



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

**Tuesday, December 6, 2016**  
**at 1:00 p.m.**

1. **Call Regular Council Meeting to Order**
2. **Introduction of Late Items**
3. **Adoption of Agenda**
4. **Recess to Committee of the Whole**
5. **Reconvene the Regular Council Meeting**
6. **Adoption of Minutes:**
  - 6.1 Minutes of the November 15, 2016 Committee of the Whole Meeting 1-2 Receive
  - 6.2 Minutes of the November 15, 2016 Regular Council Meeting 3-9 Adopt
  - 6.3 Minutes of the November 23, 2016 Special Council Meeting 10-17 Adopt
  - 6.4 Minutes of the December 1, 2016 Special Council Meeting 18-19 Adopt
7. **Committee and Board Reports:**
  - 7.1 Arts Creative & Cultural Innovations Committee Minutes of October 20, 2016 20-23  
*Recommendation: THAT Council receive the minutes of the Arts Creative & Cultural Innovations Committee meeting of October 20, 2016.*
  - 7.2 Downtown Revitalization Sub-Committee Minutes of October 26, 2016 24-26  
*Recommendation: THAT Council receive the minutes of the Downtown Revitalization Sub-Committee meeting of October 26, 2016.*
  - 7.3 SOEC Select Committee Minutes of November 4, 2016 27-29  
*Recommendation: THAT Council receive the minutes of the SOEC Select Committee meeting of November 4, 2016.*
  - 7.4 Heritage & Museum Committee Minutes of November 10, 2016 30-31  
*Recommendation: THAT Council receive the minutes of the Heritage & Museum Committee meeting of November 10, 2016.*

- 7.5 Arts Creative & Cultural Innovations Committee Minutes of November 17, 2016 32-35  
*Recommendation: THAT Council receive the minutes of the Arts Creative & Cultural Innovations Committee meeting of November 17, 2016.*

8. **Correspondence**

9. **Staff Reports:**

- PWM 9.1 Fees and Charges Amendment Bylaw No. 2016-70 36-38  
Re: Tag a Bag Coupons  
*Staff Recommendation: THAT Council give first, second and third reading to "Fees and Charges Amendment Bylaw No. 2016-70", a bylaw to amend Fees and Charges Bylaw No. 2014-07 to set a new bulk rate fee of \$62.50 including tax for 25 Tag a Bag coupons.*
- CFO 9.2 Municipal and Regional District Tax (MRDT) Bylaw No. 2016-64 39-41  
*Staff Recommendation: THAT Council give first, second, and third reading to Municipal and Regional District Tax (MRDT) Bylaw No. 2016-64, providing the City of Penticton with the authority to impose a 2% Municipal and Regional District Tax (MRDT) and requesting the Province levy the tax on its behalf.*
- CO 9.3 Council Meeting Schedule 42  
*Staff Recommendation: THAT Council select the following dates for the 2017 Regular Meetings of Council: January 10, 17, February 7, 21, March 7, 21, April 4, 18, May 2, 23, June 6, 20, July 4, 18, August 1, 15, September 5, 19, October 3, 17, November 7, 21, and December 5, 19.*
- CO 9.4 Records Management and Retention Bylaw No. 2016-61 43-46  
*Staff Recommendation: THAT Council give first, second and third readings to Records Management and Retention Bylaw No. 2016-61.*
- ADDS 9.5 Street Naming (Hawthorn Drive) Bylaw No. 2016-66 47-52  
Re: Hawthorn Drive  
*Staff Recommendation: THAT Council give first, second and third reading to "Street Naming (Hawthorn Drive) Bylaw No. 2016-66", a bylaw to name the new road created by the subdivision of 2740 Evergreen Drive "Hawthorn Drive".*
- BPM 9.6 Section 57 Notice on Title - Introduction 53-59  
Re: 144 Williamson Place  
*Staff Recommendation: THAT the owner of 144 Williamson Place be notified that Council will consider passing a resolution to place a Notice on Title under Section 57 of the Community Charter on Lot 18, DL2710, KAP48093 located at 144 Williamson Place, stating the following:*  
*"Failure to complete building permit (expired), which is a violation of City of Penticton Building Bylaw 94-45 and provide final Registered Professional (Engineer) approval to ensure installation meets engineered design. Further information may be inspected at City Hall";*  
*AND THAT further injunctive action be commenced by staff within 60 days of Section 57 Notice on Title being registered if outstanding deficiencies are not completed to close off permit;*  
*AND FURTHER THAT the owner be notified of the proposed Notice on Title and injunctive action report and be given an opportunity to speak to the matter at the December 20, 2016 Council meeting.*
- BPM 9.7 Complimentary Parking Downtown 60-62  
*Staff Recommendation: THAT Council approve no charge for on-street parking in the downtown area on the five (5) Saturdays in December 2016 which includes: December 3, 10, 17, 24, and 31, 2016.*

10. **Public Question Period**

11. **Recess to In-Camera Meeting**

Resolution: THAT Council recess to a closed meeting of Council pursuant to the provisions of the Community Charter section 90 (1) as follows:

- (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- (g) litigation or potential litigation affecting the municipality;
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the Freedom of Information and Protection of Privacy Act;

12. **Reconvene the Regular Council Meeting at 6:00 p.m.**

13. **Reconsideration of Bylaws and Permits:**

14. **Land Matters:**

ADDS	14.1	Development Variance Permit PL2016-7771 Re: 376 Braid Street <u>Staff Recommendation:</u> THAT Council approve "Development Variance Permit PL2016-7771" for LOT 2, PL KAP71761 DL 202 SDYD, located at 376 Braid Street, a permit to increase maximum lot coverage from 40% to 46%, decrease the minimum front yard from 4.5m to 2.5m and decrease the minimum interior side yard (south) from 1.5m to 1.1m; AND THAT staff be directed to issue Development Variance Permit PL2016-7771.	63-74	Del/Sub
ADDS	14.2	Section 57 Notice on Title Re: 329 Upper Bench Road S <u>Staff Recommendation:</u> THAT Council place a Notice on Title under Section 57 of the Community Charter on Lot 37A, Plan 306 (Except Plan B1542) located at 329 Upper Bench Road S, stating the following: "Failure to complete building permit (expired), which is a violation of City of Penticton Building Bylaw 94-45 and failure to complete life safety items and the exterior finish of the single family dwelling, which is a violation of the BC Building Code."  AND THAT further injunctive action be commenced by staff within 60 days of Section 57 Notice on Title being registered if outstanding deficiencies are not completed to close off permit.	75-78	Owner
ADDS	14.3	Temporary Use Permits for Marijuana Dispensaries Fees and Charges Amendment Bylaw No. 2016-67 <u>Staff Recommendation:</u> THAT Council, after hearing from neighbouring residents, consider on a site-by-site basis whether to issue Temporary Use Permits, for the purpose of operating marijuana dispensaries to the following properties, for an 18 month period:  <ol style="list-style-type: none"><li>1. 101 351 Westminster Avenue W: Lot A, District Lot 4, Group 7, Similkameen (Formerly Yale-Lytton) Division Yale District, Plan KAP81153</li><li>2. 256 Westminster Avenue W: Lot 7, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 871</li><li>3. 288 Westminster Avenue W: Parcel A (KE103216) District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 871</li><li>4. 409 Martin Street: Lot 6, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton), Plan 437, Except the Westerly 43 Feet, Measured Along the Northerly Boundary Thereof by the Full Depth of Said Lot</li><li>5. 456 Main Street: Lot 9, Block 15, District Lot 202, Similkameen Division Yale District, Plan 269</li></ol>	79-100	

6. 104 575 Main Street: Lot A, District Lot 202, Similkameen Division Yale District, Plan 9283
7. 150 1636 Main Street: Lot 2, District Lot 3237S, Similkameen Division Yale District, Plan 36801

AND THAT issuance of any of the TUPs be subject to the following conditions:

- Must hold a business licence issued by the City
- No cannabis products visible from outside of the store;
- Ventilation system must be in place, creating an exchange of outside and inside air;
- Hours are limited to 8 AM – 10 PM;
- Two staff are present at all times during business operation;
- Those persons 21 years and under are prohibited from entering the dispensary;
- No smoking or consuming product on site is permitted;
- Must have a security plan in place;
- Criminal record checks for licence holders showing no drug related offences within the past 10 years; and
- Dispensary not to be combined with any other business retail or otherwise, other than minor associated products and comprising less than 20% of retail space

AND THAT Council give first, second and third reading to "Fees and Charges Amendment Bylaw No. 2016-67", a bylaw that amends Fees and Charges Bylaw 2014-07 to include an annual \$5,000 fee for a business license to operate a marijuana dispensary or a non-profit licence to operate a marijuana dispensary.

- 1: Okanagan Cannabinoid Therapy 101-107 Del/Sub  
Re: 101-351 Westminster Avenue West

Staff Recommendation: THAT Council approve "Temporary Use Permit PL2016-7767", a permit permitting the use 'marijuana dispensary' in the CD4 zone on Lot A, District Lot 4, Group 7, Similkameen (Formerly Yale Lytton) Division Yale District, Plan KAP81153, located in Unit 101 of 351 Westminister Avenue W, subject to the following conditions:

- a) Must have a business licence issued by the City of Penticton;
- b) No cannabis products visible from outside of the store;
- c) Ventilation system must be in place;
- d) Hours are limited to 8 AM – 10 PM seven days a week;
- e) Two staff are present at all times during business operation;
- f) Those persons 21 years and under are prohibited from entering the dispensary;
- g) No smoking or consuming product on-site is permitted;
- h) Must have a security plan in place;
- i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
- j) Dispensary not to be combined with any other business retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.

AND THAT Staff are directed to issue the permit.

- 2: Power Greens 108-113 Del/Sub  
Re: 288 Westminister Avenue W

Staff Recommendation: THAT Council approve "Temporary Use Permit PL2016-7782", a permit permitting the use 'marijuana dispensary' in the C6 zone on Parcel A (KE103216), District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale Lytton), District, Plan 871, located at 288 Westminister Avenue W subject to the following conditions:

- a) Must have a business licence issued by the City of Penticton;
- b) No cannabis products visible from outside of the store;
- c) Ventilation system must be in place;
- d) Hours are limited to 8 AM – 10 PM seven days a week;
- e) Two staff are present at all times during business operation;
- f) Those persons 21 years and under are prohibited from entering the dispensary;
- g) No smoking or consuming product on-site is permitted;
- h) Must have a security plan in place;
- i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
- j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.

AND THAT Staff are directed to issue the permit.

- 3: Herbal Green 114-118 Del/Sub  
Re: 256 Westminster Avenue W  
*Staff Recommendation:* THAT Council approve "Temporary Use Permit PL2016-7748", a permit permitting the use 'marijuana dispensary' in the C6 zone on Lot 7, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 871, located at 256 Westminster Avenue W subject to the following conditions:
- a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 21 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.
- AND THAT Staff are directed to issue the permit.
- 4: Green Essence 119-128 Del/Sub  
Re: 409 Martin Street  
*Staff Recommendation:* THAT Council approve "Temporary Use Permit PL2016-7751", a permit permitting the use 'marijuana dispensary' in the C5 zone on Lot 6, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale Lytton) Plan 437, located at 409 Martin Street subject to the following conditions:
- a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 19 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.
- AND THAT Staff are directed to issue the permit.
- 5: Buds Medical Cannabis Products 129-146 Del/Sub  
Re: 456 Main Street  
*Staff Recommendation:* THAT Council approve "Temporary Use Permit PL2016-7766", a permit permitting the use 'marijuana dispensary' in the C5 zone on Lot 9, Block 15, District Lot 202. Similkameen Division Yale District, Plan 269, located at 456 Main Street subject to the following conditions:
- a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 21 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.
- AND THAT Staff are directed to issue the permit.

- 6: Okanagan Cannabis Solutions Society 147-152 Del/Sub  
 Re: 104-575 Main Street  
Staff Recommendation: THAT Council approve "Temporary Use Permit PL2016-7773", a permit permitting the use 'marijuana dispensary' in the C5 zone on Lot A, District Lot 202, Similkameen Division Yale District, Plan 9283, located at 104 575 Main Street subject to the following conditions:
- a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 21 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.
- AND THAT Staff are directed to issue the permit.
- 7: Avitas Pharmacos/Be Kind Okanagan 153-159 Del/Sub  
 Re: 150-1636 Main Street  
Staff Recommendation: THAT Council upon considering the contents to the staff report and this Appendix and in consideration of the proposed business being within 200m of a school decide between the following three options:
- Option 1:  
 Approve "Temporary Use Permit PL2016-7760", a permit allowing the use 'marijuana dispensary' in the C4 zone on Lot 2, District Lot 3237S, Similkameen Division Yale District, Plan 36801, located at 150 1636 Main Street subject to the following conditions:
- a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 21 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.
- Option 2:  
 Direct staff to pursue an 'official response' from Carmi Elementary" and/ or the School District #23.
- Option 3:  
 Deny the TUP PL2016-7760.
- ADDS 14.4 Housing Agreement Authorizing Bylaw No. 2016-68 160-170  
 Re: 175 Kinney Avenue  
Staff Recommendation: THAT "Housing Agreement (175 Kinney Avenue) Bylaw No. 2016-68" a bylaw authorizing the City of Penticton to enter into a housing agreement with the owners of 175 Kinney Avenue, requiring any development on the property to remain rental housing for a 10 year period, be given first, second and third reading and be forwarded to the December 20, 2016 Regular Meeting of Council for adoption;  
 AND THAT staff are authorized to execute and register the agreement once Bylaw No. 2016-68 has been adopted.

Re: 1786 Fairford Drive

*Staff Recommendation: THAT "Zoning Amendment Bylaw No. 2016-69," being a bylaw to amend City of Penticton Zoning Bylaw 2011-23 by adding Section 10.1.3.6: "In the case of Lot 2, District Lot 115, SDYD, Plan 14604, located at 1786 Fairford Drive, a carriage house with vehicular access from a street is permitted in conjunction with a secondary suite in the principal dwelling," be given first reading and forwarded to the December 20, 2016 Public Hearing;*

*AND THAT delegations and submissions be heard at the December 20, 2016 Public Hearing for "Development Variance Permit PL2016-7758" for Lot 2, District Lot 115, SDYD, Plan 14604, located at 1786 Fairford Drive, a permit to increase the maximum building footprint for a carriage house from 90m<sup>2</sup>, or 60% of the building footprint area of the principal residence, whichever is less to 120m<sup>2</sup> and to decrease the minimum north interior side yard from 1.5m to 0.92m;*

*AND THAT "DVP PL2016-7758", be considered after adoption of "Zoning Amendment Bylaw No. 2016-69".*

- 15. **Notice of Motion**
- 16. **Business Arising from In-Camera**
- 17. **Council Round Table**
- 18. **Public Question Period**
- 19. **Adjournment**

**Committee of the Whole**  
held at City of Penticton Council Chambers  
171 Main Street, Penticton, B.C.

**Tuesday, November 15, 2016**  
**Recessed from the Regular Council Meeting at 1:00 p.m.**

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

**Staff:** Mitch Moroziuk, Acting Chief Administrative Officer  
Jim Bauer, Chief Financial Officer  
Ben Johnson, Acting Director of Development Services  
Dana Schmidt, Corporate Officer  
Angie Collison, Deputy Corporate Officer

**1. Call to order**

The Mayor called the Committee of the Whole meeting to order at 1:02 p.m.

**2. Adoption of Agenda**

**It was MOVED and SECONDED**

THAT the agenda for the Committee of the Whole meeting held on November 15, 2016 be adopted as circulated.

**CARRIED UNANIMOUSLY**

**3. Delegations and Staff Presentations:**

3.1 Proclamation – Restorative Justice Week – November 20 – 27, 2016

Mayor Jakubeit proclaimed November 20 – 27, 2016 as “Restorative Justice Week” in Penticton.

3.2 Okanagan Hockey Group – Economic Impact Report 2015/2016

Andy Oakes, President, Okanagan Hockey Group Inc., provided Council with an overview of the Okanagan Hockey Group organization and the economic impact on the community.

3.3 Penticton Creek Master Plan Update

Ian Chapman, City Engineer, and Bryn White, Penticton Creek Restoration Committee Chairperson, provided Council with an overview of the Penticton Creek work to date and future considerations.

**4. Adjourn to Regular Meeting**

**It was MOVED and SECONDED**

THAT Council adjourn the Committee of the Whole at 2:06 p.m. and reconvene the Regular Meeting of Council.

**CARRIED UNANIMOUSLY**

Certified correct:

Confirmed:

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Dana Schmidt  
Corporate Officer

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Andrew Jakubeit  
Mayor

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

**Tuesday, November 15, 2016**  
**at 1:00 p.m.**

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

**Staff:** Mitch Moroziuk, Acting Chief Administrative Officer  
Dana Schmidt, Corporate Officer  
Jim Bauer, Chief Financial Officer  
Ben Johnson, Acting Director of Development Services  
Angie Collison, Deputy Corporate Officer

**1. Call to Order**

The Mayor called the Regular Council meeting to order at 1:01 p.m.

**2. Introduction of Late Items**

**3. Adoption of Agenda**

496/2016

**It was MOVED and SECONDED**

THAT Council adopt the agenda for the Regular Council meeting held on November 15, 2016 as presented.

**CARRIED UNANIMOUSLY**

**4. Recess to Committee of the Whole**

Council recessed to a Committee of the Whole Meeting at 1:02 p.m.

**5. Reconvene the Regular Council Meeting**

Council reconvened the Regular Council Meeting at 2:06p.m.

**6. Adoption of Minutes:**

6.1 Minutes of the November 1, 2016 Public Hearing

497/2016

**It was MOVED and SECONDED**

THAT Council receive the minutes of the November 1, 2016 Public Hearing as presented.

**CARRIED UNANIMOUSLY**

6.2 Minutes of the November 1, 2016 Regular Council Meeting

498/2016

**It was MOVED and SECONDED**

THAT Council adopt the minutes of the November 1, 2016 Regular Council Meeting as amended.

**CARRIED UNANIMOUSLY**

**7. Committee and Board Reports**

7.1 Parks and Recreation Master Plan Steering Committee Minutes of October 19, 2016

499/2016

**It was MOVED and SECONDED**

THAT Council receive the minutes of the Parks and Recreation Master Plan Steering Committee Meeting of October 19, 2016.

**CARRIED UNANIMOUSLY**

7.2 Parks and Recreation Master Plan Steering Committee Minutes of October 20, 2016

500/2016

**It was MOVED and SECONDED**

THAT Council receive the minutes of the Parks and Recreation Master Plan Steering Committee Minutes of October 20, 2016.

**CARRIED UNANIMOUSLY**

7.3 Parks and Recreation Master Plan Steering Committee Minutes of November 3, 2016

501/2016

**It was MOVED and SECONDED**

THAT Council receive the minutes of the Parks and Recreation Master Plan Steering Committee Minutes of November 3, 2016.

502/2016

**It was MOVED and SECONDED**

THAT Council direct staff to investigate the timing and cost of developing a policy for commercial uses in parks and the Terms of Reference for the Parks & Recreation Master Plan be expanded and included in the Parks & Recreation Master Plan Steering Committee's mandate.

**CARRIED UNANIMOUSLY**

**8. Correspondence**

8.1 Penticton-Ikeda Japanese Garden Committee

Re: Dedicated Volunteers

Council reviewed correspondence from the Penticton-Ikeda Japanese Garden Committee.

**9. Staff Reports:**

9.1 Travel Penticton – Barb Haynes and Jessica Dolan

Re: Tourism funding – 2% request

Mayor Jakubeit and Councillor Sayeed declared a conflict of interest and left the meeting at 2:15 p.m.

Barb Haynes, Travel Penticton, provided Council with an overview of the new society and requested 2% MRDT renewal and a commitment for a five year funding plan.

503/2016

**It was MOVED and SECONDED**

THAT Council establish funding for Travel Penticton for the fiscal years 2017 to 2021 in the amounts of:

2017	\$354,000
2018	\$300,000
2019	\$300,000
2020	\$300,000
2021	\$300,000

AND THAT Council provides staff with direction to commence the re-application process with Travel Penticton Society for an agreement with DestinationBC (Province of BC) to impose a municipal regional destination tax (MRDT) at a rate of 2% of accommodation fees in the City of Penticton for a 5 year period commencing July 1, 2017.

**CARRIED UNANIMOUSLY**

Mayor Jakubeit and Councillor Sayeed returned to the meeting at 2:28 p.m.

9.2 Penticton Arena Task Force

504/2016

**It was MOVED and SECONDED**

THAT Council endorse the recommendation for involving the community in the decision for Memorial Arena; AND THAT Council approve the creation of the Penticton Arena Task Force and the draft Terms of Reference as contained in this Council Report.

**CARRIED UNANIMOUSLY**

9.3 2014 – 2016 Committees – three month extension

505/2016

**It was MOVED and SECONDED**

THAT Council direct staff to extend all Council Committee terms ending December 31, 2016 by three months to remain in effect until March 31, 2017;  
AND THAT Council direct staff to extend an invitation to all current committee members to remain until March 31, 2017;  
AND THAT Council direct staff to make recommendations for the 2017-2018 Committees in February 2017.

**CARRIED UNANIMOUSLY**

9.4 Extreme Weather Response Protocol

Councillor Picton left the meeting at 3:26 p.m.

506/2016

**It was MOVED and SECONDED**

THAT Council, after considering the contents of this report, endorse the extreme weather response criteria outlined in the community response plan as follows:  
Penticton’s extreme weather response beds will be made available in the following circumstances:

- When the weather is forecasted to be below - 2 Celsius
- When there is forecasted to be greater than 5 cm of snow
- When there is forecasted to be freezing rain
- The decision to open the emergency weather shelter will be made at 10 AM based on the forecast on the Environment Canada website
- When activated the shelter will open at 8 PM and close at 8 AM

- A meal will be served to those residing in the shelter at night and in the morning

AND THAT Council supports the Salvation Army and Compass House as the operator of the extreme weather response shelter in Penticton.

**CARRIED**  
**Councillors Sayeed and Sentes, Opposed**

Councillor Picton returned to the meeting at 3:28 p.m.

**10. Public Question Period**

**11. Recess to In-Camera Meeting**

507/2016

**It was MOVED and SECONDED**

THAT Council recess at 3:46 p.m. to a closed meeting of Council pursuant to the provisions of the *Community Charter* section 90 (1) as follows:

- (c) labour relations or other employee relations;
- (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- (g) litigation or potential litigation affecting the municipality;
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the Freedom of Information and Protection of Privacy Act;
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected the harm the interests of the municipality if they were held in public.

**CARRIED UNANIMOUSLY**

**12. Reconvene the Regular Council Meeting at 6:00 p.m.**

Council reconvened the Regular Council Meeting at 6:00 p.m.

**13. Reconsideration of Bylaws and Permits**

- 13.1 Zoning Amendment Bylaw No. 2016-60  
Re: 633 Winnipeg Street (Discovery House)

508/2016

**It was MOVED and SECONDED**

THAT Council adopt "Zoning Amendment Bylaw No. 2016-60".

**CARRIED UNANIMOUSLY**

13.2 Five Year Financial Plan Amendment Bylaw No. 2016-63

509/2016

**It was MOVED and SECONDED**

THAT Council adopt "Five Year Financial Plan Amendment Bylaw No. 2016-63".

**CARRIED UNANIMOUSLY**

**14. Land Matters:**

14.1 Development Variance Permit PL2016-7739

Re: 112 Lee Avenue

Delegations/Submissions: Lynn Kelsey, Oakville Street, spoke in support of the application.

510/2016

**It was MOVED and SECONDED**

THAT Council approve Development Variance Permit PL2016-7739 for LOT 1, DISTRICT LOT 189 SIMILKAMEEN DIVISION YALE DISTRICT PLAN 6157, located at 112 Lee Avenue, a permit to increase the maximum floor area of all accessory buildings from 75m2 to 84m2; AND THAT staff be directed to issue Development Variance Permit PL2016-7739.

**CARRIED UNANIMOUSLY**

14.2 Development Variance Permit PL2016-7661

Re: 36 and 40 Greenwood Drive

Delegations/Submissions: nil

511/2016

**It was MOVED and SECONDED**

THAT Council approve "Development Variance Permit PL2016-7661" for Lot 1, District Lot 251, Similkameen Division Yale District, Plan KAP92834, located at 36 Greenwood Drive, a permit to reduce the minimum lot size of a property that is zoned R2, from 390m2 to 355 m2, to accommodate a lot line adjustment subdivision application between 36 Greenwood Drive and 40 Greenwood Drive.

**CARRIED UNANIMOUSLY**

14.3 Development Variance Permit PL2016-7731

Re: 192 Industrial Court

Delegations/Submissions: nil

512/2016

**It was MOVED and SECONDED**

THAT Council approve Development Variance Permit PL2016-7731 for LOT 10, DISTRICT LOT 115 SIMILKAMEEN DIVISION YALE DISTRICT PL 32316, located at 192 Industrial Court, a permit to increase maximum lot coverage from 50% to 75.5% and to decrease the required interior side yards from 4.5m & 0m to 0m on both sides; AND THAT staff be directed to issue Development Variance Permit PL2016-7731.

**CARRIED UNANIMOUSLY**

14.4 Development Variance Permit PL2016-7587

1000 Lakeshore Drive West

Delegations/Submissions: nil

Main Motion:

**It was MOVED and SECONDED**

THAT Council approve Development Variance Permit PL2016-7587 for Lot 3, District Lot 3, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 1897 located at 1000 Lakeshore Drive West, a permit to reduce the west interior side yard from 4.5m to 0.75m to allow for a staircase and to increase the maximum gross floor area for one security/operator dwelling unit from 100m2 to 197m2; AND THAT staff be directed to issue Development Variance Permit PL2016-7587.

Amendment:

**It was MOVED, no SECONDER**

THAT staff work with the developer for privacy screening on staircase.

513/2016

Main Motion:

**It was MOVED and SECONDED**

THAT Council approve Development Variance Permit PL2016-7587 for Lot 3, District Lot 3, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 1897 located at 1000 Lakeshore Drive West, a permit to reduce the west interior side yard from 4.5m to 0.75m to allow for a staircase and to increase the maximum gross floor area for one security/operator dwelling unit from 100m2 to 197m2; AND THAT staff be directed to issue Development Variance Permit PL2016-7587.

**CARRIED UNANIMOUSLY**

14.5 Temporary Use Permit for PL2016-7765  
1830 Ridgedale Avenue – rock crushing

Delegations/Submissions: nil

514/2016

**It was MOVED and SECONDED**

THAT Council, after considering the facts in this report and after hearing from any concerned neighbouring residents, choose:

THAT Council issue "Temporary Use Permit No. PL2016-7765", a permit to allow for the operation of a "rock crusher", on Lot 1, District Lot 2710, Similkameen Division Yale District, Plan 21103, located at 1830 Ridgedale Avenue, for a period of two months and one day, commencing on December 1, 2016, subject to the following conditions:

- No processed materials are to leave the site;
- The rock crusher is only permitted to be operated between the hours of 8 AM and 4 PM, Monday to Friday;
- Appropriate dust control measures are to be taken at all times;
- That a sound barrier (earth berm) is created to reduce noise around the crusher.

**CARRIED UNANIMOUSLY**

**15. Notice of Motion**

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

**17. Public Question Period**

Councillor Sayeed announced he will be absent December 6 and 20, 2016.

**18. Adjournment**

515/2016

**It was MOVED and SECONDED**

THAT Council adjourn the Regular Council meeting held on Tuesday, November 15, 2016 at 6:42 p.m.

**CARRIED UNANIMOUSLY**

Certified correct:

Confirmed:

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Dana Schmidt  
Corporate Officer

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Andrew Jakubeit  
Mayor

**Special Council Meeting**  
**City of Penticton, Trade and Convention Centre**  
**273 Power Street, Penticton, B.C.**

**Wednesday, November 23, 2016**  
**at 6:00 p.m.**

- Present:** Mayor Jakubeit  
Councillor Sentes  
Councillor Watt  
Councillor Picton  
Councillor Konanz  
Councillor Sayeed  
Councillor Martin
- Staff:** Mitch Moroziuk, Acting Chief Administrative Officer  
Dana Schmidt, Corporate Officer  
Blake Laven, Planning Manager  
Angie Collison, Deputy Corporate Officer
- Guests:** John Singleton, Moderator  
Tom Dyas, Owner  
Tom Hedquist, Owner  
Jeff Robinson, Trio Legal Counsel  
Tyrone Duerr, City Legal Counsel

**1. Call to Order**

Mayor Jakubeit called the Special Council Meeting to order at 6:06 p.m.

**2. Adoption of Agenda**

516/2016

**It was MOVED and SECONDED**

THAT Council adopt the agenda for the November 23, 2016 Special Meeting of Council as presented.

**CARRIED UNANIMOUSLY**

Mayor Jakubeit welcomed the community and introduced Council, Staff, Legal Counsel and Trio Marine Group Inc. The moderator reviewed the process of the meeting.

### 3. Skaha Lake Marina and Water Park Development

#### 3.1 Presentation from Mitch Moroziuk, Interim Chief Administrative Officer

The Interim Chief Administrative Officer provided Council and the community with an overview of the Revised Skaha Lake Marina Development agreements.

#### 3.2 Community input (3 minutes each)

- Lisa Martin, Stocks Crescent, long and frustrating 18 months, 5200 members Save Skaha Society, protest, law suits, voicing opposition, stayed true to protect green space in the park. Met with City and Trio, time to come to negotiated resolution. Upon viewing revised agreement appears occupies more water front, do not support concession. Example of City letting Trio get what it wants, soured on entire business relationship and plan to commercially develop Skaha Park, sever ties with Trio and end fiasco once and for all.
- Gerry Karr, Stocks Crescent, Council in real mess, compounded with terrible process, how do you revitalize nature, valuable service through health and environment, need peaceful places like this park, don't need another Coney Island. Gone downhill, thought going to listen, new revised plan nothing to address objection to Skaha green space, unsettled and two days to digest info, united against stubborn council who wants their way, do not trust, get rid of developer, will be the cheapest, regroup and develop plan to develop marina which is where this all started.
- Gerry Gilligan, Penticton Avenue, report should not be approved, subsidy from City to Trio, could trigger cancelation fee of approx. \$ 200,000 exclusive rights to beach for 29 years, Trio failed to secure financing from lenders, failed to gain public trust, boycott by many, pull plug on Trio, end the relationship with Trio and instruct staff to invoke clause to expel Trio.
- Phil Mushin, pull Penticton to 21st century, make decision on development to move this city forward, do not cave in, need better development down there, Trio don't give up, this city will stagnate, wont attract development.
- Ted MaCarr, Abbott Street, why didn't council and staff learn from experience, Okanagan lake park saved from being hotel by group of citizens, urge to consider rejecting Trio proposals, experience leads to good decision making, why didn't use past experience in this case.
- Jack Bertram, Abbott Street, don't like how this was handled, don't like secrets.
- Gary Seba, Perkins Crescent, Trio did not meet time line of October 31, contract null and void. Why here tonight spending more tax payer's money?
- Dwayne Martin, Stocks Crescent, revenue projection for agreements should be audited independent third party, waterslides went broke, use third party valid number for decision making process.
- Sharon Hickey, Churchill Ave, dragon boat has 400 members, festival brings 2500 athletes, economic impact on city, small boathouse at Skaha, public consultation prior, any expansion of boat house if dragon boat club continues to grow. Will they be a tenant of Trio or City?
- Delores Rose, Yorkton Avenue, serve all citizens of Penticton, don't feel that is being done, what size hammer does Trio have over head? So concerned about pleasing Trio when there is opposition to this proposal.

- Sandy Miscall, Nelson Street, why did Kelowna pay 2 million to make into parkland, Lake Country bought railroad track to be made into parkland, marina project up for tender?
- Sharon Halso, dragon boat member, storage of boats, learned from council in Peachland never give up green space or park to developers.
- John Archer, Penticton Avenue, previous Iron Man, trained in Okanagan, over years intimate with beaches and parks on lake, written to Herald, destruction of esthetics of beaches commercialization, appalled by tents for tattoos and massages, cultural heritage, email to council prior to letter published for consideration and asking for acknowledgment of email, why no one had the courtesy to respond to my email.
- Emery Wilson, Brandon Avenue, waterslide concept gone, why exclusive part of the beach still in this agreement.
- Chris Staymar, Lee Avenue, come a long way see waterslide put down, like to hear from Trio group, why should we still support anything they do in our city, like to know why waterslide important, financially don't make any sense to us at all, what was in it for them in the beginning, why trust them now.
- Nicki Morris, Derenzy Place, thank council for reviewing, proud member of Save Skaha Society, not happy with first proposal, happier with this. Do you have any concerns Councillor Sayeed as you stated opposed all along. What are the limitations of beach space by Trio?
- Maureen Chatham, Yorkton Avenue, cynical, don't trust what told by politicians, revisions, don't understand when first contract didn't get going whole thing torn up, concerned with length of contract, not sure what new changes, 29 years too long. Should be federal, provincial, first nations, having say in what goes in marina area and lakes, any environmental studies done?
- Ron Smullen, Van Horne Street, cannot buy any form of restriction or limitation on green space, thank mayor for responding to my emails. Facebook has very bitter and angry people out there, grey hair set are being blamed wrongly for lack of progress and lack of consideration. Hope each one here can find a way to close our mouth and listen, two ears and listen respectfully to those who differ from us, seek to find thing in our city to celebrate, find ways to build on those.
- Connie Salmark, Roy Avenue, find a solution, encourage everyone to be optimistic, do you believe in climate change, need to have plan for resilience, climate change is real, money to be made in research and development resiliency, make our economy flourish, avenues to explore, same effort to broadening scope.
- Gerry Gilligan, Penticton Avenue, mayor will you make a motion to consider removing trio from this project? Feel lost the trust of the public, 18 months of trauma will not go away as long as Trio is part of that park.
- Barb Hoolaeff, Spruce Place, see Skaha Park from home, new proposal existing marina with restaurant, in time boathouse and concession stand expanded, anything more?
- Ben Amos, Naramata Road, déjà vu, 14 and 15 years ago development of Okanagan park for hotel complex, protect our park land, proposed development, court case and referendum, Skaha park in perpetuity open and free use for all, permanent stage for east end of park, this will not go unchallenged, how do you assess referendum 2002-24.
- Lyla Parsons, Edgewood Drive, lease the parks for five years, heart attack when heard 29 years with two five year extensions. Nothing has changed in second proposal, if need extra amenities, should be done by city. We own it, we pay our taxes, if more taxes will pay, our park, our amenities, against any commercial entity on park for more than five years, extra consultation, signed agreement when told we didn't want this waterslide so how can we trust you.
- Sabina Moss, Rigsby Street, if Trio is willing to spend 1.5 million why does the city have to give \$38,000 for rent and taxes? Why doing this for Trio?

