

January 21, 2021

Subject Property:

665 Westminister Ave E

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

Application:

Development Variance Permit PL2020-8782

The applicant is proposing a seven (7) lot subdivision of the subject property. The proposal keeps the current R1 (Large Lot Residential) zoning of the property and provides access to each proposed lot from a new cul-de-sac to be built off Oliver Place (see Figure 1).



The applicant has requested to amend the K-value (vertical curve) of Oliver Place, as the proposed road reconstruction cannot meet Subdivision and Development Bylaw 2004-81 standards for K-value (vertical curve) due to the existing grading of the road and the grades of adjacent built-up properties.

Information:

You can find the staff report to Council and Development Variance Permit PL2020-8782 on the City's website at www.penticton.ca/publicnotice.

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, February 2, 2021** at Penticton City Hall, 171 Main St.

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, February 2, 2021** to:

Attention: Corporate Officer, City of Penticton

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

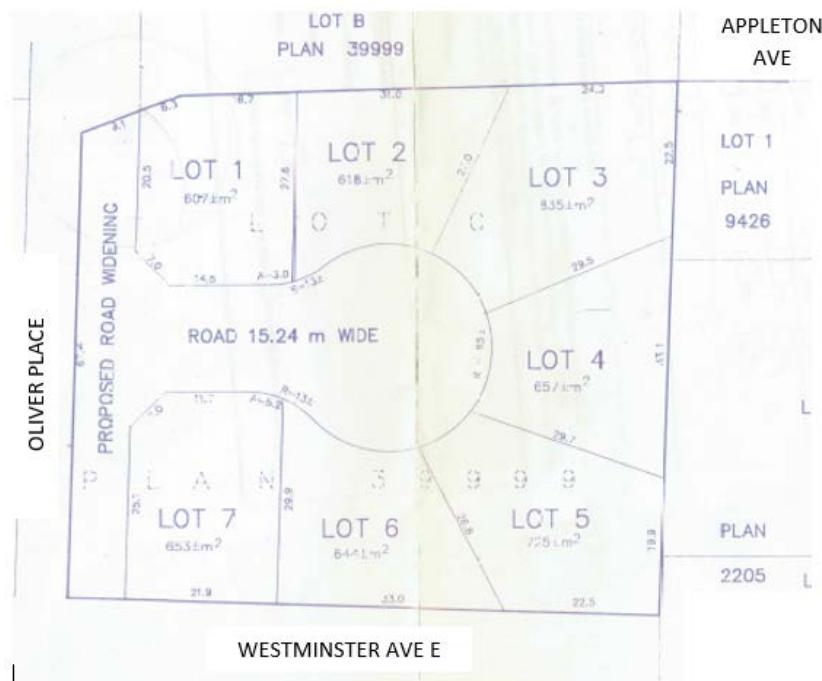
Email: corpadmin@penticton.ca

No letter, report or representation from the public will be received by Council after the conclusion of the February 2, 2021 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

Figure 1 – Subdivision Sketch Plan



Date: February 2, 2021 **File No:** RMS/665 Westminster Avenue East
To: Donny van Dyk, Chief Administrative Officer
From: Steven Collyer, Planner II
Address: 665 Westminster Avenue East
Subject: Zoning Amendment Bylaw No. 2020-46 and Development Variance Permit PL2020-8782

Staff Recommendation

THAT Council close and abandon "Zoning Amendment Bylaw No. 2020-46";

AND THAT Council approve "Development Variance Permit PL2020-8782", a permit to reduce the minimum road vertical curve on Oliver Place from a K-value of 6 to 4;

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

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

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 a seven (7) lot subdivision of the subject property (Attachment 'E'). The proposal keeps the current R1 (Large Lot Residential) zoning of the property and provides access to each proposed lot from a new cul-de-sac to be built off of Oliver Place. The applicant has chosen to not proceed with the rezoning proposal to create RM1 (Bareland Strata) lots in this area and will be keeping the existing zoning of R1 (Large Lot Residential). The applicant is still pursuing a Development Variance Permit application to amend the K-value (vertical curve) of Oliver Place, as the proposed road reconstruction cannot meet the Subdivision and Development Bylaw standards for K-value (vertical curve) due to the existing grading of the road and the grades of adjacent built-up properties.

Background

The subject property is located at the corner of Westminster Avenue East and Oliver Place (Figure 1). The property is 6,394m² (1.58 acres) in size and is currently vacant. Surrounding land uses are residential, consisting primarily of single detached dwellings. 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).

The applicant has submitted a subdivision application to create seven (7) lots. A number of works and services will be required as conditions of subdivision, and are discussed further in this report.

The previous development proposal was for an 11-lot subdivision, with 8 of those lots within a proposed bareland strata. During the Public Hearing for the rezoning on November 16, 2020, Council heard a number of concerns from area residents regarding the proposal to introduce bareland strata housing into the neighbourhood. After the Public Hearing, the applicant requested that Council postpone further consideration of the development until they could revise their proposal to address the public concerns that were raised.

The applicant is no longer proposing to create a strata development, and instead each lot will be freehold under the existing R1 (Large Lot Residential) zoning. The number of lots has been reduced, the lot areas have increased, and each lot will be accessed from a new cul-de-sac off Oliver Place. These changes address concerns from the public regarding the safety of driveways (previously proposed) onto Westminster Avenue East, which has existing visibility challenges. The applicant is no longer requesting to obtain a strip of land from the Westminster Avenue East right-of-way.

The chart below highlights the changes from the previous development proposal:

	Previous Proposal	Current Proposal
Minimum Lot Areas:	Ranging from 390 m ² to 590 m ²	Ranging from 607 m ² to 835 m ²
Number of Lots:	11	7
Vehicle Access:	Westminster Ave E – 3 lots New cul-de-sac off Oliver Pl – 8 lots	New cul-de-sac off Oliver Pl: 7 lots
Zoning:	R1 (Large Lot Residential) RM1 (Bareland Strata Housing) *site-specific*	R1 (Large Lot Residential)

The proposed new cul-de-sac will require a street name, as a new municipal road. The applicant may choose a street name from the approved list, or go through the Heritage Advisory Committee to choose a street



Figure 1 - Property Location Map

name not on the approved list. This subject will come back to Council once a street name has been selected, after Preliminary Layout Approval of the subdivision.

Financial Implication

The developer will be responsible for all associated costs with the proposed development, including road reconstruction and servicing. Prior to final subdivision approval, the applicant will be required to pay Development Cost Charges to the City. The City will be taking a road widening along Oliver Place from the subject property, and the City will be responsible for the associated legal costs.

