Agenda

penticton.ca

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

Tuesday, March 20, 2018
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 March 6, 2018 Committee of the Whole	1-2	Receive
6.2	Minutes of the March 6, 2018 Public Hearing	3-5	Receive
6.3	Minutes of the March 6, 2018 Regular Council Meeting	6-12	Adopt

7. **Committee and Board Reports**

7.1 Parks & Recreation Master Plan Steering Committee Minutes of February 7, 2018 13-16

Staff Recommendation: THAT Council receive the minutes of the Parks & Recreation Master Plan Steering Committee meeting of February 7, 2018.

Committee Recommendation: THAT Council approve the Parks & Recreation Advisory Committee's Terms of Reference as proposed that includes the following amendments:

1. *Reflects a term ending December 31, 2019;*
2. *That half of the Parks & Recreation Advisory Committee's membership terms be staggered to allow for consistency and the opportunity for new members;*
3. *Includes the addition of paragraph 3 that states: 'Council shall appoint one (1) non-voting Penticton Indian Band Representative and one (1) non-voting Regional District Okanagan-Similkameen Representative to the committee; and*

The word 'shall' replace the word 'may' in paragraph 11 in the sentence that reads "Council may choose to replace the member".

Committee Recommendation: THAT Council set quorum at four (4) members for the Parks & Recreation Master Plan Steering Committee.

7.2 Parks & Recreation Master Plan Steering Committee Minutes of February 15, 2018 17-19
Staff Recommendation: THAT Council receive the minutes of the Parks & Recreation Master Plan Steering Committee meeting of February 15, 2018.

7.3 Affordable Community Task Force Minutes of February 16, 2018 20-22
Staff Recommendation: THAT Council receive the draft minutes of the Affordable Community Task Force meeting of February 16, 2018.

7.4 Arts, Creative & Cultural Innovations Committee Minutes of February 23, 2018 23-25
Staff Recommendation: THAT Council receive the draft minutes of the Arts, Creative & Cultural Innovations Committee meeting of February 23, 2018.

7.5 Transportation Advisory Committee Minutes of February 27, 2018 26-28
Staff Recommendation: THAT Council receive the draft minutes of the Transportation Advisory Committee meeting of February 27, 2018.

8. **Correspondence**

8.1 Correspondence from City of Vernon 29-32
Re: Request to co-sponsor SILGA resolution re: local government police services

8.2 Correspondence from Blossom Court Strata 33
Re: Urban deer population growing into a problem

9. **Staff Reports:**

DCS 9.1 Parks and Recreation Master Plan Steering Committee Terms of Reference: Quorum 34-37
Staff Recommendation: THAT Council amend the Parks & Recreation Master Plan Steering Committee Terms of Reference to define Quorum as five appointed members.

CO 9.2 Parks and Recreation Advisory Committee: Terms of Reference 38-41
Staff Recommendation: THAT Council endorse the Parks and Recreation Advisory Committee Terms of Reference as attached to the March 20, 2018 report entitled "Parks and Recreation Advisory Committee Terms of Reference"; AND THAT Council direct staff to advertise for volunteer members.

PWM/CFS 9.3 Cemetery Management Bylaw No. 2018-15 42-91
Fees and Charges Ammendment Bylaw No. 2018-16
Staff Recommendation: THAT Council give first, second and third reading to "Cemetery Management Bylaw No. 2018-15", a bylaw to provide for the regulation, management, operation and maintenance of the City of Penticton municipal cemeteries;
AND THAT Council give first, second and third reading to "Fees and Charges Amendment Bylaw No. 2018-16", a bylaw that amends the cemetery fees as outlined in Appendix 6 – Cemetery.

BPM 9.4 Short Term Vacation Rental Program Update 92-110
Staff Recommendation: THAT Council direct staff to amend the Zoning and Business Licence Bylaws to improve definitions and the process for vacation rentals.

BPM 9.5 Liquor Service – Permanent Change of Hours 111-115
Re: Bench 1775 Winery,1775 Naramata Road
Staff Recommendation: THAT Council direct staff to commence public notification of the proposed Permanent Change to hours of service for Bench 1775 Winery;
AND THAT staff report back to Council at their regular meeting on April 17, 2018 with the results of the public consultation for Council's consideration.

BPM 9.6 Winery Lounge Endorsement, Application for Structural Change 116-123
Re: Moraine Estate Winery, 1865 Naramata Road

Staff Recommendation: THAT Council direct staff to commence public notification of the proposed Structural Change and Winery Lounge Endorsement for Moraine Estate Winery;
AND THAT staff report back to Council at their regular meeting on April 17, 2018 with the results of the public consultation for Council's consideration.

GMI 9.7 Penticton to Kelowna Transit 124-126

Staff Recommendation: THAT Council select one of the following two alternatives:
Alternative 1
THAT Council support the RDOS in moving forward with an inter-regional Transit connection between Penticton and Kelowna as outlined in this report dated March 20, 2018.
Alternative 2
THAT Council not support the RDOS in moving forward with an inter-regional connection between Penticton and Kelowna.

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:

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

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

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

13.1	Fees and Charges Amendment Bylaw No. 2018-07 Re: Appendix 31 – Storm Water Utility	127-128	Adopt
13.2	Zoning Amendment Bylaw No. 2018-13 Re: 330 Power Street	129-132	Adopt
13.3	Zoning Amendment Bylaw No. 2018-14 Re: 274 Kinney Avenue	133-134	2nd/3rd

14. **Land Matters:**

DDS 14.1 Development Variance Permit PL2018-8165 135-153 Del/Sub
Re: 4045 Lakeside Road

Staff Recommendation: THAT Council approve "Development Variance Permit PL2018-8165" for Lot 25 Block 209 District Lot 190 Similkameen Division Yale District Plan 466, located at 4045 Lakeside Road, a permit to decrease the minimum front yard from 6.0m to 3.0m and to decrease the minimum interior yards from 1.5m to 1.2m; AND THAT staff be directed to issue "Development Variance Permit PL2018-8165."

DDS	14.2	Development Variance Permit PL2018-8171 Development Permit PL2018-8195 Re: 245 Edmonton Avenue	154-173	Del/Sub

Staff Recommendation: THAT Council approve "Development Variance Permit PL2018-8171" for Lot 1 District Lot 250 Similkameen Division Yale District Plan KAP92469, located at 245 Edmonton Avenue, a permit to decrease the minimum interior yard from 4.5m to 2.1m to allow for the construction of a 17-unit multi-family residential development; AND THAT staff be directed to issue "Development Variance Permit PL2018-8171." THAT Council approve "Development Permit PL2018-8195", for Lot 1 District Lot 250 Similkameen Division Yale District Plan KAP92469, located at 245 Edmonton Avenue, a permit that allows for the construction of a 17-unit multi-family residential development; AND THAT staff be directed to issue "Development Permit PL2018-8195."

DDS	14.3	Zoning Amendment Bylaw No. 2018-18 Development Variance Permit PL2018-8178 DP PL2018-8168 & DP PL2018-8169 Re: 657 Churchill Avenue	174-199

Staff Recommendation: THAT "Zoning Amendment Bylaw No. 2018-18", a bylaw to amend Zoning Bylaw 2017-08 for Lot 22, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 4075, located at 657 Churchill Avenue, from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane), be given first reading and be forwarded to the April 3, 2018 Public Hearing;
AND THAT prior to adoption of "Zoning Amendment Bylaw No. 2018-18", a 1.9 meter road dedication along the Churchill Avenue frontage of the property be registered with the Land Title Office;
AND THAT delegations and submissions for "Development Variance Permit PL2018-8178" for Lot 22, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 4075, located at 657 Churchill Avenue, a permit to increase the maximum lot coverage from 40% to 43%, to allow for the construction of a front-to-back duplex on both newly formed lots, be heard at the April 3, 2018 Public Hearing;
AND THAT Council consider "DVP PL2018-8178" following the adoption of "Zoning Amendment Bylaw No. 2018-18".
THAT Council, subject to adoption of "Zoning Amendment Bylaw No. 2018-18" and subdivision of the two lots, approve Development Permit PL2018-8168 and Development Permit PL2018-8169, for Proposed Lot A and Proposed Lot B of the subdivision of Lot 22, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 4075, located at 657 Churchill Avenue, a permit that allows for the construction of a front-to-back duplex on both newly formed lots.

15. **Notice of Motion**

Notice of Motion for consideration from Councillor Picton:

THAT staff investigate an Economic Investment Zone (EIZ) program and/or similar incentive program to promote environmentally green developments, creating significantly higher standard builds that lower the cost of living for residents.

16. **Business Arising**

17. **Council Round Table**

18. **Public Question Period**

19. **Adjournment**

Minutes

penticton.ca

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

Tuesday, March 6, 2018
Recessed from the Regular Council Meeting at 1:00 p.m.

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

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

1. Call to order

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

2. Adoption of Agenda

It was MOVED and SECONDED
THAT the agenda for the Committee of the Whole meeting held on March 6, 2018 be adopted as presented.

CARRIED UNANIMOUSLY

3. Delegations and Staff Presentations:

3.1 Smile Cycle Tours

Stuart Lang, Smile Cycle Tours, provided Council with an overview of the Smile Cycle Tours in Kelowna and their plans to operate in Penticton.

3.2 Penticton Regional Hospital Expansion – room name

John Moorehouse, South Okanagan Similkameen Medical Foundation, requested Council select a name for a room in the new hospital tower within the next 30 days.

3.3 SILGA Update

Councillor Konanz provided Council with an update on the Southern Interior Local Government Association purpose, goals, initiatives and the upcoming convention being held in Revelstoke, April 2018.

3.4 Smart Cities Challenge Update

Keith MacIntyre and Diana Sterling provided Council with an update on the Smart Cities Challenge and the work that volunteers are doing to win the funding competition. Asking people to get involved and attend a stakeholder session or organize their own.

3.5 Housing Needs Assessment Update and Growth Projection

Urbanics Consultants Ltd, provided Council with an update on the housing needs assessment and growth projection for the City of Penticton.

3.6 Penticton Yacht Club and Marina

Marc Tougas, requested Council extend the lease of the Penticton Yacht Club and Marina for a five year term of January 1, 2019 to December 31, 2023.

4. Adjourn to Regular Meeting

It was MOVED and SECONDED
THAT Council adjourn the Committee of the Whole meeting held March 6, 2018 at 2:12 p.m. and reconvene the Regular Meeting of Council.

CARRIED UNANIMOUSLY

Certified correct:

Dana Schmidt
Corporate Officer

Confirmed:

Andrew Jakubeit
Mayor

Minutes

penticton.ca

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

Tuesday, March 6, 2018
at 6:00 p.m.

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

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

1. Call to order

Mayor Jakubeit called the public hearing to order at 6:00 p.m. for Official Community Plan Amendment Bylaw No. 2018-12 and Zoning Amendment Bylaw No. 2018-13. He explained that the public hearing was being held to afford all persons who considered themselves affected by the proposed bylaw an opportunity to be heard before Council.

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

2. <u>Official Community Plan Amendment Bylaw No. 2018-12 and "Zoning Amendment Bylaw No. 2018-13" (330 Power Street and 705, 701, 669, 997 & 645 Wade Avenue W)</u>

The purpose of "Official Community Plan Amendment Bylaw No. 2018-12" is to amend Official Community Plan Bylaw No. 2002-20 Schedule 'B' Future Land Use designation as follows:

That Part of Lot A, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan AP91728 from A (Administration/Institutional – Including Schools) to MFMD (Multi-Family Medium Density).

The purpose of "Zoning Amendment Bylaw No. 2018-13" is to amend Zoning Bylaw No. 2017-08 as follows:

a) Rezone That Part of Lot A, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan AP91728 from P1 (Public Assembly) to C3 (Mixed Use Commercial) and C7 (Service Commercial).

b) Add the following site specific provisions to section 11.3.4:

.2 In the case of the following lands, "public parking" and "storage and warehousing" shall be permitted uses:

- Lot 6, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 745, Except Plans 3134 and DD 1573D (705 Wade Avenue W);
- That Portion of Closed Road in District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Shown on Plan B7684, Lying Adjacent to Lot 5, Plan 745 (701 Wade Avenue W);
- That Part of Lot 5, Lying South of Kettle Valley Railway Company Right of Way (AFB VOL FOL 111 No 1573D), Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 745 (669 Wade Avenue W);
- That Part of Lot 4, Lying South of Kettle Valley Railway Company Right of Way (AFB VOL FOL 111 No 1573D), Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 745 (667 Wade Avenue W);
- That Part of Lot A, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District Plan KAP91728 (330 Power Street) that is zoned C3.

c) Add the following site specific provisions to section 11.7.4:

.4 In the case of the following lands, "public parking" and "storage and warehousing" shall be permitted uses:

- That Part of Lot 3, Lying South of Kettle Valley Railway Company Right of Way (AFB VOL FOL 111 No 1573D), Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 745 (645 Wade Avenue W);
- That Part of Lot A, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District Plan KAP91728 (330 Power Street) that is zoned C7.

The applicant is proposing to add the lands (portion of 330 Power Street) to the properties on Wade Avenue West.

The Corporate Officer advised that no letters have been received since 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 "Official Community Plan Amendment Bylaw No. 2018-12" and "Zoning Amendment Bylaw No. 2018-13" was terminated at 6:05 p.m. and no new information can be received on this matter.

Certified correct:

_____
Dana Schmidt
Corporate Officer

Confirmed:

_____
Andrew Jakubeit
Mayor

Minutes

penticton.ca

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

Tuesday, March 6, 2018
at 1:00 p.m.

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

Staff: Peter Weeber, Chief Administrative Officer
Dana Schmidt, Corporate Officer
Jim Bauer, Chief Financial Officer
Mitch Moroziuk, General Manager of Infrastructure
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 1:00 p.m.

2. Introduction of Late Items

Add item 16. Business Arising: Issues that may arise from Committee of the Whole

3. Adoption of Agenda

79/2018 **It was MOVED and SECONDED**
THAT Council adopt the agenda for the Regular Council meeting held on March 6, 2018 as amended.

CARRIED UNANIMOUSLY

4. Recess to Committee of the Whole

Council recessed to a Committee of the Whole Meeting at 1:01 p.m.

5. Reconvene the Regular Council Meeting

Council reconvened the Regular Council Meeting at 2:12 p.m.

6. Adoption of Minutes:

6.1 Minutes of the February 20, 2018 Committee of the Whole

80/2018 **It was MOVED and SECONDED**
THAT Council receive the minutes of the February 20, 2018 Committee of the Whole as presented.

CARRIED UNANIMOUSLY

6.2 Minutes of the February 20, 2018 Public Hearing

81/2018 **It was MOVED and SECONDED**
THAT Council receive the minutes of the February 20, 2018 Public Hearing as presented.

CARRIED UNANIMOUSLY

6.3 Minutes of the February 20, 2018 Regular Meeting of Council

82/2018 **It was MOVED and SECONDED**
THAT Council adopt the minutes of the February 20, 2018 Regular Meeting of Council as presented.

CARRIED UNANIMOUSLY

7. Committee and Board Reports

7.1 Arts, Creative and Cultural Innovations Committee Minutes of January 19, 2018

83/2018 **It was MOVED and SECONDED**
THAT Council receive the minutes of the Arts, Creative and Cultural Innovations Committee meeting of January 19, 2018.

CARRIED UNANIMOUSLY

7.2 Penticton Creek Restoration Committee Minutes of January 19, 2018

84/2018 **It was MOVED and SECONDED**
THAT Council receive the draft minutes of the Penticton Creek Restoration Committee meeting of January 19, 2018.

CARRIED UNANIMOUSLY

7.3 Development Services Advisory Committee Minutes of February 23, 2018

85/2018 **It was MOVED and SECONDED**
THAT Council receive the draft minutes of the Development Services Advisory Committee meeting of February 23, 2018.

CARRIED UNANIMOUSLY

8. Correspondence

9. Staff Reports:

9.1 FireSmart Planning and Activities Grant

86/2018 **It was MOVED and SECONDED**
THAT Council support the application for grant funding from UBCM for FIRESMART Planning & Activities for Wildland Urban Interface neighborhoods within the City of Penticton.

CARRIED UNANIMOUSLY

9.2 Official Community Plan – March Update

87/2018 **It was MOVED and SECONDED**
THAT Council receive the report titled "Official Community Plan – March Update" into the record.

CARRIED UNANIMOUSLY

9.3 Bylaw Services Prioritization Session Summary and 2018-2019 Operational Plan

88/2018 **It was MOVED and SECONDED**
THAT Council receive the information contained in this report as a summary of the Bylaw Services Prioritization Session held on February 8, 2018;
AND THAT Council approve the Bylaw Services priorities for 2018-2019;
AND THAT Council approve the addition of one Full-Time Bylaw Enforcement Officer to a total of $50,000 in 2018 with an additional $10,000 being allocated from within the Bylaw Services Budget; AND THAT Council approve the additional costs of a dedicated vehicle for the Bylaw Services department totaling $3,700 from within the Bylaw Services Budget.

CARRIED UNANIMOUSLY

9.4 Economic Development – Review & Economic Indicators

89/2018 **It was MOVED and SECONDED**
THAT Council receive the report titled "Economic Development – Review & Economic Indicators" into the record.

CARRIED UNANIMOUSLY

9.5 Asset Management Storm Water Utility

90/2018 **It was MOVED and SECONDED**
THAT Council adopt a Tiered Storm Water Utility Rate Structure for 2018 as illustrated in Attachment F;
AND THAT the 2018 tax bill be reduced by the amount of the 2018 Storm Water Utility Charge;
AND THAT Council give first, second and third reading to "Fees and Charges Amendment Bylaw 2018-07", a Bylaw to amend Fees and Charges Bylaw 2014-07, to add a new Appendix 31- Storm Water Utility as contained in Attachment H;
AND FURTHER THAT the Storm Water Utility Rates for the years beyond 2018 be considered as part of the annual budget process.

CARRIED UNANIMOUSLY

9.6 South Okanagan Shared Services Report

91/2018 **It was MOVED and SECONDED**
THAT Council receive the South Okanagan Shared Services Report dated January 29, 2018.

CARRIED UNANIMOUSLY

10. Public Question Period

11. Recess to In-Camera Meeting

92/2018 **It was MOVED and SECONDED**
THAT Council recess at 4:34 p.m. to a closed meeting of Council pursuant to the provisions of the *Community Charter* section 90 (1) as follows:

(c) labour relations or other employee relations;
(e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality;
(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

12. Reconvene the Regular Council Meeting following the Public Hearing at 6:00 p.m.

Council reconvened the Regular Council Meeting at 6:05 p.m.

13. Reconsideration of Bylaws and Permits

13.1 Development Cost Charges Reduction Amendment Bylaw No. 2018-11

93/2018 **It was MOVED and SECONDED**
THAT Council adopt "Development Cost Charges Reduction Amendment Bylaw No. 2018-11".

CARRIED UNANIMOUSLY

13.2 Official Community Plan Amendment Bylaw No. 2018-12
Zoning Amendment Bylaw No. 2018-13
Re: 330 Power Street

94/2018 **It was MOVED and SECONDED**
THAT Council give second and third reading to "Official Community Plan Amendment Bylaw No. 2018-12"; AND THAT Council adopt "Official Community Plan Amendment Bylaw No. 2018-12".

CARRIED UNANIMOUSLY

95/2018 **It was MOVED and SECONDED**
THAT Council give second and third reading to "Zoning Amendment Bylaw No. 2018-13".

CARRIED UNANIMOUSLY

14. Land Matters

14.1 Development Variance Permit PL2017-8130
Re: 93 Winnipeg Street

Delegations/Submissions: nil

96/2018 **It was MOVED and SECONDED**
THAT Council approve "Development Variance Permit PL2017-8130" for Strata Plan EPS2301, located at 93 Winnipeg Street, a permit to decrease the minimum front yard from 3.0m to 0.0m and to decrease the minimum north interior yard form 4.5m to 4.1m; AND THAT staff be directed to issue "Development Variance Permit PL2017-8130";

AND THAT Council approve the license to use agreement for the 0.4m (16") encroachment of a pergola over the City sidewalk at the minimum license fee of $250.00/year for a five-year term with an option to renew for an additional 5 years subject to mutual agreement.

CARRIED UNANIMOUSLY

14.2 Development Variance Permit PL2018-8172
Re: 170 Commercial Place

Delegations/Submissions: nil

97/2018 **It was MOVED and SECONDED**
THAT Council approve "Development Variance Permit PL2018-8172" for Lot 4 District Lot 3821S Similkameen Division Yale District Plan 27609 Except Plan KAP58091, located at 170 Commercial Place, a permit to reduce the minimum front yard from 6.0m to 2.0m to accommodate the construction of an industrial building; AND THAT staff be directed to issue "Development Variance Permit PL2018-8172."

CARRIED UNANIMOUSLY

14.3 Development Variance Permit PL2018-8145
Re: 4715 Lakeside Road

Delegations/Submissions: nil

98/2018 **It was MOVED and SECONDED**
THAT Council approve "Development Variance Permit PL2018-8145" for Lot A District Lot 4090S Similkameen Division Yale District Plan KAP69054, located at 4715 Lakeside Road, a permit to allow a swimming pool to be located in a required front yard and to decrease the minimum setback for a pool from a street from 3.0m to 1.96m;
AND THAT staff be directed to issue "Development Variance Permit PL2018-8145."

CARRIED UNANIMOUSLY

14.4 Development Variance Permit PL2018-8146
Re: 4721 Lakeside Road

Delegations/Submissions: nil

99/2018 **It was MOVED and SECONDED**
THAT Council approve "Development Variance Permit PL2018-8146" for Lot 1 District Lot 196 Similkameen Division Yale District Plan KAP86273, located at 4721 Lakeside Road, a permit to increase the maximum height of an accessory building from 4.5m to 4.7m, to decrease the minimum front yard from 6.0m to 1.1m and to increase the maximum floor area of all accessory buildings from 75m^2 to 87m^2; AND THAT staff be directed to issue "Development Variance Permit PL2018-8146."

CARRIED UNANIMOUSLY

14.5 Zoning Amendment Bylaw No. 2018-14
Re: 274 Kinney Avenue

100/2018 **It was MOVED and SECONDED**
THAT "Zoning Amendment Bylaw No. 2018-14", a bylaw to Rezone Lot 101A, District Lot 116, Similkameen Division Yale District, Plan 333, Except Plan 24855, located at 274 Kinney Avenue from R2 (Small Lot Residential) to RM2 (Low Density Multiple Housing), be given first reading and be forwarded to the March 20, 2018 Public Hearing.

CARRIED UNANIMOUSLY

15. Notice of Motion

Councillor Picton provided the following Notice of Motion for consideration at the next meeting of Council:

THAT staff investigate an Economic Investment Zone (EIZ) program or similar program to promote environmentally green developments, creating significantly higher standard builds to lower the cost of living for residents;

AND THAT the program give particular consideration to tax incentives to be enjoyed by the occupiers rather than developers.

16. Business Arising

16.1 THAT Council commence a Public Request for Expression of Interest for Future Development of 199 Ellis Street.

16.2 THAT Council appoint Rob Williams as the BC Transit representative for the Transportation Committee.

16.3 THAT Council appoint Eric Corneau to the Economic Development & Prosperity Task Force for 2018.

16.4 THAT Council authorize renewal of the License to Use agreement with Bishop's Snow and Marine Ltd., operating as Pier Watersports, for approximately 0.32 ac. of Rotary Park foreshore, with the following provisions:

- A five year term for the 2019-2023 seasons
- Use of two parking stalls in the Martin Street extension lot
- Operating as a motorized and non-motorized water sport equipment rentals and activities business
- A rate of $7,880/year plus CPI adjustment annually, plus payment of associated property taxes and fulfillment of the requirements for liability insurance

AND FURTHER THAT Council authorize the Mayor and Corporate Officer to execute the Licence to Use Agreement.

16.5 Business Arising from the March 6 Committee of the Whole:

<u>Penticton Regional Hospital Expansion – room name</u>

Council would like staff to initiate a contest to name a room at the new hospital tower and bring back options for Council's consideration.

<u>Penticton Yacht Club and Marina</u>

101/2018 **It was MOVED and SECONDED**
THAT Council direct staff to work with the Penticton Yacht Club and Marina to extend their lease to five years with a two year extension.

CARRIED UNANIMOUSLY

17. Council Round Table

18. Public Question Period

19. Adjournment

102/2018 **It was MOVED and SECONDED**
THAT Council adjourn the Regular Council meeting held on Tuesday, March 6, 2018 at 6:40 p.m.

CARRIED UNANIMOUSLY

Certified correct:

_____
Dana Schmidt
Corporate Officer

Confirmed:

_____
Andrew Jakubeit
Mayor

ADOPTED

Minutes

penticton.ca

Parks & Recreation Master Plan Steering Committee Meeting

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

Wednesday, February 7, 2018
at 6:00 p.m.

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

Staff: Anthony Haddad, Director of Development Services
Len Robson, Public Work s 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 6:00 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 February 7, 2018 as amended (refer to item 5.1)

CARRIED UNANIMOUSLY

3. **Adoption of Minutes**

3.1 Minutes of the January 8, 2018 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 January 8, 2018 meeting as circulated.

CARRIED UNANIMOUSLY

4. Business Arising from prior meetings

4.1 Parks and Recreation Advisory Committee

Terms of Reference

The Director of Development Services reviewed the proposed revisions as recommended by the sub-committee. Discussion followed on whether to include the RDOS and PIB as non-voting representatives on the committee. Mayor Jakubeit noted that it is unusual to invite entities/organizations to sit on a committee as non-voting members. When items concerning the RDOS and PIB are being considered, representatives are invited to attend a meeting as required. Councillor Sentes noted there are four councilors who currently sit on the RDOS Board as City liaisons. It was generally agreed by the committee that they would like to include the RDOS and PIB as non-voting members.

It was suggested the term for this committee be extended to December 2019 due to the fact the committee will not be in effect until June or July of 2018 leaving only a few short months for the committee to function if the term were to end December 2018. It was further suggested to have a staggered membership to keep consistency and to allow for new members who are interested, an opportunity to participate.

A wording change in paragraph 11 regarding disqualification was proposed. It was recommended the word 'may' be replaced with the word 'shall' in the sentence 'Council may choose…' to provide a stronger direction with respect to disqualifying members. After all discussions the following recommendations were made:

It was MOVED and SECONDED that the Parks & Recreation Master Plan Steering Committee recommends:

THAT Council approve the Parks & Recreation Advisory Committee's Terms of Reference as proposed that includes the following amendments:

1. **Reflects a term ending December 31, 2019;**
2. **That half of the Parks & Recreation Advisory Committee's membership terms be staggered to allow for consistency and the opportunity for new members;**
3. **Includes the addition of paragraph 3 that states: 'Council shall appoint one (1) non-voting Penticton Indian Band Representative and one (1) non-voting Regional District Okanagan-Similkameen Representative to the committee; and**
4. **The word 'shall' replace the word 'may' in paragraph 11 in the sentence that reads "Council may choose to replace the member".**

CARRIED UNANIMOUSLY

The Chair commented notification to committee members regarding absences should be done as soon as possible and would like to see more authority for a Chair to make the decision to remove a member who is consistently absent. Discussion ensued on the number required for quorum for the Parks & Recreation Master Plan Steering Committee and the Chair noted it has been difficult to achieve quorum and recommended that quorum be set at four.

It was MOVED and SECONDED that the Parks & Recreation Master Plan Steering Committee recommends:

THAT Council set quorum at four (4) members for the Parks & Recreation Master Plan Steering Committee.

CARRIED UNANIMOUSLY

Application Form
The Council Advisory Committee/Board Application Form was reviewed by the committee. By consensus it was recommended and agreed to remove 'One person will be selected to represent each category' in the section titled "Area(s) of Knowledge/Experience". Staff to remove that sentence before advertising or posting.

4.2 Section 7 – Park Protection and Use – Parks & Recreation Master Plan

The Director of Development Services reviewed the proposed revisions as follows:

7.1 Park Protection and Use
It was agreed by the committee that data information including graphs and tables be relocated to the appendix and referenced in the applicable sections in the document and that all data should be kept together. The Chair noted another section with respect to encroachment should be included in the document. Additional minor word changes and items as agreed to by the committee were noted by staff.

Figure 7.1 and 7.2 Types of Park Uses
The Chair suggested adding a column to identify the type of contractual uses.

Use Gaps and Opportunities
It was requested the word "Gaps" be replaced with a more appropriate word. Staff to provide alternate wording at the next meeting.

Additional suggestions, minor word changes and items as agreed to by the committee were noted by staff.

Summary of Strengths and Challenges
Minor word changes as agreed to by the committee were noted by staff.

Preliminary Work on Park Uses
A lengthy discussion ensued on the detriment of long terms for licence/lease terms inclusive of subsequent renewal clauses and how to define Short, Medium and Long term. It was agreed that the wording in the Park Protection and Use Policy should be reviewed first before considering any changes to this section. It was further recommended the word 'preliminary' be removed within the entire document. Additional minor word changes as agreed by the committee were noted by staff.

Physical Criteria
The preliminary framework for evaluating new park uses was reviewed and discussed. Additional criteria items were suggested and noted by staff.

Following review of section 7, staff commented the revisions will be sent back to Urban Systems and the finalized document will be brought back to the committee. The Chair questioned whether the executive summary could be moved to the beginning of the master plan instead of being at the back due to the size of the document. Staff to forward that recommendation to Urban Systems.

4.3 Proposed Parkland Protection & Use Policy

The Director of Development Services presented the proposed policy for review and comment. Section 3.4.1. brought forth an in-depth discussion on how to ensure there is no net loss of green space. It was also noted that no loss of beach frontage is essential and should be recognized and protected for its uniqueness. Staff agreed to revamp the wording in this section. Minor wording changes and grammar corrections as recommended and agreed to by the committee were noted by staff. It was agreed by the committee that sections 4. Legacy Licenses and Leases, 5.1 Permitted Uses and section and 6. Procedure – License to Use Renewal be added to the next agenda for review and discussion.

4.4 Proposed Zoning Bylaw Amendments

Deferred to next meeting.

4.5 Review of Tracking List and Agenda – February Meetings

Items not discussed at this meeting will be added to the next agenda.

5. **New Business**

5.1 Community Policing – Safety in Parks

The Chair stated that safety in parks was noted in the public feedback as a concern for some citizens and recommended this be addressed in the master plan.

6. **Next Meeting**

The next scheduled meeting of the Parks & Recreation Master Plan Steering Committee is Thursday, February 15, 2018.

7. **Adjournment**

It was MOVED and SECONDED
That the Parks & Recreation Master Plan Steering Committee adjourn the meeting held on Wednesday, February 7, 2018 at 9:24 pm

CARRIED UNANIMOUSLY

Certified Correct:

Lorraine Williston
Corporate Committee Secretary

Parks & Recreation Master Plan Steering Committee Meeting

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

Thursday, February 15, 2018
at 6:00 p.m.

Present: Andrew Jakubeit, Mayor
Judy Sentes, Councillor
James Palanio, Vice-Chair
Ezra Cremers, Organized Field Sport Representative
Roland Curnow, Organized Field Sport Representative
Adolf Steffen, Development Community Representative
Peter Dooling, Member at Large
Gary Denton, Member at Large

Staff: Anthony Haddad, Director of Development Services
Lorraine Witowski, Corporate Committee Secretary

1. **Call to Order**

The Parks & Recreation Master Plan Steering Committee was called to order by the Vice-Chair at 6:00 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 February 15, 2018.

CARRIED UNANIMOUSLY

3. **Adoption of Minutes**

3.1 Minutes of the February 7, 2018 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 February 7, 2018 meeting as circulated.

CARRIED UNANIMOUSLY

4. Business Arising from prior meetings

4.1 Proposed Park Land Protection & Use Policy

The Director of Development Services reviewed the revised policy that included clause and wording recommendations from committee members in the sections previously reviewed at the Feb. 7 meeting. One question was asked if other municipalities have similar policies. Staff noted that there were not aware of any policies relating to this topic and stated this policy will provide good guidance for Council and staff. Review continued on the remaining sections.

Section 4.1 Legacy Licenses and Leases
Discussion and questions followed on existing legacy leases, expiry and renewal terms for the golf course and LocoLanding and a recommendation was made to remove LocoLanding from park designation to protect this community asset. By consensus it was agreed to revise the wording to read "may or may not" in the first sentence of this section. Further discussion was deferred until after the zoning bylaw amendment review.

Section 5.2.2
Wording amendments were noted by staff.

Section 6.1 Licence to Use (LTU)
Extensive debate ensued on the pros and cons of short terms vs. long terms, and the consideration of investments made by business owners in some cases. The Mayor pointed out there are a lot of variances to consider and some of the City's existing LTU's licensees have become very good community partners and that fact should be acknowledged. The Mayor further stated all LTU's do contain a cancellation clause and do differ from a lease term. It was suggested that LTU's be looked at on a case by case basis and should be renegotiated a year prior to the expiry of the term. Staff noted the Parks and Recreation Advisory Committee can look at each Licence to Use on a case by case basis. Following much discussion on reducing the term for LTU's to a maximum of three years and renewals, a show of hands was taken resulting in the majority in favour of removing the renewal wording in the first sentence and amending the wording in Section 6.1 and Section 3.3.1 to read 'up to a maximum of three years'.

Staff to revise the policy to reflect all amendments and bring back to the committee for final approval and recommendation.

4.2 Proposed Zoning Bylaw Amendments

The Director of Development Services reviewed the proposed park zones and amendments. Suggestions were noted as follows:

- Marina and day marina should have separate definitions;
- Day moorage should be added as it is referenced and part of the SS Sicamous Master Plan and the Kiwanis Pier revitalization;

PSa – City Wide Park Zone

- Add 'Large Building' to this zone. An example would be a boathouse structure by the SS Sicamous or for the dragon boats at Skaha Lake. Staff commented there will be a process to deal with any requests and a site specific provision can be added to a zone that includes the details for the building/structure and location.

13.2.2 Subdivision and Development Regulations

- Any zoning amendment requests will be dealt with on a case by case basis.

13.3 P2b – Community Park Zone

The Director of Development Services provided aerial maps of existing park zones and proposed park zones for review and discussion. It was noted that the current dog parks and skateboard park on Warren Avenue are located within industrial zones and staff are looking for direction from the committee on whether to rezone these areas to park. By consensus the committee agreed to keep these specific areas as originally zoned.

Existing zoning issues were highlighted that require resolution. An example noted by staff is the SOEC and Queen's Park ball diamond and if this particular zone needs to be split to include the ball diamond as park. By consensus the committee agreed the Queen's Park ball diamond should be zoned as 'park'. Members commented it is important to make these zones as defined as possible for Council and staff to understand more easily.

4.3 Review of Tracking List and Agenda

The Director of Development Services reviewed outstanding items for the next agenda that includes finalizing zoning, review of the Park Dedication Bylaw and final review and recommendation of the master plan (if completed in time by Urban Systems). The master plan will be sent out at least one week prior to the meeting to allow members time to review. It was further suggested members select their top 15 priorities out of those recommendations contained in the master plan prior to the next meeting.

5. **New Business**

6. **Next Meeting**

The next scheduled meeting of the Parks & Recreation Master Plan Steering Committee is Monday, March 5, 2018.

7. **Adjournment**

It was MOVED and SECONDED
That the Parks & Recreation Master Plan Steering Committee adjourn the meeting held on Thursday, February 15, 2018 at 9:01 p.m.

CARRIED UNANIMOUSLY

Certified Correct:

Lorraine Witowski
Corporate Committee Secretary

DRAFT

Minutes

penticton.ca

Affordable Community Task Force Meeting

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

Friday, February 16, 2018
at 10:00 a.m.

Present: Mayor Andrew Jakubeit
Councillor Judy Sentes
Carol Sudchak, Canadian Home Builders Association South Okanagan Representative
Connie Sahlmark, Member at Large
Garry Gratton, South Okanagan Real Estate Board Representative
Linda Sankey, Member at Large (10:15 a.m.)
Maggie Chinnery, BC Housing Representative
Marjorie King, Member at Large

Staff: Blake Laven, Planning Manager
Laurie Darcus, Director of Corporate Services
Sharon Thompson, Corporate Administrative Secretary

Guests: Tanya Berhardien, PDCRS and Chair, 100 Homes Penticton Steering Committee
Ian Gerbrandt, PDCRS Representative

1. Call to Order

The Affordable Community Task Force meeting was called to order by Councillor Sentes at 10:02 a.m.

2. **Welcome Back & Introductions**

Members were welcomed to the first meeting of 2018. Roundtable introductions followed.

3. **Adoption of Agenda**

It was MOVED and SECONDED
THAT the Affordable Community Task Force adopt the agenda for the meeting held on February 16, 2018.

CARRIED UNANIMOUSLY

4. **Adoption of Minutes**

It was MOVED and SECONDED
THAT the Affordable Community Task Force adopt the minutes of the March 31, 2017 meeting as circulated.

CARRIED UNANIMOUSLY

5. Business Arising from Prior Meetings

5.1 100 Homes Penticton Update

100 Homes Penticton is part of the National Campaign organized by the Canadian Alliance to End Homelessness and is made up of community leaders who are working together to provide housing and supports to 100 vulnerable people in our community by July 2020. Penticton is 1 of 36 participating communities across Canada and 1 of only 2 in British Columbia.

10:15 a.m. Linda Sankey arrived.

2017 Highlights:

- 57 people were housed as of September 2017.
- Completion of Housing First and Systems Planning training.
- Successful funding applications resulting in the hiring of a Housing Locator.
- Support of the City Forum on Homelessness, Addictions and Mental Health.
- Lived Experience Council was formed.
- A second Housing Registry Week was held.
- 150 housing units have become available in the past 18 months.

Happening in 2018:

- Additional supportive housing including Compass Court and BC Housing's Modular Housing Initiative.
- Centralized Intake.
- A Central Housing Intake model proposal is being developed.

6. New Business

6.1 Official Community Plan Update and Overview

The OCP process was launched in February 2017. Public feedback gathered through the consultation and community engagement process will be assessed and will guide workshops, policies and mapping in the coming months. The Engagement team expects to wrap up by the end of 2018.

Task Force members were encouraged to sign into the shapeyourcitypenticton.ca website, a source for documents and regular updates.

The Housing Needs Assessment document will be updated with 2016 census data. An industrial and commercial needs study will be performed. The Planning Manager will distribute the updated Housing Needs Assessment when complete.

6.2 Terms of Reference Review

The mandate of the Task Force, its role in advising Council, how decisions are made through motions and the role of the Chair were reviewed. The Director of Corporate Services offered her assistance to the Task Force as required.

6.3 Election of Chair for 2018

It was MOVED and SECONDED
THAT Garry Gratton be appointed Chair and Connie Sahlmark Vice-Chair for the Affordable Community Task Force for the 2018 term.

CARRIED UNANIMOUSLY

6.4 Housing Provider Partnership Program

The City will host a forum March 28, 2018 to identify housing strategies for affordable housing and the homelessness as funds become available through recently announced provincial and federal programs.

6.5 **Next Steps**

- Agenda topics for the next Task Force Meeting.
- Building Code changes and how they will impact the community.

7. **Council Outcomes**

Received for information.

8. Next Meeting

The next meeting of the Affordable Community Task Force will be scheduled in April. A Doodle Poll will be circulated to determine a date and time.

9. Adjournment

It was MOVED and SECONDED
THAT the Affordable Community Task Force adjourn the meeting held on Friday, February 16, 2018 at 11:44 a.m.

CARRIED UNANIMOUSLY

Certified Correct:

_____

Sharon Thompson
Corporate Administrative Secretary

DRAFT

Minutes

penticton.ca

Arts, Creative & Cultural Innovations Committee Meeting

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

Friday, February 23, 2018
at 8:00 a.m.

Present: Councillor Campbell Watt
Robin Robertson, Chair
Gerald Kenyon, SOPAC Representative (8:06 a.m.)
Jane Shaak, Okanagan School of the Arts, Shatford Centre Representative
Murray Swales, Member at Large
Skyler Punnett, Member at Large
Timothy Tweed, Penticton & District Community Arts Council

Staff: Bregje Kozak, Director Recreation & Facilities
Laurie Darcus, Director of Corporate Services
Sharon Thompson, Recording Secretary

1. **Call to Order**

The Arts, Creative & Cultural Innovations Committee was called to order by the Chair at 8:01 a.m.

2. **Adoption of Agenda**

It was MOVED and SECONDED
THAT the Arts, Creative & Cultural Innovation Committee adopt the agenda for the February 23, 2018 meeting as presented.

CARRIED UNANIMOUSLY

3. **Adoption of Minutes**

It was MOVED and SECONDED
THAT the Arts, Creative & Cultural Innovation Committee adopt the minutes of the January 19, 2018 meeting as circulated.

CARRIED UNANIMOUSLY

4. **Terms of Reference Review**

Terms of Reference are approved by Council and the mandate of the Committee, its role in advising Council, how decisions are made through motions and the role of the Chair were reviewed. The Director of Corporate Services offered assistance to the Task Force and will attend a Committee meeting following the Municipal election this fall.

8:06 a.m. Gerald Kenyon arrived at the meeting.

5. Business Arising from Prior Meetings

5.1 OCP Public Engagement Activities

The Public Engagement Officer and Manager of Special Projects will be invited to present and OCP update at the next Committee meeting scheduled for March 23.

5.2 City's Annual Financial Contribution to the Arts

Detailed information on the City's financial contributions, specifically to the Arts, has not been documented. The Director of Recreation and Infrastructure will circulate the City funded Arts Infrastructure list which will be discussed at the next meeting.

5.3 Existing Arts Infrastructure

A document last updated in 2008 detailing existing Arts infrastructure was distributed at the meeting. Committee members will consider the value of updating the information and bring suggestions to the next meeting.

5.4 Consolidated Arts Event Schedule

This item will be added to the March meeting agenda.

6. Public Sculpture Project

6.1 Roundabout

The Ad Hoc Public Sculpture Project group has not met since the last Committee meeting. A Roundabout update will be provided at the March meeting.

General Update:

- Letters have been sent to artists, both successful and unsuccessful entries.
- Lease pieces from Castlegar have been confirmed.
- Installer has been coordinated.
- City Engineer will be consulted, and approval will be required, on the final sculpture decision for the Roundabout.

6.2 Next Steps

- The Ad Hoc group will meet and make a recommendation on the Roundabout annual program.
- Artist contracts will be finalized following Council's approval of the jury recommendations at the March 6, 2018 Regular Meeting.

7. New Business

There was no new business.

8. Representative Updates

8.1 Penticton Art Gallery

There was no update.

8.2 Penticton & District Community Arts Council

- The 5th Annual Arts Awards will be held at the Cleland Theatre April 10, 2018.
- Financial situation is improving as Grants funding is approved.

8.3 South Okanagan Performing Arts Centre

- AGM was held February 18, featuring Peter Weeber as a guest speaker, and at which a new Board of Directors was elected.
- A SOPAC Society Symposium is scheduled for Sept 25-28, 2018. A document calling for applications for Event Organizer: Symposium Director was circulated.

8.4 Okanagan School of the Arts, Shatford Centre

- The City Engagement Officer has committed to do an OCP presentation at a Creative Community lunch once draft policies for the arts and culture component are drafted.
- The Director of Recreation and Facilities will follow up with Engagement staff and circulate details to the Committee.

9. Council Outcomes

There were no Council Outcomes received for information.

10. Next Meeting

The next meeting of the Arts, Creative & Cultural Innovations Committee is scheduled for 8:00 a.m., Friday, March 23, 2018.

11. Adjournment

It was MOVED and SECONDED
THAT the Arts, Creative & Cultural Innovations Committee adjourned the meeting held on Friday, February 23, 2018 at 9:03 a.m.

CARRIED UNANIMOUSLY

Certified Correct:

_____

Sharon Thompson
Committee Secretary

DRAFT

Minutes

penticton.ca

Transportation Advisory Committee Meeting

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

Tuesday, February 27, 2018
at 3:00 p.m.

Present: Tracy Van Raes, Chair
Connie Sahlmark, Vice-Chair
Matt Berry, Penticton Transit Representative
Rob Williams, BC Transit Representative
Karina Chambers, Member at Large
Brigid Kemp, Member at Large
Matt Hopkins, Member at Large

Staff: Mitch Moroziuk, General Manager of Infrastructure
Tyler Figgitt, Design Supervisor
Laurie Darcus, Director of Corporate Services
Lorraine Witowski, Committee Secretary

1. **Call to Order**

The Transportation Advisory Committee was called to order by the Chair at 3:01 p.m.

2. **Adoption of Agenda**

It was MOVED and SECONDED
THAT the Transportation Advisory Committee adopt the agenda for the meeting held on February 27, 2018 as amended (refer to Item 5.1 and 5.2).

CARRIED UNANIMOUSLY

3. **Adoption of Minutes**

It was MOVED and SECONDED
THAT the Transportation Advisory Committee adopt the minutes of the January 30, 2018 meeting as amended.

CARRIED UNANIMOUSLY

4. New Business

4.1 Terms of Reference Review

The Director of Corporate Services reviewed the committee's mandate and provided guidelines on how to run an effective meeting. Members were encouraged to contact the Corporate Office directly if they had any questions or concerns regarding procedures.

4.2 BC Transit Update

The Senior Regional Transit Manager provided an update on the increased service on the No. 5 bus route noting ridership has been good. Further updates were provided on the regional expansion plans. BC Transit is also working with the City of Penticton on potential future service expansion to the Wiltse and Sendero neighborhoods.

4.3 Healthy Communities Presentation

The Interior Health representative provided an overview of Interior Health's role in addressing population issues through community partners including information and statistics on Canada's social determinants of health and how a transportation system can improve health equity in a community. Examples of active transportation planning principles and benefits were presented. A variety of strategies, amendments and plans that have been implemented in other municipalities for Kamloops, Chase, Vernon, Merritt and Revelstoke were reviewed.

The Interior Health Representative noted that Interior Health offers a 'Safe Routes to School" program. Safe Routes to School programs are focused on making it safer for more children to walk and bike to school which helps to increase their levels of physical activity. The program is focused from a school prospective that includes a survey to identify what hazards and barriers there are that are discouraging kids from walking to school. Interior Health will partner with cities and schools. Kelowna and the Central Okanagan Regional District have implemented this program.

Discussion and questions followed. Concerns were raised over the congestion of traffic and parking issues in the vicinity of Carmi School with respect to the construction of the Penticton Regional Hospital expansion. A question was raised if Interior Health will be adding additional bicycle and vehicle storage for employees or offering any incentives to reduce the amount employees driving to work. The BC Transit representative commented Park and Rides could be one solution or setting up a ProPass. ProPass is a discounted transit pass program for workplaces. Employees' sign up for a minimum of four months by payroll deduction. These are effective ways to encourage employees to use alternative modes of transportation to reduce the number of employees travelling in single occupancy vehicles to and from work. The Interior Health representative recommended that the City send a letter to the Corporate Department at Interior Health requesting a conversation be started on developing alternative modes of transportation to address parking and traffic concerns. It was suggested a motion be made by the committee in support of a letter. Discussion ensued on the content for the motion. It was agreed to defer the motion to the next meeting to allow staff time to research if any plans have been made or started to address this matter.

5. Business Arising from Prior Meetings

5.1 Proposed Locations for New Bike Racks

Matt Hopkins asked the question if additional bike racks could be installed in the specific locations that he has compiled and how many racks the City had available. Staff suggested the proposed locations be forwarded to them to determine if it's possible or not. It was also asked if a business purchased a bike rack, would the City install it for them. Staff confirmed that could be done and that arrangement has already been done for businesses on Martin Street.

5.2 Downtown Crosswalks Walk Timing Adjustment

Matt Hopkins questioned staff as to why there are discrepancies in crosswalk times at different intersections throughout the city. The General Manager of Infrastructure explained there are a lot of factors that are considered when determining the length of green time on a light for example, volume of traffic, width of road and demographics and stated timing for all intersections will be part of the Transportation Plan review. If anyone has concerns over specific intersections to please email staff directly and they will be looked at.

6. Next Meeting

The next scheduled meeting of the Transportation Advisory Committee is Tuesday, March 27, 2018.

7. Adjournment

It was MOVED and SECONDED that the Transportation Advisory Committee adjourn the meeting held on Tuesday, February 27, 2018 at 4:25 p.m.

Certified Correct:

_____

Lorraine Witowski
Committee Secretary

THE CORPORATION OF THE CITY OF VERNON

File: 0360-20

3400 - 30TH STREET VERNON, BRITISH COLUMBIA V1T 5E6
TELEPHONE (250) 545-1361 FAX (250) 545-4048

OFFICE OF THE MAYOR

March 1, 2018

Mayor Colin Basran
City of Kelowna
1435 Water Street
Kelowna, BC V1Y 1J4

Mayor Doug Findlater
Mayor West Kelowna
2760 Cameron Road
West Kelowna, BC V1Z 2T6

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

Dear Mayors Basran, Findlater and Jakubeit

At our Regular meeting of February 13, 2018, Vernon Council endorsed the following resolution in respect to the RCMP – Local Police Services – Amendments to Service, to be submitted to the upcoming SILGA Convention.

> ***WHEREAS**, the Local Government Contract Management Committee ("LGCMC") is intended to be a "forum for consultation, analysis and communication between local government and the Province regarding the management of the Municipal Police Unit Agreement";*
>
> ***WHEREAS**, the LGCMC is to "receive and disseminate information to local governments about issues that may impact the cost, quality, governance or capacity of the RCMP to deliver local police services";*
>
> ***WHEREAS**, the LGCMC is to "consider changes proposed by the Province, the Federal government and/or the RCMP in relation to **any aspect of the delivery of local government police services**";*
>
> ***WHEREAS**, the RCMP British Columbia ("E") Division consistently makes unilateral changes to the costs and delivery means of police services for local governments, with little or no consultation and clearly without advising the LGCMC:*
>
> ***THEREFORE,** be it resolved that UBCM appeal to the Solicitor General to require the RCMP "E" Division to provide one calendar year notice to local municipalities when there will be a change in means of service delivery that will have a substantial budget impact ($10,000+) to the local municipality beyond historical costs.*

BACKGROUND

Since the execution and implementation of the Municipal Police Unit Agreement and the creation of the LGCMC, the RCMP BC ("E") Division has made numerous unilateral decisions which have altered historical police service provision and significantly increased costs to local government. Those changes have often been made with little or no prior notice, and no consultation. Notice to local governments is generally received through the local Officer in Charge. It appears the LGCMC is not advised and there is no opportunity for local government input to the cost, quality, governance or capacity of the RCMP to deliver local police services.

CARRIED.'

Council subsequently asked me to reach out to you and respectfully request consideration of your Council to co-sponsor the above resolution. The nature of the resolution is similar to our co-signed letter of January 16, 2018 to Mr. Bruce Hayne (attached). In short, this is to ramp up the role and profile of the Local Government Contract Management Committee (LGCMC) such that the Province and the RCMP show greater respect for the LGCMC and reduce the downloading of policing costs to local municipalities without prior notice and negotiations.

On behalf of Vernon Council, your consideration to co-sponsor the above resolution would be sincerely appreciated.

