

REPORT TO COUNCIL



Date: October 18, 2016

RIM No. 0940-50

To: City Manager

From: Community Planning Department (KB)

Application: DVP16-0128 **Owner:** Sydney Wray Kincaid

Address: 2161 Belgo Road **Applicant:** Sydney Wray Kincaid

Subject: Development Variance Permit

Existing OCP Designation: REP - Resource Protection Area

Existing Zone: A1 - Agriculture 1 (RR2 Residential per Section 1.8.3)

1.0 Recommendation

THAT Council NOT authorize the issuance of Development Variance Permit No. DVP16-0128 for Lot A, Section 14, Township 26, Osoyoos Division Yale District Plan KAP73861, located at 2161 Belgo Road, Kelowna, BC.

2.0 Purpose

To consider a Staff recommendation to NOT issue a Development Variance Permit to vary the maximum height of two accessory buildings on the subject property from 4.5 m maximum to 6.65 m proposed for a cabana and from 4.5 m maximum to 7.53 m proposed for a garage or to decrease the minimum distance from the front lot line for an accessory structure from 18.0 m minimum to 8.40 m proposed.

3.0 Community Planning

The current DVP16-0128 application is to determine if the accessory building height and locations are acceptable to Council. In 2003, the subject property was created through a homesite severance subdivision in the Agricultural Land Reserve¹. In accordance with Section 1.8.3 of the Zoning Bylaw No. 8000, a homesite severance parcel must conform to the regulations of the RR2 - Rural Residential 2 Zone.

Community Planning is not in support of this Development Variance Permit. Staff are not aware of a hardship in this case or another significant reason why the bylaw with respect to height can not be met. The request for an additional 2 metres in height for the cabana, and an additional 3 metres for the proposed garage, is seen as excessive for the intent of the zone.

¹ City of Kelowna, 2003. S03-0001-01. PLR Issued April 8, 2003.

4.0 Proposal

4.1 Background

In 2005, building permit applications were taken out for the 'Barn' (now Garage) and Cabana. These were cancelled in November of 2007 by the Building and Permitting Manager as a result of a nuisance complaint. No plumbing was identified in the building permit plans. However, also in 2005, two plumbing permits were taken out. The other plumbing permit was for a toilet, basin, shower, laundry and laundry tub. Both plumbing permits expired. At the time the permits were cancelled, both slab foundations had been poured, but no framing had begun.

The foundation slabs remained until 2015. In 2015, construction began on both structures without development permits or building permits. In July 2015, through a bylaw complaint, a stop work issue was put on the work. Building permits and a Development Permit (DP) were applied for shortly after. Staff notes that the designs had changed from the original plans, specifically the roof shape and height had changed. The roof design for what was described as the 'Barn' (now garage) changed from a barn shape roof to a single sloped angled roof.

The Building permits are currently waiting for complete drawings and the completion of DP and Development Variance Permits (DVP). A survey plan was required as part of the application. This was received in April 2016. In May of 2016, the City received information that construction had begun again without permit, and another Stop Work order was issued. A timeline includes:

2005-04-06 - BP (Barn)	Building Permit by contractor for 'Barn' (no plumbing on BP Plans). Slab foundations poured. Permit withdrawn.
2005-04-06 - BP (Cabana)	Building Permit by contractor for Cabana (no plumbing on BP Plans). Slab foundations poured. Permit withdrawn.
2005-05-19 - PP (New)	Plumbing Permit - toilet, basin, laundry tub, hot water tank and floor drain. Expired.
2005-05-19 - PP (New)	Plumbing Permit - The other plumbing permit was for a toilet, basin, shower, laundry and laundry tub. Expired.
2005-06-21 - BP (Barn)	Building Permit by owner for 'Barn' and Cabana (no plumbing on BP Plans). Slab foundations poured. Permit cancelled by BP Manager.
2005-06-21 - BP (Cabana)	Building Permit by owner for 'Barn' and Cabana (no plumbing on BP Plans). Slab foundations poured. Permit cancelled by BP Manager.
2006-03-16	Nuisance Controlled Substance Investigation
2009	Bylaw Complaint - Trailer in front yard used as secondary suite. Staff notes that there is still a trailer in the front yard.
2013-04-12	Business License for a home-based business - minor application for <i>A-Plus Xcavating & Landscaping Ltd.</i> was taken out but no payment for fees received, and a ticket issued.
2015-07	Bylaw Complaint - Building without permits. Stop Work order issued.
2015-07-17 BP (Garage)	Building Permit by owner for Garage and (no plumbing on BP Plans).
2015-07-17 BP (Pool House)	Building Permit by owner for Garage and (no plumbing on BP Plans).
2016-04	Survey Plan received for development permit.
2016-05	Bylaw Complaint - Building without permits. Stop Work order issued.
2016-09-21	Public Notification for DVP complete.

4.2 Project Description

The applicant is requesting permission from Council to allow two overhead accessory buildings on the subject property, as well as to decrease the minimum distance from the front lot line for one of the accessory structures.

The applicant intends to use the top floor of the garage as a work space to dry herbs and seeds from her hollyhocks and lavender business. A plan of the proposed lavender growing area was provided in the summer of 2015. A site visit confirmed with the applicant that it will be primarily hollyhocks. Photos are attached.

A Development Variance Permit is requested to vary the following Section of Zoning Bylaw No. 8000:

Section [12.2.6(b)]: [RR2 - Rural Residential 2 Development Regulations]

To vary the maximum height for accessory buildings / structures from 4.5 m permitted to 6.55 m proposed for the cabana; and

Section [12.2.6(b)]: [RR2 - Rural Residential 2 Development Regulations]

To vary the maximum height for accessory buildings / structures from 4.5 m permitted to 7.53 m proposed for the garage.

Section [6.5.8(a)]: [Accessory Development Regulations]

To vary the minimum distance from the front lot line for an accessory buildings / structures from 18.0 m permitted to 8.40 m proposed for the garage.

4.3 Site Context

The subject property is located on Belgo Road in the Belgo - Black Mountain Sector. It is zoned A1 - Agriculture 1 and has a Future Land Use of Resource Protection Area. The property underwent a homeside severance in 2003, and is surrounded on the side and rear lot lines by the parent parcel. It is located outside of the Permanent Growth Boundary.

The subject property is in the ALR: land use to the north, east, south and southeast is agricultural and is surrounded completely by properties in the ALR. The subject property is also within the Black Mountain Irrigation District (BMID) water supply area.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 - Agriculture 1	Agriculture
East	A1 - Agriculture 1	Agriculture
South	A1 - Agriculture 1	Agriculture
West	A1 - Agriculture 1	Agriculture

Subject Property Map: 2161 Belgo Road



4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	RR2 ZONE REQUIREMENTS	PROPOSAL
Development Regulations		
Maximum Site Coverage (All Buildings)	20%	< 20%
Maximum Site Coverage (Accessory Buildings)	14%	< 14%
Development Regulations - Garage		
Maximum Height	4.5 m	7.53 m ●
Minimum Side Yard (north)	1.2 m	> 1.2 m
Minimum Side Yard (south)	1.2 m	3.29 m
Minimum Rear Yard	3.0 m	> 3.0 m
Minimum Distance from Principal Dwelling	1.0 m	> 1.0 m
Minimum Distance from front lot line	18.0 m	8.40 m ●
Development Regulations - Cabana		
Maximum Height	4.5 m	6.65 m ●
Minimum Side Yard (north)	1.2 m	3.47 m
Minimum Side Yard (south)	1.2 m	> 1.2 m
Minimum Rear Yard	3.0 m	7.41 m
Minimum Distance from Principal Dwelling	1.0 m	2.99 m
Minimum Distance from front lot line	18.0 m	>18.0 m
● Indicates a requested variance to increase the maximum height of an accessory structure. ● Indicates a requested variance to decrease the minimum distance from the front lot line. ● Indicates a requested variance to increase the maximum height of an accessory structure..		

