



COUNCIL REPORT  
Development Services  
For the September 3, 2019 Council Meeting

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DATE: August 27, 2019

TO: Paul Gipps, CAO

FROM: Hailey Rilkoff, Planner I

RE:           Application:     Temporary Use Permit (TUP 19-02)  
              Legal:         Lot 2, DL 507, ODYD, Plan KAP15908  
              Address:       1680 Ross Road  
              Owners:       DDD Cable Friends Inc.  
              Agent:         Andrea Loudon/Grant Stevens

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**RECOMMENDED MOTION:**

**THAT** Council approve the Temporary Use Permit (TUP 19-02) to allow for wholesale sales and major repairs (structural and mechanical) of vehicles on the subject property at 1680 Ross Road (Lot 2, DL 507, ODYD, Plan KAP15908) for a period of three years subject to the conditions outlined in the attached Permit (Attachment 1); and,

**THAT** issuance of the Temporary Use Permit (TUP 19-02) be subject to the following conditions:

- a. The issuance of a Building Permit to address requirements to convert the building from an office occupancy to a vehicle repair occupancy;
- b. The submission of an Operation Plan with measures to prevent any potential spills or contamination from the activity to the satisfaction of the Director of Development Services;
- c. The installation of a solid screen (i.e. slats in the chain link fence), landscaping and irrigation to the satisfaction of the Director of Development Services; and
- d. The submission of a landscape security in the amount of \$1,413.23 prior to the issuance of this permit.

**RATIONALE:**

The following considerations provide rationale for the recommended motion:

- The required landscaping and fence slats will screen the proposed use from the high traffic corridor of Highway 97 and adjacent commercial and residential uses;
- The landscape security should ensure compliance with the permit conditions; 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:

Existing development on the property includes a commercial development Permit with two detached commercial buildings. One building is a two-storey mixed use building (commercial/retail at street level with second storey residential). The second building is a smaller, one-storey detached commercial building. Parking areas and landscaping were also included in the development.

In April 2016, Council approved TUP 16-01 for the consignment sales and parking of vehicles on the subject property for a period of three (3) years with the following conditions:

- Fenced area and landscaping are not permitted to encroach within the Hwy 97 ROW;
- Activities associated with TUP 16-01 cease following expiry of the TUP; and
- Installation and maintenance of landscaping for the entire three (3) year period.

In May 2019, the applicant applied for a TUP renewal (TUP 16-01.01) for another period of three years. During the review and referral period, a number of issues were identified which included:

- Required landscaping was not maintained;
- Use was not contained to the fenced area of the subject property and has encroached into the Hwy 97 ROW;
- There has been a change of use which now includes major vehicle repairs.

Due to the change in use, a new Temporary Use Permit application is required.

### **Location and Surrounding Uses**

The 6074m<sup>2</sup> Urban Centre Commercial Zoned (C1) property is located directly adjacent to Highway 97 and the Boucherie Mountain Transit Exchange, the closest intersection being Bartley Road and Highway 97 (*Attachment 1*).

The surrounding land uses include:

- North - RU1 (Country Residential Zone)/HWY 97
- East/West – C1 (Urban Centre Commercial Zone) including the Boucherie Mountain Transit Exchange
- South - RMP (Manufactured Home Park Zone: Trail Park Mobile Villas)

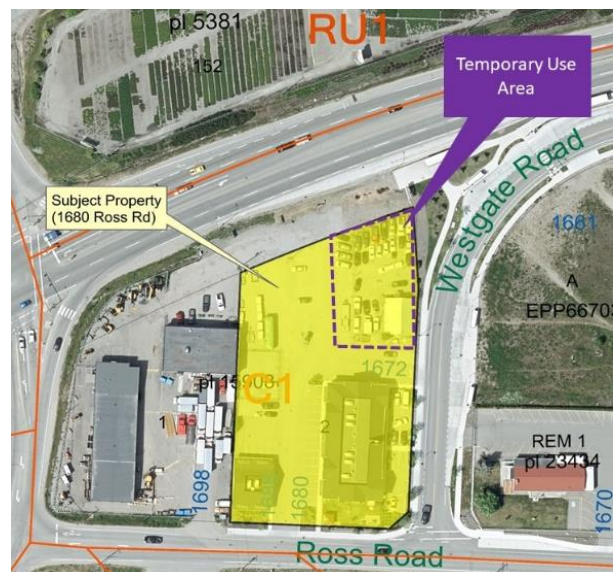


Figure 1 – Site Plan for Temporary Use

## Proposal

The proposal is for a Temporary Use Permit to permit wholesale vehicle sales and major automotive repair (mechanical and structural) for a period of up to three years. New landscaping was installed by the applicant this year and they proposed to install an irrigation system to ensure the landscaping can be maintained in the future. The applicant has submitted a letter that outlines the request (*Attachment 4*).