Sincerely,

Akbal Mund
Mayor

File: 7400-01

THE CORPORATION OF THE CITY OF VERNON

3400 - 30TH STREET VERNON, BRITISH COLUMBIA V1T 5E6
TELEPHONE (250) 545-1361 FAX (250) 545-4048

OFFICE OF THE MAYOR

January 16, 2018

via email: brucehayne@surrey.ca

Mr. Bruce Hayne
City of Surrey
13450 – 104 Avenue
Surrey, BC V3T 1V8

Dear Mr. Hayne:

The Mayors of the cities of Vernon, Kelowna, West Kelowna and Penticton meet on a quarterly basis to review, discuss and action topics of mutual interest. The topics are wide ranging: from homelessness to quagga mussels, marijuana to regional transportation.

Policing is a regular topic of discussion. It is common that policing is the most expensive single line item in a City's budget. In the case of Vernon, for example, policing costs are increasing at rates well beyond the costs of all other municipal services combined.

All too often what fuels escalating policing costs are short notice directives from E Division on new costs for services that have been in place for many years that will be shifted from the RCMP to local municipalities. These directives come with little to no notice and typically no consultation whatsoever. The latest, by example only, is call answering after normal business hours which E Division has advised will no longer be provided through the 911 centre and for which local detachments must make immediate provision to assume responsibility.

The point here is directives being issued without notice or consultation on issue after issue. The Local Government Contract Management Committee ("LGCMC") was created as a forum for consultation, analysis and communication between local government and the Province regarding the management of the Municipal Policing Agreement under which the RCMP provide local police services.

While our cities have received numerous directives from E Division over the years since the Municipal Policing Agreement came into effect, we have not received prior notice from the LGCMC, no request for consultation or discussion in advance, little or no analysis and rarely sufficient notice for our Councils to consider budget and subsequently tax rate implications.

The Terms of Reference for the BC Local Government RCMP Contract Management Committee cites two key functions:

- Communication – including to "Receive and disseminate information to local governments about issues that may impact the cost, quality, governance or capacity of the RCMP to deliver local police services"; and

- Research and Analysis, including to "consider changes proposed by the Province, the Federal Government and/or the RCMP in relation to **any** aspect of the delivery of local government police services."

It appears that the LGCMC is not being made aware of the "issues that may impact the costs" to deliver local police services – costs being imposed unilaterally by E Division and/or the Province.

Local municipalities expect a respectful consultation process and reasonable notice should additional resources be necessary to support local police service or should the costs of existing services be transferred to local government from others. Our Councils may, in fact, agree with the need for the additional resources, and be prepared to phase those costs into our budgets. However, directives without notice is a frustrating and disrespectful approach completely at odds with the establishment of the BC LGCMC committing the Province and BC local governments to work together towards the common goal of providing an efficient and effective RCMP police service.

We would ask that UBCM become more involved in the application of the Municipal Police Agreement and insist that proposed changes by E Division or the Province be presented to the LGCMC prior to implementation.

Yours truly,

Akbal Mund	Colin Basran	Doug Findlater	Andrew Jakubeit
Mayor,	Mayor,	Mayor,	Mayor,
City of Vernon	City of Kelowna	City of West Kelowna	City of Penticton

Akbal Mund
Mayor, City of Vernon

copy: Mayor Linda Hepner, City of Surrey
Mayor Paul Ives, Town of Comox
Director Ray Boucher, Fraser Valley Regional District
Councillor Al Siebring, District of North Cowichan
Mayor Neil Menard, City of Merritt
UBCM President, Wendy Booth

MAR 0 1 2018

BLOSSOM COURT STRATA KAS825
62 Dauphin Ave
Penticton, BC V2A 6V 8

Date: February 24, 2018

City Hall
Mayor and Council
171 Main Street
Penticton, BC V2A 5A9

Subject: Urban deer population growing into a problem – Penticton, BC

As I am sure Council is aware the city is experiencing an increase in the wild deer population within the city boundaries. It is starting to have an alarming effect on the residents and properties that is not unique to Penticton as is evident with the media coverage of other communities particularly in the Kootenay's. Last week CBC reported that Invermere, BC implemented a local cull to protect property and citizens. As a resident in the area for nearly 15 years it is becoming obvious their numbers are increasing and they are overcoming their fear of human kind. The prevalence in a city environment with each new generation is resulting in a well-adapted population that understands the city is a safe refuge from natural predators. This is an evolutionary process that is upsetting balances and will bring predators into to our community as has happen elsewhere in BC. This will only worsen with time.

Closer to home the deer families have found comfort and safety on strata property that provides a food sources with landscape vegetation. They will not spook and close encounters with beast and human under not necessarily the best of circumstance has resulted with displays of animal aggression. This is posing a safety threat particularly to children and our concern is it is just a matter of time and there is going to be an incident.

The deer appetite for shrubs and flowers is destroying plant life and costing maintenance out of our budget. Many of our residents are on fixed incomes and being a small strata our funds are limited. Deer dropping are common place and our volunteer grounds keeper has made a conscious effort to keep up the property appearance. However, we are exhausting our resources and at this juncture realize we cannot go it alone. It is to this end we are making a formal plea to the City to investigate and implement some form of control on this growing problem. I am sure this concern is not unique to our strata and now is the time to be proactive. It is our hope the city treats this matter seriously and we are looking forward to a response at your earliest convenience.

Yours truly,
Wayne Radomske
Wayne Radomske
President
Strata KAS825

: cc Strata secretary

Council Report

penticton.ca

Date: March 20, 2018 File No: 0540-20
To: Peter Weeber, Chief Administrative Officer
From: Laurie Darcus, Director of Corporate Services

Subject: **Parks & Recreation Master Plan Steering Committee Terms of Reference: Quorum**

Staff Recommendation

THAT Council amend the Parks & Recreation Master Plan Steering Committee Terms of Reference to define Quorum as five appointed members.

Executive Summary

The Parks & Recreation Master Plan Steering Committee is close to completing their mandate, however they are struggling with meeting the required quorum of 50% of appointed members. In several instances scheduled meetings could not be called to order due to the lack of quorum. Staff are recommending that the terms of reference for this committee be amended to define quorum as 5 appointed members so that the committee can complete the business at hand.

Strategic priority objective

Good Governance – to employ management practices to enhance service delivery.

Background & Analysis

The Parks & Recreation Master Plan Steering Committee has been meeting since December 2015. Normally the terms of reference for Council appointed committees states:

> 5. A majority of appointed voting members shall constitute quorum.

For this committee, there are a total of 11 appointed members, which would require 6 members in attendance at any schedule meeting to constitute quorum and enable a meeting to be called to order (see Terms of Reference - Attachment A). Since July 2017, 6 meetings have had to be cancelled due to lack of quorum. For most of those meetings, 5 members were in attendance. By changing quorum to a defined 5 appointed members the current appointed committee members would stay intact and quorum to hold meetings would be more readily reached. The new language for the Terms of Reference would be:

> 5. Five appointed voting members shall constitute quorum.

Financial implication

Staff resources and committee member time would not be wasted on cancelled meetings.

Alternate recommendations

THAT Council not amend the Parks & Recreation Master Plan Steering Committee Terms of Reference to define Quorum as five appointed members.

Attachments

Attachment A – Parks & Recreation Master Plan Steering Committee Terms of Reference

Respectfully submitted,

Laurie Darcus
Director of Corporate Services

Approvals

Chief Administrative Officer
PW

penticton.ca

2015 – 2016 Terms of Reference
Parks and Recreation Master Plan Steering Committee

1. The Committee shall consist of **ELEVEN (11)** voting members appointed by City Council to steer the Master Plan process. The membership shall consist of 9 voting members from the public with preference given to:
   - (1) Penticton School District 67
   - (1) member of Tourism Penticton
   - (2) members of an organized field sport (Note: not the same sport)
   - (1) member from a parks Special Event Group
   - (1) member from the Penticton Indian Band
   - (1) member from the development community
   - (4) members of the general public with an interest in parks

2. The Committee Members shall put forward 3 names of committee members from which Council will appoint a Chair.

3. Council shall appoint two (2) non-voting Council Representatives to the Committee for the duration of the creation of the Master Plan.

4. Role of Council Representatives:
   - Non-Voting Member
   - Liaison to City Council

5. A majority of appointed voting members shall constitute a quorum.

6. The Manager of Recreation and Supervisor of Parks or their designates, shall attend committee meetings to provide operational support to the Committee.

7. The Corporate Administration Department shall arrange for secretarial services to the Committee.

8. The Committee shall meet regularly on a monthly basis.

9. The Committee's mandate is to guide the creation of a Parks and Recreation Master Plan to be completed no later than April 2017. It is fundamental to the efficacy of the Committee that the members recognize that they represent the citizens of the City of Penticton as a whole and not only special interests. The committee will:
   - Provide input into the creation of terms of reference for a proposal call to engage the services of a consultant to complete a Parks and Recreation Master Plan;
   - Appoint committee members to work with City staff to review and rank proposals;

- Recommend the hiring of a consultant to Council;
- Work with the Master Plan consultant and the community to establish recommendations for the Parks and Recreation Master Plan which will include:
  - Creation of a parks inventory;
  - Municipal per capita park space comparisons by park type;
  - Per capita park space standards by park type;
  - Needs assessment for park space for social, recreational and sport needs;
  - The impact and opportunities related to regional parks and sports fields;
  - Development of goals and principals to guide future park decisions;
  - Recommend rules and regulations concerning the long term planning, construction, management, control, and use of parks and park recreation facilities;
  - Evaluation and recommendations for amendments to the parks sections of the OCP and Zoning Bylaw, the Parks Dedication Bylaw and the Park Regulation Bylaw;
  - Identification of areas for parks space land acquisition and disposal;
  - Identification of changes to parks operations and maintenance standards and capital construction requirements;
  - Funding strategy to address the recommendations made; and
  - Development of a 10 year capital plan for parks and funding model.
- Engage with Focus groups on various topics including but not limited to an Organized Sport Focus Group and a Youth Focus Group;
- Develop and participate in Public engagement strategies related to the creation of the Master Plan; and
- Provide comment on the value of a Parks and Recreation Advisory Committee to the City.

10. Disqualification from Office
    If an advisory committee member is continuously absent from committee meetings for a period of three (3) consecutive regularly scheduled meetings, unless the absence is because of illness or with the leave of the committee members, the office of the member is deemed to be vacant and the person who held the office is disqualified from holding office on any advisory committee of the City of Penticton for a period of one year.

11. Should a Closed meeting be held by the Committee, members must keep in confidence, any information considered in any part of said meeting until such time as the information is released to the public as lawfully authorized or required. Should the municipality suffer loss or damage due to contravention of confidentiality, the municipality may recover damages from the person(s) for the loss or damage.
    - Closed Meeting – no meeting or part thereof shall be closed to the public except in accordance with Section 90 of the Community Charter.

12. The Mayor will sign all correspondence initiated by the Committee on behalf of the City of Penticton.

13. For certainty, the rules and procedures of Procedure Bylaw 2004-23 and all amendments thereto shall be observed as far as may be applicable.

Council Report

penticton.ca

Date: March 20, 2018 File No:
To: Peter Weeber, Chief Administrative Officer
From: Dana Schmidt, Corporate Officer

Subject: **Parks and Recreation Advisory Committee Terms of Reference**

Staff Recommendation

THAT Council endorse the Parks and Recreation Advisory Committee Terms of Reference as attached to the March 20, 2018 report entitled "Parks and Recreation Advisory Committee Terms of Reference";

AND THAT Council direct staff to advertise for volunteer members.

Strategic priority objective

Good Governance: selecting volunteers from the community to provide a community perspective for decisions regarding the future of parks and recreation in the City.

Financial implication

n/a

Analysis

At their meeting of February 7, 2018, the Parks and Recreation Masterplan Committee made a series of recommendations for the terms of reference for the upcoming Parks and Recreation Advisory Committee.

The first two recommendations are related to the membership terms. Given that we are already 3 months into the year, it would be advisable to carry the committee's first term through to the end of 2019. The second recommendation is related to providing consistency by staggering the members' terms, so each year there's a maximum turnover of ½ of the membership. From past experience, more than ½ of committee members seek reappointment at least once, therefore staggering of appointments isn't necessarily the only way to see some changeover as well as some consistency.

The third recommendation is for non-voting members from the Regional District and Penticton Indian Band. It is difficult to appoint members, that we expect to attend meetings and participate in discussions and yet we don't allow them the opportunity to vote. Staff recommend that the City provides agendas to both organizations, so that they are aware of topics of discussion and specifically forward an invitation when the subject matter is relevant or of concern to their organizations.

The last recommendation is that any committee member who misses 3 consecutive meetings without leave of the committee, 'shall' be replaced, instead of the current 'may' be replaced. This change would fetter the discretion of Council and wouldn't allow for extenuating circumstances, therefore this amendment is not recommended by staff.

Alternate recommendation

THAT Council endorse the Parks and Recreation Advisory Committee terms of reference as attached to the March 20, 2018 report entitled Parks and Recreation Advisory Committee Terms of Reference with the following amendments:

Add:

1. Appointments to be staggered, with half of the appointments replaced each year.
   And/or
2. Council shall appoint one non-voting Penticton Indian Band representative and one non-voting Regional District of Okanagan Similkameen representative to the committee.

Replace:

Council 'may' replace members who have missed 3 consecutive meetings with 'shall' replace.

Attachment

Attachment A –Draft Parks and Recreation Advisory Committee Terms of Reference

Respectfully submitted,

Dana Schmidt
Corporate Officer

Approvals

Chief Administrative Officer
PW

2018 Terms of Reference
Parks & Recreation Advisory Committee

1. The Committee shall consist of **Thirteen (13)** voting members appointed by City Council for a term ending December 31, 2019. Preference will be given for:
   - One (1) member from SD67
   - Twelve (12) members of the community on the basis of their knowledge, interest and/or experience in community parks and recreation. Preference will be given for:
     - Nature appreciation
     - Indoor recreation
     - Outdoor recreation
     - Organized sports
     - Trails
     - Health and fitness
     - Water based activities
     - Sports tourism and special events

2. The Committee Members shall appoint a Chair and Vice-Chair each year.

3. Council shall appoint one (1) non-voting Council Representative to the committee.

4. Role of Council Representative
   - Non-Voting Member
   - Liaison to City Council

5. A majority of appointed voting members shall constitute a quorum.

6. The Public Works Manager/Parks Supervisor and Director, Recreation Facilities and or designate, shall attend committee meetings to provide operational support to the Committee. Other City staff will attend meetings as required to provide information and or comments on their individual areas of expertise.

7. The Corporate Administration Department shall arrange for secretarial services to the Committee.

8. The Committee shall meet on a regular basis but not less than four (4) times per year.

9. The Committee mandate is to make recommendations to Council on all matters referred to the Committee including:

DRAFT

- Act as an Advisory Committee to the Council with respect to provision, protection and promotion of parks and recreation services;
- Support and maintain the vision and values of the 2018 Parks and Recreation Master Plan;
- Review and provide feedback or comments on Parks and Recreation proposed projects, initiatives or challenges;
- Advise on the implementation of recommendations outlined in the 2018 Parks and Recreation Master Plan;
- Review, evaluate and provide recommendations on park uses and protection as per the Parkland Protection and Use Policy;
- Make recommendations on community engagement requirements related to Parkland Protection and Use Policy;
- Make recommendations on proposals for any leasing of Park space;
- Make recommendations on City policies and bylaws that affect Parks and Recreation Services.
- The committee will not participate in operational matters respecting the City of Penticton.

10. Disqualification from Office

If an advisory committee member is continuously absent from committee meetings for a period of three (3) consecutive regularly scheduled meetings, unless the absence is because of illness or with the leave of the committee member, Council may choose to replace the member. The person who held the office is disqualified from holding office on any advisory committee of the City of Penticton for a period of one year.

11. Should a Closed meeting be held by the Committee, members must keep in confidence, any information considered in any part of said meeting until such time as the information is released to the public as lawfully authorized or required. Should the municipality suffer loss or damage due to contravention of confidentiality, the municipality may recover damages from the person(s) for the loss or damage.

- Closed Meeting - No meeting or part thereof shall be closed to the public except in accordance with Section 90 of the *Community Charter*.

12. The Mayor will sign all correspondence initiated by the Committee on behalf of the City of Penticton.

13. For certainty, the rules and procedures of Council Procedure Bylaw and all amendments thereto shall be observed as far as may be applicable.

DRAFT

Council Report

penticton.ca

Date: March 20, 2018 File No:
To: Peter Weeber, Chief Administrative Officer
From: Len Robson, Public Works Manager
Angela Campbell, Controller, Financial Services

Subject: **Cemetery Management Bylaw No. 2018-15**
Fees and Charges Amendment Bylaw No. 2018-16

Staff Recommendation

THAT Council give first, second and third reading to "Cemetery Management Bylaw No. 2018-15", a bylaw to provide for the regulation, management, operation and maintenance of the City of Penticton municipal cemeteries;

AND THAT Council give first, second and third reading to "Fees and Charges Amendment Bylaw No. 2018-16", a bylaw that amends the cemetery fees as outlined in Appendix 6 – Cemetery.

Strategic priority objective

Community Building: Views the City as a whole and focuses on the investment in services and infrastructure, which are fundamental to quality of life.

Good Governance: Refers to the system of municipal government in its role as a democratic institution, a public policy maker and a provider of public services.

Background

As recommended in the 2013 Cemetery Master Plan as endorsed by Council Resolution 530/2013, additional cemetery grounds were developed at the Lakeview Cemetery complete with new interment options. The additional interment options and the requirement to update the bylaw precipitated the need to draft the new Cemetery Management Bylaw No. 2018-15, see Attachment A and update Appendix 6 of the Fees and Charges Bylaw, see Attachment B.

Staff worked with Cemetery Consultant, Lees and Associates, to develop the new bylaw. The bylaw has been drafted in compliance with all associated Acts and Regulations and in accordance with current best practices for the services we offer at our cemeteries. "The Corporation of the City of Penticton Cemetery Management Bylaw No. 2010-09 (2010)" will be repealed upon adoption of the new bylaw.

During the initial stages of the bylaw drafting exercise, local Funeral Service Providers where invited to participate in open discussions to ensure current bylaw issues or future concerns would be addressed in the bylaw draft. Their feedback was incorporated into the draft bylaw and subsequently forwarded to them for final review. All comments received were considered and or implemented in the new draft bylaw.

The key changes from the old bylaw to the new Cemetery Management Bylaw No. 2018-15 are as follows:

1. Bylaw updates to ensure conformance with the requirements of:
    - Cremation, Interment, and Funeral Services Act, 2004, C.35 (CIFSA); and
    - the Local Government Act (RSBC 2015) Chapter 1; and
    - the Community Charter Act (RSBC 2003) Chapter 26; and
    - the Workers Compensation Act (RSBC 1996) Chapter 492; and
    - the Personal Information Protection Act (SBC 2003) Chapter 63;
    - Business Practices and Consumer Protection Authority of B.C.

2. Updating the bylaw to reflect the new interment and memorialization options available at the Lakeview Cemetery including:
    - Standard in-ground upright monument lots; and
    - family estate in-ground and cremation lots; and
    - green burial in-ground and cremation lots; and
    - cremation scattering; and
    - memorialization options.

3. Graves designated for the double-depth interment of the human remains of two (2) or four (4) persons the first interment of human remains shall be made in the grave at the deepest interment depth and the subsequent second interment shall be made over the first.

The new interment options required an amendment to Appendix 6 of the Fees and Charges Bylaw 2014-07. Lees and Associates were consulted to provide a Cemeteries Bench Marking Study to assist in the development of the fees for the new interment options as well as adjustments to the current fees. New fees and adjustments to existing fees can be found in Attachment B – Fees and Charges Amendment Bylaw No. 2018-16.

Financial implication

The fees as outlined in the recommended changes to the fees and charges bylaw are set to recover the cost of operations as well as contribute to the Cemetery Perpetual Care Fund as required by legislation.

Analysis

The proposed Cemetery Management Bylaw No. 2018-15 complies with all required legislation, regulations, and is in keeping with best management practices of the cemetery industry. Staff consulted with local funeral service providers to ensure their concerns were addressed.

Fees and charges for the various services the City offers have been developed with our local market and comparable services from other jurisdictions in mind.

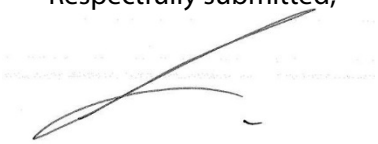
Alternate recommendations

1. THAT Council send the Bylaw(s) back to staff for further research based on comments received.

Attachments

Attachment A – Cemetery Management Bylaw No. 2018-15
Attachment B – Fees and Charges Amendment Bylaw No. 2018-16

Respectfully submitted,



Len Robson, AScT
Public Works Manager



Angela Campbell
Controller, Financial Services

Approvals

General Manager of Infrastructure	CFO	Chief Administrative Officer
	JWCB	PW

The Corporation of the City of Penticton

Bylaw No. 2018-15

A Bylaw to provide for the regulation, management, operation and maintenance of the Corporation of the City of Penticton municipal cemeteries.

WHEREAS the Municipal Council of the Corporation of the City of Penticton, acting as the Board of Trustees of the City Cemeteries, deems it expedient to create a new cemetery bylaw;

AND WHEREAS the Municipal Council of the City of Penticton wishes to repeal "The Corporation of the City of Penticton Cemetery Management Bylaw No. 2010-09 (2010)" and amendments thereto in their entirety;

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

1.0 TITLE

1.1 This Bylaw may be cited for all purposes as "Cemetery Management Bylaw No. 2018-15".

2.0 INTERPRETATION

2.1 Any enactment referred to herein is a reference to an enactment of British Columbia or Canada, as the case may be, and regulations made thereto, as amended, revised, consolidated or replaced from time to time, and any bylaw referred to herein is a reference to an enactment of the Council of the City of Penticton, as amended, revised, consolidated or replaced from time to time.

2.2 The headings given to the parts, sections and paragraphs in this Bylaw are for convenience of reference only. They do not form part of this Bylaw and will not be used in the interpretation of this Bylaw.

2.3 The use of a word signifying the masculine shall include the feminine and the use of a word signifying the plural shall include the singular and such references are used for convenience of reference only. They do not form part of this Bylaw and will not be used in the interpretation of this Bylaw.

2.4 If any part, section or phrase of this Bylaw is for any reason held to be invalid by the decision of a Court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Bylaw.

2.5 The Schedules listed here and as attached form a part of this Bylaw:

Schedule A: Memorial Specifications

Schedule B: Interment Specifications

3.0 DEFINITIONS

3.1 In this bylaw terms defined in the "*Cremation, Interment, and Funeral Services Act*" (CIFSA) and this bylaw shall have that meaning unless expressly defined otherwise herein, and the following words have the meaning ascribed to them unless the context otherwise requires:

"applicant" means, as context may imply, an individual who has made petition to the City for a right of interment, an interment or for a memorial permit;

"at-need" means at the time a death has occurred;

"burial" means the in-ground interment of human remains or cremated remains in a lot;

"burial container" means a container to enclose human remains for interment that:

(a) has a rigid base and is of sufficient strength to contain and move human remains;

(b) is capable of being closed so that the public is not able to see the human remains;

(c) is constructed so that it does not leak or otherwise cause a hazard to any person's health, but;

(d) does not include a grave liner, burial vault or an urn;

"burial permit" means a legal document in the province of B.C. acknowledging the registration of a death with the Vital Statistics Agency of B.C. as required for a burial in the province of B.C.;

"care fund" means a fund for the care and maintenance of a place of interment established, held and administered in accordance with the CIFSA for the purpose of funding the maintenance and care of a Cemetery;

"cemetery" means land owned by the City that is set apart or used, now or at some date in the future, as a place of interment of human remains or cremated remains and includes any incidental or ancillary buildings on the land;

"child" means a person between the ages of two (2) and twelve (12) years of age;

"CIFSA" means the *Cremation, Interment and Funeral Services Act, S.B.C. 2004, C.35* administered by the consumer protection authority, as amended or repealed from time to time and all regulations made thereunder;

"City" means The Corporation of the City of Penticton and together or separately may also mean, the Mayor and Council of the City, a department of the City, a person or persons employed by the City, or a person or persons appointed by the City to conduct work directly related to the development, management, operation, provision of service and maintenance of a City cemetery;

"City cemetery" means the "Lakeview Cemetery" or "Fairview Anglican Cemetery" or a combination thereof or any other cemetery that may be developed or acquired by the City at some date in the future;

"columbarium" means a structure or building or an area in a structure or building that contains, as an integral part of the structure or building or as freestanding sections, niches for the inurnment of cremated remains;

"comingled" means the intentional or unintentional mixing of the cremated remains of more than one deceased person;

"Consumer Protection Authority" means the Business Practices and Consumer Protection Authority of B.C. established under the *Business Practices and Consumer Protection Authority Act (BPCPA), S.B.C. 2004, C.3* as amended or repealed;

"Corporate Officer" means a person appointed as the City Corporate Officer as such from time to time by Council, or their designate;

"Council" means the elected Mayor and Council of the Corporation of the City of Penticton;

"cremated remains" means the human bone fragments left after cremation and that may also include the residue of other materials cremated with the human remains;

"crypt" means one type of lot, a space in a mausoleum designed, used or intended to be used for the interment of human remains;

"deceased" means a person who has died;

"disinterment" means the removal of human remains or cremated remains from a lot in which the remains are interred and the container or any of the remaining container holding the remains for the purpose of permanent relocation;

"entombment" means one form of interment, the interment of human remains in a crypt;

"exhumation" means the exposure of interred human remains for the purposes of viewing or examination and further where such viewing or examination may occur in the lot where the remains are interred or the remains are removed from the lot where they are interred and where the exhumed remains shall be re-interred into the same lot after the viewing or examination has been completed;

"family member" means a parent or stepparent, a grandparent or step grandparent, a sibling (natural, adopted or step), a spouse, a child (natural, adopted or step) or a grandchild (natural, adopted or step);

"fees" means the schedule of fees prescribed in the Fees & Charges Bylaw;

"Fees and Charges Bylaw" means the current "City of Penticton Fees and Charges Bylaw" and as, from time to time, may be amended or repealed and replaced;

"funeral director" means an individual licensed by the Consumer Protection Authority who, in the course of business, does any of the following:

(a) negotiates or enters into funeral contracts;
(b) arranges, conducts or directs bereavement rites and ceremonies;
(c) arranges for the interment or cremation of human remains;
(d) transfers human remains or directs or supervises the transfer of human remains;
(e) cares for or prepares human remains prior to disposition, other than the disinfecting, preservation or restoration of human remains;

"funeral service provider" means a person who carries on a business licensed by the Consumer Protection Authority of providing funeral services;

"grave" means one type of lot, an excavated space in the cemetery designed, used or intended to be used for the in-ground interment of human remains or cremated remains;

"grave liner" means a receptacle with a lid, constructed of a durable material, that may or may not have a bottom, into which a burial container holding human remains or an urn holding cremated remains is placed to provide reinforcement of a lot as part of an interment;

"green burial" means a natural form of interment where such interments meet specific criteria set out in the cemetery bylaw for green burial;

"holiday" means any of the following days; New Year's Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, B.C. Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day and any day or part of a day as may be proclaimed from time to time as a holiday to be observed by the City;

"human remains" means a dead human body in any stage of decomposition, or a body of a stillborn infant in any stage of decomposition, but does not include cremated remains;

"infant" means a person less than two (2) years of age**;**

"interment" means disposition by:

(a) burial of human remains or cremated remains;

(b) entombment of human remains;

(c) inurnment of cremated remains;

"interment right" means a right of use granted in perpetuity and acquired through purchase, inheritance or permitted transfer, for,

(a) the interment of human remains or cremated remains in a lot at a City cemetery, and;

(b) the installation of a memorial on a lot at a City cemetery, and;

(c) issued in accordance and in full compliance with the Bylaw of a City cemetery;

"interment rights certificate" means a document, set out in a form prescribed by the City, that describes a right of interment and the terms and conditions that govern the right of interment for a lot in a City cemetery;

"rights holder" means a person who, or a corporation or an organization that,

(a) has purchased a right of interment for a lot registered in the records of the cemetery to be held in their name, or;

(b) has a right of interment registered in their name but is not the original purchaser of the right of interment, or;

(c) is the legal representative of a deceased individual who has a right of interment held in the deceased's name, or;

(d) is an individual who has, in compliance with the bylaws of the cemetery, had a right of interment transferred to be held in their name, or;

(e) is an individual who is an heir or successor of a deceased interment rights holder and, by demonstration of a right of legal succession, may be entitled to inherit a deceased rights holder's right of interment;

"interment authorization" means a document, set out in a form prescribed by the City, that is completed and signed at-need by the individual having the legal authority to authorize the interment of human remains or cremated remains of a deceased person;

"interment process" means the excavation and preparation of a lot for an interment and the closing of a lot after the interment of human remains or cremated remains has been made in a lot;

"inurnment" means one form of interment, the burial of cremated remains in an in-ground lot or a niche;

"lantern tablet" means an 28cm (11") x 51cm (20") concrete tablet installed by the City flush to ground level at the head of the grave to allow for the placement of a permitted lantern or vase at a gravesite;

"legal representative" means a person who, or an agency that, by order of priority set out in *Section 5* of the *CIFSA*, has the right to control the disposition of the human remains or cremated remains of a deceased person;

"lot" means a designated space in the cemetery as set out in a right of interment to be used or intended to be used for;

(a) the interment of human remains or cremated remains under a right of interment;

(b) the installation of a memorial to identify a lot or memorialize a deceased person or stillborn child, and;

(c) includes but is not limited to a grave, crypt, niche or plot;

"mausoleum" means a structure or a building that contains crypts designed for the entombment of human remains and may also contain niches for the interment of cremated remains;

"mayor" means the elected Mayor or Deputy Mayor of the City;

"medical health officer" means a person appointed from time to time under the *Health Act, RSBC 1996 c. 179* as amended or replaced from time to time to act as Medical Health Officer for the City;

"memorial" means a product or structure used or intended to be used to identify a lot or to memorialize a deceased person, including but not limited to;

(a) a flat marker, pillow marker, upright monument, tombstone, plaque or other marker on a lot or;

(b) an inscription or ornamentation on a crypt or niche front, or;

(c) other product as may be approved for memorialization at a City cemetery;

"memorial dealer" means a person who or business that offers for sale or sells to or installs memorials for the public;

"memorialization" means the process related to the selection, installation or placement of a memorial in remembrance of a deceased person at a lot or a memorial space and may include the purchase of a memorial;

"niche" means one kind of a lot, a space, usually within a columbarium, used or intended to be used for the interment of cremated remains;

"non-resident" means a person who does not satisfy the definition of a resident;

"ossuary" means a receptacle, usually located below ground, for the non-recoverable, co-mingled scattering of cremated remains;

"plot" means an area of the cemetery designated, in a form prescribed by the City, for the in-ground disposition of human remains or cremated remains;

"purchase contract" means a contract in a form prescribed by the City and as prescribed by Business Practices and Consumer Protection Act and Regulation that sets out details relating to;

(a) the purchase of a right of interment for a lot in a City cemetery, or;

(b) the purchase of an interment service and the provision and delivery of other cemetery goods and services needed to complete an interment in a City cemetery, or;

(c) the purchase of a memorial or a memorial installation and the provision and delivery of other cemetery goods and services needed complete a memorial installation in a City cemetery;

"resident" means a person who resides or has resided or has owned property within the boundaries of the City of Penticton for a period of six (6) months immediately preceding the purchase of a right of interment in the cemetery, proof of ownership will be required;

"scattering" means the irreversible dispersal of cremated remains in a defined area or feature within a City cemetery where such dispersal may result in the comingling of cremated remains previously scattered in the scattering location;

"trustees" means the Mayor and Council of the City of Penticton acting as the board of trustees for the City's cemeteries;

"urn" means a container used or intended to be used for the containment of cremated remains;

"veteran" means a person who is fully qualified (Military Occupation Class, MOC) and serving or who has honourably served, one-year minimum, in the Armed Forces of Canada, the Commonwealth or its wartime allies or who has served in the Merchant Navy or Ferry Command during wartime;

"without prior notice" means that for maintenance and operational actions deemed necessary by the City there is no obligation of the City to make or provide, in any form or manner, advance notice of said action occurring to an interment rights holder, the legal representative of a deceased or their heirs or successors;

"working day" means every day of a year that is not a Saturday, a Sunday or a holiday as defined in this bylaw or as may be observed by the City.

4.0 PURPOSE & APPLICATION OF BYLAW

4.1 The following described real properties are set aside, held, laid out, developed, improved, used and maintained, as City owned cemeteries and dedicated for that use, and shall continue to be used, operated, and maintained for that purpose and shall not be used for any other purpose;

(a) Lakeview Cemetery

Legally described as Lots 138, 139 and 140, of Map 305, and Lot "A" and Lot 187 of Plan B-5378, save and except the right of way of the Canadian Pacific Railway Company, and;

(b) Fairview Anglican Cemetery

Legally described as Lot 55, Plan 299.

4.2 The City cemeteries are acquired, established and laid out for the purpose of making interment, memorialization and bereavement rites and ceremonies and incidental memorial goods available to all persons, irrespective of race, faith, orientation or any other form of categorization, and are established more specifically to provide;

(a) suitable in-ground or above ground space for the interment of human remains and cremated remains or for the scattering of cremated remains, and;

(b) such additional facilities, services and goods as may be approved from time to time by the City that may ordinarily arise from the provision of interment, memorialization or bereavement rites or ceremonies at any Cemetery owned by the City.

4.3 The development, administration, operation and maintenance of every City cemetery and the provision of services therein and the application and administration of this bylaw and the establishment of fees and charges for every City Cemetery shall be conducted in accordance with any enactment of British Columbia or Canada, as the case may be, and regulations made thereto, as amended, revised, consolidated or replaced from time to time, and more specifically shall include but is not limited to;

(a) the *Cremation, Interment and Funeral Services Act (SBC 2004) Chapter.35,* and;

(b) the *Business Practices and Consumer Protection Act (SBC 2004) Chapter 2,* and;

(c) the *Local Government Act (RSBC 2015) Chapter 1,* and;

(d) the *Community Charter Act (RSBC 2003) Chapter 26,* and;

(e) the *Workers Compensation Act (RSBC 1996) Chapter 492;*

(f) the *Personal Information Protection Act (SBC 2003) Chapter 63*; *and*

(g) *the Freedom of Information and Protection of Privacy Act (RSBC 1996) Chapter 165.*

4.4 The City shall have the full and complete control and management over the land, buildings, plantings, roads, utilities, books and records of the City's cemeteries and shall have the authority to amend, establish, administer and enforce the Bylaws established for a City cemetery.

4.5 The City shall have the right to manage, maintain or alter the interment areas, memorials, roads and pathways, buildings, services infrastructure, change or remove plantings, grade, alter in shape or size, or otherwise to change all or any part of a City cemetery as they deem necessary or appropriate and subject only to compliance with any applicable requirement of the *CIFSA*.

4.6 The City shall establish and maintain Schedules that shall form a part of the Cemetery Management Bylaw, setting out the interment specifications and memorial specifications that shall apply to all City cemeteries.

4.7 The City shall have the authority to sell interment rights for any number lots of their choosing under such terms and conditions as they deem appropriate for the conduct of the business of the Cemetery.

4.8 The City shall have the authority to designate, on a limited basis, specific areas within the Cemetery for the exclusive use of a faith, organization or other group under such terms and conditions as they deem appropriate for the conduct of the business of the Cemetery.

4.9 The City shall have the authority to establish a client service program or enter into a client service agency agreement, an interment services agreement, a maintenance and operations agreement or other such agreements with an individual, business or other organization of their choosing and under such terms and conditions as they may deem appropriate for the conduct of the business of the Cemetery.

4.10 The City shall have the authority, at its cost and in a timely manner, to correct any error that may be made by it in making an interment, disinterment or in the description of a lot or the transfer or conveyance of a right of interment and grant in lieu thereof, a right of interment or a lot of equal value and location so far as is reasonably possible. In the instance of an error that may involve the interment or disinterment of human remains the City shall correct the error in compliance with and under such terms as may be set out in the *CIFSA*.

4.11 Subject to the authority and oversight of Council, the Corporate Officer of the City in an emergent or extraordinary circumstance shall have the authority to waive the application or enforcement of this bylaw where such action shall not contravene or violate any article or clause of the *CIFSA* or the *BPCPA*.

5.0 GENERAL PROVISIONS & REGULATIONS

5.1 The business days and hours of operation of the City cemeteries shall, for the following purposes, be;

(a) **Visiting:** every day of the year from 7:00 a.m. to one hour after sunset on the same day, and;

(b) **Interment Services:** may, upon satisfying such terms and conditions established further in this Bylaw, occur on Monday through Saturday at a time arranged with and set by the City, and; may not occur on Sundays or on holidays observed by the City, and;

(c) **Office:** located at the Finance Department in Penticton City Hall, Monday through Friday, from 1:00 p.m. to 4:00 p.m. and closed on weekends and holidays observed by the City.

5.2 No person shall be in a City cemetery between one (1) hour after sunset and 7:00 a.m. the following morning, without express permission of the City. A person who is in violation of this bylaw shall be deemed guilty of an infraction of this Bylaw and liable to the penalty herein set out.

5.3 The City shall have the authority to suspend or cancel interment services at, and limit or prohibit public access to part or all of a City cemetery when severe weather, road or grounds conditions or other extenuating or extraordinary circumstance may warrant or pose a hazard to the public, City personnel or make the movement and operation of vehicles or equipment unsafe.

5.4 Floral tributes may be placed at a City cemetery in accordance with the following schedule;

(a) on the day of an interment and for a period of seven (7) days following an interment, any type of floral tribute is permitted, and;

(b) from April 31 to October 31, only fresh cut flowers may be placed on a lot. Potted plants, wreaths and artificial floral tributes of any type are prohibited during this period, and;

(c) from November 1 to March 31, in addition to fresh cut flowers, potted plants, wreaths, artificial floral tributes and seasonal floral tributes may be placed on a lot, and;

(d) potted plants, wreaths, artificial floral tributes and seasonal floral tributes placed between November 1 to March 31 will, without prior notice, be removed when the first grounds clean-up is carried out in the spring, and;

(e) a limit of one (1) flower container for the placement of fresh cut flowers, as approved by the City, shall be allowed to be set in each lot, and;

(f) in the case of a columbarium niche or a mausoleum crypt, artificial floral tributes may be placed in a bud vase approved, supplied and installed by the City, and;

(g) except for the day of an interment, the placement of any form of floral tribute shall not be permitted at the base of any columbarium or mausoleum structure, and;

(h) the City shall have the right, without prior notice, to remove or order removed any floral tribute that has been determined to be deteriorated, withered, is otherwise unsightly or has become detrimental to the general aesthetic of adjacent lots, a cemetery or that may pose a safety risk, or for the purpose of maintenance, or that may otherwise contravene this Bylaw.

5.5 The placement of any form of decoration, adornment, personal memento or other extraneous object, unless in compliance with this Bylaw, is not permitted on any lot in a City cemetery. Unauthorized items placed on any lot or in any City cemetery may, without prior notice, be removed or ordered removed by the City. This includes, but is not limited to, photographs, pictures, frames, boxes, shells, toys, wire screens, decorative rock, arbours, trellises and floral tripods.

5.6 Notwithstanding article 5.5 and subject to the approval of the City small personal objects or mementos may be permitted to be placed within mausoleum crypt or a columbarium niche where such items must be non-decomposing and non-perishable and will not be a hazard, harm or destroy the structure and will easily fit within the crypt or niche.

5.7 No open flame, candle, or burning of any substance or other material may take place inside a City cemetery without prior authorization given by the City and conducted under the direct supervision of the City.

5.8 The City shall not be liable for the deterioration, damage or loss of flowers, decorations or any other article attached to or placed on a lot or at a memorial site. Such flowers or articles that may be unsightly, broken or deteriorated may, without prior notice, be removed at the discretion of the City.

5.9 Except as may specifically be provided for elsewhere in this Bylaw, no lot or other part of a City cemetery may be decorated or adorned in any manner by any person other than the City without the express consent of the City where the exercise of such consent shall be within the sole discretion and authority of the City's Corporate Officer.

5.10 No tree, shrub, plant, bulb, flower or other decorative plant feature may be planted, pruned, cut down, removed or otherwise altered on a lot or anywhere else within the limits of a City cemetery without the express consent of the City.

5.11 Cemetery roadways are for the exclusive use of interment processions, cemetery patrons, or other persons as may be approved by the City and no vehicle shall exceed twenty (20) kilometers per hour and every operator of a vehicle shall, at all times, obey the directions and orders of the City.

5.12 No person shall drive or park a vehicle over any lawn, garden or flower bed without express permission of and subject to the supervision of the City.

5.13 Every person, including those in funeral processions, upon entering and while within a City cemetery, shall follow every instruction of the City. Any person not behaving with proper decorum within a cemetery or who disturbs the peace, quiet and good order of the cemetery may be evicted by the City, and in addition, shall be guilty of an infraction of this Bylaw and liable to the penalties hereof.

5.14 The City shall be responsible for:

(a) the supervision, control and charge of the City cemeteries and the services and goods provided therein, and;

(b) the direction of all workers employed from time to time by the City to perform work within the limits of a City cemetery, and;

(c) refusing admission or expelling from a City cemetery any individual or persons if such action is warranted, and;

(d) refusing the admission of and, without prior notice, ordering the removal of any unauthorized product, material, tree, shrub, plant or floral tribute brought into or placed at a lot or in a City cemetery in contravention of these bylaws.

5.15 No person shall:

(a) scatter, dispose of, or inter any cremated remains or bury any human remains within the limits of a City cemetery except in compliance with these bylaws and the CIFSA, and;

(b) define or delineate any lot or group of lots in a City cemetery by a fence, railing, coping, hedge or by any other marking except as may be permitted in the Memorial provisions of this bylaw, and;

(c) willfully or negligently destroy, mutilate, deface, damage, injure or remove anything from a City cemetery, including and without limitation, any memorial, plant, flower, tree, rock or other item located within the limits of a City cemetery, and;

(d) carry out any activity within a City cemetery other than the attendance at an interment or memorial service or the visitation of a lot for the purpose of paying respect to the dead, and;

(e) drive a vehicle in a City cemetery other than on a designated roadway for vehicles and in compliance with posted speed regulations or other directives;

(f) conduct them self in a manner so as to disturb the peace, quiet and good order of City cemetery or an interment or memorial service being conducted therein, and;

(g) discharge any firearm in a City cemetery other than at a military funeral for which a firearm salute has been authorized by the City and is conducted under the direct command of an officer in charge and only during an interment or memorial service being conducted therein;

(h) bring into or dump any rubbish, debris or other offensive item or matter in a City cemetery or make an unauthorized removal of any cemetery refuse, waste or rubbish, and;

(i) allow a child or children under the age of sixteen (16) years within the limits of a City cemetery that is not accompanied by a parent, guardian or an adult supervisor, and;

(j) play any manner of sports game or sport activity within the limits of a City cemetery;

(k) otherwise violate any provision of this Bylaw or the *CIFSA*.

5.16 In the instance where an individual or a group of persons through their immediate behavior, or a pattern of behavior tracked over time, contravenes article 5.15 of this bylaw then the City may take such steps to expel the individual or a group of persons from a City cemetery and the individual or group of persons expelled may be subject to application of further penalty as set out in article 13.0 *Penalty for Infractions* of this bylaw.

5.17 No gratuity or extraordinary consideration shall be paid to or accepted by an employee or agent of the City for any service rendered or good provided in connection with a City cemetery.

5.18 All work within City cemeteries shall be performed by the City, employees of the City and authorized agents of the City. An individual or contractor other than those authorized workers of the City who perform work in a City cemetery, including an individual or contractor that performs work on behalf of a rights holder or legal representative of a deceased or their heirs or successors shall supply to the City, in a form prescribed by the City, such proof of the firm's or the contractor's Workers Compensation Insurance, Public Liability Insurance and Motor Vehicle Insurance coverage, in a form and amount acceptable to the City, prior to commencement of any work within the limits of a City cemetery.

5.19 The behavior of a contract worker including a contractor performing work on behalf of a rights holder or legal representative of a deceased or their heirs or successors within a City cemetery shall be subject to the supervision and control of the City.

5.20 A contract worker working in a City cemetery shall immediately cease work in the immediate vicinity of any interment or memorial service until the conclusion of the service and those persons attending the service have left the area where the service was being conducted.

5.21 No work may be performed at a City cemetery except during the regular business hours of the City and/or a City cemetery except where work outside of said days or hours has been specifically authorized and approved by the City.

5.22 The City shall, at all times, have the right of passage in any manner it sees fit over every lot and the land of every City cemetery to ensure that cemetery operations can be performed in a safe, efficient and timely manner.

5.23 Notwithstanding article 5.15(d) of this Bylaw the City shall have the authority to conduct or to permit to be conducted public or private events within a City cemetery that are, in the opinion of the City, deemed appropriate for and in keeping with the dignity and purpose of a cemetery.

6.0 INTERMENT RIGHTS

6.1 The City, subject to payment of an established fee, may grant an interment right for a vacant lot in a City cemetery on an at-need or a reserve basis.

6.2 An interment right is granted solely to confer the right to use a lot within the limits of a City cemetery subject to compliance with this bylaw or any Cemetery Management Bylaw that may be enacted by the City in the future.

6.3 An interment right does not confer to a rights holder any title to, ownership of, or interest in the land of a City cemetery or of a lot therein or any other special privilege over any land of a City cemetery.

6.4 An interment right confers to a rights holder a right to use, in compliance with this Bylaw or any Cemetery Management Bylaw that may be enacted in the future, a lot for the interment of human remains or cremated remains, or the scattering of cremated remains, of a person or persons named on an Interment Rights Certificate.

6.5 Possession of an interment right does not entitle a rights holder to require the City to perform an interment of human remains or cremated remains, or the scattering of cremated remains, into a lot until the rights holder complies in all respects with the this Bylaw as it relates to the interment of human remains or cremated remains, the scattering of cremated remains, or the purchase and placement of a memorial, including and without limitation the payment of all fees related to the exercise of the interment right.

6.6 The City shall issue to an individual paying in full the fee set out in the *Fees and Charges Bylaw* for an interment right an 'Interment Rights Certificate', in a form prescribed by the City, which sets out the rights of lot use attributed to the purchaser identified on the certificate.

6.7 An interment rights holder shall have the authority to designate who, other than them-self, may be authorized to control the exercise of an interment right registered in their name.

6.8 An interment rights holder, at the time of purchase, shall reserve the right to use a lot they have purchased for them-self or assign the right or any secondary rights to a lot to another person to which the interment right refers where an assignee so named shall be a family member of the rights holder. No interment right may be assigned to a non-resident without the express consent and agreement of the City and additional payment to the City equal to the difference between the resident and non-resident lot fees.

6.9 The City, at the request of an interment rights purchaser, may reserve for that purchaser a right to purchase the interment rights for one (1) adjoining vacant lot subject to:

(a) the purchaser being advised in writing that they are not acquiring the interment rights for the adjoining vacant lot but only a right to purchase the adjoining lot at a time of future need and where the purchase fee for the interment rights shall be the fee set out in the *Fees and Bylaws Charges Bylaw* in effect at the time of future need, and;

(b) the purchaser, to maintain the reservation, shall agree to pay and keep in good account the reservation through payment in full of an annual reservation fee as set out in the *Fees and Bylaws Charges Bylaw*, and;

(c) the purchaser being advised that should they default, for any reason, on payment of the annual reservation fee their right to purchase the reserved adjoining lot shall be forfeited and the lot shall be returned to the vacant lot inventory of the cemetery and the City shall have the right to sell the interment right for the formerly reserved lot to another purchaser, and;

(d) subject to at-need lot demand, the City shall have the right to limit or suspend the reservation of interment rights in a City cemetery at any time and shall on a reservation basis never reserve more than twenty-five percent (25%) of the developed lots available at any given time in a City cemetery.

6.10 An interment rights holder may only designate one lot for their own use.

6.11 The exercise of an interment right, every interment or every other form of disposition of human remains or of cremated remains or installation of a memorial within the limits of a City cemetery is subject to;

(a) all provisions of this Cemetery Management Bylaw as is now or may be in the future be in effect, and;

(b) this Bylaw and any terms, conditions, design, lot plan, interment and memorial parameters, standards of operation and maintenance established by the City for the City cemeteries, and;

(c) payment in full of any fee set out in the *Fees and Charges Bylaw* as is now or may in the future be in effect for the services and goods required for the use of a lot, and where payment shall be made in advance of a right of an interment, a service or a good being provided.

6.12 The City shall advise an interment rights holder to make a provision, upon a rights holder's death, for the transfer, whether in a will or other legal form of transmission, of their possession and control of an interment right or any secondary interment rights for a lot registered in their name at a City cemetery.

6.13 In the instance evidence of a clear line of transfer, inheritance, succession or authority for an interment right that survives an original rights holder is not provided by the legal representative, heir or successor of the original rights holder then the City shall have the authority to;

(a) determine, through a policy, process and in a form prescribed by the City, the person or persons who may exercise a surviving right of interment and under what terms and conditions a surviving right of interment may be exercised or;

(b) where a clear and distinct right of succession cannot be reasonably demonstrated or ascertained prohibit the use of any surviving interment rights.

6.14 No individual or organization may purchase the interment rights for more than four (4) lots in a City cemetery without the prior consent and agreement of the City, where such consent and agreement may, at the City's sole discretion, be withheld.

6.15 Generally, and except where it may be otherwise set out in this Bylaw, a right of interment shall confer the following permitted uses for a human remains interment lot:

(a) **Infant / Child Lot:** This form of lot is limited to the interment of the human remains of one (1) infant or child and the secondary interment of the cremated remains of not more than two (2) individuals who have a direct and immediate

familial (parent, sibling or grandparent) relationship to the interred infant or child;

(b) **Flat Marker Lot:** This form of lot is limited to the interment of the human remains of two (2) persons and the secondary interment of the cremated remains of not more than four (4) persons;

(c) **Green Burial Lot:** This form of lot is limited to the interment of the human remains of two (2) individuals and the secondary interment of the cremated remains of not more than four (4) individuals. The use of a green burial lot is subject, in every way, to *Section 9.0 'Green Burial'* of the *Cemetery Management Bylaw*;

(d) **Veteran's Lot:** This form of lot will be located in a designated Veteran's section of a City cemetery and is limited to the interment of the human remains of one (1) individual who qualifies as a Veteran and the City may permit the secondary interment of the human remains or the cremated remains of the spouse of the Veteran interred in a Veteran's lot;

(e) **Upright Monument Lot:** This form of lot is limited to the interment of the human remains of two (2) individuals and the secondary interment of the cremated remains of not more than four (4) individuals.

(f) **Family Estate Lot:** This form of lot is limited to the interment of the human remains of up to four (4) individuals and the interment of the cremated remains of up to sixteen (16) individuals. This form of lot shall have as its first and primary form of memorial either one (1) double upright monument or two (2) single upright monuments and may also have up to six (6) additional flat memorials installed flush with the ground.

