



## Regular Council Meeting

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

To view the live broadcast and recordings, visit [www.penticton.ca](http://www.penticton.ca)

Tuesday, March 19, 2024  
at 1:00 p.m.

1. **Call Regular Council Meeting to Order**
2. **Introduction of Late Items**
3. **Adoption of Agenda**
4. **Recess to Committee of the Whole**
5. **Reconvene the Regular Council Meeting**
6. **Adoption of Minutes:**
  - 6.1 Minutes of the March 5, 2024 Regular Council Meeting 1-6 Adopt
7. **Consent Agenda**

*Recommendation: THAT Council approve the Consent Agenda:* 7-11

  1. March 5, 2024 Minutes of the Committee of the Whole Meeting; and
  2. March 6, 2024 Minutes of the Special Parks and Recreation Advisory Committee.
8. **Staff Reports:**

Campbell 8.1 Phase 1 – Connected Community Capital Program 12-21

*Staff Recommendation: THAT Council direct staff to refer the following shortlist of organizations from Phase 1 of the Connected Community Capital Program to Phase 2:*

  - Activate Penticton Society
  - Penticton & District Community Arts Council
  - Penticton Lawn Bowling Club (revised project scope)
  - Penticton Pickleball Club
  - Penticton Safety Village Society (revised project scope)
  - South Okanagan Minor Baseball Association (revised project scope)

Raposo	8.2	Request for Proposal – Sudbury Beach Concession Re: 3846 Skaha Lake Road <i>Staff Recommendation: THAT Council direct staff to issue the Request for Proposal to seek an operator for the use of the City building located at 3846 Skaha Lake Road (Sudbury Beach Concession), for the purpose of seeking an operator for a food concession for a three (3) or five (5) year Sub-License to Use agreement term; AND THAT Council authorize the Director of Finance and Administration and Corporate Officer to execute the Sub-License to Use agreement.</i>	22-46
Raposo	8.3	Request for Proposal – Skaha Main Concession Re: 3701 Parkview Street <i>Staff Recommendation: THAT Council direct staff to issue the Request for Proposal for the use of 3701 Parkview Street, (Skaha Main Concession) for the purpose of seeking an operator for a food concession for a three (3) to five (5) year License to Use agreement term; AND THAT Council authorize the Director of Finance and Administration and Corporate Officer to execute the License to Use agreement.</i>	47-52
Raposo	8.4	Beach Vending Program <i>Staff Recommendation: THAT Council approve the three (3) year License to Use agreement renewal of the Beach Vending Program; AND THAT Council authorize the Director of Finance and Administration and Corporate Officer to execute the License to Use agreements.</i>	53-69
Tanguay	8.5	Development Variance Permit PL2024-9753 Development Permit PL2023-9702 Re: 457 Ellis Street <i>Staff Recommendation: THAT Council approve “Development Variance Permit PL2024-9753”, for Lot 2 District Lot 249 Similkameen Division Yale District Plan 9522, located at 457 Ellis Street, a permit to vary Section 6.1.5.4 of Zoning Bylaw 2023-08: Increase the maximum permitted small car spaces from 25% to 75% and; AND THAT Council, subject to approval of “Development Variance Permit PL2024-9753”, approve “Development Permit PL2023-9702”, Lot 2 District Lot 249 Similkameen Division Yale District Plan 9522, located at 457 Ellis Street, to allow the construction of a six-storey mixed-use building on the subject property.</i>	70-117
Laven	8.6	Zoning Amendment Bylaw No. 2024-10 Development Permit PL2023-9710 Development Permit PL2023-9711 Re: 935 Kilwinning Street <i>Staff Recommendation: THAT Council give first, second and third reading to “Zoning Amendment Bylaw No. 2024-10”, for Lot 2 District Lot 249 Similkameen Division Yale District Plan 9522, located at 935 Kilwinning Street, a bylaw to rezone the property from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane); AND THAT Council adopt “Zoning Amendment Bylaw No. 2024-10” and subject to final subdivision registration of the two lots, approve “Development Permit PL2023-9710” and “Development Permit PL2023-9711” for Lot 2 District Lot 249 Similkameen Division Yale District Plan 9522, located at 935 Kilwinning Street, permits which allows the construction of a back-to-back duplex on each lot.</i>	118-149

9. **Public Question Period**

10. **Recess to a Closed Meeting:**

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

*(e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality; and*

*(g) litigation or potential litigation affecting the municipality.*

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

12. **Bylaws and Permits**

Collison	12.1	Council Remuneration Amendment Bylaw No. 2024-06	150-151	Adopt
Collison	12.2	Zoning Amendment Bylaw No. 2024-07 Re: 21 Lakeshore Drive West	152-153	2 <sup>nd</sup> /3 <sup>rd</sup> /Adopt
Collison	12.3	Building Amendment Bylaw No. 2024-08	154	Adopt
Collison	12.4	Fees and Charges Amendment Bylaw No. 2024-09	155	Adopt

13. **Notice of Motion**

14. **Business Arising**

15. **Public Question Period**

If you would like to ask Council a question with respect to items that are on the current agenda, please visit our website at [www.penticton.ca](http://www.penticton.ca) to find the telephone number or Zoom link to ask your question before the conclusion of the meeting. Use the raise hand feature and you will be given the opportunity to turn on your camera and unmute your microphone and ask Council your questions. Please note that the meeting is streaming live and recorded, access to recordings can be found on the City's website.

16. **Council Round Table**

17. **Adjournment**

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

**Tuesday, March 5, 2024**  
**at 1:00 p.m.**

**Present:** Mayor Bloomfield  
Deputy Mayor Watt  
Councillor Boulton (via Zoom)  
Councillor Gilbert  
Councillor Graham  
Councillor Konanz  
Councillor Miller

**Staff:** Anthony Haddad, City Manager  
Angie Collison, Corporate Officer  
Angela Campbell, Director of Finance & Administration  
Kristen Dixon, General Manager of Infrastructure  
Blake Laven, Director of Development Services  
Kelsey Johnson, Director of Community Services  
Paula McKinnon, Deputy Corporate Officer

**1. Call to Order**

The Mayor called the Regular Council Meeting to order at 1:00 p.m.

**2. Introduction of Late Items**

**3. Adoption of Agenda**

57/2024

**It was MOVED and SECONDED**

THAT Council adopt the agenda for the Regular Council Meeting held on March 5, 2024 as amended to include late item 8.9 Revised 2024 SILGA Resolutions.

**CARRIED UNANIMOUSLY**

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

58/2024

**It was MOVED and SECONDED**

THAT Council recess to a Committee of the Whole meeting at 1:01p.m.

**CARRIED UNANIMOUSLY**

**5. Reconvene the Regular Council Meeting**

Council reconvened the Regular Council Meeting at 2:26 p.m.

**6. Adoption of Minutes:**

6.1 Minutes of the February 20, 2024 Regular Council Meeting

59/2024

**It was MOVED and SECONDED**

THAT Council adopt the Regular Council Meeting minutes of February 20, 2024 as presented.

**CARRIED UNANIMOUSLY**

**7. Consent Agenda:**

60/2023

**It was MOVED and SECONDED**

THAT Council approve the Consent Agenda:

- 1. Minutes of the February 20, 2024 Committee of the Whole Meeting.

**CARRIED UNANIMOUSLY**

**8. Staff Reports:**

8.1 2024 Community Emergency Preparedness Fund - EOC

61/2024

**It was MOVED and SECONDED**

THAT Council support the application for grant funding from UBCM for Emergency Operations Centre (EOC) costs for equipment, supplies and training for the City of Penticton Emergency Operations Centre up to an amount of \$30,000.

**CARRIED UNANIMOUSLY**

8.2 Council Remuneration Amendment Bylaw No. 2024-06

62/2024

**It was MOVED and SECONDED**

THAT Council give first, second and third reading to "Council Remuneration and Expense Amendment Bylaw No. 2024-06", a bylaw to amend meal per diem reimbursement expenses and reduction of remuneration for code of conduct violations.

**CARRIED**

**Councillors Boulton and Miller, Opposed**

8.3 Building Amendment Bylaw No. 2024-08  
Fees and Charges Amendment Bylaw No. 2024-09

63/2024

**It was MOVED and SECONDED**

THAT Council give first, second and third reading to "Building Amendment Bylaw No. 2024-08", a bylaw that includes a requirement for all new buildings to meet EL-01 'measure only' level of the BC Zero Carbon Step Code;

AND THAT Council give first, second and third reading to "Fees and Charges Amendment Bylaw No. 2024-09", a bylaw that puts in place incentives for projects that achieve higher Zero Carbon Step Code levels than required by the Building Bylaw, similar to the incentives in place for the achieving higher levels of the Energy Step Code.

**CARRIED**

**Councillor Konanz, Opposed**

8.4 Affordable Housing Pilot Funding Program

64/2024

**It was MOVED and SECONDED**

THAT Council endorse the "Affordable Housing Pilot Funding Program: Guidelines & Application" as outlined in Attachment A;  
AND THAT Council approve \$100,000 be transferred from the Affordable Housing Amenity Contribution Reserve for the Affordable Housing Pilot Funding Program;  
AND THAT Council direct staff to amend the 2024-2028 Financial Plan accordingly;  
AND THAT Council authorize the Chief Financial Officer to sign the program agreements and/or contracts with the successful applicants;  
AND THAT Council direct staff to report back on the Affordable Housing Pilot Funding Program after the one-year pilot is complete.

**CARRIED UNANIMOUSLY**

8.5 Housing Policy Initiatives – Public Engagement Plan Details

65/2024

**It was MOVED and SECONDED**

THAT Council receive into the record the report dated March 5, 2024 titled "Housing Policy Initiatives – Public Engagement Plan Details";  
AND THAT Council direct staff to amend the Financial Plan accordingly to account for \$314,454 received in Provincial grant funding to implement provincial housing initiatives.

**CARRIED UNANIMOUSLY**

8.6 Zoning Amendment Bylaw No. 2024-05  
Re: 1704 Government Street

66/2024

**It was MOVED and SECONDED**

THAT Council give first, second and third readings to "Zoning Amendment Bylaw No. 2024-05", a bylaw to rezone Lot A District Lot 3429S Similkameen Division Yale District Plan 23195 Except Plan 37288, located at 1704 Government Street, from M1 (General Industrial) and C4 (General Commercial) to CD9 (Comprehensive Development – 1704 Government Street), to facilitate the construction of a high-density mixed-use development;  
AND THAT Council, prior to adoption of "Zoning Amendment Bylaw No. 2024-05", require a 1.0m road dedication along the Government Street frontage of the subject property be registered with the Land Title Office;  
AND THAT Council direct staff to enter into legal agreements with the developer, prior to adoption of "Zoning Amendment Bylaw No. 2024-05", to provide the following related infrastructure projects at appropriate phases of the development:

1. Full design and construction of the full width of Government Street, between Industrial Avenue and Carmi Avenue, including but not limited to curb, gutter, all ages and abilities level active transportation lanes, transit stop and sidewalk;
2. Full design and construction of Page Avenue from the subject property to Dartmouth Road, including but not limited to curb, gutter, sidewalks and drainage infrastructure, and accommodating the current industrial uses currently utilizing the road right-of-way;
3. Installation of all ages and abilities level active transportation lanes along Government Street, from Carmi Avenue to Duncan Avenue;
4. Upgrade of existing multi-use path along Ellis Creek, from Dartmouth Road to Government Street;

- 5. Installation of a crosswalk and sidewalk along Carmi Avenue, from Halifax Street to Dartmouth Street, including traffic calming along that section of Carmi Avenue;
- 6. Upgrade existing multi-use path along the north side of the site, from Government Street to Dartmouth Road, including installation of a new pedestrian/bike connection up to the new crosswalk on Carmi Avenue, between Halifax Street and Carmi Drive.

**CARRIED**

**Councillors Boulton, Graham and Miller, Opposed**

- 8.7 Development Permit PL2023-9699  
Re: 950 Westminster Avenue West

67/2024

**It was MOVED and SECONDED**

THAT Council approve "Development Permit PL2023-9699", for Lot A District Lot 366 Similkameen Division Yale District Plan EPP110935, located at 950 Westminster Avenue West, a permit to allow the construction of a 3-storey, 52-room addition to an existing hotel; AND THAT staff be directed to issue "Development Permit PL2023-9699".

**CARRIED UNANIMOUSLY**

- 8.8 Zoning Amendment Bylaw No. 2024-07  
Re: 21 Lakeshore Drive West

68/2024

**It was MOVED and SECONDED**

THAT Council give first reading to "Zoning Amendment Bylaw No. 2024-07", for Lot A District Lots 202 And 211S Similkameen Division Yale District Plan KAP63701, located at 21 Lakeshore Drive West, a bylaw to add the site-specific provision, within the CT1 (Tourist Commercial) zone as follows: "Section 11.10.4.3, In the case of Lot A District Lots 202 And 211S Similkameen Division Yale District Plan KAP63701, located at 21 Lakeshore Drive West, 'office' with a maximum of floor area of 250 m<sup>2</sup> shall be permitted."; AND THAT Council forward "Zoning Amendment Bylaw No. 2024-07" to the March 19, 2024 Public Hearing.

**CARRIED UNANIMOUSLY**

- 8.9 Late Item: Revised 2024 SILGA Resolutions

69/2024

**It was MOVED and SECONDED**

THAT Council submit the following resolutions for consideration at the 2024 Southern Interior Local Government Association (SILGA) Convention:

Complex Care

WHEREAS the toxic drug crisis continues to surge across the province. The lasting effects of overdose can potentially lead to acquired brain injury which can include organ failure, nerve damage, paralysis, memory loss, mental disorientation, diminished motor skills, reduced physical and cognitive functioning, and behavioural changes.

WHEREAS communities across the Province are implementing many initiatives in support of all resident's safety and wellbeing such as Public Safety and Social Development Frameworks.

WHEREAS the Province has developed a complex care framework that acknowledges the growing number of people in our communities who require housing and have

overlapping health, mental health, trauma and acquired brain injuries; yet there are no established timelines and residents continue to suffer in the interim.

WHEREAS the Province has appointed Health Authorities as the lead for plan implementation.

THEREFORE BE IT RESOLVED the Province provides immediate and clear instruction to Health Authorities, inclusive of timelines and funding, to prioritize implementation of complex care facilities and the integration of complex care supports in existing or new facilities.

Resource Roads

WHEREAS Several communities across the Province have single or limited access/egress routes leaving them vulnerable during extreme events such as wildfire, rock slides or flooding. Some communities are required to use resource roads on an ongoing basis to remain connected.

WHEREAS Resource roads are built for industrial purposes or access to natural resources in remote areas and the Province, or its contractors, do not maintain these to the same standards as paved public roadways

THEREFORE BE IT RESOLVED That the Province define standards of maintenance and construction that supports the economic continuity and connectedness of residents across the Province where these resource roads are being used as alternate commuter routes or would be used in the event of an emergency.

**CARRIED UNANIMOUSLY**

**9. Bylaws and Permits**

9.1 Zoning Amendment Bylaw No. 2023-20  
Re: 732 Government Street

70/2024

**It was MOVED and SECONDED**

THAT Council adopt "Zoning Amendment Bylaw No. 2023-20".

**CARRIED UNANIMOUSLY**

**10. Notice of Motion**

**11. Business Arising**

11.1 Business Arising from the Committee of the Whole Meeting

71/2024

**It was MOVED and SECONDED**

THAT Council send a letter to the provincial Minister of Water, Land and Resources Stewardship, the provincial Minister of Environment and Climate Change Strategy, the federal Minister of Fisheries, Oceans and the Canadian Coast Guard and the federal Minister of Public Safety in support of the Okanagan Basin Water Board's Call to Action on invasive mussel prevention and send a copy to the MLA and MP.

**CARRIED UNANIMOUSLY**



72/2024

**It was MOVED and SECONDED**

THAT Council take a leadership role with the City of Kelowna and direct staff to report back with updates on proactive actions to address invasive mussels.

**CARRIED UNANIMOUSLY**

**12. Public Question Period**

**13. Council Round Table**

**14. Adjournment to Closed Meeting:**

73/2024

**It was MOVED and SECONDED**

THAT Council adjourn at 4:11 p.m. to a closed meeting of Council pursuant to the provisions of the *Community Charter* as follows: Section 90 (1)

- (c) labour relations or other employee relations;
- (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public; and Section 90 (2)
- (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

Certified correct:

Confirmed:

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Angie Collison  
Corporate Officer

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Julius Bloomfield  
Mayor

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

**Tuesday, March 5, 2024**  
**Recessed from the Regular Council Meeting at 1:00 p.m.**

**Present:**

Mayor Bloomfield  
Deputy Mayor Watt  
Councillor Boulton (via Zoom)  
Councillor Gilbert  
Councillor Graham  
Councillor Konanz  
Councillor Miller

**Staff:**

Anthony Haddad, City Manager  
Angie Collison, Corporate Officer  
Angela Campbell, Director of Finance & Administration  
Kristen Dixon, General Manager of Infrastructure  
Blake Laven, Director of Development Services  
Kelsey Johnson, Director of Community Services  
Paula McKinnon, Deputy Corporate Officer

1. **Call to order**

The Mayor called the Committee of the Whole meeting to order at 1:01 p.m.

2. **Adoption of Agenda**

**It was MOVED and SECONDED**

THAT the agenda for the Committee of the Whole meeting held on March 5, 2024 be adopted as presented.

**CARRIED UNANIMOUSLY**

3. **Delegations:**

3.1 Community Foundations – Neighbourhood Grant Opening

Kim English, Community Foundations South Okanagan, provided Council with a presentation about Community Foundations and the opening of the 2024 neighbourhood grants.

3.2 Okanagan Basin Water Board

James Littley, Okanagan Basin Water Board, provided Council with a presentation on invasive zebra and quagga mussels and requested that Council send a letter to federal and provincial ministers supporting Okanagan Basin Water Board's Calls to Action on Invasive Mussel Prevention.

3.3 Regional District of Okanagan-Similkameen Budget Presentation

Jim Zaffino, Chief Administrative Officer, and Noelle Evans-MacEwan, Chief Financial Officer, Regional District of Okanagan-Similkameen provided Council with a presentation on the draft RDOS 2024 budget.

4. **Adjourn to Regular Meeting**

**It was MOVED and SECONDED**

THAT Council adjourn the Committee of the Whole meeting held March 5, 2024 at 2:15 p.m. and reconvene the Regular Meeting of Council.

**CARRIED UNANIMOUSLY**

Certified correct:

Confirmed:

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Angie Collison  
Corporate Officer

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Julius Bloomfield  
Mayor

## Special Parks and Recreation Advisory Committee Meeting

held via Zoom

Wednesday, March 6, 2024  
at 9:30 a.m.

**Present:**

John Archer, Chair  
Sue Fraser, Vice-Chair  
Cameron Baughen  
Juliana Buitenhuis  
Brenda Clark  
Joanne Grimaldi  
Victoria Jaenig  
Don Mulhall  
Marc Tougas

**Council Liaison:**

Isaac Gilbert, Councillor

**Staff:**

Kristen Dixon, General Manager of Infrastructure  
Kelsey Johnson, Director of Community Services  
Angela Campbell, Director of Finance and Administration  
Sheri Raposo, Land Administrator  
Todd Whyte, Parks Supervisor  
Anthony Policicchio, Facilities Manager  
Ysabel Contreras, Parks Planning & Capital Projects Coordinator  
Hayley Anderson, Legislative Assistant

1. **Call to Order**

The Chair called the Special Parks and Recreation Advisory Committee to order at 9:32 a.m.

2. **Adoption of Agenda**

**It was MOVED and SECONDED**

THAT the Parks and Recreation Advisory Committee adopt the agenda of March 6, 2024 as presented.

**CARRIED UNANIMOUSLY**

3. **Adoption of Minutes**

**It was MOVED and SECONDED**

THAT the Parks and Recreation Advisory Committee adopt the minutes of November 27, 2023 as presented.

**CARRIED UNANIMOUSLY**

Victoria Jaenig joined the meeting at 9:40 a.m.

4. **New Business**

4.1 Request for Proposal – Skaha Main Concession

**It was MOVED and SECONDED**

THAT the Parks and Recreation Advisory Committee recommend that Council direct staff to issue the Request for Proposal, for the use of 3701 Parkview Street, (Skaha Main Concession) for the purpose of seeking an operator for a food concession for a three (3) to five (5) year term.

**CARRIED UNANIMOUSLY**

4.2 Request for Proposal – Sudbury Beach Concession

**It was MOVED and SECONDED**

THAT the Parks and Recreation Advisory Committee recommends that Council direct staff to issue the Request for Proposal to seek an operator for the use of the City building located at 3846 Skaha Lake Road (Sudbury Beach Concession), for the purpose of seeking an operator for food concession for a three (3) to five (5) year sub-license to use agreement term.

**CARRIED  
Don Mulhall, Opposed**

4.3 Renewal of Beach Vending Program

**It was MOVED and SECONDED**

THAT the Parks and Recreation Advisory Committee recommend that Council direct staff to renew the Beach Vending Program for an additional three-year License to Use agreement Term.

**CARRIED UNANIMOUSLY**

Victoria Jaenig declared a Conflict of Interest as part of a community group that applied for the grant and left the meeting at 10:47 a.m.

Don Mulhall declared a Conflict of Interest as part of a community group that applied for the grant and left the meeting at 10:47 a.m.

Juliana Buitenhuis left the meeting at 10:52 a.m.

The Chair called a recess at 10:52 a.m.

The Chair reconvened the meeting at 10:54 a.m.

4.4 Phase 1 – Connected Community Capital Program

**It was MOVED and SECONDED**

THAT the Parks and Recreation Advisory Committee recommends that Council shortlist the following groups to Phase 2 of the Connected Community Capital Program:

- Activate Penticton Society
- Penticton & District Community Arts Council
- Penticton Lawn Bowling Club (revised project scope)
- Penticton Pickleball Club
- Penticton Safety Village Society (revised project scope)
- South Okanagan Minor Baseball Association (revised project scope)

**CARRIED UNANIMOUSLY**

Cameron Baughen left the meeting at 11:18 am.

5. **Next Meeting**

The next Parks and Recreation Advisory Committee meeting is scheduled to be held on April 24, 2024 at 9:30 a.m.

6. **Adjournment**

The Parks and Recreation Advisory Committee meeting held on March 6, 2024 adjourned at 11:20 a.m.

Certified Correct:

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Hayley Anderson  
Legislative Assistant



# Council Report

penticton.ca

**Date:** March 19, 2024  
**To:** Anthony Haddad, City Manager  
**From:** Angela Campbell, Director of Finance & Administration  
**Subject:** **Phase 1 – Connected Community Capital Program**

File No:

## Staff Recommendation

THAT Council direct staff to refer the following shortlist of organizations from Phase 1 of the Connected Community Capital Program to Phase 2:

- Activate Penticton Society
- Penticton & District Community Arts Council
- Penticton Lawn Bowling Club (revised project scope)
- Penticton Pickleball Club
- Penticton Safety Village Society (revised project scope)
- South Okanagan Minor Baseball Association (revised project scope)

## Strategic priority objective

**Mission:** Penticton will serve its residents, businesses and visitors through organizational excellence, partnership and the provision of effective and community focused services.

**Vibrant & Connected:** The City of Penticton will support vibrant and diverse activities creating opportunities for connection in community.

## Background

The Government of British Columbia announced on February 10, 2023 that \$1 billion in new grants would be going to local governments to help build community infrastructure and amenities to meet the demands of unprecedented population growth. The City of Penticton was allocated \$7,177,000 of funding through this program.

Direction from the Province on eligible costs include many areas, however applicable to this program include:

- Park additions/maintenance/upgrades including washrooms/meeting space and other amenities;  
and
- Recreation-related amenities

On May 16, 2023, Council approved the strategy for expending the Growing Communities Funds, Resolution 207/2023:

207/2023           **It was MOVED and SECONDED**  
THAT Council gives first, second and third reading to "Growing Communities Reserve Fund Bylaw No. 2023-17", a bylaw to establish a reserve fund for the Growing Communities Fund Grant in accordance with the *Community Charter*;  
AND That Council authorize the transfer of \$7.177M of grant funds from the Growing Communities Fund Grant into the Growing Communities Reserve Fund;  
AND That approximately 20% of the funds be used to fund existing projects that may require amendments due to inflation;  
AND That approximately 50% of the funds be used on community projects including, but not limited to Downtown, Okanagan and Skaha Lake decorative seasonal lighting displays, Riverside Park Skate Park and Basketball Court Lighting, Urban Forestry Master Plan Projects, and the Kiwanis Pier Replacement;  
AND That the remaining 30% be allocated to the North Gateway with projects to be identified as they arise or through the budget process;  
AND That Council direct staff to amend the 2023-2027 Financial Plan accordingly.

**CARRIED**  
**Councillor Miller, Opposed**

This motion included a reallocation of 10% of the proposed funding from the North Gateway Projects to community projects not identified in the staff report. The purpose of the reallocated funds was to set aside some of the Growing Communities Fund for projects being requested by third party organizations (such as sporting or other community groups) that require capital funding for City owned amenities on City property. Following that motion Staff provided a report to Council at the June 20<sup>th</sup> meeting on the Connected Communities Capital Program at which time Council passed the following Resolution 245/2023:

6.9     Growing Communities Fund Grant for 'Connected Community Capital Program'

245/2023           **It was MOVED and SECONDED**  
THAT Council approve and direct staff to implement the project program as outlined in this report dated June 20, 2023 titled "Growing Communities Fund Grant for 'Connected Community Capital Program'".

**CARRIED UNANIMOUSLY**

The process to apply for this program opened on October 16 and closed on November 30<sup>th</sup>. Staff then reviewed all applications to ensure they met eligibility criteria as well as how they fit among the other considerations of the program.

Capital Program Guidelines – Phase 1

To be eligible for funding, projects should meet the following criteria:

- Main use by user group is based in Penticton
  - May include regional groups with high use in Penticton
- Accessibility to residents through open use or non-exclusive membership
- Additional funding sources identified, as applicable
- Organizational contribution to the project
- Must utilize a City asset and/or be located on City property
- Historical and future growth within the organization
- Clear long term plan for the organization around how the project would be used into the future



Considerations for the project in Phase 1 would include:

- Previous investment in the program or activity
- Number of participants/residents benefiting from the service
- Demonstrated need for this service within the community
- Alignment with Council's Strategic Priorities and City's Master Plans
- Long term growth potential of those who would benefit from the project

On March 6<sup>th</sup> staff presented the applications and results from the internal staff review from Phase 1 of the program to the Parks and Recreation Advisory Committee with the following outcome:

#### 4.4 Phase 1 – Connected Community Capital Program

**It was MOVED and SECONDED**

THAT the Parks and Recreation Advisory Committee recommends that Council shortlist the following groups to Phase 2 of the Connected Community Capital Program:

- Activate Penticton Society
- Penticton & District Community Arts Council
- Penticton Lawn Bowling Club (revised project scope)
- Penticton Pickleball Club
- Penticton Safety Village Society (revised project scope)
- South Okanagan Minor Baseball Association (revised project scope)

**CARRIED UNANIMOUSLY**

### **Financial implication**

Council approved directing 10% of the Growing Communities Grant of \$7.177M towards community projects requested by third party organizations for a total of \$717k. Staff time would need to be dedicated to providing assistance to organizations applying for projects, as well as time to evaluate applications. Evaluations were reviewed with the available funding limit as a consideration.

Phase 2 of the application process will provide updated project costs and scopes, however based on staff recommended organizations to move forward, City contributions are currently estimated at \$482k.

### **Analysis**

#### Summary

A summary of all requests is provided in the Table 1, each request is detailed below along with staff recommendations based on eligibility and considerations.

**Table 1**

Organization	Project Estimate	City Funding Request	% of Contribution	Eligible	Recommended to Phase 2	Priority Ranking
Activate Penticton Society	59,500	44,500	25%	Yes	Yes	High
KISU Swim Club	120,000	115,000	4%	No	No	N/A
Penticton & District Community Arts Council	43,103	39,103	9%	Yes	Yes	High
Penticton Lawn Bowling Club	84,000	41,880	50%	Yes (Partial)	Yes (Partial)	Medium
Penticton Minor Lacrosse	1,000,000	975,000	3%	Yes	No	Medium
Penticton Paddle Sports Association	1,800,000	1,300,000	28%	Yes	No	Low
Penticton Pickleball Club	256,000	156,000	39%	Yes	Yes	Low
Penticton Safety Village Society	26,000	20,000	23%	Yes (Partial)	Yes (Partial)	High
Penticton Tennis Club	290,000	270,000	7%	Yes	No	Low
Penticton Track and Field Club	105,407	95,907	9%	No	No	N/A
People for Penticton Pets	134,730	132,730	1%	Yes	No	Low
People for Penticton Pets	254,000	252,000	1%	Yes	No	Low
South Okanagan Minor Baseball Association	208,000	187,200	10%	Yes	Yes (Partial)	Medium
<b>Total</b>	<b>4,380,740</b>	<b>3,629,320</b>				

Applicant Details:

Activate Penticton Society

Activate Penticton would like to expand its offerings to the public at the outdoor rink. Their project will bring upgrades to the outdoor public skating rink to make their low barrier winter activity even more inclusive and safe.

This project meets the project eligibility and considerations and staff are supportive of moving this application into Phase 2 to further flush out pricing and project elements.

KISU Swim Club

The KISU Swim Club aims to enhance its facilities by upgrading and stabilizing the starting blocks, providing swimmers with state-of-the-art equipment for enhanced training and competitions, improving the overall experience for participants.

This project does not meet the project eligibility and considerations based on the equipment proposed doesn't meet the criteria as laid out by the provincial guidelines for the Growing Communities Fund grant, as well as the number of impacted users is minimal.

Penticton & District Community Arts Council (PDCAC)

The PDCAC plans to replace flooring materials on the upper floor of the Leir House. Install alarm system and outdoor cameras for the security of all user groups, faculty, service users, residents, and visitors.

This project meets the project eligibility and considerations and staff are supportive of moving this application into Phase 2 to further flush out pricing and project elements.

Penticton Lawn Bowling Club

The Project objective is to replace the roof of the Club house and Garage and to renovate the interior of the Club house.

The majority of this project meets the project eligibility and considerations and staff are supportive of moving this application into Phase 2 on a refined basis to further flush out pricing and project elements. Elements of the project that are eligible include roof replacement, flooring replacement and addition of 16 more lockers. Ineligible includes repairs to walls and ceilings as well as replacement of lighting.

Penticton Minor Lacrosse (PMLA)

PMLA is looking to renovate and update the outdoor dry floor box at Skaha Park to allow for 12 month use.

This project meets the project eligibility and considerations however staff are not supportive of moving this application into Phase 2 as the project is beyond the ability of the funding for the program. The quote for this project is also over a year old now and would likely be higher than submitted. Staff recommend this project be considered as part of the Sport & Recreation Needs Assessment being completed by the Recreation Department this year, which will help prioritize this larger request in the context of other larger sport and recreation projects.

Penticton Paddle Sports Association (PPSA)

The PPSA is proposing to replace the current boathouse at Skaha Park East with a safe alternative in order to meet the needs of our growing community.

This project meets the project eligibility for the Provincial grant, however does not meet the criteria for other considerations as this building is limited to storage for the club and not accessible or useable by others in the community. The project exceeds the funding for the program, and in addition, this facility has been identified for replacement in the near future through the Skaha Master Plans, this request will be reviewed in conjunction with the City's annual capital process.

Penticton Pickleball Club

Currently there are 6 Pickleball courts at Robinson Park with an additional 2 courts being planned for construction in the spring of 2024 through the City's approved budget. The club has identified a need for at least 12 Pickleball Courts and they believe there is sufficient room for 12 courts.

This project meets the project eligibility and considerations however staff note that there are already dedicated funds in the 2024 budget to add two additional Pickleball courts for a total of 8. Staff recommend this request, which would require further investment, be considered as part of the Sport & Recreation Needs Assessment being completed by the Recreation Department this year.

Past City contributions to this amenity/service include \$105k, future contributions are estimated at \$184k.

Penticton Safety Village Society

As the Safety Village in Penticton approaches 40 years of use, it needs some restoration and new structures. In the past two years, some of the restoration of buildings has been undertaken but more is needed including a metal structure for shade, building repairs and roadwork.

The majority of this project meets the project eligibility and considerations and staff are supportive of moving this application into Phase 2 on a refined basis to further flush out pricing and project elements. Elements of the project that are eligible include a metal pavilion structure as well as road and walkway surfaces. Ineligible components include building siding replacements.

Past City contributions to this amenity/service include \$180k.

*Penticton Tennis Club*

The Penticton Tennis Club requests that the City of Penticton direct funds to the Club's upgrade and maintenance project. The project aims to resurface the four existing courts, adjust or replace the lighting, and add appropriate washroom facilities.

This project meets the project eligibility for the Provincial grant, however there are no current City Master Plans, although this has been identified as an area that requires future planning consideration. In addition, according to the application the courts are used exclusively by the Club and otherwise not available to the general public. There is scheduled drop in for a fee, however other publicly available courts exist that may better suit community needs. The needs of the community and the Club as it relates to tennis will be part of the Sport & Recreation Needs Assessment being completed by the Recreation Department this year.

Past City contributions to this amenity/service include \$185k, future contributions are estimated at \$1M.

*Penticton Track and Field Club*

The Club is looking to provide pole vault for Penticton youth by obtaining a pole vault roll-off storage garage and rubber runway to be stored at McNicoll Park.

This project does not meet the project eligibility and considerations based on the equipment proposed doesn't meet the criteria as laid out by the provincial guidelines for the Growing Communities Fund grant, in addition, the Club has indicated an intention to move this equipment in the future to an alternate location not on City lands.

*People for Penticton Pets*

This group is looking to create a destination style dog park to serve residents and visitors at Riverside Park. A beautiful, fenced, shady place where people and dogs will be comfortable and safe while enjoying fresh air, exercise and camaraderie.

This project meets the project eligibility and considerations however staff are not supportive of moving this application into Phase 2 as there are already planned investments in the budget to complete upgrades to existing Dog Parks, and a longer term plan to investigate the need, and opportunity for, a future dedicated Dog Park. Staff recommend this project be considered in the future after this work is complete.

Future City contributions to this amenity/service are estimated at \$608k.

*People for Penticton Pets*

This group is looking to convert Esplanade Beach and Park into a clean, usable, family friendly, multi-use, park and beach where dogs / pets are welcome - leash optional.

This project meets the project eligibility and considerations however staff are not supportive of moving this application into Phase 2 as there are already planned investments in the budget relating to Dog Parks, and a broader master plan for the esplanade area has not yet been completed (tentatively scheduled for 2025). Staff recommend this project be considered in the future once the master plan is completed.

Future City contributions to this amenity/service are estimated at \$608k.

South Okanagan Minor Baseball Association

Infrastructure upgrades to three baseball diamonds in the City of Penticton to increase usage and safety for youth athletes, coaches and spectators. Proposed upgrades include restroom upgrades at McLaren Park, moving the ball diamond at Kiwanis Park and increasing the fencing size at McNicoll Park.

The majority of this project meets the project eligibility and considerations and staff are supportive of moving this application into Phase 2 on a refined basis to further flush out pricing and project elements. Elements of the project that are proposed to move forward include fencing upgrades to both Kiwanis and McNicoll Park. Moving the ball diamond for Kiwanis Park would be a significant project and will be considered amongst other methods to determine what is the most appropriate measure to deal with the concerns in that park. Further investment into McLaren Park is contingent upon a decision as to the future of that area.

Future City contributions to this amenity/service are estimated at \$1.3M.

Process and Timelines

Upon Council endorsement of the short listed projects, Phase 2 will consist of a four-month application window to allow the short-listed groups sufficient time to work with City staff to properly scope the work, estimate and verify costs, and have project designs prepared. As this application process will be extensive, applicant groups will be required to work with City staff to ensure all project considerations are met prior to submission. Applications for this phase will be accepted only through the City's grant software, after the passing of the deadline all applications would be reviewed by applicable staff and subsequently brought back to Council for review.

