



COMMITTEE OF ADJUSTMENT
Development Services Department
3540 Schmon Parkway, P.O. Box 1044
Thorold ON L2V 4A7
905-227-6613

April 12, 2024

TO: Chairperson and Members of the Committee of Adjustment

SUBJECT: Minor Variance Application D13-06-2024
66 Carleton Street South, Thorold, Ontario
PLAN ROLLS LOT 9 NP890 891

PROPOSAL: An application has been submitted for the construction of an accessory structure for the purpose of a garage on the ground floor and a second dwelling unit on the second floor on lands zoned Residential Second Density Special (R2S) in accordance with the City's Comprehensive Zoning Bylaw 2140 (97). Regulations relating to additional dwelling units are however governed by the City of Thorold Comprehensive Zoning Bylaw (60) 2019. In order to facilitate the development, the following variances from the provisions of Bylaw (60) 2019 are being requested:

- Relief from Part 3 – General Regulations, Table 3.1: Accessory Building or Structure Requirements – To permit a maximum height for an accessory structure within the residential zone of 7.6 metres whereas the bylaw permits a maximum of 4.5 metres; and
- Relief from Part 3 – General Regulations, Section 3.21: Second Dwelling Units – To permit a second dwelling unit with a gross floor area of 59% of the principal dwelling unit gross floor area whereas the bylaw permits a second dwelling unit with a gross floor area of a maximum of 40% of the principal dwelling unit gross floor area.

RECOMMENDATION:

That Minor Variance Application (D13-06-2024) to increase the maximum permitted height for an accessory structure within the residential zone from 4.5 metres to 7.6 metres, and to increase the maximum permitted gross floor area of a second dwelling unit from a maximum of 40% of the principal dwelling unit to 59% of the principal dwelling unit gross floor area, for the purpose of a garage on the ground floor and a second dwelling unit on the second floor **BE APPROVED.**

Site Description

The subject lands are located on Carleton Street South between Portland Street to the north, and Lyndon Street East to the south, west of the Welland Canal as shown in **Figure 1**. The land is currently developed with a single detached dwelling, and proposed to be further developed with an accessory structure for the purpose of a garage on the ground floor and a second dwelling unit on the second floor, as shown in concept drawing in **Figure 2**, as well as the proposed Site Plan (**Appendix 1**).



