

August 6, 2020

Subject Property:

915 Hull Street

Lot 3, District Lot 249, Similkameen Division Yale District,
Plan 6963

Application:

Development Variance Permit PL2020-8713

The applicant is proposing to subdivide 915 Hull Street into two lots and has requested development variance permit approval to vary Section 6.3.1 of Subdivision and Development Bylaw 2004-81, waiving the requirement to install curb, gutter and sidewalks along both frontages of the property infrastructure and paving the rear lane.



Information:

You can find the staff report to Council and Development Variance Permit PL2020-8713 on the City's website at www.penticton.ca/latestannouncements. Select the Public Notice category.

Please contact the Planning Department at planning@penticton.ca or (250) 490-2501 with any questions.

Council Consideration:

Council will consider the development variance permit at its Regular Council Meeting scheduled for **1:00 pm, Tuesday, August 18, 2020.**

In response to COVID-19, Regular Council meetings will remain closed to the public. All meetings will be live streamed via the City's website at: www.penticton.ca/city-hall/city-council/council-meetings. Select the 'Watch Live' button.

Public Comments:

Any person whose interest may be affected by the proposed development variance permit, may submit a petition or written comments by mail or email no later than **9:30 am, Tuesday, August 18, 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 August 18, 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.

Audrey Tanguay
Planning Manager

Date: August 18, 2020
To: Donny van Dyk, Chief Administrative Officer
From: Audrey Tanguay, Planning Manager
Address: 915 Hull Street
Subject: Development Variance Permit PL2020-8713

File No: RMS/915 Hull Street

Staff Recommendation

THAT Council deny "Development Variance Permit PL2020-8713" for Lot 3, District Lot 249, Similkameen Division Yale District, Plan 6963, located at 915 Hull Street, a permit to vary Section 6.3.1 of Subdivision and Development Bylaw 2004-81, waiving the requirement to install curb, gutter and sidewalk infrastructure and paving the rear lane.

Proposal

The applicant is requesting development variance permit approval to vary Section 6.3.1 of Subdivision and Development Bylaw 2004-81, waiving the requirement to install curb, gutter and sidewalks along both frontages of the property required in order to proceed with a 2 lot subdivision. Additionally, the applicant is requesting not to pave the rear lane. All other off-site requirements would be constructed at the developers cost.

Background

The subject property is located at 915 Hull Street, at the corner of Hull Street and Forestbrook Drive. The property is zoned R1 (Large Lot Residential) and is designated in the Official Community Plan as 'Detached Residential'. The property contains a single family dwelling and an accessory building. The neighbourhood where the property is located features housing of an older building stock, but is seeing some investment in the form of housing renovations and reconstruction. The owner has applied to the City's Approving Officer for subdivision approval and has been given Preliminary Layout Approval (PLA) for a two lot subdivision (Attachment 'E').



As per the City's Subdivision and Development Bylaw, the applicant is responsible for improvements to any portion of the highway that the property fronts to the centre line of the road as a condition of subdivision approval. As part of the two lot subdivision, the developer is responsible for the design of and installation of curb, gutter and sidewalk infrastructure along Forestbrook Drive and Hull Street. The developer is also responsible for road works along Forestbrook Drive and Hull Street to the centre line of both streets as well as paving the lane running behind the property. The off-site frontage improvement works are estimated to be in excess of \$61,450 and are broken down as follows:

- \$18,500 - Forestbrook Drive Sidewalk, Curb & Gutter, Drainage Drywell
- \$27,500 - Hull Street Sidewalk, Rolled Curb
- \$12,500 - Hull Street Road Renewal to Centreline
- \$2,950 – Laneway improvements to Centreline

This amount does not include Development Cost Charges, service connection fees or other non-engineering related subdivision costs. Nevertheless it should be noted that these are typical fees associated with any subdivision in the City. As there are no curb, gutter or sidewalks installed in the immediate area surrounding the subject property, the applicant is requesting that Council waive the requirement to construct these works.

A similar application was presented to Council in 2013 to allow the subdivision to proceed. The subdivision did not get finalized but the development variance permit was supported. The following recommendation was passed by Council on December 16, 2013:

883/2013 It was MOVED and SECONDED

THAT Council approve "Development Variance Permit PL2013-062" for Lot 3, District Lot 249, Similkameen Division Yale District, Plan 6963, located at 915 Hull Street, a permit to waive the requirement to install curb, gutter and sidewalk infrastructure as part of an application to subdivide the property;

AND THAT staff be directed to issue the permit.

