

February 17, 2022

## Address & Legal Description:

665 Westminister Ave E

Lot C District Lot 202 Similkameen Division Yale District Plan 39999

## Subject & Proposal

Development Variance Permit PL2020-8782

The applicant is proposing a seven (7) lot subdivision (Figure 1).

The proposal keeps the current R1 (Large Lot Residential) zoning and provides access to each proposed lot from a new cul-de-sac to be built off of Oliver Place. In order to facilitate the proposed subdivision, the applicant has applied to vary the K-value (vertical curve) and road grade of Oliver Place, as the proposed road reconstruction cannot meet the Subdivision and Development Bylaw standards due to the existing non-conforming grade of the road and the grades of adjacent built-up properties.

The requested variances are as follows:

- Vary Section 00400 part 3.0 of Subdivision and Development Bylaw 2004-81, to reduce the minimum road vertical curve on Oliver Place to a minimum Sag and Crest K-value to 0.6; and
- Vary Section 00400 part 3.0 of Subdivision and Development Bylaw No. 2004-81, to increase the maximum road grade on Oliver Place from 15% to 17%.

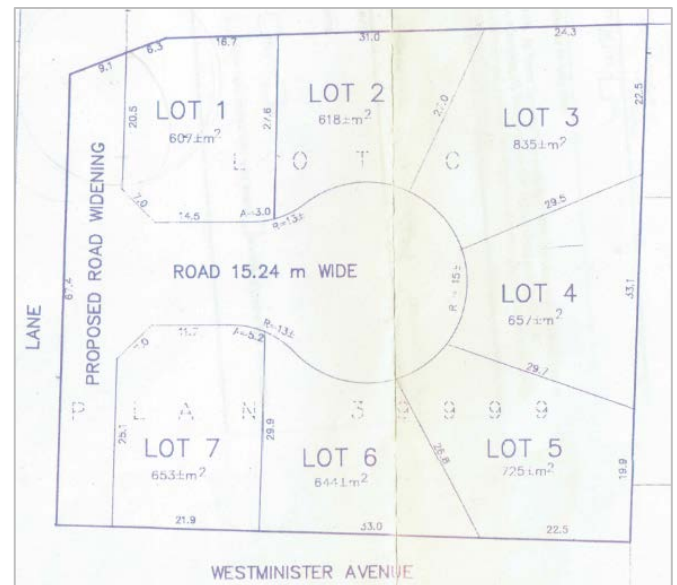


Figure 1  
Survey Sketch Plan of Proposed 7-Lot Subdivision

**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](http://www.penticton.ca/publicnotice).

Please contact the Planning Department at [planning@penticton.ca](mailto: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, March 1, 2022** in Council Chambers, Penticton City Hall, 171 Main St.

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 Development Variance Permit, may submit a petition or written comments by mail or email no later than **9:30 am, Tuesday, March 1, 2022**, to:

Attention: Corporate Officer, City of Penticton  
171 Main Street, Penticton, B.C. V2A 5A9  
Email: [corpadmin@penticton.ca](mailto:corpadmin@penticton.ca)

Please ensure the following is included in your correspondence:

**Subject: DVP PL2020-8782; 665 Westminster Ave. E.**

No letter, report or representation from the public will be received by Council after the conclusion of the March 1, 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:** March 1, 2022 **File No:** RMS/665 Westminster Avenue East  
**To:** Donny van Dyk, Chief Administrative Officer  
**From:** Michael Hodges, Development Infrastructure Manager and Steven Collyer, Planner II  
**Address:** 665 Westminister Avenue East  
**Subject:** **Zoning Amendment Bylaw No. 2020-46**  
**Development Variance Permit PL2020-8782**

## Staff Recommendation

THAT Council close and abandon "Zoning Amendment Bylaw No. 2020-46", a bylaw to rezone Lot C District Lot 202 Similkameen Division Yale District Plan 39999, located at 665 Westminister Avenue East, from R1 (Large Lot Residential) zone to RM1 (Bareland Strata Housing) zone, as the applicant has decided to proceed with a 7-lot subdivision under the existing R1 zoning;

AND THAT Council approve "Development Variance Permit PL2020-8782", as amended, a permit to vary Section 00400 part 3.0 of Subdivision and Development Bylaw 2004-81, to reduce the minimum road vertical curve on Oliver Place to a minimum Sag and Crest K-value to 0.6;

