

To: Community Services Committee

From: Ron Diskey, Commissioner,
Community Services Department

Report Number: CS-22-12

Date of Report: February 9, 2022

Date of Meeting: February 14, 2022

Subject: Pepper Patch Community Garden at 138 and 139 Albert Street
and South Patch Garden at Cordova Park

Ward: Ward 4 & 5

File: 03-05

1.0 Purpose

The purpose of this Report is to provide an update on We Grow Food garden projects and to formalize the “Pepper and Berry Patch” gardens located at 138 and 139 Albert Street as a community garden under the City’s Community Garden Program.

2.0 Recommendation

That the Community Services Committee recommend to City Council:

1. That based on Report CS-22-12 dated February 9, 2022, the Pepper Patch Community Garden Committee be formed and assume the operation of the gardens located at 138 and 139 Albert Street in accordance with this Report; and,
2. That the members of the Pepper Patch Community Garden Committee be recognized as volunteers of the City of Oshawa enabling the City to extend coverage under its Municipal Liability Insurance Policy; and,
3. That members of We Grow Food be thanked for their efforts in establishing the Pepper Patch, Berry Patch and South Patch for their years of dedicated service to the community.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

- Development Services
- Facility Services
- Municipal Law Enforcement Services
- Durham Integrated Growers
- We Grow Food
- Community garden volunteers

5.0 Analysis

5.1 Background

We Grow Food has been actively involved in food growing and community building in Oshawa since 2014. The City initially entered into a one year licence agreement (see Report [DS-14-92](#)) with The Table by Carol Inc. to pilot a local food growing and neighbourhood development initiative at 138 Albert Street. Based on the success of the project the licence agreement was subsequently extended and expanded to include the vacant land at 139 Albert Street, as shown in Attachment 1. These gardens were known as “The Pepper Patch and the Berry Patch” respectively.

In 2015, an additional licence agreement was executed for the establishment of a neighbourhood garden project at Cordova Valley Park located at 811 Glen Street. This agreement was later extended to include the use of the small community building for the purpose of holding garden related activities and education. This garden is known as the “South Patch Garden”, see Attachment 2.

These gardens were operated outside of the City’s Community Garden Program under a Licence Agreement with Carol Vandersanden, owner of The Table, who requested to operate the gardens under her own insurance and to assume primary responsibility for the operation of the gardens and their volunteers. We Grow Food provided the necessary support and guidance to the neighborhood volunteers by engaging the community and encouraging local ownership of the garden. We Grow Food was responsible for fundraising, donations and in-kind support to operate and maintain the garden in accordance with the agreement. The gardens were open to the local neighborhood and relied on We Grow Food volunteers and the local community.

The Pepper and Berry Patch Gardens as well as the South Patch Garden are located in [Priority Neighbourhoods](#) as identified by the Durham Region Health Department which are neighbourhoods that require focus to build on health and well-being. We Grow Food has been a valuable contributor to the health and well-being of its members and residents of Oshawa for many years through its donated produce, engagement with the community, and its efforts to raise awareness on issues related to food security.

At the conclusion of the 2021 growing season, the licence agreements between We Grow Food and the City expired. Unfortunately, in November 2021, We Grow Food notified the City that they did not wish to renew these agreements going forward.

In order for each of these gardens to continue to operate, a licence agreement with another interested organization would have to be established, or, a group of individuals would have to come together to form a committee to operate each garden under the City's Community Garden Program.

Community gardens on City owned land generally operate in accordance with the Council endorsed [Growing our Future – Community Garden Procedure](#) which requires a committee to be formed to act in a volunteer capacity to oversee the operation of the garden and its membership in accordance with a garden constitution. Members of the garden must follow garden policies and are required to sign assumption of risk form and release of liability waiver (Attachment 3). Committee members are designated by Council as volunteers of the City thereby extending the City's insurance coverage.

5.2 Pepper Patch and Berry Patch

To this end, a group of interested local residents have expressed an interest in continuing on with the operation of the garden at 138 and 139 Albert Street. They have established a committee, the Pepper Patch Community Garden (P.P.C.G.) Committee, to act in a volunteer capacity to succeed We Grow Food in operating the gardens. Some of the committee members already have a lengthy history of volunteering at the gardens and have developed a Constitution (Attachment 4) and the P.P.C.G. Operating Policy (Attachment 5) detailing their vision for operation.

