

November 26, 2020

Subject Property:

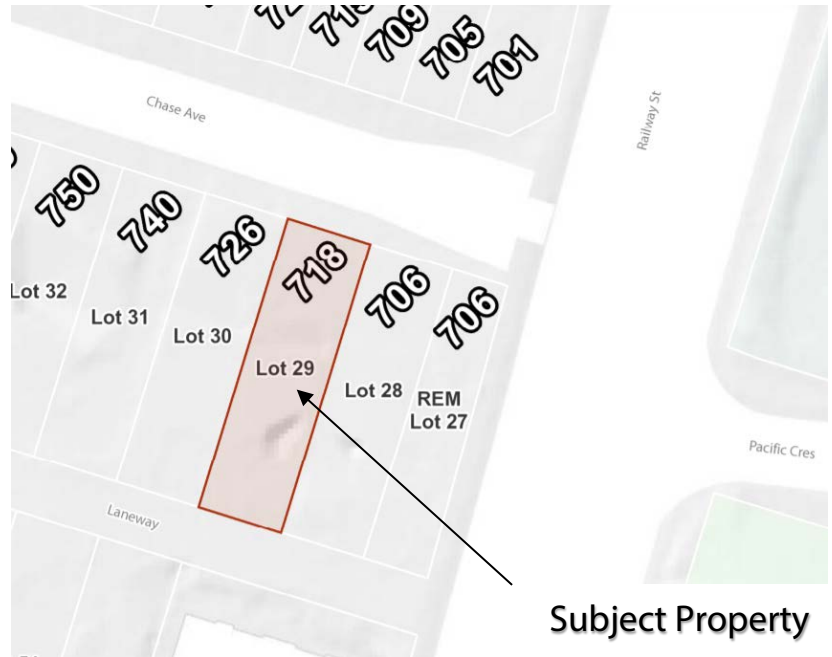
718 Chase Avenue

Lot 29, District Lot 2, Group 7, Similkameen
Division Yale (Formerly Yale Lytton) District, Plan
1049

Application:

Development Variance Permit PL2020-8854

The applicant is proposing to legalize an existing, unpermitted accessory structure on the subject property. The structure is built closer to the side and rear property lines than permitted. As such, the applicant is requesting to vary the following sections of Zoning Bylaw 2017-08:



- Section 10.2.2.6.ii: to reduce the minimum side yard setback for an accessory structure from 1.2m to 0m; and
- Section 10.2.2.7.ii: to reduce the minimum rear yard setback for an accessory structure from 1.5m to 0m.

Information:

You can find the staff report to Council and Development Variance Permit PL2020-8854 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, December 8, 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, December 8, 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 December 8, 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: December 8, 2020
To: Donny van Dyk, Chief Administrative Officer
From: Steven Collyer, Planner 1
Address: 718 Chase Avenue
Subject: Development Variance Permit PL2020-8854

File No: RMS/718 Chase Ave

Staff Recommendation

THAT Council deny “Development Variance Permit PL2020-8854” for Lot 29 District Lot 2 Group 7 Similkameen Division Yale (Formerly Yale Lytton) District Plan 1049, located at 718 Chase Avenue, a permit to vary Sections 10.2.2.6.ii and 10.2.2.7.ii of Zoning Bylaw 2017-08 to reduce the side yard setback for an accessory structure from 1.2m to 0m, and to reduce the rear yard setback for an accessory structure from 1.5m to 0m, in order to legalize an unpermitted accessory building on the subject property.

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, unpermitted accessory structure on the subject property. The structure is built closer to the side and rear property lines than permitted. As such, the applicant is requesting to vary Sections 10.2.2.6.ii and 10.2.2.7.ii of Zoning Bylaw 2017-08 to reduce the required rear yard setback from 1.5m to 0m and to reduce the required side yard setback from 1.2m to 0m in order to legalize the existing setbacks prior to proceeding with a building permit application.

Background

The subject property is located on the south side of Chase Avenue near Railway Street/Highway 97



Figure 1 - Location Map

(Figure 1). The property contains a single detached dwelling and an accessory structure. Surrounding land uses are residential in nature, primarily consisting of single detached dwellings with several multifamily developments to the north across Chase Avenue and to the south across the lane at the rear of the property. The property is zoned R2 (Small Lot Residential) and is designated 'Ground Oriented Residential' by the Official Community Plan.

