



MEMO TO: David Schulz, BURPI, MCIP, RPP - Senior Planner
City of Port Colborne

FROM: Mary Lou Tanner, FCIP, RPP - Principal Planner
Aaron Butler, MCIP, RPP - Development Principal
NPG Planning Solutions

SUBJECT: **Project Update Memo - City of Port Colborne Official Plan and Zoning By-law Amendments, Mineral Aggregate Operations June 2022 Draft Amendments**

Background

At the January 18, 2022 Council Meeting, [Planning and Development Report 2022-09](#) (Public Meeting Report for OPA and ZBA to the Mineral Aggregate Policies and Zone, File D09-01-20 and D14-03-20) was received for information. A Public Meeting was held on the matter and several oral and written delegations were made to Council.

The Draft Official Plan Amendment (Appendix 1) and Draft Zoning By-law Amendment (Appendix 2) have been revised to address comments from Council, members of the public, and stakeholders. NPG Planning Solutions Inc. has prepared this Project Update Memo to accompany the revised Draft Amendments, in advance of an additional Open House and additional Public Meeting on the matter.

Summary of Issues

Port Colborne City Council has received delegations to Council on issues related to Mineral Aggregate Operations and environmental concerns regarding protecting the aquifer known as the “South Niagara aquifer” in 2020. This discussion and community engagement resulted in Port Colborne Council directing that updates be prepared to the City’s Official Plan and Zoning By-law regarding Mineral Aggregate Operations and policies/zoning relating to the protection of the South Niagara aquifer. The feedback and concerns from the community were related to the potential impact of elements of Mineral Aggregate Operations on the South Niagara Aquifer.

Through the community discussions, several issues have arisen. It is important to understand the issues and the planning policies/zoning related to the issues. In some instances, the community issues are beyond the jurisdiction of Port Colborne City Council. The following description of each issue provides additional context to the overall response to the community and stakeholder feedback.

Issue 1: [Protection of the South Niagara Aquifer](#)

Feedback from community members has, in part, focused on protection of this aquifer. Protecting the aquifer is a multi-layered approach – through natural heritage planning by both the City and the Region and through the work of the Niagara Source Protection Committee to identify the aquifer. Part of the feedback included addressing protection of the aquifer through policies such as those used to protect the Intake Protection Zone for the Port Colborne Water Treatment Plan.

The Niagara Source Protection Plan is intended to protect municipally provided sources of drinking water. This is consistent with and conforms to the requirements of the *Clean Water Act* which prescribes the authority for Source Protection Plans. Applying the same approach to private sources of drinking water is beyond the scope of the *Clean Water Act* and the *Planning Act*. Port Colborne City Council does not have the jurisdiction to require the provisions of the Source Protection Plan to apply to anything beyond what is in the Niagara Source Protection Plan. That is, the Source Protection Plan only applies to municipally provided drinking water and there is no ability to extend the provisions/policies to anything beyond the municipally provided drinking water sources.

There are approaches through the forthcoming new Regional Official Plan that the Region is proposing to protect the aquifer. Although this does not address the drinking water source protection policies, the Region's proposed plan, as identified in the Region's February 17, 2021 report (PDS 9-2021) confirms the Region will be providing policy direction for protection of the aquifer as a natural heritage feature.

Issue 2: [Aggregate Resources Act/Planning Act and Aggregate Resources](#)

Both the *Aggregate Resources Act* and the *Planning Act* provide direction on the protection of aggregates in Ontario. Aggregates are a resource that is of provincial interest. The provincial interest has been identified in the legislation as well as the Provincial Policy Statement (PPS - 2020) through both policies and definitions of what constitutes a Mineral Aggregate Operation.

Updates to the City's Official Plan and Zoning By-law must address the PPS as well as the legislation. This does not mean that the City has no ability to address aggregates and their extraction; however, the City's policies/zoning must conform to the legislation, the PPS, and the Region's Official Plan. The proposed amendments appended to this memo conform to the PPS. The PPS does, however, require municipalities to protect aggregate resources and provide the opportunity for mineral aggregate extraction. The criteria to

exclude protection/extraction are highly limited and this has been reviewed as part of the revisions proposed.

Issue 3: Soil Management and Site Alteration

Issues related to how sites are managed outside of an active extraction process or a development process are matters that are typically addressed through a Site Alteration By-law. This type of By-law allows the City to establish requirements for sites – ensuring soil is appropriately managed, drainage issues are addressed, and that neighbours are not impacted by earth movement/placement. Site Alteration By-laws can be applied to other circumstances in the municipality as well.

