

March 7, 2019

Subject Property:

175 Cosssar Avenue

Lot 5, District Lot 1, Group 7, Similkameen Division Yale
(Formerly Yale-Lytton) District, Plan 3223

Application:

Development Variance Permit PL2019-8455

The applicant has requested a variance to Zoning Bylaw 2017-08, Section 10.8.2.3 to increase the permitted lot coverage from 40% to 43% to accommodate deck spaces.

Subject Property



Information:

The staff report to Council and Development Variance Permit PL2019-8455 will be available for public inspection from **Friday, March 8, 2019 to Tuesday, March 19, 2019** at the following locations during hours of operation:

- Penticton City Hall, 171 Main Street
- Penticton Library, 785 Main Street
- Penticton Community Centre, 325 Power Street

You can also find this information on the City's website at www.penticton.ca/publicnotice.

Please contact the Planning Department at (250) 490-2501 with any questions.

Council Consideration:

Council will consider this application at its Regular Council Meeting scheduled for **6:00 pm, Tuesday, March 19, 2019** in Council Chambers at Penticton City Hall, 171 Main Street.

Public Comments:

You may appear in person, or by agent, the evening of the Council meeting, or submit a petition or written comments by mail or email no later than **9:30 am, Tuesday, March 19, 2019** to:

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

No letter, report or representation from the public will be received by Council after the conclusion of the March 19, 2019 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.

Blake Laven, RPP, MCIP
Manager of Planning

Date: March 19, 2019
To: Donny van Dyk, Chief Administrative Officer
From: Nicole Capewell, Planner 1
Address: 175 Cossar Avenue
Subject: Development Variance Permit PL2019-8455

File No: PRJ2019-012

Staff Recommendation

Development Variance Permit

THAT Council approve "Development Variance Permit PL2019-8455" for Lot 5, District Lot 1, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District Plan 3223, located at 175 Cossar Ave, a permit to vary Zoning Bylaw Section 10.8.2.3, to increase the maximum lot coverage from 40% to 43%;

AND THAT staff be directed to issue "DVP PL2019-8455".

Background

The subject property (Attachment 'A') is the location of an infill project. On May 8th, 2018, Council approved the following:

- Official Community Plan Amendment (Bylaw No. 2018-21):
To amend the OCP designation from HR (High Density Residential) to MR (Medium Density Residential), and to include the property within the General Multiple Family Development Permit Area; and
- Zoning Amendment Bylaw (No. 2018-22):
To rezone the property from RD2 (Duplex Housing: Lane) to RM2 (Low Density Multiple Housing); and
- Development Variance Permit
To reduce the interior side yard setback from 3.0m to 1.5m; and
- Development Permit to allow for the construction of two side-by-side duplexes (total 4 units).

Council supported the development applications, as the proposal was consistent with City policy to increase density within established neighbourhoods. The subject property is located within close proximity of the Penticton Plaza, which contains stores including Safeway, Shoppers Drug Mart, Dollar Superstore, etc. The existing neighbourhood has a mixture of single family homes, duplexes, small apartment buildings and newly construction townhouses (4-unit townhouse at 102 Cossar Avenue).

Following Council approval on May 8th, 2018, building permits for the two duplex buildings were applied for and issued and the project is now nearing completion.

At the time of the framing inspection, it was identified that the elevation of the foundations was higher than what was approved on the Building Plans. As a result, the decks at the rear of the duplex buildings are constructed more than 0.6m high from the finished grade, which makes them no longer exempt from lot

coverage calculation. When included in the lot coverage, the decks put the total lot coverage over the maximum 40% lot coverage permitted in the RM2 zone of the City's zoning bylaw. At this time, the Building Official engaged the Planning Department to work with the developer to resolve the issue.

Because the decks are concrete and form part of the building foundation, altering them is not an easy option. The alternative to obtaining this variance would be to artificially raise the grade of the property, thus making the decks lower than 0.6m from grade. This would require pouring of perimeter retaining walls around the property and bringing in fill.

The applicant has requested a variance to increase the permitted lot coverage from 40% to 43% to accommodate the deck space as is.

Proposal

The applicant is requesting a variance to Zoning Bylaw 2017-08, Section 10.8.2.3 to increase the maximum lot coverage from 40% to 43%.

Financial Implication

This application does not pose any significant financial implications to the City. Development costs are the responsibility of the developer.

Technical Review

The development application was reviewed by the City's Technical Planning Committee. No significant issues arose in the process.

