

Comments Regarding Staff Report FAF.21.020, Committee Meeting February 1, 2021

While other Municipalities, throughout the country, are closing and banning STA rental housing, the Town of Blue Mountains is still struggling with their attempt to control, regulate and administer STA existence. A STA is a unique commercial business venture that must co-exist with residential neighbourhoods. It has been demonstrated and proven with ongoing discussions throughout the last 10 years that this marriage does not work. STAs do not belong to, or enhance, our residential neighbourhoods and there has been no proof that they add any value to the Town's economic growth beyond what residential home owners would have provided. STAs remove and reduce the number of homes available to the market causing, in part, the difficulty that the Town is facing with affordable housing. Reduced supply = higher pricing. The proposed changes will further erode this availability. (There are 277 STAs within the Village area and none in Thornbury). The proposed demerit point system and monetary penalties will allow STAs to continue their inappropriate disruption to our neighbourhoods for years to come. I support higher monetary penalties. They cannot be considered punitive when the nightly rental rates of some STAs are as much as \$2,000 to \$3,000.

What is the cost to the town, in their attempt to control, regulate, administer, licence, inspect, investigate complaints, meet with the public, and write Staff Reports relating to STAs. Town staff and council have been involved in this attempt for more than 10 years, and now we are looking at hiring more staff to regulate STAs. This cost all falls on the backs of taxpayers. As a retired fulltime resident and taxpayer, this is not how I want my tax dollars spent. It is not the Town's responsibility to provide additional rental housing for the Village of Blue Mountain, or to subsidise village employee housing by allowing STAs to continue, or to provide staff to police these establishments. STAs must self regulate.

1) Type C, – Grandfathered, Legal Non-Conforming STA

Currently, there is no means by which a LNC STA will be returned to its original status as a residential single family home. Legal Non-Conforming STAs fail to realise that their existence in the neighbourhood is a privilege not a right.

I assume that the application for a Type C - LNC STA was as stringent in its requirement for licencing as it is for other Legal STAs. Any material changes to the application requirements should demand a re-application under current By-Laws. There are approximately 82 Type C - STAs within walking distance of the Blue Mountain Village and within residential neighbourhoods.

The right to be "Grandfathered" was granted to an individual at a specific residence based on size, number of bedrooms and established rental history. When the residence is sold by the individual, the relationship between the owner and the residence is severed. Similarly, when the residence undergoes a major renovation (changing the floor plan provided during the licence application) the relationship between the licenced residence and the owner is broken and the residence no longer satisfies the original application. Under either of these conditions a licence for a Type C STA must be revoked. The original justification for the Legal Non-Conforming status ceases to exist. The owner, or new owner, must re-apply for a Type A or B licence if allowed by the Town's Zoning Bylaws. Please revise this new By-Law, to confirm that a Type C licence cannot be transferred to a new owner of the property when sold.

2) Bed and Breakfast definitions

The definitions for "Owner", "Bed and Breakfast Establishment", "Principal Residence", and "Person" all severely distort and misrepresent the concept of a Bed and Breakfast.(refer to attachments) Other municipalities would not allow this distorted view of a Bed and Breakfast to exist, why is the Town of Blue Mountains proceeding with these changes?

3) Type D- Bed and Breakfast Points and Penalties

If the Town allows a Bed and Breakfast Establishment to be licenced under the new proposed By-Law, which only requires someone to be at the residence between 2300 and 0700 hours, then all of the same demerit points and penalties that apply to other STAs should also apply to a B&B. Unlike a STA, there is no responsible person available for a B&B, and therefore nobody to call if there is a disturbance between 0700 and 2300 hours. How can the owner be responsible for the renter's behavior if they are not there to supervise the renter?

4) A Type D B&B is not a B&B

Under the new definitions which relate to a B&B, the traditional meaning of a B&B will become misguided, confusing and argumentative. (see attachments) Any STA is permitted to rent all or part of a residence. How is renting part of a residence different from the proposed B&B, if the owner is not required to be on site throughout the rental period? If someone (not necessarily the owner) only has to be present from 2300 to 0700, the residence becomes a STA and cannot be described as a B&B. Will this classification be described as a Bed and Breakfast STA, and the definition for a B&B say that it is a STA?

