

ISSUE DATE:

**Apr. 08, 2011**



PL100526

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

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

Appellant: 2182890 Ontario Inc.  
Appellant: Rhonda and Doug Green  
Appellant: Foremost Financial Corporation  
Appellant: I.C.C. Group  
Appellant: Landex Capital Corporation  
Appellant: Lush Reality  
Appellant: Martinek Properties Inc.  
Appellant: SF Partners Inc.  
Appellant: Simcoe Condominium Corporation Nos. 94, 114, 144  
Subject: By-law No. 2010-040  
Municipality: Town of Collingwood  
OMB Case No.: PL100526  
OMB File No.: PL100526

**APPEARANCES:**

**Parties**

**Counsel\*/Agent**

Town of Collingwood

L. Longo\*

Lorablue Holdings Inc.

A. Burton\*

I.C.C. Group

A. Burton\*

Foremost Financial Corporation

V. Vandergust\*

Simcoe Condominium Corporation  
Numbers 94, 114, and 144

I. Banach\*

2182890 Ontario Inc.

A. Burton\*

Rad Whitehead and Barbara Yeo

C. Travis

Rhonda and Doug Green

A. Pascuzzo

Landex Capital Corporation and  
S. F. Partners Inc.

S. Mahadevan\*

Martinek Properties Inc.

D. Slade\*

**MEMORANDUM OF ORAL DECISION DELIVERED BY SUSAN B. CAMPBELL  
ON MARCH 23, 2011 AND ORDER OF THE BOARD**

These matters came before the Board in a telephone conference call for the purpose of a settlement hearing. The Town of Collingwood (the "Town") and a number of Appellants to By-law No. 2010-040 (the "ZBL") have reached settlements of certain appeals.

The Board has reviewed the affidavit of Trevor Houghton, Senior Planner with the Town who was qualified to give expert land use planning evidence. He had reviewed all relevant Minutes of Settlement and proposed amendments to the ZBL and was of the opinion that they "have proper regard to matters of Provincial interest, are consistent with the Provincial Policy Statements, conform to the Growth Plan, conform with the County of Simcoe and Town of Collingwood Official Plans and represent good planning". Appended to Mr. Houghton's affidavit as Exhibits # 3, 5, 7, 9, 11 and 13 are the relevant Minutes of Settlement.

The Board accepts Mr. Houghton's uncontradicted planning opinion and orders that the appeals be allowed in part and that the ZBL be amended in accordance with Attachments # 1, 2, 3, 4, 5 and 6 appended hereto.

This is the Order of the Board.

"Susan B. Campbell"

SUSAN B. CAMPBELL  
VICE-CHAIR

## **ATTACHMENT No. 1**

**WHEREAS** Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, permits the Council of local municipalities to pass Zoning By-laws for prohibiting the use of land or the erection of buildings or structures except for such purposes as may be set out in the By-law;

**AND WHEREAS** Collingwood Zoning By-law No. 2010-040 is the governing By-law of the Corporation of the Town of Collingwood and such was finally passed by the Council of the Town of Collingwood on April 12, 2010;

**AND WHEREAS** the Ontario Municipal Board (the "Board"), by its Order dated June 30, 2010, deemed those portions of the Collingwood Zoning By-law No. 2010-040 that were not subject to an appeal to be in full force and effect as of April 12, 2010;

**AND WHEREAS** SCC Nos. 94, 114 & 144 (the "Appellant") did file with the Board their Appeal No. 17 (the "Appeal") as an objection to Collingwood Zoning By-law No. 2010-040;

**AND WHEREAS** the Town of Collingwood and the Appellant have successfully negotiated a settlement to said Appeal (with respect to the commercial part of said appeal) as described in the executed Minutes of Settlement;

### **NOW THEREFORE THE BOARD ORDERS AS FOLLOWS:**

1. **THAT** Table 7.1.2.1 entitled Commercial Permitted Uses of Collingwood Zoning By-law No. 2010-040, as amended, shall be amended by deleting in its entirety the line entitled "Outside display and sales" including associated check marks (✓) and references to Footnote (b).
2. **THAT** Section 7.2.1.4 entitled Footnote (d) – Outside Display and Sale of Goods of Collingwood Zoning By-law No. 2010-040, as amended, shall be modified in part by including an additional special provision in proper sequence to read as follows:

"iii. No outside display and sale of goods and materials shall be permitted in any yard abutting a Residential zone."
3. **THAT** Section 7.2.1.6 entitled Footnote (f) – Additional Commercial Uses of Collingwood Zoning By-law No. 2010-040, as amended, shall be modified by deleting said provision in its entirety and replacing same to read as follows:

"This commercial use shall only be permitted as an accessory use to a hotel, motel, conference centre or business type hotel or motel that is established on the lot."
4. **THAT** Collingwood Zoning By-law No. 2010-040 is hereby amended to give effect to the foregoing, but that Collingwood Zoning By-law No. 2010-040 shall in all other respects remain in full force and effect.

