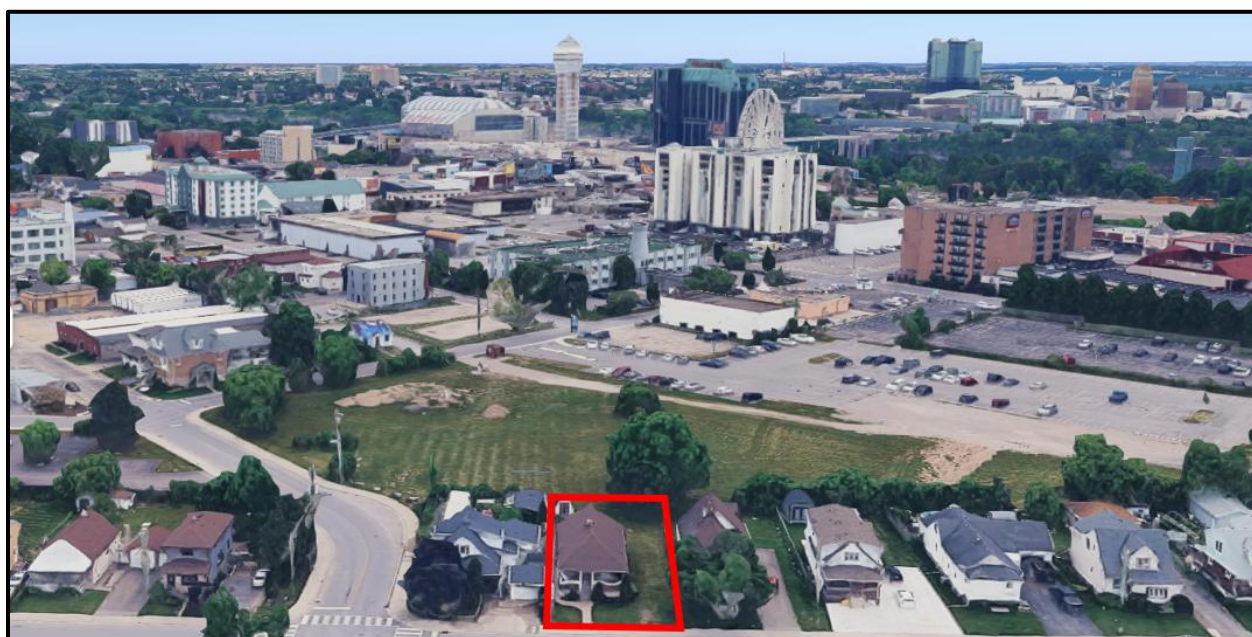


Planning Justification Report
Zoning By-law Amendment
5730 Desson Ave, Niagara Falls



Prepared for Xue Zhao



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Introduction

A.D. Moote Consulting (ADMC) is the planning consultant to Xue Zhao, owner of the property located at 5730 Desson Avenue, in Niagara Falls, Ontario; legally known as PLAN 653 LOT 905; NEW PLAN 09.

The proposal for the property is to rezone the property to permit the use of a Vacation Rental Unit and to recognize two zoning deficiencies as a result of historical built form of the dwelling.

