

COUNCIL REPORT

Date: 2 November 2017
File: 7.18.3.47
To: Warren Waycheshen, CAO - for Mayor and Council
From: Gwendolyn Sewell, MCIP, RPP
Director of Community Planning & Development
Re: Temporary Use Permit – Daudet Creek Contracting Ltd.



Recommendation:

THAT Council approve the Temporary Use Permit for a rock quarry and gravel pit on District Lots 6183, 6184, and 6165 (Schedule A), for a term of three years, expiring on 6 November 2020, conditional on:

- 1. Compliance with provincial and municipal regulations including all provincial safety and reclamation standards;**
- 2. Provincial License of Occupation in good standing;**
- 3. Valid business license;**
- 4. Quarry excavation creates no depression and drains freely without impacting nearby water systems;**
- 5. Landscape buffer, 15m wide or more, is maintained along edge of license area abutting Highway 37;**
- 6. Posting of \$10,000 bond to be held for the term of the permit to ensure adequate mitigation measures are taken to eliminate debris tracked on highway;**
- 7. Notification protocol for blasting and other activity resulting in loud noise be implemented with the District of Kitimat and nearby properties, including Cable Car;**
- 8. Access road must comply with provincial and municipal design standards; and**
- 9. Should Daudet Creek Contracting apply for a TUP renewal, a public notice period be incorporated into the process to gauge public feedback on first term.**

Background

Daudet Creek Contracting Ltd. submitted an application for a temporary use permit (TUP) to open and operate a 36.38 ha quarry and borrow pit on lands described as a portion of DL 6183, 6184, 6165 Range 5 Coast District (Schedule A). A TUP is required to authorize industrial use in the G-5 Forestry Zone.

Provincial lease for land has been issued. Council and residents of Cable Car were notified of this application during the comment period for the License of Occupation application. As per R15-203, Staff were directed to submit all feedback received including Advisory Planning Commission minutes, Council minutes, and any other letters regarding Crown Land Referral 77233358-6 for Daudet Creek Contracting Ltd.

At the Council meeting held on 2 October 2017, Council directed staff to issue notice to property owners and residents of Cable Car regarding the current TUP application.

Site History

In 1996, Kitimat Council approved a temporary permit for a 3.38 ha gravel pit and rock quarry on DL 6183 and 6184. The quarry and pit were not developed during the tenure. Conditions on permit:

1. Compliance with site and reclamation plans dated 95/11/15;
2. Provincial Crown Land Lease in good standing;
3. Valid business license;
4. Vegetation buffer, 15m wide or more, is maintained along the western edge of the site;
5. Drainage works at southern end of site are screened by vegetation buffer;
6. Native trees and shrubs up to 6m high, which are removed during site clearing, shall be transplanted within the vegetation buffer;
7. Access road shall be constructed at northern end of site; and
8. Plan approval and posting of \$1,000 bond for any temporary buildings larger than 10 sq m.

Public Notice

The general public has had two applications to provide comment on proposed quarry and borrow pit operation: (1) application to occupy crown land (2015); and (2) current TUP application.

During both opportunities for comments, Cable Car residents received notice via mail. Residents of other neighbourhoods were notified by local media coverage, Council meetings, website, and newspaper advertisements.

APC Comment

Mark Minifie, Daudet Creek Contracting, provided an overview of the application and current plans for the site. Mr. Minifie indicated that this site was selected due to the ideal composition of sand and gravel, which requires less processing to create the final product.

Members asked about the possibility of including a paved apron at the access point on the highway to reduce likelihood of debris being tracked onto roadway. Mr. Minifie advised the issue will be dealt with through the Ministry of Transportation and Infrastructure during the processing of access permit. Mr. Minifie indicates he will discuss the Ministry's preference on materials used at intersections to reduce likelihood of tracking debris and potentially damaging shoulder of road.

Spillage of materials from trucks on the highway was also raised as a concern. Mr. Minifie stated that the loads would be secured and that there would be no debris on trucks accessing the highway. Mr. Minifie also advised members that based on preliminary calculations, up to five truck loads per day may leave project site.

