

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

Tuesday, April 7, 2015
Following the Public Hearing at 6:00 p.m.

1. **Call Regular Council Meeting to Order**
2. **Introduction of Late Items**
3. **Adoption of Agenda**
4. **Adoption of Minutes:**
 - 4.1 Minutes of the March 16, 2015 Public Hearing 1-2 Receive
 - 4.2 Minutes of the March 16, 2015 Regular Council Meeting 3-9 Adopt
 - 4.3 Minutes of the March 23, 2015 Special Council Meeting 10-11 Adopt
5. **Presentations:**
 - 5.1 BC Transplant Society Organ and Tissue Donor Awareness Month – April 12
 - 5.2 Canadian Cancer Society National Daffodil Month – April 13
6. **Delegations (5 minutes maximum):**
 - 6.1 CTQ Consultants –Ed Grifone
Re: SS Sicamous Area Master Plan (See item 8.12 for Master Plan)
7. **Reconsideration of Bylaws and Permits:**
 - 7.1 Zoning Amendment Bylaw No. 2015-02 14-15 2nd/3rd/Adopt
Re: 96 Yorkton Avenue
 - 7.2 Zoning Amendment Bylaw No. 2015-06 16-17 Adopt
Re: 264 Wade Avenue West (Conditions precedent met)
 - 7.3 Fees and Charges Amendment Bylaw No. 2015-11 18-34 Adopt
 - 7.4 OCP Amendment Bylaw No. 2015-16 35-37 2nd/3rd/Adopt
Re: South Beach Drive and Sudbury Avenue
 - 7.5 Zoning Amendment Bylaw No. 2015-17 38-39 2nd/3rd
Re: South Beach Drive and Sudbury Avenue

8. **Staff Reports:**

PM	8.1	Development Variance Permit PL2014-104 Re: 1901 Carmi Avenue & 1682 Lawrence Avenue <i>Staff Recommendation:</i> THAT Council approve "Development Variance Permit PL2014-104", a permit to vary the minimum lot size for a property in the FG (Forestry Grazing) zone from 16 ha to 4.5 ha, to accommodate a lot line adjustment subdivision application between Lot A, District Lot 2710, Similkameen Division Yale District, Plan KAP92935 located at 1901 Carmi Avenue and Lot 2, District Lot 2710, Similkameen Division Yale District, Plan KAP73304, located at 1682 Lawrence Avenue; AND THAT staff are directed to issue the permit.	44-53	Del/Sub
PM	8.2	Development Variance Permit PL2015-021 Re: 2465 Baskin Street <i>Staff Recommendation:</i> THAT Council approve "Development Variance Permit PL2015-021" for Lot 9, District Lot 198, Similkameen Division Yale District, Plan 25119, located at 2465 Baskin Street, a permit to decrease the minimum required side yard from 4.5m to 0.75m and the minimum rear yard setback from 4.5m to 2.0m, in order to build a garage/workshop on the property; AND THAT staff be directed to issue "Development Variance Permit PL2015-021".	54-67	Del/Sub
PWM	8.3	Rocky Mountain Ridged Mussel Stewardship Agreement <i>Staff Recommendation:</i> THAT Council endorse entering into the 2015-2019 Stewardship Agreement for Rocky Mountain Ridged Mussel, as proposed by the Ministry of Forests, Lands and Natural Resource Operations Resource Management Division (Ecosystems) for Three Mile Beach Area as contained in Attachment "A"; AND THAT the Mayor be authorized to execute the 2015-2019 Stewardship Agreement for Rocky Mountain Ridged Mussel.	68-78	
BPM	8.4	Section 57 Notice on Title and Injunctive Action Re: 2385 Barnes Street <i>Staff Recommendation:</i> THAT Council, having given the owners an opportunity to be heard, resolve to place a Notice on Title under Section 57 of the Community Charter with respect to contraventions of the City of Penticton Building Bylaw 94-45 on Lot B, District Lot 251 SDYD, Plan 31870 located at 2385 Barnes Street, stating the following: "Failure to control surface water which has created a potentially unsafe condition, which is a violation of City Building Bylaw 94-45"; AND THAT further injunctive action (Community Charter Division 12 – Remedial Action Requirements) be commenced by staff within 30 days of Section 57 Notice on Title being registered if building permit for storm drainage control and to repair the retaining wall is not commenced.	79-90	Del/Sub
BPM	8.5	Section 57 Notice on Title and Injunctive Action Re: 2360 Government Street <i>Staff Recommendation:</i> THAT Council, having given an opportunity to the owner to heard, resolve to place a Notice on Title under Section 57 of the Community Charter with respect to contraventions of the City of Penticton Building Bylaw 94-45 on Lot A, District Lot 251 SDYD, Plan 31870 located at 2360 Government Street, stating the following: "Failure to complete a building permit which has created a potentially unsafe condition, which is a violation of City Building Bylaw 94-45."	91-102	Del/Sub

AND THAT further injunctive action (Community Charter Division 12 – Remedial Action Requirements) be commenced by staff within 30 days of Section 57 Notice on Title being registered if construction to repair the retaining wall is not commenced.

DO

8.6 Three Mile Beach

103-112

Staff Recommendation: THAT Council provide direction to staff as to how they would like to approach addressing the Clothing Optional issues at Three Mile Beach by selecting one of the following Alternatives:

1. THAT Council direct staff to take no action with respect to changes at Three Mile Beach and that the Status Quo be maintained; **OR**
2. THAT Council direct staff to install signage to advise people about the possibility of Clothing Optional activities that may occur on Three Mile Beach as illustrated in Attachment "A"; **OR**
3. THAT Council direct staff to:
 - a. Install signage to advise people about the possibility of Clothing Optional activities that may occur on Three Mile Beach; and
 - b. Reduce the size of the Dog and Boat Beach in the south area of Three Mile Beach; and
 - c. Improve the point area of Three Mile Beach to create additional park and beach space; and
 - d. Amend the 2015 Capital Budget to create a Three Mile Beach Project in the amount of \$65,000.All as illustrated in Attachment "B"; **OR**
4. THAT Council direct staff to:
 - a. Install a new stairway east of the existing one;
 - b. Install signage at the top of the new stairway to advise people about the possibility of Clothing Optional Activities that may occur on this portion of Three Mile Beach;
 - c. Construct a visual screen on the beach at on the west side of the base of the new stairway;
 - d. Construct a separated swim area and add a second raft; and
 - e. Amend the 2015 Capital Budget to create a Three Mile Beach Project in the amount of \$100,000.All as illustrated in Attachment "C"; **OR**
5. THAT Council direct staff:
 - a. To install signage to advise people about the possibility of Clothing Optional activities that may occur on Three Mile Beach; and
 - b. As to which other Alternative they would like to have included in the 2016 Budget.

- BPM 8.7 2015 Special Occasion (Beer/Wine Garden) Licence Applications 113-117
Staff Recommendation: THAT Council, subject to the approval of the RCMP and Liquor Control and Licensing Branch, approve the following Special Occasion (Beer/Wine Garden) Licenses:

Organization	Event Location & est. attendance	Beer Garden or Whole Site License	Event Dates Requested	Event Operating Hours	Number of Event Days
Penticton Soccer Club Tournament (re-occurring event)	Kings Park (400)	Beer Garden	May 16, 2015 May 17, 2015 May 18, 2015	10:00am to 10:00pm 10:00am to 7:00pm 10:00am to 2:00pm	03
Penticton & Wine Country Chamber of Commerce (new event)	Rotary Park (400 to 450)	Beer Garden	May 20, 2015	4:30am to 7:00pm	01
Graham Tournaments Father's Day Slo-Pitch (new event)	Lions Park (120 to 180)	Beer Garden	June 19, 2015 June 20, 2015 June 21, 2015	6:00pm to 9:30pm 11:00am to 6:00pm 11:00am to 3:00pm	03
Rotary Club of Penticton Family Rib Festival (new event)	Okanagan Lake Park (10 000)	Beer Garden	July 3, 2015 July 4, 2015 July 5, 2015	11:00am to 9:00pm 11:00am to 9:00pm 11:00am to 9:00pm	03
Sheila Bishop Memorial Slo-pitch Tournament (re-occurring event)	Lions Park (100 to 120p)	Beer Garden	Aug 08, 2015 Aug 09, 2015	10:00am to 9:00pm 10:00am to 9:00pm	02
Survivorship Dragon Boat Team Society (re-occurring event)	Skaha Lake Park (800 to 1000p)	Beer Garden	Sept 12, 2015 Sept 13, 2015	11:00am to 6:00pm 11:00am to 6:00pm	02
				Total Days	14

- BPM 8.8 Liquor-Primary Licence Application 118-127
 Re: Cronies Auto Parts Ltd.
Staff Recommendation: THAT staff be directed to commence public notification of the proposed Liquor-Primary for Cronies Auto Parts Ltd.; AND THAT staff report back to Council at their meeting May 4, 2015 the results of the public consultation for Council's consideration.

- BPM 8.9 Application for a Winery Lounge and a Special Event Area (SEA) Endorsement 128-134
 Re: 1775 Naramata Road
Staff Recommendation: THAT Council direct staff to commence public notification of the proposed Winery Lounge and Special Event Area (SEA) Endorsement for Bench 1775 Winery; AND THAT staff report back to Council at their meeting on May 4, 2015 with the results of the public consultation for Council's consideration.

- PM 8.10 Zoning Amendment Bylaw No. 2015-20 and DVP 2015-19 135-147
 Re: 1473 Duncan Ave. E.
Staff Recommendation: #1 Zoning Amendment: THAT "Zoning Amendment Bylaw No. 2015-20", a bylaw to amend Zoning Bylaw 2011-23 to rezone Lot 2, District Lot 2710, Similkameen Division Yale District, Plan KAP90597, located at 1473 Duncan Avenue E, from R1 (Large Lot Residential) to R2 (Small Lot Residential), be given first reading and be forwarded to the April 20th, 2015 Public Hearing.
#2 Development Variance Permit: THAT Council support "Development Variance Permit PL2015-019" for Lot 2, District Lot 2710, Similkameen Division Yale District, Plan KAP90597 located at 1473 Duncan Avenue E, a permit to reduce the minimum lot width from 13m to 12m; AND THAT staff are directed to issue DVP PL2015-019, subject to adoption of "Zoning Amendment Bylaw No. 2015 -20".

Re: 1028 Dynes Avenue

Staff Recommendation: THAT "Zoning Amendment Bylaw No. 2015-21", a bylaw to amend Zoning Bylaw 2011-23 to rezone Lot 26, District Lot 3, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 1017, located at 1028 Dynes Avenue, from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane), be given first reading and be forwarded to the April 20th, 2015 Public Hearing.

Minutes

penticton.ca

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

Monday, March 16, 2015
at 6:00 p.m.

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

Absent: Councillor Sayeed (with notice)

Staff: Chuck Loewen, Acting City Manager
Dana Schmidt, Corporate Officer
Colin Fisher, Chief Financial Officer
Blake Laven, Planning Manager
Simone Blais, Communications Officer
Angie Collison, Deputy Corporate Officer

1. Call to order

Mayor Jakubeit called the public hearing to order at 6:02 p.m. for the "Zoning Amendment Bylaw No. 2015-15". 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 bylaws. She then 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. She further indicated that the public hearing was advertised pursuant to the *Local Government Act*.

"Zoning Amendment Bylaw No. 2015-15"

The purpose of the Zoning Amendment Bylaw is to amend "Zoning Bylaw 2011-23" as follows:

- Rezone Lot 2, District Lot 202, Similkameen Division Yale District, and of District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale Lytton) District, Plan 23635,

located at 783 Winnipeg Street, from RD1 (Duplex Housing) to RM3 (Medium Density Multiple Housing).

- The property owner intends to rezone the property in line with the OCP designation and construct a 3 storey, 13 unit apartment building.

The Corporate Officer advised that written correspondence has been received and distributed to Council.

APPLICANT

No one spoke.

DELEGATIONS

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

- Resident, Winnipeg Street, building will block the sun and they will no longer get sunlight. The street is already dense, don't need more development.

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.

- Brian Baldwin, Winnipeg Street, lack of information, need adequate parking, congestion on street already, if goes ahead the developer should not be given any extra leeway.

The public hearing for "Zoning Amendment Bylaw No. 2015-15" was terminated at 6:09 p.m. and no new information can be received on this matter.

Certified correct:

Confirmed:

Dana Schmidt
Corporate Officer

Andrew Jakubeit
Mayor

Minutes

penticton.ca

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

Monday, March 16, 2015
Following the Public Hearing at 6:00 p.m.

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

Absent: Councillor Sayeed (with notice)

Staff: Chuck Loewen, Acting City Manager
Dana Schmidt, Corporate Officer
Colin Fisher, Chief Financial Officer
Blake Laven, Planning Manager
Shawn Filice, Manager of Electric Dept.
Simone Blais, Communications Officer
Angie Collison, Deputy Corporate Officer

1. Call to Order

The Mayor called the Regular Council meeting to order at 6:10 p.m.

2. Introduction of Late Items

3. Adoption of Agenda

164/2015

It was MOVED and SECONDED

THAT Council adopt the agenda for the Regular Council meeting held on March 16, 2015 as amended and remove item 8.10.

CARRIED UNANIMOUSLY

4. Adoption of Minutes

4.1 Minutes of the March 2, 2015 Public Hearing

165/2015

It was MOVED and SECONDED

THAT Council receive the minutes of the March 2, 2015 Public Hearing as circulated.

CARRIED UNANIMOUSLY

4.2 Minutes of the March 2, 2015 Regular Council Meeting

166/2015

It was MOVED and SECONDED

THAT Council adopt the minutes of the March 2, 2015 Regular Council Meeting as circulated.

CARRIED UNANIMOUSLY

5. **Presentations**

6. **Delegations**

6.1 BC Assessment

Tracy Wall, Deputy Assessor and Ray Nichol, Senior Appraiser, provided Council with an overview of BC Assessment and the 2015 Completed Roll for Penticton.

6.2 Ecole Entre-Lacs

Fariba Daragahi, Principal, Ecole Entre-Lacs requested Council consider City facility usage rates similar to those paid by SD67.

7. **Reconsideration of Bylaws and Permits**

7.1 Zoning Amendment Bylaw No. 2015-12

Re: 115 Kinney Avenue

167/2015

It was MOVED and SECONDED

THAT Council adopt "Zoning Amendment Bylaw No. 2015-12".

CARRIED UNANIMOUSLY

7.2 Zoning Amendment Bylaw No. 2015-15

Re: 783 Winnipeg Street

168/2015

It was MOVED and SECONDED

THAT Council give second and third reading to "Zoning Amendment Bylaw No. 2015-15".

CARRIED UNANIMOUSLY

8. **Staff Reports**

8.1 Development Variance Permit PL2015-006

Re: 319 Sudbury Avenue

Delegations/Submissions: Nil

169/2015

It was MOVED and SECONDED

THAT Council approve "Development Variance Permit PL2015-006", for Parcel A (Being a consolidation of Lots 6 and 7, see CA2967509), District Lot 189, Similkameen Division Yale District, Plan KAP46960, located at 319 Sudbury Avenue, a permit to vary the maximum height for an accessory building from 4.5m to 5m and vary the maximum floor area for an accessory buildings from 75m² to 82m².

AND THAT Council direct staff to issue "Development Variance Permit PL2015-006".

CARRIED UNANIMOUSLY

8.2 Section 57 Notice on Title and Injunctive Action

Re: 2385 Barnes Street

170/2015

It was MOVED and SECONDED

THAT Council resolve to place a Notice on Title under Section 57 of the *Community Charter* with respect to contraventions of the City of Penticton Building Bylaw 94-45 on Lot B, District Lot 251 SDYD, Plan 31870 located at 2385 Barnes Street, stating the following:

"Failure to control of surface water which has created a potentially unsafe condition, which is a violation of City Building Bylaw 94-45"; AND THAT further injunctive action be commenced by staff within 30 days of Section 57 Notice on Title being registered if construction to repair the retaining wall is not commenced; AND FURTHER THAT the owner(s) be notified of the proposed Notice on Title report and be given an opportunity to speak to the matter at the April 7, 2015 Council meeting.

CARRIED UNANIMOUSLY

8.3 Section 57 Notice on Title and Injunctive Action

Re: 2360 Government Street

171/2015

It was MOVED and SECONDED

THAT Council resolve to place a Notice on Title under Section 57 of the *Community Charter* with respect to contraventions of the City of Penticton Building Bylaw 94-45 on Lot A, District Lot 251 SDYD, Plan 31870 located at 2360 Government St, stating the following:

"Failure to complete a building permit which has created a potentially unsafe condition, which is a violation of City Building Bylaw 94-45"; AND THAT further injunctive action be commenced by staff within 30 days of Section 57 Notice on Title being registered if construction to repair the retaining wall is not commenced; AND FURTHER THAT the owner(s) be notified of the proposed Notice on Title report and be given an opportunity to speak to the matter at the April 7, 2015 Council meeting.

CARRIED UNANIMOUSLY

8.4 Graffiti Management Strategy Endorsement and Pilot Removal Program Agreement

172/2015

It was MOVED and SECONDED

THAT Council endorse the Graffiti Management Policy; AND THAT Council enter into the Partnership Agreement with the Downtown Penticton Association for the pilot graffiti removal program for a one-year term; AND THAT the Mayor and Corporate Officer are authorized to execute the document.

CARRIED UNANIMOUSLY

8.5 Council Benefits

173/2015

It was MOVED and SECONDED

THAT Council choose to participate in the UBCM Extended Health and Dental Benefit program; AND THAT Council approve 75% of benefits funded by the elected official and 25% by the City through the labour load.

DEFEATED

Mayor Jakubeit, Councillors Sentes, Picton, and Watt, Opposed

- 174/2015 **It was MOVED and SECONDED**
THAT Council chooses to participate in the UBCM Extended Health and Dental benefit program; AND THAT Council approves 100% benefits to be funded through the labour load budget.
- DEFEATED**
Councillors Watt, Konanz and Martin, Opposed
- 175/2015 **It was MOVED and SECONDED**
THAT Council chooses to participate in the UBCM Extended Health and Dental benefit program; AND THAT Council approves 50% of the benefits to be funded through the labour load budget with the remaining 50% funded by the participating Elected Officials.
- CARRIED**
Councillors Watt and Martin, Opposed
- Councillor Konanz left the meeting at 7:10 p.m.
- 8.6 SILGA and UBCM Resolution
Re: Confined Space Entry for Waste Water Treatment Plants
- 176/2015 **It was MOVED and SECONDED**
THAT Council support and submit the following resolution for consideration at the 2015 SILGA and UBCM Conventions:
- WHEREAS WorkSafe BC amended its confined space regulation in 2011;
- AND WHEREAS the current WorkSafe BC regulations and guidelines with respect to confined space within waste water treatment plants are challenging design standards;
- THEREFORE BE IT RESOLVED that UBCM lobby the Minister of Jobs, Tourism and Skills Training to direct WorkSafeBC to provide an exemption to waste water treatment plants until a confined space regulations rewrite, with input from waste water treatment plant owners and operators, can be completed.
- CARRIED UNANIMOUSLY**
- 8.7 Westminster Substation – Outage Plans
- 177/2015 **It was MOVED and SECONDED**
THAT Council receive for information the March 16, 2015 report titled “Westminster Substation – Outage Plans”.
- CARRIED UNANIMOUSLY**
- 8.8 Disconnect – Reconnect Fees
- 178/2015 **It was MOVED and SECONDED**
THAT Council direct staff to amend Appendix 7 of the Fees and Charges Bylaw No. 2014-07 with the following: “Non-Payment: Site Visit without a Disconnect”: \$34.00.
- CARRIED**
Mayor Jakubeit, Opposed

8.9 Electrical Service Payment Plan

179/2015

It was MOVED and SECONDED

THAT Council approve the establishment of an Electrical Service Payment Plan for new electrical services and/or service upgrades as described in Attachment "A"; AND FURTHER THAT Council direct staff to amend Appendix 7 of the Fees and Charges Bylaw No. 2014-07 by adding the following Note:

4. All customers are eligible to access the "Electrical Service Payment Plan" for the installation of City Electrical Infrastructure that supplies power to their properties. The details of this program are summarized as follows:

- Payment Plan range: A customer can put a minimum amount of \$5,000 up to a maximum amount of \$50,000 on a Payment Plan;
- Payment Plan terms: 5 year payback in equal monthly amounts on the Electric Utility Bill plus interest calculated at the Prime Interest Rate +0.5%. (Prime rate at the time of signing the Payment Plan agreement);
- The customer has the ability to end the Payment Plan at any time by repaying the balance owing in full at any time without penalty;
- Eligibility Requirements:
 - Must be for a new or an upgrade to an Electrical Service;
 - Must be a City of Penticton Electric Utility customer;
 - Must have a minimum credit score of 650;
 - Must have a maximum of 19 City of Penticton Utility Credit Point;
 - The customer must own both the land and building where the service is required; and
- Protection: Any defaults on the Payment Plan will be subject to the normal City of Penticton utility collection procedures, including service disconnect and ultimately transfer of outstanding amount to taxes. Any outstanding payment plan amounts must be paid in full upon sale of the property.

CARRIED UNANIMOUSLY

8.11 OCP Amendment Bylaw No. 2015-16 and Zoning Amendment Bylaw No. 2015-17 Re: South Beach Drive and Sudbury Avenue

180/2015

It was MOVED and SECONDED

THAT "OCP Amendment Bylaw No. 2014-16", being a bylaw to amend OCP Bylaw 2002-20, changing the land use designation of the following properties:

- Lot 4, Plan 5885, District Lot 189, SDYD (270 South Beach Drive)
- Lot 5, Plan 5885, District Lot 189, SDYD (274 South Beach Drive)
- Lot 6, Plan 5885, District Lot 189, SDYD (278 South Beach Drive)
- Lot 7, Plan 5885, District Lot 189, SDYD (280 South Beach Drive)
- Lot 8, Plan 5885, District Lot 189, SDYD (282 South Beach Drive)
- Lot 1, Plan 6179, District Lot 189, SDYD (286 South Beach Drive)
- Lot 8-9, 39, Plan 996, District Lot 189, SDYD (292 South Beach Drive)
- Lot 1, Plan 6172, DL 189, SDYD (298 South Beach Drive)
- Lot 2, Plan 6172, DL 189, SDYD (300 Sudbury Avenue)

from PR (Parks and Recreation) to MR (Medium Density Residential), be given first reading and forwarded to the April 7, 2015, Public Hearing;

AND THAT Schedule H of the OCP be amended to include the subject lands in the General Multiple Family Development Permit Area.

AND THAT prior to consideration of the bylaw and in accordance with section 879 of the *Local Government Act*, that Council consider whether early and ongoing consultation in addition to the required Public Hearing is necessary with:

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

AND THAT it is determined that the Public Hearing is sufficient consultation.

THAT "Zoning Amendment Bylaw No. 2015-17", being a bylaw to amend Zoning Bylaw 2011-23, rezoning Lot1 and Lot 2, District Lot 189, Similkameen Division Yale District, Plan 6172, located at 298 South Beach Drive and 300 Sudbury Avenue, from P2 (Parks and Recreation) to RM2 (Low Density Multiple Housing), be given first reading and be forwarded to the April 7, 2015, Public Hearing.

CARRIED UNANIMOUSLY

8.12 Zoning Amendment Bylaw No. 2015-18
Re: Housekeeping

181/2015

It was MOVED and SECONDED

THAT Council give first reading to "Zoning Amendment Bylaw 2015-18", a housekeeping bylaw to amend Zoning Bylaw 2011-23; AND THAT Council forward the bylaw to the April 7, 2015 Public Hearing.

CARRIED UNANIMOUSLY

8.13 Ontario Street Improvements

182/2015

It was MOVED and SECONDED

THAT Council support the proposed street improvements on Ontario Street and the reorganization of the intersection between Ontario Street and the lane; AND THAT Council direct staff to include the works in the 2016 Capital Budget.

CARRIED UNANIMOUSLY

8.14 Fees and Charges Amendment Bylaw No. 2015-11

183/2015

It was MOVED and SECONDED

THAT Council give three readings to "Fees and Charges Amendment Bylaw No. 2015-11".

CARRIED UNANIMOUSLY

8.15 Invitation to host the "55+ BC Games"

184/2015

It was MOVED and SECONDED

THAT Council support and endorse a Bid Application for the City of Penticton to host the 2018 or 2019 "55+ BC Games"; AND THAT Council approves the commitment of a minimum of \$60,000 cash and \$55,000 in-kind services and facilities for the planning and staging of the Games.

CARRIED UNANIMOUSLY

9. Correspondence

10. Committee and Board Reports

10.1 Downtown Revitalization Sub-Committee Meeting of March 5, 2015

185/2015

It was MOVED and SECONDED

THAT Council receive the minutes of the Downtown Revitalization Sub-Committee Meeting of March 5, 2015.

CARRIED UNANIMOUSLY

11. Notice of Motion

12. Other Business

13. RDOS Update

14. Business Arising from In-Camera

15. Media and Public Question Period

16. Adjournment

186/2015

It was MOVED and SECONDED

THAT Council adjourn the Regular Council meeting held on Monday, March 16, 2015 at 8:34 p.m.

CARRIED UNANIMOUSLY

Certified correct:

Confirmed:

Dana Schmidt
Corporate Officer

Andrew Jakubeit
Mayor

Minutes

penticton.ca

Special Council Meeting
held at City of Penticton Corporate Boardroom
171 Main Street, Penticton, B.C.

Monday, March 23, 2015
at 2:00 p.m.

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

Staff: Chuck Loewen, Acting City Manager
Dana Schmidt, Corporate Officer

1. Call to Order

The Mayor called the Regular Council meeting to order at 2:01 p.m.

2. Waive Notice of Special Meeting

187/2015

It was MOVED and SECONDED

THAT Council waive notice of the Special Council Meeting of March 23, 2015.

CARRIED UNANIMOUSLY

3. New Business

3.1 Penticton Regional Hospital Foundation
Verbal Request for Funding

The Interim City Manager updated Council regarding the request for Community Grant funds for a motivational speaker , non- fundraising event for the Penticton Regional Hospital.

There was a consensus of Council that the City will not award community grant funds for the motivational speaker event.

Council agreed that they would consider a request for community grant funding for a fundraising event for the Penticton Regional Hospital.

4. Adjournment

88/2015

It was MOVED and SECONDED

THAT Council adjourn the Special Council meeting held on Monday, March 23, 2015 at 2:25 p.m.

CARRIED UNANIMOUSLY

Certified correct:

Confirmed:

Dana Schmidt
Corporate Officer

Andrew Jakubeit
Mayor

Proclamation

penticton.ca

Canadian Cancer Society's National Daffodil Month April 2015

WHEREAS another Canadian is diagnosed with cancer every three minutes; and

WHEREAS the Canadian Cancer Society is working to eradicate all cancers and improve the quality of life for people living with cancer; and

WHEREAS Daffodil Day is an opportunity for residents of the City of Penticton to show their support in the fight against Cancer;

NOW THEREFORE, BE IT RESOLVED, THAT I, Mayor Jakubeit, ask that all residents of the City of Penticton join me and the Canadian Cancer Society in the fight against cancer; and

BE IT FURTHER RESOLVED, that I, Andrew Jakubeit, Mayor of the City of Penticton, DO HEREBY PROCLAIM that the month of **April** as **Canadian Cancer Society's Daffodil Month** in the City of Penticton.

A handwritten signature in black ink, appearing to read "Andrew Jakubeit".

Mayor Andrew Jakubeit

Proclamation

penticton.ca

BC Transplant Society's Organ and Tissue Donor Awareness Month April 2015

WHEREAS there are currently 500 people in BC waiting for an organ transplant and more than 5,000 British Columbians who have received the gift of life through organ donation since 1968; and

WHEREAS organ donors and their families have selflessly demonstrated compassion and kindness by sharing the gift of life with others; and

WHEREAS all British Columbians can make a positive difference by registering their decision to give the gift of life; and

WHEREAS BC Transplant Society raises organ donor awareness through community initiatives by informing the public on the life-saving impact of registering as organ and tissue donors.

NOW THEREFORE I, Andrew Jakubeit, Mayor of the City of Penticton, DO HEREBY PROCLAIM **April 2015** as **Organ and Tissue Donation Awareness Month** in the City of Penticton.

A handwritten signature in black ink, appearing to read "Andrew Jakubeit".

Mayor Andrew Jakubeit

Bylaw No. 2015-02

A Bylaw to Amend Zoning Bylaw 2011-23

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

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

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

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2015-02."

2. **Amendment:**

Zoning Bylaw 2011-23 is hereby amended as follows:

2.1 Add section 10.1.3 Site Specific Provisions

.5 In the case of Lot 1, District Lot 189 Similkameen Division Yale District, Plan 18867, located at 96 Yorkton Avenue, a **day care centre, major** shall be permitted.

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

READ A FIRST time this	12	day of	January, 2015
A PUBLIC HEARING was held this	2	day of	February, 2015
A SECOND PUBLIC HEARING was held this	7	day of	April, 2015
READ A SECOND time this		day of	, 2015
READ A THIRD time this		day of	, 2015
ADOPTED this		day of	, 2015

Notice of intention to proceed with this bylaw was published on the 23rd and 28th day of January, 2015, the 27th and 29th of March, 2015 and the 1st and 3rd of April, 2015 in the Penticton newspapers, pursuant to Section 94 of the *Community Charter*.

