

# Staff Report DEVELOPMENT SERVICES DEPARTMENT

To: Council File: Bylaw 1424, 2019

From: Phil Armstrong, MDS/Planner Date: 2020 01 21

Subject: Short Term Rentals - Commercial

#### **RECOMMENDATIONS**

THAT per the January 21<sup>st</sup>, 2020 Staff Report *Short Term Rentals - Commercial*, from the Manager of Development Services, Council consider PASSING third reading and adopt "Town of Golden Zoning Amendment Bylaw No. 1424, 2019 – short term rentals – commercial."

#### **CAO COMMENTS**

I support the recommendation. This action does not close the collective door on the conversation and regulatory framework yet to come with respect to STR's in residential zones and potentially in other commercial zones. What it does is validate several existing establishments in the C1, C2, and C3 zones and meets a legal interpretation by way of a text amendment needed for a much anticipated and prominent development project which already inherently meets the Town's Official Community Plan.

#### **BACKGROUND**

Following Council passing 1<sup>st</sup> and 2<sup>nd</sup> reading to *Town of Golden Zoning Amendment Bylaw No.* 1424, 2019 – short term rentals – commercial on December 17<sup>th</sup>, a well-attended public hearing on the developer of OSO, Vidorra Developments', rezoning application occurred on January 7<sup>th</sup>, 2020.

#### **DISCUSSION**

Enclosed with this report is the correspondence received as part of the public hearing. Below is a list of some of the concerns raised at the hearing and some brief analysis/commentary:

- 1. The short term rental opportunity should be in all commercial areas. Why was the C4 zone not considered for short term rentals?
  - Generally, staff views the C1, C2 and C3 zones as quite similar, they represent the core commercial areas extending from the highway interchange to 12<sup>th</sup> St S (just south of Save-On-Foods) and with previous zoning amendment applications such as the craft brewery and distillery staff has proposed also including these uses in all three of these core commercial zones.
  - A short term rental is defined as the commercial use of a <u>Dwelling Unit</u> to provide temporary accommodation to the traveling public. The C4 zone does not currently allow dwelling units. Rather, the zone's purpose is to provide for commercial development along the TransCanada Highway that serves the travelling public, destination tourists and residents. Staff has had conversations with developers in regards to including some staff housing in future development on the corridor and possibly a short term rental type development could be considered in this area. This being said, all commercial zones are not created equally and the existing built forms and use of North American highway strips are quite uniform and introducing new uses in these areas can be challenging but also something that should be reflected on.
  - Another point to consider, is any developer always has the opportunity and ability to submit a rezoning application.

- Staff will reflect on these comments as part of finalizing the short term rental regulations for Council review/consideration. Then the intent is to move forward with an open house to check in with stakeholders and the public and for Council reflection prior to moving forward to public hearing.
- 2. Could this change affect small business with 2nd floor commercial being shifted to short term rentals?
  - It may, but there are only a few 2<sup>nd</sup> storey commercial spaces in the downtown and this may prove expensive to retrofit a building to add dwelling units.

