

# REPORT TO COUNCIL



**Date:** March 1<sup>st</sup>, 2022

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** DVP21-0271      **Owner:** Henryk & Bozena Wanczyk

**Address:** 114 Lake Avenue      **Applicant:** Urban Options Planning Corp.

**Subject:** Development Variance Permit Application

**Existing OCP Designation:** C-NHD – Core Area Neighbourhood, NAT – Natural Areas, PARK - Parks

**Existing Zone:** RU1 – Large Lot Housing

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## 1.0 Recommendation

THAT Council NOT authorize the issuance of Development Variance Permit No. DVP21-0271 for Lot A District Lot 14 ODYD Plan 6424, located at 114 Lake Avenue, Kelowna, BC.

## 2.0 Purpose

To consider a Staff recommendation to NOT issue a Development Variance Permit to vary the required short term rental parking spaces from 1 stall required to 0 stalls proposed on the subject property.

## 3.0 Development Planning

Development Planning do not support the proposed Development Variance Permit application to vary the required short-term rental (STR) parking. Due to the location of the dwelling and the legal non-conforming setbacks, it is not possible to provide on-site parking for the proposed STR. There is limited parking in the surrounding area, as Lake Avenue does not allow any street parking and the beach access parking lot is limited to hours of operation and time.

As part of the original STR bylaw amendments that were adopted in 2019, Staff wanted to be ensured all parking could be provided on-site to avoid any conflicts with the neighbourhood. Required on-site parking is consistent with secondary suites and any new residential building. Overall, Staff are not supportive of the proposed variance because the proposal doesn't meet the intent of the short-term rental parking regulations.

## 4.0 Proposal

### 4.1 Background

The subject property has had several Building Permits and alterations over the past several decades. The first Building Permit was approved in 1954 to allow for the construction of a single-family dwelling along Mill Creek. The owners applied for a Building Permit, which was denied by Staff, however, it was brought to the Board of Variance and was eventually approved. In 1989 the home was destroyed by a fire, and the owners brought new variances to the Board of Variance, which included the reduction of the front yard setback from 6.0m to 3.35m and the rear yard setback from 4.5m to 1.52m. This was approved by the Board and the home was constructed in 1990. Today the home remains with the approved legal non-conformities. The owners had a previous bed and breakfast license that was approved in 2006 and 2011, but eventually was not renewed.

On February 25, 2019, Staff brought forward a Text Amendment Application (TA19-0007) to implement new amendments for short-term rental (STR) accommodation in Kelowna. The regulations were set up to balance the desire to allow STRs but also protect long-term rentals. As part of this amendment, Staff also implemented minimum parking requirements, which includes one additional stall for 1-2 bedrooms and two stalls for 3 bedrooms. Following the adoption of the STR bylaw, the owners of the subject property applied for a Business License for a STR in October 2020 and November 2021 but were denied to due insufficient parking.

The original proposal was for a Development Variance Permit to vary the front yard setback for an additional parking space in the front of the property. This would have added a third parking space in tandem along the street frontage. Following the circulation period, there were several concerns that were raised by internal departments (Development Planning, Development Engineering, Transportation, Operations, and the Fire Department) on the safety and functionality of the proposed space. The space would have created a potential conflict with the users of sidewalk (including the future multi-use pathway), driveway width, emergency access/egress and the functionality of parking configuration. Due to these concerns it was not possible for Staff to bring the application forward and recommended that the applicant move forward with zero stalls, which would keep the legal non-conformity on-site.

4.2 Project Description

The proposed Development Variance Permit Application is to allow for zero parking stalls for a proposed Short-Term Rental Use. The property was constructed in 1990 with several approved variances, making on-site parking limited. The property currently has two legal non-conforming parking spaces in the front yard setback, which are for the principal dwelling. An approved variance would allow the property owners to obtain a Business License for a two-bedroom short-term rental.

4.3 Site Context

The subject property is in the Central City OCP Sector, and the surrounding area is primarily zoned RU1 – Large Lot Housing, RU1c – Large Lot Housing with Carriage House, P3 – Parks and Open Space and W1 – Recreational Water Use. The property borders Mill Creek to the North and the Lake Avenue Beach Access to the Southwest. The surrounding Future Land Use Designation is a mix of Core Area Neighbourhood, Natural Area and Park.

Specifically, adjacent land uses are as follows:

| Orientation | Zoning                                       | Land Use                                |
|-------------|--|---|
| North       | P3 – Parks and Open Space                    | Mill Creek                              |
| East        | RU1c – Large Lot Housing with Carriage House | Single-Family Dwelling & Carriage House |
| South       | RU1 – Large Lot Housing                      | Single-Family Dwelling                  |
| West        | W1 – Recreational Water Use                  | Okanagan Lake                           |

**Subject Property Map: 114 Lake Ave**



**4.4 Zoning Analysis Table**

| Zoning Analysis Table   |                                   |                                      |
|---|-----------------------------------|--------------------------------------|
| CRITERIA  | RU <sub>1</sub> ZONE REQUIREMENTS | PROPOSAL                             |
| Existing Lot/Subdivision Regulations  |                                   |                                      |
| Min. Lot Area   | 550m <sup>2</sup>                 | 384.8m <sup>2</sup>                  |
| Min. Lot Width  | 16.5m                             | 41.19m                               |
| Min. Lot Depth  | 30.0m                             | 18.07m                               |
| Development Regulations   |                                   |                                      |
| Max. Site Coverage (buildings)  | 40%                               | 51.4%                                |
| Max. Site Coverage (buildings, parking, driveways)  | 50%                               | 66.3%                                |
| Max. Height   | 2.5 storeys                       | 2 storeys                            |
| Min. Front Yard   | 4.5m                              | 4.33m                                |
| Min. Side Yard (East)   | 2.3m                              | 2.42m                                |
| Min. Rear Yard  | 7.5m                              | 1.52m                                |
| Other Regulations   |                                   |                                      |
| Min. Parking Requirements   | 2                                 | 2                                    |
| Min. Short Term Rental Stalls   | 1                                 | 0 <span style="color: red;">❶</span> |
| <span style="color: red;">❶</span> Indicates a requested variance to Table 8.3.1.1 – Residential Parking Requirements |                                   |                                      |

**5.0 Application Chronology**

Date of Application Received: December 9<sup>th</sup>, 2021  
 Date Public Consultation Completed: January 14<sup>th</sup>, 2022

**6.o Alternate Recommendation**

THAT Council authorizes the issuance of Development Variance Permit No. DVP21-0271 for Lot A District Lot 14 ODYD Plan 6424, located at 114 Lake Ave, Kelowna, BC;

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

**Section 8: Parking and Loading, Table 8.3.1.1 - Residential Parking**

To vary the required two-bedroom short-term rental parking from 1 stall required to 0 stalls proposed.

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

**Report prepared by:** Tyler Caswell, Planner

**Reviewed by:** Dean Strachan, Community Planning & Development 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 DVP21-0271

Attachment B: Applicant's Rationale

Schedule A: Site Plan