

PLANNING JUSTIFICATION REPORT

OFFICIAL PLAN AMENDMENT, ZONING BY-LAW AMENDMENT & SITE PLAN APPLICATIONS



4473-4479 & 4499 Ferguson Street

Niagara Falls, ON

May 2024

Prepared For:

2808378 Ontario Inc.

c/o Ajay Kahlon

TABLE OF CONTENTS

1	Introduction.....	1
1.1	Purpose.....	1
1.2	Background.....	1
2	Site Context.....	2
2.1	Subject Property.....	2
2.2	Surrounding Area	3
3	Proposed Development	3
3.1	Pre-Consultation.....	4
4	Land Use Planning Framework	5
4.1	Planning Act, R.S.O 1990 c.P.13.....	6
4.2	Provincial Policy Statement, 2020.....	6
4.3	A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019.....	7
4.4	Niagara Region Official Plan, 2022	8
4.5	City of Niagara Falls Official Plan, 2019.....	10
4.6	City of Niagara Falls Zoning By-law No. 79-200	12
5	Technical Work.....	14
5.1	Phase 1 Environmental Site Assessment	14
5.2	Phase 2 Environmental Site Assessment	15
5.3	Functional Servicing Report.....	16
6	Planning Analysis	16
7	Closing.....	17

TABLE OF FIGURES

Figure 1: Subject Properties.....	1
Figure 2: Surrounding Land Uses	2
Figure 3: Proposed Site Plan.....	5

Figure 4: Niagara Region Official Plan.....9
Figure 5: City of Niagara Falls Official Plan10
Figure 6: City of Niagara Falls Official Plan Schedule A-511
Figure 7: City of Niagara Falls Zoning By-law No. 79-20013

1 INTRODUCTION

LandPro Planning Solutions Inc. (LandPro) has been retained by 2808378 Ontario Inc. c/o Ajay Kahlon (“The Owner”) to assist in the preparation of planning approvals for the properties located at 4473-4479 & 4499 Ferguson Street, Niagara Falls, Niagara Region. The properties are legally described as PLAN 304 LOTS 159 TO 161 and PLAN 304 LOTS 148 AND 149.

1.1 PURPOSE

The accompanying applications propose to increase the density of the subject property and rezone with site specific exceptions to facilitate the conversion and renovations to the existing buildings.

This report serves to provide an overview of the planning merits of the planning applications required to facilitate this re-development (i.e. Official Plan Amendment, Zoning By-Law Amendment and Site Plan).

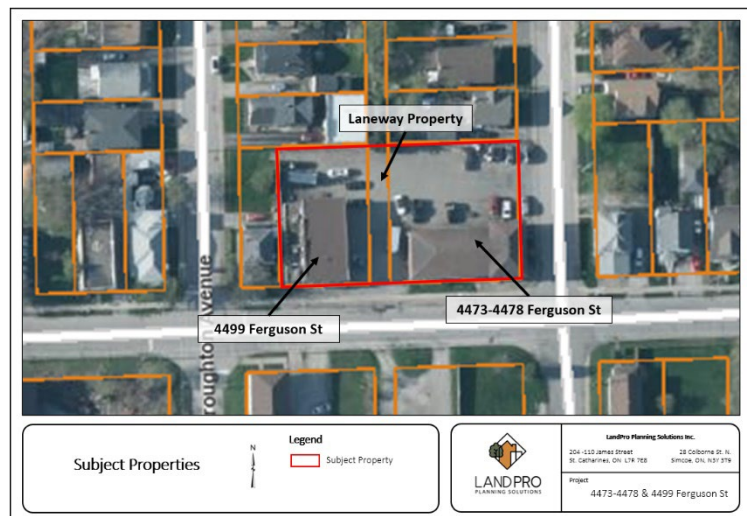
1.2 BACKGROUND

These applications were initially submitted in December 2023. The initial submission did not include the laneway property as it was owned by the City of Niagara Falls at the time and the properties were considered functional. See **Figure 1**.

The initial submission was deemed premature as it did not include the laneway property, as requested by the City.

Since then, the laneway property was appraised, and the Owner and the City negotiated a purchase price. These negotiations resulted in a delay to both the initial submission and resubmission of the application. As of April 19, City Council authorized the sale of this property to the owner. A copy of the Agreement of Sale is included **as part of this application**. With this purchase, the subject site has been redesigned to optimize the consolidated properties.

