose of the Aggregate Resources Act and emphasized the Act is “*for the progressive and final rehabilitation of the land from which the aggregate was excavated to its former condition or an alternative use compatible with adjacent land.*” Mr. Wells referenced the City’s zoning by-law and that it should reflect Council’s desire for quality of life within the community.

Mr. Wells referenced item 2.3(b) of the draft zoning by-law and advised that the Asphalt and Cement Manufacturing was removed as a prohibited use in all zones from the original draft by-law so it could be included as a permitted use in the Mineral Aggregate Operations zone, allowing an Asphalt and Cement operation to be established in the bottom of the quarry. Mr. Wells expressed concern that the requirements for a Mineral Aggregate Operations zone do not provide any protection for the vulnerable aquifer and the environmental hazard of allowing an asphalt operation will be the inability of keeping it out of the water systems resulting in ground water contamination.

Doug Darbyson of 5054 Michener Road addressed Council, advising that he acts as agent for Butch Gordon, owner of Birdie Golf Carts located at the corner of Empire Road and Highway 3. Mr. Darbyson requested that the new zoning by-law expand the Hamlet zone to the north side of the Highway. Mr. Aquilina advised that it would not conform to the Official Plan and that Mr. Gordon’s property is recognized as a non-conforming use and any expansion of the use would require approval from the Committee of Adjustment.

Jack Hellinga of 770 Highway 3 addressed Council, expressing concern regarding the proposed re-zoning of the Extractive Industrial Zone to Mineral Aggregate Operations zone as it will result in a major change in the permitted uses. Mr. Hellinga made several references to the changes made in the Provincial Policy Statement 2014 and expressed the belief that the current definition in the draft zoning by-law would infringe on existing uses adjacent to the Mineral Aggregate Operations uses.

Mr. Hellinga requested that the City amend Section 28.2 “a) Mineral Aggregate Operations” to read: “a) Mineral Aggregate Operations, except for Asphalt Plant and Concrete Batching Plant facilities”. Mr. Hellinga also requested amendment to the wording of “d) Agricultural Operations” to read “d) Agricultural Operations except Intensive Animal Operations and Medical Marijuana Production Facilities”.

In addition Mr. Hellinga requested amendment of the definition of Mineral Aggregate Operations to read: “Mineral Aggregate Operation: means a) An operation other than wayside pits and quarries, conducted under a license

of permit under the Aggregate Resources Act or successors thereto; and b) Associated accessory facilities used in extraction, transport, beneficiation, processing, or recycling of mineral aggregate resources.”

Mr. Hellinga requested that due to concern regarding the potential environmental effects on the High Vulnerable Aquifer that a restriction be included in Section 28.3 such as “d) No recycling of asphalt and concrete, including crushing or stockpiling of such product, shall be permitted below the natural top water level of the High Vulnerable Aquifer nominally defined as elevation 176.0m, and that all rainwater runoff from the processing and stockpiling site(s) be contained and discharged in accordance with Ministry of the Environment and Climate Change regulations.” Mr. Hellinga requested that the zone requirements for Section 28.3 identify the necessity for progressive rehabilitation to be in conformity with the Official Plan.

Dr. Sean McFarland, Senior Hydrologist of Golder Associates addressed Council (presentation attached). The focus of Dr. McFarland’s presentation concerned the potential for groundwater contamination resulting from mineral extraction and industrial usage at the existing Port Colborne Quarry. Dr. McFarland described the nature of the quarry’s excavation and expressed belief that there low potential for groundwater contamination from minor extraction industrial use at the quarry site and any contaminants resulting from spills would be managed through a spill response plan. Dr. McFarland advised that the quarry dewatering and discharge of the pumped water is regulated by the Ministry of the Environment and Climate Change and permit to take water process which includes an evaluation of potential impacts on surrounding water wells and the quality of water discharged off site. Dr. McFarland also noted the quarry is responsible for restoring the groundwater supply of any wells that are impacted from drawdown related to quarry dewatering.

Councillor Bodner requested clarification from Dr. McFarland regarding the safety of operating an asphalt or cement operation located at the bottom of the quarry. Dr. McFarland advised that it is very safe due to the inward groundwater pressure.

Councillor Elliott questioned Dr. McFarland on the number of exhausted quarries that are used for industrial purpose. Dr. McFarland advised that ready mix and asphalt are typical uses and approximately one third of the quarries have them on site. Councillor Desmarais asked if Dr. McFarland could provide a list of quarries that have cement and asphalt plants and he agreed to look into it.

Councillor Butters questioned Dr. McFarland about whether he was familiar with any quarries that have been rehabilitated. Dr. McFarland advised that his experience is with the dewatered sites and advised if there is flooding sometimes they can be pumped and noted that in some cases the quarries are filled in and houses or commercial sites are built on the site. Dr. McFarland also noted with respect to agricultural lands that there is a movement towards more responsible use.

Councillor Butters expressed concern that rehabilitation would not occur with this quarry if asphalt and cement plants were a permitted use. She noted that a large number of families are dependent upon wells and that it could mean a big fight for them. Dr. McFarland advised that there are a few scenarios that could be considered for dry or flooded quarries and noted one quarry could be flooded while another one kept dry and a water management plan could be implemented to integrate the uses.

Councillor Doucet asked Dr. McFarland to comment on the residents’ concerns about the quarry drawing water from nearby wells. Dr. McFarland responded that all quarries have a drawdown zone and explained that a

monitoring program is implemented to determine if the wells are being affected by the quarry and if so then the quarry must correct the situation. Dr. McFarland advised that any complaints must be registered and investigated by the Ministry of the Environment to determine responsibility and that the process is designed to protect landowners and to have responsible operators.

David Sisco, Associate and Senior Planner of the IBI Group addressed Council on behalf of PC Quarries. Mr. Sisco referenced zoning requirement item 28.3 c) pertaining to the 300m buffer restriction of blasting from a dwelling, dwelling unit or area zoned for residential purposes. Mr. Sisco advised that PC Quarries had expressed concern regarding this provision and advised that the Provincial Standards is the level of standard that should be used. Mr. Sisco asked that Council retain the Mineral Aggregates Operations zoning text as contained in the February 12, 2018 version and the removal or rewording of clause 28.3 c) with respect to the meeting of Provincial Standards of the Aggregate Resources Act.

Dan Aquilina advised Council of correspondence received from Megan and Sandro Seca of 646 Stanley Street dated March 25, 2018 (attached). The letter expresses that due to continued development in their area the Mr. and Mrs. Seca requested assurance that the land is environmentally protected behind their home and will not be changed for future development. Mr. Aquilina advised that the Draft Schedule A7 in the south west area recognizes a protection of a 30m buffer for any development. The draft shows this to be a Provincially Significant Wetland.

Councillor Desmarais asked Mr. Aquilina his thoughts on the proposed changes. Mr. Aquilina responded that once all comments have been received he will provide a recommendation report to Council for their consideration. Councillor Bodner asked if Council should provide some direction. Chief Administrative Officer Luey advised that comments can still be presented at this time.

George Beaulieu of 644 Second Concession Road addressed Council, expressing concern that a cement or asphalt plant will cause noise and air pollution. Mr. Beaulieu noted that he has to clean lime dust from his eaves-troughs and noted that it is a problem if negative effects to the environment cannot be guaranteed. Mayor Maloney noted Mr. Beaulieu's objection.

David Stovell of 874 Second Concession Road addressed Council and advised that he experienced dust problems when he lived at 1170 Main Street East many years ago but at the time he accepted it because he was told the quarry would be rehabilitated. Mr. Stovell asked for clarification regarding pre-consultation policies. Mr. Aquilina explained that pre-consultation policies are for a proposed use and that at this time there has been no application for a cement or asphalt plant. The new zoning by-law process does not require pre-consultation.

Mr. Aquilina advised that he will provide an analysis of the provision concerning Item 28.3c).in a future report to Council.

(vii) Announcement Respecting Written Notice of Passage of the Draft Zoning By-Law

Mr. Aquilina advised that if anyone wishes "to be notified of the approval of the comprehensive zoning by-law they 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."

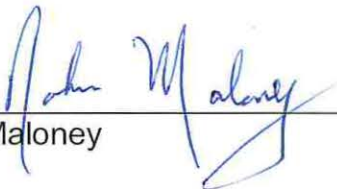
(viii) Explanation of Future Meetings

Mr. Aquilina advised of the conclusion of the Public Hearing under the *Planning Act* and that the proposed Comprehensive Zoning By-law will be placed on a future Council meeting agenda.


6. **Adjournment:**

No. 39 Moved by Councillor A. Desmarais
Seconded by Councillor Y. Doucet

That the Council meeting be adjourned at approximately 8:20 p.m.
CARRIED.



John Maloney
Mayor



Amber LaPointe
City Clerk

AL/hm



PORT COLBORNE
**Proposed New
Zoning By-law**

Second Public Meeting

BACKGROUND

Zoning By-law (ZBL) Review

- Replaces an existing 1982 ZBL
- Controls how land may be used
- Where buildings and structures can be located
- Lot sizes and dimensions, parking requirements, lot coverage, buildings heights, setbacks from property lines, etc.

