

City of Port Colborne

Public Meeting Addendum

Date: Monday, April 19, 2021
Time: 6:30 pm
Location: Council Chambers, 3rd Floor, City Hall
 66 Charlotte Street, Port Colborne

Pages

4. Statutory Public Meetings

4.1. Public Meeting Report for Proposed Zoning By-law Amendment on Neff Street, File D14-08-21, 2021-119

*a. Delegation from Marc Vaillancourt, applicant

*b. Delegation material from the Niagara Region

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4.2. Public Meeting Report for Official Plan and Zoning By-law Amendments at Killaly Street East and Welland Street, File D14-05-21, 2021-120

*a. Delegation from Larry and Barb Fontaine, property owners

*b. Delegation from Melissa and Mary Bigford, residents

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*c. Delegation material from Garry Tate, resident

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*d. Delegation material from the Niagara Region

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*e. Delegation material from multiple residents

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Planning and Development Services

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

Via Email Only

April 19, 2021

File No.: D.18.07.ZA-21-0034

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

Dear Mr. Schulz:

**Re: Provincial and Regional Comments
Zoning By-law Amendment Application
Owner/Applicant: Grandstone Living Inc. (Marc Vaillancourt)
Location: Vacant Lot on North Side of Neff Street, City of Port Colborne
Legal Description: Part of Lots 2 & 4, Plan 762 & Parts 1-3, Plan 59R-16500
City File No.: D14-08-21**

Regional Development Planning staff has reviewed the information circulated with the application for Zoning By-law Amendment, which proposes to add the Fourth Density Residential (R4) zoning to the property, which is currently not zoned. Due to the irregular shape of the lot, special provisions are being sought to reduce the front yard setback from 9m to 7m and reduce the rear yard setback from 6m to 3m. The Zoning By-law Amendment is being sought to permit the construction of a multi-unit residential building.

A virtual pre-consultation meeting was held on February 11, 2021. The application was received by Regional staff by email on March 30, 2021, and fees were received March 31, 2021. Regional staff provides the following comments to assist the City in their consideration of the application from a Provincial and Regional perspective.

Provincial and Regional Growth Management 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. 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% for the Region, 15% for Port Colborne) will continue to apply. The proposal satisfies the intent of Provincial policies by making more efficient use of a vacant parcel within the Delineated Built-Up Area, contributing to the City's intensification target and providing additional housing in the neighbourhood.

The subject lands are designated Urban Area (Built-Up Area) in the ROP. 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. 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 and other policies (i.e. urban design, compatibility, environmental conservation, etc.).

Environmental Site Assessment

As conveyed at the pre-consultation meeting, the last use of the property is unclear based on aerial imagery, and MPAC data indicates the property use as "vacant industrial". A Phase 1 Environmental Site Assessment was identified as a requirement during preconsultation, to confirm the last use. A sensitive use is proposed, as categorized under the Environmental Protection Act; therefore, if the property was last used for commercial/industrial/community use, a Record of Site Condition (RSC) must be filed on the Ministry of Environment, Conservation and Parks (MECP) Brownfields Environmental Site Registry in accordance with the *Environmental Protection Act* as amended.

PPS Policy 3.2.2 states that "sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effects." The PPS defines "adverse effects" to include harm or material discomfort to any person, an adverse effect on the health of any person, and/or impairment of the safety of any person.

In this regard, a Phase One Environmental Site Assessment (ESA), prepared by Hallex Environmental Ltd. (dated March 10, 2021) was submitted with the application. The ESA identified two on-site Areas of Potential Environmental Concern (APEC) related to fill material (contaminants of potential concern are metals, PHCs¹, PAHs², BTEX³, EC/SAR/pH⁴) and the rail line along the east property line (contaminants of potential

¹ PHC= Petroleum Hydrocarbons

² PAH= Polycyclic Aromatic Hydrocarbons

³ BTEX= Benzene, Toluene, Ethylbenzene, Xylene

⁴ EC/SAR= Electrical Conductivity/Specific Absorption Rate

concern are metals, PHCs, BTEX, PAHs). The ESA recommended a limited Phase Two ESA to identify the potential impact of the APECs on the site's soil

In order to address the requirement to protect human health under the PPS and ensure the decision conforms to Provincial Plans as required by the *Planning Act*, Regional staff request that a Holding provision be added to the amending Zoning By-law to require the submission of the Phase 2 ESA, prepared by a Qualified Professional, in accordance with the requirements of the *Environmental Protection Act*. Use of a Holding provision will allow time to complete the Phase 2 ESA, and any remediation/filing a RSC if levels of contamination are found to be above the applicable Site Condition Standards.