Proposed timelines are as follows (subject to volume of applications):



**Attachments**

Attachment A – Connected Communities Phase 1 Application Summary



Respectfully submitted,

Angela Campbell

Director of Finance & Administration

Concurrence

General Manager of Infrastructure <i>KD</i>	Director of Community Services <i>KJ</i>	City Manager <i>SPH</i>
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Item	Organization Name	Years of Operation	Project Name	Civic Address or Location	Brief Project Description	Usage of the Amenity	Pentiction User Group	Regional User Group	Accessibility	Accessibility Follow Up	Preliminary Project Cost Estimate	User Group Contribution	% Contribution	Funding Remaining to Complete	City Contribution	Additional Contributions	Detailed Design Financial Assistance	Internal Ranking	Comments	
1	Activate Pentiction Society	3	Outdoor Skating Rink Upgrades	107 Main St.	Activate Pentiction would like to expand its offerings to the public at the outdoor rink. Our project will bring upgrades to the outdoor public skating rink to make our low barrier winter activity even more inclusive and safe.	Currently the skating rink is available to the public as often as possible, and is available to be rented out for events. We have had two very successful seasons with lots of public skating, and some very high profile events hosted on the rink such as: the firefighters dodgeball tournament, and the BCHL All Star weekend. The rink is going to be a focal point of the BCHL tournament again this year which it sounds like will be part of a larger winter festival.	38,000	50,000	Yes		\$59,500.00	\$15,000.00	25%	\$44,500.00	75%	\$44,500.00	No	High	Supported	We will be using all avenues, we are pursuing other provincial grants, local annual sponsorships, and private donations. Both annual sponsorships and private donations can easily be made through our website. www.activatepentiction.com
2	KISU Swim Club	42	KISU Swim Club Starting Blocks Project	325 Power St.	The KISU Swim Club aims to enhance its facilities by upgrading and stabilizing the starting blocks, providing swimmers with state-of-the-art equipment for enhanced training and competitions, improving the overall experience for participants.	KISU currently has over 200 swimmers who train in the facility over 62 hours/week. Along with practice. Along with training we host time trials, regional and Championship meets for our competitive swimmers. For our noncompetitive groups we run muffin meets and Jamborees to prepare them for their competitive career. In February 2024, KISU will be hosting Swim BC Winter Divisionals a grueling 3-day meet, where many swimmers achieving qualifying times for their advancement to Provincials.	220	60	No	Unfortunately, the starting blocks located at the pool are for specific use only. The Community Center's Aquatic programs will also have access to the starting blocks. Other than specific training the starting blocks are blocked off by the Community Centre.	\$120,000.00	\$5,000.00	4%	\$115,000.00	96%	0%	No	N/A	Not eligible - equipment does not meet provincial guidelines	If more funds are needed to help facilitate the upgrading of the starting blocks, we will do whatever we can from fundraising, organizing sponsors, and applying for additional grants to help.
3	Pentiction & District Community Arts Council	63	Leir House Cultural Center Improvements	220 Manor Park Ave.	Replace flooring materials on the upper floor of the Leir House. Install alarm system and outdoor cameras for the security of all user groups, faculty, service users, residents, and visitors.	The Leir House Cultural Center is home to three organizations: The Pentiction Arts Council, the Pentiction Academy of Music and Dramatic Arts, and the Pentiction Potter's Guild. These user groups work in tandem to offer our service users workshops, classes, and educational programs in various art forms, such as painting, sculpture, music, and drama. The amenity provides opportunity and space for multiple other user groups and individuals. Activities take place indoors and outdoors.	45	10	Yes		\$43,103.00	\$4,000.00	9%	\$39,103.00	91%	\$39,103.00	No	High	Safety upgrades	We continue to work diligently fundraising for improvements to the Leir House, developing new relationships with other non-profits and for-profit businesses. As always, we continue to seek new infrastructure grants as they arise. We have applied for a large provincial grant to address the carriage house space.
4	Pentiction Lawn Bowling Club	97	Project Renovate	260 Brunswick St.	The Project objective is to replace the roof of the Club house and Garage and to renovate the interior of the Club house.	The members are primarily Seniors and the Club is run solely by volunteers, there are no paid employees. The facility is used for: Open Bowling daily in Summer, 6 times weekly in Winter; ten Club Tournaments; Terry o'Riordan League; Bonney Cup Open Tournament; ILBA Tournament; Coaching and Umpire courses; compete in ILBA, Provincial and 55+ Games; Youth Programme with local schools; social events throughout the year. In addition, the Club is open to casual visitors and local groups.	300	100	Yes		\$84,000.00	\$42,120.00	50%	\$41,880.00	50%	\$41,880.00	No	Medium	Not all the upgrades are capital, will need to refine the scope of the project	We estimate \$1,280 will be contributed through Fortis BC Lighting rebates, based on current regulations. We will also apply for grants from New Horizons for Seniors and BC Gaming.
5	Pentiction Minor Lacrosse	35	Build the BOX - Skaha Park	Skaha Lake Rd. & Parkview St.	PMLA is looking to renovate and update the outdoor dry floor box at Skaha Park to allow for 12 month use.	The outdoor box is envisioned as a versatile and dynamic space with many uses, catering to the diverse needs and interests of the community. From hosting lacrosse tournaments and dry floor sports leagues to serving as a venue for cultural events and community gatherings, the outdoor box is designed to be a hub of activity.	300	1,600	Yes		\$1,000,000.00	\$25,000.00	3%	\$975,000.00	98%	0%	Yes	Medium	Quote is low, but facility use is needed. May be out of the scope of this project	We have approached local construction businesses willing to sponsor and donate labour and supplies. We have lacrosse/construction families willing to donate time and labour. We will fundraise to contribute towards the project. We will fundraise and contribute to the maintenance of the building/facility. We will acquire sponsorships from local businesses and residences.
6	Pentiction Paddle Sports Association	24	Skaha Lake Boathouse	3885 South Main Street (Skaha Park East)	Replace the current boathouse at Skaha Park East with a safe alternative in order to meet the needs of our growing community.	Storage of canoes & equipment for training and to host events. Paddling programs run daily (17 practices per week), with an emphasis on accessibility for all ages, abilities & financial means. We host school groups from the South Okanagan. We work with other agencies such as The Foundry, Interior Health, Discovery House, etc. to offer paddling opportunities. Leadership training & clinics hosted for Interior BC attendees. We host two dragonboat festivals and two outrigger races (3500+ attendees).	500	1,265	Yes		\$1,800,000.00	\$500,000.00	28%	\$1,300,000.00	72%	0%	Yes	Low	Use of the building is limited to storage for the club and outside of the scope of this funding	We are working with The South Okanagan Community Foundation to set up flow-through funding for donations to offer tax receipts. We are launching a fundraising campaign and will look for corporate sponsors as well who may be interested in naming rights. Ongoing search for a fundraising professional to manage the campaign. We are always looking for grant opportunities!
7	Pentiction Pickleball Club	9	Construction of 4 Pickleball Courts	2695 South Main Street. (Robinson Park) OR Skaha Lake Park	Currently there are 6 PBall courts at Robinson Park. An additional 2 courts are being planned for construction in the spring of 2024. There is a clear need for at least 12 PBall Courts. We believe there is sufficient room for 12 courts.	There are 6 courts currently at Robinson Park. The Club leases all 6 courts for Club member use Mon-Friday from 8 a.m. - 2pm and Saturdays from 8 a.m. to noon. The Club also has use of 4 courts on Mon-Friday evenings from 5 pm to dusk. We have capped our membership at 370 members this year and there are currently 70 on the waiting list. We offer a variety of programs for beginners to advanced skill levels. Courts are full during 90% of Club time and there are waiting lists for most programs.	312	58	Yes		\$256,000.00	\$100,000.00	39%	\$156,000.00	61%	\$156,000.00	No	Low	Already in the budget	We currently have \$65,000 set aside to contribute towards the construction of these additional courts. We will solicit donations from our members to achieve the \$100,000 total. We have been informed by individuals that they will donate any shortfall to reach the \$100,000 target upon receipt of a tax receipt. We do not wish to solicit donations from the business community of Pentiction. It has been the position of the Club that we would rather business/organizations in Pentiction focus their philanthropic/charitable donations to organizations that support disadvantaged community members and youth organizations. The Club is seriously committed to contributing \$100,000 to the building of four more pickleball courts. How is that not a win for the City?
8	Pentiction Safety Village Society	39	Pentiction Safety Village Revitalization	490 Edmonton Ave.	As the Safety Village in Pentiction approaches 40 years of use, it needs some restoration and new structures. In the past two years, some of the restoration of buildings has been undertaken but more is needed.	Classes come from over 50 km away to enjoy our quaint village. We serve 13 local schools (both public and private), 10 neighboring community schools, and many local child-related organizations. Our organization is accessible to the public by having open bike days in which the public attends free of charge. The facility is also available to groups and community members who wish to book the facility, and we also host several community events each year.	4,000	5,000	Yes		\$26,000.00	\$6,000.00	23%	\$20,000.00	77%	\$14,000.00	Yes	High	Metal structure and roadwork only	Badgirl Branding is holding the Whoville Pentiction Christmas event at the Pentiction Safety Village and all profits will be donated to the village. This is the first of several fundraisers that will be scheduled to raise needed funds for improvements. Note on the attached financials, they include our unspent 2024 Gaming Grant of \$20,000 that pays our Manager and Student wages, as well as the \$5,000 Jumpstart grant received from Canadian Tire for the purchase of new bikes and helmets.
9	Pentiction Tennis Club	100	Pentiction Tennis Club courts upgrade and maintenance	675 Marina Way	The Pentiction Tennis Club requests that the City of Pentiction direct funds to the Club's upgrade and maintenance project. The project aims to resurface the four existing courts, adjust or replace the lighting, and add appropriate washroom facilities.	The Club runs programs and tournaments for all ages and offers beginner tennis players free lessons. The court schedule includes junior development programs, coached adult programs, five leagues (men's and women's singles, men's and women's doubles, and mixed doubles), and drop-in times. The Club also hosts the following tournaments: Birks Cup, Ainsley Cup, and Kate Kimberley Cup.	211	42	Yes	Non-members are welcome to book court access through registration and a small fee for drop-in times or through free beginner tennis lessons. Due to theft and vandalism concerns, and as permitted by the License to Use Agreement, the courts are locked when Club members are not on site.	\$290,000.00	\$20,000.00	7%	\$270,000.00	93%	0%	No	Low	City Master Plans do not support having tennis courts in this area. Courts are exclusive to club but other courts exist that may suit their needs	The Club is preparing an application for the National Bank Play Your Court program. In addition to seeking other grants, the Club is brainstorming fundraising ideas.
10	Pentiction Track and Field Club	3	Pentiction Track and Field Club Pole Vault Project	McNicoll Park end of a track straight-away on the grass outside the track	Our track club serves 120 youth ages 5-18 in the South Okanagan. We are looking to provide pole vault for Pentiction youth by obtaining a pole vault roll-off storage garage and rubber runway to be stored at McNicoll Park.	We use McNicoll Park with up to 100 athletes from Sept-Nov and Feb-May for 2 hr/day, up to 4 days/wk. Ideally we try to offer all track disciplines at each practice, however, we currently cannot provide pole vault for our vaulters and decathletes. We have about 30 athletes wanting to participate. We also use the Pentiction Secondary School (PSS) track from May-Nov 4x/week, but it also does not afford access to pole vault equipment or storage.	100	21	Yes		\$105,407.37	\$9,500.00	9%	\$95,907.37	91%	0%	No	N/A	Not eligible - equipment is meant to be relocated off City lands	Donations in Kind: University of Saskatchewan \$54,425 d'OP Water Solutions donation for raised runway: \$2000 Hvidston Family donations (poles) and labour for building runway: \$6500
11	People for Pentiction Pets	1	Riverside Dog Park	187 Riverside Dr.	Create a destination style dog park to serve residents and visitors. A beautiful, fenced, shady place where people and dogs will be comfortable and safe while enjoying fresh air, exercise and camaraderie.	People for Pentiction Pets does not use the space to date. Currently the space is largely unused. Occasionally, it is used as a de-facto off-leash dog park which is illegal until the pilot project begins. Occasionally homeless people are seen camped out there. The perimeter walking paths are high use both with and without dogs.	11,000	389,000	Yes	Anyone can access and use it within the 'Terms of Park Use'. No membership or fees will be required. Dogs will need to be vaccinated, no aggressive dogs etc.	\$134,730.00	\$2,000.00	1%	\$132,730.00	99%	0%	No	Low	Current investment in dog parks already taking place	We have a Facebook page and a GoFundMe page. Should the project be selected we have a number of fundraising plans which will include corporate sponsors, and a tax deductible receipts program. Man power and volunteerism can be difficult to quantify but a number of people are willing to put in manpower to clean beaches etc., including a commitment from our local cubs and scouts group.

Item	Organization Name	Years of Operation	Project Name	Civic Address or Location	Brief Project Description	Usage of the Amenity	Penticton User Group	Regional User Group	Accessibility	Accessibility Follow Up	Preliminary Project Cost Estimate	User Group Contribution	% Contribution	Funding Remaining to Complete	City Contribution	Additional Contributions	Detailed Design Financial Assistance	Internal Ranking	Comments	
12	People for Penticton Pets	1	Esplanade Beach and Park Upgrade	675 Marina Way	Convert Esplanade Beach and Park into a clean, usable, family friendly, multi use, park and beach where dogs / pets are welcome - leash optional.	Currently the park and beach are seldom used. Those experiencing homelessness are one of the most frequent users. Occasionally people walking their dogs are seen walking along the beach. The beach is dirty, littered with dead sea grass and other decaying organic materials. Rocks and twigs are mixed into the sand. Evidence of old fire pits and abandoned camps are present. It is not pleasing in its current state. Not many people use it due to its unmaintained and unsafe condition.	11,000	20,000	Yes		\$254,000.00	\$2,000.00	1%	\$252,000.00	99%	0%	No	Low	Current investment in dog parks already taking place	
13	South Okanagan Minor Baseball Association	30	Baseball Penticton Infrastructure Upgrade Project	McLaren Field, Kiwanis Park & McNicoll Park	Infrastructure upgrades to three baseball diamonds in the City of Penticton to increase usage and safety for youth athletes, coaches and spectators.	The amenities are used to host youth baseball practices, clinics and games on public City Parks. The common facilities are also open to members of the Penticton Community and therefore, serve a dual purpose for the City of Penticton.	300	350	Yes		\$208,000.00	\$20,800.00	10%	\$187,200.00	90%	\$187,200.00	Yes	Medium	Future of McLaren park is unknown, investment in bathrooms is significant. Diamond relocation should be fencing instead. The diamond at Kiwanis Park is non conforming to the rules of play for the age group that plays at the site. A combination of field reconstruction and fencing work is likely needed at that site. TW	
											\$4,380,740.37	\$751,420.00		\$3,629,320.37	\$482,683.00					





# Council Report



File No: 4320-80

**Date:** March 19, 2024  
**To:** Anthony Haddad, City Manger  
**From:** Sheri Raposo, Land Administrator

**Subject: Request for Proposal - Sudbury Beach Concession  
3846 Skaha Lake Road**

## Staff Recommendation

THAT Council direct staff to issue the Request for Proposal to seek an operator for the use of the City building located at 3846 Skaha Lake Road (Sudbury Beach Concession), for the purpose of seeking an operator for a food concession for a three (3) or five (5) year Sub-License to Use agreement term;

AND THAT Council authorize the Director of Finance and Administration and Corporate Officer to execute the Sub-License to Use agreement.

## Strategic priority objective

**Vision:** A vibrant, resilient, and healthy waterfront city focused on safety, livability, and vibrancy.

## Property Description

Sudbury Beach Concession is located on park land at 3846 Skaha Lake Road, as shown outlined in red on Attachment A. The concession is located on land the City leases from the Province (Attachment B). The building includes a ±320 sq. ft. concession area. Public washrooms are located at the north end of the building and do not form part of the Licensed Area, with the City being responsible for the maintenance of the washrooms.

## Background

On February 20, 2024, staff brought forward the request to Council to refer the Request for Proposal to the Parks and Recreation Advisory Committee (PRAC) for their review and recommendation with the following outcome:

8.5	<u>Request for Proposal – Sudbury Beach Concession</u> Re: 3846 Skaha Lake Road
52/2024	<p><b>It was MOVED and SECONDED</b> THAT Council refer the Request for Proposal process to the Parks and Recreation Advisory Committee for their review and recommendation for the use of 3846 Skaha Lake Road (Sudbury Beach Concession) for the purpose of seeking an operator for a food concession for a three (3) year Sub-License to Use agreement term.</p> <p style="text-align: right;"><b>CARRIED UNANIMOUSLY</b></p>

**Request for Proposal Process (RFP)**

An RFP is used when the City has a need and is seeking proposals to provide a product or service. The New West Partnership Trade Agreement does not require issuance of an RFP for revenue generating opportunities such as this, however it may be an appropriate solution to seek out a future operator through a competitive process. The last time that this concession was offered publicly was in 2022.

**License to Use Summary**

The Sub-License to Use agreement for the concession will commence May 1, 2024.

The operator of the concession will be responsible for utilities, day-to-day upkeep, safety, and security of the building. The City will continue to be responsible for the major maintenance of the building, surrounding grounds and adjoining washrooms.

**Financial Implication**

At this time, there is no financial implication to the City. Staff anticipate that the annual rate in the proposals should align with the current lease rate appraisal that was recently completed.

**Park Land Protection and Use Policy**

As this is on City parkland, the Park Land Protection and Use Policy requires any Agreements within our parkland follow the proper step procedure and receive a Parks and Recreation Advisory Committee (PRAC) recommendation. City staff completed their final procedural step and presented a report and a recommendation to the PRAC Committee on March 6, 2024, with the following outcome:

3.1 Request for Proposal – Sudbury Beach Concession

**It was MOVED and SECONDED**

THAT the Parks and Recreation Advisory Committee recommends that Council direct staff to issue the Request for Proposal to seek an operator for the use of the City building located at 3846 Skaha Lake Road (Sudbury Beach Concession), for the purpose of seeking an operator for food concession for a three (3) to five (5) year sub-license to use agreement term.

**CARRIED**

**Don Mulhall, Opposed**

The Parks and Recreation Advisory Committee had lengthy discussions around the term of the LTU agreement. The Committee acknowledged, that during our RFP process, in the event that a successful proponent was providing significant capital and financial investment to operate our seasonal concessions, that staff should have the ability to issue a five (5) year LTU agreement, in order for the successful proponent to recover their investment.

**Analysis**

Strategically placed concession stands at parks and beaches provide locals and visitors with convenient refreshment options during the summer months, ultimately adding to the vibrancy of our community.

To ensure an open competitive environment the City's practice, and staff's recommendation, is to issue a request for proposal for concession operators. This process was endorsed by the Parks Committee, with the minor change to modify the term from three (3) years to potentially five (5) years, and the intent would be for the RFP's to be issued and awarded in time for the operators to commence operations by May 1, 2024. No further involvement from the Committee or Council will be required to complete this process.

**Attachments**

Attachment A – Aerial View of Building and Location of the Sudbury Beach

Attachment B- Provincial Lease

Respectfully submitted,

Sheri Raposo,  
Land Administrator

Concurrence

Director of Finance & Administration  <i>AMC</i>	General Manager of Infrastructure  <i>KD</i>	Director of Community Services  <i>KJ</i>	City Manager  <i>SBH</i>
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**ATTACHMENT A**

**3846 Skaha Lake Road – Sudbury Beach Concession**





Our File: 0174423

December 6, 2017

Corporation of The City of Penticton  
171 Main St  
Penticton BC V2A 5A9

Dear Sir/Madam:

Enclosed is an originally executed copy of Lease Number 348415 covering District Lots 12s together with that part of District Lot 3867s, all of Similkameen Division Yale District, being part of the bed of Skaha Lake, containing 4.68 hectares, more or less

The Lease is issued in your name for a term of 114 months commencing July 1, 2017, for public recreation purposes.

This Lease replaces Lease Number 333023 which has been noted as expired.

Please ensure that this document is kept in a safe location, as it must be presented to this office for assignment, should the interest be transferred or sold.

Should you have any questions regarding this matter, please contact Lynda Zonruiter at the telephone number or e-mail address listed below.

Yours truly,

Jill Hay  
Licensing Clerk

Attachment

pc: B.C. Assessment Authority, Kelowna  
City of Penticton

Lease No.:

348415

File No.: 0174423

Disposition No.: 925107

THIS AGREEMENT is dated for reference July 1, 2017 and is made under the *Land Act*.

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**, represented by the minister responsible for the *Land Act*, Parliament Buildings, Victoria, British Columbia

(the "Province")

AND:

CORPORATION OF THE CITY OF PENTICTON  
171 Main St  
Penticton, BC V2A 5A9

(the "Lessee")

The parties agree as follows:

#### ARTICLE 1 - INTERPRETATION

1.1 In this Agreement,

"**Agreement**" means this lease;

"**Commencement Date**" means July 1, 2017;

"**disposition**" has the meaning given to it in the *Land Act* and includes a licence of occupation;

"**Hazardous Substances**" means any substance which is hazardous to persons, property or the environment, including without limitation

(a) waste, as that term is defined in the *Environmental Management Act*; and

- (b) any other hazardous, toxic or other dangerous substance, the use, transportation or release into the environment of which, is now or from time to time prohibited, controlled or regulated under any laws or by any governmental authority, applicable to, or having jurisdiction in relation to, the Land;

**“Improvements”** includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Land, and attached to it or intended to become a part of it, and also includes any clearing, excavating, digging, drilling, tunnelling, filling, grading or ditching of, in, on or under the Land;

**“Land”** means that part or those parts of the Crown land either described in, or shown outlined by bold line on, the schedule attached to this Agreement entitled “Legal Description Schedule” except for those parts of the land that, on the Commencement Date, consist of highways (as defined in the *Transportation Act*);

**“Realty Taxes”** means all taxes, rates, levies, duties, charges and assessments levied or charged, at any time, by any government authority having jurisdiction which relate to the Land, the Improvements or both of them and which you are liable to pay under applicable laws;

**“Rent”** means the rent set out in Article 3;

**“Security”** means the security referred to in section 6.1 or 6.2, as replaced or supplemented in accordance with section 6.5;

**“Term”** means the period of time set out in section 2.2;

**“we”**, **“us”** or **“our”** refers to the Province alone and never refers to the combination of the Province and the Lessee: that combination is referred to as **“the parties”**; and

**“you”** or **“your”** refers to the Lessee.

1.2 In this Agreement, “person” includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties require.

1.3 The captions and headings contained in this Agreement are for convenience only and do not define or in any way limit the scope or intent of this Agreement.

1.4 This Agreement will be interpreted according to the laws of the Province of British Columbia.



- 1.5 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Agreement are enactments of the Province of British Columbia.
- 1.6 If any section of this Agreement, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Agreement will not be affected and this Agreement will be enforceable to the fullest extent permitted by law.
- 1.7 Each schedule to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.
- 1.8 This Agreement constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement and this Agreement may not be modified except by subsequent agreement in writing between the parties.
- 1.9 Each party will, upon the request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Agreement.
- 1.10 Any liabilities or obligations of either party arising, or to be performed, before or as a result of the termination of this Agreement, and which have not been satisfied or remain unperformed at the termination of this Agreement, any indemnity and any release in our favour and any other provision which specifically states that it will survive the termination of this Agreement, shall survive and not be affected by the expiration of the Term or the termination of this Agreement.
- 1.11 Time is of the essence of this Agreement.
- 1.12 Wherever this Agreement provides that an action may be taken, a consent or approval must be obtained or a determination must be made, then you or we, as the case may be, will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination; but where this Agreement states that you or we have sole discretion to take an action, provide a consent or approval or make a determination, there will be no requirement to show reasonableness or to act reasonably in taking that action, providing that consent or approval or making that determination.
- 1.13 Any requirement under this Agreement for us to act reasonably shall not require us to act in a manner that is contrary to or inconsistent with any legislation, regulations, Treasury Board directives or other enactments or any policy, directive, executive direction or other such guideline of general application.

1.14 Where this Agreement contains the forms of words contained in Column I of Schedule 4 of the *Land Transfer Form Act*, those words will have the same effect and be construed as if the appropriate forms of words contained in Column II of that Schedule were contained in this Agreement, unless the context requires another construction of those words.

**ARTICLE 2 - GRANT AND TERM**

- 2.1 On the terms and conditions set out in this Agreement, we grant you a lease of the Land for public recreation purposes.
- 2.2 The term of this Agreement commences on the Commencement Date and terminates on the 114 months anniversary of that date, or such earlier date provided for in this Agreement. We reserve the right to terminate this Agreement in certain circumstances as expressly provided in this Agreement.

**ARTICLE 3 - RENT**

3.1 The Rent for the Term is \$1.00, the receipt of which we acknowledge.

**ARTICLE 4 - COVENANTS**

- 4.1 You must
  - (a) pay, when due,
    - (i) the Rent to us at the address set out in Article 10,
    - (ii) the Realty Taxes, and
    - (iii) all charges for electricity, gas, water and other utilities supplied to the Land;
  - (b) deliver to us, immediately upon demand, receipts or other evidence of the payment of Realty Taxes and all other money required to be paid by you under this Agreement;
  - (c) observe, abide by and comply with
    - (i) all applicable laws, bylaws, orders, directions, ordinances and regulations of any government authority having jurisdiction in any way affecting your use or occupation of the Land or the Improvements including without limitation all laws, bylaws, orders, directions, ordinances and regulations relating in any way

to Hazardous Substances, the environment and human health and safety, and

- (ii) the provisions of this Agreement;
- (d) in respect of the use of the Land by you or by any person who enters upon or uses the Land as a result of your use of the Land under this Agreement, keep the Land and the Improvements in a safe, clean and sanitary condition satisfactory to us, and at our written request, rectify any failure to comply with such a covenant by making the Land and the Improvements safe, clean and sanitary;
- (e) not commit any wilful or voluntary waste, spoil or destruction on the Land or do anything on the Land that may be or become a nuisance to an owner or occupier of land in the vicinity of the Land;
- (f) use and occupy the Land only in accordance with and for the purposes set out in section 2.1;
- (g) not construct, place, anchor, secure or affix any Improvement in, on, or to the Land or otherwise use the Land in a manner that will interfere with any person's riparian right of access over the Land and you acknowledge and agree that the granting of this Agreement and our approval of the Improvements under this Agreement, whether through our approval of a Management Plan (where applicable) or otherwise, do not:
  - (i) constitute a representation or determination that such Improvements will not give rise to any infringement of any riparian right of access that may exist over the Land; or
  - (ii) abrogate or authorize any infringement of any riparian right of access that may exist over the Land;

and you remain responsible for ensuring that you will not cause any infringement of any such riparian right of access; despite the foregoing, you will be deemed to not be in breach of this subsection so long as each owner of any upland property adjacent to the Land whose rights of riparian access are infringed by your activities undertaken within the Land remains bound by an agreement in which that owner consents to any such infringement. Any such agreement must be in a form and on terms acceptable to us, including, if we so require that the agreement be in a form appropriate for registration in a Land Title Office against the title of the upland property. You acknowledge that if any such agreement ceases to be binding on an upland owner or is found to be ineffective or unenforceable for any reason then you remain responsible for complying with this subsection and we may terminate this Agreement in accordance with Article 8 if you fail to satisfy your obligations under this subsection;

- (h) pay all accounts and expenses as they become due for labour or services performed on, or materials supplied to, the Land except for money that you are required to hold back under the *Builders Lien Act*;
- (i) if any claim of lien over the Land is made under the *Builders Lien Act*, immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by you and you have taken the steps necessary to ensure that the claim of lien will not subject the Land or any interest of yours under this Agreement to sale or forfeiture;
- (j) not deposit on the Land, or any part of it, any earth, fill or other material for the purpose of filling in or raising the level of the Land unless you obtain our prior written approval;
- (k) permit the free and unrestricted use by the general public of the banks of Skaha Lake for recreational and fishing purposes;
- (l) take all reasonable precautions to avoid disturbing or damaging any archaeological material found on or under the Land and, upon discovering any archaeological material on or under the Land, you must immediately notify the ministry responsible for administering the *Heritage Conservation Act*;
- (m) permit us, or our authorized representatives, to enter on the Land at any time to inspect the Land and the Improvements, including without limitation to test and remove soil, groundwater and other materials and substances, where the inspection may be necessary or advisable for us to determine whether or not you have complied with your obligations under this Agreement with respect to Hazardous Substances, provided that we take reasonable steps to minimize any disruption of your operations;
- (n) indemnify and save us and our servants, employees and agents harmless against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of one or more of the following:
  - (i) any breach, violation or non-performance of a provision of this Agreement,
  - (ii) any conflict between your use of the Land under this Agreement and the lawful use of the Land by any other person, and
  - (iii) any personal injury, bodily injury (including death) or property damage occurring or happening on or off the Land by virtue of your entry upon, use or occupation of the Land,

and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand; and

- (o) on the termination of this Agreement,
  - (i) peaceably quit and deliver to us possession of the Land and, subject to paragraphs (ii) and (iii), the Improvements in a safe, clean and sanitary condition,
  - (ii) within 90 days, remove from the Land any Improvement you want to remove, if the Improvement was placed on or made to the Land by you, is in the nature of a tenant's fixture normally removable by tenants and is not part of a building (other than as a tenant's fixture) or part of the Land and you are not in default of this Agreement,
  - (iii) remove from the Land any Improvement that we, in writing, direct or permit you to remove, other than any Improvement permitted to be placed on or made to the Land under another disposition, and
  - (iv) restore the surface of the Land as nearly as may reasonably be possible, to the condition that the Land was in at the time it originally began to be used for the purposes described in this Agreement, but if you are not directed or permitted to remove an Improvement under paragraph (iii), this paragraph will not apply to that part of the surface of the Land on which that Improvement is located,

and all of your right, interest and estate in the Land will be absolutely forfeited to us, and to the extent necessary, this covenant will survive the termination of this Agreement.

4.2 You will not permit any person who enters upon or uses the Land as a result of your use of the Land under this Agreement to do anything you are restricted from doing under this Article.

4.3 You must not use all or any part of the Land

- (a) for the storage or disposal of any Hazardous Substances; or
- (b) in any other manner whatsoever which causes or contributes to any Hazardous Substances being added or released on, to or under the Land or into the environment from the Land;

unless

- (c) such storage, disposal, release or other use does not result in your breach of any other provision of this Agreement, including without limitation, your obligation to comply with all laws relating in any way to Hazardous Substances, the environment and human

health and safety; and

- (d) we have given our prior written approval to such storage, disposal, release or other use and for certainty any such consent operates only as a consent for the purposes of this section and does not bind, limit, or otherwise affect any other governmental authority from whom any consent, permit or approval may be required.

4.4 Despite any other provision of this Agreement you must:

- (a) on the expiry or earlier termination of this Agreement; and
- (b) at any time if we request and if you are in breach of your obligations under this Agreement relating to Hazardous Substances;

promptly remove from the Land all Hazardous Substances stored, or disposed of, on the Land, or which have otherwise been added or released on, to or under the Land:

- (c) by you; or
- (d) as a result of the use of the Land under this Agreement;

save and except only to the extent that we have given a prior written approval expressly allowing specified Hazardous Substances to remain on the Land following the expiry of the Term.

4.5 We may from time to time

- (a) in the event of the expiry or earlier termination of this Agreement;
- (b) as a condition of our consideration of any request for consent to an assignment of this Agreement; or
- (c) if we have a reasonable basis for believing that you are in breach of your obligations under this Agreement relating to Hazardous Substances;

provide you with a written request to investigate the environmental condition of the Land and upon any such request you must promptly obtain, at your cost, and provide us with, a report from a qualified and independent professional who has been approved by us, as to the environmental condition of the Land, the scope of which must be satisfactory to us and which may include all such tests and investigations that such professional may consider to be necessary or advisable to determine whether or not you have complied with your obligations under this Agreement with respect to Hazardous Substances.

- 4.6 You must at our request from time to time, but not more frequently than annually, provide us with your certificate (and if you are a corporation such certificate must be given by a senior officer) certifying that you are in compliance with all of your obligations under this Agreement pertaining to Hazardous Substances, and that no adverse environmental occurrences have taken place on the Land, other than as disclosed in writing to us.
- 4.7 We will provide you with quiet enjoyment of the Land.

**ARTICLE 5 - LIMITATIONS**

- 5.1 You agree with us that
  - (a) in addition to the other reservations and exceptions expressly provided in this Agreement this Agreement is subject to the exceptions and reservations of interests, rights, privileges and titles referred to in section 50 of the *Land Act*;
  - (b) other persons may hold or acquire rights to use the Land in accordance with enactments other than the *Land Act* or the *Ministry of Lands, Parks and Housing Act*, including rights held or acquired under the *Coal Act*, *Forest Act*, *Geothermal Resources Act*, *Mineral Tenure Act*, *Petroleum and Natural Gas Act*, *Range Act*, *Water Sustainability Act* or *Wildlife Act* (or any prior or subsequent enactment of the Province of British Columbia of like effect); such rights may exist as of the Commencement Date and may be granted or acquired subsequent to the Commencement Date and may affect your use of the Land;
  - (c) with your prior consent, which consent you will not unreasonably withhold, we may make other dispositions of or over the Land, or any part of it, by way of easement, right of way or statutory right of way, to any person, including a Crown agency or ministry, and, upon such consent being given you will, if required by us, execute and deliver to us such instrument as may be necessary to subordinate your rights under this Agreement to such easement, right of way or statutory right of way;
  - (d) for the purpose of subsection (c), you will be deemed to have reasonably withheld your consent if a disposition made under that subsection would have a material adverse impact on your use of the Land under this Agreement;
  - (e) you have no right to compensation from us and you release us from all claims, actions, causes of action, suits, debts and demands that you now have or may at any time in the future have against us arising out of any conflict between your use of the Land under this Agreement and any use of, or impact on the Land arising from the exercise, or operation of the interests, rights, privileges and titles described in subsections (a), (b), and (c);

- (f) if a proposed disposition under subsection (c) will not have a material adverse impact on your use of the Land under this Agreement you must not require any payment, whether as compensation or any other charge, as a condition of your consent to that disposition;
- (g) you will not commence or maintain proceedings under section 65 of the *Land Act* in respect of any interference with your use of the Land under this Agreement that arises as a result of the exercise or operation of the interests, rights, privileges and titles described in subsections (a), (b) and (c);
- (h) any interference with your use of the Land under this Agreement as a result of the exercise or operation of the interests, rights, privileges and titles described in subsection (a), (b) and (c) will not constitute a breach of our covenant of quiet enjoyment and you release and discharge us from all claims for loss or damage arising directly or indirectly out of any such interference;
- (i) this Agreement does not limit any right to notice, compensation or any other benefit that you may be entitled to from time to time under the enactments described in subsection (b), or any other applicable enactment;
- (j) you will not dredge or displace beach materials on the Land unless you have obtained our prior written approval;
- (k) you will not moor or secure any boat or structure to the Improvements or on any part of the Land for use as a live-aboard facility, whether permanent or temporary;
- (l) you will not interrupt or divert the movement of water or of beach materials by water along the shoreline unless you have obtained our prior written approval;
- (m) this Agreement is subject to the prior rights of the holder of the right of way granted to the City of Penticton as defined on Plan C9457 Charge # T18914 Title numbers KC64356 and KC64357 on file in the Kamloops Land Title Office;
- (n) you will not remove or permit the removal of any Improvement from the Land except as expressly permitted or required under this Agreement;
- (o) any interest you may have in the Improvements ceases to exist and becomes our property upon termination of this Agreement, except where an Improvement may be removed under paragraph 4.1(o)(ii) or (iii) in which case any interest you may have in that Improvement ceases to exist and becomes our property if the Improvement is not removed from the Land within the time period set out in paragraph 4.1(o)(ii) or the time period provided for in the direction or permission given under paragraph 4.1(o)(iii); and



- (p) if, after the termination of this Agreement, we permit you to remain in possession of the Land and we accept money from you in respect of such possession, a tenancy from year to year will not be created by implication of law and you will be deemed to be a monthly tenant only subject to all of the provisions of this Agreement, except as to duration, in the absence of a written agreement to the contrary.

**ARTICLE 6 - SECURITY AND INSURANCE**

- 6.1 On the Commencement Date, you will deliver to us Security in the amount of \$0 which will
  - (a) guarantee the performance of your obligations under this Agreement;
  - (b) be in the form required by us; and
  - (c) remain in effect until we certify, in writing, that you have fully performed your obligations under this Agreement.
- 6.2 Despite section 6.1, your obligations under that section are suspended for so long as you maintain in good standing other security acceptable to us to guarantee the performance of your obligations under this Agreement and all other dispositions held by you.
- 6.3 We may use the Security for the payment of any costs and expenses associated with any of your obligations under this Agreement that are not performed by you or to pay any overdue Rent and, if such event occurs, you will, within 30 days of that event, deliver further Security to us in an amount equal to the amount drawn down by us.
- 6.4 After we certify, in writing, that you have fully performed your obligations under this Agreement, we will return to you the Security maintained under section 6.1, less all amounts drawn down by us under section 6.3.
- 6.5 You acknowledge that we may, from time to time, notify you to
  - (a) change the form or amount of the Security; and
  - (b) provide and maintain another form of Security in replacement of or in addition to the Security posted by you under this Agreement;

and you will, within 60 days of receiving such notice, deliver to us written confirmation that the change has been made or the replacement or additional form of Security has been provided by you.

6.6 You must

- (a) without limiting your obligations or liabilities under this Agreement, at your expense, purchase and maintain during the Term the following insurance with insurers licensed to do business in Canada:
  - (i) Commercial General Liability insurance in an amount of not less than \$2,000,000.00 inclusive per occurrence insuring against liability for personal injury, bodily injury (including death) and property damage, including coverage for all accidents or occurrences on the Land or the Improvements. Such policy will include cross liability, liability assumed under contract, provision to provide 30 days advance notice to us of material change or cancellation, and include us as additional insured;
- (b) ensure that all insurance required to be maintained by you under this Agreement is primary and does not require the sharing of any loss by any of our insurers;
- (c) within 10 working days of Commencement Date of this Agreement, provide to us evidence of all required insurance in the form of a completed "Province of British Columbia Certificate of Insurance";
- (d) if the required insurance policy or policies expire or are cancelled before the end of the Term of this Agreement, provide within 10 working days of the cancellation or expiration, evidence of new or renewal policy or policies of all required insurance in the form of a completed "Province of British Columbia Certificate of Insurance";
- (e) notwithstanding subsection (c) or (d) above, if requested by us, provide to us certified copies of the required insurance policies.

6.7 We may, acting reasonably, from time to time, require you to

- (a) change the amount of insurance set out in subsection 6.6(a); and
- (b) provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained by you under this Agreement;

and you will, within 60 days of receiving such notice, cause the amounts and types to be changed and deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by you under this Agreement.

6.8 You shall provide, maintain, and pay for any additional insurance which you are required by law to carry, or which you consider necessary to insure risks not otherwise covered by the insurance specified in this Agreement in your sole discretion.

6.9 You waive all rights of recourse against us with regard to damage to your own property.

**ARTICLE 7 - ASSIGNMENT**

- 7.1 You must not sublease, assign, mortgage or transfer this Agreement, or permit any person to use or occupy the Land, without our prior written consent, which consent we may withhold.
- 7.2 Prior to considering a request for our consent under section 7.1, we may require you to meet certain conditions, including without limitation, that you provide us with a report as to the environmental condition of the Land as provided in section 4.5.

**ARTICLE 8 - TERMINATION**

- 8.1 You agree with us that
- (a) if you
    - (i) default in the payment of any money payable by you under this Agreement, or
    - (ii) fail to observe, abide by and comply with the provisions of this Agreement (other than the payment of any money payable by you under this Agreement),and your default or failure continues for 60 days after we give written notice of the default or failure to you,
  - (b) if, in our opinion, you fail to make diligent use of the Land for the purposes set out in this Agreement, and your failure continues for 60 days after we give written notice of the failure to you;
  - (c) if you
    - (i) become insolvent or make an assignment for the general benefit of your creditors,
    - (ii) commit an act which entitles a person to take action under the *Bankruptcy and Insolvency Act* (Canada) or a bankruptcy petition is filed or presented against you or you consent to the filing of the petition or a decree is entered by a court of competent jurisdiction adjudging you bankrupt under any law relating to bankruptcy or insolvency, or

- (iii) voluntarily enter into an arrangement with your creditors;
- (d) if you are a corporation,
  - (i) a receiver or receiver-manager is appointed to administer or carry on your business, or
  - (ii) an order is made, a resolution passed or a petition filed for your liquidation or winding up;
- (e) if you are a society, you convert into a company in accordance with the *Society Act* without our prior written consent; or
- (f) if this Agreement is taken in execution or attachment by any person;

this Agreement will, at our option and with or without entry, terminate, and all of your right, interest and estate in the Land will be absolutely forfeited to us.

8.2 If the condition complained of (other than the payment of any money payable by you under this Agreement) reasonably requires more time to cure than 60 days, you will be deemed to have complied with the remedying of it if you commence remedying or curing the condition within 60 days and diligently complete the same.

8.3 You agree with us that

- (a) you will make no claim against us for compensation, in damages or otherwise, upon the lawful termination of this Agreement under section 8.1; and
- (b) our remedies under this Article are in addition to those available to us under the *Land Act*.

**ARTICLE 9 - DISPUTE RESOLUTION**

9.1 If any dispute arises under this Agreement, the parties will make all reasonable efforts to resolve the dispute within 60 days of the dispute arising (or within such other time period agreed to by the parties) and, subject to applicable laws, provide candid and timely disclosure to each other of all relevant facts, information and documents to facilitate those efforts.

9.2 Subject to section 9.5, if a dispute under this Agreement cannot be resolved under section 9.1, we or you may refer the dispute to arbitration conducted by a sole arbitrator appointed pursuant to the *Commercial Arbitration Act*.

- 9.3 The cost of the arbitration referred to in section 9.2 will be shared equally by the parties and the arbitration will be governed by the laws of the Province of British Columbia.
- 9.4 The arbitration will be conducted at our offices (or the offices of our authorized representative) in Kamloops, British Columbia, and if we or our authorized representative have no office in Kamloops, British Columbia, then our offices (or the offices of our authorized representative) that are closest to Kamloops, British Columbia.
- 9.5 A dispute under this Agreement in respect of a matter within our sole discretion cannot, unless we agree, be referred to arbitration as set out in section 9.2.

**ARTICLE 10 - NOTICE**

- 10.1 Any notice required to be given by either party to the other will be deemed to be given if mailed by prepaid registered mail in Canada or delivered to the address of the other as follows:

to us

MINISTRY OF FORESTS, LANDS AND NATURAL RESOURCE OPERATIONS  
 441 Columbia Street  
 Kamloops, BC V2C 2T3;

to you

CORPORATION OF THE CITY OF PENTICTON  
 171 Main St  
 Penticton, BC V2A 5A9;

or at such other address as a party may, from time to time, direct in writing, and any such notice will be deemed to have been received if delivered, on the day of delivery, and if mailed, 7 days after the time of mailing, except in the case of mail interruption in which case actual receipt is required.

- 10.2 In order to expedite the delivery of any notice required to be given by either party to the other, a concurrent facsimile copy of any notice will, where possible, be provided to the other party but nothing in this section, and specifically the lack of delivery of a facsimile copy of any notice, will affect the deemed delivery provided in section 10.1.
- 10.3 The delivery of all money payable to us under this Agreement will be effected by hand, courier or prepaid regular mail to the address specified above, or by any other payment procedure agreed to by the parties, such deliveries to be effective on actual receipt.

**ARTICLE 11 - MISCELLANEOUS**

- 11.1 No provision of this Agreement will be considered to have been waived unless the waiver is in writing, and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement, and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act.
- 11.2 No remedy conferred upon or reserved to us under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy will be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.
- 11.3 The grant of a sublease, assignment or transfer of this Agreement does not release you from your obligation to observe and perform all the provisions of this Agreement on your part to be observed and performed unless we specifically release you from such obligation in our consent to the sublease, assignment or transfer of this Agreement.
- 11.4 This Agreement extends to, is binding upon and enures to the benefit of the parties, their heirs, executors, administrators, successors and permitted assigns.
- 11.5 If, due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, law, ordinance, rule, regulation or order of a competent governmental authority, enemy or hostile action, civil commotion, fire or other casualty or any condition or cause beyond your reasonable control, other than normal weather conditions, you are delayed in performing any of your obligations under this Agreement, the time for the performance of that obligation will be extended by a period of time equal to the period of time of the delay so long as
  - (a) you give notice to us within 30 days of the commencement of the delay setting forth the nature of the delay and an estimated time frame for the performance of your obligation; and
  - (b) you diligently attempt to remove the delay.
- 11.6 You acknowledge and agree with us that
  - (a) this Agreement has been granted to you on the basis that you accept the Land on an "as is" basis;
  - (b) without limitation we have not made, and you have not relied upon, any representation or warranty from us as to

- (i) the suitability of the Land for any particular use, including the use permitted by this Agreement;
  - (ii) the condition of the Land (including surface and groundwater), environmental or otherwise, including the presence of or absence of any toxic, hazardous, dangerous or potentially dangerous substances on or under the Land and the current and past uses of the Land and any surrounding land and whether or not the Land is susceptible to erosion or flooding;
  - (iii) the general condition and state of all utilities or other systems on or under the Land or which serve the Land;
  - (iv) the zoning of the Land and the bylaws of any government authority which relate to the development, use and occupation of the Land; and
  - (v) the application of any federal or provincial enactment or law to the Land;
- (c) you have been afforded a reasonable opportunity to inspect the Land or to carry out such other audits, investigations, tests and surveys as you consider necessary to investigate those matters set out in subsection (b) to your satisfaction before entering into this Agreement;
- (d) you waive, to the extent permitted by law, the requirement if any, for us to provide you with a "site profile" under the *Environmental Management Act* or any regulations made under that act;
- (e) we are under no obligation, express or implied, to provide financial assistance or to contribute toward the cost of servicing, creating or developing the Land or the Improvements and you are solely responsible for all costs and expenses associated with your use of the Land and the Improvements for the purposes set out in this Agreement; and
- (f) we are under no obligation to provide access or services to the Land or to maintain or improve existing access roads.

11.7 You agree with us that nothing in this Agreement constitutes you as our agent, joint venturer or partner or gives you any authority or power to bind us in any way.

11.8 This Agreement does not override or affect any powers, privileges or immunities to which you are entitled under any enactment of the Province of British Columbia.

The parties have executed this Agreement as of the date of reference of this Agreement.

