

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: J. Zaffino, Interim Chief Administrative Officer
DATE: November 16, 2023
RE: Temporary Use Permit Application – Electoral Area “E” (E2023.029-TUP)

Administrative Recommendation:

THAT Temporary Use Permit No. E2023.029-TUP, to allow residential use of four (4) recreational vehicles at 6981 Chute Lake Road, be denied.

Legal: Lot 1, Plan KAP34097, District Lot 3198, SDYD Folio: E-07107.100

OCP: Large Holdings (LH) Zone: Large Holdings One (LH1)

Proposed Development:

This application is seeking to allow residential use of four (4) recreational vehicles on the subject property through the issuance of a Temporary Use Permit (TUP).

In support of this proposal, the applicant has stated that:

- *These residents have been living on this property in RVs for many years without incident.*
 - *Each trailer has 15 amp electric service as well as ¾” waterline.*
 - *Currently, these residents are using an outhouse for black and the main house for grey water such as a shower. There is only one resident in the main four-bedroom house with a child staying periodically. Therefore I believe that the septic system is able to handle the extra grey water.*
 - *Given the current housing crisis compounded by rental affordability within the district, the eviction of these individuals would contribute to the growing number of displaced, unhoused and precariously housed numbers within the RDOS and surrounding communities.*
 - *I believe it is worth noting that I as the property owner could be maximizing my profits by using the house as a vacation rental and the RV lots as a short-term campground. I have chosen not to go this route in order to serve the community by adding much-needed affordable housing. I reluctantly agreed to allow these residents to reside on my property when it was apparent that they had nowhere else in the area to go.*
 - *The current complaint against the property is the only complaint that has been filed against the property. The property is not considered to be a nuisance property and the complaint reflects a lone neighbourly dispute initiated by a sound complaint from gravel processing on the property – which is for use on the property and therefore not in conjunction with the current activities allowed on the property.*
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Site Context:

The subject property is approximately 10.2 ha in area and is situated on the north side of Chute Lake Road, approximately 400 metres south from the boundary with Okanagan Mountain Provincial Park. It is understood that the parcel is comprised of a single detached dwelling, various accessory structures and four (4) recreational vehicles.

The surrounding pattern of development is generally characterised by Crown land to the east and similarly sized large holdings parcels to the north, west and south that have been developed 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 June 14, 1983, while available Regional District records indicate that a building permit for the placement of a mobile home (1985) has previously been issued for this property.

Regional Growth Strategy

Under the Regional Growth Strategy (RGS) Bylaw No. 2770, 2017, the Chute Lake area is not designated as a Rural Growth Area.

Official Community Plan

Under the Electoral Area “E” Official Community Plan (OCP) Bylaw No. 2458, 2008, the subject property is currently designated Large Holdings One (LH1), and is the subject of Watercourse Development Permit (WDP) and Environmentally Sensitive Development Permit (ESDP) Area designations.

Section 22.3.4 of Electoral Area “E” 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 Large Holdings One (LH1) which permits a maximum of one (1) single detached dwelling or mobile home as a principal use and a maximum of two (2) secondary suites or accessory dwellings as accessory uses on parcels between 8.0 to 11.9 hectares in area.

The Zoning Bylaw defines a “dwelling unit” as “one or more habitable rooms constituting one self-contained unit which has a separate entrance, and which contains washroom facilities, and not more

than one set of cooking facilities (unless a secondary suite is permitted in the applicable zone), and which is designed to be used for living and sleeping purposes”.

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. Stored recreational vehicles “shall not be connected to a sewage disposal system, water system or power source”.

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

The Regional District has received written complaints regarding multiple RVs being permanently occupied, gravel extraction and screening, and inadequate sewage disposal.

On July 25, 2023, a Bylaw Enforcement Officer visited the property and confirmed the presence of five (5) RVs, gravel extraction activity and the storage of contractor vehicles and equipment on the property. Four (4) of the RVs on the property are currently occupied, while the fifth is used for storage.

As a result, the property is subject to ongoing enforcement action in relation to gravel extraction, the residential occupancy of four (4) RVs, the storage of contractor vehicles and equipment, and development without obtaining a valid development permit.

In response, the current temporary use permit application has been submitted requesting to formalize the four (4) RVs, and an ESDP application has been submitted to address previous development activity in an ESDP area without a valid development permit.

BC Assessment has classified the property as “Residential” (Class 01).

