

June 8, 2023

Address & Legal Description:

795 Westminster Ave. W.

Lot 1 District Lot 2 Group 7 Similkameen Division
Yale (Formerly Yale Lytton) District Plan
EPP120592

Subject & Proposal

Development Variance Permit PL2023-9585

The applicant is proposing to build their approved mixed-use development in two phases (Figure 1 on Page 2).



The full development was approved by Council in July 2022 through Development Permit PL2022-9281. The applicant requires two variances to the CD8 zone regulations to allow one phase of the development to be completed before the other. The applicant has applied to vary the following sections of Zoning Bylaw 2023-08, on a temporary basis, to allow the phasing to occur:

- Section 14.8.3.2: to reduce the minimum lot area from 3,200m² to 1,090m² (for phasing only), and
- Section 14.8.3.7: to reduce the minimum interior side yard from 3.0m to 0.0m (for phasing only);

Council Consideration:

Council will consider the Development Variance Permit at its Regular Council Meeting scheduled for **1:00 pm, Tuesday, June 20, 2023** in Council Chambers at 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. Select the 'Watch Live' button.

Information:

You can find the staff report to Council and Development Variance Permit PL2023-9585 on the City's website at www.penticton.ca/publicnotice or scan the QR code on the right.

Please contact the file manager Steven Collyer at 250-490-2507 or steven.collyer@penticton.ca with any questions.



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, June 20, 2023**, to:

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

Please ensure the following is included in your correspondence:

Subject: 795 Westminster Ave. W.

No letter, report or representation from the public will be received by Council after the conclusion of the June 20, 2023 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 & Licencing Manager

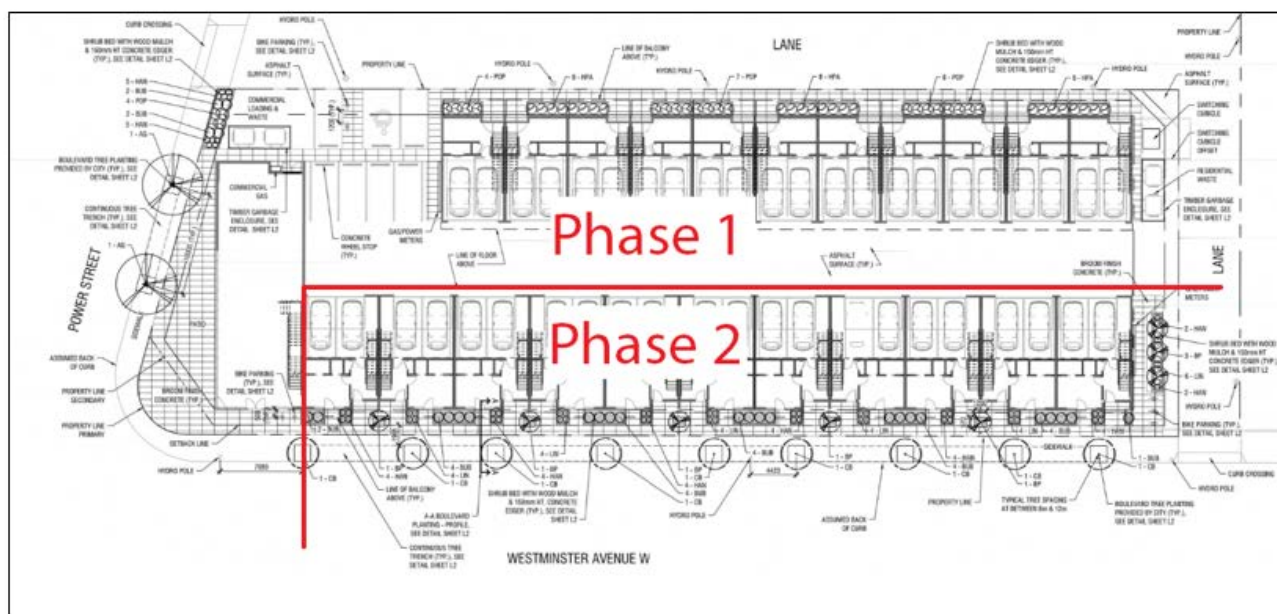


Figure 1 - Development plan showing proposed phasing

Date: June 20, 2023
To: Donny van Dyk, Chief Administrative Officer
From: Steven Collyer, Senior Planner
Address: 795 Westminster Avenue West
Subject: Development Variance Permit PL2023-9585

