

November 26, 2020

Subject Property:

2985 Juniper Drive

Lot B District Lot 2710, Similkameen
Division Yale District, Plan 29916

Application:

Development Variance Permit PL2020-8806

The applicant is proposing to legalize an unpermitted accessory building that currently exists on the property. In order to legalize the building, a variance is required, as the total floor area of the accessory building will exceed the maximum permitted (in the R1 zone) through the Zoning Bylaw.



The applicants have requested the following variance to the Zoning Bylaw:

- Section 10.1.2.8: to increase the maximum floor area of all accessory buildings from 75m² to 160m².

Information:

You can find the staff report to Council and Development Variance Permit PL2020-8806 on the City's website at www.penticton.ca/latestannouncements. Select the Public Notice category.

Please contact the Planning Department at planning@penticton.ca or (250) 490-2501 with any questions.

Council Consideration:

Council will consider the Development Variance Permit at its Regular Council Meeting scheduled for **1:00 pm, Tuesday, December 8, 2020.**

In response to COVID-19, Regular Council meetings will remain closed to the public. 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.

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, December 8, 2020** 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 8, 2020 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 Manager

Date: December 8, 2020
To: Donny van Dyk, Chief Administrative Officer
From: Nicole Capewell, Planner 1
Address: 2985 Juniper Drive
Subject: Development Variance Permit PL2020-8806

File No: RMS/2985 Juniper Drive

Staff Recommendation

THAT Council deny the applicant's request to vary Zoning Bylaw Section 10.1.2.8, to increase the maximum floor area of all accessory buildings from 75m² to 325m²;

AND THAT Council approve "Development Variance Permit PL2020-8806" for Lot B District Lot 2710 Similkameen Division Yale District Plan 29916, located at 2985 Juniper Drive, a permit to vary Zoning Bylaw Section 10.1.2.8 to increase the maximum floor area of all accessory buildings from 75m² to 160m²;

AND THAT Council direct staff to issue "Development Variance Permit PL2020-8806".

Proposal

The applicant is proposing to legalize an unpermitted accessory building that currently exists on the property as well as construct two additional accessory buildings. In order to legalize the building and build the new structures, a variance is required, as the total floor area of the accessory building will exceed the maximum permitted (in the R1 zone) through the Zoning Bylaw. The applicants have requested the following variance to the Zoning Bylaw:

1. Section 10.1.2.8: to increase the maximum floor area of all accessory buildings from 75m² to 325m².

Background

The subject property is located off of Juniper Drive, with its primary access onto Gordon Place (Figure 1). The surrounding area is comprised of single family dwellings, and large, rural lots, as the area transitions to Agricultural properties to the west and further south along Valleyview



Figure 1 - Property Location Map

Road. The subject property is zoned R1 (Large Lot Residential) and is designated as Detached Residential by the Official Community Plan (OCP). The subject property is approximately 1.368 acres (5536m² or 59,589 sq. ft.).

The following is a summary of the buildings that exist on the property and buildings that the property owner has a desire to construct:

Structure	Size	Year Built	Constructed with Permits?
Single Detached Dwelling	~ 232 m ² (2,500 sq. ft.)	1984	Yes
Original Detached Garage	107 m ² (1,151 sq. ft.)	1991	Yes
Addition to Detached Garage	53 m ² (570 sq. ft.)	2016	No
Proposed Carport	75 m ² (807 sq. ft.)	Proposed	Proposed
Proposed Carport	88 m ² (947 sq. ft.)	Proposed	Proposed

The subject property contains a single detached dwelling and detached garage. In 1984, a building permit was issued for the construction of the single detached dwelling. In 1991, a subsequent building permit was issued to allow for an addition to the existing single family dwelling, and the construction of a 107m² detached garage. Later, in 2016, an addition of approximately 53m² was completed onto the detached garage without the benefit of a building permit. The applicant has indicated that they would like to retain the unpermitted addition onto the existing (permitted) detached garage.