Building Inspection

The BC Building Code does not apply to recreational vehicles and therefore the residential use of recreational vehicles is not subject to inspection or certification for health and safety.

While the Building Code does not generally apply to accessory buildings less than 10m² in area, these building may be subject to the Building Code if the building creates a hazard.

Sewerage System Regulation

The disposal of “domestic sewage”, defined as including “human excreta and waterborne waste from the preparation and consumption of food and drink, dishwashing, bathing, showering, and general household cleaning and laundry” is regulated by the *Sewerage System Regulation* pursuant to the *Public Health Act*.

Under this regulation, all domestic sewage must be disposed into a sewerage system designed and installed by an “authorized person” (e.g. a professional engineer or a registered onsite wastewater practitioner).

The disposal of domestic sewage into a holding tank may be permitted in certain circumstances subject to the issuance of a permit from Interior Health Authority, while the use of a privy for domestic sewage disposal is prohibited.

The discharge of domestic sewage or effluent onto land or into a sewerage system that, in the opinion of the public health officer, is not capable of containing or treating domestic sewage is a prescribed public health hazard under this regulation.

The applicant has indicated that there is an outhouse on site for domestic sewage disposal. The applicant has also indicated that each RV has a “small grey water pit” to dispose of domestic sewage generated from the water brought into the RVs.

Interior Health has indicated that if the RVs are connected to a water source and are not moveable, they are considered de facto holding tanks and *may* require authorization from the Environmental Health Officer.

Drinking Water Protection Act

Water systems with two (2) or more connections are regulated by the *Drinking Water Protection Act* and require the issuance of a permit from an authorized issuing official prior to construction.

Health Hazard Regulation

The health and safety of rental accommodation is regulated by the *Health Hazard Regulation* pursuant to the *Public Health Act*. According to this regulation, all rental units must be provided with a source of potable water, at least 11m³ of airspace per tenant and a window that may be opened by tenants of the rental unit. Rental units that do not meet these requirements are prescribed as a public health hazard.

Public Process:

Adjacent property owners will have received notification of this application with written comments being accepted up until one (1) week prior to the Board’s regular meeting at which the application is to be considered. All comments received are included as a separate item on the Board’s Agenda.

Analysis:

In considering this proposal, Administration notes that the Zoning Bylaw’s prohibition on the long-term residential use of recreational vehicles is in recognition that RVs are generally unsuitable and unhealthy for long term occupancy.

For this reason, RVs are limited to short-term occupancy and permitted only where adequate potable water and sewage disposal can be provided.

Health and Safety

Dwelling units permitted by a local government should uphold the public interest by maintaining standards for the health and safety of occupants (e.g. adequate ventilation, heating, etc.) as well as for the protection of the environment from hazardous conditions (e.g. proper sewage disposal).

For this reason, dwelling units are regulated by the zoning bylaw to include an independent entrance, washroom facilities and cooking facilities, and are regulated by the BC Building Code to address other health and safety considerations associated with building construction.

The residential use of RVs is not permitted because they generally do not include the facilities prescribed for dwelling units by zoning and because they are not subject to inspection or certification under the BC Building Code to ensure the health and safety of permanent residential occupants.

In this instance, several of the RVs have been modified with enclosed plywood additions that appear to include wood burning stoves. The Building Inspector has indicated that these structures likely constitute a hazard and may be subject to the Building Code.

Interior Health has previously provided guidance regarding “healthy housing”, which it considers to be attainable, stable, high quality, in a location meeting residents’ needs and supporting health and well-being.

Administration supports the following comment from Interior Health in relation to this application, which indicates that RVs do not meet this standard:

Administration supports the following comment from Interior Health in relation to this application, which indicates that RVs do not meet this standard:

It is important to understand that RVs are designed to accommodate people while pursuing short duration recreational activities (e.g. camping), and do not meet quality standards for living-in longer-term... RVs pose significant safety hazards. The more time a person spends in the RV the higher the chances of being exposed to a hazard(s), which significantly increases the risk of harm or poor health outcome. The following are examples of potential hazards associated with RVs:

- *Gastro-intestinal illness due to unsafe drinking water, improper/inadequate (warm) food storage, or cross-contamination from touching sewage/wastewater on the ground or while servicing holding tanks;*
- *Burns, physical trauma or death from fire and carbon monoxide and propane poisoning, especially while using heating, electrical and cooking appliances;*
- *Mental health impacts or physical trauma or death from exposure to extreme heat or cold.*

The applicant has indicated that this Temporary Use Permit is being sought because there is a lack of affordable housing due to the housing crisis and Interior Health acknowledges that there are also health hazards associated with homelessness.

