

# Rinaldi Holdings Inc.

Development Charges Appeal

399 Vansickle Road

January 16, 2025

# The City of St. Catharines and Niagara Region Definitions of Industrial Use are nearly identical and should be interpreted as such:

## St. Catharines DC By-Law 2021-140

"Industrial use" means land, buildings or structures used for or in connection with:

- (a) manufacturing, producing, assembly, and processing goods for a commercial purpose, as well as storing or distribution of goods manufactured, produced, or processed on site;
- (b) research or development in connection with manufacturing, producing, assembling, or processing good for a commercial purpose;
- (c) retail sales by a manufacturer, producer, or processor of goods they manufactured, produced, assembled, or processed, if the retail sales are at the site where the manufacturing, production or processing takes place
- (d) office or administrative purposes if it is:
  - i. carried out with respect to manufacturing, producing, processing, assembly, storage or distributing of something; and
  - ii. in or attached to the building or structure used for that manufacturing, producing, processing, assembling, storage, or distribution.

## Niagara Region DC By-Law 2022-71

"industrial use" means land, buildings or structures used for or in connection with manufacturing by:

- (a) manufacturing, producing, and processing goods for a commercial purpose, as well as storing and/or distribution of goods manufactured, produced or processed on site;
- (b) research or development in connection with manufacturing, producing or processing good for a commercial purpose;
- (c) retail sales by a manufacturer, producer or processor of goods they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place;
- (d) office or administrative purposes, if it is:
  - (i) carried out with respect to manufacturing, producing, processing, storage or distributing of something; and
  - (ii) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;

# The definition of Industrial Use is drafted inclusively and should be interpreted broadly:

## Niagara Region DC By-Law 2022-71

“industrial use” means land, buildings or structures used for or in connection with manufacturing **by**:

- a) manufacturing, producing, and processing goods for a commercial purpose, **as well as storing and/or distribution of goods** manufactured, produced **or processed on site**;
- b) research or development in connection with manufacturing, producing or processing good for a commercial purpose;
- c) **retail sales by a** manufacturer, producer, **or processor of goods they** manufactured, produced, **or processed, if the retail sales are at the site where the** manufacturing, production **or processing** takes place;
- d) **office or administrative purposes if it is:**
  - i. **carried out with respect to** manufacturing, producing, **processing**, storage **or** distributing of something; and
  - ii. **in or attached to the building or structure used for that** manufacturing, producing, **processing**, storage **or** distribution.

- The definition of Industrial Use as written does not require products to be manufactured on-site and does not require manufacturing “as a starting point” to the other types of uses listed.
- Rather, sub-paragraphs (a) through (d) serve as examples of how a use may be connected to manufacturing.
- The definition does not limit industrial use strictly to manufacturing, but instead clarifies the breadth of activities that qualify as being “in connection with manufacturing”, as evidenced by the word “by” preceding the subparagraphs.

# The OLT decision in *UniFirst* demonstrates the Tribunal will take a holistic approach to interpreting “Industrial Use”

## **UniFirst Closed-Circuit Processing**

1. Property is Zoned as Industrial.
2. Goods are manufactured elsewhere, then shipped to/received at UniFirst.
3. Goods are processed and cleaned at UniFirst.
4. Goods are stored on-site.
5. Goods are distributed via Transport Truck to corporate clients.

## **Goodwill Closed-Circuit Processing**

1. Property is Zoned as Industry, Light.
2. Goods are manufactured elsewhere, then donated, shipped to/received at Goodwill.
3. Goods are processed, sorted, repaired, and cleaned at Goodwill.
4. Goods are either stored on-site, diverted to recycling or landfill, prepared for retail, or sent to the construction training program for further processing.
5. Goods are brought to the on-site retail floor for sale.

[13] The Tribunal also noted that the City, as part of its efforts to attract industrial activity and employment, advertised and marketed the Site property purchased by UniFirst as “Industrial” and zoned those lands accordingly. Certainly, this is not determinative of the issue in dispute. However, from a common-sense perspective, it does indicate that the City anticipated that UniFirst would be conducting “Industrial” operations at the Site. It also helps to explain why UniFirst was surprised by the later position of the City that the Site operations were better classified as “Commercial”.




[16] . . . Moreover, it struck the Tribunal as odd that the City’s views of UniFirst’s operations at the Site were not grounded in a sound, factual assessment based on a detailed examination of UniFirst’s operations. Throughout the process, the City instead took a theoretical approach based on its strong views as to the meaning of certain provisions in the DC By-law. The Tribunal was of the impression that the City’s efforts were focused on how to “fit” the UniFirst Site operation into its preferred DC By-law classification.

# Incorrect assertions regarding “leasing space”; tenants “not benefiting from the Grant”; and the Construction Training Program space

Niagara Region’s Position	Rinaldi Holdings Inc.’s Position
<p>“The developer/owner of the Subject Lands, Rinaldi Holdings Inc. is operating a business of <b>leasing space</b>, which is fundamentally a commercial use.”</p>	<p>“Leasing space” is not included in the definition of “commercial purpose” in By-Law 2022-71. The Region’s assertion is not based in law.</p>
<p>“Additionally, the tenant is engaged in a business that does not meet the definition of industrial use. The <b>tenant will not be directly benefitting from the RDC relief or RDC Grant.</b>”</p>	<p>Whether a tenant is benefiting from the RDC relief or RDC Grant is not relevant and is not a pre-requisite to qualify for the RDC Grant.</p>
<p>“. . .in addition to the existing warehouse and retail space there is an additional 6,000 square feet at the Subject Lands which will be used to establish a <b>construction training program focused on repurposing donated furniture.</b> It is Regional staff’s position that this space also does not meet the Region’s definition of Industrial Space <b>as no manufacturing of goods is occurring.</b>”</p>	<p>The fact that no manufacturing of goods is occurring at the additional space does not disqualify the use from being “Industrial” under By-Law 2022-71. The Region’s assertion misinterprets the definition of Industrial Use.</p> <p>The additional space is essential to processing, repurposing, and redistributing donated furniture.</p>

# Goodwill meets the Niagara Region Industrial DC Grant Requirements

**To qualify for Niagara Region's Industrial Development Charge Grant, the applicant's development must meet the following criteria:**

-  **The proposed development must meet Niagara Region's definition of Industrial Use as per By-Law 2022-71**
  - (a) storing and/or distribution of goods processed on-site.
  - (c) retail sales of processed goods at the site where the processing takes place.
  
-  **Apply for funding before receiving a building permit or within 90 days of receiving a building permit**
  - Satisfied.
  
-  **Demonstrate the positive economic impact that the development will have in Niagara**
  - 31 new full-time/full-time equivalent jobs.
  - Millions of pounds of waste diverted from landfills.
  - Construction training program empowering employees to learn new practical skills.