

Report



Report No. DS2020-069	To: Council	Prepared By: Andria Leigh, Director, Development Services
Meeting Date: July 15, 2020	Subject: Zoning By-law Amendment Application 2018-ZBA-16 Commercial Accommodations	Motion # _____
Roll #: N/A		R.M.S. File #: D14 55794

Recommendation(s):	Requires Action <input checked="" type="checkbox"/>	For Information Only <input type="checkbox"/>
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It is recommended that:

1. That Report No. DS2020-069 regarding a Zoning By-law Amendment related to Commercial Accommodations in the Township of Oro-Medonte, be received and adopted.
2. That Zoning By-law Amendment Application 2018-ZBA-16, specifically to amend Section 6.0 – Definitions of Zoning By-law 97-95, as amended, to provide clarity with respect to the existing prohibition on commercial accommodations, be approved.
3. THAT the Clerk bring forward the appropriate By-law for Council’s consideration.

Background:

The Council of the Corporation of the Township of Oro-Medonte passed Interim Control By-law (ICBL) No. 2018-071 on the 18th day of July, 2018. By-Law No. 2018-071 applies to all lands within the Township of Oro-Medonte.

The Purpose of By-law 2018-071 was to permit the Township to undertake the necessary review of its land use planning policies and potential regulatory/licensing provisions pertaining to commercial accommodations. The effect of By-law 2018-071 was to prohibit the establishment of any new commercial accommodations for a period of up to one (1) year from the date of passing of the by-law.

Township Council extended the Interim Control By-law No. 2018-071 on the 19th day of June, 2019 for one (1) year ending on June 19, 2020.

On May 22, 2019 a Draft Licensing By-law was presented to Council for public review and input. No further direction has been provided by Council to further consider implementation of a registry/licensing system at this time.

The Township held a public meeting as required under the *Planning Act* on June 25, 2020 to obtain public and agency comments on a proposed draft by-law that was providing clarity on the existing prohibition of commercial accommodations in dwelling units in the Township of Oro-Medonte.

Written comments were received prior to and during the public meeting via email, fax, and regular mail in addition to individuals being able to present oral comments during the electronic public meeting. A total of 152 written submissions were received in addition to 55 oral presentations at the public meeting.

To date residents have indicated a number of issues/concerns with commercial accommodations in residential neighbourhoods: excessive noise, overflow parking nuisances, garbage, lack of adherence to good property standards, on-site waste management, no longer knowing one's neighbours, loss of neighbourhood identify, intensity of commercial-like use in a residential setting, lack of commercial assessment or taxation revenue for the municipality, and impacts on established bed and breakfasts.

The purpose of this report is to present a recommendation report and a proposed by-law for Council's consideration taking into account the comments received and questions raised at the public meeting on June 25, 2020.

Included with the report is a proposed by-law containing an additional definition for Section 6.0 of the Township's Zoning By-law 97-95, as amended. The by-law is in accordance with Council's direction and having considered comments received from the public and from the Township's legal counsel.

Analysis:

Planning Act

The proposed Zoning By-law Amendment has regard for the matters of provincial interest as outlined in Section 2 of the *Planning Act* and specifically the following:

- (h) the orderly development of safe and healthy communities;
- (o) the protection of public health and safety;
- (p) the appropriate location of growth and development;

and appears to be complete satisfying the criteria of Section 34 of the *Planning Act*.

Provincial Policy Statement (2020)

The Province establishes a policy foundation, through the Provincial Policy Statement, 2020 (PPS), that specifically provides direction on matters of Provincial interest related to land use planning and development within the Province of Ontario. Through this framework, the Province determines that building strong communities is a provincial interest which is to be addressed, in part, through promoting efficient land use and development patterns that support strong, livable and healthy communities, protecting the environment and public health and safety, promoting economic growth and competitiveness by providing opportunities for a diversified economic base and a mixture of uses to meet future needs, and the wise use and management of resources.

Part IV of the PPS sets out the Province's vision for Ontario's land use planning system, which includes land use patterns that promote a mix of housing and minimize the undesirable effects of development. The Vision recognizes that some areas will face challenges related to accommodating and managing development and population growth while protecting important resources and the quality of the natural environment.

"The Provincial Policy Statement directs development away from areas of natural and human-made hazards. This preventative approach supports provincial and municipal financial well-being over the long term, **protects public health and safety, and minimizes cost, risk and social disruption** [emphasis added]."

