

Planning and Development Services

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Via Email

August 4, 2022

Region File: D.18.07.ZA-21-0105
D.11.07.CD-22-0014

David Schulz, BURPI, 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 and Draft Plan of Condominium
City File: D14-13-21, D07-01-22
Owner/Applicant: Topwide Investments/Topwide Property Development
Agent: Better Neighbourhoods Inc.
690-700 Elm Street
City of Port Colborne**

Regional Planning and Development Services staff has reviewed the proposed Zoning By-law Amendment and Draft Plan of Condominium Applications for 690, 692, and 700 Elm Street. Regional staff received circulation of the Applications from the City on July 12, 2022, with the receipt of the associated review fees on August 4, 2022. The subject lands are approximately 1.2 ha (3.05 acres) in size.

The Zoning By-law Amendment is required to change the zoning from a “Second Density Residential” (R2) zone to a “Fourth Density Residential” (R4) zone and lift the existing Holding provision for a Record of Site Condition to be filed. The proposal is to develop three properties under a Draft Plan of Vacant Land Condominium, consisting of 5 single-detached dwellings, 10 semi-detached dwellings, 15 townhouse dwellings, a 6 storey mixed-use apartment building (41 units), and a private street with lay-by and designated visitor parking.

A pre-consultation for the proposal was held on February 11, 2021 with staff from the City and Region in attendance. The following comments are provided from a Provincial and Regional perspective to assist City Council in their consideration of the application.

Provincial and Regional Policies

The subject lands are located within a “Settlement Area” under the *Provincial Policy Statement* (“PPS”), designated “Delineated ‘Built-Up’ Area” in *A Place to Grow: Growth Plan for the Greater Golden Horseshoe* (“Growth Plan”), and designated “Urban (‘Built-Up’) Area” in the *Regional Official Plan* (“ROP”).

Provincial and Regional policies direct development to take place within the Urban Area to make efficient use of existing servicing and infrastructure and support the achievement of complete communities. These same policies place an emphasis on intensification and infill to foster a mix of land uses that provide for the diversification of housing options, improved social equity and quality of life, connection to multiple forms of transportation, access to public amenities and institutions, and spaces that are vibrant and resilient in design. A full range of residential and commercial uses are permitted generally within the Urban Area designation, subject to the availability of adequate municipal services and infrastructure and other policies relative to land use compatibility and environmental conservation. Regional staff has not identified any land use compatibility concerns with the proposed development, nor is the subject land impacted by natural heritage features.

Growth management policies state that until the Region’s municipal comprehensive review is approved and in effect, the annual minimum intensification target contained in the ROP for the Delineated Built-Up Area (40%) will continue to apply. The proposal will contribute to the City’s intensification target, as it is considered to be an intensification of the subject lands in accordance with both Provincial and Regional policies. Regional staff acknowledge that compatibility with respect to the surrounding local context and urban fabric is a local planning matter that should be to the satisfaction of the City.

As such, Regional staff is satisfied that the proposed redevelopment of the subject lands is consistent with the PPS and conforms to Provincial and Regional growth management policies, subject to the comments below.

Site Condition

Part of the subject land (700 Elm Street) was previously used for commercial purposes (autobody shop/former retail fuel outlet) which is considered a commercial use as defined by the *Environmental Protection Act, 1990*. The proposed redevelopment will introduce a new sensitive (residential) use to the property. Therefore, in accordance with the *Environmental Protection Act, 1990* and its associated O.Reg. 153/04, a Record of Site Condition (“RSC”) is required to be filed on the Ministry of the Environment, Conservation and Parks’ (“MECP”) Environmental Site Registry (“ESR”) prior to the change in land use (commercial to residential). As it relates to 690 and 692 Elm Street, both properties have been historically used for residential uses, and as such, do not require a RSC.

A *Phase I Environmental Site Assessment* (“ESA”, dated May 5, 2017, prepared by Amec Foster Wheeler) was completed and subsequently updated June 4, 2018 identifying potentially contaminating activities (“PCAs”) and resulting areas of potential concern (“APECs”) associated with the autobody shop, former retail fuel outlet, former shoe factory, and former lumber yard located at 700 Elm Street. As such, a *Phase II ESA* (dated June 6, 2018, prepared by Amec Foster Wheeler) was completed to investigate the APECs identified through the Phase I ESA in order to file a RSC. The Phase II ESA utilized the Table 3 Full Depth Generic Site Condition Standards in a Non-Potable Ground Water Condition for Residential, Parkland, and Institutional Property Use for medium and fine textured soils. The Phase II ESA results concluded that the soil and ground water testing indicated no exceedances of the Table 3 Site Condition Standards, therefore no remediation was required.