#### 3. Parking impact.

- There are  $\sim$ 774 parking stalls from 7<sup>th</sup> St N to the Kicking Horse River Bridge.
- There are opportunities with accommodation type uses to have shared parking as the majority of the parking in the downtown is vacant during the evenings, nights and early morning.
- The one parking stall per three bedroom short term rental is consistent with the dwelling unit in commercial areas and hotel sleeping unit parking requirement.
- It should be noted that, OSO did have a parking variance for six stalls approved by Council last year and committed to implement a two car share program along with the development which can reduce car ownership by residents and the community at large.
- 4. Council should consider short term rentals in both commercial areas and residential areas at the same time.
  - This was staff and Council's intent and a comprehensive draft zoning bylaw was presented to Council the month prior to *Zoning Amendment Bylaw No. 1424, 2019 short term rentals commercial* being presented to Council. This holistic approach allowed the Town to quickly pivot to address the concerns raised by OSO's legal Counsel and staff and Council remain committed to bringing back both a zoning bylaw on short term rentals as well as the STR business license/regulation package in the near future.
- 5. Some hoteliers have lost revenue and many hoteliers would like to see a cap.
  - Having a regulatory system in place that is proactively monitored and the permanent resident requirements will contribute to maintaining residential properties as long term housing stock as well as managing the growth of B&Bs and STRs. The Town did examine quotas, caps, lotteries and temporary use permits to more directly control numbers, but these systems are complicated and very administratively burdensome and may be viewed as unfair and random in nature by stakeholders.
  - In residential zones, the Town of Golden is proposing to limit B&Bs and STRs to only the R1, R1-S, R1-D, R2, R2-A and R5 zones i.e. not the R3, R4, R6 and R7. These latter zones will be omitted as they typically contain more affordable / attainable housing options and there are often common spaces that are desired to feel safe i.e. shared hallways in apartment and condominiums. The Town is proposing in residential areas to only allow a B&Bs and STRs to be operated by a permanent resident who is occupying the dwelling unit or lot while the use is occurring which will ensure the property is long term residential in nature.
- 6. STRs causing rents to increase.
  - Studies have shown that STRs are one of the factors contributing to declining housing stock (rental and ownership) as well as the rising cost of housing. Vidorra has stated one building's 30 dwelling units will be available for long term rent.

- 7. Small apartments in C1, C2 will go to STR.
  - There are approximately 10 apartments in the C1 and C2 zones and this may occur. Also, it should be noted, long before the rise of Airbnb and other platforms, some of these apartments have historically been operated as accommodation not long term dwelling units.
  - This bylaw may also lead to more development in the core commercial area where STRs are more desirable than in residential areas.
- 8. An event organizer cited concerns in regards to turnout being affected by \$300 a night rates, and older motel stock. Athletes seeking a kitchen.
  - N/A
- 9. Need transparent rules that are enforced on short term rentals.
  - Once the bylaws are modernized, the Town intends to both act on complaints and proactively enforce B&B and STR regulation.

In closing, Staff is supportive of the proposed bylaw and is recommending proceeding with third reading and adoption of the zoning amendment bylaw for the anticipated OSO development.

#### **IMPLICATIONS**

Strategic Strategic Priority – Short Term Rentals

**OCP** Residential Development

Policy 2. Prohibit vacation rentals in new and existing residential areas and **encourage vacation rentals in commercial areas**. Canyon Ridge subdivision will be the only residential area where —vacation rentals will be considered, subject to, design considerations which lessen the potential impact on adjacent existing neighbourhoods.

**Financial** -Application fees have been collected.

**Administrative** -Part of the MDS's work plan.

#### **OPTIONS**

- 1. THAT Council consider PASSING third reading and adopt *Town of Golden Zoning Amendment Bylaw No. 1424, 2019 short term rentals commercial* and to proceed to public hearing.
- 2. Council selects another course of action.

Respectfully Submitted,

Phil Armstrong MCIP, RPP

Manager of Development Services / Planner

#### Attachments:

- ✓ Previous report
- ✓ Public Hearing correspondence and map circulated at hearing of C1, C2 and C3 zones.
- ✓ Town of Golden Zoning Amendment Bylaw No. 1424, 2019 short term rentals commercial



To: Council File: Bylaw 1424, 2019 From: Phil Armstrong, MDS/Planner Date: December 17, 2019

Subject: Short Term Rentals - Commercial

#### RECOMMENDATIONS

THAT per the December 17<sup>th</sup>, 2019 Staff Report, from the Manager of Development Services, Council consider PASSING first and second reading to "*Town of Golden Zoning Amendment Bylaw No. 1424, 2019 – short term rentals - commercial*" and to proceed to public hearing.

#### CAO COMMENTS

I support the recommendation. This text amendment will provide clarity in providing for what is a very prevalent style of development, particularly in resort communities. It is important to note that while this initiative does enable and validate short term rentals in commercially zoned areas, this was already a perceived permitted use. The crux of the short term rental affair lies primarily in its association with residential areas which remains a priority otherwise in finalizing a regulatory framework for.

#### BACKGROUND

OSO was originally presented as a two-building commercial development with residential units above the ground floor. The developer's intent is to retain ownership of one building, renting commercial rental units (CRUs) on the ground floor and long term rentals¹ above. The second building's ground floor would be sold as privately held commercial strata lots and the dwelling units above would be utilized for longer term ownership or rent -- long or short term (nightly). For the nightly rentals the developer leaned on the "hotel" permitted use.

