

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

**Tuesday, December 18, 2018
at 6:00 p.m.**

- | | | |
|-------|---|------|
| 1. | Mayor Calls Public Hearing to Order for “Zoning Amendment Bylaw No. 2018-66” | 1-14 |
| CO | Reads Opening Statement and Introduction of Bylaws | |
| | “Zoning Amendment Bylaw No. 2018-66” (Cannabis Retail Store) | |
| | Purpose: To amend Zoning Bylaw No. 2017-08 as follows: | |
| | To add a definition for ‘cannabis retail store’, includes the use in the C4, C5 and C6 and that cannabis retail stores are not permitted downtown on Main Street or Front Street. | |
| | Notice: The Public Hearing was advertised in the Penticton Western Newspaper on Friday December 7, 2018 and Wednesday December 12, 2018 (pursuant to the <i>Local Government Act</i>). | |
| CO | Correspondence received regarding the Zoning Amendment Bylaw attached (as of noon Wednesday, December 12, 2018). | |
| Mayor | Requests the Director of Development Services describe the proposed bylaw | |
| Mayor | Invitation to applicant for comment or elaboration on the application | |
| Mayor | Invites those in attendance to present their views | |
| Mayor | Invites Council members to ask questions | |
| Mayor | Invites applicants to respond to questions and those in attendance may provide new additional information | |

PUBLIC HEARING for “Zoning Amendment Bylaw No. 2018-66” is terminated and no new information can be received on this matter.

2. Mayor Calls Public Hearing to Order for **"Zoning Amendment Bylaw No. 2018-81"** 15-31

CO Reads Opening Statement and Introduction of Bylaws

"Zoning Amendment Bylaw No. 2018-81" (310 Comox Street)

Purpose: To amend Zoning Bylaw No. 2017-08 as follows:

Rezone Lot 7 District Lot 366 Similkameen Division Yale District Plan 5419, located at 310 Comox Street from R2 (Small Lot Residential) to C4 (General Commercial).

The applicant is proposing to convert the existing dwelling into a commercial unit.

Notice: The Public Hearing was advertised in the Penticton Western Newspaper on Friday December 7, 2018 and Wednesday December 12, 2018 (pursuant to the *Local Government Act*).

CO No Correspondence received regarding the Zoning Amendment Bylaw (as of noon Wednesday, December 12, 2018).

Mayor Requests the Director of Development Services describe the proposed bylaw

Mayor Invitation to applicant for comment or elaboration on the application

Mayor Invites those in attendance to present their views

Mayor Invites Council members to ask questions

Mayor Invites applicants to respond to questions and those in attendance may provide new additional information

PUBLIC HEARING for "Zoning Amendment Bylaw No. 2018-81" is terminated and no new information can be received on this matter.

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

Tuesday, December 4, 2018
at 1:00 p.m.

Resolutions

Mayor Vassilaki declared a conflict of interest and left the meeting at 2:31 p.m.
Acting Mayor Sentes chaired the meeting.

10.4 Cannabis Regulations – Policy and Bylaws

499/2018

It was MOVED and SECONDED

THAT Council give first reading to new Attachment B “Zoning Amendment Bylaw 2018-66”, a bylaw that adds a definition for ‘cannabis retail store’, includes the use in the C4, C5 and C6 and cannabis retail stores are not permitted downtown on Main Street or Front Street and that the bylaw be forwarded to the December 18, 2018 Public Hearing.

CARRIED

Acting Mayor Sentes and Councillor Bloomfield, Opposed

Council Report

penticton.ca

Date: December 4, 2018 File No: 4300-01
To: Peter Weeber, Chief Administrative Officer
From: Blake Laven, Planning Manager
Subject: **Cannabis Retail Stores Policy and Associated Bylaws**

Staff Recommendations

#1 Council Policy

THAT Council approve "Cannabis Retail Stores Policy" which establishes the process and guidelines for obtaining local government support for a provincial 'cannabis retail store' licence in Penticton.

#2 Zoning Amendment Bylaw

THAT Council give first reading to **Attachment B** "Zoning Amendment Bylaw 2018-66", a bylaw that adds a definition for 'cannabis retail store', includes the use in the C4, C5 and C6 and **prohibits cannabis stores on the 100, 200 or 300 blocks of Main or Front Street** and that the bylaw be forwarded to the December 18, 2018 Public Hearing.

OR

THAT Council give first reading to **Attachment C** "Zoning Amendment Bylaw 2018-66", a bylaw that adds a definition for 'cannabis retail store and, includes the use in the C4, C5 and C6 and that the bylaw be forwarded to the December 18, 2018 Public Hearing.

#3 Business Licence Amendment Bylaw

THAT "Business Licence Amendment Bylaw 2018-67", a bylaw that adds a definition for 'cannabis retail store' and regulates the operation of cannabis retail stores, be given first reading and referred to the December 18, 2018 Public Hearing to receive comment from the public.

#4 Smoking Regulations Bylaw

THAT Council give first, second and third reading to "Smoking Regulations Bylaw 2018-68", a bylaw that repeals and replaces "Smoking Bylaw 87-15", and includes a prohibition on the smoking and vaping of cannabis products in all public areas in Penticton.

Executive Summary

This report establishes bylaws and procedures for dealing with cannabis retail store applications that are referred from the province and establishes rules regarding the public consumption (smoking and vaping) of cannabis in Penticton. The bylaw changes proposed herein were developed through an extensive public consultation process, legal review and best practices from other jurisdictions.

Strategic priority objective

Creating regulations through public and stakeholder consultation for the safe distribution and consumption of cannabis products in Penticton is in keeping with the Council priorities of Good Governance.

