

Development Permission Assessment

**6499 Lundy's Lane and
5845 Highland Avenue**

Niagara Falls

Prepared for:

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INTRODUCTION AND OVERVIEW

GSP Group Inc. is pleased to provide this Development Permission Assessment (“DPA”) for lands known municipally as 6499 Lundy’s Lane and 5845 Highland Avenue in Niagara Falls, Ontario.

The purpose of the DPA is to outline the as-of-right development permissions for the property, key policy considerations, design requirements and potential Planning Applications, studies and processes associated with redevelopment.

Please note that this DPA has been prepared from a Land Use Planning perspective. Confirmation of any potential issues, impacts, or submission requirements outside of land use planning should be obtained from relevant consultants, the City of Niagara Falls, Niagara Region, and/or other review agencies (Conservation Authority, Provincial Ministries, etc.), as required.

This Report is structured as follows:

Section 1.0 Site Description and Context

Provides an overview of the site, existing uses, and the surrounding area context.

Section 2.0 Planning Framework

Provides an overview and planning commentary regarding the applicable land use planning regulations, policies, and by-laws that are relevant to the continued use and/or redevelopment of the subject lands.

Section 3.0 Site Development and Design Considerations

Provides an overview of considerations for redevelopment of the site, required land dedications, preliminary building envelope, and urban design considerations.

Section 4.0 Anticipated Studies and Reports

Provides an overview of potential studies or reports that would be requested as part of a redevelopment proposal or future Planning Act application

Section 5.0 Key Information

Summarizes the applicable land use permissions, key information and other relevant considerations for the continued use or redevelopment of the subject lands.

1.0 SITE DESCRIPTION AND CONTEXT

The subject lands consist of two (2) properties known municipally as 6499 Lundy's Lane and 5845 Highland Avenue in Niagara Falls. Although these properties are currently under the same ownership, the lands do not appear to have been merged in title by the Land Registry Office. The properties are assessed as one entity for tax purposes.

The subject lands identified in **Figure 1** measure +/- 2,400 square metres in area and have approximately 68.7 metres of linear frontage along Lundy's Lane. The property has additional frontages on Glenholme Avenue and Highland Avenue, measuring approximately 32.5 metres and 8.3 metres, respectively.



Figure 1 – Aerial Image of the Subject Lands

1.1 Current Use and Site Details

The subject lands are currently utilized as an automobile repair facility (Harrigan's Auto). The current facility consists of a single structure containing a small office and four (4) service bays. There is a large, paved surface used for the movement and parking of vehicles in for service and staff parking. There is a storage enclosure along the northern edge of the property towards the northeast corner.

The Site has two vehicular access points – one from Glenholme Avenue and the other from Lundy's Lane. A second access to Lundy's Lane exists but has been closed off by the owner.

A portion of 5845 Highland Avenue is being utilized by Pizzaiolo Pizzeria for parking and access, however no formal easement is registered on title.

1.2 Legal Descriptions and Easements

Legal Descriptions

Table 1 below contains the legal descriptions for each of the properties, per the available Parcel Registers obtained from the Ontario Land Registry Office.

Table 1 – Legal Descriptions of the Properties

Address	PIN Number(s)	Legal Description(s)
5845 Highland Avenue	64314-0344	PT LT 93 PL 32 STAMFORD AS IN BB85579; PT LTS 94 & 95 PL 32 STAMFORD AS IN BB93477; TOGETHER WITH AN EASEMENT AS IN BB93477; CITY OF NIAGARA FALLS
6499 Lundy's Lane	64314-0047	PT LT 4 PL 28 STAMFORD; PT LT 5 PL 28 STAMFORD; PT LT 6 PL 28 STAMFORD AS IN RO351173; CITY OF NIAGARA FALLS

Easements

The Parcel associated with PIN 64314-0344 is subject to an easement.

This easement was established in 1968 at the time of the acquisition of the property by the previous owner Shell Canada. The easement provides access over portions of the site in perpetuity from Highland Avenue across Lots 94 and 95 of Registered Plan 32. There are no associated plans showing the exact location of this easement, only meets and bounds descriptions within Instrument BB93477.

1.3 Surrounding Land Uses and Community Context

The subject lands are situated along the north side of Lundy's Lane between Glenholme Avenue to the west and Highland Avenue to the east. The subject lands, as well as most other properties along the north and south sides Lundy's Lane corridor contain commercial land uses and associated buildings. Land situated behind these commercial uses generally contain older, detached residential dwellings.

Residential Land Uses

To the immediate north of the subject lands is a long-standing residential neighbourhood consisting of primarily single detached dwellings. These dwelling range in height from one to two storeys and have similar lot frontages of approximately 12.3 metres (40 feet).

Commercial Uses

The subject lands are flanked to the east, west and south by existing commercial land uses.

Within 200 metres of the subject site to the east and west along Lundy's Lane existing commercial uses include but are not limited to Restaurants (Sit Down/ Takeout), Fuel Stations, Retail Pharmacies, Clothing Stores, Grocery Store, Banks and Hotels

It is noted that some of the buildings associated with these commercial land uses residential apartments on upper floors.

Community and Institutional Uses

The subject property is within the following distances of the noted Community and Institutional Uses:

<i>Stamford Collegiate High School</i>	<i>233 metres</i>
<i>Princess Margaret Public School</i>	<i>475 metres</i>

Recreational Uses and Parks

The subject property is within the following distances of the noted Parks:

<i>Coronation Park</i>	<i>500 metres</i>
<i>Battlefield Park</i>	<i>500 metres</i>
<i>AG Bridge Park</i>	<i>510 metres</i>

1.4 Transportation Context

Road Network

shows the roadway network within the City of Niagara Falls. The subject lands are situated along Lundy's Lane (Regional Road 20) and two local roadways, being Highland Avenue and Glenholme Avenue.

As shown on Schedule "C" (Major Roads Plan) of the NFOP (1993) Lundy's Lane is classified as an "Arterial Road". Highland Avenue and Glenholme Avenue are classified as "Local Roads".

Existing Public Transit Network

Public Transit (bus) service is currently provided along Lundy's Lane. The closest westbound stop is approximately 40 metres to the east, at the northeast corner of the signalized intersection of Highland Avenue and Lundy's Lane. To the west, there is a transit stop and shelter in front of the Shoppers Drug Mart, approximately 100 m away.

