

September 15<sup>th</sup>, 2019

Committee of the Whole  
Town of the Blue Mountains  
32 Mill Street, P.O. Box 310  
Thornbury, Ontario N0H 2P0

**To the attention of The Town Clerk, Corrina Giles**

We ask that this communication be read at the 11:30 am Sept 16<sup>th</sup> "Committee of the Whole Meeting"

RE: Report #PDS. 19.117

Subject: 160 Grand Cypress Lane, Re-zoning for Bed & Breakfast

For a Public meeting held on July 3<sup>rd</sup>, 2019, **29 property owners** in Monterra Estates wrote letters and sent emails voicing their opposition to a proposal to permit a B&B operation at 160 Grand Cypress Lane. There were two communications in favour. Of these two, one was from a renter. Based on an email sent on September 12<sup>th</sup>, 2019 from Travis Sandberg regarding a "Committee of the Whole" is to be meeting to be held on September 16, 2019 to present a staff report recommending a re-zoning by-law amendment to include a B&B establishment at this address. As a community with concerned owners of Monterra Estates we have agreed to form an association to oppose this re-zoning bylaw change. Given the short time we have been afforded to present our case in opposition, we have nevertheless been able to currently garner the support of more than 25% of property owners in Monterra Estates.

Our specific objections are as follows:

1) The Staff Report prepared by Travis Sandberg for the planned meeting of the Committee of the Whole to be held on September 16, 2019, states that the application was deemed complete by May 30<sup>th</sup>, 2019. We respectfully submit that an Opinion letter from Travis and Associates (with which we have substantial disagreements as to facts) and essential to this proposal was dated July 25<sup>th</sup>, 2019 well after the July 15<sup>th</sup>, 2019 passage of the resolution of Council placing a moratorium for re-zoning applications for Bed and Breakfast establishments. We feel that the completion date of the Application is a matter for Council to determine.

2) The right to own and use Monterra Estates lots and buildings are governed by a significant number of Covenants and Restrictions (15 pages) over all 80 lots, and presently run with each property in perpetuity – Term #3. There is a Covenant to observe Restrictions (#5) that "...each purchase/transfer of any of the lots, or any part thereof, and assignees with Monterra Estates and THE OWNERS (my caps) from time to time of all other lots that the purchaser/transferee and his successors in title from time to time WILL OBSERVE AND COMPLY (my caps) with each of the covenants, restrictions and provisions...."

Covenant #7 – Dwelling House – briefly touched on by Travis and Associates, states strongly that “No building or other improvement shall be erected, altered, placed or PERMITTED TO REMAIN (my caps) on any lot other than one SINGLE FAMILY RESIDENCE....” (my caps)

Covenant #8 Restrictions on use states “No building or structure of any kind...erected on any lot shall be used for any purpose other than that of a PRIVATE RESIDENCE...” (my caps) This is far stronger language than that paraphrased in the Travis Report.

Further, in his Opinion conclusion, Mr Travis states that “I can’t see how it can be taken that a Bed & Breakfast establishment is prohibited in the covenants as such prohibition is not specified.” We believe covenant #8 provides an absolute bar to any non- single family use of the premises, especially for commercial activities wherein a fee for service changes hands, and in the case of a B&B a permit is required.

3) Regarding the Travis Consulting Opinion letter (Attachment #3 PDS.19.117), we feel that matters involving the Covenants and Restrictions and their enforceability are legal matters that are better adjudicated by a competent third party, legal authority, not a planning consultant.

We members of the Association feel that the granting of a re-zoning bylaw for this location, although site specific, would be the thin edge of the wedge leading to other commercial activities in our neighbourhood. The special character of our neighbourhood and enjoyment of all property owners, that we presently experience could be seriously jeopardized. We further believe that the municipality should not engage in zoning activities that might appear to favour one party over another that might become an adversarial civil dispute.

We do understand the Municipality’s difficulty in dealing with this matter and appreciate Council’s efforts towards establishing new policy recommendations for B&B’s while an existing moratorium is in effect. We realize that new policies are required which may have far reaching consequences that could impact current as well as future developments within this region.

For all the above reasons we ask that you deny the current application before you.

Monterra Estates Property Association Members

Vincent McEwan  
Treasurer