

Parks and Recreation Advisory Committee Meeting to be held via Zoom

**If you'd like to watch or listen to the live Committee meeting, please email Committees@Penticton.ca 24-hours prior to the commencement of the meeting for the Zoom meeting participation details. You will have an opportunity to ask questions related to the agenda at the end of the meeting.*

**Monday, September 20, 2021
at 3:00 p.m.**

1. **Call Regular Committee Meeting to Order**
2. **Adoption of Agenda**
3. **Adoption of Minutes**
 - 3.1 Minutes of the August 24, 2021 Special Parks and Recreation Advisory Committee Meeting **1-3**

Staff Recommendation:

THAT the Parks and Recreation Advisory Committee adopt the minutes of the August 24, 2021 special meeting as presented.
4. **New Business**
 - 4.1 License to Use Agreement, Penticton Community Gardens Society (480 Vancouver Avenue) – Sheri Raposo, Land Administrator **4-19**

Staff Recommendation:

THAT the Parks and Recreation Advisory Committee recommends that Council approve a three year nominal License to Use (LTU) agreement to the Penticton Community Gardens Society for the use of a portion of City land located at 480 Vancouver Avenue (Vancouver Hill) for the purpose of operating a community garden.
 - 4.2 Official Community Plan change from Parks to Detached Residential for eight (8) residential properties along South Beach Drive – Steven Collyer, Planner and Blake Laven, Director of Development Services **20-32**

Staff Recommendation:

THAT the Parks and Recreation Advisory Committee receive the memo "Official Community Plan change from Parks to Detached Residential for eight (8) residential properties along South Beach Drive", into the public record.

5. **Next Meeting**

33

6. **Public Question Period**

7. **Adjournment**

Minutes

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Special Parks and Recreation Advisory Committee Meeting

held via Zoom
Tuesday, August 24, 2021
at 3:00 p.m.

Present: Isaac Gilbert, Chair
James Palanio, Vice Chair
Andrew Drouin
Drew Barnes
John Archer
Laura Harp
Michaela Wooldridge
Robert (Sandy) Ross
Susan Fraser
Tyson Bull

Council Liaison: James Miller, Councillor

Staff: Anthony Haddad, General Manager of Community Services
Cheryl Hardisty, Senior Executive Assistant
Jim Bauer, General Manager of Finance and Administration
JoAnne Kleb, Public Engagement Program Manager
Len Robson, Public Works Manager
John Schappert, Legislative Assistant

Regrets: Gary Dean
Marc Tougas

1. **Call to Order**

The Parks and Recreation Advisory Committee was called to order by the Chair at 3:01 p.m.

2. **Adoption of Agenda**

It was MOVED and SECONDED

THAT the Parks and Recreation Advisory Committee adopt the agenda for the special meeting held on August 24, 2021 as presented.

CARRIED UNANIMOUSLY

3. **Adoption of Minutes**

It was MOVED and SECONDED

THAT the Parks and Recreation Advisory Committee adopt the minutes of the May 17, 2021 meeting as presented.

CARRIED UNANIMOUSLY

4. **New Business**

4.1 Skaha Lake Marina: Draft Request for Proposal Review – Anthony Haddad, General Manager Community Services

The General Manager of Community Services presented an overview of the Skaha Lake Marina Draft Request for Proposal (RFP) including the services expected, the RFP process (based on a scored criteria looking at Financial Contribution and Viability, Benefit to the City and Community, Proponents Team, and Proponents Plan), and submission instructions and forms. An estimated timeline of this process was also provided and the opportunity for community input through Shape Your City was noted.

The floor was opened to the Committee for questions and comments. Members at Large asked if the timeline is too tight and what the process around performance review will look like. Staff responded that the timeline will depend on the improvements that are planned by the new operator and that performance will be reviewed to ensure that it is aligned with expectations, financial obligations are being met and so forth. Staff noted that a draft operating agreement will also be brought to the Committee to review. A Member of the Committee asked about the Capital Renewal Plan and staff responded that this highlights the capital investments that the City expects to see. A Committee Member asked about the clause regarding a similar sized building, and staff responded that there may be a variety of proposals that involve different options for the building. A Committee Member mentioned that 'boat repair maintenance' should not be weighted heavily in consideration as this is a component that can take place elsewhere. A Committee Member asked if there would be an opportunity for further review once proposals are submitted. Staff responded that the Committee and public will be provided with a copy of the actual Operating Agreement before any agreement is reached. A Committee Member asked how disputes with leaseholders are typically handled, and staff responded that a Dispute Resolution Process will be included in the Operating Agreement. A Committee Member asked about current users of the marina and how they might be impacted. Staff responded that the 'Benefit to the Community' criteria would take into account any adverse effects to the community that were included in any proposals.

It was MOVED and SECONDED

THAT the Parks and Recreation Advisory Committee recommend to Council that the Skaha Lake Marina Request for Proposal document be supported.

CARRIED UNANIMOUSLY

5. **Next Meeting**

The next Parks and Recreation Advisory Committee meeting is tentatively scheduled to be held on September 20, 2021 at 3:00 p.m.

6. **Public Question Period**

7. **Adjournment to a Closed Meeting**

It was MOVED and SECONDED

THAT the Parks and Recreation Advisory Committee adjourn to a closed meeting pursuant to the provisions of the Community Charter as follows:

Section 90 (1) (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity.

CARRIED UNANIMOUSLY

Certified Correct:

John Schappert
Legislative Assistant

DRAFT

Committee Report

penticton.ca

Date: September 20, 2021
To: Parks and Recreation Advisory Committee
From: Sheri Raposo, Land Administrator
Subject: License to Use Agreement – Penticton Community Gardens Society
480 Vancouver Avenue, Penticton, BC

File No: 4320-80

Staff Recommendation

THAT the Parks and Recreation Advisory Committee recommends that Council approve a three year nominal License to Use (LTU) agreement to the Penticton Community Gardens Society for the use of a portion of City land located at 480 Vancouver Avenue (Vancouver Hill) for the purpose of operating a community garden.

Background

The Society established in 1998, is a non-profit society created to provide opportunities for local residents to grow their own vegetables and flowers through the rental of individual garden plots. The Society started with 26 plots and has since grown to 67 raised bed garden plots.

There are currently approximately 117 members of the Society who either share or rent their own plots. All renters must pay a membership fee and an annual rental fee for a plot. Rental fees are \$30 for a small plot and \$60 for a large plot. The plots are primarily rented by seniors and young families who do not have the ability to grow vegetables at their own residences. The Society frequently donates food to the Penticton Soupateria and to the food bank located at the Penticton Salvation Army.