CARRIED

Mayor Litke and Councillor Robinson, Opposed

Technical Review

The application was reviewed by the City's Technical Planning Committee. Development Engineering and Planning staff have reviewed the application to waive the curb, gutter and sidewalk requirement and repaving of the lane. Forestbrook Drive is designated as an urban collector and Hull Street is designated as a local urban road. Curb, gutter and sidewalk infrastructure is required as part of the road cross sections for both of these road classifications as per the Subdivision and Development Bylaw.

Analysis

When considering a variance to a City bylaw, staff encourage Council to be mindful as to whether approval of the variance would cause a negative impact on neighbouring properties and if the variance request is

reasonable. Staff have reviewed the requested variance and are recommending that Council deny the Development Variance Permit for the following reasons:

1. The Subdivision and Development Bylaw establishes standards for road widths and amenities such as curb, gutter, sidewalk, street trees etc. As a condition of subdivision, those requirements are necessary especially in areas where new development could occur. The applicant has the option to either build the works to the bylaw standard or enter into an agreement to pay for the works and have the City install them.
2. Waiving the requirement may be seen as unfair, given that other developers have had to install these types of works in the past. If the developer does not install the works, it is likely that the next developer in the area won't either. In other areas of the City where this requirement has been waived before, it provides challenges for future development that may be required to provide a sidewalk.
3. If Council were to vary the requirement to have these works installed, it may fall to the community to have the works installed at a later date – through a capital works program out of the general revenue fund.

Given the reasons above, staff are recommending that Council deny "Development Variance Permit PL2020-8713". If Council follows staff's recommendation, the developer can still develop the lot.

Alternate Recommendation

The applicant has submitted a letter that outlines the reasons that a variance may be warranted (Attachment C). The letter identifies the following arguments:

- Council has previously supported the same variance in 2013.
- The area where the property is located is designated as single detached residential and the majority of the recent development include the addition of carriage houses and renovation to existing homes. The neighbourhood surrounding the subject property has limited development potential at this time, thus the probability of another developer finishing the sidewalk is not realistic.
- Not any of the adjoining streets have curb, gutter or sidewalk infrastructure, so it does not make sense to install the infrastructure in this case. The sidewalks in particular would not connect to other sidewalks unless the City were to make an investment to make the connection.
- The requirement to install the sidewalks constitutes a significant cost to the developer, which will be passed on to a future purchaser of the property affecting the affordability of the lot.

In addition to the reasons listed by the applicant, Council may feel that it is unreasonable to make the developer install the frontage infrastructure in this circumstance. If that is the case, Council should support the application and direct staff to issue the permit waiving the upgrade requirement.

Alternatively Council may wish to waive only the Hull Street frontage improvement, but still make the developer install the sidewalk curb and gutter works on Forestbrook Drive. This would address the difference

in the pedestrian traffic on the two streets. Forestbrook Drive can be incorporated into a sidewalk system linking pedestrians from the Penticton Creek walkway to the stairs heading north and the Penticton Creek Bridge heading south. While Hull Street is considered a minor street, it is not likely to see significant pedestrian traffic.

Alternate recommendations

1. THAT Council approve "Development Variance Permit PL2020-8713".
2. THAT the application to waive the requirement to construct infrastructure works along Hull Street be supported, but that the upgrades still be required along Forestbrook Drive.

Attachments

Attachment A – Zoning Map

Attachment B – Official Community Plan Map

Attachment C – Letter of Intent

Attachment D – Photos of Subject Property

Attachment E – Subdivision Plan

Attachment F – Draft "Development Variance Permit PL2020-8713"

