

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

**Monday, October 19, 2015**  
**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:**
  - 4.1 Minutes of the October 5, 2015 Regular Council Meeting 1-4 Adopt
5. **Presentations:**
6. **Delegations: (5 minutes)**
  - 6.1 Aaron McRann 5  
Re: Small Neighbourhood Initiative
  - 6.2 Gord Ferguson  
Re: Lakawanna Concession
7. **Reconsideration of Bylaws and Permits:**
  - 7.1 Downtown Economic Investment Zone Amendment Bylaw No. 2015-47 6 Adopt
8. **Staff Reports:**
  - 8.1 Quidni Winery Lounge Endorsement 7-14 Del/Sub  
Re: 1465 Naramata Road  
*Staff Recommendation: THAT Council recommend to the Liquor Control and Licensing Branch (LCLB) that it support the application for the proposed Winery Lounge Endorsement for Quidni Estate Winery (1014332 BC Ltd.), located at 1465 Naramata Road, Penticton.*
  - 8.2 Snow and Ice Control Policy 15-26  
*Staff Recommendation: THAT Council after full consideration, including budgetary restrictions, endorse the revised Snow and Ice Control Policy as attached in Attachment A; AND THAT the 2015 Capital Budget be amended to include \$20,000, to be funded from the General Capital Reserves, for the purchase and installation of additional snow and ice clearing equipment; AND FURTHER THAT the 2016 Snow and Ice Control Operating Budget be increased by \$10,000 to address the additional snow and ice control at:*

BPM

PWM

- Primary access lanes for multi family developments;
- Traffic calming areas at Wiltse Blvd, Carmi Ave, & Kinney Ave;
- The Lawrence Avenue asphalt walkway servicing Sendero Canyon subdivision;
- The sidewalk adjacent the Sendero Canyon subdivision park;
- The stairs servicing Sendero Canyon.

|     |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |       |
|-----|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| GMI | 8.3 | Airport Sanitary Sewer Agreement<br><i>Staff Recommendation:</i> THAT following receipt of consent from Board of the Regional District of Okanagan Similkameen to provide service outside of municipal boundaries in accordance with section 13 of the Community Charter, S.B.C. 2003, Chapter 26, Council Authorize the Mayor and Corporate Officer to execute the Penticton Airport Sanitary Sewer Infrastructure Replacement, Upgrading, Cost Sharing and Transfer of Ownership Agreement as contained in Attachment "A".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 27-63 |
| DDS | 8.4 | Zoning Amendment Bylaw No. 2015-51<br>Re: 2800 Cedar Road<br><i>Staff Recommendation:</i> THAT "Zoning Amendment Bylaw No. 2015-51", a bylaw to rezone the easterly 84m of Lot 1, District Lot 2710, Similkameen Division Yale District Plan 14911, Except Plans 20725 and KAP66018, located at 2800 Cedar Road, from A (Agriculture) to R1 (Large Lot Residential), be given first reading and forwarded to the November 2, 2015 Public Hearing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 64-73 |
| EDO | 8.5 | Major Development Projects Economic Investment Zone Bylaw No. 2015-52<br><i>Staff Recommendation:</i> THAT in accordance with Section 226 (6)(b) of the Community Charter, Council considers the "Major Development Projects Economic Investment Zone Bylaw No. 2015-52" in conjunction with the cities objectives and policies; AND THAT Council give first, second and third reading to the "Major Development Projects Economic Investment Zone Bylaw No. 2015-52"; AND FURTHER THAT in accordance with section 226 (6)(a) of the Community Charter, public notification be carried out prior to adoption of the "Major Development Projects Economic Investment Zone Bylaw No. 2015-52".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 74-79 |
| DDS | 8.6 | Zoning Amendment Bylaw No. 2015-53<br><i>Staff Recommendation:</i> THAT "Zoning Amendment Bylaw 2015-53", be given first reading and be forwarded to the November 2, 2015 Public Hearing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 80-84 |
| DDS | 8.7 | Zoning Amendment Bylaw No. 2015-54<br>Re: Eckhardt Avenue W<br><i>Staff Recommendation:</i> THAT "Zoning Amendment Bylaw 2015-54", a bylaw that rezones the following properties from R2 (Small Lot Residential) to C4 (General Commercial): <ul style="list-style-type: none"> <li>• 903 Eckhardt Avenue: Lot 1, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244</li> <li>• 911 Eckhardt Avenue: Lot 2, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244</li> <li>• 921 Eckhardt Avenue: Lot 2, District Lot 366, Similkameen Division Yale District, Plan 8717, Except Plan KAP87244</li> <li>• 935 Eckhardt Avenue: Lot 1, District Lot 366, Similkameen Division Yale District, Plan 7817, Except Plan KAP87244</li> <li>• 941 Eckhardt Avenue: Lot 5, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244</li> <li>• 947 Eckhardt Avenue: Lot 6, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244</li> <li>• 955 Eckhardt Avenue: Lot 7, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244</li> <li>• 963 Eckhardt Avenue: Lot 8, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244</li> <li>• 969 Eckhardt Avenue: Lot 9, District Lot 366 Similkameen Division Yale District Plan 3536, Except Plan 42663 and KAP87244 be given first reading and be forwarded to the November 2, 2015 Public Hearing; AND THAT prior to adoption the properties are consolidated into one or more titles with land areas over 1,000m2 per lot.</li> </ul> | 85-97 |

## 9. Correspondence

10. **Committee and Board Reports**

- 10.1 Development Services Committee meeting of October 1, 2015 98-99  
*Recommendation: THAT Council receive the minutes of the Development Services Committee meeting of October 1, 2015.*

11. **Notice of Motion**

12. **Other Business**

13. **RDOS Update**

14. **Business Arising from In-Camera**

15. **Media and Public Question Period**

16. **Adjournment**

# Minutes

penticton.ca

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

**Monday, October 5, 2015**  
**at 6:00 p.m.**

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

**Staff:** Eric Sorensen, City Manager  
Dana Schmidt, Corporate Officer  
Colin Fisher, Chief Financial Officer  
Jules Hall, Director of Development Services  
Lori Mullin, Recreation and Culture Manager  
Mitch Moroziuk, General Manager Infrastructure  
Simone Blais, Communications Officer  
Angie Collison, Deputy Corporate Officer

### **1. Call to Order**

The Mayor called the Regular Council meeting to order at 6:01 p.m.

### **2. Introduction of Late Items**

### **3. Adoption of Agenda**

501/2015

#### **It was MOVED and SECONDED**

THAT Council adopt the agenda for the Regular Council meeting held on October 5, 2015 as amended and remove item 8.1.

**CARRIED UNANIMOUSLY**

### **4. Adoption of Minutes**

4.1 Minutes of the September 28, 2015 Public Hearing

502/2015

#### **It was MOVED and SECONDED**

THAT Council receive the minutes of the September 28, 2015 Public Hearing as presented.

**CARRIED UNANIMOUSLY**

4.2 Minutes of the September 28, 2015 Regular Council Meeting

503/2015

**It was MOVED and SECONDED**

THAT Council adopt the minutes of the September 28, 2015 Regular Council Meeting as presented.

**CARRIED UNANIMOUSLY**

**5. Presentations**

- 5.1 Proclamation – Mental Illness Awareness Week  
Re: October 4 – 10, 2015

Mayor Jakubeit proclaimed October 4 – 10, 2015 as “Mental Illness Awareness Week” in the City of Penticton.

- 5.2 Proclamation – Rotary Week  
Re: October 19 – 23, 2015

Mayor Jakubeit proclaimed October 19 – 23, 2015 as “Rotary Week” in the City of Penticton.

- 5.3 Proclamation – National Teen Driver Safety Week  
Re: Third full week in October 2015

Mayor Jakubeit proclaimed the third full week in October 2015 as “National Teen Driver Safety Week” in the City of Penticton.

**6. Delegations**

- 6.1 JCI Penticton – Margie Hibbard  
Re: Proclamation – JCI Penticton Day

Margie Hibbard provided Council with an update on JCI Penticton and requested November 14, 2015 be proclaimed “JCI Penticton Day”.

Mayor Jakubeit proclaimed November 14, 2015 as “JCI Penticton Day” in the City of Penticton.

**7. Reconsideration of Bylaws and Permits**

- 7.1 Permissive Tax Exemption Amendment Bylaw No. 2015-46

504/2015

**It was MOVED and SECONDED**

THAT Council adopt “Permissive Tax Exemption Amendment Bylaw No. 2015-46”.

**CARRIED UNANIMOUSLY**

**8. Staff Reports**

- 8.2 Purchasing Cards – Bank of Montreal (BMO)

505/2015

**It was MOVED and SECONDED**

THAT Council authorize staff to waive Purchasing Policy Section 17. On-Going Professional Services with regard to purchasing card services; AND THAT staff be authorized to exercise Purchasing Policy Section 21. Cooperative Purchasing with regard to purchasing card

services; AND FURTHER THAT staff be authorized to sign the provincial purchasing card agreement and remain with BMO.

**DEFEATED**

**Mayor Jakubeit, Councillors Sayeed, Watt, Konanz, Martin, Opposed**

506/2015

**It was MOVED and SECONDED**

THAT Council direct staff to obtain requests for proposals (RFP) for purchasing card services.

**CARRIED**

**Councillors Sentes and Picton, Opposed**

**9. Correspondence**

**10. Committee and Board Reports**

**10.1 Downtown Revitalization Sub-Committee meeting of September 11, 2015**

Barb Haynes, Chair of Downtown Revitalization Sub-Committee and Mitch Moroziuk, General Manager Infrastructure, presented Council with a presentation outlining the proposed design revision for the 100 block and 200 block of Main Street.

507/2015

**It was MOVED and SECONDED**

THAT Council approve the design of the 100 Block of Main Street to incorporate: concrete pavers for the sidewalks, roads, and parking areas with contrasting stall delineation; parallel parking in the 100 Block to be consistent with the 200 Block and to allow for expanded pedestrian areas; raised multi-use area commences just south of the link road and incorporate raised road surface, crosswalk, and LED light canopy.

**CARRIED**

**Councillor Konanz, Opposed**

**10.2 Tourism Development Task Force meeting of September 17, 2015**

508/2015

**It was MOVED and SECONDED**

THAT Council receive the minutes of the Tourism Development Task Force meeting of September 17, 2015.

**CARRIED UNANIMOUSLY**

**10.3 Penticton Creek Restoration Committee meeting of September 18, 2015**

509/2015

**It was MOVED and SECONDED**

THAT Council receive the minutes of the Penticton Creek Restoration Committee meeting of September 18, 2015.

**CARRIED UNANIMOUSLY**

**10.4 Waterfront Revitalization Sub-Committee meeting of September 18, 2015**

510/2015

**It was MOVED and SECONDED**

THAT Council receive the minutes of the Waterfront Revitalization Sub-Committee meeting of September 18, 2015.

**CARRIED UNANIMOUSLY**

**11. Notice of Motion**

**12. Other Business**

**13. RDOS Update**

**14. Business Arising from In-Camera**

From the September 8, 2015 In-Camera meeting of Council:

That Council authorizes the purchase of 903 Vernon Avenue to be negotiated up to \$1.55 million.

**15. Media and Public Question Period**

**16. Adjournment**

511/2015

**It was MOVED and SECONDED**

THAT Council adjourn the Regular Council meeting held on Monday, October 5, 2015 at 7:40 p.m.

**CARRIED UNANIMOUSLY**

Certified correct:

Confirmed:

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Dana Schmidt  
Corporate Officer

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Andrew Jakubeit  
Mayor

## Request to Appear as a Delegation

**Preferred Council Meeting Date:** \_\_October 19, 2015\_\_

**Second choice(s):** \_\_\_\_\_

**Subject matter:** \_\_Neighbourhood Small Grants Matching Grants from Vancouver Foundation\_\_

**Name of person(s) making presentation:**

Aaron McRann, Executive Director, Community Foundation of the South Okanagan Similkameen

**Address:** 390 Main Street, Penticton

**Phone:** 250-493-9311

**Email:** info@cfso.net

**Please provide details of your presentation:**

|                                                                                                 |
|-------------------------------------------------------------------------------------------------|
| The Community Foundation is partnering with the Vancouver Foundation to provide                 |
| small grants to local citizens for the sole purpose building stronger connections between       |
| neighbours. With a maximum grant of \$500, local citizens can receive funding to host a block   |
| party, neighbourhood cleanup, trail development, mini-olympics, etc. The Community Foundation   |
| is committing \$5,000 to this program for 2016. We are requesting that the City of Penticton    |
| also commit \$5,000. The Vancouver Foundation will match our commitment so, with a partnership  |
| between the City, the Community Foundation, and the Vancouver Foundation, we will have \$20,000 |
| dedicated to helping build a stronger sense of belonging among Pentictonites.                   |

**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](mailto:dana.schmidt@penticton.ca)

*A Bylaw to Amend Downtown Economic Investment Zone 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:

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

ADOPTED this                      day of                      , 2015

Dana Schmidt, Corporate Officer

# Council Report

penticton.ca

Date: October 19, 2015  
To: Eric Sorensen, City Manager  
From: Ken Kunka, Building and Permitting Manager  
Re: **Liquor Application for a Winery Lounge**  
1465 Naramata Road, Penticton

File No: 4320-50

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## Staff Recommendation

THAT Council recommend to the Liquor Control and Licensing Branch (LCLB) that it support the application for the proposed Winery Lounge Endorsement for Quidni Estate Winery (1014332 BC Ltd.), located at 1465 Naramata Road, Penticton.

## Strategic priority objective

NA

## Background

On September 28, 2015 Council directed staff (resolution 477/2015) to commence public notification of the proposed Winery Lounge Endorsement for Quidni Estate Winery (1014332 BC Ltd.), and that staff report back to the Council at their regular meeting on October 19, 2015 with the results of the public consultation.

## Intent of the Proposal

The City has received an application from Quidni Estate Winery (1014332 BC Ltd.) located at 1465 Naramata Road to add a winery lounge endorsement. They are currently operating with Winery Manufacturing and Retail Licenses. The winery has approvals to operate a vineyard, manufacturing, residence, Bed & Breakfast and retail uses. The winery is proposing to add:

- interior lounge for 10 persons, and
- exterior lounge patio for 70 persons

The proposed hours of operation for the winery lounge are 11:30am to 10:00pm Monday to Sunday. The applicant is proposing a primary business focus of the lounge for food and beverage service for local residents and tourists. The interior lounge is included to allow patrons to transfer drinks from the interior to deck without staff assistance.

A community impact statement by the applicant was included in the original September 28<sup>th</sup> report.

## Site Context

The property is zoned A (Agricultural) with an OCP designation of Agricultural Use. The property is located in a mixed rural area of single family, farming and winery commercial uses. There are 5 wineries within 1.0km of this site, one of which has a lounge.

## **LCLB Legislation, Policy and Bylaw Review**

### Agricultural Land Reserve, Subdivision and Procedure Regulation

Part 2 of the Regulations designate a food and beverage service lounge as a farm use, provided that the area does not exceed 125m<sup>2</sup> indoors and 125m<sup>2</sup> outdoors. Furthermore, the Regulation permits licensed wineries on a parcel in the ALR, provided at least 50% of the farm products (fruit) used to make the wine is produced on the farm on which the winery is located. These uses may not be prohibited by a local government. The applicant has confirmed that over 50% of the grapes for their wine products are produced on-site.

### Liquor Control and Licencing Act

Section 11 of the Liquor Control and Licencing Act requires the LCLB to consult local government on liquor licence requests of a prescribed class or category prior to issuance of such a licence, giving the local government an opportunity to provide comments and recommendations and to gather views of residents within the area.

### Winery Lounge Endorsement (LCLB)

A Winery Lounge is defined as an indoor lounge, an outdoor patio or both, where a winery may sell and serve B.C. wines, ciders or wine coolers by the glass or bottle (they must be manufactured and bottled in this province).

### Official Community Plan Bylaw No.2002-20

The subject property maintains a Future Land Use designation of Agricultural. This designation is anticipated for properties that are intended for agricultural operations, most of which are wholly or in part located in the ALR. The designation supports crop growing, food processing, agri-tourism and other industries in support of the agricultural sector.

### Zoning Bylaw No.2011-23

The subject property is zoned Agriculture, A. This zone is intended for the primary production of farm products such as dairy products, poultry products, cattle, hogs, sheep or other animals, wheat or other grains, and vegetables, orchards, vineyards or other field crops, and any other activity designated as farm use by the Agricultural Land Commission Act, and its regulations, and farm operations as defined in the Farm Practices Protection (Right to Farm) Act. This use may include the processing and marketing of on-farm products and those off-farm products permitted by the Agricultural Land Commission (ALC). Wineries and wine lounges are permitted uses in the A zone as accessory to the agricultural use of a property. A winery is only permitted in the A zone where at least 50% of the farm product is produced on the farm. A farm may include a number of properties under the control of the owner.

Recent changes to LCLB regulations (Policy Directive 15-07) now permits wineries, breweries and distilleries with lounge endorsements to sell a limited amount of liquor in addition to that which they manufacture themselves. This proposed change does not impact the current Zoning use.

## **Financial implication**

The public consultation process costs will be offset by the Liquor Review application fee.

## **Analysis**

### Technical Review - Expected Regulatory Criteria to be considered

The Liquor Control and Licencing Branch (LCLB) require that the local government considers and comments on six specific criteria. In consideration of these criteria, the following information has been provided:

1. The location of the Winery Lounge area

- The subject property is located on a Rural Collector road, within the Naramata Bench area. This area is primarily utilized for agricultural (orchard and winery) and low density residential uses.
- There have been a growing number of wineries in the Naramata Bench area with a small percentage including winery lounge endorsements.

2. The proximity of the establishment to other social or recreational facilities and public buildings

- Currently there are 5 other wineries within one kilometer of the subject property. There are no schools or other social institutions within the local area.

No concerns

3. The person capacity of the proposed areas (patios)

- No outstanding permit issues. Proposed change in occupant load and use will require additional reviews through building permits prior to operation and business licence amendment approval. Staff will work with winery ownership to ensure permits are in place prior to lounge operation.

No concerns

4. The hours of liquor service of the establishment

- Hours of service vary throughout the week. The requested hours of operation are similar to other winery lounge operations. Limits on the type of music and levels can be verified with the applicant as part of the Business Licence.

No concerns

5. Traffic, noise, parking and zoning

- Naramata Road is classified as a Rural Collector. The City of Penticton Engineering department has no concerns with increased traffic in relation to road volume capacity design along Naramata Rd.,
- The subject property has one main access point from Naramata Rd with two intersections within 0.5km of the site (Three Mile Rd, Sutherland Road),
- A social gathering of numerous people has the potential to generate some degree of noise. Unacceptable noise generation can be addressed under the Good Neighbour Bylaw or setting restrictions for hours of exterior use under the Business Licence,
- Parking is provided at the rear and front areas of the property. Staff considers the existing parking layout to be sufficient,
- The ALC allows a certain number of special events a year and that area does not count towards the 125m<sup>2</sup> inside, 125m<sup>2</sup> outside rule. Note: 2012 ALC support of amended maximum winery patio areas.

No concerns

6. The impact on the community if the application is approved

- The proposal will serve to add value to the existing community asset of wine tourism with the City,

- There appears to be no significant impact to traffic in the area as there are many wineries located along Naramata Road,
- The RCMP does not have any issues with this application,
- The LLTRC member representing social health and addictions has no concerns with this application.

No concerns

### Public Consultation

As per Section 11 of the Liquor Control and Licensing Act, the City was required to gather comments or concerns of the residents within the area of the proposal, to be considered in concert with the proposal. As such, a notice of application and request for comment was mailed out to the residents within 500m of the subject property and a public notice sign was erected on site (Attachment A). Two public notices were also placed in the local newspaper.

As a result, two letters of concern have been received by the time of the preparation of this report. Comments received have been included as Attachment B. Concerns have been raised at the continued commercialization of the rural setting in Naramata, generating extra noise and traffic, as well as the general review procedures in gathering public input.

In recognition of the staff review and public consultation, the Liquor Licencing Technical Review Committee (LLRTC) is in support of the application.

Council can support the application and request staff to place restrictions such as hours or amplified music as conditions of the operation as regulated by the Business Licence. Should Council deny the application, the applicant will be informed of Council's decision and a Council resolution outlining the reason for denial is forwarded to the LCLB.

### Alternate recommendations

1. THAT Council denies support of Quidni Estate Winery's application to allow a Winery Lounge Endorsement.
2. Refer the Winery Lounge application for Quidni Estate Winery back to staff for further review.

### Attachments

Attachment A – Location – Public Consultation map

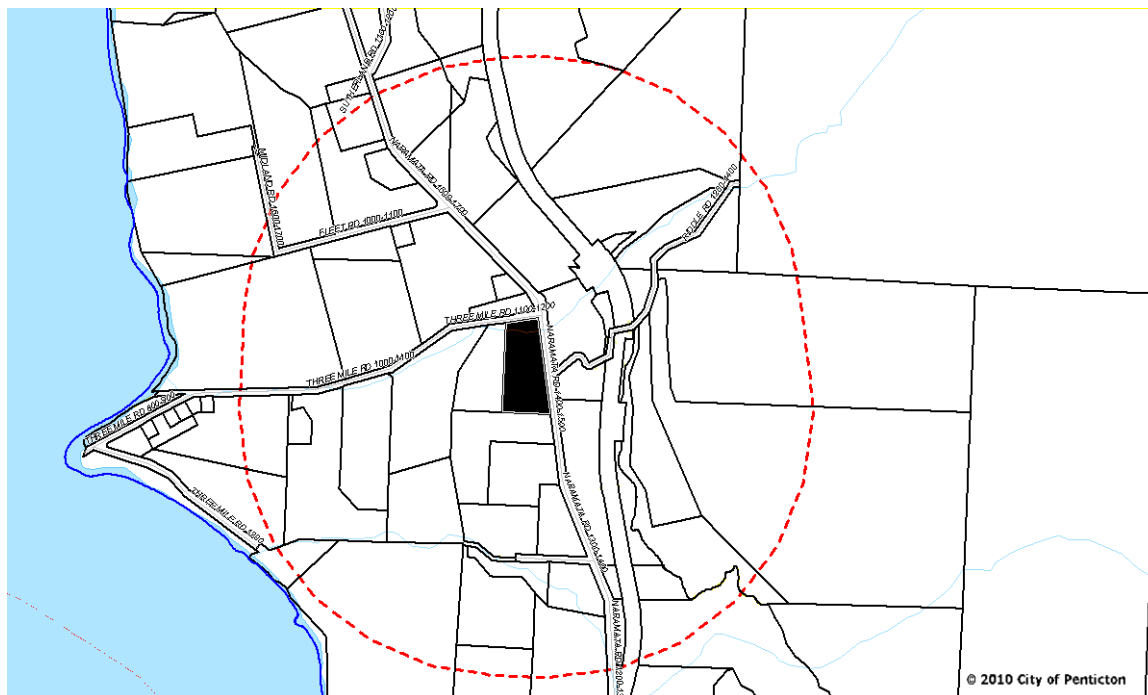
Attachment B – Public Consultation comments

Respectfully submitted,

Ken Kunka  
Building and Permitting Manager

| Director of DS | City Manager |
|----------------|--------------|
| JGH            | ES           |

Attachment A  
Public Consultation Map & Notice Sign

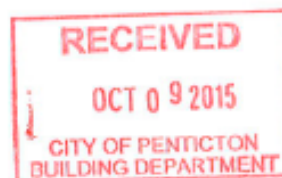


Attachment B  
Public Consultation

Wynona Brady  
1507 Naramata Road  
Penticton, BC V2A 8T7  
email:  
Phone:

Thursday, October 08, 2015

City of Penticton  
171 Main Street  
Penticton, V2A 5A9



**Attention: Ken Kunka,**

**RE: Quidni Estate Winery Application for Winery Lounge Endorsement**

We have just received notice today that Quidni Estate Winery wants to put in an outdoor lounge that will seat 70 people; with hours from 11:30 in the morning until 10:00 pm every night of the week. After attempting to call you for over 2 hours (from 2-4:30) and then having even tried leaving you a message after hours, your line has rung busy continuously, even now, at 9:30 at night. So, not sure if that means you are receiving continuous calls or you took your phone off the hook today, but it has been frustrating, to say the least, to get ahold of you.