AND THAT Council approve "Development Variance Permit PL2020-8782", as amended, a permit to vary Section 00400 part 3.0 of Subdivision and Development Bylaw No. 2004-81, to increase the maximum road grade on Oliver Place from 15% to 17%;

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 Westminister Avenue East

## 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 (Figure 2). 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. Based on the feedback from the public at the November 16,

2020 Public Hearing, 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) and road grade of Oliver Place, as the proposed road reconstruction cannot meet the Subdivision and Development Bylaw standards for K-value (vertical curve) and road grade due to the existing non-conforming grade of the road and the grades of adjacent built-up properties. The new proposal has taken into account comments made at the November 16, 2020 Public Hearing and further consultation with neighbouring properties.

## Background

The subject property is located at the corner of Westminster Avenue East and Oliver Place (Figure 1). 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. 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 submitted a subdivision application to create seven (7) lots (Figure 2). A number of works and services will be required as conditions of subdivision, and are discussed further in this report. Preliminary layout approval (PLA) for the subdivision was issued on April 14, 2021, as the subdivision plan met all Zoning Bylaw requirements.

The previous development proposal was for an 11-lot subdivision, with 8 of those lots within a proposed bareland strata. Based on feedback at the November 2020 Public Hearing, the applicant is no longer proposing to create a strata development and instead each new 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 previously raised by the public regarding the safety of driveways (previously proposed) onto Westminster Avenue East, which has existing visibility challenges.

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

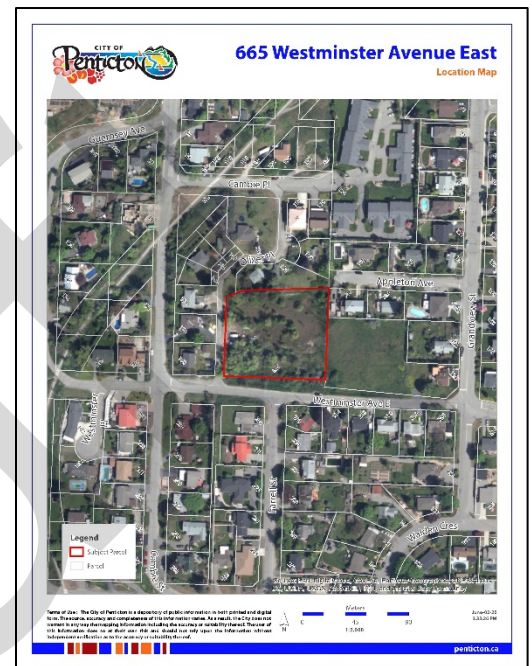


Figure 1 - Property location map

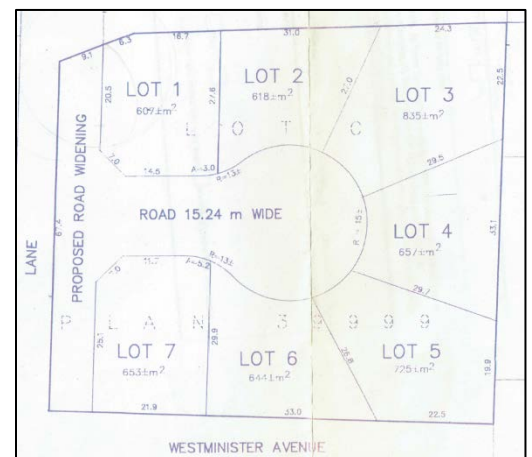


Figure 2 - Survey sketch for 7-lot subdivision

|                           | Previous Proposal                                                           | Current Plan                                          |
|---------------------------|-----------------------------------------------------------------------------|-------------------------------------------------------|
| <b>Minimum Lot Areas:</b> | Ranging from 390 m <sup>2</sup> to 590 m <sup>2</sup>                       | Ranging from 607 m <sup>2</sup> to 835 m <sup>2</sup> |
| <b>Number of Lots:</b>    | 11                                                                          | 7                                                     |
| <b>Vehicle Access:</b>    | Westminster Ave E – 3 lots<br>New cul-de-sac off Oliver Pl – 8 lots         | New cul-de-sac off Oliver Pl: 7 lots                  |
| <b>Zoning:</b>            | R1 (Large Lot Residential)<br>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 name not on the approved list. This item will come back for review once a street name has been identified by the applicant.

