



Town of Huntsville Staff Report

Meeting Date: April 13, 2022

To: Planning Committee

Report Number: DEV-2022-62

Confidential: No

Author(s): Richard Clark, Manager of Planning

Subject: Z/08/2022/HTE - 1678920 Ontario Ltd. - 432 Springfield Road

Report Highlights

Staff review and recommendation respecting proposed Zoning By-law Amendment Application No. Z/08/2022/HTE.

Recommendation

That: Planning Committee recommend DENIAL of Zoning By-law Amendment Z/08/2022/HTE, the purpose and effect of which is to rezone a portion of the lot from a Natural Resource (NR) Zone to a Natural Resource with Exception (NR-Exception) Zone to permit a short term rental accommodation as an additional permitted accessory use on the subject lands.

Background

Purpose and Effect:

The applicant is proposing to change the zoning on a portion of the lot from a Natural Resource (NR) Zone to a Natural Resource with Exception (NR-Exception) Zone to permit a Short Term Rental Accommodation (STRA) as an additional permitted accessory use within an existing single detached dwelling on the subject lands.

Site Characteristics and Surrounding Uses:

The property has an approximate area of 0.5ha with 58m of frontage on Fairy Lake. The lands are generally flat and are currently developed with a single detached dwelling and utility shed. A dock also exists along the shoreline in front of this property, within the Town-owned Original Shore Road Allowance. The majority of the lot is maintained in a natural vegetated state with the exception of a grassed yard between the dwelling and shoreline. The surrounding uses are shoreline residential in nature.

Location: Part Lots 22 & 23, Concession 14, Brunel

Previous/Current Files: None

Natural Constraints: Flood Prone Lands, Type 1 Fish Habitat, Cold Water Lake, Trout Lake Habitat

Human Constraints: None

Official Plan: Waterfront

Zoning: Natural Resources (NR) Zone and Rural Two (RU2)

Access: Springfield Road (Private Road)

Servicing: Private Individual Well and Septic System

OSRA Status: Open

Technical Background Report(s): N/A

Discussion

Zoning By-law:

Land containing flood prone areas are typically contained within the Natural Resource (NR) Zone; which is among the most restrictive zoning categories in the Town. According to the Town's Comprehensive Zoning By-law (By-law 2008-66P, as amended), single detached dwellings that existed prior to the date of passing of the by-law are permitted within NR zoned lands; however no new dwellings or additions are permitted. Permitted accessory uses in the NR zone are also restricted to boathouses and docks only; provided they are accessory to a permitted principal use on the same property in an abutting zone.

STRA By-law:

In 2020, Council passed a By-law to license, regulate and govern STRA uses (By-law 2020-91). Council also passed a by-law to amend the Town's Comprehensive Zoning By-law (By-law 2020-8), to include a definition for STRA use, detail parking requirements relating to such uses, and permit STRA uses, as accessory uses in certain zone categories providing they are licensed in accordance with the STRA By-law. Both the STRA By-law and the amended Zoning By-law work together to effectively license and regulate STRAs.

When the STRA By-law was developed, STRA uses were not permitted as-of-right as accessory uses within dwellings located within the NR Zone. This was due in part to concern that STRA uses within flood prone areas could increase the intensity of residential uses in these high risk areas, leading to increased risks to life and property.

It is noted that Report # [DEV-2020-127](#), was presented to General Committee in December 16, 2020, to discuss inquires raised by landowners respecting a potential housekeeping amendment to the Zoning By-law to allow STRAs as-of-right within the Town's floodplain zones, including the NR Zone. Instead, Committee preferred to require future STRA uses in such lands to proceed by way of site specific Zoning By-law Amendments, to ensure such use would only be permitted on properties where justified to do so based on an assessment of flooding risks and mitigation measures. Additionally, resolution GC-61-20 was carried, which had the effect of opening a three-month window in the first half of 2021 to allow existing operators of STRAs in floodplain zoned lands to submit applications for a zoning amendment at a reduced rate of 50%. In this instance, the application was submitted a year after the window specified in the resolution.

