

## ADMINISTRATIVE REPORT



**TO:** Board of Directors

**FROM:** B. Newell, Chief Administrative Officer

**DATE:** June 6, 2019

**RE:** Temporary Use Permit (TUP) Renewal Application — Electoral Area “I”

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### Administrative Recommendation:

**THAT the Board of Directors approve Temporary Use Permit No. I2019.004-TUP**

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Purpose: To renew an existing TUP allowing an existing campground use (i.e. Banbury Green) that is encroaching onto Crown land associated with the former Canadian Pacific Railway (CPR) right-of-way

Owner: Crown land                      Applicant: Janis McCaffrey                      Folio: I-01674.200

Civic: N/A                      Legal: various lots, District Lot 3757, SDYD

OCP: Parks (P)                      Zoning: Parks and Recreation (PR)

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### Proposal:

This application seeks to renew an existing Temporary Use Permit (TUP) related to the operation of campground use comprising approximately 26 serviced campsites and related facilities (i.e. washroom, garbage containers, parking areas and recreation facilities) over an approximately 0.96 hectare (ha) area of Crown land.

The current permit allows for the use of an approximately 591 metre section of the former Canadian Pacific Railway (CPR) right-of-way which bisects the Banbury Green Campground property, but which excludes a 3.0 metre wide section over which the Regional District has a separate Licence of Occupation from the province for trail purposes.

In support of this use, the applicant indicated in 2016 that “we will continue to offer free access to our washrooms to Trail users as we do now, and we will continue to provide cleaning services at no charge to the government. We will continue to provide Trail maintenance as we do now. This will include any new asphalt additions” (NOTE: the applicant had paved approximately 200 metres of right-of-way in order to improve access).

### Site Context:

The subject parcel is approximately 1.7 ha in area, is situated on the west side of Skaha Lake between Kaleden and Penticton. Part of the parcel is currently being utilised for trail purposes by the Regional District and has also been developed to a campground use by the adjacent property owner.

The surrounding pattern of development is characterised by agricultural operations and a campground use to the west and Skaha Lake to the east.

### Background:

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It is understood that the subject parcel was created by subdivision on May 12, 1932, in order to raise title to land being utilised by the CPR for the purposes of a railway line serving Okanagan Falls from Penticton. It is understood that use of this line was discontinued in 1989, that the rail was removed shortly thereafter and that the province purchased the Skaha Lake section in 1995.

A Management Strategy (2000) prepared by the Kettle Valley Railway Planning Committee identified the right of way as having a high recreational value and use and recommended that the Regional District obtain a License of Occupation for the purposes of creating a trail.

In 2013, the Regional District obtained a Licence of Occupation from the province to manage, maintain and improve a 3.0 metre wide non-motorized trail along the KVR adjacent Skaha Lake between the Penticton Indian Band reserve lands in the north and Okanagan Falls in the south.

The adjacent Banbury Green Campground is understood to have commenced operation in 1985 following the successful rezoning of the property from Agriculture Residential (AR) to Tourist Commercial (CT-1A). The more recent occupation of the former CPR right-of-way for the purposes of vehicle access and site improvements (i.e. campground spaces, washroom facilities, etc.) is thought to have occurred sometime in the past 10 to 15 years. In addition, any riparian area impacts and disturbance is believed to have occurred prior to establishment of RAR.

In 2015, Banbury Green Campground obtained a Licence of Occupation from the provincial government in order to formalise their existing use of former CPR right-of-way for campground purposes. The term of this licence is for a period of 5 years (i.e. to 2020).

At its meeting of June 16, 2016, the Regional District Board approved Temporary Use Permit No. D2016.015-TUP, which is valid for a period of three (3) years, expiring on June 16, 2019.

#### Land Use Bylaws:

Under the Electoral Area "I" Official Community Plan (OCP) Bylaw No. 2683, 2016, the subject parcel is currently designated Parks (P), an objective of which is to "establish a trail network utilising the CPR right-of-way" and to "encourage the CPR right-of-way to be preserved, acquired, and utilized as a linear park and recreation corridor between Kaleden and Okanagan Falls."