### 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. Staff are recommending that Council require the full width of Oliver Place to be constructed by the developer (the bylaw only requires up to the centre line), which will be fully at the cost of the developer (details below).

### 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

### *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. 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. The lot is currently zoned R1. As such, staff are recommending that Council close and abandon "Zoning Amendment Bylaw No. 2020-46".

### *Development Variance Permit*

The requested variance is similar to what was previously reviewed by staff in the fall of 2020. Although the Zoning Bylaw Amendment is no longer required based on the updated subdivision configuration, the proposal still requires variances to the Subdivision and Development Bylaw, because of the existing grade issues. Staff's analysis and recommendation is that Council approve the requested variances.

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 an unreasonable hardship on the developer or surrounding neighborhood.

The City's road design criteria is outlined in the Subdivision and Development Bylaw. 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. The plan requires a reduction to the minimum required K-value. 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 both of the Vertical Curve radius for a local residential road as specified in Schedule G Section 004400 Table 3 to a minimum K-value of 0.6.
- Increase the maximum road grade for a local residential road as specified in Schedule G Section 004400 Table 3 from 15% grade to 17% grade.



The proposed road design allows the road to be upgraded to a full width of 8 metres with curb and gutter, and sidewalk on the east side of the road. The boulevard will slope to the existing properties on the west of the road at a 6:1 grade (16%). This will maintain usable drive accesses for the home owners on the west side of Oliver Place to still access the road from the rear of their properties without having to complete any modifications.

Through the proposed road reconstruction the existing geometric limitations around road grades are being improved, but Oliver Place will remain steep. Without changing the grades on the surrounding existing properties there is no opportunity to substantially improve the grades on the road.

Staff have reviewed the two variance requests and consider that upgrading Oliver Place while meeting the standard K-value required by the Subdivision and Development Bylaw is not possible without significant negative impact on adjacent private properties. The construction of a bylaw-compliant road would require significant earthworks on the properties on the west side of Oliver place. The City has discussed these options with the homeowners and could not facilitate an agreement between the parties. It is staff's belief that it is not possible to reconstruct the road in accordance with the Subdivision and Development Bylaw requirements.

The proposed road design was referred to the City's traffic consultant for their expert consideration. The review from the traffic consultant is in Attachment A. The opinion of the traffic consultant is that the design proposed by the developer is safe and the best available option for this section of Oliver Place given the geometric constraints of the existing road and grading.

Staff believe 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 road 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 to a minimum of 0.6 and increase the road grade to 17%.

### **Alternate Recommendations**

Council may consider that the developer should follow the Subdivision and Development Bylaw K-value and road grade requirements. Staff are recommending against this option, because the proposed road reconstruction 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. If Council chooses this option, Oliver Place will not be upgraded and will remain in its current form.

