

ISSUE DATE:

November 02, 2012



PL100362

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: Citizens Coalition of Greater Fort Erie
Appellant: Bryan Kenney
Appellant: Randolph Paura
Appellant: Preservation of Agricultural Lands Society (PALS)
Subject: Proposed Regional Policy Plan Amendment No. 3-2009
Municipality: Regional Municipality of Niagara
OMB Case No.: PL100362
OMB File No.: PL100362

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: Citizens Coalition of Greater Fort Erie
Appellant: Bryan Kenney
Appellant: Randolph Paura
Appellant: Preservation of Agricultural Lands Society (PALS)
Subject: Proposed Official Plan Amendment No. 4
Municipality: Town of Fort Erie
OMB Case No.: PL100362
OMB File No.: PL100363

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: Citizens Coalition of Greater Fort Erie
Appellant: Bryan Kenney
Appellant: Randolph Paura
Appellant: Preservation of Agricultural Lands Society (PALS)
Subject: Proposed Official Plan Amendment No. 63
Municipality: Town of Fort Erie
OMB Case No.: PL100362
OMB File No.: PL100364

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Citizens Coalition of Greater Fort Erie
Appellant: Bryan Kenney
Appellant: Preservation of Agricultural Lands Society (PALS)
Subject: By-law No. 106-10
Municipality: Town of Fort Erie
OMB Case No.: PL100362
OMB File No.: PL101160

APPEARANCES:

| <u>Parties</u> | <u>Counsel*/Agent</u> |
|--|------------------------------|
| Town of Fort Erie | P. M. DeMelo* |
| Regional Municipality of Niagara | M. Kyne* |
| 1746301 Ontario Inc. | A. Pritchard* |
| Citizens Coalition of Greater Fort Erie | L. Triano* |
| Preservation of Agricultural Lands Society | J. Bacher |
| Bryan Kenney | Self-represented |

DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER AND ORDER OF THE BOARD

[1] 1746301 Ontario Inc. (proponent) wishes to develop a 332 hectare site for a motor vehicle track facility, known as the Canadian Motor Speedway (CMS), outside the urban area boundary of the Town of Fort Erie (Town). The subject site is on prime agricultural land and includes a licensed quarry that has not yet been mined. To be implemented, the proposal requires an amendment to the official plan of the Regional Municipality of Niagara (Region), an amendment to the official plan of the Town, and an amendment to the zoning by-law for the Town.

Central issues

[2] Having heard the evidence, the Board identifies three pivotal issues in these proceedings:

1. Have the natural heritage features on the site been properly identified and protected?
2. Is the removal of agricultural lands consistent with the requirements of the Provincial Policy Statement (PPS)?

3. Does the proposal constitute an urban area boundary expansion that does not conform to the requirements of the provincial Growth Plan for the Greater Golden Horseshoe (GGH)?

Matters before the board are narrowed

[3] Four planning instruments have been appealed to the Board: Regional Policy Plan Amendment No. 3-2009 (ROPA 3); Town Official Plan Amendment No. 4 (OPA 4); Town Official Plan Amendment No. 63 (OPA 63); and Town By-law No. 106-10 which is the proposed zoning by-law amendment.

[4] OPA 63 amends a policy of the old Town official plan that is no longer in effect. OPA 4 amends the policy in the new Town official plan. Both deal with the same lands and were designed to implement the CMS proposal.

[5] OPA 63 is an amendment that adds a site specific policy area as an overlay that retains the underlying designations of Agriculture, Hazard and Extractive Industrial on the subject lands.

[6] OPA 4 is an amendment that adds site specific policy area #13: Canadian Motor Speedway Tourist Destination and Centre for Excellence and Innovation. This site specific policy area is as an overlay that retains the underlying designations of Agriculture, Extractive Industrial and Environmental Protection and Environmental Conservation. Included in the amendment's requirements are limits on ancillary uses, protection of environmental areas, additional studies, holding provisions in the zoning by-law, ecological restoration and a site plan.

[7] Environmental Protection and Environmental Conservation are refinements that replace the former Hazard designation.

[8] The Town has asked that the Board deal only with OPA 4 and that the file on OPA 63 be closed.

[9] There are four appellants to OPA 63.

[10] The Citizens Coalition of Greater Fort Erie (Coalition) advised the Board at the outset of the hearing that it had reached a settlement with the proponent, the Town, and

the Region on all outstanding matters. Evidence on the settlement would be called by the proponent and the Town; the Coalition would call no evidence. Counsel for the Coalition withdrew from attendance following the presentation of the Minutes of Settlement, filed as Exhibit 10 in these proceedings. The Minutes of Settlement did not deal with OPA 63.

[11] Mr. R. Paura did not attend the hearing and no one attended on his behalf.

[12] Mr. B. Kenney attended the hearing but advised the Board that he did not intend to call any evidence.

[13] The Preservation of Agricultural Lands Society (PALS) attended the hearing and called a case, but acknowledged that intended evidence on the Town's official plan would focus on OPA 4 and not OPA 63.

[14] None of the appellants to OPA 63 advised the Board that they wished to retain their appeals of OPA 63 and, in so doing, would be calling evidence regarding OPA 63. The Board finds that there is no prejudice to the parties in proceeding to hear evidence only on OPA 4 and not OPA 63.

[15] On consent, the Board dismisses the appeals of OPA 63.

[16] ROPA 3 adds a special policy area to permit the speedway, sharply limit ancillary uses, protect environmental areas and require holding provisions in the implementing zoning by-law.

[17] Matters remaining to be heard in these proceedings are: ROPA 3, OPA 4 and the proposed zoning by-law amendment.

Witnesses heard

[18] The Board heard from 17 witnesses, 11 of whom the Board qualified to give expert opinion evidence.

[19] Experts the Board heard from included:

- Three land use planners;
- An agrologist;

- Two aquatic biologists;
- An ecologist and field botanist;
- An ecologist and ornithologist;
- A storm water and functional servicing engineer;
- A traffic and transportation engineer; and
- An acoustical engineer

[20] The Board also heard from the project director of the proposed speedway who outlined the proposal and the locational criteria that led the proponent to select the site now before the Board.

[21] The Board heard from four participants.

[22] Some confusion arose over whether the participant statement for the Bert Miller Nature Club of Fort Erie (Nature Club) had been filed in time and whether its representative would be permitted to address the Board. No one from the Nature Club appeared at the time initially set aside to hear from participants.

[23] The Procedural Order that set the various deadlines was set by a panel of the Board differently constituted. When the Board was advised that the representative thought a late filing, in terms of the deadlines set in the Procedural Order, would preclude the appearance of the Nature Club, the Board reviewed the Procedural Order. On doing so, the Board noted that a variety of deadlines had been set for various filings by different parties and some confusion over the deadline for participant statements was understandable. In any event, the Board wished to hear from the Nature Club and, on consent of the parties, set aside an additional time specifically to hear from the representative of the Nature Club.

[24] The participants identified noise, traffic, secure availability of emergency services, loss of agricultural lands, inadequate protection of environmentally sensitive lands, and loss of market value in nearby residences as principal concerns. Each of these concerns was addressed by one or more of the experts with the exception of market value.

[25] While a concern regarding market value was raised, no evidence was called on market value and fluctuations in market value are not a planning ground upon which the

Board could allow or deny the proposal. What the Board did consider were the questions of compatibility and appropriateness of the proposed uses, as discussed below.

Refusal to qualify as an expert

[26] PALS called Dr. H. Gayler and wished to have him qualified by the Board to give expert opinion evidence in land use planning matters. Parties opposite objected to the proposed expert qualification. The Board decided to hear Dr. Gayler but declined to qualify him to provide expert opinion evidence. These are the Board's reasons.

[27] Qualifying a witness to provide independent expert opinion evidence to the Board requires two key lines of inquiry: whether the witness possesses the necessary expertise and whether the witness is independent. The two lines of inquiry are frequently collapsed into a single reference to qualify a witness as an expert. While that reference may be handy shorthand, it does not remove the necessity to consider both elements: expertise and independence.

[28] The decision to qualify a witness is not automatic and no witness possesses a right to qualification. The decision is a discretionary one on the part of the Board in any given hearing.

[29] The Board dealt first with the question of expertise. Those objecting to the qualification of Dr. Gayler raised three core points regarding expertise: membership in the Ontario Professional Planners Institute (OPPI), graduating from an accredited university program in planning, and previous qualification by the Board as an expert. Dr. Gayler is not a member of OPPI, did not graduate from an accredited university program in planning, and has not been qualified previously as an expert by the Board.

[30] OPPI requires a standard of competence that is tested and reviewed prior to certification. It also requires adherence to a code of conduct and a code of ethics, and it has a disciplinary process to deal with complaints. Those accepted as full members of the Canadian Institute of Planners and who hold the Registered Professional Planner (RPP) designation in Ontario as OPPI members may use a professional stamp on their work product and must carry appropriate professional insurance. However, while an RPP designation is particularly desirable for qualification of an expert in land use

planning, there are circumstances where the Board may look to other matters, like experience.

[31] Not having an academic background in a program called “planning” does not automatically disqualify someone from being considered an expert in land use planning. A more nuanced consideration of the specific areas of study and expertise is appropriate under such circumstances. Dr. Gayler is a professor emeritus in the Department of Geography at Brock University. Geography is a component of land use planning.

[32] Dr. Gayler has never been qualified as an expert by the Board. The fact that someone has never been qualified as an expert by the Board does not count against them, any more than having been qualified previously by the Board enhances a request for qualification. Each request must be considered in its own right in the context of the matters before the Board at that particular hearing. If those who had been qualified previously were automatically ruled in, that would negate the Board’s responsibly to review qualifications and make a finding appropriate to the matter before the Board. If those who had not been qualified previously were automatically ruled out, there would eventually be no experts to replace those who leave their professional practice.

[33] The Board is satisfied that Dr. Gayler has the necessary expertise.

[34] The Board now turns to the question of independence.

[35] The question of independence is not something that is casual or to be taken lightly. The Board requires that each witness who comes before the Board to be qualified to give independent expert opinion evidence must acknowledge the expert’s duty. The acknowledgement required by the Board is based on the acknowledgement of an expert’s duty that is required by the Court, and the Board expects nothing less from those experts who come before it.