However, administration does not consider the authorization of inadequate and unsafe housing to be an appropriate measure to address housing affordability or availability.

Rural Development

Although the RVs do not meet the health and safety standards of dwelling units, they function as four de facto accessory dwellings.

The placement of four accessory dwellings on this property is not permitted by the Large Holdings One (LH1) Zone and is not consistent with the growth management objectives of the Electoral Area “E” OCP or the Regional Growth Strategy.

Affordable housing supply in the South Okanagan is not anticipated to be replenished in the near future. Given the reasons provided for this application, administration is concerned that the proposed residential use is not clearly temporary in nature.

While the occupancy of an RV may seem insignificant, administration has serious concerns that the ongoing housing crisis will prompt the submission of further ad hoc applications for this type of land use leading to the proliferation of “rural sprawl”.

Incremental development of quasi-residential uses in rural areas will, over time, erode and undermine the land use framework established by the Regional Growth Strategy and the Electoral Area OCPs, which direct residential development to areas that have adequate services to support additional growth. The result would be poorly planned development in urban fringe areas that negatively impacts the character of rural areas.

Alternative

If the Regional District Board wishes to approve the residential use of these RVs, the applicant should be required to undertake any improvements necessary to comply with the *Sewerage System Regulation*, the *Drinking Water Protection Act* and the *Health Hazards Regulation*, and submit written confirmation from Interior Health Authority that the required works have been completed.

Summary

In summary, the proposal is seen to create multiple health hazards that undermine public health and safety. The proposal is also inconsistent with Electoral Area “E” OCP policies, and regional rural growth objectives. For these reasons, administration does not support the proposal and is recommending denial.

Alternatives:

1. THAT the Board of Directors approve Temporary Use Permit No. F2023.042-TUP; or
2. THAT the Board of Directors approve Temporary Use Permit No. F2023.042-TUP and that, prior to issuance, the following conditions be satisfied:
 - i) The applicant submit written confirmation from Interior Health Authority indicating that the proposal complies with the *Sewerage System Regulation*, the *Drinking Water Protection Act* and the *Health Hazards Regulation*.

Respectfully submitted:

Ben Kent

Ben Kent, Planner I

Endorsed By:

CG

C. Garrish, Senior Manager of Planning

Attachments: No. 1 – Agency Referral List

No. 2 – Site Photo (RV #1)

No. 3 – Site Photo (RV #2)

No. 4 – Site Photo (RV #3)

No. 5 – Site Photo (RV #5)

No. 6 – Aerial Photo

Attachment No. 1 – Agency Referral List

Referrals have been sent to the following agencies as highlighted with a , prior to the Board considering adoption of Temporary Use Permit No. E2023.029-TUP.

<input type="checkbox"/>	Agricultural Land Commission (ALC)	<input 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 checked="" type="checkbox"/>	Ministry of Forest, Lands, Natural Resource Operations & Rural Development (Ecosystem Section)	<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"/>	Okanagan Nation Alliance (ONA)
<input type="checkbox"/>	Ministry of Transportation and Infrastructure	<input type="checkbox"/>	Penticton Indian Band (PIB)
<input type="checkbox"/>	Integrated Land Management Bureau	<input type="checkbox"/>	Osoyoos Indian Band (OIB)
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Upper Similkameen Indian Band (USIB)
<input type="checkbox"/>	School District #53 (Areas A, B, C, D & G)	<input type="checkbox"/>	Lower Similkameen Indian Band (LSIB)
<input type="checkbox"/>	School District #58 (Area H)	<input type="checkbox"/>	Environment Canada
<input type="checkbox"/>	School District #67 (Areas D, E, F, I)	<input type="checkbox"/>	Fisheries and Oceans Canada
<input type="checkbox"/>	Central Okanagan Regional District	<input type="checkbox"/>	Canadian Wildlife Services
<input type="checkbox"/>	Kootenay Boundary Regional District	<input type="checkbox"/>	OK Falls Irrigation District
<input type="checkbox"/>	Thompson Nicola Regional District	<input type="checkbox"/>	Kaleden Irrigation District
<input type="checkbox"/>	Fraser Valley Regional District	<input type="checkbox"/>	Irrigation District / improvement Districts / etc.
<input checked="" type="checkbox"/>	Naramata Volunteer Fire Department	<input type="checkbox"/>	

