

5419 River Road
Niagara Falls, Ontario L2E3H1

16 December 2020

Dear Mr. Herlovitch:

Thank you for inviting public comment on AM-2019-022, the OPA and ZBA applications submitted by Niagara Planning Group on behalf of John Pinter. We have reviewed the "Planning Justification Report" (PJR, 119 pp., September 2019) and the "Addendum" (31 pp., October 2020) posted on the city's website, paying closest attention to the text of the proposed amendments to the Official Plan and to Zoning By-law 79-200.

Current legal status of the subject properties

The applications pertain to six separate properties in what the city's Official Plan calls the River Road Satellite District, "a residential area where Bed & Breakfast accommodations are permitted so long as the residential character of the area is maintained" (4.2.37). The OP is unequivocal in restricting this district to residential uses: "No commercial uses shall be permitted in the River Road Satellite District" (4.2.38).

In keeping with these provisions of the OP, the city's Zoning By-law 79-200 designates five of the six properties as residential, not permitting the commercial use of any of them. As of 2020, these five dwellings are: 5287, 5401, 5411, and 5427 River Road, and 4465 Eastwood Crescent. Zoning of the one other property, 5359 River Road, permits it to be used as a 12-room inn with a resident owner or manager.

Proposed legal status by zoning amendment

The ZBA application, according to the 2020 Addendum (p. 2 and App. A), proposes to rezone the six properties for commercial use as a single entity called a Hybrid Inn, with 39 guest rooms and 40 parking spots spread across the six properties. The application calls the current inn the "main building," with reception, dining room, and other amenity areas for guests staying at any of the properties. The five dwellings are called "Hybrid-Inn satellite buildings," each containing 4 to 7 guest rooms in addition to the 12 guest rooms in the main building (or 13 guest rooms, according to p. 2 of the PJR). According to Appendix A, the "maximum number of satellite buildings associated with the Hybrid Inn" is five.

The 2020 Addendum deletes one building (5359 River Road) from the ZBA application in the 2019 PJR, and adds a different building (5287 River Road).

Proposed legal status by Official Plan amendment

According to the 2020 Addendum (p. 3), no change is required in the OPA application submitted as Appendix C in the 2019 PJR. In fact, the latter does not square with the ZBA application submitted as Appendix A of the 2020 Addendum.

The OPA application (second page of App. C, PJR) defines “Special Policy Area 32” as a Hybrid Inn consisting of a main building and satellite buildings, and proposes that this designation apply to .04 ha of land at one corner, .16 ha of land at another corner, and .28 ha of land “south of Eastwood Crescent...,” after which it says, “See Map 1 attached to this Amendment.”

One of the six properties proposed for rezoning in the 2020 ZBA lies *north*, not south of Eastwood Crescent. The dwelling at 5287 River Road is not even on the map, and none of the other dwellings (designated by acreage in the text) is highlighted, instead just one property, the existing inn, which is identified not by acreage but by its municipal number, 5359 River Road.

In its four concluding sentences (13.32.1 to 12.32.4), the OPA application is broader than the ZBA application. A “Hybrid Inn” would have to be located in a residential area near tourist attractions and utilize existing residential structures. No limit is set on the number of “satellite buildings” so long as they are within 200 m of the “main building” (the proposed ZBA sets a limit of five). The PJR refers repeatedly to the “Hybrid-Inn Model,” and says (p. 20) that “the proposal can be applied to other areas of the City of Niagara Falls.” The OPA application thus appears to be an odd mix of two purposes: to approve the six-building, 39-room tourist establishment centred on the legal inn at 5359 River Road, and to facilitate rezoning for similar multi-building tourist establishments in other residential areas of the city.

Land-use planning vs. opinion of a business

Because the current proposal would legalize the business John Pinter has been running illegally for four years, planning issues are easily commingled in this case with opinions about the existing business. If one’s opinion of Mr. Pinter and of his operation of Niagara Grandview Manor is positive, then one is tempted for this reason to recommend approval of his OPA and ZBA applications. If one’s opinion of him and of the Manor is negative, then one readily recommends that the applications be turned down.