The closest eastbound transit stop is located on the south side of Lundy's Lane in front of an existing commercial plaza, across from the terminus of Glenholme Avenue. The nearest available crossing to access the stop is at the intersection of Highland Avenue and Lundy's Lane

Active Transportation

The subject lands have sidewalks along all three public roadways, which travel along Lundy's Lane and into the neighbourhood behind the subject property.

No dedicated cycling facilities are present within Lundy's Lane or on the adjacent local roadways.

1.5 Natural Heritage and Environmental Context

Natural Heritage Features and Uses

The subject lands do not contain any mapped or evaluated natural heritage features per the Schedules of the Niagara Official Plan (2022) or Niagara Falls Official Plan (1993). The subject lands are also not within an NPCA regulated area that would be subject to permit control.

Trees and Vegetation

There are limited planted and landscaped areas and trees on the subject lands. The three municipal boulevards associated with the site do not contain any street trees although there are some small scale coniferous plantings within the landscaped area under the pylon sign at the southwest corner of the property.

There is a modest sized individual tree within the paved area west of the existing building, and a very large mature tree that appears to be situated along the eastern side of the building.

2.0 PLANNING FRAMEWORK

The following section is intended to provide a brief overview of applicable Plans, Policies, By-laws and Guidelines that apply to the subject lands and govern its use.

The relevant and applicable Planning documents include the Niagara Official Plan (2022), the City of Niagara Falls Official Plan (1993, as amended) and Zoning By-law 79-200.

The subject lands are not subject to any Regional District Plans or local Secondary Plans or specific Design Guidelines.

2.1 Niagara Official Plan (2022)

The Niagara Official Plan (2022) is the Regional Official Plan for the Regional Municipality of Niagara.

As of March 31, the Regional Municipality of Niagara no longer has planning authority over decisions within the local municipalities, including Niagara Falls. However, the NOP (2022) remains in force and effect and is considered as part of the Niagara Falls Official Plan (1993) until such time that the City amends its official plan to scope out relevant policies and mapping it wishes to keep. Accordingly, the policies and direction of the NOP remain relevant to the subject lands,

The subject lands are located within the Niagara Falls urban Area on Schedule B of the NOP (2022) and are also located within the Built Boundary.

The continued use of the property for commercial purposes, or redevelopment that contributes to additional jobs or housing opportunities would be supported by the NOP (2022).

Additional policies may apply if the existing use is ceased and redeveloped.

Regional Roads

Schedule “M” of the NOP (2022) identifies the planned width of Lundy’s Lane between Garner Road and Main Street to be 26.2 metres wide.

The portion of Lundy’s Lane along the subject lands is currently less than 26.2 metres, ranging in width along the frontage of the property between approximately 20.2 metres (southwest corner) to 23.7 metres (southeast corner). The exact requirements of any widening would be confirmed by Niagara Region. A minimum widening of at least 2.0 metres is anticipated based on existing geometry.

2.2 City of Niagara Falls Official Plan (1993, as Amended)

The Niagara Falls Official Plan (“NFOP”) (1993) sets out the land use designations for properties within the City of Niagara Falls.

The subject lands are designated as “Tourist Commercial” on Schedule “A” (Land Use Plan) of the NFOP (1993). Lands designated as “Tourist Commercial” are specifically subject to the policies within Part 2, Section 4 of the NFOP (1993).

Tourist Commercial Policies

Some properties designated as Tourist Commercial within the NFOP (1993) are categorized as being within either the Central Tourist District or Satellite Districts. Lands situated immediately along the north and south side of Lundy’s Lane from the west end of the Urban Area to Main Street are part of the “Lundy’s Lane Satellite District”, including the subject lands.

As outlined in Policies 4.2.3 and 4.2.9 of the NFOP (1993):

4.2.3 *The Lundy’s Lane Satellite District is a multi-functional commercial area catering to both City residents and tourists. A portion of the District also provides opportunities for cultural heritage preservation.*

[...]

4.2.9 *Residential uses may be permitted throughout lands designated Tourist Commercial either as standalone or mixed use buildings in order to assist in creating a complete community in accordance with the policies of this section and PART 1, Section 3.”*

Planning Commentary: These policies outline the preferred land uses for the Lundy’s Land Satellite District which are to be predominantly Commercial. Mixed-used development, inclusive of residential dwelling units is also permitted.

The existing use of the lands is commercial and therefore considered to conform with the Policies of the NFOP (1993). However, any redevelopment of the lands would be subject to the following policies of the NFOP (1993):

Lundy’s Lane Satellite District

“4.2.26 *The Lundy’s Lane District is envisioned over the long term as a primarily tourist commercial corridor existing compatibly with local-serving commercial facilities and residential uses.*

4.2.27 *The portion of Lundy's Lane to the east of Montrose Road is intended to function primarily as a community serving and tourist commercial corridor. Residential intensification within this corridor shall be in accordance with Part 1, Section 3.9.*

4.2.28 *The enhancement of the Lundy's Lane Battlefield site and its retention as a historically important open space together with other related historical uses such as the Lundy's Lane Museum shall be supported.*

4.2.29 *An attractive streetscape for the Lundy's Lane Satellite District shall be sought through the provision of:*

- a) a uniform building setback, closer to the street line with a consistent landscaped setback;*
- b) a consolidation of vehicular access points on site and with neighbouring properties where possible; and,*
- c) front yard surface parking limited to one row, with additional parking provided to the rear of buildings.*

4.2.30 *The Lundy's Lane Satellite District interfaces primarily with residential lands north and south. To lessen potential land use conflicts with the residential lands, commercial development shall be designed in accordance with the following:*

- a) screening and buffering is to be provided adjacent to residential lands through a combination of fencing and landscaping; loading areas should be located within interior side yards;*
- b) garbage and recycling materials should be stored within fully enclosed structures;*
- c) access ramps onto intersecting roads should be located as far from the residential interface as possible; and*
- d) any signage should not be illuminated when facing residential lands.*

[...]

4.2.32 *New developments within the Lundy's Lane Satellite District shall be consistent with Section 4.3.7 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 with respect to the development's built form.*

4.2.33 *A comprehensive Streetscape Master Plan for the Lundy's Lane Satellite District 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.”

