

Property Information/Details

Location Description	Lot 88 Block 308 Plan 4204
City of Yellowknife Community Plan No. 5007	Section 2.3.2 Housing Section 4.5 Niven Residential Section 5.1 Environment and Climate Section 5.3 Municipal Infrastructure
City of Yellowknife Zoning By-law No. 5045, as amended	Chapter 3 – Roles and Responsibilities Chapter 4 – Development Permit Process Chapter 5 – General Development Regulations Applicable to all Zones Chapter 8 – General Development Regulations Applicable to Residential Zones Section 10.1. R1 – Low Density Residential
Civic Address:	123 Moyle Drive
Access:	Moyle Drive
Municipal Services	Piped sewer and water services; external garbage pickup

Recommendation:

Planning and Environment Division recommends approval of Development Permit application PL-2025-0013 for a 'Townhouse Dwelling' requesting a variance to the minimum side yard setback requirement.

CONDITIONS OF APPROVAL

1. The minimum side yard setback requirements have been decreased from 1.5m to 0m;
2. The Developer shall enter into a Development Agreement with the City with respect to on-site and off-site improvements and site servicing requirements, prior to occupancy.
3. The Developer shall submit a Real Property Report (RPR) prior to occupancy; and
4. The development shall comply with the approved stamped drawings for PL-2025-0013 and with all By-laws in effect for the City of Yellowknife.

Proposal:

A four-unit 'Townhouse Dwelling' is currently being developed at 123 Moyle Drive, which is a permitted use in the R1 zone. The proposed uncovered walkway to enter the units accessed from the back of the building is within the minimum side yard setback requirement. As such, the developer is requesting a variance. Construction will be halted until a permit for this application is issued and deemed effective.

Background:

The subject lot is located in the R1 Zone and can be accessed from Moyle Drive. The lot is part of the Niven Residential area and lies among a mix of low and medium density residential uses with some mixed-use activities like the Cornerstone Pentecostal Church at 118 Haener Drive and a daycare home at 125 Moyle

Drive. To the west side and rear of the lot is a PR zoned municipal land that is undeveloped and naturally landscaped in the form of a rip rap.

In April 2023, the developer submitted an application for a development permit (PL-2023-0011) for a townhouse dwelling four-plex that complied with all zoning regulations. Consequently, the application was exempt from obtaining a development permit and the developer directed to apply for a building permit.

Prior to receiving an approved building permit, construction for the development commenced and it was identified that the engineered walkway will be installed within the minimum side yard setback requirement, which means that a variance application to formalize the reduction of the side yard setback distance is required. As a result, this variance application PL-2025-0013 has been submitted to the City for review.

In support of application PL-2025-0013 the following documents / studies were referenced:

- Lot 88 Block 308 Registered Caveat 215266 Purchase Agreement 6072 N.W.T. Ltd, DM# 722426
- Niven Phase VII General Subdivision Grading Plan, prepared by AECOM in March, 2011
- Niven Lake Development Scheme (2004 By-law No. 4339 and 2007 By-law No. 4438)
- PL-2023-0011 Submitted Drawings and Development Permit Exemption, DM# 736098

JUSTIFICATION:

A development permit is required for any development that is accompanied by a variance, as stated in Section 4.8 of Zoning By-law No. 5045, as amended, authorized under section 23 of the *Community Planning and Development Act*. Section 4.8.1 of Zoning By-law No. 5045 authorizes that variances related to yard setbacks may be approved by the development officer. Moreover, as a condition of development permit approval, the development officer may require that the applicant enter into a development agreement with the City, as stated in Section 4.7 of Zoning By-law No. 5045.

Community Planning and Development Act

The *Community Planning and Development Act* establishes the framework for the City to regulate developments within its boundaries. As stated in section 16. (1) and 25. (1) of the *Act*, a development authority, being a development officer appointed under section 52, shall, subject to any applicable conditions, approve an application for a development permit for a use specified in a zoning bylaw as a permitted use of land or of a building, if the development authority is satisfied that the applicant meets all the requirements of the bylaw.