ZBL Public Input

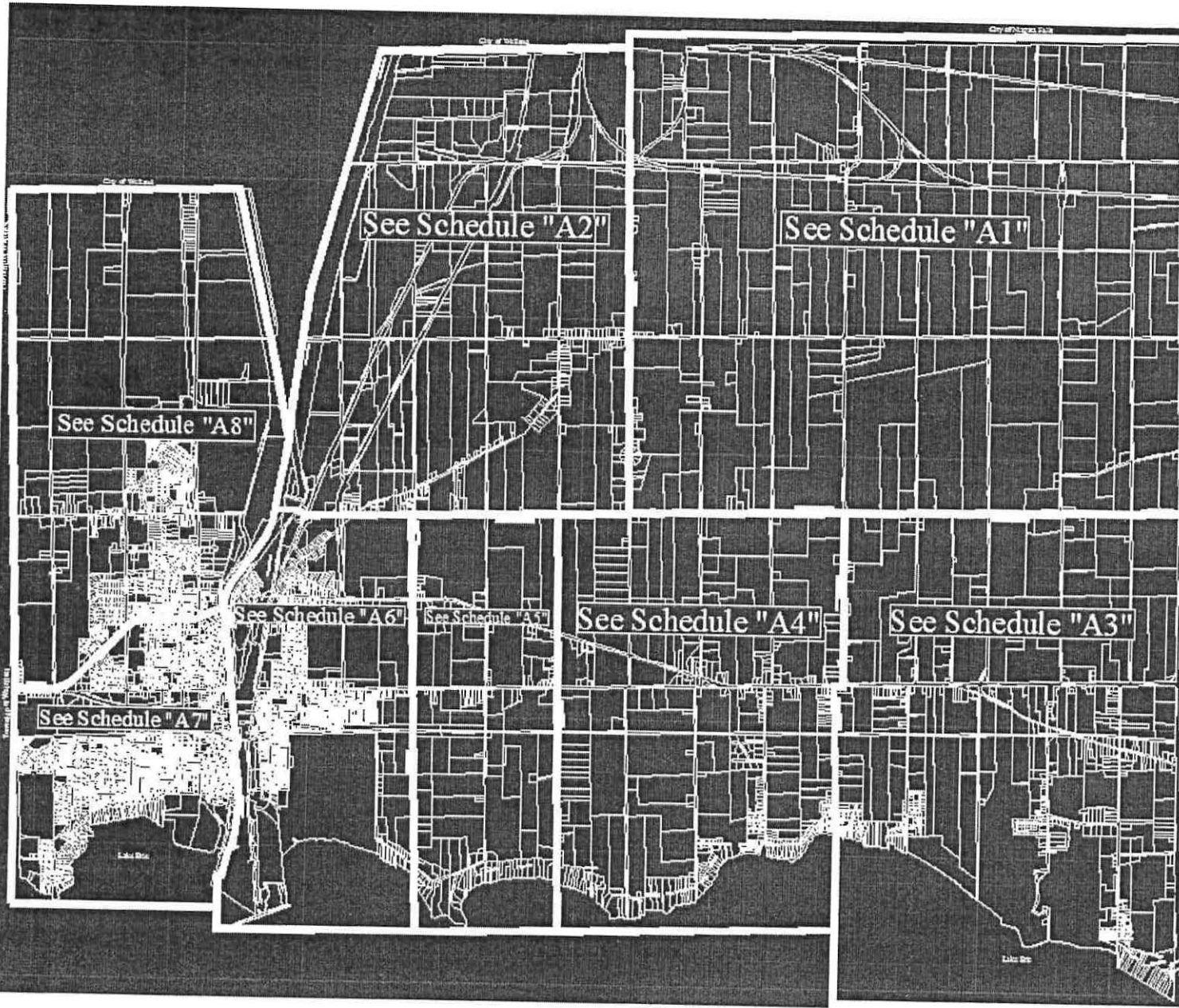
- Public Open House - March 30, 2017
- Statutory Public Meeting - June 12, 2017
- Public input received prior to March 1, 2018
- Council directed a Second Public Meeting on February 26, 2018
- The new draft ZBL has been posted to City website

Draft ZBL


- 2nd draft of the new ZBL includes all tracked changes that were presented in Planning and Development Report 2018-14 and additional public input thereafter.
- A table of contents.
- Changes to permit single detached dwellings in the R3, R4, RD & HD Residential Zones.
- Changes to permit a semi-detached dwelling in the R4 zone and changes to Schedule A6 (R4 to R2) and A7 (RT to R4).
- 150 pages of text and 9 new zoning schedules (maps)

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City of Port Colborne



SCHEDULE "A"

to By-Law No. _____

Zoning Maps "Index"

This is Schedule "A" to By-Law No. _____
 Passed on: _____ Day of _____ 2017.

For Address, Address _____

ARLBY GUY CITY CLERK



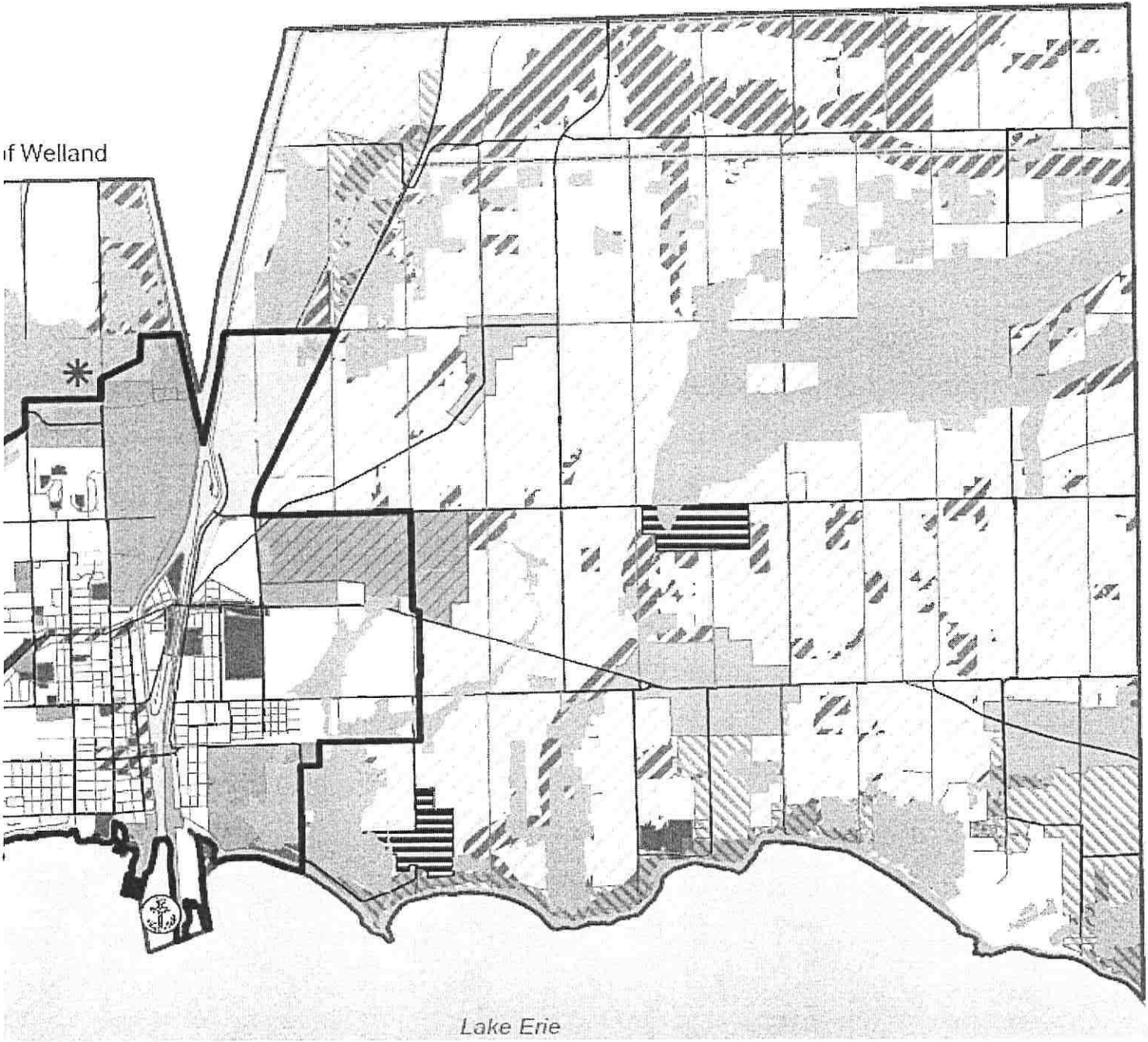
Key Changes

- More accurate and flexible zoning on a property by property basis to recognize existing and current on the ground conditions and trends
- More accurate mapping of environmental features in order to support development and protect natural heritage features
- Terminology clear/concise to eliminate redundancies/conflicts
- Clearer illustrations for definition interpretation

