
**CITY OF KELOWNA
MEMORANDUM**

DATE: May 5, 2007
FILE NO.: DVP07-0049
TO: City Manager
FROM: Planning & Development Services Department
SUBJECT:

APPLICATION NO. DVP07-0049 **APPLICANT:** George Tivy
Marilyn Miller
AT: 4573 Horak Road **OWNER:** George Tivy
Marilyn Miller

PURPOSE: TO OBTAIN A DEVELOPMENT VARIANCE PERMIT IN ORDER TO
ALLOW THE EXISTING ACCESSORY BUILDING TO REMAIN IN ITS
CURRENT LOCATION.

EXISTING ZONE: RU1 – LARGE LOT HOUSING ZONE

PROPOSED ZONE: RU1s – LARGE LOT HOUSING WITH SECONDARY SUITE ZONE

REPORT PREPARED BY: NELSON WIGHT

1.0 RECOMMENDATION

THAT final adoption of Zone Amending Bylaw No. 9778 be considered by Council;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP07-0049 for Lot C, District Lot 357, S.D.Y.D., Plan 18353, located on Horak Road, Kelowna, B.C.;

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

Section 9.5.1 (d) Secondary Suites (Siting of Accessory Building Containing a Suite)

A variance to allow an accessory building—which accommodates a secondary suite—to be located between the front yard and the principal dwelling unit, where it would not otherwise be permitted.

2.0 SUMMARY

The existing accessory building is proposed to be renovated to accommodate a secondary suite. The Zoning Bylaw regulation related to Secondary Suites prohibits the locating of a “carriage house” between the principal dwelling and the front yard. In order to legalize the siting of this accessory building—which is to accommodate a secondary suite—a Development Variance Permit is required.

3.0 BACKGROUND

The proposed application meets the requirements of the RU1s – Large Lot Housing with Secondary Suite zone as follows (conflicts with Zoning Bylaw No. 8000 are noted at the end of the table):

CRITERIA	PROPOSAL	RU1s ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	1,562 m ²	550 m ²
Lot Width	41.0 m	13.0 m
Lot Depth	38.0 m	30.0 m
Development Regulations		
Site Coverage (buildings)	21%	40%
Site Coverage (buildings/parking)	32%	50%
Height (principal dwelling)	4 m 2 ½ storeys	The maximum height is the lesser of 9.5 m or 2 ½ storeys.
Front Yard	11.5 m	4.5 m or 6.0 m to a garage
Side Yard (north)	7.2 m	2.0 m (1 to 1 ½ storey) 2.3 m (2 to 2 ½ storey)
Side Yard (south)	3.3 m	2.3 m
Rear Yard	5.7 m ^A	7.5 m
Other requirements		
Floor Area (principal dwelling)	378 m ² (4,065 ft ²)	n/a
Floor Area (secondary suite)	68 m ² (720 ft ²) 20% of principal building	The lesser of 90 m ² or 75% of the total floor area of the principal dwelling
Height (accessory building)	4 m	The lesser of 4.5 m or the height of the principal dwelling
Site coverage (accessory building)	4%	14%
Parking Stalls (#)	(at least) 3 spaces	3 spaces
Separation Distance	5 m	5.0 m
Private Open Space	meets requirements	30 m ² of private open space per dwelling
Siting of Accessory Building	Does not meet requirements ^B	Where a secondary suite is located in an accessory building the principal dwelling unit shall be located between the front yard and the accessory building

^A This shortfall in the required rear yard is existing non-conforming. This application does not contemplate a worsening of the non-conformity, and therefore no variance is required.

^B The applicants have applied to vary this requirement to allow the existing accessory building to remain in its current non-conforming location.

4.0 TECHNICAL COMMENTS

(No concerns raised by any referral agencies or departments)

5.0 PLANNING AND CORPORATE SERVICES DEPARTMENT COMMENTS

Development of the proposed suite is subject to the Secondary Suite and Two Dwelling Housing Development Guidelines set out in the Official Community Plan. The intent of the Development Guidelines is to give consideration to the form, character and landscaping of all new secondary suites and two dwelling forms of housing. Should Council approve applications Z07-0009 and DVP07-0049, Staff will review the form and character issued under accompanying application No. DP07-0027.

Staff recommends that this Development Variance Permit application be supported, because it represents a sensitive infill project, consistent with the policies contained within the OCP. Compliance with the Zoning Bylaw is unachievable in this case, since it would require the relocation of both the principal dwelling and the accessory building, and would serve little purpose other than a legalistic one.