5) Where is a Bed and Breakfast?

The only conceivable reason for the town creating the new definitions applying to B&Bs, is so that these establishments can be licenced in existing residential areas where STAs are not permitted, otherwise, an owner would simply apply for a STA licence. All non-resident, part time, property owners will satisfy the new definitions. What is the mechanism for approval of a B&B? Will permanent residents accept this new licencing arrangement when a B&B suddenly appears next door? This proposal for Bed and Breakfasts is a slap in the face of the OMB Ruling requiring the elimination of STAs from residential neighbourhoods.

6) Bed and Breakfast Compliance

The Town Staff argues that there are no complaints about renter behavior related to B&Bs. Perhaps this is because it is the owner's primary, principal residence and the owner of the property is on site the full time it is rented, and the owner, not his agent or proprietor, has a responsibility to his neighbours and the neighbourhood. Or perhaps it is because there are only 17 B&Bs in the whole of The Town of Blue Mountains, half of them are in rural locations and only 3 are within the Village area. Diluting the definitions and requirements for B&Bs, as proposed in this By-Law, will not maintain, but will severely degrade, this level of compliance.

I have attached previous correspondence related to this matter. I apologize for some of the repetition, but since nothing has essentially changed in this new draft By-Law, I feel that I must repeat myself with the hope that Council will reconsider the changes being proposed. I would appreciate a response to the questions raised in this correspondence, and I would like to receive a notice of any decision regarding this matter.

Thank you for accepting my comments.

Graeme Duncan

 Campbell Crescent

From: Graeme Duncan [REDACTED]
Subject: Licencing and Administrative Monetary Penalties By-Laws,
FAF.20.194, COW Meeting Dec. 1,2020
Date: Nov 27, 2020 at 2:55:03 PM
To: directorlegal@thebbbluemountains.ca,
townclerk@thebbbluemountains.ca

Mr. Thomson,

I recently [REDACTED] attended a virtual LPAT hearing regarding the Council's decision to reject a proposed amendment to the Zoning By-law to permit a Bed and Breakfast [REDACTED]. Although we have not been advised of the outcome of this hearing, it was apparent from the discussions by both legal representatives, that clear and concise definitions and by-law wording would have avoided this costly process.

Some new issues, along with a number of those raised in my comments concerning the proposed by-laws and the impact on Bed and Breakfasts, were illustrated at this hearing.

- 1) There is no definition of "proprietor" as it is used within the definition of a B&B establishment. The B&B definition states that it must be the principal residence of the proprietor. Paragraph 2.5-b, states that the premise must be the principal residence of the Licensee. Paragraph 2.5-a states that the Licensee must be the registered owner of the property. The definition of "owner" could be the registered property owner or their "authorized agent". Are all of these definitions intended to represent the same person? Can the proprietor rent the property from the registered owner and carry on a part time B&B business? Or is the proprietor intended to be the registered property owner?
- 2) A "person" (definition page 3 of 26) includes an individual or any other business entity or other legal representative. The definition of "Principal Residence", page 25 of 26, means a "person's" lodging place. Can this "person" be a business entity?
- 3) The by-law must be clear about the timing of the residency of the owner.

The property must be the principal residence of the owner before there is any consideration by Council to amend the Zoning or permit a B&B use. The "intent" for the owner to move to the property in the future cannot provide justification for issuing a licence or a zoning amendment.

4) Should an acceptable Site Plan be presented by the owner, as part of the application process, before a Zoning change is considered? What happens if a site plan confirms that the residence is not suitable for a B&B after the zoning is amended? Does the zoning change get reversed? This time line needs to be clarified to avoid unnecessary, inappropriate and time consuming applications.

5) A significant amount of time was spent at this hearing dealing with the issue of Restrictive Covenants in the 915 subdivision plan. In this 915 area the covenants are to "run with the land". The Town of Blue Mountains Municipal Guide 2020 states restrictive covenants are the responsibility of the property owner and are not enforceable by the Town. When restrictive covenants are included in, and form part of, the Subdivision Zoning By-Law, I believe they must be supported and upheld by the Town. The Town should be responsible to ensure that proposed zoning amendments or licenses do not conflict with previous zoning by-laws.