Town of Huntsville Official Plan

The subject lands are included in the "Waterfront" designation of the Official Plan, which anticipates linear, low density shoreline residential development that respects the character and natural setting of the waterfront area, and is mixed with tourist, service commercial, and open space uses (C7.2.6, C7.2.8). Section C7.2.11 states that the character of the waterfront will be maintained by retaining the traditional mix of land uses at an overall low density, as well as by preserving the natural

environment, particularly related to water quality, vegetation, natural shorelines and significant natural areas and habitats. To achieve these goals, Section C7.2.12 establishes guidelines intended to limit the visual impact of development along the waterfront, noting that disturbance on lots should be minimized.

Policies of Section B of the Official Plan require that natural heritage features and areas, and their ecological functions, be protected from impacts relating to development (B3.1.1, B2.3.1). Additionally, natural hazards such as floodplains, hazardous forest types for wildland fires, and steep slopes are to be generally avoided. According to mapping contained in Schedule C of the Official Plan, Fairy Lake is considered Type 1 Fish Habitat in front of the property, and is also considered a Cold Water Lake and Lake Trout Habitat. As noted, previously, the lands are also flood prone lands and are below the Regulatory Flood Elevation associated with Fairy Lake.

The Official Plan states that new development and site alteration is not permitted below the regulatory flood elevation, except for minor expansions to existing legal non-conforming uses, flood and/or erosion control structures, or marine-related structures such as docks, decks, and non-habitable boathouses (B4.1.3). Adding uses to existing non-conforming uses is not permitted.

The NR lands on site correspond with the Regulatory Flood Elevation for Fairy Lake provided in Section 3.6 of the Zoning By-law, which is 286.53m ASL. That elevation included the 100yr static flood elevation for Fairy Lake plus a 2-year wave runup factor. However, the District recently released updated flood plain mapping for various waterbodies around Muskoka. According to a Technical Report, prepared by Duke Engineering, for neighbouring lands, the Regulatory Flood Elevation applicable to these lands using this new mapping would be 286.46m ASL, which includes the new static floodline elevation for Fairy Lake, as determined in the District's updated mapping, plus the 2-year wave uprush factor.

It is noted that a topographic survey prepared by Tulloch Engineering was submitted in support of a building permit application for a second storey addition in 2005 and is contained in Attachment #3 to this Report. On review of this survey, it appears that the building is located below the updated 286.46m ASL Regulatory Flood Elevation. Further, the deck appears to have an elevation of 285.8m ASL. As openings to the dwelling are at a similar elevation to the deck, as illustrated on Site Photos contained in attachment #4, the dwelling may be prone to flood inundation under Regulatory Flood conditions as both the deck and openings onto it would be inundated by flooding measuring approximately 0.66m in depth.

It should be noted that the driveway and parking area on the property would also appear to be at risk to flooding under Regulatory Flood conditions. Further, Springfield Road is also below the Regulatory Flood Elevation where it forks to access properties east of the farm property. In this regard, recent information provided in support of an application on adjacent lands has demonstrated that this road is above the updated static flood elevation for Fairy Lake, but below the Regulatory Flood Elevation after the 2-year wave uprush factor is taken into consideration. This implies that all landowners beyond this flood prone section would be subject to risk; potentially having no flood free ingress and egress to their lands.

Based on flood depths likely to be experienced on site under Regulatory Flood conditions, the lack of floodproofing for the dwelling itself, and the lack of safe access to the lands under Regulatory Flood conditions, it would appear inappropriate to permit a Short Term Rental Accommodation use on site.

District of Muskoka Official Plan

The lands are designated Waterfront in the District of Muskoka Official Plan (MOP). District of Muskoka staff reviewed the application and provided comments (Attachment #5). The comments detail that District staff are not in support of the proposed development given that the proposed

development is located within a floodway where development and site alteration is not permitted in accordance with applicable MOP policies. It is noted by District staff that minor additions and development of uses that by their nature must locate with the floodway such as docks or boathouses may be permitted in certain areas; however the proposed development would not meet these criteria. District staff further note that the proposal to add a short term rental use, could pose a risk to the travelling public who are unaware of the hazards.

