Regular Council Meeting

to be held at
City of Penticton Council Chambers
171 Main Street, Penticton, B.C.

Tuesday, September 8, 2015
Immediately following the Public Hearing at 6:00 p.m.

1. Call Regular Council Meeting to Order

2. Introduction of Late Items

3. Adoption of Agenda

4. Adoption of Minutes:
   - Minutes of the August 17, 2015 Public Hearing
   - Minutes of the August 17, 2015 Regular Council Meeting

5. Presentations:
   - Proclamation – Prostate Cancer Awareness Month
     Re: September 2015

6. Delegations:
   - Lee Keller
     Re: Wine in Grocery Stores
   - James Palanio
     Re: Speed Control on Lee Avenue

7. Reconsideration of Bylaws and Permits:
   - Zoning Amendment Bylaw 2015-45
     Re: 2922 Wilson Street
   - Zoning Amendment Bylaw No. 2015-15
     Re: 783 Winnipeg Street (0.9m road dedication complete)

8. Staff Reports:
   - Development Variance Permit PL2015-034
     Re: 163-321 Yorkton Avenue (Garage)
Staff Recommendation: THAT Council approve “Development Variance Permit PL2015-034” for Lot 1, District Lot 189, Similkameen Division Yale District, Plan 9211 located at #163-321 Yorkton Avenue, a permit to vary the following provisions of Mobile Home Park Bylaw 92-21:

- Decrease the minimum side yard setback of 1.5m to 0.8m for the location of a garage
- Increase the number of accessory buildings from one to two
- Increase the height of an accessory building from 2.5m to 3.7m and increase the size of an accessory building from 10m² to 32m²;

AND THAT staff be directed to issue “Development Variance Permit PL2015-034”.

PWM 8.2 Budget Transfer – Cast Iron Water Main Cleaning and Inspection to Geographic Information System Development of the Water Infrastructure

Staff Recommendation: THAT Council amend the 2015 budget to reallocate the balance of $233,933.37 from work order CAP40014-001 Cast Iron Water Main Cleaning and Inspection to a new work order for the purpose of implementing a Water Utility GIS.

DDS 8.3 Downtown Economic Incentive Zone (EIZ) Amendment Bylaw No. 2015-47

Staff Recommendation: THAT Council approve a textual amendment to Schedule A of the Downtown Economic Investment Zone Bylaw No. 2014-04 to correct a typographical error in the original drafting and replace the “Term of Tax Exemption” for Grocery Store from 20 years to 10 years;

AND THAT Council gives first, second and third reading to the “Downtown Economic Investment Zone Amendment Bylaw No. 2015-47”.

DDS 8.4 OCP Amendment Bylaw No. 2015-48 and Zoning Amendment No. 2015-49

And DVP 2015-047

Re: 476 Lakeshore Drive W.

Staff Recommendation: THAT prior to consideration of the bylaw and in accordance with Section 879 of Local Government Act, Council considers whether early and on-going consultation, in addition to the required Public Hearing, is necessary with:

1. One or more persons, organizations or authorities;
2. The Regional District of Okanagan Similkameen;
3. Local First Nations;
4. School District #67; and
5. The provincial or federal government and their agencies.

AND THAT it is determined that the Public Hearing is sufficient consultation; AND THAT “OCP Amendment Bylaw No. 2015-48”, being a bylaw to amend “OCP Bylaw 2002-20” changing the OCP designation on Lot 1, District Lot 4, Group 7, Similkameen Division Yale District, Plan 2689, located at 476 Lakeshore Drive W, shown as Attachment ‘C’ of this report, from LR (Low Density Residential) to MFLD (Multi Family Low Density) be given first reading and be forwarded to the September 28, 2015 Public Hearing;

THAT “Zoning Amendment Bylaw No. 2015-49”, a bylaw to amend Zoning Bylaw 2011-23 to rezone Lot 1, District Lot 4, Group 7, Similkameen Division Yale District, Plan 2689, located at 476 Lakeshore Drive W, from R2 (Small Lot Residential) to RM2 (Low Density Multiple Housing) with a site specific zoning amendment to increase the maximum density from 0.75 FAR to 0.85 FAR, be given first reading and be forwarded to the September 28, 2015 Public Hearing;

THAT Council support “Development Variance Permit PL2015-047” for Lot 1, District Lot 4, Group 7, Similkameen Division Yale District, Plan 2689, located at 476 Lakeshore Drive W, a permit to reduce the minimum interior yard setback from 3.0m to 2.2m for the principal building and from 3.0m to 1.5m for an accessory building, to reduce the minimum rear yard setback from 6m to 1.5m for an accessory building and to increase the maximum lot coverage on the site from 40% to 42%;

AND THAT delegations and submissions be heard for “Development Variance Permit PL2015-047” during the September 28, 2015 Public Hearing;

AND THAT staff are directed to issue DVP PL2015-047, subject to adoption of “Zoning Amendment Bylaw No. 2015-49”.
Zoning Amendment Bylaw No. 2015-50 and DVP PL2015-051

Re: 619 & 631 Burns Street

Staff Recommendation: THAT “Zoning Amendment Bylaw No. 2015-50”, a bylaw to amend Zoning Bylaw 2011-23 to rezone a portion of Lot 18, Block 29, District Lot 202, Similkameen Division Yale District, Plan 755, located at 619 Burns Street, from RD2 (Duplex Housing: Lane) to RM2 (Low Density Multiple Housing), be given first reading and forwarded to the September 28, 2015 Public Hearing;

THAT Council approve “Development Variance Permit PL2015-051” for Lot 18, Block 29, District Lot 202, Similkameen Division Yale District, Plan 755, located at 619 Burns Street, a permit to reduce the lot width from 13m to 9.5m and to reduce the lot area from 390m2 to 290m2;

AND THAT Council approve “Development Variance Permit PL2015-051” for Lot 17, Block 29, District Lot 202, Similkameen Division Yale District, Plan 755, located at 631 Burns Street, a permit to reduce the interior setback from 3.0m to 1.2m and to reduce the lot area from 670m2 to 565m2, in order to facilitate a lot line adjustment, while retaining one developable lot for duplex housing,

AND THAT staff are directed to issue “DVP PL2015-051”, subject to adoption of “Zoning Amendment Bylaw No.2015-50”.

Municipal Insurance Association (MIA) of BC

Appointment of Voting Delegates

Staff Recommendation: THAT Council appoints ________________________________ as the Voting Delegate for the Municipal Insurance Association of BC;

AND THAT Council appoints ___________________________ and __________________________ as Alternate Delegates for the Municipal Insurance Association;

AND THAT Council appoints Colin Fisher, Chief Financial Officer for the City of Penticton, as primary contact with the Municipal Insurance Association.

City Audit Proposals

Staff Recommendation: THAT Council appoint BDO Canada LLP as the City’s Auditor for a 3 year term with the option to extend the Service Agreement for up to two (2) additional years, on one-year increments.

Banking Services Agreement

Staff Recommendation: THAT Council approve the renewal of the current Banking Services Agreement with Valley First Credit Union; AND THAT Council authorize the Mayor and Corporate Officer to execute the renewal.

Correspondence

RDOS
Re: Prevention of Quagga/Zebra Mussels entering Waterways

Petition – 500 block of Braid Street
Re: Resident Parking Permit Program

Committee and Board Reports

Arts, Creative and Cultural Innovations Committee meeting of August 13, 2015

Recommendation: THAT Council receive the minutes of the Arts, Creative and Cultural Innovations Committee meeting of August 13, 2015.
10.2 Heritage and Museum Committee meeting of August 20, 2015 138-139

Recommendation: THAT Council receive the minutes of the Heritage and Museum Committee meeting of August 20, 2015.

Committee Recommendation: THAT Council direct staff to include $8,000 for consideration in the 2016 Parks Capital Budget for four (4) historical information signs to be located at the Three Mile Log Chute, KVR Trail by Riddle Road, Poplar Grove Trailhead and the Rose Garden.

10.3 Tourism Development Task Force meeting of August 20, 2015 140-143

Recommendation: THAT Council receive the minutes of the Tourism Development Task Force meeting of August 20, 2015.

Committee Recommendation: WHEREAS the City was incorporated on April 30, 1948; AND WHEREAS the City celebrates Canada Day and BC Family Day; NOW THEREFORE BE IT RESOLVED THAT Council support the Festival & Events Committee’s recommendations to celebrate Penticton’s birthday in the month of April in partnership with local nonprofits such as the Downtown Penticton Association, Rotary Club and the South Okanagan Immigrant and Community Services; AND THAT Canada Day and BC Family Day events continue in the previous format.

Committee Recommendation: THAT Council direct staff to amend the grant application process for the 2017 grant cycle to prepare applicants for the addition and completion of the STEAM questionnaire in order to provide valuable economic and tourism information to the Penticton Hospitality Association and Tourism Penticton.

10.4 Waterfront Revitalization Sub-Committee meeting of August 25, 2015 144-146

Recommendation: THAT Council receive the minutes of the Waterfront Revitalization Sub-Committee meeting of August 25, 2015.

Committee Recommendations: THAT Council direct staff to complete the concept designs for the Kiwanis Pier Park area and walkway.

10.5 Downtown Revitalization Sub-Committee meeting of August 27, 2015 147-149

Recommendation: THAT Council receive the minutes of the Downtown Revitalization Sub-Committee meeting of August 27, 2015.

11. Notice of Motion

12. Other Business

Notice of Motion presented by Mayor Jakubeit at the August 17, 2015 Council Meeting:

WHEREAS, the time has come to renew our vision for parks in the City of Penticton;

WHEREAS, a Parks Master Plan is a guiding document that helps articulate how to achieve the vision for parkland and green space;

WHEREAS, master plans are best founded on significant consultation with the community:

NOW, THEREFORE BE IT RESOLVED:

THAT Council direct staff to initiate a Parks Master Plan process;

THAT Council direct staff to develop terms of reference for the master plan process;

THAT Council direct staff to undertake broad-based public engagement as part of the Parks Master Plan process; and

THAT Council direct staff to draft terms of reference for the proposed Parks Master Plan Select Committee.
13. **RDOS Update**
14. **Business Arising from In-Camera**
15. **Media and Public Question Period**
16. **Adjournment**
Public Hearing
City of Penticton, Council Chambers
171 Main Street, Penticton, B.C.

Monday, August 17, 2015
at 6:00 p.m.

Present: Mayor Jakubeit
Councillor Sentes
Councillor Martin
Councillor Picton
Councillor Konanz
Councillor Sayeed

Absent: Councillor Watt

Staff: Eric Sorensen, City Manager
Shawn Filice, Electric Utility Manager
Dana Schmidt, Corporate Officer
Jules Hall, Director of Development Services
Colin Fisher, Chief Financial Officer
Simone Blais, Communications Officer
Angie Collison, Deputy Corporate Officer

1. Call to order

Mayor Jakubeit called the public hearing to order at 6:00 p.m. for the “Zoning Amendment Bylaw No. 2015-44”. He explained that the public hearing was being held to afford all persons who considered themselves affected by the proposed bylaw an opportunity to be heard before Council.

The Corporate Officer read the opening statement and introduced the purpose of the bylaw. She then explained that the public hearing was being held to afford all persons who considered themselves affected by the proposed bylaw an opportunity to be heard before Council. She further indicated that the public hearing was advertised pursuant to the Local Government Act.

“Zoning Amendment Bylaw No. 2015-44”

The purpose of the Zoning Amendment Bylaw is to amend “Zoning Bylaw 2011-23” as follows:

- Rezone Lot 14, District Lot 249, Similkameen Division Yale District, Plan 3578, except Plan KAP68054, located at 864 Government Street, from R2 (Small Lot Residential) to RM2 (Low Density Multiple Housing).
The Corporate Officer advised that no written correspondence has been received after the printing of the agenda.

The Director of Development Services provided Council with an overview of the zoning amendment.

DELEGATIONS

Mayor Jakubeit asked the public for the first time if anyone wished to speak to the application.

• Applicant, Fred Trainor, provided a picture showing look and design of the proposed project. Met with neighbours and clarified any misconceptions.

Mayor Jakubeit asked the public for the second time if anyone wished to speak to the application.

• No one spoke.

Mayor Jakubeit asked the public for the third and final time if anyone wished to speak to the application.

• No one spoke.

The public hearing for “Zoning Amendment Bylaw No. 2015-44” was terminated at 6:04 p.m. and no new information can be received on this matter.

Certified correct: Confirmed:

_____________________  ________________________

Dana Schmidt          Andrew Jakubeit
Corporate Officer      Mayor
Minutes

Regular Council Meeting
held at City of Penticton Council Chambers
171 Main Street, Penticton, B.C.

Monday, August 17, 2015
Following the Public Hearing at 6:00 p.m.

Present: Mayor Jakubeit
Councillor Konanz
Councillor Martin
Councillor Picton
Councillor Sayeed
Councillor Sentes

Absent: Councillor Watt

Staff: Eric Sorensen, City Manager
Dana Schmidt, Corporate Officer
Colin Fisher, Chief Financial Officer
Jules Hall, Director of Development Services
Shawn Filice, Electric Utility Manager
Simone Blais, Communications Officer
Angie Collison, Deputy Corporate Officer

1. Call to Order

The Mayor called the Regular Council meeting to order at 6:05 p.m.

2. Introduction of Late Items

Add: Item 6.3 Delegation – Skaha Park

3. Adoption of Agenda

422/2015

It was MOVED and SECONDED
THAT Council adopt the agenda for the Regular Council meeting held on August 17, 2015 as amended.

CARRIED UNANIMOUSLY

4. Adoption of Minutes

4.1 Minutes of the August 4, 2015 Public Hearing

423/2015

It was MOVED and SECONDED
THAT Council receive the minutes of the August 4, 2015 Public Hearing as presented.

CARRIED UNANIMOUSLY
4.2 Minutes of the August 4, 2015 Regular Council Meeting

424/2015

It was MOVED and SECONDED

THAT Council adopt the minutes of the August 4, 2015 Regular Council Meeting as presented.

CARRIED UNANIMOUSLY

5. Presentations

6. Delegations

6.1 Don Kendall, President, Peachfest Society
Re: Peachfest Wrap-Up Report

Mr. Kendall provided Council with a summary of the 68th Annual Peachfest event. The committee is looking for a trophy case to display their many trophies and plaques. Peachfest continues to be the largest free festival in Canada.

6.2 Hilma Labelle
Re: Edible Gardens

Ms. Labelle requested Council consider placing an edible garden at the pickleball courts on South Main Street. Council would like staff to investigate options.

6.3 Skaha Park

Dr. Gerry Karr addressed the health benefits associated with a natural setting such as Skaha Lake Park.

Carolae Donaoghue addressed her views on democracy and use of public park.

Jake Kimberley addressed process and the procedures Council undertook prior to reaching a decision to allow the waterslides in Skaha Park.

7. Reconsideration of Bylaws and Permits

7.1 Zoning Amendment Bylaw No. 2015-43
Re: 3388 Skaha Lake Road

425/2015

It was MOVED and SECONDED

THAT Council adopt “Zoning Amendment Bylaw No. 2015-43”.

CARRIED

Councillors Picton and Sayeed, Opposed

7.2 Traffic Amendment Bylaw No. 2015-38
Re: sidewalk cafes

426/2015

It was MOVED and SECONDED

THAT Council adopt “Traffic Amendment Bylaw No. 2015-38”.

CARRIED UNANIMOUSLY
7.3 Zoning Amendment Bylaw No. 2015-44
Re: 864 Government Street

427/2015

It was MOVED and SECONDED
THAT Council give second and third reading to “Zoning Amendment Bylaw No. 2015-44”;
AND THAT Council adopt “Zoning Amendment Bylaw No. 2015-44”.
CARRIED UNANIMOUSLY

8. Staff Reports

8.1 Development Variance Permit PL2015-039
Re: 4732 Lakeside Road

Delegations/Submissions:
• Rosemary Caple, Lakeside Road, neighbour, would like to know size of garage and how it could impede our property, disturbance may interfere with our driveway, can he assure us that the trees will not be disturbed, don’t want to loose our privacy.

428/2015

It was MOVED and SECONDED
THAT Council approve “Development Variance Permit PL2015-039” for Lot 2, District Lot 196, Similkameen Division Yale District, Plan 26577, located at 4732 Lakeside Road, a permit to decrease the minimum required front yard from 6.0m to 1.5m and the southern side yard from 1.5m to 1.0m, in order to construct an attached garage on the property;
AND THAT staff be directed to issue “Development Variance Permit PL2015-039”.
CARRIED
Councillors Konanz and Sayeed, Opposed

8.2 Development Variance Permit PL2015-054
Re: Pay parking lot on 341, 347, 353, 357, 359, 363 Main Street

Delegations/Submissions:
• Applicant, Malvindar (Raj) Randhawa, Martin Street, working together with the city to improve the site.
• Kerry Milton, Executive Director on behalf of 300 block owners, RCMP respond regularly to this location, lighting needs to be improved, need to make it uncomfortable for people to hang out after hours, support a change to existing use, don’t want it paved, would like opportunity for more edible gardens, would like to explain the downtown economic investment zones to applicant.
• Tim Scott, Main Street, initially excited to see proposal, canvassed area of 300 block, all want change, all about social aspect, gathering area attracts the wrong element, drinking and drug use, don’t believe enough notice was given to area, hope something does change.

429/2015

It was MOVED and SECONDED
THAT DVP PL2015-054 be referred to staff for further work with the property owner and DPA and return to Council for consideration on September 28, 2015.
CARRIED
Councillor Picton, Opposed
8.3 Zoning Amendment Bylaw No. 2015-45 and DVP PL2015-044  
Re: 2922 Wilson Street

430/2015

It was MOVED and SECONDED
THAT “Zoning Amendment Bylaw No. 2015-45”, a bylaw to amend Zoning Bylaw 2011-23 to rezone Lot 2, District Lot 116, Similkameen Division Yale District, Plan 9696, located at 2922 Wilson Street, from RD1 (Duplex Housing) to RM2 (Low Density Multiple Housing) with a site specific zoning amendment to increase the maximum density from 0.75 FAR to 0.92 FAR, be given first reading and be forwarded to the September 8, 2015 Public Hearing; AND THAT prior to adoption of the bylaw, a road dedication of 0.6m along Wilson Street frontage be registered with the land title office. THAT Council support “Development Variance Permit PL2015-044” for Lot 2, District Lot 116, Similkameen Division Yale District, Plan 9696, located at 2922 Wilson Street, a permit to reduce the minimum interior yard setback from 3.0m to 1.5m and to reduce the minimum rear yard setback from 6m to 1.5m; AND THAT delegations and submissions be heard for “Development Variance Permit PL2015-044” during the September 8, 2015 Public Hearing; AND THAT staff are directed to issue DVP PL2015-044, subject to adoption of “Zoning Amendment Bylaw No. 2015-45”.

CARRIED UNANIMOUSLY

8.4 Temporary Use Permit PL2015-037  
Re: 1748 and 1802 Camrose Street

Delegations/Submissions:
- Darryl Clark, Power Street, on behalf of PIDA, met with Interior Health, would like signage around the area so people are aware that it is industrial area.
- Bridgit Kemp, Warren Ave W, would like to see Interior Health encourage the use of public transit.
- Lori Motluck, Interior Health, encourage staff to car pool, bus, bike etc. preference is to have crosswalk for safety purposes, once we have our final proponent will sit down and look at what that would look like.

431/2015

It was MOVED and SECONDED
THAT Council receive the ‘Pedestrian Crosswalk Warrant Analysis for the proposed parking lot at 1748 / 1802 Camrose Street’ prepared by IBI group; AND THAT after considering the contents of the report decide to support “Temporary Use Permit PL2015-037” without the requirement for a crosswalk.

CARRIED UNANIMOUSLY

8.5 ALR Application  
Re: 127 Upper Bench Road

432/2015

It was MOVED and SECONDED
THAT Council support the property owner of 127 Upper Bench Road and provide a letter of support as part of an application to the ALC to allow a house to be built on the property.

CARRIED UNANIMOUSLY

8.6 City Inclusiveness

433/2015

It was MOVED and SECONDED
THAT Council direct staff to develop options to demonstrate inclusivity throughout the City of Penticton.

CARRIED UNANIMOUSLY
9. Correspondence

9.1 Ramada Penticton
Re: North Entrance to the City

**434/2015**

*It was MOVED and SECONDED*

THAT Council receive the letter dated June 26, 2015 from the Ramada Penticton requesting improvements to the north entrance to the city and refer to staff to look at options.

CARRIED UNANIMOUSLY

9.2 Sharon McIntyre
Re: Construction of sound barrier fence

**435/2015**

*It was MOVED and SECONDED*

THAT Council receive the letter dated May 4, 2015 from Sharon McIntyre requesting sound barrier fencing along the corner of Eckhart Avenue West and Highway 97 South.

CARRIED UNANIMOUSLY

9.3 Petition – Granby Avenue
Re: Speed bumps to deter traffic

**436/2015**

*It was MOVED and SECONDED*

THAT Council refer to staff the petition requesting speed bumps on Granby Avenue.

CARRIED UNANIMOUSLY

As a resident of the area, Mayor Jakubeit declared a conflict and left the meeting at 8:13 p.m. Councillor Sentes chaired the meeting.

9.4 Petition – 1300 block of Balfour Street
Re: Resident only parking

**437/2015**

*It was MOVED and SECONDED*

THAT Council refer to staff the petition requesting resident only parking on the 1300 block of Balfour Street.

CARRIED UNANIMOUSLY

Mayor Jakubeit returned to the meeting at 8:15 p.m.

10. Committee and Board Reports

10.1 Penticton Creek Restoration Committee meeting of July 30, 2015

**438/2015**

*It was MOVED and SECONDED*

THAT Council receive the minutes of the Penticton Creek Restoration Committee meeting of July 30, 2015.

CARRIED UNANIMOUSLY

10.2 Agriculture Advisory Committee meeting of August 6, 2015

**439/2015**

*It was MOVED and SECONDED*

THAT Council receive the minutes of the Tourism Development Task Force meeting of July 16, 2015.

CARRIED UNANIMOUSLY
10.3 Affordable Community Task Force meeting of August 10, 2015

440/2015

It was MOVED and SECONDED
THAT Council receive the minutes of the Affordable Community Task Force meeting of August 10, 2015.

CARRIED UNANIMOUSLY

11. Notice of Motion

For consideration September 8, 2015:

WHEREAS, the time has come to renew our vision for parks in the City of Penticton;

WHEREAS, a Parks Master Plan is a guiding document that helps articulate how to achieve the vision for parkland and green space;

WHEREAS, master plans are best founded on significant consultation with the community:

NOW, THEREFORE BE IT RESOLVED:

THAT Council direct staff to initiate a Parks Master Plan process;

THAT Council direct staff to develop terms of reference for the master plan process;

THAT Council direct staff to undertake broad-based public engagement as part of the Parks Master Plan process; and

THAT Council direct staff to draft terms of reference for the proposed Parks Master Plan Select Committee.

12. Other Business

13. RDOS Update

14. Business Arising from In-Camera

15. Media and Public Question Period

16. Adjournment

441/2015

It was MOVED and SECONDED
THAT Council adjourn the Regular Council meeting held on Monday, August 17, 2015 at 8:55 p.m.

CARRIED UNANIMOUSLY

Certified correct: Confirmed:

____________________________ ______________________________
Dana Schmidt  Andrew Jakubeit
Corporate Officer  Mayor
WHEREAS prostate cancer is the most common cancer to affect men. It is estimated that 23,600 will be diagnosed with the disease in 2015; and

WHEREAS prostate cancer accounts for an estimated 25 per cent of all new cancer cases in Canada. One in every seven men will be diagnosed with the disease during his lifetime. Many factors including age, race, family history, diet and lifestyle can greatly increase the risk of getting prostate cancer. With early detection and treatment in the preliminary stages, 90 per cent of prostate cancer cases can be cured; and

WHEREAS Prostate Cancer Canada is dedicated to supporting research initiatives to uncover better diagnostic and early detection and encourage men over the age of 40 to have an annual checkup and take a proactive role to beat prostate cancer.

NOW THEREFORE I, Andrew Jakubeit, Mayor of the City of Penticton, DO HEREBY PROCLAIM September 2015 as Prostate Cancer Awareness Month in the City of Penticton.

Mayor Andrew Jakubeit
Request to Appear as a Delegation

Preferred Council Meeting Date: September 8, 2015
Second choice(s): September 28, 2015
Subject matter: Wine in Grocery Stores

Name of person(s) making presentation:

Lee Keller

Address: 163-2111 Main St.
Penticton, BC

Phone: 
Email: 

Please provide details of your presentation:

Any new liquor license, including wine in grocery stores, must comply with the BC LCLB “One Kilometer Rule”

Please note:

- This form and its content is part of the public record.
- Written copies of your submission must be presented to the Corporate Officer by 9:30 a.m. on the Wednesday before the meeting either by email, fax or in person.
- PowerPoint presentations must be emailed no later than 9:30 a.m. the date of the meeting. We recommend you bring backup PowerPoint files with you on a memory stick.
- Delegations are limited to 5 minutes.

Corporate Office
Dana Schmidt, Corporate Officer
171 Main Street, Penticton, B.C., V2A 5A9

Phone: 250-490-2405
Fax: 250-490-2402
dana.schmidt@penticton.ca
Today all GLS (Government Liquor Stores) and LRS (Private Liquor Retail Stores) abide by a government legislation that the retail liquor stores are no closer than 1 kilometer in distance.

Newly created Bill 22 allows BC Wine into grocery (21 Licenses) with No 1 km rule. Why would there be a different rule for LRS/GLS and grocery? Could this present future community problems?

Blaine Lawson CEO, BC Liquor Distribution Branch openly said that BC Craft Beer will follow Wine. If craft beer goes in, why not Kokanee and Spring Brewery (they are BC)

BC Craft Spirits would likely want to follow. “Wine in Grocery” would soon become a full blown Liquor Store.

NAFTA/GATT

NAFTA/GATT have already had meetings in France regarding the above. If BC wine goes into Grocery NAFTA/GATT kicks in and California/Australia/Argentina ....wines will follow. (see enclosed Fasken Martineau trade opinion document enclosed)

Save-On or Sobeys could get a full liquor stores because the Government has outline requirements of 10,000 sq feet and a percentage of food sales, they would qualify. Past history has shown that other “big box stores” have taken on local Government in court and won, grocery is grocery. This might mean that Penticton may have 5 or 6 new Liquor Stores.

