

Application for Rezoning

Aleks and Amy Ninkovic
12020 Loyalist Parkway
Prince Edward County



April 14, 2021

REVISED October 13, 2021

Ray Essiambre and Associates Ltd.

www.rayessiambre.com 613-371-7541 ray@infracycle.com

Table of contents

1. Introduction.....	2
2. Location	2
3. Legal Description, Ownership, Pin Pages, Roll Number.....	3
4. Purpose of Rezoning the Property	3
4.1 Existing Development.....	3
4.2 Proposed Use of the Property.....	4
4.3 Short Term Accommodation (STA) – OPA 77.....	4
4.4 Short Term Accommodation (STA) – Zoning	5
4.5 STA Permit.....	6
4.6 STA in a Secondary Unit	6
5. Zoning - Change the existing CH-20 zone to RR1	6
5.1. RR1xZoning.....	7
6. Propose Change to Zoning Schedule By-law 1816 – 2006	7
7. Technical Studies.....	8
8. Policy Review	8
8.1. Current Official Plan Designation – Shore Land	8
9. Zoning.....	9
10. Conclusions.....	10
Attachment 1 – Pin Page.....	
Attachment 2 – Survey.....	
Attachment 3 – OPA 77.....	
Attachment 4 – Proposed Change to Zone Schedule.....	
Attachment 5 – RR1 Zone	

1. Introduction

The applicant would like to rezone the property at 12020 Loyalist Parkway to a *Rural Residential Zone*. Approval of the rezoning will have the effect of formalizing the existing single family home and a secondary unit that are the predominate use on the property. The rezoning will also delete the commercial use that is currently permitted on the property and make minor adjustments to yard setbacks.

Application Requirements

County staff provided a list of items that need to be included in an application to have a complete application.

- Survey Sketch (showing all existing buildings and structures, along with existing wells and septic systems).
- Planning Rationale (to address the change in Commercial to Residential Zoning).
- Completed and Signed Application.
- Cost Acknowledgement Agreement Signed.
- Applications Fees (Total of \$4,142.00).
- PIN/Parcel Register Page & PIN Map.

The application containing the above information was filed in April 2021.

2. Location

The municipal address of the subject Property is 12020 Loyalist Parkway, Prince Edward County.



3. Legal Description, Ownership, Pin Pages, Roll Number

- The Legal description of the property is Part Lot 117, Part of Compiled Plan 26, Township of Hallowell.
- The property is owned jointly by Mr. Aleks Ninkovic and Mrs. Amy Ninkovic.
- The pin page is included in Attachment 1.
- The property is located in Ward 6 Bloomfield and Hallowell.
- The Assessment Roll number is 135051103012703.
- The Survey is included as Attachment 2.

4. Purpose of Rezoning the Property

Approval of the rezoning will implement the following.