- Jenna, Trio wants control over exclusion area, Trio doesn't want to spend the money and have the City allow massage, bocce, and other commercial set up.
- Jake Kimberly, Lakeshore Drive West, read statement from Gary Denton he writes, after many months find conclusion is no agreement at all, favor abandon agreements by city council, lost any remaining trust in city council regarding this issue. Cannot take a referendum on signed contract, tail wagging the dog, 2014-19 housekeeping bylaw for height in park 12m to 16m zoning approved, June 9, 2014, road closure 2014 enhance waterfront, accommodate some structures passed unanimously, public hearing three and half hours, presentation protecting park it took less than 15 minutes for this council to decide this contract. Should have postponed decision of council. Consultation will take place if amendment to agreement, consultation was heard for this agreement, can we trust that this council will listen? My thought is no, cannot trust you. Public land, you are responsible, not the contractor, buy this deal out or let's hear the true story in court.
- David Lindsay, Eckhart Avenue, concern with procedure, if build marina on lake, need permission of Canada, consultation with First Nations, two days' notice of new agreement is unacceptable. Skaha Lake is going to look like Okanagan Lake, procedures not being followed, have the integrity to take the stand on something, have intestinal fortitude, rectify situation, stand up for us, we do not want commercial development in our park.
- Hanna Hyland, Elm Avenue, may be limited to marina area but it is still marriage what this current city and planners have married together to take away our park, cannot believe it is just the marina area, have to get permission from lots of people before you can develop, more than 5500 people signed before, hear and do what is best for the community, saying no deals, no compromises.
- Janet McIver, Stocks Crescent, clarification, who what where when why how Trio bestowed upon most favorite status in city, only interest in marina, after he said didn't want any competition outside marina, wibit conflict for marina?
- Nelson Meikle, we put out press release yesterday, bylaws and federal laws not followed, 2013 expression of interest, Penticton Citizens First have requested city agree not to sign any further agreement with Trio or any other interested party until May 2017 when a new expression could be presented to residents. Two businesses have put names forward not heard back from city, encourage city to ensure all consultation take place prior to signing. Sufficient notice given to citizens of Penticton, comply with laws, two days' notice is unacceptable, hold civil case until May 2017. Consultation required and approved federal, provincial, municipal, native bands. Let's move forward following all laws, not just the ones people think they have.
- Lynn Crassweller, Atkinson Street, why first right of refusal on imaginary concession stand? Do not agree to some unknown business that takes highly valued land in the city, little red line can get moved anywhere, on December 1 will vote on this deal, January 2017 one month after the vote will receive marketing plan and revenue expense statement, how can you make an informed decision without financial info? You cannot. Poor financial trade off and bent protocol. Are all businesses getting this kind of deal? Many man hours of the city help to enhance this business. Dissolve this deal with Trio.
- Barb Hoolaeff, Spruce Place, numerous guest go to park, accosted to sign petition, signatures on petition doesn't mean much to me, calling for expulsion is vindictive, go forward, no opposition to Loco Landing, Patio, Senior Centre or pickle ball.
- Doug Lacousta, Douglas Avenue, sublicense? Intend to complete PIB fisheries aquatic assessment?
- Victoria Richie, Van Horne Street, happy with new agreement, what are you doing to gain support with first nations on this project? What environmental standards are you being put up to for the development of this project?

- Van Horne Street, park should be accessible and affordable to everyone, concerned with 30 year lease, paid parking, great give away of prime lakeside real estate, it's amazing let's keep it that way, disappointed at council for ignoring public at rally and petition, exempt Trio from new Parks and Recreation policy, figure out policy and how these guys might fit into it, what part of no don't you guys get.
- Dennis O'Gorman, Pharrell Street, Parks and Recreation Master Plan, vision, focus on people and not commerce, community input, listen to it, outdoor rec amenities, establish commercial uses in park, public engagement prior to approving, worth more effort, inconsistent with what said in first round of consultation.
- Tom Schultz, Corry Place, Trio considering the massive opposition, James Miller survey, will you be good corporate citizen and not squeeze for everything they've got?
- Carolae Donahue, Fintry Road, 2015 mid-July and August rally held stop commercialization, this meeting should have been held last June. If you'd have followed the democratic process, if you'd listen to those people, you wouldn't have signed the agreement. That is the biggest flaws that happened, lost trust, say goodbye to Trio and stop this community being divided, let's start again and come together as a community.
- James Palanio, daughter disappointed no water slide or splash pad, 11 and 8 years old, don't see many that age here, support new agreement, move forward, hope allow people of tomorrow to choose their own destiny, don't take away the people of the futures ability to decide what they want in their time.
- Randy Gallagher, Trout Creek, business is watersports, boat rental competition with Trio at Skaha, assisted Trio when they started, hats off to abuse taking tonight, almost got this figured out, concerned as business man, need to do due diligence, know your numbers, if marina cannot support itself not viable business, we are one of two and if RFP we'd bid on it, we own wibit, process in Penticton is lengthy, First Nation, environment process, don't think you have done due diligence in waterpark, one wibit in this town is enough, we would like opportunity to bid on proper RFP process.
- Ron Shoullahan, Penticton Avenue, Trio, in your restaurant you were serving alcohol before having a licence.
- Sharon McClennon, Atkinson Street, Trio met all commitments made prior to this time? first rights for all amenities in park, public process is people get to bid, should be able to have people making proper commitment, should be no first rights.
- Frank Deluuew, Beattie Court, parking, Trio will control and maintain, boat parking area?
- Laurell Wicket, Churchill Avenue, mystery in process, mystery remains, amenities, don't know what those are, why wasn't a simple contract negotiated for just those developments, revenue generation for waterslide, what is keeping you through this process? Don't believe concession and boat house.
- James Miller, Penticton, moderator cost, would have done for free, marina operator, community built on volunteers, put together a volunteer community, independent yacht club would be a great idea, not allow Janine to bid, first nations, taking kids away from families, going to heal this with first nations, everyone can afford the beach. 29 year lease, Global Spectrum bids every five years, what is next closest long term city lease?
- Jennifer Liew, Norton Street, how many years are you going to forgive taxes for Trio?
- Joanne Montgomery, Hatfield Avenue, not a boater, will geology of area will support 100 slip marina? Is the land marina on also designated park land? Is a restaurant a permitted use in a park area?

- Gerry Karr, Stocks Crescent, question of tendering, process began as bad idea with EOI presented by city and openly invited commercialization of Skaha park, make adventurous and vibrant through commercial development, EOI led to RFP and selection of Trio, if asked for tendering of a marina, would have received a different response. When talking about amenities and commercialization of parks, amenities is subservient or subordinate, not all natural parks but natural assets, we all recognize that, primary purpose many can and should be developed through community initiatives, look at splash pad in Skaha park now, developed by Rotary, didn't require developer, do not need commercial development to enhance use of these parks.
- Gail Bay, Yorkton Avenue, how much legal costs? Why FOI secret?
- Ron Smyle, Van Horne Street, stupid people all over, barb wired is one of them, inference that protestors, need further evidence, Trio has first kick, invalid precedents, golf club was empty pasture, never spent a penny, golf and country club nonprofit society, loco landing was mini golf in 60s, one reasons was historical precedent.
- George Janzen, Wilson Street, 29 years and 10 years, object to lease term length, no business needs 39 years to recoup their profit, couldn't stay in business if that poor of a business man.
- Lynn Kelsey, Oakville Street, concerned with secrecy of termination agreement, if either side doesn't follow contract we are done. Better quality food at concession is disrespectful to current concession operator. Don't trust you to listen, number of other things, cart continually in front of horse, decisions made too quickly. Policy on amenities and commercial use of park, no.
- Slo Berry, South Main Street, said about current concession, they have improved that place and made it so comfortable to use and access, not fancy but is suits that place. Went to Trio website, picture of lake with nothing else on it, peaceful place, deceiving. Go to lake once a day, was their when Trio ripped down beaver lodge, showed me heavy handed approach, installation of water line, serve waterslide, coincidence I guess, read underutilized, it's not generating income, that is when something isn't utilized, economy isn't only dollar based, don't confuse change with progress, keep your hands off her, she don't belong to you. Gotta know when to hold them know when to fold them know when to walk away.
- Acacia Place, question for City Attorney, how could recommend 29 year lease to council, would like a 10 year lease with option to review.
- Robert, Pineview Road, 2011-23 P2 parks and rec and permitted uses, if you massaged this one to fit this situation, how many others have you massaged.
- Lyle Carson, Fisher Drive, presume Trio went into this agreement to make money, why pick waterslide when waterslides going broke and by the way side?
- Judy Schiele, Lee Avenue, Trio exempt from parks master plan, will others in park be exempt? Lease and taxes, if renting house from city would have to pay my rent every month, why Trio doesn't have to pay their rent every month? How much to walk away? In favor of marina, would like to see that improved.
- Joy Thompson, South Main, Trio, boat house, concerned really going to do there, what motivates you to do this, what is advantage to do this? How does a boat house fit in?
- Helen Trevers, Pharrell Street, operated concession on beaches for five year contracts, looked for other opportunities in off season, didn't ask city for longer tem leases, didn't feel needed, don't know why it has to be 29 years and monopoly on beach.
- Sharron Devlin, Abbott Street, thank you young people for coming and Trio, consultation process doesn't just involve PIB but seven bands in total, any revenue generating opportunities sole source proposal, where would they put water amenity with severe drop-off on the beach?
- David Lindsay, Eckhardt, Avenue, question for Interim CAO.

- Ron Smyle, appears OCP is guideline, is it possible to have iron clad bylaw for parks that must be approved of majority of eligible electors?
- Gary Seba, Perkins Crescent, meeting is public input on revised marina development, what are these agreements on? They failed to meet conditions of?
- Diana Varga, Haynes Avenue, status of original contract, glossed over, why isn't that not being settled before now?
- David Lindsay, Eckhardt Avenue, mentioned restaurant auxiliary to marina, parking lot for boats, absurd to park boats where alcohol being served, don't see rationale, cases determined that issue.
- Patty Quinn, Yorkton Avenue, observing everything tonight, went to council meeting perception is everything, Trio caught up in a lot of this, marina great, walk park everyday, dragon boats everyday, where will you put a waterslide that floats in the lake? Don't forget to listen to the people who voted you in. Think dedicated people trying to do the best you can, where will you put a floating slide thing when you have dragon boats on the lake?
- Tom Schultz, Corry Place, now we know Trio not good corporate citizens, not walking away from their dreams, significant damages, heading for fist fight, if know going to cost more, Save Skaha and Nelson will you vote to terminate agreement?
- Brian Cawthorn, Blairmore Crescent, no need for more debate, shut it down, leave Skaha park free of charge, that's the end of it.
- Jake Kimberly, met with the city five years ago? Procedure through public hearing process, concerned with process now because of what happened June 29, council made a decision to approve, know the public process is crucial to everything city does, heavy fines if violate rules of Community Charter. This could have been avoided by this Council by stopping this and making sure everything was looked after, this council has gone through consultation and ignored it, agreed with comments that if it is minor amendment fine if major amendment got to go to referendum.
- Lynn Kelsey, Oakville Street, secrecy of termination agreement, clause that says if this one party or citizen says no foul no harm, concern with December 1 timeline to make a decision, I don't think you have enough time to process what has been said, don't feel that has been happening, lawyers speaking inflamed the situation tonight.
- Lance Bishop, Wiltse Blvd, moved here when five night clubs, line up of cars, town rocked, something happened 15 years ago, sliding backwards, gave away jobs, call centre, turned away prison, town gone backward 30 years, company wants to invest millions and we have people telling them to leave, how many have come and said I want to invest, previous council kicked them out, voted in on youth movement basis, if we don't like what they do we can vote them out. My future is here, I am in fifties, son is ten, he may work at waterslide, that is income, put through college, better tax base, need tax base, people willing to invest in Penticton, Council stay the course.
- Nelson Meikle, clear up question on contract null and void, current Sept 28, 2015, alternately could not elect to extend the dates, this would mean the agreement would die once dates had passed, liquor licence, did not get restaurant and food licence until August.
- Maureen Chatham, Yorkton Avenue, lawyer for Trio, going by original contract, scares me, look at how much money lawyers charge, see lawyers getting rich here, tax payers holding the bag, upset most is feel backroom deals done, everything secret until recent, don't want Skaha Lake to look like Kelowna.
- Randy Gallagher, am one of the businesses prepared to enter into RFP if marina comes up, in marina business, know what is going on, anyone who has a boat knows we need marine mechanics, why Trio wants exclusive beach rights, take marina and do the best job with that.

**4. Adjournment**

517/2016

**It was MOVED and SECONDED**

THAT Council adjourn the Special Council meeting held on Wednesday, November 23, 2016 at 11:02 p.m.

**CARRIED UNANIMOUSLY**

Certified correct:

Confirmed:

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Dana Schmidt  
Corporate Officer

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Andrew Jakubeit  
Mayor

**Special Meeting of Council**  
held in City of Penticton, Council Chambers  
171 Main Street, Penticton, B.C.

**Thursday, December 1, 2016**  
**at 7:00 p.m.**

**Present:** Mayor Jakubeit  
Councillor Sentes  
Councillor Martin  
Councillor Picton  
Councillor Konanz  
Councillor Watt  
Councillor Sayeed (via electronic participation)

**Staff:** Mitch Moroziuk, Interim Chief Administrative Officer  
Dana Schmidt, Corporate Officer  
Angie Collison, Deputy Corporate Officer

**1. Call to Order**

Mayor Jakubeit called the Special Meeting of Council to order at 7:01 p.m.

**2. Adoption of Agenda**

518/2016

**It was MOVED and SECONDED**

THAT Council adopt the agenda for the December 1, 2016 Special Meeting of Council as presented.

**CARRIED UNANIMOUSLY**

**3. Staff Reports:**

3.1 Skaha Lake Marina and Water Park Development

519/2016

**It was MOVED and SECONDED**

THAT Council accept the proposed REVISED Settlement Agreement and REVISED Enhanced Marina Agreement and authorize the Mayor and Corporate Officer to execute the:

- REVISED Settlement Agreement, Attachment "A" to this Council Report;
- REVISED Enhanced Marina Agreement, Attachment "B" to this Council Report;
- License to Use Agreement to December 31, 2018, as contained in Attachment "C" to this Council report, for the existing Marina; and
- Sub License of Occupation Agreement to December 31, 2018, as contained in Attachment "D" to this Council report, for the existing Marina.

**CARRIED**  
**Councillors Watt and Sayeed, Opposed**

**4. Public Question Period**

**5. Adjourn to In-Camera Meeting**

520/2016

**It was MOVED and SECONDED**

THAT Council adjourn at 8:13 p.m. to a closed meeting of Council pursuant to the provisions of the *Community Charter* section 90 (1) as follows:

- (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;*
- (g) litigation or potential litigation affecting the municipality;*
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;*
- (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the Freedom of Information and Protection of Privacy Act;*

**CARRIED UNANIMOUSLY**

Certified correct:

Confirmed:

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

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

## Arts, Creative & Cultural Innovations Committee Meeting

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

Thursday, October 20, 2016  
at 8:00 a.m.

**Present:** Allison Markin, Chair  
Robin Robertson, Vice-Chair (via conference call)  
Jane Shaak, Okanagan School of the Arts, Shatford Centre Representative  
Gerald Kenyon, South Okanagan Performing Arts Representative  
Vaelei Walkden-Brown, Penticton & District Community Arts Council Representative  
Murray Swales, Member at Large (via conference call)  
Jason Cox, Member at Large

**Staff:** Lori Mullin, Recreation and Culture Manager  
Lorraine Williston, Committee Secretary

### 1. Call to Order

The Arts, Creative & Cultural Innovations Committee was called to order by the Chair at 8:05 a.m.

### 2. Adoption of Agenda

**It was MOVED and SECONDED**

THAT the Arts, Creative & Cultural Innovations Committee adopt the agenda for the meeting held on October 20, 2016 as circulated.

**CARRIED UNANIMOUSLY**

### 3. Adoption of Minutes

**It was MOVED and SECONDED**

THAT the Arts, Creative & Cultural Innovations Committee adopt the minutes of the September 15, 2016 meeting as circulated.

**CARRIED UNANIMOUSLY**

#### 4. **Delegation**

##### 4.1 JoAnne Kleb, Community Engagement Consultant Re: Infrastructure Challenge – Funding for the Future

The Community Engagement Consultant presented a short video with an overview of the City's infrastructure deficit that includes parks, roads, storm sewer, buildings and fleet and the options being considered on how to deal with Penticton's aging infrastructure. Discussion on the inclusion of cultural infrastructure is needed as well. JoAnne will provide information to the committee on when the next phase of public consultation will be.

#### 5. **Business Arising from Prior Meetings**

##### 5.1 Canada 150 Mosaic Initiative

The Recreation and Culture Manager provided photos of the completed mural. A location for the mural still needs to be determined. The Community Centre does not have a suitable space. The newly created 'Travel Penticton' has expressed interest in displaying the piece but they do not have a building yet. Discussion followed. Suggestions included the new location for the Wine Centre or on the SOEC building. This piece should be in a high traffic location. The Chair will talk to the Downtown Penticton Association regarding any potential downtown sites.

The Recreation and Culture Manager noted with respect to outside organizations contributing \$5,000 towards this initiative, only \$3,000 has been received. The remaining funds owing of \$2,000 will have to be paid from the Art Reserve Fund unless there are other organizations that are willing to contribute. Discussion followed and it was suggested to approach the DPA and ask if there was a building in the core that may be suitable to display the mural. The owner could be approached and asked if they would be willing to pay to have the mural displayed on their building. The Chair to look into that possibility. Jason Cox stated he will approach the Chamber of Commerce and ask them if they are willing to contribute. Item to be brought forward to the next meeting.

##### 5.2 Public Sculpture Project Update

The Vice-Chair reported meetings have been scheduled with City staff and relevant committees to gather input on possible locations for the statues. The application for the art call out and terms of reference will be distributed next week and were provided to the committee for their information. The project is on schedule.

#### 6. **New Business**

##### 6.1 Valley First Public Sculpture Proposal & Recommendation

The Recreation and Culture Manager provided an overview of the proposal. Through the Downtown revitalization process, the City purchased the piece of property in front of the Valley First Credit Union in the amount of \$18,000. The City approached Valley First Credit Union with a proposal to place a public art piece in that space in lieu of payment of the purchase price. Valley First has agreed to match funds up to \$18,000 and worked with the City to confirm the terms of proposal. Discussion and questions followed. Concerns were raised

over supporting private art on public property and allowing Valley First the right to veto the art selection and this setting a precedent.

It was moved, no seconder,

That the Arts, Creative & Cultural Innovations Committee support the proposal as presented.

**It was MOVED and SECONDED**

**THAT the Arts, Creative & Cultural Innovations Committee recommends the proposal be deferred to the Public Sculpture Sub-Committee for review and input and any recommendation be brought back to the Arts, Creative & Cultural Innovations Committee at the next meeting.**

**DEFEATED**

**Robin Robertson, Allison Markin, Jason Cox , Vaelei Walkden-Brown, Opposed**

**It was MOVED and SECONDED**

**THAT the Arts, Creative & Cultural Innovations Committee endorse the City's proposal for a public art sculpture in front of Valley First Credit Union and recommends that staff request a revision to the proposal by amending paragraph 3b to read 'a total of five (5) people, 2 from committee, 2 Valley First Credit Union and 1 arts community member' and delete paragraph 4.**

**CARRIED UNANIMOUSLY**

**7. Art Funding Opportunities**

The Chair stated this item will added as a standing item to agendas to bring awareness to members of any funding opportunities available. The Penticton & District Community Arts Council representative noted there is a BC Arts Council Project grant now available.

**8. Representative Updates**

**8.1 Okanagan School of the Arts, Shatford Centre**

The OSA, Shatford Centre representative reported that the felting symposium was very successful and they had participants from Mexico, US, and Europe. The next documentary they are hosting is the Day of the Dead and will be a cultural experience for the community with great exhibits.

**8.2 Penticton Art Gallery**

The Penticton Art Gallery representative reported their next opening is on Sept. 16<sup>th</sup>. A Regina based artist will be exhibited in the main gallery. The Syria exhibit that just finished received good international media attention.

**8.3 En'owkin Centre**

The En'owkin Centre representative was not in attendance.

#### 8.4 South Okanagan Performing Arts Centre

The SOPAC representative reported their group presented before Council recently to provide an update on their project and ask for continued support and consideration to pursue this further. SOPAC is looking at realigning activities to move this project forward. The building would have huge potential for a creative element and could be used as a training and education facility for theatre, production, college programs and touring groups etc. The SOPAC representative noted Council have referred this matter back to staff for additional information.

#### 8.5 Penticton & District Community Arts Council

The Penticton & District Community Arts Council representative reported their AGM will be on Monday, October 24. Kathie Jones has been confirmed for Feb. 1, 2017 at the Cleland Theatre. Their next big project they are planning for is the Arts & Culture Festival in 2017. They have also applied for a grant in the amount of \$5,500 through the Aviva Community Fund campaign and asked the committee to check out the website and cast their vote.

### 9. **Next Meeting**

The next regularly scheduled meeting of the Arts, Creative & Cultural Innovations Committee will be November 17, 2016 at 8:00 a.m.

### 10. **Adjournment**

The Arts, Creative & Cultural Innovations Committee adjourned the meeting at 9:37 a.m.

## Downtown Revitalization Sub-Committee Meeting

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

Wednesday, October 26, 2016  
at 8:00 a.m.

**Present:** Campbell Watt, Councillor  
Tim Scott, Chair  
Lynn Allin, Downtown Penticton Association Representative  
Tracy Van Raes, Chamber of Commerce Representative  
Pamela Stevenson, Member at Large  
James Ludvigson, Member at Large  
Erin Hanson, Member at Large  
Jim Meyer, Member at Large

**Staff:** Ian Chapman, City Engineer  
Bregje Kozak, Manager of Facilities  
Blake Laven, Planning Manager  
Lorraine Williston, Corporate Committee Secretary

1. **Call to Order**

The Downtown Revitalization Sub-Committee was called to order by the Chair at 8:00 a.m.

2. **Adoption of Agenda**

**It was MOVED and SECONDED**

THAT the Downtown Revitalization Sub-Committee adopt the agenda for the meeting held on October 26, 2016 as amended (refer to item 6.1).

**CARRIED UNANIMOUSLY**

3. **Adoption of Minutes**

**It was MOVED and SECONDED**

THAT the Downtown Revitalization Sub-Committee adopt the minutes of the August 25, 2016 meeting as circulated.

**CARRIED UNANIMOUSLY**

#### 4. Delegation

The Planning Manager provided a brief overview of the City's Infrastructure deficit and the Infrastructure Challenge – Funding for the Future video was presented to the committee for their information.

#### 5. Business Arising from Prior Meetings

##### 5.1 Main Street Revitalization Update

The City Engineer reported the 100 Block street lights and paving are scheduled for next week. The ramps will be poured in the next 2-3 weeks. The link road has been prioritized for traffic to enter Main Street and exit on the link road to restore access to City Hall and businesses. The remaining portion of the 100 Block will then be completed. They are on target to have the works completed by Dec. 2, 2016.

##### 5.2 Downtown Washrooms Update

The Manager of Facilities presented some additional washroom options to consider as follows:

- Concrete block structure on a concrete pad connected to City services
  - cleaned and maintained as part of City's janitorial services
  - higher operation and maintenance costs
  - high risk of vandalism
  - downtime may be required for any repairs
  - can manipulate design features such as curved roof and color of finished metal panels
  - heated during winter months
  
- Portable washroom units (2 stalls) with a steel enclosure and not connected to City services.
  - within budget
  - variety of enclosures and roof lines
  - 2 wheelchair accessible stalls
  - lower operation and maintenance costs
  - units are cleaned by supplier
  - less risk of vandalism
  - little downtime as units can be quickly replaced if vandalized
  - not heated during winter months
  - RDOS has installed a similar unit in the West Bench area

Discussion and questions followed. The Manager of Facilities noted it is easier to have a company maintain the portable units, is safer with respect to needles and is half the cost of a permanent structure. It was suggested a possible location for a washroom could be near/beside the car charging station. The DPA representative stated two washrooms are not enough during the Farmer's Markets and events. The City Engineer stated if a permanent structure was built, portable washrooms can still be brought in during the peak season in the summer. The Manager of Facilities reported that costs to operate the Gyro Park washrooms all summer have been added to budget for 2017 and permanent washrooms could be completed by the spring. A question was asked whether it was better to install porcelain fixtures or stainless steel. The Manager of Facilities noted porcelain is much cheaper and will research the cost for both.

It was **MOVED** and **SECONDED** that the **Downtown Revitalization Sub-Committee** recommends that staff proceed with the installation of a permanent structure washroom and incorporate design features consistent with the downtown revitalization.

**CARRIED**  
**Jim Meyer, Opposed**

Discussion continued and the committee asked staff to look at extending the concrete pad and roofline to accommodate two additional portable washrooms. Design to be brought forward to the committee for review at a future meeting.

### 5.3 Downtown Revitalization – Next Steps

Roundtable discussion ensued on potential revitalization projects. The City Engineer suggested the design for the 300 Block of Main St. and Wade Ave intersection and the 400 Block of Main St. and Padmore Ave intersection could be completed in 2017 and construction completed in 2018. The 2017 budget includes the design costs for the 300 and 400 Block of Main Street and the 2018 budget can include the construction costs.

Discussion and questions followed on the next phases. The City Engineer will provide more detailed information at the next meeting. One suggestion was to revisit façade improvements, specifically removing facades to expose the original brick.

## 6. **New Business**

Erin Hanson provided an update on the Arts, Creative & Cultural Innovations Committee's public sculpture project. Fifteen possible locations have been identified that include ten sites along the Okanagan lakeshore, four in and around City Hall and one in the 200 Block of Main Street. Separate projects are being considered for locations in front of Valley First Credit Union and the Ellis Street roundabout.

## 7. **Council Outcome**

Council Resolution 399/2016 from the minutes dated August 25, 2016 was received.

## 8. **Next Meeting**

The next regularly scheduled meeting of the Downtown Revitalization Sub-Committee is scheduled for November 23, 2016.

## 9. **Adjournment**

The Downtown Revitalization Sub-Committee adjourned the meeting at 9:34 a.m.

## SOEC Select Committee Meeting

held at Community Centre, Meeting Room #2  
325 Power Street, Penticton, B.C.

Friday, November 4, 2016  
at 8:30 a.m.

**Present:** Andrew Jakubeit, Mayor  
Dave Bushby, Chair  
Don Kendall, Member at Large  
Duane Jordan, Member at Large

**Staff:** Jim Bauer, Chief Financial Officer  
Mitch Moroziuk, General Manager of Infrastructure  
Bregje Kozak, Manager of Facilities  
Lori Mullin, Recreation & Culture Manager  
Lorraine Williston, Committee Secretary

**Guests:** Dean Clark, SOEC General Manager

1. **Call to order**

The SOEC Select Committee was called to order by the Chair at 8:30 a.m.

2. **Adoption of Agenda**

**It was MOVED and SECONDED**

THAT the SOEC Select Committee adopt the agenda dated November 4, 2016 as circulated.

**CARRIED UNANIMOUSLY**

3. **Adoption of Minutes**

**It was MOVED and SECONDED**

THAT the SOEC Select Committee adopt the minutes of the October 6, 2016 meeting as circulated.

**CARRIED UNANIMOUSLY**

4. **New Business**

4.1 PTCC Optimization Analysis – Review and Discussion

The Manager of Facilities presented an overview of the feasibility study and market analysis for the PTCC. The report included:

- A complete review of the asset including location, context, condition, functionality, current financial performance and operating performance;
- A comprehensive assessment of the future viability of the existing asset in the context of the primary market area;
- Aligning the current operations to the market profile;
- Approaches to increase the overall market share of the PTCC and related implications; and
- PTCC improvement options and investment priorities.

The Manager of Facilities highlighted the following points from the report:

- Financial performance – PTCC does better compared to similar Tier 3 convention facilities in other communities;
- Special events and convention business is the largest revenue generator;
- PTCC generates between \$12-15 million in economic impact
- The PTCC has a 25% regional market share and almost 50% of the total event days hosted by major event facilities in the market area;
- Growing Market Share – realistic target is 5% growth. By adding 2-3 additional conventions, this would increase the annual conventions days;
- PTCC will require \$5.5 million in operational upgrades over the next 10 years. This includes \$4 million for infrastructure improvements and the remaining amount for Priority 1 functional upgrades;
- PTCC Re-Use Potential is not recommended – nothing really suitable. Will lose functionality as a dedicated convention facility.

The Manager of Facilities outlined the PTCC Improvements (Without Expansion) Priorities as follows:

Priority 1 upgrades:

1. New carpet and essential building life cycle improvements;
2. Expanded back house for existing footprint – a direct capacity relationship to hosting bigger numbers of patrons;
3. Re-planning of the meeting rooms.

Priority 2 upgrades:

Secondary options for improvement of existing building include replacing the wood floor with concrete to improve functionality and capacity to host major trade/consumer shows.

The Manager of Facilities highlighted the following key recommendations:

- Periodic investment is required to ensure PTCC remains competitive in the marketplace
- Additional marketing and positioning
- Better hotel offer
- Undertake an operational review

The Manager of Facilities noted staff will be looking at ways to engage the community for feedback. Discussion followed on the summary and priorities and how to educate the public on the economic impact of the PTCC. One suggestion was to bring this information to key stakeholder groups and then expand to larger groups. By consensus the committee suggested a smaller committee, that included stakeholder groups, be implemented vs. a larger group. The committee agreed to provide a recommendation to the City. Members were encouraged to visit [www.shapeyourcity.ca](http://www.shapeyourcity.ca) to provide their feedback. JoAnne Kleb, Communication Engagement Officer, to attend the next meeting to discuss engagement opportunities.

Mayor Jakubeit and Mitch Moroziuk left the meeting at 9:27 a.m.

The Chief Financial Officer stated we need to reaffirm that we are in the convention business and need to showcase the economic benefits to the residents of Penticton.

Jim Bauer left the meeting at 9:51 a.m.

The Manager of Facilities provided a brief overview of other city facilities that are in need of repairs.

5. **Next Meeting**

The next regularly scheduled meeting of the SOEC Select Committee is at the call of the Chair.

6. **Adjournment**

The SOEC Select Committee adjourned the meeting at 10:00 a.m.

## Heritage & Museum Committee Meeting

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

Thursday, November 10, 2016  
at 8:30 a.m.

**Present:** Judy Sentes, Councillor  
Bill Allen, Chair  
Randy Manuel, Vice-Chair  
Ed Benoit, Okanagan College Representative  
Heather Buzzell, Penticton Library Representative  
Shelley Clarke, School District 67 Representative  
Brad Hillis, Leir House Representative  
Georgia Krebs, Shatford Centre Representative  
Jessie Dunlop, SS Sicamous Representative  
Lorraine Stephanson, Member at Large

**Staff:** Dennis Oomen, Museum Manager  
Ben Johnson, Special Projects Manager  
Lorraine Williston, Committee Secretary

### 1. Call to Order

The Museum & Heritage Committee was called to order by the Chair at 8:30 a.m.

### 2. Adoption of Agenda

**It was MOVED and SECONDED**

THAT the Museum & Heritage Committee adopt the agenda for the meeting held on October 13, 2016 as amended (refer to Item 5.3).

**CARRIED UNANIMOUSLY**

### 3. Adoption of Minutes

**It was MOVED and SECONDED**

THAT the Heritage & Museum Committee adopt the minutes of the October 13, 2016 meeting as circulated.

**CARRIED UNANIMOUSLY**

### 4. Business Arising from Prior Meetings

## 5. New Business

### 5.1 Medal of Good Standing Citizenship Nomination

Councillor Sentes brought forward information on the BC Government's annual recognition program. Discussion followed on possible people and groups to nominate. Suggestions included FOTO (Friends of the Oxbow), Rotary Club, Randy Manuel, Rory McIvor. More information and nomination forms can be found at [www.gov.bc.ca/medalofgoodcitizenship](http://www.gov.bc.ca/medalofgoodcitizenship). Nominations can be submitted by anyone. The committee agreed FOTO would be an excellent choice for nomination and more information on the group will be provided at the next meeting.

### 5.2 BC Government's Stops of Interest Signage Program

The Penticton Library Representative brought forward information on the BC Government's signage program. In September 2016, the B.C. Government announced its intention to create 75 new Stop of Interest signs around the province and also repairing existing signs. Suggestions for landmarks and stories that should be recognized will be accepted until January 31, 2017. The Museum Manager stated there two existing signs in Penticton that are being repaired, one is the Ogopogo sign and the other is the Penticton entrance sign. Discussion followed on possible stops of interest locations. The Chair encouraged members to send in suggestions. Additional information can be found at [www.engage.gov.bc.ca/stopssofinterest/](http://www.engage.gov.bc.ca/stopssofinterest/).

### 5.3 New Street Name Request – Hawthorn Drive

The Special Projects Manager presented information for a street name request for a new subdivision in the Evergreen Drive area. The subdivision will consist of 31 lots and the developer has requested approval to name the street 'Hawthorn Drive'. Hawthorn is listed in the City's Street Name Reserve List and ties into the current theme of the neighborhood. Discussion followed.

**It was MOVED and SECONDED that the Heritage & Museum Committee supports the name Hawthorn Drive for the new street being created from the subdivision of 2740 Evergreen Drive.**

**CARRIED UNANIMOUSLY**

## 6. Next Meeting

The next regularly scheduled meeting of the Museum & Heritage Committee will be December 8, 2016.

## 7. Adjournment

The Museum & Heritage Committee adjourned the meeting at 9:14 a.m.

## Arts, Creative & Cultural Innovations Committee Meeting

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

Thursday, November 17, 2016  
at 8:00 a.m.

- Present:** Campbell Watt, Councillor  
Allison Markin, Chair  
Robin Robertson, Vice-Chair  
Paul Crawford, Penticton Art Gallery Representative  
Jane Shaak, Okanagan School of the Arts, Shatford Centre Representative  
Gerald Kenyon, South Okanagan Performing Arts Representative  
Vaelei Walkden-Brown, Penticton & District Community Arts Council Representative  
Murray Swales, Member at Large  
Jason Cox, Member at Large
- Staff:** Lori Mullin, Recreation and Culture Manager  
Lorraine Williston, Committee Secretary

1. **Call to Order**

The Arts, Creative & Cultural Innovations Committee was called to order by the Chair at 8:05 a.m.

2. **Adoption of Agenda**

**It was MOVED and SECONDED**

THAT the Arts, Creative & Cultural Innovations Committee adopt the agenda for the meeting held on November 17, 2016 as circulated.

**CARRIED UNANIMOUSLY**

3. **Adoption of Minutes**

**It was MOVED and SECONDED**

THAT the Arts, Creative & Cultural Innovations Committee adopt the minutes of the October 20, 2016 meeting as circulated.

**CARRIED UNANIMOUSLY**

#### 4. **Business Arising from Prior Meetings**

##### 4.1 Canada 150 Mosaic Initiative

The Chair reported she has contacted a few organizations including the DPA, Travel Penticton and the Visitor's Centre, regarding a location for the mosaic. No suitable location has been found yet. Research is continuing. Discussion followed and suggestions included temporarily displaying the mosaic at the Shatford Centre and the SOEC as a possible permanent location. The Recreation & Culture Manager to contact the SOEC to enquire.

Discussion followed on the remaining fees of \$2,000 for the project that needs to be paid. The Chair reported the DPA is not able to contribute and they are looking at potential downtown businesses that may be willing to contribute and display the mosaic. Suggestions included asking the Chamber of Commerce for a contribution and also Gateway Casino for both a contribution and possible permanent location to display the mosaic. Jason Cox agreed to bring this item up at the next Chamber meeting and contact Gateway. The Chair suggested that in the meantime the \$2,000 be paid by the City from the Art Reserve Fund and any donations made in the future can be put back into the fund. The committee agreed to revisit this idea at the December meeting. The Vice-Chair suggested a fee or incentive program for new developments to support creation of public art. Item to brought forth to the next meeting and invite staff from Development Services.

##### 4.2 Public Sculpture Project Update

The Vice-Chair provided an update on the project. To date, they have received wonderful support from staff and great radio and news coverage. There are a lot of potential locations available but will be focusing on the waterfront for the majority of the sculpture locations. The Request for Proposals and call out to artists has gone out. For the selection committee, they are looking for one more member of the public with a landscape architect background. The Penticton & District Community Arts Council representative has a potential person with that background that may be interested in joining and will forward their contact information to the Vice-Chair. The Recreation & Culture Manager stated the allocated funds of \$25,000 will carry forward into 2017 for this project.

##### 4.3 Valley First Public Sculpture Proposal & Recommendation

The Recreation & Culture Manager reported staff have gone back to Valley First with the committee's recommendations and they were able to negotiate the recommended amendments to the agreement. This item will be included in the 2017 budget process for approval.

#### 5. **New Business**

##### 5.1 Correspondence from Nancy Ajeet

Roundtable discussion ensued regarding an email sent to the Director at the Penticton & District Arts Council over concerns with the number of City of Penticton safety signs on our beaches and the lack of artistic design and appeal. Staff noted those signs are there for safety purposes and follow the City's branding policy. Staff noted any emails of this nature should be directed to City staff to respond to. Staff will send a reply back to this person and include information on how they can become involved in the committee.

## 6. Art Funding Opportunities

The Penticton & District Community Arts Council representative noted she is aware of an opportunity and will forward the link with the information to the committee. Murray Swales stated the BC Government will also be announcing funding opportunities in the near future.

## 7. Representative Updates

### 7.1 Okanagan School of the Arts, Shatford Centre

The OSA, Shatford Centre representative reported their next event is the 'Art for Peace' exhibit which is based on peace initiatives and will be organizing events around this exhibit. They are currently busy with holiday events. The AGM will be held on Nov. 24 at 7:00 p.m.

