

# THE CORPORATION OF THE TOWN OF GEORGINA

## COUNCIL AGENDA \*ADDENDUM 1\*

Wednesday, February 28, 2018  
7:00 PM

### 12. REPORTS

#### (2) REPORTS REQUIRING SEPARATE DISCUSSION

##### Report from the Chief Administrative Officer:

**Pages 75-83**

- (A) Short Term Rental Accommodations (STRAs) – Interim Management Options and Third Party Program Development

Report No. CAO-2018-0004

- **Attachment '3'** – Proposal from Michael Smith Planning Consultants Development Coordinators

# Michael Smith

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February 22, 2018

Winanne Grant, CAO  
Town of Georgina  
26557 Civic Centre Road, RR#2  
Keswick, Ontario, L4P 3G1

Dear Ms. Grant:

Re: Proposal for Special Study  
Short-Term Rental Accommodation  
Town of Georgina

Short-Term Rental Accommodation (STRA) is typically the short-term rental of dwelling units for periods of 30 days or less. In most cases, the owner of the dwelling unit is absent from the dwelling for the duration of the rental period. This practice has been in place in the Town of Georgina and other recreational areas for several decades. However, more recently STRAs on-line management and hospitality services (Airbnb, Kijiji, VRBO, HomeAway, Craigslist, Renters.com; etc.) have made short term renting easy and convenient and thereby increased its popularity. Attitudes about STRAs have also changed in recent years as people embrace the collaborative consumption/ sharing economy.

There are pros and cons to STRAs and a satisfactory balance is required. This can be achieved through regulations and enforcement, typically through a zoning by-law amendment (which may include a companion Official Plan Amendment) and licencing by-law.

While the practice of renting a dwelling unit is a monetary transaction, and therefore commercial in nature, all rental accommodation, short and long term, involves a monetary transaction. Further, while persons seeking STRAs may do so for recreational purposes, the accommodation is residential in nature and the use of the property is like that of a "family"<sup>1</sup> residing in a dwelling unit.

1. "Family" in the context of a zoning by-law means one or more individuals living together as a single housekeeping unit. Zoning by-laws cannot restrict land use based on family relations only (i.e. by blood or marriage/common law). In other words, a zoning by-law amendment cannot "people zone".

In the *Puslinch v. Monaghan*, 2015 ONSC748 case the Township of Puslinch tried to regulate short-term rentals by describing them as a “*Tourist Establishment*”. The Ontario Superior Court rejected this position and stated, “*to the extent the Tourist Establishment by-law seeks to regulate short term use in the RR Zone, it seeks to regulate people not use and, therefore, is ultra vires the Planning Act.*” The lesson of the Puslinch case is that those municipalities that seek to regulate short-term rental use through their Zoning By-law need to do so in a way that is clear and non-discriminatory, otherwise such regulation is likely to be ineffective. (*Sorbara Law, June 2015*)

Zoning By-law 500, it does not expressly define and regulate STRAs and as such they could meet the definition in the Zoning By-law of a residential use. Therefore, Zoning By-law 500 is unclear on this form of land use and it will be necessary to amend Zoning By-law 500 to clarify the meaning and extent of STRAs in Georgina.

It is important to note that, by law, STRAs cannot be completely banned or prohibited in a zoning by-law.

With the implementation of any zoning by-law to control and regulate land uses which are currently permitted by the zoning by-law, there will be limitations on what can be done to control uses that pre-date changes to the zoning by-law. These uses are deemed to be *legal, non-conforming uses*. Identifying these legal, non-conforming uses, and confirming their status, will be a major task given their numbers and the number of STRA on-line and off-line services. Finally, it will be necessary to clarify the scope of what constitutes a *legal, non-conforming use* for enforcement purposes.

There are good reasons to clearly define and regulate STRAs to ensure that:

- (i) adequate parking is provided;
- (ii) servicing is adequate;
- (iii) living conditions are safe (fire code measures); and,
- (iv) negative impacts (noise, trespass) that impair the quiet enjoyment of neighbours are minimized.

These can be addressed through the combination of zoning and licencing by-laws, together with appropriate levels of by-law enforcement.

This proposal sets forth a program for the implementation of land use and licencing regulations to address the appropriate controls required to ensure that short-term rentals are a benefit to the community while ensuring, the safety of the STRA customer and to the extent possible, minimal impacts on neighbourhoods. The scope of this exercise must also look at current zoning and licencing by-law provisions to ensure they are up-to-date and do not overlap or conflict with

STRAs by-laws. It is important that proponents of STRAs and the public in general understand the rules going forward.

Budgetary considerations must be considered, though such considerations are not within the scope of this proposal.