Key Changes

- Eliminating disrespectful terminology;
- Ensuring compliance with the Ontario Human Rights Code (specifically the removal of terminology that dictates specific types of housing i.e. low-income, seniors housing);
- Updating setbacks and other requirements to support growth and development;
- Creating new and updated permitted uses (including uses such as Food Vehicles and Brew Pubs) to be more in keeping with current trends and more general terminology to encourage a more flexible approach to zoning (R2 to include semi-detached dwellings);

if Welland



Town of Fort Erie

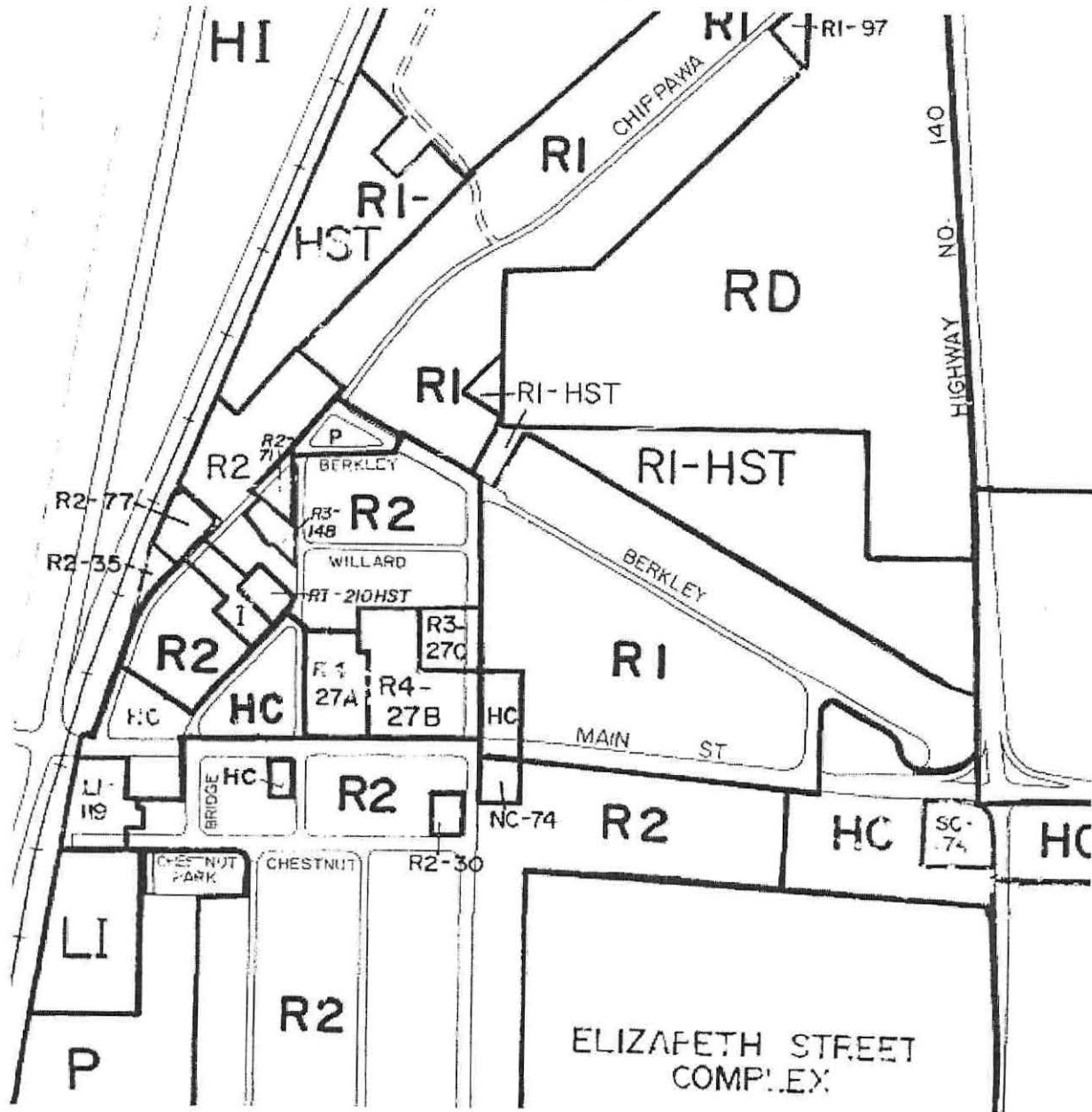
Lake Erie

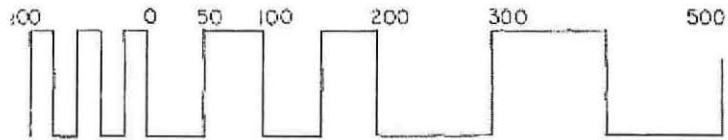
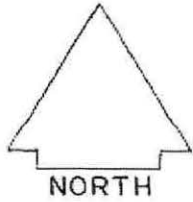
Schedule A: City-Wide

- Municipal Boundary
- Urban Area Boundary
- EPA
- ECA
- Agricultural
- Hamlet
- Urban Residential
- Rural
- Downtown Commercial
- Commercial Plaza
- Highway Commercial
- Marine Commercial
- Industrial / Employment
- Mineral Aggregation
- Gateway Economic
- Rural Employment
- Parks and Open Space
- Private Open Space
- Special Study Area
- Secondary Plan Area
- Major Port
- Former Waste Management Facility



1982 Zoning Schedule





SCALE IN METRES



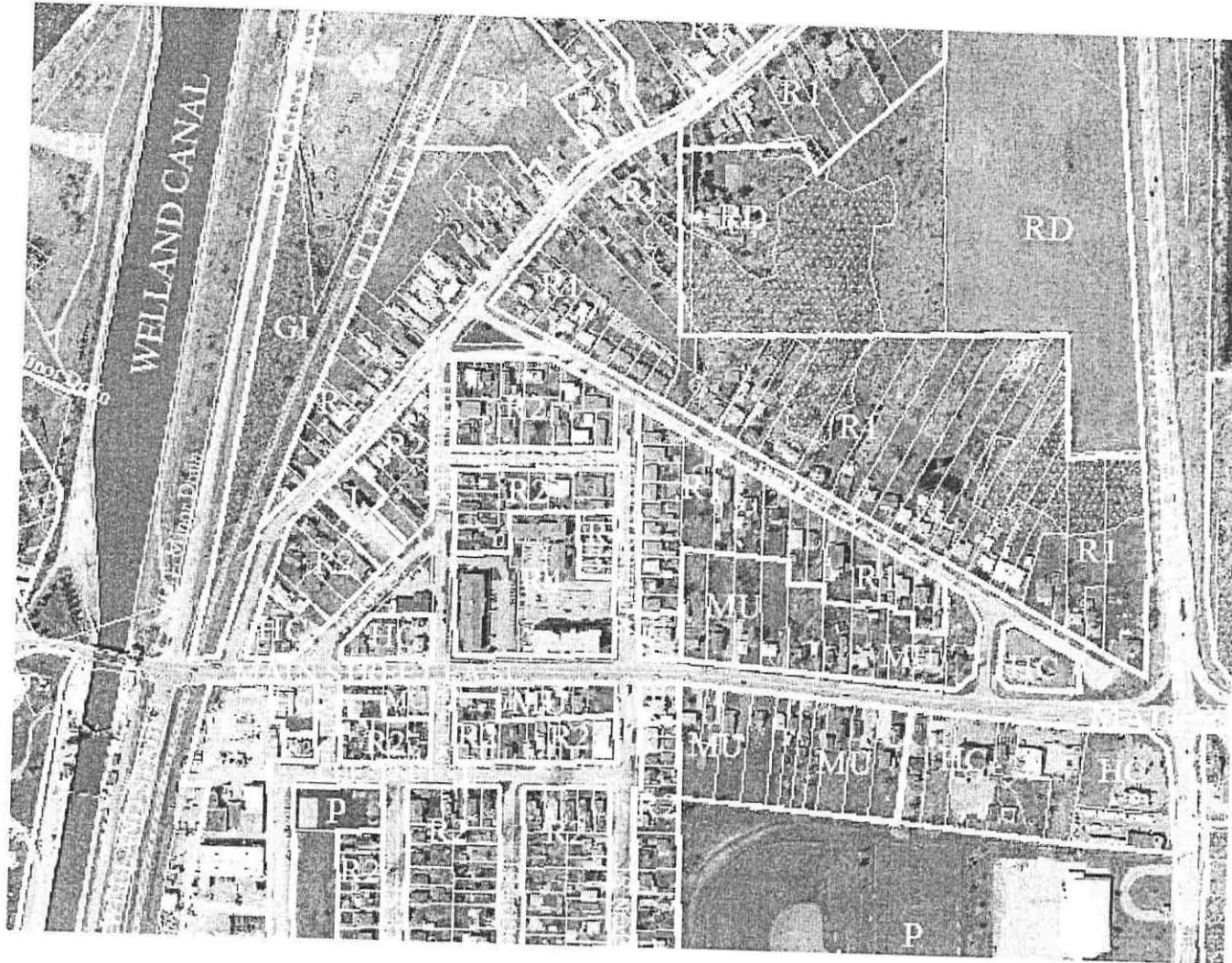
THIS IS SCHEDULE "A3" TO BY LAW N° 1150/97/81

PASSED THE 25th DAY OF FEBRUARY 1982.

