

Planning and Development Services

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Via Email Only

April 19, 2021

File Nos.: D.10.07.OPA-21-0019
D.18.07.ZA-21-0035

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

Dear Mr. Schulz:

**Re: Provincial and Regional Comments
City Initiate Official Plan and Zoning By-law Amendment Applications
City File No.: D09-01-21 and D14-05-21
Location: 72 Killaly Street East, vacant land on the north side of Killaly
Street East and City-owned land on Welland Street
Legal Description: Part of Lot 27, Concession 2 & Part 1, Plan 59R-1871
City of Port Colborne**

Regional Development Planning staff has reviewed the information circulated with the City initiated Official Plan and Zoning By-law Amendments, which proposes to change the Official Plan designation for these properties from Urban Residential to Industrial/Employment Area. The application for Zoning By-law Amendment proposes to change the zoning from Residential Development (RD) to Light Industrial (LI).

No pre-consultation meeting was held to discuss the proposed amendments. The applications were received by Regional staff by email on March 30, 2021. Regional staff provides the following comments to assist the City in finalizing the amendments from a Provincial and Regional perspective, before they go to Council for consideration.

Provincial and Regional Growth Management Policies

The subject lands are located within a Settlement Area under the Provincial Policy Statement (PPS), where development is generally concentrated, an appropriate range and mix of land uses are to be provided, and the efficient use of land, resources, infrastructure and public service facilities that are planned or available is encouraged.

The PPS (1.3.1) directs planning authorities to promote economic development and competitiveness through a number of provisions, including but not limited to “providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses.” Further, promoting opportunities for economic development and community investment, optimizing long-term availability and use of land, and promoting redevelopment of brownfield sites are all means to support long-term economic prosperity (PPS, 1.7.1).

The subject lands are within the Delineated Built-Up Area under the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan), which contains policies that encourage the development of complete communities with a diverse mix of land uses. The Growth Plan (2.2.5.1) calls for the promotion of economic development and competitiveness by “making more efficient use of existing employment areas and vacant and underutilized employment lands and increasing employment densities”.

The subject lands are located within the Urban Area of the City of Port Colborne, as designated in the Regional Official Plan (ROP). A full range of residential, commercial and industrial uses are permitted generally within the Urban Area designation of the ROP, subject to the availability of adequate municipal services and infrastructure, and subject to compliance with other Provincial/Regional policies relative to land use compatibility, environmental conservation, etc. The ROP also directs the efficient use of land within the Urban Area, including development of higher densities than in the past and using lands suitable for infilling, intensification and redevelopment to promote more compact urban forms.

The PPS, Growth Plan and ROP all direct growth to settlement areas and encourage a mix of land uses and densities that are compatible; efficiently use land, resources, infrastructure, and public service facilities, which are planned or available; and, support vibrant neighbourhoods and complete communities. The unaddressed lands are adjacent to an existing warehouse, which is designated as Employment Land in the Region's draft Employment Lands Amendment (ROPA 9). The proposed OPA and ZBA will facilitate development of vacant land within the Urban Built-Up Area, making more efficient use of the existing infrastructure and services. The applications align with Provincial and Regional growth management policies.

Land Use Compatibility

The PPS and Growth Plan call for a coordinated, integrated and comprehensive approach to land use planning matters. Specifically, Policy 1.3.2.2 of the PPS states that “[...]employment areas planned for industrial and manufacturing uses shall provide for separation or mitigation from sensitive land uses to maintain the long-term operational and economic viability of the planned uses and function of these areas”. Furthermore, major facilities (including industrial uses) and 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, minimise risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.” (PPS, 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, and vis versa. 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 these applications.

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

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, would be required. Mitigation to the greatest extent possible is the key to dealing with less than the minimum separation distance.

The subject lands are adjacent to an established residential neighbourhood. The proposed ZBA would permits a range of uses that may fall under the Class I or II categories of Guideline D-6. Details of the proposed use were not provided as part of

the application and the proposed amendments would result in the industrial uses being able to locate closer to the existing residential uses than currently permitted. Therefore, in the absence of site specific impact assessment, Regional staff recommend that the City utilize site specific provisions within the LI zone to minimize and mitigate any potential impacts on the adjacent residential area, including:

- Limit the permitted uses to Class I industry, to ensure the 20m minimum separation distance can be achieved. Based on our review of the LI zone provisions, Regional staff recommend removing permission for a contractors yard and motor vehicle repair garage, both of which would generate offsite noise and/or dust impacts;
- Increase the minimum interior side yard abutting a Residential zone provision to 20m, in line with the minimum separation distance recommended by the D6 Guideline;
- Prohibit outdoor storage within the minimum interior side yard abutting a Residential zone to ensure this setback is maintained for all aspects of the use, not just the buildings; and,
- Require that a parking area in the interior side yard abutting a Residential zone also be paved with concrete or asphalt to minimize dust impacts.

This approach bases the influence area/setback on the industrial property to restrict permissions and ensure compatibility is maintained.

Archaeological Potential

The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 10.C.2.1.13 of the ROP state that development (including the construction of buildings and structures requiring approval under the *Planning Act*) and site alteration (activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of the site) 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 Heritage, Sport, Tourism and Culture Industries' Criteria for Evaluating Archaeological Potential, the subject lands exhibit potential for the discovery of archaeological resources due to proximity (within 300m) to past and present watercourses to the north and north-east. Regional staff recommend that the City consider including a Holding provision on these lands to require submission of a Stage 1-2 Archaeological Assessment for any areas of the property that are not already disturbed by existing development. Alternatively, this requirement could be addressed through later *Planning Act* approvals, such as site plan control.

Regional Sewage Pumping Station

The subject lands are in close proximity to the existing Regional sewage pumping station (East Side SPS) on the south side of Killaly Street East. Future development of the properties may require wording to advise of potential noise and/or odour impacts resulting from the normal operation and maintenance of the Regional infrastructure.

Waste Collection

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Corporate Waste Collection Policy. Region staff note the subject properties are 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 for the Industrial uses:

- 8 Blue/Grey Carts- weekly collection;
- 8 Green Carts- weekly collection; and,
- 8 Garbage Bags/Cans- every-other-week collection.

Conclusion

In conclusion, Regional staff are supportive of the amendments from Provincial and Regional perspective, in principle; however, recommend that the Zoning By-law Amendment be revised to address land use compatibility for the adjacent residential area. Provided the ZBA incorporates the Region's suggested provisions, the proposal will be consistent with the PPS and conform to Provincial Plans and the Regional Official Plan.

Provided the Region receives a revised ZBA that addresses these comments, the Official Plan Amendment can be exempt from Regional Council approval in accordance with Policy 14.E.6 and 14.E.7 of the Regional Official Plan and the Memorandum of Understanding.

Should you have any questions related to the above comments, please feel free to contact me by email at Britney.fricke@niagararegion.ca.

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

Kind regards,



Britney Fricke, MCIP, RPP
Senior Development Planner

cc: Rob Alguire, CET, Development Approvals Technician, Niagara Region