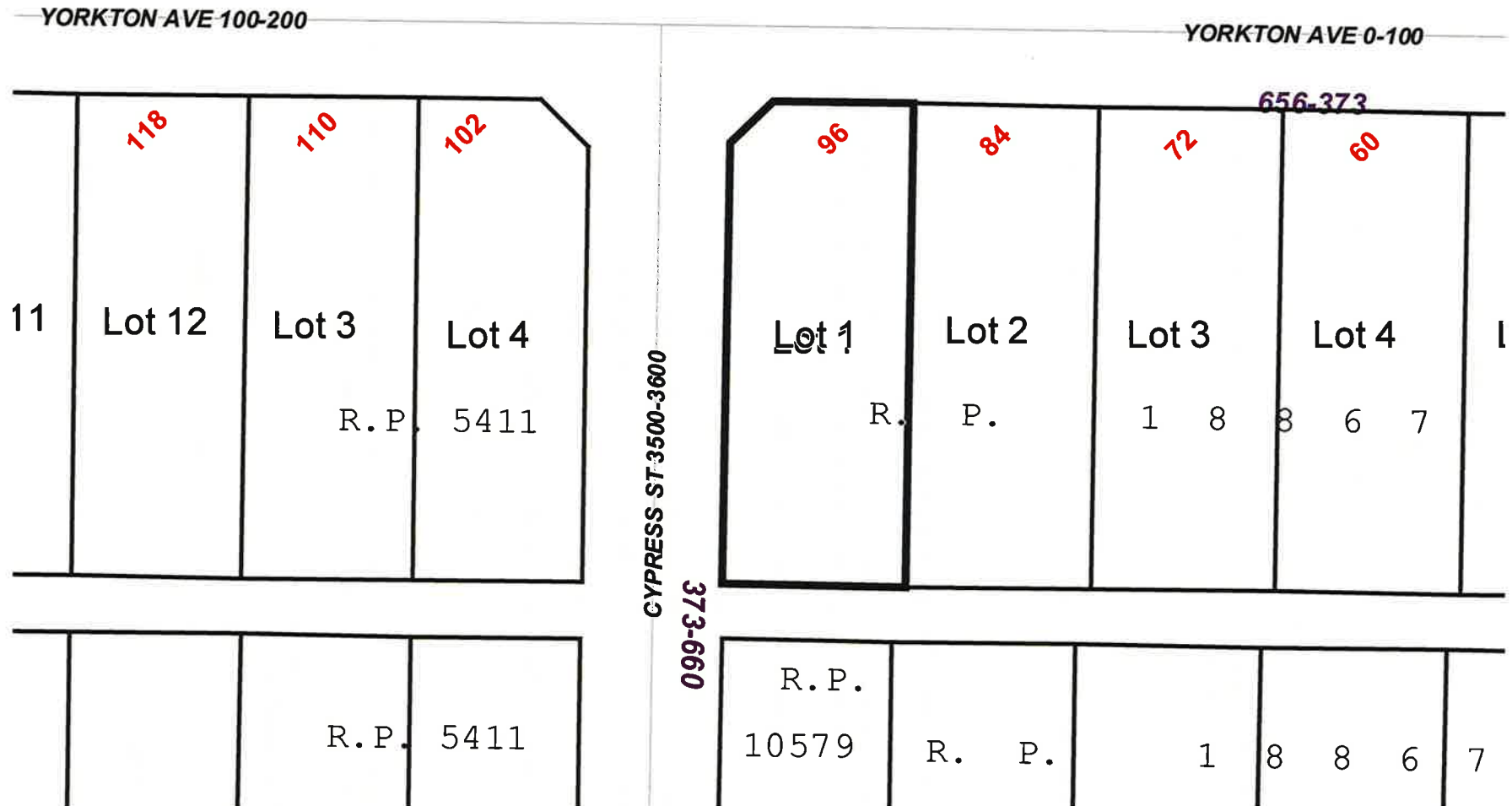
Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

96 Yorkton Avenue

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Site specific rezoning to add **Day Care Centre** as a permitted use



City of Penticton – Schedule ‘A’

Zoning Amendment Bylaw No. 2015-02

Date: _____

Corporate Officer: _____

The Corporation of the City of Penticton

Bylaw No. 2015-06

A Bylaw to Amend Zoning Bylaw 2011-23

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

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

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

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw 2015-06".

2. **Amendment:**

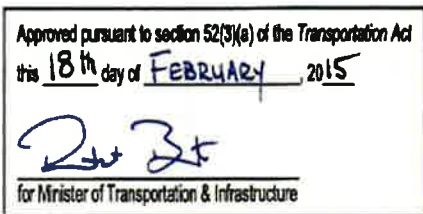
2.1 Zoning Bylaw 2011-23 is hereby amended as follows:

Add Section 10.6.4.3: "In the case of lot 3, District Lot 4 Similkameen Division Yale (Formerly Yale-Lytton) Plan 2580, located at 264 Wade Avenue W, an office shall be permitted."

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

READ A FIRST time this	19	day of	January, 2015
A PUBLIC HEARING was held this	16	day of	February, 2015
READ A SECOND time this	16	day of	February, 2015
READ A THIRD time this	16	day of	February, 2015
RECEIVED the approval of the	18	day of	February, 2015
Ministry of Transportation on the			
ADOPTED this		day of	, 2015

Notice of intention to proceed with this bylaw was published on the 6 day of February, 2015 and the 11 day of February, 2015 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.



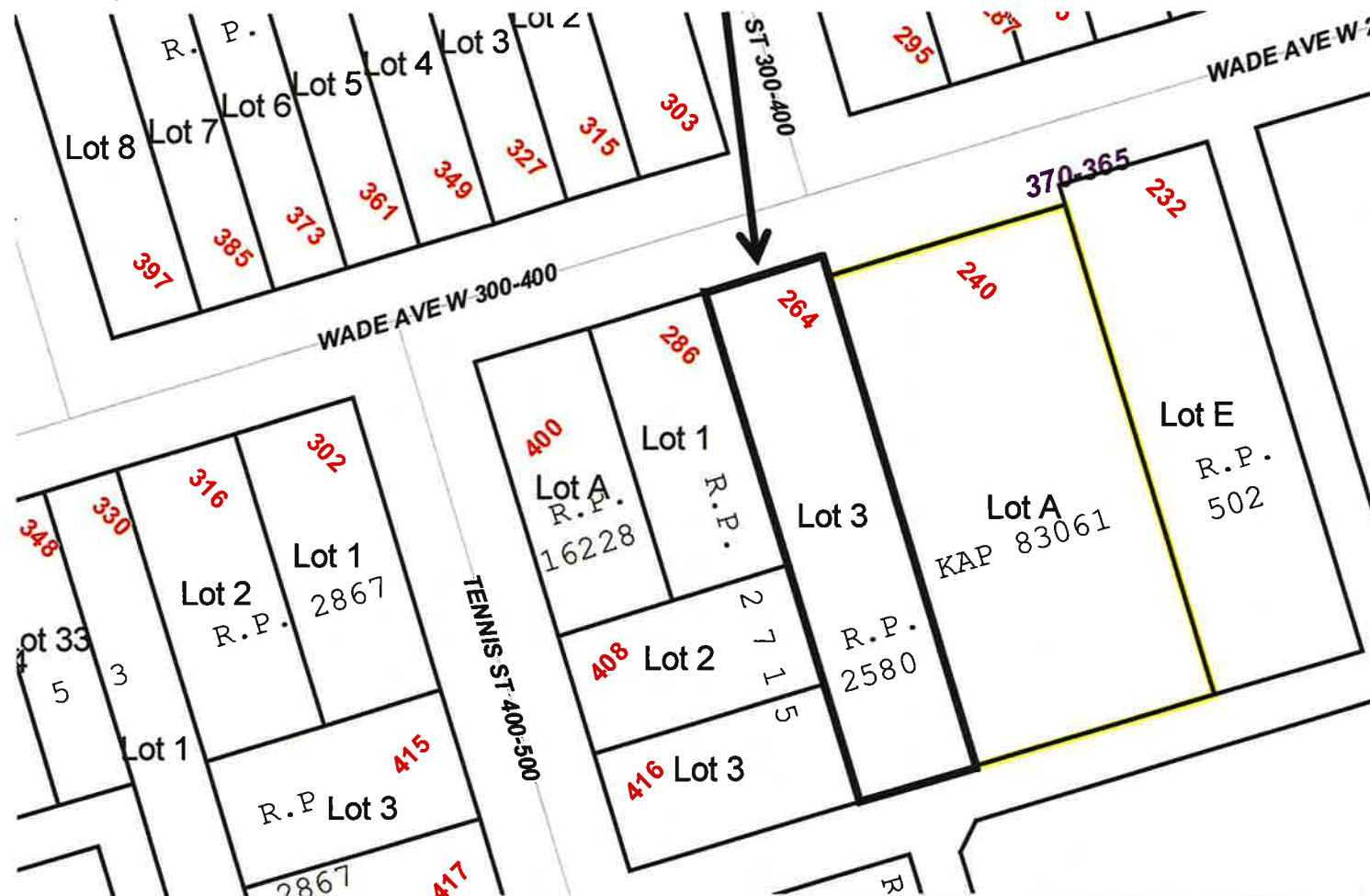
Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

264 Wade Avenue West

Site Specific Rezoning: Add "office" as a permitted use

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City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2015-06

Date: _____

Corporate Officer: _____

The Corporation of the City of Penticton

Bylaw No. 2015-11

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 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. 2015-11".

2. Amendment:

i. Amend "Fees and Charges Bylaw No. 2014-07" by deleting and replacing the following appendices in their entirety:

- Appendix 4 – Building Department
- Appendix 20 – Planning and Development
- Appendix 24 – Recreation - Miscellaneous
- Appendix 26 – Theatre

ii. Appendices 4, 20, 24, 26 attached hereto forms part of this bylaw.

READ A FIRST time this 16 day of March, 2015

READ A SECOND time this 16 day of March, 2015

READ A THIRD time this 16 day of March, 2015

ADOPTED this day of , 2015

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

Appendix 4	
BUILDING DEPARTMENT FEES	2015

Building Application Fees

1	A non-refundable deposit is required at time of building permit application (credited towards end of Building Permit Fee)	\$130.00
2	\$1.00 - \$25,000	\$130.00 Flat Fee
3	\$25,000.01 - \$500,000	\$130.00 + \$12.00 per \$1,000 of Construction Value
4	\$500,001 and above	\$5,830 + \$10.00 per \$1,000 of Construction Value

Plumbing Fees

5	Minimum application (up to 10 Fixtures)	\$100 \$65.00
6	Per Fixture thereafter	\$8.00
7	For Alteration to an existing system where there are no fixture count changes	\$100.00
8	Per Fixture for connection for existing plumbing fixtures to City Sewer System	\$1.21
9	Per Fixture for connection for existing plumbing fixtures to City Water System	\$1.21

Sprinkler Permits (Plumbing)

10	For first ten (10) sprinkler heads	\$130.00
11	For each additional sprinkler head	\$2.00
12	For each Siamese connection, standpipe, hose cabinet, hose outlet	\$20.00

Mechanical Permits (Building)

13	New or Replacement of Mechanical System in a Single or Two Family Dwelling	\$130.00
14	New installation or replacement of a spray booth or commercial cooking ventilation system	\$130.00

Demolition Fees

15	Removal of Building(s) on a property	\$130.00
16	Security Deposit - refunded upon completion of works and confirmation of hazardous material assessment and appropriate disposal of waste	\$500.00

Appendix 4	
BUILDING DEPARTMENT FEES	2015

Locating/Relocating a Building or Structure

17	Minimum Fee for relocating an existing building or structure, modular home or manufactured home, plus	\$250.00
18	Additional Building Permit Fee for new work on site for foundations, cribbing, etc.	Calculated as per Section 01

Permit Reductions and Additional Charges

Reductions

19	Building & Plumbing Permits - Registered Professionals (Complex Buildings)	5% for Registered Coordinating Professional 5% per Registered Professional discipline up to a maximum of 25% (including RPC if used as well as RP)
20	Building Permits - Registered Professionals (Standard Buildings)	5% for every Registered Professional Discipline up to 10% maximum 5% for HPO Registered Builders for Single Family Construction
21	Plumbing Permit Homeowner Surcharge	\$50 or 25% (whichever is greater) surcharge for Single Family new construction and renovation projects completed by home owners

Additional Fees

22	Plan Check Fee - For review of revised drawings where more than two plan checks have been submitted or substantial changes to the approved design during construction that requires additional Building Code or Zoning Reviews	\$130.00 for first hour and \$65.00 for every subsequent hour
23	Re-Inspection Penalty	\$130.00 where more than two inspections have been called for. Fee must be paid in full prior to any additional inspections or completion certificate granted.
24	Alternative Building Code Solutions Review	\$130.00 per alternate solution or substantial revision to approved alternate solution

Appendix 4		
BUILDING DEPARTMENT FEES		2015
25	After hours inspections (minimum one hour)	\$130.00 for first hour and \$65.00 for every subsequent hour

Other Miscellaneous Building Permit Fees

26	Permit to install a fireplace/stove or chimney	\$130.00
27	Swimming Pool Permit (Private)	\$130.00
28	Re-Roofing Permit (Other than single and two family buildings)	\$130.00
29	Foundation Permit - Additional Application to above grade Building Permit, plus	\$130.00
30	Additional Fee shall be charged based on the estimated cost of construction	Calculated as per Section 1
31	Secondary Suite	\$500.00
32	Crane Permits	\$130.00
33	Change of Use or Occupancy when a Building Permit is not required	\$130.00
34	Permit Extension Fee - when existing Building Permit has expired	\$130 or 10% of original permit fee(s), whichever is greater
35	Permit Transfer Fee	\$130.00

Development Application Refunds

Refunds with respect to development application are to be addressed in the following manner:

Building and Plumbing Permit Fee Refund:

Building and or Plumbing Permit application submitted, permit not issued – Upon cancellation of the Building and or Plumbing Permit application, refund Building Permit and or Plumbing Permit fees less an administrative fee of:

36	For Single Family, Duplex and smaller developments	\$440.00 plus \$100.00 for each Alternative Solution requested
37	For all other larger developments	\$690.00 plus \$100.00 for each Alternative Solution Requested

Building and or Plumbing Permit issued, no construction started as determined by the Director of Development Services – Upon cancellation of the Building and or Plumbing Permit, refund Building Permit and or Plumbing Permit fees less an administrative fee of:

38	For Single Family, Duplex and smaller developments	\$540.00 plus \$100.00 for each Alternative Solution Requested
39	For all other larger developments	\$970.00 plus \$100.00 for each Alternative Solution

Appendix 4

BUILDING DEPARTMENT FEES

2015

Building and or Plumbing Permit issued, construction started as determined by the Director of Development Services – No refund.

City infrastructure¹ requirements as part of Building Permit:

Building permit and/or plumbing permit application submitted, permit not issued – Upon cancellation of the building permit and/or plumbing permit application refund City infrastructure costs paid by the developer less an administrative fee of:

40	For Single Family, Duplex and smaller developments	\$470.00
41	For all other larger developments	\$990.00

Building permit and/or plumbing permit issued, construction not started as determined by the Director of Development Services and the City infrastructure has not been installed – Upon cancellation of the building permit and or plumbing permit refund City infrastructure costs paid by the developer less an administrative fee of:

42	For Single Family, Duplex Triplex and smaller developments	\$470.00
43	For all other larger developments	\$990.00

44	Building permit and/or plumbing permit issued, construction not started as determined by the Director of Development Services and the City infrastructure has been installed – No refund.	No Refund
45	Building permit and/or plumbing permit issued, construction started as determined by the Director of Development Services and the City infrastructure has not been installed – The person seeking a refund must make a submission for a refund in the prescribed form to the Director of Development Services or the designate who will prepare a report for Council's consideration.	Council consideration
	Council will consider the matter and may by resolution:	
	a. authorize the density bonus refund subject to conditions as; or	
	b. refuse the request for a density bonus refund;	
	c. refer the matter to staff or a future Council meeting; or	
	d. such other determination as Council may direct.	
	As a requirement of any density bonus refund the development permit and building permit must be cancelled and the development Permit must be discharged from the title of the lands.	
46	Admin. Fee for Single Family, Duplex, Triplex and small Development	\$470.00
47	For all larger Developments will be held	\$990.00

Appendix 4		
BUILDING DEPARTMENT FEES		2015
48	Building permit and/or plumbing permit issued, construction started as determined by the Director of Development Services and the City infrastructure has been installed.	No Refund

Notes:**1. City Infrastructure is defined as:**

- a. Any items related to the City of Penticton water, sanitary, storm system including main line pipe, appurtenances, services etc.
- b. Any items related to roads, sidewalks, curb, gutter, signs etc.

Sidewalk Uses

49	Type 1 Sidewalk Café- Annual Fee	\$300.00
50	Type 2 Sidewalk Café - Annual Fee	\$300.00
51	For each parking space or portion thereof occupied by a temporary sidewalk café - Annual Fee	\$105.00
52	Sidewalk Sales Area or sidewalk seating area - (maximum of 2 tables and 8 seats)	\$100.00
53	Martin Street and Westminster Avenue Revitalization Project Area	n/c

VACANT BUILDING REGISTRATION FEES	
54	Fee for special safety inspection prior to registration permit
55	Fee for subsequent inspections not related to Vacant Building Registration Permit
56	Fee for Vacant Building Registration Permit (12 months maximum) for each building or structure located on a single and two family zoned properties
57	Fee for Vacant Building Registration Permit (24 months maximum) for each building or structure located on all other zoned properties.
58	Fee for additional Vacant Building Registration (12 month maximum)
59	Attendance by City of Penticton Fire Services
60	Refund

\$500.00

\$130.00 per inspection

\$1,500.00

\$3,500.00

\$1,500.00

Actual costs incurred by the City for related labour, materials and equipment

75% of Vacant Building Permit Fee may be refunded if it is remediated or demolished within first six (6) months of registration.

Appendix 20		
PLANNING AND DEVELOPMENT	2014	Effective Mar 1, 2015

Subdivision and Development Costs

1	Every applicant for a subdivision approval shall submit with their application, a non-refundable fee equal to \$330.00 for the first parcel to be created and the fees as prescribed in section 8 of this appendix (Subdivision) (Fee Simple & Bareland Strata) for each additional parcel to be created by the proposed subdivision.
Every person who obtains:	
2	a) approval of the subdivision of a parcel of land under the "Land Registry Act" or the "Strata Titles Act" for any purpose other than the creation of three (3) or less lots to provide sites for a total of three (3) or less self-contained dwelling units; or
3	b) a Building Permit authorizing the construction or alteration of buildings or structures for any purpose other than the construction of three (3) or less self-contained dwelling units; or
4	c) a building Permit authorizing construction, alteration or extension of a building or structure, other than a building or portion of it used for residential purposes, where the value of the work exceeds Twenty-five Thousand Dollars (25,000);
5	d) prior to commencement of the construction or installation of any works or services required under the Subdivision and Development Bylaw 2004-81, the owner shall pay to the City an administration fee of 1% of all works and services to be provided;
6	e) prior to commencement of the construction or installation of any works or services required under the Subdivision and Development Bylaw 2004-81, as amended from time to time, the owner shall pay to the City a Rectification and Repair Contingency fee of 2% of the estimated cost of construction. This fee shall be used to repair or replace existing City infrastructure that has been altered or damaged by activity related to the installation of the works and services for the development. The remainder of the fee will be returned to the owner upon issuance of the Total Performance Certificate.
7	shall pay, prior to the approval of the subdivision or the issue of the Building Permit, as the case may be, to the Municipality, the applicable development cost charges.

OCP Amendments

8	a) Stand alone OCP Amendments in Country Residential, Low Density Residential and Agricultural designated areas	\$1,312.50	\$1,400.00
9	b) All other stand alone OCP Amendments	\$1,575.00	\$1,680.00
10	c) OCP Amendments in Country Residential, Low Density Residential and Agricultural designated areas (where in conjunction with a Rezoning Application)	\$881.25	\$940.00
11	d) All other stand alone OCP Amendments (where in conjunction with a Rezoning Application)	\$1,068.75	\$1,140.00
12	e) OCP Text Amendments	\$1,256.25	\$1,340.00

Rezoning

13	a) Stand alone Rezoning applications in Country Residential, Low Density Residential and Agricultural designated areas.	\$1,012.50	\$1,080.00
14	b) All other stand alone Rezoning applications.	\$1,387.50	\$1,480.00
15	c) Zoning Bylaw Text Amendments	\$937.50	\$1,000.00

Appendix 20

PLANNING AND DEVELOPMENT		2014	Effective March 1, 2015
16	d) Comprehensive Development Zone	\$1,875.00	\$2,000.00

Public Notice Signs (OCP and Zoning Amendments)

17	a) Initial OCP or Zoning Bylaw Sign	\$225.00	\$225.00
18	b) Repair of Damaged Signs	\$80.00	\$80.00
19	c) Replacement of damaged signs	\$120.00	\$120.00
20	d) Additional Public Hearing Fee	\$550.00	\$550.00

Development Permit Application

21	a) Major Development Permit (Council Decision)	\$937.50	\$1,000.00
22	b) Minor Development Permit (Staff issuable)	\$562.50	\$600.00
23	c) Major Amendments to Development Permits (Council Decision)	\$468.75	\$500.00
24	d) Minor Amendments to Development Permits (Staff issuable)	\$281.25	\$300.00
25	e) Appeal to Council of a Staff Decision on a Development Permit	\$562.50	\$600.00
26	f) Reissuance of an expired Development Permit	\$375.00	\$400.00
27	g) Riparian / Environmental Assessment Development Permit	\$225.00	\$225.00

Development Variance Permit Application or Board of Variance Application

28	a) Major Variance (3+ Variances per development)	\$937.50	\$1,000.00
29	b) Major Variance (3+ Variances per development) if in conjunction with a Development Permit Application	\$562.50	\$600.00
30	c) Minor Variance (1 or 2 Variances per development)	\$562.50	\$600.00
31	d) Minor Variance (1 or 2 Variances per development) if in conjunction with a Development Permit Application	\$375.00	\$400.00
32	e) Reissuance of expired Development Variance Permit	\$375.00	\$400.00
33	f) Note: No additional fee is required for a Variance where it is issued under Section 920 (2) of the Local Government Act.		

Temporary Use Permit

34	a) Temporary Use Permit	\$787.00	\$800.00
35	b) Temporary Use Permit Renewal	\$393.75	\$400.00

Subdivision (Fee Simple & Bareland Strata)

a) Preliminary Layout Approval Review

1-2 Lots	\$330.00	\$330.00
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Appendix 20

PLANNING AND DEVELOPMENT		2014	Effective Mar 1, 2015
37	3-10 Lots	\$330.00 + \$300.00 per lot in excess of 2 lots	\$330.00 + \$300.00 per lot in excess of 2 lots
38	11-20 Lots	\$2,885.00 + \$220.00 per lot in excess of 10 lots	\$2,885.00 + \$220.00 per lot in excess of 10 lots
39	21-30 Lots	\$5,085.00 + \$190.00 per lot in excess of 20 lots	\$5,085.00 + \$190.00 per lot in excess of 20 lots
40	31-40 Lots	\$7,010.00 + \$165.00 per lot in excess of 31 lots	\$7,010.00 + \$165.00 per lot in excess of 31 lots
41	41 Lots or Greater	\$8,660.00 + \$110.00 per lot in excess of 40 lots	\$8,660.00 + \$110.00 per lot in excess of 40 lots
42	b) Preliminary Layout Approval Renewal or Amendment	\$110.00	\$110.00
43	c) Legal Plan Approval Fee	\$60.00	\$60.00
44	d) Early Registration Agreement (Applicable to Fee Simple Subdivisions)	\$750.00	\$750.00

Strata Conversion

45	a) First lot	\$300.00	\$300.00
46	b) Each Additional Lot	\$150 per conversion to a max. of \$2,000.	\$150 per conversion to a max. of \$2,000.
	c) Report Inspection Fees		
47	Third Party Review of Professional Reports submitted with an Application	Actual Cost	Actual Cost
48	d) Legal Plan Approval Fee	\$60.00	\$60.00

Phased Strata

49	a) Phasing Approval Fee	\$105.00	\$400.00
50	b) Legal Plan Approval Fee	\$60.00	\$60.00
51	c) Form P Approval	\$75.00	\$100.00

ALR

52	ALR Exclusion/Inclusion/Subdivision/Non Farm Use	\$600.00	\$600.00
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Other Administrative Fees

53	a) Earthworks Permit	\$250.00	\$250.00
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Appendix 20

PLANNING AND DEVELOPMENT		2014	Effective March 1, 2015
54	b) Boulevard Trees	\$472.50	\$472.50
55	c) Ministry of Environment-Site Profile Referral	\$100.00	\$100.00
56	d) Address Number Change Request (owner initiated)	\$150.00	\$150.00
57	e) Road Name Change Fee (owner initiated)	\$500.00	\$500.00
58	f) Land Title Search (when not provided at time of application)	\$20.00	\$20.00
59	g) File Search or comfort letter initial fee for first hour	\$160.00	\$160.00
60	File search hourly rate	\$60.00	\$60.00
60.1	Removal of Section 57 Notice on Title		\$250.00

Map and Bylaw Rates

61	a) Plotter Printing Fees for all documents over 11" X 17"/sq. ft. per page	\$4.50 /sq ft	\$5.00
62	b) Bylaws (OCP, Zoning, Subdivision and Development)/page (note: large bylaw maps shall be charges separately as above (documents over 11" x 17"/sq.ft.)	As outlined in Appendix 1 Administrative Rates	As outlined in Appendix 1 Administrative Rates

Land Administration Services

	a) Prepare document and register with Land Titles Office	\$850.00	\$850.00
64	b) Prepare amended document and register with LTO	\$420.00	\$420.00
65	c) Prepare discharge document and register with LTO	\$420.00	\$420.00
66	d) Prepare document (lease, licence, sub-licence) not registered with LTO	\$290.00	\$290.00
67	e) Amend or renew document (lease, licence, sub-licence)	\$150.00	\$150.00
68	f) Location Certificate (Licenced BC Land Surveyor prepared)	Actual cost	Actual cost
69	g) Use of City Owned Lands	Market Value	Market Value
70	h) Appraisals	Actual cost	Actual cost
71	i) To raise title on Park for Road for the purposes of Disposition	\$850.00	\$850.00
72	j) Road Closure Permit	\$96.60	\$96.60
73	k) Amended Road Closure Permit	\$25.20	\$25.20
74	l) Legal Fees and City Survey Costs	Actual cost	Actual cost

Any additional city legal and/or survey costs which are required in the processing of any of the applications listed in this Application Fee Schedule will be borne by the applicant including but not limited to the preparation and registration of restrictive covenants, land use Contract Amendments, Statutory Rights-of-Way, Road Closure and Disposition, etc.

Development Applications Refunds

Development Cost Charges, DCC, Refund:

75	Refunds for development cost charges are to be addressed as per City of Penticton Development Cost Charges Bylaw No. 2007-79 as amended or superceded.
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Appendix 20

PLANNING AND DEVELOPMENT	2014	Effective Mar 1, 2015
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Density Bonus Refund:

76	Density bonus paid as part of building permit issuance, construction beyond the footings not started, as determined by the Director of Development Services – Upon cancellation of the building permit or building permit application refund all density bonus paid less an administrative fee of \$250.
77	Density bonus paid as part of building permit issuance, construction beyond the footings started as determined by the Director of Development Services – The person seeking a refund must make a submission in the prescribed form to the Director of Development Services or the designate who will prepare a report for Council's consideration.

Council will consider the matter and may by resolution:

78	a. authorize the density bonus refund subject to conditions as; or		
79	b. refuse the request for a density bonus refund;		
80	c. refer the matter to staff or a future Council meeting; or		
81	d. such other determination as Council may direct.		
82	As a requirement of any density bonus refund the development permit and/or building permits must be cancelled and the development permit must be discharged from the title of the land – all density bonus paid shall be refunded less an administration fee of:	\$250.00 and a discharge notice of fee of \$250.00	\$250.00 and a discharge notice of fee of \$250.01

City infrastructure¹ requirements as part of Subdivision:

Subdivision not approved and infrastructure not installed – Upon cancellation of the preliminary layout approval, refund infrastructure charges less an administrative fee of:

83	a. For Single Family, Duplex and smaller developments	\$470.00	\$470.00
84	b. For all other larger developments	\$990.00	\$990.00
85	Subdivision not approved and infrastructure Installed	No Refund	No Refund
86	Subdivision approved	No Refund	No Refund

City infrastructure¹ requirements as part of Zoning:

Zoning Bylaw amendment not adopted and infrastructure not installed – Upon rescinding all readings of the Zoning Bylaw amendment refund infrastructure charges less an administrative fee of:

87	a. For Single Family, Duplex and smaller developments	\$470.00	\$470.00
88	b. For all other larger development	\$990.00	\$990.00
89	Zoning Bylaw amendment not adopted and infrastructure installed	No Refund	No Refund
90	Zoning Bylaw Amendment adopted	No Refund	No Refund

Development Variance Permit Application Fee:

91	a. Development variance permit application has not been scheduled for a Technical Planning Committee meeting – Upon cancellation of the application refund the application fee less an administrative fee of \$500.
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Appendix 20		
PLANNING AND DEVELOPMENT		2014
		Effective March 1, 2015
92	b. Development variance permit application has been scheduled for a Technical Planning Committee meeting but has not been to delegations and submissions at Council - Upon cancellation of the application refund \$250	
93	c. Development variance permit application has been to Council - No refund.	

Development Permit Application Fee:

94	a. Development permit application has not been scheduled for a Technical Planning Committee meeting - Upon cancellation of the application refund the application fee less an administrative fee of \$500
95	b. Development permit application has been scheduled for a Technical Planning Committee meeting but has not been to delegations and submissions at Council - Upon cancellation of the application refund \$250.
96	c. Development permit application has been to Council - No refund.

Rezoning Application Fee:

97	a. Rezoning application has not been scheduled for a Technical Planning Committee meeting - Upon cancellation of the application refund the application fee less an administrative fee of \$500
98	b. Rezoning application has been scheduled for a Technical Planning Committee meeting but has not been to Council - Upon cancellation of the application refund \$250.
99	c. Rezoning application has been to Council - No refund.

Official Community Plan, (OCP) Amendment Application Fee:

100	a. OCP amendment application has not been scheduled for a Technical Planning Committee meeting - Upon cancellation of the application refund the application fee less an administrative fee of \$500.
101	b. OCP amendment application has been scheduled for a Technical Planning Committee meeting but has not been to Council - Upon cancellation of the application refund \$250.
102	c. OCP amendment application has been to Council - No refund.

Landscaping Security Refund:

103	a. Development permit has lapsed in accordance with Section 926(1) of the <i>Local Government Act</i> , no building permit has been issued and no substantial construction has begun as determined by the Director of Development Services - Upon cancellation of the development permit and discharging the notice of the development permit from title of the lands, refund of the landscaping security deposit plus interest less an administrative fee of \$350.
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Agriculture Land Reserve (ALR) Application Fee:

104	a. An ALR application that has not been scheduled for a Technical Planning Committee meeting - Upon cancellation of the application, refund of the application fee less an administrative fee of \$250.
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Appendix 20

PLANNING AND DEVELOPMENT		2014	Effective Mar 1, 2015
113	b. An ALR application that has been presented at a Technical Planning Committee meeting but has not been forwarded to the Agricultural Land Commission – Upon cancellation of the application, refund \$300.		

Notes:

1. City Infrastructure is defined as:

- a. Any items related to the City of Penticton water, sanitary, storm system including main line pipe, appurtenances, services etc.
- b. Any items related to roads, sidewalks, curb, gutter, signs etc.

Sign Permit Fees:

For the purpose of calculating the fee for a sign permit, the value of construction shall be the total contract price for the work, including all subcontractors, or the value of construction as determined by the Building Inspector on the basis of the plans, specifications and information available, whichever value shall be the greater.

114	for enlargement, conversion, alteration or relocation of a sign for which a permit has been issued	\$30.00	\$30.00
115	signs with a value of \$1,000 or less (per sign)	\$40.00	\$40.00
116	for each \$1,000 of part thereof, by which the value exceeds the sum of \$1,000 (per sign)	\$8.00	\$8.00
117	Variance to the Sign Bylaw	\$525.00	\$600.00
118	Where any sign has been erected without a permit having previously been obtained, the fee for obtaining such permit shall be double the amount of the regular permit fee	minimum \$100 fine	minimum \$100 fine

Appendix 24

Recreation - Miscellaneous	Effective April 1,2014	Effective April 1,2015
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Shower Only

1	Single Visit	\$2.86	\$3.10
2	10 Pass	\$25.71	\$27.86

Gymnasium Drop -In

3	Single Visit	\$3.81	\$4.05
4	Family	\$9.53	\$10.00

Service Fees

5	Membership Card Replacement	\$1.91	\$2.14
	*Non-Profit Sport/Recreation Groups	\$1.91	\$2.14
7	*Non-Profit Theatre Tickets	\$1.91	\$2.14
8	*Commercial Theatre Tickets	\$2.38	\$2.62

* Subject to applicable taxes and card service (Visa/Master/Amex) fees for credit card use.