Noise

The subject lands are adjacent to a Trillium rail line. The Provincial Policy Statement (PPS) calls for a coordinated, integrated and comprehensive approach to land use planning matters. Specifically, sensitive land uses and major facilities (including transportation corridors) 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 these policies, the Ministry of Environment, Conservation and Parks (MECP) Noise Guidelines (NPC-300) and the Federation of Canadian Municipalities/Railway Association of Canada’s “Guidelines for New Development in Proximity to Railway Operations” (May 2013) are to be applied in the land use planning process to prevent or minimize future land use problems.

At the preconsultation meeting, Regional staff identified the requirement for a noise and vibration study due to proximity to the rail line to the east of the proposed development. Since that time, the applicant has been in contact with Trillium/Gio Railways, who have provided current traffic volumes for this rail line. Based on this being a spur line, the low volume (2 daytime trains and 0 night time trains, with no growth of volume anticipated) and speed (maximum 10mph) of rail cars at this location, the rail line is of the opinion that a noise and vibration study is not necessary at this location. Regional staff concur with this position, and have no further concerns relative to noise and vibration for this development.

Waste Collection

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Corporate Waste Collection Policy. Regional staff note 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, that the containers are clearly marked to identify ownership and that the following limits are not exceeded:

- No limit blue/grey boxes- weekly collection;
- No limit green bins- weekly collection; and,
- 2 Garbage bags/cans per unit- every-other-week collection.

April 19, 2021

Conclusion

In conclusion, Regional staff has no objection to the proposed Zoning By-law Amendment from a Provincial and Regional prospective, subject to the inclusion of a Holding provision in the amending Zoning By-law to require submission of a Phase 2 Environmental Site Assessment, prepared by a Qualified Professional in accordance with the requirements of the *Environmental Protection Act*. The Holding provision can be removed subject to submission of the Phase 2 ESA, and completion of any remediation/filing of a Record of Site Condition if levels of contamination are found to be above the applicable Site Condition Standards.

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 this application when available.

Kind regards,



Britney Fricke, MCIP, RPP
Senior Development Planner

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

Melissa Bigford on behalf of Mary Bigford
147 Killaly St. E.
Port Colborne, ON
L3K1N7
[REDACTED]

April 18, 2021

To: Mayor and Members of Council,

We are writing this letter to inform you that we are not in favour of the change in designation from Urban Residential to Industrial/Employment Area in the Official Plan and Residential Development to Light Industrial in the Zoning By-Law at Killaly St. E. and Welland Street, File D14-05-21.

The city owned property and the vacant land to the North of the 72 Killaly Street property has been Zoned Urban Residential in the Official Plan dating back to 1982. Meaning it has been Zoned Urban Residential for almost 40 years, and the Zoning By-Law has always been Zoned Residential Development. Why are the long standing Official Plan and Zoning By-Law being amended?

These properties are zoned Residential Development as it good planning in that it suits the existing neighbourhood and surrounding areas. There is no Light Industrial Zoning in the surrounding area from East of Welland Avenue to Elizabeth Street and from South of Killaly Street to Fraser Street. This is residential neighbourhood and these lands should continue to be Urban Residential. It is stated that any building, structure or use shall not adversely affect the character or amenity of the neighbourhood in which it is located.

The list of permitted uses in the industrial designation is not compatible with the adjacent residential neighbourhood and schools. The surrounding area is considered sensitive land use which means that buildings, amenity areas or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges, fumes, odours, vibrations, sound waves or radiation generated from a nearby industrial, cannabis production facility, transportation or utility source. Sensitive land uses may be part of the natural or built environment. Examples may include, but are not limited to: residential uses, parks, community or day care centres, recreation areas, medical facilities, churches and schools.