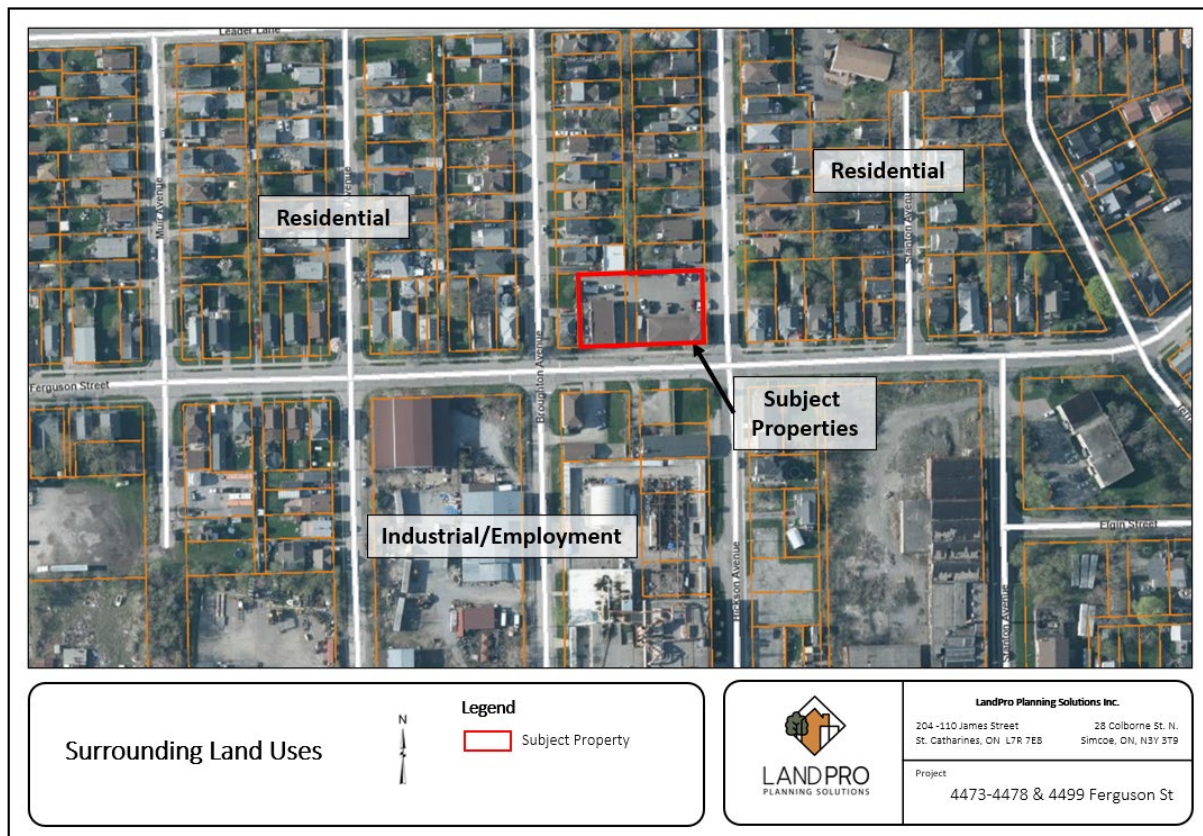
Figure 1: Subject Properties



2 SITE CONTEXT

The subject property is located on the north side of Ferguson Street and on the west side of Hickson Avenue and the east side of Broughton Avenue. See the surrounding land uses shown in **Figure 2** below.

Figure 2: Surrounding Land Uses



2.1 SUBJECT PROPERTY

The subject properties are located on the north side of Ferguson Street, on the west side of Hickson Ave and to the east of Broughton Ave, in Niagara Falls.

The subject properties have frontage onto Ferguson Street. The existing property statistics are presented in **Table 1**.

Currently, 4473-4479 Ferguson Street contains an existing multi-residential (8 units) building while 4499 Ferguson Street contains a small mixed-use building which was previously a restaurant on the ground floor with a rooming house unit above.

Table 1 – Existing Property Statistics

	4473-4479 Ferguson St	4499 Ferguson St	Laneway
Lot Frontage	+/- 30.5 m	+/- 21.3 m	+/- 4.88 m ²
Lot Depth	+/- 33 m	+/- 33 m	+/- 33 m
Lot Area	+/- 1008 m ²	+/- 705 m ²	+/- 161 m ²
Existing Density	79 uph	141 uph	0 uph

2.2 SURROUNDING AREA

Currently, 4473-4479 Ferguson Street contains an existing multi-residential (8 units) building while 4499 Ferguson Street contains a small mixed-use building with a vacant restaurant on the ground floor and residential units above. The immediate surrounding area are as follows:

- NORTH** Low-density residential. Further north is Great Wolf Lodge Water Park Resort.
- EAST** Low-density residential. Further east is the Niagara River and the Canada/USA border.
- SOUTH** Light industrial uses. Light industrial uses include Niagara Storage Inc. and Canadian Specialty Castings.
- WEST** Low-density residential properties. Niagara Energy Products Inc. and Lococo’s (market) are located further west.

3 PROPOSED DEVELOPMENT

These applications propose to facilitate the renovations of the existing buildings on each property.

1. 4473-4479 Ferguson Street contains an existing multi-residential (8 units) building proposed to be renovated to increase the number of apartment units to **16 units total**.
2. 4499 Ferguson Street contains a small mixed-use building and intends to renovate the ground floor (currently a restaurant) into 5 apartment units to contain a **total of 8 apartment** units.

The Official Plan Amendment intends to permit the increase in density on the subject property. The proposed renovations would increase the permitted density of 75 units per hectare to an **overall density of 128 units per hectare** (24 units / 0.1874ha) when the properties are consolidated.

Please see attached site plan, floor plans and building elevations submitted as part of this application. The proposed unit breakdown is shown in **Table 2**.

Table 2: Proposed Unit Breakdown

	4473-4479 Ferguson St		4499 Ferguson St	
Existing	Basement	Laundry	Basement	Unfinished

	Ground Floor	4 Units	Ground Floor	Commercial Use
	Second Floor	4 Units	Second Floor	10 bedrooms (Boarding House)
	Total	8 Units + Laundry	Total	10 bedrooms + Commercial
Proposed	Basement	6 Units + Laundry	Basement	Unfinished (to remain)
	Ground Floor	5 Units	Ground Floor	4 Units
	Second Floor	5 Units	Second Floor	4 Units
	Total	16 Units + Laundry	Total	8 Units

The zoning by-law amendment application seeks to rezone the subject property to **Residential 5C Density zone (R5C)** with site-specific exceptions (R5C-XXX). The ZBA application aims to recognize all existing and proposed zoning deficiencies on both properties through these site-specific exceptions, as discussed later in this report.

