

Public Hearing

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

To view the live broadcast, visit www.penticton.ca

Tuesday, August 6, 2024
at 6:00 p.m.

- | | | |
|-------|---|------|
| 1. | Mayor Calls Public Hearing to Order for “Zoning Amendment Bylaw No. 2024-26” | 1-12 |
| CO | Reads Opening Statement and Introduction of Bylaw

“Zoning Amendment Bylaw No. 2024-26” (101, 102 and 104 – 250 Marina Way)

Purpose: To amend Zoning Bylaw No. 2024-22 as follows:

Add site-specific provision within the C9 (Marina Way Commercial) zone, as follows:

“Section 11.9.4.2, In the case of Strata Lot 1, Strata Lot 2, and Strata Lot 4 District Lot 202 Similkameen Division Yale District Strata Plan KAS2971 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V, located at 250 Marina Way, Live Work Unit regulation Section 7.8.4 does not apply and the business operator at the location may be different than the person living in the dwelling unit portion of the live work unit.”

The applicant is proposing to change the requirements of the live work units in an existing building to allow the business operators to be different than the person living in the dwelling portion of the live work units. | |
| | Notice: Pursuant to the <i>Local Government Act</i> the Public Hearing was advertised on Friday, July 26, 2024 and Friday, August 2, 2024 in an online news source and the newspaper. | |
| CO | One letter has been received regarding the Zoning Amendment Bylaw (as of noon Wednesday, July 31, 2024). | |
| Mayor | Requests Development Services staff describe the proposed bylaw | |
| Mayor | Invitation to applicant for comment or elaboration on the application | |
| Mayor | Invitation to electronic and in person participants to present their views | |
| Mayor | Invites Council members to ask questions | |
| Mayor | Invites applicants to respond to questions | |

PUBLIC HEARING for “Zoning Amendment Bylaw No. 2024-26” is terminated and no new information can be received on this matter.

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

Tuesday, July 16, 2024
at 1:00 p.m.

Resolutions

8.9 Zoning Amendment Bylaw No. 2024-26
Re: 101, 102 and 104 – 250 Marina Way

201/2024

It was MOVED and SECONDED

THAT Council give first reading to “Zoning Amendment Bylaw No. 2024-26”, a bylaw to add the site-specific provision, within the C9 (Marina Way Commercial) zone as follows: “Section 11.9.4.2, In the case of Strata Lot 1, Strata Lot 2, and Strata Lot 4 District Lot 202 Similkameen Division Yale District Strata Plan KAS2971 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V, located at 250 Marina Way, Live Work Unit regulation Section 7.8.4 does not apply and the business operator at the location may be different than the person living in the dwelling unit portion of the live work unit.”;

AND THAT Council forward “Zoning Amendment Bylaw No. 2024-26” to the August 6, 2024 Public Hearing.

CARRIED UNANIMOUSLY

Council Report

Date: July 16, 2024
To: Anthony Haddad, City Manager
From: Gabe Tamminga, Planner I
Address: #101, #102 and #104 - 250 Marina Way

File No: RMS/250 Marina Way

Subject: Zoning Amendment Bylaw No. 2024-26

Staff Recommendation

THAT Council give first reading to “Zoning Amendment Bylaw No. 2024-26”, a bylaw to add the site-specific provision, within the C9 (Marina Way Commercial) zone as follows: “Section 11.9.4.2, In the case of Strata Lot 1, Strata Lot 2, and Strata Lot 4 District Lot 202 Similkameen Division Yale District Strata Plan KAS2971 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V, located at 250 Marina Way, Live Work Unit regulation Section 7.8.4 does not apply and the business operator at the location may be different than the person living in the dwelling unit portion of the live work unit.”;

AND THAT Council forward “Zoning Amendment Bylaw No. 2024-26” to the August 6, 2024 Public Hearing.

Strategic Priority Objective

Vibrant and Connected: Support vibrant and diverse activities creating opportunities for connection in community.

Proposal

The applicant is proposing to change the requirements of the live work units in an existing building to allow the business operators to be different than the person living in the dwelling portion of the live work units (Figure 1). In order to proceed with the proposed change, the applicant has requested a site-specific zoning on the subject property so that the business operator at that location may be different that the person living in the dwelling unit portion of the live work unit as stated in Section 7.8.4 of the Zoning Bylaw.