### 7.2 Penticton Art Gallery

The Penticton Art Gallery representative reported they have a new exhibition opening Nov. 18 featuring the works from Tony Onley's permanent collection. The 11<sup>th</sup> Annual under \$500 Christmas sale runs from Nov. 18 – Dec. 27. There approximately 300 works of art from regional artists across the province all under \$500. The representative noted he has been busy travelling with the Syrian Art exhibit. His most recent visit was to the UBC Syrian symposium. Next the exhibit will be heading to Vancouver Island followed by the Yukon, Grand Forks, Langley and the Calgary War Museum. The Art Gallery has been receiving tour requests for their Syrian Art show into 2019. In January 2017, they will be hosting a show with the En'owkin Centre showcasing Northern BC artists.

### 7.3 En'owkin Centre

The En'owkin Centre representative was not in attendance.

### 7.4 South Okanagan Performing Arts Centre

The SOPAC representative reported they have had a preliminary meeting with the Mayor and staff and have agreed to provide staff additional information on the 3 requests to Council. City staff were directed to get information back to Council within 90 days of the SOPAC presentation. SOPAC's AGM was held on Nov. 13 wherein a new board was elected consisting of 12 community members.

### 7.5 Penticton & District Community Arts Council

The Penticton & District Community Arts Council representative reported the new board has begun strategic planning. Collaboration and advocacy are key points. They will be working with the Okanagan School of the Arts, Shatford Centre on a joint summer school program. Nominations for the 2017 Art Awards are unofficially open. A metal tree sculpture that is currently in storage, will be installed on the outside wall by the driveway and the Potters Guild will begin adding works to it. The DPA has contacted them about putting art work into the empty storefronts downtown and they will be working on developing this project. The Vice-Chair noted there will be an Arts beat column appearing in the paper and they will be looking for writers to provide content etc.

The Penticton & District Arts Council representative stated the Executive Director of the Academy of Music, Jayme Friedt, is interested in joining this committee. By consensus the committee agreed to put her name forward to Council for appointment.

8. **Next Meeting**

The next regularly scheduled meeting of the Arts, Creative & Cultural Innovations Committee will be December 15, 2016 at 8:00 a.m.

9. **Adjournment**

The Arts, Creative & Cultural Innovations Committee adjourned the meeting at 8:44 a.m.

# Council Report

penticton.ca

**Date:** December 6, 2016 **File No:** 0550-02  
**To:** Mitch Moroziuk, Acting Chief Administrative Officer  
**From:** Len Robson, Public Works Manager  
**Subject:** **Fees and Charges Amendment Bylaw No. 2016-70 – Tag a Bag Coupons**

## Staff Recommendation

THAT Council give first, second and third reading to "Fees and Charges Amendment Bylaw No. 2016-70", a bylaw to amend Fees and Charges Bylaw No. 2014-07 to set a new bulk rate fee of \$62.50 including tax for 25 Tag a Bag coupons.

## Strategic priority objective

Providing fair and sustainable options for the disposal of solid waste and recyclable materials.

## Background

On July 4<sup>th</sup>, 2016 Council passed resolution 291/2016 which adopted Bylaw 2016-30, a bylaw to amend Fees and Charges Bylaw 2014-07 to set the fees associated with the Solid Waste and Recycle cart collection program.

Due to the scenarios that have presented themselves since the introduction of the cart program it is evident that an alternative bulk purchase rate for garbage tag a bags would be beneficial.

Scenarios where this would be beneficial include:

- Rental properties that require additional volumes from time to time. Bulk buys will allow the tenant to place additional material at the curb when required rather than having to require the property owner to sign up for the additional or larger cart on an annual basis;
- Carriage Houses that require additional volumes from time to time;
- Landlords that wish to bulk purchase tags to distribute to their tenants as required;
- Residents with medical issues that create additional volumes of material on a regular but not weekly basis.

## Financial implication

The proposed addition of a bulk rate for Tag a Bag (additional curb side collection of garbage, yard waste, and recyclables) will allow for convenient and fair pricing for those that are required to place additional volumes at the curb on a frequent basis.

For each Tag a Bag that is sold the Cities Collection Contractor receives \$0.48 per tag for the additional services that are required to collect the additional volume.

**Analysis**

Currently the tags are only available for \$3.50 (\$3.33 plus GST) per tag. Tags can be placed on bags or containers not to exceed 120 Liters (L) in size. Although tags can be used for additional garbage, recycle, or yard waste the bulk rate fee development is based on garbage.

Currently for an additional fee of \$112.20 per year a resident can receive an upsized or additional cart which provides 120 liters of additional garbage for collection each week. This works out to \$2.16 (including all applicable tax) per additional 120 L collection. The proposed bulk rate fee of 25 tags for \$62.50 works out to \$2.50 including all tax for each additional 120 L of collection. This rate is less than the individual tag a bag rate and would cost a resident more per collection in comparison to securing an additional cart or upsized cart.

Due to the additional handling required for bags/containers versus the cart, tags should not be priced lower than the annual additional cart fee.

Comparison of Options Table:

Item	Unit Price (incl taxes)	Price/120 L bag or container (incl taxes)
Additional 120 L garbage cart or upsized 240 L cart	\$112.20 / year (52 collections)	\$2.16 / container (120 L)
Tag a Bag (individual)	\$3.50 / tag	\$3.50 / container (120 L)
Tag a Bag (bulk rate 25 coupons)	\$62.50 / 25 tags (\$2.50 / tag)	\$2.50 / container (120 L)

**Alternate recommendations**

That Council send the matter back to staff with direction.

**Attachments**

A – Fees and Charges Amendment Bylaw No. 2016-70

Respectfully submitted,



Len Robson, ASCT

Public Works Manager

Approvals

Interim Chief  
Administrative Officer



**Bylaw No. 2016-70**

*A bylaw to amend the Fees and Charges Bylaw No. 2014-07*

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WHEREAS the Council of the City of Penticton has adopted a Fees and Charges Bylaw pursuant to the *Community Charter*;

AND WHEREAS the Council of the City of Penticton wishes to amend the "Fees and Charges Bylaw No. 2014-07";

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 as "Fees and Charges Amendment Bylaw No. 2016-70".

2. **Amendment:**

2.1 Amend "Fees and Charges Bylaw No. 2014-07" by adding the following to Appendix 11 – Garbage Rates:

25 Tag a Bag Coupons	\$62.50
----------------------	---------

READ A FIRST time this                      day of                                      , 2016

READ A SECOND time this                      day of                                      , 2016

READ A THIRD time this                      day of                                      , 2016

ADOPTED this                                      day of                                      , 2016

\_\_\_\_\_  
Andrew Jakubeit, Mayor

\_\_\_\_\_  
Dana Schmidt, Corporate Officer

# Council Report

penticton.ca

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Interim Chief Administrative Officer  
**From:** Jim Bauer, Chief Financial Officer  
**Subject:** **Municipal and Regional District Tax (MRDT) Bylaw No. 2016-64**

File No:

## Staff Recommendation

THAT Council give first, second, and third reading to Municipal and Regional District Tax (MRDT) Bylaw No. 2016-64, providing the City of Penticton with the authority to impose a 2% Municipal and Regional District Tax (MRDT) and requesting the Province levy the tax on its behalf.

## Strategic priority objective

As part of its strategic vision the City of Penticton commits to the strategic pillar of being Connected and Strong by working in a collaborative manner with Travel Penticton Society (TPS) to market the region as a premier visitor destination.

## Background

Since 2012 the Penticton Hospitality Association (PHA) was the designated entity to receive the 2% MRDT (hotel room tax) collected by Penticton accommodators. This 5 year agreement established the necessary relationships and process whereby the MRDT is collected by the Province of BC (under the authority of City bylaws), remitted to the City, and transferred to the PHA for the undertaking of tourism marketing, programs and projects.

During this same time the City has had an agreement with Penticton Tourism Society (PTS) for the delivery of visitor information and tourism services and in return PTS received annual funding of \$354,000 from the COP to provide these services.

PTS and the PHA recently merged to form a new entity called the Travel Penticton Society (TPS).

The agreement to collect the MRDT expires June 30, 2017 and an application to renew must be submitted to DestinationBC no later than January 1, 2017. The application will be submitted by the City (the applicant) and TPS will be the designated recipient.

The bylaw must include:

- Rate of tax to be imposed
- Description of the geographic area in which the tax is to be imposed
- Purpose for the funds
- Desired effective date of the tax.

**Financial implication**

As of August 2016 the existing five year MRDT agreement has resulted in approximately \$490,000 annually being brought into the City and made available to the designated entity for tourism marketing, programs and projects.

**Attachments:**

Attachment A: Municipal and Regional District Tax (MRDT) Bylaw No. 2016-64

Respectfully submitted,



Jim Bauer  
Chief Financial Officer

Approval

Interim CAO
MM



# Council Report



**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Interim Chief Administrative Officer  
**From:** Dana Schmidt, Corporate Officer  
**Subject:** 2017 Meeting Schedule

File No:

**Staff Recommendation**

THAT Council select the following dates for the 2017 Regular Meetings of Council: January 10, 17, February 7, 21, March 7, 21, April 4, 18, May 2, 23, June 6, 20, July 4, 18, August 1, 15, September 5, 19, October 3, 17, November 7, 21, and December 5, 19.

**Background**

In accordance with Council’s Procedure Bylaw, the City must make available to the public annually, a schedule of the dates, time and place of regular Council meetings and give notice of the availability of the schedule through advertising.

Regular meetings are generally the 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays of each month commencing at 1:00 p.m. unless adjustment is required due to a conflict. The shaded dates below are the meeting dates that have been moved due to conflicts.

Month	Meeting Date	Meeting Date
January	10	17
February	7	21
March	7	21
April	4	18
May	2	23
June	6	20
July	4	18
August	1	15
September	5	19
October	3	17
November	7	21
December	5	19

Respectfully submitted,

Approval

Dana Schmidt,  
 Corporate Officer

Interim CAO  


# Council Report

penticton.ca

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Interim Chief Administrative Officer  
**From:** Dana Schmidt, Corporate Officer  
**Subject:** **Records Management and Retention Bylaw No. 2016-61**

File No:

## Staff Recommendation

THAT Council give first, second and third readings to Records Management and Retention Bylaw No. 2016-61.

## Background

The purpose of this bylaw is for Council to officially authorize the records management practices that were established by staff policy more than 20 years ago (possibly earlier). The City produces a myriad of records on an on-going basis and holds millions of paper documents as well as micro-fiche, and close to 6 Terabytes of electronic data and documents. Regardless of format, corporate records represent very valuable assets that support every activity the City undertakes.

Bylaw No. 2016-61 is the first step in formalizing our records management system. The bylaw identifies the Corporate Officer as the 'Designated Officer' responsible for records, as per section 148 of *the Community Charter* as well identifying the Local Government standard records classification system as the definitive system for City records.

The Bylaw creates the structure required to manage and ensure that all city records, including paper and electronic are collected, stored, assessed, preserved and destroyed in a manner that meets the City's legal, operational, and administrative obligations.

Once the bylaw is adopted, the Corporate Office will be bringing forward a policy document for Council approval and then proceeding with training sessions for staff.

Attachment A – Records management and Retention Bylaw No. 2016-61

Respectfully submitted,

Approval

Dana Schmidt,  
Corporate Officer

Interim CAO

A handwritten signature in black ink, appearing to read "MM", is located inside a rectangular box below the text "Interim CAO".

**Bylaw No. 2016-61**

*A Bylaw to provide for the management, retention and disposition of the City of Penticton's records.*

WHEREAS the *Community Charter* and *Local Government Act* requires a local government officer to maintain records of the municipality;

AND WHEREAS the Council of the City of Penticton wishes to provide specific regulations with respect to records management and procedures;

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 as "Records Management and Retention Bylaw No. 2016-61".

**2. Definitions:**

"Designated Officer" means the Corporate Officer, or their deputy, designated under section 148 of the *Community Charter* that is responsible for the safekeeping of the records;

"Record" means any books, documents, maps, drawings, photographs, letters, vouchers, reports, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records;

"Records Management System" means the system used by the City of Penticton to manage the records of the City of Penticton from record creation through to records disposal and includes both paper and electronic record-keeping.

**3. Records Management System Established**

The records management system of the City of Penticton is established and authorized.

**4. Compliance with Records Management system**

All records in the custody and control of the employees of the City of Penticton are the property of the City of Penticton. All records of the City of Penticton must comply with this records management system and this bylaw. All departments of the City shall ensure that all records in the custody and control of their respective departments are classified and scheduled in accordance with the Manual.

**5. Designated Officer**

The Designated Officer is authorized and responsible for the management and maintenance of the records management system.

**6. Manual of Procedures and Policy**

The Designated Officer is authorized to create, amend and maintain a manual of procedures and policy (the "Manual"). Records of the City of Penticton are created, accessed, maintained and disposed of only as provided by the Manual.

**7. Integrity and Authenticity Maintained**

The records management system must maintain the integrity and authenticity of records made or kept in the usual and ordinary course of business.

**8. Disposal Ordered by Designated Officer**

City records must only be destroyed with the written approval of the Designated Officer and in accordance with the Manual.

**9. Compliance with Law**

The records management system must comply with the Manual, applicable laws and any provincial, national or international standards adopted for use and contained in the Manual.

**10. Appendix A**

Appendix A "Records Classification System" attached hereto forms part of this bylaw.

**11. Severability**

If any section, subsection, clause or phrase of this bylaw is held to be invalid for any reason by any 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	, 2016
READ A SECOND time this	day of	, 2016
READ A THIRD time this	day of	, 2016
ADOPTED this	day of	, 2016

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Andrew Jakubeit, Mayor

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Dana Schmidt, Corporate Officer

## Appendix A

# Records Classification System

### Administration:

0100 – 0699	Administration
0700 – 0999	Buildings, Facilities and Properties
1000 – 1299	Equipment and Supplies
1300 – 1599	Information Systems and Services
1600 – 2199	Finance
2200 – 2499	Legal Matters
2500 – 2999	Personnel

### Operations:

3000 – 3699	Land Administration
3700 – 4699	Legislative and Regulatory Services
4700 – 5199	Community Services
5200 – 5799	Engineering and Public Works
5800 – 6399	Parks Administration
6400 – 6999	Planning and Development
7000 – 7699	Protective Services
7700 – 8299	Recreation and Cultural Services
8300 – 8799	Transportation and Transit Services

### Civic Files:

Individual Properties, by Civic Address

# Council Report

penticton.ca

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Interim Chief Administrative Officer  
**From:** Ben Johnson, Special Project Manager  
**Subject:** **Street Naming Bylaw No. 2016-66 (Hawthorn Drive)**

File No: RMS 5440-20

## Staff Recommendation

THAT Council give first, second and third reading to "Street Naming (Hawthorn Drive) Bylaw No. 2016-66", a bylaw to name the new road created by the subdivision of 2740 Evergreen Drive "Hawthorn Drive".

## Strategic priority objective

N/A

## Financial implication

N/A

## Background

The City's Subdivision Approving Officer has granted preliminary layout approval for the subdivision of 2740 Evergreen Drive (Attachment 'A'). The subdivision is proposing to create 31 new lots and will be creating a new street accessed off an intersection with Partridge Drive.

The marketing name for the development is Panorama View Estates. The developer has selected the name "Hawthorn Drive" from the draft "Name Reserve List" created by the Heritage Advisory Committee.

## Committee Review

As per Council policy, all requests for new street names are forwarded to the Heritage and Museum Advisory Committee for recommendation. This particular application was considered by the committee on November 10<sup>th</sup>, 2016.

At that meeting the Committee passed the following resolution supporting the name Hawthorn Drive:

**It was MOVED and SECONDED that the Heritage & Museum Committee supports the name Hawthorn Drive for the new street being created from the subdivision of 2740 Evergreen Drive.**  
**CARRIED UNANIMOUSLY**

The Committee commended the developer for selecting a name from the Reserve Road Name list and asked that their appreciation be conveyed to him.

## **Analysis**

Earlier this year, the Heritage and Museum Committee updated the Reserve Road Name list. This list traditionally was limited to the names of prominent Penticton and area historical figures. It was, however, updated to include local flora and fauna, First Nations names and other local and historical and cultural features. "Hawthorn" is included on the list.

The following information about Hawthorn trees is taken from the BC Tree Book produced by the Canadian Forest Service and BC Ministry of Forests, Mines and Natural Resources:

- Hawthorn is a large shrub or small-stature tree that can grow to 8m in height
- The have white, saucer-shaped flowers in flat-topped clusters
- The fruit are called "haws" and are edible and often made into jellies and jams. In France, haws are used to flavour brandy. They are red when ripe and are considered poms (like apples), but resemble small grapes and grow in bunches
- Black hawthorn is found all over southern BC (Fort St. John and south). Red (English) hawthorn is found on the coast and dry interior.
- Traditional uses by the Okanagan People include using the thorns to pierce ears. The strong, hard wood made durable digging sticks and handles for implements
- The name hawthorn comes from the Anglo-Saxon word "*haguthorn*", which means a fence with thorns. The bushes were used as hedging in medieval times.

In terms of the appropriateness of the name for this new street, staff call attention to the fact that most of the streets in the area are named after trees. Although the streets are named for evergreen species (Cedar, Pineview, Juniper, etc.) and hawthorn is a deciduous tree, staff feel that the name is supportable.

There is a "Hawthorn Place" in Okanagan Falls, but staff consider that it is far enough away to avoid any confusion with the proposed Hawthorn Drive in Penticton.

If Council chooses the name Hawthorn Drive and proceeds to bylaw adoption, proper notification will follow to Canada Post, Emergency Services and other affected agencies and persons.

## **Alternate Recommendation**

THAT "Street Naming (Hawthorn Drive) Bylaw No. 2016-66" be referred back to staff to work with the developer and the Heritage and Museum Advisory Committee.

**Attachments**

- Attachment A:       Approved subdivision layout
- Attachment B:       Street Naming (Hawthorn Drive) Bylaw No. 2016-66

Respectfully submitted,

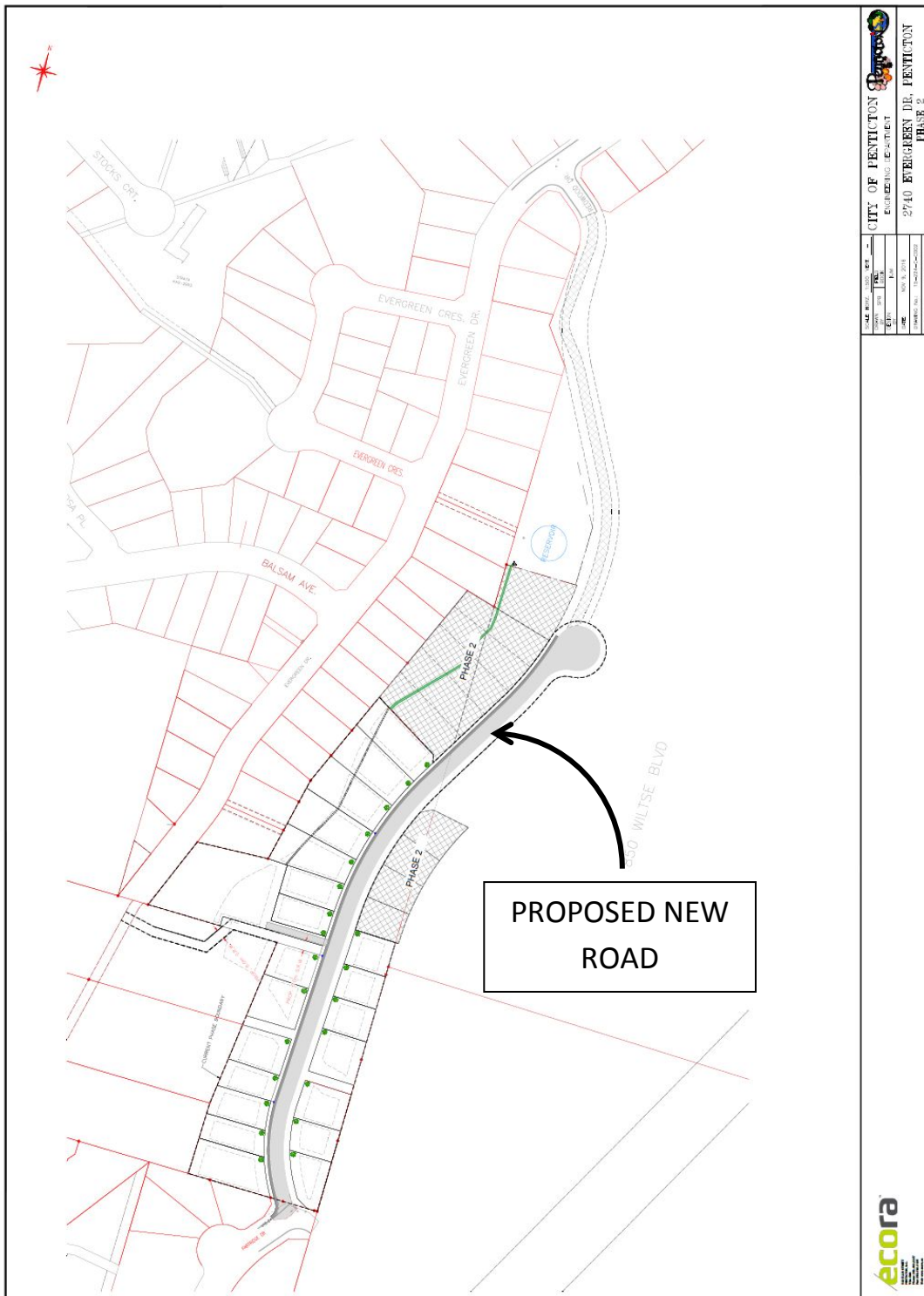
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Ben Johnson, MA (Planning)  
Special Projects Manager

Approvals

Acting Director	Interim CAO
<i>BL</i>	<i>MM</i>

### Attachment A Approved Subdivision Layout



**The Corporation of the City of Penticton**

**Bylaw No. 2016-66**

*A bylaw to name roads in the City of Penticton.*

The Council of the City of Penticton in open meeting assembled, hereby ENACTS AS FOLLOWS:

**1. Title:**

This Bylaw may be cited as "Street Naming (Hawthorn Drive) Bylaw No. 2016-66".

**2. Purpose:**

- i. That the City of Penticton name the new road created by the subdivision of 2740 Evergreen Drive, "Hawthorn Drive" as shown on Schedule "A".
- ii. Schedule "A" attached hereto forms part of this bylaw.

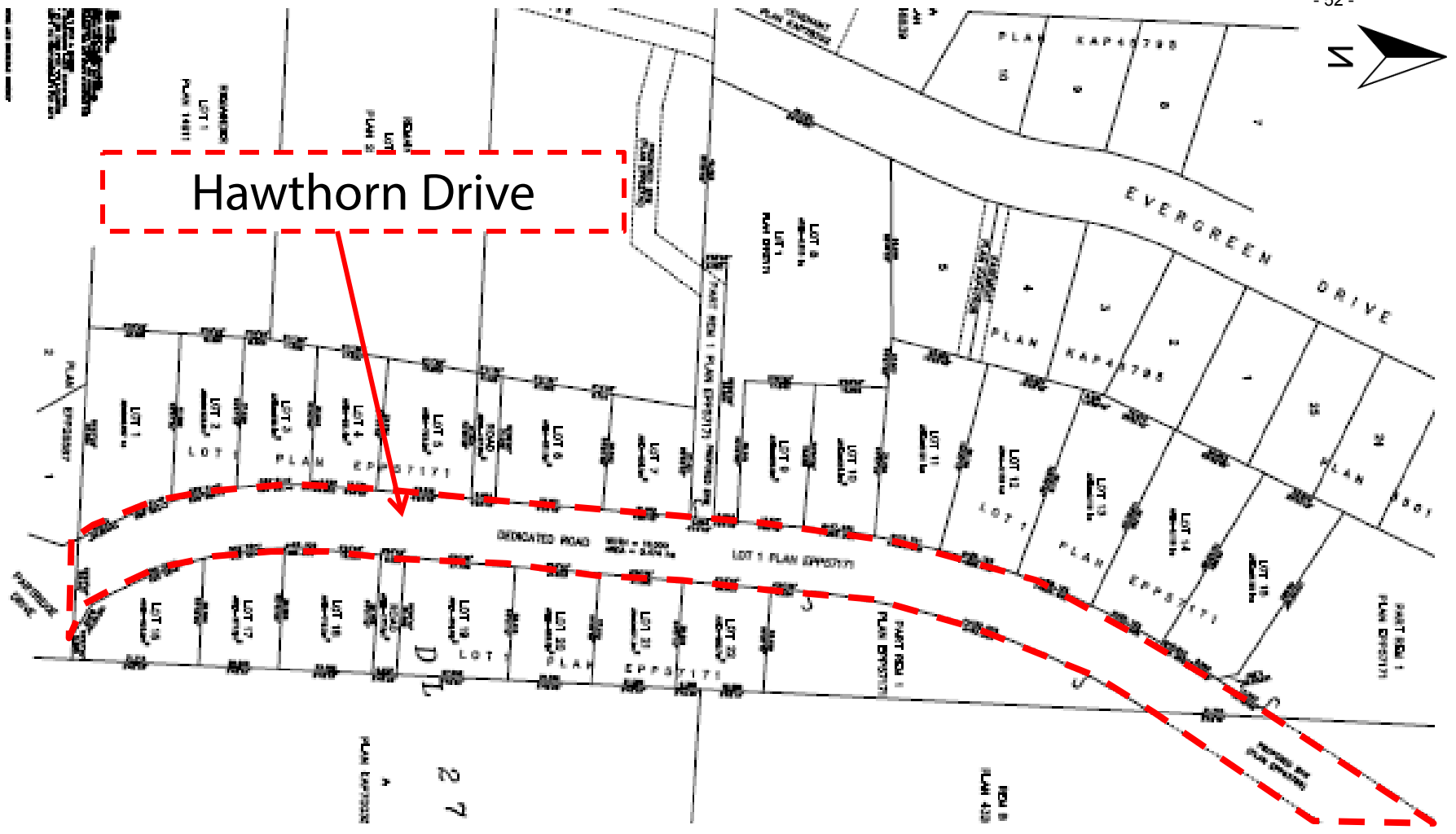
READ A FIRST time this                      day of    , 2016  
 READ A SECOND time this                      day of    , 2016  
 READ A THIRD time this                      day of    , 2016  
 ADOPTED this                                      day of    , 2016

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Andrew Jakubeit, Mayor

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Dana Schmidt, Corporate Officer



City of Penticton – Schedule 'A'  
 Street Naming Bylaw No. 2016-66

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

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

# Council Report



**Date:** December 06, 2016  
**To:** Mitch Moroziuk, Interim CAO  
**From:** Ken Kunka, Building & Permitting Manager  
**Subject:** **Section 57 Notice on Title - 144 Williamson Place**

File No: Civic

## Staff Recommendation

THAT the owner of 144 Williamson Place be notified that Council will consider passing a resolution to place a Notice on Title under Section 57 of the *Community Charter* on Lot 18, DL2710, KAP48093 located at 144 Williamson Place, stating the following:

*“Failure to complete building permit (expired), which is a violation of City of Penticton Building Bylaw 94-45 and provide final Registered Professional (Engineer) approval to ensure installation meets engineered design.*

*Further information may be inspected at City Hall”;*

AND THAT further injunctive action be commenced by staff within 60 days of Section 57 Notice on Title being registered if outstanding deficiencies are not completed to close off permit;

AND FURTHER THAT the owner be notified of the proposed Notice on Title and injunctive action report and be given an opportunity to speak to the matter at the December 20, 2016 Council meeting.

## Background

On September 20<sup>th</sup>, 2016, staff sent notice to owner, Carlos Madeira, of 144 Williamson Place (Attachment A – site plan) to complete necessary works in order to close expired building permit PR2014-185 for an engineering retaining wall. The project has extended for over 30 months and has created a nuisance to the neighboring properties and could pose a potential safety risk if final installation is not verified by the registered professional on record.

A history of events have list of events have been provided:

Date	Column title
<b>October 10, 2013</b>	Application for development variance to vary retaining wall height from 1.2m to 4.0m at property line. Denied – Council Resolution 126/2014
<b>April 17, 2014</b>	Permit application received for retaining wall. Building permit issued May 08, 2014 for an Engineered retaining wall.
<b>June 16, 2014</b>	Building inspector attended site as requested from neighbour concerning fill on the City Right of Way (ROW). (See Attachment B - Photos)  Owner requested to stop work until wall placement and material on . Material to be removed and revised structural drawings to be provided. New drawings provided and works continued. (See Attachment C – Site Plan).

<b>July 20, 2015</b>	Staff requested to return to site by neighbour, concerning placement of concrete retaining blocks, noise and dust issues. Work in progress. Engineer on record verified structural placement of the first phase of wall. Loose material on ROW to be cleared.
<b>August 02, 2016</b>	Building Permit expiry – little progress on site – to finish north section. Owner requested to extend into fall to complete works due to financial hardship. Permit extended to September 30, 2016.
<b>September, 2016</b>	Neighbour concerned with lack of progress. Weekend noise and dust a disturbance. Large excavator remains on site. Owner notified of concerns and expiry of permit. Owner stated he would work to complete by September date.
<b>November 4, 2016</b>	Site visit. (Attachment D - November 4, 2016 - Site Condition ) Rear (south) retaining wall to finish and landscaping. Material to remove from SROW. Bylaw Notice TP02669 issued – Failure to complete permit. Bylaw Infraction notice place on property tax certificate.  Owner responded regarding timelines of extension of permit. Staff clarified the September 2016 extension has elapsed and if not resolved immediately, then it would be forwarded for Council recommendation.
<b>November 25, 2016</b>	No further contact from owner and equipment remains on site.

### Section 57 Notice on Title & Further Injunctive Action

A Notice on Title serves as notice to anyone searching the title of the property in question may be in breach of local government building bylaws or provincial codes. Once registered, the notice will serve to advise anyone with interest in the property of regulations contravened; provide disclosure to future owners; and protect taxpayers from potential claims with regard to the contravention.

In addition to the Section 57, Notice on Title, Council may impose injunctive action (Section 274 of Community Charter) or remedial action (Section 72 of Community Charter) requirements in relation to hazardous conditions. This action may require the owner to remove or demolish the deficiency, bring it up to the bylaw standard and/or deal with the issue in a manner acceptable to Council. The resolution imposing an injunctive or remedial action would specify a time frame in which the action must be completed.

### Legal Authority References

- Community Charter - Section 57- Notice on Title
- Community Charter – Section 274 – Action by a Municipality
- Building Bylaw 94-45
- British Columbia Building Code

### Analysis

Staff request to escalate enforcement due to the length of the project and affect it has had on the neighbouring properties. Also, continuing to leave the wall incomplete could pose a safety risk to the neighbouring property and City right of way. If Council supports placing of Section 57, staff will provide 30 days for the owner to substantially complete the engineered retaining wall to close permit or for the owner to speak on their behalf to Council prior to final consideration of the notice on title.

Staff also request that 60 day injunctive action (through court order) be supported to ensure the home owner takes action to substantially complete the permit and complete the subsequent landscaping.

The pros of placing a notice on title are:

- The City has taken steps to attempt to achieve compliance with City bylaws and the Building Code.
- Increased probability of owners choosing to comply in order that the Notice be removed from title;
- Future owners (including mortgage provider) will know of the deficiencies, and
- The City will show that there is a consequence for non-compliance of City of Penticton bylaws and the BC Building Code.

The cons of placing a notice on title are:

- It may affect the re-sale of the property or ability to re-mortgage; and
- Staff must continue pursuing the owners to comply and achieving compliance through timely injunctive action.

**Alternate recommendations**

1. That Council support Section 57 Notice on Title but not support 60 day injunctive action.
2. That Council denies support of the Section 57 Notice on Title and have staff work with owner to find resolution.

**Attachments**

- Attachment A – Site Plan (2013 Aerial Photograph)
- Attachment B – Photos - June 2015 Inspection –Stop Work
- Attachment C – Retaining Permit – Site Plan
- Attachment D – November 4, 2016 - Site Condition

Respectfully submitted,

Ken Kunka  
Building and Permitting Manager  
Approvals

Acting Director  <i>BDJ</i>	Interim CAO  MM
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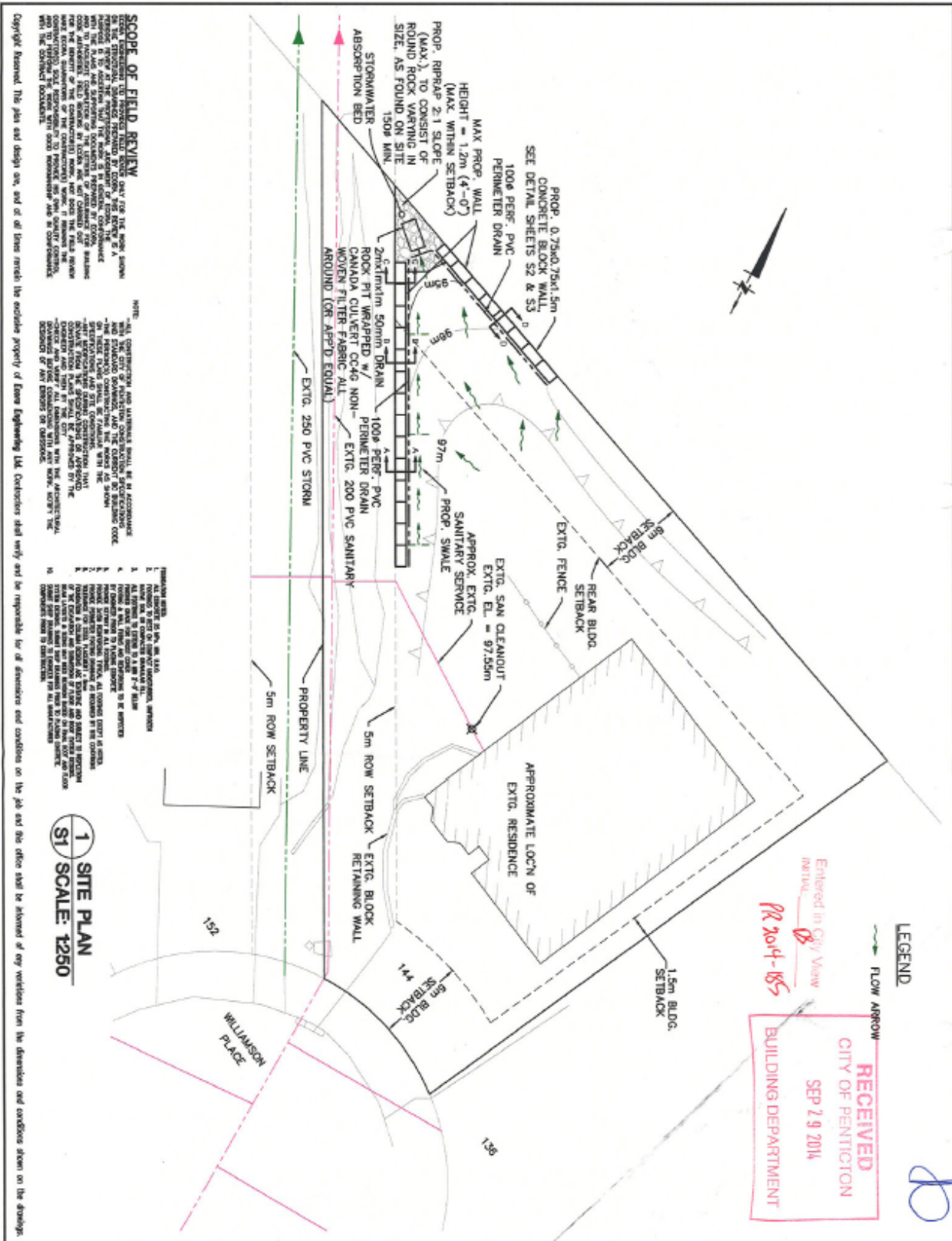
**Attachment A**  
**Site Plan (2013 Aerial Photograph)**



**Attachment B**  
**June 2016 – Stop Work**



### Attachment C Retaining Permit – Site Plan



**Attachment D**  
**November 4, 2016 - Site Condition**



*View looking north along SROW.*



*View looking South along SROW.*

# Council Report

penticton.ca

**Date:** December 6, 2016 File No:  
**To:** Mitch Moroziuk, Interim Chief Administrative Officer  
**From:** Tina Siebert, Bylaw Services Supervisor  
**Subject:** **Complimentary Parking Downtown**

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## Staff Recommendation

THAT Council approve no charge for on-street parking in the downtown area on the five (5) Saturdays in December 2016 which includes: December 3, 10, 17, 24, and 31, 2016.

