

# REPORT TO COUNCIL



**Date:** July 12, 2016

**RIM No.** 0940-93

**To:** City Manager

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

**Application:** TUP13-0002 **Owner:** Kelowna Motors Holdings Limited. Inc. No. 52192

**Address:** 278 Leon Avenue, 1620 & 1630 Water Street **Applicant:** Lynn Welder Consulting

**Subject:** Temporary Use Permit - Extension

**Existing OCP Designation:** MXR- Mixed Use Residential / Commercial

**Existing Zone:** C7 - Central Business Commercial

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## 1.0 Recommendation

THAT Council authorizes an extension of Temporary Use Permit No. TUP13-0002 to allow 'Automotive and Equipment Repair Shop use for North ½ Lot 1 & 2, Block 10, District Lot 139, ODYD, Plan 462. And South ½ Lot 1 & 2, Block 10, District Lot 139 ODYD, Plan 462, and South ½ Lot 1 & 2, Block 10, District Lot 139, ODYD, Plan 462, and Lot 3 Block 10, District Lot 139, ODYD, Plan 462, located at 1620 & 1630 Water Street and 278 Leon Avenue, Kelowna, BC as shown on Map 'A' attached to the Report from Community Planning Department for a three (3) year period commencing from Council approval subject to the following conditions:

- a) No expansion of the existing facility (or any additional buildings/structures) or parking is permitted during the term of the Temporary Use Permit.
- b) The Temporary Use Permit will expire on July 12, 2019.

AND THAT Council direct staff to not accept any further extension requests.

## 2.0 Purpose

To consider an extension of a Temporary Use Permit (TUC13-0002) that expires on July 16, 2016. The TUP extension would allow for the continued operation of an Automotive and Equipment Repair Shop use on the subject property for a maximum of three years.

## 3.0 Community Planning

The proposed extension of the Temporary Use Permit is a means to facilitate the continued automotive use operation on the parcel and avoid having unoccupied buildings at a primary entrance to the Downtown Urban Centre. The property is zoned C7 - Central Business Commercial

and the Official Community Plan (OCP) Future Land Use is MXR - Mixed Use (Residential/Commercial). Automotive uses including 'Automotive and Equipment Repair Shop' are not permitted in the C7 zone and are inconsistent with the OCP's Future Land Use.

The premises have been used for automotive purposes since 1949, however there was a lapse in the use and therefore the non-conforming use privileges have lapsed. By allowing the 'Automotive & Equipment Repair Shop' use to continue for an additional three years, it will maintain activity on the parcels. If Council chooses to approve the TUP extension, it will expire in 2019. The property owner's intention is to sell the subject properties to investors who will determine the best use of these parcels for the long term.

The 'Automotive and Equipment Repair Shop' use is a permitted use in C10 - Service Commercial zone. The purpose of this zone is to designate and preserve land for a mix of commercial uses, including vehicular oriented areas, not provided for in other zones. As the preferred location for this zone is typically outside of the Urban Centre and on major roads, permanently approving this use on the subject property would run counter to the OCP's long range plans for the redevelopment of this key area. Staff would not be supportive of permanently rezoning this parcel, but are supportive of extending the Temporary Use Permit as an interim solution.

## 4.0 Proposal

### 4.1 Background

The 'Automotive & Equipment Repair Shop' use has been active on the properties since 1949, with one exception. In 2008, the automotive shop that was located on the parcel vacated the premises, as the property was for sale. The deal was not completed and another tenant which conformed to the C7 - Central Business Commercial uses relocated to the subject site. That business was unable to continue and vacated the site. The previous tenant then had the opportunity to return to the premises and through the TUP was able to temporarily legalize the use. The intention of applying for a three-year extension application was initially raised in the original TUP application.

### 4.2 Project Description

The applicant is seeking a three-year extension to the current Temporary Use Permit (TUP13-0002) in order to allow the 'Automotive & Equipment Repair Shop' use to remain on the subject parcels. As stipulated in the Local Government Act, Part 14, Division 8, Subsection 497 (2) *A person to whom a temporary use permit has been issued may apply to have the permit renewed, subject to the restriction that a temporary use permit may be renewed only once.*

No site changes are required for the extension and the building had received substantial upgrades by the previous tenants. The proposal does not show any alteration or improvements to the existing building. The business will continue to function as-is for the term of the TUP extension.

