

August 20, 2020

Subject Property:

585 Rene Avenue

Lot 14, District Lot 2, Group 7, Similkameen
Division Yale (Formerly Yale Lytton) District, Plan
1035

Application:

Development Variance Permit PL2020-8786

The applicant is proposing to legalize an existing building that is currently being used as a carriage house and has requested to vary the following sections of Zoning Bylaw 2017-08:

Subject Property



1. Section 8.2.3.1: to reduce the minimum lot area required for a carriage house from 370m² to 281m².
2. Section 8.2.3.4: to reduce the minimum interior side yard setback for a carriage house from 1.5m to 0m.
3. Section 8.2.3.4: to reduce the minimum rear yard setback for a carriage house from 1.5m to 0m.
4. Section 8.2.4.1: to reduce the minimum additional parking spaces for a carriage house from 1 to 0.
5. Section 10.2.6.3: to increase the overall permitted lot coverage from 40% to 56%.

Information:

You can find the staff report to Council and Development Variance Permit PL2020-8786 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, September 1, 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, September 1, 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 September 1, 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: September 1, 2020
To: Donny van Dyk, Chief Administrative Officer
From: Steven Collyer, Planner 1
Address: 585 Rene Avenue
Subject: Development Variance Permit PL2020-8786

File No: RMS/585 Rene Avenue

Staff Recommendation

THAT Council deny "Development Variance Permit PL2020-8786" for Lot 14 District Lot 2 Group 7 Similkameen Division Yale (Formerly Yale-Lytton) District Plan 1035, located at 585 Rene Avenue, a permit to vary the following sections of Zoning Bylaw No. 2017-08 in order to legalize an existing building used as a carriage house:

- Section 8.2.3.1: to reduce the minimum lot area from 370m² to 281m²;
- Section 8.2.3.4: to reduce the minimum interior side yard setback from 1.5m to 0m;
- Section 8.2.3.4: to reduce the minimum rear yard setback from 1.5m to 0m;
- Section 8.2.4.1: to reduce the minimum number of required parking spaces from 1 to 0; and
- Section 10.2.6.3: to increase the maximum lot coverage from 40% to 56%.

Strategic Priority Objective

Community Vitality: The City of Penticton, guided by the Official Community Plan, will promote the economic wellbeing and vitality of the community.

Proposal

The applicant is proposing to legalize an existing building that is currently being used as a carriage house. In order to legalize the use and building, a number of Zoning Bylaw requirements for a carriage house need to be varied. The requested variances are to Section 8.2.3.1 to reduce the



Figure 1 - Location Map

minimum lot area from 370m² to 281m²; Section 8.2.3.4 to reduce the minimum interior side yard setback from 1.5m to 0m; Section 8.2.3.4 to reduce the minimum rear yard setback from 1.5m to 0m; Section 8.2.4.1 to reduce the minimum number of required parking spaces from 1 to 0; and Section 10.2.6.3 to increase the maximum lot coverage from 40% to 56%.

Background

The subject property is located on the north side of Rene Avenue near Maple Street (Figure 1). The property is located in a residential neighbourhood primarily consisting of single detached dwellings and duplexes, with some multifamily uses further north and south. The property is zoned RD2 (Duplex Housing: Lane) and is designated Infill Residential by the Official Community Plan (OCP).

The subject property contains a single detached dwelling and an accessory structure in the rear yard which has a history of being used as a dwelling unit. The City has no record of any permit for this accessory building. The City's Bylaw Enforcement Department sent a letter to a previous property owner in 2006 in regards to the unpermitted dwelling unit in the backyard structure. The property owner at the time submitted an application to decommission the building as a dwelling unit, but the permit and decommissioning were never completed. Recently, through review of outstanding enforcement files, a letter was sent to the current property owner by the Licensing and Property Use Inspector to have the building legalized as a carriage house, or to have the building demolished.

Technical Review

This application was reviewed by the City's Technical Planning Committee (TPC). Comments related to requirements for the future development permit and building permit applications were provided to the applicant. These are the next steps for the applicant to obtain the required approvals to use the building as a carriage house. The Building Department outlined the life safety elements that would need to be reviewed at the building permit stage, prior to any final occupancy permits being issued.

