

January 6, 2022

Subject Property:

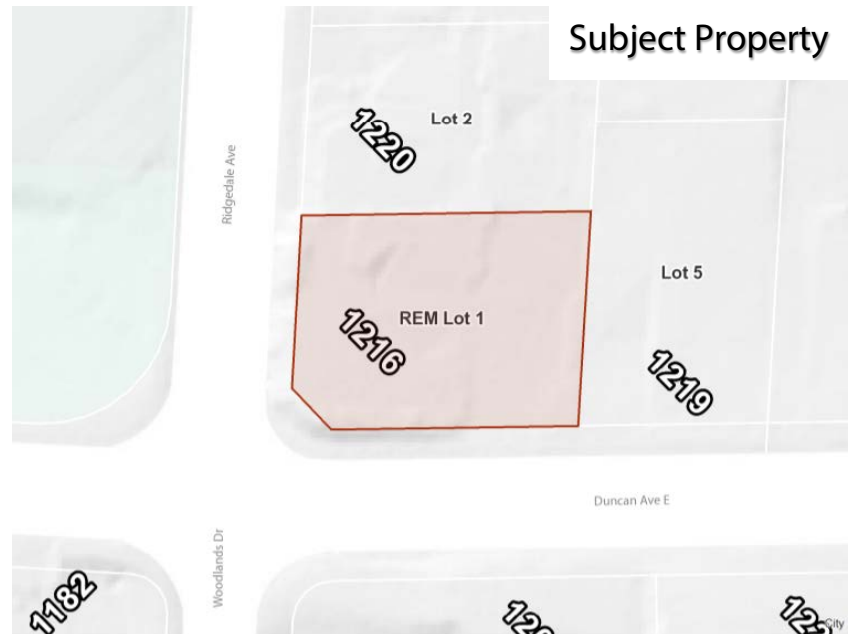
1216 Ridgedale Avenue

Lot 1, District Lot 2710, Similkameen Division
Yale District, Plan 17823, Except Plan KAP47175

Application:

Development Variance Permit PL2021-9180

The applicant constructed a metal patio cover on the north side of the existing home without the benefit of a building permit. The patio cover projects further into the required side yard setback (north side) than permitted by Table 4.1 of Zoning Bylaw 2021-01.



The applicant is requesting a variance to increase the allowable projection of a metal patio cover into the required 1.5m interior side yard (north) from 0m to 1.4m, in order to keep the metal patio cover as-is.

Information:

You can find the staff report to Council and Development Variance Permit PL2021-9180 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 **6:00 pm, Tuesday, January 18, 2022** at Penticton City Hall, Council Chambers, 171 Main Street, Penticton, B.C.

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, January 18, 2022**, 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 January 18, 2022 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: January 18, 2022
To: Donny van Dyk, Chief Administrative Officer
From: Steven Collyer, Planner II
Address: 1216 Ridgedale Avenue
Subject: Development Variance Permit PL2021-9180

File No: RMS/1216 Ridgedale Ave

Staff Recommendation

THAT Council deny "Development Variance Permit PL2021-9180" for Lot 1 District Lot 2710 Similkameen Division Yale District Plan 17823 Except Plan KAP47175, located at 1216 Ridgedale Avenue, a permit to vary Table 4.1 of Zoning Bylaw No. 2021-01 to allow the projection of a metal patio cover into the required interior side yard (north) to a maximum of 1.4m.

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 requesting a variance to allow the projection of a metal patio cover into the required 1.5m interior side yard from 0m to 1.4m. The cover was installed without the benefit of a building permit, and this variance to the Zoning Bylaw is required in the process of legalizing the structure.

Background

The subject property is located at the corner of Ridgedale Avenue and Duncan Avenue East (Figure 1). The property contains a single detached dwelling and a garage which are connected by a roof. The property is zoned R1 (Large Lot Residential) and is designated 'Detached Residential' by the Official Community Plan (OCP). Surrounding land uses are primarily single detached residences, with a water reservoir and greenspace located across Ridgedale Avenue to the west.