Technical Review

This application was reviewed by the City's Technical Planning Committee. With the updated plan, staff confirmed the proposed lots meet the lot width and lot area requirements of the R1 (Large Lot Residential) zone. A number of subdivision requirements have been provided to the applicant. Some of these subdivision requirements include:

- Road dedication along Oliver Place. An approximately 7.5m wide strip of land will be transferred from the subject property to the Oliver Place right-of-way.
- Road reconstruction. The applicant will have to upgrade a half-width of Westminster Ave E, and the full width of Oliver Pl (subject to Council approval of the excess and extended service agreement).
- Installation of sidewalk, curb, and gutters along the road frontages and new cul-de-sac.
- Planting of boulevard trees.
- Connections to the municipal water and sanitary systems.
- Storm drainage plan.
- Geotechnical review.

In addition, staff discussed the requirements for an excess and extended service agreement, as outlined below.

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 developments 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

Zoning Amendment Bylaw

Rezoning is no longer part of this development proposal. The subdivision plan has been revised in order for each lot to meet the R1 (Large Lot Residential) zone regulations. Staff are recommending that Council close and abandon "Zoning Amendment Bylaw No. 2020-46".

Development Variance Permit

The requested variance is the same as previously reviewed by staff in the fall of 2020. Although the zoning amendment is no longer required based on the updated subdivision configuration, the proposal still requires the previously requested variance to the Subdivision and Development Bylaw. Staff's analysis and recommendation for approval of the variance remains consistent with the previous recommendation to Council.

When reviewing a request to vary the Subdivision and Development Bylaw, staff consider whether the Bylaw requirements can be met and if following the Bylaw requirements would cause a hardship on the developer or surrounding neighborhood.

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.

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 properties. 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.

Alternate Recommendations

Council may consider 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.

1. THAT Council 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

Respectfully submitted,

Steven Collyer, RPP, MCIP
Planner II

Concurrence

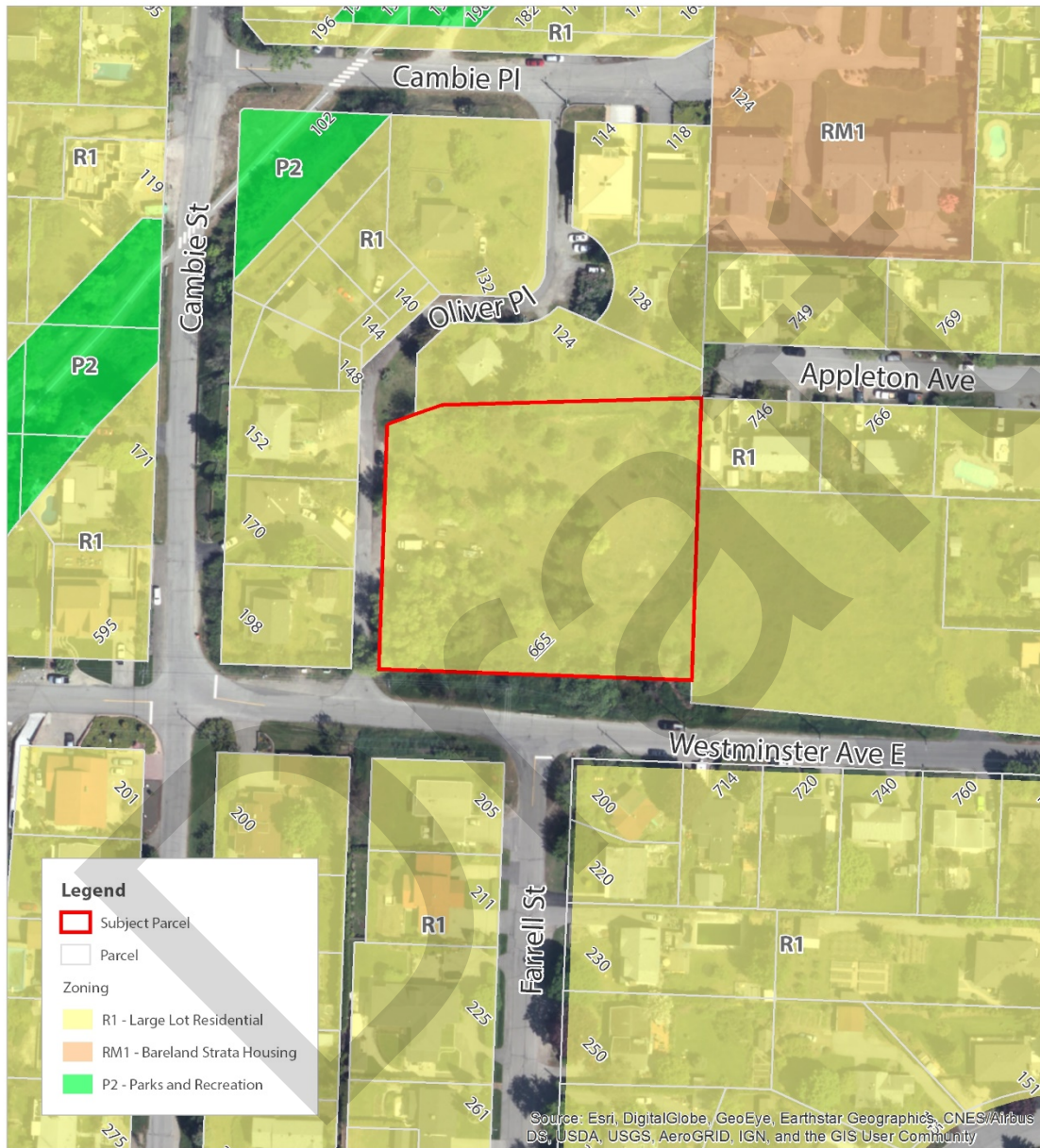
Director	Chief Administrative Officer
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Attachment A – Zoning Map



