

# Report

Date

May 17, 2023

File: TUP00027

Subject

Temporary Use Application for 1444 Maple Bay Road

## PURPOSE

To consider a request to temporarily use 1444 Maple Bay Road for motion picture and television filming.

## BACKGROUND

The owners of 1444 Maple Bay Road have agreed to allow the property to be used for the filming of a short television series for the Food Network about vegan cooking. The property is zoned Residential Rural (R1), and there is no provision in the R-1 Zone or Zoning Bylaw No. 2950 for film production at that location. However, the use can be authorized on a temporary basis through the issuance of a Temporary Use Permit (TUP). The film production company producing the television series has applied for a TUP on behalf of the property owners.

## DISCUSSION

### Proposal:

Two days of rehearsals are planned on August 15 and 16, with eight days of filming on August 18, 21, 23, 24, 28, 29, 31 and September 1. Filming is expected to take place between 8 am and 8 pm on scheduled days. The filming will occur within buildings on the subject property (see Figure 1), and other related activities, such as catering, portable washrooms, and food preparation, will take place on the property. Equipment vehicles and a small amount of parking will also be on-site, but the majority of staff and other participants will park at Maple Bay School and be transported by shuttle to the film location.

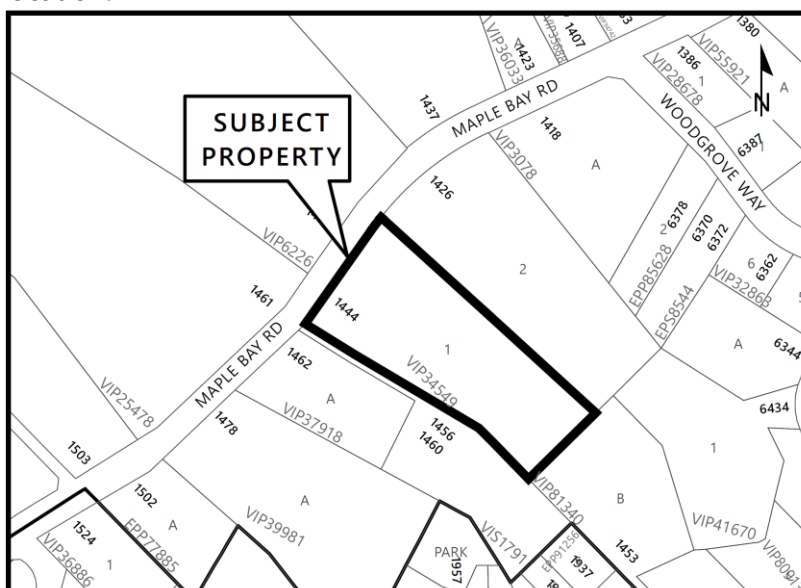


Figure 1 – Location Plan

In addition to the TUP application, the proponents have also requested traffic control on Maple Bay Road to reduce traffic noise while filming is underway. A draft traffic management plan (TMP) that includes speed reduction to 30 km/h is proposed (see Figure 2). As Council has delegated its authority to issue permits for the temporary, non-exclusive use of Municipal roads to the Director of Engineering, the TMP is not part of the temporary use permit but won't be approved unless the TUP application is approved.

Should Council approve the issuance of this TUP, the proponent will be required to obtain an Event Permit, including the requirement for a final TMP. The proponent has already engaged the services of a professional traffic management company providing the draft TMP. Staff have reviewed the draft TMP due to the quick turnaround time required for this Event Application should Council issue a TUP. Staff recognize that some traffic may not adhere to the temporary 30 km/h zone and/or detour around the 30 km/h zone and use Donnay Drive between Kingsview Road and Highwood Drive, an area where we already have traffic calming complaints (see Figure 2). In anticipation of these issues, staff have advised the proponent to address this in their TMP and to reach out to Cowichan Community Policing's SpeedWatch Program. Cowichan Community Policing advised staff that they would be in a position to monitor this location should Council issue a TUP for this event.