(g) **Mausoleum Crypt Lot:** This form of lot is limited to the interment of the human remains of one (1) individual and the secondary interment of the cremated remains of not more than one (1) individual.

6.16 Generally, and except where it is otherwise set out in this bylaw, a right of interment shall confer the following permitted uses for a cremated remains interment lot:

(a) **Standard Cremation Lot:** This form of lot is limited to the interment of the cremated remains of four (4) individuals;

(b) **Green Burial Cremation Lot:** This form of lot is limited to the interment of the cremated remains of four (4) individuals. The use of any form of green burial lot is subject, in every way, to *Section 9.0 'Green Burial'* of the *Cemetery Management Bylaw*;

(c) **Veteran's Cremation Lot:** This form of lot is limited to the interment of the cremated remains of two (2) individuals, of which at least one (1) individual qualifies as a Veteran;

(d) **Family Estate Cremation Lot:** This form of lot is limited to the interment of the cremated remains of eight (8) individuals;

(e) **Columbarium Niche Lot:** This form of lot is limited to the interment of the cremated remains of two (2) individuals.

6.17 Generally, and except where it is otherwise set out in this bylaw, a right of use shall confer the following permitted uses for the scattering and memorialization of cremation:

(a) **Cremation Scattering:** This form of service is limited to the scattering of the cremated remains of one (1) person where the scattering shall be made in an ossuary or in a designated scattering area of a City cemetery. Only one (1) memorial of a design and type and at a location established by the City for scattering memorialization may installed for this type of service.

6.18 The City shall have the authority to establish, amend or otherwise set out other interment rights for lots in a City cemetery that may have the same classification as the lots described herein but may have different interment capacity and memorial criteria specific to their design and location in a City cemetery.

7.0 TRANSFERS, RECLAMATION & SPECIAL PROVISIONS

7.1 An interment right for any unused lot may only be transferred back to the City. The original interment rights holder, their legal representative or their heir or successor must make a transfer request, in writing and in a form prescribed by the City, and the original interment rights certificate must be surrendered to the City.

7.2 An interment right may be surrendered to the City at the discretion of the City and, if approved, a refund, equal to the original purchase price of the lot LESS the Cemetery Care Fund contribution will be issued to the applicant provided;

(a) there are no interments in the designated lot, and;

(b) the original interment rights holder, their legal representative or their heir or successor has made written application to the City stating their intent to surrender the interment right, and;

(c) the original Interment Rights Certificate is surrendered to the City, and;

(d) an administration fee, in the amount equal to twenty percent (20%) of the original lot purchase price is paid to the City, and;

(e) any fees or charges associated with the removal of any memorial that is on, or surrounding the surrendered lot is paid.

7.3 Subject to the *CIFSA*, and upon approval from the Consumer Protection Authority, an interment right for an unused lot may be reclaimed by the City if all of the following have occurred;

(a) the interment rights holder would be at least ninety (90) years of age, and;

(b) a minimum period of fifty (50) years has elapsed from the date of purchase, and;

(c) a minimum of ninety (90) days has passed since notice of the intent to reclaim the interment right has been sent to last known address on record for the interment rights holder;

(d) the City has made a reasonable and diligent attempt to contact the interment rights holder.

7.4 In the instance an interment right for a lot has been reclaimed and resold under the above circumstances and the interment right is subsequently required for use by the original rights holder, the City will provide another interment right of equal or greater value that has been chosen from the available lots of the cemetery by the original interment rights holder or the person who has authority under Section 5 of the *CIFSA* with respect to the interment of a deceased rights holder.

7.5 The City may sell the interment rights for five (5) or more lots but not more than ten (10) lots to an individual or organization under such terms and conditions as the City deems appropriate. Interment rights issued and services rendered by the City under this form of sale and its applicable conditions, shall be subject to payment at the regular rates set out in

the Fees and Charges Bylaw.

7.6 The City may, by special agreement, with a society, church, or other organization, reserve a section of a City cemetery under such terms and conditions as the City deems appropriate, to be used exclusively for the interment of deceased members of the society, church, or other organization. Upon such an agreement being made no person shall be issued an interment right for the reserved section, unless an application for an interment right is accompanied by a certificate from the society, church, or organization, stating that the individual is entitled to interment in the reserved section. All interment rights issued and services rendered by the City, under such an agreement and its applicable conditions, shall be subject to payment at the regular rates set out in the Fees and Charges Bylaw.

8.0 INTERMENT, SCATTERING, DISINTERMENT & EXHUMATION

8.1 Every interment of human remains or cremated remains into a lot shall be consistent with this Bylaw and Schedule B: Interment Specifications which is a part of this Bylaw.

8.2 Only human remains or cremated human remains may be interred in a City cemetery.

8.3 The interment of human remains or cremated remains or the scattering of cremated remains in a City Cemetery shall be conducted in a manner consistent with the dignity of adjacent lots, the Cemetery and general community standards.

8.4 No interment, disinterment, exhumation, scattering or any other form of human remains or cremated remains disposition at a City cemetery shall be permitted until:

(a) the legal representative of a deceased completes, signs and delivers to the City an interment authorization, in a form prescribed by the City, and;

(b) it is ascertained that the deceased holds a valid interment right at a City cemetery or a rights holder at a City cemetery provides authorization for a deceased's human remains or cremated remains to be interred in a lot for which they hold an interment right, and;

(c) all outstanding indebtedness to the City relating to an interment right to be exercised, the interment fee and the fee for any other service provided or product supplied by the City to facilitate the interment, has been paid in full to the City, and;

(d) proper notice, in a manner prescribed by the City, has been provided to the City, and;

(e) for human remains, a B.C. Burial Permit has been surrendered to the City, or;

(f) for cremated remains, a Certificate of Cremation has been surrendered to the City, or;

(g) where a death has occurred in a jurisdiction other than the province of B.C., a disposition document for the interment, deemed acceptable by the City, has been surrendered to the City.

8.5 The City shall have the right to enter into an agency agreement with a funeral service provider or a funeral director or other qualified person or organization who shall assume responsibility to qualify an interment rights holders and / or a legal representative of a deceased and acquire all necessary information to complete a City interment authorization and collect payment for an interment and deliver all required documents, authorizations and payment prior to an interment, to the City, in a form prescribed by the City.

8.6 Reasonable notice of an interment is required. Normally notice and all documents and fees related to an interment booking shall be delivered to the City not less than twenty-four (24) hours prior to a scheduled interment time. Where an interment notice is requested in a period shorter

than twenty-four (24) hours prior to a scheduled interment time notice may, at the discretion of the City may be accommodated but shall be subject to payment of an administrative fee (short notice) fee as set out in the Fees and Charges Bylaw of the cemetery.

8.7 All cemetery appointments, interment bookings and payments for cemetery services shall be transacted under the terms set out herein and through the Finance Department office at Penticton City Hall located at 171 Main Street on the days and hours of operation of the City set out here for cemetery purposes;

(a) Monday through Friday from 1:00 p.m. to 4:00 p.m., and;

(b) this office shall be closed and no calls or appointments will be accepted or processed on weekends or holidays observed by the City, and;

(c) where at least twenty-four (24) hours advance notice for an interment service is provided to the City within the days and times noted, and;

(d) interment services bookings proposed for a Monday or a day following a City observed holiday must be received at the office on or before 2:00 p.m. of the previous business day of the City, and;

(e) the City shall have the right, from time to time, to establish an interment services schedule that will control, limit or restrict the types and numbers of interments that may occur in a City Cemetery on a given day, and;

(f) the failure to provide all due and proper advance notice to the City may result in an interment service booking being denied, and;

(g) no booking or notice for an interment will be accepted by the City more than sixty (60) days in advance of a proposed date of interment, and;

(h) the City, at its sole discretion, shall have the right to vary, alter or waive its established interment services schedule, advance notice requirements and booking limitations as deemed appropriate or as circumstances may permit.

8.8 Upon provision of proper notice and authorization, to the satisfaction of the City, for an interment service, interments may occur at a City cemetery as set out here;

a) **Human Remains Interment Services:**

(i) may occur on Monday through Saturday;

(ii) during the months of January 1 through December 31 between 9:00 a.m. to 1:00p.m. where the gravesite shall be clear of interment service attendees by 3:00 p.m., or;

(iii) shall occur at a set time arranged with the City and conclude within two (2) hours of that time, and;

(iv) may not occur on Sundays or on holidays observed by the City.

b) **Cremated Remains Interment Services:**

(i) may occur on Monday through Saturday;

(ii) during the months of April 1 through October 31 between 9:00 a.m. to 3:00p.m. where the gravesite shall be clear of interment service attendees by 3:30p.m. or;

(iii) during the months of November 1 through March 31 between 9:00 a.m. to 2:00p.m. where the gravesite shall be clear of interment service attendees by 3:00p.m., and;

(iv) shall occur at a set time arranged with the City and conclude within one (1) hour of that time, and;

(v) may not occur on Sundays or on holidays observed by the City.

8.9 Where an interment is directed by a Medical Health Officer written instructions with respect to all procedures to be followed on the interment, to protect the health and safety of all persons who may come into contact with the burial container bearing the human remains, shall be provided to the City by the Medical Health Officer in advance of the interment. The City shall convey the instructions of the Medical Health Officer to every City employee or their authorized agent participating in the interment and the City shall take such steps necessary to ensure the instructions are carried out throughout the course of the interment. The City shall be obligated to accommodate an interment directed by the Medical Health Officer as a when so ordered.

8.10 The City shall have the authority to suspend or cancel interment services at, and limit or prohibit public access to part or all of a City cemetery where severe weather, road or grounds conditions or other extraordinary circumstance may warrant or pose a hazard to the public, City personnel or their agents.

8.11 An individual, family or a group of people, may be allowed to witness an interment process subject to the following criteria;

(a) the request to witness an interment is delivered to the City as part of the normal notice for and authorization of an interment, and;

(b) the City may, for safety purposes, limit the number of people allowed to witness an interment, and;

(c) all proceedings at an interment shall be under the direction of the City and every witness present shall be obligated to follow every instruction given by the City personnel directing the interment, and;

(d) a witness interment service may be subject to an administrative fee set out in the Fees and Charges Bylaw of the cemetery and said fee shall be paid in full to the City prior to the interment service, and;

(e) witnesses to an interment may be required to sign a waiver exempting the City from responsibility for any emotional, psychological or physical injury that may arise from witnessing an interment.

8.12 Only the City shall excavate, open or close a grave, crypt, niche or any other form of a lot in a City cemetery.

8.13 Every interment service in a City cemetery shall be conducted by or performed under the direct supervision of the City.

8.14 The City shall establish a Schedule that sets out the interment standards for each type of lot and interment offered at a City cemetery including, lot excavation criteria, minimum interment depths and minimum interment coverage depths in City cemetery lots.

8.15 For every grave designated for the interment of the human remains the first interment of human remains shall be made in the grave at the deepest interment depth and any subsequent interment shall be made over the first and each of the interments in the grave shall conform to any further specifications established by the City relating to interment depths and coverage.

8.16 For interment into an in-ground lot, human remains shall be enclosed in a burial container that complies with the *CIFSA* and these bylaws.

8.17 For interment into a mausoleum crypt, human remains shall be enclosed in a burial container that complies with the *CIFSA*, these bylaws, and;

(a) the human remains shall be embalmed, or;

(b) if the human remains are not embalmed, they shall be enclosed in a hermetically sealed burial casket or container that is approved by the City.

8.18 Every in-ground interment of human remains shall be made into a grave liner of a standard design established and maintained for every interment by the City and normally provided by the City at the expense of the legal representative of a deceased, an interment rights holder or their legal representative, heir or successor. The only permitted exception to this requirement for a grave liner is for the interment of an infant or an interment into a green burial lot.

8.19 Where a grave liner, that meets in every way the standard established and maintained by the City, is proposed to be supplied by an individual or business other than the City then only the City shall install the grave liner into the lot or the City may require the supplier of the grave liner to install the grave liner they are supplying under the supervision of the City and any installation made shall be at the supplier's expense and at a day and time of the City's choosing. The installation of a grave liner supplied by an individual or business other than the City shall be subject to an administrative fee set out in the *Fees and Charges Bylaw* of the Cemetery and the fee shall be paid in full to the City prior to the delivery of a grave liner to a City cemetery or the installation of the grave liner into a lot at City cemetery.

8.20 The legal representative of a deceased, the interment rights holder, their heirs or successors, or their agent or funeral service provider shall be deemed to retain custody of human remains or cremated remains for interment until the remains are delivered to the City's representative at an interment lot. Prior to accepting custody of remains at a lot the City shall not be liable for any delay in an interment service and, after accepting custody, shall not be liable for any delay in an interment arising from circumstances outside of the City's control.

8.21 It is the responsibility of the legal representative of a deceased, or the interment rights holder, or their heir or successors, or their agent or funeral service provider to provide such means and persons to transfer and deliver human remains to an interment lot for interment.

8.22 Cremated remains for interment into an in-ground lot shall be enclosed in an urn or container of a design, size and material approved by the City.

8.23 Cremated remains for interment into a columbarium niche or a mausoleum crypt shall be enclosed in a sealed urn or container constructed of permanent, durable material approved by the City.

8.24 In a lot designated for the double-depth interment of human remains any cremated remains interred into the lot before the human remains interments occur, or made over the first human remains interment into the lot, must be enclosed in a permanent, non-decomposing urn or container that will permit recovery, removal and re-interment of the cremated remains when accommodating any future human remains interment in the lot. Cremated remains interred into this form of lot that are not interred in a permanent, non-decomposing urn or container will not be disturbed to permit the future use of a double-depth grave for any permitted interment of human remains.

8.25 Cremated remains may only be scattered in a City cemetery in areas or features designated for scattering in a City cemetery.

8.26 Only the City, or a person and under the supervision of City personnel, is authorized to place cremated remains into a cemetery vessel or ossuary or to scatter cremated remains in a designated scattering area in a City cemetery.

8.27 Cremated remains placed into an ossuary shall be considered from the moment of placement as a permanent, co-mingled and non-recoverable disposition of the cremated remains.

8.28 No form of urn or other form of container may be placed into an ossuary.

8.30 The City, its employees and authorized agents of the City providing cemetery services shall exercise due care and attention in making an interment but shall not be responsible for any emotional, psychological or physical injury that may occur to a living person or any injury to human remains or damage to any casket, urn or any other form of burial container sustained as part of an interment, disinterment or exhumation except where such injury or damage may be caused by the gross negligence of the City, its employees or its agents.

8.31 Every exhumation and disinterment of human remains or cremated remains shall be conducted in compliance with the *CIFSA* and in a manner consistent with the dignity of adjacent lots, the City and general community standards.

8.32 Except where ordered by a Court of competent jurisdiction or a Medical Health Officer no disinterment or exhumation of human remains or cremated remains shall be made from a green burial lot in a designated green burial area.

8.33 Human remains interred in a green burial lot shall be considered non-recoverable from the date of interment. The City shall have no obligation, except where ordered to do so under a provision of legislation, regulation or as ordered by a Court of competent jurisdiction to recover human remains interred in a green burial lot.

8.34 Where the City may be required or ordered to perform a disinterment or exhumation of human remains from a green burial lot the requesting institution, party, interment rights holder and / or legally authorized representative of the deceased, their heirs or successors, or any other authorizing party ordering the disinterment or exhumation shall be responsible for the costs associated with the provision of the service provided and the costs related to the destruction and restoration of all green burial area plantings affected by the provision of the disinterment or exhumation service.

8.35 Cremated human remains scattered or interred in any area or lot in a green burial area shall be considered non-recoverable from the date of the scattering or interment and the City shall have no obligation to attempt a recovery of cremated remains so scattered or interred.

8.36 No disinterment or exhumation shall be allowed until;

(a) the legal representative of the deceased who, pursuant to Section 5 of the *CIFSA*, has the right to authorize the disinterment of a deceased person's human remains has acquired, completed, duly signed and provided to the City a disinterment authorization, in a form prescribed by the City, and;

(b) a disinterment/exhumation permit as may be required or issued by the Consumer Protection Authority under the *CIFSA*, has been delivered to the City, and;

(c) in the instance where the person who is the legal representative of the deceased to be disinterred is not the rights holder for the lot from which the disinterment/exhumation is being made then written authorization from the rights holder to open their lot for the disinterment/exhumation shall be provided to the City, in a form prescribed by the City, and;

(d) all outstanding indebtedness to the City relating to a right of interment, the exercise of the disinterment/exhumation right from the lot, and any other service provided or product supplied by City to facilitate a disinterment/exhumation, has been paid in full at the Finance Department Office, where the fees for disinterment and exhumation are set out in the Fees and Charges Bylaw, and;

(e) a transport permit, as circumstance may require under the *CIFSA*, issued by the Consumer Protection Authority has been delivered to the City.

8.37 In the instance where a rights holder makes a request for the discretionary disinterment of human remains or cremated remains from a lot under their control then the rights holder making the request shall first provide in writing to the City at their expense and in a form prescribed by the City, a document setting out;

(a) such proof as the City may request, up to and including sworn affidavits, to establish the identity and the legal right and authority of the person to make such a request, and;

(b) such other information as the City may reasonably request as to the purpose and reason for the disinterment, and;

(c) the provision of such information shall not bind the City to permit the discretionary disinterment and the City shall have the right to require the person making the discretionary disinterment request to acquire, at their expense, a Court order that compels the City to make the disinterment requested.

8.38 Except where ordered by a Court of competent jurisdiction or a Medical Health Officer, no person other than employees or authorized agents of the City along with any duly contracted funeral director shall be permitted to be present at the disinterment or exhumation of human remains or cremated remains from a lot in a City cemetery.

8.39 The City's responsibility in the performance of a disinterment/exhumation shall be limited to;

(a) the excavation of soil from a lot to permit access to the human or cremated remains buried in the lot, or;

(b) the opening of a sealed crypt or niche to permit access to the human remains or cremated remains interred in a crypt or niche, and;

(c) the removal of intact burial liners, and;

(d) the closure of the lot when the disinterment/exhumation is complete.

8.40 The physical removal of exposed human remains and their transfer into a container that fully encloses the disinterred human remains shall be performed by a funeral director authorized by and employed at the expense of the person requesting the disinterment. No employee or agent of the City shall be compelled or required to handle or participate in the removal of exposed human remains from a lot.

8.41 The City shall exercise due care and attention in making a disinterment or exhumation but shall not be responsible for any physical injury to human remains or damage sustained to any burial casket, urn, other form of burial container or grave liner as part of the disinterment or exhumation process.

8.42 Other than the recovery of the human remains or cremated remains readily apparent and present in a lot opened for a disinterment the City shall make no representation or warranty as to what other material, personal effect or other extraneous item may possibly be recovered from a disinterment or exhumation.

8.43 The authorization of a disinterment/exhumation shall grant the City sole and discretionary authority to dispose of, in a safe, environmentally sensitive and dignified manner, all extraneous materials that may incidentally be recovered from a lot as part of a disinterment or exhumation process, including but not limited to remnants of a burial casket, urn, other form of burial container or a grave liner or burial vault present from the date of the original interment.

8.44 A disinterment or exhumation in a City cemetery shall, without exception, be performed on a day and at a time of the City's choosing.

8.45 The re-interment of disinterred human remains or cremated remains into another lot within a City cemetery shall comply with this Bylaw in every way and as may be applicable.

9.0 GREEN BURIAL

9.1 The City shall have the right to designate areas within a City cemetery where the green burial of human remains and cremated remains may be accommodated.

9.2 The Bylaws of the cemetery in their entirety together with those that follow here shall apply to the provision of green burial rights of interment, green burial interment of human remains, interment or scattering of cremated remains in a green burial area, memorialization, planting and visitation in a green burial area in a City cemetery.

9.3 Interment Rights in a green burial area may be purchased on an at-need basis only.

9.4 Green burial lot assignment shall only be made at the time a lot is required for an interment of human remains or cremated remains.

9.5 Green Burial Interment Rights may be purchased for the following type of green burial lot:

(a) a double-depth interment lot where ground conditions permit such interment and the cemetery lot plan designates this form of lot, and;

(b) this form of lot may be used for the interment of the human remains of two (2) persons and the secondary interment of the cremated remains of a not more than four (4) persons or, where no interment of human remains is intended, the interment of the cremated remains of not more than six (6) persons.

9.6 For every exercise of an interment right in a green burial area the City shall have the right to assign the green burial area and lot to be used for an interment where such assignment shall be subject to the lot use, planting and eco-system management plan established by the City for the green burial area where a lot is located.

9.7 Human remains interred in a green burial lot shall be considered non-recoverable from the date of interment and the City shall have no obligation, except where ordered to do so under provisions of legislation, regulation or as ordered by a court of competent jurisdiction to recover human remains interred in a green burial lot.

9.8 Human remains proposed for interment in a green burial lot shall:

(a) be in a natural state and shall not be embalmed, and;

(b) be clothed, wrapped or shrouded in natural and fully biodegradable fiber or material, and;

(c) be enclosed in a shroud, casket or alternative container that is approved by the City for use in a green burial lot, and;

(d) be enclosed in a shroud, casket or alternative container with a rigid base that permits the dignified transport and safe handling of the human remains by all persons so charged.

9.9 An interment rights holder and / or the legal representative of a deceased person to be interred in a green burial lot shall;

(a) ensure a shroud, casket or alternative container proposed for interment in a green burial lot is a City approved container, and;

(b) arrange for the dignified transfer of the human remains to a gravesite.

9.10 A shroud, casket or alternative container proposed for green burial interment shall;

(a) comply with any provision set out for caskets or containers set out in any legislation or regulation, and;

(b) be approved for use in the green burial area of the cemetery by the City prior to a scheduled interment service, and;

(c) be primarily constructed of fully biodegradable and environmentally sustainable materials, and;

(d) have interior finishing primarily fabricated of fully biodegradable and environmentally sustainable materials and natural fibers, and;

(e) have, as a function of their design, a safe and secure means with which to facilitate the dignified transfer of the human remains enclosed to the interment site and lowered into the excavated lot, and;

(f) with the exception of minimally necessary structural hinges, nails and screws, not have any extraneous part, fixture or decoration attached that is made of plastic, metal, or other non-biodegradable material, and;

(g) not have a high gloss or polish finish achieved through the application of any synthetic or environmentally hazardous, toxic or non-biodegradable chemical or agent, and;

(h) not have been constructed with the use of any synthetic or environmentally hazardous, toxic or non-biodegradable glue, epoxy or other form of bonding agent, and;

(i) not have any interior liner, shroud, bag or other lining that is fabricated from a non-biodegradable material, and;

(j) not have any non-biodegradable personal item, memento or article placed inside the space occupied by the human remains.

9.12 Shrouds, caskets or alternative containers that are constructed from fibre-board, particleboard, plywood, non-sustainable or exotic wood, metal, bleached or non-recycled cardboard or other form of non-sustainable, non-biodegradable or artificial material are prohibited from interment in a green burial lot.

9.13 The City shall have the right to approve, or to refuse to accept for burial, any shroud, casket or alternative container proposed for interment in a green burial lot.

9.14 The interment of humans remains in a green burial lot shall be made at a depth deemed sufficient to achieve effective, natural decomposition of the human remains interred and be of sufficient depth to ensure the interred human remains will not be disturbed by wildlife.

9.15 No form of exterior grave box, grave liner or protective vault is permitted in a green burial interment lot.

9.16 The City shall have the right to utilize such equipment, including motorized equipment, to open and close a green burial lot as it deems necessary to protect the safety of all City personnel, and any person participating in and attending the interment service and to permit for the safe and dignified interment of the human remains into the lot, and shall make every reasonable effort to replace soil in a grave occupied by human remains in as sensitive a manner as is practical.

9.17 Upon provision of advance notice to the City, family members and / or friends of a deceased may be permitted to participate in the closing of a green burial lot. In the instance where persons other than City personnel participate in the closing of a lot, said persons shall;

(a) be subject to supervision by City personnel, and;

(b) follow all instructions issued them by City personnel, and;

(c) be of sound physical condition and be capable of the participation intended, and;

(d) assume personal liability for any injury arising as a result of their participation in such activity.

9.18 The City makes no warranty of protection nor bears any liability for the aesthetic, structural or physical impacts made to a casket or alternative container and the enclosed human remains that may arise from the replacement of gravesite soil into a green burial lot.

9.19 The interment of cremated remains in a green burial area shall be considered non-recoverable from the date of disposition and the City shall have no obligation and shall have no means to recover cremated remains interred in a green burial area.

9.20 Where an interment right has been purchased and assigned for a green burial lot with the intent of interring or scattering cremated remains in the lot, the disposition of cremated remains shall not be made until all of the permitted interment(s) of human remains have been made into the assigned lot.

9.21 Cremated human remains proposed for disposition in a green burial area shall be enclosed in an urn or container that;

(a) is approved for use in the green burial area by the City prior to a scheduled scattering or interment service;
(b) is designed to decompose upon contact with or in the ground;
(c) is made of a fully biodegradable material which may include recycled and unbleached paper or cardboard;
(d) shall not have any interior plastic, metal or other form of permanent liner, container or bag.

9.22 Witnessing the disposition of cremated remains in a green burial area shall be subject to the following;

(a) provision of a request to witness the disposition is provided to the City at the time the disposition arrangements are made, and;
(b) the City for safety reasons may, at its discretion, limit the number of persons permitted within close proximity to the site where the green burial or scattering of cremated remains is taking place, and;
(c) all proceedings within the green burial area shall be under the sole direction of the City, and;
(d) all persons attending a witness service shall comply with the supervision of and instructions given by the City.

9.23 Witness services may be subject to an additional fee set out in the *Fees and Charges Bylaw* for the cemetery and shall be paid in full to the City prior to the witness service.

9.24 To maintain and protect the health and integrity of maturing green burial area plantings and eco-systems the City shall have the right to scatter or inter cremated remains intended for a specific lot in an area that is adjacent to or as near as possible to a requested lot. The City shall make every reasonable effort to make such a scattering or interment of cremated human remains in a specific lot requested.

9.25 The City shall have the right to permit the non-recoverable, random, co-mingled surface scattering of cremated remains in a green burial area providing that such scattering is done by the City in areas not occupied by or reserved as interment lots under a grant of an interment right.

9.26 The City shall install communal memorials of a design of their choosing for the purpose of making approved memorial inscriptions to commemorate green burial interments and scatterings.

9.27 When a green burial interment or a scattering is made in a green burial area there is no obligation to have a memorial inscription made on a green burial memorial.

9.28 No inscription shall be made on a green burial memorial until;

(a) the inscription is approved by the City;

(b) all outstanding indebtedness to the City relating to the right of interment for a lot, interment and the engraving of the inscription has been paid in full.

9.29 For every memorial inscription made on a green burial memorial the inscription shall be;

(a) placed on the memorial stone designated for the lot or group of lots where an interment was made;

(b) recorded sequentially on the appropriate memorial stone as interments occur;

(c) composed on one line, as space may permit, of an inscription limited to the given name(s) and/or initial(s) and the surname of a deceased and the year of birth and the year of death of a deceased.

(d) engraved to a standard depth in a standard font established by the City for the memorial where the inscription is being made, and;

(e) made by the City or an approved agent or supplier of the City.

9.30 No inscription that deviates from the content and specifications set out in Article 9.29 of this Bylaw or that is inconsistent with the dignity of adjacent inscriptions, lots, the Cemetery or community standards shall be placed on any green burial memorial.

9.31 The City shall have the right to determine when inscriptions may be made on a green burial memorial and shall make new inscriptions as they may accumulate at a minimum of two (2) times in each calendar year.

9.32 Other than City installed memorials no other memorial marker, monument, edging, grave cap or other stone, vase, ornament or any other structure shall be placed on, in or around any lot in a green burial area.

9.33 The City shall have the right to maintain, reposition, move, relocate or otherwise change a green burial memorial as deemed necessary and subject only to compliance with the requirements of the CIFSA.

9.34 The City shall have the right, without prior notice, to remove and dispose of any unauthorized memorial product, object or memento from a green burial lot or a green burial area.

9.35 Floral tributes that accompany human remains or cremated human remains as part of an interment service shall be permitted to remain on an interment site for a maximum of two (2) weeks. After two (2) weeks the City shall have the right, without prior notice, to remove and dispose of such flowers.

9.36 Except for floral tributes accompanying an interment service no other floral tributes, artificial flowers, unauthorized planting, memorial, vase or decoration of any form or type may be placed on a green burial lot. The City shall have the right, without prior notice, to remove and dispose of any unauthorized object, flower or plant on a green burial lot.

9.37 To maintain a balance of planting species in green burial areas all plantings shall be made according to a pre-established planting plan for the area.

9.38 Only locally indigenous trees, bushes, shrubs, groundcover and wildflowers native to and typical of those found in the City's climate zone shall be planted in a green burial area.

9.39 Planting in a green burial area shall only be done as may seasonally be recommended for the type of planting to be made. This may mean that a burial which takes place in late winter may not have a planting made on that lot until the following fall or winter.

9.40 Only the City shall make or supervise planting in a green burial area.

9.41 Depending on the location of a lot used, an interment rights holder, the legal representative of a deceased, their heirs or successors may be offered a choice of planting for a lot and may be offered the opportunity to participate in the planting process for their lot.

9.42 The City shall make every reasonable effort to ensure the longevity of any memorial planting but does not offer any guarantee in this respect.

9.43 The City shall have the right to manage, maintain and alter the interment areas, memorials, roads and pathways, change or remove plantings, grade, alter in shape or size, or otherwise to change all or any part of a green burial area as they deem necessary and subject only to compliance with any applicable requirements of the *CIFSA*.

9.44 Visitors shall be permitted to visit green burial areas during the regular visiting hours of the City cemetery.

9.45 The City shall establish and maintain pedestrian paths and visitation zones around green burial communal memorials to facilitate visitation.

9.46 To protect and maintain the health and integrity of green burial area plantings and eco-systems the City shall have the right to limit, restrict or prohibit the visitation of individual graves in any green burial area in a City cemetery.

9.47 The City shall have the right to limit, restrict or prohibit vehicle access to any green burial area in a City cemetery.

10.0 MEMORIALS

10.1 Every installation of a memorial onto a lot in a City cemetery shall be consistent with this Bylaw and *Schedule A: Memorial Specifications* which is a part of this Bylaw.

10.2 For the purposes of this section of the Bylaw, *applicant* means an interment rights holder or the legal representative of a deceased, their heirs or successors, or a memorial supplier acting as an agent of an interment rights holder or the legal representative of a deceased, or their heirs or successors.

10.3 It is the responsibility of a rights holder or the legal representative of a deceased to make arrangements for the supply and installation of a memorial on a City cemetery lot. The City shall bear no responsibility or obligation to place or install at the City's expense any form of temporary or permanent memorial at an interment lot or a remembrance site.

10.4 No memorial may be placed on a lot prior to the interment of human remains or cremated remains into the lot.

10.5 Every memorial and the installation thereof shall conform to the plan established for the lot and the section of the City cemetery in which the memorial is proposed to be installed specifically, and to the plan of the City cemetery generally.

10.6 Every memorial shall be constructed of granite, or bronze on a granite base, or another material of permanent and durable material approved by the City that conforms to this Bylaw and any and all other specifications established by the City for the City cemetery in which the memorial is proposed to be installed.

10.7 The City shall create, maintain and keep current a *Schedule of Memorial Specifications* that sets out the details of permitted design, construction, inscription, location and installation of memorials for each type of lot or memorial offered in a City cemetery and the *Schedule of Memorial Specifications* shall form a part of this Bylaw.

10.8 No memorial, inscription, engraving, or ornamentation or combination thereof, including but not limited to a reference to any pet or pets, that is inconsistent with the dignity of adjacent lots, the cemetery or community standards shall be placed on any memorial.

10.9 No memorial shall be installed on a lot until plans and specifications describing fully the memorial's proposed size, design, material, inscription and location have been submitted to the City, in a form prescribed by the City, by an applicant for a memorial permit.

10.10 No memorial shall be installed on a lot until:

(a) an application for installation is received by the City, and;

(b) it is determined the memorial described on the application complies in every way with the specifications set out for memorial placement on the lot where installation is proposed, and;

(c) the applicable memorial installation Care Fund contribution set out in the fees and rates bylaw is paid in full to the City, and;

(d) all outstanding indebtedness as relates to interment rights, lot, interment, and memorial installation has been paid in full to the City, and;

(e) upon satisfying all of the above a memorial permit may be issued by the City to authorize installation of the memorial.

10.11 Where an applicant is a memorial supplier, other than the City, then it is the responsibility of the memorial supplier to confirm the correct location for a memorial proposed for installation and, for a companion memorial, to further confirm the correct orientation for a companion inscription on the memorial. The City shall bear no responsibility or financial liability for a memorial where it can be shown these tasks were not performed by an applicant or outside memorial supplier.

10.12 The City shall have the authority to refuse to issue a memorial/marker permit to an applicant if the applicant has failed to comply with the requirements of this Bylaw or any requirement established by the City governing memorials at City cemeteries. Where such a refusal may occur, the City shall inform the applicant of what is not compliant about the memorial application and the steps that must be taken to resolve the deficiency.

10.13 The City shall have the authority to reject a memorial, despite the prior issuance of a memorial permit, when the memorial delivered for installation does not match the specifications described in the memorial permit application or does not comply with the requirements of this Bylaw or any requirement established by the City governing memorials at City cemeteries or, the memorial, inscription, engraving, or ornamentation or combination thereof is, in the judgement of the City is inconsistent with the dignity of adjacent lots, the cemetery or community standards. Where such a refusal may occur, the City shall inform the applicant of what is not compliant about the memorial delivered for installation and the steps that must be taken to resolve the deficiency.

10.14 The type and design of a memorial and, the maximum width, depth and thickness of a memorial and, the form and style of a memorial inscription is conditional on the type of lot or lots on which it is being installed. In every instance, a memorial shall comply with the specifications set out in this Bylaw and in any further requirements established by the City for a particular form of lot at a City cemetery.

10.15 No memorial shall have a photographic appliqué or emblem of any kind that is attached by adhesive of any kind. Any form of photograph or emblem must be an integral part of the memorial either casted, or bronze, or sand-blasted or laser-etched on granite.

10.16 Every memorial shall conform to the specifications set out in this Bylaw and any further requirements established by the City for a particular form of lot at a City cemetery at the time the memorial is placed or installed, not at the time the memorial is purchased or at the time of death.

10.17 Every memorial at a City cemetery shall be placed, installed, relocated or removed by the City.

10.18 The installation of memorials shall occur during the regular business hours of the City cemetery and installations will be made as soon as practicable after the delivery of a memorial to the City. Memorial installation timelines may vary depending on cemetery service and staff scheduling, weather and ground conditions. Memorial installation, due to winter weather conditions, will not normally occur from November 1 through to March 31.

10.19 The City shall be responsible to maintain the land of the lot on which a memorial is placed or installed but shall not be responsible for the maintenance of any memorial on the lot and shall not be liable for, or obligated to repair, any scratch, breakage or damage to a memorial in a City cemetery except where it can be shown any such a scratch, breakage or damage has been caused by the gross negligence of the City, its employees or its agents.

10.20 A rights holder or the legal representative of a deceased, their heirs or successors are required to keep in proper repair, at their expense and to the satisfaction of the City, all memorials on their lot. In the instance a memorial is placed, or installed, on a lot in a City cemetery and then falls into a state of disrepair, the City will document the condition of the memorial and shall have the authority, without prior notice, to have the memorial removed from the lot and from the City cemetery, in each case at the expense of rights holder, the legal representative of a deceased, their heirs or successors.

10.21 Where it is determined a memorial or its installation do not comply with this Bylaw or any further memorial requirements established by the City for a City cemetery then the non-compliant memorial may, without prior notice, be moved, reinstalled or permanently removed and placed in safekeeping by the City at the expense of a rights holder, the legal representative of a deceased, their heir or successor, or their memorial supplier.

10.22 Subject to the approval of the City, the City may permit one concrete lantern tablet, installed by the City flush to ground level at the head of a standard or infant grave only, to allow for the placement of not more than two (2) single solar powered lanterns per grave.

10.23 Lantern tablets, as a form of memorial, shall be supplied and installed solely by the City and purchased exclusively from the City.

10.24 Lantern tablets shall only be installed, removed or modified in a City cemetery when a person requesting a tablet has made application to the City and subject to the terms and conditions, as may be applicable, set out in Article 10.8 of this Bylaw.

10.25 The City shall have the right, under such terms and conditions as it may see fit, to permanently discontinue the supply and installation of lantern tablets at a future date of its choosing.

10.26 At the time of an interment the City may permit a temporary, non-permanent memorial marker of a design and size approved by the City to be placed on a lot where the temporary memorial marker shall be limited to placement on the lot for a period not to exceed three (3) months from the date of interment. The City shall have the authority to remove and dispose

of, without prior notice, a temporary, non-permanent memorial marker remaining on a lot where more than three (3) months have expired from the date of interment.

10.27 The donation and dedication of a memorial planting, memorial bench or other form of custom memorial feature may be permitted subject to the approval of the City and the following criteria;

(a) an application, in a form prescribed by the City, shall be made to the City giving the proposed specifications, design and materials of the proposed memorial and must be approved in writing by the City before any delivery or installation can proceed, and;

(b) site selection shall conform to the plan of the City cemetery as determined by the City, and;

(c) installation, if not performed by the City, shall be under the supervision of the City and the cost of installation shall be borne by the applicant, and;

(d) the placement of a dedicated item or custom memorial does not entitle a donor or an applicant to any privilege or right over the land upon which the memorial may be situated.

10.28 A memorial planting, memorial bench or any other form of custom memorial shall only be installed, removed or modified in a City cemetery when a person requesting a memorial planting, memorial bench or any other form of custom memorial has made application to the City as an applicant and subject to the terms and conditions, as may be applicable, set out in articles 10.8 and 10.23 of this Bylaw.

11.0 ADMINISTRATION

11.1 The Mayor and Council of the City are the trustees of the City cemeteries and are responsible for the development, management, operation and maintenance of the City cemeteries in accordance with any enactment of British Columbia or Canada, as the case may be, and regulations made thereto, as amended, revised, consolidated or replaced from time to time, and any bylaw of the Council of the City of Penticton, as amended, revised, consolidated or replaced from time to time.

11.2 The Mayor and Council of the City as trustees of the City cemeteries are responsible for the administration and enforcement of this bylaw where said administration and enforcement of this bylaw shall be conducted in a consistent, fair and equitable manner in every case and circumstance with every user of a City cemetery.

11.3 The Mayor and Council of the City as trustees of the City cemeteries shall designate such employees of the City or engage and authorize such agents of its choosing and as it deems necessary to administer the City cemeteries and to develop, manage, operate and maintain the City cemeteries in the name of the City.

11.4 The Corporate Officer of the City shall be responsible for the general administration, interpretation and enforcement of this bylaw and further;

(a) shall ensure all records and information for the management, administration, operation and maintenance of the City cemeteries are collected and retained as required under the *CIFSA* and *BPCPA,* as administered and enforced by the *Consumer Protection Authority of B.C.*, and;

(b) shall ensure all rights of interment, permits and contracts are issued as required and in compliance with the *CIFSA* and *BPCPA*, as administered and enforced by the *Consumer Protection Authority of B.C.*, and as authorized by this bylaw, except as otherwise provided in this bylaw, and;

(c) shall, in the instance of providing clarification or resolving a dispute, have the authority to interpret and enforce this bylaw in the name of the City, and;

(d) may designate other City employees to perform administrative tasks and actions in support of their responsibility under articles 11.4 (a) and (b) above.

12.0 FEES & CHARGES

12.1 The City shall from time to time and on a regular basis review, establish, add, amend or delete the fees and charges to be charged at City cemeteries for the provision of interment rights, interment services, memorials and memorial installations and any other services or goods ancillary to the provision of service, operation and maintenance of the City cemeteries.

13.0 PENALTY FOR INFRACTIONS

13.1 A person who violates any of the provisions of this bylaw, or who suffers or permits any act or thing to be done in contravention of this bylaw, or who refuses, omits or neglects to fulfill, observe, carry out or perform a duty or obligation imposed by this bylaw, shall be liable on summary conviction to a penalty of not less than $50 and not more than $2,000 plus the cost of the prosecution, or to a term of imprisonment not exceeding three (3) months, or both.

14.0 CEMETERY CARE FUND

14.1 A fund for the maintenance and care of the cemetery and the lots therein is hereby established, set aside and maintained. All monies in the Cemetery Care Fund shall be held and invested as trust funds by the City and in accordance with the requirements of the *CIFSA*.

14.2 The Cemetery Care Fund will be maintained with the City's financial institution in an account to be designated as the "Cemetery Care Fund". The City will be responsible for all deposits to the account and for ensuring that:

(a) the account and all deposits comply with all applicable provisions of the *CIFSA,* and;

(b) any investment of monies in the Cemetery Care Fund is carried out as permitted and in compliance with the *CIFSA*; the *Local Government Act*, the *Community Charter [SBC 2003] Chapter 26* and this bylaw, and;

(c) any interest earned on investments of the Cemetery Care Fund may be used for maintenance and care of the cemetery in the year in which the interest and income is earned, or may be retained in the Cemetery Care Fund to increase the principal sum of the fund.

14.3 The City may accept voluntary payments to the Cemetery Care Fund from any person or organization.

14.4 The principal sum of the Cemetery Care Fund shall not be reduced other than in accordance with an order from the Consumer Protection Authority pursuant to the *CIFSA*.

15.0 COMMENCEMENT OF TRANSITIONAL PROVISIONS

15.1 This Bylaw will come into force upon adoption thereof.

16.0 REPEAL OF PRIOR BYLAW

16.1 "The Corporation of the City of Penticton Cemetery Management Bylaw No. 2010-09 (2010)" and all amendments thereto are hereby repealed upon adoption of this bylaw.

READ A FIRST time this	day of	, 2018
READ A SECOND time this	day of	, 2018
READ A THIRD time this	day of	, 2018
ADOPTED this	day of	, 2018

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

SCHEDULE 'A': MEMORIAL SPECIFICATIONS

1.0 GENERAL RULES

1.1 Every memorial and the installation thereof shall conform to the plan established for the lot and the section of the City cemetery in which the memorial is proposed to be installed.

1.2 Every memorial shall be constructed of granite, or bronze on a granite base or another material of permanent and durable material approved by the City that conforms to the *Cemetery Management Bylaw* and *Schedule 'A": Memorial Specifications* of the Bylaw.

1.3 No memorial, inscription, engraving, ornamentation or combination thereof, including but not limited to a reference to any pet or pets, that is inconsistent with the dignity of adjacent lots, the cemetery or community standards shall be placed on any memorial.

1.4 No memorial shall be installed on a lot until plans and specifications describing fully a memorial's proposed size, design, material, inscription and location have been submitted to the City, in a form prescribed by the City, by an applicant for a memorial permit.

1.5 No memorial shall be installed on a lot until:

(f) an application for installation is received by the City, and;

(g) it is determined the memorial described on the application complies in every way with the specifications set out for memorial placement on the lot where installation is proposed, and;

(h) the applicable memorial installation Care Fund contribution set out in the fees and rates Bylaw is paid in full to the City, and;

(i) all outstanding indebtedness as relates to the interment rights, lot, interment, and memorial installation has been paid in full to the City, and;

(j) upon satisfying all of the above a memorial permit may be issued by the City to authorize installation of the memorial.

1.6 The type and design of a memorial and, the maximum width, depth and thickness of a memorial and, the form and style of a memorial inscription is conditional on the type of lot or lots on which it is being installed.

1.7 No memorial may be placed on a lot prior to the interment of human remains or cremated remains into the lot.

1.8 No memorial shall have a photographic appliqué or emblem of any type that is attached solely by an adhesive of any kind. Any form of photograph or emblem must be an integral part of the memorial either cast in bronze or sand-blasted or laser-etched on granite.

1.9 Every memorial shall conform to the specifications set out in the *Cemetery Management Bylaw Schedule 'A': Memorial Specifications* and any further requirement that may be established by the City for a lot at a City cemetery at the time the memorial is placed or installed, not at the time the memorial is purchased or at the time of death.

1.10 Every memorial at a City cemetery shall be placed, installed, relocated or removed by the City.

1.11 The design, layout, dimensions, location of interments and placement of memorials for every lot type in a City cemetery shall be those set out in these specifications.

2.0 MEMORIALS

2.1 Except for the thickness of a flat memorial installed flush with the ground, which shall be not less than three (3″) inches (7.6 cm) thick, memorial dimension stated herein may have a variance of not more than plus or minus one (1″) inch (2.5 cm).

2.2 Every flat marker memorial shall be installed onto a foundation, installed by the City at an applicant's expense, that will consist of:

(a) excavation of the installation site, and;

(b) placement and compaction of sufficient consolidated aggregate materials, and;

(c) a foundation placed to ensure a stable and level, vertical and horizontal installation of the flat marker flush with the surface level of the lot where the foundation may minimize the potential effect of frost heave on the memorial.

2.3 Every upright monument memorial shall be installed onto a foundation, installed by the City at an applicant's expense, that will consist of:

(a) excavation of the installation site, and;

(b) placement and compaction of sufficient consolidated aggregate materials, and,

(c) fabrication of a reinforced concrete pad that:

(i) for a standard upright monument is not less than six (6″) inches (15.24 cm) thick, and;

(ii) for a large upright monument is not less than eight (8″) inches (20.3 cm) thick, and;

(iii) in every instance, the top of the foundation is level and is two (2″) inches (5 cm) wider and longer than the base of the monument to be installed on the lot, and;

(d) a foundation placed to ensure a stable and level, vertical and horizontal installation of the upright monument above the surface level of the lot is achieved where the foundation may minimize the potential effect of frost heave on the memorial.

2.4 No form of decorative rock, gravel or other form of material may be placed at or around a memorial in a City Cemetery. Only materials approved or used by the City for the installation and maintenance of memorials is permitted at or around memorials or gravesites.

2.5 **Flat Marker Memorial:** A memorial taking the form of a flat marker to be installed flush with the ground shall be:

(a) Installed onto a foundation, installed at the applicant's expense, that conforms to Article 2.2 of these Memorial Specifications and to any other requirement that may be issued by the City for a gravesite where a flat memorial marker is proposed for installation, and;

(b) A granite memorial that is smooth sawn on the bottom and its sides and the side surfaces shall be true and perpendicular with the memorial's top surface and the inscription and design shall be carving or engraving on the face of the memorial, or;

(c) A bronze memorial anchored onto a granite base which shall be both wider and longer than the bronze marker and has a border of exactly two (2″) inches (5 cm) of the base surface exposed on all sides and, the base top, bottom and sides shall be smooth sawn and, the side surfaces shall be true and

perpendicular with the base's top surface and, the base shall be not less than three (3") inches (7.6 cm) thick, or;

(d) A bronze memorial anchored onto a reinforced concrete base which shall not have a border of not more than two (2") inches (5 cm) of concrete exposed on all sides, and;

i. the concrete base shall consist of one (1) mat of No. 3 steel reinforcing bar placed in the centre of the three (3") inch (7.6 cm) slab and protected from the edges with one and one-half (1.5") inches (3.8 cm) of concrete. This form of mat shall have not less than two (2) pieces of reinforcing bar running the width of the base and three shorter pieces running the length of base, or;

ii. the concrete base may consist of not less than two (2) layers of No. 9 wire reinforcing mesh placed in the centre of the slab and spaced 0.4" inches (1cm) to 0.8" inches (2 cm) apart from the other, and;

iii. the concrete base for a bronze memorial shall be not less than three (3") inches (7.6 cm) thick, and;

iv. a bronze memorial mounted on a concrete base shall not exceed the maximum permitted size of a memorial that may be permitted on a lot, and;

v. the scrolls, letters, figures or other design elements of the memorial shall not be raised more than one-half (0.5") inch (1.2 cm) above the finished surface of the memorial.

2.6 **Upright Monument Memorial:** A memorial taking the form an upright monument installed above the ground level of a lot shall be:

(a) installed onto a reinforced concrete foundation, installed at the applicant's expense, that conforms to Article 2.3 of these Memorial Specifications and to any other requirement that may be issued by the City for a gravesite where an upright monument is proposed for installation, and;

(b) a monument base shall be made of granite and shall first be installed and secured to its foundation in a manner approved by the City and the bottom of the granite base shall be smooth sawn and unpolished so as to permit effective placement of the base on the foundation;

(c) a monument base side surfaces shall be true and perpendicular with the base's top surface and may be smooth sawn or rock pitch and may be polished or unpolished, and;

(d) a monument base shall be wider and longer than the monument tablet in order to provide a minimum border of two (2") inches (5 cm) to a maximum border of four (4") inches (10.1 cm) of the base surface exposed on all sides, and;

(e) a monument tablet shall be constructed of granite and attachment of a monument tablet to its base shall be with dowel pins and / or an adhesive epoxy compound approved by the City and, in the instance where dowels are mandated by the City, the dowels shall be made of a non-corrosive material, be centered on the base, be not less than six (6") inches (15.2 cm) in length and evenly extended into both the tablet and the base, and installed in a 'dry' mode, and;

(f) a monument tablet shall be not less than six (6") inches (15.2 cm) thick but may be no thicker than a dimension that leaves not less than a two (2") inch (5 cm) to a maximum of a four (4") inch (10.1 cm) border of the monument base surface exposed on all sides, and;

(g) a monument tablet inscription and design shall be carving or engraving on the face of the tablet, or a bronze plaque securely anchored to the face of the tablet with non-corrosive fasteners and / or an adhesive epoxy approved by the City.

2.7 No inscription, lettering, plaque or other form of adornment or decoration shall be placed on the back or any side of an upright monument base or monument tablet.

2.8 No upright monument shall be installed to extend over the space where a lot has been or may be opened to accommodate an interment of human remains.

2.9 An upright monument with a design feature that is an integral part of a monument tablet may be permitted so long as the monument and design feature conform to the size specifications set out in these specifications.

2.10 A monument in the form of a freestanding design shall not be permitted.

2.11 No monument shall have any uncovered vertical joint.

2.12 Except for approved lantern tablets supplied and installed by the City no form of candleholder, vase, lantern or other form of fixture may be attached in any manner to a memorial or placed adjacent to where a memorial is installed.

2.13 **Crypts:** A memorial taking the form of a crypt plate:

(a) shall, subject to the plate size, have an inscription carved or engraved on the surface of the plate that consists of the given name(s) or initials, the surname, the year of birth and the year of death of the individual interred in the crypt niche, and;

(b) may, subject to the plate size and as approved by the City, have up to three (3) lines of epitaph carved or engraved on the surface of the plate, and;

(c) may, subject to the plate size and as approved by the City, have a symbol, decoration or other form of adornment carved or engraved on the surface of the plate, and;

(d) every inscription on a crypt plate shall be made in a font style, size and layout that is consistent with adjacent crypts and with the overall design established for the mausoleum which they are a part.

