



SABR ID: 1128

Municipality: Niagara Falls

Requestor: MD Investments

Hectares: 9.89

Request type: Private Land Owner

Re. Niagara Region Settlement Area Boundary Review – Urban Area Boundary Expansion Request (SABR ID: 1128)

Walker Aggregates Inc. (“Walker”) is aware that an urban boundary expansion proposal has been submitted to the Niagara Region requesting that additional lands located to the northeast corner of Lundy’s Lane and Thorold Townline Road be included in the Urban Area through the Niagara Official Plan review process.

Our company is the process of establishing a new aggregate operation located approximately 2.1 km south of the existing Walker Aggregates Quarry on Thorold Townline’s Road, on lands municipally described as Part Lots 119, 120, 136 and 137 in the former Township of Stamford, now in the City of Niagara Falls, Regional Municipality of Niagara. These lands are also identified in both Niagara Region’s in-effect Official Plan (Schedule D1) and the Draft Niagara Official Plan (Schedule G2) as “Potential Resource Areas – Stone” and “Stone Resource” area respectfully.

Walker have potential concerns regarding any application that has the potential to introduce new permissions for sensitive land uses in proximity to identified resource areas. In particular, lands consolidated and acquired for the purpose of a potential aggregate operation where high quality bedrock is present.

Walker is writing to make the proponent aware that the lands subject to this urban area boundary expansion request are located to the southwest of lands on which Walker is proposing a new quarry operation and is also located within the Area of Influence and Minimum Separation Distance associated with proposed quarry lands. Since 2002, Walker has invested heavily in the area in order to acquire an adequate supply of lands is situated for the purpose of establishing a quarry and also for buffer / compensation purposes. Furthermore, Walker has also undertaken a number of tests and studies in order to ensure an adequate supply of mineral aggregate resources continues to exist in the area, and that any potential impacts of the proposed new quarry on sensitive land uses are adequately assessed and mitigated.

As outlined below, Provincial Plan policy is in place to ensure the encroachment of sensitive land uses on resource areas are avoided where possible and that quality resource areas like this one are protected. These policies are also imbedded in the Niagara Region Official Plan

PROVINCIAL POLICY STATEMENT

Protecting both mineral aggregate operations and deposits of mineral aggregate resources from land use decisions that would allow for the encroachment of sensitive land uses is addressed in Section 2.5.2 of the PPS.

Section 2.5 of the PPS sets out policies regarding Mineral Aggregate Resources and the Protection of Long-Term Resource Supply as follows:

2.5.1 Mineral aggregate resources shall be protected for long-term use and, where provincial information is available, deposits of mineral aggregate resources shall be identified.

2.5.2.1 As much of the mineral aggregate resources as is realistically possible shall be made available as close to markets as possible.

Demonstration of need for mineral aggregate resources, including any type of supply/demand analysis, shall not be required, notwithstanding the availability, designation or licensing for extraction of mineral aggregate resources locally or elsewhere.

2.5.2.4 Mineral aggregate operations shall be protected from development and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact. Existing mineral aggregate operations shall be permitted to continue without the need for official plan amendment, rezoning or development permit under the Planning Act. Where the Aggregate Resources Act applies, only processes under the Aggregate Resources Act shall address the depth of extraction of new or existing mineral aggregate operations. When a license for extraction or operation ceases to exist, policy 2.5.2.5 continues to apply

2.5.2.5 In known deposits of mineral aggregate resources and on adjacent lands, development and activities which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:

- a) resource use would not be feasible; or*
- b) the proposed land use or development serves a greater long-term public interest; and*
- c) issues of public health, public safety and environmental impact are addressed.*

Section 1.2.6 of the PPS outlines policies regarding Land Use Compatibility, as follows:

1.2.6.1 Major facilities and sensitive land uses 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, minimize 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.

1.2.6.2 *Where avoidance is not possible in accordance with policy 1.2.6.1, planning authorities shall protect the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive land uses are only permitted if the following are demonstrated in accordance with provincial guidelines, standards and procedures:*

- a) there is an identified need for the proposed use;*
- b) alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations;*
- c) adverse effects to the proposed sensitive land use are minimized and mitigated; and*
- d) potential impacts to industrial, manufacturing or other uses are minimized and mitigated.*

'Major facilities' is defined in the PPS as: "*facilities which may require separation from sensitive land uses, including but not limited to... manufacturing uses, and..., industries, ...*". Under this definition, the proposed Uppers Quarry is considered under "Major Facilities".

'Sensitive Land Use': means 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 generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and educational and health facilities.

