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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** November 15, 2005

**File No.:** Z05-0069

**To:** City Manager

**From:** Planning & Corporate Services Department

**Subject:**

**Application No:** Z05-0069

**Applicant:** Jud Wickwire

**Location:** 1281 Hwy 33 E

**Owners:** J. & K. Wickwire

**Purpose:** To rezone the subject property to allow for the construction of a secondary suite in an accessory building.

**Existing Zone:** A1 – Agriculture 1 Zone

**Proposed Zone:** A1s – Agriculture 1 with Secondary Suite

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

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## **1.0 RECOMMENDATION**

THAT Rezoning Application No. Z05-0069 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot2 Section 13 Township 26 Osoyoos Division Yale District Plan 15924 Except Plans 22851 and H8383, located at 1281 Highway 33 E, Kelowna, B.C. from the A1 – Agriculture 1 Zone to the A1s – Agriculture with Secondary Suite zone be considered by Council;

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

AND THAT the applicant register a restrictive covenant prohibiting the creation of additional dwellings on the subject property prior to final adoption of the zone amending bylaw;

AND THAT all requirements of the Ministry of Transportation be satisfied with respect to upgrades to the existing access and road dedication required for the Highway 33 widening project prior to final adoption of the zone amending bylaw;

AND FURTHER THAT final adoption of the zone amending bylaw be considered in conjunction with Council's consideration of text amendment TA05-0010 relating to the maximum height of an accessory building containing a secondary suite.

## 2.0 SUMMARY

This application seeks to rezone the subject property to allow for the construction of a secondary suite in an accessory building to contain an 86.2 sq. m. (927.8 sq. ft.) suite above a basement to be used for non-habitable purposes that is not connected to the suite. The proposed building exceeds the current height regulations of Section 9.5.1(e) of the Zoning Bylaw. The City of Kelowna Planning & Corporate Services Department proposes a text amendment to Section 9.5.2 of Zoning Bylaw 8000 to change the maximum height regulations for an accessory building containing a secondary suite in the A1s zone as a separate initiative.

## 3.0 BACKGROUND

### 3.1 The Proposal

The subject property currently contains one single family dwelling approximately 240 sq. m. in size. While the property is located within the Agricultural Land Reserve it is subject to Section 23(1) of the *Agricultural Land Commission Act* which states as follows:

“Restrictions on the use of agricultural land do not apply to land that, on December 21, 1972 was by separate certificate of title issued under the Land Registry Act, R.S.B.C. 1960, c. 208, less than 2 acres in area.”

Therefore, there is no requirement for approval of the Agricultural Land Commission.

The subject property is currently zoned A1 – Agriculture 1. The “s” zone classification will permit the establishment of a secondary suite on a property with this designation. The establishment of a secondary suite must adhere to the requirements of both the parent zone and Section 9.5 of the Zoning Bylaw whichever is more restrictive.

The applicant seeks to rezone the subject property to permit development of a secondary suite in an accessory building. The proposed accessory building will be constructed in a location currently occupied by two existing storage sheds. The sheds will be removed to make way for construction of the new building. The subject property slopes down from the highway and southern property line to the northwest. The proposed building will be finished to match the existing single family dwelling. The walkout basement will only be accessible from outside the building and its use will be restricted to non-habitable purposes. The applicant proposes to use the basement area for storage purposes as a replacement for the existing sheds. It is not anticipated that the proposed construction will have any significant impact on neighbouring property owners. Of concern is the possible conversion of the basement area to a habitable area. Staff recommends that a restrictive covenant be registered against the title of the property to prohibit the use of the lower floor of accessory building as habitable space.

A recommendation from staff contained in a separate “text amendment” initiative will address the issue of the height of the accessory building proposed to contain the secondary suite. If the text amendment is approved by Council the application will be able to proceed without further consideration of the issue. If Council chooses not to amend the current height requirements of Section 9.5.1(e) to provide more generous standards for properties zoned A1 – Agriculture 1 Zone, staff will proceed to process the Development Variance Permit application already submitted by the applicant. If the text amendment is approved by Council the Development Variance Permit application will be closed and the fees refunded to the applicant.

No comments have been received to date from the Ministry of Transportation; however, staff is relatively confident that Ministry of Transportation issues will not affect the location and/or construction of the proposed development.

