

August 25, 2022

Address & Legal Description:

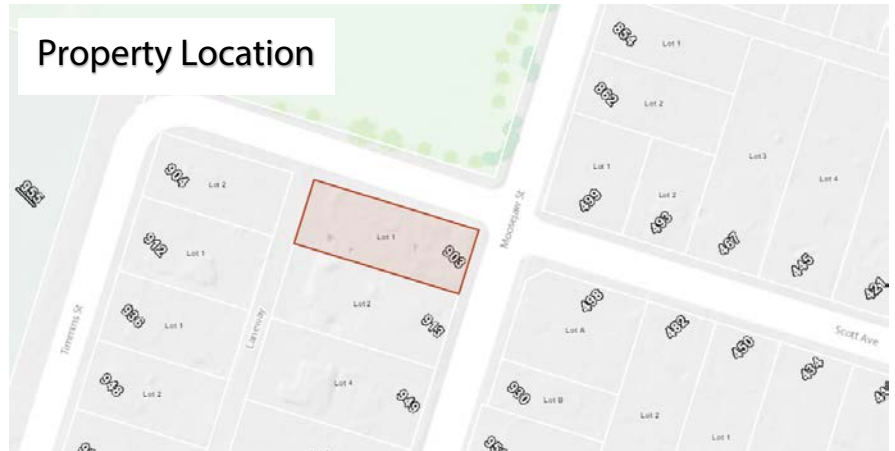
903 Moosejaw Street

Lot 1, District Lot 4, Group 7, Similkameen
Division Yale (Formerly Yale-Lytton) District
Plan 5380

Subject & Proposal

Development Variance Permit PL2022-9329

Property Location



The applicants are proposing to legalize an existing building on the property located at 903 Moosejaw Street that is being used as a carriage house. In order to legalize the use and the building, the applicant requires the following variances to Zoning Bylaw 2021-01:

1. Section 8.2.3.6: to reduce the interior side yard for a carriage house in the R1 zone from 1.5m to 0.9m;
2. Section 8.2.3.6: to reduce the rear yard for a carriage house from 1.5m to 0.2m; and
3. Section 8.2.5.3: to allow vehicle access to the carriage house to be from the street.

Information:

You can find the staff report to Council and Development Variance Permit PL2022-9329 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, September 6, 2022** in Council Chambers at Penticton City Hall, 171 Main St.

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, September 6, 2022**, to:

Attention: Corporate Officer, City of Penticton

171 Main Street, Penticton, B.C. V2A 5A9

Email: corpadmin@penticton.ca

Please ensure the following is included in your correspondence:

Subject: 903 Moosejaw St.

No letter, report or representation from the public will be received by Council after the conclusion of the September 6, 2022 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: September 6, 2022
To: Donny van Dyk, Chief Administrative Officer
From: Nicole Capewell, Planner II
Address: 903 Moosejaw Street
Subject: Development Variance Permit PL2022-9329

File No: RMS/903 Moosejaw St

Staff Recommendation

THAT Council approve "Development Variance Permit PL2022-9329", for Lot 1 District Lot 4 Group 7 Similkameen Division Yale (Formerly Yale-Lytton) District Plan 5380, located at 903 Moosejaw Street, a permit to vary the following sections of Zoning Bylaw No. 2021-01:

1. Section 8.2.3.6: to reduce the interior side yard for a carriage house in the R1 zone from 1.5m to 0.9m;
2. Section 8.2.3.6: to reduce the rear yard for a carriage house from 1.5m to 0.2m; and
3. Section 8.2.5.3: to allow vehicle access to the carriage house to be from the street.

AND THAT Council direct staff to issue "Development Variance Permit PL2022-9329".

Strategic Priority Objective

Community Safety: The City of Penticton will support a safe, secure and healthy community.

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

Proposal

The applicants are proposing to legalize an existing building on the property located at 903 Moosejaw Street that is being used as a carriage house. In order to legalize the use and the building, the applicant requires variances to the Zoning Bylaw, including:

1. Section 8.2.3.6: to reduce the interior side yard for a carriage house in the R1 zone from 1.5m to 0.9m;
2. Section 8.2.3.6: to reduce the rear yard for a carriage house from 1.5m to 0.2m; and
3. Section 8.2.5.3: to allow vehicle access to the carriage house to be from the street.

