

CORPORATION OF THE


TOWN OF PELHAM

BY-LAW NO. 836 (1983)

The Council of the Corporation of the Town of Pelham, in accordance with the provisions of The Planning Act, R.S.O. 1980, hereby enacts as follows:

1. Amendment No. 9 to the Official Plan for the Pelham Planning Area, consisting of the attached schedules and explanatory text, is hereby adopted.
2. That the Clerk is hereby authorized and directed to make application to the Minister of Municipal Affairs and Housing for approval of the aforementioned Amendment No. 9 to the Official Plan of the Pelham Planning Area.
3. This By-law shall come into force and take effect on the day of the final passing thereof.

ENACTED AND PASSED this 21st day of February, A.D. 1983.


MAYOR


CLERK

Certified that the above is a true copy of By-law #836 (1983) as enacted and passed by the Council of the Town of Pelham on the 21st day of February, A.D. 1983.


CLERK

Amendment No. 9
to the
Official Plan
of the
Pelham Planning Area

Planning Consultants:

Miller O'Dell & Paul
Urban and Rural Planning Consultants Inc.
St. Catharines & Ancaster

CERTIFICATES
OFFICIAL PLAN
OF THE
PELHAM PLANNING AREA
AMENDMENT NO. 9

This Amendment was adopted by the Corporation of the Town of Pelham by By-law No. _____ in accordance with Sections 13 and 17 of The Planning Act on the _____ day of _____, 1982.

(SEAL)

This Amendment to the Official Plan of the Pelham Planning Area, which has been recommended by the Pelham Planning Board and adopted by the Council of the Town of Pelham, is hereby approved in accordance with Section 17 of The Planning Act, as Amendment No. 9 to the Official Plan of the Pelham Planning Area.

Date: _____

Approval Authority

Part A - the Preamble does not constitute a part of this amendment.

Part B - The Amendment, consisting of the following text and Schedule "A", constitutes Amendment No. 9 to the Official Plan for the Pelham Planning Area.

Part C - The Appendices do not constitute a part of this amendment. These appendices contain only information in support of the Amendment.

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Part A - The Preamble

Purpose

The purpose of this Amendment is to change the land use description of the affected lands from "Rural" to "Resource Extraction".

Location

1. This Amendment changes the title of the "Resource Extraction Area" policies found on page 14 of the Official Plan to "Mineral Resource Extraction Area".
2. This Amendment is also a change to Schedule "A2" of the Official Plan, affecting part of Lot 6, Concession 7.

Basis

This Official Plan Amendment is based upon the recognition of the subject property for mineral aggregate extraction by the Regional Policy Plan together with the demonstrated need for an additional 15 million tons of sand and gravel over the next 20 years as set out in the Niagara Sand and Gravel Study, prepared by the Planning and Development Department of the Region of Niagara.

It is also important to note that Official Plan Amendment 7 of the Town of Pelham has redesignated the site from "Rural" to "Possible Mineral Resource Extraction" to comply with the Regional Policy Plan. Official Plan Amendment 7 has also changed the title of the "Resource Extraction Area" designation to "Mineral Resource Extraction Area".

A comprehensive planning report by the Town's planning consultant in support of this Amendment is included in the appendix.

Implementation and Interpretation

The implementation and interpretation of this Amendment shall be in accordance with the respective policies of the Pelham Official Plan.

