

**Planning and Development Services**

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**Via Email Only**

October 26, 2022

Region File: D.10.07.OPA-22-0039  
D.18.07.ZA-21-0009

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 City-Initiated Official Plan Amendment and Zoning By-law  
Amendment Applications  
City Files: D09-01-22 & D14-04-21  
9 Chestnut Street, City of Port Colborne**

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Regional Planning and Development Services staff has reviewed the City-initiated Official Plan Amendment ("OPA") and Zoning By-law Amendment ("ZBA") applications for lands municipally known as 9 Chestnut Street (Chestnut Park). The subject land, which is currently a park, is owned by the City of Port Colborne and is approximately 0.27 hectares in size.

The proposed OPA application will facilitate the development of an apartment building on the subject lands at an increased density and with frontage on a local road. The proposed ZBA application will rezone the subject lands from 'Public and Park (P)' to a special provision of the 'Fourth Density Residential (R4)' zone. The proposed special R4 zone will allow for a reduction in lot area per unit, a reduction in minimum front yard setback, a reduction in minimum corner side yard setback, an increase to the minimum rear yard setback for separation distance purposes, and a reduction of landscape buffer abutting a residential or Public and Park zone.

There was no pre-consultation meeting held to discuss the proposed applications. Regional staff has previously provided comments (dated February 22, 2021) with respect to the ZBA application, and offer the following comments from a Provincial and Regional perspective to assist City Council in their consideration of the applications.

## **Provincial and Regional Policies**

The subject lands are located within a 'Settlement Area' under the *Provincial Policy Statement, 2020* ("PPS"), designated 'Delineated Built-Up Area' in *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* ("Growth Plan"), and designated 'Urban (Built-Up) Area' in the *Regional Official Plan* ("ROP").

Provincial and Regional policies direct growth to take place within the Urban Area to support intensified development where there is existing or planned servicing and infrastructure. These same policy frameworks place an emphasis on intensification and infill to foster the development of complete communities that have a mix of diverse land uses and housing choices, improve social equity and quality of life, expand access to multiple forms of transportation, and provide spaces that are vibrant and resilient in their design. A full range of residential 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.

Until such time as the Region's municipal comprehensive review is approved by the Province and in-effect, the annual minimum intensification target for the City of Port Colborne's Urban Built-Up Area contained in Chapter 4 of the ROP of 15% will continue to apply. The proposal will contribute to the City's intensification target and will contribute to the diversification of Niagara's housing supply (apartment units), which are geared towards affordable housing units.

## **Land Use Compatibility**

The PPS states that sensitive land uses (including residential) 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.

Regional staff's comments (dated February 22, 2021) that were provided in response to the previous ZBA application had recommended that a Holding Provision be implemented until the time that a Detailed Noise Impact Study is completed that assesses potential adverse impacts to the site from a nearby industrial facility located at 1 Chestnut Street.

Subsequently, Regional staff were provided with a "*Noise Impact Study*" prepared by Wood (dated June 2022) and identified concerns with respect to the absence of detailed information for the nearby industrial facility and requested that updated information be provided to address these outstanding concerns. Through this current submission, Regional staff were provided with and reviewed a "*Planning Justification Report*" ("PJR") prepared by NPG Planning Solutions Inc. (dated August 31, 2022), which includes an analysis of the Ministry of the Environment, Conservation, and Parks ("MECP") Guideline D-6 "Compatibility between Industrial Facilities and Sensitive Land Uses".

The PJR identifies the industrial facility as being operated by Dayson Industrial Services; however, states that there is no data to collect from the facility due to a work stoppage. The PJR includes background information on past meetings that have occurred between representatives from Niagara Regional Housing and the Dayson Industrial Services, confirming that the site is used for Class I type uses, including storage and limited equipment repair. It was determined that no sandblasting occurs at the site; however, it was observed that there is some outdoor storage of materials that could indicate a Class II facility. In alignment with the D-6 Guidelines, a Class II facility has a minimum distance separation of 70 metres, whereas the proposed building is 44 m from the property line of the industrial facility (1 Chestnut Street). Therefore, the development is unable to achieve the recommended minimum separation distance for a Class II facility.