### 4.3 Site Context

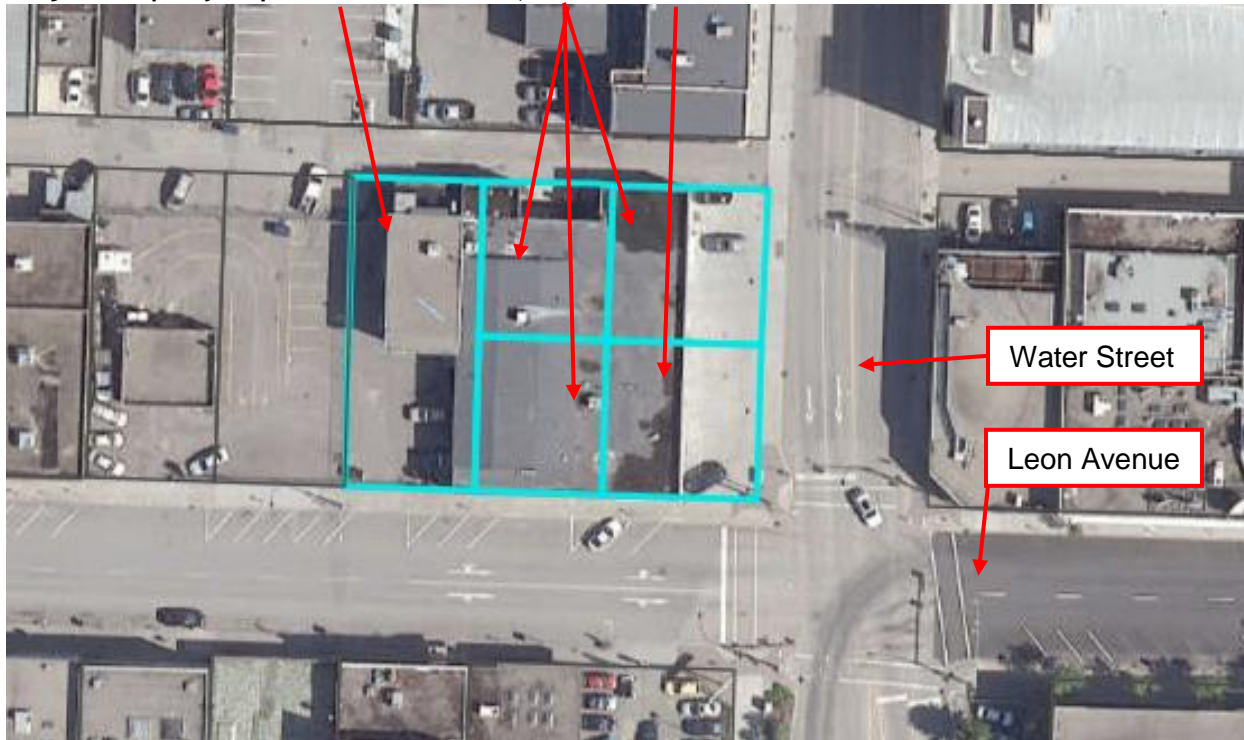
The subject properties are located on the west side of Water Street one block north of Harvey Avenue. Three of the five parcels front onto Leon Avenue.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C7 - Central Business Commercial	Fire Department
East	C7 - Central Business Commercial	Office
South	C7 - Central Business Commercial	Auto Sales

West	C7 - Central Business Commercial	Auto Sales
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Subject Property Map: 278 Leon Avenue, 1630 &amp; 1620 Water Street



## 4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	C7 ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Minimum Lot Area	200 m <sup>2</sup>	1783.15 m <sup>2</sup>
Minimum Lot Width	6.0 m	36.57 m
Minimum Lot Depth	30 m	48.76 m
Development Regulations		
Maximum Height	44 m	10 m
Minimum Front Yard	0.0 m	9.2 m
Minimum Side Yard (south)	0.0 m	0.0 m
Minimum Side Yard (north)	0.0 m	0.0 m
Minimum Rear Yard	0.0 m	5.21 m
Other Regulations		
Floor Area Ratio	9.0	0.68
Minimum Parking Spaces	1.3 stalls / 100 m <sup>2</sup> GFA = 16 spaces required	16 spaces provided

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Development Process

**Retention of Commercial Land<sup>1</sup>** In order to ensure that the City's commercial land supply is not eroded, where the OCP Bylaw 10500 indicated a commercial land use designation for the property, the expectation would be that there be no net loss of commercial space on the site as a result of the redevelopment to include other uses.

**Downtown.<sup>2</sup>** Recognize that a unique, attractive, thriving and livable downtown is strategically important to Kelowna's overall prosperity and success. Towards this end, the City will plan and manage the Downtown as a single and special entity and will take a proactive, comprehensive, integrated and collaborative approach towards providing services and infrastructure, delivering programs, and developing a supportive regulatory and financial environment.

**Temporary Use Permits.<sup>3</sup>** The temporary use designation is intended to apply to operations that are temporary in nature and the designation does not itself permit specific uses on the designated sites. Within these areas, Council may, by resolution, issue a TUP and specify the conditions under which the temporary use be carried on. Upon expiration of a TUP, the permitted uses revert to those outlined in the City of Kelowna Zoning Bylaw 8000.

## 6.0 Technical Comments

No technical concerns were raised.

## 7.0 Application Chronology

Date of Application Received:	April 18, 2013
Date TUP13-0002 Expires:	July 16, 2016
Date of Renewal Application Received:	February 11, 2016

Report prepared by:

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Lydia Korolchuk, Planner

Reviewed by:

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Terry Barton, Urban Planning Manager

Approved for Inclusion:

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Ryan Smith, Community Planning Department Manager

#### Attachments:

Map 'A'

Site Plan

Context/Site Photos

<sup>1</sup> City of Kelowna Official Community Plan, Objective 5.25.2 (Development Process Chapter.)

<sup>2</sup> City of Kelowna Official Community Plan, Objective 8.9.2 Portray a positive image of Kelowna (Economic Development Chapter).

<sup>3</sup> City of Kelowna Official Community Plan, Objective 4.9 (Future Land Use Chapter).