

June 6, 2019

Subject Property:

253 Norton St

Lot A, District Lot 202, Similkameen Division Yale District, Plan KAP83201

Application:

Development Variance Permit PL2019-8537

The applicant is proposing to construct four (4-unit) townhouses in four phases (16 units total). To facilitate the proposal, the developer has requested to vary the following section of Zoning Bylaw 2017-08:

- Section 10.9.2.2: to decrease the minimum lot area for each of the four proposed phases from 1400m² to 437m².

Information:

The staff report to Council and Development Variance Permit PL2019-8537 will be available for public inspection from **Friday, June 7, 2019 to Tuesday, June 18, 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.

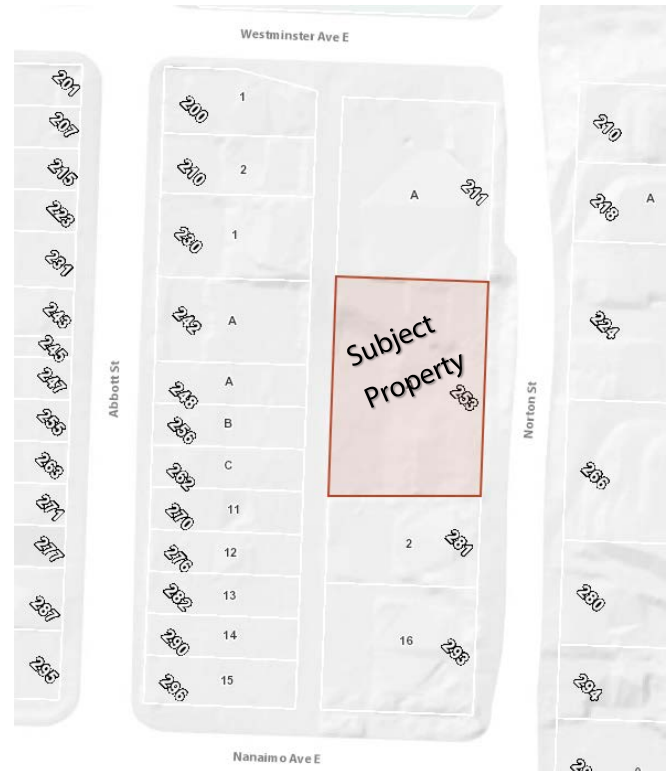
Council Consideration:

Council will consider this application at its Regular Council Meeting scheduled for **6:00 pm, Tuesday, June 18, 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, June 18, 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 June 18, 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: June 18, 2019
To: Donny van Dyk, Chief Administrative Officer
From: Randy Houle, Planner I
Address: 253 Norton Street
Subject: Development Variance Permit PL2019-8537

File No: 2019 PRJ-087

Staff Recommendation

Development variance permit

THAT Council approve "Development Variance Permit PL2019-8537", for Lot A District Lot 202 Similkameen Division Yale District Plan KAP83201, located at 253 Norton Street, a permit to decrease the minimum lot area for each of the four proposed phases of the townhouse development on the subject property from 1400m² to 437m.²

AND THAT staff be directed to issue "Development Variance Permit PL2019-8537".

Sidewalk construction

THAT Council direct funds in the 2020 Capital Budget to extend the sidewalk being installed by the developer to connect to the existing sidewalk on the south side of Westminster Avenue E (approximately \$20,000).

Background

On March 5, 2019, Council adopted a zoning amendment bylaw for the subject property, which changed the zoning on the lands from RM4 (High Density Residential) to RM3 (Medium Density Residential). This was to facilitate the construction of a 16-unit townhouse development. Council also approved a development variance permit, and a development permit for four, four-unit townhouse buildings. Details on these approvals are included in the February 19, 2019 staff report to Council.

The applicant is now proposing to construct the four unit townhouse blocks in four strata phases as shown on Attachment B. A phased strata scheme allows strata lots to be phased so that the developer can sell individual units prior to later phases being completed. The phased approach also allows the developer to abandon further phases if so desired.

The Strata Property Act, the enabling legislation for phased strata developments, requires each phase of the development to be treated much like a fee simple subdivision, in that each phase and the remainder lot must meet minimum lot areas, building setbacks and other zoning regulations. This means that in this case,

the lot area of each phase must meet the minimum lot area in the RM3 zone (1400m²). The phasing plan though shows individual phase areas of between 440.7m² and 520.5m². Since these sizes of lots do not meet the minimum lot areas outlined in the RM3 zone, a development variance permit is required.

Proposal

The applicant is requesting development permit approval to reduce the minimum parcel size as per the plans attached to the permit. Once all phases are complete, the development will meet all zoning bylaw regulations, including lot area, other than those relaxations previously approved by Council.

