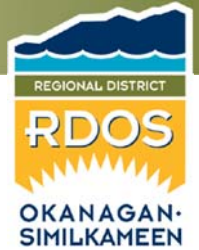


ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: August 20, 2020
RE: Request to Re-submit a Refused Temporary Use Permit Application – Electoral Area “A”

Administrative Recommendation:

THAT the Board of Directors not vary Section 3.12.1. of the Development Procedures Bylaw No. 2500, 2011, in relation to a proposed re-application of a temporary use permit application for a vacation rental use at 3829 37th Street (Lot 11, Plan 9792, District Lot 41, SDYD).

Purpose: To allow for the re-application of a temporary use permit application within 12 months of a Board decision to deny an identical proposal

Owners: Richard and Maria Law Agent: John Redenbach Folio: A-01229.000

Civic: 3829 37th Street Legal: Lot 11, Plan 9792, District Lot 42, SDYD

OCP: Low Density Residential (LR) Zone: Residential Single Family One Zone (RS1)

Proposed Development:

The property owner of 3829 37th Street (Electoral Area “A”) is requesting that the Regional District Board consider varying the restriction against a refused permit not being re-submitted for a period of 12 months immediately following the date of refusal (See Attachment No. 2).

Background:

Under Section 3.12.1 of the Regional District’s Development Procedures Bylaw, re-application for permit that has been refused by the Board “shall not be considered within a twelve (12) month period immediately following the date of refusal”.

Section 3.12.2 of the Development Procedures Bylaw, however, allows an applicant to appeal to the Board to vary the time limit set under Section 3.12.1 by supplying a detailed statement as to why the time limit for the reapplication should be varied.

On July 16, 2020, the Regional District received a letter from the property owner of 3829 37th Street effectively requesting that the Board consider allowing the re-application of a temporary use permit that was refused at its meeting of July 2, 2020 (and which would not otherwise be able to be re-submitted until July 3, 2021).

The temporary use permit had sought to formalize a vacation rental use for a four-bedroom single detached dwelling and allow for short-term accommodation from May-October.

The impetus of the temporary use permit application was enforcement action by the Regional District following the receipt of written complains regarding a vacation rental operating without permit.

Although there was no Electoral Area “A” Advisory Planning Commission (APC) meeting, due to cancellation of meetings to prevent the spread of COVID-19, Electoral Area “A” APC members were invited to comment individually on the application. Of the seven responses received from Electoral Area “A” APC members, 6 did not support and one conditionally supported this TUP application (if neighbours were supportive).

On June 8, 2020, an electronic Q&A session was held on Webex and was attended by approximately 12 members of the public, the applicant (property manager, John Redenbach), RDOS staff and the Electoral Area “A” Director.

Written representations were received from 13 individuals in opposition of the application and included in the July 2, 2020, Board agenda.

At its meeting on July 2, 2020, the Regional District Board moved to deny the application and invited property manager, John Redenbach to speak. The Regional District Board subsequently resolved to deny the application.

At its meeting on August 6, 2020 the Regional District Board moved to defer the decision regarding re-application, due to technical difficulties when the property owner was asked to speak.

Analysis:

In considering this request, Administration notes that there is no criteria in the Regional District’s Development Procedures Bylaw that provides direction on how to consider a request to vary the 12-month period that prohibits re-submission of a refused application.

In general, prohibiting re-submission of the same application within a year of refusal achieves several important goals, as it:

- provides certainty to all involved in the original application that no action will be taken in the immediate future (i.e. within the next year);
- prevents “engagement fatigue” from the public;
- respects the outcome of the application process;
- avoids repeating an application where circumstances remain unchanged;
- allows for a “cooling off” period and time to consider alternatives or proposal improvements;
- dedicates staff resources to matters that *may* have already been considered by the Board; and
- limits departmental costs associated with processing applications that *may* not be fully cost-recoverable.

In considering this specific request, Administration notes that the applicant was present when the decision was made for this application and at the electronic Q&A session in advance of the Board meeting and was provided opportunity to present the merits of their proposal at both meetings.