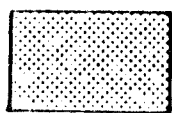
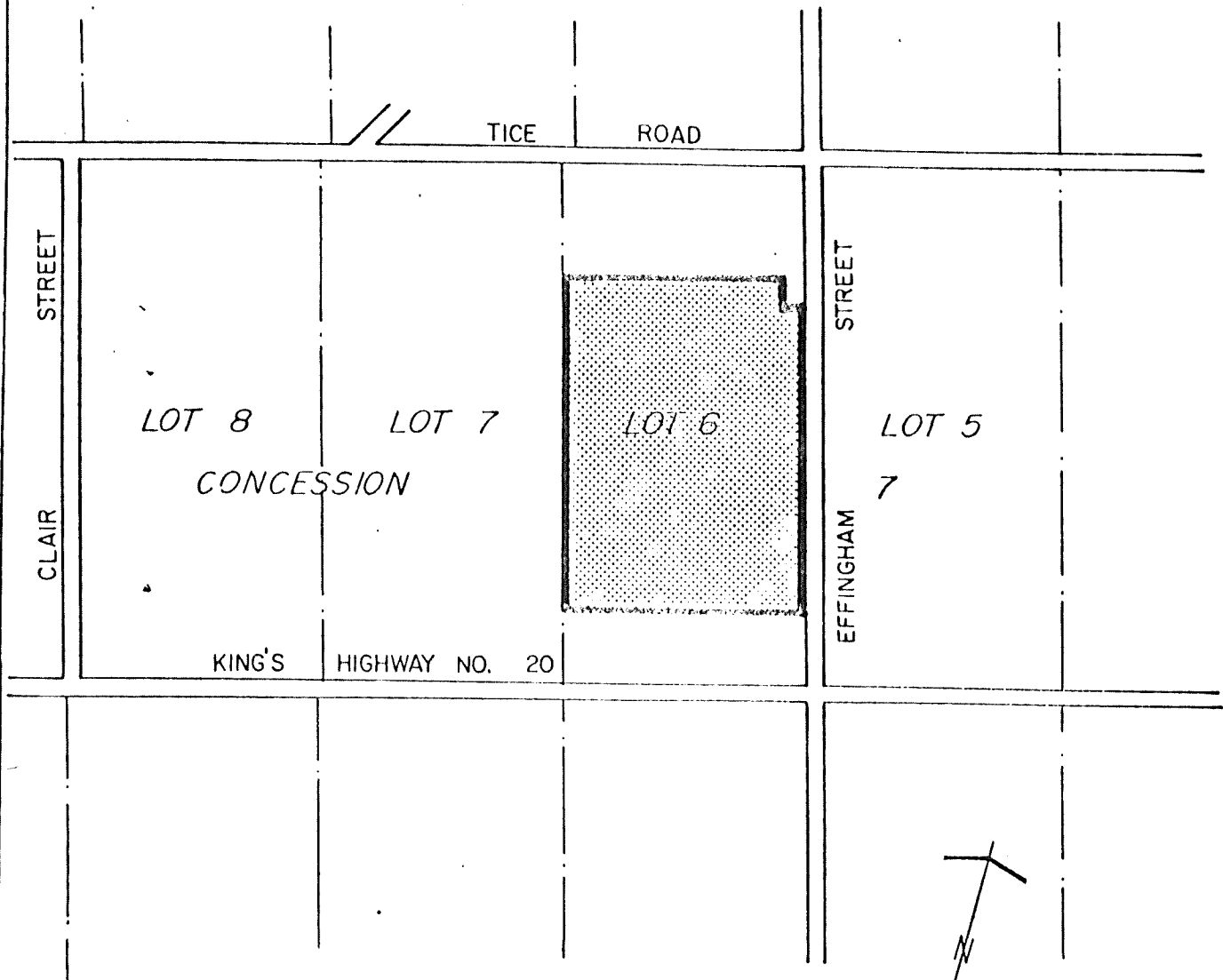
PART B - THE AMENDMENT

All of this part of the document entitled Part B - The Amendment, consisting of the following text and attached map designated Schedule "A" constitutes Amendment No. 9 to the Official Plan of the Pelham Planning Area.

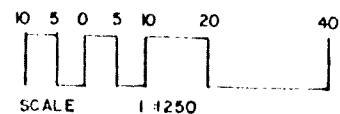
Details of the Amendment

1. The title of the "Resource Extraction Area" policies, page 13, is hereby amended to read "Mineral Resource Extraction Area" and the reference to "Resource Extraction Area" within subsection 1.27 is similarly changed.
2. The area indicated on the attached Schedule "A", being part of Lot 6, Concession 7, is hereby redesignated from "Rural" in the approved Official Plan and "Possible Mineral Resource Extraction" in Official Plan Amendment 7 to "Mineral Resource Extraction Area."

SCHEDULE "A" TO AMENDMENT Nº 9 TO THE OFFICIAL PLAN OF THE PELHAM PLANNING AREA



CHANGE FROM "RURAL" TO
 "RESOURCE EXTRACTION"



NOTE : This Schedule A must be in
 conjunction with the text of Amendment No. 9

April 16, 1982

TOWN OF PELHAM
PLANNING AND DEVELOPMENT COMMITTEE

Planning Report
TCG Materials Ltd.
Official Plan and Zoning By-law Amendment

Purpose

This report examines the application of TCG Materials Ltd. for amendments to the Town's Official Plan and Zoning By-law to permit the expansion of the operation's existing pit.