Background

In early 2018, City Council endorsed a four phase strategy to engage the residents of Penticton on the establishment of a framework to respond to cannabis legalization. A full review of the engagement plan and outcomes is attached to the November 20, 2018 Committee of the Whole Report. The main conclusions of that engagement work show that residents of Penticton:

- Strongly support allowing retail sales of cannabis, but favour a controlled retail environment with stores being located in established commercial areas;
- Support a prohibition of smoking and vaping of cannabis in public areas;
- Remain concerned about exposure to youth;
- Generally support the principles of the regulatory framework presented by staff at various open houses and on-line.

Given the outcome of the engagement work, stakeholder consultation and review of the applicable provincial legislation, staff have prepared a Council policy and several bylaw amendments for Council's consideration that establish an effective policy response to this new environment.

Proposal

Cannabis Retail Sales - Council Policy

This policy outlines how staff will process applications for cannabis retail store licenses that are referred from the provincial government, establishing an application window, open until January 1, 2019, whereby prospective retailers may apply and are not subject to a first-come, first processed basis. Importantly, included in the policy is a list of cases where staff would recommend against approval of a cannabis retail store.

The policy includes locational guidelines, including that stores should not be located within 300m of a K-12 public or private school or within 300m of another cannabis retail store in the downtown, or within 750m of another cannabis retail store elsewhere in the City.

The policy also includes expected aesthetical standards for cannabis retail storefronts, such as restrictions on branding and imagery intended to appeal to youths and guidelines for window coverings, whereby window coverings are encouraged to include imagery and colour that display a positive and quality image to the street.

Zoning Amendment Bylaw No. 2018-66

This bylaw amends the city's Zoning Bylaw to create a definition for the use 'cannabis retail store' and includes the use in the C4 (General Commercial), C5 (City Centre Commercial) and C6 (Urban Peripheral) zones. The bylaw amendment found in Attachment B also includes a prohibition of cannabis retail stores on Main Street in the downtown and Front Street.

Business Licence Amendment Bylaw No. 2018-67

This bylaw amends the City's Business License Bylaw adding a definition for 'cannabis retail store' and including operational regulations. The regulations require the submission of a security and safety plan and require storefront elevations to form part of the license (requiring amendment to the license if changes to the storefront and or signage and branding are proposed). The bylaw also limits the hours of operation from 9AM to 8PM and restricts the use of roll shutters on the outside of the storefront. A municipality that wishes to exercise its authority to regulate businesses via bylaw must give notice of its intention and provide an opportunity for persons to make representations to the municipal council. This opportunity will be at the Public Hearing on December 18, 2018.

Smoking Regulations Bylaw No. 2018-68

This bylaw revises and modernizes the City's 1987 smoking bylaw and includes rules restricting smoking and vaping of cannabis on all public roads, sidewalks, walkways and trails as well as all municipal open spaces.

Analysis

The policy and bylaws under consideration were prepared and amended through extensive public and stakeholder consultation and legal review. Staff consider this approach towards policy development to be reflective of best practices and encourage Council to support the final stages of this process through the following recommendations:

- Endorsing the Council policy as attached;
- Giving first reading to the zoning amendment bylaw and Business License Amendment Bylaw and forwarding them to the December 18, 2018 Public Hearing for comment from the public; and
- Give first, second and third reading to the revised smoking bylaw and forwarding it to the December 18, 2018 Regular Meeting of Council for adoption.

The City was forwarded information from the Attorney General (Attachment providing recommendations for receiving provincial referrals and our responsibility for processing them. Staff consider the developed policy before Council to be in-line with the recommendations of the letter.

Alternatives

Council may consider the following amendments to the framework prior to giving support or readings to the proposed policy or bylaws:

Alternative 1: THAT the framework be endorsed as presented, but the prohibition on cannabis retail sales for Main Street in the downtown and Front Street not be included in the zoning amendment bylaw that is forwarded to the Public Hearing.

Alternative 2: THAT the framework be endorsed as presented, but the zoning amendment bylaw include adding the use 'cannabis retail store' to the C7 zone as well as the C4, C5 and C6 zones.

Alternative 3: THAT Council directs other changes prior supporting the framework as Council finds appropriate.

Attachments

Attachment A – Cannabis Retail Sales - Council Policy

Attachment B – Zoning Amendment Bylaw No. 2018-66 (prohibits 100, 200, 300 blocks of Main or Front St.)

Attachment C – Zoning Amendment Bylaw No. 2018-66

Attachment D – Business License Amendment Bylaw No. 2018-67

Attachment E – Smoking Regulations Bylaw No. 2018-68

Attachment F – Correspondence from Attorney General

Attachment G – Correspondence from Chamber of Commerce

Respectfully submitted,

Blake Laven, RPP, MCIP
Planning Manager

Approvals

Director of Development Services <i>SLH</i>	Chief Administrative Officer PW
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Bylaw No. 2018-66

A Bylaw to Amend Zoning Bylaw 2017-08

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

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2017-08;

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

1. **Title:**

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2018-66".

2. **Amendment:**

Zoning Bylaw 2017-08 is hereby amended as follows:

- 2.1 Amend section 3.2 Definitions and delete the definition **CANNABIS DISPENSARY** and replace with the following:

CANNABIS RETAIL STORE means a business selling cannabis products through a storefront with a 'cannabis retail store' license issued from the BC Liquor and Cannabis Regulation Branch.

- 2.2 Remove section 7.9 Cannabis Dispensary in its entirety.

- 2.3 Add the following to 11.4 C4 – General Commercial 11.4.1 Permitted Uses

.30 cannabis retail store

- 2.4 Add the following to 11.5 C5 – Urban Centre Commercial 11.5.1 Permitted Uses

.36 cannabis retail store (subject to 11.5.3.5)

- 2.5 Add the following to 11.5.3 Other Regulations

.5 Cannabis retail stores are not permitted downtown on Main Street or Front Street.