The development was seen to comply with the purpose, intent and uses in the mixed use commercial -- C2 zone. The purpose is to *provide for mid-scale mixed-use development that includes a wide range of <u>commercial</u> and <u>residential</u> uses. The permitted uses include a number of commercial uses including hotel as well as dwelling unit.* 

Recently, Vidorra Developments Ltd. (the proponent) engaged its lawyer to complete its disclosure statement. In doing so, clarity of the zoning bylaw around these uses has been questioned and a text amendment has been applied for.

#### DISCUSSION

This report presents bylaw *Town of Golden Zoning Amendment Bylaw No. 1424, 2019 – short term rentals – commercial* for Council consideration.

The purpose of this bylaw is to amend the Zoning Bylaw to reassign dwelling unit from an accessory use to a permitted use and introduce the use of Short Term Rental (STR) to the C1, C2 and C3 zones as well as include associated regulations.

<sup>&</sup>lt;sup>1</sup> Note this is not proposed to be secured by a housing agreement or covenant.

The bylaw expands on the dwelling unit use in commercial zones. In its current form, the interpretation a "dwelling unit" could only be an "accessory use" tied to the commercial ground floor uses. In other words, the residents of the dwelling unit would have to be associated with the ground floor commercial business; for example, staff working at the restaurant. This clearly seems too rigid and inflexible for a zone whose intent is to have substantial residential development above a street front commercial space but not necessarily associated with it. Furthermore, mixed use developments like this are an extremely desirable built form to support a downtown commercial area.

In discussions with the developer, it was felt that the Town's zoning bylaw's simple definition of hotel allowed short term rentals in the commercial areas. Vidorra's lawyer reviewed recent case law and advocated that the nightly rentals of individual strata lots be clearly stated in the bylaw. Staff previously presented a draft zoning bylaw amendment for short term rentals to Council for both residential and commercial short term rentals.

Note the business license/regulation bylaw is still in the works. The enclosed proposed bylaw 1424 breaks out only the commercial portions of the STR draft regulations. This will allow other dwelling units in the C1, C2 and C3 zones to be rented out nightly and ensure these units in the downtown have less of a chance of being left as "dark" windows. Commercial short term "vacation rentals" are supported by the OCP (see OCP policies below) and the more sensitive residential STR regulations will be further refined as a priority in the coming month.

In closing, staff is recommending support for this bylaw amendment in order to facilitate OSO to move forward and targeting a public hearing on January 7<sup>th</sup>, 2020.

#### **IMPLICATIONS**

Strategic Priority – Short Term Rentals

**OCP** Residential Development

Policy 2. Prohibit vacation rentals in new and existing residential areas and **encourage vacation rentals in commercial areas**. Canyon Ridge subdivision will be the only residential area where —vacation rentals will be considered, subject to, design considerations which lessen the potential impact on adjacent existing neighbourhoods.

#### **OCP Community Economic Development:**

#### **Objectives:**

2. ... small business retention/expansion...

7. To build on a business-friendly environment through streamlined approval processes, open and responsive governance...

**Financial** -Application fees have been collected.

**Administrative** -Part of the MDS's work plan.

#### **OPTIONS**

- 1. THAT Council consider PASSING first and second reading to *Town of Golden Zoning Amendment Bylaw No. 1424, 2019 short term rentals commercial* and to proceed to public hearing.
- 2. Council selects another course of action.

Respectfully Submitted,

Phil Armstrong MCIP, RPP

Manager of Development Services / Planner

#### Attachments:

✓ Town of Golden Zoning Amendment Bylaw No. 1424, 2019 – short term rentals - commercial

#### **Phil Armstrong**

From: Ned Johnson <njohnson@innovationbuilding.com>

Sent: December-18-19 1:27 PM

To: Viv Thoss

Cc: Phil Armstrong; Jon Wilsgard

**Subject:** Oso Zoning Bylaw Text Amendment

**Attachments:** Oso Render.png

**Importance:** High

To Mayor and Council,

Thank you for your support with respect to the requested text amendment for Oso.