[36] The acknowledgement states in part:

- ...I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
 - a. to provide opinion evidence that is fair, objective and non-partisan;
to provide opinion evidence that is related only to matters that are within my area of expertise; and

- b. to provide such additional assistance as the Board may reasonably require, to determine a matter in issue.

I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged...

[37] In his *curriculum vitae* (c.v.), Dr. Gayler lists himself as a Member of PALS from 1996 to the present. This in itself, separate from the request to be qualified to give independent expert opinion evidence, is not a problem. There is no bar to a person joining a group or engaging in advocacy regarding various issues of public interest.

[38] The Board heard from Ms. G. Janes, the Secretary/Treasurer of PALS for the past 35 years. In correspondence filed as Exhibit 46 in these proceedings, Ms. Janes wrote "...I can also attest that Dr. Gayler has never been a member of our Society..."

[39] Ms. Janes retracted this statement when under oath on the stand and acknowledged that, to the best of her recollection, Dr. Gayler was not a member but she could not say that he had never been a member of PALS.

[40] Even if Ms. Janes had been able to maintain the assertion in her letter when she was under oath, that testimony would not be determinative of the matter.

[41] On the question of independence, the key in this case is not whether Ms. Janes believed Dr. Gayler was ever a member. The key in this case is that Dr. Gayler stated explicitly that he was member of PALS, continuously from 1996 to this hearing in 2012, and did so in the c.v. presented by PALS to support the request that Dr. Gayler be qualified to give the Board independent expert opinion evidence. PALS is an appellant and a party in these proceedings.

[42] The Board finds that a witness cannot, at one and the same time, be qualified as an independent expert to give opinion evidence while that same witness is a member of an advocacy group that is an appellant and a party in these proceedings.

Site description

[43] The site is west of the Queen Elizabeth Way (QEW) between the Bowen Road and Gilmore Road interchanges. It is outside the urban area boundary of the Town of Fort Erie. The current uses are a mix of agriculture, wooded areas, Provincially Significant

Wetland (PSW), a few residences (both farm and non-farm) and a licensed quarry site that has not been mined. Miller Creek and Frenchman's Creek both cross the site.

[44] The subject lands are irregular in shape, forming a rough U on its side with the open end on the west. Surrounding the subject lands to the north, south and within the open area of the U are also a few non-farm residential uses, agricultural uses, and wooded areas. Existing roads carry traffic on a grid-like network around and through the several parcels that make up the 332 ha site.

[45] Ridgemount Road is the western boundary of the lower leg of U. The western boundary of the northern leg of the U stops short of Ridgemount Road. A livestock farming operation separates the subject lands from Ridgemount Road in this area. The west side of Ridgemount Road has a large, active quarry.

[46] The proposal is for a site specific policy area that is an overlay on the underlying designations of Agriculture and Extractive Industrial. The Extractive Industrial zone recognizes the existing license under the *Aggregate Resources Act*, R.S.O., 1990 c. A8, as amended, for a Class A, Category 2, quarry below water table that is located on the subject lands but where no extraction has yet occurred.

The proposal

[47] The proposed development includes:

1. About 70 ha that will accommodate:
 - a. the speedway oval,
 - b. a grandstand with a seating capacity of 65,000, and
 - c. support services such as fuel handling facilities, first aid services, media facilities, maintenance, and so on, in the infield area.
2. a paved motor speedway road course, with support facilities, and a motorcross/BMX/snowmobile/rental kart centre course within the road course area;

3. 133 ha of unpaved parking and camping areas divided between the two legs of the U at their western ends;
4. 8.6 ha for a centre of excellence devoted to research and development in automotive technology, planned to be in association with a university;
5. 4 ha for the manufacturing and assembly of prototype products that are developed and tested in association with the speedway;
6. An accessory commercial complex not to exceed 7000 m²;
7. A natural area that has been increased from an initial 69 ha to slightly less than 117 ha; and
8. The extension of full municipal services to the subject site, with costs to be borne by the proponent.

Restrictions and requirements

[48] This proposal has been the subject of several years of study, multiple expert reports, full circulation to commenting agencies, and additional reports filed, as well as changes made to the proposal, to respond to concerns expressed by the Town and commenting agencies.

Site plan

[49] Although a conceptual site plan was filed as Exhibit 16 in these proceedings, no site plan is before the Board for decision. As a conceptual site plan, it illustrates the proponent's ambition for the site but it has no formal standing equivalent to a detailed site plan. A detailed site plan must still be submitted to the Town and relevant agencies for review, possible modification and approval. As such, certain elements of the conceptual site plan may well change when additional detailed work is undertaken.

Special Policy Area

[50] ROPA 3 designates the subject lands as a special policy area. OPA 4 also designates the subject lands as a special policy area. Neither ROPA 3 nor the OPA 4 expand the urban area settlement boundary of the Town of Fort Erie.

Zoning by-law holding provisions

[51] The proposed zoning by-law amendment makes extensive use of holding provisions. Comments from the circulation of the initial studies, as well as the detailed work necessary to prepare a site plan, have identified a variety of additional items and approvals that are required before the holding provisions are lifted.

[52] These additional items include a traffic management plan, an updated environmental impact study, detailed noise control measures and a noise mitigation plan, and further detailed servicing and storm water management plans.

[53] Initial traffic studies have already been undertaken, as has an extensive noise impact study. The requirement for a traffic management plan and the additional noise control measures and mitigation plan responds directly to the concerns raised by some of the participants to these proceedings.

[54] A settlement with other nearby landowners resulted in the proponent agreeing to acquire their lands as one of the conditions of removing the Speedway Holding Zone from the zoning by-law.

Environmental protection

[55] The Environmental Protection zone recognizes, protects and expands natural heritage features on the site. These include the PSW, Frenchman's Creek, woodlands and areas identified for additional naturalization. Extensive buffers are proposed around all of these areas and may be expanded if further studies demonstrate that any of the protected features are larger than previously thought or new features are identified that require additional protection.

[56] The approval agencies for detailed design elements that may impact natural heritage features include the Ministry of Natural Resources (MNR), the Niagara Peninsula Conservation Authority (NPCA) and the Department of Fisheries and Oceans (DFO).

[57] Both MNR and NPCA had expressed some concerns initially. Both have since indicated that they are satisfied, either with information that addressed that initial

concern or with the control they will exercise over any approval of detailed design elements that may impact their areas of jurisdiction.

[58] MNR, for example, expressed concern initially regarding the impact on a PSW with the removal of a hedgerow that had been included in the PSW. Additional evaluations and reports filed by the proponent satisfied MNR that the hedgerow should be removed from the PSW designation.

[59] Miller Creek is one of these features that come under the jurisdiction of the NPCA. The section of Miller Creek that crosses the subject lands is engineered. The NPCA considers this section of Miller Creek degraded. The proposal includes the realignment and restoration of Miller Creek, subject to approval by the NPCA.

Requirements and restrictions secured by the Coalition

[60] The settlement with the Coalition added still more requirements and limitations. Included in these additional requirements and limitations are a number of provisions which have been folded into the proposed zoning by-law amendment now before this Board. These provisions limit uses, add a licensing requirement and recognize the desirability of appropriate opportunities for public review and submissions. The provisions include:

1. No drag racing will be permitted and activities involving motorized vehicles, with limited exceptions, will be prohibited on at least one day per week;
2. The Town must develop and adopt a licensing by-law to regulate motor vehicle racing in the Town;
3. The proponent must meet the requirements of, and secure, a license under the licensing by-law;
4. Any of the additional reports or studies that are required to remove any of the holding provisions are to be made available to the Coalition at the time they are submitted to the appropriate agency so the Coalition may have the reports reviewed by a qualified consultant and make submissions on the report to the appropriate agency; and

5. The Town will give at least 20 days' notice of its intention to remove a holding symbol and will allow the public to make oral or written submissions prior to a decision.

Limitation on accessory uses

[61] In addition to using holding provisions that require the satisfactory completion and approval of additional matters before the holding provision may be released, the proposed zoning by-law clearly establishes the speedway proper as the primary use.

[62] Accessory uses may only progress in association with the primary use. Accessory uses may not locate on the site independent of the primary speedway use.

Sunset provision

[63] Finally, this proposed by-law includes a sunset provision. If the Speedway Holding Zone has not been removed on or before September 13, 2020 then the by-law shall be of no force and effect.

Analysis and findings on the central issues

Have the natural heritage features on the site been properly identified and protected?

[64] PALS called Dr. M. Dickman to testify on certain natural heritage matters. Dr. Dickman is an aquatic biologist. While he has done some research in sweet water habitats, his research has focused predominantly on ecotoxicology in cold, saltwater fisheries. Dr. Dickman's most compelling testimony was in the concerns he raised regarding Miller Creek.

[65] Miller Creek is a warm water fish habitat that crosses the subject lands. Miller Creek is under the jurisdiction of the NPCA. This section of the creek is engineered, and considered to be in a degraded condition by the NPCA.

[66] The proposal before the Board includes the relocation and restoration of Miller Creek, to the satisfaction of the NPCA. No change may be made to the creek without a permit from the NPCA and no relocation and restoration can occur without the NPCA

approval. Further, the NPCA exercises certain authority in these matters on behalf of the federal Department of Fisheries.

[67] Miller Creek currently has a fairly extensive natural cover. Although Miller Creek is a warm water fish habitat, that natural cover still provides protection from the sun and reduces the heat load on the creek.

[68] Dr. Dickman expressed the concern that a relocation of the creek might not provide for equivalent cover to reduce the heat load, which in turn might then have a negative impact on the fish habitat. Dr. Dickman testified that all aquatic life has a range of temperatures in which it thrives. Beyond that range, whether lower or higher, the aquatic habitat may no longer be suitable. Different species may have different ranges of tolerance, but the principle stands whether one is dealing with warm water habitats, cold water habitats, salt water habitats or sweet water habitats.

[69] While the Board recognizes the concern for the habitat of a relocated Miller Creek, an expression of concern is not sufficient.

[70] Dr. Dickman acknowledged that he did not inform himself on the process or requirements involved in any proposal to relocate Miller Creek. He did not inform himself about the jurisdiction of the NPCA and its role in the final determination of whether Miller Creek would be relocated and, if so, what its final design would be. In short, his testimony stopped with the identification of a concern but with no assessment of the process of approval for relocation or the role of the approval agencies.

