

# MUNICIPALITY OF LEAMINGTON

## BY-LAW 794-07

Being a by-law to adopt an Official Plan for The Corporation of The Municipality of Leamington.

**WHEREAS**, The Planning Act Permits municipal Council to adopt an Official Plan in accordance with the procedure outlined in The Planning Act R.S.O., 1990, as amended, c.P.13 and corresponding Regulations;

**AND WHEREAS**, the Council for The Corporation of The Municipality of Leamington supports the adoption of the new Official Plan;

**NOW THEREFORE BY ITS COUNCIL THE MUNICIPALITY OF LEAMINGTON, IN ACCORDANCE WITH THE PROVISIONS OF THE PLANNING ACT, R.S.O., 1990 c.P. 13, HEREBY ENACTS AS FOLLOWS:**

1. That The Municipality of Leamington Official Plan consisting of the attached text and map schedules, is hereby adopted;
2. That the Clerk is hereby authorized and directed to make application to The Corporation of the County of Essex for approval of the Official Plan.
3. That By-law 468-03 passed November 24, 2003, together with all amending by-laws are repealed and of no effect upon the date this by-law takes effect;
4. That this By-law shall come into force and take effect on the day that it receives approval The Corporation of the County of Essex.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY ENACTED THIS 10th DAY OF SEPTEMBER, 2007.**

Signature on file

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JOHN ADAMS, Mayor

Signature on file

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BRIAN R. SWEET, Clerk



THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

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# OFFICIAL PLAN

ADOPTED ON SEPTEMBER 10, 2007  
Council By-law #794-07

APPROVED ON FEBRUARY 5, 2008

Prepared by:  
Municipality of Leamington  
Development Services

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## **SECTION 1: GENERAL**

### **1.1 Title and Components**

This Plan shall be known as the Official Plan for the Corporation of the Municipality of Leamington. The following text and Schedules "A", "B", "C", "D" and "E" inclusive constitute the Official Plan. The policies and land use designations described in this Plan should not be considered static and may be altered by way of amendment as required. A major review of all policies and land use designations shall be undertaken at least once every five years.

### **1.2 The Planning Area**

The following text and schedules constituting the Official Plan for the Municipality of Leamington apply to all lands within the corporate limits. The restructured Municipality was incorporated on January 1<sup>st</sup>, 1999 joining the former Town of Leamington and Township of Mersea into the Municipality of Leamington. The Municipality of Leamington has a land area of 26 440 ha (6,533.23 ac) and an estimated 2001 population of 27,000. Geographically, Leamington is located in the south east corner of Essex County bordered by the Municipality of Kingsville to the west, the Municipality of Lakeshore to the north, the Municipality of Chatham-Kent to the east and Lake Erie to the south. See Map 1.1 for the location of the Municipality of Leamington.

### **1.3 Planning Authority**

In accordance with Section 17 of the Planning Act, R.S.O. 1990 the Council of a municipality may provide for the preparation of a plan suitable for adoption as the Official Plan of the municipality. An Official Plan is defined in the Planning Act as a document, approved by the approval authority, containing objectives and policies established primarily to provide guidance for the physical development of a municipality while having regard to relevant social, economic and environmental matters. Section 24 of the Act further provides that where an Official Plan is in effect no public work shall be undertaken and no by-law passed for any purpose unless it is in conformity with the Official Plan.



## **1.4 Purpose of the Plan**

This Official Plan sets out in general terms the future pattern of development for the Municipality of Leamington. The Plan's purpose is:

- a) to designate sufficient lands to encourage and accommodate future development proposals and to identify a desired land use pattern for such future development that ensures a basic compatibility between and among various land uses within the Municipality;
- b) to further enhance the Municipality as a place for living, working and leisure by helping to create a healthy, safe, attractive and convenient environment;
- c) to identify the present level of services available within the Municipality and the capacity of the services with respect to expansions and extensions required to facilitate future development;
- d) to guide the location, type and sequence of all new development so that it may be provided with efficient public services based on reasonable and sound standards;
- e) to ensure that any development which may occur does so at a pace that is within the financial capabilities of the Municipality;
- f) to ensure that transportation facilities required for the efficient movement of people and goods within, to and from the Municipality are appropriate or will be available to serve the varied land use pattern proposed by this Plan;
- g) to ensure that prime agricultural land, that is Class 1, 2 and 3 soils, as established by the Canada Land Inventory, together with specialty crop lands are preserved for agricultural use;
- h) to inform the general public and the private sector of the type and standard of development that will be permitted within the Municipality in the future;
- i) to guide Council, the Committee of Adjustment, municipal staff and other regulatory agencies in making decisions regarding the future development of the Municipality;
- j) to provide for the necessary capital works programs and municipal legislation to implement the Plan's goals;
- k) to provide a frame of reference for future detailed studies which may be undertaken when considered necessary by Council;
- l) to establish a framework for public involvement in the implementation and review of the

Plan's goals and policies;

- m) to implement Provincial Policy at the local level;
- n) to protect mineral resources for the long-term;
- o) to protect petroleum resources for the long-term;
- p) to protect natural heritage features and areas from incompatible development;
- q) to direct development to areas outside of hazardous lands and hazardous sites.

## **1.5 Basis of the Plan**

The policies contained in this Plan are based on several assumptions and conclusions that emerged out of the research and analysis phase of the Official Plan review. Five issue-based discussion papers were prepared as background material to this Plan. In addition, the Official Plan for the County of Essex was being prepared at the same time as this document and the background information from that document was also used in the preparation of this Plan. If with time, any of these assumptions prove to be invalid, it will be necessary to review the Plan policies and possibly amend them as considered appropriate.

### **1.5.1 Time Period of the Plan**

This Plan is intended to guide future development within the Municipality of Leamington for an approximate twenty year period until the year 2021. All forecasts of growth and related land use requirements correspond to this planning period. The policies contained herein shall be reviewed at least once every five years to ensure that they are still appropriate given the Municipality's development circumstances and the desired policy direction of the Council of the day.

### **1.5.2 Community Profile**

The Municipality of Leamington is located in the County of Essex (refer to Map 1.1). The restructured Municipality of Leamington was incorporated on January 1<sup>st</sup>, 1999. The combined former Town of Leamington and Township of Mersea is estimated to have a population of 27,000 in the year 2001 and a land area of approximately 26 440 ha (65,332.34 ac). Leamington is primarily an agricultural community with most types of agriculture being present in the area. The Municipality also has over 240 ha (593.03 ac) of greenhouses producing tomatoes, cucumbers, peppers and flowers. In addition to agriculture, a substantial sand and gravel industry also exists in the rural

areas of the Municipality.

The varied residential environment has a mixture of older and newer housing of low, medium and high densities. Also, due to the greater diversification of services such as recreation, shopping and in particular health care services, which include a local hospital and a county rest and nursing home, Leamington has experienced significant growth in its retirement aged population. Leamington's waterfront has undergone extensive redevelopment over the last 20 years and provides considerable recreational opportunities.

The Municipality acts as a sub-regional service centre serving a trade area of approximately 50,000 people. As a result, there is a strong and diverse commercial base including a strong uptown, two shopping mall areas which have recently enjoyed additional big box type expansion as well as three highway/service commercial areas. The Municipality has also attracted some tourist-related commercial development and has the potential for attracting even more as further development and redevelopment occurs along the waterfront area.

Industrial development within Leamington is primarily related to food processing, dominated by the H. J. Heinz Company of Canada Limited (tomato based products) and Olmstead Foods Limited (fish and vegetable products). However, secondary feeder plants to the major auto industries are also becoming major employers in the area.



### **1.5.3 Forecasted Residential Demand**

The residential policies contained in this Plan are based on the following population assumptions:

- a) annual growth rates peaked at 2.3% in the late 1970's. The growth rate is projected to continue although at a slower pace through to 2021;
- b) the three tables that follow outline the anticipated population and household growth to be experienced in the Municipality of Leamington;

**Table 1.1**  
**20 Year Population Projections**  
**2001 - 2021**

	2001	2006	2011	2016	2021
Low	27,000	27,991	29,391	30,413	31,423
Medium	27,000	28,473	30,153	31,066	32,372
High	27,000	29,614	31,983	34,133	36,283

Source: County of Essex Population and Employment Projections, 1998 and Prince and Associates for 2021.

**Table 1.2**  
**20 Year Household Projections**  
**2001 - 2021**

	2001	2006	2011	2016	2021
Low	9,600	10,179	10,806	11,264	11,638
Medium	9,600	10,354	11,086	11,506	11,990
High	9,600	10,769	11,758	12,642	13,438

Source: County of Essex Population and Employment Projections, 1998 and Prince and Associates for 2021.

**Table 1.3**  
**Additional Households Projected Per Five Year Period**  
**2001 - 2021**

	2002 - 2006	2007 - 2011	2012 - 2016	2016-2021	Total
Low	579	627	458	374	2,038
Medium	754	732	420	484	2,390
High	1,169	989	884	796	3,838

Source: Prepared by Prince and Associates Ltd.

- c) based on the preceding tables, it is estimated that there will be a demand for approximately 4,000 additional dwelling units over the next 20 years until 2021 (based

on the high projection in Table 1.3). Assuming an average density of 10 units per hectare, a total of 400 ha (988.38 ac) of land will be required for residential development anticipated during the planning period of this Plan. However, at this time, the medium projection has been used for the additional lands designated "Residential" on Schedule "A" of this plan. It would seem reasonable to accept the conclusion that an additional 100 ha (247.09 ac) is needed in Leamington for future residential growth to 2016. Any additional new designations would require justification from individual applicants.

#### **1.5.4 Forecasted Agricultural Demand**

It is expected that agriculture will remain the primary economic activity of the Municipality. Agriculture in Leamington is very diversified and includes field crops, market gardening, flower and vegetable greenhouse farming and mushroom farming. Although there is some livestock farming in Leamington, it is quite limited.

The recent rapid expansion in vegetable greenhouse farming is expected to slow as availability and costs associated with the needed gas, hydro and water fluctuates. The variation in the market has resulted in unpredictable peaks and valleys in the expansion of this type of farming.

#### **1.5.5 Forecasted Employment Demand**

##### **a) Commercial**

The Municipality can expect new commercial development as private sector developers continue to attempt to reduce the outflow of shopping dollars from the Leamington trade area. In addition, tourism in Leamington has increased substantially as a result of the municipal marina, increased ferry traffic to Pelee Island and Sandusky Ohio, Point Pelee National Park, the underwater dive park in Lake Erie, the uptown area and its increasing number of high end specialty retail shops and visitors to the various roadside fruit, vegetable and flower stands.

Based on past commercial development activity, it is estimated that there will be an additional 10 ha (24.70 ac) of commercial land required over the 20 year planning period of this Plan. It is expected that there will be a shift of some of the larger, service commercial

type uses currently located in the uptown area relocating to the recently designated Highway Commercial areas along the new Highway No. 3 By-pass. These relocations will provide additional area for redevelopment in the uptown area. This redevelopment will be in accordance with the Uptown Master Plan recently prepared by the Municipality.

In addition to the 10 ha (24.70 ac) of land required for commercial purposes, it is expected that recreational/tourism type commercial growth will continue. Land that is located in a manner to be desirable for that purpose is currently designated and available for that use provided adequate services are available.

***b) Industrial and Business Park***

There has been considerable industrial and business park development interest in Leamington in the past five years but an insufficient serviced land supply to meet the needs. A considerable amount of industrially designated land has been re-designated for residential use in the last ten years to satisfy residential growth pressures within the former Town of Leamington which had absorbed all residentially designated lands within its boundaries. A secondary plan had been prepared jointly by the two municipalities prior to their merger in an attempt to direct industrial development to the north of the existing urban area. Only a portion of the secondary plan received Provincial approval. In response, the municipality has reconsidered the preferred location for future industrial development in the preparation of this Plan. The estimated industrial land requirements for the planning period of this Plan are 40 ha (98.83 ac).

There is also an extensive Extractive Industrial business in Leamington. The areas of the Municipality that possess extractive potential are well known and identified on the Schedules of this Plan. It is expected that the extractive resource will continue to be removed as the need requires.

This Plan encourages additional industrial and business park development particularly industries associated with food processing and product storage, other agricultural related industries and automotive related industries.

Designation of additional industrial land is required to ensure the availability of an adequate land supply to meet the expected demand and to provide reasonable market choice and competition. Careful attention must be paid to establishing industrial areas with proper



access and transportation links, while minimizing potential conflicts with residential and commercial areas.

### ***1.5.6 Forecasted Waterfront Development Demand***

This Plan encourages the continued effort by the Municipality to complete its waterfront development in accordance with the approved Waterfront Development Master Plan. The policies of this Plan will continue to permit only those developments that are consistent with the Waterfront Master Plan so as not to jeopardize the work completed to date. In addition, the Municipality recently completed a Culture and Recreation Master Plan that will guide future recreational and cultural development.

### ***1.5.7 Forecasted Open Space and Recreation Demand***

The Municipality of Leamington currently provides 46.49 ha (114.87 ac) of municipally owned parkland. This open space is provided in 32 parks ranging in size and capacity.

Based on the projected population in this Plan and the outcome of the Culture, Recreation, Parks Strategic Plan, 2000, the Municipality of Leamington would have to develop 11.97 ha of parkland in the next 11 years and an additional 8 ha by the year 2021.

In addition, the Strategic Plan has identified criteria to be used in the selection of a recreation facility which will include soccer and ball fields. Council has identified land located at the southwest corner of Mersea Road 2 and Mersea Road 12 as a suitable site and has designated the area "Open Space and Recreation".

## **SECTION 2: GENERAL DEVELOPMENT POLICIES**

The policies in this section apply to development proposals in all designations throughout the Municipality of Leamington.

### **2.1 General**

It is the intent of this Plan to ensure that development takes place in an orderly fashion while being consistent with a set of land use planning principles. It is important to note that the following planning principles are inter-related. It is expected that the principles will be considered collectively and not that any one principle is to be considered independent of the others. This Plan contains the necessary goals and policies to ensure the intent of these principles is realized.

#### **2.1.1 Planning Principles**

- a) to create higher density development within designated and fully serviced urban settlement areas;
- b) to provide a broad range of housing, employment and leisure opportunities for a growing and aging population;
- c) to discourage urban type development outside of designated areas;
- d) to create and maintain an improved balance between residential and employment growth;
- e) to maintain and enhance the commercial area of Leamington as a focal point where a broad range of community and commercial facilities and services and housing and employment opportunities are available at higher densities in a mixed use environment;
- f) to maintain and attract manufacturing, agri-businesses and tourism related businesses and activities that can provide well paying employment opportunities to existing and future residents;
- g) to protect prime agricultural areas for agricultural use;
- h) to protect remaining natural heritage features and other natural resources that are provincially, regionally, and locally significant;
- i) to increase the amount of core natural area and natural buffers where possible, particularly through restoration efforts;
- j) to establish linkages between wildlife habitat and natural heritage areas and between

settlement areas;

- k) to provide land reserves or corridors for future linear transportation and utility facilities and services;
- l) to accommodate future job creation and employment opportunities in an environmentally sustainable and cost effective manner;
- m) to formulate and adopt a growth management policy to protect and enhance important agricultural and natural resources;
- n) to provide cost effective and environmentally sound municipal services;
- o) to ensure co-operative inter-municipal consultation and co-ordination in the provision of those services that have inter-municipal considerations;
- p) to continue to work on long term servicing strategies for sanitary sewage treatment, the provision of potable water and storm water management;
- q) to ensure that petroleum, mineral and aggregate resources are available for future use and that extraction operations are protected from activities that would hinder their expansion or future use.
- r) to direct development away from lands which may be susceptible to flooding or erosion hazards.

## **2.2 Site Suitability**

Prior to the approval of any development or amendments to this Plan and/or the Municipality's Zoning By-law, it shall be established to the satisfaction of Council that:

- a) soil and drainage conditions are suitable to permit the proper location of buildings;
- b) the necessary services are available to adequately accommodate the proposed development;
- c) no traffic hazards will result because of additional traffic;
- d) the land fronts on an open public road which is of a reasonable standard of construction;
- e) adequate measures will be taken to alleviate or prevent any adverse effects that the proposed use may possibly have upon any proposed or existing adjacent use.

## **2.3 Visual Amenity**

The visual amenity of the Municipality will be preserved and enhanced wherever possible. This will

be achieved by efforts to place telephone and power distribution lines underground wherever financially feasible, by enforcing adequate property standards, by the regulation of signs and by encouraging good landscape design and tree planting.

## **2.4 Buffering**

Adequate buffering will be required between different land uses where there may be a conflict to the extent that one use will detract from the enjoyment and/or functioning of the adjoining use. Such buffering may include landscaping, screening and greater separation distances between incompatible uses. Required distance separations shall be established in the Zoning By-law that reflect the intent of the Ministry of the Environment guidelines regarding adequate separation distances and buffering between industrial and sensitive land uses.

## **2.5 Development along Inland Watercourses**

For those inland watercourses, unenclosed municipal drains and marshes where engineered floodlines are not available, the Municipality in consultation with the Essex Region Conservation Authority and the Lower Thames Conservation Authority will incorporate appropriate building setbacks from the top of such watercourses, municipal drains and marshes into the Zoning By-law. When determining such setbacks, the Municipality shall take into consideration the type of watercourse, bank stability, angle of bank slope and other relative aspects. In evaluating development applications for lands adjacent to any watercourse, drain or marsh, the Municipality, in consultation with the Essex Region Conservation Authority and the Lower Thames Conservation Authority, may request the proponent to establish appropriate floodproofing elevations, and such floodproofing requirements shall be implemented through the Zoning By-law and development agreements.

## **2.6 Development along Lake Erie Shoreline**

Lands along Lake Erie are potentially prone to shoreline flooding and/or erosion hazards. Development and site alteration shall only be permitted in areas identified as being susceptible to flooding and/or erosion hazards if:

- a) the hazard can be safely addressed;

- b) new hazards are not created and existing hazards are not aggravated;
- c) no adverse environmental impacts will result (preparation of an Environmental Impact Assessment may be required);
- d) safe ingress and egress can be provided to and from the area during times of flooding, erosion or other emergencies;
- e) the development does not include institutional uses, essential emergency services or the disposal, manufacture, treatment or storage of hazardous substances.

The Zoning By-law shall establish regulations that provide development setbacks, elevations and shoreline protection measures. Development setbacks are encouraged as the preferred method for protecting new development as opposed to relying on structural or non-structural protection measures that require maintenance and upgrading over time. Permits are required from the Conservation Authority for any development or site alterations.

## **2.7 Minimum Distance Separation Requirements**

Livestock operations and other types of non-farm land uses can be incompatible if located too close to one another. In order to ensure that a buffer area is maintained between these uses, the location of new livestock/poultry barns and manure storage facilities and the expansions thereof shall comply with the Minimum Distance Separation (MDS) formula II, which shall be implemented in the Zoning By-Law. To ensure that existing livestock/poultry operations will also be protected from encroachment, the MDS formula I requirements will be applied reciprocally to any new non-farm development which is proposed in proximity to these operations.

## **2.8 Cultural Heritage and Archaeological Resources**

It is the policy of this Plan that significant built heritage resources and cultural heritage landscapes be identified, recognized and protected. To encourage the restoration, protection and maintenance of the Municipality's heritage resources, which may include buildings, structures and landscapes of historical and/or architectural value, all new development or redevelopment permitted by this Plan shall, to the extent possible, have regard to heritage resources. In an effort to know where heritage resources exist, the establishment of a Municipal Heritage Committee to prepare and maintain a heritage inventory is encouraged. Once an inventory has been prepared, any site proposed for alteration or redevelopment that is included in the inventory must have an archaeological

assessment completed. The specific content of the assessment will be identified by Council in consultation with the appropriate Ministry.

Development and site alteration may be permitted on lands containing archaeological resources or areas of archaeological potential if significant archaeological resources have been conserved by removal and documentation or preservation on site and an Impact Assessment is submitted indicating the impacts from proposed development on the identified resource. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site will be permitted as determined by an Impact Assessment.

Marked and unmarked private family burial plots, where known, should be registered with the Provincial Cemeteries Registrar and identified in the Zoning By-law.

## **2.9 Electrical Power Facilities**

All existing electric power facilities and the development of any new electric power facilities that operate at 50 kilovolts and above, or facilities that transform from above 50 kilovolts to less than 50 kilovolts, (such as transmission lines, transformer stations and distributing stations) shall be permitted in any land use designation without an amendment to this Plan provided that such development has been approved under the provisions of the Environmental Assessment Act, including regulations made under the Act, and any other relevant statutes. Hydro One and Essex Power shall be required to consult with the Municipality regarding the location of any and all new facilities including new transformer stations. However any use of lands, buildings or structures by Hydro One and Essex Power that are subject to approval under the Environmental Assessment Act shall be exempt from the policies of this Plan and the provisions of the Municipality's Zoning By-law.

Other electric power facilities, including buildings and facilities not used directly for the generation and supply of electric power, shall comply with the policies of this Plan and the provisions of the implementing Zoning By-law.

The above policies, however, do not preclude the Municipality's right to participate in discussions on the location criteria of new electric power facilities. Wherever practicable, single footing narrow base tower construction and existing rights-of-way should be used for new hydro transmission lines.

Secondary land uses may be permitted on Hydro One and Essex Power lands where deemed by Council to be compatible with adjacent land uses and by agreement with Hydro One and Essex

Power.

## **2.10 Other Utility Facilities**

All existing facilities and the development of any new facilities associated with a public utility, including, telephone, cable transmission or other similar communications company, or a gas distribution or a transmission company, shall be permitted in any land use designation without an amendment to this Plan. The utility or company involved shall be required to obtain the approval of the Municipality regarding the location of any and all new facilities.

All buildings and facilities not used directly for the transmission or reception of an electrical current or signal, or a liquid or gas, such as an office building, shall comply with the other provisions of this Plan and the implementing Zoning By-law.

Non-linear facilities which are not contained totally underground, such as buildings, etc. will require an amendment to the Zoning By-law. When above ground non-linear facilities are proposed in an Agricultural designation, in a location other than an established corridor such as a road allowance or rail line, the need must be justified in accordance with Provincial Policy, as must the reasons why lower capability or marginal land cannot be used.

## **2.11 Institutional Uses**

The development of new and the expansion of existing institutional uses such as schools, hospitals, churches, community halls, government buildings, public works facilities and public utilities shall be permitted in all designations, except the "Provincially Significant Wetland" and "Agricultural" designations shown on Schedule "A", without an amendment to this Plan, subject to a site specific rezoning and the following policies:

- a) new and existing institutional uses shall be appropriately zoned in the implementing Zoning By-law (note that only small scale expansions to existing institutional uses shall be permitted in the Agricultural designation without an amendment to this Plan and are subject to the requirements of the Minimum Distance Separation Formula I);
- b) adequate precautions shall be taken to ensure that the permitted uses have no adverse effects on adjacent land uses;
- c) adequate parking, vehicular access, tree planting, landscaping, buffering and site and

building design will be required to create an attractive appearance and ensure compatibility with surrounding land uses;

- d) suitable arrangements will be made for water supply, sewage disposal, storm drainage and all other similar services;
- e) no other suitable location within the Municipality serviced by municipal water and sanitary sewage services is available.