- 2.6 Add the following to 11.6 C6 – Urban Peripheral Commercial 11.6.1 Permitted Uses

.31 cannabis retail store

READ A FIRST time this	4	day of	December, 2018
A PUBLIC HEARING was held this	18	day of	December, 2018
READ A SECOND time this		day of	, 2018
READ A THIRD time this		day of	, 2018
RECEIVED the approval of the Ministry of Transportation on the		day of	, 2018
ADOPTED this		day of	, 2018

Notice of intention to proceed with this bylaw was published on the 7 day of December, 2018 and the 12 day of December, 2018 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

Approved pursuant to section 52(3)(a) of the *Transportation Act*
this _____ day of _____, 2018

for Minister of Transportation & Infrastructure

John Vassilaki, Mayor

Angie Collison, Corporate Officer

Subject: Cannabis Policy Public Input Letter for Council Meeting Dec 18
Attachments: Cannabis Policy Public Input Letter.pdf

From: Mike Poulton
Sent: December-10-18 9:22 AM
To: Public Hearings
Subject: Cannabis Policy Public Input Letter for Council Meeting Dec 18

Hi There - Please find attached letter to council for the December 18th public hearing on the cannabis prohibition on main street.

Thanks.

Sent from [Outlook](#)

December 10, 2018

RE: Public Input on Retail Cannabis Policy

Dear Mayor Vassilaki and Council,

As an entrepreneur looking to invest in Penticton I am discouraged by the idea that council is considering restricting legal business and investment dollars from entering the city.

In Appendix A, I have highlighted reasons against implementing a locational prohibition for retail cannabis within the city. Some of these reasons include:

- Federal/Provincial/Municipal regulations have been enacted to protect youth
- City has control over appearance of stores in application process
- Impacted parties have opportunity to provide public input/feedback on a cannabis retail application which may impact council's recommendation/support of an application
- Business community and residents do not support locational prohibition – See Appendix B
- If prohibition is passed, Penticton will be the only municipality to enact this type of policy
- Removing locational prohibition will not increase number of stores in downtown due to buffering restrictions detailed in city's cannabis policy

For the above noted reasons, it is my opinion that no locational prohibition be adopted within the retail cannabis bylaw. With that said, I do understand council's challenge in determining which bylaw to adopt due to the significant difference between the two bylaw options presented by city staff.

My suggestion to council, if it were not possible to become comfortable with the no prohibition bylaw option, would be to find consensus on a **hybrid bylaw model** that finds the appropriate balance between caution and progress. A few options to consider as hybrid models are as follows:

Bylaw Options	Prohibit	No Prohibition
Option 1	Front Street	Main Street
Option 2	Front Street/Main Street	300, 400 Blocks Main Street

The above hybrid options are being proposed, as it appears that council is most uncomfortable with the notion of cannabis stores on Front Street and 100, 200 and 500 blocks Main Street. Note that commercial buildings located south of 500 block Main Street are excluded due to proximity variance to school.

In closing, I believe that if the city wants to attract high quality businesses and investment to the city and to the downtown, a locational prohibition that serves no other purpose than to thwart investment in Penticton is not in anyone's best interest.

Thank you for the opportunity to participate in this policy discussion.

The following points highlight why this locational prohibition for legal retail cannabis should **not** be passed:

Safety/Youth

- Federal, Provincial and Municipal governments have enacted extensive and sufficient regulations to protect youth from exposure ex) advertising restrictions, age of majority regulations, proximity variances
- From a public consumption standpoint, the City of Penticton has adopted a smoking bylaw that prohibits public consumption of cannabis. A prohibition on Main Street and Front Street will not in any way serve to diminish those who choose to disobey the above noted bylaw
- A locational prohibition that regulates these businesses to the fringe of society will only serve to reduce the level of public scrutiny/accountability.
- Through the provincial/municipal approval process, impacted parties have opportunity to comment on an application prior to approval by council.
- Allowing retail cannabis on Main Street and/or Front Street may in fact reduce the number of retail cannabis stores that will be able to operate within the downtown.

Views of Residents and Businesses

- The Downtown Penticton Association does not support a retail cannabis prohibition on Main Street and Front Street.
- The City of Penticton Cannabis Survey results indicate 59% of residents support cannabis retail on southern portion of Main Street and Skaha Road while 56% of residents support cannabis retail in the downtown on Main Street and Front Street. Despite the similar levels of support, the City Policy only prohibits cannabis retail within the downtown.
- Within the public consultation meeting in August participants commented that they did “not agree with restricting stores on Front Street or the 100 – 300 blocks of Main Street”.
- Legal business should not be prevented from making investment for no apparent rationale – **if a locational prohibition is enacted by the City of Penticton it will be the only municipality to implement such a policy.**

Building Aesthetics

- The city has control over storefront appearances, as the Retail Cannabis Policy requires building elevations and details guidelines for signage and building aesthetics as part of the approval process.
- Concern regarding storefront aesthetics is unwarranted, as these stores do not present any differently than any other business. In fact, it is more likely that they will provide for a higher quality of retail experience than say the adult sex stores, tattoo parlours or pawn shops that presently operate on Main Street or Front Street - one needs only to look to the BC Cannabis Store in Kamloops to see this first hand.
- From an investor perspective, it would be preferable to initially situate in a location that satisfies are long-term needs and would therefore provide greater confidence in our investment decisions which would likely result in a higher quality end product.

The following details the public and residents non-support for a prohibition all the way through the consultation process.¹

Step 1: Raise Awareness and Gather Input

Survey Results (April 16, 2018 – May 4, 2018)

Consultation Feedback:

“Participants support allowing retail sales downtown and in established commercial areas but not along the city’s lakeshores”

City Action:

Proposed framework that allows retail sales downtown with prohibition of Front Street and 100-300 blocks Main Street.