Background

The subject property is located on the west side of Moosejaw Street, at the corner of Moosejaw Street and Scott Avenue (Figure 1). The property is located in a residential neighbourhood primarily consisting of single detached dwellings. The property is zoned R1 (Large Lot Residential) and designated by the Official Community Plan (OCP) as 'Detached Residential'.

The subject property contains a single detached dwelling and an accessory structure in the rear yard near the laneway. The main house was constructed in approximately 1948, and a permit was issued for a detached accessory structure in 1954. The accessory structure, however, was relocated on the property by a previous owner between 2004-2008 without a permit to review and approve the new building location. As such, the building does not meet rear or interior side yard setbacks for an accessory building or carriage house.

The City's Bylaw Enforcement Department began investigating the property and unpermitted carriage house in August 2021. The current property owner(s) took ownership of the property in June 2021, and were unaware that the carriage house on the property, which was being rented long term, was not an authorized suite. The property owner has since worked with various City staff to prepare a plan to legalize the carriage house.



Figure 1 - Property Location Map

Technical Review

This application was reviewed by the City's Technical Planning Committee (TPC). No concerns were raised related to the requested variances. Comments related to requirements for the future development permit and building permit applications were provided to the applicant. These are the next steps for the applicant to obtain the required approvals to use the building as a carriage house. The Building Department outlined the permit requirements that would be required in order to successfully obtain a building permit and legalize the structure.

Development Statistics

The following table outlines the proposed development statistics on the plans submitted with the development application:

	Carriage House Requirement	Provided on Plans
Minimum Lot Area:	370 m ²	890 m ²
Maximum Building Footprint:	90 m ² (15% of lot area)	27.3 m ²
Maximum Lot Coverage (carriage house):	15%	3%

Maximum Lot Coverage (all structures)	40% (R1 zone)	17%
Maximum Building Height:	7 m and 2 floors	3.6 m and 1 floor
Siting:	Behind principal house	Behind principal house
Amenity Space:	15 m ² (each for carriage house and single family dwelling)	15 m ² (each for carriage house and single family dwelling)
Carriage House Floor Area:	135 m ²	27.3 m ²
Privacy Windows:	Within 1.5 m of side yard	No windows within 1.5m of side yard
Required Setbacks Front Yard (Moosejaw Street): Interior Side Yard (south): Exterior Side Yard (north): Rear Yard (lane):	Behind principal house 1.5 m 3.0 m 1.5 m	Behind principal house 0.9 m Variance Required 11 m 0.2 m Variance Required
Additional On-Site Parking Space	1 space for the carriage house provided from the laneway	1 space for the carriage house provided from Scott Ave Variance Required

Analysis

When considering a variance to a City bylaw, staff encourages Council to consider if approval of the variance would cause a negative impact on neighbouring properties and if the variance request is reasonable.

Carriage houses provide additional housing stock in the City and represent a moderate way to increase the density in established neighbourhoods. The OCP recognizes the importance of well-designed carriage houses:

OCP Policy 4.1.3.2	Increase housing options in low-density single family areas through development of secondary suites and carriage houses, and ensure carriage houses are sensitively integrated and designed according to the Intensive Residential Development Permit Area Guidelines.
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The applicant has requested the following variances from the Zoning Bylaw regulations:

1. Section 8.2.3.6: to reduce the interior side yard for a carriage house in the R1 zone from 1.5m to 0.9m;
2. Section 8.2.3.6: to reduce the rear yard for a carriage house from 1.5m to 0.2m; and
3. Section 8.2.5.3: to allow vehicle access to the carriage house to be from the street.

Staff have reviewed the requested variances required to proceed with legalizing the structure as a carriage house and are recommending that Council support the Development Variance Permit for the following reasons:

1. The current property owner inherited the illegal structure and has worked with staff to bring the property into conformance.

The property owner purchased the property in June 2021, and was unaware that the carriage house was completed without permits. Since being made aware of

the concerns from staff, the owner has continued to work with various city staff to identify the requirements to bring the carriage house into compliance.