Location

The lands that are the subject of this application are located on the west side of Effingham Road north of Highway 20. More particularly, the property is located on Pt. of Lot 6, Concession VII in the Town of Pelham. The subject site is comprised of 60 acres of land owned by TCG Materials Ltd. and lies immediately east of their existing licensed operation.

Planning Regulations

We have reviewed the pertinent policies of the various planning jurisdictions and have found the following:

Niagara Escarpment Commission Proposed Plan

The Niagara Escarpment Proposed Plan designates the subject site as "Rural Area" and designates the existing pit operation as "Mineral Resource Area" in recognition of the existing license.

Under the Rural Areas designation, the objective of the Niagara Escarpment Commission Proposed Plan is to:

1. To maintain scenic values of lands in the immediate vicinity of the Escarpment.
2. To maintain the open landscape character.
3. - To permit compatible agriculture and forestry and low-density rural land uses.

Under the list of permitted uses, the Plan includes aggregate extraction in the designated Rural Areas subject to the criteria that:-

1. New licensed areas producing less than 20,000 Tonnes (22,000 tons) annually may be permitted in the Escarpment Rural Areas.
2. New licensed areas producing more than 20,000 Tonnes (22,000 tons) annually may be permitted in Escarpment Rural Areas subject to an amendment to the Niagara Escarpment Plan.

Due to the scale of the TCG operation (6 million metric tons), it would be necessary to amend the Niagara Escarpment Commission Proposed Plan. TCG has applied to the Niagara Escarpment Commission to request that the subject lands be deleted from the Niagara Escarpment Commission jurisdiction. This request finds support in the Region of Niagara Report DPD 1490 which recommends that "...the area south of Tice Road....be removed from the Proposed Niagara Escarpment Plan."

It should be noted that the existence of the Niagara Escarpment Commission jurisdiction does not prevent the Municipality from passing Official Plan or zoning by-law amendments.

Region of Niagara Policy Plan

Under the Region's Policy Plan the subject site is designated as a "Possible Aggregate Area", land within this designation would not require amendment to the Regional Plan for license under the Bits and Quarries Control Act.

Pertinent objectives of the Regional Plan under this designation include the following:

- Objective 7.E.1 - To ensure an adequate supply of material resources (including sand, gravel, stone and shale) for the short term and long term construction, chemical and metallurgical needs within the Niagara Region.
- Objective 7.E.2 - To ensure the suitable location, operation and rehabilitation of mineral extraction activities in order to minimize conflicts with both the natural and human environment of the Region.

Policy 7.E.2 - The Region will consider new pits and quarries or the expansion of existing pits and quarries within either the "possible aggregate areas" which are shown in a general way on the Mineral Resources map, or elsewhere in the Region."*

In addition to the foregoing, the Regional Plan sets out the following policies for the evaluation of new applications.

Policy 7.E.5 - Applications for licenses to open new pits or quarries and applications for changes to or expansions of existing licensed pits or quarries will be considered in relationship to the following conditions:

- a) a demonstrated need;
- b) compatibility with surrounding land uses;
- c) the impact on the natural environment including surface watercourses and ground water;
- d) the proposed manner of operation, site plan, and rehabilitation;
- e) the proposed haulage roads and the possible effect on the roads concerned and on adjacent development.

Policy 7.E.6 - The Region desires full consultation among the Ministry of Natural Resources, the Region, the local municipalities and pit and quarry applicants before the licenses are issued or changed to ensure that proposed new or expanded pit and quarry operations are found to be on satisfactory sites and that the rehabilitation plans are found suitable.

Policy 7.E.7 - The Region encourages progressive rehabilitation of operating pits and quarries, that is, the simultaneous stripping, extraction, and rehabilitation of licensed areas. The rehabilitation of the pit or quarry should be compatible with the surrounding land uses.

Policy 7.E.8 - In the case of adjacent pit or quarry operations, the Region will, wherever practical, encourage

the removal of all economically viable material between the pits, and encourage continuous and harmonious rehabilitation.