Figure 1 - Property Location Map

Background

The subject property is located along the south side of Marina Way, across from Marina Way Beach and Marina Way Park fronting Okanagan Lake. The property is approximately 3,750m² in size with 50 strata lots within the buildings. The surrounding area is a mix of uses and includes multifamily developments, single family homes, parks, and commercial buildings. Construction began on the property in the early 2000's and the buildings were constructed over four phases of development. The proposed change would impact the three strata lots as indicated above, that are located on the ground floor along Marina Way.

The property is zoned C9 (Marina Way Commercial) by Zoning Bylaw 2024-22, which is a custom zone created for this area. It is designated in the Official Community Plan as Downtown Mixed Use, this is a land use designation that supports higher-density mixed-use buildings. Currently, the C9 zone permits live work units but follows the regulations set out in the Zoning Bylaw (Section 7.8.4) which requires that the operator of the business in a live-work unit must be owned and operated by a person living in the dwelling portion of the live work unit. The applicant has been actively working with the Strata through the process to ensure that they have approval from the Strata Council for this application.

The proposed changes were reviewed by staff at the site-specific level and a city-wide level to determine whether the Zoning Bylaw requirement for the live work units to have the business operator of the unit also be the person residing in the dwelling unit portion was necessary to have. After careful consideration, staff found that it was important to maintain this requirement for the live work units to protect this use for people that want this type of business and living arrangement. Live work units provide an opportunity to create entrepreneurial business structures that are not achievable in other arrangements. Therefore, removing this requirement at a larger scale would lead to the defeat of the desired outcome with Penticton having interconnected living and workspaces. Furthermore, some live work units are interconnected from the building code standpoint, providing minimal separation between the residential and commercial units (i.e. the exiting of the residential unit through the business space). This structure could create conflicts between users if the units are rented or leased to separate individuals. Live work units can contribute to a more vibrant and connected urban landscape through its unique structure and therefore the requirements should not be removed on a larger scale.

Public Hearing

A public hearing is required for this site-specific zoning, as the request does not propose any residential uses. The *Local Government Act* requires the City to mail public notices to nearby residents, public notice signs to be posted on the property, and post a public notice on the City's website that a Public Hearing is being held.

Analysis

Site Specific Zoning Amendment

The Official Community Plan (OCP) designation for the subject property is 'Downtown Mixed Use', which supports higher-density mixed-use buildings that have active retail, service or civic and cultural uses at ground level and multi-family residential and/or office uses (Figure 2).

<p>Downtown Mixed Use</p> 	<p>Downtown developments with active retail, service or civic and cultural uses at ground level and multi-family residential and/or office uses.</p>	<ul style="list-style-type: none"> • Higher-density mixed-use buildings • Residential units limited to the second floor and above, or located behind the commercial frontage if at grade 	<ul style="list-style-type: none"> • Commercial (retail, service, office) • Residential • Civic and cultural • Tourist commercial 	<ul style="list-style-type: none"> • Up to 10 storeys • Up to 3 storeys on the 0-300 blocks of Main St and the 0-99 block of Front St • Up to 5 storeys on the 100-200 block of Front St, subject to contextual design and adherence to DP guidelines
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Figure 2 - OCP Designation

The ‘Downtown Mixed Use’ designation supports the use of commercial units in high density areas to promote the economic development of the community and enhance the public realm. This site-specific change would allow more flexibility for future tenants and businesses to operate in this existing development going forward. Given that there is adequate policy through the OCP to support the proposed change, staff recommend that

Council give first reading to “Zoning Amendment Bylaw No. 2024-26”, and forward the bylaw to the August 6, 2024 Public Hearing to gather comments and feedback from the public.

Alternate Recommendations

1. THAT Council deny first reading of “Zoning Amendment Bylaw No. 2024-26”.

Attachments

- Attachment A – Zoning Map
- Attachment B – Official Community Plan Map
- Attachment C – Photos of Property
- Attachment D – Letter of Intent
- Attachment F – Zoning Amendment Bylaw No. 2024-26

