

# REPORT TO COUNCIL



**Date:** June 22, 2021

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** DP21-0014 & DVP21-0015      **Owner:** Aqua Resort LTD., Inc.No. BC0796165

**Address:** 3838 Capozzi Rd.      **Applicant:** Michael Bacon; Aqua Resort Ltd.

**Subject:** Development Permit and Development Variance Permit Application

**Existing OCP Designation:** MXT – Mixed Use Tourist Commercial

**Existing Zone:** C9 – Tourist Commercial

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## 1.0 Recommendation

THAT Council authorizes the issuance of Development Permit No. DP21-0014 for Lot A Section 1 Township 25 ODYD Plan EPP92691, located at 3838 Capozzi Road, 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 authorizes the issuance of Development Variance Permit No. DVP21-0015 for Lot A Section 1 Township 25 ODYD Plan EPP92691, located at 3838 Capozzi Road, Kelowna, BC;

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

**Section 14.9.5(c): C9 – Tourist Commercial Development Regulations**

To vary the required minimum front yard from 6.0m permitted to 0.0m proposed.

**Section 14.9.5(d): C9 – Tourist Commercial Development Regulations**

To vary the required minimum side yard from a flanking street from 4.5 m permitted to 0.0m proposed (Truswell Rd.).

**Section 14.9.5(d): C9 – Tourist Commercial Development Regulations**

To vary the required minimum side yard from 3.0m permitted to 0.0m proposed (Cook Rd. Boat Launch).

**Section 8.2.10: Parking & Loading, Off-Street Parking Regulations, Numbers of Spaces**

To vary the required minimum number of off-street parking spaces for Phase I of the project from 249 required to 233 proposed.

**Section 14.9.6(f): C9 – Tourist Commercial Other Regulations**

To vary the maximum height for boat storage from 6m and 1 tier of storage permitted to 20m and 4 tiers of storage proposed.

**Section 14.9.5(b): C9 – Tourist Commercial Development Regulations**

To vary the maximum height from 22.0m or 6 storeys permitted to 42m and 13 storeys; 46m and 15 storeys; and 54m and 17 storeys proposed.

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

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

**2.0 Purpose**

To consider a Development Permit for the form and character of a mixed-use residential and commercial project with variances to front yard setback, side yard setbacks, required parking stalls for Phase I of the project; boat storage building height; and residential building height.

**3.0 Development Planning**

Development Planning supports the Development Permit for the form and character of the resort development, and also supports the proposed variances.

**Design**

Beginning with the residential buildings, each achieves a lower-profile nearer the public beachfront and lake, and steps back as it rises in height and recedes from these areas. This design helps minimize shadowing on the public realm and beach areas as much as possible given the height and bulk of the buildings (see Shadow Study – Attachment F). The residential buildings also display a degree of articulation and visual interest and makes use of quality materials—including extensive glazing (windows) that should make for an attractive development.

Active uses at grade flank much of the development. Beginning at the most northerly point of the site, ground-oriented townhouses are found adjacent the public boardwalk. Moving west, the townhouses give way to a ground-level restaurant before returning to townhouses at the northwest corner of the site (see Figure 1). The ground-oriented townhouses follow the boardwalk as it turns the corner heading south to connect with Capozzi Rd. (see Figure 2). The active uses at grade serve to provide visual-interest at a human

scale for the adjacent public boardwalk—and also add 'eyes' on-the-boardwalk to contribute a sense of safety.

