

# REPORT TO COUNCIL



**Date:** March 17, 2020

**RIM No.** 09400-00 & 0940-50

**To:** Council

**From:** City Manager

**Application:** DP19-0161 & DVP19-0162      **Application:** DP19-0161 & DVP19-0162

**Address:** 1659 Water St      **Address:** 1659 Water St

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

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

**Zone:** C7 – Central Business Commercial

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## 1.0 Recommendation

That Council NOT authorizes the issuance of Development Permit No. DP19-0161 for Lot 12, Block 6, District Lot 139, ODYD, Plan 462, Except Plan KAP82841 located at 1659 Water St, 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";

AND THAT Council NOT authorize the issuance of Development Variance Permit DVP19-0162 for Lot 12, Block 6, District Lot 139, ODYD, Plan 462, Except Plan KAP82841 located at 1659 Water St, Kelowna, BC;

AND THAT the variances to the following sections of Zoning Bylaw No. 8000 NOT be granted:

### Section 14.7.5 Development Regulations (h)

1. To vary the setback above the 16.0 height mark for the front yard from 3.0 metres to 0.0 metres.
2. To vary the setback above the 16.0 height mark for the side yard (east) from 4.0 metres to 0.1 metres.
3. To vary the setback above the 16.0 height mark for the flanking side yard (west) from 4.0 metres to 0.0 metres.

**Table 8.3.2 Commercial Off-Street Parking Requirements**

4. To vary the minimum off-street parking from 10 stalls to 0 stalls.

**Table 8.5 Minimum Bicycle Parking Required**

5. To vary the minimum off-street short-term bicycle parking from 2 stalls to 0 stalls.

**Section 14.7.7 Other Regulations (d)**

6. To vary the minimum commercial on ground floor area percentage from 90% to 68% on Leon Avenue and 40% on Water Street.

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.

**2.0 Purpose**

To consider a Staff recommendation of non-support for a Form & Character Development Permit of a six storey commercial building as well as to consider six variances to the Zoning Bylaw.

**3.0 Development Planning**

Staff are not supportive of the developer's proposal due to inability to provide any parking within the development and the applicant's unwillingness to provide payment under the City's Cash-in-lieu of Parking Bylaw. The subject property's small size and unconventional shape makes on-site parking not possible. The Zoning Bylaw regulations would translate to an on-site requirement of 10 stalls or a cash-in-lieu payment of \$330,000. The applicant indicated to Staff that the development proposal was financially risky for them as they needed to compete on price and building quality in order to attract commercial tenants without on-site parking and that a significant cash-in-lieu payment would make the project not financially viable. A cash-in-lieu payment is a compensation measure to the City to aid the construction of public parking facilities elsewhere in the Downtown at a future time. The City has set high-level policy with Kelowna's Community Climate Action Plan produced in the summer of 2018 that encourages efficient settlement patterns (Mode Shift & Trip Distance Reduction) whereby citizens can live, work, play in an area without the need for a single occupant vehicle for day-to-day activities. This plan suggests shifting away from infrastructure projects and policies supporting single occupant vehicle trips. However, Staff have immediate concerns that no parking will result in a spill-over effect to surrounding streets and that the direction Council set last summer (July 2019) on cash-in-lieu is not being realized. That direction included increasing the cash-in-lieu amount from \$22,500 per stall to \$33,000 per stall to better reflect the cost of construction for a structured parking stall, while reducing the total amount of parking required in Urban Centres. Both Bylaw objectives have since been approved which results in Staff recommending against parking variances despite economic impacts on small lots that are not able to consolidate into larger more efficient parkades.

An alternative recommendation to vary the required stalls is included in Section 9.0 of this report.

### 3.1 Development Permit

The applicant has worked with City staff to review and refine the proposed building design. The positive design features of this application that are congruent with the urban design guidelines are:

- 1) The building has three distinct sections: a top, a middle, and a bottom and the applicant has provided a positive design in each category.
  - a. The top of the building contributes positively to the visual interest with activated rooftop amenities.
  - b. The 'middle' of the building contains a series of different building materials and large amounts of glazing to provide visual interest. The wood stained colour horizontal metal siding combined with the large amounts of glazing provide a visually pleasing and consistent design scheme facing the street.
  - c. The ground floor level provides a pleasant pedestrian experience with plenty of glazing as recommend by the OCP design guidelines. The south-west corner of the building is setback at the ground floor to provide a distinctive main entrance and to enhance the pedestrian experience for building users and passing pedestrians.
- 2) The building is only six stories in height within an area of the downtown slated for the tallest buildings in Kelowna according to the C7 height map. However, to achieve that height multiple properties would need to be consolidated in order to achieve an efficiently designed parkade. The applicant has indicated that further land acquisition is not possible at this time for this project. While the project will not be as tall as the downtown C7 height map suggests, the proposal is significantly taller than adjacent properties and will contribute to an interesting streetscape and urban environment.
- 3) The South and East elevations are less desirable as they are concrete firewalls, however, they are located adjacent to existing buildings and future development sites which will help mask their bland façade to street views.