2.14 **Niches:** A memorial taking the form of a niche plate:

(a) shall, subject to plate size, have an inscription carved or engraved on the surface of the shutter that consists solely of the given name(s) or initials, the surname, the year of birth and the year of death of the individual interred in the niche, and;

(b) shall not have any other form of symbol, decoration or other form of adornment engraved, inscribed or attached to the surface of the plate, and;

(c) every inscription shall be made in a font style, size and layout that is consistent with adjacent niches and with the overall design established for the columbarium of which they are a part.

2.15 **Lantern Tablets:** The following rules shall apply to the placement of a memorial lantern tablet that may be permitted by the City and, where:

(a) to allow for the placement of not more than two (2) single solar powered lanterns per lot, the City may permit one eleven (11″) inch (27.9 cm) by eleven (11″) inch (27.9 cm) concrete lantern tablet to be installed flush to ground level at the head of a standard adult or infant/child interment lot only and;
(b) City approved single solar powered lanterns shall be supported by a single steel rod up to but not higher than eighteen (18″) inches (45.7 cm) in height and shall be inserted into the lantern tablet installed on a lot, and;
(c) lantern tablets shall be purchased exclusively from, supplied by and installed solely by the City, and;
(d) lantern tablets shall only be installed, removed or modified in a City cemetery when a person requesting a tablet has made application to the City subject to the terms and conditions, as may be applicable, and set out in the Cemetery Management Bylaw, and;
(e) the City shall have the authority, under such terms and conditions as it may see fit, to permanently discontinue the supply and installation of lantern tablets at a future date of its choosing.

2.16 **Temporary Memorials:** At the time of an interment the City may permit a temporary, non-permanent marker of a design and size approved by the City to be placed on a lot where the temporary marker shall be limited to placement on the lot for a period not to exceed six (6) months from the date of interment. The City will not be responsible for the maintenance of the marker during the six month (6) time frame and shall have the authority to remove and dispose of, without prior notice, a temporary, non-permanent marker remaining on a lot where more than six (6) months have expired from the date of interment.

3.0 LOT TYPES & PERMITTED MEMORIALS

3.1 Interment into any form of lot in a City cemetery shall comply with *Schedule 'B': Interment Specifications* of the *Cemetery Management Bylaw* as may currently be in force or as may be amended or repealed and replaced from time to time in the future.

3.2 Generally, the following specifications shall constitute the type and number of memorials permitted on a lot as they may be designed and laid-out in a City cemetery:

(f) **Infant / Child Lot:** This form of lot may have memorial markers installed flush with the ground which are limited to:
  (i) one (1) flat marker that is twelve (12″) inches (30.4 cm) deep by twenty (20″) inches (50.8 cm) wide by three (3″) inches (7.6 cm) thick and memorializing not more than two (2) individuals, and/ or;
  (ii) not more than two (2) flat markers that are eight (8″) inches (20.3 cm) deep by twelve (12″) inches (30.4 cm) wide by three (3″) inches (7.6 cm) thick and memorializing not more than one (1) individual each.

(g) **Flat Marker Lot:** This form of lot may have memorial markers installed flush with the ground which are limited to:
  (i) one (1) flat marker that is not less than twelve (12″) inches (30.4 cm) deep by twenty (20″) inches (50.8 cm) wide or more than eighteen (18″) inches (45.7 cm) deep by thirty six (36″) inches (91.4 cm) wide by three (3″) inches (7.6 cm) thick and memorializing not more than two (2) individuals, and/ or;
  (ii) not more than four (4) flat markers that are eight (8″) inches (20.3 cm) deep by twelve (12″) inches (30.4 cm) wide by three (3″) inches (7.6 cm) thick and memorializing not more than one (1) individual each.

(h) **Green Burial Lot:** This form of lot does not permit for the installation of any form of memorial on the interment lot. Memorialization for a green burial lot shall only be made at a communal memorial feature established by the City for a green burial area. The memorial inscription on any green burial communal memorial feature shall be of a design, font, size, format and layout that is consistent with similar or adjacent inscriptions and with the overall design established for a green burial area or a green burial communal memorial of which the inscription is a part.

(i) **Side-by-Side Flat Marker Lot:** This form of lot shall have memorial markers installed flush with the ground which are limited to:

(i) one (1) flat marker, installed over the center line of the adjoined lots, that is eighteen (18') inches (45.7 cm) deep by thirty-six (36") inches (91.4 cm) wide by three (3") inches (7.6 cm) thick and memorializing a maximum of four (4) individuals, or;

(ii) two (2) flat markers, installed one (1) on each of the adjoined lots, that are twelve (12") inches (30.4 cm) deep by twenty (20") inches (50.8 cm) wide by three (3") inches (7.6 cm) thick and memorializing not more than two (2) individuals each, and/ or;

(iii) not more than eight (8) flat markers, installed not more than four (4) on each of the adjoined lots, that are eight (8") inches (20.3 cm) deep by twelve (12") inches (30.4 cm) wide by three (3") inches (7.6 cm) thick and memorializing not more than one (1) individual each.

(j) **Veteran's Lot:** This form of lot shall have memorial markers installed flush with the ground which are limited to:

(i) one (1) flat marker that is twelve (12") inches (30.4 cm) deep by twenty (20") inches (50.8 cm) wide by three (3") inches (7.6 cm) thick and memorializing not more than two (2) individuals, and/ or;

(ii) not more than two (2) two flat markers that are eight (8") inches (20.3 cm) deep by twelve (12") inches (30.4 cm) wide by three (3") inches (7.6 cm) thick and memorializing not more than one (1) individual each.

(k) **Upright Monument Lot:** This form of lot shall, as its primary form of memorial, have an upright monument and may also have additional memorial markers installed flush with the ground which are limited to:

(i) one (1) upright monument with a base that is twelve (12") inches (30.4 cm) deep by thirty six (36") inches (91.4 cm) wide by six (6") inches (15.2) cm) high AND a monument tablet that is thirty (30") inches (76.2 cm) wide by not more than thirty (30") inches (76.2 cm) high by eight (8") inches (20.3 cm) thick and memorializing not more than two (2) individuals, and;

(ii) not more than four (4) flat markers that are eight (8") inches (20.3 cm) deep by twelve (12") inches (30.4 cm) wide by three (3") inches (7.6 cm) thick and memorializing not more than one (1) individual each.

(l) **Side-by-Side Upright Monument Lot:** This form of lot shall, as its primary form of memorial, have one (1) large upright monument or two (2) standard upright monuments and may also have additional flat markers installed flush with the ground which are limited to:

(i) one (1) large upright monument, installed over the center line of the adjoined lots, that has a base that is sixteen (16") inches (40.6 cm) deep by forty eight (48") inches (121.9 cm) wide by eight (8") inches (20.3cm) high AND a monument tablet that is thirty six (36") inches (86.3 cm)

wide by not more than forty (40″) inches (101.6 cm) high by twelve (12″) inches (30.4 cm) thick and memorializing a maximum of four (4) individuals, or;

(ii) two (2) standard upright monuments, installed one (1) on each of the adjoined lots, that consist of a base that is twelve (12″) inches (30.4 cm) deep by thirty six (36″) inches (91.4 cm) wide by six (6″) inches (15.2) cm) high AND a monument tablet that is thirty (30″) inches (76.2 cm) wide by not more than thirty (30″) inches (76.2 cm) high by eight (8″) inches (20.3 cm) thick and memorializing not more than two (2) individuals each, and;

(iii) not more than eight (8) flat markers, installed not more than four (4) on each of the adjoined lots, that are eight (8″) inches (20.3 cm) deep by twelve (12″) inches (30.4 cm) wide by three (3″) inches (7.6 cm) thick and memorializing not more than one (1) individual each.

(m) **Family Estate Lot:** This form of lot shall have as its first and primary form of memorial one (1) large upright monument or two (2) small upright monuments and may also have up to twelve (12) additional flat markers installed flush with the ground. This form of lot, within its final design boundary, may incorporate non-interment land for the installation of landscape features that create a delineation from surrounding lots. The memorials on this form of lot may be:

(i) one (1) large upright monument, installed on the center line of the human remains interment lots, that has a base that is sixteen (16″) inches (40.6 cm) deep by forty eight (48″) inches (121.9 cm) wide by eight (8″) high AND a monument tablet that is thirty six (36″) inches (91.4 cm) wide by not more than forty (40″) inches (101.6 cm) high by twelve (12″) inches (30.4 cm) thick and memorializing a maximum of four (4) individuals, or;

(ii) two (2) standard upright monuments, installed one (1) on each of the human remains interment lots, that consist of a base that is twelve (12″) inches (30.4 cm) deep by thirty six (36″) inches (91.4 cm) wide by six (6″) inches (15.2) cm) high AND a monument tablet that is thirty (30″) inches (76.2 cm) wide by not more than thirty (30″) inches (76.2 cm) high by eight (8″) inches (20.3 cm) thick and memorializing not more than two (2) individuals each, and;

(iii) four (4) flat markers, installed one (1) on each of the standard cremation lots forming a part of the estate lot, that are twelve (12″) inches (30.4 cm) deep by twenty (20″) inches (50.8 cm) wide by three (3″) inches (7.6 cm) thick and memorializing not more than two (2) individuals each, and/ or;

(iv) not more than eight (8) flat markers that are eight (8″) inches (20.3 cm) deep by twelve (12″) inches (30.4 cm) wide by three (3″) inches (7.6 cm) thick and memorializing not more than one (1) individual each, and;

(v) such other memorial features, as may be approved by the City, that may be accommodated within the boundaries of the estate lot.

(n) **Mausoleum Crypt Lot:** This form of lot shall have as its primary form of memorial an inscription made on the face of the crypt plate in a design, font style, size and layout that is consistent with article 2.13 of these specifications and with the adjacent crypts and the overall design established for the mausoleum of which the crypt is a part.

(o) **Standard Cremation Lot:** This form of lot may have memorial markers installed flush with the ground which are limited to:

(i) up to two (2) flat markers, installed flush with the ground, that are eight (8″) inches (20.3 cm) deep by twenty four (24″) inches (60.9 cm) wide by three (3″) inches (7.6 cm) thick and memorializing not more than four (4) individuals, or;

(ii) up to four (4) flat markers, installed flush with the ground, that are eight (8″) inches deep by twelve (12″) inches wide by (3″) inches (7.6 cm) thick each memorializing one individual.

(p) **Veterans Cremation Lot:** This form of lot may have memorial markers installed flush with the ground which are limited to:

(i) One (1) flat marker, installed flush with the ground, that is not more than twelve (12″) inches (30.4 cm) deep by twenty (24″) inches (50.8 cm) wide by three (3″) inches (7.6 cm) thick and memorializing not more than two (2) individuals, or

(ii) Up to two (2) flat markers, installed flush with the ground, that are not more than eight (12″) inches (20.3 cm) deep by twelve (12″) inches (60.9 cm) wide by three (3″) inches (7.6 cm) thick and memorializing not more than 1 individual each.

(q) **Family Estate Cremation Lot:** This form of lot may, as its primary form of memorial, have one (1) upright monument or one (1) large flat marker installed flush with the ground and may also have additional flat markers installed flush with the ground which are limited to:

(i) one upright monument with a base that is twelve (12″) inches (30.4 cm) deep by twenty-eight (28″) inches (71.1 cm) wide by six (6″) inches (15.2) cm) high AND a monument tablet that is twenty-four (24″) inches (60.9 cm) wide by not more than thirty (30″) inches (76.2 cm) high by eight (8″) inches (20.3 cm) thick and memorializing not more than four (4) individuals each, or;

(ii) one (1) large flat marker, installed flush with the ground, that is eighteen (18′) inches (45.7 cm) deep by thirty-six (36″) inches (91.4 cm) wide by three (3″) inches (7.6 cm) thick and memorializing a maximum of four (4) individuals, and;

(iii) not more than two (2) flat markers, installed flush with the ground, that are eight (8″) inches (20.3 cm) deep by twelve (12″) inches (30.4 cm) wide by three (3″) inches (7.6 cm) thick and memorializing not more than two (2) individuals each.

(r) **Green Burial Cremation Lot:** This form of lot does not permit for the installation of any form of memorial on the interment lot. Memorialization for a green burial lot shall only be made at a communal memorial feature established by the City for a green burial area. The memorial inscription on any green burial communal memorial feature shall be of a design, font, size, format and layout that is consistent with similar or adjacent inscriptions and with the overall design established for a green burial area or a green burial communal memorial of which the inscription is a part.

(s) **Columbarium Niche Lot:** This form of lot shall have as its primary form of memorial an inscription made on the face of the niche plate in a design, font style, size and layout that is consistent with article 2.14 of these specifications and with the adjacent niches and the overall design established for the columbarium of which the niche is a part.

SCHEDULE 'B': INTERMENT SPECIFICATIONS

1.0 LOT SIZES

1.1 HUMAN REMAINS: Generally, lots designed, laid out and designated for the interment of human remains shall be the following size:

(a) **Infant / Child Lot**: Shall not exceed, but may be less than, four (4') feet (1.2 m) wide by five (5') feet (1.5 m) long;

(b) **Standard Adult / Green Burial Lot:** Shall not exceed four (4') feet (1.2 m) wide by eight (8') feet (2.4 m) long;

(c) **Crypt:** The dimensions of a crypt shall be those that are designed for and provided to the City by a mausoleum / crypt supplier.

1.2 CREMATED REMAINS: Generally, lots designed, laid out and designated for the interment of cremated remains shall be the following size:

(a) **Standard Cremation Lot**: Shall not exceed two (2') feet (60.9 cm) wide by two (2') feet (60.9 cm) long;

(b) **Family Estate Cremation Lot:** Shall not exceed four (4') feet (1.4 m) wide by four (4') feet (1.4 m) long;

(c) **Cremation Niche:** The dimensions of a niche, which may vary in size depending on a columbarium layout, shall be those that are designed for and provided to the City by a columbarium / niche supplier.

1.3 CREMATION SCATTERING: Generally, areas designed, laid out and designated for the scattering of cremated remains shall be of sufficient size and design to permit for the discreet, dignified, comingled disposition of cremated remains. Cremated remains designated for scattering shall not be assigned a unique, individual lot descriptor but rather shall, for the purposes of maintaining cemetery records, be recorded as having been scattered in a designated scattering area or feature of a cemetery.

1.4 Lots may be laid out separately, in combinations or in combination of one lot type with another lot type.

1.5 Human remains interment lots may permit for the secondary interment of cremated remains over top of interred human remains.

1.6 In every instance, the official dimensions of any lot in a City cemetery shall be those set-out in the design plan and subsequent lot survey completed for the cemetery in which they are located.

1.7 The City shall have the authority to vary the dimensions of a lot or group of lots as circumstances may dictate or as it deems appropriate for the operation and maintenance of the Cemetery.

1.8 The design, layout, dimensions, location of interments and placement of memorials for every lot type in a City cemetery shall be those set out in these specifications.

2.0 INTERMENT

2.1 Generally, the following specifications shall be followed in making an interment of human remains or cremated remains into a lot or scattering of cremated remains in a City cemetery.

2.2 HUMAN REMAINS:

(a) **In-Ground Interment:** For every interment of human remains in a lot;

(i) the first interment shall be made at the lowest depth of the lot and shall be of sufficient depth to permit a future second interment of human remains, separated by not less than two (2) feet (60.9 cm) of soil between interments, and where, after any future second interment in the lot, when filled and closed, shall have not less than thirty (30) inches (76.2 cm) of soil between the finished surface of the lot and the uppermost surface of the grave liner, casket or container enclosing the human remains resting in the upper level of the lot.

(b) **Crypt Interment:** A crypt shall be opened and closed according the design parameters and specifications established by and provided to the City by the crypt supplier.

2.3 CREMATED REMAINS

(a) **In-Ground Interment:** The in-ground interment of cremated remains shall be made in a lot which, when filled and closed, provides not less than six (6) inches (15.2 cm) of earth between the finished surface level of the lot and the uppermost surface of the urn enclosing the cremated remains resting in the lot;

(b) **Green Burial Interment:** The in-ground interment of cremated remains into a green burial section in a City cemetery shall be made in a lot which, when filled and closed, provides not less than six (6) inches (15.2 cm) of earth between the finished surface level of the lot and the uppermost surface of the fully biodegradable urn enclosing the cremated remains resting in the lot. No form of grave liner or non-biodegradable urn or container may be used in a green burial lot;

(c) **Niche Interment:** A niche shall be opened and closed according the design parameters and specifications established by and provided to the City by the columbarium supplier.

(c) **Scattering:** Scattering of cremated remains shall be made into an ossuary, other form of vessel designed to contain cremated remains or onto the surface of the ground in a designated scattering area of a City Cemetery. Where cremated remains are scattered onto the surface of the ground the City may place a shallow layer of leaf or bark mulch over the scattered cremated remains to protect the cremated remains from disturbance.

2.4 Scattering of cremated remains shall always be performed by or under the supervision of a City employee and in a discreet, respectful and dignified manner.

3.0 PERMITTED INTERMENTS

3.1 The installation of a memorial on any form of lot listed below or in a City cemetery shall comply with *Schedule 'A': Memorial Specifications* of the *Cemetery Management Bylaw* as may currently be in force or as may be amended or repealed and replaced from time to time in the future.

3.2 Generally, the following specifications shall constitute the lot types and permitted interment densities for lots as they may be designed and laid-out in a City cemetery:

(t) **Infant / Child Lot:** This is a lot for which the dimensions shall be those set-out in Article 1.1(a) of these specifications. This form of lot will accommodate the single-depth interment of the human remains of one (1) infant / child and the secondary interment of the cremated remains of not more than two (2)

individuals who have a direct and immediate familial (parent, sibling or grandparent) relationship to the interred infant or child.

(u) **Flat Marker Lot:** This is a lot for which the dimensions shall be those set-out in Article 1.1(b) of these specifications. This form of lot is limited to the double-depth interment of the human remains of two (2) individuals and the secondary interment of the cremated remains of not more than four (4) individuals.

(v) **Green Burial Lot:** This is a lot for which the dimensions shall be those set-out in Article 1.1(b) of these specifications. This form of lot is limited to the double-depth interment of the human remains of two (2) individuals and the secondary interment of the cremated remains of not more than four (4) individuals. The use of any form of green burial lot is subject, in every way, to *Section 9.0 'Green Burial'* of the *Cemetery Management Bylaw*.

(w) **Veteran's Lot:** This is a lot for which the dimensions shall be those set-out in Article 1.1(b) of these specifications. This form of lot will be located in a designated Veteran's section of a City cemetery. This form of lot is limited to the interment of the human remains of one (1) individual who qualifies as a Veteran and the City may permit the secondary interment of the human remains or the cremated remains of the spouse of the Veteran interred in a Veteran's lot.

(x) **Upright Monument Lot:** This is a lot for which the dimensions shall be those set-out in Article 1.1(b) of these specifications. This form of lot is limited to the double-depth interment of the human remains of two (2) individuals and the secondary interment of the cremated remains of not more than four (4) individuals.

(y) **Family Estate Lot:** This is a lot for which the final design boundary shall incorporate two (2) standard adult lots with dimensions which shall be those set out in in Article 1.1(b) of these specifications and four (4) cremated remains lots with dimensions which shall be those set out in in Article 1.2(a) of these specifications. This form of lot is limited to the double-depth interment of the human remains of up to four (4) individuals and the interment of the cremated remains of up to sixteen (16) individuals. This form of lot shall have as its first and primary form of memorial either one (1) double upright monument or two (2) single upright monuments and may also have up to six (6) additional flat memorials installed flush with the ground.

(z) **Mausoleum Crypt Lot:** This form of lot is limited to the interment of the human remains of one (1) individual and the secondary interment of the cremated remains of not more than one (1) individual.

(aa) **Standard Cremation Lot:** This is a lot for which the dimensions shall be those set-out in Article 1.2(a) of these specifications. This form of lot is limited to the interment of the cremated remains of four (4) individuals.

(bb) **Green Burial Cremation Lot:** This is a lot for which the dimensions shall be those set out in Article 1.2(a) of these specifications. This form of lot is limited to the *green burial* interment of the cremated remains of four (4) individuals. The use of any form of green burial lot is subject, in every way, to *Section 9.0 'Green Burial'* of the *Cemetery Management Bylaw*.

(cc) **Veteran's Cremation Lot:** This is a lot for which the dimensions shall be those set-out in Article 1.2(a) of these specifications. This form of lot is limited to the interment of the cremated remains of two (2) individuals, of which at least one (1) individual qualifies as a Veteran.

(dd) **Family Estate Cremation Lot:** This is a lot for which the dimensions shall be those set-out in Article 1.2(b) of these specifications. This form of lot is limited to the interment of the cremated remains of eight (8) individuals.

(ee) **Columbarium Niche Lot:** This form of lot is limited to the interment of the cremated remains of two (2) individuals.

The Corporation of the City of Penticton

Bylaw No. 2018-16

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. 2018-16".

2. **Amendment:**

2.1 Amend "Fees and Charges Bylaw No. 2014-07" by deleting and replacing the following appendix in its entirety:

- Appendix 6 – Cemetery

2.2 Appendix 6 attached hereto forms part of this bylaw.

READ A FIRST time this	day of	, 2018
READ A SECOND time this	day of	, 2018
READ A THIRD time this	day of	, 2018
ADOPTED this	day of	, 2018

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

Appendix 6

CEMETERY	2018	Effective May 1, 2018
Grave Space		
Standard Size Plot - Flat Marker Section		
Residents (including Care Fund contribution of 25%)	$1,352.00	$1,352
Non-Residents (including Care Fund contribution of 25%)	$1,791.00	$1,825
Standard Size Plot - Up-Right Marker Section		
Residents (including Care Fund contribution of 25%)		$2,028
Non-Residents (including Care Fund contribution of 25%)		$2,738
Small Size Plot (includes infants less than 2 years) - Flat Marker Section		
Residents (including Care Fund contribution of 25%)	$441.00	$441
Non-Residents (including Care Fund contribution of 25%)	$835.00	$595
Small Size Plot (includes infants less than 2 years) - Up-Right Marker Section		
Residents (including Care Fund contribution of 25%)		$662
Non-Residents (including Care Fund contribution of 25%)		$893
Cremation Size Plot - Flat Marker Section		
Residents (including Care Fund contribution of 25%)	$434.00	$434
Non-Residents (including Care Fund contribution of 25%)	$789.00	$586
Green Burial Plot		
Residents (including Care Fund contribution of 25%)		$1,352
Non-Residents (including Care Fund contribution of 25%)		$1,825
Family Estate Plot - Traditional In-ground		
Residents (including Care Fund contribution of 25%)		$29,000
Non-Residents (including Care Fund contribution of 25%)		$39,150

Appendix 6

CEMETERY	2018	Effective May 1, 2018
Family Estate Plot - Cremation		
Residents (including Care Fund contribution of 25%)		$2,300
Non-Residents (including Care Fund contribution of 25%)		$3,105

Any plots reserved as per the City of Penticton Cemetery Management Bylaw may be bought back by the Corporation at 80% of the purchase price.

Services Internment		
Standard size - Traditional In-ground or Green Burial - First Interment per Plot	$947.00	$1,386
Standard size - Traditional In-ground or Green Burial - Second Interment		$947
Small size	$470.00	$470
Infant under 2 years	$470.00	$470
Cremation size	$294.00	$294
Green Burial - Memorialization - Name and Dates etched into communal marker stone (optional)		$225
Opening and Closing Grave for Exhumation		
Standard size	$1,797.00	$1,797
Small size	$723.00	$723
Infant under 2 years	$723.00	$723
Cremation size	$381.00	$381
~~Extra Deep to Permit Second Burial in Same Grave~~	~~$439.00~~	~~N/A~~
Less than 24 Hours Notice – Charge	$240.00	$240
Installation of Memorials (each time) - including care fund contribution of 25%	$272.00	$272
Reset Fee	$184.00	$184
Reservation of Side by Side Graves for Extended Family		
One time Administration Fee	$73.00	$73
Annual Reservation Fee	$27.00	$27
Fairview Internment		
Fairview Cemetery Fee	$366.00	$366
Goods		
Grave Liners – Regular	$490.00	$490
Grave Liners – Child	$207.00	$207
Concrete Slab for Lanterns	$207.00	$207

Appendix 6

CEMETERY	2018	Effective May 1, 2018
Columbarium		
Resident		
Level I	$3,150.00	$3,150
Level II	$3,045.00	$3,045
Level III	$2,940.00	$2,940
Non-Resident		
Level I	$4,200.00	$4,253
Level II	$4,095.00	$4,111
Level III	$3,990.00	$3,969

The rates include a one-time opening/closing rate, and initial engraving

Care Fund Per Niche Sold		
Columbarium	$368.00	$368
Marker	$26.00	$26

Other Charges		
Additional Opening/closing (includes 2nd engraving)	$293.00	$293
Niche Flower Vase	$81.00	$81
Exhumation	$322.00	$322
Overtime	$424.00	$424

Mausoleum

Basic Rate per unit

Resident

Level I	$19,110.00	$19,110
Level II	$18,375.00	$18,375
Level III	$17,640.00	$17,640

Non-Resident

Level I	$25,725.00	$25,799
Level II	$24,990.00	$24,806
Level III	$24,255.00	$23,814

The rates include a one-time opening/closing rate, and initial engraving

Appendix 6

CEMETERY	2018	Effective May 1, 2018
Care Fund Per Unit Sold		
Columbarium	$368.00	$368
Marker	$26.00	$26
Opening and Closing for Exhumation		
Level I , II and III	$1,757.50	$1,758
~~Level II~~	~~$1,487.00~~	~~N/A~~
~~Level III~~	~~$1,217.00~~	~~N/A~~
Ossuary / Scattering Garden and Memorial		
Basic Rate per Unit:		
Ossuary - Resident	$439.00	$439
Ossuary - Non-resident	$585.00	$593
Bronze Memorial Wall Name Plaque		$325

Lakeview Cemetery – Cost of Saturday burials is the same as on weekdays

Fairview Cemetery – cost of Saturday burials is subject to additional labour charges

No Sunday or Statutory Holiday Burials

Council Report

penticton.ca

Date: March 20, 2018 **File No**: 4300-01

To: Peter Weeber, Chief Administrative Officer
From: Ken Kunka, Building and Permitting Manager
Jennifer Wells, Property Use Inspector
Subject: **Short Term Vacation Rental Program Update**

Staff Recommendation

THAT Council direct staff to amend the Zoning and Business Licence Bylaws to improve definitions and the process for vacation rentals.

Strategic Priority Objective

Effective management of *Short Term Vacation Rental Program* to ensure Penticton continues as a livable, thriving, safe and sustainable city (Good Governance).

The *Short Term Vacation Rentals Program* contributes to the local economy in a variety of ways including allowing property owners the ability to increase their yearly income as well as providing accommodation to the vacationing public (Economic Vitality).

Background

A *Short Term Vacation Rental* (Vacation Rental) is the rental of a dwelling to the vacationing public for periods of one (1) month or less. This use is regulated under a variety of City bylaws but specifically the Business Licence and Zoning Bylaws.

Initially, Vacation Rental regulations were added to the City bylaws on September 20, 2010 to resolve hotel accommodation tourism issues and neighbour nuisance complaints. Last year, Council amended bylaws to limit the number of persons per bedroom, exempt home sharing up to 14 days per year, and classify Vacation Rentals into four (4) different categories.

On April 4th, 2017 Council unanimously carried support for changes to the original vacation rental program due to the recent surge of unregulated businesses resulting increasing nuisance complaints and lost revenue. As part of the 2017 Budget proposal, an additional staff member (Property Use/License Inspector) was *on-boarded* in mid-June 2017 to focus on Vacation Rentals. Council had requested staff to develop a process to balance greater compliance while not imposing a level of regulations to hinder prospective or existing operations to the vacation rental industry and, further, that staff provide an update on the implementation of the Vacation Rental regulations.

Current Short Term Rental Program

2016	*75* Registered Vacation Rentals
2017	130 Registered Vacation Rentals

Current Process

Business licenses are divided into categories reflecting number of rental days, principle resident and number of guest. After a business licence application is received, staff will contact the applicant to provide a *Good Neighbor Vacation Brochure* and a *Vacation Guidebook* (attached). The applicant is encouraged to review material to make certain that the property is compliant with health and safety priorities and then contact staff to arrange for a meeting. The Property Use Inspector or Building Official will then perform an internal review as well as a walk-through of the property. A report is then provided which lists items that are to be resolved prior to issuance of a licence. Once the issues are resolved, staff processes and invoices the applicant.

Typically, staff begin bylaw enforcement action on a Vacation Rental when a complaint is forwarded to staff. Most complaints stem from a parking, noise or other nuisance issue that is later identified as an unlicensed Vacation Rental.

Within our current processes, staff identified the following problematic trends:

- **Nuisances:** The majority of licenses have been issued for *Major Vacation Rentals* as the property owners are not residents and the property is rented more than thirty days within the calendar year. Most complaints stem from this type of licence as the business owners are not on site to deter nuisances to the neighbors. Further, not many *Major High Occupant Vacation Rentals* have been licensed due to resistance from neighbors.

- **Reduction in Long Term Rentals:** During a recent city sponsored public engagement process, community members voiced the concept that Vacation Rentals were part of the reason for shortages within the rental housing market. Further, staff have noted that many newly created dwelling units are being advertised and licensed as Vacation Rentals. This is removing potential affordable dwelling units from the community housing stock.

- **Works without Permits:** Staff have become aware that a high percentage of applications include non-compliant or unauthorized renovations. This not only results in potential risk to the occupants but lost revenue to the City in permit fees as well as undervalued property assessments. Non-permitted work significantly increases the amount of time as well as the financial commitment for the applicant when identified.

What Recent Licensees Think of the Current Process

Staff recently requested all current licensees (those that have gone through the process and obtained a license) to complete a short survey; the findings are as attached but summarized as follows:

Overall satisfaction with process	Scaled	69/100
Processing length	What I had expected	75%
Was the process fair?	Yes	88.89%
Are Vacation Rentals beneficial to the City?	Yes	97.22%
Should City limit amount of Vacation Rental operations?	No	66.67%

Should City limit number of guests at a Vacation Rental?	Yes	55.56%
How much did the process cost (overall)	Scaled	$1,323
Do you plan to continue?	yes	88.89%

Current Licensees noted that Vacation Rentals are beneficial to the community but they wish that all properties go through the same licencing process that they had to (level playing field for all). Staff believe that the remaining unauthorized Vacation Rentals require increased pressure in order to apply to legalize their business or cease the business operation.

Tourism stakeholders

Staff reviewed the current program and trends as well as the possible collection of the 2% *Municipal and Regional District Tax* or MRDT (previously known as the Hotel Room Tax) with representatives of *Travel Penticton*. It was suggested that further dialogue continue as the existing program is functioning well and the new industry continues to evolve. Staff had questioned if there should be a cap to the number of Vacation Rentals based on a percentage of hotel units, it was recommended that there should be no cap as they do not believe that Vacation Rentals harm the Hotel Industry but are increasing tourism for businesses.

The matter of collection of the MRDT is still under review with the Province and some host platform providers (i.e. Airbnb). Currently, existing regulations would exempt the majority of houses regardless of the number of bedrooms as the house is considered one "unit"; the tax is triggered when an owner has four (4) or more units. Currently 50% of the Tourism Fee is collected via the current licensing program and goes towards Travel Penticton (Res 573/2017). The Tourism Fee ranges from $100 to $300 depending on rental type.

Other Jurisdictions

The City of Penticton is the only Okanagan jurisdiction with a fully developed *Short Term Vacation Rental Program* at this time. A review of current local programs is as follows:

- The Regional District of Okanagan Similkameen has a Temporary Use permit application which requires a public consultation ($700) as well as a site safety assessment.

- The City of Kelowna has been reviewing the options for short term rental regulations since the fall of 2016 and in November of 2017 conducted an online survey asking residents for their opinions on short-term rentals and how they should be regulated. Staff were unable to obtain the results of this survey at the time of the preparation of this report.

Provincial Trends:

- Over the last year a number of communities have initiated or modified their existing short term licensing programs such as:
    - Victoria – further restrictions on non-resident operations as well as a review of fees;
    - Vancouver – further restrictions on non-principal residence, stricter regulations for life safety and fee adjustments; and
    - City of Nelson – conditions of residential and commercial zoned areas as well as enhanced third party tracking enforcement (i.e. Host Compliance).

- A number of communities have engaged the services of third party enforcement software (Host Compliance), to track and initiate the education and enforcement process for non-licensed businesses. Host Compliance helps municipalities understand the scale and scope of the short-term

rental activity in their community and enact short-term rental regulation that minimizes any noise, trash, parking and traffic problems, as well as impacts on housing and neighborhood character. Once such rules are adopted, Host Compliance can manage the registration, permitting, compliance monitoring and enforcement processes so city staff can focus on higher value-added activities. City staff have consulted with Host Compliance and would like to engage in further discussions to enter into a contract.

Analysis

Vacation Rentals result in a number of consequences described above however the program remains an important part of the accommodation offering in Penticton. With this in mind, staff believe that we are able to continue to mitigate the majority of these concerns through regulatory and procedural changes and continue with a Vacation Rental program.

Recommended Amendments to the existing program:

Staff recommend the following changes to better manage Vacation Rentals within our community:

1. Enter into contract with Host Compliance for short term rental registration:

The most prolific offence at this time is the number of advertised unlicensed vacation rentals who may or may not be aware of the City's rules and regulations. Research provides that the number of advertised vacation rentals have increased from 40 to well over 300. Due to this rapid increase operating within the City, staff believe that the City should utilise a Third Party Provider (i.e. Host Compliance) to further educate and monitor Vacation Rental business owners that advertise online. The Third Party Provider would not issue fines but will forward applications and information straight to the business operator as soon as an advertisement is placed online. Staff believe that this change to the vacation rental program will reduce the number of **Nuisances** as well as assist to resolve **Works without Permits** (two of the identified problematic trends identified by staff).

2. Amend the Vacation Rental category definitions:

Staff propose to amend the four (4) Vacation Rental category definitions to reduce the option of new build dwelling units to be used as Vacation Rentals (current licenses would be "grandfathered"). Further changes to the *Major-High Occupant Vacation Rental* category would place the onus on the business owner to provide neighborhood consensus. Additionally, staff will monitor the number of Vacation Rentals and, if the number of licences significantly increases, staff will bring back a recommendation to "cap" the number of Vacation Rental licenses to Council, or look at limiting them to certain types of housing in the community. Staff believe that this change to the vacation rental program will reduce the amount of staff time focused on unique applications, continue to reduce the number of **Nuisances** as well as cease the **Reduction in Long Term Rentals/Dwelling Units** (two of the identified problematic trends identified by staff and the community).

Staff will be continuing with the following improvements under the 2018 Business License Modernization Enhancement process:

- review and update software and educational information,
- website improvements, online services applications
- fully integrated eApply for Business Licenses by the fall of this year
- updated policy and procedures including current "complaint initiated" bylaw enforcement towards an education based-graduated proactive enforcement process;

Financial implication

Staff does not foresee significant financial changes to the Short Term Vacation Rental Program at this time. Although upfront costs will be required to enter into a contract with a Third Party Provider (i.e. Host Compliance), staff are confident that these costs will be recovered by means of fees from the increased number of Business Licences. The approximate annual cost under a 3 year term contract would be approximately $15,000 (Cdn). These funds have been budgeted for within the Licencing Department as part of the 2018 Budget process.

Alternate recommendations

1. THAT Council direct staff to make no amendments to the current *Short Term Vacation Rental Program*.

2. THAT Council direct staff to make different recommendations for *Short Term Vacation Rentals* that Council feels are appropriate.

Attachments

Attachment A – License Holder Survey
Attachment B - Good Neighbor Vacation Brochure
Attachment C - Vacation Rental Guide

Respectfully submitted,

Ken Kunka AScT, RBO
Building and Permitting Manager

Approvals:

Director of Development Services	Chief Administrative Officer
AH	PW

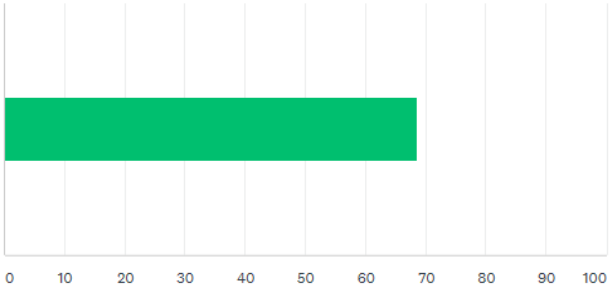
Attachment A
License Holder Survey

Q1

Customize Export

On a scale of 1-5 , please rate the overall satisfaction with the application process from the time you made your application to when you received your Business Licence:

Answered: 36 Skipped: 0



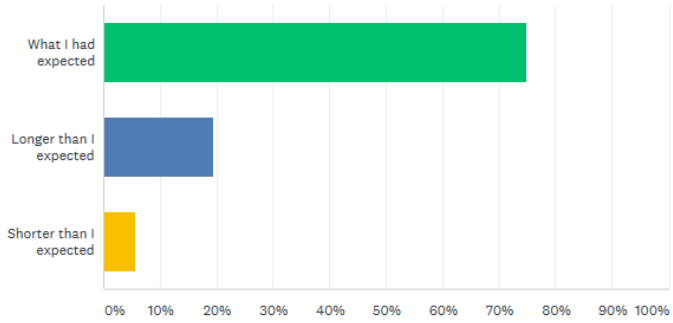
ANSWER CHOICES	AVERAGE NUMBER	TOTAL NUMBER	RESPONSES
Responses	69	2,470	36
Total Respondents: 36			

Q2

Customize Export

The total processing time was:

Answered: 36 Skipped: 0



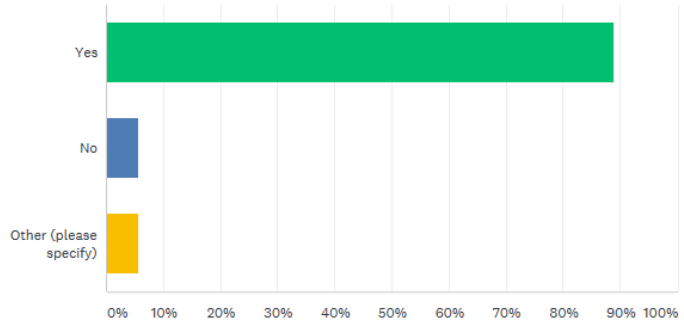
ANSWER CHOICES	RESPONSES	
What I had expected	75.00%	27
Longer than I expected	19.44%	7
Shorter than I expected	5.56%	2
TOTAL		36

Q3

Customize Export

Would you rate the process as being fair?

Answered: 36 Skipped: 0



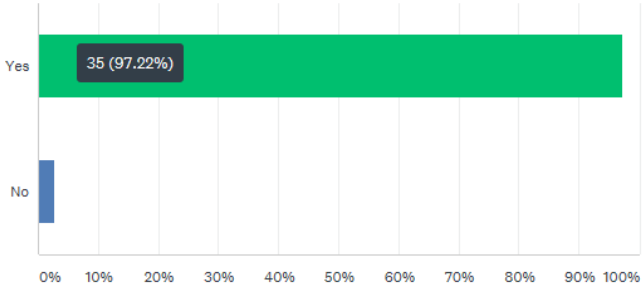
ANSWER CHOICES		RESPONSES	
Yes		88.89%	32
No		5.56%	2
Other (please specify)	Responses	5.56%	2
TOTAL			36

Q4

Customize Export

Do you believe that short term rental accommodations are overall beneficial to the City

Answered: 36 Skipped: 0



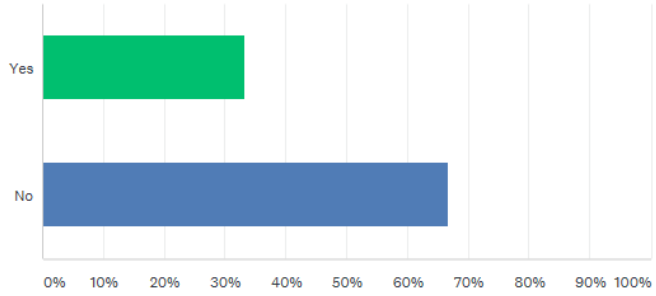
ANSWER CHOICES	RESPONSES	
Yes	97.22%	35
No	2.78%	1
TOTAL		36

Q5

Customize Export

Do you believe that the City should limit the amount of short term rental accommodation operations?

Answered: 36 Skipped: 0



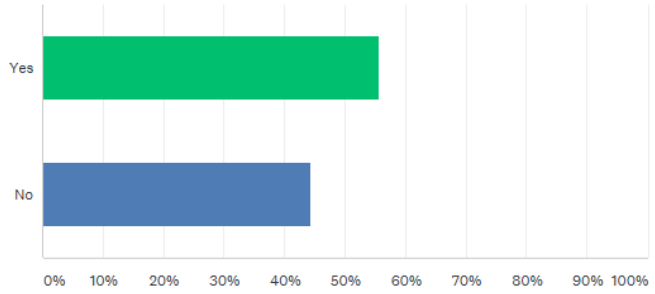
ANSWER CHOICES	RESPONSES	
Yes	33.33%	12
No	66.67%	24
TOTAL		36

Q6

Customize Export

Do you believe that the City should limit the number of guests that stay at a short term rental accommodation operation?

Answered: 36 Skipped: 0



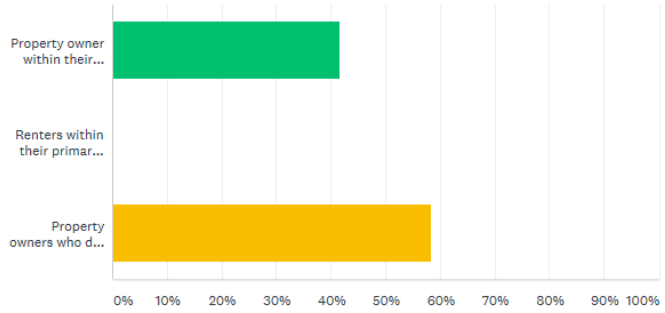
ANSWER CHOICES	RESPONSES	
Yes	55.56%	20
No	44.44%	16
TOTAL		36

Q7

Customize Export

Not including current licensees, who should be permitted to offer short term rental accommodations?

Answered: 36 Skipped: 0



ANSWER CHOICES	RESPONSES	
Property owner within their primary residence	41.67%	15
Renters within their primary residence	0.00%	0
Property owners who do not reside within the property	58.33%	21
TOTAL		36

8. How much did the process cost you (please include any deficiencies that you were required to upgrade i.e. smoke alarms, building permits etc.)?



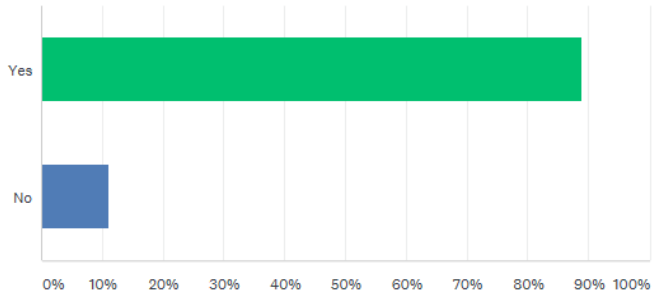
ANSWER CHOICES	AVERAGE NUMBER	TOTAL NUMBER	RESPONSES
Responses	38	1,323	35
Total Respondents: 35			

Q9

Customize Export

Do you plan to continue with your short term rental accommodation operation

Answered: 36 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	88.89%	32
No	11.11%	4
TOTAL		36

Q10

Export

Are there any issues that you have observed which should be highlighted? Please explain

Answered: 24 Skipped: 12

Explanations:

I have adhered to everything that was required by the City. I know that many have not. I would like there to be some inspection done so those who do not comply will have to

I received my first vacation rental licence approx 4 years ago. The process was thorough, and casual. I think there have been some good improvements in the system, and policing and enforcement (as you well know) needs to be improved. I spent over $10,000 to rebuild my stairs and raise ceilings to the basement, to allow High Occupancy, and then was turned down and we don't use the basement now. I do understand all the reasons for denial. So it can be difficult for home owners to know which direction to go... cart before the horse?

I know of people who don't live in the house where suite is and they are doing vacation rentals. This is not fair since I pay my fees for a vacation rental licence. Also many people are doing vacation rentals without a licence in Penticton.

Are we able to see a list of places who have a business license? Not sure my neighbour who also does short term rentals has a license? Frustrating for us who always play by the rules.

I am upset to hear that BC is going to allow cities to tax air B&B owners. We already have to pay 3% to air B&B and $375 to the city. It is hard to make a profit when we rent. Of course the other problem is we hear that only 25% of Vacation rentals apply for a business license, so it is just us supporting all of the town with our added $200 that the city puts on. This is not fair. If the city wants more money they should start checking on these people who do not buy business licenses. I believe we bring a lot of people in to Penticton by offering air B&B's, because the hotels are for the summer. We should not be taxed on helping the city attract people. It should be the opposite of us paying the $200, they should pay us $200 for allowing the accommodations that bring people in for the festivals.

Very onerous requirements such as window size without any consideration when new property and very close to required size. Even hotels do not need to meet this standard.

For question 6, the number of guests should be reflected by the number of bedrooms and house size. You wouldn't want 6 people in a 1 bedroom but 6 people in a 5 bed house is not a lot

I agree there should be limits to the amount of vacation property permits handed out, however I am not a fan of a rule where the owner has to be living within that property.

No issues :) Just want to highlight some of the benefits that summer rentals bring to Penticton. We host longer term rentals (minimum 4 day stay, some staying for several weeks). This means visitors are able to stay for longer, and spend more. We aren't competing with the hotels directly, as many of these guests would simply be unable to afford to stay this long if paying the full hotel rates. We are complimenting the options, rather than competing :) I understand that this negatively impacts availability for long term rentals, and am unsure how to fix it. Would be happy to have an extra tax on short term rentals though, if it is directed to long term options for accommodation. Hope this helps! :)

None - though I'd like to specify that on question number 6, I don't think the city should regular number of units/guests -so long as- the property owners reside on or are adjacent to the property being used as a vacation rental. It would be too difficult/costly for the city to regulate, but having the owners present on the property itself should eliminate most problems that would result in complaints (noise, parties, etc). It would be extremely rare to have guests causing problems of the property owners are on site. Also, I want to mention that we've been able to balance vacation rental with long term renting - we are booked at 90% capacity for May-Aug for vacationers, then we rent to students for the fall and spring semesters. We have many repeat guests. It works perfectly for our family and helps us pay the mortgage, or else we may have had to consider living outside of the city where homes are cheaper but we'd be further from amenities and our jobs. Plus, we love sharing our city with our guests - whether they're in Penticton for the beaches or work, everyone wants to eat good food and keep themselves entertained. Close connections with local's helps visitors find more of the best parts of the community experience.

Perhaps we could limit the number of vacation homes where it is not their primary residence. Encourage people to divide the home with carriage houses or something. Offering long term rentals as well as vacation rentals. Owning multiple homes with vacation rentals only is limiting rentals for families etc.

There should be no reason to raise the home electrical rates for home businesses just because we have a vacation rental. The home is not used any more excessively.

Should be consistent, all operators should run under same rules including paying tax including tourism tax

Everyone should have to have a license or face a hefty fine $2500 plus #6 No but 2 per bedroom and allow 2 for pullout.

Concern, whether highlighted through council, or applications to council, appears to be directed at the licensed short term accom. providers. Attention should be focused on registering and licensing the non-compliant providers. The licensed and registered providers are part of your tourism industry, help to provide input and increase the local economy. Properties are kept up, clean and well looked after. Compare the feedback on our accommodation to that of the local hotels. Our guests are happy to return and spend more in the community. Look at our properties and compare that to the hotels and motels on Lakeshore. I know what I would rather have my family stay at.

There isn't any event website for out of towners or even ourselves. A calendar of events would be very thoughtful.

Vacation rentals provide a form of accommodation that is not comparable with hotel accommodation. For families who wish to wine tour, bike, attend the hockey school, visit family, a vacation rental is the most practical and comfortable option. It enables extended families to get together (we rent exclusively to families and usually host multi-generational groups that are geographically divided). If vacation rentals are not available for this type of group they will choose a destination that does have it available. Our guests use the hockey school, visit wineries, rent bicycles and boats, and go to coffee shops and local restaurants. As a property owner we promote local businesses to our guests to provide them with an enjoyable and unique experience. I'd like to be part of a vacation property owners' group that can work with local businesses so that the vacation rental industry can provide as great a benefit to the community as possible.

Nothing that really stands out. I believe that short term rentals are a huge benefit to tourism in Penticton.

Short term rentals are beneficial for tourism. They add to the available higher end accommodation pool and service different clients. Regulations around them should be included. Taxes should be same as hotels. Zoning could be a consideration.

Resident only parking. We have difficulty distributing and retaining passes.

None (x 4)

Attachment B
Good Neighbor Vacation Brochure

What you need to know

This brochure is intended to highlight a few ways you can be a good neighbour during your stay in Penticton.

Have questions or concerns?

We are here to help.

You are welcome to contact us:
250-490-2400
ask@penticton.ca



Helpful Local Information

Fire, Police, and Ambulance:
Call 9-1-1

Penticton Regional Hospital:
550 Carmi Avenue, Penticton, BC, V2A 3G6

Walk-In Medical Clinics:
Peach City Medical & Urgent Care
116- 2111 Main Street | 250-276-5050
Sage Medical Clinic
101-2210 Main Street | 250-492-0990
Skaha Medical Centre
162- 1848 Main Street | 250-493-5228

Things to Do & Tourism Info:
www.visitpenticton.com

City of Penticton
171 Main Street, Penticton BC, V2A 5A9
250-490-2400 | www.penticton.ca

CITY OF Penticton

Good Neighbour Brochure
For Vacation Rentals

Welcome to Penticton!
We'd like to make your stay a great one!



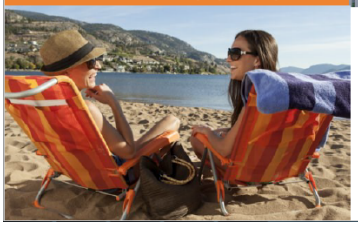
penticton.ca

Hello!

We are pleased you have chosen to spend your vacation in our city. Penticton is renowned for its scenery, outdoor activities, wine, agriculture, and friendly people. There is so much to see and do in Penticton.
Or perhaps you simply wish to sit back, relax and enjoy doing nothing at all.

Like many of our visitors, you have decided to rent a house or a condominium for your own special experience. There are many benefits to doing this!

Perhaps the greatest benefit is the pleasure of residing— even for a short stay— in one of our residential neighbourhoods. You will be among the many permanent residents who value the look and feel of a quiet, safe place to live. They, and the City, look to you for your help in preserving that special sense of peace and quiet. In short, being a vacation renter also means being a good neighbour.



Noise Concerns

Consider how you would want your neighbours to behave in your own neighbourhood. Chances are, your Penticton neighbours will expect the same during your stay. A little consideration goes a long way.

So please, if you bring out your speakers, keep the volume low, even if you do have excellent taste in music. It is courteous practice in our City to keep our neighbourhoods peaceful and quiet between 10pm and 7am.

Your neighbours have every right to call the City if they are disturbed, and this may bring Bylaw Officers or even the Police to your door.