A building permit was issued for a storage shed on the property in 1961. Based on aerial imagery, sometime between 2008 and 2013, the structure was expanded without the benefit of a building permit to its current configuration – the building labelled as a 'carriage house' in Attachment 'D'. Staff confirmed through a site inspection on June 9, 2020 that the building is being used as a carriage house, without the proper permits. A letter was sent to the property owner on July 9, 2020 regarding the Zoning Bylaw infractions and the letter outlined various options to remedy the situation. The applicant originally proposed to legalize the building as a carriage house, however due to the anticipated challenges of meeting BC Building Code requirements to convert the building into a permitted dwelling unit, the applicant decided the required upgrades were too extensive to pursue. The applicant now intends to decommission the unpermitted carriage house and retain the structure as an accessory building. The applicant intends to use the building as storage for his business, 'Maximum Plumbing and Heating' (Attachment 'E'), which is permitted under the home occupation regulations of the Zoning Bylaw and subject to retaining an active business license. The decommissioning of the carriage house will require a building permit, which will remain in the property file to confirm the building is not approved and should not be used as a dwelling unit.

Technical Review

This application was reviewed by the City's Technical Planning Committee (TPC). Staff noted concerns about the proximity of the building to property lines. The Building Department provided comments regarding Building Code requirements for structures within a certain distance to property lines. The intent of these requirements is to reduce the likelihood of fire spreading between nearby structures on adjacent properties. The applicant will be required to meet the applicable BC Building Code requirements for an accessory building, should Council choose to approve the Development Variance Permit.

The TPC had additional comments related to the original proposal to keep the building as a carriage house, however the applicant has since changed their plans to keep the building as an accessory structure. As such, those comments no longer apply.

Development Statistics

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

	Accessory Structure Requirements (R2 Zone)	Provided on Plans
Maximum Floor Area: *all accessory structures on a property	75m ²	23 m ²
Maximum Lot Coverage: * Primary and accessory structures	40%	36%
Required Setbacks: Front Yard (Chase Avenue):	4.5 m	27 m

Side Yard (east):	1.2 m	0 m – Variance Requested
Side Yard (west):	1.2 m	4.46 m
Rear Yard (lane):	1.5 m	0 m – Variance Requested
Maximum Building Height:	4.5 m	3.35 m

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.

The applicant has requested the following variances from the Zoning Bylaw regulations for a property within the R2 (Small Lot Residential) zone:

- Section 10.2.2.6.ii: to reduce the minimum side yard setback for an accessory structure from 1.2m to 0m; and
- Section 10.2.2.7.ii: to reduce the minimum rear yard setback for an accessory structure from 1.5m to 0m.

Staff have reviewed the requested variances required to proceed with legalizing the structure as an accessory building to the primary residence and are recommending that Council deny the Development Variance Permit for the following reasons:

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

The intent of the setback regulations in the Zoning Bylaw are to ensure that new buildings and structures are compatible with the surrounding neighbourhood. Maintaining physical distance between buildings, and between buildings and property lines, has a number of advantages. The minimum requirements for building setbacks help to ensure that an accessory structure does not impose on adjacent neighbours and is kept within an appropriate scale for the lot. The R2 (Small Lot Residential) zone requires accessory structures such as storage sheds and detached garages to be a minimum of 1.2m (4 feet) from the side property lines and 1.5m (5 feet) from the rear property line. These requirements allow sufficient room for access around the entire building from within the private property for maintenance. In addition, the minimum setback requirements reduce the clustering of structures on adjacent properties in an effort to reduce the likelihood of a possible fire spreading between properties. Although the unpermitted building has existed in its current form since around 2013, staff do not consider that the building setbacks of 0m meet the intent of the Zoning Bylaw regulations.

2. Approval of the requested variances could set an undesirable precedent for future accessory structures.

While each development variance permit application is reviewed with consideration to its unique site-specific circumstances, staff are wary of supporting the requested variances for the existing accessory building to be legalized in its current location. The opportunity for perceived precedent is a concern considering that the requested variances do not maintain the intent of the Zoning Bylaw:

the building is difficult to maintain from within the private property, the roof may lead to drainage onto the neighbouring property, and the risk of a fire spreading is greater without a physical separation between the structure and adjacent property lines.

Staff consider that the proposed legalization of the unpermitted building does not meet the intent of the Zoning Bylaw regulations, and that approval of the requested variances could set a precedent for future applications for accessory structures located closer to property lines than normally permitted. Given the reasons above, staff are recommending that Council deny "Development Variance Permit PL2020-8854".

If this application is denied, the applicant will have the option to reduce the size of the structure to 10m² or less, as structures this size are exempt from the setback requirements as per the Zoning Bylaw. The applicant may instead choose to demolish the building if their variance application is denied. If this action is taken, the applicant will have the opportunity to construct a new building which meets the Zoning Bylaw regulations. These options have been shared with the property owner, who understands the implications.