Development Statistics

The following table outlines the proposed development statistics on the plans submitted with the variance application:

	Requirement RM2 Zone	Provided on Plans
Minimum Lot Width:	18 m	*14.3 m
Minimum Lot Area:	540 m ²	688.2 m ²
Maximum Lot Coverage:	40%	43% - Variance Requested
Maximum Density:	0.8 Floor Area Ratio (FAR)	0.75 FAR
Vehicle Parking:	5	5
Required Setbacks		
Front Yard (Cossar Avenue):	3.0 m	3.0 m
Side Yard (east):	3.0 m	1.5 m – Variance previously approved
Side Yard (west):	3.0 m	1.5 m – Variance previously approved
Rear Yard (lane):	6.0 m	6.8 m
Maximum Building Height	12 m	7.4 m
Other Information:	- Property is located within the Plaza Urban Village - Property is located within the General Multiple Family Development Permit Area * The minimum parcel standards (in terms of width and area) only apply when a new parcel is being created, not through the rezoning of an existing parcel.	

Analysis

Support Development Variance Permit

When this issue was first identified (during framing inspection) at 175 Cossar Avenue, the Development Services Department began working with the developer to determine a solution for the lot coverage. As the developer was willing and eager to work with the Planning Department to find a solution, the Building Officials allowed construction to continue, provided that occupancy inspections for both buildings would not be done until the issue was resolved. The developer was presented with two options to consider to resolve the issue:

1. Increase the elevation of the finished grade to make the decks no more than 0.6m high (from grade). This may require small retaining walls along the side yards to enable the grade to be raised and still allow for usable outdoor space (without having sloped backyards to accommodate this grade change);
or
2. Leave the finished grade at a lower elevation, resulting in the decks being more than 0.6m high. This results in a greater lot coverage than the 40% that the RM2 zoning allows. This would require a variance be applied for and granted from Council.

Staff recommended that the developer reach out to the neighbours of the subject property to assist in determining which option they choose. After consideration and consultation with the neighbours, the developer chose to pursue the variance option to increase the maximum lot coverage to 43%.

The developer received written support from the property owners on both sides of the property (187 and 163 Cossar Avenue) for the increase in lot coverage, which were submitted to staff with the application.

Furthermore, although the decks are higher from the ground than originally envisioned, the plans are almost identical to what was approved by Council through the zoning and permitting process.

Given the above, staff find the variance request reasonable and recommend that Council support the application.

Further to this issue, staff have conducted a review of the development process for this property to determine how to avoid this happening in future projects. Applications now require more detailed/accurate elevations at earlier stages in the development process for similar projects to ensure that the buildings proposed are using accurate elevations for the properties they are on.

Deny Development Variance Permit

Council may consider that the proposed variance will negatively affect the neighbourhood, in particular, the adjacent neighbours. Council may decide that the developer should raise the finished grade of the property to keep the lot coverage within the maximum 40%. If this is the case, Council should deny the variance.

Alternate Recommendations

1. THAT Council approve "DVP PL2019-8455" with conditions that Council feels are appropriate.
2. THAT Council deny "DVP PL2019-8455" and require that the development be within the maximum lot coverage permitted for the RM2 zone.

Attachments

Attachment A: Subject Property Location Map

Attachment B: Images of Subject Property
Attachment C: Letter of Intent
Attachment D: Site Plan
Attachment E: Draft Development Variance Permit (DVP)

Respectfully submitted

Nicole Capewell
Planner 1

Approvals

Director Development Services 	Chief Administrative Officer
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Attachment A – Subject Property Location Map