## **ATTACHMENT No. 2**

**WHEREAS** Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, permits the Council of local municipalities to pass Zoning By-laws for prohibiting the use of land or the erection of buildings or structures except for such purposes as may be set out in the By-law;

**AND WHEREAS** Collingwood Zoning By-law No. 2010-040 is the governing By-law of the Corporation of the Town of Collingwood and such was finally passed by the Council of the Town of Collingwood on April 12, 2010;

**AND WHEREAS** the Ontario Municipal Board (the "Board"), by its Order dated June 30, 2010, deemed those portions of the Collingwood Zoning By-law No. 2010-040 that were not subject to an appeal to be in full force and effect as of April 12, 2010;

**AND WHEREAS** 2182890 Ontario Inc. (the "Appellant") did file with the Board their Appeal No. 8 (the "Appeal") as an objection to Collingwood Zoning By-law No. 2010-040;

**AND WHEREAS** the Town of Collingwood and the Appellant have successfully negotiated a settlement to said Appeal as described in the executed Minutes of Settlement;

### **NOW THEREFORE THE BOARD ORDERS AS FOLLOWS:**

1. **THAT** Schedule "A" of Collingwood Zoning By-law No. 2010-040, as amended, is hereby amended as it pertains to the lands shown more particularly on Schedule 1 affixed hereto and forming part of this Order, by placing said lands into the RESIDENTIAL THIRD DENSITY EXCEPTION THIRTY-FIVE (R3-35) ZONE.
2. **THAT** Section 6.5 entitled RESIDENTIAL EXCEPTION ZONES of Collingwood Zoning By-law No. 2010-040, as amended, is hereby amended by adding a new paragraph entitled RESIDENTIAL THIRD DENSITY EXCEPTION THIRTY-FIVE (R3-35) ZONE in proper sequence to read as follows:

#### **"RESIDENTIAL THIRD DENSITY EXCEPTION THIRTY-FIVE (R3-35) ZONE**

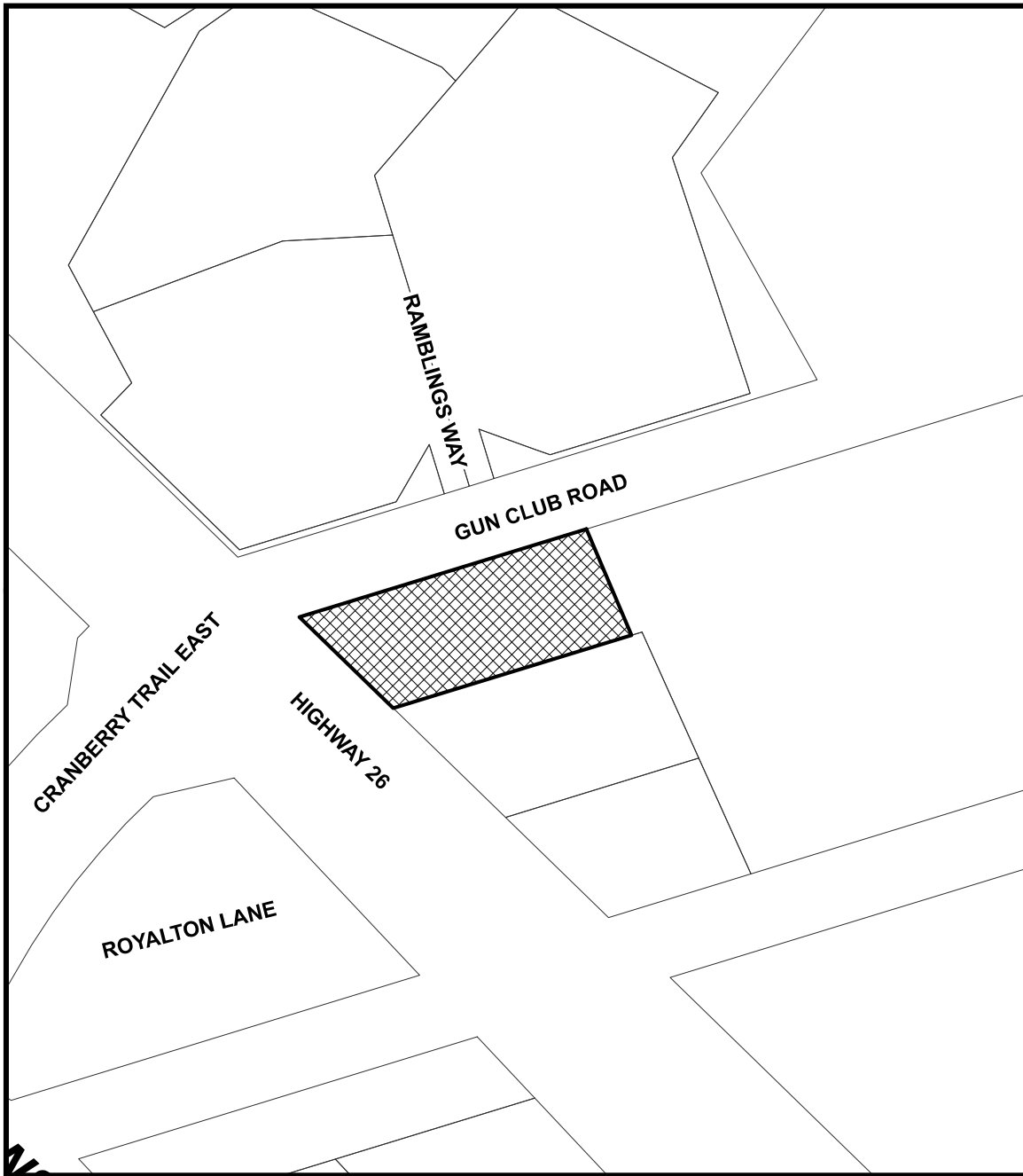
Residential uses shall be limited to the following;

- Single detached dwellings,
- Townhouse dwellings,
- Apartment dwellings, and
- Group or cluster dwellings.

In addition, an existing, one-storey real estate service office shall be permitted to continue only in the existing building on the property municipally known as 11352 Highway 26 West. The maximum ground floor area of the existing building, including decks, and the real estate service office use shall be 280 m<sup>2</sup>."

3. **THAT** Collingwood Zoning By-law No. 2010-040 is hereby amended to give effect to the foregoing, but that Collingwood Zoning By-law No. 2010-040 shall in all other respects remain in full force and effect.

Attachment No. 2  
Schedule 1



**LEGEND**



Lands to be zoned Residential Third Density  
Exception Thirty-Five (R3-35)



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**TOWN OF COLLINGWOOD**  
**Planning Services**  
DWG UPDATE: MARCH 23, 2011 (RS)

## **ATTACHMENT No. 3**

**WHEREAS** Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, permits the Council of local municipalities to pass Zoning By-laws for prohibiting the use of land or the erection of buildings or structures except for such purposes as may be set out in the By-law;

**AND WHEREAS** Collingwood Zoning By-law No. 2010-040 is the governing By-law of the Corporation of the Town of Collingwood and such was finally passed by the Council of the Town of Collingwood on April 12, 2010;

**AND WHEREAS** the Ontario Municipal Board (the "Board"), by its Order dated June 30, 2010, deemed those portions of the Collingwood Zoning By-law No. 2010-040 that were not subject to an appeal to be in full force and effect as of April 12, 2010;

**AND WHEREAS** Rhonda & Doug Green (the "Appellant") did file with the Board their Appeal No. 9 (the "Appeal") as an objection to Collingwood Zoning By-law No. 2010-040;

**AND WHEREAS** the Town of Collingwood, the Appellant and the Owner have successfully negotiated a settlement to said Appeal as described in the executed Minutes of Settlement;

### **NOW THEREFORE THE BOARD ORDERS AS FOLLOWS:**

1. **THAT** Table 2.5.5.1 entitled Holding Zone Conditions of the Zoning By-law is hereby modified with respect to the Holding Ten "H10" zone conditions by deleting said conditions in their entirety and replacing same to read as follows:
  - The completion and acceptance of an archaeological study.
  - The completion and acceptance of a storm water analysis that includes an integrated review of the subject lands and the abutting lands to the east, the purpose of which is to demonstrate no deleterious impacts on the lands abutting to the east.
  - The completion and acceptance of a phase 2 environmental audit.
  - The adoption of an authorization by-law for a site plan control agreement that includes details of the landscaping, fencing and buffering required to address the abutting lands to the east and an integrated approach to storm water management between the subject lands and the lands abutting to the east.
  - The completion and acceptance of a traffic study including the determination of an appropriate motor vehicle access onto the property and the operational impact of future traffic generated by the proposed residential development on the lands abutting to the east."
  