The OCP Bylaw contains a number of criteria against which the Board will consider an application for a TUP. These include:

- a) *The use must be clearly temporary or seasonal in nature;*
- b) *Compatibility with adjacent uses;*
- c) *Impact on the natural environment, including groundwater, wildlife, and all environmentally sensitive areas;*
- d) *Intensity of use;*
- e) *Opportunity to conduct the proposed use on land elsewhere in the community;*
- f) *Remedial measures to mitigate any damage as a result of the temporary use.*

Under the Electoral Area "I" Zoning Bylaw No. 2457, 2008, the subject area has been zoned Parks and Recreation (PR), which only allows for cemeteries, golf courses, open land recreation, parks, and resorts as principal permitted uses.

#### **Public Process:**

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A Public Information Meeting was held on May 15, 2019, at the Kaleden Community Hall and was attended by approximately 10 members of the public.

At its meeting of May 15, 2019, the Electoral Area "I" Advisory Planning Commission (APC) resolved to recommend to the RDOS Board that the proposed temporary use be approved, subject to the following conditions:

- 1) *applicant to post signage indicating the campground washrooms are available for use by trail users; and*
- 2) *applicant to ensure septic systems are properly maintained and routinely serviced with documented proof to be submitted to the RDOS on an annual basis.*

Adjacent property owners will have received notification of this application with written comments regarding the proposal being accepted until the commencement of the regular Board meeting.

In accordance with Section 2.5 of Schedule '5' of the Development Procedures Bylaw, this proposal has been referred to the external agencies listed at Attachment No. 1. Comments received from this referral are included as a separate item on the Board's Agenda.

**Analysis:**

In considering this renewal request, Administration notes that the use of this Crown land for campground purposes does not appear to have adversely impacted the public's use of the trail network that bisects the land, or resulted in the submission of any written complaints to the Regional District.

It is Administration's further understanding that the applicant will continue to offer to maintain and make available to the public the improvements they have constructed on Crown land (i.e. washrooms) as well as amenity areas on their adjacent private property (i.e. common picnic areas).

For these reasons, Administration favours the renewal of the permit. Of concern, however, is that a TUP is "to provide for temporary approval of transitional uses, or uses where uncertainty exists respecting appropriateness or viability of the use, and where it is premature to decide rezoning and long term land use patterns."

Accordingly, the applicant is encouraged to seek a long-term solution to the current situation by either commencing a transition plan during the term of the renewal period to cease the use and restore the land, or seeking a Crown grant from the province in order to obtain title to the land and consolidate it within the title for the Banbury Green Campground.

Due to the current zoning of the land, if the applicant is successful in obtaining title, a rezoning application would be required as "campground" is not a permitted use in the PR Zone.

If approved, the TUP renewal will extend beyond the 5-year term of the provincial license of occupation issued in 2016 and which is due to expire on January 1, 2021.

**Alternative:**

THAT the Board of Directors deny Temporary Use Permit No. I2019.004-TUP.


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**Respectfully submitted:**



C. Garrish, Planning Manager

**Endorsed by:**



B. Dollevoet, General Manager of Dev. Services

Attachments:    No. 1 – Agency Referral List  
                         No. 2 – Site Photos

Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a ☒, prior to Board consideration of TUP No. I2019.004-TUP:

<input checked="" type="checkbox"/>	Agricultural Land Commission (ALC)	<input type="checkbox"/>	City of Penticton
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Community, Sport and Cultural Development	<input type="checkbox"/>	Town of Osoyoos
<input type="checkbox"/>	Ministry of Energy & Mines	<input type="checkbox"/>	Town of Princeton
<input checked="" type="checkbox"/>	Ministry of Environment	<input type="checkbox"/>	Village of Keremeos
<input checked="" type="checkbox"/>	Ministry of Forests, Lands & Natural Resource Operations	<input type="checkbox"/>	Okanagan Nation Alliance (ONA)
<input type="checkbox"/>	Archaeology Branch	<input checked="" type="checkbox"/>	Penticton Indian Band (PIB)
<input type="checkbox"/>	Ministry of Transportation and Infrastructure	<input type="checkbox"/>	Osoyoos Indian Band (OIB)
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Upper Similkameen Indian Bands (USIB)
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Lower Similkameen Indian Bands (LSIB)
<input type="checkbox"/>	School District #53 (Okanagan Similkameen)	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	School District #58 (Nicola Similkameen)	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	School District #67 (Okanagan Skaha)	<input checked="" type="checkbox"/>	Fortis
<input type="checkbox"/>	Canadian Wildlife Service	<input checked="" type="checkbox"/>	Kaleden Irrigation District

Attachment No. 3 – Site Photos

