

The Corporation of the Township of Westmeath

By-Law 91-16

A By-Law to amend By-Law No. 81-9

- WHEREAS: 1) By-Law No. 81-9 regulates the use of lands and the erection, location and use of buildings and structures within the Township of Westmeath.
- 2) The Council of the Corporation of the Township of Westmeath deems it appropriate to further amend By-Law 81-9.

NOW THEREFORE the Council of the Corporation of the Township of Westmeath amends By-Law 81-9 as follows:

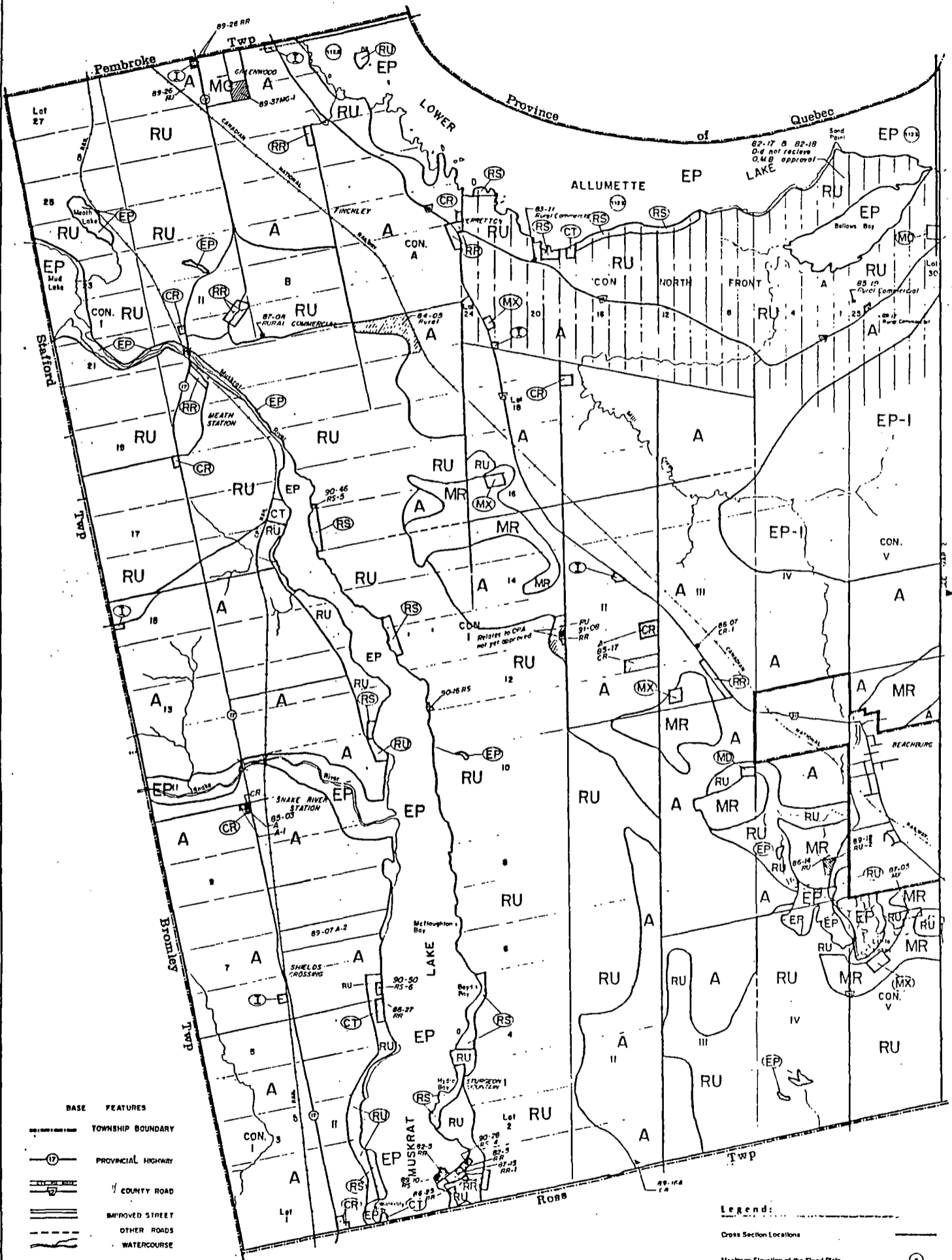
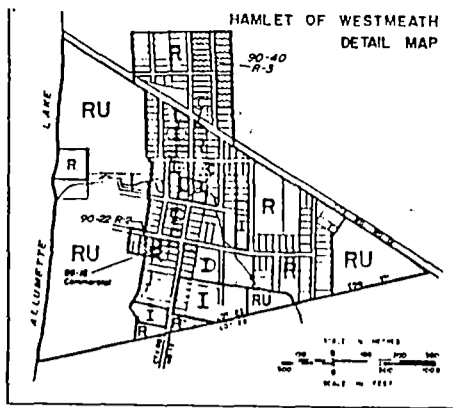
1. The area affected by this By-Law is composed of the lands which abut the entire length of the Ottawa River shoreline.
2. Schedule "A", Maps 1 and 2, to By-Law No. 81.9 are amended by adding flood elevations and cross-section lines in the location identified on Schedule "A", Maps 1 and 2, which form a part of this By-Law.
3. Section 3, General Provisions, is amended by adding the following new subsection:

(6) Flood Plain Of The Ottawa River

(a) For the purpose of this section, the following definitions shall apply:

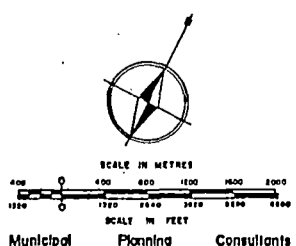
- (i) Flood Plain is defined as the area of land adjoining a watercourse which may be covered by flood water during a flood having, on average, a return period of 100 years (1% chance of occurring in any year).
- (ii) Floodway means the channel of a watercourse and that inner portion of the flood plain where flood depths are greater than 1 metre in depth during 1:100 year flood. The floodway represents that area required for the safe passage of the flood flows 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.
- (iii) Flood Fringe means the outer portion of the flood plain between the floodway and the limit of the flood plain. Flood depths and velocities are generally less severe in the flood fringe than those experienced in the floodway. The maximum depth of water in the flood fringe would be 1 m during a 1:100 year flood.
- (iv) Floodproofing means the measures taken to ensure that a building or structure is safe from the effects of flooding and includes:

- the installation of power service metering equipment, electrical appliances, etc., such that they are not located below the flood plain elevation but this does not prohibit the installation of electrical wall outlets equipped with ground fault plugs;



- BASE FEATURES**
- TOWNSHIP BOUNDARY
 - PROVINCIAL HIGHWAY
 - COUNTY ROAD
 - IMPROVED STREET
 - OTHER ROADS
 - WATERCOURSE

- Legend:**
- Cross Section Locations
 - Maximum Elevation of the Flood Plain



This is Map 1 of Schedule "A" to By-law No. 91-16, passed on the 19 day of JUNE, 1991.

By: Signed

THIS IS MAP 1 OF SCHEDULE "A" TO BY-LAW NO. 91-16 PASSED ON THE 19 DAY OF MARCH, 1991.

Geoff White
C.E.V.E.
D.A. Clerk

LEGEND

ZONE BOUNDARY

ZONE SYMBOL

SCHEDULE "A"