First off let me say we love the interaction of residents in the area that have get-togethers throughout the summer, we are very social people ourselves. The parties and the noise that accompanies them are quite rare but when they do happen they are accepted and even welcomed as part of summer.

What you are asking for here is not that, even with the deck and B&B/Vacation Home that is there now there has already been numerous nights where we hear music and loud voices late into the night. We have not complained, but have discussed amongst ourselves how we can hear even what people are saying when they are sitting outside in the evening. There is a strange anomaly in this area, something I have not experienced in any other place that I have lived - sound seems to reverberate throughout the area very loudly and clearly.

Let's step back for a moment and look at the way this has been presented. The owners have known since the end of July that they were going to do this, but we as residents in the area are given a hand delivered notice from the City of Penticton more than 10 weeks later stating that if we have comments of opposition or support that we wish to have included in the next council meeting, we must have our written comment submitted by noon tomorrow! This is less than one full business day! Next we find out that the council meeting concerning this item is to be held 11 days from now on the day of the Federal Election. Now if this group wanted to be good neighbours, they would not act or behave in this way; they would give folks a reasonable time to contemplate and respond. There is nothing here that would indicate they would be good neighbours with a seventy person outside bar running seven days a week in a Rural area with many residences. Contrary to the statement wherein it is stated that 'there

are no residential properties in the immediate vicinity of our location, my home is a one of those properties that apparently does not exist.

I find it interesting that one of the comments is that at 10pm every night they will move their 70 customers back into the winery to not break any noise rules. This being said, I wonder how this works for the Liquor laws when you have 70 customers being escorted into an area that has only been approved for 10 customers. A question I would like to have answered.

As for the plan to keep the music down to 'Acoustic Level', does this mean there will only be acoustic music, or will it be at the discretion of the servers to play pre-recorded music at the level they feel is appropriate? And as we know, when there is music, voices rise considerably.

Let me ask this question to both the owners and council, I want you not to brush this thought off like so much fluff, I want you to think deeply about it. How would you feel if you lived in a rural community and enjoyed all of what that means and then found yourself in a situation where, with one day warning, everything you love about your area was taken away from you by ramming through a change that will affect all of us?

This whole process deeply saddens me – it feels like a total lack of respect and concern for those who live here.

You are asking me, as a long-term resident, to accept an outdoor bar/lounge where 70 people can gather every single day and night, with no break. This completely changes the ambience and the environment in this neighbourhood from a rural area with wineries, orchards, and great people, to an area where liquor (not just wine according to the proposal) will be consumed as in a bar setting seven days and nights per week.

I will consult others and review the proposal in a much more detailed manner over the course of the next week before making any more comments..

As a result of not being informed in a timely manner and the serious ramifications to the neighbourhood I live in, I am requesting that the council allow more time for a complete review and discussion with all of our neighbours. I will be contacting each and every one of them to get a feel for the direction we will take together as an united front.

Therefore, be advised until a more formal and complete review is done, I am fully against this proposal. Allowing a full service bar/lounge into our living space is too critical of an issue to take lightly and to rush/push the process through.

I would expect you will get back to me as quickly as you required my response to you and look forward to an immediate response to my concerns and questions.

Sincerely,

Wynona Brady

October 9, 2015

Penny Lovset  
1521 Naramata Road  
Penticton, B. C.



Ken Kunka, Building and Permitting Manager  
City of Penticton

Re: Application for a Winery Lounge – Quidni Estate Winery – 1465 Naramata Road

Dear Sir

I would like to take this opportunity to voice my opposition to this Winery Lounge application and to make a few comments on wineries expanding their operations to include outdoor lounges, restaurants and/or special events activities.

As more and more wineries offer these extras, more pressure is felt by Estate wineries that only offer tasting to compete by offering more amenities in order to maintain their share of the tourist dollar. So it results in a "snowball effect."

I live within the sound and sight lines (inside the 500 meter radius) of 6 wineries. I currently hear any music and special events activities from Hillside Cellars, the furthest establishment from me. If all or even most of these wineries eventually acquire outside lounge licenses with hours of operation from 11:30am to 10:00pm – seven days a week – it will adversely impact my family's enjoyment of home and yard during the optimum months of May through September.

I did not receive notification of this application in the mail but had to pick it up in person at city hall on Wednesday, Oct. 7. Not much time since my comments need to be a City Hall by noon on Oct.9.

Your attachment A map is in error as currently only Hillside Cellars has a licensed lounge. Your map symbol is the same for winery and winery with lounge. The map also fails to note Tight Rope Winery within the 500 meter radius and places the symbol for Quidni on the incorrect property.

Yours truly

A handwritten signature in black ink, appearing to read "Penny Lovset".

Penny Lovset

# Council Report

penticton.ca

**Date:** October 19, 2015  
**To:** Eric Sorensen, City Manager  
**From:** Len Robson, Public Works Manager  
**Subject:** **Snow and Ice Control Policy**

File No: 5400-11

## Staff Recommendation

THAT Council after full consideration, including budgetary restrictions, endorse the revised Snow and Ice Control Policy as attached in Attachment A;

AND THAT the 2015 Capital Budget be amended to include \$20,000, to be funded from the General Capital Reserves, for the purchase and installation of additional snow and ice clearing equipment;

AND FURTHER THAT the 2016 Snow and Ice Control Operating Budget be increased by \$10,000 to address the additional snow and ice control at:

- Primary access lanes for multi family developments;
- Traffic calming areas at Wiltse Blvd, Carmi Ave, & Kinney Ave;
- The Lawrence Avenue asphalt walkway servicing Sendero Canyon subdivision;
- The sidewalk adjacent the Sendero Canyon subdivision park;
- The stairs servicing Sendero Canyon.

## Strategic priority objective

N/A

## Background

Annually, the City of Penticton Public Works Department provides snow and ice control on City streets, lanes, bus stops, select sidewalks and walkways, parking lots and City facilities in accordance with the Council Approved Policy. The policy is reviewed on an annual basis and all suggested changes are brought to City Council for their endorsement.

The Snow and Ice Policy is based on the operational procedures the Public Works Department has developed over many years as well as adherence to the approved City snow and ice control budgets.

Residential infill and densification has resulted in multiple family developments with no, or limited access from the street, and primary access serviced from laneway. In order to ensure primary access is maintained, lanes servicing these developments have been added to the Snow and Ice Removal Policy.

In order to address the above noted issues the following changes have been made to the policy:

Add Definition:

*"Multifamily Developments" means a residential mobile home park, an apartment building, townhouse building, or any other residential building containing 4 or more dwelling units.*

Remove Section 6.2 as noted below:

*Lanes are considered low priority and only those lanes indicated on Appendix B will be cleared. In the event of extreme weather resulting in a single snow storm accumulation greater than 30 cm lanes providing primary access to multifamily developments may be cleared to a Compacted Snow Standard.*

Replace Section 6.2 with the following:

*6.2 Lanes which provide the only available access to Multifamily Developments with no available on street parking as shown on Appendix B will be addressed on a Priority 3 basis. All other lanes are considered low priority and will be addressed only in the event of extreme weather resulting in a single snow storm accumulation greater than 30 cm. These lanes will be cleared to a Compacted Snow Standard as budget and resources permit.*

The addition of the above noted lanes will result in 9.9 km of additional lanes requiring snow and ice removal. In order to achieve the priority 3 standards of the policy, additional equipment will be required. Due to the constrained areas that exist in most lanes the Public Works Department is proposing to use a 1 Ton Pickup c/w front mounted blade and a small sander unit to accomplish the task.

In addition to the lanes noted above the revised policy includes:

- The newly installed traffic calming areas at Wiltse Blvd, Carmi Ave, & Kinney Ave;
- The Lawrence Ave asphalt walkway servicing Sendero Canyon subdivision;
- The sidewalk adjacent the Sendero Canyon subdivision park;
- Stairs servicing Sendero Canyon.

The proposed changes are illustrated on Attachment B – 2015 Additions.

### **Financial implication**

Supply and installation of a front mounted blade and box mounted sander is estimated at \$20,000. The labour, equipment and material required to operate this truck are estimated at \$825 per snow and ice event. On average we expect 15 events per winter season that warrant action for a total estimated cost of \$13,000.

This piece of equipment is less costly to operate than our larger trucks and, depending on the severity of the snow event, we plan on using this truck to offset some of the duties currently assigned to the other equipment. We expect that the efficiencies gained may offset a portion of the cost of clearing the lanes.

The Works Department 2016 Snow and Ice Control budget includes a \$10,000 increase for which a portion is intended to account for the additional lanes and infrastructure that has been added to the Snow and Ice Control Policy.

### **Analysis**

With respect to limited funds for operational budgets, the expense of snow and ice control operations and the potential of liability, a Council endorsed policy ensures service levels are defined to meet all objectives.

The Snow and Ice Control Policy as outlined in Attachment "A" has been updated to include the lanes and other infrastructure as noted in the background section of this report.

The original policy developed in 2007 was vetted by Davie and Associates (City Solicitor at the time) and all recommended changes were incorporated. Although the policy has been updated over time to include additional infrastructure no other changes have been made.

### **Alternate recommendations**

That Staff revisit the Snow and Ice Control policy addressing questions or concerns Council may have.

### **Attachments**

Attachment A – Snow and Ice Control Policy

Attachment B – 2015 Additions

Respectfully submitted,



Len Robson, ASCT  
Public Works Manager

### **Approvals**

| Director                                                                            | City Manager | CFO                                                                                 |
|-------------------------------------------------------------------------------------|--------------|-------------------------------------------------------------------------------------|
|  | <i>ES</i>    |  |

# Council Policy

penticton.ca

**Approval date:**

**Resolution No.:**

**Subject:           Snow and Ice Control Policy**

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## Goal

To identify the service levels for snow and ice control on City streets, lanes, bus stops, select sidewalks, walkways, parking lots and City facilities.

## Scope

Subject to equipment, personnel, and budget constraints, the City of Penticton undertakes snow and ice control on a priority basis to accommodate vehicular and pedestrian access on:

- Road rights-of ways within the geographical boundaries of the City, excluding highway 97 (also known as the Channel Parkway, and Eckhardt Ave W. from Railway Street to the west City limits);
- City-owned and maintained building entry-ways;
- Sidewalks adjacent all City owned properties;
- Select stairways, sidewalks, walkways, bridges, lanes, bus stops and parking lots.

The key objectives of this policy are:

1. To provide vehicular and pedestrian traffic with adequate mobility under prevailing winter conditions within the City's financial resources.
2. To reduce the hazards of ice and snow conditions for motorists and pedestrians.
3. To facilitate the handling of emergencies by fire, hospitals and police officials.
4. To facilitate the operation of public transit.
5. To minimize economic losses to the community and industry.
6. To ensure the City owned parking lots are adequately maintained to an acceptable standard.
7. To provide safe recreational opportunities for residents during winter months.

## Definitions:

In this policy,

"CLEARED" means snow removal and/or application of de-icer.

"COMPACTED SNOW STANDARD" means snow accumulated and packed by traffic or leveled by snow plows.

“DE-ICER” means the chemical agent that the City of Penticton uses or mixes with sand to control ice.

“ICE CONTROL” means the control of the build-up of packed snow or ice through the use of equipment, Sanding and De-icing materials.

“MULTIFAMILY DEVELOPMENTS” means a residential mobile home park, an apartment building, townhouse building, or any other residential building containing 4 or more dwelling units.

“PUBLIC WORKS MANAGER” means the Public Works Manager or his/her approved designate.

“OPENED” means the plowing of snow from the driving lanes to the side.

“REGULAR HOURS OF OPERATION” City of Penticton Public Works Department and the Facilities Department regular hours of operation are 7:00 am to 3:15 pm. Monday to Friday inclusive with the exception of Statutory Holidays.

“SANDING” means the application, either manually or by mechanical spreaders, of sand or de-icer treated sand.

“SNOW PLOWING” means plowing of snow into windrows in storage areas on City roads, lanes and sidewalks. ie: centre medians, boulevards, adjacent to the curb or sidewalk or edge of back lanes or City owned parking lots.

“SNOW AND ICE CONTROL” means all operations associated with snow plowing, snow loading, snow hauling, and ice control.

## **Policy:**

### **1.0 RESPONSIBILITIES**

#### **1.1 City Council Shall:**

- Set and adopt the Snow and Ice Control Budget;
- Set the levels of service;
- Set and adopt the Priority Street Maps, Sidewalk and Walkway Clearing, Parking Lot Clearing, City Buildings and Transit Stops with Shelters priorities.

#### **1.2 The Public Works Manager shall implement the Snow and Ice Control Policy on Public Right of Ways by:**

- Determining when and how to initiate and implement Snow and Ice Control Operations;
- Allocating and scheduling Public Works resources;
- Obtaining, allocating and scheduling privately held resources;
- Addressing public complaints;
- Managing the allocated budget;
- Recommending revisions to the priority street map, stairway clearing, sidewalk clearing, walkway clearing, pedestrian bridge clearing, lane clearing, transit Stops with shelters and parking lot clearing on an annual basis.

- 1.3 The Public Works Department shall operate the City owned equipment to carry out Snow and Ice Control on public right of ways in accordance with the Snow and Ice Policy and in accordance with the instructions of the Public Works Manager.

## 2.0 ROADWAY PRIORITIES AND STANDARDS

- 2.1 The City operates with a limited amount of funds, which are required for the provision of many services. The City in establishing the Snow and Ice Control Policy, has taken into consideration its financial resources and personnel. Priorities are established to provide the greatest benefit to the majority of the traveling public. When setting the priorities consideration is given to traffic volumes, road classification, emergency services, road geometrics, terrain, transit, and access to amenities.

- 2.2 The City has set the following 3 priority ratings for roads and other surface types as referenced in Appendix A and B.

Priority 1 Outlined in Red on Appendix A:

- Major Collectors – main routes serving as connectors/collectors between areas and routes;
- Steep Grades – Hilly terrain with high traffic volumes;
- Roads serving emergency routes to hospitals and fire equipment;
- Major Transit Routes – serving the majority of the Transit Users.

Priority 2 Outlined in Green on Appendix A:

- Collectors – remainder of;
- Main Industrial Routes – serving as routes for industrial traffic;
- School Zones – serving as routes to access schools;
- Minor Transit Routes.

Priority 3 The remainder of the roads in the City.

- 2.3 Other Surface Types outlined in Appendix B:

- i) Sidewalks – Priority 1
- ii) Stairways - Priority 1
- iii) Transit Stops with Shelters – Priority 1
- iv) Bridges – Priority 1
- v) Parking Lots – Priority 1
- vi) City Owned Buildings – Priority 1
- vii) Designated Lanes – Priority 3
- viii) Walkways – Priority 2 & 3

- 2.4 The City has set the following standards for Snow and Ice Control subject to budget constraints, and availability of personnel and equipment:

- The standard of the maintenance is to be done in accordance with the approved annual budget.
- When the storms are continuous, or follow closely one after the other, operations will be repeated or continued on the highest priority until completed prior to moving on to the next priority.

- Priority 1: The roads shall be Opened and the other surface types Cleared within 12 hours of the end of the storm event.
- Priority 2: The roads shall be Opened and the other surface types Cleared within 24 hours of the end of the storm event.
- Priority 3: The roads shall be Opened and the other surface types Cleared within 48 hours of the end of the storm event. With the exception of weekends and statutory holidays which will not be included in the 48 hours. Priority 3 roads or other surface types will not be cleared on weekends or statutory holidays.

### 3.0 PUBLIC RELATIONS

- 3.1 The Public Works Clerk at (250) 490-2500, Monday to Friday 7:30 am to 3:15 pm, shall handle all concerns and inquires. At all other times including statutory holidays, emergency concerns and inquires shall be directed to the afterhours line (250) 490-2324.

### 4.0 HOURS OF OPERATION AND STAFF DEPLOYMENT.

- 4.1 The City will be prepared to conduct Snow and Ice Control Operations during the period November 1 to March 31.
- 4.2 The City will provide Snow and Ice Control Operations within the geographical boundary of the City, excluding highway 97 also known as the Channel Parkway and Eckhardt Ave from the Channel Parkway to west City limits.
- 4.3 The City will normally provide Snow and Ice Control Operations between the hours of 4:00 am and 11:00 pm, 7 days per week including statutory holidays as per the following:
- During regular hours of operation (7:00 am to 3:15 pm week days with the exception of statutory holidays) crews will provide snow and ice control in accordance with the standards set out in Section 2.4 of this policy.
  - Weekends and statutory holidays will have Snow and Ice Control on Priority 1 and Priority 2 roads and other surface types only. Priority 3 roads and other surface types will not be cleared.
  - In the event of winter conditions requiring Snow & Ice Control commencing after 3:15 pm, operators and equipment will be dispatched to provide maintenance on Priority 1 roads and other surface types only. Priority 1 roads will be open and Priority 1 other surface types will be cleared until 11:00 pm.
  - In the event Snow & Ice Control measures are not complete due to winter conditions from the day prior or early morning snow fall, operators and equipment will be dispatched from the City Yards Facility at 4:00 am.

4.4 The Public Works Department standby personnel will monitor weather conditions and provide a visual inspection at 3:00 am to determine if crews are to be called out at 4:00 am (7 days a week). In addition to the above noted, during the regular work week for the period of November 01 to March 31 one equipment operator will commence work at 6:00 am. If conditions warrant, additional operators will be called in to address snow and ice concerns.

- If standby personnel receive complaints about poor road conditions from the R.C.M.P. or Fire Hall, they will be investigated and dealt with in accordance with this policy. Discretion will be used if a complaint is received on Priority 3 roads or in a low traffic and flat area.

4.5 When abnormal winter weather or road conditions exist as caused by severe or repetitive storms or emergency conditions, overtime, additional City equipment and outside resources may be mobilized under the authorization of the Manager of Public Works.

## 5.0 PARKING BANS

5.1 Parking bans may be implemented, as required, to provide for operations. Areas where parking is to be banned will be signed in advance or odd/even parking will be initiated. Vehicles that do not adhere to the parking ban shall be towed and the owner of the vehicle may be responsible for all towing costs.

## 6.0 SNOW PLOWING OF ROADS, CITY OWNED PARKING LOTS AND LANES

6.1 Snow Plowing Operations will commence in accordance with the priorities and standards discussed in Sections 2.2, 2.3, and 2.4, upon a snow accumulation of 1.5 cm, and in consideration of field conditions and weather forecast.

6.2 Lanes which provide the only available access to Multifamily Developments with no available on street parking as shown on Appendix B will be addressed on a Priority 3 basis. All other lanes are considered low priority and will be addressed only in the event of extreme weather resulting in a single snow storm accumulation greater than 30 cm. These lanes will be cleared to a Compacted Snow Standard as budget and resources permit.

6.3 Snow Plowing may result in windrows on both sides of the road. The clearing of windrows in front of driveways left by snow plowing equipment shall be the responsibility of the property owner or occupant.

6.4 The clearing of windrows as they cross lane entrances shall be the responsibility of the City and will be cleared as required as soon as practical following last priorities.

6.5 The clearing of snow between the edge of the street and all fire hydrants is the responsibility of the City. The work shall be commenced when the snow depth exceeds 45 cm or when the hydrant is hidden from view.

6.6 Snow plowing of City owned parking lots shall be done in parking lots as indicated in Appendix B and will be performed in conjunction with priority one roads.

## 7.0 ICE CONTROL OF ROADS, CITY OWNED PARKING LOTS AND LANES

- 7.1 The City will provide Ice Control on City roads, parking lots and lanes in accordance with the priorities and standards discussed in Sections 2.2, 2.3, and 2.4, upon determining that ice conditions exist or are in the immediate forecast.
- 7.2 Ice Control will not normally be undertaken mid-block with the exception of Priority 1 roads.
- 7.3 Snow Plowing generally precedes or is concurrent with Ice Control operations.

## 8.0 SNOW AND ICE CONTROL ON STAIRS, SIDEWALKS, BRIDGES, WALKWAYS, TRANSIT STOPS WITH SHELTERS AND CITY OWNED BUILDINGS

- 8.1 The City will provide Snow and Ice Control on City owned stairs, sidewalks adjacent to City property, transit stops with shelters, walkways and entrances to City owned buildings as illustrated in Appendix B as per the priorities identified in Sections 2.2 and 2.3 and the standards identified in Section 2.4.
- 8.2 City crews will not plow sidewalks other than those identified in Appendix B.
- 8.3 Good Neighbour Bylaw 2012 - 5030 Section 7.5, stipulates that "Every owner or occupier of any building or premises, including any vacant lot, within the City, shall clear the sidewalk of snow and ice adjacent to the property before the hour of eleven o'clock (11:00AM) on the forenoon following the snow event."
- 8.4 Snow plowing of sidewalks may result in windrows on either side of the sidewalk.
- 8.5 Snow and Ice Control for City Owned Buildings may involve snow removal and/or the application of de-icer and shall commence upon any measurable accumulation of snow or ice at the entry-ways of all City Owned Buildings as indicated on Appendix B.

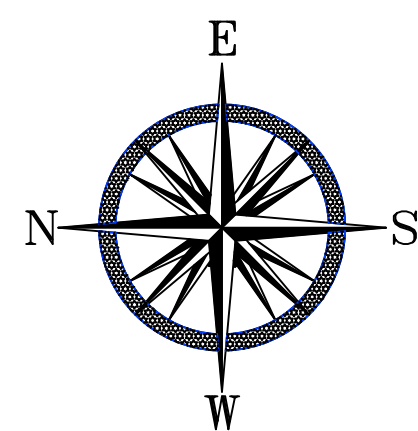
## APPENDICES

- 1. Appendix "A" Road Way Priority Ratings, shall be revised by the Public Works Manager and adopted by Council on a regular basis.
- 2. Appendix "B" Stairways, Sidewalks, Bridges, Lanes, Bus Stops, City Owned Buildings and Parking Lots to be cleared, shall be revised by the Public Works Manager and adopted by Council on a regular basis.

