



Committee Report

Date of Report: 11, 16, 2021
Date & Type of Meeting: 12, 08, 2021, Rural Affairs Committee
Author: Eileen Senyk, Planner
Subject: DEVELOPMENT VARIANCE PERMIT
File: V2110G-05933.000-KINGSLEY-DVP000216
Electoral Area/Municipality G

SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Rural Affairs Committee and Regional Board to consider an application for a Development Variance Permit in the unincorporated community of Ymir in Electoral Area 'G'.

This Development Variance Permit is required to legitimize a timber frame awning that was built without a permit. The structure has been deemed safe by the building department, the Ministry of Transportation and Infrastructure is supportive of issuing a structure setback permit and there was no opposition to the application. Therefore, staff recommend that the Board approve the Development Variance Permit.

SECTION 2: BACKGROUND/ANALYSIS

GENERAL INFORMATION

Property Owner: Theron Kingsley

Property Location: 7114 First Ave, Ymir, Electoral Area 'G'

Legal Description: LOT 2 BLOCK 19 DISTRICT LOT 1242 KOOTENAY DISTRICT PLAN 640

Property Size: 0.09 hectares

SURROUNDING LAND USES

North: General Commercial (C1)

South: Community Services (CS)

East: Parks and Recreation (PR) & Salmo River

West: Parks and Recreation (PR) – Community Park

Site Context and Background Information

The subject property is located in the unincorporated community of Ymir. It is zoned General Commercial (C1) and is located at 1st Ave. across from the Salmo River.

The subject property is actually three properties with an old existing building constructed across all three lots. There are provisions identified in the Section 529 of the Local Government Act that allow for extensions to legal non-conforming structures. Due to its single legal description and folio number, the three lots will collectively be referred to as 'the property' for the remainder of the report.

The exterior of the building is used to house the community’s mailboxes and the owner is in the process of renovating the interior to become a bakery.

This Development Variance Permit is required to legitimize an expansion to the exterior of the building (a timber frame entrance) which has been constructed without a building permit 5m from the exterior side lot line and 2.5m from the front lot line. The required setback for both is 7.5 m.

The property is located in the ‘commercial core’ of Ymir. The community store is located next door, the Ymir hotel two doors down. The Community Hall and Fire Department are located to the south and there is a mechanic located to the north. There is a skate park directly across the road on lands zoned Parks and Recreation (PR).



