

# REPORT TO COUNCIL



**Date:** June 2 2020  
**To:** Council  
**From:** City Manager  
**Department:** Development Planning Department  
**Application:** DP19-0064 / DVP19-0065  
**Owner:** Mission Group Holdings Ltd.  
Inc. No. BC0993483  
**Address:** 560 – 592 Bernard Avenue  
**Applicant:** Mission Group – Luke Turri  
**Subject:** Development permit and Development Variance Permit  
**Existing Zone:** C7 – Central Business Commercial

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## 1.0 Recommendation

That Council authorizes the issuance of Development Permit No. DP19-0064 for Lot 1, District Lot 139, ODYD, Plan EPP96156, located at 560-592 Bernard 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. That the Development Permit and Development Variance Permit is issued subsequent to the outstanding conditions set out in Attachment "A" attached to the Report from the Community Planning Department dated July 25<sup>th</sup> 2017; and
4. That a building permit is not issued until the rear lane has been dedicated by 0.8m to the City.

AND THAT Council authorize the issuance of Development Variance Permit DVP19-0065 for Lot 1, District Lot 139, ODYD, Plan EPP96156, located at 560-592 Bernard Ave, Kelowna, BC. subject to the following:

1. That a Section 219 covenant be registered on title limiting the 25 compact stalls to be used by commercial or office tenants only and that the covenant ensures that the maximum vehicle dimensions that are permitted to park within the compact stall must be a maximum of 3.4m in length and 1.7m in width.

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

**Section 14.7.5(a) – C7 Central Business Commercial - Development Regulations**

To vary the maximum height from 76.5m (approx. 26 storeys) to 106m (34 storeys).

**Section 8 Table 8.5 – Minimum Bicycle Parking Required**

To vary the minimum amount of Class 2 bicycle parking stalls from 74 bikes to 17 bikes.

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.

## 2.0 Purpose

To consider a form and character Development Permit for a mixed-used development consisting of two towers, one residential and one office, both with ground floor commercial retail and to consider a development variance permit to increase the maximum tower height and to reduce the minimum class 2 bicycle parking stalls provided.

## 3.0 Development Planning

When assessing the merits of a tall building projects, Staff break the design into three components: the base of the building called the podium; the middle of the building largely consisting of the towers; and the top of the buildings as it relates to Kelowna's skyline. For this project, Staff have divided the form and character comments in relation to the residential tower, the office tower, the base podium, and overall Development Variance Permit considerations. Overall, Staff are recommending support for these permits as this project should contribute positively to the revitalization and intensification of Bernard Avenue and the downtown core in general.

### 3.1 Development Permit – Podium

From a design perspective, the *size and scale* of the podium is supposed to help tall buildings fit harmoniously within the streetwall context and to define the edges of the adjacent streets. This proposed development will front on to three downtown streets, principally Bernard Avenue, which is why a strong pedestrian interface is critical. The regulation within the C7 zone limiting podium heights to a maximum of 16m before further setbacks are required are crucial design components of any high-profile tower project in order to:

1. ensure the podium is not over-bearing or too dominate;
2. has appropriate human scaled street proportions;
3. maintain a reasonable amount of sunlight (at least 5 hours);
4. includes a quality retail experience at-grade along the streets; and
5. ensure some skyviews above the podium are viewed by the pedestrian from the opposite side of the street.

A significant design challenge in downtown Kelowna is within the upper floors of the podium. Best practice in urban design is to ensure there are *active uses* (office, commercial, or residential space) integrated along the street interface to ensure direct line of sight between the building and the street to prevent the feeling of isolation on the street level as well as to provide activity and engagement.