Under section 20. (1), (2) and (3), "A zoning bylaw may authorize a development authority to require, as a condition of the approval of an application for a development permit that a person enter into a development agreement with the municipal corporation."

Under section 23. (1): “A zoning bylaw may authorize a development authority to approve an application for a development permit in respect of a proposed development that does not fully conform with the bylaw, if the development authority is satisfied that the proposed development would not (a) unduly interfere with the amenities of the neighbourhood; or (b) detract from the use, enjoyment or value of neighbouring parcels of land”.

Community Plan By-law No. 5007

Section 3(1) of the *Act* states that the purpose of a community plan is to provide a policy framework to guide the physical development of a municipality, having regard to sustainability, the environment, and the economic, social and cultural development of the community.

This 2019 Community Plan is a comprehensive outline of the goals and objectives for the City with directive policies to accomplish the objectives. All applicable policies of the Community Plan are to be considered and applied at the time of development.

Zoning By-law No. 5045, as amended

The purpose of a zoning by-law is to guide the physical development of a municipality by offering regulations to the use and development of land and buildings within the municipal boundary of the City.

The Development Officer is authorized to receive and process development permit applications as referred to in section 3.1.1 of the By-law. The Development Officer is also authorized to evaluate variance applications as defined in the criteria set in sections 4.8 and 4.9 of the By-law.

PLANNING ANALYSIS

Community Plan By-law No. 5007

The Plan identifies Niven: “residential area that is located adjacent to the downtown core and provides easy access to the core of the City by vehicle and alternative transportation modes. Much of the residential development in the area is recent and new residential lots continue to be developed on vacant parcels”.

4.5 Niven Residential	
Planning and Development Objectives:	Policies:
4. To support a mix of residential types and densities.	4-a. A variety of residential single unit and multiple unit dwelling types will be permitted.
6. To enhance public outdoor recreation amenities.	6-a. Amenities will be constructed as the area continues to be develop in line with current development standards.

5.1.1 Climate Change	
Planning and Development Objectives:	Policies:

3. To better utilize existing municipal infrastructure.	3-a: The City will prioritize development in the existing built footprint of the City before developing new greenfield areas.
	3-b: The City will encourage compatible mixed land uses where appropriate to support compact urban development and to reduce travel distances for residents.
	3-c: Higher density development will be encouraged near employment centres and major activity nodes.

5.3 Municipal Infrastructure	
Planning and Development Objectives:	Policies:
3. To concentrate commercial and residential development in areas serviced by piped water and sewer services.	3-a: Commercial and residential development will be prioritized in areas with piped water and sewer services.

Infill developments create many benefits that attract a diverse range of users, such as shorter commute times, more accessible amenities, and reduced environmental impacts of the community. By achieving the objectives and policies listed in sections 5.1.1 and 5.3 of the Community Plan, the proposed development aligns with the general goals set by the City of Yellowknife to maximize the potential of infill development.

Zoning By-law No. 5045

The proposed development complies with the applicable regulations for the permitted Use set out in the By-law with the exception of meeting the minimum side yard setback requirement.

Evaluating the Request for Variance to the Side Yard Setback (Section 4.9):

The variance request is to decrease the minimum requirement for the side yard setback from 1.5m to 0m. The subject lot presents physical limitations relating to terrain and grade. The lot's rear yard has natural features that are 6.0 metres lower in elevation than its front yard. Due to the siting of the building's foundations that resulted in the building being located within the minimum side yard setback requirement. The building itself is not within the minimum setback requirement, but the walkway into the units accessed from the rear side of the building has resulted in encroaching into the setback.

A townhouse is a permitted use in the R1 zone, provided it conforms to the applicable area development plan (Niven Lake Development Scheme) and to the objectives and policies of the Community Plan. This variance request is deemed reasonable after examination against the criteria set out in section 4.9.1 of the Zoning By-law No. 5045; it will not unduly interfere with the amenities of the neighborhood; or detract from the use, enjoyment or value of neighboring parcels of land.