1. THAT Council deny "Development Variance Permit PL2020-8782".

### **Attachments**

Attachment A – Traffic Consultant Report

Attachment B – Draft Development Variance Permit PL2020-8782

Respectfully submitted,

Michael Hodges  
Development Infrastructure Manager

Steven Collyer, RPP, MCIP  
Planner II

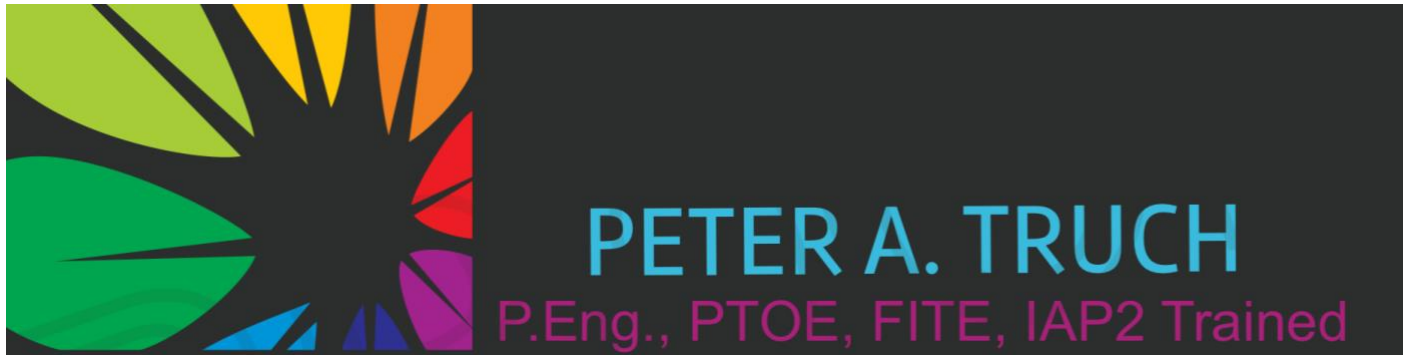
Concurrence

|                                                      |                                                    |                                 |
|------------------------------------------------------|----------------------------------------------------|---------------------------------|
| Director<br>Development<br>Services<br><br><i>BL</i> | General Manager<br>Infrastructure<br><br><i>KD</i> | Chief Administrative<br>Officer |
|------------------------------------------------------|----------------------------------------------------|---------------------------------|

Draft



# Attachment A - Traffic Consultant Report



## Planning & Designing

### Communities, Building Community

Independent Transportation Consultant

1033 Calder Crt | Kelowna, BC | V1Y 8W8

P:778-215-3879 E:peter.truch@me.com

28 December 2021

City of Penticton

Attn: Mr. Michael Hodges, P.Eng.

171 Main Street

Penticton, BC V2A 5A9

## Re: Design Review – Oliver Place/Westminster Avenue E

### Introduction

This letter provides documentation of my review on behalf of the City of Penticton of the proposed solution proposed (memo dated 3 June 2021) by Mr. Caleb Pomeroy of Watershed Engineering. It is my understanding that following typical transportation engineering guidelines and City bylaws created a design that impacted existing residents, and thus, a design with three proposed design exceptions is offered to avoid impacting existing properties.

While not ideal, proposing design exceptions is often done in retrofitting into existing (built) designs, when impacts to existing properties are to be avoided.

It should also be noted that the existing design of Oliver Place and the intersection with Westminster Avenue E is not fully compliant with today's engineering guidelines, and operates as a 'grandfathered' roadway designed to historical guidelines.

## Discussion of Proposed Design Exceptions

### **1) Reduction of the Crest K value from City of Penticton Bylaw value of 7 to 0.6**

The City's bylaw (2004) is on the high end as compared to the current Transportation Association of Canada (TAC) guideline of 6-7 for a 50 km/h roadway. Although the proposal is to reduce the crest K curve significantly, this is deemed an acceptable exception because:

- A) It is on an uphill roadway approaching a stop sign, and so in theory, the operating speeds should be well under 30 km/h. (For reference, a 30 km/h roadway design requires a Crest K value of 1.6).
- B) The sight lines in both directions on Westminster Avenue (eastbound and westbound) should be able to see an approaching the intersection (southbound). Furthermore, from Oliver Place, sightlines to the east, for the first potential conflict (for an approaching westbound vehicle) are generous, and sightlines to the west (for eastbound traffic) are adequate.

It is noted that visibility of pedestrians walking along the north side of Westminster Avenue (no sidewalk currently present), particularly for smaller children, could be slightly compromised for vehicles travelling southbound on Oliver Place, but again, due to the approach to the stop sign, it is not believed this will be a significant factor, and is considered a lower risk due to low frequency. Care should be taken when developing the property in the NE corner of the intersection to ensure the ample sightlines, particularly to the east, are preserved.

### **2) Reduction of the Sag K value from City of Penticton Bylaw value of 6 to 2.0**

The City's bylaw (2004) is on the high end as compared to current TAC guidelines for a sag curve posted at 50 km/h, K value of 5-6. For a 30 km/h design speed, TAC guidelines suggest a sag value as low as 2.0 is acceptable. In this case, the proposed sag curve has ample visibility for both northbound and southbound directions. As such, the greatest risk for a reduced curve is night time visibility within the sag curve. For safety, I recommend providing adequate lighting within the sag curve along Oliver Place, which would help improve any potential issues during dark conditions.