Figure 1: Location Map

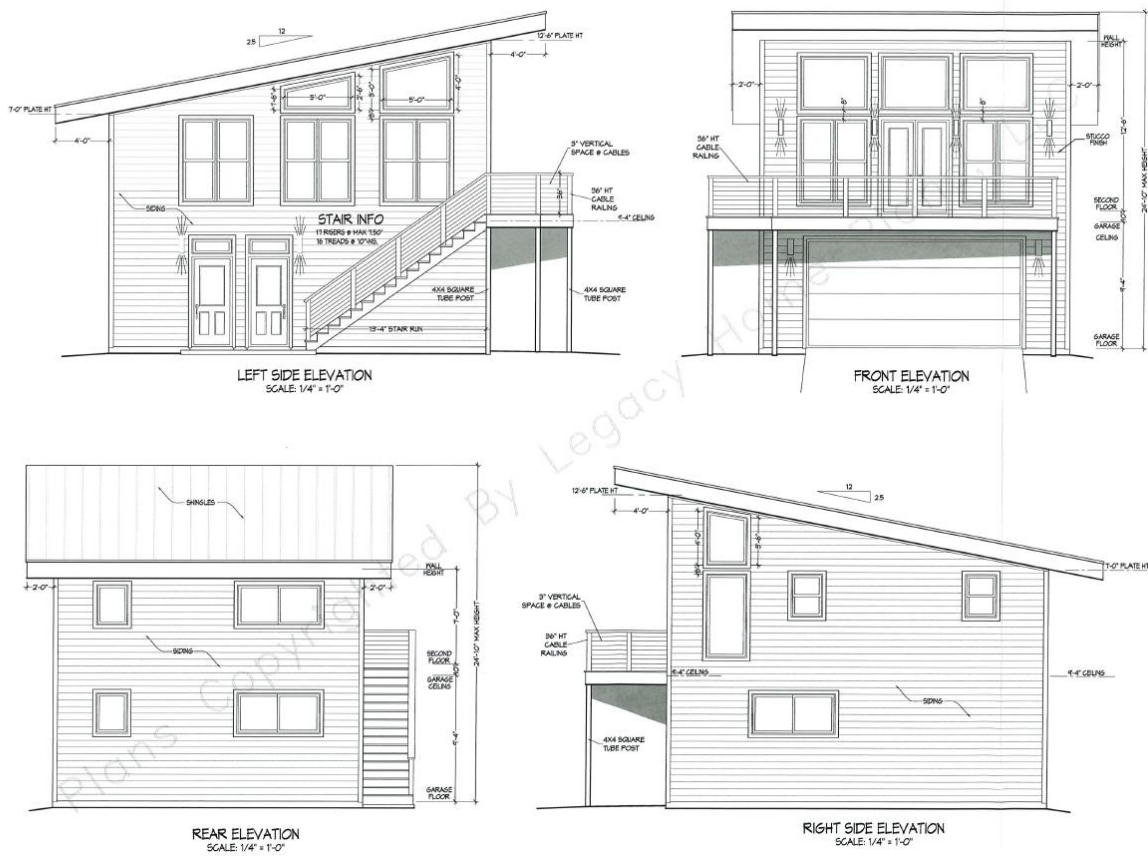


Figure 2: Concept Drawing

Background Review

The subject property is zoned Residential Second Density (R2S) in the City of Thorold’s Zoning Bylaw 2140 (97), as amended. The property meets the lot width, lot area, coverage, setback, and all other requirements of the R2S zone. The R2S zone permits single detached dwellings and their associated accessory buildings. Per *Bill 23, More Homes Built Faster Act, 2022*, as of right, zoning must permit up to three residential units per lot, with no minimum unit sizes, and no more than one additional parking space can be required.

While the existing single detached dwelling and proposed second dwelling unit within an accessory structure comply with all provisions of the R2S zone, additional provisions as set out by Section 3.1 - Accessory Buildings and Structures and Section 3.21 – Second Dwelling Units of the City’s Comprehensive Zoning Bylaw 60- 2019 apply.

A review of the proposed second dwelling unit (SDU) within an accessory structure, in comparison with the applicable provisions of Bylaw 60-2019 is provided in the table below.

Table 1: Bylaw 60-2019 – Section 3.1 – Accessory Buildings and Structure Requirements & Section 3.21 – Second Dwelling Units (SDU)

Section 3.1 – Accessory Buildings and Structures Requirements		
Provisions	Residential Zones Requirement	Provided
Maximum Lot Coverage of Accessory Building(s) or Structure(s)	10% of total lot coverage permitted	9.95%
Minimum Front Yard Setback	6.0 m, but in no case closer to the street than the front wall of the dwelling	30.48 m
Minimum Rear Yard Setback	0.9 m	4.14 m
Minimum Interior Side Yard Setback	0.9 m	1.07 m
Minimum Exterior Side Yard Setback	3 m	N/A
Maximum Height	4.5 m	7.6 m*

***Denotes zoning deficiency**

Section 3.21 – Second Dwelling Unit Requirements		
Provisions	Second Dwelling Units Requirement	Provided
Maximum number of Second Dwelling Units on a Lot	1	1
Maximum Gross Floor Area of SDU	40% of the principal dwelling unit gross floor area	59%* of the principal dwelling unit gross floor area.
Required Parking Spaces	1 Additional Parking Space	1 Additional Parking Space

*Denotes zoning deficiency

MINOR VARIANCE PLANNING ANALYSIS:

The Committee of Adjustment, in accordance with *Section 45 (1)* of the *Planning Act*, may authorize a minor variance from the provisions of the bylaw, subject to the following considerations:

- The variance maintains the general intent and purpose of the Zoning Bylaw.
- The variance maintains the general intent and purpose of the Official Plan.
- The variance is appropriate for the development or use of the land.
- The variance is minor in nature.

A summary of planning staff’s review of the proposed variances with respect to each of these considerations is provided below.

Is the general intent and purpose of the Zoning By-law maintained?