The current zoning on the property, R1 (Large Lot Residential), places a maximum size of total floor area for all accessory buildings on a property of 75m² (807 sq. ft.). Staff understand that in 1991, when the original accessory building of 107m² was constructed, the property was under a country residential zoning that did not regulate a maximum size of accessory buildings. The property was rezoned in 2000 from country residential (RC) to single family residential (RS2) to facilitate future subdivision potential. In 2016, when the addition was completed to the detached garage without permits, Zoning Bylaw No. 2011-23 was in effect. Through the transition from Zoning Bylaw No. 1987-65 to Bylaw No. 2011-23, zones were reallocated as indicated in Figure 2.

Through the introduction of Zoning Bylaw No. 2011-23, a limitation on the maximum combined area of all accessory buildings on a property was introduced for most residential zones. Therefore, in 2016, if the property owner had inquired about permits to complete an addition to the existing accessory building, they would have been informed that a variance to the maximum allowable size (75m²) would be required. The City's Bylaw Enforcement Department began enforcement for the structure in 2016, when the City was made aware of possible works occurring without a permit. The illegal works were confirmed with an onsite inspection by Building Officials and a stop work order was issued (November 30, 2016), however legalizing or removing the

City of Penticton Zoning Bylaw 87-65	City of Penticton Zoning Bylaw 2011 - 23
FG	FG
A, AR	A
RC, RCC	RC
RS1, RS2, RS2-CH, RB	R1
RS3, RS3-CH	R2
RSM	RSM
RD	RD1, RD2
RS4-CH	R3
RM1, RM2A	RM1
RM2B, RM2C, RM3	RM2
RM4, RI-2	RM3
RM6, RM10, RM12, RI-1	RM4

Figure 2 - Excerpt from Zoning Bylaw No. 2011-23 (showing only residential zones)

structure was never completed. Recently, through review of outstanding enforcement files, a letter was sent to the property owner by the Licensing and Property Use Inspector to have the accessory building legalized, or demolished.

The variance application is now before Council, as enforcement has commenced, to request an increase to the maximum floor area of all accessory buildings. The variance is required prior to the property owner obtaining building permits to legalize the construction. Staff are recommending an increase to the maximum floor area of all accessory buildings on this property from 75m² to 160m² to allow the property owner to keep the accessory structures existing on the property.

The applicant is requesting that the maximum floor area of all accessory buildings be increased further than the 160m² that staff is recommending. The applicant is requesting the following two options be considered by Council:

1. Applicant's Option #1 (Preferred): increase the maximum floor area of all accessory buildings from 75m² to 325m² (3,498 sq. ft.). This option would allow the applicant to legalize the existing construction and also construct two additional accessory buildings in the future (75 m² and 88m²), as outlined in the Letter of Intent (Attachment 'C'), OR
2. Applicant's Option #2 (Alternative): increase the maximum floor area of all accessory buildings from 75m² to 235m² (2,529 sq. ft.). This option would allow the applicant to legalize the existing construction and also construct one additional accessory building (75m²).

Staff are not in support of these additional size requests in excess of 160m². The Site Plan (Attachment 'E') indicates existing and proposed accessory buildings on the property that the applicant is requesting. The applicant has provided information within their Letter of Intent (Attachment 'C') for the request of additional floor area. Should Council support either of these options, the applicant would have two years from the date of issuance of the Development Variance Permit to start construction of the new accessory buildings. Alternative recommendations are provided for Council to consider these options.

Technical Review

The application was reviewed by the City's Technical Planning Committee. Should Council support the variance request, the property owner will be required to obtain a building permit and show compliance to the BC Building Code and Building Bylaw.

Analysis

When considering a variance to a City bylaw, staff encourage Council to be mindful as to whether approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable. The proposed variance and staff's analysis are as follows:

1. Section 10.1.2.8 to increase the maximum floor area of all accessory buildings from 75m² to 160m².
 - The intent of the Zoning Bylaw is maintained.
 - The intent of limiting the total floor area of all accessory buildings on a property is to ensure that they remain as ancillary structures. The purpose of the R1 (Large Lot Residential) zoning is to provide a zone for single detached dwelling housing on serviced urban lots, and the principal use on these properties is residential. Limiting the maximum size of all accessory building ensures that residential remains the principal use

on a property, while allowing property owners to have structures for accessory uses (i.e. garage, storage, garden structures, etc.). The applicant has outlined the purpose of the accessory building is to store personal items and yard equipment, with the primary use of the property remaining residential.

