

Memo



Date: February 23, 2011

To: City Manager

From: Land Use Management, Community Sustainability (BD)

Application: Z11-0004

Owner: Clayton Bruce Ivan

Address: 3399 East Kelowna Rd.

Applicant: Clayton Bruce Ivan

Subject: Rezoning Application

Existing OCP Designation: Rural/Agricultural (in the Agriculture Land Reserve)

Existing Zone: A1 - Agriculture 1

Proposed Zone: A1s - Agriculture 1 with Secondary Suite

1.0 Recommendation

THAT Rezoning Application No. Z11-0004 to amend the City of Kelowna Zoning Bylaw No. 8000, by changing the zoning classification of Lot A, Section 15, Township 26, ODYD Plan KAP68999, located on East Kelowna, Kelowna, BC from the A1 - Agriculture 1 zone to the A1s - Agriculture 1 with Secondary Suite zone, be considered by Council;

AND THAT Zone Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT the suite be eligible for final occupancy prior to final adoption of the zone;

AND THAT registration of a covenant that prohibits additional residential dwellings on the property and prohibits the replacement of the exiting dwellings without Agricultural Land Commission permission (i.e. the land owner cannot demolish and rebuild the existing house on the property without ALC permission);

AND THAT the remediation/clean-up of the subject property with respect to the storage and placement of vehicles and other equipment to allow for the provision of future agricultural activities or the expansion of current farm operations be completed prior to final occupancy of the suite.

AND THAT final adoption of Zone Amending Bylaw be considered subsequent to the requirements of the Development Engineering branch being completed to their satisfaction.

2.0 Purpose

The purpose of this application is to rezone the subject property from the A1 - Agriculture 1 zone to the A1s - Agriculture 1 with Secondary Suite zone to legalize a secondary suite within an accessory building.

A handwritten signature in black ink, appearing to be a stylized 'C' followed by some illegible characters.

3.0 Land Use Management

Although this rezoning application is in direct response to a bylaw investigation, staff support the legalization of the suite and the subsequent addition to the rental stock. The Agricultural Land Commission has granted a non-farm use approval for the secondary suite located in an accessory structure.

A building permit (2005) was issued to construct an accessory building consisting of a garage and a studio (without a kitchen) which has now been converted to an illegal suite. As the conversion occurred without the proper applications, it does not give Staff an opportunity to comment on the siting of the suite and ensure it meets Council endorsed guidelines and policies. Additionally, the Building and Permitting Branch has not had an opportunity to review the plans to ensure that all code regulations of the BC Building code can be met.

Generally, both the City of Kelowna Official Community Plan and Agriculture Plan express concern that the permitted expansion of urban uses into what is otherwise an agricultural landscape will serve to diminish the viability of agricultural practice. Increased speculative pressure on land and conflict between land uses should be avoided, particularly in agricultural areas under development pressure, as noted in the AAC recommendation section. However, the siting of both the principal residence and accessory building does not substantially detract from the viable agricultural land and that remediation and clean-up of the property will hopefully catalyze in farming opportunities for the parcel.

4.0 Proposal

4.1 Project Description

A bylaw investigation is the catalyst for the application. The applicant built an accessory building containing a suite on the upper floor and workshop on the ground floor without securing appropriate zoning in 2005. The building is situated in a corner of the site directly behind a separate lot that has been in existence prior to the Agriculture Land Reserve (the applicant also owns this property). The original farm house and related outbuildings are located on the front portion of the oddly configured property. The current farm uses are Christmas tree farm and for the husbandry of various small livestock.

Considering the accessory building exists and that the lower floor may be used for machinery storage or other agricultural functions, no additional land will be converted or removed from agricultural production. Should this application be favourably considered by Council, the current suite would need to be modified to meet the requirements of the Zoning Bylaw 8000. The floor plan submitted indicates how compliance could be achieved.