File No: RMS/795 Westminster Ave W

Staff Recommendation

THAT Council approve "Development Variance Permit PL2023-9585" for Lot 1 District Lot 2 Group 7 Similkameen Division Yale (Formerly Yale Lytton) District Plan EPP120592, located at 795 Westminster Avenue West, a permit to vary the following sections of Zoning Bylaw 2023-08 to allow the mixed-use development within the CD8 Comprehensive Development (795 Westminster Ave W) zone to be constructed in two phases:

- Section 14.8.3.2: to reduce the minimum lot area from 3,200m² to 1,090m² (for phasing only), and
- Section 14.8.3.7: to reduce the minimum interior side yard from 3.0m to 0.0m (for phasing only);

AND THAT Council direct staff to issue "Development Variance Permit PL2023-9585".

Strategic Priority Objective

Livable and Accessible: Proactively plan for deliberate growth; focused on an inclusive, healthy, safe and desirable place to live.

Proposal

The applicant is proposing to build their approved mixed-use development in two phases (Figure 1). The full development was approved by Council in July 2022 through Development Permit PL2022-9281. The applicant requires two variances to the CD8 zone regulations to allow one phase of the development to be completed before the other. The applicant is requesting that the minimum lot area be reduced from 3,200m² to 1,090m² and that the minimum interior side yard setback between the phases be reduced from 3.0m to 0.0m on a temporary basis to allow phasing to occur.

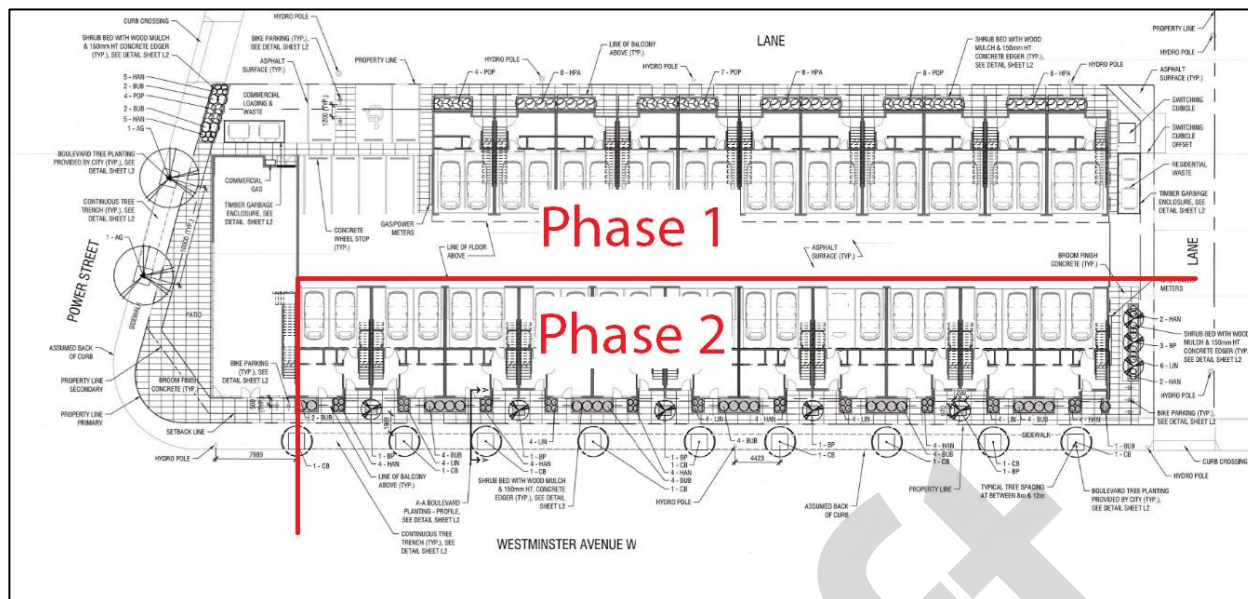


Figure 1 - Development plan showing proposed phasing

Background

The subject property is located at the northeast corner of Westminster Ave W and Power St at the edge of the North Gateway area. In July 2022, Council adopted Zoning Amendment Bylaw No. 2022-25 which rezoned the subject property to CD8, a Comprehensive Development zone specifically created for this mixed use development. The development consists of a 183m² (1,970ft²) commercial unit at the corner of Westminster and Power St, with 11 live/work townhomes along Westminster Ave W and 11 townhomes along the rear lane (north). When adopting the Zoning Amendment Bylaw, Council also approved the related Development Permit (DP PL2022-9281) for the form and character of the proposed development.