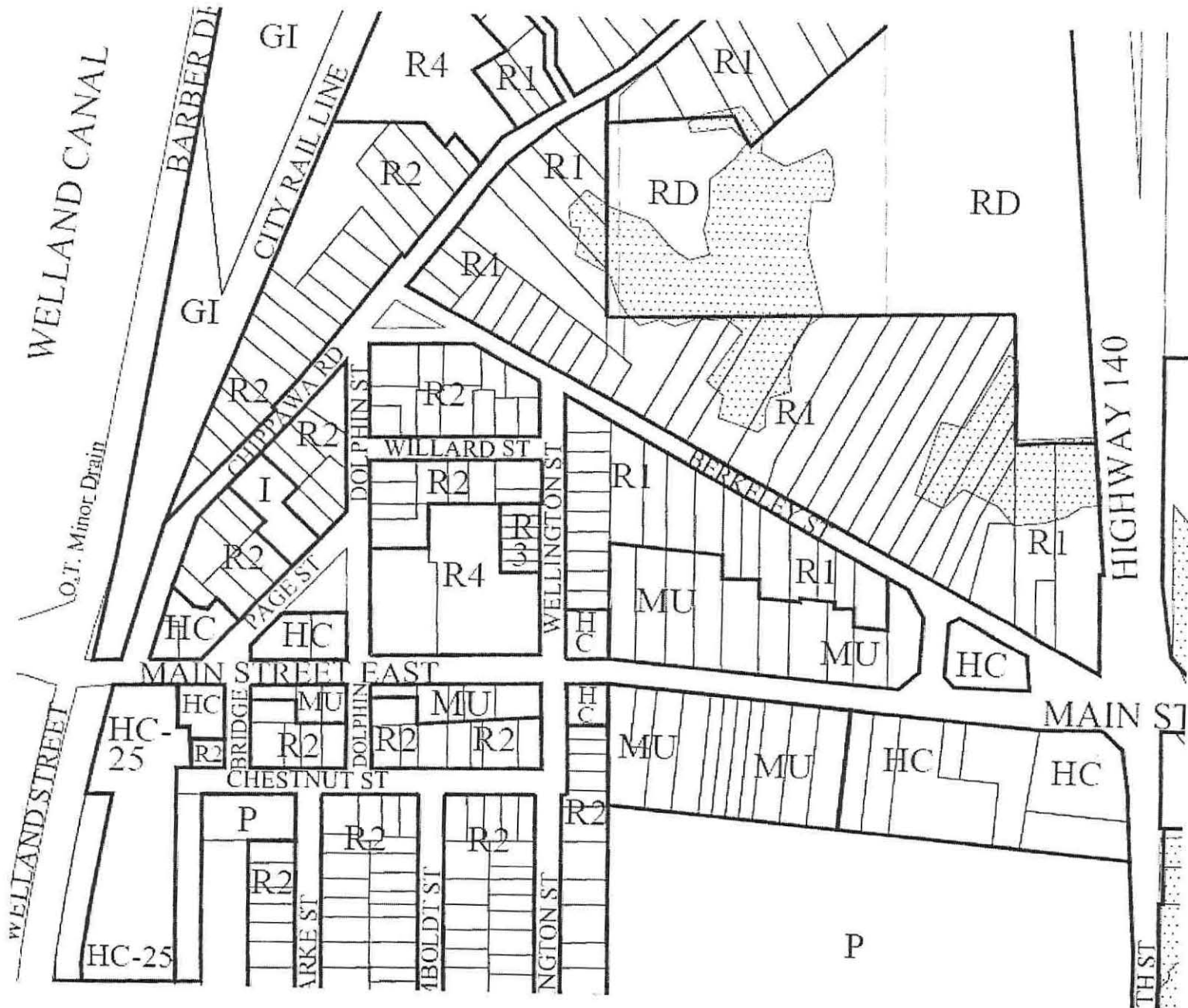
Mayor B. SARACINO

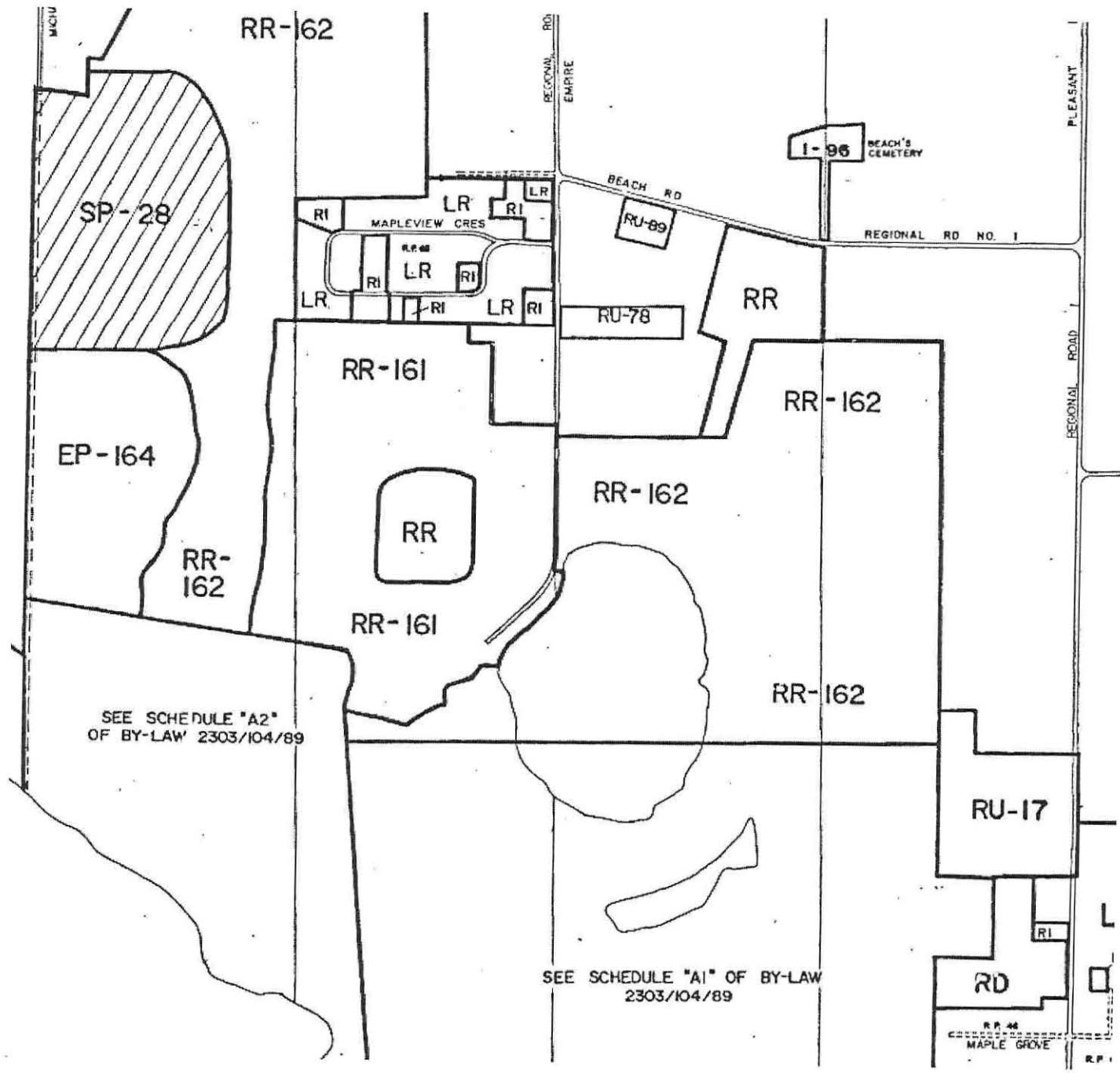
Clerk L.C. HUNT

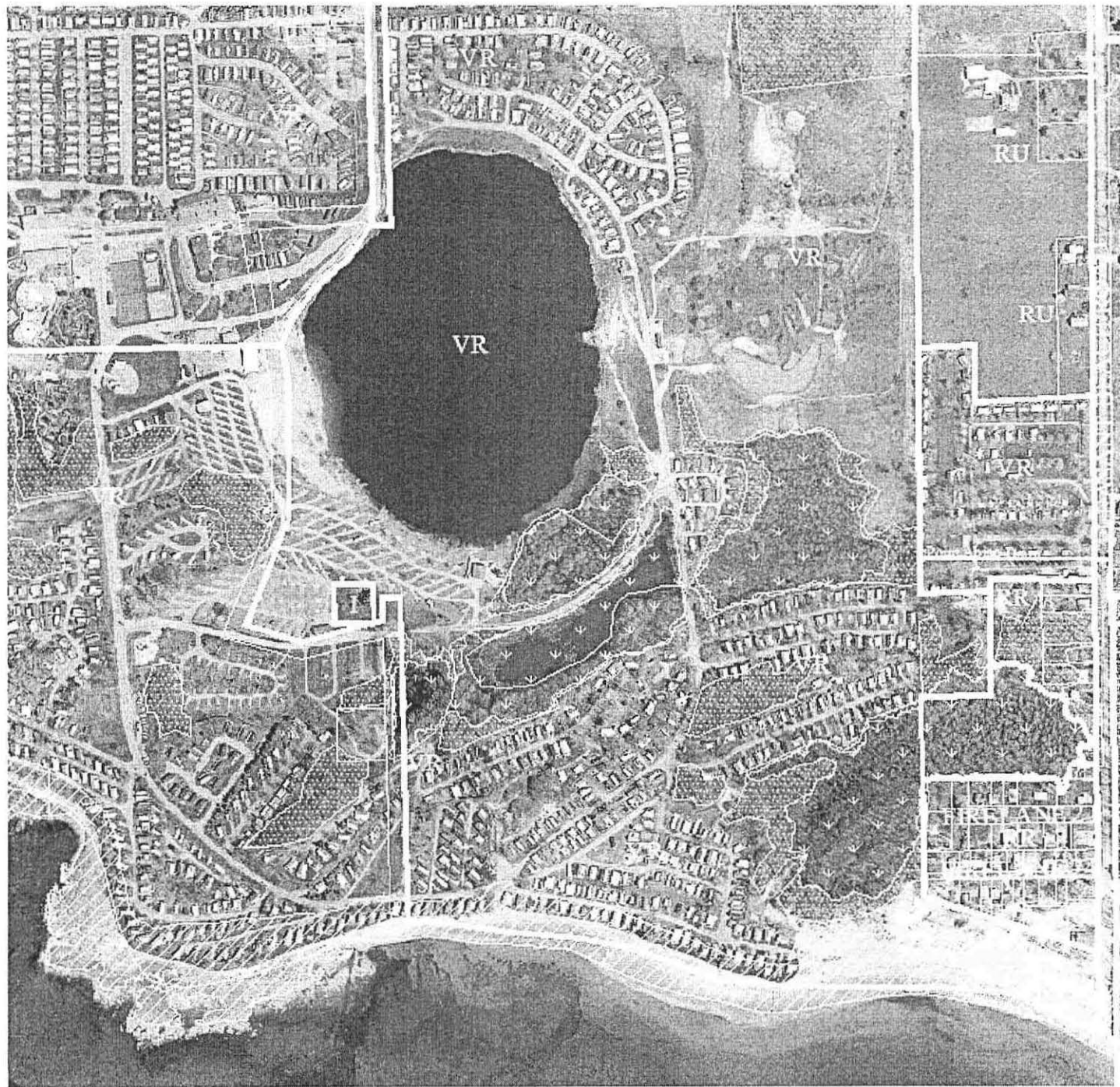
2017 Zoning Schedule

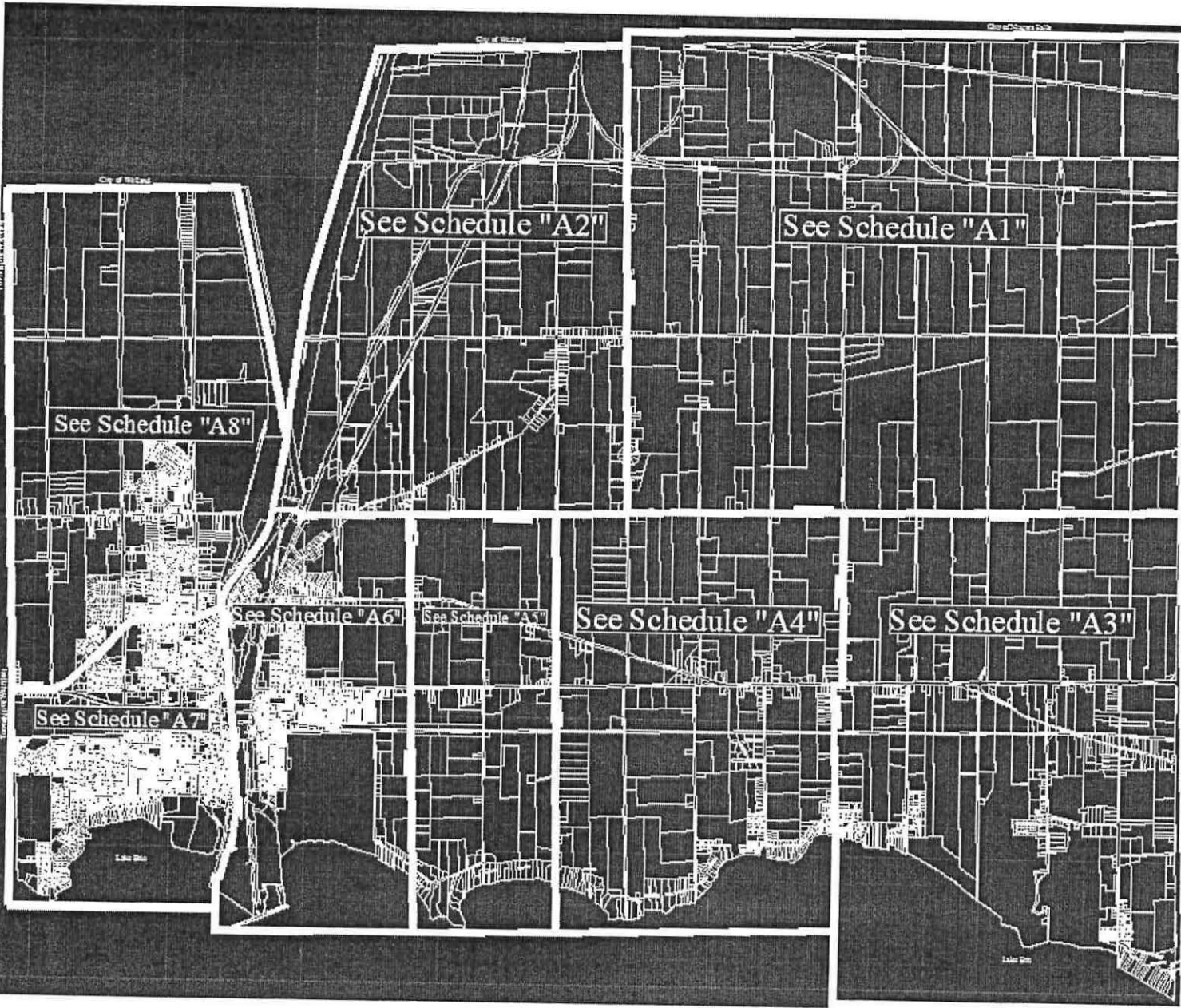