The Agriculture Land Commission (ALC) approved a non-farm use application on the site in December 2010 for the suite. Their recommendation is as follows:

“That the application to legalize an existing secondary suite on the second floor of a shop building be allowed subject to the registration of a covenant that prohibits additional residential dwellings on the property and prohibits the replacement of the existing dwellings without Commission permission (i.e. the land owner cannot demolish and rebuild the existing house on the property without Commission permission).”

The ALC application was support by Staff and Council subject to the remediation/clean-up of the subject property with respect to the storage and placement of vehicles and other equipment to allow for the provision of future agricultural activities or the expansion of current farm operations.

4.2 Site Context

The subject property is located on the south side of East Kelowna Road in the Southeast Kelowna Sector of the City. The site has a unique configuration resulting from subdivisions created before 2001. The site is relatively flat, however the topography of the rear portion of the site rises steeply climbing from an elevation of 454m to 462m over a distance of 25 meters. The steep portion of the site is located in a Hazardous Condition Development Permit Area.

4.3 Adjacent zones and uses are:

- North A1 - Agriculture 1
- South A1 - Agriculture 1
- West A1 - Agriculture 1 (residential site)
- East P2 - Education and Minor Institutional (Montessori school)

4.4 Subject Property Map - 3399 East Kelowna Road



4.5 Zoning Analysis

The proposed application meets the requirements of the A1-Agriculture 1 with a secondary suite zone as follows:

Zoning Bylaw No. 8000		
CRITERIA	PROPOSAL	A1(s) ZONE REQUIREMENTS (Secondary suite in accessory building)
Subdivision Regulations		
Lot Area	1.565 ha	4.0 ha
Lot Width	82.45 m	40.0 m
Lot Depth	166.57 m	Na

Development Regulations		
Site Coverage (buildings)	4 %	10%
Size ratios	90m ² 48%	In accessory bldg lessor of 90 m ² or 75% of existing bldg
Height (existing house)	3.7m / 1.5 storey	2 ½ storeys / 9.5 m
Height (accessory building)	/ 2 storeys	Max 13.0 m
Front Yard	3.0 m (non-conforming due to lot shape)	6.0 m
Side Yard (west)	3 m	3.0 m
Side Yard (east)	3.0 m	3.0 m
Rear Yard (from building straight back to the furthest point on the property)	93.42 m	10 m / 3.0 m for accessory buildings
Separation Distance Between Houses	Meets requirements	Min 5.0 m

5.0 Current Development Policies

Kelowna 2020 - Official Community Plan

5.1 Housing Policies:

Infrastructure Availability¹. Give preference to supporting new housing in areas where required services already exist or can be provided most economically and efficiently;

Integration². Encourage the sensitive integration of different housing forms in the various sectors of the City, in support of neighbourhood diversity and healthy communities;

Secondary Suites³. Encourage, under the conditions stipulated in the Zoning Bylaw, the creation of secondary suites.

5.2 Agriculture Policies:

Sustained Agriculture⁴. Encourage the retention of diverse agricultural uses through limits on urban development and non-farm use on lands of sustainable production capability;

City of Kelowna Agriculture Plan

Exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications is in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

¹ Official Community Plan, Policy #8 - 1.30

² Official Community Plan, Policy #8 - 1.44

³ Official Community Plan, Policy #8 - 1.47

⁴ Official Community Plan, Policy #11.1.12

Farmland Preservation - Direct urban uses to land within the urban portion of the defined urban-rural/agricultural boundary, in the interest of reducing development and speculative pressure, toward the preservation of agricultural lands and discourage further extension of existing urban areas into agricultural lands.

