

May 6, 2021

Subject Property:

1220 Munson Avenue

Lot 3, District Lot 187, Similkameen Division
Yale District, Plan 2991, Except Plan M16292

Application:

Development Variance Permit PL2021-8973



The applicant is proposing to legalize an existing secondary suite located within the existing single detached dwelling and to allow the three existing metal storage containers to remain on the subject property. The applicant has applied to vary the following sections of Zoning Bylaw 2017-08:

- Section 4.8.4.5: to increase the maximum number of metal storage containers permitted on a property within the A zone from 1 to 3; and
- Section 8.1.4.2: to increase the maximum gross floor area of a secondary suite from 90m² or 40% of the habitable area of the building, whichever is less, to 117m² or 40% of the habitable area of the building, whichever is less;

Information:

You can find the staff report to Council and Development Variance Permit PL2021-8973 on the City's website at www.penticton.ca/publicnotice.

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, May 18, 2021** at Penticton City Hall, 171 Main St.

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, May 18, 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 May 18, 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: May 18, 2021 **File No:** RMS/1220 Munson Ave
To: Donny van Dyk, Chief Administrative Officer
From: Steven Collyer, Planner II
Address: 1220 Munson Avenue
Subject: Development Variance Permit PL2021-8973

Staff Recommendation

THAT Council approve "Development Variance Permit PL2021-8973" for Lot 3 District Lot 187 Similkameen Division Yale District Plan 2991 Except Plan M16292, located at 1220 Munson Avenue, a permit to vary the following sections of Zoning Bylaw No. 2017-08:

- Section 4.8.4.5: to increase the maximum number of metal storage containers permitted on a property within the A zone from 1 to 3; and
- Section 8.1.4.2: to increase the maximum gross floor area of a secondary suite from 90m² or 40% of the habitable area of the building, whichever is less, to 117m² or 40% of the habitable area of the building, whichever is less;

AND THAT Council direct staff to issue "Development Variance Permit PL2021-8973".

Strategic Priority Objective

Community Vitality: The City of Penticton, guided by the Official Community Plan, will promote the economic wellbeing and vitality of the community.

Proposal

The applicant is proposing to legalize an existing secondary suite located within the existing single detached dwelling and to allow the three existing metal storage containers to remain on the subject property. This application has come forward as a result of Bylaw Enforcement actions related to these two items, which require relief from the Zoning Bylaw regulations prior to being legalized. As such, this Development Variance Permit has come forward.

Background

The subject property is 1 hectare (2.5 acres) in size and is located on the south side of Munson Avenue near Upper Bench Road North (Figure 1). The property contains a single detached dwelling, which contains an unpermitted secondary suite. The property is used as a hobby orchard by the property owner. Surrounding land uses are primarily agricultural in nature, including wineries and single detached dwellings on larger, rural properties.

The subject property is designated 'Agriculture' by the Official Community Plan, and is zoned 'Agriculture' in the Zoning Bylaw. The subject property is located within the provincial Agricultural Land Reserve (ALR). Section 31 of the ALR Use Regulation allows for secondary suites in single detached dwellings on properties in the ALR, subject to the local government's zoning regulations.



Figure 1 - Property location map

This application was reviewed by the City's Technical Planning Committee, a group of City staff from various departments who review planning applications. The committee had limited comments for the applicant. A building permit will be required to legalize the secondary suite, should Council approve the variance to increase the size of the secondary suite. The applicant has submitted the required building permit applications to legalize unpermitted works on the subject property, which are on-hold pending the result of this variance request.