2. **THAT** Section 6.5 entitled Residential Exception Zones of Collingwood Zoning By-law No. 2010-040, as amended, shall be modified in part with respect to the RESIDENTIAL THIRD DENSITY EXCEPTION THIRTY-FOUR (R3-34) ZONE by deleting the special provision below in its entirety;

“A landscaped strip shall be a landscaped open space and shall also include storm water management facilities and a 1.8 m high wooden privacy fence abutting the eastern property line.”

3. **THAT** Section 6.5 entitled Residential Exception Zones of Collingwood Zoning By-law No. 2010-040, as amended, shall be modified in part with respect to the RESIDENTIAL THIRD DENSITY EXCEPTION THIRTY-FOUR (R3-34) ZONE by adding the special provision below;

“A landscaped strip shall be a landscaped open space and shall also include storm water management facilities (if necessary) and a 1.8 metre high acoustical privacy fence abutting the eastern property line.”

4. **THAT** Collingwood Zoning By-law No. 2010-040 is hereby amended to give effect to the foregoing, but that Collingwood Zoning By-law No. 2010-040 shall in all other respects remain in full force and effect.



## **ATTACHMENT No. 4**

**WHEREAS** Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, permits the Council of local municipalities to pass Zoning By-laws for prohibiting the use of land or the erection of buildings or structures except for such purposes as may be set out in the By-law;

**AND WHEREAS** Collingwood Zoning By-law No. 2010-040 is the governing By-law of the Corporation of the Town of Collingwood and such was finally passed by the Council of the Town of Collingwood on April 12, 2010;

**AND WHEREAS** the Ontario Municipal Board (the "Board"), by its Order dated June 30, 2010, deemed those portions of the Collingwood Zoning By-law No. 2010-040 that were not subject to an appeal to be in full force and effect as of April 12, 2010;

**AND WHEREAS** Landex Capital Corporation and S.F. Partners Inc. (the "Appellants") did file with the Board their Appeal Nos. 11 & 16 (the "Appeals") as objections to Collingwood Zoning By-law No. 2010-040;

**AND WHEREAS** the Town of Collingwood and the Appellants have successfully negotiated a settlement to said Appeals as described in the executed Minutes of Settlement;

### **NOW THEREFORE THE BOARD ORDERS AS FOLLOWS:**

1. **THAT** Schedule "A" of Collingwood Zoning By-law No. 2010-040, as amended, is hereby amended as it pertains to land shown more particularly on Schedule 1 affixed hereto and forming part of this Order, by zoning the properties as follows:
  - 530 Third Street to the BUSINESS PARK INDUSTRIAL EXCEPTION ONE (M4-1), the HOLDING THREE – REGIONAL COMMERCIAL EXCEPTION EIGHT (H3 C2-8) and the ENVIRONMENTAL PROTECTION (EP) ZONES.
  - 20 High Street to the HOLDING THREE – REGIONAL COMMERCIAL EXCEPTION EIGHT (H3 C2-8), the REGIONAL COMMERCIAL EXCEPTION EIGHT (C2-8) and the ENVIRONMENTAL PROTECTION (EP) ZONES.
2. **THAT** Table 2.5.5.1 titled HOLDING ZONE CONDITIONS of Collingwood Zoning By-law No. 2010-040, as amended, is hereby amended by deleting the text of the H3 holding zone condition in its entirety and replacing same to read as follows:

"Development beyond a first phase of 14,445 m<sup>2</sup> gross leasable area shall require the completion and acceptance of further market studies and traffic impact studies."
3. **THAT** Section 6.5 titled COMMERCIAL EXCEPTION ZONES of Collingwood Zoning By-law No. 2010-040, as amended, is hereby amended by modifying the paragraph titled REGIONAL COMMERCIAL EXCEPTION EIGHT (C2-8) ZONE to read as follows:

**“REGIONAL COMMERCIAL EXCEPTION EIGHT – C2-8 ZONE**

The following uses are prohibited;

- Department store,
- Home and auto supply store,
- Food supermarket, and
- Warehouse membership club.

