

PROCEEDING COMMENCED UNDER section 17(24) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended*

Appellant: Kenneth Westhues

Applicant: John Pinter

Subject: Proposed Official Plan Amendment

Description: To permit a vacation rental unit

Reference Number: OPA 139

Property Address: 5411 River Road

Municipality/UT: Niagara Falls/Niagara

OLT Case No.: OLT-21-001728

OLT Lead Case No.: OLT-21-001728

OLT Case Name: Westhues v. Niagara Falls (City)

PROCEEDING COMMENCED UNDER section 34(19) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended*

Appellant: Kenneth Westhues

Applicant: John Pinter

Subject: Zoning By-law

Description: To permit a vacation rental unit

Reference Number: By-law 2021-96

Property Address: 5411 River Road

Municipality/UT: Niagara Falls/Niagara

OLT Case No.: OLT-22-002871

OLT Lead Case No.: OLT-21-001728

WITNESS STATEMENT OF KENNETH WESTHUES, APPELLANT

22 February 2022

Submitted as PDF email attachment to the Tribunal, as well as parties and participants:

From Kenneth Westhues kwesthue@uwaterloo.ca

To Zwarycz, Tamara (MAG) Tamara.Zwarycz@ontario.ca,

with copies to Rocky Vacca rvacca@sullivan-mahoney.com,
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John Garrett j.garrett@sympatico.ca

The Ontario Planning Act: Regard for Municipal Decision

Section 2.1 of the *Planning Act* requires that OLT have regard for Niagara Falls City Council's decision in this matter, and for the information Council considered in reaching its decision.

If Council's decision in this matter were near-unanimous and enjoyed consistent, overwhelming support at the municipal level, both from residents and city staff, OLT would appropriately be reluctant to overturn the decision.

In the case at hand, Councillors and residents have been sharply divided, and staff recommendations on successive revisions of the Application at issue changed.

The OPA and ZBA were approved on 10 August 2021 by the smallest possible margin, 5 to 4, the Mayor breaking a tie between the 4 Councillors in favour and the 4 Councillors opposed.

The staff recommendation on 10 August 2021 to approve the subject property, 5411 River Road, for commercial use as tourist accommodation, contradicted the staff recommendation on 9 February 2021, against allowing 5411 River Road to be used for tourist accommodation.

In the original OPA/ZBA application, submitted in October 2020, 5411 River Road was one of five homes proposed for conversion to commercial use as extensions or "satellites" of the inn at 5359 River Road. All five homes would be used to lodge guests. The application was for a "hybrid inn," a multi-building tourist establishment. The terms "vacation rental" or "VRU" did not appear anywhere in the original application.

On 9 February 2021, the application came before Council. Many residents were strongly opposed to the proposed commercialization of their neighbourhood. Staff recommended allowing only one home, 4465 Eastwood, to be converted to tourist accommodation as a satellite of the inn. The other four homes, including 5411 River Road, would remain residential. Council granted the applicant's request for deferral, to allow time for revision.

By the time Council voted on 10 August 2021, it was no longer the same application. The proposal of "satellites" and a "hybrid inn" had disappeared. So had five of the six properties in the original application: the inn at 5359 River Road and the homes at 4465 Eastwood, 5287, 5401, and 5427 River Road. The only property left in the application was 5411 River Road, and it was proposed to be a vacation rental, a term not used anywhere in the original application.

This appeal is therefore not of a decision at the municipal level on which there has been consensus or clarity. On the contrary, the by-laws passed by a narrow margin, after intense community conflict, hours upon hours of rancorous debate at meetings of City Council, repeated changes of the application, and contradictory staff recommendations – and on top of all that, the Applicant's sale of the main property involved, the inn at 5359 River Road, and his falsification of its ownership in the revised application of 22 April 2021.

The winding, twisting, tumultuous path at the municipal level that has led to the current appeal suggests that the provincial tribunal should not quickly rubber-stamp the municipal decision, but look carefully afresh at all the relevant evidence.

Issue 1. Are Official Plan Amendment (OPA) No. 139 and the by-law consistent with the Provincial Policy Statement, in particular:

- a) Section 1.1.1, Healthy, safe and livable communities**
- b) Section 1.3, Employment**
- c) Section 1.4, Housing**

No, the OPA and ZBA are not consistent. The Preamble of the *PPS* says the document “is more than a set of individual policies” and “is to be read in its entirety.” The overall priorities of the *PPS*, as highlighted on the *PPS* homepage, are on increasing housing, protecting the environment and public safety, reducing barriers and costs for development, and creating jobs.

Section 1.1.1 calls for “Healthy, safe and livable communities.” Spot-zoning a vacation rental in a residential neighbourhood reduces the safety of residents, a fact documented in the Participant Statement by Debra Jackson-Jones. The invasion of Anne’s and my home by a drunken reveller about 12:15 AM on 31 July 2021 reinforces this point.

Section 1.1.1 uses the term *development* seven times, certainly an important priority. The OPA/ZBA at issue here involves development only in the broadest sense. Nothing gets built, not even renovated. All that happens is conversion of a family home from residential to commercial use as owner-absent tourist accommodation.

Section 1.3 concerns Employment. Allowing a vacation rental at 5411 River Road would likely result in a net-zero increase in jobs – creating a part-time job managing the VRU, but taking away a resident owner’s part-time job running a B&B or some other home business.

Section 1.4 spells out what appears to be the single main priority of the *PPS*, namely increasing the housing supply. Allowance of 5411 River Road to be used as a VRU directly contradicts this priority, by permitting conversion of the dwelling to commercial use as tourist accommodation.

Approval of OPA 139 and the by-law would set a precedent for easy conversion of additional dwellings in the River Road Neighbourhood and beyond into vacation rentals. The contradictions with the *PPS* would therefore not be limited to this one property but would likely be multiplied many times over in years to come, as additional dwellings in Niagara Falls would be converted to commercial use as tourist accommodation.

Issue 2. Do OPA No. 139 and the by-law conform with *A Place to Grow: Growth Plan for Greater Golden Horseshoe*, in particular:

- a) Subsection 18 of Section 2.2.5, Employment**
- b) Section 2.2.6, Housing**

No, the OPA and ZBA at issue do not conform with *A Place to Grow*, and for the same reasons as given above for how these by-laws contradict the *PPS*. The contradictions are indeed greater with the growth plan for this region, since the latter is more specific.

Subsection 18 of Section 2.2.5 encourages economic development in a “Gateway Economic Zone” delineated in Schedules 2, 5, and 6. This zone, as shown in red on the maps, extends along the international border all the way from the Queenston-Lewiston Bridge just north of Niagara Falls to the Peace Bridge in Fort Erie. This is a “zone” in a broader sense of the term than in a city’s zoning by-law, and includes areas zoned agricultural, industrial, commercial, residential, institutional, and so on. In no way does this section of *A Place to Grow* encourage conversion of residential properties to commercial use for tourist accommodation or any other kind of business.

The same section encourages tourism, which is already encouraged in the River Road Satellite District by allowance of four-bedroom, owner-occupied B&Bs. The OPA/ZBA at issue here would displace one kind of tourism in favour of another, replace owner-occupied B&Bs with owner-absent VRUs. This is not at all encouraged by the regional growth plan.

The OPA/ZBA at issue here is flagrantly at odds with **Section 2.2.6**, which encourages housing choice, intensification, increased density, affordable ownership and rental housing. Conversion of 5411 River Road into a VRU would contradict all these goals. To conform with this section of the regional growth plan, this property should be returned to what it was from 2012 to 2017, affordable rental housing, or to what it was prior to 2012, an owner-occupied family home with a studio rental unit.

Issue 3. Do OPA No. 139 and the by-law conform with the Regional Municipality of Niagara Official Plan, in particular:

- a) Section 2.A.1., Tourism and Recreation**
- b) Section 11.A., Residential Areas and Housing**
- c) Section 2.3, Housing (in the revised Official Plan now pending approval by the Ministry of Municipal Affairs and Housing)**

Section 2.A.1 recognizes tourism and recreation as important components of the region’s economy and encourages their expansion and development. By basic rules of logic, one cannot deduce from these provisions that a VRU or any purely commercial tourist enterprise should be permitted in a residential neighbourhood. It is a question of what belongs where. In the River Road Satellite District, the tourism-related home occupation of a B&B is not just permitted but encouraged, up to a maximum of four rooms for tourists.

Section 11.A is a closer-to-home reflection of the high priority in the *PPS* and the *Greater Golden Horseshoe* plans on development of increased housing, especially affordable housing and rental housing. The OPA and ZBA at issue in this appeal directly contradict this priority. These by-laws *remove* a dwelling from the housing market, allowing it to be used for a purely commercial purpose, and setting a precedent for conversion of additional homes in this city's residential neighbourhoods to commercial use as tourist accommodation.

Section 2.3 of the new Regional Official Plan affirms similar priorities as Section 11.A of the previous plan: increased housing, quality of life, public health and safety, affordability. It is beyond me how a reasonable person could find in any of these provisions of the new or previous Regional Plans support for conversion of a single detached dwelling in a residential neighbourhood to commercial use as tourist accommodation. Recall again the invasion of my home after midnight by a barefoot party-boy lodging at the illegal, unlicensed VRU next door.

Issue 4a. Does OPA No. 139 conform with the policy regime of the City of Niagara Falls Official Plan, in particular (a) Part 2, Section 1.17, Vacation Rental Units, in particular Subsections 1.10.5, 1.10.6, and 1.10.7

This section of the city's Official Plan results from passage of OPA 127 in 2018, a provision governing VRUs in general. OPA 127 is not well-written or well-thought-out, but its intent – as confirmed by the OLT decision upholding it – is to restrict VRUs to commercial districts, and to permit them in residential districts only by a further amendment of the Official Plan, and a corresponding amendment to the city's Zoning By-law.

Section 1.17 states that VRUs are not to be established indiscriminately, and that applications for the necessary OPA and ZBA amendments will be processed on a site-by-site basis, subject to a list of criteria.

The first four numbered criteria, **Subsections 1.10.1 to 1.10.4**, actually include nine criteria, but these are not very helpful for discriminating between which VRU applications to approve and which ones to deny, since many thousands of dwellings in the city meet these criteria: for example, single or semi-detached dwelling, no more than 3 bedrooms, landscaping that looks residential, adequate parking, proximity to tourist areas.

The dwelling at issue here, 5411 River Road, more or less meets the criteria listed in Subsections 1.10.1 to 1.10.4.

This dwelling does not meet the criterion in **Subsection 1.10.5**: "An undue concentration of Vacation Rental Units is to be avoided in order to reduce the impact on the character of the residential nature of the area and residential enjoyment of permanent residents." Linda Manson's Participant Statement for this proceeding is a trenchant exposé of the undue

concentration of VRUs that already exists. John Garrett's Participant Statement highlights the same point.

The term "undue concentration" is imprecise, and so far as I have found, is not used in the literature of professional planning. The staff report of 1 June 2021 stated that an "undue concentration of Vacation Rental Units is not being created by this proposal," that the nearest existing vacation rental is 300 m distant, and that "uses within the block of the subject land are limited to residential dwellings and owner occupied bed and breakfasts."

These statements are simply false. On 10 August 2021, the day of Council's vote on the VRU application, Mr. Herlovitch, Director of Planning, circulated to all Members of Council the Airbnb listings for the three vacation rentals John Pinter was then operating: 5411 River Road, the immediately adjacent 5401 River Road, and about 80 metres away, 4465 Eastwood Crescent. That same day, 10 August 2021, and regularly up to February 2023, Applicant John Pinter was advertising 5411 and 5401 River Road together on Airbnb under the heading, "Two Adjacent 4 Bedroom Vacation Rentals Sleeps 20."

Documentary evidence shows that on 17 October 2022, the city issued a license to Mr. Pinter to operate a B&B at 5401 River Road, even though he sold the property to Dan Xu in 2021, hence is no longer the owner. Mr. Pinter is not resident at 5401 River Road, though he lists it on his website as the mailing address of his business, Niagara Historic Inns.