LOST JOBS, BUSINESSES, TAX REVENUES

If this happens in Penticton, the repercussions would be catastrophic. Again history shows that Penticton would lose 9 small family businesses (LRS) and the taxes these premises generate for the city of Penticton. Nothing looks worse in a small town than 8 or 9 empty/vacant retail buildings.
Penticton would also lose approximately 90 full time (LRS) jobs and the spin off. The new stores would provide no incremental jobs as the cashier would just have a couple extra items going through the same existing tills.

There are other possible repercussions to VQA wines and other small wineries. Lots of these wineries are smaller in size. Many of them cannot supply the Government Liquor Store channel because volumes needed. The same would apply in large International Grocery chains. Large Volumes are needed to supply these two chains, most VQA wines and wineries reply on the smaller LRS for product distribution.

Most VQA wines are priced between $15-$25 per bottle, history again shows that (NAFTA) California bottle at $6.99 outsells the $15 bottle.

If the Penticton LRS channel becomes nonexistent, product distribution for the small local wineries become nearly impossible to secure. Penticton/Oliver and Naramata’s wineries have only the wine shops to sell their product, surviving could be an extreme challenge. If these Wineries and Wines shops start to away, what happens to the Penticton Tourism dollars generated by that sector?

CONVENIENCE AND CONTROL

The Government said they want to make wine on a grocery store shelf as a convenience and I agree with that. If there is a 1 km rule in place and the store fits because there is nothing within a kilometer then it’s an inconvenience, maybe you need it.

Today in Penticton there is a beautiful new LRS store at the North end of town in a smaller shopping center, there is also a newer LRS on the highway along the channel for all passers through. There is an LRS in the Wal-Mart to service the Wal-Mart customer, another in the Cherry Lane parking lot to serve Save-on and Superstore customers. There is another GLS in the same parking lot as Safeway.

This is just to mention a few of the small independent Liquor stores that are situated in and around Penticton, making liquor purchases extremely convenient and all these venues are open to shoppers who are 19 years plus, a controlled product in a controlled environment.

RCMP from time to time, wait in our parking lot in an unmarked car for our shoppers to make a purchase, then executing a traffic stop to anyone they wish as part of a drinking driving campaign. When I visited the Penticton detachment about the above they confirmed that the above is common practice. Could liquor sold in grocery be controlled the same way?
Please vote yes to a 1 kilometer between all retail liquor venues. This vote will protect small businesses, protected jobs, Penticton tax base and Tourism. This vote will keep liquor in controlled environment where RCMP can patrol and where liquor inspectors make regular calls.

Many City Councils throughout BC are looking at this same proposal, Vancouver and Kamloops have already said yes to the one Kilometer rule.

Thank You for your time

Sincerely

Lee Keller
Shareholder/operator
Cherry Lane Liquor Store
City of Penticton  
171 Main Street  
Penticton, BC V2A 5A9

August 13, 2015

Attention: Mayor Andrew Jakubeit & Members of Council

Re: Liquor Reform Policy

We are writing in regard to the liquor reform policy implemented by the liberal government on April 1, 2015 which permits BC VQA wine to be sold in grocery stores.

By way of introduction, we wish to advise that we are the owner of liquor stores throughout BC. The writer is the spokesman for a coalition of liquor store owners throughout the province of BC who have banded together in order to attempt to alleviate some of the economic and operational impact the new liquor reform policies are having on the private liquor store industry.

The purpose of this correspondence is to bring to your attention that we have written to each of the Regional Districts of UBCM to request that they give consideration to the implementation of a distance requirement in all municipal bylaws relating to the sale of alcoholic products. In this regard, we are enclosing herewith a copy of the correspondence which we forwarded to the Lower Mainland Local Government Association, together with the reports and opinions referred to in that correspondence.

As you are undoubtedly aware, the new BC VQA wine on regular grocery store shelves model is not subject to the 1 Kilometre rule as are all other liquor licenses. As such, the BC VQA wine on the “regular grocery store shelf model” can be set up next to any existing private liquor store.

As you may or may not be aware, according to the legal opinion of Fasken Martineau DuMoulin, the sale of only BC VQA wine in grocery stores is in violation of NAFTA and GATT. The provincial liberal government is aware of this violation but is still proceeding with the rollout of its “BC VQA wine on regular grocery store shelf model”. The prevalent school of thought in the liquor industry is that the liberal government is going to use the World Trade Organization’s challenge under NAFTA/GATT to open up sale of all alcoholic products (wine/beer/spirits) in the two dominant food grocery retailers in BC. (For your information, the matter of the sale of BC VQA wine only in BC grocery store was raised by the US government at the World Trade Organization about a month ago – the BC government and the Federal government have now been put on notice of the potential challenge). The result of the challenge under NAFTA/GATT will be that the liberal government will have to reverse its BC VQA grocery store model or open up the sale of alcohol products in grocery stores, which will result in 60 new full liquor stores in areas not previously zoned for the sale of alcoholic products.
We will not be going into the social and economic issues relating to the effects of the liberal government's liquor policy reforms as those are outlined in the enclosed documentation.

In closing and in summary, we are requesting that all municipalities in BC consider implementing a bylaw which would impose a 1 kilometre distance separation between any retail establishments selling alcoholic products in the province of BC.

Until such time as an exhaustive review of the issue of liquor in grocery stores has been thoroughly reviewed, we respectfully request that the City place a moratorium on the approval of any more retail liquor outlets including grocery stores.

We thank you for your consideration of this matter.

Yours Truly,
MONARC HOSPITALITY CORP.

Joseph W. Tarnowski
City of Penticton

171 Main Street

Penticton, BC V2A 5A9

August 25, 2015

Attention: Mayor Andrew Jakubeit & Members of Council

Re: BC Liquor Reform

Further to Mr. Tarnowski’s letter of August 13, 2015 relating to the captioned matter, we wish to advise that it has come to our attention that the BC Wine Institute is advising municipalities in British Columbia that they do not have authority to enact bylaws relating to the sale of BC VQA wine on grocery store shelves.

The following is an extract of an email sent out by Miles Prodan who is the President of the BC Wine Institute:

“MUNICIPAL 1KM RULE TO RESTRICT 100% BC WINE IN GROCERY

The BCWI continues to educate municipalities considering a zoning amendment that will preclude any “farm-to-table” BC VQA wine retailing from grocery store shelves. Such a restriction contravene Province of British Columbia’s new liquor policies which specifically allow the new “BC wine-on-shelves” concept respecting the long standing exclusion or any distance restrictions for BC VQA wine. The BCWI believes when properly managed through an industry license & operating agreement, the BC wine-on-shelves model will ensure fair and equitable access & treatment for all 100% BC wines. BC VQA wine on
grocery shelves is a huge win for consumers and the BC Wine Industry with distant restrictions anti-competitive, protectionist and counterproductive to the growth and success of our industry.”

It appears that Mr. Prodan has now assumed the duties of the general manager of the BC Liquor Control & Licensing Branch in respect of firstly, interpreting the Liquor Control & Licensing Act and its policies and secondly, educating municipalities on the proper interpretation and application of the Liquor Control & Licensing Act.

In light of the actions of the BC Wine Institute and Mr. Prodan (who were obviously acting under direction of the BC Liberal Government), we retained the law firm of Gudmundseth Mickelson to provide us with a legal opinion in respect of the BC Wine Institute’s actions.

According to the opinion which we received from Gudmundseth Mickelson, the BC Liquor Control & Licensing Act and the regulation promulgated under it do not prohibit municipalities from enacting a bylaw which imposes a distance restriction in respect of grocery stores selling VQA wine on their shelves, nor is such a bylaw in contravention of the Liquor Control & Licensing Branch’s new liquor policies allowing BC VQA Wine on grocery store shelves.

The opinion of Gudmundseth Mickelson also indicates that as the situation presently exists under the Liquor Control & Licensing Act, the movement of a BC VQA license into any municipality requires the Liquor Control & Licensing Branch to consider the views of the local government.

We enclose, herewith, for your information, a copy of the legal opinion of Gudmundseth Mickelson dated August 24, 2015.

We trust the foregoing will be of guidance and assistance in your deliberations relating to the matter of enacting a distance separation bylaw for all retailers of alcohol products.

Yours Truly,

Lee Keller

[Signature]

InF HOSPITALITY GROUP.
August 24, 2015

Attention: Joe Tarnowski

Monarch Hospitality Corp.
20690 Lougheed Hwy.
Maple Ridge, B.C. V2X 2P8

Re: Local Government Regulation of VQA Wine Store Licenses (To be Used in Grocery Stores)

You have asked me to consider whether the Liquor Control and Licensing Act (the “LCA”), or the regulations or policies promulgated under it prohibit a municipality from creating distance restrictions that apply to VQA wine store licenses and whether in doing so a municipality would contravene the Liquor Control and Licensing Branch’s (the “LCLB”) new liquor policies allowing BC wine on grocery store shelves.

In short, the answer to both questions is no.

Section 21.1 of the LCA prohibits any license from being relocated without the written consent of the general manager. “License” means any license issued under the LCA. The “Wine Store Terms and Conditions” clarifies that the VQA store model was converted from Liquor Distribution Branch agency to VQA store licenses issued by the LCLB under the LCA on November 1, 2007.

Nothing in the LCA prohibits municipalities from creating their own distance requirements for VQA wine stores. Rather, the opposite is true. The LCA explicitly requires local governments to approve all new licenses. Section 11.1(3) The LCA provides that the general manager of the LCLB must not issue a license unless the local government for the area where the establishment is proposed to be located recommends that the license be issued. The term “local government” in the LCA includes municipalities. The disapproval of the local government may only be overridden via a public hearing or referendum in which a majority of local residents vote in favour of the license (s. 11.2). While relocation of an existing license is not the same as creation of a new license, this section of the LCA makes it clear that local government input is essential to license approval under the LCA and that there are no impediments in the LCA on local governments creating their own by-laws that apply to VQA wine stores. Rather, reading the act
as a whole, it is clear that municipal by-laws regulating liquor in response to local policy concerns are consistent with the purpose of the LCA to put considerable weight on local government needs and desires.

With respect to relocation in particular, licenses may not be amended until the LCLB provides local government an opportunity to comment. The LCA requires the LCLB to consider the views of the local government in deciding whether or not to amend the license (s. 11.3). The LCLB's "Licensing Policy Manual" explicitly applies this requirement to relocation (s. 4.4.3). This is further indication that the intention behind the LCA is for the branch to give considerable weight to local government needs and desires.

Moreover, third party operation of a license may not be transferred to a new person unless that new operator is found to be a "fit and proper" person to hold the license (LCA, s. 17(1) and (3)). An essential condition for determining whether an operator is fit and proper is whether that operator has contravened any local government by-laws (LCA, s. 16(2)(a)). This implies that operator compliance with existing by-laws is required under the LCA.

The general manager of the LCLB must also consider whether relocating the license and operation of that license by a new third party would be contrary to the public interest (LCA s. 16(3)). Though the general manager has discretion to determine what is in the public interest, it is clear that under the LCA the "public interest" must include the views of the local government. Accordingly, the general manager would have to provide persuasive reasons why local government wishes should be ignored. In my view, the only truly persuasive counter to the local government is the approval, by referendum, of the majority of local residents.

The LCLB "Wine Store Terms and Conditions" explicitly state that "There is no distance restriction between other liquor retail or wine store outlets that prohibits the relocation of a wine store." This is distinct from the 1 kilometre rule that applies to Licensee Retail Stores. However, this statement in the terms and conditions does not and cannot alter the requirement in the LCA that the LCLB consider the views and comments of local municipalities with respect to relocation of a VQA wine store license. This term and condition also does not prohibit local governments from setting their own distance requirements for their own policy reasons. At most, the term and condition means that the LCLB will not itself impose any distance requirements but it does not abrogate the requirement for licensees and third party operators to comply with local government by-laws.

Given the above, the general manager of the LCLB would likely be in contravention of the LCA if he allowed relocation of a license that explicitly violated a local government by-law, including a by-law creating a distance restriction for wine stores. It is also highly unlikely that allowing transfer or relocation of a license in the face of local government objections would be in the public interest unless the general manager of the LCLB held a hearing or referendum in which a majority of local residents voted in favour of the relocation.
In summary, nothing in the LCA, regulations or policies prohibits a local government (municipality) from promulgating a by-law that imposes distance restrictions on VQA wine stores. Rather, it is very likely the general manager of the LCLB would be in breach of the LCA if he allowed relocation of a license in the face of a municipal by-law creating a distance restriction or over the objections of the local government. Such a decision could be judicially reviewed and quashed as illegal.

GUDMUNDSETH MICKELSON LLP

Shea H. Coulson
SHC/jjt
MEMORANDUM

To: Lance Randall Wilson  
Liquor Plus  
Board Chair, B.C. Private Liquor  
Association  
Mark Hicken  
Partner, Vintage Law Group  

From: Clifford Sosnow  
Geoff Cowper  
Simon Patey  

Client: B.C. Private Liquor Store Association  

Re: Trade Opinion  

Date: April 20, 2015  

File/Matter No.: 302656.00001  

This responds to your request to provide an opinion on whether certain British Columbia policies affecting the distribution and consequent offering for sale of wines in grocery stores in the province violate Canada’s international trade law obligations. Because this requires a detailed analysis, the following is a summary of our conclusions arising from this legal review. We set out our detailed reasons for these conclusions as an Appendix to this opinion.

The B.C. wine policy directives and implementing regulations regarding the sale of wine on grocery store shelves or in stores located within grocery stores must comply with the non-discrimination rules (called “national treatment rules”) set out in GATT Article III:4. This requires that laws, regulations or requirements governing the internal sale of goods must treat imported goods no less favourably than like domestic goods. World Trade Organization (“WTO”) disputes have given substance to this ‘no less favourable’ standard. According to these decisions, as applied to the B.C. wine policies and implementing law, imported wine in the (i) relevant market must be accorded (ii) effective equality of competitive opportunity granted to (iii) ‘like’ B.C. wine. The treatment given to imported wines must not be detrimental compared to like B.C. wines in this relevant market.

We conclude that the relevant market are grocery store shoppers: the B.C. government has made clear that regardless of the policy being considered, the policy (and implementing law) is directed at those shopping in grocery stores seeking to purchase wine with their groceries. We also conclude that B.C. and imported wine are ‘like’: WTO decisions have concluded that like does not mean identical, is to be interpreted broadly, and that one of the hallmarks of this determination is the extent of competition between the imported and domestic goods. It is clear that the B.C. government considers imported and B.C. wine to be like. If they were not like, there would be no reason for the B.C. government to prohibit imported wines from having the
same favourable treatment given to B.C. wine in terms of point of sale to grocery store consumers.

We conclude that the grant of selective access to B.C. wine, whether VQA or otherwise on grocery store shelves, whether based on existing licenses or new licenses apparently held in 'reserve' that will be issued under auction, denies effective equality of access ('opportunity') to B.C. grocery store consumers. This policy is expressly intended to and does selectively provide to B.C. wine on a grocery store shelf access to grocery store consumers that is explicitly denied to imported wine to the detriment of imported wine. In so doing, this puts imported wines at a competitive disadvantage.

We also conclude that the grant to liquor stores (whether private and, now, government owned), licensed to sell imported wine, to transfer their licenses to a store established in a grocery store to access grocery store customers, does not offer equal competitive access to grocery store shoppers as that given to B.C. wines through its sale on grocery store shelves or in a store within a store: (i) access by imported wine is limited, both by conditions of distance - such stores within a grocery store cannot be within a certain distance of any other free standing wine store (or liquor store selling wine) - and a relocation lottery. These are not imposed on B.C. VQA wine (or independent wine) stores. The B.C. government admits this is done to provide B.C. VQA (and independent wine) stores with choice and flexibility of grocery store location, which is not offered to the liquor stores, the retail channels overwhelmingly used for the sale and purchase of imported wine; (ii) the distance location is such that in B.C.'s largest municipality, Vancouver, apparently less than 4 percent of grocery stores would meet this requirement, and if taken by B.C. VQA stores would effectively deny any liquor stores selling imported wine the opportunity to establish a store within a grocery store to access these consumers; (iii) the operation of a store-within-a-store entails construction and other costs to sell or offer for sale imported wines to grocery store consumers that do not apply, at a minimum, to existing B.C. VQA wine or 100% B.C. wine licensees (whether they hold the licenses or transfer them to a grocery store).

There is derogation or grandfathering exception to this rule in some of Canada's free trade agreements, in which the countries to the agreement accept that for some of their products, they will have a lesser standard of treatment under specific circumstances. The US (and Mexico) have agreed to a lesser standard: B.C. (and Ontario) can require private store outlets to sell only B.C. wines, but this applies only to private wine store outlets in B.C. (and Ontario) in existence in October, 1987 (i.e., in operation, being built or for which an approval to operate had been given by the B.C. government as of this date). Further, the relevant laws or regulations imposing these requirements are those that existed in October, 1987 and cannot be amended so as to increase this level of discrimination.

We are unable to say with any certainty what the number of private wine store outlets are that existed in October, 1987 or the law that specially applied to these stores at this time. Nevertheless, we conclude that the more favourable treatment offered to B.C. wine, to the
detrimet of US wine, is not protected by this grandfathering exception: (i) Bill 22, the Special Wine Store Licence Auction Act, is entirely new legislation, not an amendment of legislation existing in October, 1987, that is intended to regulate the sale of wine by new licensees, not private wine store outlets that existed on October 4, 1987; (ii) regardless of whether wine will be sold by new licensees apparently held in reserve or the transfer of existing licenses or the transfer of authority to operate existing licenses (as in the case of existing B.C. VQA stores), B.C. wine will be sold in a private grocery store, not a private wine retail outlet; (iii) the favouring of B.C. wine by granting maximum flexibility of choice of grocery store location exclusively to B.C. VQA (and independent wine) stores to establish a store within the grocery store applies without distinction as to when such B.C. wine stores came into existence. Yet the ability under the grandfathering rules for B.C. to treat private wine store outlets in a way that favours the sale of B.C. wine is limited expressly to stores that existed on October 4, 1987. Given that B.C. VQA stores did not exist until 1995 and that apparently there are 21 such stores today, it is likely that the current number of private wine store retail outlets is greater than the number selling only B.C. wine in October, 1987.

* * * * *

We would be pleased to respond to any questions you may have.
APPENDIX

I. The British Columbia Policies .................................................................................. 2
  1. Wine on Grocery Store Shelves (“Wine on Shelves”) ........................................ 2
  2. Wine Store in a Grocery Store ........................................................................... 2
II. WTO: National Treatment Rules in GATT Article III:4 Apply To B.C. Policies ...... 3
III. B.C. Policies Do Not Comply With GATT Article III:4 ..................................... 4
     1. The “Relevant Market” ..................................................................................... 4
     2. Imported Wines Are “Like” B.C. Wines ............................................................ 5
        i. B.C. Only Wine on Shelves ........................................................................... 7
        ii. Wine Store within Grocery Store ................................................................ 9
IV. North American Free Trade Agreement: The United States (and Mexico) Has Agreed to a
    Partial Derogation of the National Treatment Standard in Article III:4 .................... 11
V. Free Trade Agreement: A Limited Derogation from National Treatment Obligations 12
VI. The Application of the Derogation to the B.C. Wine Policies ............................... 14
    1. Wine on Shelf License Auction ....................................................................... 15
    2. Transfer Existing License to Grocery Store or Appoint Grocery Store Operator 16
    3. Transfer of Location of Wine Store within a Grocery Store ............................ 17
I. The British Columbia Policies

This opinion examines two new channels (or points) of sale and offering for sale of wine to B.C. grocery store consumers: (i) wine sold on grocery store shelves; (ii) wine sold in wine or liquor stores operating within grocery stores. A February 26, 2015 Policy Directive ("February Policy Directive") issued by the Liquor Control and Licensing Branch and implementing regulations ("Implementing Regulations") specifies that for grocery stores to be eligible for such sales, the grocery store must have a minimum of 10,000 square feet (929 square metres) of space and must be primarily engaged in retailing a general line of foods; i.e., the business must remain primarily a grocery store.

1. Wine on Grocery Store Shelves ("Wine on Shelves")

Only 100% B.C. wine may be sold on B.C. grocery shelves including B.C. VQA labelled wines. The sale of wine on shelves may arise from the transfer of an existing wine store license (i.e., a relocation of the site of sale) to the grocery store. If so, certain conditions apply: (i) if the license allows the sale of only B.C. VQA wines, then only B.C. VQA wines can be sold on the shelf; (ii) if the wine store licence allows wine to be sold that is made from 100% B.C. agricultural products, all types of B.C. wine, including cider, mead and sake, can be sold off the shelf; (iii) if the wine store license allows imported and domestic wine to be sold, only 100% B.C. produced wine (including cider, mead and sake) may be sold off the shelf, and the terms and conditions of the wine store license will be amended to reflect this restriction. An apparently limited number of new licenses, existing though currently dormant and held in reserve for use to sell B.C. only wine on shelves, will be made available through an auction process for the sale of 100% B.C. wine on grocery store shelves. The February Policy Directive indicates that wine on the shelf may be sold at designated or regular tills in the grocery store.

2. Wine Store in a Grocery Store

The second retail model to offer for sale and sell wine to consumers is the placement of a wine (or liquor) store in a grocery store. A grocery store that sells wine on a shelf will not be able to host a wine store selling imported or B.C. wines located in the same grocery store.

The February Policy Directive and Implementing Regulations requires the store to be physically separated from the rest of the grocery store by barriers, for the most part fixed and immovable, and subject to controlled access with a cash till separate from tills used to purchase groceries.

---

1 Liquor Control and Licensing Branch Policy Directive No: 15-01, February 26, 2015. The current legislation for selling liquor in grocery stores is primarily found in the Liquor Control and Licensing Regulations, B.C. Reg. 244/2002, pursuant to changes to that regulation made by B.C. Reg. 42/2015, on April 1, 2015.


(although the same shopping cart can be used to move between the grocery store and the wine (or liquor) store located within the grocery store). Wine (and liquor) stores will be required to transfer their license to the new location, which location will be determined through a relocation lottery.

The February Policy Directive stipulates that licensee retail stores ("LRS") and B.C. Liquor Stores ("BCLS"), both of which may sell imported and domestic wines, are prohibited from using a particular grocery store if that store is less than 1 kilometer away from any other LRS or BCLS, including free standing stores. B.C. VQA stores, that are restricted to selling only B.C. VQA wines, and independent wine stores, including those that may be licensed to sell imported and domestic wine, are not subject to any distance restriction nor are they required to participate in a lottery as a condition of relocating.\(^4\) Also, there do not appear to be any distance restrictions between grocery stores that sell B.C. wine on shelves and other grocery stores selling wine, either on a shelf or in a wine store located within a grocery store.

II. WTO: National Treatment Rules in GATT Article III:4 Apply To B.C. Policies

The General Agreement on Tariffs and Trade ("GATT"), which is a part of the World Trade Organization ("WTO") Agreement\(^5\) contains rules governing the non-discriminatory treatment ("national treatment") of domestic and imported goods. Relevant to the B.C. policies are the rules set out in Article III:4. This requires that imported products receive no less favourable treatment than like domestic products in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase ... or use.\(^6\)

WTO jurisprudence consistently interprets this 'no less favourable' standard to mean effective equality of competitive opportunity in the market.\(^7\)

---


\(^6\) GATT Article III:4 reads:

The products of the territory of any Member [i.e., country] imported into the territory of any other Member shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.

\(^7\) For example, a WTO panel in the case Japan — Measures Affecting Consumer Photographic Film and Paper, examining whether Japan’s laws, regulations and requirements affecting the distribution, offering for sale and internal sale of imported consumer photographic film and paper violated Article III:4, noted (at para. 10.379):

Recalling the statement of the Appellate Body in Japan — Alcoholic Beverages that ‘Article III obliges Members of the WTO to provide equality of competitive conditions for imported products in relation to domestic products’, we consider that this standard of effective equality of competitive conditions on the internal market is the standard of national treatment that is required, not only with regard to Article III generally, but also more particularly with regard to the ‘no less favourable treatment’ standard in Article III:4. We note in this regard that the interpretation of equal treatment in terms of effective equality of
In practice, this ‘equality of competitive opportunity in the market’ is determined by comparing the treatment of competing imported products and “like” domestic (in this case, B.C.) goods in the relevant market to determine whether that treatment modifies the conditions of competition to the detriment of the imported products.\footnote{Korea - Measures Affecting Imports of Fresh, Chilled and Frozen Beef (WT/DS161 & 169/AB/R), where the Appellate Body of the WTO stated (at para 137):
A formal difference in treatment between imported and like domestic products is ... neither necessary, nor sufficient, to show a violation of Article III:4. Whether or not the imported products are treated “less favourably” than like domestic products should be assessed instead by examining whether a measure modifies the \textit{conditions of competition} in the relevant market to the detriment of imported products. [Italics in original].}

Taken together, the “national treatment” or non-discrimination rule of GATT Article III:4 requires that in (i) the relevant domestic market, a law, regulation or requirement that applies to the sale or offering for sale or use of imported and (ii) like domestic products, must grant to the imported products (iii) effective equality of competitive opportunity. We next examine each of these elements as they apply to the two B.C. wine in grocery store retail sales models.

\section*{III. B.C. Policies Do Not Comply With GATT Article III:4}

\subsection*{1. The “Relevant Market”}

The grocery store (and its wine consuming shopping public) of a certain size that is primarily engaged in retailing a general line of foods is the relevant market to assess compliance of both B.C. policies with GATT Article III:4. In a March 6, 2014, News Release, the Ministry of Justice makes this clear, stating that the “B.C. government has outlined a unique two-part model for liquor sales in grocery stores that will ensure convenience and choice for consumers, promote competitive opportunities, first clearly enunciated by the panel on US — Section 337, has been followed consistently in subsequent GATT and WTO panel reports. [Emphasis added]

To similar effect is a WTO panel decision regarding Canada’s auto pact, where the panel, in discussing whether it is necessary to show current trade harm to find a violation of Article III:4, stated:

The idea that a measure which distinguishes between imported and domestic products can be considered to affect the internal sale or use of imported products only if such a measure is shown to have an impact under current circumstances on decisions of private firms with respect to the sourcing of products is difficult to reconcile with the concept of the ‘no less favourable treatment’ obligation in Article III:4 as an obligation addressed to governments to ensure effective equality of competitive opportunities between domestic and imported products, and with the principle that a showing of trade effects is not necessary to establish a violation of this obligation. [Emphasis added]. See Canada – Certain Measures Affecting the Automotive Industry WT/DS139/R, WT/DS142/R at paras. 10.84–10.85.
B.C. products and create jobs [Emphasis added]. To similar effect are News Releases issued by
the Ministry of Justice on October 10, 2014 and again on December 19, 2014.