In addition to the garden plots, the site has a tool storage shed, underground irrigation system, deer fencing, a composting centre, an interpretive garden, a sculpture, parking and pathways. The Society is operated by volunteers who are responsible for the maintenance within the Licensed Area.

The Society has held several LTU agreements with the City since 1998 at a nominal rate and has made several additions to the site in the past few years through the support of grants, donations and contributions by the City. The current License to Use agreement expired on December 31, 2020. The Society has confirmed they wish to continue using the land for the purpose of operating a community garden.

Property Description

Vancouver Avenue Park is a total of 2.74 acres and is identified in the Parks and Recreation Master Plan as a Community Park. Aside from the community garden there has been no formal development of the site, and there are no immediate plans to develop the site. The majority of the site is severely sloped, making use and cost of development a challenge. The site in the past, was identified as a potential off-leash area for dogs, but was not favoured due to its severe slopes.

Existing Use

The current use of this property is P2 – Parks and Recreation. Permitted uses in this zone are:

- accessory use, building or structure
- carnival
- community garden
- government service
- indoor amusement, entertainment and recreation
- outdoor market
- public parking lot

Park Land Protection and Use Policy References

The Park Land Protection and Use Policy references the following sections regarding a License to Use for a portion of public park land that is a permitted use in a Park Zone:

3.3. Protect public ownership

- 3.3.1. The City of Penticton may issue a License to Use for a portion of public park land to support a Permitted Use in a Park Zone. These licenses are typically for a short term or seasonal in nature, up to a maximum of three (3) years, and shall be approved in accordance with the zoning procedure for Permitted Uses outlined in this policy.

5.1. Permitted Uses

- 5.1.1. Permitted Uses within any Park Zone and no other uses than those provided for in the list of permitted uses in the Zoning Bylaw shall be allowed on City park land.

As this land is located within a park, the Park Land Protection and Use Policy requires new agreements within our parkland follow the following procedure:

- Step 1: Application to renew submitted to City staff
Step 2: Proposal brought forward to Open Council meeting
Step 3: Circulation of application to City Departments and Parks & Recreation Advisory Committee
Step 4: City staff conduct License Review to confirm conditions of license met and license in good standing
Step 5: City staff review finding with Parks & Recreation Advisory Committee

- Step 6: Parks & Recreation Advisory Committee review application and feedback from staff
- Step 7: Parks & Recreation Advisory Committee would then make a recommendation to Council to approve or deny the renewal

Staff have reviewed the file and have brought forward the request to Council to renew the License to Use agreement at the September 7, 2021 Regular Council meeting. Step 6 and 7 require the Parks and Recreation Advisory Committee review the request and feedback from staff. Staff, after receiving the committee's recommendation to Council, will bring this matter back to Council at their October 5, 2021 regular Council meeting for approval or denial.

Regular Council meeting held on Tuesday, September 7, 2021, passed the following resolution:

286/2021 **It was MOVED and SECONDED**

THAT Council refer the renewal of a three year nominal License to Use (LTU) agreement to the Penticton Community Gardens Society for the use of a portion of 480 Vancouver Avenue (Vancouver Hill) to the Parks & Recreation Advisory Committee for their review and recommendation.

CARRIED UNANIMOUSLY

Analysis

Community gardens create community and long-term solutions to food poverty. Those who participate in community gardens enjoy the socialization and appreciate the access to fresh fruits and vegetables. With one in eight households being food insecure, the garden helps families put healthy food on the table, while educating them on how to plant and preserve the harvest garden. Gardening also improves the emotional and physical well-being of people by providing social opportunities that build a sense of community and belonging.

Alternate recommendations

That the Committee does not recommend the City approve a three year nominal License to Use agreement, for the purpose of operating a community garden.

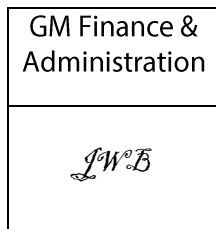
Attachments

Attachment A – Aerial view of Licensed Area

Attachment B – Draft License to Use agreement

Respectfully submitted,

Sheri Raposo, Land Administrator



ATTACHMENT A

Aerial view of Licensed Area shown outlined in red



LICENSE TO USE AGREEMENT

Nature of Agreement:	License to Use	File No.: 4320-80
Particulars:	Use of a portion of City land for the purpose of operating a community garden located at 480 Vancouver Avenue (Vancouver Hill Park).	

THIS AGREEMENT dated for reference the _____ day of _____, 2021.

BETWEEN:

THE CORPORATION OF THE CITY OF PENTICTON

A duly incorporated City Municipality under the laws of the Province of British Columbia, located at 171 Main Street, Penticton, BC V2A 5A9

(the “City”)

OF THE FIRST PART

AND:

PENTICTON COMMUNITY GARDENS SOCIETY (Inc. No. S0038294)

a Society incorporated under the laws of the Province of British Columbia, having its registered and records office at 129 Nanaimo Ave W, Penticton, BC V2A 1N2

(the “Licensee”)

OF THE SECOND PART

WHEREAS the City has agreed to grant a license to the Licensee to enter on that parcel of the land described in the Schedule A attached hereto (the “**Licensed Area**”);

NOW THEREFORE, in consideration of the fee to be paid by, and the covenants of the Licensee, the parties agree as follows:

1. Grant of License

The City, on the terms set forth herein grants a license to the Licensee to enter onto the Licensed Area for the purposes described in the Management Plan attached hereto as Schedule B (the “**Management Plan**”) on an “as is” basis and the City makes no representations or warranties as to the suitability of the Licensed Area for the intended use..

2. **Duration**

- 2.1 This agreement and the rights granted shall be for a term of **THREE (3) YEARS** commencing on **November 1, 2021** (the "**Commencement Date**") through **October 31, 2024**, unless cancelled in accordance with the terms of this agreement.

3. **License Fee**

The Licensee shall pay to the City, a License Fee of **TEN (\$10.00)** dollars, the receipt of which is hereby acknowledged.

