



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, March 16, 2021** 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 March 16, 2021 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: March 16, 2021
To: Donny van Dyk, Chief Administrative Officer
From: Blake Laven, Director of Development Services
Address: 2985 Juniper Drive

File No: RMS/2985 Juniper Drive

Subject: Development Variance Permit PL2020-8806 (New Information)

Staff Recommendation

THAT after receiving the new information that a Building Permit application was made by the property owner of 2985 Juniper Drive in 2016, Council decide between the following two options:

- Option 1: THAT Council confirm the previous decision to deny the permit for a 160m² accessory building at 2985 Juniper Drive; or
- Option 2: THAT Council approve "Development Variance Permit PL2020-8806" for 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;

Background

Council at the December 8, 2020 Regular Meeting considered a development variance permit application for an accessory building at 2985 Juniper Drive. The application came out of an enforcement action resulting from works being done without a building permit to an existing accessory building in 2016. At the Dec 8th meeting, Council heard that a permitted building was 'added on to' without a building permit, which made the building non-conforming to the zoning bylaw (larger than what is permitted by current zoning). Council also heard that an enforcement action was started in 2016 based on a neighbour complaint of the structure and additions.

At the meeting, which the property owner attended and was provided the opportunity to speak to Council, the property owner stated that a permit application was made in 2016 for the works after the enforcement file was opened. Staff however reported that a permit application had not been made. In further looking into the matter it was determined that the property owner was correct in that an application was made. The building permit application file was opened, but a permit was never issued. The permit file shows an incomplete application that never resulted in the actual issuance of a permit for works and no activity between when the application was made in 2016 and continuing enforcement action in 2020.

Staff are concerned that the incorrect information that was shared with Council at the Dec 8th meeting, that the permit application was not received, may have unfairly prejudiced Council against the applicant and

wanted to provide this correct information to Council to determine if Council wishes to revisit their earlier decision on the variance.

Regardless of whether the permit application was made in 2016, the unpermitted works represent a structure that does not meet the size requirements for accessory buildings in the R1 zone. To legalize these works a variance to the zoning bylaw is required.

Neighbourhood Comments

The original enforcement action which has led to this variance application came from a complaint from a neighbouring property. As with all variance applications, notification of neighbouring properties of the variance was done in accordance with the City's Development Procedures Bylaw. Two letters were received by Council as a result of the earlier Council consideration (Dec 8th). Both letters were in opposition to the variance.

Analysis

The original application considered by Council included additional accessory buildings that the applicant wanted to eventually construct on the lands. Staff were not supportive of the additional buildings, but was supportive of the variance to legalize the existing unauthorized works.

The reasons that staff supported the variance are as follows:

- The subject property is significant in size, ensuring the structure remains ancillary in scale
- The previous zoning on the property (1987 zoning bylaw) allowed a larger accessory building than the current bylaw (2017)
- All other regulations of the R1 (Large Lot Residential) zone are maintained
- Limited impacts on neighbouring properties
- Support for the variance makes addresses a non-conforming situation and allows the property owner to 'finish' the works, which have been under suspension since 2016. This will hopefully alleviate some of the neighbouring concerns of the appearance of the structure

Staff wanted to provide this additional information to see in this changes the way that Council views this file. Staff have now surfaced the information that a permit application was made, but the permit was never issued in 2016. Staff have outlined two options that Council can consider. Option 1 is to reaffirm the decision to deny the permit. The alternative, Option 2, would be to approve the permit.

Should Council reaffirm their earlier decision, staff will work with the property owner on bringing the structure into conformance with the zoning, which will involve demolition of the unauthorized construction. If Council supports the variance, staff will work on ensuring the construction is done to meet minimum health and safety code standards.

Attachments

Attachment A: Development Variance Permit PL2020-8806

Respectfully submitted,

Blake Laven,

Director of Development Services
Concurrence

Chief Administrative
Officer

Draft



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.