Step 2 & 3: Report Findings and Share/Revise Draft Framework

Shape your City Information Session (August 28, 2018)

Consultation Feedback:

“In the open ended comments, the following themes were identified: Some participants do not agree with restricting stores on Front Street and the 100 to 300 blocks of Main Street”

Downtown Penticton Association Meeting (Oct 23, 2018)

Consultation Feedback:

“[Attendees] questioned whether or not stores should be restricted from the 100 – 300 blocks of Main Street and Front Street and if they are restricted, should the restriction extend to the 400 block”.

City Action:

As result of this input, the City revised the proposed framework to also restrict stores on the full length of Main Street downtown.

Step 4: Share Final Draft and Review with Council

Consultation Feedback:

Downtown Penticton Association issues letter to City of Penticton stating that they do not support cannabis prohibition downtown.

City Action:

City council gives first reading to cannabis policy that incorporates prohibition on Front Street and Main Street.

¹ <https://www.penticton.ca/assets/Council~Meetings/2018/2018-11-20%20Committee%20of%20the%20Whole%20Agenda%20Package.pdf>

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

Tuesday, December 4, 2018
at 1:00 p.m.

Resolutions

Mayor Vassilaki declared a conflict of interest and left the meeting at 2:31 p.m.
Acting Mayor Sentes chaired the meeting.

10.4 Cannabis Regulations – Policy and Bylaws

500/2018

It was MOVED and SECONDED

THAT “Business Licence Amendment Bylaw 2018-67”, a bylaw that adds a definition for ‘cannabis retail store’ and regulates the operation of cannabis retail stores, be given first reading and referred to the December 18, 2018 Public Hearing to receive comment from the public.

CARRIED UNANIMOUSLY

Bylaw No. 2018-67

A Bylaw to Amend City of Penticton Business Licence Bylaw No. 2012-5020

WHEREAS the Council of the City of Penticton has adopted a Business Licence Bylaw pursuant the *Community Charter*;

AND WHEREAS the Council of the City of Penticton wishes to amend City of Penticton Business Licence Bylaw No. 2012-5020;

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 "Business Licence Amendment Bylaw No. 2018-67".

2. **Amendment:**

Business Licence Bylaw No. 2012-5020 is hereby amended as follows:

2.1 Amend section 1.0 Definitions and add the following:

"Cannabis Retail Store" means a business selling cannabis products through a storefront with a 'cannabis retail store' license issued from the BC Liquor and Cannabis Regulation Branch.

2.2 Add the following to section 14.0 Regulations:

14.3 Cannabis Retail Store

14.3.1 Notwithstanding the application requirements outlined in Section 4.0 of this bylaw, the following items are required to be submitted with an application for a cannabis retail store and will form part of the licence:

14.3.1.1 A document providing an overview of the business, including proposed branding of the business;

14.3.1.2 A safety and security plan; and

14.3.1.3 Colour elevations of the storefront, approved by the province, including all signage.

14.3.2 Any proposed changes to the branding of the store, the store name or storefront elevations, are required to conform to the Council Policy on Cannabis Retail Stores and constitutes an amendment to the business licence and is subject to City approval.

14.3.3 Hours of operation of a cannabis retail store are limited to between 9 a.m. and 8 p.m.

14.3.4 Roll shutters or security bars are not permitted on the exterior of a cannabis retail store, except in the case of a window or door facing a lane where permitted by Building Code.

READ A FIRST time this	4	day of	December, 2018
READ A SECOND time this		day of	, 2018
READ A THIRD time this		day of	, 2018
OPPORTUNITY for persons to make representation to Council	18	day of	December, 2018
ADOPTED this		day of	, 2018

Notice of intention to proceed with this bylaw was published on the 7 day of December, 2018 and the 12 day of December, 2018 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

John Vassilaki, Mayor

Angie Collison, Corporate Officer

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

Tuesday, December 4, 2018
at 1:00 p.m.

Resolutions

Councillor Kimberley left the meeting at 3:18 p.m.

10.5 Zoning Amendment Bylaw No. 2018-81
Re: 310 Comox Street

503/2018

It was MOVED and SECONDED

THAT "Zoning Amendment Bylaw No. 2018-81", a bylaw to rezone Lot 7 District Lot 366 Similkameen Division Yale District Plan 5419, located at 310 Comox Street from R2 (Small Lot Residential) to C4 (General Commercial), be given first reading and be forwarded to the December 18, 2018 Public Hearing;

AND THAT prior to adoption of "Zoning Amendment Bylaw No. 2018-81", a 5.0m x 5.0m northwest corner cut is registered with the Land Title Office.

CARRIED
Councillor Sentes, Opposed

Councillor Kimberley returned to the meeting at 3:21 p.m.

Council Report

penticton.ca

Date: December 4, 2018
To: Peter Weeber, Chief Administrative Officer
From: Randy Houle, Planner I
Address: 310 Comox Street
Subject: **Zoning Amendment Bylaw No. 2018-81**

File No: 2018 PRJ-228

Staff Recommendation

THAT "Zoning Amendment Bylaw No. 2018-81", a bylaw to rezone Lot 7 District Lot 366 Similkameen Division Yale District Plan 5419, located at 310 Comox Street from R2 (Small Lot Residential) to C4 (General Commercial), be given first reading and be forwarded to the December 18, 2018 Public Hearing;

AND THAT prior to adoption of "Zoning Amendment Bylaw No. 2018-81", a 5.0m x 5.0m northwest corner cut is registered with the Land Title Office.

Background

The subject property (Attachment A) is zoned R2 (Small Lot Residential) and designated by Official Community Plan (OCP) No. 2002-20 as GC (General Commercial). Photos of the site are included as Attachment D. The lot is 618 m² (6,655 ft²) in area and features an older single family dwelling which is intended to be converted into a commercial rental unit. Surrounding properties are primarily zoned single family and tourist commercial. Surrounding properties are similarly designated by the OCP as GC (General Commercial). The site is located in the North Gateway area, as described by the OCP and along the Westminster Avenue commercial corridor. It is in close proximity to the South Okanagan Events Centre and various car dealerships and motels.

