
CITY OF KELOWNA

MEMORANDUM

Date: November 15, 2005

File No.: TA05-0010

To: City Manager

From: Planning & Corporate Services Department

Subject: **Application No:** TA05-0010 **Applicant:** City of Kelowna

Purpose: To amend the height restriction for secondary suites in the A1 – Agriculture 1 Zone subject to compliance with Section 9.5.3 of the Zoning Bylaw 8000.

Report Prepared By: Corine (Cory) Gain, MCIP, CPT

1.0 RECOMMENDATION

THAT Zoning Bylaw Text Amendment No. TA05-0010 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in Schedule “A” of the report of the Planning & Corporate Services Department dated November 15, 2005 be considered by Council;

AND THAT Zoning Bylaw Text Amendment No. TA05-0010 be forwarded to a Public Hearing for further consideration.

2.0 SUMMARY/DISCUSSION

It has become apparent that the issue of the height of accessory buildings containing secondary suites in the A1 – Agriculture Zone is resulting in a significant number of Development Variance Permit applications. Four of the seven rezoning applications submitted in 2005 to allow the creation of a secondary suite in an accessory building in the Agriculture 1 Zone have resulted in applications to vary the height requirement of Zoning Bylaw Section 9.5.1(e). Section 9.5.1(e) states:

“An accessory building shall not be higher than the lesser of 4.5 metres or the height of the existing principal dwelling unit on the same property.”

In comparison the maximum height of an accessory building in the A1 – Agriculture 1 Zone stipulated by Section 11.1.6(b) is:

“...the lesser of 9.5 m or 2 1/2 storeys, except it is 13.0 m for accessory buildings and 16.0 m for agricultural structures.”

Given that parcels of land designated Agriculture under both the OCP and the Zoning Bylaw are generally meet or exceed the minimum lot size of 2.0 ha. it is rare that any increase in the maximum height allowed for an accessory building containing a secondary suite would negatively impact any neighbouring property owners. Further, Section 9.5.3 “No secondary suite will be allowed without connection to a community sanitary sewer unless the lot is at least

830 m² and meets the requirements of the City and the Medical Health Officer for septic disposal capacity". This provision guarantees that the lot size where a secondary suite is proposed meets a minimum size requirement. In cases where the minimum lot size cannot be satisfied a rezoning application to A1s would not be successful on the basis of the property not satisfying the applicable bylaw requirements. The applicant would need to propose rezoning to an alternative zone where the height requirement would be the standard 4.5 m.

Within the A1s designation it is incongruous that an accessory building not containing a secondary suite is allowed to be 13.0 m in height, whereas, when the building contains a dwelling unit it is limited to 4.5 m in height. In order to ensure that the intent of the bylaw to maintain the prominence of the principle dwelling is respected, staff recommends that the maximum height of an accessory building under Section 9.5.1(e) be increased to 9.5 m for properties with A1s – Agriculture 1 with Secondary Suite Zone. This would allow the height of the accessory building containing a secondary suite to be the lesser 9.5 m or the height of the principal dwelling unit on the same property. The maximum size (i.e. floor area) of the secondary suite would continue to be regulated by the provisions of Section 9.5.4.

In proposing changes to Section 9.5 Secondary Suites it is considered appropriate to correct what appears to have been an oversight or error in Section 9.5.1(b) which reads as follows:

"A mobile home may be considered a secondary suite within an accessory building only in an A1s – Agriculture 1 with Secondary Suite zone provided it is not in the Agricultural Land Reserve."

To ensure consistency between *Agricultural Land Commission Act*, B.C. Reg. 171/2002 Agricultural Land Reserve Use, Subdivision and Procedure Regulation and the City of Kelowna Zoning Bylaw staff recommends replacement wording to Section 9.5.1(b) as follows:

"A mobile home may be considered a secondary suite within an accessory building only in an A1s – Agriculture 1 with Secondary Suite zone. All such development shall be in compliance with the *British Columbia Agricultural Land Commission Act*, Regulations and Orders."

Andrew Bruce
Manager Development Services

Approved for inclusion ☐

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

RM/AB/cg

SCHEDULE “A”

Amendments to City of Kelowna Zoning Bylaw No. 8000

Section	Existing Wording	Proposed Amendment
9.5.1(b) (Replace)	A mobile home may be considered a secondary suite within an accessory building only in an A1s – Agriculture 1 with Secondary Suite zone <u>provided it is not in the Agricultural Land Reserve.</u>	A mobile home may be considered a secondary suite within an accessory building only in an A1s – Agriculture 1 with Secondary Suite zone. <u>All such development shall be in compliance with the <i>British Columbia Agricultural Land Commission Act, Regulations and Orders.</i></u>
9.5.1(e) (Add)	An accessory building shall not be higher than the lesser of 4.5 metres or the height of the existing principal dwelling unit on the same property.	An accessory building shall not be higher than the lesser of 4.5 m or the height of the existing principal dwelling unit on the same property, <u>except in the A1 – Agriculture 1 with Secondary Suite Zone the maximum height of an accessory building containing a secondary suite shall be the lesser of 9.5 m or the height of the existing principal dwelling unit on the same property.</u>