6) The Grey County O.P. designates the 915 residential area as "Resort Residential". The Town designates this subdivision as R-1. There are significant differences in proposed acceptable uses within these two zoning definitions. The restrictive covenants attached to these residential properties would not allow any business enterprise. The Town must uphold these restrictive covenants or every time there is a zoning amendment application we will end up with a dispute before the LPAT.

7) The Council members have the "discretion" in their decision to refuse an application for a Zoning Amendment. The Council is the only group that represents the interests of the residents. Their use of this discretion should be supported, and not questioned, by the staff when their views do not coincide.

8) I have a comment regarding Item 7 of report FAF.20.194. Although a proactive approach to enforcement should be encouraged, I do not think this is the Town's responsibility, nor should it come on the backs of residential taxpayers. If the STA owners cannot enforce their own regulations and restrictions then the cost of enforcement must come from their rental revenue. Let a percentage of the rental income earned by the STA owners pay for an off duty police officer to provide a night time, weekend patrol of the STAs (approximately 277) within walking distance of the Blue Mountain Village. The Town's by-law enforcement phone number could be forwarded to this officer for immediate response to a complaint or increased noise levels and complaints would result in strict fines. The Town should not have to pay to enforce respectable behavior within the STAs. The responsible person approach does not work.

I do not intend to repeat all of my previous comments but I have attached them to this email for your review. I know that most of the correspondence from interested parties concerning these proposed By-Laws was directed at the STA regulations and requirements. I would ask that further review by Town Staff also include a close look at Bed and Breakfast requirements and definitions to avoid future misrepresentation and confusion.

Thank you for allowing me to address my concerns.

Yours sincerely,

RE: Staff Report FAF.20.152, Public Meeting November 16, 2020

Licencing & Short Term Accommodation and Administrative Monetary Penalties By-laws

Concerns and comments regarding the proposed By-laws:

The Notice of Public Meeting and the title should indicate that this new By-law will have a major impact on Bed and Breakfast Establishments, not just STAs. This may be why there were so few comments to this proposed By-Law Licence for B&Bs at the first public meeting.

While we are in support of the proposed change to provide some form of enforceable regulation to STAs and B&B establishments, the new law should strengthen existing regulations, not dilute them. This draft By-Law describing the requirements for a Bed and Breakfast has had significant changes from previous drafts and definitions, which will undermine the intent and purpose, and change the traditional character of a Bed and Breakfast Establishment. A Type D Licence would make a mockery of the existing definition of a B&B, if the proposed By-Law proceeds as written.

Issuance of Licences: Staff Report FAF.20.152 Page 2, FAF.20.010 Page 5 of 12

The decision for the approval of a Licence in any category appears to be left to the responsibility of the town's planners and Director of Planning and Development Services (the Licence issuer). We believe that there should be public notification of these proposed new License applications and an opportunity for public input before a License is approved. The public should also be aware of all renewal dates so that they may comment before another licence is issued to a troublesome property. The decision to issue a Licence cannot be left to the town planners.

Classes of Licences: Staff Report FAF.20.152, page 2

The Staff Report (page 3) refers to all Licence types, including Type D, Bed and Breakfasts, as STAs. If a Bed and Breakfast is now considered a STA, then they will not be permitted in areas where STAs are an unacceptable use (ie. Residential areas). Is this the correct interpretation? Where else would this form of STA (a B&B Licence) be required?

Parking Management: Staff Report Page 3

A parking management plan should also be required for a B&B (as stated on page 25 of 26). There could be up to 3 guest rooms with unrelated occupants, and they all need to be shown where to park. Parking spots must be identified on the site plan and the owner must be on site to give this direction to the renters.

Hearing System: Staff Report Page 3

License Types A, B, and C, all mention the requirement for a NoiseAware monitor. Noise is the primary source of neighbourhood complaints and therefore should have the highest priority in penalties. It appears that this device is to be

continuously monitored by the licence holder and it is intended for the sole use of the owner to disprove any complaints about noise. If a noise monitor is in place, it should not be necessary for a neighbour to get up, and register a complaint through a phone call. Demerit points should be administered automatically if the monitor records a disturbance, and the responsible person should be alerted to respond immediately. Since this technology is available, escalating fines (Monetary Penalties increasing with the 2nd or 3rd offence) should be administered as well as demerit points. This approach seems to work well with traffic violations. There should also be a monetary fine for a non-functioning NoiseAware system. Since this device allows remote monitoring, the device should, at all times, be available for the By-Law enforcement officer to login to it, to confirm or disprove a disturbance.