Due to the applicant's proposal to accommodate parking in the podium without the provision for underground parking has resulted in active frontages being limited to the at-grade portion of the podium, with the parking structure exposed on floors 2 to 4. This is a concern to Planning Staff, not only from a use perspective, but also from a form and character perspective as large parking podiums generally lead to a rigid building form. When active frontages are not able to be accommodated within the podium, the parking structure should be screened using architectural and / or landscaped elements. The applicant has proposed a mitigating strategy based on architectural treatment and detailing which is outlined within their design rationale (attached to this report).

Due to the scale and massing of the podium along the length of the Bernard Ave frontage (100m from St. Paul Street to Bertram Street), Staff encouraged the applicant to utilize several sub-forms and various horizontal elements in order to provide visual diversity and intrigue. The applicant's final design is consistent with this goal and provides a different podium design for the office portion, the residential portion, and the transition between the two areas.

The ground floor includes active street related commercial and retail uses while designing an appropriately scaled residential lobby feature along Bertram Street. Large canopies are designed to provide weather protection (both rain and sun shade) along the frontages. Additional retractable shade awnings are included at their outer edge offering further shading, providing retailers the opportunity to obscure the line between indoor and outdoor space during warmer months. Both street intersections at Bernard/St. Paul and Bernard/Bertram have provided the necessary corner cut as regulated in the C7 zone and associated architectural features to enhance the sidewalk and pedestrian environments.



The applicant has added a water art feature inspired by the Okanagan’s agricultural flume systems at the corner of St. Paul Street and Bernard Avenue. All these ground floor elements will complement the City’s investment in Bernard Avenue and will enhance the city’s “Main Street”.

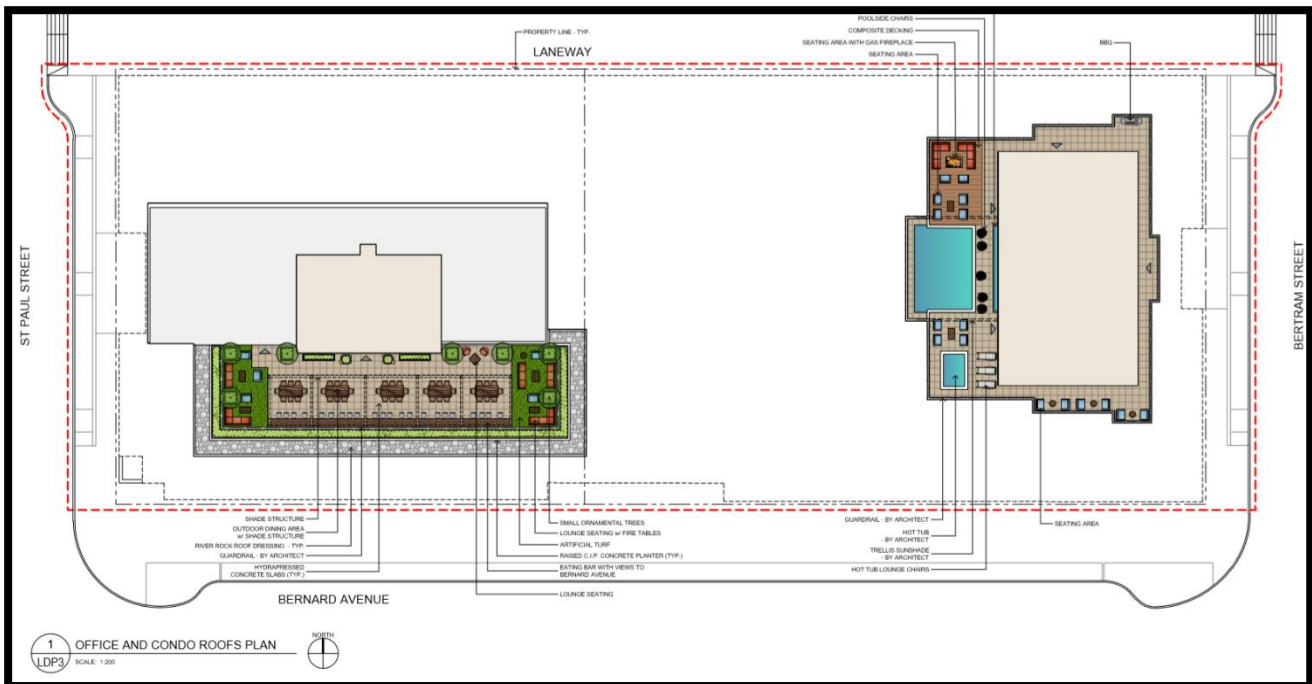
3.2 Development Permit – Residential Tower