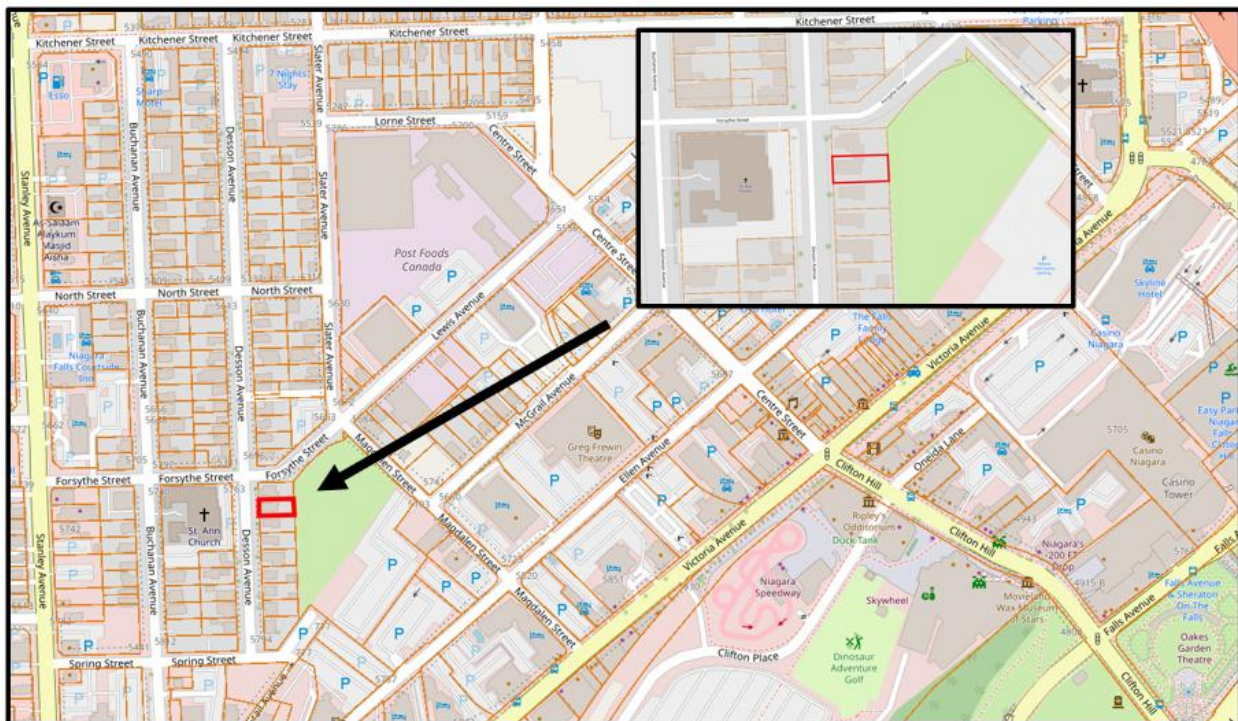
The owner has received direction from the City of Niagara Falls via a pre-consultation that to permit a Vacation Rental Unit on the property a zoning by-law amendment would be required, along with Planning Justification Report to address applicable Provincial, Regional, and City policy.

This Planning Justification Report provides an analysis and justification of the proposed rezoning in accordance with the applicable planning policies and zoning by-laws.

Site Context

The subject property is located at 5730 Desson Avenue, in Niagara Falls. The surrounding area of the property is an area within transition with a mix of uses including, residential, tourist, commercial, civic and institutional.