## Strategic priority objective

The City of Penticton recognizes that small businesses play a vital role in Penticton's local economy by providing jobs and preserving the Downtown neighborhood. The City of Penticton and the Downtown Penticton Association strive to promote shopping local by supporting small business and encourage citizens to shop downtown. Further, by providing free on street parking on Saturdays for the month of December, visitors and residents would showcase the recent downtown revitalization efforts.

## Background

For the past several years, the City has approved no charge on-street Saturday parking during the month of December in the Downtown area. This has been done as a Christmas promotion, at the request of the Downtown Penticton Association. Both Kelowna and Vernon support the requests each year from their respective Downtown Associations.

The Downtown Penticton Association has requested the City's approval for no charge parking again this year (Attachment A).

Please note that this will only apply to on street metered parking stalls in Downtown Penticton; private parking lot rules remain in effect. Pay parking in public stalls and lots would continue to be in effect Monday to Friday during this period. The pay parking system will resume on Tuesday, January 3, 2017.

## Financial implication

Total impact on downtown parking revenue for the dates indicated in December 2016 is approximately \$5,000.

**Attachments**

Attachment A –Request letter received from the Executive Director, Downtown Penticton Association

Respectfully submitted,

Tina Siebert



Bylaw Services Supervisor

Cc: Mark Parker, Communications Officer

Lynn Allin, Downtown Penticton Association

Approvals

Director  <i>BL</i>	Interim CAO  <i>MEM</i>
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## Attachment A

Request letter received from the Executive Director, Downtown Pentiction Association



November 29, 2016

Dear Tina,

I would like to request on behalf of the Downtown Pentiction Association that we provide free downtown parking for Saturdays only during the month of December. The areas you provided free last year worked really well and I have had many merchants asking if it this program will be available again this year.

Providing complimentary parking will increase traffic downtown to not only shop but to enjoy restaurants and entertainment throughout our holiday season.

If you are able to provide free parking on Saturday's, the DPA will promote it to ensure the message gets out to the public.

Thank you in advance for assisting the DPA make the 2016 holiday season a successful one for all our downtown merchants.

Kind regards,



**Lynn Allin**

Executive Director

Downtown Pentiction Association

P: 250.493.8540 | F: 250.493.9170 | C: 250.328.5959

[fb.com/downtownpentiction](http://fb.com/downtownpentiction) | [@dtpentiction](https://twitter.com/dtpentiction)

# Council Report

penticton.ca

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Acting Chief Administrative Officer  
**From:** Randy Houle, Planner 1  
**Address:** 376 Braid Street  
**Subject:** **Development Variance Permit PL2016-7771**

File No: DVP PL2016-7771

## Staff Recommendation

THAT Council approve "Development Variance Permit PL2016-7771" for LOT 2, PL KAP71761 DL 202 SDYD, located at 376 Braid Street, a permit to increase maximum lot coverage from 40% to 46%, decrease the minimum front yard from 4.5m to 2.5m and decrease the minimum interior side yard (south) from 1.5m to 1.1m;

AND THAT staff be directed to issue "Development Variance Permit PL2016-7771."

## Strategic priority objective

N/A

## Background

The subject property (Attachment 'A') is designated by the Official Community Plan (OCP) as MR (Medium Density Residential) and is currently zoned R2 (Small Lot Residential). The subject site is 410.5m<sup>2</sup> (4418 ft<sup>2</sup>) and features a single detached dwelling constructed in 1985 with an addition built in 2002. Photos of the site are included as Attachment 'D'. The adjacent property to the south is zoned as Urban Centre Commercial (C5), with the remainder of the surrounding properties zoned as Duplex Housing: Lane (RD2).

The applicant intends to increase the size of the house by adding a 2<sup>nd</sup> storey to the existing building along with a 13.23m<sup>2</sup> ground floor addition. The proposed construction will add 13.23m<sup>2</sup> of building footprint. A secondary suite is proposed which is a permitted use in the R2 zone.

The addition will result in 45.6% total lot coverage. The Zoning Bylaw, however, only allows for 40% maximum lot coverage. As such, a variance to that section of the bylaw is required prior to construction. The 2<sup>nd</sup> floor addition will result in a 1.1m interior yard on the south property line. The Zoning Bylaw requires a minimum 1.5m interior yard. As such, a variance to that section of the bylaw is also required. The addition on the ground level will result in a 2.5m front yard. The Zoning Bylaw requires a minimum 4.5m front yard. So, a variance to that section of the bylaw is also required.

A variance to Zoning Bylaw No. 87-65 was approved in 2001, reducing the front yard minimum to 2.4m and the rear yard minimum to 1.2m. Since the owner is proposing to add a 2<sup>nd</sup> floor as well as an addition to the

front on the ground level, the current Zoning Bylaw (No.2011-23) must be varied. It is important to note that under the current Zoning Bylaw, the north side of the property along the creek is now treated as an interior side, not a rear. Since the site plan shows the existing building to be 1.7m from the property line on the north-east side, no variance is required as it meets the 1.5m minimum side yard.

The proposed addition is within the 30m riparian assessment area, but is exempt from requiring a Riparian Assessment Area Development Permit as it is bearing on the existing foundation. If, however, an upgrade to the current foundation footings is deemed necessary, a RAR DP may be required before issuance of a building permit.

## **Proposal**

The applicant is requesting a development variance permit to vary the following sections of Zoning Bylaw No. 2011-23:

- Section 10.2.2.3: To increase maximum lot coverage from 40% to 46%.
- Section 10.2.2.5: To decrease the front yard minimum from 4.5m to 2.5m.
- Section 10.2.2.6.i: To decrease the south interior side yard minimum from 1.5m to 1.1m.

## **Technical Review**

This application was reviewed by the City's Technical Planning Committee. Concerns pertaining to storm drainage, electrical relocation and the existing foundation were raised, but will be addressed at the building permit stage. If the request for the variances is supported, BC Building Code and City bylaw provisions, such as height restrictions, will apply.

## **Financial implication**

N/A

## **Analysis**

### Support Variance

When considering a variance to a City bylaw, staff encourages Council to be mindful of any hardship on the property that makes following the bylaw difficult or impossible; whether approval of the variance would cause a negative impact on neighboring properties and if the variance request is reasonable.

Section 10.2.2.3: To increase maximum lot coverage from 40% to 46%.

The proposed development will increase the building footprint by 13.23m<sup>2</sup>, thus placing the total building footprint at 187.24m<sup>2</sup> (45.6% lot coverage). The carport was not part of the building footprint calculation when the house and addition were constructed. The existing building footprint including the carport is 174.01m<sup>2</sup> (42% lot coverage). Since the lot coverage will only slightly increase, it is reasonable to vary it to 46%.

Section 10.2.2.5: To decrease the front yard minimum from 4.5m to 2.5m.

A variance to Zoning Bylaw 87-65 was approved in 2001 to reduce the front yard minimum to 2.4m. Zoning Bylaw No. 2011-23 requires a 4.5m minimum front yard. The proposed ground floor addition will be 2.76m

from the property line and the 2<sup>nd</sup> floor addition will be 2.5m from the property line. Given that the height of the building on the north side of the property will only slightly increase, it is reasonable to reduce the front yard minimum to 2.5m.

Section 10.2.2.6.i: To decrease the south interior side yard minimum from 1.5m to 1.1m.

The existing building has a 1.1m interior side yard on the south side of the property, which was permitted when the house was constructed in 1985. The applicant is not proposing to reduce the interior side yard any further. Even though a second storey is being added, the flattening of the roofs makes the height increase minimal (1.85m). There are no openings proposed on the south wall of the building. Given that the height of the building on the south side of the property will only slightly increase and that 1.1m side yard was permitted when the house was built in 1985, it is reasonable to decrease the south interior side yard minimum to 1.1m.

Given the above, staff feel that the variances requested are sensible and recommend that Council support the application.

Deny/Refer

Council may consider that the variances are not justified and will negatively affect the neighbourhood. If this is the case, Council should deny the variances.

**Alternate Recommendations**

1. THAT Council support "DVP PL2016-7771" with conditions.
2. THAT "DVP PL2016-7771" be referred back to staff.

**Attachments**

- Attachment A: Subject Property Location Map
- Attachment B: OCP Map
- Attachment C: Zoning Map
- Attachment D: Images of Subject Property
- Attachment E: Site Plan
- Attachment F: Elevations
- Attachment G: "DVP PL2016-7771"

Respectfully submitted,

Randy Houle  
Planner I

Approvals

Planning Manager  <i>BL</i>	Interim CAO  <i>MM</i>
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Figure 1: Subject Property

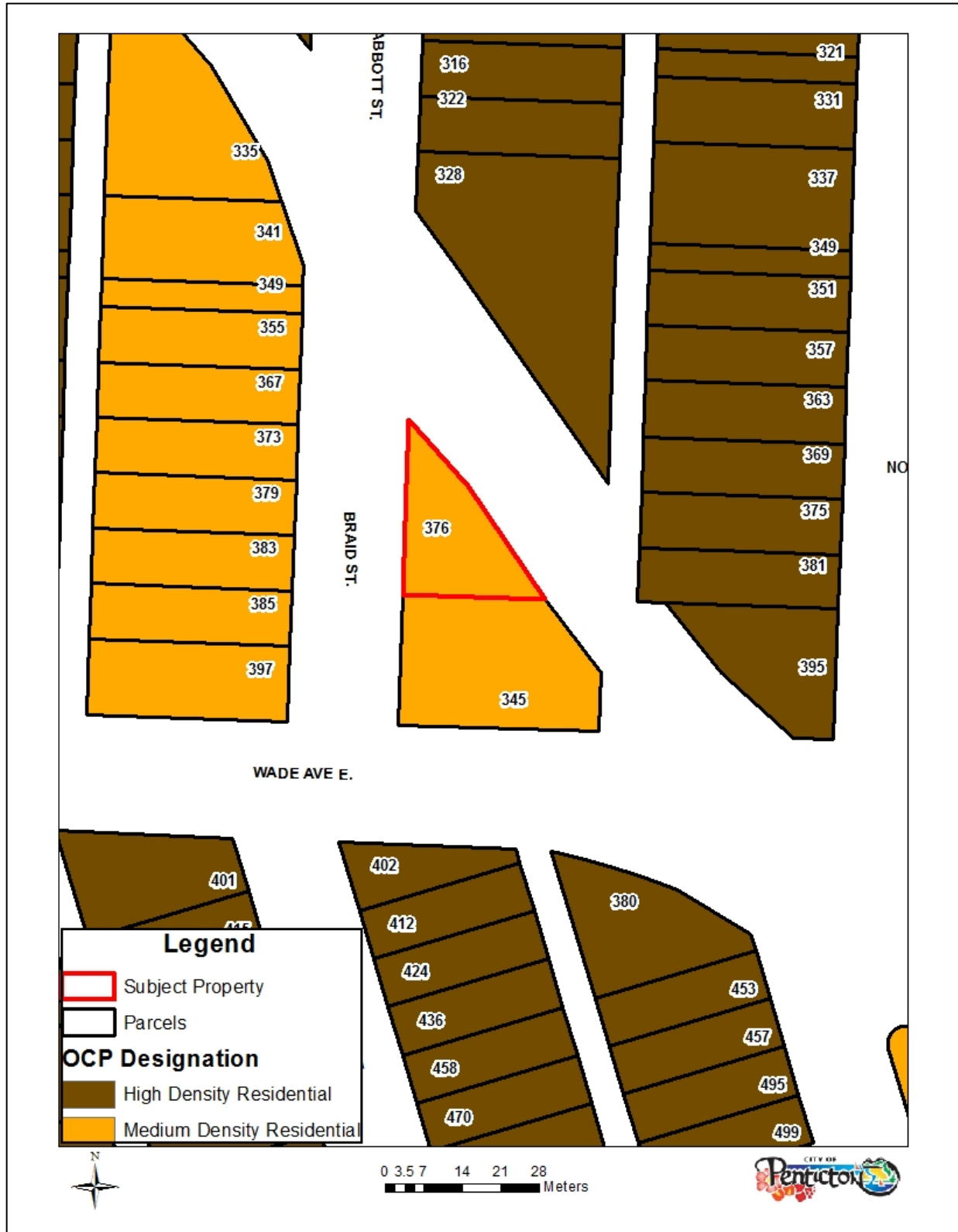


Figure 2: OCP Map

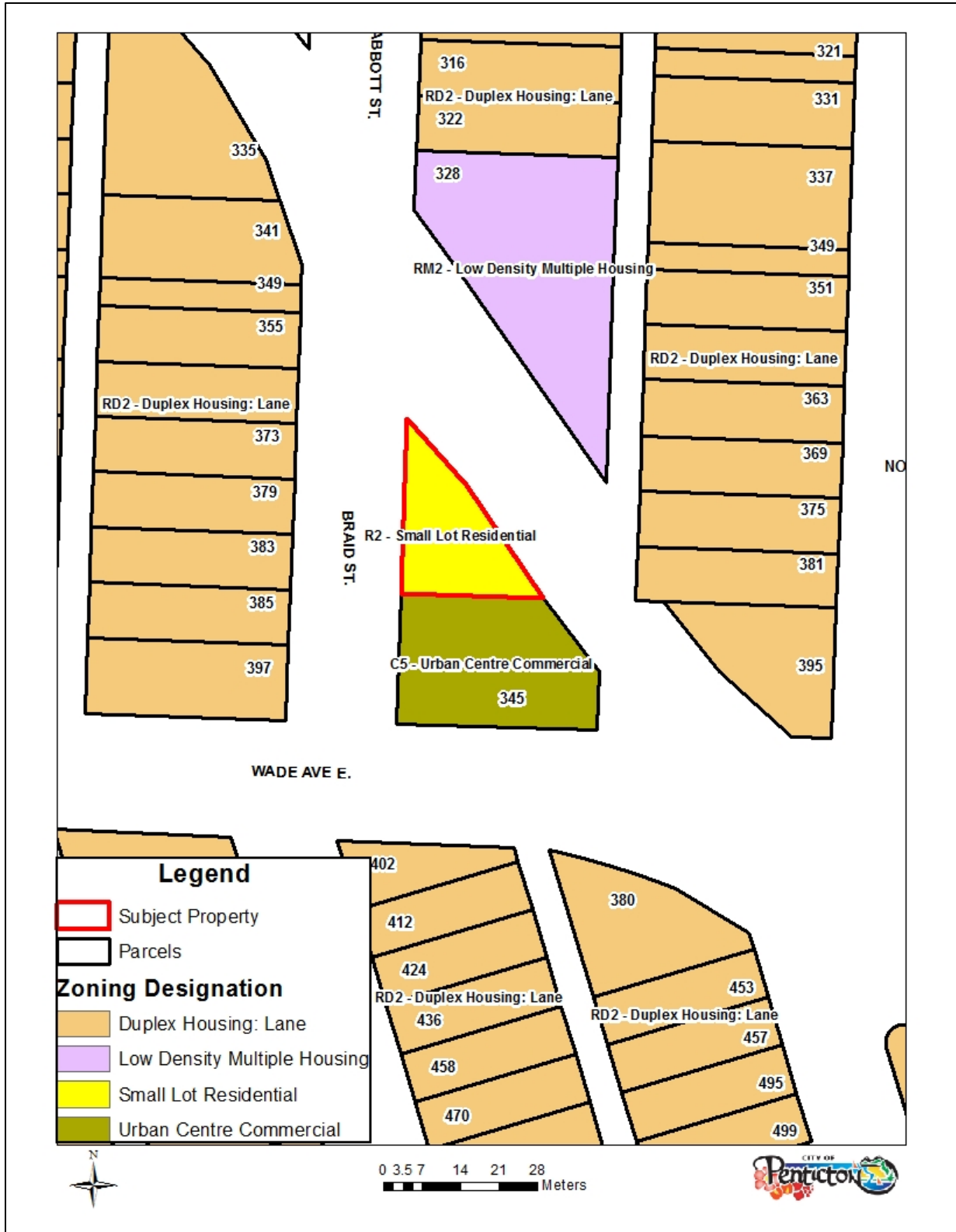


Figure 3: Zoning Map



Figure 4: Street View of Subject Property



Figure 5: Street View of Carport



Figure 6: North East Side of building



Figure 7: Location of Proposed Addition at Front of Property

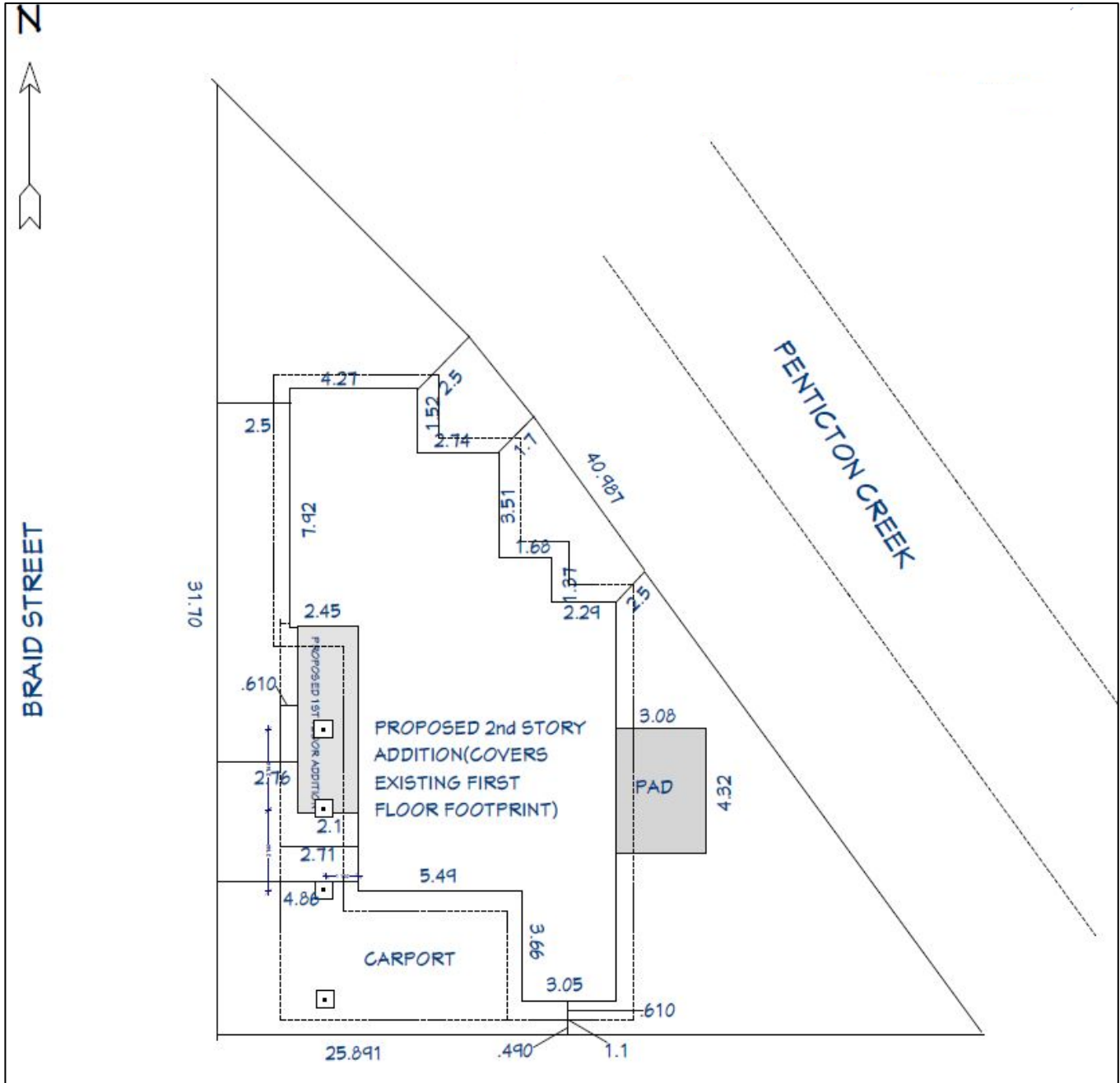


Figure 8: Site Plan

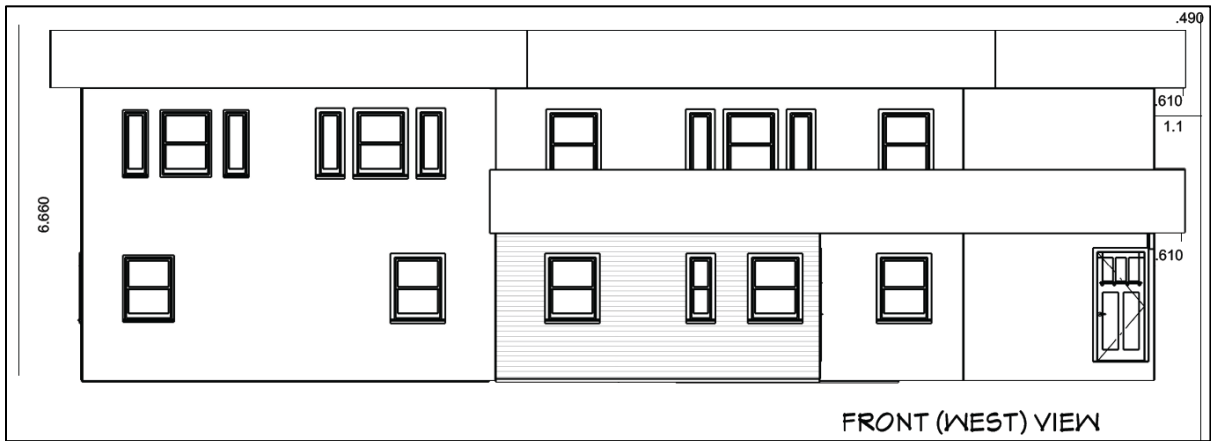


Figure 9: Front (West) View

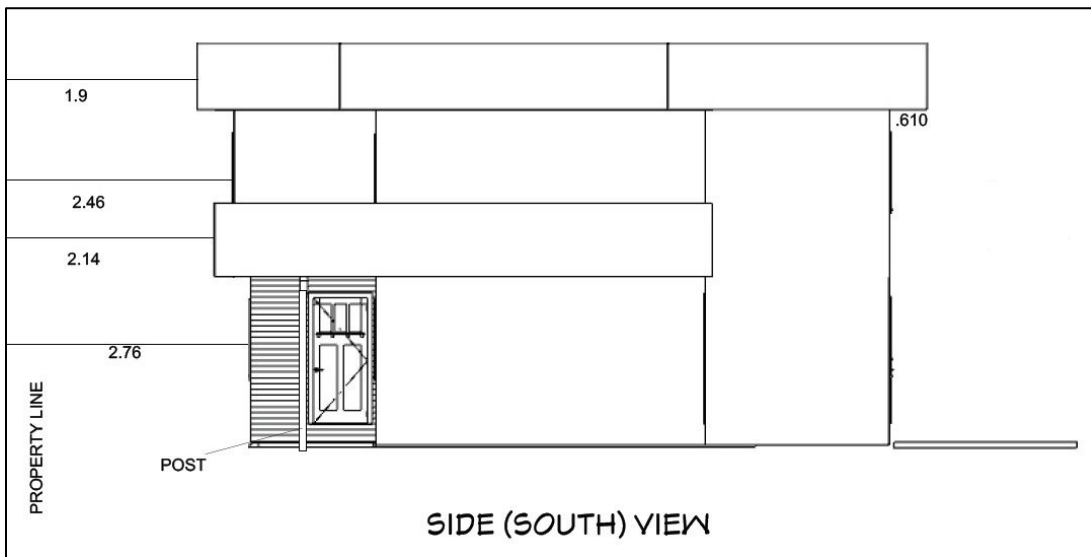


Figure 10: South View



Figure 11: Overhead View of Proposed Addition



City of Penticton  
 171 Main St. | Penticton B.C. | V2A 5A9  
[www.penticton.ca](http://www.penticton.ca) | [ask@penticton.ca](mailto:ask@penticton.ca)

## Development Variance Permit

**Permit Number: PL2016-7771**

Name:  
 Address:

### Conditions of Permit

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

Legal: Lot 2, District Lot 202, SDYD, Plan 71761  
 Civic: 376 Braid Street  
 PID: 025-473-433
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2011-23 to allow for an addition to a Single Family Dwelling, as shown in the plans attached in Schedule 'A'.
  - Section 10.2.2.3: To increase maximum lot coverage from 40% to 46%.
  - Section 10.2.2.5: To decrease the front yard minimum from 4.5m to 2.5m.
  - Section 10.2.2.6.i: To decrease the south interior side yard minimum from 1.5m to 1.1m.

### General Conditions

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.

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

Authorized by City Council, the \_\_\_\_ day of \_\_\_\_\_, 2016

Issued this \_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

# Council Report

penticton.ca

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Acting Chief Administrative Officer  
**From:** Ken Kunka, Building and Permitting Manager  
**Subject:** **Section 57 Notice on Title**  
**329 Upper Bench Road S**

File No: Civic

## Staff Recommendation

THAT Council place a Notice on Title under Section 57 of the *Community Charter* on Lot 37A, Plan 306 (Except PlanB1542) located at 329 Upper Bench Road S, stating the following:

*"Failure to complete building permit (expired), which is a violation of City of Penticton Building Bylaw 94-45 and failure to complete life safety items and the exterior finish of the single family dwelling, which is a violation of the BC Building Code."*

AND THAT further injunctive action be commenced by staff within 60 days of Section 57 Notice on Title being registered if outstanding deficiencies are not completed to close off permit.

## Background

On November 1, 2016 staff provided a report outlining concerns related to health and safety issues for a long-standing open building permit for a single family home located at 329 Upper Bench Road S (See Attachment A for report). At that time Council resolved:

7.2 Section 57 Notice on Title and Injunctive Action  
Re: 329 Upper Bench Road South  
484/2016 It was MOVED and SECONDED

THAT the owner of 329 Upper Bench Road S be notified that Council will consider passing a resolution to place a Notice on Title under Section 57 of the *Community Charter* on Lot 37A, Plan 306 (Except PlanB1542) located at 329 Upper Bench Road S, stating the following:

*"Failure to complete building permit (expired), which is a violation of City of Penticton Building Bylaw 94-45 and failure to complete life safety items and the exterior finish of the single family dwelling, which is a violation of the BC Building Code. Further information may be inspected at City Hall";*

AND THAT further injunctive action be commenced by staff within 60 days of Section 57 Notice on Title being registered if outstanding deficiencies are not completed to close off permit;

AND FURTHER THAT the owner be notified of the proposed Notice on Title and injunctive action report and be given an opportunity to speak to the matter at the December 6, 2016 Council meeting.

CARRIED UNANIMOUSLY

A registered letter was sent to the owner, John Thomas Holland, requesting that a building permit be applied for to resolve the outstanding issues on the property, or to notify the City that he would like to speak upon his behalf against the Section 57 Notice on Title as required by the *Community Charter* (Attachment A).

**Analysis**

At the time of the creation of this report, no contact has been made by the owner regarding obtaining a permit or the Section 57 Notice, therefore there is no resolution or attempt to resolve the outstanding safety concerns or the City’s liability exposure. If Council supports placing of the Section 57 Notice on Title, staff will notify the owner, Mr. Holland, of the Council resolution and inform him of the options to complete the outstanding health and safety requirements to remove the Notice from Title.

If a solution cannot be obtained to resolve the outstanding issues within 60 days of registration of the Section 57 Notice, staff will engage injunctive action to ensure that the home owner takes action to ensure outstanding interior health and safety deficiencies are substantially completed and permits are in place to resolve the exterior finishing in a timely manner.

The pros of placing a notice on title are:

- The City will show that there is a consequence for non-compliance of City of Penticton bylaws and the BC Building Code;
- Increased probability of owners choosing to comply in order that the Notice be removed from title;
- Future owners (including mortgage provider) will know of the deficiencies; and
- The City has taken steps to attempt to achieve compliance with city bylaws and the Building Code.

The cons of placing a notice on title are:

- It may affect the re-sale of the property or ability to re-mortgage; and
- Staff must continue pursuing the owners to comply and achieving compliance through timely injunctive action.

**Alternate recommendations**

1. That Council support Section 57 Notice on Title but not support 60 day injunctive action.
2. That Council denies support of the Section 57 Notice on Title and have staff work with owner to find resolution.

**Attachments**

Attachment A – Letter -Notice to owner

Respectfully submitted,

Ken Kunka  
Building and Permitting Manager

**Approvals**

Acting Director	Interim CAO
BDJ	MM



TAKE NOTICE THAT you will be given an opportunity to address Council under Section 57 of the Community Charter on Tuesday, December 6, 2016 at the Regular Council meeting.

Alternatively, you could apply for new building permit to complete works with a one year expiry. In this case, the Section 57 would go on title but further enforcement action would be delayed as part of a compliance agreement.

Should you have any further questions regarding the above Section 57 Notice on Title and Injunctive Action, please contact the undersigned at 250-490-2505 or via email at [ken.kunka@penticton.ca](mailto:ken.kunka@penticton.ca)

Yours truly,

THE CORPORATION OF THE CITY OF PENTICTON



Ken Kunka ASCT, RBO  
Building and Permitting Manager  
Development Services

Enc.

# Council Report

penticton.ca

**Date:** December 6, 2016  
**To:** Mitch Morozuiuk, Acting Chief Administrative Officer  
**From:** Blake Laven, Planning Manager  
**Subject:** **Temporary Use Permit applications for marijuana dispensaries**

File No: RMS 4300

## Staff Recommendation

THAT Council, after hearing from neighbouring residents, consider on a site-by-site basis whether to issue Temporary Use Permits, for the purpose of operating marijuana dispensaries to the following properties, for an 18 month period:

1. 101 351 Westminster Avenue W: Lot A, District Lot 4, Group 7, Similkameen (Formerly Yale-Lytton) Division Yale District, Plan KAP81153
2. 256 Westminster Avenue W: Lot 7, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 871
3. 288 Westminster Avenue W: Parcel A (KE103216) District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 871
4. 409 Martin Street: Lot 6, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton), Plan 437, Except the Westerly 43 Feet, Measured Along the Northerly Boundary Thereof by the Full Depth of Said Lot
5. 456 Main Street: Lot 9, Block 15, District Lot 202, Similkameen Division Yale District, Plan 269
6. 104 575 Main Street: Lot A, District Lot 202, Similkameen Division Yale District, Plan 9283
7. 150 1636 Main Street: Lot 2, District Lot 3237S, Similkameen Division Yale District, Plan 36801

AND THAT issuance of any of the TUPs be subject to the following conditions:

- Must hold a business licence issued by the City
  - No cannabis products visible from outside of the store;
  - Ventilation system must be in place, creating an exchange of outside and inside air;
  - Hours are limited to 8 AM – 10 PM;
  - Two staff are present at all times during business operation;
  - Those persons 21 years and under are prohibited from entering the dispensary;
  - No smoking or consuming product on site is permitted;
  - Must have a security plan in place;
  - Criminal record checks for licence holders showing no drug related offences within the past 10 years;
- and

- Dispensary not to be combined with any other business retail or otherwise, other than minor associated products and comprising less than 20% of retail space

AND THAT, Council give first, second and third reading to “Fees and Charges Amendment Bylaw No. 2016-67”, a bylaw that amends Fees and Charges Bylaw 2014-07 to include an annual \$5,000 fee for a business license to operate a marijuana dispensary or a non-profit licence to operate a marijuana dispensary.

## **Background**

Storefront sale of cannabis is not currently a permitted use in the City of Penticton. Nevertheless, as in most communities across BC, dispensaries have been operating here both without licensing or with licensing under another business type (café, retail store etc.) As the legal status of these types of businesses is being addressed at a federal level, local governments in BC have been trying to establish a regulatory framework that will accommodate the services the dispensaries offer and address overall public safety concerns.

Several different approaches have been taken. Some local governments have taken a more accommodation focused approach, introducing bylaws regulating the businesses under the Community Charter authority for municipalities to regulate business. Some communities have taken a more prohibitive approach, deeming the businesses to be non-conforming and illegal and using zoning enforcement powers to get the provincial courts involved with injunctive action. Other municipalities have let the businesses operate under the guise of other business classes (counselling services, retail stores etc.). Those municipalities taking the latter approach are waiting on more clarity from the federal government and province prior to enacting regulatory changes.

This above information was presented to Council in more detail at the Committee of the Whole (COW) meeting on September 6, 2016. At that meeting staff presented the findings of research into storefront dispensaries and how other municipalities were dealing with the new land use. The report presented Council with some options for moving forward. Council, in a 5 / 2 decision supported the regulation and licensing of dispensaries in Penticton. In their decision, Council indicated that they preferred that the dispensaries be licensed through a temporary use permit rather than permanent regulatory changes. This was so that once more clarity on federal legalization was available permanent amendments could be made that aligned with senior government legislation.

This direction from Council was communicated to those parties interested in operating a dispensary in Penticton. To date, the City has received seven (7) applications for temporary use permits for dispensaries. The locations that businesses wish to operate are as follows:

- 101 351 Westminster Avenue W
- 256 Westminster Avenue W
- 288 Westminster Avenue W
- 409 Martin Street
- 456 Main Street
- 104 575 Main Street
- 150 1636 Main Street

At the COW meeting staff also presented an outline of regulations for Council's consideration that could be included in the City's various regulatory bylaws (zoning bylaw, business licence bylaw etc.). These proposed regulations were communicated as guidelines to all those persons interested in applying for TUP applications to operate dispensaries. Without exception, all those who have made applications are in favour of having regulations put in place to limit the negative impact that these uses may have.

Another recommendation made at the September 6<sup>th</sup> meeting was the requirement for a \$5,000 application fee to operate a dispensary until such time as the legalization framework was better understood. This has also been communicated to all applicants.

Prior to and after the meeting on September 6<sup>th</sup>, four (4) businesses were operating what can be considered a dispensary in Penticton. Bylaw Services was actively issuing fines to those businesses that remained open after they were notified that they were operating without authorization. All of the dispensaries that have applied for Temporary Use Permits have paid all of their issued fines to date. Three dispensaries are currently operating in the city as of the drafting of this report.

### **Updates on federal legalization and other recent updates**

Since the COW meeting on September 6, 2016, there have not been any major updates to report on federal legalization. The Task Force on Marijuana Legalization and Regulation is required to present back to the relevant Ministers prior to the end of November 2016. As of the writing of this report, that has not yet happened.

The Canadian Medical Association (CMA) has made public statements in regard to the use of marijuana and how it should be legalized. Of particular note is the recommended age limitation that the organization is recommending. CMA is recommending setting a national age of 21 for being able to purchase marijuana products. CMA also calls for restrictions on advertising and marketing of marijuana products and limitations on potency among other recommendations. CMA also stated their support for storefront dispensaries over other methods of distribution. According to their comments to the Legalization Task Force, CMA would prefer a government monopoly to restrict the sales, because of its social responsibility mandate, but as a "close second" storefront dispensaries were seen as the most appropriate distribution method, with strict restrictions on their operation. CMA members did not support distribution through drug stores for recreational sales.

During the 2016 US Presidential Election California, Florida, Nevada and Massachusetts backed plans to relax marijuana laws. Voters in California, Nevada, Maine and Massachusetts supported legalizing marijuana for recreation use joining Washington DC, Colorado and the State of Washington as places where recreational marijuana is legal.

More locally, in the Okanagan few changes have happened since the September 6<sup>th</sup>, 2016 COW meeting. Kelowna City staff have made public comments about taking a 'wait and see' approach and will be preparing recommendations after the federal rules are more clear. In comment, City of Kelowna Planners have indicated they may look to prohibit the dispensaries from the main tourist / retail areas of their city. Vernon City Council made a conscious decision in August of this year to not place zoning restrictions on marijuana dispensaries. Comments from Councilors in Vernon indicated that no complaints from the public have come in on the issue and it would be a waste of staff time to take enforcement action against the dispensaries.