The proposed design for the top of the residential tower will contribute positively to Kelowna’s skyline with a unique top three floor design that provides an architectural break and visual interest. The City’s main design objective is to avoid towers that appear ‘chopped off’, have flat roofs and do not have adequate articulation. The residential tower provides the necessary visual interest by providing a rooftop area designed for common amenity space and a landscaped roof. As compared to other residential towers, this design is much better as the rooftop amenity area precludes the use of the rooftop for large mechanical systems that then needs to be screened from view. Overall, the rooftop amenity area will increase the functionality and visual interest of the top of the tower when viewing it from street level and provide more livable outdoor space to the residents of the building.

The ‘middle’ of the tower contains window wall system that provides balconies and window placement at regular intervals to provide for a visually interesting tower. The tower is primarily clad with ‘white timid’ coloured concrete with ‘revere pewter’ accents. The top three floors of the tower have a much darker tone of coloured concrete to provide that visual transition between the middle of the tower and the top.

The tower and balcony placements are oriented toward the west to create a feeling that the building is ‘facing the lake’. However, the architectural treatment along Bertram Street has more vertical features but is still visually interesting meeting the necessary design guidelines for balcony and window rhythms.

The City’s design guidelines are consistent with many other Canadian cities including restricting tower floorplates for tall buildings within the range of 650 to 750 m<sup>2</sup>. This creates a slender tower form minimizing overall building mass and scale in order to mitigate the visual / physical impact and the three-dimensional



massing tall buildings have on the surrounding streets, parks, open space, and properties. The applicant's proposed tower floorplates are 650m<sup>2</sup> which is within the recommended tower floorplate area.

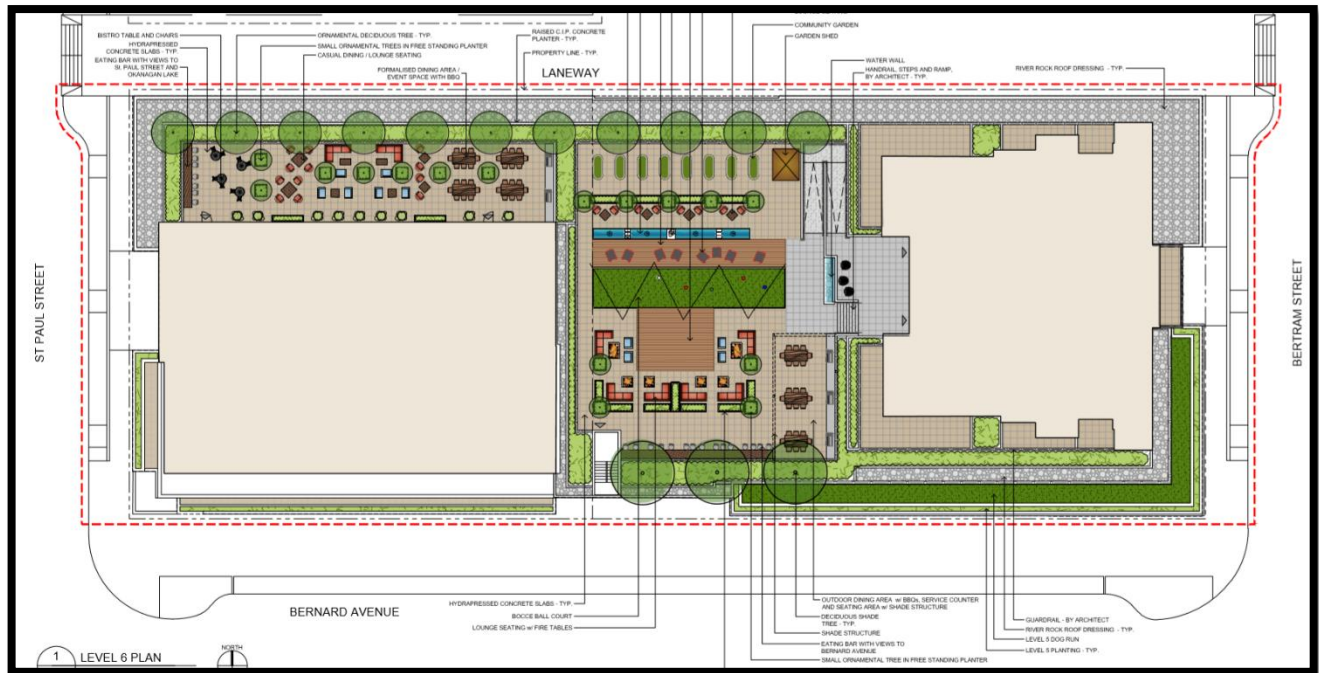
When adequately separated, slender, point form towers with compact floor plates cast smaller shadows, improve sky view, permit better views between buildings and through sites and contribute to a more attractive skyline. Staff confirmed with the applicant that the same tower footprint could be placed immediately south of the proposal on Bernard Ave and meet all the required setbacks including the 30m tower separation setback.