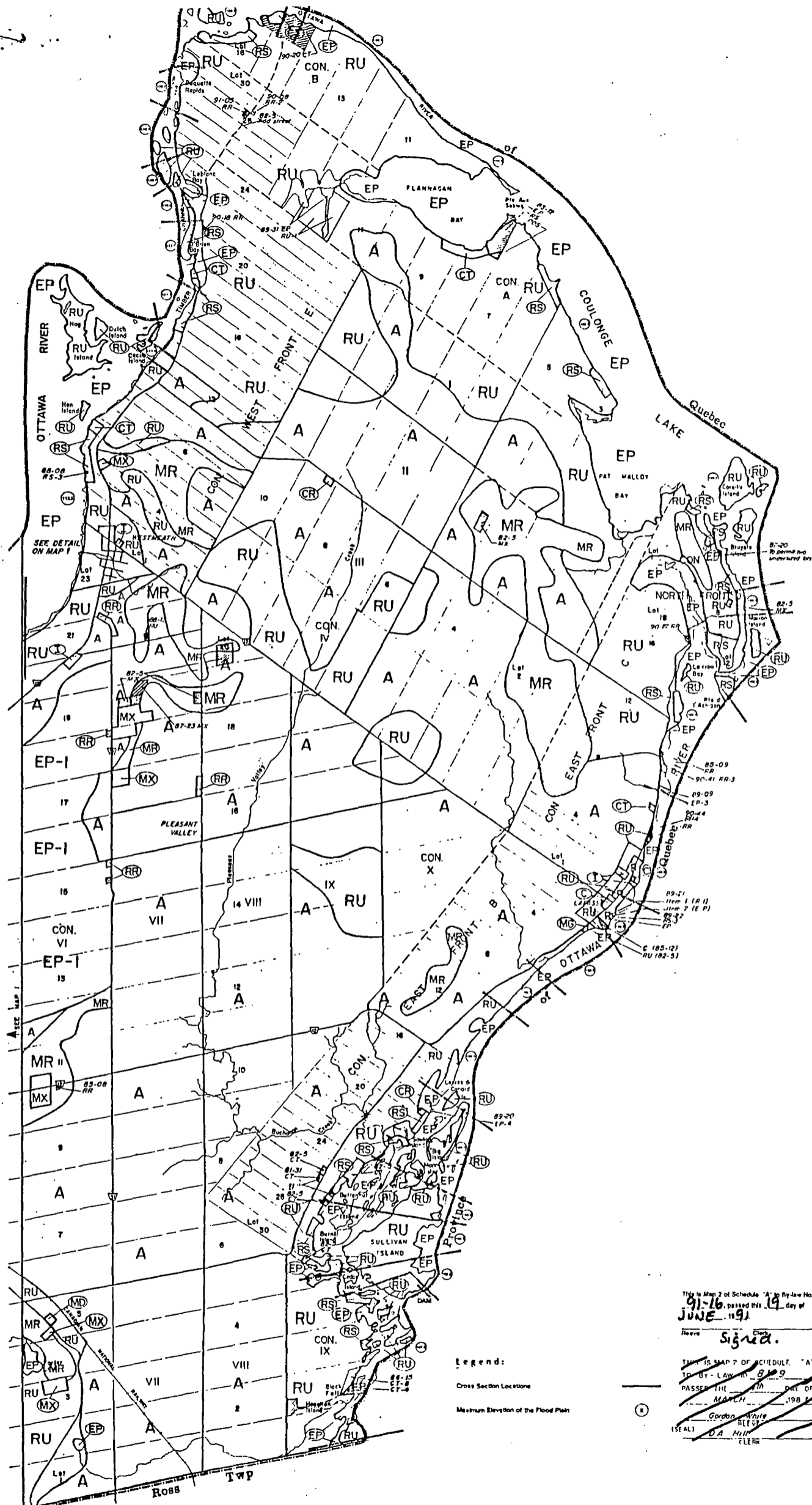
ZONE MAP

Township of Westmeath

Map 1

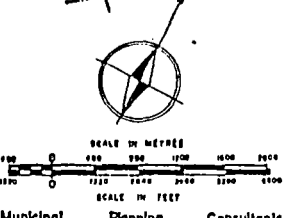
This map is considerably reduced in size. The originals are available for scrutiny at the Municipal Office.

This map is considerably reduced in size. The originals are available for scrutiny at the Municipal Office



This is Map 2 of Schedule "A" in By-law No. 91-16 passed this 19 day of JUNE 1991.
 Signed: _____
 This is Map 2 of Schedule "A" in By-law No. 91-16 passed the 19th day of JUNE 1991.
 Gordon White
 Clerk

Legend:
 Cross Section Location
 Maximum Elevation of the Flood Plain



- BASE FEATURES**
- TOWNSHIP BOUNDARY
 - ⊙ PROVINCIAL HIGHWAY
 - ⊙ COUNTY ROAD
 - IMPROVED STREET
 - OTHER POADS
- LEGEND**
- ZONE BOUNDARY

SCHEDULE "A" ZONE MAP Township of Westmeath

EXPLANATORY NOTE

The existing Official Plan designates most land along the Ottawa River as Rural, Special Recreation, Sensitive Areas, Hamlet, Mineral Aggregate Extraction, and Scenic Areas. Many of these areas are known to be flood susceptible. In the mid-1980s, the Township of Westmeath, Provincial Ministry of Natural Resources and the Federal Government began work on flood plain mapping under the Flood damage Reduction Program in order to address this issue. Because there are 60 km of Ottawa River waterfrontage, the study was divided into three phases.

With the adoption of the Flood Plain Planning Policy Statement in 1988 and continuing delays in completing the mapping due to funding constraints, Council decided to take action on those areas of the waterfront where flood plain mapping had been completed by adopting an Interim Control By-law in June 1989. The resultant waterfront study culminated in a February 1991 report which examined population and development trends and land use issues such as Flood Plains, Wetlands, Areas of Natural & Scientific Interest, Provincial Park, Agriculture, Mineral Aggregates, Public Access to Water, Whitewater Rafting, and Development along the Ottawa River. That report contained a series of conclusions and recommendations which would be implemented through an Official Plan Amendment.

