

Growth Strategy and Economic Development

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
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Via Email Only

September 24, 2024

Region File: ZA-23-0031

David Schulz, MCIP, RPP
Senior Planner
City of Port Colborne
66 Charlotte Street
Port Colborne, ON, L3K 3C8

Dear Mr. Schulz:

**Re: Regional and Provincial Comments
Proposed Zoning By-law Amendment
City File: D14-01-23
Owners: Talia Dosa, Tisiana Recine, Salvatore (Bruno) Carrera
281 Chippawa Road
City of Port Colborne**

Staff of the Regional Growth Strategy and Economic Development Department has reviewed the above-noted Zoning By-law Amendment (ZBA) application for lands municipally known as 281 Chippawa Road in the City of Port Colborne.

The ZBA application proposes to change the zoning from 'Residential Development (RD)' to a special provision of the 'Third Density Residential (R3-XX)' zone, to permit 21 single-detached units, 40 semi-detached units, and 108 townhouse (block) dwelling units (169 dwelling units total). Special provisions are being requested, including the reduction to the minimum lot area, front yard and exterior side yard, and increased maximum lot coverage for the detached dwellings from 50 percent to 55 percent, and more than one principal building being permitted on the property under condominium ownership.

A pre-consultation meeting was held on April 22, 2021, with City and Regional staff in attendance. Regional staff have provided unsupportive comments on May 4, 2023 and June 14, 2023, respectively, due to the need for a peer review of the Air Quality and Noise and Vibration Study, and subsequently to address additional information requested by the Region's peer review consultant.

The following updated comments are provided from a Provincial and Regional perspective to assist City staff and Council in their consideration of the application.

Provincial and Regional Policies

The subject land is located within the 'Settlement Area' under the *Provincial Policy Statement, 2020* (PPS), and within the 'Designated Greenfield Area' in both *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* (Growth Plan) and the *Niagara Official Plan, 2022* (NOP).

The PPS directs growth to Settlement Areas, and encourages the efficient use of land, resources, infrastructure, and public service facilities that are planned or available. The Growth Plan and NOP identify that Designated Greenfield Areas are to be planned as complete communities by ensuring that development is sequential, orderly and contiguous with existing built-up areas, utilizing district plans and secondary plans where appropriate, ensuring infrastructure capacity is available, and supporting active transportation and encouraging the integration and sustained viability of public transit service. Designated Greenfield Areas shall achieve a minimum density of 50 residents and jobs combined per hectare as measured across the entire region. Staff note that there is no secondary plan for this designated greenfield area.

Regional staff has reviewed the '*Planning Justification and Impact Analysis Report*' (PJR) prepared by Quartek Group Inc. (dated March 2023). Staff note that the PJR indicates that the proposed development is providing a density that is marginally above the 'Low Density' threshold as provided in the City's Official Plan and although not meeting the density requirements for greenfield areas, is considered an appropriate concentration of housing units that is compatible for the neighbourhood at a higher density than currently exists. The PJR indicates that the proposed development equates to 31.2 units per hectare (169 units / 5.42 hectares).

Based on Regional staff's calculation, the proposed development will achieve a density of approximately 69 residents and jobs per hectare with this proposed development. This figure is based on 169 units, a total developable area of 5.42 ha, 2.4 people per unit for singles, 2.2 people per unit for semi-detached and row units, based on 2021 Census data. As such, staff is satisfied that the proposal exceeds the minimum greenfield density target as set out within Provincial and Regional documents and will contribute to the City achieving its overall 50 people and jobs per hectare Greenfield Area density target.

Staff acknowledge that the interface with surrounding land uses is primarily a local planning responsibility, therefore the City should be satisfied that the proposed development is compatible with the surrounding local context and its built-form provides for a transition with nearby existing and planned land uses. Please see additional discussion on this below.

Land Use Compatibility

Regional staff note that the subject lands are within approximately 65 m of the Port Colborne Quarries (east), adjacent to Highway 140, and approximately 325 m to a rail line (west).

The PPS calls for a coordinated, integrated and comprehensive approach to land use planning matters. Specifically, major facilities (including transportation infrastructure and corridors, rail facilities, resource extraction activities) and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants and to minimize risk to public health and safety. To implement this policy, the Ministry of the Environment, Conservation, and Parks (MECP) Land Use Planning Policy guidelines (Guideline D-6 Compatibility between Industrial Facilities and Sensitive Land Uses) and the MECP Environmental Noise Guideline (NPC-300) are to be applied in the land use planning process to prevent or minimize future land use problems due to the encroachment of sensitive land uses on industrial uses and to assess stationary and transportation noise sources.

The proposed residential use is considered a 'sensitive land use' as outlined in the guidelines. The D-6 Guidelines outline that industrial land uses and sensitive land uses are normally incompatible due to possible adverse effects on sensitive land uses created by industrial operations in close proximity. The guidelines identify that when impacts from industrial activities cannot be mitigated or prevented to the level of trivial impact (no adverse effects), new development shall not be permitted. Through case studies and past experiences, the MECP has identified potential influence areas (areas within which adverse effect may be experienced) for industrial land uses based on a classification system. In the absence of studies that specify actual influence areas for a particular industrial facility, Regional staff utilize these potential influence areas to screen for potential incompatibilities.

The D-6 Guideline also requires that a minimum separation distance be maintained between industrial facilities and sensitive uses, which are to be based on these classifications using a predictable 'worst case scenario' and the permitted uses in the zoning by-law. For pits and quarries, the classification would be considered a Class III industry as specified by the Guidelines. The potential influence area for a Class III Industry is 1000m and minimum distance separation distance is 300 m. Staff note that the existing Port Colborne Quarry operation at its closest point is within approximately 65m of the subject land.