With the exception of the height requirement of Section 9.5.1(e) the proposed application meets the requirements of the A1s Zone as follows:

CRITERIA	PROPOSAL	BYLAW REQUIREMENTS
<b>Subdivision Regulations</b>		
Lot Area	1.34 ac. (.54 ha./5422 m <sup>2</sup> )	2.0 ha. (Existing non-conforming lot size)
Lot Width	41.73+ m	40.0 m
Size for Secondary Suite	5422 m <sup>2</sup>	830 m <sup>2</sup>
<b>Development Regulations</b>		
Site Coverage (buildings)	~403.6 m <sup>2</sup> ~ 7.4 %	10% for residential development
Height (existing house)	< 9.5 m	2 ½ storeys / 9.5 m
Height (proposed acc. bldg.)	7.31 m*	Lesser of 4.5 m height of the principle dwelling
Front Yard (Hwy 33 E)	> 6.0 m	6.0 m
Side Yard (North)	10.4 m (34.0 ft.)	3.0 m
Side Yard (South)	18.1 m (59.5 ft.)	3.0 m
Rear Yard (West)	17.4 m (57 ft.)	10.0 m
<b>CRITERIA</b>	<b>PROPOSAL</b>	<b>BYLAW REQUIREMENTS</b>
Separation Distance	> 5.0 m	5.0 m
Size of Secondary Suite	86.2 m <sup>2</sup>	90 m <sup>2</sup> or 75% of the total floor area of the principal dwelling
Private Open Space	Meets requirements	30 m <sup>2</sup> per dwelling
<b>Other Regulations</b>		
Minimum Parking Requirements	3 spaces Suite space within acc. bldg.	2 spaces for the principal dwelling + 1 space for the suite
Lighted Pathway	Yes – Driveway will be lit	Between fronting street and the acc. bldg.

