

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: September 22, 2022

RE: Temporary Use Permit Application – Electoral Area “E” (E2022.014-TUP)

Administrative Recommendation:

THAT Temporary Use Permit No. E2022.014-TUP, to allow a short-term tourist accommodation use at 2152 Naramata Road, be denied.

<u>Legal:</u>	Lot B, District Lot 206, SDYD, Plan 42326	<u>Folio:</u> E-02048.110
<u>OCP:</u>	Agriculture (AG)	<u>Zone:</u> Agriculture One (AG1)

Proposed Development:

This application is seeking to operate a short-term tourist accommodation on the subject property through the issuance of a Temporary Use Permit (TUP).

In support of this proposal, the applicant has stated that:

The house is a 4 bedroom, 6 bathroom, 5280 sq. ft. structure...which will be surrounded by vineyard...The house will be rented throughout the entire year on a weekly + basis...Desert Star is set to be a year-round luxury vacation rental focused on Summer visitors as well as Winter travel and sport enthusiasts. Families or groups wanting a BC Ski holiday, Christmas, Family Day or Easter getaway together, will greatly appreciate the availability of Desert Star Estate. The size and amenities are extremely rare outside of Kelowna. In addition, the Penticton and area businesses will certainly benefit from Desert Star's efforts to contribute to the local "shoulder season" economy.

Site Context:

The property is 7.06 ha in area and is situated on the east side of Naramata Road. The property is currently unoccupied, with plans to develop the property with a single detached dwelling, vineyards, a barn, a caretaker's suite to house a groundskeeper for property maintenance and vineyard-related storage, and associated infrastructure.

The surrounding pattern of development is generally characterised by parcels of varying sizes under agricultural production and/or used for residential purposes. Many of the parcels to the north and northwest are either fully or partially within the Agricultural Land Reserve (ALR).

Background:

The property was created on January 10, 1990, while available Regional District records indicate that building permits have been issued for a single detached dwelling (2021), accessory dwelling, covered patio roof and walkway addition and a pool (2022).

The property is designated Agriculture (AG), and is the subject of Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP) Area designations.

Section 22.3.4 of Electoral Area “E” OCP Bylaw establishes the following criteria in evaluating a Temporary Use Permit application:

- The use must be clearly temporary or seasonal in nature;
- Compatibility of the proposal with adjacent uses;
- Impact of the proposed uses on the natural environment, including groundwater, wildlife, and all environmentally sensitive areas;
- Intensity of the proposed use;
- Opportunity to conduct the proposed use on land elsewhere in the community; and
- The remedial measures to be carried out to mitigate any damage to the natural environment as result of the temporary use.

The property is zoned Agriculture One (AG1), which permits a single detached dwelling. It is partially within the Agricultural Land Reserve (ALR), and the single detached dwelling proposed for vacation rental use is within the ALR portion of the property.

Section 34 of the *Agricultural Land Reserve Use Regulation* permits the use of a principal residence in the ALR for tourist accommodation if the accommodation is limited to 4 bedrooms in total and is provided on a short-term basis only.

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

Public Process:

The Electoral Area “E” Advisory Planning Commission (APC) was scheduled to consider this application at its meeting of September 12, 2022. Due to the proximity of the meeting to September 22, 2022, a verbal update of the APC’s resolution will be provided.

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 proposal is not in keeping with Section 22.3.4(a) of Electoral Area “E” OCP Bylaw (i.e., it is not temporary or seasonal in nature), and the proposed use is more akin to commercial year-round “tourist accommodation” which is defined under the Zoning Bylaw to include “...tourist cabins, lodges, motels, hotels, inns, or hostels” and specifically excludes vacation rentals.

To the extent that the OCP speaks to supporting “vacation rental” uses in the agriculture zones, it is in relation to the occasional use of a residential dwelling (i.e. less than 50% of the year) and not a dedicated tourist accommodation building.

This requirement ensures that residential dwellings are used for residential purposes for a majority of the year, and that a vacation rental use does not become the predominate use of a residential

dwelling. In this regard, the proposed use of a dwelling as a year-round vacation rental is not seen to be consistent with the intent of OCP Bylaw provisions surrounding vacation rentals.

Agricultural land use planning is challenged by the need to preserve the limited agriculturally productive and capable land base while also allowing for ancillary uses which support, diversify, and enhance farm income and that are compatible with existing and future agricultural uses. These challenges and desires are highlighted in the Agriculture objectives and supporting policies within the OCP Bylaw.

While “tourist accommodation” is not a permitted use in the AG1 Zone that applies to the subject property, the property owner would be permitted to operate “agri-tourism accommodation”, subject to regulations contained in the zoning bylaw (see below) and in association with agri-tourism activities on the property.

In this regard, there must be a principal farm use being carried out on the property in which the agri-tourism accommodation is accessory to (NOTE: the applicant has stated that they plan to plant grapes in May 2023, however, until this occurs accessory agri-tourism activities & accommodation cannot be commenced).