Noise Impact Assessment and Air Quality Assessment

Staff has received a Noise Impact Study, prepared by LAW Consultants Ltd. (dated May 25, 2022) and an *Air Quality Impact Assessment*, prepared by LAW Consultants Ltd. (dated May 25, 2022). The studies have been peer reviewed for the Region by R.J. Burnside and Associates Limited.

There have been multiple responses from LAW Consultants Ltd. (August 30, 2023, March 1, 2024, April 23, 2024, June 17, 2024, and August 6, 2024) based on feedback from the peer review. Peer reviews completed by R.J. Burnside and Associates Limited (dated May 30, 2023 – revised June 8, 2023, May 10, 2024 – revised May 13, 2024, and August 30, 2024) are attached as appendices to this letter.

Air Quality Assessment

The completed assessment identified that the subject land is impacted by the Port Colborne Quarries located east of the subject lands. As identified in the Appendices to this letter, several points of clarification were requested by the Region's peer review consultant on the modelling of air quality. The latest peer review response (dated August 30, 2024) confirms that air quality matters have been satisfactorily addressed. The Assessment has revised their modelling by incorporating best management practices undertaken at the Port Colborne Quarries site, which shows concentrations for all contaminants to be below the applicable limits at the subject land. The Assessment has confirmed the dust mitigation measures (wet the haul roads, at least twice/day during dry weather conditions) undertaken by Port Colborne Quarries and therefore, no additional air quality monitoring work program is recommended for the development.

Noise Impact Assessment

The completed assessment identified that traffic volume from Highway 140 and stationary noise from the Port Colborne Quarries is above the thresholds as set out within the MECP NPC-300 Environmental Noise Guideline. To address these exceedances, the noise consultant is recommending the following mitigation:

- All units to include mandatory air conditioning.
- That a recommended noise barrier of 5.7 m be constructed along the east side of the property boundary (closest to Highway 140) to address both transportation and stationary noise.
- That a Class 4 area (related to elevated levels of stationary noise) be applied to the subject land (as discussed further below).
- Warning clauses to be included in future draft plan/site plan applications and purchase, sale, rent, and lease agreements that the dwelling has been installed with air conditioning to allow windows and doors to remain closed, a clause advising that due to the proximity to the adjacent industry, noise from the industry may at time be audible, and a clause advising of the class 4 area designation.

Class 4 Area

There are two types of noise considered in the MECP NPC-300 Environmental Noise Guidelines - transportation-related noise sources (e.g. sound from road traffic, rail, aircraft) and stationary noise sources (e.g. sound from a facility, including rooftop mechanical equipment, industrial facility, drive thru speaker, car wash, etc).

Transportation sound level limits are uniform regardless of the Class Area. The Class Area is utilized for stationary noise sources.

The submitted Noise Study utilized a Class 2 Area, meaning sound levels during the daytime are dominated by the activities of people, usually road traffic, and during the evening and nighttime, sound levels are defined by the natural environment and infrequent human activity starting as early as 7pm. As noise limits for a Class 2 Area were unable to be met based on the presence of the Port Colborne Quarries, the consultant has recommended applying a Class 4 area designation over the subject lands.

A Class 4 area classification allows for higher daytime and nighttime sound level limits than would otherwise be permitted in relation to a noise sensitive land use. The impact of higher levels of noise is mitigated by specific noise control measures. A Class 4 designation allows stationary source sound levels to reach a max of 60 dBA during the daytime (versus maximum of 50 dBA for Class 2) and 55 dBA during the nighttime (versus max of 45 dBA for Class 2).

The Region's peer review consultant has confirmed that the site meets the basic requirements for a Class 4 area designation, including the development being a new noise sensitive land use that has not been built and in proximity to existing, lawfully established stationary noise source. However, the Class 4 area limits must be met at all receptors to support this designation.

A 5.7 m barrier (found in Figure A of the Addendum to the Noise Impact Assessment, prepared by LAW Consultants, dated April 23, 2024) is required along the east boundary of the subject land to meet the Class 4 area limits as set out within NPC-300. City staff should be satisfied that the proposed noise barrier is feasible for the site and the Zoning By-law Amendment reflects the required height in order to meet the Class 4 designation. Furthermore, as the City is the approval authority for the application, the City is required to designate the subject land as a Class 4 area. **The decision to designate the lands as Class 4 is at the sole discretion of the City, as the land use planning authority.** Once designated, the same classification and related sound level limits apply to the noise sensitive land use and the stationary noise source. This designation is retained subject to the continuing presence of the stationary noise source.

As the application is at the Zoning stage, a detailed Noise Study shall be provided through subsequent Planning Act applications (Draft Plan/Site Plan) to confirm the required mitigation once detailed designs are provided. One item noted to be addressed through future applications by the Region's peer review consultant is justification to ensure mitigation measures (if required) are sufficient for properties along Chippawa Road, as local traffic along Chippawa Road was omitted from the study. All other mitigation required (mandatory air conditioning and warning clauses) can be addressed through future Planning Act applications.

Natural Heritage

A pre-consultation meeting for the proposal was held prior to the approval of the NOP by the Minister of Municipal Affairs and Housing on November 4, 2022. Policy 3.1.30.3.1 of the NOP states that, where a formal pre-consultation meeting has been completed within one (1) year of the approval of the NOP, and environmental requirements have been established through a signed pre-consultation agreement that has not expired, required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed (provided the application is submitted within two years of the approval of the NOP). Accordingly, the environmental policies of the previous Regional Official Plan (“ROP”) apply to the proposal.

Under the ROP, the subject lands are impacted by the Region’s Core Natural Heritage System (“CNHS”), consisting of Significant Woodland. According to aerial photography, the extent of Significant Woodland appeared to be greater than what is currently mapped. As such, consistent with ROP policy 7.B.1.11, an Environmental Impact Study (“EIS”) was requested in support of development or site alteration proposed on the property to confirm the extent of features and to demonstrate that there will be no significant negative impact on the features or their ecological function.