Documentary evidence also shows that in 2022 and the first months of 2023, in a large-scale construction project, Mr. Pinter is enlarging the dwelling at 5427 River Road, which he owns, and converting it into an inn for tourists consisting of 8+ bedrooms, each with ensuite bath, plus guest lounge, conference rooms, media/library rooms, and so on. The city's Committee of Adjustment has approved this project and the city has issued building permits.

Given the city-sanctioned reality of Mr. Pinter's business on these two properties, 5401 and 5427 River Road, there is already undue concentration of commercial tourist accommodation in this block of River Road – and that is without taking into account several additional properties owned by others that are used as VRUs and have been for several years.

Subsection 1.10.6 sets forth the sixth criterion for assessing VRU applications: "Council shall consider the current vacancy rate(s) and supply of available housing for tenants." This is not a reliable criterion, since vacancy rates fluctuate from year to year and even month to month, while an OPA/ZBA allowing a VRU would be prospectively permanent. If one nonetheless applies this criterion in the case at hand, the application to permit a VRU at 5411 River Road fails to meet this criterion. Data from CMHC for the core area of Niagara Falls show a general decline in the vacancy rate for rental housing from roughly 5 percent in 2013 to less than 2 percent in 2021.

Subsection 1.10.7 gives the seventh and last criterion, that the proposed VRU would be "subject to a licensing by-law passed under the Municipal Act, 2001, designed to regulate the

operational aspects of Vacation Rental Units.” The OPA and ZBA at issue here fail to meet this criterion. In this regard, Linda Manson Participant Statement for this proceeding gives “solid, logical grounds for denial of this OPA and ZBA.”

Section 7.1(b) of the licensing by-law states as a disqualifying condition for receipt of a license that “the applicant or licensee has past breaches or contraventions of any law or any provision of this By-law or any other municipal by-law or Provincial or Federal Statute associated with the carrying on of such business.”

The owners of 5411 River Road, Alfred and Collette D’Souza, who have permitted this property to be used illegally as a vacation rental since 2017, have been issued cease-and-desist orders by the City of Niagara Falls on at least two occasions. By available evidence, they ignored or disregarded these orders and allowed the business to proceed as usual. Section 7.1(b) of the licensing by-law would seem to disqualify them from being licensed to operate a VRU.

Section 7.1(g) of the licensing by-law states as a disqualifying condition for issuance of a license that “the applicant or licensee has submitted an application or other documents to the City containing false statements, incorrect, incomplete, or misleading information.”

The Applicant for the OPA/ZBA at issue here is the leaseholder of 5411 River Road, John Pinter. The city determined that Mr. Pinter submitted false information on property ownership in a sworn statement, the OPA/ZBA application of 22 April 2021. There is also evidence that Mr. Pinter ignored at least one cease-and-desist order from the City, for his commercial tourist accommodation at 5401 River Road. By these actions, he would appear to have disqualified himself from being licensed to operate a B&B or VRU. Councillor Carolyn Ioannoni stated at the Council meeting of 10 August 2021 that approving 5411 River Road for vacation rental would mean rewarding nonresidents of this residential neighbourhood for illegally operating a purely commercial enterprise in it for the past four years.

Issue 4b. Does OPA No. 139 conform with the policy regime of the City of Niagara Falls Official Plan, in particular (b) Part 2, Section 3.1.3, Accommodations

This section, also taken from the 2018 OPA 127, states: “Accommodations are only permitted to be developed in Major or Minor Commercial Districts.” The word *accommodations* is defined as “uses intended to provide temporary lodging to the travelling and vacationing public and include, but not limited to: a Hotel, Motel, Inn, Bed and Breakfast and a Vacation Rental Unit.”

Explicitly and undeniably, OPA 139, which would permit a Vacation Rental Unit at 5411 River Road, contradicts this provision of the Official Plan. A VRU is one kind of accommodations, which are permitted only in major or minor commercial districts. The subject property is not in such a district, as these are defined in the Official Plan, but in a residential district, the River Road Satellite District. Therefore, by Section 3.1.3, a VRU on this property is not permitted.

Issue 4c. Does OPA No. 139 conform with the policy regime of the City of Niagara Falls Official Plan, in particular (c) Part 2, Sections 4.2.37 and 4.2.38, River Road Satellite District

These two sections of the Official Plan, each having just one sentence, are key to this appeal. They have been in the Official Plan for many decades, probably in the original one. They are in their own separate part of the Official Plan headed, in bold-faced caps, “**RIVER ROAD SATELLITE DISTRICT.**” Here are the two sentences:

4.2.37: The River Road Satellite District shall function as a residential area where Bed & Breakfast accommodations are permitted so long as the residential character of the area is maintained.

4.2.38: No commercial uses shall be permitted in the River Road Satellite District.

Explicitly and undeniably, OPA 139 contradicts these provisions of the Official Plan. A vacation rental unit is defined in the Official Plan as a commercial use. Therefore, it is not permitted.

The text of OPA 139 acknowledges that allowance of a VRU at 5411 River Road contradicts these key parts of the city’s policy regime, Sections 4.2.37 and 4.2.38 of the Official Plan. It says that notwithstanding these policies, a VRU will be permitted at 5411 River Road.

There needs to be some reason for this *notwithstanding* clause, some good reason for contradicting foundational provisions of the Official Plan.

For no other residential area of Niagara Falls does the Official Plan include the explicit provision that “no commercial uses shall be permitted.” The likely reason is longstanding recognition that on account of the heritage character, beauty, location and natural environment of the River Road Satellite District, it is especially vulnerable to attempts at commercial intrusion. Hence to preserve this neighbourhood as a safe and pleasant residential area, an area that draws tourists who prefer to lodge in an owner-occupied B&B rather than in purely commercial accommodations, Sections 4.2.37 and 4.2.38 were included in the Official Plan.

Issue 4d. Does OPA No. 139 conform with the policy regime of the City of Niagara Falls Official Plan, in particular (d) Part 2, Section 13, Preamble

Far from being a hodge-podge of spot-zoned exceptions, a city’s Official Plan is an overall, general framework for land-use planning within its boundaries. Even so, exceptions need sometimes to be made, and this section of the Niagara Falls Official Plan provides that certain areas can be “designated Special Policy Areas due to their unique characteristics and/or special circumstances.”

The dwelling at 5411 River Road has no “unique characteristics” that recommend it for special, exceptional use as a vacation rental. Like thousands of other houses in the city, it was built as a single-family home and used as such until 2017, when John Pinter leased it from Alfred and

Collette D'Souza for use as a vacation rental or satellite of the inn he owned at that time at 5359 River Road.

Nowhere in documents supporting OPA 139 can one find "special circumstances" that recommend 5411 River Road for use as a vacation rental – beyond the fact that it is leased by a businessman who lives miles away, a hotelier who formerly operated motels in commercial districts but whose business plan now involves converting homes in a residential district to commercial use as vacation rentals or inns. That is not a special circumstance that justifies spot-zoning the subject property for commercial use as a VRU, especially because it sets a precedent for similar spot-zoning in the city's other residential neighbourhoods.

Issue 4e. Does OPA No. 139 conform with the policy regime of the City of Niagara Falls Official Plan, in particular (e) Part 4, Section 2.6, Official Plan Review and Amendments, in particular Subsections 2.6.1, 2.6.2, 2.6.3 and 2.6.5

Part 4, Section 2.6 lists ten criteria the city should take into account when considering any amendment to the Official Plan. The Issues List for this proceeding identifies four of these criteria as of particular relevance in the present case.

Section 2.6.1 asks if the proposed OPA conforms "to the general objectives of this Plan." Of all the general objectives mentioned in the Official Plan, perhaps the one most relevant to the case at hand is in the Preamble to Part 2, Section 4: "to ensure that tourism development does not adversely affect the quality of life enjoyed in residential neighbourhoods."

One of the main ways this objective is achieved is by the restriction of VRUs, an owner-absent, purely commercial form of tourism development, to commercial districts. Spot-zoning a VRU in a residential neighbourhood adversely affects residents' quality of life – as attested by my wife's and my own experience living next door to 5411 River Road and by horror stories about Airbnb party houses that regularly make the news. The OPA/ZBA at issue in this appeal does not conform to this general objective of the Official Plan.

Section 2.6.2 defines as a criterion the "suitability of the site or area for the proposed use, especially in relation to alternative sites or areas of the City or possible areas of intensification or redevelopment."

To meet this criterion, a dwelling in a residential neighbourhood spot-zoned for commercial use as a VRU would need to be physically distant from its neighbours. 5411 River Road does not meet this criterion, being just a few metres distant from dwellings on either side. Commercial districts of the city provide alternative sites.

Section 2.6.3 defines as a criterion "compatibility of the proposed use with adjacent land use designations and natural resources." If owner-absent VRUs were compatible with adjacent residential uses, the city's Official Plan would not restrict them, as a general rule, to commercial

districts. My wife Anne and I have six years personal experience of the incompatibility of the VRU at 5411 River Road with adjacent land uses.

Section 2.6.5 defines as a criterion “the extent to which the existing areas of the City designated for the proposed use are developed or are available for development.”

I learned the relevance of this criterion from observing Tom Halinski, as counsel for the city, apply it successfully to the proposal of high-rise condo towers on River Road in the block south of the subject property in this appeal. Mr. Halinski correctly pointed out in the OLT hearing on that proposal that existing areas of Niagara Falls are designated for high-rise condo towers and are available for development.

In the present case, large swaths of the city are designated for VRUs and are available for this form of commercial tourist accommodation. There is no reason to permit them in a residential area where owner-occupied B&Bs have long had an integral place but where the Official Plan says “no commercial uses shall be permitted.”

Issue 5. Does the ZBA, By-law 2021-96, conform to the OP, as modified by OPA 139?

The answer to this question is yes, but that is still another reason why this appeal should be allowed and both the OPA and ZBA should be overturned.

According to the *Planning Act*, a city’s Official Plan sets forth its overall “goals, objectives, and policies,” the general framework for land-use planning within the city limits. A city’s zoning by-law is a more detailed, specific document putting the Official Plan into practical effect. Hence when an amendment to the zoning by-law is proposed, it is appropriate, even necessary, to ask whether this amendment squares with the Official Plan.

In the case at hand, the proposal is to amend the Official Plan and the zoning by-law at once for the same specific purpose, namely to legalize 5411 River Road as a VRU. When you read the proposed OPA and ZBA, the surprise is that each says almost exactly the same thing.

This is a good example of bad planning. I have described it before as not just spot-zoning but spot-Official-Planning.

Case Law, Ontario Land Tribunal

Among numerous precedents in courts and tribunals, in Ontario and elsewhere, three decisions of the provincial tribunal (OMB, LPAT, now OLT) can be cited in direct support of this appeal.

First and most recent is the 2021 Decision by Susan de Avellar Schiller, upholding the Niagara Falls by-law on vacation rentals (PL 180774). This Decision notes that “the City does

contemplate the possibility that a particular proposal for a VRU may be appropriate in a particular Residential zone” through “careful and prudent analysis” (Para. 13). By the evidence I will call at the hearing of this appeal, the analysis in the present case has been neither careful nor prudent. The Decision states further that “case-by-case consideration of a VRU application in a Residential zone enables the City to fine tune the fit of that particular application to the character and needs of a Residential neighbourhood” (Para. 23). No fine tuning will be found in the Municipal Record for this appeal. The Record will show no evidence of how this vacation rental would fit with the character of the River Road Neighbourhood, or how it would satisfy the needs of this neighbourhood.

The **second** Decision of particular relevance here is from 2012, that of Reid Rossi in the case of Veronica Veal v. City of Niagara Falls (PL 120425). The City had rezoned the home next to Ms. Veal’s for vacation rental (at that time called “cottage rental”). Ms. Veal appealed, citing reasons similar to those listed above. The Tribunal permitted me to present evidence at the hearing in support of her appeal. The Decision went wholly in Ms. Veal’s favour: “This ‘spot zoning’ of residential neighbourhoods is tantamount to piecemeal planning and does not present itself as an entirely seamless or efficient means of permitting the use let alone regulating it. And, as the Board has seen in the circumstances of this particular case, this approach has raised voices of opposition by virtue of the impacts this practice can have on adjacent residential properties” (p. 9). Since the Decision in the Veal case, the City has not approved any residential properties for use as vacation rentals – none until the approval of 5411 River Road, next door to my wife’s and my home, that is here being appealed.