Figure 1. Active Uses Adjacent Boardwalk at North

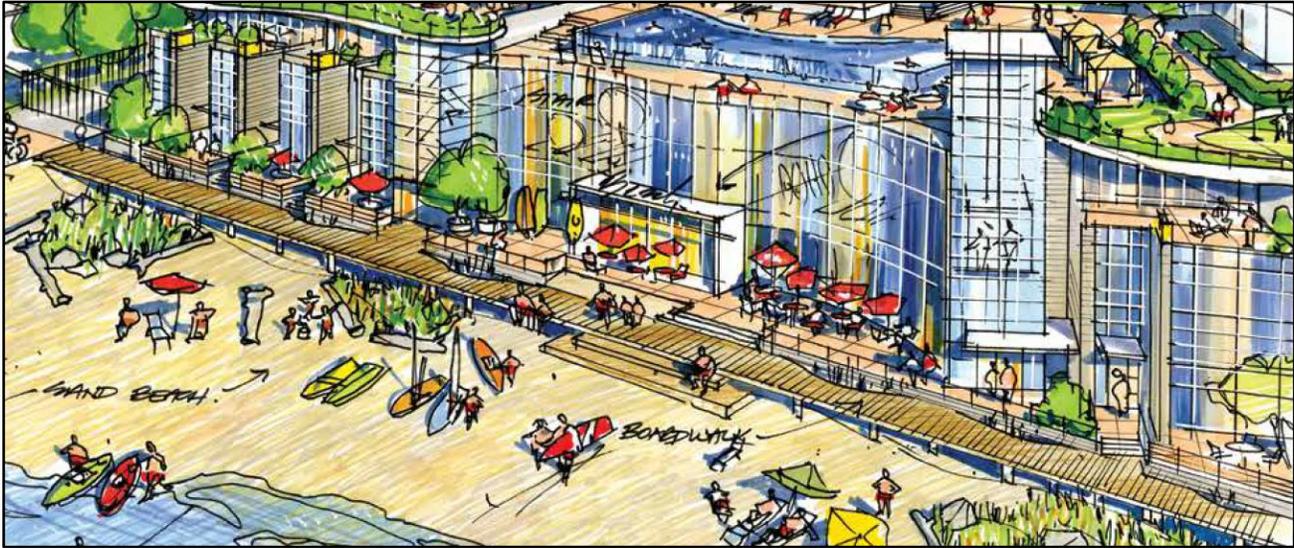


Figure 2. Townhouses Adjacent Boardwalk at West



Continuing south from the boardwalk (and across the private access road extending off Capozzi Rd.), active uses line the remainder of the parkade structure. Specifically, ground-oriented townhouses are found here, interrupted only by a commercial unit at the corner of Capozzi Rd. and Truswell Rd. (see Figures 3 & 4).

**Figure 3. Townhouses and Café at Corner of Capozzi Rd. and Truswell Rd.**



**Figure 4. Townhouses Adjacent Truswell Rd.**



Coming to the boat storage building at the southeast corner of the site, this building is surrounded by commercial retail units (CRUs) on both the south and east sides facing the public realm (see Figure 5). Once again, the active uses at grade serve to provide visual-interest while also adding a sense of safety to the public realm.

**Figure 5. Commercial Retail Units on the South and East Side of Boat Storage Building**



The boat club building at the northeast corner of the site is set back from Cook Rd., and a surface parking area is located between the street and the building. Though not an optimal design solution in most situations, the surface parking area is lined with a low brick wall and landscaping, as well as a trellis. These features form a kind of streetwall against the sidewalk, helping to define the public realm and also serving to screen the parking area from public view (see Figure 6).

**Figure 6. Boat Club Building with Low Brick Wall, Landscaping and Trellis at NE Corner of Site**



Moving north from here, a mural is proposed for the east face of the parkade, providing an artistic element that helps liven this facade.

Remaining at street-level, landscaping and street furniture are provided at the corner of Capozzi Rd. and Truswell Rd., as well as at the corner of Truswell Rd. and Cook Rd., activating and greening these publicly accessible areas (see Figures 3 & 5).

With regards to amenities and private open space, the roof of the parkade is to be landscaped and used as a large amenity space featuring a recreation centre and pool (see Figure 7). In addition, balconies are provided on the residential units throughout.

**Figure 7. Landscaped Amenity Space on Roof of Parkade**



Altogether, the proposed development is substantially consistent with the Comprehensive Development Area Design Guidelines.