- The subject property is significant in size, ensuring the structure remains ancillary in scale.
 - The subject property is approximately 1.368 acres. In comparison, surrounding residential zoned lots range between 0.14 acres and 1.154 acres in size. With such a large property, the proposed 160m² total floor area of the accessory building would only be ~3% of the total size of the property.
- The property was permitted in 1991 to have a 107m² accessory building.
 - The request to increase the maximum floor area of all accessory buildings is from 107m², as the property was approved to have a 107m² detached garage in 1991. The increase to 160m² from the previously approved 107m² structure is a 53m² (571 sq. ft.) addition.
- Other regulations of the R1 (Large Lot Residential) zone are maintained.
 - The accessory building under review meets all other provisions of the R1 (Large Lot Residential) zone, including lot coverage, setbacks, and height.
- Staff consider there will be limited impacts on neighbouring properties.
 - The accessory building under review is located centrally on the property, and is not directly adjacent to any immediate neighbours. Allowing the structure to remain on the property would have minimum impacts on the neighbours.

The applicant's request is to increase the maximum floor area of all accessory buildings from 75m² to 325m² (sq. ft.) to allow for the future construction of two accessory buildings, as outlined in the Letter of Intent (Attachment 'C'). Staff are not recommending approval of this increased request for the following reasons:

- This may set a precedence for having significant sized accessory buildings on residential zoned properties.
- The intent of the maximum floor area for accessory buildings is to ensure the property remains as primarily residential.
- The property was rezoned in 2000 from country residential to single family residential by the property owners. If the property owner's long term vision of the property would be to have a rural residential lot, they may consider proceeding through a rezoning application back to a country residential zone.

Staff consider the amended request to increase the maximum floor area of all accessory buildings from 75m² to 160m² is reasonable. As such, staff recommend that Council should support the variance and direct staff to issue the permit.

Alternate Recommendations

Alternative Recommendation #1

Council may consider that the applicant's request to increase the maximum floor area of all accessory buildings from 75m² to 325m² is reasonable given the size and location of the property. If this is the case, Council may choose to approve the variance request, as amended.

1. THAT Council approve “Development Variance Permit PL2020-8806”, with the amendment that the maximum floor area of all accessory buildings on an R1 (Large Lot Residential) is increased from 75m² to 325m².

Alternative Recommendation #2

Council may consider that the applicant’s request to increase the maximum floor area of all accessory buildings from 75m² to 235m² is reasonable given the size and location of the property. If this is the case, Council may choose to approve the variance request, as amended.

2. THAT Council approve “Development Variance Permit PL2020-8806”, with the amendment that the maximum floor area of all accessory buildings on an R1 (Large Lot Residential) is increased from 75m² to 235m².

Alternative Recommendation #3

Council may consider that the requested variance would pose a negative impact on the surrounding neighbourhood and is not reasonable. If this is the case, Council should deny the variance request. Staff are not recommending this, as the implication would be for the property owner to remove the illegal construction.

3. THAT Council deny “Development Variance Permit PL2020-8806”.

Attachments

Attachment A – Zoning Map

Attachment B – Official Community Plan Map

Attachment C – Letter of Intent

Attachment D – Photos of Subject Property

Attachment E – Site Plan

Attachment F – Draft “Development Variance Permit PL2020-8806”