Figure 1: Location of Property



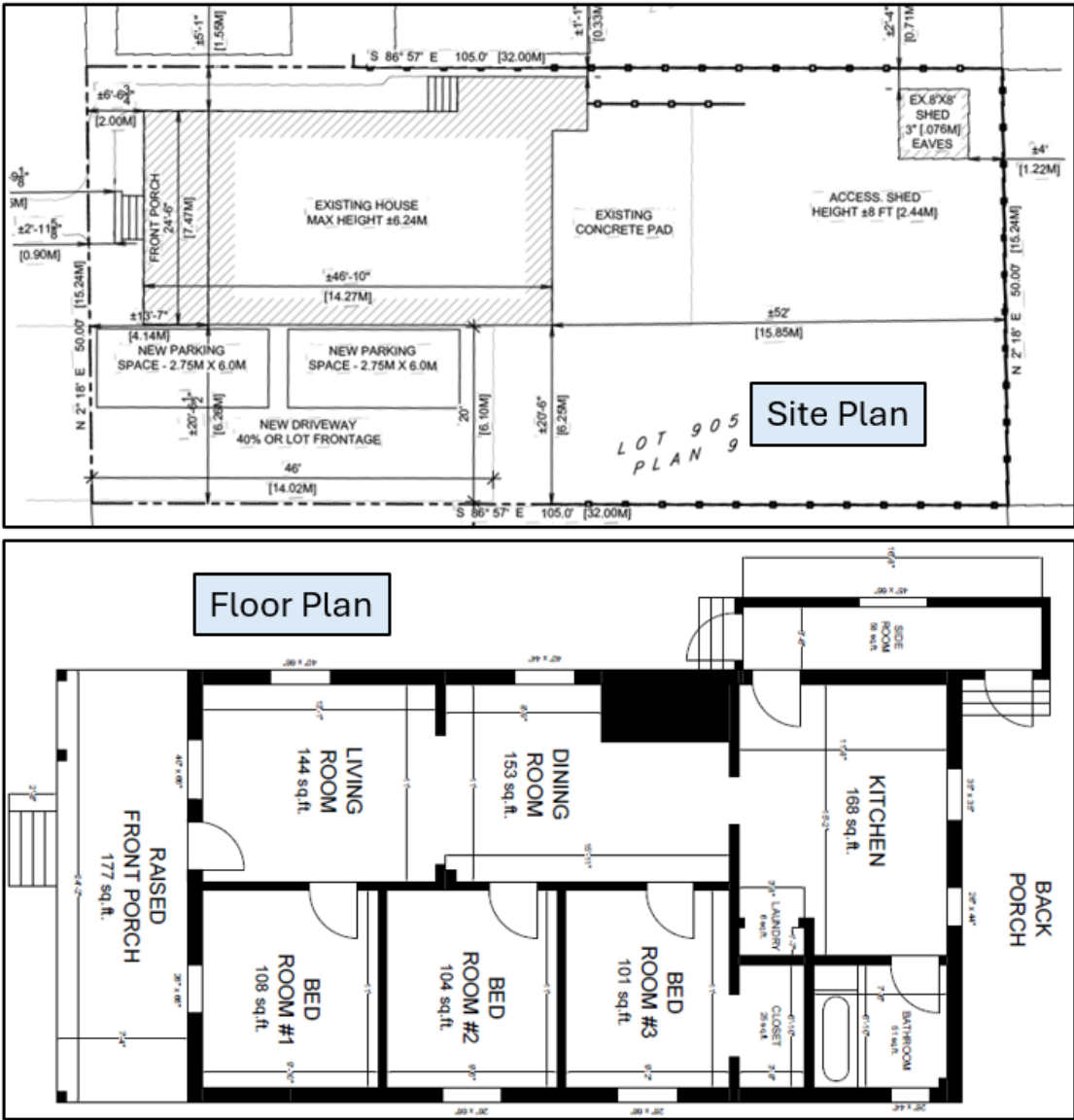
Description of Proposal

The zoning by-law amendment will rezone the property from Deferred Tourist Commercial (DTC) to Site-specific Deferred Tourist Commercial, adding the permission of a Vacation Rental Unit to the property and recognizing two historical zoning deficiencies for the property for side yard width and front yard depth.

Table 1 - Proposed Property Dimensions

5730 Desson Ave	
Lot Frontage	15.24 m
Lot Depth	32 m
Lot Area	487.74 sq.m

Figure 2: Conceptual Site Plan





Policy and Analysis

The following documents were reviewed and analyzed to demonstrate good planning with respect to this application.

1. Planning Act, R.S.O 1990
2. Provincial Planning Statement, 2024
3. Niagara Region Official Plan, 2022
4. City of Niagara Falls Official Plan
5. City of Niagara Falls Zoning By-law 79-200

Planning Act

The Planning Act is the provincial legislation that provides the basis for land use planning in Ontario, identifying tools for managing how, where and when land use change occurs. The Act is designed to recognize the decision-making authority and accountability of municipal councils in planning.