2017 Zoning Schedule










City of Port Colborne



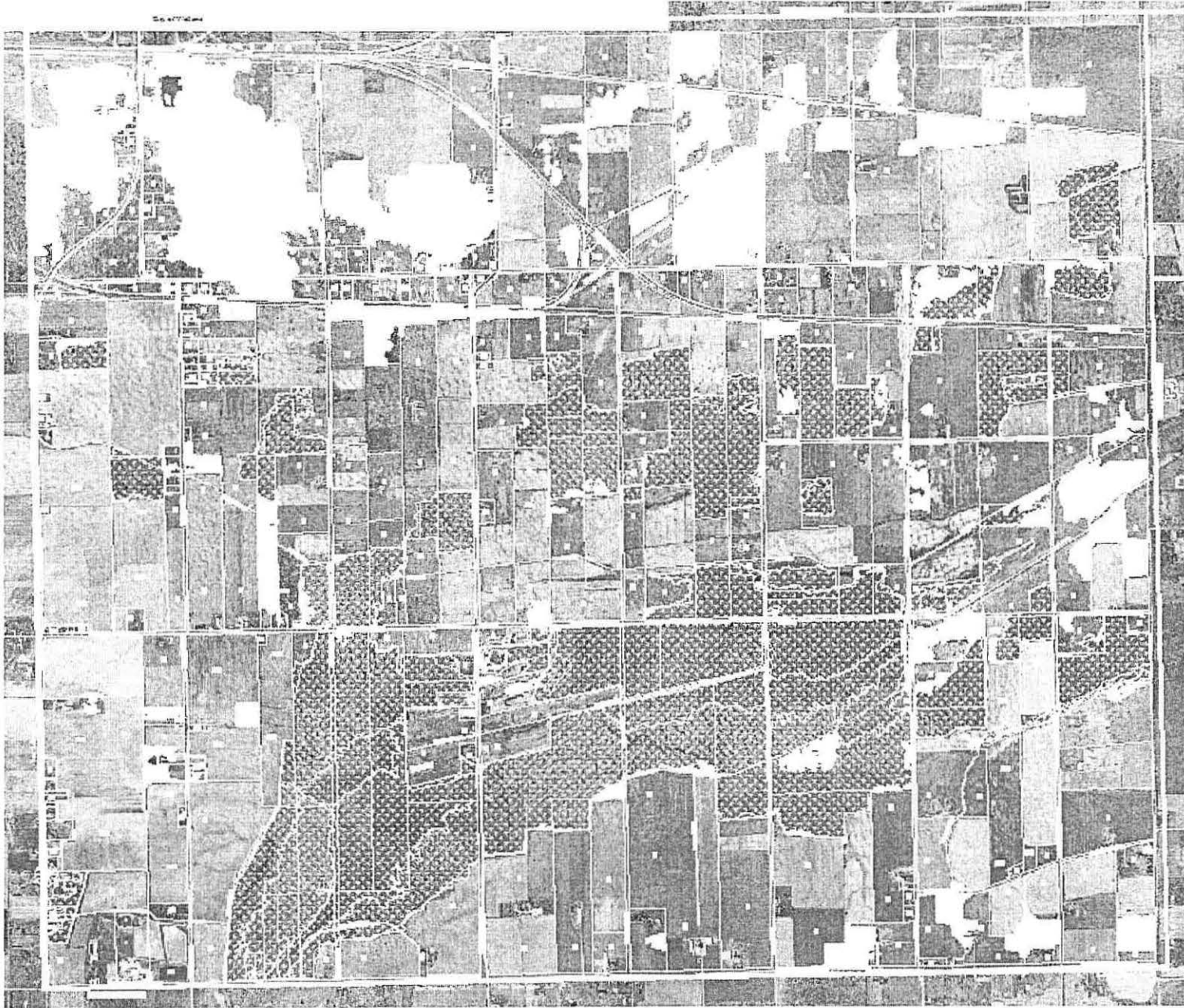
SCHEDULE "A"
 to By-Law No. _____
Zoning Maps "Index"
 This is Schedule "A" to By-Law No. _____
 Passed on _____ Day of _____ 2017.

