

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

Tuesday, February 7, 2017
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 January 17, 2017 Public Hearing	1-3	Receive
6.2	Minutes of the January 17, 2017 Regular Council Meeting	4-9	Adopt
7. **Committee and Board Reports:**

7.1	Parks & Recreation Master Plan Steering Committee Minutes of December 14, 2016 <i>Recommendation: THAT Council receive the minutes of the Parks & Recreation Master Plan Steering Committee meeting of December 14, 2016.</i>	10-16	
7.2	Development Services Committee Minutes of January 11, 2017 <i>Recommendation: THAT Council receive the draft minutes of the Development Services Committee meeting of January 11, 2017.</i>	17-18	
7.3	Downtown Revitalization Sub-Committee Minutes of January 18, 2017 <i>Recommendation: THAT Council receive the draft minutes of the Downtown Revitalization Sub-Committee meeting of January 18, 2017.</i> <i>Committee Recommendation: THAT Council direct staff to locate the Gyro Park mobile washroom unit to the back portion of the parking lot located at the north side of City Hall.</i>	19-21	
7.4	Development Services Committee Minutes of October 19, 2016 <i>Recommendation: THAT Council receive the minutes of the Development Services Committee meeting of October 19, 2016.</i> <i>Committee Recommendation: See Staff Report 9.3</i>	22-24	

- 7.5 Community Sustainability Committee Minutes of December 14, 2016 25-27
Recommendation: THAT Council receive the minutes of the Community Sustainability Committee meeting of December 14, 2016.
Committee Recommendation: THAT Council direct staff to arrange for a booth at the Energy - Our Present, Our Future Symposium on April 21-22 and to become a major sponsor in the amount of \$1,000 with those funds paid from the Climate Action Revenue Incentive Program (CARIP) Fund.

8. Correspondence

- 8.1 McNaughton Support Services Ltd. 28-29
 Re: Okanagan Cannabis Solutions, 575 Main Street
- 8.2 BC Association of Farmers' Market 30
 Re: Request Letter of Support
- 8.3 Okanagan Nation Alliance 31-33
 Re: Requesting support for grant proposal to OBWB

9. Staff Reports:

- BPM 9.1 Appeal of Denial Non-Profit Registration 34-40 Applicant
 Re: Association of Medical Marijuana Awareness, Jukka Laurio
Staff Recommendation: THAT Council receive this report for the purpose of considering whether to uphold the decision of the City's Building and Permitting Manager to deny the non-profit registration application for the Association for Medical Marijuana Awareness (Society #S0066324), as set out in the December 23, 2016 letter; AND THAT after providing Mr. Jukka Laurio, owner and operator, or his representative with an opportunity to be heard regarding the denial of his non-profit registration application: Council denies the appeal for a non-profit registration to the Association for Medical Marijuana Awareness.
- OR**
 Council grants a non-profit registration to the Association for Medical Marijuana Awareness.
- DDS 9.2 Short Term Rental Program 41-51
Staff Recommendation: THAT Council supports the proposed amendments to the Zoning Bylaw, Business Licence, Fees and Charges, and Enforcement Bylaws in regard to the regulations and licensing of vacation rentals in Penticton as outlined in the Short Term Rental Program report dated February 7, 2017; AND THAT Council direct staff to bring back bylaw amendments in support of the proposed regulatory changes for the March 07, 2017 regular meeting of Council; AND THAT Council direct staff to begin efforts to bring greater compliance to the vacation rental industry.
- BPM 9.3 Cross Connection Program – Add Annual Backflow Test Filing Fees 52-58
 Re: Fees and Charges Amendment Bylaw No. 2017-05
Staff Recommendation: THAT Council endorse the Development Services Division's implementation of the Backflow Solutions Incorporated online program to improve efficiencies for customers and staff; AND THAT Council give first, second and third reading to "Fees and Charges Amendment Bylaw No. 2017-05" a bylaw to create Cross Connection Program annual testing filing fees.
- RCM 9.4 South Okanagan Performing Arts Centre Society's Council Request 59-83
Staff Recommendation: THAT Council support the South Okanagan Performing Arts Centre Society in their efforts to explore the potential for a performing arts facility in the downtown; AND THAT Council support, in principle, the use of the property at 99 Nanaimo Avenue for a performing arts facility until December 31, 2018 subject to:

- SOPAC Society organizing a workshop/symposium
- SOPAC providing a Post-Symposium Report to Council outlining:

- *the best options for financing, operating and programming the SOPAC facility,*
- *a detailed way forward, including an implementation schedule and a clear indication of required resources,*
- *SOPAC providing an update as to the status of their progress in June 2017, December 2017 and April 2018;*

AND THAT should Council receive any additional interests, in the use or redevelopment of the subject lands, prior to December 31, 2018, a comprehensive public process be followed including consultation with SOPAC Society, prior to any decisions being made.

CO	9.5	<p>SILGA Resolutions <u>Staff Recommendation:</u> <i>#1 - Advertising</i> <i>WHEREAS section 94 of the Community Charter prescribes public notice provisions through a newspaper distributed at least weekly;</i> <i>AND WHEREAS other forms of media have a far greater reach than newspaper publications;</i> <i>NOW THEREFORE BE IT RESOLVED that the Ministry of Community, Sport and Cultural Development be requested to conduct a comprehensive review and evaluation of the statutory advertising provisions with a view to amending such provisions in response to the technological advances of recent years.</i></p> <p><i>#2- Business Registry</i></p> <p><i>WHEREAS local governments wish to improve economic drivers and help local and BC companies grow in our region;</i> <i>AND WHEREAS a listing of all registered businesses as collected by BC Registries and Online Services would facilitate as a mechanism to understand the existing businesses and potential economic opportunities;</i> <i>THEREFORE BE IT RESOLVED that UBCM lobby the Ministry of Technology, Innovation & Citizens' Services, the Ministry responsible for BC Registries and Online Services and request that a business registry census be provided to municipal and regional governments annually.</i></p>	84-85
GMI	9.6	<p>Okanagan Basin Water Board Grant Application Re: Phase II Drought Management Plan <u>Staff Recommendation:</u> <i>THAT Council support staff making an application to the Okanagan Basin Water Board Water Conservation and Quality Improvement (WCQI) grant program for a grant in the amount of \$12,500 for Phase II of our Drought Management Plan;</i> <i>AND THAT Council commits matching funds from the water reserve to complete the study, as included in the Water Treatment Plant 2017 budget.</i></p>	86-92
GMI	9.7	<p>Okanagan Basin Water Board Grant Application Re: Microbial Survey <u>Staff Recommendation:</u> <i>THAT Council endorses an application to the Okanagan Basin Water Board Water Conservation and Quality Improvement (WCQI) grant program for an in kind grant in the amount of \$3,500 for a Microbial Survey of Biological Nutrient Removal (BNR) Treatment Plant Sludge.</i></p>	93-105
CFO	9.8	<p>International Triathlon Union (ITU) Agreement <u>Staff Recommendation:</u> <i>THAT Council formalize the agreement with Michael Brown and Penticton 2017 ITU Multisport World Championships Ltd. to host the 2017 International Triathlon Union (ITU) Multisport World Championships Festival in Penticton;</i> <i>AND THAT the Mayor and Corporate Officer are directed to execute this agreement on behalf of the City;</i> <i>AND THAT Council direct staff to negotiate with Michael Brown and Penticton 2017 ITU Multisport World Championships Ltd. on five-year rights of first refusal should either party bid on ITU or other multisport events.</i></p>	106-123

LA 9.9 Canada 150 Grant for replacement of Leir House windows 124-125
Staff Recommendation: THAT Council direct staff to apply for the Provincial Canada 150 grant in the amount of \$100,000 for replacement of the windows at Leir House;
 AND THAT Council commits to fund 20% of the grant amount, to a maximum of \$25,000 from the general operating surplus and that the Financial Plan Bylaw be amended accordingly.

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. **Public Hearing at 6:00 p.m.**

13. **Reconvene the Regular Council Meeting following the Public Hearing**

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

14.1	Zoning Amendment Bylaw No. 2016-71 Re: 750 Kamloops Street DVP PL2016-7729	126-127	Adopt
		128-129	Approve
14.2	Zoning Amendment Bylaw No. 2017-02 Re: 457 & 461 Nelson Avenue	130-131	2 nd /3 rd /Adopt
14.3	Zoning Amendment Bylaw No. 2017-04 Re: 251 Rigsby Street	132-133	2 nd /3 rd
14.4	OCP Amendment Bylaw No. 2017-06 Re: The Ridge	134-137	2 nd /3 rd /Adopt
14.5	Zoning Amendment Bylaw No. 2017-07 Re: The Ridge	138-139	2 nd /3 rd

15. **Land Matters:**

LA 15.1 Road Closure Bylaw (Government Street) No. 2017-01 140-143 Del/Sub
 Re: Part of Government Street beside Hospital
Staff Recommendation: THAT Council give first, second and third reading to "Road Closure Bylaw(Government Street) No. 2017-01", a bylaw that closes a portion of Government Street east of the Penticton Regional Hospital to facilitate the land swap with Interior Health for required road widening.

DDS 15.2 Development Variance Permit PL2016-7783 144-154 Del/Sub
 Re: 1198 Government Street

Staff Recommendation: THAT Council approve "Development Variance Permit PL2016-7783" for Lot 1 District Lot 250 Similkameen Division Yale District Plan 39066, located at 1198 Government Street, a permit to decrease the minimum interior yard from 4.5m to 0m and to decrease the minimum rear yard when abutting a lane that abuts a residential zone from 6.0m to 3.0m.

AND THAT staff be directed to issue "Development Variance Permit PL2016-7783."

DDS 15.3 Temporary Use Permit Renewal 155-166
Re: 1830 Ridgedale Avenue

Staff Recommendation: THAT Council extend the time frame of "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 an additional one and a half month period, ending on the 14th of March 2017, subject to the same conditions as the original permit:

- 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

16. **Notice of Motion**

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

18. **Council Round Table**

19. **Public Question Period**

20. **Adjournment**

Public Hearing
City of Penticton, Council Chambers
171 Main Street, Penticton, B.C.

Tuesday, January 17, 2017
at 6:00 p.m.

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

Staff: Peter Weeber, Chief Administrative Officer
Dana Schmidt, Corporate Officer
Mitch Moroziuk, General Manager of Infrastructure
Jim Bauer, Chief Financial Officer
Anthony Haddad, Director of Development Services
Angie Collison, Deputy Corporate Officer

1. Call to order

Mayor Jakubeit called the public hearing to order at 6:00 p.m. for "Zoning Amendment Bylaw No. 2016-71" and "Zoning Amendment Bylaw No. 2016-73". He explained that the public hearing was being held to afford all persons who considered themselves affected by the proposed bylaws an opportunity to be heard before Council.

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

"Zoning Amendment Bylaw No. 2016-71" (750 Kamloops Avenue)

The purpose of "Zoning Amendment Bylaw No. 2016-71" is to amend Zoning Amendment Bylaw No. 2011-23 as follows:

Rezone Lot 1, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale – Lytton) District, Plan 8381, located at 750 Kamloops Avenue from RM2 (Low Density Multiple Housing) to RD2 (Duplex Housing: Lane)

The applicant is proposing to subdivide 750 Kamloops Avenue into three lots and construct a side-by-side duplex on each lot.

The Corporate Officer advised that no letters has been received after the printing of the agenda.

DELEGATIONS

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

- Tony Giroux, Giroux Design Group, representing developer, feel this is a good development for the area, positive impact on neighbourhood, more affordable housing for families looking for starter homes, excited to see it approved.
- Lynn Kelsey, Oakville Street, first two duplexes will back onto driveway, last duplex onto a backyard. Development is without lane. Concern is with the variances. Rear set back decrease doesn't pose problem for first two, problem for third property. Other projects have been excellent for neighbourhood. Area is being revitalized, good place for this, be smart on how we do these revitalizations, crowded and concern with the optics.

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

- No one spoke.

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

- Tony Giroux, attempted to buy the strip of land in front of property from City then would not need variances.
- Lynn Kelsey, Oakville Street, facilitate developer, what is the reason City won't give up strip of land?

The public hearing for "Zoning Amendment Bylaw No. 2016-71" was terminated at 6:22 p.m. and no new information can be received on this matter.

2. "Zoning Amendment Bylaw No. 2016-73" (1220, 1228, 1236 Government Street)

The purpose of "Zoning Amendment Bylaw No. 2016-73" is to amend Zoning Amendment Bylaw No. 2011-23 as follows:

Rezone Lot 69, District Lot 250, Similkameen Division Yale District, Plan 881, Except Plan KAP67713, located at 1220 Government Street, Lot 70, District Lot 250, Similkameen Division Yale District, Plan 881, Except Plan KAP67896, located at 1228 Government Street, Lot 71, District Lot 250, Similkameen Division Yale District, Plan 881, Except Plan KAP67896 located at 1236 Government Street from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane).

The applicant is proposing to construct a side-by-side duplex on 1228 and 1236 Government Street and rezone 1220 Government Street for future development.

The Corporate Officer advised that no letters has been received after the printing of the agenda.

DELEGATIONS

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

- No one spoke.

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

- No one spoke.

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

- No one spoke.

The public hearing for "Zoning Amendment Bylaw No. 2016-73" was terminated at 6:23 p.m. and no new information can be received on this matter.

Certified correct:

Confirmed:

Dana Schmidt
Corporate Officer

Andrew Jakubeit
Mayor

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

Tuesday, January 17, 2017
at 1:00 p.m.

Present: Mayor Jakubeit
Councillor Konanz
Councillor Martin
Councillor Watt
Councillor Picton
Councillor Sentes
Councillor Sayeed (arrived at 1:03 p.m.)

Staff: Peter Weeber, Chief Administrative Officer
Mitch Moroziuk, General Manager of Infrastructure
Dana Schmidt, Corporate Officer
Jim Bauer, Chief Financial Officer
Anthony Haddad, 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

Add late items 12.3 DVP PL2016-7758 for 1786 Fairford Drive and 5a Community Partner – delegation from RCMP.

3. Adoption of Agenda

10/2017

It was MOVED and SECONDED

THAT Council adopt the agenda for the Regular Council meeting held on January 17, 2017 as amended.

CARRIED UNANIMOUSLY

4. Adoption of Minutes:

4.1 Minutes of the January 10, 2017 Committee of the Whole Meeting

11/2017

It was MOVED and SECONDED

THAT Council receive the minutes of the January 10, 2017 Committee of the Whole meeting as presented.

CARRIED UNANIMOUSLY

4.2 Minutes of the January 10, 2017 Regular Council Meeting

12/2017

It was MOVED and SECONDED

THAT Council adopt the minutes of the January 10, 2016 Regular Council Meeting as presented.

CARRIED UNANIMOUSLY

5a. Community Partner

5a. RCMP - E Division

Autumn Longley and Sylvia Poon, RCMP, provided Council with RCMP contract overview, local government contract management committee structure, contracting partners, municipal policing agreement, planning and invoicing cycle, five year plans, and national programs.

5. Committee and Board Reports

5.1 Development Services Advisory Committee Minutes of December 14, 2016

13/2017

It was MOVED and SECONDED

THAT Council receive the minutes of the Development Services Advisory Committee meeting of December 14, 2016.

CARRIED UNANIMOUSLY

5.2 Arts Creative & Cultural Innovations Committee Minutes of December 15, 2016

14/2017

It was MOVED and SECONDED

THAT Council receive the minutes of the Arts Creative & Cultural Innovations Committee meeting of December 15, 2016.

CARRIED UNANIMOUSLY

6. Correspondence

7. Staff Reports:

7.1 Mosaic Tile Project

15/2017

It was MOVED and SECONDED

THAT the \$2,000 shortfall owing for the Canada 150 Mosaic project be paid from the Public Arts Reserve Fund.

CARRIED UNANIMOUSLY

16/2017

It was MOVED and SECONDED

THAT Council direct staff to investigate placing the Canada 150 Mosaic on the outside wall of the Community Centre below the Cleland Theatre sign temporarily.

CARRIED UNANIMOUSLY

7.2 Strategic Wildfire Prevention Initiatives

17/2017

It was MOVED and SECONDED

THAT Council support the application for grant funding for the UBCM Strategic Wildfire Program Initiative, for a 2017 FireSmart Planning Grant Program;

AND THAT the Fire Department enlist the services of John Davies of Davies Wildfire Management to secure the grant funding and to carry out the process in order to meet the grant requirements.

CARRIED UNANIMOUSLY

7.3 Economic Investment Zone Program - Update

18/2017

It was MOVED and SECONDED

THAT Council direct staff to review opportunities for the next phase of the EIZ program coming out of the analysis to be completed through the upcoming Official Community Plan review process.

CARRIED UNANIMOUSLY

8. Public Question Period

9. Recess to In-Camera Meeting

19/2017

It was MOVED and SECONDED

THAT Council recess at 2:29 p.m. to a closed meeting of Council pursuant to the provisions of the *Community Charter* section 90 (1) as follows:

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

10. Public Hearing at 6:00 p.m.

11. Reconvene the Regular Council Meeting following the Public Hearing

Council reconvened the Regular Council Meeting at 6:24 p.m.

12. Reconsideration of Bylaws and Permits

- 12.1 Zoning Amendment Bylaw No. 2016-71
Re: 750 Kamloops Street

20/2017

It was MOVED and SECONDED

THAT Council give second and third reading to "Zoning Amendment Bylaw No. 2016-71".

CARRIED UNANIMOUSLY

12.2 Zoning Amendment Bylaw No. 2016-73
Re: 1220, 1228, 1236 Government Street

21/2017

It was MOVED and SECONDED

THAT Council give second and third reading to "Zoning Amendment Bylaw No. 2016-73";
AND THAT Council adopt "Zoning Amendment Bylaw No. 2016-73".

CARRIED UNANIMOUSLY

12.3 Development Variance Permit PL2016-7758
Re: 1786 Fairford Drive

22/2017

It was MOVED and SECONDED

THAT Council approve Development Variance Permit PL2016-7758 for 1786 Fairford Drive.

CARRIED UNANIMOUSLY

13. Land Matters:

13.1 Development Variance Permit PL2016-7801
Re: 280 & 282 South Beach Drive

Delegations/Submissions: Nil

23/2017

It was MOVED and SECONDED

THAT Council approve "Development Variance Permit PL2016-7801" for Lot 7, District Lot 189, SDYD, Plan 5885, located at 280 South Beach Drive, and Lot 8, District Lot 189, SDYD, Plan 5885, located at 282 South Beach Drive, a permit to decrease the minimum front yard from 6m to 4.5m and to decrease the minimum west interior yard from 1.5m to 1.2m; AND THAT staff be directed to issue "Development Variance Permit PL2016-7801."

CARRIED UNANIMOUSLY

13.2 Zoning Amendment Bylaw No. 2017-04 & DVP PL 2016-7786
Re: 251 Rigsby Street

24/2017

It was MOVED and SECONDED

THAT "Zoning Amendment Bylaw No. 2017-04," a bylaw to rezone Lot 25, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 1035, located at 251 Rigsby Street from RD2 (Duplex Housing: Lane) to RM2 (Low Density Multiple Housing), be given first reading and forwarded to the February 7, 2017 Public Hearing;
AND THAT prior to adoption of "Zoning Amendment Bylaw No. 2017-04," a 1.5m road widening and corner cut on the east side of the subject property is registered with the Land Title Office.

THAT delegations and submissions be heard for "Development Variance Permit PL2016-7786" for Lot 25, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 1035, located at 251 Rigsby Street, a permit to decrease the minimum front yard from 3.0m to 2.7m, to decrease the minimum south interior side yard from 3.0m to 1.5m, to decrease the minimum exterior side yard from 6.0m to 4.4m and to decrease the minimum rear yard from 6.0m to 3.5m; AND THAT "DVP PL2016-7786" be considered only after adoption of "Zoning Amendment Bylaw No. 2017-04".

AND THAT Council, subject to adoption of "Zoning Amendment Bylaw No. 2017-04," approve Development Permit PL2016-7787, for Lot 25, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 1035, located at 251 Rigsby Street, a permit that allows for the construction of a townhouse.

CARRIED UNANIMOUSLY

13.3 OCP Amendment Bylaw No. 2017-06 & Zoning Amendment Bylaw No. 2017-07
Re: 1830 Ridgedale Avenue

25/2017

It was MOVED and SECONDED

THAT prior to consideration of the bylaw and in accordance with Section 475 of the *Local Government Act*, Council considers whether early and on-going consultation, in addition to the required Public Hearing, is necessary with:

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

AND THAT it is determined that further consultation with School District #67 is necessary;

AND THAT "OCP Amendment Bylaw No. 2017-06", being a bylaw to amend "OCP Bylaw 2002-20" amending Schedule B: Future Land Use Map; Schedule D: Natural Areas Map; and, Schedule H: Development Permit Area Map of Bylaw 2002-20 with regard to a new 110 lot residential development proposed for Lot 1, District Lot 2710, Similkameen Division Yale District Plan 21103, located at 1830 Ridgedale Avenue and in accordance with the land use plan attached to the Bylaw, be given first reading and forwarded to the February 7th, 2017 Public Hearing.

THAT "Zoning Amendment Bylaw 2017-07", being a bylaw to amend "Zoning Bylaw 2011-23" changing the zoning designations in support of a residential development proposed for Lot 1, District Lot 2710, Similkameen Division Yale District Plan 21103, located at 1830 Ridgedale Avenue, in accordance with the land use plan attached as Schedule A of the Bylaw, be given first reading and be forwarded to the February 7th, 2017 Public Hearing.

AND THAT the following items must be satisfied prior to final adoption of "Zoning Amendment Bylaw 2017-07":

1. Adoption of "Official Community Plan Amendment Bylaw 2017-06";
2. All the recommendations regarding traffic calming contained in the Traffic Impact Assessment prepared by Watt Consulting Group and dated December 16, 2016 must be designed to the satisfaction of the City's Development Engineer and bonded for prior to final approval;
3. Tree replacement plan prepared to the satisfaction of the City's Parks Supervisor to replace the 247 trees that were removed prior to earthworks (bonding for the works to be submitted prior to zoning approval);
4. Design for park and walkway to the satisfaction of the Parks Supervisor, with all works bonded for and constructed as a condition of subdivision approval; and

5. Registration of the geotechnical report prepared by Ecora Engineering dated August 17, 2016 as a covenant against the development lands.

CARRIED
Councillor Sayeed, Opposed

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

26/2017

It was MOVED and SECONDED

THAT Council adjourn the Regular Council meeting held on Tuesday, January 17, 2017 at 7:20 p.m.

CARRIED UNANIMOUSLY

Certified correct:

Confirmed:

Dana Schmidt
Corporate Officer

Andrew Jakubeit
Mayor

Parks & Recreation Master Plan Steering Committee Meeting

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

Wednesday, December 14, 2016
at 3:00 p.m.

Present: Andrew Jakubeit, Mayor
Judy Sentes, Councillor
Ron Ramsay, Chair
James Palanio, Vice-Chair
Doug Gorcak, Penticton School District 67 Representative
Barb Hoolaeff, Special Event Group Representative
Roland Curnow, Organized Field Sport Representative
Adolf Steffen, Development Community Representative
Sharon Devlin, Member at Large
Peter Dooling, Member at Large
Gary Denton, Member at Large

Staff: Jeff Lynka, Parks Supervisor
Lori Mullin, Recreation & Culture Manager
Blake Laven, Planning Manager
Lorraine Williston, Corporate Committee Secretary

1. Call to Order

The Parks & Recreation Master Plan Steering Committee was called to order by the Chair at 3:03 p.m.

2. Adoption of Agenda

It was MOVED and SECONDED

THAT the Parks & Recreation Master Plan Steering Committee adopt the agenda for the meeting held on December 14, 2016 as circulated.

CARRIED UNANIMOUSLY

3. Adoption of Minutes

3.1 Minutes of the November 18, 2016 Parks & Recreation Master Plan Steering Committee Meeting

It was MOVED and SECONDED

THAT the Parks & Recreation Master Plan Steering Committee adopt the minutes of the November 18, 2016 meeting as amended.

CARRIED UNANIMOUSLY

3.2 Minutes of the November 29, 2016 Parks & Recreation Master Plan Steering Committee Meeting

Roland Curlow stated he is upset with how the voting was handled with respect to item 4.1 Committee in Good Standing. Mr. Curlow feels the minutes do not reflect what happened in the meeting regarding the voting process. The Chair asked that the Corporate Officer and Committee Secretary to provide clarification regarding procedure for the Terms of Reference section on Members in Good Standing and voting for the next meeting.

It was MOVED and SECONDED

THAT the Parks & Recreation Master Plan Steering Committee adopt the minutes of the November 29, 2016 meeting as amended.

CARRIED UNANIMOUSLY

4. **Business Arising from Prior Meetings**

4.1 Commercial Use in Parks

The Land Administrator reported that the City is applying for a recreational lease over 746 acres of provincial land located at Campbell Mountain. The process has been under discussion for the past couple of years. Staff will be recommending to Council at the December 20 regular Council meeting to obtain the tenure over the property and direct staff to undertake public consultation to determine the best use for the recreational land. The alternative staff recommendation is to provide Penticton & Area Cycling Association (PACA) with a non-exclusive Licence to Use (LTU). The question was asked of what the difference is between a lease and an LTU. The Land Administrator stated a lease is a guaranteed tenure and if all lease payments are made the lessee is entitled to that land until the end of the term. Leases do not have escape clauses. Lease terms can range from a minimum of 1 year to a maximum of 29 years with 2 possible additional options of 10 years each. A LTU does have an escape clause and the City can exercise its right to terminate the LTU at its discretion. LTU terms range between 3 to 5 years. LTU's are not deemed to be a disposition of land.

The Land Administrator reviewed the current list of concessions and stated historically concessions have been long term leases. Joe Morelli, who had the lease for the Okanagan and Skaha Lake concessions sold his interest in both the Peach and Lakawanna locations with the Skaha Lake concessions being sub-let. A question was asked if an LTU can be renewed and why are leases only 29 years. The Land Administrator stated if a lease is longer than 29 years, the province's property transfer tax comes into effect. For LTU's, they can be renewed to the same people at the existing rate if the market value is the same, however if market values are different, the request for an LTU goes back to Council for approval. Discussion and questions followed on the Three Blind Mice area and the LTU for disc golf in that area as well as on the esplanade. The Parks Supervisor noted minor errors and omissions in the information and asked the Land Administrator to correct the spreadsheet. Once corrected, it will be redistributed to the committee. Discussion and questions followed. A question was asked about how festivals are booked in parks. The Recreation & Culture Manager stated bookings are done as park rentals. The Chair noted there is a lot of commercial use in our parks. The Parks Supervisor stated there different sizes of land being used and it's important to recognize that when determining whether a commercial use is small, medium or large. A question was asked regarding encroachments for example, on the esplanade. The Land Administrator stated the encroachment on the esplanade has been in existence for a very long time. The Mayor at that time granted the property owner use of the area directly behind the property. Since then, a licence to use has been in place. An LTU does not allow for any type of structure

or building built on the area. There have also been issues with realtors not informing potential buyers of an existing LTU resulting in purchasers believing they own the LTU area. The Land Administrator further noted that Council will be reviewing all existing LTU's.

Peter Wallace left the meeting at 4:05 p.m.

4.2 Urban Systems Update

The Recreation & Culture Manager reported the online survey has closed. There were 85 surveys submitted. All information collected from the online survey, open house and comment forms will be available at the end of the week and will be provided to the committee for review. A full summary will be provided in January. Anyone who would like to see all the individual comments and surveys, should let staff know and that information can be emailed to you. The next step will be for Urban Systems to take the list of proposed edits and add them into the second draft of the master plan. Urban Systems will conference call in at the next meeting in January. Staff noted the Catherine Berris, Urban Systems consultant, will be away for most of February.

4.3 Draft Press Release Review

The Chair asked the committee if they were on board with issuing a press release? By consensus, the committee was in agreement that information from this committee should be sent out through the proper channels. Discussion followed on the draft press release. It was suggested that information on the number of meetings that have been held, what has been accomplished to date, background information, an outline of the committee structure and how it was formed including a note thanking the community for their involvement should all be added to the press release. Staff noted this would also be a good opportunity to build a relationship with the community. The Mayor stated you can also link back to the 'Shape Your City' website and encourage residents to provide their comments on what they like and don't like etc. The Chair will connect with the City's Communication Officer. A revised press release will be brought back to the committee for review.

4.4 Core Meaning of a Public Park Discussion – Submission by Peter Dooling

The Chair stated it's critical that they agree to the basic components of commercialization and all aspects of the master plan so that everyone is on the same page. Discussion followed on Peter Dooling's submission. Barb Hoolaeff asked for clarification regarding the part of the definition of a public park that reads '...for the protection/conservation/preservation of the natural, physical, geological, historical & cultural resources thereon;' and asked if that section meant if it restricts you from building or moving anything in a park. Peter Dooling answered stating there will be a use and protection mandate specific to each park. Discussion ensued over the definition of unencumbered. Adolf Steffen asked how a park can be called unencumbered when there are lots of uses in them, specifically Skaha Lake Park. Mr. Dooling clarified the word 'unencumbered'. A destination park for example, is not to be encumbered with respect to its use and enjoyment. Parks with a 29 year lease or policy can encumber and restrict its use in certain parks. Encumbrances can occur by area, number of areas, location of those areas and all lead to encumberments in the park. Public policy can bring about encumberments in parks in the way of roadways and/or utilities. It is meant to be a generic definition and applied to each specific park. The Chair stated we need to define the different parks in the City, as encumbrances mean different things to different parks.

Peter Dooling noted the City of Milton, Ontario uses the wording 'unencumbered table land' (meaning flat) because they are usable. This wording is often used in municipal literature and is applied at the national and provincial park level. At the municipal level, it is used as a standpoint of policy. Mr. Dooling further noted the unencumbered park of the statement is at the national/provincial level, more than at a municipal level. The policy of long term leases encumbers a park - encumbering – meaning in time, duration of the lease, number of those leases on that park, area, size of area, location. Parks are the most protective land use designation that a city has and the most democratic as a park is open to all and free of charge. The Mayor noted if marinas were removed from P2 zoning than the second last paragraph in Mr. Dooling's statement could be workable and also pointed out other existing leases for example the soccer bubble at King's Park which is leased to a non-profit organization.

Gary Denton suggested to staff and the committee that perhaps reclassification and separate zoning could be created for different uses in our parks, for example marinas and amusements. The Planning Manager stated zoning is a powerful land use tool and very inclusive. By creating zones for specific uses that could work. Mr. Denton stated the committee could determine what is an appropriate use including ancillary uses, restrictions and zoning for each park. The Planning Manager stated at this time there are no specific zoning guidelines and without specific uses defined within a zone, it leaves it open to a broad interpretation. Discussion and questions followed. The Parks Supervisor stated establishing principles and definitions should be taken back to Urban Systems with a request they be added at the beginning of the master plan. Currently the master plan does specify classifications and uses. These classifications can be used as a starting point. Adolf Steffen stated it is easy to change zoning and would also like to see another hurdle put in place and/or referendum before a long term lease can be signed. The Planning Manager stated zoning traditionally deals with land use not length of tenure, that type of clause could be added to a policy within the master plan.

The Mayor suggested that for the next steps, this committee could move forward by working on defining what a small, medium and large commercial use is and definitions contained therein i.e. size of footprint in relation to the park, how we put hurdles in place and a fair public process. James Palanio suggested that rather than defining a small, medium or large commercial venture, we should be looking at the percentage of park being impacted. The Parks Supervisor stated currently staff do not have specific park design and development guidelines to determine the amount of amenities and paved area when developing a park. Having such design guidelines in place, perhaps for each park classification, would help guide decision-making when planning a new park or renovating an existing open space. The Planning Manager confirmed the P2 zoning bylaw does contain guidelines and which could be reviewed and broken into different park classifications. A question was asked whether trees were considered in zoning. The Planning Manager stated trees are not considered in a zoning bylaw however staff are looking at strengthening their tree protection policy and the Community Sustainability Committee has been working towards an urban forest program. Doug Gorcak expressed concerns over the definition of 'unencumbered' as he felt it is too legal of a description. Peter Dooling spoke to that concern stating 'unencumbered' meaning for the benefit, use and enjoyment of the people etc. Parks will have encumbrances on the land like roadways and utilities. Parks classes will include a park sheet that sets out its appropriate uses and protection that can be inserted into the master plan for better clarification.

Doug Gorcak stated his attendance record that was noted in the November 29, 2016 minutes was incorrect. According to his records he has not missed three consecutive meetings.

4.5 Definitions Discussion

Due to shortage of time, item was tabled to the next meeting. The Chair stated the committee needs to define the major park areas and zoning. Sharon Devlin stated she has a problem with zoning as she feels it can be changed too easily.

5. **New Business**

6. **Next Meeting**

The next meeting of the Parks & Recreation Master Plan Steering Committee to be determined.

7. **Adjournment**

The Parks & Recreation Master Plan Steering Committee adjourned the meeting at 5:09 p.m.

Horvath inserts changes to Minutes:

Insert in Section 4.4, page 3 of 5 - 7th line from bottom:

Mr. Dooling clarified the word unencumbered used in the definition of a Public Park. During the time of establishing a public park to mean the tract of land be legal claims free for park purposes. After park establishment to mean that the tract of land be retained in the public domain away from varied developmental interests and be guidance in formulation of Park Master Plans.

Unencumbered also means encumbrance free where to encumber means to restrain, to constrain, to restrict, to thwart, to trammel. Here in these 5 words is a progressive degree of severity in their meaning. Attach these 5 words of MEANING onto the 5 fingers of the left hand. Beyond severity of MEANING, to encumber applies to extent, extending both to time and to area. To time in regards to length of time and to place within time (eg. exclusive or not). To area in regards to size, number and location of the area(s) within the park. Attach these words of EXTENT onto the 5 fingers of the right hand.

Utilities, infrastructure, public policy, etc. do not in and of themselves place encumbrances on park lands; that such exist is not condition sufficient. Example One: a gas line in a park to a washroom for provision of hot water or heat would not encumber park land purposes whereas a high pressure gas line accompanied with its extensive right-of-way requirements through

The park for city services beyond would encumber park land restricting useable area and users for safety reasons and legality. A utility encumbrance created. Example Two: through development of buildings and parking lots, large and many, bringing about loss of useable area in parks (Queens Park, a infrastructure encumbrance created. Example Three: Through policy conveying commercial long-term, sizeable area, preferred location, exclusive lease rights to private sector leaseholders thereby thwart the open, freely available to all user principle of public parks re-allocating in favor of the pay-to-play of some. A policy encumbrance created.

So, in conclusion, different types of encumbrances can be placed upon park lands. It is the extent of something (a utility, building, policy development) that triggers condition sufficient to encumber, to place an encumbrance perhaps ^{with} different degrees of severity upon park lands. Encumbrance is not the desired state for public parks... unencumbered is!

Development Services Advisory Committee Meeting

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

Wednesday, January 11, 2017
at 8:00 a.m.

Present: Frank Conci, Chair
Chris Harp, Consulting Engineer
Jeff McGinley, Development Community Representative (via conference call)
Christopher Marte, Member at Large
Joseph Walters, Member at Large

Staff: Anthony Haddad, Director of Development Services
Michael Hodges, Development Engineer
Ken Kunka, Building & Permitting Manager
Lorraine Williston, Committee Secretary

1. Call to Order

The Development Services Advisory Committee was called to order by the Chair at 8:01 a.m.

2. Adoption of Agenda

It was MOVED and SECONDED

THAT the Development Services Advisory Committee adopt the agenda for the meeting held on January 11, 2017 as amended refer to item 4.2.

CARRIED UNANIMOUSLY

3. Adoption of Minutes

It was MOVED and SECONDED

THAT the Development Services Advisory Committee adopt the minutes of December 14, 2016 meeting as circulated.