Any such opinions must be kept separate from the essential question, whether the proposed by-law amendments are or are not consistent with relevant laws, policies, and principles of good planning.

In January 2018, Mr. Pinter listed as a package for public sale the three components of Niagara Grandview Manor that he owned at that time: 5359 and 5401 River Road, and 4465 Eastwood Crescent. The obvious implication is that he is not wedded to this business. His home is on the other side of the city. Niagara Grandview Manor, aka Niagara Historic Inns, is a commercial venture. If the applications are approved, it may be sold next year and become the city’s

newest Days Inn, operated at a standard lower than Mr. Pinter's. Or maybe the NOTL chain, Vintage Hotels, will buy it and operate it at a higher standard.

The applications must be evaluated on the basis of planning principles, independent of who the current owner is or who the next owner might be. The OPA and ZBA applications are an issue of public policy, not of personalities.

Basic flaw in the applications

Page 15 of the PJR sets forth the basic premise on which the OPA and ZBA applications are founded, the premise on which these 150+ pages of documentation rest: that the City of Niagara Falls does not have policies and regulations in place to allow for the kind of tourist establishment currently being operated as Niagara Historic Inns or Niagara Grandview Manor.

The premise is false. Like most cities, Niagara Falls has many applicable policies and regulations, namely those pertaining to motels. A motel is defined in the Zoning By-law as "a building or buildings or part thereof consisting of a number of motel units and catering primarily to the travelling public by supplying overnight sleeping accommodation with or without meals and which may be licensed under The Liquor Licence Act, 1975, but does not include a hotel."

The tourist establishment currently operated as Niagara Grandview Manor fits the city's definition of a motel. The applications could have been framed more simply and clearly – and in many fewer pages – in terms of the city's existing policies and regulations. This would not require a change of name. The business could continue to call itself for promotional purposes a manor, inn, lodge, boutique hotel, guest house, or whatever else, as is done by many other tourist establishments that are legally motels in municipal by-laws.

The applications obfuscate the reality

The effect of framing these applications in terms of the "new concept" or "new land use designation" of a "Hybrid Inn" is to obfuscate what is actually being proposed: the rezoning of five dwellings from residential to commercial, to legitimize a multi-building motel in a neighbourhood of mostly single-family homes. The submission as a whole – PJR, Addendum, draft by-laws – is a PR exercise, a smokescreen for concealing the reality it aims to legalize.

In John Pinter's first public defense of his business (click [here](#)) in 2017, responding to our complaint about it (click [here](#)), he openly acknowledged and defended the commercial use of residential properties in the River Road Neighbourhood. He used the words *commercial* or *commercialization* more than a dozen times in a five-page email, always claiming this is what the area needs.

By contrast, the 2019 PJR and the 2020 Addendum do not acknowledge even once in 150 pages that the proposed "Hybrid Inn" is land use for a commercial purpose. Indeed, the PJR defends the enterprise by stating that (p. 28) travellers "seek 'authentic experiences' outside the realm

of commercial hotels” – as if this repurposing of family homes as parts of a tourist establishment were not also a commercial enterprise. Approval of these applications would amount to commercialization by stealth of an established residential neighbourhood.

The concept, “Hybrid Inn,” is itself an obfuscation. It makes no sense to use the word *hybrid* without clarity about which two unlike things have been joined to produce a new and different thing – like two plant species crossed to make a new variety. Nowhere do the documents say which two unlike things have been joined to produce Niagara Grandview Manor. The concept is a catchphrase, a neologism we cannot find anywhere in the literature on land-use planning.

A good example of obfuscation is in the first paragraph of the Addendum, which says the application “seeks permission for an alternative travel accommodation, “The Hybrid Inn Model” that provides guest rooms and breakfast to the travelling or vacationing public through multiple single detached dwellings.” On first reading, this may seem clear. On closer reading, the deceptive use of the word *dwellings* leaps out. A dwelling is by definition somebody’s residence. A place where nobody resides but vacationers lodge temporarily is not a residence, just a building. The sentence should read, “. . . through what were formerly multiple single detached dwellings” or “through multiple single detached buildings.” The correct word *building* is used in the proposed OPA by-law.

