

March 8, 2023

Address & Legal Description:

1151 Kensington Street

Lot 95, District Lots 249 and 250,
Similkameen Division Yale District, Plan 4168

Subject & Proposal

Development Variance Permit PL2023-9515

The applicant recently moved their barber shop business from the downtown area to their residence and are using a detached garage to operate their home occupation from. The detached garage has a floor area of 53.5 m² which exceeds the 50 m² maximum permitted home occupation floor area. In addition they have only provided two parking spaces on the property when three are required.



As such, the applicants have requested variances to the following sections of Zoning Bylaw 2021-01:

- Section 7.4.2: to increase the size of an accessory building for a major home occupation from 50 m² to 53.5 m², and
- Section 6.5: to reduce the number of required parking spaces on the property from 3 to 2

Council Consideration:

Council will consider the Development Variance Permit at its Regular Council Meeting scheduled for **1:00 pm, March 21, 2023** 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.

Information:

You can find the staff report to Council and Development Variance Permit PL2023-9515 on the City's website at www.penticton.ca/publicnotice or scan the QR code on the right.

Please contact the file manager Jordan Hallam at 250-490-2429 or jordan.hallam@penticton.ca with any questions.



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 21, 2023, 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: 1151 Kensington St.

No letter, report or representation from the public will be received by Council after the conclusion of the March 21, 2023 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 & Licencing Manager

Date: March 21, 2023
To: Donny van Dyk, Chief Administrative Officer
From: Jordan Hallam, Planner I
Address: 1151 Kensington Street
Subject: Development Variance Permit PL2023-9515

File No: RMS/1151 Kensington St

Staff Recommendation

THAT Council approve "Development Variance Permit PL2023-9515" for Lot 95 District Lots 249 and 250 Similkameen Division Yale District Plan 4168, located at 1151 Kensington Street, a permit to vary the following sections of Zoning Bylaw 2021-01:

- Section 7.4.2: to increase the size of an accessory building for a major home occupation from 50 m² to 53.5 m².
- Section 6.5: to reduce the number of required parking spaces on the property from 3 to 2.

AND THAT Council direct staff to issue "Development Variance Permit PL2023-9515".

Proposal

The applicant recently moved their business from downtown to their residential address. The applicant is using an accessory building (detached garage) on their property as a home occupation (barber shop). The applicants have built a detached garage having a floor area of 53.5 m² which exceeds the 50 m² maximum permitted home occupation floor area in the Zoning Bylaw, and have only provided two parking spaces on the property when three are required. As such, the applicants have requested variances to allow the increased home occupation floor area within the existing detached building, and to reduce the required parking spaces on the property from three to two (Attachment 'D').

Background

The subject property is located on the west side of Kensington Street, in a primarily residential neighbourhood (Figure 1). The property currently contains a single detached dwelling which was built in 1948. The existing detached garage was built in February 2023. The property does not contain a front

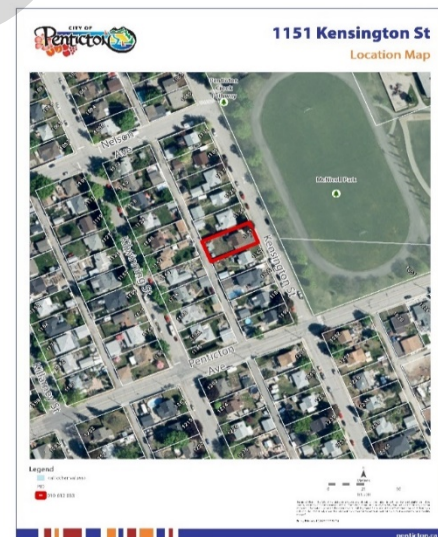


Figure 1 – Property location

driveway, and all of the parking is accessed off of the lane for this property. The property is designated 'Detached Residential' by the Official Community Plan (OCP) and is zoned 'R2 (Small Lot Residential)' in the Zoning Bylaw.

Enforcement

The applicant had a business located in a commercial location on Main St, but relocated to their home for a major home occupation. As part of the business license inspection, a City of Penticton Building Official discovered that the property lacked the parking space for a major home occupation, and that the accessory building the applicant was operating out of was bigger than permitted. The Zoning Bylaw requires 1 parking space per business for a major home occupation, and 2 per single detached dwelling for a total of 3 on the property. The maximum size for an accessory building for a major home occupation is 50.0 m² and the applicants have an accessory building size of 53.5 m².