SIGNED on behalf of **HER MAJESTY  
THE QUEEN IN RIGHT OF THE  
PROVINCE OF BRITISH COLUMBIA**  
by the minister responsible for the *Land Act*  
or the minister's authorized representative

\_\_\_\_\_  
Minister responsible for the *Land Act*  
or the minister's authorized representative

SIGNED on behalf of CORPORATION OF THE CITY OF PENTICTON  
By its authorized signatories

\_\_\_\_\_  
Authorized Signatory *Andrew Jakubeit, Mayor*

  
\_\_\_\_\_  
Authorized Signatory *Dana Schmidt, Corporate Officer*

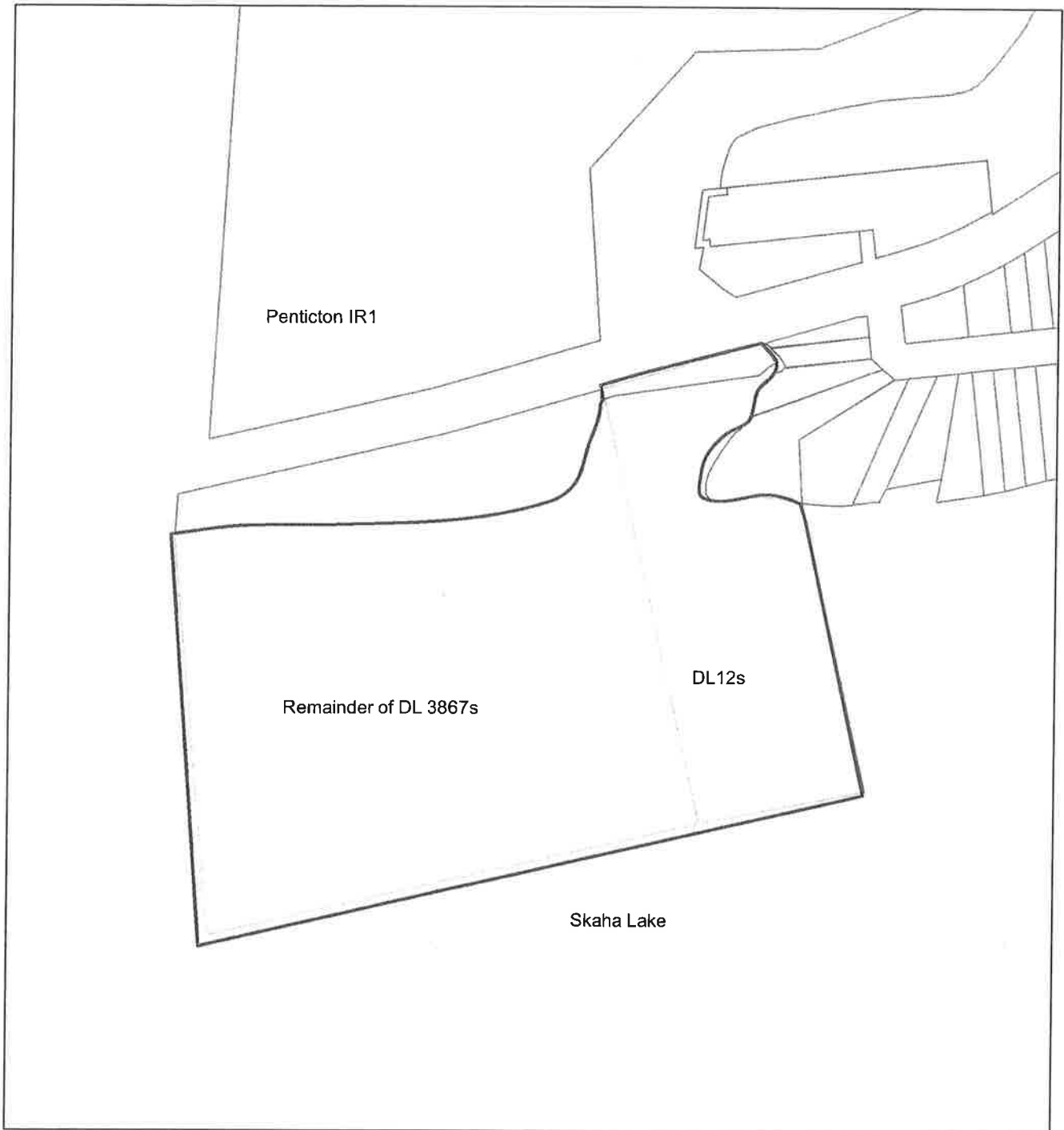


Lease

Legal Description Schedule

File No.:0174423  
Disposition No.:925107

DL 12s together with that part of DL 3867s, all of Similkameen Division Yale District, being part of the bed of Skaha Lake containing 4.68 hectares, more or less



Scale: 1:2,500

BCGS Mapsheet(s):82E.042 & 82E.043



Institutional-Local/Regional Park



# Council Report



File No: 4320-80

**Date:** March 19, 2024  
**To:** Anthony Haddad, City Manger  
**From:** Sheri Raposo, Land Administrator

**Subject: Request for Proposal - Skaha Main Concession  
3701 Parkview Street, Penticton**

## Staff Recommendation

THAT Council direct staff to issue the Request for Proposal for the use of 3701 Parkview Street, (Skaha Main Concession) for the purpose of seeking an operator for a food concession for a three (3) to five (5) year License to Use agreement term;

AND THAT Council authorize the Director of Finance and Administration and Corporate Officer to execute the License to Use agreement.

## Strategic priority objective

**Vision:** A vibrant, resilient, and healthy waterfront city focused on safety, livability and vibrancy.

## Property Description

Skaha Main Concession is located at 3701 Parkview Street, as shown outlined in red on Attachment A. The building includes a ±752 sq. ft. concession area. Public washrooms are located on the north end of the building and do not form part of the Licensed Area, with the City being responsible for the maintenance of the washrooms.

## Background

Thomas & Callin Fine Foods Ltd. D.b.a. Tickleberry's, is the most recent operator of the Skaha Main Concession, and they have completed their last season of the current agreement. Tickleberry's has been in this location for the past nine (9) seasons. They typically hire 15 staff, many of whom are local youths from the community. Over the course of their tenure, Tickleberry's has invested approximately \$70,000 in equipment, beautification and upkeep of this concession.

In the current License to Use (LTU) agreement, there is a provision within the agreement for renewal for an additional negotiable term upon mutual agreement by the City and the Licensee of the terms and conditions. The terms of this LTU were in place prior to the Park Land Protection and Use Policy, and therefore staff are directed to adhere to the policy. The current operator of the concession has indicated that

they wish to continue with their current concession, and if this concession is to go out for an RFP, they will bid on it. In the past, it has been difficult to attract companies that wish to bid on and invest in these seasonal concessions, due to the upfront costs, short annual revenue generating timeframe, and difficulty with obtaining staff. Tickleberry’s has proven to have a successful business model and has invested significantly in this concession over their tenure.

On February 20, 2024, staff brought forward the request to Council to refer the Request for Proposal process to the Parks and Recreation Advisory Committee for their review and recommendation, for the use of 3701 Parkview Street, (Skaha Main Concession) for the purpose of seeking an operator for a food concession for a three (3) year term.

With the following outcome:

8.4	<u>Request for Proposal – Skaha Main Concession</u> Re: 3701 Parkview Street
51/2024	<b>It was MOVED and SECONDED</b> THAT Council refer the Request for Proposal process to the Parks and Recreation Advisory Committee for their review and recommendation, for the use of 3701 Parkview Street, (Skaha Main Concession) for the purpose of seeking an operator for a food concession for a three (3) year term.
<b>CARRIED UNANIMOUSLY</b>	

**Request for Proposal Process (RFP)**

An RFP is used when the City has a need and is seeking proposals to provide a product or service. The New West Partnership Trade Agreement does not require issuance of an RFP for revenue generating opportunities such as this, however it may be an appropriate solution to seek out a future operator through a competitive process. The last time that this concession was offered publicly was in 2015.

**License to Use Summary**

This License to Use agreement for the concession will commence May 1, 2024.

The operator of the concession will be responsible for utilities, day-to-day upkeep, safety and security of the building. The City will continue to be responsible for the major maintenance of the building, surrounding grounds and adjoining washrooms.

**Financial Implication**

At this time, there is no financial implication to the City. Staff anticipate that the annual rate in the proposals should align with the current lease rate appraisal that was recently completed.

### **Park Land Protection and Use Policy**

As this is on City parkland, the Park Land Protection and Use Policy requires any Agreements within our parkland follow the proper step procedure and receive a Parks and Recreation Advisory Committee (PRAC) recommendation. City staff completed their final procedural step and presented a report and a recommendation to the PRAC Committee on March 6, 2024, with the following outcome:

**3.1 Request for Proposal – Skaha Main Concession**

**It was MOVED and SECONDED**

THAT the Parks and Recreation Advisory Committee recommend that Council direct staff to issue the Request for Proposal, for the use of 3701 Parkview Street, (Skaha Main Concession) for the purpose of seeking an operator for a food concession for a three (3) to five (5) year term.

**CARRIED UNANIMOUSLY**

The Parks and Recreation Advisory Committee had lengthy discussions around the term of the LTU agreement. The Committee acknowledged and agreed, that during our RFP process, in the event that a tenant was providing significant capital and financial investment to operate one of our seasonal concessions, that staff should have the ability to issue a five (5) year LTU agreement, in order for the successful proponent to recover their investment.

### **Analysis**

Strategically placed concession stands at parks and beaches provide locals and visitors with convenient refreshment options during the summer months, ultimately adding to the vibrancy of our community.

To ensure an open competitive environment the City's practice, and staff's recommendation, is to issue a request for proposal for concession operators. This recommendation was supported by PRAC, with the expansion of the term from three (3) years to potentially five (5) years, and the intent would be for the RFP's to be issued immediately and awarded in time for the operators to commence operations by May 1, 2024. No further involvement from the Committee or Council would be required to complete this process.

### **Alternate Recommendations**

Alternatively, Council may wish to consider renewing the existing License to Use agreement with Tickleberry's for a three (3) or five (5) year term at an annual market rate, plus CPI. An alternate recommendation has been provided below should Council wish to choose this.

THAT Council direct staff to renew the License to Use agreement, for a three (3) year term or a five (5) year term, at annual market rate, plus CPI to Thomas & Callin Fine Foods Ltd. D.b.a Tickleberry's.

**Attachments**

Attachment A – Aerial View of Building and Location of the Skaha Main Concession

Attachment B – Letter from Thomas & Callin Fine Foods Ltd. D.b.a. Tickleberry's

Respectfully submitted,

Sheri Raposo,  
Land Administrator

Concurrence

Director of Finance & Administration  <i>AMC</i>	General Manager of Infrastructure  <i>KD</i>	Director of Community Services  <i>KJ</i>	City Manager  <i>SBH</i>
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**ATTACHMENT A**

**3701 Parkview Street – Skaha Main Concession**



Tickleberry's, Main Concession  
3701 Parkveiw Street  
Penticton, BC  
V2A 3W3

Dear Sheri Raposo, thank you for the opportunity to express our enjoyment and overall want, to continue use of Tickleberry's on the Beach, Shaka Lake.

We are requesting a lease of 5 years to continue happily serving locals and tourists throughout the summer months.

Tickleberry's has been successfully operating the main concession since 2015 with 15 seasonal employees. Since 2015 Tickleberry's has installed 2 commercial deep fryers, a commercial dish washer, 2 16 unit ice cream freezers, 1 commercial sandwich prep unit, 2 industrial safes, 4 chest freezers, 2 standup freezers, 2 commercial fridge's, 4 stainless steel prep tables, storage shelves, custom mural and signage. Just over \$70,000 has been put into the main concession.

Upon completion of a new lease, Tickleberry's will update the signage on the outside of the building, re-paint the front of the building and touch up the current mural. We will be purchasing new outdoor seating and continuing the yearly maintenance on the building of painting the floor and indoor walls. For the upcoming season we will be spending \$12,000 on improvements.

Tickleberry's prides itself on hiring local staff and being a safe, fun place to work. At this particular location staff are better compensated due to the tough working conditions of no A/C and hot grills. Free drinks are given, extra breaks and staff snacks are always available. Each year over \$100,000 of wages are paid at just this location. We also pride ourselves in always offering something to everyone. As a mother of 3, and the ever-growing price increases, we will always offer bottled water at \$2.00 and novelties at \$2.00 so anyone going to the beach can enjoy a sweet treat without breaking the bank.

All in all, we love being part of the community and the beach experience! We will open early for school events and open late for city events. We will always be flexible and take suggestions and continue to be easy to work with.

Thank you for your time

Kelsey and the Tickleberry Family



**Date:** March 19, 2024  
**To:** Anthony Haddad, City Manager  
**From:** Sheri Raposo, Land Administrator

File No: 4320-80

**Subject: Beach Vending Program**

**Staff Recommendation**

THAT Council approve the three (3) year License to Use agreement renewal of the Beach Vending Program;

AND THAT Council authorize the Director of Finance and Administration and Corporate Officer to execute the License to Use agreements.

**Strategic priority objective**

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

**Background**

In 2021, Council approved to continue the Beach Vending Program and endorsed a 3-year License to Use agreement with vendors.

These changes were endorsed by Council at their April 20, 2021 Regular Council Meeting as follows:

April 20, 2021	Beach Vending Program
133/2021	<p><b>It was MOVED and SECONDED</b>            THAT Council approve the Beach Vending program, as described in the 2021 Beach Vending Application and endorse a 3-year License to Use Agreement with vendors;            AND THAT Council authorize Mayor and Corporate Officer to execute the License to Use Agreement;            AND THAT Council direct staff to conduct a further analysis of establishing the concept of a "Vending Hub" and work to ensure that the vendors selling food and items are different from the businesses established in the area.</p> <p style="text-align: right;"><b>CARRIED UNANIMOUSLY</b></p>



To date, the Beach Vending Program has 23 sites, 11 along Okanagan Lake and 12 at Skaha Lake. All sites are 10' x 10'. In 2023 we had seven (7) vacant locations.

Five (5) of these vendors currently have more than one site. Most of these vendors have been part of the program since 2009. All of our current vendors have indicated that they wish to continue to be part of the beach vending program. Vendors sell items such as mini doughnuts, shaved ice, clothing, jewelry, sunglasses, temporary tattoos and paddle board rentals.

The 3-year License to Use agreements for our current vendors expires on April 30, 2024, and, as such, staff are seeking Council's approval to renew the program for an additional three years.

**Background**

On February 20, 2024, staff brought forward the request to Council to refer the renewal of the Beach Vending Program for an additional three-year term to the Parks and Recreation Advisory Committee for their review and recommendation.

AND THAT Council authorize staff to extend approximately 75m<sup>2</sup> of the existing pathway on Lakeshore Drive, to construct a new vending area at an approximate cost of \$30,000, to be funded from anticipated administrative savings through the year.

With the following outcome:

<p>8.6     <u>Beach Vending Program</u></p>	<p>53/2024     <b>It was MOVED and SECONDED</b>          THAT Council refer the renewal of the Beach Vending Program for an additional three-year term to the Parks and Recreation Advisory Committee for their review and recommendation;          AND THAT Council authorize staff to extend approximately 75m<sup>2</sup> of the existing pathway on Lakeshore Drive, to construct a new vending area at an approximate cost of \$30,000, to be funded from anticipated administrative savings through the year.</p> <p style="text-align: center;"><b>CARRIED UNANIMOUSLY</b></p>
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**Park Land Protection and Use Policy References**

As this is on City parkland, the Park Land Protection and Use Policy requires any Agreements within our parkland follow the proper step procedure and receive a committee recommendation. City staff completed their final procedural step and presented a report and a recommendation to the Parks and Recreation Advisory Committee (PRAC) on March 6, 2024, with the following outcome:

3.3 Beach Vending Program

**It was MOVED and SECONDED**

THAT the Parks and Recreation Advisory Committee recommend that Council direct staff to renew the Beach Vending Program for an additional three-year License to Use agreement term.

**CARRIED UNANIMOUSLY**

**Financial Implication**

In 2023, the Beach Vending Program generated \$25,000 in revenue. Our vending fees increase annually by CPI.

**Analysis**

A vibrant waterfront needs lively, cordial walkways in which many people are moving about and spending time outdoors. Vendors make an important contribution to our walkways, providing much color and liveliness, as well as a reason for people to walk and spend time outdoors during the summer months. Vending also provides job opportunities and employment for our residents.

The establishment of a 3-year License to Use agreement has reduced administration requirements substantially and has been well received by our vendors, as it provides additional security and allows for planning and purchasing of stock for the next season.

Our Beach Vending Program aligns with the social and economic benefits of our Parks and Recreation Master Plan by contributing to community pride and identity, attracting residents and businesses, and contributing to tourism opportunities.

Staff will continue to give preference to vendors that are City residents as part of our awarding process as stated in the application form.

The renewal of the program for an additional three years has been recommended by the Parks and Recreation Advisory Committee.

**Alternate recommendations:**

THAT Council direct staff to not renew the current Beach Vending program for an additional three-year License to Use agreement term; and staff to do a further review of the program to determine ways to add vibrancy and attract new vending opportunities.

**Attachments**

Attachment A –2024 Beach Vending Application

Respectfully submitted,

Sheri Raposo

Land Administrator

Concurrence

Director of Finance and Administration	General Manager Infrastructure	Director of Community Services	City Manager
<i>AMC</i>	<i>KD</i>	<i>KJ</i>	<i>SPH</i>



# 2024 Application for Beach Vending



Please read and understand all terms and conditions stated herein as they form an integral part of the Beach Vending Agreement and continued tenure is dependent on adherence to these requirements.

1. **Application Information:**

The Undersigned hereby applies to operate a beach vending operation:

Name: \_\_\_\_\_

Business Name: \_\_\_\_\_

Company Registration Number: \_\_\_\_\_

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

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone No: \_\_\_\_\_ Cell No: \_\_\_\_\_

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

**\* If requested by other parties your contact information will be provided.** \_\_\_\_\_ (please initial)

2. **Indicate what items and/or services will be offered for sale/rent:**

Description	
_____	_____
_____	_____
_____	_____
_____	_____

I am a returning vendor (please check box)

The City reserves the right to delete or alter the products and services that can be vended from various sites prior to awarding the Agreement.

**Vendors can be disqualified, or their License terminated at the sole discretion of the City for:**

- failure to complying with any of the requirements, terms and conditions as set out in the Beach Vending Application and Agreement or License to Use;
- having a proposed vendor site or products/service which is perceived to present a safety hazard or risk;
- inappropriate products that conflict with the family oriented nature of the beach including but not limited to drugs; alcohol; drug paraphernalia; e-cigarettes tobacco products; lighters.
- fireworks; weapons, replica weapons, counterfeit items; illegal items; items that contain toxic or hazardous materials including lead, cadmium, mercury or any materials that do not comply with Canadian health and safety standards. (It is the vendor’s responsibility to ensure items sourced from outside Canada comply with Health Canada thresholds and Technical Safety BC standards); Items that display; The City of Penticton Logo or offensive material including: nudity, sexually explicit material, violence, vulgar language, or materials that promote illegal activities (including drug use) or violence;
- unprofessional or inappropriate vendor conduct including, but not limited to, illegal activities, consumption of alcohol or drugs, use of profane language, actively soliciting or harassing pedestrians walking by, or smoking on the beach;
- failure to remain in assigned location or utilizing a larger area than allocated.

Any illegal activities at the site will result in immediate termination of your beach vending License and will be dealt with by the RCMP.

Other than location issues, which will be monitored by City By-law Enforcement, the City will not become involved in issues arising between vendors and supports fair competition in a free and open market place. Please resolve any issues that may arise yourselves.

Please provide a photograph and description of your vending cart/equipment/display and any commentary that you believe would be beneficial to the selection process which could include such items as equipment, menu, personal profile, staff qualification and experience, community involvement, financial capability and business history.

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3. Applications must be received on or before **4:00 pm on Wednesday May 1, 2024**. Processing of late applications will be at the sole discretion of the City.

**4. Beach Vending Sites Selection Chart**

All beach vending map locations are approximate. Sites may be moved a few feet either way to allow them to fit in confined areas or create double sites. The final decision on exact location will be determined by the City of Penticton. The use of pegs under 10” is encouraged. You must obtain a utility service locate at your cost if using pegs over 10”.

5. Fees and locations





## Beach Vending Sites - Skaha Lake

Skaha Lake (West) - Site 12  
Sudbury Beach



Skaha Lake (Main) - Sites 13 to 19  
Parkview Street





## Beach Vending Sites - Skaha Lake

Skaha Lake (East)- Sites 20 to 23  
South Main Street





Site	Location	Site Size	Pricing + CPI
1*	Okanagan Lake - Lakeshore Drive by The Peach	10' x 10'	\$1805
2*	Okanagan Lake - Lakeshore Drive by The Peach	10' x 10'	\$1805
3*	Okanagan Lake - Lakeshore Drive by The Peach	10' x 10'	\$1805
4*	Okanagan Lake - Lakeshore Drive by The Peach	10' x 10'	\$1805
5	Okanagan Lake - Lakeshore Drive by The Peach	10' x 10'	\$1805
6**	Okanagan Lake – Lakeshore Drive by Lakawanna Park	10' x 20'	\$1630
7**	Okanagan Lake - Lakeshore Drive by Lakawanna Park	10' x 20'	\$1630
8	Okanagan Lake - Lakeshore Drive by Lakawanna Park	10' x 10'	\$1630
9	Okanagan Lake - Lakeshore Drive by Lakawanna Park	10' x 10'	\$1630
10	Okanagan Lake - Lakeshore Drive by Wibit (Beach Site)	10' x 10'	\$1540
12***	Skaha Lake - Sudbury Beach	Beach Shack	\$1750
13	Skaha Lake - Parkview Street	10' x 10'	\$1540
14	Skaha Lake - Parkview Street	10' x 10'	\$1540
15	Skaha Lake - Parkview Street	10' x 10'	\$1540
16	Skaha Lake - Parkview Street	10' x 10'	\$1540
17	Skaha Lake - Parkview Street	10' x 10'	\$1540
18	Skaha Lake - Parkview Street	10' x 10'	\$1540
19**	Skaha Lake - Parkview Street	10' x 10'	\$1540
20	Skaha Lake - East	10' x 10'	\$1515
21***	Skaha Lake - East	10' x 10'	\$1515
22***	Skaha Lake - East	10' x 10'	\$1515
23***	Skaha Lake - East	10' x 10'	\$1515

\* Sites are on sidewalk. Require weights to secure them to the ground.  
No ground penetration possible.

\*\* Sites allow food sales excluding hotdogs, hamburgers, French fries, ice cream and cold drinks.

\*\*\* Available for beach or water related activities only.

Note:

- Electrical available at sites 1, 2, 19 & 20 (at an additional cost TBD).
- Food vendors are not permitted within 50 meters of a fixed address or seasonal concession building food and beverage business.
- Some vending sites may be closed and/or have restricted access for special events that occur (i.e. Peach Fest, Triathlon, etc.). Alternate locations may be offered if available.

## 6. Refund Policy

The refund of the Beach Vending License Fee:

- 75% refund up to 15 days before first day of permitted vending.
- 50% refund 14-1 day(s) before first day of permitted vending.
- 0% refund on or after first day of permitted vending.

Refund of the Business License Fee:

- 75% refund if the business has not yet operated;
- No refund if the business has operated.

## 7. Applicants Must Submit

- Completed application for Beach Vending;
- Signed City of Penticton Beach Vending Terms and Conditions for Vendors.

Submit completed applications to:

**Land Department  
City of Penticton  
171 Main Street  
Penticton BC V2A 5A9**

**Phone: 250-490-2519  
Email: Land@penticton.ca**

Vending sites will be awarded based on, but not limited to:

- Returning vendors in good standing;
- City residents;
- Consideration of previous vending agreements with the City;
- Consideration of proximity to direct competition operating from a building and Impact on neighborhood;
- Visual appearance of the vending tent or site set up.

Required items:

All vendors are required to provide all essential items annually and prior to the start of each vending season.

- Completed Beach Vending Application (attached).
- Beach Vending Licence to Use Agreement
- Annual Beach Vending License Fee as indicated below
- Business License application and fee (A separate business for each location);
- Proof of WCB Insurance;
- Interior Health Mobile Inspection Report (applicable to vendors offering food service);

- Penticton Fire Department Inspection checklist; (Applicable to vendors with cooking surfaces or propane);
- Mobile vending equipment must bear the appropriate approval labels for Gas and Electrical equipment as required by the Technical Safety BC (formerly known as BC Safety Authority), this includes custom built and home built units (please contact Technical Safety BC at 1-866-566-7233 if you require further clarification).

Liability insurance binder naming the City of Penticton as an additional insured for the amount of not less than five million (\$5,000,000.00) dollars is required. **The binder shall comply with the requirements under Public Liability & Property Damage Insurance section found in the attached City of Penticton Beach Vending Terms and Conditions for Vendors.**

- Automobile Insurance (if applicable) - A minimum of five million dollars (\$5,000,000.00) of public liability and property damage insurance shall be carried on all automotive equipment.

**\*\*\* Insurance must be in place prior to issue of License. There will be no exception to the insurance requirements. \*\*\***

The application and License to Use Agreement may be void and the vending License awarded to another applicant if the required documentation and payment are not received prior to the start of the vending season.

**8. Authorization of Application**

I hereby certify that the above information is correct and agree to comply with all pertinent Bylaws of the City whether the detailed information is contained herein or not. I have read and agree to comply with the above, and the attached and signed Beach Vending Terms and Conditions for Vendors and Beach Vending General Conditions.

The undersigned hereby applies for a Beach Vending License in the City of Penticton and confirms that I have read, understand and will abide by the terms and conditions in this application and the attached City of Penticton Beach Vending Terms and Conditions for Vendors and agree to comply with all pertinent Bylaws of the City whether the detailed information is contained herein or not. I acknowledge and agree that at its sole discretion, the City of Penticton reserves the right to terminate any site prior to the start of a season or relocate a vendor as required to accommodate special needs.

Applicants Name(s): \_\_\_\_\_  
(Please Print) (Please Print)

Applicants Signature(s): \_\_\_\_\_

Date: \_\_\_\_\_  
(Please Print)

Total number of sites requested: \_\_\_\_\_

Site 1: \_\_\_\_\_ Site 2: \_\_\_\_\_ Site 3: \_\_\_\_\_

**I have read, understand and will abide by the terms and conditions of this agreement. (Please check box)**

For more information contact the Land Department at 250-490-2519 or email land@penticton.ca.

## City of Penticton Beach Vending Terms and Conditions for Vendors

### 1. Term of Agreement

The term of the Agreement is from May 1, 2024, to April 30, 2027 (3 Years). Please ensure annual requirements are completed prior to the start of each vendor season during the term of this agreement. A vendor season starts on the Friday of the Victoria Day long weekend in May up to and including the Monday of the Labour Day long weekend in September.

### 2. Hours of operation

All Beach vending units are permitted to operate between the hours of 9:00 am and dusk during the vendor season (May – September). Units must be removed at the end of each day or when not in use.

### 3. Maintenance

- a) All vendors shall have suitable garbage collection arrangements and keep the area around the location free from any paper, plastic, dirt or other materials originating from the vendor's business. Do not use the City garbage cans for disposal of litter generated by your kiosk.
- b) Tents and securing - the vendors are responsible for adequately securing their tents, however to prevent damage to underground utilities the use of pegs longer than 10" is prohibited. If you require pegs longer than 10", specific sites may be available that are cleared of services. It is recommended that vendors use screw-in style anchors less than 10" and/or weighted anchor systems. The vendor shall be responsible for any costs associated with any damage they cause as a result of installing tent pegs. Locations of utility locations on the vending sites are available from the City and should be consulted prior to any ground penetration in excess of 10".
- c) **Driving or parking of vehicles on sidewalks, grass or beach (sand) areas is strictly prohibited.** This includes during the daily set up and take down of your vending site. Vehicles must be parked in a legal parking spot at all times. It is the vendor's responsibility to find available parking and must do so at his or her own cost (if any). It is not the responsibility of the City to provide parking to the vendor or their employees.
  - i. For Vendors operating from a trailer, the trailer must be detached from vehicles while the operator is open for business. City Bylaw prohibits detached trailers to be located on the road. This includes parking spaces. Only trailers from which the beach vending operation is carried out are permitted in the beach vending area. i.e. Storage trailers are not permitted in the beach vending area.

### 4. Assignment/Sub-Licencing

The License is not assignable. Sub-letting is not permitted.

### 5. Waivers/Releases

The Licensee is required to provide and maintain a waiver/release system where they may be renting equipment as part of their operation. The content of the waivers/releases must be approved by the City.

6. **Notification**

The Licensee must report all accidents and incidents to the City within 24 hours of their occurrence. A representative of the City and the Licensee shall investigate all occurrences.

7. **Display Boards**

Only one sign board per vending site will be permitted.

Sign boards:

- Are considered to be part of the vending site and must be approved.
- Must be placed within their site at all times.

8. **Special Events**

Special events occur several times a year within the City. The City, as its discretion, may approve additional vendors for the duration of the special event. The City will provide you with a list of known events and closures prior to the start of each season. **Please be advised that during these special events, some vending locations will not be available, and the City of Penticton is not responsible to find you alternate vending locations nor will the City of Penticton compensate you during this time.**

9. **Interruptions**

The City has the right to relocate or remove the Licensees operation to undertake construction or for special events or for unforeseen circumstances.

10. **Insurance Protection and Damage**

The Licensee shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority.

The Licensee shall protect the license area and adjacent property from damage as the result of operations under the License. The Licensee shall not cause, or permit others for whom they are legally responsible to be caused, to cause damage to City property and shall make good at their own expense any damage which may arise as the result of the Licensee's operations under the License.

11. **Indemnity**

The Licensee shall save and hold harmless the City, its officers, agents, servants and employees, from and against any and all suits or claims alleging damage or injury (including death) to any person or property that may occur or that may be alleged to have occurred, in the course of the performance of this License, whether such claim shall be made by an employee of the Licensee, or by a third person and whether or not it shall be claimed that the alleged damage or injury (including death) was caused through a wilful or negligent act or omission of the Licensee, its officers, servants, agents or employees; and at its own expense, the Licensee shall defend any and all such actions and pay all legal charges, costs and other expenses arising there from.

12. **Public Liability & Property Damage Insurance**

The Licensee shall maintain and keep in force during the term of the License, five million dollars (\$5,000,000.00) inclusive limits for public liability and property damage, against liabilities or damages in respect of injuries to persons (including injuries resulting in death) and in respect of damage to property arising out of the operation of the Licensee.

The Licensee shall, at the time the License is signed, submit to the City one copy of the insurance policies required under this Article and shall also provide a renewal of such insurance if the policy expires prior to the term of your agreement with the City.

The City is to be named as additional insured on the policy. The policies shall preclude subrogation claims by the insurer against anyone insured thereunder. In addition, such insurance policy shall include the following "Cross Liability" clause:

"The insurance afforded by this policy shall apply in the same manner, as though separate policies were issued, to any action brought against any of the named insured by or on behalf of any other named insured."

a) **Equipment Insurance**

Notwithstanding anything contained elsewhere herein, it is understood and agreed that the City shall not be liable for any losses experienced by the Vendor as a result of loss or damage to Licensee's equipment. It is recommended that the Licensee obtain insurance over their equipment and business interruption insurance.

b) **Automotive Insurance**

A minimum of five million (\$5,000,000) dollars of public liability and property damage insurance shall be carried on all automotive equipment. Please provide the City with confirmation of such insurance.

c) **General Insurance**

Before starting the vending season, the Licensee shall file with the City, certificates of all insurance policies acceptable to the City. These certificates shall state that the insurance complies with the requirements of the License Documents.

Each insurance policy required under this Article shall contain an endorsement to provide all Named Insured with prior notice of changes and cancellations. Such endorsement shall be in the following form:

"It is understood and agreed that the coverage provided by this policy will not be change or amended in any way or cancelled until thirty (30) days after written notice of such change or cancellation shall have been given or sent by registered mail to all Named Insured."

Should the Licensee fail to make a payment of any premiums or other assessments required by the Licensee's insurers to maintain such policies in force and effect, the City will terminate the License agreement immediately without further notice.

Whenever the word the City is to appear in the insurance policies, the legal name, The Corporation of the City of Penticton, shall be inserted.

13. **Compliance with Workers Compensation Act**

It is the responsibility of the vendor to ensure compliance with all WCB regulations.

14. **City's Right to Terminate the License**

Any of the following occurrences or acts shall constitute an event of default by the Licensee under the Agreement and at the City's sole discretion can be grounds for termination of the agreement:

- Failure to make full payment of the obligation(s) in the Agreement or any other sum required to be paid by the Licensee hereunder by the due date;
- Non-performance or non-observance of any of its other covenants, Agreements, or obligations expressed or implied herein or in the Application for Beach Vending Sites which continuing for five (5) days after the City has given to the Licensee notice in writing. If the failure cannot be remedied within five (5) days, then the City at its discretion may extend the time period; or any three such breaches in any one season;
- If the term hereby granted shall at any time cease or be taken in execution or in attachment by any creditor of the Licensee, or if the Licensee shall make any assignment for the benefit of creditors or, becoming bankrupt or insolvent, shall take the benefit of any act that may be enforced for bankrupt or insolvent Licensees, then the current rate (if not then paid) shall immediately become due and payable to the City, and said License hereby granted shall immediately become forfeit and void;
- If sufficient cause exists to justify such action, the City may without prejudice to any other right or remedy which the City may have at law or in equity, by giving the Licensee written notice, terminate the Agreement. The City shall nevertheless be entitled to recover any monies then owing. Similarly, if a court of competent jurisdiction on account of the Licensee's insolvency appoints a receiver, the City may take the same action in the same manner;
- Notwithstanding anything contained herein, the City may, at any time during the term of the agreement terminate the agreement, if the City, at their sole discretion, is of the opinion that the operation of the Licensee is not of a standard satisfactory to the City. Further, the City, at its sole discretion may terminate the agreement for reasons including but not limited to unethical or criminal activities.

### INSURANCE ACKNOWLEDGEMENT

Please have your Insurance Broker sign and acknowledge that insurance policy issued to

The Corporation of the City of Penticton and \_\_\_\_\_

includes the following:

**Liability Insurance** naming The Corporation of The City of Penticton as an additional insured for the amount of not less than five million (\$5,000,000) dollars that will be in effect, at a minimum, from May 1, 2024, to September 30, 2024;

**“Cross Liability” clause:**

“The insurance afforded by the insurance policy shall apply in the same manner to all insured, as though separate policies were issued to each insured in the event an action is brought against any of the named insured by or on behalf of any other named insured.”

**“Cancellation” clause:**

“It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way or cancelled (prior to thirty (30) days after written notice of such change or cancellation shall have been given or sent by registered mail.”

As the Insurance Broker of the policy as indicated above, I acknowledge and confirm that the policy conforms to the above requirements.

\_\_\_\_\_  
Insurance Broker

\_\_\_\_\_  
Verification Stamp

Please sign, provide a verification stamp and attach a copy of your business card.





# Council Report

penticton.ca

**Date:** March 19, 2024  
**To:** Anthony Haddad, City Manager  
**From:** Gabe Tamminga, Planner I  
**Address:** 457 Ellis Street

File No: RMS/457 Ellis St

**Subject: Development Variance Permit PL2024-9753  
Development Permit PL2023-9702**

## Staff Recommendation

THAT Council approve "Development Variance Permit PL2024-9753", for Lot 2 District Lot 249 Similkameen Division Yale District Plan 9522, located at 457 Ellis Street, a permit to vary Section 6.1.5.4 of Zoning Bylaw 2023-08: Increase the maximum permitted small car spaces from 25% to 75% and;

AND THAT Council, subject to approval of "Development Variance Permit PL2024-9753", approve "Development Permit PL2023-9702", Lot 2 District Lot 249 Similkameen Division Yale District Plan 9522, located at 457 Ellis Street, to allow the construction of a six-storey mixed-use building on the subject property.

## Strategic Priority Objective

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

## Proposal

The applicant is proposing to construct a six-storey mixed-use building with eight residential dwelling units in total on the upper five floors and commercial space on the first floor on the subject property (Figure 1).

In order to proceed with the proposed development, the applicant has requested a variance to increase the number of permitted small car parking spaces. Currently, they are permitted to have one small car parking space for this development but are requesting a variance to allow for an increase in small car spaces from 25% of the provided off-street parking to 75%, to allow a maximum of three small car parking spaces on the subject property.



Figure 1 - Proposed Development

## Background

The subject property is 279.23m<sup>2</sup> in size and is located on the west side of Ellis Street (Figure 2). The property currently contains a single-family dwelling which is situated in between two commercial properties on either side at 451 Ellis Street and 465 Ellis Street. The surrounding area is primarily commercial buildings with close proximity to the City of Penticton's downtown core area where there is a mix of residential and commercial spaces. This development will provide access to a variety of services such as schools, shops, restaurants, and transportation options such as bicycle lanes and bus routes.

The subject property is designated 'Urban Residential' by the Official Community Plan (OCP), and is zoned 'C5 – Urban Centre Commercial' in the Zoning Bylaw, which permits high-density commercial and residential uses in the core area of the City.

## Financial Implication

The applicant is responsible for all development costs, including any service upgrades and the payment of Development Cost Charges (DCC's) to help offset the added demand on City services from the proposed development.

## Climate Impact

The development proposes a building that increases the density in a core area of Penticton with close proximity to services and amenities for the future residents of the development.

The applicant has provided private bicycle parking for residents encouraging alternate and sustainable forms of transportation to vehicle trips in Penticton's downtown urban area. There will be fourteen Class 1 spaces provided in the residential storage room in the basement of the proposed building, which is beyond the required amount as per the Zoning Bylaw.

A Level 2 Electric Vehicle ready space must be provided for each dwelling unit. The applicant is proposing four vehicle spaces and therefore must have four EV ready vehicle spaces, which provides a sustainable option for residents.



Figure 2 - Property Location Map

## Technical Review

This application was reviewed by the Technical Planning Committee (TPC), a group of internal staff who review planning applications. The typical frontage and lane upgrading requirements, along with the Development Cost Charges (DCC's) were identified and communicated to the applicant.

## Development Statistics

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

	C5 Zone Requirement	Provided on Plans
<b>Minimum Lot Width:</b>	9.0 m	9.144m
<b>Minimum Lot Area:</b>	275 m <sup>2</sup>	279.23m <sup>2</sup>
<b>Maximum Lot Coverage:</b>	100%	94.4%
<b>Maximum Density:</b>	6.0 Floor Area Ratio (FAR)	3.9 Floor Area Ratio (FAR)
<b>Vehicle Parking:</b>	1 Per Dwelling Unit (8 Total)	4 Vehicle Parking Spaces <b>(*Variance requested)</b> Reduction of one vehicle space for the provision of five Class 1 Bicycle parking spaces. Cash-in-lieu provision of three vehicle parking spaces at \$13,000 per space.
<b>Bicycle Parking:</b>	0.5 Class 1 Per Dwelling Unit (4 Total) 0.1 Class 2 Per Dwelling Unit (0 Total)	14 Class 1 Spaces Provided
<b>Required Setbacks</b>		
Front Yard (north):	0 m	0m
Side Yard (east):	0 m	0m
Side Yard (west):	0 m	0m
Rear Yard (lane):	0 m	0m
<b>Maximum Building Height</b>	36.6 m	19.15m

The applicant is reducing the number of required parking spaces through the provision of five Class 1 bicycle parking spaces to reduce one vehicle parking space, and they are reducing another three spaces through the cash-in-lieu provision of \$13,000 per parking space.

## Analysis

The Official Community Plan (OCP) designation for the subject property is 'Urban Residential', which supports higher-density 3-6 storey apartment neighbourhoods in higher-amenity areas (Figure 3). This proposal fits with the envisioned future land use in this area.

Land Use	Description	Building Type(s)	Uses	Height / Density
 <p>Urban Residential</p>	Higher-density 3-6 storey apartment neighbourhoods in higher-amenity areas where building construction is primarily wood frame.	<ul style="list-style-type: none"> <li>• Townhouses and stacked townhouses</li> <li>• Low-rise and mid-rise apartment/condo buildings</li> </ul>	<ul style="list-style-type: none"> <li>• Residential</li> <li>• Limited Retail/Service</li> </ul>	<ul style="list-style-type: none"> <li>• Heights up to 6 storeys</li> </ul>

Figure 3 - OCP Designation

- OCP Policy 4.1.1.1* Focus new residential development in or adjacent to existing developed areas.
- OCP Policy 4.1.2.9* Reduce parking standards for multifamily developments, where feasible, in appropriate walkable, bikeable and transit-oriented neighbourhoods to reduce construction costs and encourage active transportation.
- OCP Policy 4.1.3.1* Encourage more intensive “infill” residential development in areas close to the Downtown, to employment, services and shopping, through zoning amendments for housing types compatible with existing neighbourhood character, with form and character guided by Development Permit Area Guidelines.
- OCP Policy 4.1.3.5* Ensure through the use of zoning that more-intensive forms of residential development are located close to transit and amenities, such as parks, schools and shopping.
- OCP Policy 4.1.4.1* Work with the development community – architects, designers and builders – to create new residential developments that are attractive, high-quality, energy efficient, appropriately scaled and respectful of their context.
- OCP Policy 4.2.3.8* Require adequate levels of secured bike parking in new multi-family, mixed-use and commercial development.
- OCP Policy 4.2.5.2* Encourage land use planning that results in neighbourhoods that can be easily serviced by transit.

