

## ADMINISTRATIVE REPORT



**TO:** Board of Directors

**FROM:** B. Newell, Chief Administrative Officer

**DATE:** March 18, 2021

**RE:** Temporary Use Permit Application – Electoral Area “C”

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### Administrative Recommendation:

**THAT Temporary Use Permit No. C2021.001-TUP be approved**

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Purpose: To allow for continuation of a short-term vacation rental use through renewal of a TUP

Owner: Andrew Peller Limited                      Applicant: Patricia Leslie                      Folio: C-06577.460

Civic: 553 Tinhorn Creek Road                      Legal: Lot C, Plan KAP87895, District Lot 2450S, SDYD

OCP: Agriculture (AG)                      Zoning: Agriculture Two Zone (AG2)

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### Proposed Development:

This application seeks approval for the renewal of Temporary Use Permit No. C2019.014-TUP, which authorizes the operation of a short-term vacation rental use of a three-bedroom dwelling for a three-year term to expire on December 31, 2023.

### Site Context:

The subject parcel is approximately 1.007 ha in area, is situated on the west side of Tinhorn Creek Road. Tinhorn Creek Vineyards is located on the parcel to the south. The property is seen to be comprised of a single detached dwelling, swimming pool, and a small planted area farmed in conjunction with the abutting parcel (vineyard).

The surrounding pattern of development is characterised by agriculture.

### Background:

The subject property was created by a subdivision plan deposited in the Land Title Office in Kamloops on November 12, 2008, while available Regional District records indicate that no Building Permits have previously been issued.

At its meeting of March 5, 2020, the Regional District Board resolved to approve TUP application No. 2019.014-TUP, subject to the following condition: that all deficiencies identified in the health and safety inspection are corrected by the applicant and inspected by an RDOS Building Official, prior to issuance.

On June 3, 2020, an RDOS Building Official conducted an inspection and advised that all deficiencies were corrected.

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Under the Electoral Area “C” Official Community Plan (OCP) Bylaw No. 2458, 2008, the property is designated Agriculture (AG) and the subject parcel, with exception of the homesite, is identified as Important Ecosystem.

Section 9.3.14 of Electoral Area “C” OCP Bylaw speaks to preserving and protecting the existing agricultural land base in rural Oliver but also to supporting property owners being able to diversify and enhance uses secondary to agricultural uses (i.e. “bed and breakfast operations” and other “value-added” uses such as agri-tourism).

Section 22.3 of Electoral Area “C” OCP Bylaw contains criteria in evaluating a temporary use permit application. Section 20.3.5 and Section 20.3.6 specify conditions for temporary use permits and short-term vacation rentals respectively. The previously issued TUP for the subject property included conditions to limit or require the following:

- Period of use (April-October);
- Posting of information within vacation rental;
- Maximum number of bedrooms (3);
- Maximum occupancy (6);
- Minimum number of on-site parking stalls (3);
- Prohibition of camping or use of RVs or accessory buildings for vacation rental occupancy;
- Providing TUP and contact information to neighbours; and
- Correcting deficiencies identified in health and safety inspection.

Under the Electoral Area “C” Zoning Bylaw No. 2453, 2008, the property is currently zoned Agriculture Two Zone (AG2) which only allows for single detached dwellings as a principal use.

The property is also situated within the Agricultural Land Reserve (ALR) and, under Section 34 (Tourist Accommodation) of the *Agricultural Land Reserve Use Regulation*, “the use of agricultural land for providing accommodation for tourists is permitted in a principal residence that is a pre-existing residential structure”, if the number of bedrooms does not exceed 4 and accommodation is provided on a short-term basis only.

The subject property has been assessed as “residential” (Class 01) and “farm” (Class 09).

**Public Process:**

On February 23, 2021, a Public Information Meeting (PIM) was held electronically and was attended by no members of the public.

At its meeting of February 16, 2021, the Electoral Area “C” Advisory Planning Commission (APC) resolved to recommend to the RDOS Board that the subject development application be approved.

