

December 5, 2019

Subject Property:
799 Martin Street

Lot A, District Lot 202, Similkameen Division Yale
District, Plan 1557, Except Plan EPP80670

Application:
Development Variance Permit PL2019-8641

The applicant is proposing to construct a 9-unit strata townhouse development in three phases (each phase will contain 3 units).



In this proposal, the lot area of each phase must meet the minimum lot area in the RM3 zone (1400m²) and the minimum width must be 25m. The phasing plan however shows individual phase areas of between 520m² and 230m² and the minimum lot width of 14.65m. Since these sizes of lots and minimum lot widths do not meet the minimum outlined in the RM3 zone, a development variance permit is required.

To facilitate the development, the applicant has applied 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 three proposed phases from 1400m² to 230m², and
- Section 10.9.2.2: to decrease the minimum lot width from 25m to 14.65m.

Information:

The staff report to Council and Development Variance Permit PL2019-8641 will be available for public inspection from **Friday, December 6, 2019 to Tuesday, December 17, 2019** at the following locations during hours of operation:

- Penticton City Hall, 171 Main Street (8:30 am to 4:30 pm, Mon. to Fri., excluding statutory holidays)
- 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, December 17, 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, December 17, 2019** 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 December 17, 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: December 17, 2019
To: Donny van Dyk, Chief Administrative Officer
From: Audrey Tanguay, Acting Planning Manager
Address: 799 Martin Street
Subject: DVP PL2019-8641

File No: PJ19-172

Staff Recommendation

THAT Council approve "Development Variance Permit PL2019-8641" for Lot A District Lot 202 Similkameen Division Yale District Plan 1557, located at 799 Martin Street, a permit to reduce the minimum lot area for each of the three proposed phases of the townhouse development from 1400m² to 230m² and reduce the minimum lot width from 25m to 14.6m to allow for a phased strata subdivision;

AND THAT staff be directed to issue "Development Variance Permit PL2019-8641".

Strategic priority objective

Community Design: The City of Penticton will attract, promote and support sustainable growth and development congruent with the community's vision for the future.

Background

On September 18, 2018, Council adopted a zoning amendment bylaw for the subject property, which changed the zoning on the lands from RD1 (Duplex Housing) to RM3 (Medium Density Residential). This was to facilitate the construction of a 9-unit townhouse development. Council also approved a development variance permit, and a development permit for three, three-unit townhouse buildings. Details on these approvals are included in the February 6, 2018 staff report to Council.



Figure 1: Rendering of proposed phased development

The owner is now proposing to construct the 9-units in three strata phases as shown on Attachment C. 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, minimum building widths, setbacks and other zoning regulations. A phased

strata scheme allows strata lots to be phased so that the developer can sell individual units prior to later phases being finalized. The phased approach also allows the developer to abandon further phases if so chosen.

In this proposal, the lot area of each phase must meet the minimum lot area in the RM3 zone (1400m²) and the minimum lot width must be 25m. The phasing plan however shows individual phase areas of between 520m² and 275m² and the minimum lot width of 14.65m. Since these sizes of lots and minimum lot widths do not meet the minimum outlined in the RM3 zone, a development variance permit is required.

Proposal

The applicant is requesting development variance permit approval to reduce the minimum parcel size and the minimum width as per attachment "B". Once all phases are completed, the development will meet all zoning bylaw regulations, including lot area, other than those reductions formerly 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.

Financial implications

The phased strata proposal will not have any impact on city finances.

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 three proposed phases from 1400m² to 230m² and Section 10.9.2.2: to decrease the minimum lot width from 25m to 14.65 m

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. In the current proposal, the developer is proposing a 3-phase strata, with a three-unit townhouse on each phase for a total of 9 new units. As each phase of the development is finalized, 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. In the same way, the developer is requesting a minimum lot width reduction to facilitate the creation of the phase strata.

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, this would lead to a

lot that doesn't meet the minimum width and lot area 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 finalized 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 variances.

Alternate recommendations

- 1. THAT Council deny "DVP PL2019-8641".