Variance 1 – The intent of the maximum height of 4.5 m for accessory structures is to ensure that accessory buildings do not impact neighbouring properties, and to ensure their accessory nature to the primary dwelling. The applicant has noted that the existing lot contains mature trees providing privacy for neighbouring dwellings. Based on discussion with the applicant, it is staff’s understanding that the intention is to maintain the mature trees on the subject lot. Furthermore, the applicant has indicated to staff through a cover letter provided in **Appendix 2** that they intend to erect a privacy fence on the south and east property lines in order to provide further privacy for neighbouring dwellings. The accessory structure is proposed to be located away from the residential neighbours to the rear of the property, with the proposed entrances located to the interior of the lot, away from the nearest neighbours.

As such, the variance requested to increase the maximum permitted height of an accessory structure from 4.5 metres to 7.6 metres maintains the general intent and purpose of the bylaw.

Variance 2 – The purpose of the maximum gross floor area of a secondary dwelling unit being 40% of the principal dwelling unit gross floor area is to ensure the accessory nature to the primary dwelling, avoid over development of lots, and to maintain adequate space for amenities, parking, landscaping, and storm water management. This is a large lot in a mature area of the City of Thorold, the overall lot coverage is not exceeded through this application. It is staff's opinion that the proposed setback and location of the accessory structure will maintain the accessory nature of the structure, and will not result in overdevelopment of the subject lot.

As such, the variance requested to increase the permitted maximum gross floor area for a second dwelling unit of 40% of the principal dwelling unit to 59% of the principal dwelling unit maintains the general intent and purpose of the zoning bylaw.

Is the general intent and purpose of the Official Plan maintained?

The subject property is located in the Urban Area Boundary, designated Urban Living Area and are subject to the Centre Community Improvement Area and Built Boundary overlays in the City of Thorold Official Plan.

The Built-Up Area comprises all lands within the Urban Area Boundaries of Thorold that have been developed into urban uses as of June 2006. Lands designated Urban Living Area are the site of existing and planned residential development and complementary uses on full municipal services.

According to the City's Official Plan, secondary dwelling units are considered to be an appropriate form of residential intensification and such housing will also contribute to the supply of affordable housing in the City. On this basis, according to the Official Plan, secondary dwelling units are permitted in the Urban Living Area designation and are also permitted as-of-right in the City's implementing Zoning Bylaw within the Urban Living Area designation.

Section B.1.1.4.2 of the Official Plan outlines objectives for urban character in the City, which include:

- To respect the character of stable residential areas and only support applications for new development that are physically compatible with the character of the surrounding neighbourhood; and
- To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development.

The proposed variance would allow for an additional dwelling unit within the permitted accessory structure, behind the existing dwelling on the subject lands. The existing established neighbourhood contains a variety of low rise residential dwellings. With the introduction of an additional dwelling unit, no negative impacts to the existing neighbourhood are anticipated as the scale and character of the neighbourhood has been maintained.

Therefore, staff is of the opinion the requested variances would maintain the general intent and purpose of the Official Plan.

Are the variances appropriate for the development of the land?

This is not a subjective test as to whether the variance is appropriate to the Applicant or to neighbouring property owners. Rather, the test examines whether the variance is desirable from the standpoint of permitting appropriate development as a public interest. According to the City's Official Plan, secondary dwelling units are considered to be an appropriate form of residential intensification and such housing will also contribute to the supply of affordable housing in the City. Secondary dwelling units within accessory structures are permitted on the lands, and are compatible with the existing development of the neighbourhood in scale and built form.

As such, staff is of the opinion the requested variances are appropriate for the development of the land.

Are the variances minor?

In making a determination of whether a variance is minor as required, Committee will have more regard for the degree of impact which could result from the relief and less regard to the magnitude of numeric or absolute relief sought by the applicant.

Variance 1 – In staff's opinion, the impact on the streetscape and neighbouring properties as a result of the proposed increase in height will not be discernable.

As such, the variance requested to permit an increase in the maximum permitted height of an accessory structure from 4.5 metres to 7.6 metres is minor.

Variance 2 – In staff's opinion, the increase in gross floor area of a second dwelling unit as a percentage of the principal dwelling unit will have little to no impact on the adjacent properties. Due to the proposed location and orientation of the proposed accessory building, it is staff's opinion that the proposed building will maintain its accessory nature to the main residential use.

As such, the variance requested to increase the permitted maximum lot gross floor area for a second dwelling unit of 40% of the principal dwelling unit to 59% of the principal dwelling unit is minor.

COMMENTS:

Agency & Department Comments

The application was circulated to internal departments and external agencies for comments, which are summarized below. A copy of the agency and department comments received are provided in **Appendix 3**.