[71] Simply raising a concern without an assessment of the proposed mechanism to deal with the concern does not assist the Board in determining the matter.

[72] Dr. Dickman also expressed concern about the protection of a spring on the subject lands. Under cross-examination, Dr. Dickman acknowledged that the protection of the spring had been discussed at a meeting of the relevant experts and that the spring would be protected. In this case, it is not simply the expression of a concern that is not helpful to the Board, it is the fact that Dr. Dickman was aware that the spring was already identified for protection and the necessary steps were put in place to do so.

[73] The PSW on the site has been identified and its boundaries refined by MNR.

[74] Significant woodlands have been identified and are protected.

[75] No major wildlife corridors were identified on the subject lands. The Town's OP identifies a corridor that follows Frenchmen's Creek. The creek, along with substantial buffers, is already protected. That protection would extend to the use of the creek corridor for wildlife movement. The Region's OP identifies a potential natural heritage corridor south of the subject lands which is not impacted by the proposed development.

[76] MNR has identified features on and adjacent to the subject lands that are suitable for winter warding up of deer. The proposal will not isolate or impact these areas. Connections and potential corridors will be maintained. Proposals for restoration and additional naturalization will increase forest cover on the subject lands and enhance potential corridors and areas deer may use to ward up in winter.

[77] Field studies have been undertaken to determine if any species at risk are on the subject lands and, if so, whether their habitat requires protection.

[78] There is some evidence of Bobolink and Eastern Meadowlark, but this is a rural, agricultural area and the sightings have been minimal on the subject lands. Further investigation, particularly involving Bobolink habitat, is to be undertaken. The results will be presented to MNR for review and determination if any additional steps need to be taken regarding habitat protection.

[79] There are active quarrying operations across the road from the subject lands, as well as an inactive, licensed quarry on the subject lands. Habitat associated with the quarries, area barns and hollows have all been identified as potentially suitable for the Eastern Milksnake. There have been occasional sightings of the snake in the area but MNR has not identified significant Eastern Milksnake habitat on the subject lands.

[80] As extensive as the studies have already been to identify and protect natural heritage features, the planning instruments before the Board contemplate additional analysis and review prior to any final approvals. Detailed design work will require an updated environmental impact study. The holding provisions in the zoning by-law will not be removed until all approval agencies are satisfied with the updated environmental impact study.

[81] The Board finds that the natural heritage features on the site have been properly identified and protected.

Is the removal of agricultural lands consistent with the requirements of the Provincial Policy Statement (PPS)?

[82] The PPS discourages the removal of agricultural lands for other purposes but recognizes that this may occur under certain circumstances.

[83] Approximately 90 per cent of the lands in the Niagara region are prime agricultural lands, composed of Class 1, 2, and 3 agricultural lands. Approximately 77 per cent of the subject lands are prime agricultural lands. Some of these lands are Class 2 agricultural lands but the majority are identified as Class 3 agricultural lands. Productivity indices show that the agricultural lands on the subject site are generally similar to Class 3 productivity.

[84] Section 2.3.5 of the PPS sets out the requirements for the removal of land from prime agricultural areas and states:

2.3.5 Removal of Land from Prime Agricultural Areas

2.3.5.1 Planning authorities may only exclude land from *prime agricultural areas* for:

- a) expansions of or identification of *settlement areas* in accordance with policy 1.1.3.9;
- b) extraction of *minerals, petroleum resources and mineral aggregate resources*, in accordance with policies 2.4 and 2.5; and
- c) limited non-residential uses, provided that:
 - 1. the land does not comprise a *specialty crop area*;
 - 2. there is a demonstrated need within the planning horizon provided for in policy 1.1.2 for additional land to be designated to accommodate the proposed use;
 - 3. there are no reasonable alternative locations which avoid *prime agricultural areas*; and
 - 4. there are no reasonable alternative locations in *prime agricultural areas* with lower priority agricultural lands.

2.3.5.2 Impacts from any new or expanding non-agricultural uses on surrounding agricultural operations and lands should be mitigated to the extent feasible.

[85] The proposal before the Board does not include any expansion of a settlement area or the urban area boundary of the Town. The proposal is for a special policy area with narrowly defined uses. Section 2.3.5.1 (a), which references s. 1.1.3.9 of the PPS, does not apply in this instance.

[86] The subject lands include lands that have a license for aggregate extraction. The proposal protects the aggregate resource by ensuring that use of these lands for the proposed speedway will not include any paving or permanent construction on the licensed lands. There is no application before the Board to expand those licensed lands and remove additional agricultural lands for aggregate extraction purposes. Section 2.3.5.1 (b) does not apply in this instance.

[87] At s. 2.5.1, the PPS requires mineral aggregate resources to be protected for long term use. By ensuring that development of the speedway protects access to the aggregate resource in the event that the licensee moves to active extraction on the site, the proposal is consistent with s. 2.5.1 of the PPS.

[88] Section 2.3.5.1(c) does apply to the site.

[89] The parties do not agree on the meaning of the phrase “limited non-residential uses”. Does limited refer to a small area or to a few specific uses? Since limited is not a defined term, the application of this section must be in the context of the particular proposal. In this case, the proposed non-residential uses are narrow, restricted, regulated and controlled. The land area to be occupied by these uses is governed by the nature of each use.

[90] Based on an analysis of the proposed planning instruments before the Board, with their attendant restrictions and requirements, the Board finds that the proposed uses within the special policy area are limited non-residential uses. The Board further finds that the size of the area occupied by the proposed uses is not the determining factor on whether or not the uses are limited.

[91] While the lands are prime agricultural lands, predominantly Class 3, the subject lands do not comprise a specialty crop area.

[92] This proposal is for a very large recreational facility with limited associated accessory research, industrial and commercial facilities. As identified by the proponent, there are five key locational criteria:

1. The site must be close to a major highway and readily accessible to that highway;

2. The site must be visible from the highway;
3. The site must be close to municipal services to accommodate appropriate extensions to the site;
4. The site must be large enough to accommodate this major facility; and
5. The site must be located with a minimum of sensitive receptors for noise.

[93] No witness before the Board suggested that these criteria were inappropriate for this facility.

[94] No witness before the Board suggested that provision for a facility of this type would normally be included in the regular process of planning for a community. While provision might be made in advance for commercial or residential or industrial uses generally, provision for this major recreational facility is simply not something a community would normally identify in an official plan with no live proposal before it.

[95] The Town has identified industrial sites within its urban settlement area. None of the available sites is anywhere near large enough, or appropriate, to accommodate this rural recreational facility. As such, the Board finds that there is a demonstrated need for additional land to be designated to accommodate the proposed use.

[96] The Board had before it an agricultural impact study which included an analysis of alternative sites. There are no lower priority agricultural lands available. PALS suggested a site to the north, known locally as Thundering Waters. The site does not meet the area requirements for this facility and is constrained environmentally. It is also in close proximity to existing and future residential development, raising a considerable concern for land use compatibility and noise impact on sensitive receptors.

[97] The Board finds that there are no reasonable alternative locations that avoid prime agricultural areas and no reasonable locations in prime agricultural areas with lower priority agricultural lands. No reasonable alternative site was placed before the Board.

[98] Although the subject lands are Class 3 prime agricultural lands, there are no active agricultural operations on the subject lands. Active agricultural operations on the subject lands were retired some years ago.

[99] In addition to the active quarries across the road from the proposed development, there are active agricultural operations in the surrounding area. There are only three active livestock operations within one km of the proposed development. Required setbacks and limitations on uses allow the proposal to meet the requirements of minimum distance separation from livestock operations.

[100] The Board finds that the proposal meets the requirement of s. 2.3.5 of the PPS for the removal of land from a prime agricultural area.

Does the proposal constitute an urban area boundary expansion that does not conform to the requirements of the provincial Growth Plan for the Greater Golden Horseshoe (GGH)?

[101] The PPS and the GGH contain similar policies for managing and directing growth. Both direct development to settlement areas but the GGH provides greater specificity in certain respects. In the section on managing growth, the GGH states:

2.2.2 Managing Growth

1. Population and employment growth will be accommodated by ...

i) directing development to *settlement areas*, except where necessary for development related to the management or use of resources, resource-based recreational activities, and rural land uses that cannot be located in *settlement areas*...

[102] The proposed speedway is a unique facility. It is not a land use that is planned for in a settlement area and is not appropriate for a settlement area. It is land extensive. Noise impacts would make it incompatible with neighbouring sensitive receptors that would surround it in a settlement area. The substantial setbacks that would be required would freeze large tracts of urban land otherwise capable of being developed.

[103] The proposed speedway is a recreational facility more properly located in a rural area.

[104] Concern was expressed initially by the Ministry of Municipal Affairs and Housing (MMAH) and by the Region about the amount of commercial and industrial development proposed originally to accompany the speedway. As a result of these concerns, these uses have been sharply curtailed and tied explicitly to the speedway. They are not stand

alone uses that are capable of being located off site and within the existing urban area boundary.

[105] Section 1.7.1(f) of the PPS calls for long term economic prosperity to be supported by “providing opportunities for sustainable tourism development”.

[106] Section 2.2.6.7 of the GGH emphasizes the importance of tourism for this area within the context of economic development and states:

7. In recognition of the importance of cross-border trade with the United States, this Plan recognizes a *Gateway Economic Zone* and a *Gateway Economic Centre* near the Niagara-US border. Planning and economic development in these areas will support economic diversity and promote increased opportunities for cross-border trade, movement of goods and tourism.

[107] The gateway designation applies to the urban settlement area of the Town. Although the proposed speedway would be located outside the urban settlement area of the Town, for the reasons reviewed above, it will be located immediately adjacent to that urban area boundary.

[108] In addition, the speedway is being planned to access a large cross-border fan base that is in keeping with economic development to sustain and expand tourism. The Board heard no evidence to contradict the proponent’s assessment of the size of the intended market for this facility or the likelihood that a substantial component of that market would represent cross-border tourism. As such, the proposal complements and supports the important gateway function identified by the GGH.

[109] The Board finds that the proposal conforms to the requirements of the GGH.

Conclusions

[110] The Board finds that ROPA 3, found at Attachment 1 to this decision, addresses and implements the matters of provincial interest set out in s. 2 of the Act, is consistent with the PPS, and conforms to the GGH.