4. **Covenants of the Licensee**

The Licensee covenants and agrees with the City:

- a) to pay the License Fee due at the address of the City first written or at such other place as the City may specify from time to time;
- b) to pay and discharge when due all applicable taxes, levies, charges and assessments now or hereafter assessed, levied or charged which relate to the Licensed Area or any improvements thereon (herein called "**Property Taxes**"); **If applicable, the Licensee may apply for Permissive Tax Grants annually.**
- c) to observe, abide by and comply with all applicable laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Licensed Area and improvements situate thereon, or their use and occupation;
- d) not to commit or suffer any willful or voluntary waste, spoil or destruction on the Licensed Area or do or suffer to be done thereon anything that may be or become a nuisance or annoyance to owners or occupiers of the property or the adjoining land;
- e) to indemnify, save harmless, release and forever discharge the City, their elected and appointed officials and employees from and against all manners of actions, causes of actions, claims, debts, suits, damages demands and promises, at law or in equity, whether known or unknown, including without limitation for injury to persons or property including death, or any person directly or indirectly arising or resulting from, or attributable to, any act, omission, negligence or default of the Licensee in connection with or in a consequence of this agreement, save and except to the extent caused by any act, omission, negligence or default of the City, its elected and appointed officials and employees;
- f) to keep the Licensed Area in a safe, clean, tidy and sanitary condition satisfactory to the City and to make clean, tidy and sanitary any portion of the Licensed Area or any improvement that the City may direct by notice in writing to the Licensee;

- g) to use and occupy the Licensed Area in accordance with the provisions of this agreement including those provisions and requirements set forth in the Management Plan;
- h) to permit the City, or its authorized representative, to enter upon the Licensed Area at any time, with 72 hours of notice to the Licensee, to test, inspect or perform such other work as the City may deem necessary or desirable;
- i) that on the expiration or at the earlier cancellation of this agreement unless renewed:
 - i. to peaceably quit and deliver possession of the Licensed Area to the City;
 - ii. to remove all fixtures, structures, machinery, apparatus and all other things placed on the Licensed Area by the Licensee, leaving the Licensed Area in a clean and clear condition within one hundred and eighty (180) days of the termination of this Agreement and leave the Licensed Area in good repair, restoring the Licensed Area to a condition similar to that at the Commencement Date. One hundred and eighty (180) days after the expiration or cancellation of this agreement, any improvements or fixtures that remain on the Licensed Area shall be absolutely forfeited and become the property of the City and the City, at their sole discretion, may remove any or all of the improvements or fixtures that were requested to be removed, but left by the Licensee, from the Licensed Area and the Licensee shall, on demand, compensate the City for all costs incurred by the City respecting their removal and disposal.
- j) to the extent necessary, this covenant shall survive the expiration or cancellation of this agreement;
- k) to effect and keep in force during the term, insurance protecting the City and the Licensee (without any rights of cross-claim or subrogation against the City) against claims for personal injury, death, property damage or third party or public liability claims arising from any accident or occurrence on the Licensed Area to an amount not less than **FIVE MILLION (\$5,000,000.00) DOLLARS**, and to name the City as an additional insured on the policy with the inclusion of the following clauses:

“Cross Liability” clause:

“The insurance afforded by the insurance policy shall apply in the same manner to all insureds, as though separate policies were issued to each insured in the event an action is brought against any of the additional insured by or on behalf of any other additional insured.”

“Cancellation” clause:

“It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way or cancelled (prior to thirty (30) days after written notice of such change or cancellation shall have been given or sent by registered mail to all additional insured).”

and deliver to the City written confirmation of the required insurance coverage upon execution of this Agreement;

- l) the Licensee will provide the City with a new Certificate of Liability Insurance annually upon renewal;
- m) notwithstanding subsection k) of Section 4, the City may from time to time notify the Licensee that the amount of insurance posted by the Licensee pursuant to that subsection be changed and the Licensee shall, within sixty (60) days of receiving such notice, cause the amount of insurance posted, pursuant to subsection k) of Section 4 to be changed to the amount specified in the notice and deliver to the City written confirmation of the change;
- n) not to place any improvements on the Licensed Area other than those described elsewhere in this agreement, without prior written consent of the City;
- o) not cause or permit any unusual or objectionable noises, or lights, to emanate from the Licensed Area;
- p) not cause or permit any unusual or objectionable odours which may be noxious or offensive or which could constitute a public or private nuisance;
- q) not cause or permit any waste or damage;
- r) to observe and comply with any rules or regulations the City may make from time to time pertaining to the operation, reputation, safety, care or cleanliness of the Licensed Area and any use thereof as provided herein;
- s) that if, as a consequence of any release of a Hazardous Substance resulting from the Licensees use of the Licensed Area in or on the Licensed Area by the Licensee or its servants, agents, or contractors or any person for whom the Licensee is in law responsible, any actions are required to be taken in order to comply with any Government Requirement applicable to the use, presence or removal of such Hazardous Substance on or from the Licensed Area (including any Governmental Requirement relating to testing for or identification of Hazardous Substances) and if the Licensee has received notice in writing of such Governmental Requirement from the relevant authority (whether the requirement is made of the City or Licensee), then the Licensee shall at its expense take such action as required by the Governmental Requirement (or alternatively such other action as may be acceptable to the relevant authority after discussing with the Licensee). For the purposes of this paragraph:

Governmental Requirement(s) means all requirements made or imposed pursuant to law by federal, provincial, municipal or other governments including requirements of the Environmental Laws.

Hazardous Substances means any substances that are defined as or regulated as being waste, contaminants, pollutants, fungicides, insecticides, herbicides, dangerous substances, industrial waste, special waste, toxic substances, hazardous waste, hazardous material, or hazardous substance whether or not defined as such or pursuant to any law, regulation or order.

Environmental Laws means all applicable federal, provincial, municipal or local laws, statutes or ordinances, as they may be amended from time to time after the Commencement Date of the license relating to the environment, occupational safety and the transportation or regulations of Hazardous Substances.

- t) that if, the Licensee fails to take any action required to be taken pursuant to any consequence of any release of a Hazardous Substance the City may (but not be obligated to) take such action after giving thirty (30) days written notice to the Licensee of its intention to do so, unless within such thirty (30) day period that Licensee has taken the required action or has commenced in and is continuing diligently to carry out such action, and the City shall for that purpose, be permitted to enter the Licensed Area with the appropriate equipment. The Licensee covenants to reimburse the City for all reasonable costs incurred by the City in taking such required action pursuant to the release of any Hazardous Substance within thirty (30) days after receiving from the City an invoice and reasonable supporting details relating to such costs.

5. **Non-Exclusivity**

- 5.1 The Licensee acknowledge and agree that this agreement herein shall not entitle the Licensee to exclusive possession of the Licensed Area.
- 5.2 The Licensee covenants and agrees not to interfere with the activities of any other person to enter on and use the Licensed Area under any prior or subsequent license granted by the City.
- 5.3 The parties hereto acknowledge that the license granted to the Licensee herein is a license only and shall not, under any circumstances, constitute a partnership, lease or joint venture between the parties.

6. **Assignment**

The License is not assignable.

7. Cancellation

7.1 In the event that:

- a) the City requires the Licensed Area for its own use or in its sole discretion, considers that it is in the public interest to cancel the rights herein granted, in whole or in part;
- b) the Licensee ceases to use the Licensed Area for the purposes permitted herein;
- c) The City, in its sole discretion, considers that it is no longer necessary for the Licensee to use the Licensed Area for the purposes permitted herein;

the City may on one hundred and eighty (180) days written notice to the Licensee, cancel this license and the rights herein granted, in whole or in part and the Licensee agrees that the City shall not be responsible for payment of any costs, compensation, reimbursement or any monies whatsoever as a result of a notice pursuant to paragraph 7.1 b). The City will not exercise this one hundred and eighty (180) day clause during the gardening season.