### 3.2 Development Variance Permit

The application needs several variances in order to develop a viable project.

The first three variances are to reduce the setback above the 16 metres mark. Generally, the 16 metre mark before a setback is required was intended for large tower and podium projects. The tower and its associated podium would need to have the setback in order to create a pedestrian friendly streetscape environment. This principal generally applies to mid-rise buildings too. However, in this case, this project is seen as an exception due to the narrow width of the lot and the limited mass of the building. As soon as a building gets wider and/or the massing increase and assuming no setbacks then the negative impact and overall detriment to the pedestrian environment increases.

The next variance is related to parking. There is no viable area that is available for parking on this site thus the necessity to reduce the parking to zero. The applicant could have provided cash-in-lieu of parking and this would have eliminated the necessity of a variance. However, the applicant argues this would eliminate the financial viability of the project. The Zoning Bylaw requires 10 stalls which would result in a cash-in-lieu payment of \$330,000. The Cash-in-lieu of parking aspect of the application was discussed in the overall Development Planning comments.

Despite the small building footprint and the small total building area, the applicant has included a bike storage room for 13 long term bike stalls on the ground floor with the associated End-of-Trip facilities (washrooms, change rooms, lockers, and showers) to encourage active transportation options to and from

work. The remaining space on the ground floor is a commercial retail tenant (CRU) most likely a restaurant, bar, café, or coffee store.

The next variance is to reduce the short-term bicycle parking stalls to zero. There is no room on site to provide short term bicycle parking stalls and the applicant is providing extra long-term bicycle parking in a secured bike parking room.

The last variance is to reduce the minimum commercial frontage below the 90% required. Similar to the previous variances, the dimensions of the lot limit the ability to provide 90% commercial frontage. The reduction is for necessary building mechanical systems including elevators, mechanical room, utility room, transformer room, and bicycle parking room. However, the predominant ground floor use is still commercial

#### **4.0 Proposal**

##### **4.1 Project Description**

The proposal is to build a 6-storey commercial development with ground floor retail, upper floor offices, common rooftop patio, and no parking onsite. The proposal contains 964.4 m<sup>2</sup> (approx. 10,380 ft<sup>2</sup>) of commercial space.

The building materials are predominately glazing with metal siding stained in wood colour. The rear two storey addition is brick. The accent materials include wood canopies and exposed concrete. The lane facing façade and the east facing façade are concrete fire walls. There will also be a roof top patio deck providing amenity area for the various office staff.

The retail at street level is designed to accommodate 1-2 tenants with floor to ceiling storefront glazing. Signage will be refined and intentional within the architectural design as per the attached drawings.

Staff have discussed the possible snow load issue on the adjacent property's roof and the applicant believes the issue is solvable through the building permit processes. The City considers the matter a civil issue between property owners.

**Subject Property Map: 1659 Water St.**



**4.2 Zoning Analysis Table**

The zoning analysis table shows the requirements of the C7 zone compared to the proposal:

Zoning Analysis Table		
CRITERIA	C7 ZONE REQUIREMENTS	PROPOSAL
For portion of building between 0.0 metres & 16.0 metres in height		
Front Yard (Leon Ave)	0.0 m	0.0 m
Side Yard (East)	0.0 m	0.0 m
Side Yard (Water St)	0.0 m	0.0 m
Rear Yard (Lane)	0.0 m	0.0 m
For portion of building between 16.0 metres & above in height		
Front Yard (Leon Ave)	3.0 m	0.0 m ❶
Side Yard (East)	4.0 m	0.1 m ❷
Side Yard (Water St)	4.0 m	0.0 m ❸
Rear Yard (Lane)	3.0 m	6.6 m
Floorplate	1,221 m <sup>2</sup>	177.5 m <sup>2</sup>
Development Regulations		
Height	76.5m (approx. 26 storeys)	26.5 m (6 storeys)