Staff has reviewed the *Environmental Constraints Assessment and Mitigation Report*, prepared by Natural Resource Solutions Inc. (dated March 2, 2023), which confirms the presence of Significant Woodland adjacent to the southern and western property lines. Along the southern property boundary a dripline plus 10m buffer is recommended. Along the western property boundary a dripline plus 5m buffer is recommended. Based on the characterization of the feature provided in the Report as well as staff’s observations at site visits that occurred on July 26, 2021, and June 23, 2022, staff offer no objection to the buffer recommendations or mitigation measures recommended in the Report.

As such, as it relates to the proposed ZBA application, staff offer no objection provided the feature and recommended buffers are placed into an appropriately restrictive environmental zone. Staff have reviewed the proposed ZBA Schedule and note that the extent of environmental zones has not been illustrated. Staff request that a revised Schedule is circulated prior to approval that adequately addresses Regional environmental planning requirements.

Archaeological Potential

The PPS and NOP state that development and site alteration are not permitted within areas of archaeological potential, unless significant archaeological resources have been conserved. The subject lands are mapped as an area of archaeological potential in Schedule K of the NOP.

Regional staff has reviewed the *Draft Stage 1 and 2 Archaeological Assessments*, prepared by Archaeological Research Associates Ltd. (dated December 17, 2021) and the *Draft Stage 1 and 2 Archaeological Assessments – Supplementary Documentation*, prepared by Archaeological Research Associates Ltd. (dated December 17, 2021). The Stage 1 background assessment determined that the study area included a mixture of areas with archaeological potential and some areas with no archaeological potential. The Stage 2 field assessment resulted in the findings of 8 locations containing Indigenous and Euro-Canadian archaeological materials. Of the 8 sites, 3 sites were deemed by the licensed archaeologist to have further cultural heritage value or interest (CHVI), whereas the remaining 5 sites were found to have no further CHVI. The licensed archaeologist has recommended that Sites 1, 3 and 6 be subject to a Stage 3 site-specific assessment, which will then determine whether a Stage 4 mitigation of development impacts is warranted. Staff acknowledge that the supplementary documentation includes mapping of the sites discovered.

Staff require the final versions of the Stage 1-2 Archaeological Assessments and Supplementary Documentation, the Ministry's acknowledgement of these reports, and the recommended Stage 3 site-specific archaeological assessments for Sites 1, 3, and 6 as recommended by the licensed archaeologist. Given the findings of these assessments and recommended further work, no demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from the Ministry through Niagara Region confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

Staff note that these requirements can be managed as a condition through the future Draft Plan application.

Traffic

Regional Transportation Planning staff has reviewed the *Traffic Impact Study (TIS)*, prepared by Traffimobility (dated November 3, 2022) and offer no comments. The report did include recommendations related to a Regional intersection and required cycle length changes at a future date. Please note that Regional intersections are reviewed by the Region during our intersection analysis program and will continue to be monitored in the future to ensure that the required improvements are implemented when warranted.

Regional Bicycle Network

The subject property has frontage on Chippawa Road, which is designated as part of the Regional Niagara Bicycling Network. If the bicycle routes are currently not established and identified with signage, it is the intent of the Region to make provisions for doing so when an appropriate opportunity arises. This may involve additional pavement width, elimination of on-street parking, etc.

Stormwater Management

Staff has reviewed the submitted *Functional Servicing Report*, prepared by Quartek Group Inc. (dated March 2023). The Report includes a conceptual stormwater management plan, which proposes that the development stormwater be captured and directed to a future dry pond prior to discharge to Highway 140 roadside ditch. Regional staff will require a detailed stormwater management plan at the time of Draft Plan that indicates in detail how the following requirements will be achieved:

- Stormwater runoff is to be captured and treated to a Normal standard as the minimum acceptable standard prior to discharge from the site. The Region encourages implementation of Low Impact Development practices and Green Infrastructure to form a treatment train and maximize water retention on-site.
- A section of inspection and maintenance requirements of stormwater management facilities for the future owner.

Prior to construction, Niagara Region will require the grading/servicing and construction erosion/sediment control plans be submitted to this office for review and approval.

Waste Collection

Niagara Region provides curbside waste collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste collection provided that the owner bring the waste to the curbside on the designated pick up day, and that the following limits are not exceeded:

Single Family Dwelling

- Green – no limit (weekly)
- Waste – 2 bag/can limit (bi-weekly)
- Curbside collection only

Region staff will require that garbage truck turning plans be submitted using the Regional truck turning template to confirm that the proposed development is able to accommodate Regional curbside waste collection. It appears that waste collection pads may be required for some of the proposed units, (A1, A2, B39, B40, C106, C107, C108) where the driveways will extend beyond the collection limits of the truck. Please include the waste collection pad locations on the future site plan.

The applicant will be required to complete an Indemnity Agreement with the Region prior to waste collection services commencing for the private road development. If the proposed development is unable to meet Niagara Region's waste collection requirements, waste collection services for the site will be the responsibility of the owner through a private waste collection contractor and not the Niagara Region.

Circular Materials Ontario is responsible for the delivery of Blue / Grey Box recycling collection services. The most up to date information can be found using the following link: <https://www.circularmaterials.ca/resident-communities/niagara-region/>

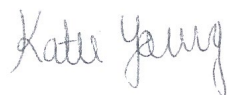
Conclusion

Regional Growth Strategy and Economic Development staff do not object to the proposed Zoning By-law Amendment, subject to a Class 4 Area designation under the Ministry's Environmental Noise Guideline (NPC-300) being applied to the lands, the Zoning By-law Amendment noting the required height of the noise barrier (5.7 m) to meet Class 4 area noise thresholds, and the Significant Woodland and recommended buffers being placed into an appropriately restrictive environmental zone.