Factual errors in the submissions serve also to hide the reality they seek to legalize. The PJR states on p. 14 and again on p. 19 that there are four motels and 44 Bed and Breakfasts in the River Road Satellite District. In fact, there are no motels at all in this district. As for B&Bs, an altogether legitimate ancillary use of a residential property, we counted 26 in the summer of 2019, when we published a list on the niagarariverroad website (click [here](#)).

An especially offensive factual error is the statement on p. 25 of the Addendum that one of the intended “satellites” of the “Hybrid Inn,” 5401 River Road, has been “Tourist Accommodation since 1922.” In fact, it was a family home for at least 30 years before John Pinter bought it. Kenneth and Jean Murphy raised their seven children in that home and stayed there into old age, until moving to a long-term-care facility in 2011. He died in 2016, she in 2018. During the 1980s and 1990s, Mr. Murphy was a vocal defender of the River Road Neighbourhood against incursion by commercial interests (click [here](#)).

Why the need to obfuscate

It is easy to understand why the applications have put a confusing, misleading gloss on what they actually propose. It is because few distinctions are as fundamental to land-use planning as that between commercial and residential use of property. Generally, municipalities allow commercial use of properties in an area zoned residential only in exceptional circumstances and for indisputably good reasons. Two policies of the City of Niagara Falls deserve emphasis.

1. “No commercial uses shall be permitted in the River Road Satellite District” (OP, 4.2.38).

2. “Notwithstanding any other provision of this By-law, no person shall convert any dwelling to a motel” (Zoning By-law, 4.24).

The fundamental question to be asked of the applications at hand is how compelling are their reasons for making an exception to these and related provisions of the city’s by-laws, which reflect basic principles of good planning.

Two major differences between this “Hybrid Inn” and similar establishments elsewhere

The PJR (pp. 24ff) describes what it calls “three Hybrid-Inn Models” which it says “operate similarly to this proposed Hybrid-Inn Model” even though they are not formally called by this name. Two are in Santa Barbara CA: the Cheshire Cat Inn and the White Jasmine Inn. The third is in Charlottetown PE, the Great George Hotel. Appendices G, H, and I, respectively, present page after page of photos and information about these three tourist establishments.

Why these three establishments were chosen is a puzzle. A few Google searches yield dozens, maybe hundreds of tourist establishments in North America that consist of multiple historic buildings. The Cornell Inn B&B in Lenox MA (click [here](#)), the Historic Inns of Annapolis MD (click [here](#)), the Westover Inn in St. Mary’s ON (click [here](#)), the Marathon Inn in Grand Manon NB (click [here](#)), and the Collector Luxury Inn and Gardens in St. Augustine FL (click [here](#)) are attractive examples, but there are many more, and hundreds more on other continents.

There is or was an example here in Niagara Falls, at the northern edge of the River Road Satellite District: Villa Gardenia. In 2002, Tony and Anna D’Amico applied to operate a four-room B&B in their home at 4741 Zimmerman Ave. Council approved. Then they bought two adjacent homes, 4733 Zimmerman Ave. and 4228 Huron St., and sought to add them to their tourist establishment as cottage rentals. The city’s Planning Department recommended in favour, noting that, “As the owners reside next door, they will be able to supervise the use of the dwellings and better ensure the properties are properly maintained.” In 2006, by the city’s then existing policies and regulations, Council approved. The result was a three-building tourist establishment at the corner of Huron St. and Zimmerman Ave., across the street from the main commercial district. Villa Gardenia was still operating in 2018, but it may now be defunct; its website is not operational.

Niagara Grandview Manor, the business the subject applications seek to legalize, differs from the examples in the PJR and others we have reviewed online in two major ways.