Land severances that would result in the creation of a new lot for institutional purposes may be permitted by the consent granting authority provided the subject property has been successfully rezoned where required.

## **2.12 Energy Conservation**

The Municipality will explore and promote the use of energy conservation and alternative energy sources. In all types of development proposals, designs which attempt to minimize energy costs for future residents, businesses and agriculture through road design, lot layout, building location and multi-unit design, and also maximize solar orientation and sun exposure, will be encouraged. In both development and redevelopment, innovative building designs and construction techniques that conserve energy and lead to a reduction of energy consumption will be encouraged. Energy conservation lighting and heating systems will be considered.

The use of programs which would assist in the reduction of energy use within existing buildings will be encouraged. The landscaping and location of buildings on a building lot to provide wind shelter and maximize sunlight exposure will be encouraged. The Municipality will encourage the use of amenities such as sidewalks and bicycle lanes within new residential developments and will also consider the provision of bicycle lanes and sidewalks along streets within existing residential areas.

## **2.13 Mobile Homes**

Mobile homes shall not be permitted within the Municipality except in designated mobile home park areas and for farm help dwelling purposes as specifically permitted by the policies of this Plan and located in accordance with the requirements of the Zoning By-law.



## **2.14 Secondary Uses**

Secondary uses are permitted in accordance with the specific regulations contained within the Zoning By-law. They include bed and breakfast establishments, in-home occupations, farm occupations and road side stands as defined in the zoning by-law. Entrance permits may be required to ensure that traffic generated and safety from traffic entering roadways from these uses are addressed.

## **2.15 Human Made Hazards**

Human made hazards refer to lands where contaminants may be present due to previous industrial, transportation, utility or similar uses. Sources of site contamination can include disposal of waste materials, raw material storage, residues left in containers, maintenance activities and spills. Some commercial uses such as gasoline stations and automotive repair garages have a similar potential. Historic petroleum hazards are most often identified and located during site inspections and other activities associated with preparing land for development.

As a condition of approving development (severances and plans of subdivision), the Municipality will require that improperly abandoned wells discovered on the lands during development will be properly plugged in accordance with provincial requirements. Proposed building locations should be examined for the presence of possible well sites using established standards and procedures. Areas where wells are located should be avoided when locating buildings unless it can be demonstrated that development can safely occur. A well licence must be obtained from the Ministry of Natural Resources before any attempt is made to enter or plug a well.

Development on or adjacent to lands where contaminants may be present may be permitted only if rehabilitation measures to address and mitigate known or suspected hazards are underway or have been completed. It is the policy of this Plan that contaminated sites shall be restored, as necessary prior to any activity on the site associated with the proposed use, such that there will be no adverse effect. In particular, any development application proposing to redevelop a contaminated or hazardous site or develop lands adjacent to a contaminated or hazardous site must include information pertaining to the following:

- a) past and present uses of the site;
- b) a soil report prepared in accordance with Provincial guidelines for the decommissioning and

cleanup of contaminated sites. The report shall indicate when the site is to be restored. If it is a residential proposal, development will not be permitted, until the site has been restored in accordance with Provincial guidelines and legislation;

- c) an acknowledgement of the requirement that site restoration is to occur in accordance with Ministry of the Environment requirements as may be revised from time to time;
- d) where contamination has been identified, a letter from the Ministry of the Environment acknowledging receipt of a "Record of Site Condition" prior to development approvals being granted.

## **2.16 Brownfields**

Brownfield sites are sites where the environmental condition of the property and the quality of the soil or groundwater, particularly on former industrial and waste-disposal sites, may have the potential for adverse effects to human health or the natural environment.

### **2.16.1 Policies**

Development on any property suspected of having some form of contamination will be permitted only if a Record of Site Condition is provided by the proponent, prepared by a qualified consultant, in accordance with the Environmental Protection Act. Contaminated sites will be restored as necessary prior to permitting any activity on the site to ensure that there will be no adverse effect.

In considering applications for development, the following procedures shall apply:

- a) The Municipality will require applicants to document previous uses of a property or properties that are subject of a planning application and/or properties that may be adversely impacting the property that is subject of a planning application in order to assist in the determination of the potential for site contamination;
- b) The Municipality will require all applications for plans of subdivision to be supported by an affidavit from a qualified person as defined by provincial legislation and regulations, confirming that a Phase 1 Environmental Site Assessment (ESA) has been completed in accordance with Ontario Regulation 153/04, as amended from time to time. A Phase 1 ESA documents the previous uses of the property and provides an assessment of the actual or potential soil or groundwater contamination on the site;
- c) For a property or properties that have been identified through the Municipality's planning

application review process as potentially contaminated:

- i) The Municipality will require all planning applications submitted under the Planning Act to be supported by an affidavit from a qualified person as defined by provincial legislation and regulations, confirming that a Phase 1 ESA has been completed in accordance with Ontario Regulation 153/04, as amended from time to time;
  - ii) Where a Phase 1 ESA indicates that the property or properties that are subject of the planning application may be contaminated, the Municipality will require planning applications to be supported by an affidavit from a qualified person as defined by provincial legislation and regulations, confirming that a Phase 2 ESA has been completed in accordance with Ontario Regulation 153/04, as amended from time to time. A Phase 2 ESA provides a sampling and analysis of the property to confirm and delineate the presence of soil or groundwater contamination at the site or confirm the absence of contamination at the site;
  - iii) Where the Municipality determines that there is a proposed change in land use to a more sensitive use, the Municipality will: Require as a condition of planning approval, verification to the satisfaction of the Municipality from a qualified person as defined by provincial legislation and regulations, that the property or properties in question are suitable or have been made suitable for the proposed use in accordance with provincial legislation and regulations, including where required by the Municipality, or provincial legislation and/or regulations the filing by the property owner of a Record of Site Condition (RSC) signed by a qualified person in the Environmental Site Registry, the submission to the Municipality of a Declaration signed by the qualified person acknowledging that the Municipality may rely on the statements in the RSC and, submission by the property owner to the Municipality of proof that the Ministry of Environment (MOE) has acknowledged receipt of the RSC;
  - iv) Establish conditions of planning approval to ensure receipt of satisfactory verification of suitable environmental condition as per this Section;
  - v) Where applicable, utilize the holding provisions of the Planning Act to ensure receipt of satisfactory verification of suitable environmental condition.
- d) Where an RSC has been made a condition of planning approval, a building permit may be issued in regard to a property or properties on a phased basis to allow for site assessment and remediation/risk management;

- e) Where the Municipality is deeded land for public highways, road widening, parks, stormwater management, easements, or for any other purpose, the Municipality may require, as a condition of transfer, verification to the satisfaction of the Municipality from a qualified person as defined by provincial legislation and regulations, that the property or properties in question are suitable or have been made suitable for the proposed use in accordance with provincial legislation and regulations, including where required by the Municipality or provincial legislation and/or regulations, filing by the property owner of a Record of Site Condition (RSC) signed by a qualified person in the Environmental Site Registry, and submission by the owner to the Municipality of proof that the MOE has acknowledged receipt of the RSC;
- f) For instances where contamination from a property or properties extends onto a Municipality right-of way and filing of a RSC in the Environmental Site Registry is not possible, the Municipality may issue a building permit in regard to this property or properties on a phased basis contingent on the execution and implementation of an Off-Site Management Agreement or Remedial Action Plan that remediates/manages contamination in the right-of-way to the satisfaction of the Municipality;
- g) Where a gasoline station site is being redeveloped and there is no change in use to a more sensitive use, the Municipality will require that a letter of continued use from the Technical Standards and Safety Authority be provided. For instances where contamination extends onto a Municipality right-of way, the Municipality will require that an Off-Site Management Agreement and Remedial Action Plan be implemented to the satisfaction of the Municipality prior to issuance of the building permit.

## **2.17 Waste Disposal Sites**

Any site proposed for development within 500 m (1,640.41 ft) of a closed waste disposal site shall be restricted, unless it has been demonstrated that there is no evidence of leachate, methane gas migration or other contaminants present in the soils or groundwater supply. Proponents of development within 500 m (1,640.41 ft) of a closed waste disposal site shall prepare a report, to the satisfaction of the Municipality, in accordance with Ministry of the Environment guidelines that demonstrates that there is no evidence of leachate, methane gas migration, or other contaminants present in the soils or groundwater. Development will be restricted if the former waste disposal site has any adverse environmental effects or risk to public health and safety.

***a) Closed or Inactive Sites***

Closed or inactive sites may be used for other purposes subject to meeting requirements of the Environmental Protection Act. No use shall be made of land or land covered by water which has been used for the disposal of waste within a period of 25 years from the year in which such land ceased to be used unless prior provincial approval for the proposed use has been given (Section 46 Order).

***b) Influence Area***

Council recognizes that waste management facilities may have an impact on adjacent land uses. An influence area exists around all waste management facilities in order to recognize the potential for adverse effects between the existing waste management facility and any sensitive land uses. No development shall be permitted on or within 30 m (98.42 ft) of the licensed fill area of an active waste disposal facility or area. Development proposed beyond the 30 m (98.42 ft) but within an influence area of 500 m (1,640.41 ft) of the fill area of an active or closed waste disposal facility or area shall be accompanied by an environmental impact statement that demonstrates that the proposed development will not be negatively impacted by the waste disposal facility (e.g. leachate, methane gas, rodents, vermin, odours, fire etc.) Where recommended by the impact statement, measures to mitigate any adverse impacts will be required as a condition of development. The influence area does not apply to commercial, industrial or residential development which has been approved or committed such as lots of record in either an approved plan of subdivision or which were created by consent.

The influence area may be reduced where studies have been undertaken and the public authority having jurisdiction is satisfied that there will be no adverse effects on adjacent land uses.

***c) Development to Have Adequate Capacity***

Council, in the review of planning applications, will ensure that there is sufficient capacity to accommodate the waste disposal needs of the proposed development. Council, with the assistance of the County of Essex, will continue to monitor the capacity of the existing sites and will undertake improvements as required e.g. expand sites or implement operational plans, to maintain adequate capacity for future development.

Council will monitor the environmental impacts of closed or inactive sites to ensure that

there is no off-site migration of leachate.

## **2.18 Development Abutting Provincial Highways**

In addition to all other municipal requirements, all development adjacent to Provincial highways is also subject to the requirements and permits of the Ministry of Transportation. Prior to the granting of development approval for new development requiring an amendment to this Plan, an amendment to the Zoning By-law or approval of a plan of subdivision that is adjacent to a Provincial highway, the applicant shall demonstrate to the satisfaction of the Approval Authority and the Municipality that the expected level of noise is either within Ministry of the Environment criteria or is within a practical range of attenuation. Where the Ministry’s criteria are exceeded, a Noise Attenuation Report shall be submitted to, and approved by, the Approval Authority and the Municipality and its recommendations implemented by such means as zoning, site plan approval and subdivision development agreement.

## **2.19 Air Quality**

It is the policy of this Plan to attempt to reduce air pollution by preparing and adopting a “Smog Action Plan” and by having regard to the following when reviewing development proposals:

- a) whether the proposal includes opportunities for non-automotive forms of transportation such as walking and cycling;
- b) whether the proposal has the potential to increase air pollution and if so, what remedial measures are proposed;
- c) locating various land uses in such a manner that reduces distance and vehicle trips;
- d) whether the proposal protects and improves trees and natural areas.

## **2.20 Lands with a “Floodplain Development Control Overlay”**

Lands with a “Floodplain Development Control Overlay” on Schedule “B” of this Plan are areas that have been identified as being susceptible to flooding. As such, permits are required in advance of any development occurring, and additional studies may be required.

The lands identified as “Floodplain Development Control Overlay” on Schedule “B” of this Plan are subject to flooding under regulatory flood conditions (1:100 year) and are subject to Ontario

Regulation 158/06, the Essex Region Conservation Authority Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses.

Under the two-zone approach to floodplain management, Council shall, to the satisfaction of the Essex Region Conservation Authority, identify the floodway (that area subject to deeper, faster flows, which acts as the channel in times of flooding), as a zone where development other than buildings or structures required for flood or erosion control is prohibited. It has been determined that a setback of 8 m (26.24 ft) plus the depth of the watercourse or municipal drain, to a maximum of 15 m (49.21 ft) from the top of bank, shall constitute the Floodway Zone for many of the inland watercourses.

Development on those lands outside the Floodway Zone but within the “Floodplain Development Control Overlay” shall only be permitted if:

- a) floodproofing is provided to the regulatory flood level to the satisfaction of the Essex Region Conservation Authority. This area is subject to the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation of the Essex Region Conservation Authority, and as such, a permit allowing construction and/or the placement of fill is required from the Authority;
- b) all development must be in accordance with the underlying land use designations.

## **2.21 Lands with a “Lake Erie Floodprone Overlay”**

Lands with a “Lake Erie Floodprone Overlay” on Schedule “B” of this Plan are areas that have been identified as being susceptible to flooding. As such, development permits are required in advance of any development occurring, and additional studies may be required. Further details relating to specific development restrictions and areas within the Overlay will be fleshed out in the Sustainable Management Strategy for Southeast Leamington. Until such time that the aforementioned study has been completed and supported by Council, proposed development will only be considered on a case-by-case basis as permitted by the Essex Region Conservation Authority.

The land uses permitted within the floodprone area are determined by the underlying designations also identified on Schedule “B” and are subject to the 1:100 Year flood conditions and erosion information associated with Lake Erie.

The implementing Zoning By-law will prescribe certain setback and minimum floodproofing elevation

requirements for development within the floodprone area and setbacks from the top of bank for erosion prone areas. Generally, the setbacks and floodproofing requirements will vary depending on whether or not approved shore protection works are installed. The required setbacks will be determined in consultation with the relevant Conservation Authority and the implementing Zoning By-law may reference the relevant Conservation Authority's Regulations as a method of prescribing the minimum elevation requirements.

Floodproofing is provided to the regulatory flood elevation. Where the area is subject to the local conservation authority's regulations a permit allowing the construction and/or placement of fill is obtained from the relevant Conservation Authority.

*(last paragraph deleted in its entirety as a modification to the final approval - January 14, 2008)*

## **2.22 Lands with an "Extractive Industrial Overlay"**

It is the policy of this Plan that mineral resources will be protected for long term use. Lands with an "Extractive Industrial Overlay" on Schedule "B" of this Plan are areas that have been identified as having extractive industrial potential. As such, any proposed development can only occur if it has been demonstrated to the satisfaction of the Municipality that the development will not interfere with the future removal of the resource. Goals and policies for lands subject to the "Extractive Industrial Overlay" are as follows:

### **2.22.1 Goals**

The following goals are established for those lands with an "Extractive Industrial Overlay" as depicted on Schedule "B" of this Plan:

- a) to permit the extraction of mineral resources as an interim land use in accordance with the policies of this Plan and Provincial Policy;
- b) to identify areas where mineral resources are located;
- c) to protect primary aggregate resources and existing pits from encroaching incompatible land uses;



- d) to provide for extraction and removal of mined resource material from the site in such a manner that will least offend neighbouring property uses;
- e) to provide for the rehabilitation of these areas for other productive uses once the resource has been removed.

### **2.22.2 Policies**

The following policies are established for those lands with an "Extractive Industrial Overlay" as depicted on Schedule "B" of this Plan:

- a) the predominant use of land in the "Extractive Industrial Overlay" shall be for extractive industrial uses including quarries, sand and gravel pits and other surface mining operations. Agriculture, forestry and conservation uses shall also be permitted prior to removal of the resource;
- b) the Zoning By-law will only zone those lands within the "Extractive Industrial Overlay" that are licensed for extractive industrial uses or for each a license application has been submitted. All other lands within this overlay area will be zoned Agricultural until such time as the Ministry of Natural Resources advises that standards of the Aggregate Resources Act have been met;
- c) It is a policy to establish influence areas as a means to avoid incompatible land uses. The influence area is an area where impacts may occur or be experienced from mineral aggregate operations. Consequently, the intent of the policy is to determine the impacts and to assess whether they can be mitigated to an appropriate level when measured against provincial standards. The influence area applies between a sensitive land use and an extractive operation or vice versa. Specific buffer distances or setbacks may be established after impacts are assessed within the influence area.

For the purposes of this Plan, the following influence areas shall apply as a guideline between the specified land use and any sensitive land use:

Pit and sand and gravel reserve	150 m (492.12 ft) - above the water table
	300 m (984.25 ft) - below the water table
Quarry and bedrock reserve	1000 m (3,280.82 ft)

Measurement of the separation distances shall be from the boundary of the Extractive

Resource Lands zone shown on the Schedules in the implementing Zoning By-law;

- d) when a by-law amendment to permit the extraction of aggregate is applied for, the following items should be submitted with the application:
- i) a site plan and technical reports meeting the requirements of the Provincial Standards and the Aggregate Resources Act. The site plan development must also indicate the proposed scope of the operation, the true shape, topography, contours, dimensions, acreage and location of the property to be developed as well as the extent of adjacent property held for future extractive operations;
  - ii) information pertaining to the existing use of all land and the location and use of all buildings and structures lying within a distance of 120 m (393.70 ft) from the land that is subject of the extractive operation;
  - iii) information concerning the location and use of all buildings or structures existing or proposed to be erected on the property;
  - iv) information concerning the existing and anticipated final grades of excavation, shown by contour, where necessary, as well as excavation setbacks;
  - v) information concerning drainage, entrances and exits, cross-sections through the deposit and information concerning the impacts on the water table;
  - vi) information concerning the ultimate pit development, progressive and ultimate road plans, any water diversion or storage, location of stockpiles for stripping and products, progressive and ultimate rehabilitation and the intended use of the land after extractive operations have ceased;
  - vii) on good agricultural lands (Class 1, 2 and 3 according to the Canada Land Inventory Classification System) and on specialty crop lands, extractive uses are permitted as an interim use, provided that rehabilitation of the site is carried out whereby substantially the same areas and same average soil quality for agriculture are restored.
- e) Complete agricultural rehabilitation is not required if:
- i) there is a substantial quantity of mineral aggregate resources below the water table warranting extraction, or the depth of a planned extraction in a quarry makes restoration of pre-extraction agricultural capability unfeasible;
  - ii) other alternatives have been considered by the applicant and found unsuitable. The consideration of other alternatives shall include resources in areas of Canada Land

Inventory Class 4 to 7 soils, resources on lands identified as designated growth areas, and resources on prime agricultural lands where rehabilitation is feasible. Where no other alternatives are found, prime agricultural lands shall be protected in this order of priority; specialty crop areas, Canada Land Inventory Classes 1, 2 and 3;

- iii) agricultural rehabilitation in remaining areas will be maximized.
- f) proposals to develop mined out pits for other than agricultural uses will be considered by the Municipality in the context of sound planning principles and the criteria established in Section 7.17 of this Plan;
- g) all development in the "Extractive Industrial Overlay" area shall be in accordance with the land division policies contained in Section 5 of this Plan;
- h) in advance of approving any amendments to this Plan that would have the effect of extending the extent of the "Extractive Industrial Overlay" area, the proposal shall be forwarded to the Ministry of Agriculture, Food and Rural Affairs and the Ministry of Natural Resources for comments.

### **2.23 Lands with a "Petroleum Resources Overlay"**

It is the policy of this Plan that mineral resources including petroleum resources will be protected for long term use. Lands with a "Petroleum Resources Overlay" on Schedule "B" of this Plan are areas that have been identified as having petroleum resource potential. It is the policy of this Plan that petroleum resources will be protected for long term use. While activities associated with petroleum resources rarely involve Planning Act controls, the policies of this Plan address the issue of new development encroaching on known deposits and existing producing well areas.

New development shall be setback a minimum of 75 m (246.06) from existing wells. The 75 m (246.06) setback is the same as the setback required under the Oil, Gas and Salt Resources Act for new wells in proximity to existing development. Lesser setbacks for development may be considered upon consultation with the Province. Where development is proposed adjacent to or above pools or deposits shown on the Overlay Schedule, the Province shall be consulted regarding alternatives for ensuring future access for resource production purposes.

Although there are no specific setbacks for development near a decommissioned well, it should be noted that no development may occur directly on a site which has been decommissioned. In any

situation, every well shall be decommissioned to Ministry standards.

Petroleum resource operations, exploration and drilling under the Oil, Gas and Salt Resources Act will be permitted in all land use designations subject to Provincial regulations. Where petroleum activities are proposed within lands designated Provincially Significant Wetlands, the Province shall be consulted regarding mechanisms to evaluate the value of competing resources and ensure that if drilling occurs, there is minimal policy conflict. Extraction of petroleum resources is permitted in prime agricultural areas provided that the site is rehabilitated to agricultural use.

## **2.24 Wayside Pits and Quarries and Portable Asphalt Plants**

Wayside pits and quarries which are defined as pits and quarries opened and used by a public road authority for the purposes of a particular road construction project are encouraged to locate in the many areas shown as an "Extractive Industrial Overlay" on Schedule "B". When an "Extractive Industrial Overlay" location is not possible, wayside pits and quarries shall be permitted without an amendment to this Plan or the Zoning By-law, except in the Residential and Natural Environmental designations. On specialty crop lands and on prime agricultural lands (Classes 1, 2 and 3 according to the Canada Land Inventory classification system) wayside pits and quarries may occur if agricultural rehabilitation of the site is carried out and substantially the same area and average soil capability for agriculture are restored.

On prime agricultural lands (Class 1, 2 and 3 according to the Canada Land Inventory classification system) and on specialty crop lands, wayside pits and quarries are permitted as an interim use provided that rehabilitation of the site is carried out whereby the same areas and the same average soil quality for agriculture are restored.

Portable asphalt plant, means a facility with equipment designed to heat and dry aggregate and to mix aggregate with bituminous asphalt to produce asphalt paving material, and includes the stockpiling and storage of bulk materials used in the process and which is not of permanent construction, but is designed to be dismantled and moved to another location as required. Portable asphalt plants used by a public road authority or its agent shall be permitted in the Agricultural designations and "Extractive Industrial Overlay" areas without amendment to this Plan or the Zoning By-law, subject to the following provisions:

- a) portable asphalt plants must obtain a certificate of approval from the Ministry of the

Environment;

- b) portable asphalt plants must meet Ministry of the Environment minimum separation distance, but in no case shall they be located closer than 400 m (1,312.33 ft) from an existing residence;
- c) portable asphalt plants must be removed from the site upon completion of the public project;
- d) sites used for portable asphalt plants in the agricultural areas, must be rehabilitated back to their former agricultural use.

### **2.25 Mineral Mining**

Mineral resources will be protected from activities that would preclude or hinder their extraction or continued use or which would be incompatible for reason of public health, public safety or environmental impact. In areas adjacent to known mineral resources, development which would preclude or hinder the establishment of new operations or access to the resources will only be permitted if:

- a) resource use would not be feasible;
- b) the proposed land use or development serves a greater long term public interest;
- c) issues of public health, public safety and environmental impact are addressed.

