



COUNCIL REPORT
Development Services
For the December 10, 2019 Council Meeting

DATE: November 25, 2019 File: TUP 19-04

TO: Paul Gipps, CAO

FROM: Chris Oliver, Planner

RE: Application: TUP 19-04, Temporary Use Permit, 2352 McDougall Road
Legal: Lot A, DL 505, ODYD, Plan 31375
Owner: D & S Aggregates
Agent: Dean Neufeld

RECOMMENDED MOTION:

THAT Council authorize the issuance of a Temporary Use Permit to allow for gravel extraction located at 2352 McDougall Rd (Lot A, DL 505, ODYD, Plan 31375) for a period of three years, subject to the conditions outlined in the attached Temporary Use Permit.

RATIONALE:

The recommended motion is based on the following:

- The subject property will be restored to a similar condition once gravel extraction is complete and be more topographically viable for agricultural use;
- Gravel extraction will not disrupt traffic flow on McDougall Rd as road access is not required for the proposed operations; and
- The proposed temporary use is not anticipated to create an unacceptable level of negative impact on the surrounding permanent uses.

LEGISLATIVE REQUIREMENTS:

Section 493 of the *Local Government Act* gives Council the authority to issue a Temporary Use Permit (TUP) to allow a use that is not permitted in the applicable zoning regulations. A TUP may allow a use on a property for up to three years and specify conditions under which the use may be carried out. A TUP may be extended once for a period of up to three years at the discretion of Council.

BACKGROUND:

The subject property is adjacent to both the existing Kelowna Ready Mix (KRM) and Lafarge Canada gravel pits that bisect McDougall Road. The property includes an existing dwelling that is occupied and is used for security purposes for the KRM pit.

Location and Surrounding Uses

The subject property is 2 ac (8,219 m²) in area, zoned Agriculture (A1), and is located in the north end of the West Kelowna Business Park. The property is part of the Agricultural Land Reserve and is adjacent to both Agricultural and Industrial zoned properties.

Specifically the surrounding land uses include:

- North, East, West - I4 (Gravel Extraction)
- South - I5 (Extraction with Asphalt Zone) & A1 (Agriculture)

Proposal

The proposed Temporary Use Permit would allow for gravel extraction on the subject property (Figure 1). Extraction would occur in accordance with the Ministry of Mines permitting and operate Monday to Friday 7am to 5pm. The proposed extraction will be completed in two phases, with the first phase allowing extraction on a portion of the property up to the geotechnical engineer's limit of disturbance before the dwelling is removed; phase 2 proposes extraction where the existing dwelling is located. The intent is to complete the gravel extraction operations within three years and once the operations are completed, the subject property will be reclaimed according to the Ministry of Mines requirements.

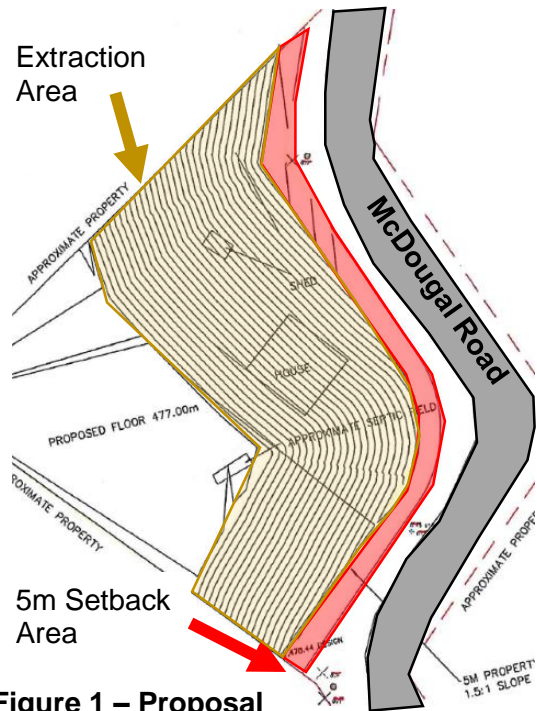


Figure 1 – Proposal

POLICY AND BYLAW REVIEW:

Official Community Plan Bylaw No.0100

The Land Use Designation for the subject property is Agriculture. Agriculture policies seek to support and conserve agriculture in the City of West Kelowna. While the proposed TUP does not align with the land use designation for this property, gravel extraction will make the topography of the parcel more viable for future farming and better align with neighbouring agricultural parcels.

Zoning Bylaw No. 0154

The property is zoned Agricultural (A1) which accommodates a mix of related uses. The City's Agricultural Zone does not permit gravel extraction; this use is only permitted in the Gravel Extraction (I4) and Gravel Extraction with Asphalt Plant Zones. As a result, a TUP is required to permit the proposed use on the subject property. With the exception of the TUP, the proposal meets all other applicable Zoning Bylaw regulations.