Respectfully submitted,

Audrey Tanguay
Planning Manager

Michael Hodges
Development Infrastructure Manager

Concurrence

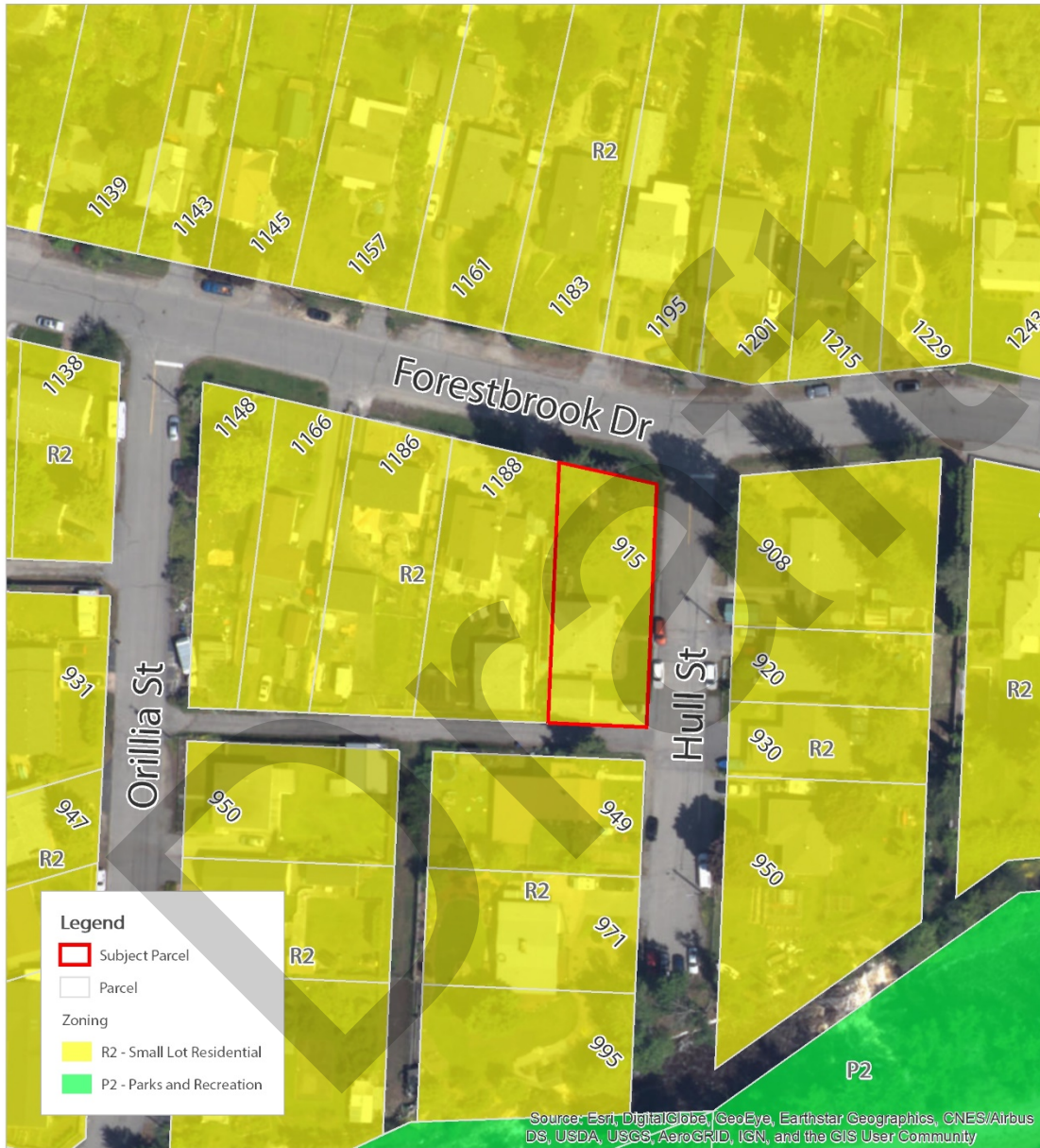
Deputy Director DS KK	Chief Administrative Officer
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Attachment A – Zoning Map



915 Hull Street

Zoning 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.



August 5, 2020
9:23:38 AM

penticton.ca

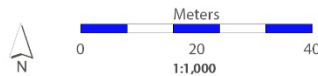


915 Hull Street

Official Community Plan Map



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August 5, 2020
9:24:13 AM

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Attachment C – Letter of Intent

May 19 2020

Letter of Intent 915 Hull street

To whom it may concern

I would like to subdivide 915 Hull street, and create a small residential lot on the corner of Forestbrook drive and Hull street. I am requesting a variance in the requirement to install sidewalk, curb, and gutters on Hull street and Forestbrook drive. There are no sidewalks in the surrounding neighbourhood, the closest being 3 blocks away. This variance was approved 6 years ago for the previous owner, and there has been no change to the surrounding neighbourhood since the previous approval.