9	Agency Activity Pass - Annual	\$570.47	\$599.05
10	Access Passes	Eligible Persons with disabilities: 25% off 10 Ticket, 1, 3, 6, 12, month passes for pool and fitness room	Eligible Persons with disabilities: 25% off 10 Ticket, 1, 3, 6, 12, month passes for pool and fitness room

Recreation Program Fees

Program fees set at a level sufficient at minimum to cover all instructor, expendable and consumable materials and extraordinary costs plus an additional 20%

Storage Rental (Community Centre Gym)

11	4x7x10 compartment (per month)	\$23.95	\$24.43
12	Misc. Storage Rentals/sq feet/month (minimum \$10/month)	\$0.58	\$0.59

Piano Rental

13	The Licensee shall be responsible for and shall pay for the tuning of the Piano if required	Actual Cost	Actual Cost
14	Grand/Upright Piano (1/3 of a day)	\$11.21	\$11.43

Concert Steinway Piano

16	Commercial - 1 day of First day	\$172.83	\$176.29
17	Commercial - Subsequent Days	\$86.41	\$88.14
18	Non-Profit 1 day or first day	\$86.41	\$88.14
19	Non-profit - Subsequent days	\$43.21	\$44.07

Specialty Items

20	Community Centre Equipment Rentals	market value	market value
21	Community Centre Retail Merchandise	mark up at Retail Price to reflect 25%-50%	mark up at Retail Price to reflect 25%-50%
22	RV Overnight Parking Permit (a window permit is issued to those user groups requiring an RV on site for special event security - pending approval by the PRC Director of designate. Permit is issued through the RCMP.	\$27.97	\$28.53

Appendix 26

THEATRE		Effective April 1, 2014	Effective April 1, 2015
1	Theatre Technician Rate Rate of \$33.00/hr effective April 1, 2014 is included. To be increased by CPI in non-review years.		
2	Theatre may be rented for a minimum of 4 hours. First half hour and last half hour of rental is for staff to ensure safety requirements and is not available to licensee.		
3	Theatre rental comes with the Basic House Wash Lighting. Any additions or changes and the reversal back to the Basic House Wash will be charged at actual hours required X Theatre Technician rate per hour.		

Non-Profit/Local Public/Rehearsal/Set up/Take down

4	Child/Youth	\$45.73	\$46.64
5	Adult	\$71.38	\$72.81

Non-Profit/ Local Public/ Performance

6	Child/Youth	\$58.56	\$59.73
7	Adult	\$84.20	\$85.89
8	Local Private/Commercial/ Rehearsal/Set up/Take Down	\$84.20	\$85.89
9	Convention Rate	\$84.20	\$85.89
10	Local Private/ Commercial/ Performance	\$147.36	\$150.31
11	Non-Resident/Private/Commercial: Rehearsal Set Up/Take Down	\$168.41	\$171.78
12	Non-Resident/Private/Commercial: Performance	\$210.52	\$214.73
13	Non-Resident/Non Profit: Rehearsal Set Up/Take Down	\$84.20	\$85.89
14	Non-Resident/Non Profit: Performance	\$147.37	\$150.32
15	Non-Resident Commercial Day Rate*	\$1430/day	\$1460/day
16	Non-Resident Non Profit Day Rate*	\$799/day	\$ 815 / day

*Additional rental hours past 8 hours on Day Rate will be charged Technician Rate for each additional hour

Dark Days

17	Non-profit Child/Youth	\$12.82	\$13.08
18	Adult/Private/ Commercial/Non-Resident	\$25.65	\$26.17
19	Set Shop Only	\$6.33	\$6.46

20	*Non-Profit Theatre Tickets	\$1.91	\$2.14
21	*Commercial Theatre Tickets	\$2.38	\$2.62

* Subject to applicable taxes and card service (Visa/Master/Amex) fees for credit card use,

Bylaw No. 2015-16

A Bylaw to Amend Official Community Plan Bylaw 2002-20

WHEREAS the Council of the City of Penticton has adopted an Official Community Plan Bylaw pursuant to Section 903 of the *Local Government Act*;

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

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

1. Title:

This bylaw may be cited for all purposes as "Official Community Plan Amendment Bylaw No. 2015 -16."

2. Amendment:

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

2.1 Change Schedule 'B' future land use designation for the following properties from PR (Parks and Recreation) to MR (Medium Density Residential):

- Lot 4, Plan 5885, District Lot 189, SDYD (270 South Beach Drive)
- Lot 5, Plan 5885, District Lot 189, SDYD (274 South Beach Drive)
- Lot 6, Plan 5885, District Lot 189, SDYD (278 South Beach Drive)
- Lot 7, Plan 5885, District Lot 189, SDYD (280 South Beach Drive)
- Lot 8, Plan 5885, District Lot 189, SDYD (282 South Beach Drive)
- Lot 1, Plan 6179, District Lot 189, SDYD (286 South Beach Drive)
- Lot 8-9, 39, Plan 996, District Lot 189, SDYD (292 South Beach Drive)
- Lot 1, Plan 6172, DL 189, SDYD (298 South Beach Drive)
- Lot 2, Plan 6172, DL 189, SDYD (300 Sudbury Avenue)

2.2 Change Schedule 'H' to include the following lands in the General Multiple Family Development Permit Area:

- Lot 4, Plan 5885, District Lot 189, SDYD (270 South Beach Drive)
- Lot 5, Plan 5885, District Lot 189, SDYD (274 South Beach Drive)
- Lot 6, Plan 5885, District Lot 189, SDYD (278 South Beach Drive)
- Lot 7, Plan 5885, District Lot 189, SDYD (280 South Beach Drive)
- Lot 8, Plan 5885, District Lot 189, SDYD (282 South Beach Drive)
- Lot 1, Plan 6179, District Lot 189, SDYD (286 South Beach Drive)
- Lot 8-9, 39, Plan 996, District Lot 189, SDYD (292 South Beach Drive)
- Lot 1, Plan 6172, DL 189, SDYD (298 South Beach Drive)
- Lot 2, Plan 6172, DL 189, SDYD (300 Sudbury Avenue)

2.3 Schedule "A" attached hereto forms part of this bylaw.

READ A FIRST time this	16	day of	March, 2015
A PUBLIC HEARING was held this	7	day of	April, 2015
READ A SECOND time this		day of	, 2015
READ A THIRD time this		day of	, 2015
ADOPTED this		day of	, 2015

Notice of intention to proceed with this bylaw was published on the 27th and 29th of March, 2015 and the 1st and 3rd of April, 2015 in the Penticton newspapers, pursuant to Section 94 of the *Community Charter*.

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

The map displays several land parcels and their associated details:

- Lots and Areas:** Lot 1, Lot 2, Lot 3, Lot 4, Lot 5, Lot 6, Lot 7, Lot 8, Lot 17, Lot 18, Lot 19, Lot 35, Lot 1 (R.P. 6179), Lot 2 (R.P. 6172), Lot 3 (R.P. 996), Lot 4 (R.P. 996), Lot 5 (R.P. 996), Lot 6 (R.P. 996), Lot 7 (R.P. 996), Lot 8 (R.P. 996).
- Roads:** SOUTH BEACH DR-267-300, AMEN.
- Survey Points:** 298, 292, 286, 284, 280, 278, 274, 270, 269, 267, 277, 300, 3750, 3751.
- Other Labels:** R.P., B-4576, -37-, 5 8 8 5, 6 1 7 2, 6 1 7 9, 9 9 6.

Official Community Plan Amendment Bylaw No. 2015-16

Corporate Officer: _____

Bylaw No. 2015-17

A Bylaw to Amend Zoning Bylaw 2011-23

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

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

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

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw 2015-17".

2. **Amendment:**

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

Rezone Lot 1 and Lot 2, District Lot 189, Similkameen Division Yale District, Plan 6172, located at 298 South Beach Drive and 300 Sudbury Avenue, from P2 (Parks and Recreation) to RM2 (Low Density Multiple Housing).

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

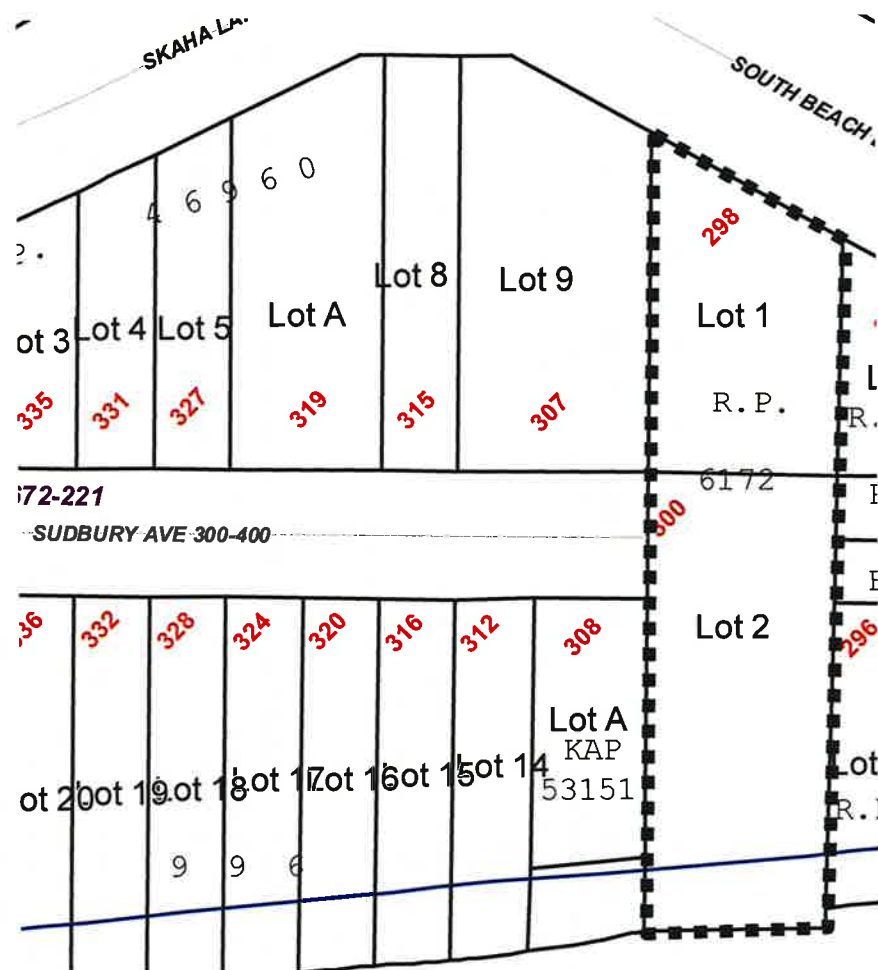
READ A FIRST time this	16	day of	March, 2015
A PUBLIC HEARING was held this	7	day of	April, 2015
READ A SECOND time this		day of	, 2015
READ A THIRD time this		day of	, 2015
APPROVAL from Ministry of Transportation		day of	, 2015
ADOPTED this		day of	, 2015

Notice of intention to proceed with this bylaw was published on the 27th and 29th of March, 2015 and the 1st and 3rd of April, 2015 in the Penticton newspapers, pursuant to Section 94 of the *Community Charter*.

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

To Rezone 298 South Beach Drive & 300 Sudbury Avenue From
P2 (Parks & Recreation) to RM2 (Low Density Multiple Housing)



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2015-17

Date: _____

Corporate Officer: _____

Bylaw No. 2015-18

A Bylaw to Amend Zoning Bylaw 2011-23

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

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

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

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw 2015-18".

Amendment:

2. Zoning Bylaw 2011-23 Section 4.2 Definitions is hereby amended as follows:

- 2.1 Delete definition for **DAYCARE CENTRE, MAJOR** and replace with: means a premise that is licensed and regulated by the *Community Care and Assisted Living Act: Child Care Licensing Regulation*, which provides care for more than sixteen (16) children, for not more than thirteen (13) hours per day.
- 2.2 Delete definition for **DAYCARE, MINOR** and replace with: means a premise that is licensed and regulated by the *Community Care and Assisted Living Act: Child Care Licensing Regulation*, which provides care for more than eight (8) but not more than sixteen (16) children, for not more than thirteen (13) hours per day.
- 2.3 Delete definition for **FLOOR AREA, GROSS (GFA)** and replace with: means the total floor area of all storeys of all **buildings** or **structures** with a clear ceiling height of 1.8 meters or more, measured from the outside face of the exterior walls. This does not include balconies, decks or patios.
- 2.4 Delete definition for **FLOOR AREA, NET (NFA)** and replace with: means the total usable floor area in a building and accessory building, measured from the outside face of the exterior walls. NFA does not include the following sub-areas:
 - **Garages**, other enclosed or open parking areas
 - **balconies, decks** and **patios**
 - Garbage or loading rooms
 - Floor area devoted exclusively to mechanical or electrical equipment
 - **Basements**
 - Lofts
 - Stairwells and elevator shafts

- 2.5 Delete definition for **LOT LINE, FRONT** and replace with: means the **street** frontage onto which the primary façade or **front yard** of the **building** faces. In the case of **through lots**, or **double-fronting lots**, two front lot lines are possible.
- 2.6 Delete definition for **STOREY** and replace with: means the habitable volume between the floors of a building or between its floor and roof, that is 1.8m or greater.
- 2.7 Add definition **URBAN AGRICULTURE** means the cultivation of a portion of a parcel for the production of food including fruits, vegetables, nuts and herbs for human consumption. Cultivation can be done by the property owner or off-site resident, provided the owner has given her/his permission. Production activities should not be noxious or an unreasonable nuisance to surrounding properties.
- 2.8 Delete definition for **VACATION RENTAL** and replace with: means the rental of a dwelling unit to tourists or the vacationing public for a period of one month or less.
3. Replace Section 5.2.2 with: Notwithstanding and **yard** requirements of this bylaw, and **accessory building** or **structure** with a **building footprint** of 10 m² or less, may be erected anywhere on a lot, provided that it is situated behind the front face of the **principal building**.
4. Delete Section 5.2.8 in its entirety.
5. Replace Section 5.4.1.d with: Within 30 m of the design water level boundary of the Okanagan River channel nor lower than 1.5 m above the design water level of the Okanagan River channel. The southern limit of the Okanagan Lake flood control requirements shall be from the centre line of the Okanagan River channel dam along Lakeshore Drive east to the point where the natural ground elevation exceeds 343.66 m.
6. Add Section 5.11.4: Notwithstanding buffer or landscape requirements, patio seating for restaurants may encroach into any yard setbacks in the CT1 ('Tourist Commercial') zone.
7. Replace Section 5.14.2 with: The drive-through facilities shall not be visible from the street. If the drive-through facilities are visible from the street or neighbouring properties, landscape screening or fencing, a minimum of 1.2m in height, shall be required.
8. Add Section 5.18: **Urban Agriculture in all Zones**
5.18.1 Urban Agriculture shall be a permitted use in all zones.
9. Replace Section 6.3.4.2 with: One (1) shrub for every linear meter of required buffer area, including **walkways** and driveways. The shrubs shall be a minimum No.2 pot shrub.
10. Replace Section 6.5.1.4 with: In the case of a fence constructed on top of a **retaining wall**, the combined height of the fence and the **retaining wall** at the property line or within 1.2 m of the **property line** shall not exceed 2.0 m, measured from **natural grade** on the side of the fence or **retaining wall** with the lower elevation.
11. Replace Section 6.5.1.5 with: Barbed wire and electric fencing is prohibited in all zones except for A, M2 and M3. Razor wire is prohibited in all zones.
12. Replace Section 7.4 with: Any developments that require bicycle parking, in accordance with Table 7.3, shall be subject to the following regulations:
13. Replace Section 7.4.3 Table 7.3 **Bicycle Parking Requirements** with:

Use	Class 1	Class 2
Commercial <i>Uses</i>	Minimum of 2, plus one for every 125 m2 over 250 m2	Minimum of 2, plus one for every 125 m2 over 250 m2
Public Assembly and Organizations	Minimum 4	Minimum 4
Residential <i>Uses (Multiple Housing)</i>	0.5 per unit	0.1 per unit

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14. Add Section 8.6.4: A ***rural home occupation*** shall not generate more than six (6) client visits at any given time.
15. Replace Section 8.7.6.2 with: Maximum gross floor area: 90 m2 or 40% of the habitable floor area of the **building**, whichever is less.
16. Delete Section 8.8.1 in its entirety.
17. Delete Section 8.8.4.2 in its entirety.
18. Replace Section 8.8.4.4 **Height** with: Maximum ***height*** 7.0m.
19. Add Section 8.8.6 Access: A ***carriage house*** must have clear, unobstructed and maintained access from the front of the property to the ***carriage house*** on a path at least 1.5 m in width.
20. Add Section 9.2.2.8 ***Accessory building***
 - i. minimum ***front yard*** 9.0m
 - ii. minimum ***side yard***
 - a. ***interior side yard*** 4.5m
 - b. ***exterior side yard*** 9.0m
 - iii. minimum ***rear yard*** 4.5m
21. Replace Section 9.2.6.3 with: Where a ***lot*** is situated within an Agricultural Land Reserve (ALR) and a subdivision has been approved by the Agricultural Land Commission, creating no more than one (1) additional ***lot*** in the ALR, both parcels are exempt from the minimum ***lot area*** requirement.
22. Replace Section 9.2.6.4 with: Necessary ***agricultural farm help dwellings*** are limited to one (1) unit on a property of at least 2 ha or more.
23. Amend Section 10.1 and 10.2 and add "subject to specific use regulation 8.8" beside the words "carriage house".
24. Add Section 10.5.3.3: In cases where a ***dwelling unit*** faces the back of the lot, a clear, unobstructed and maintained access from the front of the property to the back unit at least 1.5 m in width, must be provided.
25. Add Section 10.6.3.4: In cases where a ***dwelling unit*** faces the back of the lot, a clear, unobstructed and maintained access from the front of the property to the back unit at least 1.5 m in wide, must be provided.

26. Replace Section 10.10.2.5 with: Maximum ***height***:
 - i. ***Principal building*** 27m
27. Remove Section 10.10.5.2 in its entirety.
28. Replace Section 10.11.1 with: Only the following commercial ***uses*** are permitted in a ***flex-unit***:
 - .8 ***artisan craft***
 - .9 ***office***
 - .10 ***personal service establishment***
29. Replace Section 11.6.3.4 with: Notwithstanding Chapter 7 – Parking Regulations, any commercial use identified in this zone shall not be required to provide any required motor vehicle parking or loading spaces for properties fronting onto Westminster Avenue West, Westminster Avenue East and Estabrook Avenue in the downtown.

READ A FIRST time this	16	day of	March, 2015
A PUBLIC HEARING was held this	7	day of	April, 2015
READ A SECOND time this		day of	, 2015
READ A THIRD time this		day of	, 2015
ADOPTED this		day of	, 2015

Notice of intention to proceed with this bylaw was published on the 27th and 28th day of March, 2015 and the 1st and 3rd day of April, 2015 in the Penticton newspapers, pursuant to Section 94 of the *Community Charter*.

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

Council Report

penticton.ca

Date: April 7, 2015
To: Chuck Loewen Interim City Manager
From: Blake Laven, Planning Manager
Subject: **Development Variance Permit PL2014-104**
1901 Carmi Avenue & 1682 Lawrence Avenue

File No: DVP PL2014-104

Staff Recommendation

THAT Council approve "Development Variance Permit PL2014-104", a permit to vary the minimum lot size for a property in the FG (Forestry Grazing) zone from 16 ha to 4.5 ha, to accommodate a lot line adjustment subdivision application between Lot A, District Lot 2710, Similkameen Division Yale District, Plan KAP92935 located at 1901 Carmi Avenue and Lot 2, District Lot 2710, Similkameen Division Yale District, Plan KAP73304, located at 1682 Lawrence Avenue;

AND THAT staff are directed to issue the permit.

Background

The subject lands (Attachment 'A') involve two properties that are both bisected by Lawrence Avenue in the Columbia Heights area of the city. Both properties are designated for residential development by the City's Official Community Plan and the Columbia Heights Neighbourhood Plan. The owners of the properties are trying to organize the lands into 2 development areas with one lot on the north side of Lawrence Avenue and one lot on the south side of Lawrence Avenue (Attachment 'B'). The reason that it is important to separate the properties in this way is that the lands to the south of Lawrence Avenue contain areas that were once part of the Carmi Avenue landfill. Those lands are going through monitoring and will eventually be remediated for redevelopment. That process will take some time. The lands to the north of Lawrence Avenue will be able to be developed much sooner. Those lands are currently being actively mined for aggregate extraction. This use is coming to an end shortly.

To accommodate the lot line adjustment a variance to the current zone is required. The zoning on 1901 Carmi Avenue is FG (Forestry Grazing) which requires a 16 ha lot size. The area of the parcel to the north of Lawrence Avenue will only be 9.2 ha after the subdivision, half of that area will retain its FG zoning (with the other half retaining its R1 zoning from 1682 Lawrence Avenue). For split zone properties, each zone within the parcel is treated as a separate parcel by the zoning bylaw. As such the FG portion will only be 4.5 ha, which necessitates the variance.

Proposal

The applicants are proposing to vary Section 9.1.2.2 to reduce the minimum lot area of a FG zoned property from 16 ha to 4.5 ha.

Financial implication

N/A

Technical Review

Redevelopment of these lands is a complicated process. The owners will be dealing with the remains of the landfill and the remediation of a gravel mine as well as dealing with bringing utility services to a greenfield area. City policy requires that an area plan be created prior to further development. And prior to the creation of a plan, a terms-of-reference would be created ensuring adequate attention to issues such as the following:

- Ensuring a mixture of densities and land uses (low density and multi-unit residential and others)
- Transportation routes (vehicles and pedestrian)
- Utility servicing
- Trails and parks
- Areas of environmental sensitivity and areas with special building restrictions

Because the subject application is just a preliminary step in the overall development process, staff have not completed a full technical servicing review.

Analysis

Support for the variance

Support for the variance will allow for the lot line adjustment to go ahead, which will assist in future planning for this area. No additional lots are being created. Support for the variance will also allow for Lawrence Avenue to be dedicated as road to the City of Penticton. Currently the road is located on a statutory right-of-way (SROW), which was registered during the planning for the Sendero Canyon development to the east of the subject lands.

As the following proposal is the first step in the development process to create additional residential development in Penticton, staff are recommending that Council support the application and direct staff to issue the permit.

Deny / refer variance

Council may feel that the lot line adjustment application is premature and that an area plan should be created prior to support for the subdivision. If that is the case, Council should deny the application.

Alternate recommendations

THAT "Development Variance Permit PL2014-104" is denied.

THAT "Development Variance Permit PL2014-104" is approved but with conditions that Council feels are appropriate.

Attachments

Attachment A – Subject property location map

Attachment B – Proposed subdivision plan

Attachment C – Current zoning map

Attachment D – Current OCP map

Attachment E – Draft permit for inspection

Respectfully submitted,

Blake Laven, RPP, MCIP
Planning Manager

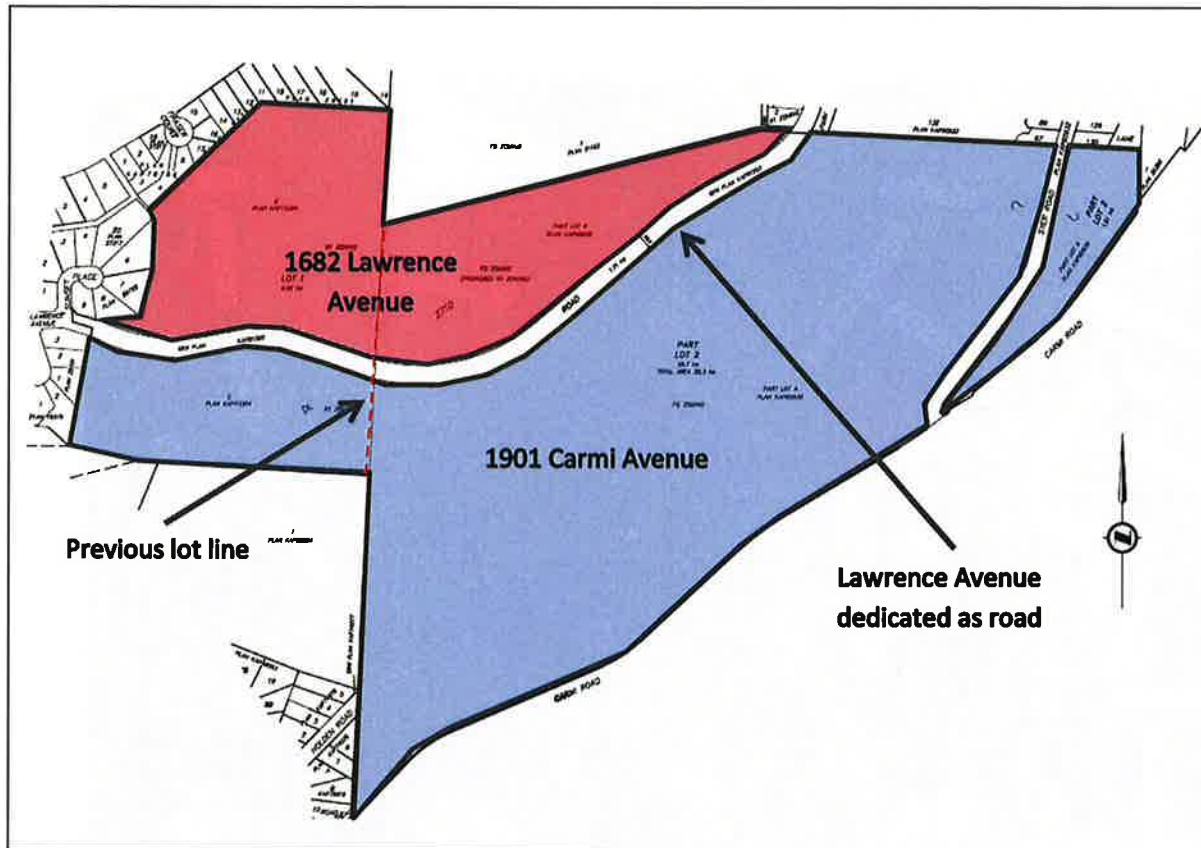
Approvals

Acting City Manager <i>CAL</i>
--

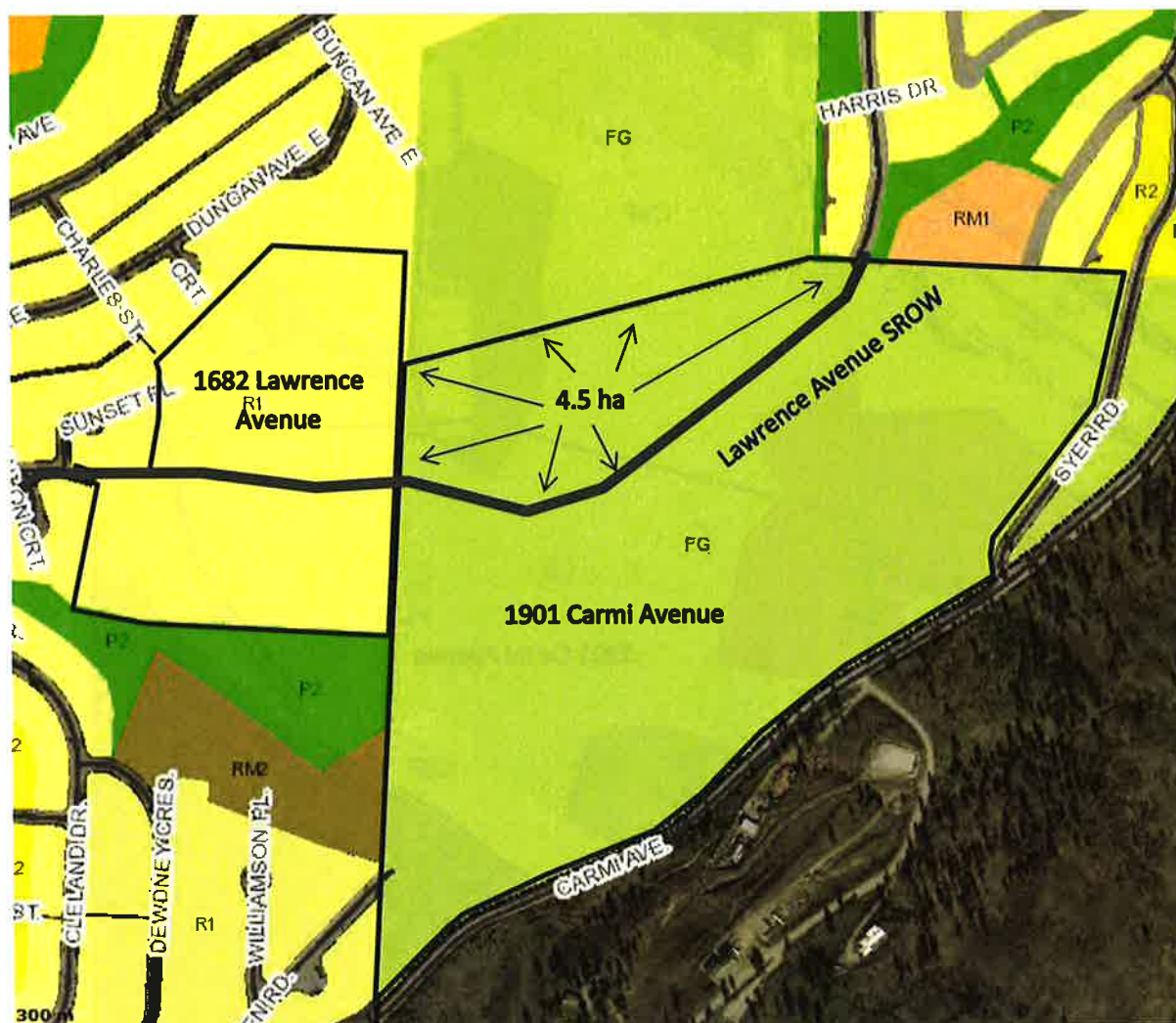
Attachment A
Subject property location map



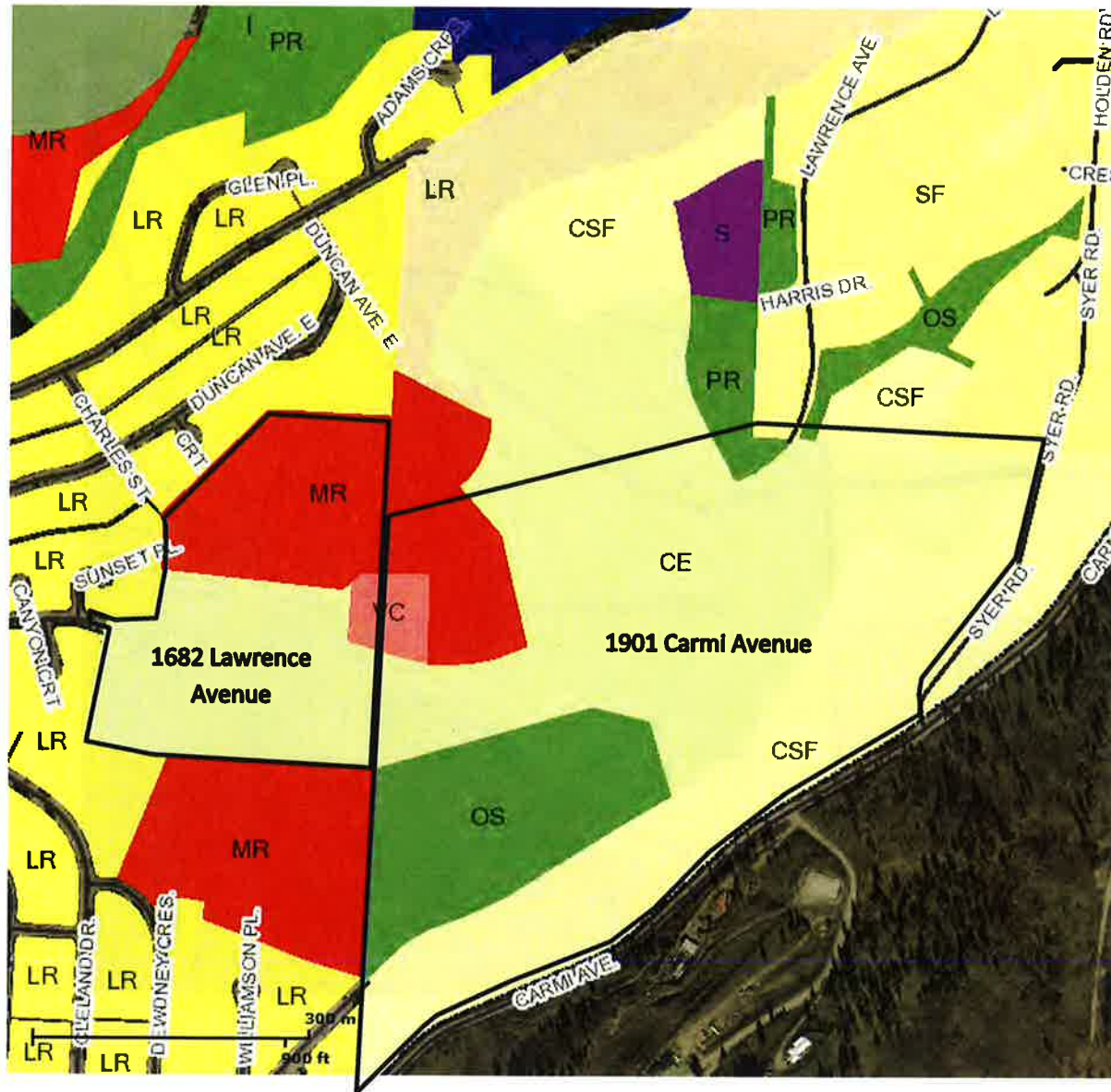
Attachment B
Proposed lot-line-adjustment subdivision plan and road dedication



Attachment 'C'
Current Zoning Map



Attachment 'D'
Current OCP map (from Columbia Heights Neighbourhood Plan – 1996)



Attachment 'E'
Draft permit for inspection



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

Development Variance Permit

Permit Number: DVP PL2014-104

Skaha Investments Ltd. Inc. No. 242229
201 – 100 Front Street
Penticton BC V2A 1H1

Conditions of Permit

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

Legal: Lot 2, District Lot 2710, Similkameen Division Yale District, Plan KAP73304 and Lot A, District Lot 2710, Similkameen Division Yale District, Plan KAP92935
Civic: 1682 Lawrence Avenue and 1901 Carmi Avenue
PID: 025-644-483 and 029-045-266
3. This permit has been issued in accordance with Section 922 of the *Local Government Act*, to vary Section 9.1.2.2 of Zoning Bylaw 2011-23 reducing the minimum lot size from 16 ha to 4.5 ha, for the purpose of a lot-line-adjustment subdivision, as shown in the plans attached in Schedule A.