Issue 4: Complexity

Planning for and managing aggregate sites/resources is one of the most complex areas of planning in Ontario. There is significant provincial interest in protecting aggregates and this has been established through both legislation and policy.

A second component of complexity is that the nature of aggregates, water resources, soil management, and the policy regime can appear to be so complex that community concerns are not able to be resolved. That is not the case. However, there are limits to what any municipality can do given the legislative framework in Ontario and the priority placed on aggregates. While the above has identified the limits of the authority for the City, it is important to note that the City can:

1. Support the protection of the South Niagara Aquifer through the Regional Official Plan (new).
2. Address the appropriate location for mineral aggregate operations and uses, including standards of development.
3. Ensure a robust planning process for aggregate uses with broad based community feedback.

Aggregate resources are needed for Ontario's growth including new housing, transportation resources, and more. Ultimately, however, aggregate resources and their extraction are uses that have the potential for impacts. There is a robust process to assess these impacts including potential impacts on neighbouring properties. Establishing clear and updated policy expectations within the framework of the legislation and the PPS is where some solutions can be found. However, not all community requests and issues can be incorporated into the recommendations due to the nature of the legislation and the PPS.

Draft Official Plan and Zoning By-law Amendments

January 2022

As per [Planning and Development Report 2022-09](#), the January 2022 Draft Official Plan Amendment proposed to introduce new policies to Section 10: Mineral Aggregate and Petroleum Resources for the purpose of facilitating site-specific Zoning By-law Amendments for ancillary uses such as: asphalt plants, cement/concrete plants, and aggregate depots that blend and stockpile aggregate materials with salt and aggregate transfer, except where otherwise prohibited by the policies of the Official Plan. The January 2022 Draft Official Plan Amendment is attached to Report 2022-09 as Appendix A.

The January 2022 Draft Zoning By-law Amendment, attached to Report 2022-09 as Appendix B, proposed a new zone known as the Mineral Aggregate Ancillary Use (MAAU) Zone; properties wishing to utilize this Zone were proposed to be subject to site-specific Zoning By-law Amendments. Additionally, the definition for Mineral Aggregate Operation use was proposed to be amended to exclude accessory uses/facilities used in processing or recycling of mineral aggregate resources and derived products such as asphalt and concrete, or the production of secondary related aggregate products. Lastly, the January 2022 Amendment proposed to add new definitions for “Aggregate Depot”, “Asphalt Plant, Permanent”, “Asphalt Plant, Portable”, and “Cement Concrete Plant”.

June 2022

A Comments and Response Table has been prepared to track and address comments received as part of the January 28, 2022 Public Meeting (attached to this Memo as Appendix 3). The comments and responses have informed the June 2022 Draft Amendments, as summarized below.

Official Plan Amendment

The June 2022 Draft Official Plan Amendment (attached as Appendix 1 to this Memo) does not include the previously proposed policy which required a site-specific Zoning By-law Amendment to permit accessory uses to a Mineral Aggregate Operation. The definition of ‘Mineral Aggregate Operation’ found in the Provincial Policy Statement (PPS) includes associated facilities used in extraction, transport, beneficiation, processing or recycling of mineral aggregate resources and derived products such as asphalt and concrete or the production of secondary related Products. Provincial policy permits these types of accessory uses as part of Mineral Aggregate Operations, therefore the City’s Official Plan should not require a site-specific amendment to permit them.

The June 2022 Draft Official Plan Amendment proposes to require site-specific Zoning By-law Amendments to permit these types of uses only as a principal use of a property and does not change the City’s current policies for Mineral Aggregate Operations. The

Amendment defines this category of use and directs the use to the City's existing Industrial Areas. A site-specific Zoning By-law Amendment would be evaluated against new criteria established in the Official Plan, including the protection of the environment, ground water, and separation from sensitive land uses.

Zoning By-law Amendment

The June 2022 Draft Zoning By-law Amendment (attached as Appendix 2 to this Memo) does not include the previously proposed 'Mineral Aggregate Ancillary Use' (MAAU) Zone, since these uses are to be permitted as accessory uses to a Mineral Aggregate Operation. Instead, the June 2022 Amendment proposes to amend the existing Mineral Aggregate Operation (MAO) Zone to include a specific list of accessory uses (new subsection 28.4). The Amendment also amends and adds definitions for each accessory use.

The June 2022 Amendment also adds a new General Provision (subsection 2.27 - Uses Related to Mineral Aggregate Operation) to incorporate provisions which apply to this category of uses as a principal use of a property. These represent the base general provisions which would apply to a new principal use, permitted by site-specific Zoning By-law Amendment, in an Industrial Zone category.