City staff have been working with the applicant to ensure compliance with the business license and to finish and close the building permit for the detached garage. City staff also had a pre-application meeting to discuss the variance requests and what is required moving forward as part of their application.

Climate Impact

Not applicable for this application.

Technical Review

This application was not reviewed by the Technical Planning Committee because the building was constructed and completed prior to this Development Variance application being received by the City of Penticton, and the committee does not normally review building permits for detached garages. Staff have attended the property after enforcement to work with the owner on what is required to legalize this home occupation.

Analysis

Development Variance Permit

When considering a variance to a City bylaw, staff encourage 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 requested variances to increase the size of an accessory building for a major home occupation from 50 m² to 53.5 m², and reduce the number of required parking spaces on the property from three to two required spaces for the following reasons:

1. The home occupation remains in compliance with all other applicable home occupation regulations.



Figure 2 – 1100 Block of Kensington St

Home occupations are limited in size and scale through the Zoning Bylaw. The intent of these regulations is to allow for home occupations while ensuring that the scale and uses are compatible with surrounding residential neighbourhoods. While this proposal is for additional floor area, and for one reduced parking space for an existing home occupation, the other home occupation regulations (i.e. limit of customer visits, limit to staff, maintain a residential character, etc.) are met through this proposal. The 3.5 m² (37.8 ft²) of additional space of the major home occupation is minor in nature. If the variance requests were denied by Council, the applicant could structurally convert the major home occupation back into an accessory building (detached garage), which would meet the Zoning Bylaw requirement for size, and no variance applications would be required. However, in staff's opinion, this is not the recommended approach as the increased size is minor in nature.

2. Ample parking space on Kensington St.

The subject property and the entire 1100 block of Kensington St is across from the street from McNicoll Park. There are no houses, businesses, or driveways located on this block of McNicoll Park, as it is used for recreation purposes (Figure 2). This provides ample street parking space for both the residents of the subject property and neighbouring properties, and those that are accessing the subject property for the home occupation. The R2 zone does not permit driveways where a rear lane is provided. Currently, there is no path from Kensington St to the rear of the property to access the accessory building, however, staff are recommending that the applicants install a pathway for customers.

3. Immediate neighbours have submitted letters of support.

Staff encourage applicants to discuss their variance proposal with immediate neighbours and potentially revise the proposal to meet mutual needs. The applicants have discussed their variance request with neighbours (Attachment 'E'), six of whom submitted letters of support which the applicant included with this development variance permit application (Figure 3). The letters of support are included as Attachment 'E'. The letters suggest that negative impacts to neighbours from the proposed variance request are reasonable for reducing the required parking spaces from three to two.



Figure 3 – Letters of support received from properties in yellow. Subject property outlined in red.

Given the reasons above, staff consider the variance requests are rational in this instance. No negative impacts on neighbours are anticipated as there is ample parking space provided on Kensington St, and the neighbours have submitted letters of support, indicating they are not concerned with reducing the parking requirement from three to two required parking spaces. Staff are requiring the applicant to install a path from Kensington St to access the business in the lane. The increased size of the accessory building is minor in nature and does not pose any negative effects to the

surrounding neighbourhood. As such, staff are recommending that Council approve the variances and direct staff to issue the permit.

Alternate Recommendations

Council may consider that the proposed variances will negatively affect the neighborhood. If this is the case, Council should deny the variance. Denying the variances would require the applicant to reduce the size of the building to meet the Zoning Bylaw requirement, and finding space to allow a third vehicle on the property. Or the applicant may choose to close their business, and convert their barbershop back into a detached garage. It is recommended that Council allow the applicant to speak on behalf of the proposed variance if Council is considering denying the application. Staff are not recommending this option.