### **Previous revisions**

Snow & Ice Control Policy – 2012/2013 – Resolution # 1001/2012

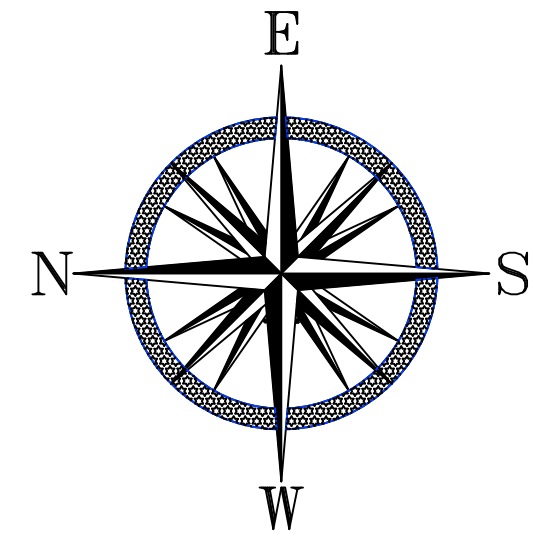
Approval



# CITY OF PENTICTON SNOW REMOVAL

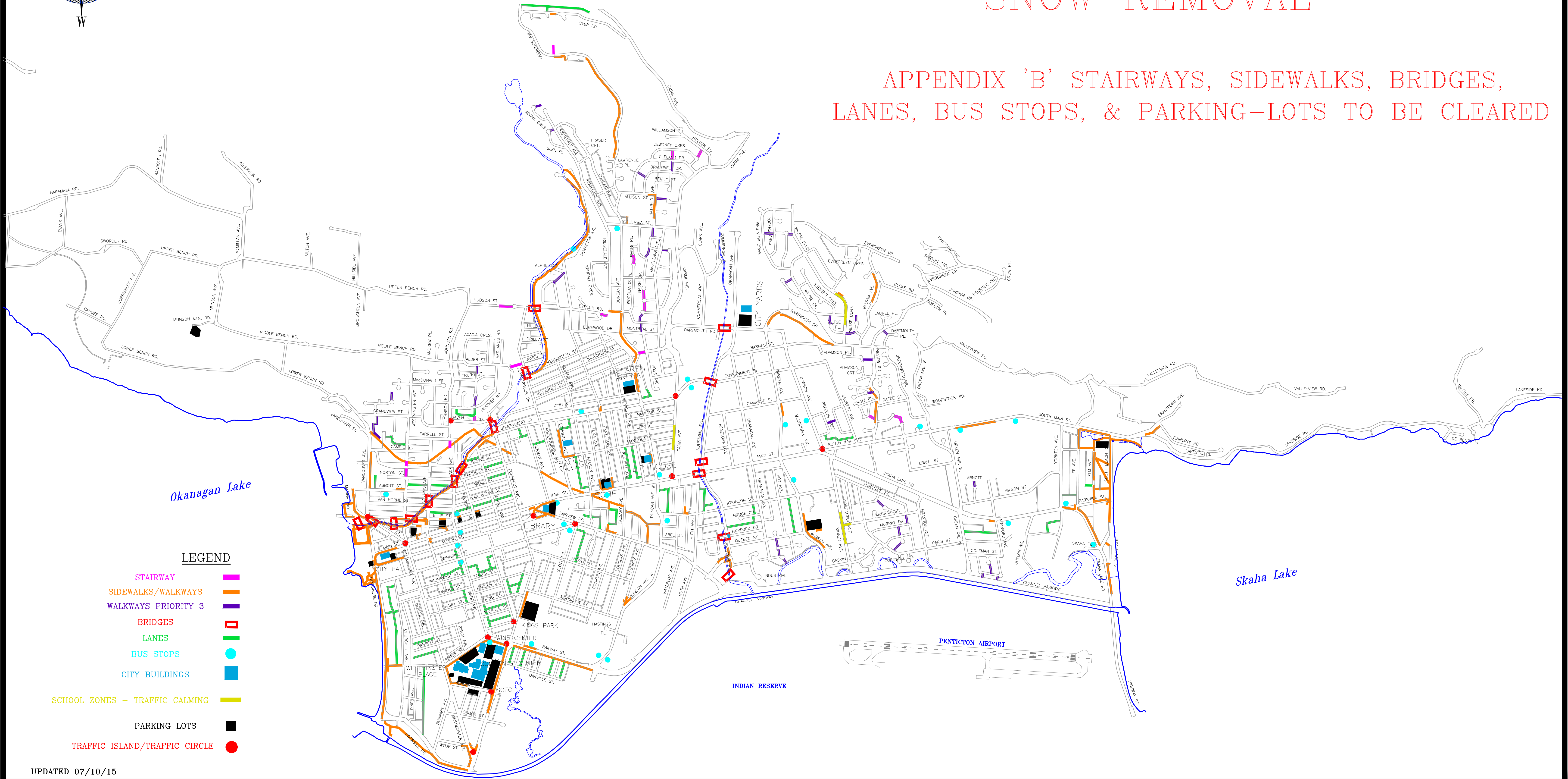
## APPENDIX 'A' ROADWAY PRIORITY RATINGS

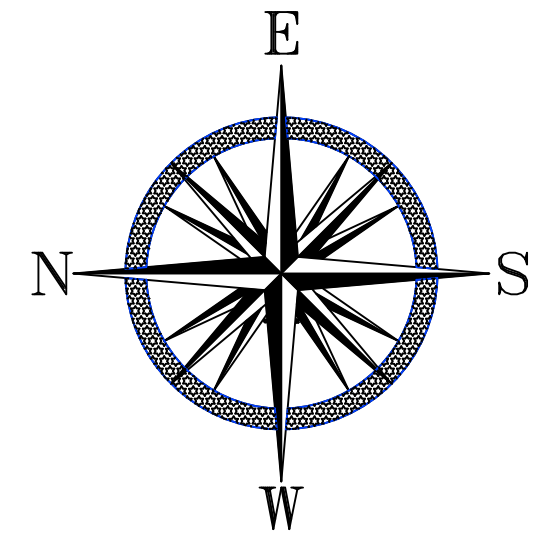




# CITY OF PENTICTON SNOW REMOVAL

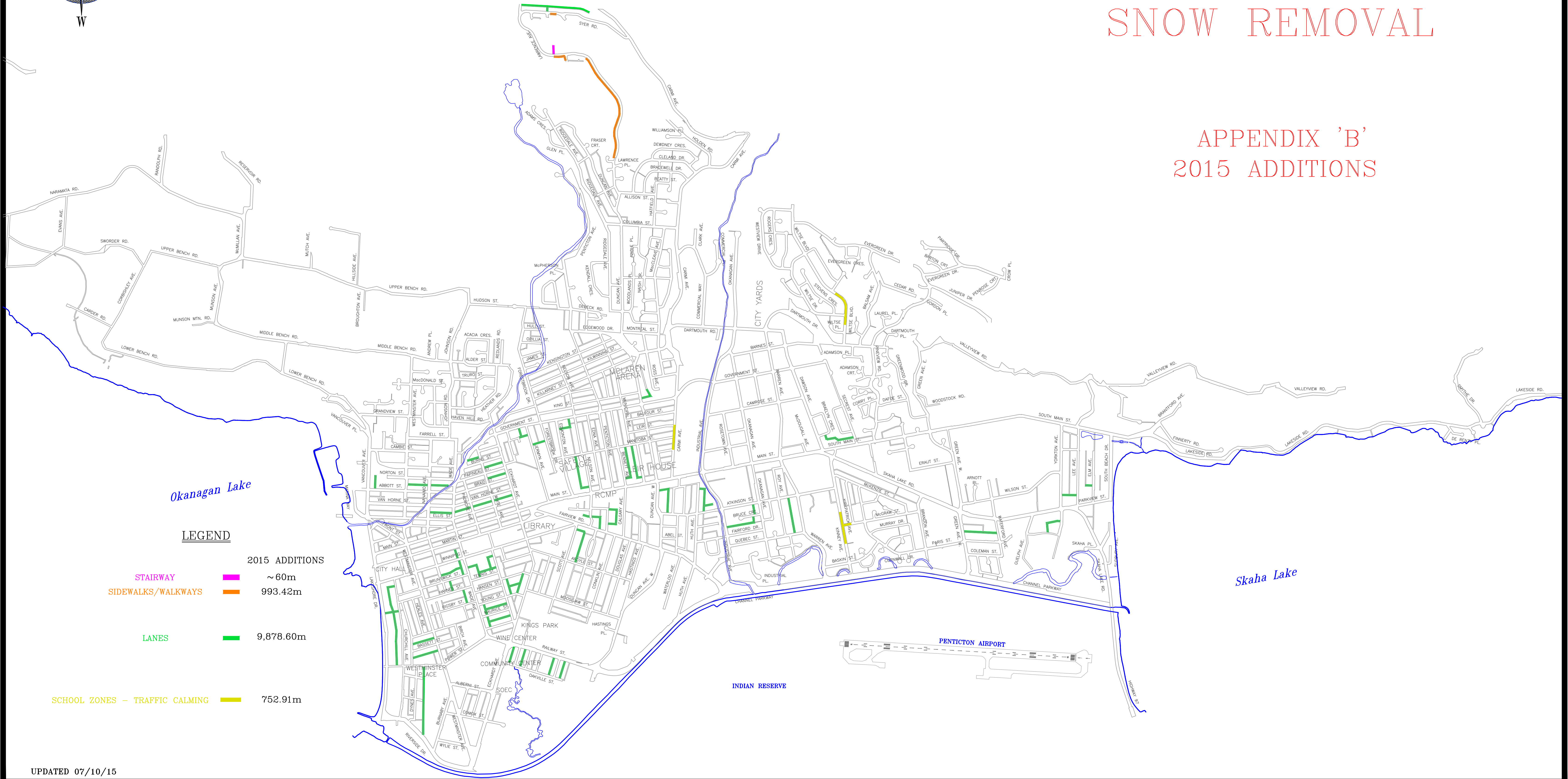
APPENDIX 'B' STAIRWAYS, SIDEWALKS, BRIDGES,  
LANES, BUS STOPS, & PARKING-LOTS TO BE CLEARED





# CITY OF PENTICTON SNOW REMOVAL

## APPENDIX 'B' 2015 ADDITIONS



# Council Report

penticton.ca

**Date:** October 19, 2015  
**To:** Eric Sorensen, City Manager  
**From:** Mitch Moroziuk, General Manager Infrastructure  
**Subject:** **Airport Sanitary Sewer Agreement**

File No:

## Staff Recommendation

THAT following receipt of consent from the Board of the Regional District of Okanagan Similkameen to provide service outside of municipal boundaries in accordance with section 13 of the *Community Charter*, S.B.C. 2003, Chapter 26, Council Authorize the Mayor and Corporate Officer to execute the Penticton Airport Sanitary Sewer Infrastructure Replacement, Upgrading, Cost Sharing and Transfer of Ownership Agreement as contained in Attachment "A".

## Strategic priority objective

n/a

## Background

In May of 1974, the City of Penticton and the Government of Canada entered into an agreement that saw the City accept and treat sanitary sewage from the Penticton Airport and maintain the sewage lines on airport property and that connect the airport to the Penticton sanitary sewer system. The agreement however, did not transfer ownership of the lines or speak to how replacement of the lines would be addressed. Over the past few years connections to the lines has been undertaken with some difficulty due to the multi-jurisdictional issues related ownership.

Penticton and Canada have been negotiating a new agreement to replace the May 1974 agreement that would see the on airport lines and the lines connecting the airport to the City upgraded and transferred to the City. This would simplify any future connections and treat the airport the same as others within the municipality with respect to sanitary sewage treatment.

A summary of the agreement is as follows:

- The term of the agreement is in perpetuity.
- The May 1974 agreement is terminated.
- The standard of service provided is the same as that provided by the City to the owners of commercial property within the City of Penticton.
- Conditions related to discontinuance of service are set out.

- The sanitary lift station and the sanitary sewer line from the lift station to Hwy 97 upsized and upgraded at the cost of Canada.
- Canada will contribute to the cost of the upsizing and upgrading of the sanitary sewer line from Airport Road to the City gravity sanitary sewer, \$68,337.83.
- Canada will pay a onetime connection fee of \$70,826.00.
- Upon upgrading the ownership of the sanitary sewer lines will be transferred to Penticton.
- Canada will pay the same rate for sanitary sewer service as the rest of Penticton.

Prior to entering into this agreement it will be necessary to obtain the consent from Board of the Regional District of Okanagan Similkameen to provide service outside of municipal boundaries in accordance with section 13 of the Community Charter, S.B.C. 2003, Chapter 26.

### **Financial implication**

- Payment by Canada for their contribution for upsizing and upgrading of the sanitary sewer line from Airport Road to the City gravity sanitary sewer of \$68,337.83.
- Payment by Canada of a onetime connection fee of \$70,826.00.
- Payment for sanitary sewer services by Canada in a manner consistent with how Penticton charges its citizens and businesses.

### **Analysis**

Passing of the resolution will allow the Penticton and Canada to execute a new sanitary sewer agreement and eliminate future multi-jurisdictional issues related to connection, upgrading, replacement and payment.

Should Council elect they could provide alternate direction to staff.

### **Alternate recommendations**

1. THAT Council provide alternative direction on how they would like to see this issue addressed.

### **Attachments**

Attachment A – Penticton Airport Sanitary Sewer Infrastructure Replacement, Upgrading, Cost Sharing and Transfer of Ownership Agreement

Respectfully submitted,

Mitch Moroziuk P.Eng. MBA  
General Manager of Infrastructure

Approvals

City Manager

*ES*

**PENTICTON AIRPORT SANITARY SEWER INFRASTRUCTURE REPLACEMENT,  
UPGRADING, COST SHARING AND TRANSFER OF OWNERSHIP AGREEMENT**

THIS AGREEMENT made as of the \_\_\_\_ day of \_\_\_\_\_, 2015.

BETWEEN:

**THE CITY OF PENTICTON**, a municipality incorporated pursuant to the *Local Government Act*, having its offices at 171 Main Street, Penticton, British Columbia, V2A 5A9

(the "City")

AND:

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA** as represented by the Minister of Transport

("Canada")

WHEREAS:

- A. Canada owns and operates the Penticton Airport shown more or less as outlined in red on Schedule "A" attached hereto;
- B. The City currently provides sewage treatment services to Canada for the Airport as described in the May 8, 1974 Sewage Agreement, a copy of which is attached hereto as Schedule "B";
- C. The Canada Sanitary Sewer Infrastructure as defined herein and further identified in Schedule "C" hereto is in need of replacement and upgrading;
- D. Canada owns the Canada Sanitary Sewer Infrastructure and is desirous to upgrade it and transfer ownership and operational responsibility to the City and is desirous to connect to the New City Sanitary Sewer Infrastructure;
- E. Canada and the City agree herein to replace, upgrade and share the cost of replacement and upgrading of Canada's Sanitary Sewer Infrastructure and to connect to the New City Sanitary Sewer Infrastructure. The City will own the New City Sanitary Sewer Infrastructure once it is designed, built and transferred to the City by the Penticton Indian Band under an agreement dated June 9, 2014;
- F. The City Council of the City has authorized the execution of this Agreement on behalf of the City by a City Council Resolution duly passed at a meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2015, a copy of which is attached hereto in Schedule "D"; and

- G. The Board of the Regional District of Okanagan Similkameen has consented to the City providing the services contemplated by this Agreement to Canada in accordance with section 13 of the *Community Charter*, S.B.C. 2003, Chapter 26, a copy of which resolution is attached hereto as Schedule "E".

NOW THEREFORE THIS AGREEMENT witnesses that for and in consideration of the promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree with each other as follows:

## 1. DEFINITIONS

### 1.1 Definitions

In this agreement, except as expressly provided or as the context otherwise requires:

- (a) **"Agreement"** means this agreement, including the recitals and schedules hereto, as amended and supplemented from time to time;
- (b) **"Bylaw 2014-07"** means the City of Penticton Fees and Charges Bylaw 2014-07 as amended from time to time;
- (c) **"Bylaw 2004-81"** means the City of Penticton Subdivision and Development Bylaw 2004-81 as amended from time to time;
- (d) **"Bylaw 2005-02"** means the City of Penticton Irrigation, Sewer and Water Bylaw 2005-02, as amended from time to time;
- (e) **"Canada Sanitary Sewer Infrastructure"** means, the existing and future:
  - Airport Sanitary Lift Station, Item 1, identified as Item 1 on Schedule "C";
  - Airport Sanitary Force Main: Lift Station to Hwy 97, Item 2, identified as Item 2 on Schedule "C";
 currently owned by Canada and operated by the City; and
- (f) **"Her Majesty's sewage lines"** means the sanitary sewer line from Station 0+00 to the Pumping Station as shown in Schedule B to the May 8, 1974 Sewage Agreement.
- (g) **"New City Sanitary Sewer Infrastructure"** means, the future:
  - New City Sanitary Sewer Infrastructure from Airport Road to the existing City Sanitary Gravity Main, identified as Item 3 on Schedule "C";
 to be designed and built by the Penticton Indian Band with ownership and operational responsibility to be transferred to the City.
- (h) **"City Director"** means the Director of Operations for the City and his or her designate;
- (i) **"Connection Fee"** means the term as defined in paragraph 5.4 of this agreement;

- (j) **"Connection Point"** means, the point at which the Canada Sanitary Sewer Infrastructure connects to the City New Sanitary Sewer Infrastructure as shown on Schedule "C";
- (k) **"Lands"** means that portion of Penticton Airport Lands to which the Services are to be provided and as identified and outlined in heavy dark line on Schedule "A";
- (l) **"Land Infrastructure"** means any and all sanitary sewers, force mains, lift stations, connections and associated works on or under the Lands that convey sanitary sewage to the Airport Sanitary Lift Station, Item 1 or to the Airport Sanitary Force Main: Lift Station to Hwy 97, Item 2 as shown in Schedule "C" but specifically does not include the Canada Sanitary Sewer Infrastructure
- (m) **"May 8, 1974 Sewage Agreement"** means that sewage treatment services agreement between the City and Canada, a copy of which is attached hereto as Schedule "B";
- (n) **"Services"** means the operation and maintenance of the Canada Sanitary Sewer Infrastructure and the treatment by the City of the sanitary sewage coming from the Lands after transfer of the ownership of the Canada Sanitary Sewer Infrastructure to the City;
- (o) **"Sewage Treatment Fee"** means the amount payable in this Agreement for the Services to be delivered as defined in paragraph 7 of this agreement; and
- (p) **"Term"** means the term as defined in paragraph 10.1 of this agreement.

## 1.2 Severability

If any provision of this Agreement, or part thereof, is judged invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions will continue in full force and effect, provided that if the intent of the parties is not thereby preserved then either party may require the other party to negotiate in good faith a replacement for the invalid, illegal or unenforceable provision that is consistent with the intent of the parties hereto. If a replacement provision is not agreed within 90 days, then either party may terminate this Agreement on six (6) months' notice to the other.

## 1.3 Gender

Wherever the singular or masculine is used in this Agreement, the same will be deemed to include the plural, the feminine or the body corporate or politic where the context so requires, and vice versa.

## **1.4 Schedules**

The following schedules are incorporated into and form a part of this Agreement:

|                |                                                      |
|----------------|------------------------------------------------------|
| Schedule "A" - | Aerial photo showing the Lands                       |
| Schedule "B" - | May 1974 Sewage Agreement                            |
| Schedule "C" - | Plan showing the Sanitary Sewer Infrastructure       |
| Schedule "D" - | City of Penticton Council Resolution                 |
| Schedule "E" - | Regional District of Okanagan Similkameen Resolution |
| Schedule "F" - | Cost for New Sanitary Sewer Infrastructure           |

## **2. TERMINATION OF MAY 8, 1974 AGREEMENT**

Canada and the City hereby agree that when ownership of the Canada Sanitary Sewer Infrastructure is transferred to the City and the City has accepted the transfer, the provisions of the May 8, 1974 Sewage Agreement will no longer be applicable, and the May 8, 1974 Sewage Agreement shall then terminate and shall be replaced with this Agreement. Notwithstanding the foregoing and subject to paragraph 3.3 (e), with respect to Her Majesty's sewage lines, the provisions of the May 8, 1974 Sewage Agreement will continue to be applicable until such time as Her Majesty's sewage lines have been upgraded by Canada to the satisfaction of the City and Canada transfers Her Majesty's sewage lines to the City.

## **3. PROVISION OF SERVICES**

### **3.1 Services**

Subject to the terms and conditions of this Agreement, the City will provide the Services to the Lands for the benefit of Canada.

### **3.2 Standard of Services**

The City will provide the Services required by this Agreement to the same standard and quality as such services are ordinarily provided by the City to the owners of commercial property within the City of Penticton.

### **3.3 Limitation**

Notwithstanding the foregoing, nothing in this Agreement will:

- (a) require the City to provide Services under this agreement to the Lands until such time as the Penticton Indian Band has designed, constructed and transferred ownership of the New City Sanitary Sewer Infrastructure to the City and the City has accepted the said transfer;
- (b) require the City to provide or continue to provide Services to the Lands or any part thereof if at any time the City, acting reasonably, determines:

- (1) due to increased demands on the City's sewage system solely from sources specific to the Airport, the provision of such Services would require the extension or upgrading of the City's existing sewage system or infrastructure and the City and Canada are unable to conclude an agreement acceptable to them whereby the cost of any extension or upgrading is to be contributed to by or on behalf of Canada (to the extent such extension and upgrading benefits Canada or the Lands); or
- (2) the Land Infrastructure is not being operated in accordance with Bylaw 2005-02.
- (c) require the City to provide the Services to Canada in any other manner, subject to the availability of City equipment and personnel and the discretion of the City, acting reasonably, to determine the priority of the use of its equipment and personnel as well as the allocation of the equipment to be employed in regards to providing the Services; or
- (d) require the City to provide Services to the Lands where the Lands or any Improvement thereon is or will be used for any purpose which, in the reasonable opinion of the City, will produce sewage that is in contravention of the non-allowable release sections of Bylaw 2005-02 or would reasonably be considered to be inconsistent with any applicable environmental protection statutes or regulations of the Province of British Columbia, or relevant bylaws of the City; or
- (e) require the City to provide Services to Her Majesty's sewage lines as described in paragraph 8(b) if access is not provided in a manner acceptable to the City or in the event of a total failure of the line.

### **3.4 Discontinuance of Services**

The City may interrupt or discontinue service as follows:

- (a) without notice in the event of an emergency;
- (b) with verbal notice for any flow reduction event;
- (c) following discussion and written notice in the event of planned operational maintenance;
- (d) pursuant to court order, injunction or arbitral decision; and
- (e) with 30 days written notice of non-compliance given to Canada, in the event that Canada does not comply with the terms and conditions of this agreement.

The City will re-instate the Services as soon as reasonably practical if the default or breach is remedied to the satisfaction of the City, acting reasonably, if in doing so the City is not acting contrary to the provision of paragraph 3.4 (d) above.

#### **4. REPLACEMENT AND UPGRADING OF CANADA SANITARY SEWER INFRASTRUCTURE**

The replacement and upgrading of the Canada Sanitary Sewer Infrastructure shall be carried out as follows:

- 4.1** The design is to accommodate existing and future flows from the area as outlined in the October 2012 AECOM Airport and Adjacent PIB Lands Water and Sanitary Sewer Servicing Assessment – Final Report.
- 4.2** Canada will design, obtain all required permits, and complete the construction of the replacement and upgrading of the Canada Sanitary Sewer Infrastructure. The work is to be completed in a manner consistent with Bylaw 2004-81 and a Professional Engineer registered in the Province of British Columbia, engaged and paid for by Canada, must inspect the works during construction and certify that they have been completed in accordance with standards of Bylaw 2004-81. The approval of the design drawings must be obtained from the City prior to the commencement of any construction and the City shall inspect and accept the completed works in writing when the standards of Bylaw 2004-81 have been fully met.
- 4.3** The Airport Sanitary Lift Station, Item 1 in Schedule “C” and the Airport Sanitary Force Main: Lift Station to Hwy 97, Item 2 are to be designed and constructed by December 31, 2017.
- 4.4** Canada will grant to the City such easements and access permits for the Canada Sanitary Sewer Infrastructure for access, maintenance and construction purposes as may be reasonably required by the City.
- 4.5** Canada and the City agree that all of the costs of the design and construction shall be as follows:
  - (a) Airport Sanitary Lift Station, Item 1: Canada to pay 100% of the actual cost;
  - (b) Airport Sanitary Force Main: Lift Station to Hwy 97, Item 2: Canada to pay 100% of the actual cost.