Table 3: Proposed Lot Dimensions

There is a laneway road allowance between the properties. This laneway has since been closed and was approved to be purchased by the owner at the February 7th, 2023 Council meeting (File No. 2022-134). The laneway was appraised and a purchase price was negotiated between the owner and the City. This property will be merged with the other two (2) residential properties to create one (1) large property increasing the property area and frontage as shown in **Table 3**.

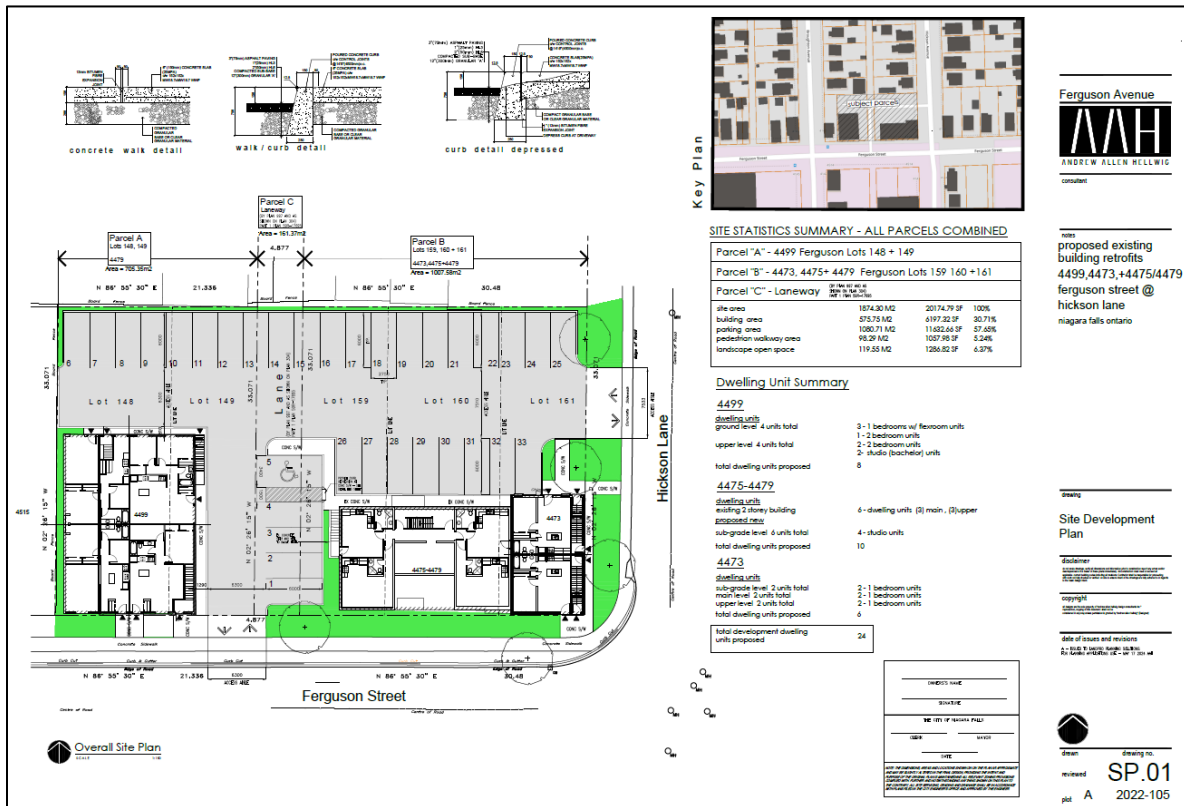
Consolidated Subject Property	
Lot Frontage	+/- 33 m
Lot Depth	+/- 56.7 m
Lot Area	+/- 1874 m ²
Proposed Density	128 uph

The proposal is shown as **Figure 3**.

3.1 PRE-CONSULTATION

A pre-consultation meeting was held on July 21st 2022 where the Region, City and associated agencies provided their comments on the proposal. Complete application requirements were also identified which included a Planning Justification Report, Functional Servicing Report, Phase 1 ESA and Record of Site Condition. Please refer to the attached appendices for completed studies/reports.

Figure 3: Proposed Site Plan



4 LAND USE PLANNING FRAMEWORK

In preparing these applications, several policy and regulatory documents were reviewed that need to be addressed to demonstrate good planning. They include the following:

1. Planning Act, R.S.O 1990 c.P.13
2. Provincial Policy Statement, 2020;
3. Provincial Planning Statement, DRAFT 2023
4. A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019;
5. Niagara Region Official Plan, 2022;
6. Niagara Falls Official Plan, 2019;
7. City of Niagara Falls Zoning By-Law No. 79-200

The proposed development was assessed against these regulations and associated policies. A detailed review is below.

4.1 PLANNING ACT, R.S.O 1990 c.P.13

The *Planning Act* is the provincial legislation and provides the basis for land use planning in Ontario, identifying tools for managing how, where and when land use change occurs.

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: d), e), f), g), h), j), l), m), n), o), p), q), r).

The proposed development also has regard for the criteria outlined in **Section 51(24)** of the *Planning Act*.

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

4.2 PROVINCIAL POLICY STATEMENT, 2020

The *Provincial Policy Statement* provides policy direction on matters of provincial interest for all land use development throughout Ontario. It provides direction for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

The subject lands are in a residential area in the City of Niagara Falls, defined as a **Settlement Area** by the PPS.

Section 1.1.1 outlines sustained healthy, livable, and safe communities through efficient development and land use patterns.

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- b) accommodating an appropriate affordable and market-based range and mix of residential types, employment, institutional, recreation, park and open space, and other uses for long-term needs;
- c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;
- 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;

- e) promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;
- f) improving accessibility for persons with disabilities and older persons by addressing land use barriers which restrict their full participation in society;
- g) ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs;
- h) promoting development and land use patterns that conserve biodiversity; and
- i) preparing for the regional and local impacts of a changing climate.