Zoning Analysis Table		
CRITERIA	C7 ZONE REQUIREMENTS	PROPOSAL
FAR	9.0	2.81
Parking Regulations		
Minimum Parking Requirements	10 Stalls	0 parking stalls ④
Min. Loading Spaces	0 stalls	0 stalls
Ratio of Parking Stalls	Small Parallel: n/a Compact Size: 10% Max Medium Size: 40% Max Regular Size: 50% Min	Small Parallel: n/a Compact Size: n/a Medium Size: n/a Regular Size: n/a
Minimum Bicycle Parking Requirements	Long Term: 2 bikes Short Term: 2 bikes	Long Term: 13 bikes Short Term: 0 bikes ⑤
Other Regulations		
Minimum frontage for commercial, civic, cultural, or ground oriented residential on 1 <sup>st</sup> floor	Leon Avenue: 90% (8.6m x 0.9 = 7.75m) Water Street: 90% (36.02m x 0.9 = 32.42m)	Leon Avenue: 5.9m / 68% ⑥ Water Street: 14.2m / 39.4% ⑥
<p>① Variance to reduce the front yard setback for portions of building between 16.0 metres &amp; above in height</p> <p>② Variance to reduce the side yard (north) setback for portions of building between 16.0 metres &amp; above in height</p> <p>③ Variance to reduce the side yard (south) setback for portions of building between 16.0 metres &amp; above in height</p> <p>④ Variance to reduce the number of required parking spaces from 10 stalls to 0 stalls</p> <p>⑤ Variance to decrease the amount of short-term bicycle stalls provided from 2 required to 0 provided</p> <p>⑥ Variance to reduce the minimum commercial on ground floor from 90% to 68% on Leon Avenue and 40% on Water Street</p>		

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Parking Management Strategy – Downtown Area Parking Plan and Bylaw Updates (July 15<sup>th</sup> 2019)

#### Recommendations #4: Payment in Lieu of Parking Bylaw Update.

Staff recommend an update to reflect the true cost of constructing parking stalls based on recent experience with construction of structured and surface parking. Land cost is not included in the amounts below, as land may be considered a City asset that could be converted into different uses in the future.

In the past, only 75 per cent of the actual construction cost was used to determine the cash in lieu amount (\$30,000 per stall x 75% = \$22,500). Also reflected in this amendment is a shift from surface to structured parking in the South Pandosy, Capri Landmark and Midtown Urban Centres to reflect current conditions.

Additionally, to avoid a need for regular updates, an annual CPI (Consumer Price Index) adjustment has been included in the proposed bylaw amendment.

**Kelowna’s Community Climate Action Plan**  
(June 2018)

Executive Summary:

“With intention, Kelowna can be a dynamic community that embraces diverse transportation options; shifts away from a car-centric culture; grows vibrant urban centres; moves away from sprawl; and protects land, water and air.”

“The biggest opportunity for emissions reduction are the actions related to transportation, as transportation is the biggest component of Kelowna’s community GHG footprint.”

“The actions are based on the following six themes:

1. The Way We Get Around – providing options to reduce vehicle trips and accelerate transition to low carbon transportation options...”

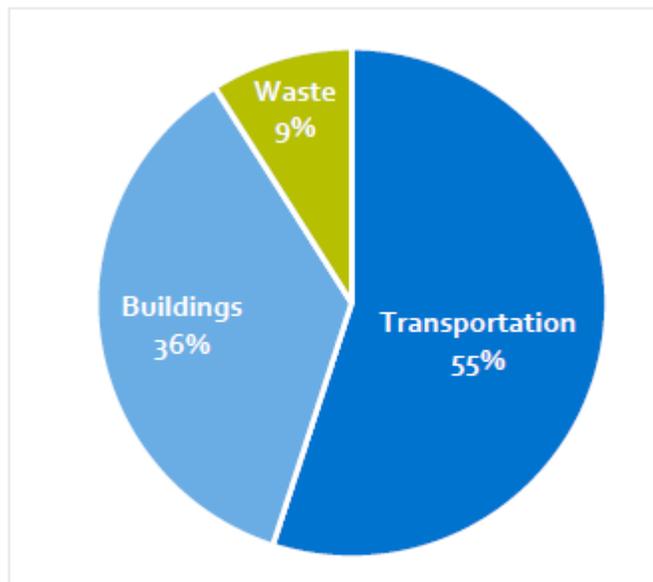


Figure 1: Kelowna's 2012 GHG Emissions (642,000 tonnes CO<sub>2</sub>e)

**Embracing diverse transportation options**

Providing options to reduce reliance on single occupant vehicles and accelerate the transition to low carbon transportation options is essential as Kelowna is one of the most car dependent cities in Canada. Transportation forms 55 per cent of Kelowna’s GHG emissions, and 51 per cent of its community energy expenditures.

