

REPORT TO COUNCIL DEVELOPMENT PERMIT & DEVELOPMENT VARIANCE PERMIT



Date: July 11, 2023
To: Council
From: City Manager
Address: 1070-1130 Ellis St
File No.: DP21-0277 & DVP21-0278
Zone: UC1 – Downtown Urban Centre

1.0 Recommendation

THAT Council authorizes the issuance of Development Permit No. DP21-0277 & Development Variance Permit DVP21-0278 for Lot 2 District Lot 139 ODYD Plan KAP86331, located at 1070-1130 Ellis St, 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;
5. The applicant be required to make a payment into the Housing Opportunities Reserve Fund as established by Bylaw No. 8593 in accordance with Table 6.8.b. in Zoning Bylaw No. 12375;

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 THAT variances to the following sections of Zoning Bylaw No. 12375 be granted:

- a) **Section 9.11.1 Table 9.11 – Tall Building Regulations:** To vary the minimum building separation measured from the exterior face of the building from 30.0 m required to 27.0 m proposed internal to the subject property;
- b) **Section 9.11.1 Table 9.11 – Tall Building Regulations:** To vary the maximum floor plate for Level 6 between 16.0 m and 23.0 m from 750 m² required to 1,846 m² proposed on south podium; 751 m² proposed on tower three; and 860 m² proposed on tower four;
- c) **Section 9.11.1 Table 9.11 – Tall Building Regulations:** To vary the tower setback above podium on the front building façade of tower two on the south podium from 3.0 m required to 0.0 m proposed;

- d) **Section 14.11 – Commercial and Urban Centre Zone Development Regulations:** To vary the minimum side yard setback above 16.0 m in height from 4.0 m required to 0.0 m proposed between 16.0 m and 16.6 m in height;

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.

2.0 Purpose

To issue a Development Permit and Development Variance Permit for the form and character of four high-rise residential towers with associated variances to Zoning Bylaw No. 12375 – Tall Building Regulations and side yard setback.

3.0 Development Planning

Development Planning Staff recommend support for the Development Permit and Development Variance Permit for the form and character of four high-rise residential towers atop a five level parkade podium. The proposed project meets the majority of the 2040 Official Community Plan (OCP) [Chapter 18 Design Guidelines](#) for high-rise residential (Attachment B).

The project would bring 1141 units of residential density to the Downtown Urban Centre in a mix of unit types, sizes, and tenures. The units range from 1 bedroom apartments to 3 bedroom townhomes, and include 40 market rental units with dedicated parking.

The applicants have chosen to contribute to the City's Housing Opportunities Reserve Fund ([Bylaw No. 8593](#)) in the amount of \$2.38 million to qualify for up to 40 storeys in height under regulations in [Section 6.8](#) of the Zoning Bylaw. This aligns with Council's Priority on Affordable Housing, and the fund will be used to acquire City-owned land to construct affordable housing units through partnerships with the Province or other non-profit organizations.

The requested variances are determined to have minimal impact on adjacent properties and the applicants have provided rationale for support. Should Council support this Development Permit and associated variances, the applicants may proceed to Building Permit.

Relationship to Street & Site Planning:

The site has been planned with a strata road that serves as an east/west sidewalk network connection between Ellis St and Sunset Dr and aligns with Council's priority on Transportation. Staff place a high priority on the design at-grade and integration with adjacent properties when evaluating the form and character of a tower development. The applicants have aligned with [OCP Design Guidelines](#) in these areas by providing ground-oriented townhomes with patios at grade along Ellis St and along both sides of the tree-lined internal strata road that bisects the subject property.

The frontage zone on Ellis St includes private terraces and small trees, creating a pleasant street rhythm that will contribute to the urban canopy and create a tempered microclimate adjacent to the public sidewalk.

Main residential lobby entrances provided to both podiums are clearly visible from the internal strata road as well as Ellis St. On the south podium, a prominent corner lobby set back 6.0 m along Ellis St is enhanced with woodgrain composite trellis and wrap-around glazing. On the north podium, a public urban plaza is created at the corner of the strata road and Ellis St and offers an opportunity for a water feature and public art which creates an active and dynamic space.