### **2.26 Wind Energy and Renewable Energy Systems**

Wind Energy, as an alternative energy systems and renewable energy systems shall be permitted in settlement areas, rural areas and prime agricultural areas in accordance with provincial and federal requirements. In rural areas and prime agricultural areas, these systems should be designed and construction to minimize impacts on agricultural operations.

### **2.27 Ground Water Protection**

Protecting and enhancing water resources is fundamental to improving the natural environment in the Municipality. Water resource protection policies also serve to ensure that communities are safe and healthy and ensure there is a healthy and thriving economy.

Water resources consist of surface waters including rivers, streams, lakes, and ground water. Many natural features and areas directly affect or contribute to surface and groundwater quantity and quality, including wetlands and woodlands above the surface, and the clays, tills, and bedrock below

the surface.

Major surface water features in the Municipality of Leamington include Lake Erie, Hillman and Lebo Creeks, Sturgeon Creek, Muddy Creek, and Point Pelee Marsh.

It is the intent of this Plan to develop policies to support initiatives proposed under the Clean Water Act and provide for the long-term, protection and enhancement of water resources in the Municipality. This Plan will support initiatives which provide further investigation and characterization of these resources in order to better facilitate appropriate development and resource protection. The Municipality will implement the findings of watershed-based studies and groundwater-related studies, as necessary through amendments to this Plan.

## **SECTION 3: LAND USE PLAN**

This section contains the goals and policies that pertain to the various land use designations depicted on Schedule "A" of this Plan. Reference must also be made to the policies contained within the other sections of this Plan when determining the appropriateness of various development proposals.

### **3.1 Lands Designated "Agricultural"**

Areas designated "Agricultural" on Schedule "A" represent the majority of the land area in the Municipality of Leamington. Agriculture, including an extensive vegetable and flower greenhouse farming area, is an extremely important component of Leamington's land use pattern. The purpose of the goals and policies of this Section are to protect prime agricultural lands for agricultural purposes while acknowledging that this community will continue to grow and prosper in an orderly and responsible manner. It is acknowledged that all of the land in the Municipality of Leamington outside of the settlement areas is prime agricultural land in accordance with Provincial Policy. Development within this designation is strictly controlled and monitored.

#### **3.1.1 Goals**

The following goals are established for the areas designated "Agricultural" on Schedule "A" of this Plan:

- a) to preserve prime agricultural land for agricultural purposes;
- b) to allow farm operators to engage in a wide range of agricultural activities including greenhouse farming;
- c) to restrict the type and amount of non-farm development in the area designated "Agricultural".

#### **3.1.2 Policies**

The following policies shall apply to those lands designated "Agricultural" on Schedule "A" of this Plan:

- a) the predominant use of land shall be agricultural. Associated uses will be permitted which

- include the growing of crops and raising livestock, tree farms, aqua-culture farming and forestry and conservation uses;
- b) greenhouse farming including packing and shipping facilities and on-site housing are permitted in the "Agricultural" designation and the agricultural zones of the Zoning By-law. The aforementioned uses, buildings, and structures are subject to site plan control pursuant to Section 7.4 of this Plan;
  - c) mushroom farms including the growing, harvesting, cleaning, packaging and shipping of mushrooms and any other uses related to the production of mushrooms are also permitted in the "Agricultural" designation. These uses will however require an amendment to the Zoning By-law and are subject to site plan control, pursuant to Section 7.4 of this Plan. When an application for a by-law amendment to allow a mushroom farm is considered, Council shall have due regard to the following:
    - i) the proximity of the proposed operation to existing residential uses and zones;
    - ii) the location of the proposed operation and the proximity of other existing uses with respect to the prevailing winds. It will be preferable to have all composting components of the operation aerated;
    - iii) any comments from the Ministry of Agriculture or the Ministry of the Environment.
  - d) livestock uses, as defined in the Zoning By-law, are permitted in the Agricultural designation without an amendment to the Zoning By-law provided the proposed location is in compliance with the requirements of the Minimum Distance Separation Formulae;
  - e) farm occupation, as a secondary use, as defined in the zoning by-law, includes such uses as fruit and vegetable stands, wineries, and retail floral shops are permitted in the Agricultural designation without an amendment to the Zoning By-law provided they are accessory to the agricultural use of the site and that a minimum of 60 percent of the goods and materials for sale are grown or produced on site;
  - f) residential uses on existing lots of record and existing lots of record created by consent in accordance with Section 5 of this Plan are permitted subject to Section 7.14 of this plan. The Zoning By-law shall only permit one residence per lot. However, more than one residence on a lot for the purposes of housing farm help may be allowed in those instances where: the need for such housing has been adequately demonstrated; the farm help assists on the subject farm on a regular basis; and the farm operation is of such a size and nature that this assistance is required and needs to be located close by the farm. A second



dwelling on a lot, where one is required on a temporary basis, can also be allowed, provided the property owner enters into an agreement and a security taken to determine when the original residence will be removed;

- g) in-home occupations, as a secondary use, carried out for remuneration as defined in the zoning by-law are permitted in the "Agricultural" designation;
- h) small scale commercial and dry industrial uses, as defined in the Zoning By-law may be permitted only upon amendment to the zoning by-law implementing this plan, provided that such amendment shall be approved only when it has been shown to the satisfaction of the municipality that:
  - i) the use is directly related to a farm operation;
  - ii) is required in close proximity to a farm operation;
  - iii) would include processing agricultural goods or servicing agricultural equipment or operations;
  - iv) will be encouraged to locate along Provincial Highways, County Roads and identified truck routes in areas;
  - v) the by-law amendment will establish adequate setback and buffering requirements to ensure that any potential incompatibilities with surrounding uses are minimized.
- i) the exploration and extraction of all mineral resources shall be permitted in the Agricultural designation in the overlay areas identified on Schedule "B" and shall be a permitted use in the Agricultural zones of the Zoning By-law provided the exploration and extraction is in accordance with Sections 2.21 and 2.22 of this Plan;
- j) all lot creation in the "Agricultural" designation shall be in accordance with the land division policies contained in Section 5 of this Plan;
- k) all development shall meet the requirements of, and where necessary, obtain the approval of the Ministry of the Environment with respect to water taking, waste water disposal, storm drainage, solid waste disposal and all emissions to the atmosphere, including noise and vibration.

### **3.2 Lands Designated "Residential"**

Areas designated "Residential" on Schedule "A" are either currently developed residentially or have been determined to be appropriate to accommodate future residential development. It is the intent of this Plan that a broad range of residential structure types be permitted on lands designated

"Residential" in order to meet the needs of all households anticipated during the 20 year planning period of this Plan. In addition, other uses which are considered to be ancillary or necessary to serve the needs of a residential community, such as parks, may also be permitted in accordance with the policies of this Plan.

The following land use goals and policies establish the manner with which new residential development and/or redevelopment should take place in the Municipality. These policies shall be implemented through regulations enacted in the Municipality's Zoning By-law, the development review/approval process, and through individual site plan control and development agreements.

### **3.2.1 Goals**

The following goals are established for the areas designated "Residential" on Schedule "A" of this Plan:

- a) to provide areas in which residential development may occur in a controlled and progressive manner and to recognize existing residential development and areas presently designated for residential development;
- b) to ensure that new development occurs in a manner in keeping with the capacity of the services available and the financial capability of the municipality;
- c) to encourage infilling of the existing development pattern;
- d) to encourage the development of a greater variety of housing types;
- e) to provide older residential neighbourhoods with protection from non-residential redevelopment pressures;
- f) to encourage the provision of an adequate supply of draft approved and/or registered lots and blocks in new plans of subdivision and/or registered lots which have been created in accordance with Section 5 of this Plan;
- g) to provide opportunity to increase the housing supply through residential intensification. Residential intensification includes infilling, conversions and redevelopment, and will be encouraged in areas designated "Residential" as a means of increasing the supply of affordable rental and ownership accommodations;
- h) to provide an adequate supply of fully-serviced new building lots to meet the projected demand for additional housing units over the next 20 year planning period.

### **3.2.2 Policies**

The following policies shall apply to those lands designated "Residential" on Schedule "A" of this Plan:

- a) a variety of housing types and densities are permitted subject to conformity and compliance with the Zoning By-law. The types of residential units permitted include single unit detached dwellings, two unit dwellings, three unit dwellings, single unit attached dwellings, townhouses, apartments and seniors' housing including retirement homes, nursing homes and private senior care facilities and other housing designed to accommodate special needs or interests;
- b) other uses which are considered necessary and complimentary to serve residential areas, including schools, parks, places of worship, day care centres, in-home occupations as secondary uses, and essential buildings and structures for public utilities, may be permitted where they are compatible with the residential area. The extraction of sand and gravel is also a permitted use on an interim basis subject to an amendment to the Zoning By-law, the issuance of a license, and meeting all necessary separation distances;
- c) uses that are legally in existence on the date of adoption of this Plan are also permitted in the "Residential" designation;
- d) the regulations and provisions for the uses permitted in the "Residential" designation shall be established in the Zoning By-law;
- e) the creation of new lots in the "Residential" designation shall be in accordance with the land division policies contained within Section 5 of this Plan;
- f) a high standard of design with complimentary amenities (parks, trails, schools, roads, open spaces, etc) shall be provided as a part of all future residential development unless it can be proven that the aforementioned exist within proximity and may be easily utilized.
- g) areas for medium and high density residential development are not specifically identified in this Plan. It is the intent of the Plan that all types of residential development will be permitted throughout the area designated "Residential", subject to satisfying certain criteria. The Zoning By-law will zone only existing medium and high density residential uses as such. Any new medium or high density residential development or redevelopment proposal will require an amendment to the Zoning By-law. When considering the appropriateness of the amendment request, the following criteria shall be considered:

*i) Low Density Residential*

The low density residential zones will permit single unit dwellings, two unit dwellings and converted dwellings at a maximum density of 15 units per gross hectare;

*ii) Medium Density Residential*

The medium density residential zone will permit single unit dwellings, two unit dwellings, converted dwellings, three unit dwellings, single unit attached housing, townhouse dwellings, apartment buildings not exceeding three storeys in height and all types of senior and other special interest and needs housing. The maximum density for this type of housing shall not exceed 35 dwelling units per gross hectare;

*iii) High Density Residential*

The high density residential zone will permit multiple family dwellings such as single unit attached housing, townhouse dwellings, apartment buildings exceeding three storeys in height and all types of senior and other special interest and needs housing. The maximum density for this type of housing shall not exceed 120 units per gross hectare;

h) when considering applications to amend the Zoning By-law to permit a medium or high density residential development, the Municipality shall have regard to the following:

- i) the need for the proposed development as identified through an analysis of housing supply and demand;
  - ii) the density and form of adjacent development;
  - iii) the adequacy of the municipal water supply, sanitary sewers, storm drainage and roads to serve the proposed development;
  - iv) the adequacy of school, park and community facilities to serve the proposed development;
  - v) the adequacy of off-street parking facilities to serve the proposed development;
  - vi) the provision of adequate buffering measures deemed necessary to protect and provide general compatibility with the adjacent land uses;
  - vii) accessibility in relation to the location of arterial and collector roads;
  - viii) proximity to essential amenities including but not limited to: commercial shopping centres, grocery stores, and doctor and dentist offices.
- i) all medium and high density residential development will be subject to site plan control

- pursuant to Section 7.4 of this plan;
- j) changes or enlargements to the "Residential" designation is pursuant to the criteria set out in Section 7.17 of this plan;
  - k) mobile homes and/or mobile home parks shall not be permitted in the "Residential" designation;
  - l) in-home occupations, as secondary uses, including bed and breakfast establishments, carried out for remuneration as defined in the Zoning By-law are permitted in the "Residential" designation;
  - m) institutional uses are permitted in the "Residential" designation but shall require a site specific amendment to the Zoning By-law. When considering the appropriateness of a particular institutional use, the criteria contained in Section 2.11 of this Plan shall be considered;
  - n) public parks are permitted as part of any residential development without an amendment to this Plan or the Zoning By-law;
  - o) undeveloped lands that are designated "Residential" for low density residential development may be placed in a holding zone in the Zoning By-law, pursuant to Section 7.3 of this plan. Existing uses shall be permitted in the interim;
  - p) the provision of a three year supply of at least 400 residential lots through a combination of draft approved and/or registered lots and blocks on plans of subdivision and/or registered lots shall be maintained within areas designated "Residential";
  - q) group homes that are in the form of single unit detached dwellings are permitted anywhere single unit dwellings are permitted in the zoning by-law. Group homes that have a form other than single unit detached dwellings may be permitted on those lands designated "Residential" subject to a site-specific amendment to the Zoning By-law. When considering an application to amend the implementing Zoning By-law to permit a group home that has a form other than a single unit detached dwelling, Council shall have regard to the following:
    - i) the compatibility of the proposed use with the surrounding area;
    - ii) whether the proposed group home will create an undue concentration of group homes in the area;
    - iii) whether the building will have adequate setbacks from existing adjacent uses.
  - r) it is the intent of this Plan to avoid intrusions of commercial activities in the "Residential" designation. New local commercial uses, therefore, shall not be permitted in the

- "Residential" designation. The Zoning By-law may recognize existing local commercial uses subject to the Existing Uses policy contained in Section 7.12 of this Plan;
- s) the conversion of single unit dwellings to create more than two new dwellings units may be permitted subject to an amendment to the Zoning By-law subject to compliance with the following requirements:
- i) external changes should be minimal and the character of the dwelling should be preserved as far as possible;
  - ii) adequate off-street parking should be made available;
  - iii) adequate services should be available to accommodate all units;
  - iv) adequate lot area and frontage.
- t) notwithstanding the permitted uses and policies pertaining to lands designated "Residential" on Schedule "A", the following policies shall apply to the parcels of land designated "Residential" and described as Part of Lot 6, Broken Front Concession, located South of Park Street and North of Gold Coast Avenue:
- i) the permitted uses on this property shall be limited to townhouses and apartments at a maximum density of 50 dwelling units per gross hectare;
  - ii) the Municipality will require a 5% parkland dedication or a cash-in-lieu payment as a condition of the approval of all residential redevelopment proposals for these properties.
- u) notwithstanding the permitted uses and policies pertaining to lands designated "Residential" on Schedule "A", the following policies shall apply to the parcels of land designated "Residential" and described as Part of Lot 7, Broken Front Concession, located on the south side of Robson Road, East of Erie Street South:
- i) the permitted uses on these properties shall be limited to apartments, townhouses and stacked townhouses at a maximum density of 95 dwelling units per gross hectare;
  - ii) development proposals should be of a nature and design to take advantage of the natural amenities offered by the waterfront and should not unnecessarily reduce public vistas and/or access to the waterfront.
- v) on those lands designated "Residential" on Schedule "A" and located south of Robson Road and east of Erie Street, the permitted uses shall be limited to apartments, townhouses and stacked townhouses at a maximum density of 94 dwelling units per gross hectare. In

addition, on those three lots within this area that are slightly east of the Harbourview residential building and west of the Heinz pump station, certain commercial uses related to land and/or water based uses may also be permitted by way of amendment to the Municipality's zoning by-law. When considering the appropriateness of any proposed commercial use, Council shall have regard to:

- i) the compatibility of the proposed use with surrounding uses particularly with respect to noise and traffic;
  - ii) the adequacy of the access to the site and the proposed parking for the use;
  - iii) whether the use is in keeping with the design, standard and theme of the waterfront area;
  - iv) other policies of this Plan.
- w) in addition to other policies pertaining to lands designated "Residential" on Schedule "A", the following policies shall also apply to those parts of Lots 9 and 10, Concession A designated Residential:
- i) local commercial uses intended to serve the day to day needs of those residing in the area may be permitted without an amendment to this Plan provided they are local in nature, they are appropriately buffered from residential uses, adequate off-street parking is provided, and the Zoning By-law is amended. Locations for such commercial facilities shall be identified as part of the initial development plan for the various phases of the overall parcel;
  - ii) the need, location and function of the East Side Arterial Road's extension south of Seacliff Drive will be determined at the time a development plan for the subject lands is submitted to and approved by the municipality. The need, location and function of the road's extension south of Seacliff Drive will be dependent upon the nature and scale of the actual and proposed development of the general area.

### **3.3 Lands Designated "Rural Residential"**

The purpose of the "Rural Residential" designation is to recognize existing areas of residential development situated throughout the agricultural area.

#### **3.3.1 Goals**

The following goals are established for the areas designated "Rural Residential" on Schedule "A" of this Plan:

- a) to recognize existing areas of residential development in the agricultural area;
- b) to permit very limited lot creation in these areas of existing residential development to round-out the existing development pattern;
- c) no further enlargement to the "Rural Residential" areas will be permitted.

#### **3.3.2 Policies**

The following policies shall apply to those lands designated "Rural Residential" on Schedule "A" of this Plan:

- a) residential development shall consist of single unit dwellings only on larger lots;
- b) in-home occupations, as a secondary use, carried out for remuneration as defined in the Zoning By-law are permitted in the "Rural Residential" designation;
- c) all lot creation in the "Rural Residential" designation shall be in accordance with the land division policies contained in Section 5 of this Plan.

### **3.4 Lands Designated "Hamlet"**

The purpose of the "Hamlet" designation is to identify those rural service areas where single unit residential dwellings, converted dwellings, institutional uses, recreational uses, small scale commercial and dry light industrial uses are permitted. Development in these areas of limited municipal services is primarily intended to serve the agricultural area.

#### **3.4.1 Goals**

The following goals are established for the areas designated "Hamlet" on Schedule "A" of this Plan:



- a) to allow the hamlets of Blytheswood and Staples to strengthen their identity as settlement areas within the Municipality;
- b) to ensure that new development occurs in a manner in keeping with the capacity of the services available and the financial capability of the Municipality;
- c) to continue to provide a location for future residential, institutional, recreational, small-scale commercial and small-scale dry light industrial uses;
- d) to continue to act as a small scale service centre to area residents;
- e) additional lands will not be added to the "Hamlet" designation.

### **3.4.2 Policies**

The following policies shall apply to those lands designated "Hamlet" on Schedule "A" of this Plan:

- a) the permitted uses shall include single unit residential, institutional, recreational, small scale commercial and small scale dry light industrial uses, as defined in the Zoning By-law, and their expansion in accordance with the policies outlined below;
- b) the Zoning By-law shall zone all lands in the "Hamlet" designation according to their existing legal use. All undeveloped land parcels will be placed in an agricultural zone which does not permit livestock operations or mushroom farms. New residential, commercial, industrial, recreational and institutional uses may be allowed without an amendment to this Plan provided the Zoning By-law is amended where necessary and the proposed use satisfies the following criteria:
  - i) the proposed use is generally compatible with existing uses in close proximity;
  - ii) the existing roads can adequately serve the proposed use;
  - iii) the subject lands are located within the existing boundaries of the hamlet;
  - iv) the existing water and sewer services are adequate for the proposed use;
  - v) the off-street parking is adequate for the proposed use;
  - vi) for non-residential developments, the site plan requires adequate landscaping, buffering and building setbacks to protect the privacy of surrounding properties;
  - vii) for non residential developments, the proposed lands must be able to accommodate any influence and separation distance as identified by the Ministry of the Environment,
- c) in-home occupations, as a secondary use, carried out for remuneration as defined in the Zoning By-law are permitted in the "Hamlet" designation;

- d) existing non-residential uses will be allowed to expand provided the expansion satisfies the criteria outlined in subparagraph b), subsections i) to vii) above inclusive;
- e) all lot creation in the "Hamlet" designation shall be in accordance with the land division policies contained in Section 5 of this Plan.

### **3.5 Lands Designated "Recreational Commercial"**

Lands designated "Recreational Commercial" are areas that are thought to have unique characteristics making them particularly well suited for recreational commercial development. The following goals and policies apply to lands so designated.

#### **3.5.1 Goals**

The following goals are established for those lands designated "Recreational Commercial" as depicted on Schedule "A" of this Plan:

- d) to bolster the economy of the area by developing the Municipality's recreation and tourist potential;
- e) to recognize existing recreational commercial uses;
- f) to designate an area in close proximity to existing recreational commercial uses where new recreational commercial uses can locate.

#### **3.5.2 Policies**

The following policies are established for those lands designated "Recreational Commercial" as depicted on Schedule "A" of this Plan:

- a) the predominant use of land shall be recreational commercial uses such as restaurants, motels, hotels, or lodges, marinas, places of amusement, trailer or camping parks, public or private parks, public or private clubs and other uses associated with recreation and tourism;
- b) new recreational uses will be allowed to establish in areas designated "Recreational Commercial" subject to an amendment to the Zoning By-law where required. When considering applications to amend the zoning by-law, the municipality shall be satisfied that:
  - i) where deemed necessary, the applicant has prepared a market potential study to justify the proposed use. The need should be substantiated by adequate market research which will include not only the viability of the proposal but the impact it may

- have on the existing recreational commercial facilities in the Municipality and in the surrounding area;
- ii) municipal services are available to the property and have the necessary capacity to satisfy any increased demands as a result of the proposed use;
  - iii) no serious traffic problems will result from the proposed use;
  - iv) the proposed use will not adversely affect existing adjacent uses;
- c) lands that are designated "Recreational Commercial" and are undeveloped at the time of adoption of this Plan may be placed in a recreational commercial holding zone in the Zoning By-law;
- d) changes or enlargements to the "Recreational Commercial" designation is pursuant to the criteria set out in Section 7.17 of this Plan;
- e) all development in the "Recreational Commercial" designation shall be in accordance with the land division policies contained in Section 5 of this Plan;
- f) all development in the "Recreational Commercial" area shall be subject to site plan control pursuant to Section 7.4 of this Plan;
- g) notwithstanding the uses permitted in this land use designation, the following uses only shall be allowed on the 2,110 m<sup>2</sup> (22,712.59 ft<sup>2</sup>) parcel of land situated southeast of the County Road No. 33 (Pelee Drive) and Mersea Road C intersection, described as Part of Lot 11, Broken Front Concession and designated "Recreational Commercial" on Schedule "A-6" of this Plan:
- i) a retail store, including a sporting goods/marine accessories store;
  - ii) a place of amusement, entertainment or recreation;
  - iii) a rental outlet for recreational purposes;
  - iv) a restaurant;
  - v) a gas station;
  - vi) a motel;
  - vii) residential uses above commercial uses, excluding above a gas station.

### **3.6 Employment Lands**

The Employment Lands are intended to include a full range of commercial, industrial, institutional as well as limited residential uses. The mix of uses, however, will depend on the character and location of the Employment Lands. The designation is intended to reflect existing mixed use and other areas

where people work and where employment opportunities are expected to be provided in the future. These areas are primarily designed to provide for a diverse range of employment opportunities for the present and future residents of the Municipality. Employment Lands will also provide for residential uses that are appropriately located and which support the commercial, industrial and institutional employment generators found in these areas. The implementing Zoning By-law will recognize appropriate commercial, industrial, institutional and limited residential uses and ensure that land use compatibility results.

