

UEM PROJECT NO.: 22-208

DATE: OCTOBER 2023

PLANNING JUSTIFICATION REPORT PREPARED FOR:  
**NIAGARA ESTATE MANAGEMENT INC.**  
**c/o 5696 DESSON AVENUE**  
**NIAGARA FALLS, ONTARIO**  
**L2G 3T4**

**PLANNING JUSTIFICATION REPORT**  
**ZONING BY-LAW AMENDMENT**  
**5696 DESSON AVENUE, NIAGARA FALLS**



UEM

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## 1.0 INTRODUCTION

### 1.1 PROPONENT AND AGENT

Urban & Environmental Management Inc. (UEM) was retained by the proponent, Niagara Estate Management Inc., to assist with an application for a Zoning By-law Amendment (ZBA) in support of the use of the existing residence and property at 5696 Desson Avenue in the City of Niagara Falls for a Vacation Rental Unit (VRU). No physical change is proposed to the existing residence on the property. The existing single-detached dwelling on the property would remain and be used as the rental unit. As the current Deferred Tourist Commercial (DTC) zone does not permit a VRU, a Zoning By-law Amendment is required.

### 1.2 PRE-CONSULTATION

A pre-consultation meeting with City of Niagara Falls Planning and Infrastructure staff, as well as Niagara Region Planning staff was held on August 4, 2022. The meeting was attended by the proponent, Niagara Estate Management Inc., and UEM. Formal minutes of the pre-consultation meeting were prepared and issued by the City. At the pre-consultation meeting, the following supporting studies were identified as required in support of the ZBA:

- Planning Justification Brief
- Conceptual Site Plan (provided in Appendix A)

### 1.3 APPLICATIONS TO BE SUBMITTED

A Zoning By-law Amendment application and supporting documentation are being submitted by the proponent to the City of Niagara Falls.

### 1.4 PURPOSE OF THE PLANNING JUSTIFICATION REPORT

The purpose of this Planning Justification Report is to analyze the proposed development in consideration of relevant Provincial, Regional, and Municipal planning documents and policies. The conformance of the proposed development is evaluated, and where deviations exist, justification is provided, or mitigation measures are proposed (as required).

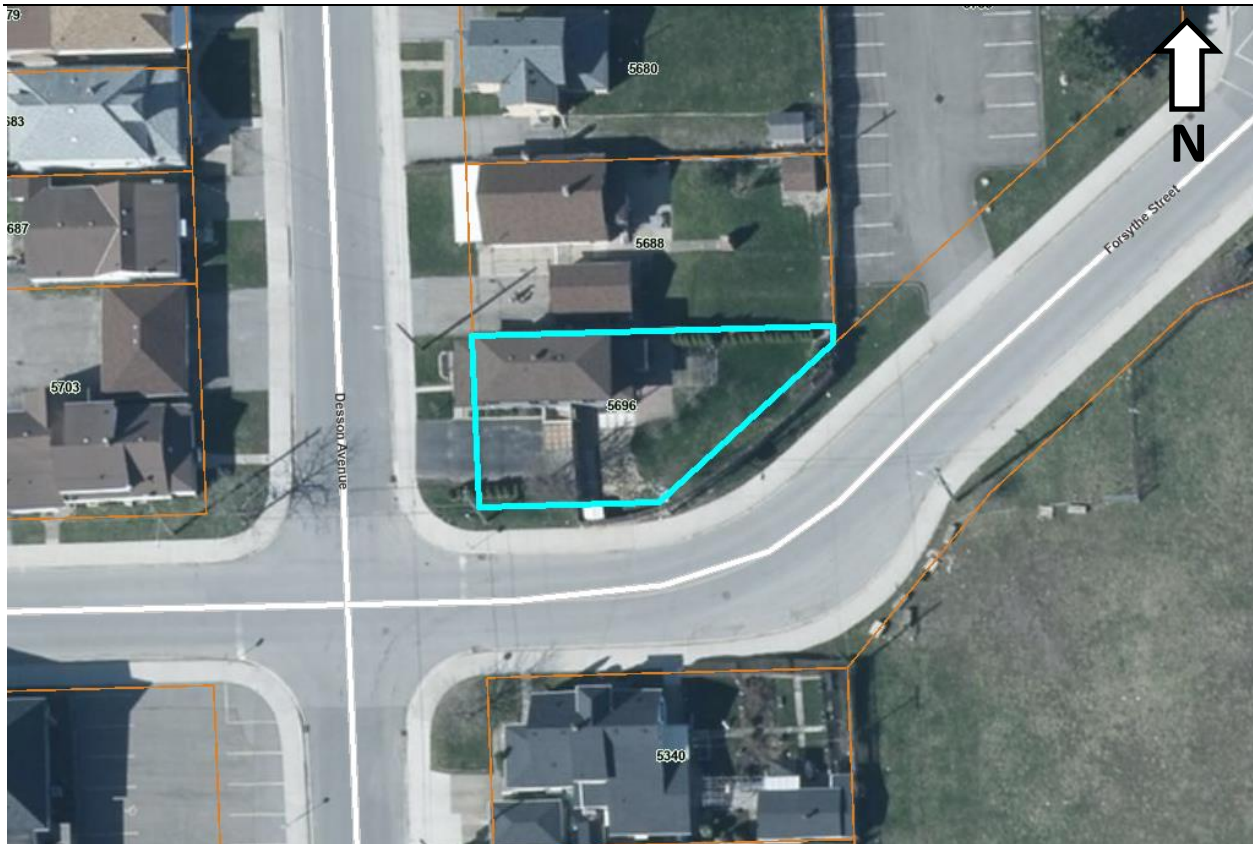
## 2.0 SITE CONTEXT

### 2.1 SITE DESCRIPTION (EXISTING)

The subject property is located at 5696 Desson Avenue in the City of Niagara Falls. There is an existing single-detached dwelling on the property. The dwelling is 1-2 storeys, contains 3 bedrooms and is approximately 74 m<sup>2</sup> in size. No changes are proposed to the existing residential dwelling. The proponent is proposing to use the property for a VRU.

The property is located at the northeast corner of Desson Avenue and Forsythe Street. The property is located within an existing residential subdivision with other single-family residences of approximately the same age. It is irregular in shape with a lot frontage on Desson Avenue of approximately 15.3 m, a lot depth of approximately 32.2 m at its deepest and an area of 400.41 m<sup>2</sup>. The legal description of the property is Plan 9 Part Lot 838.

**Figure 2-1** shows the location of the Site and the approximate boundaries of the property. **Appendix A** includes a conceptual site plan and a legal survey of the property.



**Figure 2-1: Site Location and Approximate Property Boundaries (Source: Niagara Navigator)**

It should be noted that from the legal survey plan (**Appendix A**) that the house, porch and driveway encroach onto the road right-of-way for Desson Avenue. As shown in **Figure 2-2**, this is consistent with many of the properties in this neighbourhood including others along Desson Avenue, Forsythe Street and Buchanan Avenue. As noted on the survey plan, Desson Avenue was previously known as Lombard Street and Sixth Street, while Forsythe Street was previously Lincoln Street and Lincoln Avenue. It is assumed that when the street names were changed in the 1970's through a by-law, that a larger road right-of-way was taken at that time. This impacted all properties in these neighbourhoods, of which the houses likely predated the change in name and right-of-way widths for these streets. Desson Avenue and surrounding streets (North and Forsythe) were recently reconstructed, with new municipal servicing, curbs and sidewalks, and therefore likely represent the extent of the road width for the foreseeable future. Therefore, the encroachment of the subject property into the right-of-way and the encroachment of other properties in the area into the right-of-way is not of major significance and should not impact the request for this zoning by-law amendment to allow a VRU.