Planning Commentary: The specific Satellite District policies further entrench the desire for the Lundy’s Lane corridor to consist of commercial uses that support the tourism industry.

For new development, consideration of more consistent building placements, robust landscaping and streetscaping treatments and improving land use compatibility to existing adjacent residential neighbourhoods is required. Recommended approaches to meet these requirements are outlined in Section 4 of this report.

Height Strategy – Figure 4

Some areas that are designated as “Tourist Commercial” in the Official Plan have specific limitations on permitted building heights. Lands with prescribed limitations are in, and around the Clifton Hill Tourism Area, the Niagara Parkway near Downtown, and on lands adjacent to the north and south sides of Lundy’s Lane within the Urban Area. The “Height Strategy” diagram shown as Figure 4 of the NFOP (1993) identifies the Lundy’s Lane corridor (inclusive of the subject lands) as an appropriate location for the consideration of for “Low Rise” development Per Policy 4.4.3 of the NFOP (1993), “Low Rise” development is categorized as being within 5 to 8 storeys in height.

Provision 8.2.2 (g) of the applicable General Commercial (GC) Zone of Zoning By-law 79-200 limits building height to 12 metres (i.e. 3 to 4 storeys, depending on design) on the subject lands. Although the Official Plan allows for the consideration of additional height up to 8 storeys, a Zoning By-law Amendment application is required to consider additional storeys of development within the “Low Rise” area beyond four (4) storeys. Policies regulating Height are outlined below:

“4.4.2 *Building heights throughout the tourist area shall be restricted to four storeys in accordance with the provisions of the Zoning By-law. Council shall consider the allocation of additional building heights through site specific Zoning By-law amendments up to the maximum height set out in Fig. 4 and section 4.4.3. The maximum height shall be allocated if a proposed development meets the following criteria:*

- a) the applicant has submitted all required rezoning information;*
- b) the applicant agrees to provide sidewalk and streetscape improvements in accordance with Section 4.4.4;*
- c) in cases where buildings exceed 10 storeys, the applicant has submitted requisite wind and shadow studies and has completed an architectural peer review; and the proposed development, in the opinion of Council, adheres to the intent of this plan and applicable design criteria.”*

4.4.3 *In order to provide reasonable flexibility in the regulation of building heights, general parameters for building heights will be established rather than strict height limits. In this regard, the following parameters will apply:*

<i>High-rise</i>	<i>13</i>	<i>to</i>	<i>30 Storeys</i>
<i>Medium-rise</i>	<i>9</i>	<i>to</i>	<i>12 storeys</i>
<i>Low-rise</i>	<i>5</i>	<i>to</i>	<i>8 storeys</i>

4.4.4 *In approving zoning by-law amendments permitting increases in building heights, Council shall authorize the use of Section 37 of the Planning Act and enter into legal agreements under that Section to ensure that all street frontages are improved including sidewalks, the planting of street trees, the provision of street furniture and the provision of landscaped open space.*

4.4.5 *By virtue of allowing high-rise buildings, design controls need to be established to ensure that they do not create adverse impacts, such as extensive shadowing on residential areas, public streets and open spaces, encroachment on the views of other landowners and the creation of severe wind impacts at the street level. Council will be guided by studies submitted in support of new development applications to ensure that high quality building designs are achieved with minimal environmental impacts.”*

Planning Commentary: The Height Strategy would only become a consideration if redevelopment is proposed on the site that seeks a height above 12 metres or four storeys (whichever is greater).

2.3 City of Niagara Falls Zoning By-law 79-200

As shown in **Figure 2**, the subject lands are zoned as General Commercial (GC) in City of Niagara Falls Zoning By-law 79-200.

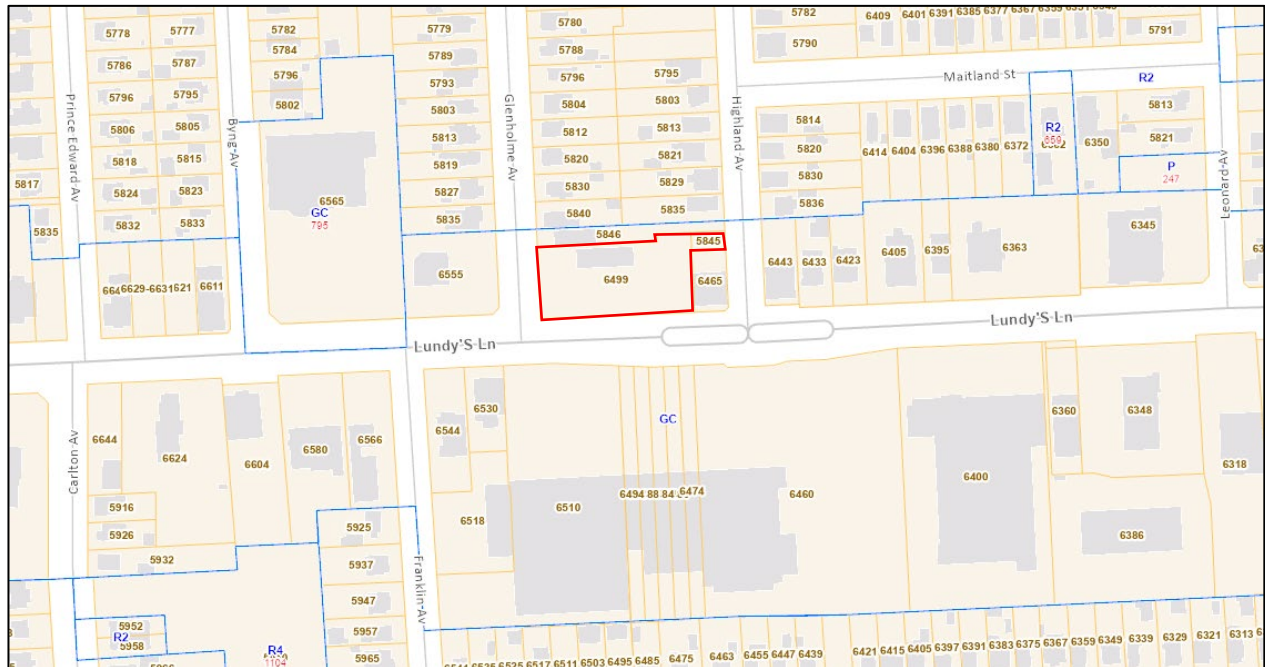


Figure 2 - Zoning of the Subject Lands - Niagara Falls Zoning Viewer

The GC zone permits a wide range of commercial land uses, as well as residential dwelling units as part of a mixed-use configuration. A list of permitted uses is provided below:

Permitted Uses

Permitted uses within the GC zone include:

<i>Assembly hall</i>	<i>Day nursery</i>	<i>Parking lot</i>
<i>Auctioneering establishment</i>	<i>Drive-in restaurant **</i>	<i>Personal service shop</i>
<i>Bake shop</i>	<i>Dry cleaning establishment</i>	<i>Photographer's studio</i>
<i>Bank, trust company, credit union, currency exchange</i>	<i>Farmer's market</i>	<i>Place of entertainment</i>
<i>Building supplies shop and yard</i>	<i>Funeral home</i>	<i>Place of worship</i>
<i>Car rental establishment, truck rental establishment</i>	<i>Health centre</i>	<i>Printing shop</i>
<i>Car wash **</i>	<i>Hotel</i>	<i>Private club</i>
<i>Clinic</i>	<i>Laundry</i>	<i>Public garage, mechanical</i>
<i>Community building</i>	<i>Library</i>	<i>Receiving home *</i>
	<i>Motel **</i>	<i>Recreational uses</i>
	<i>New car agency</i>	<i>Restaurant</i>
	<i>Nursing home</i>	<i>Retail store</i>
	<i>Office</i>	<i>Service shop</i>

Tavern
 Used car lot
 Animal clinic
 Adult store *
 Dwelling units *

Body-rub parlour
 Dancing studio
 Tattoo studio
 Art gallery
 Museum

Garden centre *
 Outdoor patio *
 Bed and breakfast *
 Vacation rental unit *

For uses denoted with one asterisk (*), please refer to **Appendix 1** and Section 8.6.1 of Zoning By-law 79-200. These uses are subject to special requirements.

For uses denoted with two asterisks (**), please refer to **Appendix 1** and Section 8.6.1 of Zoning By-law 79-200. These uses are subject to Provision 8.2.3 of Zoning By-law 79-200.

Performance Criteria

The performance criteria for lands within the GC Zone is found under Section 8.2.2 of Zoning By-law 79-200. **Table 2** below outlines the base zoning requirements for permitted uses in the GC Zone.

Table 2 – GC Performance Criteria

General Commercial (GC) Zone – Section 8.2.2			
Provision No.	Provision	Requirement	Applicable to Subject Lands?
(a)	Minimum Lot Frontage	6 metres	Yes.
(b)	Minimum Front Yard Depth	in accordance with section 4.27.1, where applicable	Yes. (Lundy's Lane, Highland Avenue, Glenholme Avenue)
(d)	Minimum Rear Yard Depth		
	i) where any part of the building is used for residential purposes	10 metres (32.8 ft.) whichever is greater plus any applicable distance specified in section 4.27.1	No.
	ii) where no part of the building is used for residential purposes	3 metres (9.8 ft.) plus any applicable distance specified in section 4.27.1, provided that no rear yard is required where the rear lot line abuts a public land or a public parking lot	No.
(d)	Minimum Interior Side Yard Width		
	where the side lot line abuts a	3 metres	No.

General Commercial (GC) Zone – Section 8.2.2			
Provision No.	Provision	Requirement	Applicable to Subject Lands?
	residential, institutional or open space zone		
	where the side lot line does not abut a residential, institutional or open space zone	None required.	Yes. (North lot line adjacent to 5846 Glenholme Avenue Zoned GC, and Lot lines adjacent to 6465 Lundy's Lane.)
(e)	Minimum Exterior Side Yard	in accordance with section 4.27.1 where applicable	No.
(f)	Maximum Lot Coverage	70%	Yes.
(g)	Maximum Height of a Building or Structure	12 meters subject to section 4.7	Yes.
(h)	Parking and Access Requirements	in accordance with section 4.19.1	Yes.
(i)	Loading Area Regulations	in accordance with section 4.20	Yes.

Planning Commentary:

Lot Frontage and Front Yard Requirements

As confirmed through discussions with the City of the Niagara Falls Zing Department, the subject lands as a whole would be considered as both a corner lot and as a through lot. The effect of this classification results in Highland Avenue, Lundy's Lane and Glenholme Avenue each being considered as a "Front Yard" and subject to the minimum front yard depth requirement in Provision 8.2.2.

For Highland Avenue and Glenholme Avenue, there is no minimum setback (i.e. 0 metres). This is due to the streets not being listed within the Road Width Table 4.27.1.

As noted, a Regional road widening will be required along Lundy's Lane if new development is proposed. Provided that the full extent of the widening is taken as prescribed in Provision 4.27.1 from the historic road centreline, there would be no minimum setback from the back of the road widening.

Effectively, after any required land dedications are taken, the west, south and east lot lines would have 0.0 metre setbacks which provide maximum developability.

Interior Side Yard

The northern lot line is considered and an interior lot line. As this lot line abuts a property zoned as GC as well, there is no required minimum setback (0 metres)

Other Yards

Based on the configuration of the lands, the subject lands do not have a rear yard or exterior side yard.

Maximum Lot Coverage

Of the remnant developable area, 70% of the available land would be able to be developed.

As outlined in Section 3 of this report, the resultant floor plate possible is approximately 1,549.79_square metres / 16,681.9 square feet.

General Provisions

Section 4 of Zoning By-law 79-200 contains General Provisions that require compliance. An overview of General Provisions that are considered relevant to the subject lands are outlined with planning commentary.

Height Exception – Provision 4.7

“The height regulations of this By-law shall not apply to place of worship elements (including belfries, spires, steeples and bell towers, and ornamental architectural features such as, but not limited to, cupolas and finials), chimneys, water tanks, elevator or mechanical penthouses, flag poles, clock towers ad antennae, tent and mechanical amusement rides or devices in any Zone except as hereinafter provided or to farm buildings and farm structures, (which shall not include buildings or structures to be erected or used for the purpose of human habitation) in an A zone, an R zone or an OS Zone and shall not apply to the following types of structures and buildings in HI Zones: processing towers, processing equipment and industrial process buildings.”

Planning Commentary: This regulation allows for minor exemptions for non-structural building elements that project above a building.