Proposal

The applicant is proposing to convert the existing dwelling into a commercial unit with a reception area, two offices and a staff room. Since the proposed use is not permitted in the current zone, a rezoning to C4 (General Commercial) is being requested by the proponents.

Financial implication

Rezoning the property from residential to commercial will result in an increase in taxes for the City. Any costs associated with the development will be at the responsibility of the developer.

Technical Review

This application was forwarded to the City's Technical Planning Committee and reviewed by the Engineering and Public Works departments. Through the review process, a 5.0m by 5.0m northwest corner cut is required

on the subject property to help address safety and visibility concerns. All servicing and technical requirements will be addressed during the building permit stage. As per the Subdivision and Development Bylaw No. 2004-81, Section 9.3, every Owner making an application for a building permit with construction costs exceeding \$150,000 are required to upgrade the street frontage of the property. This can include curb, gutter and sidewalk. The exact design will be determined during the building permit stage. If the request for the zoning amendment is supported, BC Building Code and City bylaw provisions will apply, prior to occupation and use of the building as a commercial business.

New OCP

While the current OCP identifies this area as GC (General Commercial), the draft OCP that is currently under development and anticipated to be adopted early in the new year, identifies this area for 'Tourist Commercial.' The proposed rezoning would not be in-line with the Tourist Commercial designation.

Analysis

Zoning Amendment

Support "Zoning Amendment Bylaw No. 2018-81"

The proposed amendment from R2 (Small Lot Residential) to C4 (General Commercial) is in line with the GC (General Commercial) designation of OCP No. 2002-20. The new OCP will be in effect early next year and identifies this property as Tourist Commercial, which does not support the proposed use. That being said, given the current policy environment staff considers this development to be an appropriate use of the land for the following reasons:

- General commercial uses are best in areas located along major roadways. The subject property is located adjacent to Westminster Avenue, which is the main connection between the City's north entrance and downtown. The proposed commercial use will fit into the existing mix of commercial and tourist commercial uses in the area.
- The proposal is in line with the OCP's commercial policies as highlighted below:
 - Ensure sufficient land is designated for present and future commercial use.
 - Facilitate the provision of a range of commercial opportunities that will increase the overall self-sufficiency of the City and contribute to its employment and tax base growth.
 - Create a favourable economic climate which attracts new business and promotes the City as the prime business center in the South Okanagan region.
 - Work towards achieving a well-balanced economy that provides a range of economic and employment opportunities for the community.
- The property is located within the North Gateway Urban Village as identified by OCP No. 2002-20. Sites that are designated GC within this area may support mixed use commercial. The proposed rezoning will provide a gentle mix of commercial in a residential neighbourhood.

The C4 (General Commercial) zone has an extensive list of permitted uses including office, retail store, health service, financial service, day care centre, among others. At this time, the owner is unsure of the exact use to pursue, but is simply rezoning the property to align with the current OCP's vision for the property. Four

parking spaces will be provided on site, in addition to on-street parking spaces in front of the property. Should a future commercial use that is permitted in the C4 Zone require more parking than is able to be permitted on site, that issue would be dealt with in the future. Ultimately, the size of the existing building and the available parking on the site will determine the best use for the property.

It is important to analyze the negative impacts that the proposed rezoning from residential to commercial could have on the surrounding neighbourhood. The property to the west is Murray GM, and the property to the north is the Coast Hotel, which are unlikely to be affected by a small scale commercial use. To the east are two empty lots which are unlikely to be impacted. The biggest impact would be to the property to the south, which remains a residential property. The subject building sits approximately 2.44m from the common property line, with no entrances or changes to the south elevation of the building being proposed. Vehicular access to the subject property will remain unchanged.

Given the close proximity to various commercial uses, the alignment with the OCP's vision for this property as well as the limited impacts that a small scale commercial use will have on the surrounding neighborhood, it is reasonable to support the amendment. Staff recommends that Council support "Zoning Amendment Bylaw No. 2018-81" and forward the application to the December 18, 2018 Public Hearing for comments from the public.

Deny/Refer Zoning Amendment

Council may consider that the proposed amendment is not suitable for this site and that the zoning shall remain for single family development. Council may consider denying the application at this time since the OCP designation for this property may change with the adoption of the new OCP. Council may also consider requiring the applicant to provide screening along the south property line as a condition of approval.

Approval of the zoning amendment will result in a non-conforming situation if the existing house is retained and the applicant decides not to proceed with the development. This is because a dwelling unit on the ground floor is not a permitted use in the C4 (General Commercial) zone. This will limit any additions or significant upgrades to the existing dwelling. In the case that the house was damaged by more than 75%, it could not remain on the property. If this non-conforming situation is a concern for Council, Council may require that the dwelling unit be discontinued prior to final adoption of the zoning amendment bylaw, through removal of a cooking facility. The applicant is aware of the situation with the non-conforming use that would be created should the zoning amendment be supported.

If council has concerns with the proposal, then they should deny the bylaw amendment. Alternatively, Council may wish to refer the matter back to staff to work with the applicant with any direction that Council considers appropriate.

Alternate Recommendations

1. THAT Council deny first reading of "Zoning Amendment Bylaw No. 2018-81"
2. THAT Council support first reading of the bylaw with a condition that the dwelling unit be removed prior to adoption.
3. THAT Council support first reading of the bylaw with a condition that screening is provided along the south property line.
4. THAT Council refer the bylaw back to staff.