I am also requesting a variance in the requirement to repave one-half the width of Hull street, and one-half the width of the lane along the south boundary. Hull street is a dead-end street with only 3 houses on my side. I don't see the need to repave Hull street, and no reason was given why this is necessary. The lane serves no purpose to 915 Hull, the driveway is accessed from Hull street, and there is no vehicle access from the lane. Again, no reason was given why this is necessary. The proposed new lot will be on the corner of Hull street and Forestbrook drive and will not border the lane.

Given the current economic reality, I cannot justify the added cost of 210 feet of sidewalk, curb and gutters, repaving a dead-end street, and an alley I don't use. I hope council can see the merit of my variance request.

Thank you for your time, and consideration

Rick Allercott

Attachment D – Photos of Subject Property

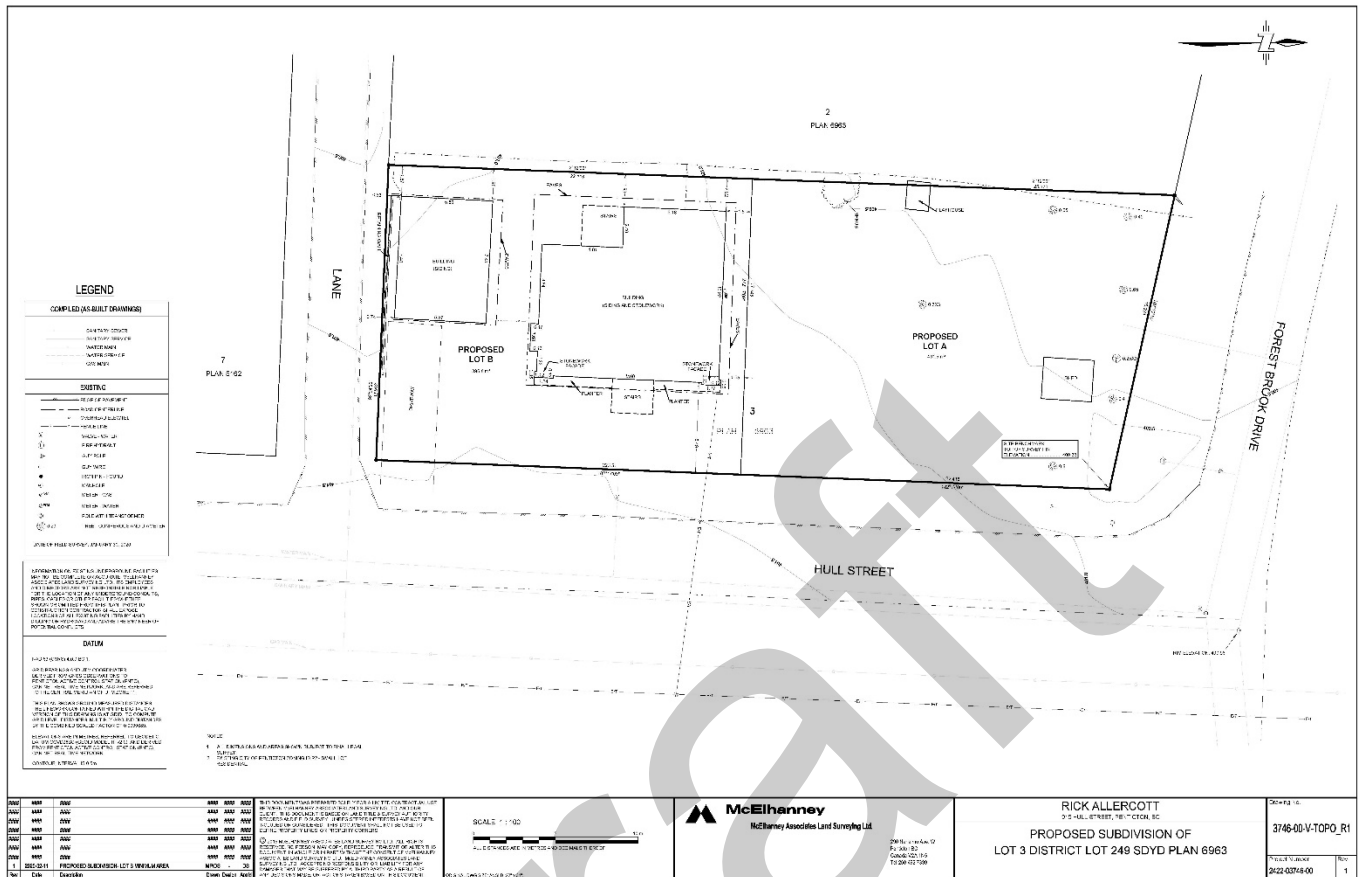


Front of subject property (taken from Hull Street)