2. Imported Wines Are “Like” B.C. Wines

For the reasons set out below, we consider B.C. and imported wines offered for sale in the B.C.
grocery store market to be “like” in assessing the compliance of B.C. wine policies with GATT
Article III:4.

The precise meaning of the word “like” depends on the facts of any situation. Nevertheless,
WTO jurisprudence does state that (i) the term is not to be interpreted narrowly, but rather
should be granted “a relatively broad product scope”; and (ii) such determination is
“fundamentally” about the nature of the competitive relationship between imported and domestic
products and the extent of that competition. This means that it is not necessary for imported
and domestic products to be identical to be “like” each other. Instead, the greater the competitive
relationship in a particular market, the more direct that competition, the greater the probability
that the imported and domestic products are “like” one another for the purposes of Article III:4.

In this regard, how products are viewed by consumers in the (grocery store) market is an
important criterion in determining ‘likeness’ under Article III:4. (Other important determinants
of products being “like” one another are physical characteristics and end uses of the products
being compared. For the purposes of this opinion, we assume that imported and B.C. wines
have similar if not identical physical characteristics and the same end-uses.).

---

towards liquor in grocery stores”, begins by stating: “Government has outlined new details for B.C.’s liquor-
grocery framework - providing industry with further certainty and time to prepare for the model’s
implementation in spring 2015”.
11 Ministry of Justice News Release 2014JAG0349-001916, December 19, 2014, which is headlined “B.C. wine to
line grocery shelves in spring 2015”.
12 European Communities - Measures Affecting Asbestos and Asbestos-Containing Products; WT/DS135/AB/R at
para. 100.
13 “As products that are in a competitive relationship in the marketplace could be affected through treatment of
imports “less favourable” than the treatment accorded to domestic products, it follows that the word “like” in
Article III:4 is to be interpreted to apply to products that are in such a competitive relationship. Thus, a
determination of “likeness” under Article III:4 is, fundamentally, a determination about the nature and extent of
a competitive relationship between and among products. In saying this, we are mindful that there is a spectrum
of degrees of “competitiveness” or “substitutability” of products in the marketplace, and that it is difficult, if not
impossible, in the abstract, to indicate precisely where on this spectrum the word “like” in Article III:4 of the
In its News Release of December 19, 2014, the Ministry of Justice noted:

Grocery stores will be able to stock 100% B.C. wine on their shelves as early as April 1, 2015, creating new opportunities for B.C. wineries, supporting B.C.’s home-grown economy and addressing calls for added convenience from consumers.\(^\text{16}\)

The selective showcasing of only B.C. wines on grocery store shelves is not simply for promotional purposes, but to provide in the grocery store an exclusive and protected position for B.C. wines. The B.C. government intentionally cordons off these wines from imported wines (or any other Canadian wines). If B.C. and imported wines were not “like”, if these wines were not viewed by the B.C. government (and the consuming market) as competing for consumer choice, of having the same end use and physical characteristics, there would be no need for such significant regulatory intervention. The market intervention by the B.C. government to grant to only B.C. wines a unique market position to which imported wines must not have access is testament that the B.C. government (and the grocery store consuming public) consider B.C. wines to be “like” imported wines for the purposes of Article III:4.

3. **British Columbia Policies Do Not Offer Effective Equality of Competitive Opportunity**

We next examine whether the B.C. policies governing the distribution and offering for sale of British Columbia wines on supermarket shelves and in any “liquor store within a grocery store” offer “effective equality of competitive conditions” between imported and like B.C. produced wines. For the reasons set out below, we consider that the B.C. policies do not meet this standard.

WTO jurisprudence has set out factors to assess whether a law or regulations or policy requirement skews competition in the “relevant market” to the “detriment” of imported products (and the advantage of domestic products).\(^\text{17}\) Applied to the B.C. wine policies, relevant factors include whether these policy requirements (and the regulations used to put them into law):

- Limit the possibility for grocery store consumers to compare imported and B.C. wines and thereby reduce the opportunities for imported wines to compete directly with B.C. wines in this market;

---
\(^{16}\) Ministry of Justice News Release 2014JAG0349-001916, December 19, 2014. The News Release also contained the following statement by Parliamentary Secretary for Liquor Policy Reform John Yap:

Creating a strong system of support for B.C. wineries is an important move by government, and including a model centered on 100% B.C. products when responding to one of the most popular Liquor Review Policy recommendations is a winning combination.

\(^{17}\) See *Korea- Measures Affecting Imports of Fresh, Chilled and Frozen Beef*, WT/DS161 & 169/AB/R at para. 139.
• Limit the potential opportunities for imported wines in the B.C. grocery store market;
• Impose greater costs on imported wines to be sold in the same grocery store market.\textsuperscript{18}

\textit{i. B.C. Only Wine on Shelves}

The wine-on-shelves model creates an entirely new point of sale for wine purchase by B.C. consumers that cannot be made available to imported wines, whether through the transfer of existing licenses to grocery stores or the acquisition of new licenses through auction.\textsuperscript{19} Its sole purpose is to offer a retail channel exclusively to B.C. wines. As noted by the CEO of the B.C. Wine Institute in a recent B.C. government announcement:

The B.C. government created this model to support the smaller B.C. wine producers - offering them space right on the shelves to promote their B.C. wines and providing shoppers with a unique new experience.\textsuperscript{20}

That the overriding thrust of the wine-on-shelves policy is to selectively advantage B.C. wines in the grocery store market is made clear by Justice Minister Anton in her Ministry’s December News Release:

Supporting B.C.’s economy and local wine producers through the promotion and sales of made-in-B.C. products is a driving force for government, and this model is one of the many ways that we are changing B.C.’s liquor laws to grow local businesses in this province.\textsuperscript{21}

This rationale applies equally to the new licenses to be issued by the B.C. government, as was confirmed in a March 26, 2015 News Release, where the Minister of Justice highlighted the intent of the policy, and its impact on the consuming public:

As well, the new auction legislation [Bill 22, the Special Wine Store Licence Auction Act], if passed, will allow us to establish the auction process in the coming months and make the currently dormant licenses available to retailers who want to specifically pursue wine-on-shelves in grocery stores. This will mean British Columbians will have an easier

\textsuperscript{18} These criteria are not precedent that must always be considered. Any WTO panel can make an assessment of detriment based on other criteria.
\textsuperscript{19} See section 3(d) of the Implementing Regulations.
\textsuperscript{20} \textit{Per} Miles Prodan, president and CEO, B.C. Wine Institute, see “B.C. wine on grocery shelves ripe for the picking” at \texttt{http://www.newsroom.gov.b.c.ca/2015/04/B.C.-wine-on-grocery-shelves-ripe-for-the-picking.html}.
time picking up their favourite bottle of B.C. wine to go along with their groceries for dinner.\footnote{22}

This new point of sale to grocery store consumers, being specifically and purposely offered only to B.C. wine, raises an immediate presumption of discrimination against imported wines in violation of GATT Article III:4. The wine-on-shelves requirement is intended to discriminate in favour of B.C. wines. It prohibits imported wines from having any potential market opportunities to use grocery store shelves as a point of sale in the B.C. grocery store market. Foreclosing this competitive opportunity is detrimental to imported wines. It certainly does not offer imported wines effective equality of competitive opportunities. Put simply, imported wines are at a competitive disadvantage. In this situation, we consider that the wine-on-shelves policy violates the 'no less favourable' standard in GATT Article III:4.

This reasoning applies equally to the process by which the B.C. government will issue an existing though apparently dormant number of licenses held in reserve for use by bidders to a public auction to sell B.C. only wine on shelves.\footnote{23} It is not clear how licenses can be held in reserve to permit the sale of wine on shelves before policies or legislation implementing these licenses. Nevertheless, under GATT Article III:4, the issue is not whether there are existing licenses in use or licenses that currently are dormant, pending resuscitation for use at a later date. The question simply is whether the issuing of such additional (or the use of any current) license to sell exclusively B.C. wines on grocery store shelves places like imported wines seeking access to the B.C. grocery store market at a competitive disadvantage. In our view, it does.

There is a permissible exception from this rule set out in GATT Article XX that allows for laws or regulations not applied as a disguised restriction on international trade where such measures are necessary to protect public morals\footnote{24}, or human life or health.\footnote{25} The protection offered to B.C. wines to be sold on shelves and the consequent prohibition of imported wines on such shelves raises the inference that these policy requirements are a restriction on international trade. Regardless, we are not aware of any policy statement or any other justifying document indicating that imported (and non-B.C. Canadian) wine sold on grocery store shelves poses a unique risk to public morality or to human health and safety that does arise from the sale of B.C. only wines on grocery store shelves such that it is necessary to prohibit their sale from these shelves.

\footnote{22} See https://www.newsroom.gov.bc.ca/2015/03/liquor-law-updates-further-modernization-flexibility.html. The News Release also notes: "If passed, Bill 22, the Special Wine Store Licence Auction Act, will allow the highest bidders access to a limited number of licenses to sell B.C. wine off grocery store shelves - delivering on government’s commitment to enhance convenience for consumers."

\footnote{23} See Bill 22, ("Special Wine Store Licence Auction Act") at https://www.leg.bc.ca/40th41st/1st_read/gov22-1.htm.

\footnote{24} GATT Article XX (a).

\footnote{25} GATT Article XX (d).
ii. Wine Store within Grocery Store

As noted above, the determination of equality of competitive opportunity and whether imported wines are treated detrimentally compared to like B.C. wine is to be considered in terms of the relevant market. In this case, the relevant market that applies to both retail streams is the grocery store and its wine consuming shopping public. Justice Minister Suzanne Anton noted, in describing the convenience aspect of both retail channels:

With two models to adopt, our made-in-B.C. grocery framework will offer shoppers the added convenience of grabbing B.C. wine right off the shelf, or taking their carts into a liquor store within a grocery store.26 [Emphasis added]

Since both retail channels are aimed at the same market - grocery store shoppers seeking to purchase wine - compliance with Article III:4 depends on whether the wine store-within-grocery store channel provides imported wines effective equality of competitive retail access (opportunity) to this market as compared to B.C. wines. Therefore consideration must be given not only to whether imported and domestic wines in the wine store-within-a-store model have equal competitive access to grocery store shoppers. We must also consider whether the B.C. government offers imported wine sold to grocery store shoppers in the wine store-within-a-store equal competitive opportunities given to B.C. wines sold on grocery store shelves to grocery store consumers. For the reasons set out below, we conclude that this retail channel does not do so. In saying this, we recognize that both the LRS’s and BCLS’s, which are permitted to sell both imported, B.C. and other Canadian wine, are subject to the same conditions of operation in accessing and using this retail channel.

First, to access the grocery store market, LRS’s (and BCLS’s) must seek to transfer their licenses to a grocery store location through a mandatory relocation lottery. Assuming the applicant seeking access to a desired grocery store is chosen, this applicant must then meet an additional imposed distance requirement: if the grocery store is less than 1 kilometer away from any other LRS or BCLS, that store is ineligible to host the wine-store. In contrast, any B.C. VQA wine store (and any independent wine store) seeking to relocate to a grocery store is not subject to either requirement. The policy intention behind the removal of this restriction is to favour these outlets in their choice of points of sale. In its December 19, 2014 News Release, the Ministry of Justice stated:

Of note, these licenses [BC VQA stores and independent wine stores] are not subject to the one-kilometer restriction, allowing more flexibility and choice of locations when moving into a grocery store.27

---

The Minister acknowledges that the one-kilometer condition is a restriction that limits flexibility and choice of grocery store location for LRS’s and BCLS’s. These stores are the overwhelming retail vehicle for selling imported wines into the B.C. market.\(^{28}\) The mandatory one-kilometer condition places B.C. government acknowledged restrictions on imported wine in choice of location and flexibility in determining location to access grocery store consumers that does not apply to B.C. wine sold in B.C. VQA stores or, apparently, to B.C. wine sold on grocery store shelves.

Second, in any given market, the lottery and the distance restriction may in practical terms put conditions on the ‘supply’ of eligible grocery stores that effectively removes them as a point of access to grocery store consumers to sell imported wines. A December 20, 2104 newspaper report notes that there are 53 grocery stores in the Vancouver grocery store market, but there are only two that fall outside the 1 kilometer distance requirement.\(^{29}\) Assuming this is true, the number of grocery stores eligible to host a wine store selling imported wines for B.C.’s largest municipality is less than 4 percent of the available grocery store market. Further, if these two grocery stores agree to accommodate B.C. VQA stores, imported wines would be effectively unable to access the Vancouver grocery store market.

Third, the operation of a store-within-a-store entails costs on the sale or offering for sale of imported wines to grocery store consumers that does not apply to B.C. wine sold on grocery store shelves: the store must be physically separated from the rest of the grocery store, the majority of the perimeter must be bounded by a fixed and immovable barrier, and the portion of the perimeter not fixed must be set up to permit the monitoring and control of the entrance to the store. We recognize that the proposed Special Wine Store Licence Auction Act does put in place an auction to govern the purchase of licenses for the sale of B.C. wines on grocery store shelves. While it remains to be seen whether such auction prices entail costs equivalent to constructing and operating a store-within-a-store, even assuming the cost is similar, any auction cost applies only to additional licenses issued under the proposed Act. It does not apply to the sale of B.C. wines on grocery store shelves further to existing licenses. In this regard, we note that whereas B.C. wine is currently being sold on B.C. grocery store shelves under the wine-on-shelves policy,\(^{30}\) there is as yet no wine store -within-a-store.

For these reasons we consider the wine-store-within-grocery-store model offers to imported wines only restricted points of market access to grocery store consumers that effectively treats imported wine less favourably than B.C. wine contrary to GATT Article III.4. In saying this, we are not aware of any B.C. government policy indicating that imported (and non-B.C. Canadian) wine sold to grocery store consumers poses such a unique risk to public morality or to human health and safety, not caused by the sale of B.C. wine on shelves, that such non-B.C. wine must


\(^{29}\) See \url{http://www.vancouversun.com/Grocery+stores+start+stocking+wine+shelf+April+10667145/story.html}.

\(^{30}\) See \url{http://www.eastanet.net/news/BC/136659/Wine-at-1-BC-grocery-store}. 
be sold in the limited wine-store-within-grocery-store model. Put simply, we do not identify any permissible GATT exceptions to justify this discriminatory treatment.

_In sum, the B.C. wine policies appear to discriminate against imported wines, in violation of GATT Article III:4 “national” (i.e., non-discriminatory) treatment obligation and are not saved by any GATT exceptions to this obligation._

Countries may accept under a free trade agreement discriminatory treatment for their products in the other country’s market, such as discriminatory treatment in favour of domestic wine regarding the distribution, offering for sale and sale of wine. _Accepting a less favourable treatment standard under such a free trade agreement applies only to the countries to the free trade agreement and then only within the specific terms of the rules permitting such lesser standard._ For example, we note that Canada does not have a free trade agreement with Australia or New Zealand and so the above GATT analysis would apply to their wine. We next turn to examine the Article III:4 exceptions in the NAFTA as they apply to the internal sale and distribution of wine between the US and Canada.  

IV. North American Free Trade Agreement: The United States (and Mexico) Has Agreed to a Partial Derogation of the National Treatment Standard in Article III:4

The North American Free Trade Agreement (“NAFTA”) contains specific rules that apply to trade in wine between the United States (and Mexico) and Canada. Article 312.2 provides that “measures” relating to wine (and distilled spirits) are governed by Annex 312.2. Section A of this Annex states:

> As between Canada and the United States, any measure related to the internal sale and distribution of wine and distilled spirits … shall be governed under this Agreement exclusively in accordance with the relevant provisions of the Canada-United States Free Trade Agreement, which for this purpose are hereby incorporated and made a part of this Agreement [emphasis added].

Under NAFTA, “measure” includes “any law, regulation, procedure, requirement or practice”. Therefore, determining whether the B.C. policy “requirements” and regulations regarding the

---

31 Canada has a free trade agreement with Chile that has rules similar to those that apply as between Canada and the US. However, an analysis of this agreement and other such agreements is outside the scope of this opinion. We also are aware that Canada has negotiated the Comprehensive Economic Trade Agreement (CETA) with Europe and that it contains rules regulating the sale of wine. As the CETA is not yet in force, we make no further comment on whether the B.C. wine policies violate CETA rules.


33 See NAFTA, Article 201 “measure”.
offering for sale, and sale of US wine in B.C. grocery stores complies with the NAFTA requires an evaluation of the “relevant provisions” of the Canada-United States Free Trade Agreement [“FTA”], which are incorporated into the NAFTA.\footnote{34}

V. Free Trade Agreement: A Limited Derogation from National Treatment Obligations

The “relevant provisions” mentioned in the NAFTA - the rules incorporated into the NAFTA - are set out in Chapter Eight of the FTA, which is devoted exclusively to wine (and distilled spirits). Article 801:1 provides that Chapter Eight applies to “any measure”\footnote{35} related to the internal sale and distribution of wine (and distilled spirits). Article 804:1 says that the measure regulating the sale or distribution of Canadian or US wine must “conform with Chapter Five” of the FTA. Article 501:1 of Chapter Five sets out the GATT Article III:4 rule, noted above: Canada (and the US) must grant to the goods of the other country the “no less favourable” treatment required to be provided under GATT Article III (i.e., including Article III:4). Chapter Five, Article 501:2 also has rules for what this means when dealing with provincial laws or regulations or requirements: “no less favourable treatment” means for imported goods “the most favourable treatment accorded by such province … to any like, directly competitive or substitutable [B.C.] goods, as the case may be”.

Consequently, under the FTA (and therefore the NAFTA), British Columbia wine-in-grocery store regulations or requirements regarding the internal sale of imported and like B.C. wines to grocery store consumers must provide to US wine the most favourable treatment given to any like B.C. wine unless there is a rule in the FTA that permits B.C. to apply a lesser treatment standard to US wine.\footnote{36}

There is such a rule, or “derogation”, for wine (and distilled spirits). Canada and the US characterize this as a “partial derogation from the national treatment provisions of Chapter Five”.\footnote{37} It is found in Chapter Eight, Article 804, titled “Distribution”, under the NAFTA. It says that “notwithstanding” the obligation to provide to imported wine non-discriminatory treatment, and provided that any other measures involving the internal sale (or distribution) of wine do not discriminate against imported wines, a country (and a province) may:

“maintain a measure requiring private wine store outlets in existence on October 4, 1987 in the provinces of Ontario and British Columbia to discriminate in favour of wine of


\footnote{35} The definition of ‘measure’ in the NAFTA and the FTA is identical. See FTA, Article 201 “measure”.

\footnote{36} Article 804:1 “Coverage”.

\footnote{37} Ibid, at p. 135.
those provinces to a degree no greater than the discrimination required by such existing
measure. 38

Readily seen is that this grandfathering rule or derogation is limited in what it expressly covers.
This is consistent with the objective that Canada and the US had in negotiation Chapter Eight,
which “is to provide over time equal treatment for Canadian and U.S. wine ... in each other’s
market.” 39

The FTA (and therefore the NAFTA) explains what some of these terms mean: “in existence on
October 4, 1987” means for private wine store outlets, “those, that on October 4, 1987, were in
operation, were in the process of being built, or for which an application to operate had been
approved by the Ontario or British Columbia liquor controlling authority”; and “existing
measure” means a measure in force on October 4, 1987. 40

Taken together, this partial exception to GATT Article III:4, provides that:

British Columbia may maintain a measure in force as of October 4, 1987 requiring (i.e.,
enabling) private wine store outlets that on this date were in operation, were in
the process of being built, or for which an application to operate had been submitted and
approved by the then British Columbia liquor controlling authority, to discriminate in
favour of B.C. wine. This discrimination must be no greater that what is required (i.e.,
approved) by the measure.

The introductory Explanatory Notes to the FTA Chapter Eight summarize the above in these
terms: “Similarly, Ontario and British Columbia are not prevented from allowing private wine
store outlets existing on Oct. 4, 1987 to favour their own wine.” In this regard, we note that we
are not able to ascertain at the moment with any degree of certainty how many private wine store
outlets may have existed on October 4, 1987 (or their locations). 41

Chapter Eight of the FTA then provides that it will permit amendments to discriminatory
regulations or requirements “of any existing measure”, i.e., in force on October 4, 1987, but the
amendments cannot “decrease the conformity” of the measure “with any of the provisions of
Chapter Five”. 42 This means that amendments can be made to the measures in force in October,

38 Article 804:2(b).
Each FTA Chapter is preceded by “Explanatory Notes” which are there to “aid in the interpretation” of the FTA
by putting “in plain and clear language the meaning of each of the principal sections”.
40 Article 808 “Definitions”.
41 It may be possible to determine this, but the investigation necessary to achieve this goal is beyond the scope of
this opinion.
42 Article 808:2(c).
1987 regarding discriminatory favourable treatment of then existing private wine store outlets in selling B.C. wines, but any amendments are not permitted to increase the level of discrimination that exists as of this October date.

VI. The Application of the Derogation to the B.C. Wine Policies

Read literally, the FTA (and NAFTA) grandfathering exception to GATT Article III:4 simply provides that any private wine store outlet in operation, being built or for which an application to operate a wine store outlet has been approved on October 4, 1987 can be required by law or regulation or otherwise to sell only B.C. wines in their stores. These laws, regulations or requirements cannot impose a similar condition on other wine stores whose application to operate was made after the October, 1987 date.

However, it is possible that this grandfathering rule also may be interpreted to include the means by which such private wine store outlets, i.e., those existing in October, 1987 can favour B.C. wines, such as on grocery store shelves. In addition, any amendments to the laws or requirements allowing for such discriminatory treatment cannot be such as to increase the discrimination granted to the sale of B.C. wine by these private wine store outlets.

We are not able to ascertain with any degree of certainty how many such outlets may have existed on October, 1987. Further, although we have examined the two pieces of legislation governing the internal sale and distribution of wine in the province in October, 1987, the *Liquor Distribution Act*,\(^{43}\) the *Liquor Control and Licensing Act*,\(^{44}\) and its regulation,\(^{45}\) we cannot say definitively what was the legislative authority applicable to any then “B.C. wine only” private wine store outlet. Therefore, we are unable to determine with certainty whether any amendments to the current *Liquor Control and Licensing Act* by Bill 27 permitting the relocation of wine stores to grocery stores increases the discrimination granted to these then existing private wine store outlets. Nevertheless, we do conclude for the reasons set out below that the B.C. wine policies cannot use the FTA (and NAFTA) grandfathering rules to discriminate against US wine. We examine the reasons in detail, below.

1. Wine on Shelf License Auction

Regardless of the above uncertainty, it is clearly difficult to argue that the legislation regulating the auctioning of licenses to sell B.C. wines on grocery store shelves is a law that existed in October 4, 1987 to regulate the sale of wine by then existing private wine store outlets. The B.C. government announced the law and the auction process in these terms:

\(^{43}\) R.S.B.C. 1979, c. 238.

\(^{44}\) R.S.B.C. 1979, c. 237.

\(^{45}\) B.C. Reg. 608/76.
If passed, Bill 22, the Special Wine Store Licence Auction Act, will allow the highest bidders access to a limited number of licences to sell B.C. wine off grocery store shelves - delivering on government’s commitment to enhance convenience for consumers. This new legislation will create the legal framework for a future auction and ensure fairness and transparency in awarding a limited number of these liquor licences. Of note, these are not newly created licences - they are dormant licences that B.C. will be looking to issue via an auction process.\textsuperscript{46} [Emphasis added]

The legislation is not intended to regulate the sale of wine by private wine store outlets that existed on October 4, 1987. It is intended to regulate the sale of wine by new licensees. Similarly, it is difficult to argue that this Act is a law that existed in October, 1987 or is an amendment to a law existing in October, 1987. As the B.C. government acknowledges, this Act is new legislation, passed ‘whole cloth’ to implement the results of the 2013 Liquor Policy Review.\textsuperscript{47} Also, for the reasons set out below, the licenses are for the sale of wine in private grocery stores, not in private wine store outlets.

In consequence, the issuance of any new licenses under the proposed Special Wine Store Licence Auction Act falls outside the limited non-discrimination exception in Chapter Eight. It is subject to the general FTA (and therefore NAFTA) obligation that British Columbia must grant to US wine the most favourable treatment it gives to any like B.C. wines. Since this proposed Act permits only B.C. wines to be eligible for sale under the new licenses, the Special Wine Store Licence Auction Act does not provide this treatment to US wines. It violates Canada’s (and B.C.’s) obligations under the NAFTA regarding the sale in B.C. of US wine.

2. Transfer Existing License to Grocery Store or Appoint Grocery Store Operator

Under the February Policy Directive, as noted earlier, an existing independent wine store or B.C. VQA licensee can relocate their point of sale to grocery stores.\textsuperscript{48} In the case of wine stores, the licensee must transfer the license to the grocery store. In the case of the B.C. VQA licensee, the licenses are ‘held” by the B.C. Wine Institute, who must apply to appoint the grocery store as a third party “operator”. As noted above, only B.C. wines can be sold on grocery store shelves. The license of any current license holder permitted to sell imported wines who seeks to transfer the license to the grocery store must be amended to reflect the B.C. wine only condition.

The Liquor Control and Licensing Branch requires that in addition to being of a certain size, the grocery store must:

\textsuperscript{46} See http://www.newsroom.gov.bc.ca/2015/03/liquor-law-updates-further-modernization-flexibility.html.