Figure 1 - Property location map

Enforcement

The City received a complaint regarding unpermitted construction of a metal patio cover on August 4, 2021. Staff inspected the property and confirmed with the property owner that a building permit was required for the metal patio cover. A building permit application was submitted on August 10, 2021. Staff began review of the building permit application and advised the applicant on September 2, 2021, that the metal patio cover did not meet the Zoning Bylaw setback requirements, and that the building permit would be placed “on-hold” subject to a development variance permit. Staff followed up on October 8, 2021, to see if the applicant intended to apply for a variance. The owner advised on October 21, 2021, that a variance would be submitted shortly and the application was received on November 1, 2021.

Approval of the development variance permit would require an alternate solution to the BC Building Code in order for a building permit to be issued. This is achievable, however the applicant has suggested an alternate option of cutting the metal patio cover back to meet the Building Code requirement of 0.45m separate from property line, as opposed to 0.1m which is the applicant’s preferred option. This alternative, along with approval of the requested variance, are presented in the Alternate Recommendations section of this report.



Figure 2 - Image of metal patio cover projecting on north side of the home.

Technical Review

This application was reviewed by the Technical Planning Committee (TPC), a group of internal staff from various departments who review planning applications. The committee discussed the Building Code requirements for the metal patio cover. Staff shared these comments with the applicant. The BC Building Code specifies requirements for fire separations to property lines. The BC Building Code states that eaves attached to residential structures shall not project to within 0.45m of a property line, unless an alternate solution is proposed and approved. The purpose of requiring fire separation is to mitigate fire spread risk between properties by ensuring physical separation of structures. If the structure is made of non-flammable material then an alternate solution may be appropriate, however the Building Officials must consider the life safety aspects of such a decision prior to issuing a building permit with an alternate solution to the BC Building Code requirements. The applicant has decided to proceed with the understanding that an alternate solution will be required as part of the building permit application for the metal patio cover, in its current form.

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. Staff have considered the requested variance below and are recommending denial for the following reasons:

1. The proposal does not maintain the intent of the Zoning Bylaw.

The Zoning Bylaw does not allow roof covers to project into required interior side yard setbacks. A property may have a roof cover project from the side of the house, but in the R1 zone it cannot be closer than 1.5m (5ft) to the property line. The existing metal roof cover extends to 0.1m (4 inches) from the property line, with the variance request to allow 1.4m (4 feet 7 inches) of projection into the required setback where normally no projection is allowed. The intent of the Zoning Bylaw is to provide physical separation between structures and property lines in residential areas. A structure at 0.1m (4 inches) from property line does not meet this intent. Staff also consider the alternate option of cutting the structure back to 0.45m (18 inches) does not meet the intent of the Zoning Bylaw either, due to insufficient separation between structures and property lines in a single detached residential zone.

2. The cover may result in negative impacts to neighbouring properties.

Another reason for separating structures and property lines is to avoid negative impacts on neighbouring properties. In general, the closer a structure is to a property line the more likely it is to impact neighbours. Given that this metal patio cover issue was raised through a complaint to Bylaw Services, staff are not comfortable supporting a variance request because the complaint indicates there is some negative impact to the most affected neighbour from the installation of the metal patio cover. The applicant notes within their letter of intent that the metal patio cover increases the privacy between properties (Attachment 'D'), however this does not change the proximity of the structure to the property line.

3. The preferred option of keeping the cover at 0.1m to property line does not comply with the BC Building Code.

The BC Building Code does not allow roof soffits within 0.45m (18 inches) from the property line. The metal roof cover currently projects to 0.1m (4 inches) from the property line. This does not meet the BC Building Code requirement. An alternate solution may be proposed by the owner or their contractor outlining how the material itself limits fire spread by being non-combustible. Should Council approve the variance to allow the metal roof cover in its current form, such an alternate solution is required to be accepted by the Building Department in order for a building permit to be issued to legalize the structure. The owner and staff have discussed the option of an alternate solution to the BC Building Code requirements, which is a possibility should Council ultimately decide to approve the variance request. The alternate option put forward by the applicant involves them cutting the metal roof cover back to meet the BC Building Code required separation of 0.45m from a property line, and would not require an alternate solution to the BC Building Code requirements.

