Darren Veres

Subject: RE: Bylaw 8217 - Temporary Use Permit Amendments

From: Brian Platts [redacted]
Sent: Sunday, March 05, 2017 10:52 PM
To: Mayor and Council - DNV
Subject: Bylaw 8217 - Temporary Use Permit Amendments

Mayor & Council:

I have some concerns with respect to the above-mentioned bylaw. I have read the February 20, 2017 Staff Report to Council and found that it fails to clearly outline the potential implications of expanding Temporary Use Permits (TUPs) to all zones within the District.

Without having a clear understanding of how this proposed amendment might impact the community it is difficult to know how to respond, but several questions arise, including:

- What restriction to business is being addressed? While the stated purpose of the amendment is *"to support business growth and short term economic opportunities"* the Report presents no evidence that such a demand for TUPs exists or that one can be created by allowing for TUPs. The permitted uses under the general commercial and industrial zones, for example, are already broad, and in some cases literally A to Z, so where exactly is the deficiency of uses in existing Zoning Bylaw? The Report provides no examples.
- Is the amendment merely benign or a potential Pandora's Box? How many TUP applications does Planning expect to receive annually? Again, the implications are unclear.
- What sort of TUPs might be issued in RS Single Family zones? Automotive repair maybe, or perhaps a campground on a large property for possibly 6 years? The RS zones already permit home-based businesses and daycare operations. I suggest that is enough. While it is understood that any application for TUPs in RS zoned lands outside of four key centres would be referred to Council for consideration, the temporary change of use would not require a Public Hearing.

In my view Bylaw 8217 is flawed and should be rewritten. As the Report states, *"Section 492 of the Local Government Act allows local governments to designate areas where temporary uses may be allowed and to specify general conditions regarding the issuance of temporary use permits in those areas."* Bylaw 8217, however, designates the entire District. I suggest that more work needs be done to identify and designate specific commercial and industrial zones where TUPs are appropriate to the existing land use and where it can demonstrably support business growth and short term economic opportunity.

Sincerely,
Brian Platts
[redacted]

March 26/2017

Dear Dan Milburn,

I have some questions about Monday's March 27th Council Agenda Item 9.1 to which I would appreciate a reply.

1. What is the real need for this blanket bylaw?

2. What real problems is this bylaw trying to address?

3. Considering that only two Temporary Use Permits have been issued in the last 6 years why is there in need for this bylaw?

4. Is the potential anxiety of our whole community, created by uncertainty of adjacent land use, and dropping the requirement of a public hearing when TUP's are issued, worth the benefits of a few?

5. In the staff report it states that Bylaw 8144 proposes updates to the development review procedures to be consistent with current practice and legislation. Could some examples be provided?

6. Bylaw 8217 purports to contain general conditions for temporary uses which can be specified. Could some more explanation be provided on the conditions?

For example, 4B02-B (1) what does "unreasonably" mean? (2) How does this apply to residential zones? (3) What do "suitable" or "vicinity" mean?

This bylaw purports to be "a business-friendly initiative". How is it also community and residential friendly?

7. Section 3B03-C General Conditions on page 124 of staff report states:

(2) The temporary use shall be subject to conditions identified in section 414 Good Neighbour Requirements for Employment Zones. However, *these regulations apply only to those parcels referenced in the Employment Zones and Village Commercial Zones. (Sections 600-A, 600-B, 750 and 770)*." Where are the conditions for residential zones available?

8. Shouldn't new short term commercial and industrial opportunities be restricted to those respective zones? What justification is there for putting them into residential zones?

I also note that the staff report allows council only 3 options. Shouldn't council also be given the option of simply rejecting the bylaw?

Yours truly,

Corrie Kost, [redacted] North Vancouver, [redacted]

Temporary Use Permits – a cautionary note.

Corrie Kost, [redacted]

Legislative changes enacted in 1985 granted local governments across British Columbia the ability to issue “Temporary Use Permits” (TUP). These permits could be used to make a short-term exception to the zoning of a property and allow for an industrial or commercial use to occur on a site.

In 2010, further legislative changes increased the time period that a TUP could be valid for (from 2 to 3 years), and also removed the restriction on TUPs being used only for commercial or industrial uses, meaning permits could now be considered for residential, institutional and agricultural uses, etc.

