
MEETING TYPE: Regular Council Meeting
MEETING DATE: Tuesday, May 17, 2022
AUTHOR: Jason Tran, Planner
DEPARTMENT: Planning and Development
ITEM TITLE: Temporary Use Permit Renewal – TP2018-008-REN – 15151 Oyama Road
DESCRIPTION: To authorize the continuation of an Autobody Repair and Paint Shop for 3 years.

QUESTION

Does Council support the 3-year renewal of the Temporary Use Permit to allow an Autobody Repair and Paint Shop at 15151 Oyama Road until February 5, 2025?

OPTIONS

- A. THAT TP2018-008-REN for property located at 15151 Oyama Road – Roll 9275148 to allow the land use of Autobody Repair and Paint Shop within an accessory building (100m² floor area) be approved.
- B. THAT TP2018-008-REN for property located at 15151 Oyama Road – Roll 9275148 to allow the land use of Autobody Repair and Paint Shop within an accessory building (100m² floor area) be denied.
- C. THAT TP2018-008-REN for property located at 15151 Oyama Road – Roll 9275148 to allow the land use of Autobody Repair and Paint Shop within an accessory building (100m² floor area) be deferred pending additional information as identified by Council.

EXECUTIVE SUMMARY

The application is a Temporary Use Permit renewal request to allow the Autobody Repair and Paint Shop use to continue for an additional 3 years (until February 5, 2025). The Temporary Use Permit sets out that no more than 100m² can be used for the business. The proposal is in line with the Agricultural Land Commission, which allows for Home Occupations, provided such home occupation does not exceed 100m² (See Attachment B). It also means that a non-farm use application is not required from the Agricultural Land Commission. The site plan shows that 100m² is to be used for the business, with the remainder of the building being for personal use (See Proposed Site Plan).

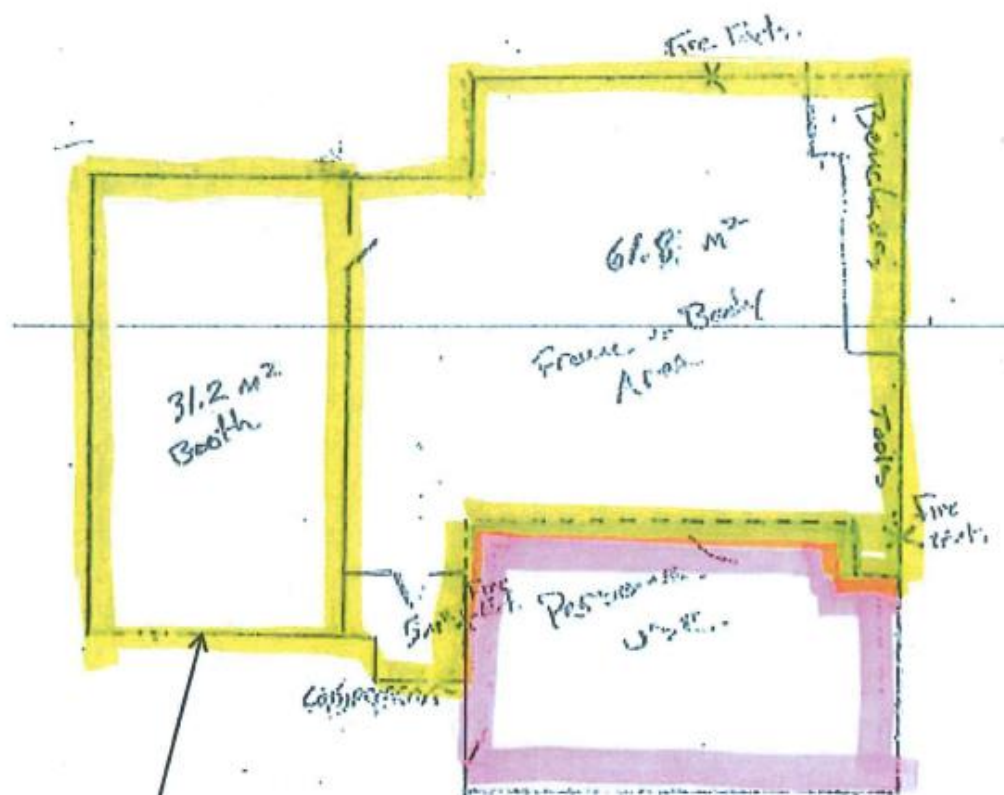
DLC Staff has maintained the permit conditions relating to the number of vehicles allowed on the site from the previously approved permit. A maximum of 2 unlicensed non-farm vehicles are permitted related to the Autobody Repair and Paint Shop use. There have been no formal bylaw complaints relating to the operation of the business in the past three years.