2. The neighbour to the south is in support of the application.

The property owner, once becoming aware that a variance would be required, reached out to the neighbouring property to the south (913 Moosejaw Street) to inquire about any concerns for the carriage house. The neighbour to the south reached out to City staff to better understand the situation and explain their support for the carriage house, including their awareness of the importance for long term rentals in the City. The neighbour understood the variances needed, and indicated their support for the structure as it exists on the property today (Attachment 'E').

3. The property owner is removing portions of the structure where possible to bring the building as close to required setbacks as possible (Figure 2).
As shown on the plans, there is a 'lean-to' or roof-overhang on the western side of the structure, which overhangs the property line into the laneway. The property owner has agreed to remove this portion of the structure, should the other variances be supported.

4. Most of the building meets the rear yard setback, except a small portion.
5. Along the rear yard setback, most of the structure meets the 1.5m setback (Figure 3), however there is a jog in the building wall that contains the bathroom, which is located at 0.2m from the rear property line. This is approximately 2.1m in length. The structure is only a single storey in height, which assists in reducing the impact of lessened rear and side yard setbacks.

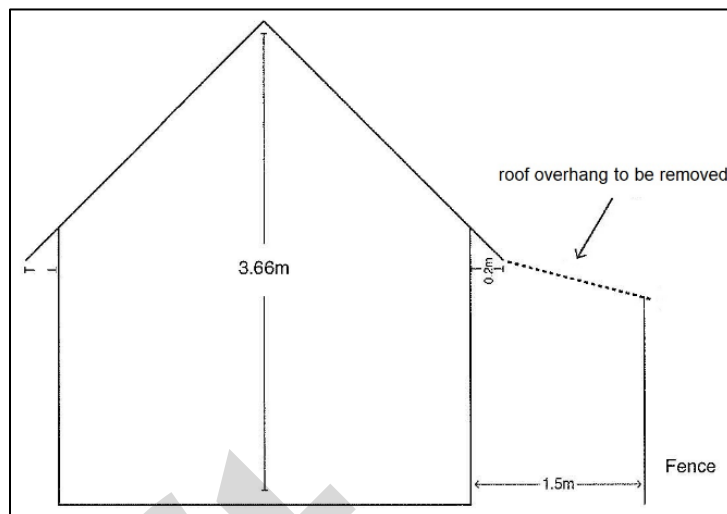


Figure 2 - North Elevation of Structure showing Lean-To

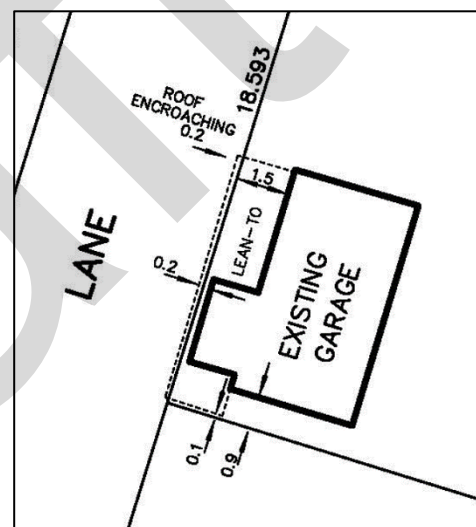


Figure 3 - Existing Structure with Lean-To

6. Retain mature trees existing on the property.

The property owner is requesting that vehicle access be permitted from the street (Scott Ave), although there is a laneway to the rear of the property. The Zoning Bylaw requires that all vehicle access for a carriage house be provided from the lane, where a lane exists. In this instance, requiring vehicle access from the laneway would require removal of mature trees that exist near the laneway on the property and the City laneway (both public and privately owned trees that are worth retaining). The owner would prefer to not remove the trees (which they feel provide value to their property) to provide a vehicle access point, when they have plenty of access onto Scott Avenue. Development Engineering staff have confirmed the proposed driveway access from Scott Avenue is safe and meets bylaw requirements. As such, staff recommend that the existing vehicle access be permitted to continue from the street.



Figure 4 - View of Trees along Laneway to Be Retained

Staff consider that the proposed conversion of the unpermitted building into a carriage house is aligned with the OCP in providing additional dwelling units in desirable areas of the City, gradually increasing density through carriage houses and secondary suites in predominantly single family areas, and supporting the workforce through affordable housing options being available. Should Council support the variances, staff will proceed to work with the applicant to finalize and issue the Development Permit and subsequent Building Permit.