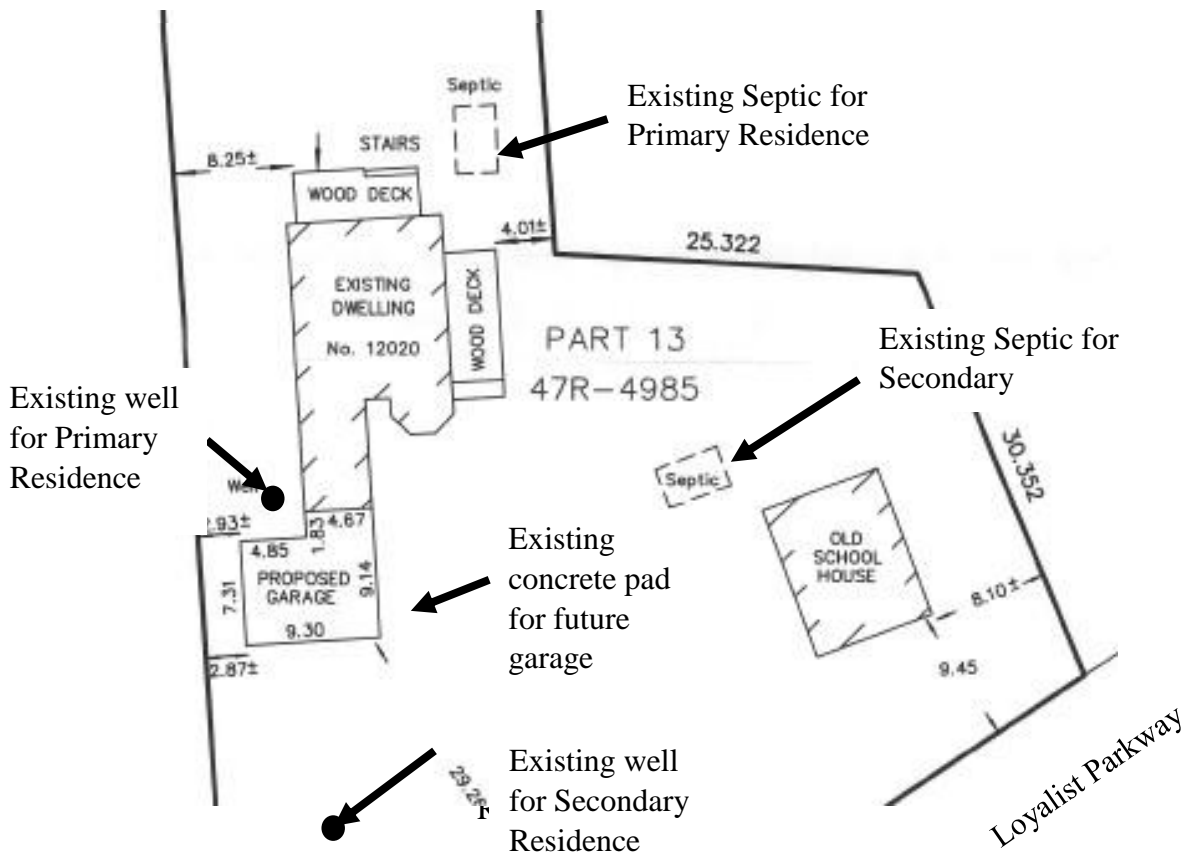
- a) formalizing the existing single family home
- b) formalizing a secondary unit,
- c) the secondary unit will used as for an STA.
- d) the commercial uses permitted under the current zone will be deleted.

4.1 Existing Development

The property at 12020 Loyalist Parkway contains the following uses.

- A primary residence is located on the north site of the property.
- A small retail commercial use (a gift shop) is operated inside the primary residence.
- A second residence/garden suite is located within a converted school house that is located on the southern portion of the property.
- There is a concrete garage pad that is situated at the front of the main residence. In future, a garage will be constructed on the pad.

The image below shows the existing structures and services on the property.



4.2 Proposed Use of the Property

- The primary residence will continue to exist.
- The retail use in the primary residence will cease to exist.
- The converted school/garden suite will continue to be used as a secondary unit and a Short Term Accommodation unit.
- A garage will be built on the existing concrete pad.

4.3 Short Term Accommodation (STA) – OPA 77

The application for rezoning was submitted in April 2021 and is subject to the policies contained in OPA 77 that is included in Attachment 3.

Regarding the locations where STA are directed, Section 3, Part III: General Development Strategies, Subsection g), states:

- iii. “STA’s are generally directed to be located in Settlement areas or in the Shore Land designation”
- iv. Where located in the Rural or Prime Agricultural designation, STA’s are permitted on:
 - a. lots existing as of October 9th, 2018 or earlier and zoned the Rural Residential (RR) zone.

Discussion

The subject property is designated Shore Land in the Official Plan and an STA is a permitted in that designation.

The requirement that an STA be on a lot that existed prior to October 9, 2018 only applies to lots that are on land designated Rural or Prime Agricultural in the Official Plan. This limitation does not apply to lots zoned RR in Shore Land.

The proposal to have an STA on the subject site conforms to the policies of OPA 77.

4.4 Short Term Accommodation (STA) – Zoning

Below is Section 4.37 of the comprehensive Zoning By-law No. 1816-2006 that pertains to Short Term Accommodation Units.

