

## ADMINISTRATIVE REPORT



**TO:** Board of Directors  
**FROM:** B. Newell, Chief Administrative Officer  
**DATE:** June 2, 2022  
**RE:** Temporary Use Permit Application – Electoral Area “C” (C2022.008-TUP)

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### Administrative Recommendation:

**THAT Temporary Use Permit No. C2022.008-TUP to allow for a vacation rental use at 5607 Cactus Street in Area “C” be denied**

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Folio: C-05419.020

Legal: Lot 2, Plan KAP68288, District Lot 2450S, SDYD

OCP: Small Holdings (SH)

Zone: Small Holdings One (SH1)

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### Proposed Development:

In support of this proposal, the applicant has stated that the proposed temporary use is for “Airbnb rental income [from] May 1<sup>st</sup> to October 31<sup>st</sup> [in a] suite and deck [with] one parking spot”.

### Site Context:

The property is approximately 2,619 m<sup>2</sup> in area and is situated on the southwest side of Cactus Street, approximately 150 metres from the border with the Town of Oliver. The parcel is comprised of a principle dwelling and accessory building with a sleeping unit and washroom.

The surrounding pattern of development is generally characterised by larger agricultural properties to the northwest and mixed use commercial, industrial, and tourism to the east.

### Background:

The current boundaries of the subject property were January 18, 2001. Available Regional District records indicate that a building permit for the principle dwelling (2001), and addition to the garage (2011 & 2019) have been issued for this property. The addition to the garage was permitted as a hobby room with no washroom or sleeping unit, and it was subsequently converted into a suite by previous owners.

The property is designated Small Holdings (SH), and has no development permit area designations. Section 20.0 of Electoral Area “C” OCP Bylaw contains criteria in evaluating a temporary use permit application. Section 20.3.4 and 20.3.6 specify conditions for temporary use permits and short-term vacation rentals respectively.

The property is zoned Small Holdings One (SH1) which allows for a principle dwelling and accessory dwelling on the parcel only if there is a connection to community sewer. Since the property is on a septic system and it is under 1 hectare in size, an accessory dwelling is not currently permitted on the parcel under section 7.2.4.

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The property is within the Agricultural Land Reserve and has been classified as “Residential” (Class 01) by BC Assessment.

**Public Process:**

**May 17, 2022**, a Public Information Meeting (PIM) was held at the Oliver Community Centre at 665 McKinney Road in Oliver and online via WebEx and was attended by no members of the public.

**May 17, 2022**, the Electoral Area “C” Advisory Planning Commission (APC) recommended that the subject development application be approved.

Adjacent property owners will have received notification of this application with written comments being accepted up until one (1) week prior to the Board’s regular meeting at which the application is to be considered. All comments received are included as a separate item on the Board’s Agenda.

**Analysis:**

The space proposed for the vacation rental is an illegal, non-conforming sleeping unit and not a residential dwelling unit. Using this space would not meet the intent of allowing vacation rentals in a residential neighbourhood.

Namely, that a “vacation rental” means “**the use of a residential dwelling unit** [emphasis added] for the temporary commercial accommodation of paying guests for a period of less than one month.”

The space noted as a suite in the floor plan (attachment no. 3) was originally permitted and subsequently built as a hobby room addition to an existing detached garage (“accessory building”). A vacation rental use is not permitted in an accessory building due to such structures not being constructed to residential (habitable) standards.

In addition, as the subject property is less than 1.0 ha in area and not connected to a community sewer, an “accessory dwelling” is not permitted by the zoning bylaw. Allowing “accessory dwellings” on such parcels potentially jeopardizes the Regional District’s eligibility for infrastructure grant funding (e.g. Okanagan Falls Sewer Treatment Plant and Osoyoos Lake Northwest Sewer Extension).

Other options are also seen to be available to the property owner, such as operating the “vacation rental” from the principal dwelling unit, or constructing a legal secondary suite within the footprint of the principal dwelling and operating the “vacation rental” from this unit. (NOTE: secondary suites connected to a septic system on parcels less than 1.0 ha in area are permitted by the zoning bylaw and do not jeopardize grant funding eligibility).

Conversely, Administration is aware that the Board has previously supported innovative tourist accommodation proposals in the Upper Carmi area (Electoral Area “D”) and that the current proposal will cater to tourists seeking a unique experience.

A Registered Onsite Wastewater Practitioner (ROWP) has confirmed that the septic system is sufficient for the added capacity of the additional washroom in the accessory building. A building inspector has been to the property to conduct a health and safety inspection and found that the plumbing, carbon monoxide detectors, and fire detectors will need to be updated through a building permit should the TUP be approved.

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In summary, the zoning bylaw specifies that a vacation rental use must be located in a dwelling unit. The proposed space is not permitted as a dwelling unit; therefor Administration cannot support the application for a vacation rental use.

If the TUP is denied, then the shower, tub, and sleeping unit are not permitted in the accessory building under Section 7.1.3 of the zoning bylaw and will be required to be decommissioned through a building permit.

**Alternative:**

1. THAT the Board of Directors approve Temporary Use Permit No. C2022.008-TUP subject to the following conditions being satisfied:
  - i) a building permit be issued and the works authorized completed to the satisfaction of the Regional District in order to formalize the conversion of the hobby room into habitable space, including the provision of the following:
    - a) plumbing additions in the bathroom and kitchenette;
    - b) hard wired fire detectors; and
    - c) hard wired carbon monoxide detectors.

**Respectfully submitted:**



Danielle DeVries, Planner I

**Endorsed By:**



C. Garrish, Planning Manager

Attachments:

- No. 1 – Agency Referral List
- No. 2 – Site Photo

Attachment No. 1 – Agency Referral List

Referrals to be sent to the following agencies as highlighted with a , prior to the Board considering adoption of Temporary Use Permit No. C2022.008-TUP.

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input 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 checked="" type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input type="checkbox"/>	Town of Osoyoos
<input type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Ecosystem Section)	<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 checked="" 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"/>	X Irrigation District / improvement Districts / etc.
<input checked="" type="checkbox"/>	Oliver Volunteer Fire Department	<input type="checkbox"/>	Public Works (Water Areas C, D, E, F; Sewer Area D)

Attachment No. 2 – Site Photo