The P.P.C.G. Committee is seeking to operate the existing Pepper Patch and Berry Patch gardens as the singular "Pepper Patch Community Garden" commencing in the spring of 2022. In accordance with the City's Community Garden Program, P.P.C.G. Committee members must be recognized as volunteers of the City enabling the City to extend coverage under its Municipal Liability Insurance Policy which is in line with how other community gardens on City-owned land operate throughout the City.

As detailed in the P.P.C.G. Operating Policy, the P.P.C.G. Committee intends to operate the garden as a true communal garden where all members help to maintain the whole garden and share in the produce rather than paying a nominal fee to maintain an individual plot as is the model in other community gardens. With no plan to collect plot fees from its members, the P.P.C.G. Committee will be responsible for all fundraising activities and receipt of donations to sustain the operation. The Committee has indicated it has support from groups including the Spirit Alive Outreach Ministry and Durham Integrated Growers (D.I.G.) but it will likely have to pursue other funding sources to operate the garden under their proposed model, over the long term.

Given that the gardens already exist and infrastructure is in place there is minimal site preparation required. However, the P.P.C.G. Committee has expressed concerns regarding security in the gardens. Trespassing and syringe use/disposal have been identified as the primary concerns. To address these issues, it is recommended that City staff install regulatory signage related to the authorized use of the gardens only. The problem of unauthorized activity in the garden has been reported to be particularly acute during the overnight hours.

As an identified problem area, City security staff will incorporate the garden during after hour patrols, 3 to 4 times a week, as part of the Downtown Project during the garden season (May to end of October) to monitor unauthorized use of the garden area. Additionally, garden committee members can reach out to Security and Municipal Law Enforcement Services to address specific issues if they arise.

It is also recommended that P.P.C.G. Committee work with social service agencies such as the John Howard Society of Durham Region to engage in routine syringe recovery patrols of the garden areas. It is also recommended that P.P.C.G. Committee work with social service agencies such as the John Howard Society of Durham Region to engage in routine syringe recovery patrols of the garden areas.

Additionally, it is recommended that The Pepper Patch Community Garden become formal members of Durham Integrated Growers who can support the Garden through knowledge sharing and fostering partnerships.

5.2.1 Special Operating Conditions

Typically, there are a number of key criteria that should be considered when choosing locations for a community garden, including:

- availability of water;
- soil condition and quality;
- access to washrooms;
- proximity to public transit;
- security; and,
- accessibility

The Pepper Patch Community Garden location is unique in that it is situated on two vacant City-owned residential lots, therefore there is no available water source, washroom facilities or dedicated parking.

If necessary, the Committee and garden members will be responsible for bringing in their own potable water or collecting water with rain barrels or the like. The City will not be responsible for providing water.

Similarly, the residential nature of the site is not conducive to permitting (portable) washroom facilities to be installed, even if at the sole expense of the Garden Committee. The City will not be responsible for providing washroom access, nor will the Committee be permitted to provide its own washroom facilities. Garden volunteers are advised to plan accordingly.

The central downtown location of the garden allows for convenient access to public transit and there is some on-street parking available nearby.

Garden members must remove all garbage/litter and dispose of it properly. Organic waste generated from the garden must be properly composted within the perimeter of the garden. Where this is not possible, it too must be removed from the site and disposed of properly.

Due to the proximity of the gardens to public sidewalks, garden volunteers must ensure there is adequate clearance and setback from the sidewalks for any and all garden activities, plant material, and infrastructure so as to eliminate any potential risks including site lines/visibility or trip hazards. Maintenance of mulch pathways within the gardens is the responsibility of the volunteers and they must be maintained such that the gardens remain accessible. Finally, the operation of the garden must conform to any applicable City by-laws as they apply in a residential setting.

5.2.2 COVID-19 Precautions

Community gardens operating in Durham Region are required to follow the recommendations contained in the "Community and Allotment Gardens during COVID-19 Fact Sheet" specified by the Durham Region Health Department. These operating practices must be followed to ensure the safety and continued operation of the community garden. The P.P.C.G. Committee will be responsible for ensuring that the garden complies with the recommendations.

5.3 South Patch Garden at Cordova Valley Park

In addition to the Pepper Patch and Berry Patch gardens, We Grow Food has decided that they no longer wish operate the South Patch garden located in Cordova Valley Park.

As part of the agreement with the City for this garden, We Grow Food was also granted use of the small community building in the park and accompanying storage shed. Substantial investments were made by the City in the two buildings to accommodate the food related activities of We Grow Food which included meetings, events, propagating plants from seed, and food basket distribution.