“Agri-tourism accommodation” is a permitted accessory use in the AG1 Zone, subject to certain regulations such as:

- the property being classified as “farm”;
- a maximum length of stay of 30 days;
- a maximum of 5 sleeping units;
- design and floor plan (e.g. under one roof, no cooking facilities and a maximum floor area of 30 m²/unit); and
- on-site vehicle parking (1 space/unit).

If the property owner were to conduct agri-tourism activities in association with the proposed accommodation use and is able to meet the various requirements under Section 7.3 of the Zoning Bylaw, the use would fall under the definition of “agri-tourism accommodation” which is ordinarily permitted as an accessory use under the AG1 zoning of the property. Otherwise, a rezoning is required.

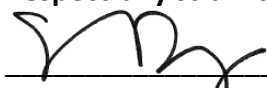
Summary:

In summary, the proposal is not seen to be consistent with the AG designation which applies to the property, nor is it seen to be consistent with the Temporary Use Permit criteria laid out under the OCP Bylaw.

Alternatives:

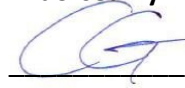
1. THAT the Board of Directors approve Temporary Use Permit No. E2022.014-TUP.

Respectfully submitted:



Shannon Duong, Planner II

Endorsed By:



C. Garrish, Planning Manager

Attachments: No. 1 – Agency Referral List

No. 2 – Aerial Photo

No. 3 – Aerial Photo (2007)

No. 4 – Location of Proposed Vacation Rental

No. 5 – 3D Renderings

No. 6 – 3D Renderings (Looking Southwest)

Attachment No. 1 – Agency Referral List

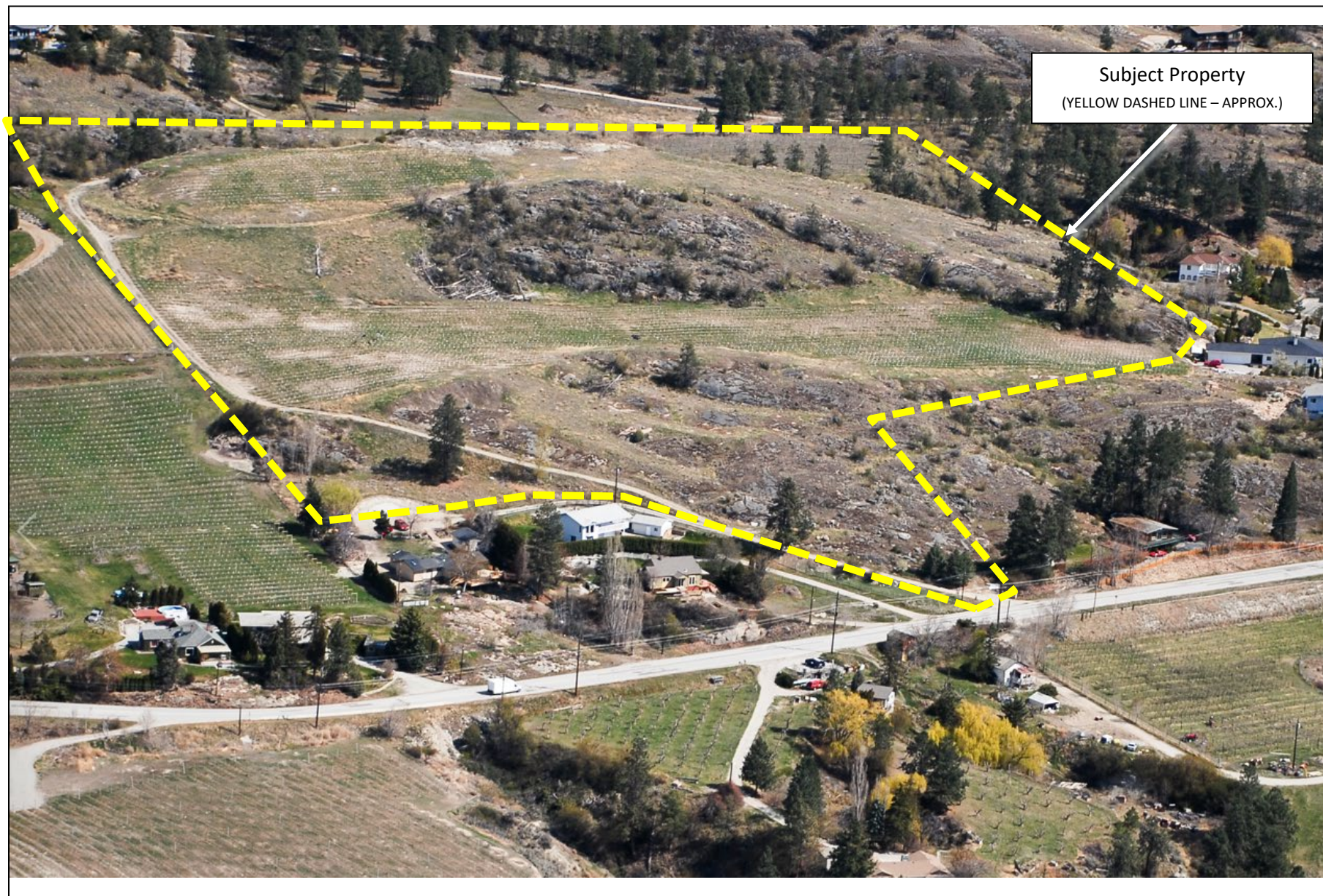
Referrals to be sent to the following agencies as highlighted with a ☒, prior to the Board considering adoption of Temporary Use Permit No. E2022.014-TUP.

