

Development Variance Permit

DVP21-0271



This permit relates to land in the City of Kelowna municipally known as

114 Lake Avenue

and legally known as

Lot A District Lot 14 ODYD Plan 6424

and permits the land to be used for the following development:

RU1 – Large Lot Housing

The present owner and any subsequent owner of the above described land must comply with any attached terms and conditions.

Date of Council Decision March 1st, 2022

Decision By: COUNCIL

Existing Zone: RU1 – Large Lot Housing

Future Land Use Designation: C-NHD – Core Area Neighbourhood / NAT – Natural Areas / PARK - Parks

This is NOT a Building Permit.

In addition to your Development Permit, a Building Permit may be required prior to any work commencing. For further information, contact the City of Kelowna, Development Services Branch.

NOTICE

This permit does not relieve the owner or the owner's authorized agent from full compliance with the requirements of any federal, provincial or other municipal legislation, or the terms and conditions of any easement, covenant, building scheme or agreement affecting the building or land.

Owner: Henryk & Bozena Wanczyk

Applicant: Urban Options Planning Corp.


Terry Barton
Development Planning Department Manager
Planning & Development Services

Date

ATTACHMENT A

This forms part of application
DVP21-0271

Planner Initials TC


City of Kelowna
DEVELOPMENT PLANNING

1. SCOPE OF APPROVAL

This Development Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Development Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this permit, noted in the Terms and Conditions below.

The issuance of a permit limits the permit holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific variances have been authorized by the Development Permit. No implied variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

2. CONDITIONS OF APPROVAL

That variances to the following section of the Zoning Bylaw No. 8000 be granted in accordance with Schedule "A":

Table 8.3.1.1

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

This Development Permit is valid for two (2) years from the date of approval, with no opportunity to extend.


3. INDEMNIFICATION

Upon commencement of the works authorized by this Permit the Developer covenants and agrees to save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality said Permit.

All costs, expenses, claims that may be incurred by the Municipality where the construction, engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

**The PERMIT HOLDER is the CURRENT LAND OWNER.
Security shall ONLY be returned to the signatory of the
Landscape Agreement or their designates.**

ATTACHMENT		A
This forms part of application		
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ATTACHMENT B

This forms part of application
 # DVP21-0271

Planner Initials TC


City of Kelowna
 DEVELOPMENT PLANNING

City of Kelowna
 Urban Planning Department
 Attn. Tyler Caswell
 1435 Water Street
 Kelowna, BC

Development Variance Permit Application at 114 Lake Ave.

Dear Tyler,

The purpose of this application is to secure a Development Variance Permit to allow for zero parking stalls under the proposed Short-Term Rental use. Due to the history of the property and surrounding neighbourhood, the existing dwelling and parking configuration is legal non-conforming by today's standards. No new construction will be undertaken as part of this application.

History

Year	Event
1959	A single-family dwelling existed on the property as shown by historic air photos.
1968 (July)	A BP application for a "sundeck" addition was denied by Inspection Services. The landowner chose to appeal against the Inspector, which was brought to the Board of Variance and approved due to hardship of the property size.
1989 (October)	Existing home burned in a fire. As the drawings for the new home were different, the following Variances were brought to the Board of Variance, and approved: <ul style="list-style-type: none"> • Reduction of the front yard setback from 6.0m to 3.35m • Reduction of the rear yard setback from 4.5m to 1.524m The new home was built in 1990.
2006 (May)	A Business License was issued for Bed and Breakfast on the subject property.
2011 (April)	Under new ownership, a Business License was issued for Bed and Breakfast on the subject property.
2020 (October)	A Business License was denied for Short-Term Rental use. The landowner was then advised to submit a DVP application for parking. There was some confusion and the landowner withdrew the DVP application.
2021 (September)	A revised Business License application was submitted with a new parking plan based on the legal non-conforming front yard. The application was denied.
2021 (November)	Urban Options was hired as the agent for the DVP application.