A Temporary Use Permit is seen to provide — in certain circumstances — a more flexible option than rezoning, particularly when Council is being asked to consider a transitional use or a use where uncertainty exists respecting its appropriateness or long-term viability.

From a philosophical standpoint exceptions to any general rule (say zoning) should be applied with common sense as the need arises. However a blanket rule to allow non-specified exceptions, under non-specified guidelines and, thereafter without due process, is unwarranted in a free and democratic society.

The first bulleted item of page 31 of the staff report *“designates the entire District as a Temporary Use Permit area”* On page 32 it states that the bylaw would *“exclude delegation of TUPs in single-family (RS-zoned) neighbourhoods which are located outside of the four key centres”.* This only means that council, not staff would make the decision of TUP in residential units outside of the centres. **Thus after a public hearing on bylaw 8217, if adopted, would give council the authority to allow any specified future uses for a period of 3/6 years on any property in the DNV WITHOUT ANY FURTHER PUBLIC HEARINGS.**

So, to re-iterate - with the adoption of this bylaw council would have the authority, by resolution at a public **meeting**, to issue Temporary Use Permits to allow any temporary uses on virtually any property. For example the commercial rental of any single family residential unit would be allowed without any public hearing requirements for a period of 3/6 years. Rentals of cabins built in the wilderness areas of the DNV could also be permitted as council sees fit – again without a public hearing. Large DNV single family home properties could apply to have a campground on their lands – again without any public hearing of such change in use. Empty lots could be turned into parking lots. Residential homes could be used as sales centres (despite violating the cardinal rule that such a use should not create extra vehicular traffic to the residence!). Residential homes could be turned into short-term, or even daily, vacation rental homes. Etc.

It appears that multi-family units, under the Strata Act, would be the only residential form, either in or outside the town/village centres, that could resist such new uses if the strata council voted against such use(s).

Section 920.2[(a)] of the LGA enables local governments to designate temporary commercial and industrial use permit areas and specify general conditions regarding their issue, in either an OCP **or** a zoning bylaw.

It should be noted that since the existing OCP does not mention the word “temporary”, much less TUP, it thus does not need to include any required policy directions with respect to TUPs.

The owner can use the TUP land in accordance with the terms of the permit until the expiration date or three years after issuance of a permit, whichever comes first. Failure to meet conditions **may** lead to revocation. Permits **may** be renewed only once for an additional three year term. Conditions of a temporary use permit are binding on all existing and future owners during the time period specified in a permit.

Note that either after 3 or 6 years of “temporary” use of any site such additional uses would no longer be allowed. However a new application with new “temporary” additional uses could be allowed. There is thus no absolute hard time limit to the “temporary” use of a specific site.

What one should ask:

1. What is the real need of this bylaw?
2. What problems is this bylaw trying to address?
3. Do a handful of anticipated TUP require such a blanket bylaw?
4. Is the potential anxiety of our community worth the benefits to a few?

This bylaw seems to be a solution in search of a problem. I thus urge council to restrict the blanket TUP bylaw by excluding its applicability to any residential uses outside the designated town centres and villages. An even better democratic choice is for council to fully reject this blanket bylaw and consider any future TUP on its own – each with a subsequent public hearing.

REF(a)

Designation of temporary use permit areas

920.2 For the purposes of section 921,
(a) an official community plan, or
(b) a zoning bylaw
may designate areas where temporary uses may be allowed and may specify general conditions regarding the issue of temporary use permits in those areas.