The purposes of the Act as outlined in Section 1.1 are (a) to promote sustainable economic development in a healthy natural environment, (b) to provide for a land use planning system led by provincial policy, (c) to integrate matters of provincial interest in provincial and municipal decisions, (d) to provide for planning processes that are fair, (e) to encourage co-operation and coordination among various interests, and (f) to recognize the decision-making authority and accountability of municipal councils in planning.

The matters of Provincial Interest are outlined in Section 2 of the Act. This application has regard to the following matters: e), f), h), i), k), l), p), q).

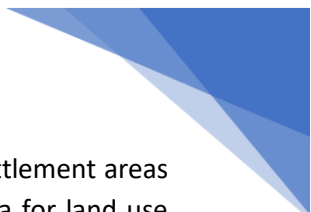
This application has regard for the relevant sections of the Planning Act.

Provincial Planning Statement, 2024

The Provincial Planning Statement (PPS) provides policy direction on matters relating to land use planning and development that are of provincial interest. The PPS sets the policy foundation for regulating the development and use of land province-wide, to help achieve the provincial goal of meeting the needs of Ontarians while enhancing their quality of life. All while maintaining the vision to increase the supply and mix of housing options in the province, with a goal of getting at least 1.5 million homes built by 2031.

Applicable to this application, the PPS provides supporting policies in Chapter 2: Building Homes, Sustaining Strong and Competitive Communities; and 2.3 Settlement Areas and Settlement Area Boundary Expansions. The applicable policies for the proposal are found below.

To support the achievement of complete communities Section 2.1.6.a. of the PPS states that planning authorities should accommodate a suitable mix of land uses, housing, multimodal transportation, employment, public facilities (like schools, child care, long-term care, places of worship, cemeteries), recreation, parks, open space, and other uses to meet long-term needs



Section 2.3.1 provides general policies for settlement areas. Section 2.3.1.1 states that settlement areas shall be the focus of growth and development. Section 2.3.1.2 provides a general criteria for land use patterns that are based on densities and a mix of land uses, which includes:

- a) efficiently use land and resources;
- b) optimize existing and planned infrastructure and public service facilities;
- c) support active transportation;
- d) are transit-supportive, as appropriate.

Additionally, the property is serviced by municipal water and sanity servicing, which is the preferred form of servicing in settlement areas (3.6.2.).

The application is consistent with the Provincial Planning Statement.

Niagara Region Official Plan

The Niagara Official Plan (NOP) is the Regional Municipality of Niagara's long-term, strategic policy planning framework for managing growth coming to Niagara. The policies of the NOP guide land use and development thereby influencing economic, environmental, and planning decisions until 2051 and beyond.

The NOP identifies what to protect; how and where to grow; and policy tools to manage the same. It identifies resources such as the natural environment system, agricultural system, source water, aggregates and petroleum, and cultural heritage and archaeology that are to be protected for specific reasons whether it be ecological, economic, cultural heritage or community health.

The property is located within the Niagara Economic Zone, identified in Schedule G of the Niagara Official Plan and the proposal intends to rezone the property to permit a Vacation Rental Unit, thus policies applicable to the proposal include Section 4.2.2 Niagara Economic Centre and Zone, of the NOP.


NOP Section 4.2.2.1 identifies what the Niagara Economic Gateway is.

The Niagara Economic Gateway is comprised of the total geographic area of the Local Area Municipalities that are a part of the Niagara Economic Centre or Niagara Economic Zone, including all major goods movement facilities and corridors as shown in Schedule G.

Subsequently Section 4.2.2.2 states that: The Region will work with the other levels of government to prioritize improvements to major goods movement facilities and corridors and planned corridors within the Niagara Economic Gateway to focus on:

- b. supporting economic diversity and promoting increased opportunities for cross-border trade, movement of goods, and tourism.

The proposed permitted use of a Vacation Rental Unit will supplement accommodations for tourism.



The application conforms with the Niagara Region Official Plan.