## Applicant Rationale

As part of the Temporary Use Permit application, the applicant provided a letter, which outlines their rationale for the continued temporary use on the site:

*"The property was originally intended to be fully developed under the mixed use DP. ...current prevailing market conditions are not supportive of the next phase of development yet.... The temporary use permit will allow the site to accommodate wholesale vehicle sales and major automotive repair (mechanical and structural) this business will not serve the retail public.*

*The business supports the livelihood of one business owner and two employees and is generally a daytime business. It is our intention to develop the property in accordance with the original DP when favorable market conditions occur.*

*We are currently doing one year leases with the tenant to control the end of the temporary lease. The property has been fenced and some landscaping and buffering has been done."*

## POLICY AND BYLAW REVIEW:

### Official Community Plan Bylaw No. 0100

The Growth Management Designation (GMD) for the subject property is Boucherie/Westbank Centre. Objectives related to this GMD include increasing the mix and intensity of land uses, fostering a positive community image, and promoting economic development.

The Land Use Designation (LUD) for the subject property is Commercial. Commercial policies seek to support Boucherie and Westbank Centres as the focus of community commercial activity and services. Accordingly, all commercial development is subject to the DPA 1 Commercial Development Permit Design Guidelines (DPA 1 – Commercial). DPA 1 generally discourages chain link fencing unless a dense landscape material is provided on the street side of the fence within the property boundary.

The Official Community Plan (OCP) outlines that a TUP may be considered throughout the City based on several guidelines. Among these guidelines it is noted that:

- *The use must be clearly temporary or seasonal in nature;*
- *The use must 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 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.*

General Guidelines for all Development Permit Areas encourages landscaping to enhance the appearance of private development, but also should respect and improve the streetscape and public realm. The OCP guidelines also encourage fences and landscape buffers to screen storage areas and unsightly land uses from view.

### **Zoning Bylaw No. 0154**

The property is zoned C1 – Urban Centre Commercial which accommodates a mix of uses with active commercial frontages. The City's C1 zone does not permit service commercial retail, or outdoor storage; this use is only permitted in the C4 – Service Commercial Zone. Major repairs of vehicles is considered a service commercial retail use. Thus, a temporary use permit is required to allow for such uses under the current zoning.

Solid screens are required to be provided and maintained to act as an enclosure and visual barrier around all outdoor storage areas in Commercial zones (S. 3.11.1(a).2) and shall not consist of chain link fencing, except for chain link fencing that contains slat inserts to create a visual barrier (S. 3.11.3(a)).

The chain link fence was approved under the previous TUP as it was practical for the car sales business with the fenced area being used as a retail area. However, the change in use has resulted in the fenced area being used completely for outdoor storage of damaged vehicles waiting to be repaired. The current fencing and landscaping does not meet the guideline for solid screening of outdoor storage areas. The installation of proper solid screening has been recommended as a condition of issuance of the Temporary Use Permit.

### **TECHNICAL REVIEW:**

#### **Bylaw Services**

Bylaw Services has attended the subject property in 2016, 2017, and 2019 to enforce encroachment of the parking and storage of vehicles into the Right of Way (ROW) of Highway 97 (*Figure 3*). While the area of use has been fenced, vehicles continue to be parked outside of the fenced area in the ROW.



**Figure 2 – ROW Encroachment 2016, 2017, and 2019**



Bylaw services has attended the subject property during the referral review process and has indicated that the site appears to be used primarily for outdoor storage and salvage (*Figure 4 and Attachment 5*). Salvage and repairs were not permitted uses under the TUP 16-01 and the scale of these operations are beyond what is permitted under the general retail use in the C1 Zone.



**Figure 3 – Current Use April & June, 2019**

### **Building Department**

The Building Department has identified that the change in use from vehicle sales to major repairs requires a Building Permit. Modifications to the building can be seen from site photos taken during the original TUP application review and subsequent site inspections, specifically the installation of a garage door. The issuance of a Building Permit for the new use will be a condition of issuance of the Temporary Use Permit.

### **Landscaping**

Installation and maintenance of landscaping was a condition of the original permit which was not maintained. A landscape plan that showed 5 shrubs (Hanna Rose), 3 trees (Serbian Spruce) and 3 planter boxes was submitted and included as an attachment to the original Temporary Use Permit. Site visits by staff revealed that the required landscaping had not been maintained and trees had been removed (*Figure 4*) and therefore did not achieve the intended effect of softening the visual impact and screening of the temporary use.