Temporary use permits

921 (1) On application by an owner of land, a local government may issue a temporary use permit
(a) by resolution, in relation to land within an area designated under section 920.2, or
(b) by bylaw, in relation to land within an area outside a municipality, if there is no official community plan in effect for the area.
(2) [Repealed 2000-7-167.]
(3) 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;
(c) allow and regulate the construction of buildings or structures in respect of the use for which the permit is issued.
(4) If a local government proposes to pass a resolution allowing a temporary use permit to be issued, it must give notice in accordance with subsections (5) and (6).
(5) The notice must
(a) state
(i) in general terms, the purpose of the proposed permit,
(ii) the land or lands that are the subject of the proposed permit,
(iii) the place where and the times and dates when copies of the proposed permit may be inspected, and
(iv) the date, time and place when the resolution will be considered, and
(b) be published in a newspaper at least 3 and not more than 14 days before the adoption of the resolution to issue the permit.
(6) Section 892 (4) to (7) applies to the notice.
(7) Sections 890, 891, 892, 894 and 913 apply to a bylaw under subsection (1) (b).
(8) As a condition of the issue of a permit, a local government may require the owner of the land to give an undertaking to
(a) demolish or remove a building or structure, and
(b) restore land described in the permit to a condition specified in the permit by a date specified in the permit.
(9) An undertaking under subsection (8) must be attached to and forms part of the permit.
(10) If the owner of the land fails to comply with all of the undertakings given under subsection (8), the local government may enter on the land and carry out the demolition, removal or restoration at the expense of the owner.
(11) The owner of land in respect of which a temporary use permit has been issued has the right to put the land to the use described in the permit until
(a) the date that the permit expires, or
(b) 3 years after the permit was issued,
whichever occurs first.
(12) In addition to any security required under section 925 (1), a local government may require, as a condition of issuing the permit, that the owner of the land give to the local government security to guarantee the performance of the terms of the permit, and the permit may provide for
(a) the form of the security, and
(b) the means for determining
(i) when there is default under the permit, and
(ii) the amount of the security that forfeits to the local government in the event of default.
(13) A person to whom a temporary use permit has been issued may apply to have the permit renewed, and subsections (8) to (12) apply.
(14) A permit issued under this section may be renewed only once.
(15) If a local government delegates the power to issue a temporary use permit under this section, the owner of land that is subject to the decision of the delegate is entitled to have the local government reconsider the matter.

From:	James Gordon
To:	Louise Simkin; Shannon Martino
Cc:	James Gordon
Subject:	Public Hearing Input for Bylaw 8217
Date:	Monday, March 27, 2017 7:14:18 AM
Attachments:	OutlookEmoji-1480112086933_PastedImage.png

From: Hazen Colbert [redacted]]
Sent: Sunday, March 26, 2017 11:55 AM
To: Mayor and Council - DNV
Subject: [REDIRECTED]Proposed Bylaw 8217

Input for Council Meeting of March 27, 2017 and Public Hearing (as and if required)

The Mayor of the District of North Vancouver (not staff and not the DNV generally) is proposing a bylaw (Bylaw 8217) that would allow the General Manager of Planning to approve a temporary land use application (for a period of three years with an option for a three year extension) absent a normally required rezoning application, the formal bylaw approval process and legislated public consultation.

The proposed bylaw is contrary to enactments including the Local Government Act and the Community Charter, as well as Provincial legislation and substantive common law. The enactments and common law require that changes in land use be decided by the electorate through their elected officials not through municipal employees. The one, and only one, exception are subdivisions where the chief planning official can be decision maker but only where the sub-division is not material in size and/or economic value.

The law exists to create governance and oversight by separating the people who analyze the merits of land use applications from those that make the final decision. It is folly to suggest that any General Manager of Planning could be objective regarding a temporary land use application put forward by the same entities he or she works with daily, may have been employed by in an earlier portion of a career and/or will be employed by latter in a career literally, in some cases, the week subsequent.

The first reading of the bylaw rightly failed on March 6, 2017 in a meeting duly called under the Community Charter and with quorum present.

The Mayor had the option to bring forward the bylaw for a second attempt at first reading at the next council meeting – March 13, 2017 provided there were no material changes to the bylaw. The Mayor cancelled that meeting thus confirming under Division 2 of the Community Charter that any future consideration of proposed Bylaw 8217 is of no effect.

The Mayor now, in non-compliance with the Community Charter, is attempting to force an unwanted bylaw lacking any merits through first reading and then on to a pubic hearing with an unauthorized and non-

complaint reconsideration of the proposed bylaw on March 27, 2017. The bylaw has been changed materially from first reading thus it should be considered a new bylaw and go through the full and proper staff process prior to submission to council.
I urge Council to reject any discussion of the proposed bylaw 8217 at any time, and request the Mayor resign for failing to adhere to the Community Charter.
Regards

Hazen S. Colbert