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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** March 22, 2004  
**File No.:** Z03-0066

**To:** City Manager

**From:** Planning and Corporate Services Department

**Subject:**

APPLICATION NO. Z03-0066

OWNERS: Bell Mountain Estates  
Ltd. / Black Mountain  
Irrigation District

AT: Swainson Road  
Swainson Road (Near)  
Joe Riche Road (N of)  
2350 Joe Riche Road

APPLICANT: Bell Mountain Estates /  
Marlin Weninger

**PURPOSE:** To rezone part of the subject property from the A1– Agriculture 1 zone to the RU1h-Large Lot Housing (Hillside), RU1hs-Large Lot Housing (Hillside/Suite), RU4-Low Density Cluster Housing, RM3-Low Density Multiple Housing, and P3-Parks and Open Space zones in order to facilitate a residential golf development.

**EXISTING ZONE:** i) A1– Agriculture 1

**PROPOSED ZONES:** i) RU1h-Large Lot Housing (Hillside)  
ii) RU1hs-Large Lot Housing (Hillside/Suite)  
iii) RU4-Low Density Cluster Housing  
iv) RM3-Low Density Multiple Housing  
v) P3-Parks and Open Space

**REPORT PREPARED BY:** Mark Koch

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

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**1.0 RECOMMENDATION**

THAT Rezoning Application No. Z03-0066 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of part of Lot D1, Sec 3 & 19, Twp 27, ODYD, Plan 1760, Except Plan 33849; part of Lot A, Sec 18 & 19, Twp 27, ODYD, Plan 16599; part of Lot A, Sec 19, Twp 27, ODYD, Plan 31717; part of Lot B, Sec 19, Twp 27, ODYD, Plan 31717 & part of Lot 8, Sec 18 & 19, Twp 27, ODYD, Plan 1991, located on Swainson Road, Kelowna, BC, from the A1–Agriculture 1 zone to the RU1h–Large Lot Housing (Hillside); RU1hs–Large Lot Housing (Hillside/Suite); RU4–Low Density Cluster Housing; RM3–Low Density Multiple Housing; and P3–Parks and Open Space zones as shown on Map "A" attached to the report of Planning & Corporate Services Department, dated March 22, 2004 be considered by Council;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration;

## 2.0 SUMMARY

The applicant is proposing to rezone a 58.6ha (144.8ac) area of the subject properties from the A1–Agriculture 1 zone to the RU1h-Large Lot Housing (Hillside), RU1hs-Large Lot Housing (Hillside/Suite), RU4-Low Density Cluster Housing, RM3-Low Density Multiple Housing, and P3-Parks and Open Space zones in order to facilitate a residential golf resort development. The proposed rezoning and the associated 35 lot subdivision application forms part of phase two of the Bell Mountain Estate Area Structure Plan development, which was approved by Council in October of 2003.

### 2.1 Advisory Planning Commission

The Advisory Planning Commission at the meeting of February 3, 2004, reviewed the application and the following recommendation was passed:

THAT the Advisory Planning Commission supports Rezoning Application No. Z03-0066, Swainson Road/portion (N of) Joe Riche Road, Lot A, Plan 16599, Secs. 18 & 19, Twp. 27, ODYD; Lot A, Sec. 19, Twp. 27, ODYD, Plan 31717, Lot B, Sec. 19, Twp. 27, ODYD, Plan 31717 and Lot D1, Sec. 3 & 19, Twp. 27, ODYD, Plan 1760, Except Plan 33849, Lot 8, Plan 1991, Sec. 24, Twp. 27, by Weninger Constructions & Design Ltd. (Marlin Weninger), to rezone from the A1 – Agriculture 1 zone to allow for the uses permitted by the Bell Mountain Area Structure Plan (RU1h, RU4, RM3, RM5, C2, C9, P3).

(1 abstention) **CARRIED**

## 3.0 BACKGROUND

### 3.1 The Proposal

The five subject properties are located within the Black Mountain Sector Plan area of the City and are currently zoned A1–Agriculture 1. The subject properties are currently used for agricultural and range land purposes. The applicant is seeking to rezone the subject properties in order to develop the second phase of the Bell Mountain Estate Area Structure Plan. The property is currently not connected to the community sanitary sewer system, however, connection to the community sanitary sewer system and water servicing upgrades will be requirements of the associated subdivision approval application.