**5. CONNECTION TO THE NEW CITY SANITARY SEWER INFRASTRUCTURE**

Canada and the City agree that Canada will be permitted to connect the Canada Sanitary Sewer Infrastructure Airport Sanitary Force Main: Lift Station to Hwy 97, Item 2 to the New City Sanitary Sewer Infrastructure, Item 3, subject to the following:

- 5.1** Completion of design, construction and transfer of ownership of the City New Sanitary Sewer Infrastructure from the Penticton Indian Band to the City and the City has accepted the transfer.
- 5.2** Written authorization from the City for Canada to connect.
- 5.3** Payment by Canada to the City of the sum of \$68,337.83 which represents 23% of the actual cost plus overheads to design and construct the New City Sanitary Sewer Infrastructure as noted in Schedule "F", such payment to be made forthwith upon this Agreement being entered into.
- 5.4** Payment by Canada to the City of a one time Connection Fee in the amount of \$70,826.00, such payment to be made forthwith upon this Agreement being entered into.

**6. TRANSFER OF OWNERSHIP OF CANADA SANITARY SEWER INFRASTRUCTURE**

Canada and the City agree that the transfer of ownership and maintenance responsibility of the Canada Sanitary Sewer Infrastructure shall be carried out as follows:

- 6.1** Concurrently, or as soon thereafter as reasonably possible, with the City accepting transfer of ownership of the Canada Sanitary Sewer Infrastructure, Canada will provide the City with the right of access to the Lands to undertake maintenance and construction in the form of a Statutory Right of Way, license or such other form acceptable to Canada and the City. In the event Canada divests itself of the Lands over which the right of access is provided, Canada will ensure that the right of access survives said transfer.
- 6.2** The transfer of ownership and maintenance responsibility for the Canada Sanitary Sewer Infrastructure shall occur at the same time for both of the two Items described in paragraph 1.1 (e).
- 6.3** Once the construction of the Canada Sanitary Sewer Infrastructure is completed and the City has declared its acceptance of the work in writing to Canada, ownership and maintenance responsibility for the Canada Sanitary Sewer Infrastructure will be transferred in writing from Canada to the City, subject to the provisions of paragraph 6.4 below.
- 6.4** Canada shall provide a comprehensive one year warranty on materials and workmanship employed in the construction of the Canada Sanitary Sewer Infrastructure commencing once ownership is transferred to the City and the City has accepted the Canada Sanitary Sewer Infrastructure in writing.

- 6.5 Upon conclusion of the transfers referred to in paragraph 6.3 and or 6.4, the City will assume ownership and all maintenance, upgrading and capital cost responsibility for the Canada Sanitary Sewer Infrastructure.
- 6.6 For greater certainty the responsibility for the maintenance of the Land Infrastructure rests solely with Canada, not the City, until such time as the Land Infrastructure may be transferred to the City.

## 7. MEASUREMENT AND PAYMENT OF FEES AND CHARGES

### 7.1 Charges

The City will charge Canada and Canada shall pay the following two charges for Services, as described and determined below. The City of Penticton is currently examining the method used to charge for sanitary sewer services. In the event that the City changes the method used the new method adopted will replace that used in this agreement. Payment for the charges can be made either as a separate payment or as a Payment in Lieu of Taxes.

- (a) Annual Fixture Charge. The Annual Fixture Charge will be based upon fees as contained in the City's Fees and Charges Bylaw 2014-07, and Canada shall pay to the City such charge on an annual basis. Upon the completion of any of the Canada Sanitary Sewer Infrastructure Items as shown in Schedule "C", and prior to the City accepting transfer of ownership, Canada will provide the City with a plumbing fixture count of all fixtures located on the Land belonging to Canada but excluding such fixtures that are located in premises occupied by tenants of Canada on the Airport Lands, and annually thereafter and as requested by the City during the Term of this Agreement so that the amount of the Annual Fixture Charge can be determined. Canada to provide the City with the right of access to the Lands and all buildings thereon, on reasonable notice to the Airport Manager, to verify the fixture count;
- (b) Annual Sewer Debt Fee. The Sewer Debt Fee will be an annual aggregate fee for all buildings and improvements on the Lands, calculated for the Lands using the same rate as charged to properties in the City of Penticton, namely:

$$\text{City Sewer Debt Mill Rate} \times \frac{\text{\$ of Asset value of the Land and Buildings owned by Canada on the Lands}}{1000}$$

Canada will provide the City with the assessed value of each building on the Lands and the assessed value of the land on the Lands, as determined by the BC Assessment Authority, on an annual basis by March 1, and at any other time upon request by the City. The City will charge Canada annually for the Sewer Debt Fee as part of the City's Payment In Lieu of Taxes application.

In the event that the assessed value information cannot for any reason, be provided by March 1 in any year of the Term, the value will be determined using the last valid assessment of the Lands adjusted to reflect any market evaluation change factors applied to comparable properties within the City. In the event that there is no last valid assessment, the City will determine, using comparable properties within the City, the assessed value.

Notwithstanding the foregoing, Canada is responsible to pay to the City annually, only for that portion of the Annual Fixture Charge and Annual Sewer Debt Fee that is calculated as against fixtures, buildings and improvements occupied, used or otherwise held by Canada. The City will separately assess and charge to tenants of Canada an Annual Fixture Charge and Annual Sewer Debt Fee against fixtures, building and improvements owned, occupied, used or otherwise held by tenants of a portion of the Lands the Annual Fixture Charge and the Annual Sewer Debt Fee attributable to the rented, leased, licensed, or otherwise occupied premises which are attributable to such Lands on a proportionate basis and such tenants shall bear responsibility for the payment of such charges to the City annually. Canada authorizes the City to render the Annual Fixture Charge and the Annual Sewer Debt Fee to the tenants of the Lands and to pursue the collection of such charges to the same extent as Canada could do so.

## **7.2 Interest On Overdue Payments**

Any accounts overdue and unpaid in accordance with the provisions of this Agreement shall bear interest at the same rate that the City charges to customers of the City of Penticton as revised from time to time, (currently 2% per month).

## **8. MAINTENANCE OF INFRASTRUCTURE**

The maintenance of infrastructure shall be carried out as follows:

- (a) Canada Sanitary Sewer Infrastructure - Upon the transfer of ownership, the City will be responsible for the maintenance, upkeep, upgrading, repair and any future capital replacement of the Canada Sanitary Sewer Infrastructure subject to any maintenance responsibilities of Canada under paragraph 3.3, 6.3, 6.4 and 6.5.
- (b) Land Infrastructure - Canada is responsible for the maintenance of Land Infrastructure saving and excepting Her Majesty's sewage lines, which will be maintained by the City and owned by Canada subject to the following conditions:
  - (1) The City will only provide maintenance if access is provided to the existing sanitary sewer described above in manner acceptable to the City;
  - (2) Once the existing sanitary sewer described above is upgraded at the cost of Canada to the satisfaction of the City, Canada will then provide the easements and access permits as contemplated in paragraph 4.4 and transfer ownership of the reconstructed line to the City.

## **9. BYLAWS**

### **9.1 Compliance With Existing Bylaws**

Canada will comply and take all reasonable steps to ensure compliance with Bylaws 2014-07, 2004-81 and 2005-02 and any amendments thereto or replacements thereof.

## **10. TERM AND TERMINATION**

### **10.1 Term**

The term of this Agreement (the "Term") will be in perpetuity.

### **10.2 Termination for Default**

If there is a breach of any term of this Agreement by a party, the other party may, at its option, notify the party in breach and give the party responsible for the breach such time as is reasonable in view of the nature of the breach to remedy the breach. If the breach continues after the period of time provided to remedy the breach, the matter shall be referred to dispute resolution pursuant to paragraph 11.4 hereof. If the matter has been referred to and determined by dispute resolution to be a breach and the breach continues thereafter, the party not in breach may, at its option, then terminate this Agreement immediately on written notice to the other party.

## **11. GENERAL PROVISIONS**

### **11.1 Amendment**

No amendment, waiver or variation of the terms, conditions, warranties, covenants, agreements and undertakings set out herein will be of any force or effect unless the same is reduced to writing and duly executed by all parties hereto in the same manner and with the same formality as this Agreement, and no waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar) and no waiver will constitute a continuing waiver unless otherwise expressly provided.

### **11.2 Force Majeure**

No party will be liable for its failure to perform any of its obligations under this Agreement due to a cause beyond its reasonable control including acts of God, fire, flood, explosion, strikes, lockouts or other industrial disturbances, laws, rules and regulations or orders of any duly constituted governmental authority (excluding the City) or non-availability of materials or transportation, each of which will be a force majeure event.

### 11.3 Access

Canada will grant to the City such rights of access to the Lands as are necessary for the provision of Services, to undertake maintenance and to undertake construction by the City and to undertake inspections should they so desire without notice. Canada hereby agrees to permit the employees, contractors and agents of the City to enter upon and cross the Lands, with or without personnel, equipment, and materials, for the purpose of inspecting and maintaining and repairing or replacing any Canada Sanitary Sewer Infrastructure necessary for the provision of Services hereunder.

### 11.4 Dispute Resolution

Except for any payment obligations under this Agreement, if the parties to this Agreement are unable to agree on the interpretation or application of any provision herein, or are unable to resolve any other issue in dispute pertaining to this Agreement, on notice by either party to the other, the parties agree:

- (a) first, to promptly, diligently and in good faith take all reasonable measures to negotiate an acceptable resolution to the disagreement in dispute;
- (b) second, if the parties are unable to negotiate a resolution pursuant to subparagraph (a) above, within 60 days of the notice of dispute or disagreement, to request the assistance of a skilled commercial mediator, such mediator to be mutually agreed upon by the parties within 30 days of a receipt by a party of written notice requiring the mediation, failing which the mediator will be appointed by the British Columbia International Commercial Arbitration Centre (BCICAC). Any mediator selected must be qualified and experienced in the subject matter of the Agreement. Such mediation will be conducted under the Commercial Mediation Rules of the BCICAC to resolve a dispute unless otherwise agreed by the parties. If a mediator is appointed under this subparagraph (b), the mediated negotiations will be terminated 60 days after the appointment, unless the parties agree otherwise; and
- (c) third, if the negotiations in (b) are terminated without resolution, to request the assistance of a single arbitrator by consent or, if the parties cannot agree on the selection of an arbitrator within 30 days, the arbitrator will be appointed pursuant to the *Commercial Arbitration Act* of British Columbia, and the decision of the arbitrator, including any decision as to costs, will be binding on both parties and final.

### 11.5 Costs of Dispute Resolution

The parties agree that each party will bear its own costs and expenses incurred in respect of the dispute resolution processes in paragraph 11.4(a) and (b) above, and neither party will seek recovery against the other party for any of those costs and expenses.

### 11.6 Reciprocal Indemnities

The parties covenant and agree with each other as follows:

- (a) Canada will, subject to paragraph 11.2 above, indemnify and save harmless the City (and any related officer, official, employee, volunteer or agent thereof) from and against any and all losses, damages, costs, liabilities, suits, claims or expenses arising out of any breach by Canada of any of its obligations under this Agreement. This covenant of indemnity will survive the expiration or termination of this Agreement; and
- (b) the City will, subject to paragraph 11.2 above, indemnify and save harmless Canada (and any related officer, official, employee or agent thereof) from and against any and all losses, damages, costs, liabilities, suits, claims or expenses arising out of any breach by the City of any of its obligations under this Agreement. This covenant of indemnity will survive the expiration or termination of this Agreement.

### **11.7 Insurance**

Should Canada hire a third party contractor to undertake the construction of any Item or Items of the Canada Sanitary Sewer Infrastructure, Canada shall require that said contractor shall obtain prior to the commencement of any such construction, at its own cost and maintain in full force and effect for the period of construction and for the warranty period thereafter, a minimum of the following:

- (a) Comprehensive general liability insurance, with coverage of at least FIVE MILLION DOLLARS (\$5,000,000.00) combined single-limit per occurrence and TEN MILLION DOLLARS (\$10,000,000.00) in the aggregate for bodily injury and property damage liability, personal injury liability and coverage for all acts and omissions of any employees, agents, contractors and sub-contractors of Canada. Such policy shall stipulate that such insurance is primary of any valid and collectible insurance maintained by any of the foregoing entities for any claim(s) arising out of the construction;

All such policies of the contractor shall list the City as an additional insured. All such policies shall be endorsed to provide that the underwriters and insurers of the contractor shall not have any rights of subrogation. Further, all such policies shall provide for thirty (30) days' written notice to all insureds prior to any adverse modification or termination of any such policy. Certificates of all insurance required pursuant to this provision shall be provided to the City.

### **11.8 Communication**

Each of Canada and the City will appoint one or more representatives, with notice to the other party of such appointments, as a principal contact for official communications about this Agreement, and as a principal contact for operational matters pursuant to this Agreement.

### **11.9 Notice**

Any notice or other communication to be given under the provisions of this Agreement by any party will be deemed sufficiently given if signed by or on behalf of the party giving such notice and delivered or mailed by prepaid registered post (except during mail disruption in which case notice will not be deemed to be received until actually received), or telefaxed, as addressed as follows:

(a) To the City at:

171 Main Street  
Penticton, British Columbia  
V2A 5A9

Attention: Director of Operations

Fax (250) 490-2402:

(b) To Canada at:

Transport Canada, Penticton Airport  
#109, 3000 Airport Road  
Penticton, B.C.  
Canada  
V2A 8X1

Attention: Airport Manager

Fax: (250) 770-4423

Any such notice mailed shall be deemed to have been received on the fifth (5th) business day following the date of mailing. Each of the parties may by notice in writing to the other from time to time designate any other address to which the notices may be sent. For the purposes of this paragraph 11.9 the term "business day" shall mean Monday to Friday inclusive of each week, excluding days which are statutory holidays in the Province of British Columbia.

**11.10 Execution in Counterpart**

This Agreement may be executed in counterpart and copies of the execution pages delivered by each party to the other by facsimile or electronic mail, and such copies together will be deemed as effective as if a single Agreement had been executed by each party.

**11.11 Enurement**

The parties hereto agree that all covenants and agreement herein contained shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

**THE CORPORATE SEAL OF THE CITY OF** )  
**PENTICTON** was hereunto affixed in the )  
 presence of: )

\_\_\_\_\_)  
 Mayor Andrew Jakubeit )

\_\_\_\_\_)  
 Corporate Officer Dana Schmidt )

C/S

**SIGNED, SEALED and DELIVERED** by )  
**HER MAJESTY THE QUEEN IN RIGHT** )  
**OF CANADA** by the **MINISTER OF** )  
 \_\_\_\_\_ in the presence of: )

\_\_\_\_\_)  
 WITNESS )

\_\_\_\_\_)  
 ADDRESS )

\_\_\_\_\_)  
 Minister of \_\_\_\_\_ )

SCHEDULE "A"

PLAN SHOWING THE LANDS



**SCHEDULE "B"**

**MAY 8, 1974 SEWAGE AGREEMENT**

2259

Duplicate ORIGINAL

NO. PACIFIC 1035

## DEPARTMENT OF TRANSPORT

AGREEMENT

BETWEEN

HER MAJESTY THE QUEEN

AND

THE CORPORATION OF THE CITY OF PENTICTON

|                       |                                                                                                                                                                                        |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Date of Authority     | T.B. No. 720143 dated June 14, 1973                                                                                                                                                    |
| Date of Agreement     | May 8, 1974                                                                                                                                                                            |
| Public Work Concerned | Penticton Airport                                                                                                                                                                      |
| Description           | Connection of the Airport sewerage system to the sewerage system owned and operated by The Corporation of the City of Penticton for the disposal of sewage from the Penticton Airport. |

## DEPARTMENTAL REFERENCE

FILE NO. 5176-P145 (PAOW)

MEMORANDA

The Honorable the Treasury Board  
L'honorable Conseil du Trésor

TH

720143

T.B. Number - C.T. No

TRANSPORT

Department - Ministère

5176-PL45 (PAOW)

File - Dossier

JUN 9 1973

Date

CT: AUTHORITY TO ENTER INTO AN AGREEMENT

SAL: To enter into an agreement with the Corporation of the City of Penticton for the acceptance, treatment and disposal of sewage from the Penticton Airport through an extension of the Airport main to a connection with the City system.

\$2,850 per annum approximately.

Available in Vote 15 - Operating expenditures and authority to spend revenues received during the year.

KS: The present sewage disposal system for the Penticton Airport does not meet the criteria contained in the Water Pollution Control and Abatement Program, Federal Facilities, 1968.

Discussions between the representatives of MOT; the City of Penticton; the Environmental Protection Service, DOE; and DNH&W have been held to consider alternative plans and to seek a permanent answer to the problem of sewage disposal from the Airport. The above proposal represents the best solution and has received the support of the DOE to the extent that funds for capital works required to connect the Airport to the municipal treatment facility have been allocated from a central fund established by Cabinet approval June 8, 1972.

The operation of a small tertiary sewage treatment plant could be more expensive than municipal treatment on account of the close surveillance that would be required in order to achieve consistently a quality effluent that would meet an approved specification.

APPROVED  
BY THE  
TREASURY BOARD

APPROVED  
PAR LE  
CONSEIL DU TRÉSOR

Certified  
to be a true copy of a  
minutes of a meeting of the  
Treasury Board on

14 VI 73

Copie certifiée  
d'un extrait des procès-verbaux  
d'une réunion du Conseil du  
Trésor le

*[Handwritten signature]*

*[Handwritten notes: 176 Ted, 4/6/73, 11/6/73]*

E (

R E S O L U T I O N

EXTRACT FROM MINUTES OF MEETING OF THE COUNCIL OF  
THE CITY OF PENTICTON HELD ON MONDAY, APRIL 22nd,  
1974, AT 9:32 A. M.

"That the Sewer Line Extension Agreement with the  
Ministry of Transport be approved, and the Mayor and Clerk  
be authorized to sign and seal on behalf of the City."

DATED at Penticton, B. C., this 24th day of April,  
1974.

CERTIFIED A TRUE COPY:

*McDonald*  
City Clerk, City of Penticton.

## SEWAGE AGREEMENT

THIS AGREEMENT made the 8<sup>th</sup> day of May 1974.

1751  
Drafter  
April 9/74

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF  
Canada as represented by the Minister  
of Transport,

(herein called "Her Majesty")

OF THE FIRST PART

AND:

THE CORPORATION OF THE CITY OF  
PENTICTON

(herein called "Penticton")

OF THE SECOND PART

WHEREAS:

- A. Her Majesty owns all those lands and premises in the City of Penticton in the Province of British Columbia known as the Penticton Airport, and comparing, inter, alia, lands described in Schedule "A" hereto and hereafter referred to as "the Airport".
- B. The Airport does not lie within the sewer district established by Penticton.
- C. Her Majesty has constructed and owns a sewer main and pumping station on the Airport as shown in green and installed a sewer main as shown in red on Schedule "B" hereto.
- D. Penticton owns and maintains a sewer system in the City of Penticton and is agreeable to accept, treat and dispose of sewage from the line constructed by Her Majesty.

NOW THEREFORE in consideration of the premises and the mutual covenants hereinafter set forth the parties covenant and agree as follows:

1. Her Majesty shall be entitled to connect Her sewage lines to Penticton's system at Penticton's manhole at station 61 + 70 shown on Schedule "B" annexed, and hereafter called the "connection point".
2. Penticton agrees to accept, treat and dispose of all sewage from the Penticton Airport at the "connection point" commencing on the later of:
  - (a) 31st day of March 1974;
  - (b) when Her Majesty's sewage lines have been completed, and said connection has been made.
3. Penticton agrees to maintain and keep the sewage system in good repair and in good working order:
  - (a) from Manhole No. 1 adjacent to the Airport Maintenance Garage at Station 0 + 00 to the pumping station;
  - (b) from and including the pumping station on the Airport to the connection point;

cont ... 2

- 2 -

4. Her Majesty hereby grants unto Penticton, its agents and servants for the duration of this agreement a right of way for ingress and egress over the area outlined in orange on Schedule "B" hereto and hereinafter called the "right of way" for the purpose of maintaining and repairing the sewage system.

Provided always that:

- (a) Her Majesty and those claiming under Her may use the surface of the right of way in any manner which does not interfere with the security or efficient functioning of or unobstructed access to the said sewage system;
  - (b) The within permit shall not convey an interest in land;
  - (c) Penticton shall indemnify Her Majesty against any loss which may be suffered or sustained by Her Majesty directly or indirectly arising from the improper repair or non-repair of the sewage system.
5. Penticton agrees to comply with all the terms of permit Number K.201/73, from the Department of Highways of British Columbia, entitled "Permission to Construct Works within Crown Lands", a copy of which is annexed as Schedule "C" hereto.
6. a) For the services herein agreed to be provided by Penticton Her Majesty shall pay the following user rates:
- Annually on the first day of November in each year of the term, a sum arrived at by applying the mill rate imposed by the Penticton Rates Bylaw for sewer rates or taxes on lands and improvements lying within the limits of the Sewage District as created by Bylaw No. 3006 to the assessed value of the land and improvements on the Airport.
- b) Provided however, that if Her Majesty disagrees with the assessment made by Penticton, Her Majesty may refer the matter to the Federal Court of Canada for a determination of assessed value of the land and improvements for the year in question. The cost of the reference to the Court shall be in the discretion of the Court. Provided however that in the absence of or pending such determination Her Majesty shall continue to pay the rates in the same amounts on the same dates each year as during the preceeding period. Upon the determination by the Court any excess or deficiency shall be adjusted and paid by Her Majesty to Penticton or credited by Penticton to Her Majesty, as the case may be, in accordance with such determination.
- c) Provided always that said sum shall not include charges for connections to the sewage system by commercial users on the Airport who shall be charged separately by Penticton.

cont ... 3

- 3 -

7. The term of this Agreement shall be for as long as Her Majesty desires to deliver sewage into the Penticton system. Provided however that Her Majesty may terminate the within Agreement at any time on giving three (3) months written notice to Penticton.
8. Wherever in this Agreement it is required or permitted that notice or demand be given or served by either party to the other, such notice or demand shall be given and served in writing and forwarded by registered mail addressed as follows:  
  
TO: Her Majesty the Queen in Right of Canada:  
c/o The Department of Transport  
739 West Hastings Street  
Vancouver, B.C. V6C 1A2  
  
TO: Penticton  
at: 171 Main Street  
Penticton, B.C.
9. No waiver on behalf of Her Majesty of any breach shall take place or be binding unless the same be expressed in writing by the Minister and any waiver so expressed in writing by the Minister and any waiver so expressed shall extend only to that particular breach to which such waiver specifically relates and shall not be deemed to be a general waiver or to limit or affect the rights of Her Majesty with respect to any breach.
10. Penticton covenants and agrees that it has obtained all necessary consents and approvals to enter the within Agreement.
11. Any assignment of this agreement by Her Majesty shall provide that the assignee shall comply with all the terms and conditions of this agreement.

cont ... 4

- 4 -

12. IT IS HEREBY DECLARED AND AGREED that these presents and everything herein contained shall enure to the benefit of and be binding upon the parties hereto, and each his heirs, executors, administrators, successors and permitted assigns, as the case may be, and any words in the singular shall include the plural and words importing the masculine gender include the feminine and neuter genders where the context so required.

