

VULCAN COUNTY

CHINOOK INTERMUNICIPAL SUBDIVISION & DEVELOPMENT APPEAL BOARD

May 13, 2024

1:00 pm

Hearing No. DP 24-2024

Appellant/Applicant: Keri Thornton & Bruce Paterson

LIST OF ADDITIONAL EXHIBITS

- I. Additional Submission from Appellant
- J. Letter from Adjacent Landowners

For the further consideration of:

CHINOOK INTERMUNICIPAL SUBDIVISION AND DEVELOPMENT APPEAL BOARD

**Re: The REFUSAL by Vulcan County Municipal Planning Committee of Vulcan County Development Permit 24-2024 - Thornton/Paterson | Plan 2011054, Block 1, Lot 1
Reasons for Appeal as presented April 24, 2024**

We would like to take this opportunity to address the opposition and comments received in regard to our above development application as was examined by Council during the April 3, 2024 MPC Meeting as we are seeking to provide further clarity for the Appeal Board regarding information and concerns that formed a part of Council's consideration, as we see it. While some of those concerns were addressed during said meeting, there were other concerns and comments that did not benefit from discussion and we wish to ensure, as much as is possible, that the Appeal Board as in possession of all information that we feel is pertinent.

Re Comments by AHS: Email to Alena Matlock April 1, 2024

At present, short-term rentals of this type are not covered by any Canadian legislation, regardless of the nature of accommodation being offered. While this may conceivably change – and possibly should – there is no prescription for this type of short-term rentals under any existing regulations. The misnomer is in the phrase that is used to describe them: “short-term rental”, when no right of tenancy is provided by this service. In truth, this style of accommodation conceivably falls more closely under the Innkeepers Act rather than any residential tenancy. As a licensed real estate broker and property manager I am happy to provide further information if you choose. However, for the benefit of the Appeal Board, The Alberta Public Health Act, Housing Regulation (AR 173/99) and the Minimum Housing and Health Standards pertain solely to landlords and tenants as per the Residential Tenancies Act, under which “short-term rentals” as this service is commonly known, do not fall for various reasons. In truth, you could legally offer a garden shed as a short-term rental of this style, without contravening any regulations.

As a part of our original short-term cabin development, we were advised by Vulcan County that approval would be required from Alberta Health Services before operations could commence and, as such, we reached out to arrange this. At that time AHS advised that, as the information provided to them by the County stated “short-term rental” they had responded as if the development pertained to a “rental” i.e. a residential tenancy (which would generally exceeds 6-months and/or meet other criteria to apply). When AHS clarified with us that the nature of our “rental” is an “Airbnb” where there no tenancy is provided, they advised that there was no requirement for their inspection or adherence to any associated legislation; B&B's are required to meet AHS inspection, but this is not the case when operating solely as an “Airbnb” short-term rental. A copy of this email is attached for your information.

On learning that it was the same AHS representative that had responded to Planning & Development again, I reached out to clarify when their position changed and to enquire under which regulations. I was advised that, with no discerning information in the request as to the length of rental period, information had again been provided as before; as if this was a short-term tenancy. Had clarity been provided that the proposed use was as an Airbnb (for want of a better term), they would have indicated that AHS continue to have no legal remit and as such do not regulate this style of accommodation. Should the Appeal Board prefer, I am happy to try to obtain this in writing however, for the moment, hope the explanation above provides sufficient credence.

Re Opposition from Joanne Kettenbach: email April 2, 2024.

For the convenience of the Board, the above Opponent owns the parcel to the West of our property, separated by a range road. Their home is located on this parcel, that is 1km away as the crow flies and, as our property is bordered by trees on the North and South sides, they cannot see into our property from their home. The paddock where the original development sits and proposed development is located is completely surrounded by trees, except one small section that is secured by a fence and gate and the Opponent also cannot see into this paddock from their home. The land that surrounds us and is the major subject of the opposition is purely arable farmland and there are no residences. It is not owned by the above Opponent.