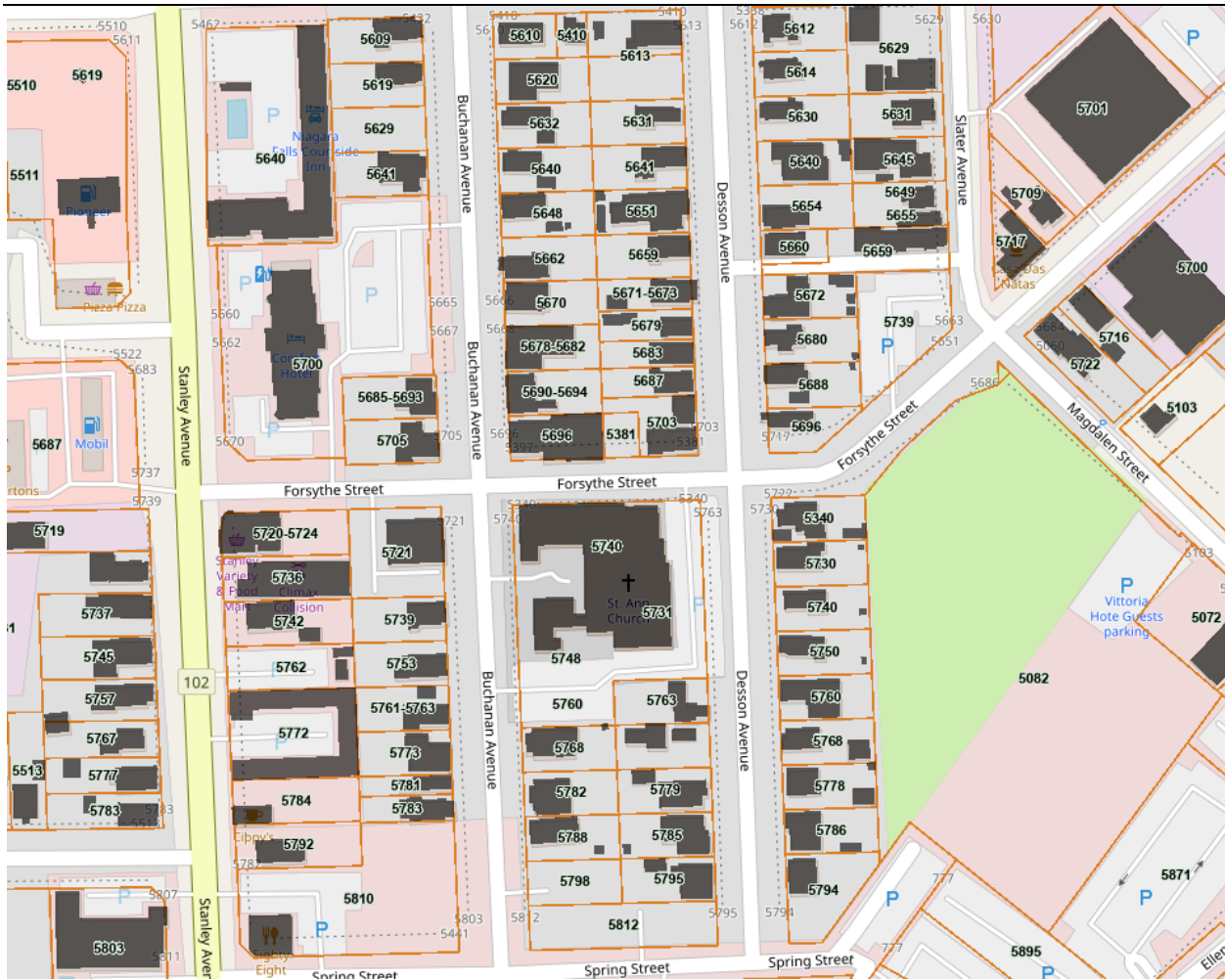


Figure 2-2: Surrounding area displaying several dwellings extending into the road right-of-ways (Source: Niagara Navigator)

## 2.2 SURROUNDING LAND USES

Land uses surrounding the properties are as follows:

- North – Immediately north of the property is a single-detached residential dwelling.
- East – Immediately east of the subject property is Forsythe Street and further is a large vacant property zoned Tourist Commercial.
- South – Immediately south of the property is Forsythe Street and further is a single-detached dwelling.
- West – Immediately west of the subject property is Desson Avenue and further west is a single-detached dwelling and then a commercial building.

## 2.3 IDENTIFICATION OF ANY CONSTRAINTS AFFECTING THE SITE

As previously noted in Section 2.1 the existing house, porch and driveway encroach into the Desson Avenue right-of-way. This is a similar situation to other properties in the surrounding neighbourhood.

## 2.4 IDENTIFICATION OF ANY LANDS REGULATED BY NPCA

There are no lands regulated by the NPCA on or in close proximity to the subject property.

## **2.5 IDENTIFICATION OF ANY OTHER KNOWN DEVELOPMENT PROPOSALS**

UEM and the proponent are not aware of any other development proposals that have the potential to affect the site.

## **3.0 DESCRIPTION OF PROPOSAL**

### **3.1 EXISTING AND PROPOSED LAND USES ON THE PROPERTIES**

The property currently has a single-detached dwelling on it, which the proponent is proposing to use for a VRU.

The Site Plan prepared in support of the ZBA application showing the layout of the property is included in **Appendix A**.

### **3.2 PLANNING HISTORY OF THE SITE**

The property is currently designated Tourist Commercial in the Niagara Falls Official Plan and zoned Deferred Tourist Commercial (DTC) in the Niagara Falls Zoning By-law. No further planning history for the property is known.

### **3.3 SITE SERVICING**

Site servicing for the subject property includes:

- Municipal sewers and water
- Storm sewer
- Natural gas
- Electricity
- Communications (telephone and internet)

### **3.4 DESCRIPTION OF PREVIOUS CONSULTATIONS WITH RELEVANT AGENCIES**

As noted, a pre-consultation meeting was held with City Staff on August 4, 2022. The history of any other previous consultations with City staff or relevant agencies is unknown.

### **3.5 PROPOSED MODIFICATIONS TO ZONING BY-LAW PROVISIONS**

The property is currently zoned Deferred Tourist Commercial (DTC), which does not permit a property to be used for a VRU. Therefore, to permit the proposed land use, it is being proposed that the subject property be rezoned to a site-specific DTC zone that permits a VRU.

### **3.6 TECHNICAL SUPPORTING STUDIES REQUIRED**

At the pre-consultation meetings, it was identified that the following were required to support the ZBA:

- Planning Justification Report
- Conceptual Site Plan (See Figure 2-1 and Legal survey provided in Appendix A)

## 4.0 POLICY AND PLANNING ANALYSIS

In support of the required ZBA, a summary and analysis of relevant planning documentation is provided. Planning guidance documents addressed include both Provincial (i.e. *Provincial Policy Statement* and *Growth Plan for the Greater Golden Horseshoe*), Regional (*Niagara Region Official Plan*) and Municipal (*City of Niagara Falls Official Plan* and *Zoning By-Law*). The purpose of this review is to identify and consider relevant policies and discuss the appropriateness and conformity of the requested amendments with those policies.

### 4.1 PROVINCIAL POLICY STATEMENT

The Provincial Policy Statement (PPS, 2020) provides policy direction on matters of Provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land while protecting resources of provincial interest, public health and safety, and the quality of the natural environment.

The policies of the PPS may be complemented by Provincial Plans or by locally generated policies regarding matters of municipal interest. The Planning Act sets a minimum standard that requires all municipal planning decisions ‘to be consistent with’ the policies of the PPS. Together the PPS and Municipal Official Plans provide a framework for comprehensive, integrated and long-term planning.

