

**VILLAGE OF PEMBERTON  
-COMMITTEE OF THE WHOLE MEETING AGENDA-**

**Agenda** for the **Committee of the Whole** of Council of the Village of Pemberton to be held **Tuesday, June 16, 2015 at 1:00 PM** in the Council Chambers, 1350 Aster Street. This is meeting No. 134.

*"This meeting is being recorded on audio tape for minute-taking purposes as authorized by the Village of Pemberton Audio recording of Meetings Policy dated September 14, 2010."*

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<b>Time</b>	<b>Item of Business</b>	<b>Page No.</b>
	<b>1. CALL TO ORDER</b>	
	<b>2. APPROVAL OF AGENDA</b>	
	<b>Recommendation:</b> THAT the agenda be approved as presented.	
	<b>3. UNION OF BC MUNICIPALITIES - MEETINGS WITH CABINET MINISTERS</b>	<b>2</b>
	<b>Recommendation:</b> THAT the Committee of the Whole provide a list of Cabinet Ministers they would like to meet with at the UBCM Convention to be held in September.	
	<b>4. PARK AND PUBLIC SPACES USE AMENDMENT (FEE STRUCTURE) DRAFT BYLAW</b>	<b>5</b>
	<b>Recommendation:</b> THAT the Committee of the Whole provides direction to staff to bring the Park and Public Spaces Use amendment bylaw to a Regular Meeting of Council for First, Second and Third readings.	
	<b>5. APPLICATION FROM 580049 LTD. FOR HILLSIDE MIXED USE DEVELOPMENT – PRESENTATION OF ACTION ITEMS AND DRAFT BYLAWS (Postponed from June 2)</b>	<b>32</b>
	<b>Recommendation:</b> THAT the Committee of the Whole receives the report for information;	
	<b>AND THAT</b> direction be given to Staff on the preferred next steps.	
	<b>6. ZONING BYLAW AMENDMENT TO LIMIT FORMULA BASED RESTURANTS IN PEMBERTON'S GATEWAY (Postponed from June 2)</b>	<b>62</b>
	<b>Recommendation:</b> THAT the Committee of the Whole direct staff to prepare a Zoning Amendment Bylaw that clarifies the definition of a drive-in restaurant and excludes drive-in restaurants as a permitted use in the C2, C3 and C5 zones for Council's consideration at the June 19, 2015 Regular Council Meeting.	



May 27, 2015

Dear Mayors and Regional District Chairs:

As we prepare for the upcoming 2015 UBCM Convention in Vancouver this September, I wanted to let you know that my caucus colleagues and I are once again looking forward to listening to the discussions around the issues and initiatives that affect British Columbia's communities and the people who live there. Our work depends on your input and your insight, and my colleagues and I will be there to listen and to learn about your priorities.

The theme this year, *Excellence in Action*, is a wonderful way to recognize the successful track we have worked on together to build our province, to highlight our strengths and to lead the way to securing a future for British Columbians today and for many years to come.

If you would like to request a meeting with me or a Cabinet Minister on a specific issue during this year's convention, the online registration form at <https://UBCMreg.gov.bc.ca> will go live on June 15<sup>th</sup>. The invitation code is MeetingRequest2015 and it is case sensitive.

It'll be great to see you at the UBCM Convention. If you have any questions, please contact my UBCM Meeting Request Coordinator, Tim Wong, via his email address which is: [UBCM.Meetings@gov.bc.ca](mailto:UBCM.Meetings@gov.bc.ca) or by phone at 604-775-1600.

Sincerely,

A handwritten signature in blue ink that reads "Christy Clark".

Christy Clark  
Premier



June 10, 2015

Dear Mayors and Chairs:

It is my pleasure to write to you regarding scheduling appointments at the upcoming annual UBCM Convention taking place in Vancouver, September 21 to 25, 2015.

You will have recently received a letter from Honourable Christy Clark, Premier, containing information about the online process for requesting a meeting with Premier Clark and other Cabinet Ministers. I am pleased to provide you with information regarding the process for requesting a meeting with me, as well as with provincial government, agency, commission and corporation staff.

If you would like to meet with me at the Convention, please complete the online form available from **June 15** at: [CSCD Minister's Meeting](#) and submit it to the Ministry of Community, Sport and Cultural Development before **August 14, 2015**. Meeting arrangements will be confirmed by early September. I will do my best to accommodate as many meeting requests as possible. In the event I am unable to meet with you, arrangements may be made for a meeting post-Convention.

Ministry staff will email the provincial appointment book. This lists all government, agency, commission and corporation staff available to meet with delegates at the Convention, as well as details on how to request a meeting online.

I look forward to my third Convention as Minister and meeting with many of you in the year ahead.

Sincerely,

Coralee Oakes  
Minister

pc: Honourable Christy Clark, Premier  
Mr. Sav Dhaliwal, President, Union of British Columbia Municipalities

**2014 UBCM Conference – Minister’s Meeting**

<b>Ministry</b>	<b>Topic Discussed</b>
Community, Sport & Cultural Development	Boundary Extension
Justice and Attorney General	Liquor Licencing Concerns
Transportation and Infrastructure	Dyking and Bridge Upgrades

**Date:** June 16, 2015  
**To:** Nikki Gilmore, Chief Administrative Officer  
**From:** Bettina Falloon, Executive Assistant/Emergency Program Coordinator  
**Subject:** Park and Public Spaces Use Amendment (Fee Structure) Draft Bylaw

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### **PURPOSE**

The purpose of this report is to provide Council with an update to the application process for a Park and Public Spaces Use Permit and to present a draft Park and Public Spaces Use (Fee Structure) Amendment Bylaw for review and consideration.

### **BACKGROUND**

At the Committee of the Whole meeting No. 131, held April 21, 2015, Dawn Johnson, Consultant, presented the findings of the Downtown Community Barn (the Barn) community consultation and research study. The presentation included an overview of the consultation process, definitions of organizational models, special considerations and recommendations for moving forward. As such, the Committee provided the following direction to staff:

*Moved/Seconded*

***THAT*** staff investigate developing barn use guidelines, revising the fee structure and purchasing group insurance rates, and bring back information for Committee of the Whole's review.

**CARRIED**

*Moved/Seconded*

***THAT*** staff investigate implications of adding the Downtown Barn asset to the Recreation Service through the process established by the Pemberton Valley Utilities and Services Committee (PVUS) Terms of Reference and Process for Adding Amenities to the Pemberton & District Recreation Service.

**CARRIED**

*Moved/Seconded*

***THAT*** staff be directed to evaluate the barn at the end of the year and report back to Committee of the Whole by December 2015.

**CARRIED**

In this regard, Staff conducted an internal assessment of the Park and Public Spaces Use permit application process and reviewed both the Park and Public Spaces Use Bylaw No. 707, 2012 and the Special Events Bylaw No. 750, 2014 as they pertain to booking an event at a public space within the Village. As a result of this review, it was determined that making some amendments to the existing Parks & Public Spaces Bylaw would be appropriate. The amendments are housekeeping in nature to assist staff with implementation and to provide

clarity for event organizers. The amendments also include change to the fee structure. The amendments are shown in the draft amendment bylaw attached (Appendix A) and are being recommended as a way to improve the Bylaw.

It should be noted that this bylaw was initially passed in 2010 and after implementation over a one year period changes were made and a new bylaw introduced in 2012 to address several inconsistencies and to improve the bylaw as a means of enhancing the service the Village is able to provide to residents or event organizers. It is not uncommon for bylaws to be reviewed and amended especially if there has been change in operations or in this case the addition of a new facility.

Staff are further exploring the implications of adding the Downtown Barn asset to the Recreation Service through the process established by the Pemberton Valley Utilities and Services Committee (PVUS) Terms of Reference and Process for Adding Amenities to the Pemberton & District Recreation Service, and are not providing recommendations on this at this time.

### **DISCUSSION & COMMENTS**

Through the assessment process and in working with the application processes for both the Park and Public Spaces Use Bylaw and Special Event Bylaw, Staff noted that overall the application and permit processes are sufficient for most community events being booked within the Village. However, it was identified that several public spaces within the Village are not identified in the Park and Public Spaces Use Bylaw and that the permit fee is not sufficient to cover the administrative costs for processing an application.

In addition, the review recognized that the booking requirements for the Downtown Barn are different than for most other spaces. The Barn, unlike parks or open spaces, is being considered a facility or venue similar to a meeting room or the Warming Hut in Whistler, which is available for events with a rental fee. Similar to other facilities, the Barn requires logistical and planning elements that may not pertain to a park as the location of the venue is in the heart of Downtown with a mix of commercial and residential surrounding it. Such considerations include access for event parking, fire extinguisher to be on-site, noise considerations etc.. The Pemberton Downtown Barn Community Consultation and Research study identified that it would be appropriate to consider the following with respect to the Barn as a Village venue:

- Raise current Barn booking fees to help recover Village administrative costs
- Implement a higher fee schedule for private bookings to help build financial resiliency for the Barn
- Further investigate community group insurance plans for Barn community events.

### **Park & Public Space Use Bylaw Amendments:**

Review of Bylaw No. 707, 2012 (Appendix B), identified that "Schedule A" should be updated to address administrative changes, update the listing of parks/public spaces available and to improve the process of booking open and public spaces in the Village. The following provides a review of the suggested changes and additions:

### **Park & Public Spaces Update:**

The list of public spaces on Schedule A should be updated to include the following:

- Staehli Park
- Downtown Barn
- Village Streets

### **Permit Fees:**

The Village has seen a considerable increase in applications being submitted for various usages of parks, public spaces, and especially the Downtown Barn. The following outlines the increase in applications received since the Bylaw was put in place:

<b>Year</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015*</b>
<b>Applications</b>	3	4	6	11	18	20

\*As of June 10, 2015

Considering that for the current year, the Village has processed 20 applications, this is expected to increase from now until the end of the year. Additionally there has been an increase in the amount of staff time to process an application as events being booked are becoming more dynamic and complex requiring further logistical and operational reviews. For example, staff time to process a simple application, such as tennis lessons at the Creekside Courts requires approximately .5 hours of initial application acceptance, and internal review and approval. Whereas a more a complex event, such as a sporting, cultural or music event requires a more extensive review process often involving meeting with event coordinators and staff to review the application; as well as working with other stakeholders such as RCMP, Liquor Inspector, Vancouver Coastal Health and/or Public Works, depending on the nature of the event needs. It is estimated that staff time may be anywhere from .5 to 3hrs or more especially if it is a first time event.

Currently the application fee for a Park and Public Spaces permit is \$5 for a commercial, corporate or for-profit group; whereas there is no charge for community or non-profit groups that have a registered society number. In researching similar sized organizations that have parks and/or facilities that require a permit, and taking into consideration the time and resources for processing an application the current fees do not support the cost to review and administer the program. As such, Staff are suggesting an increase in the permit fee:

- Charity/Community Non-profits Community Based Events and Celebrations: \$30.00
- Commercial & Corporate Events: \$75.00

### **Venue Rental Fees:**

The Barn consultation process established that it would be appropriate to:

- Raise current Barn booking fees to help recover Village administrative costs
- Implement a higher fee schedule for private bookings to help build financial resiliency for the Barn

Although the Village has not yet had time to fully understand and determine the full spectrum of constraints and opportunities with respect to events and use at the Barn, Staff recognize that the Barn is a valuable asset as a venue for community and commercial events and other opportunities based on applications and inquiries received to date. Again, in researching similar sized organizations and exploring other local authorities with rentable venues, Staff is suggesting that a rental fee be implemented for booking the Barn. It was noted that some municipalities use an hourly fee based on registered agencies, local or out-of-town; however, Staff are suggesting a flat rate for venue rentals:

Charity/Community Non-profits/Non-Exclusive Use: \$100  
(applicable to recognized local non-profit organization, photo shoots, workshops, and small events not requiring the full use of the Barn)

Commercial/Corporate/Exclusive Use: \$500  
(applicable to commercial or corporate organizations, for-profit events which may require exclusive or non-exclusive use of Barn)

The suggested rates provide clarity, assist to operations and ease in processing an application rather than having the complication of determining hourly rates for various user groups. Additionally, as per the Park and Public Spaces Bylaw, any fees can be waived with written request by the Manager, or funding of offset these cost could be applied for through a Community Enhancement Fund application.

### **Security Deposit**

In addition to distinguishing between Charity/Community Non-profits/Non-Exclusive Use and Commercial/Corporate/Exclusive Use for permit and venue fees, it is suggested to consider a difference in the refundable security deposit for such events. The suggested fees are as follow:

Charity/Community Non-profits Community Based Events and Celebrations:	\$300
Commercial & Corporate Events:	\$1,000

Organizers are required to provide a refundable security deposit with their permit application to ensure that in the event that they fail to clean up or there is property damage to a park or facility, they will forfeit the deposit to assist with the costs incurred to clean up or repairs. Currently the security deposit regardless of booking type is \$300.

### **Insurance**

The Village requires any user of municipal facilities to show the Village as a 'named insured' and to put in place appropriate liability insurance for their event. This can be costly for small user groups but is necessary in the event of something going wrong.

As noted in the Barn Consultation report, it was suggested that the Village offer a "User Group Insurance" fee as an option. This would enable user groups to purchase insurance through the Village, as part of the application process, rather than organizations having to purchase or adding on to existing insurance policies to meet the event insurance requirements. The Village



has explored this option and determined that it is a viable consideration to be implemented. The insurance provider will determine the rates based on low or medium risk activities, number of participants; as well as whether the events are sports, meeting or event related and whether they involve alcohol or not. The approximate coverage for a \$2,000,000 Commercial General Liability is \$2,000 annually and the rate schedule for groups is set by the insurance agency and updated annually. The Village has submitted an application and is waiting for confirmation.

In reviewing the upfront annual cost of \$2,000 for User Group insurance, the suggested insurance provider user rate to be charged and the number of permit applications the Village receives annually, Staff do not expect that the full cost would be recouped within a year. However, by adding the option to purchase insurance through the Village at a lower rate is viewed as being a support for smaller and individual applicants who may be booking an event in a park or public space in the Village.