The following Departments/Agencies provided comments noting no concerns with the proposal: Ministry of Transportation Ontario, Cogeco, City of Thorold Heritage Advisory Committee (LACAC), Thorold Fire and Emergency Services, GIO Rail, Niagara Peninsula Conservation Authority (NPCA), Hydro One, and TransCanada Pipelines Limited.

The following Departments/Agencies did not provide comments on the proposal: Bell Canada, City Engineering Division, City Building Department, Niagara Escarpment Commission, Ontario Power Generation, Trillium Railway, Canada Post, Canadian National Railway, District School Board of Niagara, and Niagara Catholic District School Board.

Niagara Region

- Regional staff noted that the Region does not object to the proposed Minor Variance Application, in principal, as the proposal is consistent with the PPS and conforms to Provincial and Regional policies.
- Regional staff noted that the subject property is mapped as having archaeological potential and that future development subject to a Planning Act Application may require an archaeological assessment, and that the standard archaeological warning clause be observed.
- Additionally, Regional staff noted that due to the proximity to an active rail line, purchasers/tenants are advised that sound levels due to increasing rail traffic may occasionally interfere with some activities of the dwelling unit occupants as the sound level exceed the Municipality's and the Ministry of Environment, Conservation and Parks' noise criteria.

City Tax Department

- Taxes outstanding due April 30, 2024.

Public Comments

The application was also circulated in accordance with the requirements of the Planning Act to property owners within 60 metres of the subject lands. At the time of writing of this report, no public comments have been received.

CONCLUSION:

In conclusion, it is the recommendation of Planning staff that minor variance application D13-06-2024 requesting minor variances to the City of Thorold Comprehensive Zoning Bylaw 60-2019 to increase the maximum permitted height for an accessory structure within the residential zone from 4.5 metres to 7.6 metres, and to increase the maximum permitted gross floor area of a second dwelling unit from a maximum of 40% of the principal dwelling unit to 59% of the principal dwelling unit gross floor area, for the purpose of a garage on the ground floor and a second dwelling unit on the second floor be approved without conditions for the reasons as described within this report.

Prepared by:

ORIGINAL SIGNED

Connor Maclsaac
Planner, Development Services

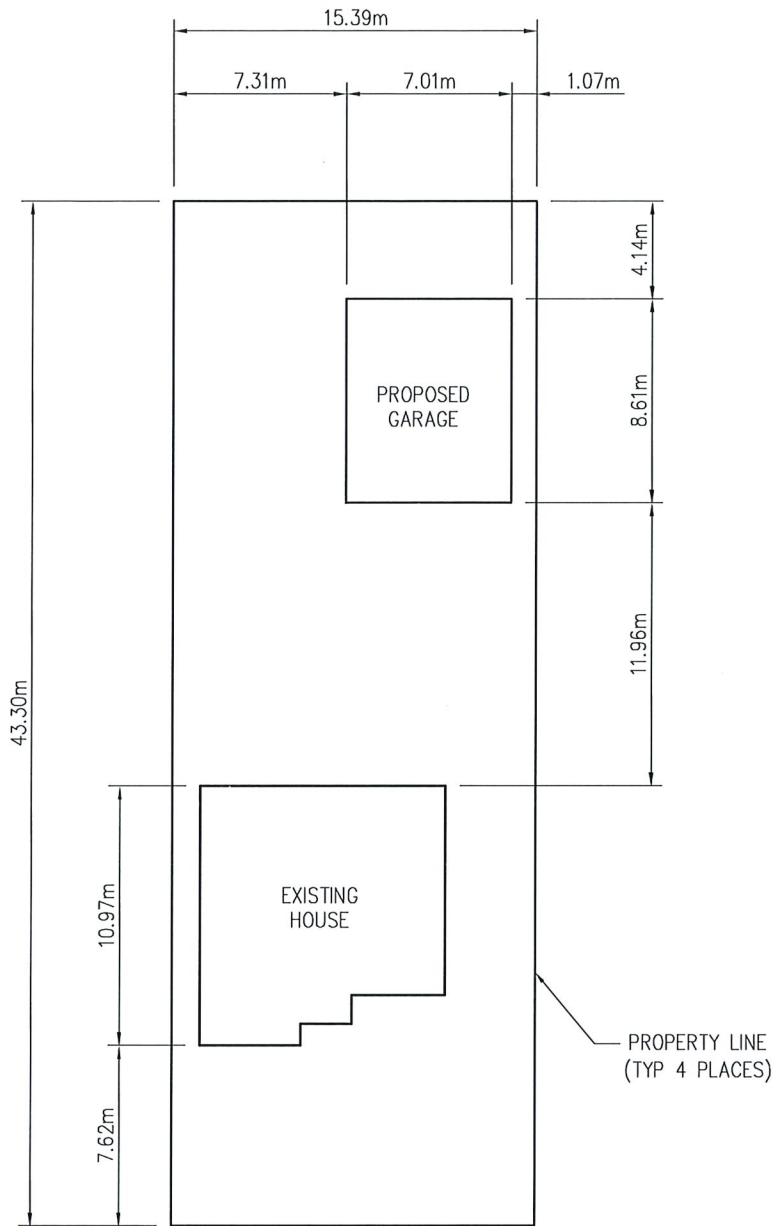
Respectfully Submitted By:

ORIGINAL SIGNED

Marc Davidson
Senior Development Planner,
Development Services



Appendix 1: Site Plan



Carleton Street South

RECEIVED
CITY OF THOROLD

FEB 05 2024

**PLANNING
& DEVELOPMENT**

FOR MORRIS	SCALE NTS	DATE 01/30/2024	FILE VARIANCE
PLAN NAME GARAGE	DRAWN BY SEAN		SHEET # 1
PLAN NO. 2024-1			



Appendix 2: Cover Letter

February 28, 2024

Sean Morris
66 Carleton Street South
Thorold, ON
L2V 2A1

City of Thorold
Development Services
File #D13-06-2024
Attn: Connor Maclsaac

Mr. Maclsaac,

As per our telephone and email conversation, you have requested additional information regarding our request for a Minor Variance to build a garage with a loft located on our property at 66 Carleton Street South.

The property is located on a heavily mature treed lot which provides significant privacy for the neighbouring dwellings. We will erect a wooden privacy fence on the South and East sides of the property. Our current neighbour located to the North side of the property would be very disappointed if we erected a privacy fence.

The houses located east of our property (Welland Street South) are two story homes with large backyards.

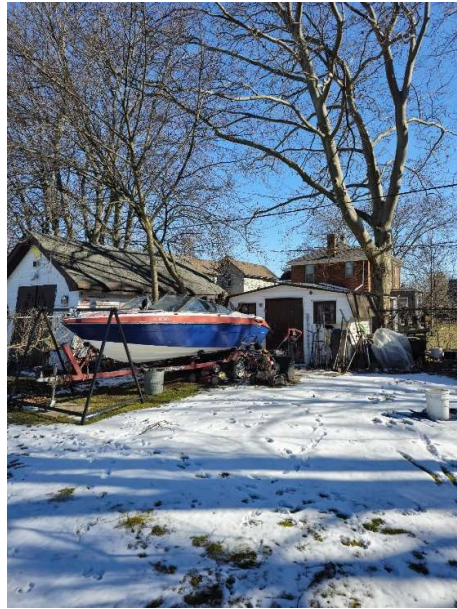
The loft located above the garage is being constructed to provide a living space for my in-laws. The garage portion will contain an area for a washer/dryer plus storage. The federal government is pushing for additional affordable housing to help with the housing shortage.

If you require any additional information, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "Sean Morris". The signature is fluid and cursive, with the first name "Sean" being more prominent than the last name "Morris".

Sean Morris
905 321 6705







Appendix 3: Agency Comments



NIAGARA REGION COMMENTS

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

April 5, 2024

File Number: PLMV202400146

Angela Nesbitt, ACST-A
Secretary Treasurer, Committee of Adjustment
City of Thorold
P.O. Box 1044, 3540 Schmon Parkway
Thorold, ON L2V 4A7

Dear Ms. Nesbitt:

Re: Regional and Provincial Comments
Application Type: Minor Variance
City File Number: D13-06-2024
Applicant: Seanon Paul Morris
Location: 66 Carleton Street South
Municipality Name: Thorold

Regional Growth Strategy and Economic Development staff has reviewed the Minor Variance Application for 66 Carleton Street South located in the City of Thorold. The Applicant is seeking a Minor Variance to construct an accessory structure for the purpose of a garage on the ground floor and a second dwelling unit on the second floor, as shown on the drawing submitted. In order to facilitate the development, the following variances are being requested:

- To permit a maximum height for an accessory structure within the residential zone of 7.6 meters whereas the bylaw permits a maximum of 4.5 meters; and
- To permit a second dwelling unit with a gross floor area of 59% of the principal dwelling unit gross floor area whereas the bylaw permits a second dwelling unit with a gross floor area of a maximum of 40% of the principal dwelling unit gross floor area.