#### 4.1.1 ANALYSIS OF PROVINCIAL POLICY STATEMENT

In Part IV – Vision for Ontario’s Land Use Planning System the PPS states:

*Strong communities, a clean and healthy environment and a strong economy are inextricably linked. Long-term prosperity, human and environmental health and social well-being should take precedence over short-term considerations.*

The proponent is proposing to utilize the property and existing single-detached dwelling for a VRU. This will aid in providing additional accommodation options for tourists, which will support the tourism industry, and by extension the economy, in the City of Niagara Falls.

**Table 4-1** provides an analysis of the proposed development compared to relevant PPS policies.

**Table 4-1: Results of Review of the Provincial Policy Statement (PPS)**

Policy Identifier	Policy Text	Is the Proposed Development Consistent with this Policy?
Section 1.1.1 a)	Healthy, liveable and safe communities are sustained by:  a) Promoting efficient development and land use patterns which sustain the financial wellbeing of the Province and municipalities over the long term.	The proponent is proposing to rezone the subject property in order to use the existing single-detached dwelling as a VRU. This will provide additional accommodation options for tourists, supporting the tourism industry and financial wellbeing of the City of Niagara Falls.
Section 1.1.1 b)	Healthy, liveable and safe communities are sustained by:  b) Accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable	The proposed change in land use from residential to commercial VRU will support the long-term needs of the tourism industry in the City of Niagara Falls.



Policy Identifier	Policy Text	Is the Proposed Development Consistent with this Policy?
	housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs.	
Section 1.1.1 c)	Healthy, liveable and safe communities are sustained by:  c) Avoiding development and land use patterns which may cause environmental or public health and safety concerns.	No physical changes are being proposed for the subject property. Therefore, no environmental concerns would result from the change in land use from residential to a commercial VRU.
Section 1.1.1 d)	Healthy, liveable and safe communities are sustained by:  d) Avoiding development and land use patterns that would prevent the efficient expansion of settlement areas in those areas which are adjacent or close to settlement areas.	The subject property is already within the settlement area and is developed. No physical changes are being proposed to the property or any adjacent properties. Therefore, the proposed land use has no impact on the ability to efficiently expand the settlement area.
Section 1.1.1 e)	Healthy, liveable and safe communities are sustained by:  e) Promoting cost-effective development patterns and standards to minimize land consumption and servicing costs.	The subject property is already developed, and no physical changes are being proposed to the property. Therefore, the proposed development will not consume any new greenfield land.
Section 1.1.3.1	Settlement areas shall be the focus of growth and development.	The subject property is within the City of Niagara Falls urban area.
Section 1.1.3.2	Land use patterns within settlement areas shall be based on densities and a mix of land uses which: a) efficiently use land and resources; b) are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion; c) minimize negative impacts to air quality and climate change, and promote energy efficiency; d) prepare for the impacts of a changing climate; e) support active transportation; f) are transit-supportive, where transit is planned, exists or may be developed; and g) are freight-supportive.	The subject property is located within an existing settlement area and will continue to utilize existing municipal infrastructure. Further, as no physical changes are being proposed to the property, there would be no negative impacts to air quality resulting from any development.  The proposed VRU will mainly be used by tourists, who will be able to utilize nearby active transportation and the transit system to travel throughout the area.

Policy Identifier	Policy Text	Is the Proposed Development Consistent with this Policy?
Section 1.6.6.2	Municipal sewage services and municipal water services are the preferred form of servicing for settlement areas to support protection of the environment and minimize potential risks to human health and safety. Within settlement areas with existing municipal sewage services and municipal water services, intensification and redevelopment shall be promoted wherever feasible to optimize the use of the services.	The subject property will continue to utilize existing municipal infrastructure.
Section 1.7.1	Long-term economic prosperity should be supported by: a) promoting opportunities for economic development and community investment-readiness. h) providing opportunities for sustainable tourism development.	The proposed use of the existing single-detached dwelling as a VRU will provide additional accommodation options for tourists. This will support the tourism industry and economy of the City of Niagara Falls.

#### 4.1.2 SUMMARY OF PPS ANALYSIS

The proposed rezoning of 5696 Desson Avenue to allow the existing single-detached dwelling to be used as a VRU will provide additional accommodation options for tourists visiting the City of Niagara Falls. This will support the tourism industry and, therefore, the local economy. No additional changes are being proposed to the subject property and it will continue to utilize existing municipal infrastructure. Based on this, it is concluded that the project is consistent with the policies set out in the PPS (2020).

## 4.2 GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE

The Province of Ontario’s *Growth Plan for the Greater Golden Horseshoe* (GGH) (updated August 2020) was developed to create more livable, sustainable, and efficient communities in conjunction with significant anticipated population and economic growth in the Province. The Growth Plan was prepared under the *Places to Grow Act, 2005*, and is a framework for implementing the Government of Ontario’s vision for building stronger, prosperous communities by better managing growth in the GGH. The Plan is intended to guide decisions on a wide range of issues including land-use planning, housing, and natural heritage and resource protection.

The Growth Plan builds on other key government initiatives including the Greenbelt Plan, Planning Act reform and the Provincial Policy Statement. The Growth Plan does not replace Municipal Official Plans but works within the existing planning framework to provide growth management policy direction for the GGH.

### 4.2.1 ANALYSIS OF GROWTH PLAN POLICIES

The subject property is within the City of Niagara Falls Urban Boundary, which is considered to be a “Settlement Area” in the Growth Plan. There are several components of the Growth Plan that provide guidance for this project. **Table 4-2** includes review of relevant policies in the Growth Plan in relation to the proposed development.

**Table 4-2: Results of Review of the Growth Plan for the Greater Golden Horseshoe (GGH)**

Policy Identifier	Policy Text	Is the Proposed Development Consistent with this Policy?
Section 1.2	Vision for the GGH states: <i>More than anything, the Greater Golden Horseshoe (GGH) will continue to be a great place to live, work and play. Its communities will be supported by a strong economy and an approach that puts people first. This approach protects the Greenbelt and will ensure a cleaner environment is passed on to future generations. A Place to Grow will support the achievement of complete communities with access to transit networks, protected employment zones and an increase in the amount and variety of housing available.</i>	The proposed VRU at the subject property will support the economy by providing additional accommodation options to tourists visiting the City of Niagara Falls.
Section 1.2.1	Guiding Principles indicate the following should be prioritized: <i>Provide flexibility to capitalize on new economic and employment opportunities as they emerge, while providing certainty for traditional industries, including resource-based sectors.</i>	The proposed VRU at the subject property will support the economy by providing additional accommodation options to tourists visiting the City of Niagara Falls.
Section 2.2.1	Managing Growth states that: Forecasted growth to the horizon of this Plan will be allocated based on the following: a) the vast majority of growth will be directed to settlement areas that: <ul style="list-style-type: none"> <li>i. have a delineated built boundary;</li> <li>ii. have existing or planned municipal water and wastewater systems; and</li> <li>iii. can support the achievement of complete communities.</li> </ul>	The subject property is located within the Urban Boundary of the City of Niagara Falls.

#### **4.2.2 SUMMARY OF GROWTH PLAN ANALYSIS**

The proposed use of the subject property for a VRU will provide an opportunity for economic growth through the support of the tourism industry in the City of Niagara Falls. It will also continue to utilize existing infrastructure. It is concluded that the proposed development satisfies the objectives of the Growth Plan for the Greater Golden Horseshoe.

#### **4.3 NIAGARA REGION OFFICIAL PLAN**

The property is located within the “Delineated Built-Up Area” of Niagara Region’s Urban Area for the City of Niagara Falls as identified on Schedule B of the Niagara Region Official Plan (2022). Development proposals within Urban Areas are subject to the availability of adequate municipal water, sanitary sewer, and stormwater and road services.

