

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: July 2, 2020
RE: Temporary Use Permit Application – Electoral Area “A”

Administrative Recommendation:

THAT Temporary Use Permit No. A2019.011-TUP be approved, subject to the following conditions:

- a) that all deficiencies identified in the health and safety inspection dated January 30, 2020 and listed below be corrected by the applicant and inspected by an RDOS Building Official, prior to issuance:**
 - i) smoke alarm for bedroom 4 and master bedroom**
 - ii) handrail for stairs to master bedroom and to pool**
 - iii) self closing gates for pool**
 - iv) posting of layout/exit paths/emergency numbers and occupancy load.**
 - b) and that a privacy screen/fence be installed by the applicant which aligns with the highest portion of the existing fence along the north property line and extends to provide screening for the entire deck/pool area, prior to issuance.**
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Purpose: To allow for a short-term vacation rental use through issuance of a TUP

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:

This application is seeking to a temporary use permit to authorize the operation of a short-term vacation rental use of a single detached dwelling, from May 1st to September 30th and which is to be comprised of four (4) bedrooms and a maximum occupancy of 8 people within the existing single detached dwelling with accommodation for four (4) parking stalls.

In support of this proposal, the applicant has stated that “operating in this fashion allows this property to contribute to the local and provincial economy by bringing groups, mainly families, to town to spend money.”

Site Context:

The subject property is approximately 948 m² in area and is situated between 37th Street (to the west) and 35th Street (to the east). It is understood that the parcel is comprised of a single detached dwelling, garage, carport, and swimming pool.

The surrounding pattern of development is generally characterised by similarly sized residential parcels that have been developed with single detached dwellings, which is surrounded by larger agricultural parcels to the north, east and south within Electoral Area "A".

The Town of Osoyoos boundary is within 100 m of the subject parcel and includes a range of low to high density residential.

Background:

Parcel Information:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on July 10, 1953, while available Regional District records indicate that building permits a garage (1970), pool (1982), and two-car garage (1999) have previously been issued for this property.

The Regional District has received written complaints regarding the operation of a vacation rental and this TUP application is an attempt to formalise the use.

In support of this TUP application, the applicant has provided a Health & Safety Inspection (January 2020) and a Septic System Review Report (February 2020) and Septic System Inspection Report (October 2019).

BC Assessment has classified the property as "Residential" (Class 01).

Official Community Plan Bylaw:

Under the Electoral Area "A" Official Community Plan (OCP) Bylaw No. 2450, 2008, the subject property is currently designated Low Density Residential (LR).

Section 17 of the Electoral Area "A" OCP Bylaw contains the objective to consider allowing on-going short-term vacation rental uses on properties designated Residential through the issuance of Temporary Use Permits.

This is also supported under Section 8 of the Electoral Area "A" OCP bylaw, which includes vacation rental policies that support paid accommodation for visitors through the short-term rental of residences provided that community and neighbourhood needs and other land use needs can be addressed (Section 8.6.1).

Evaluation criteria in Section 8.6.2 of the Electoral Area "A" OCP bylaw for assessing applications includes:

- a) *Capability of accommodating on-site domestic water and sewage disposal;*
- b) *Mitigating measures such as screening and fencing;*
- c) *Provision of adequate off-street parking;*
- d) *Confirmation that the structure proposed complies with the BC Building Code; and*
- e) *Benefits that such accommodation may provide to the community.*

Zoning Bylaw:

Under the Electoral Area “A” Zoning Bylaw No. 2451, 2008, the property is currently zoned Residential Single Family One Zone (RS1) which permits single detached dwellings as a principal use, with limited accommodation for commercial uses in the form of “home occupations” and “bed and breakfast operations” as permitted secondary uses.

COVID-19:

The Province of British Columbia has declared a state of emergency in response to the COVID-19 pandemic. Travel restrictions and precautions are in place for travel across provincial and international borders and the Province is encouraging British Columbians not to travel for tourism or recreation in an effort to protect vulnerable people in communities from COVID-19.

