



ADVISORY PLANNING COMMISSION REPORT

To: Advisory Planning Commission Members

Date: February 15, 2023

From: Cam Graham, Planner I

File No: TUP 22-02

Subject: **TUP 22-02, Temporary Use Permit, 2416 - 2418 Bering Rd**

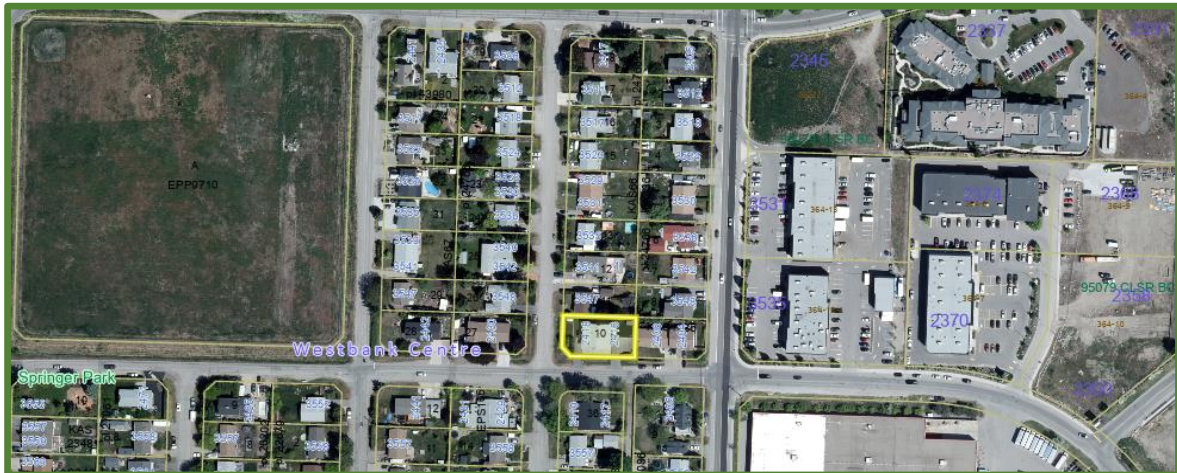
BACKGROUND

The subject property is in the Westbank Centre Compact Residential Zone (RC1). It has an OCP designation of Westbank Centre Low-Density Residential. It is located on the corner of Bering and Brenda Lee Road. A duplex is currently constructed on the property. The application is requesting a Temporary Use Permit to allow a group home in a zone that does not permit the proposed use.

PROPERTY DETAILS			
Address	2416 – 2418 Bering Rd		
PID	005-791-235		
Folio	36412643.339		
Lot Size	930.778 sqm		
Owner	William Zuffa	Agent	William Zuffa
Current Zoning	RC1 – Westbank Centre Compact Residential Zone	Proposed Zoning	N/A
Current OCP	WCLDR – Westbank Centre Low-Density Residential	Proposed OCP	N/A
Current Use	SFD	Proposed Use	Group Home
Development Permit Areas	None		
Hazards	None		
Agricultural Land Reserve	No		

ADJACENT ZONING & LAND USES			
North	^	RC1 – Westbank Centre Compact Residential Zone	
East	>	RC1 – Westbank Centre Compact Residential Zone	
West	<	RC1 - Westbank Centre Compact Residential Zone	
South	v	RC1 – Westbank Centre Compact Residential Zone	

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

Proposal

The application proposes a Temporary Use Permit (TUP) to operate a group home in the RC1 zone with up to 10 residents. The operation will provide a Community Residential Facility under contract with the Correctional Service of Canada.

Site Operations

The group home will provide residents with a shelter with their own space and bed. Both sides of the duplex will act as the group home facility with no major alterations to either the house or the property. The only medical care provided to the residents of the facility would be basic first aid and the storage and dispensing of medications. There will be constant, 24-hour supervision by staff members on the premises to provide safety to the community and the residents staying at the facility. The residents will be limited to those who have been diagnosed with Fetal Alcohol Syndrome.

Applicants Rationale

See summary (*Attachment 2*) below.

Bylaw and Policy Review

Official Community Plan No. 0100

Temporary Use Permits

Temporary Use Permits can provide strict conditions on the property (see Section 4.11.13 of our Official Community Plan). TUP's have specific guidelines that need to be followed to be permitted as part of our Official Community Plan, such as:

- a. The use must be clearly temporary or seasonal in nature;
- b. The use should not create an unacceptable level of negative impact on surrounding uses;
- c. An applicant must submit an outline detailing when and how the use in that location will be ended, the buildings to be used, the area of use, the hours of use, appearance, landscaping and buffering, and site rehabilitation. CWK may require security to ensure compliance and;
- d. A temporary use permit may not exceed three years and may only be renewed as per the Local Government Act.