## Proposal

Council is being asked to consider issuing Temporary Use Permits for marijuana dispensaries at the seven identified locations. In addition, Council is also being asked to support an amendment to the City's Fee and Charges Bylaw 2014-07 as follows:

Amend Appendix 4 Business Licence Fees of Fees and Charges Bylaw 2014-07 to include the following two fees:

Marijuana Dispensary: \$5,000

Non-profit Marijuana Dispensary: \$5,000

## Financial implication

- The City has collected over \$16,700 in fines from the operating dispensaries to date.
- Bylaw Services has ceased issuing fines while the application process for the Temporary User Permits has been underway.
- If council were to issue the seven (7) temporary use permits and each were to meet all the conditions and apply for business licenses, the City would receive \$52,500 in licensing fees over the 18 month period.
- The City to date has spent over \$9,000 in legal fees and labour costs dealing with marijuana dispensaries. Given the legal status of storefront dispensaries and overall unknowns about the ultimate legalization, there is a strong possibility that the City will face some legal challenge whether the City proceeds with licensing these dispensaries or not. The licensing fee is intended to help offset these administrative costs.

## Analysis

Temporary use permits are a tool that allows for a use that is not permitted in a specific zone to be done on a site specific property in that zone for a specified period of time. The Local Government Act allows temporary use permits to be issued for up to three (3) years, with a one-time renewal. The City's Official Community Plan speaks to how staff and Council should evaluate whether issuance of a TUP is in the public interest. The OCP gives the following guidelines:

- The use is not noxious or undesirable;
- The use does not have a negative impact on adjacent lands;
- The use does not create a significant increase in demand for City services;
- Any development complies with the Development Permit Area guidelines for the area;
- The use operates at hours that do not disturb the surrounding neighbourhood;
- Development in support of the non-conforming use will not permanently alter the site; and
- The use otherwise complies with council conditions and other provincial and federal enactments

In going through this list, this report will speak about marijuana dispensaries in general. Appendices are included as attachments to this report that speak to each location specifically.

Marijuana dispensaries are a relatively benign use. While they do generate some traffic, they are not unlike most retail outlets, if appropriate measures are put in place.

Marijuana is a unique product in that it is quite aromatic. And unlike coffee or other more typical and expected aromas in a commercial area, the odor of cannabis has the potential for negative impacts on workers and neighbouring residents or businesses. One way to mitigate this potential is to require some form of ventilation and filtration of the air in the dispensary. Staff are suggesting that this be one of the conditions that Council places on the operation of a dispensary in Penticton.

In addition, marijuana and some other cannabis products sold in a dispensary are also intoxicants and can create disorientation and anxiety of users. Given that most dispensaries are in busy commercial areas, having customers consuming and then entering into those busy areas has safety implications. Restricting on site consumption is one way that this can be alleviated and that is also included as a recommended condition of operation. This is common in most places that have legalized the sale of marijuana through storefront dispensaries.

The Canadian Medical Association has recently indicated marijuana can be particularly effectual on those under the age of 21. So placing restrictions on age of entry and overt displays celebrating marijuana culture can be effective in reducing the harm to youth. In staff's original report to Council, the age 19 was recommended, but given this pronouncement by CMA, staff are now suggesting the age be set at 21 for entry to a dispensary, rather than 19.

Given the above, it would seem that given adequate operating parameters that a marijuana dispensary will meet the intent of not having a negative impact on neighbouring properties or disturbing the surrounding neighbourhood. Marijuana dispensaries, like any other development would be required to meet any development permit area guidelines and will not permanently alter the site, any more than any other tenant improvement.

Looking back at the list of OCP guidelines, there are two areas where the marijuana dispensaries do not easily fit. The first has to do with the impact on City services. Bylaw Services, the City Clerks Department and Planning and building Departments have all spent numerous hours working on marijuana dispensary related issues. The time spent on these businesses is much more than spent on almost any other sector. Because of this, staff are recommending an amendment to the Fees and Charges Bylaw to increase a business licence fee and the non-profit registration fee for a marijuana dispensary from the typical business licence fee of \$175.00 a year to \$5,000 a year. Once more clarity around legalization is available, these fees should be reviewed.

The other guideline that the marijuana dispensaries fail to meet is the question over compliance with provincial and federal enactments. Currently, storefront cannabis sales are technically not an approved method for the distribution of marijuana, medical or otherwise. This is the question that Council grappled with most during the Committee of the Whole meetings and ultimately why a temporary use permit procedure was preferred over regulatory changes. Council may take some comfort in the fact that several other municipalities have licensed marijuana dispensaries in their communities without any legal repercussions as of yet.

The Supreme Court of Canada in several landmark cases, Allard et al v. Canada, being the most recent, have stated that it is a constitutional right to have access to marijuana. The federal government's new Access to Cannabis for Medical Purposes Regulations were a response to the Allard decision. But the ACMPR does not include storefront dispensaries as a legal way to have access to cannabis products. No cases involving storefront dispensaries, however, have yet been tested at the federal Supreme Court level.

Given the above, staff recommend that with the specific conditions, that TUPs should be granted to applicants that meet the other property specific conditions that were outlined at the September 6<sup>th</sup>, 2016 Committee of the Whole meeting, with the following change: staff are recommending that the age of entry to a marijuana dispensary be increased from the earlier recommendation of 19 to the age of 21.

With regard to the number of dispensaries in the City, one must ask: how many dispensaries is too many for a city the size of Penticton. While seven may seem like a lot, it is only one dispensary per every 4800 people. According to a recent news report, Victoria, with their 24 dispensaries, has one per every 3300 people. And in Vancouver, there is one dispensary for every 3400. Reports from other cities show a similar amount per capita, Los Angeles, where marijuana dispensaries have been legal since 2009 is at one per 4000. More locally, Vernon has an estimated 7 dispensaries and two compassion clubs with a population of approximately 40,000 (one per 4,400). While other businesses are not subject to limits or distance rules at the municipal level, there is some justification for limiting the number of marijuana dispensaries given the nature of what they sell. But how many is too many? Staff, at this time, are recommending that Council not set a number, but deal with each dispensary location on its own merits based on the guidelines outlined in the Committee of the Whole report and the feedback received from neighbouring residents and businesses. Like most businesses, it is hoped that the market will determine the ultimate number of dispensaries that a community the size of Penticton needs to meet its demand.

Each dispensary location is outlined in detail in the Appendices attached to this report. The following table however shows how the dispensaries meet with the guidelines outlined in the September 6, 2016 COW report:

Address	Zoning	Distance from school greater than 200m
351 Westminster Avenue	CD4 (Comprehensive Development Zone)	Yes
288 Westminster Avenue	C6 (Mixed Use Commercial)	Yes
256 Westminster Avenue	C6 (Mixed Use Commercial)	Yes
409 Martin Street	C5 (Urban Centre Commercial)	Yes
456 Main Street	C5 (Urban Centre Commercial)	Yes
575 Main Street	C5 (Urban Centre Commercial)	Yes
1636 Main Street	C4 (General Commercial)	No

### **Alternate recommendations**

THAT Council, after hearing from neighbouring residents / businesses, deny one or all of the temporary use permit applications.

THAT Council add or remove any conditions recommended in the staff recommendation and issue temporary use permits for the subject locations.

THAT Council issues Temporary Use Permit to all of the proposed business operators, but does not give first reading to Fees and Charges Amendment Bylaw No. 2016-67.

**Attachments**

Attachment A: Location map of all dispensary locations

Attachment B: Sample Permit for a dispensary

**Appendices**

Appendix 1: 101 351 Westminster Avenue W (Okanagan Cannabinoid Therapy)

Appendix 2: 288 Westminster Avenue W (Power Greens)

Appendix 3: 256 Westminster Avenue W (Herbal Green)

Appendix 4: 409 Martin Street (Green Essence)

Appendix 5: 456 Main Street (Buds Medical Cannabis Products)

Appendix 6: 104 575 Main Street (Okanagan Cannabis Solutions Society)

Appendix 7: 150 1636 Main Street (Avitas Pharmacos / be Kind Okanagan)

Respectfully submitted,

Blake Laven, MCIP, RPP  
Planning Manager

Approvals

<p>Acting Director</p> <p>BDJ</p>	<p>Interim CAO</p> <p><i>MLM</i></p>
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Attachment A  
Location of subject properties



## Attachment B Sample Permit



City of Penticton  
171 Main St. Penticton, B.C. V2A 5A9  
www.penticton.ca ask@penticton.ca

### Temporary Use Permit

**Permit Number: TUP PL2016-XXXX**

NAME  
ADDRESS  
CITY POSTAL CODE

#### Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:  
  
Legal:  
Civic:  
PID:
3. This permit has been issued in accordance with Section 493 of the *Local Government Act*, to allow for the temporary use of the above noted lands for operation of a marijuana dispensary.
4. The operation of a the dispensary shall be subject to the following conditions:
  - a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 21 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business retail or otherwise, other than minor associated products, comprising of no more than 20% of retail display area.

#### General Conditions

5. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit.
6. In accordance with Section 497 of the *Local Government Act*, This permit shall expire on May 31, 2018.

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

Authorized by City Council, the 6<sup>th</sup> day of December, 2016

Issued this \_\_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

## Appendices

Appendix 1: 101 351 Westminster Avenue W (Okanagan Cannabinoid Therapy)  
[Westminster Ave W\351\101\PLANNING\2016 PRJ-210\2016-12-06 Appendix 1.docx](#)

Appendix 2: 288 Westminster Avenue W (Power Greens)  
[Westminster Ave W\288\PLANNING\2016 PRJ-230\2016-12-06 Appendix 2.docx](#)

Appendix 3: 256 Westminster Avenue W (Herbal Green)  
[Westminster Ave W\256\PLANNING\2016 PRJ-188\2016-12-06 Appendix 3.docx](#)

Appendix 4: 409 Martin Street (Green Essence)  
[Martin St\409\PLANNING\2016 PRJ-198\2016-12-06 Appendix 4.docx](#)

Appendix 5: 456 Main Street (Buds Medical Cannabis Products)  
[Main St\456\PLANNING\2016 PRJ-209\2016-12-06 Appendix 5.docx](#)

Appendix 6: 104 575 Main Street (Okanagan Cannabis Solutions Society)  
[Main St\575\104\PLANNING\2016 PRJ-225\2016-12-06 Appendix 6.docx](#)

Appendix 7: 150 1636 Main Street (Avitas Pharmacos / be Kind Okanagan)  
[Main St\1636\150\PLANNING\2016 PRJ-199\2016-12-06 Appendix 7.docx](#)

**Bylaw No. 2016-67**

*A bylaw to amend the Fees and Charges Bylaw No. 2014-07*

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WHEREAS the Council of the City of Penticton has adopted a Fees and Charges Bylaw pursuant to the *Community Charter*;

AND WHEREAS the Council of the City of Penticton wishes to amend the "Fees and Charges Bylaw No. 2014-07";

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 as "Fees and Charges Amendment Bylaw No. 2016-67".

2. **Amendment:**

2.1 Amend "Fees and Charges Bylaw No. 2014-07" by adding the following to Appendix 5 – Business Licence Fees:

Marijuana Dispensary (including non-profit Marijuana Dispensary)	\$5,000.00
--	------------

READ A FIRST time this                      day of    , 2016

READ A SECOND time this                      day of    , 2016

READ A THIRD time this                      day of    , 2016

ADOPTED this                                      day of    , 2016

\_\_\_\_\_  
Andrew Jakubeit, Mayor

\_\_\_\_\_  
Dana Schmidt, Corporate Officer

Dear DPA Member,

I am writing to advise you of information we have learned with regard to City staff providing temporary use permits for 7 dispensaries in Penticton. Three of them will be on Westminster, one on Martin and three are proposed for Main Street, 2 of which are downtown and one will be in the 1600 block. The two proposed for downtown will be 456 and 575 Main Street.

The City staff will be taking these permits forward to for council's review at the Dec 6 Council meeting.

The DPA Board of Directors would like your input on this as we will be attending the Dec 6<sup>th</sup> Council Meeting to bring our position forward. We are also in touch with the RCMP to discuss their planned policing on this issue as well.

Currently, the DPA stance is as follows:

***The DPA cannot endorse or support the illegal use, temporary or otherwise, of any retail space in downtown Penticton.***

I would really appreciate hearing back from you on this issue. If you could reply to me with your response to this with:

Yes, I am in favour of these permits to be accepted by council

Or

No, I am not in favour of these permits to be accepted by council.

I will collect the information and take forward, just the number of responses, not names of individual businesses.

Thank you for your timely response on this,

Lynn Allin  
Executive Director  
Downtown Penticton Association  
250 328 5959  
[lynn@downtownpenticton.org](mailto:lynn@downtownpenticton.org)



December 1, 2016

## **Marijuana Dispensaries Downtown Feedback**

**Emailed out survey to 350 members hand delivered 50 in downtown core**

**38% of email were opened and 85 responded by email and 23 called**

**Yes = 41**

**No = 67**

### **Comments - Positive:**

- In favour of dispensaries but this seems like overkill to me. I see no need for us to have 7 of them in advance of the legalization process. To my way of thinking, the existing should be grandfathered or ignored, and the rest should be queued in the order of application, to be processed once legalization occurs.
- Not opposed to dispensaries, however 7 in such a small area seems like too much. When you say "will be", is that including the ones that already exist? I would say there should be a radius requirement between locations
- They are better and safer than liquor stores
- I can see 1 maybe 2 for medical and strict patrolling
- Once its legal – in favour of these permits
- If there was a caveat to not sell any smoking devices or paraphernalia, and if the City has in writing from the RCMP watch commander or other heads that these businesses will not be prosecuted and that the City will not be liable, then I say go ahead with it
- This will bring business and/or tourism to our downtown core
- Yes to only 3 stores downtown. We should provide our visitors with their medicine so they do not have to transport pot with kids in the car.
- I am not opposed to it's use for those that need it – I support there being dispensaries just not so many.

### **Comments – Negative:**

- To say I am concerned about having 7 dispensaries within a few blocks of each other in Penticton would be putting it mildly. My store is slated to have one dispensary almost directly across from my store, another one a block up, one behind me on Martin Street. To begin with, it is still an illegal business so for the city to even consider allowing 7 dispensaries to have temporary permits is unreal. It shouldn't even be considered until after it is Legal. If and when it becomes legal, we do not need 7 dispensaries.
- Totally against them being anywhere in the Downtown (specifically 456 / 575 Main).
- These dispensaries are still illegal and the proposal is premature.

- Not in favour because its illegal – when the laws change then it will be okay  
First of all, the RCMP can bust these operations at any time, as there is no law allowing them. At this time is the City complicit in that they knew, accepted and made a larger licensing fee for these dispensaries? A case could be made: could the City be brought up in conspiracy to traffic charges? The City needs to protect us law abiding tax paying businesses from unfair and illegal competition.
- 7 dispensaries in Penticton seems excessive
- As marijuana is officially still illegal, why are we hanging out temporary permits for an illegal trade?
- It is impossible to ensure these dispensaries' sources are safe sources. By issuing permits for such activity, the City, council and our community as a whole accept certain liability for the legal operation of these dispensaries. We cannot, at this time, be assured that the dispensaries' products or their operations are being inspected regularly, as is with alcohol and liquor permits. I suggest our community defer the issue to other communities and higher levels of government for now. <http://globalnews.ca/news/2645660/in-canadas-illegal-pot-market-a-legalized-future-takes-shape>
- As a business operating within close proximity to a dispensary, our experience has been very negative. My staff have been threatened, pot shop customers are parking in my lot, under age teenagers arriving on skate boards to buy product, customers leaving kids in their cars when they go in the shop, operating very late into the night, marijuana is smoked right out front of the building. We are feeling that the city by-law department is not enforcing the by-laws and the RCMP are not clamping down on this illegal business.
- I agree with the DPA stance of not supporting illegal use of downtown space.
- My shop will have one shop across the road and one more a block away, its illegal so for the city to even consider allowing 7 dispensaries to have temporary permits in unreal. It shouldn't even be considered until after it is legal and if and when it becomes legal we do not need 7 of them.
- As with anything this is way too many of the same thing. I can see one maybe two for medical use with strict patrolling but this is ridiculous. My answer is No not in favour.
- The DPA stance is reasonable and appropriate
- Really? Do we want pot shops all over our downtown? No not in favour.
- Totally against it being anywhere in the downtown and or 456 and 575 Main St. In fact, I am opposed to this type of business being located in the downtown Main St area.
- I support the DPA stance. These dispensaries are still illegal and the proposal in premature.
- Not in favour. It's still illegal. When laws change that it will be ok.
- Not in favour of these permits being accepted by council, especially not with all 7 being within blocks of each other.
- No, as marijuana is officially still illegal, why are we handing out temporary permits for an illegal trade?
- No in favour. Though the Fentanyl problem dangerous and growing, it is impossible to ensure these dispensaries' sources are safe sources. By issuing permits for such activity, the city, council and our community as a whole accept certain liability for the legal operation of these dispensaries. We cannot, at this time, be assured that the dispensaries' products or their operations are being inspected regularly, as is with alcohol and liquor permits. I suggest our community defer the issue to other communities and higher levels of government for now.



**Lynn Allin**

Executive Director

Downtown Penticton Association

P: 250.493.8540 | F: 250.493.9170 | C: 250.328.5959

[fb.com/downtownpenticton](https://fb.com/downtownpenticton) | [@dtpenticton](https://twitter.com/dtpenticton)

Dear Councilor

With regard to the upcoming Dec 6 meeting and the proposed Temporary Use Permits to allow Marijuana Dispensaries I would encourage consideration as follows:

I strongly do not agree with offering temporary endorsement permitting and regulating illegal activity, which I will explain in greater detail in section 2 and hope you read, links to current legislation included.

#### Section 1

Should Council continue to consider the direction to allow TUP's then as a minimum the business license process should be treated on the same level as a Liquor Primary Application and include all the processes to that end. This should include the public notification / public hearing process. A committee (as the liquor review committee) including the RCMP, Pathways, the DPA, Medical & Legal advisors, City Planner, etc.

#### Section 2

Why I believe it is a mistake for the City of Penticton, as represented by Council to support TUP's for dispensaries. Keeping in mind that these dispensaries are illegal and the practice they offer is by definition chargeable under the criminal code of Canada, it would seem that to do anything to facilitate these could have significant liabilities. The most recent piece of legislation came to affect August 24, 2016, the "Access to Cannabis for Medical Purposes Regulations." These work in tandem to, and refer to the Narcotic Control Regulations. Together they define quite clearly through what process an individual may secure and possess Marijuana. None of these avenues look anything like the dispensaries that are applying. Currently a registered person can grow and possess their own, can have a registered designated person grow their supply for up to two other people. Both of these have strict limits on quantity. A Licensed Producer can have a permit to sell to users registered through the ministry, via controlled avenues. There is a mechanism for LP's to sell through "Licensed Dealers," again with very strict rules in place. The LP – LD format incorporates very strict regulations about, packaging, labeling, transport and quantities - to meet only the needs of registered users - who are only allowed to source from one source. The paperwork to ensure all these steps are supported is significant. A licensed dealer effectively operates as a pharmacy or pharmacy like facility and is required to have a pharmacist on site, or related equivalent degree obtained through a recognized Canadian institution. The current regulation would not see stores with loose, exposed cannabis products available in plastic, bulk bins. The regulations also make reference to Food, and Health inspector having jurisdiction over this process. Lacing marijuana with other intoxicants has been around since at least the eighties, currently unless you buy from one of the 36 (8 in BC) licensed producers you are taking substantial risk. The people selling don't truly know where their source originates. There is currently safe avenues available, these current application appear to be trying to short cut the system, putting people at risk and hope that somehow they are grandfathered when the federal government announces its direction. My challenge to these dispensaries would be to encourage them to do this right, get certified first or close up shop. Some of the applicants have openly refused to follow the rules, can we expect that they will in the future? There has been a big deal made that the dispensaries where the CMA's #2 choice, the key is it was not #1!

I am not a user of the product, but will in mind, support the outlets, once the regulations to protect citizens are passed into law. I find it unlikely the outlets will look much like these applicants you are considering today.

Taking a tough stance on this may gain credibility with the majority of Pentictonites. I understand the desire to help a few of the dispensaries that are trying to offer legitimate looking services and trying to carve out a niche for themselves, and they do have their own supporters. The vast majority of the population will begrudgingly accept marijuana outlets when it becomes law, at this point they are just conceived as illegal. Among this group (dispensaries) exists an anti-authority, in "your face" contingent which would more closely be akin to a street level drug dealer trading his over coat for a store front. It cannot be seen that this activity is rewarded.

The City & Council needs to prepare for Marijuana Outlets, of whatever form they take, to be introduced but know is not the time. The risks and costs are too high.

### **Tim Scott**

Below are links to the following; the recently updated federal government's web page, the August 24, 2016 ACMPR regulation and the Narcotics Control Regulations

Links:

Department of Justice's webpage explaining current state of marijuana laws

<http://www.justice.gc.ca/eng/cj-jp/marijuana/law-loi.html>

The entire regulation is supplied, starting at the executive summary makes for an easier read. The summary is contained about 5/6 of the way through the document, look for the type change contained in boxed text. Also the paragraph "*Packaging, labelling, and shipping*" following in Part 1 several scrolls down may be of interest, and explains what to look for in a legitimate facility.

<http://gazette.gc.ca/rp-pr/p2/2016/2016-08-24/html/sor-dors230-eng.php>

Narcotics Control Regulations, see section 8 & 9 explains licensed dealers

[http://laws-lois.justice.gc.ca/eng/regulations/C.R.C.%2C\\_c.1041/page-1.html#h-2](http://laws-lois.justice.gc.ca/eng/regulations/C.R.C.%2C_c.1041/page-1.html#h-2)

List of authorized producers

<http://www.hc-sc.gc.ca/dhp-mps/marihuana/info/list-eng.php>

Note, the limitation of 21 years of age may be in contravention of the charter of rights, discrimination based on age.

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**From:** dan warnock  
**Sent:** December-01-16 10:49 AM  
**To:** Public Hearings  
**Subject:** Marijuana Dispensary at 456 Main St.

Dear Council,

In response to the Public Notice letter recieved at 455 Main St and 201- 455 Main St.

We are opposed to granting a license for a Marijuana dispensry at this location.

- It is not a good fit with the majority of surrounding businesses and the family orientated Downtown Community Market.
- There is already a dispensry operating close by on Martin Street.
- It is on the direct path of many Middle and High school student's lunch route. If you would not allow it next door to the school you shouldn't allow it here either.
- Bylaw officers rarely enforce parking on our block. What is the city's plan to enforce the specail "conditions" of the permit?

Thank you for listening to our concerns.

Please remove my email address from this from this correspondence.

**From:**  
**Sent:** November-29-16 8:23 PM  
**To:** Public Hearings  
**Subject:** Comment on Temporary Use Permit PL2016-7773

Regarding the application to operate a Marijuana Dispensary at 104-575 Main Street;

As a neighbour of this address, I do not feel this is a sensible location for such an enterprise. It is one and a half blocks from Pen- Hi, kitty- corner to my family dental clinic, and directly below an orthodontist office (clientele almost entirely teens and children). Regardless of the security measures taken, surely a better location can be found!

Thank-you for your consideration,

Dr. Gordon Houston

---

**From:**  
**Sent:** December-02-16 10:11 AM  
**To:** Public Hearings  
**Subject:** Marijuana Dispensary at 575 Main Street

To whom it may concern:

My office has discussed this with my staff, patients and parents of patients.  
I am a Certified Orthodontist who has had a practice at this address for over 25 years.

Our major concerns are the proximity to our office (right down stairs), for the security of my staff and patients.  
We are one block from the High School.  
Looking on the internet we found out there are now four such business in Penticton.  
We understand you have strict regulations, but who enforces them?

The majority of our patients are between 12-18 years of age, would you like to drop off your son or daughter off at the Pot Store so they can go to the orthodontist, and pick them up in front of same?

I would hope the City of Penticton – who must issue a business licence is also aware that as of today, the sale of Marijuana is illegal in Canada.  
If these are a prescription item, why are they not dispensed by licenced Pharmacists. We have a pharmacy right across the street and have no objection to them dispensing drugs.

Because we deal with mostly youths in our practice – we feel it could have a negative impact on us, and may contribute to us leaving the downtown area altogether.

Dr. Steve Davis  
Kim Acland  
Leona Williams  
Ann McWhinnie

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**Subject:** FW: Penticton Website - Staff Directory - Dispensaries in pentiction

From:

Date: 2016-12-01 8:34 AM (GMT-08:00)

To: Andrew Jakubeit <[andrew.jakubeit@pentiction.ca](mailto:andrew.jakubeit@pentiction.ca)>

Subject: Penticton Website - Staff Directory - Dispensaries in pentiction

You have received an email from Amanda Stewart via the City of Penticton website:

Name: Amanda Stewart

Topic: Dispensaries in pentiction

Message:

As the owner of Valley Hemp -both locations-and an active proponent of law change, I've been watching the dispensary debate unfold with interest.

I've loved dispensaries since I went to Canada's first one in Vancouver, around 1998. It was operated by a non profit society, offered alternative therapies and was a real healing oasis. Discounts on cannabis were offered to low income.

Several times over the last two decades, I have called both city hall and the RCMP to find out if operating a dispensary was legal within city limits. Both times I have been told: not at all, not until federal law change.

This year, with the sudden influx of shops selling weed, I again called city hall and after conversations with Ken Kunka, and CPL Wigglesworth at the RCMP, decided yet again to not risk losing my business license, and face trafficking charges, even though these unregulated establishments were providing herb to children as young as 14.

The kids were wondering how come they could buy weed at the Rush in and Finnish, but we wouldn't sell them pipes (gotta be 19 plus kids).

Now we have complete unregulation, places selling diluted and dubious 'medicine' of undocumented production methods, perhaps with pesticides still on and in them, making claims about product's efficacy, as well as selling the (legal) products that I and my 7 staff sell.

None of these groups have joined CAMCD, the national compassion club standard setter, nor made any attempts to follow their guidelines. Untested cannabis with potentially hazardous chemicals can be devastating to a person with a compromised immune system, like one undergoing chemotherapy.

I have full faith in my staff's ability to sell our excellent product line, and our knowledge and customer service are above par, but it's an unfair competition to say the least, and I feel the city is failing to protect a legal, licensed business from predatory, illegal competition. It sends a kind of strange message to now change bylaws based on already broken rules... guess it's a 'better to beg for forgiveness than ask for permission' situation when dealing with the city and I didn't realize that.

More reasons I decided not to open a dispensary include the safety of myself, staff, family and business neighbours. Because trafficking is illegal, dispensaries do not have electronic banking privileges, they are a cash only business, requiring security, some shops even buzz their customers in, and holdups are becoming more frequent, as criminals learn that these are lucrative targets. Sometimes they will simply have a holdup, other times, they will break into a

neighbouring business and tunnel in through the walls.

- 100 -

Until law change legitimizes the industry and allows for safer, less cash transactions, this is a business that brings risks to all involved and nearby.

A couple of final points include: there is a seldom used charge, called "conspiracy to traffic " that covers anyone discussing trafficking in the future, and then even if they aren't part of the actual transaction, they can still be charged with conspiracy. Will the city, by knowingly licensing this trafficking, be complicit of charges also?

And finally, the Liberal agenda does not include mom and pop dispensaries in their legalization model. They are going to go with mega producers and already established chains of supply, like drug stores. Will the city then be facing a new dilemma once the federal law is changed?

The liberal agenda does not satisfy those of us who have pushed for fair and safe access to this medication, but neither does the unregulated, potentially harmful and high risk independent pot shop either.

if the city decides to limit shops to selling only green weed, tested by a third party lab, not the tinctures and oils, (which is where the toxicity of pesticides can come into play, and the snake oil sales come to the forefront), that could solve some issues. Of course that brings a whole new level of enforcement into the city's lap, but that could also justify a higher licensing fee.

Now, say there is an age limit put on the shops, and one decides to break that age limit. What will the city do? Is there penalties, like in selling tobacco to minors? Will the city send out secret shoppers to see who breaks the rules? It's already established that the 3 open dispensaries do not care about city bylaws, so what type of punishment would be handed out for breaking these new rules the city Is thinking about putting into place?

It's equally as illegal to sell pot to a minor as to an adult, so the charge of trafficking shouldn't only apply to underage customers.

I hope these points can be taken into consideration by yourself and council when making this decision. As I mentioned, I was repeatedly told, no dispensaries until federal law change..., I understood that and stood by it. There has been no federal law change.

Date: Thursday, December 1, 2016 8:34:39 AM

# Appendix 1

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Acting CAO  
**From:** Blake Laven, Planning Manager  
**Subject:** Temporary Use Permit PL2016-7767

File No: TUP PL2016-7767

## Staff Recommendation

THAT Council approve "Temporary Use Permit PL2016-7767", a permit permitting the use 'marijuana dispensary' in the CD4 zone on Lot A, District Lot 4, Group 7, Similkameen (Formerly Yale Lytton) Division Yale District, Plan KAP81153, located in Unit 101 of 351 Westminster Avenue W, subject to the following conditions:

- a) Must have a business licence issued by the City of Penticton;
- b) No cannabis products visible from outside of the store;
- c) Ventilation system must be in place;
- d) Hours are limited to 8 AM – 10 PM seven days a week;
- e) Two staff are present at all times during business operation;
- f) Those persons 21 years and under are prohibited from entering the dispensary;
- g) No smoking or consuming product on-site is permitted;
- h) Must have a security plan in place;
- i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
- j) Dispensary not to be combined with any other business retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.

AND THAT Staff are directed to issue the permit.

## Strategic priority objective

N/A

## Background

Originally operating under the trade name StarBuds, this dispensary is run as a registered non-profit business. The name has changed from Starbuds to Okanagan Cannabinoid Therapy. The operation of a dispensaries as non-profit businesses is something seen often in other jurisdictions. For example, in Vancouver 14 of the 21 dispensaries that have received development permit approval for operation are run

through non-profit societies. Of the seven applications being considered by Council, two are run as not-for-profit businesses.

351 Westminster Avenue is zoned CD4 which is a comprehensive development zone that was put in place to support a large mixed use development. The property is located more than 200m away from an elementary or secondary school. 351 Westminster Avenue has ample parking for the use. The property is adjacent to residential properties.

The applicant has indicated a willingness to operate within the guidelines supported by Council.

### **Analysis**

A dispensary at this location meets the general intent of the guidelines supported at the September 6<sup>th</sup>, 2016 Committee of the Whole meeting. The property, however, is not in a zone that was contemplated for a dispensary (C4, C5, C6, C7). The property has a CD zone. Looking at the intent of the CD zone though, indicates that a ground floor retail use, such as the one proposed fits with the intent of the zone.

Given the above, staff recommend that the temporary use permit be approved and that staff are directed to issue the permit.

### **Alternate recommendations**

THAT Council deny the application.

### **Attachments**

- Attachment A – Subject property location map
- Attachment B – Images of storefront
- Attachment C – Letter of support for dispensary
- Attachment D – Draft permit

Respectfully submitted,

Blake Laven, RPP, MCIP  
Planning Manager

Attachment A  
Property Location Plan



Attachment B  
Images of Storefront (101 351 Westminster Avenue)



Attachment C  
Letter of Intent from Applicant



October 17, 2016

Hello,

Okanagan Cannabinoid Therapy opened in mid-May of this year, under the name of Starbuds. We opened as a Medical Access Centre, where Medical Cannabis patients may access their medicine. Supreme Court Justice Phenan stated in his February 24, 2016 ruling, that Medical Access Centres play an important role in how Medical Cannabis patients obtain their medicine.

Before we opened, we were informed by City Hall staff that Not-For-Profit organizations were not required to have a business license. Within a few days of opening, we were visited by Bylaw staff, who told us we did not need a business license but we needed to register our organization with the City, and Ken Kunka told us that he would guide us through the process. Throughout this whole process we have been open, honest and professional in our dealings with City Hall. We have been willing to meet and discuss our business model and our daily operations.

Our Compassionate Club provides memberships to Medical Cannabis patients who have obtained medical documentation. This documentation comes in a variety of forms—MMAR or MMPR govt forms, a doctor's prescription or diagnosis.

Our establishment has seen a steady rise in membership growth each month. Our members experience a safe, secure, clean, bright, professional clinic-like atmosphere where they may purchase their Medical Cannabis. We have been pro-active in our dealings with suppliers. All products are tested before they arrive on our display shelves. Our staff are continuously receiving product & customer service training, and learn business protocols for safety, and both these issues have been tested in real-life situations, and we are very pleased to say that they passed with flying colours.

Several local doctors and national cannabis advocates & lawyers have visited our Access Centre, and have begun to support our Centre through patient referrals, acknowledgements during their presentations to cannabis groups & the general public and through reviews in national magazines & the world's largest cannabis information platform—Leafly. Tilray, a Canadian Licenced Provider, which is located on Vancouver Island owns Leafly. Each month, on the 15<sup>th</sup>, based on customer feedback and other matrixes, Leafly publishes its top ten dispensaries list in North America for 8 states and 2 provinces. Okanagan Cannabinoid Therapy placed first in British Columbia—for both September & October, the first Medical Access Centre in North



America to obtain this honour in its first registered month with Leafly. High! Canada magazine reviews one dispensary a month, we were selected by them as the premiere Access Centre in the Okanagan Valley for October and will be recognized as such by both businesses at the International Cannabis Business Conference in Vancouver on Oct 12-14, 2016.

On the advice from many Penticton City Councillors, we have begun to integrate into the business community. We have contacted several clinics & alternate health agencies in the Valley and they have begun referring patients to us. Several directors of the Chamber of Commerce asked us to join their organization; currently, they are waiting on the City's regulation process before casting their final decision. Their Executive Director visited our establishment and was thoroughly impressed with our professional setting and reported this to the Chamber. Local newspapers have approached us to advertise in their Health & Wellness sections.

Giving back to the community is extremely important to our organization. We continuously support Kyla, the young Summerland child who requires special medicine from Colorado. We make financial donations monthly to Kyla's Quest foundation, as well as funded a three hour information evening at the Penticton Trade & Conference Centre for 225 Penticton citizens and area residence to hear two Cannabis Researchers/Doctors, who spoke of the science behind this medicine. We have sponsored events where the proceeds have gone to the Kelowna Boys' & Girls' Club. We have opened our retail space to local artists to display their wood, bowl & soapstone carvings. We commissioned a local First Nations artist to create an Okanagan-based painting for our Centre. We have established a Veteran's PTSD support group which meets at our Centre with medical personnel to discuss their conditions. Two area doctors have approached us with a business venture which we hope to announce in the very near future.

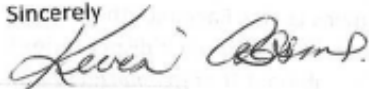
We strongly believe that Penticton is a better community since we opened our Medical Access Centre on Westminster Avenue. We guarantee that we will strive to improve our Medical Access Centre and its integrated approach to the community on a monthly basis.

As stated many times in emails, councillor visits and through personal & telephone conversations, Okanagan Cannabinoid Therapy is open and available to all City officials and its representatives any time of the day.

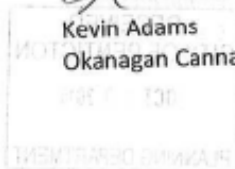
We look forward to playing a major role in this industry for the City of Penticton.

Your time, efforts and consideration into our application are greatly appreciated by our Medical Access Centre and its seven staff members.


Sincerely



Kevin Adams  
Okanagan Cannabinoid Therapy



# Attachment D Draft Permit



City of Penticton  
171 Main St. Penticton B.C. V2A 5A9  
www.penticton.ca info@penticton.ca

**Temporary Use Permit**

**Permit Number: TUP PL2016-7767**

**Conditions of Permit**

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:  
Legal: LOTA DISTRICT LOT 4 GROUP 7 SDYD PLAN KAP81153  
Civic: 101-351 WESTMINSTER AVE W.  
PID: 026-704-790
3. This permit has been issued in accordance with Section 493 of the *Local Government Act* to allow for the temporary use of the above noted lands for operation of a marijuana dispensary.
4. The operation of a the dispensary shall be subject to the following conditions:
  - a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 19 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products, not comprising more than 20% of the retail sales display area

**General Conditions**

5. In accordance with Section 501 of the *Local Government Act* the lands subject to this permit shall be developed in general accordance with this permit.
6. In accordance with Section 497 of the *Local Government Act* This permit shall expire on May 31, 2018.