### 4.3.1 ANALYSIS OF NIAGARA REGION OFFICIAL PLAN POLICIES

The Niagara Region Official Plan has two basic functions: first to provide guidelines for the location and type of development in both urban and rural areas and second, to identify the environmental resources of the Region and to develop measures for their protection and management. **Table 4-3** summarizes the review of applicable Niagara Region Official Plan policies with respect to this proposed rezoning.

**Table 4-3: Summary of Applicable Regional Policies**

Policy Identifier	Policy Text	Is the Proposed Development Consistent with this Policy?
Section 4.5 – Economic Prosperity	The objectives of this section are as follows:  b) facilitate economic prosperity through land use planning.	The proposed use of the subject property for a VRU will provide an opportunity to support the local tourism industry and therefore, the economy in the City of Niagara Falls. The proposal will support the tourism industry through providing additional accommodation options for tourists visiting the City.
Section 4.5.2.1	e) support opportunities for nature and culture-based tourism by:  vi. promoting revitalization and redevelopment within downtown and community cores to enhance their existing character.	The proposed VRU will support tourism in the core of the City of Niagara Falls.
Section 5.2.2.12	Within urban settlement areas full municipal services are the preferred form of servicing.	The subject property will continue to utilize existing full municipal infrastructure.

### 4.3.2 SUMMARY OF NIAGARA REGION OFFICIAL PLAN ANALYSIS

The Niagara Region Official Plan policies require consideration related to proposals in built-up urban areas. The proposed land use change at 5696 Desson Avenue meets the intent of the Niagara Region Official Plan, as the property is located in a Delineated Built-Up Area in the urban area of Niagara Falls, will provide an opportunity to support the local tourism industry and therefore economy in the City and will utilize existing municipal infrastructure.

## 4.4 CITY OF NIAGARA FALLS OFFICIAL PLAN

The Official Plan for the City of Niagara Falls outlines the long-term objectives and policies of the City with respect to the growth and development of urban lands, the protection of agricultural lands, the conservation of natural heritage areas, and the provision of the necessary infrastructure.

### 4.4.1 ANALYSIS OF CITY OF NIAGARA FALLS OFFICIAL PLAN POLICIES

The property is designated Tourist Commercial in the City of Niagara Falls Official Plan and is located within the Clifton Hill Tourist District. The Tourist Commercial designation in this district permits a variety of commercial and entertainment uses, including hotels, motels and other tourist-related uses. **Table 4-4** provides an analysis of the proposed development relative to the relevant policies of the City of Niagara Falls Official Plan.

**Table 4-4: Summary of Applicable City of Niagara Falls Official Plan Policies**

Policy Identifier	Policy Text	Is the Proposed Development Consistent with this Policy?
Schedule A – Land Use Plan	Subject property is identified as “Tourist Commercial”	The proponent is proposing to rezone the property from Deferred Tourist Commercial (DTC) to site-specific DTC, which will be consistent with the existing designation of the property in the Niagara Falls Official Plan.
Schedule E – Tourism Map	Subject property is identified as being within the Central Clifton Hill District.	This district permits a wide variety of commercial and entertainment uses, including tourist accommodation uses such as hotels and motels. Additionally, it also permits general “tourist-related uses.” The proposed land use of the property will be used as accommodations for tourists visiting the City, therefore being a tourist-related use.
Section 4 – Tourist Commercial	This Official Plan establishes policies for the Tourist Commercial Area which emanate from the Niagara Falls Tourist Area Development Strategy and public consultation. The overall emphasis of that strategy is to improve the physical setting of the Tourist Area, creating a world-class tourist destination which fosters increased visitor spending, lengthens visitor stays and extends the tourist season.	The proposed VRU will provide tourists with additional accommodation options in the City of Niagara Falls, helping to contribute to an increase in the number of visitors to the City and therefore, the spending and potentially the length of time they stay.
Section 4.2.2 – Tourist Districts	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.	The subject property is located within the Clifton Hill Central Tourist District.  Additionally, the proposed VRU will provide additional accommodations in the Clifton Hill district.

Policy Identifier	Policy Text	Is the Proposed Development Consistent with this Policy?
Section 4.2.16 – Clifton Hill Subdistrict	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.	<p>The proposed VRU is a tourist-related use focusing on providing accommodation to tourists visiting the City of Niagara Falls.</p> <p>The subject property is located just northwest of Victoria Avenue and provides an appropriate use that complements surrounding properties. As there are no physical changes proposed, the property will continue to complement the surround single-family residences.</p>
Section 1.2.4 – Water and Sanitary Sewage	Development within the urban area shall be accommodated on the basis of full municipal services including sewers, storm sewers, water services and improved roadways. Uses within the urban area shall connect to municipal water and sanitary services, if available. Outside of the urban area, Council shall cooperate with the Niagara Region in promoting individual sewage disposal systems which incorporate proven new technology achieving reduced volumes and/or improved quality of effluents.	The property is currently utilizing, and will continue to utilize, existing municipal water and sanitary sewer infrastructure.
Section 1.3.1 – Storm Drainage	It is required that all new development or redevelopment within the City be connected to and serviced by a suitable storm drainage system. Appropriate systems may include underground pipes, ditches, culverts, swales, man-made and natural watercourses, detention storage areas or any other storm water management system acceptable to Council, the Niagara Region, the Niagara Peninsula Conservation Authority, and other agencies.	The property is currently utilizing, and will continue to utilize, existing municipal storm sewer infrastructure.

#### 4.4.2 SUMMARY OF CITY OF NIAGARA FALLS OFFICIAL PLAN ANALYSIS

The subject property is currently designated Tourist Commercial and is within the Clifton Hill Central Tourist District. The proposed use of the existing single-detached dwelling as a VRU will provide additional accommodations for tourists visiting the City of Niagara Falls and is an appropriate tourist-related use for the area. Further, the property will not be physically changed and will continue to utilize existing municipal infrastructure. Therefore, it is concluded that the proposed rezoning of the subject property is consistent with the City of Niagara Falls Official Plan.

### 4.5 CITY OF NIAGARA FALLS ZONING BY-LAW

#### 4.5.1 EXISTING ZONING

The property is currently zoned Deferred Tourist Commercial (DTC) as identified in the City of Niagara Falls Zoning By-law 79-200. The DTC Zone acts similar to a holding zone in areas designated as Tourist Commercial in the Niagara Falls Official Plan. Many older residential subdivisions exist in the Tourist Commercial area, so the DTC zone is used to ensure they are appropriately transitioned from residential to commercial uses in a way that will not abruptly alter the neighbourhoods.

In 2018, the City released By-law 2018-92, which defined the Vacation Rental Unit (VRU) land use and established zoning requirements. No zones currently permit a VRU, so an amendment is required to add it as a site-specific use.

#### 4.5.2 PROPOSED ZONING

The proposal is to amend the current Deferred Tourist Commercial (DTC) zoning to a site-specific DTC zone that permits the use of the existing single-detached dwelling as a VRU. **Tables 4-5** summarizes the required zoning provisions for the property.

