

# REPORT TO COUNCIL



**Date:** August 11, 2020

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** DVP19-0233

**Owner:** Velma Rena Feeny

**Address:** 795-797 Birch Ave

**Applicant:** Velma Rena Feeny

**Subject:** Development Variance Permit Application

**Existing OCP Designation:** EDINST – Educational / Major Institutional

**Existing Zone:** P2 – Education and Minor Institutional

## 1.0 Recommendation

THAT Council authorizes the issuance of Development Variance Permit No. DVP19-0233 for Strata Lot 1 & 2 District Lot 136 ODYD Strata Plan KAS1996 together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1, located at 795–797 Birch Avenue, Kelowna, BC;

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

**Table 8.3.6 – Required Off-Street Parking Requirements – Community, Recreational, and Culture**

To vary the required minimum parking spaces from 10 required to 3 proposed.

**Table 8.4 – Minimum Loading Required**

To vary the required minimum on-site loading spaces from 1 required to 0 spaces proposed.

## 2.0 Purpose

To vary the number of on-site parking spaces from 10 required to 3 proposed and to vary the number of loading spaces from 1 required to 0 proposed in order to accommodate a capacity expansion from 58 to 68 children for the existing child care centre operating on the subject property.

## 3.0 Development Planning

Development Planning Staff are recommending support for the proposed variances to reduce the number of required on-site parking and loading spaces. The variances are being requested in order to accommodate a

capacity expansion of an existing day care (Child Care Centre, Major) on the subject property. Staff understand that additional childcare spaces are needed in the community and the primary need for parking is with staff that can be accommodated on-site. Most of vehicular traffic to the site will be for the purposes of pickup and drop-off.

Overall, the proposal meets Kelowna's Official Community Plan (OCP) and is expected to have a very minimal impact on the surrounding neighbourhood. Should Council support the requested variances, the applicant's business license for the existing daycare will be updated to reflect the increased capacity.

#### 4.0 Proposal

##### 4.1 Background

The property has an existing duplex dwelling and two accessory buildings. Portions of the residential dwelling were converted over the years to accommodate the day care use, while retaining a portion of one side of the duplex as a residential use. Of the two accessory buildings, one remains as a garage, while the second was converted from a garage to an accessory building with a sitting room and washroom.

In 2008, the owner of the subject property who was also the operator of the existing day care on the subject site proposed to expand the day care from "a maximum of 10 children" to allow for "26 or more patrons". The subject property was zoned RU6 – Two Dwelling Housing and had a future land use designation of S2RES – Single/Two Unit Residential. As the scale of proposed day care expansion did not fit within the existing zoning, staff recommended support for an OCP Amendment, Rezoning and Development Variance Permit applications to accommodate the applicant's proposal.

The development applications were approved by Council and the subject property is now zoned P2 – Education and Minor Institutional and has a future land use designation of EDINST – Educational / Major Institutional. In addition, variances were approved to reduce the required side yard setbacks of the P2 zone which the existing buildings could not conform to.

In summary, the 2008 development applications approved the following changes:

Application	Amended	From	To
OCP08-0013	Future Land Use	S2RES – Single / Two Unit Residential	EDINST – Educational / Major Institutional
Z08-0049	Zoning	RU6 – Two Dwelling Housing	P2 – Education and Minor Institutional
DVP08-0156	Side Yard (East)	4.5 m	2.47 m
	Side Yard (West)	4.5 m	2.38 m
	Loading Spaces	3.0 spaces	1.0 spaces

Since the development applications were approved in 2008, the owner/operator has upgraded the existing duplex structure by placing fire rated walls to accommodate the expanded day care use as well as constructing an addition to the remaining residential unit.

##### 4.2 Project Description

The applicant has proposed to expand the day care's capacity to 68 children. In the fall of 2019, the applicant received approval from Interior Health for the capacity increase to 68 children. It was determined through the City's business licensing department and the City's building department that with an occupancy of over