[111] The Board finds that OPA 4, found at Attachment 2 to this decision, addresses and implements the matters of provincial interest set out in s. 2 of the Act, is consistent with the PPS, conforms to the GGH, and conforms to the Region Official Plan as amended by ROPA 3.

[112] The Board finds that the proposed zoning by-law amendment, found at Attachment 3 to this decision, addresses and implements the matters of provincial interest set out in s. 2 of the Act, is consistent with the PPS, conforms to the GGH, and conforms to the Town's Official Plan as amended by OPA 4.

ORDER

[113] The Board orders that:

1. The appeals of Randolph Paura, Bryan Kenney and Preservation of Agricultural Lands Society are dismissed.
2. The appeal of the Citizens Coalition of Greater Fort Erie regarding OPA 63 is dismissed.
3. The remaining appeals of the Citizens Coalition of Greater Fort Erie are allowed in part.
4. The Region of Niagara Official Plan is modified in accordance with Attachment 1 to this decision and, as so modified, is approved.
5. The Town of Fort Erie Official Plan is modified in accordance with Attachment 2 to this decision and, as so modified, is approved.
6. By-law 129-90 is amended in accordance with Attachment 3 to this decision.

"Susan de Avellar Schiller"

SUSAN de AVELLAR SCHILLER
VICE CHAIR

ATTACHMENT 1

Bill 10

**AMENDMENT 3-2009 TO THE
OFFICIAL PLAN FOR THE
NIAGARA PLANNING AREA**

The Official Plan for the Niagara Planning Area is amended by adding the following policies and Schedule A to Section 6 of the Official Plan:

Special Policy Area

Policy 6.A.19 A motor speedway complex with ancillary recreational, commercial and automotive research, technology and innovation uses is permitted on approximately 332 hectares (821 acres) of land generally illustrated on Schedule A and located to the west of the QEW between Bowen Road and Gilmore Road, east of Ridgemount Road, in the Town of Fort Erie. The following special policies shall apply to the development of these lands:

- (a) All ancillary uses shall be associated with the primary motor speedway use and shall not be established until the motor speedway is substantially completed.
- (b) Ancillary commercial uses shall occupy up to 7,000 square metres (75,000 square feet) of gross floor area and ancillary automotive research, technology and innovation uses shall occupy up to 12.6 hectares (31 acres) in total land area.
- (c) A municipal comprehensive review shall be required to be approved by the Region and the Town of Fort Erie for any proposed expansion to the limits set for ancillary uses in policy 6.A.19 (b).
- (d) Lot creation for ancillary uses may be permitted subsequent to the construction of the racetrack and grandstand, and subject to other policies of this Plan.
- (e) Development may be connected to municipal sewer and water systems subject to the submission of a detailed servicing study on the need for municipal services; impacts on existing systems and reserve capacity for the Urban Area; operational considerations associated with any on-site sewage storage including downstream odour impacts; costs and funding options to the satisfaction of the Region and the Town of Fort Erie.


- (f) Boundaries for natural heritage features shown on the Core Natural Heritage

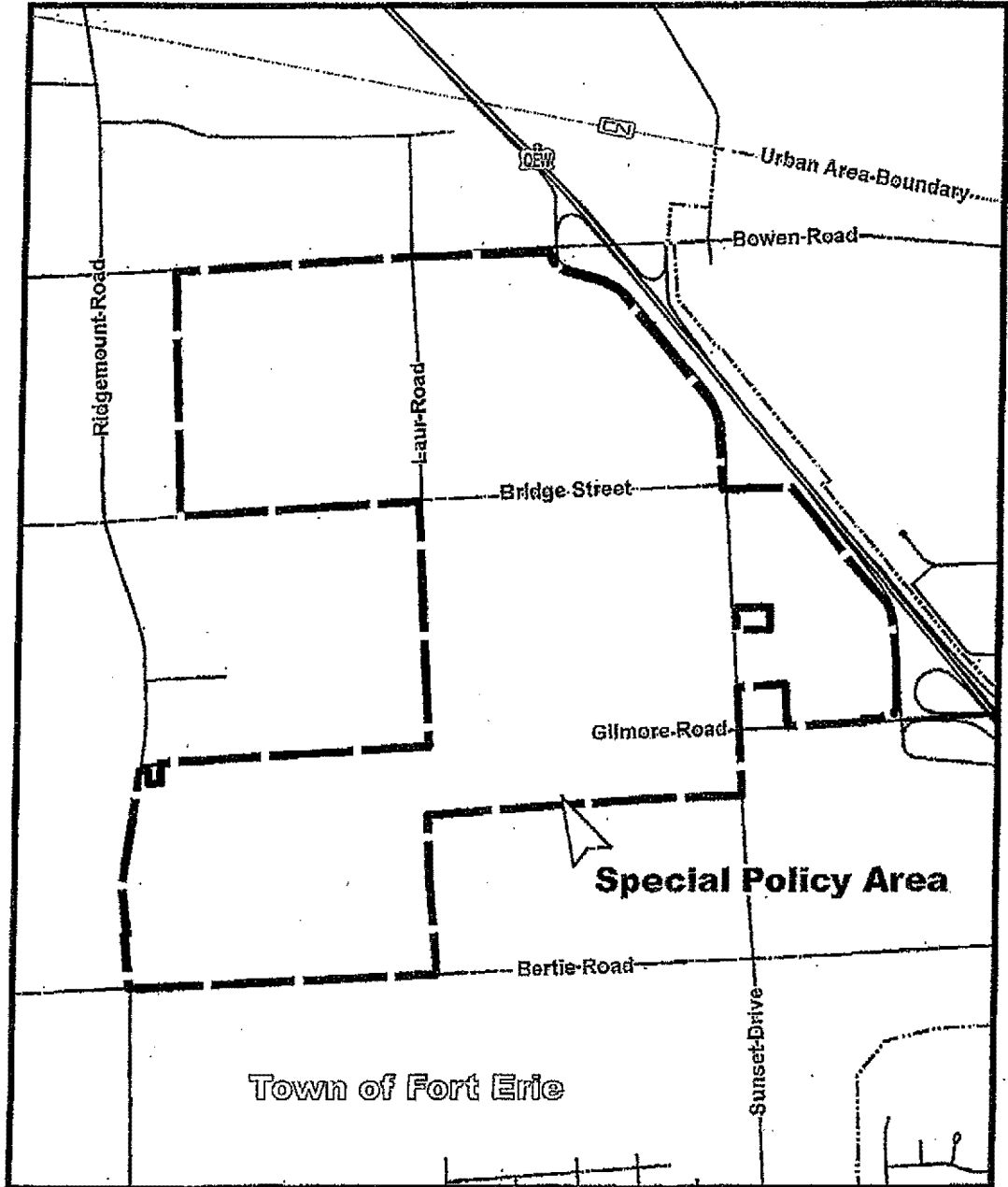
Bill 10

Map shall be confirmed to the satisfaction of the Ministry of Natural Resources and the Niagara Peninsula Conservation Authority without any further amendment to this Plan.

- (g) The Town of Fort Erie shall confirm priorities for staging development and servicing in the Urban Area as part of its Official Plan update in 2010 to conform to Provincial and Regional growth plans.
- (h) An amendment to the Town of Fort Erie Zoning By-law shall be approved when zoning limits for an Environmental Protection Area have been confirmed and appropriate setbacks or buffers have been determined related to natural heritage features, noise impacts and agricultural livestock separation to the satisfaction of the Region, Town and Niagara Peninsula Conservation Authority.
- (i) "Holding" provisions will be placed in the zoning by-law amendment for the completion of studies and submission of information on servicing requirements, road improvements, air quality (noise and odours), natural heritage, stormwater management, agricultural activities, traffic and operations management, environmental site conditions, and archaeological resources to be approved and implemented in a site plan agreement to be entered into with the Town to the satisfaction of the Region, Town and appropriate Provincial Ministry or the Niagara Peninsula Conservation Authority.

**Schedule "A" to Amendment # 3-2009
for the Niagara Planning Area**

 Area Affected by the Amendment



ATTACHMENT 2

PART "B" - THE AMENDMENT

Introductory Statement

All of this part of the document entitled "Part "B" - "The Amendment" consisting of text and map changes constitutes Amendment No. 4 to the Official Plan adopted by By-law No. 150-06 for the Fort Erie Planning Area. The Official Plan adopted by By-law No. 150-06 for the Fort Erie Planning Area is hereby amended as follows:

Details of the Amendment

Map Change

"Town of Fort Erie Official Plan" being Schedule A to the Official Plan adopted by By-law No. 150-06 for the Fort Erie Planning Area as amended is further amended by the attached Schedule "A". Schedule "A" delineates the area subject of this Amendment and indicates the land to be designated "*Site Specific Policy Area #13 - Canadian Motor Speedway - Tourist Destination and Centre of Excellence and Innovation*".

Text Change

Section 4.14 "Site Specific Policy Areas" is hereby amended by the addition of the following sub-section:

4.14.13 Canadian Motor Speedway - Tourist Destination and Centre for Excellence and Innovation (Site Specific Policy Area # 13)

- I. In addition to uses permitted in association with the existing designations reflected on Schedule A of the Town of Fort Erie Official Plan, this Site Specific Policy Area #13 "The Speedway" is intended to exclusively permit the development and operation of a major tourist destination complex consisting primarily of a "world class" automotive speedway development with ancillary commercial, as well as an ancillary Centre of Excellence and Innovation regarding an interrelated centre of higher education for research and development and the manufacturing, assembly and testing of prototypes related to the motorsport use of the property. This major tourist development encompasses approximately 332 gross hectares (821 acres) situated southwest of the Bowen Road/QEW interchange and northwest of the Gilmore Road/QEW interchange as shown on Schedule A of the Official Plan. It is intended to be a unique and significant contributor to economic diversity, employment, higher education and innovation within the Town, Region, Province and Canada.

