

# REPORT TO COUNCIL



**Date:** November 7, 2017

**RIM No.** 0940-93

**To:** City Manager

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

**Application:** TUP17-0003

**Owner:** T 190 Enterprises Ltd., Inc.No.  
BCo622798

**Address:** 3029 Appaloosa Rd

**Applicant:** T 190 Enterprises Ltd., Inc.No.  
BCo622798

**Subject:** Temporary Use Permit Application

Existing OCP Designation: IND-L – Industrial - Limited

Existing Zone: A1 – Agricultural 1

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## 1.0 Recommendation

THAT Council NOT authorize the issuance of Temporary Use Permit No. TUP17-0003 to allow outdoor storage for Lot 41 Section 3 Township 23 ODYD Plan 18861, located at 3029 Appaloosa Rd, Kelowna, BC.

## 2.0 Purpose

To consider a Staff recommendation to NOT issue a Temporary Use Permit to allow outdoor storage on the subject property.

## 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 so long as they are removed following the expiration of the permit. The applicant's proposal is to allow outdoor storage on the subject property while residents in the Arab/Appaloosa area pursue a neighbourhood-led land use and servicing plan. Staff have concerns regarding the temporary nature of the applicant's proposal.

The subject property is currently vacant and does not have commercial storage compliance issues, unlike some of the other properties in the Arab/Appaloosa area. Staff's goal is to work with the applicant to ensure that the property remains in compliance with the current A1 zoning until the overall servicing and infrastructure financing plan for the neighbourhood has been developed. With the appropriate infrastructure in place, it is anticipated that the property could be rezoned to the I6 – Low Impact Transitional Industrial zone which is designated in the Official Community Plan. The I6 zone permits outdoor storage as proposed by the applicant.

TUPs were recommended to property owner's in the area that have long standing non-conforming businesses in order to provide a transitional time period to eventually conform to the existing agricultural zone. Staff do not want TUPs used as a mechanism to circumvent the Zoning Bylaw that will result in the expansion of commercial or industrial land uses and lead to further bylaw enforcement issues upon expiry of the TUPs.

To date staff have had no communication with the residents about a Terms of Reference for neighbourhood-led planning and engineering work. A coordinated and approved servicing plan from the Arab/Appaloosa residents would be necessary for Staff to support any expansion of TUPs to non-established businesses in the area. Therefore, staff do not support the proposed temporary use permit.

Should Council choose to support the proposal, an Alternate Recommendation has been included in Section 8.o.

To fulfill Council Policy No. 367, the applicant notified property owners/tenants within 50m of the subject property and submitted a Neighbour Consultation Form to staff on September 14, 2017.

#### **4.0 Proposal**

##### **4.1 Background**

Due to the high cost of infrastructure and the results of the Public Interest Survey, the Sexsmith/Appaloosa area residents voted in January 2017 not to support a servicing plan for the entire area. Council supported a neighborhood led planning and engineering process on April 25<sup>th</sup> to determine if other more efficient planning/servicing options exist.

Staff will support Temporary Use Permits for established non-conforming industrial businesses for two years up to April 25<sup>th</sup> 2019. By April 25<sup>th</sup> 2019, it is expected that the property owners conform to the existing zone or the property owners have an approved and funded servicing plan as well as a rezoning application submitted.

##### **4.2 Project Description**

The applicant is requesting the use of 'outdoor storage' on a northwest portion of the vacant property (Schedule A). The area identified for outdoor storage is 2036m<sup>2</sup>. The applicant would like to store recreational vehicles and storage containers on the property and bring in some income while the neighbourhood led planning and engineering process is explored.

##### **4.3 Site Context**

The subject property is located within the Highway 97 City Sector, east of Arab Rd and on the south side of Appaloosa Rd. The lot area is 7446m<sup>2</sup> and is typical of other surrounding properties. The property is within the Permanent Growth Boundary. The property is zoned A1 – Agriculture 1 and has a future land use designation of IND – L Industrial – Limited.

Specifically, adjacent land uses are as follows:

<b>Orientation</b>	<b>Zoning</b>	<b>Land Use</b>
North	A1 – Agriculture 1	Residential/Agriculture
East	A1 – Agriculture 1	Residential
South	A1 – Agriculture 1	Residential/ Outdoor Storage
West	A1C – Agriculture 1 with Carriage House	Residential

**Subject Property Map: 3029 Appaloosa 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.

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

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.

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 September 21, 2017.

### **6.2 Fire Department**

- The Fire Department has no objections to the TUP request. The access shall be maintained on the property to all storage areas. The problem with these storage arrangements in the past has been the monitoring of the storage containers so that dangerous activities and manufacturing does not take place in them, that no flammable or combustible liquids are being stored - dangerous goods. Also, no units shall be used for dwelling - storage only.

## **7.0 Application Chronology**

Date of Application Received: June 15, 2017  
Date Public Consultation Completed: September 13, 2017

## **8.0 Alternate Recommendation**

Approval of a Temporary Use Permit may be subject to certain conditions such as a letter of credit to restore the land pending the expiry of the permit. This would provide the City additional assurances that the temporary uses would be removed and that the property would continue to conform to the Zoning Bylaw.

THAT Council authorizes the issuance of Temporary Use Permit No. TUP17-0003 to allow outdoor storage for Lot 41 Section 3 Township 23 ODYD Plan 18861, located at 3029 Appaloosa Rd, Kelowna, BC up to April 25<sup>th</sup>, 2019 subject to the following conditions:

- a) The dimensions and siting of the temporary use on the land be in general accordance with Schedule "A";
- b) The applicant posts a \$20,000 security deposit, in the form of a Letter of Credit, to ensure the outdoor storage use is removed and the previous land use restored.

AND THAT Council's consideration of this Temporary Use Permit be considered subsequent to the outstanding conditions of approval as set out in Schedule "B" attached to the Report from the Community Planning Department dated November 7, 2017;

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

<b>Report prepared by:</b>	Emily Williamson, Planner
<b>Reviewed by:</b>	Terry Barton, Urban Planning Manager
<b>Reviewed by:</b>	Ryan Smith, Community Planning Department Manager
<b>Approved for Inclusion:</b>	Doug Gilchrist, Divisional Director, Community Planning & Real Estate

**Attachments:**

Draft TUP17-0003

Schedule "A" – Site Plan

Schedule "B" – Development Engineering memorandum dated September 21, 2017