

November 4, 2020

**Subject Property:**  
**665 Westminster Ave E**

Lot C, District Lot 202, Similkameen Division  
Yale District, Plan 39999

**Applications:**  
**Rezone PL2020-8781**  
**Development Variance Permit PL2020-8782**

The applicant is proposing to rezone a portion of the subject property from R1 (Large Lot Residential) to RM1 (Bareland Strata Housing) (Figure 1 on Page 2) to facilitate a future 8-lot bareland strata subdivision accessed from Oliver Place. The proposed zoning would prohibit townhouses and duplexes. The remainder of the property will remain zoned R1 (Large Lot Residential) and is intended to be subdivided into 3 lots (non-strata), each with access from Westminster Avenue East.



As the proposed Oliver Place road improvements cannot meet the Subdivision and Development Bylaw standards for K-value (vertical curve), the applicant has also applied to vary the following section of Subdivision and Development Bylaw 2004-81 to allow for the redevelopment of Oliver Place as part of a proposed subdivision:

- Table 3.0: to reduce the minimum road vertical curve on Oliver Place from a K value of 6 to 4.

## Information:

You can find the staff report to Council, Zoning Amendment Bylaw 2020-46, and Development Variance Permit PL2020-8782 on the City's website at [www.penticton.ca/latestannouncements](http://www.penticton.ca/latestannouncements). Select the Public Notice category.

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

## Council Consideration:

A Public Hearing has been scheduled for **6:30 pm, Monday, November 16, 2020** at the Penticton Trade & Convention Centre (273 Power Street, Penticton).

All meetings will be live streamed via the City's website at: [www.penticton.ca/city-hall/city-council/council-meetings](http://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 bylaw:

1. May appear in person (adapted to comply with physical distancing requirements);
2. May telephone the evening of the Public Hearing. Contact the Corporate Officer at 250-490-2410 before 9:30 am, Monday, November 16, 2020 to register and receive the dial in number and participation instructions; or
3. Submit written comments by mail or email no later than 9:30 am, Monday, November 16, 2020 to

Attention: Corporate Officer, City of Penticton

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

Email: [publichearings@penticton.ca](mailto:publichearings@penticton.ca)

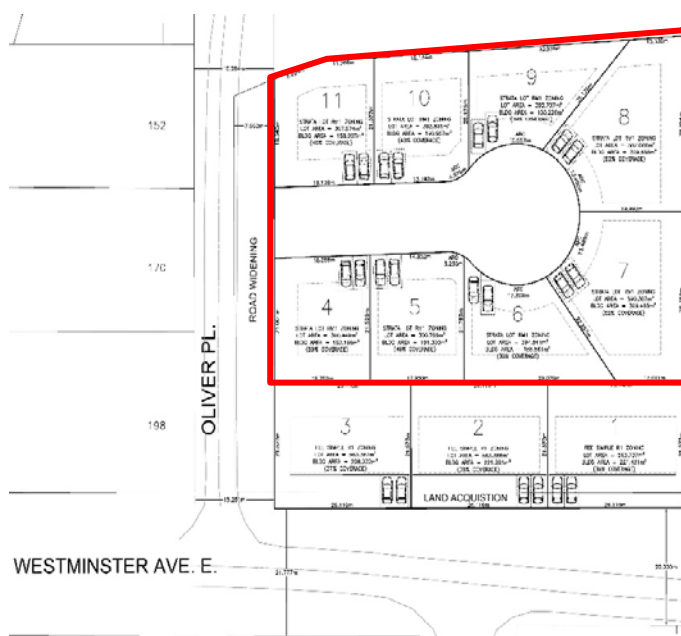
For more information on Public Hearings during Covid-19, please go to [www.penticton.ca/publichearings](http://www.penticton.ca/publichearings).

No letter, report or representation from the public will be received by Council after the conclusion of the November 16, 2020 Public Hearing.

**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

Figure 1  
Proposed RM1 zone with site-specific provisions (heavy outline)





# Council Report

penticton.ca

**Date:** November 3, 2020 **File No:** RMS/665 Westminster Avenue East  
**To:** Donny van Dyk, Chief Administrative Officer  
**From:** Steven Collyer, Planner 1  
**Address:** 665 Westminister Avenue East

**Subject:** Zoning Amendment Bylaw No. 2020-46 and Development Variance Permit PL2020-8782

## Staff Recommendation

THAT Council give first reading to "Zoning Amendment Bylaw No. 2020-46", a bylaw to rezone a portion of Lot C District Lot 202 Similkameen Division Yale District Plan 39999, located at 665 Westminister Avenue East, as shown in Figure 1, from R1 (Large Lot Residential) to RM1 (Bareland Strata Housing) with the following site-specific provisions:

- Notwithstanding Section 10.7.1.4, duplexes are not permitted.
- Notwithstanding Section 10.7.1.7, townhouses are not permitted.

