

# REPORT TO COUNCIL



**Date:** May 7, 2019

**RIM No.** 0940-00 & 0940-50

**To:** City Manager

**From:** Community Planning Department (AC)

**Application:** DP17-0212 / DVP17-0213      **Owner:** PC Urban Clement Holdings Ltd., Inc. No. BC 1099980

**Address:** 726 Clement Ave      **Applicant:** PC Urban – Shawn Oh

**Subject:** Development Permit & Development Variance Permit Application

OCP Designation: MXR – Mixed Use (Residential/Commercial)

Zoning: C4 – Urban Centre Commercial

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## 1.0 Recommendation

THAT Official Community Plan Map Amendment Bylaw No. 11604 (OCP17-0021) and Rezoning Bylaw No. 11605 (Z17-0093) be amended at third reading to revise the legal description of the subject property(ies) from:

1. Lot A, Section 30, Township 26, ODYD Plan KAP55948, located at 726 Clement Ave, Kelowna, BC; and
2. Block 29, Section 30, Township 26, ODYD Plan 202 Except Plans 5011 and KAP55948 located at 726 Clement Ave, Kelowna, BC;

To:

1. Lot A, Section 30, Township 26, ODYD Plan EPP83554, located at 726 Clement Ave, Kelowna, BC.

AND THAT final adoption of OCP Amending Bylaw No. 11604 (OCP17-0021) and Rezoning Bylaw No. 11605 (Z17-0093) be considered by Council;

AND THAT Council NOT authorizes the issuance of Development Permit No. DP17-0212 and Development Variance Permit No. DVP17-0213 for Lot A, Section 30, Township 26, ODYD Plan EPP83554, located at 726 Clement Ave, Kelowna, BC.

## 2.0 Purpose

To consider a Staff recommendation to NOT issue a Development Permit and Development Variance Permit for two mixed use six storey buildings with ground floor commercial, rental residential and surface parking.

## 3.0 Community Planning

The subject property has had a long history of varied development proposals following the sale of the former BC Packing house. The rezoning report outlined the previous proposals on this site (Z17-0093). Since public

hearing on the rezoning bylaw, the applicant has been working to complete the final conditions including: road dedication, paying for the off-site frontage improvements, and signing the engineering Servicing Agreement. These conditions have been satisfied resulting in consideration of the Development Permit and Development Variance Permit.

### 3.1 Development Permit

A major weakness in the proposal is the proposed site plan and the amount of surface parking. The parking lot and driveway areas represent approximately 62% of the total 12,106 m<sup>2</sup> site area. The City's Urban Design objectives for mixed-use developments promote the use of underground or structured parking hidden from public view. Large surface parking lots represent an underutilization of the development potential of the site, and a significant dedication of land to the automobile. This is of concern due to the project's close proximity to the Downtown and the City's desire to achieve walkable neighbourhoods that increase the vibrancy and attractiveness of the area. Upon multiple requests by Staff to include structured parking and utilize the land more intensively, the applicant insisted on surface parking as a cost effective solution in consideration of delivering purpose built rental. However, it is staff's experience in working with many other developers on rental buildings, that structured parking is feasible including Central Green, Parto Square, the Flats 1 & 2, the Mission Group's Enterprise Way, High Street on KLO and the many apartment buildings in the University South area. The developer also cites the subject property's large amount of road frontage, at 418 metres and the associated costs with urbanizing it.

The rezoning report that went to Council on May 15<sup>th</sup> 2018 warned the applicant the proposal did not meet the urban design guidelines:

"The magnitude and size of the surface parking lot are a further concern of Staff and will be issues to be resolved with the applicant during the upcoming Form & Character Development Permit. There are no other mixed-use C4 developments in the City that do not contain a portion of either underground parking or structured parking. As a form of land use, the proposed surface parking lot occupies more than 60% of the site prohibiting the project from having more green space and amenities for residents. In order for the applicant to achieve Community Planning's support for the upcoming Development Permit, Staff will be requesting substantial changes to the parking solution and anticipate changes to the current site plan."

The applicant's revisions and changes to the project since the Public Hearing for the rezoning bylaw on May 8<sup>th</sup> 2018 are summarized as follows:

- i. Addition of more green space in the south east corner (412 m<sup>2</sup>). This change allows the possibility of the property owner to attract a daycare to the eastern commercial unit as the outdoor area is now consistent with Provincial day-care licensing regulations. The revision resulted in 11 less parking stalls.
- ii. Addition of more landscape islands, trees and dedicated pedestrian routes through the parking area.
- iii. Inclusion of a small publicly accessible plaza at the corner of Richter and Clement Ave along the ground floor of Building 1.
- iv. Addition of end-of-trip facilities to commercial areas for tenants and visitors to promote cycling use.
- v. Improved building design with setbacks on the upper floors and greater articulation in the six storey building in an effort to mitigate overall building bulk and mass.