179-2-3

ALBY GREG, C.M.A., C.E.T.

General Provisions

General Provisions



City of Fort Collins

SCHEDULE "A"
 ORDINANCE

Legend

Symbol	Zone
A	AGRICULTURAL
APD	AGRICULTURAL PURPOSES ONLY
AR	AGRICULTURAL RESIDENTIAL
I	INSTITUTIONAL
CC	ENVIRONMENTAL PROTECTION
	ENVIRONMENTAL CONSERVATION



0 1 1



City of Fort Collins
SCHEDULE "A3"
LEGEND

Symbol	Zone
A	AGRICULTURAL
APO	AGRICULTURAL PURPOSES ONLY
AR	AGRICULTURAL RESIDENTIAL
RU	RURAL
RR	RURAL RESIDENTIAL
I	INSTITUTIONAL
HR	HAMLET RESIDENTIAL
HMC	HAMLET COMMERCIAL
VR	VACATION RESIDENTIAL
HAZARD	HAZARD
ENVIRONMENTAL PROTECTION	ENVIRONMENTAL PROTECTION
ENVIRONMENTAL CONSERVATION	ENVIRONMENTAL CONSERVATION

This is Schedule "A3" as System No. _____
Filed for _____ Day of _____ 2017.

John Maloney, Mayor
Ashley Green, City Clerk







City of Port Colborne



SCHEDULE "A" 7th

to By-Law No. _____

LEGEND

- | Symbol | Zone |
|--------|----------------------------|
| R1 | FIRST DENSITY RESIDENTIAL |
| R2 | SECOND DENSITY RESIDENTIAL |
| R3 | THIRD DENSITY RESIDENTIAL |
| R4 | FOURTH DENSITY RESIDENTIAL |
| RD | RESIDENTIAL DEVELOPMENT |
| NC | NEIGHBOURHOOD COMMERCIAL |
| DC | DOWNTOWN COMMERCIAL |
| HC | HIGHWAY COMMERCIAL |
| MC | MARINE COMMERCIAL |
| I | INSTITUTIONAL |
| P | PUBLIC AND PARK |
| HI | HEAVY INDUSTRIAL |
| EP | ENVIRONMENTAL PROTECTION |
| HAZ | HAZARD |
| EC | ENVIRONMENTAL CONSERVATION |

This Schedule "A" is By-Law No. _____
 Passed on _____ 2017.

