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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** May 21, 2003  
**File No.:** DVP03-0041

**To:** City Manager

**From:** Planning and Corporate Services Department

**Subject:**

**APPLICATION NO.** DVP03-0041      **OWNER:** James Odermatt

**AT:** 3735 Gordon Drive, Kelowna, BC      **APPLICANT:** James Odermatt

**PURPOSE:** TO VARY THE REQUIRED SIDE YARD SETBACK FROM THE 3.0 METRES REQUIRED TO ALLOW FOR A PROPOSED SETBACK OF 2.5 METRES.

**EXISTING ZONE:** A1 – AGRICULTURAL 1

**REPORT PREPARED BY:** KEIKO NITTEL

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**SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS**

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**1.0    RECOMMENDATION**

THAT Council authorize the issuance of Development Variance Permit No. DVP03-0041 for Lot A, Section 7, Township 26, ODYD, Plan 21018 except Plan H15764, located on Gordon Drive, Kelowna, B.C.:

AND THAT a variance to the following section of Zoning Bylaw No. 8000 be granted:

Section 11.1.5 – Agricultural 1

- Vary the required side yard setback from the 3.0 metres required to allow a setback of 2.5 metres

**2.0    SUMMARY**

The applicant is in the process of building a second dwelling for farm help within the Agricultural Land Reserve. An environmental development permit and building permit were obtained allowing for the construction of the second dwelling. An error in the placement of the foundation during the construction of the building, however, resulted in a side yard setback of 2.5 m on the south elevation of the building where 3.0m is required. A development variance permit is therefore required to address the side yard setback deficiency of 0.50 metres.

### 3.0 BACKGROUND

#### 3.1 The Proposal

The applicant is in the process of constructing a second dwelling, in the form of a single detached house, on the subject property. As the subject property is located in the Agricultural Land Reserve, a second dwelling for farm help is permitted. As the property is adjacent to Wilson Creek, the applicant was required to obtain development permit to address the environmental impacts of development on the property. In addition, the applicant obtained a building permit for the construction of the dwelling. However, an error in the placement of the foundation during the construction of the house resulted in the construction of the building with a side yard setback on the south elevation of 2.5 metres where 3.0 metres is required. The applicant has therefore applied for a development variance permit to address the side yard setback deficiency of 0.50 metres.

The application compares to the requirements the City of Kelowna Bylaw No. 8000 for RU2 zones as follows:

CRITERIA	PROPOSAL	A1s ZONE REQUIREMENTS
Lot Area (m <sup>2</sup> )	15714 m <sup>2</sup>	40000 m <sup>2</sup>
Lot Width (m)	89.58m	40.00m
Lot Depth (m)	175.52m	n/a
Setbacks		
-Front	96.0m	6.0m
-Rear	66.2m	10.0m
- Side (North)	2.5m	3.0m
- Side (South)	74.81m	
Parking Spaces (Total)	10+ spaces	4 spaces

Notes:

- ① The applicant is seeking to vary the required side yard setback of 3.0metres to allow for a setback of 2.5 metres.

#### 3.2 Site Context

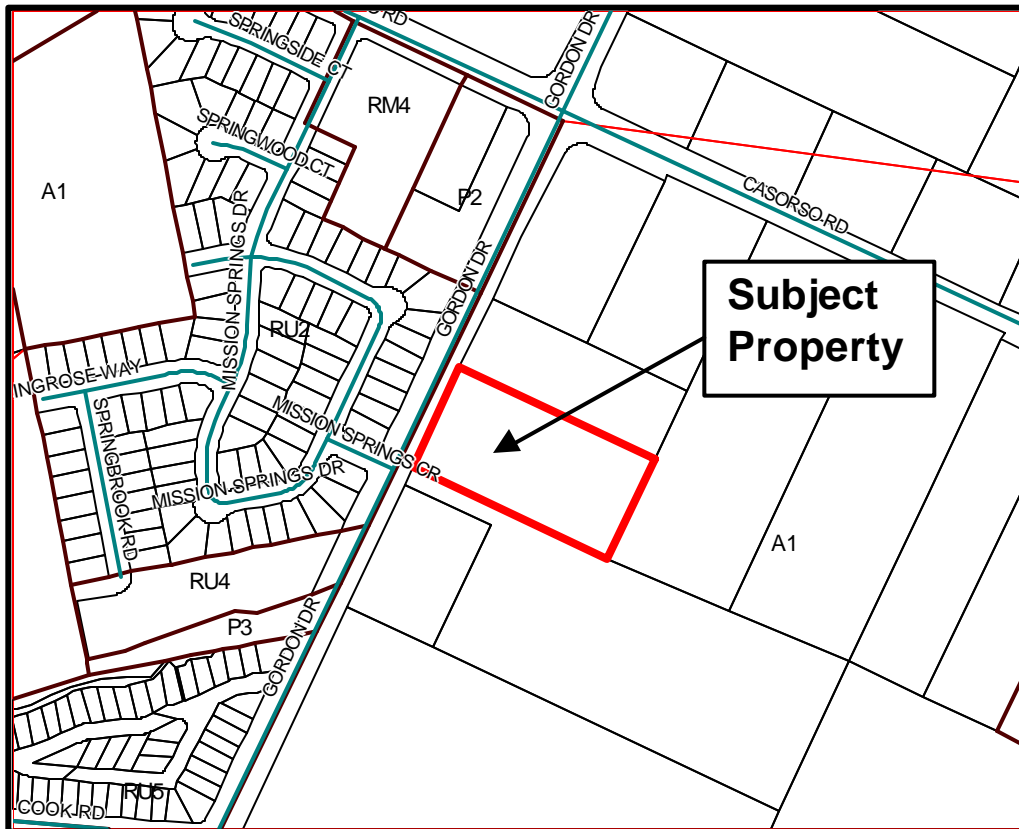
The subject property is located on Gordon Drive between Casorso Road and Cook Road.