In response to the property owner’s request to re-apply, the request is not based on any procedural factors (like a decision made in the absence of the applicant).

Further, the property owner’s request is based on his opinion of the best use of the property given his personal circumstances, which is not relevant to considering the merits of a TUP application.

Since the TUP application was denied by the Board on July 2, 2020, there have been no changes to evaluation criteria and no amended responses from any of the individuals that provided written comments in opposition of the proposal.

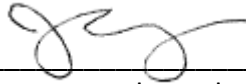
The property owner's request includes a "petition" signed by 14 individuals, none of which previously provided comments in opposition of the proposal.

The Board is asked to be aware that the Regional District is continuing with enforcement action against the property owner in relation to vacation rental use.

Alternatives:


1. THAT the Board of Directors vary Section 3.12.1. of the Development Procedures Bylaw No. 2500, 2011, in relation to a proposed re-application of a temporary use permit application for a vacation rental use at 3829 37th Street (Lot 11, Plan 9792, District Lot 41, SDYD).
2. THAT the Board of Directors defer consideration to vary Section 3.12.1. of the Development Procedures Bylaw No. 2500, 2011, in relation to a proposed re-application of a temporary use permit application for a vacation rental use at 3829 37th Street (Lot 11, Plan 9792, District Lot 41, SDYD) for the following reasons:
 - i) *TBD*

Respectfully submitted:



JoAnn Peachey, Planner I

Endorsed By:



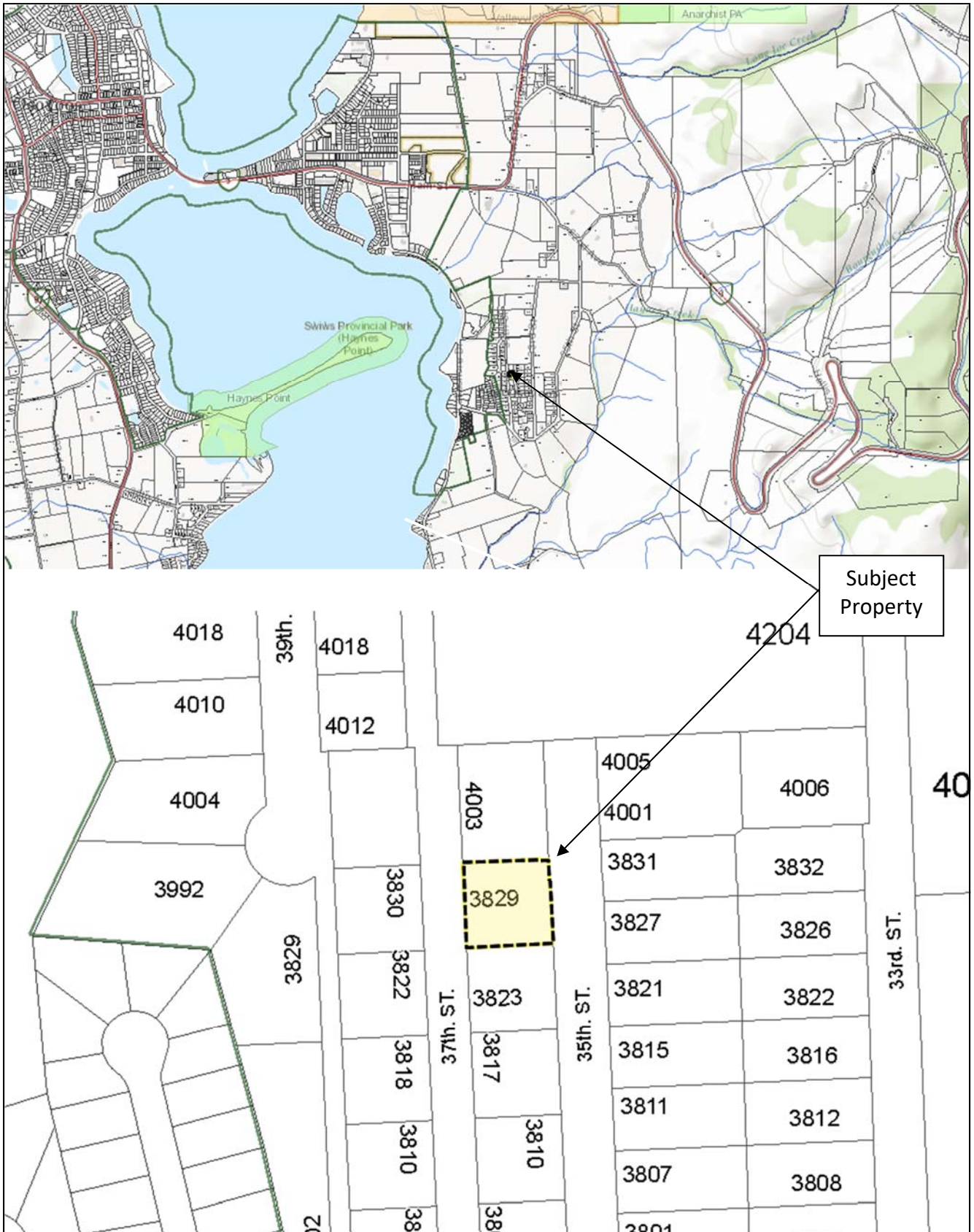
C. Garrish, Planning Manager

Attachments: No. 1 – Context Maps

No. 2 – Applicant's Request Letter

No. 3 – Site Photo

Attachment No. 1 – Context Maps



1)

RICHARD LAW
3829 37 SE
050Y005 B.C.
V08 1V6

ATTEN: JO ANN PEACHEY - PLANNER 1 FILE# A2019-011-TUP

jpeachey@idos.bc.ca

IN RESPONSE TO MY RE-APPLYING FOR A TEMPORARY USE PERMIT FOR MY HOUSE AT 3829-37 SE. 050Y005, B.C YOU HAVE ASKED ME TO GIVE YOU MY REASONS FOR RE-APPLYING.

OUR CURRENT SITUATION HAS MADE IT IMPOSSIBLE FOR ME AND MY WIFE, MARIA (SANDRA), TO LIVE IN OUR HOUSE AS BOTH MY DAUGHTER & HUSBAND WORK SEASONALLY IN ALBERTA AND SASK FROM MID MAY TO END OF OCTOBER.

THEY HAVE TWO (2) DAUGHTERS, AGES 5 AND 7 WHICH WE HAVE THE PLEASURE OF LOOKING AFTER FOR THIS TIME PERIOD. THIS MAKES IT IMPOSSIBLE FOR US TO LIVE IN 050Y005 FOR THAT TIME PERIOD AS IT WOULD MEAN PULLING THEM OUT OF SCHOOL AS WELL AS THE OTHER ACTIVITIES THEY ARE INVOLVED IN IN GRAND FORKS, B.C.

AS WE EITHER RETURN TO OUR HOME FOR NOVEMBER TO MID MAY THIS LEAVES OUR HOME VACANT FOR THE SPRING - FALL MONTHS.

OUR BEST OPTION IS TO HAVE A VROB WITH A WELL RESPECTED PROPERTY MANAGER MAINTAIN THE PROPERTY WHILE OUR GUESTS ENJOY THE AMENITIES OF OUR HOUSE AND 050Y005 AREA, BRINGING UP THE ECONOMY AS WELL.

I THINK YOU WILL AGREE THIS IS THE BEST SOLUTION FOR THE PROPERTY AT THE TIME UNLESS TIME CHANGES THINGS!

I HAVE PERSONALLY TALKED WITH 98% OF MY NEIGHBOURS, ASKING THEM TO SIGN MY PETITION FOR A REINSTATEMENT OF MY PERMIT WHICH I AM INCLUDING.

14 OF MY CLOSEST NEIGHBOURS SIGNED, 4 DID NOT STATE AN INCREASE IN TRAFFIC OR DIDN'T WANT TO SET A PRESIDENT AND 1 THAT AGREED WITH ME BUT DIDN'T WANT TO MAKE HIS NAME PUBLIC ON A PETITION.