For higher risk events or events involving larger number of participants, such as a multi-day music festival or event with participants over 250, the current policy would apply under either the Park and Public Spaces Use or Special Events bylaws. Under these policies, the Event Insurance for bodily injury and property damage, in the amount of \$2,000,000 each occurrence naming the Village of Pemberton as an additional name insured is required.

For consideration and based on current trends, the Village may wish to consider increasing the amount of the liability to \$5,000,000.

### **Booking Guidelines**

Although the Council resolution show in the Background section above identified that specific guidelines be developed for the Downtown Barn, Staff are suggesting that the current Park and Public Spaces Use Permit application form (Appendix C) addresses most of the concerns and requirements that would be involved in booking any park, public space or venue. Additionally, as each event is unique and often requires specifics that are tailored to that event, the Staff liaison can address these with the applicants as they arise.

The Terms and Conditions form in the application does provide a detailed outline of requirements for event coordinators to consider in planning an event. However, since Staff have been reviewing and working with existing applications, they will be adjusting the Terms & Conditions form as part of the application to include additional points or requirements that have been identified as missing or needing adjustment. These include:

- That the Organizers provide a parking/traffic control plan identifying where participant parking will be and that arrangements have been made to provide adequate parking.
- That the Organizers provide a signage plan identifying access and egress routes, directional signage, or other instructional requirements (i.e. "event in progress"). That signage meets Village of Pemberton Signage Bylaw requirements.
- That the Organizers provide a waste management plan (i.e. providing garbage and recycling container and removal).
- That the Organizers provide a detailed site plan and/or route for races/parades.

- That the Organizers receive approval from the Pemberton Fire Rescue for occupant load evaluation to meet with the BC Building Code and the BC Fire Code. This applies to existing buildings and parks where a tent or special occasion license is in place.
- That the Organizers must have a minimum 5 lbs fire extinguisher on-site.
- Use of BBQ's requires a fire extinguisher, grease trap, and have a minimum 3 metre clearance from vegetation, overhanging branches, buildings and other combustible materials.
- Disposal of ice and/or grey water is not permitted on the grass or in the parks.
- That the Organizers provide notice to neighbours of the type of event, date, time, hours (including set up/take down). The notice must be approved by the Village.
- That the Organizers review the Community Alcohol Policy – Special Occasion License Checklist as attached. (Appendix D)

### **COMMUNICATIONS**

Should the bylaw be amended, Staff would send out correspondence to all community groups within the Village notifying them of the changes to the Park and Public Spaces Permit process. Additionally, all amendments and notifications would be updated on the correlating website pages, as well, provide information as a feature in an upcoming ENews.

### **LEGAL CONSIDERATIONS**

There are no legal, legislative or regulatory considerations at this time.

### **IMPACT ON BUDGET & STAFFING**

To date the staff impact associated to this initiative has been staff time to gather information, research and write report and is a component of staff's day to day responsibilities, which is part of the daily departmental work plan.

### **INTERDEPARTMENTAL IMPACT & APPROVAL**

This initiative will require involvement from Finance to monitor and process the costs associated to the application processes; as well will involve the Office of the CAO who administers the portfolio for Park and Public Spaces permits.



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Nikki Gilmore  
CAO

### **IMPACT ON THE REGION OR NEIGHBOURING JURISDICTIONS**

A review of this initiative will have an impact on the Region as a whole as it will inform individuals, community members, organizations and agencies of the policies and procedures for booking an event or use of park and public spaces within the Village of Pemberton.

### **ALTERNATIVE OPTIONS**

The alternative option is to continue with the current booking process; however, this option will continue to cost the Village in resources and staff time. Staff do not recommend this option

### **POTENTIAL GOVERNANCE CONSIDERATIONS**

This initiative supports the Village's Strategic Priorities 2015, particularly the Village's Strategic Priority of:

- *Good Governance: The Village is committed to citizen engagement, being an open and accountable government, and fiscal responsibility.*
- *Excellence in Service: The Village is committed to delivering the highest quality of municipal services within the scope of our resources.*
- *Social Responsibility: The Village strives to create a strong and vibrant community recognizing the importance and benefits of both healthy and engaged citizens as well as an accessible and well managed natural environment.*

### **RECOMMENDATIONS**

**THAT** the Committee of the Whole provides direction to staff to bring the Park and Public Spaces Use amendment bylaw to a Regular Meeting of Council for First, Second and Third readings.

#### **Attachments:**

Appendix A – Draft Park and Public Spaces Use Amendment (Fee Structure) Bylaw  
Appendix B – Park and Public Spaces Use Bylaw No. 707, 2012  
Appendix C – Park & Public Spaces Permit Application Form  
Appendix D – Community Alcohol Policy – Special Occasion License Checklist



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Bettina Falloon  
Executive Assistant/Emergency Program Coordinator

### **CHIEF ADMINISTRATIVE OFFICER REVIEW**



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Nikki Gilmore, Chief Administrative Officer

VILLAGE OF PEMBERTON

BYLAW No. \_\_\_\_, 2015

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**A bylaw to amend the use of Parks and Public Spaces Use Bylaw No. 707, 2012**

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**WHEREAS** the *Community Charter* Section 8 (3) authorizes Council to regulate public spaces by Bylaw;

**AND WHEREAS** Council for the Village of Pemberton is empowered to make rules and regulations governing the management and use of parks and public spaces acquired or held by the Village for its purpose;

**AND WHEREAS** the general welfare of the community is enhanced by the regulation and use of the Village's parks and public spaces;

**AND WHEREAS** the Council may amend its bylaws from time to time when deemed appropriate.

**NOW THEREFORE** the Council of the Village of Pemberton, in open meeting assembled, **ENACTS AS FOLLOWS:**

**1. Citation**

This Bylaw may be cited for all purposes as "Parks and Public Spaces Use Amendment (Fee Adjustment) Bylaw No. \_\_\_\_, 2015".

**2. Application**

Village of Pemberton Parks and Public Spaces Use Bylaw No. 707, 2012 be amended as follows:

Schedule "A" of Bylaw No. 707, 2012 is hereby deleted and replaced with a new Schedule "A" which is attached hereto and forms part of this bylaw.

SCHEDULE "A"

PARK AND PUBLIC SPACE USE PERMIT FEES

Permit Fee (Prices do not include GST):

Charity/Community Non-profits Community  
Based Events and Celebrations: \$30.00

Commercial & Corporate Events: \$75.00

The fees apply to public spaces within the Village including the following:

- One Mile Lake
- Zurcher Park
- Pioneer Park
- Underhill Park
- Alder Street Park
- Airport Park
- Lot 12 – Pump Track/Skate/BMX Bike
- Frontier Street South (Train Station)
- Frontier Street North (Community Space)
- Tennis Courts (Creekside)
- Village Parking Lots
- Staehli Park
- Downtown Barn
- Village Streets

Venue Rental Fee:

Charity/Community Non-profits/Non-Exclusive Use: \$100  
(applicable to recognized local non-profit organization, photo shots, workshops, small event not requiring use of full Barn)

Commercial/Corporate/Exclusive Use: \$500  
(applicable to commercial or corporate organizations, for-profit events, exclusive or non-exclusive use of Barn)

The Venue Rental fees apply to the rental of the following:  
Downtown Barn

Added Fees:

Security Deposit: refundable damage/clean up deposit:

Charity/Community Non-profits Community Based Events and Celebrations:	\$300
Commercial & Corporate Events:	\$1,000

Refund Policy:

- Refunds of the permit fee will be permitted for cancellations up to fourteen (14) days prior to booking date with written notification.
- Events cancelled with less than 14 days prior to the event will not receive a refund.
- There are no refunds due to inclement weather conditions.

**READ A FIRST TIME** this \_\_\_ day of 2015.

**READ A SECOND TIME** this day of 2015.

**READ A THIRD TIME** this day of 20125

**ADOPTED** this day of , 2015.

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Mike Richman  
Mayor

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Sheena Fraser  
Corporate Officer

VILLAGE OF PEMBERTON

BYLAW No. 707, 2012

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A BYLAW TO REGULATE AND GOVERN THE USE OF  
PARKS AND PUBLIC SPACES

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**WHEREAS** the *Community Charter* Section 8 (3) authorizes Council to regulate public spaces by Bylaw;

**AND WHEREAS** Council for the Village of Pemberton is empowered to make rules and regulations governing the management and use of parks and public spaces acquired or held by the Village for its purpose;

**AND WHEREAS** the general welfare of the community is enhanced by the regulation and use of the Village's parks and public spaces.

**NOW THEREFORE** the Council of the Village of Pemberton, in open meeting assembled, enacts as follows:

**1. Citation**

This Bylaw may be cited for all purposes as "Parks and Public Spaces Use Bylaw No. 707, 2012".

**2. Definitions**

In this Bylaw, the following terms have the following meanings:

"application" means the application for a Park and Public Space Use permit made in the form(s) established and prescribed by the municipality.

"beach" means an area adjacent to the shore of a lake, pond, stream or river normally used for swimming and similar aquatic exercises or for sunbathing;

"commercial" means the carrying-on of a business or industrial undertaking of any kind or nature or the providing of professional, personal or other services for the purpose of gain or profit;

"cycle" means a device having any number of wheels, which is solely propelled by human power and upon or in which a person may travel;

“event” means a gathering for commercial purposes where tickets are sold and / or a profit is made and is open to the public.

“Manager” means the Chief Administrative Officer and his delegates;

“public spaces” means a park or parkland, public space or any real property or interest therein within the Village held or used for pleasure, recreation and community uses of the public and includes the land held under any lease of the foreshore and land covered by water granted to the Village by Her Majesty the Queen, and including the forest inside the Village boundary, whether or not the land is identified by signage or any other device;

“permit” means the Park and Public Space Use Permit as established and prescribed and issued by the municipality. ”.

“person” means any individual, association, firm, partnership, corporation, agent or trustee and the heirs, executors, or other legal representatives of a person to whom the context can apply according to law;

“Village” means the Village of Pemberton;

### **3. Application of Bylaw**

The provision of this Bylaw applies to every Park and Public Space within the Village.

### **4. Protection of Plants**

No person shall cut, break, remove or in any way destroy or damage any tree, shrub, plant, turf or flower.

### **5. Damage to Buildings**

No person shall damage or deface any building, structure, fence, sign, seat, bench or ornament of any kind and, without limiting the foregoing, no person shall place graffiti on walls, fences or elsewhere on or adjacent to a public space.

### **6. Walls and Fences**

No person shall climb, walk, sit, cycle or skate upon any wall, fence or other structure not intended for that use.



## **7. Pollution of Public Spaces & Streams**

- 7.1. No person shall foul or pollute any area of water or land, including a ditch, stream storm drain, lake or pond.
- 7.2. No person shall access or trample the riparian edge of any stream, pond or lake unless that area is designated as an access point.
- 7.3. No person shall deposit or dump any garbage, glass, crockery, paper, rubbish, litter, wood, waste or other material whether liquid or solid in or on any public space, except in receptacles provided there for such purpose.
- 7.4. No person shall dispose of waste generated outside a public space by depositing the waste in a waste receptacle or anywhere else inside or on any public space.

## **8. Protection of Grass**

No person shall cross, travel on, use or walk upon any grassed plot or land where signs have been posted forbidding such use.

## **9. Protection of Animals**

No person shall tease, molest, or injure any animal, bird or fish or throw any substance at or near such creatures in such way as to cause them alarm or possible injury, unless permitted under provincial or federal fishing or wildlife regulations.

## **10. Obstruction of Others**

- 10.1 No person shall obstruct the free use and enjoyment of a public space by any other person.
- 10.2 No person shall fish or play ball, or any game, or throw any object or thing so as to molest or interfere with or become a nuisance to the general public.
- 10.3 No person shall hinder, deter or interrupt any person in the exercise of any of his or her duties in charge of any organized recreation or maintenance authorized by the Village.

## **11. Livestock**

No person shall bring in or ride any horses or livestock, except where horseback riding is permitted in areas specifically designated for that purpose.

## **12. Fires**

12.1. No person shall throw any lighted match, cigar, cigarette or similar thing or any burning substance or dispose of it without first extinguishing it.

12.2 No person shall make a fire except when permitted, in barbecue pits or fireplaces provided for such purposes.

12.3 No person shall leave a fire unattended.

## **13. Activities**

No person shall undertake of the following activities except in such areas and at such times specifically allotted or designated for that purpose:

- Playing golf or striking a golf ball;
- Shooting an arrow or practicing archery;
- Flying any glider or motor driven model aircraft;
- Launching any power rocket;
- Landing any hang glider, parachute, paraglider, or human carrying kite.

## **14. Poster**

14.1 No person shall post, paint or affix any advertisement, bill, poster, picture, matter or thing on any tree, post, pole, building, structure or thing EXCEPT on kiosks or notice boards specifically designated for that purpose. This section shall not apply to material erected or placed by the Manager for the purpose of conveying information on park or recreation matters or controlling activities within public spaces.

14.2 No person shall engage in the distribution or delivery of commercial advertising material unless the person has been issued a Park and Public Space Use Permit by the Village that includes those permissions.

## **15 Vehicles**

15.1 No person shall ride, drive or lead any animal or drive or propel any cycle or motor vehicle in such a manner as to disturb the enjoyment of

any person, or to cause injury or damage to any person, animal or property.

15.2 No person shall operate a motor vehicle except on a roadway

15.3 No person shall park or stop a motor vehicle except in an area designated for vehicle parking.

## **16 Dog Restricted Areas**

16.1 Persons having the custody, care or control of any dog, other than a certified service dog, shall be permitted to bring or have the dog in any park except the following areas:

- a. The main One Mile Lake Park sand beach area between the 1<sup>st</sup> of May and the 30<sup>th</sup> day of September in each year;
- b. Waterfowl nesting sites and streams; and
- c. Inside any building, washroom or concession.

16.2 Persons having the custody, care or control of a certified service dog or other working dog shall be permitted to bring or have the dog in any park, public space or public facility in a public space.