The **third** Decision of particular relevance here is from 2019, that of Scott Tousaw in the appeal of the City of Toronto’s zoning by-laws governing short-term rentals (PL 180082). That Decision included a trenchant explanation for why owner-absent short-term rentals are a commercial, as opposed to residential, use of property, and for how such rentals can conflict with the interests of long-term residents. Two especially pertinent quotations from this Decision are as follows. (1) “The Tribunal finds that the intensity of use arising from a successful, dedicated STR [short-term rental], with its business intention of regular turnover of STR customers, even if just one dwelling, operates as and exhibits a commercial use of land that changes the character of a neighbourhood” (Para. 125). And (2) “Whatever the number, one fact is indisputable: each dedicated STR unit displaces one permanent household. That household must find another place to live. This phenomenon is occurring in increasing numbers in Toronto’s residential areas, the very places that are planned, designed and built to provide housing for residents.”

Documents referenced in the Witness Statement

Note in preface

Omitted here are the three successive reports and recommendations of the City of Niagara Falls Department of Planning, Building, and Development, on the original and subsequent revisions of the OPA/ZBA application that culminated in Council's passing of the by-laws here under appeal. These documents, along with some others relating to the application and to the use of 5411 River Road for tourist accommodation, I intend to introduce through Witness Alex Herlovitch, who was Director of Planning, Building and Development from 2017, when disputes about 5411 River Road first arose, until after the by-laws at issue were passed in August 2021.

The OPA and ZBA under appeal

By-law 2021-95, OPA 139, making 5411 River Road a "special policy area," City of Niagara Falls. Attached.

By-law 2021-96, spot-zoning 5411 River Road for vacation rental, City of Niagara Falls. Attached.

Provincial and regional policy documents

Planning Act, Government of Ontario. Available online, quotations included in witness statement. (preface)

Provincial Policy Statement, Government of Ontario. Available online, quotations included in witness statement. (Issue 1)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, Government of Ontario. Available online, quotations included in witness statement. (Issue 2)

Official Plan, Niagara Region, Government of the Regional Municipality. New and previous versions available online, quotations included in witness statement. (Issue 3)

Municipal policy regime

Official Plan, Niagara Falls, City Government. Available online, as updated to 2019.

OPA 127, regulating VRUs in general, 2018. Attached (pertinent to Issues 4 and 5)

B&B and VRU Licensing By-law, 2021. Available online, sections 1 to 7.1(h) attached. (Issue 4a)

Map showing permitted locations for vacation rental units (VRUs), 2022. Attached (issue 4e)

By-law 2021-99, amending the B&B/VRU Licensing By-law, advertising platforms. Attached (Issue 4a)

Other

Email exchange about midnight intruder, Westhues and city officials, 2021. Attached. (Issues 1, 3)

Airbnb listing for “Two Adjacent 4 Bedroom Vacation Rentals Sleeps 20,” for 5401 and 5411 River Road, same listing August 2021, February 2023. Attached. (Issue 4a)

Table showing CMHC statistics on vacancy rates in Niagara Falls. Attached (Issue 4a)

Cease-and-desist letters to owners of 5411 River Road. Attached (Issue 4a)

List on the city’s website of licensed B&Bs, showing John Pinter as the licensee for 5401 River Road, 3 February 2023. Attached (Issue 4a)

Contact page on the website of John Pinter’s business, Niagara Historic Inns, showing its mailing address as 5401 River Road, February 2023. Attached (Issue 4a)

Committee of Adjustment Decisions with respect to 5427 River Road, December 2022 and January 2023. Attached (Issue 4a)

Documents possibly needed in cross-examination

On two public occasions, the Applicant for the OPA and ZBA, John Pinter, made false, defamatory accusations against me to Council and senior staff of the City of Niagara Falls.

In an oral presentation at the Council meeting of 10 September 2019, Mr. Pinter described me as one who “needs to have a zone around him, in terms of he can’t have any type of B&B beside him, any type of operation.”

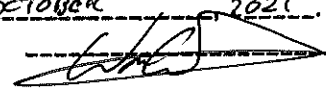
In an email to Councillors and senior officials dated 31 May 2021, included in the agenda package for the Council meeting of 1 June 2021, Mr. Pinter warned recipients of “the danger with Ken Westhues and his gang of left wing anarchists,” and described me as the kind of person who would move “into a house in the hotel zones and start complaining about these operations” or “into a agricultural zone and complain about basic farming activities.”

I anticipate that Mr. Pinter's attorney in this proceeding, Mr. Vacca, may repeat or insinuate these false, defamatory characterizations of me in his cross examination of me at the merit hearing. In the event that he does so, I would like to be able to defend myself by introducing into evidence two emails, one from me to Mr. Pinter in August 2016, and one from me to Alfred and Collette D'Souza in January 2017. These emails are attached.

I, the undersigned, Clerk of the Corporation of the City of Niagara Falls, hereby certify the foregoing to be a true and correct copy of by law 2021-95 of the said City. Given under my hand and the seal of the said Corporation this 21 day of OCTOBER 2021.

CITY OF NIAGARA FALLS

By-law No. 2021- 95

 Clerk

A by-law to provide for the adoption of Amendment No. 139 to the City of Niagara Falls Official Plan (AM-2019-022).

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS, IN ACCORDANCE WITH THE PLANNING ACT, 1990, AND THE REGIONAL MUNICIPALITY OF NIAGARA ACT, HEREBY ENACT AS FOLLOWS:

1. Amendment No. 139 to the City of Niagara Falls Official Plan, constituting the attached text and map, is hereby adopted.

Read a First, Second and Third time; passed, signed and sealed in open Council this 14th day of September, 2021.


BILL MATSON, CITY CLERK


JAMES M. DIODATI, MAYOR

WILLIAM STEEN MATSON, a Commissioner, etc.,
City Clerk, for the City of Niagara Falls,
Regional Municipality of Niagara,
Province of Ontario.

PART 2 - BODY OF THE AMENDMENT

All of this part of the document entitled PART 2 - BODY OF THE AMENDMENT, consisting of the following text and attached map, constitute Amendment No. 139 to the Official Plan of the City of Niagara Falls.

DETAILS OF THE AMENDMENT

The Official Plan of the City of Niagara Falls is hereby amended as follows:

1. MAP CHANGE

The "Area Affected by this Amendment", shown on the map attached hereto, entitled "Map 1 to Amendment No. 139", shall be identified as Special Policy Area "76" on Schedule "A" to the Official Plan

2. TEXT CHANGE

- a. PART 2, SECTION 13 - SPECIAL POLICY AREAS is hereby amended by adding the following subsection:

13.76 SPECIAL POLICY AREA "76"

Special Policy Area "76" applies to 0.07 hectares of land on the west side of River Road, south of Eastwood Crescent. Notwithstanding the policies of Part 2, Section 1.4 – Residential, and Part 2 Sections 4.2.37 and 4.2.38 – River Road Satellite District, a single vacation rental unit may be permitted on the land, subject to the following policies:

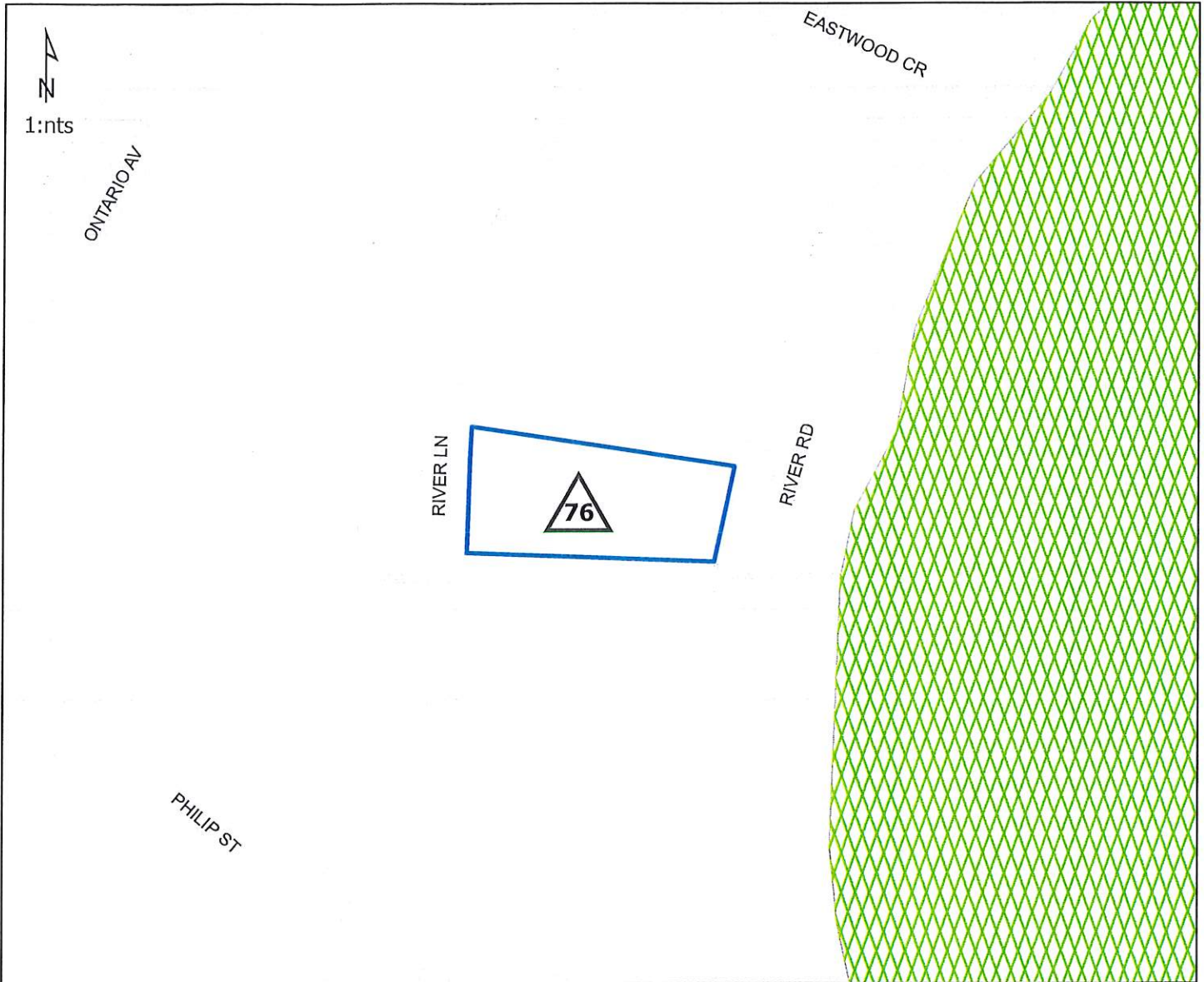
- i. The vacation unit shall be limited to the existing detached dwelling.
 - ii. The vacation rental unit shall be limited to a maximum of three (3) bedrooms to ensure the scale and physical character is compatible with the surrounding neighbourhood.
 - iii. Parking and landscaping shall be consistent with the residential environment.
 - iv. The vacation rental unit will be subject to a licensing by-law passed under the Municipal Act, 2001, designed to regulate the operational aspects of Vacation Rental Units including, but not limited to: compliance with zoning, excessive noise, garbage disposal; property standards and adequate insurance.
- b. The following definition is hereby added to APPENDIX 1 – DEFINITIONS:

"Vacation Rental Unit" means the commercial use of a detached dwelling or dwelling unit that is available for rent in its entirety for a period of 28 consecutive days or less, to provide temporary lodging to the travelling and vacationing public and is licensed by the City of Niagara Falls to carry on business.