Development Statistics

The following table outlines how the proposed development meets the applicable Zoning Bylaw regulations:

	Carriage House Requirement (Section 8.2)	Provided on Plans
Minimum Lot Area:	370 m ²	281 m ² – Variance Requested
Maximum Building Footprint:	42.2 m ² (15% of lot area)	39 m ²
Maximum Lot Coverage (carriage house):	15%	13.8%
Maximum Lot Coverage (total)	40% (RD2 zone)	56% - Variance Requested
Maximum Building Height:	7 m	3.76 m
Siting:	Rear Yard	Rear Yard
Amenity Space:	15 m ² (each for carriage house and single family dwelling)	15 m ² deck

Carriage House Floor Area:	135 m ²	39 m ²
Privacy Windows:	Within 1.5 m	Existing north, east and west facing windows to be privacy screened through Development Permit
Required Setbacks Front Yard (Rene Avenue): Side Yard (west): Side Yard (east): Rear Yard (lane):	Rear Yard 1.5 m 1.5 m 1.5 m	Rear Yard 0m – Variance Requested 0m – Variance Requested 0m – Variance Requested
Additional On-Site Parking Space	1 space for the carriage house	0 – Variance Requested

Analysis

When considering a variance to a City bylaw, staff encourages Council to consider if approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable.

Carriage houses provide additional housing stock in the City and represent a moderate way to increase the density in established neighbourhoods. The OCP recognizes the importance of well-designed carriage houses:

OCP Policy 4.1.3.2 Increase housing options in low-density single family areas through development of secondary suites and carriage houses, and ensure carriage houses are sensitively integrated and designed according to the Intensive Residential Development Permit Area Guidelines.

The applicant has requested the following variances from the Zoning Bylaw regulations:

- Section 8.2.3.1: to reduce the minimum lot area from 370m² to 281m²;
- Section 8.2.3.4: to reduce the minimum interior side yard setback from 1.5m to 0m;
- Section 8.2.3.4: to reduce the minimum rear yard setback from 1.5m to 0m;
- Section 8.2.4.1: to reduce the minimum number of required parking spaces from 1 to 0; and
- Section 10.2.6.3: to increase the maximum lot coverage from 40% to 56%.

Staff have reviewed the requested variances required to proceed with legalizing the structure as a carriage house and are recommending that Council deny the Development Variance Permit for the following reasons:

1. The proposed carriage house does not meet the applicable Development Permit Area guidelines.

The OCP was adopted by Council in 2019 and requires development permit approval prior to obtaining building permits for carriage houses, whether it is a conversion of an existing building or new construction. This new process was put in place to address concerns regarding carriage house being constructed that do not fit their neighbourhood context. Neighbours raised concerns that many carriage houses were not well-designed to respect adjacent properties, maintain privacy, and provide quality design. The Intensive Residential Development Permit Area guidelines were

introduced in the new OCP to address these concerns, and since the new OCP has been adopted they have been used to guide a number of recent carriage house developments.

OCP design guidelines not met with this proposal:

- Guideline IR4 Scale – accessory buildings (garages, storage sheds, covered patios/decks, greenhouses) and accessory dwelling units(carriage houses) shall be modest in scale:
- Floor area and coverage – accessory dwellings and buildings shall be no more than 60% of the floor area of the principal building and no more than 15% coverage of the lot.
 - Height – detached covered accessory dwellings and structures must not exceed the height of the principle building.
 - Fit – accessory buildings and dwellings should follow considerations for site and neighbourhood fit.
 - Frontages – buildings that face the lane or side street should address them in a positive way. This should include windows and doors facing the lane, planters, trellises and planted strips.
 - Style – exterior finish and trim should visually match the primary structure.
 - Roof pitch – should be the same as the predominant roof pitch of the primary structure.
- Guideline IR8 Parking – one additional off-street parking space shall be provided per carriage house. The parking space may be integrated in ground floor, a carport, or an off-street surface lot.

2. The intent of the Zoning Bylaw is not maintained through this proposal.

The intent of the regulations in Section 8.2 of the Zoning Bylaw is to ensure that new carriage houses are compatible with the surrounding residential neighbourhood, whether they are converted buildings or new construction. Carriage houses are often constructed in established neighbourhoods which are more sensitive to new construction than new subdivisions or rural areas. The minimum requirements for lot area and building setbacks help ensure that a carriage house does not impose on neighbours and is kept within an appropriate scale for the lot. The requirement for an on-site parking space is to avoid tenants needing to rely on street parking. The Zoning Bylaw recognizes non-complying side and rear setbacks if a permitted accessory building is being converted to a carriage house, however this accessory building was not constructed with permits. Although the unpermitted building has existed as a dwelling unit for many years, staff do not consider that the proposed conversion meets the intent of the Zoning Bylaw regulations for carriage houses due to the number of variances being requested.