John Thomas, Mayor

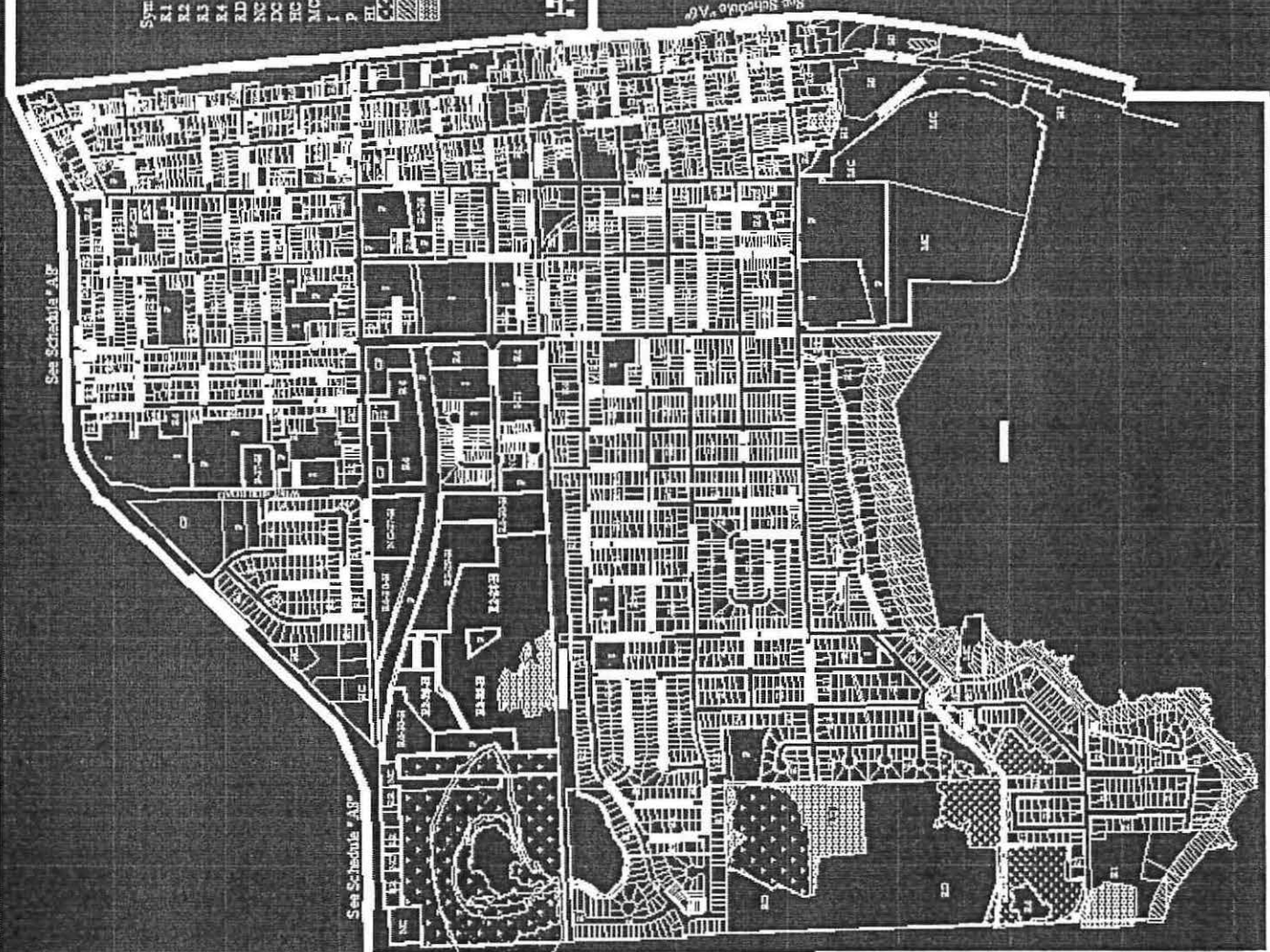
Adrienne Chiu, Clerk

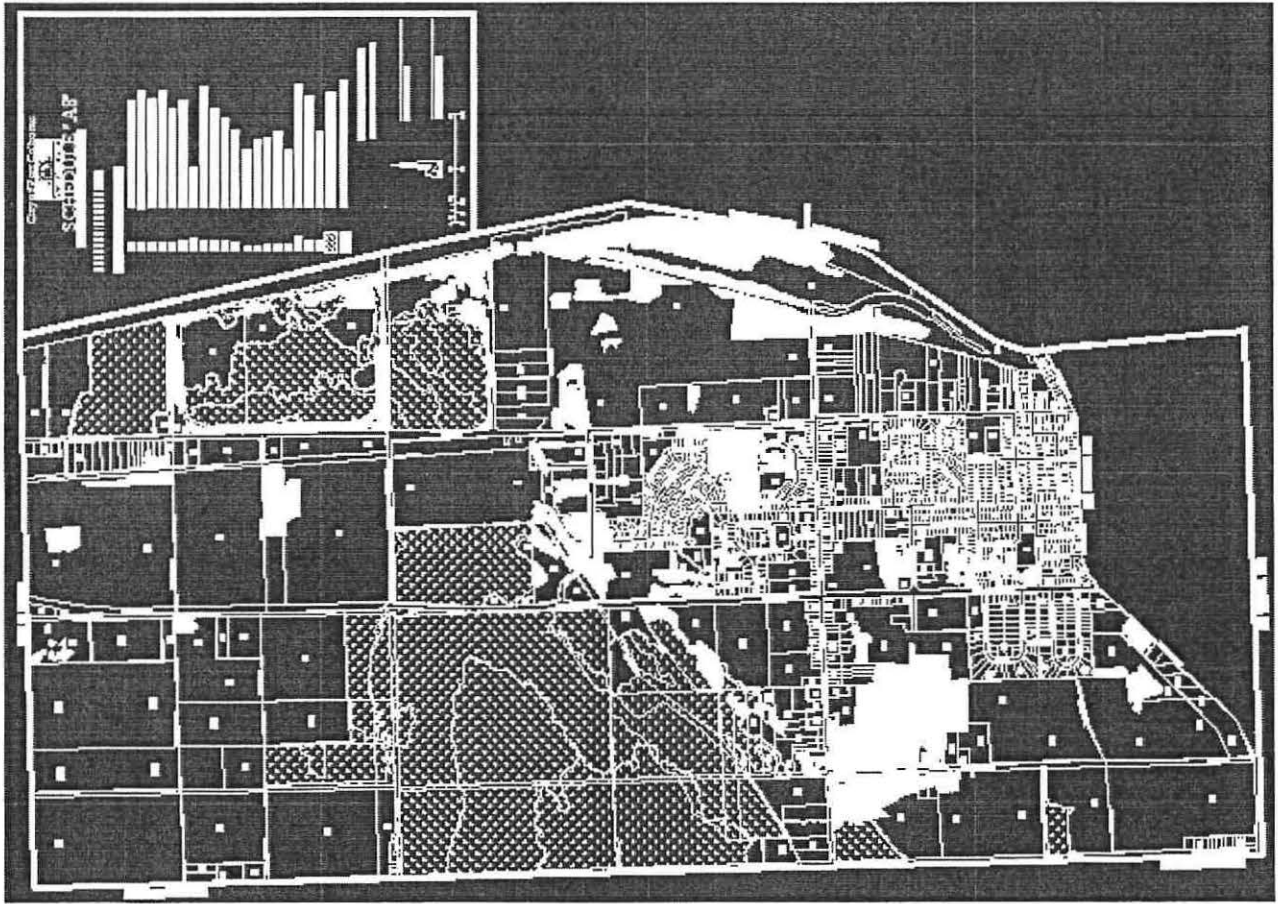
See Schedule "A" 6

See Schedule "A" 8

See Schedule "A" 9

Township of Wharfedale





Public Open House

- Held on March 30, 2017 from 5:00pm to 7:00pm in Council Chambers
- Draft zoning maps made available and had been on display since December 2016
- Draft text made available and available online
- Approximately 25 people in attendance
- Staff have continued communicating and made minor changes

Next Steps

- Review and address public comments
- Make appropriate changes if required
- Recommendation report prepared for Council's consideration

Protecting Port Colborne's Environment and Our Quality of Life

Our Air and Water

Without clean air and fresh water our health will deteriorate and our lives will be adversely affected.

Our quality of life is directly dependant on the quality of the air we breathe and the water we drink

Who is protecting your environment and the quality of life you deserve?

Federal Agencies

- Environment Canada

Provincial Agencies

- Ministry of Nature Resources and Forestry
- Ministry of the Environment and Climate Change

Regional Agencies

- Regional Council
- Niagara Peninsula Conservation Authority

Municipal Representatives

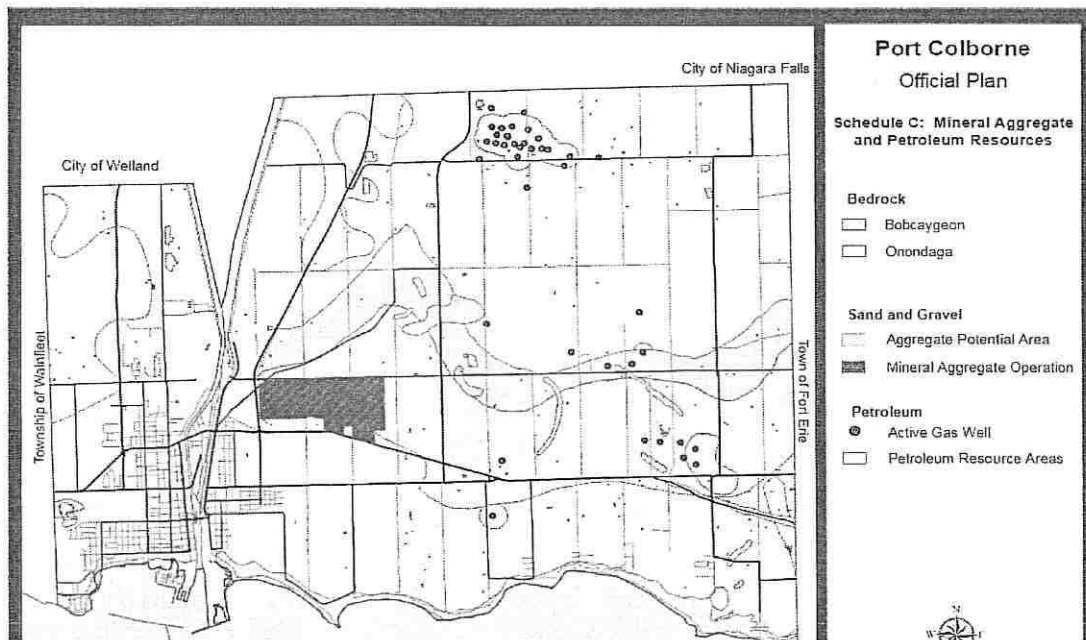
- City Planning Staff
- City Inspectors
- City By-law Officers
- City Council

You

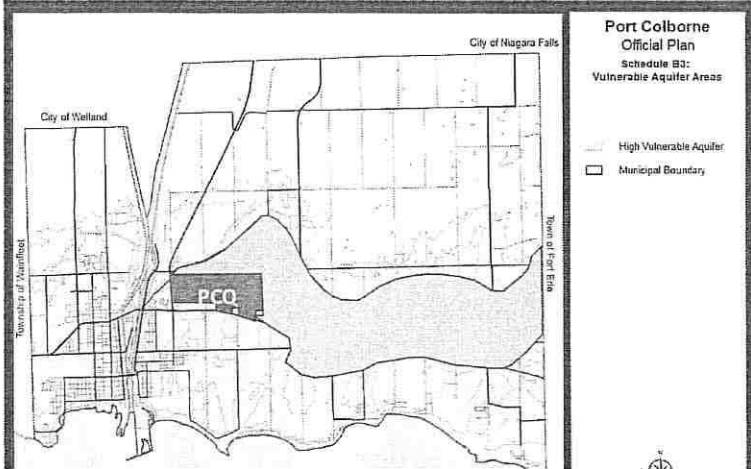
Port Colborne's Environmental History

- Canada's first and largest Community Based Risk Assessment to deal with the soil contamination caused by air emissions was here in Port Colborne.
- The contamination wasn't created overnight and it wasn't something you could see, feel, or smell but year after year the levels of contamination increased to the point that people were experiencing health affects and they saw their property values falling.
- Today Angie Desmarais continues to be one of the residents strongest advocates for our local environment and has recently reminded us that we need to stand up for ourselves to protect our environment.

Mineral Aggregate & Petroleum Resources



Potential Mineral Aggregate Operations



Aggregate Resources Act

Purposes of Aggregate Resources Act

The purposes of this Act are,

- (a) to provide for the management of the aggregate resources of Ontario;
- (b) to control and regulate aggregate operations on Crown and private lands;
- ***(c) to require the rehabilitation of land from which aggregate has been excavated; and***
- ***(d) to minimize adverse impact on the environment in respect of aggregate operations. R.S.O. 1990, c. A.8, s. 2.***

One of the most important purposes of the Act is for the progressive and final rehabilitation of the land from which the aggregate was excavated to its former condition or an alternative use compatible with adjacent land.

By-laws & Zoning

- **What is a By-law?**

A by-law is a law passed by a municipality *reflecting council's desired quality of life within the community.*

- **What is a Zoning By-law?**

A Zoning by-law is a law that divides a municipality into specific areas or zones, *defining how land in each zone can be used*, whether for industrial, commercial, residential or other uses. *Additionally, it describes what types of uses are permitted on the property implying what types of uses are not permitted.*

Draft Comprehensive Zoning By-law

2.3 Uses Prohibited in All Zones

b) Asphalt and Cement Manufacturing was removed from the original draft

WHY?

Section 28: Mineral Aggregate Operation Zone (MAO)

28.2 Permitted Uses

a) Mineral Aggregate Operations;

In a meeting with City Representatives last week it was revealed that the City's intention for removing Asphalt and Cement Manufacturing as a prohibited use in all zones was so it could be included as a permitted use in the MAO Zone.

The Issues

- PCQ operates three quarries below the ground water level which exposes the Highly Vulnerable Aquifer to contamination from any industrial operations that reside in the quarries.
- The definition of MAO as written in the Comprehensive Zoning By-law would allow an Asphalt and Cement operation to be established in the bottom of the quarry.
- As written the Comprehensive Zoning By-law only has 3 requirements for an MAO and none of them provide any protection for the vulnerable aquifer

Below Ground Water



Environmental Hazards of Asphalt

- NIOSH urges caution related to human exposure to asphalt. Current NIOSH research indicates that asphalt products are carcinogenic to laboratory animals and, therefore may be more toxic to humans than previously believed.
- Asphalt contains so many toxic and carcinogenic compounds and since leaching of harmful PAH compounds has been documented, asphalt should be kept out of rivers, streams, and other natural waters to the extent possible.

Source Water Protection

- In instances where the Risk Management Official deems a new or expanding Commercial/Industrial development may pose a significant threat to municipal drinking water within the IPZ-1 or IPZ-2, a stormwater management plan that demonstrates and implements best management practices related to managing stormwater runoff shall be required to the satisfaction of the Risk Management Official and the City.
- Nothing is in place in this draft of the Comprehensive Zoning By-law that requires the demonstration or implementation of practices to protect the ground water that many of us rural landowners count on everyday.

The End Result

- This draft of the Comprehensive Zoning By-law can be accepted as is and some day in the future maybe Port Colborne will be recognized for its ground water contamination as well as its surface soil contamination.
- We have seen how the soil contamination is being handled by all of those I mentioned at the beginning of my presentation so how do you think they will handle ground water contamination?
- The quarries should be rehabilitated as mandated under the Aggregate Resources Act and as legally required by City's Site Plan Agreement but if our regulators and City officials do not want to enforce regulations and agreements then this Comprehensive By-law needs to be written so it protects our environment and quality of life.