Development Statistics

The following table outlines how the proposed development meets the applicable Zoning Bylaw regulations:

	Metal Storage Container Requirement (Section 4.8.4)	Provided on Plans
Maximum Number of Metal Storage Containers on lots within the A zone:	One (1)	Three (3) – Variance Requested
	Secondary Suite Requirement (Section 8.1)	Provided on Plans
Limitation of Suites:	No more than one (1) secondary suite shall be permitted in a single detached dwelling.	Only one (1) secondary suite is shown on the plans.
Sewer Service:	No secondary suite will be allowed without connection to a community sewer system unless the lot of at least 830m ² and meets the requirements of the sewer system	The subject property is not connected to the municipal sanitary sewer system. The lot is 10,000m ² (1 ha) which exceeds the minimum lot area required when a property has a private on-

	regulation under the <i>Public Health Act</i> .	site sewer system. At the building permit stage to legalize the suite, sufficient capacity of the existing on-site sewer system must be demonstrated.
Strata Titles:	A secondary suite may not be sited or located on a separate titled parcel from the principal residence or be created as a strata lot within the single detached dwelling.	The secondary suite shall not be separately titled from the principal dwelling.
Minimum Gross Floor Area:	32 m ²	117 m ²
Maximum Gross Floor Area:	90 m ² or 40% of the habitable floor area of the building, whichever is less	117 m ² , which is equal to 40% of the habitable floor area of the building – Variance Requested
Minimum Amenity Space:	15 m ² of amenity space shall be provided individually for each of the principal residence and the secondary suite.	18m ² patio for secondary suite Approx. 50 m ² total of patio, deck, and balcony for principal dwelling

Analysis

When considering a variance to a City bylaw, staff encourages Council to consider whether approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable. Staff have reviewed the two requested variances and are recommending support for the following reasons:

1. *Section 4.8.4.5: To increase the maximum number of metal storage containers on a property in the Agriculture (A) zone from 1 to 3.*
 - a. The metal storage containers are located in a low spot on the property and away from homes on neighbouring properties (Attachment 'C').
 - i. This placement mitigates negative impacts on neighbouring properties.
 - b. The metal storage containers are an alternative storage option to a purpose-built storage building.
 - i. The applicant notes that the metal storage containers are used to store farm equipment (Attachment 'D').
 - ii. The property contains a fruit orchard which requires associated equipment to maintain.
 - c. The metal storage containers are grouped together (Attachment 'C').
 - i. This avoids a greater potential impact than if the metal storage containers were spread around the property.
2. *Section 8.1.4.2: To increase the maximum gross floor area of a secondary suite from 90m² or 40% of the habitable area of the building, whichever is less, to 117m² or 40% of the habitable area of the building, whichever is less.*

- a. In 2019, the BC Building Code changed to ease size restrictions on secondary suites.
 - i. The intent of this change, which removed any size limit to secondary suites, was to encourage more secondary suites to be built across BC as a viable housing option.
- b. The City is moving towards amending the maximum secondary suite provision in the Zoning Bylaw, following the course of the BC Building Code change.
 - i. Planning staff are working to amend the maximum gross floor area for secondary suites in an upcoming Zoning Bylaw update. The proposed changes would remove the 90m² cap, and retain the limit of 40% of the habitable area of the building. This would allow secondary suites to be tied in scale to the principal residence, ensuring they remain 'secondary' in scale. The proposed 117m² secondary suite on the subject property is equal to 40% of the habitable area of the building. Under the proposed Zoning Bylaw update, a variance would not be required.
- c. The property contains ample room for parking and amenity areas for the occupants of both the principal dwelling and the secondary suite.
 - i. One additional parking space is required for a secondary suite, in addition to the required parking for the principal residence. The existing U-driveway contains more than enough space to exceed the minimum parking requirements of 3 parking spaces.
- d. Secondary suites are permitted by the ALR Use Regulation, as long as the suite is located within a principal residence (i.e. not a separate structure).
 - i. Section 31 of the ALR Use Regulation permits secondary suites within homes on ALR land.

Given the reasons above, staff support the application to increase the number of metal storage containers on the property from 1 to 3, and to increase the maximum gross floor area for a secondary suite from 90m² to 117m². Staff recommend that Council approve the development variance permit and direct staff to issue the permit.