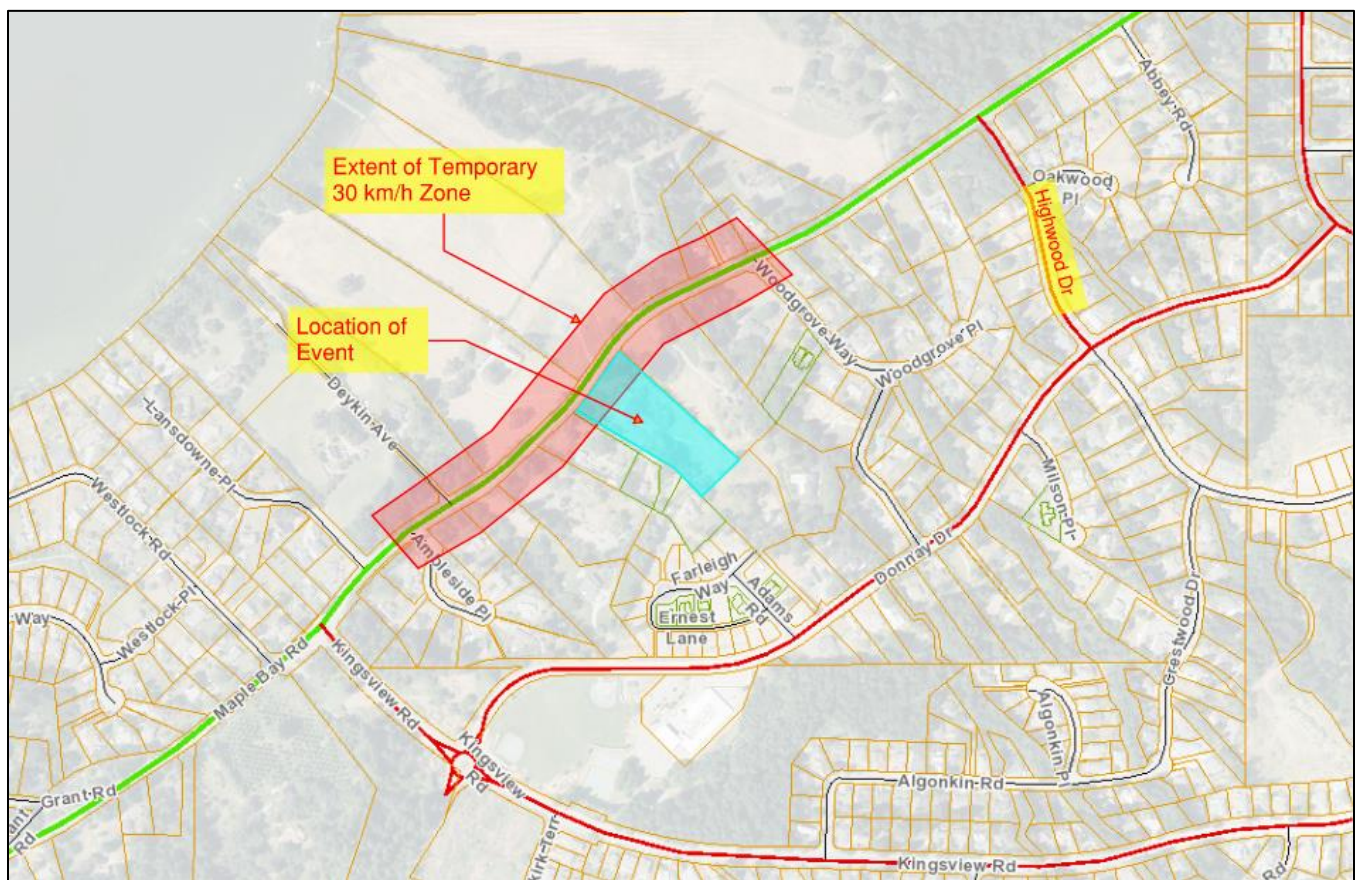


Figure 2 - Temporary 30 km/h zone location

The applicant has applied for a building permit for additional cooking equipment in the building where the filming will take place. The building permit will require that the equipment be removed upon completion of the filming. No permanent changes to the property or installations for filming beyond the requested dates are planned.

A letter from the applicant summarizing the film production and TUP request is provided in Attachment 1.