"Taking action to conserve land and resources avoids the need for costly remedial measures to correct problems and supports economic and environmental principles."

"Strong communities, a clean and healthy environment and a strong economy are inextricably linked. **Long-term prosperity, human and environmental health and social wellbeing should take precedence over short-term considerations** [emphasis added]."

Section 1.1 of the PPS requires municipalities to manage and direct land use to achieve efficient and resilient development and land use patterns. More specifically Section 1.1.1 (c) indicates that healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns. Section 1.1.1. (b) encourages the provision of an appropriate affordable range and mix of land uses to meet the municipalities long-term needs.

Additionally Sections 1.1.5.3 and 1.1.5.4 promote recreation, tourism, and other economic opportunities and recognize that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.

While it is recognized that commercial accommodations can meet the needs of the municipality for tourism purposes this needs to be balanced against the need to preserve the character of residential neighbourhoods, and to ensure the general health,

safety, and well-being of residents. Throughout the review completed by staff of commercial accommodations including a review of other jurisdictions and all comments received during the consultation process, it is clear that some commercial accommodations have negative impacts on the surrounding residential communities associated with matters such as parking, noise, garbage, septic usage, and property standards. The review of other jurisdictions included the Local Planning Appeal Tribunal (LPAT, formerly the Ontario Municipal Board) decisions that have upheld municipal land use planning documents related to short term rental accommodations. A key part of the municipal land use approach has been the recognition of short term rentals as commercial uses.

This proposal to amend the Township's Zoning By-law 97-95 to define "commercial accommodations" within the Township of Oro-Medonte, is in staff's opinion, consistent with the PPS as the amendment continues to provide the ability for zoning by-law amendments to be considered for commercial accommodations, that promote tourism and provide an economic benefit to the Township, in locations that are considered appropriate while ensuring compatibility with surrounding land uses, protecting public health and safety, and minimizing the cost, risk, and social disruption.

Therefore, it is staff's opinion that the proposed amendment the Township's Zoning By-law 97-95 to further define commercial accommodations within the Township of Oro-Medonte is consistent with the Provincial Policy Statement 2020.

Provincial Growth Plan for the Greater Golden Horseshoe (2019)

The Growth Plan for the Greater Golden Horseshoe is a framework for implementing the Government of Ontario's vision for building stronger, prosperous and complete communities. The Growth Plan provides high level policy direction relating to economic prosperity which includes transportation, infrastructure planning, land use planning, urban form, housing, natural heritage and resource protection and further provides direction on where growth is to occur, including establishing intensification targets, and protecting agricultural areas.

Similar to the Provincial Policy Statement 2014, the Growth Plan supports the identification of a diverse range and mix of housing options to meet current and projected needs as outlined in Section 2.2.6.1 (a)(i). Section 2.2.1.4 of the Growth Plan encourages municipalities to provide a diverse range and mix of housing options while also improving the overall quality of life.

Planning staff have reviewed this proposal in relation to the Growth Plan policies and have concluded that the proposed amendment is in conformity as this proposal would allow for commercial accommodations to be directed to appropriate locations, which could have an economic benefit to the community, provide for an alternate form of housing, while also maintaining land use compatibility and overall quality of life.

County of Simcoe Official Plan

The draft By-law proposes changes to By-law 97-95 which implements the policies of the Official Plan and therefore is consistent with the County of Simcoe Official Plan.

The goals of the County Official Plan are:

- To protect, conserve, and enhance the County's natural and cultural heritage;
- To achieve wise management and use of the County's resources;
- To implement growth management to achieve lifestyle quality and efficient and cost-effective municipal servicing, development and land use;
- To achieve coordinated land use planning among the County's local municipalities and with neighbouring counties, districts, regions, and separated cities, and First Nations lands;
- To further community economic development which promotes economic sustainability in Simcoe County communities, providing employment and business opportunities; and
- To promote, protect and enhance public health and safety.

The land use policies of the County Plan are to be consistent and conform with Provincial Plans and Policies and therefore the goals and policies of the County Plan provide the same objectives and policies to be achieved through the Provincial Policy Statement and Growth Plan.

The County Plan therefore has policies that provide for and encourage multi-use development and expansion of employment opportunities, the continuation and potential expansion of existing rural employment areas, the development of home-based businesses, tourism and resource-based recreational uses, and the wise management and use of agricultural, aggregate, forestry and other resource lands. However the County Plan also recognizes the need to preserve and protect the rural character and promote long-term diversity and viability of rural economic activities.