\* Variance Required or Text Amendment

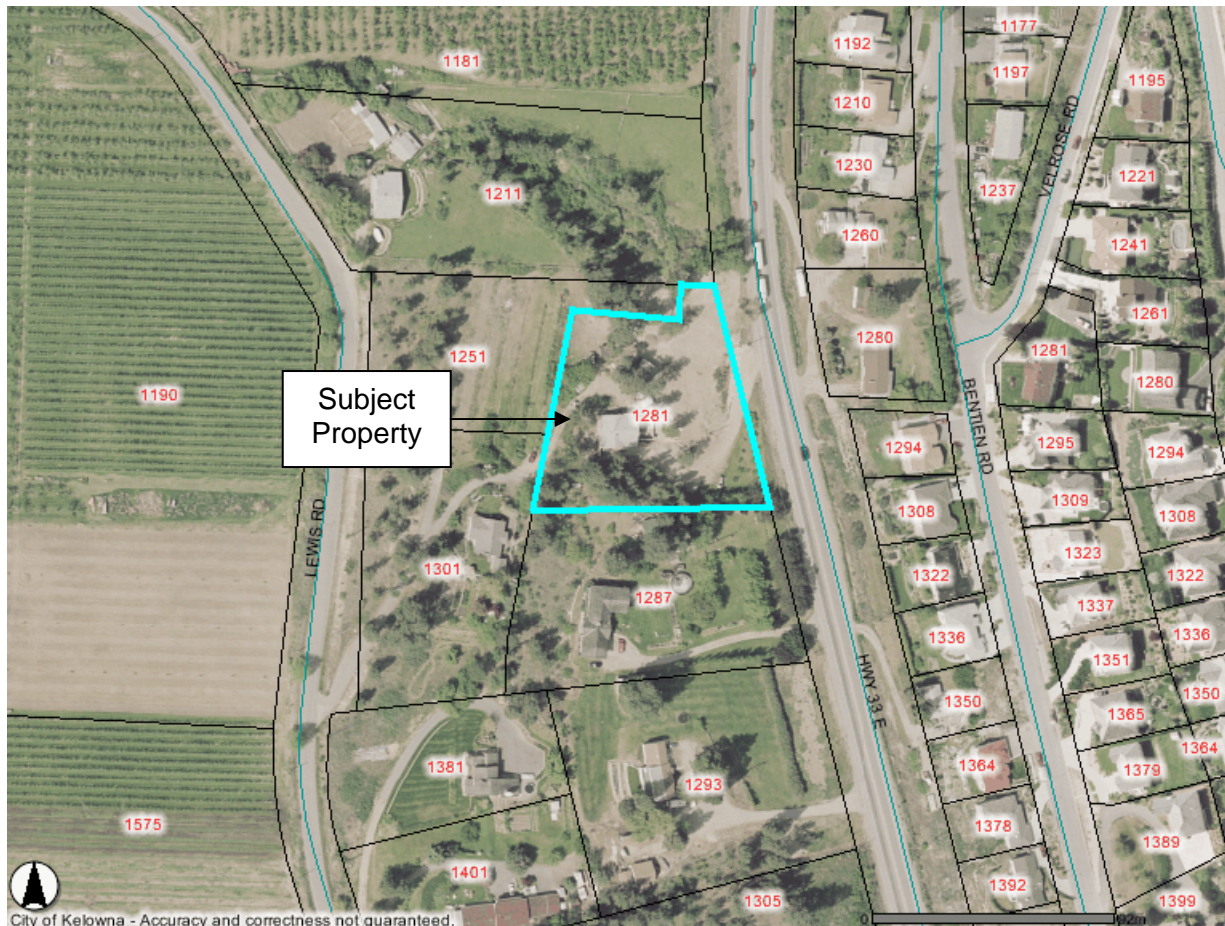
### 3.2 Site Context

The adjacent land uses are as follows:

Direction	Zoning Designation	Land Use
North	A1 – Agriculture 1	Residential
East	A1 – Agriculture 1 & RU1 – Large Lot Housing	Residential
South	A1 – Agriculture 1	Residential
West	RR2 – Rural Residential 2	Residential

### 3.3 Site Location Map

Subject property: 1281 Highway 33 E



### 3.4 Existing Development Potential

The existing buildings on the subject property maximize the development potential under the current zoning designation.

The applicant has indicated that allow the property meets the minimum size requirement of the zoning bylaw for a secondary suite, he does intend to connect to the community sewer system in due course.

### 3.5 Current Development Policy

#### 3.5.1 City of Kelowna Strategic Plan (2004)

Objectives of the Strategic Plan include: to realize constriction of housing forms at prices that meet the needs of Kelowna residents; to achieve accessible, high quality living and working environments; to sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas.

3.5.2 Kelowna 2020 Official Community Plan (OCP)

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 or lack of services and utilities limit land use intensification. In addition, the Official Community Plan (Policy 8.1.46) encourages the creation of secondary suites, provided that they meet the requirements of the zoning bylaw.

**4.0 TECHNICAL COMMENTS**

4.1 Inspection Services

No comment.

4.2 Works & Utilities

The Works & utilities Department comments and requirements regarding this application to rezone from A1 to A1s are as follows:

These are Works and Utilities initial comments and are subject to the Ministry of Transportation comments and requirements.

4.2.1 General

- a) The posed rezoning application does not compromise Works and Utilities requirements.
- b) Hwy 33 upgrades are being contemplated with the detail design is currently under way. Some right of way widening may be required to accommodate the improvements.

4.2.2 Domestic water and fire protection

This development is within the service area of the Black Mountain Irrigation District (BMID). All charges for service connection and upgrading costs are to be paid directly to the BMID.

4.2.3 Sanitary Sewer

This property is not currently serviced by the municipal wastewater collection system. The existing on-site sewage treatment and disposal is under the jurisdiction of the Public Health Officer.

4.2.4 Access and parking

There is ample parking provided on site.

4.2.5 Height Variance

The variance for the height of the building does not compromise Works and Utilities requirements.

4.3 Fire Department

Fire Department access, fire flows and hydrants as per BC Building Code and City of Kelowna Subdivision Bylaw.

4.4 Interior Health

Provided community sewer and water are available.

4.5 Black Mountain Irrigation District

- Capital charge will apply for single family residence.
- To be addressed at building permit stage.

4.6 Ministry of Transportation

Ministry of Transportation comments are pending. Highway dedication and a revised Access Permit will likely be required prior to approval of the zone amending bylaw.

**5.0 PLANNING AND CORPORATE SERVICES DEPARTMENT COMMENTS**

The Planning and Development Services Department is supportive of the proposed rezoning of the property from A1 – Agriculture Zone to A1s – Agriculture 1 with Secondary Suite Zone subject to registration of a restrictive covenant to prohibit the creation of any additional dwellings on the property. The intention is to ensure that the basement area is not converted to additional habitable space by the applicant or future property owners.

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Andrew Bruce  
Manager Development Services

Approved for inclusion ☐

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

AB/cg

**ATTACHMENTS**

(Not attached to the electronic version of the report)

- Location Map
- Site Plan
- Floor Plans (2)
- Elevation Drawings (4)