Municipal Services Required – Provision 4.9

“Unless otherwise provided for in this By-law, no person shall in any residential zone, commercial zone or institutional zone, erect and use a dwelling or a building containing one or more dwelling

units or locate or use a mobile home unless such dwelling or building or mobile home is served by a municipal water supply and sanitary sewage system.”

Planning Commentary: If residential development is proposed on the subject lands, it must utilize urban services including municipal water and sanitary sewers.

Daylighting Triangle – 4.15

“Notwithstanding any other provision of this By-law, no person shall, in any zone, erect any building, structure, accessory building or accessory structure on a corner lot within the “daylighting triangle” hereinafter defined.

4.15.1 *No person shall, in any zone, erect, plant or maintain within the “daylighting triangle” hereinafter defined any hedge, shrub, bush, tree, fence or wall which will obstruct the vision of drivers or vehicles.*

4.15.2 *The “daylighting triangle” referred to in sections 4.15 and 4.15.1 is the triangular space formed by the limits of the travelled portion of the roadway on the 2 streets abutting a corner lot and a line drawn from a point in one such limit to a point in the other such limit, each such point being distant 9 metres (29.53 ft.) measured along such limit from the point of intersection of the 2 such limits, provided that where the limits of the travelled portions of the 2 roadways do not intersect at a point, the point of intersection of the limits of the travelled portions of the roadways shall be deemed to be the intersection of the projection of such limits or the intersection of the tangents of such limits.”*

Planning Commentary: A Daylight Triangle would be required for dedication to Niagara Region at the corner of Glenholme Avenue and Lundy’s Lane. This land should not be considered as developable area.

Existing Automobile Service Stations and Gasoline Bars – Provision 4.29

“Notwithstanding that an automobile service station and a gasoline bar are not permitted uses in any NC or GC Zone, a building on a lot in any such zone which was lawfully used for the purpose of an automobile service station or a gasoline bar on the day of the passing of this By-law may be altered, renovated or reconstructed and the use of such altered, renovated or reconstructed building and such lot for the purpose of an automobile service station or a gasoline bar continued provided that, subject to section 4.29.1, (81-62 #44) (i) in the case of an automobile service station, all the regulations in section 8.9.2 for automobile service stations in AS Zones shall apply to such automobile service station and shall be complied with, (ii) in the case of a gasoline bar, all of the regulations in section 8.9.3 for gasoline bars in AS Zones shall apply to such gasoline bar and shall be complied with.

4.29.1 *If the lot referred to in section 4.29 has either or both a lesser lot frontage or a lesser lot depth than the minimum required in section 8.9.2 in the case of an automobile service station or the minimum required in section 8.9.3 in the case of a gasoline bar, the minimum lot frontage and lot depth regulations in the said sections shall not apply to prevent the alteration, renovation or reconstruction and use which would otherwise be permitted under section 4.29 provided that the whole of such lot continues to be used for the purpose of an automobile service station or a gasoline bar, as the case may be.”*

Planning Commentary: The current use of the property as an “Automobile Service Station” is a legal non-conforming use. These uses are not permitted within the GC Zone, however as it is an existing use it is “grandfathered” and is permitted to continue, and/or expand. Once this use ceases, it cannot be reestablished on the property without a Zoning By-law Amendment.

Drive Through Facilities – Provision 4.34

A drive-through facility is permitted in a NC Zone, a GC Zone, a SC Zone, a TC Zone and an AS Zone and shall be separated from the boundary of a residential zone by a minimum perpendicular distance of 10 metres, measured from the speaker box.

If a use is proposed that requires a drive through, there would be a required 10.0 metre setback from the northern lot line.

Planning Commentary: The adjacent property to the north (5846 Highland Avenue) is zoned “GC”, however beyond this lot are lands zoned for Residential purposes (R1). The required setback from a Residential Zone to a Drive-through would apply to the subject property regardless of the commercially zoned lot in between.

Parking Requirements

Parking Areas – 4.19

The parking provisions for land uses permitted by Zoning By-law 79-200 are found in subsection 4.19.1 the General Provisions.

Planning Commentary: Due to the wide range of permitted uses within the GC Zone, a comprehensive chart has been provided that includes the full list of permitted uses, definitions and examples of such uses and relevant parking and loading requirements. This chart is included as **Appendix 1** to this report.

Depending on the location and orientation of provided parking spaces, the dimensions of the spaces will vary. Tables 2-5 of Section 4.19.1 of the Zoning By-law include these requirements.

Loading Areas – 4.20

“The owner or occupant of every building or structure to be erected or used for manufacturing, storage or for any purpose involving the use of vehicles for the receipt or distribution of materials or merchandise, shall provide and maintain on land that is not part of a highway and not part of the required parking area, a loading area located on the same lot with the said building or structure. The said loading area shall contain loading spaces to the extent at least prescribed in the following schedule and each such loading space shall be at least 9 metres long (29.53 ft.) and 3 metres (9.84 ft.) wide and have a vertical clearance of not less than 4 metres (13.12 ft.) with access to a street or public lane of at least 6 metres (19.69 ft.) in width by means of one or more access driveways and access ramps.

The following is the schedule referred to:”

Floor Area of Building or Structure	Minimum Number of Loading Spaces
Up to and including 300 sq. m	0
Over 300 sq. m but not exceeding 3,700 sq. m	1
Over 3,700 sq. m but not exceeding 9,300 sq. m	2
Over 9,300 sq. m	2 loading spaces plus 1 additional loading space for each 9,300 sq. m of floor area over the initial 9,300 sq. m

Planning Commentary: The required amount of loading would be predicated on the proposed use. The current use does not require loading space.

The standard required dimensions for loading spaces is 9 metres x 3 metres.

Road Allowance Requirements – 4.27

As outlined within Policy 1.5.25 of Part 3, Section 1 of the NFOP (1993) all local roads have a planned width of 20 metres.