BACKGROUND/HISTORY

Council approved the first Temporary Use Permit for the land use on February 19, 2013 (TP2012-009) for the subject property. Council approved the renewal of the Temporary Use Permit for the land use on March 15, 2016 (TP2012-009-REN). Council approved a second Temporary Use Permit for the land use on February 5, 2019 (TP2018-008) for the subject property. The expiry date was February 5, 2022.

The applicant is now applying for a renewal of the second Temporary Use Permit (TP2018-008-REN). The renewal application was received on August 30, 2021, before the application expiry. If approved by Council, the permit will be valid until February 5, 2025.

PROPOSED SITE PLAN



Accessory Building where Home Occupation is permitted.

A **MAXIMUM of 100 m²** of the accessory building may be used for the Home Occupation.

(93 m² for business use shown in yellow)

SITE PHOTOS:



TUP proposed in this Accessory Building



Primary Residence

MAP 3: OUTDOOR STORAGE AREA



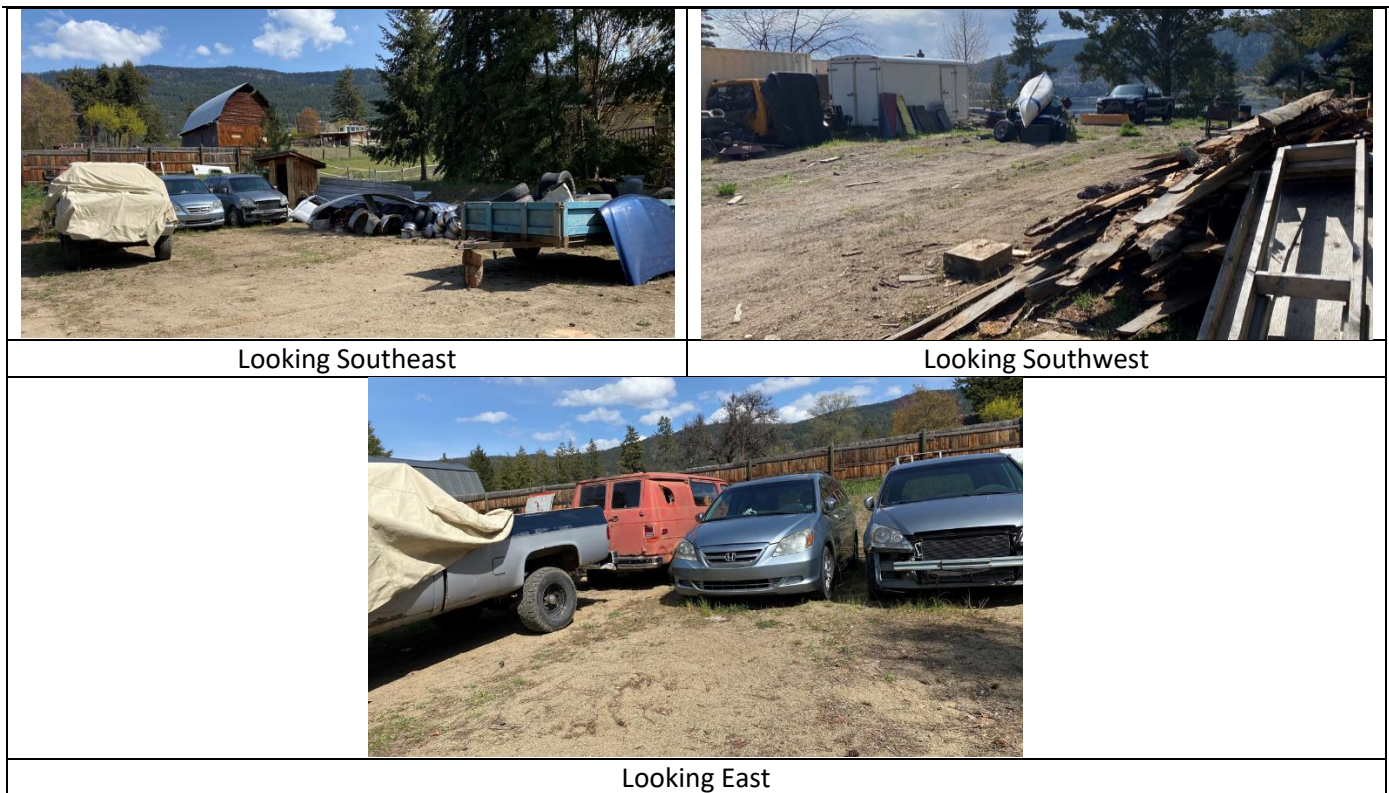
Total of 6 vehicles at this area (southeast) of the property.



