

REPORT TO COUNCIL



Date: June 13, 2023

To: Council

From: City Manager

Department: Development Planning

Application: TUP23-0001

Owner: 1068956 B.C. Ltd., Inc.No.
BC1068956

Address: 515 Bay Avenue

Applicant: Kelsey Garner

Subject: Temporary Use Permit Application

Existing OCP Designation: IND – Industrial

Existing Zone: I2 – General Industrial

1.0 Recommendation

THAT Council authorizes the issuance of Temporary Use Permit No. TUP23-0001 to allow for a health service business to operate for Lot A District Lot 139 ODYD Plan 33143, located at 515 Bay Avenue, Kelowna, BC for a three (3) year period commencing from Council approval subject to the following conditions:

- a) The dimensions and siting of building to operate in the existing building as per Schedule "A";

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

Purpose

To temporarily allow a health services business to operate on the subject property.

2.0 Development Planning

Staff support the proposed Temporary Use Permit to allow for a health services business to operate on the subject property. Official Community Plan (OCP) policies generally suggest limiting non-industrial uses encroaching into industrial lands to protect the industrial land base. This is a unique circumstance because the proposed use will be located within an existing building and relatively small footprint. With the *North End Neighbourhood Plan* currently under development, there may be a change with land use direction in the area. The subject property is also abutting residential uses, which offers different site-specific considerations in comparison to other industrial properties in other areas of the City. Pending the results of the *North End Neighbourhood Plan*, an extension of this TUP beyond its initial three-year term, may or may not be appropriate.

3.0 Proposal

3.1 Project Description

The proposed Temporary Use Permit would allow for a registered massage therapist to operate on the subject property for a three-year period. The massage therapy business offers services to women needing specialized care. A massage therapist business is considered a health service and is not permitted within industrial properties.

The subject property has an existing industrial building on-site, which currently has industrial-related offices and is roughly 329.13m² (3,542.73ft²) in size. The massage therapist business will offer two small treatment rooms and will have two practitioners operating at any given time. The unit is 50m² (538.5ft²) in size and also has two on-site parking stalls. If successful, the applicant is required to apply for a Business License and a Building Permit for any alterations proposed within the existing building. Once the three-year period has expired, an extension will be reviewed by Staff and brought back to Council if the applicant chooses to apply.