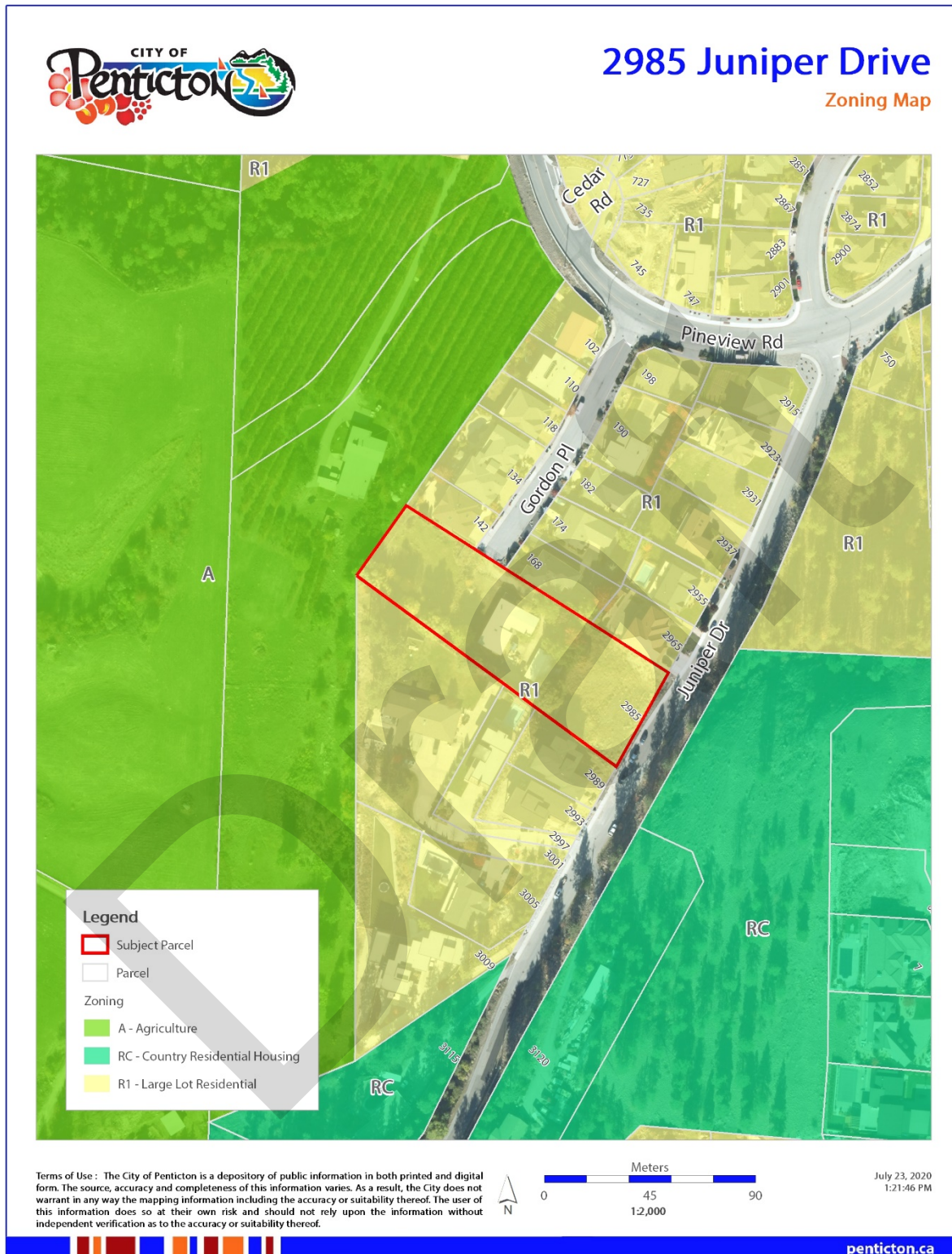
Respectfully submitted,

Nicole Capewell
Planner 1

Concurrence

Director <i>BL</i>	Chief Administrative Officer
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Attachment A – Zoning Map





Hunchak - 2985 Juniper Dr. - LT B, DL 2710, SDYD, Plan 29916

Letter of Intent,

City of Penticton Council,

On this day, June 26, 2020, I make application to comply with Zoning Bylaw No. 2017-08 in respects to an increase in allowable square footage of accessory buildings on a R1 Large Lot Residential Property of total coverage area of 1.36 acres.

The 12x40 ft. addition to the existing garage was built to store farm and yard equipment from outside yard storage to a consolidated indoor storage area. The structure was erected in Nov 2016.