\textsuperscript{48} LRS’s and BCLS’s are not eligible to transfer their licenses to grocery stores or appoint the grocery store as a third party operator.
• Be primarily engaged in retailing a general line of foods (including beverages) for human consumption;
• have food sales revenue accounting for over 70% of the total non-liquor sales revenue each year;
• have food sales revenue accounting for over 50% of the total sales revenue each year, including liquor sales from a retailer located in the grocery store.  

Regardless of the above mentioned uncertainty regarding the number of wine store outlets then existing on October 4, 1987, we note that the grandfathering exception to the non-discrimination rules of the FTA (and therefore the NAFTA) applies only to the sale of B.C. wines by private wine store outlets. Yet B.C. wine will be sold, whether by the transfer of wine licenses or the appointment of third parties to act as operators, in a private grocery store. The February Policy Directive (and the Implementing Regulations) makes clear that the reason for the revenue requirements noted above is “to ensure the business remains primarily a grocery store”.  
Further, these grocery stores were not a wine store outlet that was in operation or being constructed in October, 1987 or in respect of which an application to operate as a private wine store outlet was approved at that time, as is required by the grandfathering rules. Moreover, while the B.C. VQA licenses will not be transferred to grocery stores but will still be held by the B.C. Wine Institute, the sale to consumers will be by the grocery store. As recognized by the Liquor Control and Licensing Branch in discussing the “wine-on-shelves” model:

The model allows for the sale of 100% BC Wine: stored by the grocer, stocked in designated display areas, purchased at designated check-out registers by certified employees, and with opportunities to sample the products in designated tasting areas.

The storing, the stocking, the displaying, the sampling, and the purchasing by consumers in a grocery store are testament that the B.C. VQA wine is offered for sale and purchase in a grocery store. This is not a private wine store outlet.

In consequence, B.C. government requirements regarding the transfer of any wine store licenses or the transfer of operating authority regarding existing B.C. VQA licenses to sell B.C. only wine on grocery store shelves fall outside the grandfathering rules of the FTA (and the NAFTA). These B.C. requirements are therefore subject to the non-discrimination obligation that British Columbia must grant to wine from the US the most favourable treatment it gives to any like B.C. wines. Since these existing license requirements permit only B.C. wines to be sold on grocery store shelves, they do not provide such “most favorable treatment” to U.S. wines. Consequently,

49 See http://www.pssp.gov.bc.ca/lcb/policy/relocation.htm. See also the Implementing Regulations, section 1 to Schedule 1, definitions of “Eligible grocery store” and “Sales revenue of grocery store”.
50 February Policy Directive, page 2; Implementing Regulations, section 1 to Schedule 1, definitions “Eligible grocery store”.
51 See supra, at footnote 47.
the favouring of existing B.C. license holders to sell B.C. only wine on grocery store shelves violates Canada’s (and B.C.’s) obligations under the NAFTA regarding the sale in B.C. of U.S. wine to grocery store shoppers.

3. **Transfer of Location of Wine Store within a Grocery Store**

The discrimination here is the distance limitations and lottery requirements that apply to LRS and BCLS’s to access grocery stores that do *not* apply to B.C. VQA stores. As mentioned earlier, this is intended to provide to B.C. VQA [and independent wine store] licensees greater flexibility and choice of locations when relocating a wine store in a grocery store.

The ability under the grandfathering rules for B.C. to treat private wine store outlets in a way that favours the sale of B.C. wine is time limited to the stores that existed on October 4, 1987, i.e., *not including any* private wine store outlet whose application to operate is approved *after* this date. In addition, any amendments to the laws or requirements allowing for such discriminatory treatment cannot increase the discrimination granted to these *then* existing private wine store outlets.

We note that *all* B.C. VQA (and independent wine) stores are *not* eligible for this favourable treatment. The application of the February Policy Directive and the amended *Liquor Control and Licensing Act* to *any* such B.C. wine store that did *not* exist in October, 1987, whether currently selling B.C. VQA wines or otherwise, would violate the grandfathering provisions: it effectively would offer favourable discriminatory treatment to private wine store outlets that are not eligible for this treatment. In so doing, it would increase the level of discrimination over that which is permissible to B.C. private wine store outlets by the grandfathering rules of the FTA (and the NAFTA).

We understand there are anecdotal reports that private wine store outlets in B.C. in October, 1987 make up a subset, perhaps a small subset, of the total number of private wine store outlets to which the discriminatory treatment of the February Policy Directive and the amended *Liquor Control and Licensing Act* would apply.\(^{52}\) Given that B.C. VQA stores did not exist until 1995\(^{53}\) and that apparently there are 21 such stores today, it is likely that the current number is greater than the number of private wine store outlets selling only B.C. wine in October, 1987.

The grant under the amended *Liquor Control and Licensing Act* of favourably discriminatory access to all B.C. VQA (and independent wine) stores, without distinction as to when they came into ‘existence’, to relocate to any eligible grocery store in contrast to LRS and BCLS’s falls

---


Small B.C. wineries fear being crushed

New era: Grocery store sales could favour cheaper wines produced by large wineries

Kim Pullen makes wine. If the judgment of his peers is any indication, he makes good wine. His Church & State label ranked second among all of Canada's small wineries in this year's National Wine Awards of Canada.

He produces about 20,000 cases a year from a four-hectare plot on Vancouver Island and a 42-hectare plot in the south Okanagan. Up until this year, he sold much of his production to the public through the network of the province's 250 or so independent VQA-certified wine stores.

(Full disclosure here: One of those stores was Mud Bay Wines in North Vancouver, where my wife works part-time, though not for much longer. The business has been sold to Overwaitea, and its operating licence, controlled by the B.C. Wine Institute, is expected to be transferred to Overwaitea so that it may sell B.C. wines in a grocery store at an as-yet undisclosed location.)

This year, with the advent of grocery store sales, Pullen and the rest of B.C.'s VQA wine industry entered into a new era.

As a precursor to that change, the government, to test the market, has allowed only one store in Overwaitea chain to sell wine on its shelves. The Save-On Foods at South Point in south Surrey began selling wine in April.

As a VQA-certified winery, Pullen's Church & State wines were among the selection. His sales were down in April.

"In a month, I might sell 20 cases at an independent store like Mud Bay, and much of those sales would include our higher-end wines."

"At the Save-On store, I sold half that."

To Pullen, this portends an uncertain future for B.C.'s smaller wineries.

"Number 1, there's a fear among many in the industry that we're going to see the average price point drop drastically in the grocery stores, which will hurt a lot of the small wineries."

Pete McMartin

"Number two, there's a big fear that the market will be dominated by the big wineries (of which there are only three or four in B.C.), which can produce wine cheaper than the smaller wineries."

About 90 to 95 per cent of B.C.'s 250 wineries are classified as small, and it costs them, Pullman said, somewhere between $10 and $12 to produce a bottle of wine. If the price point drops below $14, he said, a lot of them are going to be squeezed out of business.

"I think you're going to see a lot of small wineries waking up one day and realizing they've lost the best sales channel they have in the independent stores."

Pullman isn't alone in his assessment. Leah McDowell, owner of Kensington Square Wines in Burnaby, also believes there is a danger of the smaller wineries being squeezed out.

McDowell finds herself on both sides of the fence in this issue:

She sold one of her stores — and the eventuality of her licence being transferred with it — to Overwaitea. (The average sale price for the independent wine stores is rumoured to be between $300,000-$400,000.)

McDowell worked for Overwaitea for five years and has a first-hand knowledge of how the grocery chain sells its products. She sees the opportunity for greater exposure for B.C. wines in grocery stores, but she sees a danger, too.

"I believe that when we shop in grocery stores, many, many shoppers — myself included — shop by price. And naturally, since the cost of living is so expensive here, we gravitate toward lower prices. And if the price point for B.C. wines falls to the $10 or $12 range, the smaller wineries just won't be able to survive."

At the heart of the grocery store issue is shelf space. Under the present terms with the government, the B.C. Wine Institute maintains control of the wine licences while the grocery chains are the retailer. As such, the grocery chains must guarantee "fair and equitable access" for all B.C. wines.

The question is, how will those wines be displayed? Will some get more shelf space than others? Will slower-selling wines be relegated to less-visible display, or limited to one or two bottles on the shelf? Will unpopular brands even make it to the shelves at all? Will the lower-priced wines of the big wineries dominate displays? Does "fair and equitable access" even guarantee that a wine must be displayed, or can it be allowed to moulder in storage? Will it, as several winemakers and wine store owners said, be a "race to the bottom?"

Miles Prodan, president of the B.C. Wine Institute, believes the move to grocery stores will be a win for B.C.'s wine industry, guaranteeing more sales and greater volumes.

He cited an 11-week analysis of sales at the Save-On store by Deloitte & Touche that showed the wines from smaller wineries selling well, with an average price point for all wines sold of $17.81.

Significantly, though, at Save-On the average price per bottle from a small winery was $19.10 while the average price per bottle from a large winery was $14.57.

Can the industry maintain that price difference in the grocery stores?

"Certainly," Prodan said, "the industry is concerned about the issue of shelving. And yes, certainly I'm concerned about pricing. We're trying to premiumize B.C. wines. So far, we've been able to maintain an $18 average. If we encounter issues, we'll have to deal with it."

To which Kim Pullen said:

"Go down a grocery aisle to the ketchup section. What do you see there? Heinz, dominating the shelves."

"I see the same thing happening to B.C. wine."

pmcmartin@vancouversun.com
City Of Penticton, 

September 1, 2015

I am writing to you in conjunction with the fact that Kamloops is one of the few remaining major urban areas in the province that does not have some territorial limits on outlets selling alcoholic beverages for off-site consumption. As a consequence the community’s fabric could be put under considerable short-term strain as the impact of the recently changed liquor laws and regulations are put into effect.

I am well versed in the industry having served as both Chair of the BC Wine Institute and subsequently as Executive Director of the Association of BC Wine Growers. Moreover, given that I have taught Economics at UBC and served in senior levels of the federal government I do not believe that I could be accused of bias.

I believe strongly in free competition and I really have no preference of where alcoholic beverages are sold. But the industry as now constituted is far from one where all participants are treated in an equal and fair manor. Does your city really need additional liquor and/or wine outlets without considering both the social and economic impact this might have?

I do not believe a two year moratorium that would prohibit new licenses for selling wines and spirits by the bottle unless these establishments are 1 or more kilometres from existing outlets would impose a significant burden on the citizens of the city.

A two year pause will allow both the markets and the city to see what happens elsewhere and devise a policy that will suit the unique needs of your community. Such action by the city would give clear evidence of its desire to act in the best interests of all citizens.

Dr. David E. Bond
Kelowna
Good Morning Joe!

I am happy to let you know Council supported my motion to:

Amend the Zoning Bylaw to prohibit liquor sales in all grocery stores, such that a site specific Zoning Bylaw amendment would be required for any grocery store wishing to sell wine or other liquor as well as; Council grant version 2 of Maple Ridge Zone Amending Bylaw No. 7162-2015.

In my opinion, it is unacceptable in my opinion for the Province to say Small Business is the heart of our communities and then introduce legislation that blantly undermines the families who've invested in those very same communities for decades. We as local government MUST support small business.

The video of the meeting will be posted within 2 days.

I'm very happy I was successful in this work.

Have a great day!

Corisa Bell
City of Maple Ridge
City Councillor
June 23, 2015

City of Penticton

Mayor and Council

VIA EMAIL

Your Worship and Council:

Re: Imminent Changes to liquor laws

My name is Randy Wilson. I am the Board Chair of the BC Private Liquor Store Association. We represent the private liquor stores that operate throughout BC.

You are no doubt aware of the many changes that are occurring with respect to our liquor laws as they pertain to “BC Wine in Grocery Stores” and Bill 22 whereby grocery stores will be allowed to sell BC wines, ciders, beers and distilled products.

The first phase of the Provincial plan is the relocation of VQA stores within Save-On Food Stores. It would appear that the BCWI (BC Wine Institute) has granted the Overwaitea Food Group an exclusive in this regard. There are a total of 21 VQA licenses that are either operational or were inactive (and have been re-activated) to accommodate this.

The second phase is Bill 22. These stores will vary from the VQA stores, as they will be permitted (at a Provincial level) to sell BC wines (which may not be VQA), BC craft beers, BC ciders and BC distilled products. I assume it is only a matter of time before BC coolers (made with spirits) will be permitted.

I will further assume that CIC wines (Cellared in Canada) - which is foreign wine shipped in bulk in rubber-lined freighters and bottled in BC - will be allowed.

I wanted to bring to your attention some issues and facts that we believe Council should be aware of before making any decisions regarding the proposed methods of selling of alcohol in food stores in BC.

At present there are a series of regulations and policies that all liquor retailers (private and government) have to abide by when they sell any liquor at retail. Failure to comply with these rules can lead to severe fines, suspensions or the termination of a license (which is only applicable to private stores). The intent of these regulations is for public safety and to ensure that minors do not have open and unrestricted access to any form of liquor and that people are not being over-served.
These rules include but are not limited to;

1) A redline of the retail area that restricts access to any unaccompanied minor.

2) A separate door and walled off area where liquor may be sold or stored.

3) No private or government store can be located within 1 K of each other. This has been done to stop the proliferation of liquor retail stores in any one City or neighbourhood.

For whatever reason the provincial government has decided that "food stores" should be exempt of these regulations and laws.

Under the new regulations food stores will be able to.

1) Have alcohol on the shelves in the food stores with no barrier or closed off area so that it has unrestricted access to any and all patrons of a food store

2) Locate anywhere in BC regardless of the location of a Private Liquor Store (LRS) or a Government Liquor Store (GLS). There is no distance criteria required between liquor in food stores and any other liquor retailers. To this end, it will be possible for a food store to sell alcohol when there is a private or public retailer or a VQA store on the same site or within 1 K of each other.

Regardless if people shop at a private or public store the basis behind the regulations was to provide a level of public safety.

1) That minors will not have unrestricted access to any form of alcohol.

2) That only through a controlled and separate area (with trained staff) can you regulate and control the access and sale of alcohol to our most vulnerable and susceptible members of society including minors and people that may be intoxicated.

3) If any liquor retailer violates any of these "core" values, that store (vendor) will be subject to severe fines, penalties, closures or the termination of the license.

As private retailers we are well aware of the pros and cons of alcohol. While we know that the vast majority of the population drink responsibly we understand that there is a segment of our population that has a problem with alcohol regardless of whether it is wine, beer, ciders or hard alcohol.

_Alcohol is alcohol. It doesn’t matter if it is BC wine or craft beers._
Furthermore, we know that alcohol is both an intoxicant and a “cash commodity”.

Only in a controlled and separate area (with trained and licensed staff) can alcohol be sold in a responsible manner that provides an important level of public safety.

A food store will have (depending upon their sales volume) anywhere from 4,000 to 15,000 transactions per day. If we include people who accompany each other it can be double that number.

**There is no food store that can responsibly control the sale of alcohol having up to 15,000 (+) customer per day in an open and unrestricted section of the store.**

In a very positive way as a society we have taken the following measures in terms of public safety:

1) A vendor of cigarettes must have the location of the cigarettes separate and NOT VISIBLE to any customers (regardless if they are smokers or non-smokers).

2) That any food store with a pharmacy must “lock up” and restrict access to any ‘mood altering’ drugs (over the counter medicine such as Gravol, sleep aids, some vitamins or other medicines) when the pharmacy section of the food store is closed.

However, when it comes to alcohol the provincial government has arbitrarily decided that these measures are not required for food stores and only food stores.

We disagree.

Alcohol is unlike other consumer products and it should not be treated (or sold) the same. While it does come in retail bottles and cans that have an appealing retail appearance, it is not a traditional retail product.

**It is highly regulated because it is a controlled substance. It is an intoxicant.**

In this regard we support much of the information and studies produced and published by Dr. Tim Stockwell at the Centre for Addictions Research of BC at the University of Victoria.

My personal background is in the grocery industry. I fully understand that it is the short and long term goal of food stores to become liquor stores.

Food stores are looking for any product or service to further consolidate their customers into one shopping location...their stores.
To a “food store” this is one more commodity that can be added to increase their overall volume.

In addition, food stores will not pay more property tax as the area for alcohol will be within their existing space.

Aside from our concerns for public safety or disregarding many of the rules and regulations of retailing liquor there are other unintended consequences that we believe should be considered. We believe that local Councils more than any other political group control the culture of a community.

Creating a separate section within food stores to only sell BC products will almost certainly instigate a “Trade Challenge” from the international wine countries.

While many (if not most) countries or jurisdictions support or subsidize their wine or craft beer industry (including BC), creating a dedicated retail section within a food store (that only sells BC Products) violates our agreements with NAFTA and GATT.

If a trade challenge was successful it could mean that all wines from around the world would be sold in food stores.

This will jeopardize and place our BC wine and craft beer industries at serious risk.

It has taken BC several decades to create and build our “unique” wine and craft brewing industries. It is a vibrant and important part of BC. It is unlike many areas of the world.

However, most of our BC wineries cannot compete with price and the availability of product when compared to many of the US or International winery consortiums.

Food stores (similar to Washington State and Oregon) will place pressure on the wineries to create wines that can be sold to the masses at the lowest price but provide the food store with the highest gross margin.

This happened in the UK when Tesco received the exclusive right to sell wine.

In fact, there is no jurisdiction (we can find) that when food stores sold wine they protected or enhanced the local wine industry. The opposite is true. When food stores sell wine, it is the local, small, independent and unique producers who lose. This is verified in a report written by eminent wine lawyer, Mark Hicken: http://www.bcprivateliqurstores.com/wp-content/uploads/2015/01/Hicken-Report-supermarket-sales.pdf

Only a handful of BC wineries can effectively operate in a food-store system. Most are already owned by either an American or Ontario based companies.
As proud supporters of our BC wine and craft beer industries, we would hate to see this happen. It would be the eventual erosion of what has taken decades to create and is unique only to BC.

We will be throwing away the diversity of these industries to create one “homogenized” industry supplied and controlled by the largest and wealthiest retailers in Canada.

Our industry partners have created something truly unique in so many BC communities. We don’t want to see the value of that uniqueness put at risk and lost.

To this end we are recommending that all BC Municipalities review their by-laws and OCP’s.

We believe and recommend the following:

1) That a local government bylaw be created that requires a 1km distance between all liquor retailers (including food stores). This is the same as the current Provincial policy as it pertains to government liquor stores and private liquor stores. However, the Provincial policy could be changed or eliminated by the Provincial government at any time as it is a policy as opposed to legislation.

2) That any food store (that meets the 1km distance criteria) will only sell BC Wine in a separate and demised area of the store that has controlled access and egress (to stop unaccompanied minors).

3) The retail area of a wine store (within a food store) will not exceed 1,000 sq.ft.

4) That all alcohol must be purchased at dedicated cashier within the demised store area.

5) That no “unpaid liquor” can be taken into the food store.

6) That all staff must have and be licensed for “Serving it Right”.

7) That the wine store can only be open from 9am to 11 pm as per the existing permitted hours of operation by LRS’s and GLS’s (regardless of the food store hours)

8) No minors can work in the dedicated wine store area

9) Underage employees (of the food store) cannot have access to any alcohol (including the stocking and receiving of all alcohol products).

We appreciate the opportunity to discuss the many detailed and crossover issues of selling and producing alcohol in BC and how the different parts of the alcohol industry have grown together
to provide the people of the province with a very unique and varied grown in BC industry experience.

I remain available to discuss this with you and would be happy to attend a meeting to provide Council with additional information.

Regards

[Signature]

Randy Wilson
Board Chair, BC Private Liquor Store Association
(250) 818-1558
Request to Appear as a Delegation

Preferred Council Meeting Date: **August 8/15**
Second choice(s): **September 5/15**
Subject matter: **SPEED CONTROL ON LEE AVE.**

Name of person(s) making presentation:

**James Palario**

Address: 211 Lee Ave, Penticton
Phone: 
Email: 

Please provide details of your presentation:

```
Request for Speed Control or Traffic Calming on Lee Ave.
```

Please note:

- This form and its content is part of the public record.
- Written copies of your submission must be presented to the Corporate Officer by 9:30 a.m. on the Wednesday before the meeting either by email, fax or in person.
- PowerPoint presentations must be emailed no later than 9:30 a.m. the date of the meeting. We recommend you bring backup PowerPoint files with you on a memory stick.
- Delegations are limited to 5 minutes.

Corporate Office
Dana Schmidt, Corporate Officer
171 Main Street, Penticton, B.C., V2A 5A9

Phone: 250-490-2405
Fax: 250-490-2402
dana.schmidt@penticton.ca
RE: LEE AVENUE EXCESSIVE SPEEDING – JULY 23, 2015

Lee Avenue is a beautiful residential street in Penticton two blocks from Skaha Beach and Park. It is only two blocks long and is used as a shortcut by many residents and non-residents from South Main St. to the east, to Skaha Lake rd on the west and visa versa.

This residential street has many children living on it, combine that with the increased activity in the summer months of both vehicular traffic and pedestrian traffic carrying dinges and other beach gear to the beach crossing Lee at Cypress, Stecoly Lane, and the crosswalk at Gilligans with cars parked on both sides of the road creates a very unique and dangerous situation for a residential street.

In discussions with many residents of the area, traffic calming measures of some sort must be installed. This would be a more effective measure than reducing the speed limit to 30 km/hr, as enforcement is difficult as been proven in many school zones.

Many residents have remarked that it is only a matter of time before someone is hit by a speeding car, and that many of the speeding drivers are repeat offenders.

In addition to this concern, there are also many commercial vehicles that use Lee Avenue as a shortcut, even though Yorkton Avenue, one block to the north is a designated truck route. The residents feel that traffic calming measures will also discourage these vehicles from using Lee Avenue as a shortcut.

We, the undersigned, believe traffic calming measures will drastically reduce the risk of pedestrian accidents on Lee Avenue and thus ask Penticton City council to approve the installation of traffic calming measures on Lee Avenue to ensure the safety of residents and tourists alike.

<table>
<thead>
<tr>
<th>NAME</th>
<th>SIGNATURE</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>James Palacio</td>
<td></td>
<td>211 Lee Ave, Penticton</td>
</tr>
<tr>
<td>Claire Thompson</td>
<td></td>
<td>217 Lee Ave, Penticton</td>
</tr>
<tr>
<td>Will Grainger</td>
<td></td>
<td>217 Lee Ave, Penticton</td>
</tr>
<tr>
<td>Carina Mankin</td>
<td></td>
<td>223 Lee Ave, Penticton</td>
</tr>
<tr>
<td>Inez Kaminski</td>
<td></td>
<td>195 Lee Ave, Penticton</td>
</tr>
<tr>
<td>Jeff Kaminski</td>
<td></td>
<td>195 Lee Ave, Penticton</td>
</tr>
<tr>
<td>Mike Taylor</td>
<td></td>
<td>189 Lee Avenue</td>
</tr>
<tr>
<td>Maria Carver</td>
<td></td>
<td>175 Lee Ave</td>
</tr>
<tr>
<td>Scott Young</td>
<td></td>
<td>145 Lee Ave</td>
</tr>
<tr>
<td>Su Anne Young</td>
<td></td>
<td>137 Lee Ave</td>
</tr>
<tr>
<td>Shawnelle Henderson</td>
<td></td>
<td>137 Lee Ave</td>
</tr>
<tr>
<td>Michael</td>
<td></td>
<td>125 Lee Ave</td>
</tr>
<tr>
<td>Elizabeth Henderson</td>
<td></td>
<td>125 Lee Ave</td>
</tr>
<tr>
<td>Carol Page</td>
<td></td>
<td>118 Lee Ave</td>
</tr>
<tr>
<td>Randy Goudie</td>
<td></td>
<td>118 Lee Ave</td>
</tr>
<tr>
<td>Michael</td>
<td></td>
<td>118 Lee Ave</td>
</tr>
</tbody>
</table>
We, the undersigned, believe traffic calming measures will drastically reduce the risk of pedestrian accidents on Lee Avenue and thus ask Penticton City council to approve the installation of traffic calming measures on Lee Avenue to ensure the safety of residents and tourists alike.

<table>
<thead>
<tr>
<th>Name</th>
<th>Signature</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brent Eisna</td>
<td></td>
<td>140 Lee Ave.</td>
</tr>
<tr>
<td>Jeremy Sherstone</td>
<td></td>
<td>162 Lee Ave.</td>
</tr>
<tr>
<td>Lore Sherstone</td>
<td></td>
<td>152 Lee Ave.</td>
</tr>
<tr>
<td>Kevin Cochrane</td>
<td></td>
<td>158 Lee Ave.</td>
</tr>
<tr>
<td>Mara Ostash</td>
<td></td>
<td>161 Lee Ave.</td>
</tr>
<tr>
<td>Ruth M. Nichols</td>
<td></td>
<td>172 Lee Ave.</td>
</tr>
<tr>
<td>Pat Braden</td>
<td></td>
<td>180 Lee Ave.</td>
</tr>
<tr>
<td>Brent Bradford</td>
<td></td>
<td>180 Lee Ave.</td>
</tr>
<tr>
<td>Paul Schinz</td>
<td></td>
<td>203 Lee Ave.</td>
</tr>
<tr>
<td>Greg Pieczalkski</td>
<td></td>
<td>129 Lee Ave.</td>
</tr>
<tr>
<td>Ruth Wiseman</td>
<td></td>
<td>129 Lee Ave.</td>
</tr>
<tr>
<td>Marie Chayothers</td>
<td></td>
<td>146 Lee Avenue</td>
</tr>
<tr>
<td>Harvey Ryco</td>
<td></td>
<td>188 Lee Ave.</td>
</tr>
<tr>
<td>Angie Ross</td>
<td></td>
<td>206 Lee Ave.</td>
</tr>
<tr>
<td>Judie Schinz</td>
<td></td>
<td>203 Lee Ave.</td>
</tr>
</tbody>
</table>
WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the Local Government Act;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2011-23;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**
   
   This bylaw may be cited for all purposes as “Zoning Amendment Bylaw 2015-45”.

2. **Amendment:**
   
   2.1 Zoning Bylaw 2011-23 Schedule ‘A’ is hereby amended as follows:

   Rezone Lot 2, District Lot 116, Similkameen Division Yale District, Plan 9696, located at 2922 Wilson Street, from RD1 (Duplex Housing) to RM2 (Low Density Multiple Housing).