IN WITNESS WHEREOF the parties hereto have hereunto set their respective hands and seals and corporate seal as of the day and year first above written.

SIGNED, SEALED AND DELIVERED on behalf of Her Majesty the Queen in Right of Canada in the presence of:

*P. Wickham*

*[Signature]*  
for Minister of Transport

THE CORPORATE SEAL of the Corporation of the City of Penticton was hereunto affixed in the presence of:

*[Signature]* MAYOR  
*[Signature]* CLERK

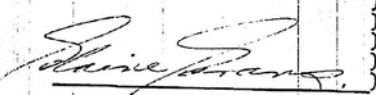
*Bonnie Daffie*  
H-2036-471 Winnipeg St  
Penticton B.C.  
stenographer  
Witness as to both  
signatures.

A F F I D A V I T   O F   W I T N E S S

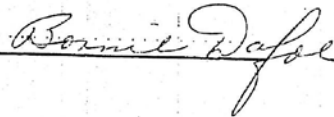
I, **BONNIE DAFOE** of the  
**City of Penticton,**  
**Columbia, Stenographer,** in the Province of British  
 MAKE OATH AND SAY:

1. I was personally present and did see the within instrument duly signed and executed by Frank William Laird and Harley Gerald Andrew the Mayor and Clerk, respectively of the City of Penticton, for the purposes named therein.
2. The said instrument was executed at the City of Penticton, in the Province of British Columbia.
3. I know the said persons described in paragraph 1, and that they are of full age of twenty-one years.
4. I am the subscribing witness to the said instrument and am of the full age of sixteen years.

SWORN before me at Penticton  
 in the Province of British  
 Columbia, this 23rd day of  
April, 1974.

  
 A Notary Public in and for the  
 Province of British Columbia.

A Commissioner for taking  
 affidavits within British  
 Columbia.



SCHEDULE "A"

- Firstly:- All and singular that certain parcel or tract of land, situate, lying and being all that part outlined in red on Indian Affairs Survey Records Plan 4940, said plan being the plan and field notes of resurvey of Penticton Airport Boundaries, Similkameen Division Yale District, and said plan being of record in The Canada Land Survey Records,
- Secondly:- All and singular that certain parcel or tract of land, situate, lying and being all that part of Plan "B"3909, Block 224, Lot 372, Similkameen Division Yale District, to the west of the easterly boundary of Plan "A"1189, and further described as Parcels "B" and "2", Plan "A"1189,
- Thirdly:- All and singular that certain parcel or tract of land, situate, lying and being described as Parcel 2CR, Plan "A"1189, adjacent throughout to the parcel described above, to the west of the westerly boundary of Plan "A"1189 within Plan "B"3909, Block 224, Lot 372, Similkameen Division Yale District;

**SCHEDULE C**  
**GOVERNMENT OF BRITISH COLUMBIA**  
**DEPARTMENT OF HIGHWAYS**

Permit No. K-201/73  
 File No. R2-21-2F  
 Letter No.  
 Electoral District R#2

**PERMISSION TO CONSTRUCT WORKS WITHIN CROWN LANDS**

The works comprising the installation of 1,900 linear feet or thereabouts of 4" diameter sewer force-main as shown on Dayton & Knight drawings number P 145 P631 C001 to P 145 P631 C008, including crossing Okanagan River by attachment to #2342 Skaha Lake Bridge, as per Application dated October 1, 1973.



as they relate to the use of Crown lands, interference with public works, or other matter under the jurisdiction of the Minister of Highways, and permission to construct, use, and maintain the said work is hereby granted to the Corporation of the City of Penticton, 171 Main Street, Penticton, British Columbia.

The said approval and permission to construct, use, and maintain works is, however, at all times subject to the following conditions:-

1. That the construction and maintenance of the said works is carried out to the satisfaction of the Chief Engineer.
2. That before opening up any highway or interfering with any public work, intimation in writing of the intention to do so must be given to the District Official at least seven clear days before the work is begun.
3. That any person appointed by the Chief Engineer for that purpose shall have free access to all parts of the works for the purpose of inspecting the same.
4. That the construction of the said works shall be commenced on or before the \_\_\_\_\_

\_\_\_\_\_ and shall be prosecuted with due diligence and to the satisfaction of the

Chief Engineer, and shall be completed as soon as possible.

5. (a) The highway must at all times be kept open to traffic. The roadway must be completely restored for traffic as soon as possible. At all times the permittee must safeguard the travelling public.

(b) That, unless with the consent of the Chief Engineer, no more than fifty (50) yards of pipe-track or other excavation in any public highway is to be kept open at any one time.

(c) All trenches and excavations shall be shored, if necessary, according to the Workmen's Compensation requirements. Care must be taken to protect adjacent property.

(d) That all excavations shall be carefully back-filled with suitable material, which is to be tamped into place, and that the permittee shall restore the surface of the road and shoulders and ditches, at his own expense. All surplus material is to be removed from the Provincial Crown lands, or deposited where and as required by the District Official of the Department of Highways. The permittee is financially responsible for any maintenance work required on said ditch for a period of one year. The Highways Department will carry out the necessary remedial work and invoice the permittee monthly.

(e) The pipe-line crossing installation is to be placed by drilling and (or) jacking in such a manner as to afford minimum grade settlement. No water jetting will be permitted. That where, in the opinion of the District Official, an excavation or opening for a pipe-line crossing installation could be made which would not be detrimental to the highway or its users, permission will be granted for such works. On thoroughways, freeways, and main highways no open cuts will be allowed.

(f) That all pipe-lines in excess of a nominal diameter of two inches, whether gas, oil, water, pressure sewers, conduit, etc., shall be encased where indicated by the District Official, encased in a steel casing-pipe or conduit-pipe of sufficient strength to withstand all stresses and strains resulting from the location, such casing to extend the full width of the highway right-of-way if deemed necessary by the District Official. The ends of the casing-pipe shall be suitably sealed and, if required, properly vented above the ground with vent-pipes not less than two inches in diameter, and extending not less than four feet above ground surface. Vent-pipes shall be equipped with identification markers.

All pipe-lines of non-rigid material—i.e., plastic or copper—of any diameter, shall be cased, or embedded in sand.

The inside diameter of the casing-pipe shall be at least 25 per cent larger than the outside diameter of the pipe-line. The casing-pipe shall be installed with an even bearing throughout its length, and in such a manner so as to prevent leakage, except through joints.

The top of the casing-pipe, or the pipe-line where casing is not required, shall be located as directed by the District Official, and shall in no case be less than four feet below the surface of the highway and not less than two feet below the highway ditches. Pipes shall not obstruct drainage structures or ditches or interfere with traffic on the highway or with highway maintenance.

6. That where the work for which permission is hereby granted comes in contact with any bridge, culvert, ditch, or other existing work, such existing work must be properly maintained and supported in such manner as not to interfere with its proper function during the construction of the new work, and on the completion of the new work the bridge, culvert, ditch, or other existing work interfered with shall be completely restored to its original good condition.

7. That when necessary all excavations, materials, or other obstructions are to be efficiently fenced, lit, and watched, and at all times every possible precaution is to be taken to ensure the safety of the public.

8. That the person or persons for whom these works are being constructed, or by whom these works are maintained, shall at all times accept full responsibility for any accident that may occur or damage that may be done to any person or property whatsoever through directly or indirectly by these works, and shall save harmless and keep indemnified the Crown from all claims and demands whatsoever in respect of the works.

9. That the permission herein granted to use and maintain the works is only granted for such time as the land or public work in which the said works are constructed is under the jurisdiction of the Minister of Highways. This permission is not to be deemed as being granted for all time, and shall not be deemed to vest in the permittee any right, title, or interest whatsoever in the lands upon which the works are constructed. Should the lands affected at any time be included within that of an incorporated municipality or city, this permission shall become void, unless the works are on a highway duly classified as an arterial or primary highway pursuant to Part III of the Highway Act.

10. That after receiving notice in writing of the intention on the part of the Provincial Government to construct, extend, alter, improve any public work, the person or persons responsible for the maintenance of the works for which permission is hereby granted shall within six weeks move or alter such work at his or their own expense to such new position or in such manner as may be required by the construction, extension, alteration, or improvement proposed to be carried out by the Provincial Government.

(OVER)

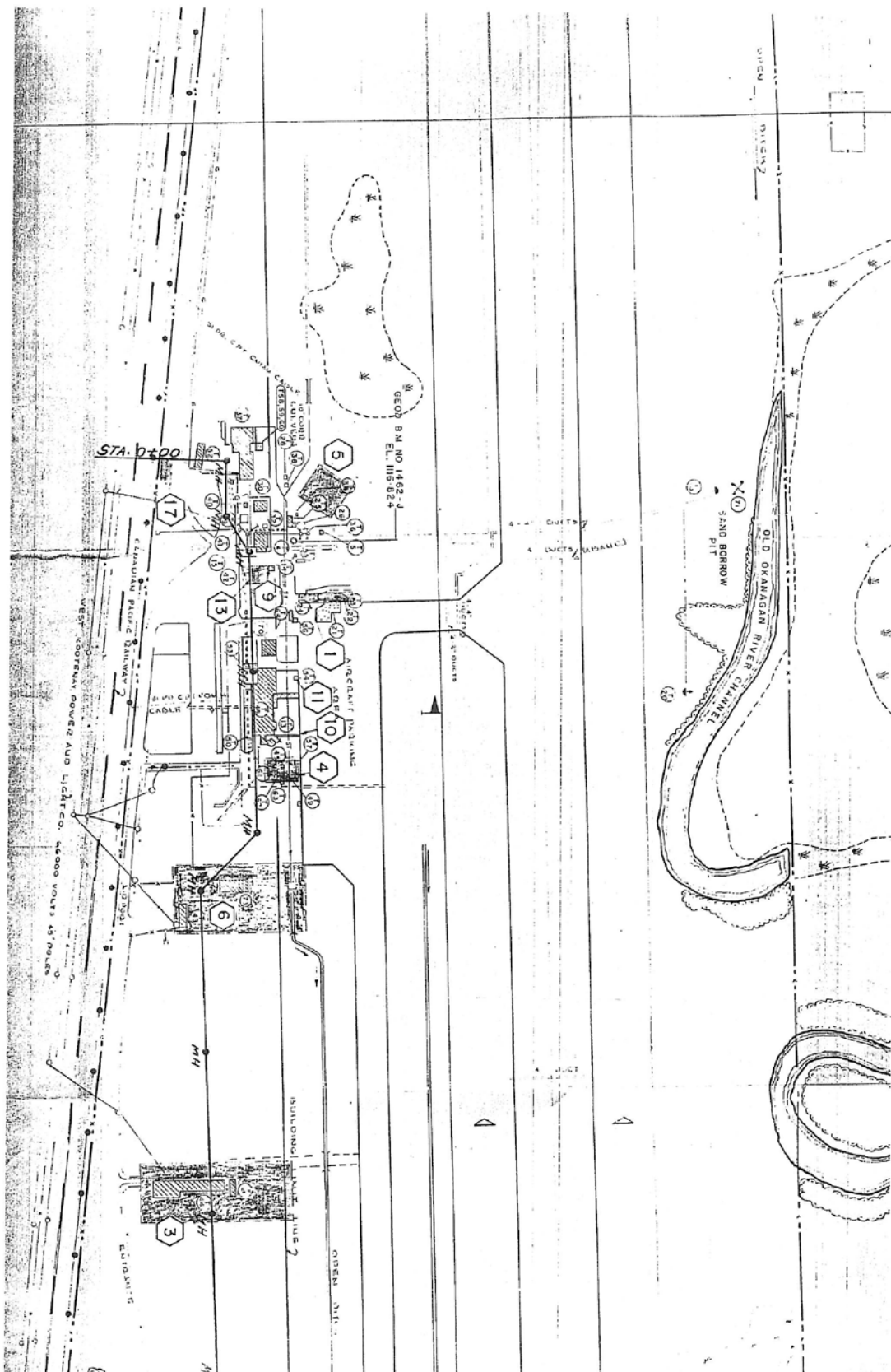
11. That while reasonable care will be taken on the part of the Provincial Government to do as little damage as possible to any private work in the carrying-out of the construction, extension, alteration, improvement, repair, or maintenance of any public work, and that the Provincial Government can accept no responsibility of any kind for such damage.
12. That the permission hereby granted to construct, use, and maintain work is granted without prejudice to the provisions of the Highway Act, Public Works Act, or other Acts governing Crown lands and public works or their use by the public.
13. That this permission shall be in force only during such time as the said works are operated and maintained by the applicants, to the entire satisfaction of the Chief Engineer.
14. That the Department will not be responsible for grade changes on accesses caused by reconstruction of any Provincial highway.
15. This permit is valid only for the specific works stated herein. Any alterations or additions must be covered by a separate permit.
16. This permit may be cancelled, at the discretion of the Minister, without recourse, should the permittee fail to comply with all the terms of the permit. Thirty days' notice will be given before cancellation.
17. When the requirements of the Department necessitate use of the said lands for Provincial purposes, at the discretion of the Minister, this permit may be cancelled.
18. That these works shall be identified with this permit number, namely, "H.K. 201/73..." in a manner satisfactory to the District Official of the Department of Highways.
19. In addition to the general provision in Clause (10) above, the permittee shall be responsible for any alteration or relocation of the line in the event that #1342, Skaha Lake Bridge, is widened, altered, or reconstructed.
20. At each end of #1342, Skaha Lake Bridge, the pipe shall be encased in concrete to a level flush with the bridge sidewalk as shown and noted on Plan P145 P631 C006.

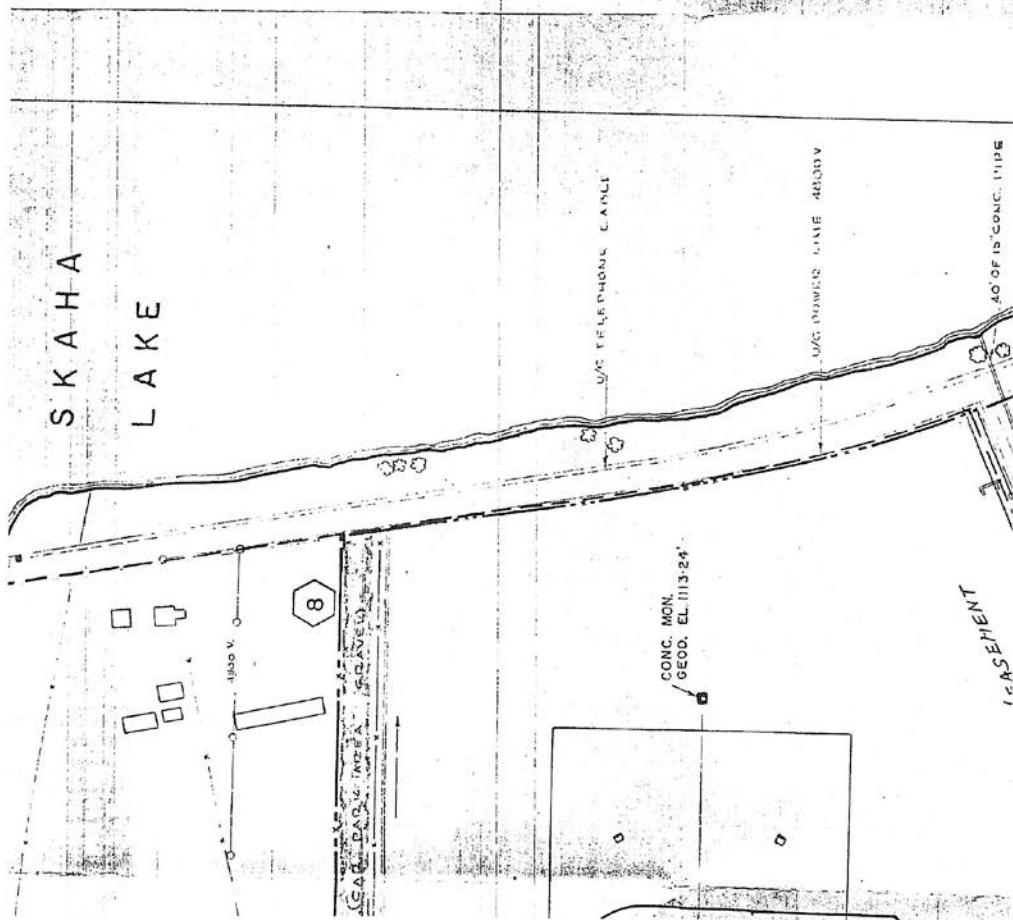
Department of Highways, Kamloops

British Columbia

NOVEMBER 28, 1973

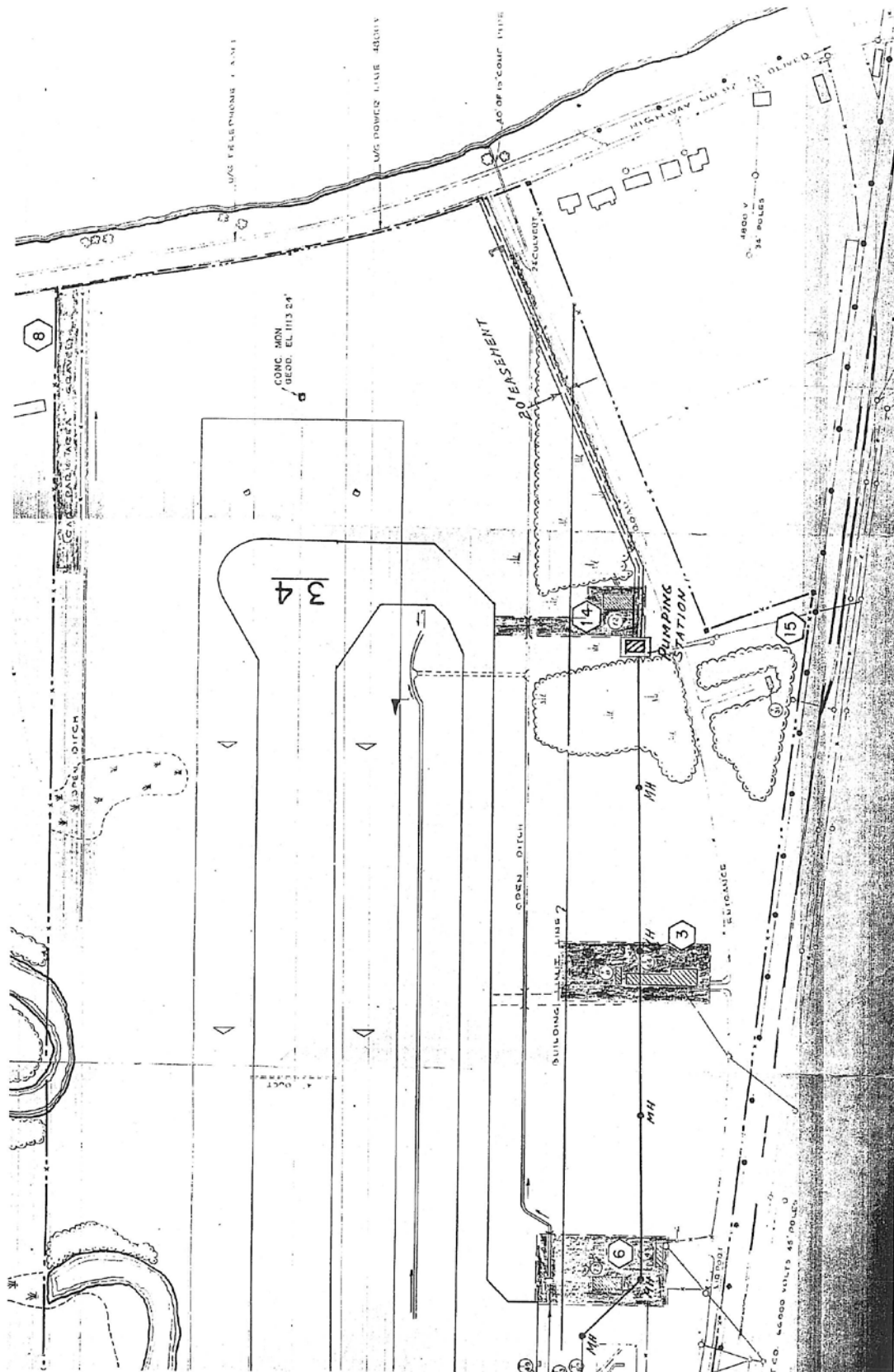
*H. F. Blunden*  
For Minister of Highways.  
H. F. Blunden  
REGIONAL APPROVING OFFICER





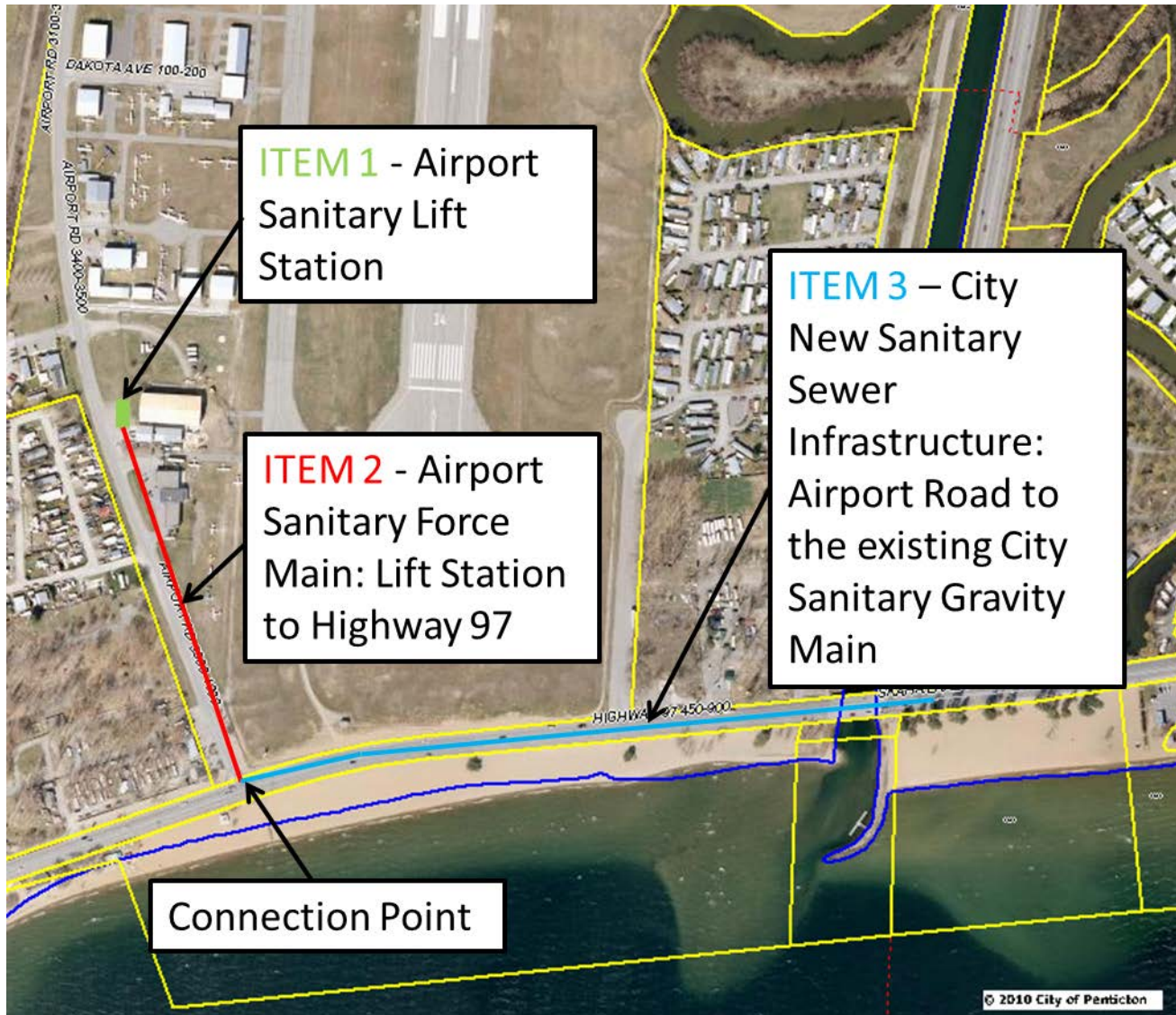
SCHEDULE "B"