Should Council choose to not support the development variance permit, the property owner(s) would be required to either relocate the structure to meet setbacks, and redesign the property to meet parking requirements, or demolish the structure. Relocating the accessory dwelling is likely cost-prohibitive, and would cause negative impacts to the existing layout of the property (large outdoor patio areas and landscaping exist throughout the property). It is likely that should Council deny the variance that the carriage house would eventually be removed and the dwelling unit currently available would be lost.

Alternate Recommendations

Council may consider that the requested variances are not appropriate in this instance. If this is the case, Council should deny the Development Variance Permit. If this decision is made, the applicant will likely remove the carriage house and the second dwelling unit on the property would be lost. Staff are not recommending this option.

1. THAT Council, after hearing from the applicant, deny "Development Variance Permit PL2022-9329".

Attachments

Attachment A – Zoning Map

Attachment B – Official Community Plan Map

Attachment C – Photos of Property

Attachment D – Letter of Intent

Attachment E – Neighbour Letter of Support (913 Moosejaw Street)

Attachment F – Draft Development Variance Permit

Respectfully submitted,

Nicole Capewell, RPP, MCIP

Planner II

Concurrence

Director of Development Services <i>BL</i>	Chief Administrative Officer
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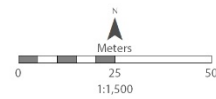
903 Moosejaw Street

Zoning Map



Legend

- Subject Parcel
- R1 - Large Lot Residential
- P1 - Public Assembly
- R2 - Small Lot Residential
- P2 - Parks and Recreation
- M1 - General Industrial



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Tuesday, August 16, 2022 2:41:49 PM

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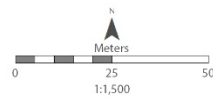
903 Moosejaw Street

Official Community Plan Map



Legend

- Subject Parcel
- Future Land Use
- Detached Residential
- Institutional and Civic
- Urban Residential
- Industrial
- Parks



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Attachment C – Photos of Property



Looking south towards subject property from Moosejaw St and Scott Ave intersection



Looking north towards subject property from laneway

To: Penticton City Council

From: Scott Cabianca

Date: May 6, 2022

RE: Letter of Intent – Carriage House Conformance

To the Council of the City of Penticton:

In June 2021, my wife and I purchased the property at 903 Moosejaw. It has long been our intent to move to Penticton to raise our two young boys. We were living on Haida Gwaii at the time and drove to Penticton for a day to see the house which had just been listed.

Upon viewing (and subsequently buying) the house we were not aware that the carriage house was a non-conforming unit. The carriage house structure and interior design impressed us – it is of high quality, and visually in sync with the rest of the property. Ultimately, we put almost the entirety of our savings into the purchase of this house and rely on the income from the carriage house as an essential factor in our ability to afford the house.

Since learning that the carriage house is not currently a conforming unit, we have been transparent with the City of Penticton and have ultimately accommodated every request put forth. Specifically, we have participated in a zoom call, allowed inspectors on to the premises on numerous occasions, hired several certified tradespeople to perform works and provide safety declarations, obtained a land survey, and have proceeded with the development application. This has all been done at considerable cost, and effort.

It is our intent to ensure this carriage house becomes a conforming suite. Not only is it crucial to our financial limitations with respect to mortgage payments, but we have a health care worker residing in the suite who wishes to remain long-term (with limited options in the competitive Penticton rental market).

Outlining our project:

We are obtaining Development Permit with Minor Variance requests for an existing carriage house structure. In doing so, we are not looking to add to the existing structure in any way. We are simply seeking a variance for the current location, and approval to be a conforming and habitable suite.

Specifically, two of the walls/sides of the carriage house are conforming to set back requirements and two are not. Therefore, we are seeking a variance on the location of the

carriage house vis a vis the lane (the majority of the lane wall conforms to the 1.5m setback, while a small section of the lane wall is 0.2m from the lane). We are also seeking a variance on the location of the carriage house vis a vis and the neighboring property line (the neighbor wall is 0.9m from the neighboring property).

Note: at present there is a lean-to structure that extends from the lane wall of the carriage house to the property line and fence. This structure will be removed.