<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 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 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"/>	Naramata Fire Department	<input checked="" type="checkbox"/>	Public Works (Water Area D)

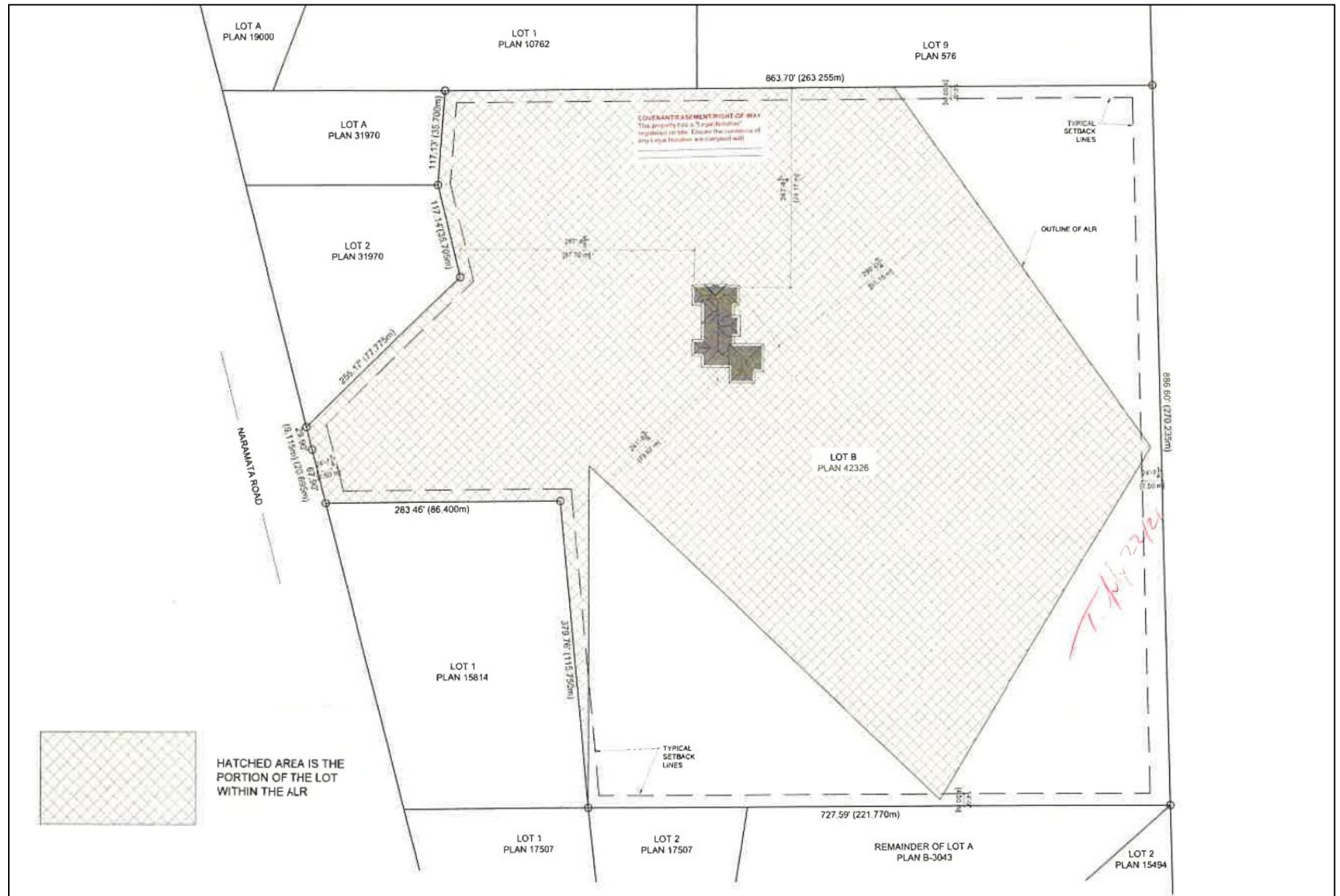
Attachment No. 2 – Aerial Photo



Attachment No. 3 – Aerial Photo (2007)



Attachment No. 4 – Location of Proposed Vacation Rental



Attachment No. 5 – 3D Renderings



Attachment No. 6 – 3D Renderings (Looking Southwest)