Early in the process, concerns were raised by residents of Waterscapes Phase 1 for how the buildings along the east/west property lines between the two phases would integrate with one another. The applicant responded by wrapping townhomes on the west side of the north podium to create visual interest, setting back the townhomes for greater distance between the two projects, and by utilizing a tiered landscape wall to mitigate any blank parkade walls.



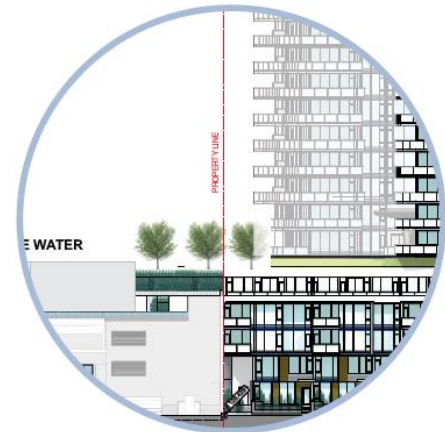
Section of The Vintage at Waterscapes with Waterscapes Phase 1 to the west

Podium:

The podium is divided into two halves by the internal strata road which connects Phase 1 with proposed Phase 2. The podium meets the zoning bylaw for maximum height of 16.0 m with no public facing blank walls and residential uses for the full height of the podium. This is a superior design compared to other parkade podiums which often have one level of commercial at grade and then three or four levels of inactive space (parking). Activating the full height of the podium with residential units allows for a dynamic façade, and increased natural surveillance or “eyes on the street” which is a key component of [Crime Prevention through Environmental Design](#) (CPTED).

Concerns were raised early on in the process about how the proposed height, materials, and landscaping of the south podium would integrate with the adjacent development known as One Water. The applicants responded by matching the height of the two podiums and providing landscape terraces on the roof of the podium which provide a gradual transition between the two projects.

Generous indoor and outdoor amenity spaces are provided on the roofs of the north and south podiums and include indoor/outdoor gyms, kids play areas, pickleball courts, outdoor living rooms, and a wellness walk. The applicants used a ‘Climate Lens’ when developing their proposed project and have incorporated recommendations such as providing greenery on the podium roof and terraced landscape walls. The proposed landscaping on the project will add 163 trees to the [urban tree canopy](#).



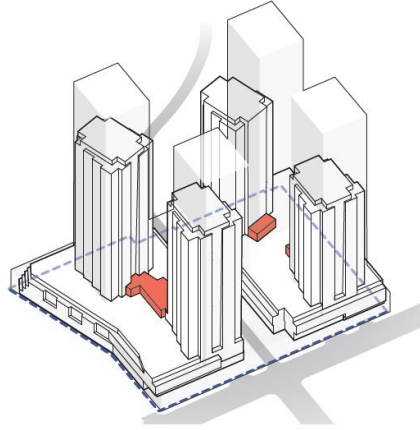
RESULTING VARIANCE

VARIANCE FOR AMENITY FLOORPATE AREA

A variance is requested to increase the maximum allowable floor plate for level 6 from 750 square meters to:

- Tower 1 & 2 combined - 1846 square meters
- Tower 3 - 751 square meters
- Tower 4 - 860 square meters

This will allow the design team to provide expanded amenity footprints and greater connectivity between the individual towers.



Additional floorspace on Lvl 6 is fully amenity focused



Added environmental benefits and user convenience

Two variances are requested for the Level 6 amenity floor, an increased floor plate for Level 6 on both podiums and a reduced stepback on the north side between 16.0 m and 16.6 m. These variances are to facilitate the extensive landscape deck and to accommodate a wider range of indoor and outdoor amenity spaces.

