

January 9, 2020

Subject Property:

1167 King Street

Lot 5, District Lot 250, Similkameen Division
Yale District, Plan 3827

Application:

Development Variance Permit PL2019-8644

A carriage house has been constructed on the property with an attached deck which extends into the required interior side yard setback. The applicant has applied to vary the following section of Zoning Bylaw No. 2017-08:



- Section 8.2.3.4: To reduce the minimum required interior side yard setback (north) for a carriage house from 1.5 metres (as required in the R2 Zone) to 0.6 metres.

Information:

The staff report to Council and Development Variance Permit PL2019-8644 will be available for public inspection from **Friday, January 10, 2020 to Tuesday, January 21, 2020** at the following locations during hours of operation:

- Penticton City Hall, 171 Main Street (8:30 am to 4:30 pm, Mon. to Fri., excluding statutory holidays)
- Penticton Library, 785 Main Street
- Penticton Community Centre, 325 Power Street

You can also find this information on the City's website at www.penticton.ca/publicnotice.

Please contact the Planning Department at (250) 490-2501 with any questions.

Council Consideration:

Council will consider this application at its Regular Council Meeting scheduled for **6:00 pm, Tuesday, January 21, 2020** in Council Chambers at Penticton City Hall, 171 Main Street.

Public Comments:

You may appear in person, or by agent, the evening of the Council meeting, or submit a petition or written comments by mail or email no later than **9:30 am, Tuesday, January 21, 2020** to:

Attention: Corporate Officer, City of Penticton

171 Main Street, Penticton, B.C. V2A 5A9

Email: corpadmin@penticton.ca

No letter, report or representation from the public will be received by Council after the conclusion of the January 21, 2020 Council Meeting.

Please note that all correspondence submitted to the City of Penticton in response to this Notice must include your name and address and will form part of the public record and will be published in a meeting agenda when this matter is before the Council or a Committee of Council. The City considers the author's name and address relevant to Council's consideration of this matter and will disclose this personal information. The author's phone number and email address is not relevant and should not be included in the correspondence if the author does not wish this personal information disclosed.

Blake Laven, RPP, MCIP

Manager of Planning

Date: January 21, 2020
To: Donny van Dyk, Chief Administrative Officer
From: Steven Collyer, Planner 1
Address: 1167 King Street
Subject: Development Variance Permit PL2019-8644

File No: 2019 PRJ-174

Staff Recommendation

THAT Council approve "Development Variance Permit PL2019-8644" for Lot 5, District Lot 250, Similkameen Division Yale District, Plan 3827, located at 1167 King Street, a permit to decrease the minimum interior side yard setback (north) for a carriage house from 1.5 m to 0.6 m.

Background

The subject property (Attachment 'A') is currently zoned R2 (Small Lot Residential), and is designated as Detached Residential in the City's Official Community Plan. A carriage house has been constructed on the property with an attached deck which extends into the required interior side yard setback (north). At the building permit stage for the carriage house, it was noted that the attached deck was too close to the property line and the plans were revised to show the deck meeting the required side yard setback. Somewhere in the process though, the deck was built at a setback that was not shown on the approved building permit plans.

The applicant has submitted a Development Variance Permit application to legalize the existing non-conforming setback. The deck is located 0.6m from the property line abutting a parking lot used for the nearby IGA grocery store. A letter in support of this application has been submitted and was signed by various neighbours.

Proposal

The applicant is proposing to keep and legalize an existing deck which was built too close to a property line. The applicant has submitted a Development Variance Permit application to vary the following section of Zoning Bylaw No. 2017-08:

Section 8.2.3.4: to reduce the minimum required interior side yard setback (north) for a carriage house from 1.5 m (as required in the R2 Zone) to 0.6 m.

Financial implication

This application does not pose any financial implications to the City. Development costs are the responsibility of the applicant.

Technical Review

Given the scope of this proposal, this application was not considered by the City's Technical Planning Committee (TPC). The Planning Department and Building Department are the only agencies with interest in the existing deck structure and setback from a Building Code and Zoning Bylaw perspective. All structures are required to be constructed to BC Building Code healthy and safety standards. Building code requirements have been identified to the applicant and will be addressed as part of the on-going building permit process.