- II. The Speedway complex shall permit racing events for a variety of motor-sports including automobile, motorcycle, motorcross, karting, snowmobile, and BMX, and various other motorized, as well as non-motorized public events ancillary to a speedway event. The core complex shall cover approximately 70 net hectares (171.2 acres) and consist of two primary speedway areas including an oval motor speedway and road course, as well as a kart track, motor cross course, snowmobile complex, karting facility and BMX track. The core complex shall contain a grandstand with a minimum seating capacity of 65,000 spectators.
- III. In addition, an ancillary Centre of Excellence shall be permitted in association with a major Canadian university devoted to the research and development of advanced automotive technology. Approximately 8.6 net hectares (21.2 acres) shall be devoted to the Centre of Excellence.
- IV. Associated with the Centre of Excellence is an ancillary innovation assembly and testing complex (Innovation Complex) for the manufacturing and assembly of prototypes products, which require proximity to the speedway complex for testing and development purposes. No more than 4.0 net hectares (10 acres) shall be devoted to the Innovation Complex.
- V. In addition, up to 7,000 m². (75,000ft²) of ancillary commercial development specifically accessory and supporting the Speedway complex will be permitted. Such commercial development may consist of restaurants, retail shopping, entertainment, amusement facilities, and motor sports museum. Permitted commercial development is exclusive of accessory concessions situated within and surrounding the grandstand, as well as buildings required for office administration, meeting rooms, ticket sales and security directly related to speedway operations and administration.
- VI. Further to the above noted development components, ancillary support uses to the racetrack, namely: parking, campgrounds and storm water management facilities will be permitted and due to the nature of the development occupy a significant portion of the subject area. Parking areas west of Laur Road will be utilized for major events only and will not be surface treated so as to reduce runoff and increase infiltration.
- VII. Lot creation for ancillary uses may be permitted subsequent to the construction of the racetrack and grandstand, and subject to other policies of the Plan.

- VIII. The Town's Zoning By-law will regulate development of all permitted uses and all development will be subject to the Town's Site Plan Control standards and requirements, as well as any other applicable legislation.
- IX. No development beyond the policy and zoning restrictions identified for the ancillary uses identified in Policies III, IV and V will be permitted unless by amendment to this Plan and justified by a municipal comprehensive review completed to the satisfaction of the Town of Fort Erie and Niagara Region. Further, any additional commercial development will require a market analysis that demonstrates that additional commercial development will not negatively affect the financial viability of designated commercial lands identified in the Official Plan.
- X. The following studies shall be completed to the satisfaction of the Town of Fort Erie, Niagara Region and appropriate authorities: traffic impact, stormwater management, air quality (noise and odours), servicing, environmental impact, archaeological, environment site conditions (Phase 1) and agriculture.
- XI. Each component of The Speedway complex, as defined within this Site Specific Policy Area, shall be zoned independently and each zone shall contain Holding provisions. A Holding zone shall not be removed until such time as the provisions of the Holding zone are met and Council has approved the related Site Plan Agreement.
- XII. Compliance with minimum distance separation from existing livestock operations shall be demonstrated prior to adoption of the implementing zoning by-law.
- XIII. The implementing zoning by-law shall establish an environmental protection zone and buffer setbacks for the natural heritage features identified for protection to the satisfaction of the Ministry of Natural Resources, Niagara Peninsula Conservation Authority, Niagara Region and the Town of Fort Erie.
- XIV. The implementing zoning by-law and site plan agreement shall contain regulations addressing environmental impacts on designated natural heritage features to the satisfaction of relevant agencies, being the Town, Ministry of Natural Resources, Niagara Peninsula Conservation Authority, and Region. Additional assessment relative to the submitted Environmental Impact Study shall be completed to address agency concerns, particularly in regard to wildlife impacts, impacts from road upgrades and potential hydrogeological impacts.

- XV. No development shall take place within natural heritage features identified for protection, except in accordance with the approval of the Ministry of Natural Resources and the Niagara Peninsula Conservation Authority.
- XVI. A map change to Schedule A of the Official Plan shall not be required as a result of an approved relocation of Miller Creek and its related Environmental Protection Area.
- XVII. The Holding zones for the ancillary uses shall not be removed until substantial portions of The Speedway's track areas and grandstand are complete and Site Plan Approval has been obtained for the commercial and innovation components. However, the Centre of Excellence may be developed concurrently with The Speedway subject to the issuance of a building permit for the Speedway being issued prior to the building permit for the Centre of Excellence.
- XVIII. Prior to removal of a Holding Zone, a detailed servicing review to the approval of the Town and Region must be completed identifying:
- i The need for municipal services and the amount of capacity required for the proposed development and impacts on the Region's water and wastewater treatment plants with respect to future development within the Town's urban area for the time period ending 2031, being the planning horizon for the Regional Growth Management Plan (Niagara 2031); and
 - ii the applicant's financial contribution and timetable for contribution to any necessary services or expansion of the Anger Avenue Treatment Plant
- XIX. Prior to the removal of the Holding zone, a detailed Storm Water Management Plan shall be prepared to the satisfaction of the Town, Region and Niagara Peninsula Conservation Authority with respect to water quantity and quality management on and off the site.
- XX. It is encouraged that the site plans incorporate sustainable development considerations such as, but not limited to: energy efficiency, reflected/waste light, use of energy efficient material and landscaping, solar orientation, and low irrigation landscaping.
- XXI. To enhance the identity of Fort Erie and identify this development as a World Class facility, high standards of design and architecture will be encouraged through site plan control.

- XXII. Prior to Site Plan Approval of the speedway and related development components, the Town and Region should review and update of its Development Charges Studies.
- XXIII. Prior to Site Plan Approval an odour study shall be completed to the satisfaction of the Region to ensure the servicing system regarding the containment and release of sewage flows will not result in adverse odour impacts to residents.
- XXIV. Areas of ecological restoration and enhancement along the north side of Frenchman's Creek shall be identified through Site Plan Control. The Site Plan Agreement shall require the development of an ecological restoration and enhancement program in consultation with the Town's Environmental Advisory Committee and subject to the approval of the Niagara Peninsula Conservation Authority.
- XXV. The Site Plan Approval process shall require a Stage 2 Archaeological Assessment in accordance with provincial guidelines prior to any land-disturbing activities. Further, the agreement shall include the recommendations of the Archaeological Assessment submitted with the application regarding procedures to be taken in the event remains are found.
- XXVI. The Site Plan Approval process shall require that in the event the licensed aggregate area is required for extraction, the applicant shall relocate the required parking on the lands to a suitable location within the Site Specific Policy Area and the Site Plan Agreement shall be amended accordingly.
- XXVII. The Site Plan Approval process shall require all road upgrades and traffic control improvements be to the approval of the regulatory agencies.
- XXVIII. The Site Plan Approval process shall require a Phase 1 Environmental Assessment for the property to be completed to the satisfaction of the Town and Region in accordance with the Ministry of Environment Guidelines.
- XXIX. To minimize impacts associated with noise, air quality, and traffic, the following policies shall apply:
- i The grandstand, track, as well as other buildings or berms contemplated for use in whole or in part as noise mitigation, are designed, located and built to ensure noise impacts are minimized, prior to any racing taking place on the track.

- ii Prior to Site Plan Approval of the racetrack, a Noise Attenuation Plan to reduce and control noise originating from the site shall be approved by Council.
 - Requirements of the Noise Attenuation Plan will be implemented through various means including: the adoption of by-laws authorized under the Municipal Act, 2001 or agreements entered into under authority of the Planning Act.
- iii If warranted, Council may withhold approval of the implementing Zoning By-Law, which permits the Speedway until such time as the Ministry of the Environment, is satisfied with policies i and ii noted above.
- iv The Holding Zone related to the zoning for the speedway complex shall not be removed until an air quality study is completed, reviewed and approved by the Region and/or Ministry of the Environment.
- v A Traffic Management Plan (TMP) shall be prepared to the satisfaction of the MTO, Peace Bridge Authority, Region and Town that addresses site access, pedestrian access, traffic flow, traffic control, en-route traveler/wayfinding information, traffic surveillance, traffic incident management and safety, personnel, communications protocol, day-of event activities and post event activities. The TMP should be structured to:
 - improve arterial and freeway access to and from the event; facilitate parking, and guidance and internal circulation; increase automation of traffic control; centralize traffic management functions; develop a coordinated incidence management plan; improve static and dynamic signage on event routes; investigate opportunities for ITS applications; and minimize the impacts on nearby residential traffic. The TMP shall be approved by the relevant agencies prior to the removal of the Holding Provisions for the zone categories associated with the development.

SCHEDULE "A"



By-Law No. 169-09

**THIS SKETCH FORMS PART OF SCHEDULE 'A' TO OFFICIAL PLAN
AMENDMENT NO. 4 PASSED THIS 14th DAY OF DECEMBER 2009**

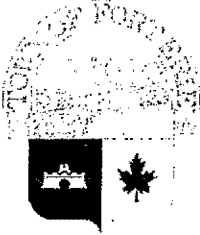


Area affected by the Amendment which will add SITE SPECIFIC POLICY AREA # 13 - CANADIAN MOTOR SPEEDWAY
TOURIST DESTINATION AND CENTRE OF EXCELLANCE AND INNOVATION

PART LOTS 3, 4, 7 & 8 CON 7 NR, LOTS 5 & 6 CON 6 NR, PART LOTS 4, 7, 8 & 9 CON 6 NR, PART LOTS 5 & 6 CON 5 NR,
TOWN OF FORT ERIE, REGIONAL MUNICIPALITY OF NIAGARA

Town of Fort Erie
Community and Development Services
December 14, 2009



ATTACHMENT 3

The Municipal Corporation of the
Town of Fort Erie

BY-LAW NO. 106-10

BEING A BY-LAW TO AMEND ZONING BY-LAW 129-90
1746391 ONTARIO INC. (CANADIAN MOTORSPORTS SPEEDWAY)
SOUTH WEST CORNER OF BOWEN ROAD AND SUNSET DRIVE
TOWN OF FORT ERIE

350309-0311

WHEREAS an application has been received from 1746391 Ontario Inc. to amend the Town's Comprehensive Zoning By-law No. 129-90 for the lands shown as Appendix 1; and

WHEREAS a Public Meeting pursuant to Section 34(12) of the *Planning Act R.S.O. 1990, c.P.13* was held on September 8, 2009, and

WHEREAS the Council of the Town of Fort Erie deems it desirable to pass an amendment to the Comprehensive Zoning By-law No. 129-90 pursuant to their decision at the September 7, 2010 Council Meeting, and

NOW THEREFORE the Municipal Council of the Corporation of the Town of Fort Erie hereby enacts as follows:

1. **THAT** Schedule "A" of By-law No. 129-90 is amended by changing the zoning of the lands shown on Schedule "A" attached hereto as follows:

Part 1 from "Agricultural A Zone" and "Hazard H Zone" to "Environmental Protection EP-430 Zone";

Part 2 from "Agricultural A Zone" to "Environmental Protection EP-431 Zone";

Part 3 from "Agricultural A Zone" and "Hazard H Zone" to "Environmental Protection EP-432 Zone";

Part 4 from "Agricultural A Zone" and "Hazard H Zone" to "Environmental Protection Holding EP-433 (H) Zone";

Part 5 from "Agricultural A Zone" and "Hazard H Zone" to "Motorsports Speedway Holding MS-434 (H) Zone";

Part 6 from "Agricultural A Zone" to "Motorsports Speedway Holding MS-435 (H) Zone";

Part 7 from "Agricultural A Zone" to "Motorsports Speedway Holding MS-436 (H) Zone";

Part 8 from "Agricultural A Zone" to "Motorsports Speedway Holding MS-437 (H) Zone";

Part 9 from "Agricultural A Zone" to "Hazard H-438 Zone";

Part 10 from "Agricultural A-Zone" to "Agricultural Holding A-439(H) Zone";

Part 11 from "Agricultural A Zone" to "Agricultural Holding A-440(H) Zone";

Part 12 from "Agricultural A Zone" to "Agricultural Holding A-441(H) Zone";

Part 13 from "Extractive Industrial EI Zone" to "Extractive Industrial Holding EI-442(H) Zone";

Part 14 from "Extractive Industrial EI Zone" to "Extractive Industrial Holding EI-443(H) Zone";

2. **THAT** By-law 129-90 is further amended by adding to Section 5-Definitions the following definitions:
- a) 5.27.1 “Buffer Area” is a strip of land, which is restricted to ecological enhancement, and restoration of the natural environment.
 - b) 5.163.3 “Motorsports Speedway Complex” means a paved oval and paved road course circuit for motor Vehicle racing including a 65,000 seat Grandstand and associated parking and accessory uses related thereto.
 - c) 5.163.4 “Motorsports Speedway Centre of Excellence” means accredited post-secondary educational and professional facilities related to the research and development of automotive and motorsports technology and other accessory uses.
 - d) 5.163.5 “Motorsports Speedway Innovation Complex” means a repair, manufacturing, processing, testing and assembly complex for automotive prototypes and other accessory uses.
 - e) 5.163.6 “Motorsports Emergency Command Centre” means a building or part thereof that is for the exclusive use of emergency services providers to respond to emergencies that may arise during a Motorsports Speedway event.
 - f) 5.108.1 “Go-Kart Track” means a paved track for the racing of a low motor vehicle with four wheels and an open framework.
 - g) 5.163.6 “Motorsports Garages and Shops” means buildings or parts thereof for the private use of race teams wherein Vehicles are stored, repaired and maintained.
 - h) 5.70.1 “Drag Racing” means the racing of motor vehicles in pairs from a standing start over a measured distance from a starting line to a finish line on a straight track.
 - i) 5.71.1 “Driver Experience Facilities” means a building or parts thereof containing classrooms and garages for driver training.
 - j) 5.163.8 “Motorsports Offices” means a building or part thereof in which corporate and professional offices are permitted that are directly related to the Motorsports Speedway Complex.
 - k) 5.163.7 “Motorsports Museum” means a building or place where Vehicles, memorabilia and automotive parts are kept and displayed.
 - l) 5.200.1 “Automotive Race Event” means a racing event for automotive vehicles such as cars and trucks.

- m) 5.182.1 “Parking Garage” means is a structure designed specifically for vehicle parking and where there are a number of floors or levels on which parking takes place.
- n) 5.110.1 “Grandstand” is a large permanent structure for seating spectators. The grandstand is multi-tiered and is covered with a roof.

3. **THAT** By-law 129-90 is further amended by adding , Section 35A-Environmental Protection EP Zone, as follows:

SECTION 35A - ENVIRONMENTAL PROTECTION (EP) ZONE

35A.1 Subject to the General Provisions of Section 6 and all other applicable requirements of this By-law, the provisions of this section shall apply to all Environmental Protection (EP) Zones.

35A.2 PERMITTED USES

- a) Passive non-structural conservation and resource management uses.
- b) Flood and erosion control works.
- c) Minor additions, enlargements and reconstruction of existing uses in compliance with the regulations of the Niagara Peninsula Conservation Authority.

35A.3 REGULATIONS

| | |
|--|-------------|
| Minimum Lot Frontage, Area and Yard Requirements | As existing |
|--|-------------|

EXCEPTIONS TO THE ENVIRONMENTAL PROTECTION (EP) ZONE

EP-430

These lands are zoned Environmental Protection EP-430 Zone and all of the provisions that relate to lands zoned Environmental EP Zone by this By-law shall apply to those lands zoned Environmental Protection EP-430 Zone, which have been identified as Provincially Significant Wetlands by Ministry of Natural Resources and Critical Fish Habitat;

EP-431

These lands are zoned Environmental Protection EP-431 Zone and all of the provisions that relate to lands zoned Environmental EP Zone by this By-law shall apply to those lands zoned Environmental Protection EP-431 Zone, which have been identified as non-Provincially Significant Wetlands and Significant Woodlands.

EP-432

These lands are zoned Environmental Protection EP-432 Zone and all of the provisions that relate to lands zoned Environmental EP Zone by this By-law shall apply to those lands zoned Environmental Protection EP-432 Zone, which have been identified as 100 year floodplain lands by the Niagara Peninsula Conservation Authority.

EP-433 (H)

These lands are zoned Environmental Protection Holding EP-433 (H) Zone and all of the provisions that relate to lands zoned Environmental Protection EP Zone by this By-law shall apply to those lands zoned Environmental Protection Holding EP-433 (H) Zone, which have been identified as lands for ecological enhancement and restoration of the natural environment and subject to the following additional provisions:

- a) Pursuant to Section 36(1) of the *Planning Act* the “H” Holding Symbol shall be removed upon the approval and execution of a Site Plan Agreement, pursuant to Section 41 of the Planning Act, by the Town of Fort Erie for the subject lands. Prior to the removal of the Holding provision the owner shall provide a detailed restoration and enhancement plan to the Niagara Peninsula Conservation Authority for approval and the owner shall have acquired title to the following lands:
1. PIN: 64239-0308 (LT) Pt. Lot 9 Con 6 Niagara River, Bertie Pts 1 & 2 59R13376; Fort Erie municipally known as 2154 Laur Road, ON
 2. PIN 64238-0052 municipally known as 2242 Gilmore Road, Ridgeway, ON
 3. PIN 64238-0072 municipally known as 1640 Sunset Drive, Fort Erie, ON
 4. **THAT** By-law 129-90 is further amended by adding a new section, Section 38 Motorsports Speedway MS Zone, as follows:

SECTION 38- MOTORSPORTS SPEEDWAY (MS) ZONE

38.1 Subject to the General Provisions of Section 6 and all other applicable requirements of this By-law, the provisions of this section shall apply to all Motorsports Speedway (MS) Zones, as follows:

38.2 PERMITTED USES

- Motorsports Speedway Complex
- Motorsports Garages and Shops
- Parking Garages
- Motorsports Offices
- Motorsports Emergency Command Centre
- Driver Experience Facilities
- Motorsports Museum
- Accessory uses, buildings and structures

38.3 REGULATIONS

| | |
|--|--|
| Minimum landscape/planting strip | 15 metres wide strip abutting a street. 4 metres wide strip abutting any other zone. |
| Maximum height of Grandstand | 30 metres |
| Minimum Seating Capacity | 65,000 |
| Maximum number of race Vehicles permitted on the oval race course at one time | 43 |
| Maximum number of race Vehicles permitted on the road track at one time | 40 |
| Minimum Parking Requirements | On and Off site parking on lands owned or leased by the owner/operator at the rate of 1 space for every 3 persons seating capacity in the Grandstand. Off-site parking must be located within Site Specific Policy area identified for the speedway complex. |
| Minimum height of noise control barrier | 14 metres |
| Minimum Buffer Area setback from a Provincially Significant Wetland | 30 metre except abutting a Right of Way or as determined by the Niagara Peninsula Conservation Authority. |
| Minimum Buffer Area setback from Non-Provincially Significant Wetlands and Significant Woodlands | 15 metre except abutting a Right of Way or as determined by the Niagara Peninsula Conservation Authority |

EXCEPTIONS TO THE MOTORSPORTS SPEEDWAY (MS) ZONE

MS-434 (H)

Those lands are zoned Motorsports Speedway Holding MS-434 (H) Zone and all of the provisions that relate to lands zoned Motorsports Speedway (MS) Zone by this By-law shall apply to those lands zoned Motorsports Speedway Holding MS-434 (H) Zone, and subject to the following additional provisions:

- a) Notwithstanding the prohibited use in Section 6.22 (a) (xv), the subject lands shall be used as a track for the racing of motor vehicles or motorcycles or go-carts or motorized snow vehicles.
- b) Drag Racing is a prohibited use.

- c) The Motorsports Speedway Complex shall be limited to 8 Automotive Race Events per year. Events may last up to 3 days in duration.
- d) Hours of operation of the Motorsports Speedway Complex shall be limited from 9am to 6pm, however both the oval race course and the road race track may operate after 6pm during the 8 Automotive Race Events per year.
- e) All activities involving the use of motorized vehicles on any track areas, other than the use of motorized vehicles in facilities maintenance, including the operation of the Go-Kart track, warm up or practice racing, or other motorsports, shall be prohibited on at least one day of every week.
- f) Pursuant to Section 36(1) of the *Planning Act* the “H” Holding Symbol shall be removed upon the approval and execution of a Site Plan Agreement, pursuant to Section 41 of the *Planning Act*, by the Town of Fort Erie for the subject lands. Prior to the removal of the Holding provision the Town must approve a licensing by-law to regulate the racing of motor vehicles in the Town under s.s. 151 and 165 of the *Municipal Act*, 2001 and the owner shall have acquired title to the following lands:
 1. PIN: 64239-0308 (LT) Pt. Lot 9 Con 6 Niagara River, Bertie Pts 1 & 2 59R13376; Fort Erie municipally known as 2154 Laur Road, ON
 2. PIN 64238-0052 municipally known as 2242 Gilmore Road, Ridgeway, ON
 3. PIN 64238-0072 municipally known as 1640 Sunset Drive, Fort Erie, ON

In addition, prior to the removal of the holding provision the owner shall complete a Detailed Servicing Review, Class Environmental Assessment, Detailed Storm Water Management Plan, Traffic Management Plan, Air Quality Study, a Noise Attenuation and Control Protocol, a Phase 1 Environmental Assessment, Amended Environmental Impact Study, Odour Study, Agricultural Impact Study and approval of a Stage 2 Archaeological Assessment, all to the satisfaction of the appropriate approval agencies.