The Municipality may permit the conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.

### **3.6.1 Lands Designated "Commercial Districts"**

The "Commercial Districts" shown on Schedule "A" include the "Uptown Commercial District", the "Erie Street South Commercial District", the "Waterfront Commercial District", the "Eastern Commercial District", the "Western Commercial District" and the "Highway 77 Corridor Commercial District". The goals and policies for "Commercial Districts" in general and the specific commercial districts follow.

#### **3.6.1.1 Goals**

The following goals are established for the various "Commercial Districts" depicted on Schedule "A" of this Plan:

- a) the general goal of the "Commercial Districts" is to work collectively to attract a larger share of the market area by offering a variety of shopping environments. It is noted that the commercial function of Leamington is changing as it experiences commercial development that attracts a larger market area and allows the municipality to commercially compete with larger urban centres. The various commercial districts depicted on Schedule "A" each has a specific role and function as outlined in the specific goals and policies that follow;
- b) new development in all of the "Commercial Districts" is expected to maintain a high standard of construction ensuring that the commercial district is a visually and aesthetically pleasing area within which to shop;
- c) to ensure that there is sufficient area designated for commercial growth in the Municipality

- which meets the 20 year forecasted supply of land;
- d) to encourage further commercial development in all of the “Commercial Districts”;
  - e) to encourage further expansion of existing commercial uses;
  - f) to strengthen the “Uptown Commercial District” as the Municipality’s commercial, cultural and entertainment focal point;
  - g) to recognize the “Erie Street South Commercial District” as a developing and expanding commercial district attracting large scale commercial development primarily in a shopping centre/plaza format;
  - h) to recognize the “Waterfront Commercial District” as an area where waterfront related tourism uses are encouraged in accordance with the Waterfront Study;
  - i) to recognize the “Eastern Commercial District” as an area about to experience increased commercial development as a result of the recent construction of the Highway No. 3 Bypass Extension and County Road 33 as well as the planned construction of the East Side Arterial Road;
  - j) to encourage further smaller scale highway commercial development within the “Western Commercial District”;
  - k) to encourage the completion of the highway commercial development pattern that exists along the “Highway 77 Corridor Commercial District”.

### **3.6.1.2 Policies**

The following policies shall apply to those lands designated “Commercial Districts” on Schedule “A” of this Plan:

- a) the “Uptown Commercial District” (identified on Schedule “A” of this Plan) is the original commercial area of the Municipality of Leamington. It is an area whose commercial form and function are evolving as the commercial trade area expands. Characteristic of urban core areas, the “Uptown Commercial District” is to be the heart of Leamington’s commercial facilities;
- b) the extent of the “Uptown Commercial District” is consistent with the area that is currently used for commercial purposes. Commercial redevelopment within the “Uptown Commercial District” is encouraged as existing highway commercial uses relocate to more peripheral commercial districts. A full range of retail and service commercial uses, as well as

recreational, cultural and entertainment uses are permitted in the "Uptown Commercial District" as more specifically detailed in the Zoning By-law;

- c) it shall be the policy of the Municipality to encourage by all possible means, the aesthetic and physical improvement of the "Uptown Commercial District". This will include the encouragement of:
- i) pedestrian-oriented shopping facilities;
  - ii) working with the merchants in the implementation of a long term beautification scheme as outlined in the Uptown Commercial Study completed by the Municipality;
  - iii) the acquisition of land for the development of additional off-street parking;
  - iv) improving traffic circulation and on-street parking practices in the uptown area whenever necessary and appropriate;
  - v) access to the rear of business premises to permit off-street loading and servicing of shops and to relieve congestion on streets;
  - vi) establishing zoning standards with respect to setbacks and parking for general commercial uses wherever necessary and appropriate.
- d) existing residential uses within the "Uptown Commercial District" are permitted and may be recognized in the implementing Zoning By-law subject to the Existing Land Uses policy in Section 7.12 of this Plan;
- e) development or redevelopment proposals undertaken in the Uptown Commercial designation are encouraged to be of a mixed use (commercial/residential) type. Freestanding medium density residential projects may be permitted in the outer perimeter of the "Uptown Commercial District" where reasonable setbacks and adequate parking can be provided. Mixed use proposals will be considered on the basis of the following criteria:
- i) residential development units in a mixed use development will be restricted to the second storey and above. Floor space at street level shall be restricted to retail, office and service commercial purposes;
  - ii) a mixed use proposal should not generally exceed a maximum height of five stories. Consideration may be given to exceeding this limit only where other on-site amenities such as abundant landscaped open space are provided;
  - iii) adequate off-street parking shall be provided to service both commercial and residential uses in a proposal. Council may consider other options including shared use of municipal parking lots, cash-in-lieu of parking or in exchange for the provision

- of other on-site amenities;
- iv) site plan control shall apply to such proposals;
- f) the "Erie Street South District" (identified on Schedule "A" of this Plan) is a large and expanding "Commercial District". This area presently contains a variety of commercial uses which include a number of new and expanded box type retail facilities. It is the policy of this Plan that this "Commercial District" will continue to expand and develop to serve not only local residents but also to attract shoppers from other municipalities throughout Essex County and the Municipality of Chatham-Kent. A full range of commercial uses are permitted within this "Commercial District" in shopping centre/plaza type building types as established in the Zoning By-law;
- g) a third major "Commercial District", located in the vicinity of Lake Erie is called the "Waterfront Commercial District". The permitted uses include retail stores, restaurants, taverns, clubs, recreational establishments, places of entertainment and amusement, hotels and motels, commercial uses related to the enjoyment of the waterfront, service commercial and personal service shops as detailed in the Zoning By-law;
- h) the "Commercial District" on the north side of Talbot Street near the proposed East Side Arterial Road, is called the "Eastern Commercial District". This district is currently developed with a local shopping centre. New commercial facilities are permitted in accordance with the permitted uses and provisions of the Zoning By-law. The development of this "Commercial District" is expected to occur quickly as a result of the construction of the Highway No. 3 Bypass Extension and the planned construction of the East Side Arterial Road. Existing agricultural uses are permitted in this "Commercial District";
- i) the "Western Commercial District" currently is a mix of highway commercial and service commercial type uses. New development and redevelopment within this Commercial District is encouraged and permitted in accordance with the permitted uses and provisions of the Zoning By-law. Small scale commercial shopping plazas are permitted as are existing Agricultural uses;
- j) the "Highway 77 Corridor Commercial District" is an area that permits light industrial and highway commercial type uses as detailed in the Zoning By-law. New development and redevelopment within this area is encouraged and permitted in accordance with the permitted uses and provisions of the Zoning By-law. Existing agricultural uses are permitted in this "Commercial District";

- k) changes or enlargements to the "Commercial District" designation is pursuant to the criteria set out in Section 7.17 of this plan;
- l) when considering application to amend the zoning by-law, the municipality shall be satisfied that:
  - i) where deemed necessary, the applicant has prepared a market potential study to justify the proposed use. The need should be substantiated by adequate market research which will include not only the viability of the proposal but the impact it may have on the existing commercial facilities in the Municipality and in the surrounding area;
  - ii) municipal services are available to the property and have the necessary capacity to satisfy any increased demands as a result of the proposed use;
  - iii) no serious traffic problems will result from the proposed use;
  - iv) the applicant has made reasonable efforts to obtain available space in the existing "Commercial Districts", or has demonstrated why it is not feasible to locate in these areas;
  - v) the proposed use will not adversely affect existing adjacent uses;
- m) all development in the "Commercial Districts" designation shall be in accordance with the land division policies contained in Section 5 of this Plan;
- n) all development in the "Commercial District" areas shall be subject to site plan control pursuant to Section 7.4 of this Plan;
- o) Undeveloped lands that are designated "Commercial District" may be placed in a holding zone in the zoning by-law pursuant to Section 7.3 of this Plan. Existing uses shall be permitted in the interim.

### **3.6.2 Lands Designated "Industrial"**

Lands designated "Industrial" are areas that are thought to have unique characteristics making them particularly well suited for industrial type development. The following goals and policies apply to lands so designated.

#### **3.6.2.1 Goals**

The following goals are established for those lands designated "Industrial" as depicted on Schedule



"A" of this Plan:

- a) to identify and develop areas with good access and transportation links, where industrial development can take place in a orderly manner;
- b) to broaden and enhance the Municipality's assessment base and to provide additional local employment opportunities;
- c) to minimize conflicts with surrounding land uses;
- d) to assist in curbing non-farm industrial development in agricultural areas.

### **3.6.2.2 Policies**

The following policies are established for those lands designated "Industrial" on Schedule "A" of this Plan:

- a) the "Industrial" designations shown on Schedule "A" include lands presently used for industrial purposes or already set aside for such purpose and additional lands suited for industrial purposes. The amount of land designated Industrial is believed to be sufficient to accommodate the growth in the manufacturing sector, as well as to provide reasonable marketplace choice and competition. The basic requirements have been observed of providing level sites capable of being fully serviced, with accessibility to arterial roads without causing unnecessary industrial traffic to pass through residential areas;
- b) it is a basic policy of this Plan that the amenities of adjacent non-industrial areas shall be safeguarded and industrial development shall not be allowed to adversely affect the surrounding areas. All industries shall meet the requirements of, and where necessary, obtain the approval of the Ministry of the Environment with respect to water taking, waste water disposal, storm drainage, solid waste disposal and all emissions to the atmosphere, including noise and vibration;
- c) the major uses of land in "Industrial" areas shall be all forms of fabricating, assembly and processing of goods, materials and food products, warehousing space, storage, building contractors' yards, transportation and communications' facilities and public utilities;
- d) the Zoning By-law implementing this Plan may divide the industrial areas on Schedule "A" into "heavy" or "light" or "restricted" zones so that industrial activities likely to give rise to noise and other nuisances are located where they may least affect existing uses;
- e) the Zoning By-law that implements this Official Plan may also permit the establishment of

- commercial uses that are incidental to and associated with industrial uses such as wholesale outlets, offices and showrooms;
- f) other commercial uses, adult entertainment parlours and private clubs (such as curling clubs) suitable for location in industrial areas may be permitted only upon amendment to the Zoning By-law implementing this Plan, provided that such amendments shall be approved only when it has been shown to the satisfaction of the Municipality that:
- i) the commercial use provides a service or benefit to the area, or has similar requirements or characteristics to the industries in or permitted in the area such as service stations, public garages, banks, printing, and photographic establishments and restaurants;
  - ii) the site for the proposed commercial use is such that its development:
    - 1. will be compatible with permitted Industrial uses;
    - 2. is so located with respect to other commercial uses that it may make possible the development of a compact commercial concentration;
  - iii) in the case of an adult entertainment parlour, the proposed lot shall not be located closer than 150 m (492.12 ft) to any land used or zoned for residential, institutional or open space purposes and the establishment must be licenced in accordance with municipal by-laws;
- g) it is not expected that all lands designated as "Industrial" shall immediately be so developed. Accordingly, it is the policy of this Plan that, in the interim, the implementing Zoning By-law may establish an appropriate Industrial Holding Zone to be used for certain areas pending applications for development, pursuant to Section 7.3 of this Plan. Agricultural uses, excluding greenhouses and mushroom farms may continue to be permitted in the "Industrial" designation however new residential uses shall not be permitted;
- h) changes or enlargements to the "Industrial" designation is pursuant to the criteria set out in Section 7.17 of this Plan;
- i) all development in the "Industrial" area shall be subject to site plan control pursuant to Section 7.4 of this Plan;
- j) agricultural uses, excluding livestock and poultry operations and residential dwellings existing at the date of the passing of this Plan, may be recognized in the implementing Zoning By-law subject to the Existing Land Uses policies contained in 7.12 of this Plan;
- k) access roads and traffic circulation patterns for industrial traffic will be carefully planned in

- order to minimize potential negative impacts on surrounding land uses;
- l) new industries will be required to conform to high performance standards relating to the type and standard of construction, parking, loading, lighting, signs, landscaping, buffering and control over outside storage as set out in the implementing Zoning By-law. New industrial development will also be subject to site plan control and a separation distance outlined in the MOE Guidelines;
  - m) when considering application to amend the zoning by-law in the "Industrial" designation, the Municipality shall consider the following:
    - i) the adequacy of the services available to the proposed site;
    - ii) the adequacy of the road system to provide access to the proposed site;
    - iii) the possible impact of the proposal on adjacent properties;
    - iv) the need for additional Industrial land in relation to the supply/demand circumstances;
  - n) all development in the "Industrial" designation shall be in accordance with the land division policies contained in Section 5 of this Plan;
  - o) notwithstanding any other policies of this Plan to the contrary, the following policies shall apply to approximately 8 ha (19.76 ac) of land located on Part of Lot 1, Concession II, immediately north of the former rail line and east of County Road 31 and designated "Industrial" on Schedule "A" of this Plan:
    - i) the permitted uses shall be a transfer station, a sand blasting operation, an asphalt plant, a ready-mix plant, an establishment for the manufacture of concrete products, a recycling facility, and uses accessory to the foregoing uses;
    - ii) all of said lands shall be placed in a special Industrial holding zone in the implementing Zoning By-law. This special Industrial holding zone shall establish that existing uses are permitted until such time as the (h) has been removed in accordance with the provisions of this Plan. In addition, the Industrial holding symbol shall only be removed in accordance with all other criteria listed in this Plan;
    - iii) all development shall be serviced by municipal piped water;
    - iv) all development shall be serviced by a municipal sanitary sewer system or private septic facilities acceptable to the Ministry of the Environment and the Municipality prior to the removal of the (h) in accordance with subparagraph b) above.

### **3.6.3 Lands Designated "Business Park"**

Lands designated "Business Park" are areas that are thought to have certain locational advantages that make them particularly well suited for the type of development permitted within this designation.

The following goals and policies apply to lands so designated.

#### **3.6.3.1 Goals**

The following goals are established for those lands designated "Business Park" as depicted on Schedule "A" of this Plan:

- a) to encourage the development of integrated, multi use business park areas that provide the opportunity for individuals and corporations to undertake a broad range of commercial and manufacturing activities;
- b) to promote a high standard of design which will create an aesthetically pleasing and functional environment for both employees and visitors;
- c) to establish an orderly and co-ordinated vehicular and pedestrian circulation system;
- d) to encourage a development pattern that reflects modern subdivision and engineering practices and does not place an undue financial burden on the municipality to provide the necessary municipal infrastructure and services.

#### **3.6.3.2 Policies**

The following policies are established for those lands designated "Business Park" on Schedule "A" of this Plan:

- a) lands designated "Business Park" on Schedule "A" of this Plan shall be used for a range of industrial uses including light and heavy manufacturing, assembling, processing, fabricating, repairing, warehousing and wholesaling. All permitted industrial uses shall meet the requirements and, where necessary, obtain the approval of the Ministry of the Environment with respect to any and all emissions to the environment (including waste water, odours, noise, dust, vibrations, etc);
- b) other permitted uses include public and private sports facilities, exhibition halls, transportation depots, offices, financial institutions, merchandising outlets and other retail activities that are space extensive, normally locate outside of conventional shopping districts and require easy access to the arterial road system;

- c) automobile sales and service establishments and service commercial uses such as restaurants, gas bars and retail convenience stores are also permitted;
- d) all development within the "Business Park" designation will be required to conform to high performance standards relating to parking, loading, lighting, landscaping and buffering as set out in the implementing Zoning By-law and site plan control agreements. Those lands designated Business Park and situated in proximity to the intersection of Morse Road and Highway No. 3 shall be required to pay a proportionate share of the intersection improvements in advance of any development of the lands being permitted;
- e) in an effort to ensure land use compatibility, only light industrial uses shall be permitted adjacent to lands designated Residential and Institutional in this Plan. The Zoning By-law may divide the industrial areas into heavy or light industrial zones so that industrial activities likely to give rise to noise and other nuisances are located where they may least affect existing and proposed uses;
- f) adequate buffering shall be provided between the Business Park use and any adjacent residential uses, institutional uses or other sensitive land use. Such buffering may include separation by distance, the provision of berms, fences, grass strips, appropriate shrub planting and landscaping or any combination thereof deemed necessary by Council after being consistent with the Ministry of Environment's "Guidelines On Separation Distances Between Industrial Facilities and Sensitive Land Uses";
- g) all development in the "Business Park" area shall be subject to site plan control pursuant to Section 7.4 of this Plan;
- h) changes or enlargements to the "Business Park" designation is pursuant to the criteria set out in Section 7.17 of this Plan;
- i) undeveloped lands that are designated "Business Park" may be placed in a holding zone in the zoning by-law, pursuant to Section 7.3 of this Plan. Existing uses shall be permitted in the interim, pursuant to Section 7.12 of this Plan;
- j) all lot creation in the "Business Park" area shall be in accordance with the policies in Section 5 of this Plan;
- k) when considering applications to amend the zoning by-law for lands in the "Business Park" designation, the municipality shall consider:
  - i) the adequacy of the services available to the proposed site;
  - ii) the adequacy of the road system to provide access to the proposed site;

- iii) the possible impact of the proposal on adjacent properties; and
  - iv) the need for additional Industrial land in relation to the supply/demand circumstances;
- l) The Plan acknowledges the existing Mount Carmel/Blytheswood Public School located on Mersea Road 5 at the north of the Business Park designation shown on Schedule “A” of the plan and the need to maintain a healthy environment for children which merits specific protection from any future development. The zoning by-law will only permit light industrial and commercial uses within 60 m (196.85 ft) and no heavy industrial uses within 500 m (1,640.41 ft) of the Mount Carmel/Blytheswood Public School lot line. Included within the buffering and separation requirements in subparagraph (e) and (f) of the above Section, no buildings, truck parking, loading and unloading area or outside storage will be permitted within the 60 m (196.85 ft) limit. However, such secondary and related uses as automobile parking and landscaping and fencing may be permitted within the said area subject to appropriate setback and site design criteria. In addition, a further criterion for business park development in this area will encourage that traffic circulation and road patterns are primarily oriented to Highway 77 and Mersea Road 4 away from the school.

### ***3.7 Lands Designated “Open Space and Recreation”***

Lands designated “Open Space and Recreation” are areas that are currently used for this purpose. The following goals and policies apply to lands so designated.

#### ***3.7.1 Goals***

The following goals are established for those lands designated “Open Space and Recreation” as depicted on Schedule “A” of this Plan:

- a) to ensure that the Municipality maintains an adequate supply of open space;
- b) to ensure that open space areas are provided in suitable locations so as to maximize their accessibility for area residents;
- c) to secure additional public beach, waterfront parkland and linear park systems through the Municipality along the inland watercourses.

### **3.7.2 Policies**

The following policies are established for those lands designated "Open Space and Recreation" on Schedule "A" of this Plan:

- a) within the area designated "Open Space and Recreation", the predominant use of land shall be for active or passive parks, public or private recreational uses and facilities, private clubs, picnic areas and conservation lands;
- b) indoor recreational facilities shall only be permitted as accessory uses to the major outdoor recreational uses, the general intent of this Plan being to keep these areas open and free from buildings and structures except those which are incidental and accessory to the open space use;
- c) cemeteries shall also be permitted within the area designated "Open Space and Recreation";
- d) it shall be the policy of the Municipality to acquire additional neighbourhood parkland where necessary to maintain a total supply generally of 2 ha (4.94 ac) per 1,000 population. In addition, the Municipality shall promote the development of linear parks for multi purpose trails;
- e) the Municipality will require a 5% parkland dedication or a cash-in-lieu payment as a condition of the approval of every future residential development proposal. Land to be conveyed to the Municipality for park purposes shall be accepted only if the property is suitable for park purposes and needed in the immediate area. The Municipality will amend these policies at a later date if it decides that a parkland dedication of more than 5% is necessary for proposals involving medium and high density residential development according to the provisions of Section 42 of the Planning Act, 1990;
- f) where any lands designated as "Open Space and Recreation" are under private ownership, this Plan does not intend that the land will necessarily remain as "Open Space and Recreation" indefinitely. Nor shall it be construed as implying that "Open Space and Recreation" areas are free and open to the general public or that they will be purchased by the Municipality. If there are proposals to develop any such lands that are in private ownership, and the Municipality or other public agency does not wish to purchase such lands in order to maintain the open space, then an application for the re-designation of such land for other purposes will be given due consideration by the Municipality;

- g) the Municipality will continue to support the development and maintenance of recreational facilities, the acquisition, beautification and maintenance of public open space and the development of recreation programs in accordance with community needs and availability of resources;
- h) the Municipality shall periodically assess the role of municipal parks and open spaces in providing for local needs, and may, if it is deemed beneficial, alter the size of a particular park or change the types of facilities or programs provided;
- i) the Municipality will endeavour to work with neighbourhood residents, service clubs and organizations, interested groups and government agencies in meeting parks and open space needs of the community;
- j) the Municipality will seek the cooperation of the boards of education having jurisdiction in the community, to maximize the use of school facilities for recreational purposes during off-school hours;
- k) all development in the "Open Space and Recreation" area shall be subject to site plan control pursuant to Section 7.4 of this Plan;
- l) all development in the "Open Space and Recreation" area shall be in accordance with the land division policies contained in Section 5 of this Plan;
- m) Changes or enlargements to the "Open Space and Recreation" area shall be pursuant to Section 7.17 of this Plan.

### **3.8 Natural Features and Areas**

This section contains the goals and policies for lands identified as Natural Features and Areas on Schedule "A" and "B" of this Plan as well as adjacent lands. There are eight classifications of land for which this subsection contains goals and policies. The eight classifications and their descriptions are as outlined in Table 3.1 below.



**Table 3.1**

**Natural Environment Area Types**

<b>Description</b>	<b>Area Type</b>
1. Provincially Significant Wetlands	Designated as Provincially Significant Wetland on Schedule "A" of the Land Use Plan.
2. Lands Adjacent to Provincially Significant Wetlands	A 120 m (393.70 ft) area around the Provincially Significant Wetlands which are designated on Schedule "A".
3. Fish Habitat	Pre-consultation with Appropriate Conservation Authority based on approved criteria.
4. Lands Adjacent to Fish Habitat	A 30 m (98.42 ft) area from the high water edge of an aquatic habitat or as defined by an Environmental Impact Assessment process.
5. Habitat areas of Endangered and Threatened Species, Environmentally Significant Areas under public ownership, and privately owned woodlands which have been protected by property owners	Designated as Natural Environment on Schedule "A" of the Land Use Plan.
6. Lands Adjacent to Habitat areas of Endangered and Threatened Species, Environmentally Significant Areas under public ownership, and privately owned woodlands which have been protected by property owners	A 50 m (164.04 ft) area around the Natural Environment which are designated on Schedule "A" of the Land Use Plan.
7. Areas of Natural and Scientific Interest, Environmentally Significant Areas, Woodlands larger than 2 ha, Significant Valleylands, and potentially Significant Wildlife Habitats	Identified as Natural Environment on Schedule "A" of the Land Use Plan.
8. Lands Adjacent to Areas of Natural and Scientific Interest, Environmentally Significant Areas, Woodlands larger than 2 ha, Significant Valleylands, and potentially Significant Wildlife Habitats	A 50 m (164.04 ft) area around the Natural Environment which are designated on Schedule "A" of the Land Use Plan.