   2.2 Add 10.8.4 Site Specific Provisions

   .2 In the case of Lot 2, District Lot 116, Similkameen Division Yale District, Plan 9696, located at 2922 Wilson Street, the maximum density shall be 0.92 FAR.

   2.3 Schedule ‘A’ attached hereto forms part of this bylaw.

READ A FIRST time this 17 day of August, 2015
A PUBLIC HEARING was held this 8 day of September, 2015
READ A SECOND time this day of , 2015
READ A THIRD time this day of , 2015
RECEIVED the approval of the Ministry of Transportation on the day of , 2015
ADOPTED this day of , 2015

Notice of intention to proceed with this bylaw was published on the 28 day of August, 2015 and the 2 day of September, 2015 in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer
2922 Wilson Street
Rezone from RD1 (Duplex Housing) to RM2 (Low Density Multiple Housing) with a site specific zoning amendment to increase the maximum density from 0.75 FAR to 0.92 FAR
The Corporation of the City of Penticton

Bylaw No. 2015-15

A Bylaw to Amend Zoning Bylaw 2011-23

WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the Local Government Act;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2011-23;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**

   This bylaw may be cited for all purposes as “Zoning Amendment Bylaw 2015-15”.

2. **Amendment:**

   2.1 Zoning Bylaw 2011-23 Schedule ‘A’ is hereby amended as follows:

   Rezone Lot 2, District Lot 202, Similkameen Division Yale District, and of District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 23635, located at 783 Winnipeg Street, from RD1 (Duplex Housing) to RM3 (Medium Density Multiple Housing).

   2.2 Schedule ‘A’ attached hereto forms part of this bylaw.

   READ A FIRST time this 2 day of March, 2015
   A PUBLIC HEARING was held this 16 day of March, 2015
   READ A SECOND time this 16 day of March, 2015
   READ A THIRD time this 16 day of March, 2015
   ADOPTED this day of , 2015

Notice of intention to proceed with this bylaw was published on the 6 day of March, 2015 and the 11 day of March, 2015 in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

______________________________
Andrew Jakubeit, Mayor

______________________________
Dana Schmidt, Corporate Officer
Rezone 783 Winnipeg Street
From RD1 (Duplex Housing) to RM3 (Medium Density Multiple Housing)
Council Report

Date: September 8, 2015
To: Eric Sorensen, City Manager
From: Audrey Tanguay, Senior Planner
Address: #163-321 Yorkton Avenue
Subject: Development Variance Permit PL2015-034

Staff Recommendation

THAT Council approve “Development Variance Permit PL2015-034” for Lot 1, District Lot 189, Similkameen Division Yale District, Plan 9211 located at #163-321 Yorkton Avenue, a permit to vary the following provisions of Mobile Home Park Bylaw 92-21:

- Decrease the minimum side yard setback of 1.5m to 0.8m for the location of a garage
- Increase the number of accessory buildings from one to two
- Increase the height of an accessory building from 2.5m to 3.7m and increase the size of an accessory building from 10m² to 32m²

AND THAT staff be directed to issue “Development Variance Permit PL2015-034”.

Strategic priority objective N/A

Background

On August 4th 2015, staff presented a Development Variance Permit application to Council, to allow two accessory buildings to remain on a mobile home site in the Figueras Mobile Home Park at 321 Yorkton Avenue. The accessory buildings were originally built without permit and did not meet the Mobile Home Park or Zoning Bylaw. At that meeting, neighbouring residents voiced opposition to the application citing internal park rules and regulations. Council deferred decision until it could be determined if the variance would be in conflict with the internal park rules. The application was sent back to staff for further research.

With that direction, Staff obtained a copy of the rules and regulations of the Figueiras Manufactured Home Park. The rules do not speak to the number of accessory buildings or any permitting requirements. Staff have also confirmed that the applicant both contacted and received approval from the park management prior to commencing the works. When conducting major alterations such as additions or construction of accessory buildings, the owner/manager of the park must approve the improvements on the site. Further, When the applicant became aware of the fact that the buildings he constructed required permits and did not meet the bylaw he also obtained the permission from the owner to make the subject variance application (Attachment “A”). Staff has since obtained a letter from the owner of the Mobile Home Park, confirming that
they accept and agree to this applicant constructing a garage on this lot. The letter is included in this report as (attachment “B”).

Since the previous Council meeting one of the two neighbouring residents, who spoke in opposition to the application, has removed their objection and now supports the development.

**Analysis**

**Support**

All of the concerns raised by Council have been addressed. As such, staff’s original recommendation remains unchanged for Council to support the variance request.

**Deny/ refer**

Council may consider that the number of variances requested and the fact that the garage was built without a building permit is unacceptable and will negatively affect the mobile home park and the neighborhood. If this is the case, Council can deny any or all of the proposed variances. Alternatively, Council may want to refer the application back to staff for further work with the applicant.

**Alternate recommendations**

1. THAT Council refer Development Variance Permit File PL2015-034 back to staff to make changes Council feel are appropriate.


**Attachments**

- Attachment A: Development Application
- Attachment B: Letter from the owner
- Attachment C: Images of the subject property
- Attachment D: Development Variance Permit

Respectfully submitted,

Audrey Tanguay
Senior Planner

**Approvals**

<table>
<thead>
<tr>
<th>Director of Development Services</th>
<th>City Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td>JGH</td>
<td>ES</td>
</tr>
</tbody>
</table>
Attachment A – Development application

### Agency Agreement

**Planning & Building Department – Development Services**

171 Main St. | Penticton B.C. | V2A 5A9
P: (250) 490-2501 | F: (250) 490-2502
24 Hour Inspection Line: (250) 490-2511

- **SUBJECT PROPERTY(ES)**

  #163 - 321 YORKTON AVENUE, PENTICTON B.C.

- **AGENT'S NAME & COMPANY NAME**

  JEAN-PIERRE COMBE

- **MAILING ADDRESS**

  163-321 YORKTON AVE, PENTICTON BC V2A

---

**NAME of the Registered Owner(s) of the property identified above, hereby appoint the person(s), identified above, as my/our agent with authority to endorse on my/our behalf, applications, documents and/or permits other than documents to be registered in the Land Title Office, pertaining to the construction of a building, structure, or other improvement in, on, over or under the aforementioned property (the "project") and to represent me/us in all discussions with the City of Penticton and its employees regarding the construction of the building structure or improvement.**

- **Any correspondence in relation to the project may be sent to the Agent’s address indicated above.**

  - Yes
  - No

If no, please use this address for all correspondence:

---

The above agent(s) shall be authorized to act on my behalf on the applications below and/or to access the information below (initial all that apply):

<table>
<thead>
<tr>
<th>APPLICATION</th>
<th>INITIAL APPLICATION</th>
<th>INITIAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>OCP Amendment Application</td>
<td>Subdivision Permit Application</td>
<td></td>
</tr>
<tr>
<td>Rezoning Application</td>
<td>Strata Conversion Application</td>
<td></td>
</tr>
<tr>
<td>Development Permit Application</td>
<td>Strata Subdivision Application</td>
<td></td>
</tr>
<tr>
<td>Development Variance Application</td>
<td>Building Permit Application**</td>
<td></td>
</tr>
<tr>
<td>Board of Variance Application</td>
<td>Plumbing Permit Application**</td>
<td></td>
</tr>
<tr>
<td>Access to property files</td>
<td>Demolition Permit Application**</td>
<td></td>
</tr>
<tr>
<td>ALR Application</td>
<td>Sign Permit Application**</td>
<td></td>
</tr>
<tr>
<td>Temporary Use Permit Application</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

**Specific to Building Permit Application**

- We accept and understand that during my construction I/we have the overall responsibility for ensuring the building conforms to the requirements of the Building Code. The process of assessing compliance to the requirements during construction is the responsibility of the registered professional for complex (Part 3 BC Building Code) buildings, and the designer/builder for standardized (Part 9 BC Building Code) buildings.

If we further understand that this authorization will remain in full force and effect until the permit expires, which is two (2) years after the permit has been issued, we may notify the City of Penticton in writing that it has been revoked. Person(s) wishing to extend the Agency agreement must have the request in writing to the Development Services Director.

**Signature(s) of Registered Owner(s) or Signing Officer(s):**

**Please Print Name**

**Signature**

**Date**

MAY 04, 2015
City of Penticton

Attention:
Darryl Haddrell
Planner

In regards to the garage at #163 in this park.

I wish to advise I have no concern(s) with the structure or its location.

Alberto Figueira
Attachment C – Images of Property

Figure 1: Unit #163 mobile home

Figure 2: Front of the Accessory building
Figure 3: Side and Rear of the accessory building
Development Variance Permit

Permit Number: DVP PL2015-034

Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.

2. This permit applies to:
   
   Legal: Lot 1, District Lot 189, SDYO Plan 9211
   Civic: #163 – 321 Yorkton Avenue
   PID: 009-730-900

3. This permit has been issued in accordance with Section 922 of the Local Government Act to vary Section 5.06 1.(b) of Mobile Home Parks Bylaw 92-21 to reduce the minimum side yard setback from 1.5 to 0.8m, to vary Section 5.06 1.(a) to increase the number of accessory buildings from one to two, increase the height of an accessory building from 2.5m to 3.7m and increase the size of an accessory building from 10m² to 32m² to accommodate the placement of new garage as shown in the plan attached in Schedule A.

General Conditions

4. In accordance with Section 928(2) of the Local Government Act, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.

5. In accordance with Section 926 of the Local Government Act, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.

6. This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.

7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by Cty Council, the 4th day of August, 2015

Issued this _____ day of __________, 2015

_____________________
Dana Schmidt,
Corporate Officer
Staff Recommendation

THAT Council amend the 2015 budget to reallocate the balance of $233,933.37 from work order CAP40014-001 Cast Iron Water Main Cleaning and Inspection to a new work order for the purpose of implementing a Water Utility GIS.

Strategic priority objective

N/A

Background

In 2014 a series of water line failures and system deficiencies motivated a budget submission to inspect and potentially clean the cast iron water main infrastructure.

The City of Penticton has approximately 192 km of water supply mains comprised of various pipe materials and sizes. The cast iron water mains account for approximately 39% or 75 km of cast iron pipe. The age and installation date of the cast iron water mains is estimated to be a minimum of 60 years of age to possibly 75 or more years old. A general rule of thumb is that water mains have a useful life of about 70 years. The useful life may be reduced or increased depending on many factors such as quality of installation, soil conditions, water chemistry, temperature and pressure.

In June of 2015 GAME Consultants were hired to perform an internal video inspection in an area serviced by cast iron pipe of various sizes. The results indicated the pipes have corroded to the point where tuberculation has formed on the interior of the pipe causing restriction to between 10% to 30% of the pipe diameter. See Figure 1. Tuberculation Buildup – Various Pipes Inspected.

Figure 1 – Tuberculation Buildup – Various Pipes Inspected
Corrosion and tuberculation buildup inside water pipes weakens the pipe wall and reduces the capacity of water flow by reducing the pipe diameter and increasing the friction losses within the pipe. The tuberculation nuggets are hard deposits that are not easily cleared from the line.

In 2014 a contractor was hired to perform aggressive foam pigging of the water line on Burnaby Avenue to address a water flow problem that was identified. The program involved inserting progressively more dense and aggressive foam pigs into the water line, using water flow to push the pig to remove the buildup of tuberculation. Although the foam pigs did remove some of the tuberculation build up they were not able to return the line to the original flow characteristics. The water line was replaced as part of the 2015 Capital Works Program. Figure 2 – Foam Pig and Tuberculation Removed shows a typical foam pig that was used and some of the removed tuberculation.

Figure 2. - Foam Pig and Tuberculation Removed

![Before Insertion](image1.jpg) ![After Retrieval from Water Main](image2.jpg)

Upon review of the video reports it was evident that continuing the program of inspection would likely reveal similar results for the remainder of the cast iron pipe network. Rather than continue to use the budget for inspection, staff’s recommendation is to reallocate the remaining budget to develop a Geographic Information System (GIS) for the water utility network.

The implementation of a GIS for the water utility will involve the digital collection, filing, storage, and retrieval of all known and future water system attributes. Data will include but not be limited to material, size, installation date, water flushing data, flow, pressure, repair history, soil conditions, inspection reports etc. Capturing all known data and relating it to the graphical representation will allow for effective analysis to determine and prioritize the replacement of assets in a predictive rather than a reactive manner.

**Financial implication**

The Cast Iron Water Main Inspection and Cleaning Budget – CAP40014-001 was authorized at $250,000 for 2015. The inspection program that was conducted utilized $16,066 leaving a balance of $233,933 remaining.

This report is requesting the transfer of the remaining balance of $233,933 toward the development of a Water Utility GIS.
Analysis

Based on the results of the video inspection reports, information gathered from water main failures throughout the City, and the estimated age of the cast iron water pipe, continuing to inspect and attempting to remove the internal corrosion may not be the best investment of the balance of this budget. The reality is that the useful lifecycle of the cast iron pipes has or soon will be reached and the pipes must be replaced. The imminent replacement of cast iron water mains needs to be analyzed using all available data to ensure the best decisions regarding replacement options and priority of replacement is made.

The development of a GIS for the Water Utility will enable staff to effectively use all the data that is available and continue to collect operations data to cost effectively manage the Water Utility.

Alternate recommendations

1. That Council advise staff to discontinue work on the Cast Iron Water Main Cleaning and Inspection project, return the balance of the budget to the Water Utility Fund, and proceed with the request for funding the Water Utility GIS project through the 2016 annual budget process.

2. That Council provide further direction to staff on the use of the remaining balance of the Cast Iron Water Main Inspection and Cleaning Budget – CAP40014-001.

Attachments

N/A

Respectfully submitted,

Len Robson
Public Works Manager

Approvals

<table>
<thead>
<tr>
<th>Director</th>
<th>City Manager</th>
<th>Chief Financial Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ES</td>
<td>CF</td>
</tr>
</tbody>
</table>
Staff Recommendation

THAT Council approve a textual amendment to Schedule A of the Downtown Economic Investment Zone Bylaw No. 2014-04 to correct a typographical error in the original drafting and replace the “Term of Tax Exemption” for Grocery Store from 20 years to 10 years;

AND THAT Council gives first, second and third reading to the “Downtown Economic Investment Zone Amendment Bylaw No. 2015-47”.

Strategic priority objective

None.

Background

Upon review of the Downtown Economic Investment Zone Bylaw No. 2014-04, staff have identified a drafting error to Schedule A. The Term of Tax Exemption afforded to Grocery Stores is indicated as 20 years.

Section 226 of the Community Charter deals with revitalization tax exemptions. S.226(4) states:

“A revitalization tax exemption program must be established by a bylaw that includes the following:

(…) (f) the maximum term of a tax exemption that may be provided under the bylaw, which may not be longer than 10 years”.

The Downtown Economic Investment Zone Bylaw No. 2014-04 was adopted on 20 January 2014. Schedule A provides a list of the incentives that are available to development and states the term of tax exemptions available to individual types of development.

Financial implication

None
**Analysis**

The term of tax exemption relating to Grocery Stores establishes a 20 year period on both land and improvements. This is a drafting error and conflicts with s.226(4)(f) of the Community Charter.

In discovering this, staff is recommending that Council adopt the amendment bylaw to rectify this error and provide a maximum period of exemption of 10 years. To date, no application for tax exemption for a Grocery Store has been received.

**Alternate recommendations**

None.

**Attachments**

Attachment A – Downtown Economic Investment Zone Bylaw No. 2014-04, Schedule A

Respectfully submitted,

Jules Hall
Director of Development Services

**Approvals**

<table>
<thead>
<tr>
<th>Director</th>
<th>City Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td>JGTH</td>
<td>ES</td>
</tr>
</tbody>
</table>
### Schedule A: Incentives

<table>
<thead>
<tr>
<th>1) Type of Development</th>
<th>2) Maximum Number of Eligible Developments</th>
<th>3) Minimum Construction Value</th>
<th>4) Term of Tax Exemption</th>
<th>5) Reductions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Land</td>
<td>Improvements</td>
<td>Tax reduction: land</td>
</tr>
<tr>
<td><strong>Eligible Developments: Downtown Core</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grocery Store</td>
<td>1</td>
<td>$50,000</td>
<td>20 years</td>
<td>20 years</td>
</tr>
<tr>
<td>New multi-family residential units</td>
<td>No limit</td>
<td>$150,000</td>
<td>6 years</td>
<td>10 years</td>
</tr>
<tr>
<td>New family-oriented multi-family units</td>
<td>No limit</td>
<td>$150,000</td>
<td>5 years</td>
<td>10 years</td>
</tr>
<tr>
<td>Cultural Facility</td>
<td>2</td>
<td>$200,000</td>
<td>10 years</td>
<td>10 years</td>
</tr>
<tr>
<td>Façade restorations</td>
<td>5/year</td>
<td>$5,000</td>
<td>Varies</td>
<td>Varies</td>
</tr>
<tr>
<td>New commercial construction or renovations</td>
<td>No limit</td>
<td>$150,000</td>
<td>5 years</td>
<td>0%</td>
</tr>
<tr>
<td>Temporary Community Amenities</td>
<td>No limit</td>
<td>$5,000</td>
<td>For duration of use</td>
<td>For duration of use</td>
</tr>
<tr>
<td>Greyfield redevelopment</td>
<td>1</td>
<td>0 years</td>
<td>10 years</td>
<td>0%</td>
</tr>
<tr>
<td>Brownfield redevelopment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than $50,000 in remediation costs</td>
<td>0 n/a</td>
<td>0 years</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>$50,000-$100,000 in remediation costs</td>
<td>1</td>
<td>$1,500,000</td>
<td>5 years</td>
<td>5 years</td>
</tr>
<tr>
<td>Over $100,000 in remediation costs</td>
<td>1</td>
<td>$1,500,000</td>
<td>10 years</td>
<td>10 years</td>
</tr>
<tr>
<td>Valued infrastructure and amenities</td>
<td>No limit</td>
<td>$250</td>
<td>Varies</td>
<td>Varies</td>
</tr>
<tr>
<td>Office Building</td>
<td>No limit</td>
<td>$1,000,000</td>
<td>5 years</td>
<td>5 years</td>
</tr>
<tr>
<td>Bakery</td>
<td>1</td>
<td>$50,000</td>
<td>10 years</td>
<td>10 years</td>
</tr>
<tr>
<td>Butcher Shop</td>
<td>1</td>
<td>$50,000</td>
<td>10 years</td>
<td>10 years</td>
</tr>
<tr>
<td>Hotel</td>
<td>1</td>
<td>$2,000,000</td>
<td>10 years</td>
<td>10 years</td>
</tr>
<tr>
<td>Heritage Restoration</td>
<td>No limit</td>
<td>$5,000</td>
<td>0 years</td>
<td>5 years in addition to any other incentives available under this bylaw</td>
</tr>
<tr>
<td>Live-work unit</td>
<td>No limit</td>
<td>$150,000</td>
<td>0 years</td>
<td>10 years</td>
</tr>
<tr>
<td><strong>Eligible Developments: Downtown Periphery</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New multi-family residential units</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3-5 units</td>
<td>No Limit</td>
<td>$300,000</td>
<td>0 years</td>
<td>5 years</td>
</tr>
<tr>
<td>More than 5 units</td>
<td>No limit</td>
<td>$500,000</td>
<td>0 years</td>
<td>7 years</td>
</tr>
<tr>
<td>New Family Oriented Multi-Family units</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3-5 units</td>
<td>No Limit</td>
<td>$300,000</td>
<td>5 years</td>
<td>5 years</td>
</tr>
<tr>
<td>More than 5 units</td>
<td>No Limit</td>
<td>$500,000</td>
<td>5 years</td>
<td>10 years</td>
</tr>
<tr>
<td>Brownfield redevelopment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$0-$100,000 in remediation costs</td>
<td>1</td>
<td>$1,500,000</td>
<td>5 years</td>
<td>5 years</td>
</tr>
<tr>
<td>Over $100,000 in remediation costs</td>
<td>1</td>
<td>$1,500,000</td>
<td>10 years</td>
<td>10 years</td>
</tr>
<tr>
<td>Valued infrastructure and amenities</td>
<td>No limit</td>
<td>$250</td>
<td>Varies</td>
<td>Varies</td>
</tr>
<tr>
<td>Heritage Restoration</td>
<td>No limit</td>
<td>$5,000</td>
<td>0 years</td>
<td>5 years in addition to any other incentives available under this bylaw</td>
</tr>
<tr>
<td>Live-work unit</td>
<td>No limit</td>
<td>$150,000</td>
<td>0 years</td>
<td>10 years</td>
</tr>
</tbody>
</table>
The Corporation of the City of Penticton

Bylaw No. 2015-47

A Bylaw to Amend Downtown Economic Investment Zone Bylaw No. 2014-04

WHEREAS the Council of the City of Penticton has adopted a bylaw that may provide revitalization tax exemptions under section 226 of the Community Charter;

AND WHEREAS the Council of the City of Penticton wishes to amend “Downtown Economic Investment Zone Amendment Bylaw No. 2014-04”;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**

   This bylaw may be cited for all purposes as “Downtown Economic Investment Zone Amendment Bylaw No. 2015-47”.

2. **Amendment:**

   “Downtown Economic Investment Zone Bylaw No. 2014-04” Schedule A is hereby amended as follows:

   2.1 Replace the “Term of Tax Exemption” for Grocery Store from 20 years to 10 years.

READ A FIRST time this day of , 2015
READ A SECOND time this day of , 2015
READ A THIRD time this day of , 2015
ADOPTED this day of , 2015

Notice of intention to proceed with this bylaw was published on the __ day of ____, 2015 and the __ day of ____, 2015 in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

________________________________________
Andrew Jakubeit, Mayor

________________________________________
Dana Schmidt, Corporate Officer
Staff Recommendation

OCP

THAT prior to consideration of the bylaw and in accordance with Section 879 of Local Government Act, Council considers whether early and on-going consultation, in addition to the required Public Hearing, is necessary with:

1. One or more persons, organizations or authorities;
2. The Regional District of Okanagan Similkameen;
3. Local First Nations;
4. School District #67; and
5. The provincial or federal government and their agencies.

AND THAT it is determined that the Public Hearing is sufficient consultation;

AND THAT “OCP Amendment Bylaw No. 2015-48”, being a bylaw to amend “OCP Bylaw 2002-20” changing the OCP designation on Lot 1, District Lot 4, Group 7, Similkameen Division Yale District, Plan 2689, located at 476 Lakeshore Drive W, shown as Attachment ‘C’ of this report, from LR (Low Density Residential) to MFLD (Multi family low Density) be given first reading and be forwarded to the September 28, 2015 Public Hearing.

Rezone

Zoning Amendment

THAT “Zoning Amendment Bylaw No. 2015-49”, a bylaw to amend Zoning Bylaw 2011-23 to rezone Lot 1, District Lot 4, Group 7, Similkameen Division Yale District, Plan 2689, located at 476 Lakeshore Drive W, from R2 (Small Lot Residential) to RM2 (Low Density Multiple Housing) with a site specific zoning amendment to increase the maximum density from 0.75 FAR to 0.85 FAR, be given first reading and be forwarded to the September 28, 2015 Public Hearing;
Development Variance Permit

THAT Council support “Development Variance Permit PL2015-047” for Lot 1, District Lot 4, Group 7, Similkameen Division Yale District, Plan 2689, located at 476 Lakeshore Drive W, a permit to reduce the minimum interior yard setback from 3.0m to 2.2m for the principal building and from 3.0m to 1.5m for an accessory building, to reduce the minimum rear yard setback from 6m to 1.5m for an accessory building and to increase the maximum lot coverage on the site from 40% to 42%;

AND THAT delegations and submissions be heard for “Development Variance Permit PL2015-047” during the September 28, 2015 Public Hearing;

AND THAT staff are directed to issue DVP PL2015-047, subject to adoption of “Zoning Amendment Bylaw No. 2015 -49”.

Strategic priority objective

N/A

Background

The subject property (Attachment ‘A’) is designated by the Official Community Plan (OCP) as LR (Low Density Residential) and is currently zoned R2 (Small Lot Residential). Photos of the site are included as Attachment ‘D’. The property is also identified as being in the “Downtown Multiple Family Development Permit Area” under OCP Bylaw 2002-20. The site extends to1, 024 m² (0.253 acre) and currently features a single detached dwelling and accessory building. These will be removed from the property.

Housing in this neighbourhood is slowly being replaced with more dense forms of construction. Other redevelopment in the immediate area features townhouses, duplexes and multi-family development, for example on Churchill and Alexander Avenue. These are reflected in parcel rezoning as indicated in Attachment C. General residential policies in the OCP support infill development within existing services areas, encourage intensification of residential land use around the downtown commercial core and encourage the development of higher-end residential development including multi-family development. The Downtown West Neighbourhood Plan and the OCP place an emphasis on maintaining and preserving the pedestrian environment of Okanagan Lake. Anticipating zoning amendment applications for development, the 2002 OCP also included this area in the Downtown Multiple Family Development Permit Area (DPA).

The applicant intends to develop a strata, multi-family project with 3 units (Attachment ‘F’), with each unit having an approximate floor area of 240 m² (2600 sq.ft). A 128m² parking garage is also proposed at the rear of the property. Staff has suggested to the applicant that he meets with the adjacent neighbours prior to this application being presented to Council for a decision. The applicant will be hosting an information meeting on Thursday September 17th between 4:30 and 7:30 at the Penticton Lakeside Resort and intends to notify the owners and residents within 100m of the site.

Proposal

The applicant is proposing the following amendments to the Official Community Plan Bylaw 2002-20:
Schedule B: Future Land Use Map’ to change the OCP designation of the site (as identified on Attachment B of this report) from LR (Low Density Residential) to MFLD (Multi Family Low Density Residential).

The applicant is requesting that the subject property be rezoned from RD1 (Duplex Housing) to RM2 (Low Density Multiple Housing), as identified in Zoning Bylaw 2011-23 and that a site specific zoning amendment be supported to increase the maximum density from 0.75 FAR to 0.85 FAR.