Two problems are delaying the completion of that Official Plan amendment;

1. The phase III mapping has not been completed;
2. Inconsistencies have been identified between the methodologies employed between the phase I and II mapping.

Unless these problems are solved, a satisfactory amendment to the Official Plan which addresses all of the relevant Issues cannot be completed.

A significant problem exists however, in that adequate zoning control needs to be passed by the June 20, 1991 expiry of the Interim Control By-law. Any delay could result in the placing of new dwellings in flood prone areas without even the benefit of flood proofing measures to help assure public safety. This Zoning By-Law amendment is intended to temporarily resolve this problem by incorporating flood elevations and corresponding building restrictions for the land located in the flood plain of the Ottawa River. The flood elevations along the river are known and range from 112.5m geodetic at the upstream end to 108.3 at Sullivan Island. This amendment identifies the cross section locations along the Ottawa River where these elevations apply.

The amendment establishes definitions for the terminology used in relation to flooding.

When the flood plain mapping is completed, a further Zoning By-Law amendment will be prepared which provides more comprehensive regulations and shows the location of the flood line. Until that time, it will be necessary for building permit applicants to have an Ontario Land Surveyor certify the geodetic elevation of the proposed building site prior to receiving a building permit. Repairs and maintenance to existing buildings are not affected by this By-Law.

The flood plain mapping which has been completed is available in the municipal office and will serve as a general guide to flooding potential in a particular location.

It should be noted that an Official Plan amendment and Zoning By-Law amendment were presented at a June 7, 1991 public meeting for consideration. Due to the concerns expressed by the public, this alternative approach is proposed. In addition, it is the intention of Council to proceed as expeditiously as possible to complete the Official Plan

amendment and replacement Zoning By-Law amendment to implement the February 1991 Planning Report.

Public Involvement

Prior to the passing of this By-Law, a public meeting was held in order to permit interested persons an opportunity to make representations in support of, or in opposition to, the proposed amendment. The meeting was advertised in accordance with the provisions of the Planning Act and the Regulations.

June 7th, 1991

A Public meeting was held at the Westmeath Community Hall, to discuss proposed amendment to the Official Plan and Zoning By-Law with regards to the flood plain protection along the waterfront of the Ottawa River.

Present: Gordon White, Robert Gervais, Delmer Lavallee, Jacob Rook, Terry Ethier (Council Members)
Peter Hannah (Planning Consultant)
Sue D'Eon (Ministry of Natural Resources)
Pat Burn (Planning Administrator)
Kathleen Tyson (Secretary)
About 30 members of the public attended the meeting.

Moved by Jacob Rook seconded by Delmer Lavallee,
"That a Public meeting to consider amendments to the Official Plan and Zoning By-Law regarding flood policy on the Ottawa River be opened"

carried.

Peter Hannah, explained the background of the amendments, including the waterfront study, Provincial Flood Plain policy, the delay in obtaining all of the flood plain mapping, leading to the imposition of an extended Interim Control By-Law. He explained the gaps and problems in the mapping and the impossibility of preparing amendments to incorporate the mapping in these amendments. He noted that the interim control by-law will expire June 20th, 1991, and cannot be further extended. He pointed out that preliminary mapping has just arrived for part of the incompleated sections, but cannot be relied upon, or used yet. Once the entire mapping is done, it is Council's intention to modify the current amendments or replace them with ones incorporating the mapping. As a result of Ministry and Agency circulation three responses had been received. The Renfrew County Health Unit and the Ministry of the Environment had no objection to the proposed amendments. The Ministry of Natural Resources want an addition in the form of a proper definition of Floodproofing.

Mr. Hannah read the Official Plan amendment, and referred the public to their own copies of the Zoning By-Law amendment. Stephen Pattinson asked if Council was aware that the Ministry of Natural Resources wanted items added to the by-law. Peter Hannah replied that Council has not yet made any decision, and the reason for this meeting is for input, both from the public and Ministries.

Bryson Buchanan claimed Ontario Hydro was the fly in the ointment, and is responsible for the flooding. Several other people had concerns about Hydro, and thought them either responsible, or that they could prevent flooding, or were uncaring about what happened on the river. Some went as far

as to say Hydro was behind this whole policy.