MS-435 (H)

Those lands are zoned Motorsports Speedway Holding MS-435 (H) Zone and all provision that relate to lands zoned Motorsports Speedway (MS) Zone by this By-law shall apply to those lands zoned Motorsports Speedway Holding MS-435 (H) Zone, and subject to the following additional provisions:

- a) These lands shall only be used for a Motorsports Speedway Centre of Excellence.
- b) The Motorsports Speedway Centre of Excellence shall be subject to the following regulations:
 - i) Maximum Lot Coverage-70%;
 - ii) Maximum Building Height-21 metres;

- iii) Minimum landscape/planting strip-10 metre wide strip abutting a street and 4 metre wide strip abutting any other zone.
 - iv) 1 parking space shall be provided for every 30 square metres of gross floor area;
 - v) 50% of the required parking must be located on the lands zoned MS-333(H).
 - i) Minimum 30 metre Buffer Area setback from a Provincially Significant Wetland except abutting a Right of Way or as determined by the Niagara Peninsula Conservation Authority.
 - ii) Minimum 15 metre Buffer Area setback from Non- Provincially Significant Wetlands and Significant Woodlands except abutting a Right of Way or as determined by the Niagara Peninsula Conservation Authority
- g) Pursuant to Section 36(1) of the *Planning Act* the “H” Holding Symbol shall be removed upon the approval and execution of the Site Plan Agreement, pursuant to Section 41 of the *Planning Act*, by the Town of Fort Erie for the subject lands and upon a Building Permit being issued for the lands zoned MS-434 Zone and the owner shall have acquired title to the following lands:
- 1. PIN: 64239-0308 (LT) Pt. Lot 9 Con 6 Niagara River, Bertie Pts 1 & 2 59R13376;Fort Erie municipally known as 2154 Laur Road, ON
 - 2. PIN 64238-0052 municipally known as 2242 Gilmore Road, Ridgeway, ON
 - 3. PIN 64238-0072 municipally known as 1640 Sunset Drive, Fort Erie, ON

MS-436 (H)

Those lands are zoned Motorsports Speedway Holding MS-436 (H) Zone and all provision that relate to lands zoned Motorsports Speedway (MS) Zone by this By-law shall apply to those lands zoned Motorsports Speedway Holding MS-436 (H) Zone, and subject to the following additional provisions:

- a) These lands shall be used for a Motorsports Speedway Innovation Complex.
- b) The Motorsports Speedway Innovation Complex shall only be subject to the following regulations:
 - i) Maximum Developable Lot Area- 4.0 hectares (9.88 acres);
 - ii) Maximum Lot Coverage-60%;
 - iii) Minimum landscape/planting strip-10 metre wide strip abutting a street and 4 metre wide strip abutting any other zone;
 - iv) Parking Requirements: 1 parking space for every 100 square metres of gross floor area.
 - v) Minimum 30 metre Buffer Area setback from a Provincially Significant Wetland except abutting a Right of Way or as determined by the Niagara Peninsula Conservation Authority.

- c) Pursuant to Section 36(1) of the *Planning Act* the “H” Holding Symbol shall be removed upon the approval and execution of the Site Plan Agreement, pursuant to Section 41 of the *Planning Act*, by the Town of Fort Erie for the subject lands and upon substantial completion of the structure frame of the Grandstand confirmed by the engineer engaged for general review and the owner shall have acquired title to the following lands:
1. PIN: 64239-0308 (LT) Pt. Lot 9 Con 6 Niagara River, Bertie Pts 1 & 2 59R13376;Fort Erie municipally known as 2154 Laur Road, ON
 2. PIN 64238-0052 municipally known as 2242 Gilmore Road, Ridgeway, ON
 3. PIN 64238-0072 municipally known as 1640 Sunset Drive, Fort Erie, ON

MS-437(H)

Those lands are zoned Motorsports Speedway Holding MS-437 (H) Zone and all provision that relate to lands zoned Motorsports Speedway (MS) Zone by this By-law shall apply to those lands zoned Motorsports Speedway Holding MS-437 (H) Zone, and subject to the following additional provisions:

- a) Those uses permitted in Section 22-Highway Commercial (C3) Zone are permitted in the Motorsports Speedway Holding MS-437(H) Zone;
- b) These lands are subject to the following additional regulations:
- i) Maximum leasable commercial area- 7000 square metres.
 - ii) Minimum landscape/planting strip-15 metre wide strip abutting a street and 4 metre wide strip abutting any other zone;
 - iii) Parking Requirements: 1 parking space for every 30 square metres of gross floor area;
 - iv) Minimum 15 metre Buffer Area setback from Non- Provincially Significant Wetlands and Significant Woodlands except abutting a Right of Way or as determined by the Niagara Peninsula Conservation Authority
- c) Pursuant to Section 36(1) of the *Planning Act* the “H” Holding Symbol shall be removed upon the approval and execution of the Site Plan Agreement, pursuant to Section 41 of the *Planning Act*, by the Town of Fort Erie for the subject lands and upon substantial completion of the structure frame of the Grandstand confirmed by the engineer engaged for general review and the owner shall have acquired title to the following lands:
1. PIN: 64239-0308 (LT) Pt. Lot 9 Con 6 Niagara River, Bertie Pts 1 & 2 59R13376;Fort Erie municipally known as 2154 Laur Road, ON
 2. PIN 64238-0052 municipally known as 2242 Gilmore Road, Ridgeway, ON
 3. PIN 64238-0072 municipally known as 1640 Sunset Drive, Fort Erie, ON

5. **THAT** By-law No. 129-90 is further amended by adding to “Section 34– Hazard H Zone” Subsection – “Exceptions to the Hazard (H) Zone” the following exception:

H-438

Those lands are zoned Hazard H-438 Zone and all provision that relate to lands zoned Hazard Zone by this By-law shall apply to those lands zoned Hazard H-438, and subject to the following additional provisions:

- a) Notwithstanding the requirements of Subsection 34.2- Permitted Uses, these lands may also be used for the realignment of Miller creek and associated floodplains.

6. **THAT** By-law No. 129-90 is further amended by adding to “Section 7 – Agricultural A Zone” Subsection – “Exceptions to the Agricultural (A) Zone” the following exceptions:

A-439(H)

These lands are zoned Agricultural Holding A-439(H) Zone and all of the provisions that relate to lands zoned “Agricultural A Zone” by this by-law shall apply to those lands zoned “Agricultural Holding A-439 (H) Zone” except that:

- a) Notwithstanding the requirements of Subsection 7.2- Permitted Uses, these lands may also be used for a grassed Vehicle parking, shower and washroom facilities and stormwater management facilities associated with a Motorsports Speedway Complex;
- b) Regulations for uses associated with a Motorsports Speedway Complex:
- i) Minimum Landscape/Planting Strip -10 metre wide strip adjacent to any property line or any street line.
 - ii) Minimum 30 metre Buffer Area setback from a Provincially Significant Wetland and Critical Fish Habitat except abutting a Right of Way or as determined by the Niagara Peninsula Conservation Authority.
- c) Pursuant to Section 36(1) of the *Planning Act* the “H” Holding Symbol shall be removed upon the approval and execution of the Site Plan Agreement, pursuant to Section 41 of the *Planning Act*, by the Town of Fort Erie for the subject lands and upon substantial completion of the structure frame of the Grandstand confirmed by the engineer engaged for general review and the owner shall have acquired title to the following lands:
- 1. PIN: 64239-0308 (LT) Pt. Lot 9 Con 6 Niagara River, Bertie Pts 1 & 2 59R13376;Fort Erie municipally known as 2154 Laur Road, ON
 - 2. PIN 64238-0052 municipally known as 2242 Gilmore Road, Ridgeway, ON
 - 3. PIN 64238-0072 municipally known as 1640 Sunset Drive, Fort Erie, ON.

A-440(H)

These lands are zoned Agricultural Holding A-440(H) Zone and all of the provisions that relate to lands zoned "Agricultural A Zone" by this by-law shall apply to those lands zoned "Agricultural Holding A-440 (H) Zone" except that:

- b) Notwithstanding the requirements of Subsection 7.2 -Permitted Uses, these lands may also be used for a grassed Vehicle parking and stormwater management facilities associated with a Motorsports Speedway Complex;
- c) Uses associated with the Motorsports Speedway Complex shall be subject to the following regulations:
 - i) Minimum 30 metre Buffer Area setback from a Provincially Significant Wetland and Critical Fish Habitat except abutting a Right of Way or as determined by the Niagara Peninsula Conservation Authority.
 - ii) Minimum Landscape/Planting Strip -10 metre wide strip adjacent to any property line or any street line.
- d) Pursuant to Section 36(1) of the *Planning Act* the "H" Holding Symbol shall be removed upon the approval and execution of the Site Plan Agreement, pursuant to Section 41 of the Planning Act, by the Town of Fort Erie for the subject lands and upon substantial completion of the structure frame of the Grandstand confirmed by the engineer engaged for general review and the owner shall have acquired title to the following lands:
 - 1. PIN: 64239-0308 (LT) Pt. Lot 9 Con 6 Niagara River, Bertie Pts 1 & 2 59R13376; Fort Erie municipally known as 2154 Laur Road, ON
 - 2. PIN 64238-0052 municipally known as 2242 Gilmore Road, Ridgeway, ON
 - 3. PIN 64238-0072 municipally known as 1640 Sunset Drive, Fort Erie, ON

A-441 (H)

These lands are zoned Agricultural Holding A-441(H) Zone and all of the provisions that relate to lands zoned "Agricultural A Zone" by this by-law shall apply to those lands zoned "Agricultural Holding A-441 (H) Zone" except that:

- a) Notwithstanding the requirements of Subsection 7.2 -Permitted Uses, these lands may also be used for a grassed Vehicle parking, a Camp and stormwater management facilities associated with a Motorsports Speedway Complex.