I wanted to provide some clarity on Oso as to how the building will operate in the future.

Oso is two buildings with a shared central courtyard and two amenity buildings. Please refer to the attached screenshot from <a href="https://www.osogolden.com">www.osogolden.com</a>.

Oso 612 is long term rental apartments above leased commercial space. Oso 612 will be owned long term by our rental company Vidorra.

Oso 606 are condos for sale above commercial spaces also for sale.

Each unit in 606 will have a property owner. That condo owner can live in their unit full time, rent long term or rent short term.

The central courtyard will have a signature café that will animate the building and provide great public space for residents of Golden to meet and socialize.

One amenity building will be a "coop workout studio" that will be open to the public to rent by the hour to hold classes for the public, other times it is open to the residents of Oso for their private use.

The second amenity building will be for Oso residents and will be a workshop, bike and ski tuning area and shared bike storage.

It has only been in the last stages of creating our Disclosure Statement that our lawyer requested clarity from the town with respect to the bylaws concerning the term 'dwelling unit'. Our lawyer said that, although the intent of the bylaws in C2 zones is meant to allow people to own, live in and rent short and long term, she found that the wording did not reflect that.

Ironically the bylaw is currently worded in such a way that nobody can live, long term rent or short term rent above the commercial floor unless they own the commercial space on the main floor. Clearly this is in contrast to the town of Golden's intent with commercial zoned buildings.

Oso has been developed completely in line with the intent of Golden's zoning bylaws and OCP.

We have invested considerable time, money and energy over the last 2 years making Oso the best building to ever be built in Golden.

Oso has won a prestigious grant from the BC Government for our Net Zero Energy Ready building which is being advertised across the province and putting Golden on the map as a leading edge community.

I understand that short term rentals are a hot topic subject but I was surprised that the council felt it was now time to debate the merits of allowing str's in commercial areas vs. residential areas. I do acknowledge that there are further details for you to discuss and pass into law regarding STR's to the broader community but this is another discussion which I expected would occur at a separate time from the request at hand which is a amendment to the text as it relates to Oso's permitted uses so that we can move forward with this project.

Current delays are unfortunate but we do appreciate the towns efforts to get us back on track. If we incur further delays this could have a very negative effect on the viability of Oso and our chances of starting this great project.

Oso has a development permit and was approved for all of its intended uses, what we are requesting now is a "text amendment" to your bylaws in order to protect our purchasers that buy one of the condos.

A successful strategy to manage STR's has been to allow them in commercial zones as Golden is doing. This makes sense as STR's are more of a commercial entity.

The OCP is clear that STR's are encouraged in commercial zones and not in residential zones. Canyon Ridge is the only residential area that could possibly have entire dwelling unit str's, without an OCP amendment.

C2 zoning permits Hotel, Motel, Hostel as short term rental uses.

Oso will provide much needed long term rental apartments in 612 (unmatched quality) and will animate downtown further with full time residences and travelling public in 606 along with many fantastic commercial businesses and spaces already lined up to occupy Oso.

I would be very happy to meet with you for a chat, if you would like to discuss this further please reach out.

Thank you for your time and Happy Holidays!

Ned

Cheers,

**Ned Johnson** - Managing Partner

Innovation Building Group

Golden – 2146 Blaeberry School Road, Golden B.C. VOA 1H1

Whistler - #15 - 1005 Alpha Lake Road, Whistler B.C. V8E 0H5

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Check out our latest projects: <a href="www.osogolden.com">www.osogolden.com</a> <a href="https://kickinghorseresort.com/cedars/www.orionpemberton.com">https://kickinghorseresort.com/cedars/www.orionpemberton.com</a>

#### Golden Hotel Association

ATTN: Mayor and Councilors RE: Short Term Rentals

Dear Mayor, councilors,

We the members of the Golden Hotel Association write to you out of frustration in the lack of consultation and regulation in regards to short-term rentals in our community.

Our members at large were not consulted regarding the proposed legislation regarding short-term rentals. The town failed to adequately consult the largest affected stakeholder. The accommodators at large have greatly contributed to our community for decades by supporting transit initiatives, creating and supporting hundreds of jobs, contributing millions of dollars in tax revenue, the creation of Tourism Golden and the collecting and remitting of the MRDT.