City of Niagara Falls Official Plan

The Official Plan for Niagara Falls (NFOP) sets long-term goals and policies for urban growth, agricultural land protection, natural heritage conservation, and required infrastructure.

The City of Niagara Falls Official Plan designates the land as Tourist Commercial and it is located within the Clifton Hill subdistrict of the Central Tourist District.

The City has requested a Housing Impact Statement under Part 1 Section 4 (Housing) subsection 4.4; which seeks to demonstrate how the proposal implements the City's Housing Strategy. It is our opinion that these policies are not applicable to the application since the lands of which the property is located are designated Tourist Commercial, within in the Central Tourist District. And the general policies of this designation are to promote tourism uses, with the NFOP considering the Tourist Commercial area employment lands rather than a non-employment use such as residential.

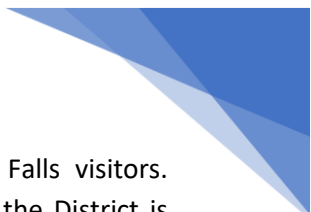
The policies for the Tourist Commercial designation are found in **Part 2, Section 4** of the NFOP. Applicable policies are below:

4.1 The Niagara Falls Tourist Area Vision

- 4.1.2 In order to achieve this vision, a high-quality tourism environment needs to be created. A substantial commitment and investment will be required on the part of all stakeholders to revitalize the physical setting to one worthy and respectful effectively compete in the international market place.
- 4.1.3 By virtue of adopting this Official Plan, a new planning framework will be established to promote high quality development and an enhanced urban environment. All new tourist commercial development will be guided by the policies of this Plan.
- 4.1.4 This Plan also recognizes that the tourism and accommodation sector is a major source of employment for residents of the City and the Region. As such, lands designated Tourist Commercial are considered to be employment lands and the policies regarding conversion of employment lands to non-employment uses contained in PART 4, Sections 2.9 and 2.10 apply except as provided for in this Plan.

4.2 Tourist Districts

- 4.2.2 The Central Tourist District shall be comprised of the Queen Victoria Park, Clifton Hill and Fallsview Subdistricts. The Central Tourist District shall continue to be the focal point for tourism activities in the City, including the Falls, the primary attraction, interpretive natural and cultural facilities in Queen Victoria Park, and a wide mix of tourist attractions, accommodations, and services in Clifton Hill and Fallsview. Large-scale "thrill" style attractions/amusements will generally be directed to Theme Park and Resort Commercial designations.

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- 4.2.10 The Central Tourist District shall be the primary attraction area for Niagara Falls visitors. Comprised of three subdistricts; Queen Victoria Park, Clifton Hill and Fallsview, the District is regarded as the focal point for the City's tourism activities. The role and function of individual subdistricts are set out in the following policies. Maintaining the delicate balance between commercialism and environmental protection underpins the policies prescribed herein.
- 4.2.16 The Clifton Hill Subdistrict shall function as the commercial-entertainment centre of the Tourist Area, preserving its festival atmosphere. A wide range of commercial/entertainment uses shall be permitted including, but not limited to, tourist retail, hotels, restaurants, cafes, nightclubs, museums, art galleries, theatres and other tourist-related uses, all of which provide a pedestrian focus at the street level. The most intensive uses shall be located to the east of Victoria Avenue where a concentration of tourism activities already exists. Tourist-related uses to the west of Victoria Avenue shall provide an appropriate transition and relationship with the adjacent residential and institutional uses located within this Subdistrict.
- 4.2.17 The Clifton Hill Subdistrict shall maintain a direct connection to Lundy's Lane and provide improved access to the Fallsview Subdistrict through the Grand Boulevard concept. The intersection of Victoria Avenue, Ferry Street and the Grand Boulevard shall be distinguished by a public plaza.
- 4.2.18 New developments within the Clifton Hill Subdistrict shall be consistent with Sections 4.3.6 through 4.3.10 of this Plan with respect to the relationship of new developments to public streets and open spaces and Sections 4.4.2 through 4.4.8 of this Plan with respect to the development's built form.
- 4.2.19 Given the extensive area encompassed by the Clifton Hill Subdistrict and the large tracts of land occupied by non-tourist serving uses, such as industry, housing and schools, discretion shall be exercised in phasing tourist commercial development into these areas in order to concentrate tourism activities along the streets of Clifton Hill, Victoria Avenue and Ferry Street, and to minimize impacts on existing land uses. To accomplish this phasing, the implementing Zoning By-law shall defer tourism development until expansion is required and adequate services are available.
- 4.2.20 A comprehensive Streetscape Master Plan for the Clifton Hill Subdistrict shall be undertaken, in cooperation with area BIA's, to provide detailed urban design guidelines and identify detailed streetscape improvements, road and sidewalk widths, sidewalk paving, street lighting, the location and type of street trees, street furniture details, the treatment of public utilities in the street allowance and signage, in order to implement the policies of this Plan.