6.0 Technical Comments

6.1 Building & Permitting Department

- 1) Development Cost Charges (DCC's) are required to be paid prior to issuance of any Building Permits.
- 2) Operable bedroom windows required as per the 2006 edition of the British Columbia Building Code (BCBC 06).
- 3) Provide the City of Kelowna Bulletin #88-02 (Secondary Suites Requirements in a single family dwelling) for minimum requirements. The drawings submitted for Building Permit application is to indicate the method of fire separation between the suite and the main dwelling.
- 4) Range hood above the stove and the washroom to vent separately to the exterior of the building. The size of the penetration for this duct thru a fire separation is restricted by BCBC 06, so provide size of ducts and fire separation details at time of Building Permit Applications.
- 5) A fire rated exit stairwell is required from the suite to the exterior c/w fire rated doors that open into the stairwell and a fire rating on the bottom of the stairs. Please provide these details on the building permit drawing sets.
- 6) Full Plan check for Building Code related issues will be done at time of Building Permit applications.

6.2 Development Engineering Department

Development Engineering Services have the following requirements associated with this rezoning Application.

Domestic Water and Fire Protection: This development is within the service area of the Southeast Kelowna Irrigation District (SEKID). The developer is required to make satisfactory arrangements with the SEKID for these items. All charges for service connection and upgrading costs are to be paid directly to the SEKID.

Sanitary Sewer: Sanitary sewage is to be handled by an on-site sewage disposal system subject to approval of the Provincial Public Health Officer. Please contact the Public Health Officer. *Approval of the Waste water system has been obtained from Interior Health.*

Site Related Issues: Provide on-site parking for the proposed dwelling.

Electric Power and Telecommunication Services: It is the applicant's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for service upgrades to these services which would be at the applicant's cost.

6.3 Bylaw Services

Bylaw Services has attended to this property on 7 different occasions for various reasons. The call outs pertaining to the illegal suite are as follows:

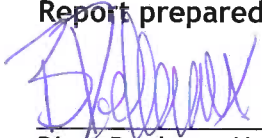
- Service Request #107595 - generated July 5, 2007; illegal suite. File has been concluded.
- Service Request #140025 - generated March 18, 2009; illegal suite. File has been concluded.

- Service Request #162768 - generated February 26, 2010; building issue regarding occupancy without a permit. File remains open to date.
- Service Request #168087 - generated May 12, 2010; assist other department with Stop Work Order. File has been concluded.

7.0 Application Chronology

Date of Application Received: January 24, 2011

Report prepared by:



Birte Decloux, Urban Land Use Planner

Reviewed by:



Danielle Noble Manager, Urban Land Use Management

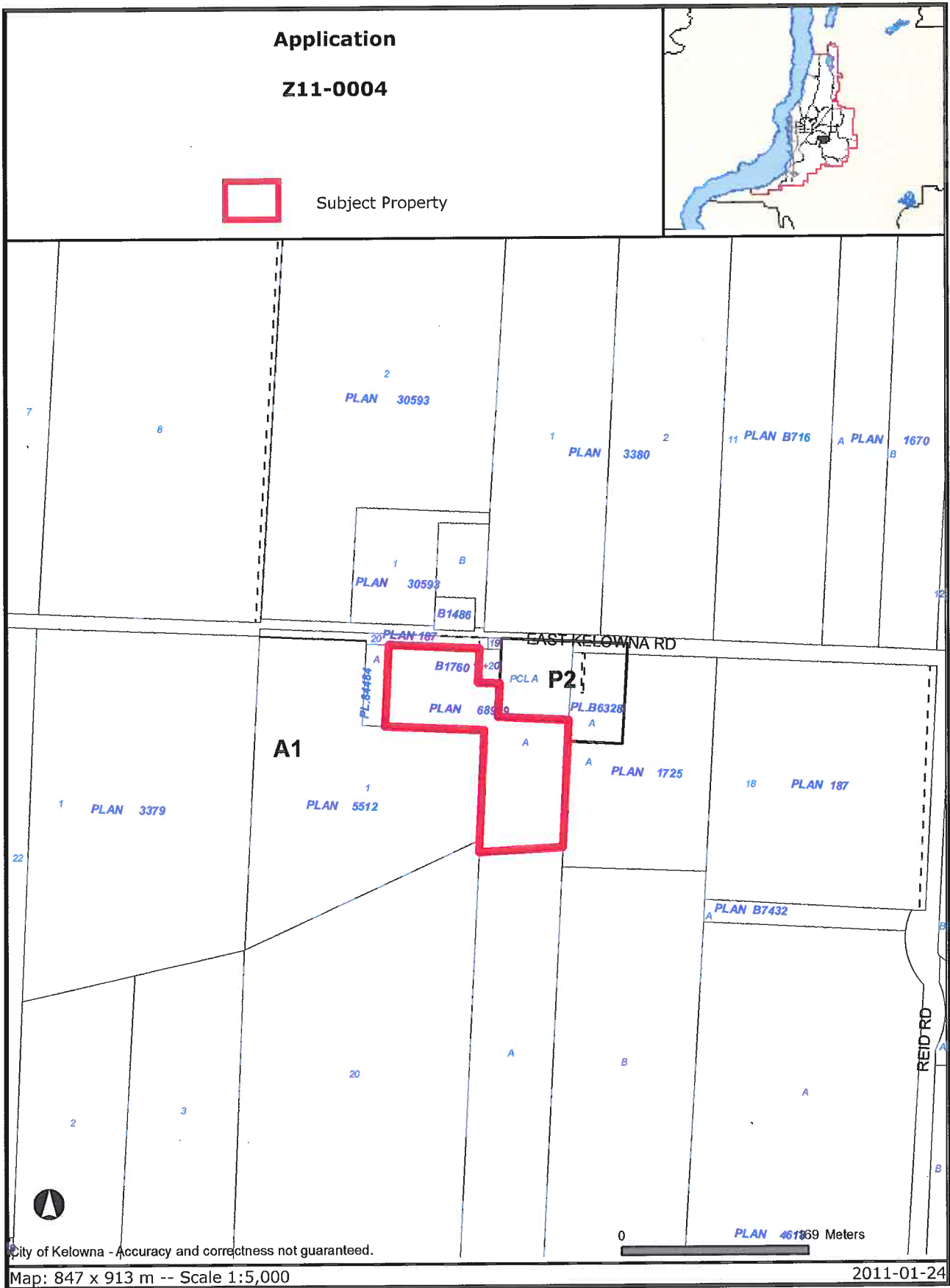
Approved for Inclusion:



Shelley Gambacort, Director, Land Use Management

