

November 30, 2009

REPORT TO: His Worship Mayor Ted Salci
and Members of the Municipal Council
City of Niagara Falls, Ontario

SUBMITTED BY: Planning & Development

SUBJECT: **PD-2009-95**
AM-2009-018, Zoning By-law Amendment Application
7104 - 7118 Lundy's Lane
Applicant: Falls Manor Limited
Recognize Existing Cabins that are Associated With the Motel
on the Land and Permit a Lesser Frontage for a Residential Lot

RECOMMENDATION

That Council approve the Zoning By-law Amendment to recognize the existing cabins and to reduce the lot frontage requirements for residential lots to 6 metres (19.7 feet) on the basis of extending CuvIELLO Court onto the subject land to provide access for two new residential lots and two future residential lots, as illustrated on Schedule 3.

EXECUTIVE SUMMARY

The proposed amendment is requested to recognize the existing cabins and to permit reduced lot frontage for two lots proposed to be created at the current limit of CuvIELLO Court. Although the Official Plan makes allowances for the proposal, the proposal does not provide for the extension of CuvIELLO Court as planned and as such precludes the development of additional residential lots on the subject land.

Staff recommend a modified development proposal be approved, as illustrated on Schedule 3, which allows for full utilization of the Residentially designated portion of the lands for housing. This concept will not increase impacts on surrounding residents, provided the interim use is limited to cabins and landscaping and fencing is provided along adjacent residential lands.

BACKGROUND

Proposal

A Zoning By-law amendment is requested for the whole of the lands at 7104 - 7118 Lundy's Lane (see Schedule 1), having a lot area of 1 hectare (2.5 acres), to recognize existing cabins and permit 2 residential lots.

The northerly two-thirds of the land is designated Tourist Commercial and zoned Tourist Commercial (TC). The southerly third of the land is designated Residential and zoned Residential Single Family 1C Density (R1C). A portion of the residential lands are occupied by 12 cabins which are legal non-conforming.

The applicant seeks to extend the TC zone onto the lands containing the cabins and recognize the cabins as a listed use through a site specific TC zone. The applicant also seeks a site specific R1C zone to permit a lesser lot frontage for 1 of the lots than currently required.

Site Conditions and Surrounding Land Uses

The land is occupied by a restaurant, a motel and 22 cabins, 12 of which are located on lands zoned for single detached dwellings (R1C). A small portion of the land zoned R1C is landscaped open space.

Properties to the east of the subject lands are developed for commercial and residential purposes. Lands to the south and south east contain single detached residences and include the CuvIELLO Court subdivision. The lands to the north and west are occupied by the hydro power canal and include a recreational trail.

Circulation Comments

Information regarding the proposed Zoning By-law amendment was circulated to City divisions, the Region, agencies and the public for comment. The following summarizes the comments received to date:

- Regional Municipality of Niagara
 - The proposal does not take full advantage of the intensification potential of the property and would restrict the future development potential of the rest of the Residentially designated lands. The application should be deferred until the proposal is modified to take full advantage of the intensification potential of this property.
 - Lots created on the cul-de-sac must maintain the existing cul-de-sac radius to ensure the provision of curbside waste pickup.
- Transportation Services
 - No objections. To ensure adequate emergency vehicle access, the existing "no parking" prohibition on both sides of CuvIELLO Court must remain.
- Municipal Works
 - No objections. The applicant will be required to submit a grading plan prepared by a surveyor or engineer for the newly created lots, as part of the Consent process.
- Building and By-law Services
 - All Building Permits to be obtained prior to commencement of construction.

- Parks, Recreation and Culture
 - No objections. Cash in lieu of parkland dedication will be required for the new residential lots.
- Legal Services
 - No objections.

