



Regional Board Report

TO: Regional Board

FROM: Ron Fralick
Manager of Planning

DATE: April 5, 2016

SUBJECT: Temporary Use Permit (Application TUP-13-03)
Owner: R. Schoenherr Agent: R. von Andrian
The South 1/2 of Section 36, Township 29, ODYD - 4429 June Springs Road

Purpose: To consider renewal of Temporary Use Permit TUP-13-03 for a period of three years.

Executive Summary:

The owner and agent received Board approval for TUP-13-03 for a three-year term on April 22, 2013. A renewal of the TUP is requested to accommodate the continued operation of the business on a portion of the subject property. Should the business wish to continue to operate on the parcel upon expiry of the renewed TUP, staff recommends a permanent remedy be accomplished via submission and approval of an OCP amendment and rezoning application.

RECOMMENDATION:

THAT the Temporary Use Permit (Application TUP-13-03 – authorized April 22, 2013) for R. Schoenherr c/o R. von Andrian to permit an outdoor recreational ropes course/zip line business on a portion of the South 1/2 of Section 36, Township 29, ODYD - 4429 June Springs Road be renewed for an additional three years with the following conditions:

- The sublease with RDCO Parks Services for the KLO Creek Trail to remain in effect;
- Approval of a Development Permit is required prior to any further land alteration or disturbance;
- Obtain annual Business Licenses and Building Permits as required; and
- Confirmation from the Ministry of Transportation and Infrastructure that the commercial access permit (File Number: 2016-01289) has been approved.

Respectfully Submitted:

A handwritten signature in black ink that reads 'Ron Fralick'.

R. Fralick, MCIP, RPP
Manager of Planning

A handwritten signature in black ink that reads 'C. Radford'.

C. Radford
Director of Community

Prepared by: Janelle Taylor, Planner 1

Approved for Board's Consideration

A handwritten signature in black ink that reads 'Brian Reardon'.

Brian Reardon, CAO

Implications of Recommendation:**Strategic Plan:**

Approval of the permit renewal meets the 2015-2018 Strategic Priorities Plan, Strategic Priority #3: Nurture Responsible Growth and Development.

Policy:

Approval of the permit renewal complies with:

- Regional Growth Strategy Bylaw No. 1336, Policy No. 3.2.2.11 Promote land development patterns that support a diverse regional economy.
- South Slopes OCP Bylaw No. 1304 policies.

Legal/Statutory Authority:

In accordance with LGA Section 497, a TUP may be issued for up to three years with the option of one renewal for an additional three years.

Background:**History:**

The Temporary Use Permit (TUP-13-03) to allow an outdoor recreational ropes course/zip line business (Myra Canyon Adventure Park) on a portion of the subject property for three-years was conditionally approved by the Regional Board on April 22, 2013. A copy of the April 15, 2013, staff report and Board resolution is appended.

The application's intent in 2013 was to obtain approval of the TUP and establish the business while continuing negotiations with the property owner for a long-term lease and/or purchase of the property. Unfortunately, during the summer of 2014 the Myra Canyon Adventure Park was unable to open on time for its first season as vandals damaged trees which were a key part of the adventure course. Subsequent to the vandalism, the damage was rectified and the business has been in operation.

At this time, the applicant is requesting a one-time renewal of the TUP for a period of three years to allow the continued operation of the Myra Canyon Adventure Park on a portion of the subject property. To pursue a permanent permitted-land-use remedy, the applicant intends to commence the RDCO Official Community Plan / zoning amendment process after this coming business season, during winter 2017.

South Slopes Official Community Plan Bylaw No. 1304:

Policies applicable to the proposal include:

- Support tourism and related businesses in South Slopes that complement the existing parks and their permitted low-impact (non-motorized uses).
- Support the Strategic Plan of the Economic Development Commission and its three key objectives of business retention, business attraction, and business facilitation.
- Provide for an overall connectivity of natural open space and parkland between the RDCO, City of Kelowna and Crown lands in the South Slopes area.

Agency Comments & Status of Temporary Use Permit Conditions:

In addition to the agency referral responses received in 2013, Planning staff directly contacted the agencies noted in the conditional approval of TUP-13-03 and inquired whether the agencies

- are of the opinion that their conditions, as outlined in the attached permit, have been met;
- have any additional conditions, given that three years has passed since the original Permit; and
- have any concerns regarding renewing TUP-13-03 for three more years.

Subsequent to this contact, none of the agencies voiced concerns nor did they provide additional conditions for the renewal. The following is an overview of the original conditions and their statuses:

Condition	Status
<ul style="list-style-type: none"> Registration of a Statutory Right-of-Way for trail access 	Parks Services obtained a Sublease Agreement for the KLO Creek Trail covering a 4 year term (June 12, 2014 to February 28, 2018). Parks Services is in favour of renewing TUP-13-03.
<ul style="list-style-type: none"> Approval of a Development Permit is required prior to any land alteration or disturbance 	Development Permit (DP-13-10) was conditionally approved.
<ul style="list-style-type: none"> Applicant to obtain a Business license and Building Permits must be applied for and obtained from the RDCO for all proposed buildings and structures 	Since 2013, Myra Canyon Adventure Park has obtained its annual Business Licence. Building Permits have been obtained where required.
<ul style="list-style-type: none"> Confirmation from the Province that the Crown land access has been addressed (File: 3409943) 	RDCO File: CL-14-05. Permanent remedy via easement CA4652729 registered to provide formal access via Crown land.
<ul style="list-style-type: none"> Confirmation that all issues of the Ministry of Transportation and Infrastructure have been addressed including issuance of an access permit 	Commercial Access has been applied for (MOTI File No. 2016-01289).

External Implications:

Further to approval of TUP-13-03, no opposition to the subject outdoor recreational ropes course/zipline business has been received by Planning staff from any affected agencies. In accordance with the Local Government Act (Section 497), no formal public notification is required for renewal of a TUP.

Conclusion:

The applicant has complied with all conditions of the TUP and is planning to commence the RDCO process to pursue a permanent permitted-land-use solution in early 2017. Planning staff has no concerns regarding renewing TUP-13-03 for an additional three years.

In the event that the TUP renewal is denied by the Regional Board, the outdoor recreational ropes course/zipline business uses on the subject property shall cease upon the expiry of the TUP (April 22, 2016).

Alternative Recommendation:

THAT the Temporary Use Permit (Application TUP-13-03) to allow an outdoor recreational ropes course/zip line business not be renewed.

Considerations not applicable to this report:

- Financial Considerations*
- Organizational Issues*

Attachment(s): Resolution #78/13
April 15, 2013, staff report and attachments