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

Authorized by City Council, the 6<sup>th</sup> day of December, 2016

Issued this \_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

TUP PL2016-7767Page 2 of 2

# Appendix 2

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Acting CAO  
**From:** Blake Laven, Planning Manager  
**Subject:** **Temporary Use Permit PL2016-7782**

File No: PL2016-7782

## Staff Recommendation

THAT Council approve "Temporary Use Permit PL2016-7782", a permit permitting the use 'marijuana dispensary' in the C6 zone on Parcel A (KE103216), District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale Lytton), District, Plan 871, located at 288 Westminster Avenue W subject to the following conditions:

- a) Must have a business licence issued by the City of Penticton;
- b) No cannabis products visible from outside of the store;
- c) Ventilation system must be in place;
- d) Hours are limited to 8 AM – 10 PM seven days a week;
- e) Two staff are present at all times during business operation;
- f) Those persons 21 years and under are prohibited from entering the dispensary;
- g) No smoking or consuming product on-site is permitted;
- h) Must have a security plan in place;
- i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
- j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.

AND THAT Staff are directed to issue the permit.

## Strategic priority objective

N/A

## Background

288 Westminster Avenue is an older building comprising of 3 separate retail units and is located on the corner of Westminster Avenue and Brunswick Street. The business would operate under the trade name "Power Greens" and would focus on medical marijuana and other cannabis products for medical purposes. The business would take up approximately 500 sq feet of the building.

The property is zoned C6 (Mixed Use Commercial). This location is in an area where two other dispensaries have started operating without authorization from the City. This does raise some concerns about a concentration of dispensaries in one location. Some communities have instituted distance rules, similar to the way that a liquor store operates. Staff were reluctant to do so for two reasons. First, how would staff and Council decide which dispensary would be able to stay in place. Would the businesses that opened without authorization become grandfathered in, giving them a perhaps unfair head start? Or should the new application get preference for not having opened illegally? Secondly, the Penticton Zoning Bylaw does not have a distance rule for any other business. For instance, there is no limit to the number of coffee shops that may be located in an area. Zoning is broad and relies on the market to determine the appropriate number of storefronts in a particular area.

The applicants have also submitted a detailed business plan with their application. Staff were reluctant to include the plan in this Council report as there is confidential and proprietary information contained in the plan. Staff do note though that the business operators are committed to selling their product as a medical product and also provide counselling and advice on cannabis usage to their clients.

### **Analysis**

Given the above, staff recommend that the temporary use permit be approved and that staff are directed to issue the permit.

### **Alternate recommendations**

THAT Council deny the application.

### **Attachments**

- Attachment A – Subject property location map
- Attachment B – Images of storefront
- Attachment C – Letter of support for dispensary
- Attachment D – Draft Permit

Respectfully submitted,

Blake Laven, RPP, MCIP  
Planning Manager

Attachment A  
Property Location Plan



Attachment B  
Images of Storefront (288 Westminster Avenue)



Attachment C  
Letter of Intent from Applicant



# Letter of Intent

## for Temporary Use Permit

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Power Greens Enterprises Limited is looking to acquire a Temporary Use Permit to operate a medical marijuana dispensary in the city of Penticton.


Our primary objective will be to provide medical marijuana and any of its approved derivatives to qualified patients in the South Okanagan. In addition, we will provide education and expert advice on the safe use of medical marijuana and the appropriate pairing of various products for each individual's condition.

Given the potential negative image surrounding the use of marijuana in any community, we recognize the need for discretion in all of our operations. With this said, Power Greens feels that every business has the responsibility to give back to the very community that supports it. To this aim, we intend to be involved with various charitable causes in the community.

Each of the members of Power Greens has had a close and personal relationship with how medical marijuana has dramatically improved the quality of life of either its members or our friends and loved ones. We hope to be able to provide this level of care and support to the many medical marijuana patients in Penticton and surrounding area.

Power Greens Enterprises Limited

# Attachment D Draft Permit



City of Penticton  
171 Main St., Penticton, B.C. V3Z 5A9  
www.penticton.ca info@penticton.ca

**Temporary Use Permit**

**Permit Number: TUP PL2016-7767**

**Conditions of Permit**

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

Legal: Parcel A (KE103216), District Lot 4, Group 7, Similkameen Division Yale (formerly Yale-Lyfton) District Plan 871  
Civic: 288 Westminster Avenue W  
PID: 017-578-931
3. This permit has been issued in accordance with Section 493 of the *Local Government Act*, to allow for the temporary use of the above noted lands for operation of a marijuana dispensary.
4. The operation of a dispensary shall be subject to the following conditions:
  - a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 21 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products, not comprising more than 20% of the retail sales display area

**General Conditions**

5. In accordance with Section 501 of the *Local Government Act* the lands subject to this permit shall be developed in general accordance with this permit.
6. In accordance with Section 497 of the *Local Government Act* this permit shall expire on May 31, 2018.

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

Authorized by City Council, the 6<sup>th</sup> day of December, 2016

Issued this \_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

TUP PL2016-7782 Page 2 of 2

# Appendix 3

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Acting CAO  
**From:** Blake Laven, Planning Manager  
**Subject:** **Temporary Use Permit PL2016-7748**

File No: PL2016-7748

## Staff Recommendation

THAT Council approve "Temporary Use Permit PL2016-7748", a permit permitting the use 'marijuana dispensary' in the C6 zone on Lot 7, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 871, located at 256 Westminster Avenue W subject to the following conditions:

- a) Must have a business licence issued by the City of Penticton;
- b) No cannabis products visible from outside of the store;
- c) Ventilation system must be in place;
- d) Hours are limited to 8 AM – 10 PM seven days a week;
- e) Two staff are present at all times during business operation;
- f) Those persons 21 years and under are prohibited from entering the dispensary;
- g) No smoking or consuming product on-site is permitted;
- h) Must have a security plan in place;
- i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
- j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.

AND THAT Staff are directed to issue the permit.

## Strategic priority objective

N/A

## Background

256 Westminster Avenue is currently zoned C6 (Mixed Use Commercial). Herbal Green is currently operating out of a storefront that was once the Rush-in and Finnish Café (248 Westminster Avenue), but the application is for the storefront next door. City Building officials are working with the business operator to bring the proposed dispensary storefront up to code, at which time, and if Council approval is given, the dispensary will operate at that location. The Rush in and Finish Café will then be opened back up as a café only. The property is currently zoned C6 and is located more than 200m from a secondary or elementary

school. The applicant has agreed to follow all of the conditions outlined in the September 6, 2016, COW report.

### **Analysis**

Given the above, staff recommend that the temporary use permit be approved and that staff are directed to issue the permit.

### **Alternate recommendations**

THAT Council deny the application.

### **Attachments**

Attachment A – Subject property location map

Attachment B – Images of storefront

Attachment C – Letter of support for dispensary

Attachment D – Draft Permit

Respectfully submitted,

Blake Laven, RPP, MCIP  
Planning Manager


Attachment A  
Property Location Plan



Attachment B  
Images of Storefront (256 Westminster Avenue)



# Attachment C Draft Permit



City of Penticton  
171 Main St. Penticton B.C. V32A 2A9  
www.penticton.ca info@penticton.ca

**Temporary Use Permit**

**Permit Number: TUP PL2016-7748**

**Conditions of Permit**

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

Legal: LOT 7 DISTRICT LOT 4 GROUP 7 SDVD DISTRICT PLAN 871  
Civic: 296 WESTMINSTER AVEW.  
PID: 012-002-534
3. This permit has been issued in accordance with Section 493 of the Local Government Act to allow for the temporary use of the above noted lands for operation of a marijuana dispensary.
4. The operation of a dispensary shall be subject to the following conditions:
  - a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 19 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.

**General Conditions**

5. In accordance with Section 501 of the Local Government Act the lands subject to this permit shall be developed in general accordance with this permit.
6. In accordance with Section 497 of the Local Government Act this permit shall expire on May 31, 2018.

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

Authorized by City Council, the 6<sup>th</sup> day of December, 2016

Issued this \_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

Permit TUP PL2016-7748
Page 2 of 2

# Appendix 4

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Acting CAO  
**From:** Blake Laven, Planning Manager  
**Subject:** Temporary Use Permit PL2016-7751

File No: PL2016-7751

## Staff Recommendation

THAT Council approve "Temporary Use Permit PL2016-7751", a permit permitting the use 'marijuana dispensary' in the C5 zone on Lot 6, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale Lytton) Plan 437, located at 409 Martin Street subject to the following conditions:

- a) Must have a business licence issued by the City of Penticton;
- b) No cannabis products visible from outside of the store;
- c) Ventilation system must be in place;
- d) Hours are limited to 8 AM – 10 PM seven days a week;
- e) Two staff are present at all times during business operation;
- f) Those persons 19 years and under are prohibited from entering the dispensary;
- g) No smoking or consuming product on-site is permitted;
- h) Must have a security plan in place;
- i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
- j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.

AND THAT Staff are directed to issue the permit.

## Strategic priority objective

N/A

## Background

409 Martin Street is currently zoned C5 Downtown Commercial and is in an area of other commercial uses without any residential uses adjacent. The dispensary is operating under the trade name Green Essence. Prior to becoming a dispensary, Green Essence had been operating as marijuana focused business providing advice on medical cannabis and selling marijuana related paraphernalia. When the business model turned to a dispensary it had its business licence revoked. Green Essence closed down when this happened, in contrast to some others that remained open. The shop re-opened after an application for a

Temporary Use Permit was made. The business still sells related materials and provides counselling on medical cannabis. Under the conditions of the TUP, the sales of related products would have to be reduced, or split off as a separate business. The owners of the business are aware of this and agree to the terms of the permit.

In their application submission, they have provided letters of support from several of their neighbouring businesses. At their hearing before Council several impassioned people spoke out about the importance of the service that Green Essence provides to their quality of life.

### **Analysis**

Given the above, staff recommend that the temporary use permit be approved and that staff are directed to issue the permit.

### **Alternate recommendations**

THAT Council deny the application.

### **Attachments**

Attachment A – Subject property location map

Attachment B – Images of storefront

Attachment C – Letter of intent for dispensary operator

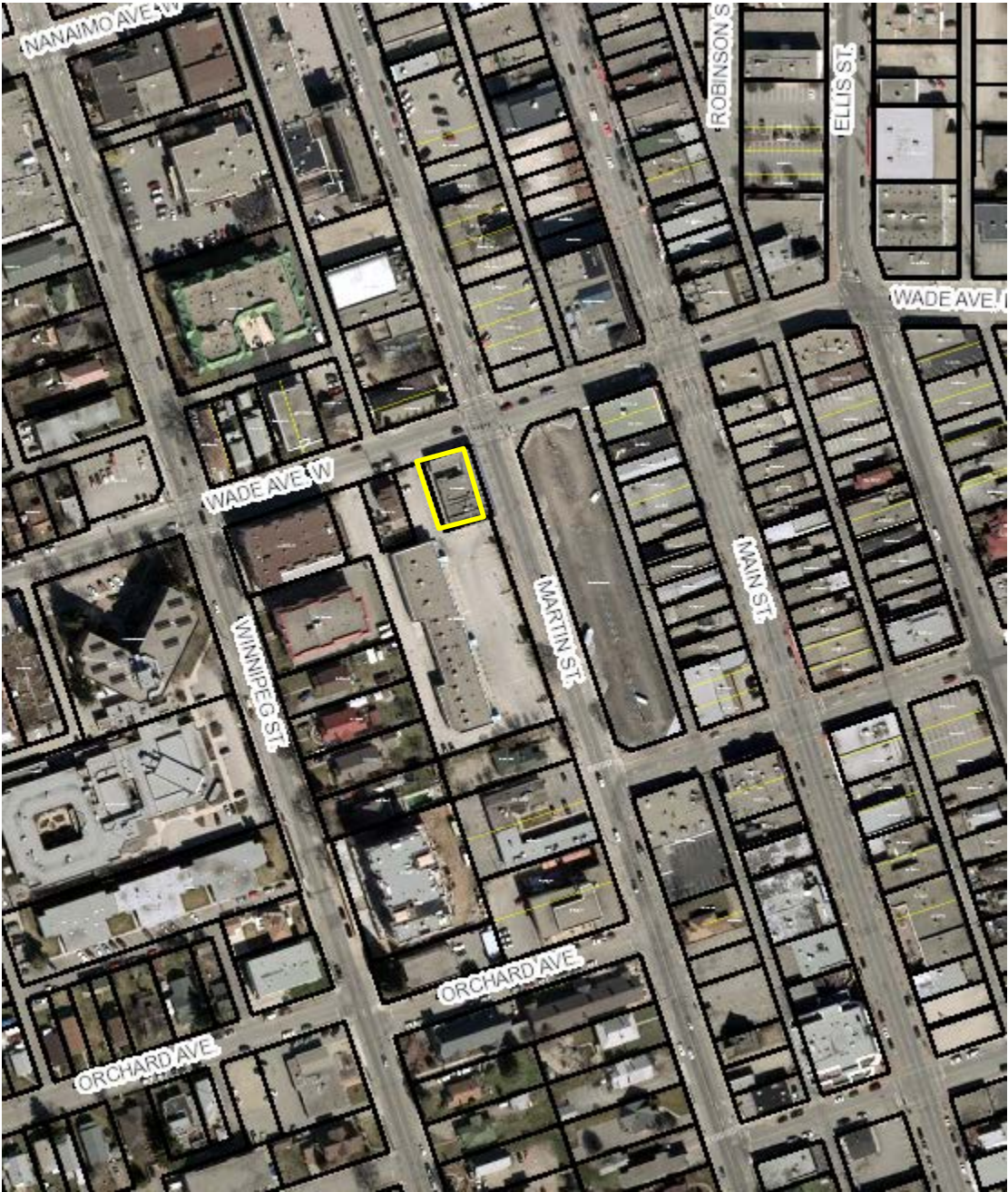
Attachment D – Letters of support from neighbouring businesses

Attachment D – Draft Permit

Respectfully submitted,

Blake Laven, RPP, MCIP  
Planning Manager

Attachment A  
Property Location Plan



Attachment B  
Images of Storefront (409 Martin Street)



Attachment C  
Letter of Intent from Applicant



Green Essence  
409 Martin Street  
Penticton, BC  
October 1st 2016

Dear Mayor and City Council

I Melissa Osiowy, do hereby apply for a Medical Cannabis Dispensary license at my place of business located at 409 Martin Street in Penticton, BC Canada

This application is in accordance with the agreed upon regulations provided by the City of Penticton.

I am cognizant of the regulations that Penticton Mayor and city council have laid out for me and I agree to abide by such regulations at all times

The location of our business is ideal and is well over the required 300 metres from any school as well as any other Dispensary.

The location is not on the main stream but very accessible for any disabled clients. The premises had been vacant for 10 years prior to my occupancy.

The owner of the building is aware of the nature of our business and in agreement with our intended use as a Medical Cannabis Dispensary.

All of the existing businesses in the area are benefiting from the foot traffic and to the best of my knowledge haven't had any negative issues or problems arise as a result of my store.

I have attached a few letters from these businesses addressing any concerns you may have. I will be obliged to provide additional information as may be required.

Thank you for your consideration,

Sincerely

Melissa Osiowy

A handwritten signature in blue ink, appearing to read "Melissa Osiowy", is written over a large, light blue oval scribble.



Attachment D  
Letters of Support from Neighbouring Businesses



**Valley Medical Supply**



To whom it may concern,

I was asked to provide feedback as it relates to our business neighbor Green Essence at 409 Main Street here in Penticton.

I can offer no negative feedback on the business, it's employees, or customers during the time the business was operational. The proprietors and employees that we came into contact with operated and behaved in a friendly, professional and businesslike manner. Their customers utilized a shared parking lot with ours and I cannot recall a single negative occurrence with any of them.

I can only say that they operated in a positive and professional manner as any other local business, and proved to be a good neighbor.

Sincerely,

Carlo Ferrari.

#103 - 437 Martin Street Penticton, B.C. V2A 5L1  
Tel: (250) 492-7221 800-665-8258  
Fax: (250) 492-7291  
[sales@valleymedical.ca](mailto:sales@valleymedical.ca)  
[www.valleymedical.ca](http://www.valleymedical.ca)



## Cash Central Advance Inc.

401 Martin Street  
Penticton, BC V2A 5L1  
Phone: 250-770-8181 Fax: 250-770-8188  
Email: [cashcentral@shaw.ca](mailto:cashcentral@shaw.ca)

October 11 2016

### Re-Green Essence

I am writing this letter in support of Green Essence. Since their opening, we have not had any negative impact on our business. I would therefore fully support their business plan.

I can be reached at 250-770 8181 if there are any questions or concerns,

Sincerely, Deb Kirby  
Cash Central Advance Inc.



I HAVE BEEN OPERATING MY BUSINESS AT 403 MARTIN STREET FOR 11 YEARS NOW AND IN THAT TIME HAVE SEEN MANY BUSINESSES COME AND GO. I HAVE NEVER HAD BETTER NEIGHBORS THAN GREEN ESSENCE. RYAN AND MEL ARE PROFESSIONAL AND COURTEOUS. THEIR STAFF IS PROFESSIONAL AND COURTEOUS AND EXTREMELY KNOWLEDGABLE AS WELL. I HAVE HAD COUNTLESS PROBLEMS AND EVEN ALTERCATIONS WITH DRUNK, BELLIGERENT PEOPLE PASSING FROM THEIR FREE LUNCH AT THE SOUP KITCHEN BACK TO THE LIQUOR STORES THEY LOITER THEIR DAYS AWAY OUTSIDE OF. I HAVE NEVER HAD A SINGLE PROBLEM WITH A PATRON OR A STAFF MEMBER OF GREEN ESSENCE. IN MY OPINION PENTICTON NEEDS MORE BUSINESSES PAYING THEIR RENTS THAN EMPTY TENNANT FREE SPACES BRINGING NOTHING TO THE COMMUNITY. THE STIGMA AGAINST MARIJUANA USE IS FAR OUTWEIGHED BY ITS MEDICAL BENEFITS. I FOR ONE AM 100% BEHIND GREEN ESSENCE BEING ALLOWED TO CONTINUE OPERATING THEIR PROFESSIONALLY HANDLED BUSINESS.

SINCERELY

JOHN ("ANGUS")  
McPHEE

OWNER / OPERATOR  
CUSTOM BILT TATTOOS





October 4, 2016

Re: Green Essence

To City of Penticton,

My name is Manpreet Grewal and I am a part owner/operator of the Subway restaurant located on 437 Martin St in Penticton. I am writing this letter to the City and its council members to inform you that the establishment Green Essence has not been a negative presence to my business, employees, or patrons. I would like to endorse the continuation of business for Green Essence.


Sincerely,

A handwritten signature in blue ink, appearing to be "MG" followed by a long horizontal stroke and a vertical line.

Manpreet Grewal  
Subway  
437 Martin St  
Penticton V2A 5L1



# Attachment E Draft Permit



City of Penticton  
171 Main St. Penticton, B.C. V2A 5A9  
www.penticton.ca info@penticton.ca

**Temporary Use Permit**

**Permit Number: TUP PL2016-7751**

**Conditions of Permit**

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:  
Legal: LOT 6 DISTRICT LOT 4 GROUP 7 SDYD PL 437  
Civic: 409 Martin Street  
PID: 012-373-770
3. This permit has been issued in accordance with Section 493 of the Local Government Act to allow for the temporary use of the above noted lands for operation of a marijuana dispensary.
4. The operation of the dispensary shall be subject to the following conditions:
  - a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 21 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offence within the past 10 years; and
  - j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products not to exceed 20% of retail display area

**General Conditions**

5. In accordance with Section 501 of the Local Government Act the lands subject to this permit shall be developed in general accordance with this permit.
6. In accordance with Section 497 of the Local Government Act This permit shall expire on May 31, 2018.

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

Authorized by City Council, the 6<sup>th</sup> day of December, 2016

Issued this \_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

TUP PL2016-7751 Page 2 of 2

# Appendix 5

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Acting CAO  
**From:** Blake Laven, Planning Manager  
**Subject:** Temporary Use Permit PL2016-7766

File No: PL2016-7766

## Staff Recommendation

THAT Council approve "Temporary Use Permit PL2016-7766", a permit permitting the use 'marijuana dispensary' in the C5 zone on Lot 9, Block 15, District Lot 202. Similkameen Division Yale District, Plan 269, located at 456 Main Street subject to the following conditions:

- a) Must have a business licence issued by the City of Penticton;
- b) No cannabis products visible from outside of the store;
- c) Ventilation system must be in place;
- d) Hours are limited to 8 AM – 10 PM seven days a week;
- e) Two staff are present at all times during business operation;
- f) Those persons 21 years and under are prohibited from entering the dispensary;
- g) No smoking or consuming product on-site is permitted;
- h) Must have a security plan in place;
- i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
- j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.

AND THAT Staff are directed to issue the permit.

## Strategic priority objective

N/A

## Background

456 Main Street is currently zoned C5 (Urban Centre Commercial) and is located in a predominately retail section of Main Street. The storefront has been vacant since the summer of 2014 when the Wings Second Hand store closed. The operator of this dispensary, in their letter of intent, has indicated that there will be a strong focus on cannabis for medical purposes and on cannabis education. The dispensary will be operating as Buds Cannabis Products. According to the letter, Buds has an office in Kelowna which services over 100 client members throughout the Okanagan Valley, many of which are from the Penticton area.

Buds I committed to working within the regulations outlined in the report to the Committee of the Whole on September 6, 2016. In their letter of intent provided with the application, Buds has outlined how they intend to meet the conditions of operation. That letter is attached from Council's reference. Also included are some sample screening materials that Buds will use as part of their business operations.

### **Analysis**

Given the above, staff recommend that the temporary use permit be approved and that staff are directed to issue the permit.

### **Alternate recommendations**

THAT Council deny the application.

### **Attachments**

Attachment A – Subject property location map

Attachment B – Images of storefront

Attachment C – Letter of intent for dispensary

Attachment D – Draft Permit

Respectfully submitted,

Blake Laven, RPP, MCIP  
Planning Manager

Attachment A  
Property Location Plan



Attachment B  
Images of Storefront (456 Main Street)



Attachment C  
Letter of Intent from applicant

**Letter of Intent from Buds Medicinal Cannabis Products**



Bud Lackie  
241 Ranchland Road  
Kelowna B.C  
V1V-1T3

**Dear City Council and Citizens of Penticton B.C**

The purpose of this letter of intent is to outline our proposal to operate a Medicinal Cannabis education and retail centre at 456 Main Street, Penticton B.C

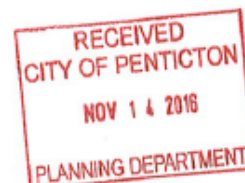
My name is Bud Lackie, I am the founder of Buds Medicinal Cannabis products. We are currently operating from a central office in Kelowna with a customer base of over 100 members divided between Kelowna and Penticton, we also have a mail order business covering all areas of Canada. Many of our clients have had very negative effects from the pharmaceutical industry and count on our company to help them with natural products for pain control and relief from life threatening illnesses. Our place of business currently does not carry products in our office as they are not allowed under local bylaws. Because we respect and honor the current laws, we wish to work with Penticton's council to operate as a respected business entity within the guidelines of our community.

My background in this industry started 3 years ago when we found out my father had stage 4 lung cancer and turned to Cannabis oil as a last effort. We discovered that it helped his treatment immensely. He is now recovered, and is one of my biggest advocates. Seeing the benefits my father obtained led me to extensive research in wanting to help other people with illnesses achieve the same benefits.

I have recently retired from a 28 year career as an oilfield mechanic. Since then, I have dedicated my life to educating and helping people discover the benefits of Medicinal Cannabis as an option in their choices for personal health and treatment.

As to the Committee of the Whole Report dated September 6, 2016 Regulating Medical Marijuana Dispensaries and Medical Marijuana Production Facilities in Penticton. Bud's directors, Clifford(Bud) Wade Lackie and Robin Dale Lackie have reviewed the proposed changes to the Business Licence Bylaw and the additions proposed and we agree to meet and surpass these changes and will do so before conducting business in the City of Penticton.

I will outline below our actions regarding the proposed changes;



**A. Limiting the hours of operation of a dispensary from 8:00 AM-10:00 PM**

Our intended business hours will be from 10:00 am - 8:00 p.m. We have chosen these hours for the safety of our staff and clientele.

**B. Requiring having two staff present at all times during business operation:**

For staff safety. There will be two staff members present at all times. The staff will be locally chosen and will be trained in robbery prevention. This will be a requirement of employment and the cost will be covered by our company

**C. Restrictions on entrance into a dispensary to persons over the legal age of 19 years:**

We will be operating with a double door policy where potential clients will be greeted in a front reception area where they will be required to fill out the necessary paperwork to become a member of our company. Age verification will be to provide 2 pieces of government issued picture identification. Once this process is complete, upon approval, the member will be allowed through the door to the product display area. There will be no exceptions if this process has not been completed.

**D. Must have an approved ventilation system installed:**

Our proposed product room will be self contained within the main retail area. All our product comes prepackaged and sealed in odor free, child proof containers. We will be installing a ventilation system in our product room as a second line of defense in case of product leakage or breakage. Our proposed site is a stand alone building. We chose this site because of that reason.

**E. No smoking or consuming product on premise:**

There will be a strict, no smoking or consuming of products on the premise at any time policy. Our code of conduct is that every potential member of Bud's Medicinal Cannabis reads the clearly stated rules that "Consumption of products on or near the premises will result in an automatic lifetime ban from membership. It will be a zero-tolerance rule.

**F. Criminal record check for all employees showing no drug related offences within the past 10 years:**

Criminal record checks will be mandatory. Due to the nature of our business, it will be standard business practice for our company to conduct a criminal record check on all employees before hiring.

**G. Must have a security plan in place, with all product and money locked in a safe at night:**

Security for our staff is our main priority. Our employees will be trained in a formal robbery prevention program paid for by the company. The front reception area will also have a discreet "Panic Button" installed for our reception agent to push to summon the other staff members in case of a disagreement with any of our potential customers. Our windows in the building will have clear shatter proof film installed on the front windows facing the street, this way we can monitor all activity outside. Our side windows in the breeze way will have one way protective film installed. Security bars are installed on the rear windows and security bars or similar security devices will be installed on the side windows of the building. Arrangements have been made for Action Security to install a security system in the building. This system will include cameras and motion sensors and will be monitored by Action

Security. Our business will be accepting Visa and Mastercard as well as Debit for payment of our products. We will encourage customers to use these payment methods as a way of limiting cash on site. We have currently been in contact with local security companies to have them do our nightly bank deposits. We feel this will add a better level of security for our staff. A large electronic safe will be installed for locking up our product during off business hours.

I have personally met with the business owners surrounding our proposed business site explaining our intentions. I was greeted well and praised for my up front and honest nature in respect to our business intentions. Another consideration we made when choosing this location was its proximity to schools and parks in the area. Looking to the future legislations, we chose 350 meters as our guideline and have met that easily. I will look forward to living and doing business in the community and participating in community events.

All the product sold by Bud's Medicinal Cannabis is purchased from a wholesale company registered with Health Canada as a legal supplier and all product comes in childproof sealed containers. All product is clearly labeled with the product identification and THC content, CBD content, and quantity in the packaging. Only product that meets Health Canada Guidelines will be carried in our facility.

All our staff will be residents of Penticton B.C and area including management and our director of operations. I am in the process of moving right now and will be a resident of Penticton. All the renovations that will be done to our building will be done by local contractors and/or tradespeople of Penticton and area.

In conclusion. I would like to thank Mayor Jakubeit and city council for hearing our application in this exciting new industry. I would also like to commend the staff at the City of Penticton for the professional help that was given to me over the last six weeks of this process. The Medical Marijuana industry is in a very grey area, and I hope we can help set a precedent that will make our industry accepted and a valued part of our community. I am sure other communities will look to Penticton as the community who imposed forward thinking and reachable regulations .

Best Regards,



Bud Lackie  
Director of Operations/ Owner  
Bud's Medicinal Cannabis Products

Attachment D  
Client application and screening materials

### Application For Buds Medicinal Cannabis Products

**ALL Fields and questions must be answered.**

Applicant's Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ Province: \_\_\_\_\_ Canada

Postal Code: \_\_\_\_\_ Email: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Name & Address of Physician or clinic: \_\_\_\_\_

Medical Condition(s) diagnosed: \_\_\_\_\_

Are you presently taking any other prescription pharmaceuticals? YES \_\_\_ NO \_\_\_

If you answered "Yes". Please list prescriptions as well as any side effects: \_\_\_\_\_

How long have you been using cannabis as a medicine? \_\_\_\_\_

How does cannabis affect your symptoms? \_\_\_\_\_

Have you experienced negative effects from taking cannabis?

YES \_\_\_ NO \_\_\_ NOT SURE \_\_\_

If you answered 'YES' or 'NOT SURE' please explain: \_\_\_\_\_

How much/how often do you use cannabis? \_\_\_\_\_

Does this dosage alleviate your symptoms? \_\_\_\_\_

Have you discussed the use/side effects of cannabis with your physician? YES \_\_\_ NO \_\_\_

If answered 'NO' above: do you wish to discuss the use/side effects of cannabis with your physician? YES \_\_\_ NO \_\_\_



## **Patient Declaration**

I am aware that the marijuana Medical Access Regulations (the MMAR) have been repealed by the Government of Canada. I am also aware that on or about March 21, 2014, the Federal Court of Canada in the court case between Neil Allard, Tanya Beemish, David Hebert, J.M., Sean Davey as Plaintiffs and Her Majesty the Queen in Right of Canada, as Defendant (the "Court Case") Issued an order granted on March 21, 2014 (the "Court Order"), Ordering that Personal Use Production Licenses (PUPLs) that were valid on, or after, September 30, 2013 and were connected to a related Authorized to Possess ("ATP") that was valid on, or after, March 21, 2014 and the individuals who were theretofore previously authorized to possess and produce marijuana under the Marijuana Medical Access Regulations, and meet the terms of the Court Order, would from that date of the Court Order be able to continue their PUPL's on an interim basis until the Court reaches a final Decision.

The Court Order was based on, in part, the Charter of Rights and freedoms (the "Charter") and reasonable dignified patient access as mandated by the Canadian court, Ontario Court of Appeal in *R. V. Parker. Who declared medical marijuana prohibition unconstitutional ("R.7. Parker")*

Furthermore I rely on the February 24, 2016 court decision of the Federal Court of Canada issued by the Honorable Judge Michael L Phelan, who concluded that the Plaintiffs in the Court Case are entitled to a declaration that their section seven (7) Charter rights as argued in the Court Case have been infringed by the MariKuana for Medical Purposes Regulations (the "MMPR"), and that such infringement is not in accordance with the principles of fundamental justice or otherwise justified under section 1, (the "Declaration of Invalidity" or the "Declaration"). The Declaration will be suspended for six (6) months from the Declaration to allow the Government of Canada to respond to the declaration of invalidity pertaining to the MMRP program (the "Court Decision")

**As I cannot grow my own medicine and in accordance with the Court Decision and the declaration of the court in *R v. Parker*, I choose to exercise my right to purchase medical marijuana from Bud's Medicinal Cannabis Products as they provide me with the necessary quality, strain and quantity for**

**my treatment. I attest that my health will be negatively impacted if I am unable to access sufficient amount of my medicine.**

### **Bud's Medicinal Cannabis Code of Conduct**

**Under no circumstances is product to be opened or consumed in any way on or about Buds premises.**

Violation of Bud's Medicinal Cannabis code of Conduct will result in a temporary or permanent termination of membership.

**NO RESELLING NO SHARING.** We provide medical cannabis for the sole use of qualified members. It is forbidden to resell or share of your prescription. An infraction will result in a permanent ban to purchase medical products from Buds Medicinal Cannabis

**BE POLITE:** We always do our best to provide superior service to our members. Please treat our agents and other members respectfully.

**BE RESPONSIBLE:** Please use your medicine in a respectful and responsible way. **Keep all medications securely locked and safely away from CHILDREN.**

**KEEP US INFORMED:** Please let us know about the quality of our product (positive or negative) and report any adverse effects. Your feedback is key to Bud's Medicinal Cannabis meet your needs.

**NEVER TRANSPORT CANNABIS PRODUCTS OUT OF CANADA:**

**IMPAIRMENT:** Cannabis may cause a temporary decrease in coordination, cognitive abilities and short-term memory loss. **DO NOT** drive or operate heavy machinery while under the effect cannabis. **Be especially careful** when eating cannabis products or when using extracts.

**ALCOHOL:** Cannabis mixed with alcohol may cause vomiting and nausea. We recommend that you limit or stop intake of alcohol when under the influence of cannabis products.

**IRRITATION:** Always use harm reduction techniques to prevent respiratory irritation.

**BLOOD PRESSURE:** Initial increase in heart rate and or blood pressure may be problematic for those with heart conditions or sever anxiety. Those taking digitalis or other cardiac medications, **MUST always use cannabis under careful**

**supervision by a medical doctor.**

**WITHDRAWAL:** There are no significant withdrawal effects when cannabis is ceased or decreased. Some people experience minor restlessness, nausea and fatigue.

**CONFIRMATION OF DIAGNOSIS:** If you would like to confirm your diagnosis with a health care professional. Please ask one of our agents for a copy of the practitioner's statement to take with you for your healthcare professional diagnosis and signature.

**THE LAW:** It is still illegal in Canada to possess, grow or distribute cannabis. Know your rights and take precautions to avoid the harmful effects of arrest, cannabis seizures, imprisonment and criminal record.

Authorization to act as my Agent or Mandatory.

**This document Must be signed and Dated!**

I \_\_\_\_\_ Authorize: Bud's Medicinal Cannabis and all its associates to act as an agent or mandatory under the following regulation to, Purchase under my direction and deliver my medication to me.

Print full Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date D/M/Y: \_\_\_\_\_

Current to September 10, 2015 Last amended on June 5, 2015 À  
jour au 10 septembre 2015 Dernière modification le 5 juin 2015

Published by the Minister of Justice at the following address:

<http://laws-lois.justice.gc.ca>

Publié par le ministre de la Justice à l'adresse suivante:

<http://lois-laws.justice.gc.ca>

**CANADA CONSOLIDATION**

Marijuana for Medical

Purposes Regulations

Section 3: Possession.

(3) The following persons may possess cannabis: (d) a person who is acting as the agent or mandatory of a person whom they have reasonable grounds to believe is a person referred to in paragraph (c) and who possesses the cannabis for the purpose

DECLARATION TO USE MEDICAL MARIJUANA

As a potential member of: **Buds Medicinal Cannabis Products**. I \_\_\_\_\_  
declare that I have a medical condition and I have spoken to a healthcare professional. I am only using  
cannabis for medical reasons. I also agree to educate myself on the safe and responsible use of medical  
cannabis.

I agree not to give away, trade, sell, barter, traffic share or distribute in any way the cannabis products I  
purchase from the agents at **Buds Medicinal Cannabis**. I am aware of the laws concerning cannabis  
and accept all the risks, furthermore I absolve **Buds Medicinal Cannabis** of all legal liability howsoever  
caused, while using the product acquired.

I agree to all of the above information and by signing this document I declare I am over 21 years of age.

Name (Printed): \_\_\_\_\_

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

Signature: \_\_\_\_\_

**Alternative Health Care Application**

**Buds Medicinal Cannabis**

If you have any Questions Please Call Bud at 250 808-1131

**RELEASE FORM FOR MEDICAL PRACTITIONERS:**

Marijuana medical access regulations;

The Canadian Medical protective association recommends to member physicians assisting patients in their application under the marijuana medical access regulations that they ask patient-applicants to sign a release from liability. The Following form of release was developed and approved by the Canadian medical association:

I, \_\_\_\_\_ agree not to make any claim, complaint or commence any proceedings against: Dr.(s) \_\_\_\_\_ process under the Marijuana Medical Access Regulations or my use of marijuana and cannabis products.

I release Dr.(s) \_\_\_\_\_ from any and all actions, causes of actions, claims, complaints and demands for damages, loss or injury what so ever arising directly or indirectly as a consequence of my application under the Marijuana Medical Access Regulations, or my use of marijuana. This release from liability is to be binding on my heirs, executors and assigns.

