

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

Monday, March 21, 2016
at 6:00 p.m.

- | | | |
|-------|---|------|
| Mayor | Calls Public Hearing to Order for "Zoning Amendment Bylaw No. 2016-09" | 1-25 |
| CO | Reads Opening Statement and Introduction of Bylaw | |
| | 1. "Zoning Amendment Bylaw No. 2016-09" (BC Wine Sales in Grocery Stores) | |
| | Purpose: To amend Zoning Amendment Bylaw No. 2011-23 as follows: | |
| | Section 4.2 Definitions: 1) Amend the definition of Retail Store to remove the reference of grocery store and 2) Add the definition Grocery Store which includes the sale of 100% BC wine on an on-the-shelf model and liquor in a store-within-a store model. 3) Add the permitted use 'grocery store' to the following zones: C3 – Commercial Residential Mixed Use; C4 – General Commercial; C5 – Urban Centre Commercial; C6 – Mixed Use Commercial; and C7 – Service Commercial. | |
| | Notice: The Public Hearing was advertised in the Penticton Western News on Friday, March 11, 2016 and Wednesday, March 16, 2016 (pursuant to the <i>Local Government Act</i>). | |
| CO | Correspondence received regarding the Zoning Amendment attached (as of noon Wednesday, March 16, 2016) | |
| Mayor | Requests the Director of Development Services describe the proposed amendments | |
| Mayor | Invitation to applicant for comment or elaboration on the application | |
| Mayor | Invites those in attendance to present their views | |
| Mayor | Invites Council members to ask questions | |
| Mayor | Invites applicants to respond to questions and those in attendance may provide new additional information | |

PUBLIC HEARING for "Zoning Amendment Bylaw No. 2016-09" is terminated and no new information can be received on this matter.

2. Mayor Calls Public Hearing to Order for **“Zoning Amendment Bylaw No. 2016-13”** 26-42
- CO Reads Opening Statement and Introduction of Bylaw
- “Zoning Amendment Bylaw No. 2016-13” (812 Johnson Road)
- Purpose: To amend Zoning Bylaw No. 2011-23 as follows:
- Add section 11.2.3 Other Regulations:
- .3 In the case of Lot 1, District Lot 188, Similkameen Division Yale District, Plan 9969, located at 812 Johnson Road, the rental of up to nine (9) vehicles is permitted as an accessory use to a convenience store.
- Notice: The Public Hearing was advertised in the Penticton Western Newspaper on Friday, March 11, 2016 and Wednesday, March 16, 2016 (pursuant to the *Local Government Act*).
- CO Correspondence received regarding the Zoning Amendment is attached (as of noon Wednesday, March 16, 2016)
- Mayor Requests the Director of Development Services describe the proposed amendments
- Mayor Invitation to applicant for comment or elaboration on the application
- Mayor Invites those in attendance to present their views
- Mayor Invites Council members to ask questions
- Mayor Invites applicants to respond to questions and those in attendance may provide new additional information
- PUBLIC HEARING for “Zoning Amendment Bylaw No. 2016-13” is terminated and no new information can be received on this matter.

- 1 -

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

Monday, March 7, 2016
at 6:00 p.m.

Resolutions

- 9.4 Zoning Amendment Bylaw No. 2016-09 & Zoning Amendment Bylaw No. 2016-10
Re: Liquor Sales in Grocery Stores

108/2016

It was MOVED and SECONDED

THAT Council give first reading of Zoning Amendment Bylaw No. 2016-09, a bylaw that amends Zoning Bylaw 2011-23 as follows:

- Amends the definition of 'retail store' to remove reference to grocery store;
- Adds a definition for 'grocery store,' which includes the sale of 100% BC wine on an on-the-shelf model and liquor in a store-within-a store model;
- Adds the use 'grocery store' to the following zones: C3, C4, C5, C6 and C7;

AND THAT Zoning Amendment Bylaw 2016-09 is forwarded to the March 21, 2016, Public Hearing.

CARRIED

Councillors Sentes, Watt, Sayeed, Opposed

Council Report

penticton.ca

Date: March 7, 2016
To: Eric Sorensen, Chief Administrative Officer
From: Blake Laven, Planning Manager
Subject: **Zoning Amendment Bylaws No. 2016-09 and No. 2016-10**

File No: 4320-50

Staff Recommendation

THAT Council give first reading of Zoning Amendment Bylaw No. 2016-09, a bylaw that amends Zoning Bylaw 2011-23 as follows:

- Amends the definition of 'retail store' to remove reference to grocery store
- Adds a definition for 'grocery store,' which includes the sale of 100% BC wine on an on-the-shelf model and liquor in a store-within-a store model
- Adds the use 'grocery store' to the following zones: C3, C4, C5, C6 and C7

AND THAT Zoning Amendment Bylaw 2016-09 is forwarded to the March 21, 2016, Public Hearing.

THAT Council deny first reading of Zoning Amendment Bylaw 2016-10, a bylaw that adds regulations restricting liquor sales in grocery stores to be a minimum of 1 km from a retail store selling liquor or any other grocery store selling wine or liquor.

Background

At the regular meeting of Council on February 15, 2016, Council directed staff to bring forward two bylaw amendments for Council's consideration dealing with placing restrictions on the sale of liquor in grocery stores.

This direction came out of a series of events beginning with the issuance of policy directive 2015-01 from the BC Liquor Control and Licensing Branch (LCLB) of the Ministry of Justice that allowed for the (limited) sale of alcohol in grocery stores, specifically wine on shelves in grocery stores. Those events are summarized as follows:

- ☐ April 2015 - Policy directive issued from the LCLB
- ☐ May 2015 - Letter from BC Private Liquor Store Association requesting Council to use its land use powers to limit liquor sales in grocery stores beyond what the province was doing.

- ☐ September 2015 - Presentation to Council and submission of information by a local consortium representing private liquor store owners, a brewery and several local wineries also requesting that Council take action to limit the broader rules.
- ☐ January 2016 – Presentation to Council from Overwaitea Food Group on their intentions with regard to wine in grocery stores.
- ☐ February 15, 2016 - Presentation to Council from a group called the Responsible Liquor Alliance representing 19 local wineries (6 of which are within Penticton and several of which are BC VQA Members).
- ☐ February 15, 2015 – Council gives direction to staff to introduce amendments to the City's zoning bylaw to limit the sale of wine in grocery stores to 100% BC wine only and to institute a rule restricting the location or relocation of a liquor retail sales within 1km of another retail liquor outlet.

Since the February 15th direction to staff, further new information has come forward for Council's consideration. That information is summarized below:

1. Discussions with BC Liquor Control and Licensing Branch

After reading media reports on Council's decision to consider placing additional restrictions on liquor sales in grocery stores, staff received a call from the Liquor Control and Licensing Branch (LCLB). Staff from the LCLB provided provincial government perspective on the issue.

The following points were brought up by LCLB staff:

- The initial intent was to try to increase convenience of access to wine in BC, without increasing the number of retail outlets as well as to help promote BC wineries by giving them greater market access.
- The changes made were done in consultation with and with the full support of the BC Wine Institute (BCWI).
- Free trade agreements were considered. Under both NAFTA and CETA exemptions were put in place to recognize existing domestic industry protections. In 1987 when NAFTA was first negotiated, there were 80 liquor retail outlet licenses in BC that were only permitted to sell BC wines and beer. Thus those 80 are exempted from challenges from NAFTA signatories. Under CETA there are 60 licenses that are protected. The conclusion from the LCLB legal review was that: (a) a trade challenge would be very expensive, long and would have a low probability of success (b) BC is such a small market that a trade challenge is unlikely.
- The regulations put on wine-on-the-shelf include a requirement for a broad range of product ensuring that larger winery conglomerates won't dominate shelf space. There will also be a price minimum introduced.
- The 1 km rule was considered and dismissed for the 100% BC wine licenses for several reasons. For one, BC wine constitutes less than 9% of all BC liquor sales. To insist on the 1 km rule for wine, would mean that nobody could purchase any other alcohol within 1 km of a grocery store that had a wine licence. This was seen to be against the convenience factor that the changes were intended to make. For another reason, there are very few of these types of licenses in the province, so to subject them to a 1 km rule would place them in areas where little access would be possible. These licenses are often part of tourism related endeavors (as is the case with Penticton's only BCWI license) and

have worked in conjunction with other uses effectively in the past – including other liquor retail sales. Finally, these licenses were specifically created to increase the ability of BC wineries to get their products to market. Not having the 1 km rule gives the winery owned licenses a competitive advantage, giving a marketing channel to BC wines that other forms of alcohol do not have.

- The province recognizes that local governments have a right to control land use, but want local governments to understand that all of the permeations of this issue were considered when these new regulations were put in place – including protection of the local wine industry, public safety, the existing private / public nature of the liquor retail sales environment in BC, international trade agreements and, of course, the public's desire for greater convenience.

2. Policy Directive 2016-02

Policy Directive 16-02 was released on Thursday February 18, 2016 and introduces new regulations about the auction for several new wine store licenses and specifics about the licenses. The directive states that "the Special Wine Store Licence Auction Act (Bill 22) and regulations are now in effect". Highlights of the new regulations are as follows:

- Several auctions will be held over the ensuing years for 18 new 'special wine store licenses', with the first auction for 6 licenses to be held in April 2016 by Action BC.
- The 'special wine store licenses' must meet the same eligibility requirements of the previously announced wine in grocery store regulations, including size of store, range of products, limits on what percentage of total revenue wine sales can contribute and limiting sales to 100% BC made wine (which includes cider, mead and sake made with 100% BC products in its definition of wine).
- Additional regulations include a requirement to "*carry a selection of product from a significant number of BC wineries of all sizes.*" The directive goes on to explain: "While it is recognized that space limitations may restrict the volume of product available in a store, *the underlying rationale for the new special wine store licence model is to provide consumers with increased access to BC wines and particularly to wines not widely available through other sales channels.*"
- Special wine stores are also eligible to apply for off-site sales to place a temporary store at a food or beverage festival that is the subject of a special occasion license.