4.37 SHORT TERM ACCOMMODATION (STA) (Amending By-law 4336- 2018). The following provisions shall apply to a lot used for the purposes of a Short Term Accommodation:

4.37.1 A Short Term Accommodation (STA) use shall be permitted in the following zones:

- i. In the R1, R2, R3, HR, or LSR Zones, in accordance with the provisions of this Section and the requirements of the specific zone.*
- ii. In the CC, CG, **CH**, and TC Zones within an existing or permitted dwelling unit.*
- iii. On lots existing as of October 9, 2018 and zoned the RR Zones or within an existing Bed and Breakfast Establishment or an existing residence used whole or in part as a Principal Residence.*

Discussion

Subsection iii. only permits STA’s “on lots existing as of October 9, 2018 and zoned the RR Zones” or used as a Principal Residence, regardless of the Official Plan designation. This is inconsistent with Subsection g) iv. in OPA 77 which states, that the limitation only applies to lots in the Rural or Prime Agricultural designations.

The policy “*on lots existing as of October 9, 2018 and zoned the RR Zones*”, does not apply to the subject property that is designated Shore Land.

An STA is a permitted use in the proposed RR1x zone for the subject property which is located within the Shore Land designation and conforms to the policies of OPA 77.

4.5 STA Permit

In 2020 the owners of the property obtained a permit to operate an STA in the converted School House.

4.6 STA in a Secondary Unit

The Shore Land designation permits tourist accommodation

4.2.3 More specifically, the permitted uses of the Shore Land designation shall include: a) resort commercial uses which provide lodging and accommodation for the vacationing public such as motels, lodges, cottage establishments or cabins, and bed and breakfast operations, with accessory residential uses for the owner and recreational uses such as tennis courts, swimming pools and golf courses.

The secondary unit in the converted school house which is located in the Shore Land will provide accommodation for the vacationing public. Therefore, the STA in the secondary unit is a permitted use.

In OPA 77 Part III General Development Policies 3.3.4 g) vi. states,

A Second dwelling or dwelling unit on a lot will generally be discouraged for use as an STA, except where exists a dwelling used as a principal residence.

Discussion

The subject property contains a principal residence; therefore, the secondary dwelling (the converted school house) may be used as an STA.

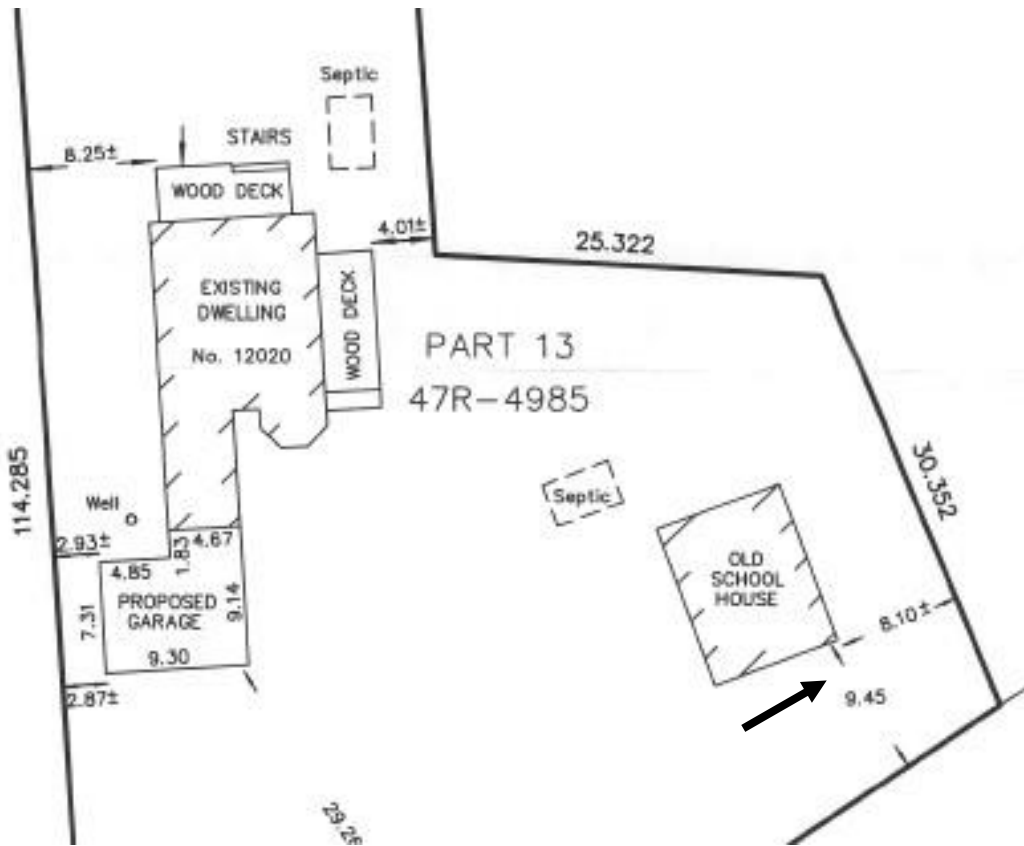
5. Zoning - Change the existing CH-20 zone to RR1