Signature of applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of witness: \_\_\_\_\_ Date: \_\_\_\_\_

**Buds Medicinal Cannabis**

Practitioners Statement:

Clients Name:

First: \_\_\_\_\_ Last: \_\_\_\_\_ D.O.B: \_\_\_\_\_

\_\_\_\_\_

I am confirming that  
Mr/Mrs./Ms: \_\_\_\_\_

At the Phone number: \_\_\_\_\_ has been diagnosed with \_\_\_\_\_

And is presenting symptoms of \_\_\_\_\_.

I recommend medical cannabis or other herbs to help my patient with his/her symptoms.

This patient has reported that his/her symptoms are helped by cannabis and therefore, on the basis of my knowledge, he/she should have access to it.

I do not recommend use of the medical reasons stated below: \_\_\_\_\_

\_\_\_\_\_

Medical: Please specify: \_\_\_\_\_

\_\_\_\_\_

Other: Please specify: \_\_\_\_\_

Practitioner's stamp;

Practitioner's Signature: \_\_\_\_\_

Printed name: \_\_\_\_\_

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

Practitioner's phone number: \_\_\_\_\_

Practitioner's address: \_\_\_\_\_

**Buds Medicinal Cannabis**

Buds Medicinal Cannabis Contact

Name: \_\_\_\_\_ Member Number: \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Emergency Contact Name: \_\_\_\_\_

Emergency Contact Phone Number: \_\_\_\_\_

Allergies:

\_\_\_\_\_

Special medical notes:

\_\_\_\_\_

Attachment E  
Letters of Support from clients

To Whom It May Concern:

I am a 52 year old female and have my doctors note to use medicinal marijuana for various reasons. I do not and have not taken many prescription drugs and my doctor knows this is my personal preference. Although I am not opposed to it, I am highly allergic to most narcotics and therefore choose cannabis.

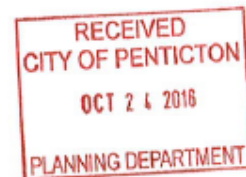
I have known Bud Lackie since elementary school. We reconnected again, during at which time he had a very successful business working within the oil industry. I trust Bud to be an honest and valued businessman and an asset to his community. He left northern Alberta with a great reputation of being well respected by his peers and employers.

I know that, because he is in front of you now. Bud wants to create this important health option in the most open and transparent way possible. I have seen him with his clients and his concern for them is genuine.

This emerging avenue of health care is forward thinking, yielding positive results and will be an asset to any community when handled appropriately and responsibly.

I am pleased that he had chosen this path and wish him luck with this new venture.

Sincerely,  
Kasha Krisa  
Kelowna BC



11/10/2016

Home Mail News Sports Finance Celebrity Style Music Weather Answers Flickr Mobile

Search Mail Search Web Home bud

Compose Archive Move Delete Copy Paste Undo Redo

Yahoo (9)

Inbox (13)  
Drafts  
Sent  
All Mail  
Spam (3)  
Trash (3)

Smart Views  
Important  
Unread  
Starred  
People  
Social  
Shopping  
Travel  
Finance

Folders  
Recent

Fwd: Testimonial (2) People

**Maxine Dobb** Oct 10 at 9:49 PM

To:

Sent from my iPad

Begin forwarded message:

**From:** Maxine Dobb  
**Date:** October 10, 2016 at 8:21:04 PM PDT  
**To:**  
**Subject:** Testimonial

In 2000 I was diagnosed with breast cancer. Went through chemo and radiation and put on Treva Exemestane to block estrogen production. This medication has many side effects. Muscle and Bone pain, memory lose, as well as heart palpitations that would wake me at least 20 times a night.

Since starting med marijuana a month ago I now sleep likes a baby for at least 8-9 hours every night and we all know how important a good night sleep is for ones health.

No more pain, and the heart palpitations have disappeared. I am now looking forward to my next blood work and hope my results reflect how much better I feel.

Sincerely  
Maxine Dobb

Sent from my iPad

Reply Reply to All Forward More

**bud lackie** Today at 5:34 AM  
To: Maxine Dobb

yhay is wonderful Maxime.Thank you so much

Show original message

Reply Reply to All Forward More

Click to Reply, Reply All or Forward

Send T B I A

**Interior Savings**  
Local money for local good.com  
Mortgages | Investments | Insurance | Online Banking  
Click here for more

**RECEIVED  
CITY OF PENTICTON  
OCT 24 2016  
PLANNING DEPARTMENT**

1/1

11/10/2016 (12 Unread) -

Home Mail News Sports Finance Celebrity Style Movies Weather Answers Flickr Mobile

C Search Mail Search Web Home bud

Compose Archive Move Delete Spam Forward

Yahoo (9)

Inbox (12)

Drafts

Sent

All Mail

Spam (3)

Trash (3)

Smart Views

Important

Unread

Starred

People

Social

Shopping

Travel

Finance

Folders

Recent

hello People

**Christine Badke Perras** Oct 10 at 8:06 PM

To: bud lackie

I would just like to start by saying what a great help Bud has been to my husband and I through this difficult time. 3 months ago my husband (53) was diagnosed with pancreatic cancer. My husband and I have never been big on pot or used it. We had no idea about the medicinal uses. My husband in the hospital was on 8 different medications that were to help alleviate some of the symptoms, they ended up making him like a zombie. When we got home from the hospital, we detoxed him. We had him on THC and CBD. These two meds took the place of all 8 hospital meds. He was no longer depressed, anxious, paranoid, etc. He eats now and has only slight pain. Some days good, some not, but that is how cancer goes. He is playing pickleball now twice a week. I would like to thank-you Bud for all the help you have given us. Christine

Reply Reply to All Forward More


Click to Reply, Reply All or Forward

Interior Savings  
Local money for local good.com  
Mortgages | Investments | Insurance | Online Banking  
Click here for more

Interior Savings  
Local money for local good.com  
Mortgages | Investments | Insurance | Online Banking  
Click here for more

RECEIVED  
CITY OF PENTICTON  
OCT 24 2016  
PLANNING DEPARTMENT

# Attachment F Draft Permit



City of Penticton  
171 Main St. | Penticton B.C. | V2A 5A9  
www.penticton.ca | info@penticton.ca

### Temporary Use Permit

Permit Number: TUP PL2016-7766

**Conditions of Permit**

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:  
  
 Legal: Lot 9, Block 15, District Lot 202, Similkameen Division Yale District, Plan 269  
 Civic: 456 Main Street  
 PID: 007-321-040
3. This permit has been issued in accordance with Section 493 of the *Local Government Act* to allow for the temporary use of the above noted lands for operation of a marijuana dispensary.
4. The operation of a the dispensary shall be subject to the following conditions:
  - a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM - 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 21 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business retail or otherwise, other than minor associated products, not constituting more than 20% of retail display area.

**General Conditions**

5. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit.
6. In accordance with Section 497 of the *Local Government Act*, This permit shall expire on May 31, 2018.

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

Authorized by City Council, the 6<sup>th</sup> day of December, 2016

Issued this \_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

Permit TUP PL2016-7766

Page 2 of 2

# Appendix 6

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Acting CAO  
**From:** Blake Laven, Planning Manager  
**Subject:** Temporary Use Permit PL2016-7773

File No: PL2016-7773

## Staff Recommendation

THAT Council approve "Temporary Use Permit PL2016-7773", a permit permitting the use 'marijuana dispensary' in the C5 zone on Lot A, District Lot 202, Similkameen Division Yale District, Plan 9283, located at 104 575 Main Street subject to the following conditions:

- a) Must have a business licence issued by the City of Penticton;
- b) No cannabis products visible from outside of the store;
- c) Ventilation system must be in place;
- d) Hours are limited to 8 AM – 10 PM seven days a week;
- e) Two staff are present at all times during business operation;
- f) Those persons 21 years and under are prohibited from entering the dispensary;
- g) No smoking or consuming product on-site is permitted;
- h) Must have a security plan in place;
- i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
- j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.

AND THAT Staff are directed to issue the permit.

## Strategic priority objective

N/A

## Background

575 Main Street is zoned C5 (Downtown Commercial) and is located in a mixed use building with ground floor retail space and upper floors of office. The space is currently vacant, but most recently accommodated a political campaign office and previous to that a business called Insta-Loan. The site is located further than 200m from Pen Hi. The business that wishes to operate the dispensary is called the Okanagan Cannabis Solutions Society. In their letter of intent they claim to be a registered non-profit society and will operate as a compassion club.

## **Analysis**

Given the above, staff recommend that the temporary use permit be approved, subject to the conditions outlined and that staff are directed to issue the permit.

## **Alternate recommendations**

THAT Council deny the application.

## **Attachments**

Attachment A – Subject property location map

Attachment B – Images of storefront

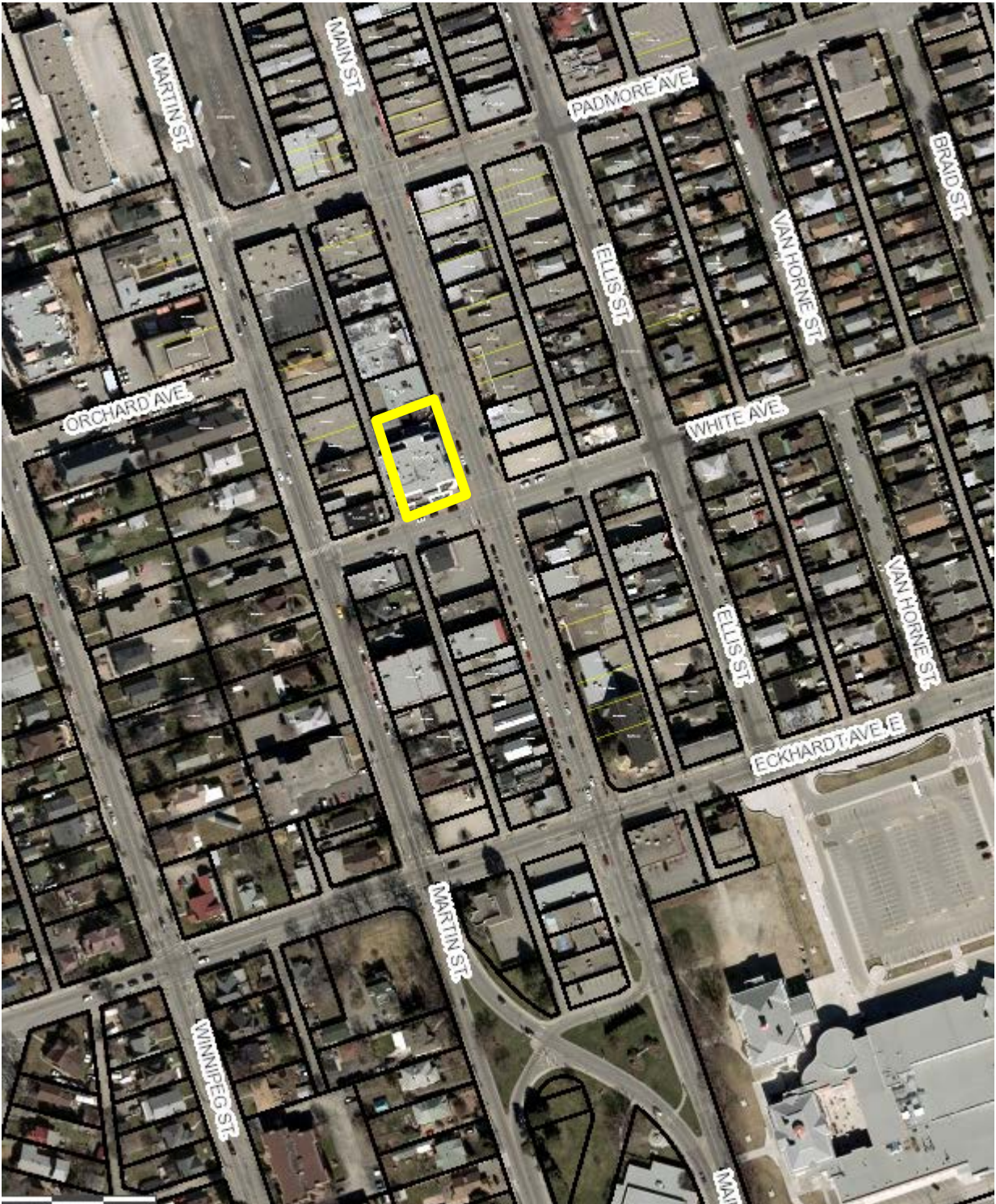
Attachment C – Letter of intent for dispensary operator

Attachment D – Draft Permit

Respectfully submitted,

Blake Laven, RPP, MCIP  
Planning Manager

Attachment A  
Property Location Plan



Attachment B  
Images of Storefront (575 Main Street)



Attachment C  
Letter of Intent from Applicant

October 26, 2016  
Planning Department-Development Services Division  
171 Main St.  
Penticton, BC  
V2A 5A9

To Whom It May Concern,

We hereby submit a letter of intent to lease the property located at 575 Main Street as the future site of our medical marijuana dispensary called Okanagan Cannabis Solutions Society. We are a registered non-profit society and operate as a compassion club.

As part of this letter of intent, we would agree to no construction of building, structure, or other improvement in, on, over or under the aforementioned property. This would be contingent on being granted a business license from the City of Penticton to operate said business.

Sincerely,




Robert Jaenicke

Owner-Okanagan Cannabis Solutions Society



# Attachment D Draft Permit



City of Penitcton  
171 Main St. • Penitcton B.C. • V2N 2A9  
www.penitcton.ca • ask@penitcton.ca

**Temporary Use Permit**

**Permit Number: TUP PL2016-7773**

**Conditions of Permit**

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:  
 Legal: Lot 6, District Lot 202, Similkameen Division Yale District  
 Civic: 288 Westminster Avenue W  
 PID: 017-578-931
3. This permit has been issued in accordance with Section 493 of the *Local Government Act* to allow for the temporary use of the above noted lands for operation of a marijuana dispensary.
4. The operation of a the dispensary shall be subject to the following conditions:
  - a) Must have a business licence issued by the City of Penitcton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all time during business operation;
  - f) Those persons 21 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business (retail or otherwise, other than minor associated products, not comprising more than 20% of the retail sales display area).

**General Conditions**

5. In accordance with Section 501 of the *Local Government Act* the lands subject to this permit shall be developed in general accordance with this permit.
6. In accordance with Section 497 of the *Local Government Act* This permit shall expire on May 31, 2018.

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

Authorized by City Council, the 6<sup>th</sup> day of December, 2016

Issued this \_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
 Dana Schmidt,  
 Corporate Officer

TUP PL2016-7773
Page 2 of 2

# Appendix 7

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Acting CAO  
**From:** Blake Laven, Planning Manager  
**Subject:** **Temporary Use Permit PL2016-7760**

File No: PL2016-7760

## Staff Recommendation

THAT Council upon considering the contents to the staff report and this Appendix and in consideration of the proposed business being within 200m of a school decide between the following three options:

### Option 1:

Approve "Temporary Use Permit PL2016-7760", a permit allowing the use 'marijuana dispensary' in the C4 zone on Lot 2, District Lot 3237S, Similkameen Division Yale District, Plan 36801, located at 150 1636 Main Street subject to the following conditions:

- a) Must have a business licence issued by the City of Penticton;
- b) No cannabis products visible from outside of the store;
- c) Ventilation system must be in place;
- d) Hours are limited to 8 AM – 10 PM seven days a week;
- e) Two staff are present at all times during business operation;
- f) Those persons 21 years and under are prohibited from entering the dispensary;
- g) No smoking or consuming product on-site is permitted;
- h) Must have a security plan in place;
- i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
- j) Dispensary not to be combined with any other business, retail or otherwise, other than minor associated products comprising of less than 20% of retail display area.

### Option 2:

Direct staff to get an 'official response' from Carmi Elementary" and/ or the School Board

### Option 3:

Deny the permit

## Strategic priority objective

N/A

## Background

150 1636 is a unit within a mixed commercial property called Village Square. The property features a detached drive thru restaurant most recently operating as Carl's Jrs and a number of other strip retail storefronts including a Subway store and Citi Financial and a walk-in medical clinic. The proposed operator wishes to operate under the trade name Avitas.

Avitas had a previous business licence at this property and operated a medical marijuana counselling business. The business had its licence revoked by Council, along with two other businesses in Penticton, for operating a marijuana dispensary which was not a permitted use by the zoning bylaw for that property. Unlike some of the other dispensaries that have faced enforcement action, this particular business ceased operation upon receiving notice from Bylaw Services. They have not re-opened as of yet and are awaiting a Council decision.

The one challenging aspect to this property is that it is located within 200m from a school. At the Committee of the Whole meeting on September 6<sup>th</sup>, 2016, Council supported a number of regulations for considering marijuana dispensary businesses. One of those regulations was that a dispensary should not be located within 200m of a school. This distance limitation was established to try to minimize the amount of exposure children have to marijuana. In this case, the sports field at Carmi Elementary is less than 200m from the proposed dispensary as the crow flies (meaning in a straight line). The school through, is across a busy street (Industrial Avenue) and a creek (Ellis Creek) and behind tall landscaping. The business will not be visible from the school.

Staff have provided Carmi Elementary School with a referral requesting comment on the proposed location of the dispensary. The principal of the school has stated that he will provide notice to the Parent Advisory Committee. As of the writing of this report, no official response from the PAC or the school has been received. This referral process was done over one month ago.

In their letter of support submitted with their application, the applicant states that they have been operating a similar business in Kelowna for the past 8 years and in Vernon for the past 6 years.

## Analysis

Given the above, staff recommends that the Council consider the proximity to the school prior to making a decision and provide three options for Council's consideration

Option 1: Support the location despite the fact that the business is within 200 m from a school

If Council feels that the screening and busy road and creek provide sufficient buffering between the school and the proposed dispensary, Council should support the application and direct staff to issue the permit. Staff do note that the proposed dispensary businesses on Main Street, while technically further away from

Pen Hi are more visible to the students at that school than the propose dispensary is to Carmi Elementary School students.

Option 2: Receive further comment from the School Board, Carmi Elementary School or the Carmi School PAC

As of the writing of this report, staff have not received official comment from the Carmi School, Carmi School PAC or the School Board on this issue. Referrals have gone out to all three groups. Council may not feel comfortable making a decision on this issue until comment from the school board is made. If that is the case, Council could refer this application back to staff to work with those groups on putting in conditions that the school board and or Carmi School administration and PAC are satisfied with.

Option 3: Deny the permit

Council may feel that the 200m buffer is important and no deviation to that should be made in any circumstance. If that is the case, Council should deny the permit.

### **Attachments**

Attachment A – Subject property location map

Attachment B – Images of storefront

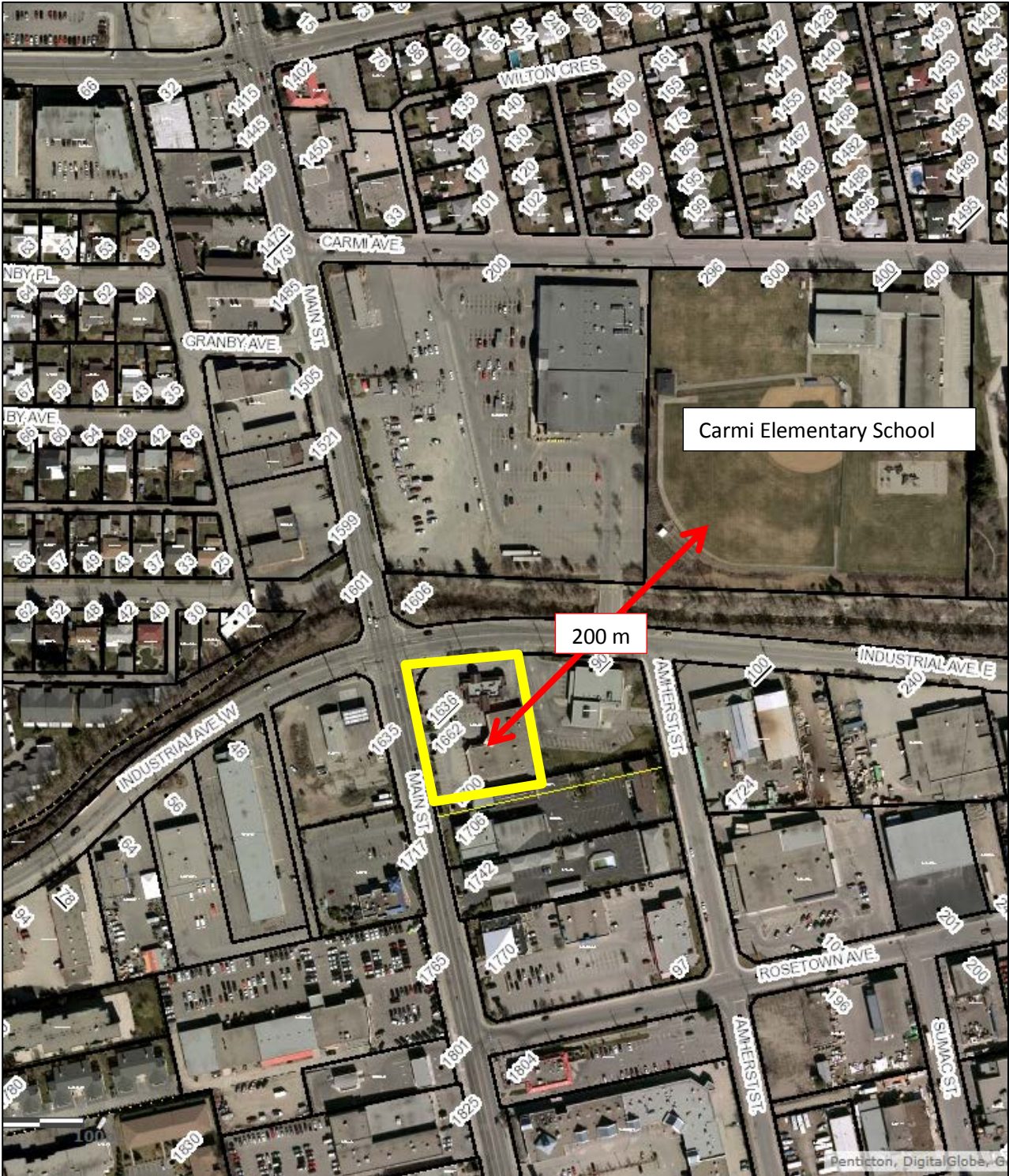
Attachment C – Letter of intent for dispensary operator

Attachment D – Draft Permit

Respectfully submitted,

Blake Laven, RPP, MCIP  
Planning Manager

Attachment A  
Property Location Plan



Attachment B  
Images of Storefront (150 1636 Main Street)



Attachment C  
Letter of Intent from Applicant

Avitas Inc  
288 Highway 33 West  
Kelowna, BC V1X 1X7  
Tel (778) 753-5959 Fax (778) 753-5755  
info@avitas.ca  
www.avitas.ca



SEPTEMBER 27, 2016

**City of Penticton**

171 Main St., Penticton, BC V2A 5A9

We are submitting this letter of intent to inform the City of Penticton that upon approval of a Temporary Use Permit we plan to re-open our business, located at 105 – 1636 Main St. Our business is to provide safe and reasonable access of medical marijuana to our members. We have been operation in Kelowna as BeKind Okanagan Growers and Compassion Club for 8 years and in Vernon for 6 years. Our track record has been impeccable and without incident at both locations. We have complied with the City of Penticton to reasonably work through this transition for the City and our business and wish to continue cooperating to lay out the best structure and regulation that can work the best for everyone. Thank you for the opportunity to apply for this TUP and we look forward to building this relationship.


Kind Regards,

A handwritten signature in blue ink, appearing to read "Robert Kay", written over a large, light blue scribble.

Robert Kay



# Attachment D Draft Permit



City of Penticton  
171 Main St., Penticton, B.C. V2Y2A9  
www.penticton.ca ask@penticton.ca

**Temporary Use Permit**

**Permit Number: TUP PL2016-7760**

**Conditions of Permit**

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:  
  
Legal: LOT 2 PLAN KAP 36801 DL 32375 SDYD  
Chic: 150-1636 MAIN ST.  
PID: 004-361-407
3. This permit has been issued in accordance with Section 493 of the *Local Government Act*, to allow for the temporary use of the above noted lands for operation of a marijuana dispensary.
4. The operation of a the dispensary shall be subject to the following conditions:
  - a) Must have a business licence issued by the City of Penticton;
  - b) No cannabis products visible from outside of the store;
  - c) Ventilation system must be in place;
  - d) Hours are limited to 8 AM – 10 PM seven days a week;
  - e) Two staff are present at all times during business operation;
  - f) Those persons 21 years and under are prohibited from entering the dispensary;
  - g) No smoking or consuming product on-site is permitted;
  - h) Must have a security plan in place;
  - i) Criminal record checks for license holders showing no drug related offences within the past 10 years; and
  - j) Dispensary not to be combined with any other business retail or otherwise, other than minor associated products, comprising of no more than 20% of retail display area.

**General Conditions**

5. In accordance with Section 501 of the *Local Government Act* the lands subject to this permit shall be developed in general accordance with this permit.
6. In accordance with Section 497 of the *Local Government Act* This permit shall expire on May 31, 2018.

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

Authorized by City Council, the 6<sup>th</sup> day of December, 2016

Issued this \_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Dana Schmidt,  
Corporate Officer

Permit PL2016-7760Page 2 of 2

# Council Report

penticton.ca

**Date:** December 6, 2016 **File No:** 2016 RZ PL 7649  
**To:** Mitch Moroziuk, Interim CAO  
**From:** Audrey Tanguay, Senior Planner  
**Subject:** **Housing Agreement (175 Kinney Avenue) Bylaw No. 2016-68**

## Staff Recommendation

THAT "Housing Agreement (175 Kinney Avenue) Bylaw No. 2016-68" a bylaw authorizing the City of Penticton to enter into a housing agreement with the owners of 175 Kinney Avenue, requiring any development on the property to remain rental housing for a 10 year period, be given first, second and third reading and be forwarded to the December 20, 2016 Regular Meeting of Council for adoption;

AND THAT staff are authorized to execute and register the agreement once Bylaw No. 2016-68 has been adopted.

## Strategic priority objective

Rental housing availability is a strategic priority for Council.

## Background

On November 1, 2016, Council gave third reading to "Zoning Amendment Bylaw 2016-62", a land use amendment bylaw that will rezone 175 Kinney Avenue from R1 (Large Lot Residential) to RM3 (Medium Density Residential) once the zoning is adopted. The land use change is in support of a proposed 119 unit residential apartment complex, featuring two six storey buildings. The buildings are intended for rental occupancy.

Prior to adoption of the bylaw, the applicants are required to enter into a housing agreement, which will necessitate the buildings to remain for rental occupancy for a minimum of 10 years. According to Section 483 of the *Local Government Act*, a local government may enter into a housing agreement with respect to the form of tenure of a building. In order to enter into the housing agreement, a bylaw is necessary.

A copy of the proposed housing agreement and bylaw are attached.

## Financial implication

The cost of the drafting of the housing agreement is being paid for by the developer.

**Analysis**

*Support the housing agreement bylaw*

As the requirement to maintain this property as a rental building for a 10 year period was a Council condition and Council endorsement is required through bylaw adoption, staff are recommending that Council give first, second and third reading to the bylaw and forward the bylaw to the December 20, 2016 meeting of Council for adoption.

*Deny/Refer*

If Council denies the bylaw, "Zoning Amendment Bylaw 2016-62" to rezone the property from R1 to RM3 will not receive final approval on December 20, 2016.

**Attachments**

Attachment A – Housing Agreement (175 Kinney Avenue) Bylaw No. 2016-68

Attachment B – Draft Housing Agreement

Respectfully submitted,

Audrey Tanguay,  
Senior Planner

Approvals

Acting Director  <i>BL</i>	Interim Chief Administrative Officer  <i>MM</i>
----------------------------------	--

**Bylaw No. 2016-68**

*A Bylaw to authorize an agreement for rental housing for the lands known as 175 Kinney Avenue.*

---

Under its statutory powers, including section 483 of the *Local Government Act*, the Council of the City of Penticton enacts the following provisions:

**1. Title**

This Bylaw may be cited as the "Housing Agreement (175 Kinney Avenue) Bylaw No. 2016-68".

**2. Agreement authorized**

The Mayor and the City's Corporate Officer are authorized to execute the Housing Agreement:

- (a) substantially in the form attached to this Bylaw as Schedule A;
- (b) between the City and Hebert Edward Denis Atkinson and Lance Victor Johnston, Administrators with Will Annexed of the Estate of Muriel Margaret Atkinson, Deceased, see CA1384621, or other registered owners from time to time of the lands described in subsection (c); and
- (c) that applies to the lands with a civic address of 175 Kinney Avenue, Penticton, British Columbia, and legally described as:

PID 005-283-329  
Lot 1 District Lots 115 and 116 Similkameen Division Yale District

READ A FIRST time this	day of	, 2016
READ A SECOND time this	day of	, 2016
READ A THIRD time this	day of	, 2016
ADOPTED this	day of	, 2016

---

Andrew Jakubeit, Mayor

---

Dana Schmidt, Corporate Officer

**HOUSING AGREEMENT- RENTAL UNITS**  
**(Pursuant to Section 483 of the *Local Government Act*)**

**THIS AGREEMENT** is made the \_\_\_\_ day of \_\_\_\_\_, 2016.

BETWEEN:

**THE CORPORATION OF THE CITY OF PENTICTON**

171 Main Street  
Penticton, B.C.  
V2A 5A9

(the "**City**")

OF THE FIRST PART

AND:

**HERBERT EDWARD DENIS ATKINSON**  
**LANCE VICTOR JOHNSTON,**  
**Administrators with Will Annexed of the Estate of Muriel Margaret Atkinson,**  
**Deceased, See CA1384621**

#201-100 Front Street  
Penticton, B.C.  
V2A 1H1

(collectively, the "**Owner**")

OF THE SECOND PART

**WHEREAS:**

- A. Under section 483 of the *Local Government Act* the City may, by bylaw, enter into a Housing Agreement with an owner regarding the occupancy of the housing units identified in the agreement, including but not limited to terms and conditions referred to in section 483(2) of the *Local Government Act*;
- B. The Owner is the registered owner in fee simple of lands in the City of Penticton, British Columbia, with a civic address of 175 Kinney Avenue, Penticton, B.C. and legally described as:

PID 005-283-329  
Lot 1 District Lots 115 and 116 Similkameen Division Yale District

(the "**Lands**");

- C. The Owner has applied to the City to rezone the Lands to permit the development of one hundred and nineteen (119) Dwelling Units contained within two (2) apartment buildings.
- D. The City and the Owner wish to enter into a Housing Agreement pursuant to section 483 of the *Local Government Act*, to secure the agreement of the Owner that, for the duration of the Term, all Dwelling Units within the Development will be available for use as rental housing.

**NOW THIS AGREEMENT WITNESSES** that pursuant to section 483 of the *Local Government Act*, and in consideration of the premises and covenants contained in this agreement (the "**Agreement**"), the parties agree each with the other as follows:

## **1.0 Definitions**

### 1.1 In this Agreement:

**"Development"** means the development and use of the Lands as two (2) residential apartment buildings containing a combined total of one hundred and nineteen (119) Dwelling Units, or such other number of Dwelling Units as are constructed on the Lands from time to time as permitted by the zoning bylaws of the City.

**"Dwelling Unit"** means any self-contained residential dwelling unit within the Development and includes any dwelling unit that is developed on the Lands in future, whether as part of the Development or otherwise, and **"Dwelling Units"** means, collectively, all such dwelling units located within the Development or on the Lands.

**"Non-Owner"** means a person other than the Owner who occupies a Dwelling Unit for residential purposes.

**"Occupancy Permit"** has the same meaning as under the City of Penticton Building Bylaw 94-45 (1994), as amended or replaced from time to time.

**"Owner"** has the same meaning as under the *Community Charter*, and includes a person who acquires an interest in the Lands or any part of the Lands and is thereby bound by this Agreement.

**"Statutory Notice"** means notice that the Lands are subject to this Agreement, filed in the Land Title Office in accordance with section 483(5) of the *Local Government Act*.

**"Term"** means the term of this Agreement as defined in section 2.1 of this Agreement.

1.2 In this Agreement:

- (a) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment; and
- (b) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided.

**2.0 Term**

2.1 This Agreement will commence and is effective on the date that the Statutory Notice is filed in the Land Title Office, and will remain in effect for a period of ten (10) years from the date on which an Occupancy Permit is issued and is in effect for the entire Development. For certainty, if the Development is constructed, and Occupancy Permits are issued, in stages, the Agreement will remain in effect for ten (10) years from the date on which the last Occupancy Permit was issued

**3.0 Dwelling Units To Be Used And Occupied As Rental Units**

3.1 The Owner covenants and agrees that during the Term, all Dwelling Units must only be used and occupied as rental housing, such that each Dwelling Unit is occupied by Non-Owners under the terms of a Tenancy Agreement (as that term is defined in the *Residential Tenancy Act*) between the Owner and the Non-Owner who occupies the Dwelling Unit.

**4.0 Reporting**

4.1 The Owner covenants and agrees that on February 1<sup>st</sup> of each year following execution of this Agreement, the Owner will provide the City's Planning Manager with a written report confirming that the Owner is in compliance with this Agreement.

4.2 The Owner hereby irrevocably authorizes the City to make all inquiries that it considers necessary to confirm that the Owner is complying with this Agreement.

**5.0 Statutory Notice to be Registered in Land Title Office**

The Statutory Notice will be filed by the City in the Land Title Office at the cost of the Owner and this Agreement is binding on the parties to this Agreement as well as all persons who acquire an interest in the Lands after registration of the Statutory Notice.

## **6.0 Liability**

- 6.1 The Owner agrees to indemnify the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from all claims, demands, actions, damages, costs (including on a solicitor and own – client basis) and liabilities, which all or any of them will or may be liable for, or suffer, incur, or be put to by reason of, or arising out of, failure of the Owner to comply with the terms and conditions of this Agreement.
- 6.2 The Owner hereby releases and forever discharges the City and each of its elected and appointed officials, employees and agents and their respective administrators, successors and permitted assigns, of and from any and all claims, demands, actions, damages, economic loss, costs (including on a solicitor and own-client basis) and liabilities which the Owner now has or hereafter may have with respect to or by reason of or arising out of the fact that the Lands are encumbered by and affected by this Agreement.

## **7.0 General Provisions**

### Notice

- 7.1 If sent as follows, notice under this Agreement is considered to be received
- (a) seventy-two (72) hours after the time of its mailing (by registered mail) or faxing, and
  - (b) on the date of delivery if hand-delivered,

to the City:

City of Penticton  
171 Main Street  
Penticton, B.C. V2A 5A9

Attention: Corporate Officer

to the Owner:

at such address as is recorded from time to time in the records of the Land Title Office.

If a party identifies alternate contact information in writing to another party, notice is to be given to that alternate address.

If normal mail service or facsimile service is interrupted by strike, work slowdown, force majeure, or other cause,

- (a) notice sent by the impaired service is considered to be received on the date of delivery, and
- (b) the sending party must use its best efforts to ensure prompt receipt of a notice by using other uninterrupted services, or by hand-delivering the notice.

### Time

7.2 Time is of the essence of this Agreement.

### Binding Effect

7.3 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees. In accordance with section 483(6) of the *Local Government Act*, this Agreement is binding on all who acquire an interest in the Lands, and the Owner only during the Owner's ownership of any interest in the Lands, and with respect only to that portion of the Lands of which the Owner has an interest.

### Waiver

7.4 The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

### Headings

7.5 The headings in this Agreement are inserted for convenience and reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.

### Language

7.6 Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.

### Equitable Remedies

7.7 The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief

(mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.

Cumulative Remedies

7.8 No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.

Entire Agreement

7.9 This Agreement when executed will set forth the entire agreement and understanding of the parties as at the date it is made.

Further Assurances

7.10 Each of the parties will do, execute, and deliver, or cause to be done, executed, and delivered all such further acts, documents and things as may be reasonably required from time to time to give effect to this Agreement.

Amendment

7.11 This Agreement may amended by written agreement of the parties, if authorized by a bylaw duly adopted by the Council of the City.

Law Applicable

7.12 This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

No Derogation from Statutory Authority

7.13 Nothing in this Agreement shall:

- (a) limit, impair, fetter or derogate from the statutory powers of the City all of which powers may be exercised by the City from time to time and at any time to the fullest extent that the City is enabled and no permissive bylaw enacted by the City, or permit, licence or approval, granted, made or issued thereunder, or pursuant to statute, by the City shall estop, limit or impair the City from relying upon and enforcing this Agreement; or
- (b) relieves the Owner from complying with any enactment, including the City's bylaws, or any obligation of the Owner under any other agreement with the City.