Parking Concerns

Sharing the street is important. Please be mindful of where you park. When available, use the garage, the driveway, or your assigned space. Be aware of the parking regulation signs, and please make sure you are more than 1.5m from anyone's driveway.

Puppy Love

Penticton requires that all dogs be on leashes whenever they are outside, except in the City's Dog Parks, or on your rented property. Tying your dog up while out and about is discouraged as it causes stress on the animal and can be a safety concern. Also, we expect everyone to pick up after their pets. Just like at home, a barking or whining dog is a disturbance to neighbours.



Recycling & Garbage Know-how

Penticton residents recycle as much as they can and we hope you will too. Your rental should include a place for you to recycle your metal, paper, and plastic products. In our city, non-refundable glass cannot be recycled with the other items—please set these items aside. Refundable items are beverage containers and they can be set to one side, or you can take them to a government liquor store or recycling depot to collect your refund.

Exposed garbage is unsightly and may attract the interest of hungry wildlife, so please use the designated collection containers. If you are staying in a house or a condominium, our waste collection service will pick up your trash weekly and your recycling every two weeks.

Attachment C
Vacation Rental Guide

Vacation Rental Guide
(Feb, 2018)

penticton.ca

What is a Short Term Vacation Rental?
A short term vacation rentals (vacation rental) is the rental of a furnished space to the vacationing public under thirty (30) days. Approval by means of a business licence must be issued prior to operating a vacation rental. This approval requires a review of use, parking, signage, and basic safety requirements on the property. The City's ultimate goal is to allow for property owners to rent safe and healthy dwelling units short to the vacationing public while limiting nuisances to neighbours.

What are the Vacation Rental categories?
The City has four (4) types of vacation rentals based on potential impact to the neighbouring properties as follows:

Home Stay Rental
A short term rental less than 14 days within a year or where there is no financial transaction. The maximum number of rental guests is restricted to six (6) occupants. A business licence is not required.
Minor Vacation Rental
A short term rental of room(s) or authorized dwelling unit less than 30 days a year. The property owner is to be the principal resident. The maximum number of guests is restricted to six (6) occupants. A business licence is required and will include a tourism fee.
Major Vacation Rental
A short term rental of dwelling unit more than 30 days a year or the property owner is not the principal resident. The maximum number of guests is restricted to six (6) occupants. A business licence is required and will include a tourism fee.
Major High Occupant Vacation Rental
A short term rental of dwelling unit with more than six (6) guests. Due to the increase in density, this type of vacation rental requires additional staff review as well as public consultation with adjacent neighbours. A business licence is required and will include a tourism fee and a neighbour notification fee for the first year of operation.

What is the process for obtaining a vacation rental business license?
The following steps are outlined regarding obtaining a Vacation Rental business licence. It is recommended not to pre-book rental dates until a review and on-site inspections have been completed.

Step One - Research
It is recommended to consult the neighbourhood prior to submitting an application. Please review the *Vacation Rental Guide* in depth and be aware that changes or repairs to the property may trigger the requirement to obtain a building permit. The building permit will require to be successfully completed prior to issuance of a vacation rental business licence.
Step Two - Apply
Applications are located on the City's website www.penticton.ca as well as at City Hall 171 Main Street, Penticton. Submit a business licence application when you believe you are compliant with all items on the checklists within this guide. Staff will contact you to arrange for a site safety review.
Step Three - Review & Resolve
City staff will attend and review the property. Staff will also conduct a file review including any outstanding or related enforcement files. Staff may provide you with items that require correcting. Please note that staff is unable to issue a licence until all items are completed or resolved. *Major High Occupant Vacation Rental* applications will involve a public notification to adjacent properties prior to final business licence approvals.
Step Four - Completion
Once on-site conditions are compliant, the applicant will be notified to pay the outstanding fees. The licence is now approved and the applicant will receive a placard which is to be posted in a visible location (refer to Attachment A).

What types of dwellings are eligible for vacation rental consideration?
Vacation rentals are permitted within an approved dwelling unit in the following zones:

Rural Zones	Urban Residential Zones	Commercial Zones
Forestry and Grazing - FG	Large Lot Residential - R1	Commercial Transition - C1
Agriculture - A	Small Lot Residential - R2	Neighbourhood Commercial – C2
Country Residential - RC	Small Lot Residential: Lane - R3	Residential Mixed Use - C3
	Mobile Home Park Housing - RSM	General Commercial - C4
	Duplex Housing - RD1	Urban Centre Commercial - C5
	Duplex Housing: Lane - RD2	Mixed Use Commercial - C6
	Cluster Housing - RM1	Marina Way Commercial - C9
	Low Density Multiple Housing - RM2	Hotel Resort - CT3
	Medium Density Multiple Housing - RM3	400 Martin Street - CD1
	High Density Multiple Family - RM4 & RM5	

What are the City regulations that apply to vacation rentals?
Multiple bylaws apply to vacation rentals. The following checklist is provided for convenience and should not be considered a replacement for reviewing bylaws.

✓	City of Penticton Zoning Bylaw 2017-08
	A vacation rental shall not be operated without a valid business license issued by the City.
	A dwelling unit shall only be rented out by the property owner or a tenant with the property owner's permission.
	No structural alteration or addition to a dwelling unit to facilitate a vacation rental shall be undertaken that alters the existing residential character and form of the dwelling.
	No exterior signage advertising the vacation rental is permitted.
	In the case of a property containing a single detached dwelling with an approved secondary suite or approved carriage house, only one dwelling may be used for the purpose of a vacation rental.
	The owner shall ensure that renters do not create any form of nuisance for surrounding residents, including, but not limited to noise, light or traffic that is disruptive to the surrounding residents' quiet enjoyment of their property.
	A maximum of two (2) persons per bedroom is permitted per vacation rental dwelling unit.
	Bedrooms are required to have a minimum ceiling height of 2.1m (6'-10") and, unless sprinklered, must have a minimum egress window conforming to the current *Building Code*.
	Two (2) or more areas may be considered as a combination room if the opening between the areas occupies the larger of 3 m2 (32sqft) or 40% or more of the area of the wall measured on the side of the dependent area.
	A Parking space is an off-street space of the size and dimensions to park one (1) vehicle in conformance with the parking provisions of this Bylaw, exclusive of driveways, aisles, ramps, or obstructions. A minimum of two (2) off-street *parking spaces* are required with an additional space for a secondary suite. Creating a new access to a lane or roadway may have a significant impact on traffic safety and will require a driveway access permit.
✓	**City of Penticton Business Licence Bylaw 2012-5020**
	Except for multi-family buildings, only one (1) vacation rental operation is permissible per property.
	A City issued placard is to be posted in a visible location from the street for a home rental or from the public areas in a multi-unit building and include contact numbers and maximum overnight occupant load.
	Contact numbers for responsible party to be listed on the City Business Directory.
	All advertising is to include the Business Licence number.
	The licence may undergo a review if repeated infractions or nuisance issues have been filed.

Is strata approval required for vacation rental?
The City does not require approval but recommends that owners of strata units review the regulations of their strata corporation to determine if vacation rentals are allowable.

Is insurance notification required to operate a vacation rental?
The City does not require evidence that a dwelling unit has proper insurance but recommends that owners speak with their insurance providers and make necessary adjustments to their coverage prior to proceeding with the rental of their unit.

What building upgrades are required to receive vacation rental approval?

It is the property owner's responsibility to ensure that the space that they are renting is safe for visiting guests. Depending on the age of your home or rental unit, improvements maybe required to meet current life and safety standards. Rental units such as secondary suites or carriage homes must have been authorized with a permit and licenced for use by the owner or visitor.

✓	Overview of standard safety and Health requirements		
	1.	Addressing	House and dwelling unit addressing shall be clearly visible from the street. Numbers should be a minimum of 100mmm (4 inches) with a contrasting color to house.
	2.	Emergency Fire Safety Plan	A basic floorplan of the dwelling unit is to be posted at the front door as well as on the back of each bedroom door. The plan should include the exit paths out of the unit; location of fire extinguishers, smoke & carbon monoxide alarms and electrical panel locations; the address of the unit, as well as the contact name and number of the business owner (refer to attachment B).
	3.	Hot Tub Pool	Hot tubs must be located outside required property setbacks and have a lockable cover. Hot-tubs located on decks and balconies impose a significant load on structural elements and may be required to be verified by a structural engineer. Also, tubs located near a balcony edge (guard) may require additional protection to prevent falling. Swimming pool area must by surrounded by a minimum 1.2m (4') fence with self-closing and latching gates. Please refer to Swimming Pool Bulletin (No 15-02). Electrical or gas connections shall be completed by a certified electrician. Please note that hosts and renters should limit usage of the pool and hot tubs to reduce noise nuisances impacting neighboring properties. Please limit the use of pools and hot tubs between 8:00am and 10:00pm.
	4.	Fire Extinguisher	At least one 3A10BC Rechargeable Fire Extinguisher per floor, mounted in a visible, accessible location. When the extinguisher is in a cabinet or closet, the door cover must be clearly labeled. It is to be serviced annually by certified Fire Protection Technician.
	5.	Smoke Alarm	Smoke alarms (S/A) shall be CAN/ULC-S531 "Standard for Smoke Alarms" and require to be installed on each storey, including basements. A S/A is to be installed in each sleeping room as well as in a location between the sleeping rooms and the remainder of the storey, and if the sleeping rooms are served by a hallway, the S/A shall be located in the hallway. The S/A shall be wired so that the activation of one alarm will cause all alarms within the dwelling unit to sound, and Installed on or near the ceiling. S/A are to be tested monthly using the test switch on the smoke alarm or the test method recommended by the manufacturer. The alarm signals shall sound during test. A log is to be maintained and may be audited by *the City Fire Department*.
	6.	Carbon Monoxide Alarm	Carbon monoxide (CO) alarms are required in dwelling units that have fuel fired appliances (gas or wood) or attached garages and are to conform to CAN/CSA-6.19 "Residential Carbon Monoxide Alarming Devices". CO alarms are not to have a disconnect switch between the overcurrent device and the CO alarm where the CO alarm is powered by the dwelling unit's electrical system. CO alarms are to be mechanically fixed at a height recommended by the manufacturer's instructions. CO alarms are to be located inside each bedroom or outside each bedroom (within 5 m of each bedroom door measured following corridors and doorways).
	7.	Wood Burning / Chimney	Please provide a certificate or receipt from a certified chimney sweep (WETT certified) that shows the flues have been cleaned in the last year. Spark arrestor shall be in place on chimneys. Exterior open fire pits are not permitted.
	8.	Bedroom Window Egress	Bedroom windows are to open without obstruction. The opening cannot be less than 0.35 m2 (3.8 sq ft) with no dimension less than 380 mm (15 inches). Where a window opens into a window well, a clearance of not less than change begin760 mm (18 inches) shall be provided in front of the window. Bedroom windows located in basements should have sill heights no greater than 1.5m (5 feet) above the floor. Furniture can be used to meet this maximum height. There should be no security grilles that require keys, tools or special knowledge of the opening mechanism. Rooms found not to meet window requirements are not be used for sleeping accommodation (see Attachment C).
	9.	Exiting Egress	Pathways to exterior exits such as hallways and stairs should be maintained free and clear of obstructions at all times. Emergency lighting is not required for single family dwellings, however, it is recommended to assist guests through an unfamiliar space during a black out emergency.
	10.	Stairs Guardrails Handrails	Stairs, guards and handrails are to be in good general condition with no missing or damaged steps, sturdy guardrails, handrails, treads shall have appropriate rise and run dimensions with compliant landing. Older homes may require additional or replacement of existing stairs, handrails and guards (refer to Attachment D for further information).

	11.	Deck Patio Gazebo Balcony	General safe condition with sturdy guardrails where required. The surfaces are to be firm without dry rot or holes. Stoops and steps from deck are to comply with applicable code. Please refer to Building Bulletin – Deck Permits No. 15-05 & Building Bulletin No.16-08 Accessory Structures.
	12.	Garage	If a garage is attached to a dwelling unit, the garage man door (door from garage to home) must be a solid door with weather-stripping and self-closing hinges.
	13.	Water Systems	Plumbing fixtures must be supplied with a potable water supply. Grey water recycling will not be permitted without specific approvals. Fixtures must have hot on the left and cold on the right. Drainage fixtures must have a trap to ensure sanitary gases will not enter the dwelling. Garden Hose connections must have a back flow device (i.e. vacuum breakers). Hot water tanks shall be installed per Code including a Temperature & Pressure Relief Valve, safe gas lines, flue vent, and combustion air. An overflow pan and expansion tank are required for any replaced water heater.
	14.	Electrical Gas Systems	No permanent use of extension cords for any reason. Electrical panels must be in general good condition. All circuits are to be accessible and clearly labeled indicating the device or area served. Ground Fault Circuit Interruption (GFCI) should comply with the year the residence was built. Remodeled homes shall have GFCI's installed on all kitchen countertop outlets, in bathrooms, within 6 feet of any sink, as well as in garage and outdoor outlets. A review by a certified electrician or gas fitter may be required if renovation works have been completed without permits. For further information related to electrical and gas systems, please contact the Technical Safety BC at1-866-566-7233.
	15.	Good Neighbour	The vacation rental program is relatively new in Penticton and its success depends on the effective integration of the visiting public with full time residents of the city – often in the same building. Owners of vacation rental units are responsible for the behavior of their tenants and the expectations of the renters should be clearly laid out prior to occupancy of the rental unit. Please refer the City's "Vacation Rental – Good Neighbour Guide". Also, informing neighbouring residents that a vacation rental unit will be operating and that problems should be directed to the property owner to be resolved prior to the City can often alleviate problems before they start.
	16.	Bylaw enforcement	Please be advised that Bylaw Enforcement Officers will be actively enforcing the vacation rental regulations. Property owners who operate vacation rentals without having a business licence or are operating against the regulations will be subject to bylaw enforcement and liable for daily fines. This includes the rental of units to more than the maximum number of occupants or for the disturbance of neighbouring residents.

This guideline is provided for convenience and should not be considered a replacement for reviewing bylaws. Please contact the Building Department at 250-490-2571 or buildinginfo@penticton.ca for information regarding building requirements. Please contact the Business Licence department at (250) 490-2488 or businesslicences@penticton.ca for further information regarding short term vacation rental processing

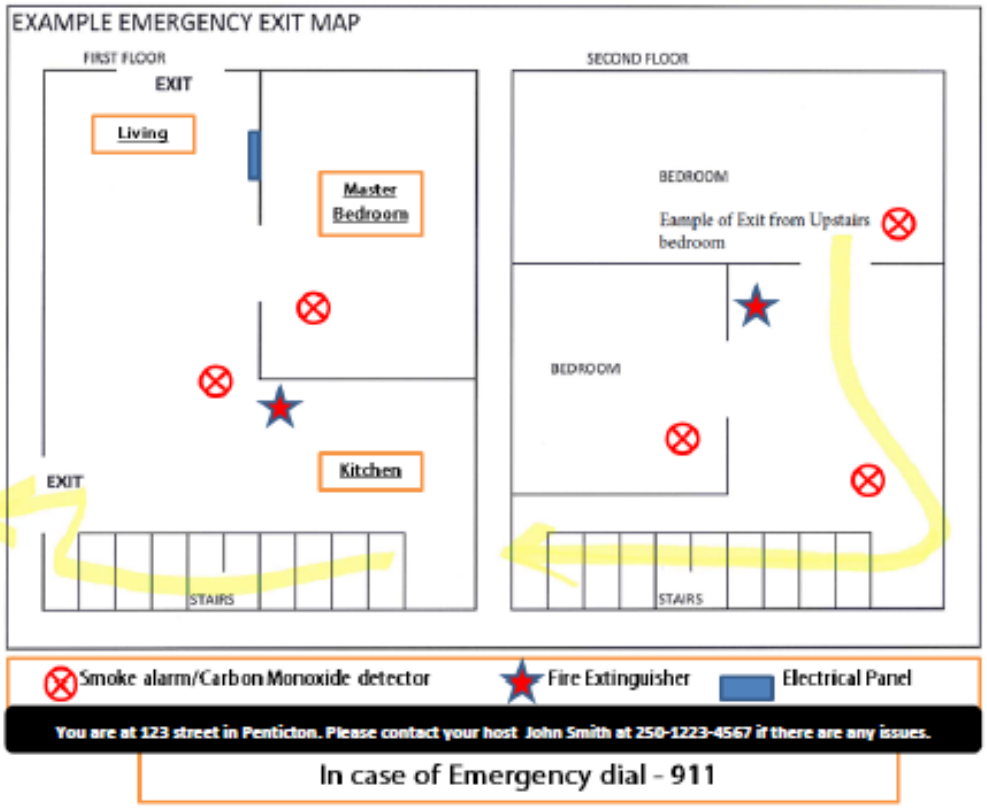
Attachment A

Example of a Vacation Rental Placard



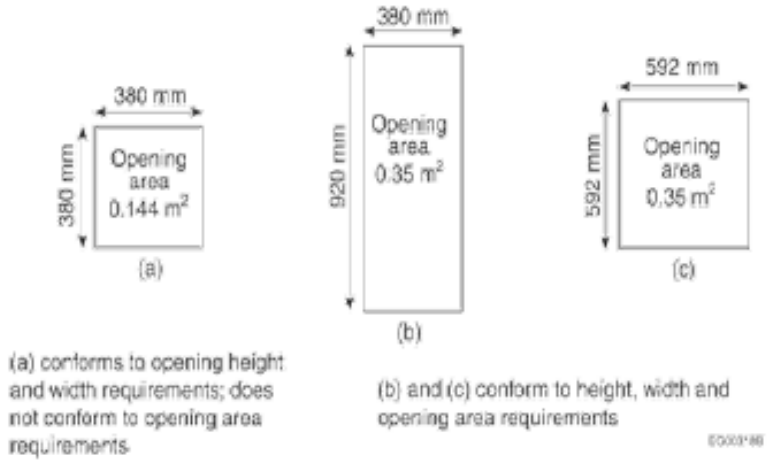
Attachment B

Example of an Emergency Fire Safety Plan



Attachment C

Example of Window Sizing



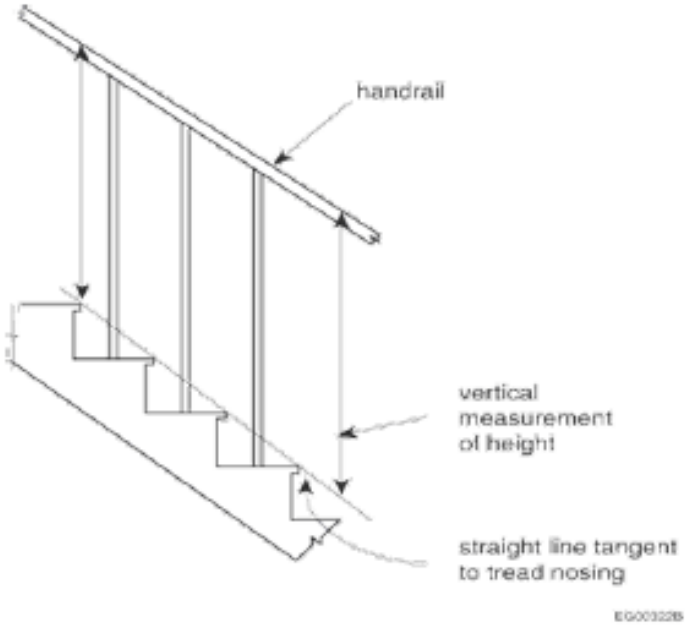
(a) conforms to opening height and width requirements; does not conform to opening area requirements

(b) and (c) conform to height, width and opening area requirements

Attachment D

Further information Stairs on Guardrails Handrails

Stairs and Landings
• Minimum headroom is 1950mm (76.5 inches); • Minimum width 860 mm (33.75 inches); • Steps must not present a tripping hazard – oversized noising; • Doors or gates shall not be located at a bottom of a stairway; • A minimum landing area is 900mm (36inches); • Spiral or winder tread stairs may not be permitted as the principal access.
Handrails
Handrails required: • Interior stairs have more than 2 risers; • Exterior stairs have more than 3 risers; • On one side of stairways between 865mm (34 inches) and 965mm (38 inches); stairs wider than 1100mm (42 inches) will require a handrail on each side; • Shall be secured into solid backing not more than 1.2m (4 feet).
Guards
Guards are required where there is more than 600mm (24 inches) between walking surfaces. • Minimum height of internal guards 900mm (36 inches); • Minimum height of exterial guards: o 900mm (36 inches) for deck surfaces less than 1.8m (6 feet) from ground level, o 1100mm (42 inches) for deck surfaces over 1.8m from grade • No openings in guards that will allow a 100mm (4inch) sphere to pass through; • No climable members between 140mm and 900mm from floor/deck surface. Also ornamental finishes or horizontal members may also create a climable hazard and may require protection or replacement. (see diagram example); • Topless glass guards may require a review by a structural engineer. Pleare refer to Building Bulletin No. 13-03;



Council Report

penticton.ca

Date: March 20, 2018 File No: Civic
To: Peter Weeber, Chief Administrative Officer
From: Ken Kunka, Building and Permitting Manager
Re: **Liquor Service - Permanent Change of Hours**
Bench 1775 Winery

Staff Recommendation

THAT Council direct staff to commence public notification of the proposed Permanent Change to hours of service for Bench 1775 Winery;

AND THAT staff report back to Council at their regular meeting on April 17, 2018 with the results of the public consultation for Council's consideration.

Strategic priority objective

NA

Background

The City has received an application from Bench 1775 Winery (0988081 BC Ltd) located at 1775 Naramata Road (Site Location - Attachment A) for a permanent change to hours of liquor service (patio lounge area). In 2017 the winery completed a facility expansion and are currently operating with a Winery Manufacturing, tasting, retail, lounge and special event area (SEA) endorsements. The request is to allow for expanded food service. A Letter of Intent has been provided by the applicant (Attachment B).

In 2016, the winery made application to add a Lounge and Special Event Area (SEA) as part of the proposed winery expansion, which resulted in resistance from the neighbouring properties due to nuisance issues related to Special Events the previous year. As a result the operation of the SEA was limited as well as hours of operation for the exterior patio lounge.

The winery is currently permitted to operate service hours as:

- Special Event Area – 10:00am to 10:00pm – Monday to Sunday,
- Lounge (Interior) – 10:00am to 10:00pm – Monday to Sunday
- Lounge (Exterior) patio – 10:00am to 7:00pm – Monday to Sunday – no amplified music
- No Special Event Licenses permitted

The proposed request is to extend the hours of the exterior lounge use to 10:00pm with liquor service to end at 9:00pm.

Financial implication

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

Analysis

Application notification has been forwarded to the Liquor Licensing Technical Review Committee (LLTRC) for their comments. Committee members met on February 20th to discuss concerns brought forward by members regarding potential noise from the exterior patio and traffic flow. Issues related to unpermitted renovations that were identified by staff were also reviewed.

Noise: As noted by the applicant's Letter of Intent, staff can confirm no noise complaints on record since the original licence approval. In 2016 and 2017 the winery had staff approved requests to temporary change to the hours of service (later hours) for a limited number of events. There are also no noise complaints related to those events.

Life Safety (Building Code): staff discovered that recent changes to the building have occurred with the partial enclosure of an existing deck for a commercial kitchen operation. The winery has made permit application and confirmed in writing that they will work with the building and fire department to complete any on-site works.

Traffic: At this time there appears to be no issues with winery traffic flows and noise. The LLTRC supports the application to move to public consultation but it is suggested that continued monitoring of the winery traffic flows as well as further proposed residential development be considered within the Official Community Plan (OCP) and further Zoning amendments.

Public Consultation

As per the Liquor Licensing Act, staff will also be seeking comments from adjacent property and business owners. The winery public consultations will be 500m from the property boundaries of the winery. Any public comments as a result of the public notice process will be compiled and reviewed with the applicant prior to final recommendation to Council. Staff proposes to bring forward final recommendation with public and LLTRC comments to the April 17, 2018 Council meeting, as per the City of Penticton Liquor Licensing Policy.

Alternate recommendations

1. THAT Council denies support of the Bench 1775 Winery application for a Permanent Change to their Liquor Licence
2. Refer the Bench 1775 Winery Liquor Application back to staff for further review.

Attachments

Attachment A – Location – Public Consultation map
Attachment B – Letter of Intent

Respectfully submitted,

Ken Kunka
Building and Permitting Manager

Director of Development Services	Chief Administrative Officer
AH	PW

Attachment A
Location and Public Consultation Map



500m Radius



Attachment B
Letter of Intent

Bench 1775

Letter of Intent of extensions of liquor service hours and structural change application

Dear Mr. Kunka,

Proposed changes

Bench 1775 Winery would like to apply for a permanent change to a liquor licence on our lounge patio area.

Reason of the change

The reason for this change is that we wish to offer dinner service next summer and our current licence only allows us liquor service until 7pm. Last summer we had a lot of requests and we would like to offer this to our customers. We would like to extend those hours to 10pm but the last order would be at 9pm. No reservation or walk-in would be taking after 8:30pm. We guarantee that the food primary license will not be used to operate as a bar or nightclub. That food service to accompany wine service will be necessary component of the services offered for dining between 7pm and 10pm.

Community Impact Statement

We did not had any complains that we are aware of for noise or any other reasons for the past 2 years since we applied for a lounge area endorsement. The parking lot is very large and can easily accommodate all traffic at the winery. Outdoor lighting is already being in place for the past 5 years and no negative impact that we are aware of was noticed from our neighbours.

Letter of undertaking to enter into "Good Neighbour Agreement"

The owner on behalf of the organization, its staff and all agents and invitees of the owner, undertake to comply with the City's Good Neighbour Bylaw, and invite the city to propose the terms of a Good Neighbour Agreement for the owner's consideration.

Sincerely,

Karine Sylvestre
Hospitality Manager

Council Report

penticton.ca

Date: March 20, 2018 File No: Civic
To: Peter Weeber, Chief Administrative Officer
From: Ken Kunka, Building and Permitting Manager
Re: **Winery Lounge Endorsement, Application for Structural Change**
Moraine Estate Winery

Staff Recommendation

THAT Council direct staff to commence public notification of the proposed Structural Change and Winery Lounge Endorsement for Moraine Estate Winery;

AND THAT staff report back to Council at their regular meeting on April 17, 2018 with the results of the public consultation for Council's consideration.

Strategic priority objective

NA

Background

The City has received an application from Moraine Estate Winery (304752 BC Ltd) located at 1865 Naramata Road (Site Location - Attachment A). They are expanding their operations by replacing an existing tasting room and patio building with a 975 sq.m (10, 500 sq.ft) facility consisting of a new manufacturing facility, retail, tasting area (Structural change), exterior patio lounge (Lounge Endorsement), and a residence. Permits have been issued to Designed by Landform Architecture Limited and the project is currently under construction. Floor plans have been provided as Attachment B.

The winery will be expanding its interior occupant load (retail and private tasting) from 30 persons to 83 (Lower 32 persons, Upper 51 persons) and adding a new exterior occupant load (Lower 28 persons, Upper 48 persons)

The applicant considers that there will be no negative impact to the surrounding community. Landform Architecture Limited has provided a project outline and community impact statement (Attachment C)

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

Analysis
Application notification has been forwarded to the Liquor Licensing Technical Review Committee (LLTRC) for their comments. Committee members met on February 20th to discuss concerns brought forward by members regarding potential noise from the exterior patio and traffic flow.

- Noise: It was considered that the position of the patio in relation to the design of the building would not create adverse noise levels to the surrounding properties but it is recommended that hours of service do not exceed 11:00pm with no amplified music be permitted as other recent winery lounge endorsements in the Naramata Bench.

- Traffic: At this time there appears to be no issues with winery traffic flows. The LLTRC supports the application to move to public consultation but it is suggested that continued monitoring of the winery traffic flows as well as further proposed residential development be considered within the Official Community Plan (OCP) and further Zoning amendments.

Public Consultation

As per the Liquor Licensing Act, staff will also be seeking comments from adjacent property and business owners. The winery public consultations will be 500m from the property boundaries of the winery. Any public comments as a result of the public notice process will be compiled and reviewed with the applicant prior to final recommendation to Council. Staff proposes to bring forward final recommendation with public and LLTRC comments to the April 17, 2018 Council meeting, as per the City of Penticton Liquor Licensing Policy.

Alternate recommendations

1. THAT Council denies support of the Moraine Winery Structural change and Lounge application.
2. Refer back to staff for further review.

Attachments

Attachment A – Location – Public Consultation map
Attachment B – Site and Floor Plans
Attachment C – Project Description and Community Impact

Respectfully submitted,

Ken Kunka
Building and Permitting Manager

Director of Development Services	Chief Administrative Officer
AH	PW

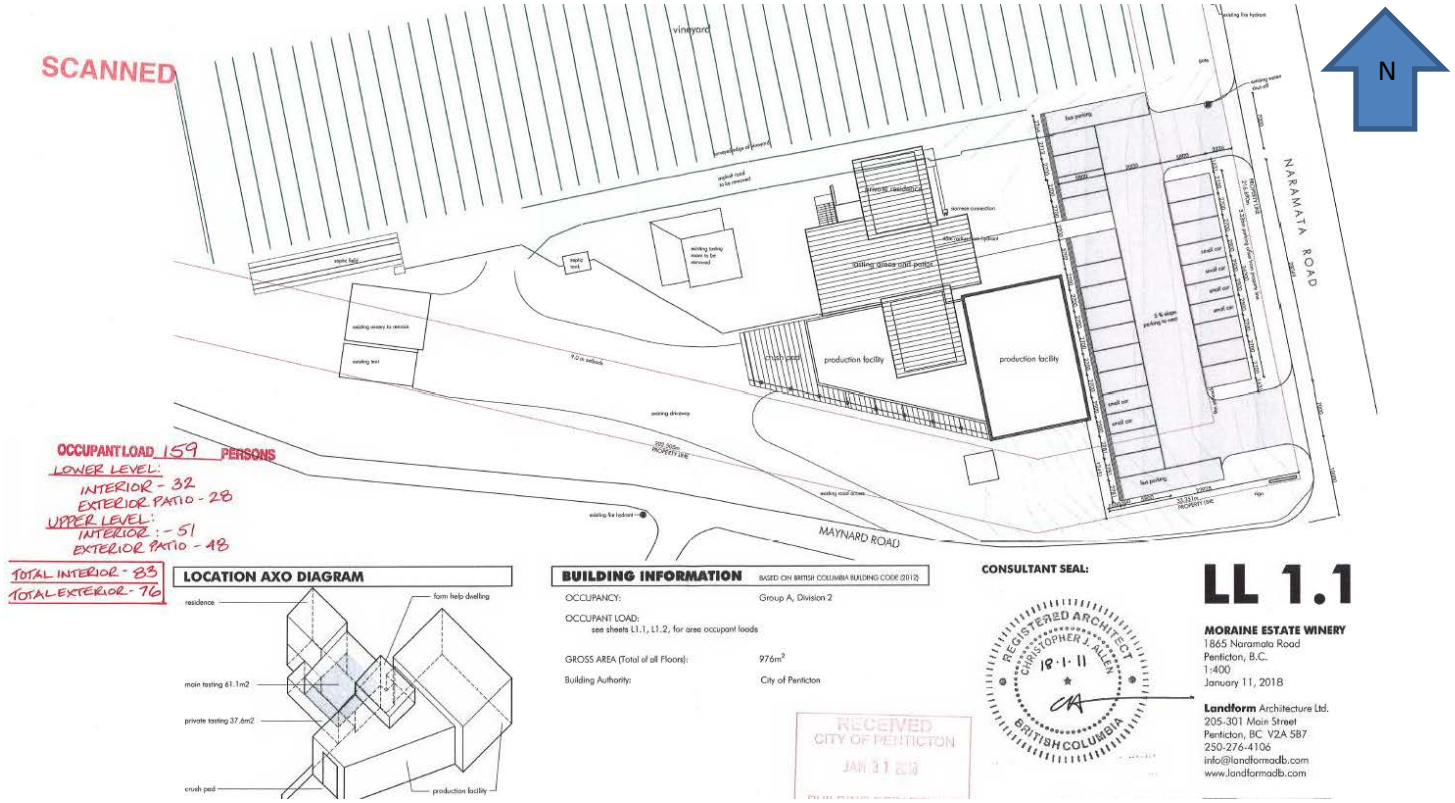
Attachment A
Location and Public Consultation Map



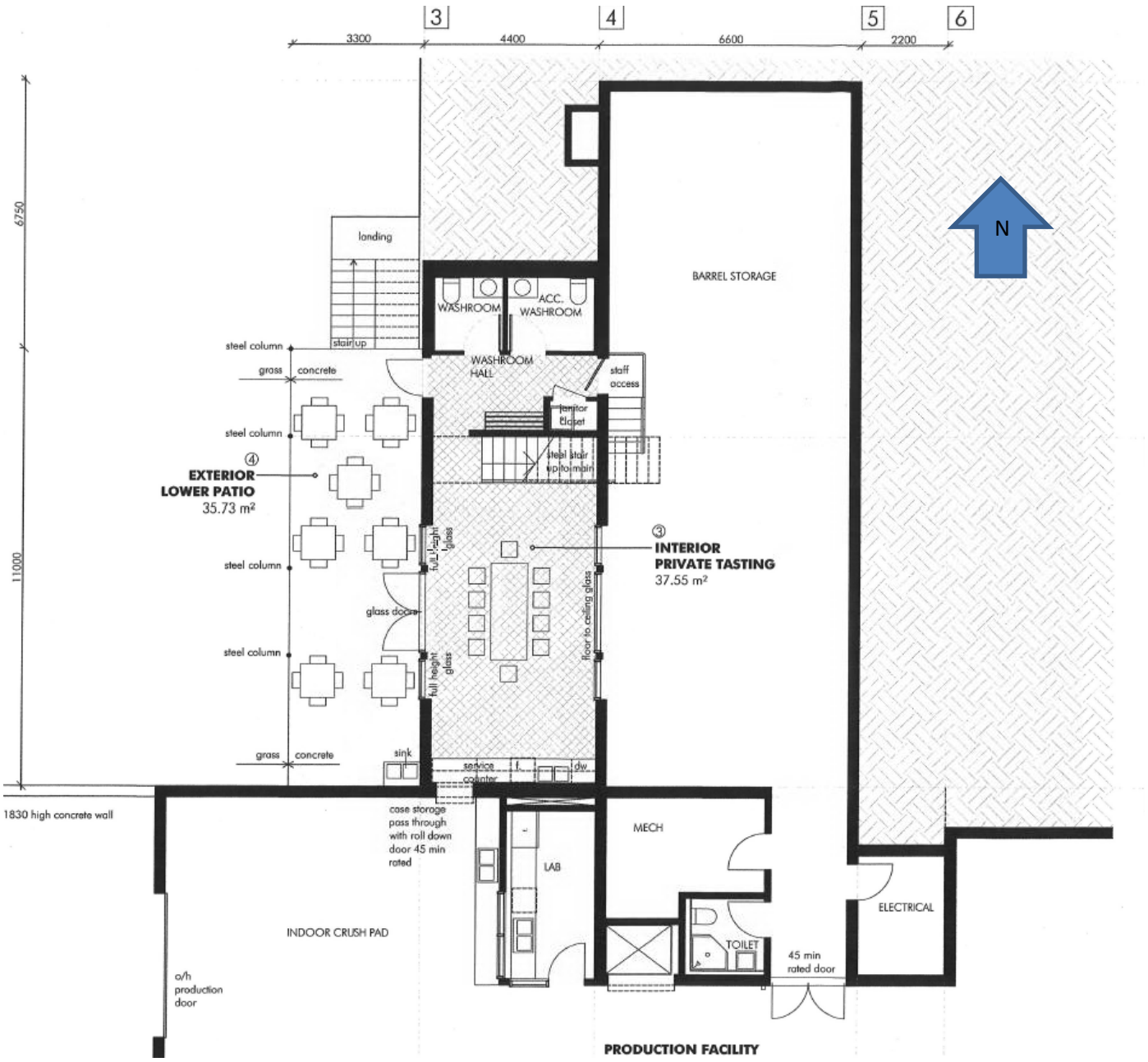


500m Radius

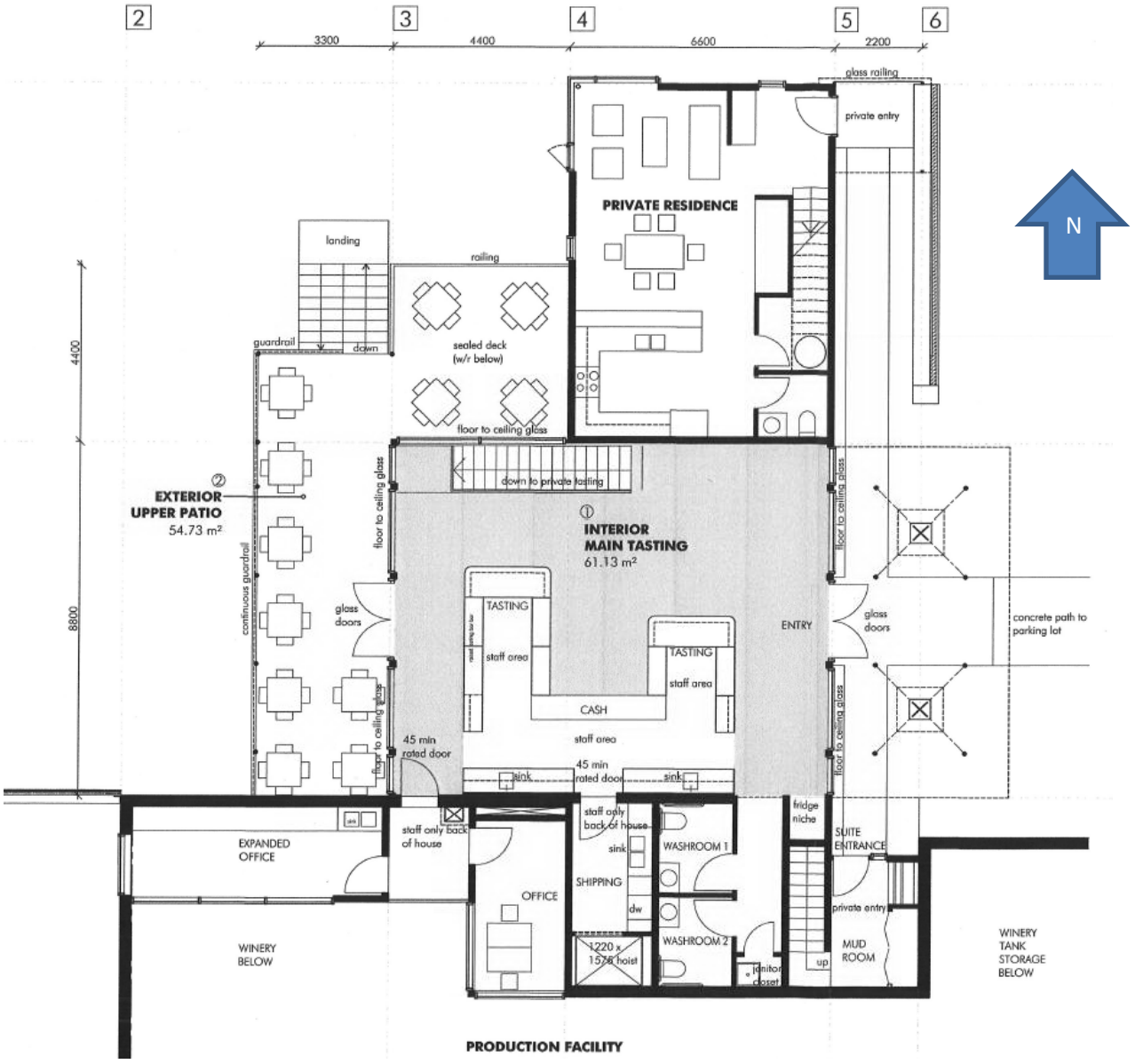
Attachment B
Site Plan



Lower Tasting and Lounge Area



Upper Tasting, Lounge Area and Residence



Attachment C
Project Description & Community Impact Statement

Landform Architecture Ltd.

Chris Allen, Architect AIBC

205-301 Main Street
Penticton, BC V2A 5B7
CANADA
t: 250-276-4106
f: 250-276-4161

info@landformadb.com
www.landformadb.com

Project Description

January 31, 2018

Moraine Estate Winery
1865 Naramata Road
Description of Proposed Establishment

The new building for Moraine Estate Winery will include a 2 level tasting room, with associated patio and garden spaces which require a Lounge Endorsement.

The building is a replacement for a single family home, the existing tasting room and patio, located in a converted picker shack, and the winemaking facility, in an adjacent Quonsett hut. The new building will be 975 m^2 total, and incorporate a wine manufacturing facility, barrel storage, public and private tasting rooms with patio, one residence, and a farm help dwelling. Additionally there will be improvements to site access, and a redesigned parking lot with more stalls, dedicated bus parking, and accessible entry to the building.

Public access to the building is through the main tasting room, with all entry and exit monitored from a large tasting bar, with clear sight lines to the parking lot and Naramata Road. A private tasting room is located on the lower barrel room level. Both tasting rooms open onto outdoor patios, with the upper patio on a balcony defined by guardrails, and the lower level patio opening into a garden space defined by the vineyard to the north, and production areas to the south and west. Both outdoor lounge spaces are on the lake side, well separated from Naramata Road and the public access point.

The visitor experience will begin with an easy, safe turn from Naramata Road into a generous, separated level parking area. An east-facing porch clearly indicates public entry to the building. The lake view is revealed upon entry into the tasting room, through large floor to ceiling windows facing west, and patrons are able to move out onto the balcony lounge space to enjoy the view and privacy of the lake side of the building. This keeps patrons in a well-contained space, naturally separated from the street and neighbours.

Landform Architecture Ltd.

Chris Allen, Architect AIBC

205-301 Main Street
Penticton, BC V2A 5B7
CANADA
t: 250-276-4106
f: 250-276-4161

info@landformadb.com
www.landformadb.com

Community Impact

January 31, 2018

Moraine Estate Winery
1865 Naramata Road
Community Impact Statement

The new Moraine Estate Winery at 1865 Naramata Road will be replacing an existing tasting room and production facility. With an increase in size and production capacity, it is anticipated that there will be increased number of visits. A number of steps have been taken to mitigate potential community impacts:

- Access from Naramata Road has been moved north as per City of Penticton regulations to increase the separation from Maynard Road. This also places entry points on a "straight stretch" of Naramata Road, with clear visibility in both directions
- A complete separation between public and commercial traffic routes has been established, with service access from Maynard Road.
- Location of the public spaces is unchanged from the previous tasting room, with the primary exposure to the North West. The building and landscaping clearly limits the public occupancy and noise to a contained area to the west of the building, well screened from the road and neighbours.
- Enhanced landscaping and a separated parking area off Naramata Road minimize the visibility of the building and parking area to neighbours.
- Production area and crush pad are oriented away from Naramata road and neighbouring properties to the east. This will better contain noise and light during production season.
- Increased staffing for the larger facility and the provision of workers' housing on site builds the local economy and addresses the current housing shortage.
- Increased security on the property and neighbouring properties beyond typical operating hours through an "eyes on the street" strategy from the attached residence and farm help dwelling.

In summary, the new building is larger than the scattered buildings it replaces, but the perceived size is minimized by digging the building into the hillside, and the parking, public access, and contained indoor and outdoor lounge areas are far better screened from neighbours than the previous layout.

Council Report

penticton.ca

Date: March 20, 2018 File No:
To: Peter Weeber, Chief Administrative Officer
From: Mitch Moroziuk, General Manager of Infrastructure
Subject: **Penticton to Kelowna Transit**

Recommendation:

THAT Council select one of the following two alternatives:

Alternative 1

THAT Council support the RDOS in moving forward with an inter-regional Transit connection between Penticton and Kelowna as outlined in this report dated March 20, 2018.

Alternative 2

THAT Council not support the RDOS in moving forward with an inter-regional connection between Penticton and Kelowna.

Strategic priority objective

This project supports the Community Building Priorities of: Ensuring City services are customer focused, sustainable, effective and relevant; and Establishing a long term active transportation strategy.

Background

In April of 2015 the Regional District of Okanagan Similkameen, RDOS, and BC Transit completed the Transit Future Plan. The project included one of the most extensive engagement strategies conducted for any Transit Future Plan in BC. In total 2200 people participated in the engagement exercise spread across 32 events encompassing 94 hours of consultation. One of the top three themes to emerge from the engagement process was inter-regional connections to Kelowna.

The Transit Future Plan identified some 70 service priorities. Two of the service priorities were related to an inter-regional connection between Penticton to West Kelowna:

17 Penticton West Kelowna: Add two round trips per day, Monday to Friday at commuter hours.
18 Penticton West Kelowna: Add three additional midday round trips Monday, Wednesday and Friday.

The City of Penticton has included these initiatives in the five year transit budget for 2017 – 2021 and 2018 – 2022.

BC Transit, the RDOS, the City of Penticton, Summerland, Oliver, Osoyoos, Peachland and West Kelowna have had discussions about commencing the service in the near future. The total cost to electoral areas and member municipalities is $156,688. In order to move forward with implementation by September 2019, BC Transit has laid out a series of steps within a non-binding Service Plan Development Memorandum of Understanding, MOU. The MOU will confirm the RDOS' willingness to proceed towards the establishment of a Regional Transit Service Bylaw including undertaking an Elector Approval through an Alternative Approval Process. The MOU also sets out the governance structure that would see the RDOS as the primary government partner with BC Transit.

The steps in the process include:

- Obtain the support of the RDOS member municipalities;
- Consideration by the RDOS Board;
- Electoral approval to create the service; and
- Establish contribution agreements with non RDOS municipalities.

Cost allocations have been developed for each electoral area and member municipality, see Table 1. The basis for the allocation is the value of assessment of land and improvements. The amount of requisition would range from $1,700 to $64,730 for member municipalities and from $1,103 to $13,869 for electoral areas. The average cost per household would range from $1.33 to $4.11 per household, with an average household cost of $2.78 per year.

In the event that the non RDOS municipalities of Peachland and West Kelowna wish to participate the value of their contribution will be removed from the calculation and the amount each electoral area and member municipality contributes will be less. In the event that electoral area and member municipalities forego participation, the allocated costs will increase.

Municipality/Electoral Area	Requisition	%	Average per Household
Penticton	$64,730	41.31%	$3.00
Summerland	$21,433	13.68%	$3.49
Keremeos	$1,700	1.08%	$1.60
Oliver	$7,419	4.73%	$2.33
Osoyoos	$13,080	8.35%	$2.49
Princeton	$4,559	2.91%	$1.33
Electoral Area A	$4,532	2.89%	$3.04
Electoral Area B	$1,103	0.70%	$1.56
Electoral Area C	$5,914	3.77%	$2.26
Electoral Area D	$13,869	8.85%	$2.96
Electoral Area E	$6,276	4.01%	$4.11
Electoral Area F	$3,931	2.51%	$3.97
Electoral Area G	$2,207	1.41%	$1.34
Electoral Area H	$5,934	3.79%	$1.82
Total RDOS Contribution	**$156,688**	**100.00%**	**$2.78**

Table 1 – Funding Allocation

Financial implication

The financial impact to the City will be in the range of $64,730 per year. The exact amount will change once the position of Peachland, West Kelowna, the electoral areas and member municipalities is known for certain. Table 2 shows the amounts contained in the 2018 to 2022 Five Year Budget for inter-regional Transit Penticton to West Kelowna.

Item	2018	2019	2020	2021	2022
Expenses Penticton to Kelowna		$163,436	$166,705	$222,314	$217,580
Revenue Penticton to Kelowna		$21,425	$21,425	$28,567	$28,567
Net		$142,011	$145,280	$193,747	$189,013

Table 2 – 2018 to 2022 Five Year Transit Budget Inter-Regional Transit

Analysis

Staff have prepared two alternatives for Council's consideration, see Page 1 Recommendation.

The first alternative would see Council supporting the RDOS in moving forward with one of the top themes from the 2015 Transit Future Plan for the Okanagan – Similkameen to create an inter-regional transit connection between Penticton and Kelowna. Inter-regional transit has been included in the last two City of Penticton Five Year Budgets.

The second alternative would see Council maintaining the status quo and not supporting an inter-regional connection between Penticton and West Kelowna.

Alternate recommendations

Council has been provided with two alternative recommendations to consider on page 1 of this report.

Respectfully submitted,

Mitch Moroziuk P.Eng. MBA
General Manager of Infrastructure

CFO	CAO
LWB	PW

The Corporation of the City of Penticton

Bylaw No. 2018-07

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. 2018-07".

2. **Amendment:**

2.1 Amend "Fees and Charges Bylaw No. 2014-07" by adding the following appendix in its entirety:

- Appendix 31 – Storm Water Utility

2.2 Appendix 31 attached hereto forms part of this bylaw.

READ A FIRST time this	6	day of	March, 2018
READ A SECOND time this	6	day of	March, 2018
READ A THIRD time this	6	day of	March, 2018
ADOPTED this		day of	, 2018

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

Appendix 31

STORM WATER UTILITY	Unit	2018
Storm Water NO Direct Connect Fees		
Notes:		
The different categories of Storm Water Utility Rates are based on the Property Tax Classification.		
The following rates apply to properties that are NOT directly connected to the Storm Water System.		
In cases where a property has multiple Property Tax Classifications the City will determine the Property Tax Classification that best represents the property and charge for Storm Water according to that Property Tax Classification.		
Residential		
Single Family Dwellings	$/year per folio	$10.00
Multi Family Apartment Buildings with 4 or less units	$/year per folio	$16.00
Multi Family Apartment Buildings with more than 4 units	$/year per unit	$5.30
Multi Family Dwellings [strata]	$/year per strata	$5.30
Farm/Recreational/Non Profit/Supportive Housing		
No Direct Connection to the Storm Sewer	$/year per folio	$10.00
Business/Light Industry/Major Industry/Utilities		
No direct connection, with gross assessment value:		
Below $300,000	$/year per folio	$20.30
Between $300,001 and $800,000	$/year per folio	$30.40
Above $800,000	$/year per folio	$45.60
Storm Water Direct Connect Fees		
Notes:		
The different categories of Storm Water Utility Rates are based on the Property Tax Classification.		
The following rates apply to properties that ARE directly connected to the Storm Water System.		
In cases where a property has multiple Property Tax Classifications the City will determine the Property Tax Classification that best represents the property and charge for Storm Water according to that Property Tax Classification.		
Residential		
Single Family Dwellings	$/year per folio	$13.00
Multi Family Apartment Buildings with 4 or less units	$/year per folio	$20.80
Multi Family Apartment Buildings with more than 4 units	$/year per unit	$6.90
Multi Family Dwellings [strata]	$/year per strata	$6.90
Farm/Recreational/Non Profit/Supportive Housing		
Direct Connection to the Storm Sewer	$/year per folio	$13.00
Business/Light Industry/Major Industry/Utilities		
Direct connection, with gross assessment value:		
Below $300,000	$/year per folio	$26.40
Between $300,001 and $800,000	$/year per folio	$39.60
Above $800,000	$/year per folio	$59.30

The Corporation of the City of Penticton

Bylaw No. 2018-13

A Bylaw to Amend Zoning Bylaw 2017-08

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 2017-08;

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. 2018-13".