In seeking to provide clarity for the Appeal Board, we will respond to each paragraph in the Opponent's email individually.

We were provided explicit indication of the Opponent having no issue with the proposed development during a joint meeting at the Vulcan County office on October 5, 2023 with the Planning & Development department. At that time, there was some objection as regards the procedural elements of notification by the County (which I believe was detailed again in the opposition email), but a clear indication was provided that there was no objection to the development itself at that time. We felt this constituted consultation and had received no indication that they were now opposed and, as such, included this as a part of our response to the questions asked in Appendix A of the development application, as is included in our original appeal documents.

While we acknowledge the comments regards our guests possibly being unfamiliar with farming activities in the adjoining property, we struggle to see understand how these concerns are pertinent to this development application when there were no similar concerns raised in response to our original application. Farming operations occur on land adjoining towns and hamlets all over the County where there could conceivably be visitors or guests in adjoining residences at any point during the farming calendar. It is our opinion that it is the responsibility of any grown adult to assess any possible risks and act accordingly. Farming equipment is large and easily visible and spraying legislated to occur only under specific conditions for the health and safety of all living organisms. As responsible landowners we too have concerns about the safety of children and/or pets, regardless of whether they are guests of our original development cabin, the proposed development or are a part of our own family. As such we planned to erect a new boundary fence at the earliest opportunity following winter, as indicated in the April 3 MPC meeting. A working 4' fence, of a type that is not easily traversed, has now been erected around the vast majority of the property boundary, including the length of the trail for which the concerns were raised. We have a few additional features to add to the fence to increase longevity, but the fence as installed is fully operational and secure as it stands and, as such we anticipate the Opponents concession that the risk of guest trespass is now hugely diminished. We would also hope that the Opponents are provided reassurance that such trails are not simply for the use of guests, but are cut wide enough so as to serve as a fire break and to provide access for fire trucks should the worst happen.

We provide guests with clear expectations of behaviours and advise them from the outset of the result of any rule breach as such activities could provide a huge liability risk to us. Smoking, camp fires and barbecues are not permitted anywhere on the property. Secure garbage bins are provided for the use of guests and a large dumpster rented for general use by all on the property. We feel this is a significant improvement on the garbage disposal methods utilised by the previous occupants of the property, who chose burn all garbage in a burn pit of the Southeast side of the property, of which the Opponents have previously indicated they felt was a normal farm activity. The Opponents expressed no concerns about these risks as they referred to the original cabin development, yet those guests would have no more of a vested interest in us or our property than any guests of our further proposed development. However, we feel that any vested interest does not negate careless behaviours, which by their very definition are reckless, negligent, indiscreet and/or inconsiderate and as such, are far from the actors mind during the commission of such behaviour.

While we appreciate the Opponents concerns about a guest suffering negative health effects from their farming operations, however feel that those concerns should be extended to all who occupy the property at any given time and not just paying guests or due to concerns of liability. As we understand the laws governing the use of herbicides, fungicides and insecticides provide strict guidelines as to when and under what conditions these operations can and should be carried out for the protection of health and safety of all living organisms. The adjoining Opponents expressed no concerns regarding complaints or negative health effects caused by their farming operations as they pertained to the original cabin which was unopposed and has been operational as a short-term rental for some time.

The circumstances surrounding the original development application and our misunderstanding that the use of the travel-trailer in this way, when connected to permitted and approved services, was not requiring of a further development permit (under the Bylaws of that time) is covered in our request for appeal. It has clearly never been our intention to undertake any development without appropriate permits and all other developments on our property have been preceded with permit applications. Furthermore, on being advised that this specific development was also requiring of such, an application was immediately made. The Opponent provided no objection to the proposed development at the aforementioned joint meeting, However, we understand that their opinion may have changed following our need to contact the Bylaw Officer due to their dangerous dog repeatedly visiting our property without any resolution. We have no comment regarding the Opponent's assertion that this single oversight may negatively affect any use or enjoyment of the adjoining arable farmland that is not owned by them. As indicated in the MPC meeting, the Airbnb review provided by the Opponents was a family event; the review was simply provided following the event as reviews are an important element of operations on that specific platform.

