

MEMORANDUM

REPORT PREPARED BY: KIRSTEN G. BEHLER

AND THAT Council authorize the issuance of Development Variance Permit DVP01-10,049 for Lot 1, Section 20, Twp. 26, ODYD, Plan 30767, except Plan 41382, located on Harvey Avenue, Kelowna, B.C,

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

Section 6.10.1 Setbacks from Provincial Highways: Vary the required setback from Highway 97 from 15.0m required to 6.0m proposed for the canopy and 9.0m proposed for the gas pump;

AND THAT variances to the following section of Sign Bylaw No. 8235 be granted:

5.6.1. (d): Location of free-standing signs: Vary the minimum distance between two free-standing signs from 30.0m required to 28.0m proposed and vary the minimum distance to the property line from 1.5m required to 0.0m proposed for the easternmost free-standing sign;

AND THAT variances to the following sections of Sign Bylaw No. 8235 NOT be granted:

Section 6.1 Specific Zone Regulations:

Vary the number of fascia/canopy/under-canopy signs from 2 per business permitted to 12 proposed for Chevron;

Vary the number of fascia/canopy/under-canopy signs from 2 per business permitted to six proposed for the fast-food restaurant;

AND FURTHER THAT the applicants be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

2.0 SUMMARY

The applicant proposes to construct a new gas station on the site of an existing Chevron gas station at the northwest corner of Spall Road and Harvey Avenue. In addition to the gas bar, the site will include a car wash, a convenience store and a drive-through fast-food restaurant.

In addition to the Development Permit, the applicant has requested a Development Variance Permit to vary City of Kelowna Zoning Bylaw No. 8000 and Sign Bylaw No. 8235. He is requesting a variance for a reduced setback of the gas pumps from the required 15.0m to 6.0m for the canopy and to 9.0m for the southernmost gas pump. The sign variance requested are the following:

- Exceed the maximum number of signs for the gas bar for a total of 12, instead of two signs permitted by bylaw;
- Exceed the maximum number of signs for the fast-food restaurant for a total of six, instead of two signs permitted by bylaw;
- Reduce the distance between two free-standing signs from 30.0m required to 28.0m; and
- Reduce distance of the easternmost free-standing sign from the property line to 0.0m, rather than 1.5m.

3.0 ADVISORY PLANNING COMMISSION

The Development Permit and Development Variance applications were considered by the Advisory Planning Commission at their meeting on August 7, 2001, and the following recommendations was passed:

THAT the Advisory Planning Commission support Development Permit Application No. DP01-10,048 by Chevron Canada Ltd. (Helmut Behlke) to construct a car wash/gas bar facility with retail and restaurant space;

AND THAT the Advisory Planning Commission not support Development Variance Application No. DP01-10,049 by Chevron Canada Ltd. (Helmut Behlke) to vary the highway setback requirement and to exceed the maximum number of signs, to permit under canopy signs and to change the location of the signage. The Committee recommends that the development should comply with the bylaws regarding setbacks and signs.

4.0 BACKGROUND

4.1 The Proposal

The applicant wishes to construct a new gas station on the site of the existing Chevron gas station at the corner of Spall Road and Harvey Avenue. The gas bar, located at the centre of the site, will consist of five fuelling stations, and a one-bay car wash will be located at the Spall Road frontage of the site. The underground tanks will be located at the northern property line. A convenience store and fast-food restaurant, totalling approximately 300m² of floor space, will occupy the western section of the site. The restaurant includes an interior seating area with fireplace and a small exterior patio. In addition, the restaurant provides drive-through service. Ten automobile and four bicycle parking spots are proposed to be located at the east side of the building, and additional nine car parking stalls, as well as the vacuum, air and water units will be provided between the gas bar and the car wash.

The exterior of the façade of the retail/restaurant building will be finished with tan and red coloured stucco. The lower sections of the south and east elevations and the large column located at the south side of the building will be finished with cultured stone. A black and white chequered tile band will run along parts of the east, south and west elevations. The peaked roof of the retail store and the slanted roof of the restaurant will be finished with metal roofing. The car wash building will be finished to match the retail/restaurant building. The gas bar canopy will be finished with a blue metal fascia and with white lettering. The columns will be grey at the top and white at the bottom.