Definition "Exception Area" Page 2 of 26

A Type A License is for an "Exception Area". It cannot be included in this draft without the inclusion of a map, or as a minimum a description of these areas and streets, so that the public may comment, as this is the purpose of this meeting. Everyone, including purchasers of new homes in newly created residential zones should be advised where these exception areas are. We assume most of these areas will be occupied by townhouses or condos. Will the 120 meter separation limit still apply?

Definition "Nuisance" Page 2 of 26

This definition, which is used throughout Schedule B, page 13 of 26, implies that an activity must be "repetitive as determined by the discretion of the Director of Legal Services". Does this mean that no demerit points will be issued unless the public are repeatedly disturbed by an activity, and the Director is the only one with the ability to issue demerit points? How many times do we have to be disturbed for points and fines to be issued?

Definitions "Owner": Page 3 of 26

The proposed definition of "owner" includes the owner of the lands or his or her "authorized agent". While this definition may match with the intent of other STAs, it cannot be used (and may be misinterpreted) in defining the "owner" of a Bed and Breakfast. These establishments must be operated by the registered owner of the property who is also the proprietor. A relative of the owner or a manager/agent cannot be the proprietor of a Bed and Breakfast property. The term "owner" appears throughout this document, and this definition is not applicable in all instances.

This definition of owner can be included in each Licence type A, B, and C. The definition of Owner for a Type D Licence, a B&B, must remain only as the registered owner of the property. Otherwise, we will have part time agents operating these establishments, which is not the intent of a B&B.

Demerit Points: Schedule B Page 13 of 26

All of the 4 Licence Types (A,B,C and D) should be listed under all 19 Provisions. With the owner present at a B&B some of the infractions listed may not happen. But if the proposal to have the owner only on site at a B&B between 11PM and 7AM is passed, then all the regulations and fines applicable to STAs should also apply to a B&B.

Licencing and the Demerit Point System

Who determines if the applicant has submitted all the appropriate documentation for the Licence - The Town Planning Department? This department has proven, by virtue of their stand in favour of Bed and Breakfast zoning amendment applications, that they are very much on the side of, and in favour of, rental property owners. In one case, even though the property owner had not proven principal residency or submitted a documented site plan, the planning department advised council to proceed with the application for zoning amendment for a B&B.

When a complaint arises, who issues the demerit points? How can the public check if their complaint resulted in demerit points or fines, or how many points an owner has accumulated? This process must be more transparent. The only part of this process, that appears will result in public input, is if there is an owner's appeal to fine assessments. Since every License is considered a new licence, (not a renewal of an existing licence) should the public (or anyone who has issued a complaint against the property) be notified when licencing is about to take place? Should demerit points and fines be tabled at Council meetings to maintain these records in the public eye? How many demerit points or fines have been issued in the past?

This whole process, from licence issuing to appeal results, needs to be available to the public because they are the only ones affected by the "nuisance" created by STAs, and they are the only balancing force when the penalty process breaks down. Transparency is vital if the Town wants public support.

Under this proposed By-law, the Town has the right to issue licences for STAs. They also have the right to reject an application and, we assume, this includes Legal Non-Conforming properties. It has been left up to the public to police this process. When a STA applied for grandfathering, the surrounding residents were not notified for comment. We have been advised that a least one of the LNC properties on our street was issued a licence for a STA even though the only rental experience was long term. Did Town staff ignore this requirement? This system is broken and fixing it after the fact is a long, long process.

Definition "Bedroom" Page 16 of 26 (all Licence Types)

A room should qualify as a bedroom only as defined by the Ontario Building Code, including its size (minimum 75 sq.ft.), and 2 access/egress requirements (a window and door). Otherwise rooms will be divided and beds will be added to other living spaces to call them a bedroom and increase the occupancy levels. This definition, as well as the "plus 4" allowance, openly invites overcrowding, resulting in the nuisance described above. The plus 4 rule should be reduced to plus 2, as permitted in other rental jurisdictions.