## **17 Competitions and Instructions**

No person shall conduct private instruction or hold a tournament, competition, exhibition, demonstration or series of games with participant member in excess of 10, or for commercial purposes, in any part of a park unless the person has been issued a Park and Public Space Use Permit by the Village that includes those permissions.

## **18 Tents**

No person shall erect any tent, building, shelter or other structure or works or take up any temporary abode, unless the person has been issued a Park and Public Space Use Permit by the Village that includes those permissions.

## **19 Loudspeakers**

No person shall operate or use any amplifying system or loudspeaker unless the person has been issued a Park and Public Space Use Permit by the Village that includes that permission.

## **20 Commercial Operations**

No person or group shall operate a commercial business or utilize any public spaces for a portion of business except as part of a community event, or as authorized by the Village. This includes, but is not limited to, the sale of any refreshment, goods, article or thing or offer any service for a fee in or on any public space. All such operations must conform to all bylaws of the Village and have a valid Business Licence.

## **21 Payment of Fees**

No person shall use any court, green, ground, lawn or facility unless and until such person, **if** required by the bylaw, has first obtained a Park and Public Spaces Use Permit and paid to the Village any and all applicable fees and charges (Schedule "A") imposed by the Village for such use.

## **22 Powers of the Manager**

The Manager may from time to time do the following in relation to public spaces:

- a. Authorize a public space or any part of it to be closed to free public use and may grant a Park and Public Spaces Use Permit to any person, club or organization upon payment of the applicable fee;
- b. Temporarily close any public space or part of it for the use of the public if, in his opinion, such closure is necessary to prevent or assist in the prevention of a breach of the peace or threat of it, or other violation of the criminal law;
- c. Temporarily close any portion of a public space to public use for the purposes of construction, maintenance, repairs, removal of hazards or other reasonable cause;
- d. Temporarily close any portion of a public space to public use in the case of emergency or apprehended emergency including fire hazard or health and safety reasons;
- e. Designate areas for climbing, walking, cycling, skating, games, swimming, boating, landing non motorized soft winged aircraft and other activities of the public;
- f. Designate areas for motorized vehicle travel and vehicle parking and stopping;

- g. Designate areas at which persons may access streams, ponds and lakes;
- h. Designate areas for the protection of grass and grounds;
- i. Designate areas for horseback riding;
- j. Designate areas for overnight camping;
- k. Designate areas for fire pits and barbecues;
- l. Establish kiosks and notice boards for the posting of notices;
- m. Establish a public space or part of a public space as an off leash area for dogs;
- n. Establish public spaces or parts of public spaces and hours where dogs are restricted;
- o. Establish hours for the daily opening and closing of public spaces;
- p. Issue Park and Public Space Use Permits;
- q. Issue Permits for the sale of goods;
- r. Make incidental rules and regulations not inconsistent with this Bylaw; and
- s. Waive public space use fees for not-for-profit groups, school related activities, and other government events based on guidelines established in the Village of Pemberton Community Enhancement Fund grant-in-aid.

## **23 Rules and Regulations**

No person shall violate any provision of this Bylaw or any parks rule, regulation, or notice of the Village or the Manager.

## **24 Parks Officials**

No person shall obstruct or cause to be obstructed, any official employee, agent or contractor of the Village in the exercise of any of his lawful duties.

**25 Inspection**

Council hereby authorizes its officers, employees and agents to enter at all reasonable times on any public space property to ascertain whether the requirements of this Bylaw are being met and regulations observed.

**26 Offence**

26.1 Every person who offends against any provision of the Bylaw, or who suffers or permits any act or thing to be done in contravention or violation of any provision of this Bylaw, or who does any act or thing which violates this Bylaw, shall be deemed to be guilty of an offence against this Bylaw and shall be liable for any reasonable costs for reparation and to the penalties imposed under the Municipal Ticket Information Bylaw, amendments and replacements thereof.

26.2 Every day that the offence continues is deemed to be a separate offence.

**27 Captions**

The captions in this Bylaw are inserted for convenience of reference only and they are not intended to limit this Bylaw or assist in its interpretation.

**28 Interpretations**

References in this Bylaw to the singular include the plural and references to the masculine include the feminine or body corporate, where the context so allows.

**29 REPEAL**

The "Village of Pemberton Park Use Bylaw No. 650, 2010" is hereby repealed.

~~READ A FIRST TIME~~ this 19<sup>th</sup> day of June, 2012.

~~READ A SECOND TIME~~ this 19<sup>th</sup> day of June, 2012.

~~READ A THIRD TIME~~ this 19<sup>th</sup> day of June, 2012.

~~ADOPTED~~ this 3<sup>rd</sup> day of July, 2012.

\_\_\_\_\_  
Mayor

  
*Sheena Faxon*  
\_\_\_\_\_  
Corporate Officer

## SCHEDULE "A"

### PARK AND PUBLIC SPACE USE PERMIT FEES

Permit Fee:

Prices do not include HST

Charity/Community Non-profits: Community Based Events and Celebrations	\$5.00
Commercial & Corporate Events:	\$50.00 Fee is waived if applicant has current business license

The fees apply to public spaces within the Village including the following:

One Mile Lake  
Zurcher Park  
Pioneer Park  
Underhill Park  
Alder Street Park  
Airport Park  
Lot 12 – Pump Track/Skate/BMX Bike  
Frontier Street South (Train Station)  
Frontier Street North (Community Space)  
Tennis Courts (Creekside)  
Village Parking Lots

Added Fees:

Security Deposit: refundable damage/clean up deposit: \$300

Refund Policy:

- Refunds of the permit fee will be permitted for cancellations up to fourteen (14) days prior to booking date with written notification.
- Events cancelled with less than 14 days prior to the event will not receive a refund.
- There are no refunds due to inclement weather conditions.



Box 100 | 7400 Prospect Street
Pemberton BC V0N 2L0
P: 604.894.6135 | F: 604.894.6136
Email: admin@pemberton.ca
Website: www.pemberton.ca

PARK & PUBLIC SPACES PERMIT APPLICATION

\*\*\*For Community Events in Parks & Public Spaces\*\*\*

Completed applications and applicable documentation must be submitted, and all requirements met, a minimum of 4 weeks prior to the event. If the application is submitted less than 4 weeks prior to the event, or the requirements have not been met, there will be no guarantee that a Park & Public Spaces Permit will be issued.

ORGANIZATION INFORMATION

Type of Group:

- Community Group, Non-Profit Reg. #, Commercial Group, Other

Permit No.
2015-P

Organization Name:

Mailing Address, Phone, Cell, Email

CONTACT INFORMATION

Organization Contact:

On-site Contact:

Name, Phone, Email

EVENT INFORMATION

Event Name, Estimated Attendance

Date(s) to

Park Requested:

- Airport - East Taxiway, Airport Park, Alder Street Park, Frontier Street South, Frontier Street North, Foughberg Park, Lot 12 - Skate/BMX Park, One Mile Lake, Pioneer Park, Tennis Court, Underhill Park, Water Park, Zurcher Park, Other

START & FINISH TIMES

DAY 1 Date:

DAY 2 Date:

START FINISH Set-up, Event, Tear-down AM PM

START FINISH Set-up, Event, Tear-down AM PM





## PARK & PUBLIC SPACES PERMIT APPLICATION

**EVENT DETAILS** (If required, attach an additional piece of paper):

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**PROPOSED ACTIVITIES** (include entertainment, food & beverage services, etc.):

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**ON-SITE SERVICES**

- |                                    |                                      |  |
|------------------------------------|--------------------------------------|--|
| <input type="checkbox"/> Emergency | <input type="checkbox"/> Garbage     | <input type="checkbox"/> Recycling                     |
| <input type="checkbox"/> Security  | <input type="checkbox"/> Washrooms   | <input type="checkbox"/> Porta-potties                 |
| <input type="checkbox"/> Water     | <input type="checkbox"/> Electricity | <input type="checkbox"/> Parking / Alternative parking |

**DOCUMENTATION INCLUDED WITH APPLICATION**

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Site / Layout Map      | <input type="checkbox"/> MOT Approvals    | <input type="checkbox"/> Special Event Insurance    |
| <input type="checkbox"/> Safety / Security Plan | <input type="checkbox"/> Sign Permit      | <input type="checkbox"/> Special Occasion Licence   |
| <input type="checkbox"/> Business Licence       | <input type="checkbox"/> VCH Food Permits | <input type="checkbox"/> Gateway Banner Application |

**SECURITY DEPOSIT RELEASE**

Upon approval of the release of the security deposit:

**Return Cheque by mail, or**  
 **Contact Organizer for pick up**

- The following obligations must be met prior to the release of the security deposit:
- Clean-up has been completed and the named Park/ Space has been returned to its pre-event state.
  - All signage, temporary structures etc. have been removed.
  - Garbage and debris has been satisfactorily removed.
  - Public Washrooms have been left in a satisfactory condition.



## PARK & PUBLIC SPACES PERMIT APPLICATION – Terms & Conditions

### TERMS & CONDITIONS

1. That the Organizers understand that this permission shall not be construed as permission to hold an annual event, and those future events will also require approval of the Village.
2. That the Organizers provide a refundable damage/clean-up security deposit prior to event and that failure to clean up will result in the forfeiture of the deposit and other clean-up costs will be charged to the event Organizer.
3. That the Organizers provide a copy of "Event" Insurance for bodily injury and property damage, in the amount of \$2,000,000 each occurrence naming the Village of Pemberton as an additional named insured.
4. That the Organizers arrange for necessary Emergency Services to be on site during the event.
5. That the Organizers arrange for necessary approvals from the RCMP.
6. That the Organizers arrange for necessary approvals and permits from the Ministry of Transportation and Infrastructure.
7. That arrangements be made to provide adequate parking or that an alternate location be arranged for parking.
8. Should public washrooms not be available, or the washrooms available are not adequate to accommodate the number of attendees, the Organizers must provide sufficient portable toilets required for the total number of estimated attendees.
9. If there are food services at the event, the Organizers must provide a Food Permit for to the Health Inspector.
10. If signage or advertisement is required, that the Organizers make a Gateway banner application, sign permit application and/or round-about sign board booking and associated fees paid.
11. If alcohol is being served at the event, a valid liquor license as per RCMP guidelines and confirmation that Liquor Liability is included in the insurance coverage - at the same time as the Certificate of Insurance.
12. That the Organizers provide Society or Non-Profit number, or any request to have fees waived is granted prior to the fees being waived.
13. That the Organizers hold a valid Village of Pemberton Business License if the event Organizers are a for profit organization.
14. That the Organizers will ensure that all clean-up has been completed and that the named Park is returned to its pre-event state no later than noon on: \_\_\_\_\_.

### FEES

Refundable Deposit: \$300.00 For Profit Fee: \$5.00 Non-Profit: No Fee

### PAYMENT & CANCELLATION POLICY

1. Full payment is required at the time of permit issue.
2. Submit any requests to have fees waived with the Park & Public Spaces Permit Application. Include your Society or Non-Profit Number. Only registered Non-Profit groups will be approved. All other applications will be referred to staff and/or Council for approval.
3. Village of Pemberton staff must receive written notice of cancellation at least 14 days prior to the event for a refund of fees less the \$25 non-refundable booking fee. Events cancelled with less than 14 days prior to the event will not receive a refund.
4. There are no refunds due to poor weather conditions.

### ORGANIZER'S ACKNOWLEDGMENT

*By signing below, I acknowledge that I have read and understand the above terms & conditions and payment & cancellation policy of the Park and Public Spaces Permit application.*

**X**

\_\_\_\_\_  
Name Signature

# SPECIAL EVENT SAFETY PLAN

<b>GROUP NAME</b>	
<b>MAIN CONTACT NAME PHONE &amp; EMAIL</b>	
<b>ONSITE CONTACT CELL</b>	
<b>LOCATION</b>	
<b>ANTICIPATED ATTENDANCE</b>	
<b>EVENT ITINERARY Inc. Set up and breakdown</b>	
<b>WILL THERE BE HIGH RISK ACTIVITIES?</b>	Propane Use    YES    NO Fireworks        YES    NO Open Flame      YES    NO Other? Please Specify:
<b>WILL ALCOHOL BE SERVED? Please provide copy of Serving It Right Certificate</b>	YES    NO
<b>WILL FOOD BE SERVED? Please provide copy of Food Safe Certificate</b>	YES    NO
<b>NUMBER OF SAFETY OFFICERS/FIRST AID ATTENDANTS</b>	
<b>WILL THE EVENT BE GATED?</b>	YES    NO If Yes, what procedures will be followed?
<b>SITE PLAN SUBMITTED? Please attach.</b>	YES    NO
<b>TRAFFIC PLAN SUBMITTED? Please attach.</b>	YES    NO

## RISK MITIGATION: What Steps will be taken if the following takes place

<b>LOST CHILD</b>	
<b>THEFT</b>	
<b>MEDICAL EMERGENCY</b>	
<b>FIRE EMERGENCY</b>	
<b>HAVE THE BELOW BEEN CONTACTED REGARDING YOUR EVENT?</b>	
<b>RCMP</b>	YES NO If no, specify reason
<b>AMBULANCE</b>	YES NO If no, specify reason
<b>PEMBERTON FIRE RESCUE</b>	YES NO If no, specify reason
<b>PEMBERTON SEARCH &amp; RESCUE</b>	YES NO If no, specify reason
<b>DESCRIBE THE ACCESS ROUTE FOR EMERGENCY VEHICLES?</b>	
<b>WHERE IS THE RESPONSE CENTRE FOR EMERGENCY PERSONNEL?</b>	

**Site plans should include the following:**

- Locations of events/tents
- Fire Hydrants/connections
- First Aid Stations
- Parking, Loading/Unloading Zones
- Washrooms
- Activities taking place during event
- Location of barricades (if applicable)

**Questions?**  
**Contact the Village Office at**  
**604.894.6135 or**  
**admin@pemberton.ca**

**SOL Event Checklist for  
(Village of Pemberton, Mount Currie Band or SLRD Area C)**

**Name of Event:**

**Type of Event:**

**Date and Time of Event:**

**Event Organizer/ Contact Person:**

**Local Government Staff Contact Name and Number:**

**Planning a SOL Event**

- Local government designate provides a copy of CAP information document and site and event specific requirements upon request to anyone interested in hosting a licensed special event.
- Senior administrator or delegate has approved SOL permit submitted by event organizer.
- Special conditions identified by senior administrator include:  
(Examples include: coat check required at the event, professional security staff to be onsite.)