Respectfully submitted,

Gabe Tamminga
Planner I

Concurrence

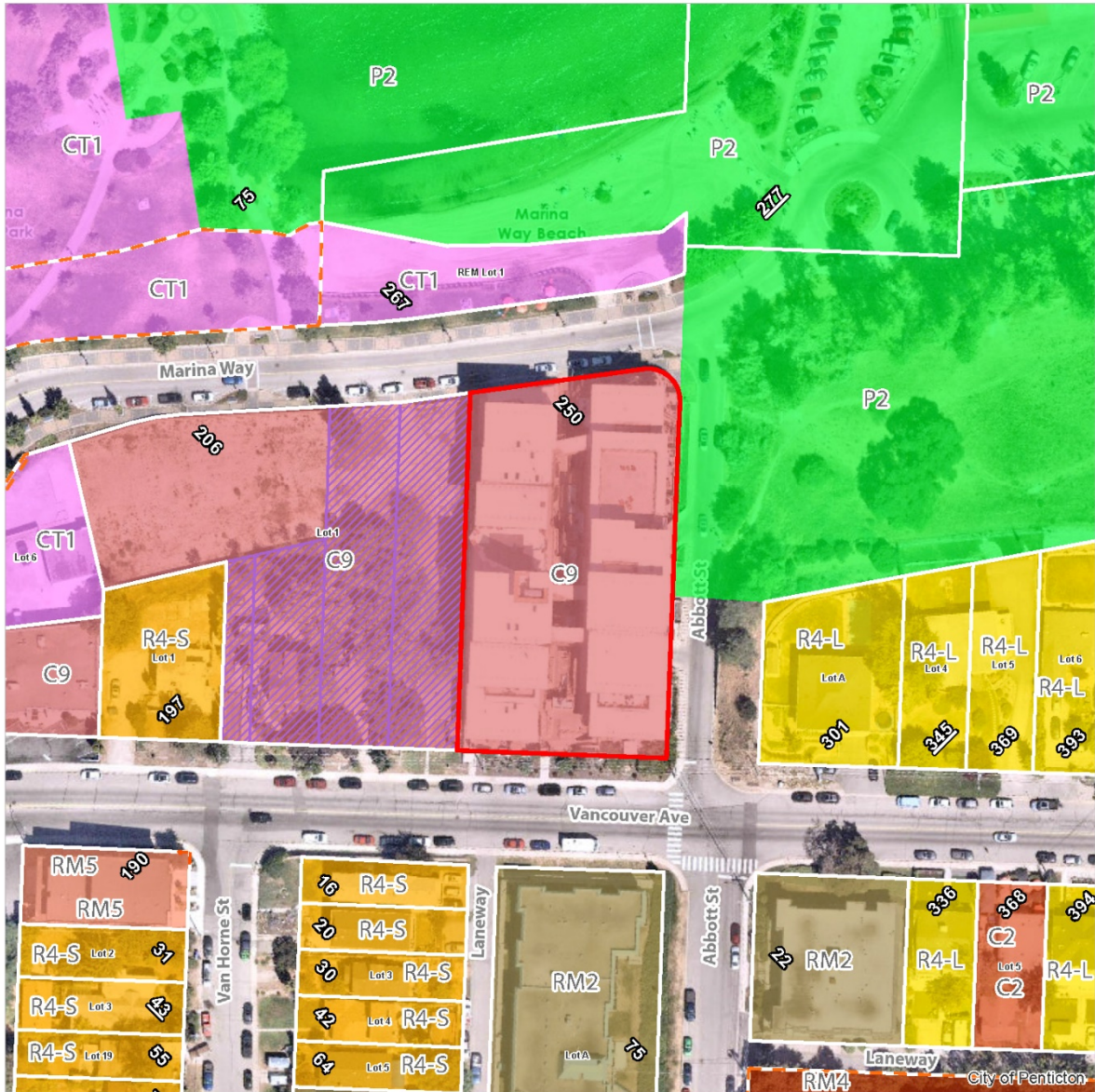
<p>Director of Development Services</p> <p><i>BL</i></p>	<p>City Manager</p> <p><i>SBH</i></p>
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Attachment A – Zoning Map



Zoning Bylaw Map

250 Marina Way



- Subject Parcel
- Site Specific Zoning
- Zoning Bylaw No. 2024-22
- R4-S - Small-Scale Multi-Unit Residential - Small Lot
- R4-L - Small-Scale Multi-Unit Residential - Large Lot
- RM2 - Low Density Multiple Housing
- RM4 - High Density Multiple Housing
- RM5 - Urban Residential
- C2 - Neighborhood Commercial
- C9 - Marina Way Commercial
- CT1 - Tourist Commercial
- P2 - Parks and Recreation