Aside from the surface parking lot, there are some design features that meet the City's urban design guidelines such as:

1. Locating buildings and courtyards on the prominent corner of Richter Street and Clement Avenue;
2. There are open spaces on-site including a publicly accessible plaza and courtyard; and

3. There is significant amount of tree planting throughout the site.



Original Design



Revised Design

Staff do acknowledge the contribution that 158 purpose-built rental units would have on the Downtown as well as the addition of commercial spaces to serve the surrounding neighbourhood. However, the purpose of Development Permits is to provide the public and development community with guidelines, expectations, and standards with respect to site layout, building form and character, and landscaping. The current policies and design guidelines do not suggest a lower standard for rental buildings. Therefore, Staff are recommending against the Development Permit and Development Variance Permit due to the project's inconsistency with major and key design guidelines such as the provision of surface parking within a prominent urban area.

### 3.2 Development Variance Permit

The height variance is a common variance request within the C<sub>4</sub> zone. Council has asked Staff to permit six storey wood framed buildings within the Zoning Bylaw and Staff will be bring forth an amending bylaw as resources within the department permit.

The parking variance is considered minimal. The applicant wishes to have the visitor parking combined with a portion of the commercial parking. Staff are proposing this rule change in the upcoming parking changes as a way to provide incentives for affordable mixed use housing with concurrent parking demands in order to not require an excess amount of parking. Commercial parking primary demand is during the day where visitor parking primary demand is in the evenings and weekends.

## 4.0 Proposal

### 4.1 Project Description

The application is to construct two six storey rental apartment buildings with ground floor commercial. The building materials on the residential portion include corrugated metal panel mixed with hardie siding as well as a longboard wood textured siding. These materials are an economical choice for rental apartments. The base building contains shop front windows alongside exposed painted concrete block walls with brick veneer columns and charcoal black aluminium flashing, guardrails, and window frames.

Subject Property Map: 726 Clement Ave



4.2 Zoning Analysis Table

Zoning Analysis Table			
CRITERIA	C4 ZONE REQUIREMENTS	PROPOSAL	
Project Stats			
		Bldg 1	Bldg 2
1 bedroom units	n/a	53	37
2 bedroom units	n/a	27	40
3 bedroom units	n/a	1	0
Total Units	n/a	81	77
Development Regulations			
Height	15.0 m / 4.0 storeys	20.52 m / 6 storeys ①	
Front Yard (north)	0.0 m	1.85 m	
Side Yard (east)	0.0 m	63.42 m	
Side Yard (west)	2.0 m	4.19 m	
Rear Yard (south)	6.0 m	1.8 m	

Zoning Analysis Table		
CRITERIA	C4 ZONE REQUIREMENTS	PROPOSAL
Site coverage of buildings	75 %	29 %
FAR	1.3	1.19
Parking Regulations		
Minimum Parking Requirements	<u>158 Res + 23 visitor + 32 Comm</u> =213 parking stalls	<u>158 Res + 32 Comm / Visitor</u> = 190 parking stalls ❷
Minimum Loading Spaces	1 spaces	1 spaces
Ratio of Parking Stalls	Full size: 50% Min Medium Size: 40% Max Small Size: 10% Max	Full size: 82% (154 stalls) Medium Size: 18% (36 stalls) Small Size: 0% (0 stalls)
Minimum Drive Aisle Width	7.0 m	7.0 m
Other Regulations		
Minimum Bicycle Parking Requirements	Class 1: 41 bikes Class 2: 13 bikes	Class 1: 51 bikes Class 2: 13 bikes
Private Open Space	1,905 m <sup>2</sup>	2,585 m <sup>2</sup>
❶ A variance to increase the permitted height by 5.52m and 2 storeys; ❷ A variance to count the visitor and commercial parking together.		

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

**Contain urban growth.**<sup>1</sup> Reduce greenfield urban sprawl and focus growth in compact, connected and mixed-use (residential and commercial) urban and village centres.

**Housing Mix.**<sup>2</sup> Support a greater mix of housing unit size, form and tenure in new multi-unit residential and mixed use developments.

#### Objective 5.5: Ensure appropriate and context sensitive built form.

**Building Height.**<sup>3</sup> In determining appropriate building height, the City will take into account such factors as:

- Contextual fit into the surrounding neighbourhood;
- Shadowing of the public realm;
- View impacts;
- Overlook and privacy impact on neighbouring buildings;
- Impacts on the overall skyline;
- Impacts on adjacent or nearby heritage structures;

<sup>1</sup> City of Kelowna Official Community Plan, (Chapter 1 Introduction).

<sup>2</sup> City of Kelowna Official Community Plan, Policy 5.27.11 (Development Process Chapter)

<sup>3</sup> City of Kelowna Official Community Plan, Policy 5.22.6 (Development Process Chapter). <sup>3</sup> City of Kelowna Official Community Plan, Chapter 14 (Urban Design Development Permits Area).

**Chapter 14: Urban Design Guidelines Amenities, ancillary Services and Utilities.<sup>5</sup>**

- Locate loading, garbage, storage, utilities and other ancillary services away from public view. All such areas shall be screened and designed as an integral part of the building to minimize impact;
- Create attractive rear alley facades with high quality materials on buildings facing residential areas (e.g. rear building entrances, windows, balconies, plazas, and plantings).