In planning for succession of this garden, a meeting was held in the fall of 2021 between City staff, We Grow Food, and a small group of volunteers who had previously been associated with the garden.

City staff explained that in-lieu of a licence agreement with an interested organization a dedicated group of individuals could form a committee and make an application under the City's Community Garden Program to continue operation of the South Patch garden.

City staff also informed those in attendance about the pending park redevelopment planned for Cordova Valley Park in 2022. Due to construction activities the park and garden area will be closed to the public and access restricted.

In relation to the requirements of terminating the agreement, We Grow Food has vacated the two buildings adjacent the garden and have removed most materials and infrastructure from the garden lot. Only select garden beds remain on the site, which City staff agreed to in the hopes that an interested group will come forward before the 2023 growing season to continue to operate the site as a community garden.

To date no individuals or organization have come forward or expressed an interest in continuing the operation of the garden. Following the park renovations, if no such group comes forward or expresses an interest in operating the garden by the spring 2023 then

the garden will be dismantled and the area restored to its previous condition as open park space.

6.0 Financial Implications

There are no significant financial implications resulting from this Report. Costs to install regulatory signage at the P.P.C.G. will be covered in the 2022 Parks Operations Budget. Increased patrols of the P.P.C.G. by City security staff will have negligible financial impact.

The P.P.C.G. Committee will be responsible for any and all costs associated with operating the garden including soil tests, tools, water, compost/mulch, compost bins, fencing, storage, accessibility requirements, or plant material through donations, grants and/or in-kind services of their membership.

7.0 Relationship to the Oshawa Strategic Plan

This Report addresses the Oshawa Strategic Plan by responding to the goal “Social Equity” under the theme of “An Active, Healthy and Safe Community” by providing active use of public spaces, and the goal of “Environmental Responsibility” under the theme “Resilient Local Food System” by promoting and encouraging local agriculture through community gardening initiatives.



Mike Saulnier, Director,
Operations Services



Ron Diskey, Commissioner,
Community Services Department



Item: CS-22-12 Attachment 1

The Pepper and Berry Patch Community Garden



0 5 10 20 Meters

MALAGA RD

MALAGA RD

GLEN ST

South Patch
Garden

Cordova Valley Park

Item: CS-22-12 Attachment 2

South Patch Community Garden



0 20 40 80 Meters

Assumption of Risk and Release of Liability Waiver



This form must be read and signed by all members who wish to participate in the garden.

Growing Our Future – Community Garden Program

This document provides an understanding of the Member with respect to their voluntary participation in the Community Garden Program under the City of Oshawa's "[Growing Our Future - Community Garden Program](#)". Membership is subject to the Garden Constitution and terms of membership including rules and operating policies. By signing this waiver you are agreeing to abide by these terms and conditions and are also confirming that you have read and understand the Durham Region Health Departments guidelines for operating a [Community Garden during COVID-19](#) as may be amended from time to time and agree to abide by these guidelines and those established by the Garden Committee.

Element of Risk

This activity/ program may present various elements of risk. Accidents resulting from such activities may occur and cause injury. These accidents result from the nature of the activity and can occur without any fault on either the part of the City of Oshawa or its employees or agents. By choosing to participate in the activity, you are assuming the risk of an accident occurring. Participants MUST assume the risk associated with the activity.

Acknowledgement

I, _____ understand and accept the above and provide The City of Oshawa with the following waiver of liability.

This form may contain personal information as defined under the *Municipal Freedom of Information and Protection of Privacy Act*. This information is collected under the legal authority of the Municipal Act, 2001, S.O. 2001 c.25, as amended. This information will be used and maintained by the City of Oshawa for the purpose of participating in the "Growing Our Future – Community Garden Program. Questions regarding this collection may be directed to the City's Information Access and Privacy Officer, City of Oshawa, 50 Centre Street South, Oshawa, Ontario, L1H 3Z7, 905-436-3311.

Assumption of Risk and Release of Liability Waiver



Release and Indemnification Agreement

I, _____ hereby release the City of Oshawa and its staff and agents from all liability for any injury sustained by me, regardless of how caused, resulting from my participation in Community Garden Program arranged through the City of Oshawa.

I have read the above and understand that in participating in the Community Garden, I am assuming the risks associated with doing so.