Further Consultation

The June 2022 Draft Amendments are available for review and comment by members of the public, stakeholders, agencies, and Council. It is anticipated that the City will host a subsequent Open House and Public Meeting to solicit feedback. Comments received at that time will be incorporated into a final version for Council's ultimate consideration.

Respectfully submitted:



Mary Lou Tanner, FCIP, RPP
Principal Planner



Aaron Butler, MCIP, RPP
Development Principal

Appendix 1 - DRAFT OPA Redline Version June 2022

NOTE TO READER:

This version of proposed Official Plan Amendment No. 7 is a redline version to assist the reader in understanding the revisions to the amendment arising from the public meeting of January 18, 2022 and the comments received from Niagara Region dated January 18, 2022.

Text that is deleted will have a strikethrough as follows:

~~Deleted text~~

Text that is added will be in red and underlined as follows:

Added text

DRAFT

The Corporation of the City of Port Colborne

By-law No.XX

Being a By-law to Adopt Amendment No. X to the Official Plan for the City of Port Colborne

Whereas it is deemed expedient to further amend the Official Plan, heretofore adopted by Council for the City of Port Colborne Planning Area;

Now therefore, the Council of The Corporation of the City of Port Colborne under Section 17(22) of the *Planning Act*, hereby enacts as follows:

1. That Official Plan Amendment No. 7 to the Official Plan for the City of Port Colborne Planning Area, consisting of the explanatory text is hereby adopted.
2. That this By-law shall come into force and take effect on the day of passing thereof.

Enacted and passed this XXth day of XX, 2024².

William C. Steele
MAYOR

Amber LaPointe
CITY CLERK

AMENDMENT NO. 7
TO THE
OFFICIAL PLAN
FOR THE
PORT COLBORNE PLANNING AREA

PREPARED BY:
NPG PLANNING SOLUTIONS for the CITY OF PORT COLBORNE
DEPARTMENT OF PLANNING & DEVELOPMENT

~~DECEMBER X, 20XX~~
REVISED JUNE 2022

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AMENDMENT NO. 7

TO THE

OFFICIAL PLAN

FOR THE

PORT COLBORNE PLANNING AREA

AMENDMENT NO. 7
TO THE OFFICIAL PLAN
FOR THE
CITY OF PORT COLBORNE

This Amendment to the Official Plan for the City of Port Colborne, which has been adopted by the Council of the Corporation of the City of Port Colborne, is hereby approved in accordance with Sections 17 and 21 of the Planning Act R.S.O. 1990, c. P.13, as Amendment No. 6 to the Official Plan for the City of Port Colborne.

Date: December XX, 202X

**AMENDMENT NO. 7
TO THE OFFICIAL PLAN**

**FOR THE
PORT COLBORNE PLANNING AREA**

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1. ~~Any included~~ Minutes of Statutory Public Meeting – January 18, 2022
2. Comment letter dated January 18, 2022 from Niagara Region

STATEMENT OF COMPONENTS

PART A

The Preamble does not constitute part of this Amendment.

PART B

The Amendment constitutes Amendment No. 7 to the Official Plan for the Port Colborne Planning Area.

PART C

The Appendices do not constitute part of this Amendment.

PART A - THE PREAMBLE

Purpose

The purpose of the amendment is to, to introduce new policies to the Mineral Aggregate and Petroleum Resources designation for the purposes of facilitating site specific zoning by-law amendments for these uses via through future amendments to the Zoning By-law.

Location

These policies will apply to the entirety of the ~~jurisdictional boundaries of the~~ planning area for the City of Port Colborne.

Basis

The Planning Act, R.S.O. 1990, as amended, provides that amendments may be made to the Official Plan. Policies of the Official Plan have been considered in the preparation of this Amendment and the following factors: 1. the policies will ensure compatibility with the surrounding land uses. 2. This Amendment is consistent with the Provincial Policy Statement, conforms to the Growth Plan for the Greater Golden Horseshoe and the Region of Niagara Official Plan.