### **Variations 1-3: Setbacks**

The first two variations are to reduce the setbacks for the CRUs facing Cook Rd. and Truswell Rd. (see Figure 5). Specifically, the setbacks are reduced to zero lot line from a required minimum of 6m and 4.5m respectively. It is common, and indeed desirable, for CRUs to have a zero lot line in walkable areas as storefronts provide visual-interest to passers-by, while also facilitating commerce. In this case, the storefronts also serve to obscure the view of the larger boat storage building from the sidewalk and street. As such, these variations are considered supportable.

The third variation is to reduce the setback for the side yard facing the public boat launch (for the boat club building and adjoining trellis) from 3m required to 0m proposed. In this case, the zero lot line helps frame the public realm while simultaneously screening the surface parking area. Also, the reduction in setback is up against the public boat launch, and, as such, does not pose a threat to privacy. This being the case, this variation is supportable.

### **Variance 4: Minimum Required Parking Stalls for Phase I of the Development**

Phase I of the project is to include the 15 storey residential building and parking podium at the south end of the site, the boat storage building, and the boat club building (see Phasing Plan – Attachment D). Altogether, this phase of the development requires 249 parking stalls. However, only 233 parking stalls are to be constructed in Phase I.

The deficiency in parking is to be made up for in Phase II of the development. Specifically, the first two phases of the development together require 428 parking stalls, while 470 stalls are to be constructed by the end of Phase II (including 237 stalls in Phase II itself). At full build-out 606 stalls are to be provided—27 greater than the minimum requirement of 579 for the entire project.

Since the parking deficiency in Phase I is to be made up for by Phase II, and is relatively minor in nature, the variance is considered acceptable.

#### **Variance 5: Height of Boat Storage Building**

The fifth variance is for the height of the boat storage building. Specifically, the boat storage building is to be varied from 6m and 1 level permitted to 20m and 4 levels proposed. In this case, several measures are being implemented to improve the aesthetic of the boat storage building and minimize the perceived massing. To begin with, the boat storage building is to be lined with CRUs. The CRUs provide visual interest in their own right, and also draw attention away from and obscure the boat storage building setback and behind them (see Figure 5). In addition, large portions of the boat storage building are covered in windows providing a visual connection between the inner happenings in the building and the public realm. Given the measures taken to beautify and reduce the perceived massing of the boat storage building, the proposed height is considered supportable.

#### **Variance 6: Height of Residential Buildings**

The sixth variance is for the height of the residential buildings. The height limit for the Cg zone is set at 6 storeys, whereas the three proposed buildings are 13, 15 and 17 storeys in height.

It is acknowledged that the proposed height of all three buildings is well over the height limit of the zone. In connection with this, the proposed height is also well over that considered in the OCP, as the site is outside of and removed from any urban centre—the nearest urban centre being South Pandosy, over 1km to the north, where the tallest building is 14 storeys in height (Sopa). Also, with regards to existing development in the surrounding area, all such development is between 1-6 storeys in height. As such, the proposed development threatens to be out of context with its surroundings.

All that said, there are several factors that converge to make the height variance supportable in this instance. To begin with, this is a very large parcel of land ( $\approx 1.9$ ha) within a larger area that has been designated for tourist commercial development to service the tourism market. In addition, this is one of the few areas in the city that has the tourist commercial designation, and the only such area adjacent the lake. Given this is the case, the site is in an area that is suitable for a significant resort development.

Second, despite requiring a height variance, the proposed density is within the limit for the Cg zone. Also, though a more uniform massing of 6 storeys could have been achieved over the entire site, it is thought that breaking up the massing—and especially in a stepped-approach, as is done with the residential buildings—makes for a more visually-appealing design. In addition, the orientation of the site, and the configuration of the buildings is such that shadowing of adjacent properties is minimized as much as possible given the height and bulk of the buildings (see Shadow Study – Attachment F). Still, as mentioned above, it must be acknowledged that the height of the proposal does stand to be out of context with its immediate surroundings.