Since that approval, staff have worked with the applicant on the building permit application requirements. The applicants are requesting to build the development in two phases, rather than all at once, as they have outlined in the letter of intent included with this application (Attachment 'A').

Technical Review

The Phased Strata Subdivision and Development Variance Permit applications were reviewed by the Technical Planning Committee, a group of internal city staff who review development applications. There were no technical concerns raised with the requested variances needed to facilitate the phased development of this project. Staff will prepare the detailed list of conditions for the Phased Strata Subdivision, if the Development Variance Permit is approved. The applicant is aware of these upcoming phasing requirements.

Analysis

The reason for phasing a strata development is to allow some units to be sold and occupied while the rest of the development is being constructed. For larger strata projects, phasing can be required for financing, and is also beneficial to allow housing units that are built to come onto the market and be occupied sooner. Many multi-family strata developments in Penticton are built in phases, including the Riverside Townhomes

at 201 Wylie Street (7 phases), Skaha Lake Towers at 3388 Skaha Lake Road (3 phases), and the upcoming Sokana development at 270 Riverside Drive (2 phases), among others.

Phased strata applications are processed at the staff level, provided that each phase of the development meets the applicable Zoning Bylaw regulations on its own. In this case, a Development Variance Permit is required to allow for the Phased Strata Subdivision to proceed because the lot area of each phase and the building setbacks between the phasing line do not meet the Zoning Bylaw requirements given that the custom CD8 zone regulations were developed based on the entire site.

The proposed use, form and character of the development has already gone through technical review, public hearing, and received Council approval. The requested phasing variances are considered minor in nature and will not affect the overall outcome of the development's form and character. The applicant has outlined in the Letter of Intent (Attachment 'A') that they intend to phase the project in response to changing economic conditions over the last year, and that they have much experience working on other phased townhouse projects and will ensure access to occupied units is maintained while the second phase is being constructed.

The proposed phasing plan ensures the full width of the internal driveway is constructed in Phase 1, which ensures those units have access into their garages off the internal lane while Phase 2 is under construction. This is the main reason staff support the requested 0.0m interior side yard setback between the two phases of this development. The full build-out will maintain all required setbacks outlined in the CD8 zone and shown on the already approved development permit plans (DP PL2022-9281).

Given the reasons above, staff recommend that Council approve the requested variances to reduce the minimum lot area from 3,200m² to 1,090m² and to reduce the minimum interior side yard from 3.0m to 0.0m, to allow the project to be constructed in two phases.

Attachments

Attachment A – Letter of Intent (applicant)

Attachment B – Proposed Phasing Plan and Approved Site Plan

Attachment C – Draft Development Variance Permit PL2023-9585

Respectfully submitted,

Steven Collyer, RPP, MCIP
Senior Planner

Concurrence

Director of Development Services <i>BL</i>	GM of Infrastructure	Chief Administrative Officer
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Development Variance Permit

Permit Number: DVP PL2023-9585

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 2 Group 7 Similkameen Division Yale (Formerly Yale Lytton)
District Plan EPP120592
 - Civic: 795 Westminster Avenue West
 - PID: 031-721-605
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2023-08 to allow for the phased construction of a mixed-use development, as shown in the plans attached in Schedule 'A':
 - a. Section 14.8.3.2: to reduce the minimum lot area from 3,200m² to 1,090m² (for phasing only).
 - b. Section 14.8.3.7: to reduce the minimum interior side yard from 3.0m to 0.0m (for phasing only).

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 _____, 2023.

Issued this ____ day of _____, 2023.