1. THAT Council hear from the applicant prior to making a decision on "Development Variance Permit PL2023-9515".

Attachments

Attachment A – Zoning Map
Attachment B – Official Community Plan Map
Attachment C – Photos of Property
Attachment D – Letter of Intent
Attachment E – Letters of Support
Attachment F – Draft Development Variance Permit PL2023-9515

Respectfully submitted,

Jordan Hallam
Planner I

Concurrence

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



1151 Kensington St Zoning Map

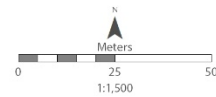


Legend

- <all other values>
- R2 - Small Lot Residential
- P2 - Parks and Recreation
- P1 - Public Assembly

PID

010-612-033



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Attachment B – Official Community Plan Map

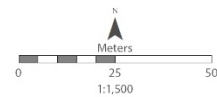


1151 Kensington St OCP Map



Legend

- | | |
|--------------------|-------------------------|
| <all other values> | Future Land Use |
| PID | Detached Residential |
| 010-612-033 | Institutional and Civic |
| | Parks |



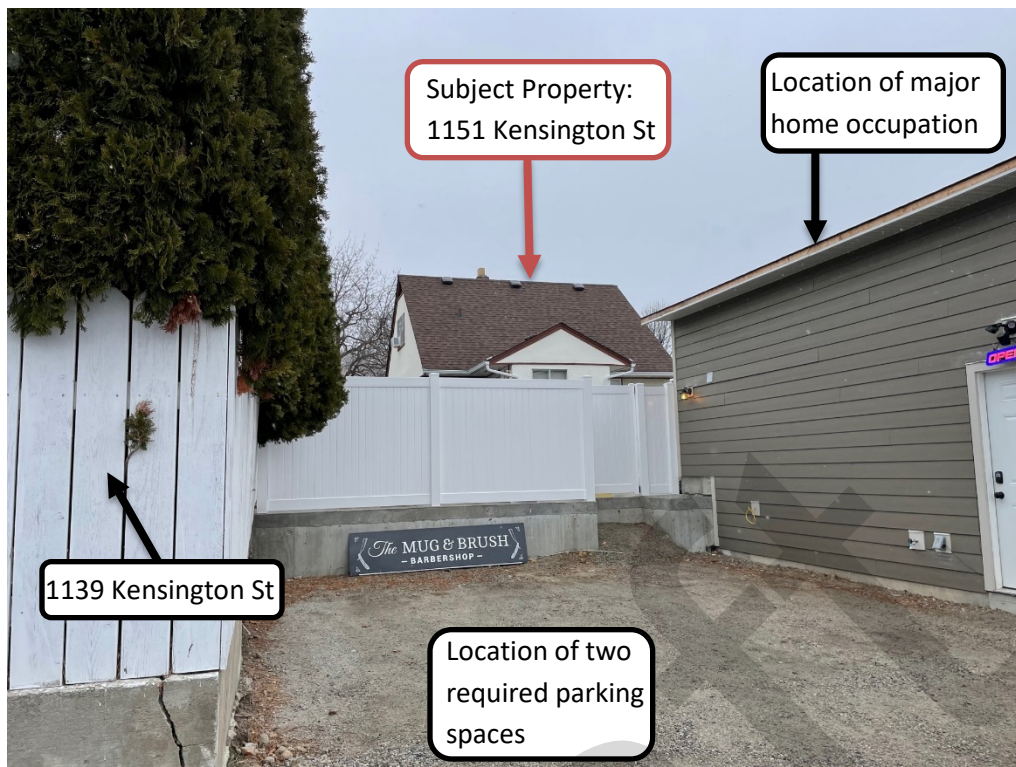
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Attachment C – Photos of Property





Attachment D - Letter of Intent

Letter of Intent

Filing for Variance for Bylaw Contraventions re: Building Size and Parking

From: The Mug and Brush Barbershop
1151 Kensington Street, Penticton, V2A 4N2
February 10th, 2023



REQUEST: The Mug & Brush Barbershop (*"the business"*) is requesting a variance permit. Specifically, the business is seeking variance to use the full square footage (53m²) of the business' building for business operations as it was intended – in opposition to building a dividing wall for a space change as required by current bylaws given the property is 3m² above bylaw standards (50m²). Additionally, variance is being sought to allow personal parking for owners (*Kellen Morrison & Melissa Van Troyen*) of 1151 Kensington Street (*"the street"*) on the street, so that two designated parking spots at the rear of the property adjacent to the business are always available to clients of the business.

Prior Approvals: The property has already received approval from Interior Health for business procedures approval, as well a City of Penticton Certificate of Occupancy #BP011597. Given front and rear access from the building, an ambulance can easily access the property in case of a medical emergency.