Staff continue to be in contact with the applicant to address outstanding information to be considered for a Temporary Use Permit, including proof of a temporary nature of the use, and when that location will be ended. This will likely be dictated by provisions placed on the permit.

Temporary Use Permit – Local Government Act

The City of West Kelowna can provide strict conditions through the power of the Local Government Act (LGA) and the Official Community Plan for Temporary Use Permit including but not limited to:

- The City of West Kelowna can determine the term of the permit as per Local Government Act Section 497. The maximum length the use can be issued for 3 years after the permit is issued.
- As per Local Government Act Section 496, a local government may require, as a condition of issuing a temporary use permit, that the owner of the land give the local government security to guarantee the performance of the terms of the permit.
- LGA Section 493 (2) 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.

(3) If a local government delegates the power to issue a temporary use permit under this section, the owner of land that is subject to the decision of the delegate is entitled to have the local government reconsider the matter.

Zoning Bylaw.0265

RC1 zoning (*Attachment 1*) does not permit the applicant's proposed use (group home).

Group Home Definition: *Premises used to provide care and room and board for clients with physical, mental, social or behavioural problems that require professional care, guidance or supervision, licensed as required under the Community Care and Assisted Living Act.*

Parking

Section 4 of the Zoning Bylaw No. 0265 outlines parking requirements for all uses. A group home permits 0.75 required parking spaces per guest room. Parking spaces need to be measured to assure the City that the proposed spaces are suitable and in compliance with Table 4.2 – Dimensions. 7 parking spots are outlined in the parking plan. The group home facility has 10 proposed bedrooms; therefore, parking does not fit into our Zoning Bylaw. The applicant provided a parking plan (*Attachment 3*) that has not been considered suitable by Development Engineering and an updated parking plan is required.

4.3. (b) Access All driveways used to access a parking area shall meet the requirements of the City of West Kelowna's Traffic Bylaw, Schedule C.

Business Licensing

Should the Temporary Use Permit application be supported, the property owner will be required to obtain a Business License to operate the group home following Council's consideration of the application.

Licensing

The applicant is in the process of registering with the Assisted Living Registry of BC, they would provide third-party liability standards. Including strict guidelines that are required to be followed for the proposed commercial use. The City of West Kelowna would require successful registration with the Assisted Living Registry of BC before issuing a business license. The Applicant is in the process of applying to be contractors for the Correctional Service of Canada to provide the service outlined in the report.

Assisted Living Registry of British Columbia

Under the Community Care and Assisted Living Act, the role of the Assisted Living Registrar is to register residences, to monitor their operations, and to work with operators/registrant to ensure that they protect the health and safety of residents to who they provide services. It is also the Registrar's role to take action, if needed, in circumstances where the registrant is not protecting health and safety.

The Assisted Living Regulation is followed by the Assisted Living Registrar and has strict standards that require the residence to adhere to physical requirements, safety measures, staff being sufficient and trained, emergency measures, first aid, hospitality services and more requirements to promote safety for both the community and the residence.

Community Engagement

In accordance with the City's Development Applications Procedures Bylaw No.260, A notice of application sign has been installed on the subject property and will remain posted until Council has considered the application. The TUP includes public notification, in the form of a mail-out to property owners and tenants within a 100 m radius of the subject property. The notice will confirm the date and time of the Council meeting and provide information on how to make a formal submission for Council's consideration. An advertisement in the local newspaper (Westside Weekly) is also part of the public notification process.

KEY CONSIDERATIONS

In providing recommendations to City staff and Council, the APC may wish to consider the following:

- The proposal does not meet RC1 Zoning from our Zoning Bylaw No. 0265.
- An updated Parking Plan is required before going to council.
- No current building modifications are necessary to support proposed use.
- The public will have the opportunity to submit their feedback for Council's consideration as part of our public notification process.
- Council may impose conditions on the temporary use, subject to TUP issuance.

The following items may be considered as conditions of the issuance of the Temporary Use Permit:

- The Requirement of complete registration for proposed use by the Assisted Living Registry of British Columbia before the City of West Kelowna provides a business license.
- A clear outline of the operations on the property. The City can require specific conditions to be met, based on proposed conditions. Most concerns will be met through a successful registration with the Assisted Living Registry of BC, but we are not limited to their requirements.
- Requirement of a City building official to inspect the entire premises to determine the level of safety of the existing building. Upgrades as a result of the inspection may require a building permit.
- A short term of 1 year to assess the impacts on the surrounding community, with the ability to reissue the permit for a longer period if the proposal is successful.

Specific comments would be appreciated should the APC have any concerns with the proposed TUP 22-02, so that they may be further investigated or considered prior to staff providing a recommendation to Council as part of consideration of the application.

Respectfully submitted,

Cam Graham, Planner I

Powerpoint: Yes ☒ No ☐

Attachments:

1. RC1 Zoning
2. Applicants Rationale
3. Parking Plan
4. Floor Plans