PART B – THE AMENDMENT

The Official Plan adopted by By-law 5855/109/12 and approved by the Ontario Municipal Board decision of November 25, 2013, for the Port Colborne Planning Area is hereby amended by doing the following:

Amend Section 10 by adding the following to Section 10.1.1 Additional Policies:

- ~~d) require site specific Zoning By-Law Amendments to permit ancillary land uses such as asphalt plants, cement/concrete plants, and aggregate depots that blend and stockpile aggregate materials with salt and aggregate transfer except where otherwise prohibited by the policies of this Plan, subject to:-~~

- ~~i) The protection of groundwater quality and quantity;~~
- ~~ii) the protection of adjoining lands from noise, dust, odour, lighting and outdoor storage;~~
- ~~iii) the protection of the environment from adverse effects of dust, chemical spills, run-off, or contamination of surface or groundwater;~~
- ~~iv) access being obtained directly to a road capable of bearing the anticipated loaded truck weights and conveying the cumulative volume of traffic without negative impacts to current traffic flow; and,~~
- ~~v) ancillary land uses will not be permitted where they are prohibited in O. Reg. 466/20 or any successor to this regulation.~~

1. Amend Section 3.16 by adding a new subsection 3.16.10 as follows:

3.16.10 Uses Related to Mineral Aggregate Operations

Mineral Aggregate Related Uses are permitted as a principal use of a lot and generally be directed to Industrial Areas. The use shall be subject to a site-specific zoning by-law amendment which shall address the following:

- a) The use, excluding offices and parking, shall be located a minimum of 300 metres from any residential use;
- b) The long-term impacts on the environment including the quality and quantity of surface water and ground water, impacts on significant environmental features, and impacts on areas of significant cultural resources;
- c) The protection of adjoining lands from noise, dust, odour, lighting and outdoor storage;
- d) The long-term impacts on municipal servicing;
- e) The impact of the proposed development on surrounding existing and proposed developments;
- f) Access shall be obtained directly to a road capable of bearing the anticipated loaded truck weights and conveying the cumulative volume of traffic without negative impacts to current traffic flow; and
- g) That the designated truck access routes will not be primarily through residential areas; and,
- h) That all operations shall adhere to applicable federal, provincial and local regulations, including but not limited to emissions and noise.
- i) The use shall be subject to site plan control.

This policy does not apply to Wayside Pits and Quarries, Portable Asphalt Plants and Portable Concrete Plants used for public authority contracts.

2. The following definition is added:

Mineral Aggregate Related Use: means uses such as Asphalt Plant, Permanent; Asphalt Plant, Portable; Concrete Plants; Aggregate Depots; Recycling of Asphalt; and/or Aggregate Plants. A Mineral Aggregate Related Use does not include the blending, recycling, and stockpiling activities that are secondary and accessory to a typical existing and new Mineral Aggregate Operation.

IMPLEMENTATION AND INTERPRETATION

The implementation and interpretation of this amendment shall be in accordance with the respective policies of the Port Colborne Official Plan and the City of Port Colborne Zoning By-law.

PART C – THE APPENDICES

Non applicable

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Appendix 2 - DRAFT ZBA Redline Version June 2022

NOTE TO READER:

This version of proposed the Draft Zoning By-law is a redline version to assist the reader in understanding the revisions to the amendment arising from the public meeting of January 18, 2022 and the comments received from Niagara Region dated January 18, 2022.

Text that is deleted will have a strikethrough as follows:

~~Deleted text~~

Text that is added will be in red and underlined as follows:

Added text

DRAFT

The Corporation of the City of Port

Colborne By-law No. _____

Being a By-law to Amend Zoning By-law 6575/30/18
Regarding Mineral Aggregate Accessory Use
Provisions

Whereas By-law 6575/30/18 is a By-law of The Corporation of the City of Port Colborne restricting the use of land and the location and use of buildings and structures; and

Whereas the Council of The Corporation of the City of Port Colborne desires to amend the said by-law.

Now therefore and pursuant to the provisions of Section 34 of the *Planning Act, R.S.O. 1990*, The Corporation of the City of Port Colborne enacts as follows:

1. ~~That the following be added to Section 4.1:~~

~~MAAU _____ Mineral Aggregate Ancillary Use~~

2. ~~That the following is added as Section 29 Mineral Aggregate Ancillary Use Zone (MAAU):~~

~~**29.1 General**~~

~~a) No person shall make or establish any pit or quarry, or use any lot or erect, alter or use any building or structure in any Mineral Aggregate Ancillary Use (MAAU) Zone except in accordance with the applicable provisions of Sections 2, 3 and 29.~~

~~b) In addition to Section 29.1 (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.~~

~~**29.2 Permitted Uses**~~

~~a) Asphalt Plant, Permanent~~

~~b) Asphalt Plant, Portable~~

~~c) Cement Concrete Plants~~

~~d) Aggregate Depots~~

~~**29.3 Zone Requirements**~~

~~a) Applications for uses in Clause 29.2 may only be considered for lots~~

~~which are within current Mineral Aggregate Operations (MAO), Gateway Industrial (GI) and/or Heavy Industrial (HI) zones. The uses may only be undertaken subsequent to a successful zoning amendment (subject to additional approvals) following a comprehensive analysis which demonstrates:~~