### 3.3 Development Permit – Office Tower

The office tower will be clustered together with the residential tower to the east and the Brooklyn tower to the north. The office tower will be of prominence along Bernard Avenue especially for pedestrians walking eastwards. The building will be constructed of a curtain wall system typical of office construction with ample glazing. The opaque glazing is proposed to have a light blue tint providing a lighter building interface as compared to the darker office glass towers of Landmark 3, 4, and 5.

There is a significant rooftop area dedicated to the building's mechanical systems. Staff have asked the applicant to provide additional detail to the screening of this mechanical equipment to ensure an aesthetically pleasing top of the building is incorporated into the design. The screening will be an extension of the curtain wall of the office consisting of opaque glazing and aluminum providing a unified look to the overall building.

The tower has an angle feature at the St. Paul/Bernard intersection to increase visual interest and increase the building's complexity. The floorplate for the office tower is relatively large in comparison to the typical residential floorplate at 890m<sup>2</sup>. The nature of office developments tends to desire larger floorplates for functional internal office space per floor. This bulkier building form can be supported in this case because the overall height of the tower is at 17 storeys, lower than the two other adjacent residential towers; and due to its location on the north side of Bernard Avenue does not present major shadowing impacts other than on the two adjacent residential towers. Overall, the office tower is an important land use objective of locating significant employment floor area within the downtown area.



### 3.4 Development Variance Permit

The proposal requires two variances to the Zoning Bylaw:

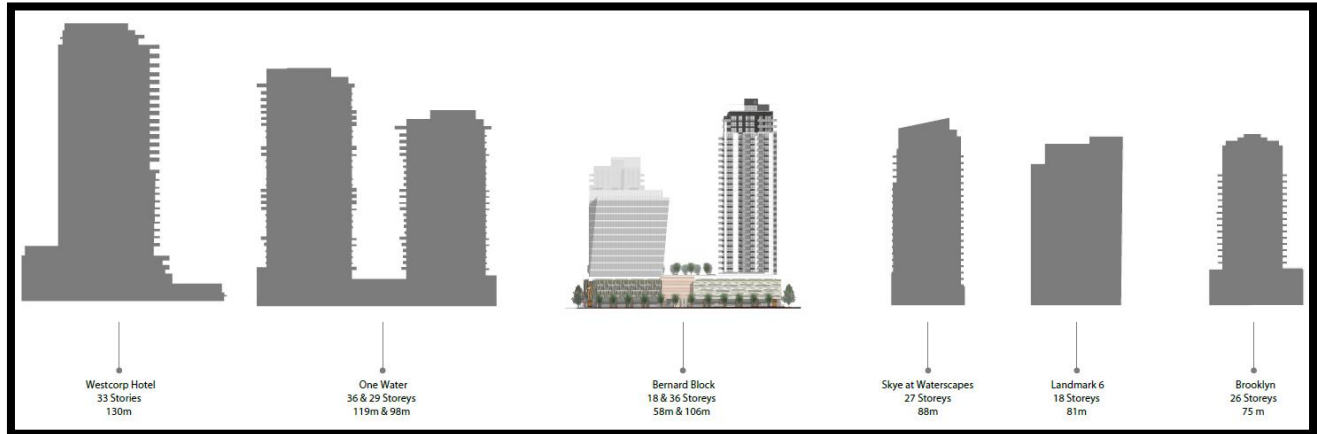
1. A variance to increase the maximum building height from 76.5m to 106m.
2. A variance to decrease the minimum Class 2 bicycle parking stalls from 74 bikes to 17 bikes.

The OCP encourages high density commercial and residential living in the downtown in order to limit growth on the periphery of the community, increase efficiency of municipal services and infrastructure, and increase downtown's vibrancy. The Official Community Plan and the Zoning Bylaw designate this site and surrounding area as the location in which the tallest buildings in the City of Kelowna are permitted. Increasing the maximum height limit on the residential tower in this circumstance can be justified because:

1. the location of the towers are well setback from the lake and are outside the cultural / historical sensitivities along the first three blocks of Bernard Avenue to Ellis Street;
2. the office tower with its larger floorplate is below the maximum height limit;
3. both towers designs meet the urban design guidelines;
4. podium heights are within the maximum outlined in the C7 zone;
5. tower floorplates are appropriate in context; and
6. all the statistics derived from the total commercial floor area, office floor area, and number of residential units are within the maximums outlined within the Zoning Bylaw including the total number of vehicular parking spaces and number of bicycle parking spaces (except short term bicycle parking).

In fact, according to the calculations which can be viewed in Section 4.3 Zoning Analysis, the overall project has excess parking relative to the other factors. The applicant chose to develop in this manner because they anticipate the demand for office parking to remain relatively strong over the short term and the anticipated transportation modal split in Kelowna not to be large enough.

This proposal was submitted prior to the parking regulations being updated; therefore, the applicant has chosen to be grandfathered into the old regulations. This results in a variance necessary in the number of short-term bicycle parking spaces provided from 74 spaces to 17 spaces. Staff requested that the applicant provide 36 spaces as that is what the new regulations would require. However, the applicant chose to focus on the long-term bicycle parking by providing 262 long term bicycle parking spaces while the new parking regulations would only require 212. Further, at Staff's request the applicant amended their plans to include End-of-Trip facilities (change rooms, showers, and storage lockers for active transportation convenience) which were not requirements of the former parking regulations.



The proposal meets almost all the new parking regulations and the main reason the applicant requested the grandfathered regulations is the provision of compact car parking stalls. There are 25 compact car sized parking spaces (2.0m wide by 3.4m in length) which represent about 5% of the overall 462 parking stalls. After a number of projects over the last 8 years (length of time that the Zoning Bylaw permitted compact car parking size) proved the unviability and large number of complaints, Staff recommended and Council concurred that compact car sized parking stalls should be eliminated. The average compact car is 1.73m to 1.82m wide and 4.11m to 4.37m long<sup>1</sup>. Due to conflict these parking stalls create and despite the applicant's disagreement, Staff are recommending that a Section 219 restrictive covenant be placed on the property limiting the use of the compact parking stalls. The restriction recommended is that the compact parking stalls be only used for the office and commercial development not the residential or the visitor stalls as the residential dwelling units are for sale and future owners should not be burdened with the use of these stalls. Further, the applicant stated that certain commuters may use motorcycles and other small vehicles. This is where the last restriction is also recommended that the use of the compact vehicle stalls must be only used by vehicles that are less than 3.4 m in length and less than 1.7m in width. This will protect any future leasee of commercial or office space from unknowingly acquiring a very restrictive parking stall.