CARRIED UNANIMOUSLY

4. Business Arising from Prior Meetings

4.1 Proposed Methodology and Process for the Subdivision and Development Bylaw Review and Update

The Development Engineer stated the current Subdivision and Development Bylaw works fairly well and staff are focusing more on practical procedural changes for developers, increasing requirements and tightening up the specifications on 'as built' drawings comparing

those to what is actually built. Staff will be meeting with engineering firms this week to get their perspective on what changes they would like to see. Committee members were invited to provide input by emailing him directly to set up an appointment.

The Development Engineer further stated that once all external views have been collected, staff will meet to discuss all the changes to the bylaw and prioritize what changes can be made immediately and what issues will take longer to address. This process is expected to take at least four to five months. Discussion and questions followed.

4.2 Proposed Building Bylaw Housekeeping Amendments

The Building & Permitting Manager provided an overview of immediate housekeeping requirements to meet code, current policy and references to other City regulations. Proposed amendments to the Building Bylaw including administrative housekeeping changes that staff will be bringing forth to Council for approval were reviewed. Discussion and questions followed.

It was MOVED and SECONDED that the Development Services Advisory Committee supports the proposed Building Bylaw Housekeeping amendments as presented.

CARRIED UNANIMOUSLY

5. **New Business**

5.1 Planning and Building Department Statistics for December 2016

Planning and Building Department statistics for December were reviewed. The Director of Development Services stated the forecast for 2017 indicates a busy year for the building department. A complete overview of the year will be available this week.

6. **Next Meeting**

The next regularly scheduled meeting of the Development Services Advisory Committee is scheduled for February 8, 2017.

7. **Adjournment**

The Development Services Advisory Committee adjourned the meeting at 9:29 a.m.

Downtown Revitalization Sub-Committee Meeting

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

Wednesday, January 18, 2017
at 8:00 a.m.

Present: Judy Sentes, Councillor
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
Cheryl Watts, Member at Large

Staff: Ian Chapman, City Engineer
Anthony Haddad, Director of Development Services
Bregje Kozak, Manager of Facilities
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 January 18, 2017 as circulated.

CARRIED UNANIMOUSLY

3. **Adoption of Minutes**

It was MOVED and SECONDED

THAT the Downtown Revitalization Sub-Committee adopt the minutes of the October 26, 2016 meeting as circulated.

CARRIED UNANIMOUSLY

4. Business Arising from Prior Meetings

4.1 Downtown Washrooms Update

The Manager of Facilities presented a review of the washroom options that were presented at the October 26, 2016 meeting and reported a Request for Proposal (RFP) was advertised and has since closed. Staff received one compliant bid that met all the RFP criteria and was within budget. Pictures of the proposed washroom design, floor plan, features and finishes for a precast concrete washroom were reviewed. Discussion and questions followed on exterior finishes, graffiti vandalism clean up and whether the cost included installing a larger slab to accommodate additional porta potties for the busy summer months and the option of a multi-stall unit. Discussion followed on whether the washrooms should remain open during the winter months and if yes, heated or insulated. By consensus, the committee agreed the washrooms should be available in the winter months and not be heated to deter people from staying in them overnight. Further discussion followed on how to limit the time someone spends in the washroom. One suggestion included installing self-unlocking/automatic door openers. Staff to research a multi-stall option, automatic door openers and heat tracing the lines and the cost of having porta potties installed for winter use and report back to the committee.

The City Engineer updated the committee on the matter of the Gyro Park mobile washroom unit stating the mobile washroom has been displaced by the new link road and presented the committee with two potential alternate locations for the mobile washroom being either on the north side of the link road towards the band shell or on the north side of City Hall behind the parking lot noting this location would encroach onto the landscaped area. Staff are looking for direction and a recommendation from this committee for a location. Discussion and questions followed on both locations. It was suggested the mobile washroom be located on the north side of City Hall on the parking lot area instead of the landscaped area. It was noted approximately six parking spots would be lost.

**It was MOVED and SECONDED that the Downtown Revitalization Sub-Committee recommends:
THAT Council direct staff to locate the Gyro Park mobile washroom unit to the back portion of the parking lot located at the north side of City Hall.**

CARRIED UNANIMOUSLY

Judy Sentes left the meeting at 8:45 a.m.

4.2 100 & 200 Block Revitalization Update

The City Engineer reported that the 100 Block construction has been completed noting that contractors will be brought back in the spring if there any issues that arise with the warmer weather. Complaints have been received regarding the new traffic lights. The location of the pedestrian lights are not ideal for the visually impaired or mobility challenged and the fact someone crossing the road needs to push the button to activate the walk signal when the light turns green. The City Engineer stated that due to the location of the infrastructure, the pedestrian push buttons were placed in the best possible location. Discussion and questions followed.

4.3 Downtown Revitalization – Next Steps

The City Engineer reported that due to the infrastructure deficit the City is facing, further downtown revitalization has not been included in the strategic planning for the next five years. The City Engineer presented a proposed eight year plan for the remaining sections of downtown and suggested this committee review the document and discuss what the committee feels would be the best course of action. Discussion and questions followed and by consensus the Downtown Revitalization Sub-Committee agreed it was important to receive for information the conceptual level analysis of the whole downtown area for future reference.

Discussion ensued regarding the bollards in the 200 Block and if it was possible to reconfigure the lanes to be able to remove the bollards in the 200 Block. Suggestions included starting at Eckhardt Ave by reducing the three lanes down to two and creating a dedicated turning lane onto Wade Ave in the 300 Block. The Chair stated removal of the bollards requires more discussion and engagement with the business owners. The DPA representative stated she will bring this discussion up at their next meeting. Staff to bring back some options including pros and cons to a future meeting.

5. **New Business**

5.1 Committee Debrief – Discussion/Instruction

The Chair stated that with the term for this committee coming to an end, it is important for the current members to take some time to reflect on what has been accomplished to date and bring back any information or suggestions to the next meeting that would be useful for the members of the next committee term.

6. **Next Meeting**

The next regularly scheduled meeting of the Downtown Revitalization Sub-Committee is scheduled for February 22, 2017.

7. **Adjournment**

The Downtown Revitalization Sub-Committee adjourned the meeting at 9:29 a.m.

Development Services Advisory Committee Meeting

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

Wednesday, October 19, 2016
at 8:00 a.m.

Present: Frank Conci, Chair
Darshan Jassar, Development Community Representative
Drew Barnes, Development Community Representative
Jeff McGinley, Development Community Representative (via conference call)
Peggy Gilmore, Member at Large

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

1. Call to Order

The Development Services Advisory Committee was called to order by the Chair at 8:08 a.m.

2. Adoption of Agenda

It was MOVED and SECONDED

THAT the Development Services Advisory Committee adopt the agenda for the meeting held on October 19, 2016 as circulated.

CARRIED UNANIMOUSLY

3. Adoption of Minutes

It was MOVED and SECONDED

THAT the Development Services Advisory Committee adopt the minutes of September 14, 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, the options being considered on how to deal with Penticton's aging infrastructure and future community engagement opportunities. Discussion and questions followed.

5. Business Arising from Prior Meetings

5.1 Customer Service Level Review

The Building & Permitting Manager reported they have filled the temporary building inspector position to assist with front counter customer service. Staff are looking at instituting an express contractor flow system for regular contractors that are familiar and understand the requirements to help speed up the process. The homeowners and one-off contractors require more assistance. Currently the average is 31 days and staff would like to bring that down to 21 days this year and a down to 14 days in 2017. Discussion and questions followed. The Chair recommends this information could be used for marketing purposes.

5.2 Online Permit Services Update

The Building & Permitting Manager reported starting November 1 the City will be promoting the permit online tracking system through the 'Manage your Building Permits Online' campaign. This new system will save a lot of staff time and allow builders/applicants to track their permit progress. Informational material including a short video, graphic posters and handouts have also been developed.

6. New Business

6.1 Cross Connection – Fee Structure

The Building & Permitting Manager provided information on the BSI Online Tracking software program which is a third party administration management of the City's Cross Connection Program. Information included an overview of the research done by Staff with respect to incorporating a self-service online testing data base interface, history of the City's Cross Connection Program and the following options:

Option 1 – New administration cost to tester/owners

City would continue to absorb the operating costs of the cross connection program (salaries, forms etc.) with the water utilities account. Most communities using BSI have implemented this system.

Option 2 – New administration cost by annual renewal fee

The City would implement the conversion to BSI Online but absorb the tester fees. The City would then establish cost recovery to offset the administration fees by averaging annual renewal test. Some additional city administration resources would be required over Option 1.

Option 3 – Full administration and testing by City

This option would involve the City absorbing the BSI filing fees as well as hiring at minimum one additional staff member to complete on-site testing.

Discussion and questions followed.

It was MOVED and SECONDED that the Development Services Advisory Committee recommends that Council support Option 1 in the Staff Information Report dated October 19, 2016, to implement the new BSI Online Tracking administration cost to the tester/owners.

CARRIED UNANIMOUSLY

6.2 Building Department Statistics for September 2016

The Building & Permitting Manager provided for review, the statistics for September.

7. **Council Outcome**

Council Resolution 431/2016 from the minutes dated October 19, 2016 was received.

8. **Next Meeting**

The next regularly scheduled meeting of the Development Services Advisory Committee is November 9, 2016 at 8:00 a.m.

9. **Adjournment**

The Development Services Advisory Committee adjourned the meeting at 9:05 a.m.

Community Sustainability Committee Meeting

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

Wednesday, December 14, 2016
at 1:30 p.m.

- Present:** Chris Allen, Chair
Anne Hargrave, Member at Large
Phil Hawkes, Member at Large
Zoe Kirk, Member at Large
Ryan Foster, Member at Large
- Staff:** Ben Johnson, Special Projects Manager
Lorraine Williston, Corporate Committee Secretary
- Guest:** Jim Beattie, First Things First Okanagan
Brent Voss, First Things First Okanagan
Kristi Estergaard, Interior Health Dietician

1. **Call to Order**

The Community Sustainability Committee was called to order by the Chair at 1:32 p.m.

2. **Adoption of Agenda**

It was MOVED and SECONDED

THAT the Community Sustainability Committee adopt the agenda for the meeting held on December 14, 2016 as circulated

CARRIED UNANIMOUSLY

3. **Adoption of Minutes**

It was MOVED and SECONDED

THAT the Community Sustainability Committee adopt the minutes of the October 12, 2016 meeting as circulated.

CARRIED UNANIMOUSLY

4. Delegation

4.1 First Things First Okanagan – James Beattie

James Beattie provided a review of the solar symposium they held last year. More than 500 people came out. The symposium focused on climate change, renewable energy and practical ways for people to get involved. On April 21-22, 2017, First Things First Okanagan will be hosting another symposium and the set up will be similar to last year. The theme for this event is 'Energy - Our Present, Our Future'. There will be presentations, guest speakers/seminars and booths. Pre-registration will be required for the seminars. New to this event is a collaboration with Pen-Hi and the Shatford Centre to engage Grade 11 and 12 students by bringing in speakers into the classroom to talk about the future of renewable energy, agriculture and job opportunities during the week of April 17th. James Beattie asked the committee and staff for support again with this event through participation and/or financial sponsorship. Discussion and questions followed. Anne Hargrave suggested they contact someone from the provincial side and has a contact for the Climate Action administration that she will provide to them. Ryan Foster stated a representative from Food Foresters can attend. First Things First Okanagan will be inviting the City to set up another info booth similar to last year. It was also suggested car dealerships be contacted and invited to display their electric vehicles.

Ben Johnson arrived at 2:10 p.m.

It was MOVED and SECONDED that the Community Sustainability Committee recommends:

THAT Council direct staff to arrange for a booth at the Energy - Our Present, Our Future Symposium on April 21-22 and to become a major sponsor in the amount of \$1,000 with those funds paid from the Climate Action Revenue Incentive Program (CARIP) Fund.

CARRIED UNANIMOUSLY

5. Business Arising from Prior Meetings

6. New Business

6.1 Food Security Program – Kristi Estergaard

Kristi Estergaard asked staff if the committee could be involved earlier during the Official Community Plan review process to help determine how comprehensive that section should be and noted the City of Abbotsford and Campbell River as great examples. The Special Projects Manager stated the intent is to work with the group to give direct guidance on how the policy would look like and stated it will be an extensive process.

Ben Johnson left at 2:21 p.m.

Kristi Estergaard reported there is funding of up to \$4,000 available for community based projects for fruit and nut trees. The deadline to apply is February 24, 2017. Discussion followed on possible organizations that could apply for it. It was suggested the information be forwarded to the Okanagan Similkameen Healthy Living Coalition, Penticton Indian Band, En'owkin Centre, Shatford Centre, Ryan Foster of Food Foresters and Doug King from the Kaleden Community Kitchen.

7. **Council Outcome**

7.1 Council Resolution 480/2016 from the minutes dated October 12, 2016. (Receive)

8. **Next Meeting**

The next regularly scheduled meeting of the Community Sustainability Committee to be determined.

9. **Adjournment**

The Community Sustainability Committee adjourned the meeting at 2:33 p.m.

McNAUGHTON SUPPORT SERVICES LTD.

#205 – 575 Main Street
Penticton, B.C.
V2A 5C6

Phone: (250) 490-0288
Fax: (250) 490-8108
www.mcnaughtonservices.com

January 17, 2017

JAN 17 2017

Mayor Andrew Jakubeit
And City Council Members
City of Penticton
171 Main Street
Penticton, B.C. V2A 5A9

Dear Mayor and City Council Members:

RE: OKANAGAN CANNIBIS SOLUTIONS, 575 MAIN ST. PENTICTON

McNaughton Support Services Ltd. has operated a business in Penticton since 1992 and has been located in our current location at 575 Main Street for 16 years.

We contract services to Community Living BC and the Ministry of Children and Family Development operating adult programs and AFTER SCHOOL YOUTH PROGRAMS for individuals with developmental disabilities.

The neighbourhood around our location has deteriorated over the past few years; we have found needles in our parking lot, dealt with prostitutes soliciting business, human feces in the lane and, most recently individuals congregating and sleeping in the alcove at the rear entrance, injecting drugs and blocking our emergency exit from the building. This back entrance is also usually covered in urine. Our programs run into the evening and we have to deal with poor lighting to get to our parked vehicles.

We understand the social complexities around these issues and our landlord has been cooperative in trying to deal with them. We have safety measures in place, particularly with the Youth Program where we load and unload our vans in the breezeway at the side of the building, but the staff are still required to park the vans and have expressed their concerns about the safety issues.

And now in the breezeway is the entrance to a marijuana dispensary. We were relieved when we heard that City Council had not issued a license for this dispensary but see that it is now open in spite of this. This has serious implications for our business, especially with the Youth Program if families make the decision to not allow the Youth to attend.

CONT'D

January 17, 2017

Mayor Andrew Jakubeit
And City Council Members

PAGE 2

We have made every attempt to follow the rules in operating our agency and cannot understand why a business, especially of this nature, is being allowed to open without following these same rules.

Yours truly,

A handwritten signature in blue ink, appearing to read "W. McNaughton", with a long horizontal flourish extending to the right.

Warren McNaughton
Director



JAN 25 2017

January 20, 2017

Andrew Jakubeit
Mayor, City of Penticton
171 Main Street
Penticton, BC V2A 5A9

Dear Mr. Jakubeit,

We are very pleased to share with you the positive results of the BC Farmers' Market Nutrition Coupon Program (FMNCP) in Penticton last year.

We partnered with the **Penticton Farmers Market, Okanagan Boys and Girls Club (Penticton)** and the **The Salvation Army Penticton Community Food Bank**, who provided lower-income pregnant women, families and seniors with coupons to purchase fresh fruits, vegetables, cheese, eggs, nuts, fish, meat and herbs at their local farmers' market. Over the year, a total of \$16,232 was invested in Penticton through this Program.

This amazing program connected with 54 communities throughout the province, making fresh local foods more accessible to over 4,200 households and 9,400 British Columbians.

Participants in Penticton ate more local foods, learned about healthy eating, and felt connected to their community. At the same time, the local food system was strengthened with farmers in your community benefitting from additional revenue to help their farms flourish.

We were touched when one of the participants wrote to tell us, "It's made an enormous difference to my diet, my health, gaining self esteem and overcoming stigmatization."

Your local market and partners would appreciate the opportunity to meet with you to share the stories and highlight the Program's impact in Penticton.

If you are pleased with this Program, we ask that you write Honourable Terry Lake, Minister of Health requesting him to continue funding the FMNCP so that we can continue building healthier BC communities.

We look forward to working with your community in 2017!

In appreciation,

Heather O'Hara
Executive Director
BC Association of Farmers' Markets

Wylie Bystedt
President, Board of Directors
BC Association of Farmers' Markets

cc: Penticton Farmers Market
Okanagan Boys and Girls Club (Penticton)
The Salvation Army Penticton Community Food Bank



OKANAGAN NATION ALLIANCE

#101 – 3535 Old Okanagan Hwy, Westbank, BC V4T 3L7

Phone: (250) 707-0095 Fax (250) 707-0166 www.sylx.org

February 2nd, 2017

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

Attn: Major and Council

Re: Asking support for the submission of a grant proposal to the OBWB to ensure water quality during restoration of salmon spawning habitat within the Penticton Channel

Dear Major and Council,

The *Okanagan Nation Alliance* (ONA) is working in collaboration with local, provincial and federal agencies to restore salmon fish habitat within the Penticton Channel, as part of the *Okanagan River Restoration Initiative* (ORRI). To date, three spawning beds have been created and the ORRI Steering Committee is currently preparing the engineering designs for the forth one (Refer to attached description and map).

Spawning Bed No. 4 will be designed, similar to previous beds, to provide high quality spawning habitat for Sockeye Salmon, Stealhead, Kokanee and Rainbow Trout. Construction of Spawning Bed No. 4 will most likely be phased over a few years and could commence as soon as summer 2017, pending project approvals and funding.

The ONA is currently looking for funding for the construction works and is planning to submit a funding proposal to the *Water Conservation and Quality Improvement* (WCQI) grant program sponsored by the *Okanagan Basin Water Board* (OBWB). The ONA will request approximately \$10,000 to the OBWB for water quality insurance during the construction works. These funds would allow, among others, a qualified environmental monitor to be onsite at all times during construction ensuring that water quality in the Penticton Channel remains within prescribed guidelines.

The ONA is asking the City of Penticton Council, as the local government, for a resolution of support for this funding application. Both the City of Penticton Council and the OBWB have supported the creation of the previous spawning beds. The ONA will provide a project update to the City of Penticton Council and present the designs before construction.

Sincerely,

Camille Rivard-Sirois, Project Coordinator
OKANAGAN NATION ALLIANCE

Attached: ORRI - Spawning Beds in the Penticton



ORRI – SPAWNING BEDS IN THE PENTICTON CHANNEL

Project background:

- According to Traditional Ecological Knowledge, “the river channel (in Penticton), used to be rich in fish; Steelhead, Coho, Sockeye and King (Chinook) Salmon” (Ernst, 2000).
- Salmon spawning habitat is currently extremely limited in the Penticton Channel, mainly due to river channelization which created very flat channel grade, low water velocities, inadequate substrate material, Froude number out of the preferred range and low egg-fry survival.
- As permanent fish passage was at Skaha Lake Control Dam in 2014, gravel augmentation in the Penticton Channel has been identified as one of the highest river habitat priority.



Renaturalization goals and benefits:

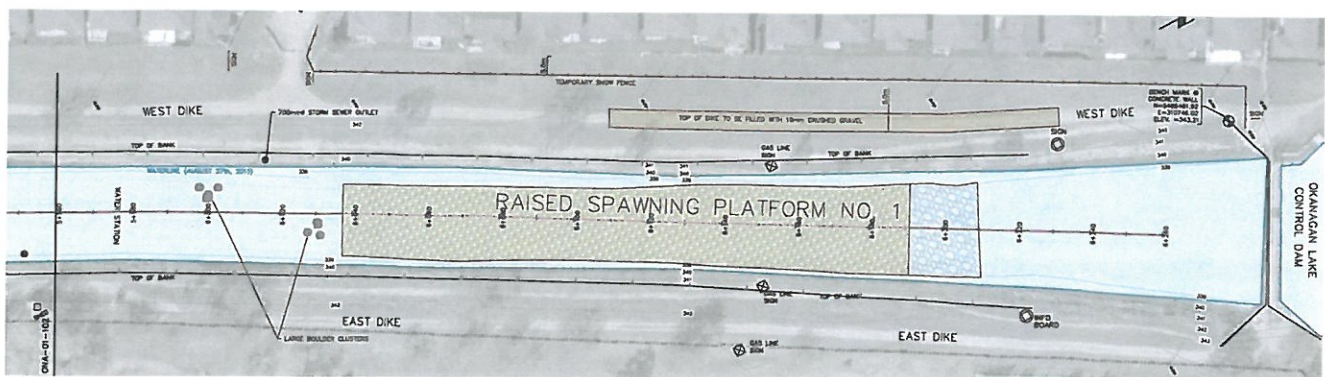
- Creating spawning areas (raised spawning beds) with optimized gravel size, bed slope and hydraulics for Sockeye, Kokanee and Chinook.
- Enhancing rearing habitat for juvenile salmonids and Burbot with boulder clusters.

Design elements:

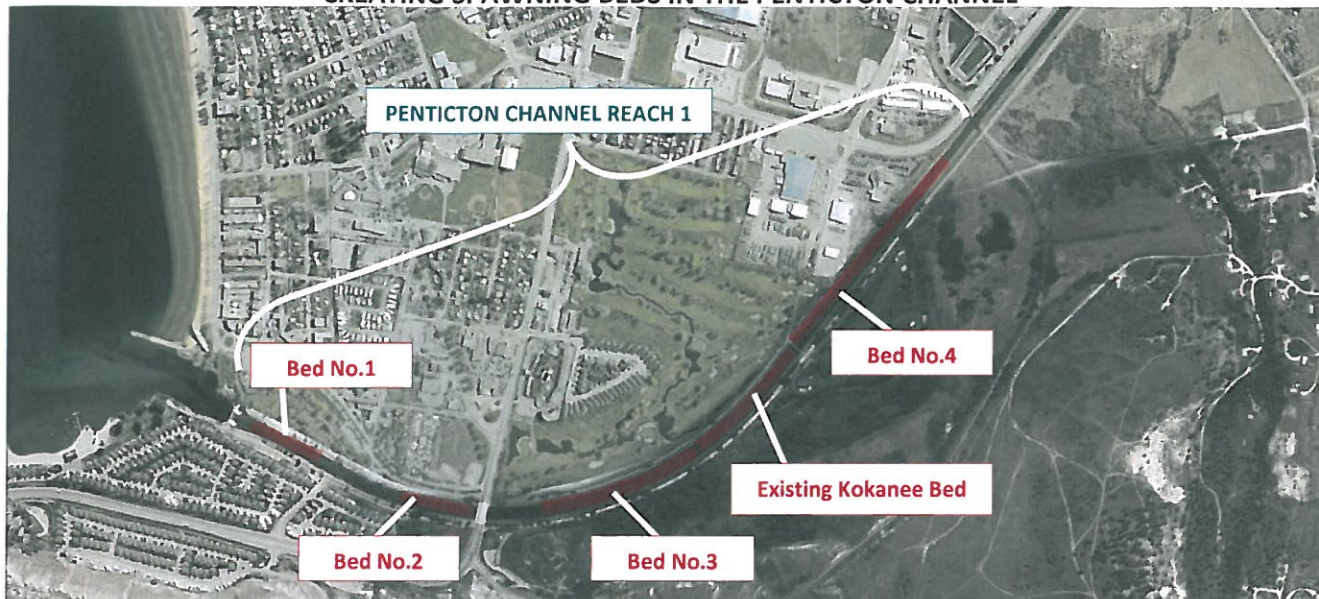
- The raised beds are immersed at all flows and are created placing spawning gravel directly over the existing river bed substrate.
 - Bed No.1: 173m long X 20m wide raised gravel bed designed for Sockeye and Chinook.
 - Bed No.2: 163m long X 20m wide raised gravel bed designed for Sockeye.
 - Bed No.3: 270m long X 20m wide raised gravel bed designed for Sockeye and Kokanee.
 - Bed No.4 and Kokanee Bed: currently under design.
- The clusters are configured to optimize the hydraulics behind the boulders for rearing and feeding (development of invertebrates).

Timeline:

- **On-going:** Guidance from the ORRI Steering Committee and outreach activities.
- **2012-2013:** Conceptual designs for 4 beds/gravel bars in the upper reach of the Penticton Channel.
- **2013-2014:** Funding research, designs, permits and construction works for Beds No. 1 & No.2.
- **2015:** Funding research, designs, permits and construction works for Bed No.3.
- **2016-2018:** Funding research, designs, permits and planned construction for Bed No.4 & Kokanee Bed.
- **2014-2018:** Effectiveness monitoring and adaptive management.



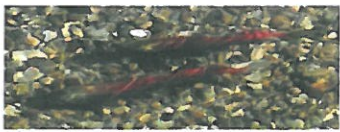
CREATING SPAWNING BEDS IN THE PENTICTON CHANNEL



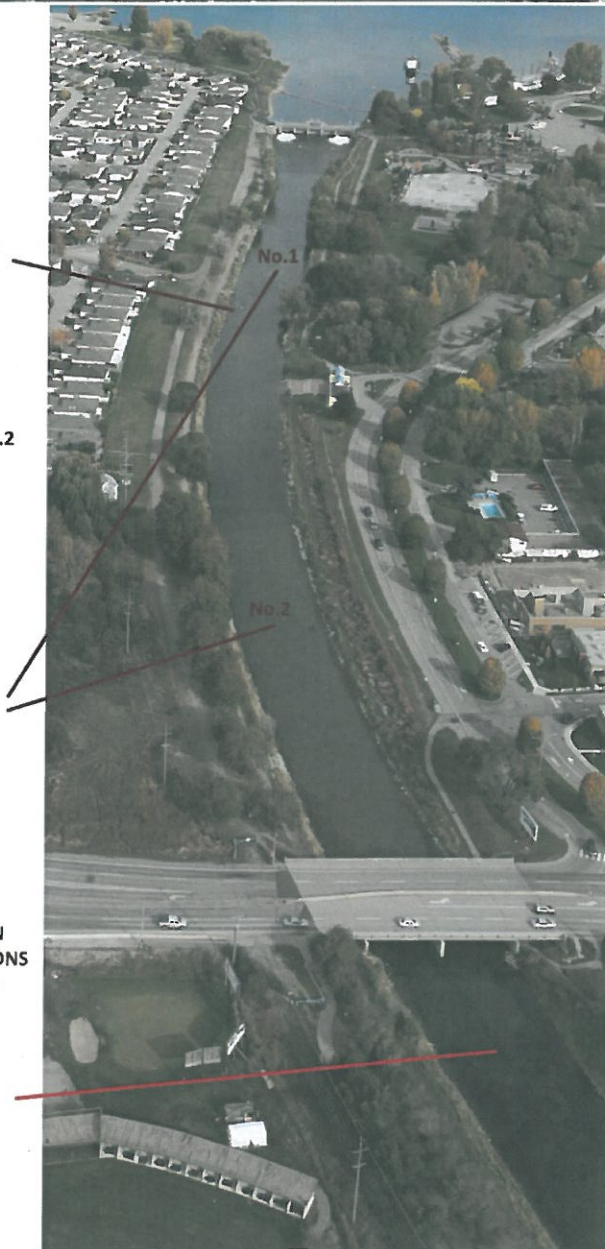
**AFTER: BOULDER CLUSTERS
ENHANCED REARING CONDITIONS
FOR BURBOT & JUVENILE TROUT**



**AFTER: RESTORED PLATFORMS No.1 & No.2
OPTIMIZED SPAWNING CONDITIONS
FOR SALMON & TROUT**



**BEFORE: DUE TO RIVER CHANNELIZATION
EXISTING UNSUITABLE SPAWNING CONDITIONS
(hydraulics, substrate, macrophytes, etc.)**



Council Report

penticton.ca

Date: February 7, 2017
To: Peter Weeber, Chief Administrative Officer
From: Ken Kunka, Building and Permitting Manager
Subject: **Appeal of Denial Non-Profit Registration.
Association for Medical Marijuana Awareness**

File No: CIVIC

Staff Recommendation

THAT Council receive this report for the purpose of considering whether to uphold the decision of the City's Building and Permitting Manager to deny the non-profit registration application for the Association for Medical Marijuana Awareness (Society #S0066324), as set out in the December 23, 2016 letter;

AND THAT after providing Mr. Jukka Laurio, owner and operator, or his representative with an opportunity to be heard regarding the denial of his non-profit registration application:

Council denies the appeal for a non-profit registration to the Association for Medical Marijuana Awareness.

OR

Council grants a non-profit registration to the Association for Medical Marijuana Awareness.

Background

On December 19, 2016 Mr. Laurio made application on behalf of the Association for Medical Marijuana Awareness (Society #S0066324) for a non-profit registration to be located at 256 Westminster Ave W. The description of the organization was noted for the purpose to collect, organize and disseminate information regarding medical cannabis products (Application – Attachment A).

Previously, on December 06, 2016 Council denied the Temporary Use Permit (PL2016-7748) application for Herbal Greens, operated by Mr. Laurio, which is located in the same address as the proposed non-profit. Staff can confirm that at the time of the creation of the report, Mr. Laurio continues to operate the cannabis dispensary and staff has engaged in escalating enforcement.

Initially, staff reviewed the non-profit application and determined that non-profit could not be supported for conducting operations to dispense cannabis products and a letter was issued to inform Mr. Laurio of Council's decision to deny the Temporary Use Permit and that continued operation was in violation of City regulations. The letter also outlined the denial of the non-profit registration and appeal process as outlined in City of Penticton Non-Profit Registration Bylaw No. 2011-47 (Denial Letter – Attachment B). After further discussion with Mr. Laurio staff learned and verified that the Society was to operate separate to the Herbal

Green dispensary in the rear of the building (Photos – Attachment C). In order to get to the non-profit office, patrons would be required to gain access through the illegal dispensary.

City Regulations - Non Profit Registration Bylaw 2011-47

3.0 Authority

3.2 The Primary Premises from which an applicant for a Non-Profit Registration proposes to carry on or conduct any Non-Profit Organization in respect of which a Non-Profit Registration is required to be held pursuant to this Bylaw, shall comply with all relevant Bylaws of the City before a Non-Profit Registration is granted; and the applicant shall upon request produce such certificates or letters of approval as may be required by Federal, Provincial or City authorities with respect to the Non-Profit Organization.

12.0 APPEAL OF DECISION OF MANAGER

12.1 Any Person, who wishes to appeal a decision of the Manager, as it pertains to the authority exercised by the Manager under this Bylaw, may appeal to have Council reconsider the decision by giving written notice of appeal to the City Clerk. Such written notice of appeal shall state the grounds upon which the appeal is made. Upon receipt of a written notice of appeal the City Clerk shall set a time and a place for a hearing of the appeal pursuant to the Delegations section of the Procedure Bylaw. After hearing the appeal, Council may confirm, vary or set aside such decisions made by the Manager, as it may deem appropriate.

Financial implication

If Council upholds denial of the non-profit and the Society conducts operations, staff will engage escalating enforcement requiring continued and ongoing use of City resources and legal expenses for injunctive action.

Analysis

Staffs decision to not grant a non-profit registration is as follows:

1. Section 3.2 of Bylaw 2011-47 requires that the "Primary Premises" from which the applicant for non-profit registration status proposes to carry on its activities must comply with City Bylaws;
2. The Primary Premises mentioned in the application are currently being used as a marihuana dispensary which is contrary to federal law, and is also contrary to the City's Zoning Bylaw;
3. The operator of the marihuana dispensary at the Primary Premises applied for a TUP to allow the use on a temporary basis, which Council refused;
4. Mr. Jukka Laurio is one of the applicants named in the application form, and the proposed activities of the applicant may be related to the operation of the dispensary;
5. The Primary Premises contain no areas from which the applicant could operate separately from the activities of the dispensary;
6. Issuing the registration would give the appearance that the City has approved all activities currently taking place on these premises;
7. Until the use of the Primary Premises complies with City Bylaws, business licences for other applications for uses within the Premises should be refused.

The Non-Profit Registration Bylaw provides Council with the authority to uphold refusal of the non-profit registration. Council can take into account this report and all other information presented at the appeal hearing, and may consider whether there are reasonable grounds for not supporting the application of the Association for Medical Marijuana Awareness (Society #S0066324) non-profit registration.

In conclusion, and subject to Council’s consideration of all information presented at the hearing, staff requests that Council consider denying the appeal for the non-profit registration for the Association for Medical Marijuana Awareness (Society #S0066324).

Alternate recommendations

- 1. THAT Council supports the Association for Medical Marijuana Awareness (Society #S0066324) application for non-profit registration;

AND THAT Council direct staff to bring back, for Council review, the request for a Temporary Use Permit for the proposed use.

- 2. THAT Council refer back to staff for further review as specified by Council.

Attachments

Attachment A – Non-Profit Organization Registration Application


Attachment B – Letter of Denial – December 2016

Attachment C – Photos of proposed office location

Respectfully submitted,

Ken Kunka ASCT, RBO
Building and Permitting Manager

Approvals

<p>Director</p> 	<p>Chief Administrative Officer</p> <p>PW</p>
---	---

ATTACHMENT A
NON-PROFIT APPLICATION

Development Services
171 Main Street
Penticton BC V2A 5A9
Phone: 250-490-2488
Fax: 250-490-2502

12:21 pm
RECEIVED
DEC 19 2016



Organization #: _____
(If applicable)
Society #: 50066324

NON-PROFIT ORGANIZATION/EXEMPT LICENCE REGISTRATION

The undersigned hereby is registering a Non-Profit Organization or an Exempt Licence within the City of Penticton, according to the following particulars and in accordance with the description as described below only:

NAME OF ORGANIZATION: Association for Medical Marijuana Awareness

NAME OF OWNER(S): (1) Rebecca Thompson, Jukka Laurio, Carmen Gamache,
(2) Jodi Constantineau, Carla Bell

LOCATION OF ORGANIZATION: 256 Westminster Ave W. POSTAL CODE: V2A 1N9

MAILING ADDRESS (if different than location): PO Box 23047

CITY: Penticton PROVINCE: BC POSTAL CODE: V2A 8L7

DESCRIPTION OF ORGANIZATION: collect, organize and disseminate information regarding medicinal cannabis products

PHONE #: 250-462-3772

EMERGENCY CONTACT NAME: Jukka Laurio PHONE #: 250-462-3772
(IN CASE OF A FIRE)

- 1) Will you be doing any renovations to the building? No
If "Yes" a building permit may be required. Please call (250) 490-2501 for more information.
- 2) Will you be putting up or changing any signage? Yes
If "Yes" a sign permit may be required. Please call (250) 490-2501 for more information.

Please note that tax exemption forms (when applicable) will be forwarded by the Finance Department.
Please contact the Finance Department directly at (250) 490-2484 if you have questions regarding tax exemptions.

SIGNATURE OF OWNER/AGENT: _____ DATE: 12/16/16

*Combination with illegal activity - Council support / Not Support
↳ TUP ↳ ENT*

ATTACHMENT B
LETTER OF NON-SUPPORT



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

December 23, 2016

HAND DELIVERED

Jukka Laurio
Herbal Green Apothecary
256 Westminster Ave W
Penticton BC V2A 1J9

Re: Marihuana Dispensary Operation – Herbal Greens – 256 Westminster Ave W

Please be advised that on December 6th, 2016 at Regular Council meeting, **it was MOVED and SECONDED**

548/2016 THAT Council deny "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 Westminister Avenue W.

CARRIED UNANIMOUSLY

As your business remains in operation without a Temporary Use Permit or Business license, you currently in violation of City regulations and if you continue to remain in operation as of December 29th, 2016 escalating enforcement action will be taken including fines and injunctive action. The primary purpose of this prosecution is not to financially penalize your business, but to obtain bylaw compliance.