It is the opinion of planning staff that the draft By-law achieves the goals set out in the County Official Plan and conforms to the policies of the County's Official Plan.

Township of Oro-Medonte Official Plan

The goals, objectives and policies contained in the Official Plan are intended to guide the decisions of public authorities and private interests in order to maintain the Township as a livable and attractive community.

According to the people of Oro-Medonte, the excellent quality of life is what makes the Township a desirable place to live. This quality of life is created, in large part, by the rural character of the community, the open countryside, farmland, extensive wooded areas, the Oro Moraine, Lake Simcoe, Bass Lake and a number of small settlement

areas. Rather than being dominated by man-made structures and landscaped yards, the Township has an open, relatively natural and rural character. These are the qualities that, taken together, contribute to the identity of the community that is of the greatest importance to the residents.

The Goals and Objectives established in the Township's Official Plan identify the importance of the rural character in the Township. Section A2.5.1 states "It is the goal of this Plan to protect, maintain and enhance the natural, agricultural and open space character of the rural area". This is achieved through the objective that discourages the intrusion of land uses are incompatible with the rural character of the area. As noted throughout this report, throughout the public consultation process many residents have identified the negative impacts they have observed from commercial accommodations and their intrusion on the quiet quality of life currently held in the residential areas of the Township.

Further to the Section A2.7 states that it is "the goal of this Plan to create jobs and to provide opportunities for economic development". This is achieved through the a series of objectives including the encouragement of the development and diversification of the tourism industry in the Township however this is to be balanced by the encouragement of the protection of the Township's natural attributes, such as its rural character and its natural heritage system, to ensure that the recreational and tourism uses that rely upon these attributes continue to thrive. These goals and strategic objectives are achieved through the policies contained in the various land use designations that can be seen through the land use designation permissions for bed and breakfast establishments such as Section C1.3.10 as follows:

"C1.3.10 Bed and Breakfast Establishments

New bed and breakfast establishments may be permitted by way of an amendment to the implementing Zoning By-law and may be subject to Site Plan Control provided Council is satisfied that:

a) **the use shall not have a negative impact on the enjoyment and privacy of neighbouring properties [emphasis added];**

b) adequate parking facilities are available on the lot for the proposed use;

c) the proposed use will not cause a traffic hazard as a result of its location on a curve or a hill; and,

d) **the proposed use can be serviced with an appropriate water supply and an appropriate means of sewage disposal." [emphasis added]**

Similar to Provincial Plans and Policies and the County Plan, the Township Official Plan already seeks to provide the balance the encouragement of tourism and economic opportunities and the quality of life and rural character enjoyed by existing residents. Zoning By-law 97-95 conforms to these Official Plan policies that are intended to

provide a balanced approach through the prohibition on commercial accommodations and the requirement for an amendment to the implementing Zoning By-law to consider such use on a site-specific basis to ensure land use compatibility, minimize the impact on rural character, quality of life and social disruption.

Based on the above, Planning Staff is of the opinion that the proposed Zoning By-law Amendment conforms to the Township of Oro-Medonte Official Plan.

Township of Oro-Medonte Zoning By-law 97-95

The Township does have authority over local land-use regulations and have the power to prohibit and regulate certain land uses through zoning by-laws.

Section 3.0 of the Township's Zoning By-law explains that the only uses permitted in each zone are those that are specified in the by-law. None of permitted uses in the Township's Residential Zones contained in Zoning By-law 97-95 would permit commercial accommodations.

A number of the permitted uses (single detached dwellings, semi-detached dwellings, townhouse dwellings, multiple dwellings, etc.) in the various Residential zones (R1, R2, RUR1, RUR2) are defined by their reference to "dwelling units", as an example a "single detached dwelling means "a building containing only one dwelling unit". It is therefore significant to understand the definition of dwelling unit that states "Means one or more rooms in a building, designed as, or intended as, or capable of being used or occupied as a single independent housekeeping unit and containing living, sleeping, sanitary and food preparation facilities or facilities for the installation of kitchen equipment and has an independent entrance. For the purposes of this By-law, a dwelling unit **does not include any commercial accommodation** or a recreational trailer." [emphasis added]

While the definition of dwelling unit is clear in its prohibition of all types of commercial accommodations in dwelling units throughout the Township of Oro-Medonte, the intent of the proposed by-law is to provide additional clarity to this existing prohibition.