Staff have provided an alternate recommendation does not include the addition of the restrictive covenant as requested by applicant.

#### 4.0 Proposal

##### 4.1 Background & Context

The redevelopment of "Bernard Block" provides the opportunity to extend and solidify the successful transformation and revitalization of Bernard Avenue. The previously approved development applications in

<sup>1</sup> <https://anewwayforward.org/average-car-length/>

the area include the Town Centre Mall upgrade and renovation, 'The Brooklyn' tower, and 'The Ella' tower. All those projects are under construction now.

The site has a total area of 4,116.4m<sup>2</sup> (44,310.3 ft<sup>2</sup>) and is bounded by Bernard Avenue to the south, St. Paul Street to the west, a public laneway to the north, and Bertram Street to the east. Bertram Street to the east constitutes a primary residential street, with a few single-family homes and predominantly two to four storey multifamily residential apartment buildings. It is characterized as a tree-lined street with a pleasant residential quality. A small commercial building wraps the corner to the east and continues the commercial "High Street" quality of Bernard Avenue.

St. Paul Street to the west continues with a commercial wrap of Bernard Avenue up toward the north. A commercial frontage has been continued along St. Paul Street with the first phase of the Bernard Block development ("Brooklyn" at 1471 St. Paul Street) immediately to the north, across the lane. This development is comprised of a 25-storey residential mixed-use complex, with a four storey podium along St. Paul, and a five storey podium to the rear.

Bernard Avenue in this area is primarily comprised of one to three storey commercial buildings, with retail functions at grade. The laneway to the north functions to serve garbage and loading requirements, while offering additional parking for these uses, and is proposed to maintain that principle use.

#### 4.2 Project Description

Architecturally the development has been separated into a hierarchy of discreet and contrasting forms. The form and character of these components are intended to present an elegant, clean and contemporary expression to this area of Bernard Avenue.

The applicant is seeking approval of a form and character Development Permit and a Development Variance Permit for a mixed-use project including commercial, an office tower, and a residential tower along Bernard Avenue between St. Paul Street and Bertram Street.

##### Podium

The active ground floor level has been highly articulated and further characterized by multiple recessed entries, extending the urban character of the Bernard Avenue streetscape. Numerous retail entries provide opportunities for spill-out spaces onto Bernard Avenue's generous sidewalks, attracting a variety of retail services such as food stores, boutique shops, cafés and service orientated businesses. A large canopy of high opacity provides water protection and sun shade for most of the year, while additional retractable shade awnings located at their outer edge offer further shading, providing retailers the opportunity to obscure the line between indoor and outdoor space during warmer months.

The overall design objectives for the commercial retail areas is to attract goods and services tailored to the specific needs of this mixed-use neighbourhood, in an environment that is convenient, service-oriented, pedestrian-scaled and connected to the urban lifestyles of the neighbourhood residents.

A feature 'water flume element' will be located at the southwest corner of the podium. This element is intended to be iconic in nature and artfully conceived, captivating pedestrians, and becoming a meaningful reference for an emerging new downtown "Bernard District".



### Residential Tower

The residential tower, with its stacked balconies, window elements and smaller floorplate, is intended to exaggerate its vertical expression as a contrast to its strong horizontal base. While the general intention is to attract one's attention to the top of the building, where a common and evening-lit amenity area exists for owners use, the emphasis is on creating a vertical gesture. An interesting fenestration pattern draws attention to the east façade and similarly emphasizes the building's verticality, creating interest moving westward along Bernard Avenue. The residential tower will use Guardian SNX 51/23 Low 'E' glazing with warm edge spacers and Argon gas infill, CoG SHGC 0.23.