3. Correspondence from the BC Wine Institute

Following from media reports about Council's direction, the BC Wine Institute provided Council with a letter dated September 8, 2015 outlining a perspective that may not have been considered previously. Staff have summarized the letter below:

- The BC Wine Institute states that they are the legitimate voice of the BC wine industry.
- That if Council goes ahead with the 1km rule it would be undermining the work done by the province and the wine institute, and would go against the interests of City of Penticton residents and will ultimately hurt BC wineries.
- The letter outlines the original rationale for the issuance of the wine store licenses, which were issued to the wine institute as representatives of the farming industry as a vital field-to-table outlet, that was unique compared to other liquor licenses in the province.

- The Institute supports the move to utilize BC VQA licenses in grocery stores which, the Institute asserts, promotes agriculture and wine production in the province, while allowing for the purchase of low-risk alcohol products in grocery stores – which is clearly a demand from the public.
- The letter concludes by stating that the 1 km rule is arbitrary and works at cross purposes to the provincial government and is not in the public interest. The Institute is recommending that Council not take action on this matter.

Financial implication

Staff time to update bylaws.

Proposal

To amend “City of Penticton Zoning Bylaw 2011-23” as outlined in Attachment A.

Analysis

Zoning Amendment Bylaw 2016-09

Support

Zoning Amendment Bylaw 2016-09 will provide a separate land use category in Zoning Bylaw 2011-23 that differentiates grocery stores from other forms of retail stores. Within the definition for grocery stores, the sale of 100% BC wine is included as well as the store-within-a-store liquor store model. The bylaw is intended to ‘future proof’ the City of Penticton if a trade challenge were made that opened up the ‘special wine licenses’ and ‘wine-on-the-shelf’ licenses to international wines (or wines from other provinces). This would also, future proof the City of Penticton against further changes that province of BC could enact to expand the availability of liquor in grocery stores. Really what the bylaw change does is acknowledge and mirror the new regulations that the province has put in place.

If Council wishes to establish this additional layer of protection, beyond what the province has established, Council should give first reading of Zoning Amendment Bylaw 2016-10 and forward it to the March 21st, 2016 Public Hearing for comment from the public.

Deny / Delay

Staff have not requested a legal opinion on this issue, but it is likely that if a trade challenge were successful against the provincial liquor authority, our local bylaw would also be found to be in conflict with any federally negotiated agreements. As such, the bylaw change would be largely symbolic as it merely re-iterates what the province is already establishing through their liquor regulation powers. Because of this Council may not wish to go through the time and expense to update their bylaws.

Historically in Penticton, the retail sale of liquor has been left up to the province. While the changes to the new regulations are troubling to some interested parties, Council must ask if it is the City’s role to add additional regulations to an already highly regulated industry, especially when Councils of the past have chosen not to do so. Also, as this is such an evolving situation, Council may wish to provide more time for the changes to come into effect prior to passing a new bylaw.

If Council considers this issue is best left to the province, Council should not give first reading to the bylaw.

Zoning Amendment Bylaw 2016-10

Deny/Delay

Zoning Amendment Bylaw 2016-10 adds a regulation to Zoning Bylaw 2011-23 that will prohibit the sale of wine within a grocery store within 1 km from another grocery store that sells wine or a retail store selling liquor. The province has stated that they did not include the 1km rule for 100% BC wine in grocery stores for a number of reasons – most important of which was convenience for customers. Also, one of the main reasons for the sale of 100% BC wine in grocery stores was to increase market presence for BC wine. Having the 1km rule would not give BC wine the desired advantage over other alcohol products. Finally, there isn't a grocery store in the province that would meet the provincial requirement that is less than 1 km from a liquor retail store.

In Penticton, the following list shows the grocery stores that would meet the new zoning bylaw definition for 'grocery store' and that would meet provincial eligibility requirements for wine-on-the-shelf as of today:

- Market Place IGA, 1160 Government Street
- Safeway, 1301 Main Street
- Save-on-Foods, 2111 Main Street

(the provincial requirements would most likely exempt, Walmart, Real Canadian Superstore and the Wholesale Club, as these stores are multi-purpose stores, rather than 'grocery stores'. The determination is made based on how much of the store's revenue comes from food and beverage and how much from other products.)

Each of these three stores have a liquor store within 50m of their front entrance. Without the 1 km rule any of the three stores could sell wine on the shelf if they were able to obtain one of the new licenses being auctioned, or if they partnered with the BC Wine Institute to relocate one of their licenses. If Council were to pass the proposed bylaw, none of the stores would be able to sell 100% BC Wine on the shelf.

While other communities (like Kelowna who just had its first grocery store install wine-on-the-shelf in partnership with the BC Wine Institute) would have the convenience of being able to buy BC wine in grocery stores, Penticton residents would not have the same opportunity.

Also, wineries in Penticton will be able to market to grocery stores in other communities, but will not have the option of selling to grocery stores in their own community.

If a grocery store proposes to sell liquor in a store-within-a-store model the province already requires them to follow the 1km rule. Adopting the bylaw will not change that requirement.

Because the changes in provincial policy came out of an effort to increase convenience for the general public and to increase access to BC wine, both of which are situations that staff consider positive for Penticton, staff are recommending that Council not move forward with the 1 km rule.

Support

Council has heard from two groups, one representing the private liquor stores and one representing several local wineries, that have requested to have the 1 km rule established in Penticton for wine in grocery stores. Both groups have brought forward legitimate concerns that, despite what the provincial government has said, once grocery stores begin to sell wine on the shelf that it will only be a matter of time before the production selection changes to allow wine from other provinces and countries and ultimately liquor in grocery stores. Both groups have cited that if that is the case it would have a negative impact on the local wine industry. The two groups have made the argument that establishing the 1 km rule for wine in grocery stores in Penticton would help protect the local private liquor stores and the existing partnership that the private liquor stores have with the local wine industry.

If Council feels that establishing such a rule would be in the best interest of the city, or even if Council is not of a mind to support the change, Council may wish to give the bylaw first reading and forward it the March 21st, 2016 Public Hearing so that the public has the opportunity to comment on the rule.

Alternate recommendations

Council may wish to have a broader community wide discussion on this issue. If that is the case, Council could hold a community forum prior to giving first reading to any bylaws.

Attachments

Attachment A – Proposed Bylaw Changes

Attachment B – BCLC Policy Directive 2016-02

Attachment C – Letter and Email from the BC Wine Institute

Attachment D – Letter from Minister Oakes, Minister of Small Business and Red Tape Reduction and Minister Responsible for the Liquor Distribution Branch and Minister Fassbender, Minister of Community, Sport and Cultural Development

Respectfully submitted,

Blake Laven, RPP, MCIP
Planning Manager

Approvals

Director	ACAO
JGH	MM

Attachment A
Proposed Bylaw Changes

Bylaw 2016-09 proposes to amend "City of Penticton Zoning Bylaw" as follows:

Section 4.2

Amend definition of retail store from:

Retail Store means premises where goods, merchandise and other materials are offered for retail sale to the general public and includes on-site storage or limited seasonal outdoor sales to support the retail operation, and may include the manufacturing of products to be sold on site, provided the gross floor area used for manufacturing does not exceed 25% of gross floor area of the retail stores. Typical uses include but are not limited to food, grocery, hardware, pharmaceutical, retail liquor sales, clothing, pawnshops, thrift store, auctioneer establishments and sporting goods stores.

To:

Retail Store means premises where goods, merchandise and other materials are offered for retail sale to the general public and includes on-site storage or limited seasonal outdoor sales to support the retail operation, and may include the manufacturing of products to be sold on site, provided the gross floor area used for manufacturing does not exceed 25% of gross floor area of the retail stores. Typical uses include but are not limited to food, hardware, pharmaceutical, retail liquor sales, clothing, pawnshops, thrift store, auctioneer establishments and sporting goods stores, but does not include grocery stores.

Add definition of 'grocery store' as follows:

Grocery Store means a retail outlet with a net floor area of at least 929 m² (10,000 sq feet), including storage space, primarily retailing in a general line of foods, including canned, dry and frozen foods, fresh fruit and vegetables, fresh and prepared meats, fish and poultry, dairy products, baked products, snack foods, non-liquor beverages and general household products and pharmaceuticals. This use can include retail liquor sales with a store-within-a-store model as licenced by the Liquor Control and Licensing Branch (LCLB) or the sale of 100% BC wine, with a wine-on-the-shelf model, as licensed by the LCLB, but not both in the same location.

Bylaw 2016-10 proposes to amend "City of Penticton Zoning Bylaw" as follows:

Add Section 8.11

8.11 Wine sales in grocery stores

Grocery stores are not permitted to sell wine-on-the-shelf if the grocery store is located within 1km of another grocery store that sells wine-on-the-shelf or a retail store that sells liquor.

Attachment B
Policy Directive 2016-02-20



Liquor Control and Licensing Branch
POLICY DIRECTIVE
No: 16-02

February 18, 2016

To: All LCLB staff
All Industry Associations
All Local Government, First Nations, and Police Agencies

Re: Special Wine Stores and Auction

Introduction

New regulations have come into effect that provide for auctions to determine eligibility to apply for the special wine store licence and establish the new special wine store licence for the sale of 100% BC wine from grocery store shelves.