1. Generally, multi-building tourist establishments are located in areas zoned for mixed commercial and residential use. They are not commercial islands in a residential sea. Both the Cheshire Cat Inn and the White Jasmine Inn in Santa Barbara are in a “Residential Multi-Unit and Hotel” zone. The Great George Hotel is in a “Downtown Mixed Use Neighbourhood” zone, part of Charlottetown’s “500 Lot Area,” where tourist homes, inns, and heritage inns are permitted uses.

2. Generally, multi-building tourist establishments consist of adjacent or nearly adjacent buildings. This is true of the 18-room Cheshire Cat Inn. The 8-room White Jasmine Inn appears now to consist of just two buildings (click [here](#)), located across the street from one another. What is now the 54-room Great George Hotel in Charlottetown began with a small hotel built in 1847, whose owners in 1990 “purchased all adjacent buildings turning almost an entire city block into one grand hotel” (click [here](#)).

In contrast to the typical tourist establishment composed of multiple historic buildings, the tourist establishment for which the subject applications seek approval is located in a residential zone – not a mixed-use zone or commercial zone but one in which the Official Plan does not permit commercial uses. That some residents here operate B&Bs as home businesses, just as elsewhere in the city, does not alter the River Road Neighbourhood’s 130-year-old identity as a residential area. What the applications call a “Hybrid Inn” belongs, if anywhere, in this city’s Central Business Commercial, General Commercial, Resort Commercial, or Tourist Commercial zones, where hotels and motels are permitted uses.

In further contrast to otherwise similar establishments elsewhere, Niagara Grandview Manor is composed of markedly nonadjacent or noncontiguous buildings. Only two of the six are side by side: 5401 and 5411 River Road. Two single family residences and one approved 8-unit condo lie between 5359 and 5287 River Road. One single family residence lies between 5411 and 5427 River Road. River Lane separates 5359 River Road from 4465 Eastwood Crescent. Neither the PJR nor the Addendum cite any principle of good planning consistent with the proposed rezoning of a scatter of six dwellings for commercial use, interspersed with private, owner-occupied homes. We do not believe there is any such principle.

Residential zoning that does not permit commercial uses and noncontiguity of component buildings are the two most important ways Niagara Grandview Manor differs from other similar establishments. These are two major reasons the applications cannot be supported.

Two more differences between this “Hybrid Inn” and similar establishments elsewhere

The name, “Niagara Historic Inns,” implies that the six buildings are all historic, but this is not the case. The PJR says on p. 29 that Niagara Historic Inns “operates out of older Victorian styled buildings,” but this, too, is false. The name is best understood as a marketing technique, not as an accurate descriptor. 5287 River Road is a large home of Mediterranean architecture, built in 1990. It is attractive, but nothing about it is historic, much less Victorian. 5411 River Road is a typical 1960s raised bungalow, like thousands in suburbs across the continent. It is neither historic nor Victorian. 4465 Eastwood and 5287 River Road are of Arts & Crafts architecture, dating from the 1930s, decades after Queen Victoria’s death. Only the inn itself, 5359 River Road, can be considered Victorian. It was built about 1890. Mr. Pinter has modified it to the point that the original architecture is barely recognizable. We have found no other multi-building historic tourist establishment with such incoherence and diversity of architecture and age of buildings.

Second, in the four years it has been operating, Niagara Historic Inns has repeatedly changed the buildings it is composed of. In 2017 and 2018, two leased homes on John Street were operated as “satellites,” but both of these have been demolished. Mr. Pinter purchased 5427 River Road in mid-

2017, and it is included in the current applications, but no work has been done on it, it remains uninhabitable, and no guests have been lodged in it. Mr. Pinter's 2019 OPA and ZBA applications included 5395 River Road as a "satellite," and he had lodged guests in it for several years, but his 2020 ZBA application deletes 5395 River Road and adds 5287 River Road in its place. Meanwhile the "main building," 5359 River Road, remains under construction and renovation, as it has been for the past six years. Any reasonable observer has to wonder about the stability of the assemblage the current application seek to rezone. The actual business model seems to be to snap up by lease or purchase any nearby dwelling that becomes available for a good price, slap a catchy name on it, and lodge guests in it. By comparison to successful tourist establishments elsewhere that are composed of multiple historic buildings, the assemblage here is unusually fluid.