### Office

The office building, as the lowest form in this composition of elements, uses an office floor plate size of 1,000 m<sup>2</sup> (10,000 ft<sup>2</sup>), and has a slender aspect as seen from Bernard Avenue to the west. It benefits from its own semi-private roof terraces and has direct access to both the common podium level terraces and the residential tower itself. The southern face of the office building intentionally angles back to draw attention to the important southwest corner of the podium, as well as create a more interesting contemporary form. The glazing provided will be typical of office towers consisting of fairly high reflectivity and shading coefficient for high energy performance.

### **Subject Property Map: 560 - 592 Bernard Ave**





4.3 Zoning Analysis Table

Zoning Analysis Table					
CRITERIA	C7 ZONE REQUIREMENTS		PROPOSAL		
For portion of building between 0.0 metres & 16.0 metres in height					
Front, Flanking, & Lane Setback	0.0 m		0.0 m		
For portion of building between 16.0 metres & above in height					
			Podium	Condo Tower	Office Tower
Front Yard Setbacks (Bernard Avenue)	3.0 m		n/a	6.2 m	4.2 m
Flanking Street Setbacks (Bertram Street)	3.0 m		n/a	4.2 m	60.7 m
Flanking Street Setbacks (St. Paul)	3.0 m		n/a	70.8 m	3.0 m
Lane Setbacks	3.0 m		n/a	3.2 m	12.3 m
Floorplate	1,221 m <sup>2</sup>		n/a	650 m <sup>2</sup>	890 m <sup>2</sup>
Development Regulations					
Height	Podium	Tower	Podium	Condo Tower	Office Tower
	16.0 m / approx. 4.5 stories (unless Bldg steps back)	76.5 m / approx. 26.0 storeys	16.0 m / 5 stories	106 m 34 storeys ①	62.2 m 17 storeys
Corner Cut Setback	4.5 m		4.5 m		
FAR	9.0		6.0		
Parking Regulations					
Minimum Parking Requirements – Old Regulations	421 Total Parking Stalls (257 stalls for residential units 36.7 stalls for visitors 18.6 stalls for commercial 108 stalls for office)		468 Total Parking Stalls (257 stalls for residential units 37 stalls for visitors 19 stalls for commercial 155 stalls for office)		
Ratio of Parking Stalls	Compact Size: 10% Max Medium Size: 40% Max Regular Size: 50% Min		Compact Size: 5.3% (25 stalls) Medium Size: 39.1% (183 stalls) Regular Size: 55.5% (251 stalls)		
Minimum Bicycle Parking Requirements	Class 1: 144 bikes Class 2: 74 bikes		Class 1: 262 bikes Class 2: 17 bikes ②		
Other Regulations					
Minimum commercial / lobby	Min 90%		➤ 90%		
① A variance to increase the maximum building height from 76.5 m to 106 m. ② A variance to decrease the minimum Class 2 bicycle parking stalls from 74 bikes to 17 bikes.					

**Required Parking - Old Grandfathered Regulations**

Dwelling Unit Types				Vehicular Parking							Bicycle Class 1 Long-Term			Bicycle Class 2 Short-Term			Total Bicycle Stalls
Studio	1 bed	2 bed	Total Dwelling Units	Residential Parking	Visitor Parking	Commercial Area (m <sup>2</sup> )	Commercial Parking	Office (m <sup>2</sup> )	Office Parking	Total Parking	Residential	Commercial	Total Long Term stalls	Residential	Commercial	Total Short Term stalls	
50	83	124	257	257.0	36.7	1,434.50	18.65	8248.10	107.23	419.6	128.5	19.4	147.9	25.7	58.1	83.8	231.7