Figure 1: Overview Map including zoning

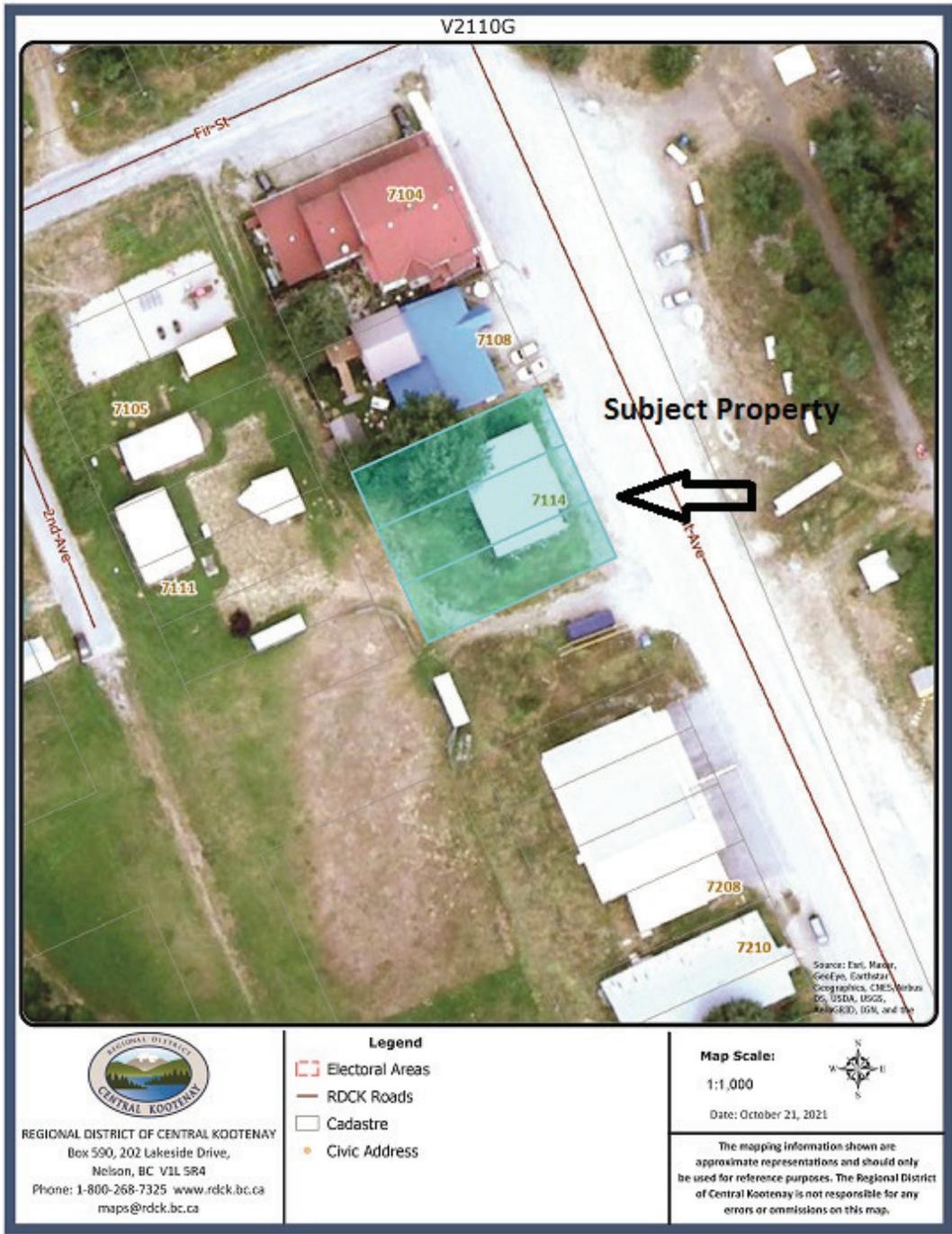
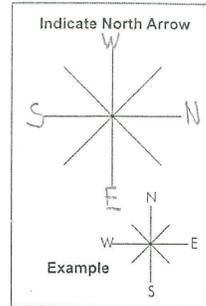


Figure 2: Location Map

SITE PLAN

Owner's Name: Therese Kingster
 Legal Description: LOT 1 BLOCK 19
1242 PLAW 640
 Civic Address: 7114 1ST AVE YMIR



AN INCOMPLETE SITE PLAN WILL DELAY YOUR PERMIT

Scale: 1/4" = 5'-0"