Spot zoning and the Veal decision

The subject applications are an extreme case of proposed "spot zoning," zoning one or several properties in a way that conflicts with zoning of the surrounding area and the city's master plan. As a "benefit to the particular property owner, to the detriment of a general land use plan or public goals," spot zoning provides "unjustified special treatment that benefits a particular owner, while undermining the pre-existing rights and uses of adjacent property owners" (for the *Wikipedia* page, click [here](#)).

In the case at hand, the proposed zoning is obviously at odds with current zoning and the city's Official Plan. It benefits a particular property owner, John Pinter, to the detriment of public goals, giving him unjustified special treatment while undermining the pre-existing rights of adjacent and nearby homeowners and other residents. This is consistent with the favouritism shown toward Mr. Pinter at the Council meeting of 10 September 2019 (click [here](#)).

One of the properties in the current proposal, 5401 River Road, was the subject of a proposal for spot zoning as cottage rental in 2012. Neighbours, including ourselves, objected strongly. The then owners, David and Alex Hagerman, withdrew the proposal after the OMB issued its decision in *Veronica Veal v. City of Niagara Falls* (click [here](#)), a similar case of proposed spot zoning for cottage rental. In the Veal decision, the Board wrote:

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. While not impacting the character of a neighbourhood *per se*, spot zoning of this type is shown in this case to create unacceptable impacts on adjacent properties.

The OMB ruled in Ms. Veal's favour, overturning the city's decision to spot zone as cottage rental the home adjacent to hers.

The residential character of the River Road Neighbourhood

The current applications assert repeatedly that the proposed “Hybrid Inn” “maintains the existing residential character of this portion of River Road” (as in PJR, p. 18), but they provide no evidence except that existing buildings, as opposed to new ones, will be used as “satellites.”

We do not believe that any unbiased observer, let alone an expert planner, could study the PJR and Addendum, even just the maps, and conclude that the “Hybrid Inn” would *not* have a detrimental impact on the residential character of this portion of River Road. What defines a neighbourhood is *neighbours*: people who live there, get to know each other, look out for each other, keep an eye out for hazards and dangers. A residential neighbourhood is not just houses that *look like* people live in them, it is houses where people actually *live*, forming bonds of community.

If these applications were approved, we ourselves, in our home at 5419 River Road, would have seven motel rooms in the house directly south of ours and eight motel rooms in the two houses directly north of ours: houses where we used to have neighbours, residents we knew by name and got along with, until John Pinter incorporated these properties into his inn. We can find no precedent in the planning literature – for sure none is cited in the PJR or Addendum – for spot zoning that results in a commercial enterprise operating on both sides of a private, owner-occupied home. That is not how the residential character of a neighbourhood is maintained.

River Lane, parking, and traffic

Even if this area were zoned for mixed use, even if it generally permitted commercial tourist establishments, the issue of parking would likely prevent the current applications from being approved.

The PJR emphasizes (p. 20) that “five out of six of the properties involved with the Hybrid-Inn Model front onto River Road,” a major, highly travelled street. This is true. What is also true is that vehicular *access* to five of the six properties is mainly or entirely via River Lane. 5401 and 5427 River Road have no driveways at all from River Road. Anybody trying to reach them by car must drive down River Lane. 5287 and 5411 River Road have driveways from River Road, but most of the parking spots for these homes are from driveways off River Lane. Parking for 4465 Eastwood Crescent was entirely from River Lane until Mr. Pinter constructed additional parking in its front yard. Parking for the inn at 5359 River Road is off Eastwood Crescent, with some spots accessible from River Lane.