MSPCDC has discussed the scope of the STRA study with Town staff. A Technical Advisory Committee is proposed to be established which would consist of staff from Development Services, Corporate Services and Fire Departments.

A work program is summarized in the table below.

Proposed Work Program for Short-term Rental Accommodation Study		
1	Short-term Rental Accommodation Commencement	April 2018
2	Research and consult with municipalities regarding existing STRAs land use planning controls (Official Plan, Zoning By-law, Site Plan Approval) and licencing. Meeting with municipal staff – regulatory and enforcement programs	April/May 2018
3	Meet with Technical Advisory Committee to review findings of municipal research and consultation.	May/ June 2018
4	Report to Council: Presentation of Background Research; TAC Input; and, Land Use and Licencing Options.	July/August 2018
5	Public information meeting and on-line survey to obtain public input on land use and licencing options. Meetings with stakeholders (interested parties and hospitality service providers)	August/September 2018
6	Meet with Technical Advisory Committee to review findings of public and stakeholder sessions and to identify preferred land use and licencing option.	September/October, 2018
7	Report to Council: Summary of input from public, stakeholder, and Technical Advisory Committee and presentation of preferred land use and licencing option. Obtain Council direction on option.	October/December
8	Undertake additional research and modification to preferred option as necessary. Prepare draft planning documents (OPA and ZBA) and licencing by-law (s), and obtain Council endorsement to release documents to public and agencies for comment. <i>(Commencement Statutory Planning process)</i>	January/February 2019
9	Statutory Public meeting. Report to Council on proposed planning documents including agency and public comments received to date.	February/March 2019
10	Assessment of comments received from public meeting, agencies and adjustments to draft documents.	March/April 2019

11	Second Public Meeting: Recommendation report to Council to consider adoption of revised planning documents	April/May 2019
12	If required, additional report and Council meeting.	May/June 2019
13	Preparation of Licencing Application Guide to be reviewed by the Technical Advisory Committee.	June 2019

Based on the foregoing, we estimate the cost of this study to be approximately \$60,000 to \$80,000. Every effort will be made to use materials from other municipalities which have endeavoured to address this issue. However, it is a complicated matter, and Council or Senior Staff may pursue other directions or options which have not been considered in this proposal.

The final product will include:

1. An Official Plan Amendment (if required)
2. A Zoning By-law Amendment which addresses STRAs, and updates other related sections of the by-law;
3. A Licencing By-law, including amendments to existing Bed and Breakfast by-law; and,
4. A Licencing Guide

Michael Smith will be the primary consultant, together with Alex Smith, planning technician, who will undertake much of the research. MSPCDC will work with the Technical Advisory Committee staff to ensure all areas of concern are addressed.

Finally, all documents will be forwarded to the Town's solicitor for review and comment.

Attached is the MSPCDC Terms of Services, including a fees schedule.

Yours truly,



Michael Smith, RPP

Enclosure

# Michael Smith

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*Michael Smith Planning Consultants* is committed to offering professional planning consulting services in a timely and cost efficient manner. While we will attempt to provide you with a rough estimate once we determine what services will be required to proceed with your particular project, the unpredictable nature of the land use approval system requires that we operate on a time spent basis only. Our current fee schedule and billing structure is as follows:

### 2018 HOURLY FEE SCHEDULE

<b>PRINCIPAL</b>	<b>\$200.00/hr</b>
<b>SENIOR PLANNER</b>	<b>\$170.00/hr</b>
<b>PLANNING TECHNICIAN</b>	<b>\$ 80.00/hr</b>
<b>CLERK/TECHNICIAN</b>	<b>\$ 80.00/hr</b>
<b>CADD TECHNICIAN</b>	<b>\$ 90.00/hr</b>

Standard disbursements (ie. prints, copies, mileage, drafting supplies, postage, courier, telephone, fax charges, etc.) are billed at a monthly rate of 5% of the service fees charged. Special project costs, such as blueprints, CADD plotting, or informal public meeting notices, etc. will be billed at cost. Travel time is charged at the standard hourly rate, and H.S.T. is applied to all costs. Rates are subject to an annual increase effective January 1<sup>st</sup>.

Detailed invoices are mailed on a monthly basis and are payable within ten (10) days of receipt. A late payment charge of **2% per month (24% per annum)** will be applied to all accounts outstanding for more than 30 days.

### ACKNOWLEDGEMENT

I/We \_\_\_\_\_ being the \_\_\_\_\_  
*{please print}* *{registered or beneficial}*

owners of property located at \_\_\_\_\_  
hereby acknowledge the above terms for services and agree to compensate Michael Smith Planning Consultants accordingly.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date