

# ADMINISTRATIVE REPORT



**TO:** Board of Directors  
**FROM:** J. Zaffino, Chief Administrative Officer  
**DATE:** August 15, 2024  
**RE:** Temporary Use Permit Application – Electoral Area “D” (D2024.001-TUP)

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## Administrative Recommendation:

**THAT Temporary Use Permit No. D2024.001-TUP, to allow an accessory building greater than 10.0 m<sup>2</sup> in area without a principal use on the property at 2041 Carmi Road, be approved.**

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Legal: Lot 13, Plan KAP26390, District Lot 2710, SDYD Folio: D-06788.140  
OCP: Large Holdings Zone: Large Holdings One Site Specific Regulation (LH1s)

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## Proposed Development:

This application is seeking to allow an accessory building greater than 10.0 m<sup>2</sup> in area without a principal use on the on the subject property through the issuance of a Temporary Use Permit (TUP).

In support of this proposal, the applicant has stated (amongst other things) that:

*I have applied for this application due to the fact that last year it was brought to my attention that I was not in compliance with the bylaws, since the receiving the letter explaining how to bring my property into compliance, I have spent countless dollars and months removing things from my property all in an effort to bring it into compliance.*

*I am asking to keep this non-permanent structure as a storage structure while we build as it is already on the property and can be utilized without extra costs to me. Further, the reason for the temporary use permit was because the non-permanent structure is slightly bigger than the allotted 10 x 10 allotment. Because of this I have had to spend \$1,200.00 and another \$400.00 for the signage, as well as the amount paid for the fines and the permit for dirt work.*

## Site Context:

The subject property is approximately 4.0 ha in area and is situated on the east side of Carmi Road, approximately 350 metres east of the boundary with City of Penticton. It is understood that the parcel is currently comprised of an accessory structure and a principal use has not been established on the property.

The surrounding pattern of development is generally characterised by similarly sized residential parcels 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 October 22, 1915.

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Available Regional District records indicate that building permits have not previously been issued for this property.

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

### Official Community Plan

Under the Electoral Area “D” Official Community Plan (OCP) Bylaw No. 2603, 2013, the subject property is currently designated Large Holdings (LH), and the entire property is the subject of a Environmentally Sensitive Development Permit (ESDP) and Hillside Development Permit (HDP) Area designations.

Section 23.2.4 of Electoral Area “D” 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.

### Environmentally Sensitive Development Permit (ESDP)

On June 27, 2023, the Regional District issued an Expedited Environmentally Sensitive Development Permit (D2023.010-ESDP) to “formalize previously undertaken earthworks and to facilitate the following:

- *excavation of an existing disturbed cutbank and filling an existing disturbed fill site (for parking);*
- *clearing and construction of an access trail (recreational use) approximately 4m wide x 80m long*
- *...construction of a house, septic field and utilities all within the existing disturbed area.”*

In support of this environmentally sensitive development permit application, the applicant provided a report from Karen Grainger, R.P. Bio, dated May 3, 2023, confirming that “[t]he proposed development...is not expected to negatively impact the identified environmental values provided that the mitigation measures are adhered to”.

### Zoning Bylaw

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently zoned Large Holdings One (LH1) which lists agriculture, equestrian centre, single detached dwelling or mobile home, and veterinary establishment as permitted principal uses. The LH1 zone also lists “accessory building or structure” as a permitted accessory use.

Section 7.1.5 of the zoning bylaw allows for the placement of one (1) accessory building or structure on a parcel prior to the erection of a principal building, provided that the building or structure does not exceed 10.0 m<sup>2</sup> in area or one storey in building height.

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Under the zoning bylaw, an “accessory building or structure” is defined as “a detached building or structure located on the same parcel as the principal building, the use of which is subordinate, customarily incidental, and exclusively devoted to that of the principal building”.

### Enforcement History

In March 2022, the Regional District received written complaints regarding “multiple recreational vehicles, buses, boats and vehicles beings stored or occupied on the subject property”.

In May 2022, the property was inspected by Regional District bylaw enforcement staff, who confirmed that multiple structures had been placed on the property without an established principal use, in contravention of the zoning bylaw. Multiple recreational vehicles were also located on the property and appeared to be occupied.

Regional District staff also determined that there had been “extensive disturbance and regrading of the property to create ‘campsites’ or RV parking areas” in an Environmentally Sensitive Development Permit Area without an approved development permit.

To address the unauthorized disturbance and re-grading, the property owner was directed to apply for an environmentally sensitive development permit.

To address the zoning bylaw contraventions, the property owner was directed to either remove the structures from the property or submit an application to amend the zoning bylaw.

Accordingly, the property owner began to remove items from the property and sought approval of an ESDP in 2023.

On October 4, 2023 the property was re-inspected by Regional District bylaw enforcement staff and the remaining items included a utility trailer, mini excavator, dog kennel and an accessory building.

### **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 zoning regulations governing the establishment of accessory uses on a property prior to the establishment of a principal use are generally to ensure that properties are used for the purpose for which they are zoned.

In this instance, the proposed temporary use is one of several steps the property owner has undertaken to bring the property into compliance with the zoning bylaw in response to bylaw enforcement.

In considering the temporary use permit evaluation criteria, the proposed structure does not have a permanent foundation and measures approximately 18 m<sup>2</sup>. For this reason, the proposed use is not intensive in scale and is unlikely to unduly impact adjacent uses.

The proposed structure is located in a previously disturbed area of the parcel over which an ESDP has been issued and mitigation measures prescribed to prevent impacts to environmentally sensitive features. For this reason, the proposed use is not seen to negatively impact the natural environment.

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The applicant has indicated that a single detached dwelling is intended to be constructed on this property and the requested temporary use will cease upon permit expiry.

Alternative

Conversely, the zoning bylaw requires an accessory use to be subordinate, customarily incidental, and exclusively devoted to a principal use on the same parcel. The exclusive use of the subject property for storage purposes does not align with its LH1 zoning, which is intended for rural residential purposes.

If approved, the requested temporary use permit would be valid for three years and the expectation is that construction of a single detached dwelling will have substantially commenced during that timeframe.

However, no building permit application to construct a dwelling has been submitted at this time and Administration has concerns related to the length of time that has already lapsed since enforcement action began in 2022.

Further, under the *Local Government Act*, property owners may apply to renew a temporary use permit application for up to an additional three years and local governments are obligated to consider every such application.

Summary

In summary, Administration considers the requested temporary use to be generally consistent with the temporary use permit evaluation criteria and unlikely to result in significant negative impacts. For these reasons, administration is recommending approval.

**Alternatives:**

1. THAT the Board of Directors deny Temporary Use Permit No. D2024.001-TUP; or

**Respectfully submitted:**

Ben Kent  
Ben Kent, Planner II

**Endorsed By:**

  
C. Garrish, Senior Manager of Planning

Attachments: No. 1 – Agency Referral List

No. 2 – 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. D2024.001-TUP.

<input type="checkbox"/>	Agricultural Land Commission (ALC)	<input type="checkbox"/>	Fortis
<input 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 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 type="checkbox"/>	Volunteer Fire Department	<input type="checkbox"/>	

**No Affected Agencies.**

Attachment No. 2 – Aerial Photo