Alternate Recommendations

Council may consider the requested variances are undesirable and require the applicant to build within the Zoning Bylaw regulations. If this is the case, Council should deny the Development Variance Permit. Staff recommend against this option, as in staff's opinion the metal storage containers are an appropriate alternative to a larger-scale storage building and the City is moving to relax secondary suite size regulations. Negative impacts on neighbours are not anticipated as a result of the two requested variances being approved.

1. THAT Council deny "Development Variance Permit PL2021-8973".

Attachments

Attachment A – Zoning Map
 Attachment B – Official Community Plan Map
 Attachment C – Photos of Property
 Attachment D – Letter of Intent

Respectfully submitted,

Steven Collyer, RPP, MCIP
Planner II

Concurrence

Director of Development Services	Chief Administrative Officer
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Attachment A – Zoning Map



1220 Munson Avenue

Zoning Map



Terms of Use: The City of Penticton is a depository of public information in both printed and digital form. The source, accuracy and completeness of this information varies. As a result, the City does not warrant in any way the mapping information including the accuracy or suitability thereof. The user of this information does so at their own risk and should not rely upon the information without independent verification as to the accuracy or suitability thereof.



April 16, 2021
9:45:23 AM



penticton.ca

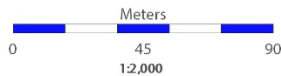


1220 Munson Avenue

Official Community Plan Map



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Attachment C – Photos of Property





Three existing metal
storage containers



Three existing metal
storage containers



March 10, 2021

Letter of Intent 1220 Munson Variance Request.

To City staff and Council

This variance request is to allow 2 additional storage containers to remain on this farm property.

Three containers are an integral part of our mixed fruit farming operation and offer an affordable alternative to an expensive less secure barn or permanent structure.

The containers are newer clean White in colour consistent with other out buildings on the property.

The containers are not visible from the road when the farm is covered in foliage and barely visible from the road in winter months.

The 3 containers are neat tidy and cover only 480 sq feet. They are 8 feet high.

This is a small fraction of the size of barn or steel-clad building that we would be allowed to build on this same spot under existing rules.

None of my neighbours and no one has raised concern about the containers that were only discovered on an unrelated inspection by city officials.

The negative impact of these containers on my neighbours is minimal and the value to my family is immense.

We are one of the shrinking number of stone fruit farmers still operating in the area. We appreciate the city and councils support so we can continue the farming work we do. Our hope is you will give this request serious consideration and allow the variance.

Sincerely
Gordon Tietjen
Malcolm Tietjen
(The Fruit and Flower Pedlar)

Development Variance Permit

Permit Number: DVP PL2021-8973

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 3 District Lot 187 Similkameen Division Yale District Plan 2991 Except Plan M16292
 - Civic: 1220 Munson Avenue
 - PID: 010-915-125
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 legalization of a secondary suite and to legalize the placement of additional metal storage containers on the subject property and to increase the permitted size of a secondary suite, as shown in the plans attached in Schedule 'A':
 - a. Section 4.8.4.5: to increase the maximum number of metal storage containers on a property within the A zone from 1 to 3.
 - b. Section 8.1.4.2: to increase the maximum gross floor area for a secondary suite from 90m² or 40% of the habitable area of the building, whichever is less, to 117m² or 40% of the habitable area of the building, whichever is less.

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.

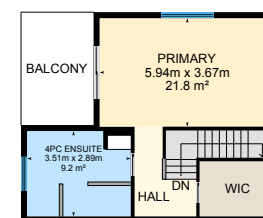
Authorized by City Council, the ____ day of _____, 2021.

Issued this ____ day of _____, 2021.