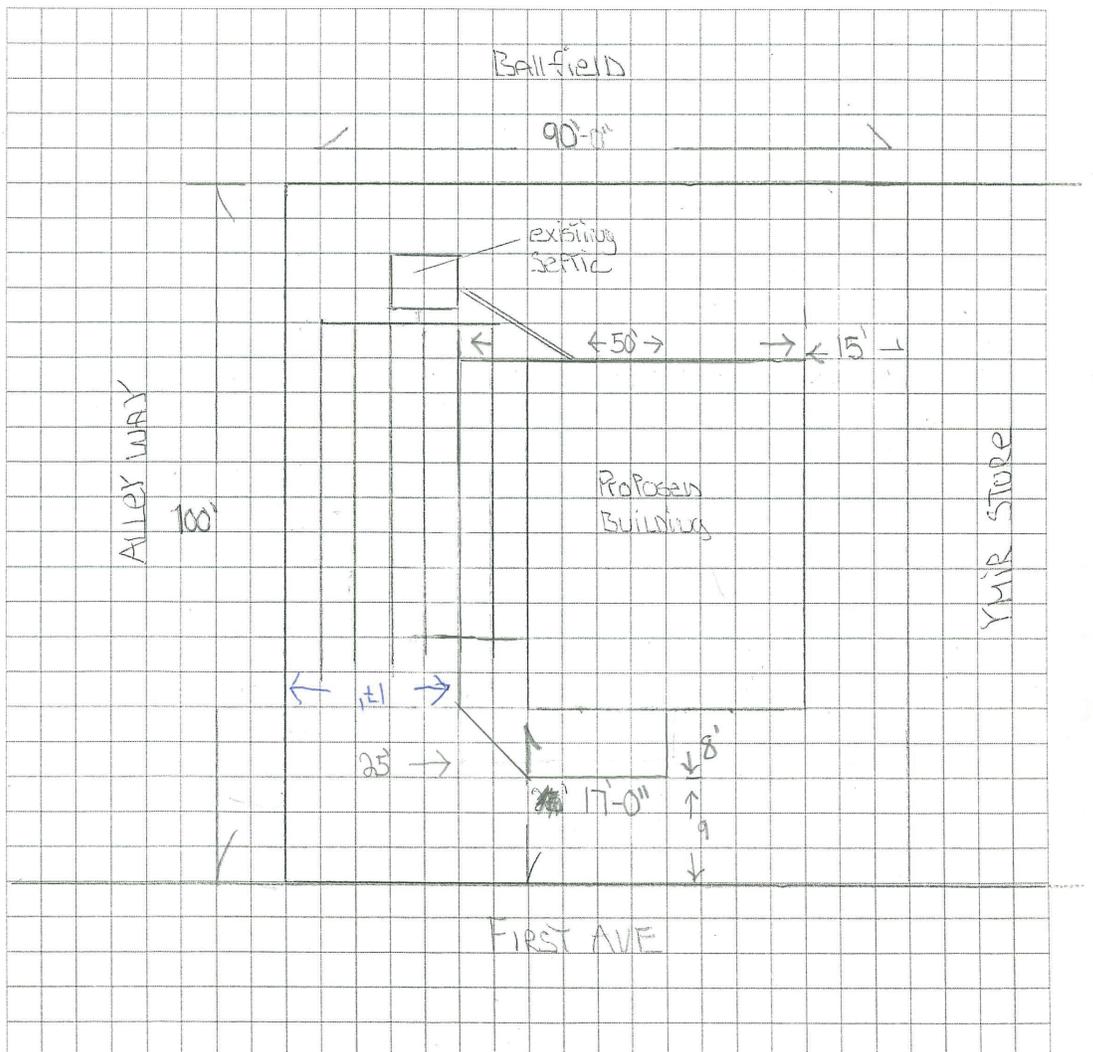


Figure 3: Site Plan

The following table lists the Development Regulations in the Zoning Bylaw and the actual measurements on the property:

Table 1: Development Regulations

Development Regulation	Maximum Allowable in C1 Zone	Actual
Maximum height	10 m	< 10m
Maximum lot coverage	50%	31%
Minimum front setback	7.5m	2.5m
Minimum rear setback	2.5m	14.5m
Minimum exterior side setback	7.5m	5m
Minimum interior side setback	2.5m	4.5m



Figure 4: View of Building from the East side of 1st Ave



Figure 5: Side view of entrance

Planning Policy

Electoral Area 'G' Land Use Bylaw No. 2452, 2018

Section 4

Commercial Objectives

1. Enhance the long term vitality and economic sustainability of the Plan area by supporting new and existing businesses and the creation of employment.
2. Provide for commercial activities servicing the needs of local residents and visitors.

General Commercial (GC) Policies

The Regional Board:

7. Anticipates that general commercial needs will be accommodated within existing commercial nodes within the community of Ymir and Village of Salmo as designated on Schedule A.1 mapping.

Section 15 - Community Specific Policies

Ymir

14. Recognizes that Ymir will continue to be a mixed development community with both existing Town-site Residential, Commercial and Community Service developments contributing to its role as a service center for the area.

- 16. Supports expanded opportunities for home based business development, tourist accommodation and facilities, horticulture and local food and drink production, such as craft breweries, wineries and farmer markets.
- 21. Encourages that new construction and renovation to existing commercial and community service buildings within the commercial core area maintain the heritage values of the community.

Section 18.54 – General Regulations, Parking Space Requirements:

For eating/drinking establishments the required number of parking stalls is 1 parking space/4 seats or 10 spaces/10sqm gross floor area.

SECTION 3: DETAILED ANALYSIS

3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan: Yes No **Financial Plan Amendment:** Yes No
Debt Bylaw Required: Yes No **Public/Gov’t Approvals Required:** Yes No

The \$500 fee was paid by the applicant pursuant to the Planning Fees and Procedures Bylaw.

3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

The building department is satisfied that the structure is safe as it has an Engineer’s approval. However, the building permit cannot be finalized without this development variance permit.