Technical Review

This application was reviewed by the City's technical planning committee (TPC) as part of the review of the original development application earlier this year. A blanket utility and servicing easement is required on each phase of the development, allowing the City to install and maintain services as required. All other technical requirements will be addressed through Preliminary Layout Approval (PLA) of the Phased Strata, issued by the Subdivision Approving Officer.

Not specific to the phased strata, through the technical review, an opportunity was identified where sidewalk can be installed in front of the adjacent apartment building to connect the sidewalk the developer is required to construct to the existing sidewalk on Westminster Avenue. Staff are recommending that these works be deferred to the 2020 capital budget to be constructed at the City's costs at the same time as the developer installs sidewalks along the frontage of the subject property.



Financial implications

The phased strata proposal will not have any impact on city finances. The estimated cost for the installation of the sidewalk beyond the frontage of the subject property is estimated at \$20,000. Staff are recommending that Council support this expenditure by directing the project be included in the 2020 capital budget. While sidewalk on this portion of road would not normally be of a priority, the fact that a developer is developing in the area and the fact that there is an opportunity to connect a section of sidewalk, staff see this as

justification to make this portion a priority. At the time of the construction of the existing development at 211 Norton Street, the sidewalk was not constructed and there is no mechanism in place to require the residents of the development to pay to these works.

Analysis

Support Variance

When considering a variance to a City bylaw, staff encourages Council to be mindful as to whether approval of the variance would cause an unreasonable impact on neighbouring properties and if the variance request is reasonable.

Section 10.9.2.2: to decrease the minimum lot area for each of the four proposed phases from 1400m² to 437m².

- Minimum lot areas are put in place to ensure various densities of buildings (single family homes, duplexes, townhouses, apartments) can be built on a lot with generous setbacks from property lines. The minimum size of a lot zoned for apartments is larger than that of a lot zoned for single family. In the current proposal, the developer is proposing a 4-phase strata, with a four-unit townhouse on each phase for a total of 16 new units. As each phase of the development is completed, it is consolidated with the previous phase. For example, as phase 2 is completed, it consolidates with phase 1 and so on as the development proceeds. If the developer elects not to proceed with a phase of the development, the remaining undeveloped phases become a remainder lot and are no longer associated with the strata. In that eventuality, in this case, this would lead to a lot that doesn't meet the minimum 1400m² required in the RM3 zone. If this were to occur and the size of the remaining lot was deemed not large enough to allow for a future proposal, that property could be rezoned to a lower density zone to ensure it is built upon.

Approval of the variance allows the developer to sell completed phases as they are completed, and schedule later phases as the market dictates. This is a common approach to townhouse development and places less financial pressure on the developer, which ultimately assists project feasibility and completion. If the developer decides not to complete all phases of the development, the remainder could be sold off to another developer to either finish the project or propose a new development. The development is not changing from what was previously approved, thus there are no additional negative impacts associated with approval of the variance.

For these reasons, staff are recommending that Council support the request variance.

Sidewalk extension

Under the subdivision and development bylaw, the developer is required to construct sidewalk along the frontage of their property. This sidewalk, however, once installed, will not connect to any existing sidewalk. There is the opportunity for the City through the capital budget to connect the sidewalk that the developer is constructing to the existing sidewalk on Westminster Avenue.

Alternatively, Council could pass an excess and extended services resolution requiring that the developer pay for the sidewalk. Under this scenario, the developer would be responsible for the cost of installing the sidewalk and would pay for the works prior to being issued a building permit. Staff are not recommending that the developer be responsible for those costs as these works are beyond the authority of the subdivision and development bylaw. That said Council does have the ability under the local government act to require works beyond the frontage of a property.

Alternate Recommendations

- 1. THAT Council deny “DVP PL2019-8537”.
- 2. THAT Council support “DVP PL2019-8537” but not support the extension of the sidewalk as a capital project.
- 3. THAT Council support “DVP PL2019-8537” and pass an excess and extended service resolution requiring the developer to construct the sidewalk all the way to Westminster Avenue.

Attachments

- Attachment A: Subject Property Location Map
- Attachment B: Proposed Phasing Plan
- Attachment C: Approved Site Plan
- Attachment D: Proposed Renderings
- Attachment E: Letter of Intent
- Attachment F: Development Variance Permit PL2019-8537