The primary reason for the rezoning is to recognize the existing uses on the property. Although the existing zoning is a commercial zone, the reality is that the property is used primarily for

residential purposes. Only a small area of the existing house is used as a gift shop and all the other spaces within structures are residential uses.

It is proposed that the current CH-20 Zone be deleted and replaced with site specific RR1x zoning. A few minor exceptions are needed to recognize existing side yards that do not conform to the provisions of the RR1 zone.

5.1. RR1xZoning



6. Propose Change to Zoning Schedule By-law 1816 – 2006

The proposed change to the Zone Schedule is included in Attachment 4. The RR1 zone is included in Attachment 5.

The new RR1x site specific zoning will state the following.

16.5.X RR1-X Zone (Ward 6 Bloomfield and Hallowell)

Notwithstanding any provisions of this By-law to the contrary, within the RR1-x Zone, the permitted uses will include a single family home, and a secondary unit; short term accommodation is permitted in the secondary unit.

The following provisions shall apply: i. the minimum interior side yard shall be 2.8 m and the front yard setback will be 9.45 m. All other provisions of the RR1 zone shall apply.

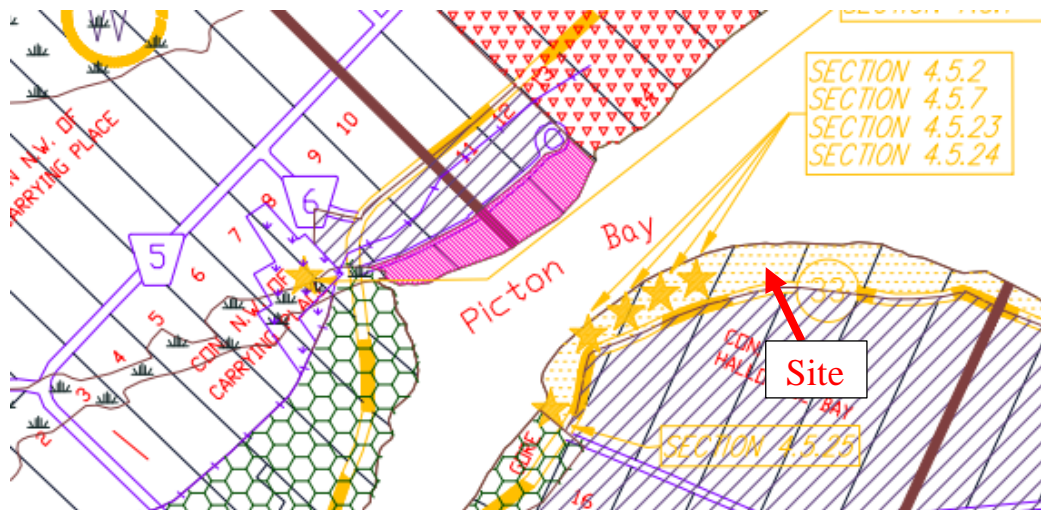
All other provisions of the RR1 zone shall apply.

7. Technical Studies

No technical studies are required.

8. Policy Review

8.1. Current Official Plan Designation – Shore Land



The permitted uses in the Shore Land Designation stated in Section 4.2 are repeated below.