Peter Hannah noted that Power generating dams are taken into account when mapping is done. Sue D'Eon said that these dams in question are all power generating not flood control dams, and cannot have any effect in a major flood.

Mr. Hennessey said he thought this amendment was an extension to the Interim Control By-Law under another guise, and claimed it was unfair, unjust, and that there had been no time for public input. Ms. D'Eon responded that this is different from Interim Control, as a proper public meeting, with adequate notice, was taking place.

Comments were made by several people that the public had not time to study the amendments. The Planner said the documents had been available at the Municipal Office for several weeks, as noted in the meeting advertisements.

Lorne Spotswood, and several other people, said that their families had lived here for generations and had never been hurt or lost their lives in a flood.

Del O'Brien, prefacing his remarks by saying he was speaking as a ratepayer, and not as the Township's Solicitor, suggested that the by-law is illegal because it is retroactive. He remarked that the Ottawa River was a major waterway and an indigenous resource, the benefits of which are sold to the U.S. and Southern Ontario, whereas it should be used locally. He said that this by-law will result in a lot of lost assessment, and that Moore's Beach, for example, would become an instant slum. He said that Renfrew County had been opposed to classification of the Ministry's Flood Plain Mapping, and opposed to the whole issue.

Sue D'Eon responded that the Ministry of Natural Resources had incorporated Renfrew County's suggestions into its final policy statement. Mr. O'Brien also said neighbouring municipalities had either none, or much less stringent regulations and why was that. Sue D'Eon said that was not so.

Ivy Hooper asked if we were obliged to go along with this Flood Plain policy. Peter Hannah said the province had implemented it, and the municipality must have regard to it. Jerry Livingston, and several other people, thought the government should compensate people for devalued property.

Bert Timm, supported by several others said the whole thing

was done in too much of a rush, and it should be let drop, and reconsidered in 2 years. Peter Hannah responded to the suggestion of letting the Interim Control By-Law lapse, and doing nothing. He said building permits could then be issued for some properties in the floodway, and not for others (because of the existing Comprehensive Zoning By-Law). The results would be inconsistent and unfair. Several people suggested a better approach would be to forget the amendments, and make those people wishing to build in the floodway sign an agreement, registered in title, that they

accepted full responsibility for building there.

Ivy Hooper felt the onus should be on the Township or Ministry of Natural Resources to establish elevations and pay for surveys, if they demand them.

Walter Hightower wanted to be assured it would be on record somewhere that people oppose these amendments.

Bonnie Fynn thought it relevant that there should be similar controls on the Quebec side of the river. No one knew if there were. Del O'Brien said he didn't think the whole Flood Plain policy had anything to do with loss of life or limb, but had been done with other projects in mind. Sue D'Eon stated that the Ottawa River has a huge volume of water and severe flood damage could cost the province millions of dollars. Hurricane Hazel (1959) cost \$ 75 M. in disaster relief. A number of comments were made as to the fact that part of what should be classed lake was now classed riverene, and whether we had to live with that classification.

Flood insurance was discussed and it was generally agreed it was not available. Gordon White said there was severe flood damage, but no money was paid out - not a very palatable situation.

Most of the people at the meeting indicated they would be willing to sign a waiver of damage if they were allowed to develop in the flood plain.

Mr. O'Brien said there was no big threat around the corner, if no controls were put on. We would just revert back to where we were 2 years ago.

A number of people wanted a further public meeting on this issue. Peter Hannah and Gordon White said there was no further time. A decision would be made at the regular Council meeting, June 19th, 1991. The public was welcome to attend the meeting, which was open to all, but no further input from the public would be permitted at that meeting. Gordon White said the Council meeting would commence in it's usual location at the municipal offices, but may move to the Arena if a large number of people attended. A notice, so saying, would be posted at the office.

Moved by Jacob Rook, seconded by Delmer Lavallee,

"That a Public meeting to consider amendments to the Official Plan and Zoning By-Law regarding flood plain policy on the Ottawa River be closed"

carried.

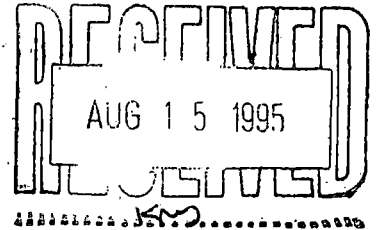
DB #	708	FOLIO #	113
ORDER ISSUE DATE			
AUG 11 1995			
OB #	1995-5	FOLIO #	124



R 940114

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

The Ministry of Natural Resources has appealed to the Ontario Municipal Board under subsection 34(19) of the Planning Act, R.S.O. 1990, c. P.13, against Zoning By-law 91-16 of the Township of Westmeath.