2. **Amendment:**

2.1 Zoning Bylaw 2017-08 is hereby amended as follows:

Rezone That Part of Lot A, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan AP91728 as shown on Schedule 'A' of this bylaw from P1 (Public Assembly) to C3 (Mixed Use Commercial) and C7 (Service Commercial).

2.2 Zoning Bylaw 2017-08 is hereby amended by adding the following site specific provisions to section 11.3.4:

.2 In the case of the following lands, "public parking" and "storage and warehousing" shall be permitted uses:

- Lot 6, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 745, Except Plans 3134 and DD 1573D (705 Wade Avenue W);
- That Portion of Closed Road in District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Shown on Plan B7684, Lying Adjacent to Lot 5, Plan 745 (701 Wade Avenue W);
- That Part of Lot 5, Lying South of Kettle Valley Railway Company Right of Way (AFB VOL FOL 111 No 1573D), Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 745 (669 Wade Avenue W);
- That Part Lot 4, Lying South of Kettle Valley Railway Company Right of Way (AFB VOL FOL 111 No 1573D), Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 745 (667 Wade Avenue W);
- That Part of "Lot A, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District Plan KAP91728 (330 Power Street) that is zoned C3 and as identified on Schedule 'B' of this bylaw.

2.3 Zoning Bylaw 2017-08 is hereby amended by adding the following site specific provisions to section 11.7.4:

.4 In the case of the following lands, "public parking" and "storage and warehousing" shall be permitted uses:

- That Part Lot 3, Lying South of Kettle Valley Railway Company Right of Way (AFB VOL FOL 111 No 1573D), Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 745 (645 Wade Avenue W);
- That Part of "Lot A, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District Plan KAP91728 (330 Power Street) that is zoned C7 and as identified on Schedule 'B' of this bylaw.

2.4 Schedule 'A' and Schedule 'B' attached hereto forms part of this bylaw.

READ A FIRST time this	20	day of	February, 2018
A PUBLIC HEARING was held this	6	day of	March, 2018
READ A SECOND time this	6	day of	March, 2018
READ A THIRD time this	6	day of	March, 2018
RECEIVED the approval of the Ministry of Transportation on the	8	day of	March, 2018
ADOPTED this		day of	, 2018

Notice of intention to proceed with this bylaw was published on the 23 day of February, 2018 and the 28 day of February, 2018 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

Approved pursuant to section 52(3)(a) of the *Transportation Act*
this 8th day of March, 2018

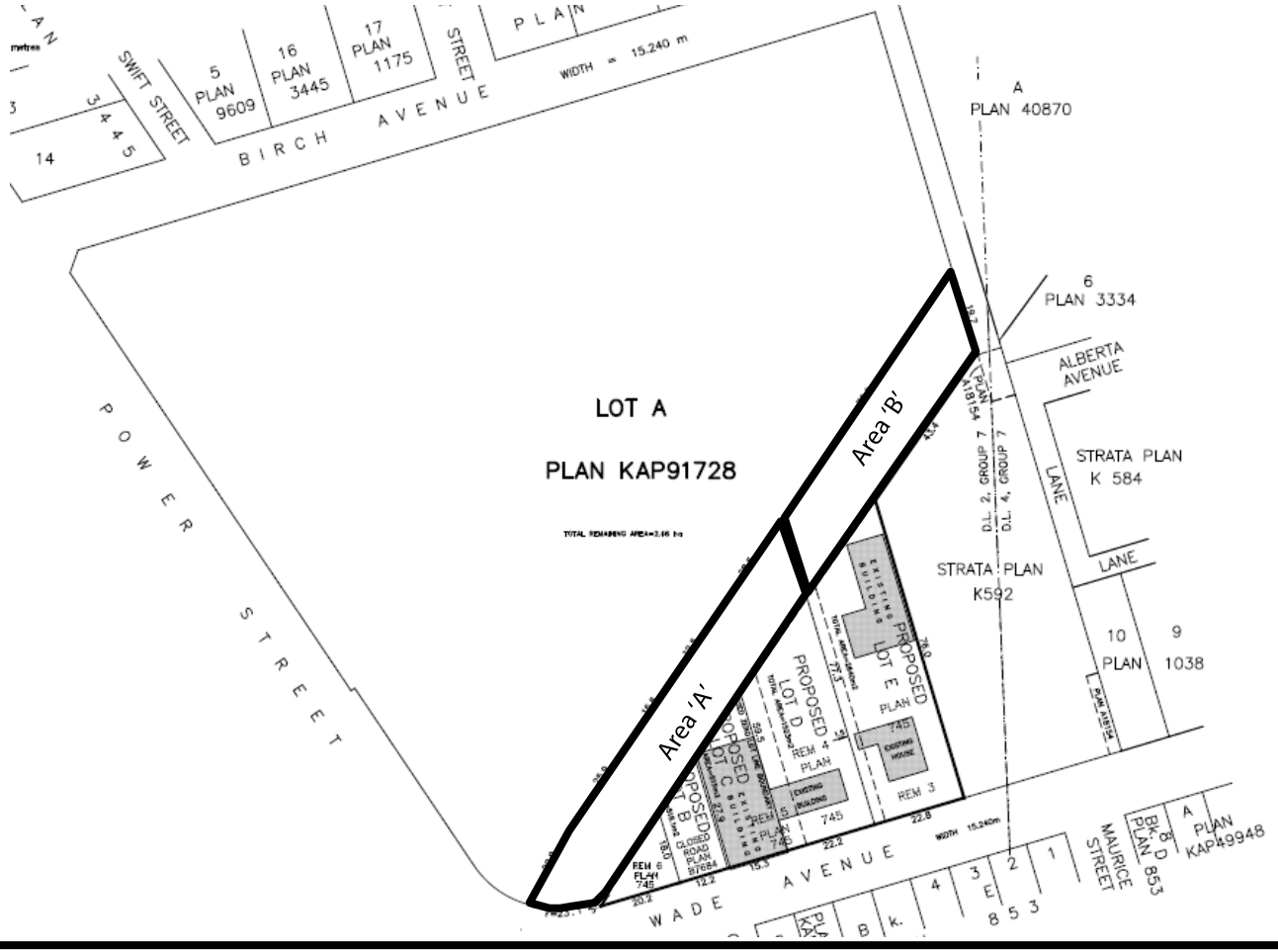
for Minister of Transportation & Infrastructure

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

Rezone a portion of 330 Power Street (Area 'A'): From P1 (Public Assembly) to C3 (Mixed Use Commercial)

Rezone a portion of 330 Power Street (Area 'B'): From P1 (Public Assembly) to C7 (Service Commercial)



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2018-13

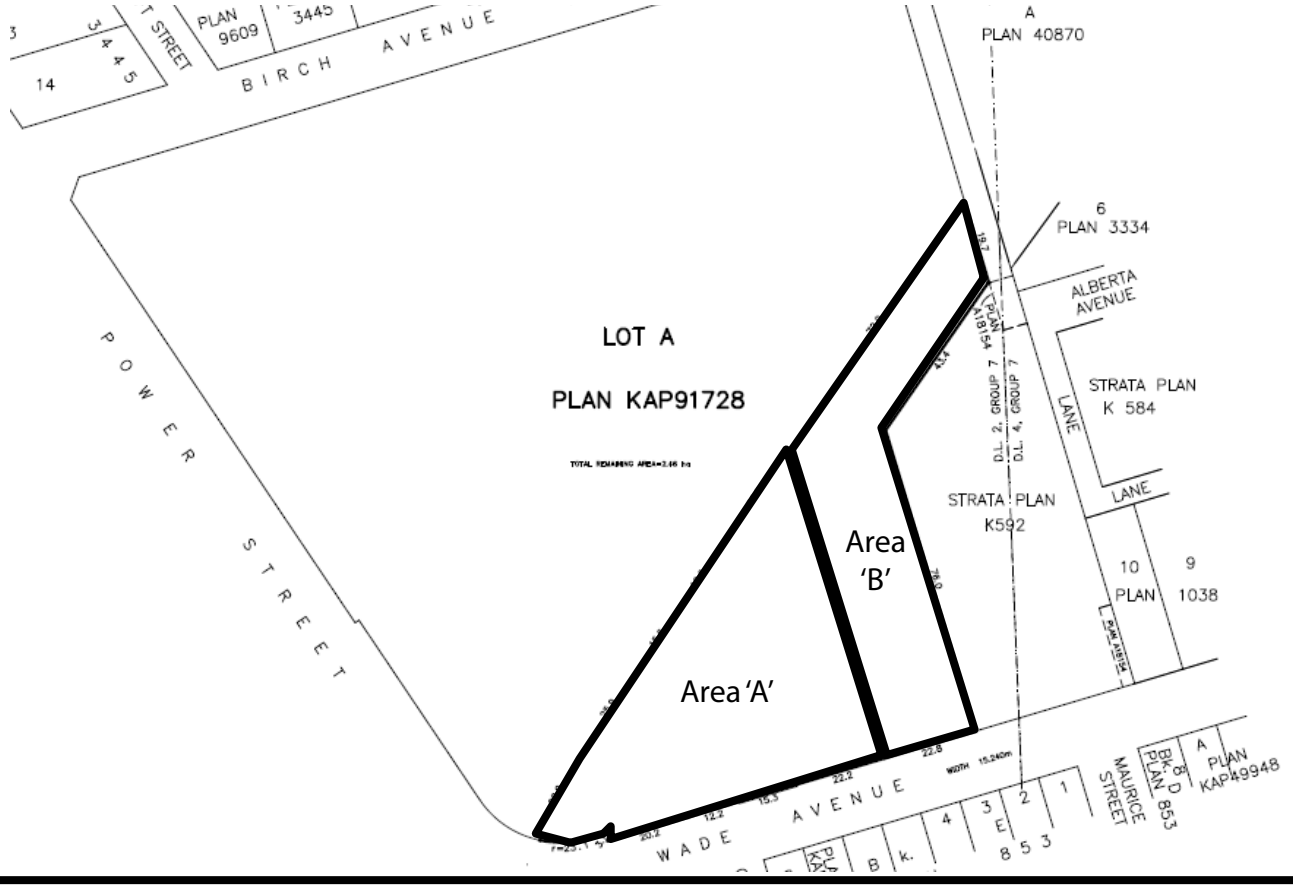
Date: _____ **Corporate Officer:** _____

C3 (Mixed Use Commercial)

Add "public parking" and "storage and warehousing" as permitted uses to a portion of 330 Power Street and 705, 701, 669, 667 Wade Ave W (Area 'A')

C7 (Service Commercial)

Add "public parking" and "storage and warehousing" as permitted uses to a portion of 330 Power Street and 645 Wade Ave W (Area 'B')



City of Penticton – Schedule 'B'

Zoning Amendment Bylaw No. 2018-13

Date: _____ **Corporate Officer:** _____

The Corporation of the City of Penticton

Bylaw No. 2018-14

A Bylaw to Amend Zoning Bylaw 2017-08

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 2017-08;

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. 2018-14".

2. **Amendment:**

2.1 Zoning Bylaw 2017-08 is hereby amended as follows:

Rezone Lot 101A, District Lot 116, Similkameen Division Yale District, Plan 333, Except Plan 24855, located at 274 Kinney Avenue from R2 (Small Lot Residential) to RM2 (Low Density Multiple Housing).

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

READ A FIRST time this	6	day of	March, 2018
A PUBLIC HEARING was held this	20	day of	March, 2018
READ A SECOND time this		day of	, 2018
READ A THIRD time this		day of	, 2018
RECEIVED the approval of the Ministry of Transportation on the		day of	, 2018
ADOPTED this		day of	, 2018

Notice of intention to proceed with this bylaw was published on the 9 day of March, 2018 and the 14 day of March, 2018 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

Approved pursuant to section 52(3)(a) of the *Transportation Act*
this _____ day of _____, 2018

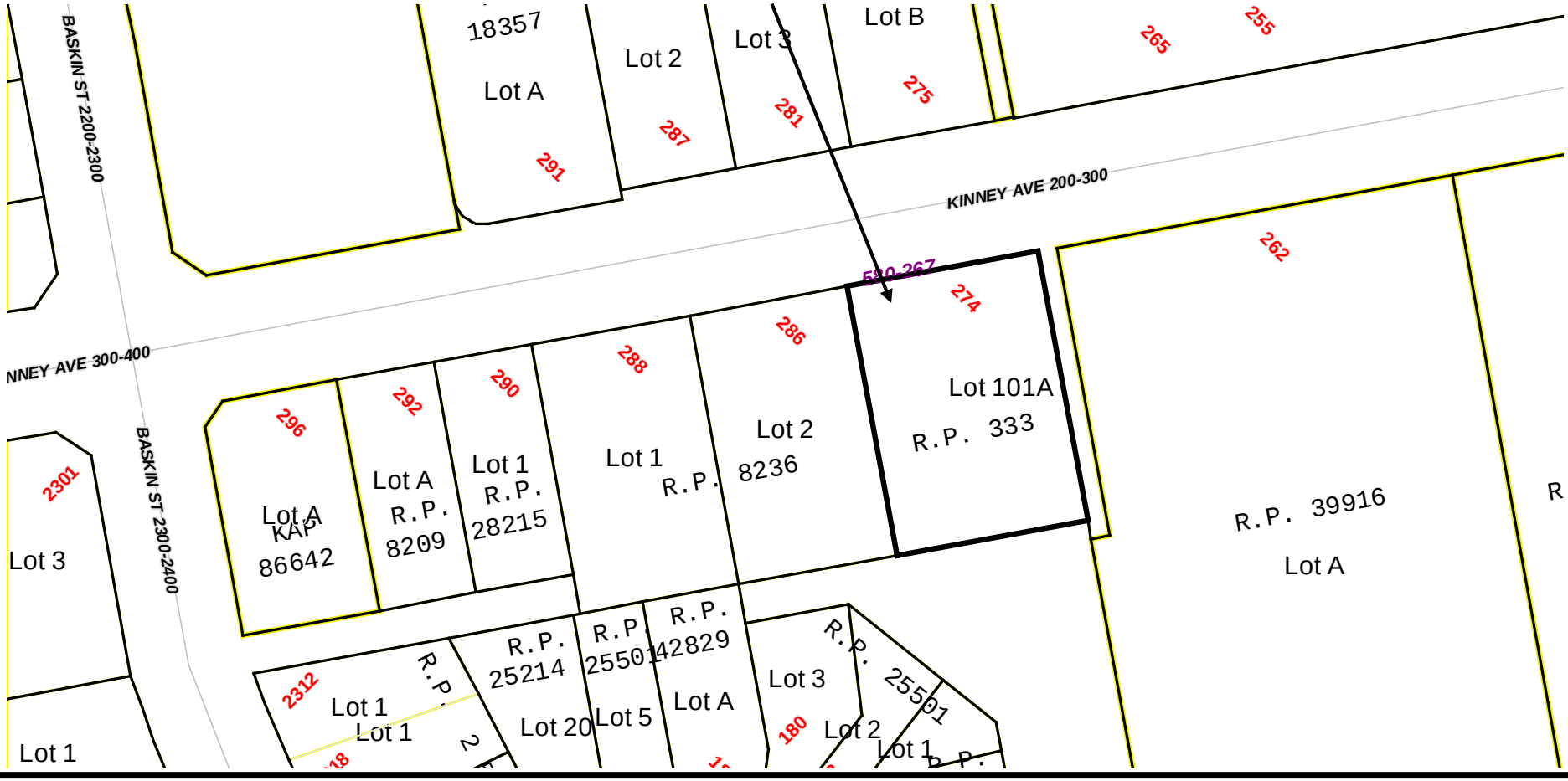
_____
for Minister of Transportation & Infrastructure

_____
Andrew Jakubeit, Mayor

_____
Dana Schmidt, Corporate Officer

274 Kinney Avenue

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



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2018-14

Date: _____ **Corporate Officer:** _____

Council Report

penticton.ca

Date: March 20, 2018 File No: 2018 PRJ-025
To: Peter Weeber, Chief Administrative Officer
From: Randy Houle, Planner I
Address: 4045 Lakeside Road

Subject: **Development Variance Permit PL2018-8165**

Staff Recommendation

THAT Council approve "Development Variance Permit PL2018-8165" for Lot 25 Block 209 District Lot 190 Similkameen Division Yale District Plan 466, located at 4045 Lakeside Road, a permit to decrease the minimum front yard from 6.0m to 3.0m and to decrease the minimum interior yards from 1.5m to 1.2m;

AND THAT staff be directed to issue "Development Variance Permit PL2018-8165."

Background

The subject property (Attachment A) is zoned R1 (Large Lot Residential) and designated by the City's Official Community Plan as LR (Low Density Residential). Photos of the site are included as Attachment D. The subject property is approximately 247.0m^2 (2,658ft^2) in area. The subject property and surrounding lots were subdivided in the early 1900's and have sat vacant since then. Proposals for development are beginning to come forward because of the current real estate market and desire to live along the lakefront. With the topographical challenges of these lots such as steepness and narrowness, it is anticipated that Council will see many front yard, side yard and retaining wall height variance applications in the future. The subject property is located in a neighbourhood primarily zoned R1 (Large Lot Residential), R2 (Small Lot Residential) and designated by the OCP as LR (Low Density Residential).

Proposal

The applicant is proposing to construct a single family dwelling on the subject property. The dwelling will be 4 storeys with a garage and den on the main level, living space on the second floor and bedrooms and rec room on the bottom two floors. The floor space will be approximately 2500ft^2. To construct the dwelling as proposed, the applicant is requesting a Development Variance Permit to vary the following sections of Zoning Bylaw No. 2017-08:

- Section 10.1.2.5: to decrease the minimum front yard from 6.0m to 3.0m.
- Section 10.1.2.6.i: to decrease the minimum interior yards from 1.5m to 1.2m.

Financial implication

N/A

Technical Review

This application was forwarded to the City's Technical Planning Committee (TPC) and reviewed by the Engineering and Public Works Departments. Servicing requirements, storm water management and building code requirements have been identified and will be addressed as part of the building permit process. If the requests for the variances are supported, BC Building Code and City bylaw provisions, such as height restrictions, will apply.

Development Statistics

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

Item	Requirement R1 zone	Proposed
Maximum Lot Coverage:	40%	37.1%
Minimum Lot Width:	16.0m	9.134m*
Minimum Lot Area:	560m^2	247.67m^2*
Vehicle Parking:	2 spaces per dwelling unit	2 spaces
Required Setbacks		
Front yard (east, Lakeside Road):	6.0m	3.0m (variance required)
Rear yard (west):	6.0m	9.76m
Interior yard (north):	1.5m	1.2m (variance required)
Interior yard (south):	1.5m	1.2m (variance required)
Maximum Height	10.5m	10.449m (see below)
Other Information:	- The subject property is located within the Riparian Assessment Area Development Permit Area, thus a development permit will be required prior to issuance of a building permit. - Although it may appear that the building is over height, the definition of *Grade, Approved* in the Zoning Bylaw states that for determination of building heights, approved grade shall mean the average level across the lowest side of the building, except that localized depressions such as for vehicle or pedestrian entrances need not be considered in the determination of average levels of grade. In this case, there is a patio door on the lowest elevation that is not counted in building height (Figure 10). - **The minimum parcel standards (in terms of width and area) only apply when a new parcel is being created, not through development of an existing parcel.*	

Analysis

Development Variance Permit

Support Variance

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

Section 10.1.2.5: to decrease the minimum front yard from 6.0m to 3.0m.

- The minimum required setback from the east property line (Lakeside Road) is 6.0m. The applicant is proposing to reduce this to 3.0m. The garage and entry way sits at 4.5m from the property line, with the upper floor projecting an additional 1.5m towards the street. The boulevard width along this property is approximately 5.0m wide, meaning that the upper floor project will sit an adequate distance of 8.0m from the road. It is anticipated that as these properties continue to develop, a front yard variance request will become the norm. The riparian setback and sewer easement at the rear of the property limits the available development space on a lot which is reasoning for support of the variance.

Section 10.1.2.6.i: to decrease the minimum interior yards from 1.5m to 1.2m.

- The applicant is proposing a variance to both interior side yards from 1.5m to 1.2m. Due to the narrowness of the lot, an interior yard variance is required to construct a sizeable house. The final elevations will have limited openings due to the proximity to the property line and the requirement to address spatial separation concerns. This will help to reduce privacy concerns for the neighbouring properties. Council has approved interior yard variances from 1.5m to 0.9m on two of the neighbouring lots (4047 and 4039 Lakeside Road). For the reasons listed above, it is reasonable to the support the variance.

Deny/Refer Variance

Council may consider that the proposed variance will negatively affect the neighborhood and that a smaller dwelling should be proposed within the required setbacks. If this is the case, Council should deny the variance.

Alternate Recommendations

1. THAT Council support DVP PL2018-8165 with conditions.
2. THAT DVP PL2018-8165 be referred back to staff.

Attachments

Attachment A: Subject Property Location Map
Attachment B: Zoning Map
Attachment C: OCP Map

Attachment D: Photos of Subject Property
Attachment E: Site Plan
Attachment F: Elevations
Attachment G: Floor Plans
Attachment H: Letter of Intent
Attachment I: Development Variance Permit PL2018-8165

Respectfully submitted,

Randy Houle
Planner I

Approvals

DDS	CAO
AH	PW

Attachment A – Subject Property Location Map

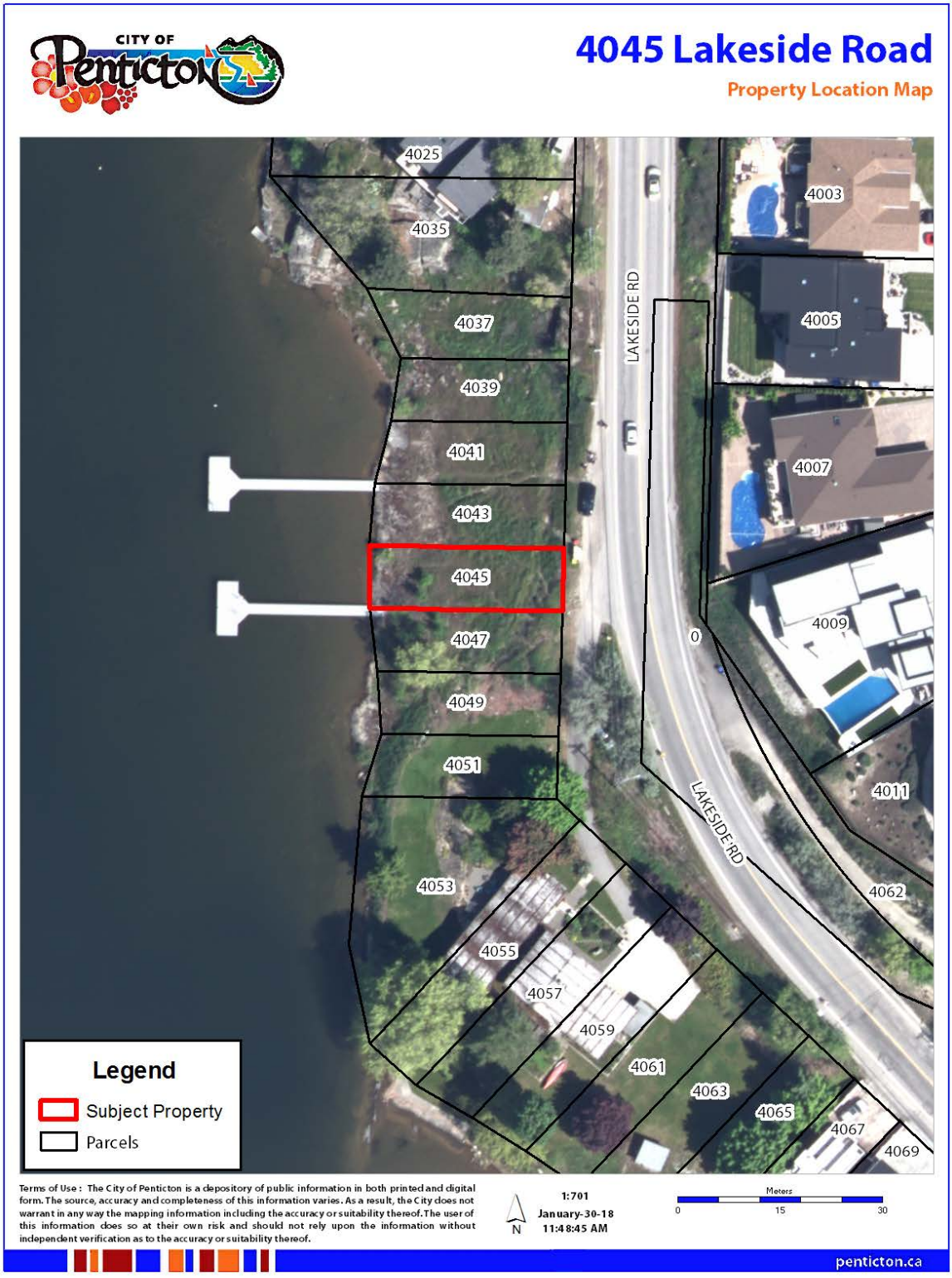


Figure 1: Subject Property Location Map

Attachment B – Zoning Map

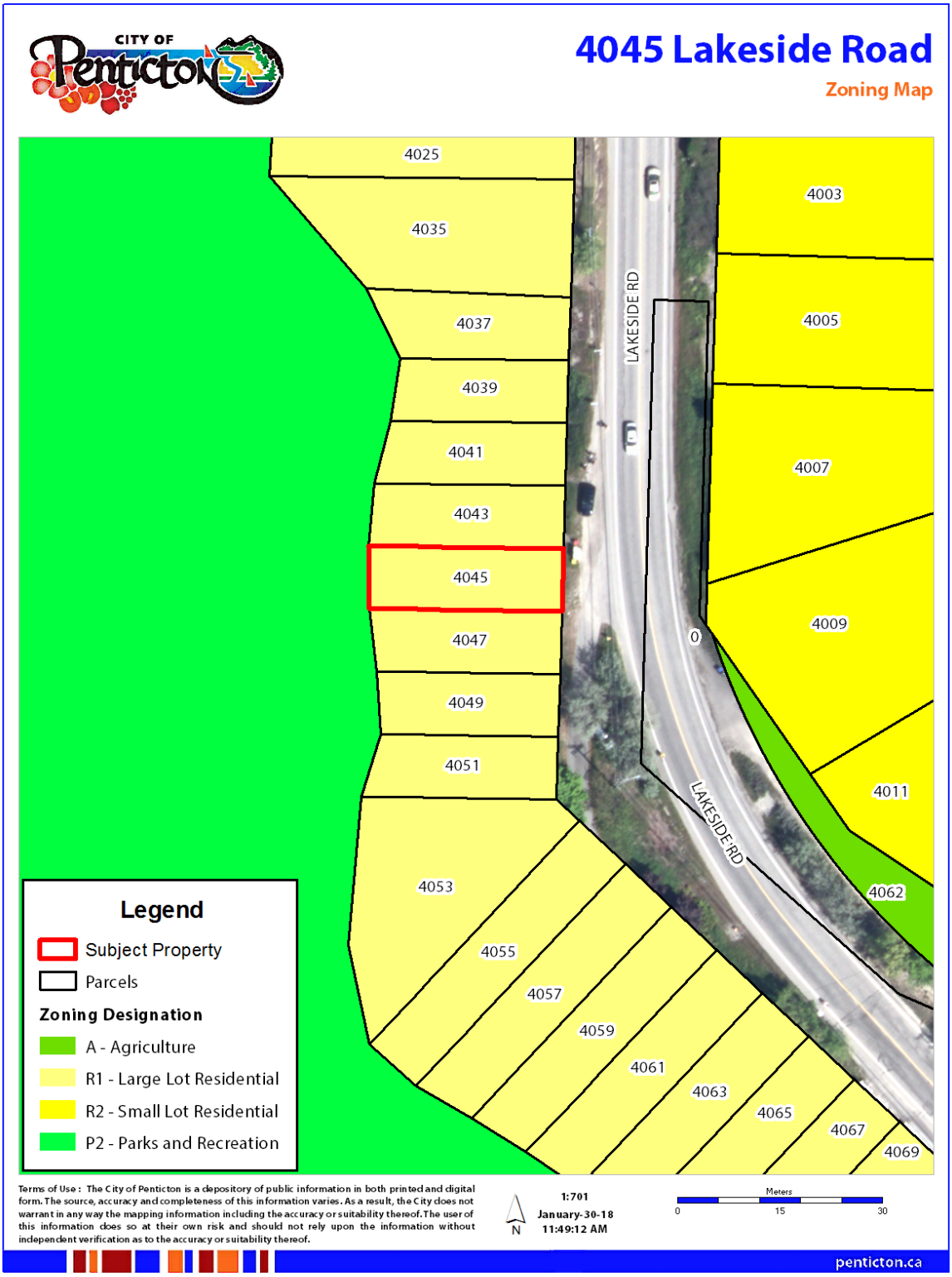


Figure 2: Zoning Map

Attachment C- OCP Map

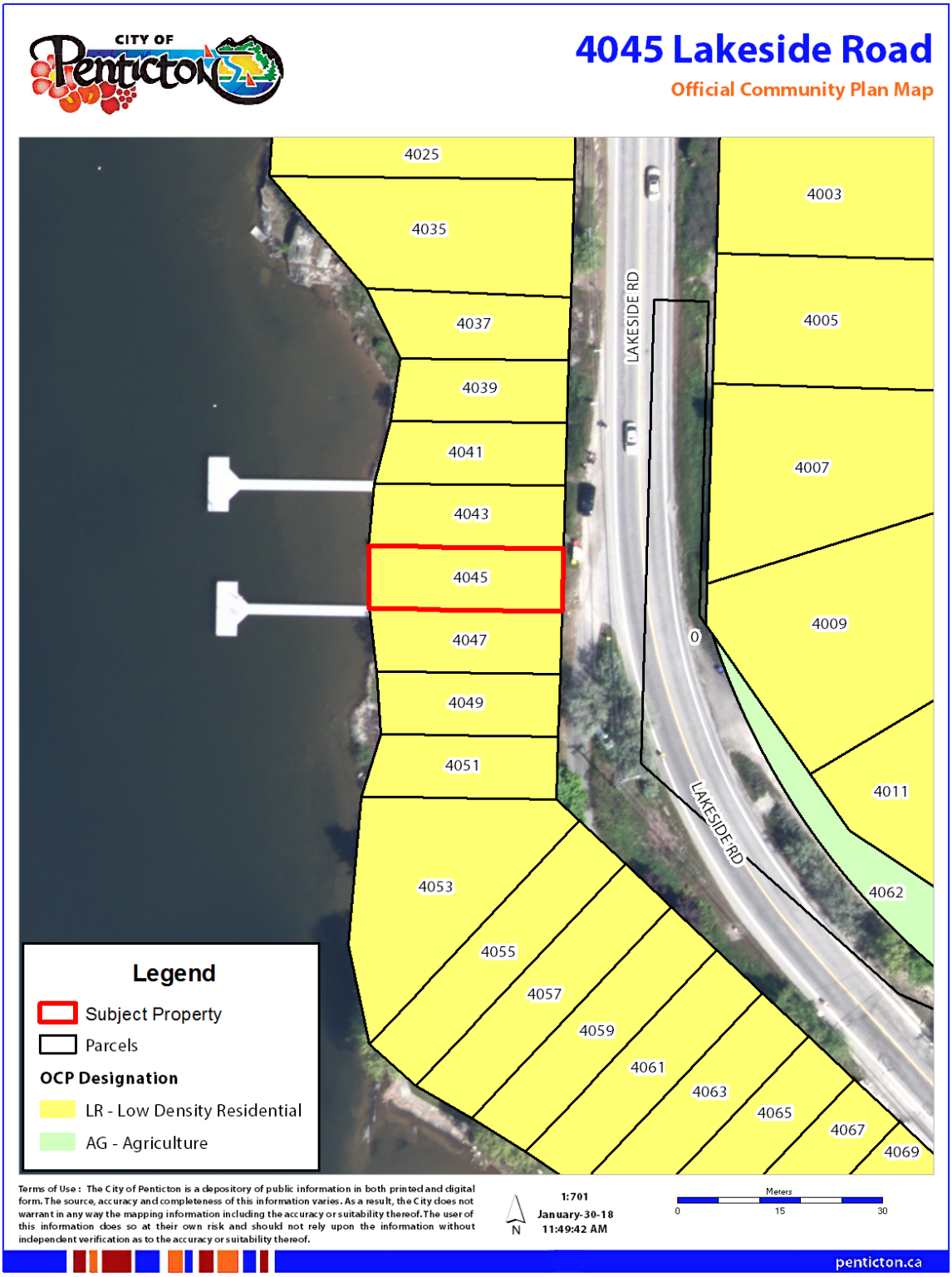


Figure 3: OCP Map

Attachment D – Photos of Subject Property



Figure 4: South View of Subject Property



Figure 5: West View of Subject Property



Figure 6: East View of Subject Property (from Lakeside Road)



Figure 7: Neighbouring Properties

Attachment E – Site Plan

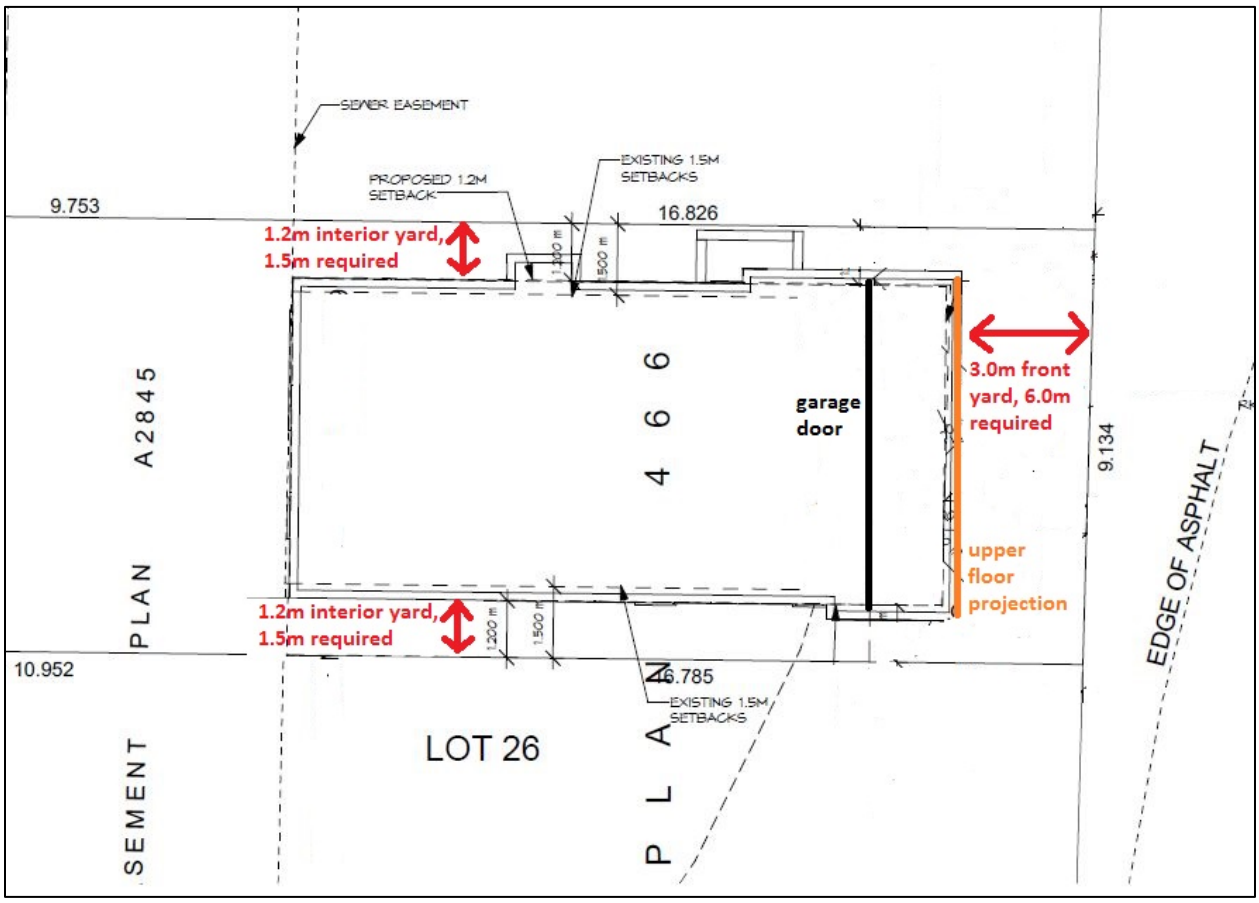


Figure 8: Site Plan

Attachment F – Elevations

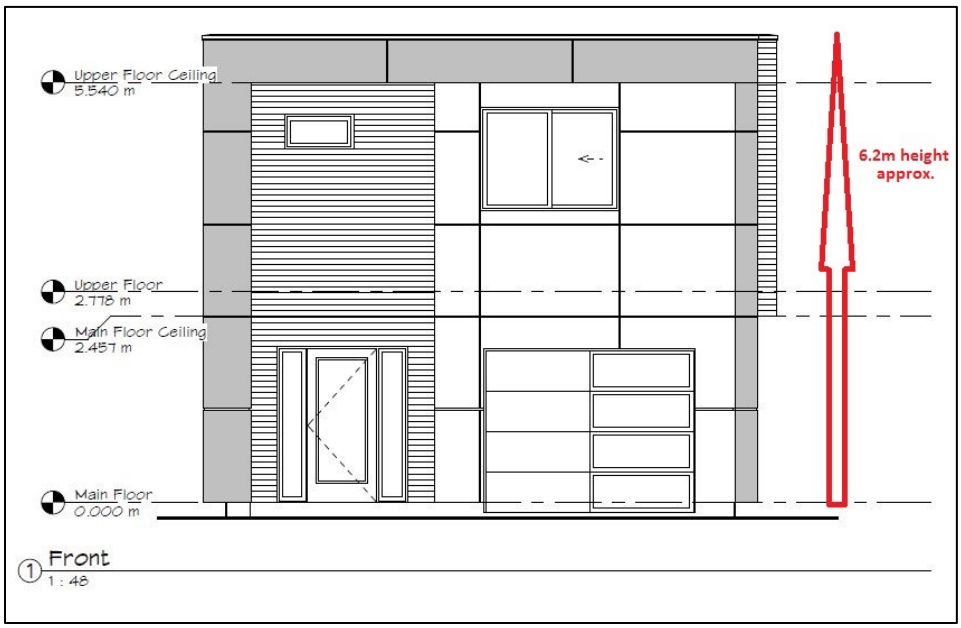


Figure 9: East Elevation (from Lakeside Road)

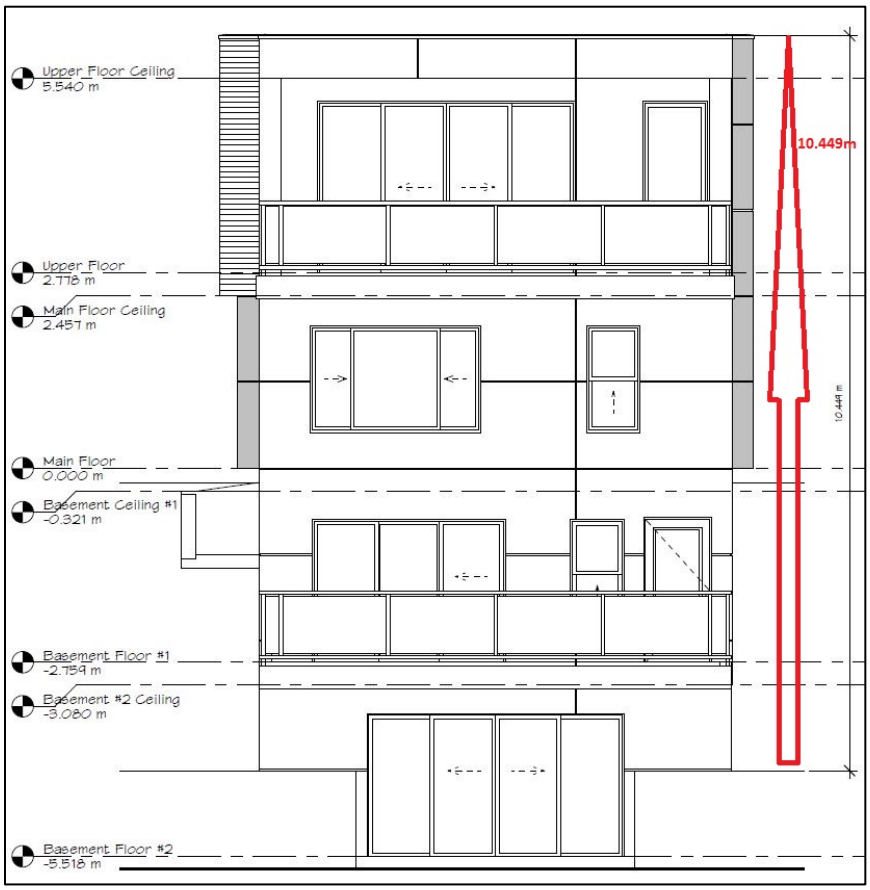


Figure 10: West Elevation (from the lake)