Bicycle Parking – 4.39

“Bicycle parking enclosures shall only be required for buildings or portions of buildings that were not existing on the effective date of the By-law and shall be provided in accordance with the following:

- (i) *Bicycle parking shall be provided at a rate of 0.5 spaces/dwelling unit for apartment dwellings and 1 space/500m² of floor area for non-residential uses.*

- (ii) *Short-term bicycle parking shall be provided at a rate of 2 spaces per apartment dwellings with 20 units or less, and at a rate of 6 spaces per apartment dwelling having more than 20 dwelling units. Non-residential uses shall provide 1 space/500m² of gross leasable floor area.*
- (iii) *A bicycle parking space shall be located within a building, structure, enclosure and/or bicycle locker.*
- (iv) *A bicycle parking space shall be a minimum of 1.8 metres in length, a minimum of 0.6 metres in width, and overhead clearance in covered spaces shall be a minimum of 2.1 metres.*
- (v) *Notwithstanding subsection (iii) above, where a bicycle parking space provides for vertical storage of a bicycle, the minimum length may be reduced to 1.2 metres.*
- (vi) *Notwithstanding subsections (i) and (iii), where a bicycle parking space is located within a bicycle locker, overhead clearance shall not be required.*
- (vii) *A bicycle parking space shall abut an access aisle which shall be a minimum of 1.5 metres in width.*

Planning Commentary: Bicycle Parking requirements would apply to new development, only. Short Term Bicycle Parking solutions include outdoor Bicycle Racks or publicly accessible secured storage areas. Long Term Solutions are typically located interior to buildings, with access only provided for tenants/employees.

3.0 SITE DEVELOPMENT AND DESIGN CONSIDERATIONS

If redevelopment is proposed for the subject lands, the following matters should be considered:

- Roadway Dedications
- Available Development Envelope
- Building Heights
- Access and Mobility
- Land Use and Design Compatibility

3.1 Roadway Dedications

The subject land has frontage and flankage along three (3) public roadways. Lundy's Lane is owned and maintained by the Regional Municipality of Niagara and Highland Avenue and Glenholme Avenue are owned and maintained by the City of Niagara Falls.

The deemed width for Lundy's Lane as set out in Policy 1.5.34 of Part 3, Section 1 the NFOP (1993) and Schedule "M" of the NOP (2022) is 26.2 metres

Highland Avenue and Glenholme are local roadways and have a deemed width of 20 metres per policy 1.5.36 of the NFOP (1993).

Based on the current width of Lundy's Lane, a variable widening of at least 2 metres should be expected along the southern lot line of the subject lands. The exact dimensions of the required widening would be confirmed by Niagara Region.

Furthermore, per Policy 1.5.25 of Part 3, Section 1 of the NFOP (1993) enables the City to obtain a daylight triangle of 5 metres by 5 metres at the intersection of Glenholme Avenue and Lundy's Lane. It appears that the area that would be affected has remained generally clear of development to date but has not been yet obtained by the Municipality. The existing Pylon Sign and landscaping would likely be required to be removed.

To ensure zoning compliance for future development proposals, development setbacks must be taken from the back of the required widening, rather than the existing property line.

3.2 Development Envelope

The need for land dedication and required zoning setbacks reduces the as-of-right developable area on the subject lands. The diagram provided as **Figure 3**, shows the resultant development envelope where primary buildings could be located.

After the required widening and Daylight Triangle are taken, the remaining development envelope measures approximately 2,214.0 square metres / 23,831.29 square feet. Depending on the future use of the lands, portions of the development envelope would be required for parking, landscaping and access.

As lot coverage is limited to 70% of the developable area, the resultant permitted floor plate area would be approximately 1,549.79 square metres / 16,681.9 square feet.

Please note these areas are approximate and should be confirmed based on a legal survey of the property.