### **3.8.1 Goals**

The following goals are established for those lands identified as "Provincially Significant Wetlands", "Natural Environment", and "Natural Environment Overlay" on Schedule "A" and "B" as well as adjacent lands:

- a) to facilitate and support the preservation, protection and enhancement of remaining areas with significant natural heritage features;
- b) to protect natural heritage features and areas from incompatible development;
- c) to prohibit development and site alteration on those lands designated as "Provincially Significant Wetlands" and "Natural Environment" on Schedule "A" of this Plan;
- d) to protect lands within and adjacent to areas with significant natural heritage features and fish habitat areas from incompatible land uses so as not to adversely affect the sustainability of these areas;
- e) to only allow development and site alteration within and adjacent to those areas which are identified as "Natural Environment Overlay" if it is established through an environmental impact assessment that the development and/or site alteration will result in no negative impacts on the natural features or the ecological functions for which the area is identified;
- f) to establish the framework with which the Municipality of Leamington will attempt to work with private property owners toward preserving and enhancing natural features and areas;
- g) to increase the size of core natural areas and to create and protect important natural area linkages and corridors as part of linked greenway systems, wildlife habitat areas, while linking settlements and people to nature. Inter-municipal co-ordination to accomplish this goal is encouraged. The Municipality will work with other municipalities within the County and abutting watersheds to accomplish this goal.

### **3.8.2 Policies**

The following policies are established for those lands designated as identified as "Provincially Significant Wetlands", "Natural Environment", and "Natural Environment Overlay" on Schedule "A" and "B" as well as adjacent lands:

- a) **Lands Designated "Provincially Significant Wetlands"**. Areas designated as Provincially Significant Wetlands (PSW) have been identified by the Ministry of Natural Resources as being significant and appear on Schedule "A" of this Plan. Development and site alteration

are prohibited within those areas designated as "Provincially Significant Wetlands". Permitted uses within the PSW designation shall be limited to conservation uses, fish and wildlife management, passive open space uses, and existing agricultural uses. An exception to the preceding policy area activities that create or maintain infrastructure authorized under the EA process and works carried out subject to the Drainage Act are not to be considered development or site alteration. However, where possible these activities should occur outside of areas designated "PSW";

- b) **Lands Adjacent to "Provincially Significant Wetlands"**. Development and site alteration shall not be permitted on lands adjacent to areas designated as "Provincially Significant Wetlands", unless it has been demonstrated to the satisfaction of the approval authority and/or the municipality, in consultation with the MNR and the Conservation Authority, that there will be no negative impacts on the natural features or the ecological functions for which the area was identified. Adjacent lands are defined as generally those lands within 120 m (393.70 ft) of the boundary of a PSW identified on Schedule "A" of the Land Use Plan. Any proposed development or site alteration will need to be in accordance with the underlying land use designation. An assessment of a negative impact is to be determined by conducting an Environmental Impact Assessment in accordance with Appendix Three (3) of the County's Official Plan. An Environmental Impact Assessment will be required prior to the consideration of any application under the Planning Act or the issuance of any building permit);
- c) **Fish Habitat**. Development and site alteration shall not be permitted within areas of fish habitat unless it has been demonstrated to the satisfaction of the approval authority, in consultation with the Department of Fisheries and Oceans and the Conservation Authority, that there will be no negative impacts on the fish habitat. An assessment of a negative impact is to be determined by conducting an environmental impact assessment in accordance with Federal and Provincial guidelines which will be required prior to the consideration of any application under the Planning Act or issuance of any building permit. Any development and site alteration proposed must be in accordance with the underlying land use designation on Schedule "A" of this Plan;
- d) **Lands Adjacent to Fish Habitat**. Development and site alteration may be permitted on lands adjacent to areas of fish habitat if it has been demonstrated, to the satisfaction of the approval authority, in consultation with the Department of Fisheries and Oceans and the

relevant Conservation Authority, that there will be no negative impacts on the fish habitat. Adjacent lands are generally defined as those lands within 30 m (98.42 ft) of the fish habitat area. An assessment of a negative impact is to be determined by conducting an environmental impact assessment in accordance with Federal and Provincial guidelines which will be required prior to the consideration of any application under the Planning Act or issuance of any building permit. Any development and site alteration proposed must be in accordance with the underlying land use designation on Schedule "A" of this Plan;

- e) **Lands Designated as "Natural Environment"**. These lands include significant habitats of Endangered and Threatened Species, Environmentally Significant Areas under the Essex Region Conservation Authority ownership which are not PSW's, and woodlands under private ownership which have been protected by the property owners. Development and site alteration will not be permitted within those areas designated as "Natural Environment" on Schedule "A" of the Land Use Plan. The permitted uses shall be limited to passive recreation, wildlife management, and conservation uses. Exceptions to the preceding policy which are not to be considered development or site alteration are activities that create or maintain infrastructure authorized under the EA process or work subject to the Drainage Act. However, where possible these activities should occur outside of areas designated "Natural Environment";
- f) **Lands Adjacent to Designated "Natural Environment"**. Development and site alteration shall not be permitted on lands adjacent to areas designated as "Natural Environment" on Schedule "A", unless it has been demonstrated to the satisfaction of the approval authority and/or the municipality, in consultation with the relevant Conservation Authority and the MNR (in cases of Species of Risk), that there will be no negative impacts on the natural features or the ecological functions for which the area was identified. Adjacent lands are defined as generally those lands within 50 m (164.04 ft) of the "Natural Environment". Assessment of negative impact is to be determined by conducting an environmental impact assessment in accordance with Appendix Three (3) of the County of Essex Official Plan, which will normally be required prior to consideration of any Planning Act application or the issuance of any building permit. Any development and site alteration proposed must also be in accordance with the underlying land use designation on Schedule "A" of this Plan;
- g) **Lands Identified as "Natural Environment Overlay"**. These lands include Areas of Natural and Scientific Interest (ANSIs), Environmentally Significant Areas (ESAs) (as identified by

the Essex Region Conservation Authority) other than those designated as NE and PSW, Woodlands larger than 2 ha (as shown on the aerial photography from the County of Essex, 2000), Significant Valleylands (as identified by the Essex Region Conservation Authority), and Significant Wildlife Habitat (These areas have not yet been mapped, and may be determined through Environmental Impact Assessments or special studies). The above natural features have been identified as "Natural Environment Overlay" on Schedule "B" of this Plan.

It is the goal of this Plan that the preservation of the natural heritage features and areas is encouraged. Development and site alteration shall not be permitted in areas identified as "Natural Environment Overlay" unless it has been demonstrated, to the satisfaction of the approval authority, in consultation with the relevant Conservation Authority, that there will be no negative impacts on the natural features or the ecological functions for which the area was identified. Assessment of negative impact is to be determined by conducting an environmental impact assessment in accordance with Appendix Three (3) of the County of Essex Official Plan which will normally be required prior to consideration of any Planning Act application or the issuance of a building permit. Any development and site alteration proposed must also be in accordance with the underlying land use designation on Schedule "B" of this Plan;

- h) **Lands Adjacent to "Natural Environment Overlay"**. Development and site alteration shall not be permitted on adjacent lands to those areas identified as "Natural Environment Overlay", unless it has been demonstrated, to the satisfaction of the approval authority, in consultation with the relevant Conservation Authority, that there will be no negative impacts on the natural features or the ecological functions for which the area was identified. Adjacent lands are defined as generally those lands within 50 m (164.04 ft) of the "Natural Environment Overlay". Assessment of negative impact is to be determined by conducting an environmental impact assessment in accordance with Appendix Three (3) of the County of Essex Official Plan which will normally be required prior to consideration of any Planning Act application or the issuance of a building permit. Any development and site alteration proposed must also be in accordance with the underlying land use designation on Schedule "B" of this Plan;
- i) some natural environment areas may contain features and/or functions that result in the area meeting the qualifications of more than one of the classifications in Table 3.1. In those instances where an area qualifies as being in more than one of the classifications, the

environmental impact assessment that requires the higher level of detail shall be required and the larger adjacent lands setback shall apply;

- j) the preparation of all environmental impact assessments referred to in this Plan shall be the responsibility of the land owner and shall be carried out by a qualified environmental professional. The environmental impact assessment is to be prepared on the basis of the natural features or the ecological function for which the area has been identified (as shown on Schedule "A" and described in Table 3.1) and in the manner identified in Appendix Three (3) of the County of Essex Official Plan. For example, if this Plan identifies a site as an ANSI or a Regionally Significant Woodland, the environmental impact assessment shall be prepared on the basis of that environmental classification.

When conducting the environmental impact assessment, the environmental professional must acknowledge in the report any new information, such as findings of rare or significant species not previously known to exist on the site, and the impact which may result from any proposed development. The Municipality of Leamington and/or other approval authority shall have regard to such new information in its decisions regarding planning applications. If, based on the new information, the approval authority, in consultation with the Ministry of Natural Resources and the relevant Conservation Authority, concludes that the natural environment classification should be altered, this Official Plan and/or the local Official Plan depending on the circumstances, will require amendment to reflect the change. Similarly, if a site is identified as having a higher or lower classification by the Province or relevant Conservation Authority, or by the Municipality of Leamington through a special planning study which is completed in accordance with Provincial guidelines, this Official Plan will require amendment to reflect the change. The approval authority shall be consistent with the Provincial Policy Statement when making decisions regarding any planning applications affecting areas with natural environment features and/or functions.

Removal of a natural heritage feature for the purpose of lowering the natural environment classification in this Plan and/or otherwise affecting the Environmental Impact Assessment will not be sufficient grounds for amending the planning documents to a lower classification and will invalidate the Environmental Impact Assessment.

In areas other than those identified as Natural Features and Areas, altering the state of the natural environment features as a result of conducting permitted uses (i.e., clearing lands for

agricultural purposes) will not be considered negatively by the approval authority. To assist with determining the alteration of a natural environment area over time, the approval authority will use up to date aerial photography as one of the tools to establish the baseline from which the alteration will be assessed;

- k) the extent and diversity of natural features in an area, and the natural connections between them, should be preserved and enhanced where possible. The development of policies to protect and enhance natural connections is encouraged. The Municipality of Leamington will identify natural connections through initiatives such as the preparation of Biodiversity Conservation Strategies. Natural connections will generally follow watercourses and the lakeshore with their associated flood and erosion susceptible areas, unstable lands, steep slopes and other physical conditions that create hazards and will also generally follow the woodlots in the rural areas. The completion of existing greenway natural restoration, riparian buffering and other similar initiatives are encouraged;
- l) in addition to the above policies, the Municipality of Leamington, in consultation with the relevant Conservation Authority, will:
  - i) cooperate in identifying and protecting inter-municipal natural connections regarding multi-purpose (recreational/utility/natural) connections and linkages which cross municipal boundaries;
  - ii) establish goals and strategies to increase the amount of natural heritage area. One way to achieve this is to have a “State of the Environment Report” prepared and presented to Council on a regular basis;
  - iii) require that when considering development proposals, the approval authority may require the land owner to enter into a site plan agreement regarding the preservation and enhancement of the trees and vegetation on the property. Where forest cover is to be provided as a condition of a development approval, the use of a variety of indigenous species of vegetation is encouraged.
- m) to recognize woodlots as viable components of farming operations;
- n) nothing in this Plan is intended to limit the ability of agricultural uses to continue on lands within the “Natural Environment” designation as well as lands designated “Agricultural” and that have significant natural heritage features or are adjacent to areas with significant natural heritage features. However, the construction of greenhouses and other agricultural buildings within areas designated Natural Environment is prohibited. On lands designated

“Agricultural” and that have significant natural heritage features or are adjacent to areas with significant natural heritage features, the construction of greenhouses and other agricultural buildings is strongly discouraged. In most instances the construction of greenhouses and large agricultural buildings within such areas will have negative impact and therefore would not be permitted. Other locations on the farm can be used for such purposes;

- o) it is the policy of this Plan to encourage tree planting. Recent or future tree plantations will not result in any new planning controls except through voluntary agreements by the owner of the subject property;
- p) the participation of woodlot owners in voluntary stewardship agreements, and where eligible, in conjunction with compensation programs such as Eco-gifts will be encouraged;
- q) normal farm practices, including but not limited to, agro-forestry and spraying, are permitted in all areas. If tree harvesting is to occur it should be based on acceptable forest management practices. Advice from a qualified specialist and the use of woodlot management plans by landowners are recommended;
- r) hunting, fishing and trail use activities by the property owner or with the permission of the property owner are permitted in all areas designated “Natural Environment”;
- s) the natural areas under private ownership continue to be private and their identification as natural areas in no way increases their accessibility to the public or their eligibility for acquisition by a Conservation Authority or any other conservation group or agency.

### **3.9 Point Pelee National Park**

Point Pelee National Park, as shown on Schedule “A” of this Plan, is a natural park owned and operated by the Federal Government. The Federal Government’s ownership of this land exempts it from municipal planning controls. Liaison, however, between Parks Canada and the Municipality will be undertaken wherever possible to ensure that any land use changes in the Park and/or the surrounding area are compatible with other existing or proposed uses. Areas of Point Pelee National Park are occupied by habitats of endangered and threatened species as well as Provincially Significant Wetlands. Development which is proposed adjacent to Point Pelee National Park within 120 m (393.70 ft) of the site may be required to conduct an environmental impact assessment in order to demonstrate no negative impact on the natural features or the ecological functions for which the area was identified. Point Pelee National Park along with the Ministry of Natural Resources and the Essex Region Conservation Authority will assist with determining the



scope of the required Environmental Impact Assessment.

## **SECTION 4: MUNICIPAL SERVICES**

This Section contains information pertaining to the current level of servicing in the Municipality of Leamington as well as various servicing improvements and enhancements that are anticipated.

### **4.1 Servicing Standards**

All development within the Municipality of Leamington shall be serviced in accordance with the Development Standards' Manual which has been adopted by Council resolution and is amended from time to time.

### **4.2 Servicing Requirements**

As required in Provincial Policy, this Plan encourages the use of full municipal services for all development other than single lots in the areas designated "Agricultural" and "Rural Residential". More specifically, the following policies apply to the matter of water and sanitary sewage treatment:

- a) full municipal sanitary sewage and potable water services are the preferred form of servicing. In areas serviced by full municipal sewage and water services (see Schedule "C" of this Plan), lot creation will be permitted only if sufficient reserve water and sewage treatment capacity is available to accommodate the proposed development;
- b) communal services are the preferred means of servicing multiple lots/units in areas where full municipal sewage services are not or cannot be provided, where site conditions are suitable over the long term. Communal services will be municipally owned and operated where they are intended to service more than one property owner. In those instances where the communal facility is to be privately owned, there must be a default agreement requiring the Municipality to assume the communal system in the event of system failure or bankruptcy;
- c) lot/unit creation may be serviced by individual on-site systems where the use of communal systems is not feasible and where site conditions are suitable over the long term;
- d) partial services will be discouraged except where necessary to address failed services, or because of physical constraints.

There shall be confirmation, prior to new lot creation in all areas, of sufficient reserve sewage

system capacity and reserve water system capacity with municipal sewage services and municipal water services or private communal sewage services. The determination of sufficient reserve sewage system capacity shall include treatment capacity for hauled sewage from private communal sewage services and individual on-site sewage services. The site conditions must be suitable for the long term provision of such services. Existing infrastructure shall be optimized prior to new infrastructure being created. For those developments that purchase services, in accordance with inter-municipal servicing agreements, from an abutting municipality, confirmation of the availability of the required capacity must be received prior to supporting or approving the development. Ministry of the Environment guidelines shall be used when determining the remaining uncommitted reserve capacity for piped water and sanitary sewage treatment.

Work on the completion of a comprehensive master servicing plan for future development in Leamington is encouraged. Where appropriate, joint servicing plans are encouraged to ensure that infrastructure is built and maintained in a cost effective, environmentally sound and co-ordinated manner that meets the long-term needs of the communities affected.

In those areas designated "Industrial" north of the former Town of Leamington, development serviced with communal wastewater treatment facilities may be considered by the Municipality. Although the Municipality's existing wastewater treatment facility has treatment capacity, the collection and transmission system does not have capacity. Until such time as new sewers are available, development on communal systems may be considered as a short term solution but contributions to the Municipal Sewage Treatment Plant will be required.

### **4.3 Water Supply and Distribution**

The vast majority of the Municipality is now serviced with a municipal water supply which is obtained from the Union Water Treatment Plant located south of the Hamlet of Ruthven in the neighbouring municipality of the Municipality of Kingsville and from the Wheatley Water Treatment Plant south of the Village of Wheatley in the Municipality of Chatham-Kent and from the Stoney Point Water System in the Municipality of Lakeshore for the Staples area. Any properties not currently serviced by municipal water have private water facilities either in the form of dug or drilled wells.

Total water flows and pressures are considered good throughout the immediate urban centre of Leamington and therefore it is determined that the Municipality can easily accommodate both existing development and any future residential, commercial, industrial or institutional development.

There are concerns in the rural areas of the Municipality where it is feared that continued growth in the greenhouse industry coupled with an increase in the farming practice known as drip irrigation for certain field specialty crops will eventually utilize the majority of the water flow through existing watermain infrastructure. The concern is that the municipal potable water supply will become less available for human consumption and sanitary purposes.

Presently the Municipality is attempting to deal with the situation by:

- a) requiring greenhouse operations to provide on-site storage and rate-of-flow control facilities in order to spread water demand more uniformly thereby reducing the peak water demand and achieving economy of operation;
- b) encourage greenhouse operations with large watercourses nearby to consider obtaining raw water from the surface watercourse and utilize the municipal water supply for back-up purposes only. This approach requires a permit from the Ministry of the Environment and the size, nature, existing use and sensitivity of the surface watercourse will all be considerations in whether a permit will be granted;
- c) requiring the greenhouse growers to implement a water recycle system would allow reclamation and reuse of most of the water thereby reducing the demand on the water system by as much as 20 to 30 percent;
- d) the Municipality may ultimately require that greenhouse farming, which is currently permitted in all agricultural designated and zoned areas, be allowed to only establish and operate in designated greenhouse development locations where servicing in the form of an adequate municipal water supply together with properly sized watermain infrastructure can be more readily supplied.

It is anticipated that the water supply and transmission problems to the rural area will be ultimately dealt with in a manner which will support the well-being of the present residents and the future growth of the Municipality.

#### **4.4 Hydro**

There is adequate hydro service for most residential, agricultural, commercial, industrial, or institutional development expected for the Municipality of Leamington. The hydro service can be further extended as and when required such as when three-phase hydro is required to new greenhouse developments.

## **4.5 Sanitary Sewers**

The Municipality of Leamington has some sewage service areas that combine both sanitary effluent and storm run-off, and therefore causes considerable peaks in the existing sewer main infrastructure and at the treatment plant during times of heavy rainfall.

This Plan continues to assume that the solution to the sewer infrastructure and treatment plant overloading will be the ultimate separation of sanitary effluent and storm run-off by the provision of separate sewer systems. The Municipality is involved in an on-going program to separate the combined sewer systems that currently exist. High priority will be given to the completion of this separation program in accordance with the Municipality's financial ability to proceed.

The Municipality's present sewage system will require implementation of the planned improvements, to adequately accommodate new residential, commercial, industrial and institutional development in the urban centre area of the Municipality. All new development will be adequately serviced in accordance with the Municipality's requirements. Some developments may require a servicing agreement with the Municipality to establish the services to be installed, the oversizing required, who is to finance the oversizing and any financial contributions deemed necessary to improve existing services.

Outside of the areas designated for development, all new construction will be serviced by private septic facilities. All development throughout the Municipality will have to satisfy the Ministry of the Environment and the requirements of the Municipality with respect to the treatment of sanitary waste.

## **4.6 Storm Drainage**

The topography of the Municipality is very flat and is drained by an extensive network of inland watercourses, municipal drains and mechanical pumping schemes where low lying lands are below lake level. The drains southerly of Mersea Road 8 on the east side of the Municipality and south of Mersea Road 6 on the west side of the Municipality flow into Lake Erie either directly or by natural waterways. Drains northerly of Mersea Road 8 on the east and Mersea Road 6 on the west of the Municipality flow into Lake St. Clair.

Stormwater management will be required for all development in the Municipality including greenhouse development to ensure that runoff is controlled such that combined area development

does not increase peak flows to any greater extent than pre-development runoff in watercourses, that may impact on downstream flooding and to also institute runoff control to prevent the accelerated discharge of pollutants to watercourses. The Municipality will require developers to undertake stormwater management pursuant to current legislation in effect in order to address these issues. The Municipality will also incorporate these requirements into the Zoning By-law and the development agreements.

In non-agricultural circumstances, the use of regional storm ponds, rather than numerous smaller ponds is encouraged by the Municipality. Dry ponds are encouraged to be located adjacent to parkland for the purpose of maximizing the space available for public use. Wet ponds are encouraged to be incorporated into subdivision designs as aesthetic features of the community.

#### **4.7 Staging of Development**

It is the policy of this Plan to control the sequence of development within the Municipality where necessary, so that the financing and construction of public works can be undertaken without any undue financial hardship, but without negative impact on the required minimum servicing levels.

Generally for any new development, the developer must provide and pay for all internal services within a development area in accordance with municipal servicing requirements in effect.

There are two specific areas in the Municipality, however, where substantial further development will not be approved until the capacity of the sewage system is increased:

- a) the first area includes that part of the Municipality north of the former Chesapeake and Ohio Railway. This area has been partially developed for some time, but since the direction for natural drainage for this area is through the central built up area, the combined sewer is seriously deficient in capacity and unable to provide for further development in this location. As a separate sewer system is installed in the central area, however, capacity will become available to permit for further development in this vicinity. It is not possible to detail a construction program for this undertaking at the present time. Development, therefore, may occur in this area at any time subject to servicing approval from the Municipality;
- b) the second area is situated in the northeast corner of the Municipality, lying north of Talbot Street East and east of the intersection of Ivan Street and Whitney Avenue. Due to the uncertainty of flows to be generated and the capacity of downstream systems, new

- development in this area will also be subject to servicing approval from the Municipality;
- c) the "holding zone" concept may be established for the areas described in subsection b), and for other areas not specifically identified which would prevent extensive new development, which would have the effect of preventing the overloading of existing servicing systems.

## **4.8 Roads**

In order to minimize congestion and interference to the flow of traffic, and to establish the requirements of future traffic routes, the roads throughout the Municipality are classified according to their function. The arterial and collector road designations are shown on Schedule "E" of this Plan. All other roads or streets within the Municipality's boundaries shall be considered local municipal roads or private roads not assumed by the Municipality.