Note: the exterior of the existing carriage house is aesthetically consistent with the landscaping and the main house. The interior is modern, tidy, and conforms to all major safety measures (declarations for gas, electrical, and plumbing have all been approved).

We also seek an additional variance with respect to parking requirements. I've had discussions with Delphine Maja with respect to the current parking spot for the carriage house. Although the entrance is from Scott Rd (and not the laneway), it is preferred that this situation remain in order to protect the three mature trees currently bordering the property and laneway. To address parking requirements for the main house I have proposed a separate location on the property that meets dimension requirements, and has the consent of Ms Maja.

What are the impacts on the neighboring properties as a result of your development application?

The carriage house has been in its current location for many years (based on historical photos we estimate it was moved to the current location between 2004 and 2008). As mentioned, the exterior aesthetic is in sync with the main house and vegetation that currently exist. Furthermore, the immediate neighbor, Trisha Kaplan, has no problem with the current location of the carriage house – it is located at the opposite end of her property from her main house. Ms Kaplan has written a letter to the City (she called Nicole Capewell to inform her of her consent) indicating she has no issue with the carriage house's current location. Ms Kaplan is the only neighbor potentially impacted by the structure. Ms Kaplan's letter is attached to the application.

What is being done to minimize negative impacts on the neighboring properties?

We are having open dialogue with Trisha Kaplan and keeping her abreast of the situation. The fact that the structure is already in place, and has been for many years, gives her no cause for concern. Moreover, there is no request within this application to change, alter, or add to the size or height of the structure. Instead, the request is to simply leave the structure exactly where it is – and this is what Ms Kaplan is most comfortable with.

What makes this development a positive contribution to the community?

The current tenant of the carriage house – Calli Martin – is a healthcare worker in Penticton. Ms Martin was living in the carriage house prior to our purchase of the house and seeks to remain renting for the foreseeable future. Thus, the carriage house provides an affordable option for a young health care worker in the community.

In addition, the carriage house provides a crucial income to assist with our mortgage. The additional income allowed us to purchase the house, and how we hope to maintain it. As a result, we introduce a new family into Penticton, and two young boys that will be very enthusiastic about the soccer facilities directly across the street (another significant reason for making this purchase).

Conclusion.

Without the variance we will be forced to decide between moving the structure the 0.4m (on the lane side) and 0.6 (on the neighbor side) to meet set back requirements or are remove the structure altogether (along with the income it generates). Either of these options will place under considerable financial hardship, and likely be beyond our financial capacity.

We are actively doing our best to make this a conforming and habitable unit. We feel burdened by the fact that this is a situation we inherited, but at the same time we recognize the concerns of the City. We believe we have demonstrated our willingness to remedy the situation. We appreciate your consideration on this matter. We look forward to our future in Penticton.

Sincerely,

Scott Cabianca and Leidys Barrios Barona



903 Moosejaw Street

1 message

Trisha Kaplan [REDACTED]

Wed, Mar 9, 2022 at 1:24 PM

To: Nicole Capewell <Nicole.Capewell@penticton.ca>

Cc: "Cabianca, Scott" [REDACTED]

Hi Nicole,

I live at [913 Moosejaw Street](#) and I received a letter from our new neighbour, Scott Cabianca (cc'd here), who purchased 903 Moosejaw last June.

In the letter, he explained that he is working with the City to legalize the existing carriage house. Through this process, they have discovered that the current location of the carriage house does not adhere to setback requirements. They have asked whether we would consent to its current location.

I emailed with Scott and learned that they intend to use the house as is, with the exception of necessary upgrades to legalize the unit.

By way of this letter, we are letting the City know that we don't have any problems with the current structure remaining in its current location. Should the carriage house be redeveloped or additional floors be added, we ask to see the plans so that we can comment. However, I understand that the plan is to leave it as-is.

If you have any questions, feel free to email or phone me.