Fronting Forestbrook Drive

Attachment E – Subdivision Plan





Development Variance Permit

Permit Number: DVP PL2020-8713

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 3, District Lot 249, Similkameen Division Yale District, Plan 6963
 - Civic: 915 Hull Street
 - PID: 010-062-912
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following section of Subdivision and Development Bylaw 2004-81 to allow for a 2 lot subdivision, as shown in the plans attached in Schedule 'A':
 - a. Section 6.3.1 of Subdivision and Development Bylaw 2004-81, waiving the requirement to install curb, gutter and sidewalks along both frontages (Hull Street and Forestbrook Drive) and paving of the rear lane.

General Conditions

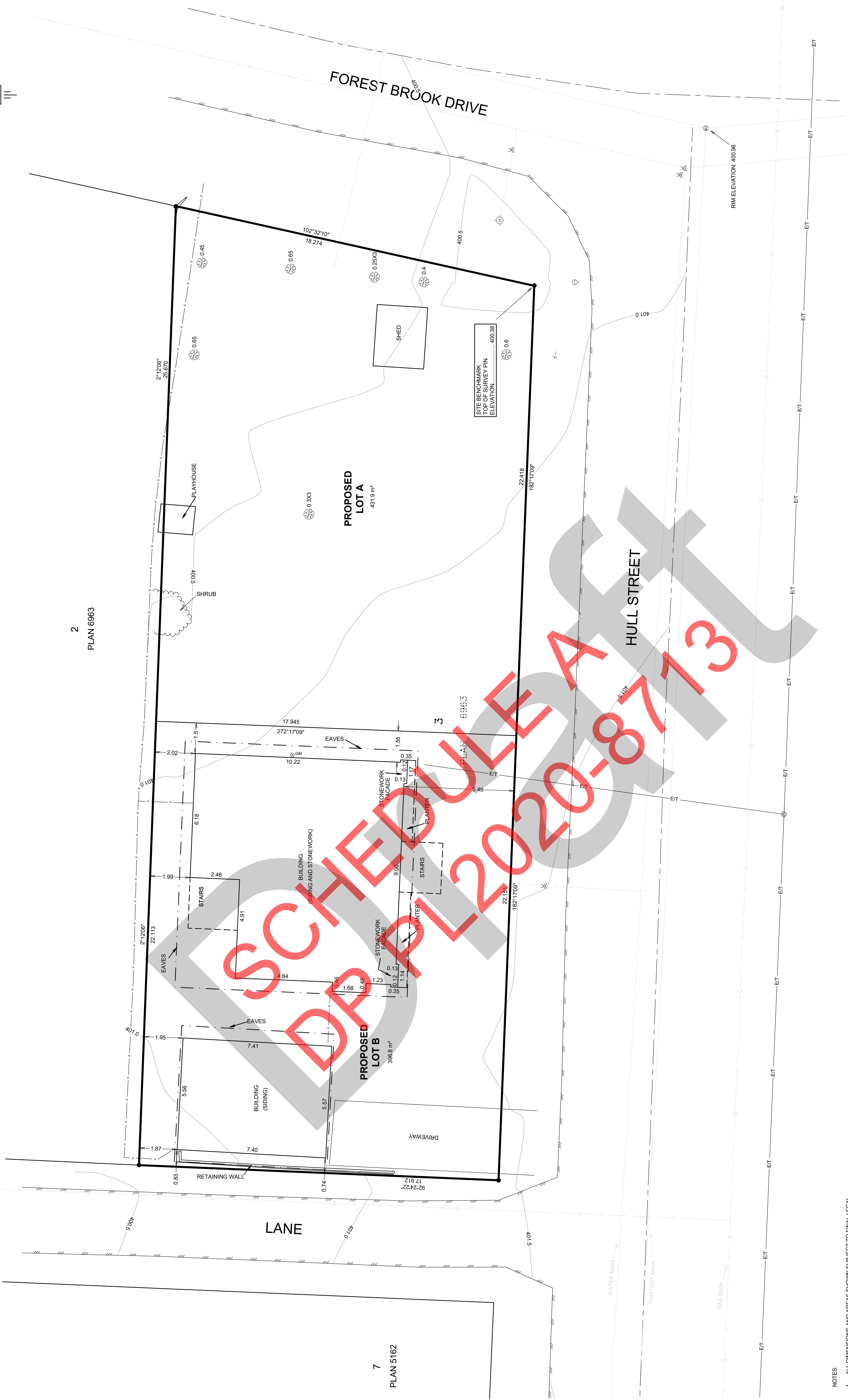
4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule 'A'.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence 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