COUNSEL:

D.A. O'Brien	for	Township of Westmeath
A.M. MacKenzie	for	Ministry of Natural Resources
R.B. Sheppard	for	T. Hennessey

MEMORANDUM OF ORAL DECISION delivered by M. MELLING on July 26th, 1995 **AND ORDER OF THE BOARD**

This hearing concerns an appeal by the Ministry of Natural Resources ("the Ministry") against By-law 91-16 ("the By-law") of the Township of Westmeath ("the Township"). The By-law is intended to govern development within the flood plain of the Ottawa River.

This issue is of significant public concern in the Township, for which the Ottawa River is an amenity of considerable social and economic importance. The hearing was accordingly attended by a large number of permanent and seasonal residents whose property would be directly affected.

There is a long history to the By-law, which it is unnecessary to recount here in any detail. That is because the parties to this proceeding, the Ministry and the Township, have come to an agreement on all outstanding issues, an agreement which was, I am given to

understand, facilitated by the Board's mediation services. Furthermore, a recess prior to the commencement of the hearing permitted the parties to explain their agreement to the members of the public in attendance, and resulted in there being no one opposed to that agreement.

Two witnesses gave evidence at the hearing. Mr. W. James Hutton, a planner with the County of Renfrew, testified that the By-law as passed by the Township would have permitted development in the entire flood plain, subject to flood proofing. This was not acceptable to the Ministry, and provoked its appeal. The parties then undertook a lengthy process of discussion in an attempt to fit any rezoning to the engineering studies and flood plain mapping that had been undertaken in the Township.

The conclusion of this process was that two specific areas of the Ottawa River, which are known as the Lower Allumette Lake and Lac Coulonge, should be subject to somewhat less restrictive development regulation than other flood-susceptible areas, due to the width of the river in these areas and the relative weakness of the currents. Furthermore, the parties agreed that the zoning should make provision to allow the improvement, minor expansion and flood proofing of existing development in the flood way. For the rest of the flood plain, either the "one zone" or "two zone" regulatory environments provided for in s. 4 and s. 5 of the provincial *Flood Plain Planning Policy Statement* (the "*Policy Statement*") would apply.

In Mr. Hutton's opinion, amendments to the By-law to this effect would result in a document which would conform to the Township's Official Plan, would appropriately implement the *Policy Statement*, and would constitute good planning for the subject area.

Ms. Suzanne D'Eon, a land use planner with the Ministry, concurred with Mr. Hutton's opinions. In her view, the proposed amendments to the By-law would properly have regard to the *Policy Statement* while taking into account in an appropriate way the unique nature of the Ottawa River in this area. She was satisfied based on the flood plain

mapping and engineering studies that the proposed zoning would be appropriate for the governance of existing and future development. It would also ensure safe access to flood-susceptible areas, a matter also addressed by the *Policy Statement*¹.

On the basis of this uncontested evidence, I am content that the By-law, amended as proposed, would conform to the Official Plan and would be good planning for the subject area. I am also satisfied that the amended by-law would have proper regard for the *Policy Statement*, as is required by s. 3(5) of the *Planning Act*² ("the Act"). Therefore, pursuant to the Board's authority under s. 34(26) of the Act, the appeal is allowed in part, and the By-law is amended as provided in Exhibit 4, subject to the following technical amendments agreed to by the parties:

1. new s. 3(6)a) shall be amended by the addition of the following at its beginning:

"Notwithstanding any flood plain provisions of this By-law to the contrary,";

2. new s. 3(6)b) shall be amended by the addition of the following at its beginning:

"Notwithstanding any flood plain provisions of this By-law to the contrary,"; and

3. new s. 3(6)e)(i) shall be amended by the deletion of the word "and" from the end of the fifth paragraph, and by the addition at the end of the sixth paragraph of the following:

"; and".