Please be advised that we have reviewed your non-profit application and after obtaining clarification from legal counsel it has been determined that your current "for-profit" retail operation would not qualify as a "non-profit" organization defined within Non-Profit Registration Bylaw No.2011-47. As outlined within the Bylaw you have the right to appeal this decision under Section 12.1 of the Bylaw.

12.0 APPEAL OF DECISION OF MANAGER

12.1 Any Person, who wishes to appeal a decision of the Manager, as it pertains to the authority exercised by the Manager under this Bylaw, may appeal to have Council reconsider the decision by giving written notice of appeal to the City Clerk. Such written notice of appeal shall state the grounds upon which the appeal is made. Upon receipt of a written notice of appeal the City Clerk shall set a time and a place for a hearing of the appeal pursuant to the Delegations section of the Procedure Bylaw. After hearing the appeal, Council may confirm, vary or set aside such decisions made by the Manager, as it may deem appropriate.



Please contact the Corporate Administration office at (250) 490-2405 or dana.schmidt@penticton.ca if you wish to appeal this decision.

We thank you in advance for your cooperation.

Yours truly,



Ken Kunka ASCT, RBO
Building and Permitting Manager
City of Penticton

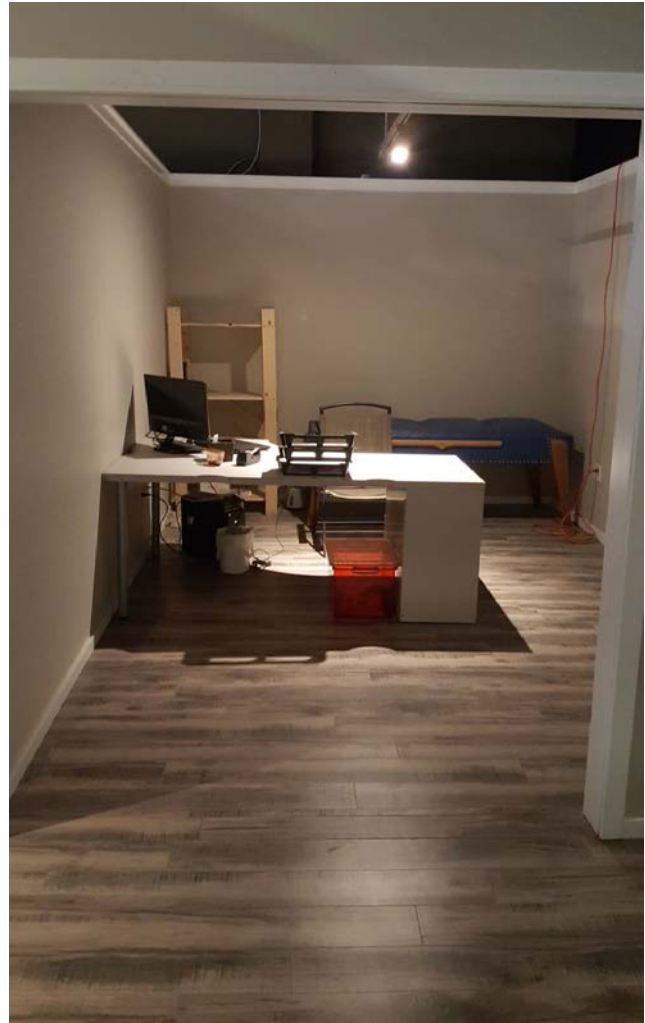
Cc: Tina Siebert – Bylaw Enforcement Supervisor
Dana Schmidt – Corporate Officer
Property Owner – AST & AST Enterprises Inc./AI Astorino

For office Use: ADDRESS\Westminster Ave W\256\BYLAW\2016-12-20-256 Westminster Ave W.docx

ATTACHMENT C
OFFICE PHOTOS



Area from Dispensary Area looking to Non-profit office



Proposed Non-Profit Location

Council Report

penticton.ca

Date: February 7, 2017
To: Peter Weeber, CAO
From: Ken Kunka, Building and Permitting Manager

File No: 4300-01

Subject: Short Term Rental Program

Staff Recommendation

THAT Council support the proposed amendments to the Zoning Bylaw, Business Licence, Fees and Charges, and Enforcement Bylaws in regard to the regulations and licensing of vacation rentals in Penticton as outlined in the Short Term Rental Program report dated February 7, 2017;

AND THAT Council direct staff to bring back bylaw amendments in support of the proposed regulatory changes for the March 7, 2017 regular meeting of Council;

AND THAT Council direct staff to begin efforts to bring greater compliance to the vacation rental industry.

Strategic priority objective

Effective management of vacation rental businesses ensures that Penticton is a livable, thriving, safe and sustainable city.

Vacation rentals contribute to the local economy in a variety of ways, allowing local residents and homeowners the ability to increase their yearly income and to provide accommodation to the visiting public.

Background

On September 20, 2010 Council adopted regulations related to short term residential accommodation (Resolution # 1123/2010). Even though the practice of renting houses and suites historically existed in Penticton, prior to the adoption of those regulations, vacation rentals were not permitted by the City's zoning bylaw.

The initial regulations have remained largely unchanged since 2010 and include the following:

- Limitations on the number of guests permitted in a vacation rental unit to 2 persons per bedroom with a maximum of 5 guests per dwelling (regardless of the number of bedrooms);
- Ownership restrictions pertaining to on-site residency with subletting not permitted;
- Prohibitions on exterior signage of a vacation rental;
- Operational regulations pertaining to limiting neighbourhood nuisances; and,
- Ensuring basic occupant health and safety conditions are met.

In addition to the regular business license fee an amendment was made to the Fees and Charges Bylaw in 2010 that required anyone operating a vacation rental to pay a yearly \$200 tourism fee to contribute to marketing Penticton. This fee was established to help offset the 2% hotel tax that traditional vacation accommodation providers are required to charge.

Since the regulations were introduced in 2010, the uptake by the vacation rental industry has been relatively weak. City records currently show 72 business licenses for vacation rentals. Getting an absolute number of vacation rentals in Penticton is a difficult task, but staff is confident that the 72 licensed businesses represent less than half of those currently operating in the City.

In August of this year staff research indicated that 333 rentals were listed on the website "Vacation Rental by Owner" (VRBO) for Penticton. While a number of the Penticton listings are actually in OK Falls, Naramata and in the RDOS, staff estimate that approximately 2/3 of the listings are within the municipal boundary.

In the review of some of the listings, staff note that as many as 150 of the businesses would not conform to the Zoning Bylaw and Business license requirements currently in place. Mostly, this had to do with advertising accommodation for more than 5 people and also renters subletting their units, which is also not permitted.

Vacation rental profile in Penticton

Staff have been in discussions with representatives of Airbnb, another popular home sharing website, who have provided some statistics for the Penticton area on both the host community and the guest community. The following information is from Airbnb and is most likely a good representation of the overall host and guest profile in Penticton:

Host statistics

- 222 listings in September 2016 (several of these are outside of the municipal boundary, but again 2/3 are assumed to be within the municipal boundary)
- 76% of the listings are for entire dwelling, with 23% renting out just a room in their dwelling
- Average host age: 46
- 73% female, 27% male
- 56% rent under 30 nights per year
- 18% rent between 31 – 61 nights per year
- 14% rent between 61-91 nights per year
- 1% rent more than 180 nights per year
- Typical nights hosted per year: 26
- Typical earnings per year by host: \$3,000

Guest statistics

- 4000 guests in 2015, which represented a 152% increase over 2014
- Average night per stay in Penticton is 3.2 nights
- Average group size staying in Penticton is 2.8 people
- Percentage of trips that involve fewer than 4 guests: 91%
- Average age of booking guest in Penticton: 39 years old
- Age breakdown of guests: under 30 years old 10%; 30-50 41%; over 50 49%

With these numbers in mind, staff are cognizant to the fact that there are those persons in the host community who are quite passive hosts, sharing out their primary residence when they are travelling

themselves. But there are also other hosts who are running full scale vacation rental businesses and who keep the dwelling units vacant and only rent out to the vacationing public.

Airbnb representatives have expressed their concerns with adding too many layers making for the occasional hosting (under 30 days) less likely to open their doors because of regulatory requirements and expenses. They have suggested a licensing campaign focused on over 30 days host operators, non-principal residences or for higher occupants over 5 persons. Staff expressed concerns with the 30 day maximum resulting in a host renting over multiple weeks or weekends throughout the vacation season, which could continue to negatively affect neighbouring residences and incur staff resources long term. Airbnb has forwarded an overview dated January 30, 2017 for Council's consideration (Attachment A).

Staff suggest that policy approaches to these two main host groups (over and under 30 days) should be different and have suggested some different approaches further on in the report.

Issues with increase in vacation rental activity

Beyond issues of gaining compliance with the City's vacation rental regulations and getting proper licensing in place, vacation rentals have raised some concerns in the community. The following are some concerns that have been identified:

- The loss of existing long term rental housing stock to vacation rentals,
- Increase in non-resident ownership turning residential properties into commercial operations,
- Nuisance complaints due to parking and noise especially after normal business hours,
- Substantial failures to properly license with possible building permit omissions and the subsequent loss of long term tax revenue for property improvements,
- Inequitable taxation and contributions when compared to the broader hotel industry (i.e. MRDT Tax equivalent)
- Potential lack of compliance with health and safety regulations (egress, railings, fire suppression etc)
- Contravention of zoning limits (5 rooms)

Mitigating these concerns through regulatory changes and efforts to get better industry wide compliance is the goal of this exercise. Vacation rentals are seen as an important part of the accommodation offering in Penticton, but this cannot be at the expense of existing Penticton residents.

Compliance

The City of Penticton has taken an accommodating approach to vacation rentals. Rentals are allowed in most residential zones in the city. To date, City Bylaw Enforcement staff has focused primarily on voluntary compliance by informing the citizens of the obligations in lieu of pro-active investigation and enforcement. So far this has not been effective in getting compliance.

During the Spring of 2016, Economic Development and Bylaw Services began an awareness campaign to try to get as many of the unlicensed vacation rentals into the City's system and ensure that they knew the operating rules and were inspected for minimum health and safety levels. At the same time some active enforcement against a select number of businesses took place. These activities contributed to the 72 current licenses. With further active education, compliance levels will increase.

Bylaw Services have responded to 40 complaints over 2016, representing approximately 75-100 hours of work resulting in 11 closed files and 29 still open files in various stages of compliance.

Complaints are challenging to remedy quickly as the renters change frequently, the owners are usually offsite and the time of day for complaints is typically outside of work hours. While we know that units are being 'advertised' against the requirements, to take enforcement, an investigation needs to occur. One way to remedy this could be including a fine for advertising a unit without a license or in violation of a regulation.

Some services such as Airbnb have tools for neighbor complaints or for evaluating and identifying problem renters. While the service contracts require compliance with local bylaws, the services do not take proactive action to assist municipalities to ensure license requirements are met.

An exception to this would be recent work Airbnb has taken with many jurisdictions across North America to encourage potential operators to ensure they are conforming to local licensing regulations as well as understanding their role of being a responsible host. Staff are working with Airbnb for similar systems for their Penticton hosts, but this is only one site of many.

Changing Trends and Challenges

Penticton's commercial hotels and motels provide our visitors with professional full service options with housekeeping, onsite restaurant options and 24 hour receptions. As well, our local bed and breakfast establishments provide options for more home-like accommodation including a morning meal.

However, in the last 24 months, the sharing economy for vacation rentals has burgeoned. Software and technology has made it feasible for more individual owners to market their property to a wide audience as short term vacation rentals. Some visitors to the city are seeking options for short term accommodation that fit their needs. It is clear that a segment of the visitors are looking for more self-service options, different lodging and, based on web site availability information, are renting houses on a daily, weekly or multi-week basis in residential areas especially in our peak season.

Owners offering vacation rentals are receiving significant income from their rental units. Postings on one site show home rentals as high as \$999 per night with some Penticton locations advertising their rental to as many as 14 occupants. The least expensive Penticton option was \$45 per night for a one bedroom basement suite offered to up to 4 people.

Short term rentals result in a number of consequences. There is a demand and clearly the availability of vacation rentals provides more options for tourists. However, the short term rentals remove inventory from long term rentals and exacerbate the existing housing shortage for the local business workforce.

Benchmarking with other communities

Currently, most communities within the Okanagan valley do not permit short term (under 30 days) other than Bed and Breakfasts within their Zoning Bylaw. Enforcement is on a complaint basis with increasing complaint case files noted in West Kelowna and Kelowna

Kelowna – In the summer of 2016, Kelowna had conducted a review and prepared a recommendation to Council to look to amendment regulations to deal with the increase in noise and parking complaints in residential neighbourhoods. Various options were provided for Councils consideration to:

- Restrict the number of business licences issued for various short term rentals,
- Adding general Zoning requirements to replace B&B uses with Short Term uses requiring:
 - Additional parking
 - Restrictions to secondary home based uses
 - Restrict ability to rent to property owners only, and
 - Restrict short term rentals to primary dwellings in agricultural zones.

- Hotel tax (MRDT) collection required by operator or marketing agency and remittance to Province of BC for distribution to Local Government.

Staff are continuing to monitor the situation and will bring forward further recommendations to Council later this spring.

Vernon and West Kelowna currently do not permit short term rentals but do allow for B&B operations. There are currently no planned changes and they act on a complaint basis for enforcement.

Kamloops currently only licences Bed & Breakfast operations with no more than 2 overnight guests. Complaints are handled on a case by case basis. There are plans to review vacation rentals in 2017.

Vancouver – has specific regulations and education in place regarding short-term rentals and taken proactive enforcement action. This is reflective in the recent BC Supreme Court challenge (Oct/2016) to shut down a nightly rental, which was in violation of city zoning and development bylaws

Financial implication

Vacation rental licenses contribute over \$12,000 towards the 2016 YTD revenues and \$14,000 in Tourism fees based on 72 licensed vacation rentals. It is estimated that over 150 vacation rentals are not licensed in the City of Penticton. This represents over \$25,000 in additional license revenues as well as \$30,000 in visitor attraction funding.

Licensed vacation rentals are contributing to visitor marketing and activities by paying a fee per unit as well as the business license fee. This tourism fee is \$200 per year based on the current rates generating an aggregate amount of approximately \$10,000 per annum. By contrast, the hotels and motels are collecting PST as well as collecting the 2% MRDT based on the value of the room rented. In total, the MRDT for Penticton collects more than \$400,000 which goes to the marketing of Penticton.

These vacation rental owners pay residential property taxes which are approximately half the rate that commercial establishments are paying. The 2016 rate for residential properties is \$7.33 versus the business property tax \$14.2436 per \$1,000 of assessed value. Unlike hotels or commercial properties, unlicensed residential properties are not routinely inspected for fire code and other safety standards. Many jurisdictions both internationally and within North America are requiring payment of motel occupancy taxes. Staff are unaware of any BC jurisdictions currently requiring collection of flat rate tourism fees.

It takes an estimated 3-4 hours to investigate a vacation rental complaint. This represents approximately \$90-120 per instance. As stated above, the City has investigated 40 complaints in the past year at a cost to the City an estimated \$4,000.

In order to affectively deal with licensing and monitoring short term rentals, staff have requested within the 2017 Operating budget to restructure the existing Bylaw Enforcement 2 position into a Property Use/Licence Inspector to focus on seeking higher compliancy for all business operations. Council has recently made changes to the way that the \$200 tourism fee is managed, with 50% of that money staying with the City for program administration.

Staff are proposing changes to the licence and tourism fee structure and penalties that are set to appropriately reflect the City's costs of implementing and monitoring the program.

Proposal

Based on the above staff are recommending the following regulatory and policy changes to better manage vacation rentals in Penticton:

1. Changes to zoning bylaw:

- a. Amend the restriction on 2 people per bedroom to a maximum of 5 persons, to: 2 persons per bedroom.
- b. Allow long term renters to sublet rooms or single family dwelling units.
- c. Allow home sharing without a license (for up to 14 days per year), through an amendment to the definition of 'vacation rental'.

2. Changes to Business Licence Bylaw:

- a. To reclassify short term rental licensing classifications based on possible impact to adjacent neighbours and the community at large:

Home Stay Rental – meaning a short term rental of less than 14 days within a year or where there is no financial transaction such as a home exchange. No licensing registration would be required; however the maximum number of rental guests would be restricted to 5 overnight occupants.

Minor Vacation Rental – meaning a vacation rental operation of less than 30 rental days within a year and the owner is a principal resident during guest use. Maximum rental accommodation would be 2 persons per bedroom with a maximum of 5 guests. This would involve the rental of room(s), legal secondary suite or carriage home.

Major Vacation Rental – meaning a vacation rental operation of more than 30 rental days within a year or with a non-resident owner during guest use. Maximum rental accommodation would be 2 persons per bedroom with a maximum of 5 guests. This would involve the rental of any dwelling unit or single family dwelling.

Major Vacation Rental (High Occupant) – meaning a major vacation rental use with more than 5 guests for a minor or major vacation rental. This would require additional staff review time and public consultation with the adjacent neighbouring properties.

Single Business Licence restrictions - Except for multi-family buildings, only one Vacation Rental operation would be permissible per property, as concerns have been raised with hosts renting out a legal carriage homes plus the primary residence, increasing the potential nuisance noise impact to the neighbouring homes. This dual rental also impacts the available long term rental stock in the City.

- b. For major vacation rental and major vacation rental (high occupant) require the following:

- i. Posting of contact numbers and maximum overnight occupant load in a visible location from the street for a home rental or from the public areas in a multi-unit building;
- ii. Contact numbers for responsible party to be listed on the City of Penticton Business Directory;
- iii. Require all advertising to include the City of Penticton Business Licence number;
- iv. Require notification to all adjacent residents of the vacation rental business for high occupant vacation rental (City to do neighbourhood notification); and,
- v. Require a "responsible host" review to consider renewals based on repeated Bylaw infractions or nuisance enforcement files.

3. Fees and Charges Bylaw –

- a. Reclassify the Annual Business Licensing fee.

Category	Fee	
Application Fee (*waived for first quarter 2017 – ends April 28th)	\$75	First year fee for set up administration and site safety inspections per unit. (Home Stay exempt)
Home Stay VR	NA	Annual update of use or change to Minor or Major VR.
Minor VR	\$100	Annual Fee (renewal – could include audit safety inspection) per unit
Major VR	\$150	Annual Fee (renewal – could include audit safety inspection) per unit
Major VR (high occupant)	\$250 + \$250	Annual Fee (renewal – could include audit safety inspection) per unit plus First year public notification fee.

- b. Adjust the existing Tourism Fee to ensure the vacation rental owners contribute to the marketing of the area. The tourism fee would be variable:

Category	Fee	
Home Stay VR	NA	
Minor VR	\$100	Annual tourism fee per unit
Major VR	\$200	Annual tourism fee per unit
Major VR (high occupant)	\$300	Annual tourism fee per unit

4. Bylaw Notice of Enforcement Bylaw & MTI Bylaw:

- a. Add a new \$250 fine in the Bylaw Notice of Enforcement Bylaw for “operating or advertising a vacation rental without a license”.
 - b. Add a new \$500 fine for “operating or advertising for vacation rental occupancy in violation of the City zoning restrictions” in the MTI Bylaw.
5. Introduce an “amnesty period” of up to 4 months (April 2017) to not impose penalty fees related to business licensing or for non-permitted renovations. Staff proposes to engage in an education campaign via newspaper, website and social media to promote the revamped Vacation Rental Program including a neighbour complaint program.

Analysis

Vacation rentals are an important part of the vacation accommodation offering in Penticton. 2017 will be a particularly busy year for hosting as several events are contributing to an increase in visitors:

- Construction activity on the hospital will be bringing dozens of workers to the City;
- International Triathlon Union (ITU) Multi Sport World Championships will bring thousands of competitors and with them, coaches nation delegates and their families

- The low Canadian dollar has contributed to a significant rise in visits to the Okanagan in the past year - this is expected to continue.

In addition to providing accommodation, the vacation rental industry also provides hosts opportunities to increase their yearly incomes by renting out their principle residence while they are not using it, or renting out a room in their house to the vacationing public during busy tourist periods.

Staff believe that the proposed recommendations will help meet the needs of visitors to Penticton and provide opportunities for hosts in the following ways:

- by diversifying the accommodation offerings in the community;
- ensuring the safety and improving the visitor experience of those options;
- allowing Penticton residents to run small businesses;
- creating a more level playing field for traditional Bed & Breakfast and Hotel operators.

Given the above, staff are recommending that Council support the proposed amendments and direct staff to introduce bylaw amendments pertaining to the proposed changes at an upcoming meeting of Council.

The proposed changes have been reviewed in conjunction with the Economic Development, Planning, and Bylaw Services departments, and through support of resourcing to assist with administration of the proposed changes, staff are confident that this proposal will move towards successful implementation.

Alternate recommendations

1. THAT Council direct staff to make no amendments to the current bylaws, fees or charges.
2. That Council direct staff to make recommendations with different regulations for vacation rentals that Council feels are appropriate.

Attachments

Attachment A - Airbnb Council Letter

Respectfully submitted,

Ken Kunka ASCT, RBO
Building and Permitting Manager

Approvals

Director <i>AH</i>	CAO PW	Concurrent Review Planning <i>BL</i>
---------------------------	---------------	--

Attachment A
Airbnb Letter to Council



Mayor and Council,
City of Penticton
c/o Dana Schmidt, Corporate Officer
171 Main Street,
Penticton B.C., V2A 5A9

January 30, 2017

To the Mayor and Council,

I am submitting this letter in regards to the report that is expected to be brought to council regarding vacation rentals. Please accept our apology for not being able to present in person to the Committee.

On behalf of our 200 Airbnb hosts in Penticton, we would like to recognize the thoughtful engagement and work undertaken by staff and Council to date on the matter of home sharing. We recognize city staff for their work and for pursuing a consultative approach to understanding the issues and opportunities for home sharing in Penticton and we look forward to continued discussions.

We've worked with cities around the world to develop sensible home-sharing regulations. We believe in supporting the right regulatory approach for Penticton and establishing fair and easy-to-follow rules for those who choose to share their homes, while providing staff with the tools necessary for enforcement in the rare instances where issues arise.

Airbnb and City of Penticton staff have engaged in the information-gathering process undertaken by city staff in their preparation of this report. Airbnb voluntarily provided comprehensive data regarding our host community in Penticton in order to better inform staff's understanding of home sharing and the Airbnb community.

Although our community of roughly 200 hosts is not large in the context of Penticton's more than 33,000 residents, home sharing is making a real difference in the lives of our hosts and the well-being of their families. The vast majority of our hosts are everyday people and

101 College Street
Suite 120
Toronto, Ontario M5G 1L7
Canada



families, friends and neighbours. They are responsible hosts sharing the home in which they live a few nights each month to earn modest, supplemental income.

That's especially true in Penticton, where the majority our hosts are sharing their homes less than 30 nights a year and make roughly \$3,900 per year.

The money our hosts earn from home sharing is helping them cope with the rising cost of living. For many, earning money through occasional home sharing is making it possible for them to afford to stay in their homes. Our Airbnb hosts report spending more than half the money they earn through Airbnb on expenses like mortgage payments and household bills. These hosts include retirees and empty nesters sharing their extra space, and young couples that rely on home sharing to help pay their mortgage or make necessary renovations.

Airbnb is bringing visitors to Penticton. Last year, roughly 4,300 guests visited Penticton using Airbnb and supported local businesses and Penticton's economy by spending hundreds of thousands of dollars in the community.

We also believe in paying our fair share of occupancy taxes, and have more than 200 partnerships across North America to collect and remit these taxes to city government on behalf of our hosts and guests.

Airbnb is committed to our role as a good community partner. We stand by our commitment to ensure a safe and positive experience for our hosts, their guests and neighbours. We have and will continue to share information with city staff on how Airbnb works to fulfill this commitment: our 24/7 global trust and safety team, extensive verification and peer review systems, and industry-leading damage and liability insurance programs. We also have an online tool, Airbnb Neighbours, that allows any resident to communicate directly with Airbnb if they have a complaint about a member of our host community.

101 College Street
Suite 120
Toronto, Ontario M5G 1L7
Canada



We believe that the thoughtful engagement and consultation by city staff will ensure the best possible solution for our Penticton hosts, their neighbours and the entire community.

We want to work with the Members of Council and City of Penticton staff to develop clear, fair and easy-to-follow rules for home sharing that do not place burdens on those sharing their homes occasionally, while addressing any unwelcome bad actors.

We look forward to participating in further discussions with the City of Penticton as it develops a reasonable approach to ensure a healthy and respectful home sharing community.

Sincerely,

Alex Dagg
Manager, Public Policy
Airbnb Canada

101 College Street
Suite 120
Toronto, Ontario M5G 1L7
Canada

Council Report

penticton.ca

Date: February 7, 2017 **File No:** 3760-01
To: Peter Weeber, Chief Administrative Officer
From: Ken Kunka, Building and Permitting Manager
Subject: **Cross Connection Program – Add Annual Backflow Test Filing Fees**

Staff Recommendation

THAT Council endorse the Development Services Division's implementation of the Backflow Solutions Incorporated online program to improve efficiencies for customers and staff;

AND THAT Council give first, second and third reading to "Fees and Charges Amendment Bylaw No. 2017-05" a bylaw to create Cross Connection Program annual testing filing fees.

Strategic priority objective

The Development Services Department advances the City of Penticton's Mission of a livable, safe, and sustainable city by guiding how land is developed, buildings are constructed, and businesses operate.

As provided for in the *Community Charter*, fees and charges are used to recover the cost of services provided wherever possible and as an alternative to property taxation.

Proposed administration changes to program software will increase efficiencies and reduce potential data entry errors.

Background

History of the Cross Connection Program

The City of Penticton implemented a Cross Connection Program in 1993. The aim of the program is to prevent contaminated water on private property from entering the City's potable water system. The City is required to ensure safe drinking water systems and emergency protocols are in place under its Operating Permit issued by Interior Health. This program is mandatory with a minimum level of Premise Isolation protection to city water supply and secondary protection of internal hazards for building occupants.

The City ranks potential backflow hazards as:

- **Low Hazard:** Residential (strata multi-family, irrigation, mobile home parks)
 - Currently there are no specific requirements for single family dwellings.
- **Medium Hazard:** Commercial (Restaurant), Convenience Store, Light industrial
- **High Hazard:** Industrial/Institutional

There are a total of 8994 water accounts with the majority (90%) being residential accounts. Of these, about 10% (900) have backflow devices registered with the Cross Connection Program.

Role of Cross Connection Coordinator

In 2014 The Cross Connection Coordinator was incorporated within the Building Department and became responsible for the Cross Connection Program as well as plumbing and sprinkler permits and enquiries.

The current duties of the Cross Connection Coordinator are as follows:

- Sending letters and emails to customers to remind them their testing is due,
- Collecting test reports and entering results into the system,
- Sending letters and emails to customers when their testing is overdue or test has failed,
- Maintaining the customer database to ensure the letters get to the appropriate people,
- Attending properties to determine the need for backflow protection and assisting in their selection,
- Initiating enforcement action for non-compliant properties,
- Maintaining safety procedures in the event of an emergency,
- Supporting Building Department staff in relation to plumbing, sprinkler and mechanical permit applications and inspections, and
- Responding to inquiries from trades and the general public.

Currently the time spent in administering the renewal notices and data entry can absorb up to 70% of the Cross Connection Coordinator's time.

The Cross Connection Process

The current cross connection administration software program used by the City is Backflow Prevention Management Software (BPMS). This system is proving very inefficient and time consuming for staff, owners and testers. Under the current program:

1. Owners are notified by email or letter that annual testing is required
2. Owners independently arrange for testers
3. Testers manually log information and send it into the City (typically by fax, email & counter drop off)
4. The Cross Connection Coordinator manually enters and audits information. In certain cases, re-testing may be required)

In 2012, a capital budget of \$25, 000 was established to work with BPMS to create an online customer data entry interface to reduce staff administration time, but unfortunately BPMS have not been able to produce a working module.

There are currently no fees charged to owners for the annual testing, and the program is funded 60% (\$41,000) from the Water Utility operating budget and 40% (\$35,000) by the Building Department operating budget. In contrast, many municipalities charge a fee for administrating their annual cross connection testing program as a flat annual renewal rate or per device rate. As an example, the three cities that have recently incorporated Backflow Solutions Incorporated (BSI) Online program have surcharge fees above the minimum BSI filing fees.

- Surrey - \$27 per device
- White Rock - \$30 per device
- Port Moody - \$30 per device

Analysis

To improve the efficiency of the Cross Connection Program, staff are proposing to adopt a new web-based backflow tracking system called Backflow Solutions Incorporated (BSI Online) to replace BPMS. Under this program, BSI Online will administer renewal notices, subsequent follow up and provide client customer service assistance. Backflow devices will be tracked on their data base platform and allow independent testers to submit test results through BSI

Online’s web portal and pay a testing fee directly to BSI Online. In staff’s assessment, BSI Online has the following benefits:

- ✓ Reduction in staff administration time for renewal notifications & data entry (estimated 75% to 10% administration reduction)
 - BSI is responsible for sending out renewal notices and provides technical support to City and testers
- ✓ Easy customer online interface and data history search function.
 - Will eliminate data entry errors, lost documents and improve customer service
- ✓ GIS mapping capabilities and expansion into future programs (grease control).
- ✓ Low implementation/conversion cost = under \$1000.
- ✓ Quick conversion & housekeeping = 30 to 60 days.
- ✓ Low ongoing cost = \$545/annual fee (City).
- ✓ Meets Canadian internet regulations. (Canadian server in Vancouver)
- ✓ Proven reliable program = over 20 years in operation (North America)
- ✓ Customer service assistance.

A drawback is that there is no direct interface into the City’s main permit tracking system (Tempest), however consultation continues to develop a working interface. Staff have conducted preliminary research into whether a similar Tempest Backflow Module could be created and will be implemented as we move ahead.

In terms of administration of the Cross Connection Program using BSI Online, staff are recommending that the testing costs be borne by the owners and paid directly to BSI. The operating costs of managing the Cross Connection Program (salaries, BSI Online annual fee, etc.) would be absorbed by the Water Utilities account. The proposed new fee structure would impact current account types as follows:

Account Type	% of Account	Fee Paid to BSI
Low Hazard (one device) (premise isolation only)	40%	\$14.45 (per device)
Medium Hazard (two – five devices)	50%	\$28.90 to \$72.25
High Hazard (six or more devices)	10%	\$86.70 to \$250+*

This approach would deliver significant administration efficiencies to the City, as well as testers and operators, and this fee structure mirrors the approach implemented by most communities which use BSI. The administration time saved would be re-utilized to conduct more program education, safety inspections and compliance enforcement.

On October 19, 2016 staff presented to the Development Service Advisory Committee (DSAC) with three different approaches to recover the testing and administration costs associated with the Cross Connection Program (Attachment A). DSAC has given support to the Option 1 approach recommended in this report.

It was **MOVED** and **SECONDED** that the Development Services Advisory Committee recommends that Council support Option 1 in the Staff Information Report dated October 19, 2016, to implement the new BSI Online Tracking administration cost to the tester/owners.
CARRIED UNANIMOUSLY

An amendment to the City’s Fees and Charges for the third-party BSI Online administration fees would be required to implement this approach.

Financial implication

Currently the City does not charge annual cross connection administration fees like many other communities, but absorbs operational costs (staff, forms, etc.) in the Water Utility budget. Therefore the 8994 water accounts subsidize the 900 accounts with backflow devices.

Implementation of BSI Online will result in nominal fees to the City for implementation and conversion (approximately \$1,000) and on-going annual fees (\$545/year). To facilitate the transition to the new system, staff suggest using the remaining Cross Connection capital budget (up to \$24,000) to offset filing fees during the initial year roll out in 2017.

BSI Online would be directly compensated by the testers when they file their reports and pay the fees outlined above; ultimately these fees would transfer from the tester to the building owner. This would result in approximately \$32,000 in service fees for the 900 water accounts with backflow devices.

Conclusion

Staff believe that the implementation of BSI Online will create significant efficiencies for the City, testers and owners. Staff time to administer the renewal, data entry and client inquiries is estimated to be reduced from 70% to 10% when the system is fully operational and education of our clients is complete. If Council recommends implementation of the program administrative fee, then staff will engage with BSI Online and begin conversion and beta testing of the program, with live launch planned for early 2017. Staff and BSI will conduct an owner notification campaign and arrange for tester education prior to implementation.

Alternate recommendations

1. That Council support the proposal as recommended by staff but include an additional surcharge to assist in offsetting existing City operating expenses. This surcharge would be administered by BSI Online and refunded to the City, minus credit card transaction fees.

As an example:

A \$20.00 per device fee would equate to \$5.55 admin fee (minus 3% credit card fee) for potential revenue of \$11,800/year to City.

2. That Council declines to endorse the Backflow Solutions Incorporated online program and close and abandon Fees and Charges Bylaw No. 2017-05.
3. That Council refers the cross connection backflow testing program back to staff for further research.

Attachments

Attachment A: Cross Connection Fee Approaches

Attachment B: Fees and Charges Amendment Bylaw No. 2017-05

Respectfully submitted,

Ken Kunka, ASCT RBO
Building and Permitting Manager
Development Services
Approvals

Director <i>AH</i>	CAO PW	Water Quality Sup. <i>B. Edge</i>
-----------------------	---------------	--

Attachment A – Cross Connection Fee Approaches

Option 01- New administration cost to tester/owners (Preferred Option)

City would continue to absorb the operating costs of the Cross Connection Program (salaries, forms, etc.) with the water utilities account. Most communities using BSI have implemented this system.

The annual cost impact to account by account types

- low hazard (one device) (premise isolation only) = \$14.45 (40% of accounts)
- medium hazard (two – five devices) = \$28.90 to \$72.25 (50% of accounts)
- high hazard (six or more devices) * = \$86.70 to \$250+ (10%) - * a volume discount may be available – staff reviewing.

Staff believe this would be the most reasonable option in providing significant administration efficiencies for the City, testers and operators. The request would require an amendment to City's Fees and Charges for third party BSI online administration fees.

Staff suggest using the remaining capital budget (up to \$24,000) to offset filing fees during the initial year roll out.

Option 02 – New administration cost by annual renewal fee

The City would implement the conversion to BSI Online but absorb the tester fees. The City would then establish cost recovery to offset the administration fees by averaging annual renewal test. Some additional city administration resources would be required over option 1.

Approximate average costs by account type: (BSI fee and city administration)

- low hazard = \$25
- medium hazard = \$50
- high hazard = \$150

Staff believe that this option would not be equitable to about 40% of account holders who subsidize the larger accounts. Initial annual renewal fees could be offset with remaining capital budget.

The request would require an amendment to City's Fees and Charges to add annual cross connection renewal fees for 2017.

Option 03 – Full administration and testing by City (Not recommended)

The Development Services Advisory Committee requested an option that would involve the City absorbing the BSI filing fees as well completing testing to save time for owner to coordinate private testers and reporting. This would require hiring at minimum, one additional staff member to complete on-site testing.

Approximate costs for staffing, BSI and other operating expense could be \$140,000. The fee of administrating would factor in the average time estimated for testing and the filing fees for BSI online.

Potential city tester option (test/admin) annual charge

- \$100.00 minimum up to \$500+ for larger high hazard buildings.
- Additional charges may be required for re-testing verification.

Logistically difficult to administer full test program due to:

- Coordinating entry into buildings to conduct physical tests/retests (4 site insp. a day)

- Some facilities have internal staffing already in place
- Failed tests would require owner to contract repairs and retest.
- Increased exposure to liability. Only one BC municipality doing this – Gibson.
- Continuous training and re-certification for City staff.

Contracting out the program was also reviewed and it was determined that there would be significant logistical challenges as well.