- 
- Specific SOL Event requirements waived by senior administrator include:  
(Examples include: glass glasses for wedding events, )

- 
- Expected responsibility and requirements for hosting an event reviewed with Event Organizer by Local Government staff

**Tasks to be completed prior to the event:**

- Obtain a Special Events Licence application is available at:  
<http://www.bcliquorstores.com/special-occasion-licence> or at the BC Liquor Store's Customer Service Counter
- Provide security deposit to the local government where the event is to be held.

**One Week Prior to the Event the following tasks must be completed:**

- Provide proof of Special Occasion Licence, with copy of liquor purchase receipt;

- Provide proof of liability insurance to the senior administrator or delegate of the local government where the event is to be held See Section 4.2 for details
- Familiarize yourself with the conditions and requirements laid out in the LCLA, and this CAP
- Provide a copy of Event Organizer and event workers "Serving It Right" certification for workers required under section 4.13 of the CAP policy.
- Provide proof of professional security certification for all licensed security staff to be working at the event
- Familiarize yourself with reporting requirements for incidents of Bodily injury, property damage during, by reviewing the incident reporting document contained in the 'Party Kit' provided by local government.
- Provide evidence of a safety/ security plan as outlined within CAP document that has been approved by local police.
- Provide a safe transportation plan for the event as outlined in Section 5.1 for review and approval by local government senior administrator or delegate.
- Obtain signs from local government to be posted at the event as outlined in Section 6.1 of the CAP.

**Tasks to be completed the day of the event:**

- Ensure that all workers at the event are aware of their designated roles, responsibilities and expectations as outlined within the CAP.
- Post required event signs and licence, as outlined in Section 6.1 and add the necessary contact info to the accountability sign as required.
- Ensure licensed and unlicensed areas of the property are appropriately designated.
- Ensure that all receipts for alcohol purchased for the event are available on request
- Have on hand copies of local government reporting forms to be completed if required
- Remind event workers and entertainment (Ex. DJ, Band), that there is no "last call" for the bar announcement to be made at the event.
- Ensure no safety concerns within the designated licensed area ie., tripping hazards,
- Ensure provisions on hand to implement safe transportation home plan to reduce drinking and driving risk Example: Designated driver non-alcoholic drink tickets, emergency taxi fares, contact #'s of volunteer drivers.

**During the event:**

- Event organizer remains on site at all times during the event to monitor and deal with potential concerns.
- Complete any incident reporting forms if required.
- Ensure that alcohol is not consumed outside of designated areas and minors are not served alcohol.
- Make note of any concerns or issues specific to the property and report to Senior Administrator or Designate following the event.

**Following the event:**

- Submit any incident reporting forms if completed to the Senior Administrator or Designate and make them aware of any potential issues or concerns with the property used.
- Ensure property/ facility is left in a neat and tidy condition and all garbage is appropriately disposed of.

**Thank you for contributing to the wellness and safety of our community by hosting a responsible event!**

**Date:** June 16, 2015

**To:** Nikki Gilmore, Chief Administrative Officer

**From:** Lisa Pedrini, Contract Planner

**Subject:** Application from 580049 Ltd. for Hillside Mixed Use Development – Presentation of Action Items and Draft Bylaws

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### **PURPOSE**

The purpose of the report is to present further information on the application to amend the Village Official Community Plan and Zoning Bylaw to facilitate a proposed mixed use development on lands legally described as Lot 2 & 3, DL 211, EPP 21848, LLD.

This report presents a summary of the comments received from referral agents and staff on the application and identified action items that must be addressed by the Applicant before the application can proceed to Public Hearing. Also attached are draft bylaws for the Committee of the Whole's review.

### **BACKGROUND**

An application to amend the Village Zoning Bylaw to facilitate the development of a mixed use development was received by the Village on Oct 14, 2014 from Cam McIvor, Agent for 580049 Ltd. It was subsequently discovered by staff that the OCP also needed to be amended, and an application to amend the Village OCP was received by the Village on January 19, 2015.

The application was sent to the following outside referral agencies on October 16, 2014: Squamish Lillooet Regional District, Lil'Wat Nation, Pemberton Valley Dyking District, Ministry of Transportation and Infrastructure, Ministry of Forest Lands and Natural Resources, CN Rail, BC Hydro, TELLUS, Pemberton and District Chamber of Commerce, and the Pemberton Valley Trail Association.

Comments were also sought from the Village's Contract Engineer (ISL) and Staff from the Operations and Development Services Department.

Two additional outside referral agencies, Stewardship Pemberton and the Province's Species at Risk Biologist, also received referral packages in February 2015. Comments from these referral agencies were relayed in the staff report to the Committee of the Whole on April 7, 2015 and are summarized in the spreadsheet attached as **Appendix A**.



The application was presented to the Village's Advisory Land Use Commission (ALUC) at a meeting held on February 24, 2015 at which time the ALUC passed the following recommendation:

*Moved/Seconded*

**THAT** the ALUC recommend to Council that support be provided for the application for an OCP Amendment /Rezoning with respect to Concept Plan 2 (without Tourist Accommodation Node included) only due to:

- The lack of rationale provided for locating a commercial business (hotel/conference centre) in a residential neighborhood, and;
- this type of use is more appropriately located in the Downtown Core, in order to protect & support the Village's Downtown growth as previously supported by Council.

**CARRIED**

The application was presented to the Village's Committee of the Whole (COW) on April 7, 2015 Meeting No. 129. Councillor Molinaro declared a conflict of interest pursuant to section 100 (2) (b) of the *Community Charter* Section due to these lands under consideration being part of a family holding and left Council Chambers. At that time, Committee of the Whole passed the following recommendation:

*Moved/Seconded*

**THAT** staff be directed to give the proponents an opportunity to address issues raised by the Committee of the Whole, referral agencies, the Advisory Land Use Commission and staff before bylaws are presented for Council's consideration;

**AND THAT** staff be directed to present additional information to the Advisory Land Use Commission so that they may fully understand the context and background of the proposed land use changes, before bylaws are presented for Council's consideration;

**AND THAT** staff be directed to proceed to the next stage of preparing amending bylaws based on this application for Council's consideration;

**CARRIED**

**OPPOSED: Councillor Helmer**

## **DISCUSSION & COMMENTS**

The Operations and Development Services Department prepared the attached spreadsheet (attached as **Appendix A**) which summarizes the comments and concerns from both the referral agencies and staff, and presents suggested action items to address these concerns. Staff met with the agent for the application to discuss the information contained in the spreadsheet. The first meeting occurred on April 23, 2015 between the Agent, the Contract Planner and the former Manager of Operations and Development Services, however, they did not have enough time to discuss all the items. Due to staff schedules and staffing changes, the next meeting was not held until May 25, 2015, in which the Agent, the Chief Administrative Officer/Acting Manager of Operations and Development Services and the Contract Planner were in attendance.

It has been determined that a majority of the comments are more related to items to be addressed in the future at the subdivision stage, or through the implementation of a Land Development Agreement between the developer and the Village of Pemberton prior to Third

## Reading of the OCP and Rezoning Bylaw.

A Land Development Agreement is a land use tool whereby the Village enters into a development agreement with the landowners who propose to develop their lands, which outlines all obligations for both the municipality and the developer that are required to properly construct the new area. The agreement sets the standards and conditions that govern the development of the property, and it provides certainty to the developer that his or her project will be isolated from changes in the jurisdiction's zoning laws over the course of development. It can also contract the developer to provide benefits to the municipality, such as infrastructure improvements, additional public open space, etc. in exchange for certainty.

However, staff would like to bring to Council's attention a few unresolved items at this time:

- **Additional Public Outreach, over and above the Mandated Public Hearing**

Staff feels that the current land use and rezoning application for the "580 Lands" would benefit from public input at this early juncture, as the specific land use and zoning bylaw amendments requested at this time have not had the benefit of any community feedback. Staff acknowledges that there have been statutory public hearings along the way – but is not aware of any Public Information Meetings or Open Houses specific to the "580 Lands" being held. If the applicants held an open house this would help gauge the level of positive support for these changes (especially the concept of tourist accommodation on the hillside) and assist Council in making an informed decision.

It is the Agent's position that sufficient public consultation has already taken place respecting the Hillside Lands over the past several years. For Council's information, the request to hold an Open House has not been a standard practice of former staff, nor is it included as a prerequisite in the Village's Development Procedures Bylaw.

This request is, however, a completely normal practice for a local government to ask a developer to host an Open House as a means of capturing community support early on in the rezoning process. Using an inclusive planning process – i.e., the process of planning and designing a neighbourhood with the input of immediate stakeholders, the surrounding neighbours, and others impacted by the change is a cornerstone of sustainable community development. It is a proven instrument for more viable output that multiplies the rate of successful realization of development by people because it is more likely to produce a set of outcomes actually desired by the community.

Early consultation allows local governments to be in a better (more comfortable) position to move forward. Consultation improves the council's/ government's relationship with the community and leads to better decisions. It allows people interested in, or affected by, projects to offer their point of view before a decision is made. The worst case scenario would be to omit this opportunity and have people show up to a Public Hearing, imparting that not enough consultation was held. However, having said this, the form of early consultation does not necessarily have to be an Open House; additional public outreach may be facilitated through an online survey, or other social media/crowd-sourcing<sup>1</sup> applications at the applicant's expense.

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<sup>1</sup> obtain (information or input into a particular task or project) by enlisting the services of a number of people, either paid or unpaid, typically via the Internet.

Once the bylaw has been given Second Reading, a statutory Public Hearing will be scheduled; however, a Public Hearing is not an opportunity for true consultation – as it not an opportunity to learn about or have discussions with respect to the proposed changes, before undertaking a course of action. As Council is aware, Public Hearings are not held to debate the merits of a proposed land use change, but are convened in order to allow the general public to convey their final views on land use applications, before Council makes a decision on whether to give a bylaw Third Reading. See also Section 879 of the *Local Government Act – Consultation during OCP development/amendment* which states in subsection (1) that “*local governments must provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected*”. For the purposes of this regulation, subsection (2) (a) states that “*the local government must consider whether consultation with one or more of the persons, organizations and authorities should be early and ongoing*”. Consultation under Section 879 is in addition to the Public Hearing required under Section 882 (3) (d) of the *Local Government Act*.

- **Request for an Active, Family Playground area in the Subject Property, over and above the Lands dedicated for Parkland through Subdivision**

Recreational areas and parklands are often designed as part of land developments seeking zoning approval. Municipalities are authorized under Section 941 of the *Local Government Act* to require property developers to dedicate public open space at the time of a proposed subdivision. However, an applicant or developer may also agree with a municipality to construct additional recreational facilities to ensure that future residents of the subdivision or land development have adequate and appropriate park and recreational opportunities.

Planning Staff believes the functionality of the “580 Lands” Development would be improved if there were additional public areas for “active” play as in a pocket park or tot lot/playground in close proximity to the residential areas, especially given Pemberton’s unique demographics (an abundance of families with young children). Planning Staff acknowledges that the wetland parkland that was dedicated when the parent parcel was subdivided (the creation of Lots 1, 2 & 3 [the subject property], 4, and 5) does exceed the minimum 5% parkland dedication required at subdivision; however, this land would be considered more of a “passive use” park and may not serve young families as well as an additional “active use” park space.

There are valid sustainability reasons for requesting additional park space. Recreational areas within walking distance of residential subdivisions inherently conserve energy by encouraging efficient land use, reducing the reliance on vehicles to access recreational areas, and by creating opportunities for walkable activities based on Smart Growth principles.

The Village could request a more substantial park provision at this stage, as recreational areas and opportunities can be created during the design stage of land use developments, when design flexibility is potentially at its greatest. However, Staff acknowledges that the amount of parkland dedication was signed off on during the subdivision of the parent property, and as well as through prior agreements that have been agreed to by the Village.

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<sup>2</sup> Emphasis added

In addition, the Village has secured a large portion of recreational land nearby which will most likely be developed in future to meet the needs of all age groups.

- **Status of the Access Road – Pemberton Farm Road East**

The applicant has stated that they do not propose to upgrade Pemberton Farm Road East south of the railway or west of the Forest Service Road (FSR) as they are existing roads that do not provide direct driveway access to development parcels. However, it has come to the Village's attention that Pemberton Farm Road East may not be a Municipal road, but may actually be a Forest Service Road, beginning with where it intersects with Highway 99.

In support of a municipal development, the access road should be built and maintained to the Village standard. The new residents will expect a level of service beyond that which typically accompanies a FSR road. Also, under provincial legislation and policy, the province can close, or otherwise dictate the maintenance and other conditions, which is not optimal in support in development.

Often, FSR's are not designated highways, they are just roads over Crown Land, almost the municipal equivalent to driveways. There are provisions under the Forest Service Road Regulation that are specific to maintenance and they state that any works require a permit. Village Staff will determine if there is any maintenance agreement over the FSR within our Operations and Development Services Department. Normally, if public money is expended on a road that is not a highway, it is deemed to be one under section 42 of the *Transportation Act*.

*42. Travelled roads becoming highways:*

*(1) Subject to subsection (2), if public money is spent on a travelled road that is not a highway, the travelled road is deemed and declared to be a highway;*

*(2) Subsection (1) does not apply to any road or class of roads, or to any expenditure or class of expenditures, that is prescribed by the regulations.*

However, under the *Forest Practice Code*, a provincial approval is required (The section above used to be s. 4 of the *Highways Act*) pursuant to section 66.

*66. Not a public highway*

*Despite section 4 of the Highway Act, a road constructed, modified or maintained under this Act, the Forest Act or the former Act is not a public highway unless the Lieutenant Governor in Council declares it to be.*

At this time, it is not known what is required to normalize Pemberton Farm Road East as a municipal road, however, it will be the applicant's responsibility to work out the details. It is anticipated that this will require the support of Council should this be deemed in the best interest of the applicant.