Public Process:

In accordance with Section 5.5 of the Development Procedures Bylaw, referral to an Advisory Planning Commission and public information meeting requirements are waived during the provincial state of emergency declaration in relation to COVID-19.

As such, this application has not been reviewed by the Electoral Area “A” APC. However, Electoral Area “A” APC members were invited to comment individually on the application.

On June 8, 2020, an electronic Q&A session was held on Webex and was attended by approximately 10 members of the public.

Adjacent property owners received written notice of the upcoming meeting, in addition to written notice of the Q&A session.

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

Analysis:

In considering this proposal, Administration notes that the Electoral Area “A” OCP Bylaw includes supportive policy for vacation rental uses in residential areas and outlines a number of criteria against which the Board will consider such a use.

In response to the criteria outlined in Section 8.6.2 of the Plan, the applicant has provided the following:

- a septic system inspection, prepared by Jim Ripley, Registered Onsite Wastewater Practitioner (ROWP), in support of a four-bedroom vacation rental;
- on-site domestic water is being provided by the Osoyoos Irrigation District (Note: that the OID remains subject to a Boil Water Notice);
- the provision for adequate parking in the form of a double garage, carport and additional spaces in front;
- a health and safety inspection which identified a number of minor deficiencies; and
- The provision of screening and fencing along the northern property line (NOTE: this fencing drops in height as it approaches the front yard/pool area and it has been noted that this does not provide privacy screening between the pool area and the neighbour’s deck – see Attachment No. 3).

The applicant has stated that community benefits include contributing to the local and provincial economy by bring groups, mainly families, to town to spend money.

Conversely, unlike other Electoral Areas, Electoral Area “A” does not have a noise bylaw in place so there is no mechanism for ensuring that persons in the vicinity will not be disturbed by noise that would impair reasonable enjoyment of their property.

As such, the impact on surrounding homes and the quality of life of existing residents may be unduly impacted by loud or unruly behaviour.

However, the intent of the Regional District’s “Vacation Rental Temporary Use Permit Policy”, and supportive OCP policies is to allow for a new vacation rental use to operate for one “season” in order to determine if such a use is inappropriate, incompatible or unviable at a particular location and, if so, to allow for the permit to lapse or not be renewed within a relatively short period.

Public Input:

Many neighbours have noted that this vacation rental has already operated without permit for one “season” last summer and has begun to operate this “season” as well, and have expressed concerns with operations continuing due to excessive noise, littering, and unruly behavior of guests and large groups exceeding an occupancy limit of 8 people.

Administration notes that an objective of the Board’s approach to vacation rental operations is to encouraging permitting so as to ensure compliance with basic health and safety requirements, servicing levels (i.e. proper sewage disposal) and to provide an incentive through the renewal process for operators to conduct their business responsibly.

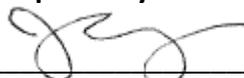
Summary:

Given the Electoral Area “A” OCP Bylaw generally supports vacation rentals in residential areas, and the applicant has or can satisfy criteria requirements, it is recommended that the vacation rental be approved, with conditions (see attached permit).

Alternatives:

1. THAT the Board of Directors deny Temporary Use Permit No. A2019.011-TUP; or
2. THAT the Board of Directors defer consideration of Temporary Use Permit No. 2019.011-TUP for the following reasons:
 - i) *TBD*

Respectfully submitted:



JoAnn Peachey, Planner I

Endorsed By:



C. Garrish, Planning Manager

- Attachments:** No. 1 – Agency Referral List
No. 2 – Site Photo (Google Streetview)
No. 3 – Site Photo (Neighbouring Fence)

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. A2019.011-TUP:

<input 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 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 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 checked="" type="checkbox"/>	Osoyoos Irrigation District
<input checked="" type="checkbox"/>	Osoyoos Fire Department		

Attachment No. 2 – Site Photo (Google Streetview)



Attachment No. 3 – Site Photo (Neighbouring Fence)



View of fence along northern property line