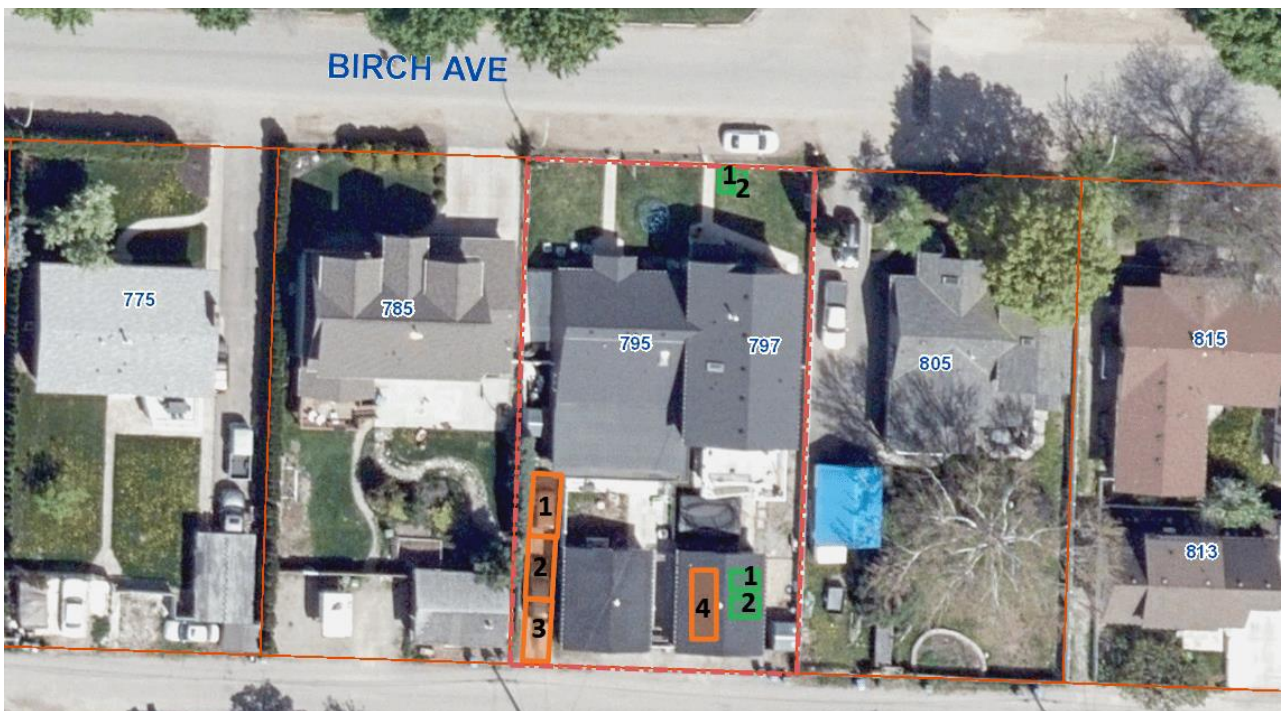
40 people in the building, a fire alarm system would need to be installed to meet Building and Fire Code requirements. The required fire alarm system has since been installed.

At this time, it was identified that the required off-street parking could no longer be provided for the existing approved day care use nor for the proposed capacity expansion. A Development Variance Permit application was submitted to reduce the required off-street parking spaces for the day care use.

Through Staff's review of the current Zoning Bylaw and the current proposed day care and residential uses on the subject property, the identified variances include:

1. reducing the required number of off-street parking spaces for the day care use from ten (10) spaces to three (3) spaces; and,
2. reducing to vary the number of on-site loading stalls from 1 required to 0 proposed. One (1) space is required for the residential use on the subject property which can be accommodated.

**Proposed Parking Layout:**



Three tandem parking spaces for the day care staff can be provided on-site off of the lane in the rear of the property, one space can be accommodated within the garage along with two required long-term bicycle parking spaces. The lane at the rear of the property can function as a drop-off/loading zone with space for three cars to parallel park in front of the accessory buildings in the rear yard without blocking through lane traffic.

There is also on-street parking space in front of the subject property on Birch Avenue which could accommodate up to four cars parallel parking for drop-off and pick-up times. In addition, Cameron Park, located across the street from the subject property, could be used as an overflow parking or drop-off/pick-up area.

The applicant did not receive any negative comments from neighbours through the neighbourhood notification process in regards to the proposed day care expansion.

4.3 Site Context

The subject property is in the South Pandosy - KLO City Sector and is located mid-block on Birch Avenue between Richter Street and Ethel Street. The property is within the permanent growth boundary and currently has a duplex and two accessory buildings and is across from Cameron Park. The property has a walk score of 60 – Somewhat Walkable, meaning some errands can be accomplished on foot.

The neighbourhood consists predominantly of infill housing comprising of between one and four units within the cities RU7 – Infill Housing zone. Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	P3 – Parks and Open Space	Cameron Park
East	Ru7 – Infill Housing	Single Detached Residential
South	Ru7 – Infill Housing	Single Detached Residential
West	Ru7 – Infill Housing	Single Detached Residential

Subject Property Map: 795-797 Birch Ave



Zoning Analysis Table		
CRITERIA	ZONING REQUIREMENTS	PROPOSAL
Parking Regulations		
Off-Street Parking – Child Care Centre, Major	10 spaces	3 spaces ❶
Off-Street Parking - Residential Security/Operator Unit	1 space	1 space
Loading	1 space	0 spaces ❷
Long Term Bike Parking	2 spaces	2 spaces
Short Term Bike Parking	2 spaces	2 spaces

① Indicates a requested variance to Table 8.3.6 of Zoning Bylaw No.8000.  
② Indicates a requested variance to Table 8.4 of Zoning Bylaw No. 8000.

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Chapter 10: Social Sustainability

*Objective 10.1 Promote social well-being and quality of life by providing facilities and services for all community members*

*Policy .1 Distribution of Community Resources.* Appropriately distribute and locate community resources (such as libraries, parks, meeting places, community policing, recreation services etc.) so that all neighbourhoods have convenient access.

## 6.0 Application Chronology

Date of Application Received: December 2, 2019

Date Public Consultation Completed: July 2, 2020

**Report prepared by:** Andrew Ferguson, Planner II

**Reviewed by:** James Moore, Urban Planning & Development Policy Manager

**Approved for Inclusion:** Terry Barton, Development Planning Department Manager

### **Attachments:**

Attachment A: Draft Development Variance Permit DVP19-0233

Schedule A: Parking Layout/Site Plan

Attachment B: Applicants Letter of Rationale