Staff consider that the application proposes an appropriate-scaled development in an area of the community that has been identified for increased density in the Official Community Plan. The current Zoning of the property is C5 – Urban Centre Commercial, which permits higher-density buildings with mixed-uses in the core of the City envisioned by the Urban Residential designation.

The OCP policies encourage development in areas that are close to shops, services and public transportation to encourage walkability. Staff note this property is within walking distance of bus stops, bike lanes and the downtown area of Penticton.

### *Development Permits*

The proposed six-storey building is considered within the Commercial & Mixed Use Development Permit Area as per the OCP, which is established to manage the form and character in high-density areas that strengthens walkability and livability.

The building has been designed with the OCP design guidelines in mind (Attachment D). The development proposes a higher-density that is aligned with the OCP designation and provides a design that meets the Zoning Bylaw regulations for setbacks, density and is within the allowable building height.

The applicant has noted that the proposed development will be higher than the neighbouring buildings and as a result, have thoughtfully designed the massing to reduce visual impact in the transition of building heights. The proposed building will have a series of paint applied mural patterns on both the North and South sides of the buildings to enhance the visual quality and mitigate visual impacts. The materials have been intentionally chosen for the exterior of the building to break down the visual mass with dark brick, coloured metal panels and white stucco.

### *Development Permit Variances*

The applicant has requested a variance of Section 6.1.5.4 of the Zoning Bylaw 2023-08 to allow for an increase in small car parking spaces from 25% of off-street parking to 75%, to allow for a maximum of three small car parking spaces. Staff have reviewed the requested variance to increase the percentage of permitted small car parking spaces and are recommending support for the following reasons:

#### *1. Site Location and Size*

The subject property at 457 Ellis Street is a narrow site in the urban core of Penticton. The applicant has been able to provide all parking from the rear lane and has provided four off-street parking spaces. The applicant has been able to provide three times the required amount of bicycle parking than what in the Zoning Bylaw. In the Zoning Bylaw, the applicant has the ability to pay cash-in-lieu to reduce the number of vehicle parking spaces down to zero. However, they are requiring that three of the four spaces to be designated as small car parking spaces to better suit the site and still provide four vehicle parking spaces.

Additionally, 457 Ellis Street is a site that is close to the downtown core of Penticton and provides access to amenities within walking distance and close proximity to other forms of transportation such as bicycle lanes, pedestrian paths and bus routes. Therefore, making this site suitable for the requested variance.

Staff also would like to acknowledge that the Province of BC is requiring the City of Penticton to update their Zoning Bylaws by June 30, 2024 to allow for up to 4 units on any single family dwelling or duplex zoned properties. The City of Penticton has begun public engagement on these proposed changes to the Zoning Bylaw and has incorporated the OCP Housing Task Force recommendations into consideration with this engagement period. One of the recommendations that the OCP Housing Task Force created, was to review the parking regulations in strategic areas to incentivize housing development. As a result, staff took this recommendation and have proposed in the new Zoning Bylaw update to remove the residential parking requirements of the C5 (Urban Centre Commercial) and C6 (Urban Peripheral Commercial) zones to

incentivize housing in the downtown core of Penticton. This property is zoned C5 and would fall under the new parking requirements of the C5 and C6 zones if these Zoning Bylaw changes are implemented.

Staff do not anticipate negative impacts on the surrounding area and neighbouring properties if the variance is granted.

As such, staff recommend that Council consider approving the Development Permit and Development Variance Permit.

**Alternate Recommendations**

Council may consider that the proposed development variance and development permit are not suitable for this site. If this is the case, Council should deny the Development Variance Permit and Development Permit.

1. THAT Council deny "Development Variance Permit PL2024-9753"
2. THAT Council deny "Development Permit PL2023-9702"


**Attachments**

- Attachment A – Zoning Map
- Attachment B – Official Community Plan Map
- Attachment C – Photos of Property
- Attachment D – Development Permit Analysis (staff)
- Attachment E – Letter of Intent & Development Permit Analysis (applicant)
- Attachment F – Draft Development Permit PL2023-9702
- Attachment G – Draft Development Variance Permit PL2024-9753

Respectfully submitted,

Gabe Tamminga  
Planner I

Concurrence

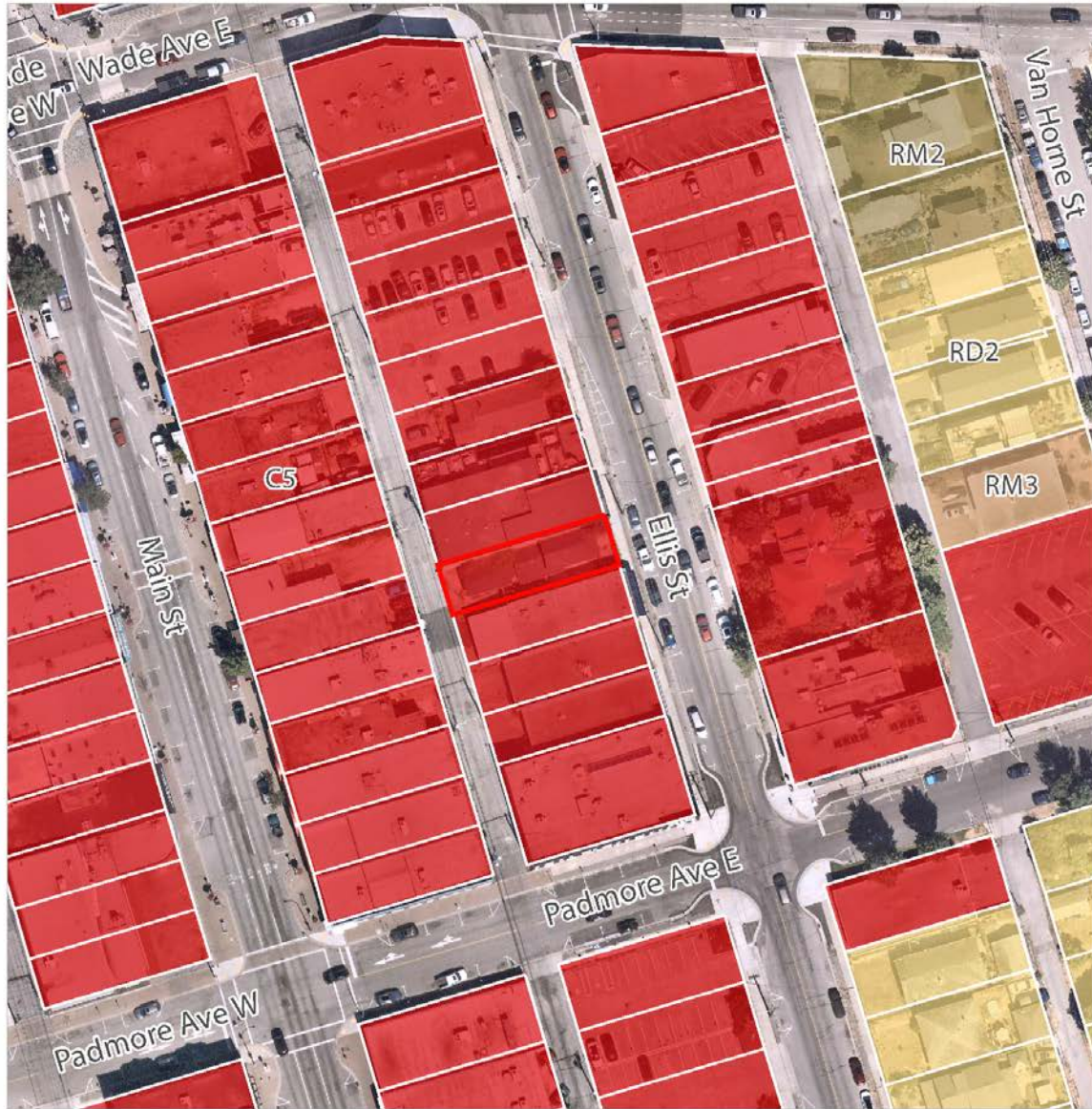
Director of Development Services  <i>BL</i>	GM of Infrastructure  <i>KD</i>	City Manager  
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Attachment A – Zoning Map



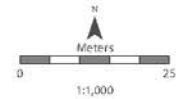
# Zoning Bylaw Map

457 Ellis Street



Legend

- Subject Parcel
- RD2 - Duplex Housing: Lane
- RM3 - Medium Density Multiple Housing
- RM2 - Low Density Multiple Housing
- CS - Urban Centre Commercial



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Tuesday, February 27, 2024 9:56:25 AM

Attachment B – Official Community Plan Map



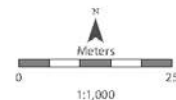
# Official Community Plan Map

457 Ellis Street



### Legend

- Subject Parcel
- Future Land Use
- Ground Oriented Residential
- Urban Residential
- Downtown Mixed Use
- Infill Residential



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Tuesday, February 27, 2024 9:55:07 AM

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Attachment C – Photos of the Property





Attachment D - Development Permit Analysis (staff)

**Development Permit Analysis**

The proposed development is located within the Commercial and Mixed-Use Development Permit Area. The following analysis demonstrates how the proposal is aligned with the applicable design guidelines.

- Guideline G1*      *Prior to site design, analysis shall be undertaken to identify significant on-site and off-site opportunities and constraints, including built and natural elements (e.g., structures, slopes and drainage, significant landscape features, etc.).*

  - The proposed building were designed with the Zoning Bylaw requirements in mind. All parking will be provided from the lane.
- Guideline G5*      *Siting of buildings should support strong street definition by minimizing front yard setbacks while sensitively transitioning to neighbouring building setbacks.*

  - The zoning of the subject property allows for a 0m front yard setback and the proposed development follows that to ensure uniformity along the street.
- Guideline G26*      *Building designs should minimize impacts on the privacy of adjacent dwellings, including private open spaces.*

  - The windows for the commercial and residential units face Ellis Street and the laneway to ensure there is no overlook onto neighbouring properties.
- Guideline G28*      *Entries should be visible and clearly identifiable from the fronting public street.*

  - Both the commercial and residential entrances are visible and identifiable from Ellis Street.
- Guideline G35*      *Tree planting...*

  - The proposed development will have frontage upgrades and it includes two trees in front of the subject property.
- Guideline G58*      *Garbage/recycling areas and other similar structures should be located out of public view in areas that mitigate noise impacts and which do not conflict with pedestrian traffic.*

  - Garbage and recycling will be collected from the laneway and stored in the garage area of the building to mitigate noise and out of public view.
- Guideline CM1*      *Commercial and Mixed-Use building siting should create an active and attractive street.*

  - The building frontage meets the sidewalk at grade to create an attractive street.
- Guideline CM3*      *Mixed-use developments require thoughtful consideration to create synergies in mix and placement of uses.*

  - The ground floor is intended for commercial use to front a high-pedestrian area and the upper floors will be private residential units.

November 29, 2023

Penticton City Hall  
171 Main Street  
Penticton, BC  
V2A 5A9  
CANADA

Attention: Planning Department

ELLIS ST. CONDOS  
457 ELLIS ST.

Letter of Intent

Dear Blake Laven,

Please find attached our detailed application for a Development Permit for the 457 Ellis St. Condos, as well as our response to the required Development Permit Analysis.

The body of work contained in this application is a result of the recommendations of the new Penticton OCP (2045) and requirements of the Zoning Bylaws.

We believe that the Development Proposal fits nicely within the context of the neighbouring buildings and that it adds to the urban form and character of Ellis St. as well as the whole of Downtown Penticton.

Sincerely,



---

Cal Meiklejohn, Architect AIBC, FRAIC, LEED™MAP  
MEIKLEJOHN ARCHITECTURAL DESIGN **STUDIO** INC.  
[cal@madstudio.ca](mailto:cal@madstudio.ca)

MEIKLEJOHN ARCHITECTURAL DESIGN **STUDIO** INC.

104 – 259 BACKSTREET BOULEVARD, PENTICTON, BC V2A 0G4 t: 250.492.3143 e: office@madstudio.ca

November 29, 2023

Penticton City Hall

171 Main Street  
Penticton, BC  
V2A 5A9  
CANADA

ELLIS ST. CONDOS  
437 ELLIS ST.

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# DEVELOPMENT PERMIT ANALYSIS OCP GUIDELINE RESPONSES

457 ELLIS ST. CONDOS, PENTICTON, BC

## 5.2.2 General Guidelines

The following General Design Guidelines apply to all development requiring a Development Permit:

### Site Planning

#### Designing in Context

Contextual designs feel better because they 'fit.' In light of Penticton's complex and unique landscape, views and urban patterns, it is important that designs reflect this character. Guidelines address site conditions and context, including: sensitivity to on-site features (e.g., terrain and sun angle), adjacencies (e.g., street interface and existing uses), potential impacts (e.g., overlook and shading) and other related opportunities (e.g., energy conservation).

G1. Prior to site design, analysis shall be undertaken to identify significant on-site and off-site opportunities and constraints, including built and natural elements (e.g., structures, slopes and drainage, significant landscape features, etc.)

#### MAD RESPONSE:

The development is situated on a level, urban residential site that is currently occupied by a single-family dwelling. The site does not contain any significant geographical features. All units on the North side of the building benefit from glazing offering partial Northwest views toward the lake and mountains. Outdoor patios at each level are provided to all West facing apartments, with the second and top level, East facing apartments also having balconies with mountain views. To combat the constraints of the narrow lot and the challenge for attaining natural light mid-property, we have introduced a central cut out or void on the North elevation. Within this void, windows have been provided to both East and West facing apartments on every unit along the side of the building.

G2. Applications shall include a comprehensive site plan – considering adjacent context for building and landscape architectural design and neighbourhood character analysis – to demonstrate that the development is sensitive to and integrated within its context and surrounding uses and neighbours.

- All site / landscape plans should incorporate the boulevard.

#### MAD RESPONSE:

Several similar developments are present within the city's Downtown Mixed Use Zone with the building typology being identified in the OCP as a suitable archetype for this site designation. Furthermore, the design of the proposed development has carefully considered and responded to the context of the neighbourhood. For example, although the development is 6 storeys, the

PROJECT: 457 ELLIS ST. CONDOS

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uppermost levels have voluntarily applied further setbacks to maintain the appearance of a shorter 5-storey building from the street. A carefully applied composition of varying external materials has been applied to further reduce the visual scale of the proposal, with the dark brick intended as the dominant visual feature.

G3. Private and semi-private open spaces should be designed to optimize solar access (see Figure G3).

**MAD RESPONSE:**

The development includes ample open space for residents. Each unit includes a private outdoor patio with views towards the mountains and in the case of the upper-level apartments, Okanagan Lake. Private Juliet balconies are provided to the two East facing apartments that are not permitted to have balconies due to their proximity to the high voltage power cables.

Other semi-private amenities are provided within the development, including enclosed bike storage lockers and individual storage cages.

G4. Views through to the mountains and the lakes should be carefully considered and incorporated into the design of new development.

**MAD RESPONSE:**

As mentioned in G1, the proposed development has been designed to maximize available daylight into the centre of the building and provide mountain views to the East and West as well as lake views to the North from the upper-level units. As a result, north-facing patios and windows overlooking the Lake are provided to both top level penthouse suites and the larger West side apartments located within the North facing central void.

### Framing Space

In consideration of Penticton's relatively low-scale urban form, future intensification and development should explore how buildings actively frame space(s) to expand and enhance the public realm. The following guidelines aim to promote positive interactions with particular care and attention to transitions between private and public spaces.



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G5. Siting of buildings should support strong street definition by minimizing front yard setbacks while sensitively transitioning to neighbouring building setbacks.

**MAD RESPONSE:**

The proposed ground floor elevation on Ellis Street has been partially set back from the boundary of the site to allow for bicycle parking, to give visual definition to the commercial element and to provide shelter to the principal residential access point. Above the ground level, the main mass has not been setback from the street to maximise the density on the site. As defined by the zoning, the proposed building has been located to be in alignment with the neighbouring buildings. However, Juliet canopies to the balconies on both East and West elevations protrude over the property line adding character and articulation to the façade. The overall building volume enhances a strong street definition along Penticton's central Ellis Street, increasing residential density and adding to the visual character of the city's downtown core.

G6. Building placement and orientation should respect significant public water, mountain and ridgeline views.

**MAD RESPONSE:**

The proposed building is located on a narrow infill site between single and a 2-storey commercial buildings. Notwithstanding these constraints, the project has been designed to maximize views in all cardinal directions through a combination of glazing, patios and juliet balconies. See answer to point G4 for additional clarity.

G7. All designs shall consider Crime Prevention Through Environmental Design (CPTED) principles and balance the reduction of crime and nuisance opportunities with other objectives to maximize the enjoyment of the built environment.

**MAD RESPONSE:**

The design of the development seeks to enhance pedestrian activity by providing sightline points along both the Ellist Street and laneway elevations. Additionally, significant glazing on the North side of the building enhances the design while providing opportune vantage points for eyes on the street and laneway from the residential units and amenity spaces. The development proposes that the property parkade is fully enclosed with automated overhead doors at the vehicle laneway entrance. The Ellis Street access point will benefit from a visible street presence thus securing the building to further discourage crime and nuisance opportunities.

G8. Secondary buildings should create comfortable and social, semi-public and semi-private spaces within interior courtyards and/or side-yards.

**MAD RESPONSE:**

Not applicable to this development as there are no secondary buildings within the site.

## Prioritizing Pedestrians

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A high-quality pedestrian environment is a central quality of any welcoming neighbourhood. Penticton is fortunate to have an extensive neighbourhood street network that links distinct areas in a reasonable walking distance. The following guidelines aim to optimize the quality and connectivity of pedestrian infrastructure and reduce conflict between pedestrians and vehicles.

G9. Pedestrian connectivity to adjacent properties is encouraged. With the exception of private yards, open spaces shall be designed for public access and connectivity to adjacent public areas (and publicly accessible private spaces).

**MAD RESPONSE:**

The development has been designed to provide high density, central urban accommodation and reduce reliance upon the car. Pedestrian access to Ellis Street for both the ground level commercial unit and the apartment shared lobby have been designed to have level thresholds, sheltered access points and highly visible sheltered bicycle parking bays. The main entrance door to the apartment building will be automated, allowing easy access for occupants moving bicycles to the secure storage areas within the building.

G10. Development of larger parcels should provide pedestrian connections to adjacent public areas and create an effective street-fronting block scale of 60m-190m.

**MAD RESPONSE:**

Not applicable as the site is not large and therefore, this design approach does not apply to the project.

G11. Barrier-free pedestrian walkways to primary building entrances must be provided from municipal sidewalks, parking areas, storage, garbage and amenity areas.

**MAD RESPONSE:**

The development complies with British Columbia Building Code (2018) mandated barrier-free access. The primary building entrance is located at the front of the building on Ellis Street and will have both a level threshold, level access and an automated access door. Access to the parkade is via a rear door. This door will be located within the one of the automated vehicular access doors and will also provide level access. Off Ellis Street, individuals can access the primary residential lobby which links the Street facing access door to the parkade. The internal lobby space is level throughout, a central stair core and elevator provides access to apartments.

G12. Where feasible, indicate pedestrian ways with continuity of paving treatments/paving materials.

**MAD RESPONSE:**

The proposed walking surfaces within the indentation on Ellis Street will use a textured concrete paving surfacer to match the existing paving and patterns currently used along the existing public sidewalk.

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G13. Entry to ground-level residential units should be no more than 1.8m (6.0 ft.) above the grade of adjacent public sidewalks and walkways (see Figure G14).

**MAD RESPONSE:**

The commercial unit, residential lobby and parkade proposed at ground-level will be at a grade consistent with the adjacent public sidewalk on Ellis Street.

G14. The outdoor space of a residential unit should be raised no more than 1.2m (3.9 ft.) above adjacent public sidewalks and a “front stair” pedestrian connection shall be provided (see Figure 5-2).

**MAD RESPONSE:**

Not applicable to this development as there is no ground level outdoor individual unit residential space within this proposal.

G15. Fencing facing an active public realm should be lowered and transparent or semi-transparent.

**MAD RESPONSE:**

Not applicable to this development as there are no fences proposed within this design.

## Cars and Parking

The following guidelines are intended to reduce the impacts of automobile infrastructure – including access and parking – and to further support a high-quality pedestrian realm. (see Figure 5-3 and Figure 5.4)

G16. Site and building access must prioritize pedestrian movement, minimize conflict between various modes of transportation and optimize use of space:

- Off-street parking and servicing access should be provided from the rear lane (where one exists) to free the street for uninterrupted pedestrian circulation and boulevard landscaping (see Figure 5-4).
- Where possible, shared automobile accesses should be considered to optimize land use, and to reduce impermeable surface coverage and sidewalk crossings.

**MAD RESPONSE:**

Off-street parking for residents will be accessed from the rear lane to allow for a pedestrian-oriented experience along Ellis Street. Due to the constraints of the narrow site, the parking will consist of 4 stalls only. As such the options available for satisfying the parking requirement are the provision for 5 bike parking stalls in lieu of one required parking stall, and payment-in-lieu which in the case of the C5 zone allows the lowering of the parking provision to less than one stall per unit. The amount of payment-in-lieu is \$13,000 per stall. The proposed design allows for 14 bike parking bays, 12 of which are within a private lockable storage room.

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G17. On-site parking location and design should minimize visual impact and provide safe connections for pedestrians:

- Parking between the front of buildings and the street is not permitted.
- Parking should be located at the rear of buildings/sites.
- Shared parking (where varying uses have parking demands that peak at different times of the day) is encouraged to reduce parking requirements.
- Outdoor surface parking areas should incorporate pathways that provide safe, accessible and comfortable pedestrian connections to entries/destinations.

**MAD RESPONSE:**

There will be no parking areas (surface or enclosed) between the front of the building and the street. Parking for the site is situated behind the building and accessed from the rear lane. A level internal circulation route is provided through the residential lobby allowing easy access to Ellis Street and ensuring convenient pedestrian circulation throughout the property.

G18. Attached parking structures, their access and associated components (doorways, ramps, etc.) should be architecturally integrated into the building so as to minimize visual impact to the public realm.

**MAD RESPONSE:**

The proposed parking does not contain any ramps since level access will be provided.

G19. All multifamily developments should accommodate sustainable modes of transportation through:

- Provision of bike parking and/or safe storage of alternative transportation/ mobility equipment (bikes, mobility scooters, etc.).
- Provision of electric vehicle charging stations.
- Internal circulation and/or upgrades to adjacent rights-of-way to accommodate alternative transportation (e.g., multi-use pathways, separated bike lanes, etc.)

**MAD RESPONSE:**

All required Class 1 and Class 2 bicycle parking is provided for the project at grade. Enclosed bicycle parking is located within the basement level in a secure storage room. Each bicycle stall will be lockable. The elevator has been sized accordingly to accommodate the transportation of bicycles. Open bicycle parking will also be provided at the front of the building on Ellis Street.

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## Architecture

### Design for Our Climate

In response to Penticton's semi-arid climate, design buildings and landscape architecture that reflect a love for indoor/outdoor living resulting from low annual rainfall and hot summer temperatures.

G20. Designs should respond to Penticton's setting and climate through use of:

- passive solar strategies;
- optimized placement of windows to maximize natural light;
- energy-efficient building design;
- passive solar principles;
- landscape design and plantings that provide cooling through shade in summer months;
- selecting roof materials to minimize heat loading and increase reflectivity.; and,
- strategies for cross-ventilation.

### MAD RESPONSE:

The 457 Ellis Street development proposal includes the following green initiatives:

1. Optimization of glazing throughout the building to capitalize on light, minimize energy use, and facilitate natural cross ventilation via the central void.
2. Installation of thermally-broken glazing.
3. Installation of low solar gain glazing.
4. Minimization of thermal breaks in building envelope.
5. Use of high efficiency mechanical and electrical systems.
6. Use of light-coloured roofing to maximize solar reflectance and minimize solar heat gain.
7. Provision for trellis structures above both the outdoor roof-top patios designed to shade summer sun and maximize solar gain in the winter.

### Friendly Faces, Friendly Neighbours (Orientation & Massing)

Massing (the three-dimensional form) and articulation (how the parts fit together) of architecture are tools that can reduce the apparent size of large buildings and help ensure the sensitive transition to adjacent buildings and open spaces. It can also provide visual interest for pedestrians. New development should consider the scale of its neighbours and avoid abrupt transitions in height and massing between adjacent buildings.

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G21. Orientation of buildings should face public spaces (e.g., street and lane) with a preference for ground-oriented types (e.g., a front door for everyone or every business).

**MAD RESPONSE:**

Naturally, the development at 457 Ellis Street is constrained to a pre-determined building orientation not only to optimize the views to the East and West, but also to suit the narrow dimensions of the existing site. Particular care has been taken in articulating the building's external materiality and form to try and reduce what is a significant increase in height in comparison to the neighbouring commercial properties. A dark brick is proposed for the surface treatment to the street and lane facing elevations, drawing attention to the smaller scale volume. A simple, high quality material pallet is proposed for the external faces of the building. The differing materials have been creatively placed to articulate the street and laneway facing facades, adding visual interest and maintaining the high-quality aesthetic of Ellis Street.

While the proposed design stands at 6 storeys in building height, the uppermost floors have been intentionally setback further from the front and rear of the property to maintain the appearance of a shorter 5-storey building.

G22. Massing of larger buildings should be composed of multiple volumes to reduce visual impact on the pedestrian realm.

**MAD RESPONSE:**

The massing has been thoughtfully designed to appear as a series of smaller volumes to reduce visual impact and ease the transition in building height along Ellis Street. Although the OCP Urban Residential Land Use allows for a building height of 36m, the proposed development stands at 20.1m, significantly within the allowable height.

While the proposed development is 6-storeys, the uppermost storeys of the building are setback much further than the first 5-storeys, giving the appearance of a shorter building from the street from the pedestrian realm.

Elevation treatment has also been carefully designed to visually break up the visual mass. The proposed elevation uses three principal calling materials, dark brick, coloured metal panels, and white painted stucco. The materials are intentionally miss-aligned to create interest and further break down the visual mass of the form. The larger fire walls that flank both South and North elevations will adhere to the same visual concept. A series of paint applied mural patterns will add interest to these large forms and further enhance the visual quality of the building.

G23. Articulation of building mass should include horizontal (minor) setbacks and step backs (along upper storeys) to provide visual interest and enrich the pedestrian experience. Balconies and/or cantilevered upper floors may be considered as a means to breaking up massing while promoting overlook and/or weather protection.

**MAD RESPONSE:**

All upper-level units will have either protruding balconies or juliet balconies. The development also incorporates outdoor roof terraces on the upper most level providing views towards Okanagan

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Lake. The design and treatment of these balconies seek to break up the mass further and articulate distinct volumes within the façade. Other design elements included – such as shading devices and protruded window reveals, a varied application of the chosen material pallet and the introduction of a painted pattern or mural – not only provide functional benefits to residents, but also add visual interest to the pedestrian realm.

G24. Street-facing units should utilize a layering of elements – including but not limited to street-facing entries, stairs, stoops, porches, patios and landscape elements – to create transitions between the public (e.g., street, sidewalk), semi-public (e.g., walkway, ramp, stair), semi-private (e.g., stoop, balcony) and private areas.

**MAD RESPONSE:**

The proposed development is an urban infill project on Ellist Street. To deal with the adjacent municipal sidewalk, several elements have been used to aid the transition between the public and private realm. For instance, the entrance to the residential lobby on the ground-floor has been retracted into the building mass. This creates an element of privacy, and adds shelter to both residential and commercial entrance doors.

The building entrance recess off Ellis Street will have a small metal cover or hood above both the commercial street window opening and the indented bike park and entrance area. Fixed to the top of this metal protrusion will be an extruded metal lettering sign displaying the building address.

G25. Where appropriate, stepped massing should be utilized to transition and improve the relationship between developments of differing scale. In areas where there is an OCP Land Use Designation change, adjacent building heights should not be greater than one-and-a-half storeys higher than existing adjacent development with additional storeys terraced back with a minimum stepback of 3.0 metres. (see Figure 5-6).

**MAD RESPONSE:**

The design of 457 Ellis Street addresses this in two ways. Firstly, the buildings volume has been broken up with the introduction of the central void. This vertical indentation will split the buildings mass visually when viewed from the North. Material selection and selective application have helped to break down the visual mass on both Ellis and the laneway and both the sixth storey elevations have been further setback to reduce the appearance of the building's height.

G26. Building designs should minimize impacts on the privacy of adjacent dwellings, including private open spaces.

**MAD RESPONSE:**

The development at 457 Ellis Street is an urban infill project. Along the North side of the building there will be windows that offer views over the roof of the neighbouring commercial building North. Views into the external private space of residential building 439 Lot 25 will not be possible as the taller buildings immediately to the South of this lot will obscure any overlooking.

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### Eyes on the Street

Create active and safe shared spaces through orientation of primary building entrances, windows, porches/ balconies to the public realm, sidewalks and other shared open spaces.

G27. Development should activate the public realm (e.g., sidewalks) and shared open spaces by placing active uses at street-level.

#### MAD RESPONSE:

The proposed development will enhance the public realm on Ellis Street. It brings a new high quality commercial space to the site, further developing the streetscape of this important downtown commercial street. Bicycle parking along the edge of public sidewalk opposite the commercial entrance door will further enhance the public space and place a high importance upon pedestrian scaled spaces.

G28. Entries should be visible and clearly identifiable from the fronting public street.

#### MAD RESPONSE:

Along Ellis Street, the entrance to the development will be identified by the two glass doors. There will be a clear visual link from the sidewalk into the ground level commercial unit thus identification of the correct door will become apparent.

G29. Development should orient windows, porches, balconies and patios toward the public realm, allowing for casual overlook of parks, open spaces, and parking areas (see Figure 5-7).

#### MAD RESPONSE:

The development orients windows and balconies toward both Ellis Street to the east and the laneway to the West. Additional balconies are proposed within the central void. Views from these balconies will look out towards the North and over the public carpark located approximately 80m from the site thus allowing for casual overlook of public realm in three directions.

G30. Extensive blank walls (over 5m in length and including retaining walls) along the street should be avoided.

#### MAD RESPONSE:

Not applicable as the design does not have any blank walls along the street.

G31. Provide screening (e.g., varied materials/textures, murals, green walls or vines) on solid walls that exist as a function of an internal program (e.g., for privacy, merchandising, etc.).

#### MAD RESPONSE:



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The proposed North and South facing fire walls that line the boundaries of the site will be painted and finished with a patterned mural. Penticton has a rich creative culture, and this proposal aims to capitalize upon the positive visual impact that the murals within the downtown core create.

## Landscape Architecture

### Design with Nature

Landscape design must reflect Penticton's natural environment. Further, local climate and landscape requires that designs are considerate of extreme temperatures, low annual rainfall and erodible soils.

G32. Stream and Riparian Protection (see Riparian DPA section)

- Sites adjacent to creeks, lakes and wetlands should retain or enhance fish and/or riparian habitat, through:
  - » Retention, enhancement and restoration of trees and shrubs that shade streams and stabilize soil, with a preference for native species.
  - » Management of post-development total yearly flow, magnitude (in individual events), and duration to mimic pre-development conditions; and,
  - » Management/restriction of access to protect stream banks and meet Riparian Area Regulations (RAR)

MAD RESPONSE:

Not applicable as the site allows for 100% lot coverage therefore the design does not have any landscaping.

G33. Water Conservation and Plant Maintenance: Xeriscaping, Irrigation & Mulching

- Employ xeriscaping principles (see Glossary) in landscape design that reduce the need for supplemental water from irrigation.
- Employ strategies such as stormwater management reuse (including rain gardens and water reclamation) to minimize impact on infrastructure and the use of potable water.
- Encourage landscaping using native drought-tolerant plant species rather than water-hungry varieties.
- All trees and vegetated landscaping should be irrigated using a sub-surface irrigation system, programmed to maximize efficient water use (e.g., drip irrigation).
- Where appropriate, increased depth of topsoil is recommended as a means to retain water and ensure more drought-tolerant landscapes.
- Trees should be planted to provide shading for shrubs and grasses and south and west faces of buildings.
- Where appropriate, mulching may further reduce irrigation demand by retaining soil moisture.

MAD RESPONSE:

Not applicable as the site allows for 100% lot coverage therefore the design does not have any landscaping.

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### Enhance the Urban Forest

Urban forests are recognized for the economic, social, and environmental benefits they provide. In addition to considerations for form & character, enhancement of Penticton's urban forest will support health and well-being for all.

#### G34. Tree retention

- New development should retain, where possible, existing mature and native trees and protect their root systems;
- Pre- and post-development tree surveys are required must be undertaken.

#### MAD RESPONSE:

The existing site contains very limited existing shrubs that are neither native nor drought-tolerant species. New planting on the site is not applicable as the site allows for 100% lot coverage therefore the design does not have any landscaping.

#### G35. Tree planting

- Where space permits, landscaped areas, boulevards and setback areas adjacent to streets should be planted with trees with appropriate soil volumes to ensure longevity.
- All areas with planted trees must be irrigated
- All development fronting a public street shall plant a landscaped area fronting the public road with regularly spaced street trees no further than 10 metres apart, and at least 2.5 meters tall at the time of planting.
- The planting of additional trees is strongly encouraged, particularly if existing trees cannot be preserved, in order to maintain and expand the urban forest canopy.

#### MAD RESPONSE:

Not applicable as the site allows for 100% lot coverage therefore the design does not have any landscaping.

### Functional Use of Landscapes

Designs should be prepared by a professional with experience in the planning, design and implementation of high-quality landscapes designs.

G36. Habitat: designs should provide for and/or enhance habitat value (e.g., birds, pollinators, etc.) through the use of selected plant material (food & nutrients) and/or structural/grading improvements (e.g., hibernacula, pools, etc.).

#### MAD RESPONSE:

The development is an urban infill project and as the site allows for 100% lot coverage therefore there is no space for new natural habitat design. Note, the contrasting colours of the building's exterior are considered bird-friendly.

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G37. Stormwater management: mitigate impacts of runoff by diverting stormwater to infiltration galleries or other appropriate green infrastructure.

**MAD RESPONSE:**

The development is an urban infill project that maximizes 100% lot coverage while complying with the OCP guidelines. As such, it contains no landscaping at grade for natural stormwater retention systems. A dry well will be installed beneath the parking lot to mitigate the impacts of runoff.

**G38. Screening & Buffering**

- Where appropriate (and in consideration of Fire Smart principles and native ecosystems), screen walls and/or landscape buffers (e.g., berms, shrub beds, hedges and/or trees) should be used to manage transitions and/or conflict between incompatible uses (e.g., industrial uses and/or parking);
- Buffer design should complement neighbourhood character and landscape setting (refer to “Materials Selection – Hardscapes and Softscapes”)
- Notwithstanding the screening regulations in the Zoning Bylaw, landscape buffers should be utilized to reduce the visual impact of service areas and surface parking, including:

**MAD RESPONSE:**

Not applicable as the site allows for 100% lot coverage therefore the design does not have any screening to external storage structures.

**G39. Defining the Public- and Private Realms**

- Clearly signaled transitions between the public (e.g., street, sidewalk), semi-public (e.g., walkways, ramp, stair), semi-private (e.g., stoop, balcony) and private (e.g., entry) realms shall be clearly defined to enhance both the privacy of residences and the pedestrian experience, and may include:
  - » Landscape terracing (e.g., grading, retaining);
  - » Structures (e.g., fences, pergolas, trellises),
  - » Planting (e.g., low hedges) and/or
  - » Changes in surfacing materials.

**MAD RESPONSE:**

The development employs multiple clear strategies to define the public and private realms at grade. The Ellis Street elevation has clearly defined private access doors. The indentation on the ground level façade houses the external bike racks and provides shelter to those accessing the building. The space will be semi public as it provides access to the ground level commercial unit. Glass doors separate the residential lobby with the external space, so visual surveillance of the area is unobstructed. At the rear of the building the ground level parkade is separated from the laneway with over head metal roller shutter doors. Within one of these doors will be a lockable pedestrian door. The roller shutter doors will be automated.

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#### G40. Energy

- Landscape designs should support shading strategies (passive cooling) with deciduous plantings that allow increased solar gain in winter months;
- Landscape designs should accommodate windbreaks (perpendicular to the direction of winter prevailing winds) to reduce heat loss in winter.

#### MAD RESPONSE:

Winter solar gain is achieved with large window openings on both East and West facades as well as openings present within the central void. The urban nature of the development provides minimal land area for landscaping-based solar strategies.

#### Materials Selection – Softscapes & Hardscapes

The material and quality of landscapes – in public and private spaces - play an important role in defining the character of Penticton. Material selection (plants and construction materials), high quality landscape design and materials will enhance landscape performance, visual character and aesthetic quality while reinforcing a positive, green image of Penticton.

#### G41. Softscapes

- Plant materials (size) and planting densities should be designed to meet and exceed the British Columbia Landscape and Nursery Association (BCLNA) Standards;
- Landscape designs should consider opportunities for seasonal interest (e.g., colourful foliage and/or flowering at various times of the year).
- Structural diversity in plant palette composition – including combinations of groundcovers, shrubs of various heights and trees – is encouraged.
- Landscape design shall consider aesthetic qualities, plant suitability and soil volumes to ensure “right plant, right place” and to maximize growth to maturity of plants and trees.
- Plant selection should emphasize local/native plants and/or similarly hardy/well-adapted plants to Penticton’s desert climate.
- Invasive species are prohibited.
- Synthetic turf is prohibited.

#### MAD RESPONSE:

If any street trees are required by the City of Penticton, they will comply with municipal requirements.

#### G42. Hardscapes

- Material selection should reflect an extension of overall functional design and should emphasize local, natural, climate appropriate materials.
- Landscape construction should prioritize robust, durable and easily maintained materials.
- Retaining walls should use natural-looking textures and natural colours.
- Colours should complement Penticton’s natural setting and associated palette.
- Minimize the use of impervious surfaces and/or incorporate rainwater management strategies where surface runoff is captured.

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- Where feasible, minimize the use of low albedo (heat-absorbing) surfacing materials to reduce heat island effect (i.e., use lighter-coloured, more reflective materials).

**MAD RESPONSE:**

A variety of hardscapes are proposed in the development. Materials have been chosen based on functional requirements and longevity, but also carefully consider the context of the neighbourhood setting. For instance, the surface treatment to the Ellis Street entrance area design will use textured concrete paving as per City of Penticton standards. The rear parkade will use asphalt with a drywell for stormwater management collected from the roof.

## Public Art

Public art provides opportunity to celebrate public space and create a sense of place.

G46. Opportunities for the inclusion of public art should be explored in public and semi-public open spaces, especially plazas.

**MAD RESPONSE:**

Not applicable as the development does not contain public art.

G47. Historical references should be carefully and collaboratively chosen.

**MAD RESPONSE:**

Not applicable as the development does not have historical references. Nonetheless, the design is in keeping with the modern aesthetic of many similar nearby developments.

## Lighting

Lighting is essential to wayfinding and safety at night. Equally important is the scale, intensity, quality, location and direction of lighting.

G48. Lighting shall be provided for all building entrances, walkways, driveways, parking areas and loading areas and should be sufficient to provide clear orientation, personal safety and site security, including allowing for overlook from adjacent buildings.

- The scale and intensity of lighting should be adapted to its setting and application: Retail lighting, building ambience (elevations and passage) are considered.
- Lighting design shall prioritize pedestrian-scaled lighting while ensuring vehicular access and parking is sufficiently lit for safe maneuvering;
- Light fixtures should utilize "cut-off" (zero intensity at or above an angle of 90°) luminaries to minimize glare;
- Warmer light sources (<4000k) are strongly encouraged.

**MAD RESPONSE:**

High quality, energy efficient lighting is integrated throughout the development and is intended to enhance the quality of the architecture as well as improve the safety of both the public and

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the residents. Motion detection will be used for surface mounted lighting that will be located at the rear of the property as this exterior space will likely be less frequented. Particular attention will be paid to the accent lighting of the front elevation to enhance the character of the building. The proposed design will have lighting in the ceiling above the recessed residential lobby access point. This will improve security to the street scape as well as illuminating the access route to the principal entrance door. External lighting will be provided to all external balconies including the roof level terraces. All external lighting on upper levels will be wall mounted down lights.

G49. Minimize light pollution through the use of full cut-off lighting, avoiding light reflectance, and directing lighting downwards. Exceptions may be made for signage and architectural lighting (e.g., enhancing special features or aesthetic qualities).

MAD RESPONSE:

All external lighting on upper levels will be wall mounted down lights. The lighting to the Ellis Street principal entrance will be ceiling fixed down lights.

G50. Avoid lighting that illuminates streams, wetlands, lakes and other natural areas.

MAD RESPONSE:

Not applicable as the site does not include those conditions.

G51. Avoid negative light impacts on neighbours.

MAD RESPONSE:

The proposed lighting strategy will have little to no impact on the neighbouring properties.

### Signage

G52. Signage should complement overall form and character as an extension of associated building and landscape designs.

MAD RESPONSE:

Building address signage will be in the form of extruded metal lettering affixed to the wall next to the residential entrance lobby. The fabricated Metal Numbers will be no greater than 10 inches in height.