General Conditions

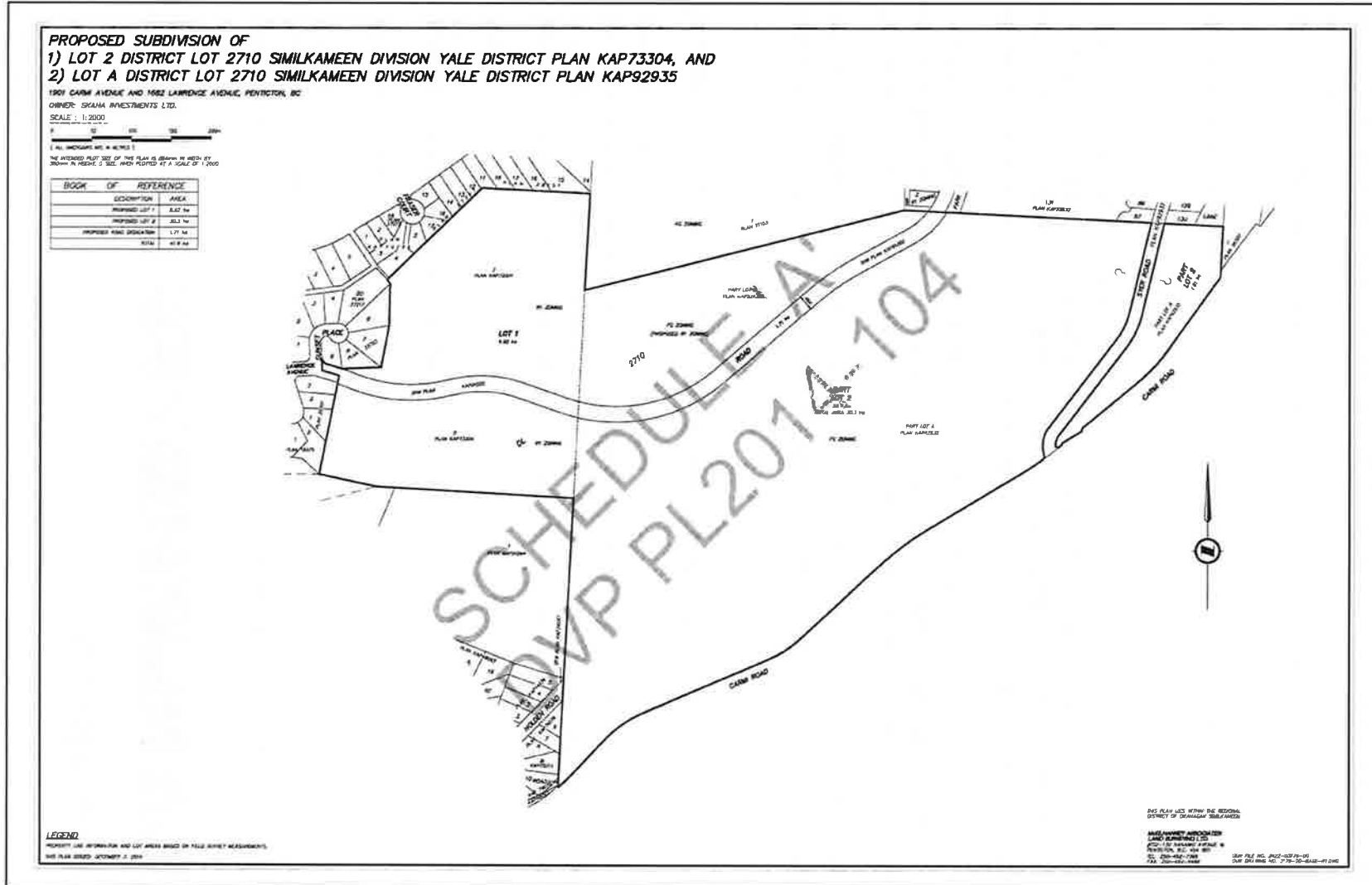
4. In accordance with Section 928(2) of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule A.
5. In accordance with Section 926 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the _____ day of _____, 2014

Issued this _____ day of _____, 2014

Dana Schmidt
Corporate Officer

Page 2 of 2



Council Report

penticton.ca

Date: April 7, 2015
To: Chuck Loewen, Interim City Manager
From: Lindsey Fraser, Planner I

File No: DVP PL2015-021

Address: 2465 Baskin Street

Subject: Development Variance Permit PL2015-021

Staff Recommendation

THAT Council approve "Development Variance Permit PL2015-021" for Lot 9, District Lot 198, Similkameen Division Yale District, Plan 25119, located at 2465 Baskin Street, a permit to decrease the minimum required side yard from 4.5m to 0.75m and the minimum rear yard setback from 4.5m to 2.0m, in order to build a garage/workshop on the property.

AND THAT staff be directed to issue "Development Variance Permit PL2015-021".

Background

The subject property ('Attachment A') is located in a low density, residential area of the city and is zoned RM1 (Low Density Cluster Housing). The lot is one half of a duplex, owned as fee simple, freehold property.

In most cases, RM1 zoning is reserved for single family bareland strata developments. However, this area of the city has several properties that are zoned RM1, but contain either single family homes or fee simple rowhousing. The RM1 zoning designation is unreflective of the actual building on the lot.

The RM1 zone calls for setbacks of 4.5m on all sides of the property. This setback is meant to be a buffer for bareland strata parent parcels, not necessarily building setbacks on a small single family lot or duplex lot, which usually has a 1.2m or 1.5m yard requirement. In order to build an accessory building at a typical setback distance a variance to the bylaw is required.

Proposal

The applicant is requesting a development variance permit to vary the following sections of Zoning Bylaw 2011-23:

- Section 10.7.2.4.ii.a: Decrease the minimum side yard (northwest) setback of an accessory building from 4.5m to 0.75m
- Section 10.7.2.4.iii: Decrease the minimum rear yard setback of an accessory building from 4.5m to 2.0m

Financial implication

N/A

Technical Review

This application was forwarded to the City's Technical Planning Committee and reviewed by the Engineering and Public Works Departments. No conditions prior to variance permit approval were identified through this referral process. If the application for variance is successful, the applicant will have to show conformance to the requirements of the BC Building Code prior to building permit approval.

Analysis

Approve

When reviewing an application for variance, staff encourage Council to consider whether there is a hardship on the property that makes following the bylaw difficult. In the case of this application, Council may feel that the inappropriate historical zoning of this property is a hardship on the property. The current zoning makes the possibility of constructing a typical accessory building on this property difficult without the benefit of a variance.

Furthermore, staff feel that the variance will have no negative impact on neighbouring properties. The position of the garage on the lot ('Attachment B') ensures no neighbouring properties are impacted; the property that the garage is closest to is, in fact, a park. It is not expected that this garage will distract visually from the park's aesthetic environment.

Finally, it is important to examine the intent behind the RM1 designation and the on-ground built form of this neighbourhood. Given this lot is a duplex, it would typically have a designation of RD1 (Duplex Housing) in other areas of the City. In the RD1 zone, the accessory building setback is 1.2m from the side and 1.5m from the back. If viewed from the perspective of the other duplex lots, the side-yard variance being requested here is relatively minor and the rear yard variance would not be required.

Given the above, staff feel that the request is reasonable. As such, staff recommend that Council support the variance and direct staff to issue the permit.

Deny

Council may feel that the variance is not justified and that the property owner should follow the bylaw. If that is the case, Council should deny the variance. Alternatively, Council may wish to refer the application back to staff to work with the property owner in determining a more appropriate design for the accessory building.

Alternate recommendations

THAT "DVP PL2015-021" be denied.

THAT "DVP PL2015-021" be approved with conditions.

Attachments

Attachment A – Subject property location map

Attachment B – Images of subject property

Attachment C – Letter from applicant

Attachment D – Draft DVP

Respectfully submitted,

Lindsey Fraser

Planner I

Approvals

Interim Director	Interim City Manager
	

Attachment A – Subject Property Location Map



Figure 1: Subject property located in low density neighbourhood, beside park

Attachment B – Images of Subject Property

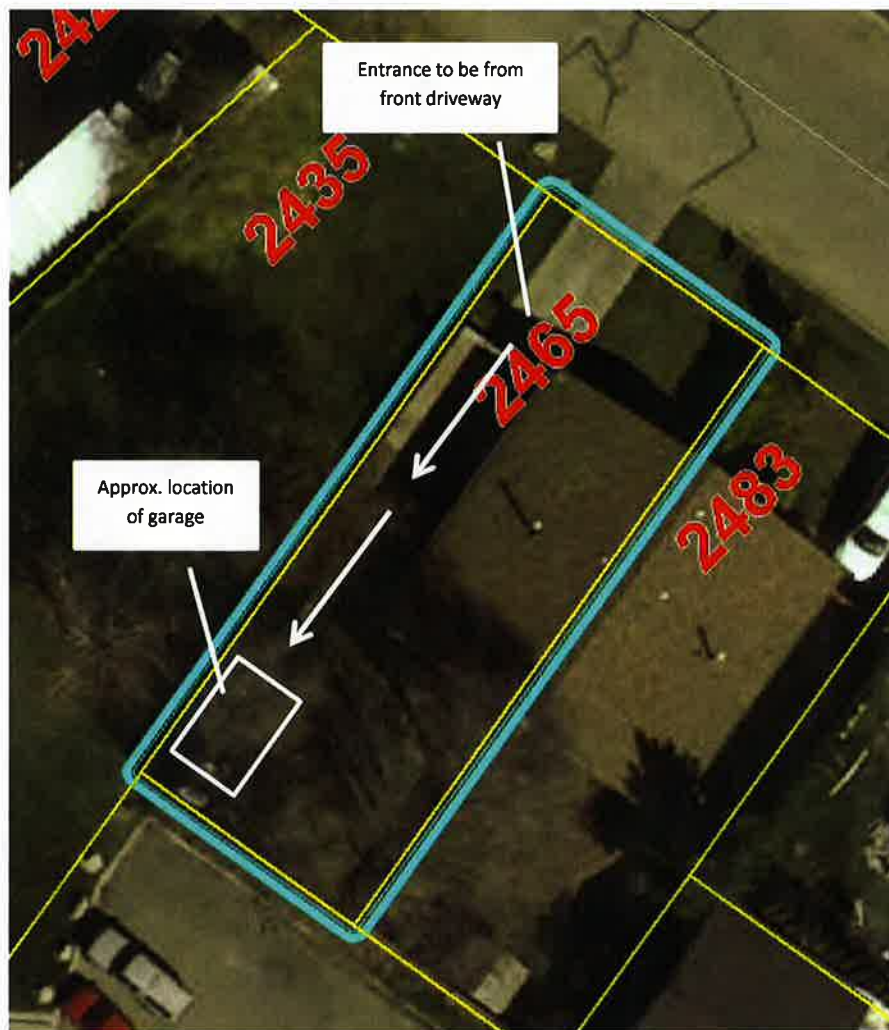


Figure 2: Aerial photo of subject property



Figure 3: Looking south west at subject property



Figure 4: Looking north west into yard, in approximate location of garage

Attachment C – Letter from Applicant

Property owners: Raymond Schwager & Karen Greig

Civic Address: 2465 Baskin Street

City: Penticton BC

Postal Code: V2A 6R1

February 23, 2015

To City Of Penticton Planning and Development department

Building Permit for Accessory Building

Zoning Designation: I0.7 RM1 –Low Density Cluster-Housing

Legal Land description: Parcel 005-613-841, Lot 9 District Lot 198 Similkameen Division Yale District Plan 25119

The owners made a mistake in their Letter of Intent. In fact, as stated above, they are applying for a 2.0m and 0.75 m variance.

Letter of Rational

Request for a Variance from 1.2 meters to .60 meters on the north side of our property:

We purchased our property two years ago and made necessary changes to clean up the yard, erected a fence to blend into our surrounding community. We know our neighbors and have spoken with them about our plans to build a shop for storage and they have stated they understand the need for having outside storage.

We are submitting our application to build a 14 x 20 foot shop in the back area of our property for the purpose is storage and small hobbies. The shop plans would include use a 16 inch eaves trough to eliminate runoff water onto city green space or divert the runoff into our small garden.

To utilize the limited yard space we have if we follow the building offsets from the North property lines will create hardship in our usage of outdoor green space.

The distance between of the offset we will use at south end of the property is 2.13 meters instead of 1.5 meters. The south fence side backs onto Falcon Crescent. The distance of 2.13 meters creates an additional storage space that we can put to use. Our goal of building the shop closer to fence on the North side allows the building to be aesthetically located on the property and creates a reasonable passageway into the back yard.

We are asking for a variance from 1.2 meter to .60 meter on the North Side of the property. This side of the property is located next to a green space and does not interfere with other residents.

The .60 meter offset allows us access to keep the area clean and to access the fence on the south side of the building. There is a fire hydrant close to our property approximately 75 feet to the south.

Our hopes are to increase our outdoor storage space and utilize the green space in our yard.

We have included pictures of our back yard with spray painted outline of the purposed building with the offsets we have specified.

We look forward to your recommendation and insight.

Respectfully

The image shows two handwritten signatures in blue ink. The first signature is for Raymond Schwager, and the second is for Karen Greig. Both signatures are fluid and cursive.

Raymond Schwager & Karen Greig

Attachment D – Draft DVP



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

Development Variance Permit

Permit Number: DVP PL2015-021

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 9, District Lot 198, Similkameen Division Yale District, Plan 25119
Civic: 2465 Baskin Street
PID: 005-613-841
3. This permit has been issued in accordance with Section 922 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2011-23 (as shown in Schedule 'A'):
 - Section 10.7.2.4.II: Decrease the minimum side yard (northwest) setback of an accessory building from 4.5m to 0.75m
 - Section 10.7.2.4.III: Decrease the minimum rear yard setback of an accessory building from 4.5m to 2.0m

General Conditions

4. In accordance with Section 928(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 926 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs,

please contact the Electric Utility at (250) 490-2535.

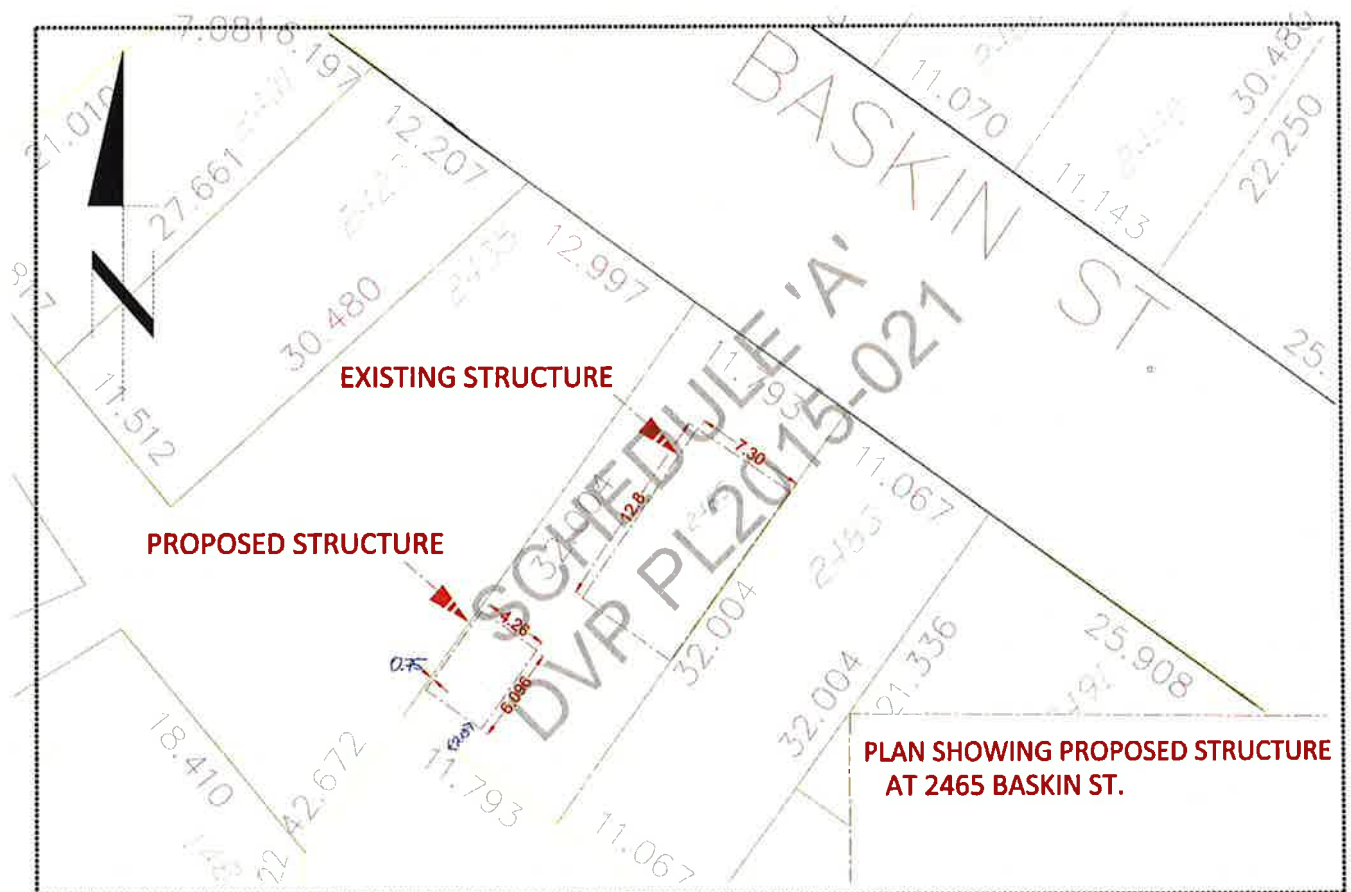
Authorized by City Council, the _____ day of _____, 2014

Issued this _____ day of _____, 2014

Dana Schmidt,
Corporate Officer

Page 2 of 2

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From: Glenda R
Sent: March-30-15 6:40 PM
To: Public Hearings
Subject: 2465 Baskin Street (PL2015-021)

RE: Development Variance Permit for 2465 Baskin Street (PL2015-021)

I live on Falcon Court and would like assurance that the area behind Lot 9 (2465 Baskin Street) be accessible for parking – not restricted by a gate/driveway (which it already is to a point).

This “nook” at the rear of lots 9 & 10 backing onto Falcon Court has been used as parking by the neighbourhood – I believe that was the original intent. As seen on the map, Lot 18 has limited parking options. Lot A (192 Falcon Court) currently has an excess of vehicles and should be using this space (in my opinion). This area has also been used by Lot 12 as well as myself at times.

Further to this I would like to see parking lines for parking north to south (NE to SW) - nose/or rear toward Lot 9/10 (this might fit 5 or 6 vehicles) (not parallel parking which might only fit 3 vehicles).

My concern is that Falcon Court might be an access for Lot 9 and further limit our parking in this area. And will Lot 10 wish access in the future?

That being said: I have no objection to the garage/workshop or variances to the property line as long as access is from Baskin – not off Falcon Court.

Respectfully submitted

Glenda Ross

178 Falcon Court

“Remember that happiness is a way of travel, not a destination.” - Roy Goodman



This email is free from viruses and malware because avast! Antivirus protection is active.

From: Rahim
Sent: April-01-15 8:26 PM
To: Public Hearings
Subject: Development Variance Permit PL2015-021

Good afternoon,

We recently received the public notice for subject property 2465 Baskin Street, for development variance permit PL2015-021. We are opposed to this development as we believe adding a garage/workshop will add/increase unwelcome traffic and noise in the area. It also looks to pose a safety hazard by building close to the surrounding home fence lines, allowing fire to more easily leap from one property to another.

Thank you,
R Omran
196 Ayres Cres.

Council Report

penticton.ca

Date: April 7, 2015
To: Chuck Loewen , Acting City Manager
From: Len Robson, Public Works Manager
Subject: **Rocky Mountain Ridged Mussel Stewardship Agreement**

File No: 6340-20

Staff Recommendation

THAT Council endorse entering into the 2015-2019 Stewardship Agreement for Rocky Mountain Ridged Mussel, as proposed by the Ministry of Forests, Lands and Natural Resource Operations Resource Management Division (Ecosystems) for the Three Mile Beach Area as contained in Attachment "A";

AND THAT the Mayor be authorized to execute the 2015 – 2019 Stewardship Agreement for Rocky Mountain Ridged Mussel.

Strategic priority objective

N/A

Background

The Ministry of Forests, Lands and Natural Resource Operations Resource Management Division (Ecosystems) is proposing to enter a Stewardship Agreement with the City of Penticton in regards to the management of the Rocky Mountain Ridged Mussel (*Gonidea angulata*), which is listed as Special Concern in Canada under the Species at Risk Act (SARA).

Rocky Mountain Ridged Mussel is present in the littoral area all along Three Mile Beach shoreline within the City of Penticton. Careful management of this species and its habitat is needed to ensure long term, viable populations within this area as well as throughout its Canadian range.

The objective of this agreement is to protect Rocky Mountain Ridged Mussel within Three Mile Beach by providing effective planning, stewardship and threats mitigation.

This proposed stewardship agreement is for all the foreshore and aquatic areas within the boundaries of Three Mile Beach, within the City of Penticton (Attachment A - Appendix I). It has been developed to provide support, guidance and coordinate actions to address potential threats to Rocky Mountain Ridged Mussel in this area.

To support the proposed 5-year agreement the City of Penticton agrees to:

- Adhere to the following Operational Best Management Practices at Three Mile Beach

- No roto-tilling of lakebed for controlling Eurasian milfoil;
- No dredging of lakebed;
- No infilling or dumping of material in lake;
- No hardening of the shoreline;
- No new structures to be placed in the water (docks, boat launches, etc.);
- Beach maintenance will not include the introduction of sand;
- Apply for Water Act permission for any instream works; and
- Avoid any new works that may alter natural patterns of water movement.

In addition the City agrees to:

- Allow the installation of an interpretive sign at Three Mile Beach (to be installed and maintained by FLNR);
- Incorporate protection measures for habitats used by Rocky Mountain Ridged Mussel into City of Penticton's management and operational plans. This includes beach maintenance, instream works and educational information at Three Mile Beach;
- Incorporate new information into planning and operational management policies as it becomes available;
- Submit any detection records to FLNR (see Key Contacts below) with UTM co-ordinates, date, time, description of vegetation, and any other pertinent information; and
- Advise FLNR if the City of Penticton cannot follow requirements of this stewardship agreement including the Operational Best Management Practices below so alternate arrangements can be made.

There may be additional activities that pose a high risk to this species and its habitat that are not covered in this agreement. These areas may be added, and site specific mitigation measures developed, during the term of the stewardship agreement.

Financial implication

No financial impact to City of Penticton.

Analysis

The requirements of this Agreement should have no impact to current maintenance or management practices of the City of Penticton. The City does not have any plans to alter the land, and therefore the agreement has no impact to any current development plans. Should the City decide in the future to alter the land, or change management practices, it is then required to advise FLNR that it can no longer follow the requirements of the stewardship agreement.

The proposed Rocky Mountain Ridged Mussel Stewardship Agreement is a "living document" between FLNR and the City of Penticton to address threats to, and provide protection for, Rocky Mountain Ridged Mussel in habitats fronted by Three Mile Beach. This agreement is voluntary and does not supersede any existing legislative requirements. The actions in this agreement are consistent with, or based on, the July 2011 Management Plan for the Rocky Mountain Ridged Mussel (*Gonidea angulata*) in British Columbia (Fisheries and Oceans Canada).

The commitment and operational best management practices evaluation of this agreement will be ongoing by both parties, however, at a minimum, there will be a review once a year. Monitoring the effectiveness of the stewardship agreement will be the responsibility of both parties.

Alternate recommendations

1. THAT Council provide staff with direction as to changes they would like to see in the 2015-2019 Stewardship Agreement for Rocky Mountain Ridged Mussel, as prepared by the Ministry of Forests, Lands and Natural Resource Operations Resource Management Division (Ecosystems), for review by FLNR staff.
2. THAT Council decline to enter into the 2015-2019 Stewardship Agreement for Rocky Mountain Ridged Mussel, as proposed by the Ministry of Forests, Lands and Natural Resource Operations Resource Management Division (Ecosystems).

Attachments

Attachment "A: – 2015-2019 Stewardship Agreement for Rocky Mountain Ridged Mussel in Penticton, B.C.

Respectfully submitted,



Len Robson

Public Works Manager

Approvals

Director	City Manager
	

Attachment "A"

2015-2019 Stewardship Agreement for Rocky Mountain Ridged Mussel in Penticton, B.C.



Approval Date:

Ministry of Forests, Lands and Natural
Resource Operations | Thompson Okanagan
Region

City of Penticton | Mayor

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COVER PHOTOS

Rocky Mountain Ridged Mussel (*@Lora Nield*)

1.0 INTRODUCTION

The Rocky Mountain Ridged Mussel (*Gonidea angulata*) is listed as Special Concern in Canada under the Species at Risk Act (SARA). Rocky Mountain Ridged Mussel is present in the littoral area all along Three Mile Beach shoreline within the City of Penticton. Careful management of this species and its habitat is needed to ensure long term, viable populations within this area as well as throughout its Canadian range. This stewardship agreement is for all the foreshore and aquatic areas within the boundaries of Three Mile Beach, within the City of Penticton (Appendix I). It has been developed to provide support, guidance and coordinate actions to address potential threats to Rocky Mountain Ridged Mussel in this area.

Agencies involved:

The **City of Penticton** provides a lakeshore parkland area for recreational opportunities for both residents and visitors at Three Mile Beach.

FLNR (Ecosystems Section) works to maintain and restore the natural biodiversity of provincial ecosystems, and fish and wildlife species and their habitat

This stewardship agreement for the Rocky Mountain Ridged Mussel will assist in meeting both organizations' mandates. Mutual benefits include the following:

1. Ensuring measures are in place to protect and avoid impacts on Rocky Mountain Ridged Mussels
2. Developing a working relationship with each other to cooperatively manage environmentally sensitive areas and species
3. Creating a better understanding of each agency's interests, roles and responsibilities as they relate to management of species at risk

The Rocky Mountain Ridged Mussel Stewardship Agreement is a "living document" between FLNR and the City of Penticton to address threats to, and provides protection for, Rocky Mountain Ridged Mussel in habitats fronted by Three Mile Beach. This agreement is voluntary and does not supersede any existing legislative requirements. The actions in this agreement are consistent with, or based on, the July 2011 Management Plan for the Rocky Mountain Ridged Mussel (*Gonidea angulata*) in British Columbia (Fisheries and Oceans Canada).

1.1 Objective

The objective of this agreement is to protect Rocky Mountain Ridged Mussel within Three Mile Beach by providing effective planning, stewardship and threats mitigation.