Analysis

Approve Development Variance Permit

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

The intent of the side yard setback is to physically separate structures on neighbouring properties. This reduces the sense of buildings imposing on property lines in low density residential areas. In this instance, the reduced side yard setback is considered appropriate and minor in nature given the following reasons:

1. The requested setback is for a deck

A structure with full walls has more of a visual impact on neighbouring properties than a deck. The deck provides outdoor amenity space for the carriage house occupant and is buffered from the property line by low walls and being elevated off the ground.

2. The abutting property is used as a parking lot for the nearby IGA grocery store, and not for a residential use

In the case of an adjacent sensitive land use, such as a residence, appropriate buffering and maintaining required setbacks is encouraged. In this instance, no negative impact from the reduced setback for the deck is anticipated on the neighbouring property, as it is being used as a parking lot which is not considered a sensitive land use.

3. Letter of Support

Eight (8) nearby residents have signed a letter of support for the requested variance, dated November 21, 2019 (Attachment G). The letter indicates the residents are pleased with the design of the carriage house building and have no concerns with the deck in question or its setback. The letter notes that the abutting parking lot will not be affected by the deck structure projecting closer to the property line.

Deny Development Variance Permit

Council may consider that the proposed variance will negatively affect the character of the neighbourhood. Council may decide that the carriage house deck should be required to meet the required 1.5 m interior side yard setback as set out in the Zoning Bylaw. If this is the case, Council should deny the variance. The

property owner would then need to make amendments to the structure to conform to the approved building plans.

Alternate recommendations

- 1. THAT Council deny “Development Variance Permit PL2019-8644”.

Attachments

- Attachment A: Subject Property Location Map
- Attachment B: Zoning Map of Subject Property
- Attachment C: Official Community Plan Map of Subject Property
- Attachment D: Images of Subject Property
- Attachment E: Letter of Intent
- Attachment F: Site Plan
- Attachment G: Map of Neighbouring Properties on Letter of Support
- Attachment H: Draft Development Variance Permit (DVP)

Respectfully submitted,

Steven Collyer
Planner 1

Concurrence

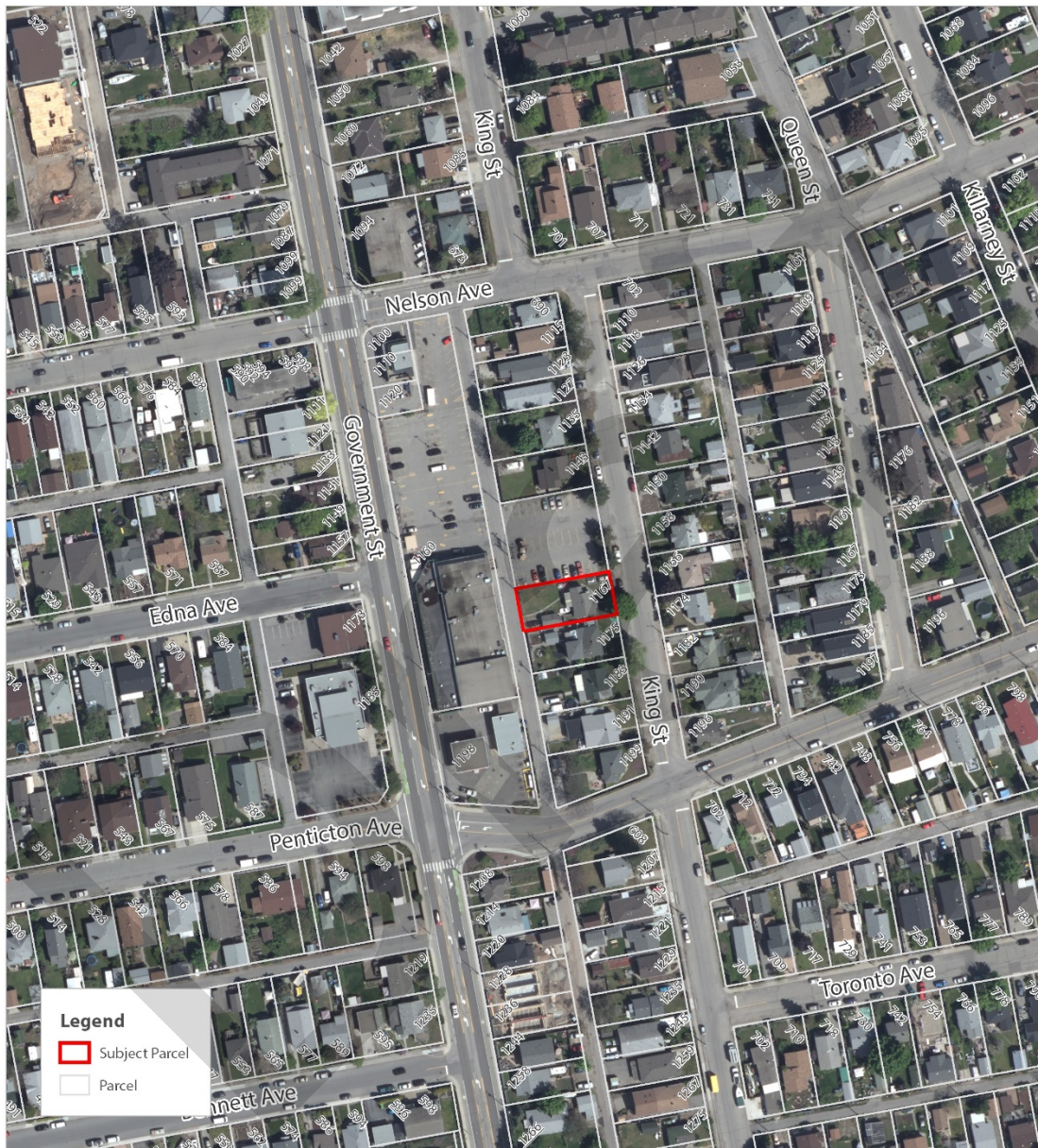
Acting Director Development Services <i>BL</i>	Chief Administrative Officer
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Attachment A – Subject Property Location Map