Signature of Participant _____ Date _____

This form may contain personal information as defined under the *Municipal Freedom of Information and Protection of Privacy Act*. This information is collected under the legal authority of the Municipal Act, 2001, S.O. 2001 c.25, as amended. This information will be used and maintained by the City of Oshawa for the purpose of participating in the "Growing Our Future – Community Garden Program. Questions regarding this collection may be directed to the City's Information Access and Privacy Officer, City of Oshawa, 50 Centre Street South, Oshawa, Ontario, L1H 3Z7, 905-436-3311.

Pepper Patch Community Garden Constitution

1. NAME

The Name of the Organization shall be **Pepper Patch Community Garden** (hereinafter called P.P.C.G.).

2. AIMS

Vision

Bonding the members of our neighbourhood.

Mission

Create a garden where people can gather and grow together.

Objectives

1. Build community relationships by encouraging local participation.
2. Promote good gardening practices.
3. Distribute produce to members and surplus to the community.
4. Maintain the gardens to be visually enjoyed by the downtown Oshawa community.

3. MEMBERSHIP

A member of P.P.C.G. (hereinafter called "Member") is a person who:

1. submits an application; and,
2. agrees with the P.P.C.G. Aims; and,
3. is willing to adhere to the P.P.C.G. Operating Policy; and,
4. actively participates according to their abilities; and,
5. is approved by the Board.

Recruitment of Members will be focused on downtown Oshawa residents.

The term of membership will be one year, commencing at March 1 each year.

4. INCLUSIVITY

The P.P.C.G. shall be an inclusive space that recognizes, responds to, and embraces the individual needs, abilities, and backgrounds of its membership.

The P.P.C.G. will not discriminate on the grounds of gender, race, colour, ethnic or national origin, sexuality, disability, religious or political belief, marital status or age.

5. P.P.C.G. BOARD

The P.P.C.G. Board (hereinafter called the “Board”) is tasked with:

1. upholding the P.P.C.G. Constitution; and,
2. coordinating P.P.C.G. activities and functions; and,
3. ensuring compliance with City regulations; and,
4. dealing with opportunities and issues as they arise; and,
5. amending the P.P.C.G. Operating Policy as it deems necessary; and,
6. determining the physical locations of P.P.C.G. garden beds.

All issues that arise will be discussed openly and general consensus will be sought. If such consensus cannot be reached, then there will be a vote and the majority gets the decision, majority being 50%+1. If the number of votes cast on each side of an issue is equal, the chair of the meeting shall have an additional casting vote.

The Board will consist of no less than 5 and no more than 7 Members and shall include all Officers and may include Members at Large.

To hold a position on the Board, an individual must be a Member in good standing, active, and adhere to the P.P.C.G. Operating Policy.

In the event of a Board Member being unable or unwilling to perform his/her duties during the year, a replacement can be appointed by the Board until the next Annual General Meeting (hereinafter called “A.G.M.”).

6. OFFICERS

At an A.G.M., the Members shall elect, from among themselves, the following Officers who shall have the duties indicated:

Chair – overall executive coordination, including chairing both the Board meetings and the A.G.M., and liaison with the City of Oshawa.

Financial Coordinator – maintain financial accounts.

Admin Coordinator – record, distribute, and maintain minutes and correspondence and keep records of all Members.

Garden Coordinator – provide technical assistance and direction to garden members, work with volunteers, and provide orientation to new members.

Members may elect additional Officers at the A.G.M., as they deem appropriate.

To hold an Office, a person must be a Member in good standing, active, and adhering to the P.P.C.G. Operating Policy.

A person may hold more than one Office.

7. ANNUAL GENERAL MEETING

The A.G.M. will take place once a year at a time between November 1 and February 28. The location will be determined by the Board.

The City of Oshawa shall be entitled to have two representatives attend.

All Members and the City of Oshawa, Parks Operations will be notified in writing (electronically or by paper) at least 3 weeks before the date of the meeting providing the venue, date, and time.

Nominations for the Board may be made to the Admin Coordinator before the meeting, or at the meeting.

The term of every elected person shall run from the date of the A.G.M. to the next A.G.M.

Each Member is entitled to one vote.

The agenda for the A.G.M. shall include:

1. a report of the work of the P.P.C.G. from the previous year; and,
2. the financial accounts of the P.P.C.G. for the previous year; and,
3. the election of Officers and any Members of the Board who are not Officers for the following year; and,
4. any other business deemed necessary by the Board or requested by any Member to the Admin Coordinator at least 14 days prior to the A.G.M.

Minutes of the A.G.M. will be made available to all members, as requested, and forwarded to the City of Oshawa.