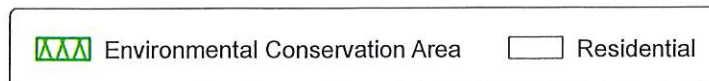
MAP 1 TO AMENDMENT NO. 139 SCHEDULE A TO THE OFFICIAL PLAN

Area Affected by this Amendment 

Proposed Change To Add: SPECIAL POLICY AREA "76"



City of Niagara Falls Official Plan Excerpt from SCHEDULE - A - FUTURE LAND USE PLAN



NOTE: This schedule forms part of Amendment No. 139 to the Official Plan for the City of Niagara Falls and it must be read in conjunction with the written text.

I, the undersigned, Clerk of the Corporation of the City of Niagara Falls, hereby certify the foregoing to be a true and correct copy of _____

By-law 2021-96

of the said City. Given under my hand and the seal of the said Corporation this 20 day of _____

October 2021

Clerk

CITY OF NIAGARA FALLS

By-law No. 2021- 96

A by-law to amend By-law No. 79-200, to permit the use of the lands for a vacation rental unit (AM-2019-022).

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

1. The Lands that are the subject of and affected by the provisions of this by-law are described in Schedule 1 of this by-law and shall be referred to in this by-law as the "Lands". Schedule 1 is a part of this by-law.
2. The purpose of this by-law is to amend the provisions of By-law No. 79-200, to permit the use of the Lands in a manner that would otherwise be prohibited by that by-law. In the case of any conflict between a specific provision of this by-law and any existing provision of By-law No. 79-200, the provisions of this by-law are to prevail.
3. Notwithstanding any provision of By-law No. 79-200 to the contrary, the following uses and regulations shall be the permitted uses and regulations governing the permitted uses on and of the Lands.
4. The permitted uses shall be:
 - (a) The uses permitted in the R2 zone
 - (b) The use of a detached dwelling, existing on the date of the passage of this by-law, for a vacation rental unit
5. The regulations governing the permitted uses shall be:
 - (a) Maximum number of bedrooms in a vacation rental unit 3
 - (b) Minimum number of parking spaces for a vacation rental unit 3, which may be provided in tandem and which shall be constructed and maintained in accordance with Section 4.19.3(a) of By-law No. 79-200
 - (c) The balance of regulations specified for an R2 use.
6. For the purposes of this by-law:

"VACATION RENTAL UNIT" means the commercial use of a detached dwelling that is available for rent in its entirety for a period of 28 consecutive days or less,

WILLIAM GLEN MATSON, a Commissioner, etc.,
City Clerk, for the City of Niagara Falls,
Representative of the City of Niagara,
Province of Ontario

to provide temporary lodging to a single group of the travelling and vacationing public and is licensed by the City of Niagara Falls to carry on business

7. All other applicable regulations set out in By-law No. 79-200 shall continue to apply to govern the permitted uses on the Lands, with all necessary changes in detail.
8. No person shall use the Lands for a use that is not a permitted use.
9. No person shall use the Lands in a manner that is contrary to the regulations.
10. The provisions of this by-law shall be shown on Sheet D4 of Schedule "A" of By-law No. 79-200 by redesignating the Lands from R2 and numbered 2 to R2 and numbered 2 and 1148.
11. Section 19 of By-law No. 79-200 is amended by adding thereto:
19.1.1148 Refer to By-law No. 2021-96.

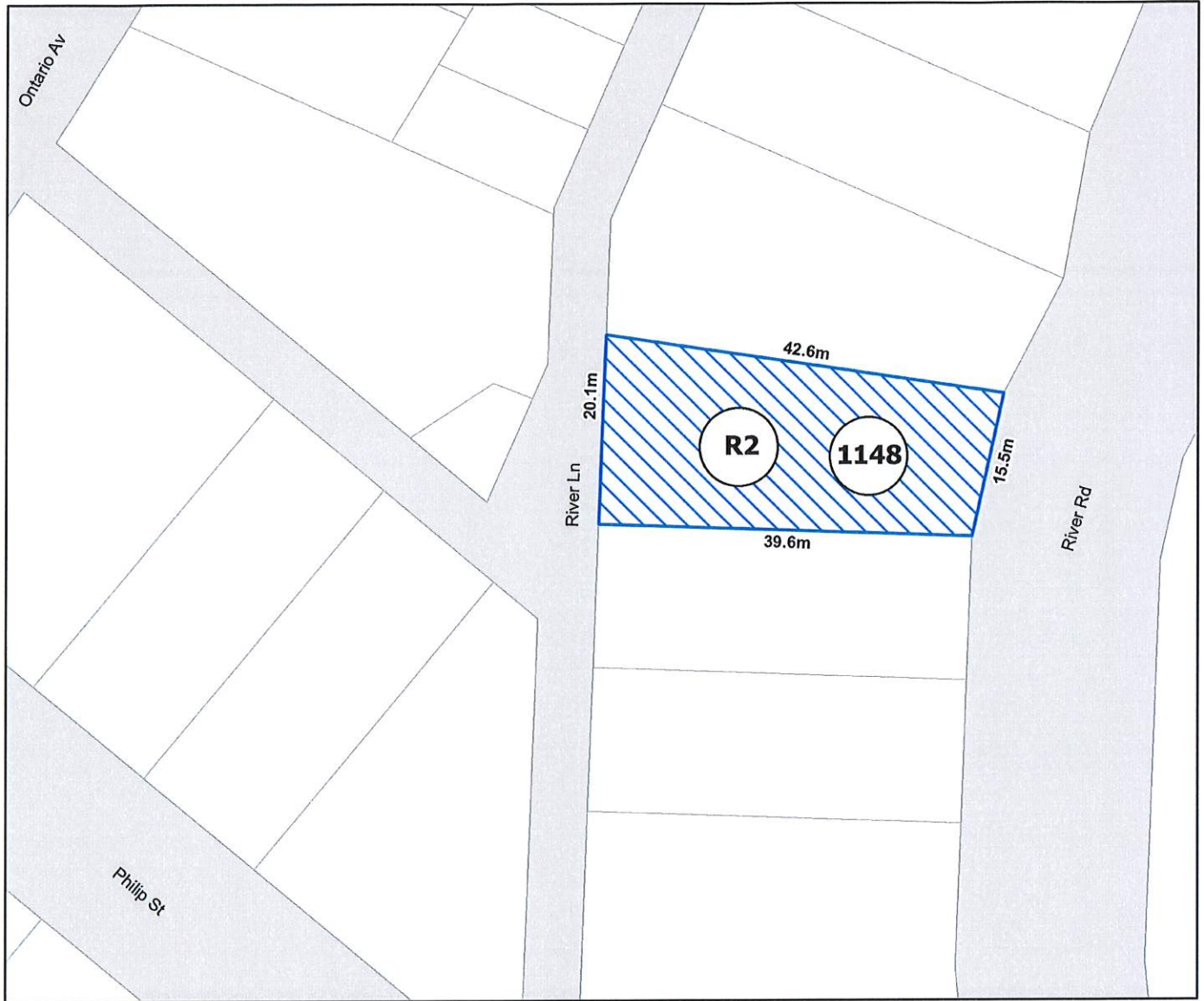
Read a First, Second and Third time; passed, signed and sealed in open Council this 14th day of September, 2021.


WILLIAM G. MATSON, CITY CLERK


JAMES M. DIODATI, MAYOR

SCHEDULE 1 TO BY-LAW NO. 2021-96

Subject Lands: 



Amending Zoning By-law No. 79-200

Description: LT 23 PL 294 TOWN OF NIAGARA FALLS, PT LT 24 PL 294 TOWN OF NIAGARA FALLS AS IN RO736456, NIAGARA FALLS PIN 64342-0369 (LT)

Applicant: Alfred D'Souza and Collette D'Souza



Assessment #: 272503000214700

AM-2019-022

CITY OF NIAGARA FALLS

By-law No. 2018-

A by-law to provide for the adoption of Amendment No. 127 to the City of Niagara Falls Official Plan (AM-2017-005).

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS, IN ACCORDANCE WITH THE PLANNING ACT, 1990, AND THE REGIONAL MUNICIPALITY OF NIAGARA ACT, HEREBY ENACT AS FOLLOWS:

1. The attached text constituting Amendment No. 127 to the City of Niagara Falls Official Plan is hereby adopted.

Passed this fourteenth day of August, 2018.

.....
WILLIAM G. MATSON, ACTING CITY CLERK

.....
VINCE KERRIO, ACTING MAYOR

First Reading: August 14, 2018
Second Reading: August 14, 2018
Third Reading: August 14, 2018

PART 2 – BODY OF THE AMENDMENT

All of this part of the document entitled PART 2 – Body of the Amendment, consisting of the following text, constitute Amendment No. 127 to the Official Plan of the City of Niagara Falls.

DETAILS OF THE AMENDMENT

The Official Plan of the City of Niagara Falls is hereby amended as follows:

1. TEXT CHANGES

- a. PART 2, Section 1.4 is hereby deleted and replaced with the following:
 - 1.4 Home occupations, including owner occupied Bed and Breakfasts, may be permitted through an implementing zoning by-law where they are limited in number of guest rooms to be compatible with the residential neighbourhood. Zoning by-law amendment applications to increase the size of such uses will be carefully considered to minimize potential disturbances to adjacent properties and to protect the character and identity of the overall neighbourhood.

- b. The following is hereby added as PART 2, Section 1.10:
 - 1.10 Vacation Rental Units are not to establish indiscriminately. In this regard, official plan and zoning by-law amendment applications will be processed on a site-by-site basis. Amendment applications will be reviewed subject to the following criteria:
 - 1.10.1 Vacation Rental Units are limited to single or semi-detached dwellings or a second unit to a principal dwelling unit.
 - 1.10.2 Vacation Rental Units shall be limited to 3 bedrooms to ensure the scale and physical character is compatible with the surrounding neighbourhood.
 - 1.10.3 Parking and landscaping shall be consistent with the residential environment.
 - 1.10.4 The size of the lot, the provision of landscaped amenity space, ability to accommodate required parking, nature and classification of the street and the proximity to tourist areas shall all be considered.
 - 1.10.5 An undue concentration of Vacation Rental Units is to be avoided in order to reduce the impact on the character of the residential nature of the area and residential enjoyment of permanent residents.

- 1.10.6 To ensure lands designated as Residential meet the primary purpose of providing dwellings for a wide range of households, Council shall consider the current vacancy rate(s) and supply of available housing for tenants.
 - 1.10.7 Vacation Rental Units will be subject to a licensing by-law passed under the Municipal Act, 2001, designed to regulate the operational aspects of Vacation Rental Units including, but not limited to: compliance with zoning; excessive noise; garbage disposal; property standards and adequate insurance.
- c. PART 2, Section 2.1 is hereby deleted and replaced with the following:
 - 2.1 In order to preserve and enhance the qualities of the Niagara River Parkway, development shall be limited to detached dwellings on large estate-type lots. Home occupations, including owner occupied Bed and Breakfasts, may be permitted through an implementing zoning by-law where they are limited in number of guest rooms to be compatible with the neighbourhood. Zoning by-law amendment applications to increase the size of such uses will be carefully considered to minimize potential disturbances to adjacent properties and to protect the character and identity of the overall neighbourhood. Private sewage disposal systems will be installed and maintained to the satisfaction of the Regional Public Health Department and/or Ministry of the Environment.
- d. The following is hereby added to PART 2, Section 2.2:
 - 2.2.5 Vacation Rental Units shall be subject to the policies of Part 2, Section 1.10.
- e. The following is hereby added to PART 2, Section 3.1:
 - 3.1.3 Accommodations are only permitted to be developed in Major or Minor Commercial Districts.
- f. The following is hereby added to PART 2, Section 7.2.1:
 - (iv) Vacation Rental Units shall be subject to the policies of Part 2, Section 1.10.
- g. The words “Bed and Breakfast facility(ies)”, “Bed and Breakfast accommodations”, “Bed and Breakfast establishments” and “tourist home” are hereby deleted where they occur in the Official Plan and are replaced with the words “Bed and Breakfast(s)”.

h. The following definitions are hereby added to APPENDIX 1 – DEFINITIONS

“Accommodations” - means uses intended to provide temporary lodging to the travelling and vacationing public and include, but not limited to: a Hotel, Motel, Inn, Bed and Breakfast and a Vacation Rental Unit.