Provincial Policy Statement

The 2020 Provincial Policy Statement (PPS) applies and contains policies relating to wise use of resources and natural hazard avoidance. With respect to Natural Hazard policies contained in Section 3.1 of the PPS, it is noted that policies 3.1.4 prohibit development that would add additional uses within lands located below the Floodplain. There are exceptions in these policies to allow for minor additions to existing non-conforming, or to permit uses which by their nature must exist within the floodplain; however, the new proposed use would not appear to meet this criteria.

Summary

In view of the foregoing, the application would not appear to conform to the Official Plan nor be consistent with the Provincial Policy Statement.

Options

Committee could recommend to Council that the application be approved; however, that is not recommended as it would not appear to conform to the intent of the Official Plan nor be consistent with the Provincial Policy Statement.

Should Committee choose to support the proposed zoning, a Holding "H" provision is recommended to address adequate Shoreline Buffer revegetation in front of the property and the removal of structures from the ORSA or closure and purchase of this lands from the Town. Further, should Committee view the application favourably, it is recommended that a site specific definition for the STRA use be applied in the zoning by-law that includes a timing window to restrict the use so that it would only be permitted to occur outside high flood risk seasons.

Council Strategic Direction / Relevant Policies / Legislation / Resolutions

Environment & Sustainability

Sustainability - Integrate sustainability principles into planning & development policies and processes (Env. 2.2, 2.4).

Communications

Awareness - To increase awareness of Town Services and events (Com.1.4).

Community Engagement - Increase opportunities for public engagement (Com.2.1).

Unity Plan

Social Considerations

Goal 5: Land Use Planning: Huntsville will become a model of sustainable community development, by incorporating the principles of smart growth, sustainable design and green buildings into all land use planning decisions. This will include a commitment to the protection and maintenance of Huntsville's rural small town character and vibrant downtown, both of which are valued by the community.

Goal 6: Social well-being: The community will encourage and support social diversity and personal sense of well-being by improving accessibility, promoting volunteerism, striving to reduce poverty, and maintaining a healthy, safe, friendly community to live, work, and play for all ages, cultures and abilities.

Environmental Considerations

Goal 1: Environmental Protection: The community will protect, preserve, restore, and enhance the terrestrial and aquatic environments and biodiversity of Huntsville and surrounding area by being responsible stewards of the environment.

Relevant Policies/Legislation/Resolutions

Provincial Policy Statement

Planning Act, R.S.O. 1990, cP.13

District of Muskoka Official Plan

Town of Huntsville Official Plan

Zoning By-law 2008-66P, as amended

Report No. DEV-2020-127 re. "Short Term Rental Accommodations in Flood Prone Lands"

Attachments

[Attachment #1: Location Map](#)

[Attachment #2: Sketch](#)

[Attachment #3: Topographic Survey](#)

[Attachment #4: Site Photos](#)

[Attachment #5: District Comments](#)

[Attachment #6: Letters of Support](#)

[Attachment #7: Letters of Objection](#)

Consultations

The application was circulated in accordance with the provisions of the Planning Act and to the Fairy Lake Association. The District of Muskoka provided comments which are attached (Attachment #5) and detailed in the discussion section.

Two (2) letters of support were provided from adjacent landowners and these are appended as Attachment #6 to this report.

Two (2) letters of objection were provided and is appended as Attachment #7. One objection letter raised concerns relating to the commercial use of the property, related concerns with noise and traffic impacts on the private road. The other objection letter raised concerns respecting the use of the property as a STRA given the flood prone nature of the property and the fact that it is on a private road.

Building staff noted that access to this property has been restricted in the past due to spring flooding. Additionally, staff noted the road has been washed out in the past during this time of year. Fire staff noted that access to this property may become restricted during a flood/high water event near 393 Springfield Road; which could delay emergency response. Should If the Committee view the application favourably, both Building and Fire staff recommended that an "operational start date" be

imposed wherein no rentals would be permitted during the last 2 weeks of march and the first 2 weeks of April. This operational start date could be incorporated into a site specific definition for a STRA use and be included in an license.