2.0 BACKGROUND ON ROCKY MOUNTAIN RIDGED MUSSEL

2.1 Status

- Designated as Endangered in Canada (COSEWIC 2010)
- Listed by Special Concern in Canada (SARA Schedule 1 2005)
- Listed as S2 (Red Listed) in British Columbia (BC Conservation Data Centre)

2.2 Description of Species and Habitat Requirements

- Size: Up to 12.5 cm long
- Shape: Trapezoidal in shape (foot shaped), distinguishing feature is the prominent ridge that runs along top of the shell.
- Colour: Shell is dark brown to black, nacre is white or salmon coloured in the middle and pale blue near the margin
- Shell: Thicker than the floater species.
- Teeth: Hinge teeth small and compressed; they are sometimes hard to distinguish (right valve has one small tooth and left valve has either one or none).
- Habitat ranges from soft muddy or sandy substrates to large cobble/boulder along lakeshores and within the Okanagan River.
- Most commonly observed in waters less than 1.5 m deep however has been seen in over 8 m of water in Vaseaux Lake and 4 m in Skaha Lake.

2.3 Threats

The Management Plan for Rocky Mountain Ridged Mussel¹ identifies the following threats to this species:

- Foreshore/riparian development
- Historic riverbed channelization
- Hydrograph modification and regulation
- Aquatic introduced species
- Host species availability
- Watershed land-use related pollution
- Disturbance or direct harm
- Climate change

The greatest threat to Rocky Mountain Ridged Mussel along the shoreline of Okanagan Lake is disturbance or direct harm from instream works or recreational users.

¹ Available at: <http://www.env.gov.bc.ca/wld/recoveryplans/rcvry1.htm>

3.0 THE AGREEMENT

3.1 Commitment

The following section outlines Best Management Practices (BMPs) to mitigate or remove the potential threats listed above on lands owned by the City of Penticton. The commitments for each party are set out below. The signing of this agreement commits the staff of FLNR Resource Management Division (Ecosystems) and City of Penticton staff to follow these BMPs between March 1, 2015 and February 28, 2019, after which time this agreement will be reviewed.

FLNR agrees to:

- Share data with City of Penticton staff on Rocky Mountain Ridged Mussel inventory, habitat mapping, and anecdotal observations as new information comes available, subject to applicable data-sharing agreements
- Update City of Penticton staff on Rocky Mountain Ridged Mussel status and conservation and restoration priorities as information becomes available
- Provide Rocky Mountain Ridged Mussel educational materials if requested
- Provide and install a Rocky Mountain Ridged Mussel interpretive sign at Three Mile Beach
- Advise City of Penticton Staff if FLNR cannot follow requirements of stewardship agreement so alternate arrangements can be made

City of Penticton agrees to:

- Adhere to the Operational Best Management Practices listed below at Three Mile Beach
- Allow the installation of an interpretive sign at Three Mile Beach
- Incorporate protection measures for habitats used by Rocky Mountain Ridged Mussel into City of Penticton's management and operational plans. This includes beach maintenance, instream works and educational information at Three Mile Beach
- Incorporate new information into planning and operational management policies as it becomes available
- Submit any detection records to FLNR (see Key Contacts below) with UTM co-ordinates, date, time, description of vegetation, and any other pertinent information
- Advise FLNR if the City of Penticton cannot follow requirements of this stewardship agreement including the Operational Best Management Practices below so alternate arrangements can be made

3.2 Operational Best Management Practices

- No roto-tilling of lakebed for controlling Eurasian milfoil
- No dredging of lakebed
- No infilling or dumping of material in lake
- No hardening of the shoreline
- No new structures to be placed in the water (docks, boat launches, etc.)
- Beach maintenance will not include the introduction of sand
- Apply for Water Act permission for any instream works (http://www.env.gov.bc.ca/wsd/water_rights/licence_application/section9/index.html)
- Avoid any new works that may alter natural patterns of water movement

- If any of the above works are undertaken, all appropriate mitigation /compensation for RMRM will be applied. This will not exclude other possible impacts and mitigation/compensation requirements relating to other environmental concerns

3.3 Contributing Signatories

Both FLNR and the City of Penticton recognize the important role research institutions, non-government organizations and naturalists groups have in achieving stewardship goals. If detailed agreements with other groups are required to clarify roles and responsibilities, they can be added as an appendix to this agreement.

3.4 Evaluation

The commitment and operational best management practices evaluation of this agreement will be ongoing by both parties, however, at a minimum, there will be a review once a year. Monitoring the effectiveness of the stewardship agreement will be the responsibility of both parties. There may be additional activities that pose a high risk to this species and its habitat that are not covered in this agreement. These areas may be added, and site specific mitigation measures developed, during the term of the stewardship agreement.

4.0 KEY CONTACTS

Ministry of Forests, Lands and Natural Resource Operations

Lora Nield, Senior Ecosystems Biologist

102 Industrial Place,

Penticton, BC V2A 7C8

Phone: 250 490-8212

Email: Lora.Nield@gov.bc.ca

City of Penticton

Len Robson, Public Works Manager, City of Penticton

171 Main Street,

Penticton, BC V2A 5A9

Phone: 250.490.2543

Email: len.robson@penticton.ca

5.0 REFERENCES

Fisheries and Oceans Canada. 2010. Management Plan for the Rocky Mountain Ridged Mussel (*Gonidea angulata*) in Canada [Final]. *Species at Risk Act* Management Plan Series. Fisheries and Oceans Canada, Vancouver. iv + 52 pp.

APPENDIX I – MAPS



Figure 1. Lands fronting areas of occupancy of Rocky Mountain Ridged Mussel at Three Mile Beach, Penticton (yellow hatched). This stewardship agreement applies to all areas within municipal park boundaries at Three Mile Beach.

Council Report

penticton.ca

Date: April 7, 2015
To: Chuck Loewen, Acting City Manager
From: Ken Kunka, Building and Permitting Manager
Subject: Section 57 Notice on Title and Injunctive Action, 2385 Barnes Street

Staff Recommendation

THAT Council, having given the owners an opportunity to be heard, resolve to place a Notice on Title under Section 57 of the *Community Charter* with respect to contraventions of the City of Penticton Building Bylaw 94-45 on Lot B, District Lot 251 SDYD, Plan 31870 located at 2385 Barnes Street, stating the following:

"Failure to control surface water which has created a potentially unsafe condition, which is a violation of City Building Bylaw 94-45";

AND THAT further injunctive action (*Community Charter Division 12 – Remedial Action Requirements*) be commenced by staff within 30 days of Section 57 Notice on Title being registered if building permit for storm drainage control and to repair the retaining wall is not commenced.

Implications of recommendation

- Organizational: 4 hours of staff time to prepare the documents
- Financial: \$169.00 + GST to prepare and register the Notice on Title. City's cost.
\$250.00 for owner to remove the Notice on Title. Owners cost.
\$130.00 (minimum) building permit and any subsequent remedial work and engineering expenses. Owners Cost.

Background

On March 6, 2015 Council passed resolution 170/2015 to:

170/2015 It was **MOVED** and **SECONDED**
THAT Council resolve to place a Notice on Title under Section 57 of the *Community Charter* with respect to contraventions of the City of Penticton Building Bylaw 94-45 on Lot B, District Lot 251 SDYD, Plan 31870 located at 2385 Barnes Street, stating the following:
"Failure to control of surface water which has created a potentially unsafe condition, which is a violation of City Building Bylaw 94-45";
AND THAT further injunctive action be commenced by staff within 30 days of Section 57 Notice on Title being registered if construction to repair the retaining wall is not commenced;

AND FURTHER THAT the owner(s) be notified of the proposed Notice on Title report and be given an opportunity to speak to the matter at the April 7, 2015 Council meeting.

CARRIED UNANIMOUSLY

Since the Council resolution the owners have been notified and have been in contact with the City solicitor but have not provided a solution or made permit application for review of fill and site surface drainage control.

Analysis

The main factors for placing a Notice on Title are to ensure potential safety hazards are identified and existing permits are closed. Placing a Section 57 Notice and / or by injunctive actions forces the property owner to complete a professional assessment of the work under permit and complete any remedial repairs.

As it appears remedial works cannot be completed at 2385 Barnes until a joint solution is found with the owners of 2360 Government, the City's solicitor requests further injunctive action to bring both property owners together for resolving the non-compliant issues.

Alternate recommendations

1. As directed by Council

References

- Community Charter Section 57
- Building Bylaw 94-45

Attachments

Attachment A – March 16, 2015 Council Report

Respectfully submitted,

Ken Kunka ASCT, RBO
Building and Permitting Manager

Approvals

Interim City Manager



Attachment A

March 16th, 2015 Report



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Council Report



Date: March 16, 2015
To: Chuck Loewen, Acting City Manager
From: Ken Kunka, Building and Permitting Manager
Subject: Section 57 Notice on Title and Injunctive Action, 2365 Barnes Street

File No: Civic

Staff Recommendation

THAT Council resolve to place a Notice on Title under Section 57 of the Community Charter with respect to contraventions of the City of Penticton Building Bylaw 94-45 on Lot B, District Lot 251 SDYD, Plan 31870 located at 2385 Barnes Street, stating the following:

"Failure to control of surface water which has created a potentially unsafe condition, which is a violation of City Building Bylaw 94-45";

AND THAT further injunctive action be commenced by staff within 30 days of Section 57 Notice on Title being registered if construction to repair the retaining wall is not commenced;

AND FURTHER THAT the owner(s) be notified of the proposed Notice on Title report and be given an opportunity to speak to the matter at the April 7th, 2015 Council meeting.

Implications of recommendation

- Organizational: 4 hours of staff time to prepare the documents
- Financial: \$250.00 for owner to remove the Notice on Title.

Background

On October 2, 2013 a bylaw enforcement case file was created and site visit conducted concerning drainage issues related to uncontrolled surface water entering the storage units located at 2360 Government Street from the neighboring lots to the east. (Attachment A). Staff engaged in a process to work with all three property owners related to drainage issues. During the initial site investigation and file review a number of site deficiencies were noted on the lots owned by Action Steel - Nixon Brothers Holding Ltd. (Attachment B). This included materials within the City land leased to Action Steel and uncontrolled surface drainage, with the largest amount of water flowing on the lower lot at 2360 Government.

The research of City records also indicated a long history of retaining, fill and drainage issues dating back to the late 1990's. The original permit to construct the storage warehouse buildings (2360 Government) was issued in October of 1983. No records of final landscaping or retaining could be located but it is assumed the

wall in question was constructed near the time of original construction. No aerial photos from the original construction date are on record.

The following is a recent history of the case file compiled dating from the initial group meeting held October, 2013:

Date	Item	Result/Action
Oct 10, 2013	Meeting between Action Steel, Penticton Self-Storage Ltd. and the Foundry to resolve drainage issues.	Chief Building Inspector to follow up with site specific requirements.
Oct 29, 2013	Letter provided to each owner, regarding remedial work and required permits. 2365/85 Barnes St. Lease area to be cleared and fire department access to be provided as well as an engineered site drainage plan to be provided to the City.	The Foundry Items corrected Action Steel Initial lot clean up and on-site drainage. Final drainage design not provided. Penticton Self-storage Initial dialogue on permit process and history of property.
April 08, 2014	Follow up letter regarding drainage, clearing of City leased land.	Owners confirmed drainage being worked on. Action Steel raised concerns regarding fill and use of leased land by Penticton Self-storage.
Sept 11, 2014	Call received that wall section failed during course of repairs. Site investigation and Bylaw Enforcement file created.	Safety protocols reviewed and modifications to engineered drawings with contractor. Confirmed that south section of retaining wall is on City land leased to Action Steel. Several layers of fill and debris apparent at failed wall section.

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November 6, 2014	City provided with proposed revised drawings to correct the wall. The proposal would require using a portion of the neighbouring property to complete structural work for full height replacement.	Informed contractor that it might require a working easement. No further information or work completed.
Dec 22, 2014	City mails letters to both owners requesting joint solution to drainage and retaining failure.	No final solution reached
September 2014 to January 2015	A number of site discussions, phone calls and letters between Chief Building Inspector, Action Steel and Pentticon Aelf-Storage owners to find a joint resolution to fix the wall and drainage. Owner of Pentticon Self-Storage argues that the original wall was only a fence and was never built to act as a retaining wall. Evidence provided to outline that natural grade was much lower and that garbage fill has been placed against the wall. Pentticon Self-Storage proposed to remove existing wall and only replace with 1.0m (3'), which would likely cause the high lot to collapse along property line. Action Steel argument that the wall had always been used as a retaining wall. Also concerns about use of leased land and that the retaining wall should be continuous along the entire length of the property. They are prepared to share some of the work and costs but not to the extent requested by the City.	No agreement reached between owners. Difficult to determine original natural grade. It would appear that drainage, fill and drainage was likely a factor in the illegal retaining wall starting to fail. Action steel should retain the portion of fill that is backfilled on existing cedar fence at the north section of the property. Further research revealed the retaining wall encroached on City land leased by Action Steel. Lease agreement to be revised.
January, 2015	Chief Building Inspector consulted legal counsel, regarding safety issues.	Initiated warnings for injunctive relief and letter sent to both owners requesting joint solution. Section 57 outlined for further enforcement action.

February 10, 2015	Letter sent to owners to find voluntary compliance	Both owners have responded. Owner's insurance adjuster follows up but no resolution reached.
February 26, 2015		Advised to move forward with Section 57 notice on title for both properties and injunctive action.
March 16, 2015	Section 57 Introduction	

Local Government Authority

Excerpts from Building Bylaw 94-45:

PART 3 ADMINISTRATION

3.3 The Chief Inspector may:

(f) direct:

- (i) the removal of any unauthorized encroachment on City property,
- (v) the removal of a building or part thereof constructed in contravention of this Bylaw,

PART 6 PERMITS REQUIRED

6.1 Except as permitted in 6.2, no building or part of a building shall be constructed, altered, reconstructed, demolished, removed, relocated, occupied, or a change in class of occupancy take place; or

- (b) the erection of any retaining wall over 1.2 meters in height

PART 9 RESPONSIBILITY OF OWNER

9.1 The Owner, his agents, contractor, and sub-contractor shall be jointly responsible to ensure all construction is carried out in accordance with the requirements of this bylaw and the Building Code, and shall,

- (r) not fill or excavate any portion of the property unless such fill or excavation is properly maintained by a retaining wall or other acceptable method;
- (s) not allow surface water to drain onto adjoining property or City property;
- (t) correct any unsafe condition.

Section 57 – Note against title that building regulations contravened

Under the Community Charter, the local authority having jurisdiction is permitted to register charges against the property title where observations are made with respect to land or building or other structures that the inspector observes a condition:

(57 (1) A building inspector may recommend to the council that it consider a resolution under subsection (3) if, during the course of carrying out duties, the building inspector

- (a) observes a condition, with respect to land or a building or other structure, that the inspector considers
 - (i) results from the contravention of, or is in contravention of,
 - (A) a municipal bylaw,
 - (B) a Provincial building regulation, or
 - (C) any other enactment that relates to the construction or safety of buildings or other structures, and
 - (ii) that, as a result of the condition, a building or other structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or
- (b) discovers that
 - (i) something was done with respect to a building or other structure, or the construction of a building or other structure, that required a permit or an inspection under a bylaw, regulation or enactment referred to in paragraph (a) (i), and
 - (ii) the permit was not obtained or the inspection not satisfactorily completed.

Analysis

The main objective of the Building Bylaw is to ensure the safety of current and future owners as well as reducing negative effects to buildings, structures and neighbouring properties. Although Action Steel has started to correct the surface drainage, no final engineered storm drainage plan has been provided as originally requested. The failure of the retaining wall has only added to the hazardous condition above and below the existing wall, which could be further aggravated by storm water flow. The City solicitor has reviewed the issues and advised staff to move forward with the Section 57 notice on title as well as injunctive action based on the following:

- Action Steel has not provided final engineered design related to controlling surface storm water, would be in violation of the section 9.1 (s) of the Building Bylaw.
- Continuing to have the wall remain in its current state increases the risk and is in violation of 9.1(t) of the Building Bylaw.

Staff also seeks direction to move forward with further injunctive action within 30 days of the notice on title being registered to ensure compliancy is met.

The pros of placing a notice on title are:

- The City will show that there is a consequence for non-compliance of City of Penticton bylaws
- Future owners will know of the deficiencies; and
- The City has shown due diligence in taking steps to attempt to achieve compliance with city bylaws and the Building Code.

In the future, contractors and owners may choose not to abide by City bylaws and the Provincial Building Code based on consequences (or lack of) in doing so.

The cons of placing a notice on title are:

- It may affect the re-sale of the property for the owner.

Alternate recommendations

1. As directed by Council

References

- Community Charter Section 57
- Building Bylaw 94-45

Attachments

Attachment A – Site Map

Attachment B – 2365/85 Barnes – Initial site Investigation

Attachment C – Photos – History of site drainage and storage issues

Respectfully submitted,

Ken Kunka ASCT, RBO
Building and Permitting Manager

Approvals

Acting City Manager



Attachment A

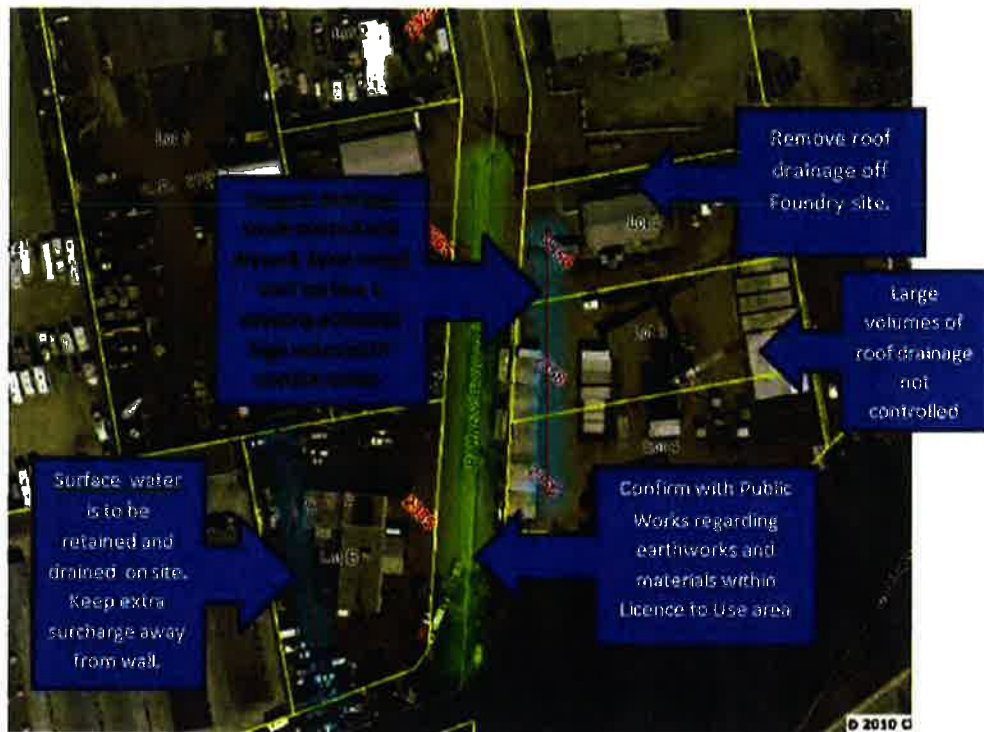
Area Map – Initial Drainage Concerns - 2013



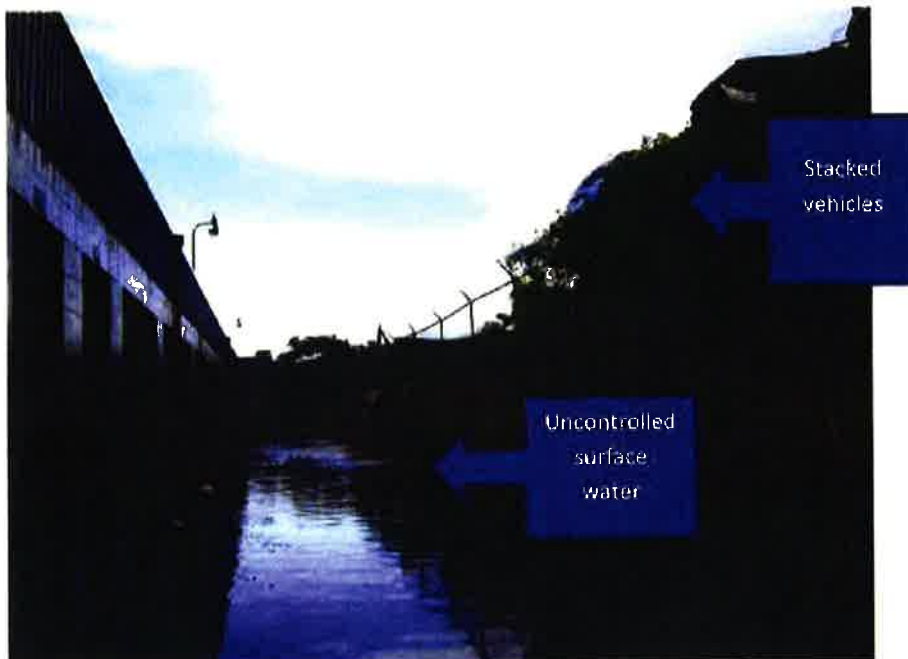
Attachment B

2365/85 Barnes - 2013

2365 Barnes St



Attachment C Water drainage and Surcharge History





Council Report

penticton.ca

Date: April 7, 2015
To: Chuck Loewen, Acting City Manager
From: Ken Kunka, Building and Permitting Manager
Subject: Section 57 Notice on Title and Injunctive Action, 2360 Government St.

File No: Civic

Staff Recommendation

THAT Council, having given an opportunity to the owner to heard, resolve to place a Notice on Title under Section 57 of the *Community Charter* with respect to contraventions of the City of Penticton Building Bylaw 94-45 on Lot A, District Lot 251 SDYD, Plan 31870 located at 2360 Government Street, stating the following:

"Failure to complete a building permit which has created a potentially unsafe condition, which is a violation of City Building Bylaw 94-45."

AND THAT further injunctive action (*Community Charter Division 12 – Remedial Action Requirements*) be commenced by staff within 30 days of Section 57 Notice on Title being registered if construction to repair the retaining wall is not commenced.

Implications of recommendation

- Organizational: 4 hours of staff time to prepare the documents
- Financial: \$169.00 + GST to prepare and register the Notice on Title. City's cost.
\$250.00 for owner to remove the Notice on Title. Owners cost.
Subsequent remedial work and engineering expenses for completion of retaining wall. Owners Cost.

Background

On March 6, 2015 Council passed resolution 171/2015 to:

171/2015

It was **MOVED** and **SECONDED**

THAT Council resolve to place a Notice on Title under Section 57 of the *Community Charter* with respect to contraventions of the City of Penticton Building Bylaw 94-45 on Lot A, District Lot 251 SDYD, Plan 31870 located at 2360 Government St, stating the following:

"Failure to complete a building permit which has created a potentially unsafe condition, which is a violation of City Building Bylaw 94-45";

AND THAT further injunctive action be commenced by staff within 30 days of Section 57 Notice on Title being registered if construction to repair the retaining wall is not commenced;

AND FURTHER THAT the owner(s) be notified of the proposed Notice on Title report and be given an opportunity to speak to the matter at the April 7, 2015 Council meeting.

Since the date of the Council resolution the owner has been notified and Dennis Meakin has contacted both the City Building and Permitting Manager and the City solicitor to meet and discuss the legal authority of the City and ultimate solution to completing the retaining wall. Mr. Meakin's solicitor suggested that the City should move forward with correcting the issues on site (2385 Barnes fill and drainage) and bill back to the owners. It was clarified that remedial action through the *Community Charter* is not part of the resolution brought to Council. The resolution would allow staff to take further injunctive action to bring both parties into compliance if a solution is not found. It was outlined to Mr. Meakin that further discussions without the owners of 2385 Barnes present would not resolve the issue and this matter would be discussed before Council on April 7th. The City solicitor provided written response to Mr. Meakin and his solicitor March 20th, 2015 and the Building and Permitting Manager followed up by phone to confirm.

No further engineering solutions or on-site works have been started to repair the wall.

Analysis

The main factors for placing a Notice on Title are to ensure potential safety hazards are identified and existing permits are closed. Placing a Section 57 Notice and / or by injunctive actions forces the property owner to complete a professional assessment of the work under permit and complete any remedial repairs.

As it appears remedial works cannot be completed at 2360 Government until a joint solution is found with the owners of 2385 Barnes, the City's solicitor requests further injunctive action to bring both property owners together for resolving the non-compliant issues.

Alternate recommendations

1. As directed by Council

References

- Community Charter Section 57
- Building Bylaw 94-45

Attachments

Attachment A – March 16, 2015 Council Report

Respectfully submitted,

Ken Kunka ASCT, RBO
Building and Permitting Manager

Approvals

Interim City Manager



Attachment A
March 16th, Council Report



- 29 -

Council Report



Date: March 16, 2015
To: Chuck Loewen, Acting City Manager
From: Ken Kunka, Building and Permitting Manager
Subject: Section 57 Notice on Title and Injunctive Action, 2360 Government St.

File No: Civic

Staff Recommendation

THAT Council resolve to place a Notice on Title under Section 57 of the Community Charter with respect to contraventions of the City of Penticton Building Bylaw 94-45 on Lot A, District Lot 251 SDYO, Plan 31870 located at 2360 Government St. stating the following:

"Failure to complete a building permit which has created a potentially unsafe condition, which is a violation of City Building Bylaw 94-45.

AND THAT further injunctive action be commenced by staff within 30 days of Section 57 Notice on Title being registered if construction to repair the retaining wall is not commenced;

AND FURTHER THAT the owner(s) be notified of the proposed Notice on Title report and be given an opportunity to speak to the matter at the April 7th, 2015 Council meeting.

Implications of recommendation

- Organizational: 4 hours of staff time to prepare the documents
- Financial: \$250.00 for owner to remove the Notice on Title.

Background

On October 2, 2013 a bylaw enforcement case file was created and site visit conducted concerning drainage issues related to uncontrolled surface water entering the storage units located at 2360 Government Street from the neighbouring lots to the east. (Attachment A). Staff engaged in a process to work with all three property owners related to drainage issues. During the initial site investigation and file reviews it was found that a retaining wall located along the east property line of 2360 Government did not originally obtain a permit and was found to be failing. (Attachment B)

The research of City records also indicated a long history of retaining, fill and drainage issues dating back to the late 1990's. The original permit to construct the storage warehouse buildings were issued in October of 1983. No records of final landscaping or retaining could be located but is it assumed the wall in question was constructed near the time of original construction. No aerial photos from the original construction date are on record.

ADDRESSES: Government St, 2360 (Section 57, 2015-07-16 Section 57 Council Introduction.docx)

A recent history of the case file compiled below dating from the initial group meeting held October, 2013:

Date	Item	Result/Action
Oct 10, 2013	Meeting between Action Steel, Pentiction Self Storage Ltd. and the Foundry to resolve drainage issues.	Chief Building Inspector to follow up with site specific requirements.
Oct 29, 2013	Letter provided to each owner, regarding remedial work and required permits. 2360 Government Permit required to repair or replace failing retaining wall. Approximately 1.8m in height.	The Foundry items corrected. Action Steel Initial lot clean up and on-site drainage. Final drainage design not provided. Pentiction Self-Storage Initial dialogue on permit process and history of property.
April 04, 2014	Follow up letter regarding failing retaining wall and permit requirements.	Office contacted to discuss requirements of permit and status of drainage from adjacent lot.
Aug 20, 2014	Permit applied for retaining wall remediation	Waiting for final engineered drawings.
Aug 28, 2014	Permit issued to retaining wall remediation	Work scheduled to start asap.
Sept 11, 2014	Call received that wall section failed during course of repairs. Site investigation and Bylaw Enforcement file created.	Safety protocols reviewed and modifications to engineered drawings with contractor. Confirmed that south section of retaining wall is on City land leased to Action Steel. Several layers of fill and debris apparent at failed wall section.

November 6, 2014	City provided with proposed revised drawings to correct the wall. The proposal would require using a portion of the neighbouring property to complete structural work for full height replacement.	Informed contractor that it might require a working easement. No further information or work completed.
Dec 22, 2014	City mails letters to both owners requesting joint solution to drainage and retaining failure.	No final solution reached.
September 2014 to January 2015	A number of site discussions, phone calls and letters between Chief Building Inspector, Action Steel and Penticton Self-Storage owners to find a joint resolution to fix the wall and drainage. Owner of Penticton Self-Storage argues that the original wall was only a fence and was never built to act as a retaining wall. Evidence provided to outline that natural grade was much lower and that garbage fill has been placed against the wall. Penticton Self-Storage proposed to remove existing wall and only replace with 1.0m (3'), which would likely cause the high lot to collapse along property line. Action Steel argument that the wall had always been used as a retaining wall. Also concerns about use of leased land and that the retaining wall should be continuous along the entire length of the property. They are prepared to share some of the work and costs but not to the extent requested by the City.	No agreement reached between owners. Difficult to determine original natural grade. It would appear that drainage, fill and drainage was likely a factor in the illegal retaining wall starting to fail. Action Steel should retain the portion of fill that is backfilled on existing cedar fence at the north section of the property. Further research revealed the retaining wall encroached on City land leased by Action Steel. Lease agreement to be revised.
January	Chief Building Inspector consulted legal counsel regarding safety issues.	Initiated warnings for injunctive relief and letter sent to both owners requesting joint solution. Section 57 outlined for further enforcement action.
February 10, 2015	Letters to both owners to find voluntary compliance.	Both owners have responded. But no resolution reached.
February 20, 2015	Structural engineer contacted by Building	Advised engineer that 1.0m

	department regarding revising drawings to continue permit work.	would compromise the neighbour property and further consultation would be required.
February 26, 2015	Follow up.	Due date expired with no final resolution. City advised to move forward with Section 57 notice on title for both properties and injunctive action.
March 16, 2015	Section 57 introduction	

Local Government Authority

Excerpts from Building Bylaw 94-45:

PART 3 ADMINISTRATION

3.3 The Chief Inspector may:

(f) direct:

- (i) the removal of any unauthorized encroachment on City property,
- (v) the removal of a building or part thereof constructed in contravention of this Bylaw,

PART 6 PERMITS REQUIRED

6.1 Except as permitted in 6.2, no building or part of a building shall be constructed, altered, reconstructed, demolished, removed, relocated, occupied, or a change in class of occupancy take place; or

- (b) the erection of any retaining wall over 1.2 meters in height

PART 9 RESPONSIBILITY OF OWNER

9.1 The Owner, his agents, contractor, and sub-contractor shall be jointly responsible to ensure all construction is carried out in accordance with the requirements of this bylaw and the Building Code, and shall,

- (r) not fill or excavate any portion of the property unless such fill or excavation is properly maintained by a retaining wall or other acceptable method;
- (s) not allow surface water to drain onto adjoining property or City property;
- (t) correct any unsafe condition.