Shelley Gambacort

Acting Development Services Manager

Approved for inclusion

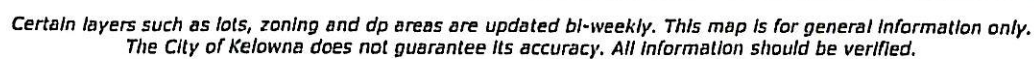


 Mary Pynenburg, MRAIC MCIP
Director of Planning & Development Services

NW/nw

ATTACHMENTS

Location of subject property
Site Plan (Surveyor's Certificate)
Letters of Support (4 pages)

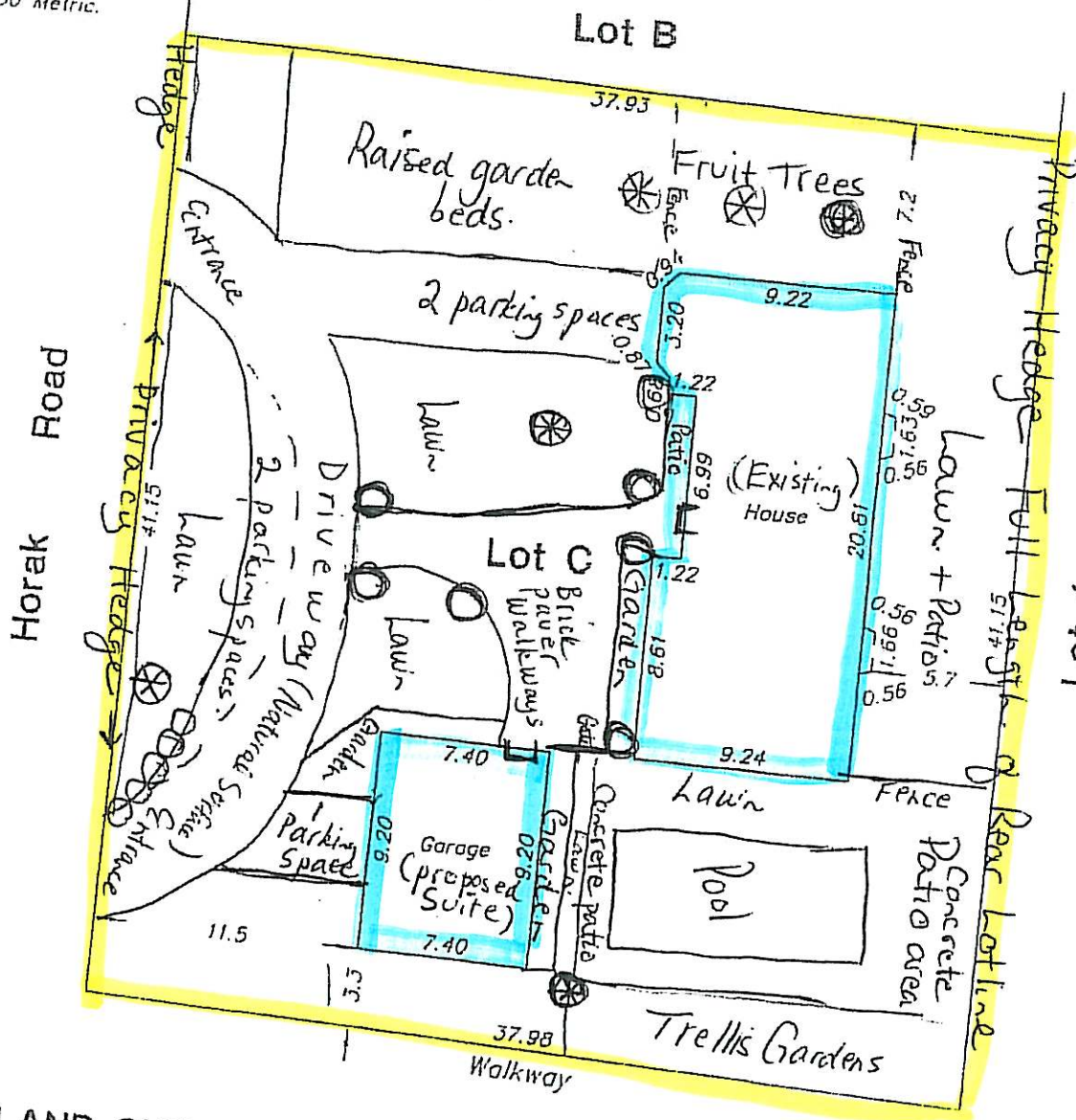


This is to state that on the 7th day of September, 2006 a survey was performed under my superintendence, on the property described as follows:

#4573 Horak Road Lot C, D.L. 357, SDYD, Plan 18353. - **RUI** *Current Zoning*

The building(s) erected on the said property is (are) wholly within the boundaries thereof, and does (do) not encroach on adjoining properties. The accompanying sketch shows within acceptable tolerances the size of the building and property, and their relative positions. This sketch is not to be used for the establishment of property boundaries. Distances shown are in metres and decimals thereof.
Property boundary dimensions shown are derived from registered records.
This certificate is intended for mortgage purposes only.

Scale 1:300 Metric.



Existing landscaping + Parking Plan

RITSCH LAND SURVEYING INC.
Geological & Engineering Survey Consultants

Copyright © No part of this drawing may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying recording, or otherwise, without the prior written permission of Ritsch Land Surveying Inc.