Statutory Authority and Policy Rationale

The *Special Wine Store Licence Auction Act* (Bill 22) and regulations are now in force. They provide for auctions to determine eligibility to apply for a special wine store licence and will raise funds for Government.

Government has also amended the Liquor Control and Licensing Regulations. Section 14.01 establishes the new special wine store licence.

The regulations are available on the LCLB website at www.pssq.gov.bc.ca/lclb.

More detailed information on the auction and licensing process, including information about application forms, is available at <http://www.pssq.gov.bc.ca/lclb/docs-forms/auction-sws-information-interested-parties.pdf>.

Special Wine Store Auction

A series of auctions will be held to determine eligibility to apply for the special wine store licence. The regulation allows up to 18 special wine store licences to be issued, but government will start by holding auctions for 6 licences.

The auctions will be conducted in April 2016 by BC Auction, an agency of the Ministry of Technology, Innovation and Citizen Services.

Eligibility

Eligibility to participate in the auctions is restricted to grocery store owners who have, or will have by the time of licensing, a grocery store with a minimum of 10,000 square feet of space, including storage space.

The store must be primarily engaged in retailing a general line of foods including canned, dry and frozen food, fresh fruits and vegetables, fresh and prepared meats, fish and poultry, dairy products, baked products, snack foods, and juices, carbonated beverages and flavoured beverages.

Once licensed, grocery stores must continue to meet these conditions, and the sales revenue from food and non-liquor beverages must total:

- at least 70% of non-liquor sales, and
- more than 50% of the total sales revenue of liquor and non-liquor products at the grocery store.

These are the same requirements licensee retail stores, BC Liquor Stores, and wine stores must meet to relocate to grocery stores.

Process

To enter the auction, interested parties must submit a fully completed Special Wine Store Auction Bidding Registration Form, LCLB 313, to the branch by **4:30 p.m. PST Friday March 18, 2016. Late applications will not be accepted.** Applicants with more than one grocery store may submit applications for up to 6 stores.

Applicants who meet the eligibility criteria will be invited to register with BC Auction to participate in the auctions. A deposit of \$25,000 is required for each grocery store application, e.g. a grocery store chain bidding to obtain the right to apply for 3 licences must pay a deposit of \$75,000. The minimum bid for each auction is \$125,000.

The successful bidder is the highest bid in each auction. Successful bidders are not required to pay the bidden amount until the time of licensing. Unsuccessful bidders will be refunded their deposit.

Successful bidders will be invited by the branch to apply for a licence and it must be submitted within 60 days of branch notification. The usual statutory requirements apply, including a fit and proper assessment, tied house assessment, and appropriate zoning by the local government or First Nation, as well as meeting the grocery store requirements described above.

In addition, the licensee must submit a security and staff training plan to the branch indicating how they will guard against shoplifting, and ensure minors and intoxicated customers do not access the product.

Fees

The licence application fee is \$2,200 with the same fee for the first year of licensing. Subsequent years' licensing fee ranges from \$250 - 2,200, based on liquor purchases made the previous year.

Operating Terms & Conditions

The special wine store licence permits the sale of 100% BC wine on grocery store shelves. This includes cider, mead, and sake made from 100% BC agricultural inputs.

Wine may be purchased at designated tills or regular tills. Regardless of the type of till, the staff making the sale must have Serving It Right certification and be at least 19 years of age.

The licensee is responsible for determining their product display area and the tasting area, if tastings are offered. The product display area does not need to be bounded and may encompass a variety of shelf configurations such as a small corner of the store, a kiosk, multiple shelves on one or both sides of an aisle, etc. as long as the following conditions are met:

- All product to which the public has access must be within one contiguous product display area within the grocery store; separate "wine sections" are not permitted.
- The wine must be able to be secured and inaccessible to the public during the hours that wine is not available for sale (e.g. when licensed hours do not align with the grocery store's hours of operation).

The licensee may move the product display area within the grocery store without notifying the branch, as long as it continues to meet the above-noted conditions.

Wine inventory must be securely stored within the non-public areas of the store (i.e. stockroom) or in an approved off-site storage.

One tasting area is permitted. It must be immediately adjacent to the product display area and must be defined by a physical barrier (e.g. ropes and stanchions). Only product sold at the store may be offered for tastings

Licensees must carry a selection of product from a significant number of BC wineries of all sizes. While it is recognized that space limitations may restrict the volume of product available in a store, the underlying rationale for the new special wine store licence model is to provide consumers with increased access to BC wines and particularly to wines not widely available through other sales channels.

Special wine stores are also eligible to apply for a temporary off-site sales endorsement to place a temporary store at a food or beverage festival that is the subject of a special occasion licence. Wine sales are restricted to 100% BC wine.

Further Information

Further information regarding liquor control and licensing in British Columbia is available on the Liquor Control and Licensing Branch website at <http://www.pssq.gov.bc.ca/lclb/>. If you have any questions regarding these changes, please contact the Liquor Control and Licensing Branch toll free in Canada at 1-866-209-2111 or 250 952-5787 if calling from the Victoria area.

Original signed by

Douglas Scott
Assistant Deputy Minister and General Manager

Attachment C
Letter and Email Correspondence from the BC Wine Institute



September 08, 2015

Penticton City Council

Andrew Jakubeit, Mayor (Andrew.Jakubeit@penticton.ca)

Helena Konanz (Helena.Konanz@penticton.ca)

Andre Martin (Andre.Martin@penticton.ca)

Max Picton (Max.Picton@penticton.ca)

Tarik Sayeed (Tarik.Sayeed@penticton.ca)

Judy Sentes (Judy.Sentes@penticton.ca)

Campbell Watt (Campbell.Watt@penticton.ca)

Dear Mesdames et Messieurs:

Re: 100% BC Wine for Sale in Grocery

As you are aware, special interest groups are promoting an amendment to Penticton zoning bylaws in order to directly circumvent the BC Government's recent changes to liquor policy, and which, if approved, will unfairly prevent 100% BC wines from being sold in grocery stores in your city.

These groups may have contacted your Council claiming to lobby on behalf of "the local wine industry" and may be pressuring you to consider at your upcoming session to enforce this arbitrary distance restriction in order to prevent the legal and orderly transference of any eligible BC VQA licences to grocery stores.

As the true voice of the BC Wine Industry, I can tell you that we at the BC Wine Institute do not support this decision, and believe strongly that this move goes against the rights of the people of Penticton, hurts BC family-owned wineries, and is directly undermining the public good faith under which these laws were developed.

The facts used to justify this amendment are shockingly incorrect, and are quite clearly deeply influenced by special interests that are simply seeking a last ditch effort to undermine Provincial law.

The BC Wine Institute is the unified voice of BC's \$2 billion grapegrowing and wine making industry. When created by the BC Government 25 years ago in order to rejuvenate the agriculture sector, a limited number of special licences were allotted to us as a wine grape farming industry to support the distribution of our vital agrifood products, which 100% BC VQA Wines are.

These farm-to-table licences provide BC wine grape sector farmers vital access to the market, and the results have been clear - we now employ tens of thousands of people, and pour \$113 million into the Provincial coffers through direct tax revenue. Further, the specific purpose of this farm-to-table licence clearly differentiates it from that of any other multiproduct liquor retail outlet - whether private or Government-owned.

As you are aware, the BC Government's recent extensive and highly engaged, broad-based public consultation process produced many significant recommendations to improve the serving and selling of liquor in British Columbia. However, one recommendation stood out amongst them all, and that was the desire for a common-sense solution allowing the purchase of some types of low-risk liquor products in grocery stores.

• British Columbia Wine Institute • 107 - 1726 Dolphin Avenue, Kelowna, BC V1Y 9R9 •
• WineBC.com • WineBC.org • Tel: 250.762.9744 • Fax: 250.762.9788 •

We support this move to utilize the BC VQA licences in grocery stores, as it promotes agriculture and manufacturing in this province, while providing an appropriate platform for our low-risk, premium products to be more readily available to the public who had clearly asked for them.

There have been special interests fighting to block our small BC farmers from showcasing their products alongside other great BC agrifood products, like beef, cheese, seafood and more, because they reject the notion that BC family-owned wineries should have direct market access for their products, like other farm manufacturers do.

At the single grocery store in all of BC currently allowed to operate under the new laws, which happens to sell only 100% BC Wines, more than half of the product catalogue comes from small wineries with no other access to the market than direct sales at their farms, or to restaurants, because the BC Liquor Distribution Branch's Government Liquor Stores will not carry them.

Our request of you is to not simply follow the out of touch notion that a responsible grocery retailer selling 100% farmed and manufactured wine will harm the fabric of Penticton as a community. It's a silly rationale, and not at all a reasonable position for this Council to take.

We also hope you recognize that it is incumbent on you as a legislator to respect the democratic decisions of the citizens of your community, not to use technicalities and red tape to undermine the community's wishes.

We also ask that you stand fast against the influence of special interest who are using you to promote their status quo agenda. It is wrong to support this motion - the facts are wrong, the assumed risks are wrong, and standing against BC family-owned farms and all they do for our economy is just plain wrong.

We thank you for your support, trust that you will vote against this amendment and protect the democratically achieved rights of the people of Penticton, and BC farmers, to have proper access to lawful channels to buy and sell this provincially regulated product.

Should you have any questions, or would like to schedule an opportunity to speak, feel free to contact me at 250-863-9379 or MProdan@WineBC.com.