The City's Official Plan outlines the identification and intensification of residential within the built boundary of the City and directed by the Provincial Growth Plan. Intensified development is the majority of the Municipality's intensification, will be accommodated within the Urban Area where the development is compatible with the surrounding uses. The objectives of the intensification policies of this Plan are to provide land use policy directions for accommodating additional growth on lands designated Urban Residential.

The City of Port Colborne's Growth Management Strategy shall prevent development in inappropriate areas and support the conservation of valuable economic, environmental and cultural resources, promoting the rehabilitation and reuse of greyfield properties throughout the community as an alternative to the establishment of additional commercial lands.

The City of Port Colborne Official Plan also states that in Industrial/Employment land buffering is required between industrial/employment area uses and sensitive land uses, such as residential, including but not limited to, increased setbacks, berming, and a high degree of landscaping, screening and fencing. None of this is currently in place with the existing non-conforming business/property.

The North property has always been zoned Residential Development. Why is the cost of this application being absorbed by the tax-payers? At a cost of \$7,959.00, plus any further fees required by the Niagara Region of up to \$2000.00!! Why is the property owner not paying for this amendment when it was stated at council at the January 25th, 2021 meeting that all laws and obligations were met in the planning process?

Some other questions arising from this proposed amendment are:

What protective and proactive measures are or will be put in place to ensure the flow of water/ drainage to the Central Park Drain which borders the property to the West and at the North End?

What will happen to the accessibility and maintenance of the city maintained ditches that border the Janet Street properties?

Why does the city want to change the long-standing zoning of Welland street parcel of land? Does the city intend to sell the Welland street parcel of land?

If the designation is changed this would this be a new industrial development designation and will they be required to demonstrate compliance with the Ministry of Environment's Land Use Compatibility (D6) Guidelines?

Will an Environmental Planning Study be requested as a major land use change or plan is proposed?

In conclusion, we do not believe that these amendments are compatible with the adjacent uses of land, are in the best interest of the neighbourhood and the community as a whole or that all the implications of the Official Plan and Zoning By-Law Amendment have been reflected.

Sincerely,

Melissa & Mary Bigford

From: Garry Tate [REDACTED]
Sent: March 25, 2021 9:41 PM
To: Charlotte Madden
Subject: File D09-01-21 & D14-05-21 Notice of Public Meeting Proposed Official Plan and Zoning By-law Amendment 72 Killaly Street East, City Land on Welland Street and 1338277 Ontario Inc

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Ms. Madden

It is refreshing that a City such as Port Colborne is paying attention to the need for Industrial/Employment land.

These lands seem well suited for this purpose.

Regards - Garry Tate

Planning and Development Services

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

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

Catell & Alain Macroy

38 Janet Street

Port Colborne ON

L3K 2E7

905-835-8534

To Mayor and members of Council

We the people on Janet Street are writing this letter to inform you of our concerns and questions regarding the official plan and zoning-by-law amendments at Kildy East and Willard Street.
- Why is the city changing the zoning-by-law from R.D to light industrial
Reasons - 1st - Contamination of soil
noise in our area
Dust in our area
more Traffic

The area behind our homes has been zoned residential development for over 40 years we do not believe that this proposal is in the best interest of the neighbourhood and community as a whole that all the implications of the official plan and zoning

by-law amendment have been reflected.
We do not think that this zoning by-law
amendment is compatible with the adjacent
uses of land. We think too many important
aspects are being left out and that we
as homeowners in the surrounding area
will feel the greatest effects of these
shortcomings

It will also certainly lower the
value of our homes

Clarena Turchetti { 34 Janet Street.
L3K2E7
Oet Oet Oet 11 905-8347084

Paul Moreau

33 JANET ST

L3K2E6

Donna Mpuan

905 834 5433

11 same

Joe Kovacs

30 JANET ST

Sharon Kovacs

11 " "

C. Bazar

22 JANET ST.

Linda Romano & Carmen

231 West Side Rd.

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