The proposal includes a number of signs. Two fascia signs for the fast-food restaurant will be located on the south elevation of the building. In addition, four drive-through signs will be placed on the either side of the chimney and on the west and east elevations respectively. These signs are technically part of the signage for the fast food restaurant, and therefore exceed the maximum number of fascia signs for the restaurant by four. Although two of the drive-through signs on the west and east walls can be classified as directional signs, they exceed the maximum size for directional signs and therefore count towards the overall number of signs. Small signs for advertising of services provided inside the building will be mounted on the east elevation of the retail/restaurant building, together with one fascia sign for the convenience store. Additional on-site directional signage for the drive-through will be provided with two free-standing signs at the southeast corner of the building and at the drive through exit. Two menu boards are proposed for the northern section of the drive-through and will not be visible from the street or adjacent properties. Originally, the menu board including the speaker was located closer to the west property line. However, to address concerns from the owner of the motel to

the west, the applicant proposes to locate the speaker and menu board to the north side of the building and to orient the speaker away from the motel. In addition, a total of six stainless steel tubes with recessed neon lighting will be attached to the building.

The car wash building will have a total of two fascia signs and two directional signs marking the entrance and exit of the wash bay. Two Chevron signs are proposed for the gas bar canopy. In addition, attached to each pump station, the applicant wishes to install ten non-illuminated signs with the company logo. These signs exceed the number of signs permitted for the business. Several smaller logos are proposed for the lower section of each gas pump; however, these would hardly be visible from the street or from adjacent properties and are therefore not included in the total number of signs. The majority of signs will be internally lit or use neon lighting.

Two free-standing signs identifying the names of all businesses located on-site, as well as announcing gasoline prices, will be located on Spall Road and Harvey Avenue. The signs, each nearly 18m" in size, are approximately 28.0m apart, rather than the 30.0m required by the sign bylaw. The applicant made revisions to the original plans, where the two free-standing signs were only 14.0m apart; however, he explained that he was unable to increase the distance of the sign to the required 30.0m, since that would severely limit the visibility of the sign on Spall Road. The free-standing sign on Spall Road is located at the property line, rather than at a distance of 1.5m, as required by bylaw. Since the applicant proposes to keep the existing curb and landscaping on site, the sign cannot be moved further from the property line without interfering with circulation on site. Due to the extremely wide boulevard at the Spall Road frontage, the free-standing sign is visually well set back from the street. The applicant has applied for a variance under DVP01-10,049 to be permitted to locate the signs as proposed.

In addition to the variances to the sign bylaw, the applicant wishes to vary the south setback requirements. The subject property is located abutting a provincial highway, yet is not located in an Urban Town Centre. Therefore, the minimum setback from the highway for all buildings and structures is 15.0m. The southernmost fuelling station is located 9.0m from the property line abutting the highway, and the top of the canopy has a 6.0m horizontal distance from the property line. A variance is therefore required. All buildings proposed for the site meet the minimum setback requirements from the highway. It should be noted that the proposed development, although not meeting the setback requirement from the Highway, meets the specific setbacks required for vehicular oriented uses as stipulated in Section 9 of Zoning Bylaw No. 8000.

The landscape plan shows a new landscaped island between the proposed gas bar and car wash, which will be planted with three Honey Locust trees and shrubs. In addition, the landscaping at the corner of Spall Road and Harvey Avenue will be improved with shrubs, and the entrance on the south property line will be enhanced with seasonal flowerbeds and shrubs. The proposal includes a pedestrian path from the sidewalk at Harvey Avenue to the retail/restaurant area. The path has been improved from the one shown on the initial plan. Pedestrians would cross in front of the drive-through exit on a painted crosswalk, and the path would lead to the door of the building, rather than terminating at the patio wall and the holding stall, as in the previous design. However, the crossing distance for pedestrians is still very long. A garbage and recycling bin enclosure will be located at the northwest corner of the site.

Concerns have been raised regarding the existing retaining wall and fence along the north property line. The height of the wall and the fence exceed the heights allowed by City of Kelowna Zoning Bylaw No. 8000. However, both structures are existing and the applicant does not propose any changes to them.

The original proposal included a Natural Gas Dispenser. The applicant and BC Gas were unable to resolve the question of an ideal location of the dispenser, and the NG dispenser has therefore been eliminated entirely from the proposed redevelopment.