We personally feel that the opponents concern regarding an any further increase in short-term rentals in the County is antiquated and disrespectful of the hard work undertaken by the Planning and Development team and Council as a whole, who are striving to break new ground to meet the changing the needs and wants of stakeholders. However, we refute that

the provision of a legal framework under which applications may be made to provide various options for short-term accommodation, would cause a larger spend for the County. At present there is no legal way to offer this service, and the County is stretched in pursuit of the (allegedly) many that do so regardless of this. In providing a route for those that wish to provide this service legally, conceivably those that want to do so can and the associated permit fees would cover the costs of this. The County can then concentrate on those that choose to operate them without required permits, which should reduce the budgetary spend overall. Council could also go one step further to generate revenue and make short-term rentals licensable, as they are in many other parts of Alberta and elsewhere. We feel the Opponent is stretching somewhat in their belief that all adjoining landowners will have same opinion as they do and will therefore make complaints and raise concerns; in this case the adjoining landowner has done neither. However, one could argue that we are in the middle of said consequences of briefly operating a short-term rental unit that we mistakenly believed to be approved under an existing development permit - and that was connected to permitted and approved services.

Should our appeal be declined and we continue to be pushed towards the campground route, the resulting application will also provide precedent that others may then choose to follow; stakeholders believe this type of application does not fit under the campground heading – and correctly so. That said, there is really no such thing as precedent, with the individual nature of applications and Council’s ability to waive stated requirements and/or utilise “discretionary use” where and when they choose. Regardless, having essentially changed the requirements for a campground in approving our application under this heading, the risk would become very real that acreage properties will absolutely become more like campgrounds, as this is the very direction Council have pushed the solution. Furthermore, with the minimum size requirements prescribed at present, those properties could be considerably smaller than our sixteen acres. Conversely, our development application provides a prime opportunity for Council to set a robust framework that provides future applicants a way to do things in a responsible manner. We fail to understand the issue with units being older as age should bear no consequence on condition and fitness for purpose. However, under the campground heading Council cannot dictate the age of the units that are utilised by owner or brought by guests and there should never be discrimination as it applies to this. The issue of “non-functioning” is difficult to define but I can only assume that this could pertain to those that have chosen to place recreational vehicles on land adjoining recreational properties without connections to any services. This again could be remedied in approving our proposed development subject to conditions i.e. that the unit is static and connected to approved and permitted services. We fully appreciate that the Opponent feels that campgrounds are not compatible with intensive farming operations as we do not wish for a campground either. However, there is a distinct difference between a traditional campground and Council’s proposition to utilise this ill-fitting designation to fill the gap in which our application currently sits. Farming may be a primary industry in Vulcan County and we are thankful for this. The space, tranquility, dark skies, changing seasons and ability to appreciate a different lifestyle were a huge part of our decision to move to Vulcan County - and huge part of appeal for those that stay on our cabin. However, it is not the only industry and there is no growth in any County without change. This growth elsewhere in the County has greatly contributed to an increased need for a kind of rental that falls somewhere between the Residential Tenancy Act and traditional hotels / B&B’s i.e. shorter term, furnished accommodation. The impact the approved projects in Vulcan County are having on the Tourist industry should not be overlooked; previously secured tourist reservations are being cancelled so accommodation providers may house workers instead. Stakeholders who wish to meet this increased need cannot possibly do so quickly enough through traditional means and currently have no opportunity to pursue the use of a structure that is designed for this purpose, albeit in a static manner.

The Opponent may not be in possession of adequate knowledge regarding proposed adaptations to re-purpose the travel-trailer. We would be fundamentally removing all elements that make it legally movable and this cannot be undone. Any restoration would be physically impossible.