Alternate Recommendations

Council may consider the requested variances are appropriate in this instance in order to legalize an existing accessory building. If this is the case, Council may approve the Development Variance Permit. If this decision is made, the applicant will continue to work with City staff to obtain the required building permits to decommission the 'carriage house' use and to legalize the building as an accessory structure.

1. THAT Council approve "Development Variance Permit PL2020-8854".

Attachments

Attachment A – Zoning Map of Subject Property
Attachment B – Official Community Plan Map of Subject Property
Attachment C – Image of Existing Building
Attachment D – Survey Plan
Attachment E – Letter of Intent
Attachment F – Draft "Development Variance Permit PL2020-8854"

Respectfully submitted,

Steven Collyer, RPP, MCIP
Planner 1

Concurrence

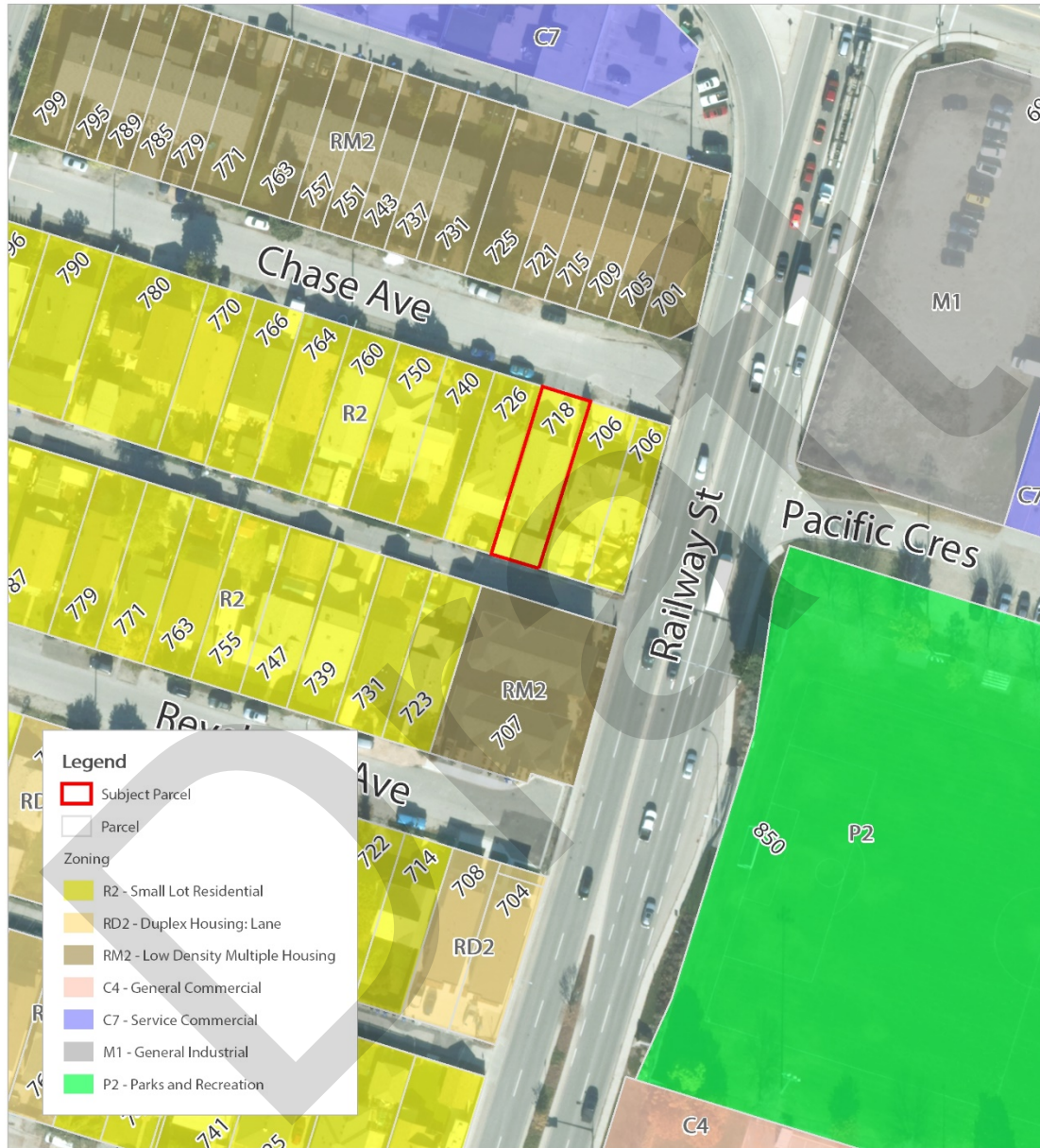
Director <i>BL</i>	Chief Administrative Officer
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Attachment A – Zoning Map of Subject Property