Attachments:

Site Plan
Conceptual Elevations
Context/Site Photos



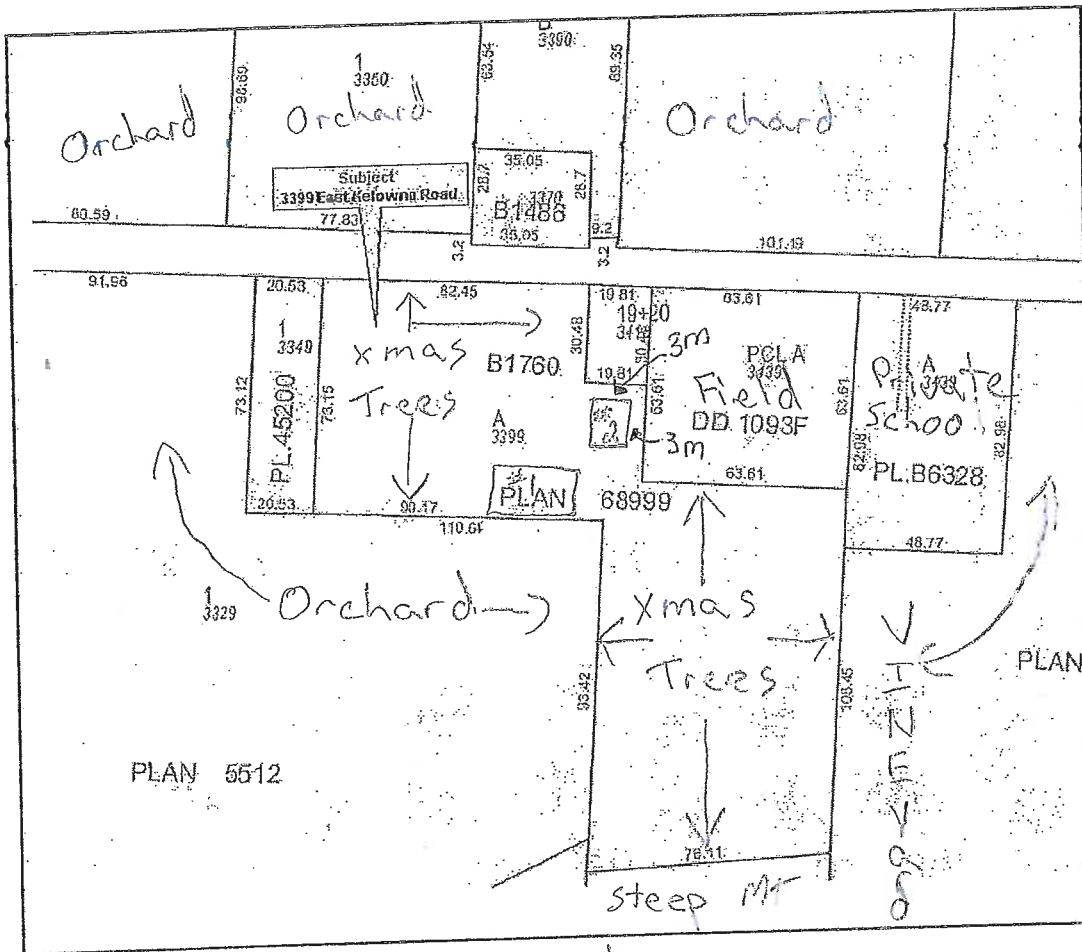
Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