RESULTING VARIANCE

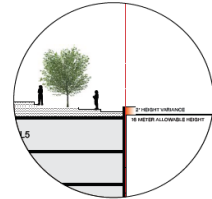
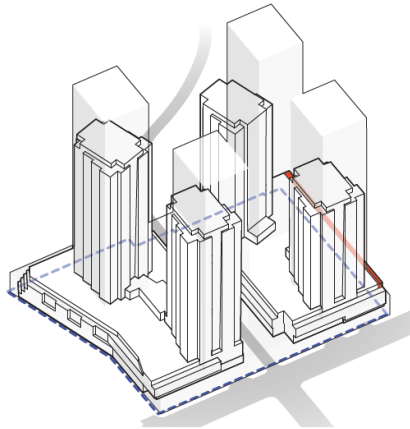
SETBACK HEIGHT PROPOSED VARIANCE

A variance is requested to allow the 4 meter setback at neighboring north properties to occur at 16.6 meters to allow a landscaped amenity deck to be provided for residents.

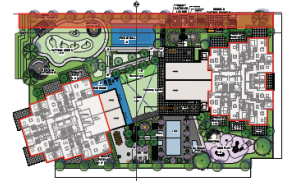
Section 14.11 – Commercial and Urban Centre Zone Development Regulations

Section 14.11.2

Any portion of a building above 16.0 m in height must be setback a minimum of 3.0 m from any lot line abutting a street and **4.0 m** from any lot line abutting another property.



Only Parapet is Above Allowable Height Requiring Stepback



Area highlighted in red is the portion of the landscape podium deck that would be lost without variance

Towers & Height:

To achieve the density required to accommodate the City's anticipated growth over the next 20 years in a compact and sustainable way, high-density residential towers are an appropriate solution. To accommodate the same number of units in other built forms would require significantly more land and be a detriment to the natural environment by encouraging urban sprawl (Attachment D).

The four high-rise residential towers have strategic heights that provide a transition from the tallest building at One Water toward the northern and eastern edge of the Downtown Urban Centre. Tower one in the south west corner of the south podium is proposed at 36 storeys and 114.6 m in height. Tower two on the south east corner is proposed at 34 storeys, tower three in the north west corner of the north podium is proposed at 32 storeys, and tower four is proposed at 28 storeys.



The towers are stepped back from the podium face except for tower two along Ellis St. In order to create the grand residential lobby at grade in this location, the podium and tower is setback 6.0 m, where 0.0 m is required. This allowed the architect to create a strategic dramatic effect by having the tower come to grade flush with the front of the podium. This is a purposeful design consideration to achieve the architect’s vision that triggers the stepback variance. The placement of the tower meets the overall intent of the bylaw regulation which is that towers shall be setback a minimum of 3.0 m from public streets to encourage daylight at at street level.

RESULTING VARIANCE

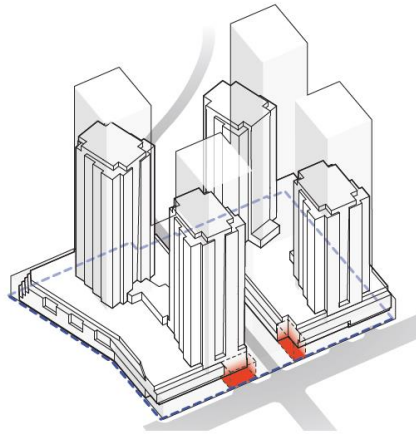
VARIANCE FOR STEPBACK AT 16 METERS

A variance is proposed to provide a 6 meter setback at grade in lieu of a 3 meter stepback at 16 meters.

Bylaw Section 9.11 Tall Building Regulations

9.11.1 - Table 9.11

Tower setback above podium, including balconies, on the front building facade and flanking building facade (minimum) - **3 meters**



Increased depth of public art plaza impedes 3m setback



A larger plaza does not increase the amount of shading on the public realm

The towers meet the [OCP Design Guidelines](#) for architectural detail and visual interest by incorporating vertical and horizontal articulation, podiums that frame and activate the street, asymmetrical balconies for visual interest and a range of materials in a blue water-themed colour palette. The tops of the towers are well defined with a stepback at the upper floors and screened mechanical equipment that will be a positive contribution to the skyline.