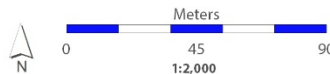


1167 King Street

Property Location Map



Terms of Use: The City of Penticton is a depository of public information in both printed and digital form. The source, accuracy and completeness of this information varies. As a result, the City does not warrant in any way the mapping information including the accuracy or suitability thereof. The user of this information does so at their own risk and should not rely upon the information without independent verification as to the accuracy or suitability thereof.



November-22-19
10:59:42 AM

pentiction.ca

Attachment B – Zoning Map of Subject Property



Attachment C – Official Community Plan Map of Subject Property



Attachment D – Images of Subject Property







Attachment E – Letter of Intent

Staff and Council,

I ask today for a variance to allow my deck, located at 1167 (2) King Street, to remain as is.

When the original plans for the carriage house were drawn up, the deck was on the property line.. This was obviously denied.

Plans were then updated to no deck. Just a walk way to get to the door. And this was approved.

Due to scheduling, I did not see the plans before approval. When I did see the new "deck", I was told by my contractor that this could be altered later. No issue.

The deck was built sometime later and as I had asked my contractor to make it bigger he made it bigger. I did not realize proper channels have not been followed.

Since receiving this notice, I have contacted my contractor. He has advised me to apply for a variance but was unwilling to do anything on my behalf.

I contacted Doug Gaidica, a building official with the city of Penticton. explain the situation to Doug and provided him with measurements over the phone. According to him I am far enough from the property line from a building safety point of view. no extra fireproofing or cladding needs to be done if the variance is approved.

There's no structure beside the property. It's a parking lot for the IGA grocery store. Therefore I don't feel this will negatively impact anyone.

With the info provided, I believe I have properly stated my situation and ask that this variance be approved.