COMPILED (AS-BUILT DRAWINGS)	SANITARY SEWER SANITARY SERVICE WATER MAIN WATER SERVICE GAS MAIN
EXISTING	EDGE OF PAVEMENT ROAD CENTERLINE OVERHEAD ELECTRIC FENCE LINE VALVE - WATER FIRE HYDRANT GUY POLE GUY WIRE IRON PIN - FOUN MANHOLE METER - GAS METER - WATER POLE WITH TRANSFORMER TREE - CONIFEROUS AND DIAMETER 0.20
DATE OF FIELD SURVEY - JANUARY 30, 2020.	

INFORMATION ON EXISTING UNDERGROUND FACILITIES MAY NOT BE COMPLETE OR ACCURATE. MEL HANNEY ASSOCIATES LAND SURVEYING LTD., ITS EMPLOYEES AND DIRECTORS ARE NOT RESPONSIBLE NOR LIABLE FOR THE LOCATION OF ANY UNDERGROUND CONDUITS, PIPES, CABLES OR OTHER FACILITIES WHETHER SHOWN OR OMITTED FROM THIS PLAN. PRIOR TO CONSTRUCTION CONTRACTOR SHALL EXPOSE LOCATIONS OF ALL EXISTING FACILITIES BY HAND DIGGING OR HYDROVAC AND ADVISE THE ENGINEER OF POTENTIAL CONFLICTS.

DATUM	NAD 83 (CSRS) 4.0 ± 0.6 C. GRID BEARINGS AND UTM COORDINATES DERIVED FROM GNSS OBSERVATIONS TO THE CONTROL STATION (PNTC). CAN-NEAT REAL TIME NETWORK AND ARE REFERRED TO THE CENTRAL MERIDIAN OF UTM ZONE 11. THIS PLAN SHOWS GROUND MEASURED DISTANCES, THE NETWORK CONTAINED WITHIN THE DIGITAL GROUND VERSION OF THIS DISTANCE IS AT GRID. TO COMPUTE GRID LEVEL DISTANCES MULTIPLY GRID DISTANCES BY THE COMBINED SCALE FACTOR OF 0.9999580. ELEVATIONS ARE IN METRES, REFERRED TO GEODETIC DATUM CGD2089C (GEOD MODEL HTX2.0), AND DERIVED FROM PREDICTION OF THE CONTROL STATION (PNTC). CAN-NEAT REAL TIME NETWORK. COUNTOUT INTERVAL IS 0.5m.
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NOTES:

1. ALL DIMENSIONS AND AREAS SHOWN SUBJECT TO FINAL LEGAL SURVEY.
2. EXISTING CITY OF PENTICTON ZONING IS R2 - SMALL LOT RESIDENTIAL.

Rev	Date	Description	Rev	Date	Description
1	2020-02-11	PROPOSED SUBDIVISION- LOT B MINIMUM AREA	MP/D'S	-	Drawn
					App'd

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McElhanney Associates Land Surveying Ltd.

290 Nanaimo Ave. W
Penticton BC
Canada V2A 1N5
Tel 250 492 7399

RICK ALLERCOTT
915 HULL STREET, PENTICTON, BC

PROPOSED SUBDIVISION OF
LOT 3 DISTRICT LOT 249 SDYD PLAN 6963

Drawing No.

3746-00-V-TOP0 R1

Project Number
2422-03746-00