The following comments are provided to assist the City of Thorold with their review of the proposed Minor Variance Application.

Provincial and Regional Policies

The subject lands are within a “Settlement Area” in accordance with the Provincial Policy Statement, 2020 (“PPS”) and designated as “Delineated Built-Up’ Area” in A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation (“Growth Plan”). The Growth Plan contains policies that call for infill and intensification within the built-up area to support the achievement of complete communities, access to multimodal and active transportation networks, and connections to transit services and other public amenities.

The subject lands are within the Urban Area and designated “Built-Up Area” in the Niagara Official Plan (“NOP”). A full range of residential, commercial, and employment uses are generally permitted within the urban area designation, subject to the availability of adequate municipal services and infrastructure. The NOP promotes development in its 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.

Section 2.2.1.1 of the NOP encourages opportunities for the integration of gentle density and a mix and range of housing options that consider the character of established residential neighbourhoods. City staff should be satisfied that the interface of the established residential uses has been addressed in the site design.

As such, Regional Staff does not object to the proposed development, subject to the comments below.

Land Use Compatibility

The subject site is approximately 115 metres from the CN Railway Line. Regional staff recognize there is intervening development between the railway line and the proposed development. As such, in lieu of a noise study in this instance, given the proximity to the railway line and intervening development, Regional staff suggest, for the Applicant consideration, that at the Building Permit stage appropriate noise mitigation measures/building materials are implemented in the building design/construction in order to ensure that the recommended indoor sound levels of the Ministry of the Environment, Conservation, and Parks’ (“MECP”) NPC-300 Guidelines is achieved, including the installation of air conditioning so that windows can remain closed, and double-paned windows.

In addition, future owners and tenants should be made aware of the potential for noise from the railway through the appropriate warning clauses in future offers of purchase and sale and tenant agreements.

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 is not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

The subject property is located within the Niagara Region's mapped Area of Archaeological Potential as outlined in Schedule K of the NOP, indicating there is potential for the discovery of archaeological resources. Regional staff recommend, but in this instance will not require, that the Applicant undertake a Stage 1 Archaeological Assessment along with acknowledgement letter from the Ministry of Citizenship and Multiculturalism. Additionally, staff will require that the following warning clause be observed, noting the Applicant's risk that construction activities would need to cease, and an archaeological assessment would be required if any deeply buried archaeological resources are encountered during excavation work:

"Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the Niagara Regional Police Services as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Services Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the Ministry of Citizenship and Multiculturalism should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act."

Conclusion

In conclusion, Regional Growth Strategy and Economic Development staff does not object to the proposed Minor Variance Application, in principle, as the proposal is consistent with the PPS and conforms to Provincial and Regional policies, subject to the conditions below.

1. That any future owners and tenants should be made aware of the potential for noise from the CN Railway through the following warning clauses in future offers of purchase and sale and tenant agreements:

"Purchasers/tenants are advised that sound levels due to rail traffic may occasionally interfere with some activities of the dwelling unit occupants as the sound level exceed the Municipality's and the Ministry of Environment, Conservation and Parks' noise criteria."

2. That the Owner be advised of the following advisory clause:

“Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the Niagara Regional Police Services as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Services Delivery must be contacted. In situations where human remains are associated with archaeological resources, the Ministry of Citizenship and Multiculturalism should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

Should you have any questions related to the above comments, please contact the undersigned at Alex.Boekestyn@niagararegion.ca, or Pat Busnello, Manager of Development Planning at Pat.Busnello@niagararegion.ca.

Best regards,

Please send copies of the staff report and notice of the City’s decision on these applications. If you have any questions related to the above comments, please contact me at alex.boekestyn@niagararegion.ca

Kind regards,



Alex Boekestyn, M.Sc.

Development Planner

cc: Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region