665 Westminster Avenue East

Zoning Map



Legend

Subject Parcel

Parcel

Zoning

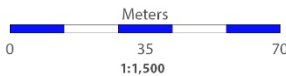
R1 - Large Lot Residential

RM1 - Bareland Strata Housing

P2 - Parks and Recreation

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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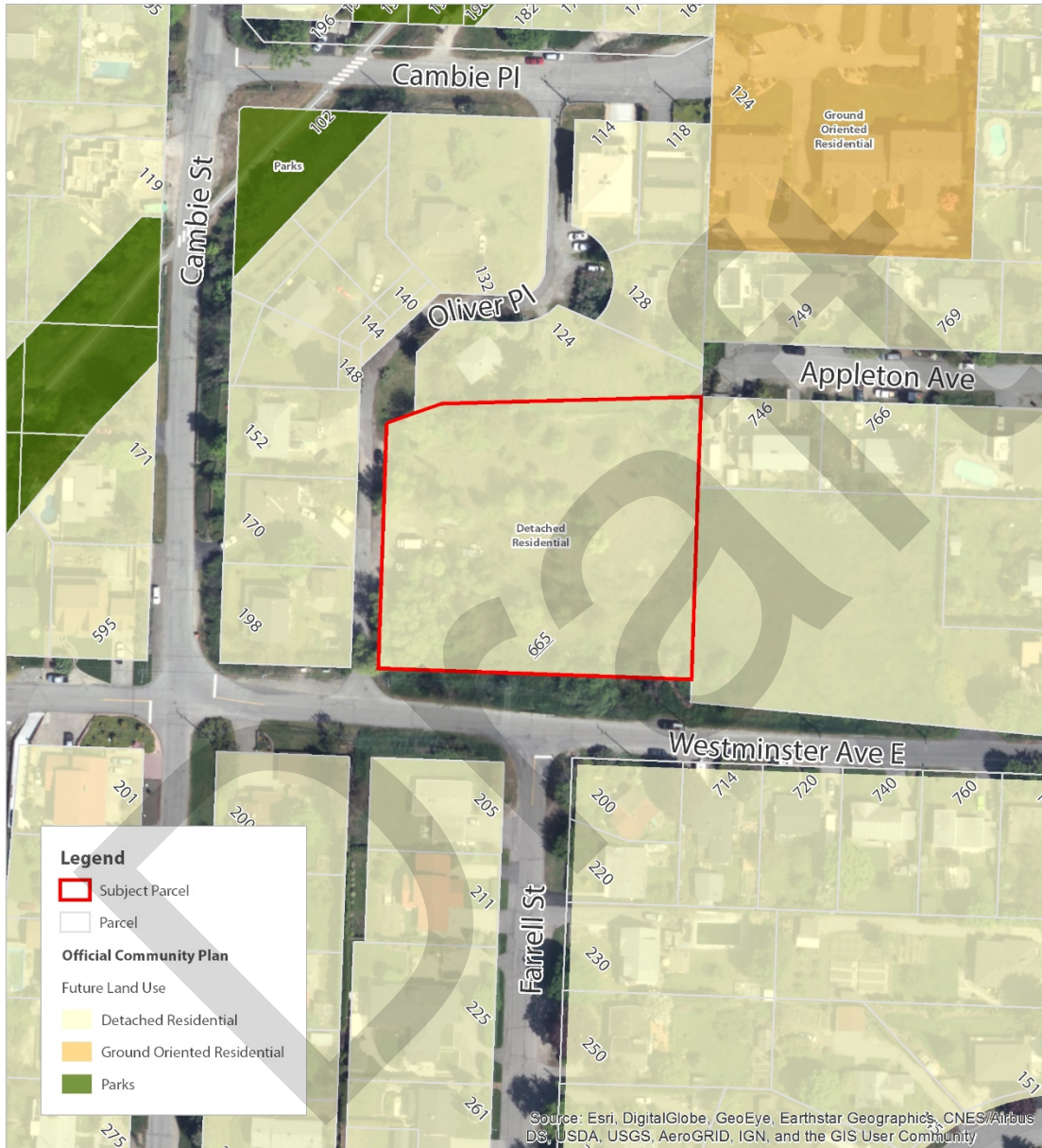