Mr. Minifie also assured members that public access to Fire Mountain Shooting Range and South Hirsch would not be impacted through this operation. Mr. Minifie indicated that more frequent grading would likely improve road condition. The following resolution passed:

THAT APC support Daudet Creek Contracting's Temporary Use Permit to operate a borrow pit and rock quarry as presented.

Motion amended to include:

Conditional on the applicant incorporating mitigation measures to prevent debris being carried onto Highway 37 from point of access.

Motion Carried.

Public Comments

Community Planning & Development staff had discussions with eleven residents during the public comment period, which extended from 3 October to 1 November. One resident raised the potential benefit of the quarry and pit in stimulating Kitimat's economy. General themes of comments and concerns included:

- Noise,
- Trucks turning onto Highway 37 where speed limit is 100km/h,
- Hazard from tracking of rocks onto Highway 37,
- Aesthetic impact at entrance to town,
- Impacting some residents' drinking water (unregulated artesian well),
- Proximity to residential neighbourhood (Cable Car),
- Location – there are better locations in Kitimat and the surrounding region, and
- Concern over the notification area only being property owners and tenants of Cable Car when the application impacts the entire community.

Letters and e-mails received during the comment period are attached for review. Staff have also included a FAQ providing additional information to commonly asked questions.

Staff Comments

Community Planning & Development and Engineering Services has reviewed the application and provided further comment on visual impact, noise management, and access.

<i>Visual Impact</i>	Based upon internal review, the quarry will have significant visual impact from the highway. Recommendation #5 was formed to create some level of barrier for highway travellers; however, staff are not confident this will entirely mitigate visual impact.
<i>Noise Management</i>	A notification process requiring notice to DOK and adjacent properties should be added in the Noise Management Plan (reflected in recommendation #7).
<i>Access</i>	Anticipated access via Rifle Range Road onto former 'Crown Z Haul Road', which runs parallel to Highway 37 would require negotiation with proper authority.

The District of Kitimat is believed to be the sole licensee for Rifle Range Road, and expects an opportunity to further discuss access during MOTI permit review. At this time, the District may address areas of concern such as, potential to compromise road integrity due to increased traffic volume and weight, turning radius, road widening, and existing infrastructure (e.g., culverts).

Engineering Services will soon be receiving updated orthophoto and LiDAR, enabling staff to create a visual image of site topography in its current state and after pit excavation has begun. This would assist Council and staff to better understand potential visual impact for highway travellers. Should Council wish to table this application until further information is received, a draft motion is provided in 'Alternative Options'.

Staff have recommended conditions be included in the issuance of this TUP. Rationale for conditions is summarized below.

Table 1 Rationale for Recommended Conditions

#	Condition	Explanation
1	Compliance with provincial and municipal regulations	OCP Policy 5.3.7
2	Provincial LOC in good standing	OCP Policy 5.3.7
3	Valid business license	OCP Policy 5.3.7
4	Quarry excavation creates no depression and drains freely	OCP Policy 5.3.7
5	Landscape buffer	To ensure visual impact to highway travellers is minimized
6	Performance bond	To ensure road conditions, including rock debris, is not increased due to activity along highway
7	Notification Protocol	Provide notice of blasting to DOK and nearby properties
8	Road Standards	To ensure integrity of road is maintained
9	Notice of Renewal	To allow opportunity for residents to provide feedback on first term operations of quarry and pit

Alternative Options

1. THAT Council not approve the Temporary Use Permit application received from Daudet Creek Contracting.
2. THAT Council request staff prepare a visual model of site in current state once data is received, prior to making a decision on Daudet Creek Contracting’s TUP application.
3. Another option as developed through discussion of Council.

Budget Implications: N/A

Director of Finance Initials

Council Initiative/Other Relevant Plans:

1. Community Planning must be disciplined with a long-term view

OCP Policy

4.1.35 Consider temporary industrial use permit applications for extractive uses on sites in the G5 Forestry and G5-A Forestry Transition Zones.

5.3.2 A permit may only be issued if a condition or circumstance exists that warrants the proposed use for a short period of time but does not warrant a change of land use designation or zoning of the property. This may include economic development and testing the compatibility of a proposed use with established nearby uses.

Submitted by:
Gwendolyn Sewell, MCIP, RPP
Director of Community Planning & Development

Approved for Submission:
Warren Waycheshen, CAO