

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: J. Zaffino, Interim Chief Administrative Officer
DATE: December 7, 2023
RE: Temporary Use Permit Application – Electoral Area “I” (I2023.020-TUP)

Administrative Recommendation:

THAT Temporary Use Permit No. I2023.020-TUP, to allow a tourist accommodation use comprising two tourist cabins at 602 Highway 3A, be approved.

Legal: Lot A, Plan KAP71273, District Lot 2531, SDYD Folio: I-06642.000

OCP: Agriculture (AG) Zone: Agriculture Three (AG3)

Proposed Development:

This application is seeking to allow a tourist accommodation use in the form of two tourist cabins on the subject property through the issuance of a Temporary Use Permit (TUP).

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

The proposed current development is for the construction of two new cabins to expand the wilderness/ nature retreat. The size of each cabin is 600 sq. ft. As indicated in the attached letter dated February 3, 1998 from the RDOS, approval was provided by the ALC for 8 cabins, a lodge facility and a meeting building by resolution #566/96.

In lieu of rezoning, it is the owner’s intention to submit this temporary use permit application.

The time period required for the temporary use is 3 years.

This TUP is for short-term vacation rental uses. The two cabins will be used as commercial accommodations for paying guests for a period of less than one month.

This property has been in the family for 35 years and has been maintained in a sustainable and environmentally responsible manner. The goal has been to maintain, restore and enhance the diversity of native plants and wildlife and to promote citizen science and community involvement.

The owner is a member of the Okanagan Similkameen Stewardship Society (OSS) and is a participant of the BC Environmental Farm Plan...This development will provide an opportunity for visitors to the South Okanagan and Similkameen Valley to experience first hand a nature and wildlife retreat that will enable our guests to regenerate nature to promote mental health and emotional well-being.”

Site Context:

The subject property is approximately 62.8 ha in area and is situated on the north side of Highway 3A, approximately 4.3 km west of Kaleden. It is understood that the parcel is comprised of a single detached dwelling and various accessory structures.

The surrounding pattern of development is generally characterised by Crown land to the north, agriculture to the east and south, and Penticton Indian Band land to the west.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on June 6, 2002, while available Regional District records indicate that building permits for a single detached dwelling (1991) and an addition to the single detached dwelling (1995) have previously been issued for this property.

Under the Electoral Area “I” Official Community Plan (OCP) Bylaw No. 2683, 2016, the subject property is currently designated Agriculture (AG), and is the subject of a Watercourse Development Permit (WDP) Area designation.

The proposed tourist cabins are shown as being located within a Watercourse Development Permit area, but the applicant has submitted a report from Jamie Kowenhoven, R.P. Bio and Adam Patterson, R.P. Bio of Ecora Engineering dated October 27, 2023 concluding that the “TRIM line and associated WDPA do not represent an actual watercourse or riparian area as defined by the RAPR”.

Section 22.3.4 of Electoral Area “I” 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.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Agriculture (AG3) which lists “agritourism accommodation” and “bed and breakfast operation” as permitted accessory uses, but does not list “tourism accommodation” or “tourist cabins” as permitted uses.

The current proposal is seen to be a tourist accommodation use rather than an agritourism use because the zoning bylaw requires all sleeping units associated with an agritourism use to be contained within a single structure, to have a maximum area of 30m² and to not include washroom facilities. In this case, two sleeping units are proposed in separate structures measuring approximately 50m² and including washroom facilities.

The property is within the Agricultural Land Reserve (ALR) and is subject to previous ALC Resolutions #566/95 and #391/97. Resolution #566/95 approved the development of “6-8 small cabins, a meeting building and low impact trails through the property for the purpose of operating a natural resort”. Resolution # 391/97 further approved a single storey “lodge facility” with a footprint not exceeding 6,000ft² and comprising not more than ten (10) bed and breakfast style rooms.

The applicant has indicated that the current proposal is to implement two (2) of the eight (8) cabins that were previously approved by ALC Resolution #566/95 and the ALC has indicated that there is no objection to the issuance of a temporary use permit for this use.

The subject property contains a registered archeological site, however the proposed tourist cabins are not located in this area.

BC Assessment has classified the property as part "Residential" (Class 01) and part "Farm" (Class 09).

Public Process:

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:

In considering this proposal, Administration notes that an objective of the TUP policies in the Area "I" OCP is to allow for temporary approval of transitional uses, or uses where uncertainty exists respecting appropriateness or viability of the use, and where it is premature to decide rezoning and long term land use patterns.

Administration understands that the intent of this proposal is to implement a portion of the previous ALC approval in order to determine the feasibility of the tourist accommodation operation before implementing the full ALC approval and rezoning the property.

In considering the proposed use, Administration notes that the Electoral Area "I" OCP includes policies that speak to encouraging secondary value added uses such as agri-tourism in the Agriculture designation provided they are compatible with surrounding land uses.

The two cabins will be located approximately 460 metres from the nearest adjacent parcel and are not anticipated to have adverse impacts to adjacent properties.

In considering the TUP approval criteria, the proposed use is small-scale, clearly seasonal in nature and unlikely to negatively impact adjacent uses.

Conversely, Administration recognises that the Agriculture designation applies to lands intended to be used for an agricultural operation and the proposed use is not clearly related to the farm use on the property.

In summary, administration considers that the proposal is implementing a long-standing ALC approval that will have minimal impact to surrounding uses and is recommending approval.

Alternatives:

1. THAT the Board of Directors deny Temporary Use Permit No. I2023.020-TUP

Respectfully submitted:

Ben Kent

Ben Kent, Planner I

Endorsed By:



C. Garrish, Senior Manager of Planning

Attachments:

- No. 1 – Agency Referral List
- No. 2 – Aerial 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. I2023.020-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 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 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 checked="" 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"/>	Kaleden Volunteer Fire Department	<input checked="" type="checkbox"/>	Ministry of Environment

Attachment No. 2 – Aerial Photo