penticton.ca

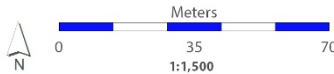


665 Westminster Avenue East

Official Community Plan Map



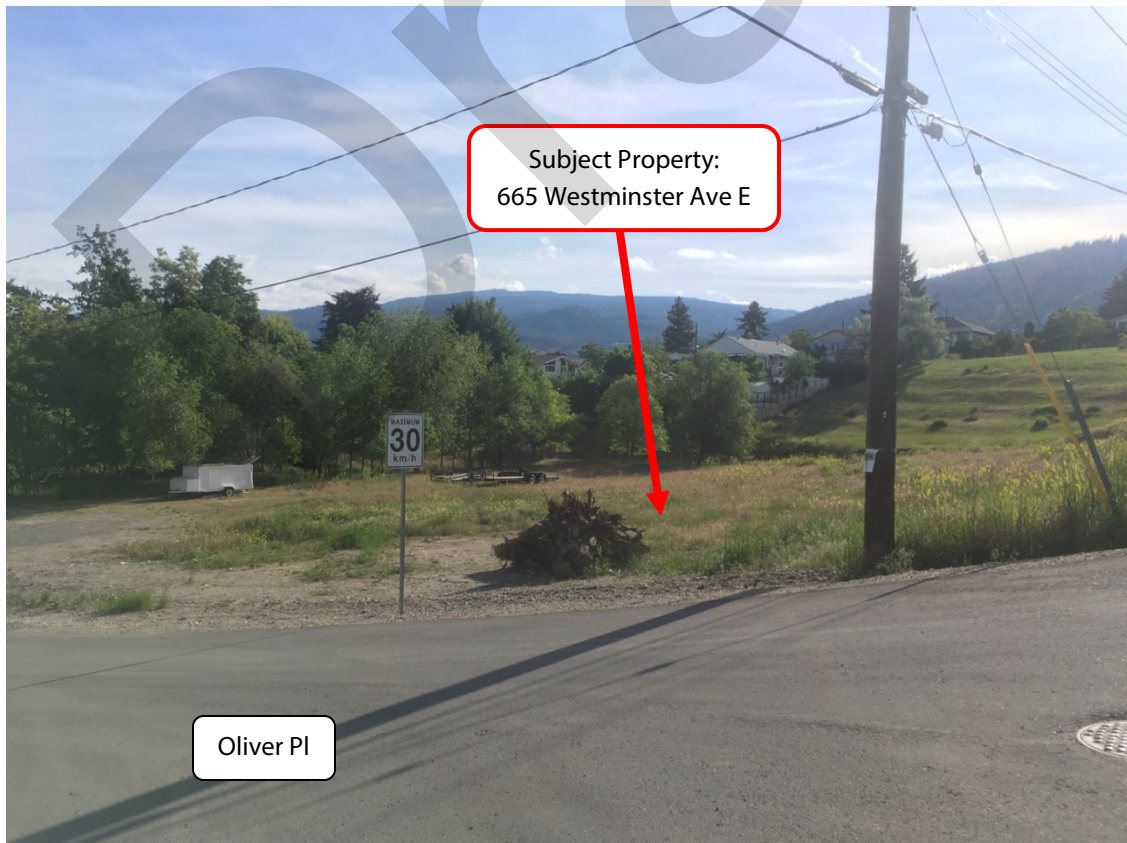
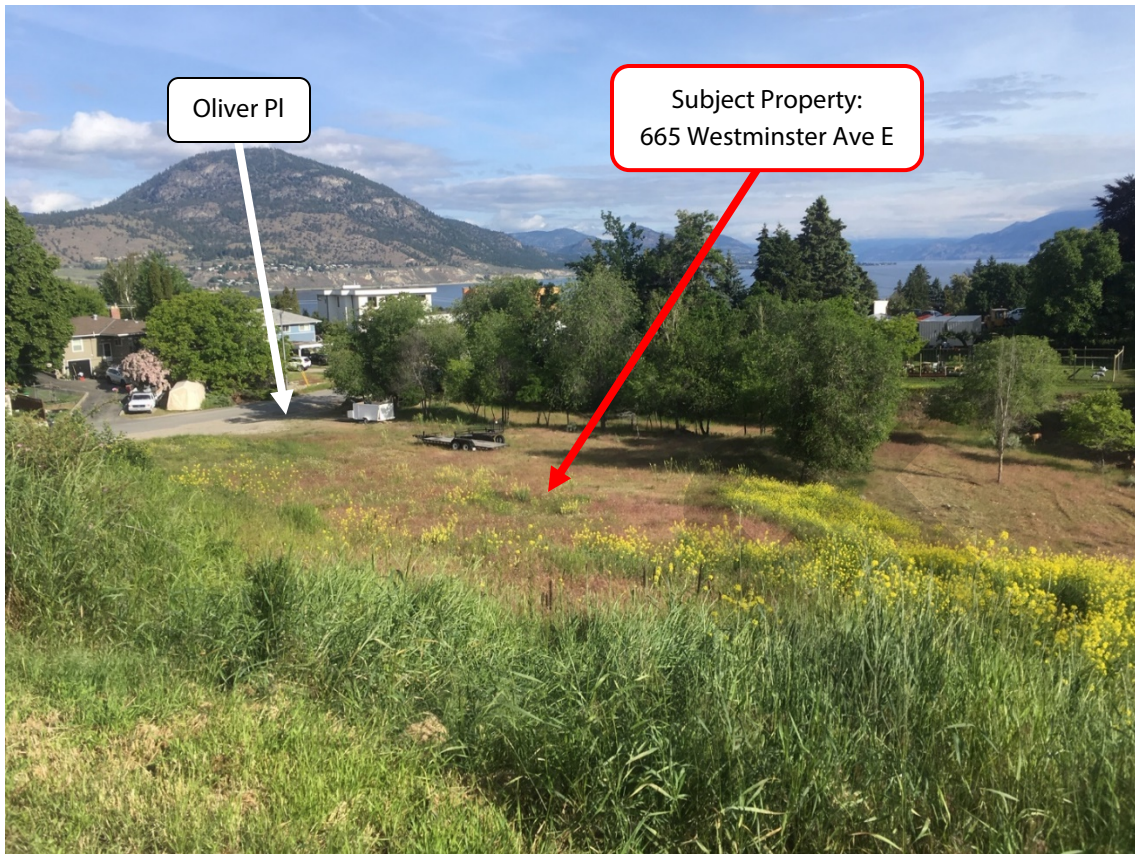
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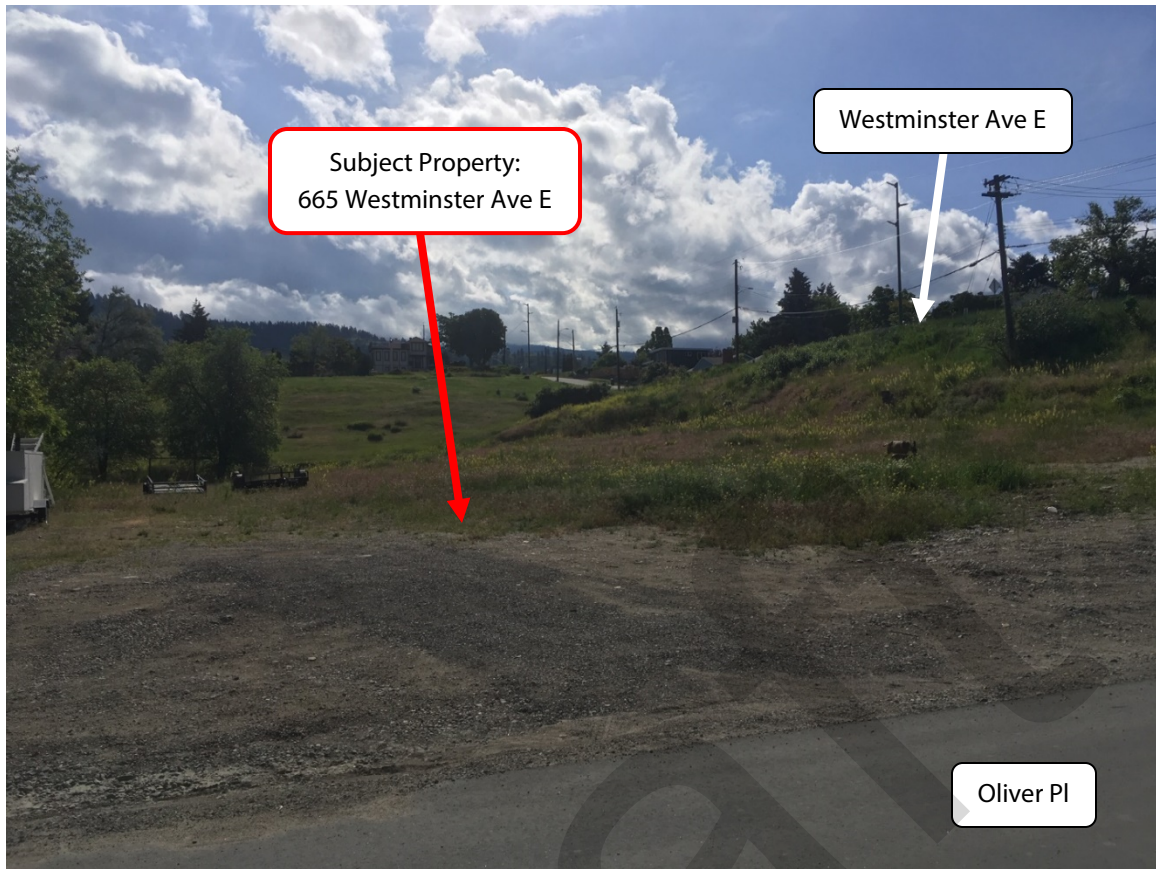


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Attachment C – Property Photos