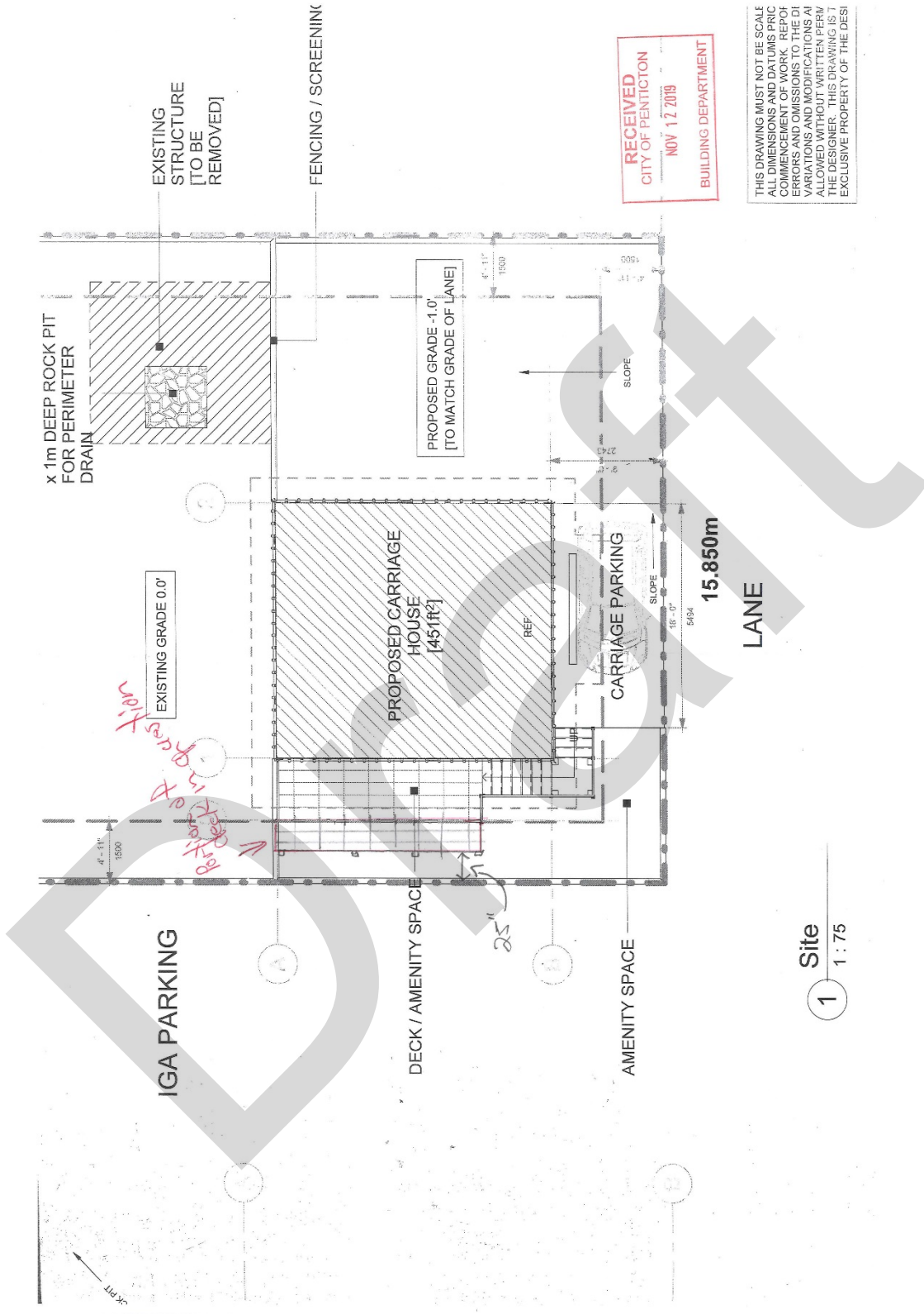
If additional information is requested please call me