**Required Parking - Current Regulations**

Dwelling Unit Types				Vehicular Parking							Bicycle Class 1 Long-Term			Bicycle Class 2 Short-Term			Total Bicycle Stalls
Studio	1 bed	2 bed	Total Dwelling Units	Residential Parking	Visitor Parking	Commercial Area (m <sup>2</sup> )	Commercial Parking	Office (m <sup>2</sup> )	Office Parking	Total Parking	Residential	Commercial	Total Long Term stalls	Residential (6 per entrance)	Commercial (6 per entrance)	Total Short Term stalls	
50	83	124	257	238.7	36.0	1,434.50	12.91	8248.10	74.23	361.8	192.8	19.4	212.1	6.0	30.0	36.0	248.1

**Bernard Block's Proposed Parking**

Dwelling Unit Types				Vehicular Parking							Bicycle Class 1 Long-Term			Bicycle Class 2 Short-Term			Total Bicycle Stalls
Studio	1 bed	2 bed	Total Dwelling Units	Residential Parking	Visitor Parking	Commercial Area (m <sup>2</sup> )	Commercial Parking	Office (m <sup>2</sup> )	Office Parking	Total Parking	Residential	Commercial	Total Long Term stalls	Residential	Commercial	Total Short Term stalls	
50	83	124	257	257.0	37.0	1,434.50	19.00	8248.10	155.00	468.0	182.0	80.0	262.0	6.0	11.0	17.0	279.0

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### **Chapter 14: Land Use Designation Massing and Height.<sup>2</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.

#### **Chapter 14: Tower Design.<sup>3</sup>**

- Design towers that are sited, shaped, and oriented along their longest axis in order to enhance the views to and through the skyline;
- Incorporate tower forms and the upper portions of buildings as integral yet distinct elements of the overall building design. Tower tops are encouraged to have trellising and roof projections that are fundamental expressions of the building structure and contain substantial landscaping;
- Evaluate tower buildings with respect to their compatibility with surrounding structures and contribution to the general skyline. Tower design should contemplate:
  - Colour, reflectivity, shape, materials, detailing, and ease of maintenance;
  - Generally, lighter-coloured buildings are preferred;
- Incorporate architecture that expresses a slender verticality, particularly in its upper elements. Design buildings greater than ten floors that are tall, slender towers rather than bulkier towers of the same floor space ratio;
- Design new buildings to take into account microclimatic effects, including shading of adjacent areas (i.e., reduce the casting of long shadows on high volume pedestrian areas) and wind tunneling;
- Integrate new developments with the established urban pattern through siting and building design by utilizing transitional structures, setbacks, landscaping, etc.;
- Enhance large, flat expanses of roof (whether actively used or not) with texture, colour, and/or landscaping where visible from above or adjacent properties;
- Enhance towers with elements such as gazebos, trellises, and pergolas providing visual interest and usability of rooftop spaces;
- Incorporate balconies into building design as outdoor rooms rather than as appendages to a building's mass. Recess balconies a minimum depth of 1m within the adjoining building face;
- Design podiums to provide an animated pedestrian environment with the use of street wall massing, articulation, and overall design. Podiums should highlight their active uses and disguise any parking or ancillary uses.

<sup>2</sup> City of Kelowna Official Community Plan, Chapter 14 Urban Design Development Permit Areas, Guidelines

<sup>3</sup> City of Kelowna Official Community Plan, Chapter 14 Urban Design Development Permit Areas, Guidelines

## 6.o Application Chronology

Date of Application Received: March 4<sup>th</sup> 2019  
Date MOTI approved Traffic Study: March 5<sup>th</sup> 2020  
Date Public Consultation Completed: April 1<sup>st</sup> 2020

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

### Attachments:

Design Rationale

Technical Comments

Attachment A: Development Engineering Memo

Draft Development Permit and Development Variance Permit