Alternate Recommendations

Council may choose the alternate recommendation suggested by the applicant, to have the applicant cut the metal patio cover back to meet the BC Building Code requirement of 0.45m separate from property lines, without requiring an alternate solution to the BC Building Code requirements.

1. THAT Council approve amended "Development Variance Permit PL2021-9180" to allow for an increased projection for a covered metal patio cover from 0m to 1.05m, and direct staff to issue the amended permit.

Council may choose to approve the variance as requested. This would allow the covered metal patio cover to remain in its current form at 0.1m to property line. Should Council approve this variance, the applicant will require a building permit with an alternate solution to meet the fire separation requirements of the Code. This is achievable, as discussed with the Building Department. Staff recommend against this option because the intent of the Zoning Bylaw setback requirements in residential zones is to maintain sufficient space between structures and property lines, and there is reason to believe the metal roof cover has caused negative impacts on neighbours because a Bylaw Services complaint was received.

2. THAT Council approve "Development Variance Permit PL2021-9180" and direct staff to issue the permit.

Attachments

Attachment A – Zoning Map

Attachment B – Official Community Plan Map

Attachment C – Photos of Property

Attachment D – Letter of Intent

Attachment E – Draft Development Variance Permit PL2021-9180

Respectfully submitted,

Steven Collyer, RPP, MCIP
Planner II

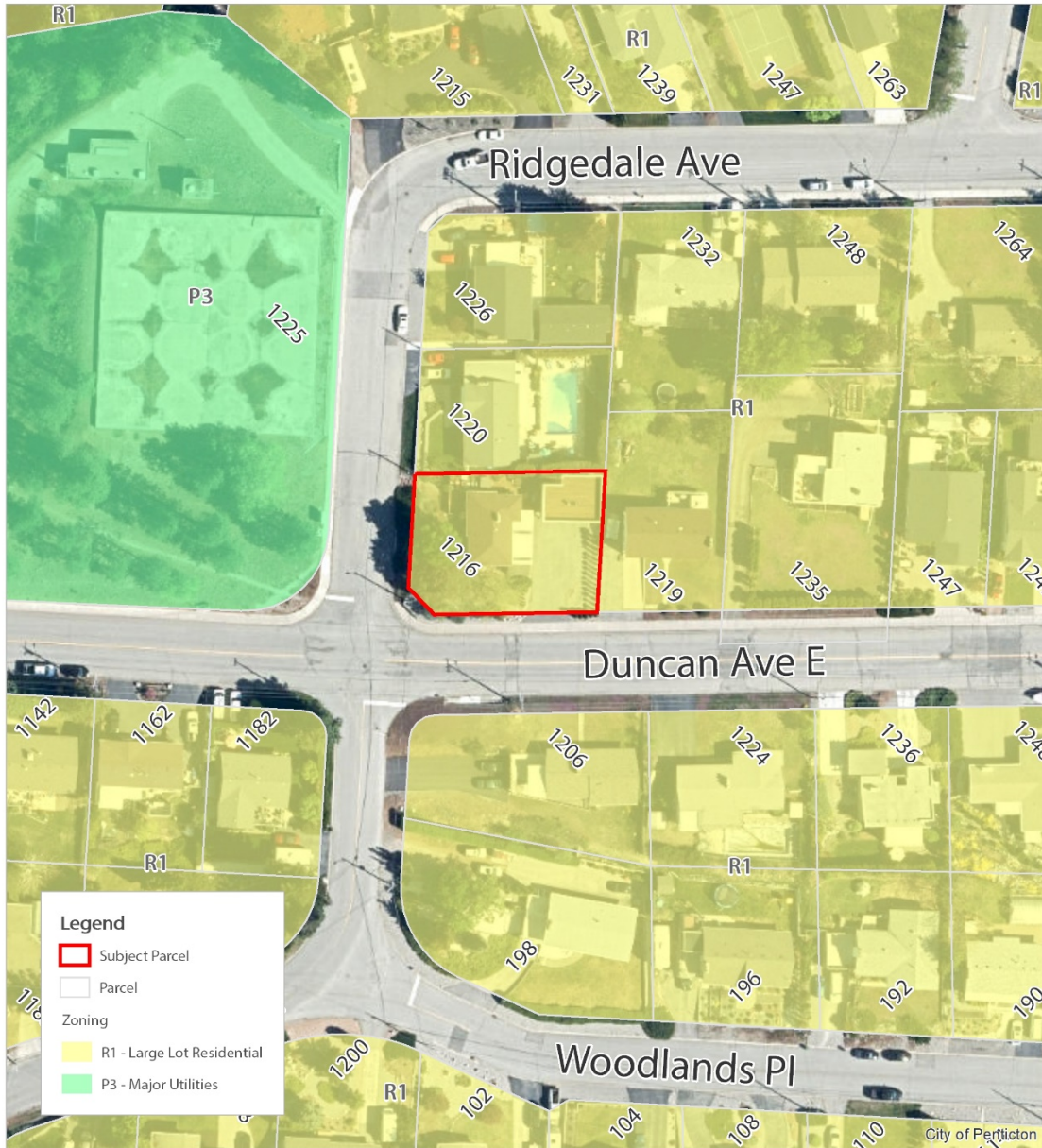
Concurrence

Director of Development Services	Chief Administrative Officer
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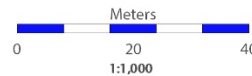


1216 Ridgedale Ave

Zoning Map



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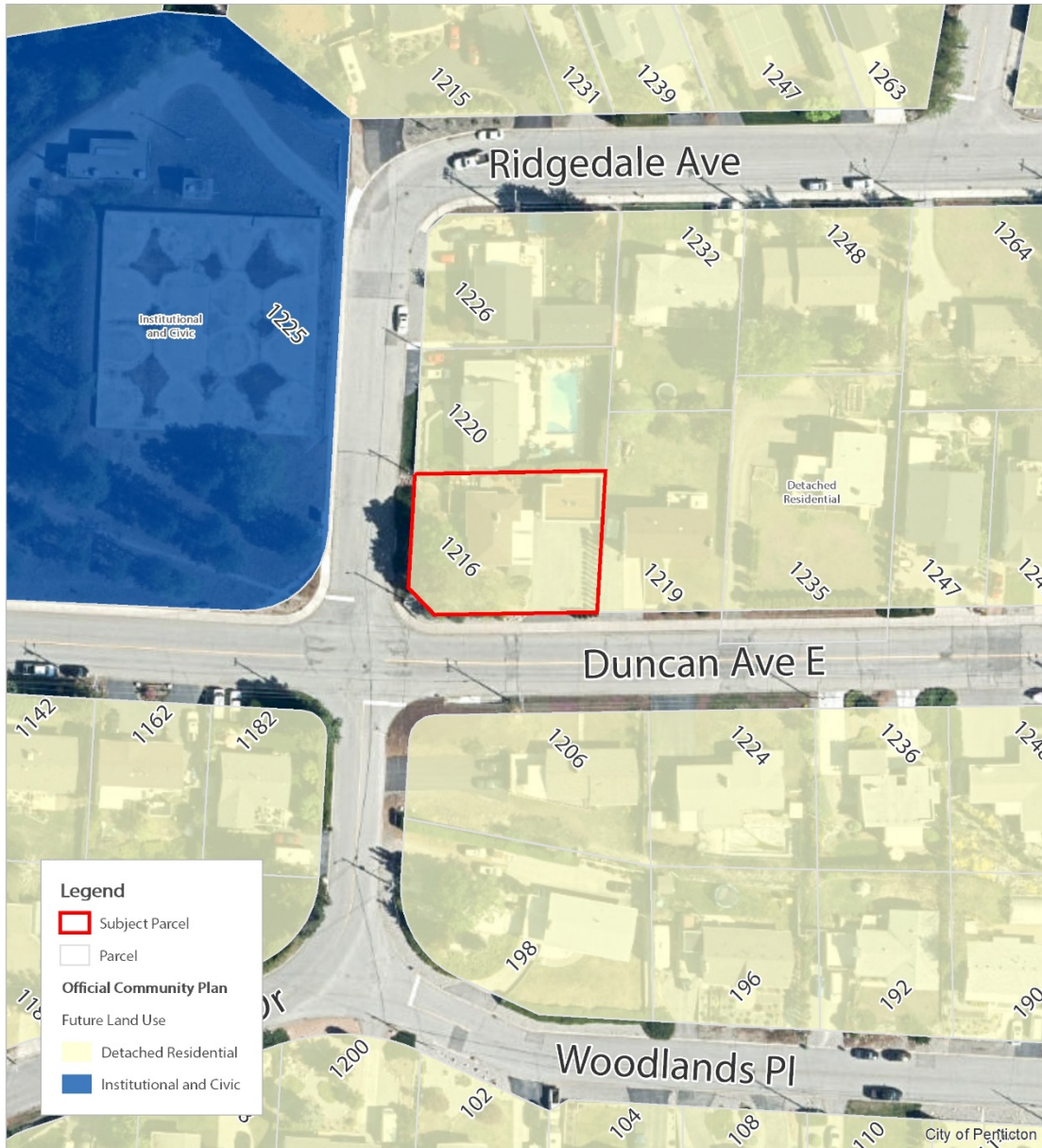
November 9, 2021
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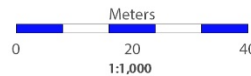