“Bed and Breakfast” - means a home occupation that provides Guest Rooms and breakfast to the travelling and vacationing public and is licensed by the City of Niagara Falls to carry on business.

“Guest Room” - means a room or suite of rooms which is capable of being rented separately to travelling and vacationing public and does not have any cooking facilities.

“Vacation Rental Unit” - means the commercial use of a detached dwelling or dwelling unit that is available for rent in its entirety for a period of 28 consecutive days or less, to provide temporary lodging to the travelling and vacationing public and is licensed by the City of Niagara Falls to carry on business.

1. DEFINITIONS

1.1 In this By-law:

“**Applicant**” means a Person who files an application for a license;

“**Bedroom**” means a room or area used, designed, equipped or intended for sleeping;

“**Bed and Breakfast Establishment**” means a home occupation that provides guest rooms and may provide breakfast to the travelling and vacationing public;

“**Building Code Act**” means the Building Code Act, 1992, S.O. 1992, c. 23, as amended and its regulations;

“**Chief Building Official**” means the Chief Building Official for the City or any other Person appointed by By-law as a designate;

“**Clerk**” means the Clerk for the City or any Person designated by the Clerk;

“**Council**” means Council for the City;

“**Detached Dwelling**” means a building containing one primary dwelling unit;

“**Dwelling**” means a building used or capable of being used as the residence of one or more persons but does not include a hotel, motel or other tourist establishment, a mobile home or a trailer;

“**Dwelling Unit**” means a unit that:

- (i) consists of a self-contained set of rooms located in a building or structure;
- (ii) is used, intended or designed for use as residential premises; and
- (iii) contains kitchen and bathroom facilities that are intended for the use of the unit only;

“**Fire Protection and Prevention Act**” means the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, and its regulations;

“**Fire Chief**” means the Fire Chief for the City or a Fire Prevention Officer;

“**Guest Room**” means a room or suite of rooms which is capable of being rented separately to the travelling and vacationing public and does not have any cooking facilities and includes a bedroom;

“**Home Occupation**” means an occupation, trade, business, profession or craft carried on as an accessory use of the dwelling as the private residence of the person carrying on the occupation, trade, business, profession or craft;

“**Licence**” means a licence issued by the City pursuant to this By-law;

“**Licence Issuer**” means a City employee who is responsible for issuing a Licence;

“**Licence Number**” means a number assigned to a Licence by the City;

“Licensee” means a Person issued a current valid licence pursuant to this By-law;

“Licensing Appeal Committee” means a Committee established by Council to hear appeals under this By-law;

“Maximum Occupancy” means the maximum number of occupants permitted on the premises as determined by the Chief Building Official;

“Medical Officer of Health” means the Medical Officer of Health for Niagara Region Public Health and includes any public health inspectors of Niagara Region Public Health;

“Officer” means a police officer, municipal law enforcement officer, Fire Chief, fire prevention officer, Chief Building Official, building inspector, Medical Officer of Health, or any other Person appointed by by-law to enforce the provisions of this By-law;

“Owner” means the owner of a property as recorded in the records of the Registry Office for the Land Titles Division of Niagara South maintained in that Office for that property;

“Person” includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representative;

“Premises” means land, property or any part thereof including any and all buildings or other structures thereon;

“Principal Residence” means a person’s permanent lodging place to which, whenever absent he or she intends to return;

“Property” means a parcel of land which is capable of being legally conveyed;

“Renter” means the Person responsible for the rental of the premises by way of concession, permit, licence, agreement or similar commercial arrangement;

“Renter’s Code” means a document prepared by the Owner that:

- (a) sets out the roles and responsibilities of a Renter including behavior expectations as they relate to causing a disturbance;
- (b) provides a written warning related to the making of a disturbance;
- (c) identifies the City by-laws and the provisions of the City by-laws to be complied with.

“Responsible Person” means a Licensee or a Person designated by a Licensee who is over the age of eighteen (18);

“Vacation Rental Unit” means the use of a detached dwelling or dwelling unit that is available for rent in its entirety for a period of 28 consecutive days or less, to provide temporary lodging to the travelling and vacationing public;

“City” means the Corporation of the City of Niagara Falls or the land within the geographic limits of the Corporation of the City of Niagara Falls as the context requires;

“Zoning By-law” means any by-law administered by the City passed pursuant to Section 34 of the Planning Act or a successor thereof, as may be amended from time to time.

2. GENERAL AND PROHIBITIONS

- 2.1 This by-law shall apply throughout the whole of the City.
- 2.2 This by-law may be referred to as the “Vacation Rental Unit and Bed and Breakfast Establishment Licensing By-law”.
- 2.3 No Person shall own or operate, or permit the operation of a Vacation Rental Unit without a current valid licence.
- 2.4 No Person shall own or operate, or permit the operation of a Bed and Breakfast Establishment without a current valid licence.
- 2.5 No Person shall own or operate a Vacation Rental Unit or a Bed and Breakfast Establishment other than in accordance with the terms and conditions of a licence, the terms and conditions of this By-law.
- 2.6 No Person shall advertise, promote, broker, or offer for rent or lease a Vacation Rental Unit without a current valid licence.
- 2.7 No Person shall advertise, promote, broker, or offer for rent a Bed and Breakfast Establishment without a current valid licence.
- 2.8 No Person shall alter or modify or permit the alteration or modification of a licence.
- 2.9 No Person shall use or attempt to use a licence issued to another Person.
- 2.10 No Person shall own, operate or carry on any business in any other name other than in the name that appears on the licence.
- 2.11 Every Person who knowingly makes a false statement in an application, declaration, affidavit or paper writing required by this By-law or the City is guilty of an offence.
- 2.12 No Person who is issued a licence pursuant to this By-law shall contravene any provision set out in this by-law, any other municipal by-law, federal or provincial Act, Statute, or any other legislation applicable to the licensed premises.
- 2.13 No Person shall remove an order or placard posted on the premises under this By-law, except an Officer.
- 2.14 No Person shall own, operate or carry on any business while a licence is under an administrative suspension.
- 2.15 No Person licensed under this By-law shall, because of race, colour, creed, gender or sexual orientation, discriminate against any member of the public in the carrying on, conducting or operating of a Bed and Breakfast Establishment or a Vacation Rental Unit.

3. APPLICATION FOR A LICENCE

- 3.1 A Person making an application for a licence or for a renewal of a licence shall submit:

- (a) a complete application in the form provided by the City;
- (b) when applicable, the Business Name Registration and/or Articles of Incorporation obtained from the applicable provincial or federal Ministry;
- (c) documentation that the applicant is the owner of the property;
- (d) all required documents, and obtain all required approvals and inspections as outlined in the applicable Schedule to this By-law from the appropriate authority having jurisdiction to the satisfaction of the City;
- (e) any other documents as may be required by the City to the satisfaction of the City;
- (f) the prescribed fee.

3.2 Acceptance of a licence application and a licence application fee does not constitute approval of the application or oblige the City to issue a licence.

4. LICENCES

4.1 The Licence Issuer is hereby delegated authority to issue a licence in accordance with the provisions of this By-law and the applicable Schedule(s) to this By-law.

4.2 The Licence Issuer is hereby delegated authority to impose additional terms and conditions on a licence that in the opinion of the Licence Issuer are reasonable and taking into consideration:

- (a) the health, safety and well-being of Persons;
- (b) the impact on a neighbouring property or a neighbouring property owner;
- (c) the past conduct of an applicant or a licensee.

4.3 The Licence Issuer is hereby delegated authority to revoke, suspend, refuse to issue, or refuse to renew a licence, where the applicant or licensee would not be entitled to a licence, or to the renewal of a licence, on any grounds set out in this By-law.

4.4 A licence issued by the City is non-refundable is not transferable.

4.5 A licence issued pursuant to this By-law is valid for the current year and shall expire on the 30th day of April the following year unless otherwise suspended or revoked in accordance with the provisions of this By-law.

4.6 Every licence shall remain at all times the property of the City and no Person shall enjoy a vested right in any licence or the continuance of any licence.

4.7 A licence shall be issued by the Licence Issuer:

- (a) upon the requirements of this By-law being met;
- (b) upon submission of the documents to the City's satisfaction as required by this By-law and as outlined on the applicable Schedule(s) to this By-law;

- (c) upon obtaining the required approvals and inspections to the City's satisfaction as required by this By-law and as outlined on the applicable Schedule(s) to this By-law.
- 4.8 The Licence Issuer shall not issue a licence if the owner(s) have any outstanding fines, penalties, legal costs, disbursements, property taxes and late payment charges owing to the City for the property subject to the licence application.
- 4.9 A Licence shall only be issued by the Licence Issuer to the owner of the property.
- 4.10 A Licence issued under this By-law shall include following:
- (a) The municipal address;
 - (b) Licence Number;
 - (c) Date of issue and expiry date of the Licence;
 - (d) Number of bedrooms for rent;
 - (e) Licensee name and contact information;
 - (f) In the case of a Vacation Rental Unit, the Responsible Person's name and contact information.
- 4.11 Where a change in the ownership of a property occurs, an application for a licence is subject to all the provisions of this By-law and the City's Schedule of Fees By-law as an initial application for the property and not a renewal.
- 4.12 Where there is a change in the number of guest rooms of a Bed and Breakfast Establishment an application for a renewal of a licence is subject to all the provisions of this By-law and the City's Schedule of Fees By-law as an initial application for the property and not a renewal.

5. LICENCE – TERMS AND CONDITIONS

- 5.1 A licence is subject to the terms and conditions of this By-law and the terms and conditions as set out in the applicable Schedule(s) to this By-law.
- 5.2 A licensee shall notify the City within seven (7) days of any changes to the:
- (a) business name;
 - (b) location of the business premises;
 - (c) ownership of the business

and such changes shall be subject to submission of the necessary documentation to the City.

- 5.3 A licensee shall be responsible for the act(s) and omission(s) of its employees, representatives, and the Responsible Person in the carrying on of the business in the same manner and to the same extent as though the Licensee did the act(s) or omission(s).
- 5.4 Any record required by this By-law shall be produced by the Licensee upon request of an Officer.