Attachments

- Attachment A: Subject Property Location Map
- Attachment B: Zoning Map
- Attachment C: OCP Map
- Attachment D: Photos of Subject Property
- Attachment E: Conceptual Site Plan
- Attachment F: Conceptual Floor Plan
- Attachment G: Conceptual Building Elevations
- Attachment H: Letter of Intent
- Attachment I: Zoning Amendment Bylaw No. 2018-81

Respectfully submitted,

Randy Houle
Planner I

Approvals

DDS <i>AH</i>	CAO PW
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Attachment A – Subject Property Location Map



Figure 1: Subject Property Location Map

Attachment B – Zoning Map

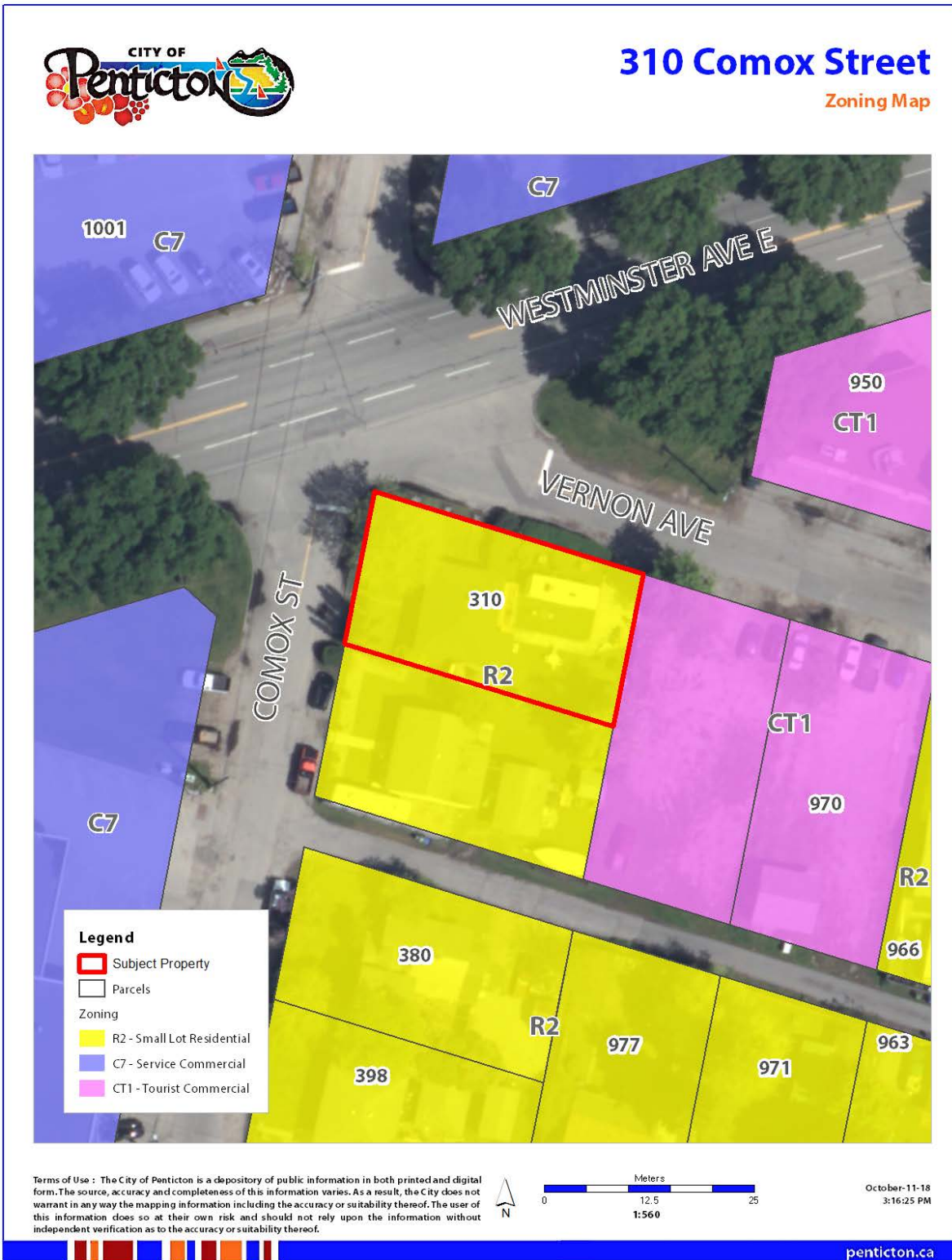


Figure 2: Zoning Map

Attachment C- OCP Map



Figure 3: OCP Map

Attachment D – Photos of Subject Property



Figure 4: North view of subject property (from Vernon Avenue)



Figure 5: West view of subject property (from Comox Street)



