

Request for Decision Temporary Use Permit

File No: P 722 104
Reference: TUP 1-22
Date: **May 10, 2022**

Subject: TUP 1-22 Morrissey / 0964118 BC Ltd
Applicant: 0964118 BC Ltd.
Agent: Jenna Wood – Foothills Pipe Lines Ltd.
Location: West of Highway 3 in the Morrissey area
Legal: District Lot 6672, Kootenay District

Proposal: A Temporary Use Permit to allow for an approximately 16 ha construction yard and ancillary uses to facilitate the off-site construction of a 32 km long pipeline to the east of Fernie.

Options:

1. THAT the 0964118 BC Ltd. Temporary Use Permit to allow a construction yard on property located on Highway 3 in the Morrissey area be granted.
2. THAT the 0964118 BC Ltd. Temporary Use Permit to allow a construction yard on property located on Highway 3 in the Morrissey area be refused.
3. THAT the 0964118 BC Ltd. Temporary Use Permit to allow a construction yard on property located on Highway 3 in the Morrissey area be amended and granted, subject to following permit conditions (*conditions as identified by the Board*):_____.

Recommendation: Option #1

The property is already pre-disturbed with a gravel pit established on the parcel and the close proximity to the work site will have the least amount of impact on road traffic during the summer months when highway traffic levels are higher than usual. The applicant is working with MOTI to address issues related to Elk River access, access to adjacent agricultural operations, and the Morrissey highway intersection more generally.

**Property
Information:**

OCP Designation: RR, Rural Resource which supports agricultural, rural residential and rural resource uses with parcel sizes 8.0 ha and larger. The RR designation also recognizes the use of these lands for public utility use, resource extraction, green space and recreation.

OCP Policies:

- Temporary Use Permits will be considered throughout the plan area.
- An application for a temporary use permit will be considered in relation to:
 - (a) demonstration that the use is temporary or seasonal in nature;
 - (b) compatibility with the existing land use;
 - (c) compatibility with surrounding land use;
 - (d) potential conflict with agricultural or resource-based activities;

**Property
Information -
cont'd:**

- (e) potential conflict with adjacent land uses;
 - (f) potential impact on fish or wildlife habitat;
 - (g) provision of adequate servicing for water and sewage disposal;
 - (h) duration of the proposed temporary land use; and
 - (i) relevant policies within other sections of this plan.
- The permit may be issued subject to conditions such as, but not limited to:
 - (a) the buildings, structures or area of land that may be used for the temporary use;
 - (b) the period of applicability of the permit;
 - (c) required site rehabilitation upon cessation of the use;
 - (d) other business or operating conditions to mitigate the impacts of the temporary use.
 - Light industrial development is generally directed to Elk Valley municipalities. However, the following uses may be supported in the plan area if there will be no significant adverse impact on adjacent uses, rural character, or the environment:
 - Resourced-based industries that require on-site processing at facilities located close to the source of their major resource; and
 - Industries which cannot find land physically suitable to accommodate their industrial activity within a municipality.
 - Property owners and occupiers are required to control and manage invasive plants in accordance with applicable RDEK bylaws and provincial acts and regulations.

Zoning Designation: RR-8, Rural Residential (Country); minimum parcel size is 8 ha.

Parcel Area: 32.3 ha (80 ac)

Density: One dwelling is permitted per parcel

ALR Status: Not within the ALR

BC Assessment: Residential and light industrial (Sand & Gravel / Vacant & Improved)

Interface Fire Hazard Rating: Moderate to high, not within a fire service area

Flood Hazard Rating: Not within a floodplain or flood hazard rating area

Water / Sewer Services: Fresh water required for temporary washroom facilities will be trucked from an approved and licensed vendor on an as needed basis. The application states that grey and blackwater from the washroom facilities will be stored in temporary above ground holding tanks and will be removed utilizing a vacuum facility for final disposal. The applicants have indicated that they will contact Interior Health for a Holding tank permit.

**Additional
Information:**

- See attached proposal submitted by the applicant.

Consultation:

APC A: Support recommended with the following conditions:

- No unauthorized camping in Area A by any people associated with Foothills Pipe Lines Ltd. or the project as a whole.
- Fund a parking solution for river users, both business or recreation, at the Morrissey boat launch.
- Commit to traffic control at peak traffic times at the Morrissey-Highway 3 intersection.
- Mandatory: solid and liquid waste to be disposed at RDEK facilities.

Environmental Services Department: The Environmental Services Manager has stated that on a previous TC Energy project, an invasive species was introduced to the laydown/site prep location via the pipes they trucked in. Therefore, he has requested the requirement for an Invasive Plant Management & Reclamation Plan be provided.

An Integrated Vegetation Management Plan for Southeast BC has been submitted and provides a framework to manage the growth and spread of noxious weeds and invasive plants and to remove undesirable trees and brush for reasons of safety, emergency management and fire control, as well as to ensure pipeline and facility site security. The Plan notes that TransCanada conducts regular follow up monitoring and evaluations of its annual vegetation management activity. These evaluations, including ground and aerial patrols, detail selected plant pest communities and areas for management on a site-specific basis and will generate a more formalized vegetation management plan.

Ministry of Transportation and Infrastructure: Three matters were identified by the Ministry while reviewing impacts to the intersection:

1. TC Energy is required to upgrade the Highway 3 at Morrissey Road to accommodate the additional traffic on the east side of the highway;
2. Trit Trot Farm's existing highway access is located within the intersection improvement polygon. The Ministry requested TC Energy work with the land owners to consolidate the residential access with the intersection; and
3. The Ministry recognizes the seasonal use of the road's shoulder by Elk Rivers Users for parking purposes. The Elk River Alliance, Tourism Fernie, BC Parks and MoTI are working together to improve access to the water and provide additional parking, but do not expect to have improvements in place by summer of 2022.

Consultation – cont'd: Should TC Energy's operation impact the existing condition of Morrissey Road they are expected to find a solution (see attached letter).

Response(s) to Notice: 3 notices were mailed on April 14, 2022 to all property owners within 100 m of the subject property. No notices were returned as undeliverable. One (1) response has been received expressing concerns regarding the proposed temporary use permit (see attached letter) and one letter has been received expressing support for the application.

- Permit
- Location Map
- Land Use Map
- Zone Designation Map
- Project Summary
- Site Plan
- Letters

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