- a) **Provincial Roads** as shown on Schedule "E" are under the jurisdiction of the Ministry of Transportation and are subject to permit control and approval under the Public Transportation and Highway Improvement Act;
- b) **Arterial Roads** as shown on Schedule "E" are major routes in the transportation system. They connect industrial and commercial centres and concentrations of residential development. Arterial roads are controlled access highways meaning that any direct access to abutting properties must be in accordance with specific regulations. Parking is totally restricted along these arterial roads;
- c) **Collector Roads** as shown on Schedule "E" collect traffic from local roads and distribute it to other local roads and arterial roads. They also service land and full access to adjacent land is usually permitted;
- d) **Local Roads** are expected to function as local roads during the planning period, providing direct access to abutting lands. Trips on local roads have their origin or destination within the length of the road;
- e) special minimum right-of-way widths and other special restrictions (e.g. setbacks and access limitations to protect adjacent uses and maintain traffic flows) shall be as prescribed by the Ministry of Transportation, the County Engineer or the local Municipal Engineer, depending on the agency having jurisdiction. The implementing Zoning By-law shall make provisions for adequate setbacks for all new developments, having regard for both the width and function of the abutting road and in accordance with site plan control where deemed

necessary;

- f) this Plan recognizes the immediate need for an east side north-south arterial road to be constructed to link County Road 33 at Talbot Road with County Road 33 at Seacliff Drive as shown on Schedule "E". It shall continue to be a policy of the Municipality to pursue the necessary actions to ensure that this proposed East Side Arterial Road is constructed within the planning period to accommodate present and future traffic flow emanating from the south east portion of the Municipality;
- g) to ensure that the Municipality continues to maintain a quality road system, the Municipal Council shall continue a policy of having a defined Road Needs Study Program to improve and maintain roadway surfaces, highway bridges, road alignments, intersections, pavement widths etc in accordance with the Municipal Standards' Manual and the Municipality's ability to pay for the specific projects;
- h) it shall be a further policy of Council to provide for the improvement of existing arterial, collector and local roads wherever possible when separated storm and sanitary sewers are installed or when Municipal Drainage Act projects are undertaken, to bring these roads to appropriate standards as dictated by traffic volumes and projections;
- i) it shall further be a policy of Council that wherever possible roadside vegetation and tree planting shall be retained or replaced after road improvements have been completed;
- j) at present the municipal roads are of sufficient capacity to accommodate the current level of development. However, the additional development that is anticipated for the planning period will require improvements to road network as outlined in the Development Charges Background Report as updated from time to time. In addition to road improvements and the construction of new local roads providing access for future development, there are some road improvements that require widening of the right-of-way. When there are proposals for new development within any of these areas where widening is needed, the municipality will have the option or requiring a gratuitous conveyance of the amount of land required for the widening as part of the site plan agreement in accordance with the Planning Act.

The road rights-of-way requiring widening include:

- i) Fraser Road (Oak to Seacliff), widen to 23 m (75.45 ft);
- ii) Seacliff Drive West (Sherk to Erie), widen to 23 m (75.45 ft);
- iii) County Road 20 (Sherk to Co. Rd. 31), widen to 23 m (75.45 ft);



- iv) Morse Lane (Co. Rd. 18 to Road 3), widen to 23 m (75.45 ft);
- v) Co. Rd. 18 (Morse Lane to Hwy. 77), widen to 23 m (75.45 ft);
- vi) Road 4 (Hwy. 77 to Road 12), widen to 23 m (75.45 ft);
- vii) Road 12 (Road 4 to Road 2), widen to 23 m (75.45 ft);
- viii) Road 2 (Plumbrook to Road 12), widen to 23 m (75.45 ft);
- ix) Victoria Street (Nelson to Ivan), 4 m (13.12 ft) on west side;
- x) Erie Street (Countess to Seacliff), 2 m (6.56 ft) on east side;
- xi) Erie Street (Seacliff to Robson), widen to 23 m (75.45 ft);
- xii) Erie Street (Wilkinson to Hwy. 3), widen to 23 m (75.45 ft);
- xiii) Foster Avenue (Erie to East End), widen to 15 m (49.21 ft) ;
- xiv) Goldcoast Road (Erie to West End), widen to 15 m (49.21 ft);
- xv) Alley East of Erie (Settingington to Montgomery), widen to 7.5 m (24.60 ft);
- xvi) Alley West of Erie (Georgia to Morgan), widen to 7.5m (24.60 ft);
- xvii) Sherk Street (Oak to Seacliff), widen to 23 m (75.45 ft);
- xviii) Seacliff Dr. E. (Erie to Road 12), widen to 23 m (75.45 ft);

The intersection improvements that require land include:

- i) Road 12 and County Road 34;
- ii) Road 4 and Road 12;
- iii) Road 15 and Co. Rd. 34;
- iv) Co. Rd. 37 and Co. Rd. 34;
- v) Road 21 and Co. Rd. 34;
- vi) Co. Rd. 37 and Deer Run Road
- vii) Bevel Line and Seacliff Drive;
- viii) Erie and Seacliff;
- ix) Erie and Pulford;
- x) Erie and TD and Baker Mall (269-275 Erie St S, 270-274 Erie St S);
- xi) Erie and Walmart and 297 and 280 Erie St S;
- xii) Erie and Oak;
- xiii) Erie and Wilkinson;
- xiv) Deer Run Road and Road 21;
- xv) Cty Rd 37 and Fox Run Road;

- xvi) Park and Forest;
- xvii) Cty Rd 20 and Fraser Road;
- xviii) Sherk and Ellison;
- xix) Cty Rd 48 (Oak), Cty Rd 34 (Talbot), and Fraser;
- xx) Fraser and Erieview;
- xxi) Mersea Road 3 and Morse Road;
- xxii) East Side Arterial and Clarence;
- xxiii) Cty RD 20 and Sherk;
- xxiv) Erie and Clark;
- xxv) Oak and Wigle;
- xxvi) Oak and Victoria;
- xxvii) Fox Run Road, Lakeshore, and Pulley;
- xxviii) Deer Run Road and Mersea Road 2;
- xxix) Mersea Road 2 and Mersea Road 12;
- xxx) Cty Rd 33 (Point Pelee Dr) and Mersea Road 12;
- xxxi) Wilkinson and Elliott;
- xxxii) Sherk and Oak;
- xxxiii) Oak and future MCR Drive Extension;
- xxxiv) Cty Rd 20 and Peter;
- xxxv) Cty Rd 18 and Morse Road;
- xxxvi) Mersea Rd 19 and Deer Run;

In addition, the municipality intends to experience *development* of the East Side Arterial Road, the Forest Avenue Extension and the Waterfront Circular Road during the planning period of this Plan.

## **4.9 Schools**

Leamington students attend seven elementary schools under the jurisdiction of the Greater Essex County District School Board, two elementary schools under the jurisdiction of the Windsor-Essex Catholic District School Board and one elementary school under the jurisdiction of the Conseil Scolaire De District Des Ecoles Catholiques Du Sud-Ouest. In addition, Leamington students attend one of three secondary schools with one being operated by the Greater Essex County District School Board, one being operated by the Windsor-Essex Catholic District School Board, as well as one private secondary school. The most recent school capacity and student enrolment figures are presented below:

**Table 4.1**

**2001 School Capacities and Enrolments**

School	Board	Capacity	Enrolment
Mill Street Public School	Public	555	389
M. D. Bennie Public School	Public	384	352
Queen Elizabeth Public School	Public	615	556
Blytheswood Public School	Public	244	202
East Mersea Public School	Public	269	183
Gore Hill Public School	Public	350	287
Mount Carmel Public School	Public	244	144
Queen of Peace Separate School	Separate	399	395
St. Louis Separate School	Separate	521	656
St. Michael's Separate School	French	370	350
Cardinal Carter Secondary School	Separate	807	960
Leamington District Secondary School	Public	1,183	950
United Mennonite Education Institute	Private	100	80

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School	Board	Capacity	Enrolment
<b>Total</b>		<b>6,041</b>	<b>5,504</b>

#### **4.10 Trails**

The Municipality shall promote the development of the proposed off-road multi use trail as shown on Schedules "A" and "E" in conjunction with the Municipal Trials Strategic Plan, 2000. The trails are located on abandoned railways. The designation of the lands is "Open Space and Recreation".

Walking/Hiking Trails will also be supported as shown on Schedule "A" which is identified in the 2000 Municipal Trials Strategic Plan. The trails are located along the Sturgeon Creek. The designation of the lands is "Open Space and Recreation". The Municipality also supports the future acquisition of land for the purpose of trails as part of future development within the area.

## **SECTION 5: LAND DIVISION POLICIES**

This Section shall form the basis for decisions on all applications for the division of land within the Municipality of Leamington.

### **5.1 General**

The division of land shall generally occur by registered plan of subdivision or the consent process in accordance with the policies of this Plan. A plan of subdivision will be required for development when 4 or more new lots are proposed or for any number of lots where service extensions are required.

The division of land will only be allowed if the proposed lots conform to the policies of this Official Plan and comply with the provisions of the Zoning By-law for the Municipality which shall establish minimum lot frontages and areas in accordance with Provincial and municipal requirements established at the time of approval of this Plan. Where any by-law amendment or minor variance is necessary, it shall be a condition of the consent or plan of subdivision approval.

The division of land shall not be allowed where development could occur on lands subject to hazards related to flooding, erosion or unstable conditions or any other physical limitation as determined by the Municipality in consultation with the Essex Region Conservation Authority or the Lower Thames Valley Conservation Authority.

### **5.2 Plans of Subdivision**

In considering applications for proposed plans of subdivision, Council and the Committee of Adjustment shall have regard to the policies of this Plan as well as those matters outlined in Section 50(3) of the Planning Act, R.S.O. 1990.

### **5.3 Consents**

In considering applications for consent, Council and the Committee of Adjustment shall have regard to the policies of this Plan, to those matters outlined in Section 53 of the Planning Act, R.S.O. 1990 and to the following general and specific policies:

- a) consents should only be granted when there are three or fewer lots proposed and in areas where the undue extension of any major service would not be required;
- b) consents should be granted only when the land fronts on an existing open public road which is of a reasonable standard acceptable to the Municipality and/or the Ministry of Transportation or the County of Essex or where the lands front on an existing private road or right-of-way in a Residential designation and which satisfies all other requirements of this Plan;
- c) consents should be used as a vehicle to provide for infilling in existing settlement areas;
- d) larger farm lots are encouraged by supporting consolidations of farm parcels, but not if a residential lot is created that would not otherwise been allowed under Section 5.4.2 of this Plan;
- e) the size of any parcel of land created by consent should be appropriate for the use proposed, considering the public services available and the soil conditions, and in no case should any parcel be created which does not conform to the minimum provisions of the implementing Zoning By-law. The consent granting authority may exercise its powers under Section 53(2) of the Planning Act, R.S.O. 1990 when reviewing the appropriateness of the proposed shape, size, or configuration of any proposed lot;
- f) consents should not be granted adjacent to a road where traffic hazards due to limited sight lines on curves would be created or proximity to intersections;
- g) regard should be had to the compatibility of the proposed use with uses in adjacent areas and the potential effects of such use on the surrounding area;
- h) the division of land will only be allowed when it has been established that soil and drainage conditions for all parcels involved are suitable:
  - i) to permit the proper location of a building;
  - ii) to obtain a sufficient and potable water supply;
  - iii) to provide adequate means of water and sewage disposal in accordance with the provisions of this Plan;
- i) consents involving lands within 120 m (393.70 ft) of any lands within the “Extractive Industrial Overlay” area shall be circulated to the Ministry of the Environment and the Ministry of Natural Resources for its comments concerning possible incompatibilities which could result from the noise, dust and traffic associated with the Extractive Industrial use;
- j) the Municipality’s policy shall be to require one application fee per new lot created.



Notwithstanding, only one application outlining all of the lots to be created need to be submitted. Such application shall have a corresponding series of numbers relative to the number of new lots being created. It shall be the Municipality's policy to deny consent applications that only remit one fee but by applying for a new lot in the middle of an existing lot attempt to create two new lots with one application;

- k) when granting consent applications or plans of subdivision, Council and the Committee of Adjustment will give consideration to the following requirements which may be included as part of the consent:
- i) that all municipal taxes are to be paid in full;
  - ii) that a fee be paid in accordance with Municipal policy toward the future provision of fire hydrants;
  - iii) up to 5 percent of the value of the lot is to be conveyed to the Municipality for its park fund;
  - iv) any road widening is required to be dedicated to the Municipality, County or Province;
  - v) the Municipality's implementing Zoning By-law is to be amended to permit the proposed use, if necessary, prior to any certificate under Section 53(42) of the Planning Act R.S.O. 1990 being endorsed on the transfer deeds;
  - vi) that the applicant enter into an Agreement to address all storm water management issues which may include the construction and/or maintenance of any drainage facilities servicing the agricultural sector which traverse the subject property;
  - vii) that the applicant, if required, agree to construct and/or maintain fences around the proposed lot;
  - viii) that access to the property be constructed to the satisfaction and requirements of the Municipality and other appropriate agencies;
  - ix) that for the purposes of consent, the provision of a survey of the smaller of the two lots may be acceptable provided it satisfies the requirements of the Registry Act R.S.O. 1990, and the regulations thereto;
  - x) that prior to consent being endorsed on the deeds proof of drainage, acceptable to the municipality, shall be provided by the applicant to serve the lands being conveyed and the lands being retained, with the costs of such drainage being solely at the expense of the applicant;

- xi) that prior to consent being endorsed on the deeds, as a result of severance, owners shall become liable by way of up front monies for the assessment and taxation of their properties for any waterworks or sanitary sewer systems affecting their properties, in accordance with the Fees By-law in effect on the date the consent is being endorsed on the deeds;
- xii) that prior to consent being endorsed on the deeds a clearance letter of approval for a sewage disposal system must be obtained from the municipality together with payment of any relative fees.

## **5.4 Agricultural**

The following specific policies shall apply to those lands designated "Agricultural" on Schedule "A" of this Plan. All division of land shall occur through the consent process and such consents shall only be permitted if in accordance with the policies outlined below.

### **5.4.1 Division of Farm Lots**

Consent may be granted to permit a farm lot to be subdivided into two farm lots provided each lot, both retained and conveyed, meets the following requirements:

- a) each lot is of a size that is appropriate for the type of agricultural use that is common in the area;
- b) each lot is sufficiently large to maintain flexibility for future changes in the type and size of the agricultural operation;
- c) each lot shall have a minimum lot area of 10 ha (24.70 ac);
- d) notwithstanding item c) above, in the case of an existing greenhouse operation where a minimum 0.5 ha (1.23 ac) of greenhouses exist on the lot, the minimum lot area shall be 2 ha (4.94 ac);

### **5.4.2 Creation of Surplus Dwellings**

Consent may be granted to sever an existing residential dwelling from a farm that is considered surplus to the needs of the farm operation as a result of a farm consolidation provided that:

- a) the farm lot being acquired has a minimum lot area of 10 ha (24.70 ac) or 2 ha (4.94 ac) if it is a greenhouse operation with a minimum of 0.5 ha (1.23 ac) of greenhouses existing on

the lot;

- b) notwithstanding a) above, a consent for a surplus dwelling may be granted if the farm lot being acquired is less than the minimum area stipulated if it abuts land owned by the applicant and the two parcels will be joined to form one parcel by granting the consent conditional to Section 50(3) of the Planning Act, R.S.O. 1990;
- c) the owner has owned or has been part owner of both farms for a minimum period of one year prior to the date of the application. The onus is on the applicant to provide confirmation of ownership status;
- d) the residential dwelling to be severed must have been existing, prior to the date of adoption of the Plan;
- e) the creation of the surplus dwelling lot shall comply with the Minimum Distance Separation requirements;
- f) the size of the surplus dwelling lot is in compliance with the municipal Zoning By-law and is not greater than 0.8 ha (1.97 ac);
- g) barns that are in close proximity to surplus dwellings are encouraged, where feasible and warranted in terms of future farm operations and options, to be demolished or removed or remain with the farmland;
- h) the lot to be created shall include the sewage disposal and water supply systems servicing the surplus dwelling otherwise easements shall be required as a condition of consent to ensure that the lot will continue to be adequately serviced, for water supply systems only;
- i) the consent granting authority shall impose as a condition of severance, that the applicant enter into an agreement with the Municipality, to be registered on title, that a building freeze be placed on the vacant remnant parcel of farmland created by the severance to prohibit construction of any new residential dwellings;
- j) no more than one consent shall be allowed for every complete 10 ha (24.70 ac) of lot area on any farm lot as the lot existed on May 7<sup>th</sup>, 1985 (date of adoption of original "cap" policy), or as the farm lot existed subsequent to its division in accordance with Section 5.4.1 of this Plan, regardless of changes in property ownership. The consent granting authority shall impose, as a condition of the severance, that the applicant enters into an agreement with the Municipality, to be registered on title, that no more consents are allowed on the lands to be retained.

### **5.4.3 Lot Adjustments**

Lot adjustments may be permitted for legal or technical reasons provided that:

- a) both parcels (severed and retained) comply with the provisions of the implementing Zoning By-law;
- b) the consent is granted conditional to Section 50(3) or (5) of the Planning Act, R.S.O. 1990;
- c) the lot adjustment does not result in the creation of a 'residential lot' that would not have otherwise been allowed under Section 5.4.2 of this Plan.

## **5.5 All Other Designations**

In all other land use designations, the following policies apply to lot creation.

### **5.5.1 Plans of Subdivision**

New plans of subdivision shall be required for development where:

- a) four or more new lots are proposed;
- b) shall only be permitted if adequate water, sewage disposal and access (including emergency vehicles) can be provided in accordance with this Plan.

### **5.5.2 Consents**

Three new lots or fewer may be created by consent provided:

- a) the proposed use is permitted and meets all applicable separations distances outlined in this Plan;
- b) provided the Municipality is satisfied that a plan of subdivision is not required;
- c) adequate access and services can be provided;
- d) the proposed lots comply with the Zoning By-law.

## **SECTION 6: COMMUNITY IMPROVEMENT POLICIES**

The policies in this section apply to community improvement areas that have been identified in the Municipality of Leamington and are depicted on Schedule "D" of this Plan.

### **6.1 Goals and Objectives**

The Municipality of Leamington's community improvement policies are based on the following statement of goals and objectives primarily focused on the main urban centre formerly known as the Corporation of the Municipality of Leamington and its associated higher density development areas.

#### **6.1.1 Community Improvement Goals**

- a) to further enhance the overall "quality of life" within the Municipality of Leamington;
- b) to improve the amenities and services in the Municipality's older residential neighbourhoods;
- c) to improve the amenities and services in the uptown commercial area;
- d) to improve existing municipal hard services and social and recreational facilities, and to eliminate servicing deficiencies in the existing developed areas of the Municipality;
- e) to continue to enhance the amenities and services along the Municipality's publicly owned waterfront areas;
- f) to improve the accessibility.

#### **6.1.2 Community Improvement Objectives**

##### **a) General**

- i) to upgrade and improve municipal services and public utilities (e.g. storm and sanitary sewer separation, road reconstruction, upgrading of water and electrical distribution systems, installation of sidewalks, curb and gutter, driveway approaches, traffic signals and streetlights, tree planting);
- ii) to encourage private sector investment in the rehabilitation of existing building stock through improvements of public facilities in order to prevent deterioration and improve community pride in ownership or occupancy.

***b) Residential Improvement Areas***

- i) to eliminate the threat of flooding, particularly in residential areas, due to the lack of, or insufficient capacity, of existing combined or undersized sanitary and storm sewers and related pumping facilities;
- ii) to continue to improve the community and recreational facilities available for all residents of the Municipality in general;
- iii) to relocate, where desirable and appropriate, incompatible or noxious land uses detrimental to the residential environment;
- iv) to upgrade the existing water and electrical distribution systems, street lighting and road systems;
- v) to provide for the maximum feasible amount of rehabilitation of existing housing stock by making use of any government program for financial assistance;
- vi) to establish an active program for informing the property owners of various available forms of housing rehabilitation assistance;

***c) Commercial Improvement Areas***

- i) to preserve and strengthen the uptown commercial area;
- ii) to undertake further streetscape improvements including tree planting, sidewalk replacement, use of decorative pavements, decorative lighting and street furniture;
- iii) to provide sufficient off-street parking where necessary;
- iv) to relocate, where desirable and appropriate, incompatible or noxious uses that detract from an attractive commercial environment;
- v) to upgrade street lighting, road systems and water and electrical distribution systems;
- vi) to upgrade and separate combined sanitary and storm sewers.

***d) Waterfront Improvement Area***

- i) to improve water quality by continuing to separate combined storm and sanitary sewer facilities;
- ii) to create a visually distinctive waterfront area through the coordination of building materials, signage and street furnishings;
- iii) to create a distinctive gateway into the waterfront area through streetscape

- improvements, signage, lighting and landscaping;
- iv) to create an activity place along the waterfront through improvements to public parks and recreational facilities;
- v) to provide a public right-of-way along the Lake, connecting all parts of the waterfront;
- vi) to continue to improve the parks and recreation facilities available in the waterfront area;
- vii) to utilize the Conrail right-of-way for park purposes potentially linking Robson Road to Erie Street;
- viii) to improve the visibility and organization of parking in the waterfront area through signage and physical improvements.

## **6.2 Community Improvement Criteria**

The community improvement areas shall be selected on the basis of several of the following criteria:

### ***a) Residential Improvement Areas***

- i) existing housing requires improvements;
- ii) storm and sanitary sewer upgrading separation or installation and road reconstruction are required;
- iii) neighbourhood park and community facilities do not exist or require additional equipment, upgrading and repair to existing facilities;
- iv) incompatible land uses exist for which relocation is desirable;
- v) water or electrical distribution system replacement or upgrading is required.

### ***b) Commercial Improvement Areas***

- i) buildings and/or building facades are in need of improvement where feasible, or demolition and removal where not feasible;
- ii) improvements to the public streetscape to improve visual appeal are needed;
- iii) deficiencies in off-street parking exist;
- iv) storm and sanitary sewer upgrading, separation or installation and road reconstruction are required;
- v) parks and community facilities require additional equipment, upgrading and repair to existing facilities or do not exist;

vi) water or electrical distribution system replacement or upgrading is required.

**c) *Waterfront Improvement Area***

- i) storm and sanitary sewer upgrading, separation or installation and road reconstruction are required;
- ii) water or electrical distribution system replacement or upgrading is required;
- iii) buildings and/or building facades are in need of improvement where feasible of demolition and removal where not feasible;
- iv) improvements to the public streetscape to improve visual appeal are needed;
- v) deficiencies in off-street parking exist;
- vi) park and community facilities are insufficient or require additional equipment, upgrading and repair to existing facilities;
- vii) predominately older housing exists and requires further interior and/or exterior improvements.