The applicant is also requesting a Development Variance Permit to vary the following sections of Zoning Bylaw 2011-23:

- Section 10.8.2.7 i.: reducing the minimum interior yard setback from 3.0m to 2.2m for the principal building; and from 3.0m to 1.5m for the accessory building
- Section 10.8.2.8 reducing the minimum rear yard setback from 6m to 1.5m for the accessory building
- Section 10.8.2.3 increasing the maximum lot coverage from 40% to 42%;

Project Specifications

The following table outlines the proposed development statistics on the plans submitted with the application:

<table>
<thead>
<tr>
<th>Item</th>
<th>Requirement RM2 Zone</th>
<th>Provided on Plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Lot Coverage:</td>
<td>40 %</td>
<td>42 % (Variance required)</td>
</tr>
<tr>
<td>Maximum Density:</td>
<td>0.75 FAR</td>
<td>0.85 FAR (Site Specific)</td>
</tr>
<tr>
<td>Vehicle Parking:</td>
<td>1 space per unit (3 spaces)</td>
<td>6 spaces</td>
</tr>
<tr>
<td>Required Setbacks:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Principal Building</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front yard (Lakeshore Drive)</td>
<td>3m</td>
<td>7.9m</td>
</tr>
<tr>
<td>Rear yard</td>
<td>6m</td>
<td>25.1m</td>
</tr>
<tr>
<td>Interior Side yard</td>
<td>3m</td>
<td>2.2m (variance required)</td>
</tr>
<tr>
<td>Accessory Building</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rear yard</td>
<td>6m</td>
<td>1.5m (variance required)</td>
</tr>
<tr>
<td>Interior Side yard</td>
<td>3m</td>
<td>1.5m (variance required)</td>
</tr>
<tr>
<td>Maximum Building Height:</td>
<td>12m</td>
<td>12m</td>
</tr>
</tbody>
</table>
| Other Information:          | Property is in the Downtown Multiple Development Permit Area
                              | The plans generally conform to the DPA guidelines.
                              | Development permit will be required prior to building permit application. The DP is staff issuable |
Development Engineering Review

This application was forwarded to the City’s Technical Planning Committee and reviewed by the Engineering and Public Works Departments. No conditions prior to rezoning or variance permit approval were identified through this referral process.

Financial implication

N/A

Analysis

Support OCP and Zoning amendment

The subject property is designated for Low Density Residential under OCP Bylaw 2002-20. The OCP provides a list of criteria when considering re-designating areas to Medium Density Residential. The guidelines and staff’s comments are as follows:

The city will support rezoning to higher densities:

- **On a parcel where the proposed development will be compatible in character and scale with the adjoining uses:**

  The character of the neighborhood will not materially change as this is an area that has seen development pressure recently. The neighbourhood that the subject property is located in features predominantly residential style development, including low-rise apartment buildings, motels and houses. Existing properties along Lakeshore drive are currently designated MFLD (Multi Family Low Density). The character of Lakeshore Drive will be maintained.

- **Where separation can be achieved through adequate setback distances and buffers from existing or planned lower density housing:**

  The developer has presented a design with high aesthetic appeal. The building has been set to respect the front setback and building lines of the existing houses adjacent to this parcel. The proposal adds to the already diverse range of housing, types, tenures and densities.

- **Near parks, commercial activities or public/institutional facilities:**

  The OCP supports intensification of residential land use and density around the downtown core. The property is located directly adjacent to Okanagan Lake and is within 480 m of the downtown commercial core. This development will increase the residential offer adjacent to the downtown area and encourage more use of the Downtown amenities.

- **On sites that afford direct and convenient vehicle access so as to avoid generating excessive traffic on local streets and:**
No driveway access is proposed on Lakeshore Drive. All the traffic will be directed to the lane where garage parking, accommodating 6 vehicles is being proposed. All the units have pedestrian access on Lakeshore Drive and maintain a positive relationship with the street.

The development meets the following objectives of the OCP:

- Encourage residential intensification near commercial activities and institutional facilities
- Encourage densification in areas where existing services can accommodate higher densities.
- New development should be accommodated through infill development
- Encourage a wide range of Medium Density Residential housing, including triplexes and compact housing

The proposals are in general conformity with these OCP guidelines. Staff considers that the design is visually appealing and consistent with the character of the neighborhood and the recent development in the area. For these reasons staff are recommending that Council support the land use designation change, as set out above and refer the application to the September 28th Public Hearing.

Deny/Refer

Council may feel that the proposed amendments are not suitable for this site. If this is the case, Council should deny the bylaw amendments. If the OCP and zoning amendment do not go forward, the property will be restricted to a single family use. In that eventuality, Council should not support the OCP and zoning amendment. Alternatively, Council may wish to refer the matter back to staff to work with the applicant with direction that Council feels is appropriate.

Support Variance

When considering a variance to a City bylaw, staff encourages Council to consider whether there is a hardship on the property that makes following the bylaw difficult or impossible, whether approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable. The proposed variances are as follows:

Section 10.8.2.7 i. reducing the minimum interior yard setback from 3.0m to 2.2m for the principal building and from 3.0m to 1.5m for an accessory building.

The applicant is requesting a 0.8m interior setback reduction along both sides of the property for the principal building and 1.5m setback for the accessory building. As with other infill projects throughout the City, it is often difficult to build within required setbacks on lots that were originally intended for an alternative form of development. The reduced setback is requested in order to achieve the desired floor plans. Staff do not feel the variance will have a negative impact on any interests of acknowledged importance, including neighbouring properties, as this is a minor variance.

Section 10.8.2.8 reducing the minimum rear yard setback from 6m to 1.5m for the accessory building.

The garage is proposed to be located at 1.5m from the rear property line. The RM2 zoning does not contemplate separate setbacks for principal and accessory buildings. In other residential zones, accessory
buildings have a minimum rear yard setback of 1.5m. The proposed garage will align with the existing garages along the back alley. Utilization of the lane for vehicle access enables the development to present an attractive design to the street and preserve the pre-existing conditions along Lakeshore Drive (i.e. no vehicular access from the road).

Section 10.8.2.3 increasing the maximum lot coverage from 40% to 42%.

The increase in site coverage is minimal and will not have a negative impact on the existing neighbouring properties. The plans submitted show higher-end development, in line with the redevelopment trends of the neighborhood.

Considering the above, it is recommended that Council support the application and direct staff to issue the permit.

Deny/Refer

Council may consider that the number of variances requested demonstrate that the development will negatively affect the existing character of the neighborhood. If this is the case, Council has the ability to deny any or all of the proposed variances. Alternatively, Council may refer the application back to staff for further work with the applicant.

Alternate Recommendations

1. THAT Council support “OCP Amendment Bylaw No.2015-48” and “Zoning Amendment Bylaw No.2015-49” but deny support to “Development Variance Permit PL2015-044”.
2. THAT Council support “Zoning Amendment Bylaw No.2015-49” without additional conditions to those proposed by staff.
3. THAT Council support “Development Variance Permit PL2015-012” and impose additional conditions that it considers appropriate.

Attachments

Attachment A: Subject Property Location Map
Attachment B: OCP Map
Attachment C: Zoning Map
Attachment D: Images of Subject Property
Attachment E: Letter of Intent
Attachment F: Site Plan
Attachment G: Elevations
Attachment H: DVP
Attachment I: OCP Amendment Bylaw No. 2015-48
Attachment J: Zoning Amendment Bylaw No. 2015-49
Respectfully submitted,

Audrey Tanguay, MCIP  
Senior Planner  

Approvals

<table>
<thead>
<tr>
<th>Director</th>
<th>City Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td>JGH</td>
<td>ES</td>
</tr>
</tbody>
</table>
Attachment A - Subject Property

Figure 1: Location Map
Attachment B - OCP Map

Figure 2: OCP Map
Attachment C - Zoning Map

Figure 3: Zoning Map
Attachment D - Images of the Subject Property

Figure 4: View from Lakeshore Drive W

Figure 5: View from Lakeshore Drive W
Figure 6: View from the Rear
Attachment “E” –

Letter of Rationale

GIROUX DESIGN GROUP
102 Ellis Street, Penticton, BC V2A 4L5

8/19/2015

City of Penticton
Planning Department
171 Main Street, Penticton, BC V2A 5A9

To the Planning Department Staff,

This letter is in reference to the property located at 476 Lakeshore Drive in Penticton, BC and a proposed rezoning and associated variances to the property. The property currently has an older single family residence situated on it. The lot is a very large parcel and is much better suited to a multi-family development. The location of the property is ideal for a multi-family project as it is close to both the parks and downtown, and is an area that should be enjoyed by more than just one family. The current mix of motels, apartments, townhouses, and large homes along the street allow the project to easily fit in to the neighborhood.

We explored a number of options with the rezoning and considered the financial feasibility of various concepts. Ultimately it was decided that the developer needed to have a development with at least three units, but it was felt that a four unit complex would be too much for the design limitations of the property. Therefore it was determined that a three unit development would be the best option. For this we are asking for a rezoning of the property to a RM2 low density multi-family zone. This development will require some variances along with a change to the lots designation in the OCP. However, we feel that these are very reasonable and are in harmony with other developments in the immediate area.
The variances required are as follows:

1) A reduction in the minimum lot width from 18.0 meters to 16.757 meters. The parcel of land is very deep and easily meets the minimum area required for a RM2 zone, however it is slightly narrower than required.

2) An increase in maximum lot coverage of 2%, from 40% to 42%. This increase allows for a more practical and economic design and allows for all the parking to be enclosed.

3) An increase in FAR density from 0.75 to 0.85. We feel this is reasonable as a duplex built on the property would have a FAR of 0.95. The size increase is required to allow for the additional staircase required for emergency escape, and to allow for a better final product for resale.

4) A decrease in side setbacks from 3.0 m to 2.2 m. Originally the building was designed within the setbacks required, however after discussion with the planning department they suggested increasing the width of the building to allow the front setback to be increased. This is the reason for the reduction of the side yard setback. Again, a duplex zone would only have a 1.5 m side yard, so this is a larger setback than if a duplex were built.

5) A decrease of the side setback for the auxiliary garage building from 3.0 m to 1.2 meters. This is in line with most of the garage parking structures currently along the lane, and allows for total enclosure of all parking spaces.

6) A decrease in the rear yard setback for the auxiliary garage building from 6.0 m to 1.5 meters. This is also in line with other garage buildings along the lane. The garage structure will allow for greater privacy for the neighboring properties, as well as a cleaner appearance for the development. Extra parking stalls are also provided within the structure to allow owners and visitors to park on site rather than on the street.
We strongly feel that the project will have a very positive impact on the neighborhood. As with any project we anticipate concern or opposition to the change. However we have made every effort to anticipate concerns about increased traffic, loss of privacy, and increased density, and believe that the proposed project is a balanced move in a progressive direction. The developer of the project is a successful developer from the Lower Mainland, and has been impressed so far by the cooperation he has received by City Planning staff. It is his hope to continue to do developments in Penticton, and we look forward to your continued support.

Kind Regards,

[Type the sender name]
Owner/Designer
Giroux Design Group
Figure 8: Artist Rendering
Figure 9: Artist Rendering

FRONT ELEVATION
SCALE: 3/16" = 1'-0"

Front Elevation (North Facing)

Figure 10: Elevation on Lakeshore Drive W
Figure 13: Rear Elevation
Attachment G: Site Plan

Figure 14: Site Plan

SITE PLAN & CALCULATIONS

LEGAL DESCRIPTION: LOT 1, DL 4, CP 7, SDYV, L.D. PLAN 2689
CIVIC ADDRESS: 476 LAKESHORE DRIVE WEST, PENTICTON, B.C.
P.O. BOX 913

SITE AREA: 1003.6 m²
FLORAL AREA: 873.1 m² (FA: 87%)
PARCEL COVERAGE: 43.3 m² (COVERAGE: 42%)
Attachment H: DVP

Development Variance Permit

Permit Number: DVP PL2015-047

Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.

2. This permit applies to:
   
   Legal: Lot 1, District Lot 4, Group 7, Similkameen Division Yale District, Plan 2689
   Civic: 476 Lakeshore Drive W
   PID: 010-971-912

3. This permit has been issued in accordance with Section 922 of the Local Government Act to vary: Section 10.8.2.7 I; to reduce the minimum interior yard setback from 3.0m to 2.2m for the principal building and from 3.0m to 1.5m for an accessory building, Section 10.8.2.8 to reduce the minimum rear yard setback from 6m to 1.5m for an accessory building and Section 10.8.2.3 to increase the maximum lot coverage from 40% to 42% as shown in the plans attached in Schedule A.

General Conditions

4. In accordance with Section 928(2) of the Local Government Act the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.

5. In accordance with Section 926 of the Local Government Act, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.

6. This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.

7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the of , 2015

Issued this ____ day of __________, 2015

__________________________
Dana Schmidt,
Corporate Officer
The Corporation of the City of Penticton

Bylaw No. 2015-48

A Bylaw to Amend Official Community Plan Bylaw 2002-20

WHEREAS the Council of the City of Penticton has adopted an Official Community Plan Bylaw pursuant to Section 903 of the Local Government Act;

AND WHEREAS the Council of the City of Penticton wishes to amend Official Community Bylaw 2002-20;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**
   
   This bylaw may be cited for all purposes as “Official Community Plan Amendment Bylaw No. 2015-48”.

2. **Amendment:**
   
   “Official Community Plan Bylaw No. 2002-20” is hereby amended as follows:

2.1 Amending Schedule ‘B’ Future Land Use to change the land use designation of that portion of Lot 1, District Lot 4, Group 7, Similkameen Division Yale District, Plan 2689, located at 476 Lakeshore Drive West, from LR (Low Density Residential) to MFLD (Multi Family Low Density) as shown in Schedule A.

2.2 Schedule “A” attached hereto forms part of this bylaw.

READ A FIRST time this day of , 2015
A PUBLIC HEARING was held this day of , 2015
READ A SECOND time this day of , 2015
READ A THIRD time this day of , 2015
ADOPTED this day of , 2015

Notice of intention to proceed with this bylaw was published on the _ day of ____, 2015 and the __ day of ____, 2015 in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

________________________
Andrew Jakubeit, Mayor

________________________
Dana Schmidt, Corporate Officer
476 Lakeshore Drive W.
Amend OCP from LR (Low Density Residential) to MFLD (Multi-Family Low Density)
The Corporation of the City of Penticton

Bylaw No. 2015-49

A Bylaw to Amend Zoning Bylaw 2011-23

WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the Local Government Act;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2011-23;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**

   This bylaw may be cited for all purposes as “Zoning Amendment Bylaw No. 2015-49”.

2. **Amendment:**

   Zoning Bylaw 2011-23 is hereby amended as follows:

   2.1 Rezone Lot 1, District Lot 4, Group 7, Similkameen Division Yale District, Plan 2689, located at 476 Lakeshore Drive West, from R2 (Small Lot Residential) to RM2 (Low Density Multiple Housing).

   2.2 Add 10.8.4 Site Specific Provisions

   .3 In the case of Lot 1, District Lot 4, Group 7, Similkameen Division Yale District, Plan 2689, located at 476 Lakeshore Drive West, the maximum density shall be 0.85 FAR.

   2.3 Schedule ‘A’ attached hereto forms part of this bylaw.

READ A FIRST time this day of , 2015
A PUBLIC HEARING was held this day of , 2015
READ A SECOND time this day of , 2015
READ A THIRD time this day of , 2015
ADOPTED this day of , 2015

Notice of intention to proceed with this bylaw was published on the __ day of ____, 2015 and the __ day of ____, 2015 in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer
476 Lakeshore Drive W.

- Rezone from R2 (Small Lot Residential) to RM2 (Low Density Multiple Housing)

- Site specific zoning amendment to increase the maximum density from 0.75 FAR to 0.85 FAR
Staff Recommendation

Zoning Amendment

THAT “Zoning Amendment Bylaw No. 2015-50”, a bylaw to amend Zoning Bylaw 2011-23 to rezone a portion of Lot 18, Block 29, District Lot 202, Similkameen Division Yale District, Plan 755, located at 619 Burns Street, from RD2 (Duplex Housing: Lane) to RM2 (Low Density Multiple Housing), be given first reading and forwarded to the September 28, 2015 Public Hearing;

Development Variance Permit

THAT Council approve “Development Variance Permit PL2015-051” for Lot 18, Block 29, District Lot 202, Similkameen Division Yale District, Plan 755, located at 619 Burns Street, a permit to reduce the lot width from 13m to 9.5m and to reduce the lot area from 390m² to 290m²,

AND THAT Council approve “Development Variance Permit PL2015-051” for Lot 17, Block 29, District Lot 202, Similkameen Division Yale District, Plan 755, located at 631 Burns Street, a permit to reduce the interior setback from 3.0m to 1.2m and to reduce the lot area from 670m² to 565m², in order to facilitate a lot line adjustment, while retaining one developable lot for duplex housing,

AND THAT staff are directed to issue “DVP PL2015-051”, subject to adoption of “Zoning Amendment Bylaw No.2015-50”.

Strategic priority objective

N/A

Background

The subject property (Attachment ‘A’) is currently two separate legal lots with one apartment building straddling both lots; 619 Burns Street is zoned RD2 (Duplex Housing: Lane) and 631 Burns Street is zoned RM2 (Low Density Multiple Housing). The current building, constructed in the 1960s, is mostly contained
within 631 Burns Street. However, a small portion of the building equating to approximately 4m x 5m, crosses the property line into 619 Burns Street. 619 Burns Street, therefore, can only be used as yard space and the development potential of the site is limited.

The applicant is applying to adjust the current lot line of 631 Burns Street in order to expand the lot in a way that encompasses the entirety of the apartment building. In doing this, the applicant would also like to retain development potential of 619 Burns Street. As a consequence, a number of variances are being requested.

First, in order to retain development potential of 619 Burns Street, the applicant is seeking an extension of the lot line of ‘631’ only as far as it needs to so that the BC Building Code requirements concerning a building’s distance to lot lines can be met. This means that instead of observing the required 3.0m side yard setback for this zone, the applicant would like to reduce this setback to 1.2m. Furthermore, because a lot line adjustment is, in effect, a ‘subdivision’, we must look at the size of the new lot being created. That is, 631 Burns Street is increasing from 425m2 to 565m2, which does not meet the minimum lot size for RM2 lots. This requires a variance.

In addition, the minimum lot size for RD2 lots, which 619 Burns Street is currently zoned as, is 13m. However, the applicant is applying for a lot width reduction to 9.5m in order to facilitate the lot line adjustment. This reduction will also trigger a variance in respect to minimum lot size: from 390m2 to 290 m2.

The rezoning element to this application is triggered by the lot line adjustment; moving the lot line further into 619 Burns Street, without an accompanying rezoning, would create one lot with two zones on it (RD2 and RM2). The rezoning only applies to the small strip of land that is being gained through the lot line adjustment.

Proposal

The applicant is requesting that the portion of land gained through a lot line adjustment be rezoned from RD2 (Duplex Housing: Lane) to RM2 (Low Density Multiple Housing). The applicant is also requesting that the following variances are approved in order to facilitate lot line adjustment and eventual redevelopment:

- 631 Burns – vary interior setback from 3.0m to 1.2m
- 631 Burns – vary lot area from 670m2 to 565 m2
- 619 Burns – vary lot width from 13m to 9.5m
- 619 Burns – vary lot area from 390sq.m to 290sq.m

Financial implication

N/A

Technical review

This application was forwarded to the City’s Technical Planning Committee (TPC) and reviewed by various departments within the City. No irregular conditions or restrictions were observed through this process. Preliminary cost estimates have been communicated to the applicant.
Analysis – Zoning Amendment

Support Zoning Amendment

Rezoning that portion of the lot which will be gained by 631 Burns Street through a lot line adjustment is in keeping with the City’s Official Community Plan and promotes the highest and best use for both lots. As per the City's OCP, 631 and 619 Burns Street are Medium Density Residential allowing for small apartment buildings and duplex construction. Facilitating more development in this area is encouraged. In order for development to take place on this lot, the lot line adjustment and associated rezoning are necessary.

Staff recommend that Council support “Zoning Amendment Bylaw 2015-50” and forward the application to the September 28, 2015 public hearing for comment from the public.

Deny

Council may feel that these two lots can achieve a higher density if amalgamated and redeveloped in the future. If that is the case, Council should deny first reading of the amendment bylaw.

Alternatively, Council may wish to refer the matter back to Planning staff with recommendations and further direction.

Analysis – Development Variance Permit

Support Development Variance Permit

This lot has some historical anomalies that make redevelopment challenging. However, the applicant has worked with the City in achieving creative solutions to retain the existing apartment building, which contains six low-rent units; while opening up development potential for the currently underutilized land adjacent to the building. Variances are a necessary part of that process. The following provides analysis for each requested variance:

- **631 Burns – vary interior setback from 3.0m to 1.2m**
  This reduction is reasonable given that it only relates to a portion of wall, 5m wide that will be 1.2m from the property line. Additionally, there are no windows on this elevation. The distance will not have a negative effect on the redevelopment of the duplex lot.

- **631 Burns – vary lot area from 670m2 to 565 m2**
  The current RM2 lot is 425m2. It is considered ‘legally non-conforming’ because it does not meet the minimum lot size for the RM2 zone. In the process of adjusting the lot line, the ‘legal non-conforming’ status of the lot is challenged and due process requires that a formal variance be approved.

- **619 Burns – vary lot width from 13m to 9.58m**
  Although the minimum lot size for RD2 lots is 13m, it is common to see 9.0m duplex lots in Penticton. A number of these lots are across the street from this property. A duplex can be built on a 9m lot without the need for additional variances.

- **619 Burns – vary lot area from 390sq.m to 290sq.m**
  Although the lot does not meet the minimum lot size, duplex lots under 290m2 are not uncommon, including those already existing on Burns Street, as identified above. A duplex can be built on a lot of 290m2 without the need for additional variances.
Given the above, staff recommend that Council approve the variance permit application and are directed to issue the permit upon successful rezoning.

**Deny/refer**

Council may consider that the design could be amended to respond to the lot’s site-specific context. If this is the case, Council should deny the application. Alternatively, Council may wish to refer the application back to staff to work with the applicant in changing the design.

**Alternate recommendations**

1. THAT Council deny first reading of “Zoning Amendment Bylaw No. 2015-50” and deny support to “DVP PL2015-051”
2. THAT Council support “Zoning Amendment Bylaw No. 2015-50” and “DVP PL2015-051” with conditions that Council feels are appropriate.
3. THAT Council refer the application back to staff to work with the applicant in terms of the design of the proposed development.

**Attachments**

Attachment A: Subject property location map  
Attachment B: Close-up aerial of subject property  
Attachment C: Zoning map of neighbourhood  
Attachment D: OCP map of neighbourhood  
Attachment E: Images of subject property  
Attachment F: Letter of intent  
Attachment G: Draft DVP, including site plan and elevation drawings

Respectfully submitted,

Lindsey Fraser  
Planner I

**Approvals**

<table>
<thead>
<tr>
<th>Director</th>
<th>City Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td>JGH</td>
<td>ES</td>
</tr>
</tbody>
</table>
Attachment ‘A’ – Subject Property Location Map

Figure 1: Subject property (631 and 619 Burns Street) highlighted in blue
NOTE: 631 Burns Street also displays the civic address of 627 Burns Street. This secondary address is a historical hold-over with, seemingly, no relevance to the current property. “627” will be removed during the subdivision process, by the City.
Attachment C – Zoning Map of Neighbourhood

Figure 3: Zoning of 631 and 619 Burns Street
Attachment D – OCP Designation Map

Figure 4: OCP Designation of MR (Medium Density Residential)
Attachment E – Images of Subject Property

Figure 5: Subject property looking west

Figure 6: Subject property showing future development site
Figure 7: Parking is adequate and holds 6+ stalls for existing building
Dear Mayor and Council,

Our intention is to proceed with a variance application and Subdivision to move a lot line at 631 Burns and 619 Burns to allow lots to conform with variance to existing zoning for the neighborhood. Currently the two lots at these addresses have one building that straddles partially onto 619 Burns. Currently each lot is approximately 46 feet wide. Our intention is to provide 631 Burns which is zoned RM2 with a frontage of approximately 60ft. This will leave a 619 Burns with a zoning of RD 2 with approximately a 32 foot duplex lot.

These changes would make the lot size at 631 Burns conforming to its current zoning requirements. By doing so we understand that creating a 32 foot duplex lot would require a variance as it would not meet current zoning.

Our intention is to build a front to back duplex similar to the recent development in the area. I have enclosed pictures of this recent development as well as pictures of the current building at 631 Burns. This will allow the current building at 631 Burns to sit on its own lot leaving this development possible to proceed.

Marc Tougas
Property owner.
Development Variance Permit

Permit Number: PL2015-051

Name
Address

Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.

2. This permit applies to:
   
   Legal: Lot 18, Block 29, District Lot 202, Similkameen Division Yale District, Plan 755 AND Lot 17, Block 29, District Lot 202, Similkameen Division Yale District, Plan 755
   
   Civic: 619 AND 631 Burns Street
   
   PID: 012-103-535 AND 012-103-527

3. This permit has been issued in accordance with Section 922 of the Local Government Act, to vary the following sections of Zoning Bylaw 2011-23 to allow for a lot line adjustment, as shown in the plans attached in Schedule A:
   
   - Section 10.8.2.2: Reduce the minimum lot area for 631 Burns Street from 670 m² to 565 m²
   - Section 10.8.2.7: Reduce the minimum side yard setback for 631 Burns Street on the north side of the property from 3.0 m to 1.2 m
   - Section 10.6.2.1: Reduce the minimum lot width for 619 Burns Street from 13.0 m to 9.5 m
   - Section 10.6.2.2: Reduce the minimum lot area for 916 Burns Street from 390 m² to 290 m²

General Conditions

4. In accordance with Section 928(2) of the Local Government Act, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.

5. In accordance with Section 926 of the Local Government Act, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.

6. This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.

7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.

8. This permit does not include off-site infrastructure costs that may be required at the building
permit stage, such as Development Cost Charges (DCC’s), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and Infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the _______ day of __________, 2015

Issued this _____ day of __________, 2015

______________________________
Dana Schmidt,
Corporate Officer
The Corporation of the City of Penticton

Bylaw No. 2015-50

A Bylaw to Amend Zoning Bylaw 2011-23

WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the Local Government Act;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2011-23;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. **Title:**
   
   This bylaw may be cited for all purposes as “Zoning Amendment Bylaw 2015-50”.