3. Approval of the requested variances would set an undesirable precedence for future carriage houses.

While each development variance permit application is reviewed with consideration to its unique site-specific circumstances, staff are wary of supporting the five requested variances for an existing building being converted into a carriage house. The opportunity for perceived precedence is a

concern considering that the requested variances do not maintain the intent of the OCP or Zoning Bylaw, as outlined in the points above. There are likely many unpermitted dwelling units throughout the City that are being reviewed through enforcement. This would set the precedent for those as well.

Staff consider that the proposed conversion of the unpermitted building into a carriage house does not meet the intent of the OCP or the Zoning Bylaw regulations, and could set a precedence for future applications for carriage houses on lots not large enough to accommodate them. Given the reasons above, staff are recommending that Council deny "Development Variance Permit PL2020-8786".

If this application is denied, the applicant will have the option to decommission the building as a dwelling unit and legalize it as an accessory structure. If the applicant chooses this option, it is likely another variance request will come before Council for setbacks and lot coverage. The applicant may choose to demolish the building if their request is denied. If this action is taken the applicant will have the opportunity to construct a new building which meets the Zoning Bylaw regulations.

Alternate Recommendation

Council may consider the requested variances are appropriate in this instance in order to legalize a building which has been used as a dwelling unit for many years. If this is the case, Council should approve the Development Variance Permit. If this decision is made, the applicant will continue to work with City staff to obtain further required approvals; a development permit and building permit, in order to complete the legalization of the building as a carriage house.

1. THAT Council approve "Development Variance Permit PL2020-8786".

Attachments

Attachment A – Zoning Map of Subject Property
Attachment B – Official Community Plan Map of Subject Property
Attachment C – Images of Subject Property
Attachment D – Letter of Intent
Attachment E – Neighbour Letter of Support (d'Aoust)
Attachment F – Draft Development Variance Permit PL2020-8786