A variance is requested for tower separation between tower one and tower two, and between tower three and tower four from 30.0 m required to 27.0 m proposed (varying). There is no variance requested between tower separation from adjacent properties. Due to the articulated building envelope and irregular balconies, this variance affects only portions of the towers and will have minimal impact on the public realm or adjacent properties in terms of shadows (Attachment D) or privacy.

RESULTING VARIANCE

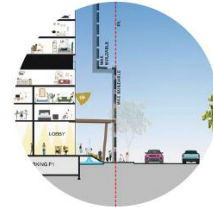
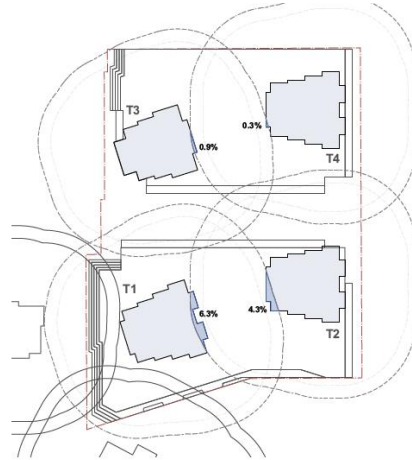
TOWER SEPARATION OF 27 M

A variance is requested to provide a minimum tower separation of 27 meters. The project was initiated under the C7 zoning bylaw and was providing tower separation that was greater than the previously acceptable 25 meters.

Bylaw Section 9.11 Tall Building Regulations

9.11.1 - Table 9.11

Minimum Building separation measured from exterior face of the building - **30 meters**



Increased depth of lobby plaza impedes 3m stepback



Public art plaza replaces buildable area from Lvl 1-4

4.0 Subject Property & Background

4.1 Subject Property Map



4.2 Background

The subject property was initially approved for a two-phase Development Permit in 2007. Phase 1 was constructed in 2009 and Phase 2 did not proceed. There is currently 53 covered parking stalls allocated to Phase 1 and located on the Phase 2 property. These stalls will be reinstated in the northern parkade podium for no net loss of stalls to existing residents of Phase 1.

5.0 Zoning Bylaw Regulations Summary

| AREA & UNIT STATISTICS | |
|------------------------------|------------------------|
| Gross Lot Area | 1,328.7 m ² |
| Total Number of Units | 1141 |
| 1-bed | 238 (28 rental units) |
| 2-bed | 874 (12 rental units) |
| 3-bed Townhome | 29 |

| DEVELOPMENT REGULATIONS | | |
|--|---------------------------|--|
| CRITERIA | UC ₁ ZONE | PROPOSAL |
| Total Maximum Floor Area Ratio | 8.4 | 5.38 |
| Base FAR | 7.2 | |
| Bonus FAR (Housing Opportunities Reserve Fund Contribution) | 1.2 | |
| Max. Site Coverage (buildings) | 100% | 81% |
| Max. Site Coverage (buildings, parking, driveways) | 100% | 100% |
| Max. Height | 147 m / 40 storeys | T1: 114.5 m / 36 storeys T2: 102.5 m / 34 storeys T3: 99.6 m / 32 storeys T4: 84.8 m / 28 storeys |
| Base Height | 95 m / 26 storeys | 95 m / 26 storeys |
| Bonus Height (Housing Opportunities Reserve Fund Contribution) | 52 m / 14 storeys | 52 m / 14 storeys |
| Max. Podium Height | 16.0 m | 16.0 m |
| Setbacks | | |
| Min. Front Yard (Ellis St) | 0.0 m | 5.2 m to townhomes 6.0 m to podium wall/lobbies |
| Min. Side Yard (north) | 0.0 m | 0.0 m |
| Min. Side Yard (south) | 0.0 m | 0.0 m |
| Min. Rear Yard (west) | 0.0 m | 1.2 m south podium wall 5.6 m north podium townhomes |
| Tower Step back from Podium at 16.0 m (Section 9.11) | | |
| Min. Front (Ellis St) | 3.0 m | 0.0 m ❶ |
| Min. Side (north) | 4.0 m at 16.0 m in height | 0.0 m between 16.0 m & 16.6 m in height ❷ |
| Min. Side (south) | 4.0 m | 4.0 m |
| Min. Rear (west) | 4.0 m | 4.0 m |