Figure 6: East view of subject property



Figure 7: East view showing proximity to south neighbour

Attachment E – Conceptual Site Plan

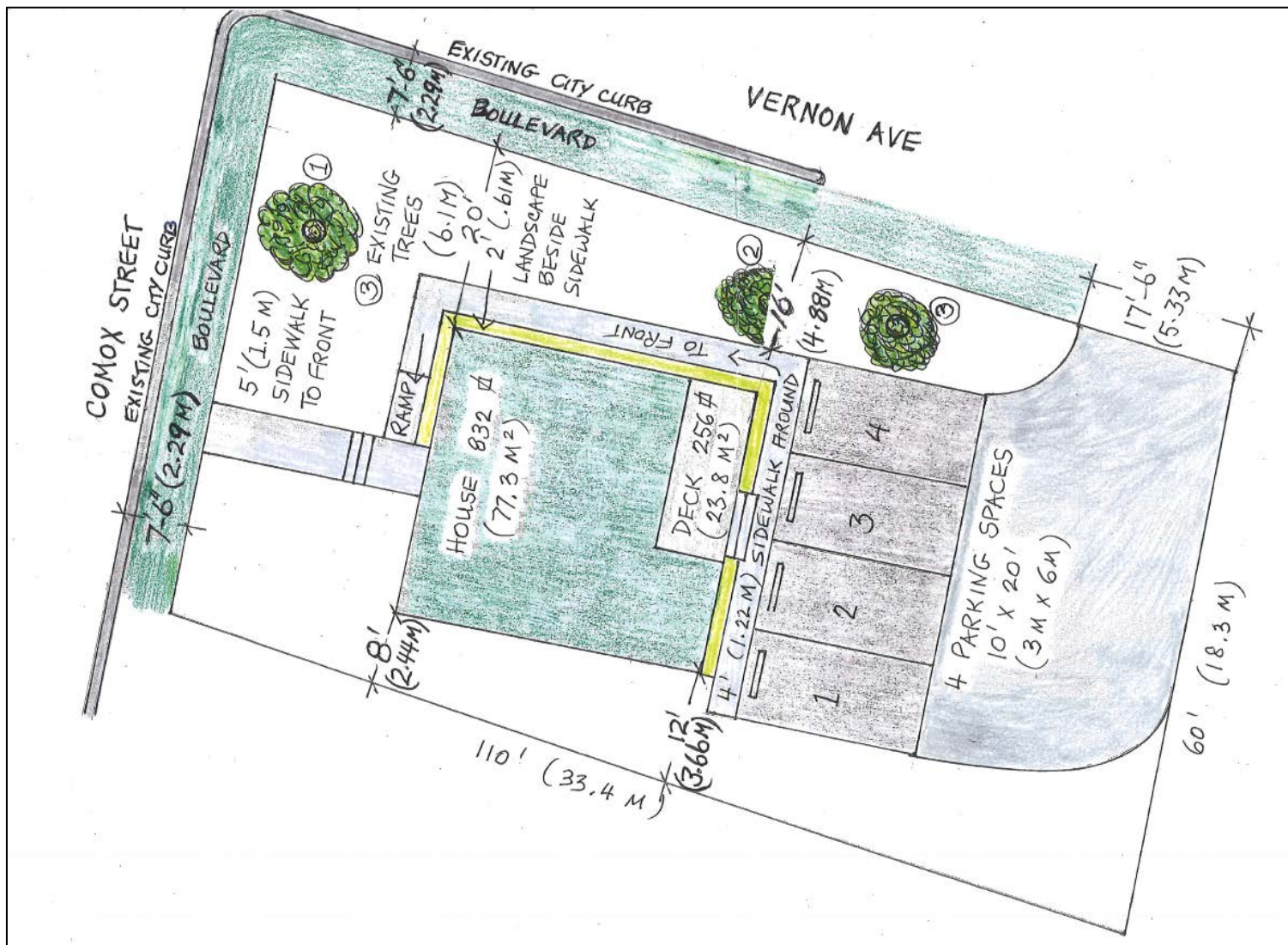


Figure 8: Conceptual Site Plan

Attachment F – Conceptual Floor Plan

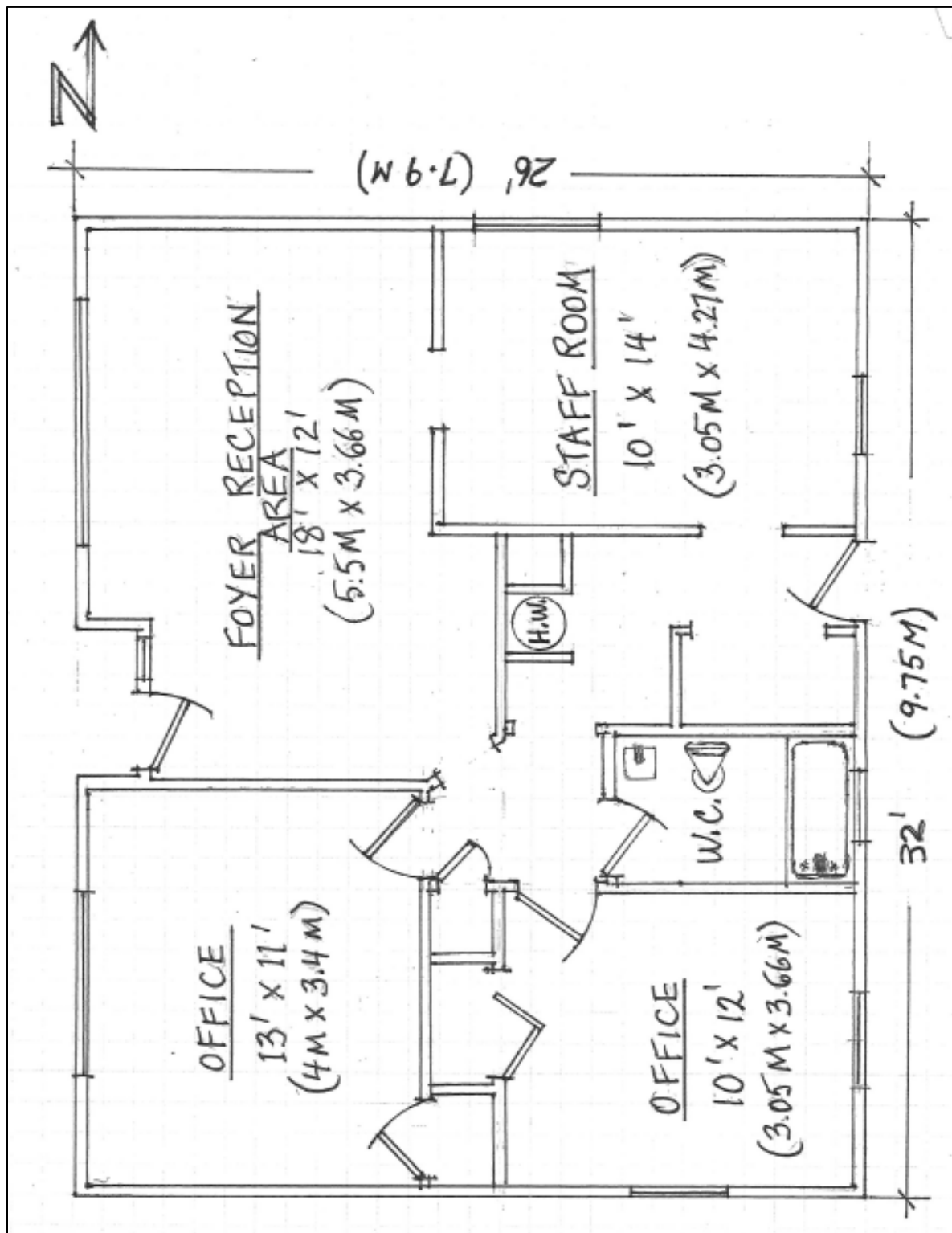


Figure 9: Conceptual Floor Plan

Attachment G – Conceptual Building Elevations



Figure 10: West Elevation of existing dwelling (facing Comox Street)