1216 Ridgedale Ave

Official Community Plan Map



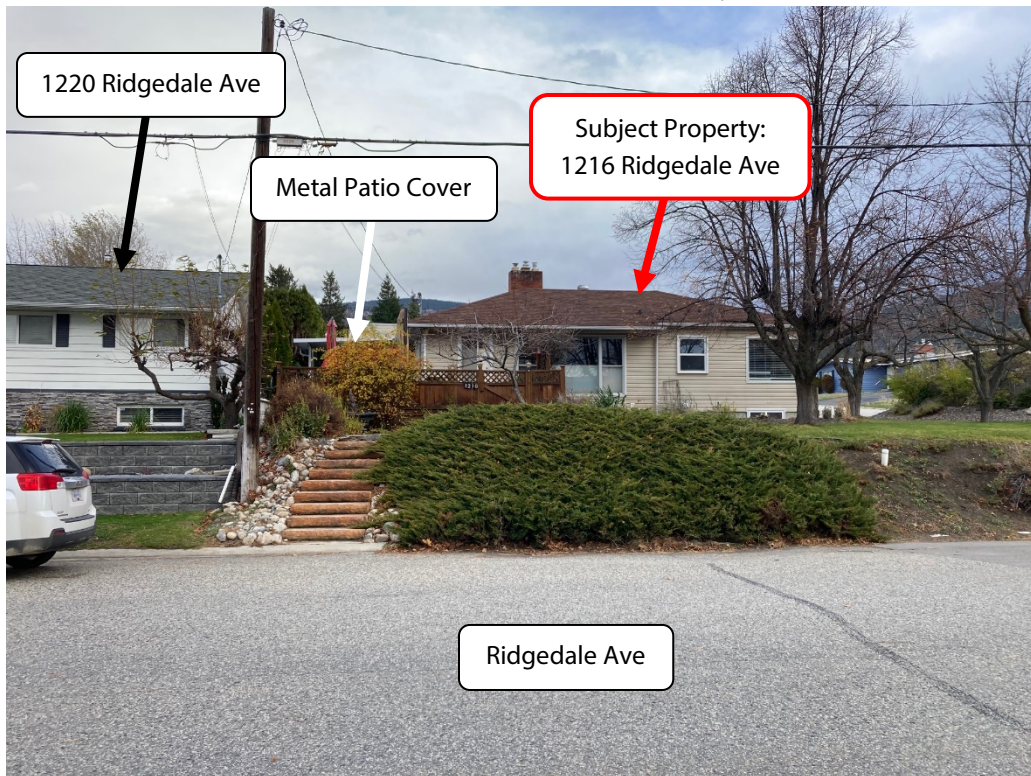