Section 1.1.3 supports the development through focusing growth and development to settlement areas **(1.1.3.1)**. 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;

Planning authorities shall establish and implement minimum targets for intensification and redevelopment within built-up areas, based on local conditions. **(1.1.3.5)** with new development occurring adjacent to the existing built-up area and allows efficient use of land **(1.1.3.6)**.

These applications involve a consolidated property located in a residential area of Niagara Falls. This proposal aims to focus growth and development within the settlement area through ensuring the efficient use of land. The proposed renovations will provide additional housing options by introducing new apartment units to the housing stock and utilizing existing infrastructure.

The OPA and ZBA aim to permit the increased density and rezone the properties to a more appropriate residential zone while recognizing any zoning deficiencies.

These applications are consistent with the Provincial Policy Statement.

4.3 A PLACE TO GROW: GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE, 2019

A Place to Grow: Growth Plan for the Greater Golden Horseshoe ("Growth Plan") provides a provincial policy framework for managing growth in the Greater Golden Horseshoe including Niagara Region and its lower-tier municipalities. The Growth Plan is the Ontario government's initiative to plan for growth and development in a way that supports economic prosperity, protects the environment, and helps communities achieve a high quality of life.

The Growth Plan designates the subject property as being within the *Delineated Built-Up Area*. The vast majority of growth will be directed to settlement areas (2.2.1.2.a) with growth to be focused in delineated built-up areas (2.2.1.2.c.i). The Growth Plan encourages intensification generally throughout the delineated built-up area (2.2.2.3.c) and shall be implemented through official plan policies and designations, updated zoning and other supporting documents (2.2.2.3.f). The applications aim to support housing choice through introducing new apartment units to the neighbourhood (2.2.6.1.a).

These applications align with the policies outlined in the Growth Plan as the consolidated property is located in a built-up area and promotes intensification of the neighbourhood. The proposal will facilitate the addition of sixteen (16) new apartment units which will marginally increase the housing options in the area. The zoning by-law amendment application aims to rezone the properties to a more appropriate residential zone of R5C to facilitate the renovations.

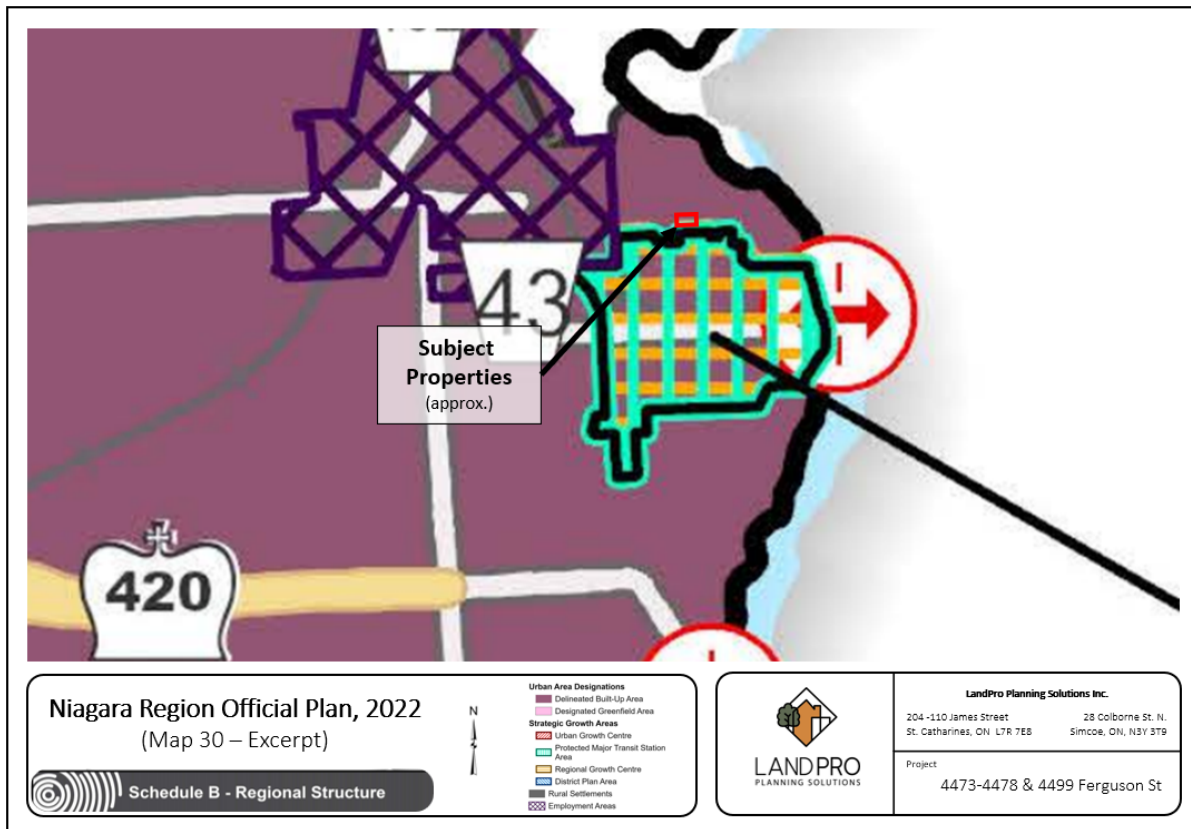
The proposed applications conform with the Growth Plan.

4.4 NIAGARA REGION OFFICIAL PLAN, 2022

The Niagara Region Official Plan (NROP) contains objectives, policies and mapping that describe the Region's vision for the next 20+ years, including their approach to managing growth, growing the economy, protecting the natural environment, resources, and agricultural land, and providing sustainable infrastructure.