Staff reiterate that the decision to designate the lands as Class 4 is at the sole discretion of the City, as the land use planning authority.

Should you have any questions related to the above comments or wish to meet to discuss these further, please contact the undersigned at Katie.Young@niagararegion.ca or Diana Morreale, Director of Growth Management and Planning at Diana.Morreale@niagararegion.ca.

Kind regards,



Katie Young, MCIP, RPP
Senior Development Planner

cc: Diana Morreale, MCIP, RPP, Director, Growth Management and Planning
Pat Busnello, MCIP, RPP, Manager, Development Planning
Adam Boudens, Senior Environmental Planner / Ecologist
Susan Dunsmore, P.Eng., Director (A), Infrastructure Planning and Development Engineering

Appendix 1: Peer Review of Air Quality Impact Assessment and Noise Impact Assessment (dated May 30, 2023 – revised June 8, 2023)

Appendix 2: Peer Review of Air Quality Impact Assessment and Noise Impact Assessment (dated May 10, 2024 – revised May 13, 2024)

Appendix 3: Peer Review of Air Quality Impact Assessment and Noise Impact Assessment (dated August 30, 2024)

Growth Strategy and Economic Development

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free:1-800-263-7215

Via Email Only

May 4, 2023

Region File: D.18.07.ZA-23-0031

Chris Roome
Planner
City of Port Colborne
66 Charlotte Street
Port Colborne, ON, L3K 3C8

Dear Mr. Roome:

**Re: Regional and Provincial Comments
Proposed Zoning By-law Amendment
City File: D14-01-23
Agent/Applicant: Quartek Group Inc. c/o Susan Smyth
Owner: Talia Dosa, Tisiana Recine, Salvatore (Bruno) Carrera
281 Chippawa Road
City of Port Colborne**

Staff of the Regional Growth Strategy and Economic Development Department has reviewed the above-noted Zoning By-law Amendment (“ZBA”) application for lands municipally known as 281 Chippawa Road in the City of Port Colborne. Regional staff received circulation of the application on March 15, 2023, with the associated review fees received March 20, 2023.

The ZBA application proposes to change the zoning from ‘Residential Development (RD)’ to a special provision of the ‘Third Density Residential (R3-XX)’ zone, in order to permit 21 single-detached units, 40 semi-detached units, and 108 townhouse (block) dwelling units (169 dwelling units total). Special provisions are being requested, which includes:

- reduction to the minimum lot area for both detached and semi-detached dwellings;
- reduction to the minimum lot area for block townhouse units;
- reduced front yard and exterior side yard for detached, semi-detached, and townhouse units;
- an increased maximum lot coverage for detached dwellings from 50% to 55%; and,

- that more than one principal building be permitted on the property under condominium ownership.

A pre-consultation meeting was held on April 22, 2021 with City and Regional staff in attendance. The following comments are provided from a Provincial and Regional perspective to assist City staff and Council in their consideration of the application.

Provincial and Regional Policies

The subject land is located within the 'Settlement Area' under the *Provincial Policy Statement, 2020* ("PPS"), and within the 'Designated Greenfield Area' in both *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* ("Growth Plan") and the *Niagara Official Plan, 2022*.

The majority of development is to occur within urban areas, where municipal water and wastewater systems/services exist or are planned and a range of transportation options can be provided. Strategically directing growth can be achieved through a balanced mix of built-forms in our communities. The Growth Plan and NOP identify that Designated Greenfield Areas are to be planned as complete communities by ensuring that development is sequential, orderly and contiguous with existing built up areas, utilizing district plans and secondary plans where appropriate, ensuring infrastructure capacity is available, and supporting active transportation and encouraging the integration and sustained viability of public transit service. Designated Greenfield Areas shall achieve a minimum density of 50 residents and jobs combined per hectare as measured across the entire region.

Regional staff has reviewed the '*Planning Justification and Impact Analysis Report*' ("PJR") prepared by Quartek Group Inc. (dated March 2023). Staff note that the PJR indicates that the proposed development is providing a density that is marginally above the 'Low Density' threshold as provided in the City's Official Plan and although not meeting the density requirements for greenfield areas, is considered an appropriate concentration of housing units that is compatible for the neighbourhood at a higher density than currently exists. The PJR indicates that the proposed development equates to 31.2 units per hectare (169 units / 5.42 hectares).

Based on Regional staff's calculation, the proposed development will achieve a density of approximately 72 residents and jobs per hectare with this proposed development. This figure is based on 169 units, a total developable area of 5.42 ha, 2.4 people per unit for singles, 2.2 people per unit for semi-detached and row units, based on 2021 Census data). As such, staff is satisfied that the proposal exceeds the minimum greenfield density target as set out within Provincial and Regional documents and will contribute to the City achieving its overall 50 people and jobs per hectare Greenfield Area density target.

Land Use Compatibility

Regional staff note that the subject lands are west of the existing Port Colborne Quarry, adjacent to Highway 140, and approximately 325 m east of a rail line.

The PPS calls for a coordinated, integrated and comprehensive approach to land use planning matters. Specifically, major facilities (including transportation infrastructure and corridors, rail facilities, resource extraction activities) and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants and to minimize risk to public health and safety. To implement this policy, the Ministry of the Environment, Conservation, and Parks (“MECP”) Land Use Planning Policy guidelines (Guideline D-6 Compatibility between Industrial Facilities and Sensitive Land Uses) are to be applied in the land use planning process to prevent or minimize future land use problems due to the encroachment of sensitive land uses on industrial uses. Additionally, MECP’s Environmental Noise Guideline (NPC-300) is to be utilized to assess stationary and transportation noise sources.