Bathrooms

We believe that there should be a defined ratio of bathrooms to occupants in any STA as part of a health and safety requirement. If a building is permitted to have more than 5 occupants, 1 bathroom can, at times, be troublesome. What if there are 15 to 20 occupants? The comfort and well-being of the occupants must be provided for in this By-Law. A ratio of 1 bathroom for up to 4 occupants would satisfy this requirement. (A two bedroom unit with the "plus 4 rule"

could contain 8 occupants therefore would require 2 bathrooms) This issue cannot be left up to the Licence holder. The use of public facilities (or backyards) is not an alternative to providing the required facilities.

A lot of effort is spent determining if there are adequate parking spaces. Shouldn't bathroom facilities be just as important? We believe that this requirement should be added to this By-law.

Grandfathering: Type C Licence, Page 23 of 26, 2.3 a

This proposed By-Law finally puts an end date to the grandfathering of additional Legal Non-Conforming STAs. (December 31, 2019) However, it does not go far enough. Under this By-law the Town has the right to issue, refuse to grant, revoke or suspend a licence. Non-conforming STAs must cease operation and not be permitted a licence in the future if, a) they are not used for the purpose of a STA for 6 months or more during a 12 month period, b) if the property is sold and the existing zoning does not permit a STA, c) if they are used for long term rental or, d) If it becomes the residence of the owner or his family and it is not used as a STA. We believe a Type C licence should always be a probationary licence and should be revoked under any of these conditions.

Definition "Bed and Breakfast Establishment": Type D, Page 25 of 26

In a recent Staff Report PDS.19.23, dated February 15, 2019, staff outlined the "fundamental difference" between a STA and a B&B. "1) the owner must reside in the dwelling when rented, and 2) it is the principal residence of the owner".

Both of these objectives, which we fully support, must be enforced to maintain the status of a B&B. In the proposed definition of a "Bed and Breakfast Establishment", this draft by-law suggests that the location only needs to be the Principal Residence of the "Proprietor", while clause 2.5b states it must be the principal residence of the licensee. There is no definition of "proprietor".

In this new B&B definition, it sounds like the proprietor and owner can be two different people. This can be misleading because a proprietor can own a business but not necessarily own the property. The definition should state that the residence must be the Principal Residence of the registered owner of the property, who is also the proprietor (as clearly stated in previous B&B descriptions)

This same definition states that no more than three guest rooms are permitted. The number of guest rooms should also be limited to exclude the bedrooms used by the "Family Unit" as part of their Principal Residence, and as detailed in the site plan which should still be part of this By-law. In situations with a large family, bedrooms must be assigned to the family members, and the number of guest rooms may have to be reduced as a result, since the intent would be for the guests to be there at the same time as the family. Unlike STAs, this definition does not state the maximum occupancy. This occupancy should be limited to 2 persons per guest room (as stated in previous drafts), without any additional persons. There needs to be a distinction between the occupancy levels in STAs and B&Bs.

Definition "Principal Residence" Every Licence Type A, B, C, and D (page 25 of 26)

A Principal Residence is not mentioned in the body of any of the Types A, B, or C Licences. Why is it necessary for this definition to be in these licences?

The definition of a "Principal Residence" of an individual is well established in law. There should be no attempt to change this definition. This draft By-law re-defines a Principal Residence as "A person's permanent lodging place to which, whenever absent he or she intends to return". This does not conform to any legitimate definition and we strongly object to this change as it is openly inviting misuse, and misinterpretation. A "person" has many definitions in this document (page 3 of 26). It does not include the owner of the property. A summer cottage, a weekend chalet or any secondary home could satisfy the clause and still be "a place of permanent lodging". The reference to "permanent" can simply imply the elimination of trailers, tents and mobile homes and only include permanent structures. The meaning of "lodging" is defined as a temporary residence. To be a principal residence, the owner, and family must reside in, (live in) the home on a day to day, full time basis, not with "the intent of returning" someday in the future. The "intent" to return is vague and misleading, and does not describe a principal residence. It must be the registered owner's, and their family's, primary and only, Principal Residence, where they eat and sleep and their personal belongings are stored. A family unit is only permitted by law (CRA Rulings) to have one Principal Residence, at any one time. Please eliminate or change this definition to avoid misuse and confusion. Who will be responsible to confirm that the dwelling is the principal residence of the owner? Neighbours must be consulted to confirm this requirement before a licence is issued.