AND THAT Council direct staff to prepare a Land Exchange Agreement for the proposed road dedications along Oliver Place and Westminister Avenue East (as shown in Figure 3).

AND THAT Council, in accordance with Section 507 of the *Local Government Act*, require the following excess and extended services:

- Full construction of road, curb, gutter and sidewalk across the full width of Oliver Place along the frontage of 665 Westminister Avenue East, to create a more complete section of infrastructure.

AND THAT Council, subject to adoption of "Zoning Amendment Bylaw No. 2020-46", consider Development Variance Permit PL2020-8782 to reduce the minimum road vertical curve on Oliver Place from a K-value of 6 to 4;

AND THAT Council forward "Zoning Amendment Bylaw No. 2020-46" to the November 16, 2020 Public Hearing at the Penticton Trade and Convention Centre at 6:30 p.m.

## 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 rezone a portion of the subject property from R1 (Large Lot Residential) to RM1 (Bareland Strata Housing) (Figure 1). The proposed rezoning is to facilitate a future 8-lot bareland strata subdivision accessed from Oliver Place (Attachment 'E'). The remainder of the property will remain zoned R1 (Large Lot Residential) and eventually be subdivided into 3 lots (non-strata), each with access from Westminster Avenue East. The applicant has also applied for a Development Variance Permit to amend the K-value (vertical curve) of Oliver Place, as the proposed road improvements cannot meet the Subdivision and Development Bylaw standards for K-value (vertical curve) due to the grading of the road.

## Background

The subject property is located at the corner of Westminster Avenue East and Oliver Place (Figure 2). The property is 6,394m<sup>2</sup> (1.58 acres) in size and is currently vacant. Surrounding land uses are residential, consisting primarily of single detached dwellings. A multifamily townhouse development near the subject property located off Cambie Place (Attachment 'A'). Oliver Place was dedicated as a road in 2019 as a result of a 3-lot subdivision to the northwest.

The subject property is currently zoned R1 (Large Lot Residential) and is designated 'Detached Residential' by the Official Community Plan (OCP).

Should the rezoning and development variance permit be approved, the applicant will be required to submit a subdivision application to create the lots as proposed. A number of works will be required as conditions of subdivision, and are discussed further in this report.

## Financial Implication

The developer will be responsible for all associated costs with the proposed development, including the road dedications, road reconstruction, and servicing.

## Technical Review

This application was reviewed by the City's Technical Planning Committee. Staff worked with the applicant to maintain the proposed lots off Westminster Avenue East as freehold. With these lots not being included in the proposed strata, it allows the three lots to have individual water and sanitary sewer connections. This is

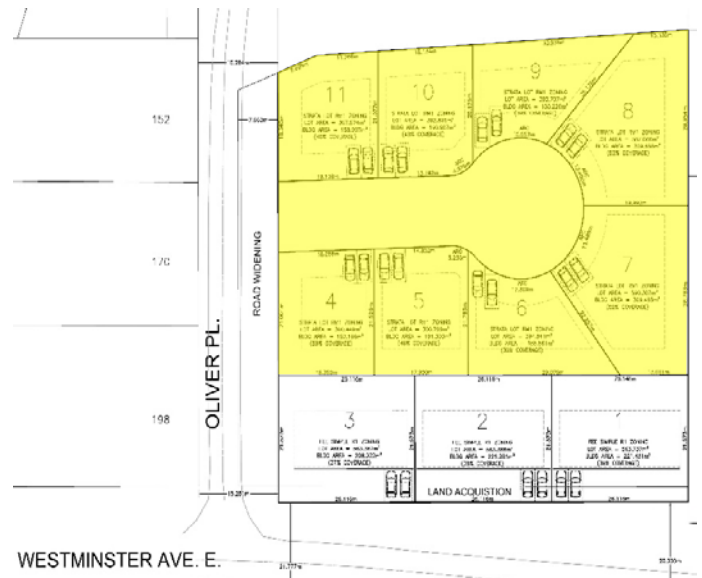


Figure 1 – Proposed RM1 zone with site-specific provisions (yellow).