The subject property is designated as *Delineated Built-Up Area* in the Niagara Region Official Plan. **Figure 4**, below, shows the property designation and surrounding land uses.

Figure 4: Niagara Region Official Plan



The NROP aims to manage growth within the urban area (2.2.a) by accommodating growth through strategic intensification (2.2.b). Urban growth shall have a diverse range and mix of housing types/sizes (2.2.1.1.c) and shall support opportunities for intensification including infill development (2.2.1.1.g). The NROP shall also support opportunities for gentle density (2.2.1.1.h) and the development of a mix of residential built forms in appropriate locations, such as local growth centres (2.2.1.1.i). Additionally, Niagara Falls has an intensification target of 10,100 units or 50% from 2021 to 2051 (NROP, Table 2-2).

These applications facilitate strategic growth within the built-up area of Niagara Falls and represent an opportunity for gentle density in an appropriate location by providing additional residential units on the subject properties. The proposed renovations will support intensification targets by creating new apartment units.

It shall be noted that each local area municipality shall establish intensification targets in their own Official Plans that meet this NROP target (2.2.2.6). However, since this NROP is newly adopted in June 2022 and was recently approved by the OMMAH, the City of Niagara Falls Official Plan does not reflect these updated targets.

These applications conform with the Niagara Region Official Plan.

4.5 CITY OF NIAGARA FALLS OFFICIAL PLAN, 2019

The City of Niagara Falls Official Plan (NFOP) designates the property as *Residential* in Schedule A and as *Medium Density Residential* in Schedule A-5 in the Transit Station Secondary Plan Area, as shown in **Figure 5 & 6**.

Figure 5: City of Niagara Falls Official Plan

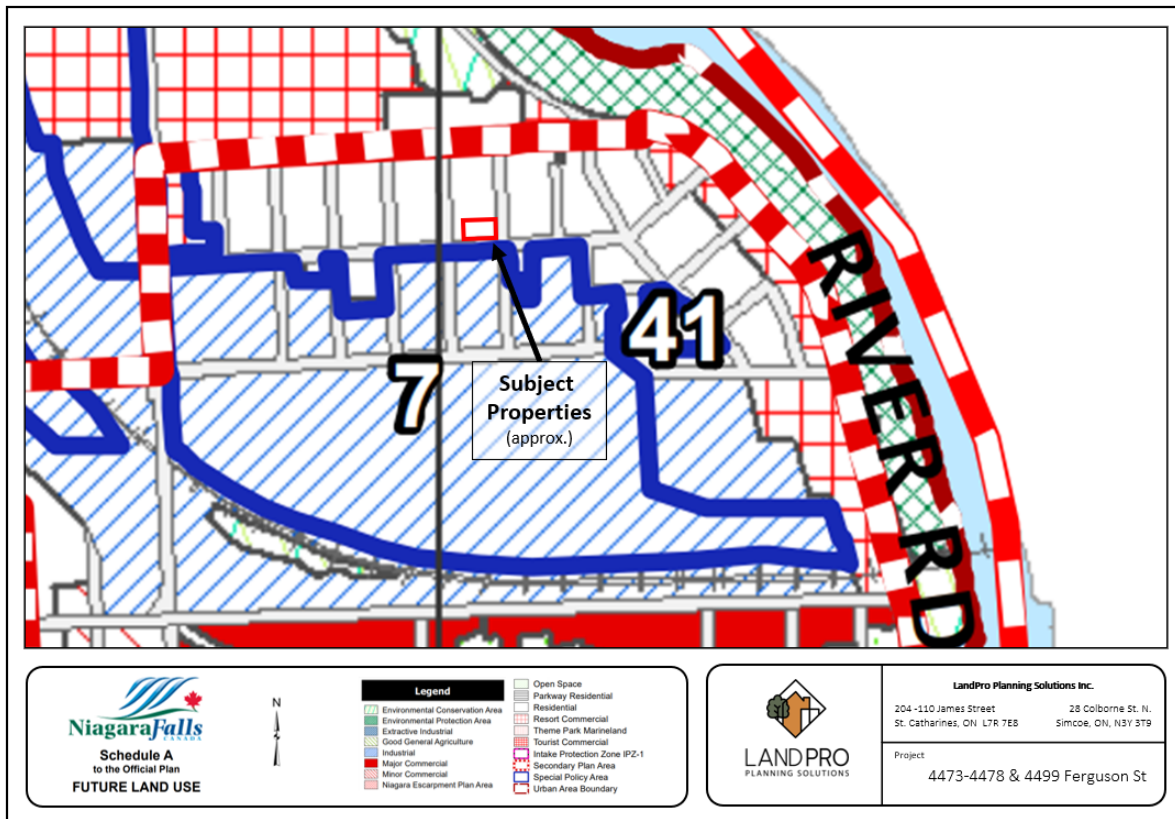
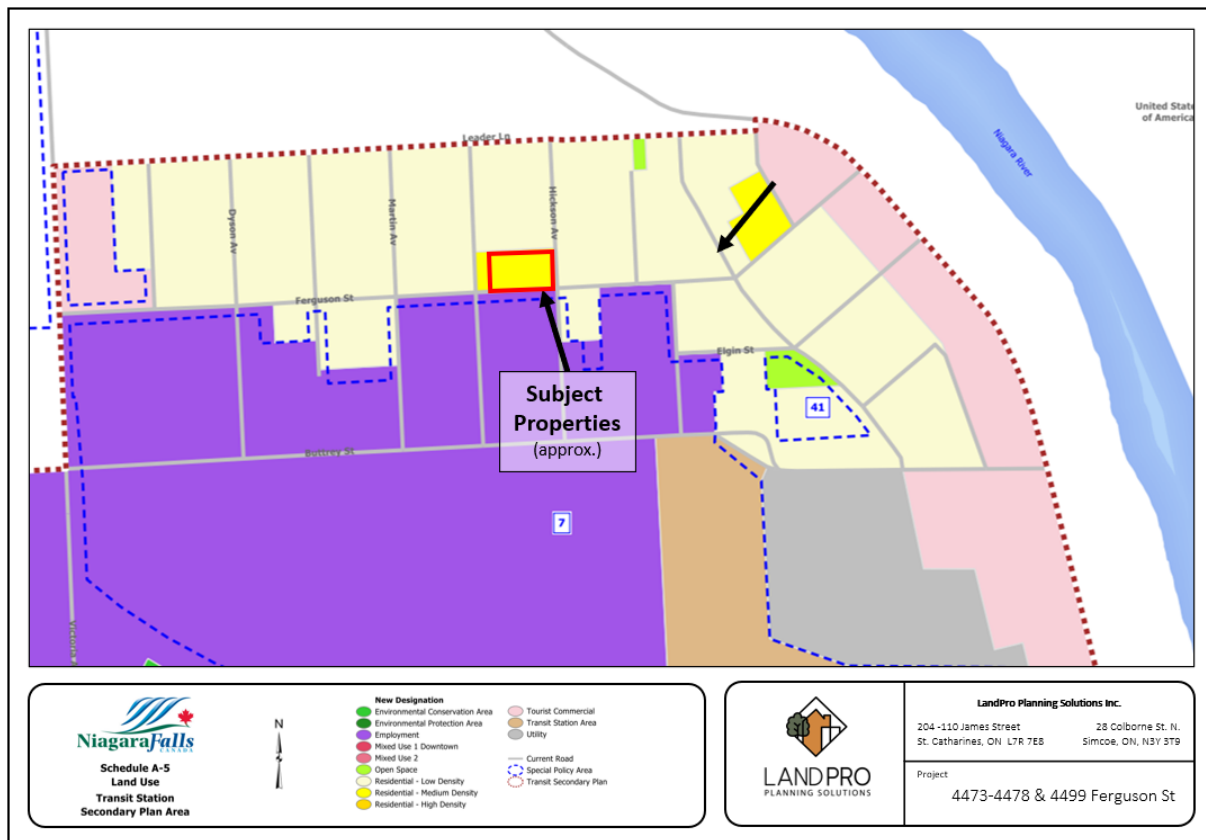