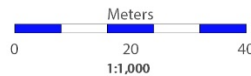


718 Chase Avenue

Zoning Map



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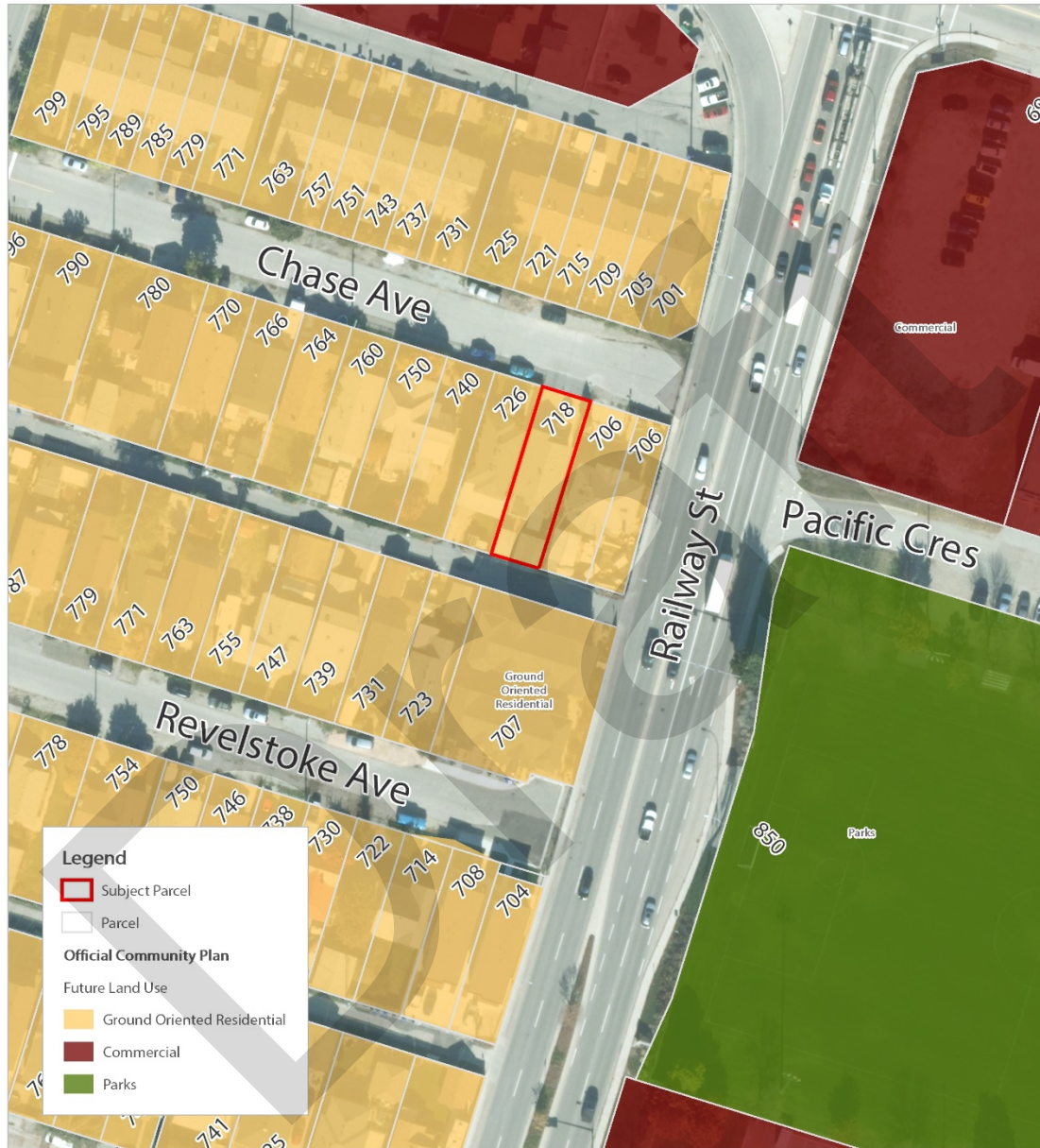
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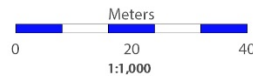