Figure 2 - Property Location Map

beneficial as their grade is higher in elevation than the proposed strata. In addition, staff discussed the requirements for a land exchange agreement and excess and extended service, as outlined below.

### *Land Exchange Agreement*

Staff are recommending a Land Exchange Agreement be a condition of the proposed rezoning. The agreement would identify the proposed 7.66m strip of land to be added to the Oliver Place right-of-way from the subject property, in exchange for the 2.6m wide strip of Westminster Ave E right-of-way being added to the subject property (Figure 3). Staff have reviewed the proposed land disposition along Westminster Avenue East and confirmed the remainder road right-of-way would meet the City standard width of 20m. The land exchange agreement will outline the responsibilities of the developer at the subdivision stage, when these lands will be surveyed and transferred. This agreement would allow the City land exchange requirements to run with the lands, despite any change in ownership.

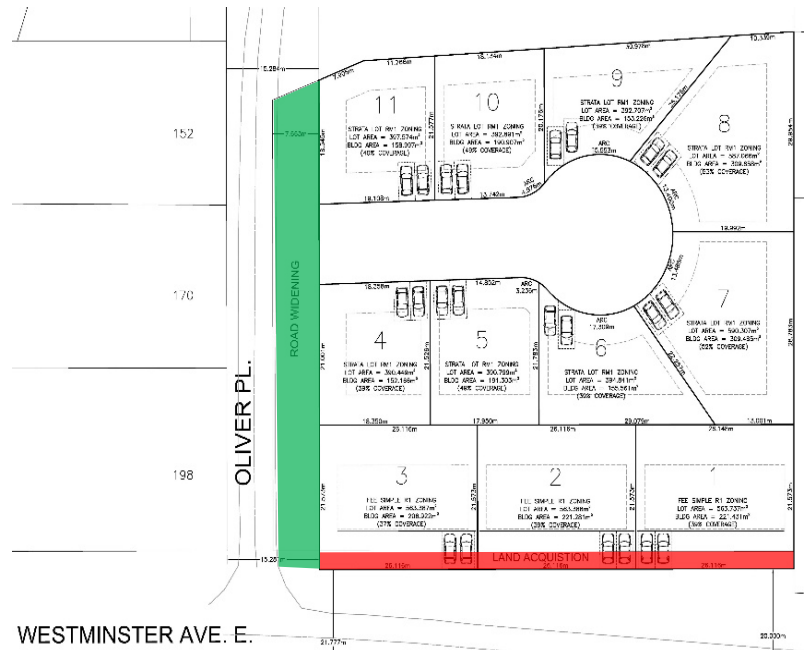


Figure 3 - Proposed road widening (green) and land disposition (red) areas.

The developer will be responsible for all associated costs with the land exchange, including all costs related to relocating City-owned and third party (i.e. Fortis, Telus etc.) infrastructure within the land disposition area.

### *Excess and Extended Service*

Section 507 of the *Local Government Act* allows a local government to require that the owner of land proposed to be subdivided or developed provide excess or extended services. Staff are recommending that Council approve an excess and extended service agreement requiring the developer to fully construct road, curb, gutter, and sidewalk across the entire width of Oliver Place adjacent to the frontage of the subject property (see green area in Figure 3). This will improve the existing situation and give a complete appearance to the street, which functioned as a public lane prior to being dedicated as a road in 2019.

When Council approves an excess and extended service agreement, a developer is eligible for 'latecomer' payments when a property that benefits from the works redevelops within a 15-year period. If the benefitting lots were to redevelop, the City would be responsible for collecting funds from those redevelopments and forwarding them back to the persons who completed the excess or extended services works. This has been communicated to the developer, who is in agreement with the proposal.

## Analysis

### *Rezoning*

When considering a Zoning Amendment Bylaw application, staff encourages Council to consider the applicable OCP designation and policies. The subject property is designated 'Detached Residential' by the OCP, which supports low-density, single family neighbourhoods. Common forms of housing in the Detached Residential designation include single detached dwellings, secondary suites, carriage houses, duplexes, and small-scale neighbourhood commercial uses. The proposed rezoning of a portion of the subject property to RM1, with the recommended site specific provisions (to limit townhouses and duplexes), is consistent with the Detached Residential land use designation, as the proposed strata will consist of single detached dwellings only with the opportunity for secondary suites. The remaining portion of the lot will remain zoned R1, which allows single detached dwellings with the opportunity for a secondary suite or a carriage house.