The request would require an amendment to City's Fees and Charges to add annual cross connection renewal as well as a budgetary amendment to include an additional staff member.

Bylaw No. 2017-05

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

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. 2017-05".

2. **Amendment:**

2.1 Amend "Fees and Charges Bylaw No. 2014-07" by adding the following to Appendix 4 – Building Department Fees:

	Effective May 1, 2017
Annual Backflow test filing fee per device	\$14.45

READ A FIRST time this day of , 2017

READ A SECOND time this day of , 2017

READ A THIRD time this day of , 2017

ADOPTED this day of , 2017

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

Council Report

penticton.ca

Date: February 7, 2017
To: Peter Weeber, Chief Administrative Officer
From: Anthony Haddad, Director of Development Services
& Lori Mullin, Recreation & Culture Manager

File No:

Subject: South Okanagan Performing Arts Centre Society's Council Requests

Staff Recommendation

THAT Council support the South Okanagan Performing Arts Centre Society in their efforts to explore the potential for a performing arts facility in the downtown;

AND THAT Council support, in principle, the use of the property at 99 Nanaimo Avenue for a performing arts facility until December 31, 2018 subject to:

- SOPAC Society organizing a workshop/symposium
- SOPAC providing a Post-Symposium Report to Council outlining:
 - the best options for financing, operating and programming the SOPAC facility,
 - a detailed way forward, including an implementation schedule and a clear indication of required resources,
- SOPAC providing an update as to the status of their progress in June 2017, December 2017 and April 2018;

AND THAT should Council receive any additional interests, in the use or redevelopment of the subject lands, prior to December 31, 2018, a comprehensive public process be followed including consultation with SOPAC Society, prior to any decisions being made.

Strategic priority objective

Smart: "Use a fact, risk and consequence based plan for decisions, infrastructure and facilities."

Livable: "Ensuring the city is safe, healthy, welcoming and inclusive."

Background

South Okanagan Performing Arts Centre (SOPAC) Society representatives attended a Committee of the Whole Council meeting on Tuesday, October 18, 2016 to provide a Progress Report. The SOPAC Society

requested that Council support the long term vision and issue a public expression of support for the project and site security. They asked for a five year window to put together a plan and resources.

Council passed the following resolution:

It was MOVED and SECONDED

THAT Council refer to staff the request from the South Okanagan Performing Arts Centre for a public expression of support and site security and report to Council within 90 days.

CARRIED UNANIMOUSLY

South Okanagan Performing Arts Centre Society's background as referenced on website (www.sopac.ca):

Mission: "Our purpose is to unite the arts community and work towards the building of a sustainable state-of-the-art Performing Arts Centre that will serve the needs of our region for generations to come."

Financial implication

SOPAC is not requesting any City financial support at this time.

The Site – 99 Nanaimo Avenue

The site that is being requested by SOPAC for the proposed performing arts facility is the City owned property located at the corner of Ellis Street and Nanaimo Avenue which runs from Nanaimo Avenue to Penticton Creek. The site is currently vacant and being used as a parking lot, however was once home to Nanaimo Hall and is one of the largest vacant sites in the downtown.

The entire property encompasses six smaller parcels of land which total approximately 3,700m² (0.92 acres) in size. The site is currently zoned C5 – Urban Centre Commercial and is designated DC – Downtown Commercial within the Official Community Plan. With the site being located adjacent to Penticton Creek, the northern portion of the property is encompassed by Riparian and Environmental Development Permit Areas.

Prior to any development taking place on this parcel, further analysis is required including work around ensuring that the site, which is currently on the brownfield registry, is suitable for a proposed development. An environmental assessment will be required and remediation may need to be undertaken prior to any development taking place.

SOPAC Proposal

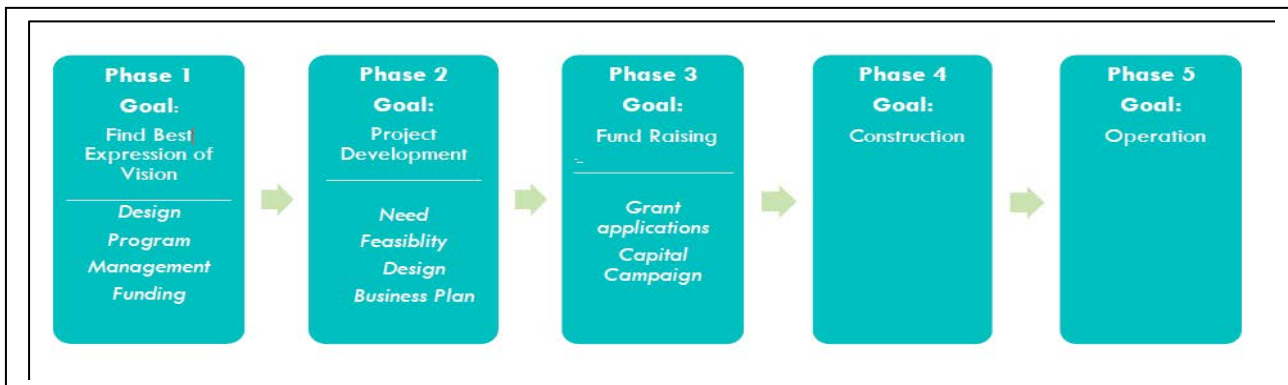
City staff met with SOPAC representatives on October 31 to follow up on the October 18, 2016 Council presentation. Staff requested that SOPAC provide more detail on their new vision of the Performing Arts Centre and more specifics regarding their requests of Council including proposed timelines. SOPAC representatives followed up with staff on January 6 with additional information and subsequently provided a proposal document (see Attachment A). The following provides a summary of the proposal document.

SOPAC Society has reviewed the original project as identified in 2008 through the conceptual planning and feasibility study and concluded that it remains valid but have augmented the vision with expanding the user base as well as a focus on growing the creative and high-technology economy.

The new vision includes:

- State-of-the-art technology and spaces for local performing and creative art groups
- A centre-piece and catalyst for a re-developed and enhanced downtown through new cultural infrastructure
- State-of-the-art performance spaces including a 750-seat main stage
- A regional training and innovation centre for arts production and presentation in collaboration with educational institutes
- Public gathering spaces
- Environment for public art
- Display space for visual arts
- Inclusion of environmental standards including LEED construction and Neighbourhood Development
- Dedicated showcase space for local enterprises such as the wine industry
- Collaborative model with involvement of the local and regional arts community

The updated proposal from SOPAC has identified a five phased approach to the development of this project, Phase 1 being the stage at which the group are currently at.



SOPAC Society has identified in their Proposal that the concept for the performing arts facility complies with the Official Community Plan, Cultural Tourism Plan and Downtown Plan. They identified that the Phase 1 work, which will provide for clarification of the proposed vision of this project will make a significant contribution with the current updating of the Official Community Plan.

The SOPAC Proposal outlines various “public good” benefits as well as direct and indirect economic benefits to the City and region including job and industry growth, attraction of skilled workers, destination city for cultural tourism, and urban revitalization. SOPAC Society has calculated the total economic impact of the project over the two years of construction and first four years of operations as over \$55 million.

SOPAC Request of Council

SOPAC have identified 4 requests to Council which they feel is imperative for them to move the project forward:

Request 1: Council supports the initiative of the SOPAC Society to explore fully and recommend the best options for realizing the SOPAC project with special reference to:

- a) Financing, Construction, Management, Operation
- b) Operating
- c) Programming

Request 2: Council agrees to refrain from selling, leasing or taking any other measures pertaining to City lands on or adjacent to Ellis Street and Nanaimo Avenue which would inhibit the future realization of the SOPAC project, for the period ending no sooner than at the conclusion of Phase Two (Year End 2018).

Request 3: Council provides access to staff resources, with special reference to:

- a) Supplying information on current official plans, policies, by-laws, data bases, regulations, etc.
- b) Sharing expertise on urban planning and cultural development
- c) Identifying external sources of funding
- d) Assisting with possible applications for project development support

Request 4: Council requires of SOPAC Society:

- a) to organize and convene a Workshop/Symposium designed to find the best fit between the special characteristics of the Region and successful experience elsewhere, and how that might shape the features of the SOPAC project. The workshop would bring together experts in contemporary creation and presentation of the performing arts with representatives of the area's arts community, the tourism industry and local planning professionals, all leading toward identifying the best options for realizing the SOPAC project, all in the context of current long range planning of the City of Penticton and surrounding communities of the Region. Target: On or before November 30, 2017.
- b) To provide a Post-Symposium Report, setting out:
 - the best options for financing, operating and programming the SOPAC facility
 - a detailed way forward, including an implementation schedule and a clear indication of required resources. Target: Three months after the event.

Analysis

Staff have reviewed the Proposal and requests from SOPAC and have identified that a significant amount of work is required in order to assist in moving a project like this forward. Key components such as those noted below will need to be developed at the appropriate time in order to inform Council's decision making process.

- **Needs Assessment** to conclude that there still is a current need for this type of facility in Penticton.
- **Feasibility Study** to confirm that Penticton is well positioned to manage this project; it fits within the current infrastructure deficit; and aligns with City priorities.
- **Business Case** to outline all associated costs with construction and operations and the associated funding requirements including an economic cost-benefit assessment.

In recognition of the work that has been undertaken by SOPAC and additional work needed to inform Council as to the appropriateness of such a proposal, staff have provided an analysis of the four requests from SOPAC, which are before Council for consideration.

Request 1: Support for the initiative and to explore options

The 2013 Downtown Plan and the 2010 Cultural Tourism District Plan, identified the site at the north east corner of Nanaimo Avenue and Ellis Street as a site for a future performing arts facility. Both plans have been incorporated into the Official Community Plan, so the proposed use that is being considered conforms to the future vision of the community plan. Considering that there is a vision in the OCP to create a vibrant downtown core, with a performing arts facility being a critical component to long term success, staff support SOPAC in their efforts to fully explore options for how a project like this may move forward. It will be important to ensure that a variety of partners are brought into this discussion and will be the responsibility of SOPAC to ensure that these partners are identified, committed and financially able to commit to a project like this – should the time come to move it ahead.

SOPAC will also need to work with the City in identifying how this project impacts the City from an operational and financial perspective, the costs of which may be significant.

Request 2: Allocate City owned land to SOPAC for 2 years

SOPAC representatives have stated that substantial work has taken place on identifying the site location for this project and stated that it is imperative that this site be confirmed for them to proceed. Their request before Council is to ensure that no other proposals be considered for use or redevelopment of this parcel until the end of 2018, at which stage SOPAC expect to have a better understanding if this project is viable to proceed.

The subject parcel of land on Nanaimo Avenue that has been identified for this facility is located in a key part of the downtown and is an important opportunity site for redevelopment and could be a catalyst for greater investment into the downtown core. As mentioned above, previous planning work has identified this site for the SOPAC facility.

With many unknowns at this stage of the development of this concept, it is difficult for staff to recommend that a key downtown site be reserved for two years. However, recognizing that the subject parcels of lands have been vacant for over 7 years and the vision created with the Downtown Plan, the request to withhold any alternative development should be considered.

Staff are recommending that Council support, in principle, the use of the subject lands for a performing arts facility until December 31st 2018 subject to:

- SOPAC Society organizing a workshop/symposium
- SOPAC providing a Post-Symposium Report to Council outlining:
 - the best options for financing, operating and programming the SOPAC facility
 - a detailed way forward, including an implementation schedule and a clear indication of required resources.

Once the symposium that is being proposed by SOPAC has been completed and a detailed report providing the outcomes of that meeting is presented to Council with proposed next steps, staff consider that when that time comes, further clarity will exist around the potential for use on this site. However, by supporting the site, in principle, Council will be confirming what is already supported within the Downtown Plan, Cultural District Plan and embedded within the OCP.

The City of Penticton do not own an abundance of land and the land it does own can be of strategic value in certain areas of our community. The City is often approached by groups wishing to partner with the redevelopment of City owned land for various initiatives. The most recent example is the Youth Centre that is currently in the process of being developed. The centre is proposed to be located in downtown Penticton and provide much needed support for young people to offer a “one-stop” hub of resources that will provide comprehensive and integrated care while providing holistic and responsive services.

Council will need to consider how to potentially integrate uses on a site that are compatible, given the City’s shortage of land assets to assist all groups. Both SOPAC and the Youth Centre have incredible merit and would serve a diverse demographic in our community that may have the opportunity to work well together, however, when suggested to consider options to combine the two projects, SOPAC Society representatives noted that the entire footprint of the City property is required for the SOPAC project and they did not feel that combining the projects was a good fit.

Should any other formal proposals be presented to or considered by Council in the future, a public process will be required before any decisions get made, which would include consultation with the SOPAC Society.

Request 3: Provision of staff resources to assist SOPAC

The request to have staff assist the Society in the manner being required is considered appropriate. Staff in the Planning and Recreation departments have the knowledge and records to be able to provide reasonable support. In terms of the request for assistance with grant writing, etc, there may be some costs attached to this process.

Request 4: Support for initiating Symposium / Workshop.

The SOPAC Society’s plan to gather industry experts to re-study the project is aimed to find the best expression of vision and develop recommendations on the best model for financing, operating and programming. Once this work has been completed, they will be able to come back to Council with more

comprehensive information in order to discuss the viability of moving to the next phase of project. This should tie-in well with the timing of the Official Community Plan update.

Staff believe that the request from SOPAC to initiate a symposium with the various parties identified in the report is an appropriate strategy to move this process forward. Staff will be able to assist with any background materials required to help initiate this meeting.

Recommendation

There is no doubt that a performance facility like what is being envisioned by SOPAC would be exciting for our community. The plan that SOPAC has laid out is considered to be logical and informed, however much work is needed within the first two phases of what is being proposed.

The recommendation proposed for Council is considered to provide SOPAC with the appropriate level of support to assist in moving their project forward, but also protect the City’s ability to keep options open for the redevelopment of these lands, should any proposals come forward. It will be important to ensure that the public process for consultation for any future development of this site, including the SOPAC proposal, be open and transparent to ensure community consultation is undertaken in the best interests of the community.

Alternate recommendations

- 1. THAT Council direct staff in an alternative manner.

Attachments

Attachment A: SOPAC Proposal to Council

Attachment B: Requested Property

Respectfully submitted,

Anthony Haddad
Director of Development Services

Lori Mullin
Recreation & Culture Manager

Approvals

DDS <i>AH</i>	CAO PW
----------------------	---------------

Attachment A – SOPAC Proposal

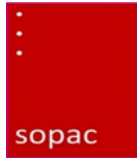


SOUTH OKANAGAN PERFORMING ARTS CENTRE SOCIETY

a new kind of PAC

REQUEST OF CITY COUNCIL: 2017 02 07





SOUTH OKANAGAN PERFORMING ARTS CENTRE SOCIETY

a new kind of PAC

REQUEST OF CITY COUNCIL: 2017 02 07

Contents:

I. The SOPAC Project

II. Request of Council

III. Background and Support

IV. Appendices

I. The SOPAC Project

Strengthening the link between the performing arts and the creative economy

As presented at the October 18th Council Meeting, it is the intention of the SOPAC Society to revitalize and update the 2008 plan to construct and operate a performing arts facility in Downtown Penticton for the enrichment of the residents of, and visitors to the Region of the South Okanagan and beyond. We have reviewed the original project and have concluded that it remains valid and doable. But, in keeping with cotemporary trends in both the arts and the economy, the original vision will be augmented by creating a better balance between consumption and production, between creators and performers, leading, in turn to (1) a greatly **expanded user base** and (2) a **reinforcing of recent City and regional initiatives**, including efforts to grow the creative and high-tech economy. In a word, we envision a **meaningful infrastructure investment**.

So, what is SOPAC and how does it relate to the community? Specifically, the proposed facility will provide:

1. State-of-the-art technology and spaces for **local performing and creative arts groups** to enable *achieving their full potential*, whether via music, theatre, dance, film or newly emerging electronic platforms. SOPAC can justify its existence only to the extent it provides a balance between the **creation** and the **consumption** of the arts.
2. A centre-piece and a catalyst for a **re-developed and enhanced downtown**:
 - As a unique and critical component of the **cultural infrastructure** of the City as presented in the *Downtown Plan* approved in 2012.
 - As an **entertainment destination**: for residents and visitors alike.
 - As an integral component of a long-term plan for the development of the *Ellis/Creekside cultural tourism project* as powerfully presented in the City's 2010 CTQ Study.
 - As an **architecturally significant landmark**, and all that implies, particularly civic identity.

3. State-of-the-art performance spaces sufficiently large and fully provisioned to attract **live performances of the highest calibre**, in a facility meeting high standards for acoustics, lighting, projection and sound systems, sight lines and full back-of-house amenities.
4. A **regional training and innovation centre** for arts production and presentation. In collaboration with educational institutions, a **laboratory** for linking the performing arts with the wide array of new technology, from new media, virtual reality, and artificial intelligence to robotics, web interface and virtual theatre, all with the potential for economic spinoffs.
5. Substantial and attractive **public spaces** for gatherings of all kinds.
6. An environment **for public art**, in and outside of the Centre.
7. An adjunct **display space for visual arts**, such as in partnership with the **Penticton Art Gallery**.
8. An exemplar of the **highest environmental standards**, including
 - Construction: LEED
 - Neighbourhood: LEED- ND (Neighbourhood Development)
9. A dedicated space for a tasteful **showcase for local enterprises**, such as the wine industry.
10. A model of systematic **involvement of the local and regional arts community** in all aspects of the planning, implementation, and programming.

II. Request of Council

That Council:

- A. **Supports** the initiative of the SOPAC Society to explore fully and recommend the best options for realizing the SOPAC project with special reference to:
 1. Financing: Construction, Management, Operation
 2. Operating
 3. Programming
- B. **Agrees**, to refrain from selling, leasing or taking any other measures pertaining to City lands on or adjacent to Ellis Street and Nanaimo Avenue which would inhibit the future realization of the SOPAC project, for the period ending no sooner than at the conclusion of Phase Two (Year End 2018).
- C. **Provides** access to staff resources, with special reference to:
 1. **Supplying information** on current official plans, policies, by-laws, data bases, regulations, etc.;
 2. **Sharing expertise** on urban planning and cultural development;
 3. **Identifying external sources of funding**; and
 4. **Assisting** with possible applications for project development support.

Continued ...

D. Requires of SOPAC Society:

1. **To organize and convene a Workshop/Symposium** designed to **find the best fit** between the special characteristics of the Region and successful experience elsewhere, and how that might shape the features of the SOPAC project. (See brief outline in Appendix 3) Such an event would bring together experts in contemporary creation and presentation of the performing arts with representatives of the area's arts community, the tourism industry and local planning professionals, all leading toward identifying the **best options for realizing the SOPAC project**, all in the context of current long range planning of the City of Penticton and surrounding communities of the Region. Target: On or before November 30, 2017.
2. **To provide a Post-Symposium Report**, setting out:
 - The **best options** for financing, operating and programming the SOPAC facility, and
 - A detailed **way forward**, including an implementation schedule and a clear indication of required resources. Target: Three months after the event.

III. Background and Support



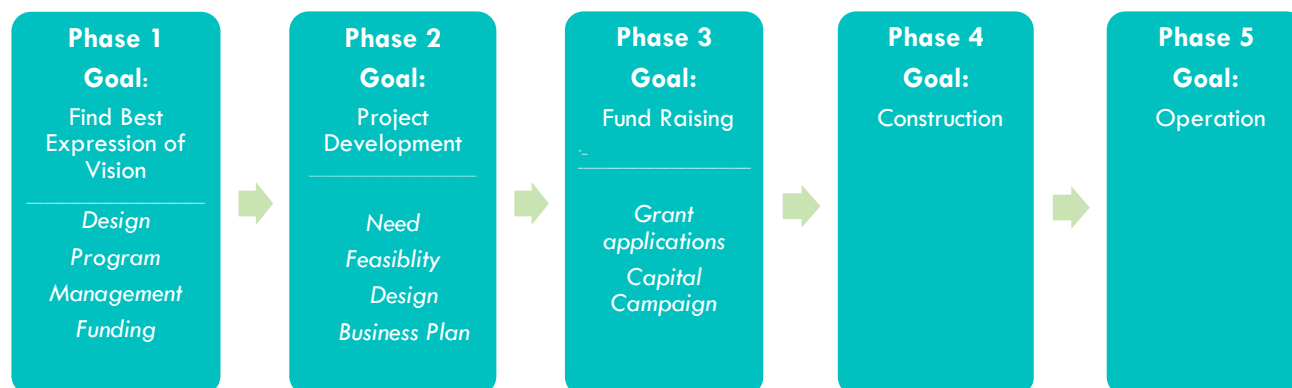
1. Why Council Support:

In order for the SOPAC project to make a successful transition to the next phase of identifying the best options with respect to designing, financing, and creating an operational plan and implementation schedule, it is essential that the Penticton City Council expresses its support of the SOPAC vision. This expression of support would, ideally, reference the elements articulated in the previous section entitled *Request of Council*. It would be difficult, if not impossible, for the SOPAC team to move forward without being able to assure participants, supporters, potential funders, volunteers, and experts in the fields of designing and operating modern performing arts facilities that the Penticton City Council is supportive of the SOPAC vision and the next phase of research and planning that will identify the best options for a performing arts centre in Penticton and the South Okanagan. *Fully recognizing the fiscal demands upon the City at this time, funding is not a part of our request.*

Upon Council approval of this request, SOPAC will begin immediately to consult with and seek formal support of the project, of all relevant agencies and organizations in the Region. At the same time, we will be applying for funds from appropriate sources to support the work planned for the Initial phase. In the meantime, initial conversations have been underway with representative of the *Penticton and District Arts Council*, *The Penticton Art Gallery*, and *The Downtown Penticton Association*. In addition, the SOPAC Society and the PenMar Society have recently signed a *Memorandum of Understanding*, which provides for PenMar Society support of the project, and commitment to work together to achieve the goal. (see Appendix 5)

2. Time Line

At this time, there are too many unknowns to commit to a definitive time schedule. However, it is imagined that the work of Phase One can be completed by Spring, 2018. Given a favourable climate at that time, a rough estimate suggests that *Project Development* would require approximately 9 months; *Fund Raising*, 6-9 months and ongoing; and *Construction*, approximately one year. Allowing for some lag, this would suggest an opening in early 2021.



3. On Need:

Background Studies:

Over the past three decades, several efforts were undertaken to assess the arts and cultural needs of the City and Region, including:

- *Penticton and District Performing Arts Needs Assessment Report* August 2005, completed by Yates, Thorn & Associates
- *Penticton Heritage Strategy*, Hobson & Associates 2005
- *Conceptual Estimate for Penticton Theatre Expansion*, Penticton BC, June 2004, completed by Speigel Skillen & Associates Limited.
- *Penticton Official Community Plan, 2002*.
- *Community Centre*, prepared by Vic Davies Architect Ltd. for The City of Penticton, February 2002.
- *The Cultural Strategy*, 1998, commissioned through the City of Penticton, Parks, recreation and Culture Department and prepared by Brenda Fredrick.
- *Building a Stronger Foundation for Growth*, completed by Wendy Newman for the Penticton Performing Arts Facility Strategic Planning Committee, 1994

2008 Analysis:

Since 1994, several studies have been commissioned to provide professional guidance in creating the best possible performing arts facility for this community. A needs assessment performed by Yates, Them & Associates in 2005 clearly established that there is a need for such a facility to serve not just Penticton but the South Okanagan area in general. Following this needs assessment,

Proscenium Architecture + Interiors Inc., in conjunction with **Meiklejohn Architecture Inc.** were contracted to conduct a comprehensive conceptual planning and feasibility study.

Proscenium conducted a full review of the previous studies together with extensive interviews throughout the region. Twenty-four 24 sites were visited in Penticton and all relevant performance venues in Oliver. Osoyoos and Summerland were toured.

In addition, **Proscenium** did a full assessment of the South Okanagan marketplace, including demographics and expected growth patterns. Based on these reviews and assessments, Proscenium has concluded that, in the case of Penticton and the South Okanagan region, the conditions seem well suited to support a new performing arts facility. Further, Proscenium states that they concur with the previous seven studies which state that, in order for the performing arts in Penticton to thrive, a new facility in the downtown cultural precinct is needed. Moreover, their conclusion is consistent with the 2002 Official Community Plan that emphasized the need to achieve an active, vibrant and economically viable Downtown area that draws its energy from exciting and innovative downtown artistic and cultural venues within a Downtown cultural precinct. Proscenium determined that the ideal venue configuration should contain two main components: a 750-seat main stage, and a 100-150 seat studio theatre. Future generations will salute this foresight and commitment. to the development of quality facilities and infrastructure, and its result an enhanced quality of life in our communities.

2018 and Beyond

There can be little doubt that the current need for a performing arts facility will remain, if not be greater in the years to come. How best to fulfil that need will depend to a large extent on (1) the outcome of the Symposium and (2) the plans in place for the future of the City (e.g., the revised OCP) and of the Regional communities. Obviously, the feasibility of implementing the best options will depend on the reasonably availability of funds for designing, constructing and operating the facility, together with development priorities of the time.

4. Business Plan

In May of 2008, Lamont Management submitted a detailed business plan for the SOPAC project. The arrival of the Business Plan together with preliminary design concepts from Proscenium Architecture + Interiors Inc. and Meiklejohn Architecture Inc. coincided with the economic downturn, causing the project to be put on hold. In 2016, the SOPAC Society Board commissioned an update of that plan, which concluded that the project remains viable, although estimated construction and operational cost have risen. Obviously, an **updated business plan** will be needed, the nature of which will depend upon the degree to which the new design departs from the original as well as cost changes over the period. Although the best combination of funding sources has yet to be determined, typically the major sources will be: a Capital Campaign, government grants, sponsorships and fund raising events. On the operating side, the typical model is some combination of event revenue, rentals, project contracts, concessions, partnerships, special services, and annual municipal grants.

5. On Community Response

Support for the development of the 2008 project came from a variety of sources: citizens, the private sector and governments. Several thousand dollars were raised from individuals and area businesses, and strong support came from the City of Penticton consisting of both generous staff

support as well as a \$30,000 grant. In addition, \$40,000 came from the Federal Government's Western Diversification Fund, with City support.

6. SOPAC in the Context of City Planning

Culture and Development:

"... a consistent and effective integration of culture in development policies cannot wait any longer."

Françoise Rivière, UNESCO, 2010

The SOPAC project has figured prominently in all major **planning initiatives** of recent years

- Official Community Plans
- Cultural Tourism Plan 2010
- The Downtown Plan of 2012

Further, with the updating of the **Official Community Plan** now getting underway, we suggest that the results of our Phase One initiative could make a significant contribution.

7. On Economic Impact of the SOPAC Project

"Human creativity, in all of its forms, is the prime driver of economic and social growth. This oft-repeated affirmation has been proven at every stage of humanity's development. Without new ideas, it is impossible to generate supplementary economic wealth, and to increase shared social capital." Simon Brault

A. In general:

1. The **direct economic benefits** of profitable arts and cultural industries are economic growth and promotion of the arts and culture
2. Profitable arts and cultural industries create **job growth** in the cultural sector and subsequently expand the sector as a whole
3. **Public and private assistance** can facilitate the growth of arts and culture as a strong, interconnected, and legitimate industry.
4. Cities that distinguish themselves from other cities based on strong or profitable identities, cultures, or arts and crafts, **gain a competitive advantage as "destination cities" for cultural tourism.**
5. Municipalities that adopt **Community and Cultural Economic Development** frameworks have observed a significant increase in success in the arts and culture because of the closer connection between arts and business
6. The recent trend in **creative cities** has anchored the arts and culture as key industries in municipal economic development
7. The arts and culture can lead to subsequent economic regeneration through **urban revitalization** in cities.

8. An emerging body of research links arts amenities and the availability of cultural initiatives to the ability of urban centres to **attract skilled workers** (human capital).

9. Extremely popular arts and cultural initiatives can **spawn “spinoff” businesses**, fortifying and diversifying the original initiatives’ strengths.

... from Creative City Network: *Culture as an Economic Engine*.

Culture and the Canadian Economy:

- \$46 billion is contributed to the GDP by our cultural sector
- 600,000 Canadians work in cultural sector jobs
- \$1.00 invested, generates \$3.20 in economic activity
- 35,000 volunteers contribute 51.9 million hours per year
- Two-thirds of all international tourists participate in a cultural activity

B. In Particular ... SOPAC:

The July 2006 Feasibility Study prepared by Proscenium Architects and its team of consultants (including Lamont Management) outlined estimates for the capital and operating costs for a new South Okanagan Performing Arts Centre. The concept has subsequently been refined to include a 750 seat Main Theatre, a 150 seat Studio and appropriate support facilities including a licensed public lobby space and a box office operation. The purpose of this current work is to review the economic impact that the construction and operation of a new Performing Arts Centre will bring to Penticton and the South Okanagan.

Economic impact benefits are generally described in three ways:

- direct economic benefits
- indirect economic benefits
- “public good” benefits

The **direct economic impacts** are those that result from the performing arts as an economic activity and they fall into three groups; employment for those who work in arts activity, business activity that supplies arts organizations with goods and services and businesses that provide services to arts consumers. In the case of the South Okanagan Performing Arts Centre, wages, supplies and services required to construct the centre are the first measure, followed by those required to program and operate the theatre. These investments will strengthen Penticton’s performing arts producers and will help to develop new presenters. Together these producers and presenters will deliver more and better programs to audiences. Finally, local restaurants, accommodation providers and retailers will benefit from the increased traffic.

Indirect benefits are those that result when the arts attract individuals and firms to locations where the arts are available. These benefits range from bringing theatre-goers from outside the community to see performances (cultural tourism), to attracting to the community skilled workers and the firms they work for, thereby enhancing economic development. The pro forma says that initially 45,000 people will attend performances at the SOPAC, and estimates that the number will grow to nearly 60,000 when the operation is mature. This will result in a real increase in downtown spending associated with theatre going by people from outside the community. The business community can be prevailed upon to support the Centre because it raises the QOLI

(quality of life indicator) in the trading area.

“Public good” benefits are good for the whole community, both those who are involved in the arts and those who are not. For example, studies have shown that the development of an arts facility in a neighbourhood can contribute to increases in employment rates, land values and income levels, while helping to lower crime rates and vacancies.

The sum of these benefits is sometimes calculated and called the “multiplier effect”. Economists are not all agreed on what number might represent a reasonable multiplier effect; the circumstances of each project are unique, particularly when “bang for buck” is used to compare the value of competing projects. **Nevertheless, studies consistently show that a strong arts community and a healthy arts sector contribute to economic growth.** As we have noted, economists are not agreed on one “multiplier effect” number. GPM Consulting shows a range between 1.3 and 3.0. The Sport Tourism Economic Assessment Model (STEAM) has developed a model which produces a 1.5 multiplier number. While this model is intended to measure the impact of “one-off” sports events, it does relate to the business of a performing arts centre in the sense that people come to town to attend the event and buy tickets to it. Like sports events, shows at performing arts centres produce “spin-off” spending in relation to local restaurants, accommodation providers and retailers. Applying the 1.5 STEAM factor to the construction and operations of a new South Okanagan Performing Arts Centre, produces the following economic impact results (including direct, indirect and induced effects):

Construction (<i>\$ millions</i>):	48.0
Operations: first 4 years:	7.1

Total economic impact of the project over the two years of construction and first four years of operations is calculated at \$55,126,000

... from Lamont Management Inc., *Business Plan 2008 03 01*

8. Recent Experience Elsewhere

Over the past few years, across Canada and beyond, a remarkable number of new performing arts facilities have been built. An early appraisal suggests that each was unique when it came to designing, funding and programming. Some were part of downtown renewal projects, others worked out productive relationships with educational Institutions, and some have won architectural awards. The experience in developing these projects together with analyses of already well-established PACs should contribute substantially to the discussions at the proposed *Symposium*.

IV. Appendices

1. What is a modern performing arts centre?
2. On the Nature of Thriving Downtowns
3. Proposed Symposium
4. The Data: Participation in the Performing Arts
5. Memorandum of Understanding: SOPAC/PenMar

1. What is a modern performing arts centre?

- Multiple performance spaces
- Flexible performance spaces
- Rehearsal and creative spaces
- Experience-optimizing audience amenities
- Full back-of-house and front-of-house spaces
- Diverse programming
- Diverse clientele
- Generous public spaces
- Sophisticated technology

2. On the Nature of Thriving Downtowns

“My own blunt evaluation of regeneration programs that don’t have a cultural component is that they won’t work. Communities have to be energized, they have to be given some hope, they have to have the creative spirit released.” Robert Hughes, cited by Simon Brault.

For several years sociologists, urban planners, and others have been hard at work to determine what makes for a successful urban spaces. Although there are always location-specific factors at play, most would agree that those cities contributing most to **life satisfaction** are often *creative communities*, characterized by:

- A substantial creative infrastructure
- A substantial creative economy
- A good proportion creative workers
- A feature(s) making it distinctive in one of more ways
- A diverse and tolerant population

Or, in Richard Florida’s terms: “talent, technology, and tolerance.”

A SOPAC with a heavy commitment to the creative side of the performing arts would do much to support this approach, with a more thriving Penticton and Region as the result.

3. Proposed Symposium (Draft Outline)

EXPLORING THE POTENTIAL OF A PERFORMING ARTS CENTRE IN THE 21ST CENTURY

WHEN:	Fall, 2017: 3 days
WHERE:	Penticton Trade and Convention Centre (?)
CONVENED BY:	SOPAC Society, (City of Penticton?)
SUPPORTED BY (<i>for example</i>):	City of Penticton Regional District of the South Okanagan and Similkameen UBCO Okanagan College Other Educational Institutions Penticton and District Arts Council Downtown Penticton Association Other
POTENTIAL FINANCIAL SUPPORT:	Canada Cultural Spaces Fund, Department of Canadian Heritage Community Foundation of the South Okanagan Creative BC: BC Music Fund Sponsors Other
PARTICIPANTS:	Theatre architects Incubation/start-up specialists Creative Economy specialists Artistic Directors: music, dance, theatre Actors, performers, dancers Theatre managers Urban planners Property developers Arts Presenters Other
PROGRAM:	Latest technology: creating, design, presentation, sharing. For example: <ul style="list-style-type: none">• New media• Virtual reality• Artificial intelligence• Robotics• Web interface• Virtual theatre Collaboration models Latest design options Funding models Management models Operating models Best synthesis for the Okanagan

4. The Data: Participation in the Performing Arts ... from *Canadian Arts Presenting Association*

“This page presents short excerpts of relevant performing-arts-related research, including some exclusive data that isn't available in published reports.”

[Attendance and Importance of the Performing Arts](#)
[Attendance at Festivals](#)
[Economic Impact of the Performing Arts](#)
[Public Benefits and Social Impacts of the Performing Arts](#)
[Public Benefits of Performing Arts Facilities](#)
[Performing Arts and Health](#)
[Public Support to the Arts](#)
[Other Sources of Arts Statistics](#)

Attendance and Importance of the Performing Arts

Three in four Canadians (75%) attended a performing arts performance by professional artists in 2011.

- 44% attended a theatrical performance, such as a drama, musical theatre, dinner theatre, comedy;
- 42% attended a popular musical performance such as pop, rock, jazz, blues, folk, country and western;
- 20% attended a symphonic or classical music performance;
- 15% attended a dance performance.

86% of Canadians are accessing performing arts presentations via television, Internet or other media channels. Yet, they are twice as likely to ascribe a high importance to live performing arts attendance than to any media-based consumption.

79% of Canadians say they would miss it if there were no live, professional performing arts available in their community (21% to a moderate extent and 58% to a high extent).

Source: EKOS Research Associates, [Survey of the General Public](#), *The Value of Presenting*, 2012.

37% of Canadians (10.4 million) attended a cultural or artistic festival in 2010. This represents an increase of 57% since 2005. In comparison, Canada's gross domestic product grew by 18,3% over the same period.