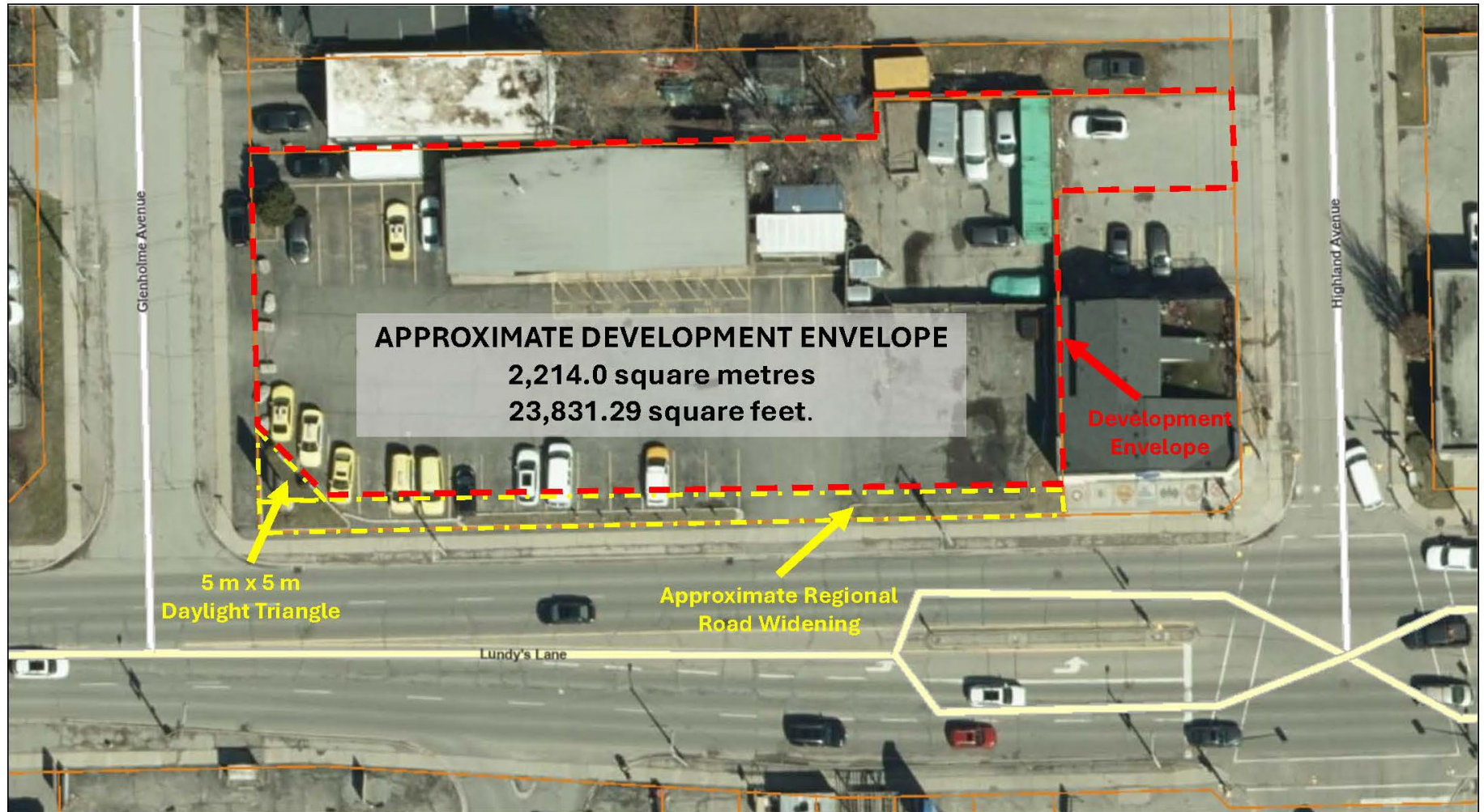


Figure 3 – Development Envelope

3.3 Building Heights

As outlined within the Policy overview in this report, the following height regulations and permissions are provided:

- Maximum height – 5 to 8 Storeys (Low Rise)
- 12 metres (Zoning)

Any proposed exceedances in height would be subject to planning approvals, and the demonstration of conformity with the Height Strategy and Tourist Commercial policies of the Official Plan.

3.4 Access and Mobility

The subject lands are accessible by multiple modes of transportation including pedestrians, cyclists Public Transit users and private motorists. Consideration of all modes of transportation through any redevelopment is encouraged. Such elements include barrier free access, bicycle parking, sidewalk access from the Street and through any parking areas and complimentary landscaping.

3.5 Land Use and Design Compatibility

The redevelopment of the subject property may result in the introduction of new nuisances such as noise, odour, or shadow and overlook impacts.

Shadow and Overlook

The existing built form on the subject lands consists of a one-storey building. Redevelopment, specifically that which introduced additional height, should be evaluated for potential impacts on adjacent properties.

To avoid overlook and shadowing impacts, placement of structures closer to Lundy's Lane and in line adjacent buildings would limit such impacts.

Parking and Loading

The policies of the Official Plan encourage the location of parking to be provided out of view from the streetscape to contribute to better design. To achieve this, the placement of any future structures towards the southern part of the property is encouraged, with parking to be located to the north, or within or under the structure.

Any required loading spaces should be appropriately located to ensure safe access without reliance on adjacent streets.

Landscaping

The provision of perimeter and purposeful landscaped areas on the subject lands is desirable and supports the City's policies and objectives related to the Lundy's Lane Corridor.

The existing context and redevelopment would benefit from the inclusion of boulevard plantings and additional landscaping on the subject lands to improve the public realm and streetscape and to balance heat and runoff impacts from the extensive impervious surfaces on the site.

4.0 ANTICIPATED STUDIES AND REPORTS

Based on the location, characteristics and history of the use of the subject lands, there are studies that should be anticipated as being required as part of any future redevelopment of the subject lands. A list and brief overview of these anticipated studies and reports is provided below.

Please note that this list is non-exhaustive and may differ depending on comments provided by the City and review agencies through a process called “Pre-Consultation”. Confirmation of potential issues, impacts or submission requirements should be obtained from relevant consultants, the City of Niagara Falls, and/or other review agencies (Conservation Authority, Provincial Ministries, etc.), as required.

Environmental Site Assessment and Record of Site Condition

GSP has reviewed the materials related to the previously obtained Record of Site Condition (“RSC”) for the subject lands. RSC No. 206351 was filed by the Ministry of the Environment on December 21, 2012 for the property known as 6499 Lundy’s Lane. There is no record of study or an RSC being filed for a part of PIN 64314-0344 (5845 Highland Avenue).

Based on the review of the Record of Site Condition and Survey Plan (**Figure 4**), it appears that the RSC was prepared to commercial standards. Accordingly, additional testing and remediation would likely be required to establish residential or other sensitive uses on the subject property.

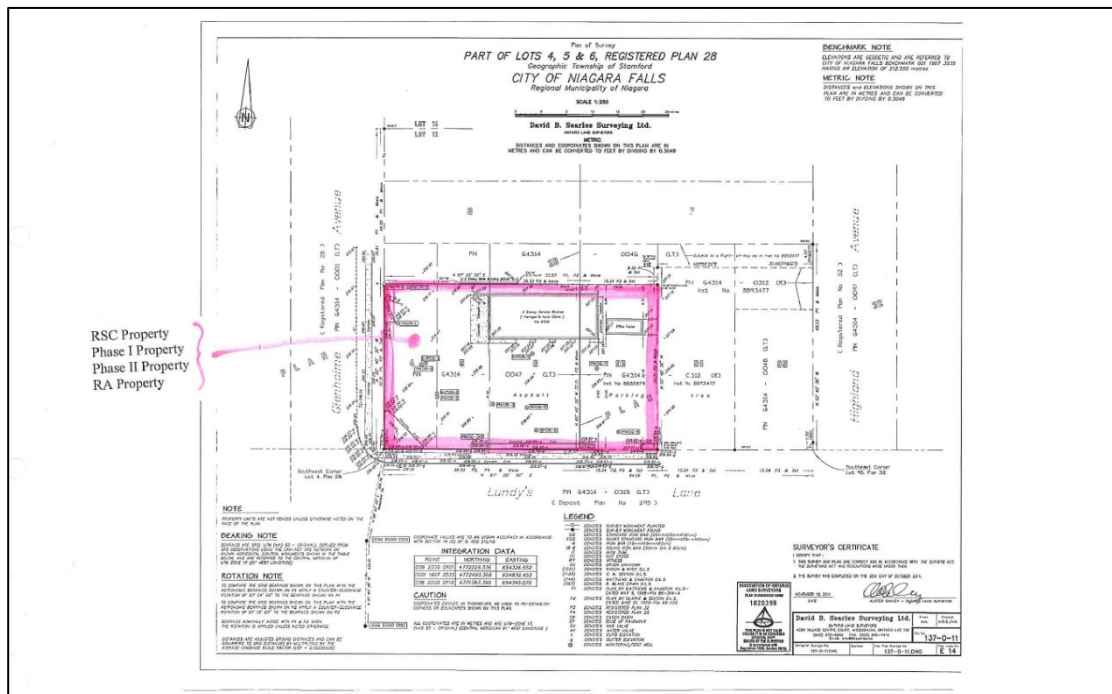


Figure 4 - RSC Survey Plan

Noise and Vibration Study

If sensitive land uses, including residential dwelling units, are introduced as part of future development on the subject lands, the completion of a noise and/or vibration study may be requested by the City of Niagara Falls.