Continuing on, though some residential properties remain in the area, the apartment hotel complex is more than 120m from the nearest area designated to remain residential (to the south across Mission Creek), and

150m from the next closest area designated to remain residential (to the east across Lakeshore Rd.)—thus the impact on nearby residential areas is also largely minimized. That said, it must be acknowledged that the height and bulk of the buildings will obscure views of the lake and mountains for many properties in the wider area.

Finally, however, the developer has included numerous contributions to the public realm to help mitigate against the impacts of the project. These contributions include the following:

- A 1.2 acre waterfront park dedication to the north of the site;
- Environmental restoration and waterfront park development, including a public waterfront boardwalk;
- Dedication and construction of a pedestrian walkway connecting Capozzi Rd. to the new waterfront park and boardwalk;
- Dedication and construction of the Cook Rd. extension to improve traffic flow in the area;
- Re-development and re-configuration of the Cook Rd. parking lot and public boat launch to improve public access to the lake;
- New publicly accessible washrooms serving users of the Cook Road Boat Launch and the general public.

Given all these factors, Staff deem the proposed height variance to be acceptable in this instance.

#### **4.0 Proposal**

##### **4.1 Background**

Mission Group's efforts to re-develop the site as a resort development date back to 2008. The original proposal included 3 residential buildings at 13, 16 and 19 storeys, with a marina rather than a boat storage building.

More recently, from 2016-2018, Mission Group successfully consolidated 6 lots to form the current site and rezoned the lot to C9 – Tourist Commercial. Also in 2018, Mission Group was issued both a Development Permit and Development Variance Permit for the site (DP16-0260 & DVP16-0261). However, that Development Permit has now expired and the applicant has returned with a new development application.

The current proposal is much the same as that proposed in 2018, with a few changes. The three most significant changes are: 1) The proposal now contains 344 units, compared with 319 units in the last proposal; 2) Building 1 (15 storeys) has a slightly different form with less setbacks than the previous; and 3) the boat club building at the northeast corner of the site has been setback further from Cook Rd., and a surface parking area has been placed between the building and the street. To establish somewhat of a streetwall in this location—and block the surface parking area from public view—a low brick wall with landscaping and a trellis has been introduced.

##### **4.2 Project Description**

The applicant proposes a resort development to include the following:

An apartment hotel complex consisting of three residential buildings of 13, 15 and 17 storeys sitting atop a 4 storey parkade podium. The roof of the parkade podium is to be landscaped and used as a large amenity space featuring a pool and recreation centre. Also, the parkade podium is to be lined with ground-oriented townhouses, as well as a lakeside restaurant to the north, and a cafe at the corner of Capozzi Rd. and Truswell Rd.

Adjacent the apartment hotel complex is a 4-level boat storage building lined with CRUs at grade on both the south and east sides facing the public realm. The boat storage building has direct access to a private boat launch to be located at the most northerly point of the site, directly beside the public boat launch to the northeast.

At the northeast corner of the site, a boat club building is to be setback from Cook Rd. with a surface parking area situated between the street and the building. The parking area itself is to be lined with a low brick wall and landscaping, as well as a trellis. The boat club building will also contain a publicly accessible washroom.

The developer has dedicated land to the City along the north and northwest of the site. In this location a publicly accessible boardwalk is to provide public access from Capozzi Rd. north to the beach, then extending east along the lakefront. The boardwalk connects with the waterfront walkway that extends all the way from the Eldorado Hotel (just to the northeast of the site) to Rotary Beach Park further northeast. A public walkway is also to be constructed to the northeast of the site providing access from the boardwalk back to Cook Rd.

The project is to be built out in 3 phases (see Phasing Plan – Attachment D).