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

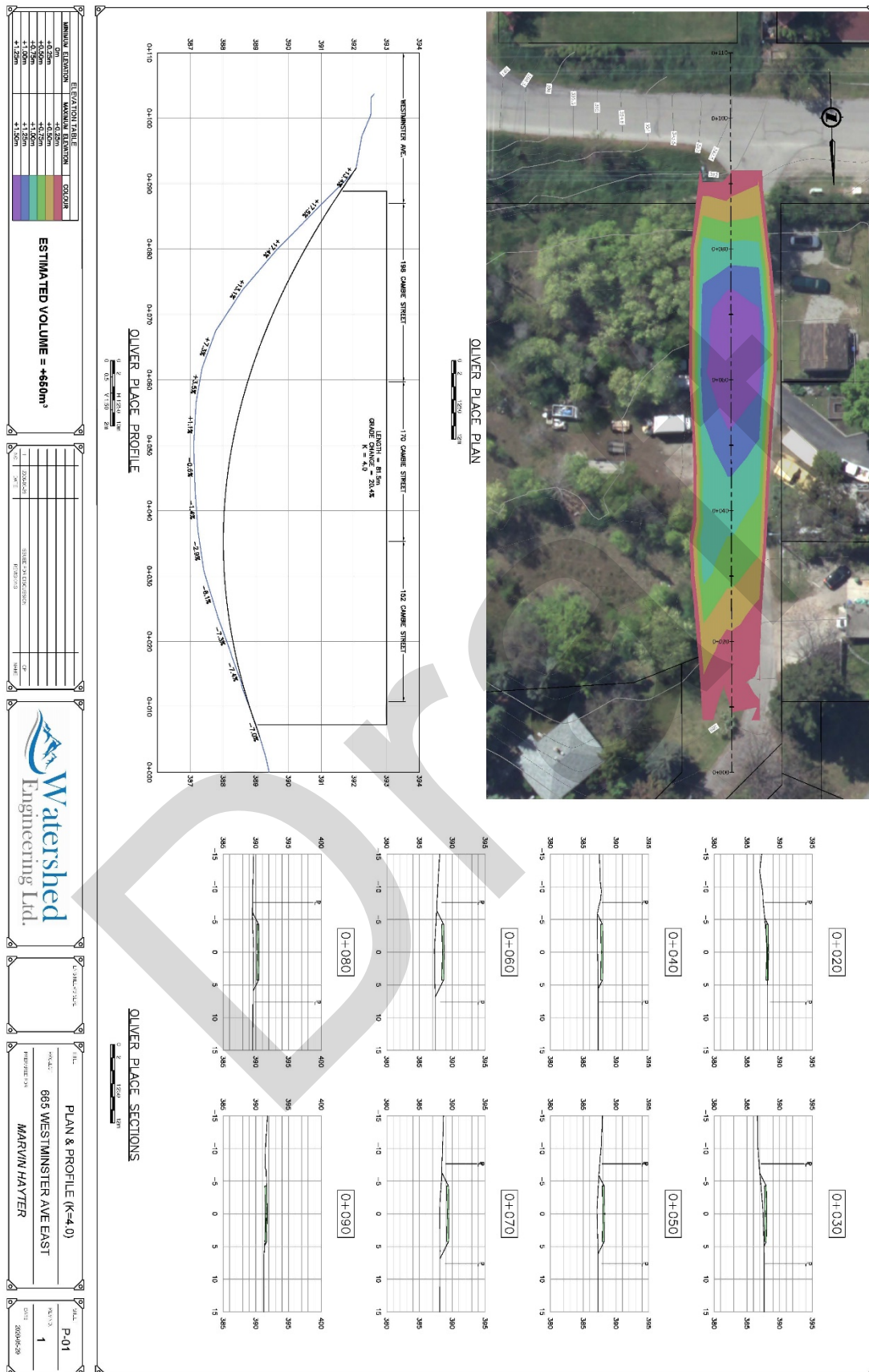
SKETCH PLAN OF PROPOSED SUBDIVISION OF
LOT C, PLAN 39999. D.L. 188, S.D.Y.D.

ALL DIMENSIONS ARE IN METRES AND DECIMALS THEREOF
SCALE 1:500



STEVEN J. BUZKOVICH
PROFESSIONAL LAND SURVEYOR
54 MANALO AVE/EAST
PLATTON, B.C. Phone 492-0559
LE 92-066 FR. PG.
DWG. 92-086A

Attachment F – Proposed Development Variance Permit Plan



Development Variance Permit

Permit Number: DVP PL2020-8782

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 C District Lot 202 Similkameen Division Yale District Plan 39999
 - Civic: 665 Westminster Avenue East
 - PID: 011-773-081
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Subdivision and Development Bylaw 2004-81 to allow for the redevelopment of Oliver Place as part of a proposed subdivision, as shown in the plans attached in Schedule 'A':
 - a. Table 3.0: to reduce the minimum road vertical curve on Oliver Place from a K value of 6 to 4.

General Conditions

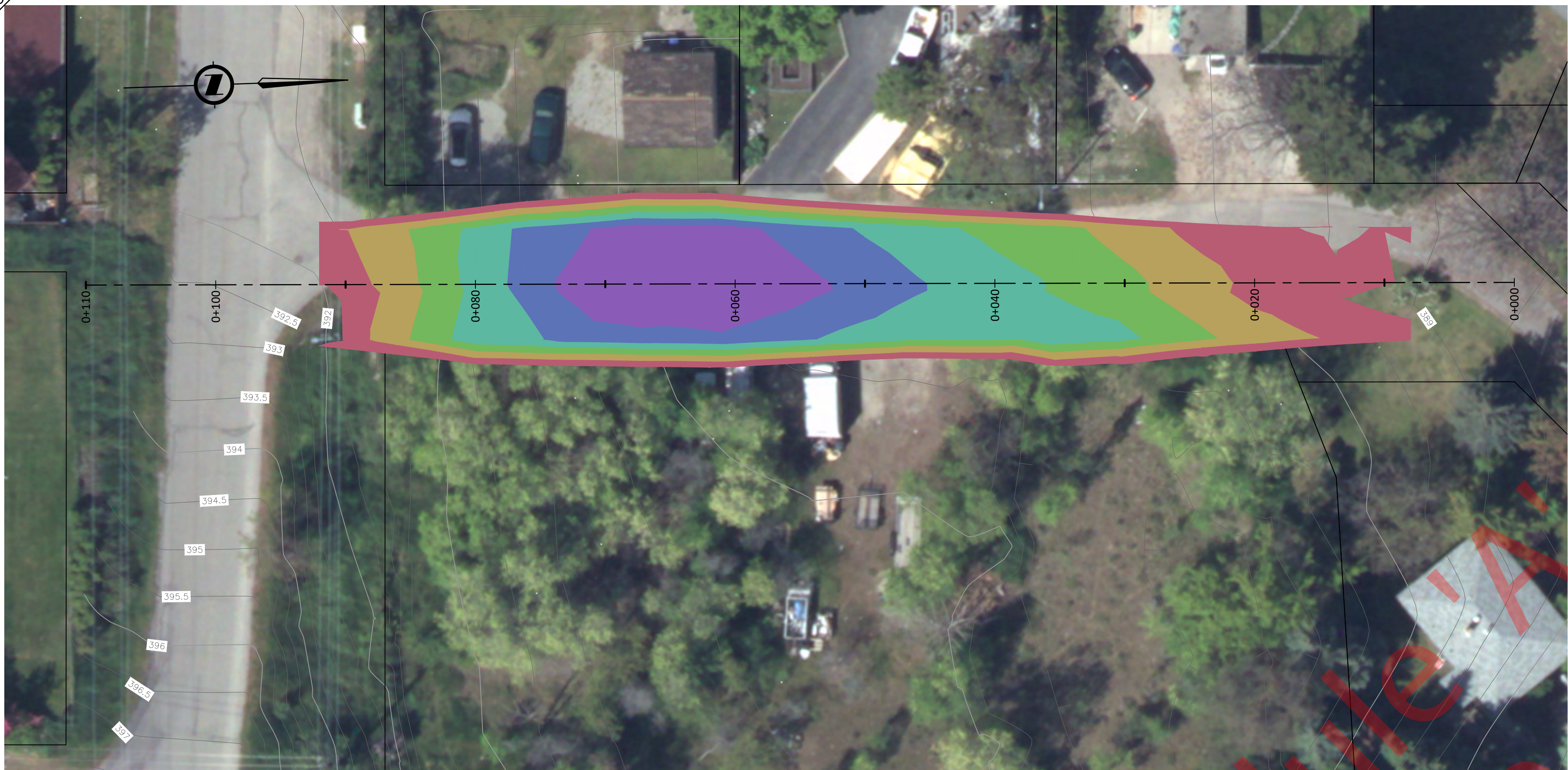
4. In accordance with Section 501 of the *Local Government Act*, the lands subject to this permit shall be developed in general accordance with this permit and the plans attached as Schedule 'A'.
5. In accordance with Section 504 of the *Local Government Act*, if the holder of this permit does not commence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