Respectfully Submitted: Richard Clark, Manager of Planning

Manager Approval (if required): _____

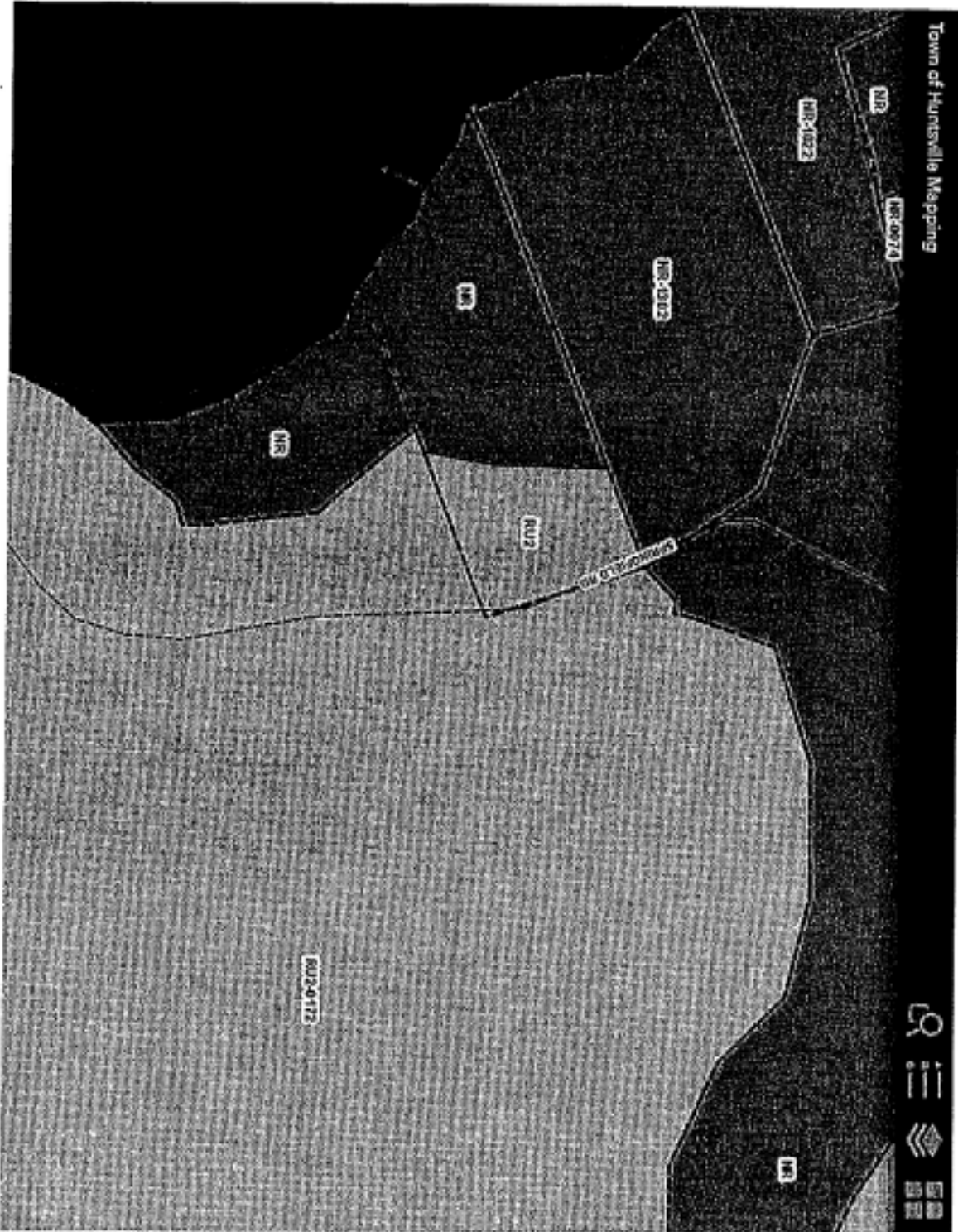
Director Approval: Kirstin Maxwell, Director of Development Services

CAO Approval: _____

Attachment #1: Location Map



Attachment #2: Sketch



Attachment #4: Site Photos

Photo #1: Rear of Dwelling.