Thank you,

Trisha Kaplan

Janet Filipenko

[913 Moosejaw Street](#)
[REDACTED]



Development Variance Permit

Permit Number: DVP PL2022-9329

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 A District Lot 4 Group 7 Similkameen Division Yale (Formerly Yale-Lytton)
District Plan 5380
 - Civic: 903 Moosejaw Street
 - PID: 010-349-375
3. This permit has been issued in accordance with Section 498 of the *Local Government Act*, to vary the following sections of Zoning Bylaw 2021-01 to allow for the construction of a carriage house, as shown in the plans attached in Schedule 'A':
 - a. Section 8.2.3.6: to reduce the interior side yard for a carriage house in the R1 zone from 1.5m to 0.9m;
 - b. Section 8.2.3.6: to reduce the rear yard for a carriage house from 1.5m to 0.2m; and
 - c. Section 8.2.5.3: to allow vehicle access to the carriage house to be from the street.

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.

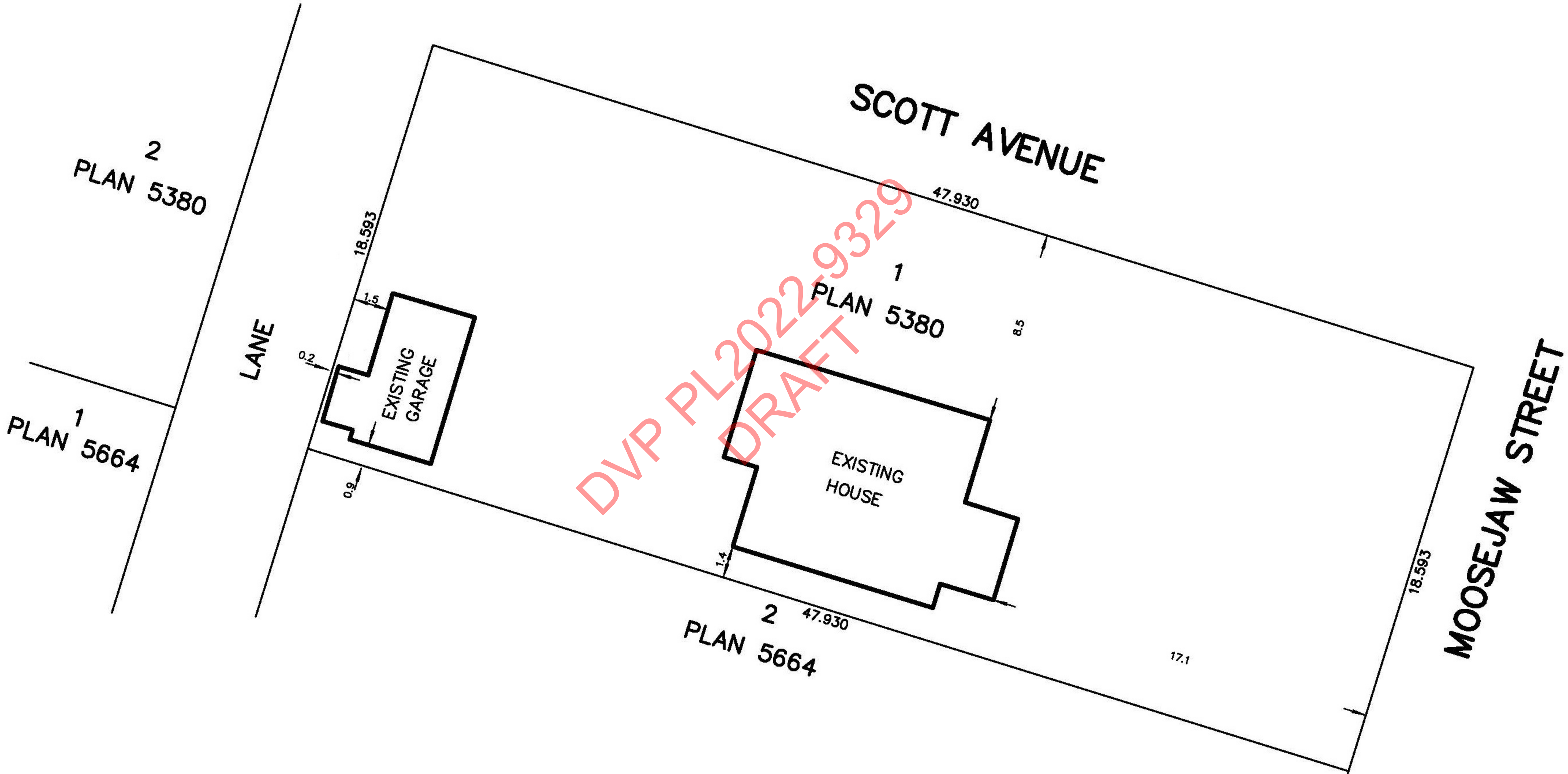
8. This permit does not include off-site infrastructure costs that may be required at the building permit stage, such as Development Cost Charges (DCC's), road improvements and electrical servicing. There may be substantial infrastructure and servicing costs payable at a later date. For more information 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 _____, 2022.