The subject property is situated entirely within the Central Tourist District specifically within the Clifton Hill subdistrict, placing it near several key tourist destinations. It is approximately 1 kilometre from the Fallsview subdistrict and less than 800 metres from the Queen Victoria Park subdistrict and 600 metres from the River Road tourist satellite district. It is approximately 450 metres from Clifton Hill.

The location of the property supports the objectives of the Niagara Falls Official Plan (NFOP); to enhance the physical environment of the tourist area. The site's proximity to major attractions fosters opportunities for visitors to extend their stays and increases the variety of available accommodations. The redevelopment proposal contributes to a gradual transition from residential to tourist uses by permitting a single-detached dwelling to provide tourist accommodations, thereby supporting the NFOP's vision for tourism development and improved visitor experience in the area.

The application conforms with the City's Official Plan.

City of Niagara Falls Zoning By-law 79-200

The Zoning By-law regulates how land is used by dividing areas into zones like residential, commercial, or industrial. It sets out what you can build and how you can use your property, including rules on building height, setbacks from property lines, and parking.

The subject property is zoned *Deferred Tourist Commercial Zone (DTC-75)*. The DTC zoning will remain, but the zoning by-law amendment proposes to add a Vacation Rental Unit (VRU) as a permitted use and will recognize two existing zoning deficiencies for side yard width and front yard depth that are already present on the property. DTC zones are subject to regulations contained within the R1E zone.

Table 2 - Zoning Conformity - Deferred Tourist Commercial Zone (R1E zoning applies)

R1E Zone Provisions			
Zone Provision	Required	Proposed	Complies: Yes/No
Permitted Uses	The uses permitted in the DTC zone	Existing detached dwelling	Yes
		A vacation rental unit within an existing detached dwelling that comply with the regulations in section 4.38	No
Maximum number of bedrooms (VRU)	3 bedrooms	3 bedrooms	3 bedrooms
Minimum lot area for interior unit	370 sq.m	487.74 sq.m	Yes

Minimum lot frontage for an interior lot	12 m	15.24 m	Yes
Minimum front yard depth	6 m	4.41 m	No
Minimum Rear Yard Depth	7.5 metres	15.85 m	Yes
Minimum interior side yard width on each side	2.4 m (where no attached garage or carport is provided, subject to 5.1.(a))	North side – 0.33 m South side – 6.22 m	No
Max. Lot Coverage	45%	24.38%	Yes
Max. Dwelling Height	10 metres	6.24 m	Yes
Maximum number of detached dwellings on one lot	1 only	1 detached dwelling	Yes
Parking and access requirements	In accordance with section 4.19.1 2 parking spaces for each VRU (which may be provided in tandem) <u>Total required:</u> 2 parking spaces	2 parking spaces (proposed)	Yes
Minimum parking space width	2.75 m	2.75 m	Yes, proposed
Minimum parking space length	6.0 m	6.0 m	Yes, proposed