### ***Suggested Bylaw Amendments:***

In response to the applicant's requested land use changes, Staff has drafted the attached bylaw amendments to the Village Official Community Plan and the Zoning Bylaw (See Appendix B & C):

1. OCP Amendment Bylaw No. XXX, proposes to add a new Land Use Designation entitled "Hillside Mixed Use Designation". Hillside Mixed Use Designation is defined as residential and tourist accommodation (hotel/conference centre) uses that serve the needs of both the local community and visitors. By crafting a new land use designation, this permits the neighbourhood to proceed as a new mixed use (residential and commercial) development.
2. Zoning Amendment Bylaw No. XXX, proposes to amend the Zoning Bylaw to include a new Comprehensive Development Zone to enable the mixed use development to exist and allow the flexibility that the applicant is seeking, in terms of using a portion of the property for commercial use or residential use, but not both.

Staff's preference was for the development to proceed via a Comprehensive Development Zone, similar to what has been employed in the past for the Tiyata mixed use neighbourhood and other developments that focus on a mixture of multi-family units and public amenities (i.e., the Creekside & Pioneer Junction townhome developments)

The draft bylaws are being presented to the Committee of the Whole for discussion purposes.

### **COMMUNICATIONS**

Referral of the application to the standard list of community groups/organizations/specific interest groups as well as potentially impacted provincial agencies was undertaken.

Subject to Section 890 of the *Local Government Act (LGA)*, a Public Hearing must be held for both the OCP and the Zoning Amendment Bylaw, after First Reading of the bylaws and before Third Reading. Notice of the Public Hearing will be given as per Section 892 of the *LGA*.

### **LEGAL CONSIDERATIONS**

The processing of an OCP Amendment and Rezoning application is regulated by various sections contained in Part 26 of the *Local Government Act* and by the Village's Development Procedures Bylaw 725, 2013, as amended from time to time.

### **IMPACT ON BUDGET & STAFFING**

The research and preparation of the report/draft bylaws is a component of the daily work undertaken by the Operations & Development Services Department. All costs associated with the processing of this application, including staff time, are recoverable from the applicant's fees as per the Village of Pemberton Development Procedures Bylaw 725, 2013, as amended from time to time.

### **INTERDEPARTMENTAL IMPACT & APPROVAL**

There is no interdepartmental impact or approvals required respecting the processing of this application as it is a function of the Operations and Development Services Department.

### **ALTERNATIVE OPTIONS / NEXT STEPS**

This report is being submitted to the Committee of the Whole for information and review purposes, and to seek direction on next steps.

### **POTENTIAL GOVERNANCE CONSIDERATIONS**

Responding to the proposed Official Community Plan and Zoning Amendment Applications is consistent with Strategic Plan Priority 1: Economic Vitality to foster investment within the Village and Priority 3: Excellence In Service through the continuation of delivering quality municipal services by processing development applications efficiently.

### **RECOMMENDATIONS**

**THAT** the Committee of the Whole receives the information;

**AND THAT** direction be given to Staff on the preferred next steps.

### **Attachments:**

Appendix A – Spreadsheet of Items for Discussion/Follow-up Action  
Appendix B – Draft OCP Amendment Bylaw  
Appendix C - Draft Zoning Amendment Bylaw



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Lisa Pedrini  
Contract Planner

### **CHIEF ADMINISTRATIVE OFFICER REVIEW/ACTING MANAGER OF DEVELOPMENT SERVICES**



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Nikki Gilmore  
Chief Administrative Officer

Appendix A

Discussion Items	Specifics	Comment	Made by	Policy/Regulation	Action Items
<b>Transportation &amp; Railway Right-of-Way</b>	Adherence to Village Road Standards	All road improvement works shall meet the current Village of Pemberton Subdivision and Development Control Bylaw.	ISL	Village Bylaw 677, 2011	<b>These lots currently are subject to a Section 219 (No Build) Covenant; and therefore these requirements will need to be addressed via a servicing agreement to the satisfaction of the Village once the proponent is ready to proceed with any works.</b>
	Traffic Impact Study	An updated Traffic Impact Study by a qualified traffic engineer will be required addressing on and off-site road improvements and should include the cumulative effects of the 580 Lands and other pending development activities in the area. The study should include Pemberton Farm Road up to and including the Highway 99 intersection. At a minimum vehicular, pedestrian and bicycle traffic should be considered.	ISL	Village Bylaw 677, 2011	<b>Submitted with Application</b>
	CN Rail	Review, comment and approval from CN Rail will be required.	ISL		<b>COMPLETED</b>
	Need for Variances	The onsite road cross sections provided do not represent variations proposed by other hillside developments and require revision. A development variance will be required for all variances from the current Subdivision and Development Bylaw.	ISL	Village Bylaw 677, 2011	<b>To be dealt with at Subdivision.</b>

	Agreement with adjacent Landowner	Road C (aka Cul-de-Sac #3) requires access through private lands beyond. Should these lands beyond not develop, build-out of these roadways will be required and as such appropriate agreements will also be required.	ISL		<b>Proponent to provide proof of reciprocal arrangement between adjacent landowner and the owners of "580". Staff recommend that this be included in a Land Development Agreement at Rezoning.</b>
	Geo-technical certification for all earthworks	All earthworks including, but not limited to, earth slopes, rock stacks, retaining walls will require certification from a Geotechnical Engineer.	ISL		<b>To be dealt with at Subdivision.</b>
	Traffic Calming	Need for traffic calming measures (i.e. Speed bumps, roundabouts) to mitigate impacts of vehicular traffic associated with the Commercial Use (Hotel) which will potentially impact Residential Area	Village Planner		<b>Staff recommend that this request be dealt with via a Land Development Agreement at Rezoning.</b>
	On-site access requirements for emergency vehicles	We are aware of upcoming request for future variance for rural road standards; however must have adequate space for turn-around of emergency vehicles.	Village Planner/Building Inspector	BC Building Code - 3.2.5.6. Access Route Design, Subdivision and Development Control Bylaw No. 677, 2011	<b>To be dealt with at Subdivision.</b>
	Ingress/Egress	Use of Forest Service Road to access Cul-de-Sac Road A; no registered R.O.W. The northern cul-de-sac requires the ongoing operation and maintenance of the FSR, which is outside the Village's purview.	Village Engineer	MFLNRO - FSR regulations	<b>Staff advises that Pemberton Farm Road East should be a dedicated municipal road and approval as such must be sought. To be dealt with via a Land Development Agreement.</b>



	Improvements to Roads	The applicant has stated that they do not propose to upgrade Pemberton Farm Road East south of the railway or west of the Forest Service Road as they are existing roads that do not provide direct driveway access to development parcels.	Village Planner	Subdivision and Development Control Bylaw	<b>This should be based on the trip generation and distribution from the Traffic Impact Analysis. This should be captured in the Land Development Agreement at Rezoning.</b>
	Traffic Impact Study	The Village of Pemberton, in consultation with provincial agencies, will need to determine if highway intersection improvements are needed based on the results of the updated traffic impact study.	Village Staff	MOTI & VOP	<b>Staff recommend that, if necessary, this be dealt with via a Land Development Agreement at Rezoning.</b>
	Community Linkages / Connectivity of Trails	Encourage multi-modal transportation, extending current trails on site, connection to Sea to Sky trail, expansion of trail network in the future. No net loss policy - are any existing mountain bike trails impacted? To further support connectivity, acknowledgement and/or inclusion of the main recreational trails, as identified by the Pemberton Valley Trails Association should be included. The application would benefit from the inclusion and/or reference to the Proposed Trail systems, found within the Village's OCP, that are adjacent to the project but not mentioned in the application.	Village Planner/Council/SLRD	OCP/Village Trail Standards Policy	<b>Staff recommend that if additional trails/linkages are to be provided, that the details be included in a Land Development Agreement at Rezoning.</b>
	Transit Stops	How will this development incorporate the Village's Long term vision for Transit, given that Transit Planning was the responsibility of the SLRD, but it is now in the Village's hands.	Village Planner	OCP - Transportation Policies, Section 5.6.1 .	<b>Staff recommend the inclusion of a future transit stop near the Tourist Commercial site and the Multi-family Development site be secured via a Land Development Agreement at Rezoning.</b>

	Alternative Egress	An emergency all weather access west of Road C between Lot 5 and the CN Railway to the primary 580 Lands railway crossing should be considered to provide an alternative egress in the event that the primary railway crossing is not usable. Utilizing a utilities corridor to achieve this connection is acceptable.	ISL	Subdivision and Development Control Bylaw	<b>Staff recommend that this item be secured via a Land Development Agreement at Rezoning.</b>
	Road connections in case of blockage to RR crossing	CN would like the Village to consider that at least one of the Biro development roads should continue across the Sunstone development lands and tie into the new road crossing at Mile 98.04, so that a connection to the existing Pemberton Farm Road into the development area can be made. This should be done to ensure that an alternative is provided, just in case either railway crossing is blocked. Please consider this, because CN will not allow another new Permanent at-grade crossing in this area.	CN	CN Requirement	<b>If deemed necessary by the Village's Engineer, staff recommend that this be secured via a Land Development Agreement at Rezoning.</b>
	Discouragement of Trespassing	There is no mention of proposed fencing or similar requirement; the proposed development with residential on side of the track and community services on the other will encourage trespassing and fencing should therefore be a requirement.	CN	CN Requirement	<b>If deemed necessary by the Village's Engineer, staff recommend that this be secured via a Land Development Agreement at Rezoning.</b>
	Increased pressure on Farm Road East Crossing	There will be increased pressure on the Pemberton Farm Road East crossing. Given the curves in the road, road sightlines may be insufficient. The Traffic assessment provided in the package covers the crossing, but does not state that upgrades are required.	CN	CN Requirement	<b>If deemed necessary by the Village's Engineer, staff recommend that this be secured via a Land Development Agreement at Rezoning.</b>

	Access via FSR	The Forest Service Road (FSR) that extends beyond the turnoff to the proposed development still accesses a critical area from a harvesting perspective. Recently, BC Timber Sales has expressed their intentions of harvesting some wood above this area which would utilize this FSR. The Ministry wanted to iterate the importance to the Village that the industrial use of this road not be overlooked during the review of this development, and MFLNRO be kept in the loop as they have many problematic examples of residential areas being developed in close proximity to FSR's.	MFLNRO	Ministry Request	<b>Staff recommend the applicant find a way to inform future buyers of the industrial activity occurring on the Forest Service Road and North of the development, perhaps as a caveat in the buyers' disclosure information, and that this be dealt with through a Land Development Agreement.</b>
<b>Economic Considerations</b>	Community Amenity Contributions	Community Amenity Contributions have been secured via the existing Section 219 (No Build) Covenant registered on the subject property in the Village's favour. Covenant No. defers payment of Community Amenity Contributions to building permit. It is Staff's recommendation that we do not discharge this Section 219 Covenant, or enter into a new one unless there is a clear benefit to the Village for doing so.	Village Staff	Village Amenity Policy, as amended March 16, 2010	<b>Staff recommend that the existing Section 219 (No Build) Covenant, which includes commitments to the payment of Community Amenity Contributions not be re-negotiated.</b>
	Certainty of surrounding development	The proposal qualifies that certain aspects of the development will be supplied by neighbouring developments. Certainty of these other developments proceeding is unconfirmed and as such alternative scenarios shall be provided	ISL/Village Planner		<b>To be dealt with via a Land Development Agreement.</b>
	Economic Viability of the Residential Development	Concern that the residential development will achieve sufficient use/density to create financial return.	Village Planner		<b>The applicant has assured the Village that there is a viable pro-forma for the residential development.</b>

	Economic Viability of Hotel/Conference Centre in remote location	There are lands within the Gateway that are vacant and zoned C2 allowing Hotel/Conference Centre. There is current interest in a Gateway property pre-zoned for this use to develop a Hotel/Conference Centre under the Radisson flag. Does Pemberton have the demand/need for two Conference Centres? How will they differ from each other. Concern with economic feasibility & the creation of stranded assets.	ALUC/Village Planner	OCP	<b>The applicant has assured the Village that there is a viable pro-forma for the proposed Hotel/Conference Centre development.</b>
<b>Environmental Concerns</b>	Protection of Sharp-tailed Snake	<p>Potential impacts to Sharp-tailed snake and rubber boa habitat, and other species at risk and wildlife.</p> <ul style="list-style-type: none"> <li>• The property has not adequately addressed species at risk-such as Western Toads, Rubber Boa and Sharp-tailed Snakes.</li> <li>• Additional work needs to be done to identify habitat areas, rate the habitat value and quantify it.</li> <li>• Habitat areas should be mapped, and overlaid with development plans. Where development plans intersect with habitat, mitigation plans should be enacted.</li> <li>• Where risk and effect cannot be appropriately mitigated, other strategies, such as compensation can be reviewed.</li> </ul>	Council; Stewardship Pemberton; MFLNRO Species at Risk Biologist; Village Planner	<i>Provincial Wildlife Act</i>	<b>A Mitigation Plan demonstrating adherence to BMP's for Sharp-tailed Snakes which outlines the Province's expectations in expected in terms of due diligence under the <i>Wildlife Act</i> . The province has mandated that the Mitigation Plan must be signed off by a Registered Biologist who is specialized in herpetology, and in particular (ideally) STS. Staff has forwarded a copy of the Ministry's draft factsheet for Sharp-tailed Snakes outlining environmental guidelines for urban and rural development to the proponents' environmental consultant. It is the landowner's responsibility to comply and do their due diligence under the <i>Wildlife Act</i> , and the Village can not withhold approval based on this item.</b>