8. FINANCES

An account shall be maintained on behalf of the P.P.C.G. at a bank designated by the Board. Three cheque signatories will be appointed by the Board (one to be the Financial Coordinator). The signatories must not be related nor members of the same household.

All payments will be signed by two of the signatories.

Records of income and expenditures will be maintained by the Financial Coordinator and a Financial Statement given at the A.G.M. In addition, records will be made available to the Board or the City of Oshawa, when requested.

All money raised by or on behalf of the P.P.C.G. is only to be used to further the Aims of the P.P.C.G., as specified in Section 2 of this constitution.

9. AMENDMENTS TO THE CONSTITUTION

Amendments to the constitution may only be made at the A.G.M. or another meeting of Members called for that purpose.

Any proposal to amend the constitution must be given to the Admin Coordinator in writing. The proposal must then be circulated with the Notice of Meeting.

To be enacted, any proposal to amend the constitution will require a two-thirds majority of those voting.

10. DISSOLUTION

If it is decided by the Board that it is necessary to close down the P.P.C.G., a meeting of Members shall be called.

If the Members vote by simple majority to dissolve the P.P.C.G., all remaining money and other assets, once outstanding debts have been paid, will be donated to a local charitable organization, preferably an organization promoting food security. The organization will be designated at the meeting which votes the dissolution.

Pepper Patch Community Garden Operating Policy

Operating Principles

- P.P.C.G. practices true communal gardening, with all members taking care of the whole garden and benefitting from a reasonable share of the produce.
- P.P.C.G. uses only organic gardening practices.
- P.P.C.G. does not discriminate on any prohibited grounds.

Membership Rights

- Provide input on our garden operation through the Board.
- Participate in, and vote at, the Annual General Meeting.
- Harvest a reasonable share of harvestable produce.
- Be informed of and share in garden opportunities.
- Be given a full garden orientation upon first becoming a member.

Membership Responsibilities

- Provide current contact information to the Admin Coordinator including, if possible, a phone number and email address.
- Provide written agreement to the Operating Policy; renewing agreement, as requested, each season.
- Participate in opening the garden at the start of the season and closing the garden at the end of the season.
- Volunteer at least the equivalent of 4 hours per month.
- Take reasonable direction from the Garden Coordinator as to tasks undertaken.
- Consult with the Garden Coordinator before undertaking unusual tasks.
- Assist in keeping the garden tidy and remove all personal garbage from the garden.
- Supervise children and guests brought to the garden site.
- Refrain from the use of chemical pesticides/fertilizers.
- Refrain from any illegal activity in the garden.
- Prohibited plants such as illegal plants, invasive species, and noxious weeds are not to be planted.
- Enter the garden only during daylight hours.
- Public washrooms are not available on site – members must plan accordingly.
- Properly clean and care for shared garden equipment.
- Refrain from bringing pets into the garden.
- Harvest only what is reasonable (factors may include amount of produce available, being respectful to other Members, frequency of harvesting).
- Participate, as able, in fund-raising activities promoted by the Board.
- Promote the garden as a source of food and pride for our neighbourhood.

- Not do anything or communicate anything likely to damage the reputation of the garden.
- Take further direction as voted upon by the Board or at an Annual General Meeting.

Respect Check

All P.P.C.G. members shall adhere to the City of Oshawa Respect Check code of conduct policy. The policy enforces a set of expectations to address inappropriate behaviours, violence, and vandalism that negatively affects the experience of individuals or creates unsafe conditions. The Respect Check policy will guide how these behaviours will be addressed when/if they occur in the P.P.C.G. or associated with P.P.C.G.

Conflict Resolution

All issues that arise will be discussed openly and general consensus will be sought. If such consensus cannot be reached, then there will be a vote and the majority gets the decision, majority being 50%+1. If the number of votes cast on each side of an issue is equal, the chair of the meeting shall have an additional casting vote.

Acknowledgments

Membership in the P.P.C.G. is voluntary. Gardening operations must always consider potential impacts to the adjacent land users and community. Members and their guests will use the garden at their own risk and will not hold the P.P.C.G. Board and the City of Oshawa liable in the event of injury, damages or losses as a result of participation in the P.P.C.G., and must sign an Assumption of Risk and Release of Liability Waiver. The City of Oshawa makes no representation or warranties with respect to the condition of the land from either an environmental, agricultural, or nutritional perspective. Membership in the garden is contingent on the acceptance of these terms.