Historically, residents of this neighborhood rely on street parking, so there is no impact to the community with the added flow from clients of the business – parking availability has been "status quo" since the relocation of the business in September 2022. To confirm, on February 1st and 2nd, I, Melissa Van Troyen, owner of The Mug & Brush Barbershop obtained signatures from the neighbouring properties of the business, who agreed that:

- (i) The business is sensitive to the needs of the community regarding parking as it does not infringe on their ability to park and has not created any issues since September 15th;
- (ii) That two off-street parking spots are always available to clients of the business; &
- (iii) That on-street parking for personal vehicles is readily available in the neighborhood, and how residents traditionally park. With the business having two off-street parking spots available, clients of the business do not interfere with on-street parking.

Given their signatures and agreement, the impacts on neighboring properties due to the proposed development application are negligible. Further, beyond the signed letter, I can confirm that consultations with the community have been ongoing since the beginning of the relocation of the business in September. This letter with signatures was provided to the City of Penticton on February 7th, 2023. Going forward, I will continue to consult with neighbors of the business to ensure their continued support. Although unforeseen, should any issues arise, I will work with neighbors to mitigate immediately.

I have been working and living in Penticton my entire life. I have deep-rooted connections to this community, and it has always been my goal to be a part of, and leader within, the small business community here. I started the business in 2019, and was a reliable professional lease holder at 564 Main Street. Like many other small businesses, the Mug & Brush Barbershop was not immune to the impacts of the COVID-19 pandemic. Rezoning the business from its former Main Street location to Kensington Street allowed for a significant reduction in overhead costs, and allowed me to continue providing services for the community. Even with these challenges, the business was voted by the South Okanagan community as the "Best of the South Okanagan" favorite barber shop in 2022, speaking to the relations the business has built with clients and the community overall for the past 4 years.

The Mug & Brush is not just a barbershop, but a place for community connection. To contribute to the community, the business donates to dry grad, hockey teams, and local charity events. I also take great pride in being able to provide first hair cuts to children in Penticton, and providing a space for positive memories for families. Approval of this variance request will ensure that the business can continue to operate and contribute to the strong and growing small business community here in Penticton.

Sincerely,

Melissa Van Troyen



For Submission to:
The City of Penticton
Board of Variance Committee
Penticton, BC
V2A 5A9



Attachment E - Letters of Support



Neighbor Consultation

Re: Community Signatures for Submission to the City of Penticton

From: The Mug and Brush Barbershop
1151 Kensington Street, Penticton, V2A 4N2

February 1st, 2023

A summary of neighborhood consultation efforts on parking for the 1151 Kensington Street location of the Mug & Brush Barbershop ('the business') is as follows.

I, Melissa Van Troyen, the owner of The Mug & Brush Barbershop, confirm that I have consulted the neighbors of Kensington Street and Kilwinning Street. These neighbors, as signed, agree that:

- (i) The business is sensitive to the needs of the community regarding parking as it does not infringe on their ability to park, and has not created any issues since **September 15th**.
- (ii) That **two off-street parking spots** are always available to clients of the business.
- (iii) That on-street parking for personal vehicles is readily available in the neighborhood, and how residents traditionally park. With the business having two off-street parking spots available, clients of the business do not interfere with on-street parking.

I am confirming that all neighbors adjacent to the business have signed the attached consultation form. Consultations with the community have been ongoing since September, and formal signatures were obtained on **January 31st, 2023**.

Items Attached:

Annex A: Neighbor Signatures

For Submission to:

The City of
Penticton
Penticton, BC
V2A 5A9



ANNEX A: NEIGHBOR SIGNATURES

By signing, I agree to the items stated in the February 1st Neighbor Consultation letter from the Mug & Brush Barbershop submitted to the City of Penticton.

Address	Name	Signature	Date
1163 Kensington St. Penticton, BC V2A 2N9	Shannon Carr		Jan 31/23
1125 Kensington St Penticton, BC V2A 4N2	Susannah Drick		JAN 31 2023
1139 Kensington St V2A 4N2	Barb McDougall Barb McDougall	Barb McDougall	Jan 31 2023
1175 Kensington St Penticton B.C. V2A- 4N2	Damon Moh		Jan 31 2023
1164 KILWINNING ST Penticton, B.C. V2A 4P1	Julio KELLY		FEB 01 2023
1152 Kilwinning st Penticton, B.C. V2A 4P1	Don Holysten		Feb 7, 2023

Development Variance Permit

Permit Number: DVP PL2023-9515

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 95 District Lots 249 And 250 Similkameen Division Yale District Plan 4168
 - Civic: 1151 Kensington Street
 - PID: 010-612-033
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 legalization of a major home occupation, as shown in the plans attached in Schedule 'A':
 - a. Section 7.4.2: to increase the size of an accessory building for a major home occupation from 50 m² to 53.5 m².
 - b. Section 6.5: to reduce the number of required parking spaces on the property from 3 to 2.