Parking in Yards	Maximum lot area which can be used as a surface parking area: 30%	17.56%	Yes
	Maximum width of driveway or parking area in the front yard of a lot: 60% of the lot frontage but in no case more than 9 metres for a detached dwelling	Approximately 40%, with a measurement of 6.10 m	Complies
Minimum Landscaped Open Space Area	30% of lot area	65%	Yes
	An accessory building or accessory structure may be erected in a rear yard of a lot provided that it shall not be less than 0.45 metre from any lot line and no overhanging roof, eaves or gutter shall project more than 0.3 metre into any required yard or be less than 0.15 metre from any lot line	<u>North side:</u> 0.71 metres however roof, eaves or gutter projection not noted	Approximately 0.1 metre projection
		<u>East side:</u> 1.22 metres however roof, eaves or gutter projection not noted	Approximately 0.1 metre projection
	No person shall, in any residential zone, DH zone, A zone, R zone, DC zone or DTC zone, erect any accessory building or accessory structure having a greater height than 3 metres, provided that an accessory building with a pitched roof may be erected to a height not exceeding 4.6 metres but in	Height of accessory shed is 2.44 m, as shown on Site Plan	Yes

Accessory buildings and accessory structures	no event shall any part of the walls or supporting posts excluding any gable or dormer exceed 3 metres in height		
	The total lot coverage of all accessory buildings and accessory structures on a lot shall not exceed 15% of the lot area or 93 square metres, whichever is lesser, and in no case shall the total lot coverage of all buildings and structures exceed the maximum lot coverage regulation of the specific zone	1.22% (5.95 square metres)	Yes
Yards In accordance with section 4.14	<u>Front Covered Porch:</u> A roofed over one storey porch may project in the required front yard a distance of not more than 2.5 metres	The roofed porched projects 2.41 m in the front yard, shown on site plan.	Complies
	<u>Decks:</u> Subject to section 4.27.1, A deck may project into a required front yard a distance of not more than 2.5 metres and into a required rear yard a distance of not more than 4 metres and in no event shall any part of the deck be closer than 1.5 metres from any street line and closer to the interior side lot line	As existing	Complies The front steps are considered a deck because they are 32 inches in height. Decks are permitted to project into the front yard by 2.5 metres, but not any closer than 1.5 metres from the street line.

	than the minimum interior side yard width of the specific zone.		The existing steps project into the front yard by 1.1 metres. They are 7.5 m from the street line, they are not any close to the interior lot line than permitted.
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Site-Specific Requests:

To summarize, the site-specific requests are the following:

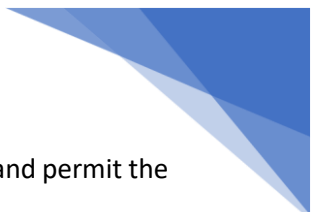
1. A vacation rental unit within a dwelling unit, that complies with the regulations set out in section 4.38 of By-law No. 79-200
2. To permit a front yard depth of 4.41 m to the building face, where 6 m is required.
3. To permit an interior side yard width on the north side of the property of 0.33 m, where 2.4 m is required.

These variances are identified below and include the associated four tests justification to permit them

	<u>Zone Regulation</u>	<u>Permission</u>	<u>Proposed</u>
Site-specific request 1	The uses permitted in the DTC (R1E) zone. Including a detached dwelling unit.	Vacation Rental Unit not permitted.	A vacation rental unit within a dwelling unit, that complies with the regulations set out in section 4.38 of By-law No. 79-200
	<p>Comment:</p> <p>The site-specific request is to permit a Vacation Rental Unit. Detached dwelling units are a permitted use, but not in the function of a Vacation Rental Unit. The proposed use aligns with this area as it is in transition. Being designated in the Official Plan as Tourist Commercial and having a Deferred Tourist Commercial zoning indicates that the area is identified for tourism uses, including the provision of accommodations, which the permission will allow.</p> <p>Subject to zoning by-law amendment approval, the property will comply with zoning permissions or seek further compliance (VRU licencing, Building Code) with Section 4.38.</p>		
	<u>Zone Regulation</u>	<u>Permission</u>	<u>Proposed</u>