**6.3 *Designation of Community Improvement Areas***

Based on the criteria outlined in Section 6.2, the areas depicted on Schedule "D" are proposed to be designated as Community Improvement Areas:

Residential Improvement Areas	- A, C, D and E
Waterfront Improvement Area	- B
Commercial Improvement Area	- F

**6.4 *Phasing of Improvements***

Improvements to the waterfront area, including the acquisition of land for and development of parks and recreation facilities, addressing the deterioration of receiving water bodies and the improvement of streetscape/beautification programs in the waterfront area will be undertaken where financially feasible:

- a) improvement to the streetscape, servicing and off-street parking circumstances in the uptown area will be improved where necessary and financially feasible;
- b) parks and other municipal facilities will be improved and upgraded where necessary and financially feasible;



- c) to eliminate the threat of flooding, a major municipal priority has been the continued separation of storm and sanitary sewers in the under serviced areas of the Municipality;
- d) some of the roads in the older residential neighbourhoods need to be reconstructed. This will be accomplished as the separation of sewer systems continues;
- e) existing watermains in the older residential neighbourhoods need to be inspected, repaired and in some cases replaced. This would be done at the same time as the sewers are replaced.
- f) In some areas utilities, street lighting and sidewalks need to be improved.

## **6.5 Implementation**

The Municipality may make use of any of the following methods to achieve the improvements proposed:

- a) designation of community improvement project areas and preparation of community improvement plans for such areas pursuant to Section 28 of the Planning Act, R.S.O. 1990. Also, pursuant to this section, the Municipality may acquire and hold land, and sell, lease or otherwise dispose of any land acquired or held within community improvement project areas. It may also clear, grade or otherwise prepare the land for community improvement, or construct, repair or rehabilitate buildings on land acquired or held. Furthermore, the Municipality may make grants or loans to property owners for rehabilitation within the community improvement project area in conformity with the Community Improvement Plan;
- b) use of public funding programs offered by the federal and provincial governments;
- c) continued enforcement of the Municipality's property standards by-law;
- d) co-operation and support for activities and programs undertaken by the Board of Management of the Leamington Business Improvement Area (BIA);
- e) where appropriate, adoption of a bonus Zoning By-law pursuant to Section 37 of the Planning Act, 1990 to authorize increases in height and density of permitted development in return for such facilities, services or matters as set out in the by-law and which would assist in implementing the detailed community improvement plans;
- f) co-operation and support for activities and programs undertaken by local service clubs and community organizations, particularly with respect to improvements to recreational and community facilities;

- g) encourage and support private individuals and businesses in undertaking self-initiated improvements to private properties.

## **SECTION 7: IMPLEMENTATION AND INTERPRETATIONS**

The policies in this section apply to the implementation and interpretation of this Plan.

### **7.1 General**

This Plan shall be implemented by means of the statutory powers conferred upon the Council and other municipal officials by the Planning Act, the Municipal Act, the Development Charges Act and any other powers as may be exercised through the implementing Zoning By-law, subdivision agreements, site plan control, development agreements and standards of maintenance and occupancy by-laws.

### **7.2 Implementing Zoning By-law**

The Municipality will revise its existing Zoning By-law to zone lands in accordance with the policies and designations contained within this Plan and will establish regulations to control the use of land and the character, location and use of buildings and structures.

### **7.3 Holding Zone**

The Municipality's implementing Zoning By-law will make selective use of the Holding zone approach as set out in Section 36 of the Planning Act, 1990. Certain areas will be zoned for their intended uses but will have the (h) symbol added. The addition of this symbol will delay the final approval of development until such time as specific conditions are met. When the conditions are met, the municipality will pass the necessary by-law removing the (h) symbol.

The use of the Holding zone approach will ensure the efficient phasing and proper servicing of all new types of development, including Residential, Industrial and Commercial. Undeveloped lands designated Residential and not covered by a draft or finally approved plan of subdivision will generally be subject to a Holding category until such time as engineering studies indicating the presence of an adequate level of services are approved by the Municipality.

## **7.4 Site Plan Control**

The Municipality of Leamington intends to exercise the site plan control powers assigned to it under Section 41 of the Planning Act, 1990. Its objectives in using these powers are:

- a) to ensure proper standards of site design for new development;
- b) to ensure safety and efficiency of vehicular and pedestrian access;
- c) to minimize incompatibilities between new and existing development;
- d) to control the location of driveways, parking, loading and garbage collection facilities;
- e) to secure easements or grading and alterations necessary to provide for public utilities and site drainage;
- f) to ensure that the development proposed is built and maintained as approved by Council.

### **7.4.1 Application**

All of the lands within the Municipality of Leamington's area of jurisdiction, as shown on Schedule "A" of this Plan, are proposed to be site plan control areas and will be designated as such by by-law pursuant to Section 41(2) of the Planning Act, R.S.O. 1990. Site plan control will apply to all types of new development and to the expansion of existing uses within the Municipality, with the exception of single unit residential development. The Municipality will also require the submission of drawings as detailed in Section 41(4) of the Planning Act, 1990, for all residential buildings within its area of jurisdiction containing less than twenty-five dwelling units pursuant to the provisions of Section 41(5) of the Planning Act, 1990.

The development of new greenhouse operations and new mushroom operations and the expansion of existing ones shall be subject to site plan control. Notwithstanding, all single unit residential development and all other agricultural uses other than greenhouse and mushroom operations shall be exempt from the site plan control process.

### **7.4.2 Implementation**

This policy shall be implemented through the adoption of one or more Site Plan Control By-laws designating specific Site Plan Control Areas in accordance with Section 41(2) of the Planning Act, R.S.O. 1990 and the policies contained in this subsection.

### **7.5 Legislation Pursuant to the Municipal Act**

It is intended that the Municipality shall review existing legislation pursuant to the Municipal Act governing such uses as automobile wrecking yards, trailers, fences and signs and, where necessary, amend existing by-laws or pass new by-laws as may be required to ensure such uses are properly regulated and controlled.

### **7.6 The Development Charges Act**

In accordance with the provisions of the Development Charges Act, the Municipality has duly passed and enacted a Development Charges By-law which has the effect of insuring that the majority of long range expenses incurred as a result of new development will be borne by the land developers and not the Municipality at large.

### **7.7 Committee of Adjustment**

It is intended that the Municipality will continue to maintain a Committee of Adjustment under the provisions of Sections 44, 45 and 53 of the Planning Act, 1990 to preside over consent, minor variance and non-conforming use applications. The Committee shall be guided by the policies of this Plan and the requirements of the Zoning By-law in making decisions on applications.

### **7.8 Plans of Subdivision**

It shall be the policy of the Municipality , to recommend for approval, only those plans of subdivision which comply with the provisions of this Plan, which can be supplied with adequate servicing such as road access, fire protection, water supply, drainage and sewage disposal facilities, and which are appropriate in light of the Municipality's financial position.

### **7.9 Public Works and Capital Works Program**

It is intended that the construction of public works within the Municipality of Leamington shall be carried out in accordance with the policies of this Plan.

### **7.10 Maintenance and Occupancy By-law**

The Municipality will continue to enforce its minimum standards and occupancy by-law for all existing and future development. This by-law establishes the minimum standards for property maintenance and occupancy as they relate to:

- a) the physical conditions of yards and passageways;
- b) the adequacy of sanitation including drainage and garbage;
- c) the physical condition of all structures with particular regard for the following:
  - i) structural standards;
  - ii) lights and ventilation;
  - iii) condition of stairs;
  - iv) interior walls, ceilings and floors;
  - v) toilet facilities;
  - vi) condition of chimneys;
  - vii) heating systems;
  - viii) electrical service;
  - ix) access.

The Maintenance and Occupancy By-law for the Municipality will be enforced and maintained by the Chief Building Official and/or any other person designated by the Municipality. A Property Standards Committee will also be maintained to review and provide decisions with respect to any and all appeals.

### **7.11 Other Methods of Implementation**

The Municipality may use the agencies and techniques listed below to assist in the implementation of Official Plan policies as appropriate:

- a) the assistance and advice of the Conservation Authorities on adequate flood protection measures and on matters relating to the implementation of the policies;
- b) the assistance and advice of the Ministry of the Environment and the local municipal inspectors regarding various servicing matters;
- c) the acquisition and protection of significant natural areas by public or private bodies or individuals concerned with conservation.

## **7.12 Existing Land Uses**

Certain lands within the Municipality have been developed with a land use other than that which is intended by the designations and policies of this Plan. Provided these uses legally existed prior to the date of adoption of this Plan, they may be recognized as legal conforming uses in the implementing Zoning By-law. Further, the zoning of the lands which these uses occupy may also permit a limited range of similar or related uses provided the following criteria are met:

- a) the zoning does not permit any change of performance standard that aggravates any situation detrimental to adjacent complying uses;
- b) the use does not pollute the air or water to the extent of interfering with the normal enjoyment of property;
- c) the use does not interfere with the desirable development or enjoyment of the adjacent area;
- d) the use does not constitute a danger to surrounding uses and persons because of its hazardous nature or traffic generated;
- e) a rezoning to permit another use may only be permitted where the proposed use is more compatible with, or conforms to, the land use policies and designations contained in this Plan.

Applications to amend the Zoning By-law to permit a use that is as, or more compatible with the surrounding area may also be approved by Council without an amendment to this Plan provided the proposed use satisfies the above criteria.

There are also a number of parcels that have current zoning applying to them that is not in conformity with this Plan. The current zoning can be carried forward in the Zoning By-law without the requirement of amending this Plan.

## **7.13 Non-Conforming Uses**

Any land use which does not meet the provisions of Section 7.12 of this Plan shall be left as a non-conforming use in the implementing Zoning By-law. As a general rule, such a use should cease to exist in the long term. In special circumstances, however, it may be desirable to permit the extension or enlargement of such non-conforming use in order to avoid unnecessary hardship. It is the intention of this Plan that extensions and enlargements be handled without an amendment to this Plan, through the use of either Section 34(10) or 45(2) of the Planning Act, 1990. When

considering an application (under either section of the Act) for the extension or enlargement of a use which does not conform to the implementing Zoning By-law, Council or the Committee of Adjustment shall decide if the special merits of the individual case make it desirable to grant permission for the extension or enlargement of the non-conforming use, and in so doing shall have regard to the following matters:

- a) the proposed extension or enlargement of the established non-conforming use shall not unduly aggravate the situation created by the existence of the use, especially in regard to the policies of this Official Plan and the implementing Zoning By-law applying to the area;
- b) the proposed extension or enlargement shall be in an appropriate proportion to the size of the non-conforming use established prior to the passing of the implementing Zoning By-law;
- c) an application which would affect the boundary areas of different land use designations will only be processed under these policies if it can be considered as a "minor adjustment" permitted under the interpretation clause, Section 7.16 of this Plan, without the need for an amendment. Any major variance will require an amendment to this Plan pursuant to Section 7.17 of this Plan;
- d) the characteristics of the existing non-conforming use and the proposed extension or enlargement shall be examined with regard to noise, vibration, fumes, smoke, dust, odours, lighting and traffic generation;
- e) the neighbouring non-conforming uses will be protected, where necessary, by the provision of areas for landscaping, buffering or screening, appropriate setbacks for buildings and structures, devices and measures to reduce nuisance, and where necessary, by regulations for alleviating adverse effects caused by outside storage, lighting, advertising signs etc. Such provisions and regulations shall be applied to the proposed extension or enlargement, and where feasible, also extended to the established use in order to improve its compatibility with the surrounding area;
- f) traffic and parking conditions in the vicinity shall not be adversely affected by the application, and traffic hazards will be kept to a minimum by appropriate designs of ingress and egress points to and from the site and improvement of sight conditions, especially in proximity to intersections;
- g) adequate provisions have been, or will be made for off-street parking and loading facilities;
- h) applicable municipal services such as storm drainage, sewage disposal and water supply are adequate and meet the approval of the Ministry of the Environment or its designated



agent.

### **7.14 Existing Lots of Record**

There are several existing lots of record in the Municipality which are under separate ownership and which do not conform with the development standards of the designation or the corresponding zone in the implementing Zoning By-law. Notwithstanding their non-compliance, it is the policy of this Plan that these lots may be developed for a use permitted by this Plan in accordance with the requirements established in the implementing Zoning By-law provided:

- a) the lot abuts an existing public road of a standard of construction acceptable to the Municipality and the Ministry of Transportation;
- b) the necessary approvals are obtained from the Ministry of the Environment;
- c) the lot is serviced by an existing municipal water supply or by a private potable water supply which is capable of providing an adequate amount and quality of water for the intended use;
- d) the development is in compliance with the Minimum Distance Separation requirements.

### **7.15 Temporary Use By-laws**

Pursuant to Section 39 of the Planning Act, R.S.O. 1990, Council may pass "temporary use by-laws" to authorize the temporary use of land, buildings or structures for a purpose not otherwise authorized by the Zoning By-law for a specific period of time not to exceed three years. Council may authorize a temporary use on a one-time basis or for a short period of time not to exceed three years. Council may authorize a temporary use on a one-time basis or for a short period of time on a periodic basis, where it is considered inappropriate by Council to permit the proposed use on a permanent or continuing basis, and where alternatives such as relocation etc. are not practical. Council may pass subsequent by-laws for granting extensions for up to three years. Once the by-law has lapsed, however, the use must cease or otherwise will be viewed as contravening the Zoning By-law.

Prior to the approval of any temporary use by-law, Council shall be satisfied that the following principals and criteria are met:

- a) the proposed use shall be of a temporary nature, and shall not entail any major construction or investment on the part of the owner so that the owner will not experience undue hardship in reverting to the original use upon the termination of temporary use provisions;

- b) the proposed use shall not be incompatible with adjacent land uses and the character of the surrounding land area;
- c) the proposed use shall be properly serviced and not require the extension or expansion of existing municipal services;
- d) the proposed use shall not create any traffic problems within the surrounding area, nor shall it adversely affect the volume and/or the type of traffic commonly found on the area's roads;
- e) parking facilities required by the proposed use shall be provided entirely onsite;
- f) the proposed use shall generally be beneficial to the surrounding area or the community-at-large.

Notwithstanding the policies of this Plan, Council may authorize the temporary use of land which may not conform to the land use policies of this Plan provided:

- a) the temporary use is determined to not have any detrimental effect upon the existing land uses in the area;
- b) the proposed temporary use conforms to the principles and criteria established in this subsection.

### **7.16 Interpretation**

The intent of the Plan shall, in all cases, be considered flexible, and no strict interpretation of any boundary line, figure or policy statement is intended. Appropriate variations may be made to these and to the other statements herein where in the opinion of Council they are deemed to be necessary for the desirable development of the planning area, provided that the general intent of the Plan is maintained.

### **7.17 Amendment Procedures**

Should changing conditions necessitate the need to enlarge or re-designate land, an amendment of the Official Plan in accordance with Section 22 of the Planning Act, 1990 will be required and due regard shall be given to the following criteria:

- a) the need for the proposed use;
- b) the extent to which the existing areas in the proposed categories are developed, and the nature and adequacy of such existing development;
- c) the physical suitability of the land for such proposed use, and in the case of lands exhibiting

a potential hazard, consideration shall be given to:

- i) the existing environment and/or physical hazards;  
the potential impacts of these hazards;
- ii) the proposed methods by which these impacts may be overcome in a manner consistent with accepted engineering techniques and resource management practices;
- iii) the location of the area under consideration with respect to:
  - 1) the adequacy of the existing and proposed highway system in relation to the development of such proposed areas;
  - 2) the convenience and accessibility of the site for vehicular and pedestrian traffic, and the traffic safety in relation thereto;
  - 3) the adequacy of the potable water supply, sewage disposal facilities and other municipal services in view of the policies contained in this Plan;
- iv) the compatibility of the proposed use with uses in adjoining areas;
- v) the impact of such proposed use on the surrounding areas with respect to any possible depreciating or deteriorating effects;
- vi) the potential effect of the proposed use on the financial position of the Municipality;
- vii) the potential effect of the proposed use in relation to the intent and implementing regulations of the Environment Protection Act, R.S.O., 1990;
- viii) the regulations of any Conservation Authority having jurisdiction within the Planning Area;
- ix) compliance with the general development policies and the more specific and relevant land use policies of this Plan, as well as the specific requirements for the particular use in the Zoning By-law;
- x) conformity with the County Official Plan and Provincial Policy.

### **7.18 Official Plan Review**

The policies of this Plan are designed for effective use over a planning period of approximately twenty years or until 2021. This Plan, however, shall undergo a comprehensive review every five years. The purpose of the review will be to:

- a) document the type and location of new development that occurred during the preceding five

year period;

- b) project future population and household increases, and identify development prospects during the subsequent 5 to 10 year period;
- c) consult the general public and special interest groups on the continued appropriateness of the Plan's goals, policies and designations;
- d) formulate revisions or new goals, policies and designations as required.

### **7.19 Public Notification Procedures**

Prior to the Municipality adopting an amendment to this Plan or approving a Zoning By-law, it shall provide adequate information to such boards, agencies or commissions that may have an interest and to the general public pertaining to the application and at the scheduled Public Meeting and/or meetings. Such information, notices and public meetings shall be in accordance with the provisions of the Planning Act.

### **7.20 Subsequent Legislation**

Where any Act or portion of an Act is referred to in this Official Plan, such reference shall be interpreted to include any subsequent legislation that may replace or revise the specified Act.

### **7.21 County Official Plan and Provincial Policy**

It is the opinion of the Council for the Municipality of Leamington that the designations and policies contained within this Official Plan are in conformity with the County Official Plan and have had regard to Provincial Policy.

## **SECTION 8     DEFINITIONS**

**Adjacent lands:** means

- a) those lands contiguous to a specific natural heritage feature or area where it is likely that development or site alteration would have a negative impact on the feature or area. The extent of the adjacent lands may be recommended by the Province or based on municipal approaches which achieve the same objectives; and
- b) those lands contiguous to a protected heritage property or as otherwise defined in the municipal official plan.

**Adverse effects:** as defined in the Environmental Protection Act, means one or more of:

- a) impairment of the quality of the natural environment for any use that can be made of it;
- b) injury or damage to property or plant or animal life;
- c) harm or material discomfort to any person;
- d) an adverse effect on the health of any person;
- e) impairment of the safety of any person;
- f) rendering any property or plant or animal life unfit for human use;
- g) loss of enjoyment of normal use of property; and
- h) interference with normal conduct of business.

**Affordable:** means

- a) in the case of ownership housing, the least expensive of:
  - 1. housing for which the purchase price results in annual accommodation costs which do not exceed 30 percent of gross annual household income for low and moderate income households; or
  - 2. housing for which the purchase price is at least 10 percent below the average purchase price of a resale unit in the regional market area;
- b) in the case of rental housing, the least expensive of:
  - 1. a unit for which the rent does not exceed 30 percent of gross annual household income for low and moderate income households; or
  - 2. a unit for which the rent is at or below the average market rent of a unit in the regional

market area.

**Agricultural uses:** means the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including accommodation for full-time farm labour when the size and nature of the operation requires additional employment.

**Agriculture-related uses:** means those farm-related commercial and farm-related industrial uses that are small scale and directly related to the farm operation and are required in close proximity to the farm operation.

**Airports:** means all Ontario airports, including designated lands for future airports, with Noise Exposure Forecast (NEF)/Noise Exposure Projection (NEP) mapping.

**Alternative energy systems:** means sources of energy or energy conversion processes that significantly reduce the amount of harmful emissions to the environment (air, earth and water) when compared to conventional energy systems.

**Archaeological resources:** includes artifacts, archaeological sites and marine archaeological sites. The identification and evaluation of such resources are based upon archaeological fieldwork undertaken in accordance with the Ontario Heritage Act.

**Areas of archaeological potential:** means areas with the likelihood to contain archaeological resources. Criteria for determining archaeological potential are established by the Province, but municipal approaches which achieve the same objectives may also be used. Archaeological potential is confirmed through archaeological fieldwork undertaken in accordance with the Ontario Heritage Act.

**Areas of mineral potential:** means areas favourable to the discovery of mineral deposits due to geology, the presence of known mineral deposits or other technical evidence.

**Areas of natural and scientific interest (ANSI):** means areas of land and water containing natural landscapes or features that have been identified as having life science or earth science values related to protection, scientific study or education.

**Areas of petroleum potential:** means areas favourable to the discovery of petroleum resources due

to geology, the presence of known petroleum resources or other technical evidence.

**Brownfield sites:** means undeveloped or previously developed properties that may be contaminated. They are usually, but not exclusively, former industrial or commercial properties that may be underutilized, derelict or vacant.

**Built heritage resources:** means one or more significant buildings, structures, monuments, installations or remains associated with architectural, cultural, social, political, economic or military history and identified as being important to a community. These resources may be identified through designation or heritage conservation easement under the Ontario Heritage Act, or listed by local, provincial or federal jurisdictions.

**Coastal wetland:** means

- a) any wetland that is located on one of the Great Lakes or their connecting channels (Lake St. Clair, St. Mary’s, St. Clair, Detroit, Niagara and St. Lawrence Rivers); or
- b) any other wetland that is on a tributary to any of the above-specified water bodies and lies, either wholly or in part, downstream of a line located 2 kilometres (1.24 miles) upstream of the 1:100 year floodline (plus wave run-up) of the large water body to which the tributary is connected.

**Comprehensive review:** means

- a) for the purposes of policies 1.1.3.9 and 1.3.2, an official plan review which is initiated by a planning authority, or an official plan amendment which is initiated or adopted by a planning authority, which:
  1. is based on a review of population and growth projections and which reflect projections and allocations by upper-tier municipalities and provincial plans, where applicable; considers alternative directions for growth; and determines how best to accommodate this growth while protecting provincial interests;
  2. utilizes opportunities to accommodate projected growth through intensification and redevelopment;
  3. confirms that the lands to be developed do not comprise specialty crop areas;
  4. is integrated with planning for infrastructure and public service facilities; and
  5. considers cross-jurisdictional issues.

- b) means a review undertaken by a planning authority or comparable body which:
1. addresses long-term population projections, infrastructure requirements and related matters;
  2. confirms that the lands to be developed do not comprise specialty crop areas; and
  3. considers cross-jurisdictional issues.

**Conserved:** means the identification, protection, use and/or management of cultural heritage and archaeological resources in such a way that their heritage values, attributes and integrity are retained. This may be addressed through a conservation plan or heritage impact assessment.

**Cultural heritage landscape:** means a defined geographical area of heritage significance which has been modified by human activities and is valued by a community. It involves a grouping(s) of individual heritage features such as structures, spaces, archaeological sites and natural elements, which together form a significant type of heritage form, distinctive from that of its constituent elements or parts. Examples may include, but are not limited to, heritage conservation districts designated under the Ontario Heritage Act; and villages, parks, gardens, battlefields, mainstreets and neighbourhoods, cemeteries, trailways and industrial complexes of cultural heritage value.

**Defined portions of the one hundred year flood level along connecting channels:** means those areas which are critical to the conveyance of the flows associated with the one hundred year flood level along the St. Mary's, St. Clair, Detroit, Niagara and St. Lawrence Rivers, where development or site alteration will create flooding hazards, cause updrift and/or downdrift impacts and/or cause adverse environmental impacts.