2. **Amendment:**

   2.1 Zoning Bylaw 2011-23 Schedule ‘A’ is hereby amended as follows:
   
   Rezone a portion of Lot 18, Block 29, District Lot 202, Similkameen Division Yale District, Plan 755, located at 619 Burns Street, from RD2 (Duplex Housing: Lane) to RM2 (Low Density Multiple Housing).
   
   2.2 Schedule ‘A’ attached hereto forms part of this bylaw.

READ A FIRST time this day of , 2015

A PUBLIC HEARING was held this day of , 2015

READ A SECOND time this day of , 2015

READ A THIRD time this day of , 2015

ADOPTED this day of , 2015

Notice of intention to proceed with this bylaw was published on the day of , 2015 and the day of , 2015 in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

__________________________
Andrew Jakubeit, Mayor

__________________________
Dana Schmidt, Corporate Officer
Rezone a portion of 619 Burns Street from RD2 (Duplex Housing: Lane) to RM2 (Low Density Multiple Housing)
Date: September 8, 2015       File No:
To: Eric Sorensen, City Manager
From: Colin Fisher, Chief Financial Officer
Subject: Municipal Insurance Association of BC
Appointment of voting delegates

Staff Recommendation

THAT Council appoints ________________________________ as the Voting Delegate for the Municipal Insurance Association of BC;

AND THAT Council appoints ___________________________ and __________________________ as Alternate Delegates for the Municipal Insurance Association;

AND THAT Council appoints Colin Fisher, Chief Financial Officer for the City of Penticton, as primary contact with the Municipal Insurance Association.

Background

The Municipal Insurance Association of BC (MIABC) is member owned and operated by over 170 Municipalities and Regional Districts, and contributes to the financial security of local governments in British Columbia, insuring almost 90% of the province’s local government. The MIABC was founded in the mid-1980s in the midst of a liability insurance crisis characterized by excessive costs and insufficient coverage. BC’s local governments responded by joining together to form a self-insurance pooling program. The result was the MIABC, created in 1987.

The service MIA BC provides includes:
- Risk management assistance to its member local governments in dealing with liability claims,
- Risk management education and resources to assist members in preventing claims,
- Provides broad liability insurance coverage at stable and best value costs,
- Maintains the liability insurance coverage needed for members financial security,
- Stabilizes liability insurance costs,
- Represents members at the Provincial level in an effort to reform the law where standards are unreasonable,
- Provides guidance and assistance with respect to inspection and maintenance policies and operational procedures,
- Recognition of potential liability situations before they occur, and
- Produces regular publications containing articles on liability trends, new municipal services or responsibilities which may attract liability as well as recommendations to prevent and reduce existing exposures to liability.
An Annual General Meeting is held each year by the MIABC in conjunction with the UBCM Convention. At the meeting, delegates representing each of the subscribers elect members to the Board of Directors, receive reports on risk management and claims activity and approve the audited financial statements and approve changes to their reciprocal agreement.

The 28th Annual General Meeting of the Subscribers of MIABC is scheduled to take place at 3 PM on Tuesday, September 22nd in the Mackenzie Room, Fairmont Waterfront Hotel, Vancouver. At the AGM there will be three special resolutions to clarify and expand the coverage of its property policy, Termination Clause, General Insurance Agreement and Miscellaneous Property Insurance. This year five Director-at-Large positions are up for election for a three year term.

Respectfully Submitted,

Colin Fisher, Chief Financial Officer

Approvals

<table>
<thead>
<tr>
<th>CFO</th>
<th>CAO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ES</td>
</tr>
</tbody>
</table>
Council Report

Date: September 8, 2015
To: Eric Sorenson, City Manager
From: Angela Campbell, Controller
Subject: City Audit Proposals

Staff Recommendation

THAT Council appoints BDO Canada LLP as the City’s Auditor for a 3 year term with the option to extend the Service Agreement for up to two (2) additional years, in one-year increments.

Background

The City seeks proposals for its auditing services generally once every five years. The last proposal was in 2009 and was awarded to BDO Canada LLP.

Eleven firms were invited to submit proposals. The City received and reviewed proposals from the following three accounting firms: BDO Canada LLP, Grant Thornton and KPMG.

Financial implication

There is a provision for audit services included every year in the Financial Plan.

Analysis

The three proposals that were received were evaluated on fifteen criteria falling under the categories of capability of audit firm and audit team, proposed audit strategy, and price (see Attachment A for detailed criteria).

The firm BDO Canada LLP was selected after the evaluation process was completed and all the criteria were scored appropriately.
Alternate recommendations

That BDO Canada LLP not be appointed as City Auditor and that Council provide staff direction on appointment of an auditor for years ended 2015 to 2019.

Attachments

Attachment A – Evaluation Criteria

Respectfully submitted,

Angela Campbell
Controller

Approvals

<table>
<thead>
<tr>
<th>CFO</th>
<th>City Manager</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Signature]</td>
<td>[Signature]</td>
</tr>
</tbody>
</table>
### CAPABILITY OF AUDIT FIRM AND AUDIT TEAM

<table>
<thead>
<tr>
<th>The location and overall size of the firm, the experience and current capabilities of its partners, managers and staff in the audit of organizations similar to the City, as well as that of additional staff required by the firm to carry out the audit;</th>
</tr>
</thead>
<tbody>
<tr>
<td>How the firm invests in the development of staff and methods for undertaking public sector audits;</td>
</tr>
<tr>
<td>The proposed audit team’s degree of familiarity with the extensive body of authoritative literature that is unique to the public sector;</td>
</tr>
<tr>
<td>The proposed audit team’s experience in the audit of similar organizations and in other government corporations and other public bodies, and details of skills or experience which are directly relevant to the capacity of the team to conduct the audit of City;</td>
</tr>
<tr>
<td>Information on contributions made by the firm in improving the financial administration of other public sector entities;</td>
</tr>
<tr>
<td>The firm’s experience in performing both legislative authority and value-for-money audits in a public sector setting;</td>
</tr>
<tr>
<td>The firm’s experience related to computerized audits as well as the availability of other specialized services that may be necessary in the audit;</td>
</tr>
<tr>
<td>Quality control/peer review programs within the firm;</td>
</tr>
<tr>
<td>The firm’s availability of resources to ensure deadlines are met in a timely manner;</td>
</tr>
<tr>
<td>Policies on notification to clients of changes in key personnel, and staff continuity on each audit; and</td>
</tr>
<tr>
<td>Other value added services provided</td>
</tr>
</tbody>
</table>

### PROPOSED AUDIT STRATEGY

General audit strategies and methodology employed, including, but not limited to:
- business risk
- internal control
- computer use

The depth of the perceived audit needs and understanding of the key issues facing the City, the implications of those issues for the conduct of the audit, and particular audit strategies and methodology for the City including, but not limited to:
- preliminary audit plan
- substantive audit procedures to be undertaken
- compliance audit procedures to be undertaken
- report and deliverables

A time budget, including estimated total hours for partners and other staff;
## PRICE

The resulting all-inclusive maximum cost for which the requested work will be performed for each year of the term of the appointment. These amounts should be contained in a letter of transmittal to accompany the proposal submission and should clearly establish the basis for remuneration through:

- hours of work and rates for appropriate categories of audit staff; and
- out of pocket costs.
Council Report

Date: September 8, 2015       File No:
To: Eric Sorensen, City Manager
From: Colin Fisher, Chief Financial Officer
Subject: Banking Services Agreement

Staff Recommendation

THAT Council approve the renewal of the current Banking Services Agreement with Valley First Credit Union;

AND THAT Council authorize the Mayor and Corporate Officer to execute the renewal.

Strategic priority objective

In keeping with Penticton’s vision “Penticton – a vibrant, innovative, and adventurous waterfront City focused on sustainability, community and economic opportunity”, the City strives to take advantage of every technological advantage available to it. To that end, Valley First Credit Union has consistently proven itself to not only be a leader in the use of technology in the delivery of financial services but has also demonstrated a determination to stay the leader. In this way the City is, in turn, able to offer its customers and Citizenry the most up to date methods of undertaking their financial business with it.

Background

In 2010 the City of Penticton issued a request for proposal for comprehensive banking services with local financial institutions. Four institutions responded with comprehensive proposals for a full range of financial services including but not limited to deposit and payment processing, investing, borrowing, online banking for the City and its customers, reporting and electronic data services, corporate credit cards, and very high levels of customer services.

The end result of that RFP process saw Valley First as the successful respondent, delivering a full suite of business banking services with value for money and maintaining flexibility for the evolving needs of the City. Over the intervening five years the Credit union has fully lived up to the expectations of the City and the requirements of the agreement. Most specifically, the Credit Union has excelled in the following areas:

1) Assisting the City in the creation, maintenance, and ongoing improvement of a data access processes whereby the City acquires all transactional history electronically. This interface provides data for all manner of financial processes and analyses and provides the data for the bank reconciliation processes in the City’s financial system.
2) Assisting the City in moving forward with electronic service delivery. This can be a complex process and not only has the Credit Union helped the City, there’s been no cost to the City. These electronic services include, but are not restricted to, online banking for the City and its customers, funds transfers, and electronic delivery of transactions for payroll, accounts payable, utility payments, and property tax payments.

It is staff opinion that the City is being served adequately by its current financial institution and will not acquire any additional benefit from a change in service provider. As such staff is recommending the City exercise the renewal option provided by Council resolution 1231/2010 for a further five year term in accordance with the terms and conditions of the Credit Union’s original submitted proposal.

Alternate recommendations

THAT Council direct staff to start the RFP process for Financial Services subsequent to December 31, 2015.

Respectfully submitted,

Colin Fisher
Chief Financial Officer

Approvals

CAO

ES
August 20, 2015

Ms. Dana Schmidt
City of Penticton
171 Main Street
Penticton, BC V2A 5A9

Dear Ms. Schmidt:

Re: Prevention of Quagga/Zebra Mussels entering Waterways

At the August 20, 2015 Regular Board Meeting, the Board of Directors discussed and subsequently passed the following resolution:

"THAT the Board of Directors approve taking an inventory of all Electoral Area boat launches, marinas and recreational launch points for appropriate signage for the prevention of the spread of Quagga/Zebra Mussels.

THAT Member Municipalities be requested to consider endorsement and provide inventories to be included in overall South Okanagan inventory of Quagga/Zebra signage. – Carried"

I have enclosed the following information which may be of assistance:
- Letter from Zoe Kirk, RDOS Public Works Projects Coordinator
- Maps of area beaches and boat launches
- Inventory Spreadsheet
- Photos of signage we want to avoid
- Staff report

If you have any questions, please don’t hesitate to call me (250-490-4146) or Zoe (250-490-4110).

Yours truly,

Christy Malden
Manager of Legislative Services

Enclosures (9)
Hello all:

RDOS (through the 2015 RBC Blue Water Project Grant) via Lisa Scott from OASISS is conducting education and outreach for the prevention of the quagga/zebra mussel entering Okanagan/Similkameen waterways. We are strategically working alongside many partners to accomplish this task while trying our best not to duplicate efforts. This is why we are contacting you today – to ask for your help.

It has come to our attention that the signage at Okanagan boat launches and marinas, whether regional, municipal or Provincial has some issues. Some have one sign, some two and some have no signs. The first initial signage developed by the Ministry of Environment through Invasive Species Council of BC (ISCBC) now has an outdated call to action phone number. The ISCBC is producing a sticker to update the number (which is now the RAPP Line # 1-877-952-7277) to reduce the amount of new signage that needs to be erected. The Ministry is currently working on an updated version of the sign and will get these out to launches and marinas that do not have any signage as of yet, or if the old sign is damaged. The OBWB also produced signage and has distributed signs throughout the valley on a pre-ordered basis.

What all the partners collectively do not have is a comprehensive list of what signage is where. If it is possible, could each RDOS Board member take this information back to your offices and task someone to visit each boat launch and marina in your jurisdiction to photograph and address each sign, and send it to me? That way we can efficiently replace outdated numbers, remove sign pollution where two or more signs with the same message are placed (see photo below of Peachland where they were placed side by side) and most importantly make sure all recreational launch points have appropriate signage.

I have prepared and attached a spreadsheet that will make the job much easier to complete.

![New OBWB signage](image1.png)
![Old signage with wrong # if it has 1-800-WEEDSBC](image2.png)

If you have any questions or concerns, please do not hesitate to call me,

Regards,

Zoe Kirk – 250-490-4110 direct line
ATTENTION BOATERS

PROTECT BC WATERS FROM INVASIVE SPECIES

CLEAN, DRAIN, DRY YOUR BOAT

CLEAN off plant parts, animals, and mud from boat and equipment (e.g. boots, waders, fishing gear). Use a power wash station if available.

DRAIN onto land all items that can hold water (e.g. buckets, wells, bilge, and ballast).

DRY all items completely before launching into another body of water.

Check these common hiding spots for invasive species:

1-888-WEEDSBC
www.bcinvasives.ca

USE BOAT LAUNCH
ADMINISTRATIVE REPORT

TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: July 16, 2015
RE: Boat Launch and Marina Signage Inventory

Administrative Recommendation:
THAT the Board of Directors approve taking an inventory of all Electoral Area boat launches, marinas and recreational launch points for appropriate signage for the prevention of the spread of Quagga/Zebra Mussels.

THAT Member Municipalities be requested to consider endorsement and provide inventories to be included in overall South Okanagan inventory of Quagga/Zebra signage.

Reference:
- 2015 OBWB/OASISS educational outreach initiative to the public – using summer students to inform residents and visitors of the dangers of quagga/zebra mussels and other aquatic Invasive Species: monthly update to Board

History:
Over the past few years, the threat of quagga/zebra mussels entering Okanagan waterways is increasing. The USA and Alberta have increased patrols and decontamination stations in efforts to stop the mussels from spreading into the Northwest.

BC has lagged in its response and as a result, local governments and agencies have stepped in to try to fill the gap, while petitioning the Province to elevate its participation. The Okanagan Basin Water Board (OBWB) over the past two years has provided Lisa Scott and the Okanagan and Similkameen Invasive Species Society (OASISS) a small block of funding to conduct public outreach.

Current Status:
This year, the Province has upped its commitment and participation to stop the spread of mussels, both by adding decontamination stations and creating rapid response objectives undertaken by the Conservation Officer Service. The province is also vested in messaging and would like to work with local governments and the RDOS to make sure the area is well signed.

2014/15 the OBWB developed Okanagan specific “Don’t Move a Mussel” signage and there is some existing signage developed by the Ministry of Environment. As a result, signage at Okanagan boat launches and marinas, whether regional, municipal or Provincial has some issues. Some have one sign, some two and some have no signs. The first initial signage developed by the Ministry of Environment
through Invasive Species Council of BC (ISCBC) now has an outdated call to action phone number. The ISCBC is producing a sticker to update the number (which is now the RAPP Line # 1-877-952-7277) to reduce the amount of new signage that needs to be erected. The Ministry is currently working on an updated version of the sign and will get these out to launches and marinas that do not have any signage as of yet, or if the old sign is damaged.

What the partners do not have is a comprehensive list of what signage is where. The RDOS Electoral Areas can be managed through existing employee capacity. In the municipalities it will require a staff member to visit each boat launch and marina, photograph with location address of each sign, note duplicates or omissions and submit it back to the RDOS – to Zoe Kirk. The complete inventory will be supplied to all partners so that the Ministry can efficiently replace outdated numbers, remove sign pollution where two or more signs with the same message are placed (see photo below of Peachland where they are placed side by side) and most importantly make sure all recreational launch points have appropriate signage. The RDOS has created a simple spreadsheet to make the job easier.

New OBWB sign

Old Ministry sign – with wrong #

Respectfully submitted:

Zoe Kirk
Z. Kirk, Projects Coordinator
1. Beautiful beaches and concessions by the park.

2. Private beaches and docks past the breakwater for 800 m south. Rocky shores - no beaching.

3. Marshy area with rocky shores. No beaching for 800 m south.

4. Small boat launch - marshy areas on both sides and shallow water.

5. Some residential areas with private beaches and docks. Shallow water with rocky shores - no beaching.

6. Private beaches north and south of the boat launch - located in the center of a residential area.

7. Scenic area within a quiet, picturesque bay - a large brown house rests on an immense rock outcrop along the shore line.

8. Residential area with private beaches and docks to the south end of the lake. No beaching.

9. Two red channel marker buoys - not to be used as moorage buoys.

10. Very nice large park. Pull up a picnic table and enjoy the vista.

11. Do not anchor near the six foot cable sign and stay clear of the island.

12. Kiwanis Gardens - For your utility and enjoyment. Picnic tables, park benches, lagoons, and a walking bridge constitute this beautiful park. Do not enter the old trestle area to the north and there are private beaches and docks to the east.

13. Nice log home located on the point. Rocky shores south of the trestles and for 1.6 km north - no beaching.

14. Ponderosa Point - Private beach - no PWC's in the bay. The bay provides shelter from north and south winds.

15. Kaleden Pioneer Park - A very old, large, abandoned stone building which stands four stories high and rests in the park. It was dedicated to the founder, James Ritchie, and the pioneers families who helped settle and develop Kaleden on April 25, 1985. There is a boat launch and fire pits but overnight camping is not permitted - stay clear of swimming areas.

16. Do not enter this area as the water is very shallow and marshy - rocky shores for 1.6 km south.

17. Shelter from the north winds to the south of the point and from south winds to the north.

18. Rocky shores with marshy areas. No beaching up to the north end of the lake.

19. A beautiful beach that is perfect for beaching and enjoying the summer sun. The Penticton airport is just past the highway. Be wary of the constant flow of traffic in this part of the lake.

20. Okanagan River Channel - Do not enter this channel at any time as it is usually saturated with people on tubes.

21. Skaha Beach - Large beaches, concessions, change rooms, a children's playground, volleyball and tennis courts make up this great, family-oriented beach.

22. Penticton - To the nomadic Salish Natives "Pen-Tak-Tim" meant, roughly, that "this was a place to stay forever." While gazing upon the area, in 1868, Tom Ellis agreed - he built a great cattle ranch and planted a few fruit trees. Fifty years later the orchards had spread across the ranch lands and today, the beautiful ranches and the multitude of fruit trees make Penticton a great place to visit and live as thousands of residents will attest.
1. Shallow bay with shelter from south winds. Private beaches and docks so no beaching for 800 m north.

2. Powell Beach - Nice sandy beaches southeast of the light with picnic tables, washrooms, tennis court, and a children's playground - provides shelter from south winds.

3. Gartrel Point - Light - Named after James Gartrel who, in May 1885, owned the first commercial orchard in the Okanagan Valley. Do not enter the small private canal.

4. Steadfast Canadian flag by Trout Creek - Respect private beaches and docks. Boat launch is located south of the point at the end of the road.

5. Sun-Oka Beach Park - A beautiful bay with sandy beaches in the west corner and the east end. Picnic tables, fire pits, washrooms and a children's playground sit on 500 meters of shoreline. Shelter from north winds here along with a marked swimming area, beaching and camping from 7:00 am until dusk.

6. Pyramid Picnic Park - Nice beaching areas with picnic tables and washrooms. Shelter is provided from south winds to the north.

7. Soorimpt Picnic Park - Sandy beaching area with picnic tables, a washroom and a boat launch. Shelter from south winds on the north side.

8. Kichininee Park - A good day-use, sandy beaching area with picnic tables and a washroom. Watch for rocks and beaching with care. Divers - novice discovery item; there is a boat at the bottom.

9. Marshy area's and a rocky shore situated in and around shallow water. There is no beaching from Kichininee Park south to the channel.

10. Private beaches with two large docks.

11. Okanagan River Channel - Do not enter this area and stay clear of the old pilings. It is the only connection from Okanagan Lake to Skaha Lake. Good drift diving and snorkeling.

12. S.S. Naramata - In 1913, the second ever CPR tug boat went into service on the Okanagan Lake. It was built at Port Arthur, Ontario by the Port Arthur Drydock & Shipbuilding Company and was assembled at Okanagan Landing. It is 89 feet, 8 inches long and has a beam of 19 feet, 5 inches. When necessary it was used as an icebreaker. On the date of May 18, 1985, the S.S. Naramata experienced its last working voyage and was then towed to its present location. There is an old wharf in the area - watch for pilings.

13. S.S. Sicamous - She was the queen of Lake Okanagan and the show piece of the valley. Built in 1914 and costing $180,000, she cruised the Okanagan Lake for more than three decades under Captains like Estabrooks, W. Kirby, G. Robertson and the unforgettable Joe Weeks. The daily passenger service from Kelowna to Penticton was discontinued in 1931. On July 23, 1937, the S.S. Sicamous transported passengers for the last time.

14. Okanagan Beach - Beautiful, sandy beaches containing washrooms, a children's playground and a marked swimming area. Boats are not allowed between the shore and the markers but offshores day anchorage is permitted. There is a good selection of restaurants and accommodations across the road from the beach.

15. Rotary Park - Sandy beaches, picnic tables and a playground - the start and finish points of the annual 2.4km swim, 112km bike ride, 28.2km run Ironman Canada Triathlon Championship.

16. Kiwanis Walking Pier - Light - The Canadian, British Columbia and United States flags are flown here. There is a large public beach on the east side and a beaching area on the west side of the pier.

17. Penticton Yacht Club (250-462-2853) - Washrooms and showers are made available for members and guests. There is a boat launch in the east bay behind rock breakwater.

18. Pebble and sandy beaches north to the point - beach with care. Beaching is difficult beneath the rock walls but a very secluded area awaits those who endeavor. There are some less risky beaching areas to the south.

19. A beautiful bay with rocky shores. Respect the private property signs to the south but some secluded beaching can be found at the north end of the bay which will provide shelter from north winds.

20. Three Mile Beach - Fire pit, washrooms and a boat launch are located here. There is a nice beach south of the point. Nice beaches north of the point with a swimming area and shelter from south winds.

21. Two large estates at the point with small beaching areas to the south.

22. Private beaches and docks on the point. Small beaching areas south 1.6 km. Careful of underwater hazards here.

23. Large home with a rock retaining wall - some beaching areas.
1. Some nice secluded beaching areas but beach with care.

2. Pebble day-beaches.

3. A nice secluded bay with sandy beaches - provides shelter from south winds. Beach with care.

4. Private beaches and docks located on both sides of the point. There is very shallow water for 500 feet offshore up to the S.Y.C. orange marker.

5. The public boat launch is hard to see but there is a beaching area in the north corner of the bay which provides shelter from north winds.

6. Private beaches and docks for 400 m south and north - no beaching.

7. Peach Orchard Park - A playground, sandy beach, washrooms, picnic tables, marked swimming areas and a cement boat launch.

8. The C.P.R. wharf was the hub of the first community in the area. There were no roads along the lake so the Canadian Pacific Steamboats carried the first pioneers who were to set foot in Summerland. Rotary Beach has picnic tables, sandy beaches, and washrooms.

9. Summerland Trout Hatchery - The hatchery breeds rainbow trout and eastern char to stock 300 lakes with over two million fish each year. They have videos on fish habitat, fly tying and angling for anyone interested in luring the big ones. Come with the family and friends to this self-guided tour. The hatchery is open seven days a week.

10. Summerland Yacht Club (250) 494-8312. Three visitor mooring slips, gas, a pumpout, bar, kitchen. Provides great accommodations for all boaters. The water depth is approximately seven feet with large a breakwater and a light. The bay immediately to the south provides sufficient shelter from north winds.

11. Kin Park - A great beach and children's playground is located here, but there is no beaching. The creek has a fish ladder to aid spawning fish.

12. Private beaches and docks. Be careful as the water is very shallow in this area.

13. Manitou Park - Beach with care for 400 m south. A beautiful bay with pebble beaches provides shelter from north winds. Watch for the pilings in the bay and marked swimming area.

14. Naramata Yacht Club (250) 469-5771 - Stall #25 is for visitors. There is a park and beach on the east side - large breakwater with a light. Enter with care from the east end of the bay - shallow water. The boat launch is $5 per launch or a yearly membership with various privileges for $125.

15. Naramata Centre Park - Sandy beaches, water slide, benches, and a large dock. Swimming areas to the south and north. The Naramata kids' boat is in the park just across the street from Naramata Centre Park. Private beaches and docks are located to the south. Caution: very shallow water.

16. Private beaches and docks south to Naramata Creek and north to the pilings. No beaching.

17. Old wharf with a small boat launch on the east side of the pilings.

18. Beautiful bay providing shelter from south winds. Avoid private beaches and docks. There is a small beach on the east side.

19. Beautiful Bay that offers shelter from south winds. Avoid private beaches and beach only in emergencies.

20. Rocky shores - no beaching for 800 m south or north.

21. Nice sandy beach in the bay with extensive shelter from winds. There are beaching areas to the north for 800 m.

22. Small cove with some beaches to the north of the private beaches - beach with care. Shelter from north winds in the cove.

23. Small rock outcrop close to shore - stay clear. A "Cable" sign on shore may be used as a reference point. Some nice beaching areas are located in the area.

24. Some beaching areas - beach with care north of the private beaches and docks.

25. Paradise Ranch - Mayor Wilson used to own this land. This location is where they filmed My American Cousin. There are old pilings and a private beach with small pebble beaches to the north.
1. Very rocky point so no beaching.
2. Peachland Creek (Deep Creek) – Available parking and picnic area is located at the mouth of the creek. Hardy Falls is an easy ten minute walk over small bridges on a well marked trail.
3. Antlers Beach Regional Park – A nice sandy beach with washrooms, picnic tables, and a marked swimming area.
4. Pebble foreshore with small beaching areas. Avoid private beaches and docks.
5. Rocky shores lined with private beaches and docks. There is no beaching for 400 m south or north.
6. Four rocks penetrate the surface so be careful when close to shore. Nice areas with pebble and rocky shores.
7. Good anchoring spot with shelter from south and north winds. There are pebble beaches to the north with one mooring buoy.
8. Watch for rocky shores and old pilings when beaching. Respect private beaches and docks.