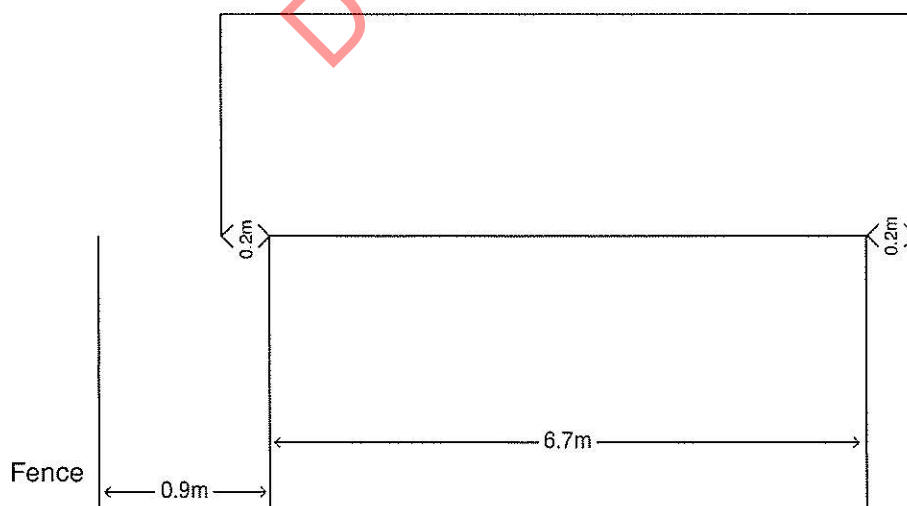
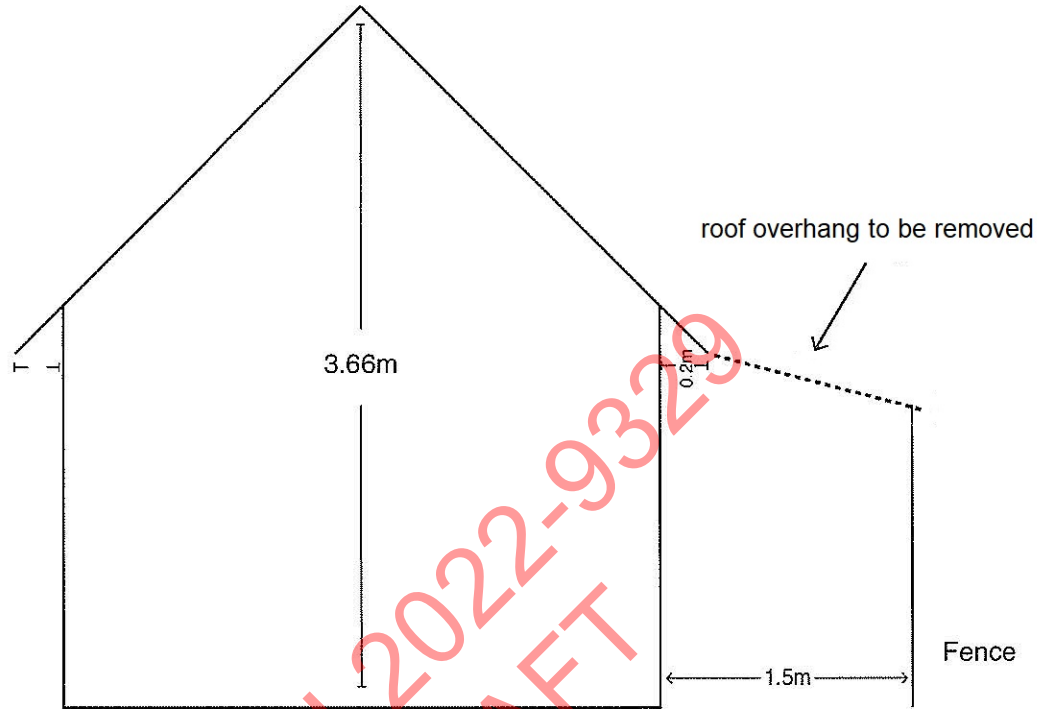
Issued this ____ day of _____, 2022.