Site Planning Considerations (Section 7.1):

The proposed development provides future residents of the multi-unit dwelling with pedestrian access to Moyle Drive, the walking trail at the north of Niven neighbourhood, the transit stop along Moyle Drive, as well as an abundance of natural areas surrounding the site. The Yellowknife Fire Division expressed no concerns with their vehicles and personnel reaching the proposed development; furthermore, the provision of outdoor lights and apt snow clearing methods have been noted as conditions of development.

Grading (Section 7.3):

The lots' proposed finished grade follows the Niven Phase VII General Subdivision Grading Plan, with positive drainage proposed to be directed towards Moyle Drive from the lot's parking area and front yard and with drainage in the rear and side to be directed towards the adjacent municipal land, and the landscaping in the rear yard connecting to the existing surrounding green space. The development must not alter the natural contour of the adjacent municipal land. The proposed construction drawings for the walkway, stamped by a Registered Professional Engineer, implement engineering measures to mitigate unintentional encroachment into the adjacent municipal land. The use of a cyclone netting system to avoid ground movement was indicated. A Development Agreement will be required for this development to ensure that the natural contour is preserved; on-site landscaping and off-site improvements are properly installed, and the developer provides sufficient security to the City in case the work is left incomplete and the City must undertake it.

Vehicular Access and On-Site Traffic (Section 7.4):

Parking for this development is proposed in the front yard facing Moyle Drive. A driveway that adequately fits four Type "B" cars is proposed with a positive 2% slope towards Moyle Drive. The driveway is setback from the sidewalk and will not unduly affect vehicular and pedestrian activities along Moyle Drive. A retaining wall is proposed between the driveway and the walkway in front of the building's south façade. Service vehicles approaching the site, such as emergency vehicles or garbage trucks, can safely park along Moyle Drive, with minimal impact to traffic flow.

Landscaping (Section 7.5):

Per the R1 Zone, a minimum of 100% of the minimum front yard area is required to be landscaped. The front yard area will be used as a driveway with four individual parking spaces as well as an entryway to the building. Any remaining landscaping in the rear yard of the lot is encouraged to be maintained as extensions to the PR zoned land. Any planted vegetation shall be grown from a northern stock and be capable of healthy growth in Yellowknife. Since the required landscaped area is less than 500m², it was incorporated as part of the site plan drawing. Recommendation from the Yellowknife Fire Division to replace coniferous trees with deciduous ones to minimize fire risks were communicated to the developer. Through a Development Agreement and future site inspections, the City will ensure that the adjacent PR zoned land is restored to its original state. This includes any change to the land's original grade due to filling of the land or any damage to the existing trees.

Parking and Driveways (Section 7.8):

Per Table 7-3 of the By-law, four 'type B' parking spaces are required on-site. The development complies with this requirement. Moreover, the development complies with the requirement of bicycle parking by providing space for a minimum of two bicycles as required. The driveway is proposed with a positive surface drainage towards Moyle Drive, and a concrete retaining wall that separates it from the building's south façade.

Multi-Unit Dwelling (Section 8.2.6):

The ongoing development at 123 Moyle Drive complies with applicable zoning regulations for townhouse / multi-unit dwellings. The development provides direct pedestrian access between the building's entrances and the sidewalk on Moyle Drive through the proposed walkway along the side yard. Pickup access to the garbage and compost bins will be from Moyle Drive. Regarding emergency vehicle access, the Yellowknife Fire Division expressed no concerns with their vehicles and personnel reaching the proposed development's site and four units.

Conditions of Use (Section 10.1):

The ongoing development at 123 Moyle Drive complies with R1 regulations relating to Lot width, Lot coverage, building height, front and rear yard setbacks, and site development. The only contravention to the by-law is the minimum side yard setback requirement, which requires a variance to decrease the minimum requirements from 1.5m to 0m.

Servicing / Safety / Parks & Recreation / Community / Reconciliation

The proposed development lies within the City's piped sewer and water serviceable area, and will be tied to the City's water main, storm main, and sewer main at the developer's expense. The developer is also responsible for any arrangements for electric power, gas, telephone, garbage pickup and cable services required to complete the development, and as defined in the executed Purchase Agreement as well as the Development Agreement to be executed.