Adjacent zones and uses are:

North - A1 – Agricultural 1 – ALR  
 East - A1 – Agricultural 1 - ALR  
 South - A1 – Agricultural 1 - ALR  
 West - RU2 – Medium Lot Housing

### 3.3 Location Map

Subject Property: 3735 Gordon Drive



### 3.4 Existing Development Potential

The property is zoned A1 – Agricultural 1. The primary uses in this zone include agriculture, animal clinics (major), aquaculture, greenhouses and plant nurseries, intensive agriculture, mobile homes, single detached housing, utility services (minor impact). The secondary uses in this zone include agricultural dwellings (additional), agri-tourist accommodation, animal clinics (major & minor), bed and breakfast homes, care centres (intermediate), forestry, group homes (minor), home based businesses (major, minor, & rural), kennels and stables, wineries and cideries, and second kitchens.

Secondary suites are permitted on lots with A1s – Agricultural 1 with Secondary Suite zoning.

### 3.5 Current Development Policy

#### 3.5.1 Kelowna Official Community Plan

The property is designated as Rural/Agricultural in the Official Community Plan. The Rural/Agricultural designation covers rural farm and non-farm lands where natural physical constraints are or lack of services and utilities limit land use intensification.

## 5.0 TECHNICAL COMMENTS

The application has been submitted to various technical agencies and City departments and the following comments or concerns were expressed:

### 5.1 Works and Utilities

Works & Utilities requirements for this application were addressed in our report under file DP02-0021. The requested side yard setback variance does not compromise W&U servicing requirements.

### 5.2 Inspections

The applicant will be required to eliminate a window opening in order to bring the spatial separation problem in compliance. No other concerns.

### 5.3 Fire Department

No concerns.

## 6.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department has no concerns regarding the proposed variance to allow a side yard setback of 2.5 metres where 3.0 metres is required. The applicant has a development permit to address environmental issues associated with development on the site as well as a building permit requiring that the construction meet the Building Code. In addition, the neighbour to the south has submitted a letter supporting the proposed variance.

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Andrew Bruce  
Current Planning Manager

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP  
Director of Planning & Development Services

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Attach.

1. **APPLICATION NO.:** DVP03-0041
2. **APPLICATION TYPE:** Development Variance Permit
3. **OWNER:** James Odermatt  
· **ADDRESS** 3735 Gordon Drive  
· **CITY** Kelowna, BC  
· **POSTAL CODE** V1W 4M8
4. **APPLICANT/CONTACT PERSON:** James Odermatt  
· **ADDRESS** 3735 Gordon Drive  
· **CITY** Kelowna, BC  
· **POSTAL CODE** V1W 4M8  
· **TELEPHONE/FAX NO.:** 762-7226
5. **APPLICATION PROGRESS:**  
Date of Application: April 25, 2003  
Date Application Complete: April 25, 2003  
Servicing Agreement Forwarded to Applicant: n/a  
Servicing Agreement Concluded: n/a  
Staff Report to APC: n/a
6. **LEGAL DESCRIPTION:** Lot A, Section 7, Township 26, ODYD, Plan 21018 except Plan H15764
7. **SITE LOCATION:** Gordon Drive between Casorso Rd and Cook Rd
8. **CIVIC ADDRESS:** 3735 Gordon Drive
9. **AREA OF SUBJECT PROPERTY:** 15714m<sup>2</sup>
10. **EXISTING ZONE CATEGORY:** A1- Agricultural 1
11. **PURPOSE OF THE APPLICATION:** Obtain a development variance permit to allow for a sideyard setback of 2.5 metres where 3.0metres is required.
12. **MIN. OF TRANS./HIGHWAYS FILES NO.:** n/a  
**NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY**
13. **DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS** Environmental DP Area (DP02-0021)

**ATTACHMENTS**

**(not attached to the electronic version of the report)**

- Location of subject property
- Photographs
- Air Photo
- Site Plan
- Letter from Neighbour