Staff acknowledge that a *Noise Impact Assessment*, prepared by LAW Consultants Ltd. (dated May 25, 2022) and *Air Quality Impact Assessment*, prepared by LAW Consultants Ltd. (dated May 25, 2022) has been submitted with the application. As noted at the pre-consultation meeting, the Region requires that these technical studies be peer reviewed by the Region’s consultant at the owner’s expense. Given that the Region’s consultant has not reviewed these studies at the time of writing this letter, staff recommend that a holding provision is placed on the Zoning until the studies have been reviewed by the Region’s consultant and approved.

Natural Heritage

A pre-consultation meeting for the proposal was held prior to the approval of the *Niagara Official Plan (“NOP”)* by the Minister of Municipal Affairs and Housing on November 4, 2022. Policy 3.1.30.3.1 of the NOP states that, where a formal pre-consultation meeting has been completed within one (1) year of the approval of the NOP, and environmental requirements have been established through a signed pre-consultation agreement that has not expired, required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed (provided the application is submitted within two years of the approval of the NOP). Accordingly, the environmental policies of the previous Regional Official Plan (“ROP”) apply to the proposal.

Under the ROP, the subject lands are impacted by the Region’s Core Natural Heritage System (“CNHS”), consisting of Significant Woodland. According to aerial photography, the extent of Significant Woodland appeared to be greater than what is currently mapped. As such, consistent with ROP policy 7.B.1.11, an Environmental Impact Study (“EIS”) was requested in support of development or site alteration proposed on the

property to confirm the extent of features and to demonstrate that there will be no significant negative impact on the features or their ecological function.

Staff have reviewed the *Environmental Constraints Assessment and Mitigation Report*, prepared by Natural Resource Solutions Inc. (dated March 2, 2023), which confirms the presence of Significant Woodland adjacent to the southern and western property lines. Along the southern property boundary a dripline plus 10m buffer is recommended. Along the western property boundary a dripline plus 5m buffer is recommended. Based on the characterization of the feature provided in the Report as well as staff's observations at site visits that occurred on July 26, 2021 and June 23, 2022, staff offer no objection to the buffer recommendations or mitigation measures recommended in the Report.

As such, as it relates to the proposed ZBA application, staff offer no objection provided the feature and recommended buffers are placed into an appropriately restrictive environmental zone. Staff have reviewed the proposed ZBA Schedule and note that the extent of environmental zones has not been illustrated. Staff request that a revised Schedule is circulated prior to approval that adequately addresses Regional environmental planning requirements.

Archaeological Potential

The PPS and NOP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 6.4.2.1 of the NOP state that development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

Based on the Ministry of Citizenship and Multiculturalism's ("MCM") Criteria for Evaluating Archaeological Potential utilized at the time of pre-consultation, the subject land has high potential for the discovery of archaeological resources as it is within 300 m of two registered archaeological sites. Given the proximity to nearby registered archaeological sites, staff requested the completion of a Stage 1-2 Archaeological Assessment and Ministry Acknowledgement Letter. Regional staff notes that the subject land is also within an 'Area of Archaeological Potential' on Schedule K of the NOP.

Regional staff has reviewed the *Draft Stage 1 and 2 Archaeological Assessments*, prepared by Archaeological Research Associates Ltd. (dated December 17, 2021) and the *Draft Stage 1 and 2 Archaeological Assessments – Supplementary Documentation*, prepared by Archaeological Research Associates Ltd. (dated December 17, 2021). The Stage 1 background assessment determined that the study area included a mixture of areas with archaeological potential and some areas with no archaeological potential. The Stage 2 field assessment utilized both pedestrian survey methods (within the agricultural fields) and test pit survey methods (within the remaining overgrown areas and manicured lawns). The Stage 2 field assessment resulted in the findings of 8 locations containing Indigenous and Euro-Canadian archaeological materials. Of the 8

sites, 3 sites were deemed by the licensed archaeologist to have further cultural heritage value or interest (“CHVI”), whereas the remaining 5 sites were found to have no further CHVI. The licensed archaeologist has recommended that Sites 1, 3 and 6 be subject to a Stage 3 site-specific assessment, which will then determine whether a Stage 4 mitigation of development impacts is warranted. Staff acknowledge that the supplementary documentation includes mapping of the sites discovered.

Staff require the final versions of the Stage 1-2 Archaeological Assessments and Supplementary Documentation, the Ministry’s acknowledgement of these reports, and the recommended Stage 3 site-specific archaeological assessments for Sites 1, 3, and 6 as recommended by the licensed archaeologist. Given the findings of these assessments and recommended further work, no development or site alteration shall occur on these lands until further investigation has been completed and Ministry Acknowledgement has been received.

Staff note that these requirements can be managed as a condition through the future Draft Plan application.

Traffic

Regional Transportation Planning staff has reviewed the *Traffic Impact Study* (“TIS”), prepared by Traffimobility (dated November 3, 2022) and offer no comments. The report did include recommendations related to a Regional intersection and required cycle length changes at a future date. Please note that Regional intersections are reviewed by the Region during our intersection analysis program and will continue to be monitored in the future to ensure that the required improvements are implemented when warranted.

Regional Bicycle Network

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Stormwater Management

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- A section of inspection and maintenance requirements of stormwater management facilities for the future owner.

Prior to construction, Niagara Region will require the grading/servicing and construction erosion/sediment control plans be submitted to this office for review and approval.

Waste Collection

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner bring the waste and recycling to the curbside on the designated pick up day, and that the following limits are not exceeded:

Single Family Dwelling

- Blue/grey –no limit (weekly)
- Green – no limit (weekly)
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- Curbside collection only

Region staff will require that garbage truck turning plans be submitted using the Regional truck turning template to confirm that the proposed development is able to accommodate Regional curbside waste collection. It appears that waste collection pads may be required for some of the proposed units, (A1, A2, B39, B40, C106, C107, C108) where the driveways will extend beyond the collection limits of the truck. Please include the waste collection pad locations on the future site plan.