These icons mean the landowner removed those vehicles. No longer there at the time of site inspection on April 28, 2022.



Approximate location of standing while taking photos.



CHRONOLOGY

Date (Y-M-D)	Event
2019-01-21	AAC met to review the TP2018-008
2019-02-05	Council approval of TP2018-008
2021-08-31	Application submission for the renewal of TP2018-008-REN
2022-03-28	External Referrals completed
2022-04-28	Site Inspection by staff

DISCUSSION/ANALYSIS

The applicant has had a Temporary Use Permit for an Autobody Repair and Paint Shop within the existing accessory building (100m²) since 2013. The applicant is requesting a renewal of the Temporary Use Permit, which would allow the Autobody Repair and Paint shop use to continue within the accessory building until February 5, 2025. The District has not received any formal complaints regarding the business or the property in the past three years.

During the site inspection on April 28, 2022, staff noticed that the applicant had moved several vehicles off-site and cleaned up the yard since the 2021 orthophoto was taken. The site inspection photos are within the report for Council to review above this section. At the southeast corner of the property, six vehicles remain. The applicant stated that these are unrelated to the Autobody Repair and Paint Shop business (four are insured and two are used for parts for his car racing hobby). The conditions of the Temporary Use Permit state that “no business activity may be conducted outside of the accessory building”.

APPLICABLE LEGISLATION AND POLICIES

Agricultural Land Commission Act: Agricultural Land Reserve Use Regulation

Section 24: Home Occupation use:

The following land uses are permitted in an Agricultural Land Reserve unless otherwise prohibited by a local government bylaw: a home occupation use that is accessory to a dwelling, of not more than 100m² or such other area as specified in a local government bylaw.

The proposed area of the accessory building for the business is 100m²; it is below the threshold set by the Agricultural Land Commission as requiring a non-farm use application (100m²).

Local Government Act

Section 493(2) states: "A temporary use permit may do one or more of the following:

- (a) allow a use not permitted by a zoning bylaw;
- (b) specify conditions under which the temporary use may be carried on;
- (c) allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued."

A Temporary Use Permit may also require land to be restored to a specific condition by a specific date.

Section 496 states that a local government may require security to guarantee the performance of the terms of the permit. And section 925 allows security to be taken by the local government for landscaping, unsafe conditions, and damage to the natural environment. Temporary Use Permits may be issued for up to 3 years, and the permit may be renewed once only.

Official Community Plan (OCP):

Section 23.6 contains policies related to Temporary Use Permits. These policies state that a Temporary Use Permit will be considered provided that the use:

- i. Is temporary or seasonal.
- ii. Not be noxious or undesirable because of smoke, noise, vibration, dirt, glare, odour, radiation, electrical interference or an offensive trade within the meaning of the Health Act.
- iii. Have no negative impact on adjacent lands.
- iv. Create no significant increase in the level or demand for services.
- v. Not permanently alter the site upon which it is located.

Other relevant OCP policies:

- Temporary Commercial and industrial permits may facilitate Home-based businesses. They do not impact or change the neighbourhood's character, require any servicing beyond residential standards or are a noxious use.
- Temporary Use Permits may temporarily allow businesses to locate in non-commercial/industrial zoned areas.
- Evaluate home occupation and Temporary Use permits to encourage industrial business owners on residential lots to move into industrial zones.

Zoning Bylaw 561, 2007:

The property is zoned A1 – Agriculture 1. This zone aims to provide an area for agricultural uses and other complementary uses suitable for rural settings. Autobody Repair and Paint Shop is not a permitted use in the A1 zone; therefore, a Temporary Use Permit is required to allow the use.

Subdivision and Development Servicing Bylaw 1121, 2020:

The Subdivision and Development Servicing Bylaw is not applicable to this application as no construction of dwellings is being proposed with the subsequent Building Permit application.

Highway Access and Driveway Regulation Bylaw 628, 2007:

Applicant has applied for Access Permit, and has been subsequently approved on May 4th, 2022.