4.3 Site Context

The property is in the South Pandosy – KLO Sector adjacent the lake and just north of Mission Creek. The Cook Road Boat Launch is immediately to the northeast. The existing Cook Rd. is to be extended south and will run east of the site. The site is also flanked by Truswell Rd. to the south and has access from Capozzi Rd. to the west. The property is within a larger area designated for tourist commercial use, and numerous tourist commercial developments are found nearby—including the Eldorado Hotel and Manteo Resort just to the northeast, and Walnut Grove Motel to the south.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	P1 – Major Institutional	Cook Road Boat Launch
East	P1 – Major Institutional	Cook Road Boat Launch Parking Area
South	C9 – Tourist Commercial	Motel
West	RU1 – Large Lot Housing	Single Family Home

Subject Property Map: 3838 Capozzi Rd.



4.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	C9 ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Min. Lot Area	1800m <sup>2</sup>	24,962m <sup>2</sup> (based on legal survey of final property condition)
Min. Lot Width	30.0m	110m
Min. Lot Depth	35.0m	150m
Development Regulations		
Max. Floor Area Ratio	1.5	1.47
Max. Height	22.0m or 6 storeys	42m and 13 storeys; 46m and 15 storeys; 54m and 17 storeys ❶
Max. Height Boat Storage	6m and 1 Level	20m and 4 Levels ❷
Min. Front Yard	6.0m	0.0m ❸

Min. Side Yard (south – Truswell Rd.)	4.5m (from flanking street)	0.0m ④
Min. Side Yard (west)	3.0m	4.0m
Min. Side Yard (northeast – Cook Rd. Boat Launch)	3.0m	0.0m ⑤
Min. Rear Yard	4.5m	>6m
<b>Other Regulations</b>		
Min. Parking Requirements	Phase I: 249 Phase II: 179 (428 inclusive) Phase III: 151 (579 inclusive) Total: 579	Phase I: 233 ⑥ Phase II: 237 (470 inclusive) Phase III: 136 (606 inclusive) Total: 606
Min. Bicycle Parking	271	374
<p>① Indicates a requested variance to building height.                  ② Indicates a requested variance to boat storage height.                  ③ Indicates a requested variance to minimum front yard setback.                  ④ Indicates a requested variance to minimum side yard setback (from flanking street).                  ⑤ Indicates a requested variance to minimum side yard setback.                  ⑥ Indicates a requested variance to minimum required parking stalls for Phase I of development.</p>		

**5.0 Current Development Policies**

5.1 Kelowna Official Community Plan (OCP)

Chapter 14: Urban Design DP Guidelines

A. *Comprehensive Development Permit Area Design Guidelines*

OBJECTIVES

- Convey a strong sense of authenticity through urban design that is distinctive for Kelowna;
- Promote a high urban design standard and quality of construction for future development that is coordinated with existing structures;
- Integrate new development with existing site conditions and preserve the character amenities of the surrounding area;
- Promote interesting, pedestrian friendly streetscape design and pedestrian linkages;
- Provide for a scale and massing of commercial buildings that promotes a safe, enjoyable living, pedestrian, working, shopping and service experience;
- Incorporate architectural features and detailing of buildings and landscapes that define an area’s character;
- Protect and restore the urban ecology (i.e. architectural and site consideration with respect to the ecological impact on urban design).

## 6.o Application Chronology

Date of Application Accepted: Jan. 25, 2021  
Date Public Consultation Completed: March 29, 2021\*

\*The public consultation process included a mail-out package sent to nearby residents, a website, and an online virtual open-house (see Attachment C – Public Consultation Description & Mailout).

**Report prepared by:** A.D. Thibeault, Planner II

**Reviewed by:** Jocelyn Black, Urban Planning Manager

**Reviewed by:** Terry Barton, Development Planning Department Manager

**Approved for Inclusion:** Ryan Smith, Divisional Director, Planning & Development Services

### **Attachments:**

Attachment A: Draft Development Permit and Development Variance Permit DP21-0014 & DVP21-0015

Schedule A: Site Plan and Parkade Plan

Schedule B: Elevations

Schedule C: Landscape Plan and Estimate

Attachment B: Applicant Rationale

Attachment C: Public Consultation Description & Mailout

Attachment D: Phasing Plan

Attachment E: Renders

Attachment F: Shadow Study