Site-specific request 2	Minimum Front Yard Depth	6 m	4.41 m
	<p>Comment:</p> <p>Relief is being sought for this regulation due to this being an existing condition established through historical built form of the dwelling. The relief will recognize the front yard depth of 4.41 m where 6 m is required, a deficiency of 1.59 m. The existing built form has been in existence since at least 2007, according to visuals captured from Google Maps. It also appears that this was the original setback as nearly every dwelling on the east side of this street has a very similar built form setback, dating back to circa 1954-1955 according to Niagara Navigator.</p> <p>There will be no impacts to neighbours or the surrounding area to permit the relief.</p>		
	<u>Zone Regulation</u>	<u>Permission</u>	<u>Proposed</u>
Site-specific request 3	Minimum interior side yard width on each side	2.4 m (where no attached garage or carport is provided, subject to 5.1.(a))	North side – 0.33 m South side – 6.22 m
	<p>Comment:</p> <p>Relief is being sought for this regulation due to this being an existing condition established through historical built form of the dwelling. The relief will recognize the north side yard setback of 0.33 m where 2.4 m is required, a deficiency of 2.07 m.</p> <p>The existing built form has been in existence since at least 2007, according to visuals captured from Google Maps, and as early as 2000 according to Niagara Navigator.</p> <p>It also appears that the northern side yard setback for every dwelling on this section of Desson was at one time less than what is currently permitted as most if not all the dwellings are setback very close to their northern property line. Again, the dwelling itself dates to circa 1954-1955 according to Niagara Navigator, and the existing built form has existed since as early as before 2000.</p> <p>There will be no impacts to neighbours or the surrounding area to permit the relief.</p>		

The Zoning By-law Amendment proposes to permit a Vacation Rental Unit and to formally recognize two existing zoning deficiencies related to the required minimum front yard depth and side yard width.



Approval by the City will bring the property into compliance with the zoning requirements and permit the use of a Vacation Rental Unit.

Summary

The application seeks approval for the addition of a Vacation Rental Unit while formally acknowledging an existing zoning deficiency. It has regard for the purposes outlined in Section 1.1 of the *Planning Act*, as well as to the matters of provincial interest specified in Section 2, particularly clauses e), f), h), i), k), l), p), and q.

Situated within the City's Built-Up area, the development will make full use of existing municipal infrastructure, including water, wastewater, and transit services, thereby contributing to the objective of establishing a complete community. It also ensures convenient access to transportation options, active travel networks, open spaces, parks, and recreational amenities. The site is within the Gateway Economic Zone; an area designated to promote expanded tourism opportunities and aligns with local tourism activities.

Additionally, the property is located in the Central Tourist District and is within close proximity to several other tourist districts. This supports the City's strategy to enhance the physical environment of tourist areas and encourages visitors to extend their stay and increase spending by offering diverse accommodation choices.

Although the application seeks recognition for two existing zoning deficiencies resulting from existing built form, the only new amendment pertains to adding the Vacation Rental Unit as a permitted use. Subject to Council approval, this addition will comply with the City's zoning by-law. The application satisfies all relevant policy requirements and represents good planning.

Conclusion

It is the opinion of the author that the zoning by-law amendment application represents good planning and should be approved because of the following, it:

1. Has regard to the Planning Act;
2. Is consistent with the Provincial Planning Statement;
3. Conforms with the Niagara Region Official Plan;
4. Conforms with the City of Niagara Falls Official Plan;
5. Conforms with the City of Niagara Falls Zoning By-law 79-200.

Sincerely,



Adam Moote, MPlan, RPP, MCIP