March 29, 2018

Project No. 1771656

Mr. Dan Aquilina, MCIP, RPP
Director of Planning & Development
City of Port Colborne
66 Charlotte Street
Port Colborne, Ontario
L3K 3C8

**SUMMARY OF MY PRESENTATION AT THE CITY OF PORT COLBORNE COUNCIL MEETING ON
MARCH 26, 2018**

Dear Mr. Aquilina,

I am providing an overview of my presentation and subsequent discussion at the Town council meeting held on Monday, March 26th, 2018. The focus of my presentation centred upon the potential for groundwater contamination resulting from mineral extraction and industrial usage at the existing Port Colborne Quarry as summarized below. The existing quarry is excavated below the water table, based on monitoring at the monitoring wells installed in boreholes at the site and is dewatered by a sump on the existing quarry floor. As the quarry is excavated below the surrounding groundwater levels, there is inward groundwater pressure from the existing quarry walls. There is also consistent upward groundwater pressure from the base of the quarry, under existing conditions, since the groundwater levels in wells installed in the boreholes on the adjacent property are above the level of the quarry floor.

In addition, the quarry is excavated to the top of a low permeability grey to black shale based on drilling, core logging and packer testing completed at the site. As such, there is considered to be a very low potential for groundwater contamination from activities in the quarry, as groundwater is flowing inward toward the quarry excavation. Any contaminants from industrial usage would not flow outward from the site, due to the inward groundwater pressure. There would also not be significant leakage of contaminants (if any) through the base of the quarry due to the presence of the low permeability shale beneath the quarry and upward hydraulic gradients beneath the quarry.

Therefore, there is considered to be a very low potential for groundwater contamination arising from minor extraction industrial use at the site. In addition, contaminants resulting from spills would be managed through a spill response plan, such that they do not enter the quarry sump to be discharged off site.


In response to questions, concerning well impacts I also discussed that the quarry dewatering and discharge of the pumped water is regulated by the MOECC through the PTTW process. This includes an evaluation of potential impacts on surrounding water wells and the quality of water discharged off site. In addition, I discussed how the quarry is responsible for restoring the groundwater supply of any wells that are impacted from drawdown related to quarry dewatering.



I trust that this meets your requirements and if you have any questions please do not hesitate to contact me.

Sincerely,

GOLDER ASSOCIATES LTD.



Dr. Sean McFarland, P. Geo., CPA(CMA), CMC, PMP
Senior Hydrogeologist, Principal PhD, LLM, MBA, MSc, BSc

SM/cg

Comments for Public Meeting of Consolidated Zoning Bylaw March 26, 2018

For the record, my name is Jack Hellinga, and I reside with my wife at 770 Highway 3, Port Colborne, Lot 22, Concession 2.

Thank You for allowing this additional Public Meeting, and thank you for allowing me to speak to the subject of the Consolidated Zoning Bylaw – 2018.

I would suggest that most of the residents of Port Colborne are primarily concerned with the zoning of the lands which surround their properties. I believe most of us present tonight are here for that reason:

So that is why I wish to speak to the proposed re-zoning of the Extractive Industrial Zoning to Mineral Aggregate Operations Zone. It seems on surface that these zonings are the same. However, this is a major change in zoning, and as proposed, a major change in Permitted Uses as a result of the proposed definition included for Mineral Aggregate Operations.

We recognize that Mineral Aggregate Resources are a valuable and non-renewable resource. Port Colborne sits almost entirely on a mineral aggregate resource, in the form of limestone bedrock. It is the bane of the City in urban servicing, because it needs to be removed to install sewers, watermains, and other underground utilities. It even extends to the baseball fields where it needed to be removed to install the outfield fence and the light poles

Why is this significant? Because an application for rezoning to a Mineral Aggregate Operation can be submitted for almost anywhere in the City, and the adjacent boundaries. One example is the land purchases of a quarry operator next to the Hamlet of Bethel. Another is the Reeb Quarry in Wainfleet. And the permitted uses in the Mineral Aggregate Operations Zone could apply in any of those situations. It would be embarrassing to say we want to restrict what happens in Wainfleet, but we will allow it in Port Colborne.

In the past month I have corresponded with the City Planner, Region of Niagara Planning Department, Ministry of Municipal Affairs/Ministry of Housing, and Ministry of Natural Resources, in order to determine what is acceptable and required in a Comprehensive Zoning Bylaw.

What I have determined is that there are numerous definitions, and permitted uses, that can be applied to Mineral Aggregate Operations. And when the zoning is identified, the meanings and permitted uses should be reflective of the geographic locale and environs.

The Provincial Policy Statement approved in 2014 had numerous changes from 2005. The Ministry of Municipal Affairs identifies the “most relevant policies” changes, and besides requiring identification of mineral resources and supporting conservation of mineral aggregate resources they also require strengthened requirements for

rehabilitation to agriculture in specialty crop areas with restriction of quarrying below the water table in these area, and the promotion of comprehensive rehabilitation planning and mitigation of negative impacts wherever possible as part of progressive and final rehabilitation.

The Ministry of Municipal Affairs quoted the following from the Provincial Policy Statement 2014 "Policies are outcome oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld."

The next paragraph from the Provincial Policy Statement 2014 reads:

"While the Provincial Policy Statement is to be read as a whole, not all policies will be applicable to every site, feature or area. The Provincial Policy Statement applies at a range of geographic scales."

The Ministry of Natural Resources and Forestry (MNRF) provided the following comment:

"Consultation should be occurring with the neighbours currently if the City is looking to amend the zoning bylaw."

Followed by this quote from the Aggregate Resources Act:

"The Operational Standards that apply to licences requires that "no person shall pile aggregate, topsoil or overburden, locate any processing plant or place, build or extend any building or structure: within ninety metres from any part of the boundary of the site that abuts land restricted to residential use by a zoning by-law when the licence was issued."

And the MNRF also states "if approved zoning is in place the amendment (*of the site plan*) is treated as a minor amendment with no opportunity to comment by the public."

So we, and you, would have no say in the future.

In this case, the current definition would infringe on existing uses adjacent to the Mineral Aggregate Operations uses, and could in the future do the same in other areas of the City where rezoning was requested.

Removal of aggregate by quarrying is a temporary undertaking. And a license to quarry will not be granted without a comprehensive progressive and final rehabilitation plan.

We have no issue with the Permitted Uses in Section 28.2 b) c) and e).

I would respectfully ask the City to amend the current wording of Permitted Uses "a) Mineral Aggregate Operations" to read:

- a) Mineral Aggregate Operations, except for Asphalt Plant and Concrete Batching Plant facilities".

Similarly for clarity and to eliminate all ambiguity, amend the wording of "d) Agricultural Operations" to read

- d) Agricultural Operations except Intensive Animal Operations and Medical Marijuana Production Facilities".

And, amend the definition of Mineral Aggregate Operations to read:

"Mineral Aggregate Operation: means

- a) An operation other than wayside pits and quarries, conducted under a license or permit under the Aggregate Resources Act or successors thereto; and
- b) Associated accessory facilities used in extraction, transport, beneficiation, processing, or recycling of mineral aggregate resources."

Because of the potential environmental devastation that can occur from contamination of the High Vulnerable aquifer from petroleum and sodium chloride contained in most salvaged road Right of Way materials including asphalt and concrete, I would further ask the City to include in Zone Requirements Section 28.3 a restriction such as:

"d) No recycling of asphalt and concrete, including crushing or stockpiling of such product, shall be permitted below the natural top water level of the High Vulnerable Aquifer nominally defined as elevation 176.0m, and that all rainwater runoff from the processing and stockpiling site(s) be contained and discharged in accordance with MOECC regulations."

Zone Requirements Section 28.3 should also identify the necessity for progressive rehabilitation to be in conformity with the Official Plan.

Respectfully Presented,
JACK S HELLINGA

Megan and Sandro Seca
646 Stanley Street
Port Colborne, Ontario
L3K 6B9

March 25th, 2018

Amber Lapointe
City Clerk
City of Port Colborne
66 Charlotte Street
Port Colborne, Ontario L3K 3C8

Dear Ms. Lapointe

This letter is in response to the Twitter notification we viewed on March 6th, 2018, in regards to the public meeting of the proposed Draft Comprehensive Zoning By-Law. The notification indicated that to ask questions or appeal any further decisions, written or oral comment was necessary. Please accept this letter as our written comment to the proposed Comprehensive Zoning By Law.

Prior to purchasing our house 4 1/2 years ago we called the Planning Department at City Hall to inquire about the property surrounding the house and the possibility of future development. This land was indicated as environmentally protected on the city plan. We were told that there would be limited development on the property because of its designation. Since that time we have called the planning department once or twice a year, asking the same question, and every time were told that there would be limited development because of its designation. As indicated on the Schedule "A7" (R1 at the end of Stanley Street) of the Revised Drafting Zoning By law, some of property around us has changed and the land is no longer environmentally protected.

As development continues in this area, **what assurances do we have that the land that is environmentally protected behind our home (RD on the Schedule A7 revised draft zoning by law) will not be changed for future development and remain environmentally protected on the city plan?**

We look forward to hearing your response.

Sincerely,

Megan and Sandro Seca