Figure 11 demonstrates a hierarchy for opportunities to reduce emissions from the on-road transportation sector. Good community planning principles can help further decrease emissions by reducing reliance on automobiles (see Planning Our Community actions).

The actions recommended to reduce transportation emissions reflect the community’s draft goal “to embrace diverse transportation options to shift away from our car-centric culture” as heard during Imagine Kelowna engagement. Further, the actions build on participants’ suggestions heard during the Imagine Kelowna On Point discussions on climate and transportation:

- “Increase parking costs / reduce parking
- Build more bike paths and bike lanes
- Increase dedicated bike / multi-use paths by allocating more resources in the annual budget and making active transportation a priority
- Improve transit systems by establishing consistent schedules and affordable rates
- Embrace autonomous vehicles
- Support car share and car pooling.”

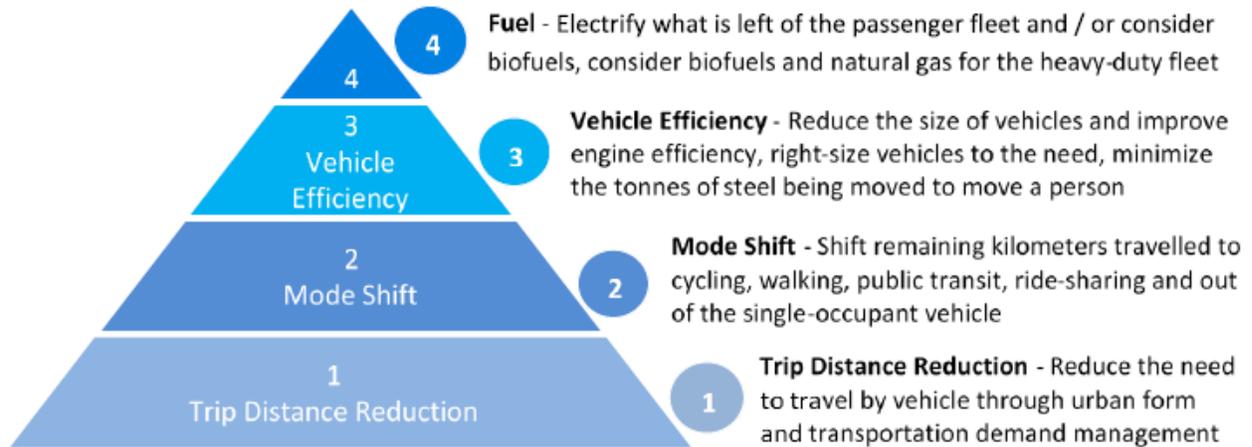


Figure 11: Suggested steps in energy planning for transportation (Source: CEA)

**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.

**Chapter 4: Massing and Height.**<sup>3</sup>

- Mitigate the actual and perceived bulk of buildings by utilizing appropriate massing, including:
- Architectural elements (e.g. balconies, bay windows, cantilevered floors, cupolas, dormers);
- Visually-interesting rooflines (e.g. variations in cornice lines and roof slopes);
- Step back upper floors to reduce visual impact;
- Detailing that creates a rhythm and visual interest along the line of the building;
- Wall projections and indentations, windows and siding treatments as well as varied material textures should be utilized to create visual interest and to articulate building facades;
- Building frontages that vary architectural treatment in regular intervals in order to maintain diverse and aesthetically appealing streets.

**6.0 Technical Comments**

6.1 Development Engineering Department

See attached memorandum dated August 19<sup>th</sup> 2019.

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<sup>1</sup> City of Kelowna Official Community Plan, Goals for a Sustainable Future, Objective 1 (Chapter 1 Introduction)

## 7.0 Application Chronology

Date of Application Received: August 8<sup>th</sup> 2019  
Date of Public Notification: November 15<sup>th</sup> 2019

## 8.0 Alternate Recommendation

That Council authorizes the issuance of Development Permit No. DP19-0161 for Lot 12, Block 6, District Lot 139, ODYD, Plan 462, Except Plan KAP82841 located at 1659 Water St, Kelowna, BC, subject to the following:

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2. The exterior design and finish of the building to be constructed on the land, be in accordance with Schedule "B";

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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

**Report prepared by:** Adam Cseke, Planner Specialist  
**Reviewed by:** Terry Barton, Development Planning Department Manager  
**Approved by:** Ryan Smith, Divisional Director, Planning & Development Services

### **Attachments:**

Draft DP19-0161 & DVP19-0162