7.2 If the Licensee is in default in the observance of any covenant, agreements, provisions or conditions contained herein and such failure continues for a period of thirty (30) days after the giving of written notice by the City to the Licensee of the nature of the failure the City may cancel this license without prejudice to any rights to which the City has accrued under this license before the said cancellation.

7.3 Thirty (30) days after expiration or cancellation of this license, any improvements or fixtures that remain unremoved from the Licensed Area and Licensed Area shall be absolutely forfeited and become the property of the City and the City may remove them from the Licensed Area and the Licensee shall, on demand, compensate the City for all costs incurred by the City respecting their removal.

8. General

8.1 The terms and provisions of this agreement shall extend to, be binding upon and enure to the benefit of the parties, hereto and their successors and permitted assigns.

8.2 This agreement and all the terms and conditions of it may be inspected by the public at such times and at such places as the City may determine.

8.3 Time is of the essence in this agreement.

8.4 The records of the City shall be conclusive evidence of the contents of any schedule referred to in this license.

8.5 In this agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.

- 8.6 Where in this agreement there is a reference to Bylaws, that reference shall include a reference to any subsequent enactment of like effect, and unless the context otherwise requires all Bylaws referred to herein are enactments of the City of Penticton.
- 8.7 Any waiver or acquiescence by the City of or in any breach by the Licensee of any covenant or condition shall not be deemed to be a waiver of the covenant or condition of any subsequent or other breach of any covenant or condition of this agreement.
- 8.8 If the Licensee continues to exercise the license granted after the expiration of the term of it without objection by the City and without any written agreement providing otherwise, the Licensee shall be deemed to be a Licensee from month to month, and subject to the provisions of this license insofar as applicable, but it shall be lawful for the City to cancel and determine the license granted by delivering to the Licensee notice to that effect, and upon delivery of such notice the license shall cease without prejudice to any rights of the City under this license accrued before the cancellation.
- 8.9 Any notice required to be given by either party shall be deemed to have been well and sufficiently given if mailed, faxed, emailed or delivered:

To the City:
171 Main Street
Penticton, BC V2A 5A9
Attn: Corporate Officer
Email: corpadmin@penticton.ca

To the Licensee:
129 Nanaimo Ave W
Penticton, BC V2A 2V6

or such other address as the Licensee may from time to time direct in writing, and any such notice by the City to the Licensee shall be deemed to have been received, if mailed, five (5) days after the time of mailing, or if faxed or emailed, seventy-two (72) hours after the time of fax or email and if hand delivered upon the date of delivery. If normal mail, fax or email service is interrupted by strike, slow down, force majeure or other cause, a notice sent by the impaired means of communication will not be deemed to have been received until actually received, and the City may utilize any such services which have not been so interrupted.

9. Payment of City's Expenses

If at any time an action is brought or the City is otherwise required to employ the services of a bailiff, an agent, or its solicitors because of a breach by an act or omission of any covenant herein contained on the part of the Licensee, the Licensee shall pay to the City all expenses incurred by the City in the enforcement of its rights and remedies hereunder (including the City's administrative costs and legal fees on a solicitor and his own client basis in connection therewith) together with interest thereon at the rate equivalent to the prime rate of the Bank of Montreal plus three percent (3%) per annum calculated monthly

not in advance from the date due until paid. For the purposes of this paragraph the prime rate shall mean the annual percentage rate of interest established from time to time by the Bank of Montreal, Main Branch, Vancouver, British Columbia as the base rate that will be used to determine rates of interest charged by it for Canadian Dollar loans to customers in Canada and designated by the Bank of Montreal as the prime rate.

IN WITNESS WHEREOF the parties hereto have hereunto executed this agreement on the following page as of the date and year first above written.

THE CORPORATION OF THE CITY OF PENTICTON

by its authorized signatories:

John Vassilaki, Mayor

Angie Collison, Corporate Officer

PENTICTON COMMUNITY GARDENS SOCIETY

by its authorized signatory(ies):

[Sign and print name]

[Sign and print name]

SCHEDULE A

LICENSED AREA

Community gardens over a 1.0365 acre (4194.64 m²) portion of 480 Vancouver Avenue and legally described as: Lot A, Plan 26015 as shown outlined in red below.



SCHEDULE B

MANAGEMENT PLAN

1. Purpose

The Licensee shall have the use of the Licensed Area shown outlined in red and described in Schedule A for the purpose of operating a seasonal (spring/summer/fall) community garden.

2. Annual Requirements

The Licensee must annually ensure they have:

- Work Safe BC (if applicable)
- City of Penticton Business License (if applicable)
- Evidence of Insurance as indicated in this agreement

3. Vandalism

3.1 All incidents of vandalism shall be repaired within 48 hours of occurrence.

3.2 The Licensee is responsible for removal of graffiti from the Licensed Area.

4. General Maintenance

4.1 The Licensee shall, at its own cost, be responsible for the day to day upkeep, water, safety and security of the Licensed Area.

4.2 The City will be responsible for the maintenance of the irrigation system and providing compost, soil and mulch materials as needed.

5. Miscellaneous

5.1 Notwithstanding the above, the Licensee shall carry out all maintenance necessary to maintain the Licensed Area in a safe and first class condition.

5.2 The Licensee shall not utilize an area larger than the Licensed Area.

5.3 The Licensee shall not place signs outside of your area without the consent of the City;

5.4 The Licensee shall not place any permanent structures on the Licensed Area without the consent of the City.

6. Safety/Protection

6.1 The Licensee shall ensure proper procedures are followed for:

- Fire Safety/Evacuation
- W.H.M.I.S.
- Accident/Incident Reporting

- Safety Program (WCB)
- Fuel spill cleanup.

- 6.2 The Licensee shall ensure that all staff receives proper instruction on the use and operation of fire safety equipment, fueling system and fuel spill clean-up.
- 6.3 The Licensee shall ensure all Fire extinguishers are kept up to date.
- 6.4 Any and all accidents or damages involving an employee or volunteer of the Licensee that occurs within the Licensed Area MUST be immediately reported to the City's Occupational Health & Safety Representative, Daniel York at 250-490-2553 or daniel.york@penticton.ca.