Adjacent property owners will have received notification of this application with written comments regarding the proposal being accepted until the commencement of the regular Board meeting. Any comments will be on the agenda as separate item.

All comments received to date in relation to this application are included as a separate item on the Board Agenda.

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**Analysis:**

In assessing this proposal, Administration notes that there have been no recorded complaints received in relation to the operation of this vacation rental use since issuance of the TUP and the applicant has indicated that there have been no changes to the use since the permit was issued in 2020 (i.e. the use remains limited to three (3) bedrooms and six (6) paying guests between April 1<sup>st</sup> and October 31<sup>st</sup>) and ownership remains unchanged.

While it is recognised that the Electoral Area “C” OCP Bylaw, contains a number of specific criteria against which vacation rental TUPs are to be assessed (i.e. septic capacity, screening, health & safety assessment and on-site vehicle parking provisions), this criteria was previously considered by the Board when it approved TUP No. A2019.014-TUP in 2020.

It should be noted that the Electoral Area “C” OCP Bylaw recognizes “on-going” vacation rental uses through temporary use permits; however, properties designated Residential are the only specified benefactors of this policy.

Although Agricultural designated properties are not specifically contemplated for “on-going” vacation rental uses, vacation rentals are seasonal and temporary in nature, as the terms of the permit specify a portion of the year in which such a use can occur and the single detached dwelling is used for remainder of the year in accordance with the Zoning Bylaw (i.e. for residential use).

As such, continuation of a temporary use permit for a vacation rental use is considered consistent with the administration of other vacation rentals in Area “C”.

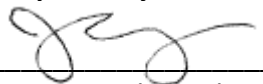
Accordingly, and in light of the absence of any change to the use or received complaints regarding its operation, Administration supports the continuation of a vacation rental use through a temporary use permit for a further three years (to December 31, 2023), provided the TUP includes the same conditions as the previously issued TUP as well the same COVID-19 protocols that have been applied to all vacation rental TUPs issued since the Provincial State of Emergency was declared.

Conversely, the addition of uses within an agricultural area that are more commercial in nature can pose potential land use conflicts with agricultural operations. By allowing additional uses to occur, the primary use of the property or surrounding properties as agricultural land can become threatened through the introduction of competing interests.

However, changing the duration of stay within an existing dwelling unit is not anticipated to introduce any land use conflicts that would not be present if the dwelling were used for residential purposes.

**Alternatives:**

1. THAT the Board of Directors deny Temporary Use Permit No. C2021.001-TUP.

**Respectfully submitted:**  
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JoAnn Peachey, Planner I**Endorsed By:**  
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C. Garrish, Planning Manager

Attachments: No. 1 – Agency Referral List

No. 2 – Site Photo

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## Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a ☒, prior to Board consideration of TUP No. C2021.001-TUP:

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input checked="" type="checkbox"/>	Fortis
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input type="checkbox"/>	City of Penticton
<input checked="" type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input type="checkbox"/>	Town of Osoyoos
<input checked="" type="checkbox"/>	Ministry of Environment & Climate Change Strategy	<input type="checkbox"/>	Town of Princeton
<input type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch)	<input type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Trade & Technology	<input type="checkbox"/>	Okanagan Nation Alliance (ONA)
<input type="checkbox"/>	Ministry of Transportation and Infrastructure	<input type="checkbox"/>	Penticton Indian Band (PIB)
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Osoyoos Indian Band (OIB)
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Upper Similkameen Indian Band (USIB)
<input type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input type="checkbox"/>	Lower Similkameen Indian Band (LSIB)
<input type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Canadian Wildlife Services
<input type="checkbox"/>	Kootenay Boundary Regional District	<input type="checkbox"/>	OK Falls Irrigation District
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Kaleden Irrigation District
<input type="checkbox"/>	Fraser Valley Regional District	<input type="checkbox"/>	Irrigation District / improvement Districts / etc.
<input checked="" type="checkbox"/>	Oliver Fire Department		

Attachment No. 2 – Site Photo (Google Earth)