The OCP contains a number of policies to guide development in Penticton. These policies cover development in all areas of the City; residential, commercial, industrial and agricultural. Staff have reviewed the proposed development against the applicable OCP policies for residential development below:

- |                    |                                                                                                                                                                                                                                                                                                                                       |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| OCP Policy 4.1.1.1 | Focus new residential development in or adjacent to existing developed areas.                                                                                                                                                                                                                                                         |
| OCP Policy 4.1.1.4 | Ensure all new developments fully cover the cost of the required infrastructure and services they require, including roads, water, sewer, storm water, and provision of parks, schools, and emergency services.                                                                                                                       |
| OCP Policy 4.1.3.3 | Foster diversity and create relative affordability while maintaining neighbourhood character in single-family areas by encouraging the creation of smaller-frontage lots in new neighbourhoods and subdivisions, and permitting the subdivision of larger lots in established neighbourhoods where access and servicing are adequate. |
| OCP Policy 4.1.4.1 | Work with the development community – architects, designers and builders – to create new residential developments that are attractive, high-quality, energy efficient, appropriately scaled and respectful of their context.                                                                                                          |
| OCP Policy 4.1.5.1 | Recognize that some traditionally single-family neighbourhoods will see intensification as the city grows, but ensure that new forms of residential development are compatible with the neighbourhood in scale and design, and are appropriately located (e.g., greater density closer to collector roads, services and amenities).   |
| OCP Policy 4.1.5.4 | Ensure that all new neighbourhood developments and redevelopments of existing large sites, including bareland stratas, are fully integrated into the surrounding community through publically-accessible roads, sidewalks, trails and public park lands.                                                                              |

The proposed development is consistent with the future land use designation for this property, is in keeping with applicable OCP policies, and leads to a development with consistent housing forms as the surrounding established neighbourhood. Given the reasons above, Staff recommend that Council give first reading to "Zoning Amendment Bylaw No. 2020-46" and forward it to the November 16, 2020 Public Hearing.



### *Development Variance Permit*

The City's road design criteria is outlined in the Subdivision and Development Bylaw 2004-81. The criteria require that all vertical and horizontal road alignments are designed utilizing the Subdivision and Development Bylaw standards and the current edition of the Transportation Association of Canada (TAC) guidelines. The Subdivision and Development Bylaw specifies the minimum vertical curve as defined by the K-value. The K-value represents the horizontal distance along which a 1% change in grade occurs on the vertical curve and it expresses the abruptness of the grade change in a single value. K-value is used in the engineering and design of roadways and lanes.

The applicant has submitted a proposed road design for Oliver Place (Attachment 'F'). The plan requires a reduction to the minimum required K-value, however the applicant has confirmed in the Letter of Intent that the road still complies with the minimum design requirements as set out in the TAC Guidelines (Attachment 'D'). The following section of the Subdivision and Development Bylaw is proposed to be reduced in order to accommodate the proposed road design:

- Reduce the minimum Vertical Curve radius for a local residential road as specified in Schedule G Section 004400 Table 3 from a K-value of 6 to 4 as outlined in the TAC Guidelines.

When reviewing a request to vary the Subdivision and Development Bylaw, staff consider whether the Bylaw requirements can be met and if following the requirements would cause a hardship on the developer or surrounding neighborhood. Staff have reviewed the request and consider that upgrading Oliver Place while meeting the standard K-value required is not possible without significant negative impact on adjacent private property. The design proposed by the applicant is considered to be an appropriate design solution for this location. Staff will ensure that all other aspects of the design comply with the Subdivision and Development Bylaw and TAC guidelines. Based on the information provided, Staff are recommending that Council support the developer's request to reduce the K-value requirement from 6 to 4.

### *Land Exchange Agreement*

The proposed land exchange agreement is recommended as a condition of rezoning. Staff are recommending that Council direct staff to prepare a land exchange agreement to outline the developer's responsibilities for the proposed road right-of-way widening along Oliver Place and the proposed land disposition of existing road right-of-way along Westminster Ave E. The *Community Charter* outlines legislative requirements when the City intends to dispose of public land. Prior to any final decision being made on the land exchange, the City must publish notice of the proposed disposition of land including notice in a newspaper once a week for two consecutive weeks. The City may choose to provide additional notice such as letters mailed to nearby property owners and a notice posted on the City's website. The decision on the proposed land disposition along Westminster Avenue East will come before Council as part of a future subdivision application, once the proposed lot configuration has been finalized and the Preliminary Layout Approval (PLA) has been issued.