G53. All signage shall comply to the City of Penticton's Sign Bylaw, (which regulates the number, size, type, form, appearance and location of signs).

MAD RESPONSE:

See response to G52 above. Signage will comply to Penticton's Sign Bylaw.

### Utilities, Mechanical Services and Servicing

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As essential components of the city's built infrastructure, these elements must be intentionally integrated in the overall design to mitigate impacts on form and character.

G54. Mechanical/Utility cabinets and transformer pads (units) shall be located at the rear of the property, behind the building.

**MAD RESPONSE:**

Whenever possible, mechanical/electrical equipment will be contained within the building and will be designed to minimize equipment visible on the building exterior. For instance, the mechanical units that are located on the roof are positioned in the centre of the building to limit views from the public realm. Following consultation with the cities electrical engineer, it is proposed that the electrical transformer to the site will be high level pole mounted on existing infrastructure.

G55. Where this is unachievable, units may be located at the edge of the front yard and must be incorporated into landscaped areas and screened from the street.

**MAD RESPONSE:**

Not applicable. See response to G54 above.

G56. Units shall not obstruct private views onto public space that might otherwise provide safety through passive surveillance.

**MAD RESPONSE:**

Not applicable. See response to G54 above.

G57. Units shall not be installed in in riparian setbacks (SPEA) and Environmental Protection areas.

**MAD RESPONSE:**

Not applicable as the site does not contain any riparian setbacks.

## Waste Management

Notwithstanding the screening regulations in the Zoning Bylaw, management of garbage and recycling must be integrated in the overall design to mitigate impacts to form and character.

G58. Garbage/recycling areas and other similar structures should be located out of public view in areas that mitigate noise impacts, and which do not conflict with pedestrian traffic,

**MAD RESPONSE:**

Standard bins for garbage, recycling and yard waste have been provided in a secure storage room and will be moved to the curb as required for regular pickup.

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G59. Garbage and recycling bins should be contained within screened enclosures that are coordinated with the overall design.

MAD RESPONSE:

See response to G58 above.

G60. Clear access to refuse/recycling areas must be provided.

MAD RESPONSE:

See response to G58 above.

### Fences

Notwithstanding the fencing regulations in the Zoning Bylaw, fencing design should provide a level of privacy to the development but not present an unfriendly solid wall to the public street.

G61. Fencing located along a street edge should be low and/or not create a solid barrier (i.e. it should be visually transparent).

MAD RESPONSE:

Not applicable as the site allows for 100% lot coverage therefore the design does not have any fencing.

G62. Fencing along the street edge should be supplemented with low profile landscape plantings.

MAD RESPONSE:

Not applicable as the site allows for 100% lot coverage therefore the design does not have any fencing.

G63. All plans should show intended fencing.

MAD RESPONSE:

Not applicable as the site allows for 100% lot coverage therefore the design does not have any fencing.



## Development Permit

Permit Number: DP PL2023-9702

Owner Name  
Owner Address

### Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:
  - Legal: Lot 22 Block 15 District Lot 202 Similkameen Division Yale District Plan 269
  - Civic: 457 Ellis Street
  - PID: 012-459-755
3. This permit has been issued in accordance with Section 489 of the *Local Government Act*, to permit the construction of a six-storey mixed-use building as shown in the plans attached in Schedule 'A'.

### General Conditions

4. In accordance with Section 501(2) of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule 'A'.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. **This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.**
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the 19th day of March, 2024.









Issued this \_\_\_\_ day of March, 2024.

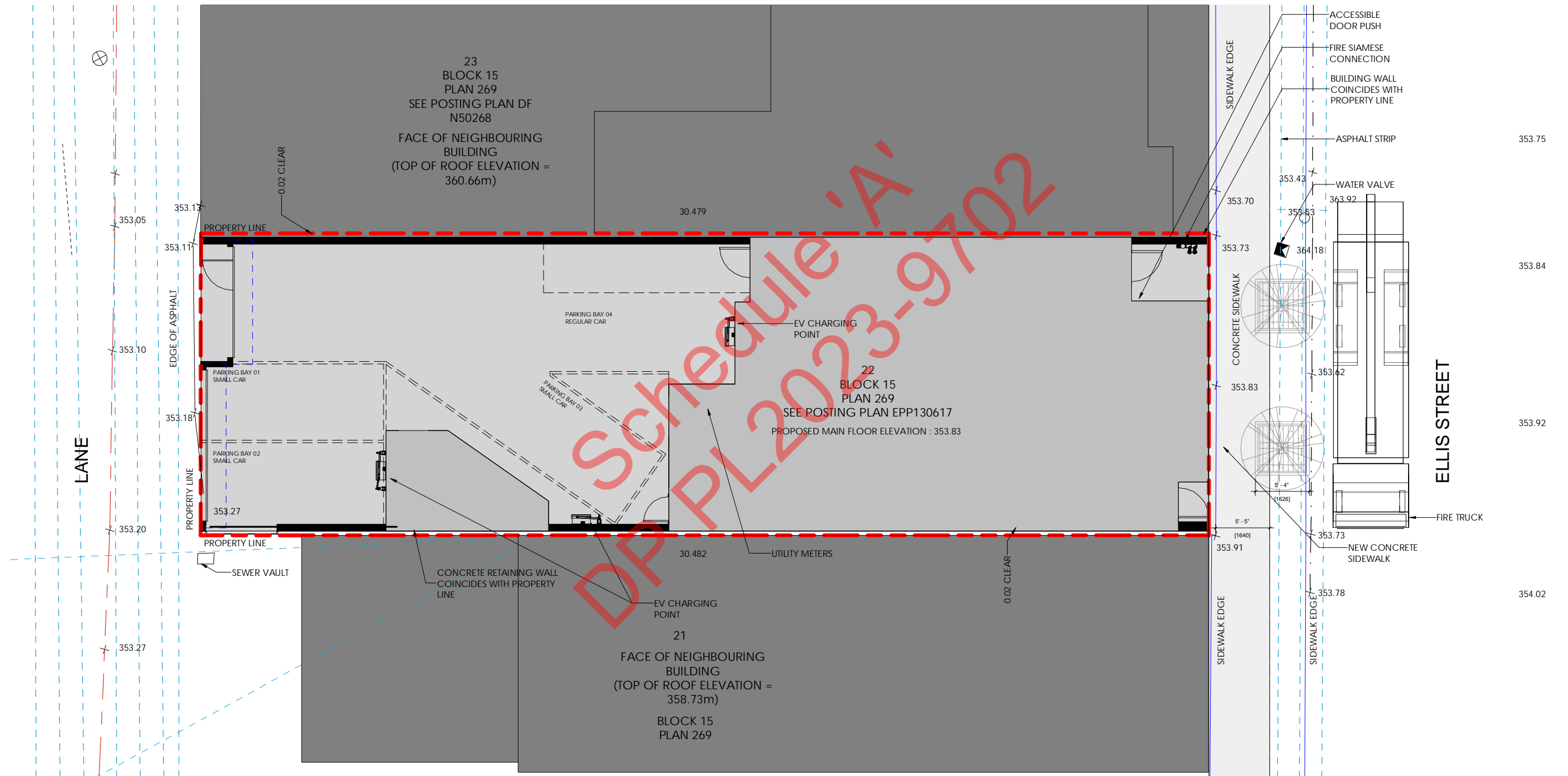
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Angela Collison  
Corporate Officer

DRAFT

SITE LEGEND

-  PROPERTY LINE
-  OVERHEAD WIRE
-  GUTTER LINE
-  SIDEWALK LINE
-  UTILITY POLE
-  WATER VALVE
-  SEWER VAULT
-  EDGE OF ASPHALT



1 SITE PLAN  
PA201 3/16" = 1'-0"



104 - 259 BACKSTREET BOULEVARD,  
PENTICTON, BC, CANADA V2A 0G4  
T: 250-492-3143  
W: MADSTUDIO.CA  
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SITE PLAN  
DRAWING TITLE

2024-02-07 As indicated  
DATE

HALFSIZE PLOT:  
REDUCE SCALE BY 50%

457 ELLIS STREET CONDOS

PA201  
DRAWING NUMBER

23.237

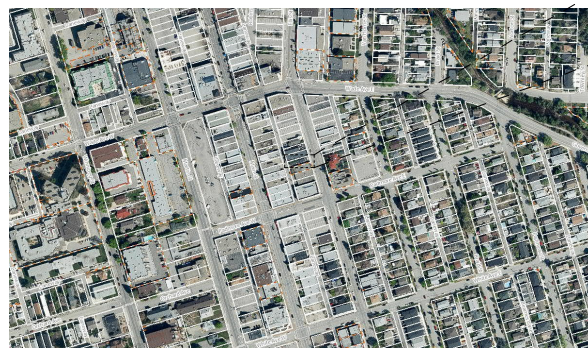
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**PROJECT SUMMARY**

The following proposed development is a six-storey mixed-use building located at 457 Ellis Street. At grade, there is a commercial retail unit as well as a residential lobby and car parkade. On the second, third, and fourth floors there are two residential units per floor. The fifth floor has access to two larger two level penthouse residential units, each of which have a private internal stair leading to the sixth level master bedroom and roof top terrace.

The resulting building conforms technically and aesthetically with Municipal mandates while adding both liveliness and character to Penticton's downtown commercial centre.

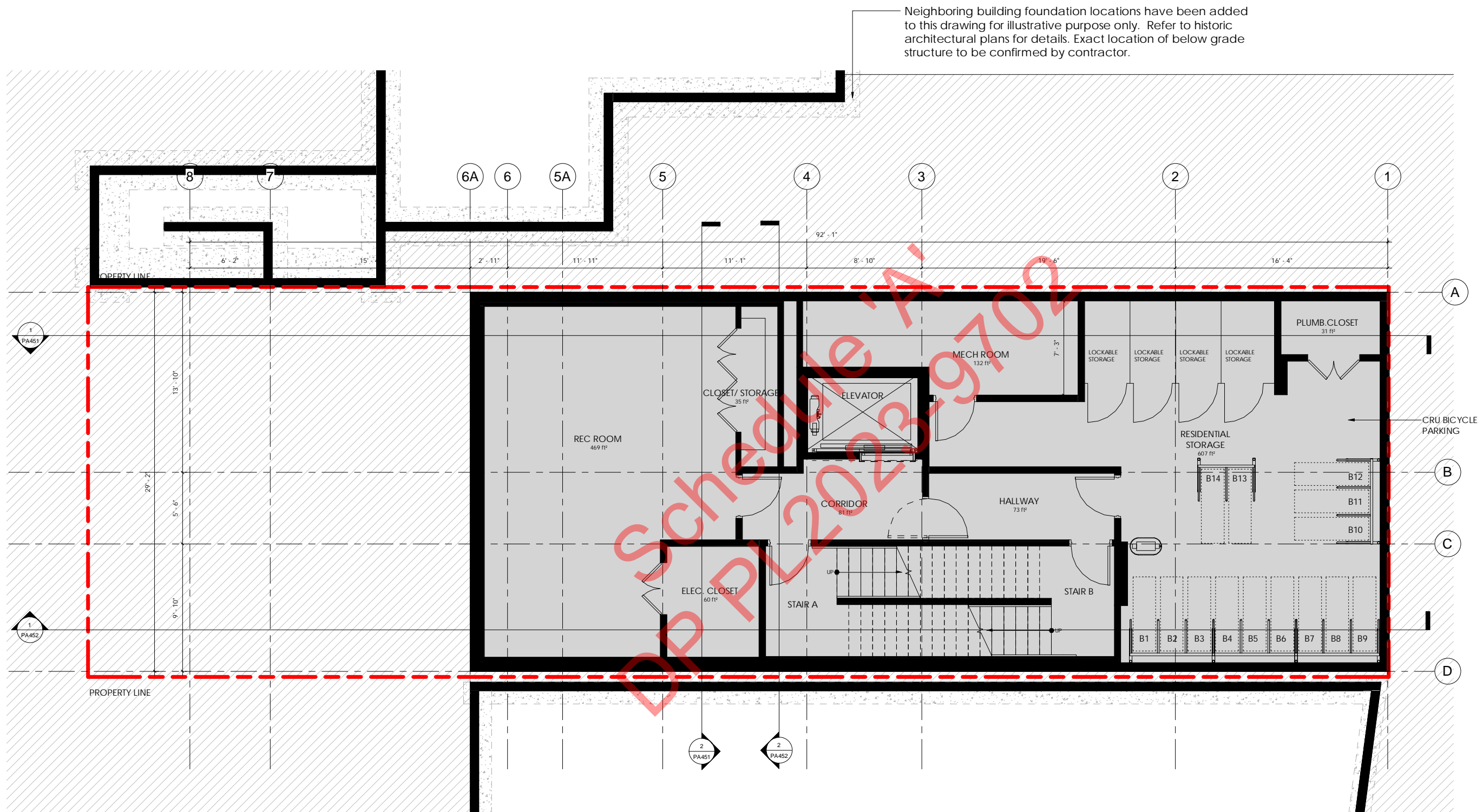


BUILDING/SITE SUMMARY	
CIVIC ADDRESS:	457 Ellis Street, Penticton, BC
LEGAL DESCRIPTION:	LOT 22, KAP269
LOT AREA:	279 m <sup>2</sup> (3003 ft <sup>2</sup> )
PROPOSED GROSS FLOOR AREA:	MAIN BASEMENT= 123m <sup>2</sup> [1327 ft <sup>2</sup> ] FIRST FLOOR= 270m <sup>2</sup> [2909 ft <sup>2</sup> ] SECOND FLOOR= 227m <sup>2</sup> [2449 ft <sup>2</sup> ] THIRD FLOOR= 227m <sup>2</sup> [2449 ft <sup>2</sup> ] FOURTH FLOOR= 227m <sup>2</sup> [2449 ft <sup>2</sup> ] FIFTH FLOOR= 227m <sup>2</sup> [2449 ft <sup>2</sup> ] SIXTH FLOOR= 150m <sup>2</sup> [1624 ft <sup>2</sup> ] TOTAL= 1,451m <sup>2</sup> [15,618 ft <sup>2</sup> ]

ZONING BYLAW SUMMARY		
	REQUIRED:	PROPOSED:
EXISTING ZONE:	C5 Urban Centre Commercial	C5 Urban Centre Commercial
PERMITTED USE:	Higher-density mixed-use buildings	Higher-density mixed-use buildings
MINIMUM LOT AREA:	275 m <sup>2</sup>	279 m <sup>2</sup>
MINIMUM PARCEL WIDTH:	9.0 M	9.1 M
NET FLOOR AREA:	6.0 FAR	Basement floor= 123 m <sup>2</sup> [1323 ft <sup>2</sup> ] First floor = 270 m <sup>2</sup> [2905 ft <sup>2</sup> ] Second floor = 227 m <sup>2</sup> [2442 ft <sup>2</sup> ] Third floor = 227 m <sup>2</sup> [2442 ft <sup>2</sup> ] Fourth floor = 227 m <sup>2</sup> [2442 ft <sup>2</sup> ] Fifth floor = 227 m <sup>2</sup> [2442 ft <sup>2</sup> ] Sixth floor = 150 m <sup>2</sup> [1614 ft <sup>2</sup> ] TOTAL= 1451 m <sup>2</sup> [15,613 ft <sup>2</sup> ] 3.5
MAXIMUM FLOOR AREA RATIO:	6.0	270 m <sup>2</sup> [2914 ft <sup>2</sup> ]
BUILDING AREA:	NO RESTR. BY SITE COV.)	97%
MAXIMUM SITE COVERAGE:	100%	20.1m
MAXIMUM HEIGHT:	36.6 m	0 m
MINIMUM FRONT YARD:	0 m	0 m
MINIMUM INSIDE YARD:	0 m	0 m
MINIMUM SIDE YARD (FLANKING STREET):	0 m	0 m
MINIMUM REAR YARD (LANE ADJ. TO RESIDENTIAL):	0 m	0 m

PARKING BYLAW SUMMARY		
	REQUIRED:	PROPOSED:
RETAIL PARKING:	Not required to provide any required motor-vehicle parking or loading spaces.	0 STALLS PROVIDED
RESIDENTIAL PARKING:	1 Per dwelling unit: Regular Stalls - 5 Accessible Stalls - 1  * note - the required number of parking stalls may be reduced by 1 for every additional 5 bicycle stalls (class 1 or 2) provided, and/or for each cash-in-lieu payment of \$13,000.  * note - up to 25% of the required parking stalls may be small car stalls.	4 STALL PROVIDED Regular Stalls - 3 Accessible Stalls - 1
BICYCLE PARKING (CRU):	CLASS 1 - 2 bays CLASS 2 - 2 bays	CLASS 1 - 2 bays CLASS 2 - 2 bays
RESIDENTIAL:	CLASS 1 - 4 bays CLASS 2 - 8 bays	CLASS 1 - 10 bays CLASS 2 - 2 bays
ACCESSIBLE PARKING:	OVER 50 STALLS = 1 ACCESSIBLE, PLUS 1/100 STALLS	1 REQUIRED, 1 PROVIDED
TOTAL PARKING STALLS:	CAR = 8 STALLS BIKE = 12 STALLS	4 STALLS 12 BIKE STALLS





1 BASEMENT FLOOR PLAN  
PA301 1/4" = 1'-0"



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BASEMENT FLOOR PLAN  
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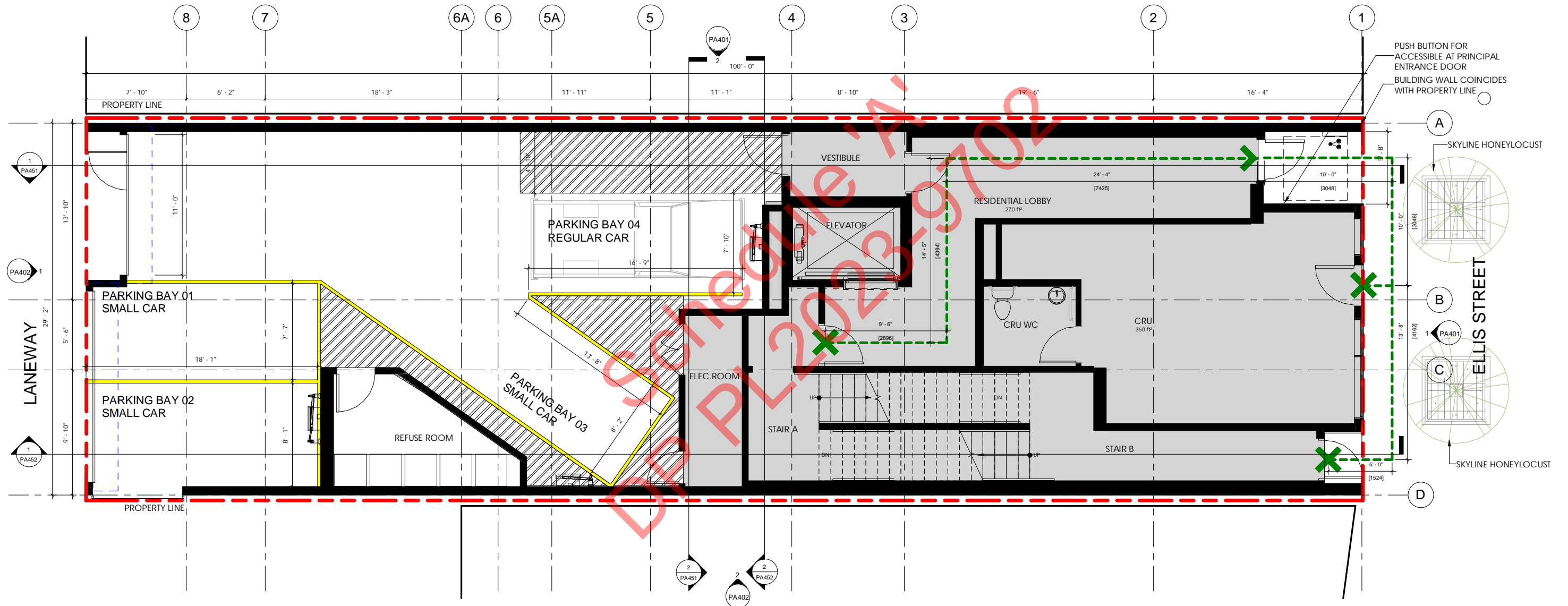
2024-02-07 DATE  
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REDUCE SCALE BY 50%

PA301 DRAWING NUMBER  
23.237

457 ELLIS STREET CONDOS

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1 LEVEL 1 FLOOR PLAN  
 PA302 1/4" = 1'-0"



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FIRST FLOOR PLAN  
 DRAWING TITLE

2024-02-07  
 DATE

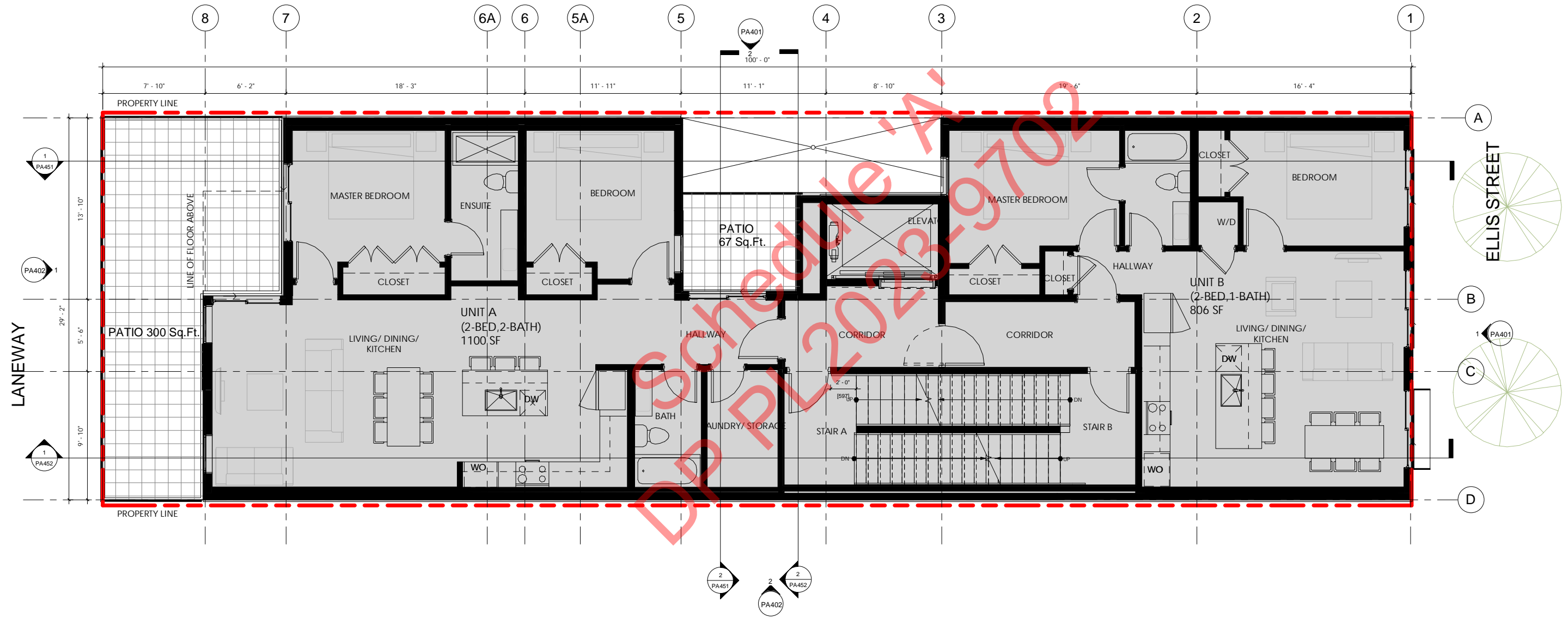
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 HALFSIZE PLOT:  
 REDUCE SCALE BY 50%

PA302  
 DRAWING NUMBER

457 ELLIS STREET CONDOS

23.237  
 Page 6 of 13





1 LEVEL 2 FLOOR PLAN  
 PA303 1/4" = 1'-0"



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SECOND FLOOR PLAN  
 DRAWING TITLE

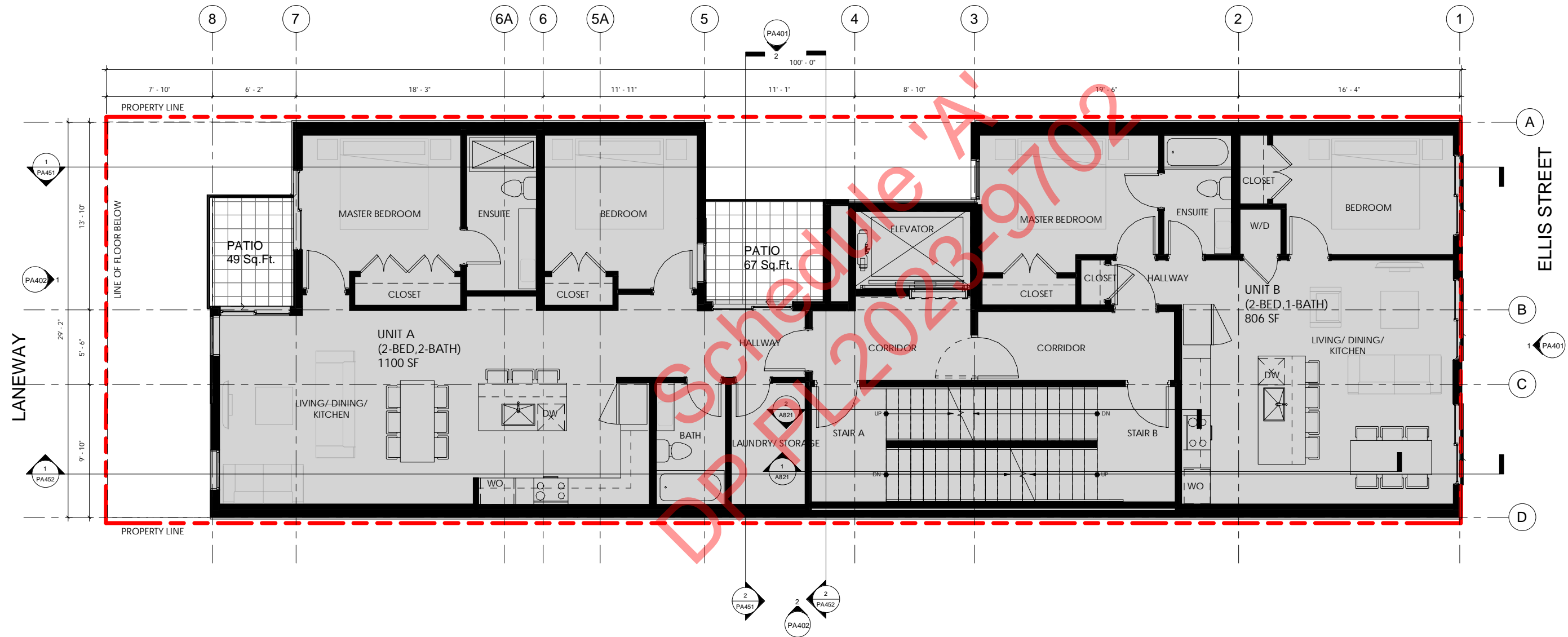
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 1/4" = 1'-0" HALF SIZE PLOT:  
 REDUCE SCALE BY 50%

PA303 DRAWING NUMBER

457 ELLIS STREET CONDOS

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1 LEVEL 3 FLOOR PLAN  
 PA304 1/4" = 1'-0"



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THIRD FLOOR PLAN  
 DRAWING TITLE

2024-02-07  
 DATE

1/4" = 1'-0"  
 HALFSIZE PLOT:  
 REDUCE SCALE BY 50%

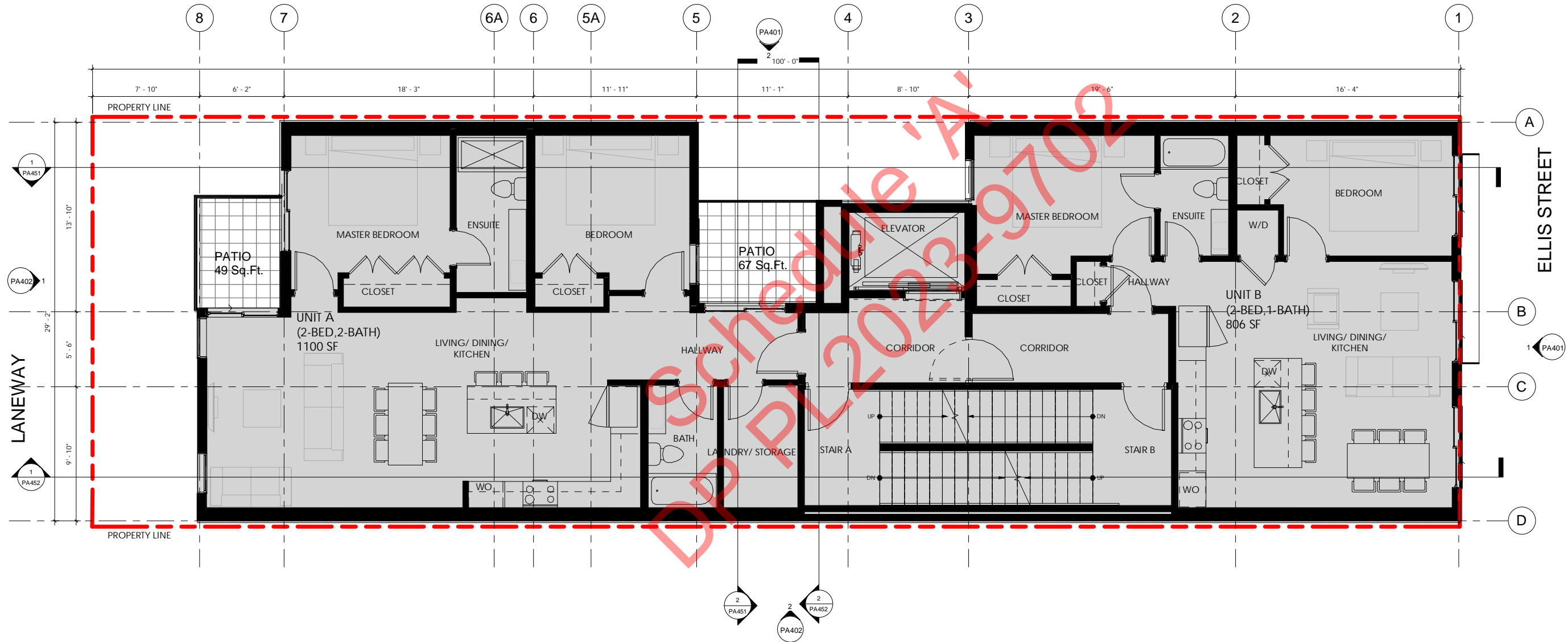
PA304  
 DRAWING NUMBER

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1 LEVEL 4 FLOOR PLAN  
 PA305 1/4" = 1'-0"



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FOURTH FLOOR PLAN  
 DRAWING TITLE

2024-02-07  
 DATE

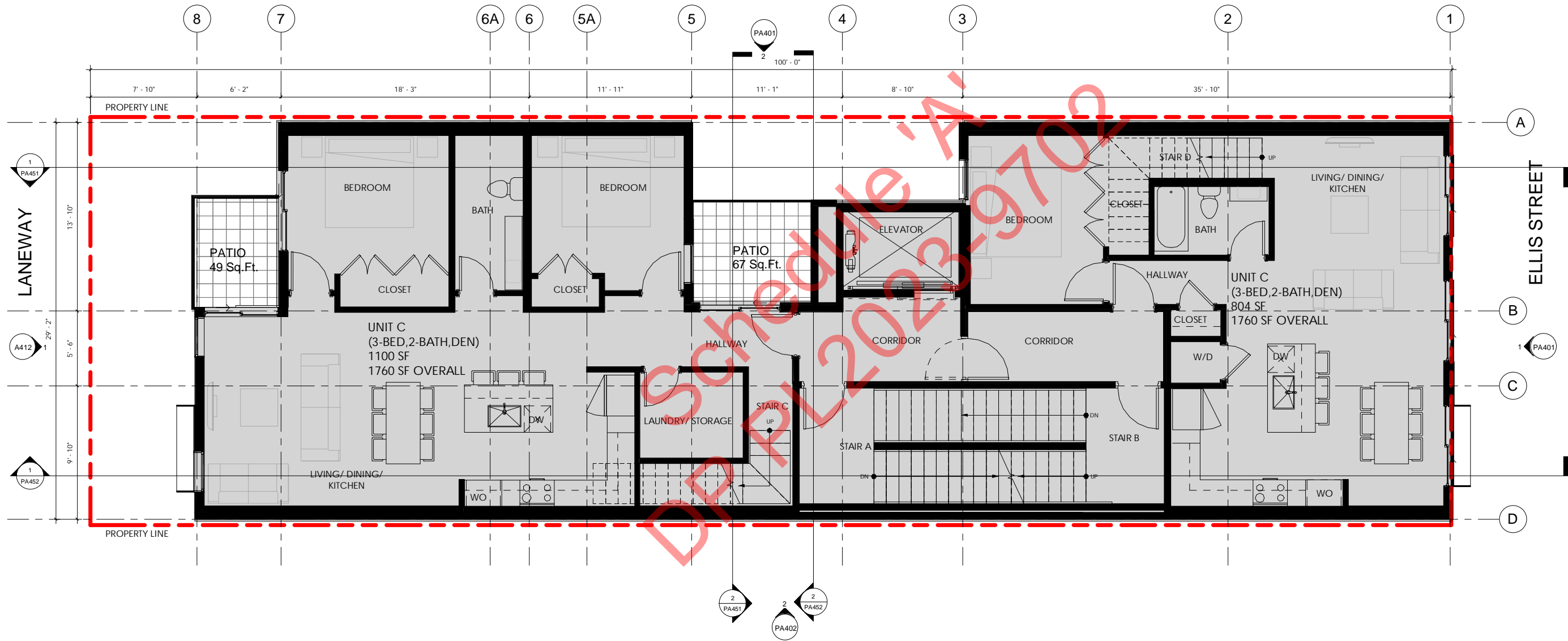
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 HALFSIZE PLOT:  
 REDUCE SCALE BY 50%

PA305  
 DRAWING NUMBER

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23.237  
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1 LEVEL 5 FLOOR PLAN  
 PA306 1/4" = 1'-0"



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FIFTH FLOOR PLAN  
 DRAWING TITLE

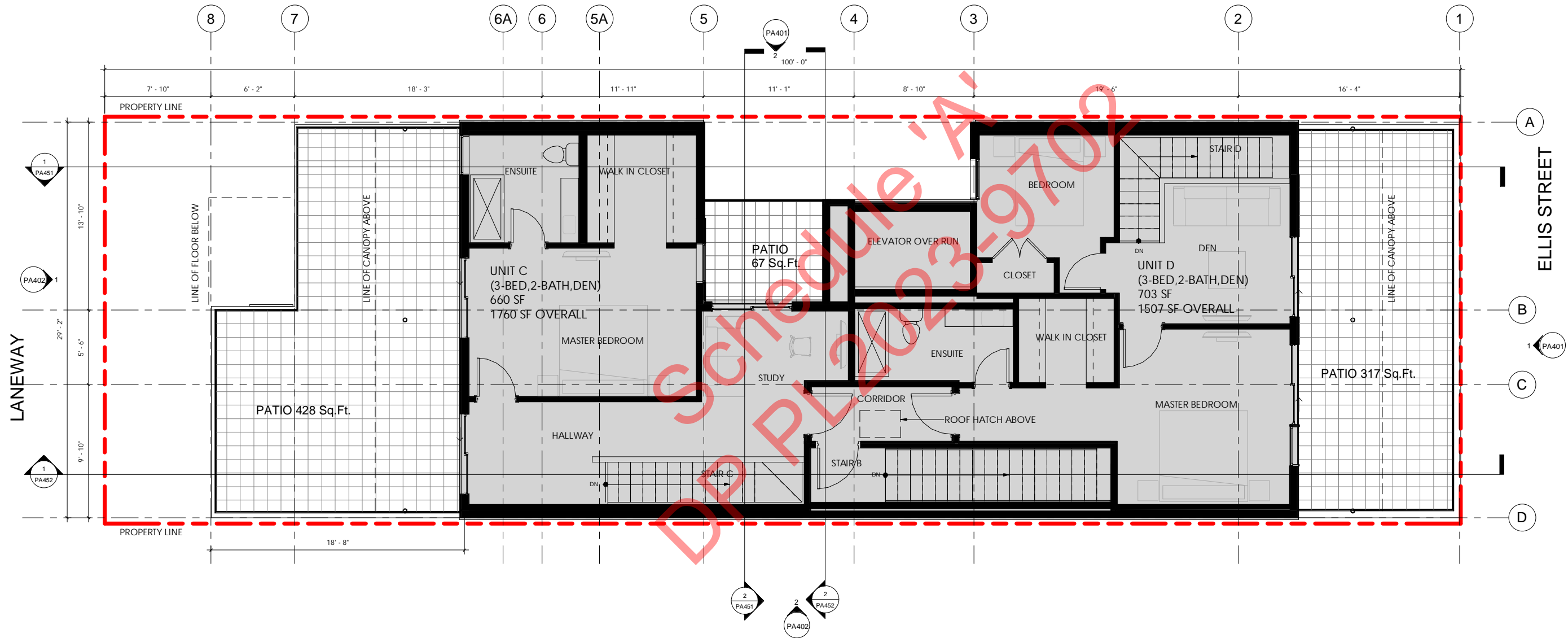
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 DATE

1/4" = 1'-0"  
 HALFSIZE PLOT:  
 REDUCE SCALE BY 50%

PA306  
 DRAWING NUMBER

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1 LEVEL 6 FLOOR PLAN  
 PA307 1/4" = 1'-0"



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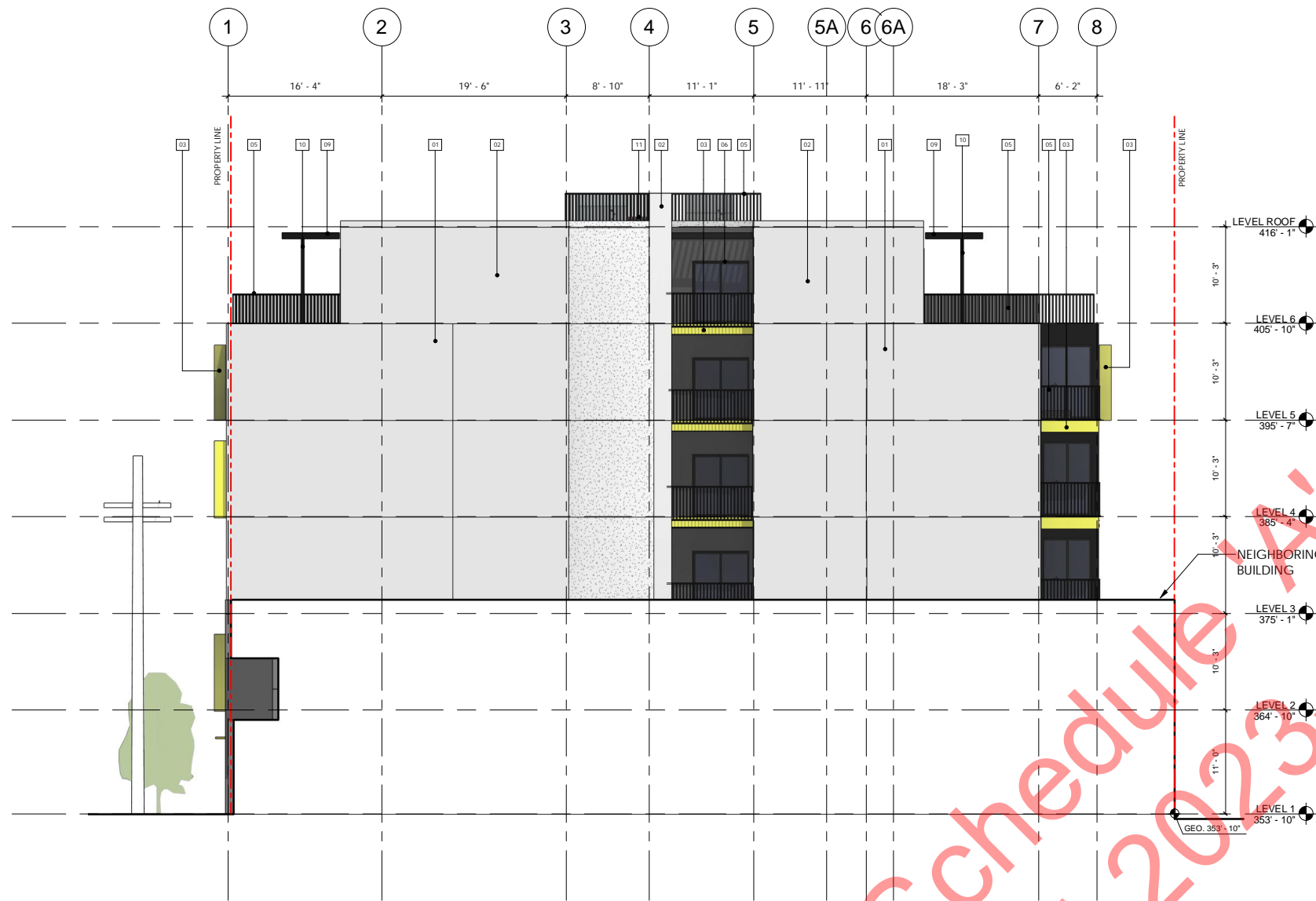
SIXTH FLOOR PLAN  
 DRAWING TITLE