The town has failed to reciprocate this support by means of allowing hundreds of short-term rentals to operate within our community robbing our members of essential business revenue. The town has failed to enforce businesses from operating illegally within our community in areas not zoned for this type of use, not adhering to health and safety regulations, not collecting and remitting GST, PST, MRDT and/or paying commercial rate municipal taxes, contributing to parking issues etc. Many of our members are on the brink of receivership as their revenues have steadily declined since the explosion of short-term rentals.

Every one of our members in addition to almost every business in Golden is experiencing an extreme labor shortage. We find it absolutely unfathomable that there is any support at all for short-term rentals within our community when businesses cannot attract and retain staff due to the lack of housing. Neither, the economic impact to the local accommodators, nor the number of rental units taken from the local inventory have been identified.

This letter is written on behalf a majority number of hotel, motel, restaurant, and small businesses within our community. We will no longer support the Town of Golden as an RMI community in the event there is no legislation implemented and enforced banning any short term rentals within our community within 6 months.

Regretfully,

- President

Golden Hotel Association

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#### **Viv Thoss**

From: Ramada Golden <info@ramadagolden.com>

**Sent:** December 31, 2019 11:03 AM

To: Viv Thoss Subject: STR

Attention: Manager of Legislative Services

First of all Happy New Year to you all and hope this is the one for TG

I am bit disappointed that all this is being pushed through under the radar over xmas holidays and if I remember correctly on the Town Council Meeting Mr. Mayor promised that there will be an open house where we can all discuss and give our feedback to this terrible situation for hotel owners but I guess things changed.

Anyways here are my suggestions and concerns:

- Bylaw 1424, 2019 Short term rental (I have no problem with the purposed bylaw but it should include all highway commercial in this as well)

This is the only way Hotels can compete as we should have the same opportunity as any other citizen in this town to fight for our business and livelihood, it should be fair across the board and we should be able to build STR on highway commercial if downtown commercial, (C1,C2 etc) can.

#### Thanks



#### Kindest Regards,

#### Mike Dhami

Owner

#### Ramada Golden

#1311, 12<sup>th</sup> Street North | Golden | BC | Canada | VOA1HO

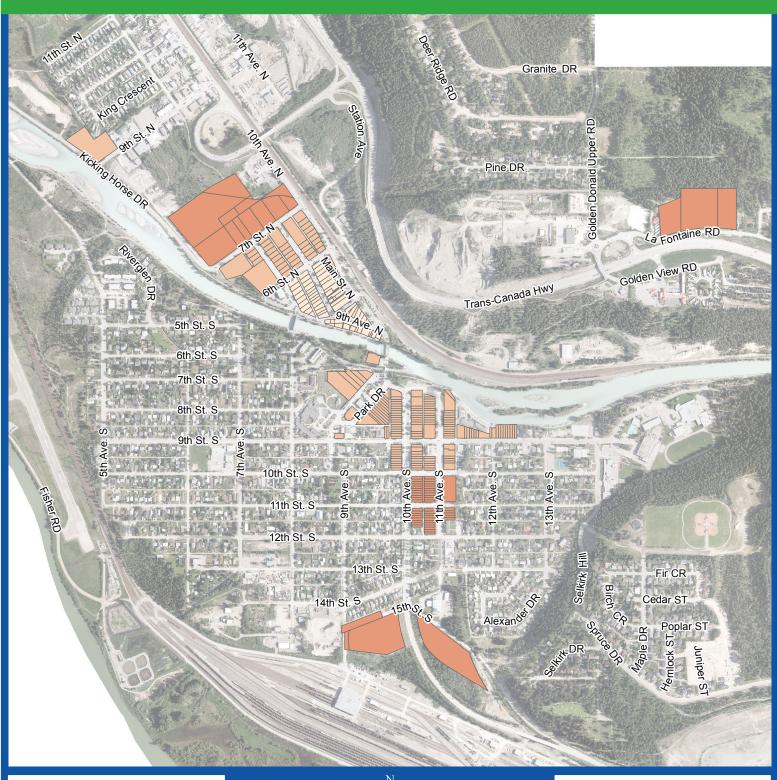
Telephone: +1 250 439 1888, Fax: +1 250 439 1889.