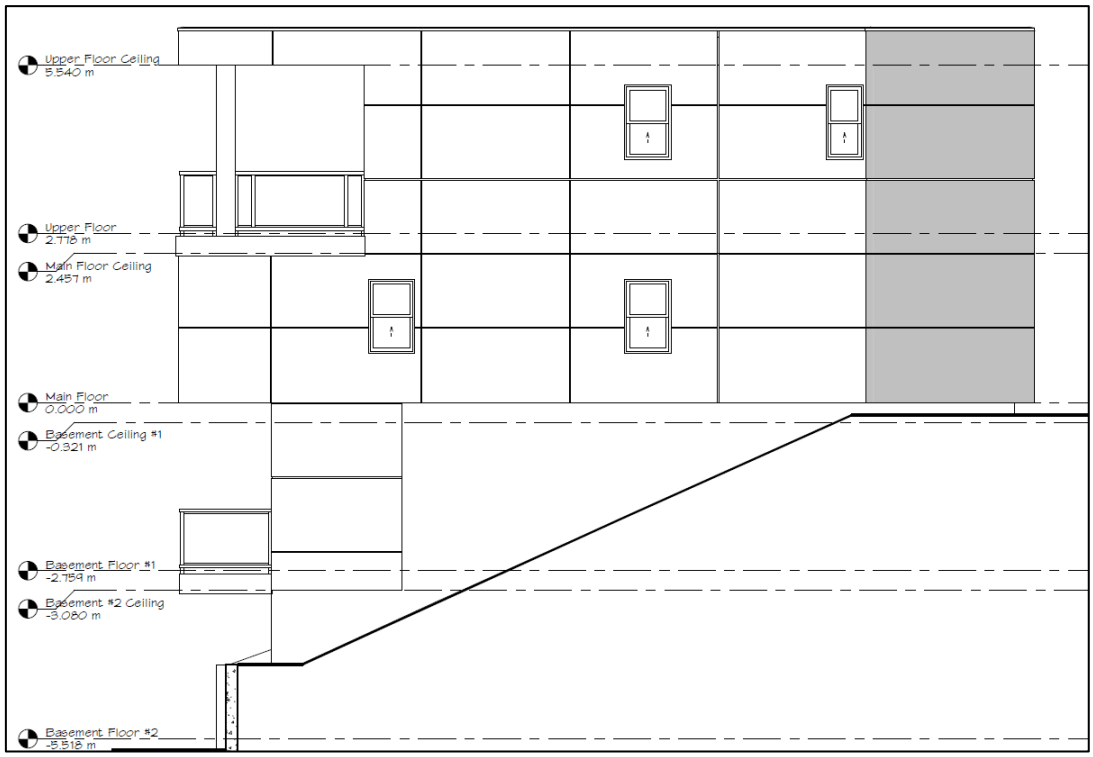


Figure 11: South Elevation

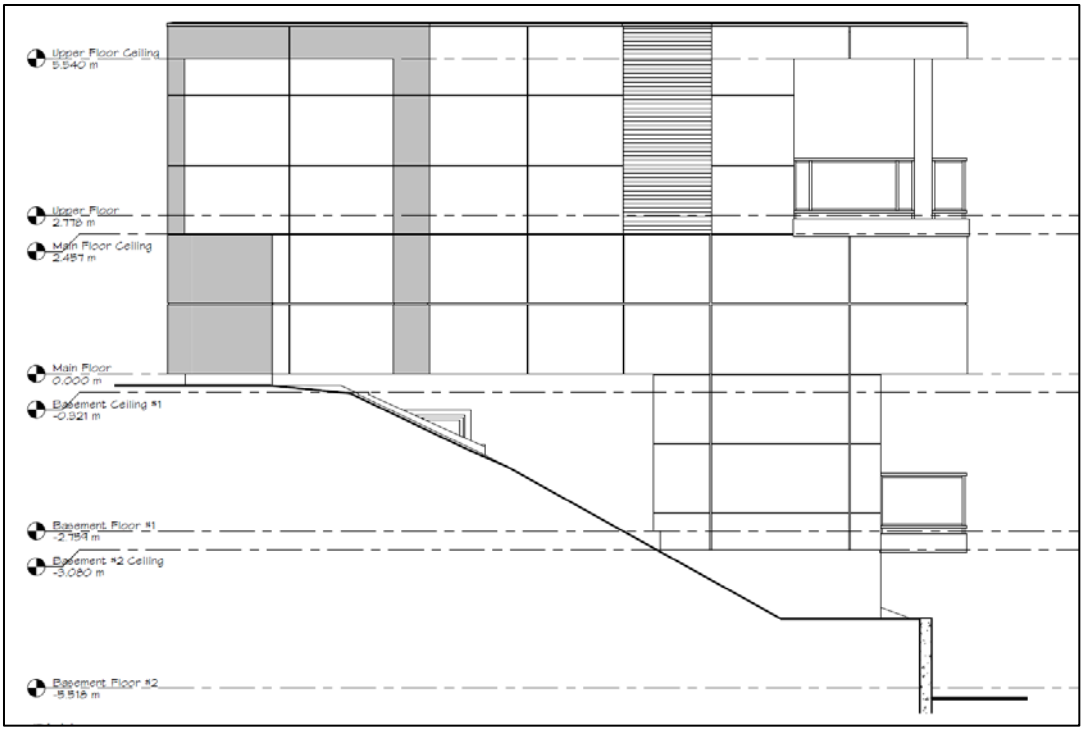


Figure 12: North Elevation

Attachment G - Floor Plans

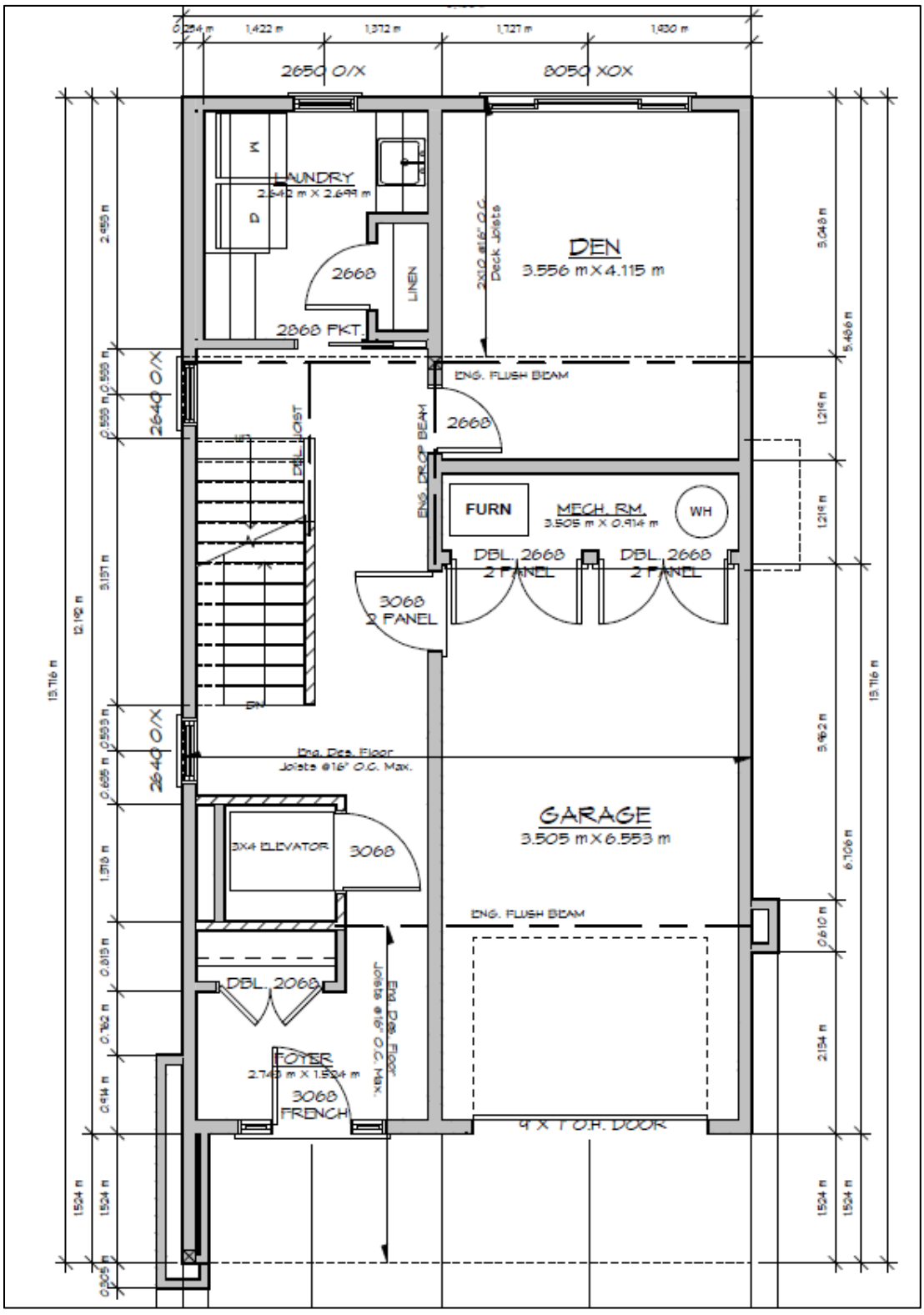


Figure 13: Main Floor Plan

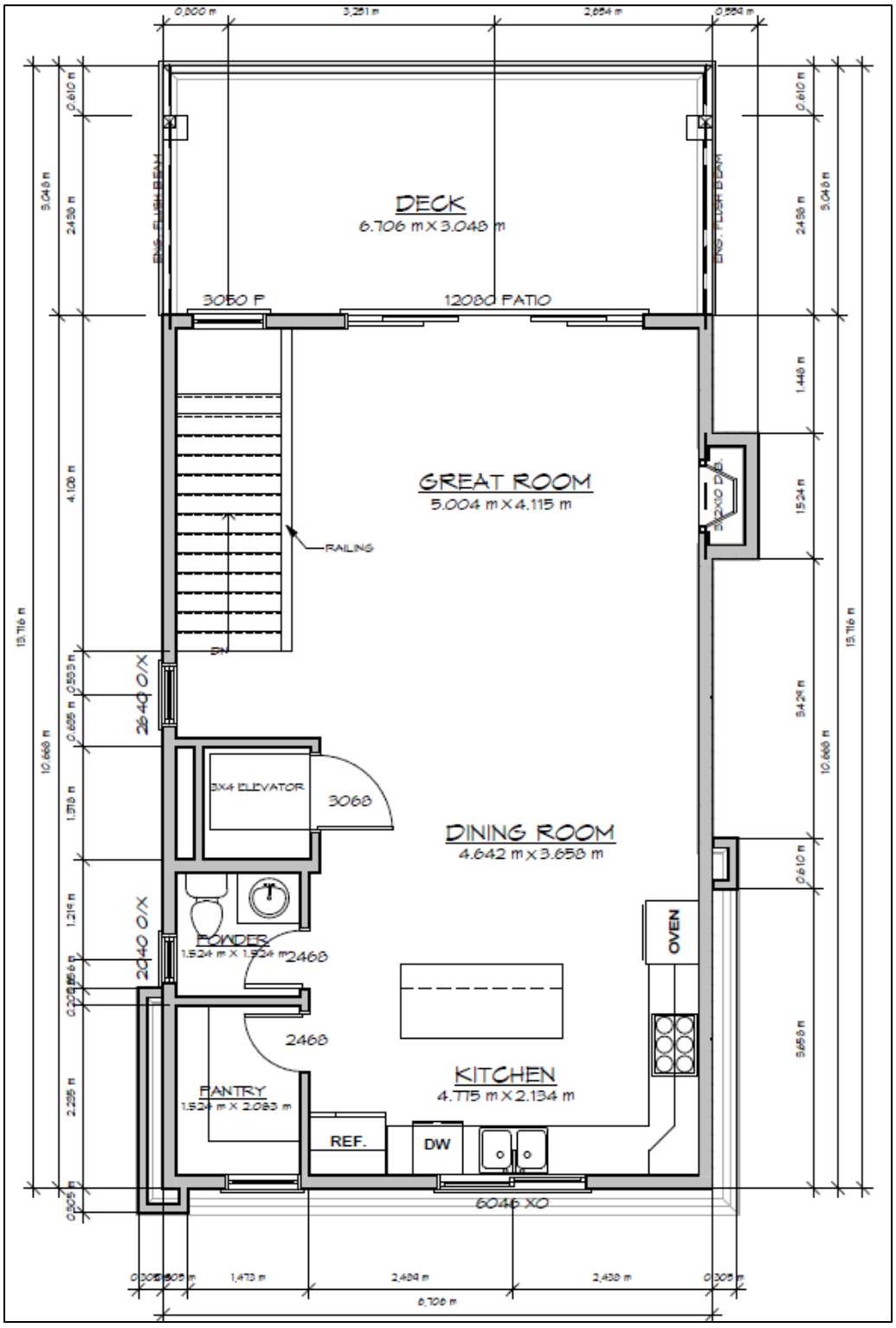


Figure 14: Second Floor Plan

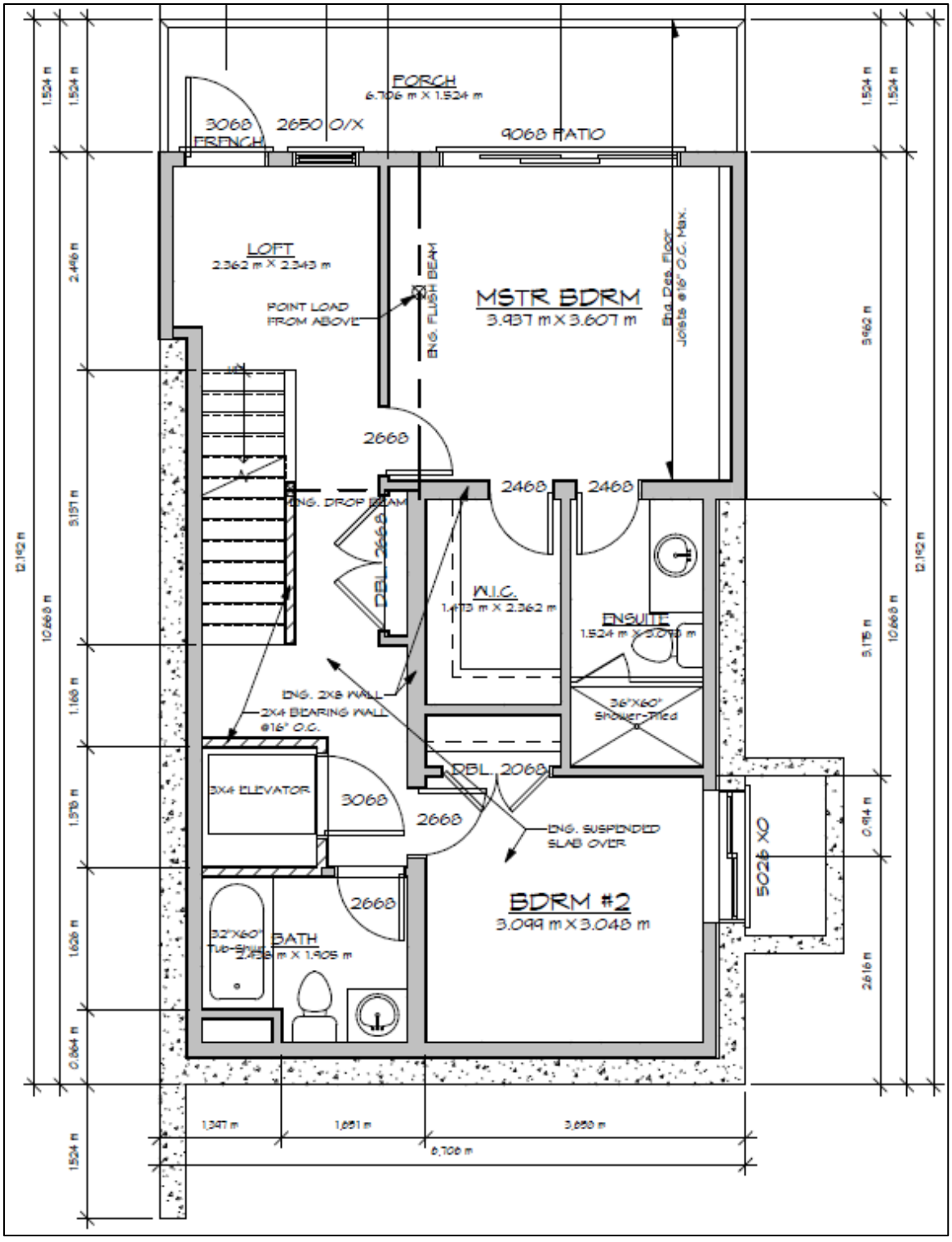


Figure 15: Basement Floor Plan

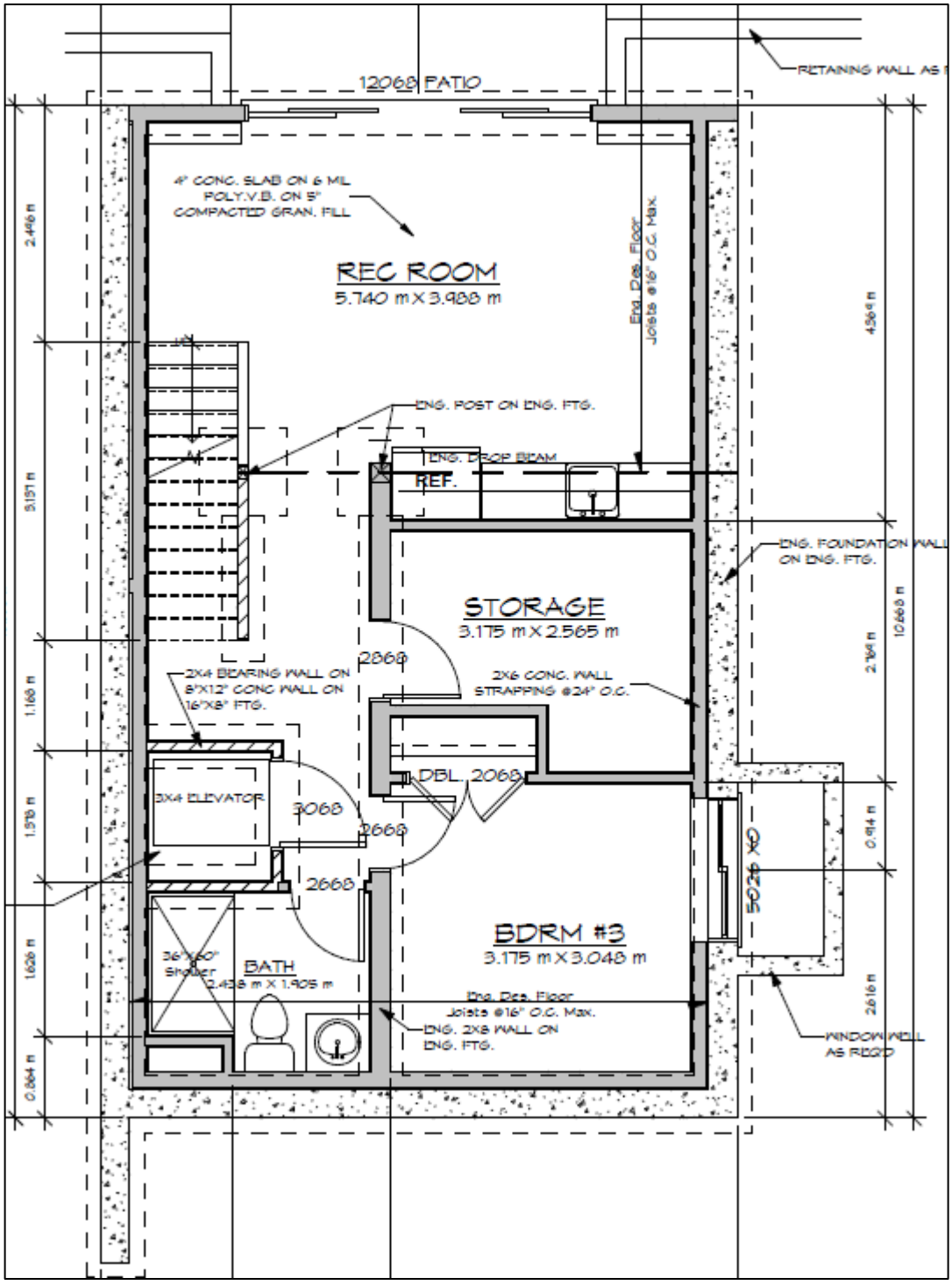


Figure 16: Bottom Floor Plan

Attachment H - Letter of Intent



HARMONY HOMES

201-833 Finns Road
Kelowna, B.C.
V1X 5B8

(250)
765-5191

FAX
(250)
765-6013

January 16, 2018

Dear Mr. Houle,

Please accept our application for a Development Variance Permit for the property located at 4045 Lakeside Road, Penticton BC.

The variances requested are;

- To change the left side yard setback from 1.5 meters to 1.2 meters
- To change the right side yard setback from 1.5 meters to 1.2 meters
- To change the front setback from 6 meters to 3 meters to the home and 4.5 meters to the garage

We are requesting the side yard setback variances due to the width of the lot being only 9.134m. With the existing setback requirements the allowable building envelope will be only 6.134m wide which makes it extremely difficult to build a home that would be suitable for a Lakefront property with such high visibility. Upon review of the plans for the proposed residence I hope you will see that we have worked diligently to design an upscale home that would be an attractive addition to the neighborhood. However the proposed home is 6.706m wide and we have simply been unable to reduce the overall width and maintain a practical design.

We are requesting the front yard setback variance due to the Sewer Right of Way (ROW) in the rear of the property. This ROW drastically reduces the allowable building envelope also making it impractical to design a suitable home.

Please Note: the home plans show the garage on the right side and there is a considerable distance between the front of the garage and the edge of the paved road of 7.467m, which means that this setback variance will not cause a parked vehicle to be close to the traffic flow.

The footprint of the proposed residence is only 71.545m. To build tiny, unattractive houses on such beautiful, lakefront properties would be a detriment to the entire neighborhood and property values. We believe that this home will be visually appealing and will enhance the community and the city.

Please advise if you require any additional information.

Yours truly,

Roland Blaise

Award Winning Builder

www.harmonyhomes.net • harmonyhomes@shaw.ca

Figure 17: Letter of Intent

Attachment I - Development Variance Permit PL2018-8165

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

Development Variance Permit

Permit Number: DVP PL2018-8165

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 25 Block 209 District Lot 190 Similkameen Division Yale District Plan 466
   Civic: 4045 Lakeside Road
   PID: 012-323-217

3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following section of Zoning Bylaw 2017-08 to allow for the construction of a single family dwelling.

   - Section 10.1.2.5: to decrease the minimum front yard from 6.0m to 3.0m.
   - Section 10.1.2.6.i: to decrease the minimum interior yards from 1.5m to 1.2m.

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 20 day of March, 2018

Issued this _____ day of _____, 2018

_____
Dana Schmidt,
Corporate Officer

Council Report

penticton.ca

Date: March 20, 2018 File No: 2018 PRJ-027
To: Peter Weeber, Chief Administrative Officer
From: Randy Houle, Planner I
Address: 245 Edmonton Avenue

Subject: **Development Variance Permit PL2018-8171**
Development Permit PL2018-8195

Staff Recommendation

Development Variance Permit

THAT Council approve "Development Variance Permit PL2018-8171" for Lot 1 District Lot 250 Similkameen Division Yale District Plan KAP92469, located at 245 Edmonton Avenue, a permit to decrease the minimum interior yard from 4.5m to 2.1m to allow for the construction of a 17-unit multi-family residential development;

AND THAT staff be directed to issue "Development Variance Permit PL2018-8171."

Development Permit

THAT Council approve "Development Permit PL2018-8195", for Lot 1 District Lot 250 Similkameen Division Yale District Plan KAP92469, located at 245 Edmonton Avenue, a permit that allows for the construction of a 17-unit multi-family residential development;

AND THAT staff be directed to issue "Development Permit PL2018-8195."

Background

The subject property (Attachment A) is zoned RM3 (Medium Density Multiple Housing) and designated by the City's Official Community Plan as MR (Medium Density Residential). Photos of the site are included as Attachment D. The subject property is approximately 1,347m^2 (14,500ft^2).

On November 3, 2014 Council approved a Development Variance Permit for the subject property which increased the maximum permitted lot coverage from 50% to 62%, decreased the minimum interior side yards from 4.5m to 2.4m and decreased the required parking spaces from 21 to 19. Council also approved a Development Permit which permitted a three-storey, 17-unit multi-family residential development. In 2016, the developer applied for the required building permits and was issued a foundation permit. A location certificate conducted by a surveyor in May of 2017 revealed that the foundations were poured 2.1m from

the west property line instead of the approved 2.4m. The applicant is now requesting an interior yard variance to correct the situation.

The previously approved building was designed based on a 2.4m side yard setback. The distance to the property line determined the number of windows and openings permitted on that wall face. Since the building now sits 2.1m from the west property line, the architect had to redo the spatial calculations and remove some of the windows. The smaller setback also modified the landscape plan. The change in elevation and landscaping means that a development permit amendment is required. This permit has been included in this report for Council approval to streamline the process.

Proposal

The applicant is proposing to construct a 17-unit multi-family residential development. To facilitate the construction, the applicant is requesting a Development Variance Permit to vary the following section of Zoning Bylaw No. 2017-08:

- Section 10.9.2.7.i: to decrease the minimum west interior yard from 4.5m to 2.1m.

Lastly, the property is located within the General Multiple Family Development Permit area and requires approval for the form and character of the building and to address landscaping requirements.

Financial implication

The City will receive development cost charges at a rate of $5,548 per unit x 17 for a total of $94,316.00

Technical Review

This application was forwarded to the City's Technical Planning Committee (TPC) and reviewed by the Engineering and Public Works Departments. Servicing and technical requirements have been identified and will be addressed at the building permit stage. Due to the placement error, the building now sits 0.3m closer to the west property line than originally proposed. This has required a change in the elevation to reduce the number of openings to address spatial separation issues. If the request for the variance and development permit is supported, BC Building Code and City bylaw provisions will apply.

Development Statistics

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

Item	Requirement RM3 zone	Proposed
Maximum Lot Coverage:	50%	62% (previously approved variance)
Maximum Density:	1.6 FAR	1.07 FAR
Minimum Lot Width:	25.0m	24.403m*
Minimum Lot Area:	1400.0m^2	1347.0m^2*
Vehicle Parking:	1 per unit (17) + 0.25 visitor per unit (4) = 21 required	19 (previously approved variance)

Required Setbacks Front yard (south, Edmonton Avenue): Rear yard (north, Forestbrook Drive): Interior yard (west): Interior yard (east):	 3.0m 6.0m 4.5m 4.5m	 3.0m 6.0m 2.11m (variance required) 2.75m (variance required)
Maximum Building Height:	24.0m	12.7m
Other Information:	- The subject property is located within the General Multiple Family Development Permit Area. Since the building elevations and landscaping have been modified from the previously approved Development Permit, an amendment is required. - **The minimum parcel standards (in terms of width and area) only apply when a new parcel is being created, not through rezoning of an existing parcel.*	

Analysis

Development Variance Permit

Support Variance

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

Section 10.9.2.7.i: to decrease the minimum interior yard from 4.5m to 2.1m.

- As previously mentioned, Council approved a Development Variance Permit in 2014 which reduced the minimum interior yards from 4.5m to 2.4m. The foundation was subsequently placed in the wrong location due to a surveying error. This resulted in a 2.1m west interior yard and a 2.75m east interior yard. The height of the proposed building is 0.6m (2ft) lower than the previously approved building, which reduces the impact on the neighbouring properties. The landscape plan (Attachment) shows that a 2.1m setback is enough space for plant species and other buffering measures. Staff feel that an additional 0.3m (1ft) variance is minor and unlikely to pose any added negative impacts on the neighbouring properties. Requiring the developer to dig up the existing foundation would be costly and time consuming.

For the reasons mentioned above, staff are recommending that Council support the variance permit to reduce the minimum interior yard.

Deny/Refer Variance

Council may consider that the proposed variance will negatively affect the neighborhood. If this is the case, Council should deny the variance.

Development Permit

Support Development Permit

The subject property is located within the General Multiple Family Development Permit Area. Although Development Permit PL2014-072 was previously issued, the building elevation and landscaping has changed slightly which triggers a DP amendment. Although this permit can be staff-issued, it has been included in this report for Council's decision in order to streamline the approvals process. The Development Permit Area guidelines are intended to address the form and character of new multi-family buildings. Staff feel that the elevation and landscaping changes proposed are minor and do not change the form and character of the previously approved building.

Staff consider that the plans submitted meet the intent of the DPA guidelines. As such, staff recommend that Council approve the Development Permit application.

Deny/Refer Development Permit

Council may consider that the changes proposed will have a negative impact on neighbouring properties or on the form and character of the building. If this is the case, Council should deny the permit.

Alternate Recommendations

1. THAT Council support "DVP PL2018-8171" & "DP PL2018-8195" with conditions.
2. THAT "DVP PL2018-8171" & "DP PL2018-8195" be referred back to staff.

Attachments

Attachment A: Subject Property Location Map
Attachment B: Zoning Map
Attachment C: OCP Map
Attachment D: Photos of Subject Property
Attachment E: Proposed Site/Landscape Plan
Attachment F: Previously Approved Site/Landscape Plan (DP PL2014-072)
Attachment G: Proposed Elevations
Attachment H: Previously Approved Elevations (DP PL2014-072)
Attachment I: Letter of Intent
Attachment J: Development Variance Permit PL2018-8171
Attachment K: Development Permit PL2018-8195

Respectfully submitted,

Randy Houle
Planner I

Approvals

DDS	CAO
AH	PW

Attachment A – Subject Property Location Map



Figure 1: Subject Property Location Map

Attachment B – Zoning Map

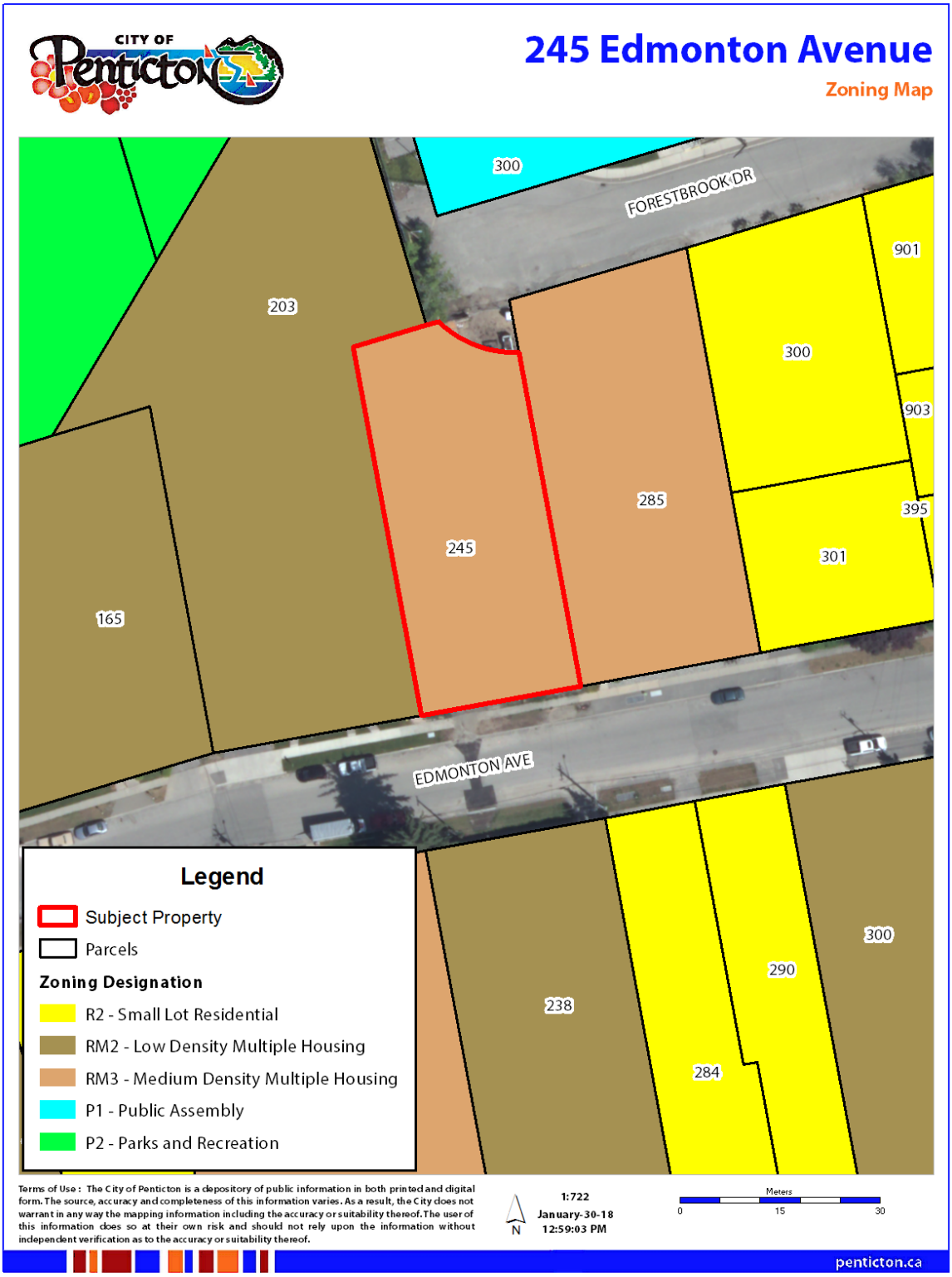


Figure 2: Zoning Map

Attachment C- OCP Map

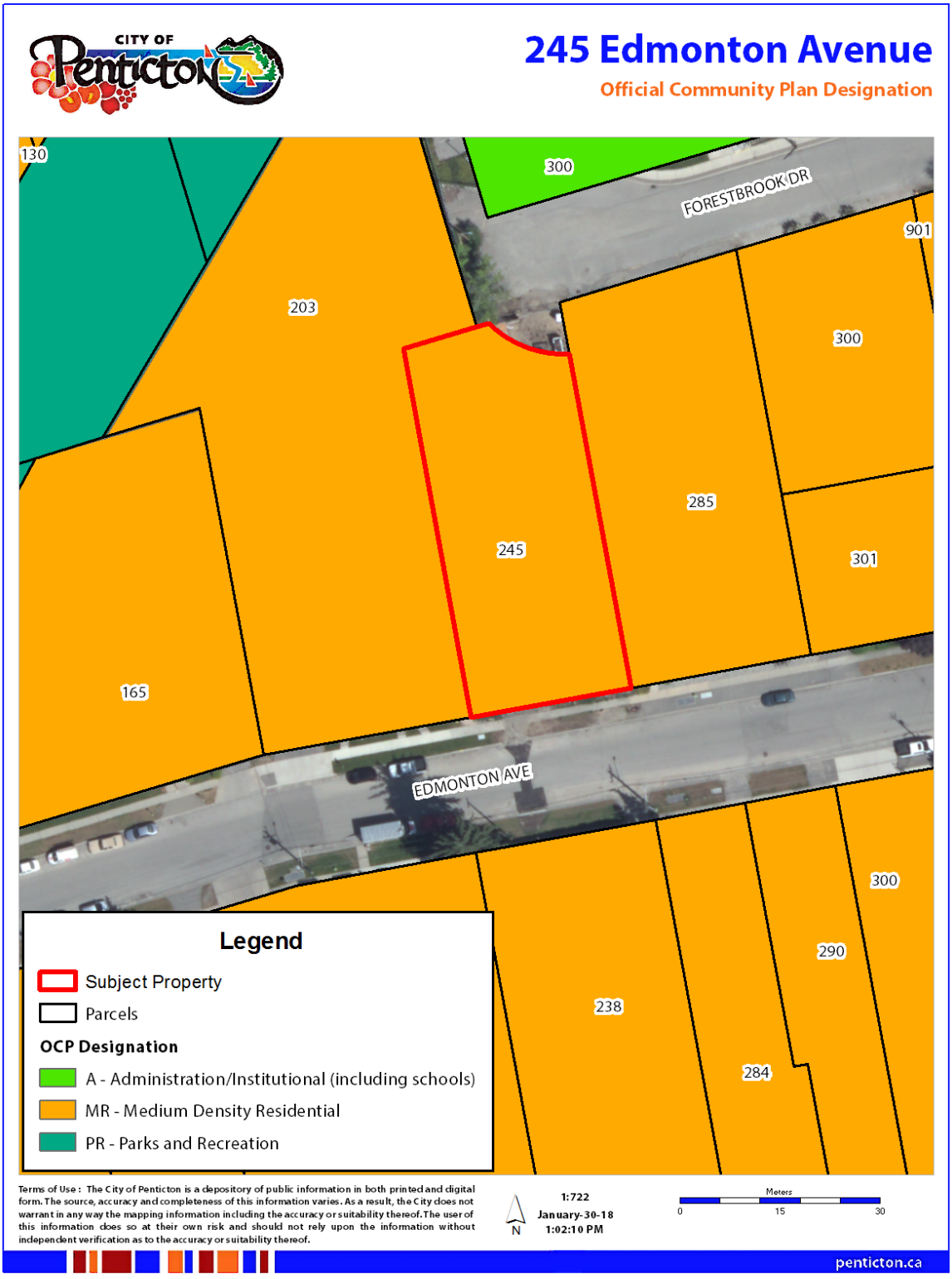


Figure 3: OCP Map

Attachment D – Photos of Subject Property



Figure 4: South View of Subject Property



Figure 5: South View of Subject Property showing west property line

Attachment E - Proposed Site/Landscape Plan

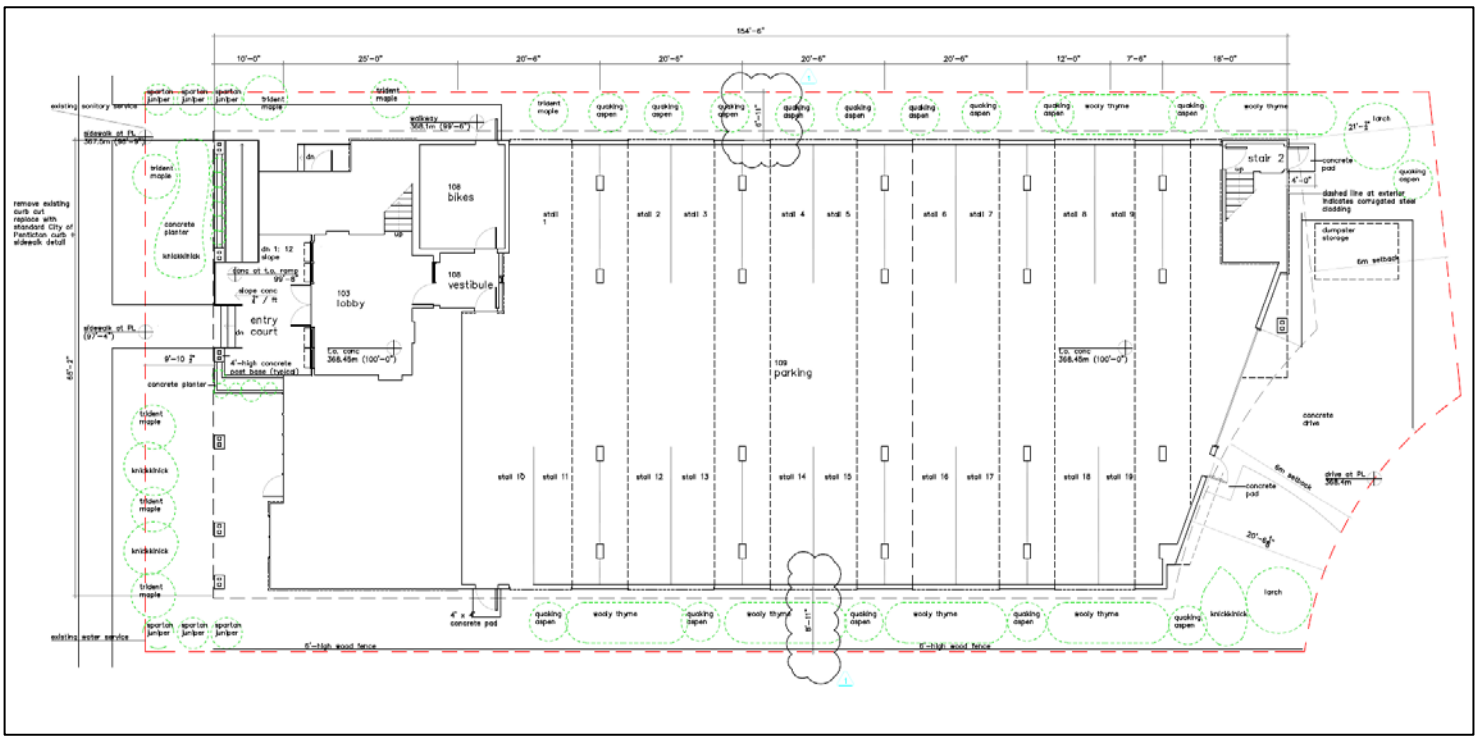


Figure 6: Site/Landscape Plan

Attachment F - Previously Approved Site/Landscape Plan (DP PL2014-072)

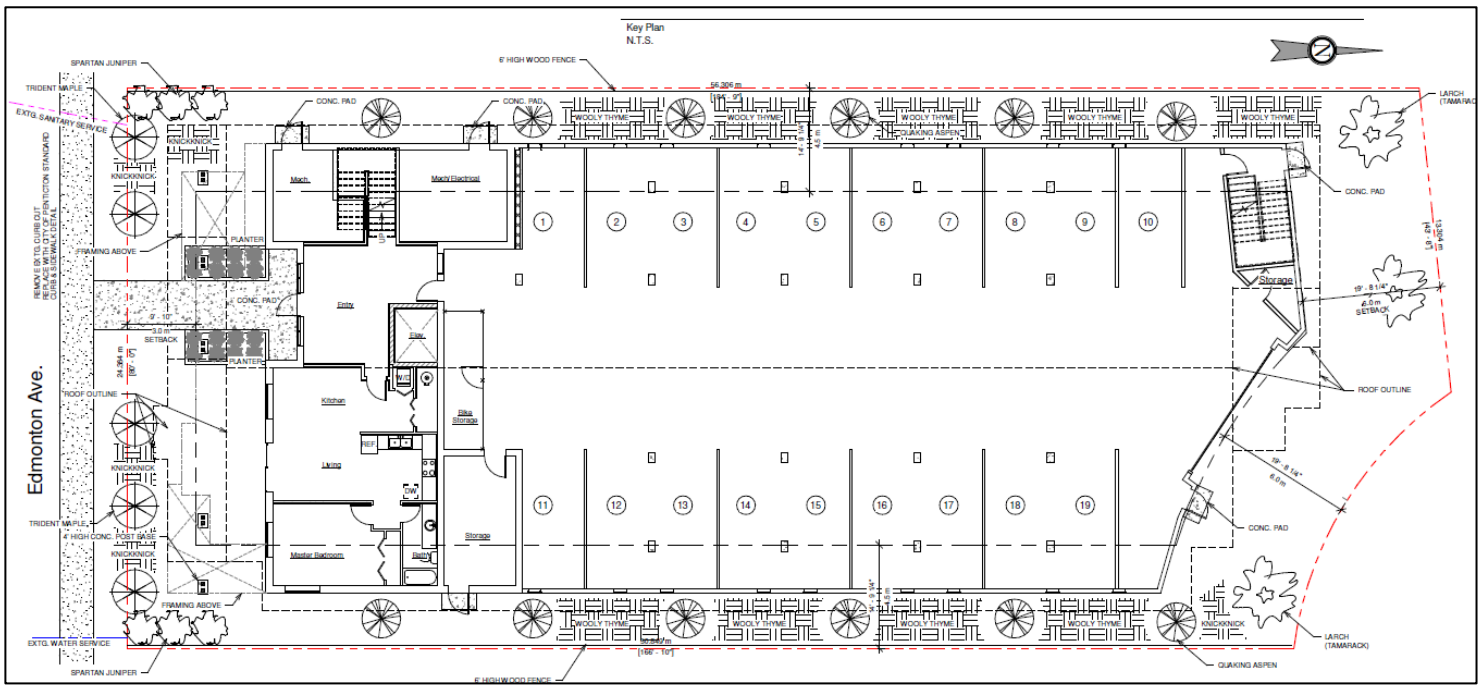


Figure 7: Previously Approved Site/Landscape Plan

Attachment G – Proposed Elevations

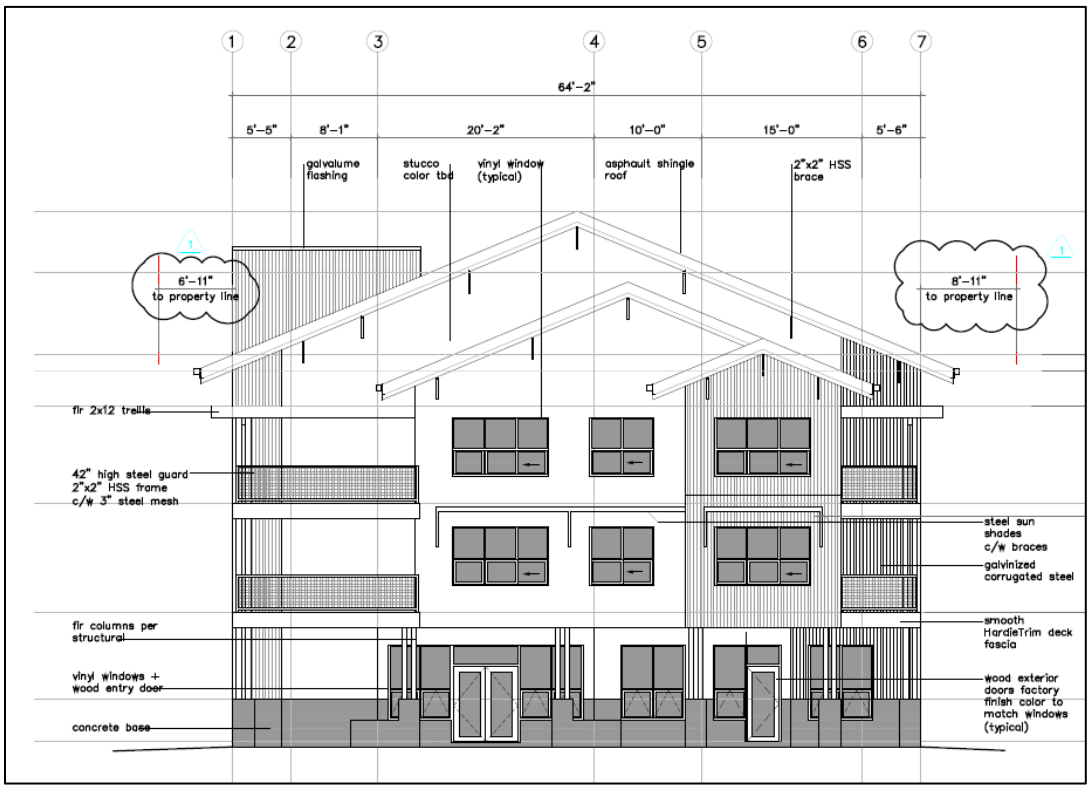


Figure 8: South Elevation

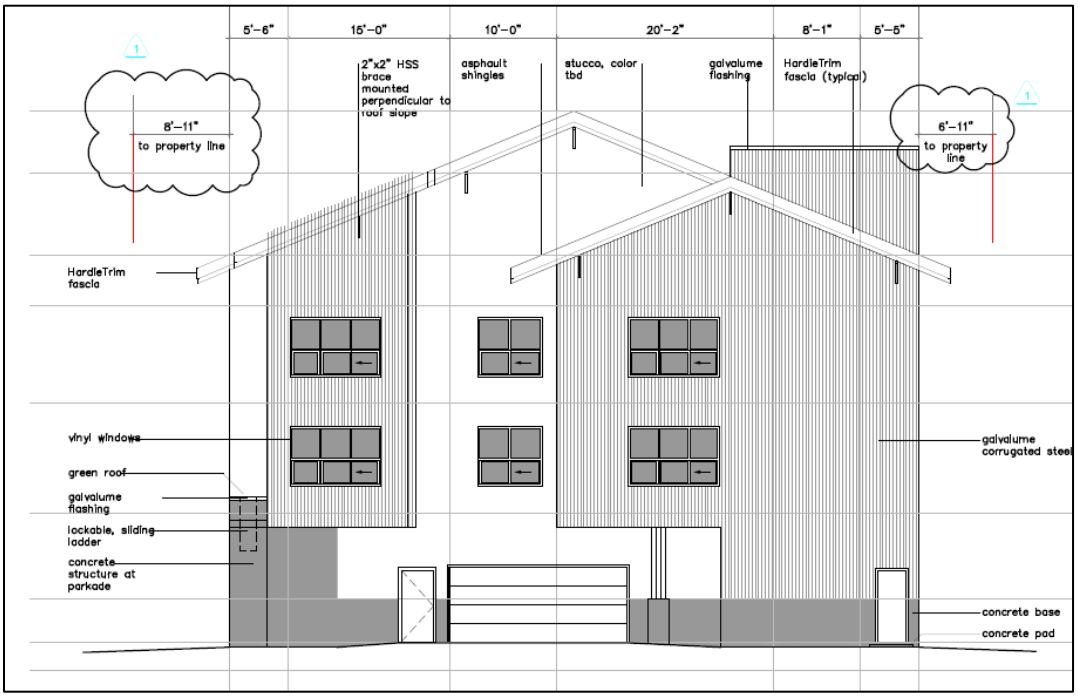


Figure 9: North Elevation

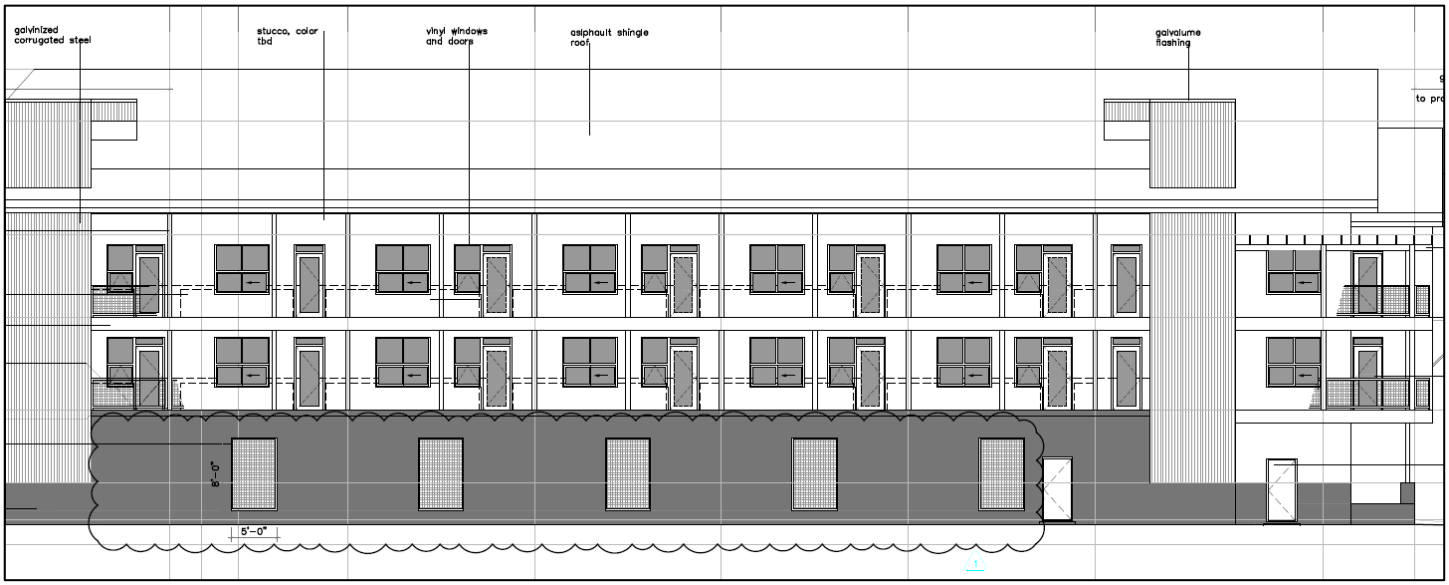


Figure 10: West Elevation

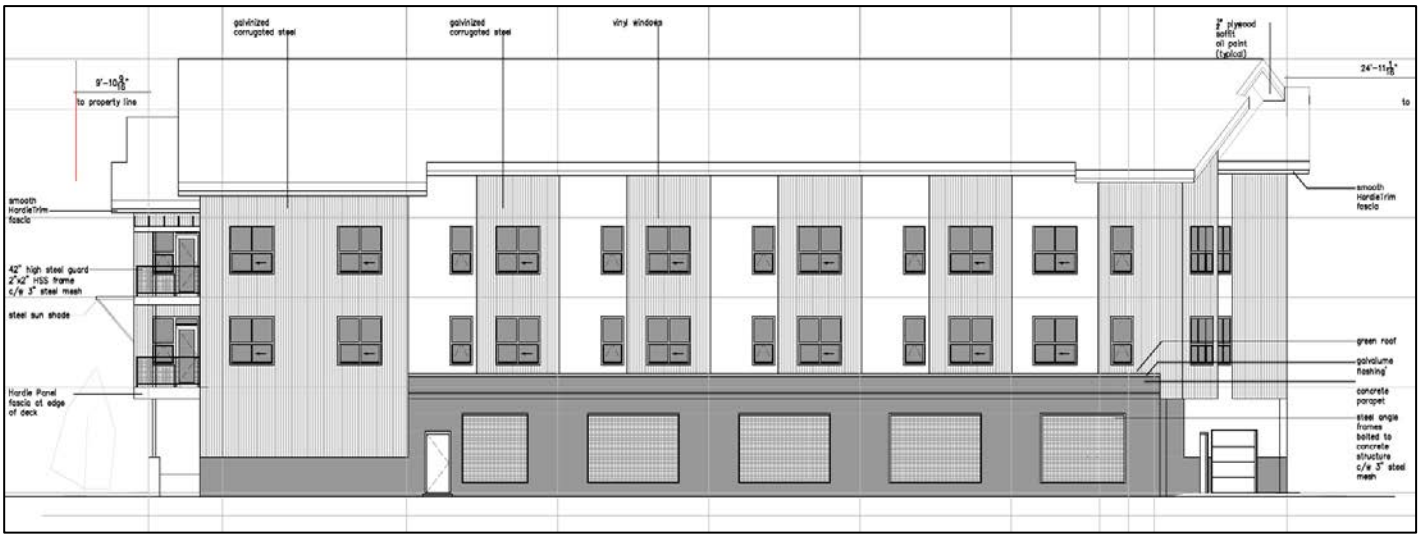


Figure 11: East Elevation

Attachment H – Previously Approved Elevations (DP PL2014-072)

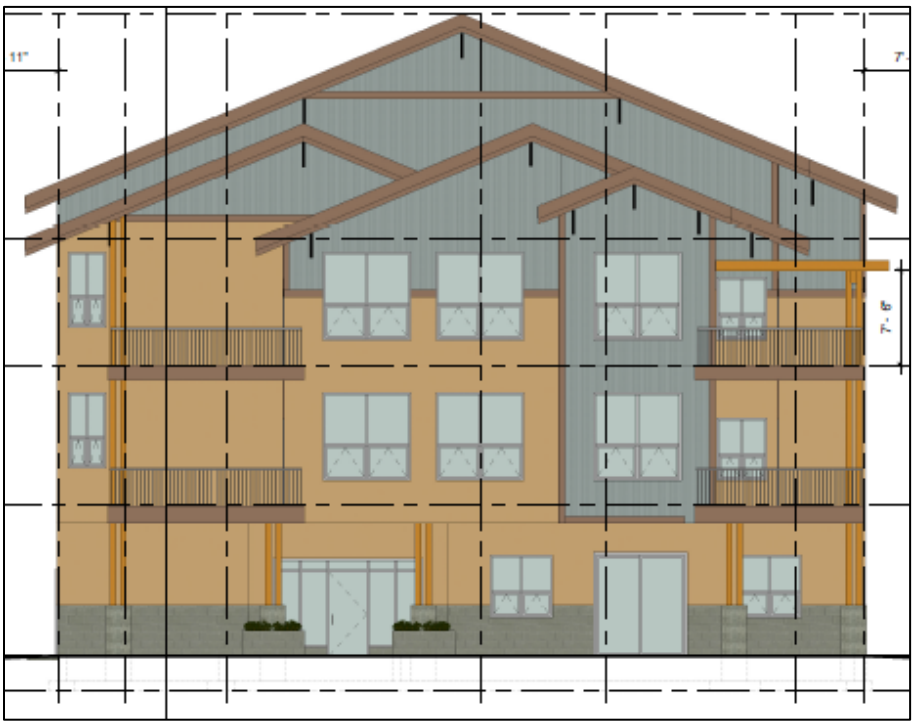


Figure 12: South Elevation

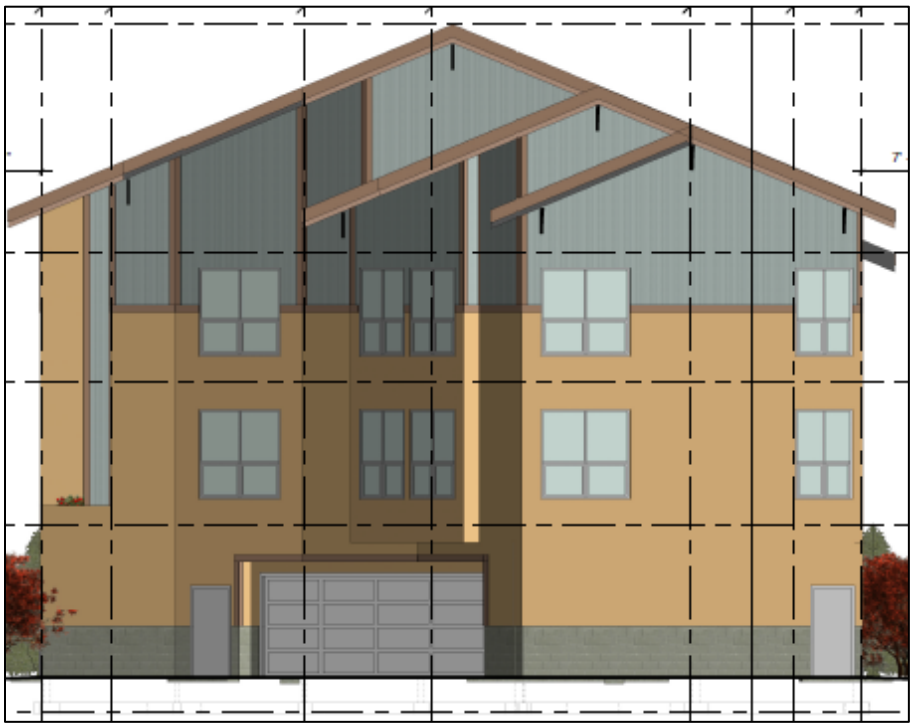


Figure 13: North Elevation



Figure 14: West Elevation



Figure 15: East Elevation

Attachment I- Letter of Intent

Steven J. Buzikievich
Land Surveying Inc.
BRITISH COLUMBIA LAND SURVEYOR
CANADA LANDS SURVEYOR
54 Nanaimo Avenue East
Penticton, B.C. V2A 1L9
Phone: (250) 492-0559 Fax: (250) 492-9851

DATE: January 23, 2018 FILE: 17-018

TO: City of Penticton

Dear Sirs:

SUBJECT: Sideyard Variance Application – 245 Edmonton Avenue

We would like to take this opportunity to request a Variance in the approved sideyard of 2.44 metres to 2.1 metres as shown on the attached drawing.

The reason for this request is that in error the building was placed in the field at 2.1 metres instead of the approved 2.44 metres, sideyard setback The building is well under construction and there are only 2 options to legalize it's position. 1) to remove the existing building which is currently under construction at great hardship, or 2) request this variance.

This is an honest error and the approval of this variance will not have any impact on adjoining properties for their use and enjoyment. The building under construction is the same size as the designed building and is not being made any larger. Approval of this application will not create any situation of this building encroaching onto the adjoining property. Approval of this application will only allow the building under construction to be 0.34 metres (one foot) closer to the existing westerly property line than planned and approved. The easterly side yard would then be increase from 2.44 to 2.75 metres.

Yours Truly,

Steven J. Buzikievich Land Surveying Inc.
Per: Steven J. Buzikievich B.C.L.S., C.L.S.

Figure 16: Letter of Intent

Attachment J - Development Variance Permit PL2018-8171

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

Development Variance Permit

Permit Number: DVP PL2018-8171

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 KAP92469
   Civic: 245 Edmonton Avenue
   PID: 028-691-121

3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following section of Zoning Bylaw 2017-08 to allow for the construction of a 17-unit multi-family residential building.