- b) Uses associated with a Motorsports Speedway Complex shall be subject to the following regulations:
- i) Minimum 15 metre Buffer Area setback from Non- Provincially Significant Wetlands and Significant Woodlands except abutting a Right of Way or as determined by the Niagara Peninsula Conservation Authority.
 - ii) Minimum Landscape/Planting Strip -10 metre wide strip adjacent to any property line or any street line.
- c) Pursuant to Section 36(1) of the *Planning Act* the “H” Holding Symbol shall be removed upon the approval and execution of the Site Plan Agreement, pursuant to Section 41 of the *Planning Act*, by the Town of Fort Erie for the subject lands and upon substantial completion of the structure frame of the Grandstand confirmed by the engineer engaged for general review the owner shall have acquired title to the following lands:
1. PIN: 64239-0308 (LT) Pt. Lot 9 Con 6 Niagara River, Bertie Pts 1 & 2 59R13376;Fort Erie municipally known as 2154 Laur Road, ON
 2. PIN 64238-0052 municipally known as 2242 Gilmore Road, Ridgeway, ON
 3. PIN 64238-0072 municipally known as 1640 Sunset Drive, Fort Erie, ON
7. **THAT** By-law No.129-90 is further amended by adding to “Section 30 – Extractive Industrial EI Zone” – “Exceptions to the Extractive Industrial EI Zone” and the following exception:
- EI-442 (H)**
- These lands are zoned Extractive Industrial Holding EI-442(H) Zone and all of the provisions that relate to lands zoned “Extractive Industrial EI Zone” by this by-law shall apply to those lands zoned “Extractive Industrial Holding EI-442 (H) Zone” except that:
- a) Notwithstanding the requirements of Subsection 30.2- Permitted Uses, these lands may also be used for a grassed Vehicle parking, a Camp and stormwater management facilities associated with a Motorsports Speedway Complex.
 - b) Uses associated with a Motorsports Speedway Complex shall be subject to the following regulations:
 - i) Minimum Landscape/Planting Strip -10 metre wide strip adjacent to any property line or any street line.
 - c) Pursuant to Section 36(1) of the *Planning Act* the “H” Holding Symbol shall be removed upon the approval and execution of the Site Plan Agreement, pursuant to Section 41 of the *Planning Act*, by the Town of Fort Erie for the subject lands and upon substantial completion of the structure frame of the Grandstand confirmed by the engineer engaged for general review and the owner shall have acquired title to the following lands:

1. PIN: 64239-0308 (LT) Pt. Lot 9 Con 6 Niagara River, Bertie Pts 1 & 2 59R13376; Fort Erie municipally known as 2154 Laur Road, ON
2. PIN 64238-0052 municipally known as 2242 Gilmore Road, Ridgeway, ON
3. PIN 64238-0072 municipally known as 1640 Sunset Drive, Fort Erie, ON

EI-443 (H)

These lands are zoned Extractive Industrial Holding EI-443(H) Zone and all of the provisions that relate to lands zoned “Extractive Industrial EI Zone” by this by-law shall apply to those lands zoned “Extractive Industrial Holding EI-443 (H) Zone” except that:

- a) Notwithstanding the requirements of Subsection 30.2- Permitted Uses, these lands may also be used for a grassed Vehicle parking associated with a Motorsports Speedway Complex.
 - b) Uses associated with a Motorsports Speedway Complex shall be subject to the following regulations:
 - i) Minimum Landscape/Planting Strip -10 metre wide strip adjacent to any property line or any street line.
 - c) Pursuant to Section 36(1) of the *Planning Act* the “H” Holding Symbol shall be removed upon the approval and execution of the Site Plan Agreement, pursuant to Section 41 of the *Planning Act*, by the Town of Fort Erie for the subject lands and upon substantial completion of the structure frame of the Grandstand confirmed by the engineer engaged for general review and the owner shall have acquired title to the following lands:
 - 1, PIN: 64239-0308 (LT) Pt. Lot 9 Con 6 Niagara River, Bertie Pts 1 & 2 59R13376; Fort Erie municipally known as 2154 Laur Road, ON
 2. PIN 64238-0052 municipally known as 2242 Gilmore Road, Ridgeway, ON
 3. PIN 64238-0072 municipally known as 1640 Sunset Drive, Fort Erie, ON
8. **THAT** pursuant to the provisions of Sections 23.1 to 23.5 inclusive of the *Municipal Act*, 2001, as amended, the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections solely of an administrative, numerical, grammatical, semantic or descriptive nature or kind to this by-law or its schedules as such may be determined to be necessary after the passage of this by-law.
9. **IF** the Holding provision for those lands zoned Motorsports Speedway Holding MS-434(H) Zone has not been removed on or before September 13, 2020 then this By-law shall be of no force and effect.

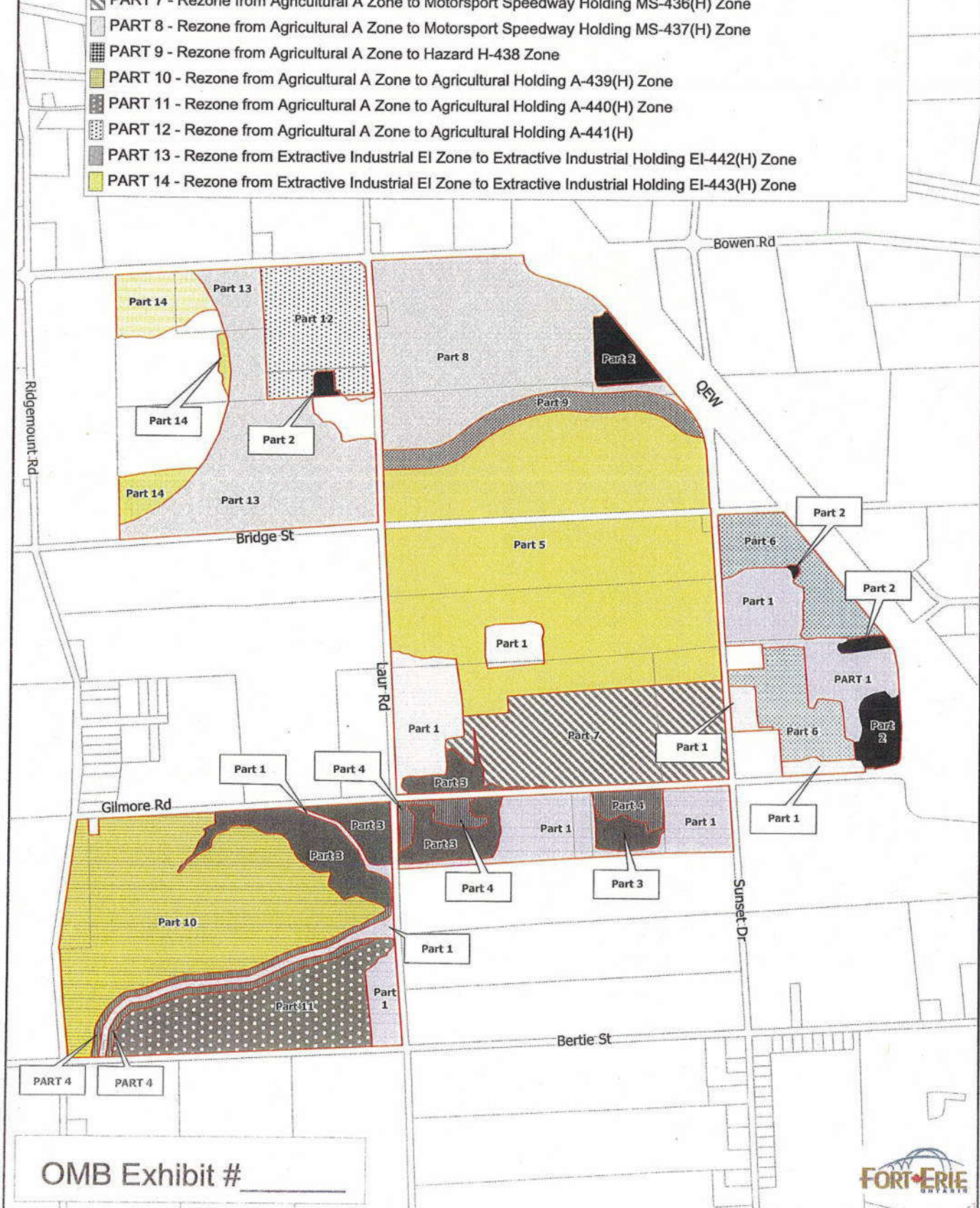
**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 13TH DAY OF
SEPTEMBER 2010.**

MAYOR

CLERK

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 106-10 of the said Town. Given under my hand and the seal of the said Corporation this _____ day of _____,

-  PART 1 - Rezone from Agricultural A Zone and Hazard H Zone to Environmental Protection EP-430 Zone
-  PART 2 - Rezone from Agricultural A Zone to Environmental Protection EP-431 Zone
-  PART 3 - Rezone from Agricultural A Zone and Hazard H Zone to Environmental Protection EP-432 Zone
-  PART 4 - Rezone from Agricultural A Zone and Hazard H Zone to Hazard H-433 Zone
-  PART 5 - Rezone from Agricultural A Zone and Hazard H Zone to Motorsports Speedway Holding MS-434(H) Zone
-  PART 6 - Rezone from Agricultural A Zone to Motorsport Speedway Holding MS-435(H) Zone
-  PART 7 - Rezone from Agricultural A Zone to Motorsport Speedway Holding MS-436(H) Zone
-  PART 8 - Rezone from Agricultural A Zone to Motorsport Speedway Holding MS-437(H) Zone
-  PART 9 - Rezone from Agricultural A Zone to Hazard H-438 Zone
-  PART 10 - Rezone from Agricultural A Zone to Agricultural Holding A-439(H) Zone
-  PART 11 - Rezone from Agricultural A Zone to Agricultural Holding A-440(H) Zone
-  PART 12 - Rezone from Agricultural A Zone to Agricultural Holding A-441(H)
-  PART 13 - Rezone from Extractive Industrial EI Zone to Extractive Industrial Holding EI-442(H) Zone
-  PART 14 - Rezone from Extractive Industrial EI Zone to Extractive Industrial Holding EI-443(H) Zone



OMB Exhibit # _____