Email: info@ramadagolden.com

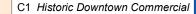
www.ramadagolden.com



# C1, C2 and C3 Zoning



#### Commercial



C2 Mixed Use Commercial

C3 General Commercial

### 1:12,500 0 200 400 600 800 Meters

#### SOURCE:

All data is the property of the Town of Golden.

#### DISCLAIMER:

This map is intended for information purposes only. It is not to be reproduced in any way. The Town of Golden does not make any warranty for positional or legal accuracy and makes no representation as to the completeness, timeliness or accuracy of the information.



#### **BYLAW RATIONALE STATEMENT**

## Town of Golden Zoning Amendment Bylaw No. 1424, 2019 – short term rentals – commercial

The purpose of this bylaw is to amend the Zoning Bylaw to reassign dwelling unit from an accessory use to a permitted use and introduce the use of Short Term Rental to the C1, C2 and C3 zones as well as include associated regulations.

#### **TOWN OF GOLDEN**

#### BYLAW NUMBER 1424, 2019 ZONING BYLAW AMENDMENT

A Bylaw to amend the "Town of Golden Zoning Bylaw No. 1294, 2011"

**NOW THEREFORE** the Council of the Town of Golden, in open meeting, enacts as follows:

#### 1. Name

The name of this bylaw for citation purposes is "Town of Golden Zoning Amendment Bylaw No. 1424, 2019 – short term rentals - commercial."

#### 2. Amendments

"Town of Golden Zoning Bylaw No. 1294, 2011" is amended as follows:

- a) "Section 4 Definitions" by adding the following definitions in section 4.3:
  - "Residential Use" means the use of a building or a part thereof as a **Dwelling Unit** by persons as a fixed place of abode and as their primary residence from which they are absent only as a part of a domestic routine including, without limitation, work and vacations.
  - "Short Term Rental" means the commercial use of a **Dwelling Unit** to provide temporary accommodation to the traveling public.
- b) "Section 8 Parking and Loading Regulations" by adding to "Table 8-1 Minimum Parking Requirements" the following after the **Single Detached Dwelling** Use:

c) By adding in "Section 9 Specific Use Regulations" a new section as follows:

#### 9.6 Short Term Rentals

- 1) Short Term Rentals shall:
  - a. in a commercial zone, utilize a maximum of 3 **Sleeping Units** within any **Dwelling Unit** and a maximum of 8 guests within any **Dwelling Unit** at any one time:
  - b. be in accordance with Section 8 [parking and loading regulations];
  - c. a lawful **Dwelling Unit** in the C1, C2, and C3 zones may be used for **Short Term Rental** use when the **Dwelling Unit** is not occupied for **Residential Use**.

d) By adding "Dwelling Unit" and "Short Term Rental" as Permitted Use in the following zones:

Schedule L Historic Downtown Commercial - C1

Schedule M Mixed-Use Commercial – C2

Schedule N General Commercial- C3

e) By deleting "**Dwelling unit**" as an accessory use in the following zones:

Schedule L Historic Downtown Commercial – C1

Schedule M Mixed-Use Commercial – C2

Schedule N General Commercial- C3

f) By adding to Schedule L Historic Downtown Commercial – C1, Schedule M Mixed-Use Commercial – C2, and Schedule N General Commercial – C3 the following to the second clause in the section h other regulations:

and may provide access to more than one **Dwelling Unit**.

#### 3. Severability

If any portion of this bylaw is found invalid by a court of competent jurisdiction, the invalid portion is severed without effect on the remaining portions of the bylaw.

READ A FIRST TIME THIS	$17^{\text{th}}$	DAY OF	DECEMBER,	2019.
READ A SECOND TIME THIS	$17^{\text{th}}$	DAY OF	DECEMBER,	2019.
PUBLIC HEARING ON THIS	$7^{\text{th}}$	DAY OF	JANUARY,	2020.
READ A THIRD TIME THIS		DAY OF		2020.
ADOPTED THIS		DAY OF		2020.