**Table 4-5: Zoning Provisions for 5696 Desson Avenue**

Parameter	DTC Requirements	Proposed	Meets Requirement?
Permitted Use	Uses permitted in DTC Zone	Vacation Rental Unit	No – Site-specific ZBA required
Number of Bedrooms in VRU (By-law 2018-92)	Maximum 3 bedrooms	3 existing bedrooms – No change	Yes
Parking (By-law 2018-92)	Minimum 2 parking spaces	2 parking spaces existing	Yes
Minimum Lot Area for a Corner Lot	450 m <sup>2</sup>	400.41 m <sup>2</sup>	No – Site-specific ZBA required
Minimum Lot Frontage	15 m	15.24 m	Yes
Minimum Front Yard Depth	6 m	0 m	No – Site-specific ZBA required
Minimum Rear Yard Depth	7.5 m	16.68 m	Yes

Minimum Interior Side Yard	1.2 m	1.2 m	Yes
Minimum Exterior Side Yard	4.5 m	8.95 m	Yes
Maximum Lot Coverage	45%	18.5%	Yes
Maximum Height of Building	10 m	8 m	Yes
Maximum number of dwellings on one lot	1	1	Yes
Minimum Landscaped Open Area	30% of Lot Area	74.4%	Yes
Accessory Buildings and Accessory Structures	In Accordance with Zoning By-law Sections 4.13 and 4.14	0	N/A
Surface Parking Space Dimensions	In Accordance with Zoning By-law Section 4.19.1:  2.75 m in width per space  6 m in depth per space	2.58 m in width  5.56 m in depth	No – Site-specific ZBA required

### **4.5.3 DRAFT ZONING BY-LAW AMENDMENT**

The proponent is proposing a site-specific zoning for the Deferred Tourist Commercial (DTC) zone at 5696 Desson Avenue as follows:

In addition to the permitted uses listed under Section 8.8.1 of Zoning By-law No. 79-200, the following will also be permitted:

- (a) A Vacation Rental Unit (VRU)

The VRU shall be in accordance with the requirements outlined in By-law 2018-92.

Additionally, several site-specific zoning provisions are required to recognize the existing house on the property:

- (i) Reduced minimum lot area of 400.41 m<sup>2</sup> from 450 m<sup>2</sup>.
- (ii) Reduced minimum front yard depth of 0 m from 6 m.
- (iii) Reduced parking space width of 2.58 m from 2.75 m.
- (iv) Reduced parking space depth of 5.56 m from 6.0 m.



#### **4.5.4 RATIONALE FOR SITE-SPECIFIC ZONING PROVISIONS**

The following site-specific zoning provisions are being requested:

- Addition of a VRU as a permitted use
- A reduced minimum lot area of 400.41 m<sup>2</sup> from 450 m<sup>2</sup>.
- A reduced minimum front yard depth of 0 m from 6 m.
- A reduced parking space width of 2.58 m from 2.75 m.
- A reduced parking space depth of 5.56 m from 6.0 m.

These site-specific zoning provisions are being requested to recognize the footprint of the existing single-family residential dwelling, as well as allow the dwelling to be used as a VRU. No additions or other changes are proposed for the dwelling. With regard to parking specifically, the driveway is existing. It is sufficiently deep at 11.20 m, however only 5.56 m of this is located on the subject property, with the remaining 5.64 m located within the road right-of-way for Desson Avenue, as is similar to many other residences in this neighbourhood (see discussion in **Section 2.1**). If the portion of the driveway within the right-of-way cannot be considered for zoning purposes, then the reduced parking depth will allow for the driveway to be utilized at its existing dimensions. Similarly, the reduced parking width will also allow for the existing driveway to be utilized.

## **5.0 CONCLUSIONS AND RECOMMENDATIONS**

### **5.1 CONCLUSIONS**

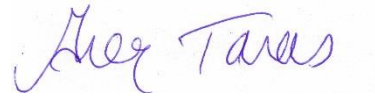
Based on the analysis of relevant planning documentation in this Planning Justification Report and the Conceptual Site Plan prepared in support of the Zoning By-Law Amendment application, the following is concluded with respect to the proposed land use of a VRU at 5696 Desson Avenue in the City of Niagara Falls.

- The proposed use of the existing single-detached dwelling as a VRU meets the intent of the Provincial Policy Statement, as it will support the economy through supporting the tourism industry in the City and will continue to utilize existing municipal infrastructure.
- The proposed use as a VRU meets the intent of the Growth Plan because the subject property is within an urban area and will provide an opportunity for economic growth.
- The proposed use as a VRU supports the policies within the Niagara Region Official Plan, as the subject property is located within a Delineated Built-Up Area within the Niagara Falls urban area, will support the tourism industry and therefore economy in the City and will utilize existing municipal infrastructure.
- The proposed use as a VRU is consistent with the Tourist Commercial designation, as it is an appropriate tourist-related use that will provide additional accommodation to tourists visiting the City of Niagara Falls. Further, existing municipal infrastructure will continue to be utilized for the VRU.
- The proposed rezoning of the subject property from Deferred Tourist Commercial (DTC) to site-specific DTC will permit the existing single-detached dwelling to be used as a VRU, which is supported by the planning policies analyzed in this Planning Justification Report. Site-specific zoning requirements are as follows:
  - Permit a Vacation Rental Unit;
  - Allow a reduced minimum lot area of 400.41 m<sup>2</sup>; and,
  - Allow a reduced minimum front-yard depth of 0 m.
  - Allow a reduced parking space width of 2.58 m.
  - Allow a reduced parking space depth of 5.56 m.

## 5.2 RECOMMENDATIONS

Based on the analysis presented in the Planning Justification Report, it is recommended that City of Niagara Falls Council approve the Zoning By-Law Amendment application to rezone the property at 5696 Desson Avenue in the City of Niagara Falls from a Deferred Tourist Commercial zoning, to a site-specific Deferred Tourist Commercial zoning to permit the property to be used for a Vacation Rental Unit.

Report Prepared By:



Greg Taras, RPP  
Senior Planner

Z:\UEM\Projects\2022\200\22-208 5696 Desson Avenue, Niagara Falls ZBA\PJR\1 - Planning Justification Report r1.docx

# Appendix A

Conceptual Site Plan and Legal Survey



Dession Avenue

5688

32.18 m

2.78 m

5696

400.41 sq.m

15.24 m

19.01 m

17.69 m

Forsythe Street

LOT 794,  
REGISTERED  
PLAN 9  
PART 2, PLAN 59R-12593  
PART 3, PLAN 59R-12593

SURVEYOR'S REAL PROPERTY REPORT  
PART 1 - PLAN OF SURVEY OF  
**PART OF LOT 838,  
REGISTERED PLAN 9  
CITY OF NIAGARA FALLS  
REGIONAL MUNICIPALITY OF NIAGARA**  
SCALE 1 : 250



J.D. BARNES LIMITED  
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**METRIC** DISTANCES AND/OR COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

**NOTES**

BEARINGS ARE UTM GRID, DERIVED FROM GNSS OBSERVATIONS, UTM ZONE 17, NAD83 (CSRS) (2010.0).  
DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.999876.  
FOR BEARING COMPARISONS, A ROTATION OF 05°56'00" COUNTER-CLOCKWISE WAS APPLIED TO BEARINGS ON P2, P3 & P4.

**PART 2 - SURVEY REPORT**

- DESCRIPTION  
PART OF LOT 838, REGISTERED PLAN 9.
- REGISTERED EASEMENTS AND/OR RIGHTS-OF-WAY  
NONE.
- BOUNDARY FEATURES  
ASPHALT DRIVEWAY, HEDGE, BOARD AND CHAIN LINK FENCES ALONG / NEAR NORTH LIMIT AS SHOWN ON PLAN.  
OVERHEAD TELEPHONE CABLE, BOARD AND CHAIN LINK FENCES ALONG / NEAR EAST LIMIT AS SHOWN ON PLAN.  
BOARD FENCE OVER SOUTH & SOUTH-EAST LIMIT AS SHOWN ON PLAN.  
HEDGE, DWELLING AND PORCH OVER WEST LIMIT AS SHOWN ON PLAN.
- ZONING COMPLIANCE  
NOT VERIFIED BY THIS SURVEY
- ADDITIONAL REMARKS  
PLAN PREPARED FOR NIAGARA ESTATE MANAGEMENT INC.