Sincerely,



Miles Prodan
President / CEO

cc: Honorable Coralee Oakes, Minister of Small Business, Red-Tape Reduction and Minister
Responsible for the Liquor Distribution Branch (Coralee.Oakes.MLA@leg.bc.ca)
John Yap, Parliamentary Secretary for Liquor Reform (John.Yap.MLA@leg.bc.ca)

Attachments:
About the BC Wine Institute
About BC VQA
BC VQA by the Numbers

About the BC Wine Institute:

The British Columbia Wine Institute (BCWI) was originally created by an act of the provincial legislature, the then *BC Wine Act*, in 1990.

It was conceived as a component of a strategic plan of industry and government to create an internationally competitive wine industry. The strategy included the removal of labrusca and hybrid grape varieties and replanting vineyards to vinifera varieties, establishing an industry based on premium wine production.

The BCWI oversaw the development of the BC VQA program and conducted research and development (R&D) on behalf of the industry.

In 2006 the BCWI members voted to become a voluntary trade association with member fees to be based on BC wine sales. The BC VQA program and the regulatory oversight would go to the BC Wine Authority and the Research & Development and Health & Safety committees would move to the BC Wine Grape Council.

About BC VQA:

BC VQA (Vintners Quality Alliance) is the appellation of origin and quality standard for the Wines of British Columbia. Established in 1990, BC VQA certified wines must meet specific standards with respect to origin, vintage and varieties.

These wines are also tasted by a qualified panel for quality characteristics prior to being able to use the BC VQA designation. To put it simply, when you see BC VQA on a bottle, it is your guarantee that you're sipping a wine that is 100% from British Columbia.

BC VQA by the Numbers:

- 100% British Columbia grapes
- 95% of grapes must come from specific region mentioned on the label
- 85% of grapes must come from the vintage stated on the label
- 85% of grapes must be the stated varietal
- \$2 Billion in GDP for British Columbia
- \$298 Million in tax revenue and markup (\$113 Million to BC alone)
- \$42 per bottle in economic impact for the province
- 800,000 visitors to BC wineries, generating \$476 Million in tourism dollars

From: Miles Prodan <mprodan@winebc.com>
Date: February 19, 2016 at 1:12:44 PM PST
To: Andrew Jakubeit <andrew.jakubeit@pentiction.ca>, Helena Konanz <Helena.Konanz@pentiction.ca>, Andre Martin <Andre.Martin@pentiction.ca>, Max Picton <Max.Picton@pentiction.ca>, Tarik Sayeed <Tarik.Sayeed@pentiction.ca>, Judy Sentes <judy.sentes@pentiction.ca>, Campbell Watt <Campbell.Watt@pentiction.ca>
Cc: Mitch Moroziuk <mitch.moroziuk@pentiction.ca>, Blake Laven <Blake.Laven@pentiction.ca>, Dan Ashton <D.Ashton@leg.bc.ca>, "Coralee.Oakes.MLA@leg.bc.ca" <Coralee.Oakes.MLA@leg.bc.ca>, "John.Yap.MLA@leg.bc.ca" <John.Yap.MLA@leg.bc.ca>
Subject: FW: BC Wine in Grocery | Pentiction

I've taken the liberty of resubmitting the below email and attachment with respect to City of Pentiction council's recent consideration of "Liquor Sales in Grocery Stores".

In addition to the earlier submission, I wanted to emphasize the following:

- The BCWI is the only legitimate provincial organization that represents all wineries in British Columbia. A board of directors made up of nine voting members governs the BCWI, who are elected annually by BCWI members, with seats from each of the three winery size categories based on annual production (small, medium and large), though each director acts on behalf of the entire BCWI membership. While there are a number of special interest winery groups, it is the BCWI that was established, and remains recognized as the provincial industry voice, by the government of BC.
- BCVQA Wine Store licences were created well before nascent LRS 'beer & wine' stores or NAFTA with each based on an individual winery 'off-site' store licence. At the time, wineries had the foresight to pool their individual off-site licences under the BCWI to ensure all future wineries would have a retail channel for BCVQA wines.
- Today, more than 150 wineries utilize the BCVQA Wine Store channel for retail sales – critically important to many smaller wineries unable to get on the shelves of a government or private liquor store, and also to those wineries that close over the winter, or in the off tourism season are less busy, etc.
- Given their unique, and limited BCVQA-wine only selection, BCVQA Wine Stores have never be subject to the LRS-imposed 1km rule. In fact, all current 21 BCVQA Wine Stores operate today in close proximity to other liquor retailers, as each offers a different selection of liquor products.
- BCVQA Wine-in-Grocery is merely moving BCVQA Wine from the shelves of an existing store onto the shelves of a grocery store, and with their restricted BCVQA Wine offering, there is no compelling commercial reason to now impose a 1km rule.
- Imposing a 1km rule to a BCVQA Wine Store because it has moved location into a grocery store could be construed as providing LRS operators, and the wines they carry, special & preferential treatment. Furthermore the existing 1km rule, because it limits the opportunity for import wines in grocery via the store-in-store model, could itself be considered trade illegal.

Feel free to contact me directly with any questions or concerns.

Miles Prodan | President & CEO | British Columbia Wine Institute
o: 250.762.9744 x101 | c: 250.863.9379
Suite 107 – 1726 Dolphin Avenue | Kelowna, B.C. V1Y 9R9
consumer: www.winebc.com | association: www.winebc.org | Twitter: @winebcdotcom

Attachment D



Ref: 37429

To Local Governments

February 24, 2016

Dear Mayors and Board Chairs:

We are writing to inform you of an exciting new initiative, announced on Thursday, February 18, to issue a limited number of licences for the sale of 100% BC wine on grocery store shelves. We would like to take this opportunity to explain the rationale for this offering, part of the second round of changes to the liquor laws to permit the sale of BC wine on grocery store shelves.

The BC wine industry has been a true success story with over 300 wineries now producing world class wines. The citizens of British Columbia have shown their appreciation of these wines as sales continue to increase.

During the 2013 Liquor Policy Review conducted by Parliamentary Secretary John Yap, we heard from thousands of British Columbians who wanted more convenient access to liquor and particularly to BC wines. The Government listened to these concerns and initiated a number of reforms including:

- Permitting the 21 licensed VQA wine stores to relocate to grocery stores to sell their wine on grocery store shelves;
- Permitting full service licensee retail stores and government liquor stores to relocate to grocery stores to operate as a store in store; and
- Committing to issue a limited number of special wine store licences for the sale of BC wine on grocery store shelves, as announced today.

Initially, we will auction six opportunities to apply for the special wine store licence, an approach which will ensure fairness and transparency. The successful bidders will then proceed through the regular application process to obtain the licence. Only grocery stores which meet the specified regulatory criteria will be eligible to bid. These criteria include that the store be a minimum of 10,000 sq. ft. and be focused on food sales; the same criteria that apply to the relocation of the other types of wine and liquor stores to grocery stores.

To provide the greatest consumer convenience, the products permitted for sale include all types of BC wine made from 100% BC agricultural inputs. This includes cider, honey wine, fruit wine and sake. The rules for VQA stores have also changed to permit them to sell these same types of products.

As you may know, Provincial regulations do not permit the relocation of a licensee retail store or government liquor store to within 1 km of one another. This rule does not apply to existing wine stores and will not for these special wine store licences.

The rationale for the 1 km rule is to provide some degree of market certainty for retailers and to ensure a community is not over-served with liquor stores which can have negative community impacts.

The product selection sold in these stores is very limited compared to the full variety of domestic and international beer, wine, and spirits sold in a private or government liquor store. BC wines represent only 26 percent of the total wine sales in BC and this also represents 9% of all liquor sales in the Province. In addition, a significant percentage of these BC wine sales are made from the winery or sold directly by them to restaurants and bars. This means overall sales in competing full service liquor stores are unlikely to be significantly impacted.

Were the 1 km rule to apply to wine stores, a community would be prevented from having a full service liquor store in its neighbourhood due to a wine store's location. Consumers wishing to buy beer, spirits or imported wines would be inconvenienced. For your information, there has existed for many years an additional 20 wine store licences issued to individual wineries or small groups of wineries. Once again, the location of one of these stores, perhaps selling only one winery's products, would prevent a full service liquor store moving to within 1 km of the wine store.

In summary, the number of wine stores selling BC wine is very limited with only 21 VQA stores, 20 issued to wineries and up to 18 of the announced special wine stores. This compares to 671 full service private liquor stores, 196 government liquor stores and 221 rural agency stores all selling all types of liquor.

We understand concerns have been expressed about the retailing practices of grocery stores in jurisdictions where liquor is sold in grocery stores and more specifically that this sector tends to favour larger producers and employ low priced sales strategies to build market share. We believe that these concerns are not legitimate in the BC market in regard to wine stores. On Tuesday, February 23, our government announced – effective May 1, 2016 – minimum liquor pricing for licensee retail stores, wine stores, and manufacturer on-site stores. The same policy will apply to BC Liquor Distribution Branch stores and, by extension, rural agency stores. This policy will effectively protect against pricing practices using wine (or other liquor) as a “loss leader”.

For the VQA and special wine store licences it will be a licence term and condition that the stores carry a broad selection of product from all sizes of wineries to ensure the most number of wineries possible have shelf space in these stores. In addition, Provincial law prohibits liquor suppliers from offering incentives to licensees to gain greater shelf space or market access. The whole intent of special wine store licence is to provide enhanced consumer access to our wonderful wines and to help support our wine industry. In our discussions with the grocery industry they understand and support these goals.