Moyle Park, a municipal park serving the Niven neighborhood, is located just 200 meters south of the subject lot. Given that the building features four 4-bedroom units, it is likely to attract families, making the park's close proximity a valuable asset for residents and their lifestyles.

Public Consultation

A Notice of Application was mailed to neighboring residents within 30m of the subject property on January 22, 2025, per section 15. (1) (h) of the *Community Planning and Development Act*. A Notice of Application was also posted on-site on January 22, 2025. As a result of the Notice of application, there were two submissions, one written and one verbal, received and considered by the City of Yellowknife regarding this Variance Notice. A table listing all public comments received and how they were considered in the decision process can be found at the end of the Report.

A public notice of the decision will be posted at the site, as well as on the City's Capital Update, in conjunction with the date of decision of the permit. Commencing on the date of approval, the application will be subject to a 14-day appeal period. If not appealed within this 14-day period, the development will be considered effective starting on the 15th day.

City Departments / External Agency Consultation

As directed in section 4.5.1 of Zoning By-law No. 5045, a request for comments was circulated to City Departments on January 22, 2025. Comments were reviewed and considered, and are summarized in the table below:

No.	City Department	Comments	Consideration
1.	Fire Division	Fire Division has no issues with this. For consideration, this building will have a roof deck and gutters, has there been thought about wildfire potential and some FireSmart ideas for this build. The roof is a large surface where combustible debris can accumulate. When a wildfire is threatening, wind-blown embers can land on the roof and ignite any debris, potentially putting home at risk. Slotted decks allow combustible debris to accumulate below the deck. There should be access to spaces below the deck so debris can easily be removed. The underside and roof should be fire resistant material along with the composite boards. Sheath the underside of the deck and balconies with fire-resistant sheathing as this will act as a shield against embers. Another hazard at the roof line is exposed or open eaves which create an entry point for sparks and embers. They should install a drip edge at the roof edge above the	These comments were communicated to the developer.

		gutters to protect any exposed roof sheathing, deck boards or railing. They should look at gutters with a debris reduction system, use a noncombustible leaf or gutter guard. This guard will prevent the accumulation of combustible debris. The conifers should be replaced with deciduous trees, deciduous trees burn fast, transfer heat to the building and is a ladder fuel (transfers fire from the ground to the top of the building) this helps makes a FireSmart build.	
2.	Public Works and Engineering	I have reviewed the plans and the draft Development Agreement. I see nothing of concern with this development. As it is a multi-unit dwelling, they will have to contract directly with a garbage removal company, so the size of bins and frequency of pick-up will be between them and the contractor. The City does not have size restrictions on waste bins. The property owners need to ensure they're following the Solid Waste Management By-Law, No.4376, as amended. Regarding the proposed retaining walls, sloping and grading of the parking and walkway area. The following comments were received: - Sidewalk and curb details do not match City of Yellowknife Design standard. - Slope maximum to be 8% or less for walkway.	These comments were communicated to the developer. Reference to the City's design standards for sidewalks has been communicated to the developer and has been noted on the approved drawings.

3.	Community Services	Community Services will have no issues if there is no encroachment.	No consideration is required.
4.	Lands and Building Services	Lands & Building Services require detailed drawings showing the elevation of the walkway and how it relates to the property line. The applicant cannot encroach on the adjacent land. The current riprap will need to be removed from the adjacent land.	Applicant provided additional drawings that propose engineering measures to mitigate any encroachment. The drawings, stamped by a Registered Professional Engineer, indicate a cyclone netting system to be used. Rip rap rocks that are discarded onto the adjacent municipal land shall be removed, and the land brought back to its original state. This will be a condition of the Development Agreement to be executed.

Public Consultation

As a result of the Notice of application posted on-site and circulated on January 22, 2025, the following comments were received from neighbouring residents and considered by the City of Yellowknife.