Figure 11: East Elevation of existing dwelling (towards empty lots at 970 & 976 Vernon Avenue)

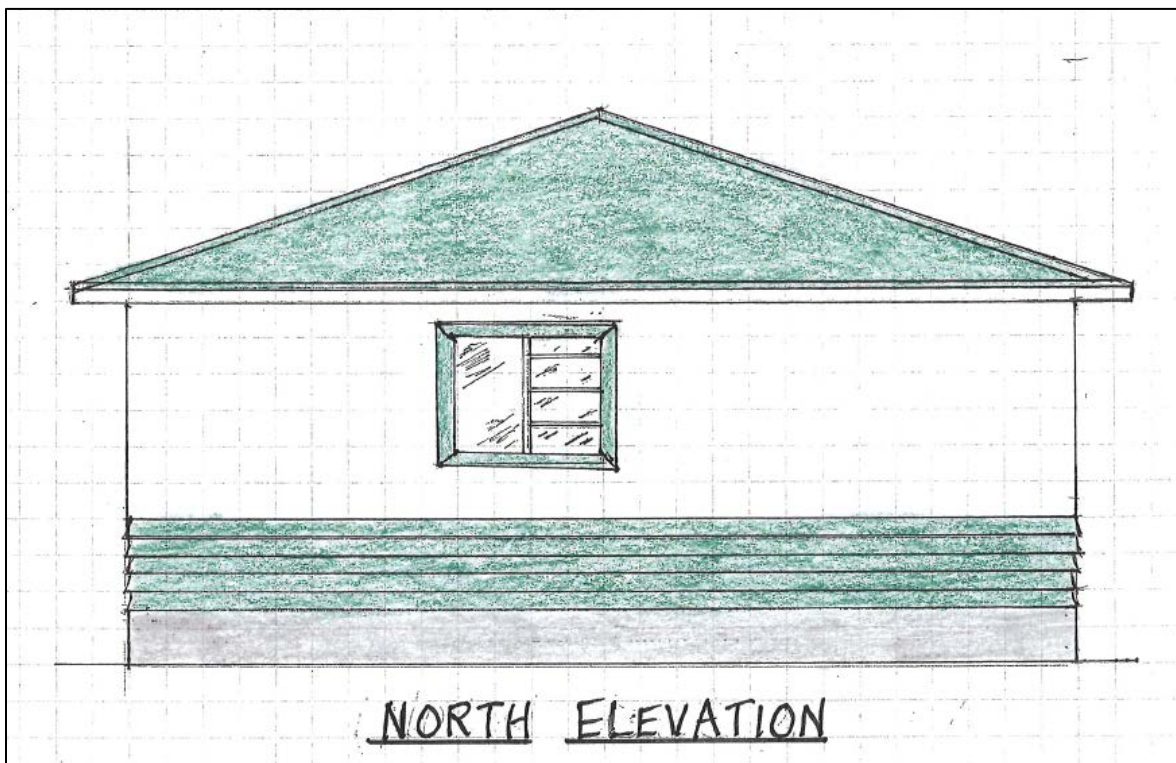


Figure 12: North Elevation of existing dwelling (facing Vernon Avenue)



Figure 13: South Elevation of proposed development (facing neighbours to the South)

Attachment H - Letter of Intent

To Whom It May Concern

Letter of Intent for Development Application for Subject Property

310 Comox Street, Penticton B C V2A 5Y1

Lot 7 District Lot 366 Similkameen Division Yale District Plan 5419

To be re-zoned to C-4 to allow opportunity for the owners to explore income possibilities for approved businesses that fall under C-4 zoning.

Owner Tim Coy

Signature 

Date Oct. 5 / 18

Figure 14: Letter of Intent

Bylaw No. 2018-81

A Bylaw to Amend Zoning Bylaw 2017-08

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

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw 2017-08;

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

1. Title:

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2018-81".

2. Amendment:

2.1 Zoning Bylaw 2017-08 is hereby amended as follows:

Rezone Lot 7, District Lot 366, Similkameen Division Yale District Plan 5419, located at 310 Comox Street from R2 (Small Lot Residential) to C4 (General Commercial).

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

READ A FIRST time this	4	day of	December, 2018
A PUBLIC HEARING was held this	18	day of	December, 2018
READ A SECOND time this		day of	, 2018
READ A THIRD time this		day of	, 2018
RECEIVED the approval of the		day of	, 2018
Ministry of Transportation on the			
ADOPTED this		day of	, 2018

Notice of intention to proceed with this bylaw was published on the 7 day of December, 2018 and the 12 day of December, 2018 in the Penticton Western newspaper, pursuant to Section 94 of the *Community Charter*.

John Vassilaki, Mayor

Angie Collison, Corporate Officer

<p>Approved pursuant to section 52(3)(a) of the <i>Transportation Act</i> this _____ day of _____, 2018</p> <p>_____</p> <p>for Minister of Transportation & Infrastructure</p>
--

Rezone 310 Comox St

From R2 (Small Lot Residential)
To C4 (General Commercial)



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2018-81

Date: _____

Corporate Officer: _____