4.2 Permitted Uses

4.2.1 The predominant uses of land in the Shore Land designation will be a mix of low density residential; resort, tourist and marine commercial uses; seasonal tent, trailer and recreational vehicle parks; and private, and public, open space areas.

4.2.2 Given that residential development will be developed primarily on non-municipal services, residential development in the Shore Land designation shall be permitted for single dwelling units only.

9. Zoning



21.5.20 CH-20 Zone (Part Lots 15 & 16, Concession East Hallowell Bay, Ward of Hallowell)

Notwithstanding any provisions of this By-law to the contrary, within the CH-20 Zone, the following provisions shall apply:

- i. Non-residential uses shall be limited to the following:
 1. A tea room
 2. A gift shop
- ii. Minimum lot area 0.40 ha (0.98 ac.)
- iii. Minimum front yard 9.1 m (29.8 ft.)
- iv. Minimum interior side yard 7.6 m (24.9 ft.)

10. Conclusions

The request to rezone the property from CH-20 to RR-1 is good land use planning for the following reasons:

- The requirement that an STA be on a lot that existed prior to October 9, 2018 only applies to lots that are on land designated Rural or Prime Agricultural in the Official Plan. This limitation does not apply to lots zoned RR in Shore Land.
- The proposal to have an STA on the subject site conforms to the policies of OPA 77.
- In OPA 77 Part III General Development Policies 3.3.4 g) vi. states:
 - *A Second dwelling or dwelling unit on a lot will generally be discouraged for use as an STA, except where exists a dwelling used as a principal residence.*
- The subject property contains a principal residence; therefore the secondary dwelling (the converted school house) may be used as an STA.
- The proposed rezoning recognizes the existing residential use of the property,
- The proposed use conforms to the Shore Land Designation in the Official Plan
- The use is compatible with the surrounding area which contains residential uses.

Prepared by
Ray Essiambre, Principal
Ray Essiambre and Associates Ltd.
October 13, 2021

Attachment 1 – Pin Page



LAND
 REGISTRY
 OFFICE #47

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

55072-0125 (LT)

PAGE 1 OF 1
 PREPARED FOR Ray Essiambre
 ON 2021/04/08 AT 11:50:59

ONLAND

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION: FT LT 117 RCP 26 HALLOWELL FT 13 47R4985; PRINCE EDWARD

PROPERTY REMARKS: PLANNING ACT CONSENT AS IN PE108486.

ESTATE/QUALIFIER:
 FEE SIMPLE
 LT CONVERSION QUALIFIED

RECENTLY:
 FIRST CONVERSION FROM BOOK

PIN CREATION DATE:
 2006/07/24

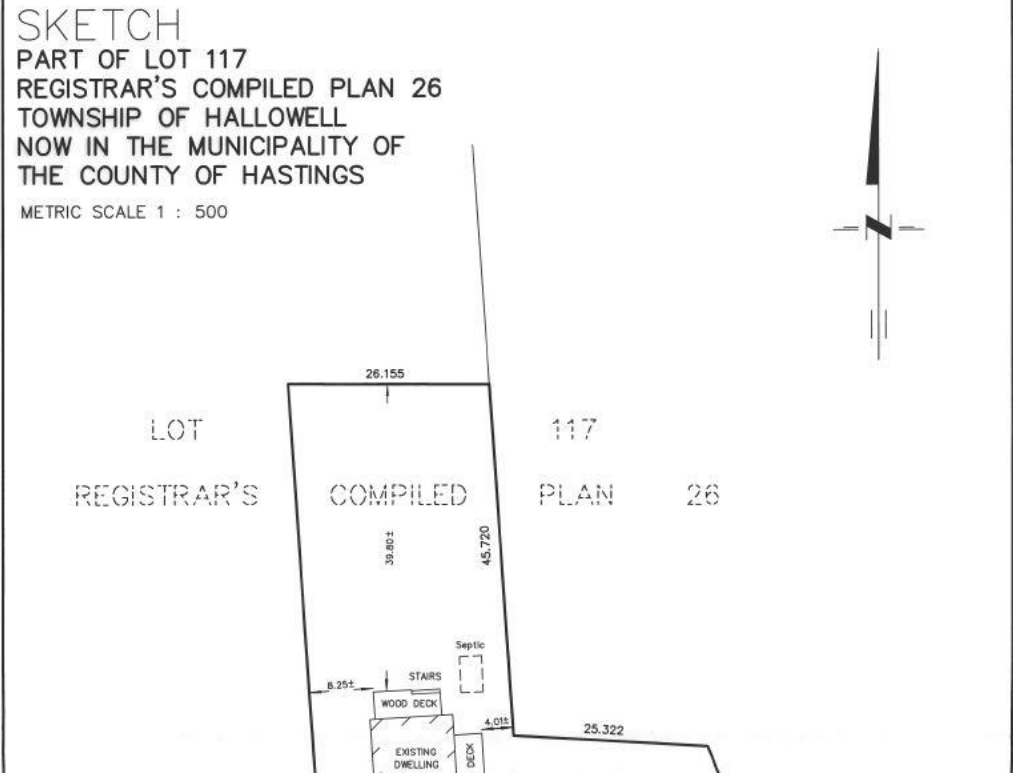
OWNERS' NAMES
 NINKOVIC, ALEKSANDER
 NINKOVIC, AMY MARIE

