

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: May 4, 2023
RE: Temporary Use Permit Application – Electoral Area “F” (F2023.011-TUP)

Administrative Recommendation:

THAT Temporary Use Permit No. F2023.011-TUP, to allow the residential occupancy of a recreational vehicle at 903 Newton Drive, be denied.

Legal: Lot 85, Plan KAP5817, District Lot 5076, ODYD Folio: F-07383.000
OCP: West Bench Small Holdings (SH5) Zone: Small Holdings (SH)

Proposed Development:

This application is seeking to formalize the residential use of a recreational vehicle on the subject property through the issuance of a Temporary Use Permit (TUP).

In support of this proposal, the applicant has stated that “the 5th wheel is only for me to come visit randomly ... [not a] full time resident living there.”

Site Context:

The subject property is approximately 0.48 ha in area and is situated on the south side of Newton Drive approximately proximity 1.1 km west of the municipal boundary of the City of Penticton.

It is understood that the parcel is comprised of a single detached dwelling, pool, garage, an accessory structure (cabana), and the recreational vehicle (fifth wheel) that is the subject of this application).

The surrounding pattern of development is generally characterised by similarly sized residential parcels that have been development with single detached dwellings.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on October 1, 1952, while available Regional District records indicate that a building permits for a patio/hot tub (1983), and a detached deck (2009) have previously been issued for this property.

BC Assessment has classified the property as “Residential” (Class 01) and the Greater West Bench Geotechnical Review has classified the property as having a geohazard ranking of “Zone B – Moderate”.

Official Community Plan:

Under the Electoral Area “F” Official Community Plan (OCP) Bylaw No. 2790, 2018, the subject property is currently designated Small Holdings (SH). With regard to the West Bench, the Plan speaks to “restricting densities in the Greater West Bench area due to geotechnical hazards by prohibiting accessory dwellings, secondary suites and the subdivision of land.”

Section 22.3.4 of Electoral Area “F” OCP Bylaw establishes the following criteria in evaluating a Temporary Use Permit application:

- The use must be clearly temporary or seasonal in nature;
- Compatibility of the proposal with adjacent uses;
- Impact of the proposed uses on the natural environment, including groundwater, wildlife, and all environmentally sensitive areas;
- Intensity of the proposed use;
- Opportunity to conduct the proposed use on land elsewhere in the community; and
- The remedial measures to be carried out to mitigate any damage to the natural environment as result of the temporary use.

Zoning Bylaw:

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned West Bench Small Holdings (SH5) which permits one (1) single detached dwelling as a principal use but prohibits additional accessory dwelling units (including secondary suites) due to the geotechnical hazards associated with this area.

The Zoning Bylaw further requires that “only recreational vehicles, to a maximum of one (1), belonging to the owner or occupier of a principal single detached dwelling on a parcel may be stored or parked on the same parcel.”

The temporary placement of an RV on a property must be in relation to a building permit issued for the construction of a new dwelling, or by a guest or visitor of the owner for a period not exceeding 90 days. The residential use of an RV is otherwise prohibited in all zones.

RVs are otherwise permitted within a campground for the short-term accommodation of the travelling public, but require a 2.0 ha parcel size and connection to community water and sewer systems.

Bylaw Enforcement:

In August 2022, a complaint was submitted to the Regional District regarding the use of recreational vehicles (RVs) on the subject property and the connection of these vehicles to wastewater/septic.

Similar complaints were received by the Regional District in 2009 regarding the use of RVs on the subject property and connection to a septic system. The property owner was advised at that time that this was not permitted and that only a single RV could be stored on the property.

Analysis:

This proposal, including the protection of development hazardous conditions, health and safety considerations and incremental rural development in the absence of proper servicing are concerns.

The applicant has stated that the RV will not be occupied on a full-time basis and has mechanical issues, it is also permanently fixed, has a deck, is skirted and connected to water and septic. The use of the RV is residential and defined as an accessory dwelling.

Health & Safety:

Dwelling units permitted by a local government should uphold the public interest as it relates to health and safety standards for occupants (e.g. adequate ventilation, heating, etc.) as well as environmental health (e.g. proper sewage disposal).

Recreational Vehicles do not meet the standards established in the Building Code for a permanent residential use as they can't be inspected or certified and the health and safety of occupants for year-round residential use may be compromised.