Agricultural Land Commission

The subject property is located within the Agricultural Land Reserve and subject to Agricultural Land Commission regulations. The subject property was included within a Notice of Intent application for gravel extraction that was approved by the ALC in 2018. The proposed TUP does not require any additional consideration by the ALC.

TECHNICAL REVIEW

Geotechnical Report

A geotechnical report prepared by Calibre Geotechnical Engineering Ltd. has been submitted as part of the application. It has been noted that there is no evidence of slope failures, water seepage or other notable risks. The report states that extraction can occur up to 5 m from the proposed fence line, with a final slope face of 37 to 38 degrees without compromising the safety of the existing dwelling on the subject property (Figure 2).

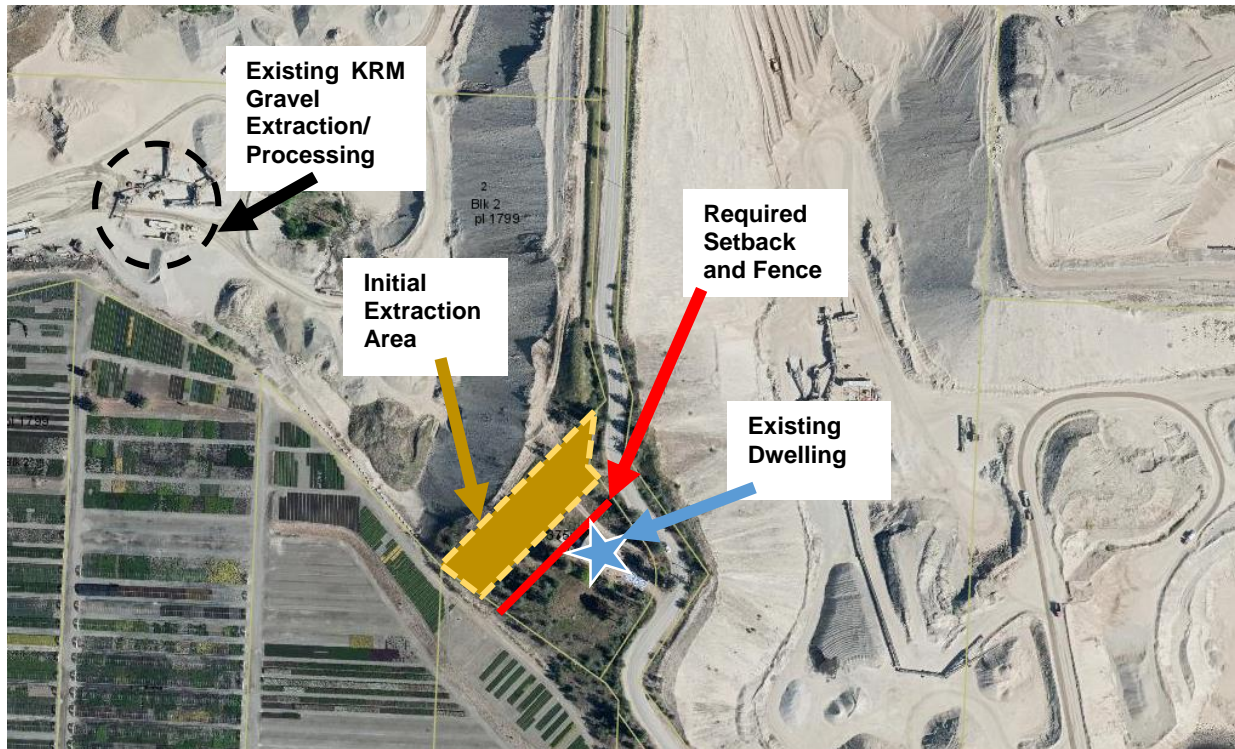


Figure 2 – Geotechnical Setback

Agricultural Advisory Committee

The application was taken to the November 7, 2019 AAC meeting. Unfortunately, quorum was not reached at that meeting so no formal motion was passed related to this file.

PUBLIC NOTIFICATION:

A Notice of Application sign has been posted on site as per the Development Applications Procedures Bylaw No. 0260. Additionally, a mail out was sent to all property owners (Attachment 6) and their tenants within 100 meters of the subject property (6 notices) and an advertisement was placed in the local newspaper. At time of writing this report, no correspondence from the public has been received in reference to this proposal.

ALTERNATE MOTION:

THAT Council postpone consideration of the Temporary Use Permit to allow for gravel extraction located at 2352 McDougall Rd (Lot A, DL 505, ODYD, Plan 31375).

Should Council wish to postpone the issuance of a Temporary Use Permit for the subject property, it is requested that direction be provided as part of the Council resolution.

REVIEWED AND APPROVED BY:

Brent Magnan, Planning Manager
Tracey Batten, Deputy CAO/Corporate Officer
Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

Attachments:

1. Temporary Use Permit (TUP 19-04)
2. Context Map
3. Subject Property Map
4. Public Notification Area