7. Special Provisions

- 7.1 This agreement does not grant authority for any future or existing permanent placements and is not to be construed as authorization or permission for those placements to remain in place outside of the terms of this agreement.
- 7.2 An area of land as designated on the submitted garden plot layout plan, may be utilized for the growing of flowers and vegetables. The area so designated may be divided into a series of garden plots, the size and location of which within the above-mentioned designated area, shall be determined by the Licensee.
- 7.3 The construction, materials and maintenance of the community garden to a standard acceptable to the local community and to the City within the Licensed Area are the responsibility of and at the expense of the Licensee.
- 7.4 The Licensee shall strive to work towards following organic gardening principles as outlined in Guidelines for B.C.'s Organic Certification Regulation.
- 7.5 The Licensee shall not restrict access to the general public from the park land adjacent to the Licensed Area.
- 7.6 The Licensee will continue to consult with the City's Parks Department beyond the initial layout and development stage and prior to planting any trees and is encourage to consider the City's Parks Department as a valuable information resource.
- 7.7 The Licensee shall not cut, prune or alter any existing trees without prior consent of the City Parks Department.

Committee Memo

penticton.ca

Date: September 20, 2021 **File No:** RMS/298 South Beach Dr
To: Parks and Recreation Advisory Committee
From: Steven Collyer, Planner and Blake Laven, Director Development Services
Address: 270, 274, 278, 280, 286, 292, 298 South Beach Drive and 300 Sudbury Avenue
Subject: **Official Community Plan change from Parks to Detached Residential for eight (8) residential properties along South Beach Drive**

Staff Recommendation

THAT the Parks and Recreation Advisory Committee receive the memo "Official Community Plan change from Parks to Detached Residential for eight (8) residential properties along South Beach Drive", into the public record.

Proposal

This report addresses 8 properties: 270, 274, 278, 280, 286, 292, 298 South Beach Drive and 300 Sudbury Ave (the "subject properties"). The subject properties are all located on the south side of South Beach Drive, adjacent to Skaha Lake Park and have frontage on Skaha Lake. Each property is developed with single detached dwellings and designated by the City's Official Community Plan (OCP) as Parks and Recreation. This OCP designation dates back to the early 1990s when the City planned to potentially, over time, purchase the properties to add the lands to Skaha Park.

Since that time the City has only purchased one double lot at 298 South Beach Dr and 300 Sudbury Ave (the "City-owned property"). That purchase was made in 1992. No other purchases have been made in this area since the original purchase and no movement towards converting the City-owned lot into parkland has occurred. The property currently features a single detached dwelling, built in 1979, that is in need of substantial repair.

The City is investigating moving away from the plan to purchase the remaining properties in this area and divesting the City owned land, with the intent of utilizing the funds for other strategic parks purposes in other areas. The decision to explore this has to do with the fact that the house is in need of substantial repair and investment, real estate prices support selling at this time, and the over-all acquisition plan being unrealistic today given the cost of the houses in this area and competing interest for park acquisition and investment in other areas of the community.

Prior to the sale of the lands, an OCP change is required for this area changing the future land use from 'Parks and Recreation' to 'Detached Residential.' The City owned property will also need to be rezoned from

P2 Parks and Recreation to R1 Large Lot Residential to facilitate its sale. Council at their September 7th, 2021 Regular Meeting passed the following resolution giving staff direction to begin engagement on this initiative:

298/2021

It was MOVED and SECONDED

THAT Council give staff direction to begin public engagement, including referral to the Parks and Recreation Advisory Committee, on the change in Official Community Plan (OCP) future land use designations from Parks to Detached Residential, for 270, 274, 278, 280, 286, 292, 298 South Beach Drive and 300 Sudbury Ave.

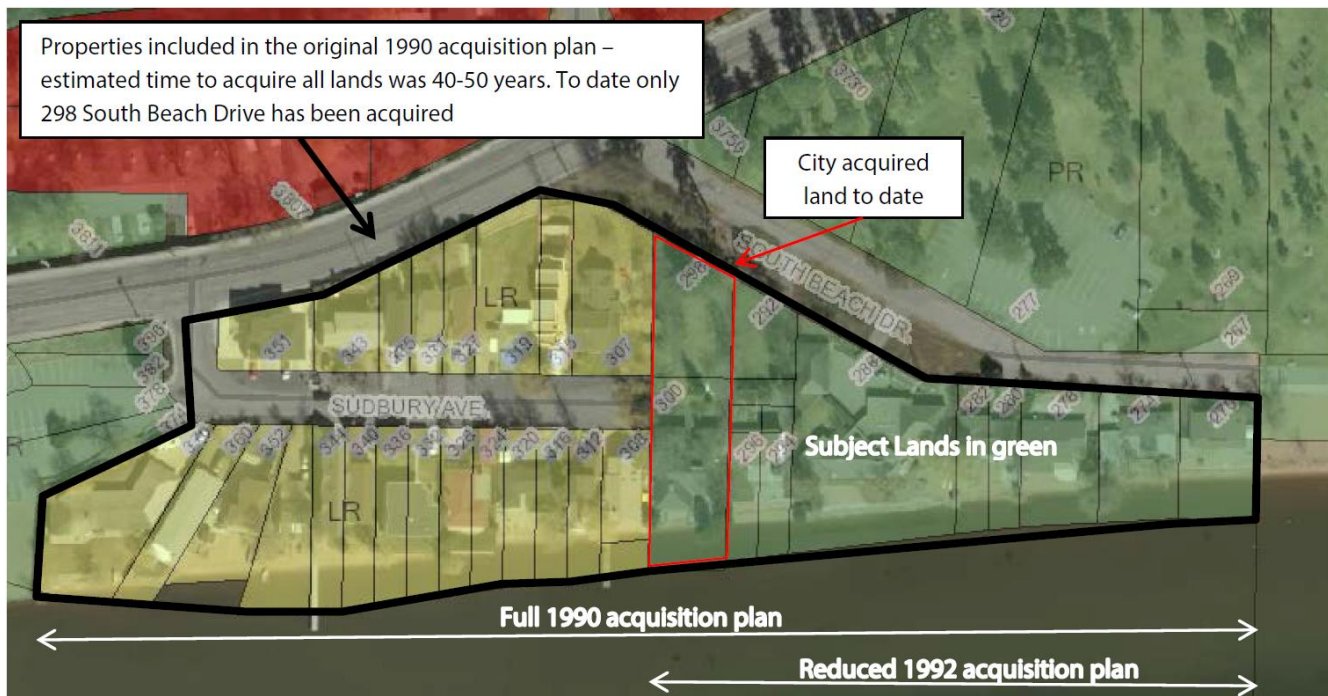
AND THAT the engagement results and recommendation from the Parks and Recreation Committee, are presented back to Council prior to introduction of OCP and zoning amendment bylaws.