**Figure 4 – Unmaintained Landscaping April 18, 2019**



**Figure 5 – Replaced Landscaping May 30, 2019**

After discussion with the applicants in regards to the unmaintained and removed landscaping, new plantings have been installed in line with the landscaping plan (*Figure 5*) and plans for installation of irrigation are in place to maintain the restored landscaping. A revised landscape

plan and estimate has been provided (*Attachment 3*). Installation of the landscaping and irrigation are recommended as a condition prior to issuance of the Temporary Use Permit.

Previous conditions of TUP 16-01 were not complied with (permitted use, maintenance of landscaping, and no encroachment into the Hwy 97 ROW). No performance or landscaping security was taken as a condition of TUP 16-01. If approved, staff recommend a performance security of \$1,413.23 to ensure compliance with the permit conditions. This security represents 125% of the quotes provided for the installation of the landscaping and drip irrigation in accordance with the City's Development Applications Procedures Bylaw.

### **Advisory Planning Commission**

This proposal was considered by the Advisory Planning Commission (APC) at their August 21, 2019 meeting. The APC has recommended support of the TUP application with the following conditions:

- That due to the change in use, dense screening (ie. slats in chain link) and landscaping be required;
- That the City be satisfied that a pollution mitigation plan be in place to mitigate environmental spills;
- That the City review access to the proposed use with pedestrian safety in mind; and
- That the City require a performance bond to ensure compliance with the conditions.

The APC had concerns that the vehicle repair use could potentially result in environmental impacts or contamination if no proper mitigation plan is in place. While recognizing that similar uses (minor vehicle repairs) would be permitted on this site, an operation plan with measures to prevent any potential spills or contamination from the activity has been included as a condition prior to issuance of the permit.

The commission members also had concerns about potential pedestrian/vehicle conflicts with the daycare on the site and the transit exchange nearby. The applicant has confirmed that no increased vehicle traffic is anticipated and that a permitted general retail use would generate much higher traffic than the proposed use. The property owners have offices onsite and can continually monitor and manage any onsite traffic issues if they arise.

### **PUBLIC NOTIFICATION:**

A Notice of Application sign has been posted on site as per the Development Applications Procedures Bylaw No. 0131. Additionally, a mail out was sent to all property owners (*Attachment 6*) and their tenants within 100 meters of the subject property (113 letters total) and an advertisement was placed in the local newspaper on August 28th. At time of writing this report, no correspondence from the public has been received in reference to this proposal.

In accordance with the City's Development Application Delegation Request Policy, Council may support an opportunity for both the applicant and members of the public to briefly address Council prior to Council considering the issuance of a TUP.

Since the issuance of the original TUP, there have been no complaints to Bylaw Enforcement about the consignment sales and parking of vehicles at 1680 Ross Road.

## COUNCIL REPORT/RESOLUTION HISTORY:

Date	Report Topic/Resolution	Resolution No.
2016-04-26	That Council approve a Temporary Use Permit (File: TUP 16-01) to allow for consignment sales and parking of vehicles at 1680 Ross Road (Lot 2, DL 507, ODYD, Plan KAP15908) for a period of three years subject to the conditions outlined in the attached Permit (attachment 1).	C179/16

## ALTERNATE MOTIONS:

1. **THAT** Council approve the Temporary Use Permit (TUP 19-02) to allow for wholesale sales and major repairs (structural and mechanical) of vehicles on the subject property at 1680 Ross Road (Lot 2, DL 507, ODYD, Plan KAP15908) for a period of [one or two years] subject to the conditions outlined in the attached Permit (Attachment 1); and,

**THAT** issuance of the Temporary Use Permit (TUP 19-02) be subject to the following conditions:

- a. The issuance of a Building Permit to address requirements to convert the building from an office occupancy to a vehicle repair occupancy;
- b. The submission of an Operation Plan with measures to prevent any potential spills or contamination from the activity to the satisfaction of the Director of Development Services;
- c. The installation of a solid screen (i.e. slats in the chain link fence) ), landscaping and irrigation to the satisfaction of the Director of Development Services; and
- d. The submission of a landscape security in the amount of \$1,413.23 prior to the issuance of this permit.

2. **THAT** Council deny the approval of the Temporary Use Permit (TUP 19-02) to allow for wholesale sales and major repairs (structural and mechanical) of vehicles on the subject property at 1680 Ross Road (Lot 2, DL 507, ODYD, Plan KAP15908).

## REVIEWED AND APPROVED BY:

Hailey Rilkoff, Planner I  
Brent Magnan, Planning Manager  
Tracey Batten, Deputy CAO/Corporate Officer  
Paul Gipps, CAO

Powerpoint: Yes ☒ No ☐

### Attachments:

1. Draft TUP 19-02
2. Subject Property Map
3. Landscape Plan & Estimate
4. Applicant Rationale Letter
5. Existing Site Photos
6. Mail Notification Map