5.0 Public Notification

As per Council Policy No. 367 the applicant completed Public Notification and Consultation in the form of a neighbourhood circulation.

Sixteen homeowners were included as part of this neighbourhood circulation. Staff received email correspondence from three neighbours in opposition and one phone call of opposition.

6.0 Current Development Policies

6.1 Agricultural Land Use Policies

Protect Agricultural Land² - Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

² City of Kelowna 2030 Official Community Plan (2011), Policy 5.33.1 (Development Process Chapter)

Urban Uses³ - Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

Homeplating⁴ - Locate buildings and structures, including farm help housing and farm retail sales area and structures, on agricultural parcels in close proximity to one another and where appropriate, near the existing road frontage. The goal should be to maximize use of existing infrastructure and reduce impacts on productive agricultural lands.

7.0 Technical Comments

7.1 Building & Permitting Department

- Full Plan check for Building Code related issues will be done at time of Building Permit applications. Please indicate how the requirements of radon mitigation and NAFS are being applied to this structure at time of permit application.

7.2 Development Engineering Department

- The proposed height variance does not compromise municipal infrastructure.

7.3 FortisBC Inc (Electric)

- There are FortisBC Inc (Electric) ("FBC(E)") primary distribution facilities along Belgo Road. The applicant is responsible for costs associated with any change to the subject property's existing service, if any, as well as the provision of appropriate land rights where required. Otherwise, FBC(E) has no concerns with this circulation.

7.4 Shaw Cable

- The applicant should contact Shaw in regards to any changes to cable services.

8.0 Application Chronology

Date of Building Permits Applied for:	July 17, 2015
Date of Application (DP15-0169) Received:	July 24, 2015
Survey Received	April, 2016
Date of Application (DVP16-0128) Received:	May 17, 2016
Date Public Consultation Completed:	Sept. 21, 2016

9.0 Alternate Recommendation

THAT Council authorizes the issuance of Development Variance Permit No. DVP16-0128 for Lot A, Section 14, Township 26, Osoyoos Division Yale District Plan KAP73861, located at 2161 Belgo Road, Kelowna, BC;

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

Section [12.2.6(b)]: [RR2 - Rural Residential 2 Development Regulations]

To vary the maximum height for accessory buildings / structures from 4.5 m permitted to 6.55 m proposed for the cabana.

³ City of Kelowna 2030 Official Community Plan (2011), Policy 5.33.3 (Development Process Chapter)

⁴ City of Kelowna 2030 Official Community Plan (2011), Policy 5.34.3 (Development Process Chapter)

Section [12.2.6(b)]: [RR2 - Rural Residential 2 Development Regulations]

To vary the maximum height for accessory buildings / structures from 4.5 m permitted to 7.53 m proposed for the garage.

Section [6.5.8(a)]: [Accessory Development Regulations]

To vary the minimum distance from the front lot line for an accessory buildings / structures from 18.0 m permitted to 8.40 m proposed for the garage.

AND THAT the permit be conditional on the registration of a Section 219 Covenant registered on the property at the Land Title Office that:

The Grantor shall not permit the accessory structure(s) on the Land to be occupied for any tourist accommodation or bed and breakfast use, or for any residential occupancy.

as per the attached as Schedule "C";

AND FURTHER THAT this Development Variance Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

Report prepared by:

Kim Brunet, Planner I

Reviewed by:

Todd Cashin, Subdivision, Suburban and Rural Planning Manager

Approved for Inclusion:

Ryan Smith, Community Planning Department Manager

Attachments:

DRAFT Development Variance Permit
Site Plan
Conceptual Elevations
Context/Site Photos