In the fall of 2016 an application for a building permit was submitted with drawings and payment of fees, however no notification of permit issuance was received. At the time of application there was no information served of a required variance for a zoning change from RC - Country Residential to R1 - Large Lot Residential. The issue appeared to go dormant.

Two years passed (to 2018) when a building permit inquiry was made by the building department for the constructed garage addition. It was reported that no record of an issued permit was to be found in the departmental records. The issue went dormant for the second occurrence.

On May 25, 2020 a letter was prepared by city staff member requesting compliance to zoning requirements as per Bylaw No. 2017-08.

As a classic car enthusiast and collector I wish to provide neat and consolidated storage facilities to store vehicles away from unsightly back yard grass parking. The covered carports will provide protection from outdoor elements and a pleasing neat appearance on the property.

Entrance to the property is from Gorton Place, now considered the front yard. Considered the “rear” of the property which views onto Juniper Dr. employs a deep embankment down from the street side. The “rear” of the property is not well viewed from the street and down the large embankment where the carports are intended on the lower yard area. (Photo Web Map attached)

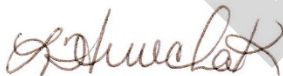
The northerly and southerly neighbours on either side of the property off Juniper Dr. should not be negatively impacted by the carport structures, nor should their be unpleasant views with neatly stored vehicles under a covered carport area opposed to a scattered back yard grassy layout. Each neighbour on both sides has constructed high concrete retaining walls and fencing in conjunction with their own continued building projects which shield their views of my property down below. (Photo views attached) The carports intended on each side of the property would be adjacent to these concrete structures and would provide a distraction from the unpleasant views of large unfinished concrete walls that I contend with on each side of my property.

The existing storage structures are and the proposed new structures will be within the property line allowances for width, length and height allowances.

The “covered” concrete pad will be a permanent structure. The proposed future carport will be constructed to allow for ease of dismantling if required.

Please accept these additional comments and photo evidence for consideration with the submitted application.

Regards,

A handwritten signature in brown ink, appearing to read 'Lillian Hunchak', is written over a large, faint, diagonal watermark that spans the page.

Lillian Hunchak

Hunchak - 2985 Juniper Dr. - LT B, DL 2710, SDYD, Plan 29916

Addendum to Letter of Intent dated June 26, 2020.

City of Penticton Council,

On this day, October 5, 2020, I submit an addendum to the letter of intent submitted on June 26, 2020.

Planning department personnel has inform me that their department will not support my application as submitted in it's entirety. They state they will only support the recommendation to council for the approval of only the existing accessory building (1991) and its 2016 addition of a combined footage of 160 m². It was stated the approval of this application in part would be to prevent the demolition of the entire structure that has stood since 1991 and 2016.

If upon review and deliberation council sees that the application absolutely cannot under any circumstances be accepted and approved in its entirety of the 325m² request, I wish to put forward a compromising secondary option for council consideration and acceptance as follows: the request for a variance to employ 235m², consisting of the existing 1991 and 2016 build totalling 160m² and in addition to construct a covered roof (open sides) to the existing parking pad covering 75m². In the secondary option I can release the request for the non existent but only proposed future open carport of 88m².

The ideal situation would be to have the acceptance of the entire 325m² area. However I would be most appreciative for council's acceptance of the secondary compromising option.
Thank you for your consideration.

Regards,

Lillian Hunchak

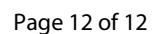
Attachment D – Photos of Subject Property



Photo of Detached Garage (both legal and illegal works)



Photo of Illegal Work Portion of Detached Garage





Development Variance Permit

Permit Number: DVP PL2020-8806

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 B District Lot 2710 Similkameen Division Yale District Plan 29916
 - Civic: 2985 Juniper Drive
 - PID: 004-119-428
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 an accessory building, as shown in the plans attached in Schedule 'A':
 - a. Section 10.1.2.8: to increase the maximum floor area of all accessory buildings from 75m² to 160m².

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.