Nuisance Bylaw 857, 2013:

Being an owner or occupier of real property, no person shall allow such property to become unsightly.

IMPACT ON INFRASTRUCTURE OR MUNICIPAL SERVICES

There is no impact on infrastructure or municipal services associated with this application.

IMPACT ON STAFF CAPACITY AND FINANCIAL RESOURCES

Regular staff time has been used to process the application.

COMMENTS FROM EXTERNAL AGENCIES, COMMITTEES AND STAKEHOLDERS

The following external agencies replied with “No concerns” for the referral of the renewal of TP2018-008:

- Alto Utilities
- BC Hydro
- TELUS
- Agricultural Land Commission

Agricultural Advisory Committee (AAC) – At the January 21, 2019, meeting, the AAC reviewed the TUP application TP2018-008 (not the renewal), and the AAC decided:

THAT Agricultural Advisory Committee recommends support to Council for Temporary Use Permit TP2018-008 (Tenborg) for 15151 Oyama Road, legally described as Lot 1, District Lot 7, ODYD, Plan 24640, to allow for the land use of Autobody Repair and Paint Shop within an Accessory Building.

Therefore, the planning staff decided not to bring the renewal application of TP2018-008 to the AAC again, given the proposal has not changed.

CONSULTATION AND COMMUNICATION

As per the *Local Government Act* and the Development Application Procedures Bylaw, a development notice sign has been installed on the property, a notice has been advertised in the local newspaper, and letters have been sent out to neighbouring property owners and tenants within 50m of the subject property.

ANALYSIS OF OPTIONS FOR CONSIDERATION

OPTION A: If Council approves the Temporary Use Permit Renewal, the applicant will be able to continue using his accessory building as an Autobody Repair and Paint shop.

OPTION B: If Council denies the Temporary Use Permit Renewal, the applicant must immediately stop any business activities relating to the Autobody Repair and Paint shop.

OPTION C: If Council postpones decision on the application, staff will work with the applicant to ensure the additional information is provided. The application will return for Council’s consideration at the next possible meeting.

Respectfully Submitted,

Jason Tran,
Planner
Planning and Development Department

This report has been prepared in collaboration with: *(author to list names and titles of collaborators)*

Evan Smith, Engineering Technician II	ES
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This report has been prepared on consultation with the following:

(author to request inclusion of initials to show concurrence)

Tanya Garost, Chief Administrative Officer	TG
Jared Kassel, Director of Planning and Development	JK
Tamera Cameron, Manager of Planning	TC

Attachments

A.	TP2018-008-REN-Tenborg-Draft Permit
B.	Agricultural Land Commission Policy L-07

 <p>Agricultural Land Commission Act</p>	<p>ACTIVITIES DESIGNATED AS A PERMITTED NON-FARM USE:</p> <p>HOME OCCUPATION USE IN THE ALR</p>	<p>POLICY L-07</p> <p>Amended April 2019 Amended April 2018 January 2016</p>
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This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act](#), 2002, (the “ALCA”) and, BC Regulation 30/2019 ([Agricultural Land Reserve Use Regulation](#)), (the “Use Regulation”). In case of ambiguity or inconsistency, the ALCA and the Use Regulation will govern.

INTERPRETATION:

The Use Regulation allows as a non-farm use a home occupation use on a legal parcel in the Agricultural Land Reserve (“ALR”), up to a maximum area of 100 m².

Alternatively, the Use Regulation provides for this use with the maximum floor area for the use established by a local government bylaw for the area in which the parcel is located. In other words, the local government bylaw requirement for the maximum floor area for home occupation use applies, where a bylaw is in place for land in the area in which the parcel is located. Local government bylaws may also regulate hours of operation, number of employees, parking, etc.

The home occupation use must be accessory to the residential or farm use of the property. The local government bylaw may determine whether the use is confined to a dwelling, accessory building or both, or whether limited outside areas may be used.

Additional local government requirements that are in force may also need to be met.

For home occupation use in the ALR, there is no requirement that the parcel has farm classification under the [Assessment Act](#).

Home occupation use may be more specifically defined and regulated in a local government bylaw. For Agricultural Land Commission (“the Commission”) purposes a home occupation use does not include the following facilities, where more than 8 persons or clients are served or accommodated at one time:

- ❖ Day care facilities
- ❖ Preschool or other educational facilities
- ❖ Group homes
- ❖ Health and community care facilities

Home occupation use does not include a restaurant or other food or beverage service facility of any size.