Interior Health has recently provided guidance regarding "healthy housing", which it considers to be attainable, stable, high quality, in a location and community that meets residents needs and that supports health and well-being and how RVs fail to meet this, and which Administration supports:

RVs do not meet quality standards for living in long-term and may be susceptible to potential health hazards (e.g. extreme heat or cold). We understand that most recreational vehicles are not intended, designed or constructed as a permanent form of housing. Appropriate heating, insulation and venting systems which support indoor air quality helps people to maintain good general and respiratory health. Poor quality housing is characterized by hazards that increase the risk of unintentional injuries such as burns and physical trauma. Energy inefficient housing in cold climates is also linked to illnesses caused by cold and damp living conditions.

Geotechnical Hazard:

The Greater West Bench community is known to be geo-technically unstable and, to help mitigate future risk, the Regional District's land use bylaws have, for many decades, sought to limit density in the area by restricting the number of dwelling units to one (1) per parcel.

As the most recent review of geotechnical conditions in this area determined, "the combination of unique soils, combined with historical land use, influences the nature and frequency of geotechnical hazards in the subject area, such as landslides and the development of sinkholes."

Further, "land use activities may also potentially have a negative effect on the geological stability of lands. Activities that potential impact stability may include land densification, increased concentrated water discharge to the ground [e.g. impervious surfaces associated with development], changing slope geometry, and soil loading." [emphasis added]

Rural Development:

While the OCP speaks to reviewing the appropriateness of additional density in the Greater West Bench area in future, this is dependent upon sewer and storm water infrastructure being installed – neither of which has occurred yet.

Accordingly, increasing density at this time is premature and while allowing a single RV may seem insignificant, it may spur the submission of further ad hoc applications for accessory dwellings that

will, over time, erode and undermine the current OCP policies and zoning regulations and also change the character of the area. Such proposals are emblematic of incremental “rural sprawl”, being poorly planned development that happens in urban fringe areas.

A TUP could assist in enforcing that the vehicle is not retained on the property permanently. If this is the preferred alternative, a condition of approval should be confirmation of sewage disposal and geotechnical considerations by a suitably qualified professional.

Further to this, the servicing of the RV may create cross connection control issues which may put the drinking water supply at risk. As such, an inspection of how water is being supplied to the unit is required. Pending the findings of the inspection, a cross connection control device may need to be installed.

Alternatives:

1. THAT the Board of Directors approve Temporary Use Permit No. F2023.011-TUP; or
2. THAT the Board of Directors approve Temporary Use Permit No. F2023.011-TUP and that, prior to issuance, the following conditions be satisfied:
 - a) A Cross Connection Control inspection to be completed by the Regional District to determine if a cross connection control device is required; and
 - b) Submission of a Septic System Assessment Report that is consistent with the most current BC Sewerage System Standards Practice Manual and is prepared by a qualified person authorized under the BC Sewerage System Regulation which includes the following:
 - i) identification of the daily design flow of the system as currently installed;
 - ii) estimation of the daily design flow required for the intended use using the maximum flow rate;
 - iii) a review of the impact of the septic system in regards to the geo-technical hazards present on the property;
 - iv) a summary statement from the qualified person concluding whether the existing septic system is suitable for the intended use in their professional opinion; and
 - v) if under sub-section (iv) the qualified person finds that the system is not suitable for the intended use, then the report shall also include:
 - a) any repairs, maintenance, or improvements required to make the system suitable for the intended use such that a health hazard is not likely to occur; or
 - b) a suggested design for a replacement system that would be suitable for the intended use.

Respectfully submitted:

Fiona Titley

Fiona Titley, Planner II

Endorsed By:

CG

C. Garrish, Planning Manager

Attachments: No. 1 – Agency Referral List

No. 2 – Applicant’s Site Plan

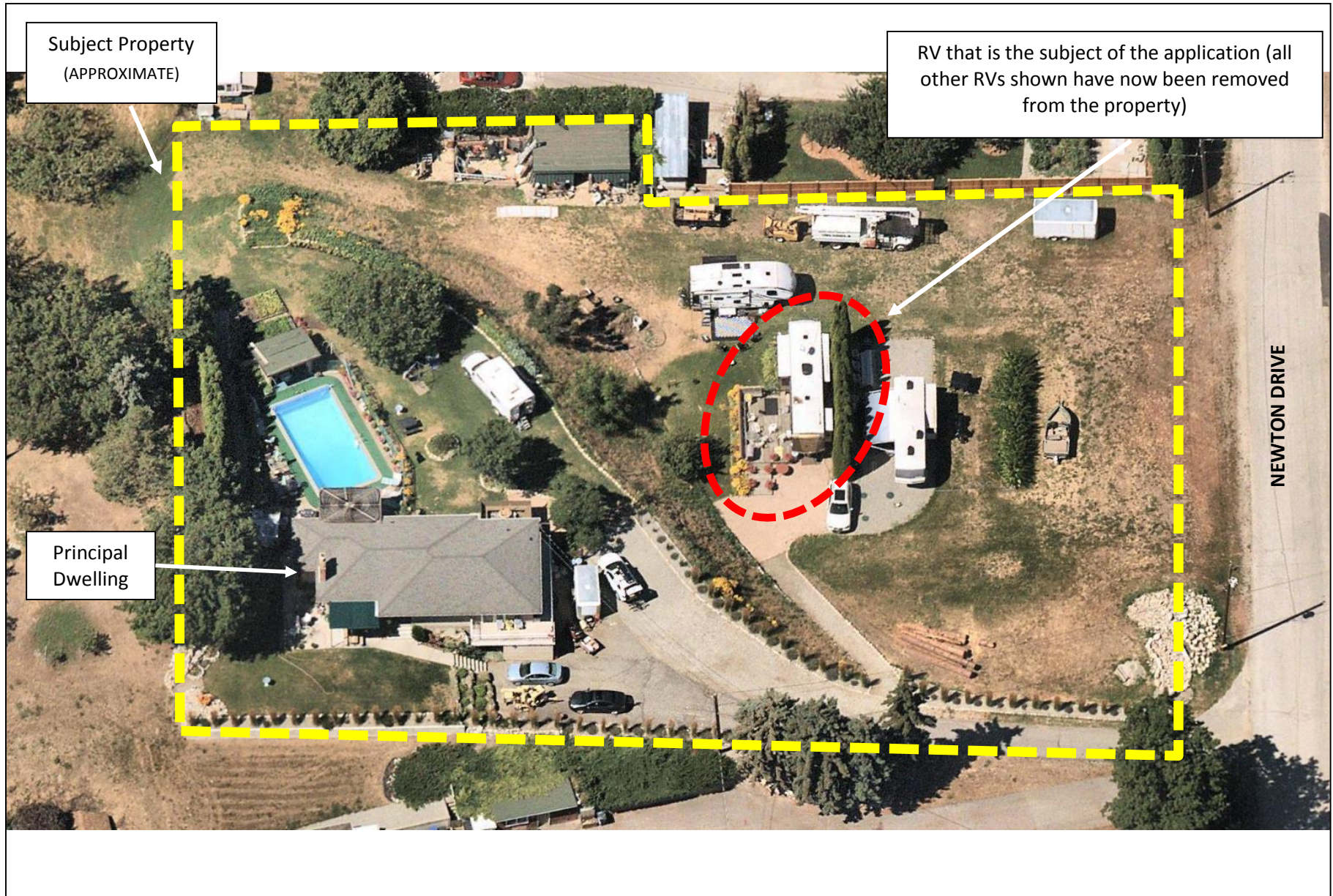
No. 3 – Applicant’s Site Photo

Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a , regarding Temporary Use Permit F2023.011-TUP:

<input type="checkbox"/>	Agricultural Land Commission (ALC)	<input checked="" type="checkbox"/>	Fortis
<input checked="" type="checkbox"/>	Interior Health Authority (IHA)	<input type="checkbox"/>	City of Penticton
<input type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	District of Summerland
<input type="checkbox"/>	Ministry of Energy, Mines & Petroleum Resources	<input type="checkbox"/>	Town of Oliver
<input type="checkbox"/>	Ministry of Municipal Affairs & Housing	<input type="checkbox"/>	Town of Osoyoos
<input type="checkbox"/>	Ministry of Lands, Water and Resource Stewardship	<input type="checkbox"/>	Town of Princeton
<input type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Archaeology Branch)	<input type="checkbox"/>	Village of Keremeos
<input type="checkbox"/>	Ministry of Jobs, Trade & Technology	<input type="checkbox"/>	ONA / PIB (via NationsConnect)
<input type="checkbox"/>	Ministry of Transportation and Infrastructure	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Canadian Wildlife Services
<input type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input type="checkbox"/>	OK Falls Irrigation District
<input type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Kaleden Irrigation District
<input type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input type="checkbox"/>	Vaseux Lake Irrigation District
<input type="checkbox"/>	Keremeos Irrigation District	<input type="checkbox"/>	Irrigation District / improvement Districts / etc.
<input type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Kootenay Boundary Regional District
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Fraser Valley Regional District
<input type="checkbox"/>	Penticton Fire Department		

Attachment No. 2 – Aerial Photo (2022)



Attachment No. 3 – Applicant’s Site Photo