We have no comments regarding the Opponent’s complaint of procedural elements of notification, but feel this is maybe something that would be better taken up by other means through Council.

We again thank the Appeal Board for their time thus in considering our appeal and continue to welcome the opportunity to answer any questions and/or provide further information as necessary.



Keri Thornton

From: [Ala Taremi](#)
To: [Keri Thornton](#)
Subject: RE: Re: Development of Short Term Rental Property - Rural Vulcan County
Date: June 21, 2023 1:16:50 PM
Attachments: [image014.png](#)
[image001.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)

Okay, I was under the impression that you would kind of operate as a B&B. If you are solely operating as an Airbnb, an inspection by AHS is not needed as we do not regulate Airbnb's. I have linked below the Minimum Housing and Health Standards. This document is used to regulate all housing units that are rented for a minimum of 6 months, so may not be fully applicable for your Airbnb. However, it does provide some good information for you.

[Minimum Housing and Health Standards \(alberta.ca\)](#)

Will the Airbnb be hooked up to the Town water line or will it be on a private system?

Ala Taremi, BSc, BEH, CPHI(C)
Environmental Public Health
Safe Healthy Environments
Email: Ala.Taremi@albertahealthservices.ca
Phone: +1-587-943-2790



ahs.ca/eph | ahs.ca/injuryprevention | ahs.ca/suicideprevention

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From: Keri Thornton <info@keyholerealestate.ca>
Sent: Wednesday, June 21, 2023 12:16 PM
To: Ala Taremi <Ala.Taremi@albertahealthservices.ca>
Subject: RE: Re: Development of Short Term Rental Property - Rural Vulcan County

Hi Ala

We're operating as an Air BnB only; we will be providing no meals or food.

The cabin has it's own fully contained kitchen for the guests to use should they choose.

Keri Thornton ABR. SRES. CCS

REALTOR | REAL ESTATE BROKER



From: Ala Taremi <Ala.Taremi@albertahealthservices.ca>

Sent: Wednesday, June 21, 2023 12:15 PM

To: Keri Thornton <info@keyholerealestate.ca>

Subject: RE: Re: Development of Short Term Rental Property - Rural Vulcan County

Hi Keri,

Before I drop by for an inspection. I just had a couple questions regarding the operation of the unit. Will you be operating as a bed and breakfast? (i.e., cooking meals for patrons, living onsite, etc.) or will you be operating as an Airbnb?

Ala Taremi, BSc, BEH, CPHI(C)

Environmental Public Health

Safe Healthy Environments

Email: Ala.Taremi@albertahealthservices.ca

Phone: +1-587-943-2790



Environmental Public
Health

ahs.ca/eph | ahs.ca/injuryprevention | ahs.ca/suicideprevention

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From: [Joanne Kettenbach](#)
To: [Kattie Schlamp](#)
Cc: [REDACTED]@gmail.com
Subject: Development Appeal Board Hearing - Development Permit 24-2024
Date: Thursday, May 9, 2024 7:39:58 AM
Attachments: [BKReview.pdf](#)

Edward and Joann Kettenbach
Heartland Farms Ltd.
Adam Kettenbach
Box [REDACTED], Vulcan, Alberta T0L 2B0

May 7, 2024

Oldman River Regional Services Commission
3105 – 16th Avenue North
Lethbridge, Alberta T1H 5E8

Attention: Subdivision and Development Appeal Board

To Whom it May Concern,

Re: Notice of Chinook Intermunicipal Subdivision and Development Appeal Board
Hearing – Development Permit No. 24-2024

We are in receipt of the above referenced Notice of Appeal with respect to the above mentioned Development Permit. The Appellants are appealing the decision of Vulcan County to deny their request to situate a “re-purposed” travel trailer on their property and rent it out as “short term seasonal accommodation”. This structure would be in addition to their home, a rental home and a short term rental structure already located on the property. We received this Application because we own farm land adjoining the location of the proposed development and are the closest neighbours to the proposed development.