**6.0 Technical Comments**

**6.1 Building & Permitting Department**

Building & Permitting supports this application for development as part of the Development permit process for form and character. This is not a plan review but the following items may apply at time of Building Permit application stage.

1. Permits are required for any sales or office trailers that will be on site. The location(s) of these are to be shown at time of development permit application.
2. A Hoarding permit is required and protection of the public from the staging area and the new building area during construction.
3. Requirements of the City of Kelowna fire prevention regulations bylaw No. 10760 for buildings 6 stories and greater are to be shown on the building permit drawings.
4. A Building Code analysis is required for the structure at time of building permit applications, but the following items may affect the form and character of the building(s):
  - a. Any alternative solution must be accepted by the Chief Building Inspector prior to the release of the Building Permit.
  - b. Location, Heights, Colors of mechanical systems and the required screening are to be determined at time of DP.
  - c. Any security system that limits access to exiting needs to be addressed in the code analysis by the architect.
  - d. Access to the roofs are required per NFPA and guard rails may be required and should be reflected in the plans if required.
5. This property falls within the Okanagan flood plain limits of a minimum Geodetic Elevation of 343.66 meters. This minimum elevation is required for all habitable spaces including the parking garage(s). Minimum building elevations are required to be established prior to the release of the Development Permit.
6. We strongly recommend that the developer have his professional consultants review and prepare solutions for potential impact of this development on adjacent properties. Any damage to adjacent properties is a civil matter and is the sole responsibility of the owner(s). The items of potential damage claims by adjacent properties are items like settlement of foundations (preload), damage to the structure during construction, undermining & underpinning of existing foundation, additional snow drift on neighbour roofs, excessive noise from mechanical units, vibration damage during foundation preparation work, water infiltration systems, etc.
7. Size and location of all signage to be clearly defined as part of the development permit. This should include the signage required for the building addressing to be defined on the drawings per the bylaws on the permit application drawings.
8. 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 complex at time of permit application.

## 6.2 Development Engineering Department

All the offsite infrastructure and services upgrades are addressed in the Rezoning Engineering Report under file Z17-0093. The request to increase the height from 4 stories to 6 stories does not compromise any municipal services.

## 7.0 Alternate Recommendation

THAT Official Community Plan Map Amendment Bylaw No. 11604 (OCP17-0021) and Rezoning Bylaw No. 11605 (Z17-0093) be amended at third reading to revise the legal description of the subject property(ies) from:

1. Lot A, Section 30, Township 26, ODYD Plan KAP55948, located at 726 Clement Ave, Kelowna, BC; and
2. Block 29, Section 30, Township 26, ODYD Plan 202 Except Plans 5011 and KAP55948 located at 726 Clement Ave, Kelowna, BC;

To:

1. Lot A, Section 30, Township 26, ODYD Plan EPP83554, located at 726 Clement Ave, Kelowna, BC.

AND THAT final adoption of OCP Amending Bylaw No. 11604 (OCP17-0021) and Rezoning Bylaw No. 11605 (Z17-0093) be considered by Council;

AND THAT Council authorizes the issuance of Development Permit No. DP17-0212 for Lot A, Section 30, Township 26, ODYD Plan EPP83554, located at 726 Clement Ave, Kelowna, BC subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in accordance with Schedule "A,"
2. The exterior design and finish of the building to be constructed on the land, be in accordance with Schedule "B";
3. Landscaping to be provided on the land be in accordance with Schedule "C";
4. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a Registered Landscape Architect;

AND THAT Council authorize the issuance of Development Variance Permit DVP17-0213 for Lot A, Section 30, Township 26, ODYD Plan EPP83554, located at 726 Clement Ave, Kelowna, BC;

AND THAT the variances to the following sections of Zoning Bylaw No. 8000 be granted, as shown on Schedule "A, B, & C":

**Section 14.4.5 (c) C4 – Urban Centre Commercial Development Regulations**

To vary the maximum height from 15.0m / 4storeys to 20.52m / 6 storeys.

**Section 8: Parking and Loading - Table 8.1 Parking Schedule**

To vary the minimum number of parking stalls from 213 stalls to 190 stalls.

AND THAT the applicant be required to complete the above noted conditions of Council's approval of the Development Permit and Development Variance Permit applications in order for the permits to be issued;

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

**8.0 Application Chronology**

Date of Application Received: Sept 27<sup>th</sup> 2017  
Date Public Consultation Completed: January 23, 2018  
Date of Public Hearing: May 15<sup>th</sup> 2018

**Report prepared by:** Adam Cseke, Planner Specialist  
**Reviewed by:** Terry Barton, Urban Planning Manager  
**Approved for Inclusion:** Ryan Smith, Community Planning Department Manager

**Attachments:**

Rationale Letter  
Draft Development Permit/Development Variance Permit  
Schedule 'A'  
Schedule 'B'  
Schedule 'C'