The following zoning exceptions shall also apply;

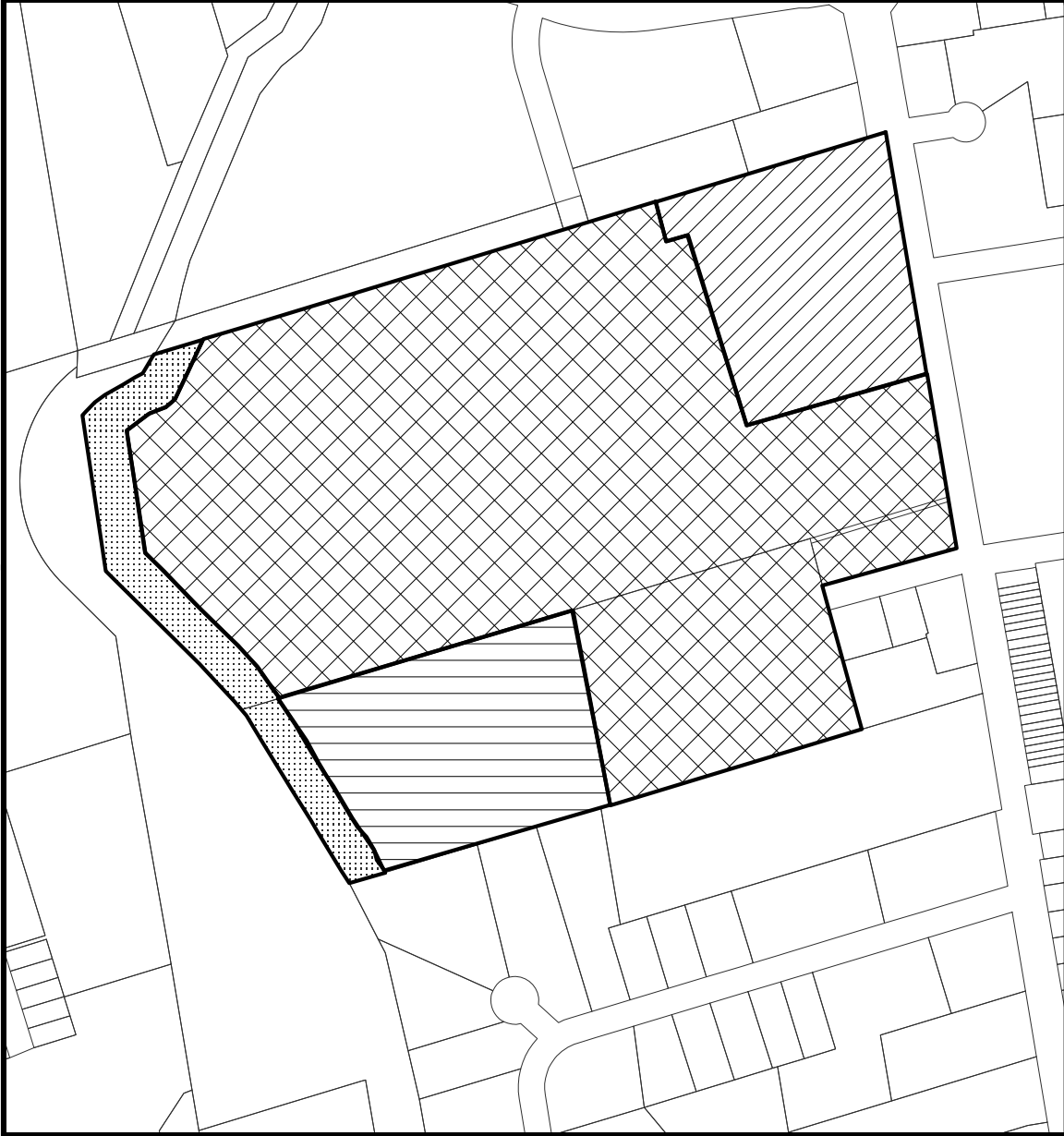
- Minimum interior side yard: 9.0 m
- One (1) home centre only

A maximum of one (1) retail unit with a minimum gross leasable area of greater than or equal to 280 m<sup>2</sup> and less than 370 m<sup>2</sup> shall be permitted on a pro rata basis for each 1.45 ha of land zoned C2-8, and





Every additional retail commercial establishment shall have a minimum gross leasable area of 370 m<sup>2</sup>.”