CAPACITY SHARE
 JTEN
 JTEN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHRD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) ** **SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES * AND ESCHEATS OR FORFEITURE TO THE CROWN. THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY CONVENTION. ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES. **DATE OF CONVERSION TO LAND TITLES: 2006/07/24 **						
FE34626	1965/10/07	BYLAW				C
RD35	1969/07/24	PLAN REFERENCE				C
47R4293	1989/01/03	PLAN REFERENCE				C
47R4985	1990/08/21	PLAN REFERENCE				C
EC51292	2018/11/29	TRANSFER	\$383,841	KELL, WENDY	NINKOVIC, ALEKSANDER NINKOVIC, AMY MARIE	C
REMARKS: PLANNING ACT STATEMENTS.						
EC55431	2019/10/30	CHARGE	\$180,000	NINKOVIC, ALEKSANDER NINKOVIC, AMY MARIE	BERG, TERENCE BERG, MATILDA	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
 NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

Attachment 2 – Survey



218 CHURCH STREET BELLEVILLE, ONTARIO	WATSON LAND SURVEYORS Ltd.	K8N - 3C3 (613) 962 - 9521
DECEMBER 23, 2019		PROJECT No 11479-N-19

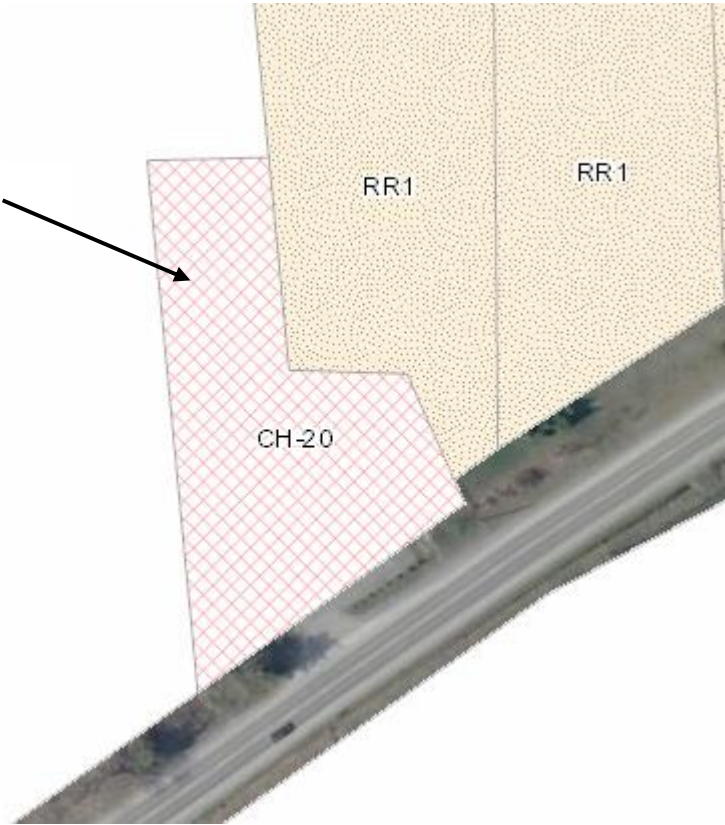
Attachment 3 – OPA 77

3. Part III: General Development Strategies – Section 3.3.4 is amended by deleting Section 3.3.4 g) in its entirety and replacing it with the following:
- “g) STAs are addressed by this Plan in order to maintain and protect the character of residential neighbourhoods and to ensure good long term occupancy housing availability while responding to the needs for short term occupancy roofed accommodations of the travelling public. In so doing, the following policies apply:
- i. The forms of Short Term Accommodations (STAs) recognized by this Plan are Bed and Breakfast establishments (B&Bs), owner occupied partial dwelling or dwelling unit rentals (i.e. a principal residence), entire-dwelling or dwelling unit rentals (i.e. not a principal residence), and on-farm tourist homes.
 - ii. The County's goals and objectives related to Short Term Accommodations (STAs) are as follows:
 1. STAs shall generally respect and be compatible with the residential character, amenity, and quality of residential neighborhoods. This will be achieved through establishing densities of STAs, mitigations measures to adjacent residential properties, and regulations regarding orderly STA management.
 2. Private roads used to access lots with an STA shall generally be of sound construction and conform to the County's By-law 3121-2012.