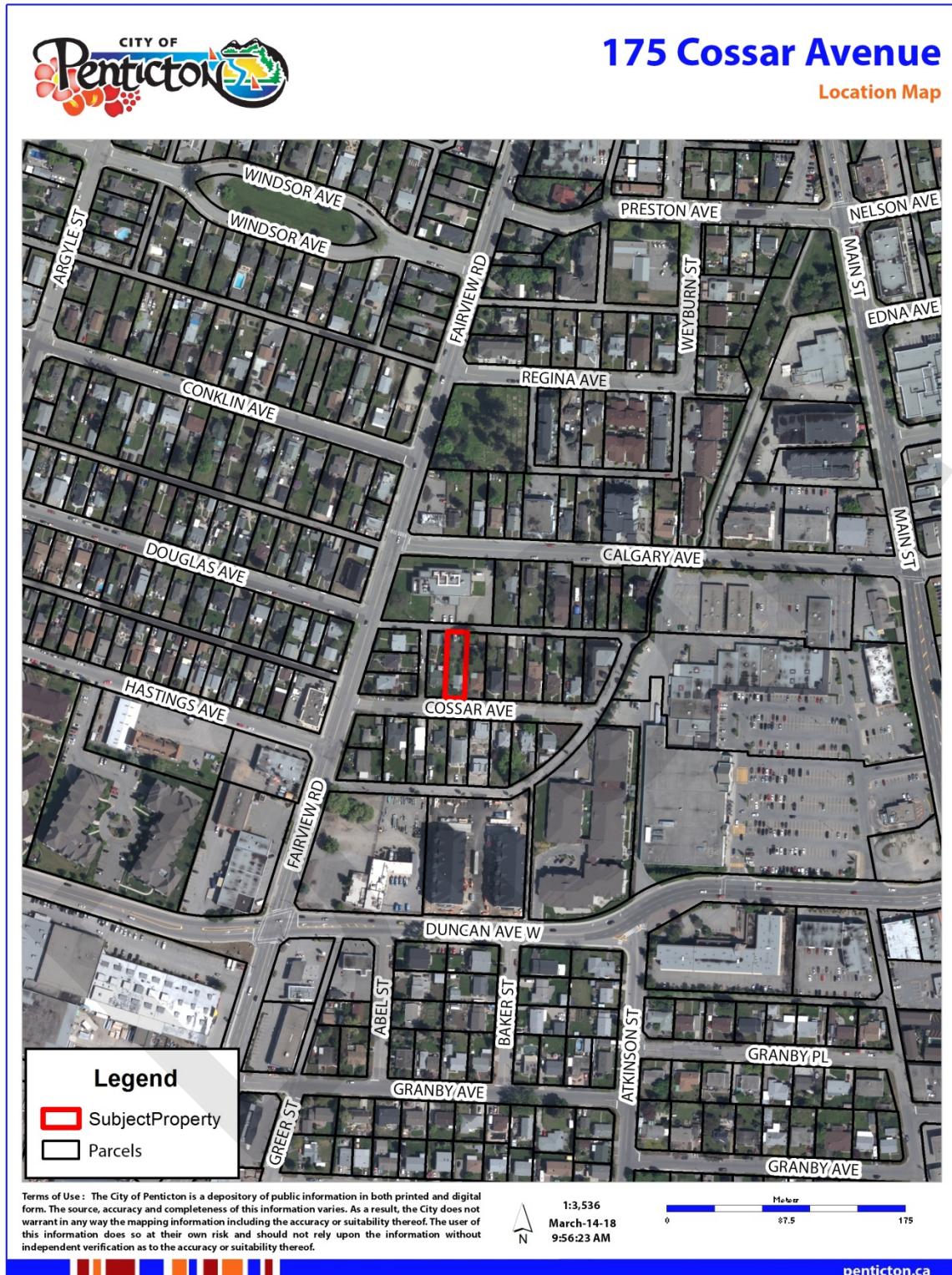


Figure 1 – Subject Property Highlighted in Red

Attachment B – Images of Subject Property



Figure 4 – Looking at the front of the street facing duplex



Figure 5 – Rendering of street facing duplex, approved in May 2018



Figure 6 – Looking at the deck of one of the units (over 0.6m from finished grade)



Figure 7 – Looking at the decks of the 4 units

Harry Howard Mortgages Inc

103 – 386 Ellis Street, Penticton, BC V2A 4L7. 250-490-6731. harry@harryhoward.ca

January 16, 2019

Mayor and Council
City of Penticton,
171 Main Street,
Penticton, BC

Dear Mayor and Council:

This letter of intent is to outline why we would like this variance.

The building height is as it should be (out by 2mm actually) based of the plans and geodetic measurements from the plans, however the practical grade level surrounding the property is different to that shown on the plans.

The natural grade level along the East property line is higher than that on the West. The natural and planned East grade level will ensure the patios are no more than 0.60M above the ground on their Eastern side. This neighbour is unaffected by this application.

The natural grade level on the West places the patios higher than 0.60M above the ground on their Western side. Having spoken with the neighbours to the West, Gertie and Gordy Bews, their preference is that we keep the natural and neighbouring grade on our side rather than build a retaining wall that they have to look at from their side. The other issue with the retaining wall, is that the back yard would then be raised to meet the wall and anyone in the back yard then looks down into the West neighbour's yard.

Please see attached letter of support from the effected neighbour.

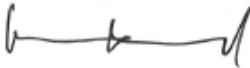
It is common sense and neighbourly that we have our yards and property lines meeting that of the neighbours. The issue arises with the West and rear part of the patios being greater than 0.60m above the ground, the square footage of the patios then needs to be included in the dwelling square footage. The bylaw allows for 40% site coverage. When these patios are included in the building size due to parts of them being 20+cm higher, the site coverage ratio increases to 43%.

The sidewalk, gravel berm, fence size and placement decisions have all been made in discussions with the Bews. 4' sidewalk against our buildings, 1' gravel berm between sidewalk and property line, 6' privacy fence in gravel berm along property line.

We are building four 4 bedroom, three bathroom plus recroom units. This design and type is unique to anything else that has been built of late, as others have built suites into the basements. Therefore these units provide proper family sized accommodation which is badly needed.