Finally, we are aware that concerns have been expressed that the special wine store licence is non-compliant with our trade obligations. Our intention with the recent changes is to strike a

balance that meets our trade requirements and also promotes the quality products that are made and bottled here in B.C. The special wine store licences are not new licences *per se* but rather are re-issued and reconfigured dormant BC wine store licences that were issued several years ago. Any licences issued will remain consistent with those allowed and already created under existing trade laws.

We appreciate the opportunity to explain the Province's wine store retailing strategy and we hope you will take these matters into consideration should any of these stores plan to open in or relocate to your community.

Sincerely,



The Honourable Coralee Oakes
Minister of Small Business and Red Tape Reduction
Minister Responsible for the Liquor Distribution Branch



The Honourable Peter Fassbender
Minister of Community, Sport and Cultural Development
Minister Responsible for TransLink

Bylaw No. 2016-09

A Bylaw to Amend Zoning Bylaw 2011-23

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

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

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

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2016-09".

2. **Amendment:**

Zoning Bylaw 2011-23 is hereby amended as follows:

2.1 Amend section 4.2 Definitions and replace with the following:

Retail Store means premises where goods, merchandise and other materials are offered for retail sale to the general public and includes on-site storage or limited seasonal outdoor sales to support the retail operation, and may include the manufacturing of products to be sold on site, provided the gross floor area used for manufacturing does not exceed 25% of gross floor area of the retail stores. Typical uses include but are not limited to food, hardware, pharmaceutical, retail liquor sales, clothing, pawnshops, thrift store, auctioneer establishments and sporting goods stores, but does not include grocery stores.

2.2 Add the following definition to section 4.2 Definitions:

Grocery Store means a retail outlet with a net floor area of at least 929 m² (10,000 sq feet), including storage space, primarily retailing in a general line of foods, including canned, dry and frozen foods, fresh fruit and vegetables, fresh and prepared meats, fish and poultry, dairy products, baked products, snack foods, non-liquor beverages and general household products and pharmaceuticals. This use can include retail liquor sales with a store-within-a-store model as licensed by the Liquor Control and Licensing Branch (LCLB) or the sale of 100% BC wine, with a wine-on-the-shelf model, as licensed by the LCLB, but not both in the same location.

2.3 Add the permitted use 'grocery store' to the following zones: C3 – Commercial Residential Mixed Use; C4 – General Commercial; C5 – Urban Centre Commercial; C6 – Mixed Use Commercial; and C7 – Service Commercial.

READ A FIRST time this	7	day of	March, 2016
A PUBLIC HEARING was held this	21	day of	March, 2016
READ A SECOND time this		day of	, 2016
READ A THIRD time this		day of	, 2016
RECEIVED the approval of the Ministry of Transportation on the		day of	, 2016
ADOPTED this		day of	, 2016

Notice of intention to proceed with this bylaw was published on the 11 day of March, 2016 and the 16 day of March, 2016 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

From: Alf Norrish ·
Sent: March-14-16 8:41 PM
To: Public Hearings
Subject: liquor in grocery stores

City of Penticton,

I would like to see local wine in grocery stores in Penticton. We don't want to be a tourist town and not have wine available to our tourists in grocery stores. This would be a huge mistake. We should be promoting local B.C. wine in our grocery stores and be proud of it. We don't want to be the only city without wine in our grocery stores. We in Penticton should be promoting our local B.C. wines everywhere and we are not doing a great job of it. I am always disappointed when I go out for dinner and I don't see local beer and wine on the menus? We not only have great wines in Penticton but we have great beers and we need our tourists to know that. Promote Penticton wines! Put local wine in grocery stores.

Alf Norrish
Long time resident and home owner



penticton.ca

Request to Appear as a Delegation

Preferred Council Meeting Date: 2:00 PM MONDAY MARCH 21/2016

Second choice(s): _____

Subject matter: NOT LET SAVE-ON-FOODS Carry V.Q.A. WINE

Name of person(s) making presentation:

LEONARD KWIATKOWSKI - PROPRIETOR TOPSHELF WINERY

Address: 236 LINDEN AVE

Phone: _____

KALEEN B.C

Email: _____

Please provide details of your presentation:

My name is Leonard Kwiatkowski, and am the proprietor of Topshelf Winery. I strongly approve of Save -On -Foods handling V.Q.A wines in there stores. Topshelf winery being a small new winery, it is very difficult to have private and Government alcohol outlets to handle and sell the wines. They claim that having an unknown quality wines, it would collect dust in there stores, as they do not have enough room in there facility. They handle wines from all over Canada and Internationally. Save - On - Foods grocery stores handle V.Q.A. wines BC grown. This gives me a small , young winery an opportunity to have an outlet for Topshelf wine, as Save -on- Foods carry all VQA BC grown wines that are available for sale. The private wine outlets have the same opportunity to handle VQA BC grown wines in their facility. I would like to know what these outlets are afraid of from Save- On -foods handling VQA BC grown wines only!!!

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

From: Public Hearings
Subject: FW: Wine in stores

From:
Sent: March-15-16 10:38 AM
To: Public Hearings
Subject: Wine in stores

I truly think the opportunity to promote local wines in grocery stores is a excellent way to promote and support one of our local industries. Giving both local resident's and vacationing people the opportunity to purchase unique items that support our communities. It's a win for everybody and keeps the local community supporting local people that pay taxes.

Brad Laird
Store Manager Save on Foods
115-1972 Kane Road Kelowna BC V1V 3C4

From: Public Hearings
Subject: FW: wine in isle in grocery stores

From:
Sent: March-15-16 11:27 AM
To: Public Hearings
Subject: wine in isle in grocery stores

Hi, as one of the stores in the Kelowna area that was able to get a VQA license and council approval and be able to put wine in store. I want to tell you that the feedback from the public has been hugely positive. The amount of comments we get on a daily basis are incredible, one example is a young mom says this is so nice now, its one less stop and no kids to unload. The public wants this and has been telling our government to broaden the laws and they have listened but allowing this to happen. One example is a customer came in and said Oh my god you have Arrow leaf!!! The only place I could get that before was to drive to the winery!!! On the winery side we hear nothing but positive comments from the wineries that have come to our store and do pourings. They cannot believe the amount of product they can sell and that is good business for the winery and local people who contribute to the local economy. One fellow from the Oliver area just kept on telling me what a game changer this was for his business. Its all BC, all VQA, all local people, its a win, win, situation lets do the right thing and support local people supplying local jobs from local producers. This is your chance to do the right thing for your local economy.

*Malcolm Robson
Store Manager
Save on Foods
Orchard Plaza*

From: Public Hearings
Subject: FW: BC VQA wines in grocery stores

From:
Sent: March-15-16 5:30 PM
To: Public Hearings
Subject: BC VQA wines in grocery stores

City of Penticton,

I believe that B.C. VQA wines, especially local Okanagan wines, should be available in grocery stores for consumers. By supporting and selling local VQA wines in grocery stores like Save On Foods, many wineries will be getting much more exposure than they have in the past. Many wines that were typically only available for purchase at the winery they were made at, will now be available for purchase every day to many more consumers. By selling local VQA wines at stores like Save On Foods in Penticton, it is a win for B.C. wineries, the City of Penticton and all the consumers and lovers of wine. Let's support B.C. and Okanagan wineries by putting VQA wines in Save on Foods in Penticton.

Scott Gilbert
Store Manager
Save On Foods
Princeton B.C.

- 26 -

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

Monday, March 7, 2016
at 6:00 p.m.

Resolutions

- 9.5 Zoning Amendment Bylaw No. 2016-13
Re: 812 Johnson Road

110/2016

It was MOVED and SECONDED

THAT Council give first reading to Zoning Amendment Bylaw 2016-13, a bylaw permitting the limited rental of vehicles on Lot 1, District Lot 188, Similkameen Division Yale District, Plan 9969, located at 812 Johnson Road (404 Haven Hill Road); And that Council forward the bylaw to the March 21st Public Hearing.

CARRIED

Mayor Jakubeit and Councillor Picton, Opposed

Council Report

penticton.ca

Date: March 7, 2016
To: Eric Sorensen, Chief Administrative Officer
From: Blake Laven, Planning Manager
Address: 812 Johnson Road

File No: RZ PL2016-7610

Subject: Zoning Amendment Bylaw 2016-13

Staff Recommendation

THAT Council give first reading to Zoning Amendment Bylaw 2016-13, a bylaw permitting the limited rental of vehicles on *Lot 1, District Lot 188, Similkameen Division Yale District, Plan 9969*, located at 812 Johnson Road (404 Haven Hill Road);

And that Council forward the bylaw to the March 21st, Public Hearing.

Background

Sometime during the week of January 25th, 2016, several trucks, trailers and cubed vans appeared on the subject property, with U-Haul branding. U-Haul is a company that operates through 'franchise agreements' with other businesses, normally gas-stations, to rent trucks and trailers to the general public. Generally, the franchisees pay no upfront capital costs, but provide parking space for the vehicles and receive a commission of the rental revenue generated from their property.

City Bylaw Enforcement Officers were called to the property based on several complaints from neighbouring residents. Complaints ranged from: unsightly; not a permitted or appropriate use in a residential area; and, unsafe (due to limited visibility on the corner of Johnson Road and Haven Hill Road). Bylaw Enforcement staff identified 11 vehicles at the property upon inspection and then conferred with the Planning Department staff to determine if the U-Haul business was permitted to operate on the property, specifically as an accessory use to the convenience store. It was determined that the owner of the convenience store has the operating agreement with U-Haul.