- ~~a. Comprehensive analysis through appropriate studies;~~
- ~~b. The demand for the type and scope of development proposed in relation to the demographics of the City;~~
- ~~c. The long-term impacts on municipal servicing;~~
- ~~d. The long-term impacts on the environment including the quality and quantity of surface water and ground water, impacts on significant environmental features and impacts on areas of significant cultural resources;~~
- ~~e. The impact of the proposed development on surrounding existing and proposed developments;~~
- ~~f. That the designated truck access routes will not be primarily through residential areas; and,~~
- ~~g. That all operations shall adhere to applicable federal, provincial and local regulations, including but not limited to emissions and noise.~~

~~b) New uses will be placed under site plan control and will only be permitted where the plant operations area (excluding offices and parking) is at least 500 ~~300~~ metres from any residential use, where the use will be totally enclosed by a security fence or within a fireproof building, and where adequate stormwater drainage can be provided.~~

~~c) Provision 29.3 a) and b) do not apply to Portable Asphalt Plants and Portable Concrete Plants used on public authority projects.~~

1. That subsection 2.2 a) is amended by adding “portable asphalt plant, portable concrete plan” immediately following “water or electrical power or energy,”.
2. That Section 2 is amended to add a new subsection 2.27, as follows:

2.27 Uses Related to Mineral Aggregate Operations

- a) Aggregate Depot, Permanent Asphalt Plant, Permanent Concrete Plant and Mineral Aggregate Resource Conservation Use, as a principal use on a lot, shall be subject to a site-specific amendment to the Zoning By-law and to the following provisions:
 - i. The use, excluding offices and parking, shall be located a minimum of 300 metres from any residential use
 - ii. The use shall be enclosed by a security fence or located within a fireproof building
 - iii. The use shall be subject to site plan control

- b) Subsection 2.27 shall not apply to Wayside Pits and Quarries, Portable Asphalt Plants and Portable Concrete Plants used for public authority contracts.

3. That Section 28 is amended by adding a new subsection 28.4, as follows:

28.4 Permitted Uses – Accessory

- a) Aggregate Depot
- b) Asphalt Plant, Permanent
- c) Asphalt Plant, Temporary
- d) Concrete Plant, Permanent
- e) Concrete Plant, Temporary
- f) Mineral Aggregate Resource Conservation Use

4. That the following is added to Section 39:

- a) **Aggregate Depot:** A place where gravel, rock, sand, earth, clay, or fill is stored prior to sales and/or distribution. An aggregate depot may include the blending of aggregate with salt.
- b) **Asphalt Plant, Permanent:** A facility for the mixing of asphalt components, including hot mix asphalt, for transfer to a job site.
- c) **Asphalt Plant, Portable:** ~~Equipment that is used to produce asphalt and which is capable of being readily drawn by a motor vehicle and which is not permanently affixed to the ground.~~ A facility with equipment designed to heat and dry aggregate and to mix aggregate with bituminous asphalt to produce asphalt paving material, and includes stockpiling and storage of bulk materials used in the process, which is not of permanent construction, but which is to be dismantled at the completion of the construction project.
- d) **Cement Concrete Plant, Permanent:** A facility manufacturing concrete from any combination of cement, cement supplement, fine aggregate, coarse aggregate and water. The concrete plant includes associated bins, weigh hoppers, and cement silos.
- e) **Concrete Plant, Portable:** A building or structure with equipment designed to mix cementing materials, aggregate, water and admixtures to produce concrete, and includes stockpiling and storage of bulk materials used in the process which is not of permanent construction, but

which is designed to be dismantled at the completion of the construction project.

f) **Mineral Aggregate Resource Conservation Use:** a facility for the recovery and recycling of manufactured materials derived from mineral aggregates, such as glass, porcelain, brick, concrete, asphalt or slag, for re-use as a substitute for new mineral aggregates.

~~g) **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) Does not include accessory uses/facilities used in processing or recycling of mineral aggregate resources and derived products such as asphalt and concrete, or the production of secondary related aggregate products.~~

~~4. That the existing Sections 29 to 39 are renumbered accordingly.~~

5. That this By-law shall come into force and take effect on the day that it is passed by Council, subject to the provisions of the *Planning Act*.

6. The City Clerk is hereby authorized and directed to proceed with the giving notice of the passing of this by-law, in accordance with the *Planning Act*.

Enacted and passed this _____ day of _____, 2022.

William C.
Steele Mayor

Amber LaPointe
City Clerk

Appendix 3 - Comment and Response Table

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