6. LICENCES – ADMINISTRATIVE SUSPENSIONS

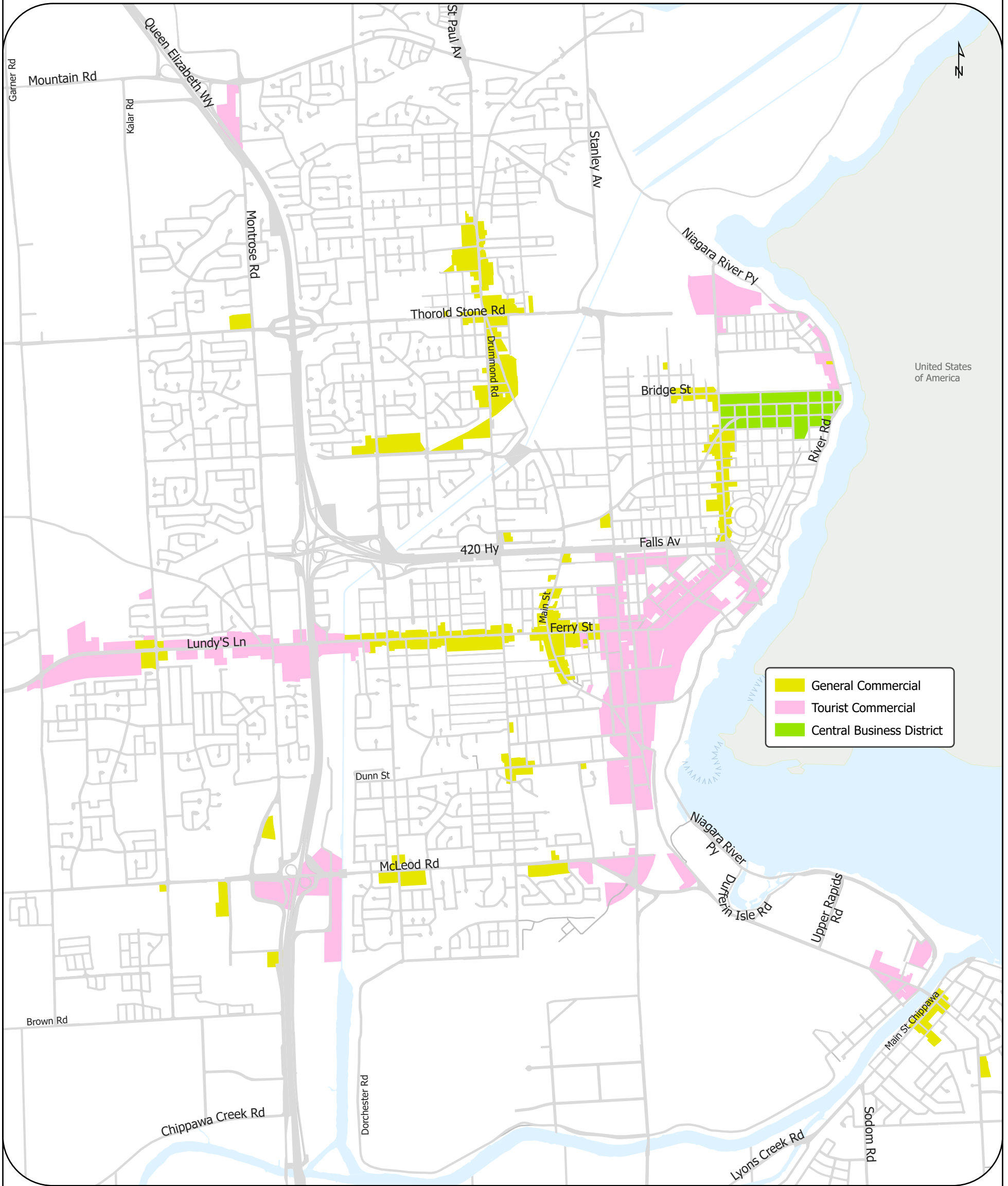
- 6.1 Where the Licensee's policy of liability insurance expires, is cancelled, or is otherwise terminated, then the applicable licence shall be automatically suspended effective on the date of such expiration, cancellation, or termination and shall remain so until such insurance has been reinstated.
- 6.2 An administrative suspension of a licence without a hearing shall be imposed for fourteen (14) days if the Licence Issuer is satisfied that the continuation of the business poses an immediate danger to health and safety of any person or to any premises or in accordance with Section 7. Before any suspension is imposed, the City shall provide the licensee with the reasons for the suspension, either orally or in writing, and an opportunity to respond to them.
- 6.3 An administrative suspension imposed under Section 6.2 may be imposed on such conditions as the Licence Issuer considers appropriate.

7. LICENCES – GROUNDS FOR REFUSAL, REVOCATION OR SUSPENSION

- 7.1 An applicant or licensee is entitled to a licence upon meeting the requirements of this By-law except where:
- (a) the past or present conduct of any person, including any partner, the officers, directors, employees or agents of a corporation affords reasonable cause to believe that the person will not carry on or engage in the business in respect of which the application is made in accordance with the law or with honesty or integrity; or
 - (b) the applicant or licensee has past breaches or contraventions of any law or any provision of this By-law or any other municipal by-law or Provincial or Federal Statute associated with the carrying on of such business; or
 - (c) the applicant or licensee has failed to pay a fine or fines imposed by a Court for convictions for breach of this or any other City by-law or provincial offence related to the licensed premises; or
 - (d) the applicant or licensee has failed to comply with any term, condition or direction of the Licence Issuer or Officer or has failed to permit any investigation by the Licence Issuer or Officer; or
 - (e) the applicant or licensee has failed to comply with the requirements set out in this By-law or any of the applicable Schedules to this By-law; or
 - (f) the issuing of a licence would be contrary to the public interest with respect to health and safety, consumer protection, or nuisance control; or
 - (g) the applicant or licensee has submitted an application or other documents to the City containing false statements, incorrect, incomplete, or misleading information; or
 - (h) the applicant or licensee is carrying on or engaging in activities that are, or will be, if the applicant or licensee is licensed, in contravention of this By-law, or any other applicable law; or



Permitted Location for Vacation Rental Unit



CITY OF NIAGARA FALLS

By-law No. 2021 – 99

Being a by-law to amend By-law 2021-57, a By-law to regulate and license Vacation Rental Units and Bed and Breakfast Establishments.

WHEREAS Section 8 of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended hereinafter referred to as the “*Municipal Act*” provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority under the Act;

AND WHEREAS Section 8 (3) of the *Municipal Act*, authorizes a municipality to provide for a system of licenses;

AND WHEREAS the City of Niagara Falls has enacted a by-law to license Vacation Rental Units and Bed and Breakfast Establishments;

AND WHEREAS it is desirable to amend the Licensing By-law No. 2021-57;

NOW THEREFORE the Council of the Corporation of the City of Niagara Falls enacts as follows:

1. By-law No. 2021-57, Section 1 **Definitions** is hereby amended by addition the following:

“**Platform**” means any software, technology, or service, including a smartphone application;

“**Premises**” means land, **property** or any part thereof including any and all buildings or other structures thereon;

“**Vacation Rental Unit Brokerage**” means any **person** who facilitates or brokers **Vacation Rental Unit** reservations for others, and who:

- (a) receives payment, compensation, or financial benefit due to, as a result of, or in connection with a **person** making or completing reservations of a **vacation rental unit**;
- (b) collects, assesses, or holds information on the number of nights that reservations of a **vacation rental unit** are made or completed;

2. By-law No. 2021-57, Section 14. **Enforcement and Penalty Provisions** is hereby amended by adding the following:

14.14 A court may, in the absence of evidence to the contrary, infer that a listing on the **platform** of a **vacation rental unit brokerage** or a public advertisement to the effect, and by any means, is proof that the premises is being rented or offered for rent as a **vacation rental unit**. For greater certainty, a witness need not possess special or expert knowledge for the court to make any such inference.

Read a First, Second and Third time; passed, signed and sealed in open Council this 14th day of September, 2021.

.....
WILLIAM G. MATSON, CITY CLERK

.....
JAMES M. DIODATI, MAYOR

Response to Gerald Spencer re: "Intruder after midnight"

Kenneth Westhues <kwesthues@uwaterloo.ca>

Sat 7/31/2021 6:23 PM

To: CouncilMembers <councilmembers@niagarafalls.ca>; Jim Diodati <jdiodati@niagarafalls.ca>

Cc: Alex Herlovitch <aherlovitch@niagarafalls.ca>; Sam Valeo <svaleo@niagarafalls.ca>; Ed Lustig <elustig@niagarafalls.ca>; Bill Matson <billmatson@niagarafalls.ca>; Ichieca@niagarafalls.ca <Ichieca@niagarafalls.ca>; Patrick Vernon <pvernon@niagarafalls.ca>; gspencer@niagarafalls.ca <gspencer@niagarafalls.ca>; Serge Felicetti <sfelicetti@niagarafalls.ca>; Debra Jones <debrajones@niagarafalls.ca>; Mike Formica <mformica@niagarafalls.ca>

Bcc: Carolyn Ioannoni <carolynioannoni@me.com>; Lori Lococo <lori.lococo@bell.net>; Dr. Anne Westhues <awesthue@hotmail.com>; Linda Babb <lind.babb@gmail.com>; Linda Manson <writeon@sympatico.ca>; Debra Jackson-jones <dljacksonjones1@gmail.com>; John Garrett <j.garrett@sympatico.ca>; Gary Burke <gbburke@sympatico.ca>; Ken Crossman <kcrossman@cogeco.ca>; Liz Benneian <abetterniagara@gmail.com>; Frank De Luca <theproblemsolver@live.ca>

Dear Members of Council,

This is further to the email I sent at 1:37 AM about the barefoot stranger barging into our kitchen after midnight last night, mistaking our home for the (illegal) vacation rental he was looking for. Anne and I appreciate the sympathetic responses we have received from Councillor Thomson, from the police, and from numerous residents of the River Road Neighbourhood.

Gerald Spencer, by contrast, the city's Manager of Municipal Law Enforcement, responded not sympathetically but defensively (see his email below). He did not copy me on his email, but thankfully, a kind recipient forwarded Mr. Spencer's email to me.

Mr. Spencer misread my email. The inn at 5359 River Road is indeed, as he claims, under construction. Rooms there, so far as I know, are not being rented to tourists. My email was not about this property, which is owned by Richard Xue.

My email was about guests being lodged in the two homes at 5401 and 5411 River Road. The first is owned by John Pinter, the second leased by him. Nobody lives in either dwelling. Both are currently advertised on airbnb as vacation rentals. The man who invaded our home last night went to 5411 River Road after I chased him out. He appeared to be part of the group that was having a loud party after midnight behind 5401 River Road.

Mr. Spencer says I should have sent my email to staff. I have done so repeatedly. Indeed, I emailed Mr. Spencer, with copies just to other staff, at 11:34 last night, asking if he would allow Mr. Vernon to meet with me. In the past, Mr. Spencer has refused to meet with me himself.

Mr. Spencer says any suggestion that staff have turned a blind eye to by-law violations

is "ridiculous." The public record speaks for itself. I am happy, on request, to provide specific references.

There are currently four vehicles parked at 5401 River Road, with Ontario license plate numbers CJLR-855, BFWT-733, AY-74078, and BVXN-561. At 5411 River Road, one vehicle, CTSA-159, has been parked all day in the parking/construction lot John Pinter built at the back of the lot.

If guests lodged in these or any other vacation rentals in this city infringe in any way residents' right to peaceful enjoyment of their property, complaints should be directed not only to city staff but also to the Mayor and Members of Council. As Mr. Spencer's response to my email last night shows, staff by themselves are not up to the task of by-law enforcement.

Kind regards to all.

Ken Westhues
5419 River Road
Niagara Falls, Ontario L2E 3H1

From: Gerald Spencer <gspencer@niagarafalls.ca>
Sent: Saturday, July 31, 2021 8:06 AM
To: Patrick Vernon <pvernon@niagarafalls.ca>
Cc: CouncilMembers <councilmembers@niagarafalls.ca>; Jim Diodati <jdiodati@niagarafalls.ca>; Alex Herlovitch <aherlovitch@niagarafalls.ca>; Sam Valeo <svaleo@niagarafalls.ca>; Ed Lustig <elustig@niagarafalls.ca>; Bill Matson <billmatson@niagarafalls.ca>; Patrick Vernon <pvernon@niagarafalls.ca>; Serge Felicetti <sfelicetti@niagarafalls.ca>; Debra Jones <debrajones@niagarafalls.ca>; Mike Formica <mformica@niagarafalls.ca>
Subject: Re: [EXTERNAL]-Intruder after midnight

Good Morning All,

The inn has been under building permit for quite some time. Building inspection staff and by-law enforcement staff have been there and conducted inspections. The interior of the property minus three rooms are all under construction. There is no evidence that there has been any activity since the cease an desist orders were issued . Staff attended an impromptu inspection after receiving a complaint from a resident and again nothing .. the rooms were not being used .

Mr. Westhues could of sent an email to staff or through the complaints intake line after counting 7 vehicles and allegedly illegal operations earlier in the day and staff would of investigated. An email was sent to me personally and others and to council at 137 am in the morning .

Any personal suggestions that staff in some way have shown favouritism or someone turned a blind

eye is ridiculous .

I am currently away on vacation until Tuesday. I spoke to staff and an inspection will be conducted this morning.

Gerald

From: Kenneth Westhues <kwesthues@uwaterloo.ca>
Sent: Saturday, July 31, 2021 1:37 AM
To: CouncilMembers <councilmembers@niagarafalls.ca>; Jim Diodati <jdiodati@niagarafalls.ca>
Cc: Alex Herlovitch <aherlovitch@niagarafalls.ca>; Sam Valeo <svaleo@niagarafalls.ca>; Ed Lustig <elustig@niagarafalls.ca>; Bill Matson <billmatson@niagarafalls.ca>; Ichieca@niagarafalls.ca <ichieca@niagarafalls.ca>; Patrick Vernon <pvernon@niagarafalls.ca>; gspencer@niagarafalls.ca <gspencer@niagarafalls.ca>
Subject: Intruder after midnight

Dear Members of City Council,

This email is directed in particular to the Mayor and to those Councillors who have steadfastly supported John Pinter in his illegal tourist operation along River Road. It is just after 1:00 AM on Saturday morning, 31 July.