TERMS:

home occupation means a use that is accessory to a residential use of a property where a resident carries on a profession or occupation that is clearly incidental to the primary use of the land and, for Commission purposes, is entirely contained within a dwelling or a building accessory to a dwelling except for such businesses that require a small area of outside space from time to time.

Unless defined in this policy, terms used herein will have the meanings given to them in the ALCA or the Use Regulation.

REFERENCE:

Agricultural Land Reserve Use Regulation (BC Reg. 30/2019), Section 24

Home occupation use

Section 24 (1) The use of agricultural land for a commercial or similar use within a structure is permitted, but may be prohibited as described in section 20, if all of the following conditions are met:

- (a) the structure is accessory to and located on the same parcel as a residence;*
 - (b) the structure occupies an area that does not exceed
 - (i) the limit specified in an applicable local government enactment or first nation government law, or*
 - (ii) if subparagraph (i) does not apply, 100 m².**
- (2) The conditions set out in subsection (1) do not apply to a type of use referred to in any other provision of this regulation.*

Agricultural Land Commission Act, S.B.C. 2002, c. 36, Section 1.

Definitions

Section 1(1)

“agricultural land” means land that

- (a) is included in the agricultural land reserve under section 15 (1.1), 17(3.1) or 45(1) of this Act, or*
- (b) was included under a former Act as agricultural land or land in an agricultural land reserve,*

Unless the land has been excluded from the agricultural land reserve under this Act or from an agricultural land reserve under a former Act;

APPROVED ISSUANCE OF ☐ TEMPORARY USE PERMIT (pursuant to Sec. 493 of the Local Government Act)

PERMIT # TP2018-008-REN
FOLIO # 9275148
ZONING DESIGNATION: A1-Agriculture 1
ISSUED TO: David Tenborg
SITE ADDRESS: 15151 Oyama Road
LEGAL DESCRIPTION: Lot 1, District Lot 7, ODYD, Plan 24640
PARCEL IDENTIFIER: 005-868-009

SCOPE OF APPROVAL

This Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this Permit, noted in the Terms and Conditions below.

Applicants for Temporary Permits should be aware that the issuance of a Permit limits the applicant to be in strict compliance with regulations of all Municipal Bylaws unless specific Variances have been authorized by the Permit. No implied Variances from bylaw provisions shall be granted by virtue of drawing notations which are inconsistent with bylaw provisions and which have not been identified as required Variances by the applicant or Municipal staff.

If any term or condition of this permit is for any reason held to be invalid by a decision or a Court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this permit.

1. TERMS AND CONDITIONS

Temporary Use Permit TP2018-008-REN for 15151 Oyama Road legally described as Lot 1, District Lot 7, ODYD, Plan 24640 is approved allowing for **Autobody Repair and Paint Shop**, subject to the following conditions:

- a) Development and business operations shall be conducted in compliance with the provisions of the District's various bylaws including Nuisance Bylaw 857, 2013, Business Licensing Bylaw 1000, 2017, Signage Regulation Bylaw 501, 2004, and Zoning Bylaw 561, 2007 except as explicitly varied or supplemented by the terms of this permit. subsequent permits, amendments(s) and/or development variance permits;
- b) Development of the subject property shall be conducted in accordance with the following documents:
 - (i) **Schedule A**: Proposed Site Plan, received February 8, 2019;
- c) **Autobody Repair and Paint Shop** includes: means those premises where automobiles, trucks, and other vehicles undergo body repair and painting;

- d) The use allowed, as described, above, shall only be permitted provided the following conditions are abided by at all times:
- (i) The allowed use shall be limited to a maximum of 100 m² (1076.4 ft²) within the accessory building shown on Schedule A. No business activity may be conducted outside of the accessory building;
 - (ii) Maximum of (2) unlicensed non-farm vehicles shall be permitted on the property at any time;
 - (iii) All lubricants, fuels or other materials from the business must be stored or otherwise contained within the Home Occupation area and is not allowed to migrate to or contaminate adjacent lands;
 - (iv) That no dumping or draining of deleterious materials should occur on the site;
 - (v) No nuisances, smoke, noise, vibration, dirt, glare, odour, dust or litter may be produced as a result of the temporary home occupation use;
 - (vi) Signage shall be governed by Section 10.6.5. of the District of Lake Country Zoning Bylaw 561 (as amended).
 - (vii) That the hours of operation be from 7:00 a.m. to 6:00 p.m. Monday to Saturday;
- e) Failure to adhere to the conditions contained within this permit can result in the termination of the permit;
- f) This permit, issued as per Section 493 of the Local Government Act is valid for one 3 period and, upon application and subsequent approval by Council, may be extended for only one additional period up to 3 years in duration;
- g) At the end of the term of this permit all uses on this property must revert back to uses permitted under the zoning bylaw of the day.