The PJR addresses this discrepancy by providing an analysis of Section 4.10 “Redevelopment, Infilling and Mixed-Use Areas” of the Province’s D-6 Guidelines. Specifically, the PJR demonstrates that residential uses are permitted on the subject land and that the proposed OPA is related to the density permissions and will be site-specific in nature. The PJR notes that there are no vacant properties designated or zoned for industrial uses nearby and the intent of the lands at 1 Chestnut Street is for residential as the lands are designated Urban Residential in the City’s Official Plan. The PJR recommends that the subject lands have site-specific zoning that set out for an increased minimum westerly yard setback of 24 m in order to restrict the building from being closer to its west lot line. Further, it recommends the incorporation of building measures for the exterior facades (upgraded glazing and cladding), and installation of forced air heating with provision for adding central air conditioning in the future (with warning clauses) for potential transportation noise (as recommended from the *Noise Impact Study*). The PJR also recommends that warning clauses be included within all future Residential Tenancy Agreements for the Port Cares building in order to advise residents of potential adverse impacts from the nearby industrial use.

As such, Regional staff finds the analysis of the PJR to be acceptable. Based on a review of the PJR, staff no longer request the inclusion of a Holding Provision for the proposed ZBA with respect to land use compatibility requirements. Staff recommends that the recommended site and building design mitigative measures and warning clauses be incorporated through the future Site Plan application.

## **Waste Collection**

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region’s Corporate 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 curbside limits are met:

- Recycling: No limit blue/grey boxes, collected weekly;

- Organics: No limit green bins, collected weekly; and,
- Garbage: Two (2) garbage bags/cans per unit, collected bi-weekly to a maximum of 24 containers.

The Applicant is advised that if the subject property is not able to meet the Regional curbside waste collection limits, garbage collection for the property will be the responsibility of the owner through a private waste collection contractor and not the Niagara Region. Regional staff will provide more detailed comments with respect to waste collection at the time of future Site Plan application.

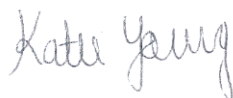
## Conclusion

Regional Planning and Development Services staff is satisfied that the proposed Official Plan Amendment and Zoning By-law Amendment applications are consistent with the Provincial Policy Statement and conform to the Growth Plan and Regional Official Plan, subject to the above comments. The proposal will facilitate the construction of an affordable housing project, which the Region strongly supports.

Regional staff note that in accordance with policies 14.E.7 and 14.E.8 of the Regional Official Plan, the Memorandum of Understanding, and Regional by-law No. 2019-73, the Official Plan Amendment as reviewed is exempt from Regional Council Approval.

If you have any questions related to the above comments, please contact the undersigned at [Katie.Young@niagararegion.ca](mailto:Katie.Young@niagararegion.ca). Please send a copy of the Staff Recommendation Report and Notice of Council's Decision on these applications.

Kind regards,



Katie Young, RPP  
Development Planner, Niagara Region

cc: Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region  
Alexander Morrison, MCIP, RPP, Senior Development Planner, Niagara Region  
Susan Dunsmore, P.Eng., Manager of Development Engineering, Niagara Region



Planning and Development Services  
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## Via Email Only

February 22, 2021

File No.: D.18.07.ZA-21-0009

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

Dear Mr. Schulz:

**Re: Provincial and Regional Comments  
City Initiated Zoning By-law Amendment Application  
Address: 9 Chestnut Street, City of Port Colborne  
City File No.: D14-04-21**

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Regional Development Planning staff has reviewed the information circulated with the City Initiated Zoning By-law Amendment, which proposes to change the zoning from Public and Park (P) to Fourth Density Residential (R4). The Amendment is being sought to permit the construction of a residential apartment building on the subject lands.

Regional staff note that no pre-consultation meeting was held to discuss this proposal. Regional staff received the application by email on January 27, 2021. Regional staff provides the following comments to assist the City in advancing the amendment and finalizing the draft Zoning By-law from a Provincial and Regional perspective.

## Provincial and Regional Policies

The subject lands are located within a Settlement Area under the Provincial Policy Statement (PPS) and within the Delineated Built-Up Area under the Growth Plan for the Greater Golden Horseshoe (Growth Plan). 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 contains policies that encourage the development of complete communities with a diverse mix of land uses and range of housing types, taking into account affordable housing and densities. Growth management policies state that until the Region completes the municipal comprehensive review and it is approved and in effect, the annual minimum

intensification target contained in the Regional Official Plan (ROP) for the Delineated Built-Up Area (40% Region wide, and 15% for the City of Port Colborne) will continue to apply. The proposal satisfies the intent of Provincial policies by making more efficient use land within the Built-Up Area, contributing to the City's intensification target and providing additional housing in the neighbourhood.

The subject lands are designated Urban Area in the ROP. A full range of residential, commercial and industrial uses are permitted generally within the Urban Area designation, subject to the availability of adequate municipal services and infrastructure. The ROP promotes higher density development in Urban Areas and supports growth that contributes to the overall goal of providing a sufficient supply of housing that is affordable, accessible, and suited to the needs of a variety of households and income groups in Niagara.