Mr. Pinter sold the large inn, Niagara Grandview Manor, last winter, but has continued to operate as vacation rentals the house he owns at 5401 River Road and the house he leases at 5411 River Road, just north of Anne's and my home at 5419 River Road. This is in violation of the city's by-laws and of the cease-and-desist order Council passed last February.

Tonight he rented 5401 and 5411 River Road to a group of guys for a party. I counted seven cars, one of them almost blocking River Lane.

At 12:15 AM, just after midnight, I was in the kitchen at the back of our house having a snack before going to bed. I heard someone trying to get into the front door, which I had already locked. Moments later a barefoot man burst into the kitchen through the back door, which I had not yet locked. He appeared shocked to see me, said he had the wrong house. I told him to get out. He made a hasty exit. I followed him. He went into 5411 River Road.

By that time the party behind 5401 River Road had gotten loud. I phoned the police, filed a report about the noise and the intruder. A police officer came promptly. He told me the partiers were compliant and immediately took the party inside. The police

Supplemental Documents, OLT-21-001728, Westhues, August 2022 --- Page 22
report is available to any of you on request.

The police officer who came this evening asked me if I have informed the city of these illegal vacation rentals. As all of you know, I and others have been informing the city of these illegal vacation rentals for the past four years. Tonight is a good time to inform the city once more, and to ask that you enforce the by-laws without partiality or favouritism.

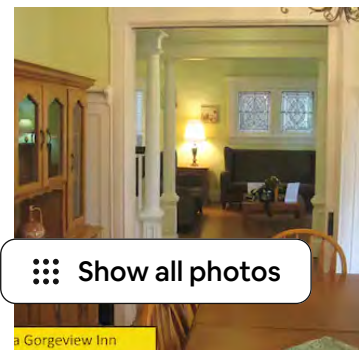
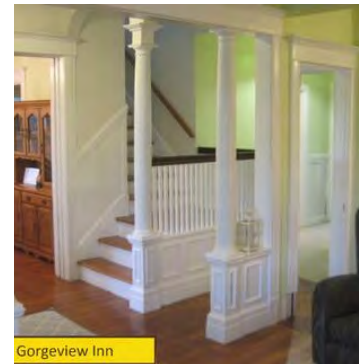
Kind regards.

Ken Westhues
5419 River Road
Niagara Falls, Ontario L2E 3H1

Two Adjacent 4 Bedroom Vacation Rentals Sleeps 20

★ 4.50 · 6 reviews · [Niagara Falls, Ontario, Canada](#)

[Share](#) [Save](#)



Show all photos

Entire villa hosted by John

16 guests · 8 bedrooms · 9 beds · 5 baths



- Park for free**
This is one of the few places in the area with free parking.
- Experienced host**
John has 1671 reviews for other places.
- Great communication**
90% of recent guests rated John 5 stars in communication.

\$555 CAD night

★ 4.50 · 6 reviews

CHECK-IN 10-19-2021	CHECKOUT 10-21-2021
GUESTS 2 guests	

! Those dates are not available

[Change dates](#)

[Report this listing](#)



Every booking includes free protection from Host cancellations,

About this space

Large families and groups can enjoy the convenience of two adjacent 4 bedroom vacation rentals situated on River Road. Enjoy a total of 8 bedrooms, 5 bathrooms, 2 kitchens, living and dining areas. The Niagara Gorgeview Inn also offers a beautiful landscaped rear yard with deck. Perfect for family gathering and relaxation. Located directly on River Road with a great view of the Niagara River and Gorge, guest can enjoy the short walk to the falls, Clifton Hill, and most attractions.

The space

If you're looking for a fabulous Niagara Vacation Experience then look no further. Enjoy the comfort and convenience of having two 4 bedroom vacation rentals which are adjacent to one another and are situated in a fabulous location on River Road.

NIAGARA GORGEVIEW INN & NIAGARA RIVERVIEW INN

A great solution for larger families and groups. Enjoy the comfort and convenience of having two adjacent 4 bedroom vacation rentals. Located along historic River Road and just a short ten minute walk to the falls, these two rentals offer a total of 8 bedrooms, 5 bathrooms, two complete common areas of kitchens, dining, and living areas. Our Niagara Gorgeview Inn also has a beautifully landscaped rear yard with a large deck for family gatherings.

Niagara Gorgeview Inn - This four bedroom home, built originally in 1912, offers warm décor and provides a welcoming feel to your group or extended family gatherings. The home comfortably sleeps up to ten persons in a total of 4 bedrooms (1 King Bed, 1 Queen Bed, 1 Double Bed and finally a room with 1 Queen Bed and 1 Single Bed) and is serviced by two second floor bathrooms and a 3 piece bathroom with shower on the main floor. There is an additional sofa bed in the living room. The home is centrally heated and central air-conditioned. Built in 1912, this bright and airy home is typical of the Arts and Craft architectural period with large oak baseboards, hardwood floors, natural oak window and door moldings, leaded glass windows, interior arches, and front porch vestibule. These treasured characteristics have been lovingly restored to their original glory.

Supplemental Documents, OLT-21-001728, Westhues, August 2022 --- Page 30
listing inaccuracies, and other issues like trouble checking in.

[Learn more](#)

Large families and groups can enjoy the convenience of two adjacent 4 bedroom vacation rentals situated on River Road. Enjoy a total of 8 bedrooms, 5 bathrooms, 2 kitchens, living and dining areas. The Niagara Gorgeview Inn also offers a beautiful landscaped rear yard with deck. Perfect for family gathering and relaxation. Located...

[Show more >](#)

Where you'll sleep



Bedroom 1
1 king bed



Bedroom 2
1 queen bed, 1 single bed



What this place offers

CMHC Rental Market Survey

Housing Market Information Portal

[https://www03.cmhc-schl.gc.ca/hmip-pimh/en/TableMapChart/Table?TableId=2.1.31.3&GeographyId=1160&GeographyTypeId=3&DisplayAs=Table&GeographyName=St.%20Catharines-Niagara#TableMapChart/116004/5/Niagara%20Falls%20\(Core\)](https://www03.cmhc-schl.gc.ca/hmip-pimh/en/TableMapChart/Table?TableId=2.1.31.3&GeographyId=1160&GeographyTypeId=3&DisplayAs=Table&GeographyName=St.%20Catharines-Niagara#TableMapChart/116004/5/Niagara%20Falls%20(Core))

Vacancy Rate for Niagara Falls Core Area

October 2013 4.9%

October 2014 4.4%

October 2015 3.3%

October 2016 2.5%

October 2017 2.5%

October 2018 na

October 2019 .5%

October 2020 1.8%

October 2021 1.5%



REGISTERED MAIL

Dear

Re: 5411 River Road, Niagara Falls

It is my information that you are the owners of the above-captioned property. It is my further information that the property is being operated as a cottage rental dwelling. That is to say, being used for short term vacation rentals. Operation of a cottage rental dwelling at 5411 River Road, in the City of Niagara Falls is forbidden by the comprehensive zoning by-law of the City of Niagara Falls, By-law No. 79-200, as amended.

Unless immediate steps are taken to cease the operation of a cottage rental dwelling at 5411 River Road, in the City of Niagara Falls, the City will pursue every legal avenue available to it, to ensure that such operation is brought to an end.

Such steps would consist of removing the property from any internet service or other advertising medium offering cottage rental dwellings for let, and submitting a sworn undertaking to the City of Niagara Falls in a form acceptable to the City of Niagara Falls, indicating that 5411 River Road has ceased to be used as a cottage rental dwelling and will not be used for a cottage rental dwelling at any time in the future for so long as the two of you, or either one of you, owns all or any part of 5411 River Road, Niagara Falls.

Kindly govern yourselves accordingly.

Yours truly,

Jamie Cerminara
Municipal Law Enforcement Officer

- c. Gerald Spencer, Manager of Municipal Enforcement Services, Municipal Prosecutor
Ken Beaman, City Solicitor
Alex Herlovitch, Director of Planning, Building & Development

Working Together to Serve Our Community

Planning, Building & Development
Municipal Enforcement Services



February 12, 2021

REGISTERED MAIL

D'SOUZA, ALFRED
D'SOUZA, COLLETTE
9 RAMONA BLVD
MARKHAM ON L3P 7T9

Dear Sir/Madam :

Re: 5411 RIVER RD., NIAGARA FALLS, ON

It is my information that you are the owners of the above-captioned property. It is my further information that the property is being operated as a cottage rental dwelling by renting rooms to tourists either in whole or part. That is to say, being used for short term vacation rentals. Operation of a cottage rental dwelling at **5411 RIVER RD**, in the City of Niagara Falls is forbidden by the comprehensive zoning by-law of the City of Niagara Falls, By-law No. 79-200, as amended.

Unless the dwellings are functioning as licenced owner occupied Bed and Breakfasts in accordance with Zoning By-law No. 79-200, as amended, all operations of renting rooms to tourists or rentals of less than 28 days are to cease and desist. Any operation of an unlicenced facility beyond the date of the letter is in contravention of the direction issued by City Council on February 9, 2021.

Unless immediate steps are taken to cease the operation of a cottage rental dwelling at **5411 RIVER RD** in the City of Niagara Falls, the City will pursue every legal avenue available to it, to ensure that such operation is brought to an end.

Such steps would consist of canceling any advance bookings, removing the property from any internet service or other advertising medium offering cottage rental dwellings for let, and submitting a sworn undertaking to the City of Niagara Falls in a form acceptable to the City of Niagara Falls, indicating that **5411 RIVER RD** has ceased to be used as a cottage rental dwelling and will not be used for a cottage rental dwelling at any time in the future for so long as the two of you, or either one of you, owns all or any part of **5411 RIVER RD**, Niagara Falls.

Working Together to Serve Our Community

Planning, Building &
Development Department
Building Services
Ext 4257 Fax 905-374-7500
svaleo@niagarafalls.ca

Kindly govern yourselves accordingly.

Regards,

A handwritten signature in black ink, appearing to read 'Patrick Vernon', with a long horizontal flourish extending to the right.

Patrick Vernon
Municipal Law Enforcement Officer

/jm

U:\Land Manager\ByLaw\Complaints\Letters\Generic Letter-BNO20210039.doc

Bed & Breakfast and Vacation Rental Unit Properties

Operators of Vacation Rental Units and Bed and Breakfasts are to be in possession of an active license to operate.