4. **THAT** Collingwood Zoning By-law No. 2010-040 is hereby amended to give effect to the foregoing, but that Collingwood Zoning By-law No. 2010-040 shall in all other respects remain in full force and effect.

Attachment No. 4  
Schedule 1



**LEGEND**

-  Lands to be zoned Holding Three- Regional Commercial Exception Eight (H3) C2-8.
-  Lands to be zoned Regional Commercial Exception Eight (C2-8).
-  Lands to be zoned Business Park Industrial Exception One (M4-1).
-  Lands to be zoned Environmental Protection (EP).



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**TOWN OF COLLINGWOOD**  
**Planning Services**  
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## **ATTACHMENT No. 5**

**WHEREAS** Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, permits the Council of local municipalities to pass Zoning By-laws for prohibiting the use of land or the erection of buildings or structures except for such purposes as may be set out in the By-law;

**AND WHEREAS** Collingwood Zoning By-law No. 2010-040 is the governing By-law of the Corporation of the Town of Collingwood and such was finally passed by the Council of the Town of Collingwood on April 12, 2010;

**AND WHEREAS** the Ontario Municipal Board (the "Board"), by its Order dated June 30, 2010, deemed those portions of the Collingwood Zoning By-law No. 2010-040 that were not subject to an appeal to be in full force and effect as of April 12, 2010;

**AND WHEREAS** Mr. Denis Martinek (the "Appellant") did file with the Board his Appeal No. 12 (the "Appeal") as an objection to Collingwood Zoning By-law No. 2010-040;

**AND WHEREAS** the Town of Collingwood and the Appellant have successfully negotiated a settlement to said Appeal as described in the executed Minutes of Settlement;

### **NOW THEREFORE THE BOARD ORDERS AS FOLLOWS:**

1. **THAT** Schedule "A" of Collingwood Zoning By-law No. 2010-040, as amended, is hereby further amended as it pertains to land shown more particularly on Schedule 1 affixed hereto and forming part of this Order, by zoning the property to the RESIDENTIAL FIRST DENSITY EXCEPTION NINE (R1-9) ZONE and the ENVIRONMENTAL PROTECTION (EP) ZONE.
2. **THAT** Section 6.5 titled RESIDENTIAL EXCEPTION ZONES of Collingwood Zoning By-law No. 2010-040, as amended, is hereby amended by adding thereto the following new paragraph titled RESIDENTIAL FIRST DENSITY EXCEPTION NINE (R1-9) ZONE in proper sequence to read as follows:

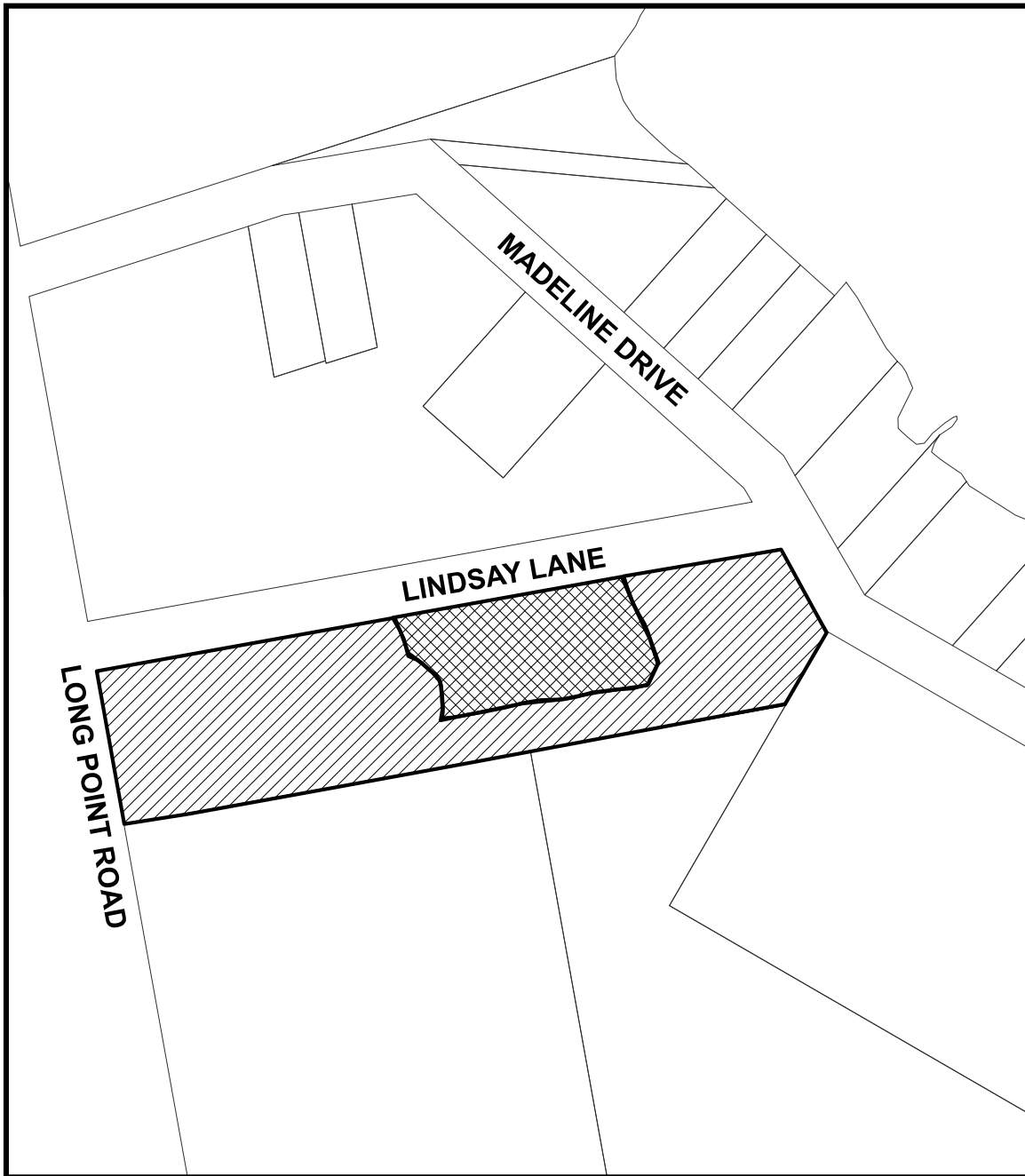
#### **"RESIDENTIAL FIRST DENSITY EXCEPTION NINE – R1-9 ZONE**

The following zoning exceptions shall apply;

Minimum lot area:	3858 m <sup>2</sup>
Minimum lot frontage:	92.0 m"

3. **THAT** Collingwood Zoning By-law No. 2010-040 is hereby amended to give effect to the foregoing, but that Collingwood Zoning By-law No. 2010-040 shall in all other respects remain in full force and effect.

Attachment No. 5  
Schedule 1



**LEGEND**



Lands to be zoned Residential One Density Exception  
Nine (R1-9).



Lands to be zoned Environmental Protection (EP).



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**TOWN OF COLLINGWOOD**  
**Planning Services**  
DWG UPDATE: MARCH 23, 2011 (RS)

## **ATTACHMENT No. 6**

**WHEREAS** Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, permits the Council of local municipalities to pass Zoning By-laws for prohibiting the use of land or the erection of buildings or structures except for such purposes as may be set out in the By-law;

**AND WHEREAS** Collingwood Zoning By-law No. 2010-040 is the governing By-law of the Corporation of the Town of Collingwood and such was finally passed by the Council of the Town of Collingwood on April 12, 2010;

**AND WHEREAS** the Ontario Municipal Board (the "Board"), by its Order dated June 30, 2010, deemed those portions of the Collingwood Zoning By-law No. 2010-040 that were not subject to an appeal to be in full force and effect as of April 12, 2010;