Section 57 – Note against title that building regulations contravened

Under the Community Charter, local authority's having jurisdiction is permitted to register charges against the property title where observations are made with respect to land or building or other structures that the inspector observes a condition:

(57 (1) A building inspector may recommend to the council that it consider a resolution under subsection (3) if, during the course of carrying out duties, the building inspector

- (a) observes a condition, with respect to land or a building or other structure, that the inspector considers
 - (i) results from the contravention of, or is in contravention of,
 - (A) a municipal bylaw,
 - (B) a Provincial building regulation, or
 - (C) any other enactment that relates to the construction or safety of buildings or other structures, and
 - (ii) that, as a result of the condition, a building or other structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or
- (b) discovers that
 - (i) something was done with respect to a building or other structure, or the construction of a building or other structure, that required a permit or an inspection under a bylaw, regulation or enactment referred to in paragraph (a) (i), and
 - (ii) the permit was not obtained or the inspection not satisfactorily completed.

Analysis

The main objective to of the Building Bylaw is to ensure the safety of current and future owners as well as reducing negative effects to buildings, structures and neighbouring properties. Although a permit was issued to repair the wall the subsequent failure has created a hazardous condition above and below the existing wall. The City solicitor has reviewed the issues and advised staff to move forward with the Section 57 notice on title as well as Injunctive action based on the following:

- Pentiction self-storage proposal to remove the existing 1.8m wall and only replace with a 1.0m would be in violation of the section 9.1 (r) of the Building Bylaw.
- Continuing to have the wall remain in its current state increases the risk and is in violation of 9.1(t) of the Building Bylaw.

Staff also seeks direction to move forward with further injunctive action within 30 days of the notice title being registered to ensure compliancy is met.

The pros of placing a notice on title are:

- The City will show that there is a consequence for non-compliance of City of Pentiction bylaws
- Future owners will know of the deficiencies; and
- The City has shown due diligence in taking steps to attempt to achieve compliance with city bylaws and the Building Code.

In the future, contractors and owners may choose not to abide by City bylaws and the Provincial Building Code based on consequences (or lack of) in doing so.

The cons of placing a notice on title are:

- It may affect the re-sale of the property for the owner.

Alternate recommendations

1. As directed by Council

References

- Community Charter Section 57
- Building Bylaw 94-45

Attachments

Attachment A – Site Map

Attachment B – 2360 Government – Initial site Investigation

Attachment C– Failure of wall photos

Respectfully submitted,

**Ken Kunka ASCT, RBO
Building and Permitting Manager**

Approvals

Acting City Manager

CKL

Attachment A

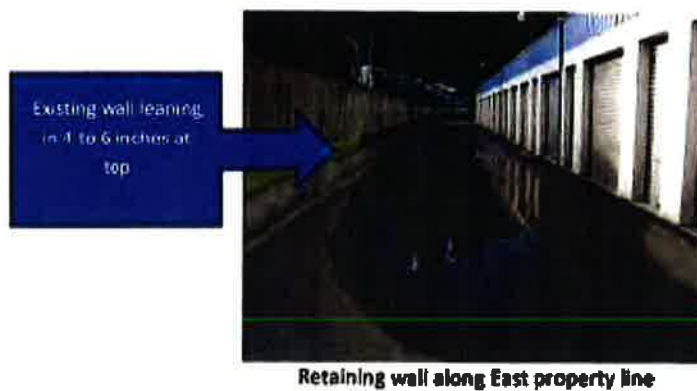
Area Map – Initial Drainage Concerns - 2013



Attachment B

Initial review - 2013

**Retaining Wall – East Property Line
2360 Government Street**



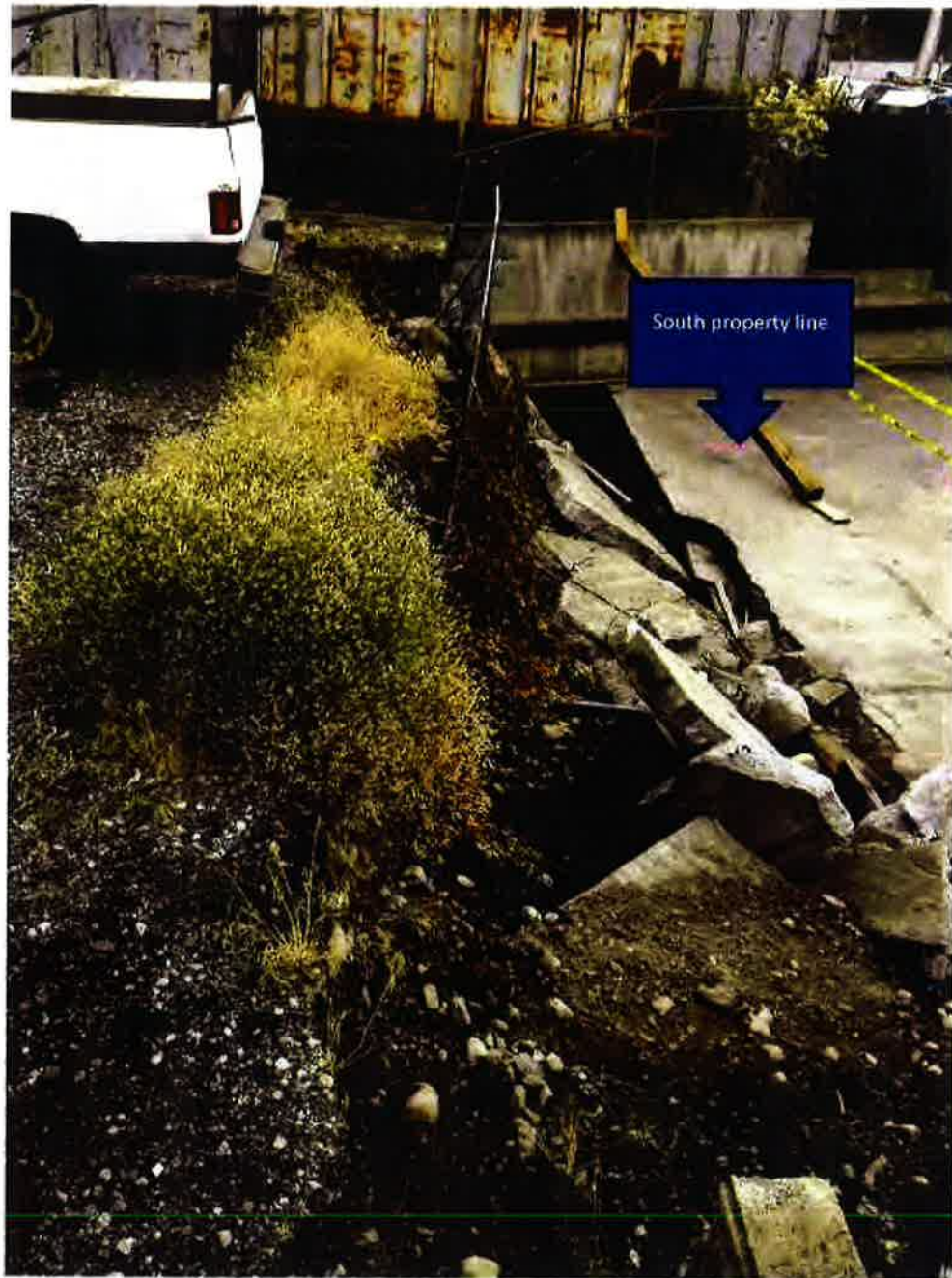
Existing wall leaning
in 4 to 6 inches at
top

Retaining wall along East property line

Attachment C
Wall Failure – January, 2015



September, 2014 wall failure





Council Report

penticton.ca

Date: April 7, 2015
To: Chuck Lowen, Acting City Manager
From: Mitch Moroziuk, Director of Operations
Subject: Three Mile Beach

File No:

Staff recommendation

THAT Council provide direction to staff as to how they would like to approach addressing the Clothing Optional issues at Three Mile Beach by selecting one of the following Alternatives:

1. THAT Council Direct staff to take no action with respect to changes at Three Mile Beach and that the Status Quo be maintained; OR
2. THAT Council Direct staff to install signage to advise people about the possibility of Clothing Optional activities that may occur on Three Mile Beach as illustrated in Attachment "A"; OR
3. THAT Council Direct staff to:
 - a. To install signage to advise people about the possibility of Clothing Optional activities that may occur on Three Mile Beach; and
 - b. Reduce the size of the Dog and Boat Beach in the south area of Three Mile Beach; and
 - c. Improve the point area of Three Mile Beach to create additional park and beach space; and
 - d. Amend the 2015 Capital Budget to create a Three Mile Beach Project in the amount of \$65,000.

All as illustrated in Attachment "B"; OR

4. THAT Council Direct staff to:
 - a. Install a new stairway east of the existing one;
 - b. Install signage at the top of the new stairway to advise people about the possibility of Clothing Optional Activities that may occur on this portion of Three Mile Beach;
 - c. Construct a visual screen on the beach at on the west side of the base of the new stairway;
 - d. Construct a separated swim area and add a second raft; and
 - e. Amend the 2015 Capital Budget to create a Three Mile Beach Project in the amount of \$100,000.

All as illustrated in Attachment "C"; OR

5. THAT Council Direct staff:
 - a. To install signage to advise people about the possibility of Clothing Optional activities that may occur on Three Mile Beach; and
 - b. As to which other Alternative they would like to have included in the 2016 Budget.

Strategic priority objective

N/A

Background

On February 2, 2015 a delegation attended Council and made a presentation raising concerns regarding nudists at Three Mile Beach, see Attachment "D".

On March 2, 2015 a delegation attended Council and made a presentation requesting Council support naturist use of Three Mile Beach, see Attachment "E".

Subsequent to these two Council Meetings staff was asked to investigate the situation and bring back options for Council's consideration.

Staff undertook the following:

1. Staff site visit to view the site and discussions with Parks staff to understand existing conditions;
2. Web review of Clothing Optional Beaches in Canada and BC;
3. Discussion with staff who manage Clothing Optional Beaches in BC and Ontario;
4. Obtained legal advice regarding what legislative ability the City has to address Clothing Optional Beaches;
5. Created 5 Alternatives for Council to consider to address the issues raised with respect to the clothing optional use of Three Mile Beach.

Staff Site Visit

A staff site visit and discussions with Parks Staff were undertaken to better understand Three Mile Beach. The following is presented:

1. There are two separate beach areas a Northern swimming beach and a Southern boating/ dog beach;
2. The Rocky Mountain Ridged Mussel, a species at risk, is present on Three Mile Beach;
3. The North area has:
 - a. An elevation drop from the road to the beach of 4 -10m;
 - b. Intermittent vegetation;
 - c. Access via a main stairway from the road to the beach;
 - d. A designated swim area and a swim raft; and
 - e. A sandy beach area.
4. The South area has:
 - a. An elevation drop from the road to the beach of 1-2m;
 - b. Sparse vegetation;
 - c. Access directly from the road;
 - d. Portable washrooms;
 - e. A designated dog beach and boat area; and
 - f. A narrow rocky beach area.

Web Review and Discussions with Staff

Through the Web review process and follow up discussion with staff who are involved with the operation of the Recognized Clothing Optional Beaches staff determined:

1. There are two recognized (managed by authorities having jurisdiction) in Canada – Wreck Beach in Vancouver and Harlan’s Point Beach in Toronto.
2. Wreck Beach:
 - a. Is within the Pacific Spirit Regional Park;
 - b. Is managed by the Greater Vancouver Regional District;
 - c. Is secluded and requires access via 500 stairs from road level to beach level;
 - d. Encompasses 7 km of beach;
 - e. Has clothing optional users present onsite all year long;
 - f. Has RCMP presence onsite daily from May Long weekend to September long weekend;
 - g. Has Park Rangers are onsite daily to enforce city bylaws and to complete maintenance, visit beach 3 times per day all year long and Park Rangers are present all day during the summer;
 - h. Beach closes at sunset every night, beach patrol staff sweeps the beach after sunset to move users off of beach. RCMP is present every evening in the summer to assist in this process;
 - i. Site amenities include washrooms and storage containers for Vendors and litter.
3. Wreck Beach presents the following challenges:
 - a. People cutting trees to build shelter;
 - b. Homeless population living in forested portion of park;
 - c. Fires (not Permitted);
 - d. Boaters in swimming area (no jurisdiction on water);
 - e. Noise;
 - f. Isolation which creates operational and safety issues;
 - g. Controlling vendors (product sales, territorial issues);
 - h. Sexual activity; and
 - i. Drug and Alcohol use.
4. Harlan’s Point Beach
 - a. Is within the City of Toronto;
 - b. Is managed by the City of Toronto;
 - c. Is secluded access requires a ferry trip and a walk down a pathway to gain access to the area;
 - d. Encompasses 1 km of beach;
 - e. Is utilized from mid-May to mid-September;
 - f. Contains a Clothing Optional section and a Clothing Mandatory section;
 - g. Steel construction fencing separate the two areas;
 - h. The uses on the beach are set out in the Toronto Municipal Code, Parks Section 608-15 B Bathing, swimming, and sun bathing.
5. Harlan’s Point Beach presents the following challenges:
 - a. Rubber necking boaters,(no buoys in water to separate swimmers from boats);
 - b. Unauthorized photography; and
 - c. Theft of signage.
6. There are eight (8) unrecognized clothing optional beaches in BC:
 - a. Crescent Rock Beach – Surrey
 - b. Red Sands Beach – Nelson
 - c. Nipple Point – Salmon Arm
 - d. Little Tribune Bay - Hornby Island
 - e. Mission Flat’s Beach – Kamloops

- f. Prior lake – Vancouver Island
- g. Lost Lake – Whistler
- h. Barnston Beach – Metro Vancouver

Legal Advice

Staff contacted Stewart McDannold Stuart Barristers and Solicitors to obtain a legal opinion on the legal implications of signing or managing Three Mile Beach as a Clothing Optional beach. As part of their work they also specifically considered the two recognized clothing optional beaches: Wreck Beach and Hanlan's Point.

The legal advice concluded that the issue of nude sunbathing is outside the City's authority as it would infringe on the federal government's jurisdiction over criminal law. Public nudity can be a criminal offence and is governed by the Section 174 of the *Criminal Code* of Canada.

Stewart McDannold Stuart did however offer three options for the City to consider regarding signage:

1. Put up no signs;
2. Put up a sign saying that this area is a clothing optional area;
3. Put up signs that are informational only stating what uses one might see on the beach.

Option 2 was noted as presenting some risk as a sign such as this could be interpreted as outside the City's jurisdiction because it infringes on the federal government's authority to regulate criminal behavior.

Alternatives for Council to Consider

Staff considered all of the information obtained to date and developed alternatives for Council to consider and provide direction on. The alternative range from: Maintain the status quo; to Installing informational signage; to Shrinking the size of the dog and boat beach and creating additional beach and park space at the point; to Installing informational signage, a new stairway, a visual screen on the North area of Three Mile Beach; and a separate swim area and a second raft.

In addition should Council wish they could also phase the project over a two year period to respect budget limitations.

The Alternatives are more specifically set out in the Alternative Section below and in Attachment "A" to "C".

Financial implications

The financial implications will vary depending on the Alternative selected by Council and vary from \$0 to \$100,000. Any expenditure of funds beyond just signage will require a Budget Amendment.

The Manager of Public Works has reviewed the existing 2015 Parks Budget and determined that most projects have either already started, need to be done in 2015 or would negatively impact on grant funding already secured if they were delayed.

The Chief Financial Officer has reviewed the 2015 budget and determined that Alternative 3 and 4 would require reallocation of General Revenue Dollars from existing 2015 Budgets. There is insufficient contingency in the 2015 budget to address significant expenditures.

Alternative 5 does provide a mechanism for Council to take some action in 2015 and systematically commit to further action as part of the 2016 Budget process.

Analysis

Staff have prepared five (5) Alternatives for Council to consider and request that Council provide direction to staff on how they would like to proceed.

Alternate recommendations

1. THAT Council Direct staff to take no action with respect to changes at Three Mile Beach and that the Status Quo be maintained; OR
2. THAT Council Direct staff to install signage to advise people about the possibility of Clothing Optional activities that may occur on Three Mile Beach as illustrated in Attachment "A"; OR
3. THAT Council Direct staff to:
 - a. To install signage to advise people about the possibility of Clothing Optional activities that may occur on Three Mile Beach; and
 - b. Reduce the size of the Dog and Boat Beach in the south area of Three Mile Beach; and
 - c. Improve the point area of Three Mile Beach to create additional park and beach space; and
 - d. Amend the 2015 Capital Budget to create a Three Mile Beach Project in the amount of \$65,000.

All as illustrated in Attachment "B"; OR

4. THAT Council Direct staff to:
 - a. Install a new stairway east of the existing one;
 - b. Install signage at the top of the new stairway to advise people about the possibility of Clothing Optional Activities that may occur on this portion of Three Mile Beach;
 - c. Construct a visual screen on the beach at on the west side of the base of the new stairway;
 - d. Construct a separated swim area and add a second raft; and
 - e. Amend the 2015 Capital Budget to create a Three Mile Beach Project in the amount of \$100,000.

All as illustrated in Attachment "C"; OR

5. THAT Council Direct staff:
 - a. To install signage to advise people about the possibility of Clothing Optional activities that may occur on Three Mile Beach; and
 - b. As to which other Alternative they would like to have included in the 2016 Budget.

Attachments

Attachment "A" – Alternative 2 Signage Wording

Attachment "B"- Alternative 3 Three Mile Beach Layout, Point Development

Attachment "C"- Alternative 4 Three Mile Beach Layout, Split Beach

Attachment "D" – February 2, 2015 Excerpt from the Minutes, Item 6.2

Attachment "E" – March 2, 2015 Excerpt from the Minutes, Item 6.2

Respectfully submitted

Mitch Moroziuk P.Eng. MBA

Director of Operations

Approvals

CFO	City Manager
	

Attachment "A" – Alternative 2 Signage Wording

Attention:

This area of Three Mile Beach is used by some members of the public as a clothing optional beach.

Attachment "B" – Alternative 3 Three Mile Beach Layout, Point Development

-  Clothing optional beach
-  Boating/ dog beach
-  Family beach
-  Imported sand
(Subject to Riparian regulations)
-  Stairs
-  Slope
-  New sign
- Estimated Cost
\$65,000



Attachment "C" – Alternative 4 Three Mile Beach Layout, Split Beach

-  Clothing optional beach
-  Family beach
-  Boating/ dog beach
-  Existing stairs
-  Proposed stairs
-  Proposed barrier
-  Proposed raft
-  New sign

Estimated Cost
\$100,000



Attachment “D” – February 2, 2015 Excerpt from the Minutes, Item 6.2

6.2 Three Mile Beach – Cary Pinkowski

Cary Pinkowski, Pierre Laveque and Matt Fraser, residents of Three Mile Beach area, provided Council with their concerns regarding nudists at Three Mile Beach. They believe that there is more than nude sun tanning taking place and would like to see the City implement a bylaw fine similar to that imposed by the City of Victoria.

Attachment “E”- March 2, 2015 Excerpt from the Minutes, Item 6.2

6.2 Three Mile Beach

Kevin Proteau and Judy Williams, representing Three Mile Naturist Beach Committee, requested Council support “naturist” use of Three Mile Beach. They are recommending the installation of advisory signs at the top and the bottom of stairs and that Council develop a comprehensive plan for the beach based on the economic, cultural, and social needs of the Community with input from the public.

Council Report

penticton.ca

Date: April 7, 2015
To: Chuck Loewen, Acting City Manager
From: Ken Kunka, Building and Permitting Manager

File No: 4320-50

Subject: 2015 Special Occasion (Beer/Wine Garden) Licence Applications

Staff Recommendation

THAT Council, subject to the approval of the RCMP and Liquor Control and Licensing Branch, approve the following Special Occasion (Beer/Wine Garden) Licenses:

Organization	Event Location & est. attendance	Beer Garden or Whole Site License	Event Dates Requested	Event Operating Hours	Number of Event Days
Penticton Soccer Club Tournament (re-occurring event)	Kings Park (400)	Beer Garden	May 16, 2015 May 17, 2015 May 18, 2015	10:00am to 10:00pm 10:00am to 7:00pm 10:00am to 2:00pm	03
Penticton & Wine Country Chamber of Commerce (new event)	Rotary Park (400 to 450)	Beer Garden	May 20, 2015	4:30am to 7:00pm	01
Graham Tournaments Father's Day Slo-Pitch (new event)	Lions Park (120 to 180)	Beer Garden	June 19, 2015 June 20, 2015 June 21, 2015	6:00pm to 9:30pm 11:00am to 6:00pm 11:00am to 3:00pm	03
Rotary Club of Penticton Family Rib Festival (new event)	Okanagan Lake Park (10 000)	Beer Garden	July 3, 2015 July 4, 2015 July 5, 2015	11:00am to 9:00pm 11:00am to 9:00pm 11:00am to 9:00pm	03
Sheila Bishop Memorial Slo-pitch Tournament (re-occurring event)	Lions Park (100 to 120p)	Beer Garden	Aug 08, 2015 Aug 09, 2015	10:00am to 9:00pm 10:00am to 9:00pm	02
Survivorship Dragon Boat Team Society (re-occurring event)	Skaha Lake Park (800 to 1000p)	Beer Garden	Sept 12, 2015 Sept 13, 2015	11:00am to 6:00pm 11:00am to 6:00pm	02
Total Days					14

Background

Pursuant to the Role of Local Government and First Nations in the provincial Liquor Licensing Process (updated March 2012), all public special occasions require the approval of both the responsible local government or First Nations and the local police authority.

In June of 2014, amendments were introduced for "whole site" licensing allowing patrons to move through the secured event area instead of being restricted to a fenced beer garden area (Ministry Policy directive No. 14-14 – Attachment A). The policy also defined the term "major events" for events with over 500 persons, which would require additional regulations to operate. There are no events in this report requesting whole site licenses.

Individual notices, inclusive of the City's regulations and application for public occasion liquor licenses, were forwarded to all of last year's licensees. Notices were also placed in the Penticton Western News Advertiser inviting all community organizations to apply for their liquor licenses prior to the deadline of Friday, Feb 20, 2015.

The City's Liquor Licensing Review Technical Committee (LLRTC) was provided with an opportunity to comment on the applications received. No concerns were brought forward.

LLRTC terms of reference

- (a) Role of Local Government and First Nations in the Provincial Liquor Licensing Process
- (b) Liquor Control and Licensing Branch Guidelines
- (c) City of Penticton Beer/Wine Garden Licensing Application

Staff has also been working on redeveloping the City's SOL policy to transfer reviews to the Recreation department in order to streamline review processing while still ensuring the needs of the community are met. The revised process will not require involvement of the LLRTC and council for standard re-occurring events. Larger new events, particularly with whole site licensing, will be vetted through a liability matrix and may be brought before Council for resolution.

Financial implication

Sporting and Social events provide positive gain to the City and social groups through tourism and charitable donations to many non-profit organizations. In 2014 over \$100,000 was raised for charitable organizations. To date there have been 17 separate special events over 35 days associated with SOL's.

Alternate recommendations

Deny the 2015 beer-wine garden license applications.

Attachments

Attachment A – Ministry Policy Directive No.14-14 – Temporary licence extensions

Respectfully submitted,

Ken Kunka ASCT, RBO
Building and Permitting Manager
LLTRC Chairperson
Approvals

Acting City Manager



Attachment A
LCLB Policy Directive No.14-14



Liquor Control and Licensing Branch
POLICY DIRECTIVE
No: 14 - 14

Date: June 25, 2014

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

Re: Temporary licence extensions

Introduction

On April 28, 2014, a policy directive was announced to implement new policy regarding whole-site licensing of special occasion licenses (SOL). The new policy generally allows whole-site licensing, but allows the Branch discretion to impose beverage gardens if it is in the public interest to do so. New policy was also announced to allow spirits, but not shooters at these SOL events.

A temporary licence extension (TLE) involves similar considerations to those of SOL events. This policy directive harmonizes TLE policy with new policy regarding SOLs to allow whole-site TLEs except where it is in the public interest to impose beverage gardens. This directive also outlines the service and sale of spirits, and restricts shooters from service or consumption in the TLE area.

Present policy

Existing Branch policy regarding TLEs does not specifically define the circumstances in which a beverage garden may be imposed. Applicants for TLEs are asked to describe the perimeter of the TLE area and how they intend to constrain it. However, the Branch generally does not request details that may necessitate a beverage garden and there is no specific policy requirement for inspector involvement.

Existing Branch policy allows for alterations to the terms and conditions of a TLE on a case-by-case basis, although generally spirit drinks are permitted in extended areas. Shooters are generally not expressly prohibited from extended areas.

New policy

- Whole site licensing is generally permitted for TLEs. For TLE events of 499 people or less (defined as "routine events"), licences will be granted without liquor inspector involvement and beverage gardens will generally not be required.
- Whole site TLE licensing is permitted for events of 500 persons or more (defined as "major events"). Beverage gardens may be imposed if deemed necessary from a public safety perspective.
- TLEs will be allowed on property which is owned or leased by a third party, with permission from that party and, for liquor primary applications, comment from the local government/First Nations as to the public safety of the event.

- Unlicensed physical separations between the primary licensed area and the TLE will be allowed, but patrons will not be allowed to carry liquor between licensed areas across unlicensed areas. There is an expectation that any separation between licensed areas be limited to a short walking distance, as determined to be reasonable by licensing staff.
- Only one TLE will be allowed if there are multiple licensees seeking a TLE over common areas. Priority will be granted on a first-come-first-served basis. Multiple kiosks for food and liquor service may be permitted under that TLE.
- Changes to terms and conditions for the purposes of the TLE will be made on a case-by-case basis.
- For routine and major events local government/First Nations may impose restrictions on a TLE.
- The licensed area must be appropriately bounded during an event.
- TLE events may sell all liquor products within the same serving size limitations as under the existing primary licence. The one exception is that licensees will not be permitted to serve shooters in TLE areas, as these are designed for rapid consumption and tend to promote over-consumption and intoxication.

Approval process for Major TLE events

- For routine events, the applicant should identify the proposed area for the TLE on a site map and/or floor plan submitted with the Temporary Change to a Liquor Licence application.
- For major events of 500 or more persons, in addition to the site/floor plan, the licensee must include a security plan, and:
 - Whole site licensing is the default position.
 - Liquor inspectors will evaluate overall TLE risk by reference to a risk analysis tool (RAT) and Excel interactive worksheet, publicly accessible for review: <http://www.pssg.gov.bc.ca/lclb/docs-forms/sol-risk-assessment.xls>.
 - Application of the RAT may result in the requirement for a fenced or cordoned-off service area.
 - The liquor inspector applies the RAT and makes a recommendation based on the outcome and other considerations as appropriate.
 - If the liquor inspector concludes that it is necessary in the public interest to disallow whole-site licensing and to impose a beverage garden, the inspector will write a recommendation to the Regional Manager for approval.
 - Where a fenced service area (beverage garden) is required the liquor inspector should engage with the licensee to
 - demonstrate the tool,
 - discuss the values entered,
 - print out a copy for the licensee's records, anddiscuss with the licensee what may be changed to reduce risk to an acceptable level so a fenced service area may not be necessary.
 - A licensee is free to have a beverage garden on its own regardless of the RAT outcome.
 - Compliance and Enforcement staff will provide the decision to the Licensing Division who will be responsible for issuing the temporary change approval

letter, incorporating the necessary terms and conditions including whether the TLE requires a beverage garden .

- The application process for routine events and for major events will be: licensee obtains land owner/lessee permission first; licensee submits application to Branch with proof of permission to use; licensees must obtain comment from local government on the public safety of the event (comment required only for LPs), which, in order to expedite Branch approval, should be obtained before licensees submit their application to the Branch; inspectors review and obtain RM approval.
- The difference in process between routine events and major events is in the degree of inspector involvement: for routine events, approval will be granted without directly involving liquor inspectors, and beverage gardens will generally not be required.
- For routine events, inspectors will continue to provide comments to Licensing staff and may impose specific security measures if it is in the public interest to do so. Upon receipt of a TLE application, licensing staff notate POSSE to notify appropriate inspectors for comment. Generally, licensing staff will add the requirement as a term and condition of the TLE without the needed approval of the DGM, Licensing. If the recommended requirement is unique or extraordinary, the DGM must approve the term and condition.
- For major events, inspectors are required to make a recommendation based on a review of the licensee's security plan.

Further Information

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

Original signed by:

Douglas Scott
Assistant Deputy Minister and General Manager

Council Report

penticton.ca

Date: April 7, 2015
To: Chuck Loewen, Acting City Manager
From: Ken Kunka, Building and Permitting Manager
Address: 200 Ellis Street
Subject: Liquor-Primary Licence Application
Cronies Auto Parts Ltd.

File No: 4320-50

Staff Recommendation

THAT staff be directed to commence public notification of the proposed Liquor-Primary for Cronies Auto Parts Ltd;

AND THAT staff report back to Council at their meeting on May 4th, 2015 the results of the public consultation for Council's consideration.

Strategic priority objective

N/A

Background

The City has received an application from Christine Cronie, Owner of Cronies Auto Parts, seeking a Liquor Primary Licence Endorsement with hours of operation from Sunday to Saturday 11:00am to 11:00 pm with a maximum occupant load of 30 persons interior and 10 persons exterior patio. The establishment is currently operating as an auto parts and wine making accessory retail business. The proposed business plan is to modify the existing building to operate a wine tasting venue for local wineries. Renovations are planned for the change of use and permits have been issued (Proposed floor plan - Attachment B).

The Cronies auto parts property is zoned C6 – Mixed Use Commercial and the proposed use meets Zoning regulations. There are no restrictions on the hours of operation under the Zoning Bylaw. The property is located in a mixed residential and commercial area (Map – Attachment A). There are seven on-site parking spaces and no outstanding Building or Fire Code issues in relation to their current operations.

The application has been reviewed by the Liquor Control Licencing Branch (LCLB) and having determined applicant eligibility (attachment C), will now proceed to the Site and Community Assessment (SCA) stage which is the stage for local government input. Terms and Conditions of the business use will not permit minors or off premise sales.

The uses proposed are defined by the Liquor Control and Licencing Branch (LCLB) as follows:

"Liquor primary" – refers to a licensed establishment where the service of liquor, as opposed to food, is the primary focus of the business.

Financial implication

Mandatory public consultation notification costs will be offset through the City's Liquor application review fees.

Analysis

Application notification has been forwarded to the City's Liquor Licencing Technical Review Committee (LLTRC) for their comments. The Committee endorses the application with further reviews with the applicant concerning on-street parking, traffic flow and potential patio noise. The applicant was notified of the concerns and has provided an impact statement in response. (Attachment D)

As per the Liquor Licencing Act, staff will also be seeking comments from adjacent property, business owners and occupants. A 90m consultation radius will be used to ensure local residential properties to the east are notified. 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 **May 4th, 2015** Council meeting, as per the City of Penticton Liquor Licencing Policy.

Council can choose to support the application as is and move to public consultation or modify the request with further restrictions such as use or hours. Should Council deny the application then the applicant will be informed of Council's decision and a Council resolution outlining the reason for denial is forwarded to the LCLB.

Alternate recommendations

1. THAT Council deny support of the Cronies Auto Parts Ltd. Liquor-Primary application.
2. Refer back to staff for further review.