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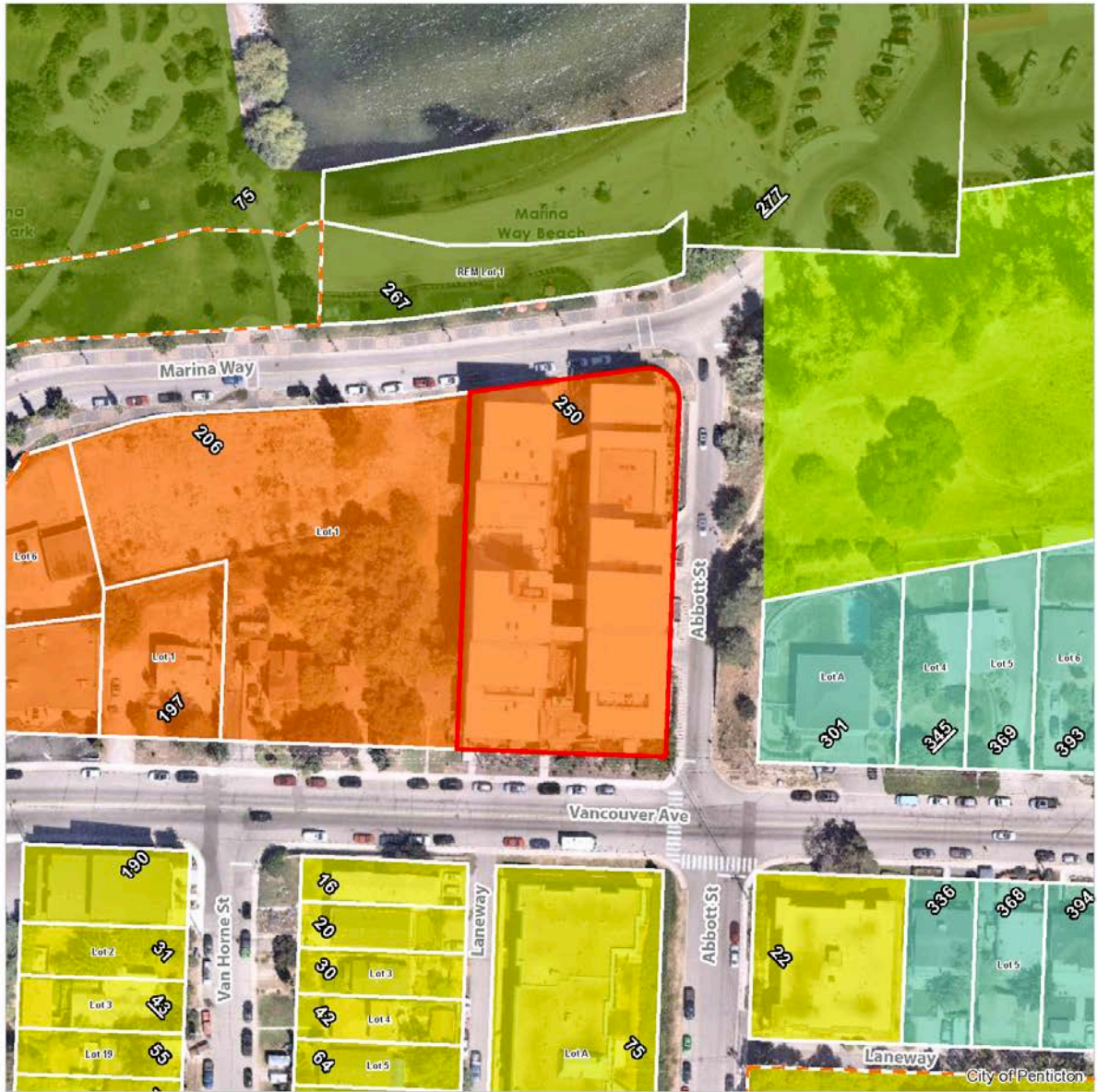
Terms of Use - The City of Penticton is a depository of public information in both printed and digital form. The source, accuracy and completeness of this information varies. As a result, the City does not warrant in any way the mapping information including the accuracy or suitability thereof. The user of this information does so at their own risk and should not rely upon the information without independent verification as to the accuracy or suitability thereof.
 Date: 7/5/2024