Source : Statistics Canada, [General Social Survey](#), 2010.

Economic Impact of the Performing Arts

- The live performance domain contributed \$2.5 billion to the Canadian Gross Domestic Product in 2014.
- The live performance domain accounted for 55,000 jobs in 2014.

Source: Statistics Canada, [Provincial and Territorial Culture Indicators](#), 2016.

The average Canadian household spent \$116 on live sporting and performing arts events in 2014. This down 8.7% from \$127 in 2013, but up from \$91 in 2012.

Source: Statistics Canada, [Survey of Household Spending](#).

- In 2008, Canadians spent more on performing arts (\$1.426 billion) than on movie theatre admissions (\$1.216 billion) or live sports events (\$0.645 billion).

- A considerable percentage of lower-income households choose to spend some money on live performing arts. Households with incomes of \$25,000 or less are more likely to spend any money on live performing arts (15%) than on museum admissions (12%) and live sports (4%).

Source: Hill Strategies Research, [Patterns in Performing Arts Spending in Canada in 2008](#).

- The average Ontario arts and culture tourist spends twice as much per trip as does a typical tourist – \$667 per trip versus \$374.

Source: Research Resolutions & Consulting, [Ontario Arts and Culture Tourism Profile, 2013](#).

- 65% of businesses and skilled workers agree that a thriving arts and culture scene is a driving factor when considering relocation.

Source: Nanos Research, [Culture for Competitiveness: How Vibrant Culture Attracts Top Talent, 2016](#).

Public Benefits and Social Impacts of the Performing Arts

- Nine in ten Canadians believe they get **personal benefits** out of attending professional performing arts. Most perceive the main benefit to be the entertainment experience of it (84%), but other benefits are recognized, such as emotional, spiritual or intellectual stimulation, an opportunity to experience something new, providing exposure to different cultures, and providing an opportunity to socialize.
- 2 in 3 Canadians (65%) believe that **the community as whole benefits more** or as much as individual attendees from the presentation of the performing arts.
- Canadians believe that the presentation of **performing arts brings energy and vitality to communities**, improves quality of life and well-being of residents, makes communities more creative and fosters a stronger sense of pride and identity.

Source: EKOS Research Associates, [Survey of the General Public, The Value of Presenting, 2012](#).

- 82% of Canadians believe engagement with the arts leads to good health and well-being
- 95% of Canadians say arts education assists in the intellectual development of children
- 88% of Canadians believe youth engagement with the arts helps reduce youth crime and alienation

Source: The Strategic Counsel, [Building a Case for Business Support to the Arts, 2015](#).

- 92% of Canadians believe that arts and culture make a community a better place to live.
- 92% of Canadians believe that arts experiences are a valuable way of bringing together people from different languages and cultural traditions.
- 92% of Canadians believe that arts are an important way of helping people think and work creatively.
- 90% of Canadians believe that exposure to arts and culture is important to individual well-being.
- 87% of Canadians believe that the arts and culture help us express and define what it means to be Canadian.
- 86% of Canadians believe that the arts and cultural activities are important to a community's economic well-being.

Source: Phoenix Strategic Perspectives, [The Arts and Heritage in Canada – Access and Availability 2012](#).

- 8 of 10 Canadians believe that live theatre is important to making communities vibrant places to live.

Source: Nanos Research, [Canadian Theatre: Creating Vibrant Communities, 2014](#).

More theatre statistics:

- Festival attendees are twice as likely as non-attendees to volunteer, even accounting for other factors.

- Classical music attendees are 29% more likely to report very strong satisfaction with life than non-attendees, even accounting for other factors.
- In general, arts goers have better health, higher volunteer rates, and stronger satisfaction with life.

Source: Hill Strategies, [The Arts and Individual Well-Being in Canada](#), 2013.

- Adults who attend live arts performances, art museums or art galleries are far more likely than non-attendees to vote [38% more, in the case of live arts attendees], volunteer, or take part in community events.

Source: National Endowment for the arts, [Art-Goers in Their Communities: Patterns of Civic and Social Engagement](#), 2009.

- Participation in the arts, especially as audience, predicts civic engagement, tolerance and altruism.

Source: University of Illinois at Chicago, "[Interest in arts predicts social responsibility](#)," *Science Daily*, 16 Aug. 2012.

Public Benefits of Performing Arts Facilities

- Canadians believe that **performing arts venues provide community-wide benefits**, such as improved quality of life (87% say moderate to high importance), fostering a sense of community pride (87%), contributing to economic development (88%), and greater community safety through increased activity at night (60%).

Source: EKOS Research Associates, [Survey of the General Public, The Value of Presenting](#), 2012.

- 86% of Canadians feel that live performance spaces in their community contribute to quality of life.

Source: Phoenix Strategic Perspectives, [The Arts and Heritage in Canada – Access and Availability 2012](#).

- 80% of Canadians agree theatres are important for attracting visitors to communities.

Source: Nanos Research, [Canadian Theatre: Creating Vibrant Communities](#), 2014.

Performing Arts and Health

- People who attend theatre, pop music concerts or cultural festivals are up to 32% more likely to report very good or excellent health, even accounting for other factors.¹
- People who attend theatre/dance and pop or classical concerts are more likely to report good health and quality of life, even after adjusting for other factors.²
- People who attend concert, theatre or film are significantly healthier, have lower anxiety and are less subject to depression.³
- The more frequently people attend performing arts and other receptive arts, the more likely they are to report good health.^{3,4}
- Attending concerts and theatre increases perceived vitality.^{5,6}
- Attending cultural events is linked with longevity. People who rarely attend such events run a nearly 60% higher mortality risk than those attending most often.⁷
- Rare and moderate cultural events attendees in urban areas are 3 times more likely to die of cancer over time than frequent attendees.⁸
- [More arts and health facts](#)

Sources:

¹ Hill Strategies, [The Arts and Individual Well-Being in Canada](#), 2013.

² Tellervo Nenonen et al., [Cultural services and activities: The association with self-rated health and quality of life](#), 2014.

³ Koenraad Cuypers et al., [Patterns of receptive and creative cultural activities and their association with](#)

[perceived health, anxiety, depression and satisfaction with life among adults, 2011.](#)

⁴ [Anna Wilkinson et al., *Are variations in rates of attending cultural activities associated with population health in the United States?*, 2007.](#)

⁵ [Lars Olov Bygren et al., *Cultural participation and health: a randomized controlled trial among medical care staff*, 2009.](#)

⁶ [Töres Theorell et al., *A note on designing evaluations of health effects of cultural activities at work*, 2009.](#)

⁷ [Lars Olov Bygren et al., *Attendance at cultural events, reading books or periodicals, and making music or singing in a choir as determinants for survival*, 1996.](#)

⁸ [Lars Olov Bygren et al., *Attending cultural events and cancer mortality: A Swedish cohort study*, 2009.](#)

Public Support to the Arts

- Volunteers are crucial in performing arts presentation: for each paid staff member working in the field, there are 17 volunteers giving their time, thereby enabling a broad range of benefits for their community.

Source: Strategic Moves, [Interim Report of Findings, *The Value of Presenting*](#), 2012.

- Canadians volunteered 107 million hours for arts and culture organizations in 2013. This is the equivalent to 56,000 full-time jobs.
- Those Canadians who volunteered gave on average more time for arts and culture than any other sector in 2013 (120 hours).
- Between 2004 and 2013, the number of volunteers in arts and culture organizations increased by 23%, much higher than the 7% increase in all volunteers.
- One million Canadians (3%) donated \$162 million to arts and culture organizations in 2013.
- The total donations and the number of donors have increase at higher pace for arts and culture organization than for other not-for-profit organizations between 2007 and 2013 (respectively 46 vs. 16% and 34 vs. 6%).

Source: Statistics Canada, [General Social Survey on Giving, Volunteering and Participating](#), 2013.

- 70% of Canadians consider that Canada still needs specific protection policies and support from government for Canadian culture to survive.
- There is a very strong relationship between attachment to Canada and assessment of its culture. Canadians who have a deep emotional attachment to Canada are more likely to believe that there is a unique Canadian culture (84% vs. 76%, n=1525). They are also more likely say that there is "something special" to it (86% vs. 74%).

Source: Angus Reid Institute, [Culture, the CBC & the CRTC: both institutions get good marks, but future relevance seen as a challenge](#), 2015.

- Nine in ten Canadians (90%) agree with governments providing support for the arts and culture.

Source: Phoenix Strategic Perspectives, [The Arts and Heritage in Canada – Access and Availability 2012](#).

- 81% of Ontarians agree that the government should spend public dollars to support the arts.

Source: Environics, [The Arts And The Quality Of Life: The Attitudes Of Ontarians](#), 2010.

Other Sources of Arts Statistics

Arts Facts

Recent and relevant statistics compiled by CAPACOA for the Canadian Arts Coalition, for Arts Day on Parliament Hill 2014. [Arts Research Monitor](#) Database of research on the arts, indexed by theme. [Benefits Hub](#)

Lots of source on community benefits, managed by Canada Parks and Recreation Association.

5. Memorandum of Understanding: SOPAC Society/PenMar Society

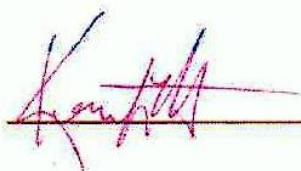
Memorandum of Understanding

This Memorandum of Understanding (MOU) is made on Jan 24/17 by the Penmar Community Arts Society, hereinafter referred to as PENMAR, and the South Okanagan Performing Arts Centre Society, hereinafter referred to as SOPAC.

PENMAR and SOPAC agree to work together to combine resources to develop a centre for the creative and performing arts in downtown Penticton, serving all communities in the South Okanagan. For the purposes of this agreement this proposed centre will be called THE PROJECT.

It is agreed that:

1. Upon the signing of this MOU, SOPAC will be the organization of record for the project, with the clear public understanding that the two organizations will work in a true "spirit of partnership" and collaboration to achieve their mutual interests to design, develop, finance, and construct a creative and performing arts centre in downtown Penticton.
2. This MOU does not include any contractual relationship between PENMAR and SOPAC.
3. PENMAR members are welcome to join SOPAC under the same terms, conditions, and privileges that are currently enjoyed by SOPAC members.



_____ for PENMAR



_____ for SOPAC



Council Report

penticton.ca

Date: February, 7, 2017
To: Peter Weeber, Chief Administrative Officer
From: Dana Schmidt, Corporate Officer
Subject: **Southern Interior Local Government Association (SILGA)**

File No:

Staff Recommendations

#1 - Advertising

WHEREAS section 94 of the *Community Charter* prescribes public notice provisions through a newspaper distributed at least weekly;

AND WHEREAS other forms of media have a far greater reach than newspaper publications;

NOW THEREFORE BE IT RESOLVED that the Ministry of Community, Sport and Cultural Development be requested to conduct a comprehensive review and evaluation of the statutory advertising provisions with a view to amending such provisions in response to the technological advances of recent years.

#2- Business Registry

WHEREAS local governments wish to improve economic drivers and help local and BC companies grow in our region;

AND WHEREAS a listing of all registered businesses as collected by BC Registries and Online Services would facilitate as a mechanism to understand the existing businesses and potential economic opportunities;

THEREFORE BE IT RESOLVED that UBCM lobby the Ministry of Technology, Innovation & Citizens' Services, the Ministry responsible for BC Registries and Online Services and request that a business registry census be provided to municipal and regional governments annually.

Background

Resolutions that start at the area associations and forwarded to UBCM are more likely to receive support at the provincial level and therefore more likely that the Ministry will act on them.

Financial implication

No financial changes are anticipated as any cost savings realized would be redirected for use of other communication tools.

Analysis - Advertising

Section 94 of the *Community Charter* regulates statutory advertising. At the time it was adopted, newspapers were the most effective tools to reach the taxpayers. While newspaper is effective in reaching certain demographics, since the drafting of the legislation; significant and extensive changes have occurred including online publications, City websites and social media. Notification, advertising and public engagement should now effectively use all mediums to provide the most advantageous method to accomplish the goals of informing and engaging. Online newspapers and websites also provide a more flexible format and immediate posting opportunities.

Analysis – Business Registry

The provincial business registry information is currently only available for one business at a time and there is no mechanism to get a census. As the information is already publicly available, there are no privacy concerns to address.

The City has attempted to access this information through other means but has been unsuccessful to date. The information would be useful for economic development, licencing and land use. While the City requires business licenses, it doesn't have another mechanism to ensure all businesses comply with its regulations or to even know that they exist.

Attachments

Respectfully submitted,

Dana Schmidt

Corporate Officer

Approvals

EDO	Chief Administrative Officer
CP	PW

Council Report

penticton.ca

Date: February, 7, 2017
To: Peter Weeber, Chief Administrative Officer
From: Brent Edge, Water Quality Supervisor

File No:

Subject: Okanagan Basin Water Board Grant Application Phase II Drought Management Plan

Staff Recommendation

THAT Council support staff making an application to the Okanagan Basin Water Board Water Conservation and Quality Improvement (WCQI) grant program for a grant in the amount of \$12,500 for Phase II of our Drought Management Plan;

AND THAT Council commits matching funds from the water reserve to complete the study, as included in the Water Treatment Plant 2017 budget.

Strategic priority objective

This project supports the City's Water Conservation strategy and our Emergency Preparedness planning.

Background

Annually the Okanagan Basin Water Board administers The Water Conservation and Quality Improvement (WCQI) grant program which provides funds to local governments, irrigation districts, and non-profit organizations for projects that conserve and protect water, based on the recognition that we are all part of "One Valley, One Water."

One of the projects that City staff would like to address that follows from the 2015 drought and work that the City has recently done with the Okanagan Basin Water Board is to develop a Drought Management Plan.

The deliverables for this project will be a professional report that identifies our water supply risks and looks at demands historically and for the future. The report will identify the resilience in the sources and the requirements and methods to mitigate an extended drought. The final report will identify trigger points and provide decision making guidelines for each level of drought. A communications protocol will also be clearly defined for each level of drought. Phase I has been awarded to Associated Engineering and is currently being developed with an anticipated completion date of March 31, 2017.

The Grant submission deadline is February 17, 2017.

Financial implication

The Water Conservation and Quality Improvement grant program gives priority to applications that have matching funds in place. The estimated cost to prepare Drought Management Plan phase II is \$25,000. The project would be funded by \$12,500 in Grant Funding and \$12,500 from the City of Penticton 2017 Operating Budget.

Analysis

The creation of a Drought Management Plan is the logical next step for the City of Penticton to be better prepared to address drought conditions in the future. Being successful in our grant application would provide \$12,500 in funding.

Should Council choose they could provide alternate direction to staff.

Alternate recommendations

THAT Council provide alternate direction to staff.

Respectfully submitted,




Brent Edge
Water Quality Supervisor

Attachments:

Appendix A – Grant Application

Approvals

Director 	CAO PW	CFO JB
---	---------------	---------------

Attachment A

[N:\Planning Div\Mitch\City of Penticton\ADMIN REPORTS\Grant Applications\2017 02 07
OBWB WCQI Application Form 2017 Drought Management.docx](#)



1450 KLO Road, Kelowna, BC V1W 3Z4
P 250.469.6270 F 250.762.7011
www.obwb.ca

Water Conservation and Quality Improvement Grant Program Application Form

Please carefully complete and review this form before submitting. If you are unclear on any of the sections, please consult the guide to the application on our website, or contact the Office and Project Manager at 250-469-6270 or grants@obwb.ca.

Enter Grant Application Year: 2017

A. PROJECT SUMMARY

Organization: City of Penticton

Project Title: Drought Management Plan Phase II

Regional District: RDNO RDCO RDOS

Supporting Local Government: City of Penticton

Project Budget: \$25,000 **Grant Requested:** \$12,500

Project Category: Drought Planning

B. PROJECT CONTACT

Name: Brent Edge

Title: Water Quality Supervisor

Phone: 1-250-490-2564

Email: brent.edge@penticton.ca

C. PROJECT GOALS

What is the aim of the project?

The aim of this project is to address phase II of our Drought Management Plan. Phase I has been awarded to Associated Engineering with an anticipated completion date of March 31, 2017.

D. PROJECT DELIVERABLES/MEASURABLE OUTCOMES

What are the expected deliverables of the project? How will the project's success be measured?

The deliverables for this project will be a professional report that identifies our water supply and looks at demands historically and for the future. The report will identify the resillance in the sources and the requirements to mitigate an extended drought. The end report will identify trigger points and provide decision making guidelines for each level of drought. A communications protocall will be clearly defined for each level of drought. This is phase II and is required to complete the project.

E. PROJECT METHODS

Briefly describe how your organization will meet its goal.

The City of Penticton will work with a consultant to gather historical data from within the organization and develop strategic plan along with a communication protocol to inform our customers how we are doing with storage, what the immediate future looks like, what we need to do to maintain water supply and how we intend to achieve those goals in regards to a drought declaration. The consultant will develop decision-making guidelines for each source water for moving between drought stages.

F. PROJECT TIMELINE

Project Start Date: 01/04/2017 Completion Date: 02/06/2017

Please list all anticipated phases/activities with dates of completion in the space below:

April 1/2017 Award Phase II

June 1/2017 Draft Report review

June 30/2017 Final Report

G. PROJECT PARTNERS

How does this project illustrate collaboration with other agencies? With other jurisdictions?

This project is supported by and collaborates with RDOS work that is currently being conducted regionally to develop a drought management plan.

H. PROJECT VALLEY-WIDE BENEFIT

Recognizing that the Okanagan is one valley with one water, how does this project benefit the valley as a whole? Describe how the outcomes of the project can benefit others in the Okanagan.

Supports the one valley, one water drought management plan. Any reduction of water usage will benefit the valley as a whole.

I. PROJECT INNOVATION

What is innovative about this project? Will this project present a new and/or innovative approach or address a previously identified issue?

The drought plan will be the first Drought Management plan completed for the City and perhaps a model for others to follow.

J. GRANT TRACK RECORD

If your organization has received OBWB grants for previous projects, please comment on the success of the projects and the significance of the grants to your organization.



Drought Management Plan Phase I, The City received a grant to assist in the development of our Drought Management Plan phase I. This work is underway and expected to be complete by March 31, 2017.

Penticton Creek and Ellis Creek flow Monitoring, OBWB helped with the financial requirements and the projects are in operation and used by several organizations including First Nations.

Water Conservation Students, grant funding has supported our water conservation programs with the ability to hire students and develop our program.

K. PROJECT FUNDING

Total Project Funding: \$25,000

Please list below all sources of funding and indicate whether each is direct or in-kind, confirmed or unconfirmed.

\$12,500 commitment from City of Penticton is unconfirmed at this point, pending 2017 budget approval. Upon approval a council resolution supporting the project will be provided.

L. PROJECT EXPENSES

Total Project Budget: \$25,000

Project Management: [Click here to enter text.](#)

Equipment: [Click here to enter text.](#)

Supplies/Consumables: [Click here to enter text.](#)

Printing/Media: [Click here to enter text.](#)

Consultant/Contractor: \$25,000

Travel: [Click here to enter text.](#)

Wages: [Click here to enter text.](#)

Other: [Click here to enter text.](#)

SUBMITTING THIS APPLICATION

Please ensure you have reviewed the terms of reference and the guide to the application. Once your application is complete, please submit a copy along with the required supporting resolution from local government and any other supporting documents to:

**Okanagan Basin Water Board
WCQI Grant Program
1450 KLO Rd
Kelowna, B.C. V1W 3Z4**



1450 KLO Road, Kelowna, BC V1W 3Z4
P 250.469.6270 F 250.762.7011
www.obwb.ca

Or electronically to:

grants@obwb.ca

Applications must be received by 4:00 p.m. on the deadline date. Late or incomplete applications will not be accepted. Please save and print a copy of the application for your records.

Council Report

penticton.ca

Date: February, 7, 2017 **File No:**
To: Peter Weeber, Chief Administrative Officer
From: Randy Craig, Wastewater Treatment Plant Supervisor
Subject: **Okanagan Basin Water Board Grant Application Microbial Survey**

Staff Recommendation

THAT Council endorses an application to the Okanagan Basin Water Board Water Conservation and Quality Improvement (WCQI) grant program for an in kind grant in the amount of \$3,500 for a Microbial Survey of Biological Nutrient Removal (BNR) Treatment Plant Sludge.

Strategic priority objective

This project supports the City's infrastructure renewal program by ensuring the City's footprint is environmentally sustainable.

Background

Annually the Okanagan Basin Water Board administers The Water Conservation and Quality Improvement (WCQI) grant program which provides funds to local governments, irrigation districts, and non-profit organizations for projects that conserve and protect water, based on the recognition that we are all part of "One Valley, One Water."

The deliverables for this project will be a publication-ready research paper documenting the testing results and made publically available.

The report will identify baseline microbial populations and conditions that are associated with stable biological nutrient removal (BNR) in Okanagan Valley wastewater treatment plants. The data will be used to develop more optimal operating strategies, better design and more accurate modelling (see attached proposal for more information).

The Grant submission deadline is February 17, 2017.

Financial implication

The Water Conservation and Quality Improvement grant program gives priority to applications that have matching funds in place. The estimated cost to undertake this study is \$33,800. The project would be funded by \$3,500 in kind Grant Funding (City of Penticton), \$10,000 direct and \$3,500 in kind Grant Funding (City of Kelowna), \$3,500 in kind Grant Funding (Central Okanagan Regional District) and \$13,000 direct and

\$4,000 in kind Grant Funding from AECOM Canada Ltd. (see attached grant application for more information)

Analysis

The testing is intended to be collaborative and utilizes resources from The City of Penticton, City of Kelowna and Regional District of Central Okanagan. Results of the testing are expected to include insights on how to more efficiently operate and design biological nutrient removal processes.

Should Council choose they could provide alternate direction to staff.

Alternate recommendations

THAT Council provide alternate direction to staff.

Respectfully submitted,



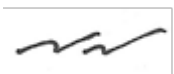
Randy Craig
Wastewater Treatment Plant Supervisor

Attachments:

Attachment A – Grant Application

Attachment B - Proposal

Approvals

Director 	CAO PW	CFO JWB
---	---------------	----------------

Attachment A

[2017 02 07 OBWB WCQI Application Form Microbial Research.pdf](#)

Attachment B

[2017 02 07 Microbial Research proposal.pdf](#)



1450 KLO Road, Kelowna, BC V1W 3Z4
P 250.469.6270 F 250.762.7011
www.obwb.ca

Water Conservation and Quality Improvement Grant Program Application Form

Please carefully complete and review this form before submitting. If you are unclear on any of the sections, please consult the guide to the application on our website, or contact the Office and Project Manager at 250-469-6270 or grants@obwb.ca.

Enter Grant Application Year: 2017

A. PROJECT SUMMARY

Organization: City of Penticton

Project Title: Microbial Survey of Biological Nutrient Removal (BNR) Treatment Plant Sludge

Regional District: RDNO RDCO RDOS

Supporting Local Government: City of Penticton

Project Budget: \$33,800 **Grant Requested:** \$10,800

Project Category: Water Treatment Study

B. PROJECT CONTACT

Name: Randy Craig

Title: AWWTP Supervisor

Phone: 250.490-2559

Email: randy.craig@penticton.ca

C. PROJECT GOALS

What is the aim of the project?

To identify baseline microbial populations and associated conditions that are associated with stable biological nutrient removal (BNR) in Okanagan Valley wastewater treatment plants. The data will be used to develop more optimal operating strategies, better designs and more accurate modelling (see attached proposal for more information).

D. PROJECT DELIVERABLES/MEASURABLE OUTCOMES

What are the expected deliverables of the project? How will the project's success be measured?

A publication-ready research paper documenting the testing results will be produced and publically available.

E. PROJECT METHODS

Briefly describe how your organization will meet its goal.



1450 KLO Road, Kelowna, BC V1W 3Z4
P 250.469.6270 F 250.762.7011
www.obwb.ca

Sludge samples from three wastewater treatment plants will be taken by respective operators and shipped to UBC for genomic sequencing. Technicians at UBC Vancouver (Hallam Lab) will conduct metagenomics sequencing on the samples and assist in interpretation of the results. AECOM staff will assist in coordinating the sampling and provide technical input for the report writing.

F. PROJECT TIMELINE

Project Start Date: 01/04/2017 Completion Date: 31/12/2017

Please list all anticipated phases/activities with dates of completion in the space below:

- April to August, 2017: samples collected, preserved and shipped to the lab. Testing will be undertaken in 3 batches over the spring/summer.**
- September, 2017: the metagenomics sequencing will be conducted in a single batch on the preserved samples to minimize costs.**
- October to December, 2017: the results will be assessed and analyzed and report writing completed to document the work.**

G. PROJECT PARTNERS

How does this project illustrate collaboration with other agencies? With other jurisdictions? Funding contribution will be provided by City of Kelowna, Central Okanagan Regional District and City of Penticton. Furthermore, the results will benefit all BNR wastewater treatment plants in the Okanagan by leading to a deeper understanding of BNR process.

H. PROJECT VALLEY-WIDE BENEFIT

Recognizing that the Okanagan is one valley with one water, how does this project benefit the valley as a whole? Describe how the outcomes of the project can benefit others in the Okanagan.

The testing is intended to be collaborative and utilizes resources from City of Penticton, City of Kelowna and Regional District of Central Okanagan. Results of the testing are expected to include insights on how to more efficiently operate and design biological nutrient removal processes.

I. PROJECT INNOVATION

What is innovative about this project? Will this project present a new and/or innovative approach or address a previously identified issue?

The proposed testing will utilize testing metagenomics techniques that are able to identify specific species of bacteria involved in the wastewater treatment process. This type of testing has only recently become accessible outside of research and at a reasonable cost. The information that the testing provides is transforming our understanding of BNR process and is expected to yield results that will improve process design and operational stability.

J. GRANT TRACK RECORD



If your organization has received OBWB grants for previous projects, please comment on the success of the projects and the significance of the grants to your organization.

[Click here to enter text.](#)

K. PROJECT FUNDING

Total Project Funding: \$10,800

Please list below all sources of funding and indicate whether each is direct or in-kind, confirmed or unconfirmed.

City of Penticton: \$3,500 (in-kind); confirmed

City of Kelowna: \$10,000 (direct); \$3,500 (in-kind), confirmed

CORD: \$3,500 (in-kind), confirmed

AECOM Canada Ltd.: \$13,000 (direct); \$4,000 (in-kind); confirmed

L. PROJECT EXPENSES

Total Project Budget: \$48,300

Project Management: \$4,000

Equipment: \$32,400

Supplies/Consumables: \$500

Printing/Media: [Click here to enter text.](#)

Consultant/Contractor: [Click here to enter text.](#)

Travel: [Click here to enter text.](#)

Wages: \$10,500

Other: \$900

SUBMITTING THIS APPLICATION

Please ensure you have reviewed the terms of reference and the guide to the application. Once your application is complete, please submit a copy along with the required supporting resolution from local government and any other supporting documents to:

Okanagan Basin Water Board
WCQI Grant Program
1450 KLO Rd
Kelowna, B.C. V1W 3Z4

Or electronically to:



1450 KLO Road, Kelowna, BC V1W 3Z4

P 250.469.6270 F 250.762.7011

www.obwb.ca

grants@obwb.ca

Applications must be received by 4:00 p.m. on the deadline date. Late or incomplete applications will not be accepted. Please save and print a copy of the application for your records.

Introduction

Many of the wastewater treatment plants servicing communities in the Okanagan Valley utilize a biological nutrient removal (BNR) process to remove phosphorus and nitrogen. Implementation of these BNR systems has led to a significant reduction in point source discharges of phosphorus and reversed the deteriorating water quality trend observed through the 1970's (Jensen and Epp, 2002). The focus of this research is to utilize emerging analytical methods to better understand the biological treatment process, allowing for more accurate process modelling and development of more robust and reliable BNR treatment plants.

Development of the BNR technology for simultaneous removal of nitrogen and phosphorus occurred in the early 1970's and was sparked by observations made on activated sludge treatment systems when the microbial population was alternately exposed to anaerobic and aerobic conditions. The Bardenpho or Phoredox process followed from this early research. The importance of controlling nitrates allowed the coupling of nitrification/denitrification processes and led to the BNR treatment schemes currently used in the Okanagan (Figure 1). Other refinements that have occurred include addition of a sidestream and mainstream primary sludge fermenter to provide supplemental volatile fatty acids (VFA) and tertiary filtration to minimize effluent particulate nitrogen and phosphorus.

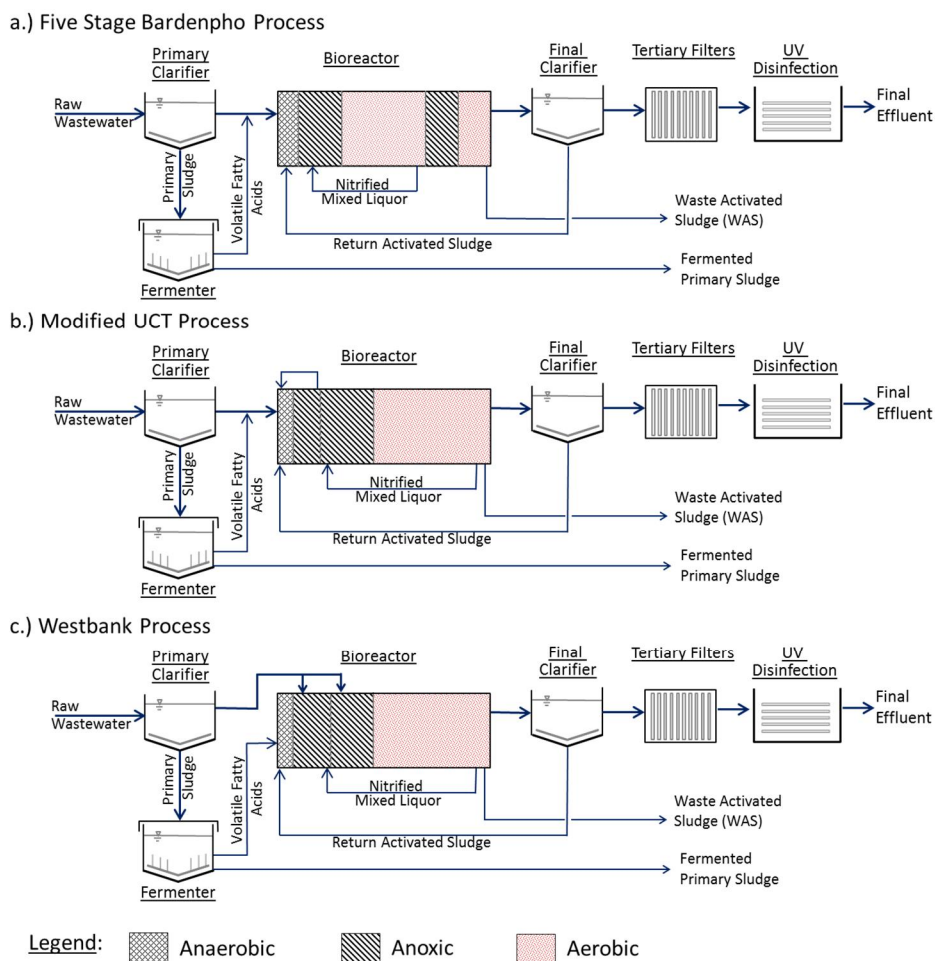


Figure 1 - Process flow schematics of common BNR wastewater treatments system (adapted from Oldham & Rabinowitz, 2002)

A common feature of the various BNR processes depicted in Figure 1 is the presence of anaerobic, anoxic and aerobic cells. The cells form a system which when optimized can provide carbon, nitrogen and phosphorus removal. Carbon as measured by biological oxygen demand (cBOD) and ammonia are oxidized in the aerobic cells by heterotrophic and chemotrophic bacteria. The cBOD is consumed by a variety of organisms which is respired to produce carbon dioxide or converted to new cells. Ammonia (NH_3), the primary nitrogen compound in wastewater, is oxidized to nitrite (NO_2^-) by bacteria of the *Nitrosomonas* genus. Nitrite is further oxidized to nitrate (NO_3^-) by *Nitrosospira* bacteria.

The anoxic cells are primarily used for denitrification which is the biological reduction of nitrate to nitrogen gas in the absence of oxygen. In practice, nitrified mixed liquor is pumped back to the anoxic cells where a variety of facultative heterotrophic and autotrophic bacteria are able to provide for denitrification.

Phosphate removal is accomplished by cycling activated sludge between anaerobic and aerobic conditions. Under anaerobic conditions and in the presence of VFAs (acetic and propionic acid), phosphorus accumulating organisms (PAOs) associated with the *Acinetobacter* genus simultaneously release stored phosphate and uptake the VFAs as an energy source. Under aerobic conditions, PAOs utilize the stored VFAs as a food source for cell growth and absorb phosphate in excess of the amount released in the anaerobic zone. Harvesting and wasting the bacteria after the aerobic zone provides a mechanism for phosphorus removal.

The BNR process is a complex microbiological system that despite being the basis of full-scale WWTPs for more than 30 years is not fully understood. For example, understanding the role that fermenting bacteria play in the BNR process continues to evolve. Fermenting bacteria have traditionally thought to hydrolyze macromolecules, providing the substrate for biological phosphorus and ammonia removal; however, through measurements using new analytical techniques these bacteria represented a relatively large fraction (3-21%) of the total microbial population from 9 BNR plants (Kong et al, 2008). In a follow-up survey of 5 full-scale BNR plants, the abundance *Tetrasphaera*, a genera of fermenting bacteria, was 18-30% and was higher than the *Accumulibacter* population, the genera traditionally associated with PAOs (Nguyen et al, 2011).

The assumption that *Accumulibacter* bacteria are the primary PAOs in the BNR process is being re-considered (Barnard et al, 2016). *Tetrasphaera* is a genus of fermenting bacteria that are able to accumulate phosphorus (Kong et al, 2005) and most are able to grow under anaerobic conditions (Nielsen et al, 2010). Additional studies further suggest that some *Tetrasphaera* can take up VFAs in the same way as *Accumulibacter*, in addition to glucose and amino acids for energy storage; and are also able to utilize nitrite and nitrate for respiration under anoxic conditions, thereby contributing to denitrification (Kirstansen et al, 2013). The complexity of BNR systems is further highlighted by recent research that suggests minor bacteria populations are also important for stability of biological phosphorus removal and may play an unrecognized function (Lawson et al, 2015).

The Proposed Research

By removing nutrients in the wastewater effluent prior to discharge to Okanagan Lake, implementation of full-scale WWTPs in the Valley has provided for Regional population growth while maintaining Lake water quality. To address future growth and decreasing effluent phosphorus limits, a clearer

understanding of the microbiological community in the BNR process and the factors that maximize treatment stability is necessary. Full-scale WWTPs in the Okanagan are capable over short durations of achieving effluent phosphorus concentrations of 0.10 mg P/L, well below the 0.25 mg P/L regulatory objective. The research proposed in this brief is geared towards providing results to improve the design and operation of full-scale BNR facilities to achieve lower effluent nutrient concentrations more reliably. It is expected that a metagenomics survey of full-scale WWTPs in the Valley that have minor variations in process configurations, like those depicted in Figure 1, will fill knowledge gaps and allow for more accurate computer modelling of BNR systems.

The specific objective of the research is to identify the microbial populations at specific locations through the bioreactor to isolate the operating parameters that result in growth or decay of PAOs, nitrifiers and denitrifiers. Comparative microbial testing using metagenomics sequencing of 8 internal and external liquid streams of the bioreactor is proposed as shown in Figure 2. In conjunction with flow data, the metagenomics testing will provide a snapshot of the mass flow of specific microbial populations and allows for calculation of the decay or growth of these communities under anaerobic, anoxic or aerobic conditions. The testing will target Tetrasphaera bacteria since the literature is converging on the idea that these microbes may provide the greatest potential for both phosphorus and nitrogen removal. The data is expected to provide a better understanding of the conditions that maximize the growth and minimize the decay of these important nutrient-removing bacteria. The study will provide an unprecedented level of detail on the workings of BNR process and inevitably lead to more optimal operating and design approaches.