2024-02-07 DATE  
 1/4" = 1'-0" HALFSIZE PLOT:  
 REDUCE SCALE BY 50%

PA307 DRAWING NUMBER

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2 PROPOSED NORTH ELEVATION  
PA401 1/8" = 1'-0"



1 PROPOSED EAST ELEVATION  
PA401 1/8" = 1'-0"

MATERIAL LEGEND

- 01 STRUCTURAL BRICK/ THIN BRICK VENEER. PRODUCT AS SPEC-BRIK. COLOR BASALT BLEND.
- 02 STUCCO, WHITE.
- 03 POWDER COATED STEEL. FACTORY APPLIED POWDER FINISH TO ALL EXTERNAL METAL WORK. FEATURE METAL PANELS COLOR AS 2022-10 YELLOW AMARILLO INTENSO CANARI.
- 04 PAINTED MURAL ON SMOOTH CONCRETE BLOCK.
- 05 BLACK PAINTED STEEL BALUSTRADE.
- 06 WINDOWS, BLACK FRAMES AND MULLIONS. COLOUR OF EXTERNAL FINISH TO MATCH EXTERNAL RAIL METAL WORK.
- 07 PAINTED METAL CLADDING BLACK.
- 08 PAINTED OVERHEAD GARAGE DOORS WHITE.
- 09 BLACK PAINTED CANOPY
- 10 BLACK PAINTED STEEL PIPE CANOPY SUPPORT
- 11 ROOF ACCESS HATCH
- 12 SIAMESE FIRE CONNECTION

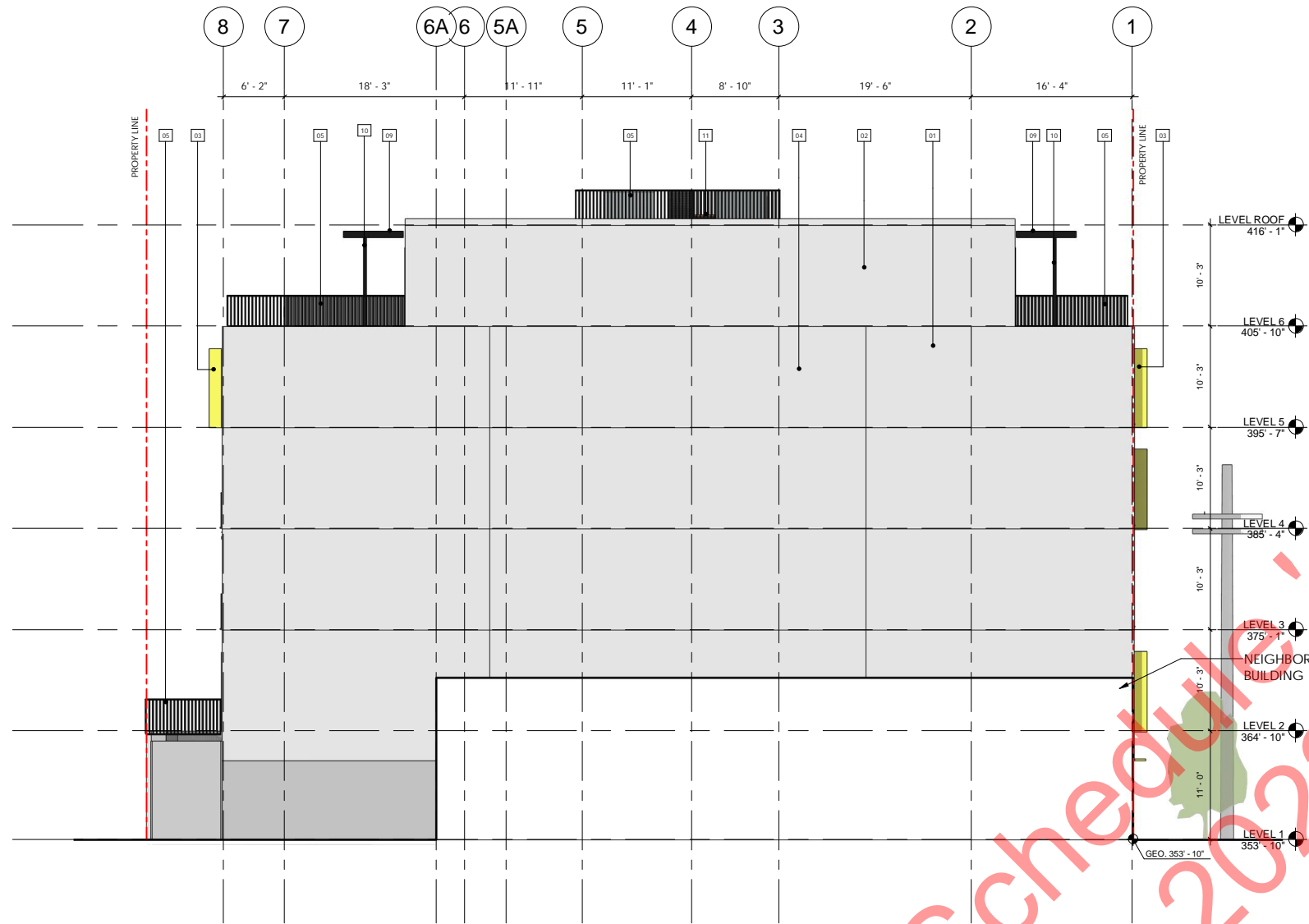
PRELIMINARY NOT FOR CONSTRUCTION

EAST & NORTH ELEVATIONS  
DRAWING TITLE

2024-02-07 DATE  
1/8" = 1'-0" HALF SIZE PLOT:  
REDUCE SCALE BY 50%

PA401 DRAWING NUMBER

457 ELLIS STREET CONDOS Page 12 of 13



2 PROPOSED SOUTH ELEVATION  
PA402 1/8" = 1'-0"

1 PROPOSED WEST ELEVATION  
PA402 1/8" = 1'-0"

MATERIAL LEGEND

- 01 STRUCTURAL BRICK/ THIN BRICK VENEER. PRODUCT AS SPEC-BRIK. COLOR BASALT BLEND.
- 02 STUCCO, WHITE.
- 03 POWDER COATED STEEL. FACTORY APPLIED POWDER FINISH TO ALL EXTERNAL METAL WORK. FEATURE METAL PANELS COLOR AS 2022-10 YELLOW AMARILLO INTENSO CANARI.
- 04 PAINTED MURAL ON SMOOTH CONCRETE BLOCK.
- 05 BLACK PAINTED STEEL BALUSTRADE.
- 06 WINDOWS. BLACK FRAMES AND MULLIONS. COLOUR OF EXTERNAL FINISH TO MATCH EXTERNAL RAIL METAL WORK.
- 07 PAINTED METAL CLADDING BLACK.
- 08 PAINTED OVERHEAD GARAGE DOORS WHITE.
- 09 BLACK PAINTED CANOPY
- 10 BLACK PAINTED STEEL PIPE CANOPY SUPPORT
- 11 ROOF ACCESS HATCH
- 12 SIAMESE FIRE CONNECTION

PRELIMINARY NOT FOR CONSTRUCTION

WEST & SOUTH ELEVATIONS  
DRAWING TITLE

2024-02-07  
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1/8" = 1'-0"  
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DR PL 2023-9702

## Development Variance Permit

Permit Number: DVP PL2024-9753

Owner Name  
Owner Address

### Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:
  - Legal: Lot 22 Block 15 District Lot 202 Similkameen Division Yale District Plan 269
  - Civic: 457 Ellis Street
  - PID: 012-459-755
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2023-08 to allow for the construction of a six-storey mixed-use building, as shown in the plans attached in Schedule 'A':
  - a. Section 6.1.5.4 of Zoning Bylaw 2023-08: Increase the maximum permitted small car spaces from 25% to 75%

### General Conditions

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule 'A'.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. **This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.**
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the 19th day of March, 2024.









Issued this \_\_\_\_ day of March, 2024.

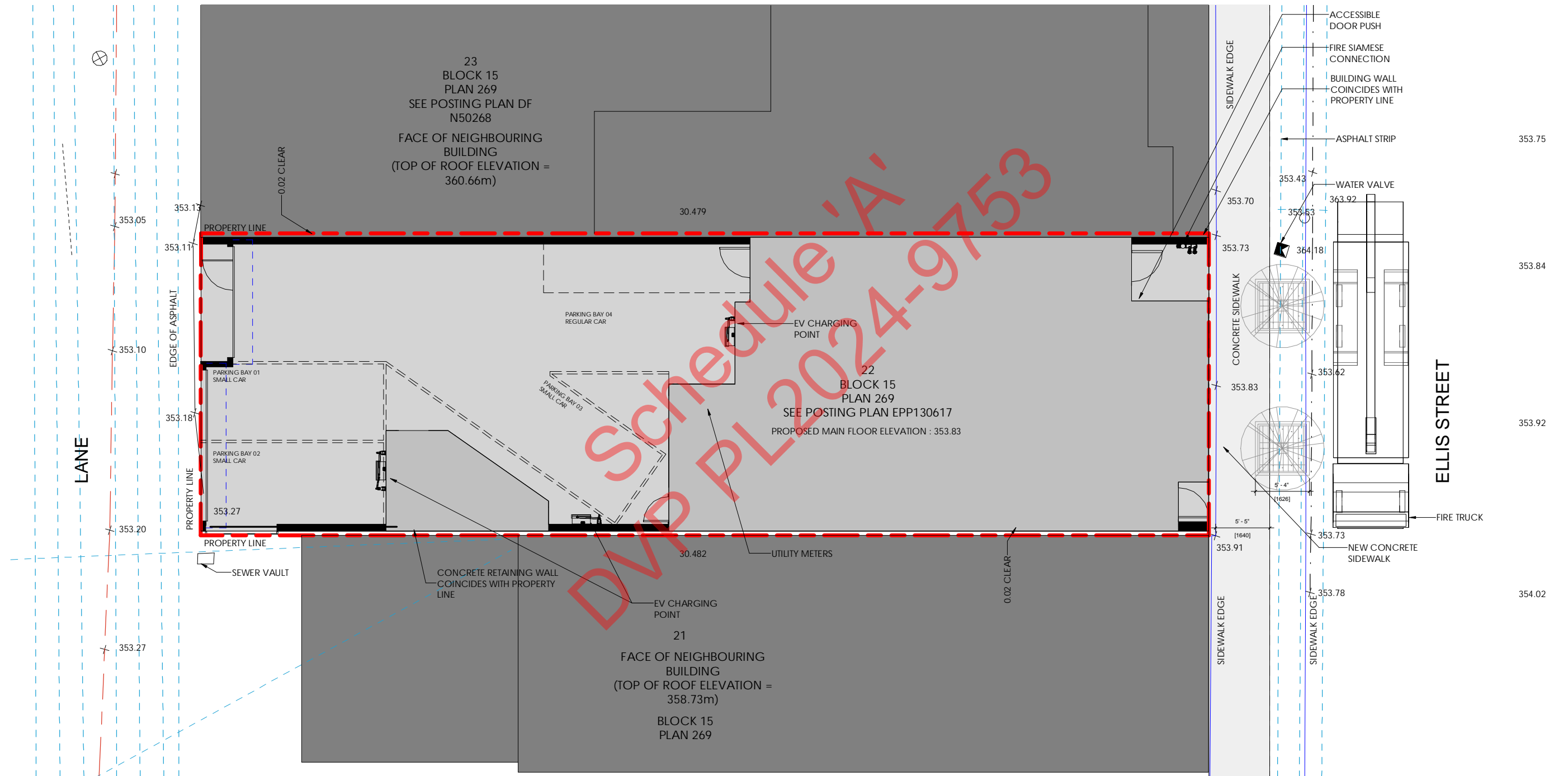
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Angela Collison  
Corporate Officer

DRAFT

SITE LEGEND

-  PROPERTY LINE
-  OVERHEAD WIRE
-  GUTTER LINE
-  SIDEWALK LINE
-  UTILITY POLE
-  WATER VALVE
-  SEWER VAULT
-  EDGE OF ASPHALT



1 SITE PLAN  
PA201 3/16" = 1'-0"



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SITE PLAN  
DRAWING TITLE

2024-02-07 As indicated  
DATE

HALFSIZE PLOT:  
REDUCE SCALE BY 50%

457 ELLIS STREET CONDOS

PA201  
DRAWING NUMBER

23.237

Page 3 of 3





# Council Report

penticton.ca

**Date:** March 19, 2024  
**To:** Anthony Haddad, City Manager  
**From:** Gabe Tamminga, Planner I  
**Address:** 935 Kilwinning Street

File No: RMS/935 Kilwinning St

**Subject:** **Zoning Amendment Bylaw No. 2024-10**  
**Development Permit PL2023-9710**  
**Development Permit PL2023-9711**

## Staff Recommendation

THAT Council give first, second and third reading to "Zoning Amendment Bylaw No. 2024-10", for Lot 2 District Lot 249 Similkameen Division Yale District Plan 9522, located at 935 Kilwinning Street, a bylaw to rezone the property from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane);

AND THAT Council adopt "Zoning Amendment Bylaw No. 2024-10" and subject to final subdivision registration of the two lots, approve "Development Permit PL2023-9710" and "Development Permit PL2023-9711" for Lot 2 District Lot 249 Similkameen Division Yale District Plan 9522, located at 935 Kilwinning Street, permits which allows the construction of a back-to-back duplex on each lot.

## Strategic Priority Objective

**Livable and Accessible:** Proactively plan for deliberate growth; focused on an inclusive, healthy, safe and desirable place to live.

## Proposal

The applicant is proposing to construct a front and back duplex on Lot A and another back-to-back duplex on Lot B (four dwelling units in total) on the subject property (Figure 1). In order to proceed with the proposed development, the applicant has requested to rezone the property from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane). Subject to zoning approval, the applicant is proposing to subdivide the



Figure 1 - Rendering of proposed development

property to create two lots. Further, a Development Permit on each new lot, requires approval from Council.

## Background

The subject property is 688m<sup>2</sup> in size and is located on the west side of Kilwinning Street (Figure 2). The subject property contains a single detached dwelling that was constructed in the 1960's and a small accessory building at the rear of the property. The surrounding area is primarily single detached homes along Kilwinning Street and a mixture of multifamily and single detached homes along Forestbrook Drive.

The subject property is designated 'Detached Residential' by the Official Community Plan (OCP), and is currently zoned 'R2 (Small Lot Residential)' in the Zoning Bylaw.

### *No Public Hearing*

The proposed rezoning aligns with the underlying OCP designation of the City's OCP, therefore the City is prohibited from holding a public hearing as per the *Local Government Act*.



Figure 2 - Property Location Map

Due to the recent changes, the Zoning Bylaw Amendment may have first, second, third reading and be adopted in one meeting as there are no additional conditions of rezoning.

## Financial Implication

The applicant is responsible for all development costs, including any service upgrades and the payment of Development Cost Charges (DCC's) to help offset the added demand on City services from the proposed development.

## Climate Impact

The development proposes a back-to-back duplex on each lot, increasing the density in an area that is close in proximity to services, schools and transportation. The BC Transit bus 'Route 2 – Westside/Penticton' travels down Kilwinning Street and past the subject property with stops within walking distance for people in this neighbourhood, providing alternative forms of transportation to vehicle trips.

A Level 2 Electric Vehicle ready space must be provided for each dwelling unit (4 total), therefore creating additional options for sustainable forms of transportation.

## Technical Review

This application was reviewed by the Technical Planning Committee (TPC), a group of internal staff who review planning applications. Future subdivision requirements such as water and sanitary connections, and fees to be paid such as Development Cost Charges (DCC's) were identified to the applicant. Typical frontage and lane upgrades, along with servicing requirements have been identified for the subsequent subdivision and building permit processes. These items have been communicated to the applicant.

## Development Statistics

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

	RD2 Zone Requirement	Proposed Lot A	Proposed Lot B
<b>Minimum Lot Width:</b>	9.1 m	9.14m	9.38m
<b>Minimum Lot Area:</b>	275 m <sup>2</sup>	333.98m <sup>2</sup>	342.42m <sup>2</sup>
<b>Maximum Lot Coverage:</b>	40%	35.6%	38.8%
<b>Maximum Density:</b>	0.95 Floor Area Ratio (FAR)	0.66 FAR	0.61 FAR
<b>Vehicle Parking:</b>	1 per dwelling unit (2 spaces per lot)	2 spaces	3 spaces
<b>Required Setbacks</b>			
Front Yard (north):	4.5 m	4.81m	5.64m
Side Yard (east):	1.5 m	1.5m	1.5m
Side Yard (west):	1.5 m	1.5m	1.59m
Rear Yard (lane):	6.0 m	9.72m	8.93m
<b>Maximum Building Height</b>	10.5 m	7.99m	7.94m

## Analysis

The Official Community Plan (OCP) designation for the subject property is 'Detached Residential', which supports lower density areas of single detached houses and/or duplexes in primarily residential neighbourhoods (Figure 3).

Land Use	Description	Building Type(s)	Uses	Height / Density	Zone(s)
 <p>Detached Residential</p>	<p>Lower-density areas of single detached houses and/or duplexes in primarily residential neighbourhoods including single-detached bareland stratas</p>	<ul style="list-style-type: none"> <li>• Single detached houses with secondary suites or carriage houses</li> <li>• Duplexes</li> <li>• Small-scale neighbourhood commercial building (e.g., corner store, coffee shop)</li> <li>• Manufactured homes</li> </ul>	<ul style="list-style-type: none"> <li>• Residential</li> <li>• Limited retail/service</li> </ul>	<ul style="list-style-type: none"> <li>• 1 or 2 units per lot</li> <li>• Generally up to 2 ½ storeys to reflect 30' maximum in Zoning Bylaw</li> </ul>	<ul style="list-style-type: none"> <li>• R1</li> <li>• R2</li> <li>• R3</li> <li>• RD1</li> <li>• RSM</li> <li>• C2</li> </ul>

Figure 3 – OCP Future Land Use Designation

Staff consider that the proposed zoning amendment will allow for development that is supported through the following OCP Goals and Policies:

- OCP Policy 4.1.1.1* Focus new residential development in or adjacent to existing developed areas.
- OCP Policy 4.1.3.1* Encourage more intensive “infill” residential development in areas close to the Downtown, to employment, services and shopping, through zoning amendments for housing types compatible with existing neighbourhood character, with form and character guided by Development Permit Area Guidelines.
- OCP Policy 4.1.3.5* Ensure through the use of zoning that more-intensive forms of residential development are located close to transit and amenities, such as parks, schools and shopping.
- OCP Policy 4.1.4.1* Work with the development community – architects, designers and builders – to create new residential developments that are attractive, high-quality, energy efficient, appropriately scaled and respectful of their context.
- OCP Policy 4.1.5.1* Recognize that some traditionally single-family neighbourhoods will see intensification as the city grows, but ensure that new forms of residential development are compatible with the neighbourhood in scale and design, and are appropriately located (e.g., greater density closer to collector roads, services and amenities).
- OCP Policy 4.1.6.1* Ensure all residential neighbourhoods in Penticton provide a range of appropriately-scaled housing types and tenures, employment opportunities such as home-based businesses, transportation options like walking and cycling, social supports such as childcare facilities, and access to green space and parks.
- OCP Policy 4.2.5.2* Encourage land use planning that results in neighbourhoods that can be easily serviced by transit.

Staff consider that the application proposes an appropriately-scaled development in an area of the community that has been identified for increased residential density by the OCP. The proposed rezoning to RD2: Duplex Housing Lane, to allow duplex units on the subject property is consistent with the increased density and building forms envisioned by the Detached Residential designation.

The OCP policies encourage development in areas close to services and shops to encourage walkability and active transportation. Staff note this property is within walking distance of bus stops, bike lanes, schools and parks.

Staff also acknowledge that the Province of BC will require that the City of Penticton to update their Zoning Bylaw by June 30, 2024 to allow for up to 4 units on any single family and duplex zoned properties. While there are still details to be worked out in how the Province’s direction will land within the City’s Zoning Bylaw, it is very likely that this proposed development would be permitted by the zoning changes once they

are in place. The applicants made their application prior to the changes being implemented and have indicated willingness to continue through the zoning process, rather than waiting for the changes to occur.

The applicant has not requested any variances from the Zoning Bylaw requirements for the proposed development.

Given that there is adequate policy through the OCP to support the proposal, staff recommend Council give first, second, third reading and adopt "Zoning Bylaw Amendment Bylaw No. 2024-10".

#### *Development Permits*

The proposed duplex developments are considered within the Intensive Residential Development Permit Area per the OCP, which is established to manage form and character that strengthens livability, neighbourliness, and visual interest.

The proposed development has been designed with the OCP design guidelines in mind. The development proposes a density that is aligned with the OCP designation, and provides a design that meets all the Zoning Bylaw regulations for setbacks, parking and is within the allowable building heights.

Staff have completed a development permit analysis (Attachment 'D') that shows how the development conforms to the applicable design guidelines. The applicant has also provided a letter of intent and development permit analysis with their submission (Attachment 'E'), which outlines the project and its conformance to the OCP design guidelines.

As such, staff recommend that Council consider approving the Development Permits after considering adoption of the Zoning Amendment Bylaw, with the permits issued after the subdivision is completed.

#### **Alternate Recommendations**

Council may consider that the proposed rezoning is not suitable for this site. If this is the case, Council should deny the bylaw amendment. Staff are not recommending this option, as the proposal is well aligned with the OCP designation for the property, gently increasing density in a high-amenity area of the City.

1. THAT Council deny first reading of "Zoning Amendment Bylaw No. 2024-10".

#### **Attachments**

Attachment A – Zoning Map

Attachment B – Official Community Plan Map

Attachment C – Photos of Property

Attachment D – Development Permit Analysis (staff)

Attachment E – Letter of Intent and Development Permit Analysis (applicant)

Attachment F – Draft Development Permit PL2023-9710 (Proposed Lot A)

Attachment G – Draft Development Permit PL2023-9711 (Proposed Lot B)

Attachment H – Zoning Amendment Bylaw No. 2024-10

Respectfully submitted,

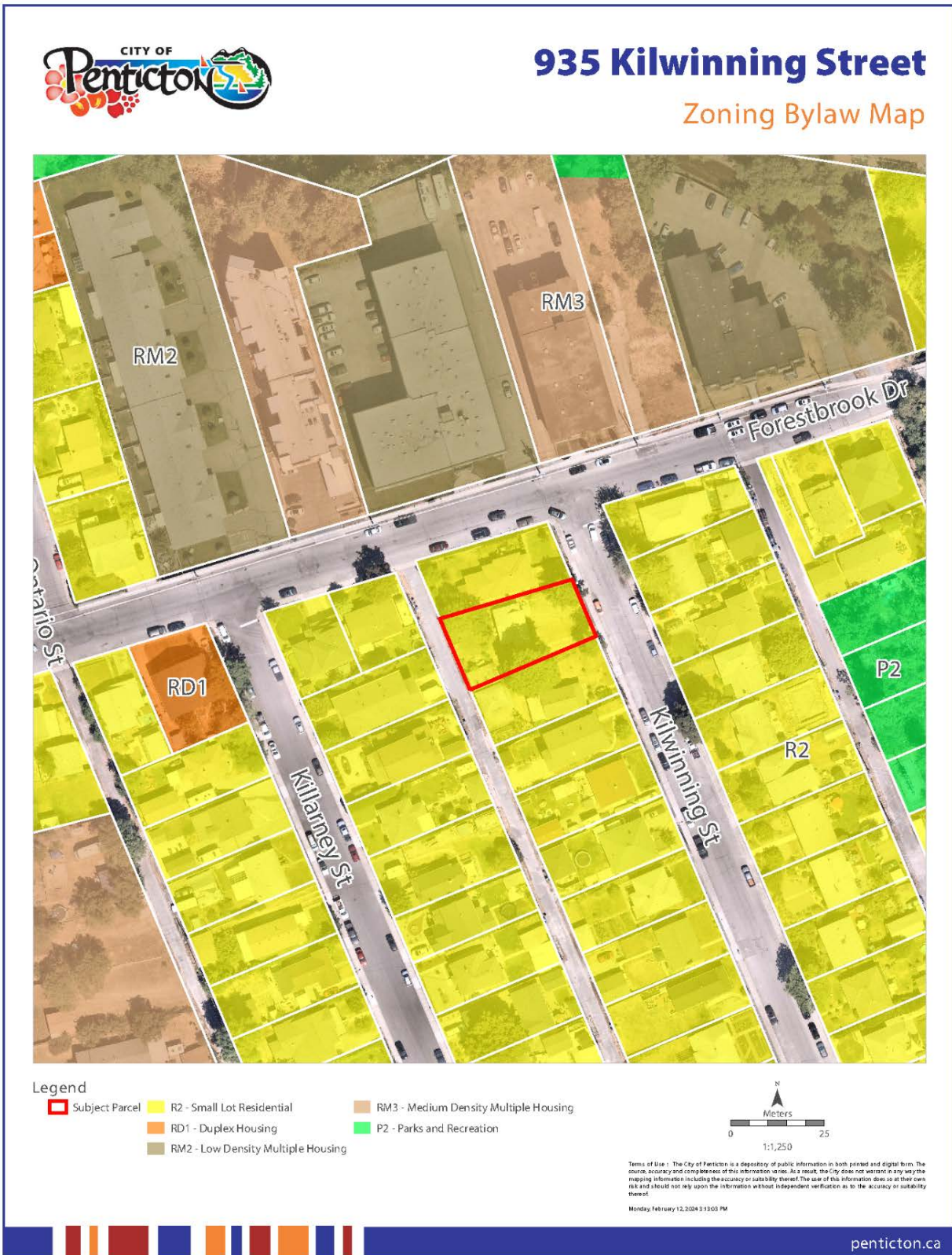
Gabe Tamminga

Planner I

Concurrence

Director of Development Services  <i>BL</i>	GM of Infrastructure  <i>KD</i>	City Manager  <i>AB</i>
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Attachment A – Zoning Map



Attachment B – Official Community Plan Map



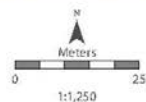
# 935 Kilwinning Street

## Official Community Plan Map



### Legend

- Subject Parcel
- Detached Residential
- Ground Oriented Residential
- Urban Residential
- Parks



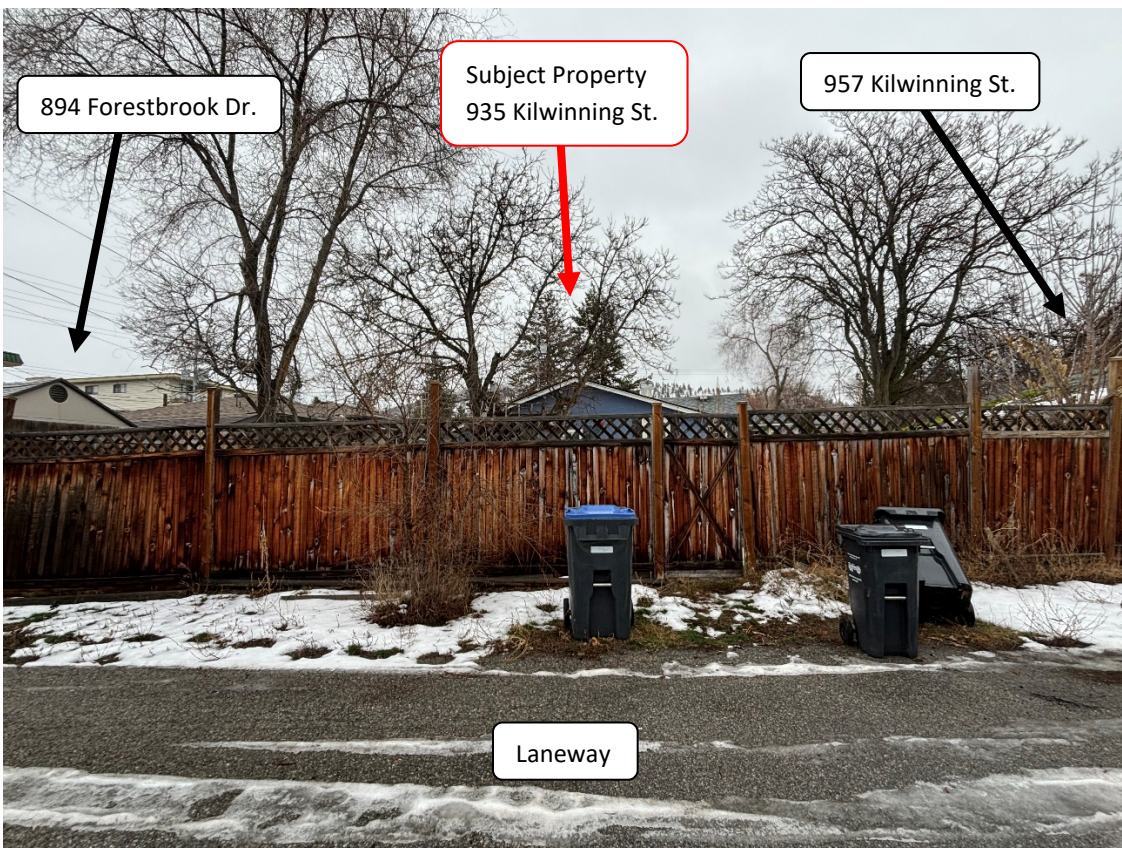
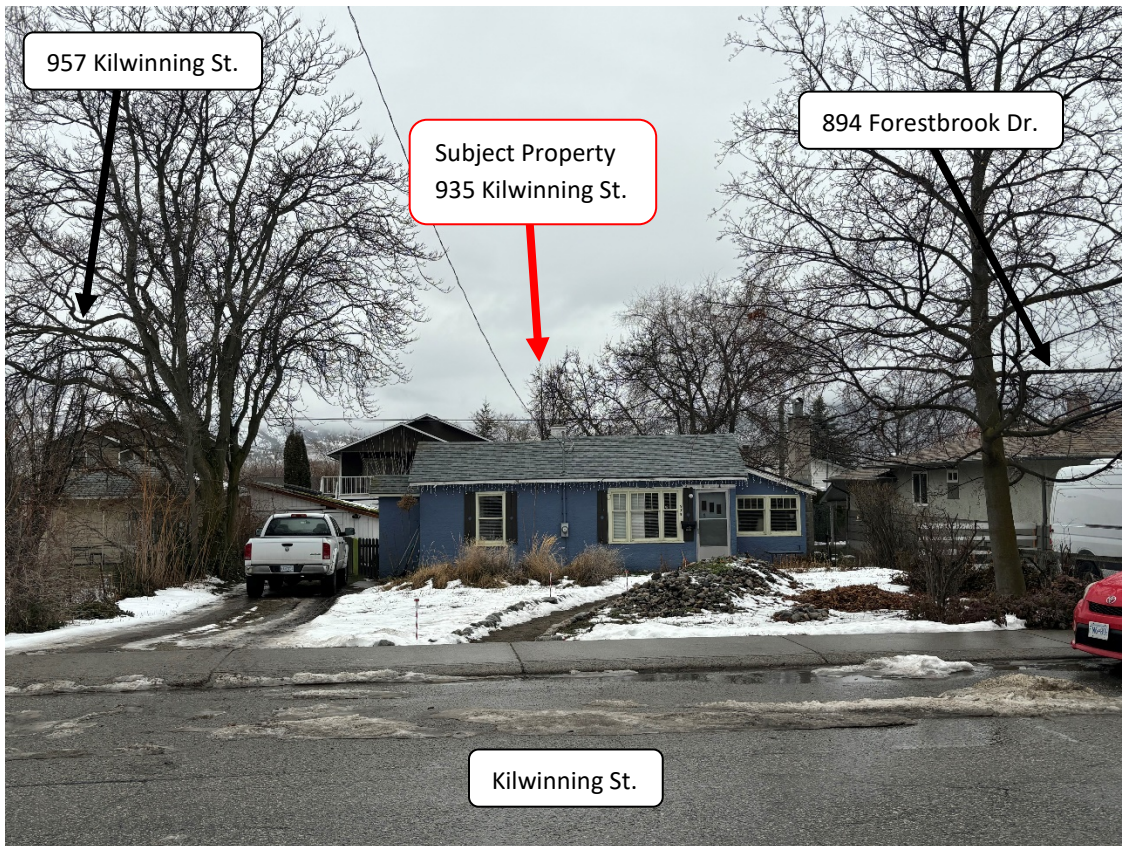
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Monday, February 12, 2024 3:05:59 PM





Attachment C –Photos of the Property



Attachment D – Development Permit Analysis (staff)

**Development Permit Analysis**

The proposed development is located within the Intensive Residential Development Permit Area. The following analysis demonstrates how the proposal is aligned with the applicable design guidelines.

- Guideline G1* Prior to site design, analysis shall be undertaken to identify significant on-site and off-site opportunities and constraints, including built and natural elements (e.g., structures, slopes and drainage, significant landscape features, etc.).
- The proposed duplexes were designed with the Zoning Bylaw requirements in mind. All parking will be provided from the lane.
- Guideline G5* Siting of buildings should support strong street definition by minimizing front yard setbacks while sensitively transitioning to neighbouring building setbacks.
- The duplexes have been designed to exceed the minimum 4.5m front yard setback to ensure the development is sensitive to the existing neighbourhood. Building B has a 5.64m front yard setback from the front of the building to the property line and Building A has a 4.8m front yard setback to the property line.
- Guideline G11* Barrier-free pedestrian walkways to primary building entrances must be provided from municipal sidewalks, parking areas, storage, garbage and amenity areas.
- A barrier-free pedestrian walkway has been provided on each proposed lot from the front of the property to the rear parking area off of the lane, leading past each duplex entrance to ensure there is access from the front and the parking area.
- Guideline G16* Site and building access must prioritize pedestrian movement, minimize conflict between various modes of transportation and optimize use of space...
- The provided parking for this development will be off of the rear lane, which reduces parking conflicts between pedestrians and vehicles on the property. There is a 1.2m wide sidewalk on each proposed lot to allow ease of pedestrian access from both the front and rear of the property.
- Guideline G23* Articulation of building mass should include horizontal (minor) setbacks and stepbacks (along upper storeys) to provide visual interest and enrich the pedestrian experience. Balconies and/or cantilever upper floors may be considered as a means to breaking up massing while promoting overlook and/or weather protection.
- The duplex designs include ground level covered patios that face Kilwinning Street and the rear lane. These features add interesting architectural features that assist in breaking up the building faces.
- Guideline G26* Building designs should minimize impacts on the privacy of adjacent dwellings, including private open spaces.
- The larger windows on the duplexes face Kilwinning Street and the rear lane to minimize impacts on neighbouring properties. Any windows that face the adjacent properties on either side, are smaller to ensure privacy.

*Guideline G28* Entries should be visible and clearly identifiable from the fronting public street.

- Entrances for the 2 dwelling units facing Kilwinning Street are clearly identifiable from the public street.

*Guideline G35* Tree planting...

- A tree is required for each dwelling unit, meaning four trees total must be provided on the property. The applicant has provided five trees.

*Guideline G58* Garbage/recycling areas and other similar structures should be located out of public view in areas that mitigate noise impacts and which do not conflict with pedestrian traffic.

- Garbage and recycling will be collected from the rear lane to mitigate impacts of noise and out of public view.

*Guideline IR1* Building siting...

- The proposed duplexes achieve this guideline by ensuring they meet all setback requirements of the RD2 zoning and any projections for architectural design are well below the Zoning Bylaw maximum to reduce the impact on the surrounding properties.

Attachment E - Letter of Intent and Development Permit Analysis (applicant)



December 18, 2023

Giroux Design Group Inc.

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

Re: 935 Kilwinning Street Subdivision, Rezoning and Development Permit Application

To City of Penticton Planning Department,

This letter is regarding the proposal to subdivide, rezone and develop the property located at 935 Kilwinning Street. The development fits the OCP for the neighbourhood and utilizes a large parcel of land to allow for four new dwellings. Although this development is in the 'K Street' area, this particular block of homes is made up of a mix of older homes as well as homes built in the 1970's to early 2000's. The property is also located close to the apartments across the street on Forestbrook Dr. The design of the duplex buildings was kept more traditional to match the existing architecture in the area. The existing single family home underutilizes the large property as it is very small, it also has no significant architectural heritage. The location of the development is also ideal for families as there are schools and parks within walking distance, as well as shopping and the downtown core.

No variances are required for this application.

We believe the project meets the intent of providing modest densification to an area of town and is in harmony with the need for new housing while being respectful to the existing neighbourhood by not pushing for higher density.

Thank you for considering our proposal.

Best regards,

**Tony Giroux** *ASTTBC, CTech, RBD, BCABD*  
Owner/Registered Building Designer  
Giroux Design Group Inc.

## Site Planning

### Designing in Context

*Contextual designs feel better because they 'fit.' In light of Penticton's complex and unique landscape, views and urban patterns, it is important that designs reflect this character. Guidelines address site conditions and context, including: sensitivity to on-site features (e.g., terrain and sun angle), adjacencies (e.g., street interface and existing uses), potential impacts (e.g., overlook and shading) and other related opportunities (e.g., energy conservation).*

**G1.** Prior to site design, analysis shall be undertaken to identify significant on-site and off-site opportunities and constraints, including built and natural elements (e.g., structures, slopes and drainage, significant landscape features, etc.)

No road widening is required for this project. The design of the buildings is stepped to work with the slope of the lot and to avoid the need for retaining walls.

**G3.** Private and semi-private open spaces should be designed to optimize solar access (see Figure G3).

Each unit has a private patio with either morning or afternoon sun allowing residents to enjoy a period of sun and shade each day in an outside environment.

**G4.** Views through to the mountains and the lakes should be carefully considered and incorporated into the design of new development.

Each row of units will have a view of the mountains either to the east or the west that can be enjoyed either from the various windows facing the views.

### Framing Space

*In consideration of Penticton's relatively low-scale urban form, future intensification and development should explore how buildings actively frame space(s) as a means to expand and enhance the public realm. The following guidelines aim to promote positive interactions with particular care and attention to transitions between private and public spaces.*

**G5.** Siting of buildings should support strong street definition by minimizing front yard setbacks while sensitively transitioning to neighbouring building setbacks.

The existing buildings on the street are varied in the setbacks from Kilwinning Street as are the two proposed duplexes. The buildings are set back from the front property line further than required and each has a porch to soften the impact of the building. Landscaping in the front yards also enhances the development.

**G7.** All designs shall consider Crime Prevention Through Environmental Design (CPTED) principles and balance the reduction of crime and nuisance opportunities with other objectives to maximize the enjoyment of the built environment.

Parking for the development is provided from the lane as required in the City bylaw. Parking is visible from the west facing dwelling units. There are no areas of the property where illegal activities can be hidden from view.

#### **Prioritizing Pedestrians**

*A high-quality pedestrian environment is a central quality of any welcoming neighbourhood. Penticton is fortunate to have an extensive neighbourhood street network that links distinct areas in a reasonable walking distance. The following guidelines aim to optimize the quality and connectivity of pedestrian infrastructure and reduce conflict between pedestrians and vehicles.*

**G9.** Pedestrian connectivity to adjacent properties is encouraged. With the exception of private yards, open spaces shall be designed for public access and connectivity to adjacent public areas (and publicly-accessible private spaces).

All units have access via a common sidewalk to the lane and the City sidewalk. The development is close to shopping, schools, parks, transit and bike lanes.

**G12.** Where feasible, indicate pedestrian ways with continuity of paving treatments/paving materials.

A 1.2 m wide sidewalk provides access to the units from the City sidewalk along Kilwinning Street and the parking off of the lane.

**G13.** Entry to ground-level residential units should be no more than 1.8m (6.0 ft.) above the grade of adjacent public sidewalks and walkways (see Figure G14).

Entrance to the buildings are either at the same level as the City street or 0.6 m below the City street.

#### **Cars and Parking**

*The following guidelines are intended to reduce the impacts of automobile infrastructure – including access and parking – and to further support a high quality pedestrian realm. (see Figure 5-3 and Figure 5.4)*

**G16.** Site and building access must prioritize pedestrian movement, minimize conflict between various modes of transportation and optimize use of space:

- Off-street parking and servicing access should be provided from the rear lane (where one exists) to free the street for uninterrupted pedestrian circulation and boulevard landscaping (see Figure 5-4).
- Where possible, shared automobile accesses should be considered to optimize land use, and to reduce impermeable surface coverage and sidewalk crossings.

Parking is located off of the lane as required. The new parcel to the south has room for an additional parking space from the lane. All required parking is provided for both duplexes.

**G17.** On-site parking location and design should minimize visual impact and provide safe connections for pedestrians:

- Parking between the front of buildings and the street is not permitted.

On all sides of the buildings cantilevered projections, porches, setback entries, and varied cladding materials breakup the mass of the building giving the buildings visual interest on all sides. The new lot to the North is angled so the building façade on the north side of that duplex building has some additional jogs to further add character.

### **Eyes on the Street**

*Create active and safe shared spaces through orientation of primary building entrances, windows, porches/ balconies to the public realm, sidewalks and other shared open spaces.*

**G28.** Entries should be visible and clearly identifiable from the fronting public street.

The entrances are at ground level and easily visible from the street and lane.