Angela Collison
Corporate Officer

DVP PL2022-9329
DRAFT

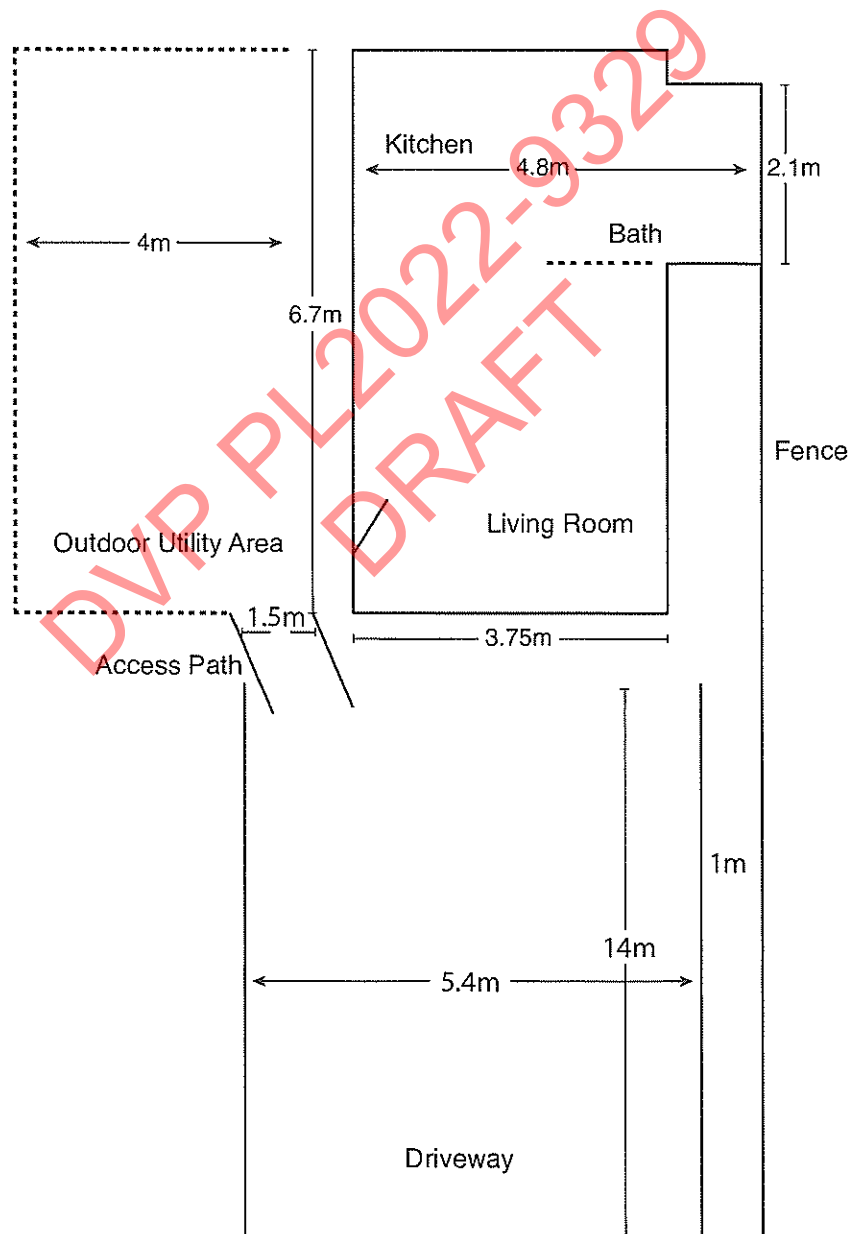


903 Moosejaw St - Carriage House Profile, Overhang and Lean-to



903 Moosejaw St - Carriage House

Floor Plan, Utility Area, Access Path, and Driveway



Parking



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Thursday, May 5, 2022
Prepared by GSM