Figure 1 – 114 Lake Ave. History Chart

As described in *Figure 1*, the property has undergone multiple Variances dating back to 1968 as hardships in lot size have occurred historically. Beginning in 2006, a Bed and Breakfast was present on the subject property for many years.

Please note that the Bed and Breakfast use requires 1 parking stall for each sleeping unit plus the parking requirement for the single-family dwelling, for a total of 3 stalls (previous licenses were approved for 1 Bed & Breakfast sleeping unit).

In 2020, the current owners purchased the property with the intent of transforming the Bed and Breakfast use into Short-Term Rental. However, the City denied the application and recommended a Development Variance application be submitted to address parking in the front yard. The owners did submit a Variance application; however, it was never formally accepted by City Staff due to an incomplete application and a site visit which deemed the project “unsightly.”

In the summer of 2021, a Business License application was submitted with a revised parking plan. Although the existing parking configuration is legal non-conforming, a Short-Term Rental was considered a “new use” on the property, therefore the legal non-conformity does not apply. Urban Options then became involved to submit a DVP application.

Development Variance Permit

As shown on the attached site plan, the two existing stalls for the single-family dwelling are legal non-conforming. City Planning and Development Engineering Staff expressed concerns with the addition of a third parking stall on the subject property. Therefore, the Variance application is described as the following:


- Development Variance Permit application to vary Table 8.3.1.1 to allow for zero parking spaces per two (short-term rental) sleeping units.

The existing front yard setback permitted on the property is 3.35m due to a Board of Variance decision in 1989. However, the site survey dated June 28, 1990 shows the existing front yard setback at 4.33m. We believe it is reasonable to vary the parking configuration as there are no alternative parking options on the property, and the landowner has no concerns using 1 existing stall for the principal dwelling and the other existing stall for the short-term rental. No structural modifications have occurred since the previous Bed & Breakfast was in operation.

Neighbourhood Context

In the surrounding neighbourhood, many properties contain a Secondary Suite, Carriage House, or Short-Term Rental License. The subject property is located adjacent to a City of Kelowna Park and Beach Access, which is desirable for short-term renters. In addition, “Lake Path” connects the property to City Park and the Downtown Core, which contains many economic tourist attractions.


The Lake Avenue neighbourhood has been concerned in recent years with non-compliant activity occurring at the Beach Access. We believe a viable short-term rental business on the subject property will help to mitigate non-compliant activity by providing additional eyes on the street and enhancing the neighbourhood with respectful guests. Preliminary conversations with the neighbours have been very positive as they would like to see changes occur.

ATTACHMENT		B
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Planner Initials	TC	 City of Kelowna DEVELOPMENT PLANNING

We appreciate the processing and feedback of this application. For any questions, please contact Birte at 250.575.6707 or email birte@urbanoptions.ca.