Site Map

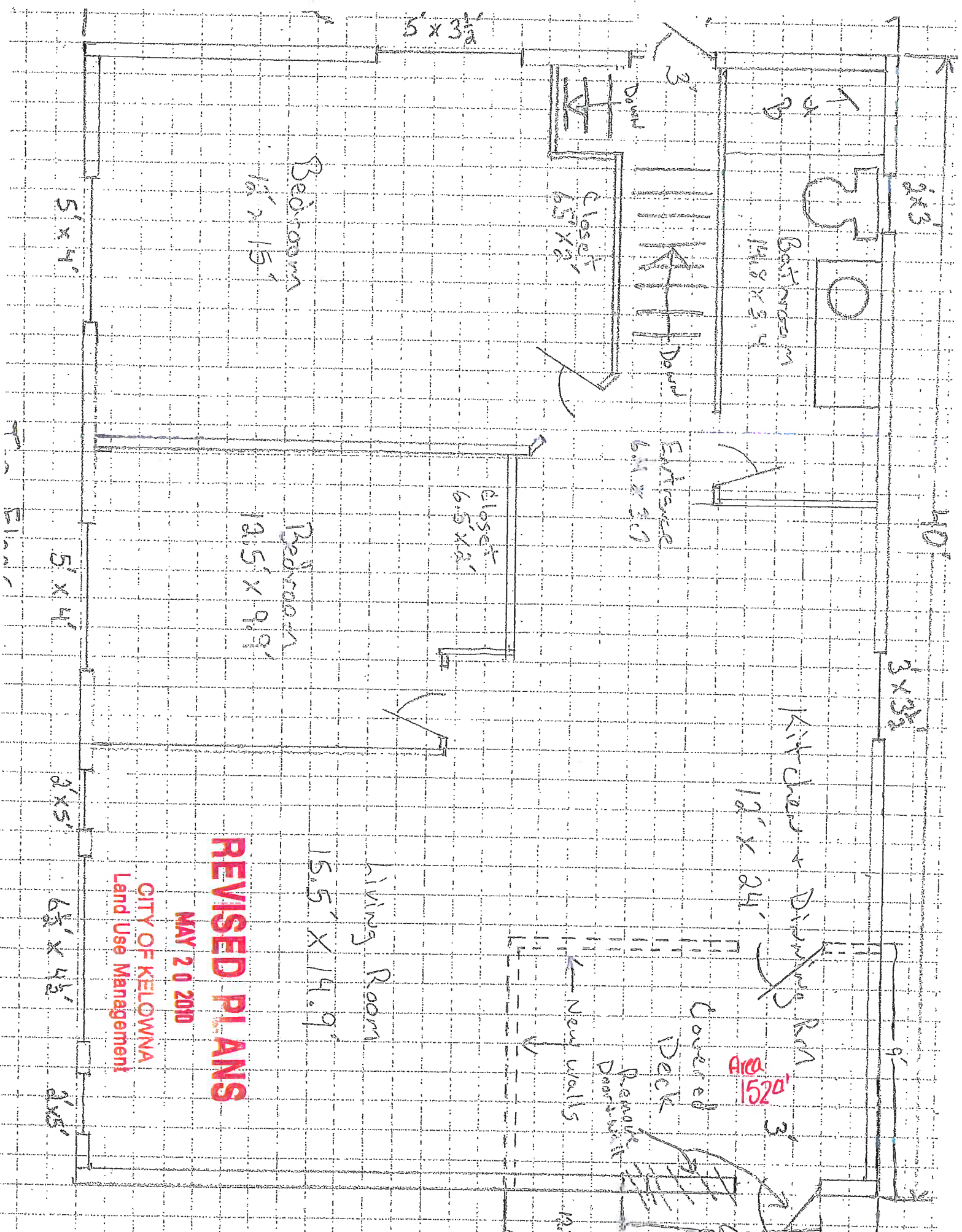
FILE NO.: 0908-IVA

REFERENCE:		APPRaiser: Brad Farrell	
CLIENT:	CLIENT: Interior Savings Credit Union	APPRaiser:	ADDRESS: 201-1909 Bredin Road
	ADDRESS: 595 K.I.O. Rd.		Kelowna, BC V1Y 7S9
	Kelowna, BC V1Y 8E7		PHONE: (250) 861-3101 FAX: (250) 979-0094
PHONE: (250) 763-8144	FAX: (250) 862-4851		

3399 East Kelowna Road, Kelowna, BC



Orchard on Top

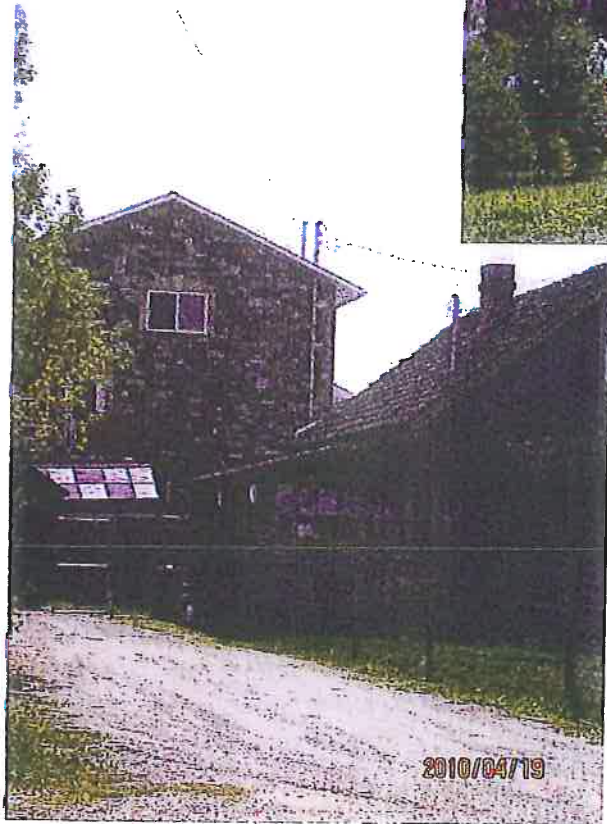


REVISED PLANS

MAY 20 2010

CITY OF KELOWNA
Land Use Management

Area 1520'



3399 East Kelowna Rd.
Accessory building