Respectfully submitted,

Steven Collyer, RPP, MCIP
Planner 1

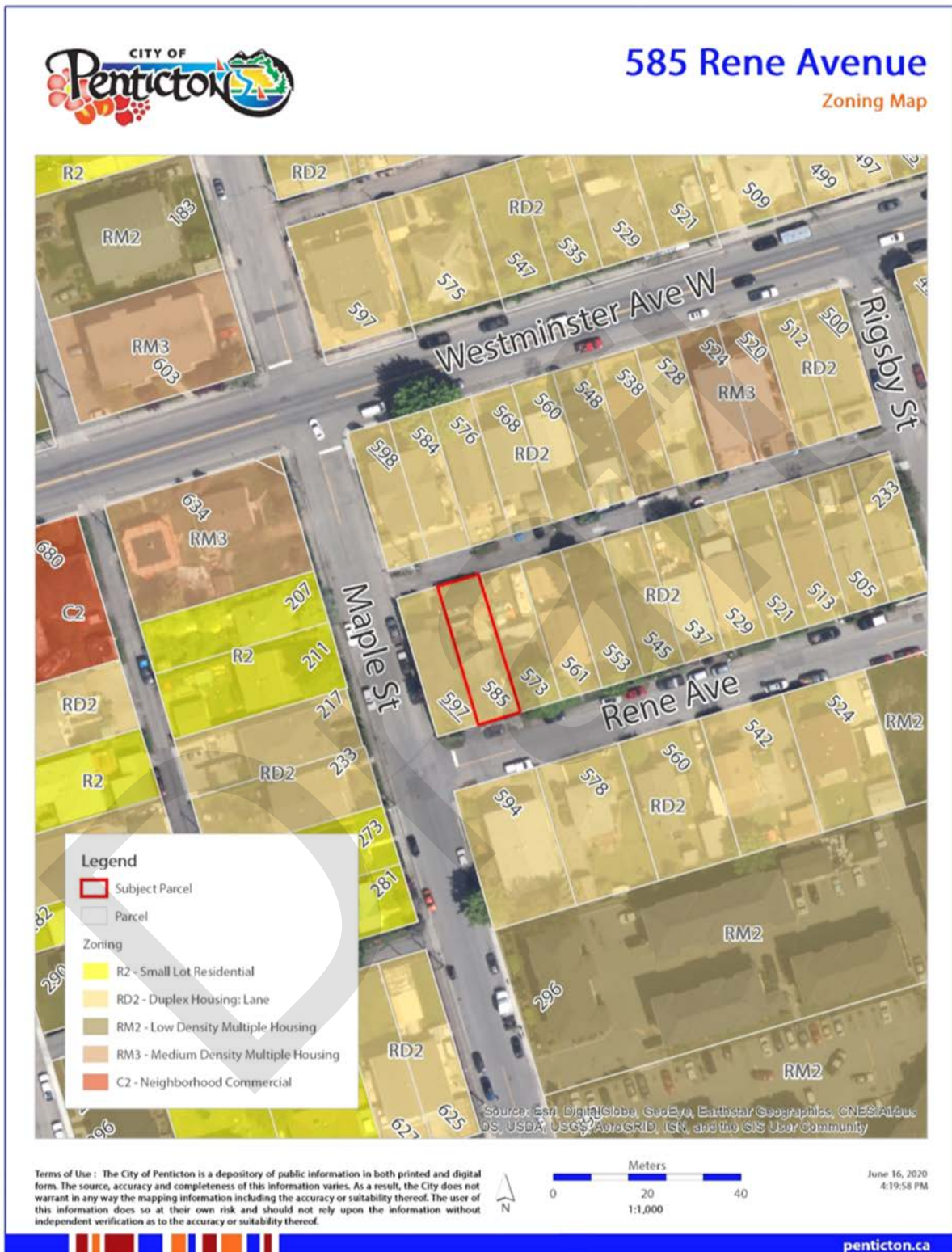
Concurrence

Director	Chief Administrative Officer
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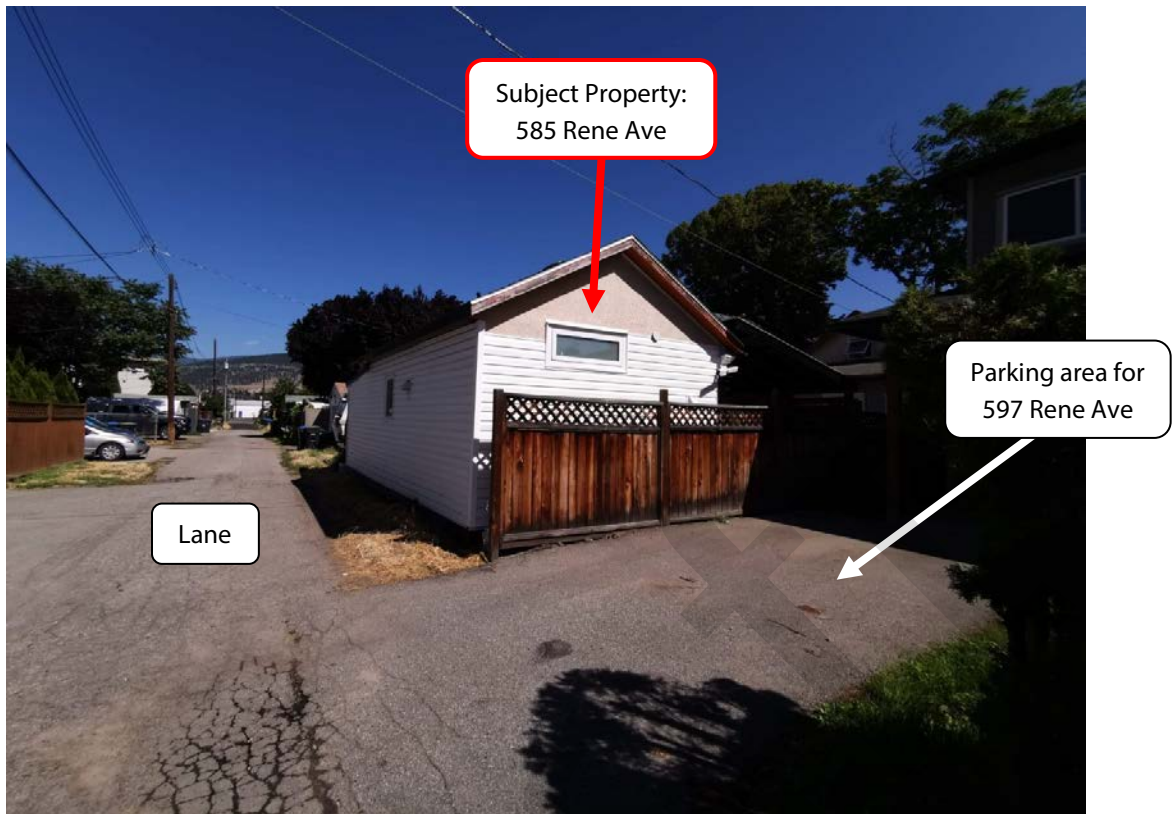
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Attachment A – Zoning Map of Subject Property





Attachment C – Images of Subject Property





Letter of Intent

585 Rene Avenue
Penticton BC V2A 1P1

June 5, 2020

Steven Collyer
City Planner
City of Penticton
171 Main Street
Penticton, BC V2A 5A9

Re: CFS 175749

To Whom It May Concern,

This letter is my written intent to apply to the City of Penticton for variance permit of the secondary suite currently existing on my property.