Respectfully submitted,

Randy Houle
Planner I

Approvals

DDS	CAO
	

Attachment A – Subject Property Location Map



Figure 1: Subject Property Location Map

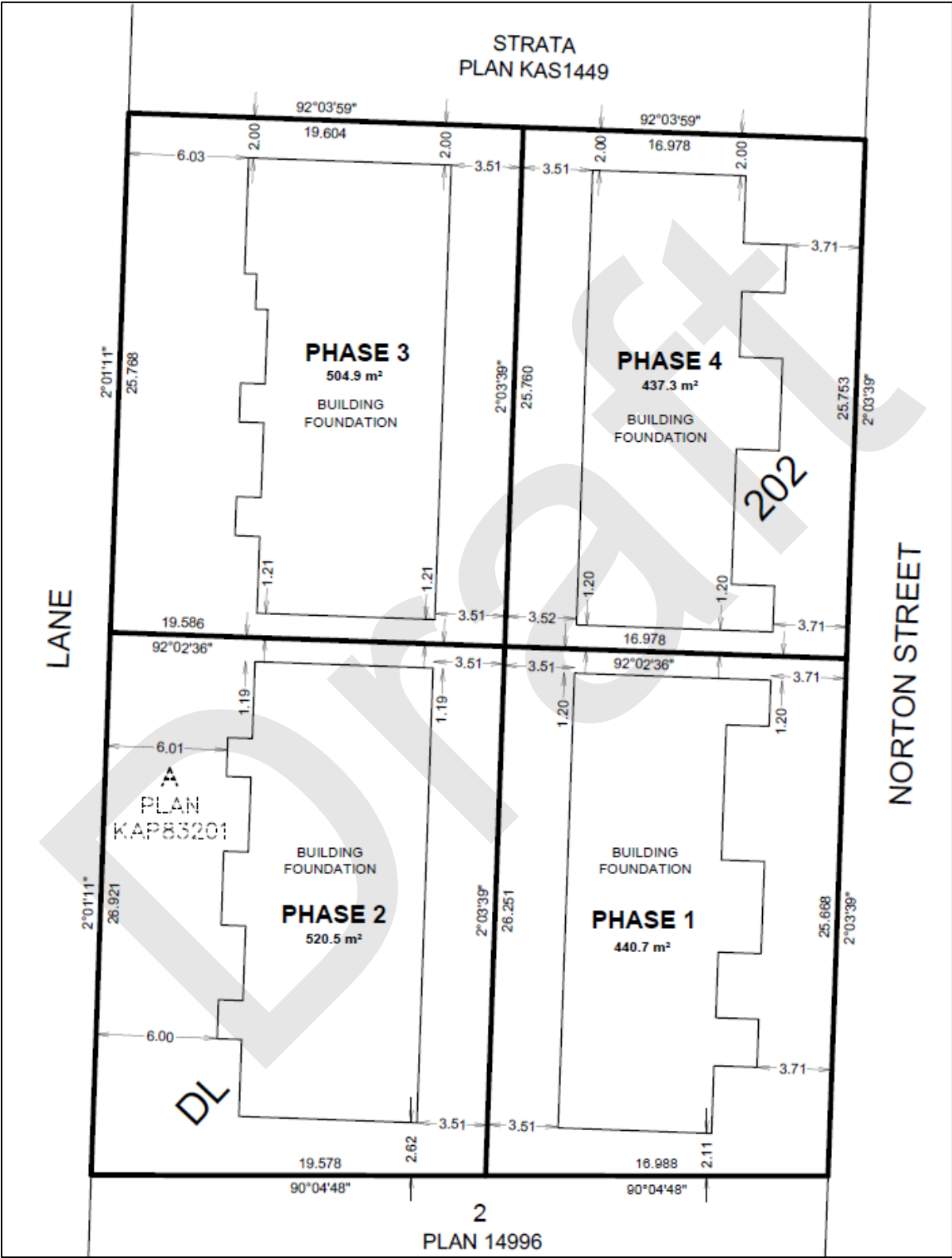


Figure 8: Proposed Phasing Plan

Attachment C –Approved Site Plan

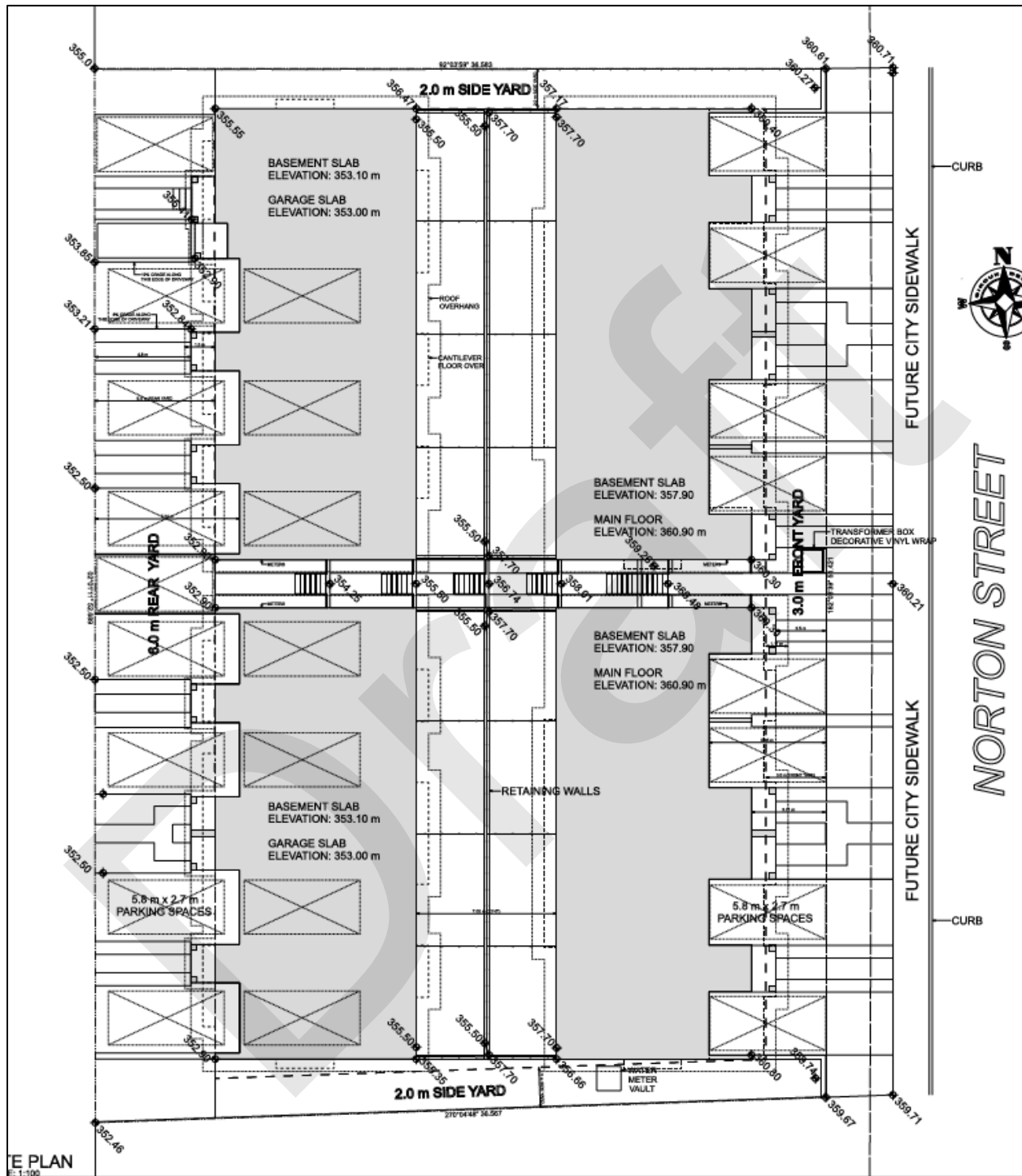


Figure 9: Site Plan

Attachment D – Proposed Renderings



Figure 10: East Rendering (from Norton Street)



Figure 11: West Rendering (from the lane)



May 28, 2019
Our File: 2422-03508-00

City of Penticton
Planning Department-Development Services Division
171 Main Street, Penticton, BC
V2A 5A9

253 Norton Street – Proposed Phased Strata Development

The attached Development Application is with respect to a proposed 16-unit townhouse strata development to be completed and registered in 4 phases.

The application includes a proposed variance. The area of each of the individual phases is less than the minimum lot area specified for the RM3 Medium Density Multiple Housing zone (1400 sqm).

Of note, Preliminary Strata Plans are currently being prepared for Disclosure statement and Pre-Sale Purposes. Once complete, a Preliminary Form V, Schedule of Unit Entitlement can be supplied to the City of Penticton, in support of the Phased Strata Application.

If I have omitted anything or you require any additional supportive information, please let me know.

Sincerely,

MCELHANNEY LTD.



David Sereda, BCLS
Project Land Surveyor
dsereda@mcelhanney.com
Tel 250-492-7399
Cell 250-462-0685

McElhanney Associates Land Surveying Ltd.
290 Nanaimo Ave. W, Penticton, BC V2A 1N5
mcelhanney.com

Figure 12: Letter of Intent



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

Development Variance Permit

Permit Number: DVP PL2019-8537

Name:
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 A District Lot 202 Similkameen Division Yale District Plan KAP83201
Civic: 253 Norton Street
PID: 026-991-403
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following section of Zoning Bylaw 2017-08 to allow for the phasing of a multi-family development:
 - Section 10.9.2.2: to decrease the minimum lot area for each of the four proposed phases from 1400m² to 437m².

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 18 day of June, 2019.

Issued this ____ day of _____, 2019

Angie Collison,
Corporate Officer