The Ministry of Transportation Infrastructure (MoTI) requires a Setback Permit for structures located in the 4.5m setback of road right of ways. MoTI staff have inspected the site and are willing to support the permit subject to angle parking at the front of the building. Issuance of this Development Variance Permit should therefore be conditional on Issuance of the Structure Setback Permit for liability purposes and to clarify MoTI’s parking requirements.

3.3 Environmental Considerations

None anticipated.

3.4 Social Considerations:

There is a public benefit to this structure. According to the applicant, in 2020 the public was picking up mail from a shipping container. Construction of the awning enables the public to access their mailboxes from a safe and accessible location that is protected from the weather. It also provides shelter to the one table associated with the bakery and is aesthetically pleasing, improving the look and feel of 1st Ave.

3.5 Economic Considerations:

None anticipated.

3.6 Communication Considerations:

The application was referred to 33 neighboring property owners, internal RDCK departments, relevant government agencies, the Area Director and Advisory Planning Commission for Area G. No responses were received from neighboring property owners. The following responses were received from RDCK departments and other government agencies.

RDCK Fire Services - Regional Assistant Fire Chief

October 27, 2021

'I have spoken to Chief Josh Currie from Ymir Fire Department and he has no concerns with the referral package for the Bakery Ymir. I have also visited this site for a fire inspection and see no fire related issues with this referral.'

Interior Health Authority – Environmental Health Officer

October 27, 2021

'Our interests are unaffected by this proposal.'

RDCK Utility Services – Environmental Coordinator

October 27, 2021

'There are no issues with this application with regard to the nearby water main'

Ministry of Transportation and Infrastructure – Development Officer

November 11, 2021

MOTI is supportive of the setback variance request under the following conditions:

- *Applicant shall apply for a MOTI setback relaxation permit for the encroachment into the required 4.5m setback from 1st Ave.*
- *No required parking stalls shall be within the area between the awning and the street.*
- *Any optional parking that is within this area shall be angle parking only, and signage shall be installed to indicate as such. This is to ensure that no vehicles encroach or interfere with 1st Ave.*

RDCK Building Department – Building/Plumbing Official

November 11, 2021

The awning is good to go. They had it all engineered and has been approved and signed off.

Director Hans Cunningham, Electoral Area 'G'

October 22, 2021

'I note that the building under construction as a bakery and post office is now complete. I also note that after construction the protective canopy is still farther back from the property line than some of the other buildings in that block, such as the Ymir Hotel, and the Ymir Community Hall. The building with canopy makes a fine addition to Front Street (first ave.). I fully support the proposed variance.'

3.7 Staffing/Departmental Workplace Considerations:

Should the permit be approved, staff will register it on the property's title once confirmation of MoTI's Structure Setback Permit has been received.

3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

SECTION 4: OPTIONS & PROS / CONS

Planning Discussion

This Development Variance Permit is required to legitimize an existing structure that was built without a building permit. The RDCK Building Department has received drawings signed by an Engineer and is satisfied that the structure is safe. The applicant will require a structure setback permit from the Ministry of Transportation and Infrastructure (MoTI) who have confirmed that they will support the structure setback permit.

The bakery portion includes only one table (outdoor), and given the design of the bakery, and the location of the mailboxes on the outside of the building it is likely that the public will come and go very quickly with mail and baked goods. Most parking in Ymir occurs on the east side of 1st Ave due to many of the old historic buildings on this street having been constructed right up to the front property line. As such, adhering to the parking requirement of one stall per four seats with additional angle parking located at the front of the building is considered by Planning staff to be sufficient.

Commercial policies and Ymir specific policies in the Land Use Bylaw are supportive of this kind of commercial development. It is located in an appropriate location and adds vibrancy to the community.

Therefore, staff recommend that the Board approve the Development Variance Permit.

Option 1

That the Board APPROVE the issuance of Development Variance Permit V2110G to Theron Kingsley for the property located at 7114 First Ave and legally described as LOT 2 BLOCK 19 DISTRICT LOT 1242 KOOTENAY DISTRICT PLAN 640 (PID 016-162-218) to vary Section 24.3 of Electoral Area 'G' Rural Land Use Bylaw No. 2452, 2018: FROM 7.5m TO 2.5m and Section 24.4 of Electoral Area 'G' Rural Land Use Bylaw No. 2452, 2018 FROM 7.5m to 5m SUBJECT TO Issuance of a Ministry of Transportation and Infrastructure Setback Permit.

