

To: Mayor and Council
From: Paul Gipps, CAO

Meeting Date: April 01, 2025
Meeting Type: Regular Council Meeting

Prepared by: Sheeja Vimalan, Planner
Department: Planning and Development

Title: Temporary Use Permit | TUP00104|9770 Read Road
Description: Application to allow storage and parking of construction equipment on the property within the Agricultural Land Reserve.

RECOMMENDATION

THAT Temporary Use Permit TUP00104 (Attachment A to the report dated April 1, 2025) for the property located at 9770 Read Road, legally described as LOT A SECTION 10 TOWNSHIP 20 OSOYOOS DIVISION YALE DISTRICT PLAN 33539; PID: 003-181-669, to allow construction equipment parking on the property until April 1, 2028 be approved.

EXECUTIVE SUMMARY

The subject property (0.29 ha/0.717 ac) is zoned RR3 – Rural Residential 3, within the Agricultural Land Reserve (ALR). The applicant has applied for a Temporary Use Permit (TUP) to allow for the outdoor storage/parking of commercial vehicles for an excavation business. Residential home occupations are a permitted use on parcels zoned RR3; however, as per the District’s Zoning Bylaw (s.10.4.7. (a) (iii) &(iv)) exterior storage, parking of commercial vehicles greater than 5500 kg gross vehicle weight, and parking of heavy industrial equipment are not permitted uses for a residential home occupation.

The business has been in operation at this location since 1998 (27 years). Temporary Permits have been issued three times in 2005, 2008, 2011, 2015, and 2018.

The proposed temporary use complies with OCP policies (s.23.6) and Agricultural Land Reserve Regulations (s.24), and the business has historical ties to the area. Staff recommend authorizing construction equipment parking through a Temporary Use Permit on the subject property.

BACKGROUND

Application Information			
Application Type	Temporary Use Permit	Application Date:	2024-03-04
Applicant:	Daniel Hjorth	Owner:	Daniel Hjorth
Application Description	Request to temporarily allow the storage and parking of construction equipment on rural residential parcel with the ALR		
Property Information: General			
Folio/Roll #:	2391.392		
PID & Legal Description	PID 003-181-669; LOT A SEC10 TWP 20 ODYD Plan 33539		
Civic Address:	9770 Read Road		
Parcel Size:	0.29 Ha/0.717 Acres		
Property Information: Land Use			
OCP Designation:	Agricultural		
Zoning Designation:	RR3 – Rural Residential 3		
Land Use Contract	NA		

ALR:	Yes	
Site Summary:	Zoning:	Use:
<i>North:</i>	A1 - Agriculture 1	Agriculture & Residential
<i>East:</i>	A1 - Agriculture 1	Agriculture & Residential
<i>South:</i>	RR3 – Rural Residential 3	Residential
<i>West:</i>	A1 - Agriculture 1	Agriculture & Residential

Property Information: Infrastructure and Development Engineering	
Road Network	No road network concerns associated with this application.
Driveway Access	Access Permit required if TUP approved.
Water Supply:	Municipal (source: Beaver Lake) – no water concerns associated with this application.
Sewer:	Private – on-site septic
Drainage / Stormwater	No drainage concerns associated with this application.
Comments:	Applicant will be required to get an approved Access Permit. The property has two accesses. District staff have not identified any issues with grades, sight lines, or access and egress that would prevent a bylaw compliant access from being approved.

ANALYSIS

The applicant has been a resident at the subject property (Attachment B) for over 31 years. The owner has been operating Lakeland Excavating since 1990, and since 1998 on the subject property. In 2005, 2008, 2011, 2015 and 2018, the applicant applied for a Temporary Use Permit and the application was approved. The business has been in operation at this location and has held a valid business license for 27 years.

The area used for parking is approximately 358m² (Attachment B) and is located at the northwest corner of the property. The applicant intends to continue the business and an application for a Temporary Use Permit was submitted to allow for the continued parking of construction equipment consisting of a dump truck, gravel trailer, excavator, and rubber tire loader on the property.

The applicant has been the sole owner/operator of the business and confirms that the equipment is usually parked at the job site but may require occasional parking on the property. The east and south lot lines are planted with cedars to provide screening from the adjacent agricultural land and the owner confirmed that there will be minimal activity on the property.

Local Government Act

As per section 493 – a temporary use permit may do one or more of the following:

- (a) allow a use not permitted by a zoning bylaw;
- (b) specify conditions under which the temporary use may be carried on.

Agricultural Land Commission Act and Regulation

ALC Act, Section 23 (1) Restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the *Land Registry Act*, R.S.B.C. 1960, c. 208, less than 2 acres in area.