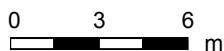
Angela Collison
Corporate Officer

DRAFT

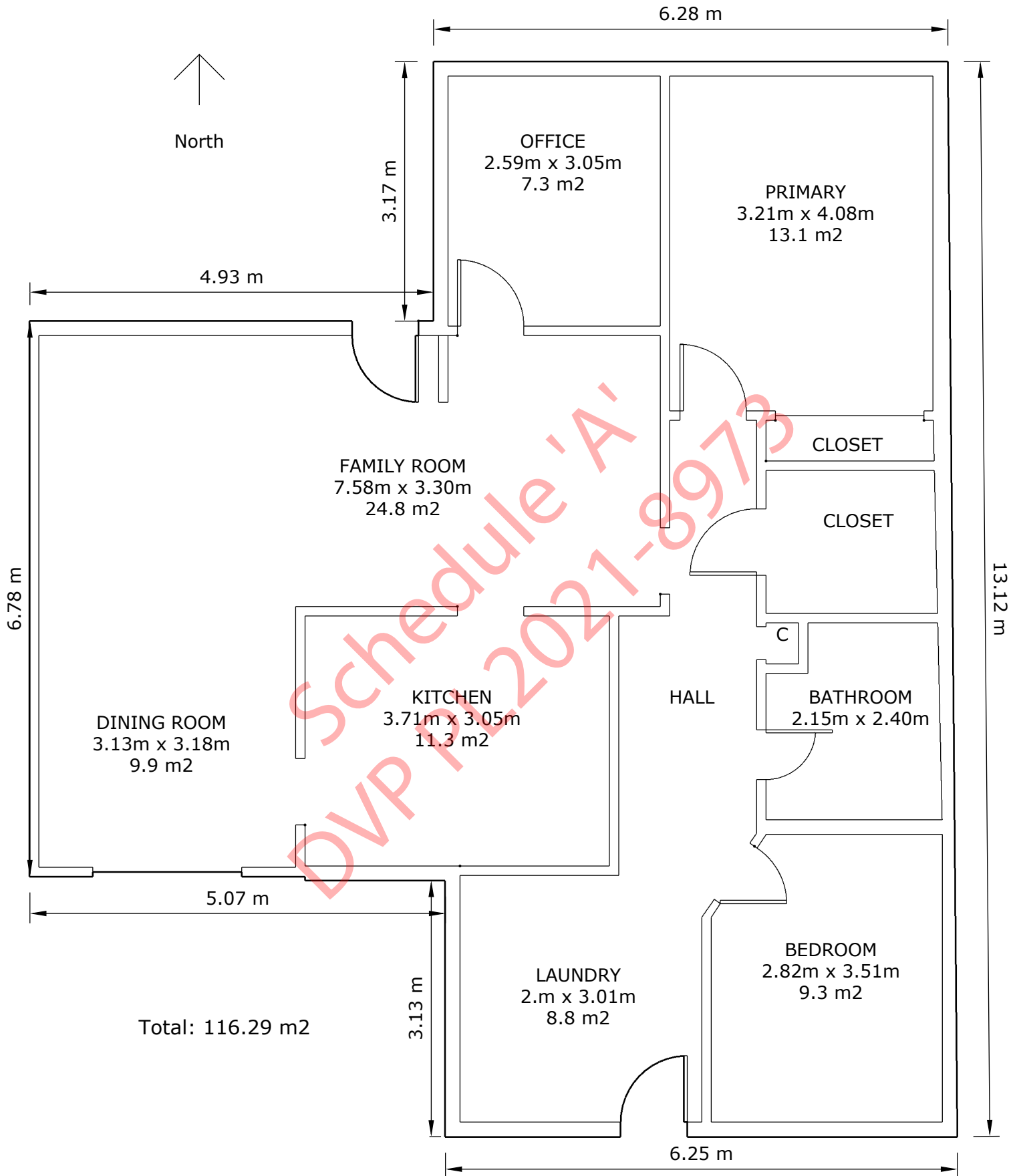
Main Building: Total Exterior Area Above Grade 350.77 m²



2nd Floor
Exterior Area 52.83 m²



**1220 Munson Ave, Penticton, BC
East Side**



1220 Munson Ave, Penticton, BC