Attachment B – Official Community Plan Map

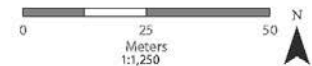


Official Community Plan Map

250 Marina Way



- Subject Parcel
- Official Community Plan - Future Land Use
 - Downtown Mixed Use
 - High Density Residential
 - Low Density Residential
 - Natural and Conservation Areas
 - Parks



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Date: 7/5/2024



Attachment C – Photos of the Property





Attachment D – Letter of Intent



**Planning Department
City of Penticton**

171 Main Street
Penticton BC V2A 5A9
Phone: 250-490-2501

To Whom It May Concern,

Re: Letter of intent

Objective: To remove Zoning Bylaw 7.8.4 from affecting the subject units at 250 Marina Way

According to 7.8.4 "The business operated in a live-work unit must be owned and operated by a person living in the dwelling unit portion of the live work unit."

The intent of this site-specific zoning amendment is to allow the commercial and small residential portions of these live-work units to operate separately from each other. This will increase the City's opportunity for growth which drives us toward a healthier economy in the future.

This change will increase the viability of small businesses, such as a cafe or salon, by allowing them to succeed in high foot traffic areas without having to lease the residential portion as well.

When we initiated this process, we were specifically concerned with unit 102, as the potential Buyer had discovered the inconsistency with the City bylaws and how the unit was operating. We then discovered other unit owners were on board to do a joint application.

We have included a note from the potential Buyer of the Prague Cafe (sent to me by his agent) regarding the site-specific zoning amendment:

"I am seeking a change to the present zoning bylaw, restricting operators of businesses within a live/work situation, requiring them to live on premises, to eliminate this requirement of living within the building of which the business is located.

There will be no impact on the neighbouring properties at present. We will strive to keep the same quality of service and business habits as the existing owner. Whenever I have found non-conformity within an organic development of the business community, it has always been a positive to correct the nonconformity to one of conforming, of which I think will benefit the community at large."

Thank you for considering our request. We appreciate your time and attention.

Danielle Chapman
Agent for the owners of 101, 102 and 104 - 250 Marina way for application purposes

The Corporation of the City of Penticton

Bylaw No. 2024-26

A Bylaw to Amend Zoning Bylaw 2024-22

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 No. 2024-22;

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. 2024-26".

2. **Amendment:**

2.1 Zoning Bylaw No. 2024-22 is hereby amended as follows:

Add Section 11.9.4.2: "In the case of Strata Lot 1, Strata Lot 2, and Strata Lot 4 District Lot 202 Similkameen Division Yale District Strata Plan KAS2971 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form V, located at 250 Marina Way, Live Work Unit regulation Section 7.8.4 does not apply and the business operator at the location may be different than the person living in the dwelling unit portion of the live work unit."

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

READ A FIRST time this	16	day of	July, 2024
A PUBLIC HEARING was held this	6	day of	August, 2024
READ A SECOND time this		day of	, 2024
READ A THIRD time this		day of	, 2024
ADOPTED this		day of	, 2024

Notice of intention to proceed with this bylaw was published on the 26th day of July, 2024 and the 2nd day of August, 2024 in an online news source and the newspaper, pursuant to Section 94.2 of the *Community Charter*.

Julius Bloomfield, Mayor

Angie Collison, Corporate Officer



City of Penticton – Schedule 'A'
Zoning Amendment Bylaw No. 2024-26

Date: _____

Corporate Officer: _____

From: Beverlee Miller
Sent: Monday, July 29, 2024 8:45 AM
To: Gabe Tamminga
Cc: danielle@teamchapman.ca
Subject: Zoning Amendment re 7.8.4 CityBylaws

Caution! This message was sent from outside your organization.

July 29, 2024

Lakeview Terraces Strata Council
250 Marina Way
Penticton, BC
V2A 1H4

171 Main Street
Penticton, BC
V2A 5A9

City of Penticton staff and council;

Please accept this letter as acknowledgement from Strata KAS2971 Lakeview Terraces that we have been in contact with Danielle Chapman regarding the application for site specific zoning amendment for some of the ground floor units in our building. We are aware that the application has been made to exempt these units from live-work restriction 7.8.4 of the City Bylaws.

We are also aware that the City will be installing signage along Marina Way regarding the application and upcoming public hearing and give permission for the installation of these signs.

Please note these signs were staged before we had time to coordinate this letter.

Respectfully submitted,

Beverlee Miller
President
KAS2971 Lakeview Terraces Strata Council