### **Alternate Recommendations**

Council may consider the proposed rezoning from R1 (Large Lot Residential) to RM1 (Bareland Strata Housing) is not appropriate for the property and the lands should remain zoned R1 (Large Lot Residential). If this is the case, Council should deny first reading of Zoning Amendment Bylaw No. 2020-46. Staff are recommending against this option as, in staff's opinion, the proposed rezoning is consistent with the OCP.

1. THAT Council deny first reading of "Zoning Amendment Bylaw No. 2020-46".

Council may consider the proposed rezoning is appropriate and suitable for the site, but that the developer should follow the Subdivision and Development Bylaw K-value requirement. Staff are recommending against this option, because the proposed road improvements would improve the current situation and the design provided by the applicant is considered an appropriate alternative to meeting the Subdivision and Development Bylaw requirement in this instance.

2. THAT Council give first reading to "Zoning Amendment Bylaw No. 2020-46" and deny "Development Variance Permit PL2020-8782".

## Attachments

Attachment A – Zoning Map  
Attachment B – Official Community Plan Map  
Attachment C – Property Photos  
Attachment D – Letter of Intent  
Attachment E – Proposed Subdivision Plan  
Attachment F – Proposed Development Variance Permit Plan  
Attachment G – Draft Development Variance Permit PL2020-8782  
Attachment H – Zoning Amendment Bylaw No. 2020-46

Respectfully submitted,

Steven Collyer, RPP, MCIP  
Planner 1

Concurrence

|                           |                                                   |
|---------------------------|---------------------------------------------------|
| Director<br><br><i>BL</i> | Chief Administrative<br>Officer<br><br><b>DyD</b> |
|---------------------------|---------------------------------------------------|



# Attachment A – Zoning Map

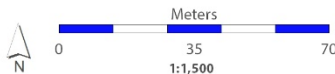


## 665 Westminster Avenue East

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.



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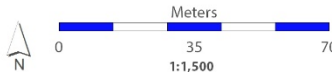


