

REPORT TO COUNCIL



Date: September 20th, 2022

To: Council

From: City Manager

Department: Development Planning

Application: DP22-0079 / DVP22-0080 **Owner:** 1324632 Alberta Inc., Inc.No. A72431

Address: 289 Queensway **Applicant:** Westcorp Development Management Inc.

Subject: Development Permit and Development Variance Permit Applications

Existing OCP Designation: UC – Urban Centre

Existing Zone: C7lp – Central Business Commercial (Liquor Primary)

1.0 Recommendation

THAT Council authorizes the issuance of Development Permit No. DP22-0079 for Lot 1 District Lot 139 ODYD Plan EPP77920, located at 289 Queensway, 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 outstanding conditions set out in Attachment "B" attached to the Report from the Community Planning Department dated February 20th, 2017, including a maintenance agreement with associated bonding be signed and submitted with the City of Kelowna to ensure the upgraded off-sites improvements along Queensway Ave and Water St are provided for and maintained for in perpetuity.

AND THAT Council authorizes the issuance of Development Variance Permit No. DVP22-0080 for Lot 1 District Lot 139 ODYD Plan EPP77920, Kelowna, BC;

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

Section 14.7.5(a): C7 – Central Business Commercial, Development Regulations

To vary the maximum allowable height from 26 storeys / 76.5 m to 33 storeys / 131.0 m proposed.

Section 14.7.5(h)i: C7 – Central Business Commercial, Development Regulations

To vary the setback for the north and east side of the building above 16.0 m or 4 storeys from 3.0 m required to 0.0 m proposed

Section 14.7.5(h)ii(a): C7 – Central Business Commercial, Development Regulations

To vary the maximum floor plate size above 4 storeys from 750 m² permitted to 2,912 m² proposed for the podium and to 917 m² proposed for the tower.

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

AND THAT the applicant be required to complete the following conditions prior to a building permit being issued:

1. That a subdivision be registered with the land titles office completing the land exchange and lane dedication;
 - a. As part of the new registered plans, the vehicular right-of-way and turn around within the lane be amended to reflect the updated plans; and
 - b. A statutory right-of-way be registered on the property guaranteeing public access between the proposed building and Queensway / Kerry Park.
2. That a license of occupation be signed by the City of Kelowna to permit the canopy encroachments across the property lines.
3. That a license of occupation be registered for the Hotel permitting the portions of Queensway to be used for hotel purposes such as valet services.

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

Purpose

To issue a Development Permit for the form and character of a 33-storey tower and to issue a Development Variance Permit to vary the maximum building height, maximum podium height and setbacks above four-storeys.

2.0 Development Planning

Staff are recommending support for the new Development Permit and Development Variance Permit as there are only minor changes from the previous approvals and that this application is an extension request due to unforeseen circumstances surrounding the COVID-19 pandemic.

The applicant, Westcorp, has invested significantly into a sales centre, multiple consultants, and various City payments. The previous Development Permit and Development Variance Permit (DP19-0237 / DVP19-0238) expired on February 4th, 2022, so a new application is required to move forward. There are only minor changes from the previous 2020 approvals, which include a slight increase in FAR, reduction of hotel room numbers, removal of tandem stalls to adapt to new development regulations and a new variance to podium height as this is a new regulation.

3.0 Proposal

3.1 Background

Staff did not recommend support for the first proposed Development Permit and associated variances in 2017. The scale and mass of the project, in particular, the oversized podium with its lack of relation to the neighbourhood context was the main reason for Staff's original negative recommendation (see original report dated Feb 20th, 2018, for further details). The original report stated:

"The overall size, height, and massing of the project is overwhelming for the context of this important downtown property. It has never been the City's intention to achieve the region's tallest building on this property due to the property's close proximity and relationship to important civic spaces including Kerry Park & Stuart Park, Okanagan Lake, Bernard Avenue and City Hall."

The project was supported by Council, so Staff recommended support in 2020 and are recommending support today, to honour Council's decision.

In 2020, Staff recommended that if the project did not meet their pre-sales target and did not proceed within the next two years, that Staff would recommend closing the file and treating any new application similar to any other downtown development site by restricting the podium height to a maximum of 16.0 metres in height. The file had been postponed due to unforeseen circumstances surrounding the COVID-19 pandemic, so the applicant is requesting for new approvals.

3.2 Project Description

The Development Permit and Development Variance Permit are for a 33-storey tower mixed use (hotel/residential) development. The proposal is for 175 hotel rooms and 65 residential units, including auxiliary hotel uses (restaurant/café, meeting rooms, spa/wellness centre and retail shops).

There have been minor changes to the Development Permit since the approved project on February 4th, 2020. The changes from the previous approval include:

- The Floor Area increase from 36,013 m² to 36,830 m² and FAR from 7.63 to 8.28;
- Tandem stalls were removed from C7 zone. They remain as part of the project, however, are primarily used for valet service;
- Reduction of hotel room count from 184 to 175.
- Elevator extension down to Level B3;
- An increase in loading bay lengths to comply with Zoning Bylaw update;
- A new podium height variance due to Zoning Bylaw update.

There are three variances that are required as part of this application, which is one less than the previous approval. These are for tower height, podium setbacks and floor plate size. Since 2020, there have been Zoning Bylaw changes to the podium heights and sizes and a rewrite to the parking and loading section. The variances are the same as or an improvement upon previously approved variances.