THIS DRAWING SUPERSEDES BUILDING AREA PLAN  
DWG. NO. S-BC-41-2 DATED DECEMBER 18, 1961



SCHEDULE "C"

## PLAN SHOWING THE SANITARY SEWER INFRASTRUCTURE



**SCHEDULE "D"**

**CITY OF PENTICTON COUNCIL RESOLUTION**

**SCHEDULE "E"**

**REGIONAL DISTRICT OF OKANAGAN SIMILKAMEEN RESOLUTION**

**SCHEDULE "F"**  
**COST FOR NEW SANITARY SEWER INFRASTRUCTURE**

| Item Number | Item Description                                                                                                                                                                                     | Units | Amount | Unit Price   | Total Invoiced For | Admjustment after review of True Engineering Documentation | Amount to Pay | Notes                                                                 |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|--------|--------------|--------------------|------------------------------------------------------------|---------------|-----------------------------------------------------------------------|
| 1.0         | 200mm Dia DR17 HDPE by Directional Drilling                                                                                                                                                          | m     | 575    | \$ 115.00    | \$ 66,125.00       | \$ -                                                       | \$ 66,125.00  |                                                                       |
| 2.0         | Sanitary Forcemain Systems Appurtenance c/w Trust Blocks or Joint Restraints                                                                                                                         |       |        |              |                    |                                                            |               |                                                                       |
|             | 200mm Dia FxFxF Tee                                                                                                                                                                                  | each  | 1      | \$ 750.00    | \$ 750.00          | \$ -                                                       | \$ 750.00     |                                                                       |
|             | 200mm Dia Bend                                                                                                                                                                                       | each  | 1      | \$ 700.00    | \$ 700.00          | \$ -                                                       | \$ 700.00     |                                                                       |
|             | 200mm Dia Flange Adapter                                                                                                                                                                             | each  | 1      | \$ 700.00    | \$ 700.00          | \$ -                                                       | \$ 700.00     |                                                                       |
|             | Air Release chamber                                                                                                                                                                                  | each  | 1      | \$ 2,800.00  | \$ 2,800.00        | \$ -                                                       | \$ 2,800.00   |                                                                       |
| 3.0         | Tie to existing sanitary system at Hwy 97 / Channel Parkway Intersection including 1200mm Dia precast benched manhole, lid, frame, cover and removals.                                               | L.S.  | 1      | \$ 18,800.00 | \$ 18,800.00       | \$ -                                                       | \$ 18,800.00  |                                                                       |
| 4.0         | Remove and dispose of existing asphalt surface as necessary regardless of thickness on roadways including saw cutting                                                                                | L.S.  | 1      | \$ 10,000.00 | \$ 10,000.00       | \$ 3,500.00                                                | \$ 13,500.00  | Bid price for this pay item was \$13,500 not the estimated \$10,000   |
| 5.0         | Trench an dasphalt restoration on Highway surfaces to MoTI specifications                                                                                                                            | L.S.  | 1      | \$ 18,800.00 | \$ 18,800.00       | \$ -                                                       | \$ 18,800.00  |                                                                       |
| 6.0         | Mobiltain and demobilaitaion of equipment                                                                                                                                                            | L.S.  | 1      | \$ 2,900.00  | \$ 2,900.00        | \$ -                                                       | \$ 2,900.00   | 58% of total bid price of \$5,000                                     |
| 7.0         | Traffic Management Plan                                                                                                                                                                              | L.S.  | 1      | \$ 1,740.00  | \$ 1,740.00        | \$ -                                                       | \$ 1,740.00   | 58% of total bid price of \$3,000                                     |
| 8.0         | Traffic Control                                                                                                                                                                                      | L.S.  | 1      | \$ 10,000.00 | \$ 10,000.00       | -\$ 2,692.00                                               | \$ 7,308.00   | Adjusment made so that total reflects 58% of total bid price \$12,600 |
| 9.0         | Extra Work<br>Additional works done by Grizzly Excavating as a result of existing forcemain break. Work includes tie-is for Motel and Airport, excavation at concrete tunnel location and materials. | L.S.  | 1      | \$ 25,717.00 | \$ 25,717.00       | -\$ 7,551.79                                               | \$ 18,165.21  | Adjustment made to reflect updated information from True Consulting   |
|             | Additional time at concrete tunnel location including drill, backhoe, crane truck, pickup, fusion, mud truck, trailers 5 workers and equipment.                                                      | hours | 20     | \$ 600.00    | \$ 12,000.00       | \$ -                                                       | \$ 12,000.00  |                                                                       |
|             | Broken drill rods due to concret tunnel.                                                                                                                                                             | each  | 5      | \$ 1,150.00  | \$ 5,750.00        | \$ -                                                       | \$ 5,750.00   |                                                                       |
|             | Trench and asphalt restoration at location of concrete tunnel.                                                                                                                                       | L.S.  | 1      | \$ 2,000.00  | \$ 2,000.00        | -\$ 2,000.00                                               | \$ -          |                                                                       |
|             | Superior Septic invoice for hauling liquid waste from lift statrions.                                                                                                                                | L.S.  | 1      | \$ 8,000.00  | \$ 8,000.00        | \$ 29.12                                                   | \$ 8,029.12   |                                                                       |
|             | Plumgin invoices for remving constriction from Moel gravity main and re-starting lift station pumps due to clog.                                                                                     | L.S.  | 1      | \$ 2,000.00  | \$ 2,000.00        | -\$ 334.14                                                 | \$ 1,665.86   |                                                                       |
|             | Cost for using of City of Penticton vacuum truck during airport tie-Qin an dcail-out for lift station high alarm.                                                                                    | L.S.  | 1      | \$ 3,600.00  | \$ 3,600.00        | -\$ 2,800.78                                               | \$ 799.22     |                                                                       |
| 10.0        | Allowance for asphalt milling and overlay                                                                                                                                                            | m2    | 1900   | \$ 25.00     | \$ 47,500.00       | \$ -                                                       | \$ 47,500.00  |                                                                       |
|             | SUB TOTAL 1                                                                                                                                                                                          |       |        |              | \$ 239,882.00      | -\$ 11,849.59                                              | \$ 228,032.41 |                                                                       |
|             | Engineering                                                                                                                                                                                          |       |        |              | \$ 25,000.00       | -\$ 1,234.94                                               | \$ 23,765.06  |                                                                       |
|             | SUB TOTAL 2                                                                                                                                                                                          |       |        |              | \$ 264,882.00      | -\$ 13,084.53                                              | \$ 251,797.47 |                                                                       |
|             | Admin Fee at 18%                                                                                                                                                                                     |       |        |              | \$ 47,678.76       | -\$ 2,355.22                                               | \$ 45,323.54  |                                                                       |
|             | TOTAL                                                                                                                                                                                                |       |        |              | \$ 312,560.76      | -\$ 15,439.74                                              | \$ 297,121.02 |                                                                       |
|             | 23% of the Total as per the Agreement                                                                                                                                                                |       |        |              | \$ 240,671.79      | -\$ 11,888.60                                              | \$ 68,337.83  |                                                                       |

# Council Report

penticton.ca

**Date:** October 19, 2015  
**To:** Eric Sorensen, City Manager  
**From:** Blake Laven, Planning Manager

File No: RZ L2015-065

**Subject:** "Zoning Amendment Bylaw 2015-51" for 2800 Cedar Road

## Staff Recommendation

THAT "City of Penticton Zoning Amendment Bylaw 2015-51", a bylaw to rezone the easterly 84m of Lot 1, District Lot 2710, Similkameen Division Yale District Plan 14911, Except Plans 20725 and KAP66018, located at 2800 Cedar Road, from A (Agriculture) to R1 (Large Lot Residential), be given first reading and be forwarded to the November 2, 2015 Public Hearing.

## Strategic priority objective

N/A

## Background

The subject property (Attachment A) is designated for low density residential development by the City's Official Community Plan, but is currently zoned A (Agriculture). The large rectangular property (4.3 acres) is lightly treed and features one single detached dwelling which is accessed off of and located close to Cedar Road. The property runs from Cedar Road at its west side, is bisected by Evergreen Drive (although unconstructed at that point) and runs east to Partridge Drive.

A developer is interested in purchasing a portion of this property to include it in the residential subdivision and development of 2740 Evergreen Drive (Attachment C). The intent is to extend Partridge Drive through the subject property and toward 2740 Evergreen Drive. The area that the developer is interested in purchasing is the easterly 84m of the subject property. All other properties adjacent to the subject property and included in the subdivision proposal are zoned for residential development (Attachment B).

Because the intent is for residential development and because the current lands are currently zoned Agriculture, a zoning amendment is required prior to subdivision.

## Proposal

The applicant is proposing to rezone the easterly 84m of 2800 Cedar Road. The remainder of the property will maintain its agricultural zoning.

## **Financial implication**

N/A

## **Technical review**

This application was reviewed by the Technical Planning Committee on October 1, 2015. The subsequent subdivision application that will follow this zoning amendment, if adopted, presents several technical aspects that will require full engineering consultation and review by the City's Public Works and Engineering departments. That review will look for conformance to the City's Subdivision and Development Bylaw, Sewer, Irrigation and Water Bylaw and other relevant City policies. Early consultation between the City and the developer's professional consultants has been ongoing.

For the application at hand, the Technical Planning Committee did not have any objections or conditions prior to zoning adoption. This is a necessary step to move to the more technical phase of the process.

## **Analysis**

The City's Official Community Plan has identified the area where this property is located for residential development. The current Agricultural zoning of the property is not in-line with that future vision for the property and no agricultural activity has taken place on the property. This area has seen strong residential growth in the past few years with development activity along Partridge Drive and more recently the Avery Place 27 lot subdivision on Cedar Road, which is currently underway.

Supporting the zoning amendment will allow for the developer to have some comfort in moving forward with the technical subdivision plans.

The proposal meets the following policies of the OCP:

- ☐ Ensure that the Zoning Bylaw accommodates all housing types
- ☐ Consistent with the City's desire to provide a variety of housing, the City encourages the development of higher-end single detached dwellings
- ☐ The City will work towards guiding hillside development, with the use of the hillside guidelines

For the reasons listed above, staff recommend that Council support the application to rezone the portion of this lot identified and recommend that the bylaw be forwarded to the November 2<sup>nd</sup>, 2015 Public Hearing for comment from the public.

## **Alternate recommendations**

THAT "Zoning Amendment Bylaw 1025-51" be denied first reading.

THAT "Zoning Amendment Bylaw 2015-51" be referred back to staff with instructions that Council feels are appropriate.

## Attachments

- ☐ Attachment A – Subject property location map
- ☐ Attachment B – OCP – Future land use map
- ☐ Attachment C – Zoning map
- ☐ Attachment D – Proposed subdivision plan
- ☐ Attachment E – Area of zoning amendment

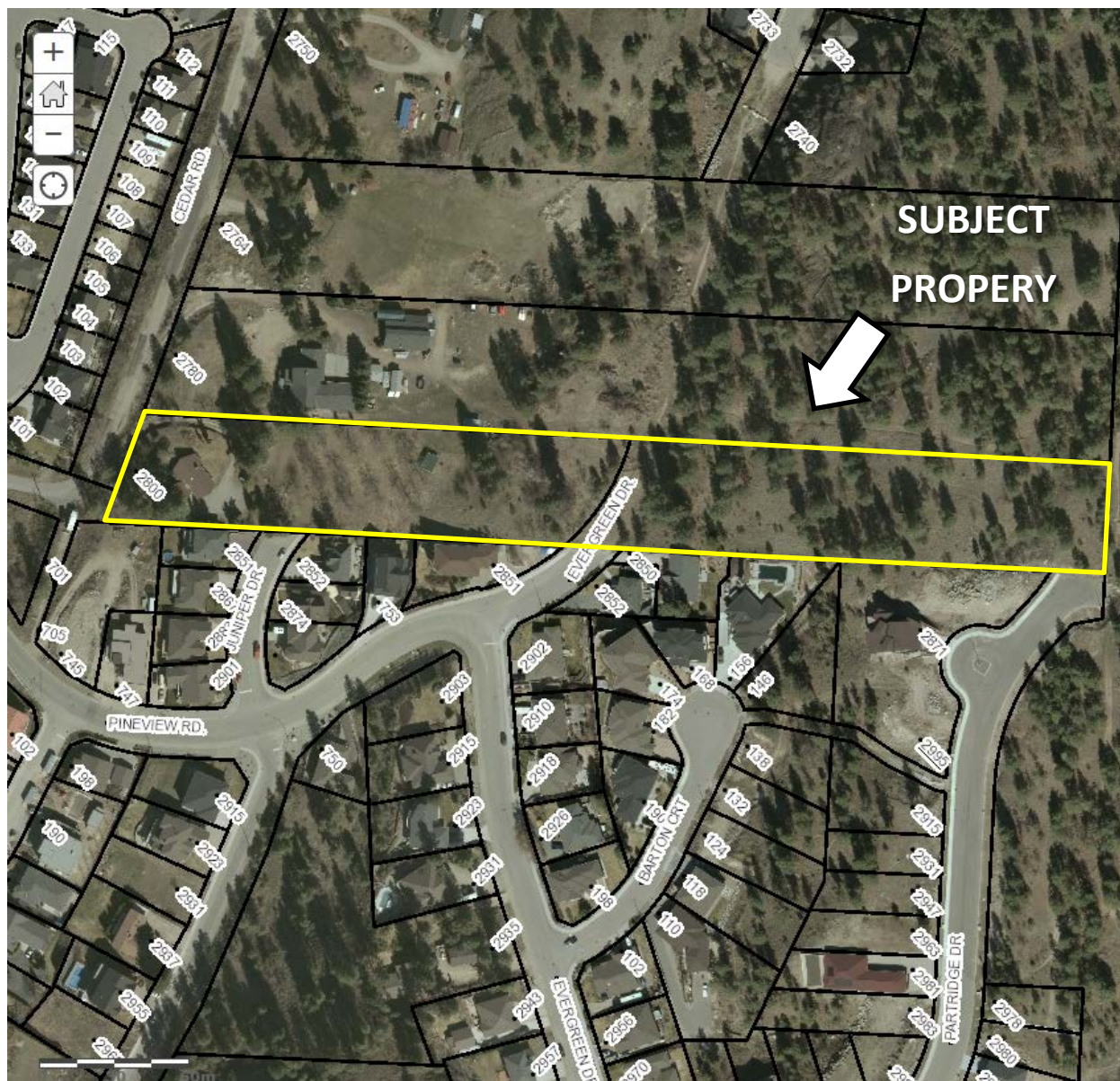
Respectfully submitted,

Blake Laven, RPP, MCIP  
Planning Manager

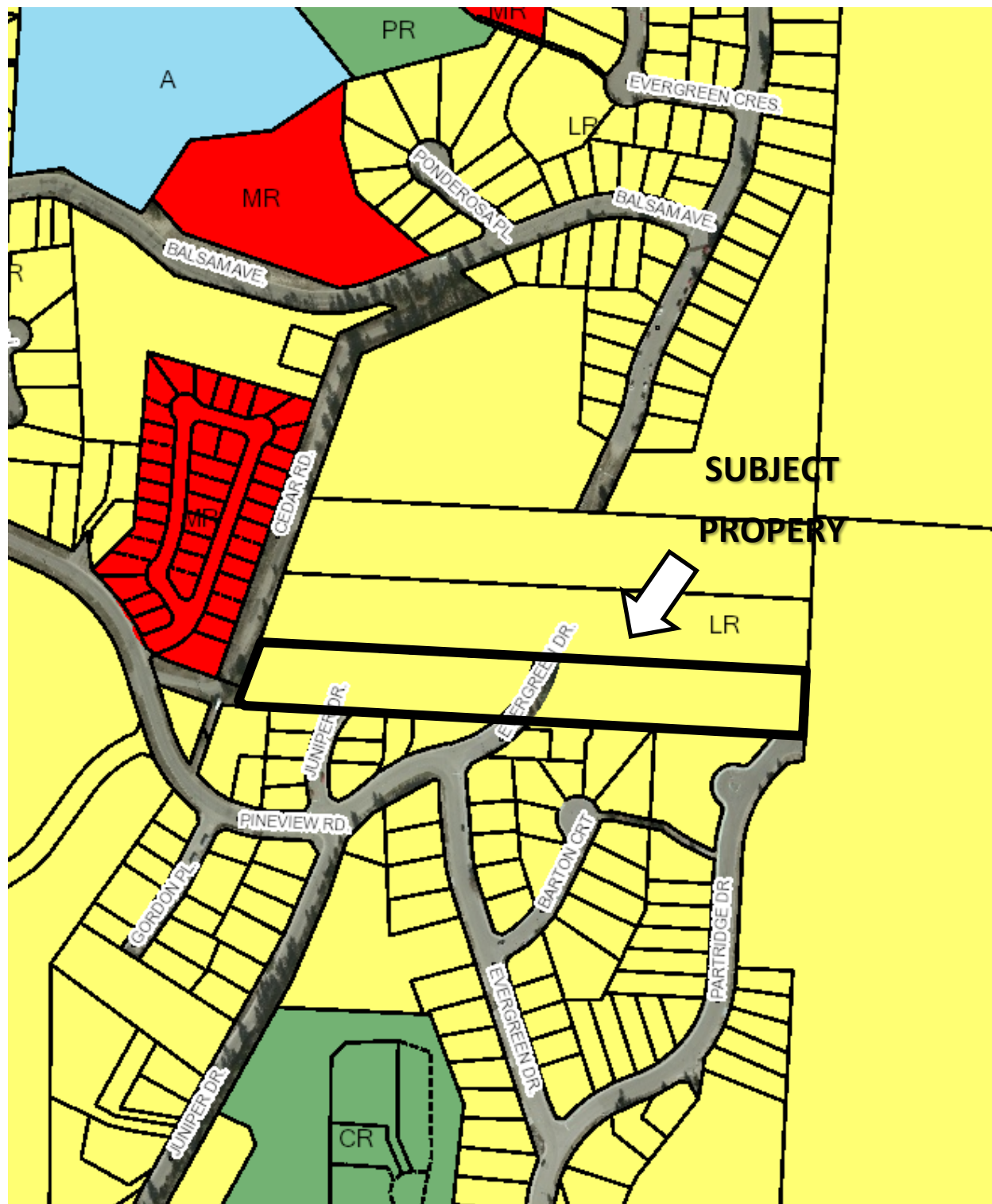
## Approvals

| Director | City Manager |
|----------|--------------|
| JGH      | ES           |

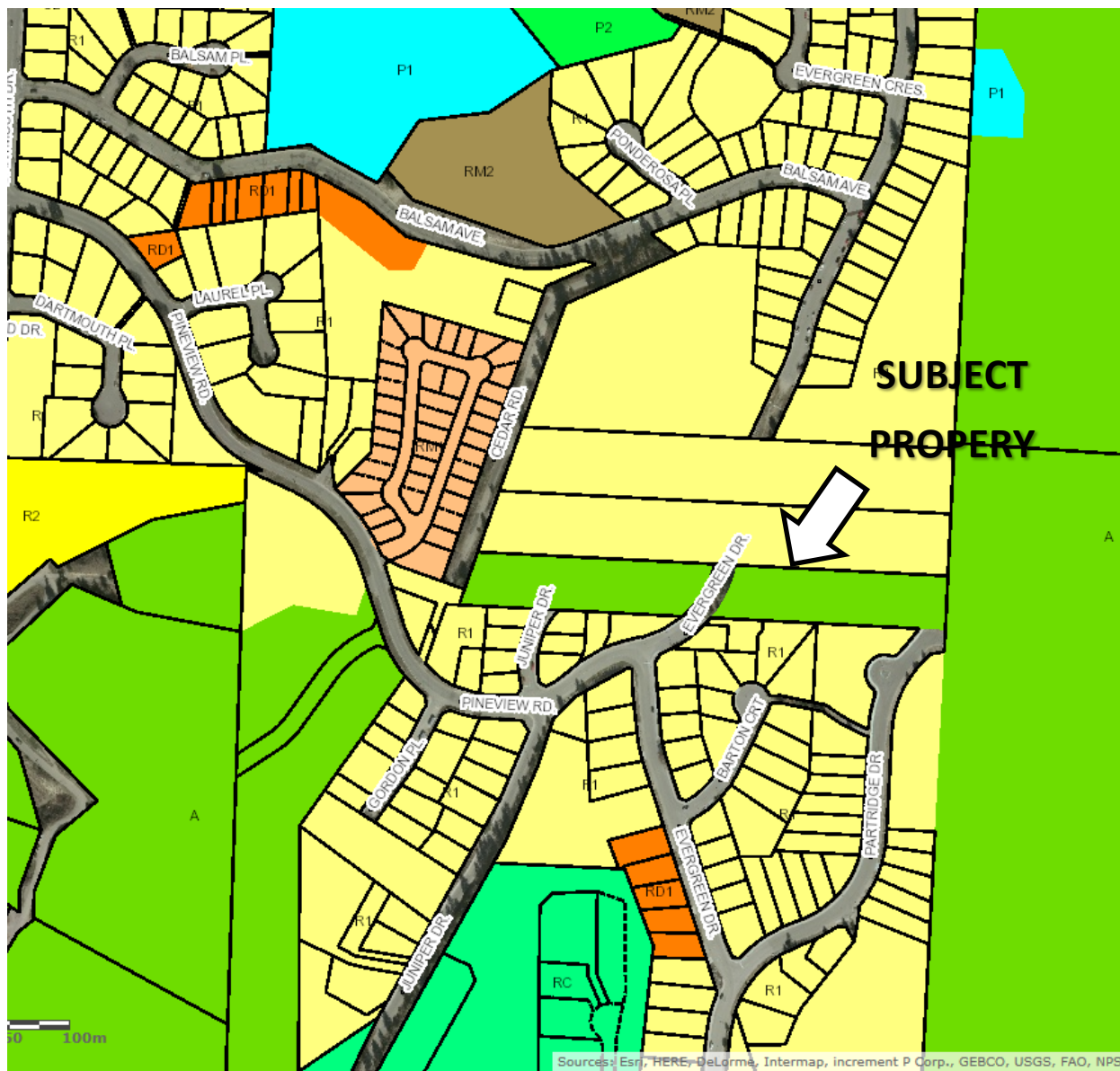
Attachment A  
Subject Property Location Map