ANALYSIS

Design Concept

Staff met with the owner's agent on several occasions to discuss the preference to extend CuvIELLO Court. When the CuvIELLO Court subdivision was approved it was designed with a temporary turning circle to allow for the future extension of the street to take full development advantage of the lands designated Residential. The development proposed by the applicant excludes an extension of the bulb into the subject lands and as such precludes the full use of the lands for residential purposes. As well, the proposed plan perpetuates the intrusion of a tourist commercial use into a residential area and conflicts with desirable development to complete this residential community.

The intended completion of this subdivision could be achieved by extending the bulb northward to develop two lots and allow the cabins to continue as an interim use until such time as it is viable to remove the cabins and develop two additional lots. This option is shown on Schedule 3. This would fulfill the original development concept for the portion of the land designated Residential and ultimately remove a remnant commercial use that is surrounded by residences.

Official Plan

According to the Official Plan, non-conforming uses such as the 12 cabins are intended to cease over time. The owner does not wish to remove these cabins. While the long term intent of the Official Plan is to remove the cabins, the Plan also contains policies which allow non-complying uses to be recognized. For a non-complying use to be recognized through a zoning by-law it must be demonstrated that the zoning will not permit a change of use or performance standard that will increase impacts on adjacent complying uses, does not constitute a danger to surrounding uses, will not contribute to any urban renewal problem and will not interfere with desirable development in adjacent areas that are in conformity with the Plan.

Staff is of the opinion that recognizing the cabins through the zoning by-law would meet the above noted criteria. The approval should be for the existing cabins only. This would allow the use as an interim use until such time as the lands can be fully developed for residential purposes as demonstrated in Schedule 3.

Zoning By-law

The applicant has requested a site specific TC zone for the portion of the site occupied by the restaurant, motel and cabins to include the cabins as a listed use. A definition of a cabin would have to be included in the amending by-law. Should Council approve this application, approval should be limited to the rear 61 metres (200 feet) for the existing 12 cabins only, and the current number and size. Over the long term these uses could be phased out and the lands redeveloped as residential lots. The by-law should require fencing and landscaping to buffer adjacent residential lots from the continued commercial operation.

One of the two proposed lots has undersized lot frontage. The applicant has requested a site specific R1C zone to reduce the required lot frontage from 15 metres (49.2 feet) to 6 metres (19.7 feet) because of the limited frontage provided by the irregular cul-de-sac design. While the street access will be limited, the lots will extend to the required width at the building line. While this reduction may not be fully needed for the preferred development option, it is recommended to provide flexibility in designing the lots. The reduced lot frontage will necessitate relief from the maximum permitted driveway widths of 50% of the lot frontage. Driveway widths would still be limited to a maximum of 8 metres (26 feet).

Should Council approve the application as recommended, the owner will need to pay the costs to extend the road and services, and secured through a development agreement. In addition, the 0.30 metre (1 foot) reserve at the north end of Cuvillo Court will need to be lifted to allow access onto the subject land. To prevent access to the cabins through the residential area, a 0.30 metre (1 foot) reserve should be placed along the future cul-de-sac until lots 3 and 4 are developed. These matters can be addressed as conditions of a future consent.

CITY'S STRATEGIC COMMITMENT

The recommended development is consistent with Council's priority to strengthen and promote economic development and provides for the efficient use of land.

LIST OF ATTACHMENTS

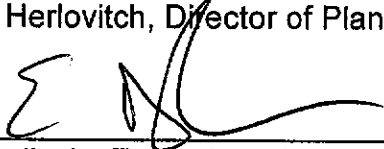
- ▶ Schedule 1 - Location Map
- ▶ Schedule 2 - Site Plan
- ▶ Schedule 3 - Site Plan - Recommended Option

Recommended by:



Alex Herlovitch, Director of Planning & Development

Approved by:



Ed Dujlovic, Executive Director, Community Services

Respectfully submitted:

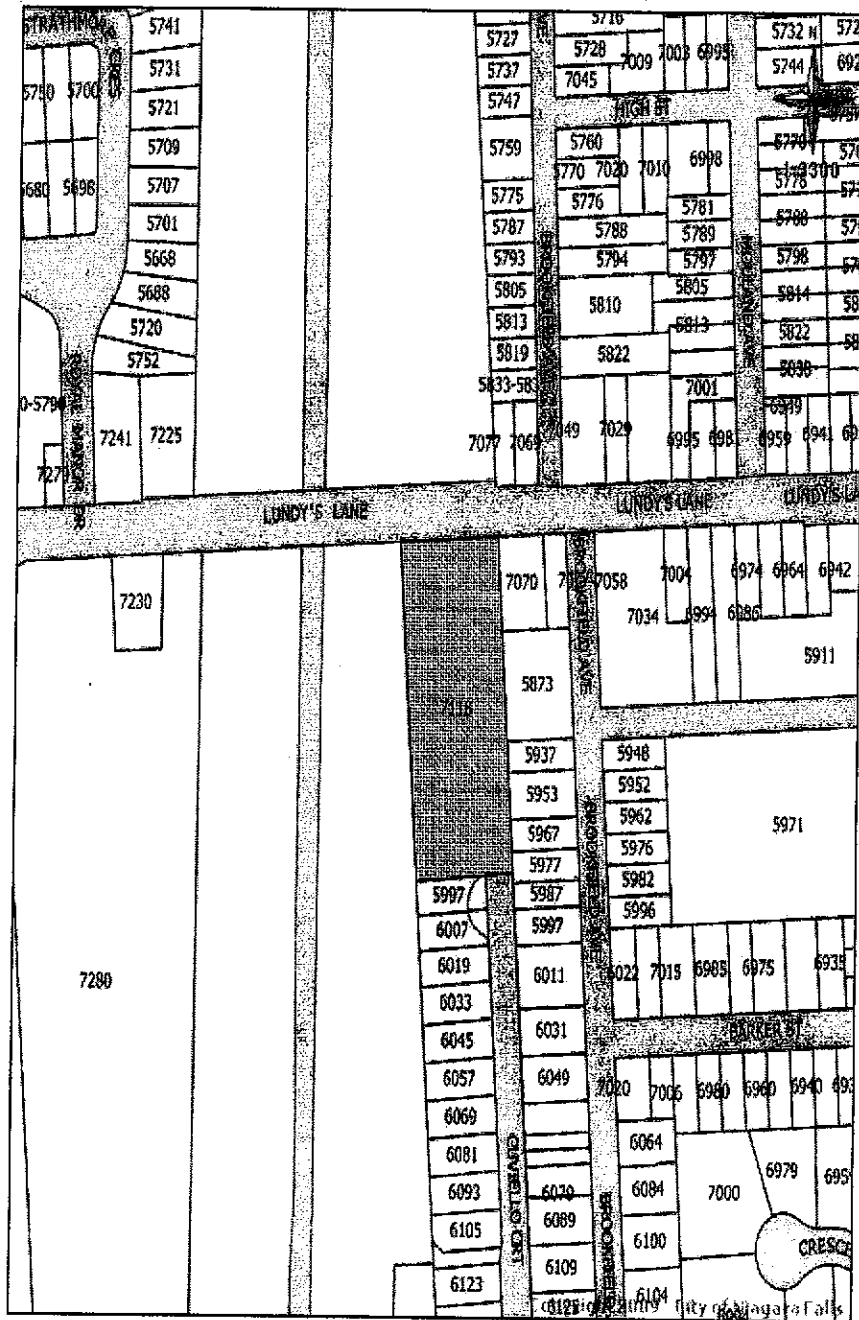


Ken Todd, Chief Administrative Officer

SCHEDULE 1

LOCATION MAP

Subject Land 



Amending the Zoning By-law No. 79-200

Location: 7118 Lundy's Lane
Applicant: Falls Manor Limited

AM-2009-018
October 2009