Attachments

Attachment A – Site and Public Consultation Map
Attachment B – Proposed Floor Plan
Attachment C – LCLB Application Summary Review
Attachment D – Applicant Impact Statement

Respectfully submitted,

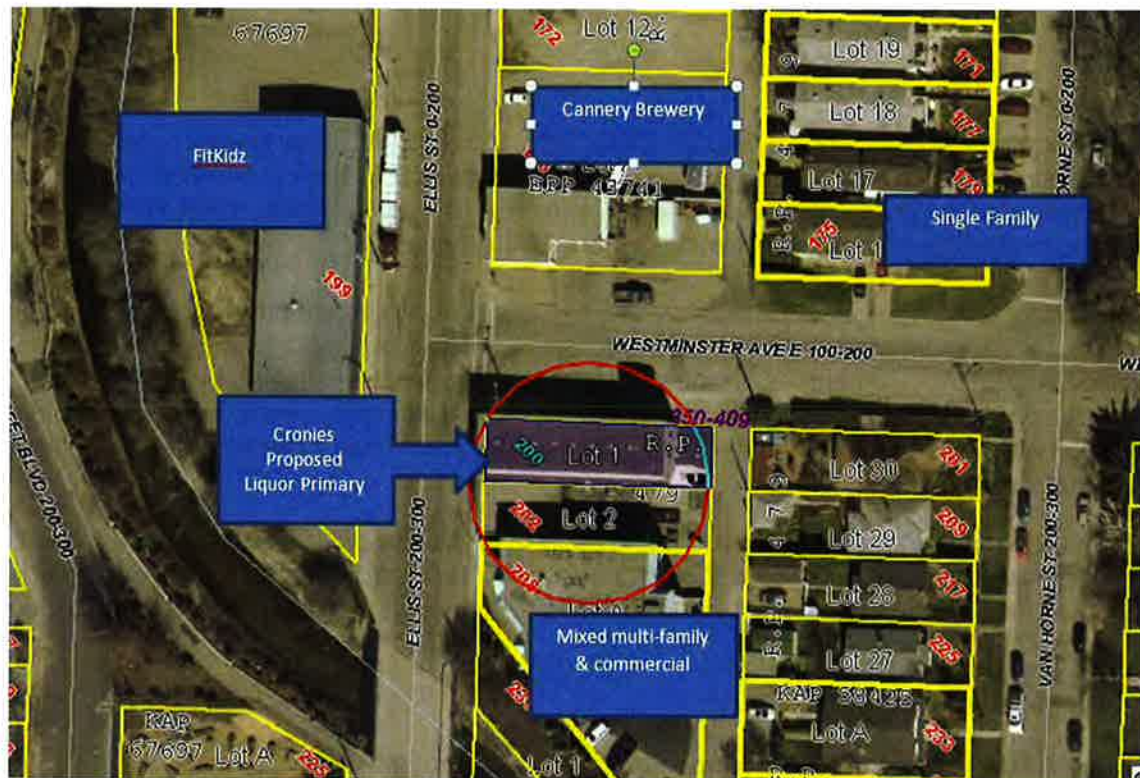
Ken Kunka ASCT, RBO
Building and Permitting Manager
LLTRC Chairperson

Approvals

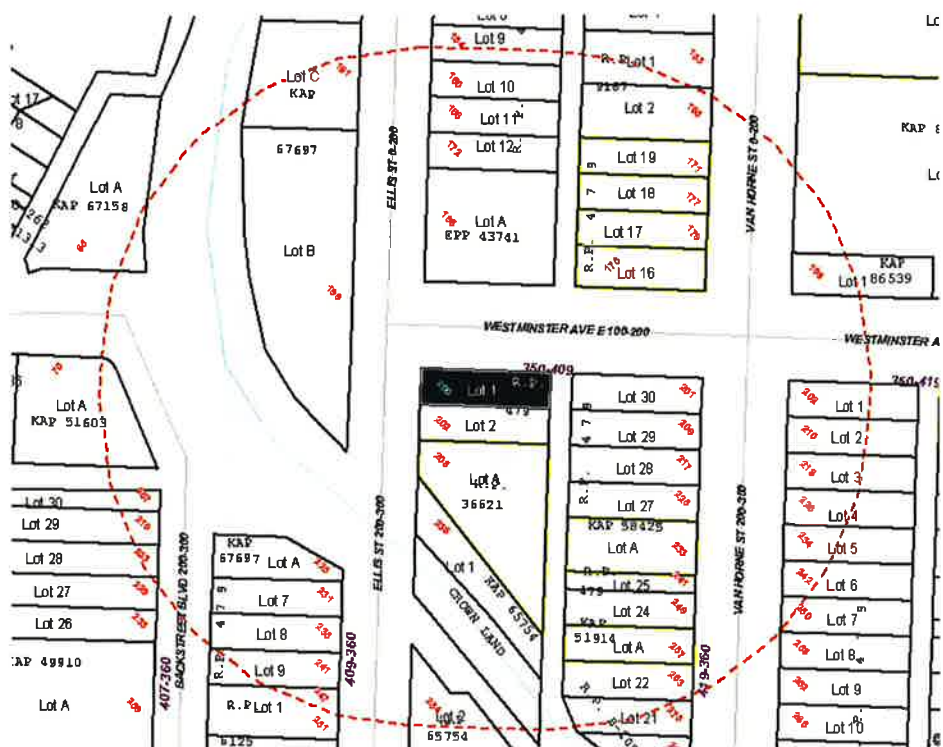
Acting City Manager



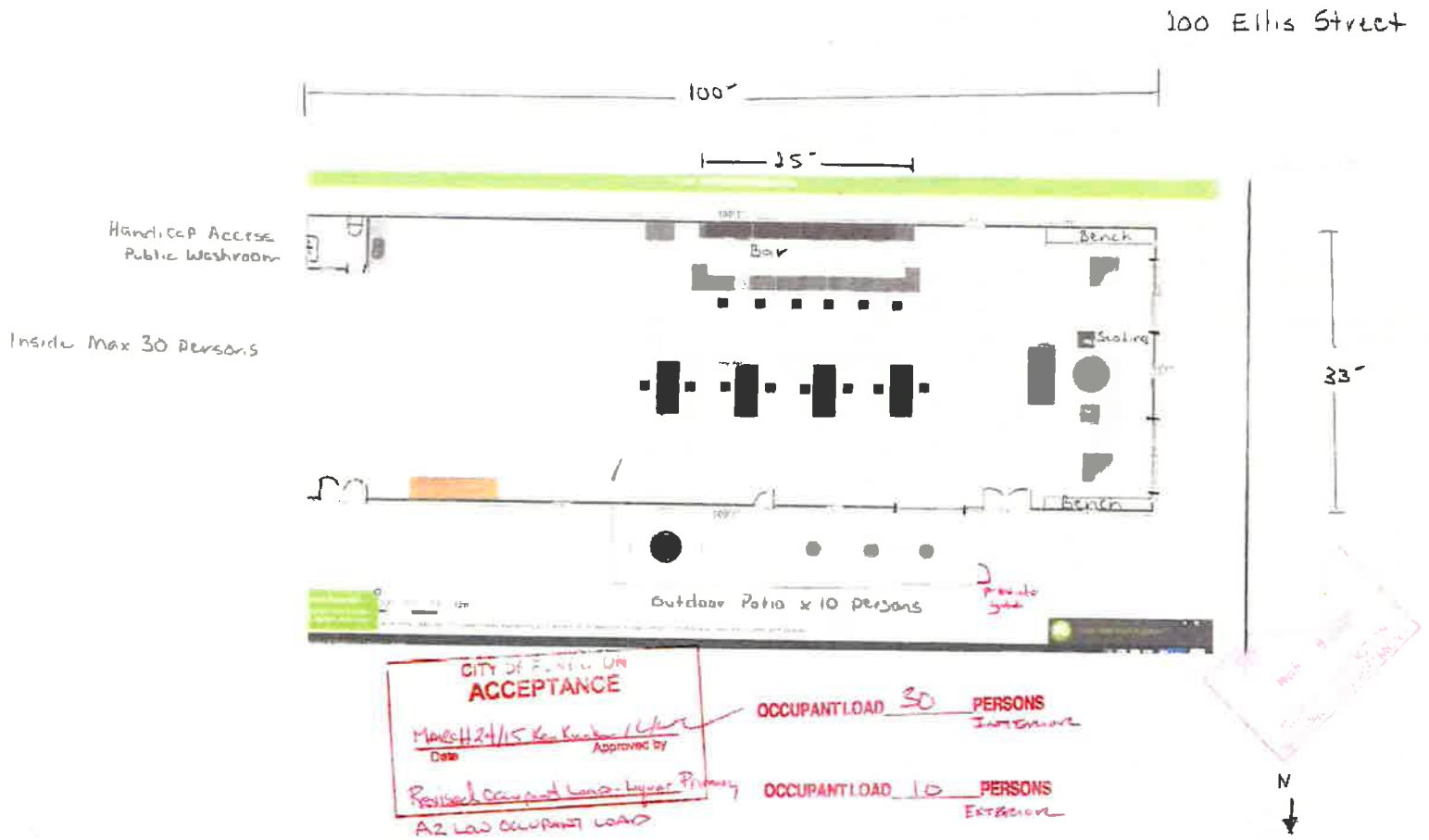
Attachment A
Site Map

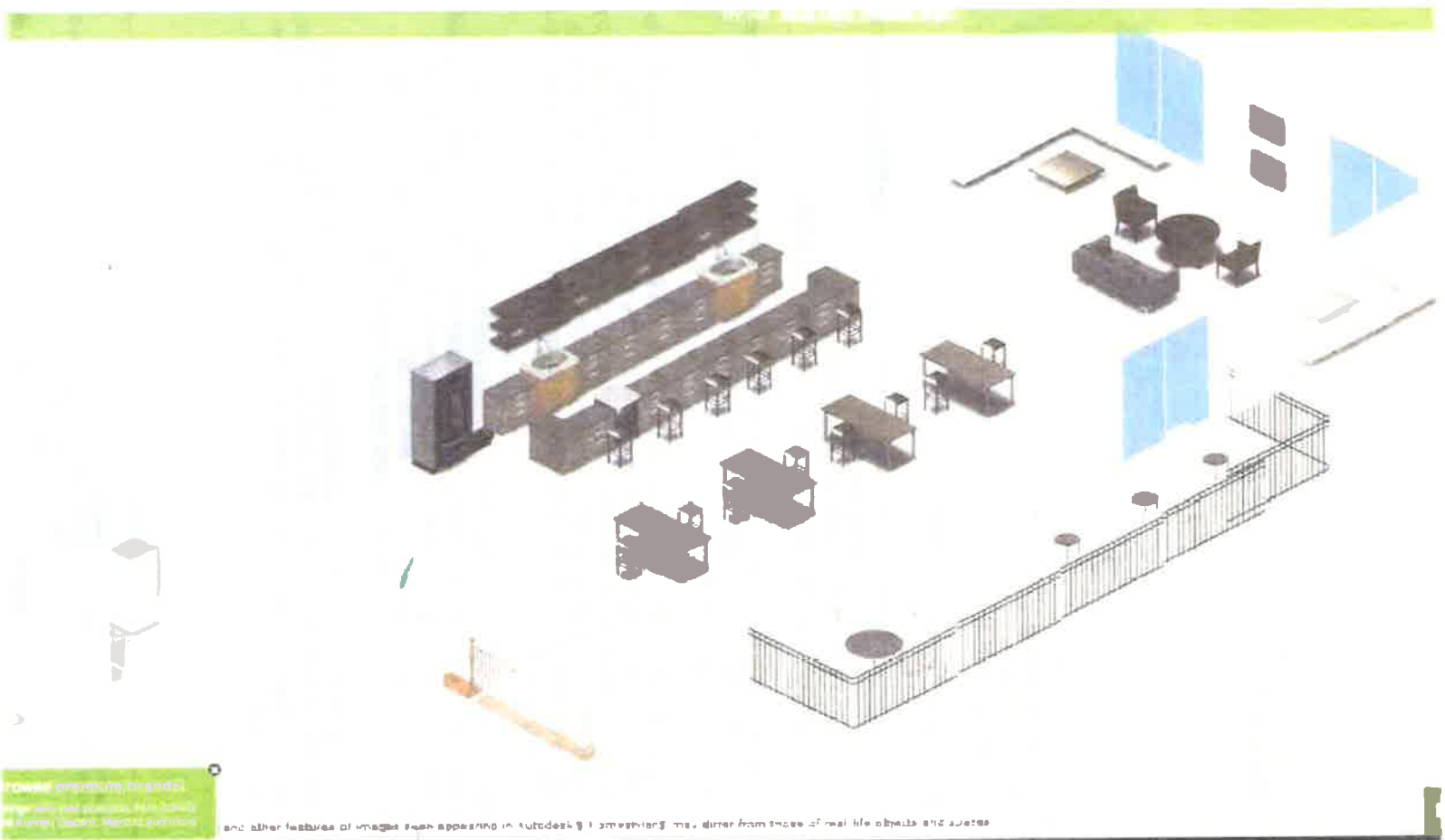


Public Consultation Map – 90m radius



Attachment B
Proposed Floor Plan





Attachment C
LCLB Summary



March 10, 2015

Job 25057637-1

Christine Lousie Cronie
Cronie Auto Parts Ltd.
RR1 S11 C6 Box A
Naramata, BC V0H 1N0

Dear Christine Cronie:

Re: Application Summary for Review and Response - Liquor Primary Licence
Applicant: Cronie Auto Parts Ltd.
Proposed Establishment Name: Mile Zero
Proposed Address: 200 Ellis Street, Penticton V2A 4L6

The Liquor Control and Licensing Branch (the Branch) has completed the initial review of the subject application to determine applicant suitability and eligibility of the establishment type for licensing.

Having determined applicant eligibility and suitability, the Branch is now proceeding to the Site and Community Assessment stage which is the stage for local government input. I have prepared the attached summary report based on information provided by the applicant and Branch staff. **Please review the report and comment, in writing, on any revisions you would like the Branch to consider.** Please provide your input in writing by April 10, 2015.

After receipt of your confirmation, a final summary will be forwarded to the local government for consideration. The Branch will request the local government to consider the application and provide a resolution with comments and recommendations with respect to the licence application. The Branch will provide the details regarding the statutory criteria that must be considered and addressed in the resolution.

The local government has 90 days to either provide comments to the Branch, or to advise that it wishes to "opt out" of the process. Additional time over the 90 days can be approved by the Branch if the request is received, in writing, prior to the end of the 90 day period.

**Liquor Control and
Licensing Branch**

Mailing Address:
PO Box 9292 Stn Prov Govt
Victoria BC V8W 9J8
Telephone: 250 952-5787
Facsimile: 250 952-7066

Location:
4th Floor, 3350 Douglas Street
Victoria, BC
<http://www.pssg.gov.bc.ca/clb>

March 10, 2015

Upon receipt, the local government resolution will be reviewed by the Branch to determine if all regulatory criteria have been met in accordance with section 10 of the Liquor Control and Licensing Regulation and, if recommended by the local government, assess whether the granting of the licence would be contrary to the public interest.

You will be advised of the Branch's decision whether to grant site and community approval.

An application granted site and community approval, will proceed to the building assessment stage of the licensing process, whereupon floor plans are reviewed, and if approved in principle, construction/renovation of the establishment may proceed, followed by the final stages of the licensing process.

If the application is successful at this stage, current clear floor plans accurately depicting the detailed layout of the establishment including the furniture and bar area, and **bearing an occupant load stamp** from the local government or officials designated by the local government will be required. Occupant load approved on the plans by local government **must not exceed** the occupant load approved by local government in their resolution.

Further details of the liquor licensing application process can be found in the "Role of Local Government and First Nations in the Provincial Liquor Licensing Process" guidelines, available on the Branch's website at <http://www.pssg.gov.bc.ca/lclb/>.

If you have any questions regarding this application please contact me at 250 952-5752 or by email at Vicky.Tooby@gov.bc.ca.

Sincerely,



Vicky Tooby
Senior Licensing Analyst

Copy: Randy Brown, Liquor Inspector

Attachment D Impact Statement

Letter of Intent 200 Ellis Street

Purpose

To operate a small wine lounge serving local wine by flights, glass pours and bottles. Offering limited amounts of beer, cider, non-alcoholic beverages and light snacks in an unpretentious, educational and casual setting. Our primary focus will be to promote BC wines.

Target Market

- Tourists
- Locals
- Wine industry personnel
- Media events
- Wine judging events
- Business groups
- Wine Tasting Seminars
- Wine Tours

Composition of Neighbourhood

- Our neighbourhood consists primarily of light industrial and commercial buildings
- Warehouse storage adjacent to our building to the south
- Warehouse gymnastics training centre across the street and to the west
- Cannery Brewing Co. and Tap House to the north
- Residential behind the back alley to the east

Benefits to the Community

Promote walk-in traffic as we are walking distance to downtown shopping, restaurants, coffee bars, pubs, lake, hotels and restaurants. Many tourists and locals are aware of the drinking and driving limitations of visiting wineries. Our tasting room will offer the benefit of tasting several wineries wines in one location without having to be concerned about driving from winery to winery.

Impact of Noise on the Community

Our hours of operation are 11:00 am – 11:00 pm seven days per week and will adhere to the local noise bylaws. We have very limited residential in our area. We have operated a very busy business in this very location since 1975 while keeping our good neighbour policy. We are cognisant of noise and will make sure we retain the good neighbour policy we have followed over these years. Our 10 seat outdoor patio will face directly at the Cannery Brewing Co. Tap House across the street. We see this as having a very limited impact in the neighbourhood. We have studied the noise levels from inside and outside the building by playing music louder than would be acceptable for our establishment. What we found was that we could not hear any noise from the east side of the building, very limited sound carried through the doors facing Cannery Brewing and virtually none facing Ellis Street. There is a building buffer between the wine lounge and a commercial/residential building to the south on Ellis therefore noise will be not be an issue.

Our site has seven dedicated parking spaces in the back of the building to accommodate our visitors.

Other Impacts on the Surrounding Community

None that we can think of.

Letter of Intent
200 Ellis Street

Additional Requests

It is our understanding that the liquor laws are currently under review. We are most interested in applying for a license allowing us to sell BC wineries wine '**off premise**' by the bottle or by the case in our location. After researching cooperative wine shops and tasting rooms in the United States, it is apparent that these types of winery cooperatives are very successful, efficient and offer walk in traffic the opportunity to taste and buy wines as if there were in the winery. This wine co-op would be staffed and operated by us throughout the year. By having one central tasting room in Penticton, we can offer continuity of service to the wineries and local community and tourists. Smaller wineries will benefit by exposure to traffic they may not be getting due to their rural location or seasonal closures.

Council Report

penticton.ca

Date: April 7, 2015 File No:4320-50
To: Chuck Loewen, Acting City Manager
From: Ken Kunka, Building and Permitting Manager
Re: Application for a Winery Lounge and Special Event Area (SEA) Endorsement
1775 Naramata Road, Penticton

Staff Recommendation

THAT Council direct staff to commence public notification of the proposed Winery Lounge and Special Event Area (SEA) Endorsement for Bench 1775 Winery;

AND THAT staff report back to Council at their meeting on May 4th, 2015 with the results of the public consultation for Council's consideration.

Strategic priority objective

NA

Background

The City has received an application from Valeria Tait, General Manager, of Bench 1775 Winery (0988081 BC Ltd) located at 1775 Naramata Road (Site Location - Attachment A). They are currently operating with a Winery Manufacturing and Retail Licenses. The winery is proposing to add a Winery Lounge and Special Event Area (SEA) to their current operations. Permits will be required to alter the current floor plan (Proposed layout - Attachment B).

The winery will be adding an:

- interior lounge and overlapping SEA of 24 persons,
- Exterior lounge patio and overlapping SEA of 40 persons
- Additional interior SEA, tasting rooms and reception of 33 person

The proposed SEA also includes an exterior area parallel to the manufacturing and proposed lounge as outlined in the site plan (Attachment B). LCLB did not require occupant loads for the outdoor SEA.

The proposed hours of operation for the winery lounge are 10:00am to 11:00pm Monday to Saturday and 10:00am to 07:00pm Sunday. The hours proposed for the Special Event Area (SEA) is 10:00am to 01:00am Monday to Saturday and 10:00am to 6:00pm on Sundays. The applicant is proposing a primary business focus of the proposed lounge for food and beverage service with a primary business focus for the SEA for hospitality which includes weddings, private dinners and tastings separate from normal tasting room functions.

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 have reviewed and given conditional support with the following prerequisite to be reviewed with the applicant prior supporting final recommendation to council:

Life Safety deficiencies: The Penticton Fire Department does not have adequate water to fight a fire at this property. The original structure burned down years ago because of that. The PFD met with the Building department and the owner a year ago to discuss the requirements for water supply for firefighting. Using Red Rooster, Hillside, Painted Rock and now Tight Rope as examples of cooperation by owners to meet the inadequate water supply by first having an engineered review done and then the acceptance of an alternative solution along with covenants, we should be applying the same principle on this property.

The applicant has confirmed that they work with building and fire department to provide an on-site supplementary water source.

Noise and Traffic: The proposed 1:00am SEA closure may present concerns to the neighbouring community related to noise and increased traffic during late hours. Increased traffic flow has potential for incurring additional monitoring from the RCMP.

It is suggested to reduce the closure to 12:00am (midnight), which is similar to other wineries in the area. The applicant has agreed to this change.

Public Consultation

As per the Liquor Licensing Act, staff will also be seeking comments from adjacent property and business owners. Similar to recent winery public consultations, the typical 90m consultation radius will be expanded to 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 **May 4th, 2015** Council meeting, as per the City of Penticton Liquor Licensing Policy.

Alternate recommendations

1. THAT Council denies support of the Bench 1775 Winery, winery lounge and SEA application.
2. Refer back to staff for further review.

Attachments

Attachment A – Location – Public Consultation map

Attachment B – Floor Plan

Attachment C – LCLB Summary

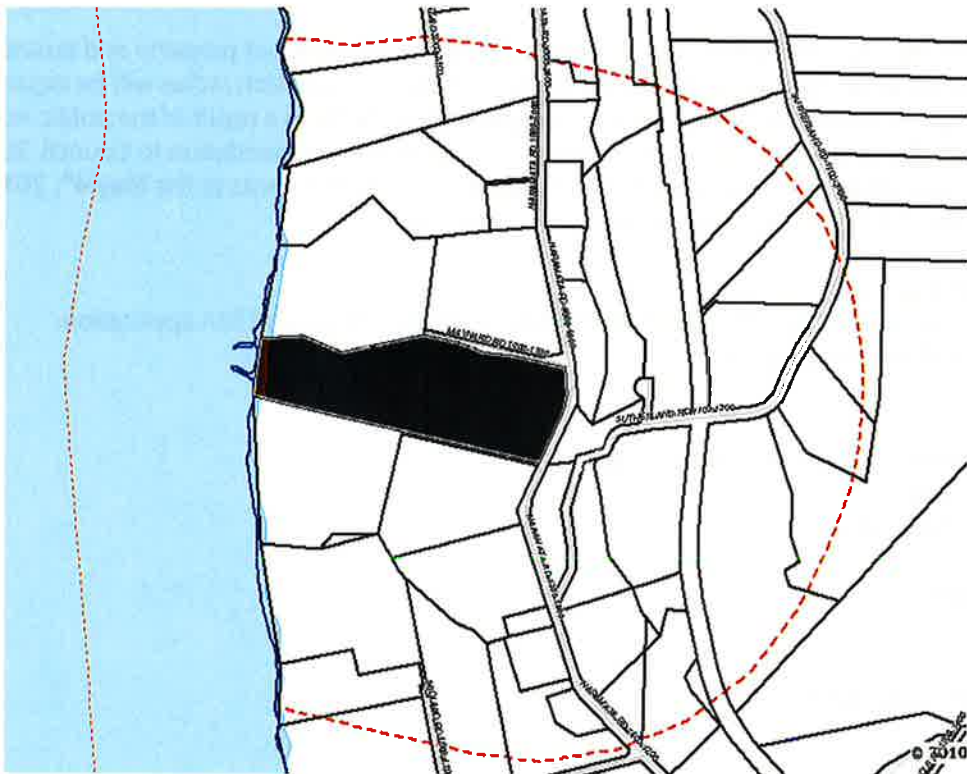
Respectfully submitted,

Ken Kunka
Building and Permitting Manager

Acting City
Manager



Attachment A
Location and Public Consultation Map



500m Radius



BENCH 1775 WINERY - LIQUOR LICENSE APPLICATION

Attachment C
LCLB Summary



March 11, 2015

Job # 4880531-28/29

Sent via email: annette.antoniak@penticton.ca

Annette Antoniak
City Manager
City of Penticton
171 Main Street
Penticton BC V2A 5A9

Dear Annette Antoniak:

Re: Application for a Winery Lounge and Special Event Area (SEA) Endorsement
Applicant: 0988081 BC Ltd
Proposed Location: 1775 Naramata Road, Penticton
Proposed Establishment Name: Bench 1775 Winery

The applicant has applied to the Liquor Control and Licensing Branch (the Branch) for a Winery Lounge and Special Event Area (SEA) Endorsement, to be located at the above address in Penticton. The Branch has completed the initial review of the application to determine applicant suitability and eligibility of the establishment type for licensing. As part of that process, a Liquor Inspector has completed a site review of the proposed establishment location.

Having determined applicant eligibility, we are now proceeding to the Site and Community Assessment (SCA) stage which is the stage for local government input.

The City of Penticton is requested to consider the application and provide the Branch with a resolution which includes their comments and recommendation with respect to the licence application. To assist with Council's assessment of the application, the Branch has prepared a summary report for review and consideration by Council. The summary report is based on information provided by the applicant and by Branch staff.

Please note that effective February 16, 2011, there has been a change in the regulatory criteria that Council is asked to consider and comment on. The amended regulatory criteria are reflected in the attached summary report. For more information on the change to the regulatory criteria, see LCLB policy directive 11-01 at <http://www.pssg.gov.bc.ca/lclb/resources/index.htm#8>

Council has 90 days to either provide comments to the general manager, or to advise that they wish to "opt out" of the process. Either must be in the form of a Council resolution. Additional time over the 90 days can be approved by the Branch if the request is received in writing prior to the end of the 90 day period.

**Liquor Control and
Licensing Branch**

Mailing Address:
PO Box 9292 Stn Prov Govt
Victoria BC V8W 9J8
Telephone: 250 952-5787
Facsimile: 250 952-7066

Location:
4th Floor, 3350 Douglas Street
Victoria, BC
<http://www.pssg.gov.bc.ca/lclb>

2

Upon receipt of a Council Resolution, the Branch will review the Resolution to determine if all the regulatory criteria have been met in accordance with section 10 of the Liquor Control and Licensing Regulation and; if recommended by local government, assess whether the granting of the licence would be contrary to the public interest. Should you gather the views of local residents and businesses as part of your consideration, please be reminded that the applicant cannot gather the views themselves. As part of your process, the gathering of the views must be administered by the local government.

Following the rendering of a decision by the general manager as to whether to grant site and community approval, the applicant and the local government will be advised in writing.

Once granted site and community approval, the application proceeds to the building assessment stage of the licensing process, where floor plans are reviewed and if approved in principle, the applicant may proceed with construction/renovation of the establishment, followed by the final stages of the licensing process.

Further details of the liquor licensing application process can be found in the "Role of Local Government and First Nations in the Provincial Liquor Licensing Process" guidelines, enclosed for your reference and also available on the branch website at <http://www.hsd.gov.bc.ca/lclb/>.

If you have any questions regarding this application please contact me at 250 952-5775 or emma.ross@gov.bc.ca.

Yours sincerely,



Emma Ross
Senior Licensing Analyst

Enclosure – Application Summary and supporting material

copy: Randy Brown, Liquor Inspector
Val Tait, Bench 1775 Winery

Council Report

penticton.ca

Date: April 7th, 2015
To: Chuck Loewen, Interim City Manager
From: Audrey Tanguay, Senior Planner
Address: 1473 Duncan Ave. E
File No: RZ PL2015-020
DVP PL2015-019
Subject: **Zoning Amendment Bylaw No. 2015-20 and Development Variance Permit 2015-019**

Staff Recommendation

#1 Zoning Amendment

THAT "Zoning Amendment Bylaw No. 2015-20", a bylaw to amend Zoning Bylaw 2011-23 to rezone Lot 2, District Lot 2710, Similkameen Division Yale District, Plan KAP90597, located at 1473 Duncan Avenue E, from R1 (Large Lot Residential) to R2 (Small Lot Residential), be given first reading and be forwarded to the April 20th, 2015 Public Hearing.

#2 Development Variance Permit

THAT Council support "Development Variance Permit PL2015-019" for Lot 2, District Lot 2710, Similkameen Division Yale District, Plan KAP90597 located at 1473 Duncan Avenue E, a permit to reduce the minimum lot width from 13m to 12m;

AND THAT staff are directed to issue DVP PL2015-019, subject to adoption of "Zoning Amendment Bylaw No. 2015 -20".

Strategic priority objective

N/A

Background

The subject property (Attachment 'A') is zoned R1 and is designated Low Density Residential (LR) as per the City's Official Community Plan. The neighbourhood where the property is located has seen some densification in the form of duplex development over the past number of years. Originally, the applicant wanted to construct a duplex, which is in-line with the OCP designation for the area. Finally, it was thought that two single detached housing lots would be the most appropriate form of development for the lot and area. To accommodate the development, rezoning and variance are required.

Proposal

The applicants are requesting that the subject property be rezoned from R1 (Large Lot Residential) to R2 (Small Lot Residential). To subdivide the property the following variance is required:

- Reduce the required lot width from 13 m to 12 m

Financial Implications

N/A

Technical Review

Engineering and Public Works staff have reviewed the proposals and do not recommend any conditions prior to rezoning approval. The application was reviewed by the City's Technical Planning Committee on February 19th, 2015. Notes from that meeting were forwarded to the applicant for information.

Analysis

Support Rezone

The subject property is designated as LR (Low Density Residential) according to the City's OCP. The proposed R2 zone is consistent with this OCP designation. A development variance permit, however, will be necessary to accommodate the dimensions of the proposed lots and to construct two single detached homes. Details regarding the variance are spoken to below. It should be noted, though, that variances are often required when intensification happens. The proposed development meets several objectives of the OCP and will maintain the character of existing single family neighbourhoods. The main difference between the R1 and R2 zones are the required lot size and the front yard setback, which is 6m for an R1 zoned property and 4.5m for an R2 property.

Given that the proposed zone conforms to the OCP designation and that the development meets the objectives of the OCP, staff recommend that Council support the application and forward it to the April 20th, 2015 Public Hearing for neighbourhood and public comment.

Deny / Refer

Council may feel that the proposed zone is not appropriate for the area. If that is the case, Council should deny the rezoning application, or support the application with conditions that Council feels are appropriate. Alternatively, Council may refer the application back to staff with further instructions.