| DEVELOPMENT REGULATIONS | | |
|--|-----------------------------------|-----------------------|
| CRITERIA | UC1 ZONE | PROPOSAL |
| Maximum Floor Plate | | |
| Tower 1 | 750 m ² | 750 m ² |
| Tower 2 | 750 m ² | 750 m ² |
| Tower 3 | 750 m ² | 686 m ² |
| Tower 4 | 750 m ² | 750 m ² |
| Variance to Floor plates for Level 6 | | ③ |
| T1 & T2 Combined | 750 m ² | 1846 m ² |
| T3 | 750 m ² | 751 m ² |
| T4 | 750 m ² | 860 m ² |
| Tower Separation | | |
| Adjacent properties | Min. 30.0 m | > 30.0 m |
| Internal | Min. 30.0 m | ~27.0 m④ |
| Amenity Space | | |
| Common Amenity Space | 13,533 m ² | 31,588 m ² |
| Landscaping | | |
| Min. Number of Trees | n/a due to 0.0 m setback required | 163 trees |
| Large | | Large: 8% |
| Medium | n/a due to 0.0 m setback required | Medium: 34% |
| Small | | Small: 57% |
| <p>① Section 9.11.1 Table 9.11 – Tall Building Regulations: To vary the tower setback above podium on the front building façade of tower two on the south podium from 3.0 m required to 0.0 m.</p> <p>② Section 14.11 – Commercial and Urban Centre Zone Development Regulations: To vary the minimum side yard setback above 16.0 m in height from 4.0 m required to 0.0 m proposed between 16.0 m and 16.6 m in height.</p> <p>③ Section 9.11.1 Table 9.11 – Tall Building Regulations: To vary the maximum floor plate above 16.0 m from 750 m² required to 1,846 m² proposed on south podium for level 6 only, 751 m² proposed on tower three for level 6 only, and 860 m² on tower four for level 6 only.</p> <p>④ Section 9.11.1 Table 9.11 – Tall Building Regulations: To vary the minimum building separation measured from the exterior face of the building from 30.0 m required to 27.0 m proposed internal to the subject property.</p> | | |

| PARKING REGULATIONS | | |
|---------------------------------------|------------------------------------|------------------------|
| CRITERIA | UC1 ZONE REQUIREMENTS | PROPOSAL |
| Total Required Vehicle Parking | 1331 stalls | 1366 stalls |
| Residential Market | 1118 | 1112 |
| Residential Rental | 41 | 41 |
| Visitor | 160 | 160 |
| Replacement of Ph. 1 stalls | 53 | 53 |
| Ratio of Regular to Small Stalls | Min. 50% Regular Max. 50% Small | 54% Regular % Small |
| Bicycle Stalls Short-Term | 24 stalls | 24 stalls |
| Bicycle Stalls Long-Term | 863 stalls | 1142 stalls |
| Bike Wash & Repair | yes | yes |

6.0 Application Chronology

| | |
|-----------------------------|---------------------------------|
| Application Accepted: | December 12, 2021 |
| Neighbour Notification: | March 8, 2023 & March 28, 2023 |
| Public Information Session: | March 20, 2023 & April 12, 2023 |

Report prepared by: Trisa Atwood, Planner Specialist
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 DP21-0277 & DVP21-0278

Schedule A: Site Plan & Floor Plans

Schedule B: Elevations & Sections & Renderings

Schedule C: Landscape Plan

Attachment B: OCP Form and Character Development Permit Guidelines

Attachment C: Public Benefits Strategy Letter

Attachment D: Walkability Diagram, Sustainable Land Use Diagram, Shadow Study

Attachment E: Public Information Session Summary

Attachment F: Staff Presentation

For additional information, please visit our Current Developments online at www.kelowna.ca/currentdevelopments.