SLATER AVENUE

**LEGEND**

■	DENOTES	SURVEY MONUMENT FOUND
□	DENOTES	SURVEY MONUMENT SET
SIB	DENOTES	STANDARD IRON BAR
SSIB	DENOTES	SHORT STANDARD IRON BAR
IB	DENOTES	IRON BAR
IP	DENOTES	IRON PIPE
CC	DENOTES	CUT CROSS
567	DENOTES	R. BLAKE ERWIN, O.L.S.
744	DENOTES	MATTHEWS, CAMERON, HEYWOOD-KERRY T. HOWE SURVEYING LTD.
JDB	DENOTES	J.D. BARNES LIMITED
OU	DENOTES	ORIGIN UNKNOWN
WT	DENOTES	WITNESS
P1	DENOTES	PLAN OF SURVEY BY J.D. BARNES LIMITED DATED SEPTEMBER 1, 2022. REF: 22-16-101-00
P2	DENOTES	REGISTERED PLAN 9
P3	DENOTES	PLAN OF SURVEY BY MATTHEWS & CAMERON LTD. DATED MAY 1, 1984. FILE: 84-193
P4	DENOTES	PLAN OF SURVEY BY MATTHEWS & CAMERON LTD. DATED APRIL 7, 1987. FILE: 87-239
F1	DENOTES	FIELD NOTES OF SURVEY BY R. BLAKE ERWIN, O.L.S. DATED MAY 1, 1964. LLN: 10382
F2	DENOTES	FIELD NOTES OF SURVEY BY R. BLAKE ERWIN, O.L.S. DATED SEPTEMBER 22, 1954. LLN: 5767
MEAS	DENOTES	MEASURED
-	DENOTES	PROPERTY LINE
-T-	DENOTES	OVERHEAD TELEPHONE CABLE
-X-	DENOTES	FENCE

N=NORTH / S=SOUTH / E=EAST / W=WEST

ALL SET SSIB MONUMENTS WERE USED DUE TO LACK OF OVERBURDEN AND/OR PROXIMITY OF UNDERGROUND UTILITIES IN ACCORDANCE WITH SECTION 11 (4) OF O.R.E.G. 525/91.

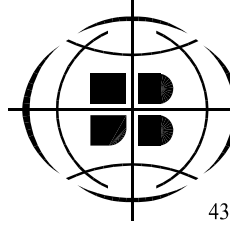
**SURVEYOR'S CERTIFICATE**

- I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
  2. THE SURVEY WAS COMPLETED ON MARCH 1, 2023.

MARCH 6, 2023  
DATE

*Andrew Handspiker*  
ANDREW HANDSPIKER  
ONTARIO LAND SURVEYOR

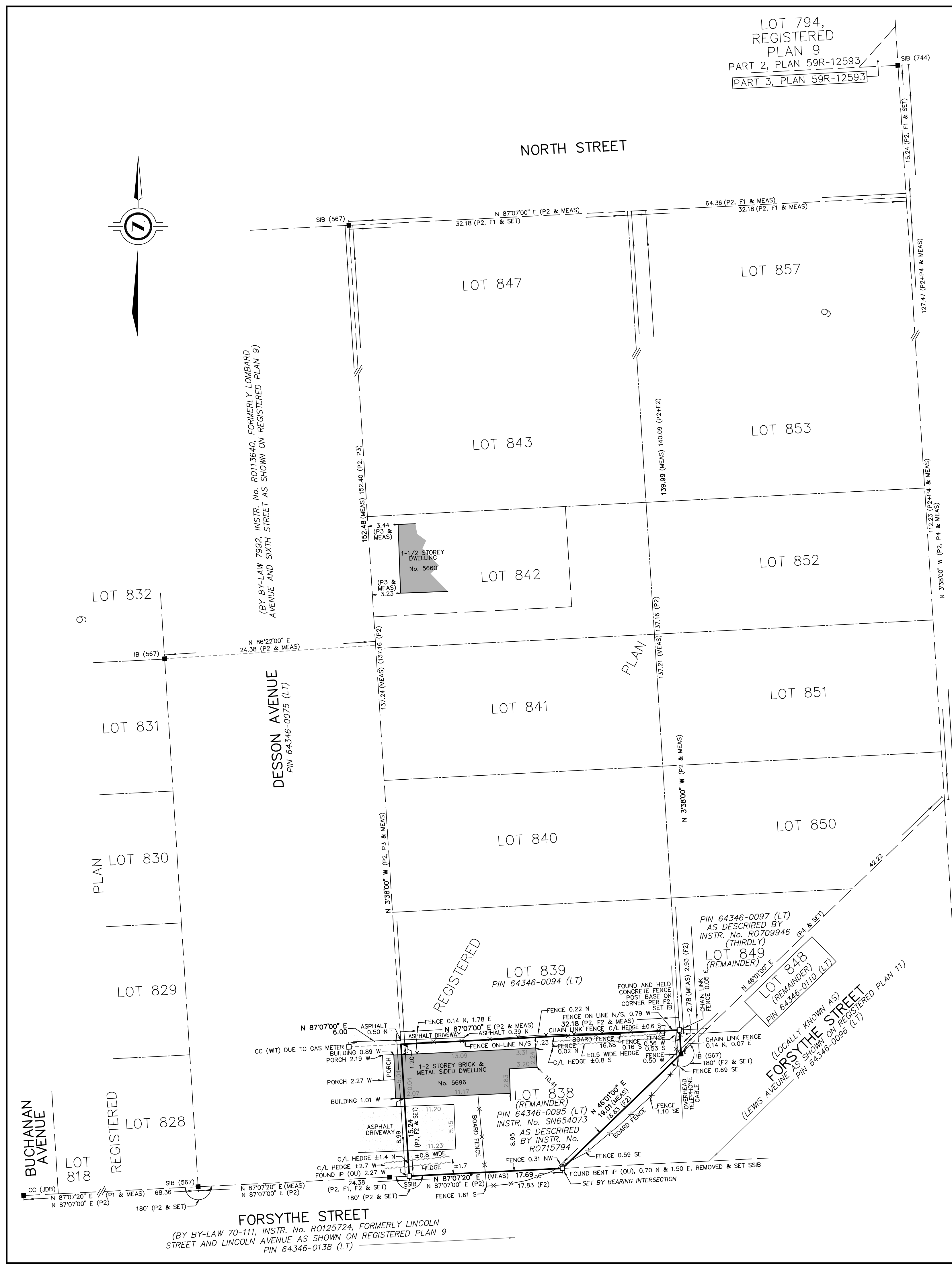
THIS PLAN OF SURVEY RELATES TO AOLS PLAN SUBMISSION FORM NUMBER V-39599 AND IS NOT VALID UNLESS EMBOSSED BY A SURVEYOR'S SEAL



**J.D. BARNES** LIMITED  
SURVEYING MAPPING GIS  
LAND INFORMATION SPECIALISTS  
4318 PORTAGE ROAD - UNIT 2, NIAGARA FALLS, ON L2E 6A4  
T: (905) 358-3693 F: (905) 358-6224 www.jdbarnes.com

DRAWN BY:	CHECKED BY:	REFERENCE NO.:
AH	AH	23-16-013-00

FILE: G:\2023\23-16-013\00\Drawing\23-16-013-00 SRPR.dgn  
PLOTTED: 3/6/2023



**FORSYTHE STREET**  
(BY BY-LAW 70-111, INSTR. No. R0125724, FORMERLY LINCOLN STREET AND LINCOLN AVENUE AS SHOWN ON REGISTERED PLAN 9 PIN 64346-0138 (LT))

DESSON AVENUE  
PIN 64346-0075 (LT)