 3. Guests shall be provided with accommodations conforming to health and life safety standards of high quality and provide a positive visitor experience;
 4. Facilities will be operated and maintained in acceptable conditions as detailed in the County's Property Standards and Licensing By-laws;
 5. Operators of STAs shall acknowledge their responsibilities in complying with the County's by-laws and licensing provisions.
 - iii. STAs are generally directed to locate in settlement areas of the Urban Centre, Village, Hamlet or in the Shore Land designations. STAs are generally permitted in existing dwelling units located in the commercial zones.
 - iv. Where located in the Rural or Prime Agricultural designation, STAs are permitted on:
 - a. lots existing as of October 9th, 2018 or earlier and zoned the Rural Residential (RR) Zone,

- vi. A second dwelling or dwelling unit on a lot will generally be discouraged for use as an STA, except where there exists a dwelling used as a principal residence.

Attachment 4 – Proposed Change to Zone Schedule

Change CH-20 to RR1



Attachment 5 – RR1 Zone

SECTION 16 RURAL RESIDENTIAL 1 (RR1) ZONE

No person shall within any Rural Residential 1 (RR1) Zone use any land or erect, alter or use any building or structure except in accordance with the following provisions:

16.1 PERMITTED RESIDENTIAL USES

16.1.1 one single detached dwelling

16.1.2 home business

16.1.3 private home day care

16.1.4 bed and breakfast establishment

16.1.5 group home

16.1.6 uses, buildings and structures accessory to the foregoing permitted uses

16.1.7 one second unit or one garden suite

16.2 PERMITTED NON-RESIDENTIAL USES

16.2.1 outdoor furnace in accordance with the provisions of Section 4.32 of this By-law

16.2.2 maximum of one windmill in accordance with the provisions of Section 4.33 of this By-law

16.2.3 public uses or utilities in accordance with the provisions of Section 4.23 of this By-law

16.3 REGULATIONS FOR PERMITTED RESIDENTIAL USES

16.3.1 Minimum Lot Area 0.38 ha (0.94 ac.)

16.3.2 Minimum Lot Frontage 44.8 m (147 ft.)

16.3.3 Minimum Front Yard 15 m (49.2 ft.)

16.3.4 Minimum Exterior Side Yard 15 m (49.2 ft.)

16.3.5 Minimum Interior Side Yard 3 m (9.84 ft.)

16.3.6 Minimum Rear Yard 12 m (39.4 ft.)

16.3.7 Maximum Lot Coverage (all buildings and structures) 15 %

16.3.8 Minimum Landscaped Open Space 30 %

16.3.9 Maximum Height of Buildings 10m (32.8 ft.)

16.3.10 Maximum Number of Dwelling Units Per Lot 2

16.3.11 Minimum Dwelling Unit Area Requirement 90 m² (970 sq. ft.)