**G29.** Development should orient windows, porches, balconies and patios toward the public realm, allowing for casual overlook of parks, open spaces, and parking areas (see Figure 5-7).

Windows and porches are facing both Kilwinning Street and the lane with views of the street and parking.

### **Landscape Architecture**

#### **Enhance the Urban Forest**

Urban forests are recognized for the economic, social, and environmental benefits they provide. In addition to considerations for form & character, enhancement of Penticton's urban forest will support health and well-being for all.

**G35.** Tree planting

- Where space permits, landscaped areas, boulevards and setback areas adjacent to streets should be planted with trees with appropriate soil volumes to ensure longevity.
- All areas with planted trees must be irrigated
- All development fronting a public street shall plant a landscaped area fronting the public road with regularly spaced street trees no further than 10 metres apart, and at least 2.5 meters tall at the time of planting.
- The planting of additional trees is strongly encouraged, particularly if existing trees cannot be preserved, in order to maintain and expand the urban forest canopy.

Five new trees are planned for the development.

#### **Utilities, Mechanical Services and Servicing**

*As essential components of the city's built infrastructure, these elements must be intentionally integrated in the overall design to mitigate impacts on form and character.*

**G58.** Garbage/recycling areas and other similar structures should be located out of public view in areas that mitigate noise impacts and which do not conflict with pedestrian traffic.

Garbage and recycling containers are stored on concrete pads in the rear yards within 42" screened enclosures during non-collection days and will be placed along the lane for pickup on collection days.

**G59.** Garbage and recycling bins should be contained within screened enclosures that are coordinated with the overall design.

The screened enclosure will be of the same material as the privacy fencing to fit into the landscape theme.

**G60.** Clear access to refuse/recycling areas must be provided.

Each unit will have it's own garbage and recycling containers with one community yard waste collection bins in a screened enclosure in the rear yard near the parking.

**Fences**

*Notwithstanding the fencing regulations in the Zoning Bylaw, fencing design should provide a level of privacy to the development but not present an unfriendly solid wall to the public street.*

**G63.** All plans should show intended fencing.

Fencing is shown on landscape plans. Fencing along the east, west and south property lines is 6' tall wood privacy fence with the exception that the fence is 4' high in the front yard. There is no fence on the front (north) property line. There are 6' fences between each private yard in the side setbacks.



## Development Permit

Permit Number: DP PL2023-9710

Owner Name  
Owner Address

### Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:
  - Legal: Proposed Lot A (Legal to be updated after subdivision)
  - Civic: Proposed Lot A of 935 Kilwinning Street (civic to be updated after subdivision)
  - PID: Proposed Lot A (PID to be updated after subdivision)
3. This permit has been issued in accordance with Section 489 of the *Local Government Act*, to permit the construction of a back-to-back duplex as shown in the plans attached in Schedule 'A'.
4. In accordance with Section 502 of the *Local Government Act* a deposit or irrevocable letter of credit, in the amount of \$\_\_\_\_\_ must be deposited prior to, or in conjunction with, an application for a building permit for the development authorized by this permit. The City may apply all or part of the above-noted security in accordance with Section 502 of the *Local Government Act*, to undertake works or other activities required to:
  - a. correct an unsafe condition that has resulted from a contravention of this permit,
  - b. satisfy the landscaping requirements of this permit as shown in Schedule 'A' or otherwise required by this permit, or
  - c. repair damage to the natural environment that has resulted from a contravention of this permit.
5. The holder of this permit shall be eligible for a refund of the security described under Condition 4 only if:
  - a. The permit has lapsed as described under Condition 8, or
  - b. A completion certificate has been issued by the Building Inspection Department and the Director of Development Services is satisfied that the conditions of this permit have been met.
6. Upon completion of the development authorized by this permit, an application for release of securities (Landscape Inspection & Refund Request) must be submitted to the Planning Department. Staff may carry out inspections of the development to ensure the conditions of this permit have been met. Inspection fees may be withheld from the security in accordance with the City of Penticton Fees and Charges Bylaw (as amended from time to time).

**General Conditions**

7. Insert any additional conditions of Development Permit.
8. In accordance with Section 501(2) of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule 'A'.
9. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
- 10. 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.**
11. 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.
12. 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 19th day of March, 2024.

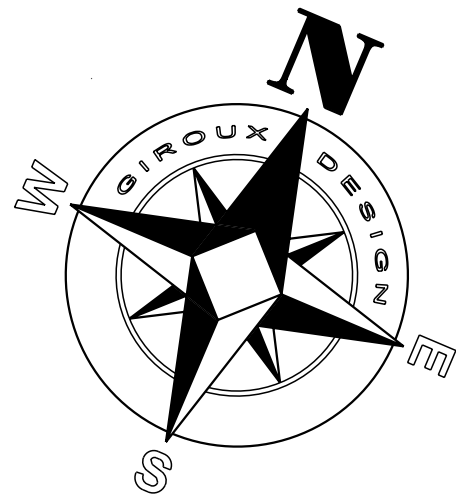
Issued this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Angela Collison  
Corporate Officer

**ELECTRIC VEHICLE READY REQUIREMENTS  
IN ACCORDANCE WITH ZONING BYLAW NO. 2023-08**

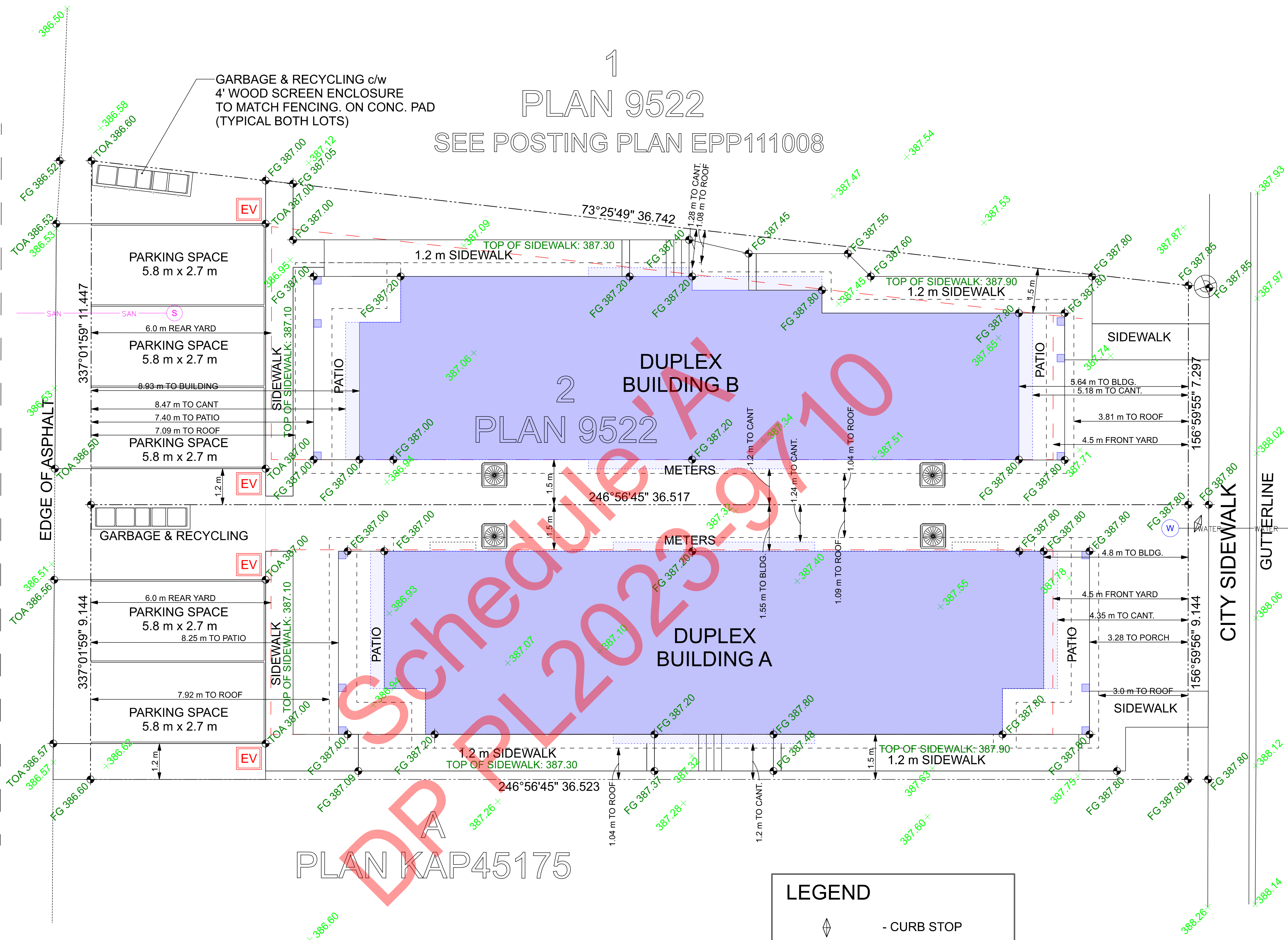
TO ENSURE NEW HOMES ARE BUILT WITH READY ACCESS TO A POWER SUPPLY CAPABLE OF PROVIDING LEVEL 2 EV CHARGING, THE FOLLOWING REQUIREMENTS MUST BE MET:

- MINIMUM NUMBER OF ENERGIZED OUTLETS FOR LEVEL 2 CHARGING: 1 PER DWELLING UNIT.
- CONSTRUCTION REQUIREMENTS THAT INCLUDE: ELECTRICAL PANEL CAPACITY, WIRING, AND CONTINUOUS CONDUIT OR RACEWAY (AS APPLICABLE) FROM THE PANEL, TERMINATING AT AN ENERGIZED OUTLET NEAR THE DESIGNATED EV PARKING SPACE(S). ADDITIONAL ELECTRICAL AND EV CHARGING INFRASTRUCTURE IS REQUIRED TO ENERGIZE THE CIRCUIT AND TO SUPPLY POWER TO FUTURE LEVEL 2 EVSE AND EVMS (IF APPLICABLE).
- A POINT CONNECTED TO A SOURCE OF VOLTAGE IN AN ELECTRICAL WIRING INSTALLATION AT WHICH CURRENT IS TAKEN AND CAN BE CONNECTED TO SUPPLY UTILIZATION EQUIPMENT. AN OUTLET INCLUDES A COVERED TERMINATION BOX, NEMA 14-50R RECEPTACLE, OR NEMA 6-50R RECEPTACLE. ADDITIONAL TERMINATION MEANS MAY BE APPROVED BY THE CITY OF PENTICTON ELECTRIC UTILITY MANAGER.
- ELECTRIC VEHICLE CHARGING AT 208 V OR 240 V THROUGH SUPPLY UTILIZATION EQUIPMENT THAT MEETS THE DEFINITION OF LEVEL 2 BY THE STANDARD "SAE ELECTRIC VEHICLE AND PLUG IN HYBRID ELECTRIC VEHICLE CONDUCTIVE CHARGE COUPLER", J1772.



LANE

CENTRE LINE OF LANE



**SITE PLAN**

SCALE: 1:75  
CIVIC ADDRESS: 935 KILWINNING STREET, PENTICTON, BC  
LEGAL DESCRIPTION: LOT 2, DL 249, SDYD, PLAN 9522  
PID: 003-783-812

OCP: DETACHED RESIDENTIAL  
ZONING: R2 SMALL LOT RESIDENTIAL  
PROPOSED ZONING: RD2 DUPLEX HOUSING LANE  
PROPERTY AREA: 676.15 SQ.M.

BASED ON SURVEY BY MANDEVILLE LAND SURVEYING INC.  
PROFESSIONAL B.C. AND CANADA LAND SURVEYORS  
FILE: 21-227  
FIELD SURVEY COMPLETED THIS 9th DAY OF AUGUST, 2021  
ELEVATIONS ARE GEODETIC (ORTHOMETRIC HTv2.0) DERIVED FROM  
PENTICTON MONUMENT#82H5345

LEGEND	
	- CURB STOP
	- POWER POLE
	- SPOT ELEVATIONS
	- FENCE

1  
**PLAN 9522**  
SEE POSTING PLAN EPP11008

2  
**PLAN 9522**

A  
**PLAN KAP45175**

KILWINNING STREET

CITY SIDEWALK

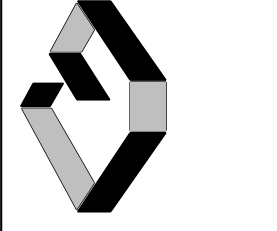
GUTTERLINE

GURDIAL CHAHAL  
935 KILWINNING ST  
PENTICTON, BC

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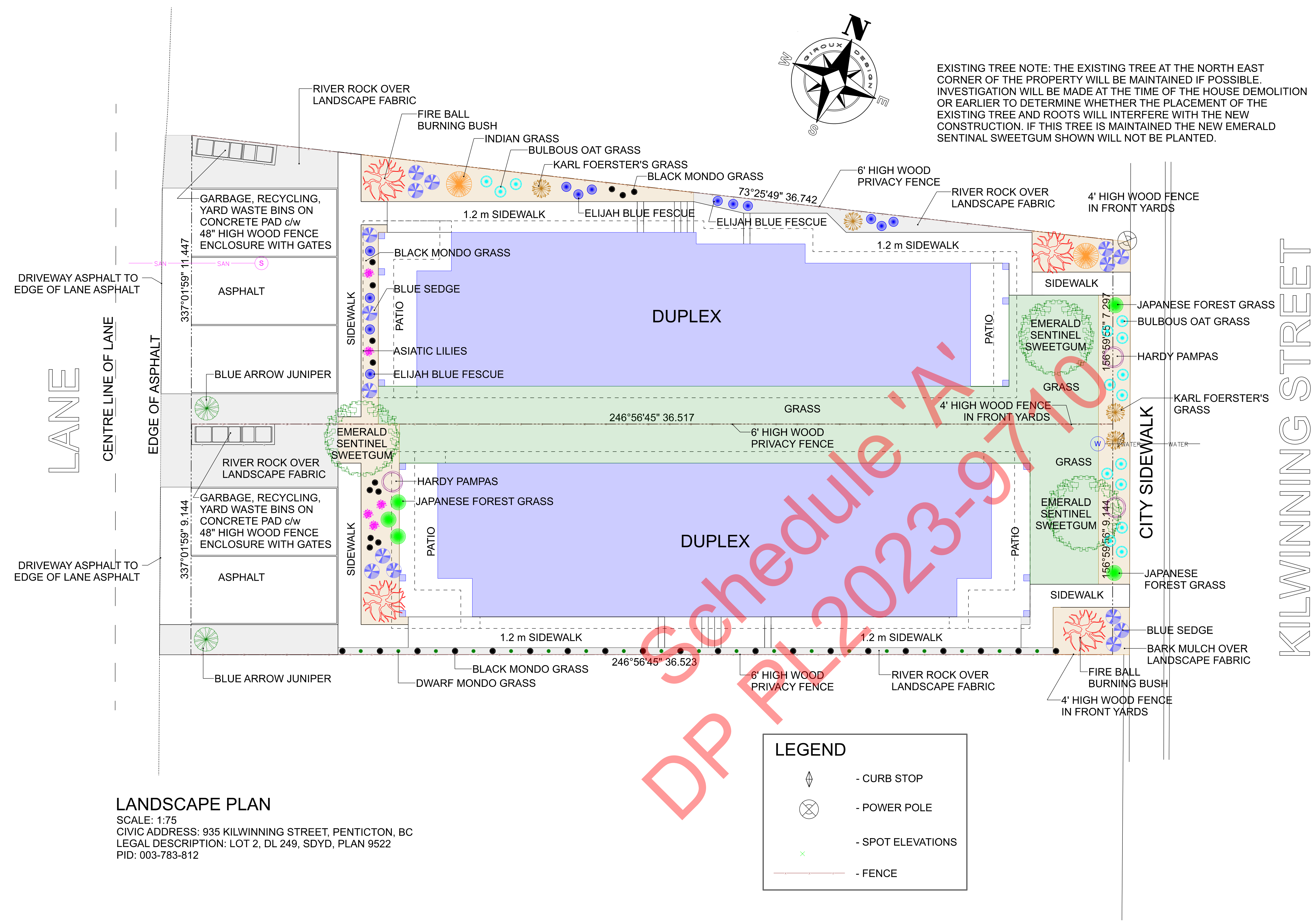
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Giroux Design Group Inc.  
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web: www.girouxdesigngroup.com



PLAN NO.  
**WP-5808**  
SLAB  
SHEET NO.  
**A1**

www.girouxdesigngroup.com - www.westhomeplanners.com - www.houseplanhunters.com

Site Plan



EXISTING TREE NOTE: THE EXISTING TREE AT THE NORTH EAST CORNER OF THE PROPERTY WILL BE MAINTAINED IF POSSIBLE. INVESTIGATION WILL BE MADE AT THE TIME OF THE HOUSE DEMOLITION OR EARLIER TO DETERMINE WHETHER THE PLACEMENT OF THE EXISTING TREE AND ROOTS WILL INTERFERE WITH THE NEW CONSTRUCTION. IF THIS TREE IS MAINTAINED THE NEW EMERALD SENTINAL SWEETGUM SHOWN WILL NOT BE PLANTED.

- LANDSCAPE SCHEDULE**
- PLANTINGS:**  
 Asiatic Lilies (Asiatic Hybrid Lilies) 5 qty.  
 Black Mondo Grass (Ophiopogon planiscapus 'Nigrescens') 33 qty.  
 Blue Sedge (Carex flacca) 15 qty.  
 Bulbous Oat Grass (Arrhenatherum bulbosum 'Variagatum') 15 qty.  
 Dwarf Mondo Grass (Ophiopogon japonicus 'Nanus') 19 qty.  
 Elijah Blue Fescue (Festuca glauca 'Elijah Blue') 13 qty.  
 Fire Ball Burning Bush (Euonymus alatus 'Fire Ball') 4 qty.  
 Hardy Pampas (Eriarthus ravennae) 3 qty.  
 Indian Grass (Sorghastrum nutans 'Indian Steel') 2 qty.  
 Japanese Forest Grass (Hakonechloa macro 'Fubuki') 5 qty.  
 Karl Foerster's Grass (Calamagrostis x acutiflora Karl Foerster) 4 qty.
- TREES:**  
 Blue Arrow Juniper (Juniperus scopulorum 'Blue Arrow') 2 qty.  
 Emerald Sentinel Sweetgum (Liquidambar styraciflua 'Clydesform') 3 qty.
- GARBAGE DISPOSAL:**  
 Garbage Container 2 qty.  
 Recycling Container 2 qty.  
 Yard Waste 1 qty.
- GROUND COVER/HARD SURFACES:**  
 Property Area (7,278 sq.ft.)  
 Asphalt (1,029 sq.ft.)  
 Grass (1,181 sq.ft.)  
 Planting Beds-Bark Mulch (662 sq.ft.)  
 River Rock-2" Rainbow (795 sq.ft.)  
 Landscape Fabric (1457 sq.ft.)
- FENCING:**  
 4' High Wood Fence (84 lin.ft.)  
 6' High 'Good Neighbour' Privacy Fence (304 lin.ft.)
- LANDSCAPE NOTES:**  
 SHRUBS SHALL BE A MIN OF No.2 POT SHRUBS  
 ALL TREES ARE TO BE A MINIMUM CALIPER OF 60mm WITH A CLEAR STEM HEIGHT OF 1.5 m  
 NO TREES, FENCES OR STRUCTURES WITHIN ROAD DEDICATION  
 NO RETAINING WALLS OVER 1.2 m IN HEIGHT ARE PERMITTED WITHIN ANY SETBACK AREA  
 LANDSCAPED AREAS TO BE EQUIPPED WITH UNDERGROUND IRRIGATION SYSTEM COMPLETE WITH MOISTURE SENSORS & TIMERS.  
 LANDSCAPING AND IRRIGATION TO EXTEND TO EDGE OF CITY SIDEWALKS, CURBS, ASPHALT. (INCLUSIVE OF LANDSCAPING ON CITY BOULEVARD)  
 DRIVEWAY ASPHALT TO EXTEND TO STREET AND LANE ASPHALT.

**LEGEND**

- CURB STOP
- POWER POLE
- SPOT ELEVATIONS
- FENCE

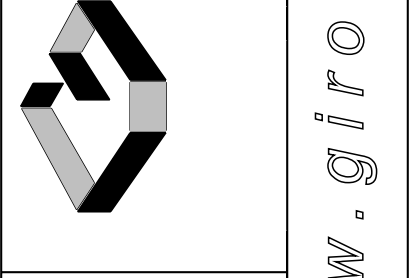
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 SCALE: 1:75  
 CIVIC ADDRESS: 935 KILWINNING STREET, PENTICTON, BC  
 LEGAL DESCRIPTION: LOT 2, DL 249, SDYD, PLAN 9522  
 PID: 003-783-812

GURDIAL CHAHAL  
 935 KILWINNING ST  
 PENTICTON, BC  
 DESIGN BY: AIG  
 DRAWN BY: AIG  
 DATE: 2024-02-02  
 REVISED:

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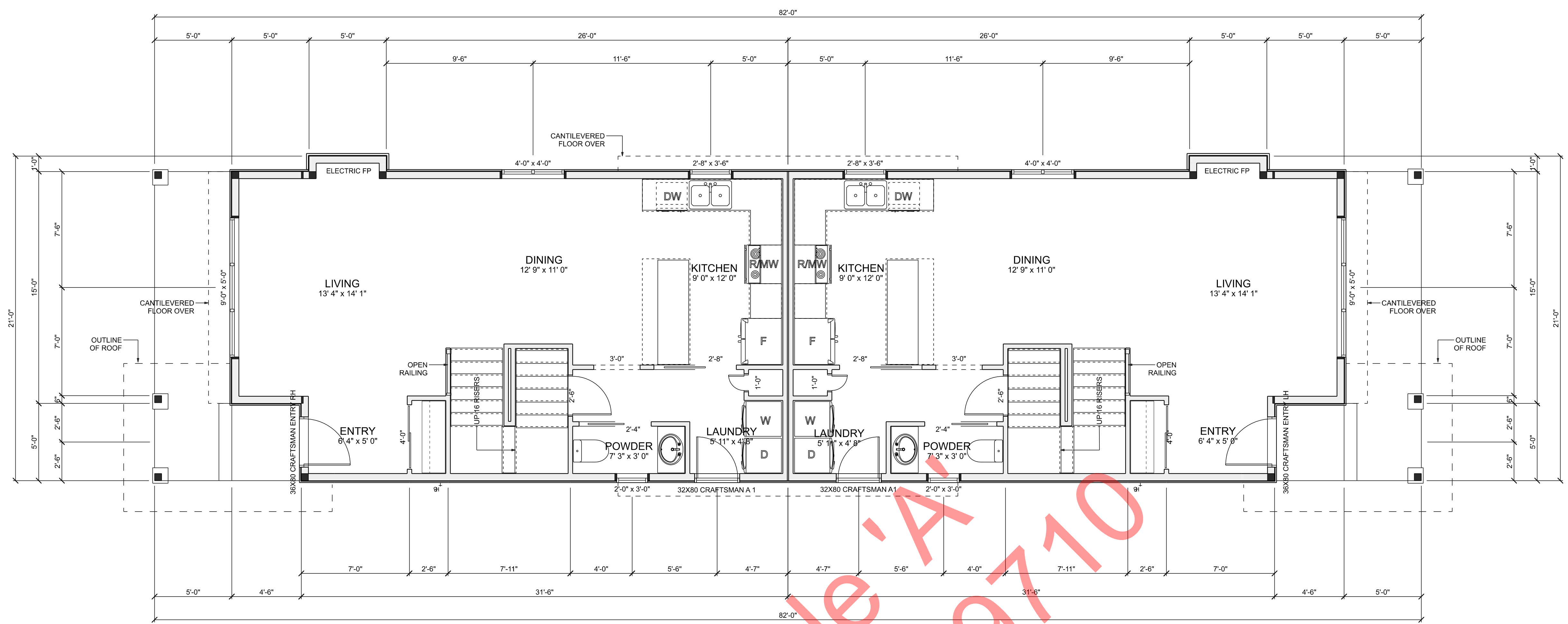
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 web: www.girouxdesigngroup.com



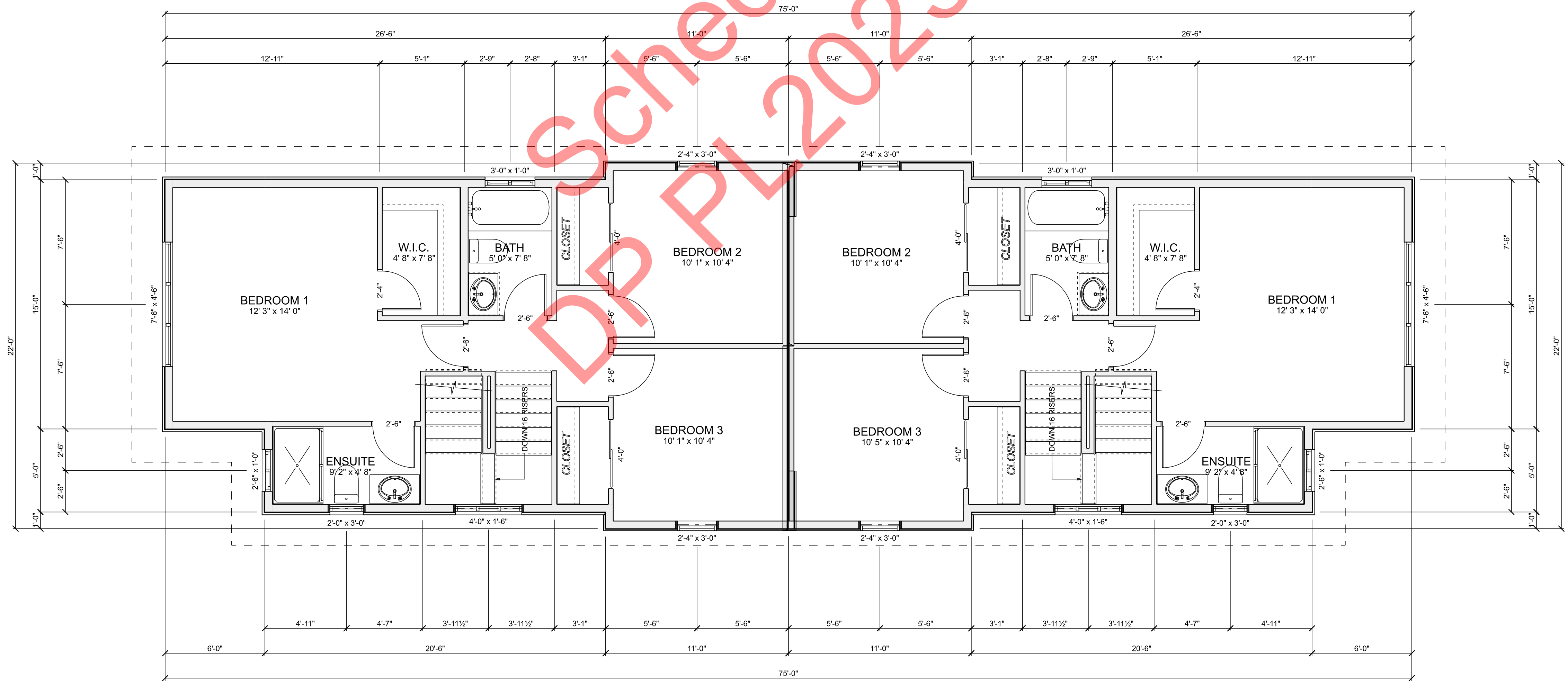
PLAN NO.  
**WP-5808**  
 SLAB  
 SHEET NO.  
**A2**

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Landscape Plan



**BUILDING A-MAIN FLOOR PLAN**  
 SCALE: 1/4" = 1'-0"  
 MAIN FLOOR LIVING AREA: 1383 sq. ft.



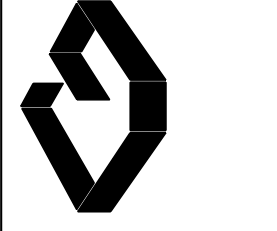
**BUILDING A-SECOND FLOOR PLAN**  
 SCALE: 1/4" = 1'-0"  
 SECOND FLOOR LIVING AREA: 1484 sq. ft.

GURDIAL CHAHAL  
 935 KILWINNING ST  
 PENTICTON, BC  
 DESIGN BY: AJG DATE: 2024-02-02  
 DRAWN BY: AJG REVISED:

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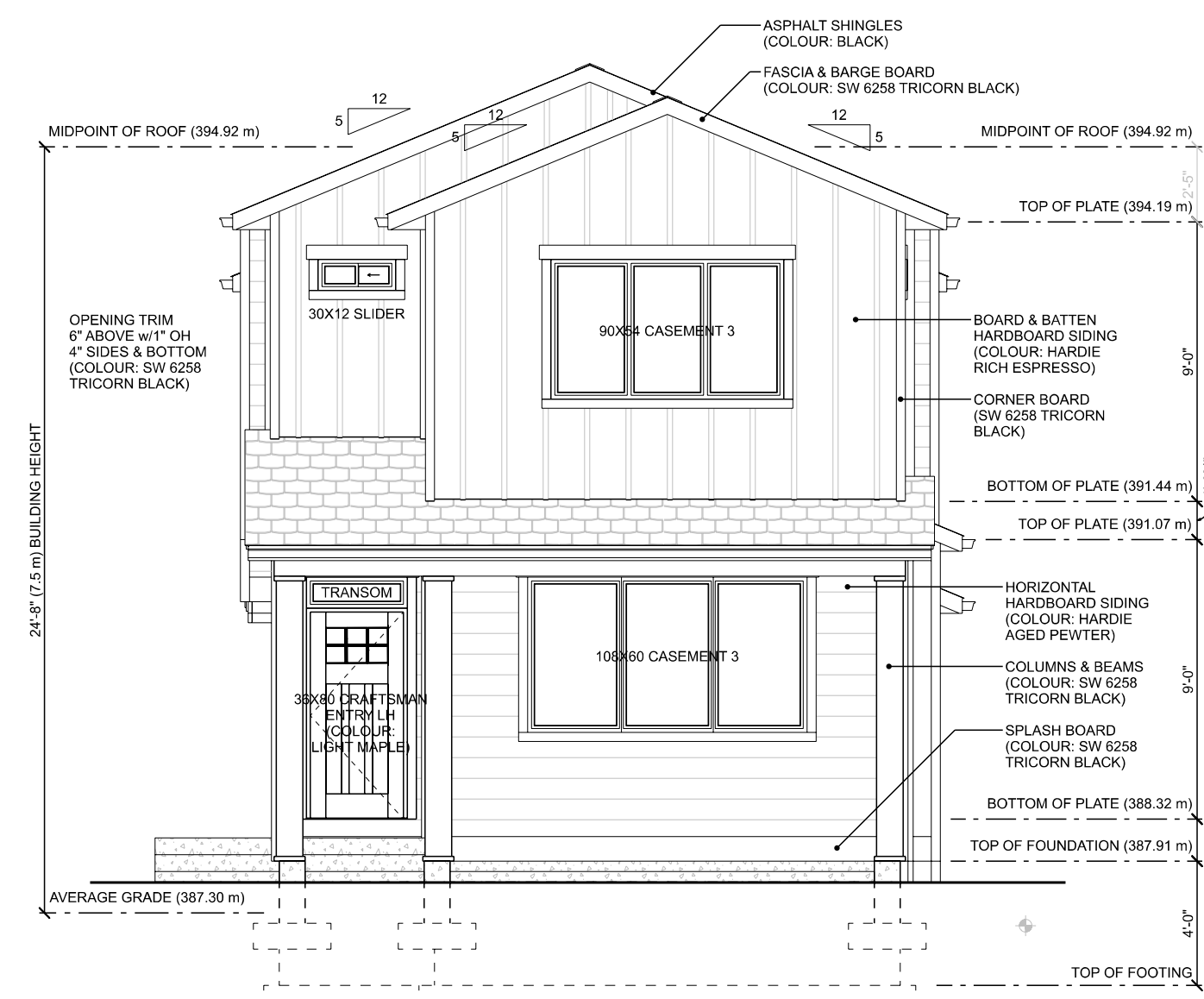
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PLAN NO.  
**WP-5808**  
 SLAB  
 SHEET NO.  
**A4**

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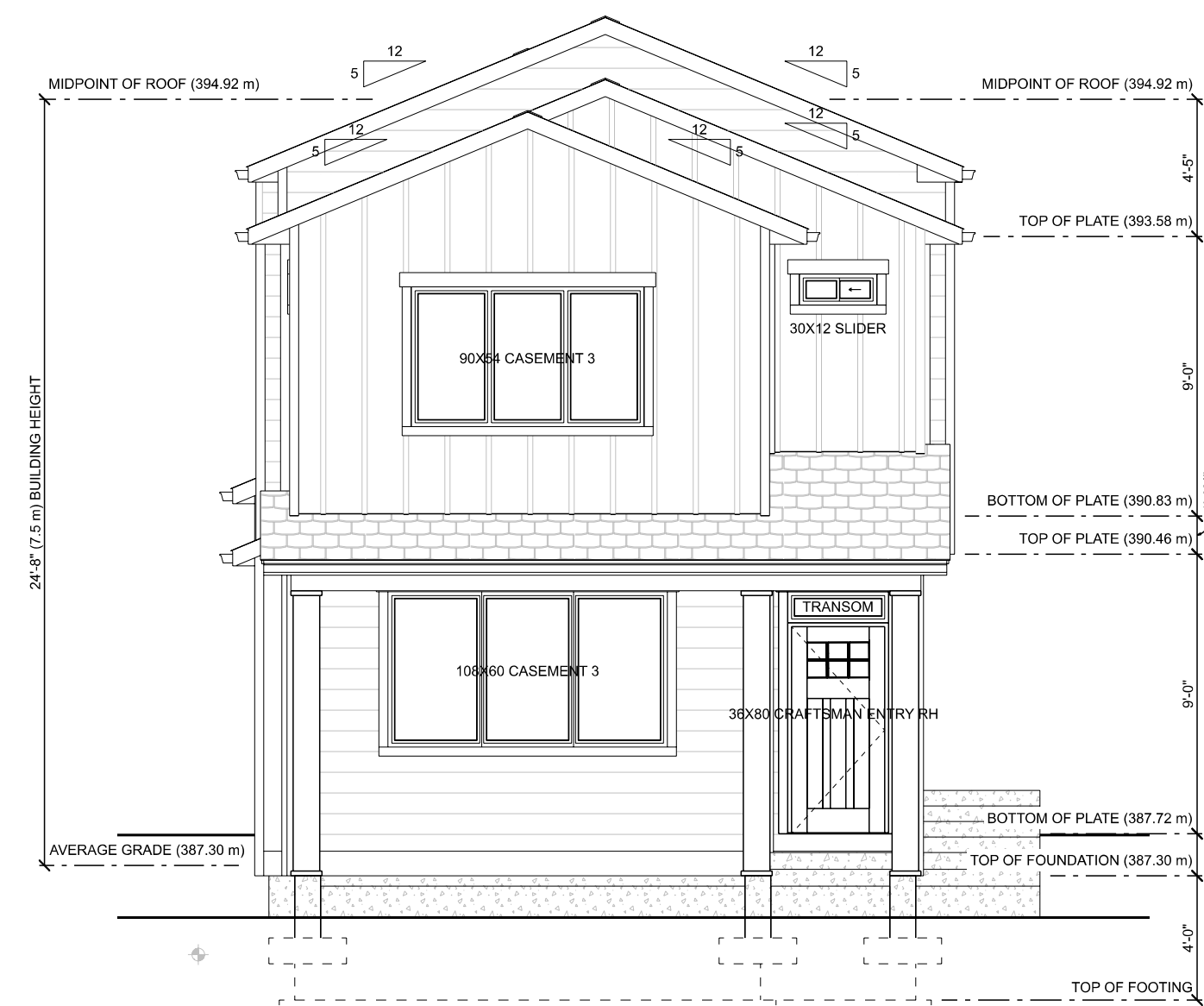
Building A-Floor Plans



**BUILDING A-EAST ELEVATION (FACING KILWINNING STREET)**  
SCALE: 3/16" = 1'-0"



**BUILDING A-NORTH ELEVATION**  
SCALE: 3/16" = 1'-0"



**BUILDING A-WEST ELEVATION (FACING LANE)**  
SCALE: 3/16" = 1'-0"



**BUILDING A-SOUTH ELEVATION**  
SCALE: 3/16" = 1'-0"

Schedule 'A'  
 DP PL 2023-9710

GIROUX CHAHAL

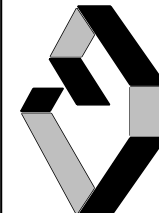
935 KILWINNING ST  
PENTICTON, BC

DESIGN BY: AJG DATE: 2024-02-02  
DRAWN BY: AJG REVISED:

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PLAN NO.  
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Building A-Exterior Elevations



SOUTH ELEVATION  
SCALE: 3/16" = 1'-0"



EAST ELEVATION (FACING KILWINNING ST.)  
SCALE: 3/16" = 1'-0"



WEST ELEVATION (FACING LANE)  
SCALE: 3/16" = 1'-0"



NORTH ELEVATION  
SCALE: 3/16" = 1'-0"

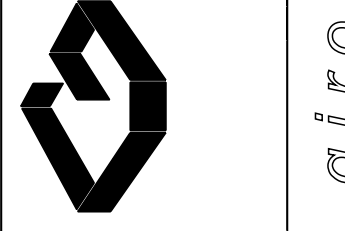
GURDIAL CHAHAL  
935 KILWINNING ST  
PENTICTON, BC

DESIGN BY: AJG  
DRAWN BY: AJG  
DATE: 2024-02-02  
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SHEET NO.  
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Colour Exterior Elevations

## Development Permit

Permit Number: DP PL2023-9711

Owner Name  
Owner Address

### Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:
  - Legal: Proposed Lot B (Legal to be updated after subdivision)
  - Civic: Proposed Lot B of 935 Kilwinning Street (civic to be updated after subdivision)
  - PID: Proposed Lot B (PID to be updated after subdivision)
3. This permit has been issued in accordance with Section 489 of the *Local Government Act*, to permit the construction of a back-to-back duplex as shown in the plans attached in Schedule 'A'.
4. In accordance with Section 502 of the *Local Government Act* a deposit or irrevocable letter of credit, in the amount of \$\_\_\_\_\_ must be deposited prior to, or in conjunction with, an application for a building permit for the development authorized by this permit. The City may apply all or part of the above-noted security in accordance with Section 502 of the *Local Government Act*, to undertake works or other activities required to:
  - a. correct an unsafe condition that has resulted from a contravention of this permit,
  - b. satisfy the landscaping requirements of this permit as shown in Schedule 'A' or otherwise required by this permit, or
  - c. repair damage to the natural environment that has resulted from a contravention of this permit.
5. The holder of this permit shall be eligible for a refund of the security described under Condition 4 only if:
  - a. The permit has lapsed as described under Condition 8, or
  - b. A completion certificate has been issued by the Building Inspection Department and the Director of Development Services is satisfied that the conditions of this permit have been met.
6. Upon completion of the development authorized by this permit, an application for release of securities (Landscape Inspection & Refund Request) must be submitted to the Planning Department. Staff may carry out inspections of the development to ensure the conditions of this permit have been met. Inspection fees may be withheld from the security in accordance with the City of Penticton Fees and Charges Bylaw (as amended from time to time).



**General Conditions**

7. Insert any additional conditions of Development Permit.
8. In accordance with Section 501(2) of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule 'A'.
9. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
- 10. 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.**
11. 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.
12. 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 Authority, the 19th day of March, 2024.