Option 2

That the Board NOT APPROVE the issuance of Development Variance Permit V2110G to Theron Kingsley for the property located at 7114 First Ave and legally described as LOT 2 BLOCK 19 DISTRICT LOT 1242 KOOTENAY DISTRICT PLAN 640 (PID 016-162-218) to vary Section 24.3 of Electoral Area 'G' Rural Land Use Bylaw No. 2452, 2018: FROM 7.5m TO 2.5m and Section 24.4 of Electoral Area 'G' Rural Land Use Bylaw No. 2452, 2018 FROM 7.5m to 5m SUBJECT TO Issuance of a Ministry of Transportation and Infrastructure Setback Permit.

SECTION 5: RECOMMENDATIONS

That the Board APPROVE the issuance of Development Variance Permit V2110G to Theron Kingsley for the property located at 7114 First Ave and legally described as LOT 2 BLOCK 19 DISTRICT LOT 1242 KOOTENAY DISTRICT PLAN 640 (PID 016-162-218) to vary Section 24.3 of Electoral Area 'G' Rural Land Use Bylaw No. 2452, 2018: FROM 7.5m TO 2.5m and Section 24.4 of Electoral Area 'G' Rural Land Use Bylaw No. 2452, 2018 FROM 7.5m TO 5m SUBJECT TO Issuance of a Ministry of Transportation and Infrastructure Setback Permit.

Respectfully submitted,
Originally signed by

Eileen Senyk

CONCURRENCE

Planning Manager – Digitally signed by Nelson Wight

Manager Development and Community Sustainability – Digitally signed by Sangita Sudan

Chief Administrative Officer – Digitally signed by Stuart Horn

ATTACHMENTS:

Attachment A – Draft Permit



REGIONAL DISTRICT OF CENTRAL KOOTENAY

DEVELOPMENT VARIANCE PERMIT

Planning File No. V2110G-05933.000-Kingsley-DVP000216

Date: December 9, 2021

Issued pursuant to Section 498 of the *Local Government Act*

TO: Theron Kingsley

ADMINISTRATION

1. This Development Variance Permit (DVP) is issued subject to compliance with all of the bylaws of the Regional District of Central Kootenay (RDCK) applicable thereto, except as specifically varied or supplemented by this Permit.
2. The land described shall be developed strictly in accordance with the terms and conditions and provisions of this DVP, and any plans and specifications attached to this Permit that shall form a part thereof.
3. This DVP is not a Building Permit.

APPLICABILITY

4. This DVP applies to and only to those lands within the RDCK described below, and any and all buildings, structures and other development thereon, substantially in accordance with Schedules '1' and '2':

Address: 7114 First Ave, Ymir BC

Legal: LOT 2 BLOCK 19 DISTRICT LOT 1242 KOOTENAY DISTRICT PLAN 640

CONDITIONS

5. Development Variance

Electoral Area 'G' Land Use Bylaw No. 2452, 2018, Section 24.3 is varied as follows:

From: 7.5 metres

To: 2.5 metres, as shown on Schedule '1' and '2'

And

Electoral Area 'G' Land Use Bylaw No. 2452, 2018, Section 24.4 is varied as follows:

From: 7.5 metres

To: 5 metres, as shown on Schedule '1' and '2'

6. Schedule

If the holder of the DVP does not substantially start any construction or does not register the subdivision with respect to which the permit was issued within two years after the date it is issued, the permit lapses.

7. Other

Authorized resolution [*enter resolution number*] passed by the RDCK Board on the day of _____, 20_____.

The Corporate Seal of
THE REGIONAL DISTRICT OF CENTRAL KOOTENAY
was hereunto affixed in the presence of:

Aimee Watson, Board Chair

Mike Morrison, Corporate Officer

Schedule 1: Subject Property



Schedule 2: Site Plan

SITE PLAN

Owner's Name: Therow Kingsley
Legal Description: LOT 1 BLOCK 19
1242 PLAW 640
Civic Address: 7114 1ST AVE YMIR

AN INCOMPLETE SITE PLAN WILL DELAY YOUR PERMIT

Scale: 1/4" = 5'-0"