2)

I HAVE PERSONALLY TALKED WITH RON TEJAL TO ASK HIM IF HE WOULD RECONSIDER HIS POSITION IN REGARDS TO ARE VROB, BY PHONE, HE SAID "NO" IN YOUR TUP, UNDER RECOMANDATIONS IN SECTION (1) "POOL AREA SHALL BE SCREENED FOR PRIVACY ALONG NORTH SIDE PROPERTY LINE, IN VERTICAL ALIGNMENT WITH HIGHEST PORTION OF EXISTING FENCE"

I TOTALLY AGREE, AND IF THE "TUP" IS AGREED UPON, WAIVING THE ONE YEAR WRITING PERIOD, THEN THIS WILL BE DONE IMMEDIATELY, MAKING ALL NOISE FROM EITHER SIDE GREATLY REDUCED!

AFTER TALKING WITH THE MAJORITY OF MY NEIGHBOURS, THE NOISE CREATED BY OUR CLIENTS WAS "NOT" A FACTOR IN ANY DECISION THAT THEY MADE.

IF YOU COMPARE THE ADDRESSES OF THOSE ON MY PETITION YOU WILL FIND THE MAJORITY ARE OUR CLOSEST NEIGHBOURS.

YOURS IN GOOD FAITH

RICHARD G. LAW


MARIA (SANDRA) LAW

Attachment No. 2 – Applicant's Request Letter

WE THE UNDERSIGNED DO GIVE RICHARD SANDRE LAW
OUR PERMISSION TO REINSTATE THEIR TEMPORARY
APPLICATION PERMIT FOR A V.R.B.O. (VACATION RENTAL BY ORDER)
AT 3829 37th St. 0501005 B.C.

WE UNDERSTAND THAT THIS PROPERTY IS TO BE MANAGED BY
MR. JOHN REDIENBALK AND HIS WIFE WHO CURRENTLY MANAGE 20
OTHER PROPERTIES IN THE 0501005 AREA. PROPERTY AND GROUNDS
WILL REMAIN WELL GROOMED AND RENTERS WILL BE WELL VETTED
TO INSURE A PLEASANT ENVIRONMENT FOR ALL CONCERNED!

THIS PROPERTY CURRENTLY HOLDS A 4.8 OUT OF 5 RATING WHICH BRINGS
A HIGHER CLASS OF RENTERS TO OUR TOWN THUS MORE INCOME TO
OUR LOCAL BUSINESSES. WE UNDERSTAND THAT A COUPLE OF PROBLEMS
HAVE COME UP IN THE PAST BUT WE HAVE BEEN ASSURED THAT ANY
MORE WILL BE PROMPTLY LOOKED AFTER WHICH IS FAR SUPERIOR TO
HAVING A NEIGHBOUR THAT CREATES THE SAME PROBLEMS WITH NO
RECOURSE!

NAME	ADDRESS	SIGNATURE
Erin Lu Idell		
Mike Leavitt		
Sandy Leavitt		
Elmer Singer		
Louise Zimmerman		
Elliot Zimmerman		
Jessica Kriese		
Kelly Ferrandez		
George N. Wherry		
Angela Whitman		
Emme de Belle		
Elaine Ketter		
RHAI MARTIN		

THANK YOU

- i) Symptoms of COVID-19
- ii) B.C.’s COVID-19 Self-Assessment Tool
- iii) Handwashing
- iv) Respiratory/cough etiquette
- v) Self-isolation and self-monitoring
- j) A sign must be posted on the front entrance telling staff not to enter the premises if they are feeling ill.
- k) All guests must follow Provincial guidelines during the Provincial State of Emergency for COVID-19, including avoiding non-essential travel as a measure to protect vulnerable people in communities from COVID-19, and
- l) Pool area shall be screened for privacy along the northern property line, in vertical alignment with highest portion of the existing fence.

COVENANT REQUIREMENTS

8. Not applicable.

SECURITY REQUIREMENTS

9. Not applicable.

EXPIRY OF PERMIT

10. This Permit shall expire on December 31, 2020.

Authorising resolution passed by Regional Board on ____ day of _____, 2020.

B. Newell, Chief Administrative Officer

Attachment No. 2 – Site Photo (Google Streetview)