Additional comments on alignment with Provincial and Regional policies from a land use compatibility perspective are provided below.

## **Affordable Housing**

The Region strongly supports the provision of affordable housing in accordance with Provincial and Regional policies and Regional Council's Strategic Priorities. There are various incentives available to assist with the provision of affordable house at different points in the housing continuum (i.e. from assisted/community housing to market ownership). A brochure with additional information is included in the Appendix.

Additional programs are also offered directly by Niagara Regional House, like the [rent supplement program](#) and the [Homeownership and Niagara Renovates programs](#). CMHC also has its own suite of grants and loans, which are offered directly to home buyers, non-profit developers, and government agencies. This is generally summarized [here](#).

Consideration should be given to the location of the proposed housing project relative to proximity to bus routes (one block to the north) and priority amenities like grocery stores, pharmacies, etc.

## **Land Use Compatibility**

The PPS calls for a coordinated, integrated and comprehensive approach to land use planning matters. Specifically, sensitive land uses are to be planned to “ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety...” (Policy 1.2.6.1). To implement this policy, the Ministry of Environment Conservation and Parks (MECP) Land Use Planning Policy guidelines (the guidelines) 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. Guideline D-1 “Land Use Compatibility Guidelines” and Guideline D-6 “Compatibility between Industrial Facilities and Sensitive Land Uses” were

considered in the review of this application. The MECP's Publications NPC-300 "Environmental Noise Guidelines" is discussed in the next section of this letter under Noise Impacts.

The proposed residential use is considered a 'sensitive land use' as outlined in the guidelines. The subject lands are across the street from the Algoma Ship Repair to the west (1 Chestnut Street) and approximately 92m from the CN rail line to the west. The D-1 and D-6 guidelines indicate 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 indicate that a sensitive land use should not be permitted closer than the specified minimum separation distance, unless impacts from industrial activities can be mitigated to the level of "trivial impact (i.e. no adverse effects)". The MECP has identified, through case studies and past experience, potential influence areas (i.e. areas within which adverse effects 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 use these potential influence areas to screen for potential incompatibilities. The D-6 guideline also requires that the minimum separation distance (MSD) between industrial facilities and sensitive uses be based on these classifications, using a predictable "worst case scenario" and the permitted uses in the zoning by-law. Both the potential influence area and MSD is outlined below:

	Potential Influence Area	Minimum Separation Distance
Class I Industry	70m	20m
Class II Industry	300m	70m
Class III Industry	1000m	300m

Although there is some leniency to base the influence area/setback on existing industrial uses, this would require an amendment to the zoning for the industrial property to restrict permissions to the existing uses to ensure compatibility is maintained. This approach is considered onerous for both the City and the land owners of the existing industrial facilities, because it disadvantages their right to expand/alter their operations in the future.

The D-6 guidelines acknowledge that it may not be possible to achieve the recommended MSD in areas where infilling, urban redevelopment and/or a transition to mixed use are taking place. In order to consider a reduction to the recommended MSD, justification through an impact assessment (i.e. a use specific evaluation of the industrial processes and the potential for off-site impacts on existing and proposed sensitive land uses), as detailed in Section 4.10 of the D6 guidelines, is required. Mitigation to the greatest extent possible is the key to dealing with less than the minimum separation distance. To address this requirement, Regional staff recommend that a Holding provision be included in the amending By-law to require completion of a Detailed Noise Study to address mitigation of transportation and stationary noise sources. Once the classification of the industry is determined, Regional staff also suggest that the City consider incorporating a site-specific setback

for the west side/flanking yard in the amending by-law, to ensure the minimum separation distance (20m or 70m) is maintained. Regional staff note that if Algoma Ship Repair is determined to be a Class III industry, it is not possible to meet the minimum 300m separation distance and may mean these uses are incompatible.

## **Conclusion**

In conclusion, Regional staff strongly supports the provision of affordable housing and suggest that the City consider the location of affordable housing projects relative to proximity to bus routes and priority amenities like grocery stores, pharmacies, etc. Although the Region does not object to the proposed Zoning By-law Amendment in principle, a Holding provision should be included to require the completion of a Detailed Noise Study because the site is adjacent to an industrial use (Algoma Ship Repair). The Holding provision is required to ensure the proposal is consistent with the PPS and conforms to Provincial Plans and the Regional Official Plan from a land use compatibility perspective. Regional staff also recommend that the City incorporate a site-specific west side/flanking yard setback in the amending by-law, once the classification of the industry is determined.

Should you have any questions related to the above comments, please feel free to contact me at [Britney.fricke@niagararegion.ca](mailto:Britney.fricke@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,



Britney Fricke, MCIP, RPP  
Senior Development Planner