Figure 6: City of Niagara Falls Official Plan Schedule A-5



The NFOP identifies land use policies that guide development in residential areas in **Part 2 Section 1**. The NFOP encourages opportunities for housing choice including smaller lot sizes (**1.2.1**), development of vacant land and more efficient use of underutilized parcels (**1.2.2**), development of housing in conjunction with commercial developments to create walkable neighbourhoods (**1.2.4**). All residential development shall require proper and adequate municipal services (**1.8**).

The character of the existing neighbourhoods within the Built-up Area shall be retained. Accordingly, residential development, intensification and infilling shall blend into the lot fabric, streetscape and built form of a neighbourhood (**1.15.1**), development within the Built-up Area should be at a higher density that what currently exists in the neighbourhood (**1.15.3**), and the conservation and renewal of the existing housing stock shall be encouraged as an important element in meeting future housing needs (**1.15.4**).

Further, increasing the various types of multiple residential accommodations is encouraged in order to provide for an overall mix of housing within all communities (**1.15.5**). Apartments and other multiple housing forms with building heights of not more than 4 storeys can be developed to a maximum net density of 75 units per hectare with a minimum net density of 50 units per hectare (**1.15.5.ii**).

The applications aim to increase the density on the properties through renovations of the existing buildings. This will support the intensification targets of the Region and City. These applications intend to address housing needs and create community that makes use of the existing and available public infrastructure.

The Local Official Plan Amendment intends to permit an increased density on the subject property. The proposed renovations would introduce 9 new residential units and bring the consolidated properties to an **overall density of 128 units per hectare** from the permitted density of 75 units per hectare, which is an **increase of 53 uph**.

Additionally, the subject property is designated *Medium Density Residential* in the Transit Station Secondary Plan Area. Policies in **Part 5, Section 2** of the NFOP promotes that new development intensification will address housing needs, including affordable housing and the redevelopment of underutilized sites. The station area aims to strengthen the neighbourhoods identified in the secondary plan and provide a network to address land use compatibility along *Buttrey Street* and *Ferguson Street* specifically.

The proposed development aims to make efficient use of land in the residential and station area to facilitate the renovations of 24 new apartment units within the existing buildings. This is all through conversion, with no new building or increased height is proposed.