	Reduction of Greenhouse Gas Emissions	How will this development help the Village meet its reduction in GHG emission targets? Any green measures being proposed?	Village Planner	OCP Targets	<b>The applicant has agreed to put together a submission outlining any green measures that will be undertaken as part of the development. Staff would recommend that any initiatives ought to be in the land development agreement for initial development/infrastructure requirements, and/ or separate Covenant that binds owners.</b>
	Solid Waste Management	No details included in the application on-site solid waste/recycling/organics collection for multi-family buildings and single-family residences. How will solid waste management would be handled on-site (private collection, localized recycling/diversion opportunities, or an expectation that residents take their garbage, organics and recycling to the Pemberton Transfer Station). The SLRD needs further information in order to plan adequately for solid waste management services. If the waste from the development will not be handled privately, curbside collection needs to be taken into account in the design of roads, driveways, and on-street parking, as this service may be provided in Pemberton at some point in the future.	Village Planner/SLRD	Regional Solid Waste Management Plan (Currently in process of being updated)	<b>Staff would like to see a plan for On-site Waste Disposal, Recycling and Organics Collection that meets the goals/objectives of the SLRD SWMP included at the Rezoning Stage.</b>
	Respect for Natural Features	Need for a plan for protection of natural features - i.e., plans to leave significant natural areas undeveloped, wildlife protection, provision of wildlife corridors.	Village Planner	OCP - Environmental Protection	<b>Staff recommend requesting additional greenspace to protect sensitive areas.</b>

<p><b>Sustainable Land Use &amp; Design</b></p>	<p>Support for Gateway/Highway Frontage as best location for Tourist Commercial</p>	<p>Concern over the impact of the development on lands already designated/zoned for this use; the Village should be directing growth to areas that are already disturbed and zoned for these principles to help limit sprawl and preserve natural land. There are available sites for Hotel/Conference centre in the Village Gateway, that are centrally located and offer mountain views.</p>	<p>Village Planner; Advisory Land Use Commission</p>	<p>OCP - support Gateway as Tourist Commercial hub</p>	<p><b>Staff has requested that the applicant provide a rationale as to why other already zoned areas/disturbed locations would not work for the proposed use, and why the Village would consider developing a greenfield for this use. The applicant has agreed to put together a rationale explaining the uniqueness of the location, the demand for the use in this location, and other reasons for accepting this location for a tourist accommodation use.</b></p>
	<p>Potential Incompatibility: residential &amp; tourist accommodation uses</p>	<p>Must consider the potential for land use conflicts and how to mitigate locating a commercial use in the middle of a rural residential subdivision - Noise, Traffic, Parking, Safety, Intoxication, Trespass, etc. . The SLRD is currently dealing with land use incompatibilities that arise when agricultural properties are used for commercial ventures such as holding private, outdoor wedding events on their rural properties.</p>	<p>Village Planner; Advisory Land Use Commission</p>	<p>OCP - Community Principles (Section 2.0), Planning Directions, Policies, Strategies &amp; Actions (Section 5.0), Growth Policies (5.1.1) etc. Noise Bylaw 699, 2012 (Quiet hours: 11 pm - 9 am Sundays and Holiday; 11 pm - 7 am Monday to Saturday)</p>	<p><b>The applicant has agreed to put together a justification based on other similar land use examples and to work with staff on a strategy for minimizing land use incompatibilities.</b></p>

	Adherence to the Community Vision (sustainability) and Principles, as expressed through the OCP	Explanation of how is this development meets the community Vision and principles contained in the OCP.	Village Planner	LGA (Section 879 - early and ongoing consultation); RGS; OCP - Community Principles	<b>See staff report. Staff have asked for more input through an open house in order to seek early and ongoing feedback from the public and specific community stakeholders with respect to this application.</b>
	Design Character of the Hotel; Size/Massing/Sitelines	Need more info on a Design Scheme of the Hotel/conference Centre. Not enough details submitted to assist in analysis of the zoning amendment request. Concern with potential size of hotel/conference centre (should be a smaller lodge or boutique hotel that is unique, contained and does not overtake the landscape)	ALUC, Council, Village Planner		<b>Staff has asked the proponent to provide more details of what is proposed so zoning regulations can be carefully drafted.</b>
	Buffering	Lack of adequate buffering / protective berms between development lands, trails and roads and CN Rail R.O.W.	CN Rail	CN Requirements	<b>To be dealt with via a Land Development Agreement at Rezoning.</b>
	Fencing	Need for a minimum 6 foot high right-of-way fence (of the chain-link variety) consisting of material that is not easily cut, must be constructed along the full length of each development on both sides of the railway right-of-way and the crossings, such that trespassing on railway property is prevented.	CN Rail	CN Requirements	<b>To be dealt with via a Land Development Agreement at Rezoning.</b>

<p><b>Servicing &amp; Infrastructure</b></p>	<p>Water</p>	<p>The water servicing concept requires updating to the currently proposed development layout. All infrastructure improvement works shall meet the current Village of Pemberton Subdivision and Development Control Bylaw. A comprehensive water supply strategy, to the satisfaction of the Village, will be required before any development is permitted on the subject lands.</p>	<p>ISL/Village Staff</p>	<p>Village Bylaw 677, 2011</p>	<p><b>These lots currently are subject to a Section 219 (No Build) Covenant; and therefore these requirements will need to be addressed to the satisfaction of the Village once the proponent is ready to proceed with any works. Staff recommend that the specifics be included in the Land Development Agreement.</b></p>
	<p>Sewer</p>	<p>The sanitary servicing concept requires updating to the currently proposed development layout. A comprehensive sewer supply strategy, to the satisfaction of the Village, will be required before any development is permitted on the subject lands.</p>	<p>ISL/ Village Staff</p>	<p>Village Bylaw 677, 2011</p>	<p><b>These lots currently are subject to a Section 219 (No Build) Covenant; and therefore these requirements will need to be addressed to the satisfaction of the Village once the proponent is ready to proceed with any works. Staff recommend that the specifics be included in the Land Development Agreement.</b></p>



	Sanitary Lift Station	<p>The proposal qualifies that a sanitary lift station and forcemain to the south limit of McRae Road will be provided by others through alternative development applications. Certainty of these other developments proceeding is unconfirmed and as such an alternative sanitary disposal scenario shall be provided.</p>	ISL		<p><b>These lots currently are subject to a Section 219 (No Build) Covenant; and therefore these requirements will need to be addressed to the satisfaction of the Village once the proponent is ready to proceed with any works. Staff recommend that the specifics be included in the Land Development Agreement.</b></p>
	Geo-technical Investigation	<p>A geotechnical investigation is required where stormwater infiltration is proposed.</p>	ISL		<p><b>These lots currently are subject to a Section 219 (No Build) Covenant; and therefore these requirements will need to be addressed to the satisfaction of the Village once the proponent is ready to proceed with any works. Staff recommend that the specifics be included in the Land Development Agreement.</b></p>

	Stormwater Management	A comprehensive storm water management strategy, to the satisfaction of the Village, will be required before any development is permitted on the subject lands. The report shall include capacity calculations of stormwater runoff from onsite and all offsite drainage with regards to all existing and proposed facilities affected. Drainage facilities that provide stormwater treatment shall be used as part of this development (such as bioswales if supported by geotechnical analysis) and oil and grit separators. Offsite improvements may be required as determined by the Development Engineer as necessary.	ISL /Village Staff	Village Bylaw 677, 2011	<b>These lots currently are subject to a Section 219 (No Build) Covenant; and therefore these requirements will need to be addressed to the satisfaction of the Village once the proponent is ready to proceed with any works. Staff recommend that the specifics be included in the Land Development Agreement.</b>
	Sidewalks	Concern that there will not be any sidewalks as part of the development - paved trails? On one side?	Council	Village Bylaw 677, 2011	<b>The applicant's intention is to design the road system using a hillside road standard, and thus applicant has informed their intention to seek variances to Hillside road standards similar to what is used on Sunstone Development, which did not utilize sidewalks.</b>
	Ditches	With the Sunstone Ridge Access road paralleling so close to the south side of our right-of-way, is the developer/Village expecting to share our right-of-way ditches to drain their roads?	CN Rail	CN Requirements	
	Utilities crossing Railway R.O.W.	Pressurized water lines and sewer lines are shown paralleling and crossing the railway right-of-way, such designs must appropriately follow Transport Canada regulations and standards and CN's approval must be obtained provided before installation;	CN Rail	CN Requirements	

	Drainage into Railway R.O.W.	A good portion of the development lands are uphill from the ROW; we ask for a declaration from the proponent's engineer confirming that there will be no adverse drainage impacts on CN lands, and that a 100 year storm event will not cause any overland flow to CN lands. To clarify, CN drainage ditches cannot be used for the development's drainage.	CN Rail	CN Requirements	<b>Staff recommend that the applicant's engineers match pre and post development flows through a comprehensive storm plan.</b>
	Variances	All infrastructure improvement works shall meet the current Village of Pemberton Subdivision and Development Control Bylaw.	ISL		
<b>Social Concerns</b>	Parks & Trails	It does not appear that any play areas or public open space have been incorporated into the planning and a more substantial park provision should be required. The park dedication component of the application includes the wetland and riparian set-back areas that in staff's opinion should be left free of development and suitable for passive recreation.	SLRD/Village Planner/Council	OCP/Trail Standards Bylaw	<b>See staff report. Planning Staff has mentioned the benefit of additional active play space in the development suitable for families. However, the amount of dedicated park space for this property has been met through other negotiations.</b>
	Affordability / Housing Choices	Providing Housing and tenure choices - seniors, young families, accessibility; rental options; non-market housing options	Village Planner	Village Affordable Housing Strategy/OCP/RGS	<b>Staff has not had sufficient time to research this component but wanted to bring it to the Committee of Whole's intention that the rezoning stage is the appropriate time to request measures to increase the number of affordable housing options.</b>
	Quality of Life	Noise/vibration disturbances	CN	CN Criteria	<b>TBD</b>

**THE CORPORATION OF THE VILLAGE OF PEMBERTON**

**BYLAW NO. XXX, 2015**

**Being a bylaw to amend the Village of Pemberton Official Community Plan Bylaw No. 654, 2011**

**WHEREAS** the Council may amend its Official Community Plan from time to time;

**AND WHEREAS** the Council of the Village of Pemberton deems it desirable to amend the Official Community Plan Bylaw to accommodate mixed use development in the Hillside area;

**NOW THEREFORE** the Council of the Corporation of the Village of Pemberton in open meeting assembled **ENACTS AS FOLLOWS:**

1. This Bylaw may be cited for all purposes as “Official Community Plan Amendment (‘580’ Hillside Lands) Bylaw No. XXX, 2015.”
2. Village of Pemberton Official Community Plan Bylaw No 654, 2011 is amended as follows:
  - a) Add a new designation to Section 6.0 entitled Hillside Mixed Use Designation that reads: **Hillside Mixed Use Designation** means residential and tourist accommodation/conference centre uses that serve the needs of both the local community and visitors.
  - b) Amend Map B to redesignate the “subject lands” identified in Schedule A of this bylaw from “Special Planning Area (Hillside)” to “Hillside Mixed Use”.
  - b) Amend Map L to designate the “subject lands” as identified in Schedule A of this bylaw as “Development Permit Areas No. 1 – Environmental Protection; No. 2 - Natural Hazards; No. 6 – Multi-family and/or Commercial Development.

**READ A FIRST TIME** this day of , 2015.

**READ A SECOND TIME** this day of , 2015.

**NOTICE OF INTENT TO HOLD A PUBLIC HEARING TO AMEND** the Village of Pemberton Official Community Plan Bylaw No. 654, 2011 was **PUBLISHED IN THE** this day of , 2015 and, this day of , 2015.

**PUBLIC HEARING HELD** this day of , 2015.

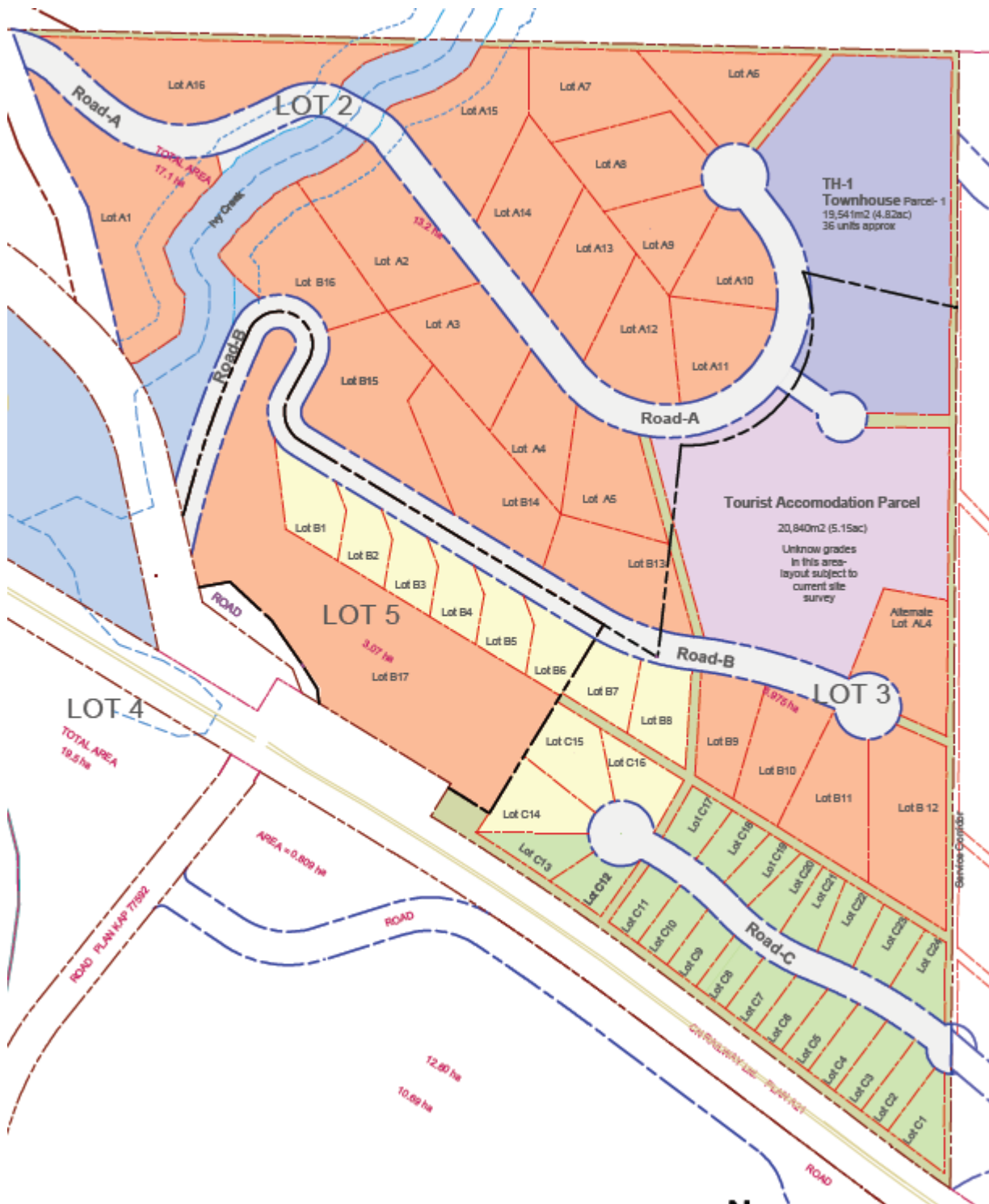
**READ A THIRD TIME** this     day of     , 2015.