The application meets the requirements of the proposed zones as follows:

CRITERIA	PROPOSAL	ZONE REQUIREMENTS
Minimum Site Area/Width/Depth	Conforms	RU1h-Large Lot Housing (Hillside)
Minimum Site Area/Width/Depth	Conforms	RU1hs-Large Lot Housing (Hillside/Suite)
Minimum Site Area/Width/Depth	Conforms	RU4-Low Density Cluster Housing
Minimum Site Area/Width/Depth	Conforms	RM3-Low Density Multiple Housing
Minimum Site Area/Width/Depth	Conforms	P3-Parks & Open Space

### 3.2 Site Context

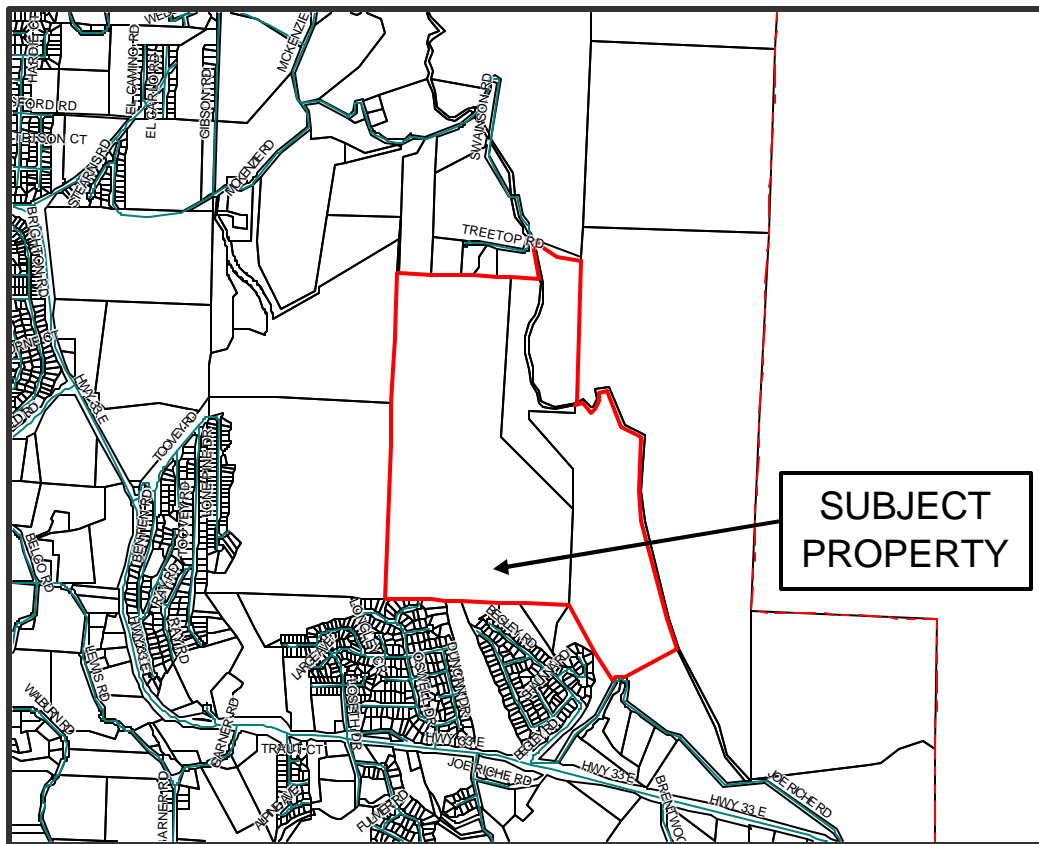
The subject properties are located north of Henderson Drive and Begley Road within the Black Mountain Sector area of the City. The subject properties are situated in the Bell

Mountain Area Structure Plan boundaries, and form part of the second phase for the Bell Mountain Estate development.

Adjacent zones and uses are:

- North - A1–Agriculture 1 / Range Land  
RR1–Rural Residential 1 / Rural Residential Subdivision
- East - A1–Agriculture 1 / Future BMID Reservoir
- South - A1–Agriculture 1 / Rural Residential Subdivision  
RR1–Rural Residential 1 / Rural Residential Subdivision  
RR2–Rural Residential 2 / Rural Residential Subdivision
- West - A1–Agriculture 1 / Range Land

#### Site Location Map



### 3.3 Current Development Policy

#### 3.3.1 City of Kelowna Strategic Plan (1992)

The proposal is consistent with the policies of the Kelowna Strategic Plan, which seek to “stage the development of new urban areas and only open up new areas where the capital and operating costs are within the City’s financial capability”.

3.3.2 Kelowna Official Community Plan

The proposal is consistent with the Single Family/Two Family Residential designation of the Official Community Plan. The Official Community Plan has long recognized the area as being suitable for development.

3.3.3 Black Mountain Sector Plan

The Black Mountain Sector Plan identifies that the Black Mountain area is to retain a single family residential nature, with future urban development being confined to the identified urban areas within the boundary.

3.3.4 Bell Mountain Area Structure Plan

Development proposal is consistent with the Bell Mountain Area Structure Plan, which identifies the area as being part of the Bell Mountain Estate development.