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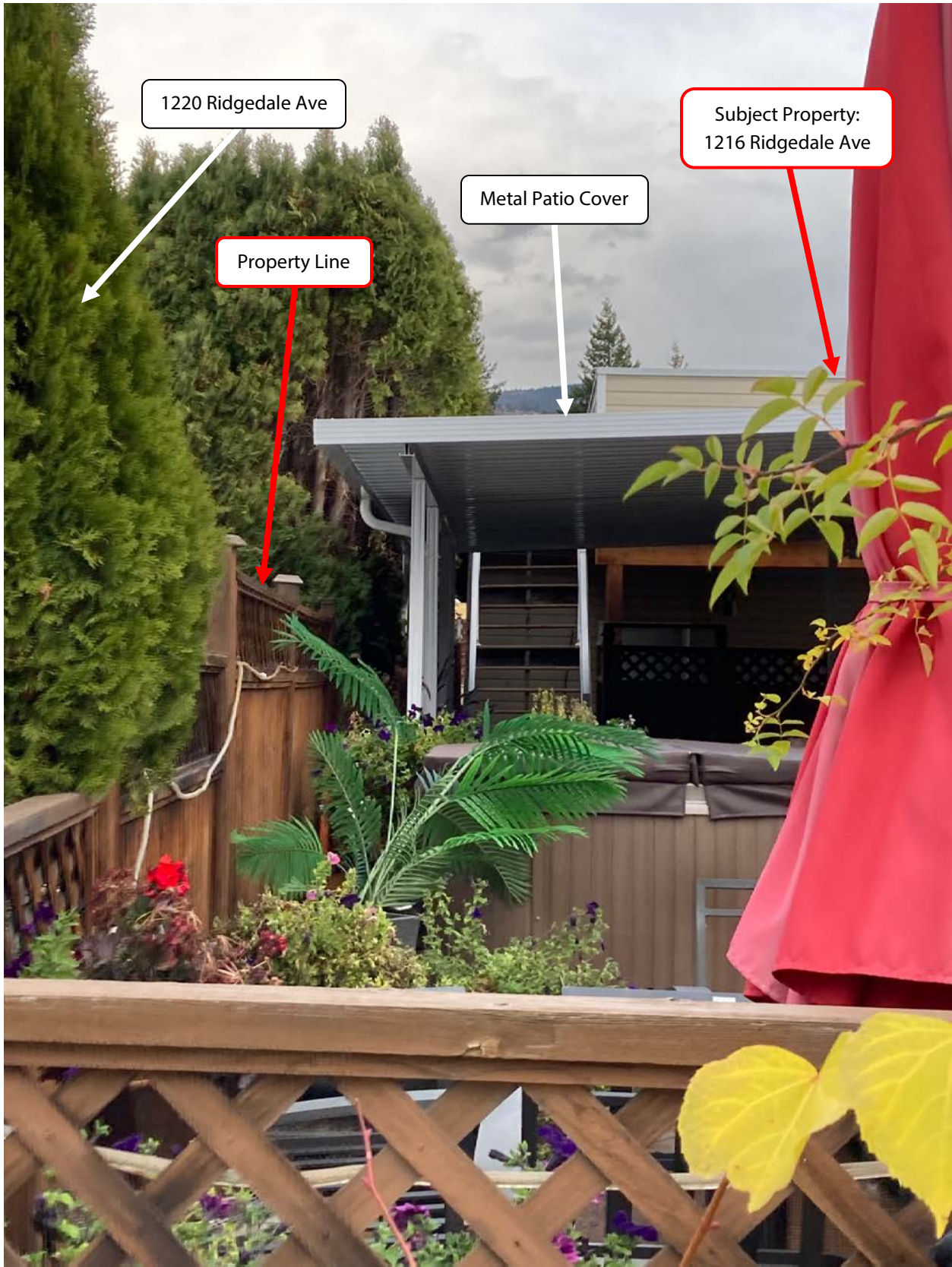