Angela Collison
Corporate Officer

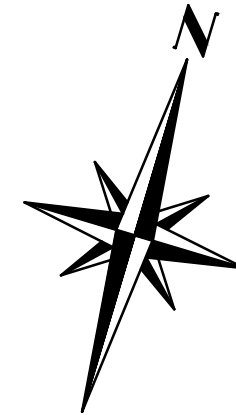
DRAFT

SKETCH PLAN TO ACCOMPANY PROPOSED VARIANCE
OF A PHASED STRATA DEVELOPMENT OF
LOT 1 DISTRICT LOT 2 GROUP 7
SIMILKAMEEN DIVISION YALE (FORMERLY YALE LYTTON) DISTRICT
PLAN EPP120592

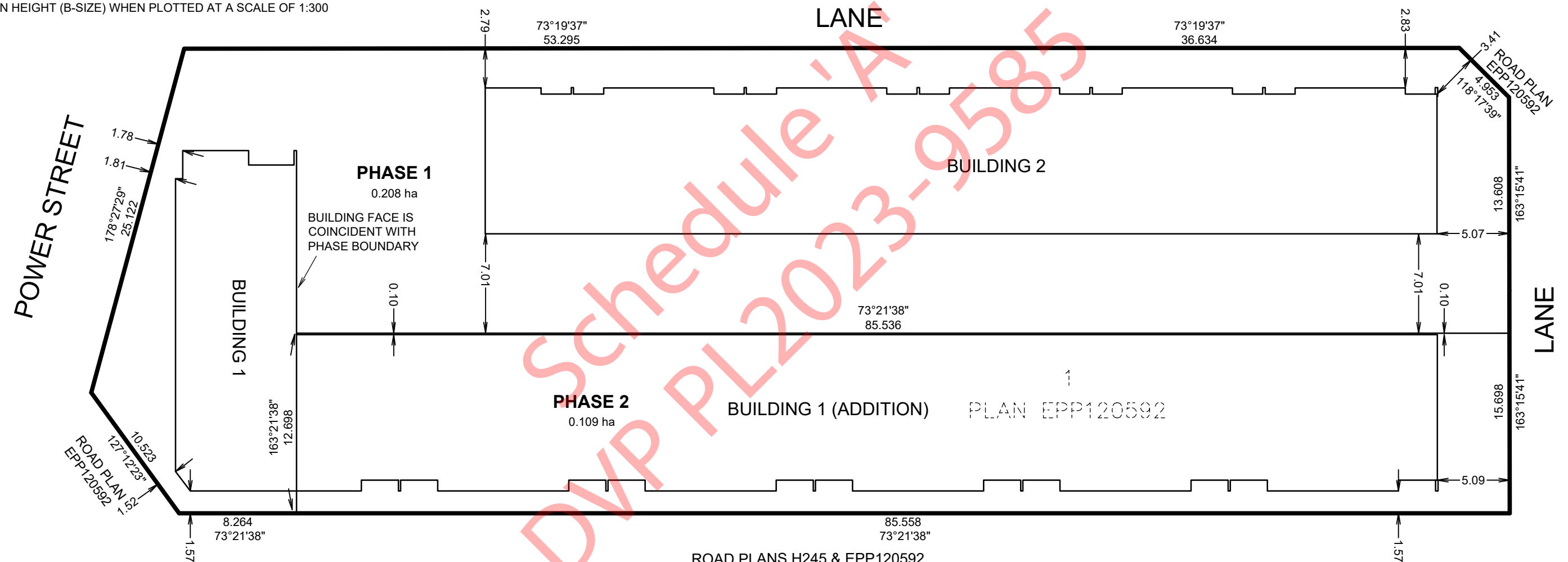
SCALE 1 : 300



ALL DISTANCES ARE IN METRES AND DECIMALS THEREOF
THE INTENDED PLOT SIZE OF THIS PLAN IS 432 mm IN WIDTH BY
280 mm IN HEIGHT (B-SIZE) WHEN PLOTTED AT A SCALE OF 1:300



CIVIC ADDRESS:
713 WESTMINSTER AVENUE,
PENTICTON, BC.



ROAD PLANS H245 & EPP120592

WESTMINSTER AVENUE WEST

LEGEND:

GRID BEARINGS ARE DERIVED FROM
PLAN EPP120592

THIS PLAN LIES WITHIN THE CITY OF
PENTICTON.

THIS PLAN LIES WITHIN THE REGIONAL
DISTRICT OF OKANAGAN SIMILKAMEEN.

McElhanney
McELHANNEY ASSOCIATES
LAND SURVEYING LTD.
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Penticton BC
Canada V2A 1N5
Tel 250 492 7399

FILE NO. 2422-03888-00
DRAWING NO. 3888-00-V-STRP_R4-VARIANCE.DWG