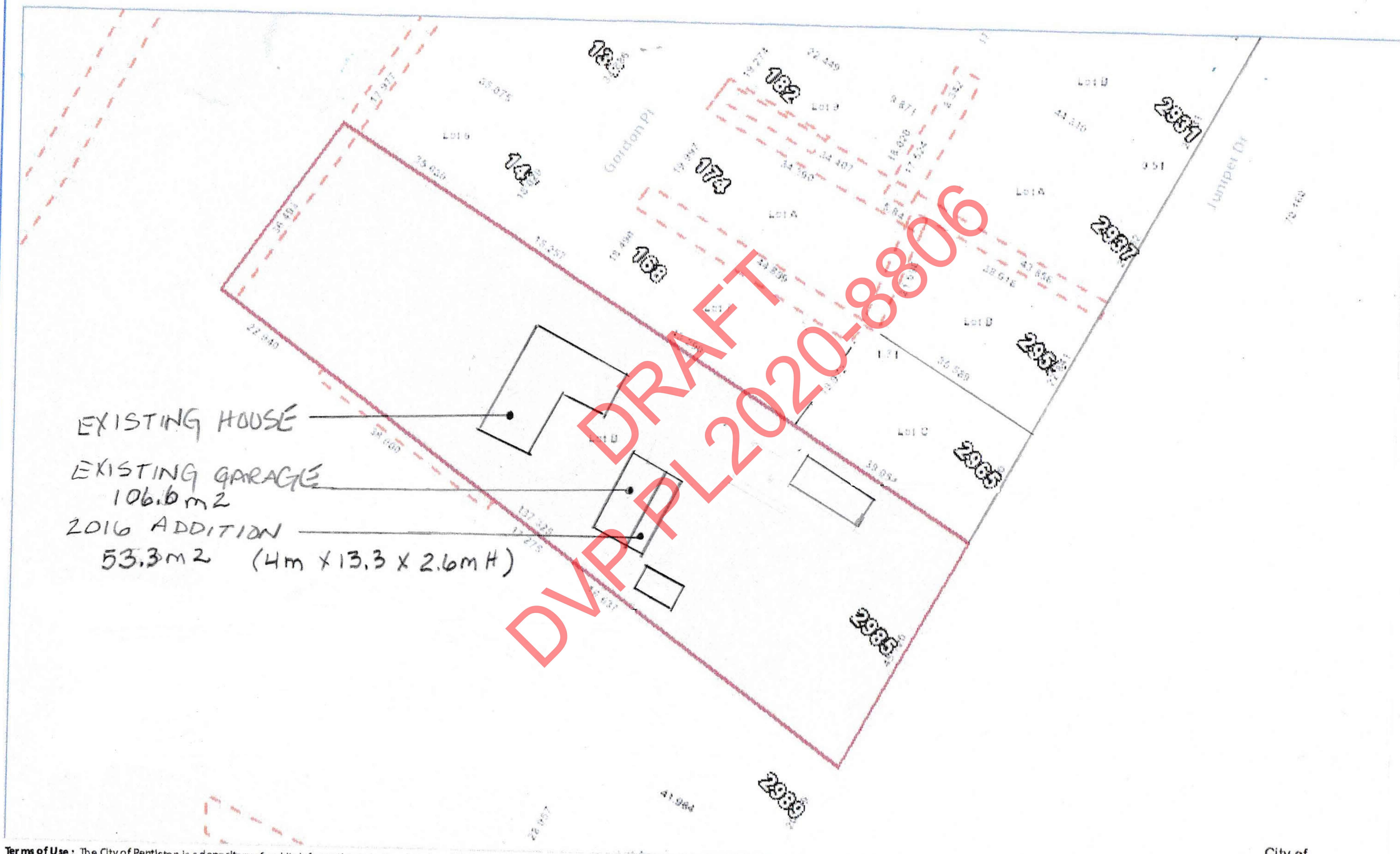
Authorized by City Council, the ____ day of _____, 2020.

Issued this ____ day of _____, 2020.

Angela Collison
Corporate Officer

DRAFT
DVP PL2020-8806

City of Penticton Web Map



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Coordinate System: NAD 1983 CSRS UTM Zone 11N

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