9. Sufficient shelter from south winds in the bay but respect private beaches and docks. Greta was the largest ranch in the district in 1895. In 1893, G.H. Greatia took the first water record and in 1900, he built a pipeline to Deep Creek. In 1995, Cedar Creek Winery opened Greaton Ranch Winery here.
10. The north end of Okanagan Lake Park has campsites, picnic tables, beaching areas and swimming areas available for public use.
11. Okanagan Lake Park – Marked swimming areas, 85 campsites, picnic tables, washrooms, hiking trails, sandy beaches, and a playground are available for public use. You will find a cement boat launch at the south end and beaching areas with shelter from south winds in the north bay.
12. Beaching areas for 400 m south. Private beaches and docks north of the point.
13. Okanagan Mountain Park – The Fire in the Park will slightly alter our readings and some info will change from year to year. This marks the south end of the park. Good overnight camping with shelter from north winds. Secluded sandy beaches with picnic tables north for 800 m.
15. Two mooring buoys in the north bay and one in the south bay. Good beaching on either side of the point.
16. A small, secluded, overnight beach and one mooring buoy. Will provide shelter from north winds.
17. Commando Bay – A great destination point named Dunrobin's Bay after L. Race Dunrobin. This bay was used by a British special unit that used to train Commandos to work behind enemy lines. As news became public of the secret army activities which were being carried out in this area, it was renamed Commando Bay. Divers – there may be World War II articles in the bay. Two kinds of snakes inhabit the park (for they use to), one being the poisonous Rattlesnake with a broad triangular head and a rattle on its tail, and the other, a non-poisonous Gopher Snake with a slim pointed head and its resembling pointed tail. Three mooring buoys and shelter from north and south winds make for a nice beaching area. Watch for rock outcrops at the south point of the bay.
18. Wild Horse Canyon was named after herds of wild horses that roamed the canyon in the early 1800's. Today, it is a great place to hike up to one of the two mooring buoys. Located in a nice beaching area. Shelter from north winds.
19. This bay has a rock wall for 400 m north and south. No beaching.
20. Squally Point – Light – Native legend has it that the lake's great sea serpent N̓á-a-tik (Qgppog) makes its home in a cave here. Small animals were once carried to Squally Point in canoes to quell the serpent. Stay clear of the rocks walls and watch for south winds but good shelter is provided from north winds in the south bay. No beaching for 400 m south or north. Divers – Qualified divers only. A cavern entrance that can be explored lies 100 feet from the point and 20 feet down. Take lights and be cautious.
21. Nice bay with shelter from north and south winds. Rock walls line the shore, so stay clear and use caution. There is a private dock in the north bay.
22. Reluctant Dragon – Secluded beach with an outhouse, three mooring buoys and shelter from north and south winds. Beach with care in the south corner.
23. Rattlesnake Island – It is not recommended to go between the island and the shore for the depth of the channel is shallow. The island has a small bay on the south side for refuge of small boats only. Very rocky shore so beach with care. Watch for rocks close to the surface on the north/west corner of the island. Divers – there are small caves on the west side with rock formations and sheer drop-offs. Old docks are located on the north side.
PETITION

Due to the high volume of commuters now parking on the
500 block of Braid Street
We, the residents of the 500 block of Braid Street hereby
petition the City of Penticton to implement the
Residential Parking Permit Program on the
500 block of Braid Street

<table>
<thead>
<tr>
<th>Street Number</th>
<th>Name</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>551</td>
<td>Carma Smith</td>
<td>01/04/15</td>
</tr>
<tr>
<td>559</td>
<td>Rich Swan</td>
<td>07/17/15</td>
</tr>
<tr>
<td>559</td>
<td>George Sauter</td>
<td>07/17/15</td>
</tr>
<tr>
<td>559</td>
<td>Sheran Sauter</td>
<td>07/17/15</td>
</tr>
<tr>
<td>559</td>
<td>Paul Raposo</td>
<td>08/17/15</td>
</tr>
<tr>
<td>534</td>
<td>Robert Zieck</td>
<td>08/17/15</td>
</tr>
<tr>
<td>537</td>
<td>Jessica Okayama</td>
<td>08/17/15</td>
</tr>
<tr>
<td>537</td>
<td>Ryu Okayama</td>
<td>08/19/15</td>
</tr>
<tr>
<td>537</td>
<td>Dave Corbeil</td>
<td>08/24/15</td>
</tr>
<tr>
<td>530</td>
<td>Allison Howard</td>
<td>08/25/15</td>
</tr>
<tr>
<td>535</td>
<td>Myra Moran</td>
<td>08/25/15</td>
</tr>
<tr>
<td>535</td>
<td>Daniel Moran</td>
<td>08/25/15</td>
</tr>
<tr>
<td>541</td>
<td>Wayne Penney</td>
<td>08/25/15</td>
</tr>
<tr>
<td>561</td>
<td>Iris Penney</td>
<td>08/25/15</td>
</tr>
</tbody>
</table>
1. Call to Order

The Arts, Creative & Cultural Innovations Committee was called to order by the Chair at 8:00 a.m.

2. Adoption of Agenda

It was MOVED and SECONDED THAT the Arts, Creative & Cultural Innovations Committee adopt the agenda for the meeting held on August 13, 2015 as circulated.

CARRIED UNANIMOUSLY

3. Adoption of Minutes

It was MOVED and SECONDED THAT the Arts, Creative & Cultural Innovations Committee adopt the minutes of the July 9, 2015 meeting as circulated.

CARRIED UNANIMOUSLY
4. **New Business**

4.1 **Downtown Public Art Opportunities**

The Design Supervisor presented an overview of the Downtown Revitalization design plan for the 100 Block of Main Street and stated that there are opportunities for the addition of public art at various locations, and part of the LED light canopy support poles ‘U’ shaped structure. The Design Supervisor provided photos of examples of the pole structure and metal art and noted that any art placed in the pole structure would have to have to be self-supporting and fit within the required parameters i.e. weight, weather and wind tolerance.

Roundtable discussion followed with the committee requesting more information from staff on design specifications for the LED light canopy support poles. Suggestions regarding the type of art included First Nations (Story Poles), electronic art, banners and it was agreed it should be a variety of art styles. Questions were raised on costs, payment, facilitation, permanent vs. temporary and if there should be a call for artists. Staff to provide additional information at the next meeting.

5. **Business Arising from Prior Meetings**

5.1 **Canada 150 Mosaic Initiative Update**

The Acting GM, Recreation & Facilities confirmed the next steps for this initiative are:
- Confirm a global theme/sub-theme/story
- Confirm location and dates for the tile workshops between October 2015 – December 2016
- Confirm location and date for final installation

The artist requires a global theme as soon as possible.

Following a brainstorming session, themes were narrowed down to incorporate:
1 – Water, lakes, recreation
2 – KVR, railroad, Sicamous
3 – Agricultural history

Roundtable discussion followed. The Chair asked the committee to consider the ideas discussed and bring forth any additional thoughts and ideas on the subject to the next meeting and to think about iconic images that would be unique and specific to Penticton.

5.2 **Public Art Policy Update**

The Chair provided a brief summary of the revisions to the policy. A copy of the original policy with tracked changes will be forwarded to the committee. The Chairs asked the committee to review the changes prior to the next meeting.

5.3 **Sculpturewalk – Sculpture Sub-Committee Update**

Vicky Jones reported the sub-committee is still putting together the information and recommendations to bring forward to a future meeting.

5.4 **Lakawanna Park Sculptures Update**

The Penticton Art Gallery representative reported he will provide an update at next meeting.
5.5 Creative City Networks of Canada

The Chair provided information on Creative City Networks of Canada. By consensus, the committee agreed this would be a valuable resource and asked staff to investigate membership costs and report back at the next meeting.

6. Representative Updates

6.1 Okanagan School of the Arts, Shatford Centre

The OSA representative reported on upcoming events at the Centre and confirmed the commercial kitchen is almost complete and once the final permit has been received they can begin their community culinary programs.

6.2 Penticton & District Arts Council

The PDAC representative reported they will be holding their annual general meeting at the end of the month and are looking for new members. They are also working on plans for their 55th birthday celebration, 2016 Art Awards and 2016 programs.

6.3 Penticton Art Gallery

The Penticton Art Gallery representative reported the current art exhibit is well received with September 13th the last date of the show.

6.4 Penmar Community Arts Society

The Penmar Community Arts Society representative reported the Society will have a big announcement on Sept 1st. On behalf of the DPA, the representative also reported on the recent peach bin event and on the ‘Movies in Park’ happening in September.

6.5 E’nowkin Centre

The E’nowkin Centre representative reported on upcoming events including their biggest event craft fair happening the first week in December showcasing first nation artists and presenters. The Centre also has ten professional artists coming to Penticton.

6.6 South Okanagan Performing Arts Centre

The SOPAC representative confirmed their Board will not be meeting again until September and did not have anything new to report.

6.7 Acting GM, Recreation and Facilities

The Acting GM, Recreation and Facilities did not have anything new to report.

7. Council Outcome

Council Resolution 399/2015 and 400/2015 from the minutes dated July 9, 2015 were received.
8. **Next Meeting**

   The next regularly scheduled meeting of the Arts, Creative & Cultural Innovations Committee will be Thursday, September 10, 2015 at 8:00 a.m.

9. **Adjournment**

   The Arts, Creative & Cultural Innovations Committee adjourned the meeting at 9:30 a.m.
Heritage & Museum Committee Meeting
held at City of Penticton Council Chambers
171 Main Street, Penticton, B.C.

Thursday, August 20, 2015
at 8:30 a.m.

Present:  Councillor Judy Sentes  
Bill Allen, Chair  
Ed Benoit, Okanagan College Representative  
Heather Buzzell, Penticton Library Representative  
Shelley Clarke, School Board 67 Representative  
Brad Hillis, Member at Large  
Loraine Stephanson, Member at Large

Staff:  Jeff Lynka, Parks Supervisor  
Lorraine Williston, Committee Secretary

1. Call to Order

The Museum & Heritage Committee was called to order by the Chair at 8:34 a.m.

2. Adoption of Agenda

It was MOVED and SECONDED  
THAT the Museum & Heritage Committee adopt the agenda for the meeting held on  
August 20, 2015 as circulated.

CARRIED UNANIMOUSLY

3. Adoption of Minutes

It was MOVED and SECONDED  
THAT the Heritage & Museum Committee adopt the minutes of the July 16, 2015 meeting as  
circulated.

CARRIED UNANIMOUSLY

4. Business Arising from Prior Meetings

4.1 Museum Update  
The Museum Manager provided a written update on the R.N. Atkinson project and  
provided a link for the committee to view the work in progress. The Museum Manager  
also stated staff will be meeting with the Royal British Columbia Museum regarding  
bringing back the ‘Species at Risk’ exhibit.
4.2 Historical Information Kiosks – Staff Update

The Parks Supervisor presented information and signage examples for the four proposed historical locations at the Three Mile Log Chute, KVR Trail near Riddle Road, Poplar Grove trail head and the Rose Garden. The estimated cost per sign is $2,000 which includes design, materials and installation.

It was MOVED and SECONDED that the Heritage & Museum Committee recommends to Council:

\begin{verbatim}
THAT Council direct staff to include $8,000 for consideration in the 2016 Parks Capital Budget for four (4) historical information signs to be located at the Three Mile Log Chute, KVR Trail by Riddle Road, Poplar Grove trail head and the Rose Garden.
CARRIED UNANIMOUSLY
\end{verbatim}

4.3 Information Kiosk for Fairview Cemetery Entrance Update – Tabled to next meeting.

4.4 2005 Penticton Heritage Strategy Review – Tabled to next meeting

4.5 Street Name Wait List Review

By consensus, the committee agreed the street name list needs to be reviewed and updated. The Chair will bring forth some potential dates in the fall for a workshop.

4.6 Terms of Reference

Councillor Sentes stated she has spoken with the Corporate Officer regarding revising the existing terms of reference to allow for ‘alternates’ for organizations and will bring forth further information at the next meeting.

5. Council Outcome

5.1 Council Resolution 418/2015 from the minutes dated July 16, 2015 were received.

6. New Business

7. Next Meeting

The next regularly scheduled meeting of the Museum & Heritage Committee will be Thursday, September 17, 2015.

8. Adjournment

The Museum & Heritage Committee adjourned the meeting at 9:41 a.m.
Tourism Development Task Force Meeting
held at City of Penticton Committee Room A
171 Main Street, Penticton, B.C.
Thursday, August 20, 2015
at 3:00 p.m.

Present: Max Picton, Councillor & Chair
Andrew Jakubeit, Mayor
Judy Sentes, Councillor
Andre Martin, Councillor
Barb Haynes, President, Penticton Hospitality Association
Kelly Hopkins, Tourism Executive Director
Diana Stirling, Tourism Chair

Staff: Eric Sorensen, Chief Administrative Officer
Colleen Pennington, Economic Development Officer
Lorraine Williston, Committee Secretary

Guests: Lisa Navin, Event/Sport Development - Tourism Penticton

1. **Call to Order**

   The Tourism Development Task Force was called to order by the Chair at 3:00 p.m.

2. **Adoption of Agenda**

   *It was MOVED and SECONDED*
   THAT the Tourism Development Task Force adopt the agenda for the meeting held on August 20, 2015 as circulated.

   **CARRIED UNANIMOUSLY**

3. **Adoption of Minutes**

   *It was MOVED and SECONDED*
   THAT the Tourism Development Task Force adopt the minutes of the July 16, 2015 meeting as circulated.

   **CARRIED UNANIMOUSLY**

4. **Introduction of Tourism Penticton Executive Director**

   The Chair introduced the newly appointed Tourism Penticton Executive Director, Kelly Hopkins.
5. Business Arising from Prior Meetings

5.1 Penticton’s Birthday Celebration - Update

Councillor Sentes presented the Task Force with the Festivals & Events Committee report from their August 20, 2015 meeting. The Festival & Events Committee unanimously supports a celebration of Penticton’s birthday with the recommendation that it be held in April, the month of incorporation, and further recommended a partnership with the DPA, Rotarians and SOICS for the creation of this new celebration event. Councillor Sentes also stated the committee is not in support of an RFP for the Canada Day, BC Family Day and Penticton’s Birthday events.

It was MOVED and SECONDED THAT the Tourism Development Task Force receive the Festivals & Events Committee’s August 20, 2015 report.

CARRIED UNANIMOUSLY

It was MOVED and SECONDED that the Tourism Development Task Force recommends to Council:

| WHEREAS the City was incorporated on April 30, 1948; |
| AND WHEREAS the City celebrates Canada Day and BC Family Day; |
| NOW THEREFORE BE IT RESOLVED THAT Council support the Festival & Events Committee’s recommendations to celebrate Penticton’s birthday in the month of April in partnership with local nonprofits such as the Downtown Penticton Association, Rotary Club and the South Okanagan Immigrant and Community Services; |
| AND THAT Canada Day and BC Family Day events continue in the previous format. |

CARRIED UNANIMOUSLY

5.2 55+ BC Games Update

The Sport/Event Development representative confirmed the bid will not be awarded until the end of the 2015 55+ Games happening August 25th to 29th.

5.3 4 Pillars – Sub-Committee Update

Sport Tourism
The Chair reported he is still reaching out to key people.

Festival and Events
Councillor Sentes reported her group will be meeting on a regular basis and will report back to the Task Force.
The Chair asked that each sub-committee meet with their group before the next meeting in September. Once all Pillars have had their sub-committee meetings, recommendations can be brought forward to Council. Recommendations need to be forwarded by September 30, 2015.

Roundtable discussions followed on budgets and the grant application process.

5.4 4 Pillars Discussion – Sheet Review

The Tourism Chair reviewed the purpose of the survey/information sheet. The first step is for each Pillar to bring together all of their experts and provide each person with the information sheet for them to fill out prior to the meeting. The purpose of each meeting is to determine what the top five priorities are and to highlight their one top priority. The second step is to action items to individuals with completion dates. The Task Force Chair recommended a dollar amount also be included with respect to any priorities/action items for budget purposes. Once the information has been gathered, each Pillar Chair is to forward to the Task Force Chair, a summary of their sub-committee’s priorities and action items one week prior to the next regular Tourism Development Task Force meeting.

5.5 STEAM Program Follow-Up Sheet

The Tourism Penticton representatives stated the questions contained in the STEAM program’s analysis questionnaire are good and they will ensure event organizers provide those answers. The Chair questioned whether the City of Penticton’s grant application could include more information to benefit tourism. The Economic Development Officer stated any changes or amendments to the policy would have to be approved by Council. Before any recommendations are made to amend the policy, the Task Force would like to review the current policy. Staff to forward a link for the policy.

Discussion followed on the upcoming grant application workshop being held on Sept. 2, 2015. It was agreed that any additional information for tourism, could be introduced at the workshop. The Economic Development Officer recommended adding the number of participants and out of town participants as a starting point. The Penticton Hospitality Association President stated during the workshop, applicants can be advised that additional information will be a requirement for the 2017 grant cycle. The Economic Development Officer will provide the STEAM questionnaire to the Chief Financial Officer for introduction at the workshop.

It was MOVED and SECONDED that the Tourism Development Task Force recommends to Council:

THAT Council direct staff to amend the grant application process for the 2017 grant cycle to prepare applicants for the addition and completion of the STEAM questionnaire in order to provide valuable economic and tourism information to the Penticton Hospitality Association and Tourism Penticton.

CARRIED UNANIMOUSLY
5.6 Baseline Calendar

The Event/Sport Development representative reported she has researched a number of different types of calendars with the most value similar to our needs. Tourism Penticton has been trialing a new calendar program (TeamUp) that offers more capabilities, of which they are still learning about and will be going through additional training. Once training has been completed they will have a better idea if this is the right program. With TeamUp, users are provided a website link for online access. Benefits of this program include the ability to set different levels of information and allows for full control of the calendar content, can create private events and provides information for ten years. The annual fee for TeamUP is $240 and could be available for use immediately. The Tourism Executive Director stated they are still acquiring information on different programs.

Roundtable discussion followed on the pros and cons of using existing programs on the market or developing your own specialized program. By consensus, the Task Force agreed that purchasing an existing program on the market is the better option and if Tourism Penticton feels that TeamUP is a good program, they should move forward with it.

5.7 Penticton Hospitality Association Update

The Penticton Hospitality Association President provided an update on GoMedia and the 2016 BC Winter Games. For GoMedia, the PHA is coordinating the volunteers and has been reaching out to hotel staff. They are looking for volunteers with great attitudes and personalities etc. If you have any referrals, please contact Barb Haynes.

The Penticton 2016 BC Winter Games Society will be hosting their community awareness event on Sept. 19th from 6-9 p.m. at the Penticton Lakeside Resort. This event will be family orientated with a carnival theme and will be the launch pad for their volunteer campaign.

6. Next Meeting

The next regularly scheduled meeting of the Tourism Development Task Force is scheduled for September 17, 2015.

7. Adjournment

The Tourism Development Task Force adjourned the meeting at 4:27 p.m.
Minutes

Waterfront Revitalization Sub-Committee Meeting

held at City of Penticton Committee Room A
171 Main Street, Penticton, B.C.

Tuesday, August 25, 2015
at 8:00 a.m.

Present: Campbell Watt, Councillor
Max Picton, Councillor
Rod King, Chair
Doug Eaton, Chamber of Commerce Representative
Wayne Lebedow, Marina Representative
Jim Cooper, Member at Large
Lauren Cornish, Member at Large
Sharon Hickey, Member at Large
Cal Meiklejohn, Member at Large
Janice Taylor, Member at Large

Staff: Eric Sorensen, CAO
Mitch Morozuk, Director of Operations
Ian Chapman, City Engineer
Jeff Lynka, Parks Supervisor
Simone Blais, Communication Officer
Lorraine Williston, Committee Secretary

Guest: Ed Grifone, CTQ Consultants Ltd. Representative
Frank Pohland, CTQ Consultants Ltd. Representative

1. Call to Order

The Waterfront Revitalization Sub-Committee was called to order by the Chair at 8:01 a.m.

2. Adoption of Agenda

It was MOVED and SECONDED
THAT the Waterfront Revitalization Sub-Committee adopt the agenda for the meeting held on August 25, 2015 as circulated.

CARRIED UNANIMOUSLY
3. **Adoption of Minutes**

   **It was MOVED and SECONDED**
   
   THAT the Waterfront Revitalization Sub-Committee adopt the minutes of the June 30, 2015 meeting as circulated.

   **CARRIED UNANIMOUSLY**

4. **Business Arising from Prior Meetings**

   4.1 **Martin Street - Kiwanis Pier Update**

   The CTQ Consultants Ltd. representatives presented concept design updates for the Kiwanis Pier Park area and Martin Street. The designs incorporate the historical railway connection to the area with a view line from Martin Street down to the lake. The designs provide an opportunity to open a pedestrian corridor from Martin Street directly to the lake and pier and bringing back the railway heritage.

   Three concepts were presented on how to tie in the foot of Martin Street to the foot of the pier area. The challenge will be dealing with the parking lot located between Rotary Park and the hotel. The first concept would be to create a four metre wide walkway eliminating the parking area. The second option would include leaving a portion of the parking on the west side and installing a four metre wide walkway adjacent to the hotel parking lot with the third option to leave the area the way it is.

   The CTQ Consultants Ltd. representatives also pointed out the opportunity to enhance the pump house space by creating an interpretative site about water with the possibility of opening up the building to allow public viewing of the large water pumps, adding interpretative signage and creating a more ‘park’ like feel to the area around the building. Discussion followed on the three concepts, the pump house and what access was required for maintenance of the pump house and hotel deliveries.

   The CTQ Consultants Ltd. representatives then presented two concepts for the Kiwanis Pier Park area as follows:

   - **Concept A** – Included a plaza area, concrete stairs down to the water on the east side, docking area, extended boardwalk, viewing tower built at the end of the pier, wind sculptures, enhanced green spaces and two shelters.

   - **Concept B** – Included a plaza area, concrete stairs down to the water, extended boardwalk, pier feature, leaving the pier untouched, Martin Street walkway extension that would incorporate docking and public art/viewing platform and two shelters.

   The CTQ Consultants Ltd. representatives provided visual examples of potential art and designs of both naturalized and more structured scenarios, edge treatments for the stairway to the water and docking area. The railway theme could be incorporated into the shelters and examples of different styles of materials that could be used were shown along with different design options for a viewing platform and the plaza space. It was noted that this would be a great opportunity to create a unique and themed area with a landmark feature.

   Following roundtable discussion on the presentations for both Martin Street and the Kiwanis Pier Park, by consensus, the committee agreed that staff should continue to develop the concept design of the Kiwanis Pier Park area only.
It was MOVED and SECONDED that the Waterfront Revitalization Sub-Committee recommends to Council:

THAT Council direct staff to complete the concept designs for the Kiwanis Pier Park area and walkway.

CARRIED UNANIMOUSLY

4.2  Okanagan Lake Peach Plaza Vendor Update

Tabled to next meeting.

5.  Next Meeting

The next regularly scheduled meeting of the Waterfront Revitalization Sub-Committee will be September 22, 2015 at 8:00 a.m.

6.  Adjournment

The Waterfront Revitalization Sub-Committee adjourned the meeting at 9:49 a.m.
Downtown Revitalization
Sub-Committee Meeting

held at City of Penticton Committee Room A
171 Main Street, Penticton, B.C.

Thursday, August 27, 2015
at 8:00 a.m.

Present: Max Picton, Councillor
Campbell Watt, Councillor
Judy Sentes, Councillor
Barb Haynes, Chair
Kerri Milton, DPA Representative
Pamela Stevenson, Member at Large
Cheryl Watts, Member at Large
Tim Scott, Member at Large

Staff: Eric Sorensen, CAO
Mitch Moroziuk, Director of Operations
Ian Chapman, City Engineer
Jules Hall, Director of Development Services
Tyler Figgitt, Design Supervisor
Blake Laven, Planning Manager
Simone Blais, Communications Officer
Lorraine Williston, Corporate Committee Secretary

Guests: Ben Walker, MMM Group
Cal Meiklejohn, Architect

1. Call to Order

The Downtown Revitalization Sub-Committee was called to order by the Chair at 8:01 a.m.

2. Adoption of Agenda

It was MOVED and SECONDED
THAT the Downtown Revitalization Sub-Committee adopt the agenda for the meeting held on August 27, 2015 as circulated.

CARRIED UNANIMOUSLY
3. Adoption of Minutes

It was MOVED and SECONDED
THAT the Downtown Revitalization Sub-Committee adopt the minutes of the July 23, 2015 meeting as circulated.

CARRIED UNANIMOUSLY

4. Business Arising from Prior Meetings

4.1 100 and 200 Block Design – Update

The MMM Group representative gave an overview of the paver design concept and provided visual examples. The two best treatments for roadways include the ‘Herringbone’ or ‘Ashley Blend’ paver designs as these patterns promote a ‘clean and open’ feel and look. A question and answer period followed on vehicle stains, color schemes and patterns.

Cal Meiklejohn presented an overview of the original Charrette design sessions that were held in July 2012 and how the design had evolved and changed from the original work to what it is today and also how in that evolution something had been lost. Roundtable discussions followed on the pros and cons of the original concepts, the current design and ways that elements of the original design have been respected and could be improved upon.

Following the discussion, the Director of Operations stated staff can bring back two or three different design options that show the street and North Park and address some of the comments raised at the meeting. This would come back to the committee at a future meeting for review, comment and direction. Staff also suggested any decisions or work for the 100 block be put on hold until the committee has had a chance to re-look at the overall design elements.

4.2 Light Canopy - Update

The Design Supervisor reported that information has been provided to the Arts, Creative & Cultural Innovations committee on the opportunity for public art to be installed within the light canopy support poles. The committee is excited about the opportunity and have requested more information from staff on what type of art would be permitted in the spaces and if there are any structural limitations.

4.3 Downtown Washrooms

The Design Supervisor provided an update on the cost of self-cleaning washrooms and visual examples of single and double units. Staff to provide a cost analysis of self-cleaning washrooms vs. portable washrooms at a future meeting.
5. **New Business**

5.1 New Building Canada Fund – Small Communities Fund (NBCF-SCF) Application

The Director of Operations reported the City was not successful in their application for a $2.4 million grant from the New Building Canada Fund – Small Communities Fund, however, they are still waiting to hear back on their Tax Grant application which is also in the amount of $2.4 million.

6. **Next Meeting**

The next regularly scheduled meeting of the Downtown Revitalization Sub-Committee is scheduled for Thursday, October 22, 2015 at 8:00 a.m.

7. **Adjournment**

The Downtown Revitalization Sub-Committee adjourned the meeting at 9:48 a.m.