Town of Pelham Official Plan

Under the Town's Official Plan, the subject site is designated Rural; there are no provisions under this designation to permit extractive industries. Nonetheless, the Town's Plan recognizes the potential of the Fonthill Kame as a source of gravel and sand suggests that..."the intent of the plan is to reserve the necessary area for this purpose and to provide for protection to adjacent uses and a restoration of the land when extraction operations cease."

It is evident that an amendment is required to the Town's Official Plan if this proposal is to proceed.

An amendment to the Town's Official Plan to redesignate the subject lands to Resource Extraction is required.

Furthermore, the Regional Policy Plan now requires the review and amendment of the Town's Official Plan to bring it into conformity with the Regional Policy Plan designations.

Town of Pelham Zoning By-law No. 718(1981)

The subject property is zoned Agricultural A2 in the Municipality's approved zoning by-law. This zone does not permit extractive industries.

If the Town approves an Official Plan amendment to permit the proposed pit, a zoning by-law rezoning the property to M3 Industrial Extractive will be necessary in order to implement the amendment.

Ministry of Natural Resources - Mineral Aggregate Policy for Official Plans

The 1979 Ministry of Natural Resources Policies on Mineral Aggregates for Official Plans states:

Policy 1 "That all parts of the Province possessing aggregate resources should share the responsibility for future demands; at first approximately in proportions existing under present market patterns until new long-term sources of supply can be made available based on efficient long distance transportation systems.

Policy 2 That aggregates must be available at reasonable cost to the consumer including environmental, transportation and energy costs.

Policy 5 That the Province, in co-operation with the Municipalities, must identify areas of high aggregate resource potential and define these areas required for possible future extraction adequate to meet future Provincial demands."*

More recently (in 1981) the Ministry of Natural Resources released a map titled 'Recommended High Priority Mineral Resource Protection Areas (PNEPA)', which identifies the TCG site as a "High Priority Sand and Gravel Resource Area" with the following associate comments.

"Areas selected for protection represent critical mineral resources in the proposed planning area. These resources are necessary to maintain a supply of aggregates until suitable alternatives are found elsewhere..."

Having regard for the policies of this Provincial Ministry, it is concluded that:

- a) the subject lands are recognized as containing a high priority mineral aggregate resource.
- b) in order to meet the Provincial Policy and the Regional objectives of ensuring an adequate supply for both short-term and long-term needs within the Region, it will be necessary to proceed with some orderly extraction on the Fonthill Kame.

Other Considerations

To support its application, TCG has submitted an analytical assessment of the after use of the subject property at the time of its rehabilitation.

From the information submitted, it is the intention of the applicant to rehabilitate the subject lands for agricultural purposes. A review of the material submitted suggests that the rehabilitation proposal is realistic and the site may indeed be used for agriculture.

The applicant has similarly addressed most of the customary concerns and has provided for the concerns to be mitigated through the development, staging and rehabilitation program.

The concerns addressed include:

- a) impact on surrounding land uses.
- b) noise
- c) dust
- d) truck traffic
- e) plant operation
- f) hydrology
- g) archaeology

Separate studies have been prepared by the applicant and submitted with their application. We do not have the expertise to properly evaluate the reports, but note that their conclusions are in support of the project and that they will receive the full scrutiny of the affected provincial ministries at the time of the circulation of the official plan amendment by the Minister of Municipal Affairs and Housing.

It is further noted that the municipality will have an opportunity to comment on the details of the operation and rehabilitation at the time of the circulation of the Pits and Quarries license application by the Ministry of Natural Resources.

Conclusion

Based upon the recognition of the subject property for mineral aggregate extraction in the Regional Policy Plan, and based upon the long-term rehabilitation to agriculture of the subject proposal and abutting existing pit operation, it is recommended that the municipality prepare an Official Plan Amendment and implementing zoning by-law to permit the requested mineral extractive use.

The comprehensive official plan update, as you are aware, is currently underway. Due to the requirement of the Regional Niagara Act to bring the municipality's official Plan into conformity with the Regional Policy Plan designations, it is recommended that the official plan amendment subject of this application be carried out as a separate amendment to the existing Official Plan. However, it should be noted that prior to the municipality commenting on the Pit and Quarry license

application, additional policies for the Resource Extractive designation may be in place through the comprehensive update and may impact on the method of operation and/or rehabilitation proposal.

It is further recommended that a rezoning by-law be prepared to implement the requested official plan amendment.