The proposed by-law amendment would further be supported as noted above by the various LPAT/OMB cases that have validated the recognition that short term rentals are a form of commercial accommodation where temporary accommodation is provided in exchange for payment. Based on this, this form of short term use would not be permitted under the existing definition of dwelling unit noted above.

Financial / Legal Implications / Risk Management:

Potential financial and legal implications should the decision of Council be appealed to the Local Planning Appeal Tribunal (LPAT).

While the Interim Control By-law would have expired on June 19, 2020, based on the current Provincial State of Emergency regarding Covid-19 the timelines were initially

suspended and therefore the ICBL remains in effect currently. In the event the proposed by-law is appealed, Section 38 (6.1) of the *Planning Act* states that if there is an appeal of the by-law under subsection 34(19), the Interim Control By-law continues in effect as if it had not expired until the date of the order of the Tribunal.

Policies/Legislation:

- Planning Act RSO c. P. 13
- Provincial Policy Statement 2020
- A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019
- County of Simcoe Official Plan
- Township of Oro-Medonte Official Plan
- Township of Oro-Medonte Zoning By-law No. 97-95, as amended.

Corporate Strategic Goals:

The Township's following Strategic Goals are relevant to this application:

Balanced Growth:

- Ensure land use planning policies manage change and promote economic activity that does not negatively impact the Township's natural heritage features and attributes.
- Encourage the protection of the Township's natural heritage features while ensuring that uses that rely on these features such as home-based businesses, recreation, and tourism are promoted and strengthened.

Consultations:

Notices were published in the *Barrie Today* and *Orillia Matters* newspapers and posted on the Township's website for the Public Meeting held on June 25, 2020, in accordance with the *Planning Act*.

Public notices were also sent to Internal Departments and Prescribed Agencies and to all individuals who had previously submitted written comments received by the Township.

As a result, the Township received approximately 152 written comments and 55 oral comments during the public consultation process.

The draft by-law being presented to Council has been reviewed and amended according to the Township's legal counsel.

Attachments:

Schedule 1: Draft Zoning By-law 2020-073.

Conclusion:

The proposed zoning by-law amendment (By-law 2020-073) is intended to give clarity to the existing prohibition on commercial accommodations in dwelling units in the Township of Oro-Medonte as set out in By-law 97-95, as amended. The proposed by-law amendment through By-law 2020-073, is considered by Planning Staff to:

- Be consistent with the Provincial Policy Statement 2020;
- Conform to A Place to Grow: the Growth Plan 2019;
- Conform to the County of Simcoe and Township of Oro-Medonte Official Plans; and
- Represents good planning.

On this basis, it is recommended that By-law 2020-073 as presented in Schedule 1 be approved by Council.

Respectfully submitted:

Andria Leigh, Director, Development Services

Approvals:
Robin Dunn, CAO

Date:
July 10, 2020

Schedule 1 –

**The Corporation of the Township of Oro-Medonte
By-law No. 2020-073**

A By-law to amend Zoning By-law 97-95, as amended (General Amendment)

Whereas the Council of the Corporation of the Township of Oro-Medonte is empowered to pass By-laws to regulate the use of land pursuant to Section 34 of the Planning Act, R.S.O. 1990, c.P.13.

And Whereas By-law 97-95 currently prohibits all types of commercial accommodations in dwelling units in the Township of Oro-Medonte;

And Whereas the Township wishes to provide clarity with respect to the existing prohibition of commercial accommodations in dwelling units in the Township of Oro-Medonte as set out in By-law 97-95;

And Whereas Council deems it appropriate to amend the zoning provisions of By-law 97-95, in accordance with the policies of the Official Plan;

Now Therefore the Council of the Township of Oro-Medonte hereby enacts as follows:

1. Section 6.0 – DEFINITIONS - is hereby amended by adding the following new definition:

“Commercial Accommodation - means temporary accommodation, lodging, or board and lodging, or occupancy in a building, dwelling or dwelling unit, hotel, motel, inn, bed & breakfast, or boarding house by way of concession, permit, lease, license, rental agreement or similar commercial arrangement for any period of 28 consecutive days or less throughout any part of a calendar year.”

2. This By-law shall take effect on the final passing thereof, subject to the provisions of the Planning Act, as amended.

By-Law read a First, Second and Third Time, and Passed this 15th Day of July, 2020.

The Corporation of the Township of Oro-Medonte

Mayor, H.S. Hughes

Clerk, Yvonne Aubichon