When the Appellants initially stated that "neighbours" have no issue with proposed development in their initial application for the proposed development, we assumed they were referring to us. Please be advised that the Appellants do not represent us and do not speak for us with regard to this application. Please disregard the Appellants previous comment regarding consultation with affected people.

We oppose the proposed development for the following reasons and provide the following comments:

- We did not object to the Applicant's application for one short term rental but do object to additional short term rentals on their property.
- Regardless of the Appellants assertions that the travel trailer will "cease to be a

travel trailer" after they make alterations to the unit, it is still a travel trailer. It can be restored to a unit capable of being pulled to different locations. It could also be easily loaded onto a flat deck and moved, just as a camper can be taken off a vehicle and later put back on and relocated.

- An additional short term rental on the property leads to an increase in the influx of people on the Appellant's property that are not familiar with the activities that occur on our adjoining land. These activities include large agricultural equipment operating within close proximity (108 feet) to the short term rental unit. This equipment includes but is not limited to seeding equipment, land and aerial spraying equipment, harvesting equipment, semi trucks with grain trailers, rolling equipment and harrowing equipment. We are concerned that people unfamiliar with this equipment may trespass on our land and be unaware of the limited ability of the equipment operators to see, to avoid and to stop in the case a child, adult or pet is in the field in the line of the field operation taking place. The Appellants have trails on their property that the renters are encouraged to use. Large portions of these trails are right on the edge of our farmland. The risk of the renters trespassing on the farmland is great. The Appellants are constructing a fence between the trails and our farmland. The fence appears to be page wire, which is very easy to climb over. There is a safety issue when you have people, children and pets in close proximity to large agricultural equipment, especially when those people are unfamiliar with the equipment. The trail adjacent to our farmland increases the stress of those operating that equipment when you know there are people, children or pets unfamiliar with farming operations in the direct vicinity. We are concerned that if there is an accident or issue as a result of a renter trespassing on our land we may be facing liability issues. The Appellants themselves have trespassed on our land while clearing snow on these trails. They have also thrown debris on our land from their fence building in the form of tree branches they have cleared to build the fence. *Attached are pictures of part of the trail (Picture 1) and of evidence of the Appellants trespass activities (Pictures 2 & 3 shows the Appellant's vehicle tracks and snow pushed on our land) and debris littering (Pictures 4 & 5)

*It should be noted that when we learned that the Appellants were going to construct the fence around their trails and property, we offered to pay for half the cost for the property line to be restaked by a professional surveyor. The Appellants refused our offer and are currently constructing the fence without the property line being restaked by an accredited professional surveyor. The Appellants have moved the original wooden stakes the original professional surveyor put in at least two times to different locations, so there is much uncertainty on our part that the fence is even on the Appellants land and where the property line is. We informed the Appellants that if any part of their fence is located on our land, the fence would have to be moved. The Appellants stated that if after a professional surveyor re-surveys and marks the property line and it shows that the fence is actually on our land, they would "sue the surveyor".

- The people renting these short term rentals have no vested interest in the

Appellant's or the neighbouring property which can result in careless behavior by the renters. We are concerned that there will be an increase in the risk of fire hazards and stray garbage resulting from the activity of additional renters on the property. These fire hazards could result from people smoking, camp fires, barbecues etc.

- We are concerned that there will be complaints from an increased number of renters with regards to our farms operations including the spraying of herbicides, fungicides, insecticides and the noise and dust associated with farming operations. We are concerned that if a renter suffers negative health effects from our farming operations, we may face liability issues.

- The Appellants initially applied for and were approved for only one short term rental unit effective October 13, 2022. They subsequently set up and rented out an additional rental unit in the form of a travel trailer. This second rental unit was used the summer of 2023. An August 2023 review by a renter of the Applicant's Airbnb commenting on the fact that the travel trailer was rented to them is attached. The review suggests an additional unit was set up to accommodate the renters (besides the approved rental and trailer). We observed a tent being used by people in the area of the travel trailer (Attachment 1). This additional rental unit was not approved by the County. The Appellants subsequently applied for a permit to use the travel trailer as a short term rental. The county conditionally approved this application effective October 13, 2023. It turns out this approval was made in error and the Development Permit 73-2023 was cancelled on October 4, 2023.