# 665 Westminster Avenue East

Official Community Plan Map



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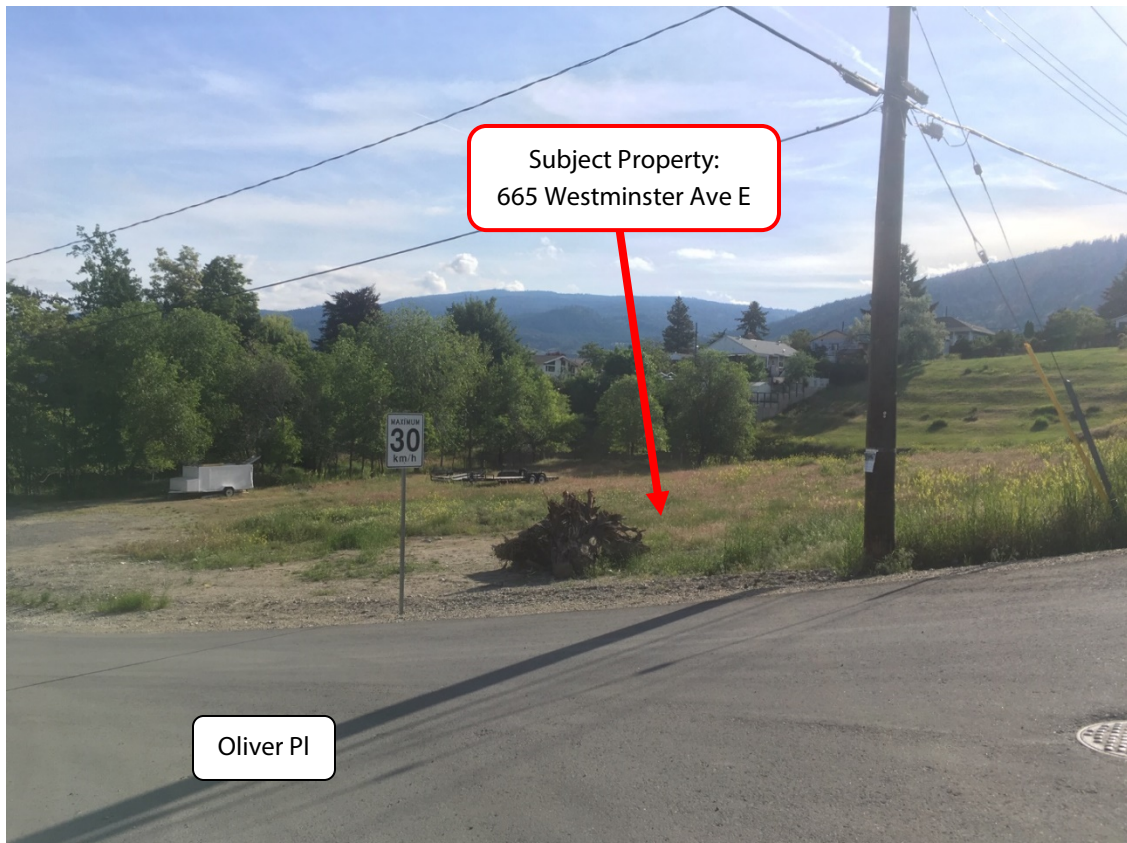
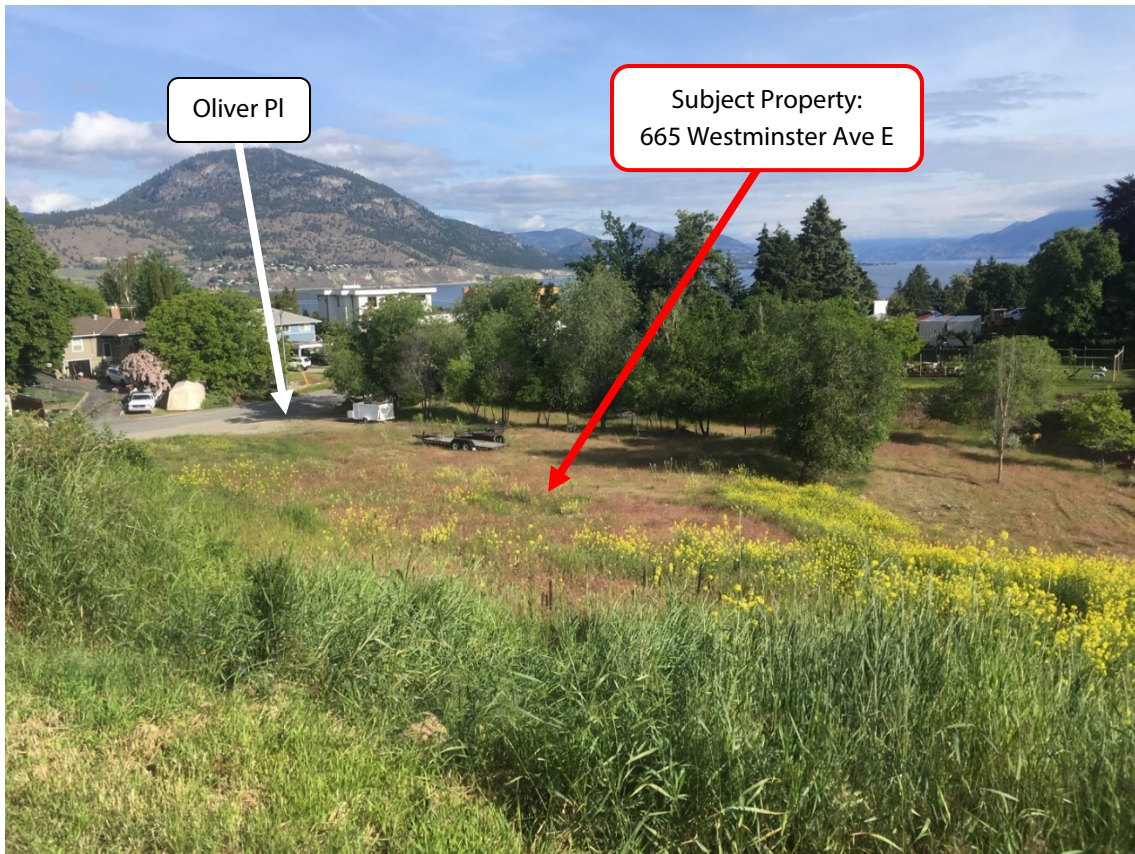