CARRIED UNANIMOUSLY

Background

In 1990 the "Beautification Technical Committee" proposed a plan, which was endorsed by the Council of the day, to purchase all of the residential lands along Sudbury Avenue and South Beach Drive as well as land along Elm Avenue to increase the size of Skaha Park.

In 1992, 298 South Beach Dr and 300 Sudbury Ave were purchased by the City and then leased back to the original owners, who have leased the property since that time. Shortly after the City purchase, the property went through an OCP amendment and was rezoned from residential to park. At that time Council also reduced the scope of the acquisition plan to only include those properties to the east of 298 South Beach Dr and 300 Sudbury Ave. This eliminated 15 properties on Sudbury Ave from the acquisition plan.



With the adoption of the 1993 Official Community Plan, the OCP designations on the remaining properties along South Beach Dr were changed from residential to park. This was done without direct consultation with the property owners and against the wishes of some of the owners.

Shortly after the 1993 Official Community Plan was adopted, the City adopted a new Parks Master Plan, which gave advice on property acquisition. The Plan still recommended acquisition of the subject properties, but put them at a lower priority than properties on Elm Avenue by Skaha Park West, which were not waterfront lots and thus more practical for the City to purchase. This represented a shift in focus which has seen almost all but one of the residential properties adjacent to the park on Elm Avenue purchased by the City and no other properties along South Beach Drive purchased. In 1997, staff recommended Council sell the City-owned property at 298 South Beach Dr and 300 Sudbury Ave, but Council determined that the market conditions were not ideal and the issue was postponed.

The future of this area was again discussed during the 2002 OCP review. The concept at the time was to turn the City-owned property into a standalone pocket park until such time that the other South Beach Dr properties could be purchased. In August 2003, a Council resolution was given to vacate the tenants of the City-owned property and create a pocket park. This resolution was later rescinded due to budget and practicality concerns, and the pocket park was never created.

In 2012, Council supported a process to sell the lands at 298 South Beach Dr and 300 Sudbury Ave. Acting on this direction, staff had the walking path easement surveyed and registered and began the process of neighbourhood consultation. During that consultation, owners of the subject properties expressed a desire to have their lands reverted back to a residential designation. The thinking was that if the City-owned property were disposed, that the acquisition program would be abandoned. If that was the case, it would not make sense that the subject properties would retain their Parks designation.

Ultimately a decision was made by Council in 2012 to not move forward with the OCP and zoning change.

The subject properties are within the Riparian Development Permit Area and Environmental Assessment Development Permit area (Attachment 'C'). As such, riparian and/or environmental assessment reports will be required prior to any new construction or development on any of these subject properties to mitigate potential impacts on the lake and adjacent ecosystems.

Disposition of the lands, should the OCP and zoning amendment process ultimately be successful, will follow the City's Land Disposition Policy (2018), including statutory public notification.

Engagement Plan

Earlier this year, Council endorsed a new policy and procedure for the processing of Official Community Plan amendments. The new approach involves neighbourhood and community consultation above and beyond the statutory requirement for a Public Hearing. Staff intend to follow the procedure in this case, by establishing a one-month engagement process, which will involve the following activities:

- Setting up a Shape Your City Penticton web page with all of the relevant background information,
- Direct mail notification to all neighbours,
- A newspaper advertisement,
- Public information sessions.

The public engagement period for this proposal ends on October 17, 2021. Public feedback will be collected and consolidated for the Committee's information prior to the Committee being asked to provide a recommendation to Council. These engagement activities will be in addition to the required Public Hearing, which will be scheduled following the conclusion of the one-month engagement process.

Analysis

At this time this memo is being presented to the Committee as background information. Once the engagement results are collected they will be shared with the committee at which time the Committee will be asked to provide a recommendation to Council on how to proceed with the OCP amendment.

Attachments

Attachment A – Zoning Map
Attachment B – Official Community Plan Map
Attachment C – Development Permit Areas Map
Attachment D – Photos of Properties
Attachment E – Summary of Events
Attachment F – Detailed Engagement Plan