### **Legislation and Public Notice:**

TUPs are enabled through Division 8 of the *Local Government Act*. Where a local government has designated areas for temporary uses in its Official Community Plan (OCP), the *Local Government Act* allows local governments to issue TUPs for uses not permitted by the Zoning Bylaws and to specify conditions under which temporary uses may be conducted.

Council is, however, required to give notice of its intent to consider a resolution for issuing a TUP. Notice for this application was published on social media on May 5, 2023 (first notice) and in the May 11, 2023, edition of the Cowichan Valley Citizen (second notice). The notice was also posted to the municipal website and notice board and sent to landowners and occupants within 60 metres of the subject property as required by the *Local Government Act* and Public Notice Bylaw No. 3406.

### **Policy Context:**

The subject property is designated "Rural Residential" in the OCP, outside the Urban Containment Boundary and not in the Agricultural Land Reserve.

The R1 zoning applicable to 1441 Maple Bay Road permits agriculture and residential uses but does not identify motion picture and television filming as a permitted use. As commercial film production cannot reasonably be considered a use ancillary to agriculture or residential use, authorization through a zoning amendment or TUP is needed for the use to take place legally at the proposed location.

The OCP has several policies and provisions relevant to this application:

- Section 4.2.2 (a) – "Foster an environment that promotes creativity and cultural expression and facilitates community access and engagement in arts and cultural experiences."
- Section 8.5.2 (d) - "Consider the use of Temporary Use Permits to facilitate a range of uses not permitted by existing zoning to capitalize on unique and/or short-term development opportunities."
- Section 11.2 – "Temporary Use Permits may be issued to allow seasonal or occasional uses in rural, rural residential, and residential areas where adjacent properties will not be impacted by smoke, noise, vibration, dust, glare, odour, or other negative impacts."

Section 11.2 of the OCP also states that prior to issuing a TUP, Council must be satisfied potential adverse impacts on adjacent and surrounding properties will be appropriately managed and the temporary use:

- Will not give the permit holder a competitive advantage over similar businesses operating in locations zoned for the use.

- Will not result in permanent facilities and land alterations that will encourage noncompliance with the Zoning Bylaw once the temporary use permit has expired.
- Will return the land to a condition conducive to the uses it is zoned for.

### Summary and Conclusion:

The temporary use of 1444 Maple Bay Road is generally supported by OCP policy, as it is not expected to result in any significant adverse impacts on adjacent properties, result in competitive advantages over other businesses, or result in permanent alterations to the land or facilities on the land that are not conducive to the property's R1 zoning. The enterprise is expected to contribute positively to the local economy and showcase North Cowichan's rural character and the region's local food culture. Issuance of the permit is recommended.

### OPTIONS

1. **(Recommended Option)** THAT Council issue Temporary Use Permit No. TUP00027 to Emily Yaeger of Kale Media Inc. to allow motion picture and television filming at 1444 Maple Bay Road on August 15, 16, 18, 21, 23, 24, 28, 29, 31 and September 1, 2023.
2. THAT Council deny the request for a Temporary Use Permit by Emily Yaeger of Kale Media Inc. for motion picture and television filming at 1444 Maple Bay Road on August 15, 16, 18, 21, 23, 24, 28, 29, 31 and September 1, 2023.

### IMPLICATIONS

If the TUP application is approved, filming the television series may proceed as proposed. The filming activity is not expected to impact the use and enjoyment of surrounding properties negatively, but there would be some inconvenience to travellers on Maple Bay Road due to reduced speeds on filming days.

If the application is denied, the producers will need to find a different location for filming the television series.

### RECOMMENDATION

THAT Council issue Temporary Use Permit No. TUP00027 to Emily Yaeger of Kale Media Inc. to allow motion picture and television filming at 1444 Maple Bay Road on August 15, 16, 18, 21, 23, 24, 28, 29, 31 and September 1, 2023.

Report prepared by:



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Rob Conway, MCIP, RPP  
Director, Planning and Building

Report reviewed by:



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George Farkas  
General Manager, Planning, Development and  
Community Services

**Approved to be forwarded to Council:**



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Ted Swabey  
Chief Administrative Officer

Attachments:

- (1) Applicant's Letter
- (2) Site Plan
- (3) Letter of support – Island North Film Commission
- (4) Notice of proposed TUP
- (5) Draft TUP