DRAFT LAND USE COMPATIBILITY GUIDELINES (PROPOSED)

The Ministry of the Environment, Conservation and Parks has proposed new land use compatibility guidelines as an update to a number of existing D-series guidelines for municipalities to use when making land use planning decisions. The Draft Land Use Compatibility Guidelines ("Guidelines") were prepared to implement the land use compatibility policies in the PPS and, specifically have the following objectives:

- protect employment areas (including industrial employment areas) designated for future major facilities from incompatible uses and encroachment by sensitive land uses
- protect existing or planned major facilities from potential impacts from new sensitive land uses
- prevent adverse effects to existing or planned sensitive land uses from new and/or expanding major facilities

From the Niagara Regional Response to the Guidelines, the Niagara Region staff are supportive of the Province revising the approach to land use compatibility to support the Provincial Policy Statement, as amended.

The proposed Guidelines provide a guiding hierarchy for land use compatibility where avoidance of incompatible land uses through adequate separation should be achieved, or if avoidance is not possible, minimizing and mitigating adverse effects. The first step of the hierarchy sets out to **avoid incompatible land uses which includes locating a sensitive land use outside of the Area of Influence (AOI) of a major facility**. Further to this, the Guidelines states that AOI and MSD only applies to new or expanding



sensitive land use proposals near major facility aggregate operations and are not applicable to land use decisions for new or expanding aggregate operations proposed near sensitive land uses.

Area of Influence (AOI) and Minimum Separation Distances (MSD) specific to certain sectors or types of major facilities have been provided in the Draft Guidelines. Mineral Aggregate Operations have an AOI of 1000m and an MSD of 500m under the Proposed Guidelines. Landfill operations have an MSD of 500m, while as the AOI of such operations are determined on a case-by-case basis.

An AOI of 1000m and an MSD of 500m is applicable to both the proposed Uppers Quarry site and the existing Walker Brothers Quarry (WBQ). A 500m MSD is also applicable to the existing landfill operation which is adjacent to the existing WBQ operation. The lands subject of the urban area boundary expansion request fall within both the AOI and MSD associated with the proposed Uppers Quarry site, and is also located within close proximity to an aggregate resource area.

CONCLUSION

Any consideration of an urban area boundary expansion request must ensure that such a proposal is consistent with the Provincial Policy Statement, including policies relating to the protection of mineral aggregate resources for the long term and ensuring land use compatibility. In our view, this has not been properly demonstrated. Furthermore, the Provincial Guidelines aimed at implementing the PPS relative to land use compatibility have not been adequately taken into account.

Walker made a general submission to the Region on this very issue (see attached) on March 9, 2020.

Please accept this correspondence as Walker's further request to be notified of any applications, open houses, public meetings and/or decisions relating to this specific request for a proposed urban area boundary expansion.

We appreciate the opportunity to provide input to the Region's Official Plan review process. As always, we would be pleased to meet to review and further discuss our comments.

Yours truly,

A solid black rectangular box used to redact the signature of Kevin Kehl.

KEVIN KEHL

Project Manager

Aggregates & Construction Division

C: David Heyworth, Official Plan Policy Consultant, MMAH



Sean Norman, Senior Planner, Planning and Development Services, Niagara Region

Alex Herloritch, Head of Planning and Development, City of Niagara Falls

Attachments:

- Previous letter regarding Urban Area Boundary Expansions (dated. March 9, 2020).



March 9, 2020

Ms. Denise Landry, MCIP, RPP
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Dear Ms. Landry and Mr. Banach:

RE: Proposals for City of Thorold Urban Area Boundary Expansions

It has come to our attention that a number of applications have been submitted to Niagara Region including a proposal to expand the Urban Area boundary near Lundy's Lane, in the City of Thorold.

Walker Aggregates Inc. own land to the northeast of this area and have potential concerns regarding any application that has the potential to introduce new permissions for sensitive land uses in proximity to our lands.

Walker's lands are also identified in the Niagara Region's Official Plan (Schedule D1) as "Potential Resource Areas – Stone".

As discussed in pre-consultation meetings with Region and City Staff, it is Walker's intent to submit applications this Spring for the purpose of developing a stone quarry on Walker's lands.

Walker's concern with any proposed Urban Area boundary expansion in proximity to lands identified as Potential Resource Areas - Stone, including Walker's lands, is that it may introduce land uses which may preclude or hinder establishment of a stone quarry at this location or may conflict with the use of these lands as a stone quarry in the future. If an application serves to preclude or hinder establishment of a quarry on the Walker lands, it would not be consistent with policy 2.5.2.5 of the Provincial Policy Statement (PPS, 2014 and 2020). Nor would it conform to policy B.2.6.3.2 of the City of Thorold's Official Plan.

Please accept this correspondence as Walker's formal request to be notified of any applications, open houses, public meetings and/or decisions relating to any such urban area expansion proposals within two (2) kilometres of an identified "Potential Resource Areas - Stone" (identified in the Region's Official Plan).

Thank you in advance for giving consideration to our concerns.

Sincerely,

A black rectangular redaction box covering the signature of Kevin Kehl.

**Kevin Kehl
Walker Aggregates Inc.**