### **3) Increasing the maximum slope of a residential street from 15% (City bylaw and TAC) to 17%**

The current grade of Oliver Place is also greater than the typical 15% maximum (almost 20%), and is currently approximately 25m in length. The proposed design lessens the slope (slightly) to a 17% grade, but greatly reduces the length to about 5.5m. In short, while the proposed grade does not conforming to today's guidelines, the design provides a reasonable compromise, reducing the



impact over today's conditions, whilst still not impacting adjacent properties. For winter operations, the City should ensure that Oliver Place is sanded/plowed on a higher priority basis, due to the steep grade, as compared to a typical residential street.



### Conclusion and Recommendations

The three proposed design exceptions are reasonable to accept in retrofitting Oliver Place, provided that winter operations are prioritized for the street, sufficient lighting is provided within the sag curve slope, and care is taken to ensure visibility is maintained for southbound vehicles looking to the east.

I would further recommend that the City designate the gazetted (posted) speed for Oliver Place at 30 km/h for the entire length, and should install as part of the redesign speed humps (for 30 km/h) at approximately 0+085m to help ensure the speeds stay within the range of posted speeds. If posted at 30 km/h, this also eliminates the second design exception.

I deliver every project with technical expertise, collaboration and passion to build communities and community. Thank you for our continued relationship in allowing me to bring my expertise and passion in building the Penticton community. I look forward to further collaborations.

Yours in Service,

Peter A. Truch, P.Eng., PTOE, FITE, IAP2 Trained

Attachment: 3 June 2021 Memo and Proposed Design



June 3, 2021

City File No.: SD PL2020-8910

The City of Penticton  
171 Main Street  
Penticton, BC V2A 5A9

Attention: Michael Hodges | Development Infrastructure Manager

Reference: 665 Westminster Development Variance Permit | Oliver Place Geometric Design

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As part of the proposed subdivision at 665 Westminster Avenue, the Preliminary Layout Approval (PLA) requires Oliver Place to be upgraded to conform with the City Subdivision and Development Bylaw 2004-81. Watershed Engineering Ltd. was retained by the Hayter Family to prepare the engineering design and infrastructure upgrades required by the PLA. During the preliminary design, it was identified that due to the natural topography and the existing development on Oliver Place, which has a current existing road grade of approximately 20%, designing to the City Bylaw standard would cause the addition of 2m of fill in places and also negatively impact existing properties beyond the RoW..

The attached design drawing R-01 has been prepared to balance the geometric design requirements, public safety and minimizing impacts to existing adjacent properties and infrastructure. Below is a list of the design criteria the does not conform to City of Penticton Bylaw 2004-84 and a portion of Transportation Association of Canada Design Guidelines:

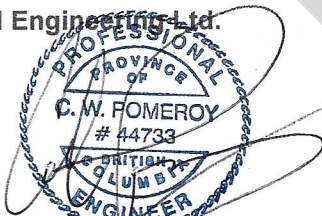
- Requesting variance to Bylaw 2004-81 for Urban Local Residential road crest K value from 7 to 0.6. This variance allows the transition from Westminster Avenue to Oliver Place to occur over a shorter distance which minimizes the impact to the driveway at 198 Oliver Place.
- Requesting variance to Bylaw 2004-81 for Urban Local Residential road sag K value from 6 to 2.0. Reducing the sag allows the road profile to transition back to the existing grade which will accommodate the existing driveways.
- Requesting variance to Bylaw 2004-81 for Urban Local Residential road and Transportation Association of Canada for maximum grade from 15% to 17% for a distance of 5.5m. This variance will further reduce the fill required to meet the bylaw standards for the road design and will not impact existing properties outside of the RoW on Oliver Place.

The above noted variances are proposed to prioritize public safety while reducing impacts from development upgrades to existing property owners on Oliver Place. The site conditions and road safety will be improved by this design; however, the design does not fully conform to Bylaw 2004-81 and TAC.

We trust this memo meets your requirements. Should you have any questions, please contact the undersigned.

Sincerely,

Watershed Engineering Ltd.



Caleb W. Pomeroy, P.Eng, PMP  
Principal Engineer  
Direct Line: 250.803.1150  
caleb.pomeroy@watershedengineering.ca

Attachments: Oliver Place Proposed Design

## 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 reconstruction of Oliver Place as part of a proposed subdivision, as shown in the plans attached in Schedule 'A':
  - a. Section 00400 Part 3.0: to reduce the minimum road vertical curve on Oliver Place from a sag and crest K value of 6 to 0.6.
  - b. Section 00400 Part 3.0: to increase the maximum road grade on Oliver Place from 15% to 17%.