Should any members of Council have any questions or would like a site visit, please feel free to call or email and I will meet you on site.

Your truly,



Harry Howard

Figure 8 – Letter of Intent

Attachment D –Site Plan

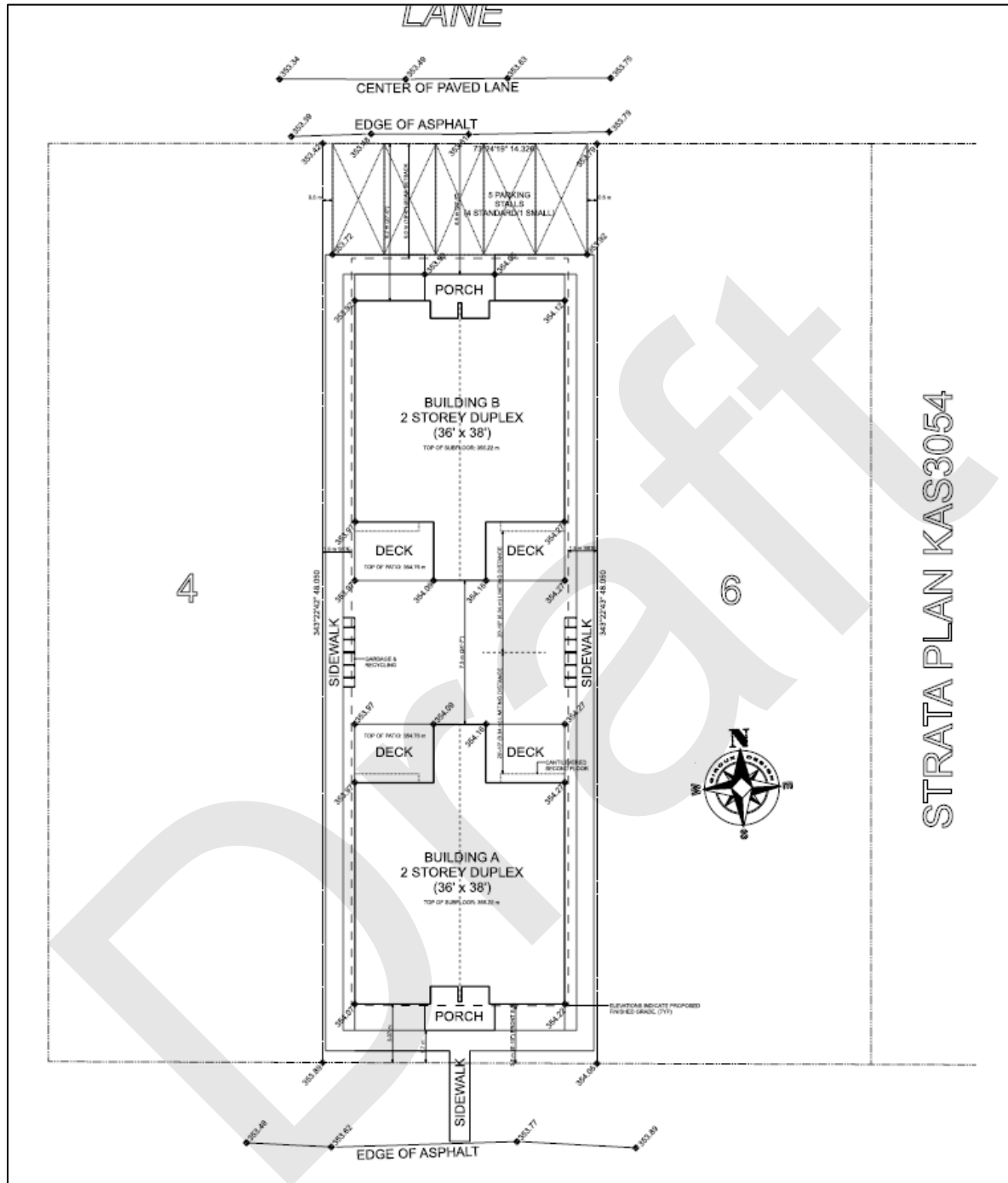


Figure 9 – Proposed Site Plan



City of Penticton
171 Main St. | Penticton B.C. | V2A 5A9
www.penticton.ca | ask@penticton.ca

Development Variance Permit

Permit Number: DVP PL2019-8455

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 5 District Lot 1 Group 7 Similkameen Division Yale (Formerly Yale-Lytton) District
Plan 3223
Civic: 175 Cossar Avenue
PID: 010-875-433
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 construction of two side-by-side duplex buildings:
 - a. Section 10.8.2.3: to increase the maximum lot coverage from 40% to 43%.

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 _____, 2019.

Issued this ____ day of _____, 2019.

Angela Collison,
Corporate Officer

Draft