4.0 TECHNICAL COMMENTS

Works and Utilities comments with regard to this application to rezone a portion of the subject property from A1 to RU1h, RU1hs, RU4, RM3, and P3 are as follows:

.1 Subdivision

- a) All the steep slopes must be identified and a Restrictive Covenant must be registered for all the steep slopes and environmentally sensitive areas.
- b) Dedicate the road right of way for Gallagher Road from the southerly boundary of Lot A, Plan 16599 through to Hwy 33. The property is owned by the City of Kelowna, therefore the applicant is required to contact Mr. D.L. Shipclark, the City's Assistant Land Agent, to negotiate the acquisition of the land necessary to create the Gallagher road right of way. The road right of way dedication must take into account the alignment of Gallagher Road across Hwy 33 and may require some road right of way dedication on lands other than the one owned by the City of Kelowna.
- c) Dedicate the road right of way necessary for the re-alignment of Begley Road to intersect with Gallagher Road, the configuration of which is to be determined.
- d) Provide easements as may be required.

.2 Geotechnical Study

- a) Provide a comprehensive geotechnical report (3 copies), prepared by a Professional Engineer competent in the field of hydro-geotechnical engineering to address the items below:
- b) The Geotechnical report must be submitted to the Planning and Development Services Department (Planning & Development Officer) for distribution to the Works & Utilities Department and Inspection Services Division prior to submission of Engineering drawings or application for subdivision approval.

- (i) Area ground water characteristics, including any springs and overland surface drainage courses traversing the property. Identify any monitoring required.
- (ii) Site suitability for development.
- (iii) Site soil characteristics (i.e. fill areas, sulphate content, unsuitable soils such as organic material, etc.).
- (iv) Any special requirements for construction of roads, utilities and building structures.
- (v) Suitability of on-site disposal of storm water, including effects upon adjoining lands.
- (vi) Slope stability, rock fall hazard and slippage including the effects of drainage on the site.
- (vii) Identify in detail all slopes greater than 30%.
- viii) Top of bank assessment and location including recommendations for property line locations, building setbacks, and ground water disposal locations.
- ix) Recommendations for items that should be included in a Restrictive Covenant.
- x) Any special requirements that the proposed subdivision should undertake so that it will not impact the bank(s). The report must consider erosion and structural requirements.
- xi) Any items required in other sections of this document.
- xii) Recommendations for roof drains and perimeter drains.
- xiii) Recommendations for construction of detention or infiltration ponds and their effects on the downstream properties.

.3 Domestic Water and Fire protection

- a) The proposed development is within the service area of the Black Mountain Irrigation District (BMID). All charges and securities for service connections and system upgrading costs are to be paid directly to the BMID as stated in BMID letter dated December 12, 2002
- b) The applicant is to provide the City of Kelowna the assurance that the supply of domestic water and fire protection is achievable in accordance with the City standards.

.4 Sanitary Sewer

- a) The ASP recognized that there are some flow restrictions along some of the downstream portion of the sanitary sewer trunk mains. The City is in the process of determining the actual flows and fine tuning the wastewater computer model to ascertain the exact excess or shortfall flows available downstream of the development. In anticipation of the capacity shortfall the City of Kelowna has initiated the process for the construction of the extension of the Springfield Road trunk and it is anticipated that the new trunk may be operational by the year 2006.
- b) An application for inclusion in the Specified Area service boundary must be made and an administration levy of \$250.00 is required to incorporate this development into Sewer service area # 1 if it has not been done to date under the previous rezoning application number Z03-0052.

.5 Drainage

- a) A comprehensive detailed site drainage management plan and design to comply with the City's drainage and policy manual is a requirement of this application. The study must address the effect of detention ponds upstream of the subject property and its potential effect on the proposed development must be addressed.
- b) The location and the size of the detention and/or retention ponds must be determined at this stage and must include all the lands within the drainage catchment areas. The potential effect of the detention/retention on downstream properties

.6 Power and Telecommunication services

The services to and within this development are to be installed underground. It is the developer's responsibility to make an application to the respective utilities companies. The utility companies are then required to obtain the City's approval before commencing their works.

.7 Roads

Gallagher Road

- a) Gallagher Road is designated as an urban arterial road. Dedicate and construct the road to a modified standard including a 21.8m. dedication plus fill and/or cut slopes where required a 10.9m. road, 1.5 m. sidewalk, 3.0m. multi-use asphalt path and landscaped boulevard complete with underground irrigation. The construction and right of way must include provision for proper traffic movement in all directions at the intersection with

Hwy 33. The construction cost for this item, is estimated at **\$940,000.00** and is inclusive of a bonding escalation.