Support Variance

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

The intent of rezoning the property to the R2 zone is to create two single family lots and eventually build two homes. Originally, the applicant was looking at rezoning to the RD1 (Duplex Housing) zone with the intent of building a duplex on the property. Going to the RD1 zone would negate the requirement for the variance, but would, in staff's opinion and the opinion of the applicants, create a product not as sensitive to the current trends in the neighbourhood. Minimum lot widths are established to create a uniform character to an area going through subdivision and development and help to establish a consistent lot configuration as subdivision and development occurs. The applicant is proposing a reduction by 1m. The decrease in width should not have a negative impact on any neighboring properties as the request is minimal. No variances to any building setbacks are being proposed.

Considering the above, it is recommended that Council support the application and direct staff to issue the permit.

Deny/ refer

Council may consider that the variance requested demonstrate that the development will negatively affect the residential neighborhood. If this is the case, Council can deny the proposed variance. Alternatively, Council may want to refer the application back to staff for further work with the applicant.

Alternate recommendations

1. THAT Council refer Zoning Amendment File PL2015-020 back to staff to make changes Council feel are appropriate.

Attachments

Attachment A: Subject property location map
Attachment B: Zoning map of neighbourhood
Attachment C: OCP designation map
Attachment D: Images of subject property
Attachment E: Proposed Subdivision Plan
Attachment F: Draft DVP

Respectfully submitted,

Audrey Tanguay
Senior Planner

Approvals

Manager	City Manager
	

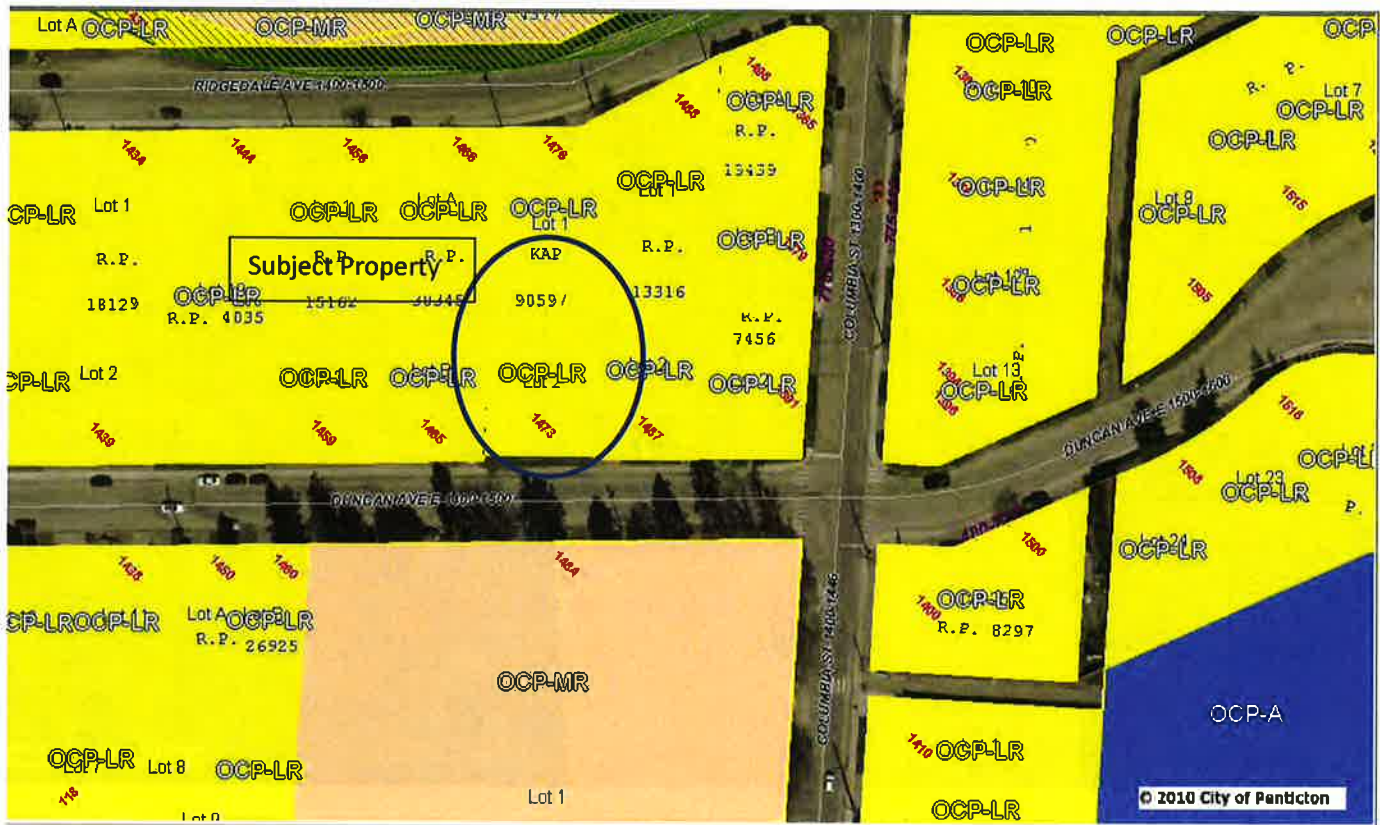
Attachment A – Subject Property Location Map



Attachment B – Zoning Map of Neighbourhood



Attachment C- Official Community Plan (OCP) Designation



Attachment D – Images of Property



Figure 1: Property fronting Duncan Avenue Est



Figure 2: Property fronting Duncan Avenue Est

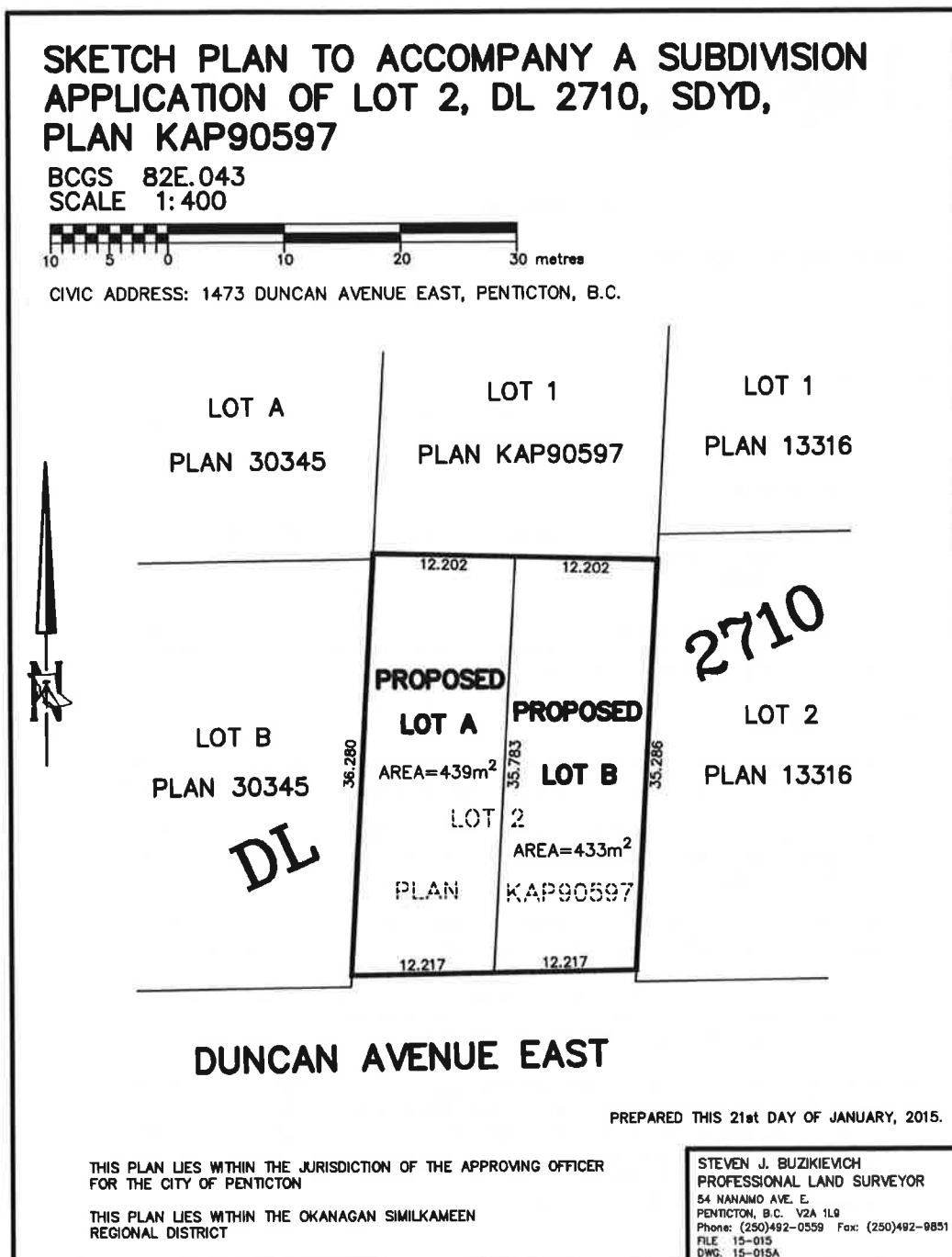


Figure 3: Looking West on Duncan Avenue Est



Figure 4: Looking East on Duncan Avenue Est

Attachment E – Proposed site plan and Subdivision



Attachment F – Draft DVP



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

Development Variance Permit

Permit Number: DVP PL2015-019

Name
Address |

Conditions of Permit

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

Legal: Lot 2, District Lot 2710, Similkameen Division Yale District, Plan KAP90597
Civic: 1473 Duncan Avenue E
PID: 028-180-500
3. This permit has been issued in accordance with Section 922 of the *Local Government Act* to vary Section 10.2.2.1 of Zoning Bylaw 2011-23 to reduce the minimum lot width from 13m to 12 as shown in the plans attached in Schedule A.

General Conditions

4. In accordance with Section 928(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 926 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the _____ day of _____, 2015

Issued this ____ day of _____, 2015.

Dana Schmidt,
Corporate Officer

Page 2 of 2

Bylaw No. 2015-20

A Bylaw to Amend Zoning Bylaw 2011-23

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

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

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

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw 2015-20".

2. **Amendment:**

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

Rezone Lot 2, District Lot 2710, Similkameen Division Yale District, Plan KAP90597, located at 1473 Duncan Avenue East, from R1 (Large Lot Residential) to R2 (Small Lot Residential).

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

READ A FIRST time this	day of	, 2015
A PUBLIC HEARING was held this	day of	, 2015
READ A SECOND time this	day of	, 2015
READ A THIRD time this	day of	, 2015
ADOPTED this	day of	, 2015

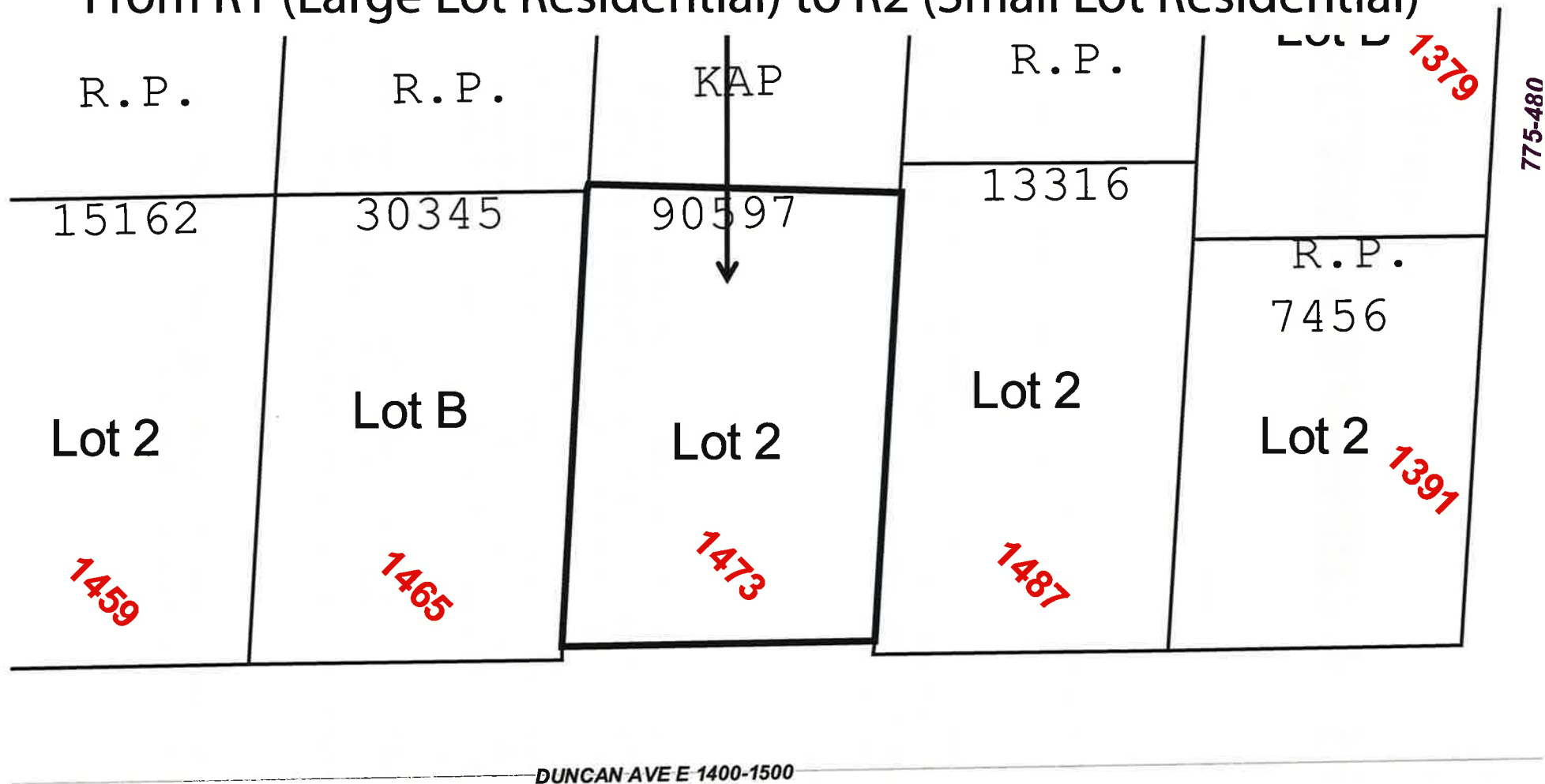
Notice of intention to proceed with this bylaw was published on the __ day of ____, 2015 and the __ day of ____, 2015 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

- 147 -

Rezone 1473 Duncan Ave E
From R1 (Large Lot Residential) to R2 (Small Lot Residential)



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2015-20

Date: _____

Corporate Officer: _____

Council Report

penticton.ca

Date: April 7th, 2015
To: Chuck Loewen, Interim City Manager
From: Lindsey Fraser, Planner I

File No: RZ PL2015-002

Address: 1028 Dynes Avenue

Subject: Zoning Amendment Bylaw No. 2015-21

Staff Recommendation

THAT "Zoning Amendment Bylaw No. 2015-21", a bylaw to amend Zoning Bylaw 2011-23 to rezone Lot 26, District Lot 3, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 1017, located at 1028 Dynes Avenue, from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane), be given first reading and be forwarded to the April 20th, 2015 Public Hearing.

Strategic priority objective

N/A

Background

The subject property (Attachment 'A') is zoned R2 (Large Lot Residential) and is designated by the City's Official Community Plan (OCP) as MFMD (Multi Family, Medium Density). The property is also in the Downtown West Neighbourhood Plan area. The surrounding neighborhood is comprised, primarily, of single family dwellings, with some multi-family and motel uses in close proximity. Located near Okanagan Lake, the amenities of Lakeshore Drive, and downtown, this neighborhood is seeing increased demand for denser forms of residential development. The subject property is also located within the Downtown Multiple Development Permit Area. As such, a development permit addressing form, character, and landscaping will be required if rezoning proves successful.

The lot is currently vacant, but the property owner and applicant intend to develop the lot into a side-by-side duplex (Attachment 'F'), with all of the vehicle access from the lane. The current R2 zone does not allow for duplex development. So the property owner has initiated this application process to rezone the property for that use.

Proposal

The applicant is requesting that the subject property be rezoned from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane), with the intent of constructing a side-by-side duplex.

Financial Implication

N/A

Technical Review

This application was forwarded to the City's Technical Planning Committee and reviewed by the Engineering and Public Works departments. It was highlighted through this process that the lot would need to be connected to municipal sanitary sewer as well as water mains. These items have been communicated to the owner. No other issues were highlighted via the technical review process. At the building permit stage, plans will have to be submitted that comply with all BC Building Code standards.

Development Statistics

The following table outlines the proposed development statistics on the plans submitted with the rezoning application:

Item	Requirement RD2 Zone	Provided on Plans
Minimum Lot Width:	13m	12m (variance not required)
Minimum Lot Area:	390 m2	607 m2
Maximum Lot Coverage:	40 %	38%
Maximum Density:	0.95 FAR	0.45 FAR
Vehicle Parking:	1 per unit	1 + per unit
Required Setbacks Front yard (Dynes Street): Side yard (west): Side yard (east): Rear yard:	4.5m 1.5m 1.5m 1.5m (accessory building)	4.5m 1.5m 1.5m 6.0m
Maximum Building Height:	10.5m (principal) 4.5m (accessory)	6.75m 4.0m
Other Information:	☐ Property is in the 'Multi Family, Medium Density' Development Permit Area and a DP will be required.	

Analysis

Support Rezone

The MFMD (Multi Family, Medium Density) designation typically calls for apartments and townhouse development. However given the size of the lot, duplex housing is a satisfactory housing type for this property - promoting the City's density goals and respecting the built form of the surrounding neighbourhood. The DP process will ensure the following items are held to a high standard:

Buildings and Structures

The guidelines in the OCP encourage buildings with strong street presence, varied materials, and architectural elements. The applicants have submitted plans for a side-by-side duplex, giving the structure a strong and connected frontage. The materials are a combination of stucco and white-washed cedar, and the building displays a modern architectural feel with numerous windows. Staff feel the design meets the intent of guidelines.

Access and Parking

This property has lane access. As such, the zoning bylaw stipulates that vehicular access and parking must come from the lane. The design being proposed by the applicants includes a detached garage, located 6m off the lane, allowing additional parking to locate on the concrete pad in front of the garage. Staff feel the parking configuration proposed meets the intent of the guidelines laid out in the OCP.

Landscaping and Screening

Due to the extensive lot coverage this development covers, landscaping is kept to a minimum. The basic plans, however, are reasonable to staff, creating interest in the front yard with shrubbery and trees, and providing some private grassy area in the back for residents. Staff also note that the property owner will be installing a new fence on both sides of the property, which will enhance the look of the new development and help delineate the property line between neighbours.

Staff find that the designs submitted in support of the DP generally conform to the guidelines and the plans meet the development regulations for the RD2 (Duplex Housing: Lane) zone. No variances are being sought. As such, staff recommend that Council support the zoning amendment application.

Deny/Refer

Council may feel that duplex development is not appropriate for this lot and the property owner should wait until neighbouring property owners are ready to amalgamate lots in an effort to construct buildings with higher density potential. If this is the case, Council should deny the first reading.

Alternatively, Council could refer the application back to staff.

Alternate recommendations

1. THAT Council refer "Zoning Amendment No. 2015-21" back to staff to make changes Council feel are appropriate.

Attachments

Attachment A: Subject property location map
Attachment B: Zoning map of neighbourhood
Attachment C: OCP designation map
Attachment D: Images of subject property

Attachment E: Letter from applicant

Attachment F: Proposed site plan and preliminary renderings

Respectfully submitted,

Lindsey Fraser

Planner I

Approvals

IntDirector	Acting City Manager
	

Attachment A –Subject Property Location Map



Figure 1: Subject property highlighted in blue

Attachment B – Zoning Map of Neighbourhood



Figure 2: Zoning map showing single family residential zoning within mix of single, multiple, and tourist commercial zones

Attachment C – OCP Designation Map



Attachment D – Images of Property

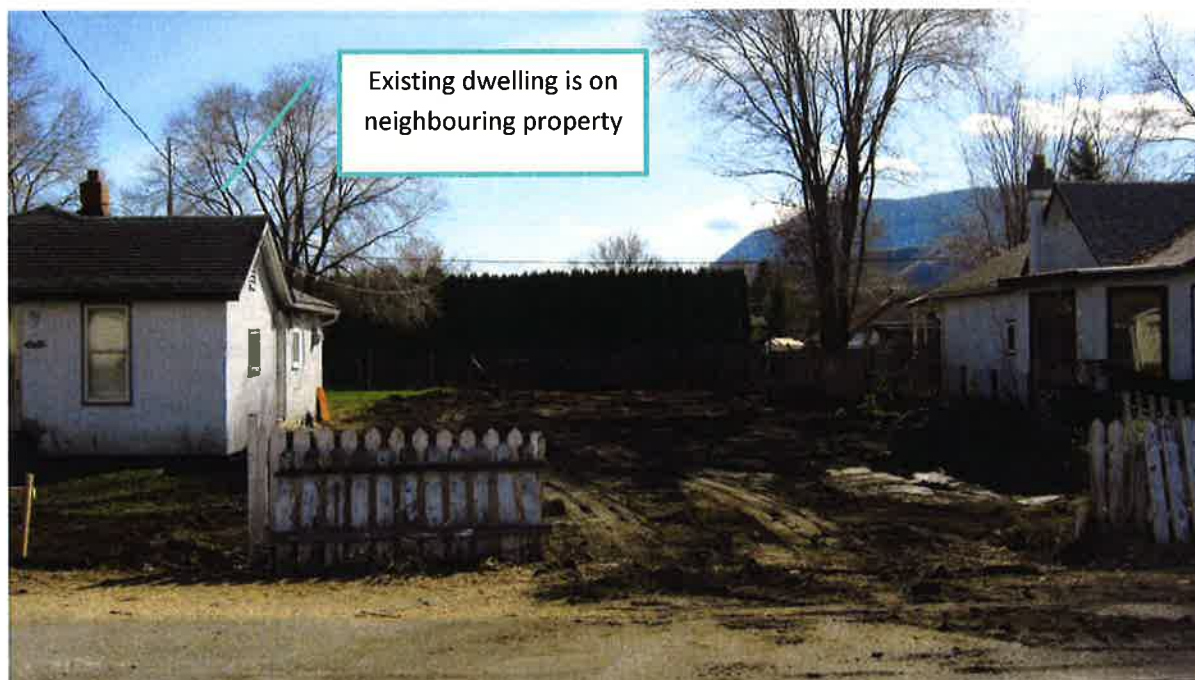


Figure 4: Looking south at lot for development



Figure 5: Looking north from rear of property

Attachment E – Letter from Applicant

January 19 2015

Rationale for 1028 Dynes Duplex

Thank you for taking the time to consider our proposed project at 1028 Dynes Ave. in Penticton. As seen in the drawings we have submitted for your approval we are proposing to build a side by side duplex on this property. Both units will be 1900 square feet of living space over two floors. In addition there will be a separate garage divided in half in which each unit will have one indoor parking space. The garage will be centred east/west on the lot to allow for an additional parking stall for each unit to either side of the garage building. All parking spaces will be accessed from the lane at the rear of the lot. Having the parking from the lane at the rear will allow us to maximize the frontage of the lot with landscaping as designated in the Official Community Plan.

The current zoning for 1028 Dynes is R2 which doesn't allow for multi family buildings so we are requesting to have it rezoned to RD2. Our supplied design for this rezoning application fits within the guide lines for RD2 zoning and we will not be asking for any variances to accomplish the construction of this duplex. Under the Official Community Plan this neighbourhood is calling for medium density multi family housing.

We feel that this project falls right in line with the Official Community Plan and would compliment the neighbourhood along with the already existing multi family housing units on Dynes Ave.

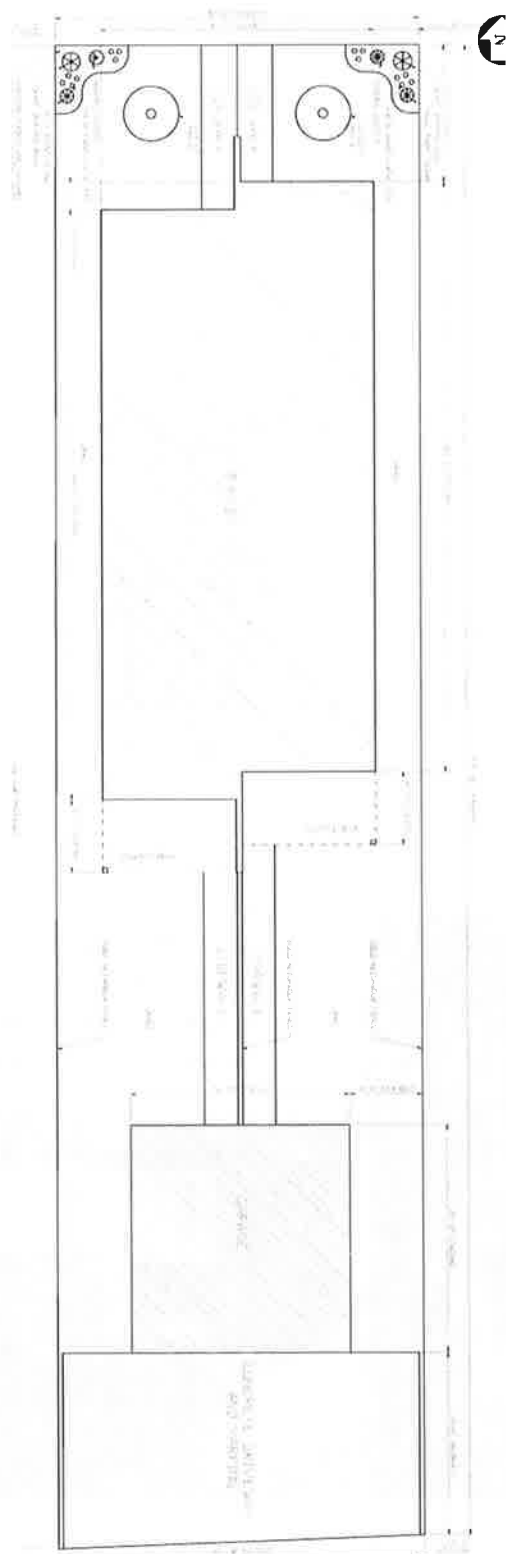
Sincerely

Rob Linder

Brad Klingspohn



Attachment F – Proposed Site Plan and Renderings





Note: final design will represent the coloured renderings. Initially, the owner proposed materials including metal siding that he has since decided against, opting for stucco and white-washed cedar wood instead.



A Bylaw to Amend Zoning Bylaw 2011-23

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

1. **Title:**

2. Amendment:

Rezone Lot 26, District Lot 3, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 1017, located at 1028 Dynes Avenue, from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane).

READ A FIRST time this _____ day of _____, 2015

A PUBLIC HEARING was held this day of , 2015

READ A SECOND time this _____ day of _____, 2015

READ A THIRD time this _____ day of _____, 2015

APPROVAL from Ministry of day of , 2015

Transportation

ADOPTED this _____ day of _____, 2015

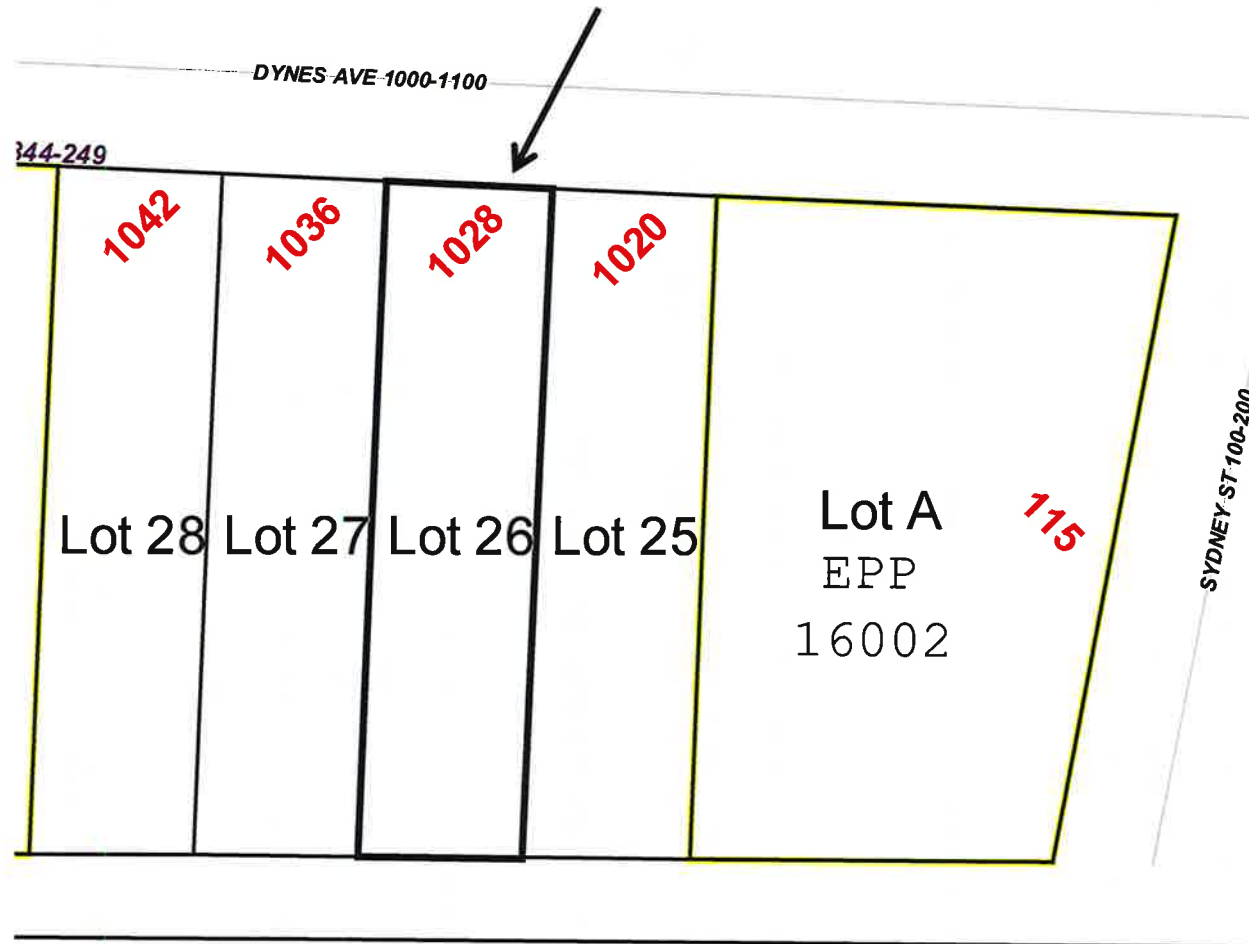
Notice of intention to proceed with this bylaw was published on the __ day of ____, 2015 and the __ day of ____, 2015 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

Andrew Jakubeit, Mayor

Dana Schmidt, Corporate Officer

To Rezone 1028 Dynes Avenue
From R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane)

- 160 -



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2015-21

Da _____ Corporate Officer: _____