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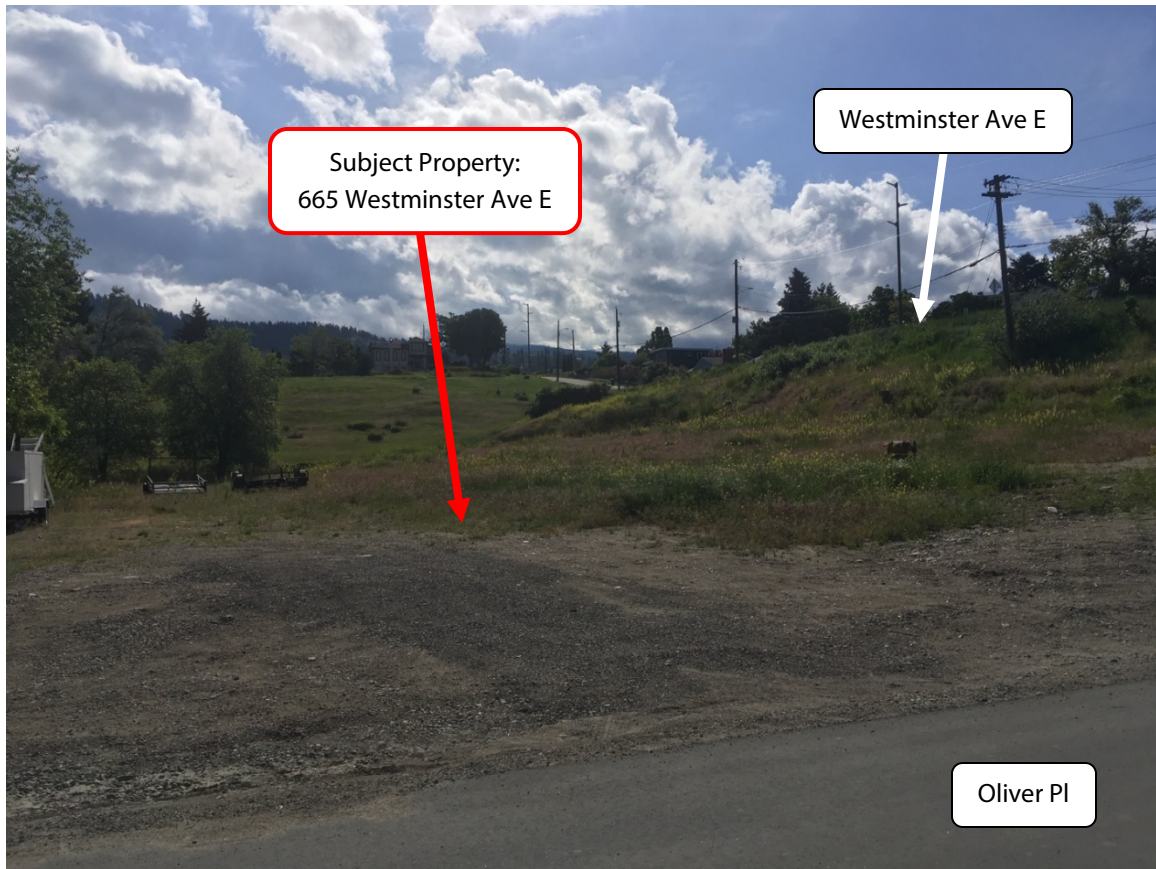
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Attachment C – Property Photos







September 15, 2020

City of Penticton  
171 Main Street  
Penticton, BC

Dear City & Council

**RE: 665 Westminster Avenue East - Rezoning & Development Variance Permit**

At the owner's request, we would like to formally submit this application to rezone a portion of the above noted property from R1 to RM1, along with a development variance permit to allow for the variance of the Subdivision & Development Bylaw 2004-81, Section 00400, Table 3.0, reducing the K value (sag) for Urban Local Residential roads from 6 to 4, with the intent of creating an 8 lot single family bareland strata development and remainder 3 lot freehold R1.

The partial rezoning to RM1 respects the future zoning designation of the OCP as well as replicates the surrounding community in appearance and density. This zoning will allow for low density detached family houses to be built within the already beautifully established neighborhood, steps away from the KVR walking path, and only minutes from downtown, parks, and beaches.

The development variance permit is requested for the purposes of limiting the negative impacts associated with elevation changes to the adjacent neighboring lots from the re-grading of Oliver Place to meet City standards. The existing conditions of Oliver Place do not currently meet either the City of Penticton or Transportation Association of Canada (TAC) standards. The request for the development variance permit is to reduce the K value (sag) of Oliver Place from 6 to 4, with the intent of still meeting the TAC standards and greatly improving the existing conditions of Oliver Place, allowing for safer travels and connectivity in the area.