Planning staff provided the following information:

- ☐ The subject property is zoned C2 (Neighbourhood Commercial), which is a zone intended to provide a limited range of neighbourhood convenience services.
- ☐ The C2 zone does not permit 'vehicle sales or rental', but does permit 'accessory uses'
- ☐ Accessory uses are determined to be uses that are 'normally ancillary to, incidental, and subordinate to and dedicated exclusively to and located on the same lot as the permitted use.' Staff did not feel that the U-Haul business as it was set up met this threshold.

- ☐ As such, it was communicated to the business owner that the vehicle rentals would need to cease or an application would need to be made to City Council to amend the zoning bylaw to allow for the use.

An application was made to permit the rental business as a 'site specific' use at the subject property. Bylaw Enforcement Staff made an agreement with the business operator to temporarily 'suspend' enforcement actions until such time as Council could consider that amendment application.

Financial implication

N/A

Proposal

That the following be included as Section 11.2.3.3 of Zoning Bylaw 2011-23:

In the case of Lot 1, District Lot 188, Similkameen Division Yale District, Plan 9969, located at 812 Johnson Road, the rental of up to nine (9) vehicles is permitted as an accessory use to a convenience store.

Analysis

Support

The subject property has a large parking lot that is vacant most of the time. The site plan submitted by the applicant shows how the parking area will be delineated to support the U-Haul business as well as to accommodate adequate parking for the existing convenience store use (Attachment D).

The subject property is currently designated by the City's Official Community Plan as LR (Low Density Residential). Minor commercial uses are permitted in the LR designation. Vehicle rentals on their own would not meet the intent of the OCP allowance on commercial uses in residential areas. As an accessory use to the convenience store, however, the use could meet the general intent of the allowance. To be deemed accessory, the use would have to meet the threshold of being 'normally ancillary to, incidental and subordinate to, dedicated exclusively to and located on the same property as the permitted use'. To meet this threshold, staff have drafted the bylaw to limit the number of vehicles being offered, and to limit the use to operating with the convenience store, not as a specific stand-alone use.

Staff considers that, although unsightly, the use is one that has a demand and in many communities trailer rental (specifically U-Haul) are often associated with neighbourhood convenience stores. By limiting the amount of trailers, this business will continue to be a convenience store first and a rental vehicle supplier second. Staff has worked with the business owner to set the maximum number of rental vehicles at nine. Council, though, after receiving comments from neighbouring residents, may feel that nine is too many and can limit the number further if it is minded to accept the principle of a vehicle rental use as subordinate to the convenience store.

If Council considers that this rental business can operate as a subordinate use to the convenience store, staff recommend that Council give first reading to Bylaw 2016-13 and forward the bylaw to the March 21, 2016 Public Hearing for comment from the public.

Deny / Refer

Council may consider that trailer and vehicle rentals is not an appropriate accessory use in this location regardless of the number of units. This use is generally considered a 'service commercial' use and has not normally been associated with neighbourhood convenience stores in Penticton. Council has already heard from some neighbouring residents that the trailers are unsightly and detract from the residential character of the neighbourhood and pose safety and nuisance issues.

Given these concerns, Council may not wish to support the application in any form. If that is the case, Council should deny first reading of the bylaw.

Alternate recommendations

Change the Zoning Amendment Bylaw No. 2016-13 to amend section 11.2.3.3 to allow less than nine vehicles;

AND THAT Council give first reading to Zoning Amendment Bylaw 2016-13 and that Council forward the bylaw to the March 21st, Public Hearing.

Attachments

Attachment A – Subject Property Location

Attachment B – Detailed Aerial Image

Attachment C – Images of Subject Property

Attachment D – Proposed Site Plan

Attachment E – Letter of Rationale from Applicants

Respectfully submitted,

Blake Laven, RPP, MCIP
Planning Manager

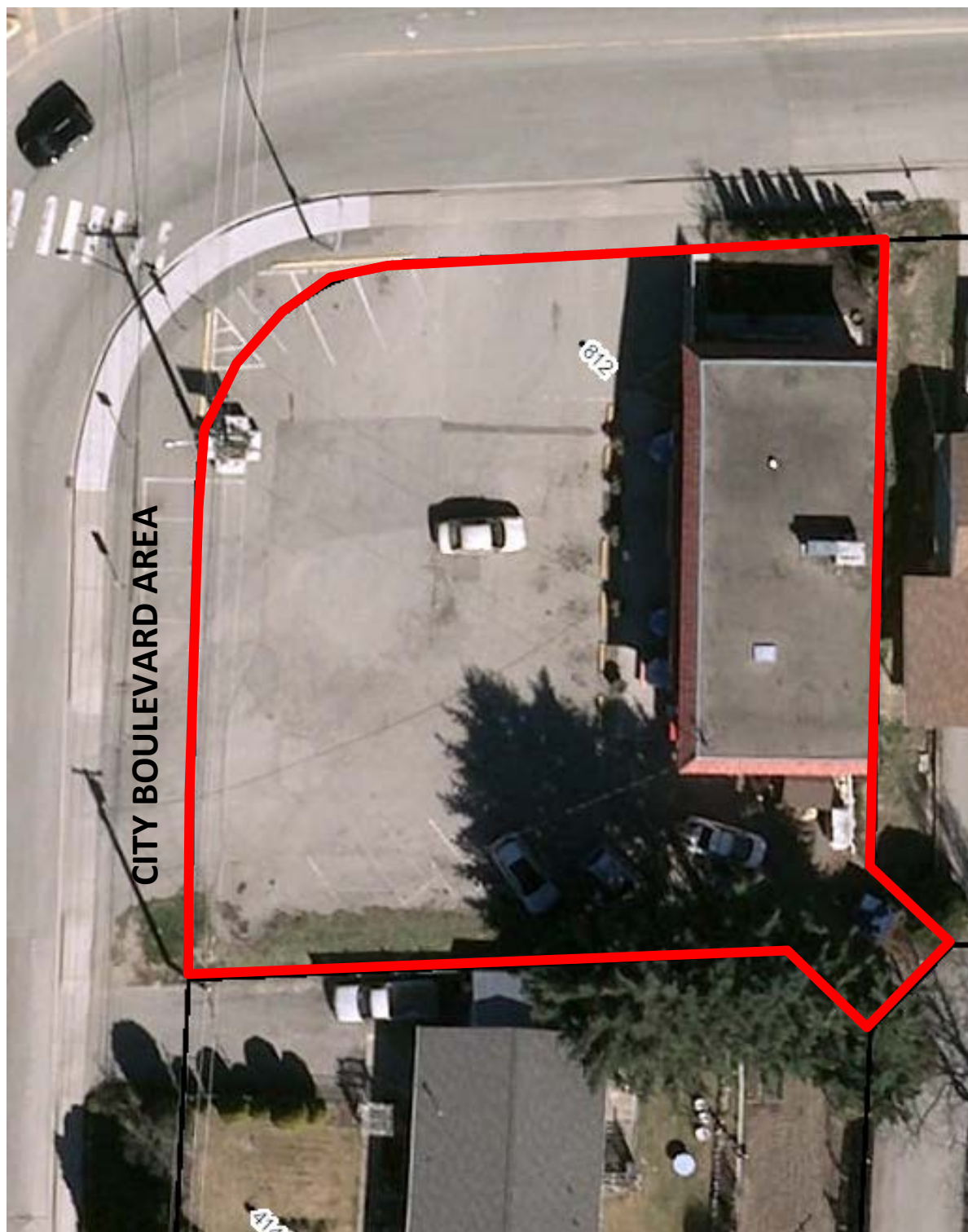
Approvals

Director JGH	ACAO MM
---------------------	----------------

Attachment A
Subject Property Location Map



Attachment B
Detailed Aerial Image



Attachment C
Images of Subject Property



Figure 1: Image of subject property showing U-Haul rental trucks and trailers, from corner of Johnson Road and Haven Hill Road looking east