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Attachment C – Photos of Property





Attachment D – Letter of Intent

City of Penticton

Planning Department – Development Services Division

171 Main Street, Penticton, BC V2A 5A9

October 25, 2021

Re: Variance Application for 1216 Ridgedale Avenue, Penticton

Dear Mayor, Council and Staff:

I am writing to request a minor variance to my side yard set back for the placement of a patio awning. City staff have brought to my attention that a minor variance is required to allow my awning to remain as it reaches into the set back.

The awning I had installed is a pre fabricated engineered metal awning, attached to the north side of my home, which covers a portion of my patio area. This allows for greater enjoyment of my patio through protection from the sun, rain and wind and also allows for greater privacy for both myself and for my neighbours to the north. When I am entertaining guests, the awning helps to reduce the impact of noise to neighbouring properties. This metal covering also provides additional fire protection and fire barrier between my property and the property to the north.

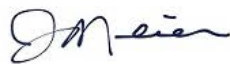
I am requesting the patio awning remain in its current location, however if council feels that an adjustment is needed, I am suggesting an alternative of cutting it back to the current post locations. This will be a significant cost to me to make this alteration, but it is something I would be willing to do if council felt it was needed.

Coping with this pandemic has been very stressful with no family in Penticton and my only daughter and grandson overseas, adding this cover was designed to be a “port in a storm”. It has allowed for me to have friends over to socialize outside during the pandemic as I am alone during the pandemic.

I was not aware of set back requirements for an awning and I am pursuing the variance as I wish to bring my property into compliance.

Thank you for your time and consideration.

Sincerely,



Judith Meier

The patio cover erected at 1216 Ridgedale Avenue, Penticton is a prefabricated construction consisting of engineered frame work and locally made panels.

Our covers are completely bespoke allowing for our customers the exact coverage for their requirements.

In this case our brief was to cover as much of the aging wooden deck in order to preserve it from any further weather damage, to add privacy from the neighbours and to reduce the effects of sunlight and heat during the Okanagan summers and, as a bonus, to allow the customer use of the entire deck during the winters months especially with the ongoing concerns of inside socializing due to the current COVID-19 pandemic.

We achieved everything the customer required.

- * Deck Protection

- * Sun / heat Shade during the summer months

- * A large enough safe space to socialize with friends if restrictions are once again put into place due to the COVID-19 pandemic

- * To help with noise reduction from road traffic and neighbours

- * To aid privacy.

We at Tropicana sincerely hope that this matter can come to a happy conclusion for all parties involved and on our part we apologize for the unfortunate administrative process caused by the lack of permit at the beginning.

Development Variance Permit

Permit Number: DVP PL2021-9180

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 1 District Lot 2710 Similkameen Division Yale District Plan 17823 Except Plan KAP47175
 - Civic: 1216 Ridgedale Avenue
 - PID: 008-347-956
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2021-01 to allow for the construction of a metal patio cover, as shown in the plans attached in Schedule 'A':
 - a. Table 4.1: to allow the projection of a metal patio cover into the required interior side yard (north) to a maximum of 1.4m.

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 _____, 2022.

Issued this ____ day of _____, 2022.