The applicant will be required to complete an Indemnity Agreement with the Region prior to waste collection services commencing for the private road development. If the proposed development is unable to meet Niagara Region's waste collection requirements, waste collection services for the site will be the responsibility of the owner through a private waste collection contractor and not the Niagara Region.

Conclusion

Staff of the Regional Growth Strategy and Economic Development Department recommend that the proposed Zoning By-law Amendment include a Holding provision in order to have the Noise Study and Air Quality Assessment peer reviewed. The Holding provision is required to ensure the proposal is consistent with the PPS and conforms to Provincial and Regional plans with respect to land use compatibility. Regional staff also

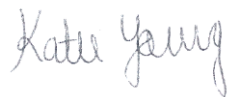
May 4, 2023

request that a revised Zoning By-law Amendment Schedule be circulated prior to approval that adequately shows the Significant Woodland feature and recommended buffers in a restrictive environmental zone.

Should you have any questions related to the above comments, please contact the undersigned or Diana Morreale, Director of Development Approvals at Diana.Morreale@niagararegion.ca.

Please send a copy of the staff report from the City and notice of Council's decision on this application when available.

Kind regards,



Katie Young, MCIP, RPP
Development Planner

cc: Diana Morreale, MCIP, RPP, Director of Development Approvals
Pat Busnello, MCIP, RPP, Manager of Development Planning
Adam Boudens, Senior Environmental Planner / Ecologist
Stephen Bureau, Development Approvals Technician
Valentina Escobar, Development Planner

Growth Strategy and Economic Development

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free:1-800-263-7215

Via Email Only

June 14, 2023

Region File: D.18.07.ZA-23-0031

Chris Roome
Planner
City of Port Colborne
66 Charlotte Street
Port Colborne, ON, L3K 3C8

Dear Mr. Roome:

**Re: Regional and Provincial Comments
Proposed Zoning By-law Amendment
City File: D14-01-23
Agent/Applicant: Quartek Group Inc. c/o Susan Smyth
Owner: Talia Dosa, Tisiana Recine, Salvatore (Bruno) Carrera
281 Chippawa Road
City of Port Colborne**

Staff of the Regional Growth Strategy and Economic Development Department has reviewed the above-noted Zoning By-law Amendment (“ZBA”) application for lands municipally known as 281 Chippawa Road in the City of Port Colborne. Regional staff received circulation of the application on March 15, 2023, with the associated review fees received March 20, 2023.

The ZBA application proposes to change the zoning from ‘Residential Development (RD)’ to a special provision of the ‘Third Density Residential (R3-XX)’ zone, in order to permit 21 single-detached units, 40 semi-detached units, and 108 townhouse (block) dwelling units (169 dwelling units total). Special provisions are being requested, which includes:

- reduction to the minimum lot area for both detached and semi-detached dwellings;
- reduction to the minimum lot area for block townhouse units;
- reduced front yard and exterior side yard for detached, semi-detached, and townhouse units;
- an increased maximum lot coverage for detached dwellings from 50% to 55%; and,

- that more than one principal building be permitted on the property under condominium ownership.

A pre-consultation meeting was held on April 22, 2021 with City and Regional staff in attendance. The following comments are provided from a Provincial and Regional perspective to assist City staff and Council in their consideration of the application.

Provincial and Regional Policies

The subject land is located within the 'Settlement Area' under the *Provincial Policy Statement, 2020* ("PPS"), and within the 'Designated Greenfield Area' in both *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* ("Growth Plan") and the *Niagara Official Plan, 2022*.

The majority of development is to occur within urban areas, where municipal water and wastewater systems/services exist or are planned and a range of transportation options can be provided. Strategically directing growth can be achieved through a balanced mix of built-forms in our communities. The Growth Plan and NOP identify that Designated Greenfield Areas are to be planned as complete communities by ensuring that development is sequential, orderly and contiguous with existing built up areas, utilizing district plans and secondary plans where appropriate, ensuring infrastructure capacity is available, and supporting active transportation and encouraging the integration and sustained viability of public transit service. Designated Greenfield Areas shall achieve a minimum density of 50 residents and jobs combined per hectare as measured across the entire region.

Regional staff has reviewed the '*Planning Justification and Impact Analysis Report*' ("PJR") prepared by Quartek Group Inc. (dated March 2023). Staff note that the PJR indicates that the proposed development is providing a density that is marginally above the 'Low Density' threshold as provided in the City's Official Plan and although not meeting the density requirements for greenfield areas, is considered an appropriate concentration of housing units that is compatible for the neighbourhood at a higher density than currently exists. The PJR indicates that the proposed development equates to 31.2 units per hectare (169 units / 5.42 hectares).

Based on Regional staff's calculation, the proposed development will achieve a density of approximately 69 residents and jobs per hectare with this proposed development. This figure is based on 169 units, a total developable area of 5.42 ha, 2.4 people per unit for singles, 2.2 people per unit for semi-detached and row units, based on 2021 Census data. As such, staff is satisfied that the proposal exceeds the minimum greenfield density target as set out within Provincial and Regional documents and will contribute to the City achieving its overall 50 people and jobs per hectare Greenfield Area density target.

Land Use Compatibility

Regional staff note that the subject lands are west of the existing Port Colborne Quarry, adjacent to Highway 140, and approximately 325 m east of a rail line.

