

# REPORT TO COUNCIL



**Date:** September 11<sup>th</sup>, 2018

**RIM No.** 0940-93

**To:** City Manager

**From:** Community Planning Department (AC)

**Application:** TUP18-0001      **Owner:** 689369 BC Ltd. Inc. No. BC0689369

**Address:** 3300 Sexsmith Rd      **Applicant:** Prestige Lawn & Landscaping Services Ltd – Steve & Jill Lemke

**Subject:** Temporary Use Permit Application

Existing OCP Designation: IND – Industrial

Existing Zone: I2 – General Industrial

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## 1.0 Recommendation

THAT Council authorizes the issuance of Temporary Use Permit No. TUP18-0001 to permit a landscaping business to operate within a temporary structure as described within the conditions of the Permit for Lot 22, Section 2, Township 23, ODYD, Plan 18861 Except Plans 19637 and KAP55314, located at 3300 Sexsmith Rd, Kelowna, BC for three years' subject to the following conditions:

- a) The dimensions and siting of the temporary use on the land be in general accordance with Schedule "A";

AND THAT Council's consideration of this Temporary Use Permit be considered subsequent to the outstanding conditions of approval as set out in Attachment "A" attached to the Report from the Community Planning Department dated April 10<sup>th</sup> 2018;

AND FURTHER THAT any application to extend the permit must be approved by Council prior to this permit expiring.

## 2.0 Purpose

To consider a Staff recommendation to issue a Temporary Use Permit to permit a landscaping business to operate within a temporary structure as described within the conditions of the Permit.

### 3.0 Community Planning

The intent in issuing Temporary Use Permits (TUPs) as outlined in the *Local Government Act* is to allow temporary uses where they might otherwise be prevented under the current Zoning Bylaw and are required to be removed following the expiration of the permit. The owner of the property has indicated his ultimate goal is to build a series of commercial / industrial buildings on the subject property. The current I2 - General Industrial zone would allow for those land uses. The applicant (Prestige Lawn & Landscaping Services Ltd.) previous location (on ALR lands) did not comply with Zoning Bylaw regulations and were told to find an industrial parcel to relocate. The I2 parcel at 3300 Sexsmith Road was available on a temporary basis before the owner implemented their long term building plans.

Any improvements that require a building permit along Sexsmith Road currently require a Development Permit and the adherence to the Zoning and Servicing Bylaws. The owner and the applicant do not want to adhere to the paving, access, and design guideline standards outlined within the Zoning, OCP, and Servicing bylaws as their proposal is to occupy the existing home for office purposes and to have a temporary cover-all building in order to operate the landscape business. Instead of applying for multiple variances to these bylaws the applicant is requesting relief from those standards in order to operate landscaping business on a temporary basis. The main Development Engineering requirement that is contentious for the owner is the removal of the Sexsmith Road access. The applicant is proposing to install a gate utilized for emergency vehicle access only in order to delay decommissioning the physical access to Sexsmith Road. Staff feel this is a reasonable compromise to help a Landscape Business operate in the short term (3 years) and delay the access decommissioning until a permanent industrial Development Permit is applied for.

### 4.0 Proposal

#### 4.1 Project Description & Background

The applicant is requesting the land be used temporarily as a landscape business that does not adhere to Zoning, OCP, and Servicing bylaws. The applicant would like a Temporary Use Permit to buy enough time to find an affordable industrial lot to relocate.

Staff recognize landscape businesses have been accustomed to relatively cheap residential or agricultural land and the shortage of cheap industrial land has made the transition difficult. However, the minimum servicing, access, and design guidelines should be adhered to in any permanent solution and not varied. This is why the applicant has applied for a Temporary Use Permit in order to propose a temporary solution versus a permanent one.

#### 4.2 Site Context

The subject property is located within the Highway 97 City Sector, north of Sexsmith Rd and on the east side of Pinto Rd. The lot area is 5,018 m<sup>2</sup> and is typical of other surrounding properties. The property is within the Permanent Growth Boundary. The property is zoned I2 – General Industrial and has a future land use designation of IND – Industrial.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	I2 – General Industrial	Industrial
East	P4 - Utilities	Utilities
South	I2 – General Industrial	Industrial
West	A1 - Agriculture	Residential & Storage

**Subject Property Map: 3300 Sexsmith Rd**



**5.0 Current Development Policies**

**5.1 Kelowna Official Community Plan (OCP)**

**Future Land Use**

**Temporary Use Permits (TUP).<sup>1</sup>**

In accordance with the Local Government Act (Sections 879 and 921), an Official Community Plan may designate areas where Council may consider allowing temporary uses, and may specify general conditions regarding the issuance of temporary use permits in those areas.

The temporary use designation is intended to apply to operations that are temporary in nature and the designation does not in itself permit specific uses on the designated sites. Within these areas, Council may, by resolution, issue a Temporary Use Permit and specify the conditions under which the temporary use be carried on. Upon the expiration of a Temporary Use Permit, the permitted uses revert to those outlined in the City of Kelowna Zoning Bylaw 8000.

Temporary Use Permits may be considered within the Permanent Growth Boundary (PGB) on all lands designated in OCP2030 Commercial, Education / Institutional, Industrial, Mixed Use or Public Service / Utility.

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<sup>1</sup> City of Kelowna Official Community Plan (Future Land Use Chapter 4).

All Temporary Use Permits must conform to other policy direction in this OCP, including fit within the character of the neighbourhood and surrounding uses. Appropriate landscaping, screening and buffering will be included as conditions of the permit to protect adjacent land uses.

## **6.0 Technical Comments**

### **6.1 Development Engineering Department**

- See Schedule "A", attached memorandum dated February 27, 2018.

## **7.0 Application Chronology**

Date of Application Received: January 17<sup>th</sup>, 2018

Date Public Consultation Completed: August 16<sup>th</sup>, 2018

**Report prepared by:** Adam Cseke, Planner

**Reviewed by:** Terry Barton, Urban Planning Manager

**Approved for Inclusion:** Ryan Smith, Community Planning Department Manager

### **Attachments:**

Attachment "A" – Development Engineering memorandum dated February 27, 2018

Draft TUP18-0001

Schedule "A" – TUP Drawings