The following properties have all been licensed by the City:

Bed & Breakfast

Name	Address	Contact
A MOMENT IN TIME B & B	5982 CULP ST	Licensee Name: TETRAULT DAVID Licensee Phone: 905-353-8522
A NIGHT TO REMEMBER B & B	6161 MAIN ST	Licensee Name: TETRAULT DAVID Licensee Phone: 905-353-8522
ABI'S HIDEAWAY	5070-5074 ELLIS LN	Licensee Name: DOLMANYOS ANDREA Licensee Phone: 289-228-8909
ALLY'S HOME	6768 HOMESTEAD CR	Licensee Name: ZHAO AILI Licensee Phone: 905-360-0288
AMBIANCE BY THE FALLS BED & BREAKFAST	4467 JOHN ST	Licensee Name: HU MING Licensee Phone: 250-885-6198
BLUECREST BNB	4495 HIRAM ST	Licensee Name: BOULAY GREGORY MICHAEL GUY Licensee Phone: 905-380-8134
BNB PARLOUR	5896 BIAMONTE CR	Licensee Name: BLACK LISA Licensee Phone: 905-321-4032
C & J BED & BREAKFAST	6060 MURRAY ST	Licensee Name: CHEN JING Licensee Phone: 647-834-8818
CASA VIDAL NIAGARA	5041 RIVER RD	Licensee Name: BODOGH MARK RICHARD Licensee Phone: 905-988-6945
COZY ROOM IN NIAGARA FALLS	6453 DELTA DR	Licensee Name: MASSOOM MICHAEL ADRIAN Licensee Phone: 716-698-9597
EASTWOOD TOURIST LODGE	4465 EASTWOOD CR	Licensee Name: HUYNH TAN PHAT Licensee Phone: 289-929-9491
ELLIS BED AND BREAKFAST	4284-4286 ELLIS ST	Licensee Name: RATHORE VINDHYA Licensee Phone: 905-358-0336

Name	Address	Contact
GOLDEN POND FARM BED AND BREAKFAST	13839 SODOM RD	Licensee Name: WANG LIN LIN Licensee Phone: 905-226-8389
GREAT FALLS HOME	6619 RALPH AV	Licensee Name: YANG ZHAO FANG Licensee Phone: 647-892-8589
HONG'S BED AND BREAKFAST	7663 OLDFIELD RD	Licensee Name: MI HONG Licensee Phone: 647-996-0909
LES EAUX MELEES	7750 SHADBUSH LN	Licensee Name: HE JUN Licensee Phone: 647-801-9612
NIAGARA GORGE VIEW LODGE	5401 RIVER RD	Licensee Name: PINTER JOHN Licensee Phone: 905-324-5856
NIAGARA SONG HOME	5199 RIVER RD	Licensee Name: XU DAN Licensee Phone: 289-668-0801
PRINCESSJAL NIAGARA VILLA B & B	3531 RAPIDS VIEW DR	Licensee Name: BHAVSAR JALPA Licensee Phone: 905-782-0803
RAINBOW BED AND BREAKFAST	4436-4438 JOHN ST	Licensee Name: ROKNIC MARKO Licensee Phone: 905-356-2165
RELAXING B & B	7850 PENDER ST	Licensee Name: ZHAO MI BO Licensee Phone: 416-528-0692
RIVERVIEW BED AND BREAKFAST	4433 HIRAM ST	Licensee Name: LIANG GUOXIONG Licensee Phone: 647-718-2028
STRATHAIRD BED & BREAKFAST	4372 SIMCOE ST	Licensee Name: LI LIANJUAN Licensee Phone: 416-800-8606
WEI LI SHAO	6039 SYMMES ST	Licensee Name: SHAO WEILI Licensee Phone: 647-289-4953

Vacation Rentals

Name	Address	Contact
4743 HURON STREET VACATION	4743 HURON ST	Licensee Name: BLACK JAMES Licensee Phone: 905-321-4032
CHEERFUL GATEWAY HOME-MINSTOCLIFTONHILL	5229 LORNE ST	Licensee Name: SHI YUGE Licensee Phone: 778-522-1811
CLIFTON HILL LUXURY RETREAT	5205 LORNE ST	Licensee Name: PEI WEI Licensee Phone: 778-522-1811
EMERY STREET	5532 EMERY ST	Licensee Name: GHAI JASMEET SINGH Licensee Phone: 905-329-0169

Name	Address	Contact
ESSENTIAL NIAGARA	5197 LORNE ST	Licensee Name: HARRIS GREGORY Licensee Phone: 905-932-1212
JOHNY PLACE	5242 KITCHENER ST	Licensee Name: VU DUC VAN Licensee Phone: 289-969-2882
MASION ON MCGRAIL	5717 MCGRAIL AV	Licensee Name: CAMERON LINCON Licensee Phone: 416-302-0359
NIAGARA ESCAPES	5187 KITCHENER ST	Licensee Name: Black James Licensee Phone: 905-321-4032
NIAGARA FALLS COTTAGE	5225 ONTARIO AV	Licensee Name: LIU JIN RONG Licensee Phone: 905-325-4520
RAINBOW AIR BNB	5494 DESSON AV	Licensee Name: ZHAO MI BO Licensee Phone: 416-528-0692
RIVERVIEW PARADISE	5127 RIVER RD	Licensee Name: DAAP LIMITED Licensee Email: arbatta@gmail.com Licensee Phone: 647-871-7773
THE ADDISEN	5205 KITCHENER ST	Licensee Name: DUNHAM HE Licensee Phone: 289-228-9898
THE KITCHENER HOUSE	5206 KITCHENER ST	Licensee Name: ROMANELLI ANTONIO Licensee Phone: 905-380-1395
VRU - 4911 VICTORIA AVE #2002	4911 VICTORIA AV	Licensee Name: BARBER DAVID CHRISTOPHER Licensee Phone: 905-359-9107

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Arrival Date

2/9/2023

Departure Date

2/10/2023

Rooms Adults Children

1 ▼

1 ▼

0 ▼

BOOK

Contacts

Contact Information

Niagara Historic Inns

5401 River Road

Niagara Falls, Ontario, Canada

L2E 3G9

Fax: 289-296-3375

E-Mail: reservations@niagarahistoricinns.com

Website: www.niagarahistoricinns.com

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Niagara Historic Inns , 5401 River Road, Niagara Falls, Ontario, Canada , L2E 3G9

Email: reservations@niagarahistoricinns.com

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DECISION OF THE COMMITTEE OF ADJUSTMENT

IN THE MATTER OF Section 45 of the Planning Act, (R.S.O. 1990); and

File: A-2022-041

IN THE MATTER OF:

NAME: 1907782 Ont. Inc. (John Pinter)
ADDRESS: 5427 River Road

DESCRIPTION AND LOCATION OF SUBJECT LAND: The subject property known as 5427 River Road located on the west side of River Road between Eastwood Crescent and Philip Street.

NATURE AND EXTENT OF RELIEF APPLIED FOR: The applicant is proposing to construct an addition to the existing dwelling and an addition to the existing accessory structure. The subject property is zoned Residential Single and Two Zone (R2-2) Zone in accordance with Zoning By-law No. 79-200, as amended by special provision 19.1.2. The applicant has requested the following variances:

By-law Section	By-law Requirement	Proposed	Extent of variance
7.7.2 (g) Maximum lot coverage	45%	48.3%	3.3%
7.7.2(h) Maximum height of building or structure	10m	10.5 metres (main) 12.5 metres (turret)	.5 metres (main) 2.5 metres (turret)
5.1 (a) Where no private garage or carport is to be attached and erected at the same time as a detached dwelling, there shall be a side yard of not less than 2.4 metres on one side of such one detached dwelling which may be used as a driveway and subject to the other applicable provisions of this By-law for the parking or storing of motor vehicles.	2.4 metres	2.04 (north)	.36 metres

DECISION: **GRANTED**, pursuant to the provisions of Section 45 of the Planning Act, R.S.O. 1990.

REASON(S): The requested variances maintain the general intent and purpose of the Official Plan, maintains the general intent and purpose of the Zoning By-law, is desirable for the appropriate development of the land, building or structure; and is minor in nature.

CONDITION(S):

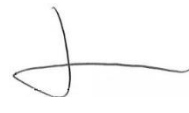
The minor variance is conditional upon:

- The turret is to be used for mechanical purposes only and not contain a place of occupancy.
- The approval apply to the drawings submitted with the application, specifically drawings SP1.01 and SP1.02, prepared by Andrew Allen Hellwig Design Inc., revised to November 28, 2022.

MEMBERS CONCURRING IN DECISION:











I hereby certify this to be a true and correct copy of the Decision of the Committee of Adjustment for the City of Niagara Falls and this decision was concurred in by the majority of the Members of the Committee.

DATE OF DECISION: December 20, 2022

DATE OF MAILING: December 22, 2022

FINAL DATE OF APPEAL: January 9, 2023



Chairman



Secretary Treasurer



DECISION OF THE COMMITTEE OF ADJUSTMENT

IN THE MATTER OF Section 45 of the Planning Act, (R.S.O. 1990); and

File: A-2023-001

IN THE MATTER OF:

NAME: 1907782 Ont. Inc. (John Pinter)
ADDRESS: 5427 River Road

DESCRIPTION AND LOCATION OF SUBJECT LAND: The subject property known as 5427 River Road located on the west side of River Road between Eastwood Crescent and Philip Street.

NATURE AND EXTENT OF RELIEF APPLIED FOR: The applicant is constructing an addition to the existing dwelling on the above noted property. The subject property is zone Residential Single and Two Zone (R2-2) Zone in accordance with Zoning By-law No. 79-200, as amended by special provision 19.1.2. The property was recently subject to an approved minor variance application, A-2022-041. The applicant has requested the following variance:

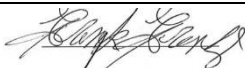
By-law Section	By-law Requirement	Proposed	Extent of variance
5.7 - Special Building Setback	11.74 metres	10.11 metres	1.63 metres

DECISION: **GRANTED**, pursuant to the provisions of Section 45 of the Planning Act, R.S.O. 1990.

REASON(S): The requested variance maintains the general intent and purpose of the Official Plan, maintains the general intent and purpose of the Zoning By-law, is desirable for the appropriate development of the land, building or structure; and is minor in nature.

CONDITION(S):

MEMBERS CONCURRING IN DECISION:


Frank Franze		Paul Campigotto	
Joe Mrozek		Tony Baldinelli	
Peter Colosimo		Victor Pietrangelo	
Lou Stranges			


I hereby certify this to be a true and correct copy of the Decision of the Committee of Adjustment for the City of Niagara Falls and this decision was concurred in by the majority of the Members of the Committee.

DATE OF DECISION: January 31, 2023

DATE OF MAILING: February 1, 2023

FINAL DATE OF APPEAL: February 20, 2023



 Chairman


 Secretary Treasurer

Noise

Kenneth Westhues <kwesthues@uwaterloo.ca>

Fri 9/2/2016 1:16 PM

To: reservations@niagarahistoricinns.com <reservations@niagarahistoricinns.com>

Mr. John Pinter

Grandview Manor, Niagara Falls

Dear John,

As bad luck would have it, the night after I passed on to you the affirming quote from Teddy Roosevelt, your business plans have given me and other neighbours cause for concern.

I went to bed last night about 11:30, couldn't sleep for about an hour on account of noise coming from a party. I've checked with neighbours this morning, turns out the party was on the front porch of 5401 River Road, where I understand you are accommodating guests of Grandview Manor. It didn't sound like a wild party, just loud. I think it ended around 12:30, at least that's when I finally fell asleep.

This is a residential neighbourhood, not commercial, not tourist commercial. So long as your guests do not infringe local residents' right to peaceful enjoyment of their homes, I don't think anybody is going to complain about your business. Anne and I and I think all of our neighbours are pleased with the way you are renovating Grandview Manor, and we're wishing you every success. But it would take only a few instances of disruption like last night to diminish local residents' good will. Please take whatever steps are necessary to ensure that your guests, especially those not staying in the main building, abide by the noise ordinance and respect the people who live here.

Kind regards.

Ken Westhues

RE: Rental of our home in Nigeria

Kenneth Westhues <kwesthues@uwaterloo.ca>

Sun 1/15/2017 4:50 PM

To: alfred@alfreddsouza.com <alfred@alfreddsouza.com>

Cc: awesthue@hotmail.com <awesthue@hotmail.com>

Dear Alfred and Collette,

Nigeria! Ah, the wonders of auto-correct!

We're sorry Jim and Ken are leaving your house. They're nice guys, good neighbours. We wish them well.

We would not oppose somebody running a B&B in your house, so long as the host is resident on the premises, as the B&B rules require. We would oppose somebody running your house as a cottage rental, which is not allowed by the zoning on either your property or ours.

As before, we'll do our best to get along with whoever moves in.

Let us know what develops. Best as ever,

Ken and Ann

From: alfred@alfreddsouza.com [alfred@alfreddsouza.com]

Sent: 14 January 2017 12:07

To: Kenneth Westhues

Subject: Rental of our home in Nigeria

Dear Ken & Ann

Happy New Year to you both in sunny Florida. Hope you are keeping well, relaxed and having a great time.

Just wanted to inform you that our wonderful tenants Jim & Ken have decided to move out as of Feb.28/2017 for personal reasons.

We have listed the property for rent eff. March 1/2017 and have received an offer to lease it as a B & B for a two year term. We have not yet made a decision but would like to keep you posted, as you have always been a very good neighbour to us.

Take care and have great weekend.

Alfred & Collette D'Souza