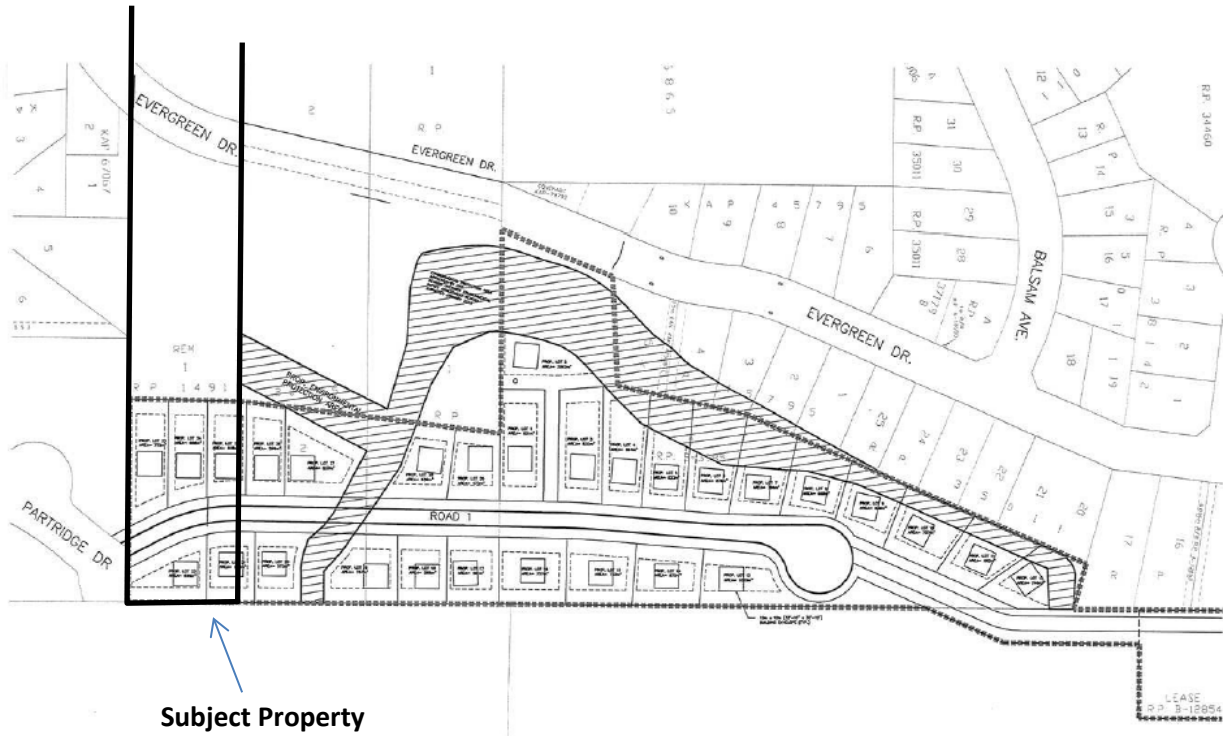
Attachment B  
OCP – Future Land Use Map



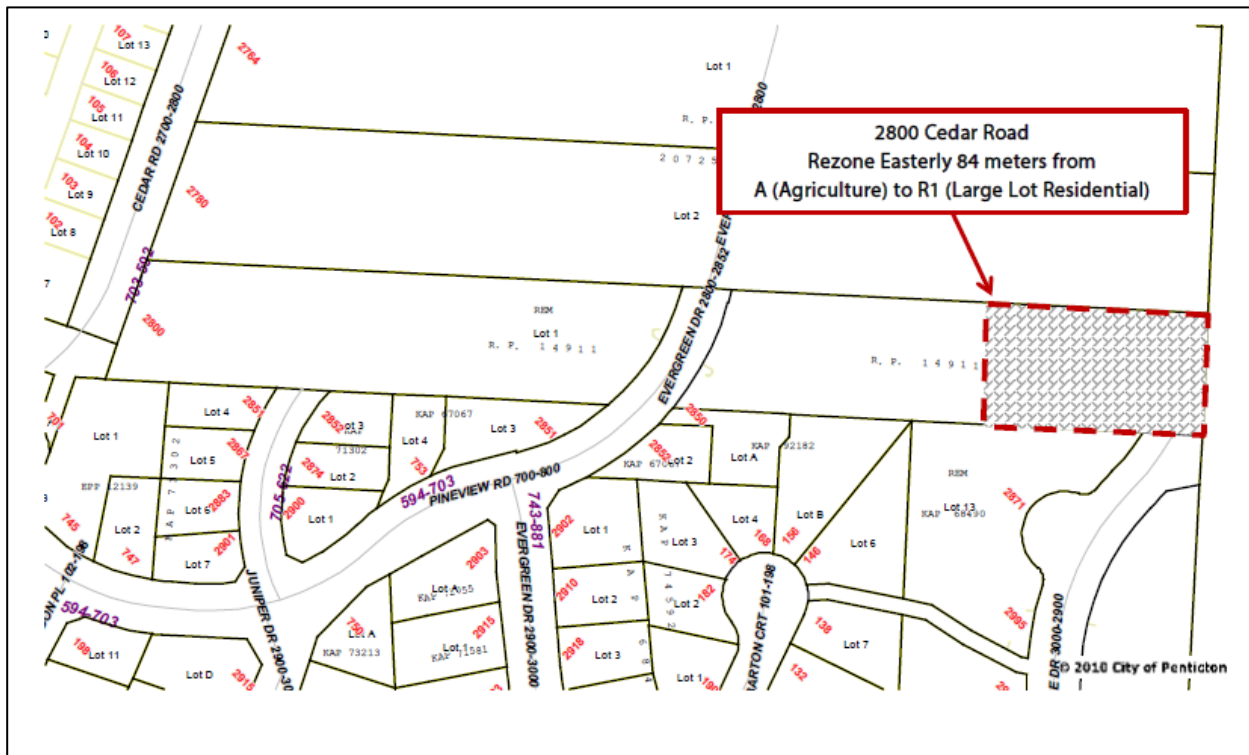
Attachment C  
Zoning Map



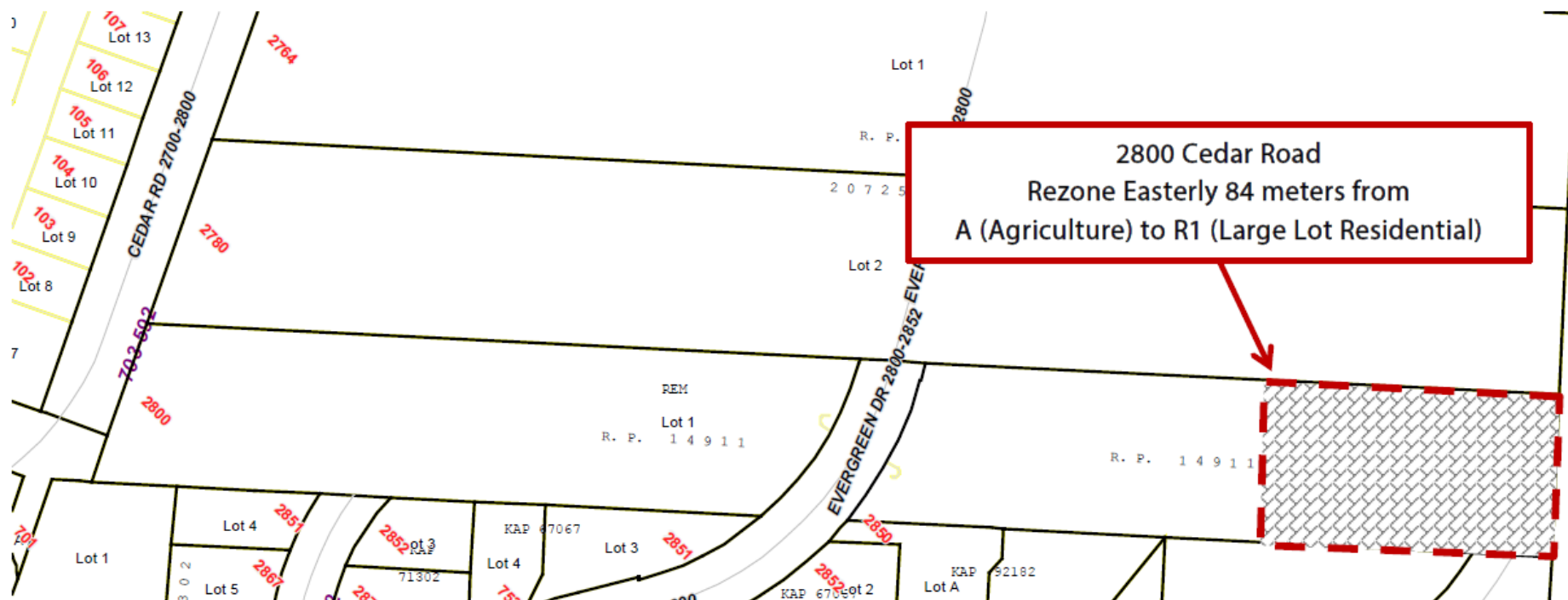
Attachment D  
Proposed Subdivision Plan



Attachment E  
Area of Zoning Amendment



## *A Bylaw to Amend Zoning Bylaw 2011-23*



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2015-51

Date: \_\_\_\_\_

Corporate Officer: \_\_\_\_\_

# Council Report

penticton.ca

**Date:** October 19, 2015 **File No:**  
**To:** Eric Sorensen, City Manager  
**From:** Colleen Pennington, Economic Development Officer  
**Subject:** **Major Development Projects Economic Investment Zone Bylaw No. 2015-52**

## Staff Recommendation

THAT in accordance with Section 226 (6)(b) of the *Community Charter*, Council considers the "Major Development Projects Economic Investment Zone Bylaw No. 2015-52" in conjunction with the cities objectives and policies;

AND THAT Council give first, second and third reading to the "Major Development Projects Economic Investment Zone Bylaw No. 2015-52";

AND FURTHER THAT in accordance with section 226 (6)(a) of the *Community Charter*, public notification be carried out prior to adoption of the "Major Development Projects Economic Investment Zone Bylaw No. 2015-52".

## Strategic priority objective

Economic Investment Zone Bylaws support the retention of jobs and ongoing investment in Penticton.

## Background

The City of Penticton Economic Investment Zone bylaws began in early 2010 and revisions to the bylaws have taken place over time. The intent of the bylaws is to create development activity within strategic sectors of the City, during times when the economic climate may not be desirable to invest in properties and also to promote increased economic activity within the community. The previous bylaws have had time restrictions, thresholds, eligible project restrictions as well as geographic limitations.

The two existing bylaws 2014 -04 Economic Investment Zone Downtown and 2014-44 Economic Investment Zone –Industrial provide incentives for development within certain geographic zones.

To support economic development within the City and the retention of key revenues and employment, an economic incentive for major projects is proposed with a \$17 Million threshold based on the value of the building permit.

The incentive will accomplish 2 goals. First, it will create financial incentives for development in the City of Penticton. Second, it will create opportunities to target major developments to stimulate short term construction employment, long term employment and revitalization.

The incentive is further limited to 2 developments within approximately 2 years beginning on December 1, 2015 and extending to December 31, 2018. The incentive applies only to developments on private sector and City owned properties. This will create a reasonable limitation on the financial impact to the City's short term tax revenues.

### **Financial implication**

Short-term loss of tax revenue, however long-term financial returns from taxes on new developments will occur. Local jobs created will have numerous spinoff benefits for our community and contribute towards the long term sustainability of our community.

### **Analysis**

The proposed incentives endeavor to continue supporting investment in the City. The proposed incentives now have the ability to help support job creation and tie directly to new investment that rewards long term sustained job creation. The requirements of the bylaw also encourage development on vacant land to occur within a shorter period of time and enhance the Economic Development Officer's ability to attract or retain business in the area.

Staff are recommending that Council support the bylaw as proposed.

### **Alternate recommendations**

Should Council wish to make any changes to the bylaw, staff should be directed appropriately.

Should Council not wish to support the proposed incentive bylaw, then Council should deny first reading.

### **Attachments**

Attachment A – Major Development Projects Economic Investment Zone Bylaw No. 2015-52

Respectfully submitted,

Colleen Pennington  
Economic Development Officer

Jules Hall  
Director of Development Services

Approvals

|     |              |
|-----|--------------|
| CFO | City Manager |
| CF  | <i>ES</i>    |

**Bylaw No. 2015-52**

*A bylaw to create a revitalization tax exemption for eligible major development projects.*

---

WHEREAS UNDER Section 226 of the *Community Charter*, a Council may, by bylaw, establish a Revitalization Tax Exemption Program to encourage revitalization within the community;

AND WHEREAS The Council has considered this bylaw in conjunction with the objectives and policies set out under section 165(3.1)(c) of the *Community Charter* ;

AND WHEREAS the Council has given notice of the adoption of this bylaw under section 227(3) of the *Community Charter*;

NOW THEREFORE the Council of The Corporation of the City of Penticton in open meeting assembled enacts as follows:

**CITATION**

1. This Bylaw may be cited as "Major Development Projects Economic Investment Zone Bylaw No. 2015-52".

**ADMINISTRATION**

2. The Director of Development Services is authorized to administer this bylaw.

**DEFINITIONS**

3. In this bylaw:

"Building Permit" means permission or authorization in writing from the Chief Building Official to perform building work regulated by the Building Bylaw.

"Chief Building Official" includes the person appointed to that position and a person authorized by the Chief Building Official to perform duties under this bylaw.

"City" means the Corporation of the City of Penticton.

"Council" means the Council of the City.

"Current Year Tax Rate" means the municipal tax rate as set by Bylaw and adopted by Council.

"Director of Development Services" includes the person appointed to that position and a person authorized by the Director of Development Services to perform duties under this bylaw.

"Exemption Certificate" means a Revitalization Tax Exemption Certificate issued by the City under this bylaw in respect of an eligible property.

"Occupancy Permit" is defined under Zoning Bylaw 2011-23.

“Owner” means, in respect of real property:

- a) the registered owner of an estate in fee simple,
- b) the tenant for life under a registered life estate,
- c) the registered holder of the last agreement for sale, or
- d) the holder or occupier of land held in the manner referred to in section 228 [taxation of crown land used by others] or section 229 [taxation of municipal land used by others], of the *Community Charter*

#### OBJECTIVES AND RATIONALE

4. Council hereby establishes a Revitalization Tax Exemption Program, pursuant to section 226 of the *Community Charter*, to:
  - a) stimulate and encourage the construction of new buildings and major renovations of existing buildings and other projects that stimulate the economic wellbeing of Penticton;
  - b) encourage revitalization of underutilized areas of Penticton;
  - c) to serve the long term goal of strengthening Penticton’s local economy;
5. The Revitalization Tax Exemption Program is intended to accomplish the Council’s objectives by providing tax relief for eligible construction of major private sector projects.

#### ELIGIBLE DEVELOPMENTS

6. Developments shall be eligible for incentives under this bylaw if they are:
  - a) issued after December 31, 2015; and
  - b) have been issued an Occupancy Permit no later than December 31, 2018.
7. Developments which have a Building Permit value of \$17 Million or more shall be eligible for property and tax improvements incentives of 10 years on the land and 10 years on the improvements unless terminated by cancellation of the Revitalization Tax Exemption Certificate.
8. A maximum of 2 developments shall be eligible for incentives under this bylaw on a first come first served basis.
9. The Revitalization program is established for eligible privately owned or City owned properties within the City of Penticton.

#### INELIGIBLE DEVELOPMENTS

10. Notwithstanding anything in this Bylaw, the following types of development are ineligible for incentives under this bylaw:
  - Automobile Sales;
  - Single Family dwellings or duplexes;
  - Any use listed on Schedule 2 of the Contaminated Sites Regulations;
  - Lands owned by the Province of BC, Government of Canada or their agencies shall not be eligible for incentives under this bylaw.

## EXTENT OF TAX EXEMPTIONS

11. Notwithstanding anything in this bylaw, a development for which construction has started prior to the adoption date of the bylaw but no Occupancy Permit has been issued, shall not be eligible for incentives under this bylaw, regardless of whether or not the improvements meet the eligibility criteria for incentives under this bylaw.
12. Where a property is eligible to receive incentives under more than one Economic Incentive Zone Bylaw (for instance, 2014-04, 2014-44) or this bylaw, the property shall be eligible for only one kind of incentive for revitalization within the City of Penticton under one bylaw.

## CALCULATION OF TAX EXEMPTIONS

13. The tax exemption on land for any given year shall be calculated as follows:

$$\text{Tax Exemption} = (\text{Land Value} \times \text{Current Year Tax Rate})$$

14. The tax exemption for any given year shall be calculated as follows:

$$\text{Tax Exemption} = (\text{Construction Value} \times \text{Current Year Tax Rate})$$

## REQUIREMENTS FOR ISSUANCE OF EXEMPTION CERTIFICATES

15. Before an Exemption Certificate will be issued under this Bylaw for a particular property, the following requirements must be met:
  - a) an Occupancy Permit for the development which is eligible for incentives under this bylaw must have been issued;
  - b) all property taxes, including penalties and interest due and owing in respect for the property must be fully paid;
  - c) the property owner must have entered into a Revitalization Tax Exemption Agreement with the City; and
  - d) The development must, notwithstanding anything in this bylaw, be substantially completed in accordance with any permits issued under part 26 of the *Local Government Act*.
16. The Exemption Certificate may be cancelled and all the taxes which were exempted in respect of that property shall be repaid, plus interest, as if the taxes had never been exempted, and the collector shall add those taxes to the roll for that property if:
  - a) a property ceases to meet all the conditions of the Exemption Certificate; or
  - b) the primary business operating within the premises ceases to operate within normal business hours of that industry for more than 30 days;
  - c) the property owner or tenant is in breach of any enactments, laws, statutes regulations or order by any authority having jurisdiction;
  - d) the property owner or tenant is in breach of any federal, provincial, municipal bylaw, laws, permits or approvals;
  - e) the property owner is in breach or arrears with respect to a lease or licence to use payment to the City of Penticton.

## SEVERABILITY

- 79 -

If any section, subsection, clause or phrase of this bylaw is held to be invalid for any reason by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the bylaw.

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*.

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Andrew Jakubeit, Mayor

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Dana Schmidt, Corporate Officer

# Council Report

penticton.ca

**Date:** October 19, 2015  
**To:** Eric Sorensen, City Manager  
**From:** Blake Laven, Planning Manager

File No: RMS 3360

**Subject:** "Zoning Amendment Bylaw No. 2015-53"

---

## Staff Recommendation

THAT "Zoning Amendment Bylaw 2015-53", be given first reading and be forwarded to the November 2, 2015 Public Hearing.

## Background

The Penticton Lakeside Resort, located at 21 Lakeshore Drive W, has recently indicated that it will not be renewing its lease with Gateway Casinos, effective May 2017 (reported in the Penticton Herald on-line on October 10, 2015). The casino is a large employer and significant revenue generator for the City of Penticton – as well as a popular entertainment venue for locals and tourists alike. For these reasons keeping the casino in Penticton is seen as a strategic priority.

It has become apparent that the zoning bylaw is unclear on what zones would accommodate a casino. Staff are proposing the subject amendment to bring clarity to this issue.

Approvals for the casino in its current location were done under a different zoning bylaw than the one the City currently operates under. Under the current bylaw 'casino is not listed in any specific zones. The bylaw does however, have the use 'indoor amusement, entertainment and recreation' listed in several zones.

The definition of 'indoor amusement, entertainment and recreation' lists, but does not limit uses, to such operations as pool halls, bowling alleys, bingo halls, motion picture theaters and music and concert halls. From a land use perspective a 'casino' is seen as a similar use to these operations. The proposed change would include casino in that list.

The use 'indoor amusement, entertainment and recreation' is permitted in several commercial and tourist commercial zones, including the following:

C4 (General Commercial), C5 (Urban Centre Commercial), C6 (Mixed Use Commercial), C7 (Service Commercial), CT1 (Tourist Commercial), CT2 (Campground Commercial), CT3 (Hotel Resort) and P1 (Public Assembly).

Adding casino into the list of typical uses in the 'indoor amusement, entertainment and recreation' definition will remove any uncertainty surrounding the operation of a casino in a zone that permits the use.

## Proposal

That the following change be made to Zoning Bylaw 2011-23:

Amend definition of 'indoor amusement, entertainment and recreation'

From:

**INDOOR AMUSEMENT, ENTERTAINMENT AND RECREATION** means facilities within an enclosed **building** intended for leisure activities where patrons are predominantly participants or spectators. Typical **uses** include but are not limited to amusement arcades, bingo halls, health and fitness centres, athletic facilities and ice rinks, billiard and pool halls, swimming pools, bowling alleys, motion picture theatres, and concert or music halls. Such **permitted uses** may be licensed by the *British Columbia Liquor Control and Licensing Branch* to sell alcoholic beverages as an **accessory use**.

To:

**INDOOR AMUSEMENT, ENTERTAINMENT AND RECREATION** means facilities within an enclosed **building** intended for leisure activities where patrons are predominantly participants or spectators. Typical **uses** include but are not limited to amusement arcades, bingo halls, health and fitness centres, athletic facilities and ice rinks, billiard and pool halls, swimming pools, bowling alleys, motion picture theatres, concert or music halls and casinos. Such **permitted uses** may be licensed by the *British Columbia Liquor Control and Licensing Branch* to sell alcoholic beverages as an **accessory use**.

Including casino within the above definition renders the defined 'casino' use redundant in the Zoning Bylaw. The subject amendment bylaw will remove the specifically defined use.

In addition, table 7.5 – parking requirements includes 'casino' as a specific use generating parking requirements. Indoor amusement, entertainment and recreation has its own parking requirement in that table. It is, therefore, unnecessary to separate casino from the general parking requirement for indoor amusement, entertainment and recreation. The amendment Bylaw will remove reference to 'casino' from table 7.5.

## Financial implication

Lake City Casino contributes significantly to the City of Penticton general revenue accounts each year and the loss of the revenue from the casino would require an increase in revenue in other areas of operations or a reduction in City services.

## Analysis

### Support

Lake City Casino is a popular entertainment destination for tourists and locals alike and is a significant contributor to the local economy. The use is similar to other uses in the 'indoor amusement, entertainment and recreation' definition. The proposed amendment is meant for clarification.

The change in definition will not affect the current operation of the casino at the Lakeside Resort as 'indoor amusement, entertainment and recreation' is a permitted use in the CT1 zone to which 21 Lakeshore Drive is zoned. Further, the bylaw has a site specific provision dealing specifically with regulations around a casino on that property, to limit the number of slot machines and gaming tables (section 11.10.4.6). This limitation on 21 Lakeshore Drive West will remain. The zoning bylaw also has provisions for parking for the casino use. Given that the proposed amendment properly includes casinos into the 'indoor amusement, entertainment and recreation' use, which is separately included in the parking requirement table, the specific reference to parking calculations for casinos is not necessary.

Provincial legislation covers casinos under the Gaming Control Act. As with other municipalities in the Province, Penticton would be required to abide by the rules laid down in that legislation in terms of location. Adding the use of casino within the definition of 'indoor amusement, entertainment and recreation', does not mean that all of the above noted commercial and tourist commercial zones would automatically have the opportunity to provide casinos. Any application would have to go through a rigorous proper consultation process.