ALR Use Regulation, Section 24 (1) The use of agricultural land for a commercial or similar use within a structure is permitted, but may be prohibited as described in section 20 if all of the following conditions are met:

- (a) the structure is accessory to and located on the same parcel as a residence;
- (b) the structure occupies an area that does not exceed
 - (i) the limit specified in an applicable local government enactment or First Nation government law, or
 - (ii) if subparagraph (i) does not apply, 100 m².

Official Community Plan

Section 23.6 contains policies related to Temporary Use permits. The policies are as follows:

- a. The District will consider the issuance of a Temporary Use Permit provided the proposed use:
 - i. is temporary or seasonal;
 - ii. not be noxious or undesirable because of smoke, noise, vibration, dirt, glare, odour, radiation, electrical interference or an offensive trade within the meaning of the Health Act, as amended from time to time;
 - iii. have no negative impact on adjacent lands;
 - iv. create no significant increase in the level or demand for services;
 - v. not permanently alter the site upon which it is located.
- b. The District may apply any conditions to the permit, including but not limited to the hours of operation, square footage, appearance, screening, site rehabilitation or clean up, or any other matters deemed appropriate by Council.

Zoning Bylaw 561,2007 Consolidated 2025-02-04

A residential home occupation is a permitted use on parcels zoned RR3-Rural Residential3; however, section 10.6.4 states parking of commercial vehicles larger than 5500 kg gross vehicle weight; Parking of heavy industrial equipment is not permitted uses in the residential and rural zones.

Lands zoned RR3—Rural Residential 3 do not require a landscape buffer (s.8.6.1 (a)).

The property is within the Agricultural Land Reserve; however, the subject property is not required to adhere to the use regulations of the Agricultural Land Commission (s.23 Exceptions - Agricultural Land Commission Act). However, this property is adjacent to a property subject to Agricultural Land Reserve regulations.

A Temporary Industrial Permit was applied for and approved on three prior occasions:

- (a) 2005 and renewed in 2008 (TI2005-006);
- (b) 2011 and renewed in 2015 (TP2011-009);
- (c) 2018 and expired in 2021 (TP2018-002).

As per the Temporary Use Permit renewal in 2015, Staff recommended a 2 m non-vegetated buffer to separate the temporary use from the adjacent agricultural land (Attachment C).

District staff are supportive of the proposed temporary use as it would benefit the area and contribute to the economy of the community at large.

Agricultural Advisory Committee (AAC)

The AAC reviewed this application at their March 10, 2025 meeting. The AAC supported the application.

FINANCIAL IMPLICATIONS

None Budget Previously Approved Other (see below)

COMMUNICATION

- This application was referred to internal departments and comments were provided indicating that there are no bylaw complaints associated with the address.
- The owner conducted neighborhood consultation within a radius of 100m of the subject property.
- Temporary Use Permit notices were advertised in the March 20 and 27 issues of the local newspaper.
- The Planning Department prepared the appropriate letter/signage and landowner notifications were sent out prior to the application being forwarded to Council for consideration.

ALTERNATE RECOMMENDATION(S)

1. THAT Temporary Use Permit TUP00104 (Attachment A to the report dated April 1, 2025) for the property at 9770 Read Road, legally described as LOT A SECTION 10 TOWNSHIP 20 OSOYOOS DIVISION YALE DISTRICT PLAN 33539 PID: 003-181-669 to allow the parking of construction equipment on the property, not be approved.
2. THAT Temporary Use Permit TUP00104 (Attachment A to the report dated April 1, 2025) for the property at 9770 Read Road, legally described as LOT A SECTION 10 TOWNSHIP 20 OSOYOOS DIVISION YALE DISTRICT PLAN 33539 PID: 003-181-669 to allow the parking of construction equipment on the property, be deferred pending receipt of additional information as identified by Council.

Respectfully Submitted,
Sheeja Vimalan, Planner

Report Approval Details

Document Title:	TUP00104 - 9770 Read Road - Temporary Use Permit .docx
Attachments:	- Attachment A-TUP00104- Draft Temporary Use Permit.pdf - Attachment B-TUP00104-Location Map and Site Plan.pdf - Attachment C-TUP00104-Site Photos.pdf
Final Approval Date:	Mar 27, 2025

This report and all of its attachments were approved and signed as outlined below:

Steven Gubbels, Development Engineering Manager - Mar 21, 2025 - 11:15 AM

Carie Liefke, Manager of Current Planning - Mar 25, 2025 - 10:35 AM

Jeremy Frick, Director of Development Approvals - Mar 26, 2025 - 4:45 PM

Reyna Seabrook, Director of Corporate Services - Mar 26, 2025 - 8:30 PM

Paul Gipps, Chief Administrative Officer - Mar 27, 2025 - 7:39 AM

Makayla Ablitt, Legislative & FOI Coordinator - Mar 27, 2025 - 9:49 AM