Type D, B&B 2.5c Page 26 of 26

The owner of a B&B must only be on the premise between "2300hrs and 0700hrs". Now we are sure that this licence is not for a B&B. Since the owner and the family reside in the dwelling as their principal residence, We see no reason for this time limitation. The owner is the proprietor of the business and the legal registered owner of the property and she/he should be on site to greet the guests at check-in, show them where to park, advise them where they will be sleeping, show them emergency exits and procedures, prepare and/or serve breakfast and show guests where and when it will be served, and be there at the check-out time. The owner/ proprietor would also be available to answer any questions from guests related to tourist sites or attractions in the area. This is how a traditional B&B operates. How could the registered owner of the property "be responsible for the operation of the premise and the conduct of the Renter and the occupants of the premise" as stated on page 26 of 26, unless they were on the premises the full time it is rented? A B&B is a full time business for a permanent resident, not a source of part time revenue for a non-resident, or an absentee owner. In fact, we believe that there should be a Monetary Penalty if the owner is not at the residence the full time it is rented. Who should be called and who is responsible, if the owner is not present and a disturbance takes place outside of the proposed hours? The Police? The Licence issuer?

With the proposed changes to definitions, it sounds like an owner could work and live out of town, and the owner (or owners agent) would only be on the premises to sleep at night, and only when it is rented. This is not a B&B. The owner must be at the residence the entire time it is rented or it does not meet the intent of a Bed and Breakfast, and it becomes just another STA (which also allows all or part of a dwelling to be rented).

This clause and the previous definitions would be offensive to the existing owners of traditional a Bed and Breakfast Establishments. A B&B establishment must be a "secondary use to the main residential use of a single detached dwelling". (as stated in PDS.20.96 Pg.42) The revised definitions do not match this description.

There is no mention in this proposed license about the use of a hot tub, NoiseAware monitor or an approved outdoor fire pit at a Bed and Breakfast. We believe these regulations are necessary, as they are in other license requirements. As a minimum, guests must abide by the same regulations and restrictions, as those that govern a STA, with the same safety requirements and monetary penalties for non-conformity. Some of the neighbouring family homes may be occupied by small children. Having noisy outside gatherings until 11:00 PM could be very disturbing to these families. This would not be a problem if the owner were present at all times.

Monetary Penalty By-Law page 2

Definition "Owner"

This definition goes as far as listing the "lessee or occupant" as the owner of the property. These inclusions (a) (b) and (c) complete the undermining of this definition. "Owner" now can mean anyone. At a B&B, the owner could be the lessee or occupant who has been granted "owner" status for the night in the form of a signed rental agreement.

Monetary Penalties – Page 11

The monetary penalties should be increased by a factor of 10. An owner will simply take these amounts from the renter's security deposit and since the rental could be shared by 10 or more people, the proposed penalties will be less than a slap on the wrist. Monetary Penalties are to be a meaningful deterrent to owners to stop unacceptable behavior by renters. The proposed penalties will not accomplish this.

Summary

The Township of Collingwood, to which we once belonged, defined the purpose of zoning as "to maintain the established character of a neighbourhood by allowing only that use in that area". As an example, commercial or industrial uses must be restricted from residential areas. Does the Town of Blue Mountains agree with this definition?

The traditional function, meaning and objectives of a B&B establishment have been severely distorted by this proposed draft of the By-law. The requirements for a B&B were initially precise and clear and this revised draft to the By-law eliminates this clarity. Under current by-laws a B&B is permitted in residential areas only by a zoning amendment. By diluting the requirements and changing definitions there is an attempt to make the B&B requirements an easy alternative to a STA in any and all residential neighbourhoods. The public would not be advised of a zoning amendment, and approval may not require any public input or notification.