Based on the context of the site and surrounding area, the scope of this study may include an assessment of noise generated by transportation sources (i.e. traffic on Lundy's Lane) and stationary sources (rooftop mechanical equipment on adjacent buildings, loading facilities on adjacent lands).

These reports typically recommend mitigation measures for the subject property or proposed buildings such as fencing, specific types of windows, doors or cladding, and the provision of air conditioning. Warning clauses are often applied to title and agreements of purchase, sale or lease to advise future tenants/owners of potential impacts from noise sources

Archaeological Assessment (Stage 1 and 2)

The subject property appears to be identified on Schedule "K" of the NOP (2022) as exhibiting archaeological potential.

Although an archaeological study may be requested, the previous use of the lands, existing development area, and remediation have likely disturbed most of the site. Any such study would likely be limited to undisturbed lands, such as landscape strips or unpaved areas.

Transportation Impact Study

Currently, the subject lands have two (2) vehicular accesses. Which are located on the east side of Glenholme Avenue and at the eastern end of the site along Lundy's Lane. There is no physical access currently provided from Highland Avenue.

Lundy's Lane is a high volume Regional arterial roadway with four lanes of traffic, dedicated turning lanes, physical medians and multiple intersections with local roadways (signalized and unsignalized).

Any significant increase in traffic related to new development may require justification and recommendations from a transportation planner or engineer to determine the most appropriate location of site access to and from the property.

Depending on the location of future structures, an analysis of sightlines may also be requested to ensure safe access to and from the subject lands.

Planning Justification Report

If any deviations from permitted uses or other zoning provisions are sought on the property, Planning Justification may be required. The degree of this analysis would be proportional to the type of development and impact and significance of the deviation from the zoning requirements.

Minor adjustments may be able to be supported by a Planning Justification Brief, whereas larger rezonings or redesignations of the land would require a more comprehensive Planning Justification Report.

Tree Preservation and Protection Plan

As a best practice, the City of Niagara Falls will often request a tree preservation and protection plan as part of site plan applications. This study typically involves the review of on-site trees or trees located along common lot lines with adjacent properties. Depending on the health and location of the tree, recommendations for preservation or removal are provided.

Where trees are removed, replacement is often encouraged on site through landscape plans.

Civil Engineering Plans and Reports

In support of redevelopment the preparation of civil engineering plans and reports will be required. These plans and reports will address matters of site servicing (i.e. water, sanitary), stormwater management, and grading and drainage.

Sun/Shadow Study

Due to the location of the property being south of existing residential development, there is the potential for shadowing impacts to occur on adjacent lands.

If taller buildings are proposed, the City of Niagara Falls may request a Sun/Shadow Study to determine if the development would result in a significant loss of sunlight or the casting of shadows for prolonged periods during the day. These studies are often required for development of five (5) storeys or more.

Title Work

It may be advantageous to clean up the title of the property, specifically by merging the PINs and evaluating the need for the existing right-of-way easement on the property. The easement may present an impediment to locating new development. This work would be best undertaken by the purchaser after the lands have been obtained to avoid unnecessary delays. Such works can take 3-6 months to complete due to the need for survey works and processing by the Land Registry office.

5.0 SUMMARY AND KEY INFORMATION

Following a review of the applicable Planning framework inclusive of plans, policies and guidelines, as well as a consideration of the context of the subject lands and surrounding area, the following points are key to consider regarding the obtainment or redevelopment of the subject lands:

- A full range of commercial land uses are permitted on the subject property, as set out in the General Commercial (GC) Zone of By-law 79-200.
- The existing “Automobile Service Station” use is legal non-conforming and is permitted to continue subject to the requirements of Provision 4.29 of the Zoning By-law. The establishment of new “Automobile Service Station” uses within the GC Zone is not permitted.
- Residential dwelling units (i.e. apartments) are permitted on the subject lands; however, they must be in a mixed-use configuration, represent no more than 66% of the Gross Floor Area, and may only be provided above ground floor non-residential uses. The establishment of standalone residential uses would require a Zoning By-law Amendment, at minimum.
- As-of-right development can be up to 12 metres / 4 storeys in height (whichever is less). An increase in height up to 8 storeys is permitted by the Height Strategy for Tourist Commercial Lands in Official Plan but must be considered through Zoning By-law Amendment Application.
- The subject lands have an extensive development envelope, with no required setbacks (i.e. 0.0 metres) from any lot lines. After the required widening and Daylight Triangle are taken, the remaining development envelope measures approximately 2,214.0 square metres / 23,831.29 square feet. As lot coverage is limited through zoning to 70% of the developable area, the resultant permitted floor plate area would be approximately 1,549.79 square metres / 16,681.9 square feet.
- A variable road widening of up to approximately 2.5 metres along the Lundy’s Lane frontage would be taken through any future severance or site plan application for dedication to Niagara Region.
- A road widening of approximately 0.5-1.0 metres along both Highland Avenue and Glenholme Avenue may be taken through any future severance or site plan application for dedication to the City of Niagara Falls.

- A Daylighting Triangle of 5 metres by 5 metres at the northwest corner of the intersection of Glenholme Avenue and Lundy's Lane would be requested for dedication to City through a future land division or site plan application. The Region may request a larger dedication, subject to review and comments.
- There is a right-of-way easement on the eastern portion of the property associated with Lots 94 and 95. This easement should be explored to determine its exact location and if it would present an impediment to future development.
- If redevelopment of the site proposed, a Site Plan Approval application will be required. This process will enable the City and Region to request studies, reports and plans in support of development that may include, but are not limited to, a Transportation Impact Study, Servicing and Stormwater Management Plans, Environmental Site Assessments and a Record of Site Condition, Archaeological Assessments, and/or a Planning Justification Report.
- Completion of additional Environmental Site Assessments and the obtainment of a Record of Site Condition for a part or the entirety of the subject lands may be required, depending on the proposed use of the lands.

We trust that this Development Permission Assessment will serve as a helpful guide and reference for the future sale and/or redevelopment property.

Respectfully submitted,



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