Attachments

- Attachment A - Subject Property Location Map
- Attachment B – Phased Strata
- Attachment C – Draft Permit for Review

Respectfully submitted,

Audrey Tanguay
Acting Planning Manager

Concurrence

Director <i>BL</i>	Chief Administrative Officer
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Attachment A – Subject Property Location Map

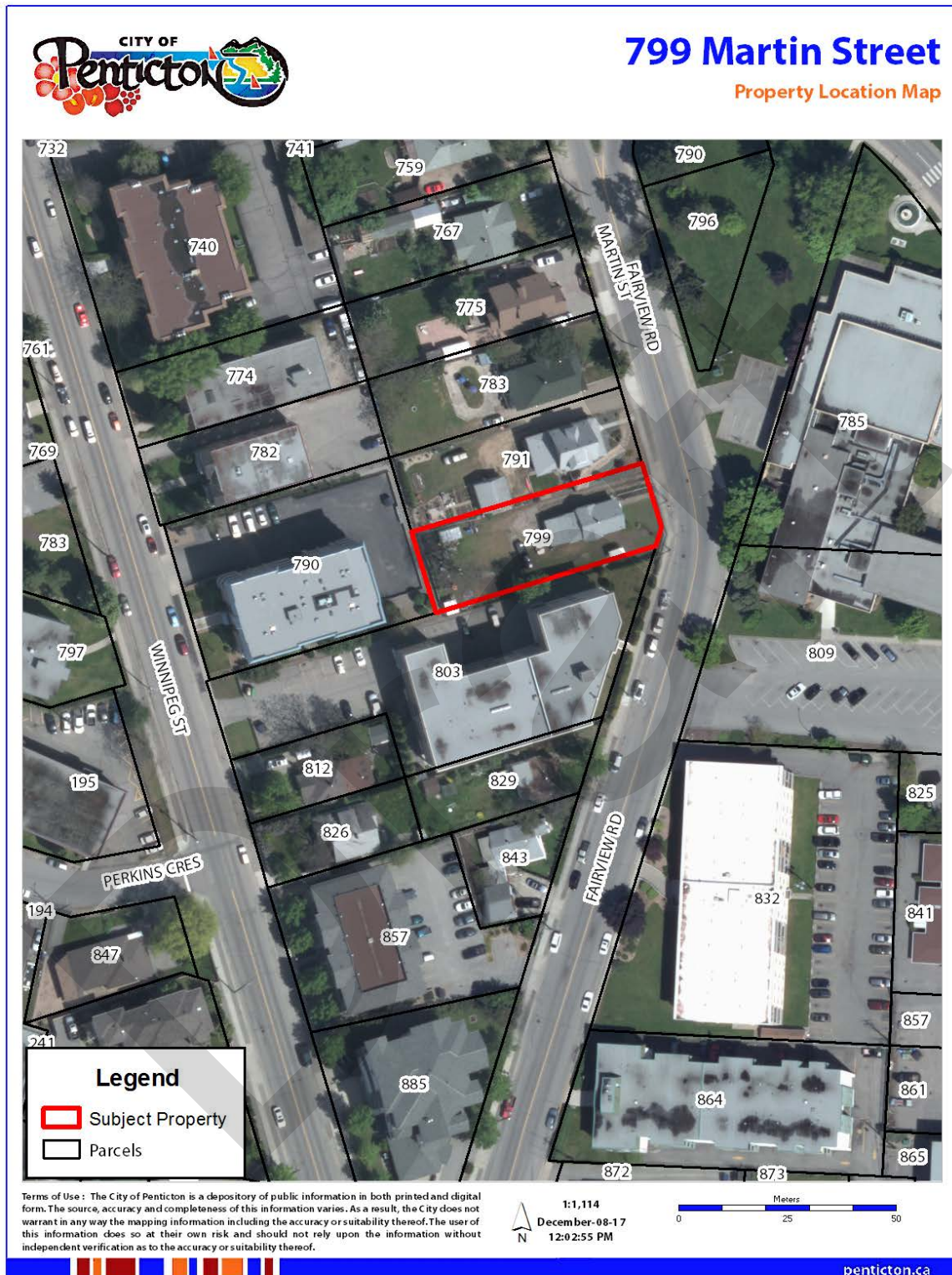


Figure 1: Subject Property Location Map

Attachment B – Phased Strata

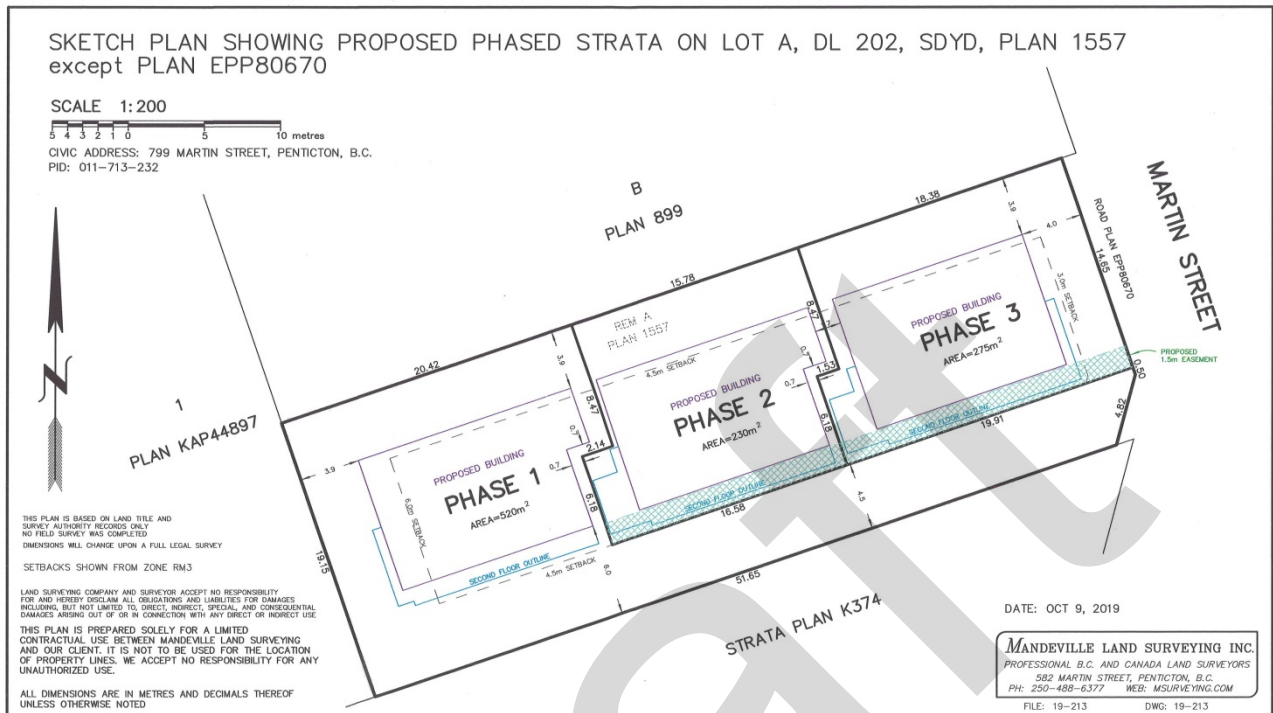


Figure 2: Phased Strata Plan



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

Development Variance Permit

Permit Number: DVP PL2019-8641

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 1557 Except: Plan EPP80670

Civic: 799 Martin Street

PID: 011-713-232

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 a nine-unit townhouse development.

Section 10.9.2.2: to decrease the minimum lot area for each of the three proposed phases from 1400m² to 230m² and Section 10.9.2.2: to decrease the minimum lot width from 25m to 14.65 m

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 3rd day of December 3, 2019

Issued this ____ day of _____, 2019

Angie Collison
Corporate Officer

DVP PL20119-8641

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