The 2020 Addendum proposes 40 parking spots, providing a map in Appendix A. The map shows 21 spots off River Lane, 14 spots off Eastwood, and 5 spots off River Road. Six of the spots appear to be in existing garages. At 5287 River Road, two cars would park in the garage and two cars in tandem in front of the garage.

River Lane is simply unsuitable for this volume of traffic. It is a single lane about 4m wide, 11 or 12 feet, used jointly by vehicles, bicycles, and pedestrians. There is no room for sidewalks even if the city wanted to install them. If two cars meet from opposite directions, one has to back up.

Further, three dwellings front onto the west side of River Lane, opposite 5401 River Road, a proposed “satellite.” Each has its own driveway and an additional spot for parallel parking in front of the house. We know from ten years experience that when cars are parked on both sides of this section of River Lane, a car barely has room to get through, and sometimes cannot pass at all. The risk that a firetruck or other emergency vehicle could not get through is real. This summer we found a tourist’s car parked in this section of the lane, completely blocking it.

Still further, there is a blind hill and curve just at this point of River Lane. Often over the past ten years, while exiting our own driveway off River Lane, we have encountered a speeding car or truck suddenly descending from farther up River Lane. More cars on River Lane would mean more accidents waiting to happen, possibly just fender benders, or possibly the death of a pedestrian walking down the lane.

No study of the prospective parking impact of the proposed “Hybrid Inn” is reported in the PJR or Addendum. We are confident that competent, unbiased professionals would recommend against adding to the traffic burden on River Lane, especially given that this is a residential neighbourhood where children as well as adults are living.

The one parking lot – further concerns

One of the many strange provisions of the proposal at issue here is that “for the purposes of calculating and maintaining a parking area for the Hybrid-Inn, the Main Building and the Satellite Building(s) shall be considered as one lot.” The reason for this provision is that 5427 River Road, for example, is proposed to have seven guest rooms, but the property has only four parking spots. The remaining guests would have to park farther up River Lane at a “satellite” with extra parking spots – 5411 River Road, for example.

A major problem with this provision is that all six properties, both the four owned by the applicant and the two that are leased, would thereby be locked into the common commercial enterprise. None of the six properties could be sold or the lease discontinued without calculation of the effect on the required number of parking spots. It is almost as if the applications propose that the six properties should be deemed to be a single property. Indeed, that is the implication of the single ZBA application for all six properties, in contrast to the usual procedure of making a separate ZBA application for each property intended to be rezoned.

The ZBA application provides that the five properties fronting River Road, all of which are through lots, should not be considered through lots but instead lots with just one front yard on River Road: “The lot abutting River Lane shall be considered a rear yard.” In these rear yards, moreover, the maximum area that can be used as a parking area is proposed to be 170 square metres, as opposed to what the zoning by-law stipulates for homes in residential zones, 40 square metres.

This proposal of more than four times the standard amount of parking space in the “satellite” buildings on River Road is a good example of how the proposed “Hybrid Inn” damages the residential character of the neighbourhood. The backyards of dwellings typically have children’s play areas and gardens in their backyards. This proposal is for parking lots. One can see this vividly by driving along River Lane and glancing into the lot at 5411 River Road. When it was owner-occupied as a dwelling, there was one parking spot surrounded by trees, shrubs and perennials. When Mr. Pinter leased the property, he turned it into a gravel-surfaced expanse for parking multiple cars and storing construction materials. Trees have been cut for the sake of parking space, as has occurred also on other of Mr. Pinter’s properties.

Relevance of the Provincial Policy Statement

The section of the PJR dealing with the Provincial Policy Statement (pp. 16ff) is fluff. As is appropriate in a province of 15 million people spread across a huge variety of municipalities, the PPS is written in general terms. Nothing in the PPS supports the current applications.

The relevance of the PPS is that the single highest priority of the latest, 2020, revision, as described on the Ontario government website (click [here](#)), is on “increasing housing.” The number one goal of the 2019 consultation was to “encourage an increase in the mix and supply of housing.” This priority or goal has been cited countless times in OPA and ZBA applications all across the province, in support of intensification and higher density.