**Deposits of mineral aggregate resources:** means an area of identified mineral aggregate resources, as delineated in Aggregate Resource Inventory Papers or comprehensive studies prepared using evaluation procedures established by the Province for surficial and bedrock resources, as amended from time to time, that has a sufficient quantity and quality to warrant present or future extraction.

**Designated growth areas:** means lands within settlement areas designated in an official plan for growth over the long-term planning horizon, but which have not yet been fully developed. Designated growth areas include lands which are designated and available for residential growth, as well as lands required for employment and other uses.

**Development:** means the creation of a new lot, a change in land use, or the construction of buildings and structures, requiring approval under the Planning Act, but does not include:



- a) activities that create or maintain infrastructure authorized under an environmental assessment process;
- b) works subject to the Drainage Act; or
- c) underground or surface mining of minerals or advanced exploration on mining lands in significant areas of mineral potential, where advanced exploration has the same meaning as under the Mining Act.

**Dynamic beach hazard:** means areas of inherently unstable accumulations of shoreline sediments along the Great Lakes - St. Lawrence River System and large inland lakes, as identified by provincial standards, as amended from time to time. The dynamic beach hazard limit consists of the flooding hazard limit plus a dynamic beach allowance.

**Ecological function:** means the natural processes, products or services that living and non-living environments provide or perform within or between species, ecosystems and landscapes. These may include biological, physical and socio-economic interactions.

**Employment area:** means those areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities.

**Endangered species:** means a species that is listed or categorized as an "Endangered Species" on the Ontario Ministry of Natural Resources' official species at risk list, as updated and amended from time to time.

**Erosion hazard:** means the loss of land, due to human or natural processes, that poses a threat to life and property. The erosion hazard limit is determined using considerations that include the 100 year erosion rate (the average annual rate of recession extended over an one hundred year time span), an allowance for slope stability, and an erosion/erosion access allowance.

**Fish:** means fish, which as defined in S.2 of the Fisheries Act, c. F-14, as amended, includes fish, shellfish, crustaceans, and marine animals, at all stages of their life cycles.

**Fish habitat:** as defined in the Fisheries Act, c. F-14, means spawning grounds and nursery, rearing, food supply, and migration areas on which fish depend directly or indirectly in order to carry out their life processes.

**Flood fringe:** for river, stream and small inland lake systems, means the outer portion of the flood plain between the floodway and the flooding hazard limit. Depths and velocities of flooding are

generally less severe in the flood fringe than those experienced in the floodway.

**Flood plain:** for river stream, and small inland lake systems, means the area, usually low lands adjoining a watercourse, which has been or may be subject to flooding hazards.

**Flooding hazard:** means the inundation, under the conditions specified below, of areas adjacent to a shoreline or a river or stream system and not ordinarily covered by water:

- a) Along the shorelines of the Great Lakes - St. Lawrence River System and large inland lakes, the flooding hazard limit is based on the one hundred year flood level plus an allowance for wave uprush and other water-related hazards;
- b) Along river, stream and small inland lake systems, the flooding hazard limit is the greater of:
  1. the flood resulting from the rainfall actually experienced during a major storm such as the Hurricane Hazel storm (1954) or the Timmins storm (1961), transposed over a specific watershed and combined with the local conditions, where evidence suggests that the storm event could have potentially occurred over watersheds in the general area;
  2. the one hundred year flood; and
  3. a flood which is greater than 1. or 2. which was actually experienced in a particular watershed or portion thereof as a result of ice jams and which has been approved as the standard for that specific area by the Minister of Natural Resources;
- c) except where the use of the one hundred year flood or the actually experienced event has been approved by the Minister of Natural Resources as the standard for a specific watershed (where the past history of flooding supports the lowering of the standard).

**Floodproofing standard:** means the combination of measures incorporated into the basic design and/or construction of buildings, structures, or properties to reduce or eliminate flooding hazards, wave uprush and other water-related hazards along the shorelines of the Great Lakes - St. Lawrence River System and large inland lakes, and flooding hazards along river, stream and small inland lake systems.

**Floodway:** for river, stream and small inland lake systems, means the portion of the flood plain where development and site alteration would cause a danger to public health and safety or property damage. Where the one zone concept is applied, the floodway is the entire contiguous flood plain. Where the two zone concept is applied, the floodway is the contiguous inner portion of the flood plain, representing that area required for the safe passage of flood flow and/or that area where flood

depths and/or velocities are considered to be such that they pose a potential threat to life and/or property damage. Where the two zone concept applies, the outer portion of the flood plain is called the flood fringe.

**Ground water feature:** refers to water-related features in the earth's subsurface, including recharge/discharge areas, water tables, aquifers and unsaturated zones that can be defined by surface and subsurface hydrogeologic investigations.

**Hazardous lands:** means property or lands that could be unsafe for development due to naturally occurring processes. Along the shorelines of large inland lakes, this means the land, including that covered by water, between a defined offshore distance or depth and the furthest landward limit of the flooding hazard, erosion hazard or dynamic beach hazard limits. Along river, stream and small inland lake systems, this means the land, including that covered by water, to the furthest landward limit of the flooding hazard or erosion hazard limits.

**Hazardous sites:** means property or lands that could be unsafe for development and site alteration due to naturally occurring hazards. These may include unstable soils, organic soils or unstable bedrock.

**Hazardous substances:** means substances which, individually, or in combination with other substances, are normally considered to pose a danger to public health, safety and the environment. These substances generally include a wide array of materials that are toxic, ignitable, corrosive, reactive, radioactive or pathological.

**Hydrologic function:** means the functions of the hydrological cycle that include the occurrence, circulation, distribution and chemical and physical properties of water on the surface of the land, in the soil and underlying rocks, and in the atmosphere, and water's interaction with the environment including its relation to living things.

**Individual on-site Sewage services:** means individual, autonomous sewage disposal systems within the meaning of s.8.1.2, O.Reg. 403/97, under the Building Code Act, 1992 that are owned, operated and managed by the owner of the property upon which the system is located.

**Individual on-site water services:** means individual, autonomous water supply systems that are owned, operated and managed by the owner of the property upon which the system is located.

**Infrastructure:** means physical structures (facilities and corridors) that form the foundation for

development. Infrastructure includes: sewage and water systems, septage treatment systems, waste management systems, electric power generation and transmission, communications/telecommunications, transit and transportation corridors and facilities, oil and gas pipelines and associated facilities.

**Intensification:** means the development of a property, site or area at a higher density than currently exists through:

- a) redevelopment, including the reuse of brownfield sites;
- b) the development of vacant and/or underutilized lots within previously developed areas;
- c) infill development; and
- d) the expansion or conversion of existing buildings.

**Legal or technical reasons:** means severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot.

**Low and moderate income households:** means

- a) in the case of ownership housing, households with incomes in the lowest 60 percent of the income distribution for the regional market area; or
- b) in the case of rental housing, households with incomes in the lowest 60 percent of the income distribution for renter households for the regional market area.

**Mine hazard:** means any feature of a mine as defined under the Mining Act, or any related disturbance of the ground that has not been rehabilitated.

**Minerals:** means metallic minerals and non-metallic minerals as herein defined, but does not include mineral aggregate resources or petroleum resources.

**Metallic minerals:** means those minerals from which metals (e.g. copper, nickel, gold) are derived.

**Non-metallic minerals:** means those minerals that are of value for intrinsic properties of the minerals themselves and not as a source of metal. They are generally synonymous with industrial minerals (e.g. asbestos, graphite, kyanite, mica, nepheline syenite, salt, talc, and wollastonite).

**Mineral aggregate operation:** means

- a) lands under license or permit, other than for wayside pits and quarries, issued in accordance with the Aggregate Resources Act, or successors thereto;

- b) for lands not designated under the Aggregate Resources Act, established pits and quarries that are not in contravention of municipal zoning by-laws and including adjacent land under agreement with or owned by the operator, to permit continuation of the operation; and
- c) associated facilities used in extraction, transport, beneficiation, processing or recycling of mineral aggregate resources and derived products such as asphalt and concrete, or the production of secondary related products.

**Mineral aggregate resources:** means gravel, sand, clay, earth, shale, stone, limestone, dolostone, sandstone, marble, granite, rock or other material prescribed under the Aggregate Resources Act suitable for construction, industrial, manufacturing and maintenance purposes but does not include metallic ores, asbestos, graphite, kyanite, mica, nepheline syenite, salt, talc, wollastonite, mine tailings or other material prescribed under the Mining Act.

**Mineral deposits:** means areas of identified minerals that have sufficient quantity and quality based on specific geological evidence to warrant present or future extraction.

**Mineral mining operation:** means mining operations and associated facilities, or, past producing mines with remaining mineral development potential that have not been permanently rehabilitated to another use.

**Minimum distance separation formulae:** means formulae developed by the Province to separate uses so as to reduce incompatibility concerns about odour from livestock facilities.

**Multi-modal transportation system:** means a transportation system which may include several forms of transportation such as automobiles, walking, trucks, cycling, buses, rapid transit, rail (such as commuter and freight), air and marine.

**Municipal water services:** means a municipal drinking-water system within the meaning of Section 2 of the Safe Drinking Water Act, 2002.

**Natural heritage features and areas:** means features and areas, including significant wetlands, significant coastal wetlands, fish habitat, significant woodlands south and east of the Canadian Shield, significant valleylands south and east of the Canadian Shield, significant habitat of endangered species and threatened species, significant wildlife habitat, and significant areas of natural and scientific interest, which are important for their environmental and social values as a legacy of the natural landscapes of an area.

**Natural heritage system:** means a system made up of natural heritage features and areas, linked by

natural corridors which are necessary to maintain biological and geological diversity, natural functions, viable populations of indigenous species and ecosystems. These systems can include lands that have been restored and areas with the potential to be restored to a natural state.

**Negative impacts:** means

- a) degradation to the quality and quantity of water, sensitive surface water features and sensitive ground water features, and their related hydrologic functions, due to single, multiple or successive development or site alteration activities;
- b) in regard to fish habitat, the harmful alteration, disruption or destruction of fish habitat, except where, in conjunction with the appropriate authorities, it has been authorized under the Fisheries Act, using the guiding principle of no net loss of productive capacity; and
- c) in regard to other natural heritage features and areas, degradation that threatens the health and integrity of the natural features or ecological functions for which an area is identified due to single, multiple or successive development or site alteration activities.

**Normal farm practices:** means a practice, as defined in the Farming and Food Production Protection Act, 1998, that is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances; or makes use of innovative technology in a manner consistent with proper advanced farm management practices. Normal farm practices shall be consistent with the Nutrient Management Act, 2002 and regulations made under that Act.

**Oil, gas and salt hazards:** means any feature of a well or work as defined under the Oil, Gas and Salt Resources Act, or any related disturbance of the ground that has not been rehabilitated.

**One hundred year flood:** for river, stream and small inland lake systems, means that flood, based on an analysis of precipitation, snow melt, or a combination thereof, having a return period of 100 years on average, or having a 1% chance of occurring or being exceeded in any given year.

**One hundred year flood level:** means

- a) for the shorelines of the Great Lakes, the peak instantaneous stillwater level, resulting from combinations of mean monthly lake levels and wind setups, which has a 1% chance of being equalled or exceeded in any given year;
- b) in the connecting channels (St. Mary's, St. Clair, Detroit, Niagara and St. Lawrence Rivers),

the peak instantaneous stillwater level which has a 1% chance of being equalled or exceeded in any given year; and

- c) for large inland lakes, lake levels and wind setups that have a 1% chance of being equalled or exceeded in any given year, except that, where sufficient water level records do not exist, the one hundred year flood level is based on the highest known water level and wind setups.

**Other water-related hazards:** means water-associated phenomena other than flooding hazards and wave uprush which act on shorelines. This includes, but is not limited to ship-generated waves, ice piling and ice jamming.

**Partial services:** means

- a) municipal sewage services or private communal sewage services and individual on-site water services; or
- b) municipal water services or private communal water services and individual on-site sewage services.

**Petroleum resource operations:** means oil, gas and brine wells, and associated facilities, oil field brine disposal wells and associated facilities, and facilities for the underground storage of natural gas and other hydrocarbons.

**Petroleum resources:** means oil, gas, and brine resources which have been identified through exploration and verified by preliminary drilling or other forms of investigation. This may include sites of former operations where resources are still present or former sites that may be converted to underground storage for natural gas or other hydrocarbons.

**Planned corridors:** means corridors identified through provincial plans or preferred alignment(s) determined through the Environmental Assessment Act process which are required to meet projected needs.

**Portable asphalt plant:** means a facility

- a) with equipment designed to heat and dry aggregate and to mix aggregate with bituminous asphalt to produce asphalt paving material, and includes stockpiling and storage of bulk materials used in the process; and
- b) which is not of permanent construction, but which is to be dismantled at the completion of the construction project.

**Portable concrete plant:** means a building or structure

- a) with equipment designed to mix cementing materials, aggregate, water and admixtures to produce concrete, and includes stockpiling and storage of bulk materials used in the process; and
- b) which is not of permanent construction, but which is designed to be dismantled at the completion of the construction project.

**Prime agricultural area:** means areas where prime agricultural lands predominate. This includes: areas of prime agricultural lands and associated Canada Land Inventory Class 4-7 soils; and additional areas where there is a local concentration of farms which exhibit characteristics of ongoing agriculture. Prime agricultural areas may be identified by the Ontario Ministry of Agriculture and Food using evaluation procedures established by the Province as amended from time to time, or may also be identified through an alternative agricultural land evaluation system approved by the Province.

**Prime agricultural land:** means land that includes specialty crop areas and/or Canada Land Inventory Classes 1, 2, and 3 soils, in this order of priority for protection.

**Private communal sewage services:** means a sewage works within the meaning of Section 1 of the Ontario Water Resources Act that serves six or more lots or private residences and is not owned by a municipality.

**Private communal water services:** means a non-municipal drinking-water system within the meaning of Section 2 of the Safe Drinking Water Act, 2002 that serves six or more lots or private residences.

**Provincial plan:** means a plan approved by the Lieutenant Governor in Council or the Minister of Municipal Affairs and Housing, but does not include municipal official plans.

**Public service facilities:** means land, buildings and structures for the provision of programs and services provided or subsidized by a government or other body, such as social assistance, recreation, police and fire protection, health and educational programs, and cultural services. Public service facilities do not include infrastructure.

**Quality and quantity of water:** is measured by indicators such as minimum base flow, depth to water table, aquifer pressure, oxygen levels, suspended solids, temperature, bacteria, nutrients and hazardous contaminants, and hydrologic regime.



**Recreation:** means leisure time activity undertaken in built or natural settings for purposes of physical activity, health benefits, sport participation and skill development, personal enjoyment, positive social interaction and the achievement of human potential.

**Redevelopment:** means the creation of new units, uses or lots on previously developed land in existing communities, including brownfield sites.

**Regional market area:** refers to an area, generally broader than a lower-tier municipality, that has a high degree of social and economic interaction. In southern Ontario, the upper or single-tier municipality will normally serve as the regional market area. Where a regional market area extends significantly beyond upper or single-tier boundaries, it may include a combination of upper, single and/or lower-tier municipalities.

**Renewable energy systems:** means the production of electrical power from an energy source that is renewed by natural processes including, but not limited to, wind, water, a biomass resource or product, or solar and geothermal energy.

**Reserve sewage system capacity:** means design or planned capacity in a centralized waste water treatment facility which is not yet committed to existing or approved development. Reserve capacity for private communal sewage services and individual on-site sewage services is considered sufficient if the hauled sewage from the development can be treated or disposed of at sites approved under the Environmental Protection Act or the Ontario Water Resources Act, but not by land-applying untreated, hauled sewage.

**Reserve water system capacity:** means design or planned capacity in a centralized water treatment facility which is not yet committed to existing or approved development.

**Residence surplus to a farming operation:** means an existing farm residence that is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation).

**Residential intensification:** means intensification of a property, site or area which results in a net increase in residential units or accommodation and includes:

- a) redevelopment, including the redevelopment of brownfield sites;
- b) the development of vacant or underutilized lots within previously developed areas;
- c) infill development;

- d) the conversion or expansion of existing industrial, commercial and institutional buildings for residential use; and
- e) the conversion or expansion of existing residential buildings to create new residential units or accommodation, including accessory apartments, secondary suites and rooming houses.

**River, stream and small inland lake systems:** means all watercourses, rivers, streams, and small inland lakes or waterbodies that have a measurable or predictable response to a single runoff event.

**Rural areas:** means lands in the rural area which are located outside settlement areas and which are outside prime agricultural areas.

**Secondary uses:** means uses secondary to the principal use of the property, including but not limited to, in-home occupations, home industries, and uses that produce value-added agricultural products from the farm operation on the property.

**Sensitive:** in regard to surface water features and ground water features, means areas that are particularly susceptible to impacts from activities or events including, but not limited to, water withdrawals, and additions of pollutants.

**Sensitive land uses:** means buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and educational and health facilities.

**Settlement areas:** means urban areas and rural settlement areas within municipalities (such as cities, Municipalities, villages and hamlets that are:

- a) built up areas where development is concentrated and which have a mix of land uses; and
- b) lands which have been designated in an official plan for development over the long term planning horizon. In cases where land in designated growth areas is not available, the settlement area may be no larger than the area where development is concentrated.

**Sewage and water services:** includes municipal sewage services and municipal water services, private communal sewage services and private communal water services, individual on-site sewage services and individual on-site water services, and partial services.

**Significant:** means

- a) in regard to wetlands, coastal wetlands and areas of natural and scientific interest, an area identified as provincially significant by the Ontario Ministry of Natural Resources using evaluation procedures established by the Province, as amended from time to time;
- b) in regard to the habitat of endangered species and threatened species, means the habitat, as approved by the Ontario Ministry of Natural Resources, that is necessary for the maintenance, survival, and/or the recovery of naturally occurring or reintroduced populations of endangered species or threatened species, and where those areas of occurrence are occupied or habitually occupied by the species during all or any part(s) of its life cycle;
- c) in regard to woodlands, an area which is ecologically important in terms of features such as species composition, age of trees and stand history; functionally important due to its contribution to the broader landscape because of its location, size or due to the amount of forest cover in the planning area; or economically important due to site quality, species composition, or past management history;
- d) in regard to other features and areas, ecologically important in terms of features, functions, representation or amount, and contributing to the quality and diversity of an identifiable geographic area or natural heritage system;
- e) in regard to mineral potential, means an area identified as provincially significant through comprehensive studies prepared using evaluation procedures established by the Province, as amended from time to time, such as the Provincially Significant Mineral Potential Index;
- f) in regard to potential for petroleum resources, means an area identified as provincially significant through comprehensive studies prepared using evaluation procedures established by the Province, as amended from time to time; and
- g) in regard to cultural heritage and archaeology, resources that are valued for the important contribution they make to our understanding of the history of a place, an event, or a people.

**Site alteration:** means activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of a site.

Site alteration does not include underground or surface mining of minerals or advanced exploration on mining lands in significant areas of mineral potential in Ecoregion, where advanced exploration has the same meaning as in the Mining Act.

**Special needs:** means any housing, including dedicated facilities, in whole or in part, that is used by

people who have specific needs beyond economic needs, including but not limited to, needs such as mobility requirements or support functions required for daily living. Examples of special needs housing may include, but are not limited to, housing for persons with disabilities such as physical, sensory or mental health disabilities, and housing for the elderly.

**Special policy area:** means an area within a community that has historically existed in the flood plain and where site-specific policies, approved by both the Ministers of Natural Resources and Municipal Affairs and Housing, are intended to provide for the continued viability of existing uses (which are generally on a small scale) and address the significant social and economic hardships to the community that would result from strict adherence to provincial policies concerning development. The criteria and procedures for approval are established by the Province. A Special Policy Area is not intended to allow for new or intensified development and site alteration, if a community has feasible opportunities for development outside the flood plain.

**Specialty crop area:** means areas designated using evaluation procedures established by the province, as amended from time to time, where specialty crops such as tender fruits (peaches, cherries, plums), grapes, other fruit crops, vegetable crops, greenhouse crops, and crops from agriculturally developed organic soil lands are predominantly grown, usually resulting from:

- a) soils that have suitability to produce specialty crops, or lands that are subject to special climatic conditions, or a combination of both; and/or
- b) a combination of farmers skilled in the production of specialty crops, and of capital investment in related facilities and services to produce, store, or process specialty crops.

**Surface water feature:** refers to water-related features on the earth's surface, including headwaters, rivers, stream channels, inland lakes, seepage areas, recharge/discharge areas, springs, wetlands, and associated riparian lands that can be defined by their soil moisture, soil type, vegetation or topographic characteristics.

**Threatened species:** means a species that is listed or categorized as a "Threatened Species" on the Ontario Ministry of Natural Resources' official species at risk list, as updated and amended from time to time.

**Transportation systems:** means a system consisting of corridors and rights-of way for the movement of people and goods, and associated transportation facilities including transit stops and stations, cycle lanes, bus lanes, high occupancy vehicle lanes, rail facilities, park'n'ride lots, service centres,

rest stops, vehicle inspection stations, intermodal terminals, harbours, and associated facilities such as storage and maintenance.

**Valleylands:** means a natural area that occurs in a valley or other landform depression that has water flowing through or standing for some period of the year.

**Vulnerable:** means surface and groundwater that can be easily changed or impacted by activities or events, either by virtue of their vicinity to such activities or events or by permissive pathways between such activities and the surface and/or groundwater.

**Waste management system:** means sites and facilities to accommodate solid waste from one or more municipalities and includes landfill sites, recycling facilities, transfer stations, processing sites and hazardous waste depots.

**Watershed:** means an area that is drained by a river and its tributaries.

**Wave uprush:** means the rush of water up onto a shoreline or structure following the breaking of a wave; the limit of wave uprush is the point of furthest landward rush of water onto the shoreline.

**Wayside pits and quarries:** means a temporary pit or quarry opened and used by or for a public authority solely for the purpose of a particular project or contract of road construction and not located on the road right-of-way.

**Wetlands:** means lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four major types of wetlands are swamps, marshes, bogs and fens.

Periodically soaked or wet lands being used for agricultural purposes which no longer exhibit wetland characteristics are not considered to be wetlands for the purposes of this definition.

**Wildlife habitat:** means areas where plants, animals and other organisms live, and find adequate amounts of food, water, shelter and space needed to sustain their populations. Specific wildlife habitats of concern may include areas where species concentrate at a vulnerable point in their annual or life cycle; and areas which are important to migratory or non-migratory species.

**Woodlands:** means treed areas that provide environmental and economic benefits to both the

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private landowner and the general public, such as erosion prevention, hydrological and nutrient cycling, provision of clean air and the long-term storage of carbon, provision of wildlife habitat, outdoor recreational opportunities, and the sustainable harvest of a wide range of woodland products. Woodlands include treed areas, woodlots or forested areas and vary in their level of significance at the local, regional and provincial levels.