Attachment No. 2 – Site Photo (RV #1)



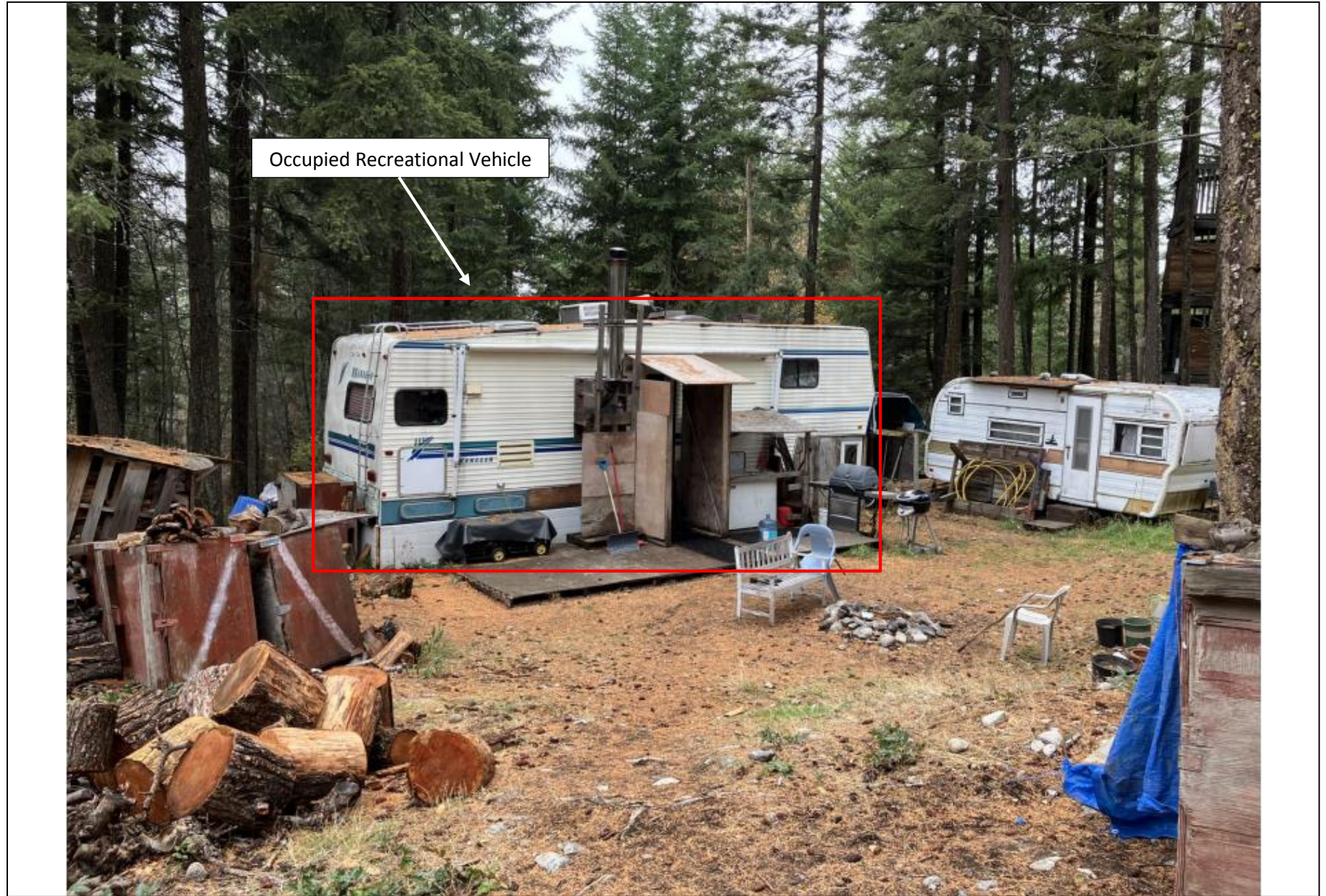
Attachment No. 3 – Site Photo (RV #2)



Attachment No. 4 – Site Photo (RV #3)



Attachment No. 5 – Site Photo (RV #4)



Attachment No. 5 – Aerial Photo