**PASSED AND ADOPTED** this     day of     , 2015.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Corporate Officer

## Schedule A "Subject Lands"



THE CORPORATION OF THE VILLAGE OF PEMBERTON

BYLAW NO. XX1, 2015

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Being a bylaw to amend the Village of Pemberton Zoning Bylaw No. 466, 2001

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**WHEREAS** the Council may amend its Zoning Bylaw from time to time;

**AND WHEREAS** the Council of the Village of Pemberton deems it necessary to amend the Zoning Bylaw to accommodate a mixed use development that is located on the Hillside Area within the Village;

**NOW THEREFORE** the Council of the Corporation of the Village of Pemberton in open meeting assembled **ENACTS AS FOLLOWS:**

**1. CITATION**

This Bylaw may be cited for all purposes as “Village of Pemberton Zoning Amendment (‘580’ Hillside Lands Development) Bylaw No. XX1, 2015.”

**2. Village of Pemberton Zoning Bylaw No. 466, 2001 is amended as follows:**

Adding to Section 104 DEFINITIONS as follows:

**Conference Centre** means a specialized hotel designed and built to provide lodging and host conferences, exhibitions, large meetings, seminars, training sessions, etc. It may consist of a large hall for public assembly as well as a number of smaller lecture rooms and other office space, a restaurant, a spa devoted to overall well-being and/or a variety professional therapeutic/aesthetic retail services and a range of leisure activities.

Adding Section 316F COMPREHENSIVE DEVELOPMENT 6 ZONE (‘580’ Hillside) as follows:

**“316F COMPREHENSIVE DEVELOPMENT 6 ZONE (‘580’ Hillside) CD 6**

*The intent of the CD 6 Zone is to accommodate a mix of land uses on an area referred to as the ‘580’ Hillside Development, which includes a variety of single-family and multi-family residential uses, a limited amount of tourist commercial to accommodate a conference centre that fits within a large lot residential context, parks, open space and trails.*

The regulations in the tables in this section apply to land in the Comprehensive Development 6 (‘580’ Lands Hillside Development) Zone, as indicated by the column headings. For purposes of regulation, the area within the boundary of the CD 6 Zone is divided into five (5) separate areas labelled as Area A through Area E inclusive while the location of each separate area is identified on Appendix “A” to this Zone. Each area boundary within the CD 6 Zone shall be considered a zone boundary for the purposes of this Bylaw and separate regulations shall apply to each area as contained in this section.

**316F.1 PERMITTED USES OF LAND, BUILDINGS AND STRUCTURES**

- (1) The following *uses, buildings and structures* and no others shall be permitted within the Comprehensive Development 6 ('580' Lands Hillside Development) CD 6 Zone:

	<b>Area A</b>	<b>Area B</b>	<b>Area C</b>	<b>Area D</b>	<b>Area E</b>
<b><i>Principal Uses of Land, Buildings and Structures</i></b>					
<i>Single Residential Dwelling – Large Lot</i>	•				•
<i>Single Residential Dwelling – Medium Lot</i>		•			
<i>Single Residential Dwelling – Small Lot</i>			•		
<i>Multi-family Townhouse</i>				•	
<i>Hotel/Conference Centre</i>					•
<i>Park/Trails</i>	•	•	•	•	•
<b><i>Accessory Uses of Land, Buildings and Structures</i></b>					
<i>Uses accessory to principal uses</i>	•	•	•	•	•
<i>Home Occupation Use, subject to Section 207</i>	•	•	•	•	• *
<i>Bed and Breakfast Use, Subject to Section 224</i>	•	•			• *



**316F.2 DENSITY OF PERMITTED USES, BUILDINGS AND STRUCTURES**

- (1) All uses, buildings and structures in the Comprehensive Development 6 Zone shall comply with the following regulations regarding size, siting, density, and lot size.

	<b>Area A</b>	<b>Area B</b>	<b>Area C</b>	<b>Area D</b>	<b>Area E</b>
<b>Maximum Lot Coverage</b>					
<i>Single Residential Dwelling – Large Lot</i>	50% of useable site area				50% of useable site area
<i>Single Residential Dwelling – Medium Lot</i>		50% of useable site area			
<i>Single Residential Dwelling – Small Lot</i>			50% of useable site area		
<i>Multi-family Townhouse</i>				50% of useable site area	
<i>Tourist Commercial - Hillside (Hotel/Conference Centre)</i>					TBD
<b>Maximum Floor Area Ratio (FAR)</b>					
<i>Single Residential Dwelling – Large Lot</i>	0.50				
<i>Single Residential Dwelling – Medium Lot</i>		0.50			
<i>Single Residential Dwelling – Small Lot</i>			0.50		
<i>Multi-family Townhouse</i>				0.75	
<i>Tourist Commercial - Hillside (Hotel/Conference Centre)</i>					TBD

	<b>Area A</b>	<b>Area B</b>	<b>Area C</b>	<b>Area D</b>	<b>Area E</b>
<b>Maximum Building Height (meters / stories)</b>					
<i>Single Residential Dwelling – Large Lot</i>	10.5 m				
<i>Single Residential Dwelling – Medium Lot</i>		10.5 m			
<i>Single Residential Dwelling – Small Lot</i>			9 m		
<i>Multi-family Townhouse</i>				10.68 m	
<i>Tourist Commercial - Hillside (Hotel/Conference Centre)</i>					TBD
<b>Minimum Building Setbacks</b>					
Front	5	5	6 m	7.5 m	TBD
Rear	5	5	7.5 m	5 m	TBD
Side-Exterior	3.0	1.5	1.2 m	3 m	TBD
Side-Interior				3 m	
<b>Minimum Lot Size (m<sup>2</sup>)</b>					
<i>Single Residential Dwelling – Large Lot</i>	2025 m <sup>2</sup>				
<i>Single Residential Dwelling – Medium Lot</i>		1200m <sup>2</sup>			
<i>Single Residential Dwelling – Small Lot</i>			700 m <sup>2</sup>		
<i>Multi-family Townhouse</i>				5,000m <sup>2</sup>	
<i>Tourist Commercial - Hillside (Hotel/Conference Centre)</i>					20,500 m <sup>2</sup>

	Area A	Area B	Area C	Area D	Area E
<b>Accessory Buildings</b>					
Maximum floor area	10 m <sup>2</sup>	10 m <sup>2</sup>	10m <sup>2</sup>	10 m <sup>2</sup>	10 m <sup>2</sup>
Maximum height	3m	3m	3m	3m	3m
Minimum setbacks					
Front yard	6m	6m	6m	6m	6m
Rear yard	1.5 m	1.5 m	1.5 m	1.5 m	1.5 m
Side yard	1.5 m	1.5 m	1.5 m	1.5 m	1.5 m

#### **316F.4 CONDITIONS OF USE**

- (1) All uses, buildings and structures in the Comprehensive Development 6 Zone must comply with the following additional conditions of use:
  - a) In Area "E", the entire area must be used exclusively for either *Single Residential Dwelling – Large Lot*, or *Hillside Tourist Commercial (Conference Centre)*, but not both.
- (2) All Garage Provisions from RS-1 Zone for Areas A & B, and from RS-2 zone for Area C apply.

#### **316F.4 OFF-STREET PARKING AND LOADING**

- (1) Off-street parking and loading shall be provided in accordance with the requirements of Division 500 of this Bylaw.
- (2) Notwithstanding Section 316D.3 (1), the off-street parking requirements for the following uses shall be as follows:
  - a) Townhouse: 2 spaces per unit, plus an additional 0.25 space per unit for Visitor Parking;
  - b) Hillside Tourist Commercial Use: 1 space per 37 square meters of gross floor area.

#### **316F.5 WATERCOURSE SETBACKS**

- (1) Setbacks from any watercourses on the property must be in accordance with the requirements of the Village of Pemberton, Ministry of Environment and the Department of Fisheries and Oceans.

Amend Schedule A – Zoning Map to rezone the land from RR1 Rural Residential - 1 to CD6 Comprehensive Development 6 ('580' Lands Hillside Development).

**READ A FIRST TIME** this \_\_\_ day of \_\_\_\_\_, 2015.

**READ A SECOND TIME** this \_\_\_ day of \_\_\_\_\_, 2015.

**NOTICE OF PUBLIC HEARING FOR VILLAGE OF PEMBERTON ZONING AMENDMENT BYLAW ('580' HILLSIDE LANDS DEVELOPMENT) NO. XX1, 2015 WAS PUBLISHED IN THE ON \_\_\_\_\_, 2015 AND \_\_\_\_\_, 2015.**

**PUBLIC HEARING HELD** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**READ A THIRD TIME** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**APPROVED BY THE MINISTER OF TRANSPORTATION AND INFRASTRUCTURE PURSUANT TO SECTION 52 of the *Transportation Act*** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

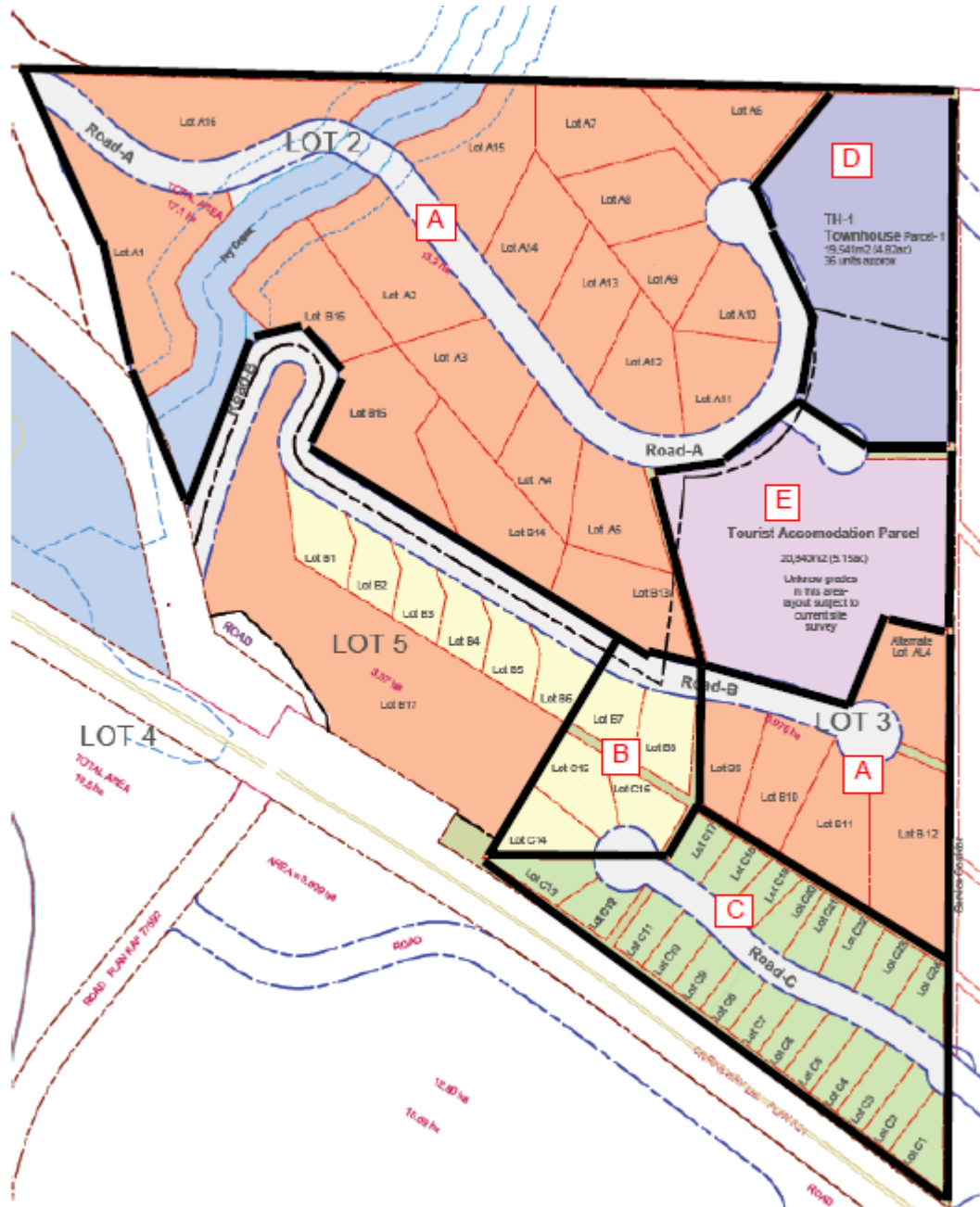
**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mike Richman  
Mayor

\_\_\_\_\_  
Sheena Fraser  
Corporate Officer

# SCHEDULE A

## Comprehensive Zone 6-'580' Hillside Development Bylaw 781, 2015



The subject lands are rezoned from RR1 Rural Residential-1 to CD 6 Comprehensive Development 6 ('580' Hillside ).