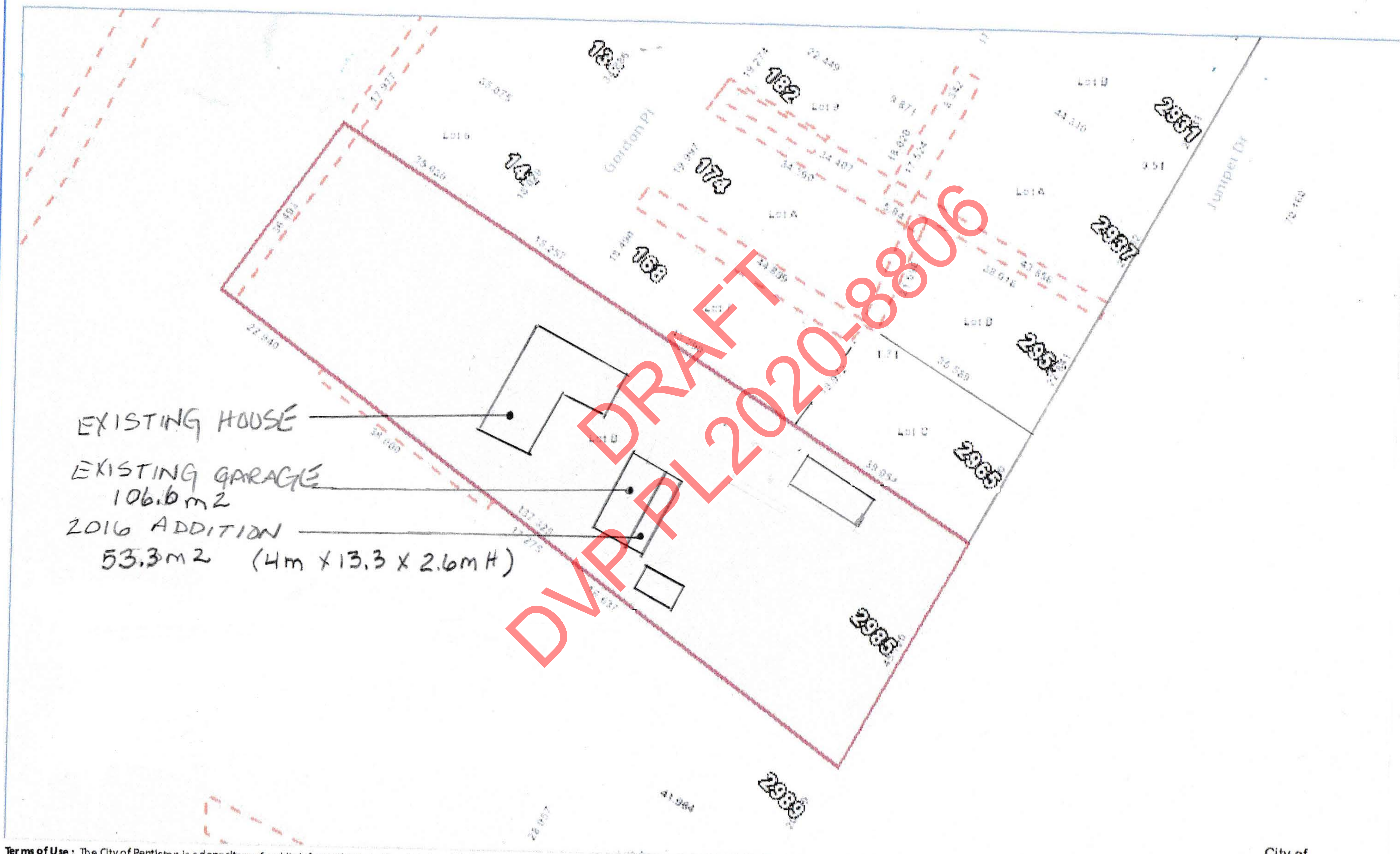
Authorized by City Council, the ____ day of _____, 2020.

Issued this ____ day of _____, 2020.

Angela Collison
Corporate Officer

DRAFT
DVP PL2020-8806

City of Penticton Web Map



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June 16, 2020 1:54:34 PM

Meters

Coordinate System: NAD 1983 CSRS UTM Zone 11N

City of

penticton.ca