I was notified in April 2020 by the City of Penticton that it would be necessary to apply for variance to bring the building into compliance. I purchased the property in June 2016 at which time the subject property had a fully functional self contained suite/carriage house. The suite was equipped with it's own 100 amp service, plumbing, electrical, fully functional 4 piece bathroom and kitchen

I purchased the property with the secondary suite as an asset of the property and until now was never informed that the building was non-conforming. Although these accommodations are modest in size, it affords me an essential revenue to afford the property. After meeting with City Inspectors it was brought to my attention that in 2006 the City of Penticton issued a deconstruction permit regarding this secondary suite. I was told that this permit to this day remains open, and that the City of Penticton failed to follow up with the scope of the issued permit. It is my understanding that this property has changed ownership several times since this permit was issued in 2006.

I understand that today's standards and codes, there may be compliance issues. However, it is my understanding that this building has been a secondary suite for many years (30+ years) I believe there will be very little impact to the neighbourhood as this suite is already existing. The City of Penticton has a less than 1% vacancy rate, I feel losing a well maintained, rental suite would be a detriment to the city as well as local renters.

I respectfully ask that the city of Penticton issues the necessary variance for the subject property to become compliant based on this existing chattel that has been on this property for many years.

Sincerely,

Tony Jacyna
[Redacted Signature]

Attachment E – Neighbour Letter of Support (d'Aoust)

May 12, 2020

Re: 585 Rene Ave, Penticton

To whom it may concern,

Our names are Paul and Arianne d'Aoust. We were contacted by our neighbour Tony Jacyna regarding his property on 585 Rene Ave, Penticton, BC. We are the owners of the neighbouring property to the west, at 597 Rene Ave.

Tony informed us that he was applying for a city variance for the existing secondary suite on this property. We have no issues with this existing carriage house remaining on his property and we support Tony with his applications for the carriage house variance.

If you have any questions, or wish to discuss details further, please do not hesitate to contact us at [REDACTED]

Regards,


Paul d'Aoust


Arianne d'Aoust

Development Variance Permit

Permit Number: DVP PL2020-8786

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 14 District Lot 2 Group 7 Similkameen Division Yale (Formerly Yale Lytton)
District Plan 1035
 - Civic: 585 Rene Avenue
 - PID: 010-131-361
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 the conversion of an existing building into a carriage house, as shown in the plans attached in Schedule 'A':
 - a. Section 8.2.3.1: to reduce the minimum lot area from 370m² to 281m².
 - b. Section 8.2.3.4: to reduce the minimum interior side yard setback from 1.5m to 0m.
 - c. Section 8.2.3.4: to reduce the minimum rear yard setback from 1.5m to 0m.
 - d. Section 8.2.4.1: to reduce the minimum additional parking spaces from 1 to 0.
 - e. Section 10.2.6.3: to increase the permitted lot coverage from 40% to 56%.

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

BRITISH COLUMBIA LAND SURVEYOR'S CERTIFICATE OF LOCATION ON
LOT 14, DL 2, Gp 7, SDYD, PLAN 1035

CIVIC ADDRESS: 585 RENE AVENUE, PENTICTON, B.C.
PID: 010-131-361



THIS CERTIFICATE IS BASED ON LAND TITLE AND SURVEY AUTHORITY RECORDS AND A FIELD SURVEY. UNREGISTERED INTERESTS HAVE NOT BEEN CONSIDERED.

LOCATIONS OF THE STRUCTURE CERTIFIED CORRECT ACCORDING TO A FIELD SURVEY COMPLETED THIS 13th DAY OF MAY, 2020.

ROSS MANDEVILLE
BRITISH COLUMBIA LAND SURVEYOR
THIS DOCUMENT IS NOT VALID UNLESS ORIGINALLY SIGNED IN RED AND BEARING THE ORIGINAL SEAL

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FILE: 20-067 DWG: 20-067

Sketch