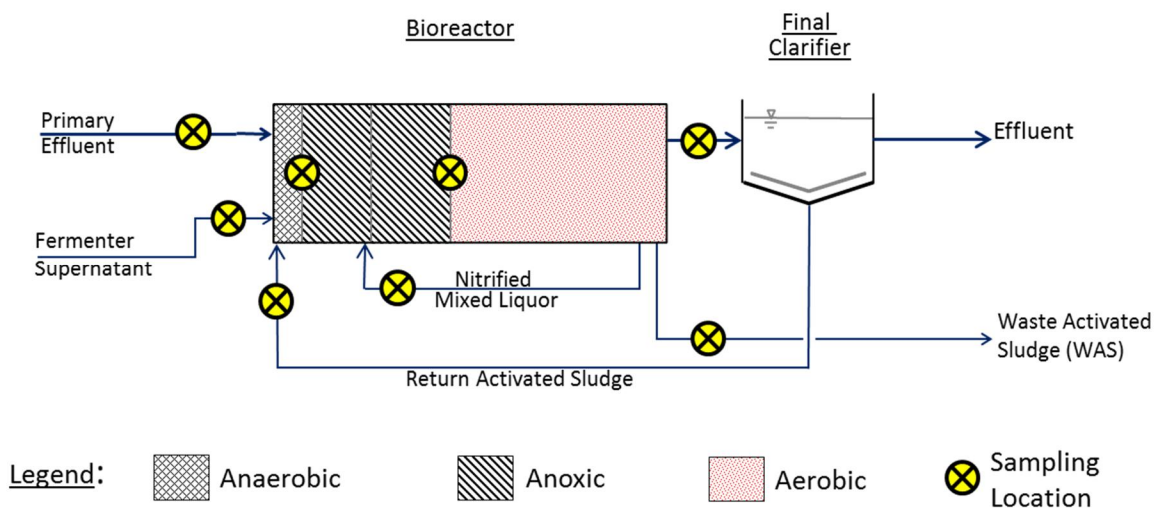


Figure 2 – Proposed microbial sampling locations for BNR plants

Metagenomics testing, interpretation and associated analyses will be performed by researchers at the University of British Columbia, Hallam Laboratory. To disseminate the results, the summary report will be written as a paper and submitted for publication. Currently, 3 BNR treatment plants have been identified for microbial testing and include the City of Kelowna Wastewater Treatment Facility, City of Penticton Advanced Wastewater Treatment Plant and the Westside Regional Wastewater Treatment Plant. Sample acquisition and preparation, as well as application of the results and report writing will be performed by WWTP operators and AECOM staff. AECOM and UBC Okanagan will coordinate sampling, microbial analyses and serve as the lead for the report writing function.

A summary of estimated costs for the comparative study is summarized in Table 1. The total estimated cost for the testing is estimated to be \$33,800 and is based on costs provided by UBC assuming a service contract arrangement.

Table 1 – Summary of direct costs

	Item	Estimated Cost
1.	Sample sequencing using iTAGs on the miSEQ platform (UBC Vancouver) @ \$100/sample	\$14,400
2.	Sample analysis and results interpretation (UBC Vancouver and UBC Okanagan)	\$18,000
3.	Courier/shipping (@ \$75/package x 12)	\$900
4.	Consumables	\$500
<i>Total</i>		<i>\$33,800</i>

Note: Cost sample sequencing is based on an allowance of 32 samples for each of the 3 WWTPs

The cost for testing within the 3 WWTPs is partially covered by a total of \$23,000 cash contribution from City of Kelowna (\$10,000) and AECOM Canada Ltd. (\$13,000). Additional in-kind, non-monetary contribution from each of the WWTPs will be provided for labour to prepare the samples for testing, provision of WWTP process data and data analyses/review.

Table 1 – Summary of committed cash and estimated in-kind contributions

Contributing Entity	Cash Contribution	In-kind, Non-Monetary Contribution
AECOM Canada Ltd.	\$13,000	\$4,000
City of Kelowna	\$10,000	\$3,500
City of Penticton	-	\$3,500
Central Okanagan Regional District	-	\$3,500
<i>Total</i>	<i>\$23,000</i>	<i>\$14,500</i>

The gap in funding for the proposed microbial testing amounts to \$10,800 (i.e., \$33,800 – \$23,000). Therefore, we are requesting an Okanagan Water Basin Board (OBWB) grant in the amount of \$10,800 to fund the gap.

References

- Barnard, J.L., Dunlap, P., Steichen, M., 2016. Rethinking the mechanisms of biological phosphorus removal, Proceedings from *WEF/IWA Nutrient Removal and Recovery 2016 Conference*. Alexandria, Va: Water Environment Federation.
- Jensen, E.V. and Epp, P.F., 2002. Water quality trends in Okanagan, Skaha and Osoyoos lakes in response to nutrient reductions and hydrologic variation. BC Ministry of Water Land and Air Protection. Penticton.

- Kristiansen, R., Nguyen, H. T. T., Saunders, A. M., Nielsen, J. L., Wimmer, R., Le, V. Q., Nielsen, P. H., 2013. A metabolic model for members of the genus *Tetrasphaera* involved in enhanced biological phosphorus removal. *The ISME Journal*, 7(3), pp. 543–554.
- Kong, Y.H., Nielsen, J.L., and Nielsen, P.H., 2005. Identity and ecophysiology of uncultured actinobacterial polyphosphate-accumulating organisms in full-scale enhanced biological phosphorus removal plants. *Applied Environmental Microbiology*, 71, pp. 4076–4085.
- Kong, Y., Xia, Y., Nielsen, P.H., 2008. Activity and identity of fermenting microorganisms in full-scale biological nutrient removing wastewater treatment plants. *Environmental Microbiology*, 10(8), pp. 2008-2019.
- Lawson, C.E., Strachan, B.J., Hanson, N.W., Hahn, A.S., Hall, E.R., Rabinowitz, B., Mavinic, D.S., Ramey, W.D., Hallam, S.J., 2015. Rare taxa have potential to make metabolic contributions in enhanced biological phosphorus removal ecosystems. *Environmental Microbiology*, 17(12), pp. 4979-4993.
- Nguyen, H.T.T., Le, V.Q., Hansen, A. A., Nielsen, J. L., & Nielsen, P. H., 2011. High diversity and abundance of putative polyphosphate-accumulating *Tetrasphaera*-related bacteria in activated sludge systems. *FEMS Microbiology Ecology*, 76(2), pp. 256–267.
- Nielsen, P.H., Mielczarek, A.T., Kragelund, C., Nielsen, J.L., Saunders, A.M., Kong, Y., Hansen, A.A., Vollerstsen, J., 2010. A conceptual ecosystem model of microbial communities in enhanced biological phosphorus removal plants. *Water Research*, 44, pp. 5070-5088.
- Oldham, W.K., Rabinowitz, B., 2002. Development of biological nutrient removal technology in western Canada, 2002. *Journal of Environmental Engineering and Science*, 1, pp. 33-42.

Council Report

pentiction.ca

Date: February 7, 2017
To: Peter Weeber, Chief Administrative Officer
From: Jim Bauer, Chief Financial Officer
Subject: **ITU Multisport Agreement**

File No:

Staff Recommendation

THAT Council formalize the agreement with Michael Brown and Penticton 2017 ITU Multisport World Championships Ltd. to host the 2017 International Triathlon Union (ITU) Multisport World Championships Festival in Penticton;

AND THAT the Mayor and Corporate Officer are directed to execute this agreement on behalf of the City;

AND THAT Council direct staff to negotiate with Michael Brown and Penticton 2017 ITU Multisport World Championships Ltd. on five-year rights of first refusal should either party bid on ITU or other multisport events.

Strategic priority objective

Sustainable: Implementing a plan for sustainable growth that allows for a vibrant city.

Connected and Strong: Be a premier visitor destination.

Background

Recognizing an opportunity to promote our triathlon history and stimulate our local economy, Council approved in February 2015 a partnership with Michael Brown and Kevin Cutjar to submit a bid on the 2017 ITU Multisport World Championships Festival. Penticton was announced as host of the festival in May 2015. Mr. Cutjar has since been bought out by Mr. Brown as the sole license holder for the festival, scheduled to take place in Penticton from August 18-27, 2017.

The ITU Multisport World Championships Festival is no ordinary event. The festival is the first of its kind by the ITU, combining world championship competition in long distance and cross triathlon, sprint and standard duathlon, aquathlon and aquabike with a 10-day celebration. It is expected to draw an international field of 5,000 athletes. Given the size and complexity of this festival both the City and Michael Brown and Penticton 2017 ITU Multisport World Championships Ltd. recognize the need for an agreement to provide clarity on roles, responsibilities and obligations. The agreement will ensure ITU standards for the festival are met and Penticton's reputation as a triathlon destination is maintained.

The agreement, which was drafted with input by City managers and lawyers, clarifies the following:

- The nature of the event
- The terms
- The financial and service obligations of the City
- The obligations of the organizers, including:
 - Working with the City in the planning and execution of the festival
 - Promoting the City throughout the festival
 - Reporting the results of the festival back to the City and Council
- Liability insurance requirements

Financial implication

Financial implication of the agreement is for the City to fund a total of \$250,000 for the festival, consisting of \$125,000 in cash and \$125,000 value-in-kind (VIK) services. In May 2016, the City advanced \$40,000 to Mr. Brown to assist in costs of commencing work on the festival. There is no financial implication to enter into rights of first refusal with organizers. The financial implication of seeking a future multisport event will be presented to Council for approval as the City prepares to bid.

Analysis

The City has made a significant investment in event hosting and the sport of triathlon. It needs to not only protect that investment – the agreement provides a framework for risk mitigation – but promote it. That is why Council should consider rights of first refusal. Mr. Brown produced a video for the 2017 ITU Multisport World Championships Festival in Penticton and travelled to Madrid in December 2016 to present it to the ITU Congress. Rights of first refusal build trust and encourage organizers and the City to continue investing in their partnership, potentially bringing back the ITU Multisport World Championships Festival in 2022. With agreement by both parties, and approval by Council, rights of first refusal will take effect January 1, 2018.

Alternative Recommendations

THAT Council provide specific direction to staff on modified terms and conditions of the agreement.

Attachments

Attachment A – Draft agreement, including value-in-kind (VIK) services

Respectfully submitted,

Jim Bauer
Chief Financial Officer

Approvals

Chief Administrative Officer PW

AGREEMENT TO HOLD ITU MULTISPORT WORLD CHAMPIONSHIPS

THIS AGREEMENT is dated for reference the 1st day of May, 2016

BETWEEN:

THE CORPORATION OF THE CITY OF PENTICTON, a
municipality incorporated as a city by letters patent issued under
Part II of the *Local Government Act*, S.B.C. 2015, c. 1.

(the "City")

AND:

**MICHAEL BROWN AND PENTICTON 2017 ITU MULTISPORT
WORLD CHAMPIONSHIPS LTD.**

(the "Organizers")

WHEREAS:

- A. The International Triathlon Union ("ITU") is the international governing body for the multi-sport disciplines of triathlon, duathlon, and aquathlon, headquartered in Lausanne, Switzerland and is the body that sanctions the ITU Multisport World Championships.
- B. The Organizers jointly warrant and represent that they presently have the exclusive license to hold an ITU Multisport event in 2017 entitled the 2017 Penticton ITU Multisport World Championships event (the "ITU Penticton Event") in Penticton British Columbia, Canada ("Penticton").
- C. The South Okanagan of British Columbia is a tourist destination centre and tourism provides a significant a contribution to the local economy.
- D. Pursuant to the *Community Charter*, S.B.C. 2003, c. 26 a municipality may provide a service to the community that the council thereof considers to be desirable or a necessity.
- E. In 2015, Council for the City gave its support to the Organizers' bid for the ITU Penticton Event on the understanding that if the bid was successful, the Organizers would agree to organize and operate the ITU Penticton Event in a manner that benefited the City and its community.
- F. The City recognizes that the ITU Penticton Event will provide significant economic stimulus to the local economy, and that the promotional and other services the

Organizers have agreed to provide under this Agreement are of significant value to the City.

- G. The City wishes for the ITU Penticton Event to be a successful event in Penticton, and the Organizers wish to hold the ITU Penticton Event in Penticton subject to the hereinafter terms and conditions.

NOW THEREFORE in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and the sum of one dollar (\$1.00) now paid each to the other and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties hereto covenant and agree as follows:

1. ITU Penticton Event

- 1.1. The Organizers shall organize and operate the ITU Penticton Event in Penticton during the period of time commencing August 18, 2017 and ending August 27, 2017 (the "Event Period") in Penticton.
- 1.2. The Organizers shall ensure that the ITU Penticton Event is organized and operated to a professional and world class level.
- 1.3. The Organizers shall not relocate the 2017 ITU Event to any other location in Canada.
- 1.4. In organizing and operating the ITU Penticton Event the Organizers shall establish the event courses in agreement with the City. The course may be reasonably and slightly modified as circumstances arise and as needed for the success of the race with the agreement of the City, which may not be unreasonably withheld.
- 1.5. The Organizers are personally, jointly, and severally responsible for performing all obligations under this Agreement and shall further ensure that all obligations imposed upon them by the ITU shall be performed as and where applicable.
- 1.6. Save and except as specifically agreed to by the City in writing, the Organizers are entirely responsible for the organization and operation of the ITU Penticton Event and shall provide the following:
 - (a) management staff for the ITU Penticton Event, including Race Director and Media Director;
 - (b) uniforms for volunteers and management thereof;
 - (c) preparation of all documentation for the ITU Penticton Event, including but not limited to applications, brochures and other promotional and print materials;
 - (d) race equipment and staff including registration supplies and set up;

- (e) course design, supplies, volunteer coordination, start/finish course;
 - (f) race announcers, television crews, aide stations - design and supplies, transition supplies and set up;
 - (g) banquets including scripts, awards (presentations and videos);
 - (h) security and parking plan;
 - (i) ordering race supplies;
 - (j) finish line design, finish line supplies, and finish line set up, removal and clean up;
 - (k) media coordination, including social media messaging;
 - (l) the creation and maintenance of a website for the ITU Penticton Event;
 - (m) porta-potties within the parks and other locations along the ITU Penticton Event routes at a number and cleaning frequency set by the City; and
 - (n) traffic control plan, traffic control devices and signage, arranging ambulance and RCMP escort where required and all necessary City Road Closure Permits, other municipality Road Closure Permits and all Ministry of Transportation and Infrastructure Highway use or closure permits, and provision of training for traffic control staff, provision of traffic control staff and crews; and provision of route notices and road closures to the community and adjacent residents in a manner approved by the City; and; such other items as may be required to carry out a well hosted and well run triathlon race.
- 1.7. The Organizers shall consult with the City on all material aspects of the organization and operation of the ITU Penticton Event.
- 1.8. The Organizers shall, by November 15, 2017 deliver a full set of financial statements that have been prepared by an accountant according to generally accepted accounting principles for the ITU Penticton Event (the "Financial Statements"), to be held in confidence by the City, and shall further deliver a post-event recap report and presentation by the Organizers to City Council at a date and venue as chosen by the City. The City will keep the Financial Statements confidential and not disclose them to any third party, except (a) to the City's lawyers or accountants on their agreement to maintain the confidentiality of the Financial Statements or (b) in compliance with the order of a court or tribunal of competent jurisdiction.

2. Term

2.1. The Term of this Agreement is the period commencing on the date this Agreement is executed (the "Commencement Date") and expiring on the 30th day of November 2017 (the "Term").

3. City's Supply

3.1. The City shall provide the following to the Organizers for use in the ITU Penticton Event during the Event Period:

- (a) Value-in-kind services ("VIK Services") to the Organizers to an aggregate maximum value of one hundred and twenty five thousand dollars (\$125,000.00) as determined by the City's established costing processes and policies, the current specifics of which are set out in the attached Appendix A;
- (b) cash funding to an aggregate maximum value of one hundred and twenty five thousand dollars (\$125,000.00), which includes the following:
 - (i) forty thousand dollars (\$40,000) previously advanced by the City to the Organizers in May of 2016;
 - (ii) fifty thousand dollars (\$50,000) within ten (10) day of execution of this agreement and after written request by the Organizers,
 - (iii) twenty five thousand dollars (\$25,000) two weeks prior to a subsequent large cash outlay commitment on the Organizers and upon delivery of supporting documentation acceptable to and delivered to the City, and
 - (iv) ten thousand dollars (\$10,000) upon delivery of reports, financial statements, and presentation to Council as provided for in this agreement; and
- (c) the City and Organizers will by Feb 28, 2017 mutually establish a detailed breakdown and allocation of VIK Services.

3.2. It is understood and agreed that each party will be reasonably accommodating to the other with respect to changes to the specifics of VIK Services that may arise leading up to or during the staging of the ITU Penticton Event. For greater certainty if, after all reasonable accommodations have been exercised, the event uses less than the \$125,000 VIK Services agreed upon herein, any remaining VIK Services is absolutely waived and may not under any circumstances be converted to cash, a claim for cash, for the payment of third party vendors or contractors, or for any other thing of value or carried over to any other time period or event.

- 3.3. It is understood and agreed by both parties that the VIK Services does not include payment or transfer of cash or any other City resources to the Organizers or other parties that are not part of the City or controlled by the City. It is also understood that if the City deems, at its sole discretion, that an in-kind service needs be delivered, such service will be delivered in consultation with the Organizers and be charged against the agreed upon total as provided for in this section.

4. Organizers Agree To Promote the City

4.1. The Organizers shall:

- (a) include in all or substantially all of its advertising of the ITU Penticton Event including print, media and electronic advertising, promotion of the City as an outstanding tourist destination, place to live and raise a family;
- (b) permit the City to address athletes and, where applicable, nominate a presenter at all pre-and post-race events including without limitation, the opening ceremonies, the expo, the pasta party banquet, the parade, and the awards banquet and all similar events or events of equal or greater importance (collectively, the "Pre and Post Race Events");
- (c) identify the City as a major sponsor of the ITU Penticton Event by:
 - (i) placing the City's logo on all ITU Penticton Event printed material identifying the City as a major sponsor (to include in local and external advertising);
 - (ii) highlighting the City as the opening ceremony sponsor; and
 - (iii) displaying prominent banners with the City's logos and other graphics at the finish line(s) and at the Pre and Post Race Events;
- (d) promote the City along with the ITU Penticton Event in any and all national and/or international promotion undertaken by the Organizers, which will include without limitation, including leaderboards and features that promote the City, in consultation with the City, invite representatives of the City and Travel Penticton Society to assist in promoting the City;
- (e) create website broadcasts or links to a South Okanagan promotional video on the ITU Penticton Event website that focuses on accommodation, dining, wineries and family entertainment in the City on the travel page of the aforesaid website throughout the Term;

- (f) target messaging and/or a general newsletter promoting the City that is created or approved by the City and focused on delivery to ITU Penticton Event's database of athletes, sponsors, volunteers and supporters;
 - (g) carry out such other forms of advertising and promotion of the City of Penticton as reasonably requested by the City; and
 - (h) liaise closely, with the Sports & Events Project Manager and the City Communications Officer. For greater certainty, the Organizers primary contact within the City of all matters including the VIK Sponsorship shall be the Sports & Events Project Manager.
- 4.2. The Organizers will ensure that the City is portrayed only in a positive light by the Organizers and anyone acting on their behalf at all times.
- 4.3. The Organizers will expend considerable resources to promote the City to ensure the success of the ITU Penticton Event. Notwithstanding anything herein to the contrary, if, in the opinion of the City acting reasonably, the Organizers fail to promote the City in good faith or fail to do so in accordance with the provisions of this Agreement the City may, upon written notice to the organizers, be unconditionally relieved from any and all obligations pursuant to this Agreement and shall refer the matter for dispute resolution as provided for in this agreement.
- 4.4. Notwithstanding anything herein to the contrary, if, in the opinion of the Organizers acting reasonably, the City fails to deliver more than half of the value of in-kind services to the Organizers in accordance with the provisions of this Agreement the Organizers shall, upon written notice to the City, be unconditionally relieved from any and all obligations pursuant to this Agreement and shall refer the matter for dispute resolution as provided for in this agreement.

5. **Compliance with Laws**

- 5.1. The Organizers will comply with all applicable laws, including, without limiting the generality of the foregoing, federal and provincial legislative enactments, zoning and building bylaws and any other governmental or municipal regulations which relate to the ITU Penticton Event and will comply and cause all persons for whom they are legally responsible to comply with, all lawful, police, fire and sanitary regulations imposed by any federal, provincial or municipal authorities and follow all requirements of any permits issued by any federal, provincial or municipal authority for various courses used by the event (road and highway closures or trail use permits) and observe and obey all lawful governmental and municipal regulations and other requirements governing the conduct of the ITU Penticton Event. For the purposes of this Agreement, "applicable laws" means all public laws, government statutes, codes, acts, permits, licenses, ordinances, order, bylaws, rules, regulations, standards and governmental consents which now or at any time hereafter may be applicable to and enforceable against the

relevant work or activity in question, or any part thereof, including without limitation, those relating to zoning, building, life, safety, environment, health and employment.

- 5.2. The Organizers shall secure in advance, before the time and date of the ITU Penticton Event, at the Organizers' sole cost, any licenses and permits that may be required to stage the ITU Penticton Event.
- 5.3. The Organizers will comply with all applicable laws, bylaws and regulations in the collection, storage and handling of personal information, including without limitation the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, and the *Digital Privacy Act*, S.C. 2015, c. 32.
- 5.4. If requested by the Organizers or their agent, the City may assist with securing any license or permit that may be required to stage the ITU Penticton Event on reasonable notice at the Organizers' sole cost.

6. Insurance

- 6.1. At all time during the Term, the Organizers shall maintain at their own cost commercial general liability insurance, that includes all customary coverages, including without limitation, bodily injury, property damage, personal injury, advertising injury, and completed operations coverage for all activities, operations, products, automobiles, vehicles, and premises involved in the ITU Penticton Event or its organization or operation, in the minimum amount of three million dollars per occurrence and ten million dollars aggregate, with the Organizers and the City as joint named insureds and with the City's mayor, councilors, officers, staff, and employees and the Organizer's officers, directors, agents, employees and volunteers as additional insureds (the "Insurance Policy").
- 6.2. The Insurance Policy shall be in a form acceptable to the City and placed with a B.C. insurer that is acceptable to the City. There will be no liquor exclusion.
- 6.3. The Insurance Policy shall include express language or endorsements (a) waiving any right of subrogation, contribution or indemnity against the City any related insured and (b) requiring thirty days written notice to the City prior to any policy modification or termination.
- 6.4. The Organizers shall provide valid certificates of insurance evidencing the Insurance Policy to the City on or before April 15, 2017. If the Organizers fail to do so and continue to fail to do so within ten (10) days after receipt of notice from the City then the Organizers will be in fundamental and material breach of this Agreement and the City may terminate this Agreement immediately by giving notice.

7. Breach

7.1. Save and except for a failure to promote the City pursuant to this Agreement, if the Organizers fail to perform any of their obligations provided for in this Agreement, the City shall give the Organizers notice in writing of such breach. If the Organizers do not cure the said breach within ten (10) days after receipt of notice if a breach of any nature which is capable of cure, then the City, at its option, has the right to:

- (a) terminate this Agreement by giving written notice to the Organizers (whether said breach is a fundamental breach or not);
- (b) remove and store any of the Organizers' property stored on City property at the Organizers' expense;
- (c) seize any assets pursuant to its rights and or entitlements under the attached General Security Agreement;
- (d) initiate legal proceedings against the Organizers for legal or equitable relief; and/or
- (e) pursue any other remedy allowed by law or in equity; provided, however, if the Organizers' breach is not capable of cure and/or the City may suffer irreparable harm as a result of the Organizers' breach, then the City shall not be required to give written notice to the Organizers, or to wait any period of time before pursuing any remedies hereunder.

In any proceeding for relief hereunder, the prevailing party shall be entitled to recover its costs and reasonable solicitor client fees incurred in or by reason of such proceedings. The unenforceability, in whole or in part, of any remedies made available in this Section will not affect or limit the City's rights to any of the remaining remedies available to the City.

7.2. Notwithstanding anything stated in the Agreement to the contrary, if a petition in bankruptcy is filed against either of the Organizers or other proceedings for the appointment of a receiver or a trustee for either of the Organizers are filed against the Organizers, or if the proceedings for reorganization or for an arrangement with creditors under any bankruptcy law, or if a voluntary petition in bankruptcy is filed by the Organizers, then such event shall be deemed to be a breach of the Agreement and thereupon, ipso facto, and without notice or other action by the City, the City shall be entitled to any and all remedies specified in this Agreement and/or provided by law or in equity.

7.3. All of the remedies set forth above or elsewhere in this Agreement given to the City and all rights and remedies given to the City by law or equity shall be cumulative and concurrent.

8. Indemnity - Release of Liability

- 8.1. The Organizers will jointly and severally defend and indemnify the City and its mayor, councilors, agents and employees (the "Indemnitees") from any and all liability, including costs on a solicitor and own client basis, suffered by the Indemnitees or any of them arising from or relating to any breach of this Agreement by the Organizers or from any tortious act or omission by the Organizers or anyone acting on their behalf that is related to or arises from organizing or operating the ITU Penticton Event.
- 8.2. The Organizers hereby relieve, discharge and release the City and its mayor, councilors, agents and employees from,
 - (a) any and all claims or liability of any kind to the Organizers by reason of any injury or damage to any property belonging to the Organizers or their respective employees or invitees; and
 - (b) any and all claim or liability of any kind to the Organizers or others as a result of theft, vandalism or pilferage of any property belonging to the Organizers.
- 8.3. The Organizers shall, in timely manner, settle all accounts with all vendors, contractors, and other third parties for goods, services, and other valuable considerations received in any manner connected to the ITU Penticton Event. In the event a third party presents a claim to the City for any good, service, and other valuable consideration delivered during and leading up to the Event Period to the Organizers or to the ITU Penticton Event and not explicitly requested by the City, the Organizers shall forthwith settle the claim on behalf of the City. Vendor accounts not settled shall be deducted from the final City funding payment.
- 8.4. The City shall indemnify, defend and hold harmless, the Organizers, their agents, officers, directors, employees and representatives from and against any and all claims, suits, law suits, injuries, damages, liabilities and expenses (including, without limitation, reasonable legal fees and expenses on own solicitor client basis) and costs of investigation (whether or not litigation occurs) occasioned in connection with, or arising or alleged to arise from, wholly or in part, a breach by the City of any of its representations, warranties, covenants or agreements contained herein except to the extent that any such said losses are caused by the negligence of the Organizers and/or its employees or agents.
- 8.5. The provisions of this Section and the related Sections shall survive any termination or expiration of this Agreement.

9. Representations and Warranties

- 9.1. Each party represents and warrants to the other that:

- (a) such party has the full company or partnership power and authority to enter into and fully perform this Agreement;
 - (b) this Agreement has been duly executed and delivered by such party and constitutes a valid and binding obligation of such party, enforceable against such party in accordance with its terms (subject to general principles of equity and creditors' rights generally); and
 - (c) none of the execution, delivery or performance of this Agreement:
 - (i) requires the approval or consent of any third party; or
 - (ii) conflicts with or results in any breach or violation of, or constitutes a default under, any material agreement or other instrument or decree, order, law, statute, rule or regulation (governmental or otherwise) to which such party is a party or by which such party is bound.
- 9.2. The Organizers further represents and warrants to the City, as of the date hereof, that it is the holder of a valid license from all necessary third parties in order to hold the ITU Penticton Event during the Term and that it will keep the said license in good standing.

10. Dispute Resolution

- 10.1. Save and except for the provisions of Section 10.9, if any dispute arises between the parties as to whether either party has complied with its obligations under this Agreement or if any dispute or controversy arises between the parties with respect to the interpretation or implementation of any of the provisions of this Agreement (any and all disputes and controversies described in this Section are hereinafter collectively referred to as a "Dispute" or "Disputes"), the parties shall make all reasonable efforts to resolve any and all Disputes by amicable negotiations, and the parties shall provide, on a without prejudice basis, full, frank, candid and timely disclosure of relevant facts, information and documents in order to facilitate such negotiations, provided that in so doing the City is bound to comply with all applicable laws respecting such disclosure
- 10.2. In the event either of the parties is of the reasonable opinion that a Dispute cannot be resolved by such negotiation, either party may, upon ten (5) days' prior written notice to the other party, require that the Dispute be referred to a mediator for mandatory mediation. The mediator shall be selected by the party to whom notice is given under this paragraph, from a list of three (3) mediators identified in the written notice given by the party requiring the mediation.
- 10.3. The purpose of any mediation that takes place pursuant to this section shall be to assist the parties in reaching a voluntary agreement respecting the Dispute. The format and timing of any such mediation shall be as agreed upon by the parties and the mediator, and the costs of the mediator shall be borne equally by the parties.

- 10.4. In order to promote communication between the parties, counsel, and the mediator and to facilitate settlement of the Dispute, each of the parties will agree that all statements made during the course of the mediation are privileged settlement discussions, are made without prejudice to either party's legal position, and are inadmissible for any purpose in any legal proceeding. Any information disclosed by a party, or by a witness on behalf of a party, at such mediation is confidential.
- 10.5. Neither party will make any attempt to compel the mediator's testimony, nor compel the mediator to produce any documents provided by the other party to the mediator. In no event will the mediator disclose confidential information provided during the course of the mediation, testify voluntarily on behalf of either party, or submit any type of report to any account in connection with the Dispute in issue. The mediator may find it helpful to meet with each party separately in the course of the mediation, and in such an event, the mediator will not reveal what is said by a party, without that party's permission.
- 10.6. Representatives of the parties will be invited to attend mediation sessions, but no one else may attend without the permission of the parties and the consent of the mediator.
- 10.7. In the event that any Dispute referred to mediation pursuant to this section has not been resolved within ten (10) days of the date the mediator was selected, or such further period as may be agreed upon by the parties in writing, the mediator shall terminate the mediation by giving notice of termination to both parties.
- 10.8. In the event the parties are not in agreement to refer a dispute to arbitration pursuant to the *Arbitration Act* of British Columbia, a mediator has not been appointed for whatever reason, or the mediator has been terminated pursuant to this section, in such an event, either party shall then be at liberty to refer the Dispute to any Court having jurisdiction and competency to hear the relevant matters.
- 10.9. For greater clarity, Dispute or Disputes will not include a breach of the requirement to secure and provide proof of Insurance as required in this Agreement.

11. Miscellaneous

- 11.1. This Agreement is the entire agreement between the parties and supersedes all prior written and oral agreements, representations, and statements, including any collateral contracts, made or exchanged by the parties. All amendments to this Agreement must be made in writing and executed by all parties. No purported oral amendments to this Agreement will be valid or binding on either party.
- 11.2. Except in the case of emergency, when notice may be given by telephone with later confirmation in writing, any notice, request, approval, demand or other communication which may be or is hereby required or permitted to be given under this Agreement shall be in writing and be delivered by hand or send by facsimile transmission addressed as follows:

If to the City:

by Hand to the Corporate Officer or, in his or her absence, to the Deputy Corporate Officer at The Corporation of the City of Penticton 171 Main Street, Penticton, BC V2A 5A9

or by telephone: 250-490-2400;

or by facsimile to the attention of the Corporate Officer at 250-490-2402

If to the Organizers:

by Hand to Michael Brown, 29 Bradburn Cres, St. Albert, AB, T8N 2J8

or by telephone: 780-993-0003

or by email at mbrown@penticton2017.com;

or such other address of facsimile number, of which notice has been given as provided in this section. Any notice which is delivered by hand will be deemed to have been given on the day on which it is delivered. Any notice which is send by facsimile transmission will be deemed to have been given on the first day after it is transmitted, provided that the sender obtains written confirmation of successful transmission. If a party changes its address or facsimile number or both, such party will promptly give notice of its new address of facsimile number, or both, to such parties provided in this section, whereupon such notice to such party will be sent to such new address or facsimile number. Failure to properly and promptly notify another party of a change in address or facsimile number in a timely fashion cannot be used by either party to claim a failure to provide proper notice. While the telephone numbers of the parties to this Agreement are set out herein, notice or other formal communication between them must be in writing and delivered or transmitted as set out in this section.

- 11.3. The Organizers shall not assign, sub-license, mortgage, pledge or otherwise transfer this Agreement or the Organizers' rights and obligations herein without the prior written consent of the City, which consent may be arbitrarily withheld.
- 11.4. Under no circumstances will the City be liable to the Organizers or any of them or anyone claiming by or through them, whether for breach of this Agreement, for any claim in negligence or other tort, for any claim of the breach of a statutory duty or for any other claim of any kind be it in law, equity or otherwise for (a) consequential damages; (b) indirect damages; (c) loss of use; (d) loss of goodwill; (e) loss of revenue, overhead or profit; (f) loss of business value; or (g) loss of business opportunity.
- 11.5. The relationship between the City and the Organizers is that of independent contracting parties. Under no circumstances will the Organizers or anyone acting on their behalf be or hold themselves out to be, either expressly or impliedly, an agent, employee, officer, joint venturer or partner of the City.

- 11.6. This Agreement and the rights and obligations in relation to the parties shall be governed by and construed in accordance with laws of the Province of British Columbia and the federal laws of Canada applicable therein. The parties agree that the courts of British Columbia shall have jurisdiction to entertain any action other legal proceedings based on any provisions of this Agreement. Each party does hereby attorn to the jurisdiction of the courts of the Province of British Columbia.
- 11.7. No failure by the City or the Organizers to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, or to exercise any right or remedy consequence upon a breach, shall constitute a waiver of any such breach or any subsequent breach of such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Agreement but each and every covenant, agreement, term and condition of this Agreement shall constitute in full force and effect with respect to any other than existing or subsequent breach.
- 11.8. If either party to this Agreement is prevented or delayed from performing any of its obligations on its part to be performed hereunder by reason of an event of force majeure then and in every such event, any such prevention or delay shall not be deemed to be a breach of this Agreement but performance of any of the said obligations or requirements shall be suspended during such period or disability and the period of all such delays resulting from any such thing required or permitted by either party to be done is to be done hereunder, it being understood and agreed that the time within which anything is to be done, or made pursuant hereto, shall be extended by the total period of all such delays unless is otherwise provided herein. For the purposes of this paragraph, an event of force majeure means any circumstances or act beyond the reasonable control of the party claiming force majeure and which could not be avoided or prevented by due diligence and the use of reasonable efforts by the party claiming force majeure, including, without limitation, labour disputes, strikes, lock outs, unavoidable casualties, riots, insurrection or terrorism, which have the effect of preventing or hindering performance, if such circumstances or events are beyond the reasonable control of the party claiming force majeure and could not have been avoided or prevented by due diligence and the use of reasonable efforts by the party claiming force majeure, provided in no event will a lack or insufficiency of funds or failure to make payment of monies on the part of the party claiming force majeure or be allowed to give rise to an event of force majeure and in no event will a circumstance or act arising out of the default by a party claiming force majeure of its obligations under this agreement be allowed to give rise to an event of force majeure.
- 11.9. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
- 11.10. Any headings preceding the text of the sections hereof are inserted solely for the convenience of a reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

- 11.11. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but together shall constitute one and the same instrument. This Agreement may be executed by the parties and transmitted by telecopy and if so executed and transmitted this Agreement will be for all purposes as effective as if the parties had delivered executed original Agreements.
- 11.12. Time shall be of the essence of this Agreement and of every part hereof and no extension or variation of this Agreement shall operate a waiver of this provision.
- 11.13. The duties and obligations imposed by this Agreement and the rights and remedies under this Agreement are in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- 11.14. Neither this Agreement nor any other terms may be changed or modified, waived, terminated (unless otherwise provided hereunder) except by an instrument in writing signed by an authorized representative of the party against whom the enforcement of the change, waiver or termination is sought.
- 11.15. This Agreement will be governed by and construed in accordance with the laws of British Columbia and the laws of Canada applicable in British Columbia and will be treated in all respect as a British Columbia contract. The exclusive venue for any legal dispute arising out of or relating to this Agreement or the ITU Penticton Event will be the Penticton Registry of the Supreme Court of British Columbia. Any party who files suit in violation of this clause or unsuccessfully challenges the validity or applicability of this clause will pay the other party's resulting legal costs on a solicitor-and-own client basis.
- 11.16. The duties and obligations imposed by this Agreement on the Organizers are joint and several.
- 11.17. This Agreement shall enure to the benefit of the parties and their respective organizers and permitted assigns and shall be binding upon the organizers and assigns.