**Date:** June 16, 2015  
**To:** Nikki Gilmore, Chief Administrative Officer  
**From:** Lisa Pedrini, Contract Planner  
**Subject:** Zoning Bylaw Amendment to Limit Formula Based Restaurants  
in Pemberton's Gateway

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### **PURPOSE**

This report provides information to Council about a possible land use restriction that could be applied to limit formula based restaurants in Pemberton.

### **BACKGROUND**

Earlier in 2014, the former Council directed Staff to explore limiting the number of formula based (particularly franchise, fast food) restaurants in Pemberton. There was particular concern with the Gateway (Highway 99 and Portage) corridor as it may negatively impact Pemberton's entry and small town character.

Former Development Services Staff undertook research on the issue and presented a legal opinion to Council In Camera in September 2014 with respect to the legality of undertaking land use restrictions that could be applied to restrict formula based restaurants in Pemberton. More recently, staff brought this issue back to Council In Camera for information and direction on next steps. At the Council Meeting No. 1397 held May 19, 2015, Council rose from In Camera with report on the following:

*Moved/Seconded*

**THAT** Staff be directed to research and prepare a report for a Committee of the Whole meeting with respect to enhancing certain zoning and development permit requirements to deter certain formula based businesses in Pemberton's Gateway area.

**CARRIED**

### **DISCUSSION & COMMENTS**

This report responds to Council's request in terms of zoning amendments<sup>1</sup> that could be made to deter certain formula based businesses in Pemberton's Gateway Area. Formula based businesses have been described as:

"A business which is required by contractual or other arrangement to maintain one or more of the following items: standardized ("formula based") array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than five (5) other businesses regardless of ownership or location. Formula

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<sup>1</sup> Staff requires more time to research options for enhancing development permit requirements to deter formula based businesses. A report will be brought forward in due course, and would most likely combine any amendments to the OCP with other village-initiated amendments, for example any changes to Development Permit guidelines associated with species at risk.

based businesses can include, but are not limited to: restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons and hotel/motel/inn/B&B." (Reference from Bristol, Rhode Island Zoning Bylaw)

Formula based Restaurants have been described as:

"A retail establishment primarily devoted to the on-site preparation and offering of food and beverage for sale to the public for consumption either on or off the premises and which is required by contractual or other arrangement to offer any of the following: standardized menus, ingredients, food preparation, decor, uniforms, architecture, signs or similar standardized features and which causes it to be substantially identical to more than eleven (11) other restaurants regardless of ownership or location." (Reference from Arcata, California Zoning Bylaw)

The first section of the discussion will focus on the existing policy/practice in Pemberton, and the next section of the report will provide examples of how other municipalities have attempted to limit certain formula based businesses. The final section will provide recommendations to Council as to next steps.

### ***Existing Policy/Practice***

The Village of Pemberton Zoning Bylaw No. 466, 2001 currently regulates the locations in which a restaurant or drive-in restaurant would be permitted to operate. Fortunately, the Village Zoning Bylaw makes a clear distinction between restaurant and drive-in restaurants as individual permitted uses. For example, Zoning Bylaw No. 466 uses the following definitions:

**drive-in restaurant** means a building providing for restaurant use with drive-through takeout facilities or consumption of food in vehicles parked on the lot;

**restaurant use** means an eating establishment where food is sold to the public for immediate consumption within the premises or delivered to other premises, but excludes facilities for the consumption of food in motor vehicles parked on the site, or with drive-through takeout facilities.

Both **restaurants** and **drive-in restaurants** are a permitted use in the C-2 (Tourist Commercial), C-3 (Portage Road Commercial), and C-5 (Neighbourhood Pub Commercial Zone). The number of properties potentially impacted is approximately 24 in total and a map depicting the location and the exact properties contained within these three zones, identified in red, is attached as **Appendix A**.

Drive-in restaurants are not a permitted use in the C-1 (Town Centre Commercial), or C-4 (Service Commercial Zones), but restaurants are a permitted use in both these two commercial zones, and in several other non-commercial zones, including the M-1 (Industrial), and the PR-1 (Parks and Recreation).

### ***Research Results***

An Internet search done in August of 2014 by the former Manager of Development Services found two communities in Western Canada that had investigated restricting formula based businesses, but in the end did not succeed: Tofino, BC and Banff, AB. Tofino planner Aaron Rodgers advised that their Official Community Plan does not support formula based restaurants but the District of Tofino has not brought forward any specific zoning bylaws to implement this

policy, despite news articles reporting these intentions in 2012 in papers such as the Globe and Mail:

- <http://www.theglobeandmail.com/news/british-columbia/bc-surf-town-proposes-fast-food-ban/article1209762/>
- <http://www.canada.com/Tofino+Starbucks+Hortons+McDonalds/2663552/story.html>

Banff reviewed this matter for more than seven (7) years (which included a public engagement process and a working group) with a focus on defining formula based businesses and then limiting their existence and/or number in certain zoning districts. Their formula based businesses considered both retail (i.e. Bell, Patagonia, North Face, David's Team, Hatley, CD Plus, Athlete's World, Louis Vuitton, La Cache, Tabi and Ardene) and restaurants (i.e. Ricky's, Tim Horton's, and Boston Pizza). The prepared bylaw, however, met its demise in March 2013. Banff is regulated by Alberta's land use legislation.

More recently, Staff research found several examples of local governments in B.C. who have successfully removed drive-through restaurants as a permitted use in their Zoning Bylaws, each with their own motivations.

### ***Nelson, BC***

The City of Nelson approved a new Zoning Bylaw in February 2014 that removed the opportunity for any new drive-through restaurants to develop anywhere in their city. In developing their new zoning bylaws, Staff had removed drive-through restaurants as a permitted use in several zones (that formerly had permitted them), but allowed them to remain in the City's highway commercial zone. However, during the Public Hearing for the new Zoning Bylaw many residents opposed the idea and wanted "*all mention of them struck from the bylaw*". The City of Nelson's Councillors agreed with this direction, and removed drive-through restaurants as a permitted use in all zone, as a final amendment before approving the bylaw.

The reasons cited for the change were to protect local businesses (since few to no drive-through restaurants are operated by establishments that are not franchises); to entice the travelling public to stop and patronize businesses in the downtown area; and to meet their sustainability goals. The sentiments of one supporter of the bylaw felt that fast-food drive-through franchises "*did not serve the economic interests of their city aside from providing a few minimum wage jobs, and sending most of the profit to a corporate head office someplace else*".

To see more information on this change, here is link to a 2014 article from the Nelson Star: <http://www.nelsonstar.com/news/243525471.html>

### ***New Westminster, BC***

In 2011, the City of New Westminster passed a Zoning Amendment Bylaw to amend and clarify that drive-through restaurants are not permitted in pedestrian oriented commercial districts for several reasons. Drive-through restaurants were thought to pose a safety risk to pedestrians as the business results in additional vehicles crossing sidewalks to enter and exit a site. Drive-through restaurants were also felt to focus on automobile functionality rather than on improving the pedestrian environment. City Staff argued that drive-through restaurants defeated the spirit of the City of New Westminster's Street Traffic Bylaw which prohibits idling for more than three minutes. And finally, it was thought that drive-through restaurants reinforced a transportation



mode split that strongly favours automobiles over other alternative modes, which has an adverse environmental impact.

### ***Resort Municipality of Whistler, BC (RMOW)***

Whistler Council directed their Staff in 2012 to bring forward a Zoning Amendment Bylaw to define “restaurant” in order to specifically exclude drive-in and drive-through restaurants in the resort municipality. In the RMOW’s case at the time, their Zoning Bylaw did not include a definition of a “restaurant”; however, all but three zones in their Zoning Bylaw specifically excluded a “drive-in restaurant” as a permitted use. As a result, the RMOW Council approved Zoning Amendment Bylaw (Restaurant Uses) No. 2014, 2012 to bring clarity and consistency across all zones by creating a definition of “restaurant” to exclude drive-in and drive-through restaurants, unless expressly provided otherwise. The bylaw also proposed to amend a certain zone to allow for an existing drive-through restaurant in the Marketplace. Further, they now have regulations in place to state that any future requests for a drive-in or drive-through restaurant in a zone that allows for restaurant use would require a zoning amendment.

Whistler’s rationale was as follows: Whistler Planning Staff examined the zoning amendment against the directions contained in the Whistler 2020 Comprehensive Sustainability Plan. Staff’s analysis determined that by excluding drive-in and drive-through restaurants, this moved Whistler toward their sustainability objectives: it helped support Whistler’s preferred methods of transportation: Pedestrian, bicycle and other non-motorized means; and it continued to reinforce Whistler’s strong pedestrian character. However, they did find that drive-in and drive-through restaurants offer a valuable service for accessibility, people with small children or the older generation with mobility issues. For this reason, they included the potential for a zoning amendment bylaw to allow for any future drive-in or drive-through restaurants on a case by case basis.

### ***Examples from the United States (U.S.)***

Many U.S. municipalities have considered regulating the existence and number of formula based businesses by adopting ordinances (in the U.S. zoning bylaws are referred to as ordinances) that prohibit or limit the number of formula based businesses or assign conditional zoning. Some of the regulations limit the number of chain stores or alternatively set certain design criteria to ensure the businesses do not visually compromise the community character. Often the added design requirements deter certain formula based restaurants from setting up business in a town, but not always. In some situations, the land use tools available in the U.S. may not be possible under Canadian or BC law.

### **Staff Recommendation**

Legally, the options available to the Village of Pemberton are far less than that of the U.S., given BC and Canadian legislation. Basically, the Village is only able to regulate a “use” not a “user”; therefore the zoning bylaw shall not regulate uses based on factors such as merchandise, trademarks, menus, interior décor, uniforms, and/or sign logos.

The Village is also able to regulate:

- signs as far as materials, lighting and size;
- building/façade architecture, colour schemes and materials in accordance with approved Development Permit Guidelines (and the *Local Government Act*);

- parking, access, loading and drive-throughs;
- setbacks, height and other site development regulations; and
- location of certain land uses or development permit approvals.

Options available to the Village implementing the above-mentioned additional items will be the subject of a future Staff report. The most straight-forward (and timeliest) change the Village can do at this point is to examine the permitted uses in the Commercial Zones applicable to Pemberton's Gateway Area, and consider excluding particular uses that are often associated with formula based restaurants.

Staff suggests that a municipality-initiated zoning amendment bylaw be prepared to clarify the definition and remove "drive-in restaurants" from the list of permitted uses in the C-2 (Tourist Commercial), C-3 (Portage Road Commercial), and C-5 (Neighbourhood Pub Commercial) zones. Fortunately, the Village of Pemberton already distinguishes between a restaurant use and a drive-in restaurant (which would be normally operated by a franchise). However, Staff would recommend re-visiting the definition of "drive-in restaurant" to clarify that the definition includes the notion of a "drive-through" window sales.

This zoning amendment is recommended in order to maintain the small town and unique nature of Pemberton's entrance, and to enhance the commercial characteristics of our existing businesses. This change would also be considered consistent with the Village's Greenhouse Gas Emissions Reduction Targets and the Community Principles, Planning Directions, Planning Policies, Strategies and Actions as contained in the Village's Official Community Plan (OCP) given that they all contain initiatives that move the community forward in reducing Pemberton's GHG emissions.

In terms of the existing drive-through restaurant (McDonald's) located in the C2 (Tourist Commercial) Zone at the corner of Highway 99 and Portage Road, this amendment would result in that use being able to continue its operations as a legally non-conforming use (see **Legal Considerations** below). Any future applications for new drive-through restaurants in the applicable zones (C2, C3 and C5) could be considered via the Village's rezoning application process.

### **COMMUNICATIONS**

This issue will be referred to the regular list of referral agencies, including the Advisory Land Use Commission for review and comment. The minutes from the ALUC will be forwarded to Council for consideration prior to Public Hearing.

### **LEGAL CONSIDERATIONS**

Uses and siting which do not conform to the current Zoning Bylaw but existed at the time of adoption of the bylaw are "grandfathered" and are considered to be legally non-conforming.

Non-conforming uses and siting are regulated by section 911 of the *Local Government Act*.

A legally non-conforming use will cease to be legally non-conforming if:

- The use is discontinued for a continuous period of 6 months;
- The building or structure to which the use applies is damaged to an extent of 75% or more of its value; or
- The scale or degree of the non-conforming use is undertaken to a degree that is higher than that which occurred at the time of the adoption of the bylaw.

### **IMPACT ON BUDGET & STAFFING**

The investigations done to date were prepared in-house by the Operations and Development Services Department and the cost associated with legal expenses were accounted for/ included in the current Five Year Financial Plan. Should Council consider introducing the future zoning amendment bylaw, it is estimated that further \$300 would be required for statutory advertising, which can also be accommodated in the current Five Year Financial Plan.

### **INTERDEPARTMENTAL IMPACT & APPROVAL**

The above noted project will not impact the day to day operations of any other department other than the Development Services Department.

### **IMPACT ON THE REGION OR NEIGHBOURING JURISDICTIONS**

A review of this initiative has no impact on other jurisdictions.

### **ALTERNATIVE OPTIONS**

An alternative option for consideration is to not move forward with any zoning bylaw amendments, or to only consider removing "drive-in restaurants" in only one or two of the Commercial Zones.

### **POTENTIAL GOVERNANCE CONSIDERATIONS**

As per the Village's Strategic Plan, this initiative supports Theme One: Economic Vitality and Theme Two: Good Governance.

### **RECOMMENDATIONS**

**THAT** the Committee of the Whole direct staff to prepare a Zoning Amendment Bylaw that clarifies the definition of a drive-in restaurant and excludes drive-in restaurants as a permitted use in the C2, C3 and C5 zones for Council's consideration at the June 19, 2015 Regular Council Meeting.

### **Attachments:**

Appendix A – Map of C2, C3 and C5 Zones.



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Lisa Pedrini  
Contract Planner

### **Chief Administrative Officer/Acting Manager of Operations and Development Services Review**



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Nikki Gilmore  
Chief Administrative Officer/ Acting Manager of Operations and Development Services

Appendix A  
 SUBJECT PROPERTIES  
 C2, C3 and C5 Zones