Angela Collison
Corporate Officer

DRAFT

PLAN SHOWING THE LOCATION OF IMPROVEMENTS SITUATED UPON
LOT 1, D.L. 2710, S.D.Y.D., PLAN 17823 EXCEPT
PLAN KAP47175

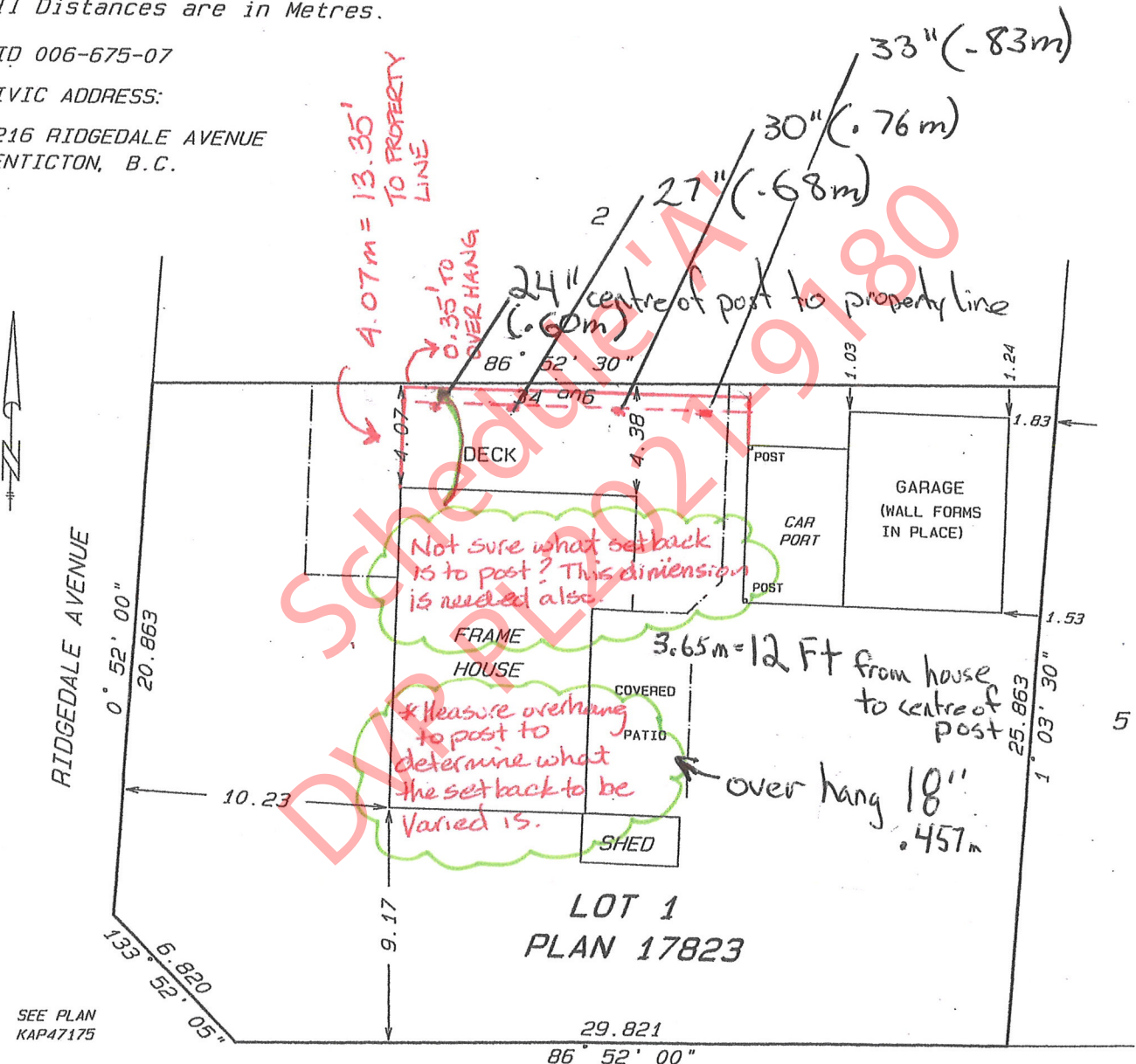
SCALE 1 : 250

All Distances are in Metres.

PID 006-675-07

CIVIC ADDRESS:

1216 RIDGEDALE AVENUE
PENTICTON, B.C.



DUNCAN AVENUE EAST

NOTE:

-THIS SITE PLAN IS NOT TO BE USED
TO RE-ESTABLISH PROPERTY LINES.
-PROPERTY DIMENSIONS ARE FROM
LAND TITLE OFFICE RECORDS