A RSC (#224753) was filed to the MECP’s ESR on July 16, 2018 in accordance with the *Environmental Protection Act, 1990* and its associated regulations, as amended. Staff find the submitted Phase II ESA work and RSC to be acceptable. As such, it is recommended that the Holding (H) Provision on 700 Elm Street be lifted, subject to City staff’s satisfaction that all local requirements and provisions have been met.

Regional staff request that a Letter of Reliance from the Qualified Professional be provided for all submitted ESA work. The Letter must indicate that despite any limitations or qualifications included in the completed ESAs, that the Region is authorized to rely on all information and opinions provided there within. An appropriate condition to this effect is included within the attached Appendix.

Site Servicing

Regional staff note that site servicing works are subject to the City’s review and approval. The Region will require the submission of a written acknowledgement and undertaking, as well as a clause in the future condominium agreement, acknowledging that servicing allocation for the development will not be assigned until the plan is registered. Appropriate conditions have been included within the attached Appendix.

Stormwater Management

Staff has reviewed the *Functional Servicing Report*, prepared by Better Neighbourhoods Inc. (dated May 18, 2021) which identifies that the stormwater from the development will outlet to the existing storm sewer on Elm Street. It rests with the City to ensure that the local infrastructure requirements with respect to water quality and quantity control are adequately addressed. From a Regional perspective and based on our review of the conceptual storm servicing plan, Regional staff consider the proposed redevelopment a feasible opportunity to implement water quality control measures to mitigate impacts due to urbanization. Therefore, the following requirements that had been offered during the pre-consultation should be satisfied at the time of future *Planning Act* application (i.e. Draft Plan and/or Site Plan):

- Stormwater runoff be captured and treated to a Normal protection (i.e. 70% long-term suspended solids removal) prior to discharge from the site.
- Prior to construction, detailed grading, storm servicing, stormwater management, and construction sediment control drawings be submitted to this office for review and approval.

Appropriate conditions with respect to stormwater management requirements is included within the attached Appendix.

Waste Collection

The Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The proposed development 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:

- Recycling: No limit blue/grey containers collected weekly;
- Organics: No limit green bins collected weekly; and,
- Garbage: 2 garbage bags/cans per unit collected every-other-week.

Regional staff note that Condominium Townhouse Developments are eligible to receive internal curbside waste collection through the Region subject to the Developer / Owner complying with the Region's Corporate Policy and By-laws. Prior to waste collection services commencing, the Owner would be required to complete the Application for Commencement of Collection and required Indemnity Agreement with the Region's Waste Management Division. Forms are online at: www.niagararegion.ca/waste.

Regional staff has reviewed the provided Site Plan drawing and note in order for the proposed townhouse units to receive internal Regional curbside collection, that waste collection pads would need to be provided for all units that do not have a clear unobstructed frontage on the private street. Waste collection pads are currently shown for units 1-19; however, the pads will need to be revised to reflect the current design requirement of 1 metre wide by 2.5 metres deep. The size requirement has increased to accommodate the every-other-week garbage collection which the Region has now implemented.

The Developer is also advised that the waste collection pads are not permitted to be proposed in a stacked manner, as each individual pad needs to be located at the curbside of the street to provide waste collection staff with direct access to the bins. Therefore, units 25-30 would not be eligible for curbside collection behind the proposed parking spaces, as containers would need to be placed at the driveways along proposed "Lane A". A revised Site Plan will need to be submitted showing the location

of the required waste collection pads showing no pads are to be situated in a stacked manner as well as implementing the increased size requirement.

Regional staff acknowledge that Molok Bins are proposed to service the mixed use apartment building. Please be advised the Molok Bins are not eligible for Regional collection and would be the responsibility of the Owner through a private waste collection contractor and not the Region.

Appropriate conditions with respect to waste collection are included within the attached Appendix.

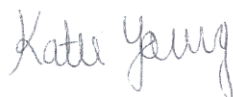
Conclusion

In conclusion, Regional Planning and Development Services staff does not object to the Zoning By-law Amendment and Draft Plan of Condominium Applications, in principle, as the proposed redevelopment is consistent with the PPS and conforms to Provincial and Regional growth management policies, subject to the conditions of the attached Appendix being fulfilled. City staff should be satisfied that the proposed development is compatible with the surrounding urban fabric and that all local requirements are met.