Figure 2: Image of subject property looking south, from Johnson Road

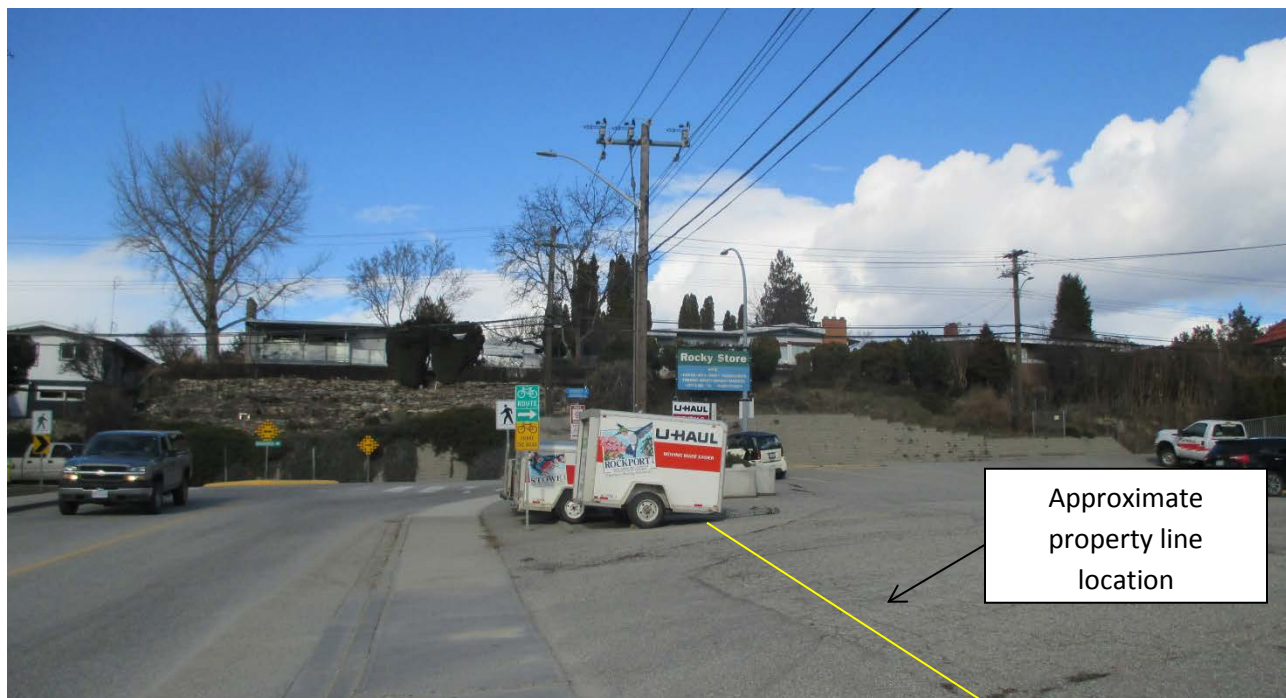


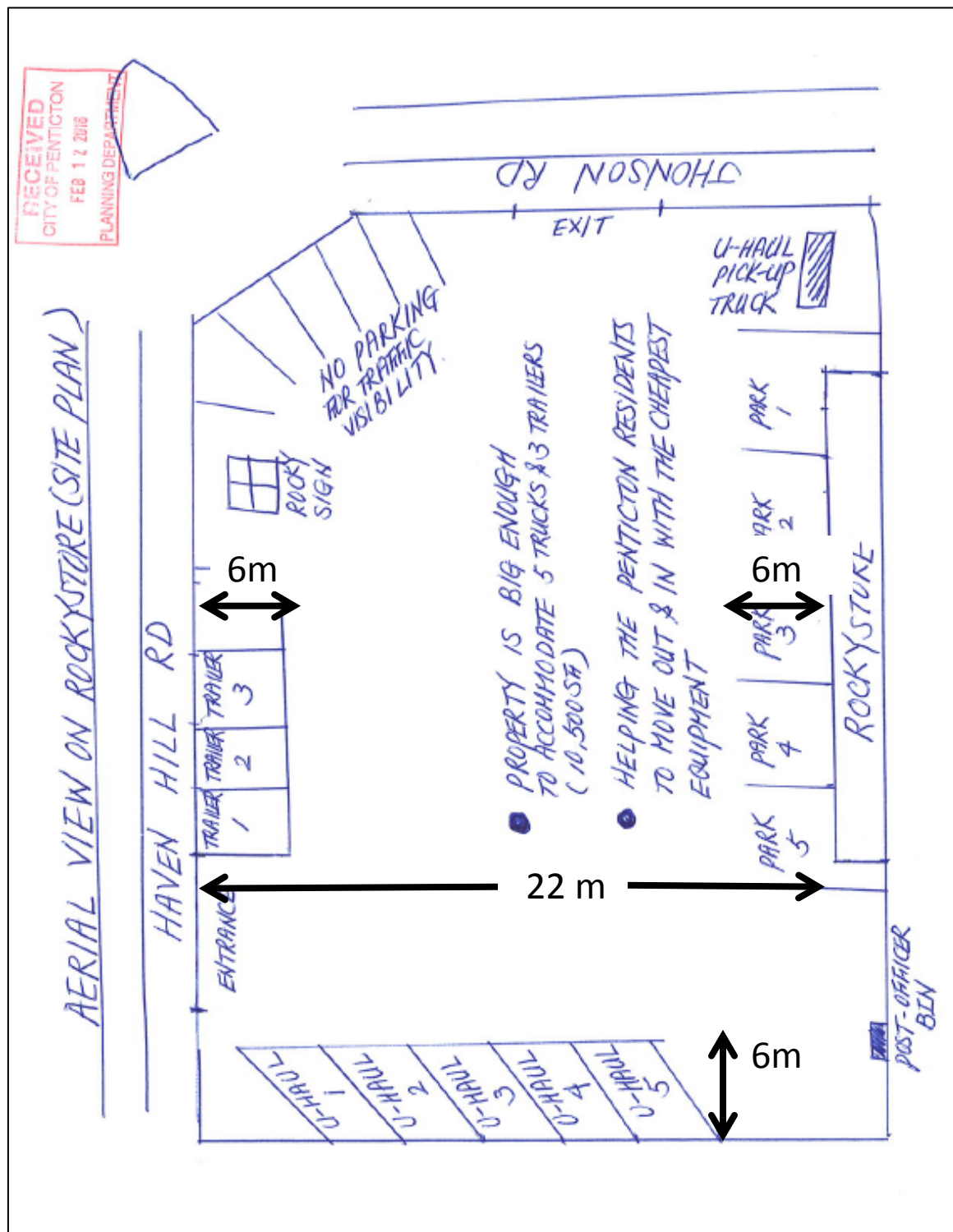
Figure 3: Subject property from Haven Hill Road looking north, trailers are to be pulled back to property line



Figure 4: Subject property from Haven Hill Road looking north east, with U-Haul trailers and trucks visible

Attachment D

Site plan submitted in support of application



Attachment E

LETTER OF RATIONALE

WHY THIS BUSINESS SHOULD BE PERMITTED

I NEED AN EXTRA INCOME TO CATCH UP WITH ALL THE BILLS.
(MORTGAGES,PROPERTY TAX,CORPORATE TAX,ELECTRIC BILL
ETC)

PEOPLE KEEP MOVING IN AND OUT,THIS U-HAUL IS THE
CHEAPEST WAY OF MOVING—HELPING THE CITY.

NO MORE ILLEGAL PARKING ON MY PROPERTY FROM THE
HAVEN HILL RETIREMENT CENTER.

NO NEGATIVE IMPACT ON NEIGHBOUR

I WILL SECURE THE MAXIMUM VISIBILITY FOR THE PASSING-BY
DRIVERS AT MY RIGHT SIDE OF THE PROPERTY.

I WILL KEEP THIS BUSINESS CLEAN AND QUITE NOT TO DISTURB
MY NEIGHBOURS.

I WILL RECTIFY ANY ISSUES RAISED BY MY NEIGHBOURS TO CO-
EXIST.

**WRITTEN AND CONFIRMED BY
SHERLOCK OH
OWNER & OPERATOR
ROCKYSTORE ENTERPRISES INC**



Bylaw No. 2016-13

A Bylaw to Amend Zoning Bylaw 2011-23

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

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

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

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2016-13".

2. **Amendment:**

2.1 Zoning Bylaw 2011-23 is hereby amended as follows:

Add section 11.2.3 Other Regulations:

.3 In the case of Lot 1, District Lot 188, Similkameen Division Yale District, Plan 9969, located at 812 Johnson Road, the rental of up to nine (9) vehicles is permitted as an accessory use to a convenience store.

READ A FIRST time this	7	day of	March, 2016
A PUBLIC HEARING was held this	21	day of	March, 2016
READ A SECOND time this		day of	, 2016
READ A THIRD time this		day of	, 2016
ADOPTED this		day of	, 2016

Notice of intention to proceed with this bylaw was published on the 11 day of March, 2016 and the 16 day of March, 2016 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

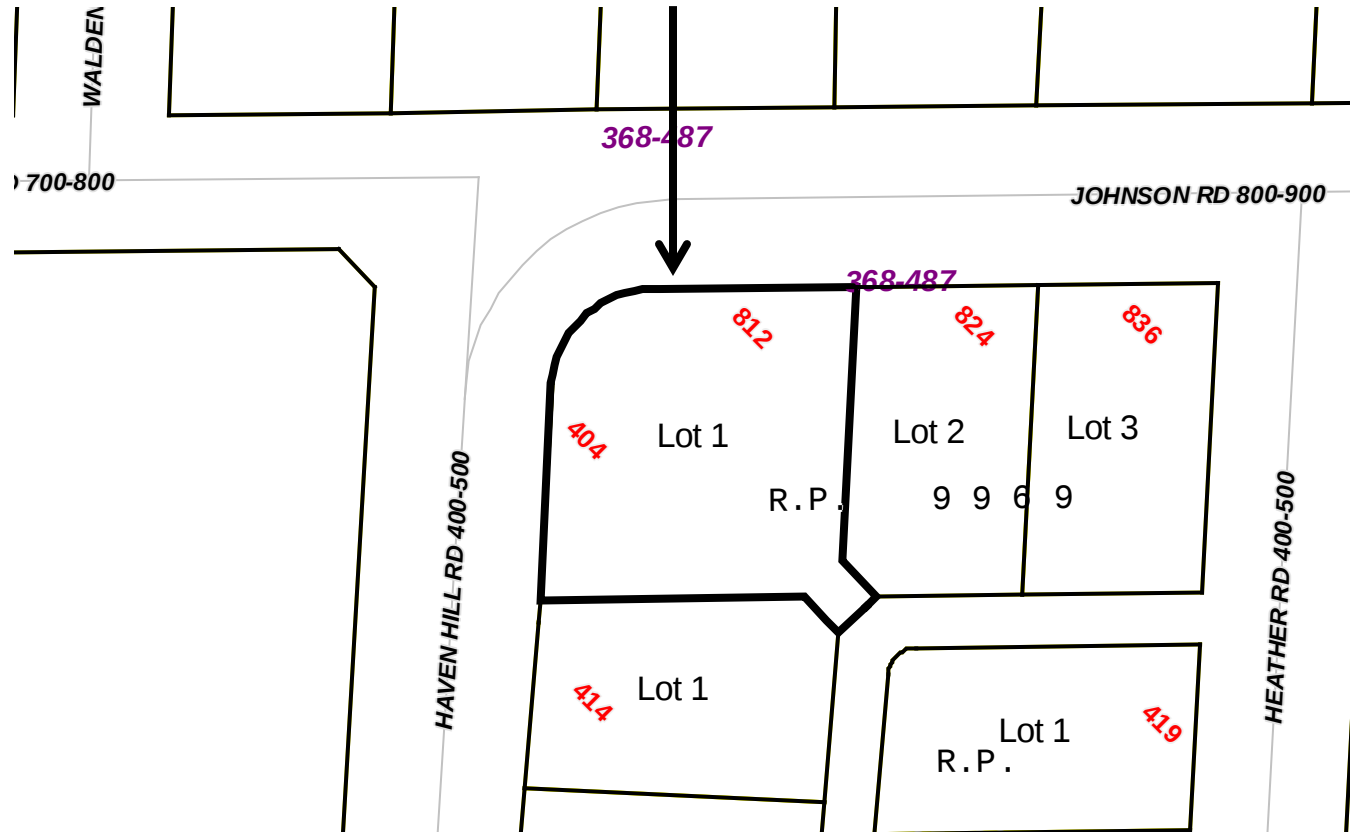
Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

