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**CITY OF KELOWNA  
MEMORANDUM**

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**Date:** July 15, 2005  
**To:** City Manager  
**From:** Planning & Corporate Services Department  
**Subject:**

**APPLICATION NO.** DVP05-0078      **APPLICANTS:** Phillip Bachmann  
Gerti Bachmann

**AT:** 3753 East Kelowna Road      **OWNERS:** Phillip Bachmann  
Gerti Bachmann

**PURPOSE:** TO VARY (A) THE MAXIMUM ALLOWABLE HEIGHT FOR AN ACCESSORY BUILDING CONTAINING A SUITE FROM 4.5 M TO 5.6 M; (B) THE MAXIMUM ALLOWABLE FLOOR AREA FOR A SUITE FROM 90 M<sup>2</sup> TO 164 M<sup>2</sup>; AND (C) THE REQUIREMENT FOR AN ATTACHED CARPORT OR GARAGE, SUCH THAT IT NOT BE REQUIRED.

**EXISTING ZONE:** A1 – AGRICULTURE 1

**PROPOSED ZONE** A1s – AGRICULTURE 1 WITH SECONDARY SUITE

**REPORT PREPARED BY:** NELSON WIGHT

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## **1.0 RECOMMENDATION**

THAT Council authorize the issuance of Development Variance Permit No. DVP05-0078 for Lot A, Section 14 Township 26 O.D.Y.D. Plan KAP72697, located on East Kelowna Road, Kelowna, B.C.;

AND THAT variances to the following sections of the City of Kelowna Zoning Bylaw No. 8000 be granted:

**Section 9.5.1(a) – Secondary Suites (Maximum Height)**

Vary the maximum height, which is the lesser of 4.5 m or the height of the existing principal dwelling unit, to allow a height of 5.6 m.

**Section 9.5.10 – Secondary Suites (Attached Garage or Carport)**

Vary the requirement to include a garage or carport for a minimum of one vehicle, such that no covered parking be required for the secondary suite.

AND THAT a variance to the following sections of the City of Kelowna Zoning Bylaw No. 8000 NOT be granted:

**Section 9.5.4 – Secondary Suites (Maximum Floor Area)**

Vary the maximum floor area for a secondary suite, which is the lesser of 90 m<sup>2</sup> or 75% of the total floor area of the principal building, to allow a secondary suite with a floor area of 164 m<sup>2</sup>.

## **2.0 SUMMARY**

This development variance permit application seeks to vary three specific requirement of the Zoning Bylaw that relate to secondary suite development within an accessory building, as follows:

- (a) Vary the height of the accessory building containing the suite from 4.5 m to 5.6 m;
- (b) Vary the requirement for an attached garage/carport component such that no garage or carport be required;

- (c) Vary the maximum floor area to allow a suite from 90 m<sup>2</sup> to 164 m<sup>2</sup>.

The accessory building is currently being used as an artist studio, so this application would allow full-time occupancy of the space as a secondary suite.

### 3.0 HISTORY

1996 – Agricultural Land Commission (ALC) approved a home-site severance application for the subject property (application #A96-101).

2003 – Subdivision application for home-site severance lot approved, creating 0.68 ha (1.68 ac) subject property (applications #S97-115 and #S00-089).

March 2005 – Application for “non-farm use” approved by ALC, allowing the secondary suite in the accessory building (application #A04-0013).

### 4.0 BACKGROUND

#### 4.1 The Proposal

The Applicants are seeking to convert an existing artist studio space into a secondary dwelling unit, to allow full-time habitation within this building.

Existing development consists of one single-family home and an accessory building designed like a traditional, gambrel-roofed barn. There is no agricultural activity taking place on this parcel. It is used entirely for residential purposes, in addition to the “barn” being used as an artist studio.

There are two separate private sewage disposal systems on this property: one septic tank and field serving the home, and one serving the accessory building, which is sized for a two-bedroom suite. Water service for this lot is supplied by the South East Kelowna Irrigation District (SEKID).

The table below shows this application’s compliance with the requirements of the A1s zone:

CRITERIA	PROPOSAL	A1s ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	0.68 ha (1.68 ac) <sup>A</sup>	2.0 ha
Lot Width	103.9 m	40.0 m
Development Regulations		
Site Coverage	2.0	10% for residential development
Height (principal building)	14.6 m	9.5 m or 2 ½ storeys
Height (accessory building)	5.6 m (18’ 4’)	13.0 m
Height (accessory building containing secondary suite)	5.6 m (18’ 4’) <sup>B</sup>	lesser of 4.5 m or height of principal dwelling
Front Yard	39.0 m	6.0 m
Side Yard (east)	36.0 m	3.0 m
Side Yard (west)	4.5 m	3.0 m
Rear Yard	15.1 m 14.9 m to acc. bldg.	10.0 m 3.0 m to acc. bldg.