The subject amendment will allow for a casino to be located on any property that permits 'indoor amusement, entertainment and recreation' without the requirement to go through a further zoning amendment as long as all provincial and local requirements are met. This will assist in keeping the casino in Penticton.

For the reasons listed above, staff recommend that Council give first reading the bylaw and forward it to the November 2, 2015 Public Hearing for comment from the public.

#### Deny and/or refer

Council may consider that 'casino' should be a stand-alone use within the zoning bylaw. If that is the case, Council should deny first reading of the bylaw and support an amendment that specifically excludes 'casino' from the definition of 'indoor amusement, entertainment and recreation.' Alternatively, Council may wish to refer the matter back to staff for further work as Council directs.

#### **Alternate recommendations**

THAT Council deny first reading of "Zoning Amendment Bylaw 2015-53" as drafted and direct staff to redraft the bylaw specifically excluding the use 'casino' from the definition of 'indoor amusement, entertainment and recreation.'

THAT Council refer the matter back to staff.

#### **Attachments**

Attachment A – Zoning Amendment Bylaw No. 2015-53

Respectfully submitted,

Blake Laven, RPP, MCIP  
Planning Manager

Approvals

|          |              |
|----------|--------------|
| Director | City Manager |
| JH       | <i>ES</i>    |

*A Bylaw to Amend Zoning Bylaw 2011-23*

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

1. **Title:**

2. **Amendment:**

2.1 Remove the following definition from Section 4.2 DEFINITIONS:

2.2 Amend the following definition from Section 4.2 DEFINITIONS to read:

ADOPTED this                      day of                      , 2015

Dana Schmidt, Corporate Officer

# Council Report

penticton.ca

**Date:** October 19, 2015  
**To:** Eric Sorensen, City Manager  
**From:** Blake Laven, Planning Manager

File No: RZ PL2015-084

**Subject:** "Zoning Amendment Bylaw 2015-54"

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## Staff Recommendation

THAT "Zoning Amendment Bylaw 2011-54" be closed and abandoned;

AND THAT "Zoning Amendment Bylaw 2015-54", a bylaw that rezones the following properties from R2 (Small Lot Residential) to C4 (General Commercial):

- 903 Eckhardt Avenue: Lot 1, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244
- 911 Eckhardt Avenue: Lot 2, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244
- 921 Eckhardt Avenue: Lot 2, District Lot 366, Similkameen Division Yale District, Plan 8717, Except Plan KAP87244
- 935 Eckhardt Avenue: Lot 1, District Lot 366, Similkameen Division Yale District, Plan 7817, Except Plan KAP87244
- 941 Eckhardt Avenue: Lot 5, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244
- 947 Eckhardt Avenue: Lot 6, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244
- 955 Eckhardt Avenue: Lot 7, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244
- 963 Eckhardt Avenue: Lot 8, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244
- 969 Eckhardt Avenue: Lot 9, District Lot 366 Similkameen Division Yale District Plan 3536, Except Plan 42663 and KAP87244

be given first reading and be forwarded to the November 2, 2015 Public Hearing;

AND THAT prior to adoption the properties are consolidated into one or more titles with land areas over 1,000m<sup>2</sup> per lot.

## **Background**

Zoning Amendment Bylaw 2011-54 has been at third reading since 2011. The Council Procedure Bylaw deems a bylaw closed after two years if not adopted. A resolution to close and abandon is required.

The subject properties (Attachment 'A') were purchased by the City in 2007 as part of the South Okanagan Event Center (SOEC) project. The properties all featured single detached dwellings, which were removed shortly after purchase. The lands were then used as a staging ground for the construction of the SOEC as well as for the widening of Highway 97, which was required by the Ministry of Transportation and Highways.

After completion of construction and until 2011, the lands were used un-officially as overflow parking for events at the SOEC. In 2011, the City was approached by a private developer with the intent to construct dorms for the Okanagan Hockey School on the property. That project, while seeing investment in the land in the form of land stabilization, did not proceed. Some foundation work was also put in and removed at the halt of construction. The properties were levelled and treated with a 'crush' top coating. The lands have since reverted to their unofficial parking use for larger SOEC events. The parking use, however, does not conform to the current zoning of the properties (Schedule 'D'), which is still zoned R2 (Small Lot Residential).

The intent of the City is to formalize the lands into a proper parking lot including paving, landscaping, lighting, curbing, storm water management and signage. Preliminary plans have been created for a parking lot featuring 141 spaces (Attachment 'E'). Prior to that work preceding the zoning must be amended to a zone that allows for parking.

The Official Community Plan designation (Attachment 'C') for the property is GC (General Commercial). The General Commercial OCP designation provides for a wide range of retail, financial, office, food and beverage and other commercial uses. Given this designation, staff are recommending that the lands be rezoned from their current residential zone to C4 (General Commercial). Public parking lot is a permitted use in the C4 zone and as the C4 zone allows for a range of other commercial uses, the change in zone would allow for the redevelopment of the lands at a later date.

## **Proposal**

That the zoning map, attached as Schedule A to Zoning Bylaw 2011-23, be amended to change the zoning for the subject properties from R2 (Small Lot Residential) to C4 (General Commercial).

As the properties on their own are not the required minimum size for a C4 zoned property, staff are also recommending that it be a requirement of bylaw adoption to consolidate the lands prior to adoption of the zoning amendment.

## **Financial implication**

As these are City owned properties and this is a City initiated project, all costs related to the development of the parking lot will be borne by the City. The cost for a zoning amendment is approximately \$2,000.00 and the costs for consolidation are estimated at \$1,500.00.

## **Analysis**

### Support

The City of Penticton intends to develop a parking lot on the subject properties in support of the South Okanagan Event Centre and associated uses at 325 Power Street. In addition, there is a disconnect between the provisions of the OCP and the current land use provided by the zoning bylaw. The development of the parking lot will formalize a use that has historically occurred on the site without proper zoning in place and clean up and beautify a high-profile property along a major arterial road way.

The zoning change to the C4 zone is in line with the OCP designation for the property. Aside from the parking lot use, having the C4 zoning on the property will allow for a variety of commercial uses. The change in zone brings some certainty to potential future development and more flexibility for the City in the administration of the lands. If commercial development were to follow in time, uses of the site under the C4 zoning would be compatible with surrounding land uses.

The subject proposal meets the following policies of the Official Community Plan:

- Providing sufficient land designated for future commercial uses.
- Ensure that commercially designated properties present an attractive visual impression.
- Ensure that properties have good traffic circulation patterns and safe exits and entrances.

For the reasons listed above, staff recommend that Council support the proposed zoning amendment and forward the Bylaw to the November 2, 2015 Public Hearing for comment from the public.

### Deny and/or refer

Council may feel that the lands in question should not be consolidated. If this is the case, Council could approve the application without the requirement for consolidation. Alternatively, Council may wish to deny first reading of the bylaw.

### **Alternate recommendations**

THAT "Zoning Amendment Bylaw 2015-54" be denied first reading.

THAT "Zoning Amendment Bylaw 2015-54" is given first reading and supported without the condition for consolidation.

## **Attachments**

Attachment A – Subject property location map

Attachment B – Images of subject property

Attachment C – OCP land use map

Attachment D – Zoning map

Attachment E – Proposed parking plan

Respectfully submitted,

Blake Laven, RPP, MCIP  
Planning Manager

Approvals

|          |              |
|----------|--------------|
| Director | City Manager |
| JH       | <i>ES</i>    |

Attachment A  
Subject Property Location Map





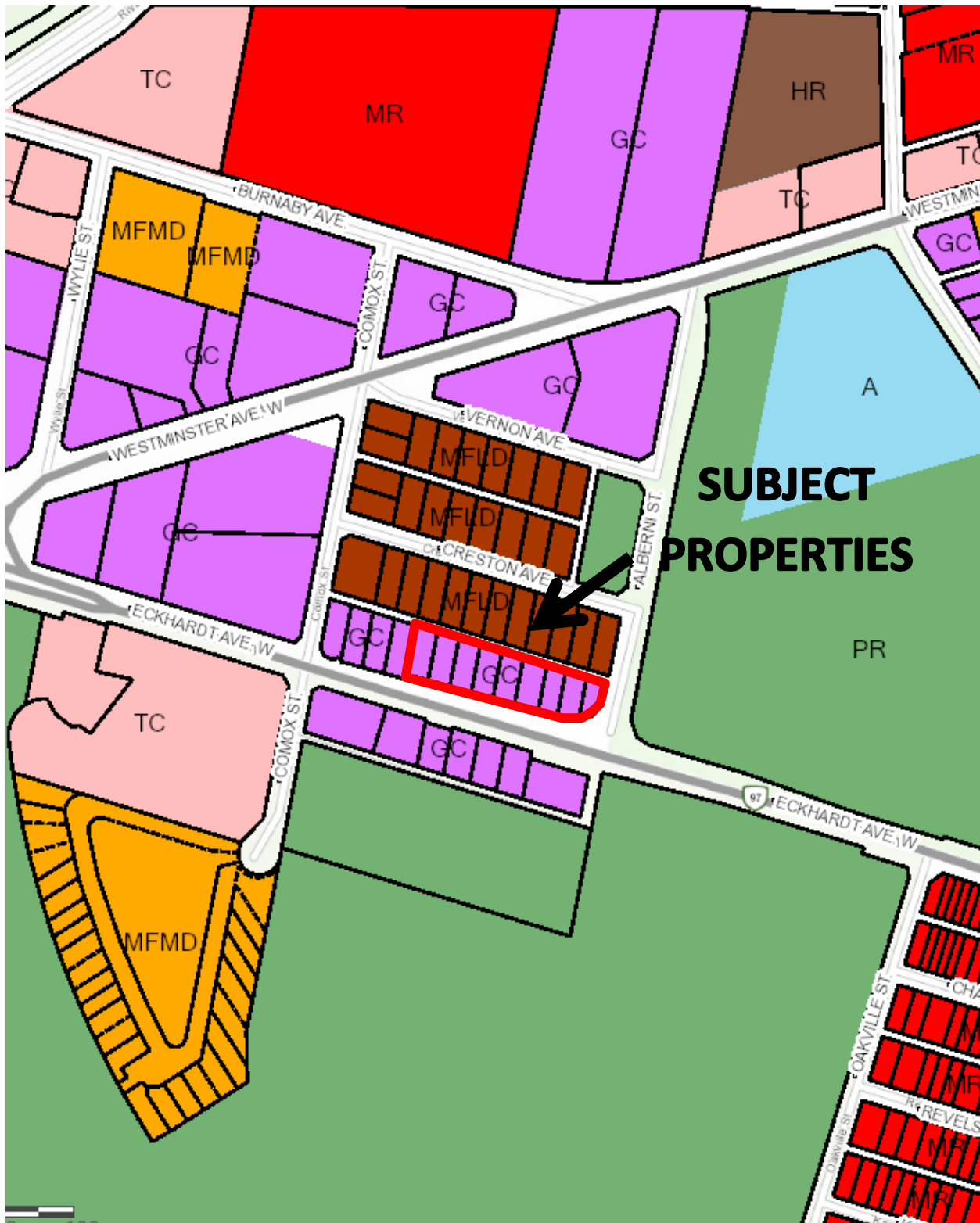


Figure 2: Image of subject lands from the corner of Eckhardt Avenue and Alberni Street looking west

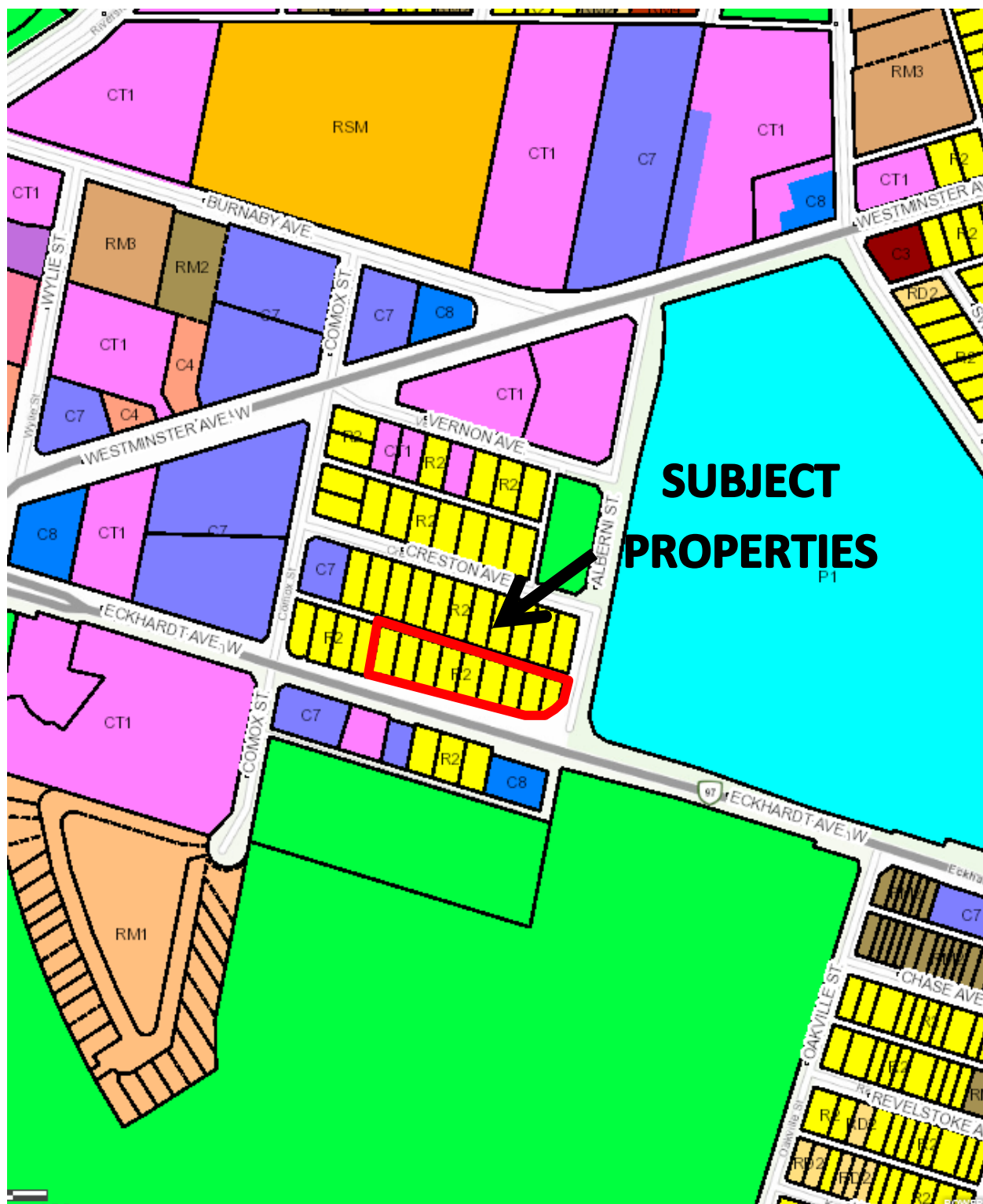


Figure 3: Image of subject lands from Eckhardt Avenue looking north east

Attachment C  
Official Community Plan (OCP) – Future Land Use Map



Attachment D  
Zoning Map



Attachment E  
Proposed Parking Plan (141 Spaces)



**Bylaw No. 2015-54**

*A Bylaw to Amend Zoning Bylaw 2011-23*

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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. 2015-54”.

2. **Amendment:**

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

Rezone the following properties from R2 (Small Lot Residential) to C4 (General Commercial):

- 903 Eckhardt Avenue: Lot 1, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244
- 911 Eckhardt Avenue: Lot 2, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244
- 921 Eckhardt Avenue: Lot 2, District Lot 366, Similkameen Division Yale District, Plan 8717, Except Plan KAP87244
- 935 Eckhardt Avenue: Lot 1, District Lot 366, Similkameen Division Yale District, Plan 7817, Except Plan KAP87244
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- 963 Eckhardt Avenue: Lot 8, District Lot 366, Similkameen Division Yale District, Plan 3536, Except Plan KAP87244
- 969 Eckhardt Avenue: Lot 9, District Lot 366 Similkameen Division Yale District Plan 3536, Except Plan 42663 and KAP87244

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 |
| RECEIVED the approval of the<br>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 \_\_\_ day of \_\_\_, 2015 and the \_\_\_ day of \_\_\_, 2015 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

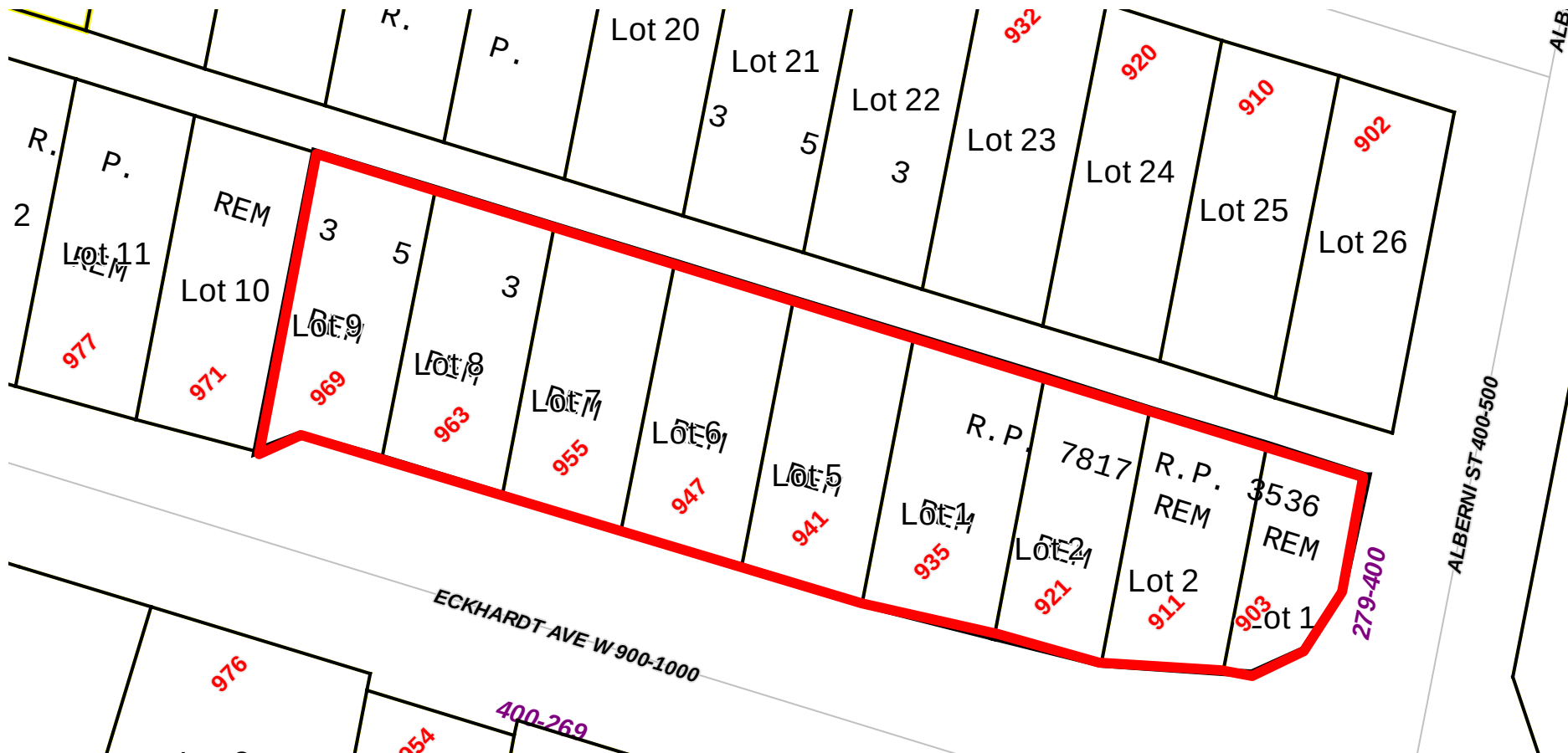
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Andrew Jakubeit, Mayor

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Dana Schmidt, Corporate Officer

Rezone 903, 911, 921, 935, 941, 947, 955, 963 & 969 Eckhardt Ave. W.  
From R2 (Small Lot Residential) To C4 (General Commercial)



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2015-54

Date: \_\_\_\_\_

Corporate Officer: \_\_\_\_\_

# Minutes



## Development Services Advisory Committee Meeting

held at City of Penticton Committee Room A  
171 Main Street, Penticton, B.C.

Thursday, October 1, 2015  
at 8:00 a.m.

**Present:** Campbell Watt, Councillor  
Frank Conci, Chair & PIDA Representative  
Darshan Jassar, Development Community Representative  
Jeffrey McGinley, Development Community Representative  
Christopher Marte  
Peggy Gilmore, Member at Large  
Bruce Schoenne, Member at Large

**Staff:** Eric Sorensen, CAO  
Blake Laven, Planning Manager  
Ken Kunka, Building & Permitting Manager  
Lorraine Williston, Committee Secretary

### 1. Call to Order

The Development Services Advisory Committee was called to order by the Chair at 8:03 a.m.

### 2. Adoption of Agenda

#### It was **MOVED** and **SECONDED**

THAT the Development Services Advisory Committee adopt the agenda for the meeting held on October 1, 2015 as amended. Refer to items 4.2 and 4.3.

**CARRIED UNANIMOUSLY**

### 3. Adoption of Minutes

#### It was **MOVED** and **SECONDED**

THAT the Development Services Advisory Committee adopt the minutes of the June 4, 2015 meeting as circulated.

**CARRIED UNANIMOUSLY**

### 4. Business Arising from Prior Meetings

#### 4.1 Building and Licensing Forms Update

The Building and Permitting Manager reported on the new software programs that will be implemented on the City's website for both the Bylaw Department and Building and Licensing. Bylaw will be launching an 'Enquiries and Complaint' webpage on October 4<sup>th</sup> that

will assist with the department's efficiency in response times and tracking. The Licensing Department will be launching their site on October 16<sup>th</sup>. The program will allow users to apply for or amend business licenses and by next year allow for online payments. The Building Department will be launching their new site on October 26<sup>th</sup>. The program features live permitting and tracking of applications. Next year, e-applications and onsite module paperless inspections will be added. A visual overview of the test website was presented.

#### 4.2 Board of Variance

Tabled to next meeting.

#### 4.3 Review of Cannery Brewery Development Experience

Tabled to next meeting.

### 5. **New Business**

#### 5.1 Planning Department – Statistics for July & August 2015

The Planning Manager reported the statistics for July and August are in line with last year. Numbers remain strong. For September, the department has received a lot of applications including a \$3 million upgrade to Cherry Lane Mall, the first tower to be built on the Yorkton property next March, a few commercial projects and a lot of infill projects. Revenues are above the projected budget for fees.

#### 5.2 2016 Strategic Priorities Overview

The Building and Permitting Manager reported staff are making a lot of progress with the online forms and cleaning up the policies and procedures to improve consistency in staffing levels. Staff are also working on developing a three to four year strategic plan for the City.

### 6. **Council Outcome**

Council Resolution 374/2015 from the minutes dated June 4, 2015 was received.

### 7. **Next Meeting**

The next regularly scheduled meeting of the Development Services Advisory Committee is Thursday, November 5, 2015 at 8:00 a.m.

### 8. **Adjournment**

The Development Services Advisory Committee adjourned the meeting at 8:26 a.m.