2. DEVELOPMENT

The land described herein shall be developed strictly in accordance with the terms, conditions and provisions of this Permit and any plans and specifications attached to shall form a part hereof.

This permit is not transferrable unless specifically permitted by the Municipality. The authorization to transfer the Permit shall, if deemed acceptable, be granted by Council resolution.

THIS IS NOT A BUILDING PERMIT

3. APPROVALS

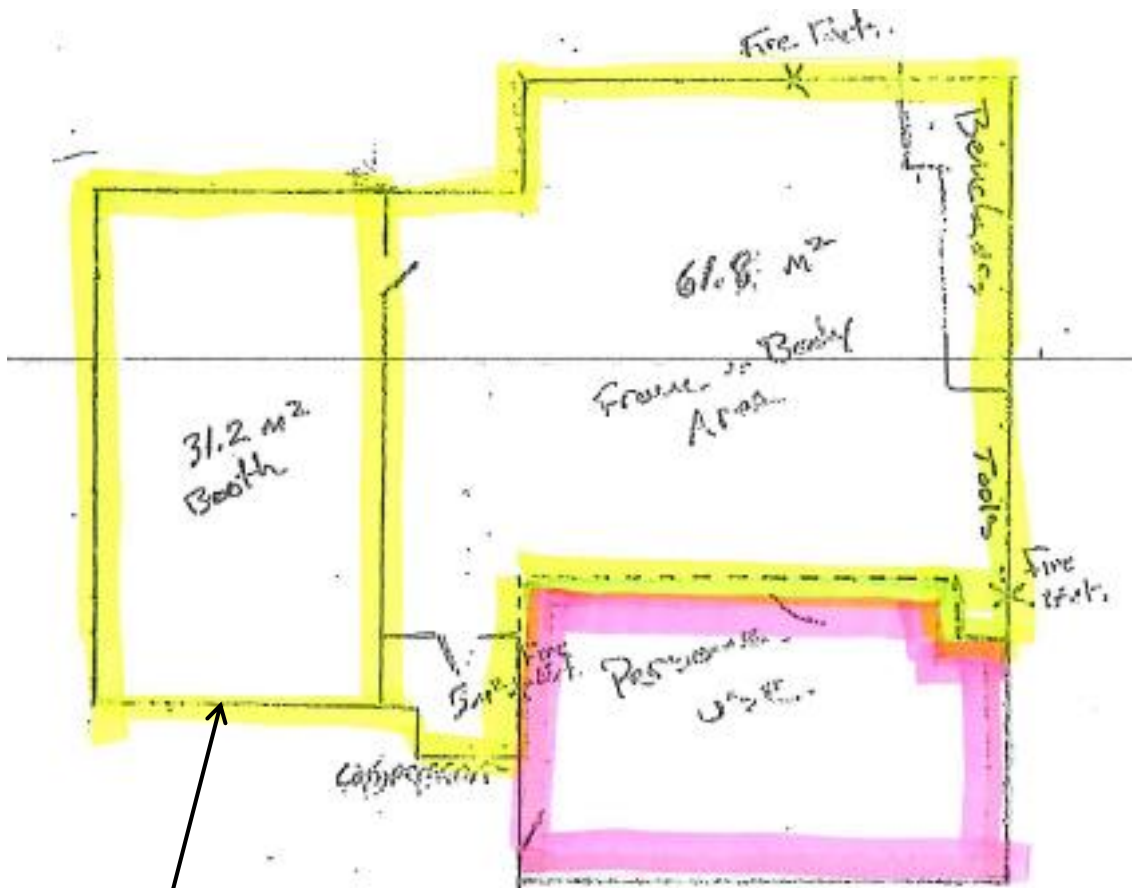
Authorizing resolutions passed by the Council on the ____ day of _____, 2022.

Issued by the Corporate Officer of the District of Lake Country this ____ day of _____, 2022.

4. EXPIRY

Temporary Permit TP2018-008-REN expires on the 5th day of February 2025.

Corporate Officer
Reyna Seabrook



Accessory Building where Home Occupation is permitted.

A **MAXIMUM of 100 m²** of the accessory building may be used for the Home Occupation.

(93 m² for business use shown in yellow)