The Type D Licence for a B&B is seriously flawed. If these definitions and descriptions remain as proposed, the reference to a "Bed and Breakfast" in a Type D License must be deleted from this By-Law, because it no longer represents a B&B. If this By-Law proceeds, the Council should have the courage to recognize this Licence for what it is – a blatant attempt to skirt the OMB decision of 2009 by creating a modified (night supervised) STA, and naming it a B&B, so that this type of accommodation may be licenced in any residential neighbourhood.

STAs and B&Bs do not support the local economy. Many STA renters are there strictly to enjoy the freedom to behave in a manner that they know would not be permitted or acceptable in their own neighbourhood. Full or part time residents and their friends and families, offer the same level of economic input on a year round basis, without the disturbances of STAs. Do not trade residential neighbourhoods for tourist strips.

We believe that this proposed By-law should be sent back to the drawing board. With respect to a Type C Licence, there must be regulations which, if not followed, will result in a Licence being permanently revoked. With respect to a B&B, it would be a travesty to allow this proposed By-law to be passed in its current form.

Alternatively, the Type D licence could be deleted from this By-Law (pending further review) so that the portion relating to STAs can proceed and they can start to be properly regulated. Let's not spend the next 10 years creating more by-laws to correct this one.

We ask that these comments be presented to the Committee and Council members prior to the meeting scheduled for November 16, 2020. We would also ask that we receive any recommendations or decisions as a result of this meeting.

Respectfully,

Graeme and Jill Duncan

■ Campbell Crescent

RE: Staff Report FAF.20.010, Council Meeting of April 6, 202

Municipal Licencing By-law and Administrative Monetary Penalties By-law

Concerns and comments regarding the proposed By-laws:

The Notice of Public Meeting should indicate that this new By-law will have an impact on Bed and Breakfast Establishments.

While I am in support of the proposed change to provide some form of regulation to B&B establishments, the new law should strengthen existing regulations, not dilute them. This draft By-law describing the requirements for a Bed and Breakfast has had significant changes from previous drafts and definitions, that will undermine the intent and purpose, and change the character of a Bed and Breakfast Establishment.

- 1) License Types A, B, and C, all mention the requirement for a NoiseAware monitor.

It appears that this device is to be continuously monitored by the licence holder. Is it intended to replace, or simply reinforce complaints from neighbours? Will demerit points be assigned only if the monitor is activated? If a noise monitor is in place, it should not be necessary for a neighbour to get up, and register a complaint through a phone call. Demerit points should be administered automatically if the monitor records a disturbance, and the responsible person should be alerted to respond immediately. Since this technology is available, escalating fines (Monetary Penalties) should be administered as well as demerit points. This approach seems to work well with traffic violations. There should also be a fine for a non-functioning NoiseAware system.

- 2) Staff Report .20.010, Item D-4, Page 4 of 12:

I was under the impression that the time limit for the "grandfathered" clause as it related to legal non-conforming STAs had passed a number of years ago (December 1, 2014, By-law 2014-45). If an applicant wishes to pursue this approach at this late date, the property owners in the neighbourhood should be notified for comment and confirmation of the status of the property, before a decision is made or a license issued. This was not done when initial grandfathering applications were made, and Licenses were issued inappropriately.

- 3) Staff Report .20.010, Item 4, Page 6 of 12, and Schedule G, Type D, 2.5c Page 26 of 26

The owner of a B&B must only be on the premise between "2300hrs and 0700hrs". Since the owner and the family reside in the dwelling as their principal residence, I see no reason for this change. The owner is the proprietor of the business and the legal owner of the property and she/ he should be on site to greet the guests at check-in, advise them where they will be sleeping, show them emergency exits and procedures, where breakfast will be served, and be there at the check-out time. How could the registered owner of the property "be responsible for the operation of the premise and the conduct of the Renter and the occupants of the premise" as stated on page 26 of 26, unless they were on the premises the full time it is rented. A B&B should be a full time business, not a source of part time

revenue for a non-resident, or an absentee owner. In fact, I believe that there should be a Monetary Penalty if the owner is not at the residence the full time it is rented.

This proposed change sounds like an owner could work and live out of town, only be on the premises to sleep at night, and only when it is rented. The owner must be at the residence the entire time it is rented or it does not meet the intent of a Bed and Breakfast, and it becomes just another STA (with potential for part time supervision).