Other Regulations		
Garage or carport	does not meet requirements <sup>C</sup>	suite in accessory bldg. must include a garage or carport
Floor Area (principal dwelling)	269 m <sup>2</sup> (2,900 ft)	
Floor Area (suite)	164 m <sup>2</sup> <sup>D</sup>	90 m <sup>2</sup> or 75% of principal bldg.
Second Kitchen	meets requirements <sup>E</sup>	2 <sup>nd</sup> kitchen not permitted in A1s zone

<sup>A</sup> This parcel was created as part of a home-site severance application, and is therefore legally non-conforming to lot area.

<sup>B</sup> The Applicant is applying to vary the maximum height allowed for an accessory building containing a secondary suite from 4.5 m to 5.6 m.

<sup>C</sup> The Applicant is applying to vary this requirement, such that no garage or carport component be required.

<sup>D</sup> The Applicant is applying to vary this requirement to suite area to allow the entire area of the accessory building of 164 m<sup>2</sup>, where a maximum 90 m<sup>2</sup> is permitted.

<sup>E</sup> A buiding inspector has visited the site to confirm that there is no second kitchen in the principal dwelling unit.

## 4.2 Site Context

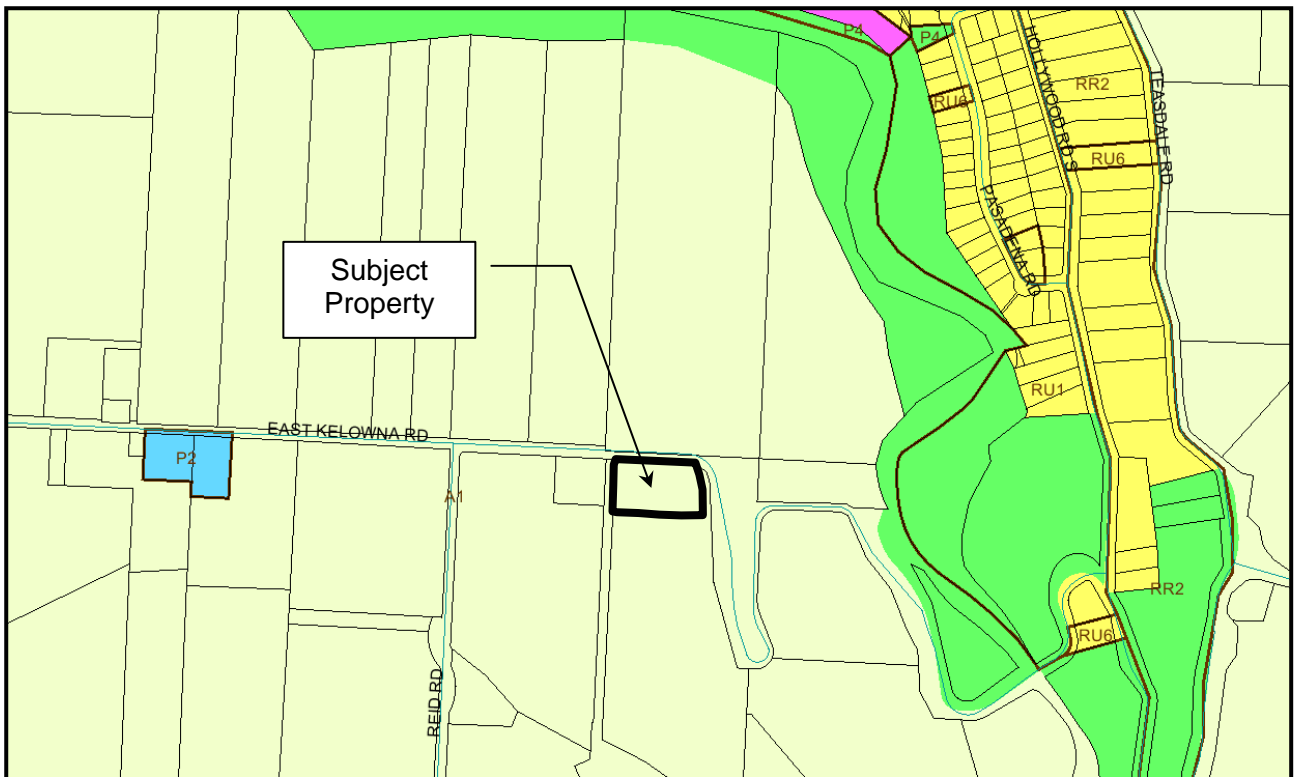
The subject property is located on East Kelowna Road just west of the Mission Creek ravine. The surrouding land is within the Agricultural Land Reserve (ALR), and zoned A1. More specifically, the use of adjacent parcels could be described as follows:

### **Zoning and Uses of Adjacent Property**

North	A1 – Agriculture 1 / Pasture, Hay Land, and Orchard
East	A1 – Agriculture 1 / Pasture, Hay Land, and Orchard
South	A1 – Agriculture 1 / Pasture and Hay Land
West	A1 – Agriculture 1 / Orchard

Site Location Map

Subject property: 3753 East Kelowna Road, Kelowna B.C.



#### 4.3 Existing Development Potential

The purpose is to provide a zone for rural areas and agricultural uses as well as other complementary uses suitable in an agricultural setting. A maximum of one single dwelling house is permitted. In addition a secondary suite may be permitted when in accordance with relevant provisions of this bylaw including subsection 6.5 and 9.5.

#### 4.4 Policy and Regulation

##### 4.4.1 City of Kelowna Strategic Plan

A Primary Goal of the Strategic Plan is to preserve viable agricultural holdings as an integral part of our community.

##### 4.4.2 Kelowna 2020 Official Community Plan

The current Official Community Plan has designated the subject property as Rural / Agricultural.

##### 4.4.3 City of Kelowna Agricultural Plan

**Secondary Suites.** Support the provision of secondary suites in agricultural areas as per Land Commission Policy # 770/98, which allows one suite per parcel, substantially within the footprint of an existing or proposed single family dwelling provided it is clearly secondary to the single family dwelling. Suites in accessory buildings or enlarging the footprint of an existing residence for a suite would require an ALC application.

## **5.0 TECHNICAL COMMENTS**

### **5.1 Fire Department**

No objections.

### **5.2 Inspection Services**

No comments received.

### **5.3 Irrigation District (SEKID)**

This will advise that Lot A, Plan 72697, is within the district boundary and domestic water is available subject to compliance with district bylaws. The owner is requested to contact the district directly for detailed district requirements, including applicable fees.

### **5.4 Interior Health**

Unable to comment due to guideline changes through Interior Health Authority as per Steve Pope. Comments pending once outline from Health Authority has been provided.

### **5.5 Works and Utilities**

No comments.

## **6.0 PLANNING AND CORPORATE SERVICES DEPARTMENT COMMENTS**

In their written decision, the Agricultural Land Commission conditioned approval of the non-farm use to allow secondary suite as follows:

- the use being restricted to the 111 m<sup>2</sup> suite on the main floor of the existing barn identified on the attached plan
- compliance with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

Subsequent to that written decision, Staff sought clarification on the suite area issue. In an e-mail dated May 9, 2005, Martin Collins (ALC Planner for the Okanagan region) stated that “the larger suite at 164 m<sup>2</sup> still falls within the spirit of the Commission’s approval.

Staff has some concerns regarding the requested size of the suite, and therefore cannot support that element of the application. The 164 m<sup>2</sup> (1,765 ft<sup>2</sup>) floor area proposed for the secondary suite is getting close to twice the intended size for secondary suites. Limiting the suite area to the main floor, however, would require significant changes to the building, since the loft area would have to be closed off from the main floor require and have a separate entrance.

The variances regarding the height and lack of garage or carport, however, seem reasonable given that this is the building is existing, and no significant changes to the exterior are contemplated.

An alternate recommendation is provided on the next page of this report, should Council see merit in granting approval for all three variances requested.

## 7.0 ALTERNATE RECOMMENDATION

THAT Council authorize the issuance of Development Variance Permit No. DP05-0078 for Lot A, Section 14 Township 26 O.D.Y.D. Plan KAP72697, located on East Kelowna Road, Kelowna, B.C.

AND THAT variances to the following sections of the City of Kelowna Zoning Bylaw No. 8000 be granted:

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Andrew Bruce  
Manager of Development Services

Approved for inclusion

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

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## ATTACHMENTS

Location of subject property

Site Plan

Elevations

Floor Plans