3.3 Site Context

The subject property is located in the Downtown Urban Centre and is within the Permanent Growth Boundary (PGB). The surrounding area is primarily zoned C7 – Central Business District and P3 – Parks and Open Space. The surrounding area has the Future Land Use Designation of UC – Urban Centre, PARK – Parks and EDINST – Educational/Institutional.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	P3 – Parks and Open Space	Stuart Park
East	C7 – Central Business Commercial	Commercial
South	C7 – Central Business Commercial	Commercial
West	P3 – Parks and Open Space	Kerry Park

Subject Property Map:



3.4 Zoning Analysis Table

Zoning Analysis Table		
CRITERIA	C7lp ZONE REQUIREMENTS	PROPOSAL
Existing Lot/Subdivision Regulations		
Min. Lot Area	200 m ²	4,542.45 m ²
Min. Lot Width	6.0 m	94.51 m
Min. Lot Depth	30.0 m	78.38 m
Development Regulations		
Max. Floor Area Ratio	9.0	8.28
Floor Area (Gross/Net)	n/a	36,830 m ²
Max. Site Coverage (buildings)	n/a	95%
Max. Height	26 storey / 76.5 m	33 storey / 131 m ●
Min. Front Yard	3.0 m (above 4-storey)	0.0 m ● (Sheet A-3.16)
Min. Side Yard (East)	3.0 m (above 4-storey)	0.0 m ● (Sheet A-3.16)
Min. Side Yard (north)	3.0 m (above 4-storey)	3.0 m

Min. Rear Yard	0.0 m	0.0 m
Max. Floor Plate Size (Above 4 storeys)	750 m ²	2,912 m ² for podium ^③
Total Number of Units	n/a	65 (Residential) / 184 (Hotel)
Other Regulations		
Min. Parking Requirements	260	268 *
Min. Loading Space	3	3
Min. Drive Aisle Width	6.5 m	7.0 m
Min. Bicycle Parking	61 long-term / 26 short-term	108 long-term / 28 short-term
Min. Private Open Space	915 m ²	2774.08 m ²
<p>① Indicates a requested variance to Section 14.7.5a – Development Regulations</p> <p>② Indicates a requested variance to Section 14.7.5hi – Development Regulations</p> <p>③ Indicates a requested variance to Section 14.7.5hii(a) – Development Regulations</p> <p>*An additional 58 tandem stalls are provided for use by valet and are not included in the provided parking stalls.</p>		

4.0 Current Development Policies

Objective 4.1. Strengthen the Urban Centres as Kelowna’s primary hubs of activity.	
Policy 4.1.6. High Density Residential Development	<p>Direct medium and high-density residential development to Urban Centres to provide a greater mix of housing near employment and to maximize use of existing and new infrastructure, services, and amenities.</p> <p><i>The proposed Development Permit provides high density residential/commercial development in Kelowna’s Downtown Urban Centre.</i></p>
Objective 4.4. Reinforce Downtown as the Urban Centre with the greatest diversity and intensity of uses in the City.	
Policy 4.4.2. Downtown Skyline	<p><i>Support development Downtown that is generally consistent with Map 4.1 to accomplish the following:</i></p> <ul style="list-style-type: none"> • <i>Tapering of heights from taller buildings in the centre of Downtown to lower buildings towards Okanagan Lake and adjacent Core Area Neighbourhoods;</i> • <i>The development of taller buildings that incorporate architectural features in strategic locations near Okanagan Lake.</i> <p><i>The proposed Development Permit does not meet Map 4.1, as it identifies the subject property at 20 storeys, since it’s close to the Okanagan Lake, however, the 2040 Official Community Plan was adopted after Council’s previous approvals.</i></p>
Policy 4.4.3. Taller Downtown Buildings	<p><i>With due consideration of the objectives of Policy 4.4.2, consider support for development that is higher than the heights outlined in Map 4.1 where the proposal contains significant benefit to Kelowna citizens, including some or a combination of the following:</i></p> <ul style="list-style-type: none"> • <i>An affordable, supportive and/or rental housing component that further advances Urban Centre housing objectives;</i> • <i>A significant public amenity that supports the fostering of more inclusive and socially connected Urban Centres, such as parks, public spaces, schools, post-secondary institutions, or childcare facilities;</i> • <i>Offsite considerations, including enhanced streetscapes, provision of Active Transportation Corridors, tree canopy protection and enhancement, or green infrastructure within the road right of way;</i>

	<ul style="list-style-type: none"> • <i>Smaller tower floorplates to mitigate the impact on views and shadowing; and/or</i> • <i>Outstanding and extraordinary architectural design.</i>
	<p><i>As part of the proposal, the applicant is including upgrades to Kerry Park and surrounding public realm areas.</i></p>

5.0 Application Chronology

Date of First Council Approval: February 20th, 2017
 Date of Second Council Approval: February 4th, 2020
 Date of Current Application Received: March 24th, 2022
 Date Public Consultation Completed: August 2nd, 2022

Report prepared by: Tyler Caswell, Planner I
Reviewed by: Lydia Korolchuk, 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 DP22-0079 / DVP22-0080
 Schedule A: Site Plan and Floor Plans
 Schedule B: Elevations
 Schedule C: Landscape Plan
 Attachment B: Development Engineering Memorandum
 Attachment C: OCP Form and Character Development Permit Guidelines
 Attachment D: Applicant Rationale