Respectfully,

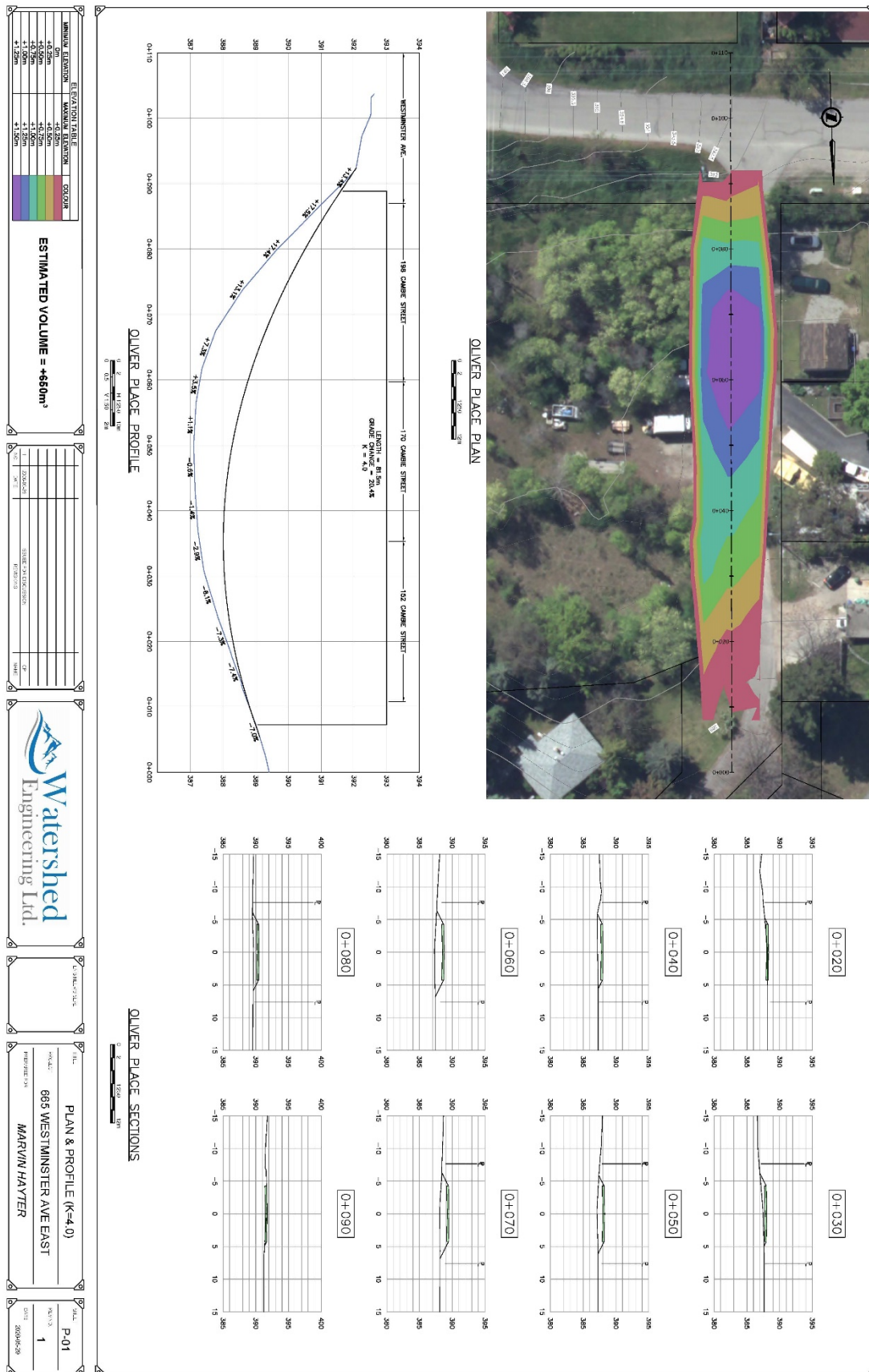
  
David Donogh, ASCT

**PREFOUND**  
PROJECTS

[illegible]



# Attachment F – Proposed Development Variance Permit Plan







665 Westminster Ave E

Rezone a portion of the subject property from R1 (Large Lot Residential) to RM1 (Bareland Strata Housing) with the following site-specific provisions:

- Notwithstanding Section 10.7.1.4, duplexes are not permitted.
- Notwithstanding Section 10.7.1.7, townhouses are not permitted.



City of Penticton – Schedule 'A'

Zoning Amendment Bylaw No. 2020-46

Date: \_\_\_\_\_

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