### 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 Preliminary Layout Approval (PLA) for subdivision. In order to proceed with this development, the holder of this permit must hold a valid PLA signed by the City's Approving Officer.
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.

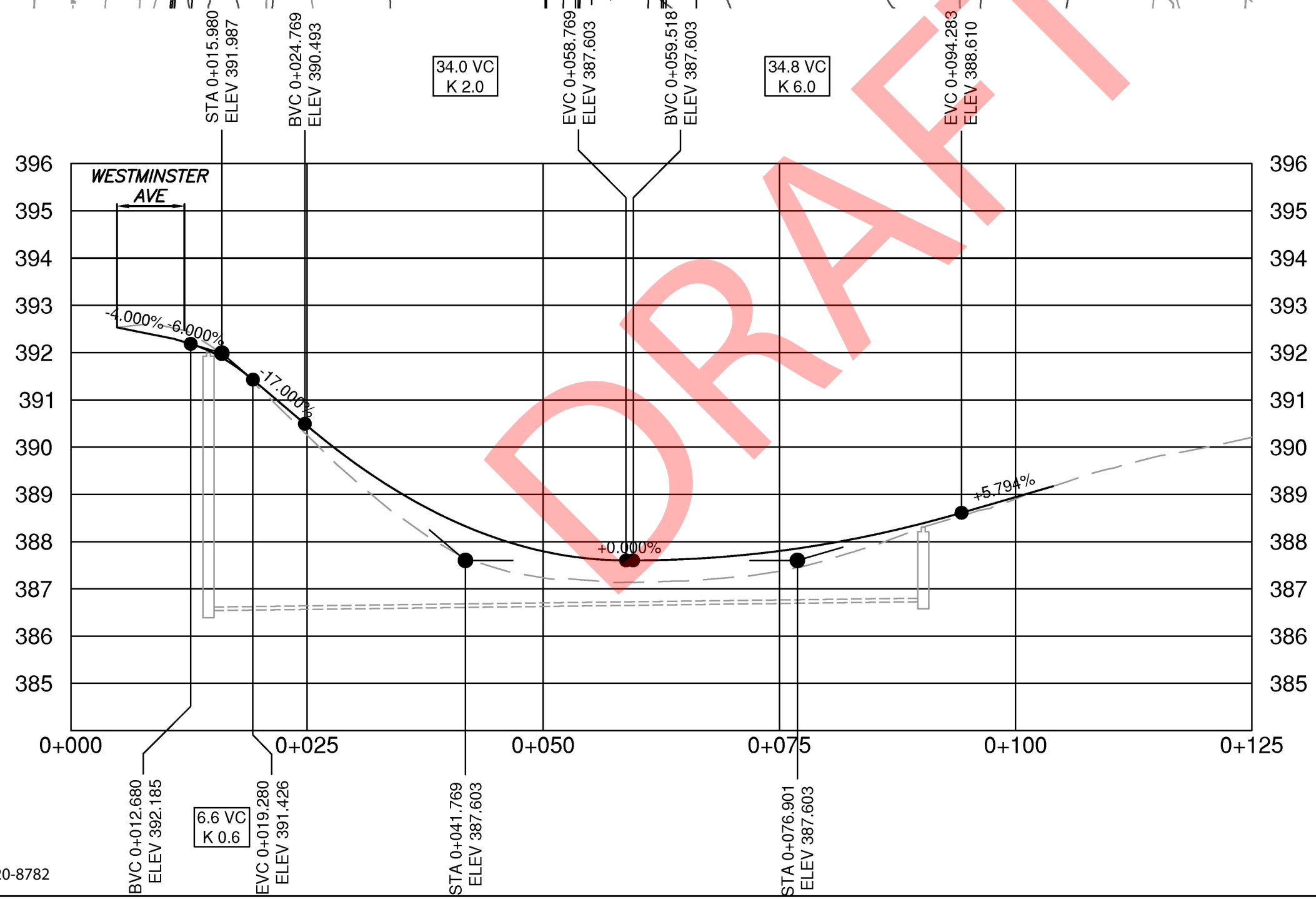
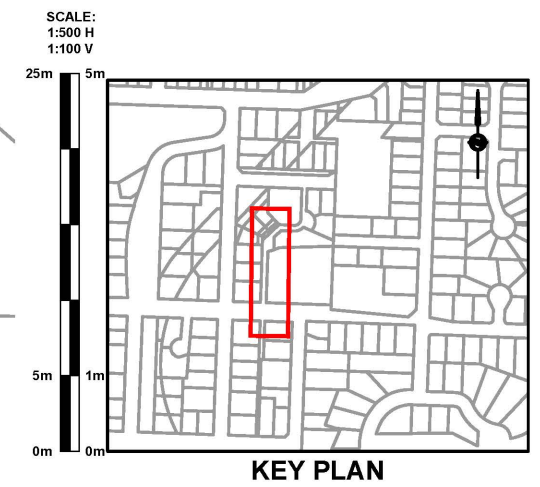
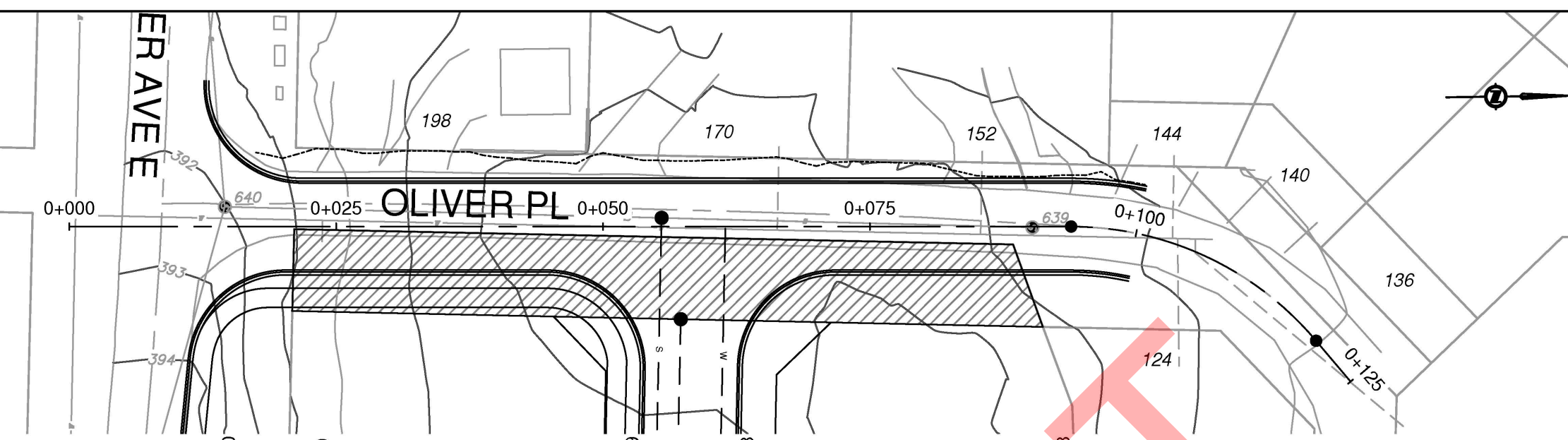
Issued this \_\_\_\_ day of \_\_\_\_\_, 2022.

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Angela Collison  
Corporate Officer

DRAFT





DVP PL2020-8782

|                                              |                           |                                    |      |
|----------------------------------------------|---------------------------|------------------------------------|------|
| CITY OF PENTICTON<br>ENGINEERING DEPARTMENT  |                           |                                    |      |
| ROADS<br>OLIVER PLACE<br>STA: 0+000 TO 0+125 |                           |                                    |      |
|                                              | APPROVED FOR CONSTRUCTION |                                    | DATE |
|                                              | PUBLIC WORKS MGR.         |                                    |      |
|                                              | ELECTRICAL ENGINEER       |                                    |      |
|                                              | PARKS DIVISION MGR.       |                                    |      |
|                                              | CITY ENGINEER             |                                    |      |
| DATE: 2021-06-03                             |                           | AS-BUILT APPROVAL                  |      |
| REV                                          | DATE                      | REVISION                           | NAME |
| 0                                            | 2021-04-22                | ISSUED FOR DISCUSSION              | DD   |
| PROJECT NO.<br>2020.007                      |                           | DRAWING NO.<br>R-01<br>Page 2 of 3 |      |
|                                              |                           | REV.<br>0                          |      |