This document is not valid unless originally signed and sealed.

This certificate of location has been prepared in accordance with the Manual of Standard Practice and is certified correct this 7th day of September, 2006.

[Signature]



Interior Health

Community Care Programs

#106-1626 RICHTER STREET
KELOWNA BC V1Y 2M3

Phone: (250) 868-7707

FAX: (250) 979-2151



Attention: City of Kelowna,

Re: Rezoning Application: 4573 Horak Rd.

Owners: Marilyn and Ed Miller + *George Tivy*

Dear Madame/Sir,

I am a Registered Physical Therapist currently working for Interior Health in Community Care. Two clients that I see are: Mr. Ronald Miller and his wife Mrs. Doris Miller. I have been involved with this couple since early December 2006 with the role of assessing their home safety and ability to continue to live independently.

Mr. Miller suffers from sever osteoarthritis, especially in his right hip causing him very limited stability and duration of walking. As such it was recommended and implemented that he has bath assistance to supervise and assure his safety. He also has asthma, affecting his endurance and gout, which when flared up limits most all activity.

Mrs. Miller has been diagnosed with Alzheimer's which is slowly progressing.

It was not safe for this couple to continue in their own home alone and their daughter has them temporarily residing in her home. This situation is less then ideal with the bath setup (shower to small to have assistance for Mr. Miller and tub to large for safe entry and exit for Mrs. Miller).

It is my understanding that there is an application for re-zoning to allow for a small cottage on the property stated above. I have reviewed the building plans, and bathroom setup.

I wish to express my support in moving forward ASAP to allow completion of this cottage so this couple may continue to live independently safe with the close support of their daughter and her family.

Sincerely,

Dawn Taplay, BScPT, MCPA

MEETING:	<i>May 15/07</i>	ITEM:	<i>3.2</i>
BYLAW:	<i>9778</i>	PLANNING	<input checked="" type="checkbox"/>

(received this letter on Apr. 27/07 - Miller)

To The City of Kelowna:

+ Development Permit
RE: Re-Zoning Application for Secondary Suite - 4573 Horak Rd.

This is to advise that We Douglas & Helma Vaks
the registered owners of 4573 Horak Rd., Kelowna, B.C., V1W 1S1
do not object to the application by our neighbours, George Tivy & Marilyn Miller, to
re-zone their property located at 4573 Horak Rd., to allow for a secondary suite to be
created for occupancy by their family.

Signed: Helma Vaks Date: March 25/07

Signed: Douglas Vaks Date: March 25/07

Phone Number: 764-7212



MEETING:	<u>May 15/07</u>	ITEM: <u>3.2</u>
BYLAW: <u>9778</u>	PLANNING <input checked="" type="checkbox"/>	

To The City of Kelowna:

+ Development Variance *MC*
RE: Re-Zoning Application for Secondary Suite - 4573 Horak Rd.

This is to advise that We Neil & Carol Culbard
the registered owners of 756 *Nathan* *MC* Horak Rd., Kelowna, B.C., V1W 1S1

do not object to the application by our neighbours, George Tivy & Marilyn Miller, to re-zone their property located at 4573 Horak Rd., to allow for a secondary suite to be created for occupancy by their family.

Signed: *McKullard* Date: Feb. 16/07

Signed: *C Culbard* Date: Feb 20/07

Phone Number: 250-764-7638



MEETING:	<u>May 15/07</u>	ITEM: <u>3.2</u>
BYLAW:	<u>9778</u>	PLANNING <input checked="" type="checkbox"/>

To The City of Kelowna:

+ Development Variance

RE: Re-Zoning Application for Secondary Suite - 4573 Horak Rd.

This is to advise that ^I~~we~~ Wayne Badlik
 the registered owners of 763 ^{Nathan}~~Horak~~ Rd., Kelowna, B.C. V1W 1S1
 do not object to the application by our neighbours, George Tivy & Marilyn Miller, to
 re-zone their property located at 4573 Horak Rd., to allow for a secondary suite to be
 created for occupancy by their family.

Signed: Wayne Badlik Date: Feb 18/07

Signed: _____ Date: _____

Phone Number: 764-0417



MEETING:	<u>May 15/07</u>	ITEM:	<u>3.2</u>
BYLAW:	<u>9778</u>	PLANNING	<input checked="" type="checkbox"/>

To The City of Kelowna:

RE: Re-Zoning Application for Secondary Suite - 4573 Horak Rd.

This is to advise that We Robert Bush & Sherry Bush
the registered owners of 4563 Horak Rd., Kelowna, B.C., V1W 1S1
do not object to the application by our neighbours, George Tivy & Marilyn Miller, to
re-zone their property located at 4573 Horak Rd., to allow for a secondary suite to be
created for occupancy by their family.

Signed: [Signature] Date: Nov 13/06

Signed: [Signature] Date: Nov 13/06

Phone Number: 250-764-0532