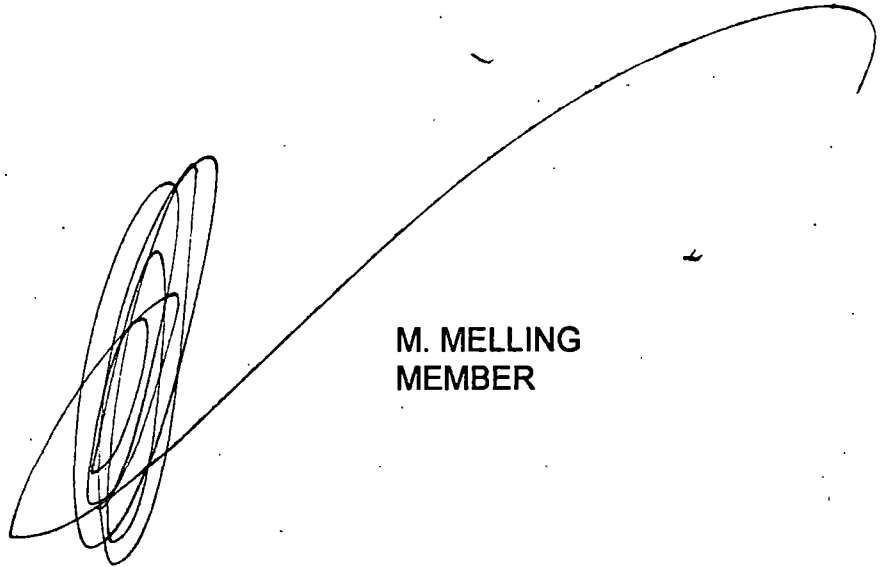
¹ In s. 7.

² R.S.O. 1990, c. P.13.

The Township shall, at its earliest convenience, forward to the Board a copy of the By-law, amended in accordance with this decision, and that amended By-law will be attached hereto as Schedule "A".

In all other respects the appeal is dismissed, and the Board so orders.

Finally, I would like to commend the parties, and the members of the public, for their success in resolving the issues in this appeal through co-operation. This is the sort of matter which might otherwise have occasioned a long, expensive and likely very adversarial hearing. The road taken in this case has, it appears to me, served everyone much better.

A handwritten signature in black ink, consisting of several overlapping loops and a long, sweeping tail that curves upwards and to the right.

M. MELLING
MEMBER

SCHEDULE "A"THE CORPORATION OF THE
TOWNSHIP OF WESTMEATH

BY-LAW NUMBER _____

A By-law to amend By-law Number 81-9 of the Corporation of the Township of Westmeath, as amended.

PURSUANT TO SECTION 34 OF THE PLANNING ACT, 1990, THE TOWNSHIP OF WESTMEATH HEREBY ENACTS AS FOLLOWS:

1. THAT By-law Number 81-9, as amended, be and the same is hereby further amended as follows:

(a) By adding the following new subsection 3(6) OTTAWA RIVER FLOODPLAIN to Section 3.0 GENERAL PROVISIONS, immediately following Section 3(5):

3(6) OTTAWA RIVER FLOODPLAIN

a) Notwithstanding any floodplain provisions of this By-law to the contrary, for those lands affected by the floodplain of the Ottawa River between the Westmeath Township - Pembroke Township boundary and the northern limit of Lot 11, Concession WFE, Township of Westmeath the following provisions shall apply (Phase I of Flood Risk Mapping):

(i) Flood Fringe

The flood fringe represents those lands within the outer portion of the floodplain between the elevations of 111.0 metres C.G.D. and the flood plain design elevation of 112.5 metres C.G.D. No building permits shall be issued for new development within the flood fringe of the Ottawa River unless floodproofed to the floodplain design elevation of 112.5 metres C.G.D. An elevation survey prepared by an Ontario Land Surveyor must accompany all applications for building permits.

For the development of lands between the elevations of 111.0 metres C.G.D. and 111.5 metres C.G.D., engineered drawings

prepared and certified by a qualified Civil Engineer must accompany an application for a building permit. Engineered fill shall be used for floodproofing up to a minimum elevation of 111.5 metres C.G.D., as part of the floodproofing to 112.5 metres C.G.D. No new basements will be permitted.

(ii) Floodway

The floodway represents those lands within the inner portion of the floodplain, below the elevation of 111.0 metres C.G.D. On lands below this elevation, no development, with the exception of boat docking and launching facilities, shall be permitted.

- b) Notwithstanding any floodplain provisions of this By-law to the contrary, for those lands affected by the floodplain of the Ottawa River between the northern limit of Lot 11, Concession W.F.E., Township of Westmeath and the Westmeath Township - Ross Township boundary the following provisions shall apply (Phases II and III Flood Risk Mapping):

(i) Flood Fringe

Except as otherwise provided for by subsection 3(6)(b)(iii) below, the flood fringe represents those lands lying between the regulatory flood elevation and the floodway boundary as outlined on the Phase II and Phase III Flood Risk Maps. No building permits shall be issued for new development within the flood fringe unless floodproofed to the elevation of the regulatory floodline, as delineated on the applicable Flood Risk Map. An elevation survey prepared by an Ontario Land Surveyor must accompany all applications for building permits.