BUCHANAN AVENUE

PLAN LOT 830

LOT 831

LOT 832

LOT 841

LOT 842

LOT 843

LOT 847

LOT 851

LOT 852

LOT 853

LOT 854

LOT 855

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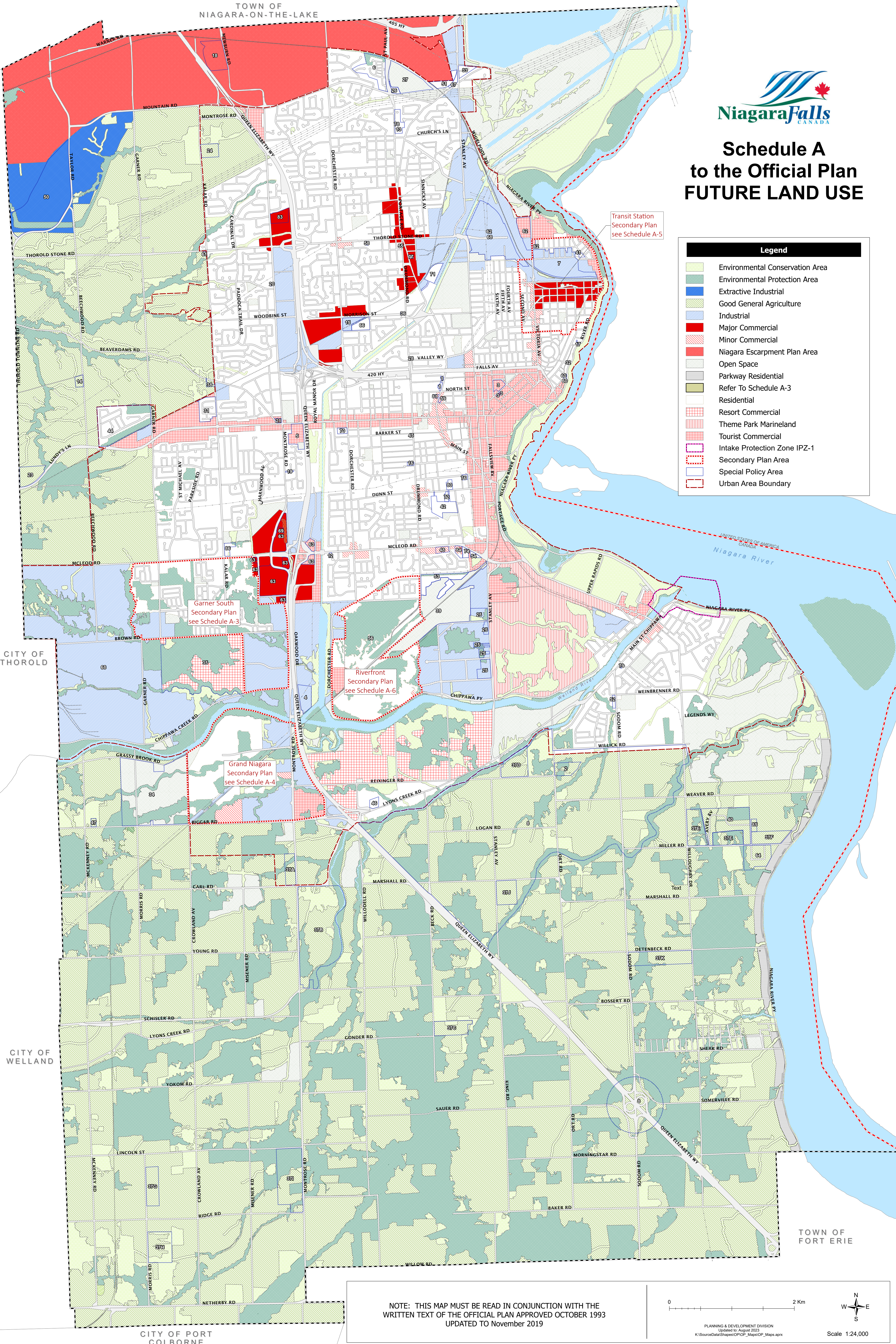
LOT 899

LOT 900

# Appendix B

Official Plan Maps

# Schedule A to the Official Plan FUTURE LAND USE



Transit Station  
Secondary Plan  
see Schedule A-5

Garner South  
Secondary Plan  
see Schedule A-3

Riverfront  
Secondary Plan  
see Schedule A-6

Grand Niagara  
Secondary Plan  
see Schedule A-4

Legend	
	Environmental Conservation Area
	Environmental Protection Area
	Extractive Industrial
	Good General Agriculture
	Industrial
	Major Commercial
	Minor Commercial
	Niagara Escarpment Plan Area
	Open Space
	Parkway Residential
	Refer To Schedule A-3
	Residential
	Resort Commercial
	Theme Park Marineland
	Tourist Commercial
	Intake Protection Zone IPZ-1
	Secondary Plan Area
	Special Policy Area
	Urban Area Boundary

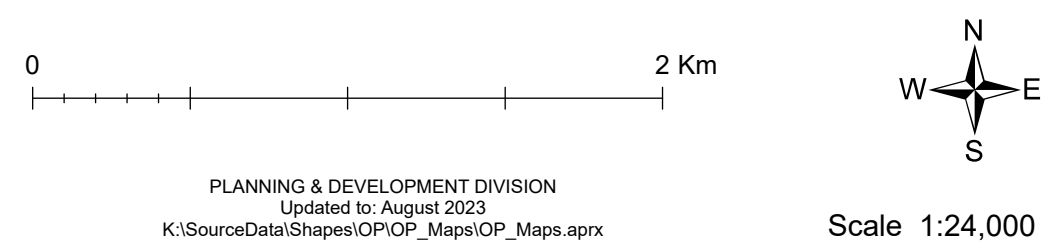
CITY OF THOROLD

CITY OF WELLAND

CITY OF PORT COLBORNE

TOWN OF FORT ERIE

NOTE: THIS MAP MUST BE READ IN CONJUNCTION WITH THE WRITTEN TEXT OF THE OFFICIAL PLAN APPROVED OCTOBER 1993 UPDATED TO NOVEMBER 2019



PLANNING & DEVELOPMENT DIVISION  
Updated to August 2023  
K:\SourceData\Shapes\OP\OP\_Maps\OP\_Maps.aprx