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,

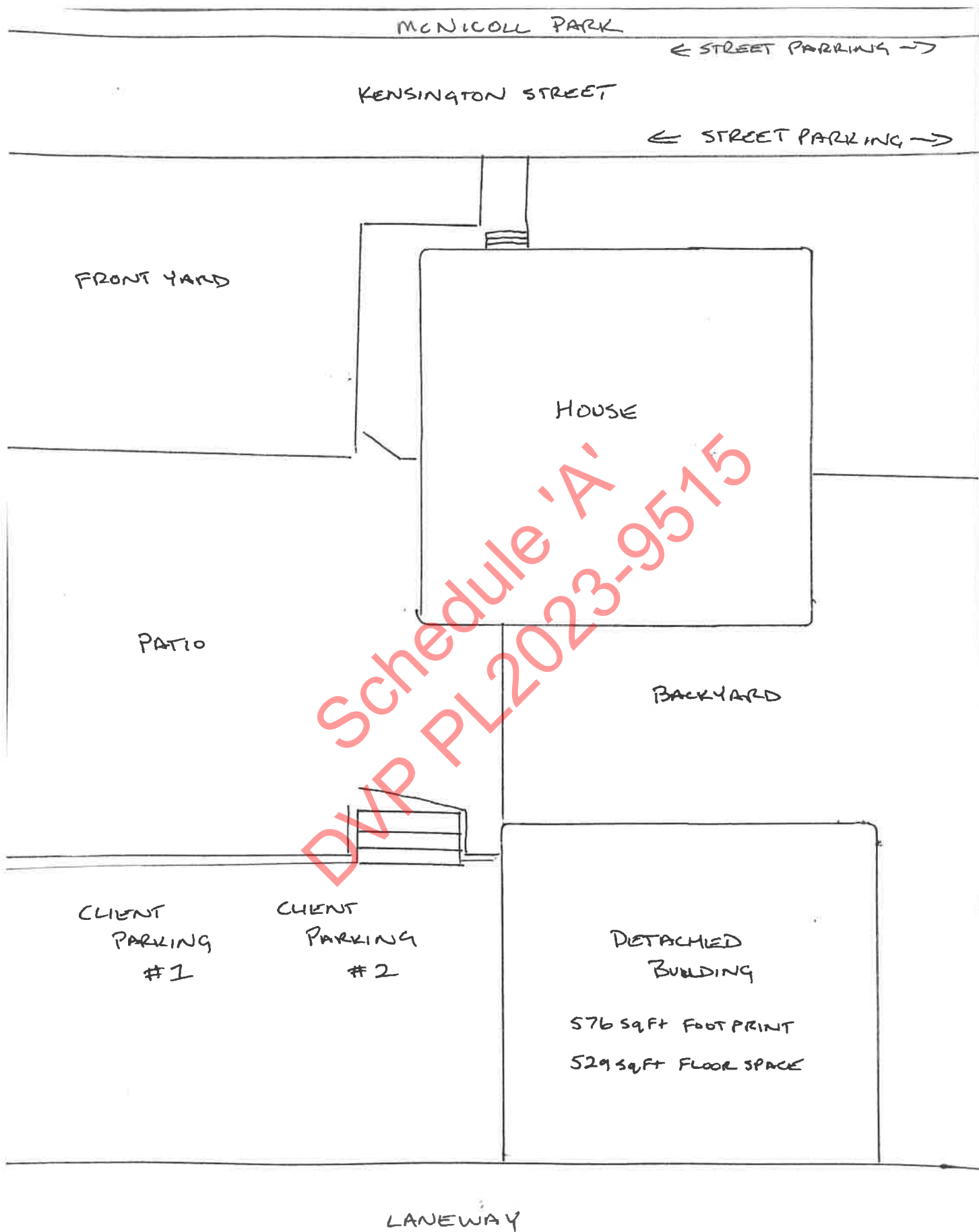
please contact the Electric Utility at (250) 490-2535.

Authorized by City Council, the 21st day of March, 2023.

Issued this ____ day of March, 2023.

Angela Collison
Corporate Officer

Draft



*DRAWING NOT TO SCALE