Thank you,

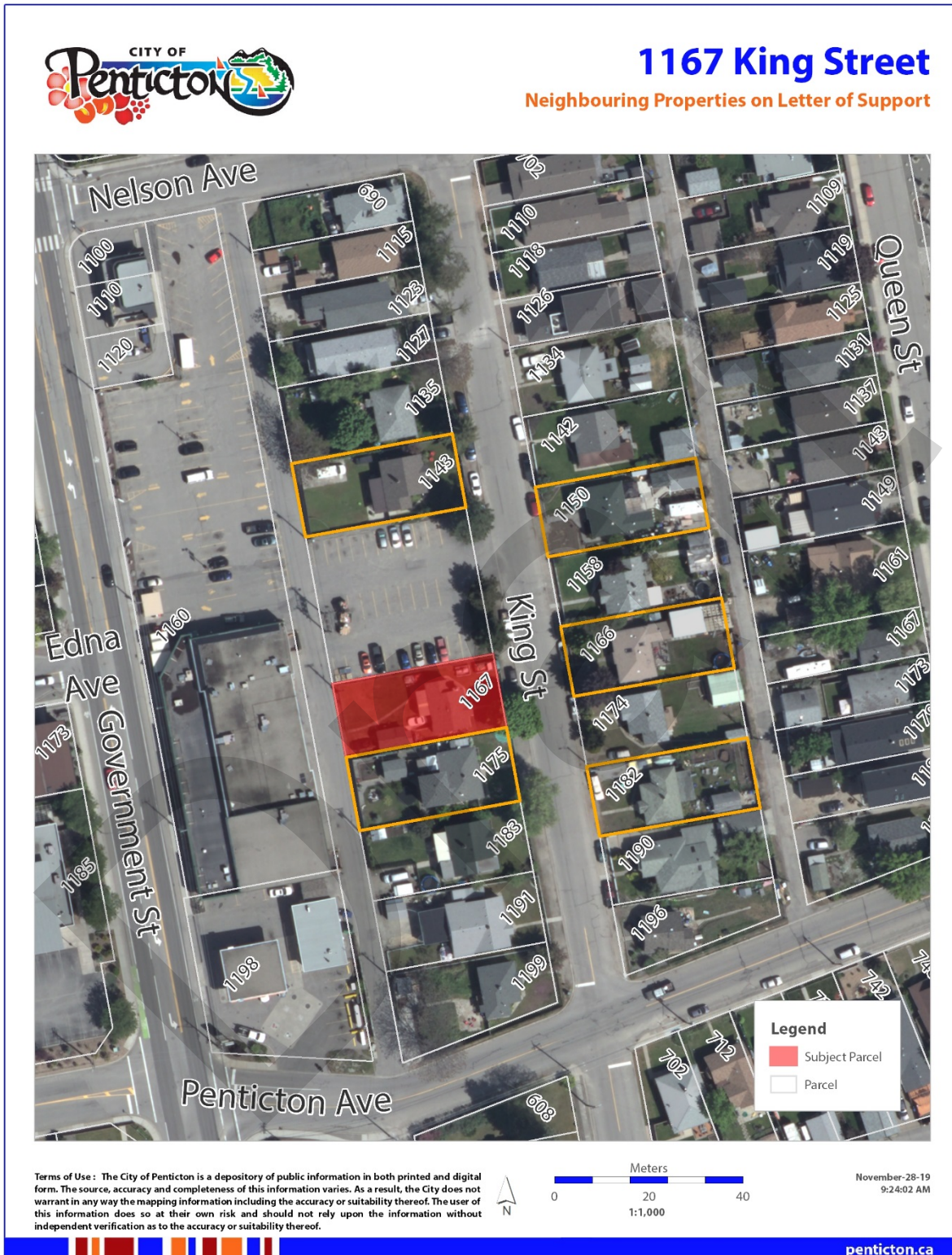
Don Moynes
1167 King street
Penticton, BC

Sent from my iPhone

Attachment F – Site Plan



Attachment G – Map of Neighbouring Properties on Letter of Support



Attachment H – Draft Development Variance Permit



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

Development Variance Permit

Permit Number: DVP PL2019-8644

Owner Name
Owner Address

Conditions of Permit

1. This permit is issued subject to compliance with all of the bylaws of the City, except as specifically varied or supplemented by this Permit.
2. This permit applies to:
Legal: Lot 5 District Lot 250 Similkameen Division Yale District Plan 3827
Civic: 1167 King Street
PID: 007-246-820
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2017-08 to allow for an addition to the principal building:
 - a. Section 8.2.3.4: to reduce the minimum interior side yard setback (north) for a carriage house from 1.5 metres to 0.6 metres

General Conditions

4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule 'A'.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence the development authorized by this permit within 2 years of the date of this permit, this permit shall lapse.
6. **This permit is not a building permit. In order to proceed with this development, the holder of this permit must hold a valid building permit issued by the Building Inspection Department.**
7. This permit does not constitute any other municipal, provincial or federal approval. The holder of this permit is responsible to obtain any additional municipal, federal, or provincial approvals prior to commencing the development authorized by this permit.

8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information on servicing and infrastructure requirements please contact the Development Engineering Department at (250) 490-2501. For more information on electrical servicing costs, please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the ____ day of _____, 2020

Issued this ____ day of _____, 2020

Angela Collison,
Corporate Officer

DRAFT



1 Site
1 : 75