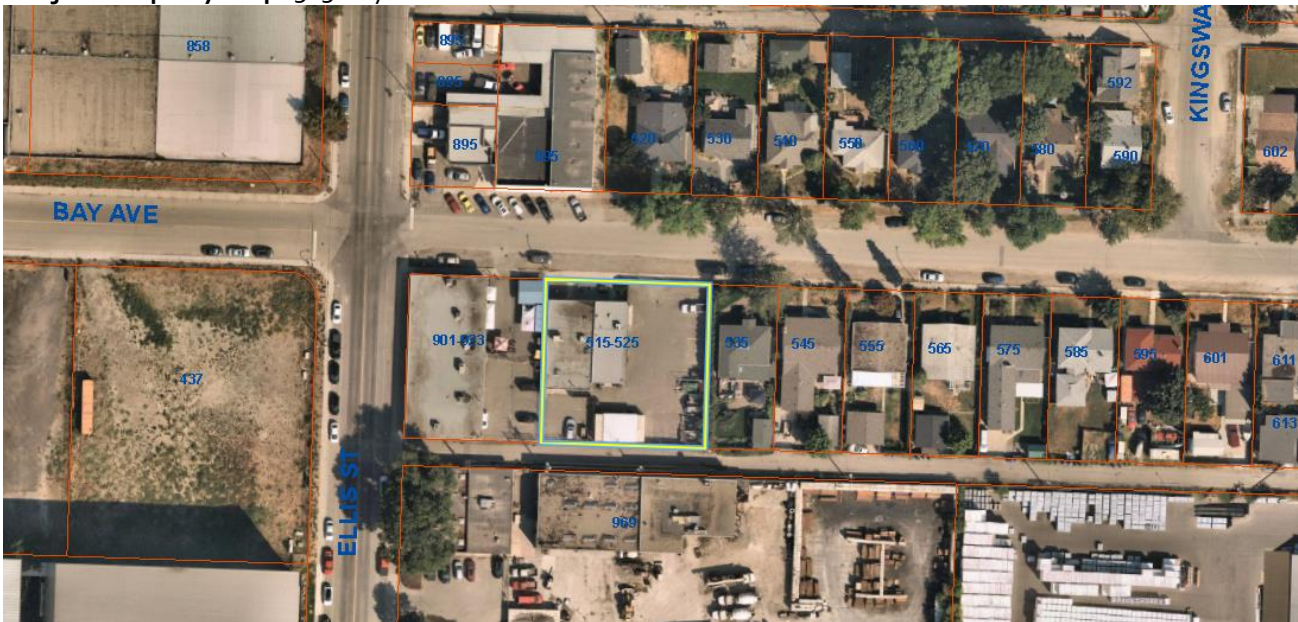
3.2 Site Context

The subject property is located in the North End and is sited on Bay Avenue near the intersection with Ellis Street. The property is zoned I2 – General Industrial and has a Future Land Use Designation of Industrial. The surrounding area has a mix of uses including single-dwelling housing, commercial and industrial.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU ₄ – Duplex Housing / I ₂ – General Industrial	Automotive Uses, Participant Recreation and Single-Dwelling Housing
East	RU ₄ – Duplex Housing	Single-Dwelling Housing
South	I ₂ – General Industrial	Manufacturer
West	I ₂ – General Industrial	General Industrial Uses

Subject Property Map: 515 Bay Avenue



4.0 Current Development Policies

Chapter 3 – Future Land Use	
Temporary Use Permits	<p>In accordance with the <i>Local Government Act</i> Section 492, 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 Zoning Bylaw.</p> <p>Temporary Use Permits may be considered within the Permanent Growth Boundary (PGB) on all lands designated as Urban Centre, Village Centre, Regional Commercial, Neighbourhood Commercial, Education / Institutional, Industrial, or Public Service / Utility. Temporary Use Permits outside the PGB may be considered on lands designated Rural – Agricultural and Resource, with a stated time period considerably less than the maximum three-year time limit. A Temporary Use Permit on lands in the Agricultural Land Reserve (ALR) will require the approval of the Agricultural Land Commission (ALC). 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.</p> <p><i>The subject property is in the Permanent Growth Boundary and has a Future Land Use of Industrial. The proposal aligns with the above requirements.</i></p>
Objective 5.8. Encourage employment-intensive industrial uses in the Core Area	
Policy 5.8.1. Protection of Industrial Lands.	<p>Discourage the re-designation of industrial lands and ensure their use for industrial purposes to protect employment, production, warehousing, logistics and repair functions in the City. This includes limiting residential and commercial uses within industrial areas that promote speculation and make development industrial uses challenging.</p> <p><i>The application proposes a Temporary Use Permit rather than a standard Rezoning Application. Staff have concerns with the re-designation of the industrial lands, however, the TUP Application allows an interim solution while the North End Neighbourhood Plan is underway.</i></p>
Policy 5.8.3. North End Industrial Lands.	<p>Support the growth of industrial development in Kelowna’s North End with additional opportunities for speciality retail where it is supportive of the production and manufacturing in the area. Develop more detailed policy guidance through the <i>North End Neighbourhood Plan</i>.</p> <p><i>The application does not support industrial development; however, it offers employment opportunities while the North End Neighbourhood Plan is in development.</i></p>

5.0 Application Chronology

Date of Application Received: February 27th, 2023

Date Public Consultation Completed: March 16th, 2023

Report prepared by: Tyler Caswell, Planner II

Reviewed by: Jocelyn Black, Urban Planning Manager

Reviewed by: Terry Barton, Development Planning Department Manager

Approved for Inclusion: Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Attachment A: Draft Temporary Use Permit TUP23-0001

Schedule A: Site Plan and Floor Plans

Attachment B: Applicant's Rationale