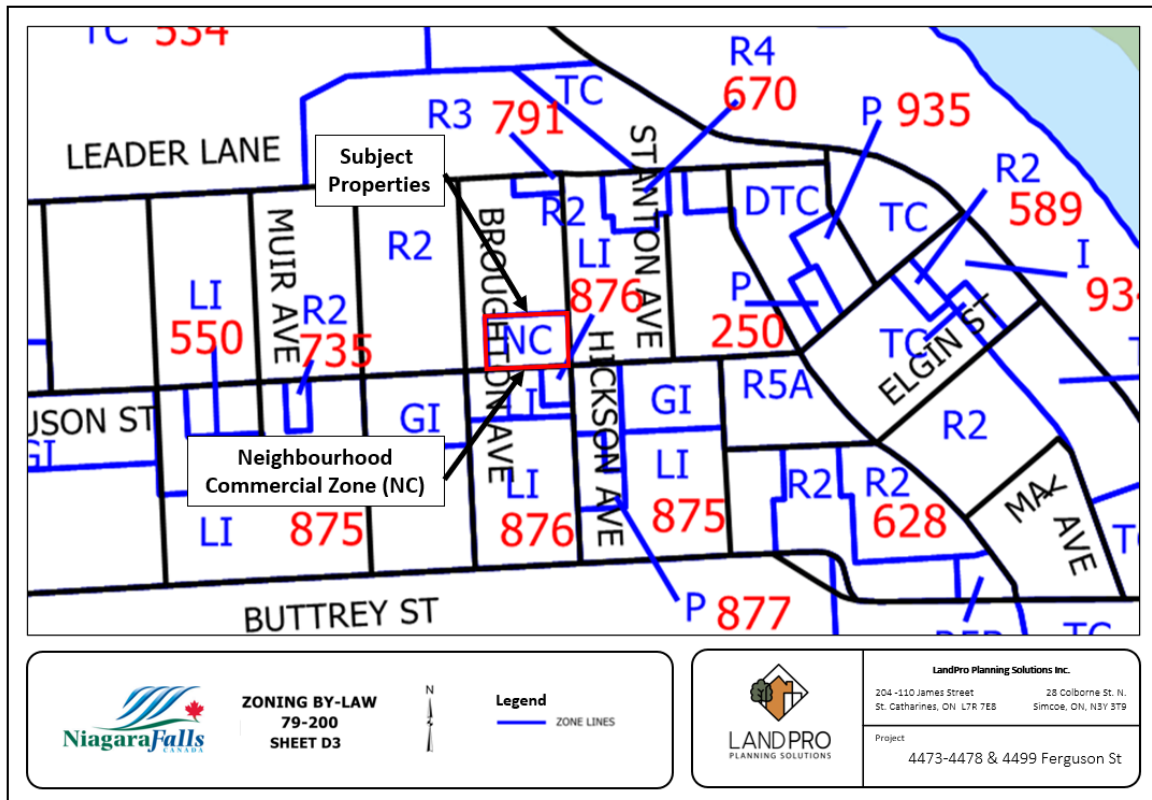
Subject to approval of these applications, this proposal will conform to the City of Niagara Falls Official Plan.

4.6 CITY OF NIAGARA FALLS ZONING BY-LAW NO. 79-200

The subject properties are currently zoned *Neighbourhood Commercial (NC)*. See **Figure 7** below.

A Zoning By-law Amendment (ZBA) proposes to rezone the properties to *Residential 5C Density* zone with site specific exceptions (**R5C-XXX**). The site-specific exceptions aim to recognize the proposed 8-unit apartment building and 16-unit apartment building on 4473-4479 & 4499 Ferguson without an associated commercial use.

Figure 7: City of Niagara Falls Zoning By-law No. 79-200



See Residential 5C Density (R5C) Zone provisions below in **Table 3**.

Table 4: City of Niagara Falls Zoning By-Law No. 79-200 – R5C Zone

Zone Provisions	Required	Proposed	Comment
Min. Lot Area	1200m ² & 1000m ² (100m ² per dwelling unit)	1874m ²	Complies
Min. Lot Frontage	30m	33.07m	Complies
Min. Front Yard	7.5m + 10m to Centreline of Hickson Ave	0m + 10m to centreline	Does Not Comply
Min. Rear Yard	one-half the height of the building or 10 metres (whichever is greater)	0.69m	Does Not Comply
Min. Interior Side Yard	one-half the height of the building	20.17m	Complies

Zone Provisions	Required	Proposed	Comment
Min. Exterior Side Yard	7.5m + 10m to Centreline of Ferguson St	0m + 10m centreline	Does Not Comply
Max. Lot Coverage	30%	89% 58% (parking), 31% (structures)	Does Not Comply
Max. Building Height	19m	2-storey	Complies
Number of Apartment Buildings on Lot	1	2	Does Not Comply
Parking Requirements (1.4 spaces per unit)	33 spaces	33 spaces	Complies
Min. Landscaped Open Space	40%	6.37%	Does Not Comply

The existing buildings were constructed near the existing property boundaries. This application does not create any new zoning deficiencies with the exception for the number of apartment buildings on lot provision.

This application intends to recognize the existing deficiencies including a reduced front, rear and exterior side yard (see **Table 4**). The lot coverage and minimum landscape open space also require relief which may appear large numerically but is simply recognizing the existing conditions of the subject property. There are no proposed changes to the existing building footprints themselves, but rather, the proposed applications will facilitate internal building renovations.

The proposed amended provisions are reasonable as the proposed development aligns with Provincial and Regional Policy. The zone is proposed to be changed to a more appropriate residential zone with site specific exceptions (**R5C-XXX**) to recognize existing zoning setback deficiencies. This proposal redevelops the existing buildings to optimize the use of the properties.

5 TECHNICAL WORK

5.1 PHASE 1 ENVIRONMENTAL SITE ASSESSMENT

A Phase 1 Environmental Site Assessment (ESA) was prepared by Hallex Environmental Ltd. dated May 30th, 2023. The Phase 1 ESA findings revealed the following:

- Potential designated substances and hazardous materials ie: lead-based paints, and asbestos containing materials were observed within the duplex and commercial building; and
- Two (2) on-site and one (1) off-site Potential Contaminating Activities (PCAs) resulted in three (3) Area of Potential Environmental Concern (APECs) with the potential to have impacted the study site's soil and groundwater.
 - PCA-1/APEC-1: #30 Importation of Fill Material of Unknown Quality. The distribution of fill material for site grading represents an on-site PCA.
 - PCA-2/APEC-2: Other – Parking Lot. Salt used across the parking lot, for the purpose of de-icing during the winter months, represents a PCA.
 - PCA-3/APEC-3: #10 – Commercial Autobody Shop. A commercial autobody shop known as Schultz Auto Parts was identified at 4486 Ferguson Street.