718 Chase Avenue

Official Community Plan Map



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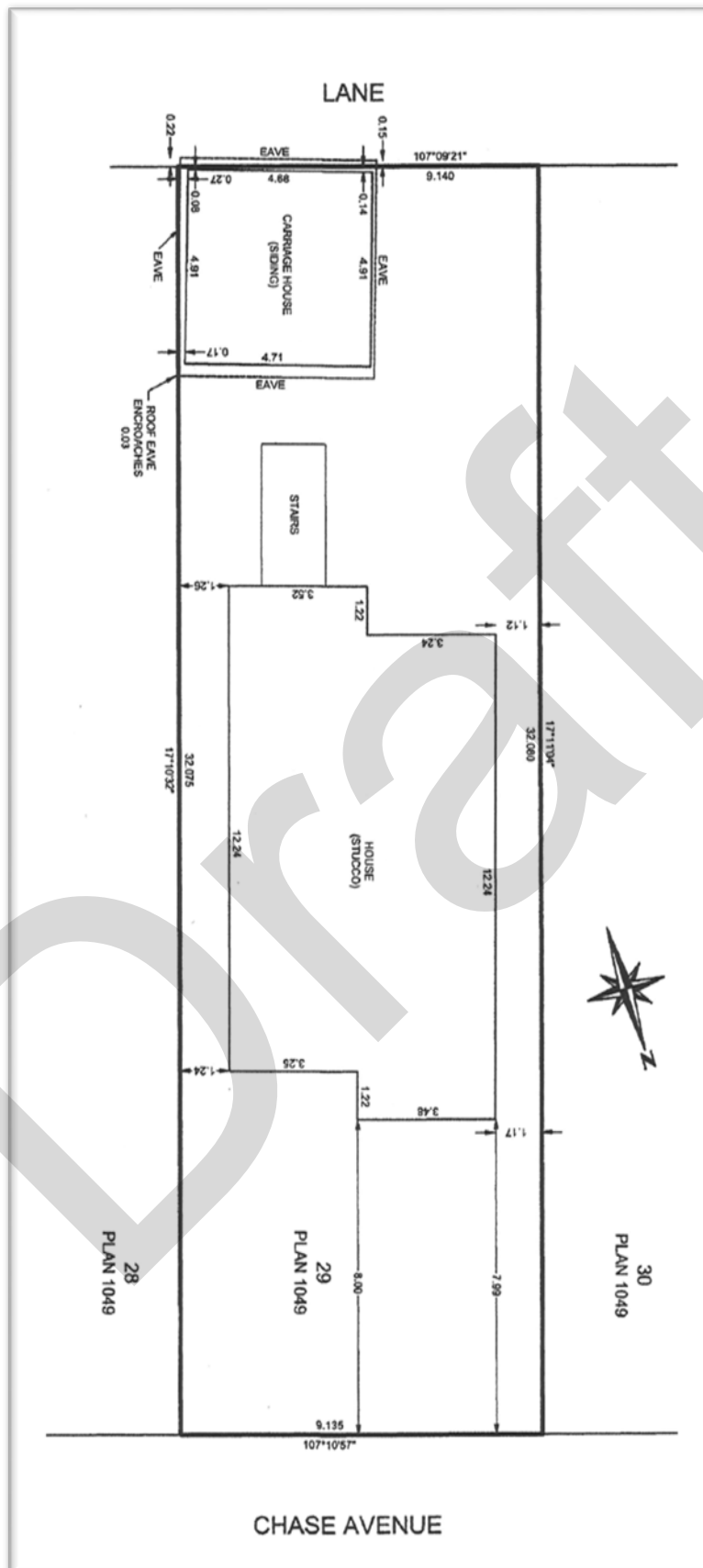
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Attachment C – Image of Existing Building



Attachment D – Survey Plan



Attachment E – Letter of Intent

Nov. 3, 2020

I am writing regarding the carriage house at 718 Chase Ave. I wish to keep the existing structure and apply for a Decommissioning permit and use the building for my plumbing and heating business. This would allow me to store tools there and empty the storage unit i have been renting. It would be much more convenient having my tools and supplies on site. Its going on 21 years in business in the Penticton area. Thank you for your consideration of my request,

Sincerely, Robert Leenhouts.

Development Variance Permit

Permit Number: DVP PL2020-8854

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 29 District Lot 2 Group 7 Similkameen Division Yale (Formerly Yale Lytton)
District Plan 1049
 - Civic: 718 Chase Avenue
 - PID: 011-796-529
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 legalization of an existing accessory building, as shown in the plans attached in Schedule 'A':
 - a. Section 10.2.2.6.ii: to reduce the minimum side yard setback for an accessory structure from 1.2m to 0m.
 - b. Section 10.2.2.7.ii: to reduce the minimum rear yard setback for an accessory structure from 1.5m to 0m.

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