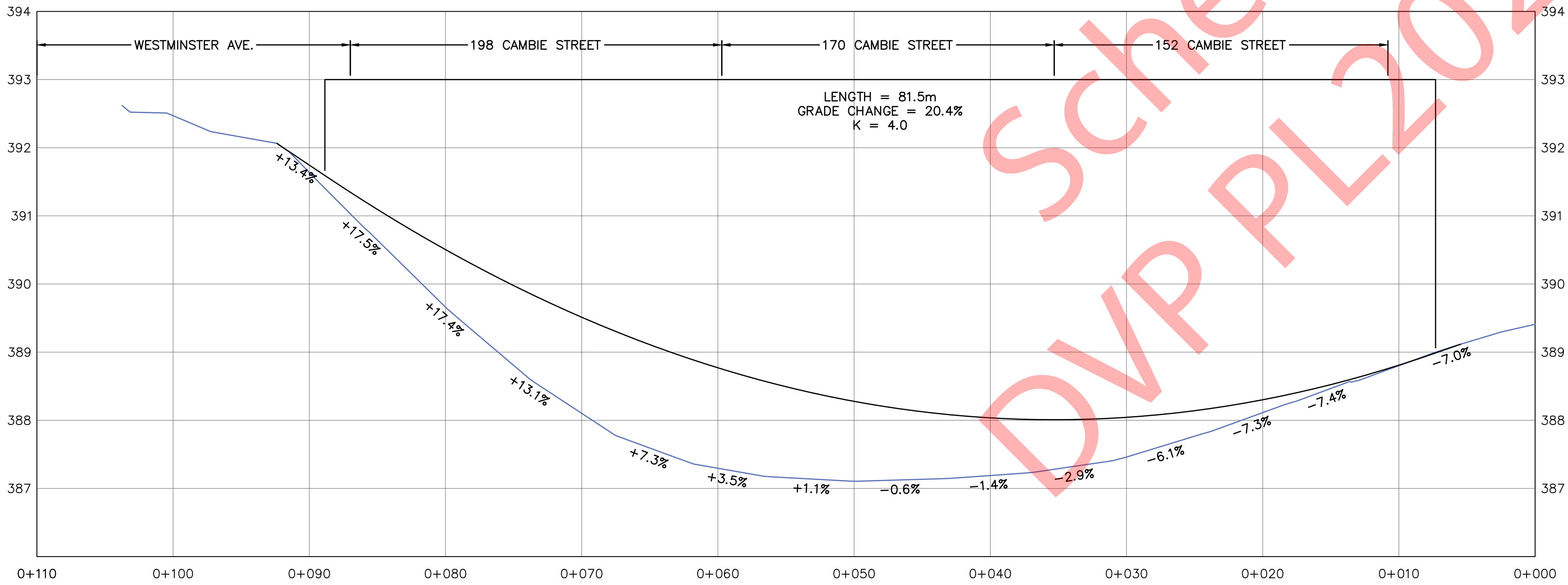
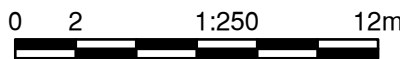
Issued this ____ day of _____, 2020.