Regards,

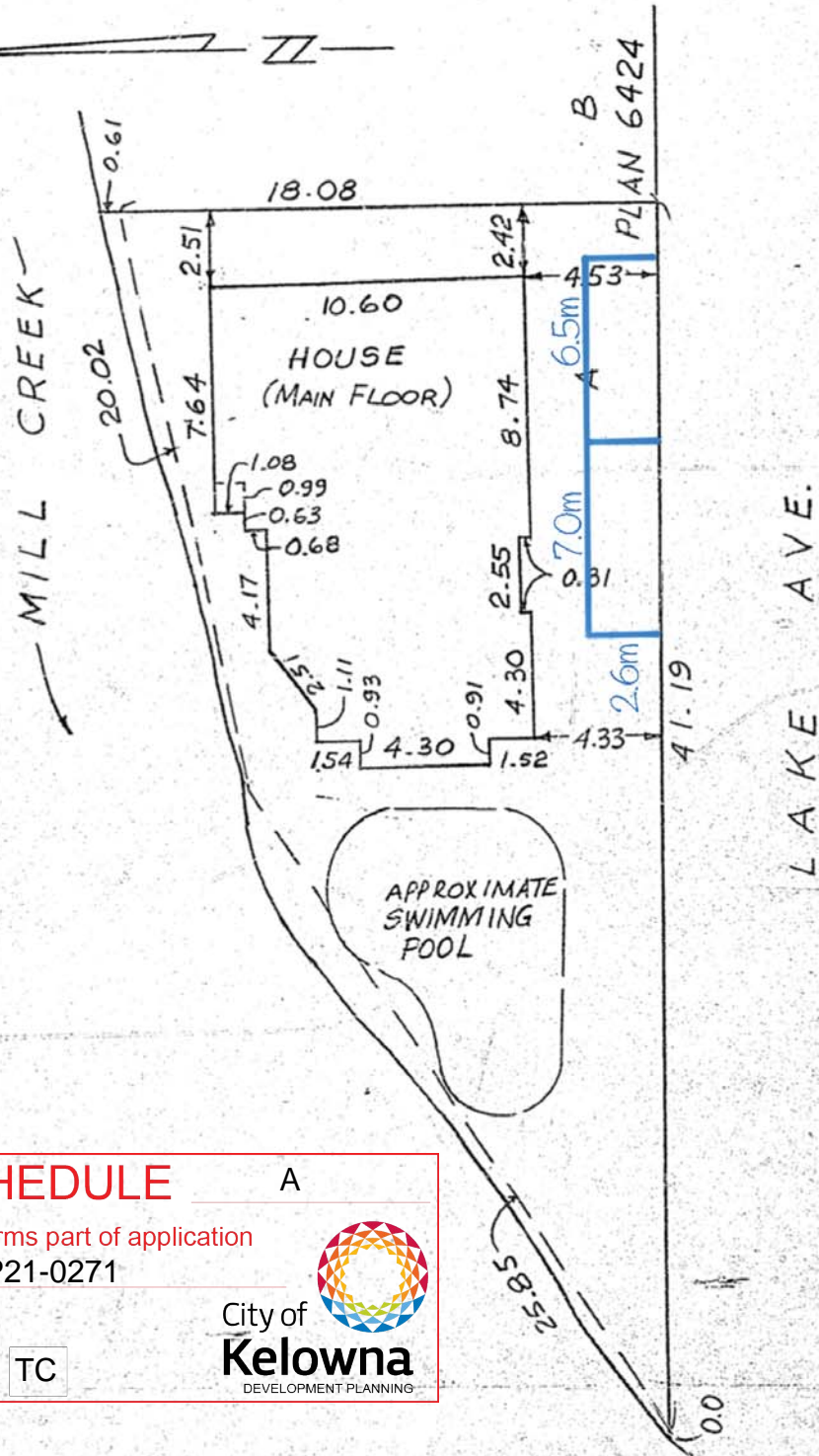
Urban Options Planning Corp.
By its Authorized Signatory; Birte Decloux RPP MCIP

ATTACHMENT		B
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SURVEYOR'S CERTIFICATE OF LOCATION
LOT A, PLAN 6424, D.L. 14, O.D.Y.D.

Scale: 1: 200 (DISTANCES ARE IN METRES)

114 Lake Ave. Legal Non-Conforming Site Plan (existing - no modifications)



SCHEDULE A

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Planner Initials **TC**

City of **Kelowna**
 DEVELOPMENT PLANNING

THIS CERTIFICATE IS PREPARED FOR MORTGAGE AND / OR BUILDING LOCATION PURPOSES ONLY, AND IS NOT TO BE USED FOR THE LOCATION OF PROPERTY BOUNDARIES. THIS CERTIFICATE IS VALID ONLY WHEN SEALED AND ORIGINALLY SIGNED. CERTIFIED CORRECT AND VALID ONLY IN RESPECT TO THE IMPROVEMENTS, AS SHOWN, AND LOCATED ON THE 28 DAY OF June, 1990.

PREPARED FOR: STERLING CONSTRUCTION
KELOWNA, B.C.

CIVIC ADDRESS: 114 LAKE AVE.
KELOWNA, B.C.

[Signature]
 B.C. LAND SURVEYOR

SK1 114 Lake Ave.

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G. REMPE Urban Options
 BOX 250, WE Feb 1, 2022



B. 90/249