Respectfully submitted,

Steven Collyer, RPP, MCIP
Planner II

Blake Laven
Director of Development Services

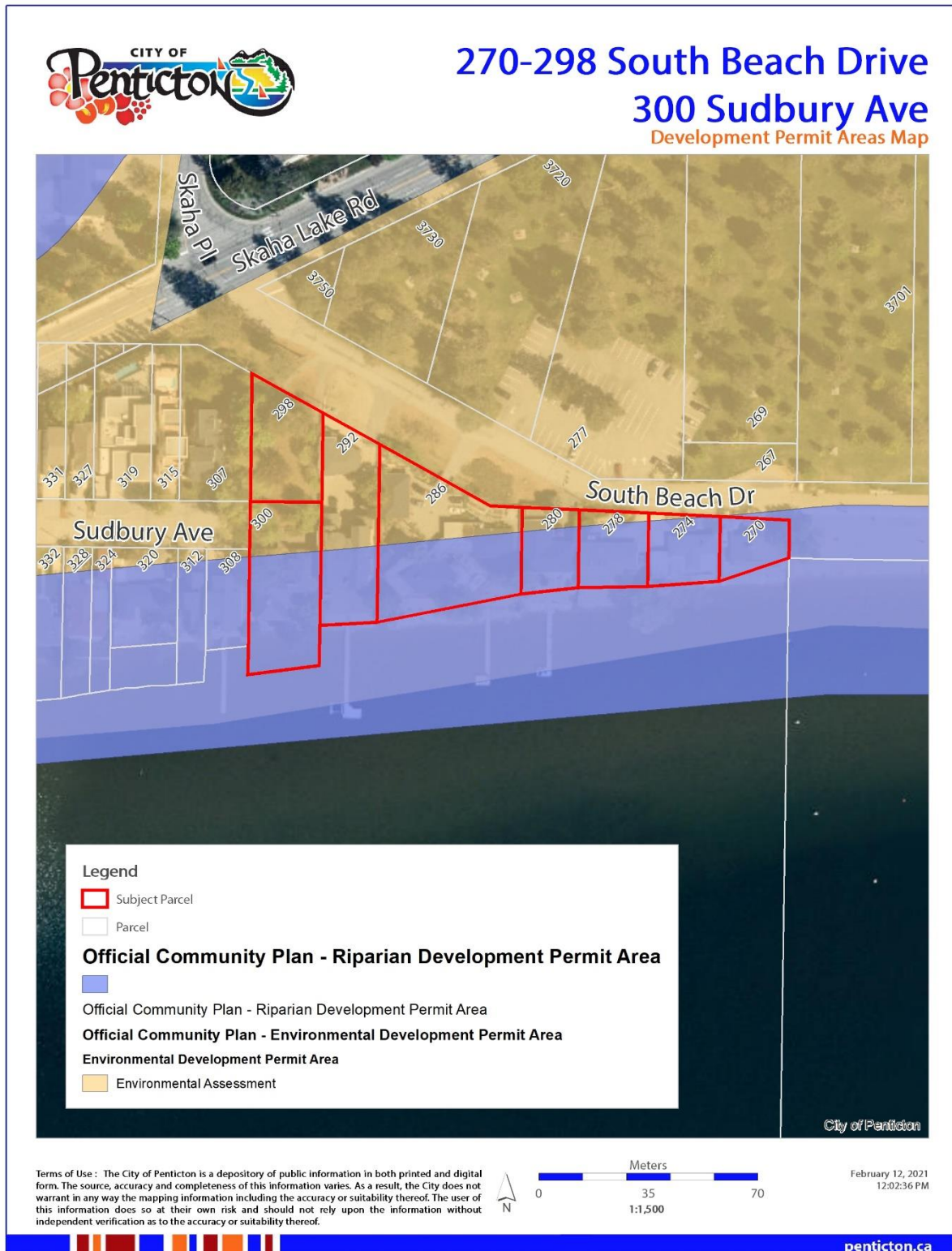
Attachment A – Zoning Map



Attachment B – Official Community Plan Map

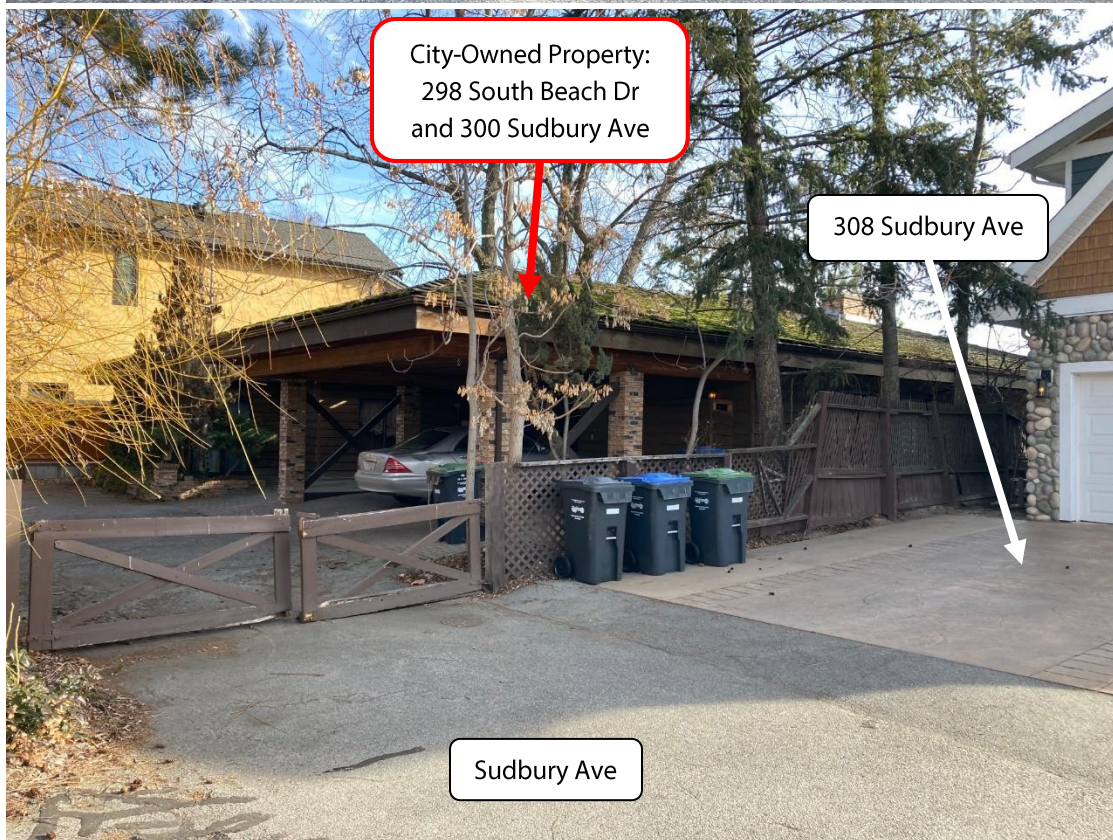
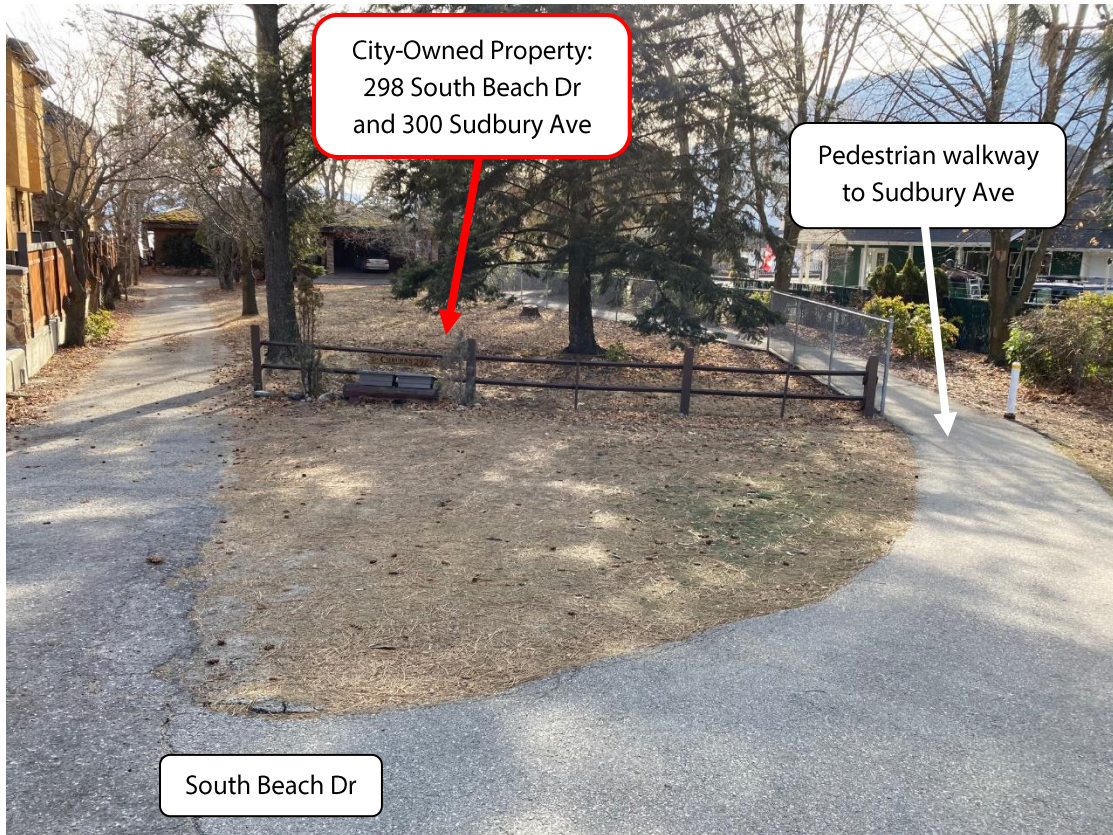