- b) The intersection of Gallagher Road and Hwy 33 is under the jurisdiction of the Ministry of Transportation (MOT), the extend of the intersection upgrading must be in accordance with the letter from the MOT dated February 23, 2004. The construction cost for this item is estimated at **\$425,000.00** and is inclusive of a bonding escalation. Land acquisition necessary for the reconfiguration of the intersection is not included.
- c) Begley Road must be reconstructed in order to relocate the current intersection to the west and intersecting with Gallagher Road. Begley Road is designated as an urban Class 1 Collector. Dedicate and construct the road in accordance with City standard SS-R5, (20.0 m. dedication and 13.1m. road). The Old Joe Riche Road intersection might require some re-grading in order to achieve an intersection that meets current standards. The construction cost for this item is estimated at **\$460,000.00** and is inclusive of a bonding escalation.

.8 Street Lights

Street lights must be installed on all roads in accordance as per Bylaws requirements. Design drawings to include level of illumination plan.

.9 Engineering

Design, construction, supervision and inspection of all off-site civil works and servicing must be performed by a Civil Engineer and all such work is subject to the approval of the City Engineer.

.10 DCC Credits

Gallagher Road construction falls under the old DCC schedule and some of the construction costs are eligible for DCC credits. The amount of credit is to be determined.

.11 Bonding and Levies summary

a) Bonding (offsite upgrading)

Gallagher Road construction	\$940,000.00
Gallagher Road and Hwy 33 intersection upgrading	\$425,000.00
Begley Road re-alignment	<u>\$460,000.00</u>
Total Bonding requirement	<b><u>\$1,825,000.00</u></b>

b) Levies.

Sanitary Sewer Specified Area inclusion fee	250.00
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5.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

This application is supported by relevant planning and development policies, including the Official Community Plan, the Strategic Plan, the Black Mountain Sector Plan, and the Bell Mountain Area Structure Plan.

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Bob Shaughnessy  
Subdivision Approving Officer

Approved for inclusion ☐

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

RGS/MK/mk

Attach.



**FACT SHEET**

1. **APPLICATION NO.:** Z03-0066
2. **APPLICATION TYPE:** Rezoning Application
3. **OWNER:** Bell Mountain Estates Ltd.  
· **ADDRESS** #105-200 Dougall Road N.  
· **CITY** Kelowna, BC  
· **POSTAL CODE** V1X 3K5
4. **APPLICANT/CONTACT PERSON:** Marlin Weninger  
· **ADDRESS** # 105-200 Dougall Road N.  
· **CITY** Kelowna, BC  
· **POSTAL CODE**  
· **TELEPHONE/FAX NO.:** V1X 3K5
5. **APPLICATION PROGRESS:**  
    **Date of Application:** November 27, 2003  
    **Date Application Complete:** November 27, 2003  
    **Servicing Agreement Forwarded to Applicant:**  
    **Servicing Agreement Concluded:**  
    **Staff Report to APC:** January 28, 2004  
    **Staff Report to Council:** March 22, 2004
6. **LEGAL DESCRIPTION:** Lot D1, Sec 3 & 19, Twp 27, ODYD, Plan 1760, Except Plan 33849  
    Lot A, Sec 18 & 19, Twp 27, ODYD, Plan 16599  
    Lot A, Sec 19, Twp 27, ODYD, Plan 31717  
    Lot B, Sec 19, Twp 27, ODYD, Plan 31717  
    Lot 8, Sec 18 & 19, Twp 27, ODYD, Plan 1991
7. **SITE LOCATION:** North of Henderson Drive and Begley Road
8. **CIVIC ADDRESS:** Swainson Road  
    Swainson Road (Near)  
    Joe Riche Road (N of)  
    2350 Joe Riche Road
9. **AREA OF SUBJECT PROPERTIES:** 151ha (373ac)
10. **AREA OF PROPOSED REZONING:** 58.6ha (144.8ac)
11. **EXISTING ZONE CATEGORY:** A1–Agriculture 1
12. **PROPOSED ZONES** RU1h-Large Lot Housing (Hillside)  
    RU1hs-Large Lot Housing (Hillside/Suite)  
    RU4-Low Density Cluster Housing  
    RM3-Low Density Multiple Housing  
    P3-Parks and Open Space

- 13. PURPOSE OF THE APPLICATION:** To rezone part of the subject property from the A1– Agriculture 1 zone to the RU1h-Large Lot Housing (Hillside), RU1hs-Large Lot Housing (Hillside/Suite), RU4-Low Density Cluster Housing, RM3-Low Density Multiple Housing, and P3-Parks and Open Space zones in order to facilitate a residential golf development.  
2-81-20580 / 2-81-20622
- 14. MIN. OF TRANS./HIGHWAYS FILES NO.:**  
**NOTE: IF LANDS ARE WITHIN 800 m OF**  
**A**  
**CONTROLLED ACCESS HIGHWAY**
- 15. DEVELOPMENT PERMIT MAP 13.2**  
**IMPLICATIONS**

*ATTACHMENTS*

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

- Location of subject property
- Proposed Plan of Subdivision
- Zoning Map
- State of Title