Scale 1:24,000

# SCHEDULE E to the OFFICIAL PLAN TOURISM DISTRICTS

## LEGEND:

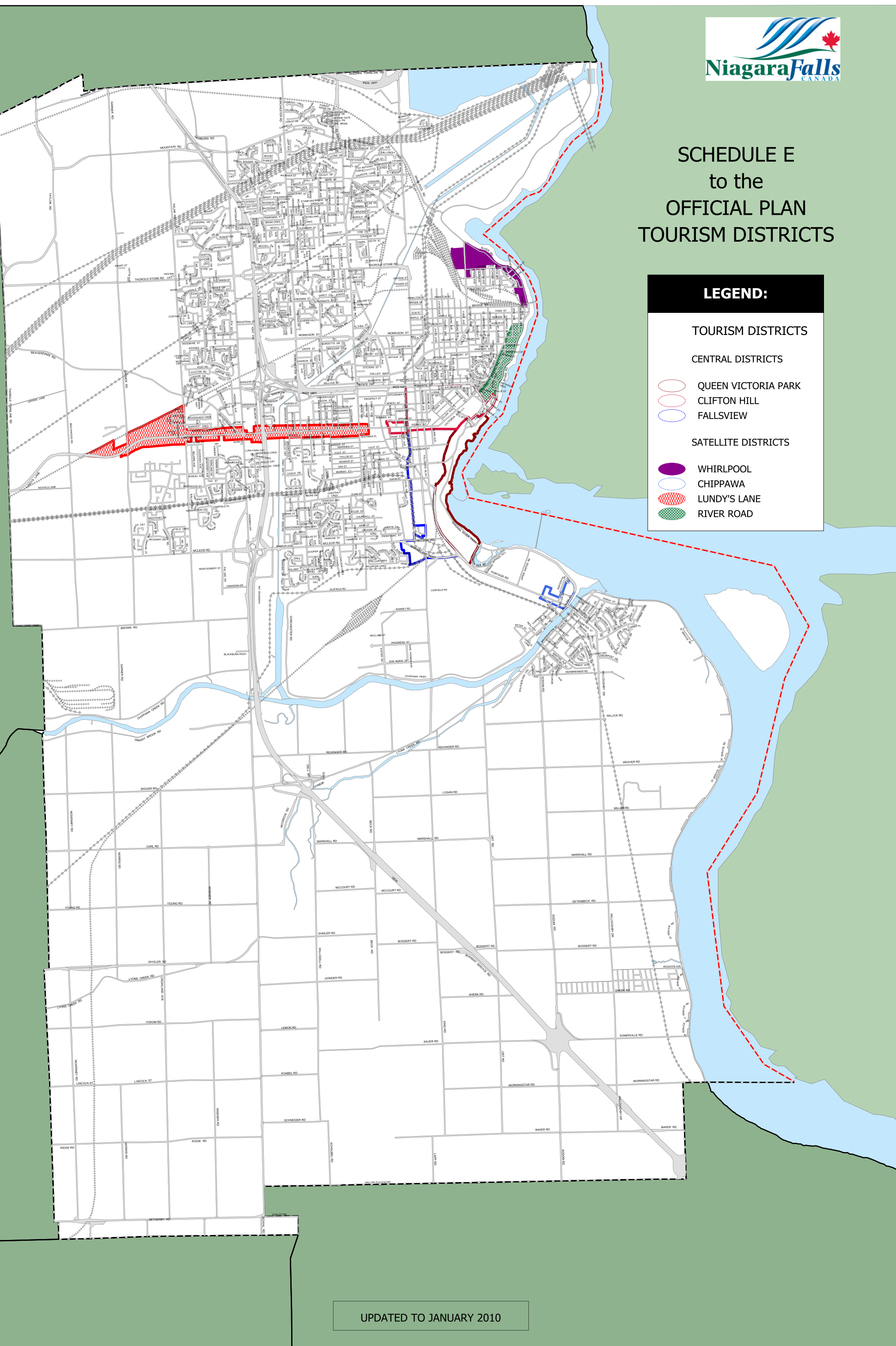
### TOURISM DISTRICTS

#### CENTRAL DISTRICTS

-  QUEEN VICTORIA PARK
-  CLIFTON HILL
-  FALLSVIEW

#### SATELLITE DISTRICTS

-  WHIRLPOOL
-  CHIPPAWA
-  LUNDY'S LANE
-  RIVER ROAD



UPDATED TO JANUARY 2010



# Appendix C

## Zoning By-law Maps

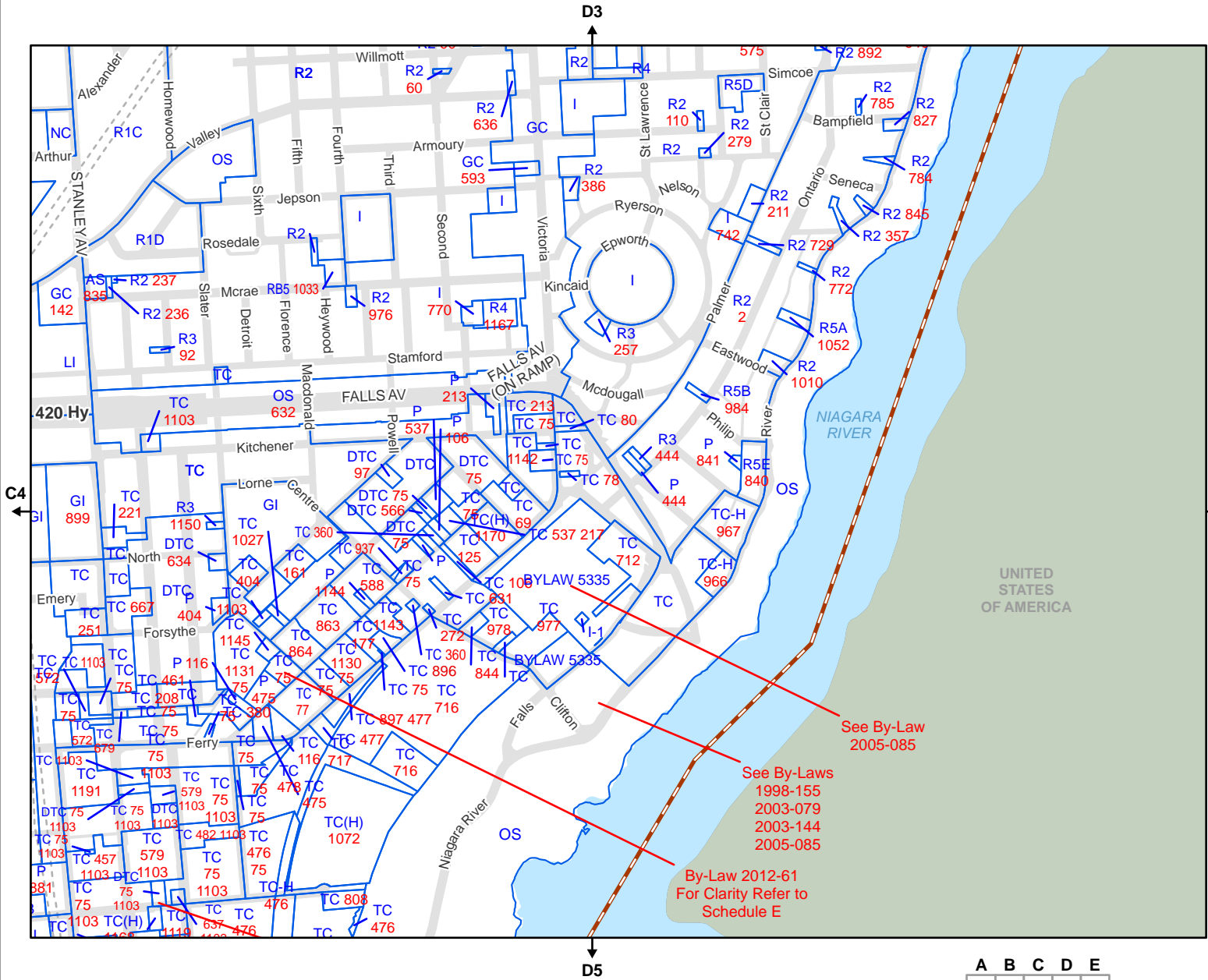
# ZONING BY-LAW 79-200



— ZONE LINES

EXCEPTIONS & SPECIAL PROVISION NO.  
SEE SECTION 19

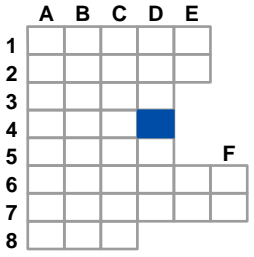
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98-155	03-169	08-013	13-090
98-196	03-180	08-039	15-051
99-052	03-181	08-130	15-056
99-078	03-190	08-100	16-053
99-104	03-204	08-207	16-077
92-240	04-017	08-219	17-001
01-021	04-112	08-174	17-062
01-050	04-156	09-084	17-124
01-085	04-183	09-085	19-083
01-265	04-192	09-139	20-006
02-112	04-210	10-040	20-045
02-143	04-216	10-041	20-098
02-148	05-085	10-067	21-007
02-180	05-174	10-068	21-011
02-202	05-188	11-031	21-030
03-009	06-093	11-092	21-103
98-155	07-022	12-016	22-013
03-079	07-040	12-061	22-065
03-123	07-051	12-062	22-118
03-144	07-118	12-136	
03-157	07-119	13-029	
03-159	07-152	13-030	



CITY OF NIAGARA FALLS  
Planning & Development Department



Scale 1:13,000



CONSOLIDATION  
DECEMBER 2022

SHEET D4