The PPS calls for a coordinated, integrated and comprehensive approach to land use planning matters. Specifically, major facilities (including transportation infrastructure and corridors, rail facilities, resource extraction activities) and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants and to minimize risk to public health and safety. To implement this policy, the Ministry of the Environment, Conservation, and Parks (“MECP”) Land Use Planning Policy guidelines (Guideline D-6 Compatibility between Industrial Facilities and Sensitive Land Uses) and the MECP Environmental Noise Guideline (NPC-300) are to be applied in the land use planning process to prevent or minimize future land use problems due to the encroachment of sensitive land uses on industrial uses and to assess stationary and transportation noise sources.

The proposed residential use is considered a ‘sensitive land use’ as outlined in the guidelines. The D-6 Guidelines outline that industrial land uses and sensitive land uses are normally incompatible due to possible adverse effects on sensitive land uses created by industrial operations in close proximity. The guidelines identify that when impacts from industrial activities cannot be mitigated or prevented to the level of trivial impact (no adverse effects), new development shall not be permitted. Through case studies and past experiences, the MECP has identified potential influence areas (areas within which adverse effect may be experienced) for industrial land uses based on a classification system. In the absence of studies that specify actual influence areas for a particular industrial facility, Regional staff utilize these potential influence areas to screen for potential incompatibilities.

The D-6 Guideline also requires that a minimum separation distance be maintained between industrial facilities and sensitive uses, which are to be based on these classifications using a predicable ‘worst case scenario’ and the permitted uses in the zoning by-law. For pits and quarries, the classification would be considered a Class III industry as specified by the Guidelines. The potential influence area for a Class III Industry is 1000m and minimum distance separation distance is 300 m. Staff note that the existing Port Colborne Quarry operation at its closest point is within approximately 65m of the subject land.

Noise Impact Assessment and Air Quality Assessment

Staff has received the submission of a *Noise Impact Assessment*, prepared by LAW Consultants Ltd. (dated May 25, 2022) and an *Air Quality Impact Assessment*, prepared by LAW Consultants Ltd. (dated May 25, 2022).

The studies have been peer reviewed for the Region by R.J. Burnside and Associates Limited. A number of concerns have been identified by R.J. Burnside and Associates that will need to be addressed in order to satisfy Provincial and Regional policies relative to land use compatibility, including but not limited to:

Air Quality Assessment

- Clarification regarding scaling factors for blasting particulate calculation, the number of blasts occurring, and omissions in the Emission Rate Estimation should be updated
- Confirmation that no other activities happen on the same day as blasting
- Dispersion modelling to be revised to include a receptor grid over the entire property of the proposed development to indicate impact over the entire site
- Discussion to be provided on why exceedances predicted at the proposed development should be accepted
- Clarification to be provided on how and when the task of determining whether the modelling assessment requires further refinements will be completed.

Noise Impact Assessment

- An agreement from Port Colborne Quarries should be provided to confirm that the proposed barrier along the west boundary of Pit 1 is acceptable and will be implemented
- Justification on why traffic from Chippawa Road was omitted, otherwise to be included in the assessment
- Confirmation that no dwellings are higher than two storeys; otherwise the assessment should be revised based on the plane of window location of the top storey
- Clarification to be provided on which lots/units require mandatory air conditioning and which only require the provision for future installation by the purchaser
- The extent of the barrier required to mitigate traffic noise should be clarified and shown in the figure
- A Class 4 area cannot be supported until an assessment is provided showing compliance with Class 4 limits

Staff note that full comments from the Region's peer review consultant is provided in the Appendix and should be referred to in conjunction with the above points. **Staff request that the peer review comments be addressed in order to address land use compatibility.**

Natural Heritage

A pre-consultation meeting for the proposal was held prior to the approval of the *Niagara Official Plan ("NOP")* by the Minister of Municipal Affairs and Housing on November 4, 2022. Policy 3.1.30.3.1 of the NOP states that, where a formal pre-

consultation meeting has been completed within one (1) year of the approval of the NOP, and environmental requirements have been established through a signed pre-consultation agreement that has not expired, required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed (provided the application is submitted within two years of the approval of the NOP). Accordingly, the environmental policies of the previous Regional Official Plan (“ROP”) apply to the proposal.

Under the ROP, the subject lands are impacted by the Region’s Core Natural Heritage System (“CNHS”), consisting of Significant Woodland. According to aerial photography, the extent of Significant Woodland appeared to be greater than what is currently mapped. As such, consistent with ROP policy 7.B.1.11, an Environmental Impact Study (“EIS”) was requested in support of development or site alteration proposed on the property to confirm the extent of features and to demonstrate that there will be no significant negative impact on the features or their ecological function.

Staff have reviewed the *Environmental Constraints Assessment and Mitigation Report*, prepared by Natural Resource Solutions Inc. (dated March 2, 2023), which confirms the presence of Significant Woodland adjacent to the southern and western property lines. Along the southern property boundary a dripline plus 10m buffer is recommended. Along the western property boundary a dripline plus 5m buffer is recommended. Based on the characterization of the feature provided in the Report as well as staff’s observations at site visits that occurred on July 26, 2021 and June 23, 2022, staff offer no objection to the buffer recommendations or mitigation measures recommended in the Report.

As such, as it relates to the proposed ZBA application, staff offer no objection provided the feature and recommended buffers are placed into an appropriately restrictive environmental zone. Staff have reviewed the proposed ZBA Schedule and note that the extent of environmental zones has not been illustrated. Staff request that a revised Schedule is circulated prior to approval that adequately addresses Regional environmental planning requirements.

Archaeological Potential

The PPS and NOP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 6.4.2.1 of the NOP state that development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

Based on the Ministry of Citizenship and Multiculturalism’s (“MCM”) Criteria for Evaluating Archaeological Potential utilized at the time of pre-consultation, the subject land has high potential for the discovery of archaeological resources as it is within 300 m of two registered archaeological sites. Given the proximity to nearby registered archaeological sites, staff requested the completion of a Stage 1-2 Archaeological

Assessment and Ministry Acknowledgement Letter. Regional staff notes that the subject land is also within an 'Area of Archaeological Potential' on Schedule K of the NOP.