The application meets the requirements of the C10 – Service Commercial zone as follows:

CRITERIA	PROPOSAL	C10 ZONE REQUIREMENTS
Lot Area (m ²)	5018 m ²	1000m ²
Lot Width	58m	40.0m
Lot Depth	86m	30.0m
Height (#of storeys / m)	9.53m	12.0m or 3 storeys
Setbacks (m)		
- Front	2.2m	2.0m
- Rear	6.7m	0.0m
- North Side	16.3m	0.0m
- South Side	6.0m for canopy 9.0m for gas pump	15.0m ^①
Landscape Buffers		
- Front	2.2m landscape buffer	3m min., Level 3: vegetative buffer or opaque barrier
- Rear	2.4m landscape buffer and fence	3m min., Level 3: vegetative buffer or opaque barrier
- North Side	1.8m landscape buffer and fence	3m min., Level 3: vegetative buffer or opaque barrier
- South Side	3.0 m landscape buffer	3m min., Level 4: vegetative screen for parking areas

Notes:

- ① The required setback for properties along a provincial highway outside of an Urban Town Centre is 15.0m from the highway. The applicant wishes to vary this requirement under DVP01-10,49.

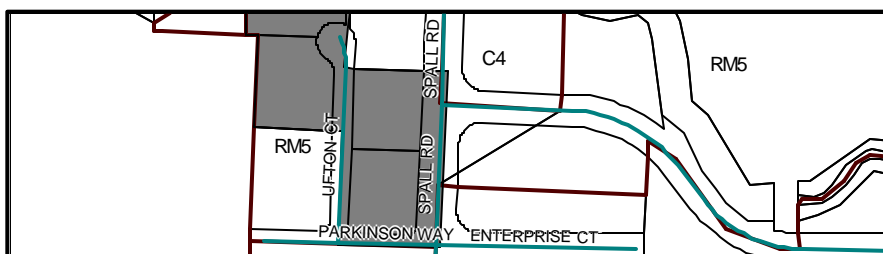
4.2 Site Context

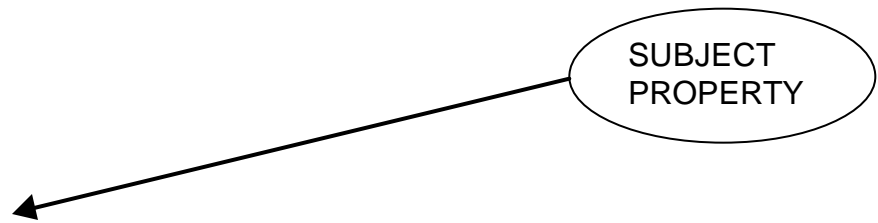
The proposed development is located at the corner of Spall Road and Harvey Avenue. It is not located within an Urban Town Centre, but abuts the Highway 97/Springfield Urban Town Centre to the east. The area in which the subject property is located is zoned for commercial uses, with several properties to the east being zoned for public uses.

Adjacent zoning and existing land uses are to the:

- North - C9 – Tourist Commercial - Motel
- East - C4 – Town Centre Commercial – Retail and eating establishments
- South - C3 – Community Commercial – Retail and office space
- West - C9 – Tourist Commercial - Motel

Site Map





4.3 Existing Development Potential

The property is zoned C10 – Service Commercial. The purpose of this zone is to designate and preserve land for the accommodation of commercial uses, including vehicular oriented areas, not provided for in other zones.

4.4 Current Development Policy

4.4.1 Kelowna Official Community Plan

The Official Community Plan designates the subject property as Commercial, and the proposed redevelopment of the gas station is consistent with this proposal. The subject property is located in a General Commercial Development Permit Area. The guidelines do not specifically address gas stations.

5.0 TECHNICAL COMMENTS

The application has been circulated to various departments and agencies, and the following relevant comments have been submitted:

5.1 Works and Utilities

The Works & Utilities Department have the following requirements associated with this development application. The road and utility upgrading requirements outlined in this report will be a requirement of the issuance of a building permit or the subdivision approval, but are outlined in this report for information only.

1. Domestic Water and Fire Protection

- (a) This site has an existing 38-mm diameter water service that may be used for this development. If a larger service is required the existing service must be removed at the developer's cost.
- (b) A water meter is mandatory for this development and must be installed inside the building on the water service inlet as required by the City Plumbing Regulation and Water Regulation bylaws. The developer or building contractor must purchase the meter from the City at the time of application for a building permit from the Inspection Services Department, and prepare the meter setter at his cost. If there is to be landscaping on the site, the developer must also purchase an irrigation sewer credit meter from the City and prepare a meter setter at his cost.

2. Sanitary Sewer

- (a) The existing site is serviced with a 100-mm diameter sanitary sewer service that should be sufficient for this development.