Angela Collison
Corporate Officer

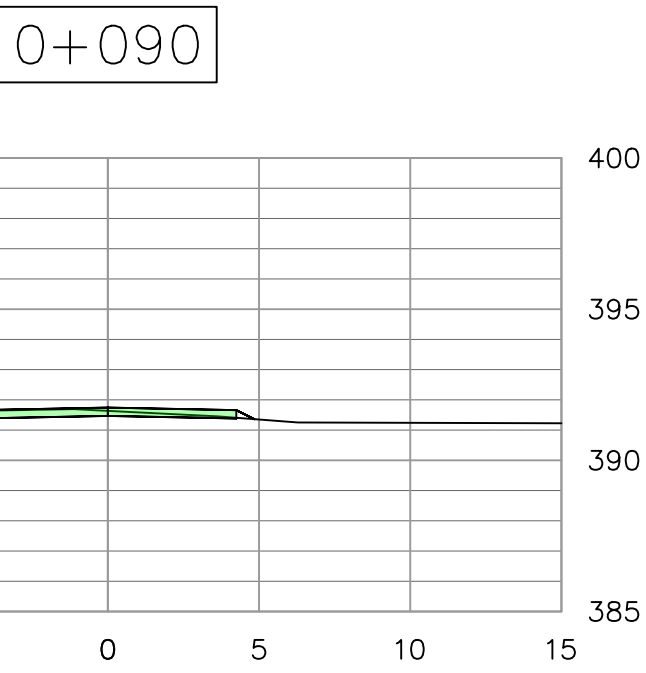
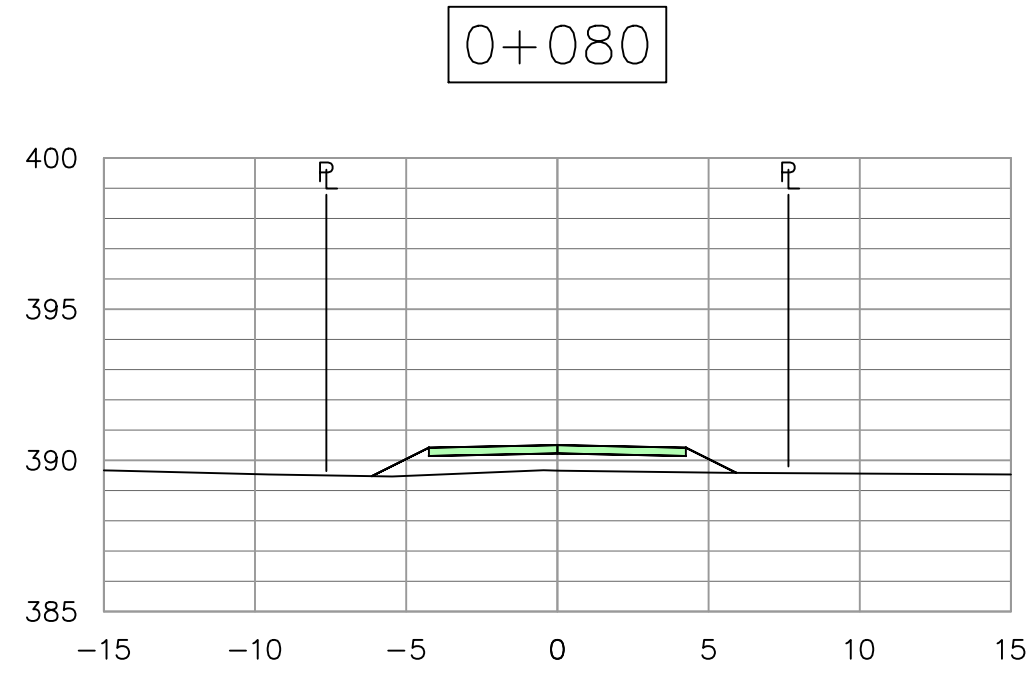
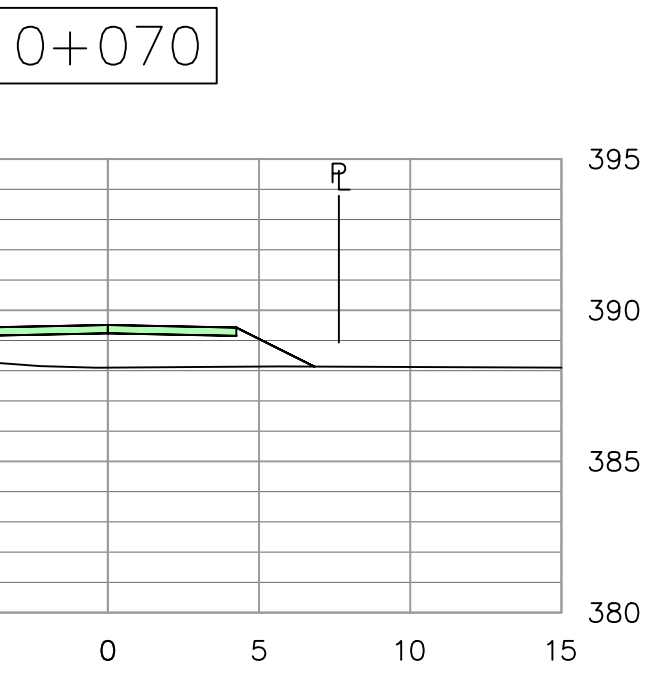
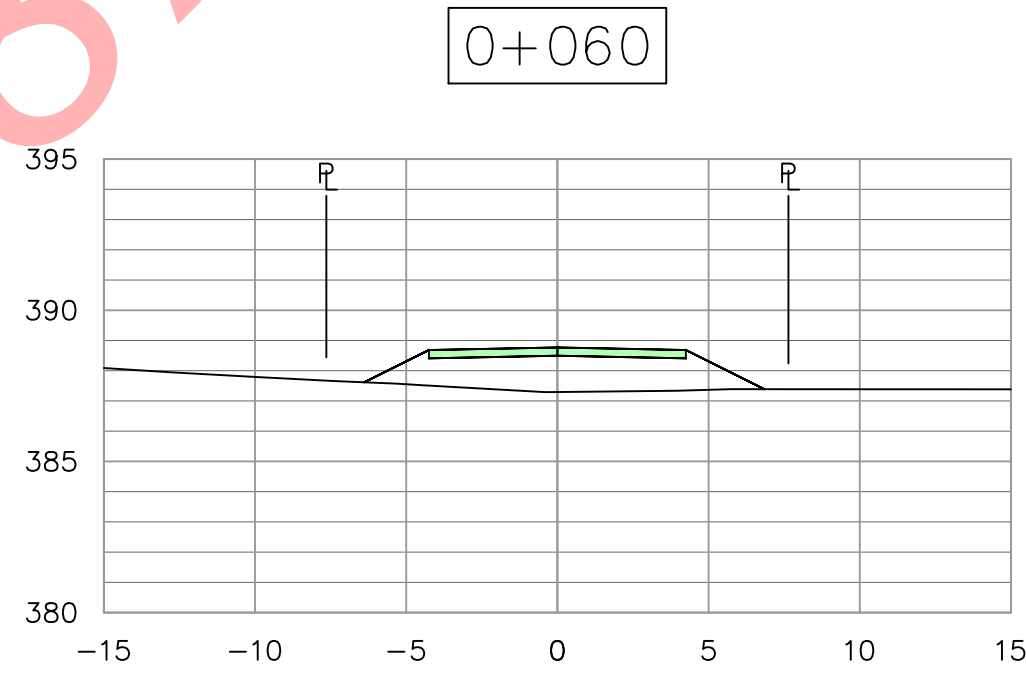
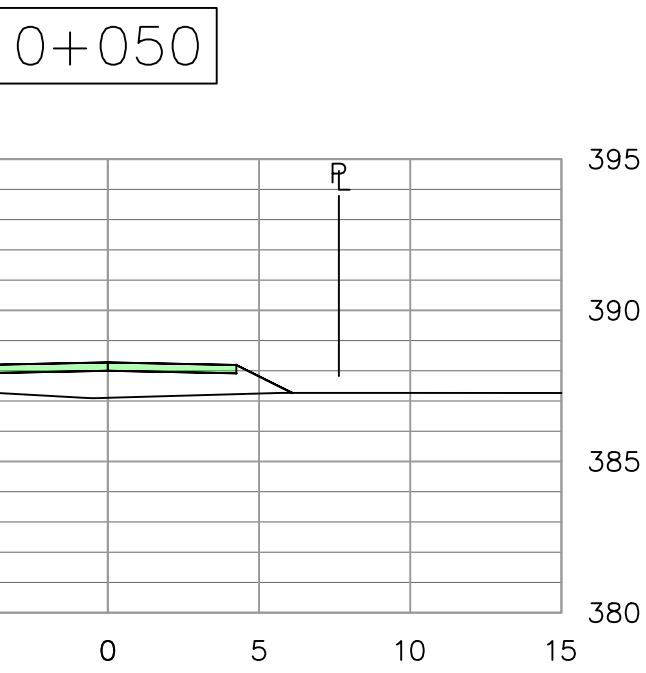
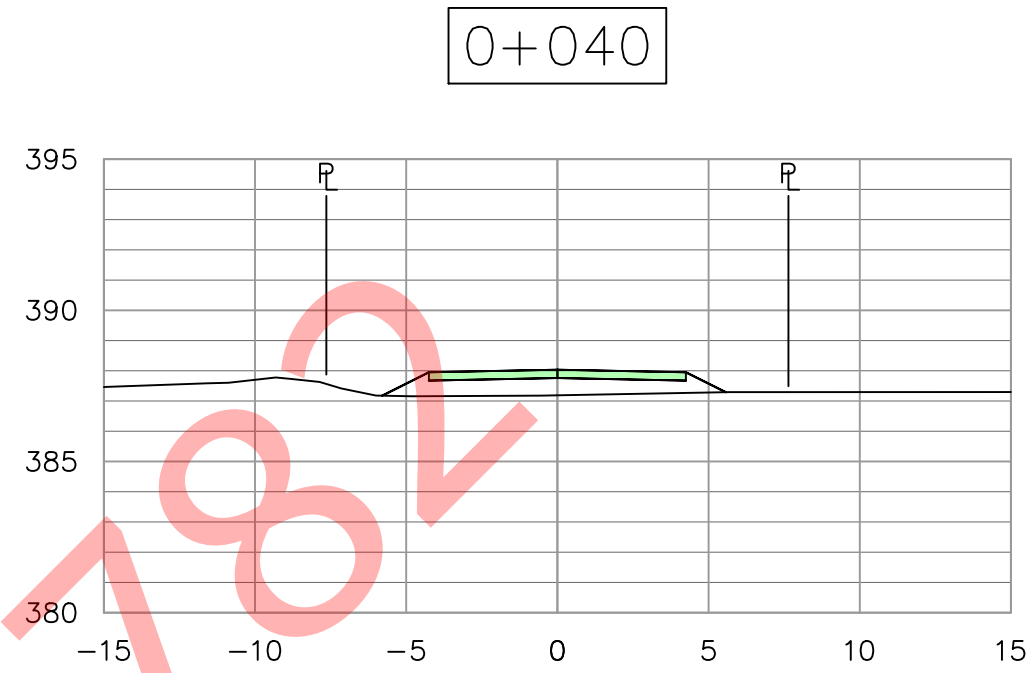
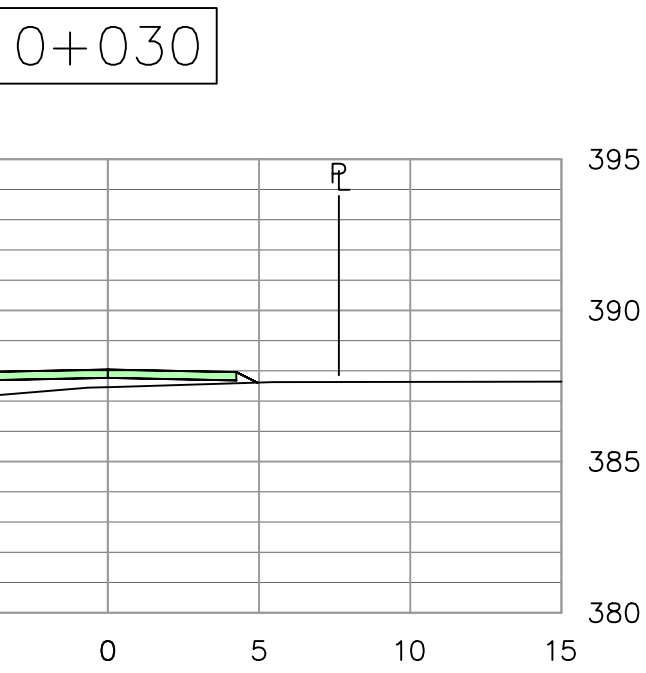
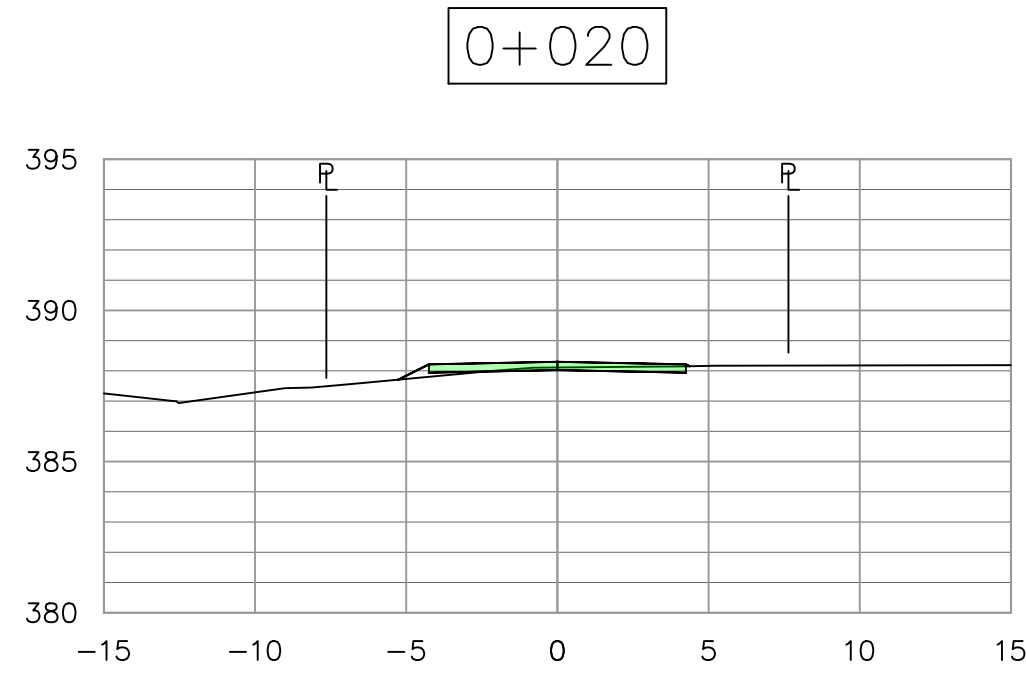
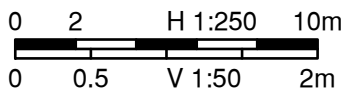
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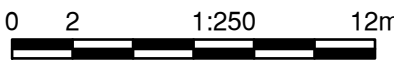
OLIVER PLACE PLAN



OLIVER PLACE PROFILE



OLIVER PLACE SECTIONS



ELEVATION TABLE		
MINIMUM ELEVATION	MAXIMUM ELEVATION	COLOUR
0m	+0.25m	Red
+0.25m	+0.50m	
+0.50m	+0.75m	Orange
+0.75m	+1.00m	Yellow
+1.00m	+1.25m	Green
+1.25m	+1.50m	Blue

ESTIMATED VOLUME = +650m³

NO.	DATE	REVISIONS	CP NAME
1	2020-05-29	ISSUED FOR DISCUSSION	



ENGINEER'S SEAL

TITLE	PLAN & PROFILE (K=4.0)
PROJECT	665 WESTMINSTER AVE EAST
PREPARED FOR	MARVIN HAYTER

SHEET	P-01
REV NO.	1
DATE	2020-05-29