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

THE CORPORATION OF THE CITY OF PENTICTON

Mayor

Corporate Officer

THE ORGANIZERS

Michael Brown

Penticton 2017 ITU Multisport World Championships Ltd.

Appendix A

IN-KIND COSTS

Description
Street sweeping
Post event clean up
Placement of pole banners
Drop off of and pick up of within the City of City owned barricades installation, drop off of and pick up of within the City of City owned
Adjustment of photo cells
Put the traffic signals on any of the ITU race courses as specified in the Traffic Control Plan in flash mode
Park Rentals
Use of the washrooms
Rental and delivery City owned picnic tables
Rental, placement, and removal of City owned bleachers
Utility locates
Review of application and issuance of City road closures and road closure permits
Review of application and issuance of seasonal licenses license
City facilities & parking lot rentals,
Swim course set-up and take down
Use of the City barge crew
Facility and park repairs and restoration
Deactivation of park sprinkler systems
Garbage pick-up.
General labour support
Plumbing & Electrical Support
Facilities Dept. stand-by
Use of the City's portable restroom
Access to City park power heads
Penticton Trade and Convention Center services
Rental of City owned tents and tables
City Fire department services including equipment charges

Special occasion liquor licenses
Parking meter hooding and parking passes
City supplies materials
RCMP services including equipment charges

Council Report

penticton.ca

Date: February, 7, 2017
To: Peter Weeber, Chief Administrative Officer
From: Peter Wallace, Land Administrator

File No: 4320-80

Subject: Canada 150 Grant for Replacement Leir House windows

Staff Recommendation

THAT Council direct staff to apply for the Provincial Canada 150 grant in the amount of \$100,000 for replacement of the windows at Leir House;

AND THAT Council commits to fund 20% of the grant amount, to a maximum of \$25,000 from the general operating surplus and that the Financial Plan Bylaw be amended accordingly.

Strategic priority objective

This project supports livability in the community by enhancing a facility that will help meet the needs of a growing community.

Background

The Leir House was constructed between 1927 and 1929 and today is a Provincially designated heritage building. The Leir House is one of the City's most prominent historical properties and is in need of significant maintenance and renovation (\$873,000+ remaining based on the 2013 Facility Master Plan).

The Provincial Canada 150 Grant is designated for improvements to museums and historical structures, and offers grants of up to \$100,000, representing 80% of the cost of the improvements. The deadline for application is February 10, 2017.

The contract grant writer who completed a Federal Canada 150 Grant application in 2015 for substantial repairs to the Leir House, has indicated that as all of the information is on hand, the deadline can be met. The cost for completing and submitting the application is quoted at \$500.

The existing windows at Leir House are single pane and most do not open as they are either broken or have been painted shut over the years. This is a concern that was recently raised by the current tenant at Leir House, Penticton and Community Arts Council, and was identified as requiring upgrade in the 2013 Facilities Master Plan. The original windows are custom size and style, and any replacement will be required to follow the original design as the Leir House is a heritage structure and the exterior form and character must be maintained. A couple of years ago Facilities estimated a cost to replace the windows at about \$85,000. It is

expected that the cost would have increased and restoration of the doors could be included as an option in the grant if the windows do not require the full amount of the grant received. Alternatively if the estimate is low and the costs are considerably higher, then the number of windows replaced could be limited to stay within the budget constraints. Staff are currently obtaining up to date valuations for the application.

Financial implication

The grant funds 80% of cost up to \$100,000 and the City's commitment is limited to \$25,000.

Analysis

As identified in the Facilities Master Plan, the windows should be replaced in any event in the next few years. This is an opportunity to potentially obtain some additional funding toward the required upgrades.

Alternate recommendations

THAT Council direct staff not to apply for the grant.

Respectfully submitted,



Peter Wallace, Land administrator

Attachments:

NIL

Approvals

Director/CFO <i>JWB</i>	CAO PW
--------------------------------	---------------

Bylaw No. 2016-71

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. 2016-71".

2. Amendment:

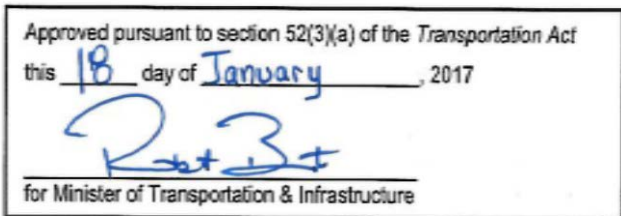
2.1 Zoning Bylaw 2011-23 is hereby amended as follows:

Rezone Lot 1, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale - Lytton) District, Plan 8381, located at 750 Kamloops Avenue from RM2 (Low Density Multiple Housing) to RD2 (Duplex Housing: Lane).

2.2 Schedule 'A' attached hereto forms part of this bylaw.

READ A FIRST time this	20	day of	December, 2016
A PUBLIC HEARING was held this	17	day of	January, 2017
READ A SECOND time this	17	day of	January, 2017
READ A THIRD time this	17	day of	January, 2017
RECEIVED the approval of the	18	day of	January, 2017
Ministry of Transportation on the			
ADOPTED this		day of	, 2017

Notice of intention to proceed with this bylaw was published on the 6 day of January, 2017 and the 11 day of January, 2017 in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

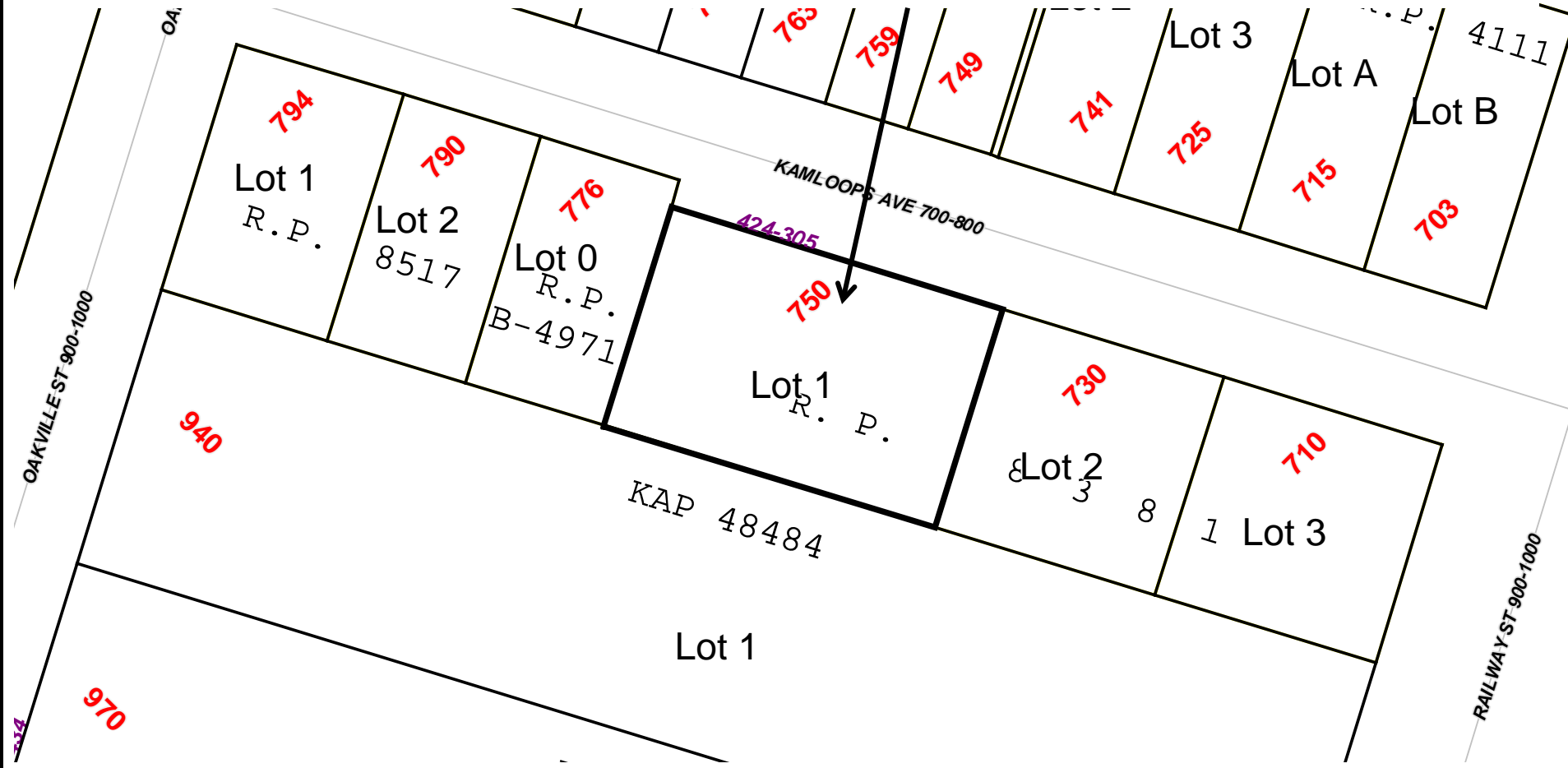


Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

Rezone 750 Kamloops Avenue

From RM2 (Low Density Multiple Housing) to RD2 (Duplex Housing: Lane)



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2016-71

Date: _____

Corporate Officer: _____

Development Variance Permit

Permit Number: DVP PL2016-7729

Conditions of Permit

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

2. This permit applies to:

Legal: Lot 1, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale-Lytton)
District Plan 8381

Civic: 750 Kamloops Avenue

PID: 009-817-981

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 as shown in the plan attached in Schedule "A":

- Section 10.6.2.1.: To vary the minimum lot width from 13m to 12m
- Section 10.6.2.2.: To vary the minimum lot area from 390m² to 293m²
- Section 10.6.2.8.: Decrease the minimum rear yard setback from 6m to 3.5m

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

Bylaw No. 2017-02

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. 2017-02".

2. **Amendment:**

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

Rezone Lot 80, District Lot 250, Similkameen Division Yale District, Plan 845, located at 457 Nelson Avenue and the East ½ and West ½ of Lot 79, District Lot 250, Similkameen Division Yale District, Plan 845, located at 461 Nelson Avenue from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane).

2.2 Schedule 'A' attached hereto forms part of this bylaw.

READ A FIRST time this	10	day of	January, 2017
A PUBLIC HEARING was held this	7	day of	February, 2017
READ A SECOND time this		day of	, 2017
READ A THIRD time this		day of	, 2017
ADOPTED this		day of	, 2017

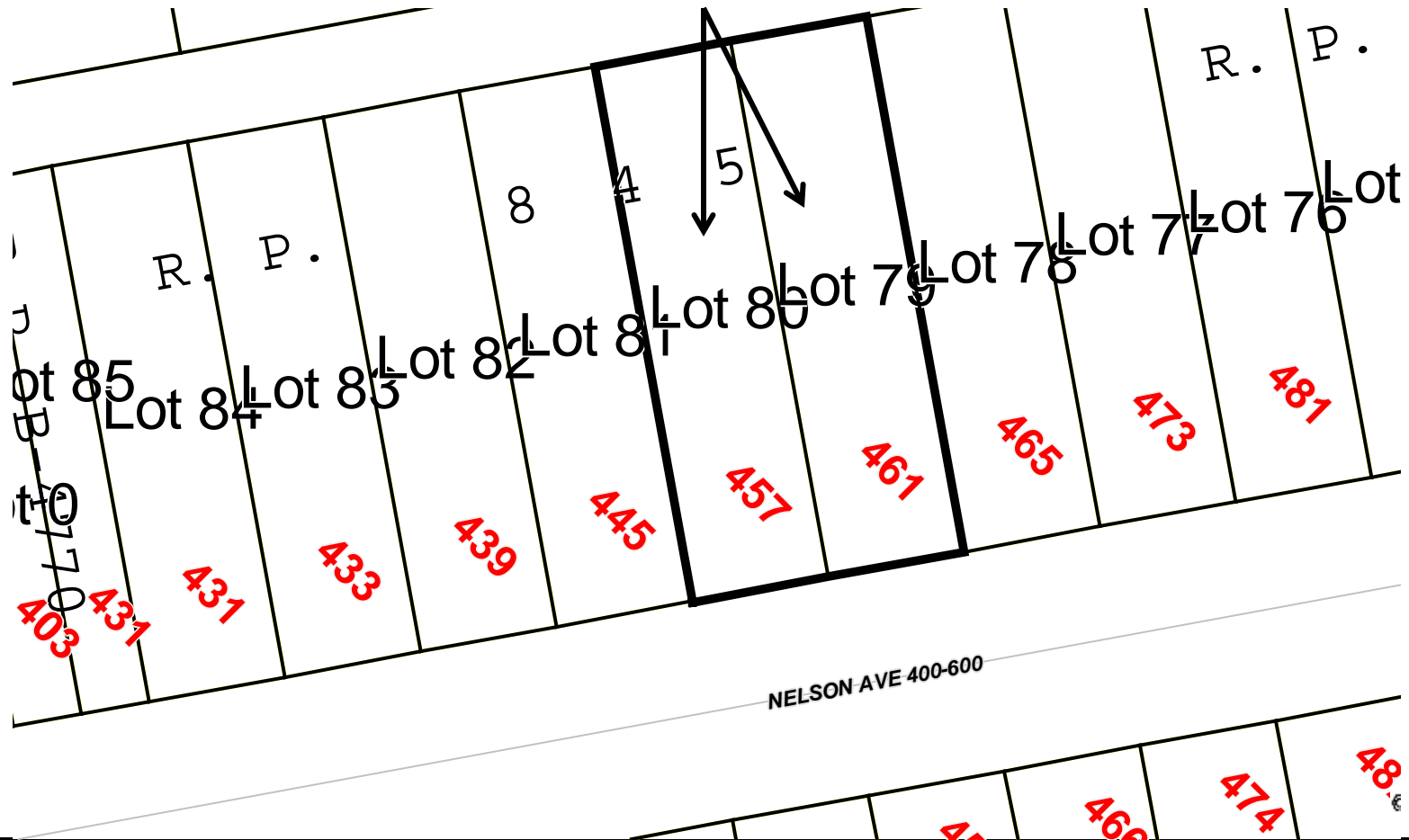
Notice of intention to proceed with this bylaw was published on the 27 day of January, 2017 and the 1 day of February, 2017 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

Rezone 457 & 461 Nelson Avenue

From R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane)



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2017-02

Date: _____

Corporate Officer: _____

Bylaw No. 2017-04

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. 2017-04".

2. Amendment:

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

Rezone Lot 25, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 1035, located at 251 Rigsby Street from RD2 (Duplex Housing: Lane) to RM2 (Low Density Multiple Housing).

2.2 Schedule 'A' attached hereto forms part of this bylaw.

READ A FIRST time this	17	day of	January, 2017
A PUBLIC HEARING was held this	7	day of	February, 2017
READ A SECOND time this		day of	, 2017
READ A THIRD time this		day of	, 2017
RECEIVED the approval of the		day of	, 2017
Ministry of Transportation on the			
ADOPTED this		day of	, 2017

Notice of intention to proceed with this bylaw was published on the 27 day of January, 2017 and the 1 day of February, 2017 in the Penticton Western newspaper, pursuant to Section 94 of the Community Charter.

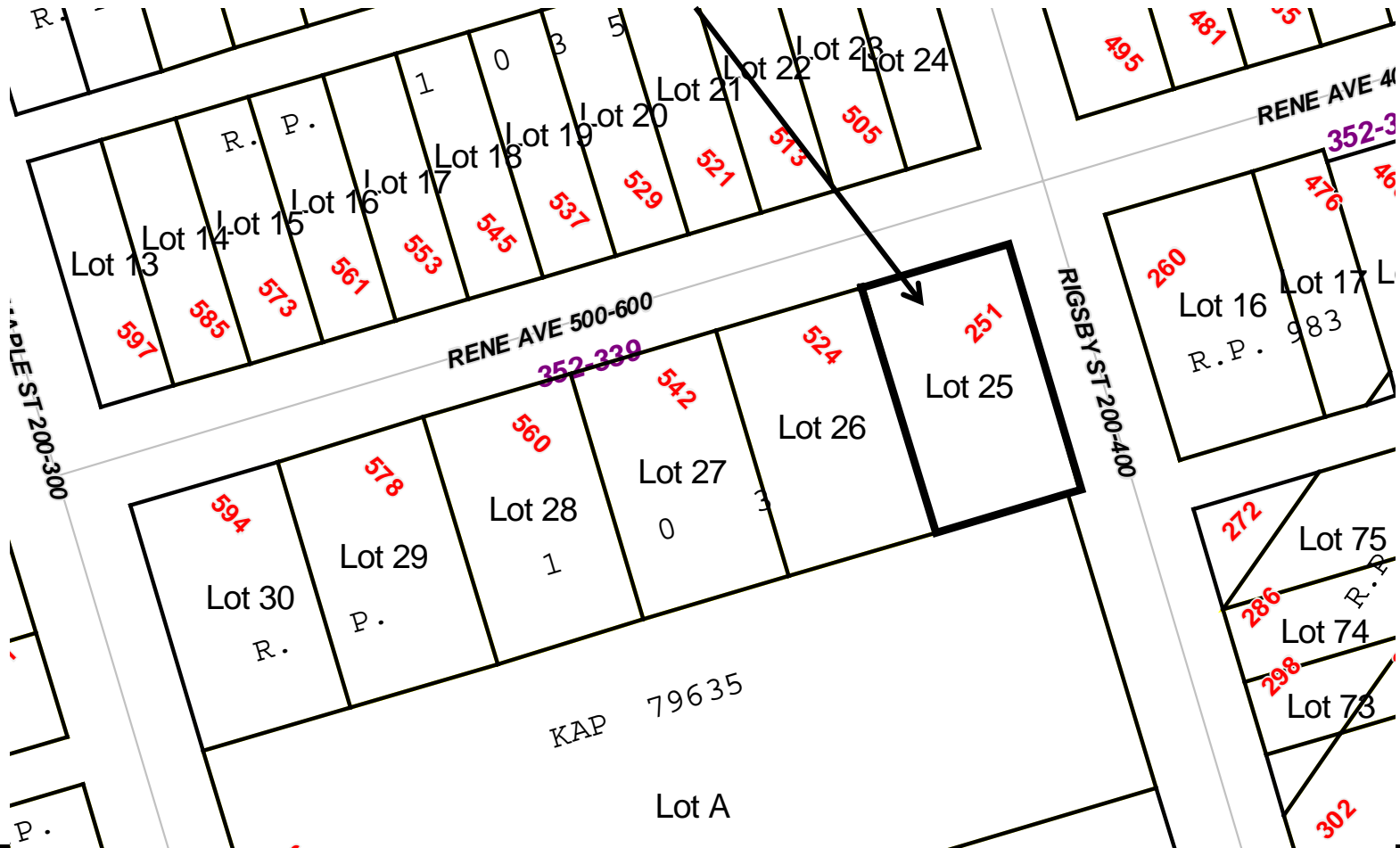
<p>Approved pursuant to section 52(3)(a) of the <i>Transportation Act</i> this _____ day of _____, 2017</p> <p>_____</p> <p>for Minister of Transportation & Infrastructure</p>
--

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

251 Rigsby Street - Rezone

From RD2 (Duplex Housing: Lane) To RM2 (Low Density Multiple Housing)



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2017-04

Date: _____

Corporate Officer: _____

Bylaw No. 2017-06

A Bylaw to Amend Official Community Plan Bylaw 2002-20

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

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

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

1. Title:

This bylaw may be cited for all purposes as "Official Community Plan Amendment Bylaw No. 2017-06."

2. Amendment:

"Official Community Plan Bylaw No. 2002-20" is hereby amended as follows:

- 2.1 Change Schedule 'B' Future Land Use designation for Lot 1, District Lot 2710, Similkameen Division Yale District, Plan 21103, located at 1830 Ridgedale Avenue in accordance with Schedule "A" attached hereto and forming part of this bylaw.
- 2.2 Change Schedule 'D' Natural Areas Map to include Lot 1, District Lot 2710, Similkameen Division Yale District, Plan 21103, located at 1830 Ridgedale Avenue in accordance with Schedule "B" attached hereto and forming part of this bylaw.
- 2.3 Change Schedule 'H' Development Permit Area Map to include Lot 1, District Lot 2710, Similkameen Division Yale District, Plan 21103, located at 1830 Ridgedale Avenue in accordance with Schedule "C" attached hereto and forming part of this bylaw.

READ A FIRST time this 17 day of January, 2017
 A PUBLIC HEARING was held this 7 day of February, 2017
 READ A SECOND time this day of , 2017
 READ A THIRD time this day of , 2017
 ADOPTED this day of , 2017

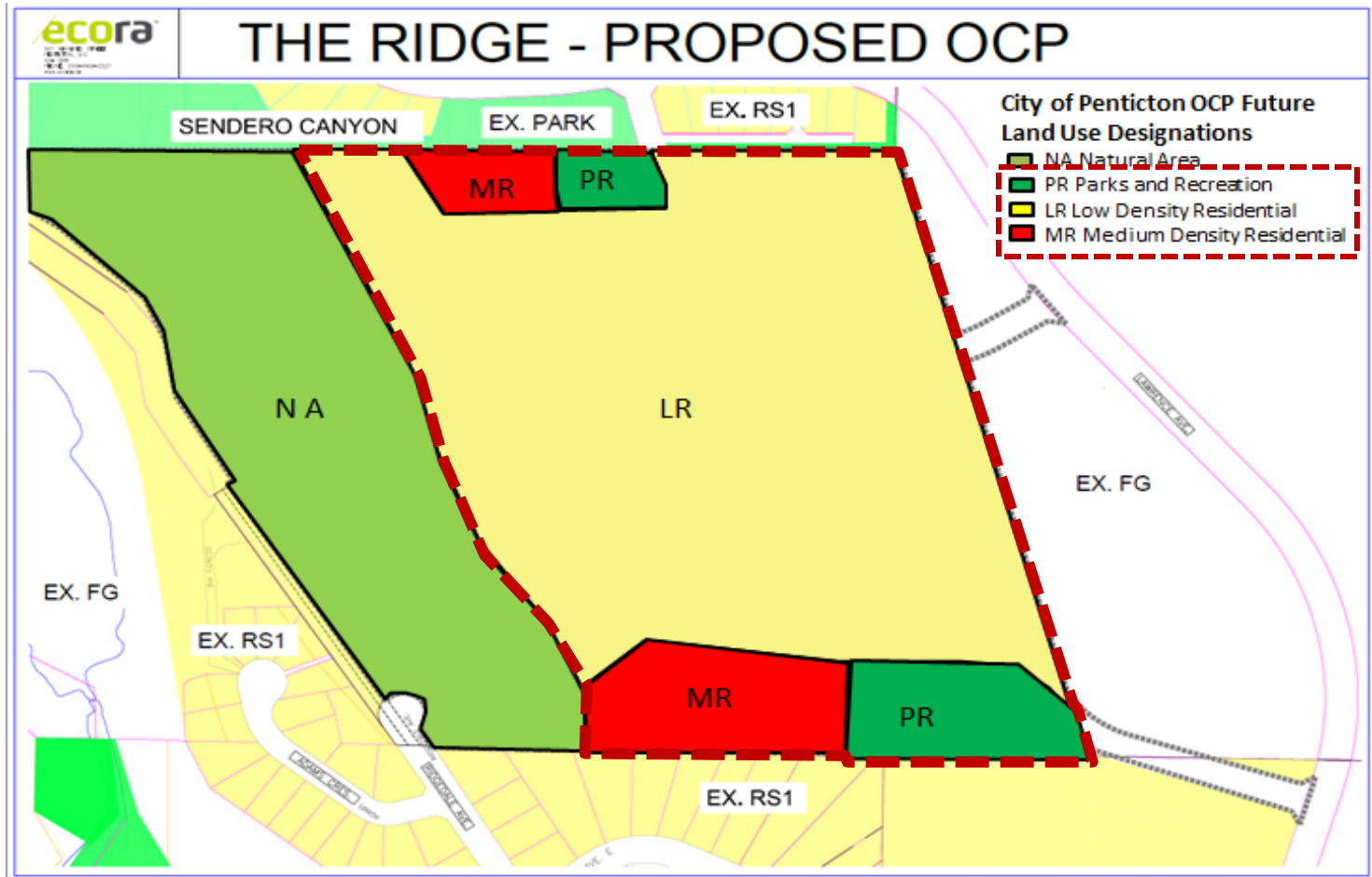
Notice of intention to proceed with this bylaw was published on the 27 of January, 2017 and the 1 of February, 2017 in the Penticton newspapers, pursuant to Section 94 of the Community Charter.

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

1830 Ridgedale Avenue

Amend Schedule B: Future Land Use Map of OCP Bylaw 2002-20



City of Penticton – Schedule 'A'

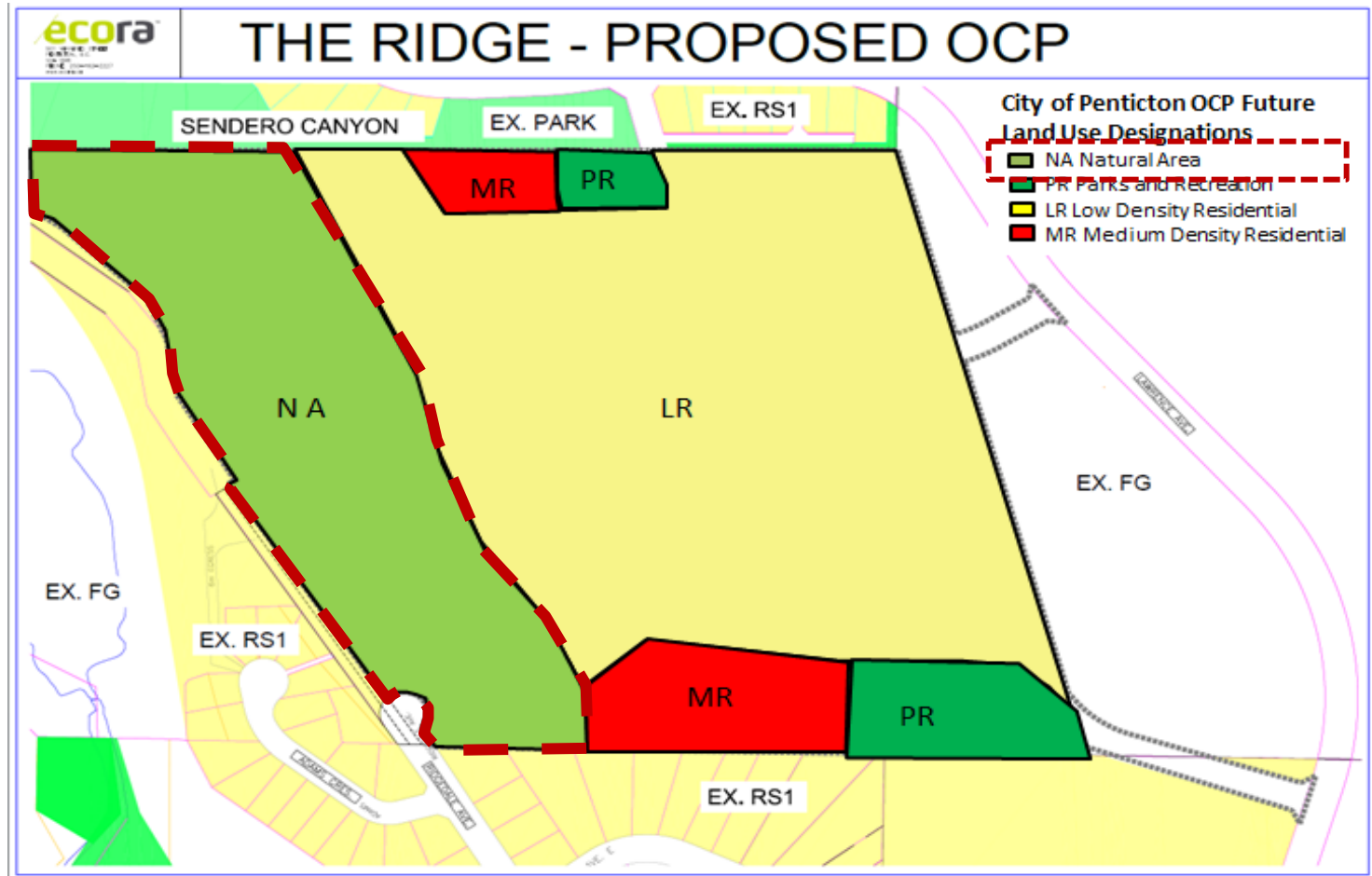
Official Community Plan Amendment Bylaw No. #2017-06

Date: _____

Corporate Officer: _____

1830 Ridgedale Avenue

Amend Schedule D: Natural Areas Map of OCP Bylaw 2002-20



City of Penticton – Schedule 'B'

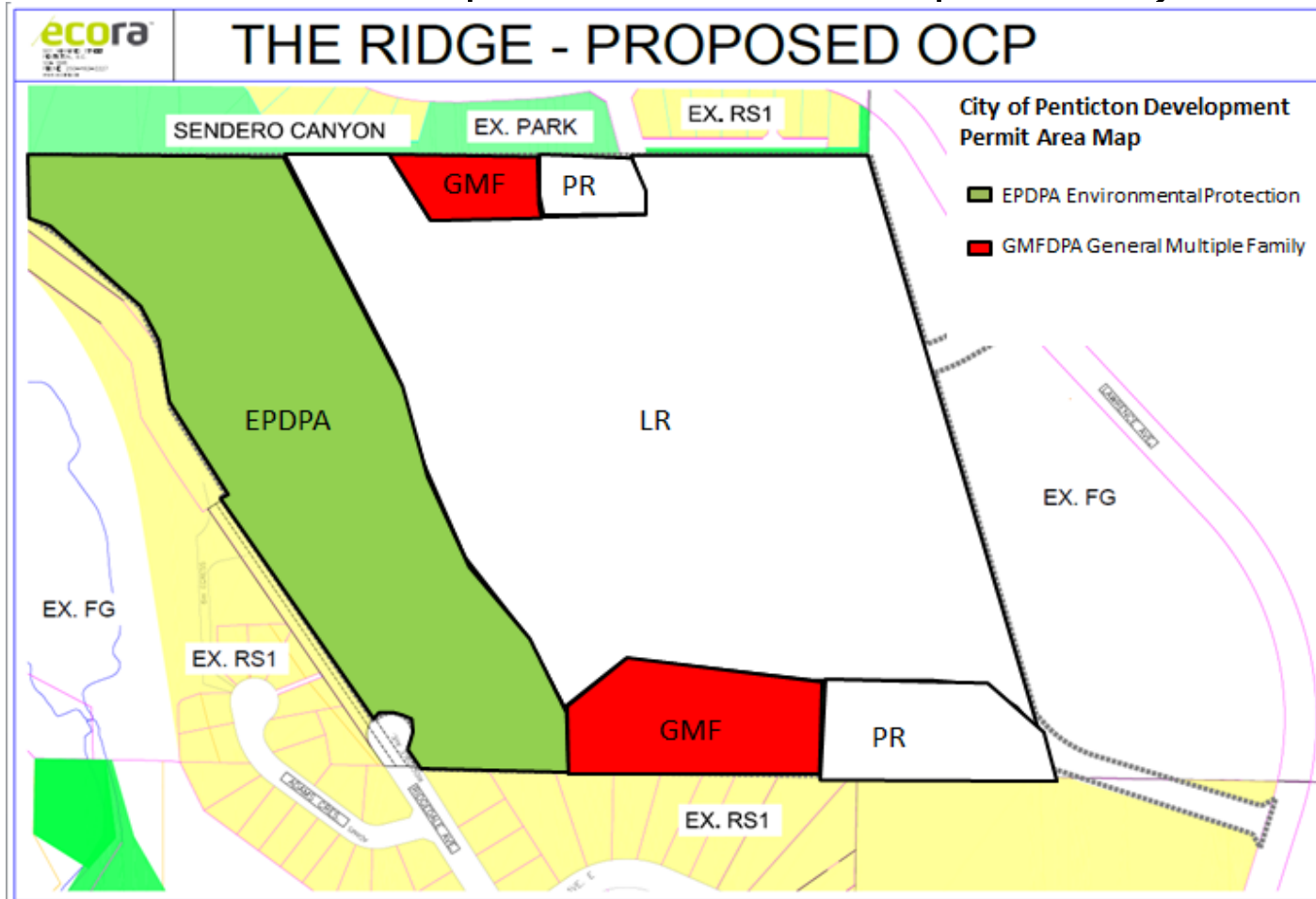
Official Community Plan Amendment Bylaw No. #2017-06

Date: _____

Corporate Officer: _____

1830 Ridgedale Avenue

Amend Schedule H: Development Permit Area Map of OCP Bylaw 2002-20



City of Penticton – Schedule 'C'

Official Community Plan Amendment Bylaw No. #2017-06

Date: _____

Corporate Officer: _____

Bylaw No. 2017-07

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. 2017-07".

2. **Amendment:**

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

Change the zoning designations for Lot 1, District Lot 2710, Similkameen Division Yale District, Plan 21103, located at 1830 Ridgedale Avenue, in accordance with Schedule "A" attached hereto and forming part of this bylaw.