Regional staff has reviewed the *Draft Stage 1 and 2 Archaeological Assessments*, prepared by Archaeological Research Associates Ltd. (dated December 17, 2021) and the *Draft Stage 1 and 2 Archaeological Assessments – Supplementary Documentation*, prepared by Archaeological Research Associates Ltd. (dated December 17, 2021). The Stage 1 background assessment determined that the study area included a mixture of areas with archaeological potential and some areas with no archaeological potential. The Stage 2 field assessment utilized both pedestrian survey methods (within the agricultural fields) and test pit survey methods (within the remaining overgrown areas and manicured lawns). The Stage 2 field assessment resulted in the findings of 8 locations containing Indigenous and Euro-Canadian archaeological materials. Of the 8 sites, 3 sites were deemed by the licensed archaeologist to have further cultural heritage value or interest ("CHVI"), whereas the remaining 5 sites were found to have no further CHVI. The licensed archaeologist has recommended that Sites 1, 3 and 6 be subject to a Stage 3 site-specific assessment, which will then determine whether a Stage 4 mitigation of development impacts is warranted. Staff acknowledge that the supplementary documentation includes mapping of the sites discovered.

Staff require the final versions of the Stage 1-2 Archaeological Assessments and Supplementary Documentation, the Ministry's acknowledgement of these reports, and the recommended Stage 3 site-specific archaeological assessments for Sites 1, 3, and 6 as recommended by the licensed archaeologist. Given the findings of these assessments and recommended further work, no development or site alteration shall occur on these lands until further investigation has been completed and Ministry Acknowledgement has been received.

Staff note that these requirements can be managed as a condition through the future Draft Plan application.

Traffic

Regional Transportation Planning staff has reviewed the *Traffic Impact Study* ("TIS"), prepared by Traffimobility (dated November 3, 2022) and offer no comments. The report did include recommendations related to a Regional intersection and required cycle length changes at a future date. Please note that Regional intersections are reviewed by the Region during our intersection analysis program and will continue to be monitored in the future to ensure that the required improvements are implemented when warranted.

Regional Bicycle Network

The subject property has frontage on Chippawa Road, which is designated as part of the Regional Niagara Bicycling Network. If the bicycle routes are currently not established and identified with signage, it is the intent of the Region to make provisions

for doing so when an appropriate opportunity arises. This may involve additional pavement width, elimination of on-street parking, etc.

Stormwater Management

Staff has reviewed the submitted *Functional Servicing Report*, prepared by Quartek Group Inc. (dated March 2023). The Report includes a conceptual stormwater management plan, which proposes that the development stormwater be captured and directed to a future dry pond prior to discharge to Highway 140 roadside ditch. Regional staff will require a detailed stormwater management plan at the time of Draft Plan that indicates in detail how the following requirements will be achieved:

- Stormwater runoff is to be captured and treated to a Normal standard as the minimum acceptable standard prior to discharge from the site. The Region encourages implementation of Low Impact Development practices and Green Infrastructure to form a treatment train and maximize water retention on-site.
- A section of inspection and maintenance requirements of stormwater management facilities for the future owner.

Prior to construction, Niagara Region will require the grading/servicing and construction erosion/sediment control plans be submitted to this office for review and approval.

Waste Collection

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner bring the waste and recycling to the curbside on the designated pick up day, and that the following limits are not exceeded:

Single Family Dwelling

- Blue/grey –no limit (weekly)
- Green – no limit (weekly)
- Waste – 2 bag/can limit (bi-weekly)
- Curbside collection only

Region staff will require that garbage truck turning plans be submitted using the Regional truck turning template to confirm that the proposed development is able to accommodate Regional curbside waste collection. It appears that waste collection pads may be required for some of the proposed units, (A1, A2, B39, B40, C106, C107, C108) where the driveways will extend beyond the collection limits of the truck. Please include the waste collection pad locations on the future site plan.

The applicant will be required to complete an Indemnity Agreement with the Region prior to waste collection services commencing for the private road development. If the proposed development is unable to meet Niagara Region's waste collection requirements, waste collection services for the site will be the responsibility of the owner through a private waste collection contractor and not the Niagara Region.

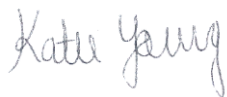
Conclusion

Staff of the Regional Growth Strategy and Economic Development Department require additional information related to the Air Quality Assessment and Noise Impact Assessment based on the peer review completed by the Region's consultant in order to support the proposed Zoning By-law Amendment application. Based on our review of the submission materials and peer review comments within the attached Appendix, the proposal has not sufficiently addressed land use compatibility under the PPS.

Regional staff request that addendums to the Air Quality Assessment and Noise Impact Assessment are provided to the Region for review and additional comment. Regional staff also request that a revised Zoning By-law Amendment Schedule be circulated prior to approval that adequately shows the Significant Woodland feature and recommended buffers in a restrictive environmental zone.

Should you have any questions related to the above comments or wish to meet to discuss these further, please contact the undersigned, or Diana Morreale, Director of Development Approvals at Diana.Morreale@niagararegion.ca.

Kind regards,



Katie Young, MCIP, RPP
Development Planner

CC: Diana Morreale, MCIP, RPP, Director of Development Approvals
Pat Busnello, MCIP, RPP, Manager of Development Planning
Adam Boudens, Senior Environmental Planner / Ecologist
Stephen Bureau, Development Approvals Technician

Appendix: Peer Review of Air Quality and Noise Impact Assessment for 281 Chippawa Road, Port Colborne