   - Section 10.9.2.7.i: to decrease the minimum interior yard from 4.5m to 2.1m.

General Conditions

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.

5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.

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

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

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

Authorized by City Council, the 20 day of March, 2018

Issued this _____ day of _____, 2018

_____
Dana Schmidt,
Corporate Officer

Attachment K - Development Permit PL2018-8195

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

Development Permit

Permit Number: DP PL2018-8195 (to amend DP PL2014-072)

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 KAP92469
   Civic: 245 Edmonton Avenue
   PID: 028-691-121

3. This permit has been issued in accordance with Section 489 of the *Local Government Act*, to permit the construction of a 17-unit multi-family residential building as shown in the plan attached in Schedule A.

General Conditions

4. In accordance with Section 501(2) of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.

5. In accordance with Section 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 20 day of March, 2018

Issued this _____ day of _____, 2018

_____
Dana Schmidt,
Corporate Officer

Council Report

penticton.ca

Date: March 20, 2018 File No: PRJ2018-026
To: Peter Weeber, Chief Administrative Officer
From: Nicole Capewell, Planner 1
Address: **657 Churchill Avenue**
Subject: **Zoning Amendment Bylaw No. 2018-18, DVP PL2018-8178, DP PL2018-8168 and DP PL2018-8169**

Staff Recommendation

Zoning Amendment Bylaw

THAT "Zoning Amendment Bylaw No. 2018-18", a bylaw to amend Zoning Bylaw 2017-08 for Lot 22, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 4075, located at 657 Churchill Avenue, from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane), be given first reading and be forwarded to the April 3, 2018 Public Hearing;

AND THAT prior to adoption of "Zoning Amendment Bylaw No. 2018-18", a 1.9 meter road dedication along the Churchill Avenue frontage of the property be registered with the Land Title Office;

Development Variance Permit

AND THAT delegations and submissions for "Development Variance Permit PL2018-8178" for Lot 22, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 4075, located at 657 Churchill Avenue, a permit to increase the maximum lot coverage from 40% to 43%, to allow for the construction of a front-to-back duplex on both newly formed lots, be heard at the April 3, 2018 Public Hearing;

AND THAT Council consider "DVP PL2018-8178" following the adoption of "Zoning Amendment Bylaw No. 2018-18".

Development Permit

THAT Council, subject to adoption of "Zoning Amendment Bylaw No. 2018-18" and subdivision of the two lots, approve Development Permit PL2018-8168 and Development Permit PL2018-8169, for Proposed Lot A and Proposed Lot B of the subdivision of Lot 22, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 4075, located at 657 Churchill Avenue, a permit that allows for the construction of a front-to-back duplex on both newly formed lots.

Strategic Objective

The subject application demonstrates that it is aligned with the Council Priorities of Community Building and Economic Vitality. The application represents smart growth by increasing density in areas where existing services are in place, and in areas close to transit, commercial and employment centres.

Background

The subject property (Attachment 'A') is zoned R2 (Small Lot Residential) and is designated in the City's Official Community Plan as LR (Low Density Residential). Currently, the site contains an older single family dwelling which was constructed in approximately 1949. The property is located within the Downtown West Neighbourhood Plan Area, which is identified by the Official Community Plan for potential infill and higher density residential development. The Downtown West Neighbourhood Plan highlights that some of the key concerns raised by residents of the area were to maintain the character of their neighbourhood, clean-up and beautify the neighbourhood, control the form and character of new infill development (especially duplexes and fourplex buildings), maintain and improve the public green spaces, upgrade infrastructure (such as roads, sidewalks and lighting), and to address parking problems in some areas.

The intention of the applicant is to demolish the existing house, subdivide the property into two lots, and construct a front-to-back duplex on each lot. The applicant is required to attain a Development Permit for each lot, as these properties are located within the Downtown Multiple Family Development Permit Area. The applicant is also requesting a variance to increase the lot coverage from 40% to 43%.

The existing neighborhood contains a mixture of single family homes, duplexes, and small apartment buildings. There have been similar developments (subdivision to create two smaller lots for the purpose of duplex construction) within this neighbourhood, at 451, 679, and 707 Churchill Avenue.

The LR (Low Density Residential) designation envisions single family homes and duplex style construction. This designation was established via the Downtown West Neighbourhood Plan in 1999. Prior to this, the area was slated for medium-density future development; the low-density designation came into effect to preserve the area's character. Sound planning principles indicate that the appropriate densification in urban areas is warranted and creates more sustainable forms of development.

Proposal

The applicants are proposing that the subject property be rezoned from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane). The applicants are also requesting a Development Variance Permit to vary the following sections of Zoning Bylaw 2017-08:

- Section 10.6.2.3 to increase the maximum lot coverage from 40% to 43%.

Further, the applicants require Development Permit approval for the form and character of the buildings, as they are located within the Downtown Multiple Family Development Permit Area.

Financial Implication

This application does not pose any significant financial implications to the City. Development costs are the responsibility of the developer.

Technical Review

This application was reviewed by the City's Technical Planning Committee; no significant issues arose in the process. A small road widening of 1.9 meters has been identified and the property owner has agreed to transfer the lands to the City at no cost. The road dedication will be processed at the time of subdivision to facilitate development of a continuous sidewalk along Churchill Avenue. Typical frontage upgrades and servicing requirements have been identified for the Subdivision and Building Permit stage of the project, if the rezoning and variance permit applications are supported by Council. These items have been communicated to the applicant.

Parking is often a concern in the downtown area due to the close proximity to Okanagan Lake and downtown shops and services. The applicant has proposed 2 parking spots per lot (1 per dwelling unit), which conforms to the Zoning Bylaw. This section of Churchill Avenue also has residential parking in place, which restricts visitor parking on the street.

Development Statistics

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

	Requirement RD2 Zone	Provided on Plans
Minimum Lot Width:	9.1 m	9.144 m
Minimum Lot Area:	275 m^2	325.42 m^2
Maximum Lot Coverage:	40%	43% **Variance Requested**
Maximum Density:	0.95 Floor Area Ratio (FAR)	0.83 Floor Area Ratio (FAR)
Vehicle Parking:	4	4
Required Setbacks Front Yard (Churchill Avenue): Side Yard (east): Side Yard (west): Rear Yard (lane):	 4.5 m 1.5 m 1.5 m 6.0 m	 4.5 m 1.5 m 1.5 m 6.0 m
Maximum Building Height	10.5	9.44
Other Information:	• Property is located within the Downtown Multiple Family DPA • The plans generally conform to the DPA guidelines	

Analysis

Zoning Bylaw Amendment

Support Zoning Amendment Bylaw

When reviewing rezoning applications to allow for the construction of duplexes within LR (Low Density Residential) designations, the Official Community Plan provides guidance to staff and Council to consider the following:

1. Overall neighbourhood character,
2. Does the area have existing duplexes?
3. Is the area close in proximity to multiple family, commercial, or institutional uses?
4. Is the area predominantly a single family neighbourhood that is undergoing redevelopment?

Churchill Avenue already contains several duplexes and the area, including Alexander Avenue and Heales Avenue to the south. As stated above similar applications have been supported by Council over the past few years. Additionally, there are several small apartment buildings and other multi-family developments in the area. It is an area within close proximity to downtown shops and services, further supporting the rationale for a modest density increase. Given that the above policies apply to the subject property, this lot is suited to the zoning change, anticipated in this application.

The proposed zoning amendment also meets the following Official Community Plan policies:

1. Encourage an intensification of residential land use and density in areas where existing services can accommodate higher densities.
2. Encourage a diversified range of housing types and tenures.
3. Consistent with the City's desire to provide a variety of housing types, the City encourages the development of higher-end residential development including single-family, multi-family and townhouse developments.

Given the above, there is adequate policy to support the proposal to rezone from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane) and support is recommended for First Reading of "Zoning Amendment Bylaw No. 2018-18".

Deny Zoning Amendment Bylaw

Council may consider that duplex style development is not appropriate for the subject properties. If this is the case, Council should deny the First Reading of Zoning Amendment Bylaw No. 2018-18".

Development Variance Permit

Approve Development Variance Permit

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

Section 10.6.2.3: to increase the maximum lot coverage from 40% to 43%.

- The applicant is requesting a variance for the construction of the front-to-back duplexes. To accommodate the construction of the proposed plans, the maximum lot coverage will need to be varied.
- The lot coverage being proposed is slightly larger than the maximum permitted under the RD2 (Duplex Housing: Lane) zoning. The applicant's design would require the maximum lot coverage increase from 40% to 43%.
- The applicant meets all other requirements of the RD2 zone, including parking, yard setbacks, height, etc. Often, developers will request a variance to their yard setbacks or maximum height to allow for the construction of a duplex. This application has been designed to fit within the setbacks of the RD2 zone, while still allowing enough room to accommodate the required parking. The contemporary design that the applicant has proposed requires a slightly larger lot coverage than the zone currently allows.
- It is important that densification be done in areas close to downtown amenities. In an effort to be sensitive to the existing neighbourhood, while increasing density in a modest way, infill development should be encouraged and supported. Accommodating densification within existing neighbourhoods can have some constraints for developers. Given that this development is within the required yard setbacks and does not exceed the maximum height allowance, staff finds that the lot coverage variance is warranted to allow infill development to occur.

Given the above, staff find the variance request reasonable and recommend that Council support the application.

Deny Development Variance Permit

Council may consider that the increase of lot coverage will have a negative impact on the neighbourhood. If that is the case, Council should deny the variance request.

Development Permit

Approve Development Permit

The property is within the 'Downtown Multiple Family' Development Permit Area (DPA), as such, a Development Permit (DP) is required prior to being able to apply for a building permit. The development permit is listed on title of the property and 'locks-in' the form and character of the building, giving some assurance that the building will look as was presented to Council.

The objective of the Downtown Multiple Family Development Permit Area is to ensure that the citing, form, character and landscaping of new multi-family development are compatible with the context of the traditional neighbourhood character of the neighbourhood. New housing should foster a sense of community, enhance the existing streetscape and should maintain or enhance the area's character and livability. In this DPA, there is an emphasis on the following design considerations:

The mass and façade of buildings should be articulated with variations in materials and detailing to maintain the scale of the existing neighbourhood. The use of building character elements, such as porches, verandas, raised front stairs, window and door detailing, sloped and varied roof lines which are found on single family homes are required to provide interest while blending into the existing neighbourhood.

- The proposed duplexes are designed with interesting front facades, which have variations in building materials. The applicant has displayed that there will be a mixture of acrylic stucco, and longboard or hardie siding.

Square or rectangular buildings comprised of straight walls are discouraged.

- The applicant has proposed an interesting design to be able to accommodate an increase of density on the smaller lots. The outermost walls, bordering the neighbouring properties, have a cantilevered area, which eliminates straight, flat walls against property lines. The north and south of the duplexes are varied through unique window designs, entranceways, and balconies.

All units should have a street orientation, including picture windows and pedestrian entrance to the street.

- The proposed duplexes feature balconies on each unit, creating a connection to both the street and the lane.

Private amenity space shall be provided for each dwelling unit constructed.

- The proposed design allows each unit to have adequate private amenity space through both a balcony fronting either the street or the lane, and a rooftop patio.

The design presented by the applicant has been created with street presentation and architectural interest in mind. The siting, form and character are appropriate, particularly when considered contextually with other contemporary development in the area. As such, Staff recommend that Council approve the Development Permit.

Deny Development Permit

Council may consider that the developer can change the design to more accurately reflect the current built form of the neighbourhood, or soften the impact of the development on neighbouring properties. If this is the case, Council should refer the permits back to staff to work with the developer as directed by Council.

Alternate Recommendations

1. THAT Council deny First Reading of "Zoning Amendment Bylaw No. 2018-18" and deny support for DVP PL2018-8168 and DP PL2018-8168, and DP PL2018-8169.
2. THAT Council give First Reading to "Zoning Amendment Bylaw No. 2018-18" , but deny support for DVP PL2018-8168 and DP PL2018-8168, and DP PL2018-8169
3. THAT Council give First Reading to "Zoning Amendment Bylaw No. 2018-18", and support for DVP PL2018-8168 and DP PL2018-8168, and DP PL2018-8169 with conditions that Council feels are appropriate.

Attachments

Attachment A:	Subject Property Location Map
Attachment B:	Zoning Map of Subject Property
Attachment C:	Official Community Plan Map of Subject Property
Attachment D:	Images of Subject Property
Attachment E:	Letter of Intent
Attachment F:	Building Elevations
Attachment G:	Site Plan
Attachment H:	Landscape Plan
Attachment I:	Floor Plans
Attachment J:	Renderings
Attachment K:	Draft Development Variance Permit (DVP)
Attachment L:	Draft Development Permit (DP)
Attachment M:	Zoning Amendment Bylaw No. 2018-18

Respectfully submitted

Nicole Capewell
Planner 1



Approvals

Director Development Services	Chief Administrative Officer
AH	PW

Attachment A – Subject Property Location Map

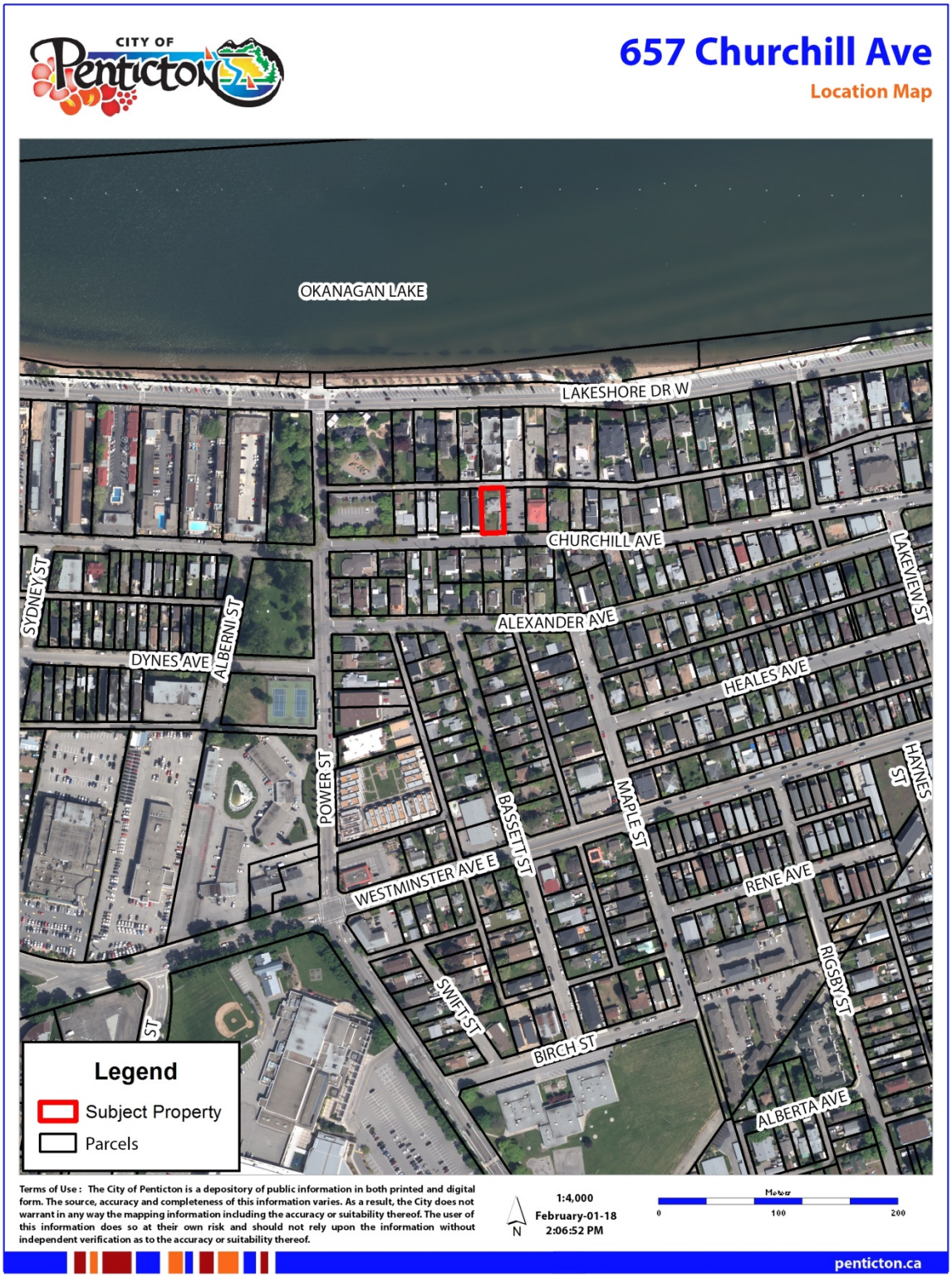


Figure 1 – Subject Property Highlighted in Red

Attachment B – Zoning Map of Subject Property



Figure 2 – Subject Property Currently Zoned R2 (Small Lot Residential)

Attachment C – Official Community Plan Map of Subject Property



Figure 3 – Subject Property Currently Designated as LR (Low Density Residential) within Official Community Plan

Attachment D – Images of Subject Property



Figure 4 – Looking toward front of 657 Churchill Avenue from Churchill Avenue

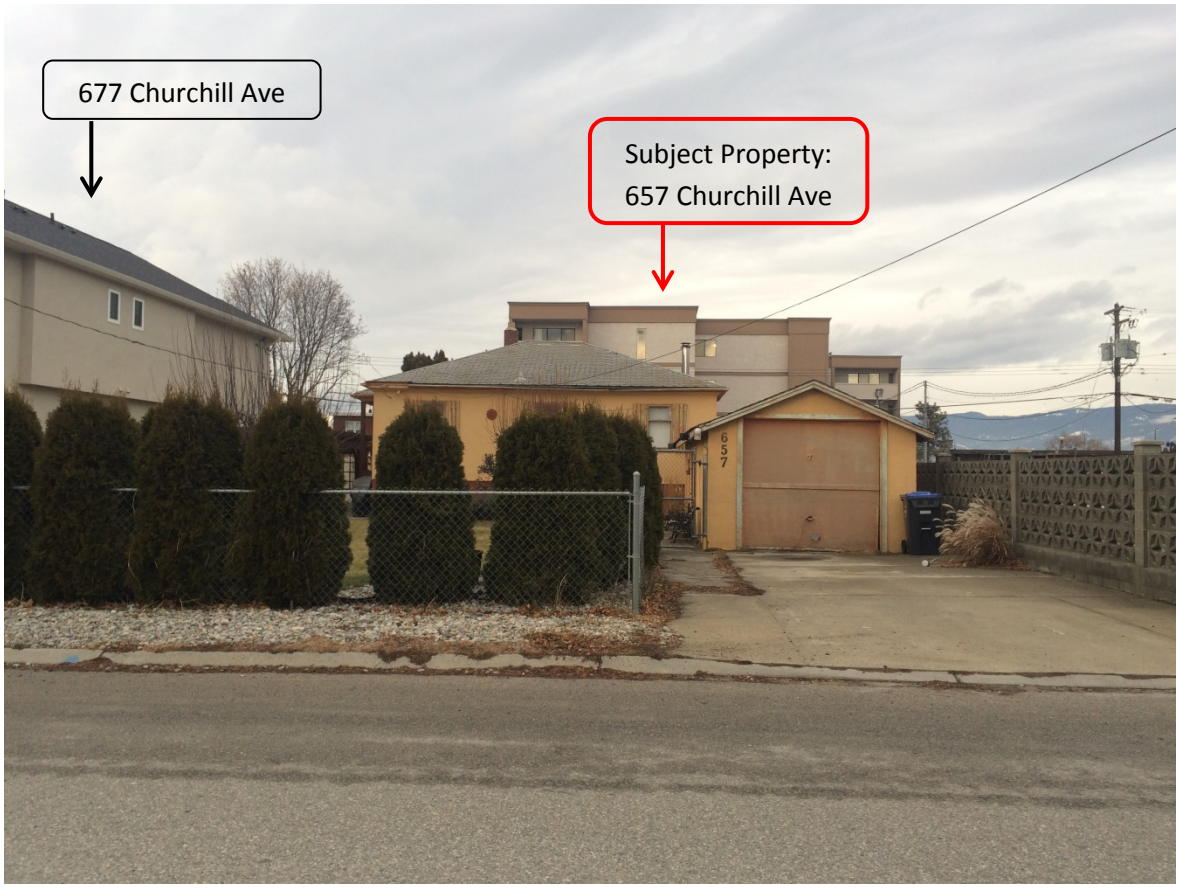


Figure 5 – Looking toward front of 657 Churchill Avenue from Churchill Avenue

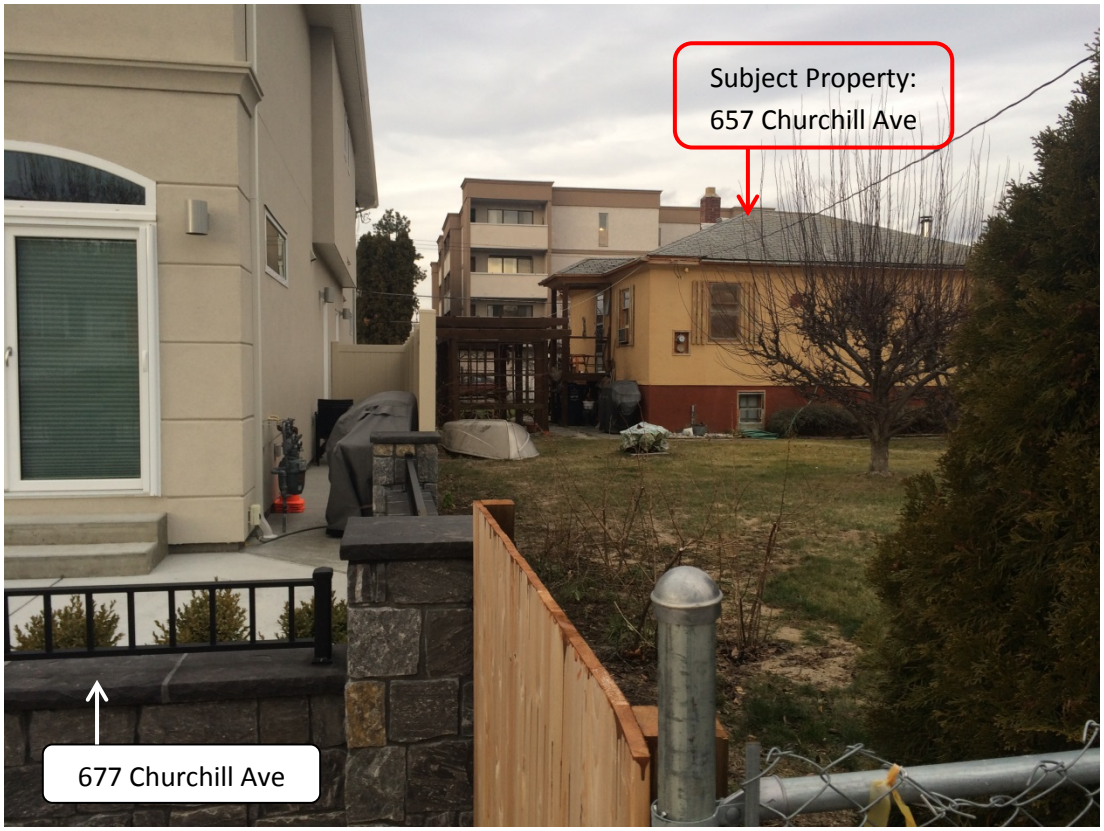


Figure 6 – Looking down the western property line of 657 Churchill Avenue from Churchill Avenue

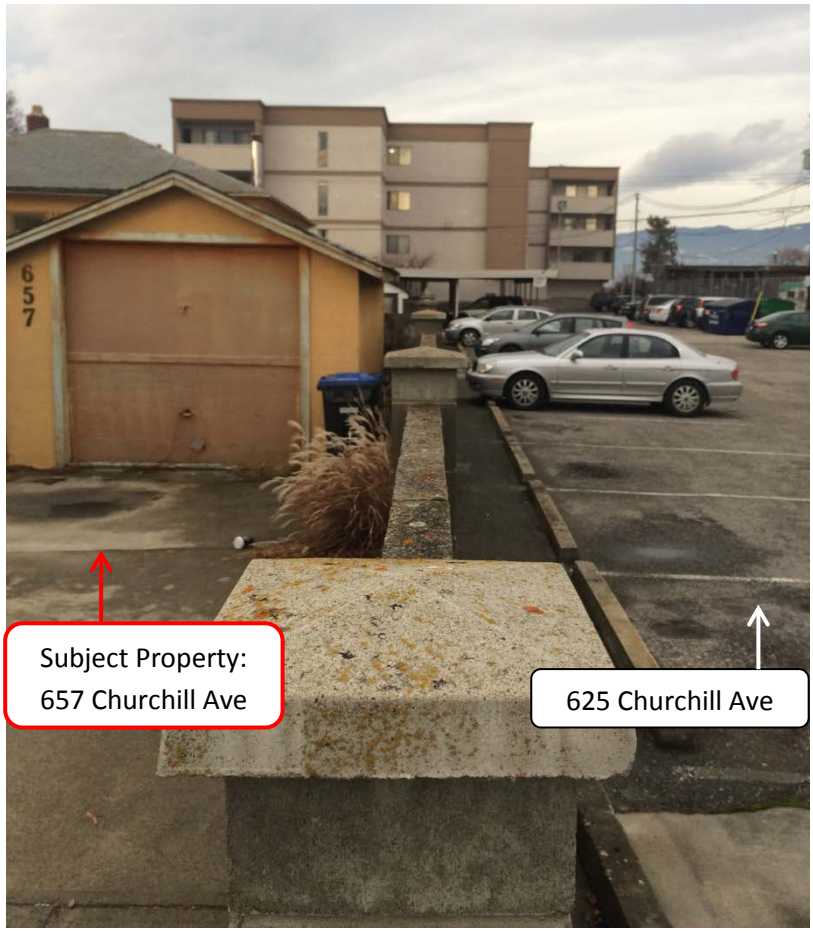


Figure 7 – Looking down the eastern property line of 657 Churchill Avenue from Churchill Avenue



Figure 8 – Looking at 657 Churchill Avenue from the lane



Figure 9 – Looking down the western property line of 657 Churchill Avenue from the lane

Attachment E – Letter of Intent

Date: January 19,2018

City of Penticton

1114784 B.C. Ltd.
13536 Marine Drive Surrey, B.C. V4A 1G2

Dear: City of Penticton;

The proposed project at 657 Churchill Avenue is like many in the neighborhood a standard size sixty-foot wide lot to be subdivided into two duplex lots of thirty feet each. I intend to build a design of contemporary looks with a smart home all the way through to allow control and security of the premises from a phone. I also intend to use as much as possible the least amount of glued woods and low fume adhesives through out all the units. I intend to upgrade all the landscaping to beyond minimum standards to create a pleasant environment for the end user. I designed the dining room to be a flex room like an office or a den, toddler space, art spot and an imagination. The roof decks were designed to create privacy and serenity from all the other units in lieu of yard space, with the ability to grow some flowers and/or vegetables in containers. Please share my vision in creating a more pleasant living space. Thank you!

Sincerely,

Richard Langfield

Figure 10 – Letter of Intent

Attachment F – Building Elevations



Figure 11: South Elevation (from Churchill Avenue)



Figure 12 – East Elevation



Figure 13 – North Elevation (from lane)

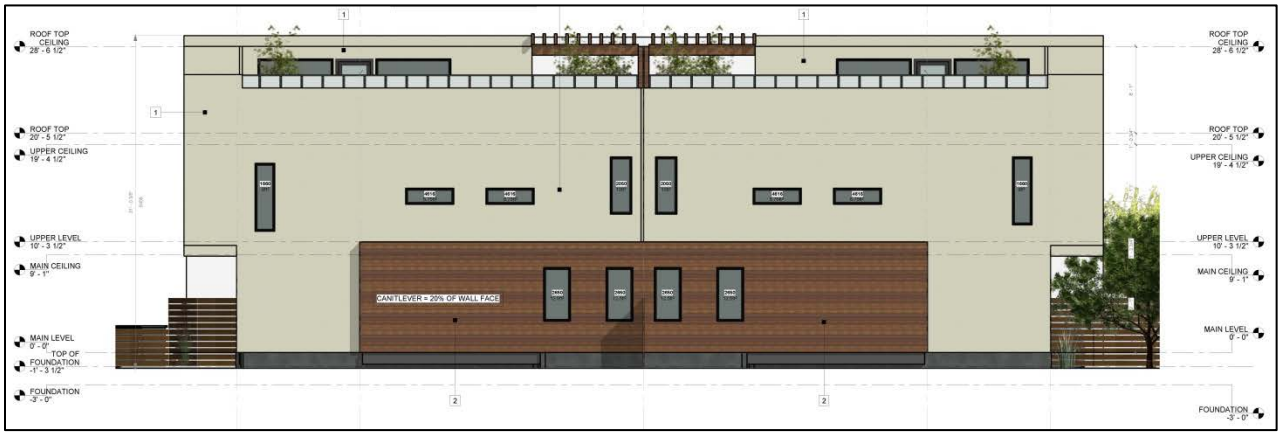


Figure 14 – West Elevation

Attachment G – Site Plan

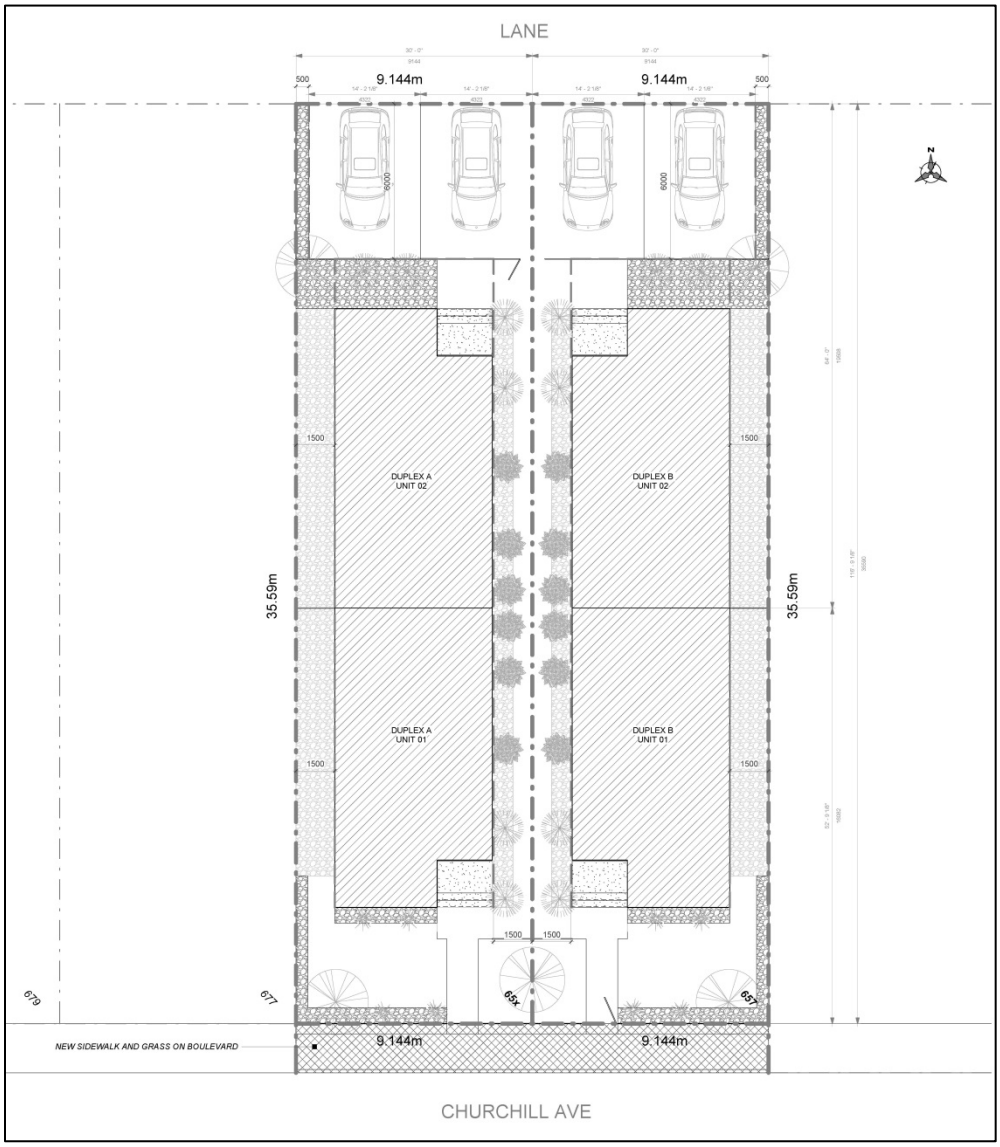


Figure 15 – Site Plan

Attachment H – Landscape Plan

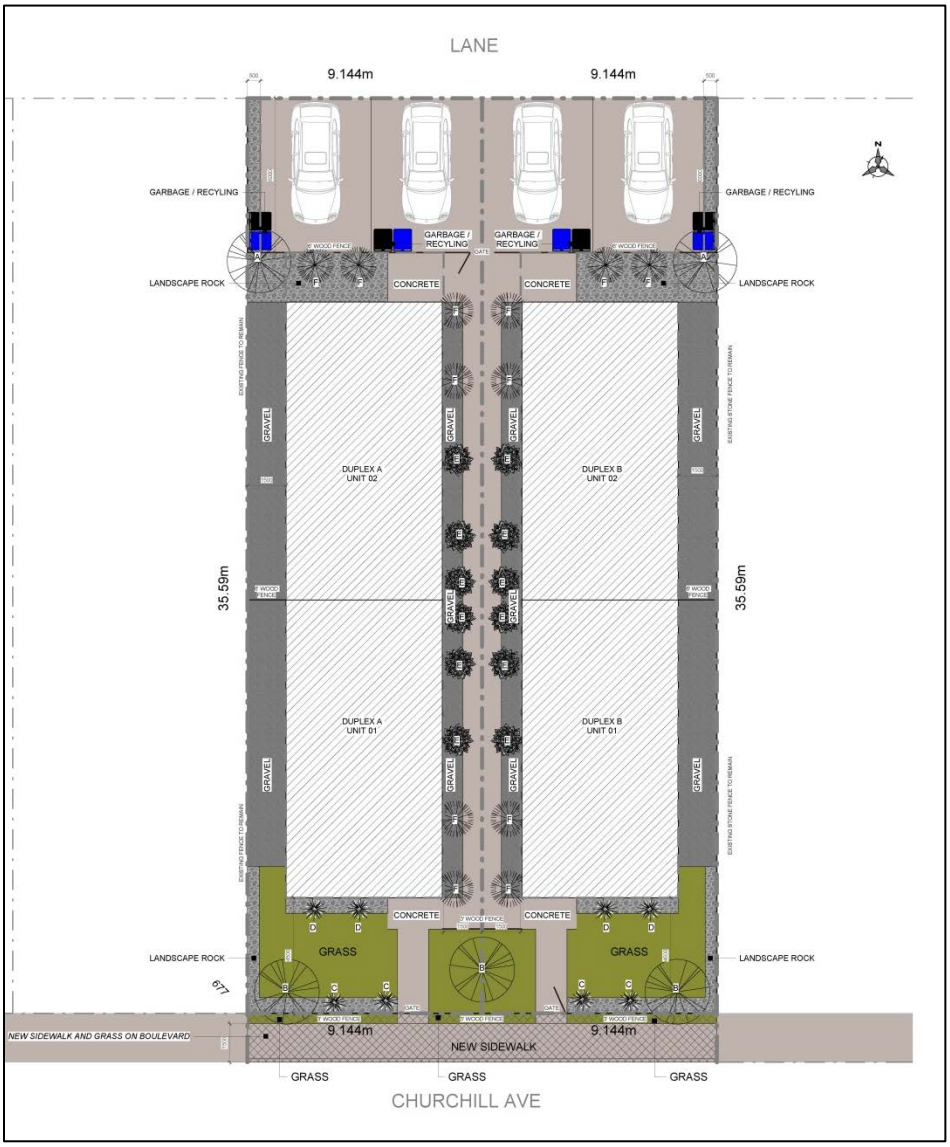


Figure 16 – Landscape Plan

Attachment I – Floor Plans

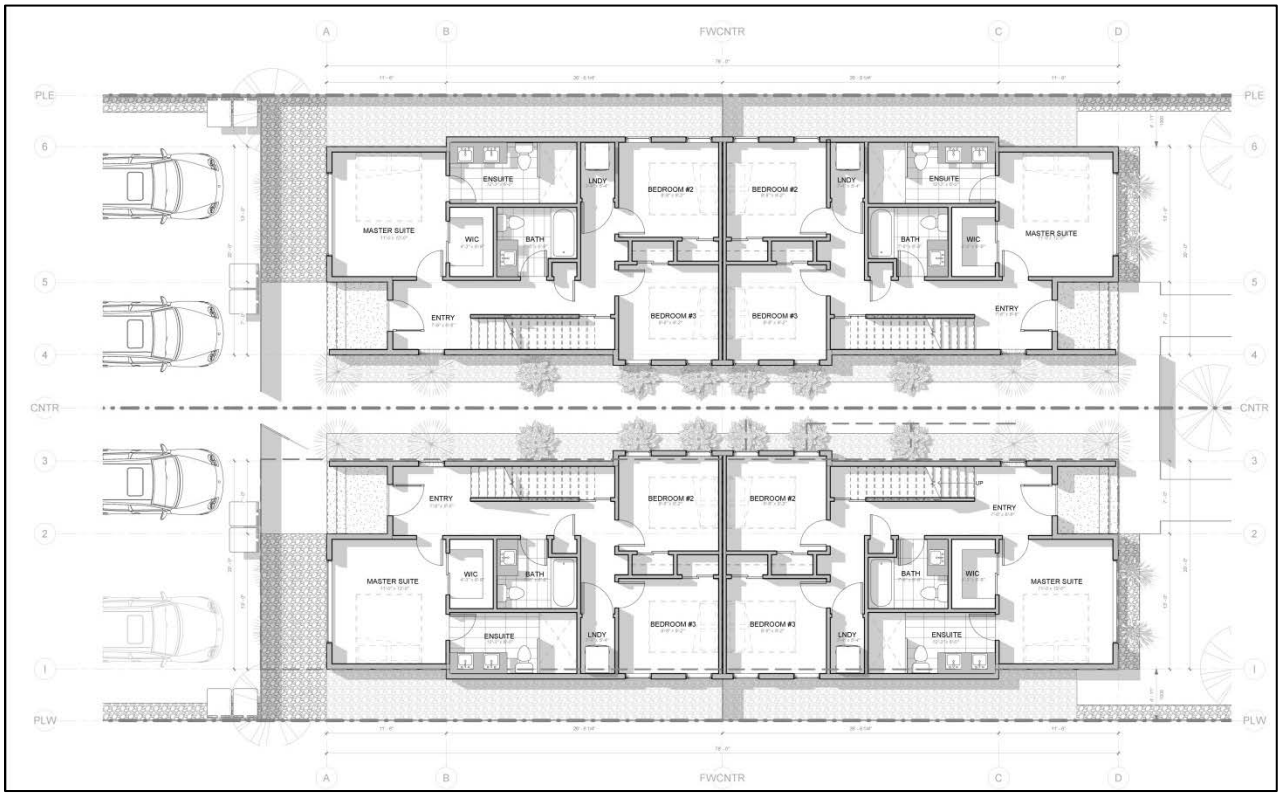


Figure 17 – Main Floor Plan



Figure 18 – Upper Floor Plan

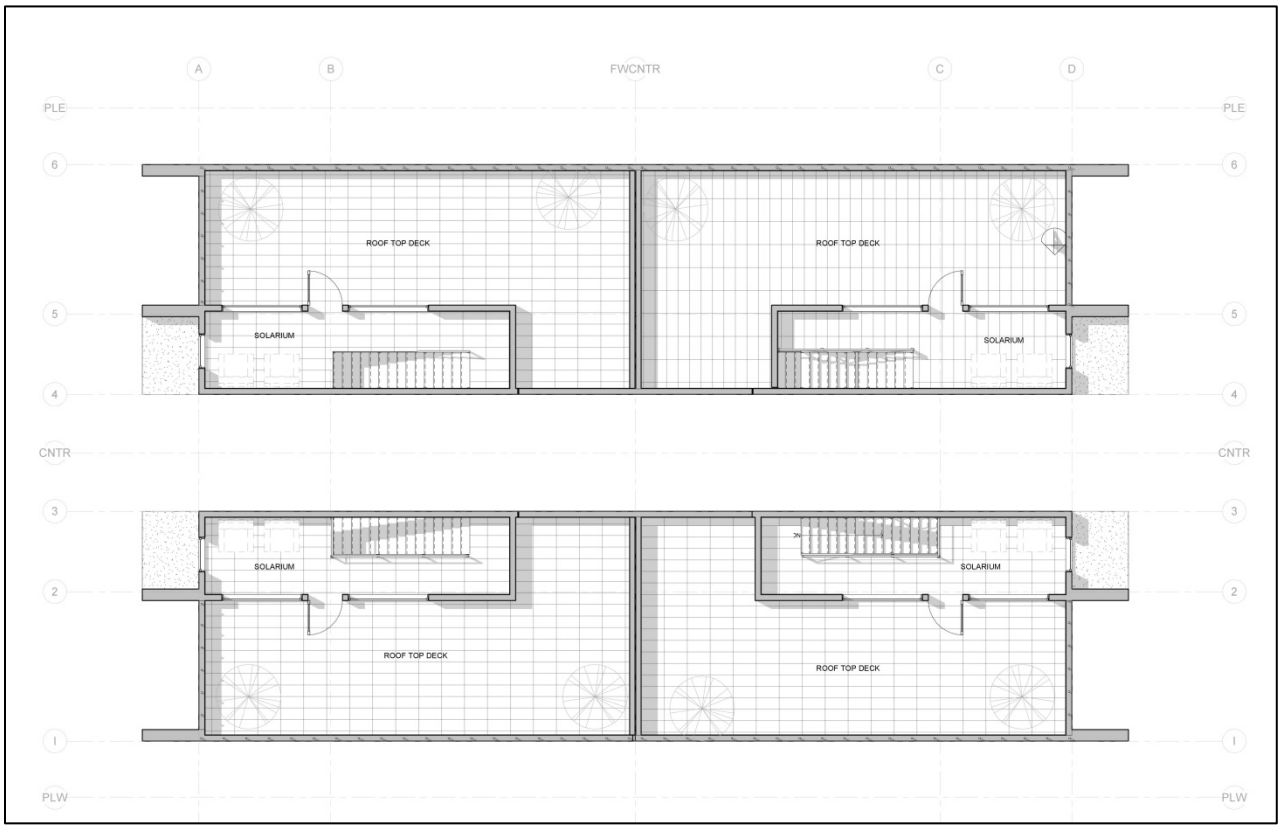


Figure 19 – Roof Top Deck Plan

Attachment J –Renderings



Figure 20 – View from South East Corner of Property



Figure 21 – View of Entrance to Building from Churchill Avenue

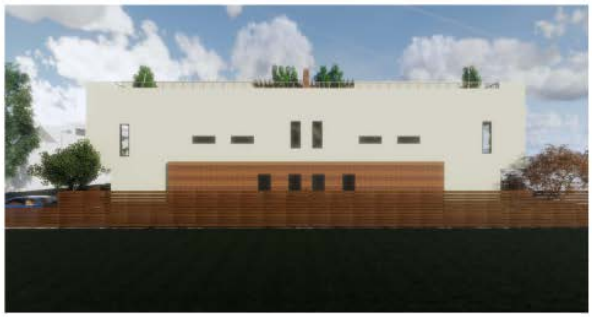


Figure 22 – Western Side of Building



Figure 23 – View from lane



Figure 24 – View from Churchill Avenue



Figure 25 – View from lane



Figure 26 – View of Entrance to Building from Churchill Avenue



Figure 27 – View of Entrance to Building from Churchill Avenue

Attachment K – Draft Development Variance Permit (DVP)

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

Development Variance Permit

Permit Number: DVP PL2018-8168

Name
Address I
Address II

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 22, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 4075
   Civic: 657 Churchill Avenue
   PID: 010-584-528

3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary Section 10.6.2.3 of Zoning Bylaw 2017-08 to allow for an increase to the maximum lot coverage from 40% to 43%, as shown in the plans attached in Schedule 'A'.

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.

DRAFT

Authorized by City Council, the _____ day of _____, 2018

Development Variance Permit PL
Issued this _____ day of _____, 2018

_____
Dana Schmidt,
Corporate Officer

DRAFT

Attachment L – Draft Development Permit (DP)
Proposed Lot A and Lot B

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

Development Permit

Permit Number: DP PL2018-8168

Owner Name
Owner 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: Proposed Lot A of Lot 22, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 4075
   Civic: 657 Churchill Avenue
   PID: 010-584-528

3. This permit has been issued in accordance with Section 489 of the *Local Government Act*, to permit the construction of two duplexes as shown in the plans attached in Schedule 'A'.

4. In accordance with Section 502 of the *Local Government Act* a deposit or irrevocable letter of credit, in the amount of $_____ must be deposited prior to, or in conjunction with, an application for a building permit for the development authorized by this permit. The City may apply all or part of the above-noted security in accordance with Section 502(2.1) of the *Local Government Act*, to undertake works or other activities required to:

   a. correct an unsafe condition that has resulted from a contravention of this permit,
   b. satisfy the landscaping requirements of this permit as shown in Schedule A or otherwise required by this permit, or
   c. repair damage to the natural environment that has resulted from a contravention of this permit.

5. The holder of this permit shall be eligible for a refund of the security described under Condition 4 only if:

   a. the permit has lapsed as described under Condition 8, or
   b. a completion certificate has been issued by the Building Inspection Department and the Director of Development Services is satisfied that the conditions of this permit have been met.

6. Upon completion of the development authorized by this permit, an application for release of securities, provided in Schedule B, must be submitted to the Planning Department. Staff may carry out inspections of the development to ensure the conditions of this permit have been met. Inspection fees may be withheld from the security as follows:

1st Inspection	No fee
2nd Inspection	$50
3rd Inspection	$100
4th Inspection or additional inspections	$200

General Conditions

7. In accordance with Section 501(2) of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.

8. 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.

9. 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.

10. 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.

11. 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 _____, 20

Issued this _____ day of _____, 20

_____
Dana Schmidt,
Corporate Officer

The Corporation of the City of Penticton

Bylaw No. 2018-18

A Bylaw to Amend Zoning Bylaw 2017-08

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 2017-08;

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. 2018-18".

2. **Amendment:**

2.1 Zoning Bylaw 2017-08 is hereby amended as follows:

Rezone Lot 22, District Lot 2, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 4075, located at 657 Churchill 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	day of	, 2018
A PUBLIC HEARING was held this	day of	, 2018
READ A SECOND time this	day of	, 2018
READ A THIRD time this	day of	, 2018
RECEIVED the approval of the Ministry of Transportation on the	day of	, 2018
ADOPTED this	day of	, 2018

Notice of intention to proceed with this bylaw was published on the __ day of ____, 2018 and the __ day of ____, 2018 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

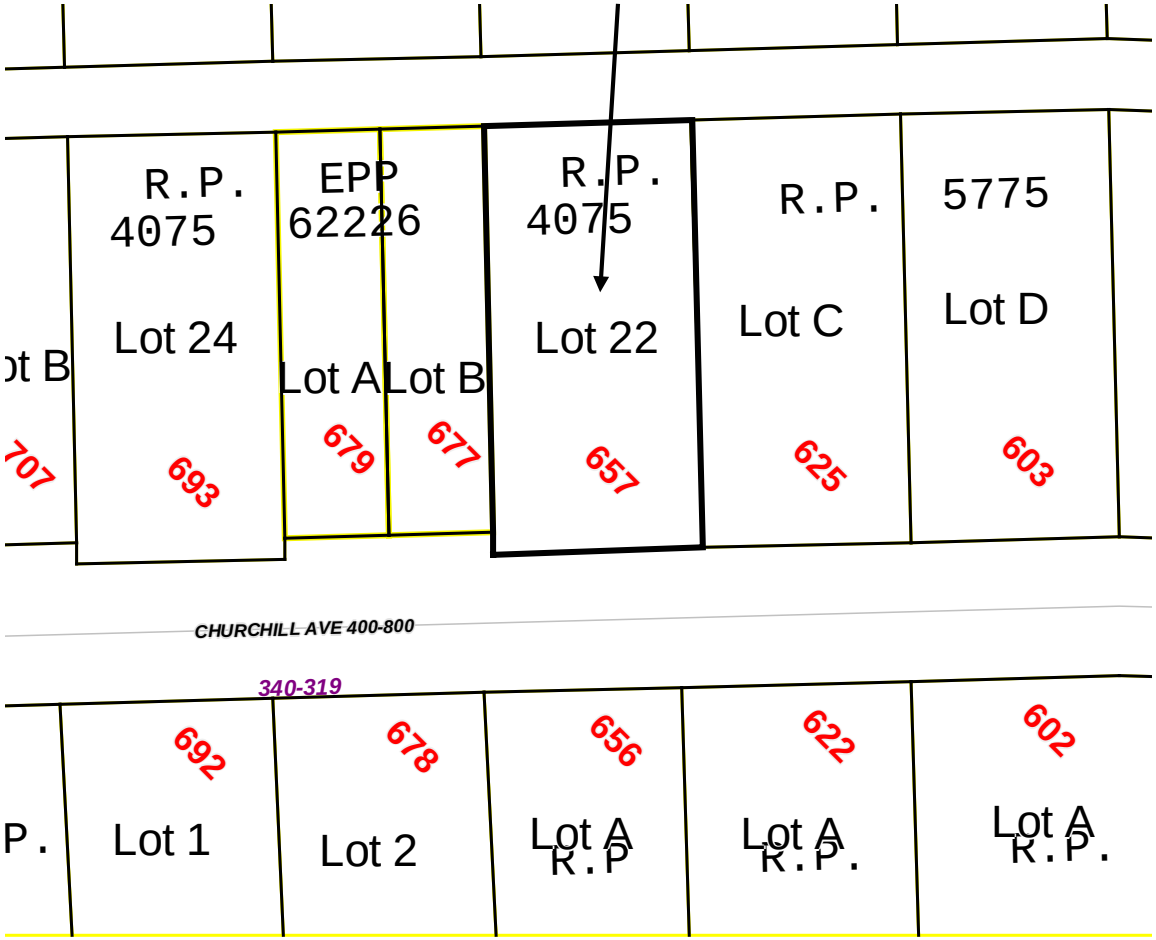
Approved pursuant to section 52(3)(a) of the *Transportation Act*
this _____ day of _____, 2018

_____
for Minister of Transportation & Infrastructure

_____
Andrew Jakubeit, Mayor

_____
Dana Schmidt, Corporate Officer

Rezone 657 Churchill Ave.
From R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane)



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2018-18

Date: _____ **Corporate Officer:** _____