READ A FIRST time this	17	day of	January, 2017
A PUBLIC HEARING was held this	7	day of	February, 2017
READ A SECOND time this		day of	, 2017
READ A THIRD time this		day of	, 2017
ADOPTED this		day of	, 2017

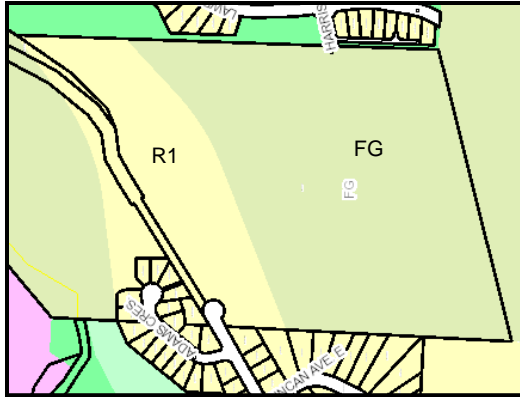
Notice of intention to proceed with this bylaw was published on the 27 day of January, 2017 and the 1 day of February, 2017 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

Andrew Jakubeit, Mayor

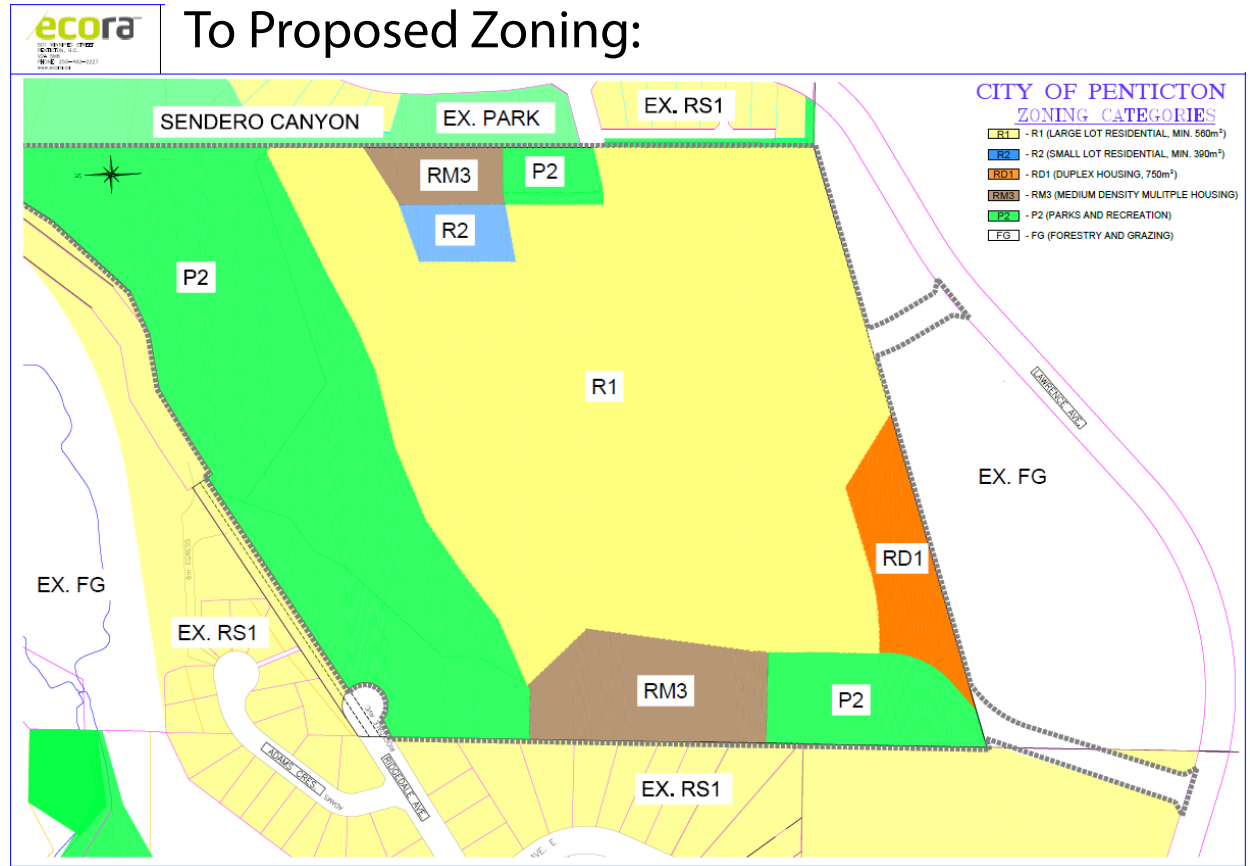
Dana Schmidt, Corporate Officer

1830 Ridgedale Avenue - Rezone

From
(Current Zoning)



To Proposed Zoning:



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2017-07

Date: _____

Corporate Officer: _____

Council Report

penticton.ca

Date: February 7, 2017 File No: Address (1701 Government)
To: Peter Weeber, Chief Administrative Officer
From: Peter Wallace, Land Administrator
Subject: Road Closure (Government Street) Bylaw No. 2017-01

Staff Recommendation

THAT Council give first, second and third reading to "Road Closure (Government Street) Bylaw No. 2017-01", a bylaw that closes a portion of Government Street east of the Penticton Regional Hospital to facilitate the land swap with Interior Health for required road widening.

Background

The general contractor for new Hospital addition has requested that the City provide +-20 m. of land that is currently designated as Road and utilized as boulevard adjacent to Government Street to facilitate the construction of a retaining wall for proper access through the hospital site.

At the December 20, 2016 Regular Meeting, Council unanimously agreed to the following:

570/2016

It was MOVED and SECONDED

THAT Council direct Staff to close the +-20.0 sq.m. portion of Government Street east of the Penticton Regional Hospital and swap that portion of land for +-20.0 sq.m. of land owned by Interior Health required for road widening and that the City agree to accept at no cost the +-220.55 sq.m balance of land from Interior Health to be dedicated as Road that is required for proper hospital access. Survey, legal costs and initial road construction are at the cost of Interior Health. The future maintenance and repair of the area dedicated as road will become the responsibility of the City in to perpetuity.

AND THAT consultation required for the road closure bylaw be carried out in accordance with Section 40(3) and 40(4) of the Community Charter (advice to utilities and Public Notification (including opportunity to address Council by those affected));

AND THAT the proposed disposition of City lands be advertised pursuant to Section 26(3) of the Community Charter;

AND FURTHER THAT the Mayor and Corporate Officer be authorized to execute the necessary documents.

CARRIED UNANIMOUSLY

Analysis

The utility providers have been advised, and at the request of Interior Health, the City Electrical Department is moving the electrical on the west side of Government Street to the east side of Government Street and any third party services will also be moved at that time.

The public notice has been advertised as required. Before Council adopts the bylaw, an opportunity must be provided for those who consider themselves affected by the bylaw to make representation to Council.

The draft Memorandum of Understanding, which follows the December 20, 2016 Council Resolution is currently being reviewed by Interior Health.

Attachments

Attachment A – Road Closure (Government Street) Bylaw No. 2017-01

Respectfully submitted,

Peter Wallace, B.Sc, MBA, AACI
Land Administrator

Approvals

CAO
PW



City of Penticton – Schedule 'A'

Road Closure Bylaw (Government Street) No. 2017-01

Date: _____

Corporate Officer: _____

Council Report

penticton.ca

Date: February 7, 2017
To: Peter Weeber, Chief Administrative Officer
From: Randy Houle, Planner 1
Address: 1198 Government Street
Subject: **Development Variance Permit PL2016-7783**

File No: DVP PL2016-7783

Staff Recommendation

THAT Council approve "Development Variance Permit PL2016-7783" for Lot 1 District Lot 250 Similkameen Division Yale District Plan 39066, located at 1198 Government Street, a permit to decrease the minimum interior yard from 4.5m to 0m and to decrease the minimum rear yard when abutting a lane that abuts a residential zone from 6.0m to 3.0m.

AND THAT staff be directed to issue "Development Variance Permit PL2016-7783."

Strategic priority objective

N/A

Background

The subject property (Attachment 'A') is designated by the Official Community Plan (OCP) as GC (General Commercial) and is currently zoned C8 (Vehicle Service Station). The subject site is 1246.25m² (13414 ft²) and features a gas station. Photos of the site are included as Attachment 'D'. The adjacent properties to the east are zoned Small Lot Residential (R2), with the remainder of surrounding properties zoned General Commercial (C4).

The proposed development is in the General/Tourist Commercial Development Permit Area. A development permit will follow the variance application.

Proposal

The applicant is proposing an upgrade to the existing gas station building and intends to increase the size of the convenience store by adding 43m² to the north of the existing building. The addition will result in a 0m interior side yard on the north side of the property. The Zoning Bylaw requires a 4.5m minimum interior yard, resulting in a variance being required. The addition will also result in a 3.0m rear yard setback, however the Zoning Bylaw requires a 6.0m minimum rear yard when abutting a lane that abuts a residential zone. As such, a variance to that section of the bylaw is also required.

The Development Variance Permit being requested is to vary the following sections of Zoning Bylaw No. 145 - 2011-23:

- Section 11.8.2.6.i: To decrease the minimum interior side yard from 4.5m to 0m.
- Section 11.8.2.7.i: To decrease the minimum rear yard when abutting a lane that abuts a residential zone from 6.0m to 3.0m.

Technical Review

This application was reviewed by the City's Technical Planning Committee. Concerns pertaining to storm drainage and geotechnical requirements were raised, but will be addressed at the building permit stage. A site profile was forwarded to the Ministry of Environment and a release was granted on January 19th. If the requests for the variances are supported, BC Building Code and City bylaw provisions, such as height restrictions, will apply.

Financial implication

N/A

Analysis

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 neighboring properties and if the variance request is reasonable.

Section 11.8.2.6.i: To decrease the minimum interior side yard from 4.5m to 0m.

The proposed addition will be 0m from the north property line. The adjacent building, IGA, is also 0m from the property line and covers the entire north boundary. The height of the proposed addition is 4.64m which is less than the height of the IGA building. A small shed already exists in this current location and staff consider that it is reasonable to reduce the interior yard to 0m for the expansion of the gas station.

Section 11.8.2.7.i: To decrease the minimum rear yard when abutting a lane that abuts a residential zone from 6.0m to 3.0m.

The existing building is non-conforming, situated at 3m from the rear property line and the proposed addition will not reduce the rear yard any further. A development permit will address screening and landscaping requirements. The proposed construction will replace an existing shed, thus having little impact on the neighbours. The manager of the gas station conducted door-to-door visits with neighbouring properties and received overwhelming support for the project. Given the above, staff consider that it is reasonable to reduce the rear yard minimum to 3.0m.

Given the above, staff feel that the variances requested will not have an unreasonable impact on the adjacent properties 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 PL2016-7783" with conditions.
2. THAT "DVP PL2016-7783" 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 & Elevation
- Attachment F: Letter of Intent
- Attachment G: "DVP PL2016-7783"

Respectfully submitted,

Randy Houle
Planner I

Approvals

<p>DDS</p> <p><i>AH</i></p>	<p>CAO</p> <p><i>PW</i></p>
-----------------------------	-----------------------------



Figure 1: Subject Property

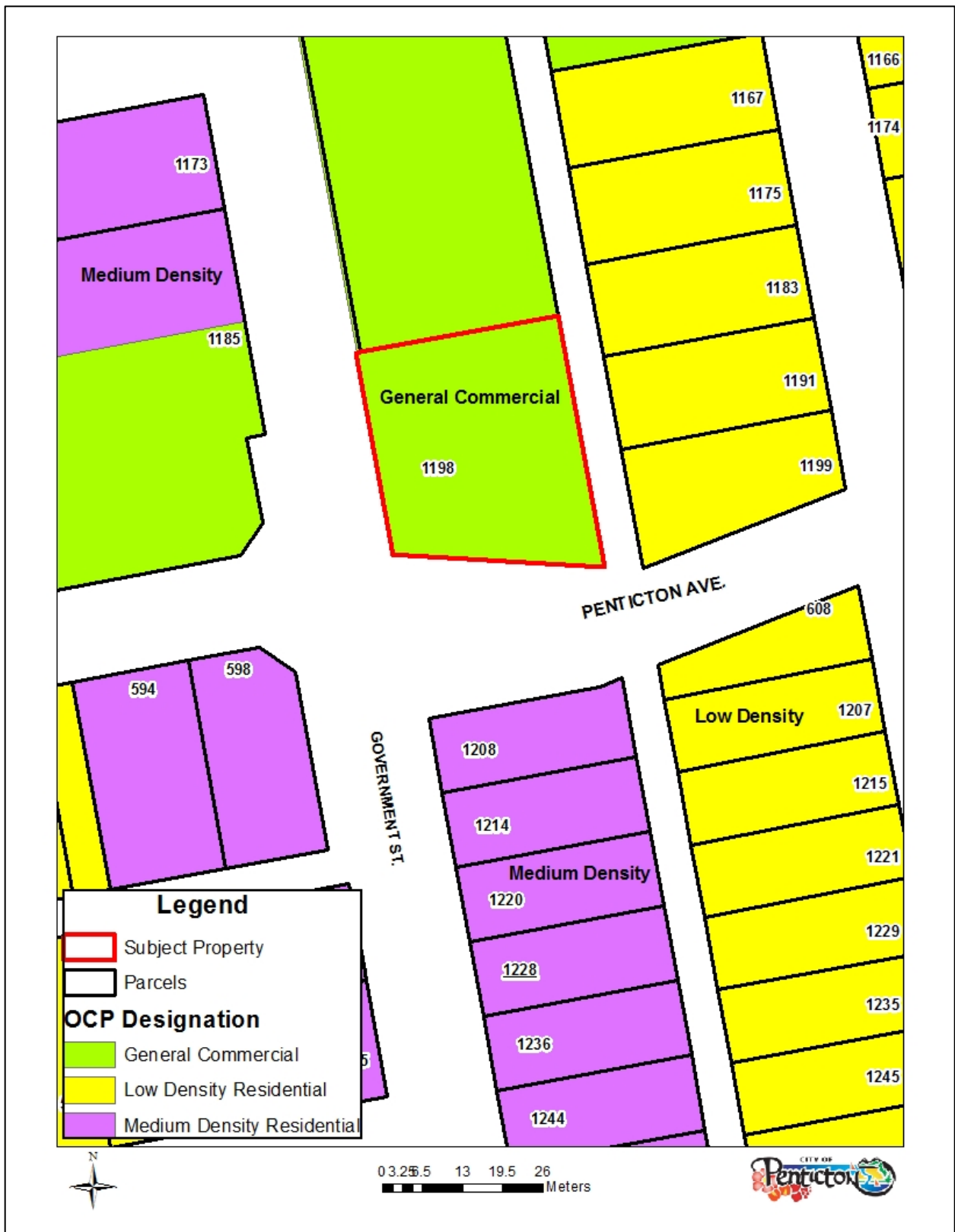


Figure 2: OCP Map



Figure 3: Zoning Map



Figure 4: West Elevation (Addition to replace existing shed)



Figure 5: East Elevation

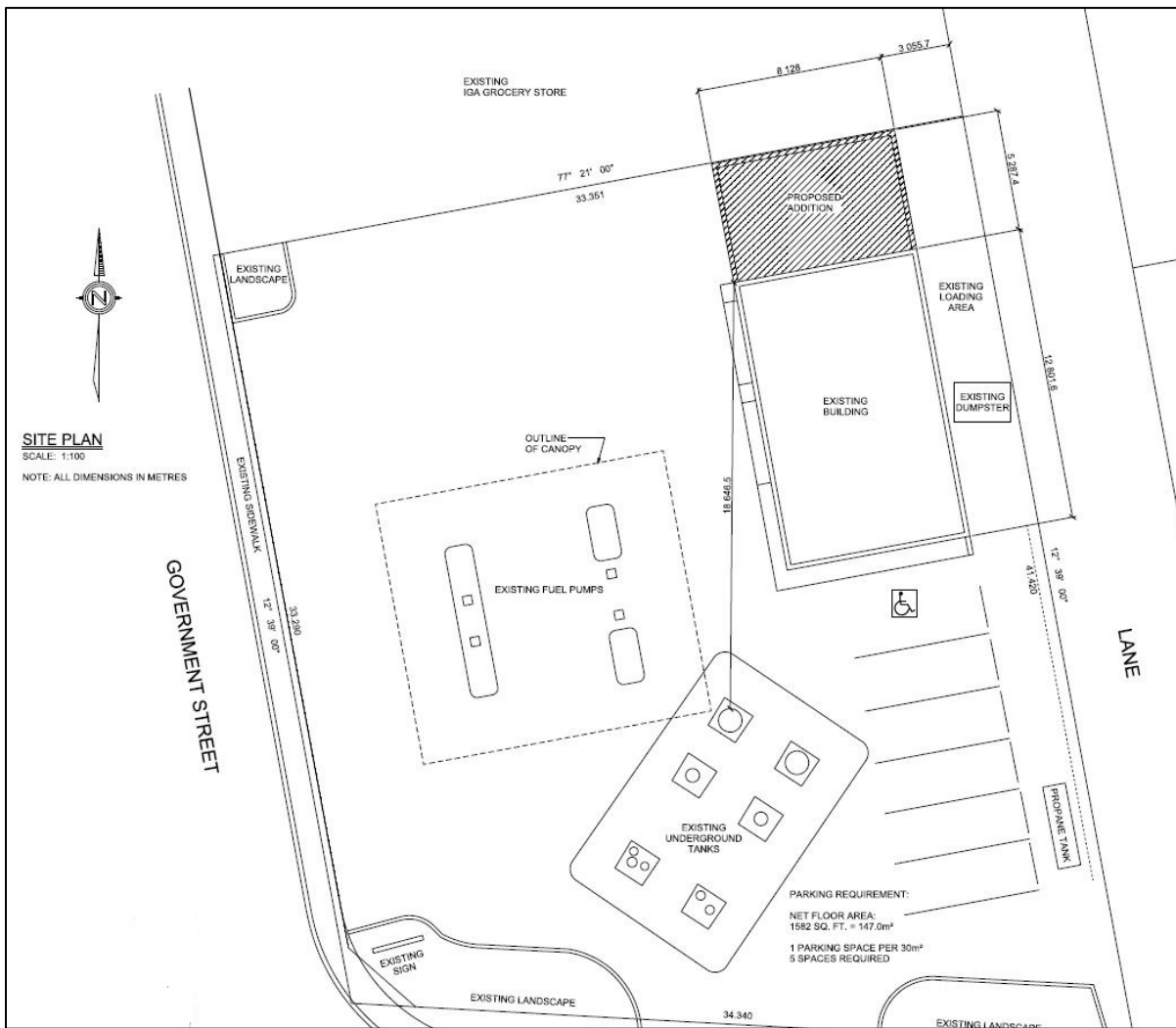


Figure 6: Site Plan

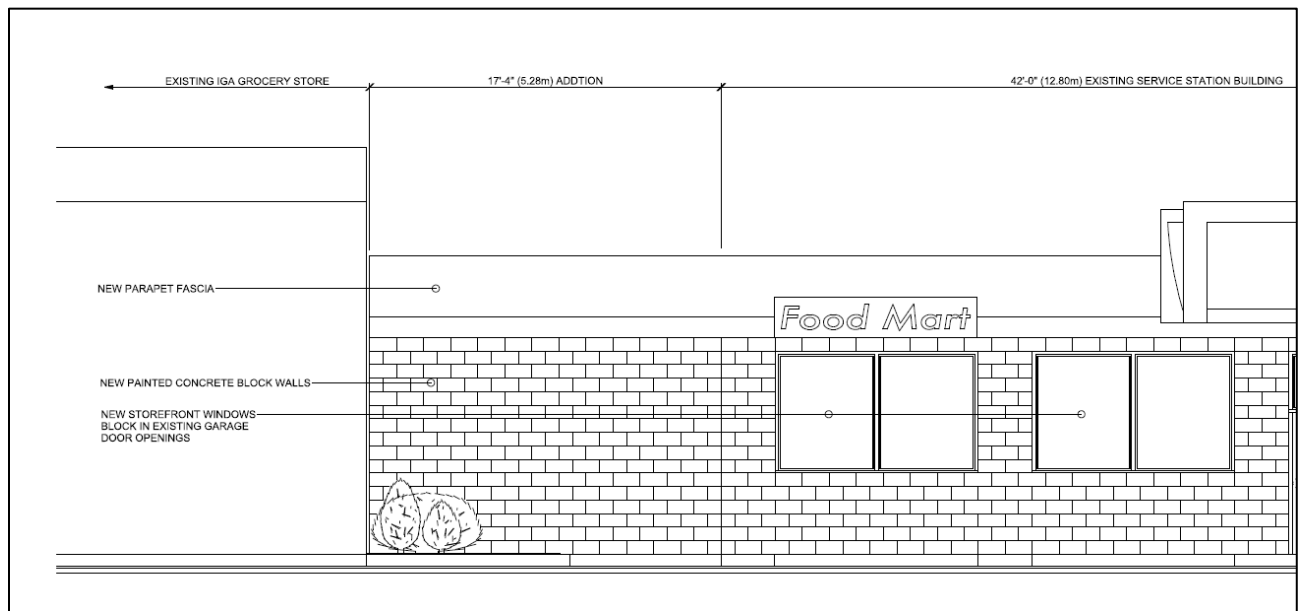


Figure 7: West Elevation



November 28, 2016

City of Penticton
Planning Department
Attn. Randy Houle
171 Main Street
Penticton, BC
V2A 5A9

Re: Development Variance Permit for 1198 Government Street

Dear Randy

Enclosed please find the application for a Development Variance Permit (DVP) at the above address. We are seeking to reduce the inside side yard from 4.5m required to 0.0m to facilitate the expansion and upgrade of the building on the site. The existing rear yard set back is non-conforming. As the building is being extended, we are also seeking to reduce the rear yard from 6.0m required to 3.0m proposed.

There have been few recent upgrades to the site and the owners are seeking to improve the building. The building is modest at one storey in height. The expansion will integrate seamlessly with the current building and all entrances and exits will remain the same. At this time, there are not changes planned for the gas canopy and site configuration.

The subject property is on the boundary between residential uses and is part of a small local commercial node. The variance request is consistent with the neighbouring property to the south that is positioned on the lot line. By allowing our building to be expanded to the property line, will remove any small spaces for garbage and undesired activities.

The site profile associated with this project were sent to the City of Penticton October 18th. We If you have any questions or concerns, please contact me at 250.575.6707. I look forward to working with you on this project.

Regards,

A handwritten signature in blue ink that reads 'Birte Decloux'.

Birte Decloux



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

Development Variance Permit

Permit Number: PL2016-7783

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 1 District Lot 250 Similkameen Division Yale District Plan 39066
 Civic: 1198 Government Street
 PID: 009-406-875
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 a convenience store expansion, as shown in the plans attached in Schedule 'A'.
 - Section 11.8.2.6.i: To decrease the minimum interior side yard from 4.5m to 0m.
 - Section 11.8.2.7.i: To decrease the minimum rear yard when abutting a lane that abuts a residential zone from 6.0m to 3.0m.

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: January 31, 2017
To: Peter Weeber, Chief Administrative Officer
From: Michael Hodges, Development Engineer
Address: 1830 Ridgedale Avenue
Subject: **Temporary Use Permit Renewal**

File No: TUP PL2016-7765

Staff Recommendation

THAT Council extend the time frame of "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 an additional one and a half month period, ending on the 14th of March 2017, subject to the same conditions as the original permit:

- 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

Strategic priority objective

N/A

Financial implication

N/A

Background

The subject property is in an area of the city identified as Columbia Heights and is located just west of the Sendero Canyon residential development. The lands are approximately 40 acres in size and have historically been used as an aggregate extraction site. It was licenced as such by the provincial Ministry of Energy and Mines.

An application has been received by the City's Planning Department to amend the current land use in support of a residential subdivision featuring approximately 130 lots. If approved, the new neighbourhood will feature a mixture of residential and park uses, with large and small single family lots, duplex lots and one multiple family site. There will also be two small parks connected by trails and almost 1/3 of the site will be transferred to the City as a conservation area. The plans are in general conformance with the Columbia Heights Neighbourhood Plan.

In an effort to reduce the amount of trucks that are needed with the site re-grading effort, the engineering firm representing the developer has requested that a rock crusher be located on the property to process larger rocks on-site into “three quarter minus” rock that will be used in the construction of the infrastructure for the subdivision. Rock crushing is not a permitted use within the FG (Forestry and Grazing) zone, which the property is currently zoned.

An application has been approved by Council to allow rock crusher on site for a specified period of time. The current TUP expired on the 31st of January. The applicant has not completed the crushing works, due to the unexpectedly cold January. The applicant has requested an extension to the 14th of March 2017, while they expect to be complete by the 28th of February they would like a small buffer to ensure the works can be completed within the time frame of this TUP extension.

Proposal

The applicants are requesting that the approved temporary use permit be extended to permit the operation of a ‘rock crusher’ on the subject lands until the 14th of March 2017.

Analysis

When considering an application for a temporary use permit, the OCP has established a set of guidelines for Council and staff to follow. The OCP states that temporary use permits may only be issued provided that the proposed use:

- is not noxious or undesirable;
- does not have a negative impact on adjacent lands;
- does not create a significant increase in demand for City services;
- complies with the DPA guidelines for the area;
- operates at hours that do not disturb the surrounding neighbourhood;
- will not permanently alter the site; and
- complies with council conditions and other provincial and federal enactments

Staff consider that the current limitations to the rock crushing operation, including on the time of operation and dust mitigation measures, have minimized the impact on neighboring residents. To date staff have not received any complaints from the community about the crushing operation.

Given the above, staff are recommending that Council support the temporary use permit extension, subject to the existing imposed 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 and only from 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

Alternate Recommendations

1. THAT Council deny the extension of the Temporary Use Permit No. PL2016-7765.
2. THAT TUP application No. PL2015-037 be referred back to staff for further review as directed by Council.

Attachments

- Attachment A: Subject property location map
- Attachment B: Images of property
- Attachment C: Proposed location of rock crusher
- Attachment D: Letter of intent from the applicant
- Attachment E: Draft permit

Respectfully submitted,

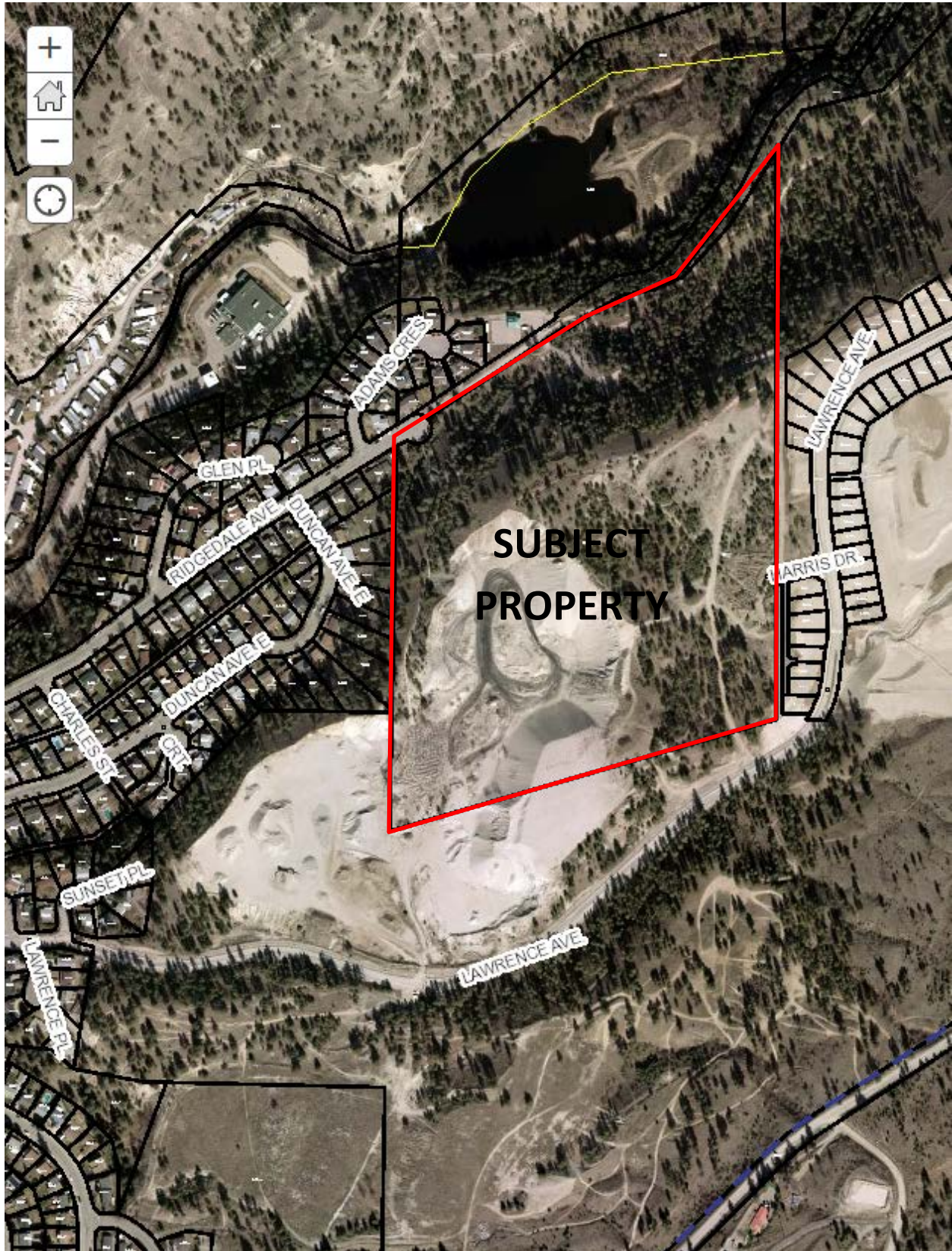
MCH

Michael Hodges,
Development Engineer

Approvals

DDS <i>AH</i>	CAO PW
------------------	------------------

Attachment A
Subject Property Location Map



Attachment B
Images of Subject Property



Figure 1: Drone image of subject property with Sendero Canyon development in the foreground, looking west



Figure 2: Drone image of subject lands showing the aggregate extraction area

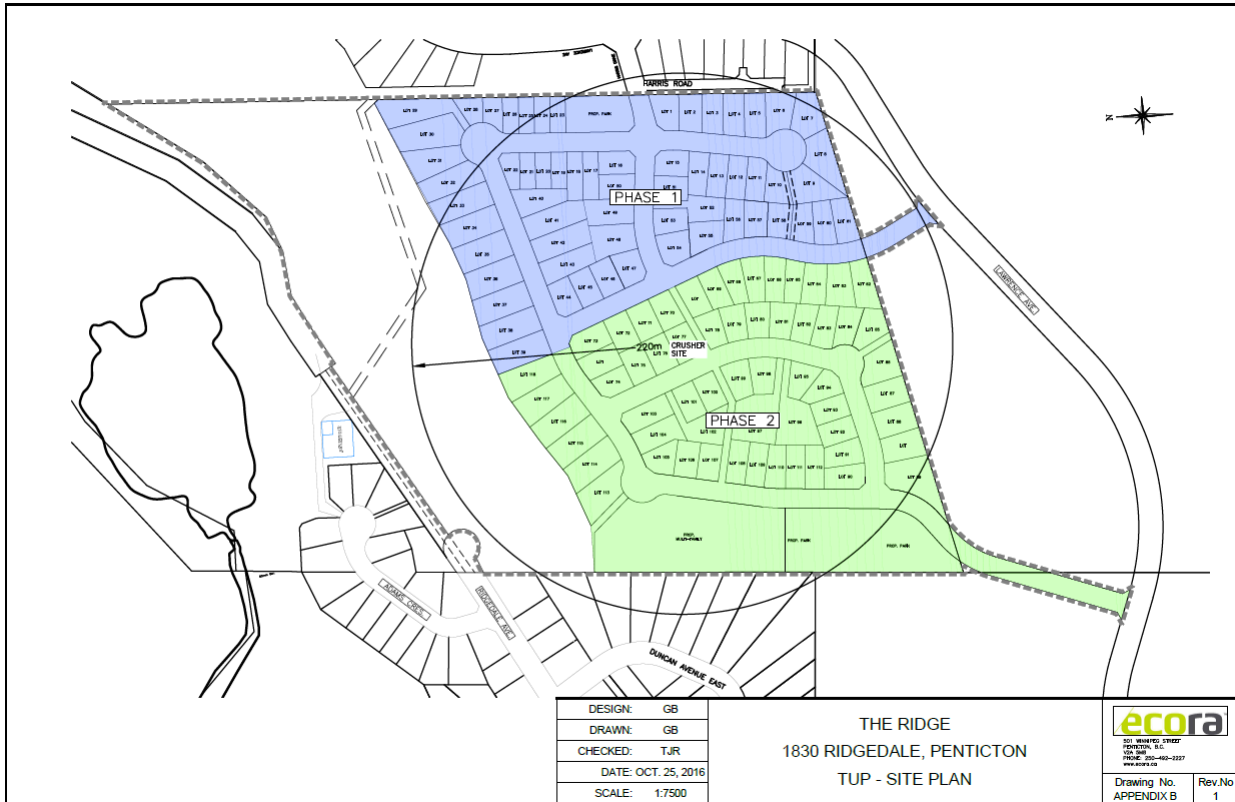


Figure 3: Image of subject lands looking east



Figure 4: Image of crushing plant in place

Attachment C
Map showing proposed location of rock crusher with a 220m buffer



Attachment D
Letter in support of application



October 27, 2016

Ecora File No.: PE-15-287-CUZ

Blake Laven, RPP, MCIP
Planning Manager
City of Penticton
171 Main Street
Penticton, BC, V2A 5A9

Attention: Blake Laven, Planning Manager

Reference: Temporary Use Permit - Letter of Intent
1830 Ridgedale Avenue - Gravel Crushing

Dear Blake:

The purpose of this letter is to explain the rationale to accompany the Temporary Use Permit (TUP) application for 1830 Ridgedale Avenue. The owner would like a TUP to utilize a rock crusher on-site to produce the granular materials required for the road structure as well as the bedding material for the underground utilities for the proposed subdivision.

The owner would like to utilize the leftover aggregate on the site to produce:

- 10,000m³ - 19mmØ minus crushed granular base for roads and trails;
- 20,000m³ - 75mmØ minus crushed granular sub base for roads;
- 5,000m³ - 19mmØ minus crushed granular base for utility (pipe) bedding

The crushed material will be produced to a City of Penticton approved specification.

The developer understands the typical nuisances (noise and dust) associated with gravel crushing and intends to mitigate these nuisances as much as possible. The developer is willing to notify all residents on adjacent lots or within a City of Penticton specified radius before crushing starts. The developer's contractor will comply with the City of Penticton's Good Neighbor Bylaw and proposes only to work from Monday to Friday from 8:00am to 4:30pm. The noise regulation in the Blasting Bylaw is from 8:00am to 8:00pm, Monday through Saturday. The crushing contractor will control dust on the site by obtaining a Hydrant Permit from the City of Penticton. However, dust is not expected to be an issue due to the time of year.

The crushing would be temporary, proposed to take place from December 1, 2016 to February 1, 2017. The crushing operation is anticipated to take only 4 weeks to complete but a 2 month schedule is proposed to allow for inclement weather, scheduling conflicts and the Christmas Holidays. A detailed crushing schedule will be provided to the City of Penticton pending approval of the TUP.



501 Winnipeg Street, Penticton, BC V2A 5M8 P: 250.492.2227 | F: 250.492.2135 | www.ecora.ca

There would be no impact to the natural environment, including groundwater, wildlife, and environmentally sensitive areas. The crusher would be set up near the center of property providing a 220 meter buffer between the nearest homes located on Duncan Avenue East and Harris Road. The materials produced from the crushing operation would be stockpiled around the crusher site to help mitigate noise. Please refer to the attached T.U.P. Site Plan for crusher location.

If the owner is unable to acquire the TUP, and determines that it is still financially viable to carry on with construction, the owner will have to import approximately 35,000m³ of granular crush to the site which is equivalent to 3800 truckloads using City roads. The trucking would create extra fossil fuels emissions and drag out the timeframe during the construction period.

Please consider this TUP application for gravel crushing. The application denotes good aggregate resource management as it will limit the importing of materials from other gravel pits.

Sincerely,

Ecora Engineering and Resource Group Ltd.

Kelly Mercer, ASCT
Penticton Branch Manager

Quantities – The approximate amount of materials required for the proposed subdivision at this stage in the design development.

Attachment E
DRAFT of Current Permit



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

Temporary Use Permit

Permit Number: TUP PL2016-7765

1029674 BC Ltd Inc. No. BC 1029674
119 Hyslop Drive
Penticton BC V2A 9A1

Conditions of Permit

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

Legal: Lot 1, District Lot 2710, Similkameen Division Yale District, Plan 21103
Civic: 1830 Ridgedale Avenue
PID: 005-555-949
3. This permit has been issued in accordance with Section 493 of the *Local Government Act*, to allow for operation of a rock crusher on the subject lands, as shown in the plans attached in Schedule A, subject to the following conditions:
 1. No crushed materials are permitted to leave the subject lands
 2. The rock crusher is only permitted to be operated between the hours of 8 AM and 4 PM and only from Monday to Friday
 3. Appropriate dust control measures are to be taken at all times

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 497 of the *Local Government Act*, This permit shall only be valid from December 1, 2016 until February 1, 2016.
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.

Temporary Use Permit PL2016-7765 is authorized by City Council, the 15th day of November, 2016

Issued this ____ day of _____, 2016

Dana Schmidt,
Corporate Officer