812 Johnson Road (404 Haven Hill Road)

- 37 -

Site Specific Zoning Amendment to permit the rental of up to nine (9) vehicles as an accessory use to a convenience store



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2016-13

Date: _____

Corporate Officer: _____

From: Public Hearings
Subject: FW: 812 Johnson RD

City Of Penticton

Mayor and Councillors

Re: Zoning Amendment Bylaw 2016-13

812 Johnson Road

We wish to express our concerns the applicant has, after the fact, requested permission to store and rent large vehicles from the above location.

Using this property for a "large vehicle" rental location is out of character for a residential neighbourhood and more suitable to a commercial or light industrial area of the city.

This was a Convenience Store with a parking lot.

Johnson Road is a busy roadway with traffic including many large trucks. This is a complicated corner with steep entrances and exits. Both entry and exit to Johnson Road and Haven Hill Road do not have good site lines. Manoeuvring large trucks by unskilled operators is a recipe for disaster.

We trust you will use your fair judgement considering the neighbourhood safety.

Robert and Joan Mills

101 – 124 Cambie Place

Penticton, BC

2:58 pm
MAR 07 2016

*For the information of the Mayor and Council of Penticton
Further to my letter of Feb/16 - re this matter:*
Letter to the Editor re: New Hazard on Haven Hill

In January the Convenience Store owner at 404 Haven Hill Road moved a fleet of U-Haul trucks and trailers from the Industrial Area onto his parking lot, (even though it is in a Residential Area); and proceeded to carry on with their rental. No safety measures were put in place, despite this corner of Johnson Road and Haven Hill Road being a very busy corner carrying about half the traffic to and from the Bench-lands, Naramata, and north. I understand that no city planning or engineering or traffic safety approval had been requested or obtained.

We reside on the hill top immediately above the junction of Haven Hill road and Johnson Road, so have a full view of the streets and the parking area. Already we have seen traffic problems, violations and hazardous conditions caused by large U-Haul trucks exiting. The trucks have been seen exiting the "404" to the south west, stopping upcoming Haven Hill traffic, and driving into traffic in the downhill lane. This downhill traffic rounding the corner would have little or no view or warning of a truck pulling into its lane, until almost upon it. No flagmen or signs or other measures have been carried out to lessen this traffic hazard. The risk is increased as these large trucks are rentals, available to anyone with a valid driver's license; but no truck driving license or experience is required.

An added risk will be to pedestrians, especially residents from Haven Hill Retirement Centre, just across the road, who already have problems getting across this busy intersection with their canes or walkers.

Furthermore, since when have U-Haul rentals been allowed in residential areas? Throughout the Okanagan U-Haul franchises are run in Industrial Areas or along major highways.

I have been shocked at these activities being carried out without city planning or approval, with apparent disregard of public safety, and without information given to residents in the surrounding area.

I would appeal to residents in the "Haven Hill/Johnson Road" area, and commuters who regularly use this route, to take a look at this situation, assess it, and then come to the Council Meeting that will be considering granting permission for this addition of Industry into our residential area. It will affect the whole neighborhood as well as regular commuters. This meeting is to start at 6 pm on Monday March 21.

Dr. W. B Houston. 124 Barrington Place, Penticton, BC V2A 1S4

W B Houston March 7, 2016

*A copy of this letter has been sent to the editors
of the Western News and the Penticton Herald.*

From: Brad Houston ·
Sent: March-14-16 7:31 PM
To: Public Hearings
Subject: site specific rezoning 812 Johnson Road public hearing Monday, March 21/2016

Attention: Corporate Officer, City of Penticton, 171 Main St., Penticton, BC, V2A 5A9

My wife and I have already sent a letter of concern re this matter. However, we just remembered a further consideration regarding traffic at this junction. During logging season fully loaded logging trucks, in groups of 3 to 6 come down Johnson Road and turn down Haven Hill Road, constituting another traffic hazard with their size and speed.

For your consideration:

W.B. and Marie Houston
124 Barrington Place, Penticton, BC V2A 1S4

From: buck shot ·
Sent: March-13-16 9:43 AM
To: Public Hearings
Subject: Zoning Amendment Bylaw2016 - 13 812 Johnson Rd.(404 Haven Hill Road)

I've resided @ 550 Hudson Street (just off Johnson Rd, for almost five years) I over-see an old Heritage house, belonging to Cpl.Leanne Scott of the RCMP, K Division in Edmonton and her Edmonton Firefighter Husband Jarod.They purchased their future retirement home, mainly for it's pastoral semi rural lifestyle.Their Heritage home is situated, next door to Me on the corner of Johnson & Hudson Street.The subject of this NEW Eye Sore on the Customer Parking Lot of the Rocky Store, came up during their last visit. (I caretake their property, when they are absent). I live stream ALL in camera Council Meetings; I would prefer to attend these meetings but have, physical disabilities that don't warrant "sitting or standing" for more then an hour or so.The woman who spoke @ the last council meeting ; regarding, making a left turn; failed to add that the left turn is also "ON" THE only CROSSWALK between the Haven Hill Retirement Center side across to the area proceeding the School Zone, in a very dense residential area.There are a FEW OLD SOULS , who try to negotiate their way ,over to that store & with ALL the BLINDSPOTS which have been developed, since the addition of these large trucks & trailers, have made an already DANGEROUS 3 way intersection;a DISASTER LOOKING FOR A PLACE TO HAPPEN..Safety concerns aside I've made mention to "retirement & eye sores" and I'd like to add that, I was once, employed as The Activity Co-ordinator @ Haven Hill Retirement Center and can only "imagine" the duress that the site of those Mammoth Florescent Orange Cubes , put upon the Residents.Their "visual neighbourhood from the confines of their rooms" have been VIOLATED ! (as I'm SURE the immidiate residential neibours must feel)Recently, I had the chance to stop at Rocky Store, for an early morning coffee and had to wait over 20 minutes to pay for My purchase, because the Owner was stumbling through a rental contract in the side room , while a great big diesel rental truck was left running, spewing offensive diesel fumes,clouds of which were dispursing themselves over to the enterence of the retirement center, in the early morning mist.Rocky Store already has two very precarious entrances & exits(due in part from disrespectful drivers who WHIP around that corner, ALL THE TIME), the North ONE is challenging to use at the best of times,no fault of the store BEFORE adding the HUGE BLINDSPOTS to his parking lot, Which is not only irriesponsible, it's insulting to the Customers who "used to frequent this CONVENIENCE [sic]Store"...I'm NEVER going back there for ANYTHING.There is GOOD reason why rental trucking business ventures are situated in Industrial areas. I managed Budget, in 1982, when it was situated on Main Street next to Midas Muffler.I could go into great details as to the conditions those trucks get returned, in Everything from farm animal feces & blood and road mud, clay and frozen chunks of highway "salt".I'd also be very concerned about some of those trucks bringing in invasive mussels,Rental Trucks are often used to pull boats out of the water and a plethora of "other" industrial purposes,There is NO Grease Trap built into that parking lot, for cleaning trucks and being on a HILL many of those outlets flow straight in to the storm drains, left unchecked, to flow into Okanagan Lake.This SHOULD be a NO BRAINER for the City to turn down this application, but I did observe a couple of City Councillors &a City Staff member "on camera" who were speaking well above their PROVERBIAL PAY GRADE, on the subject, at hand, which gave Me the reason to add My "two cents worth".Thankyou M.Drew Curry #102 550 Hudson Street Penticton BC v2a 8s9

From: Mark Petry
Sent: March-14-16 9:02 PM
To: Public Hearings
Subject: 812 Johnson Road Uhaul attn: Corporate officer

I would like to express my views for this proposal.

I am against this site specific application for the following reasons.

1. There is ample industrial/commercial districts where this business would better fit the character of the neighbourhood.
2. The cross walk at Haven Hill and Johnson road is already very dangerous and could use cross walk lighting and centre line rumble strips. Many times people and children wait for cars which are exceeding the speed limit (cutting the corner) to stop which rarely seems to happen willingly. The trucks are parked in a manner that decrease the visibility around the corner and increases the hazardous conditions.
3. My backyard now has a view of uhaul billboards on the large trucks which does not benefit us at all and decrease our property value.
4. This property would better suit another type of additional business venture to compliment it and the surrounding neighbourhood.

Sincerely,

Mark and Megan Petry
430 Haven Hill road
Sent from my Samsung Galaxy smartphone.