Hence the most noteworthy aspect of the applications at issue here, from the point of view of the PPS, is that they propose to *reduce* the supply of housing in the City of Niagara Falls. Five dwellings, all zoned residential, are proposed to be changed into commercial buildings for providing temporary accommodation to the travelling and vacationing public. That means five dwellings would disappear from the housing market. In no way does the PPS support the current applications. It recommends against them.

Desirability of tourism in regional and municipal plans

Like the PPS, *A Place to Grow: Growth Plan for the Golden Horseshoe* (2020 revision) and the Official Plans of Niagara Region and the City of Niagara Falls all support the growth of tourism. The PJR for the proposed “Hybrid Inn” emphasizes its consistency with tourism growth. This is true, but so are uses that comply with the R2 zoning of the River Road Satellite District, in particular Bed and Breakfast establishments, whose owners/operators are required by the municipal by-law to live on the property.

In our ten years of residence here at 5419 River Road, we have had no issues with parking, noise or garbage where owners reside on the property, and where tourism is an ancillary home business. These businesses are more sustainable economically than the proposed “Hybrid Inn” precisely because they are located in the owners’ homes. In times of economic downturn such as now during the COVID-19 pandemic, the B&B operators continue living in their homes and maintaining them like any other homeowner. Absentee owners like Mr. Pinter have neglected

their underused properties this past summer, leading to complaints to the city and to Niagara Parks about uncut grass, mice infestations, and proliferation of rodents and skunks.

Promotion of tourism is not the only stated goal of *A Place to Grow*. Other goals include promoting higher density in residential areas and more affordable housing. This proposal not only fails to support these goals, it detracts from them by removing five properties in a built-up area from the long-term housing market. At least three of these dwellings, moreover, have in the recent past included upstairs or basement apartments, affordable housing for low-income couples and singles. Access to short-term housing for tourists is being proposed at the cost of reducing access to long-term affordable housing for residents.

Everything has its place. We do not oppose hotels and motels in commercial districts, any more than we oppose Bed and Breakfasts in the River Road Satellite District. Tourism and housing are both worthy goals. One need not and must not be at the expense of the other.

Minor problems with the Official Application Form

Appendix C of the Addendum shows the completed and signed Official Application Form. So far as we can tell, this form was first completed and signed in September 2019, but then, with some signatures and information changed, it was notarized and submitted to the City of Niagara Falls more than a year later, in October 2020. We find a number of things odd about the Form, not necessarily wrong, just odd and puzzling.

1. The applicants are shown on p. 3 as Heather Sewell and Dianne Ramos of Niagara Planning Group, agents of the owner, John Pinter. This is clear. But then, instead of both applicants signing the document at the end, as they did the PJR (p. 32), only Heather Sewell signs the document on p. 7, and the signature of Dianne Ramos appears as a commissioner for taking affidavits. Standard practice is for the person notarizing a document to be an entirely disinterested party in the matter being notarized. As one of the two named applicants, Ms. Ramos is not a disinterested party.
2. Beside the word *owner* on p. 3 is a note, "See Appendix A for Ownership Information for 5411 River Road and 5395 River Road." Appendix A does not mention 5395 River Road, presumably because by October 2020, this property was no longer a subject of the application.
3. On p. 3, under "General Information," the number 5287 looks to be in a different typeface than the rest of the numbers and words in the list of subject properties, as if whiteout was used to cover over 5395, and then the number of the replacement property printed over it. Why wasn't the same thing done in the note beside *owner* just above? If all the owners who signed the document on p. 7 approved of this change, should they not all have initialed it? Why, since it would have taken very little time, was not an entirely new Official Application Form filled out and signed in October 2020, with all the correct information? The reader is left wondering if all the owners, in particular

Alfred and Collette D'Souza, were aware of and approved changes in the document they signed, presumably in September 2019.

