



COUNCIL REPORT

To: Paul Gipps, CAO

Date: July 14, 2020

From: Hailey Rilkoﬀ, Planner II

File No: TUP 17-02.01

Subject: **TUP 17-02.01, Temporary Use Permit Renewal, 760 Petterson Road**

RECOMMENDATION

THAT Council renew the Temporary Use Permit (TUP 17-02.01) to allow use of a mobile home at 760 Petterson Road (Lot A District Lot 3111 ODYD Plan KAP89366) for a period of three (3) years subject to the following condition:

- That the property owner provide the City with a security for the removal or decommissioning of the mobile home at the time of Building Permit issuance for a single detached dwelling on the subject property.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity – Quality, innovative urban development (Council's 2020-2022 Strategic Priorities)

BACKGROUND

This application proposes to extend a Temporary Use Permit (TUP 17-02) to allow the continued use of a Mobile Home on the subject property (760 Petterson Road) for a period of up to three years. The subject property's current zoning (RU4) does not permit the use of a mobile home.

PROPERTY DETAILS			
Address	760 Petterson Road		
PID	027-961-214		
Folio	36414565.954		
Lot Size	9.9 acres (40,000 m ²)		
Owner	Jordan K Lohse	Agent	-
Current Zoning	RU4 – Rural Residential Large Parcel	Proposed Zoning	-
Current OCP	RR – Rural Residential	Proposed OCP	-
Current Use	(Residential)	Proposed Use	-

Development Permit Areas	Hillside; Terrestrial; Wildfire
Hazards	n/a
Agricultural Land Reserve	No

ADJACENT ZONING & LAND USES

North	^	RU4 – Rural Residential Large Parcel (Residential)
East	>	RU4 – Rural Residential Large Parcel (Residential)
West	<	F1 – Forest Resource Zone (Forest)
South	v	RU4 – Rural Residential Large Parcel (Residential)

NEIGHBOURHOOD MAP



PROPERTY MAP



History

A Temporary Use Permit (TUP 13-03) for the subject property was approved in 2013 to permit the use of a Manufactured Home¹ (in the form of a mobile home) for a period of three years on the subject property (760 Petterson Road). The rationale provided for the mobile home was to provide accommodation on the property while the owner constructs a principal building on the lot. A Building Permit was issued for the installation of the mobile home (BP2013-2398) and the mobile home was constructed under the CSA-Z240 (MH) standard. TUP 13-03 expired in June of 2016 and the property was sold.

In 2017, a new owner of the property applied for a new Temporary Use Permit (TUP 17-02) which was approved in October 2017 to allow the use of a Mobile Home for a period of three years. The rationale provided was to continue to provide accommodation on the property while the new (and current) owner constructs a principal building on the lot.

Originally, Council approved TUP 17-02 for a period of 1 year, however this motion was brought back for reconsideration by the Mayor at a subsequent Council meeting. Council amended their previous motion and approved TUP 17-02 for a period of up to 3 years at a subsequent Council meeting when additional details regarding the owner's rationale was provided. The owner indicated the TUP was needed in order to allow for time for a civil matter regarding the adjacent property to be resolved, which was indicated may affect the siting of the proposed principal dwelling, as well as allow the owner to recover from an injury in order to build a new home on the property.

¹ Zoning Bylaw No. 871 did not permit the use of Manufactured Home in the RU2 – Rural 2 Zone.

Proposal

The owner is now proposing the extension of the Temporary Use Permit for an additional three (3) years in order to continue the use of the Mobile Home onsite as a residence.

Applicant's Rationale

The owner has submitted a rationale letter (*Attachment 2*) outlining their proposal. The owner has indicated that since the mobile home was installed in 2013, there have been no issues with its use on the property.



Figure 1 - Mobile Home Installed Onsite

The owner's rationale letter states that they require the extension as they are unable to build a new home on the property due to ongoing legal issues with the adjacent property owner as well as an extended recovery time from the workplace injury in 2017.

At the time of application, the applicant indicated that the mobile home would most likely be decommissioned to an accessory building rather than removed as the structure itself has value. The property is now for sale and securing the temporary use permit renewal is a subject of sale for the interested purchasers. The owner does not know whether any potential buyer of the property would have the mobile home removed or would instead apply to have the mobile home decommissioned.

Policy & Bylaw Review

Official Community Plan Bylaw No. 100

The City's OCP provides the guidelines to be considered for Temporary Use Permits². These include that the use must be clearly temporary or seasonal in nature; the use should not create an unacceptable level of negative impact on surrounding permanent uses; and an applicant must submit an outline detailing when and how the use in that location will be ended.

The subject property is within the City's Hillside, Sensitive Terrestrial and Wildfire Hazard Development Permit Areas. The renewal of the TUP does not require a Development

² OCP Section 4 – Development Implementation Policy 13.

Permit as no construction or development is proposed and the mobile home is existing. Future development on the subject property, including the construction of a single detached dwelling, may require a Development Permit.

Zoning Bylaw No. 0154

The City's Zoning Bylaw defines a Mobile Home as:

“a manufactured home constructed to the CAN/CSA Z240 MH (Mobile Home) standard, capable of being moved from place to place and installed with skirting concealing the chassis and wheels of the home.”

The RU4 – Rural Residential Large Parcel zone does not permit Mobile Homes as a permitted use. Principal residential uses permitted within the RU4 zone include a Modular Home or a Single Detached Dwelling. Permitted secondary residential uses include agricultural worker dwelling, carriage house, and secondary suite.