No.	Public Comments	Consideration
1.	1. The street is already congested for parking. 2. The builders have construction materials on the road, on the sidewalk and on a lot across the street which is a bylaw infringement. 3. The builders are disrespectful of quiet times and weekends and will run their equipment in the night hours and all weekend long. 4. Their building girders were dropped off in the summer time and permanently dented the neighbours driveway (125A Moyle Dr.) 5. The building at 125A Moyle Drive is a licensed Daycare which requires parents to drop off and pick up their kids regularly. Any building that is near the Daycare should take this into consideration.	- To clarify a few points, the building being proposed is for 4 units, not 12 units. The building meets all conditions of the zoning by-law except for meeting the side yard setback requirement, which is what this application is for - a variance to decrease the side yard setback requirement. - The building's first floor is lower than the sidewalk level. If look at the west elevation drawing, there is a ramp leading from the sidewalk level down to the building's first floor level.

6. The building that is the process of being built shows that the first floor is below the sidewalk. That is not what is indicated on the plan that you sent. 7. There are already many multi-family dwellings in the area that make parking impossible. If someone is parked on the street, running their car to warm it up in the morning during the winter, the exhaust will be going straight into the apartment. 8. It appears that this building has 12 apartments but the plans only show parking for four cars. Where are all the other cars supposed to park? There is already a parking shortage because of how densely nestled all the dwellings are. (January 29, 2025)	- The City has a Noise By-law and an Unsightly Land Use By-law. Discarded materials and construction noise fall under those two by-laws and not the Zoning by-law, so any complaints related to those can be submitted through the City's complaint process: https://www.yellowknife.ca/en/city-government/complaints.aspx (January 30, 2025)
Thank you for getting back to me Mr. Sleem. Can you please explain why this variance is being entertained when the building has already been built? (January 30, 2025)	In 2023, they applied for a development permit with a proposed building that complies with all zoning regulations. Consequently, it was exempt from obtaining a development permit since it met all the zoning conditions. After that, they applied for a building permit and began construction. During construction, there were errors that led to the building being placed closer to the side yard property line. Because of these errors, the building is now situated within the minimum setback distance, which means that a side yard variance is required to bring the building in compliance with the zoning by-law. This is why this application is happening now after the fact. (January 31, 2025)

CAVEATS / OTHER LEGAL AGREEMENTS

It is the developer's responsibility to comply with applicable conditions specified within the registered Purchase Agreement. The developer will be responsible for remediating any damages have occurred to the adjacent municipal land or road. A Development Agreement will be required for this development; moreover, the City will conduct future site visits to verify on-site landscaping and off-site conditions.

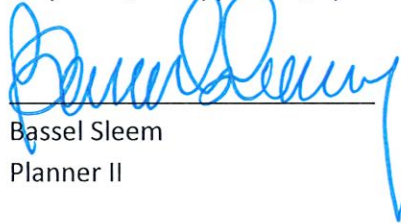
CONDITIONS OF APPROVAL

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3. The Developer shall submit a Real Property Report (RPR) prior to occupancy; and
4. The development shall comply with the approved stamped drawings for PL-2025-0013 and with all By-laws in effect for the City of Yellowknife.

Conclusion:

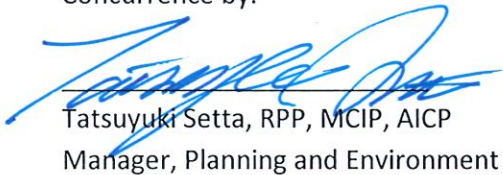
Development Permit application PL-2025-0013 is recommended for approval with the above mentioned conditions as it conforms to Community Plan By-law No. 5007 and complies with applicable regulations of Zoning By-law No. 5045.

Prepared [and approved] by:


Bassel Sleem
Planner II

SEP 11, 2025
Date

Concurrence by:


Tatsuyuki Setta, RPP, MCIP, AICP
Manager, Planning and Environment

Sept. 12, 2025
Date

Attachment: Approved Drawings Development Permit PL-2025-0013, DM# 789158

DM# 805103