We are concerned the Appellants disregarded rules with regards to county regulations regarding short term rentals on the property. Their initial short term rental approval clearly stated "Any expansion of the operation or addition of new buildings to the business for the bed and breakfast will require separate development permits." Further action of this nature by the Appellants may negatively affect our use and enjoyment of our adjoining property.

- An increase in these short term rentals in the County, increases the necessity for an increase in the policing of these properties. Is the County prepared to spend more funds and resources to ensure that these short term rentals are being operated pursuant to County regulations and to respond to adjoining landowner's complaints and concerns. The Appellants have already been operating a short term rental unit without the necessary permits without detection by county authorities. Are there consequences for the Appellants for operating an unpermitted short term rental?

- As ratepayers, we are concerned that if this "re-purposed" travel trailer is approved for a short term rentals, we will see many older, non-functioning recreational vehicles be set up throughout the county as short term rentals. Small acreage properties may become more like un-regulated campgrounds which we believe are not compatible with intensive farming operations which is the primary industry of Vulcan County. If approved, this "re-purposed" trailer may become a precedent for other property owners seeking to obtain revenue from setting up "repurposed" recreational vehicles in a campground like setting on their property without actually having their property

zoned for a campground. The Appellants, in this case, want to realize increased profits from additional short term rental units without following proper procedures that Vulcan County requires. There are other ratepayers in the county that have multiple short term rentals and campgrounds that operate in accordance with county regulations. To approve this appeal, would reward the Appellants for not following county regulations. An approval would in fact penalize the ratepayers that have followed county procedures and are operating their multiple short term rental properties and campgrounds in accordance with county regulations.

- The Appellant's, in their appeal, are finding that the avenue they want to take with regards to setting up an additional short term rental, does not conform to Vulcan County regulations. The county has provided the Appellants with different zoning options in order to accommodate the additional short term rental, but the Appellants do not agree with those options. Instead of rezoning their property in order to enable them to be approved for the subject short term rental, they want the county to re-write their regulations to suit the Appellant's needs or approve the subject application even though it contravenes county regulations.

As ratepayers, we appreciate that Vulcan County has regulations to govern how developments are approved and governed in our county. These regulations provide orderly development and strive to eliminate land use conflict. The regulations also provide a framework for how our county wishes to move forward with regards to the future and to preserve our largely agricultural economy while allowing suitable diversification opportunities. The large majority of ratepayers abide by county regulations and respect the need for zoning and development regulations.

To change or modify county regulations just because the Appellant disagrees with them, is not in the county's best interest and we urge the Appeal Board to deny the Appellant's appeal.

In conclusion, we are opposed to the approval of additional short term rentals, in any form on the Applicants property due to the reasons and concerns above.

Ed and Joanne Kettenbach - Adjacent Landowners
Heartland Farms Ltd. - Adjacent Landowner
Adam Kettenbach - Adjacent Landowner



J5



J6





J8





Gage

High River, Canada

★★★★★ · August 2023 · Stayed a few nights

Keri and Brice were able to have our family rent the cabin AND the trailer at the same time so we could celebrate a birthday!

we asked if a couple people could bring a tent or trailer and she worked with us to be able to accommodate for a unique experience.

They made sure that when we had inquiries on additional stuff to include, they went above and beyond to make sure our stay was as comfortable and enjoyable as possible. I've never had quite a generous stay before and would recommend anyone who wants the joy of a camping type environment, while having the privacy you just can't get anywhere else.

The cabin had far more modernization while still having the lovely rustic nature vibe than expected.

Would give a 6/5 rating if possible. Will definitely be making it a permanent option going forward for our Air BnB getaways!

J10