Photo #2: Front of Dwelling.



Photo #3: Front Yard.



Photo #4: Shoreline Frontage



Photo #5: View of Springfield Road flood prone land.



Photo #6: Springfield Road flood prone lands.



Photo #7: View of Culvert at Springfield Road.



Attachment #5: District Comments



April 6, 2022

Tanya Calleja, Clerk
Town of Huntsville
37 Main Street East,
Huntsville, Ontario
P1H 1A1

VIA EMAIL ONLY

Dear Ms. Calleja:

RE: Zoning By-law Amendment Application
Z/08/22/HTE (1678920 Ontario Ltd.)
432 Springfield Road
Part Lots 22, Concession 14, Brunel, Town of Huntsville

Recommendation

District staff are unable to recommend approval of the above noted application as it represents development, as defined by the PPS, below the static floodline elevation of Fairy Lake.

Notice of Council's decision respecting the above-noted application is requested.

Analysis

The subject property is located on Fairy Lake within the "Waterfront" designation of the Muskoka Official Plan (MOP), and is currently developed with a dwelling, dock, and a number of accessory structures. It is our understanding that the purpose of the above noted zoning by-law amendment application is to rezone a portion of the lot to a Natural Resource (NR) Zone with an exception to permit a short term rental accommodation as an accessory use.

In response to the recent significant flooding events of the Muskoka River Watershed, the District was awarded Federal funds to undertake comprehensive floodplain mapping, which has led to detailed floodplain mapping to replace the existing mapping from the 1980s/1990s. Floodplain mapping is critical to support informed decisions and investments to reduce the impacts of flooding in our communities, as development in these areas can result in significant damage to properties if flooding or erosion occurs and represents a risk to human health and safety.

COMMUNITY AND PLANNING SERVICES DEPARTMENT

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Children's Services, Community Engagement, Housing, Ontario Works and Seniors Programs

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A review of this detailed floodplain mapping indicates that almost the entirety of this property, including the existing dwelling, is located below the identified static floodline elevation, within the one-zone floodway of Fairy Lake. The Provincial Policy Statement (PPS) and the Muskoka Official Plan (MOP) state that development, including changes of use and site alteration shall not be permitted with a floodway or within areas that would be rendered inaccessible to people and vehicles during times of flooding hazards. Minor additions and development uses that by their nature must locate with the floodway such as docks or boathouses may be permitted in certain areas, however the proposed development would not meet these criteria.

As the existing dwelling is already entirely located within the floodway, the proposal to add a short term rental use, could pose a risk to the travelling public who are unaware of the potential risks. Accordingly, District Staff are unable to recommend approval as the proposal is not consistent with the PPS and would not conform to the MOP.

Regards,



Curtis Syvret

Planner

Attachment #6: Letters of Support

January 15, 2022

To whom it may concern,

Jennifer and myself have lived at [REDACTED] in Huntsville for 14 years. In that time we have never seen the McCarey's cottage under water or in any jeopardy of being under water. We have no issues with their cottage being rented out and have not been negatively impacted in anyway. We fully support the McCarey's being able to rent their own property out. They have always been very courteous, respectful and kind and should not even in this position because of people on our lane who feel it is their right to take this away from them.