If you have any questions related to the above comments, please contact the undersigned at Katie.Young@niagararegion.ca, or Alexander Morrison, Senior Development Planner at Alexander.Morrison@niagararegion.ca.

Please send a copy of the staff report and Council's decision on the applications.

Kind regards,



Katie Young
Development Planner

cc: Alexander Morrison, MCIP, RPP, Senior Development Planner, Niagara Region
Robert Alguire, C.E.T., Development Approvals Technician, Niagara Region
Maggie Ding, P.Eng., Stormwater Management Engineer, Niagara Region

Appendix

Regional Conditions of Draft Plan of Vacant Land Condominium Approval 690-700 Elm Street, City of Port Colborne

1. That the Owner provides a Letter of Reliance from a Qualified Professional to be submitted to the Niagara Region and City of Port Colborne for the completed Environmental Site Assessment work for the development. The Letter of Reliance shall indicate that, despite any limitations or qualifications included in the submitted ESA work, that the Region is authorized to rely on all information and opinions provided there within.
2. That the Owner provides a written acknowledgement to Niagara Region Planning and Development Services Department stating that draft approval of this condominium does not include a commitment of servicing allocation by Niagara Region as servicing allocation will not be assigned until the plan is registered and that any pre-servicing will be at the sole risk and responsibility of the Owner.
3. That the Owner submit a written undertaking to Niagara Region Planning and Development Services Department that all offers and agreements of Purchase and Sale, which may be negotiated prior to registration of this condominium, shall contain a clause indicating that a servicing allocation for this development will not be assigned until the plan is registered, and a similar clause be inserted in the Condominium Agreement.
4. That prior to approval of the final plan or any on-site grading, the Owner shall submit a detailed Stormwater Management Plan for the Vacant Land of Condominium and the following plans designed and sealed by a Qualified Professional Engineer in accordance with the Ministry of the Environment, Conservation and Parks documents entitled *Stormwater Management Planning and Design Manual March 2003* and *Stormwater Quality Guidelines for New Development, May 1991*, or their successors to Niagara Region Planning and Development Services for review and approval:
 - a) Detailed lot grading, servicing and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site;
 - b) Detailed erosion and sedimentation control plans;
5. That the Condominium Agreement between the Owner and the City contain provisions whereby the Owner agrees to implement the approved plans required in accordance with the approved Stormwater Management Plan.

6. That a Garbage Truck Turning Plan using the Regional truck template be submitted for Regional review and approval to ensure the development is able to accommodate internal Regional curbside waste collection services.
7. That a revised Draft Plan be submitted showing the location of the waste collection pads required to service units 1-19, designed in accordance with Regional requirements.
8. That the following clauses be included in the Condominium Agreement and inserted into all Offers and Agreements of Purchase and Sale or Lease for the affected units:
 - *“Purchasers/Tenants of townhouse units 1-19 are advised that in order to accommodate Regional Curbside Waste Collection Services, waste and recycling containers will need to be brought to the designated waste collection pads on the required collection day.”*
 - *“Purchasers/Tenants of the mixed-use apartment building are advised that the building is not eligible for Regional waste collection and waste collection of the Molok waste system will be the responsibility of the owner through a private waste collection contractor and not the Niagara Region.”*
9. That the Owner / Developer shall comply with Niagara Region’s Corporate Waste Collection Policy and complete the Application for Commencement of Collection and Indemnity Agreement with Niagara Region’s Waste Management Division.

Clearance of Conditions

Prior to granting final approval, the City of Port Colborne must be in receipt of written confirmation that the requirements of each condition have been met satisfactorily and that all fees have been paid to the satisfaction of Niagara Region.

Condominium Agreement

Prior to final approval for registration, a copy of the executed Condominium Agreement for the proposed development should be submitted to Niagara Region for verification that the appropriate clauses have been included. Niagara Region recommends that a copy of the draft agreement be provided in order to allow for the incorporation of any necessary revisions prior to execution.

Note: Clearance requests shall be submitted to the Region in accordance with the Memorandum of Understanding, which stipulates that requests for formal clearance of conditions are to be received and circulated to the Region by the local municipality. The local municipality is also responsible for circulating a copy of the draft agreement, and the Region is unable to provide a final clearance letter until the draft agreement is received. The Region is committed to reviewing submissions related to individual conditions prior to receiving the formal request for clearance. In this regard, studies and reports (one hard copy and a PDF digital copy) can be sent directly to the Region with a copy provided to the local municipality.