4. At the top of p. 6, with reference to the city's Official Plan, a section number of the PJR appears to be crossed out and replaced with 4.4. This seems to be correct, but the reader is left wondering why this change was made. Was the first number a typo or was the PJR changed in some way from 2019 to 2020? Why wasn't the change made with whiteout, as on p. 3?
5. Page 7, the signature page, raises several questions. It is not clear when each of the signatures was obtained, September 2019, October 2020, or sometime in between. We suspect Lorenzo D'Amico and his witness signed in September 2019, when Mr. D'Amico's property, 5359 River Road, was still in the proposal. It makes sense that these signatures were subsequently crossed out, when 5359 River Road was dropped from the proposal. Why then was not "Chalet Inn Motor Inn Ltd," a company that we believe Mr. D'Amico owns, also crossed out? The signature of Guo Hao, owner of 5287 River Road, is off to the side, presumably because it was added a year later than the signatures of the D'Souzas, the Pinters, and their witnesses. Should there not be some indication of this disparity of dates, if indeed our presumption of such a disparity is correct?

An acceptable legal document has to be clear about who has signed it and when. If any changes in the document are made after it is signed, the signers need to initial the changes or otherwise indicate in writing their consent. There should be no confusion about who has consented to what and at what time the consent was given. The above-noted confusions in this document are possibly just poor form, or possibly something worse.

Major problem with the Official Application Form

Because the list of owners and addresses in Appendix A appears to be correct, updated to October 2020, one would expect that the "Names and Addresses of Mortgages, Holder or Charges or Other Encumbrances with respect to the Subject Land(s)" on the next pages of the same appendix have also been updated and are correct.

We have not checked this information for all the properties, but we have done so for the legal inn, the "main building" at 5359 River Road. We obtained our information from the Ontario Land Registry on 18 November 2020.

According to Appendix A of the Official Application Form, the encumbrances on this property are:

- 1st Mortgage: CIBC, 6225 Huggins Street, Niagara Falls, L2J 1H2
Debbie Quaranta 905-356-1345 ext. 238
- 2nd Mortgage: Unimor Capital, 1487 Ouellette Avenue, Windsor, N8X 1K1
John Battaglia 519-252-6953

According to the information we received from the Ontario Land Registry, a mortgage for \$540,000 was indeed obtained from CIBC in 2014. We find no mention of Unimor Capital. We find, however, two additional encumbrances:

22 November 2019: Mortgage for \$1,900,000, Stercus Accidit Mortgage Corporation

3 April 2020: Construction lien for \$21,870, Great Northern Insulation Contracting

It thus appears that the required financial information on the Official Application Form was not updated from the time the Form was initially prepared and signed (September 2019) to the time the Form was revised, with signatures added, and submitted (October 2020).

Finding so large a discrepancy between government records and the Official Application Form has left us feeling uneasy about all the applicant's submissions for the OPA and ZBA applications. We are left wondering how much other misinformation the submissions contain. It does not help that the Latin name for the mortgage company translates into English as "Shit Happens." Online searches show that there is a real financial services company with this name, registered in New York, Alberta, perhaps also elsewhere.

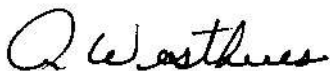
Conclusion

As these pages make clear, we cannot in any way support the OPA and ZBA applications. We have refrained in this submission from dwelling on the complaints we and others have been making since 2017 about how John Pinter runs this business. You already know those complaints, and our frustration that the city has let him run the business for years in violation of existing by-laws. Our focus here is instead on issues of land-use planning, how *anybody* might run the business if the OPA and ZBA applications were approved. We intend these comments as a resource for the city's Planning Department as it prepares recommendations to City Council on the applications. Finally, it should be clear that we do not object to the operation of a 12-room inn at 5359 River Road, as By-laws 2015-50 and 2015-51 permit.

With respect and kind regards,

A handwritten signature in black ink that reads "Kenneth Westhues". The script is cursive and somewhat stylized.

Kenneth Westhues

A handwritten signature in black ink that reads "Anne Westhues". The script is cursive and somewhat stylized.

Anne Westhues