Blayne and Jennifer Hutchins
[REDACTED]
[REDACTED]

February 5, 2022

Regards to short-term rentals at 432 Springfield Road

To whom it may concern:

I have been living at [REDACTED] since 2013. When we purchased this property, we knew that we were in a flood zone but after speaking with many neighbours about the water levels we felt confident that we would not have any problems. The year 2019, proved to be the largest flood in Huntsville. At this time, at no point did the water levels hit our property or the property at 432 Springfield Road. This was a relief to all of us. I have no concerns with our properties being affected by flooding after that flood that hit the town of Huntsville. This was the only time (during the spring thaw) that I would have ever had any concerns with flooding but it did not affect either of our places. If flooding is a concern of yours, have you ever considered a black-out period to ensure there are no problems? As mentioned above, we have never had any issues and neither have our neighbours. Our neighbourhood is not prone to floods. There are businesses in town that operate in a flood zone and have been affected and they can still operate.

[REDACTED] 432 Springfield Road are a nice young family. They made me aware that they would be renting, mainly during the summer months, in order to afford their new cottage. I have not had any issues with them renting and fully support the McCarey family and them renting their cottage. The road behind both of our places is high and dry and not in the flood zone. If one day, water levels rose, we would both have a full exit plan by simply walking down our driveways and heading towards the road. We have neighbours that live in this flood zone all-year round with no problems. This dwelling is a cottage, not someone living there permanently.

When we bought our property and designed a place, we were told to build specifically for a flood zone which both of our dwellings have done. We do not have a basement and the dwellings are above ground level.

It would be a shame to not allow our lovely neighbours rent their cottage as they have successfully been doing. I fully support them in renting their cottage and do not foresee any issues with flooding.

If you want to contact me, feel free to call my cell at: [REDACTED]

Thank you,

Pawel Materski
[REDACTED]

Attachment #7: Letters of Objection

From: [REDACTED]
Date: 3/31/2022 7:06:55 PM
Subject: 432 Springfield Rd Huntsville File #A/08/2022HTE (1678920 Ontario Ltd)

Planning Committee

- >
- > We live at [REDACTED], 4 lots from the above mentioned property currently trying to get short term rental approval.
- > We are strongly against the approval of short term rentals for the following reasons :
- >
- > 1. THIS IS NOT A COMMERCIAL AREA - this property should not be used as a hotel as it is in a residential area. This property should not be used commercially. I do not need to remind you of the horror stories of other short term rentals . We pay residential property taxes NOT commercial taxes because this area is residential.
- >
- >
- > 2. Horrific noise - these people have rented to very loud partiers in the past 2 years and it is very disturbing to our community. We understand that people want to come up and party and have a good time but some of their previous guests were excessively loud with horrific language.
- >
- > 3. Traffic - PRIVATE ROAD - THE TOWN DOES NOT MAINTAIN THIS ROAD , it's a single lane road that our community maintains. We know the traffic patterns , where we pull off and when we pull off when we meet each other coming and going. The guests in the past do not know what to do when meeting traffic. This is a hazard.
- >
- > In summary , we pay our residential property taxes , and do not want a commercial property in our residential area creating problems. Hotels are for short term rentals , they are zoned commercial, if the

MCGarey's want to rent rooms they should purchase a hotel and pay commercial taxes.

- >
- > We strongly oppose this change and we will fight to make sure this does not go through. Thank you
- > Lynn Betts
- > Ed Blackwell
- >
- > Sent from my iPhone

Letter of Objection

Z/08/2022/THE 1678920 Ontario Ltd.
432 Springfield Road

I wish to submit this letter of objection to the rezoning application noted.

The NR Zone which is considered flood zone does not support Short Term Rentals as a permitted use. All other properties in this area zoned NR are required to abide by the flood zone restrictions. To permit an exception for a property to in essence run a business makes absolutely no sense.

Current zoning is in place for a reason and exceptions should be carefully considered and adjacent owners should be considered a factor.

This property is also on a private road which is maintained by all property owners. While participating in maintenance costs applies to the property in question, the responsibility for safe road travel lies directly with the property owners. Each property owner on this private road is responsible for ensuring resident safety for themselves and their families and guests. The same cannot be said for an accommodation business where renters may exceed 50 different individuals with no accountability to safe road travel.

I respectfully request that you uphold the current zoning bylaw and deny this application.

Tracy Moore