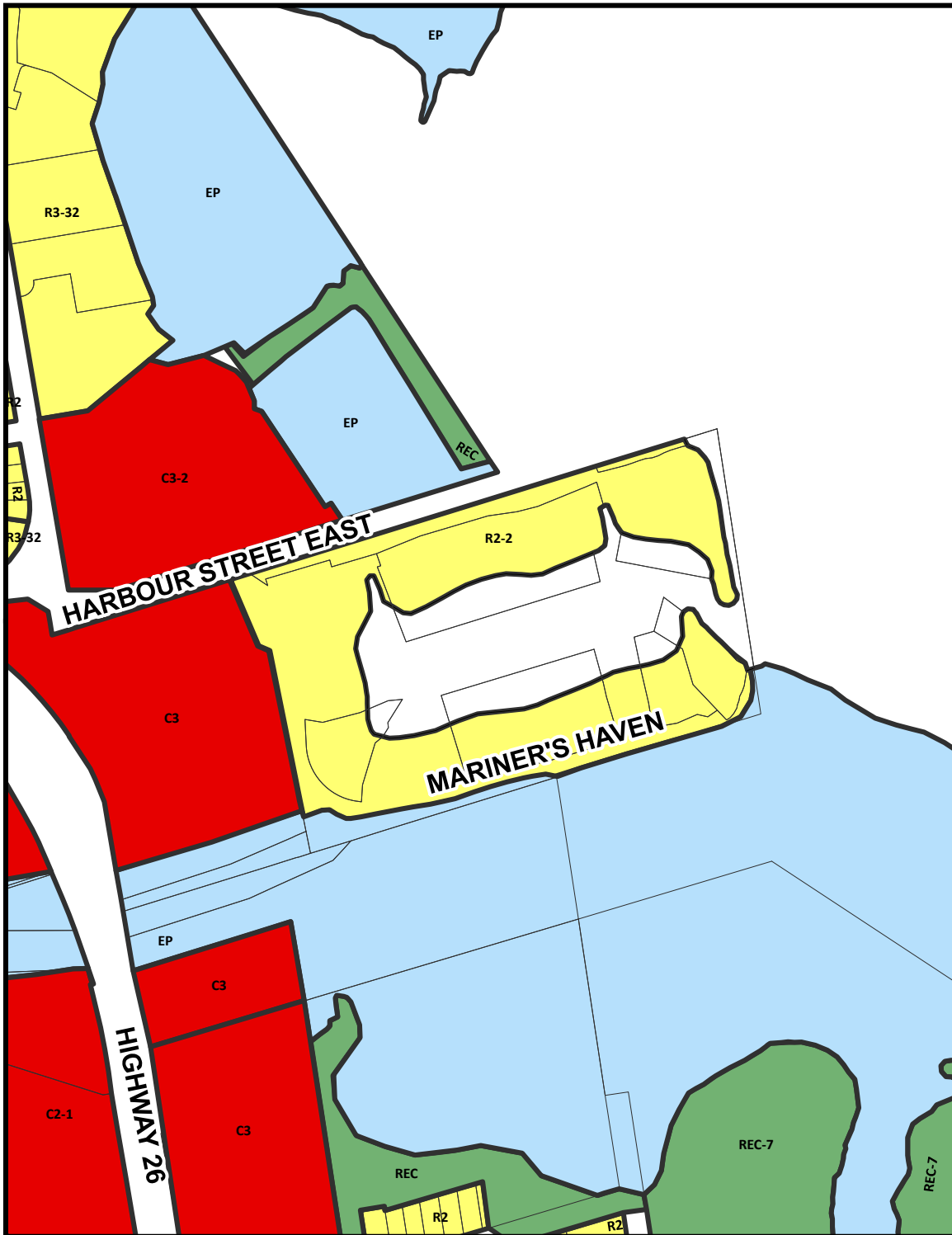
**AND WHEREAS** SCC Nos. 94, 114 & 144 (the "Appellant") did file with the Board their Appeal No. 17 (the "Appeal") as an objection to Collingwood Zoning By-law No. 2010-040;

**AND WHEREAS** the Town of Collingwood and the Appellant have successfully negotiated a settlement to said Appeal (with respect to the residential part of said appeal) as described in the executed Minutes of Settlement;

### **NOW THEREFORE THE BOARD ORDERS AS FOLLOWS:**

1. **THAT** Schedule "A" of Collingwood Zoning By-law No. 2010-040, as amended, is hereby amended as it pertains to the lands shown more particularly on Schedule 1 affixed hereto and forming part of this Order, and known generally as the Mariner's Haven boat basin, by removing the EP zone label and the colour blue from within the boundary of said boat basin.
2. **THAT** Collingwood Zoning By-law No. 2010-040 is hereby amended to give effect to the foregoing, but that Collingwood Zoning By-law No. 2010-040 shall in all other respects remain in full force and effect.

Attachment No. 6  
Schedule 1



Schedule A - Zone Map 16 of Collingwood Zoning Bylaw No. 2010-040 is hereby amended with respect to the Mariner's Haven boat basin in accordance with this Schedule 1.

TOWN OF COLLINGWOOD  
Planning Services  
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