Attachment C – Development Permit Areas Map



Attachment D – Photos of Properties







City-Owned Property:
298 South Beach Dr
and 300 Sudbury Ave

Driveway

Attachment E: Summary of Events

Year	Event
1990	Beautification Technical Committee recommends an ambitious park acquisition program, which is endorsed by Council.
1992	City purchases the Coburn property at 298 South Beach Dr and Sudbury Ave.
	City changes the OCP designation and zoning of 298 South Beach Dr and 300 Sudbury Ave to Parks and Recreation.
	City changes the parks acquisition policy to only include those properties east of 298 South Beach Dr and 300 Sudbury Ave.
1993	OCP is adopted which changed the future land use designations on the South Beach Drive properties from residential to park.
	Parks Master Plan is adopted and sets acquisition of South Beach Drive properties as a lower priority than other acquisitions, for example Elm Avenue.
1997	City moves towards selling 298 South Beach Dr and 300 Sudbury Ave, but determines that the economics at that time were not ideal for the sale.
2002	OCP was reviewed and a determination was made that a pocket park could be created at 298 South Beach Dr and 300 Sudbury Ave.
	Council passed a resolution to create a public pocket park, and to have the existing home vacated.
	Council rescinded the resolution to create the park for financial and other reasons.
2010	New Parks Master Plan drafted that excluded the subject lands from the land acquisition program. This plan was never formally adopted by Council.
2012	Council directs staff to proceed with the divestment of 298 South Beach Dr and 300 Sudbury Ave. Council also directs staff to register an easement over the walking path to guarantee access between Sudbury Avenue and South Beach Drive.
	Easement is registered on title of the City-owned property.
	South Beach Dr property owners show a desire to remove the 'Parks' OCP designation from the properties at a public meeting.
2015	Staff bring forward a report to Council recommending the OCP land use designation on the South Beach Drive properties be changed from parks to medium density residential.
	A public hearing was held regarding the proposed OCP designation change, and proposed rezoning of 298 South Beach Dr and 300 Sudbury Ave from P2 (Parks and Recreation) to RM2 (Low Density Multiple Housing).
	Council voted to close and abandon the OCP amendment and rezoning after the Public Hearing.
2018	Penticton Parks and Recreation Master Plan is adopted by Council. This plan does not carry forward plans for the purchase of additional lands on South Beach Drive, favoring focus on areas underserved by parkland as acquisition emphasis.
2019	New OCP is adopted by Council. The OCP designation for the South Beach Drive properties remains 'Parks'.
2021	The City moves to divest 298 South Beach Dr and 300 Sudbury Ave, and in the process update the OCP designation on South Beach Drive properties from 'Parks' to 'Detached Residential'.
	The proposed OCP designation is 'Detached Residential' and the proposed zoning for 298 South Beach Drive is 'R1 (Large Lot Residential)'.

Attachment E: Engagement Plan



South Beach Drive Engagement Plan/Timeline



Engagement Plan

1. Shape your City feedback survey open for 4 weeks
2. 100m radius mail out, with letter to residents and information sheet, directing to Shape Your City webpage.
3. Newspaper ads (Herald and Western, for two weeks)
4. Public notice signs on the properties – 2 signs, one at each end of South Beach Dr properties
5. Social media blast
6. One online open house (1 event after work)
7. One in-person engagement event (on-site)
8. Parks and Recreation Advisory Committee (1st meeting = introduction, 2nd meeting = recommendation)

Engagement Timeline

Phase 1	Activity	Assigned
Tuesday, September 7, 2021	Present Engagement Plan to Council for Endorsement	SC/BL
Preparation Work	Shapeyourcitypentiction.ca Press release – post September 20 Letter to residents (100m radius) Information Sheet Social Media Blast City Hall Kiosk Contact stakeholder groups <ol style="list-style-type: none"> 1. MOTI 2. Ministry of Agriculture 3. Ministry of Environment 4. Penticton Indian Band 5. Regional District Okanagan Similkameen 6. Interior Health 7. School District #67 	SC JK Comm. to publish SC/HM SC JK JK SC
Monday, September 20, 2021	Engagement Period Starts	
	Newspaper Ads	SC

	<ul style="list-style-type: none"> Penticton Western News <ul style="list-style-type: none"> Wednesday, September 29, 2021 and Wednesday, October 6, 2021 Penticton Herald <ul style="list-style-type: none"> Tuesday, September 28, 2021 and Tuesday, October 5, 2021 	Assist with HM
September 20, 2021	Parks and Recreation Advisory Committee Meeting (introduction)	SC/BL
Thursday, October 7, 2021	In person engagement session (Skaha Park @ South Beach Dr 11am to 1pm)	JK/SC
Thursday, October 7, 2021	Online Open House (Zoom) 7pm – 8:30 pm	JK/SC/AT
Sunday, October 17, 2021	Engagement Period Ends	
Monday, October 18, 2021 *may be rescheduled*	Parks and Recreation Advisory Committee Meeting (recommendation)	SC/BL
Phase 2	Activity	Assigned
TBD	Advertising for Statutory Public Hearing (mailed letters, notice sign, newspaper ads)	HM
TBD	Public Hearing	
Select Date	Additional Tasks Required	TBD

Materials to be prepared:

Completed	Task	Assigned to
<input type="checkbox"/>	Shape Your City website	Steven
<input type="checkbox"/>	Newspaper ad	Steven to work with Heather
<input type="checkbox"/>	News Release	Steven Communications to publish
<input type="checkbox"/>	Public Notice Sign Send to sign company September 17, 2021	Steven to work with Heather Heather to arrange dates for posting
<input type="checkbox"/>	Letter to owners	Steven Steven to work with Heather for preparation - Notification list has been created. Heather to create labels for Steven
<input type="checkbox"/>	Information Sheet (Fact Sheet) - Included in mail out	Steven
<input type="checkbox"/>	Feedback Form	Steven
<input type="checkbox"/>	Memo to PRAC	Blake/Steven

2021 Parks and Recreation Advisory Committee Meeting Dates

Meeting commences at 3:00 p.m.

Council Chambers, City Hall, 171 Main Street (Second Level) or via Zoom

Month	Date
January	18
February	22
March	15
April	19
May	17
June	14
July	19
August	16
September	20
October	18
November	15
December	6