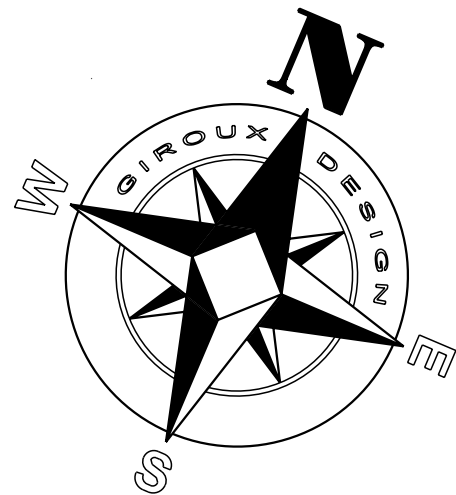
Issued this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Angela Collison  
Corporate Officer

**ELECTRIC VEHICLE READY REQUIREMENTS  
IN ACCORDANCE WITH ZONING BYLAW NO. 2023-08**

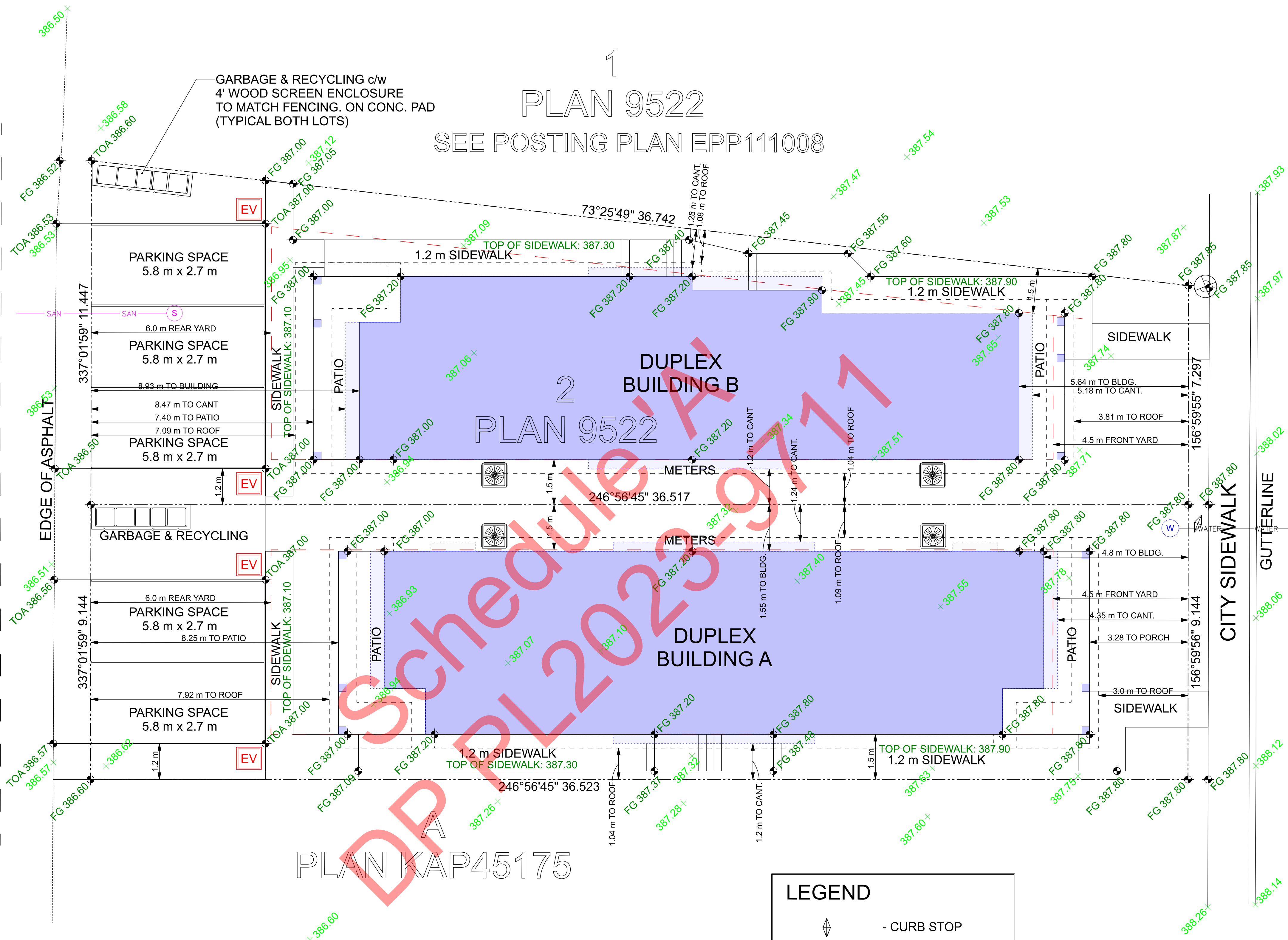
TO ENSURE NEW HOMES ARE BUILT WITH READY ACCESS TO A POWER SUPPLY CAPABLE OF PROVIDING LEVEL 2 EV CHARGING, THE FOLLOWING REQUIREMENTS MUST BE MET:

- MINIMUM NUMBER OF ENERGIZED OUTLETS FOR LEVEL 2 CHARGING: 1 PER DWELLING UNIT.
- CONSTRUCTION REQUIREMENTS THAT INCLUDE: ELECTRICAL PANEL CAPACITY, WIRING, AND CONTINUOUS CONDUIT OR RACEWAY (AS APPLICABLE) FROM THE PANEL, TERMINATING AT AN ENERGIZED OUTLET NEAR THE DESIGNATED EV PARKING SPACE(S). ADDITIONAL ELECTRICAL AND EV CHARGING INFRASTRUCTURE IS REQUIRED TO ENERGIZE THE CIRCUIT AND TO SUPPLY POWER TO FUTURE LEVEL 2 EVSE AND EVEMS (IF APPLICABLE).
- A POINT CONNECTED TO A SOURCE OF VOLTAGE IN AN ELECTRICAL WIRING INSTALLATION AT WHICH CURRENT IS TAKEN AND CAN BE CONNECTED TO SUPPLY UTILIZATION EQUIPMENT. AN OUTLET INCLUDES A COVERED TERMINATION BOX, NEMA 14-50R RECEPTACLE, OR NEMA 6-50R RECEPTACLE. ADDITIONAL TERMINATION MEANS MAY BE APPROVED BY THE CITY OF PENTICTON ELECTRIC UTILITY MANAGER.
- ELECTRIC VEHICLE CHARGING AT 208 V OR 240 V THROUGH SUPPLY UTILIZATION EQUIPMENT THAT MEETS THE DEFINITION OF LEVEL 2 BY THE STANDARD "SAE ELECTRIC VEHICLE AND PLUG IN HYBRID ELECTRIC VEHICLE CONDUCTIVE CHARGE COUPLER", J1772.



LANE

CENTRE LINE OF LANE



**SITE PLAN**

SCALE: 1:75  
CIVIC ADDRESS: 935 KILWINNING STREET, PENTICTON, BC  
LEGAL DESCRIPTION: LOT 2, DL 249, SDYD, PLAN 9522  
PID: 003-783-812

OCP: DETACHED RESIDENTIAL  
ZONING: R2 SMALL LOT RESIDENTIAL  
PROPOSED ZONING: RD2 DUPLEX HOUSING LANE  
PROPERTY AREA: 676.15 SQ.M.

BASED ON SURVEY BY MANDEVILLE LAND SURVEYING INC.  
PROFESSIONAL B.C. AND CANADA LAND SURVEYORS  
FILE: 21-227  
FIELD SURVEY COMPLETED THIS 9th DAY OF AUGUST, 2021  
ELEVATIONS ARE GEODETIC (ORTHOMETRIC HTv2.0) DERIVED FROM  
PENTICTON MONUMENT#82H5345

LEGEND	
	- CURB STOP
	- POWER POLE
	- SPOT ELEVATIONS
	- FENCE

1  
**PLAN 9522**  
SEE POSTING PLAN EPP11008

2  
**PLAN 9522**

A  
**PLAN KAP45175**

KILWINNING STREET

CITY SIDEWALK

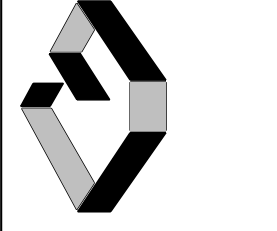
GUTTERLINE

GURDIAL CHAHAL  
935 KILWINNING ST  
PENTICTON, BC

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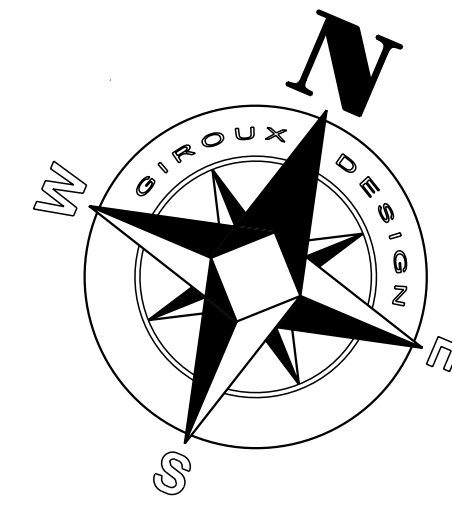
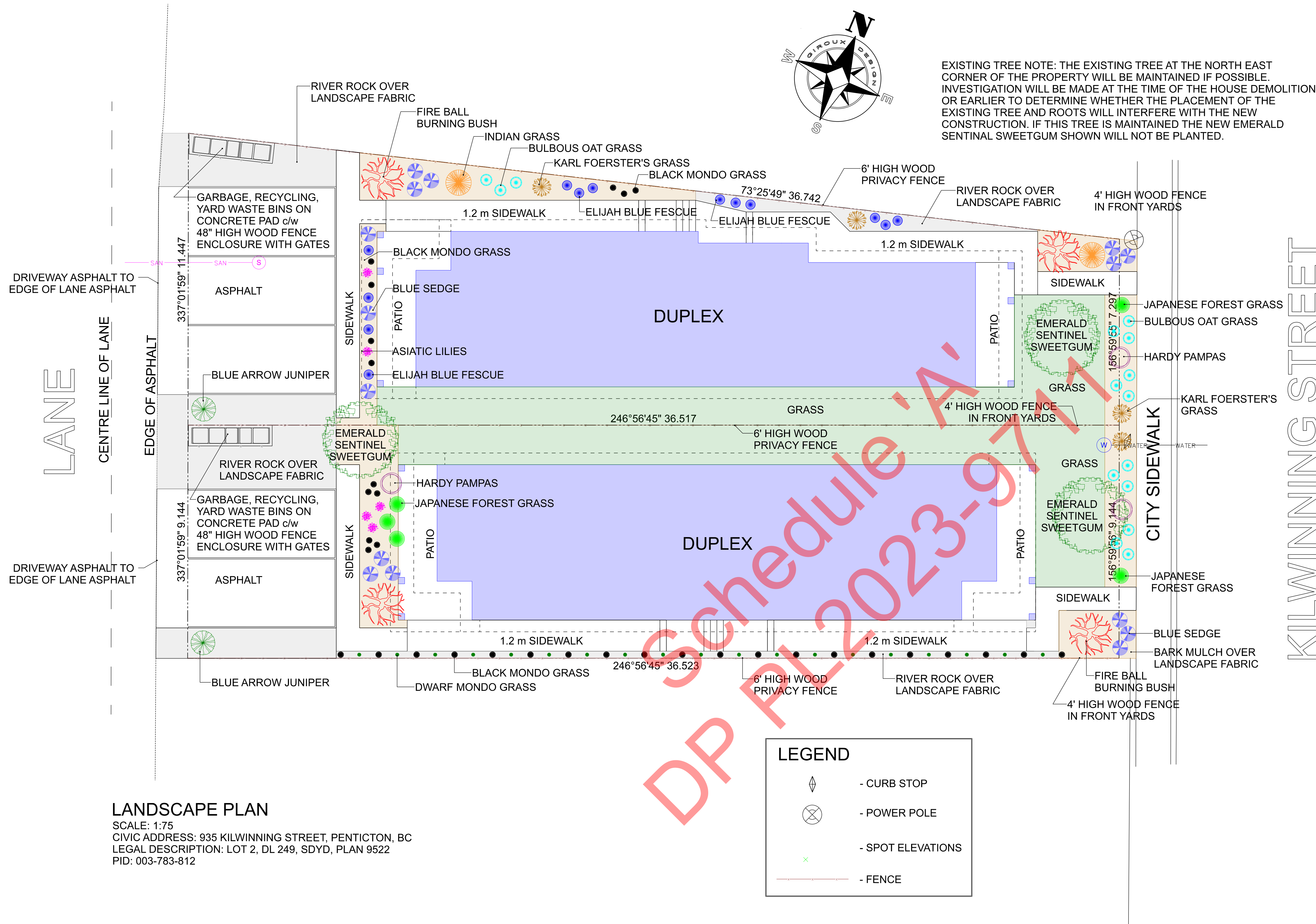
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**WP-5808**  
SLAB  
SHEET NO.  
**A1**

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Site Plan



EXISTING TREE NOTE: THE EXISTING TREE AT THE NORTH EAST CORNER OF THE PROPERTY WILL BE MAINTAINED IF POSSIBLE. INVESTIGATION WILL BE MADE AT THE TIME OF THE HOUSE DEMOLITION OR EARLIER TO DETERMINE WHETHER THE PLACEMENT OF THE EXISTING TREE AND ROOTS WILL INTERFERE WITH THE NEW CONSTRUCTION. IF THIS TREE IS MAINTAINED THE NEW EMERALD SENTINAL SWEETGUM SHOWN WILL NOT BE PLANTED.

- LANDSCAPE SCHEDULE**
- PLANTINGS:**  
 Asiatic Lilies (Asiatic Hybrid Lilies) 5 qty.  
 Black Mondo Grass (Ophiopogon planiscapus 'Nigrescens') 33 qty.  
 Blue Sedge (Carex flacca) 15 qty.  
 Bulbous Oat Grass (Arrhenatherum bulbosum 'Variagatum') 15 qty.  
 Dwarf Mondo Grass (Ophiopogon japonicus 'Nanus') 19 qty.  
 Elijah Blue Fescue (Festuca glauca 'Elijah Blue') 13 qty.  
 Fire Ball Burning Bush (Euonymus alatus 'Fire Ball') 4 qty.  
 Hardy Pampas (Eriarthus ravennae) 3 qty.  
 Indian Grass (Sorghastrum nutans 'Indian Steel') 2 qty.  
 Japanese Forest Grass (Hakonechloa macro 'Fubuki') 5 qty.  
 Karl Foerster's Grass (Calamagrostis x acutiflora Karl Foerster) 4 qty.
- TREES:**  
 Blue Arrow Juniper (Juniperus scopulorum 'Blue Arrow') 2 qty.  
 Emerald Sentinel Sweetgum (Liquidambar styraciflua 'Clydesform') 3 qty.
- GARBAGE DISPOSAL:**  
 Garbage Container 2 qty.  
 Recycling Container 2 qty.  
 Yard Waste 1 qty.
- GROUND COVER/HARD SURFACES:**  
 Property Area (7,278 sq.ft.)  
 Asphalt (1,029 sq.ft.)  
 Grass (1,181 sq.ft.)  
 Planting Beds-Bark Mulch (662 sq.ft.)  
 River Rock-2" Rainbow (795 sq.ft.)  
 Landscape Fabric (1457 sq.ft.)
- FENCING:**  
 4' High Wood Fence (84 lin.ft.)  
 6' High 'Good Neighbour' Privacy Fence (304 lin.ft.)
- LANDSCAPE NOTES:**  
 SHRUBS SHALL BE A MIN OF No.2 POT SHRUBS  
 ALL TREES ARE TO BE A MINIMUM CALIPER OF 60mm WITH A CLEAR STEM HEIGHT OF 1.5 m  
 NO TREES, FENCES OR STRUCTURES WITHIN ROAD DEDICATION  
 NO RETAINING WALLS OVER 1.2 m IN HEIGHT ARE PERMITTED WITHIN ANY SETBACK AREA  
 LANDSCAPED AREAS TO BE EQUIPPED WITH UNDERGROUND IRRIGATION SYSTEM COMPLETE WITH MOISTURE SENSORS & TIMERS.  
 LANDSCAPING AND IRRIGATION TO EXTEND TO EDGE OF CITY SIDEWALKS, CURBS, ASPHALT. (INCLUSIVE OF LANDSCAPING ON CITY BOULEVARD)  
 DRIVEWAY ASPHALT TO EXTEND TO STREET AND LANE ASPHALT.

**LEGEND**

- CURB STOP
- POWER POLE
- SPOT ELEVATIONS
- FENCE

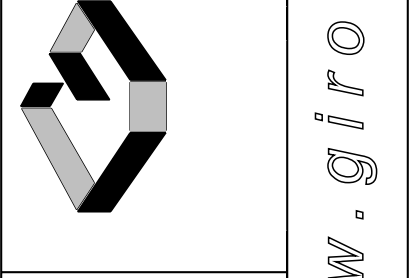
**LANDSCAPE PLAN**  
 SCALE: 1:75  
 CIVIC ADDRESS: 935 KILWINNING STREET, PENTICTON, BC  
 LEGAL DESCRIPTION: LOT 2, DL 249, SDYD, PLAN 9522  
 PID: 003-783-812

GURDIAL CHAHAL  
 935 KILWINNING ST  
 PENTICTON, BC  
 DESIGN BY: AIG  
 DRAWN BY: AIG  
 DATE: 2024-02-02  
 REVISED:

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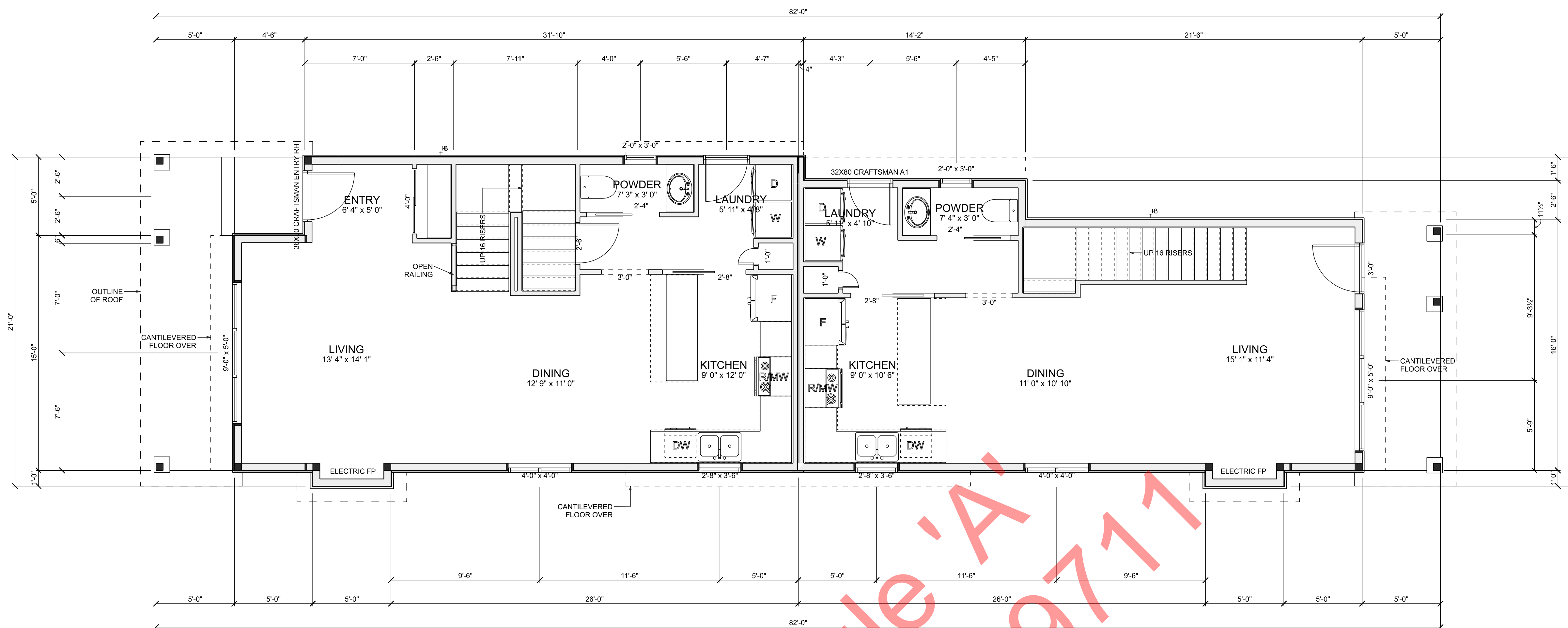
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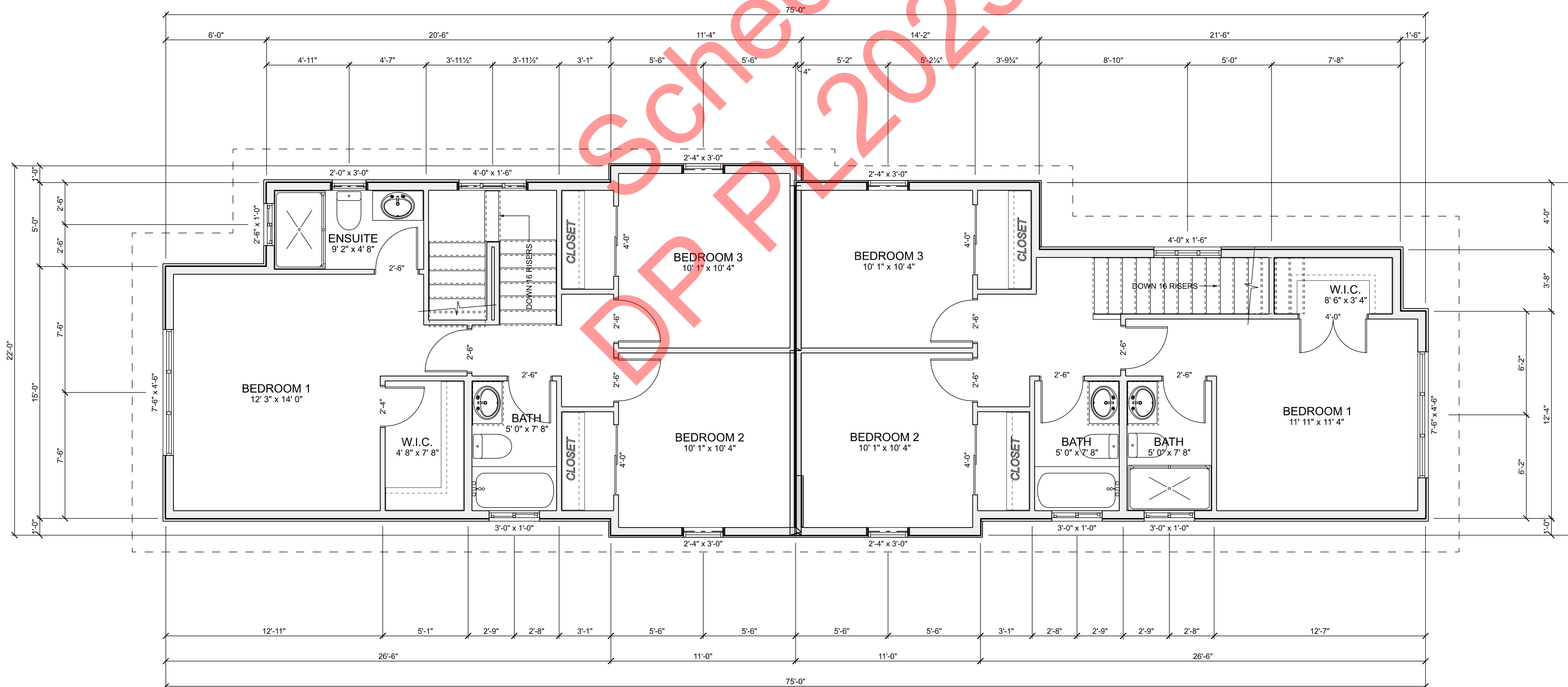
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 SLAB  
 SHEET NO.  
**A2**

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Landscape Plan



**BUILDING B-MAIN FLOOR PLAN**  
 SCALE: 1/4" = 1'-0"  
 MAIN FLOOR LIVING AREA: 0 sq ft.



**BUILDING B-SECOND FLOOR PLAN B**  
 SCALE: 1/4" = 1'-0"  
 SECOND FLOOR LIVING AREA: 0 sq ft.

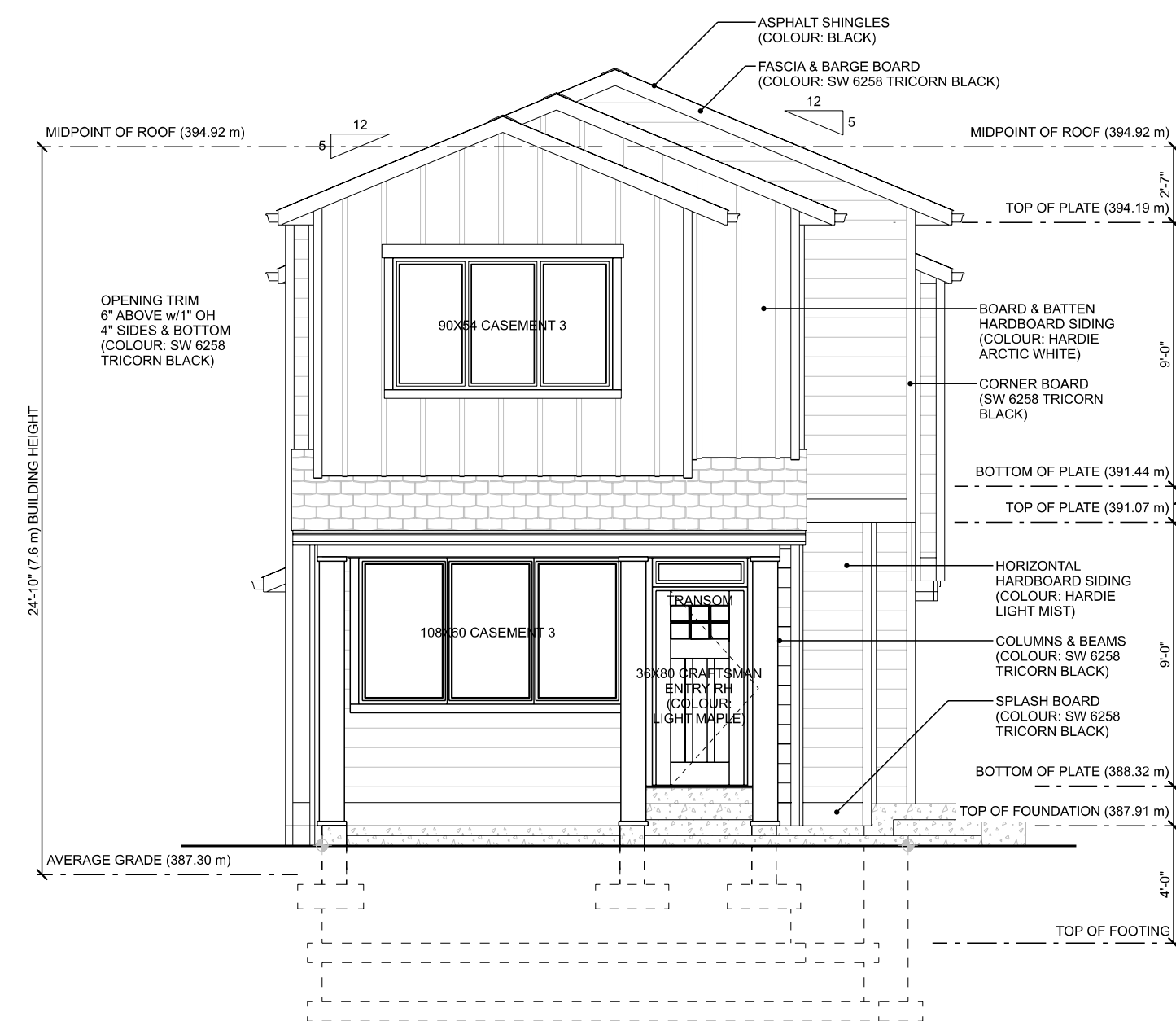
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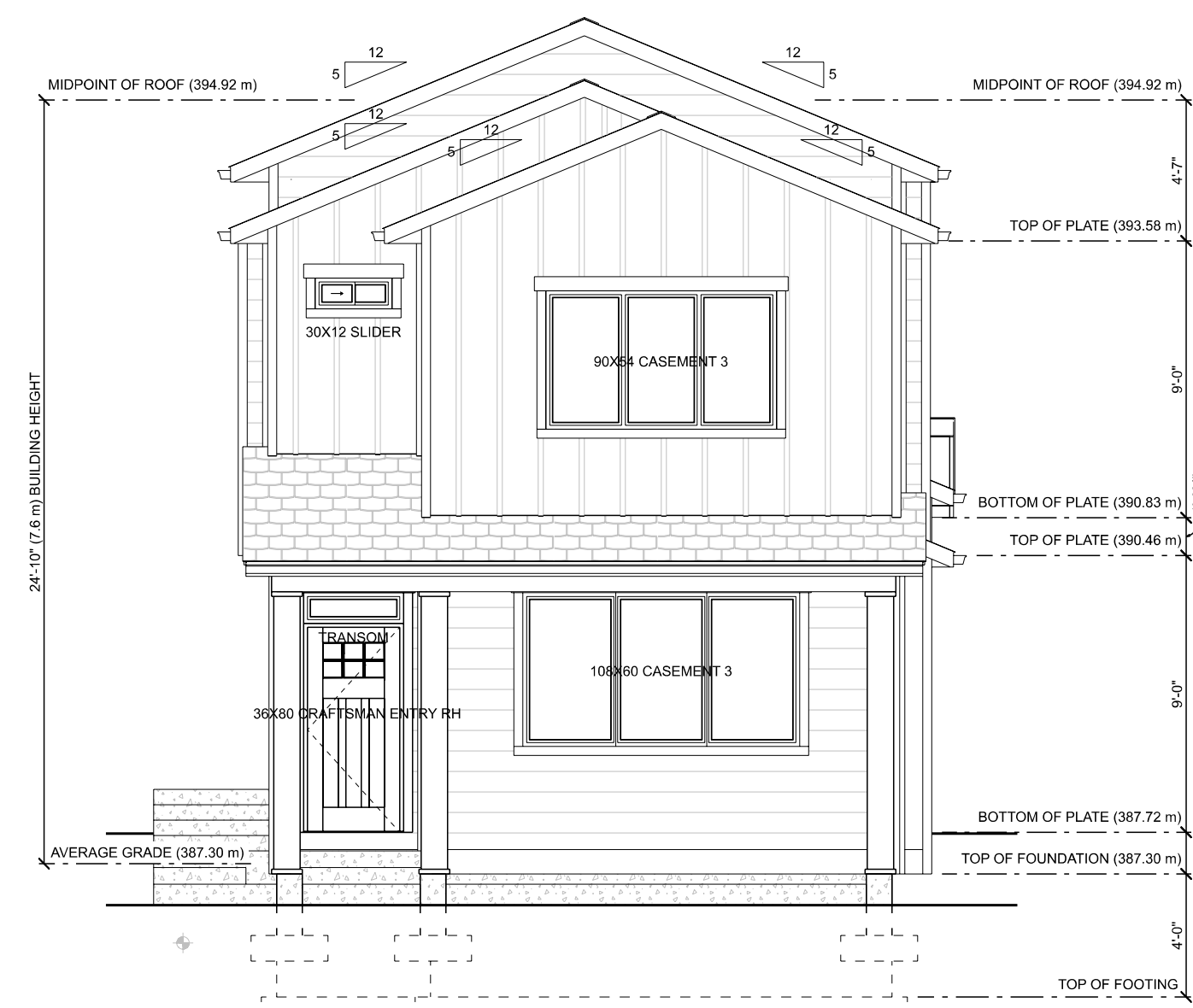
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**WP-5808**  
 SLAB  
 SHEET NO.  
**A6**



**BUILDING B-EAST ELEVATION (FACING KILWINNING STREET)**  
SCALE: 3/16" = 1'-0"



**BUILDING B-NORTH ELEVATION**  
SCALE: 3/16" = 1'-0"



**BUILDING B-WEST ELEVATION (FACING LANE)**  
SCALE: 3/16" = 1'-0"



**BUILDING B-SOUTH ELEVATION**  
SCALE: 3/16" = 1'-0"

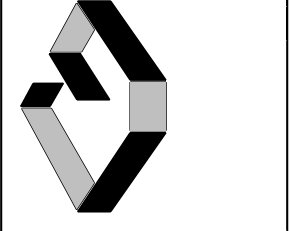
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Building B-Exterior Elevations



SOUTH ELEVATION  
SCALE: 3/16" = 1'-0"



EAST ELEVATION (FACING KILWINNING ST.)  
SCALE: 3/16" = 1'-0"



WEST ELEVATION (FACING LANE)  
SCALE: 3/16" = 1'-0"



NORTH ELEVATION  
SCALE: 3/16" = 1'-0"

GURDIAL CHAHAL  
935 KILWINNING ST  
PENTICTON, BC

DESIGN BY: AJG  
DRAWN BY: AJG  
DATE: 2024-02-02  
REVISED:

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The Corporation of the City of Penticton

Bylaw No. 2024-10

A Bylaw to Amend Zoning Bylaw 2023-08

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

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw No. 2023-08;

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

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2024-10".

2. **Amendment:**

2.1 Zoning Bylaw No. 2023-08 is hereby amended as follows:

Rezone Lot 2 District Lot 249 Similkameen Division Yale District Plan 9522, located at 935 Kilwinning Street, from R2 (Small Lot Residential) to RD2 (Duplex Housing: Lane) as shown on Schedule 'A'.

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

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

Notice of intention to proceed with this bylaw was published on the 8<sup>th</sup> day of March, 2024 and the 13<sup>th</sup> day of March, 2024 in an online news source and the newspaper, pursuant to Section 94.2 of the *Community Charter*.

\_\_\_\_\_  
Julius Bloomfield, Mayor

\_\_\_\_\_  
Angie Collison, Corporate Officer



**City of Penticton – Schedule 'A'**  
**Zoning Amendment Bylaw No. 2024-10**

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

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



Late Submission - Regular Agenda Item 8.6

Zoning Amendment Bylaw No. 2024-10

Development Permit PL2023-9710

Development Permit PL2023-9711

**From:** [kit.hutchison](mailto:kit.hutchison@cityofpenticton.ca) Re: 935 Kilwinning Street  
**To:** [corpadmin](mailto:corpadmin@cityofpenticton.ca)  
**Subject:** Property at 935 Kilwinning St.  
**Date:** Sunday, March 17, 2024 11:54:54 AM

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Caution! This message was sent from outside your organization.

Attention: Corporate Officer, City of Penticton

Re: Rezoning and Subdivision of Property at 935 Kilwinning St.

I think this is a terrible thing to do to a lovely neighbourhood. The rendering of this proposal shows two very unattractive buildings on a single (subdivided?) lot, entries at the front and I suppose entries at the back. Apparently there will only be minimal parking and only on the back lane for these four new families. Of these families each group will have to have at least 2 adults working to enable them to afford the rent or mortgage payment. I would suspect that not all of these people will ride a bicycle or walk so a minimum of 6 to 8 vehicles would need a place to park. Parking on Kilwinning St. is already a joke as so many park on this street that live in the two apartment buildings on Forestbrook. In my opinion I think this proposal should be re-considered and not just rushed thru because of the latest OCP.

K. Hutchison  
956 Kilwinning St.

Late Submission - Regular Agenda Item 8.6  
Zoning Amendment Bylaw No. 2024-10  
Development Permit PL2023-9710  
Development Permit PL2023-9711

**From:** [Alexis Guimond](#) Re: 935 Kilwinning Street  
**To:** [corpadmin](#)  
**Cc:** [Amy Buzikievich](#)  
**Subject:** 935 Kilwinning Street  
**Date:** Monday, March 18, 2024 6:54:59 PM

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Caution! This message was sent from outside your organization.

Council,

We are sending you an email regarding our concerns towards the proposed request to rezone our next-door neighbour's lot.

We understand that BC and Canada are in a housing shortage right now and that one of the solutions is densification. Hence why we are in the process of building a carriage house on our property. However, we feel like densification should have limits especially in family neighbourhoods such as the "K" streets. Currently there are no duplex zoned lots in the proximity of the "K" streets. We fear that if we allow this lot to change to duplex zoning that more and more lots will want to be changed to the same. This is a slippery slope as lots of the older homes that add character to the "K" streets and create a family neighbourhood will be lost to developers that are trying to make a buck or two. We should densify yes, but also protect our beautiful family-oriented neighbourhood. 1,2 even maybe 3 units on a property is acceptable. However, 4 is getting to be too much.

Another concern is parking . I'm not sure if city officials have come to this location after 4pm, but it is almost impossible to find a parking area already because of the 3 apartment buildings on Forestbrook Drive and their residents. The lack of parking increases the risk of accidents, creates congestion and is a big safety concern.

As neighbours of this property, we are all for densification and increased units on this property but going from 1 to 4 units is too big of a step. We understand the provincial government has implemented new densification rules that municipalities must comply to, but Penticton is currently in the community engagement stage of how this is going to look like in our community. At least could this not wait until community engagement is over and there are set regulations in place?

Alexis Guimond and Amy Buzikievich  
Owners of 894 Forestbrook Drive

**The Corporation of the City of Penticton**

**Bylaw No. 2024-06**

*A Bylaw to Amend Council Remuneration and Expense Bylaw*

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

AND WHEREAS the Council of the City of Penticton wishes to amend Council Remuneration and Expense Bylaw No. 2019-27;

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 "Council Remuneration and Expense Amendment Bylaw No. 2024-06".

2. **Amendment:**

Council Remuneration and Expense Bylaw No. 2019-27 is hereby amended as follows:

2.1. Delete 5.3 and replacing with the following:

5.3 Meals, when not part of the conference or course fee, may be claimed at the per diem rates as recommended by the Canada Revenue Agency.

2.2. Add the following to 3. Remuneration paid to members of Council:

3.3 Subject to the Elected Official Code of Conduct, where the solicitor finds that a member breached the code of conduct or submitted a complaint that was frivolous, vexatious, or made in bad faith, the remuneration to which that member would otherwise have been entitled to shall be reduced as follows:

- a) Where the member of Council has been found to have breached the code of conduct for the first time, the remuneration shall be reduced by 10% for a period of 12 months from the date on which Council considers the solicitor's investigation report.
- b) Where the member of Council has been found to have breached the code of conduct for a second time, the remuneration shall be reduced by 15% for a period of 12 months from the date on which Council considers the solicitor's investigation report relating to that offence.
- c) Where the member of Council has been found to have breached the code of conduct for a third or subsequent time, the remuneration shall be reduced by 25% for a period of 12 months from the date on which Council considers the solicitor's investigation report relating to that offence.
- d) For certainty, where a member of Council has been found to have breached the code of conduct more than once in a 12 month period, the reductions in remuneration shall be cumulative for any period of overlap in the duration of each reduction.

- 3.4 Section 3.3 does not apply if the solicitor makes a finding that:
- a) the member took all reasonable steps to prevent the breach;
  - b) the breach was trivial or inadvertent; or
  - c) the breach was because of an error in judgment made in good faith.

READ A FIRST time this	5 day of	March, 2024
READ A SECOND time this	5 day of	March, 2024
READ A THIRD time this	5 day of	March, 2024
ADOPTED this	day of	, 2024

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Julius Bloomfield, Mayor

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Angie Collison, Corporate Officer

The Corporation of the City of Penticton

Bylaw No. 2024-07

A Bylaw to Amend Zoning Bylaw 2023-08

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

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw No. 2023-08;

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

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2024-07".

2. **Amendment:**

2.1 Zoning Bylaw No. 2023-08 is hereby amended as follows:

Add Section 11.10.4.3: "In the case of Lot A District Lots 202 And 211S Similkameen Division Yale District Plan KAP63701, located at 21 Lakeshore Drive West, office with a maximum of 250 m<sup>2</sup> shall be permitted."

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

READ A FIRST time this	5 day of	March, 2024
A PUBLIC HEARING was held this	5 day of	March, 2024
READ A SECOND time this	day of	, 2024
READ A THIRD time this	day of	, 2024
ADOPTED this	day of	, 2024

Notice of intention to proceed with this bylaw was published on the 8<sup>th</sup> day of March, 2024 and the 13<sup>th</sup> day of March, 2024 in an online news source and the newspaper, pursuant to Section 94.2 of the *Community Charter*.

\_\_\_\_\_  
Julius Bloomfield, Mayor

\_\_\_\_\_  
Angie Collison, Corporate Officer



**City of Penticton – Schedule 'A'**

**Zoning Amendment Bylaw No. 2024-07**

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

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

The Corporation of the City of Penticton

Bylaw No. 2024-08

A Bylaw to Amend Building Bylaw No. 2021-21

WHEREAS the Council of the City of Penticton has adopted a Building Bylaw pursuant the *Community Charter* and the *Building Act*;

AND WHEREAS the Council of the City of Penticton wishes to amend Building Bylaw No. 2021-21;

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 "Building Amendment Bylaw No. 2024-08".

2. Amendment:

Building Bylaw No. 2021-21 is hereby amended as follows:

2.1 Add the defined term to section 4.5: "Zero Carbon Step Code" means the greenhouse gas (GHG) emission requirements set out in Part 9, Section 9.37 - Greenhouse Gas Emissions and Part 10, Section 10.3 - Greenhouse Gas Emissions of the Building Code, as amended from time to time.

2.2 Delete 26.1 and 26.2 and replace with:

26.1 In relation to Energy Efficiency, the City incorporates by reference the performance requirements set out in subsection 9.36.5 – Energy Performance Compliance of the Building Code.

26.2 Any new building or structure to which Part 3 or Part 9 of the Building Code applies, and is within the scope of the application of the Zero Carbon Step Code, as described in the Building Code, must be designed and constructed to meet performance requirements specified in EL-1 (measure only) of the Zero Carbon Step Code.

READ A FIRST time this 5 day of March, 2024

READ A SECOND time this 5 day of March, 2024

READ A THIRD time this 5 day of March, 2024

ADOPTED this day of , 2024

Julius Bloomfield, Mayor

Angie Collison, Corporate Officer

The Corporation of the City of Penticton

Bylaw No. 2024-09

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 "Fees and Charges Bylaw No. 2014-07";

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

1. Title:

This Bylaw may be cited as "Fees and Charges Amendment Bylaw No. 2024-09".

2. Amendment:

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

Appendix 4		
Building Department Fees	2023	2024
Permit Reduction and Additional Charges Reductions		
BC Zero Carbon Code – building permit refund for residential projects designed and certified to EL-03 at time of Occupancy.		5%

READ A FIRST time this                    5 day of                    March, 2024  
 READ A SECOND time this                5 day of                    March, 2024  
 READ A THIRD time this                 5 day of                    March, 2024  
 ADOPTED this                                day of                        , 2024

Julius Bloomfield, Mayor

Angie Collison, Corporate Officer