(ii) Floodway

The floodway represents those lands lying below the floodway boundary as outlined on the Phase II and Phase III Flood Risk Maps. On lands below this elevation, no development, with the exception of boat docking and launching facilities shall be permitted.

(iii) Lac Coulonge - (Hennessey's Bay and Malloy Bay)

For those lands fronting Hennessey's Bay and Malloy Bay as outlined on Maps 1 to 19 (excluding Map 16) of the Phase III Flood Risk Maps, the flood fringe may be extended 0.5 metres below the floodway boundary, which is outlined on the applicable Flood Risk Map. No building permits shall be issued for new development within the flood fringe unless floodproofed to the elevation of the regulatory floodline, as delineated on the applicable Flood Risk Map. An elevation survey prepared by an Ontario Land Surveyor must accompany all applications for building permits.

For development within the 0.5 metres below the floodway boundary, engineered drawings prepared and certified by a qualified Civil Engineer must accompany an application for a building permit. Engineered fill shall be used for floodproofing up the elevation of the floodway boundary. No new basements will be permitted.

- c) Existing buildings or structures located on lands below the above-noted floodway elevations may be maintained or strengthened to a safe condition.

Existing residential structures may be enlarged to a small extent subject to the following:

- For the purposes of this subsection, existing residential structures shall mean a residential structure existing and utilized as a dwelling as of the date of passage of this By-law.
- An existing residential structure may be enlarged up to a maximum of 20 percent of the existing dwelling unit area, or 300 square feet, whichever is the lesser provided that the addition and the main structure are floodproofed to the elevation of the Regulatory flood. If it is not structurally or practically possible to floodproof to this elevation, then the dwelling may not be expanded.

- Engineered drawings prepared and certified by a qualified Professional Civil Engineer and an elevation survey prepared by an Ontario Land Surveyor or Professional Engineer, must accompany all applications for a building permit. The engineered drawings shall certify that the proposed addition will be floodproofed to the Regulatory flood elevation. No new basements will be permitted within the floodway.
 - If floodproofing is achieved by raising the structure on piles or other supports, the area below the structure shall be unenclosed. For the purposes of this subsection, unenclosed shall mean uninhabitable and designed to allow waters to flow freely through in times of flooding (with consideration given to direction of flow), however, the area may be screened from view with a wooden lattice. Non-hazardous goods may be stored and locked in this area.
 - The proposed enlargement must meet the requirements of the Renfrew County and District Health Unit and no increase of the existing septic capacity shall be required.
 - The building plan shall be subject to a site plan agreement with the Township of Westmeath.
 - The construction or enlargement of unenclosed porches, steps and decks shall be permitted without floodproofing.
 - There shall be no increase to the size of these residential structures, beyond what is permitted in this section.
- d) For the purposes of determining the applicable elevation of building sites, the elevation shall be the average of the elevation of two major connecting corners of the proposed building footprint.
- e) For the purposes of the interpretation of Section 3(6), the following definition shall apply:

(i) Floodproofed means:

- the installation of power service metering equipment, major electrical appliances, etc., such that they are not located below the flood plain design elevation but this does not prohibit the installation of electrical wall outlets equipped with ground fault plugs;
- the design and installation of heating, air conditioning, ventilation, plumbing, sewer and water systems which consider flood susceptibility;
- sanitary sewer and storm drainage systems having openings below the flood plain elevation which are provided with automatic back flow preventers;
- water supply systems which are designed to prevent contamination by flood waters;
- fuel-fired furnaces which are provided with float operated automatic control valves which shut off the fuel supply in the event of flooding;
- septic systems which are designed to operate during flood conditions and which prevent sewer discharges which could result in a health hazard; and
- no building openings below the regulatory flood elevation

f) The finished grade of private access roads, driveways and parking areas shall be no lower than 0.5 metres below the flood plain design elevation.

2. THAT save as aforesaid all other provisions of By-law 81-9 as amended, shall be complied with.
3. This By-law shall come into force and take effect on the day of final passing thereof.

This By-law given its FIRST and SECOND reading this _____ day of
_____ 19_____.

This By-law read a THIRD time and finally passed this _____ day of
_____ 19_____.

REEVE

CORPORATE
SEAL OF
MUNICIPALITY

CLERK