Joint and Several

7.14 The Owner, if more than one, are jointly and severally obligated to perform and observe each and every of the covenants, warranties and agreements herein contained by the Owner to be observed and performed.

Counterpart

7.15 This Agreement may be executed in counterparts, each of which will have the same effect as if all parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

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

**THE CORPORATION OF THE CITY OF** )  
**PENTICTON** by its authorized signatories: )  
) )  
\_\_\_\_\_) )  
Mayor Andrew Jakubeit )  
) )  
\_\_\_\_\_) )  
Corporate Officer Dana Schmidt )

**SIGNED SEALED AND DELIVERED**  
**by HERBERT EDWARD DENIS ATKINSON,** )  
in the presence of: )  
) )  
\_\_\_\_\_) )  
Witness Signature )  
) )  
\_\_\_\_\_) )  
Name )  
) )  
\_\_\_\_\_) )  
Address )  
) )  
\_\_\_\_\_) )  
) )  
\_\_\_\_\_) )  
Occupation )

\_\_\_\_\_  
HERBERT EDWARD DENIS  
ATKINSON



# Council Report

penticton.ca

**Date:** December 6, 2016  
**To:** Mitch Moroziuk, Acting Chief Administrative Officer  
**From:** Randy Houle, Planner 1  
**Address:** 1786 Fairford Drive

File No: RZ PL2016-7759  
& DVP PL2016-7758

**Subject:** Zoning Amendment Bylaw No. 2016-69  
Development Variance Permit PL2016-7758

## Staff Recommendation

### *Rezone*

THAT "Zoning Amendment Bylaw No. 2016-69," being a bylaw to amend City of Penticton Zoning Bylaw 2011-23 by adding Section 10.1.3.6: "In the case of Lot 2, District Lot 115, SDYD, Plan 14604, located at 1786 Fairford Drive, a carriage house with vehicular access from a street is permitted in conjunction with a secondary suite in the principal dwelling," be given first reading and forwarded to the December 20, 2016 Public Hearing;

### *Development Variance Permit*

AND THAT delegations and submissions be heard at the December 20 Public Hearing for "Development Variance Permit PL2016-7758" for Lot 2, District Lot 115, SDYD, Plan 14604, located at 1786 Fairford Drive, a permit to increase the maximum building footprint for a carriage house from 90m<sup>2</sup>, or 60% of the building footprint area of the principal residence, whichever is less to 120m<sup>2</sup> and to decrease the minimum north interior side yard from 1.5m to 0.92m;

AND THAT "DVP PL2016-7758", be considered after adoption of "Zoning Amendment Bylaw No. 2016-69".

## Strategic priority objective

N/A

## Background

The subject property (Attachment 'A') is zoned R1 (Large Lot Residential) and is designated by the City's Official Community Plan as LR (Low Density Residential). Photos of the site are included as Attachment 'D'. The site is 1034m<sup>2</sup> (0.25 acre) and includes a single family dwelling with a secondary suite as well as a garage and workshop. The surrounding properties are primarily zoned residential and designated by the OCP as Low Density Residential (LR).

In 2014, a single family dwelling with a secondary suite was constructed on the subject property. The applicant is proposing to construct a carriage house above an existing garage and workshop. The Zoning Bylaw states that a carriage house shall not be allowed in conjunction with a secondary suite in the principal dwelling. As such, a zoning amendment is required. The proposed carriage house will have vehicular access from a street. The Zoning Bylaw states that vehicular access to the carriage house shall be from a rear lane only, if the property has a rear lane. In this case, the zoning amendment will state that vehicular access will be from a street.

The proposed carriage house will result in a 0.92m north interior side yard. The Zoning Bylaw, however, requires a 1.5m minimum interior yard. As such, a variance to the bylaw is required prior to construction. The proposed carriage house will result in 120m<sup>2</sup> of building footprint. For a carriage house, the Zoning Bylaw requires a maximum building footprint of 90m<sup>2</sup> or 60% of the building footprint area of the principal residence, whichever is less. As such, a variance to that section of the bylaw is required prior to construction.

**Financial implication**

N/A

**Proposal**

The applicant is requesting a development variance permit to vary the following sections of Zoning Bylaw No. 2011-23:

- Section 8.8.4.3: To increase the maximum building footprint of a carriage house from 90m<sup>2</sup> to 120m<sup>2</sup>.
- Section 10.1.2.6.i: To decrease the minimum north interior side yard from 1.5m to 0.92m.

The applicant is requesting the following amendment to Zoning Bylaw 2011-23:

Add: Section 10.1.3.6: In the case of Lot 2, District Lot 115, SDYD, Plan 14604, located at 1786 Fairford Drive, a carriage house with vehicular access from a street is permitted in conjunction with a secondary suite in the principal dwelling.

**Development Statistics**

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

Item	Requirement R1 Zone	Provided on Plans
<b>Minimum Lot Width:</b>	16m	18.965m
<b>Minimum Lot Area:</b>	560m <sup>2</sup>	1034m
<b>Maximum Lot Coverage:</b>	40 %	24%
<b>Vehicle Parking:</b>	4 total (2 per dwelling, 1 per secondary suite, 1 per carriage house)	4+

<b>Required Setbacks</b>		
Front yard (Fairford Drive):	6m	32m
Side yard (North):	1.5m	0.92m
Side yard (South):	1.5m	9.44m
Rear yard (lane):	6.0m	13.4m
<b>Maximum Building Height:</b>	7m	5.4m
<b>Other Information:</b>		

### Technical Review

This application was forwarded to the City’s Technical Planning Committee and reviewed by the Engineering and Public Works Departments. Storm water/drainage is to be maintained on site and no openings are permitted on the north side of the carriage house. These items have been communicated to the applicant. If the request for the zoning amendment and variances are supported, BC Building Code and City bylaw provisions, such as height restrictions, will apply.

### Analysis

#### Support “Zoning Amendment Bylaw No. 2016-69”

The site is situated in an area experiencing some densification. The OCP designation for this site is Low Density Residential, which is conducive to a SFD with secondary suite and a carriage house. Staff considers that the zoning amendment to allow the carriage house in conjunction with a secondary suite in the principal dwelling represents best use of the land under current zoning for the following reasons:

- The property is large enough to accommodate a SFD and carriage house with ample amenity space on the property.
- The proposal is consistent with the OCP’s view that infill residential development is an appropriate method of maximizing the use of land and increasing housing choices for Penticton residents.
- The OCP encourages densification in areas where existing services can accommodate higher densities, which is the case here.
- The proximity to the mall, schools and nearby services encourages more walking and active forms of transportation.

Staff considers that the design is suitable and consistent with the redevelopment trends in the area. The location of the site and characteristics of the surrounding neighbourhood make it appropriate for residential densification. Given the above, staff recommends that Council support “Zoning Amendment Bylaw No. 2016-69” and forward the application to the December 20<sup>th</sup>, 2016 Public Hearing for comments from the public.

#### Deny/Refer Zoning Amendment

Council may consider that the proposed amendment is not suitable for this site. If this is the case, Council should deny the bylaw amendment. Alternatively, Council may wish to refer the matter back to staff to work with the applicant with any direction that Council considers appropriate.

### Support Variances

When considering a variance to a City bylaw, staff encourages Council to be mindful of any hardship on the property that makes following the bylaw difficult or impossible; whether approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable.

#### *Section 8.8.4.3: To increase the maximum building footprint of a carriage house from 90m<sup>2</sup> to 120m<sup>2</sup>*

The definition of building footprint includes the area under the horizontal projection of a deck. The building footprint of the proposed carriage house is only 73m<sup>2</sup>, with the deck being an additional 47m<sup>2</sup>. Letters of support have been received from the neighbours with no concerns about the size of the carriage house. Given the fact that the size of the habitable area of the carriage house is well under 90m<sup>2</sup>, it is reasonable to increase the maximum building footprint to 120m<sup>2</sup> to accommodate the deck.

#### *Section 10.1.2.6.i: To decrease the minimum north interior side yard from 1.5m to 0.92m*

The existing north interior yard setback of the garage and workshop is 0.92m. The proposed carriage house will add a 2<sup>nd</sup> floor to the garage and workshop, and will not reduce the interior side yard any further. Neighbours to the north of the subject property have submitted a letter of support to the proposal. The height of the building will be 5.4m, less than the 7m maximum permitted by the zoning bylaw. There are no openings proposed on the north side of the carriage house, thus having a minimal impact on privacy for the adjacent neighbours.

Given the above, staff feel that the variances requested are sensible and recommend that Council, after hearing from any other affected neighbours, support the application.

### Deny/Refer Variances

Council may consider that the variances are not justified and will negatively affect the neighborhood. If this is the case, Council should deny the variances.

### **Alternate Recommendations**

1. THAT Council denies first reading to "Zoning Amendment Bylaw No. 2016-69" and denies support to "Development Variance Permit PL2016-7658".
2. THAT Council refers the applications "RZ PL2016-7759" and "DVP PL2016-7658" back to staff with instructions that Council feels are warranted.

### **Attachments**

Attachment A:	Subject Property Location Map
Attachment B:	Zoning Map
Attachment C:	OCP Map
Attachment D:	Images of Subject Property

Attachment E: Site Plan and Elevations  
Attachment F: "Development Variance Permit PL2016-7758"  
Attachment G: "Zoning Amendment Bylaw No. 2016-69"

Respectfully submitted,

Randy Houle  
Planner 1

Approvals

Acting DDS  <i>BL</i>	Acting CAO  <i>MM</i>
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Attachment 'A' – Subject Property Location Map



Figure 1: Subject Property Location Map

Attachment 'B' – Zoning Map

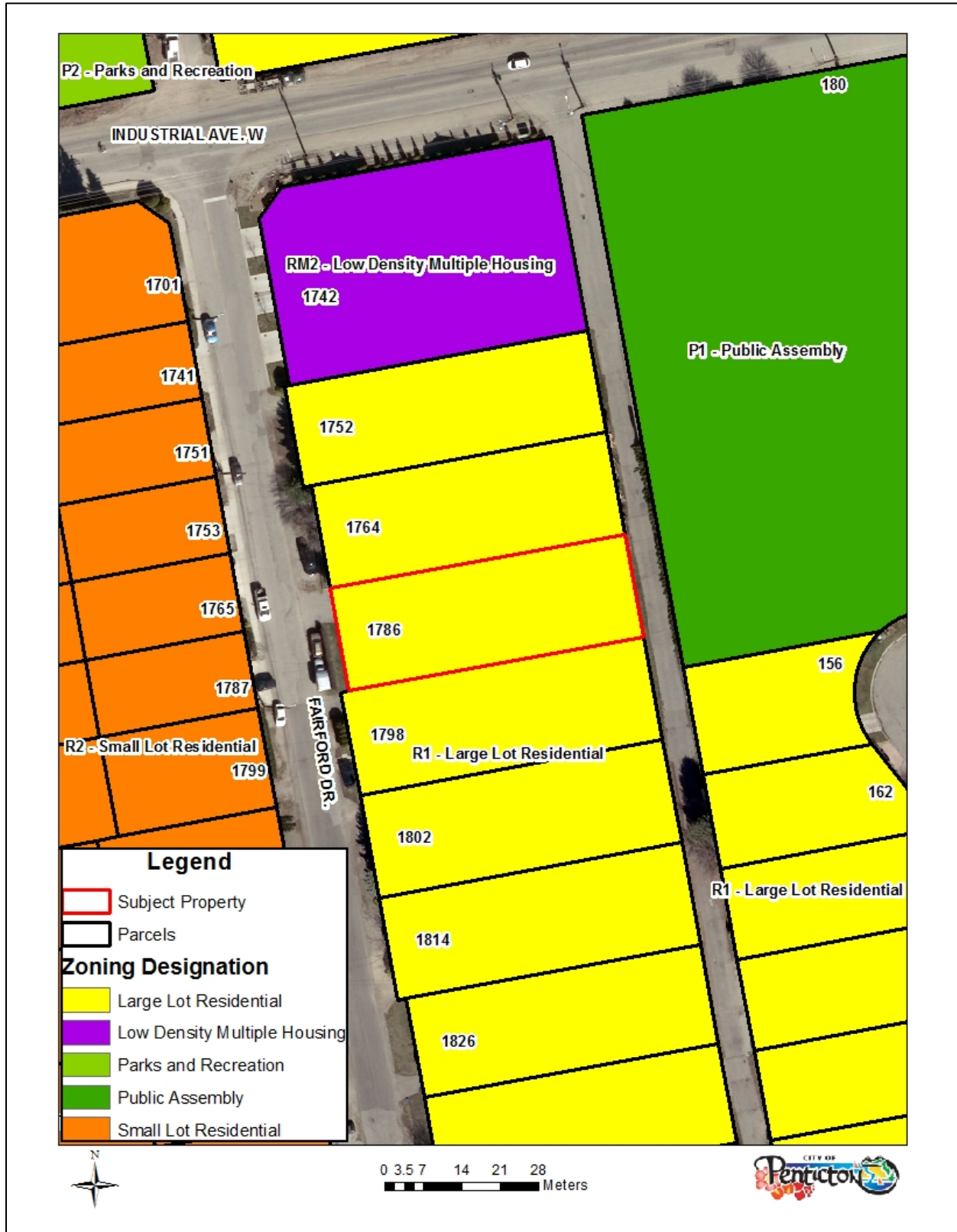


Figure 2: Zoning Map

Attachment 'C' - OCP Map

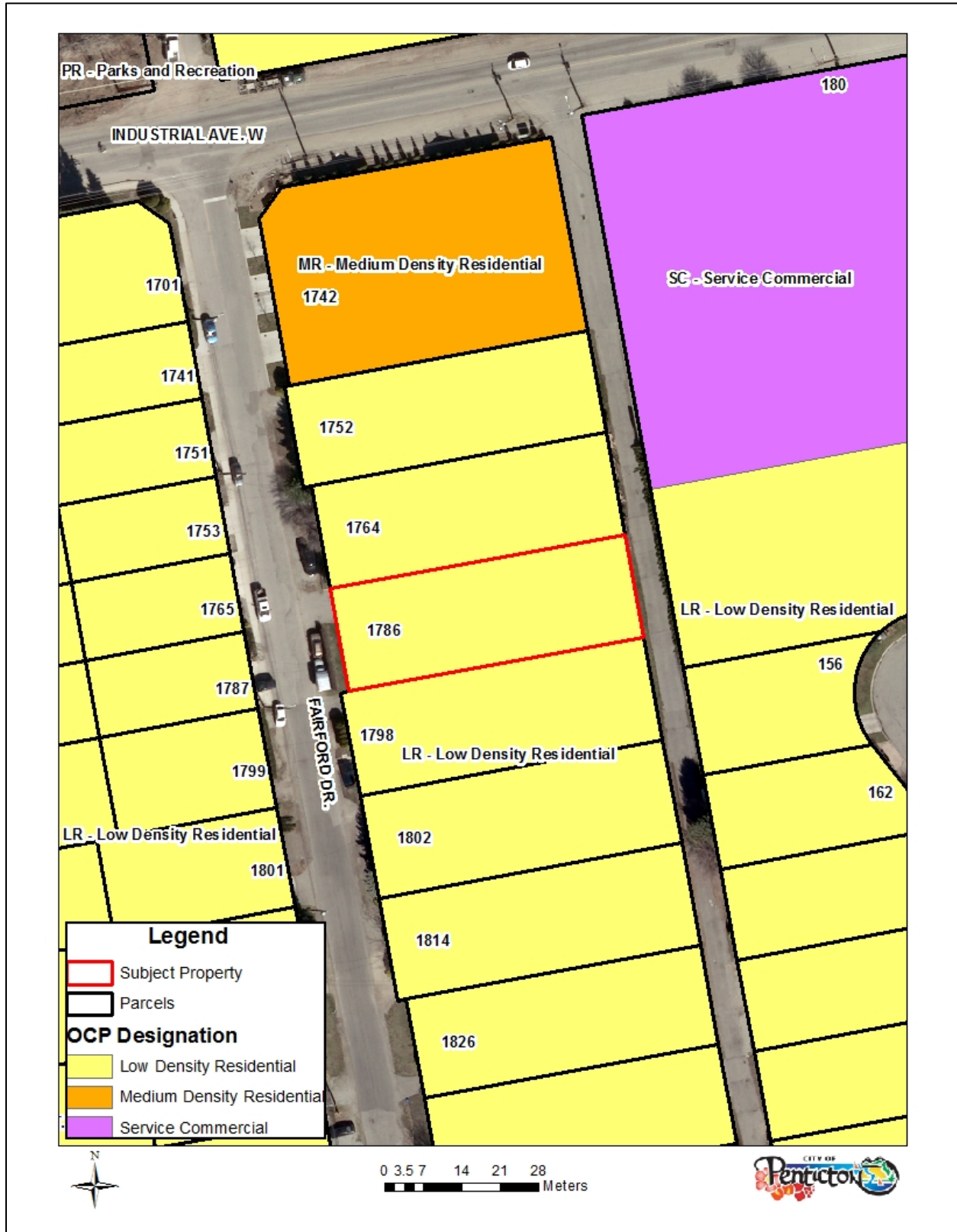


Figure 3: OCP Map

Attachment 'D' – Images of Subject Property



Figure 4: Existing SFD with Secondary Suite and Carriage House in Background



Figure 5: Proposed Carriage House above Garage

Attachment 'E' - Site Plan and Elevations

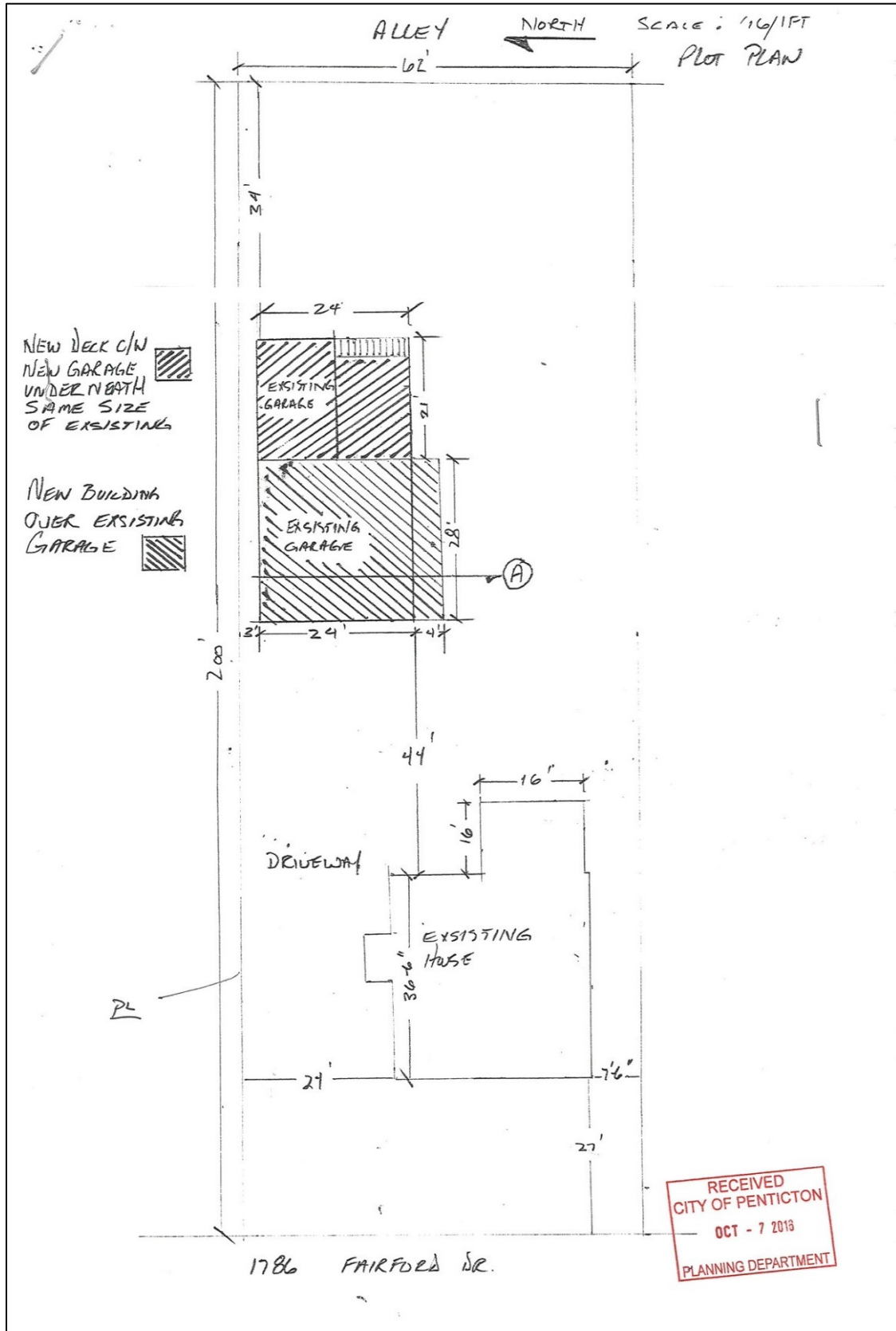


Figure 6: Site Plan

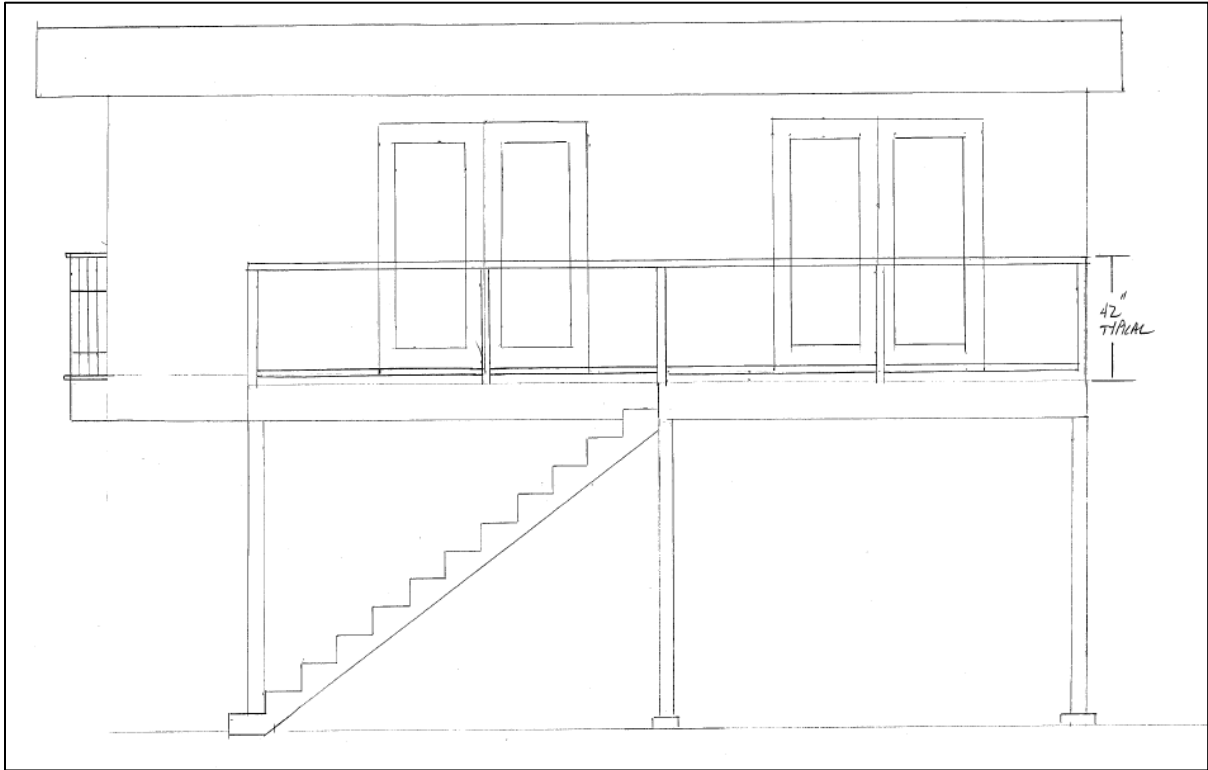


Figure 7: East Elevation (Facing Alley)

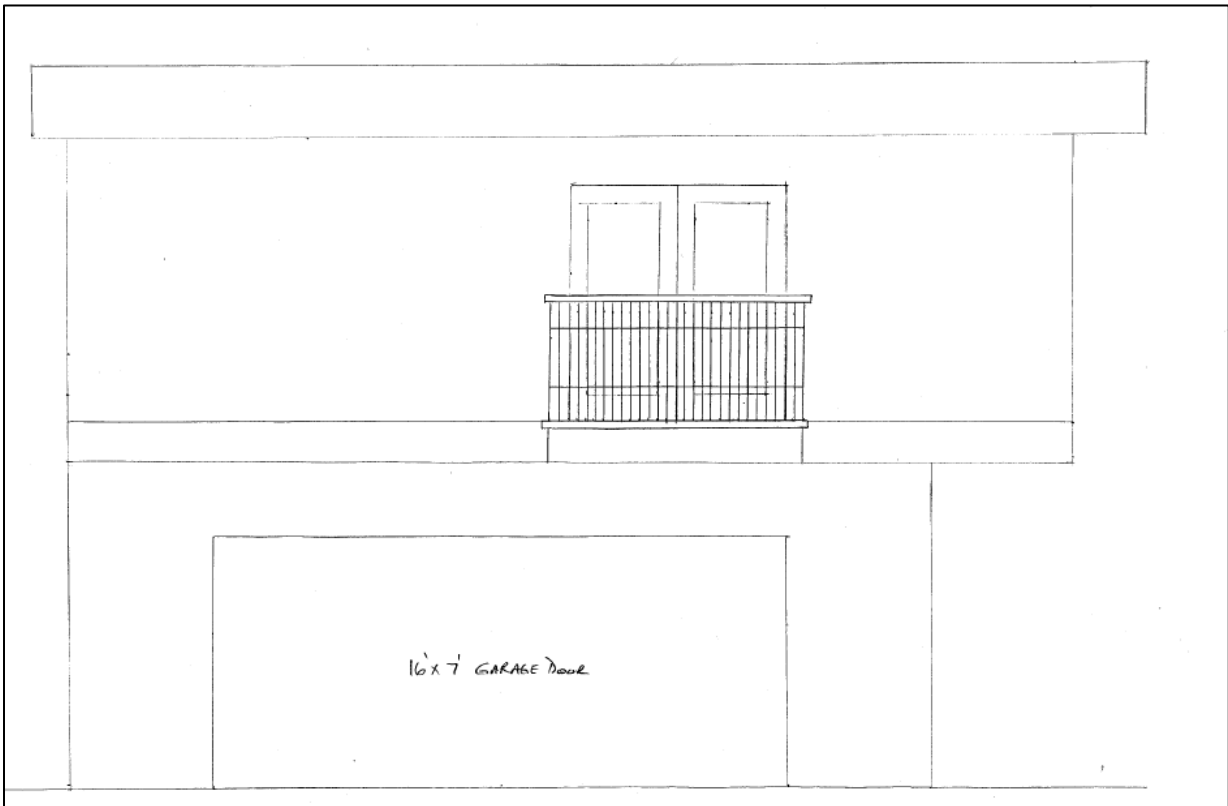


Figure 8: West Elevation (Facing the Street)

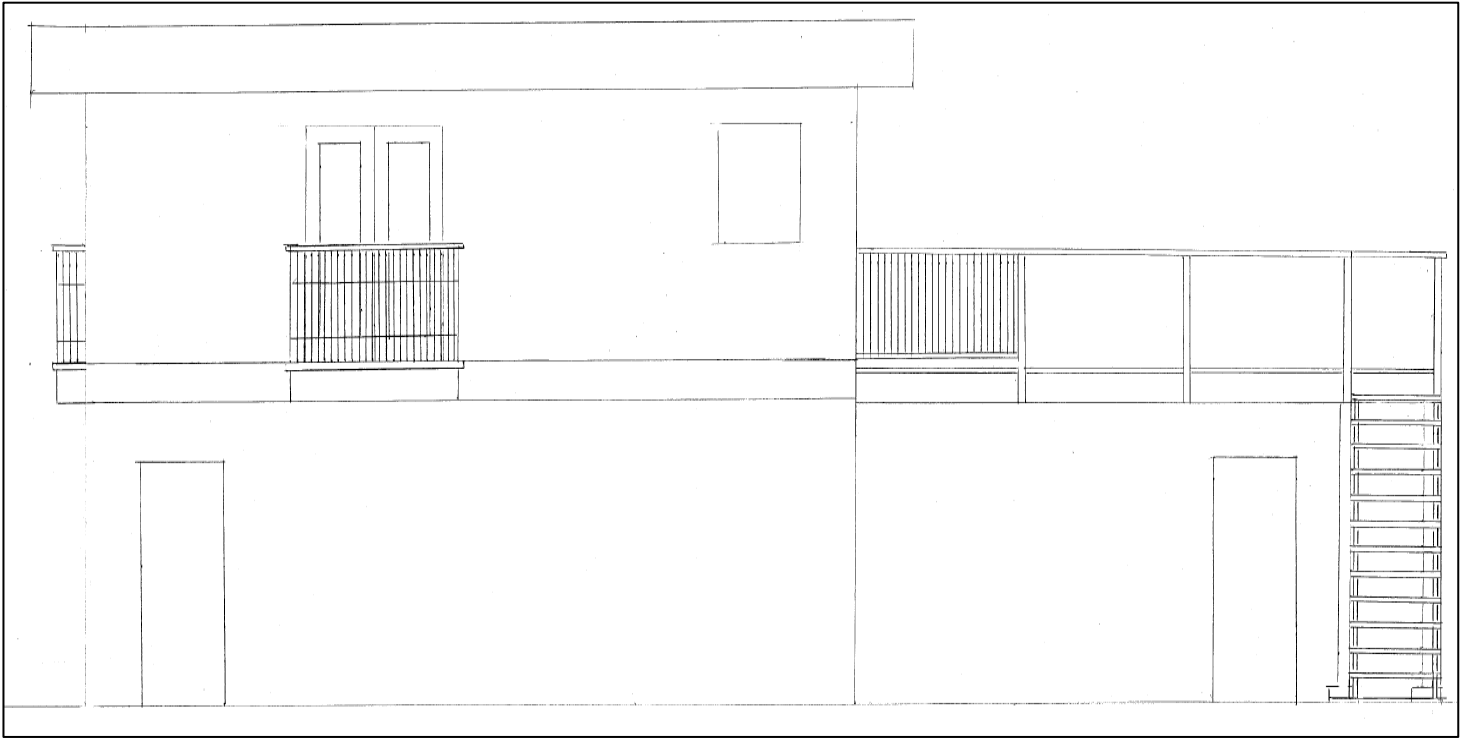


Figure 9: South Elevation

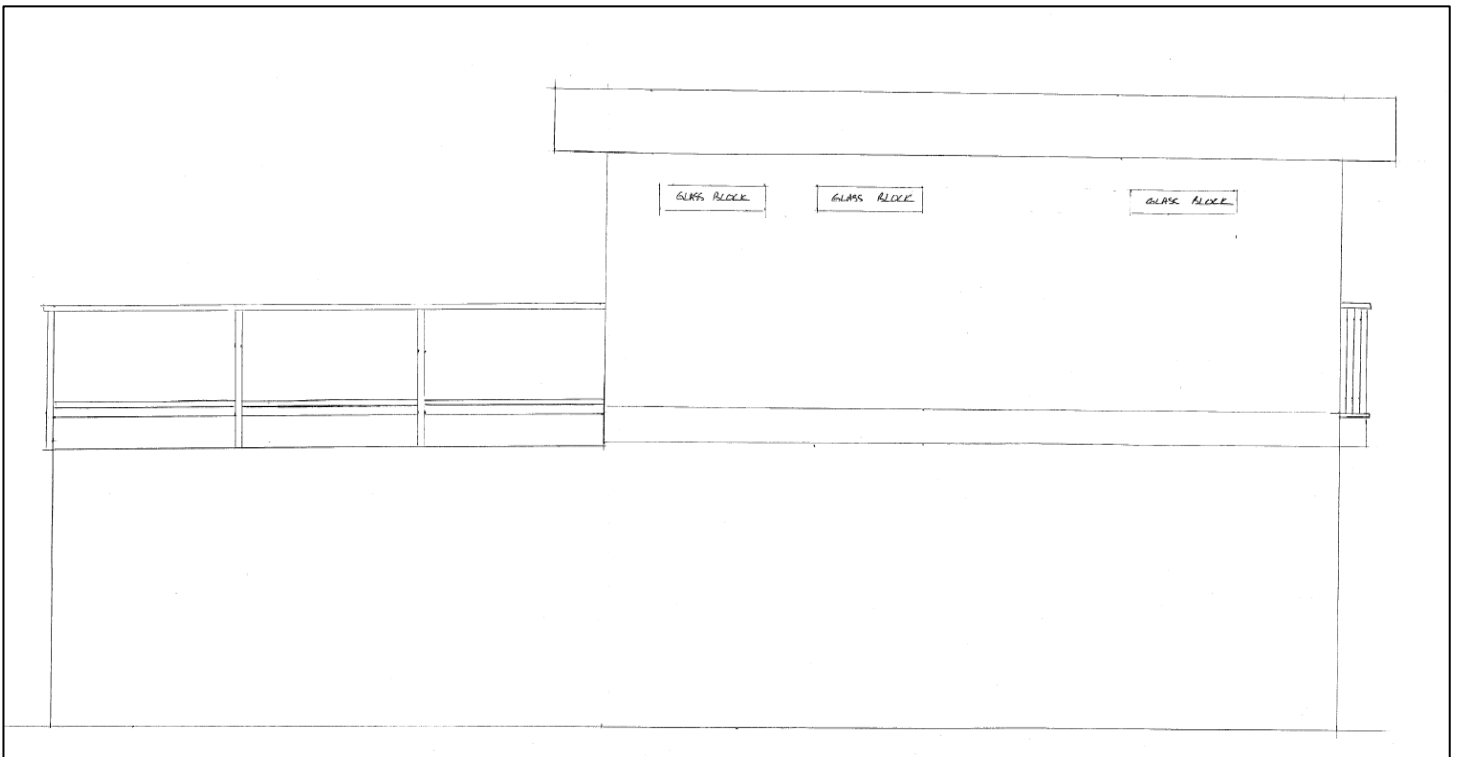


Figure 10: North Elevation

Attachment 'F' - "Development Variance Permit PL2016-7758"



City of Penticton  
171 Main St. | Penticton B.C. | V2A 5A9  
[www.penticton.ca](http://www.penticton.ca) | [ask@penticton.ca](mailto:ask@penticton.ca)

## Development Variance Permit

**Permit Number: PL2016-7758**

Name:

Address:

### Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:  
  
Legal: Lot 2, District Lot 115, SDYD, Plan 14604  
Civic: 1786 Fairford Drive  
PID: 008-972-273
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2011-23 to allow for construction of a carriage house, as shown in the plans attached in Schedule 'A'.
  - Section 8.8.4.4: To increase the maximum building footprint of a carriage house from 90m<sup>2</sup> to 120m<sup>2</sup>.
  - Section 10.1.2.6.i: To decrease the north interior side yard from 1.5m to 0.92m.

### General Conditions

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.

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

Authorized by City Council, the \_\_\_\_ day of \_\_\_\_\_, 2016

Issued this \_\_\_\_\_ day of \_\_\_\_\_, 2016

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Dana Schmidt,  
Corporate Officer

Bylaw No. 2016-69

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. 2016-69".

2. Amendment:

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

Add Section 10.1.3.6: "In the case of Lot 2, District Lot 115, SDYD, Plan 14604, located at 1786 Fairford Drive, a carriage house with vehicular access from a street is permitted in conjunction with a secondary suite in the principal dwelling."

2.2 Schedule 'A' attached hereto forms part of this bylaw.

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

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

<p>Approved pursuant to section 52(3)(a) of the <i>Transportation Act</i>  this ____ day of _____, 2016</p> <p>_____</p> <p>for Minister of Transportation &amp; Infrastructure</p>
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\_\_\_\_\_  
Andrew Jakubeit, Mayor

\_\_\_\_\_  
Dana Schmidt, Corporate Officer