4) Staff Report FAF.20.010 page 5 of 12, second last paragraph Approval of a Licence:

The decision for the approval of a Licence in any category appears to be left to the responsibility of the town's planners and Director of Planning and Development Services. I believe that there should be public notification of these proposed License applications and an opportunity for public input before a License is approved and presented to Council.

5) Draft By-law Number 2020-xx, 1.0 Definitions, "Exception Area"

"Schedule C" of the draft By-law defining the "Exception Area" is a blank page, and I was not able to locate this map on the Town's website. I trust this "area" does not include locations in the town where Short Term Rental Accommodations were previously not permitted. This License Type A and the "Exception Area" cannot be included in this draft without the inclusion of the "Schedule C" map, or as a minimum a description of these areas and streets, so that the public may comment, as intended by this meeting.

6) Draft By-law: Page 3 of 26, Definitions "Owner":

The proposed definition of "owner" includes the owner of the lands or his or her "authorized agent". While this definition may conform to the intent of other STAs, it cannot be used (and may be misinterpreted) in defining the "owner" of a Bed and Breakfast. These establishments must be operated by the registered owner of the property who is also the proprietor. A relative of the owner or manager/agent cannot be the proprietor of a Bed and Breakfast property.

7) Schedule G, Type D License Page 25 of 26, Definition "Bed and Breakfast Establishment":

In Staff Report PDS.19.23, dated February 15, 2019, staff outlined the "fundamental difference" between a STA and a B&B. "1) the owner must reside in the dwelling when rented, and 2) it is the principle residence of the owner". Both of these objectives, which I fully support, must be enforced to maintain the status of a B&B. In the proposed definition of a "Bed and Breakfast Establishment", this draft suggests that the location only needs to be the Principle Residence of the "Proprietor".

It sounds like the proprietor and owner can be two different people. This can be misleading because a Proprietor can own a business but not necessarily own the property. The definition should state that the residence must be the Principle Residence of the registered owner of the property, who is also the proprietor. (as clearly stated in previous B&B descriptions)

This same definition states that no more than three guest rooms are permitted. The number of guest rooms should also be limited to exclude the bedrooms used by the "Family Unit" as part of their Principle Residence, and as detailed in the site plan which should still be part of this By-law. In situations with a large family, bedrooms must be assigned to the family members, and the number of guest rooms may have to be reduced as a result. Unlike STAs, this definition does not state the maximum occupancy. This occupancy should be limited to 2 persons per guest room (as stated in previous drafts), without any additional persons.

8) Definition "Principle Residence" Schedule G Type D, page 25 of 26

The definition of a "Principle Residence" of an individual is well established in law. There should be no attempt to change this definition. This draft By-law attempts to re-define a Principle Residence as "A persons permanent lodging place to which, whenever absent he or she intends to return". This does not conform to the legal definition and I strongly object to this change as it is openly inviting misuse, and misinterpretation. A summer cottage, a weekend chalet or any secondary home could satisfy the clause and still be "a place of permanent lodging". The owner, and family must reside in the home on a full time, basis, not with "the intent of returning" someday, and it must be the family's primary and only, Principle Residence, because a family unit is only permitted by law (CRA Rulings) to have one Principle Residence.

9) Schedule G, Type D Licence, Page 26 of 26:

There is no mention in this proposed license about the use of a hot tub, NoiseAware monitor or an approved outdoor fire pit at a Bed and Breakfast. I believe these regulations should be included, as they are in other license requirements. As a minimum, guests should abide by the same regulations and restrictions, as those that govern a STA.

The traditional function, meaning and objectives of a B&B establishment have been severely distorted by this proposed draft of the By-law. The requirements for a B&B were initially precise and clear and this revised draft to the By-law appears to be an attempt to reduce this clarity. If these definitions and descriptions remain, the reference to a "Bed and Breakfast" in a Type D License must be deleted, because they no longer represent a B&B.

I ask that these comments be presented to the Council prior to the meeting scheduled for April 6, 2020. I would also ask that I receive any recommendations or decisions related to these comments as a result of this meeting.

Respectfully,

Graeme and Jill Duncan

██████████ Campbell Crescent