Thirteen (13) additional PCAs were noted within 250 m of the Study Site, however it is unlikely that any contaminants migrating off-site would present an on-site APEC.

Based on these findings, Hallex provided the following recommendations:

1. A designated substance and hazardous material survey to identify and quantify potential asbestos containing material, and lead-based paint within the building structure located on-site prior to any renovation/demolition; and
2. A Phase Two Environmental Site Assessment to determine the presence/absence of potential contaminants of concern in the soil and groundwater resulting from on-site fill material, and off-site commercial autobody shop.

5.2 PHASE TWO ENVIRONMENTAL SITE ASSESSMENT

A Phase Two Environmental Site Assessment was prepared by EON Environmental Consulting Ltd. (formerly known as Hallex Environmental Ltd.) dated August 15th 2023. The Phase 2 ESA looked to determine the presence/absence of potential contaminants of concern within the soil and groundwater associated with the historic on-site fill material, and a current off-site automotive garage located south of the study site.

*“The Phase Two Environmental Site Assessment revealed all soil and groundwater samples **met** Ministry of the Environment, Conservation & Parks (MECP) Site Condition Standards 2011 Table 2 for Residential Land Use in a potable groundwater condition, for fine textured soil for contaminant groups Metals (by ICP), Petroleum Hydrocarbons (PHCs), Polycyclic Aromatic Hydrocarbons (PAHs), Benzene Toluene Ethylbenzene Xylene (BTEX), Volatile Organic Compounds (VOCs) and ph.*

EON considers the site suitable for development for residential purposes and filing a Record of Site Condition with the Ministry of the Environment, Conservation and Parks for a change in land use. No further Environmental Assessment work was considered necessary as of July 27th, 2023.”

5.3 FUNCTIONAL SERVICING REPORT

A Functional Servicing Report was prepared by LandSmith Engineering and Consulting Ltd. dated June 27th, 2023. The report made conclusions and provided the following recommendations:

1. Water services should be upsized to the recommended diameter service connections as outlined in Section 2.1 if required (to be determined at Site Plan stage).
2. Existing sanitary service lateral connections can be re-used for the servicing of the proposed additional units.

The report also discusses that stormwater analysis was not part of the scope of the report given there are no proposed changes to the site surface areas. In addition, fire-flows were not considered given no changes to the size and shape of the buildings are contemplated as part of the current proposal.

6 PLANNING ANALYSIS

These applications propose to renovate the existing buildings on each property to increase the number of residential units available. 4473-4479 Ferguson Street contains an existing multi-residential (**8 units**) building proposed to be renovated to increase the number of apartment units to **16 units total**. While 4499 Ferguson Street contains a small mixed-use building and intends to renovate the ground floor (currently a restaurant) into 4 apartment units to contain a total of **8 apartment units**. The development will achieve an overall unit count of **24 units**.

This proposal has regard to the purposes of the *Planning Act* listed in **Section 1.1**. The applications also have regard to the matters of provincial interest outlined in **Section 2**; specifically, c), e), f), g), h), j), l), m), n), o), p), q), r).

The *Provincial Policy Statement* permits the proposed rezoning of the property as it ensures efficient development and use of land aligning with the existing uses of the surrounding area. The proposed renovations will provide additional housing options by introducing new apartment units to the housing stock while utilizing existing infrastructure. The applications aim to focus growth and development within the settlement area through ensuring the efficient use of land.

The *Growth Plan* has a similar intent to the PPS and reflects similar provincial goals and objectives. The properties are in a built-up area and promote intensification of the neighbourhood. The proposal will facilitate the addition of sixteen (16) new apartment units which will marginally increase the housing options in the area. An OPA and ZBA will be required to facilitate this intensification.

The *Niagara Region Official Plan* and *Niagara Falls Official Plan* designates the property as **Delineated Built-Up Area** and **Residential**, respectively. The applications facilitate strategic growth within the built-up area of Niagara Falls. The proposed OPA intends to permit an increased density to approximately **128 units per hectare** where 75 units per hectare is currently permitted.

A Zoning By-law Amendment is included as part of this application package. The ZBA intends to permit building renovations to facilitate the proposed 8-unit apartment building and 16-unit apartment building on 4473-4479 & 4499 Ferguson Street without an associated commercial use. The ZBA proposes to rezone the properties to *Residential 5C Density* zone with site specific exceptions (**R5C-XXX**) to recognize the zoning deficiencies listed in **Table 4**.

The proposed applications are consistent with the PPS and conforms to the Growth Plan and Regional planning policy. Subject to approval of these applications, the proposal will conform to the Niagara Falls Official Plan and the City's Zoning By-law.

7 CLOSING

It is our opinion that the applications represent good planning and should be approved because the applications:

1. Has regard to the *Planning Act*;
2. Are consistent with the *Provincial Policy Statement*;
3. Conforms to the *Growth Plan* and *Niagara Region Official Plan*;
4. Subject to approval of the OPA, will conform to *Niagara Falls Official Plan*;
5. Subject to approval of the ZBA, will conform to the *City of Niagara Falls Zoning By-Law*.

LANDPRO PLANNING SOLUTIONS INC.



Mitchell Baker, BES
Planner | Project Manager



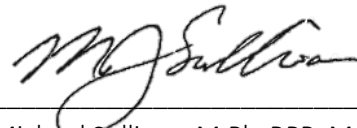
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