Mobile Homes are only permitted principal uses in the A1 – Agricultural zone, R1M – Manufactured Home Residential zone or within the RMP – Manufactured Home Park zone.

Technical Review

Building Department

The building is currently a CSA Z240 (MH Series) unit and to convert would completely void that certification. A building permit would be required if the mobile home were to be decommissioned as a dwelling and converted into an accessory building. An evaluation by an engineer for a new proposed use may be required.

Bylaw Enforcement Department

There have been no issues or bylaw complaints in regards to the existing mobile home since its installation in 2013.

Planning Department

A review of Zoning Bylaw regulations relating to mobile homes in neighbouring jurisdictions within the Regional District of Central Okanagan (RD CO) was conducted by staff³. Mobile homes are most commonly permitted within Agricultural zones and within specific Residential zones that only allow mobile or manufactured homes as a permitted principal use, similar to the City's R1M – Manufactured Home Residential Zone. Only the District of Lake Country permits mobile homes outside of an agricultural or mobile/manufactured home specific zone, on rural residential and rural large parcel zones.

As a condition of the renewal of the Temporary Use Permit, a security would be required to cover the cost of removal or decommissioning of the mobile home at the time of Building Permit for a single detached dwelling. This security would not be required to be submitted until such time as a Building Permit application is submitted for a proposed new build.

³ Regional District of Central Okanagan, City of Kelowna, District of Lake Country, District of Peachland

Legislative Requirements

Sec. 497(2) of the *Local Government Act* states a person to whom the temporary use permit has been issued may apply to have the permit renewed, subject to the restriction that the temporary use permit may be renewed only once. Sec. 497 of the *Local Government Act* also allows for the modification of conditions at time of renewal. Notification is not a requirement during the renewal of a Temporary Use Permit application. After the expiry of a temporary use permit that has been renewed, an owner or applicant could apply for a new temporary use permit which would require public notification.

DISCUSSION

Mobile homes, while not permitted in the most rural and residential zones, are a familiar housing form within the community and may not seem out of place on larger rural parcels. Mobile homes can also be an affordable option for permanent housing as opposed to construction of a single detached dwelling. However, similar to West Kelowna, a review of neighbouring local government's Zoning Bylaws found mobile homes are not permitted uses in most residential and rural zones.



Figure 2 - Exterior of Mobile Home

In general, the issuance of temporary use permits for residential uses is problematic. It is challenging for residential uses to meet the OCP guidelines for TUP's to be clearly temporary or seasonal, as the temporary use is for a permanent dwelling. Once approved, the form of residential use permitted for the temporary period will understandably become a home. Enforcement after the expiry of a TUP for a residential use can be difficult for the City to action, and it is likely that a TUP extension would be applied for.

The alternative option for the owner would be to apply for a site specific rezoning to permit the residential use of a mobile home permanently on the subject property. The investment to purchase and install the mobile home on the subject property was significant, as the mobile home is serviced by permanent infrastructure and utilities. The cost to provide the required services to the mobile home would have been the same for a single detached dwelling in the same location. The mobile home has been maintained in good condition on the subject property (*Figure 2*).

COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
June 11, 2013	THAT Council approve the issuance of a Temporary Use Permit (File: TUP 13-03) to allow the use of a manufactured home on the subject property at 760 Petterson Road (Lot A, DL 3111, ODYD, Plan KAP89366) for a period of three years.	C205/13
September 19, 2017	THAT Council approve the issuance of a Temporary Use Permit for a period of one (1) years to permit the use of a mobile home on the subject property at 760 Petterson Road (Lot A, DL 3111, ODYD, Plan KAP89366) subject to the following condition: <ul style="list-style-type: none">• That the property owner provide the City with a security for the removal of the mobile home at the time of Building Permit issuance for a single family dwelling for the subject property.	C430/17
October 10, 2017	THAT Council approve the issuance of a Temporary Use Permit for a period of three (3) years to permit the use of a mobile home on the subject property at 760 Petterson Road (Lot A, DL 3111, ODYD, Plan KAP89366) subject to the following condition: <ul style="list-style-type: none">• That the property owner provide the City with a security for the removal of the mobile home at the time of Building Permit issuance for a single family dwelling for the subject property.	C450/17

CONCLUSION

It is recommended that Council approve the renewal of the Temporary Use Permit (TUP 17-02.01) to allow for the continued use of a mobile home, subject to the conditions of the original permit (TUP 17-02). The mobile home was installed on the subject property through a building permit, the appropriate services are installed and it was constructed under the CSA-Z240 (MH) standard. There have been no issues with the mobile home since its installation and it has been maintained in good condition.

Alternate Motion 1:

THAT Council renew the Temporary Use Permit (TUP 17-02.01) to allow use of a mobile home at 760 Petterson Road (Lot A District Lot 3111 ODYD Plan KAP89366) for a period of one (1) year subject to the conditions outlined in the attached permit.

Alternate Motion 2:

THAT Council not renew the Temporary Use Permit (TUP 17-02.01) to allow use of a mobile home at 760 Petterson Road (Lot A District Lot 3111 ODYD Plan KAP89366).

REVIEWED BY

Brent Magnan, Planning Manager

Mark Koch, Director of Development Services

Shelley Schnitzler, Legislative Services Manager

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

Attachment 1 – Draft Permit (TUP 17-02.01)

Attachment 2 – Applicant’s Rationale Letter

Attachment 3 – Subject Property Photos