3. Storm Drainage

- (a) The developer must engage a consulting civil engineer to provide a storm water management plan for this site which meets the requirements of the City Storm Water Management Policy and Design Manual. The plan must accommodate the requirements to contain a 1 in 10-year storm event within pipes and identify overland drainage routes for a 100-year storm event with consideration for upstream water sources and downstream facility upgrading and/or provision of storm water retention facilities. The storm water management plan must also include provision of lot grading plans, minimum basement elevations (MBE), storm water services for each lot created and/or on-site drainage containment and disposal systems. The on-site drainage system may be connected to the street drainage system with an overflow service at the developer's cost, with approval from the City drainage engineer.
- (b) An oil separator will be required within the on-site drainage system

4. Road Improvements

- (a) Harvey Avenue: Two existing accesses to Harvey Avenue will be removed and one new one placed. This work will require curb, gutter and ramp removal and replacement. The work must be constructed to Ministry of Transportation standards.

5. Electric Power and Telecommunication Services

The electrical and telecommunication services to this building as well as the local distribution wiring must be installed in an underground duct system, and the building must be connected by underground services. It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for these services which would be at the applicant's cost.

6. Engineering

Road and utility construction design, construction supervision, and quality control supervision of all off-site and site services including on-site ground recharge drainage

collection and disposal systems, must be performed by an approved consulting civil engineer. Designs must be submitted to the City Engineering Department for review and marked "issued for construction" by the City Engineer before construction may begin.

7. Geotechnical Report

The Ministry of Water, Land & Air Protection must be contacted to determine if a "site investigation" is required. The City of Kelowna was notified by the Ministry that they would not require or order a site investigation at this time because the site is being investigated and remediated under the independent remediation process. The City is therefore no longer prohibited from approving this application.

8. Survey Monuments and Iron Pins

If any legal survey monuments or property iron pins are removed or disturbed during construction, the developer will be invoiced a flat sum of \$1,200.00 per incident to cover the cost of replacement and legal registration. Security bonding will not be released until restitution is made.

9. Bonding and Levy Summary

(a) Bonding

Curb, gutter and sidewalk removal and restoration	\$ 15,000.00
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Total Bonding	<u>\$ 15,000.00</u>
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NOTE: The bonding amounts shown above are comprised of estimated construction costs escalated by 140% to include engineering design and contingency protection and are provided for information purposes only. The owner should engage a consulting civil engineer to provide detailed designs and obtain actual tendered construction costs if he wishes to do so.

Bonding for required off-site construction must be provided as a condition of subdivision approval or building permit issuance, and may be in the form of cash or an irrevocable letter of credit, in an approved format.

The owner must also enter into a servicing agreement in a form provided by the City prior to 4th reading of the zone amending bylaw or issuance of a building permit.

10. Development Permit and Site Related Issues

(a) The developer must obtain the necessary permits and have all existing utility services disconnected prior to removing or demolishing the existing structures.

(b) The development will be required to contain and dispose of site generated storm water on the site by installing a ground recharge system consisting of drywells and perforated pipe bedded in drain rock.

(c) Development Variance Permit

The Works and Utilities Department have no requirements of this application.

(d) Access and Manoeuvrability

The site plan should illustrate the ability of an SU-9 vehicle to manoeuvre onto and off-site without requiring a reverse movement onto public roadways. If the development plan intends to accommodate larger vehicles, the site plan should be modified and illustrated accordingly.

11. Administration Charge

An administration charge will be assessed for processing of this application, review and approval of engineering designs and construction inspection. The administration charge is calculated as 3% of the total off-site construction costs, not including design. 7% GST will be added.

5.2 Inspection Services Department

The drive through directional signs are too large (on building).

5.3 BC Gas

Beware gas locates required before any excavation. There are two gas services in area of proposed car wash. Owner to contact BC gas for possible alterations.

5.4 Ministry of Transportation

1. Access to Harvey Avenue is restricted to right in and right out only. The applicant will be required to apply for an amended Controlled Access Permit.
2. Access to Spall Road should be restricted to right turn movements only.
3. Parking is adequate as shown on drawing RL007-K.

5.5 Parks Manager

1. All entry feature signs for the proposed development to be located on private property and not on city Blvd.
2. All trees planted in sidewalk and not in grass Blvd will require a vault and grate; and, all trees in grass Blvd to use root shield barriers for acceptance.
3. The following applies for all boulevard (BLVD) landscape and park and is standard information required on a landscape plan:
 - A. Planting plan to include a proper plant materials list:
 - i) Latin name
 - ii) common name
 - iii) size at planting
 - iv) plant symbol key
 - iv) indicate existing trees
 - B. Plant material specifications are as follows:
 - i) Deciduous Tree - caliper @300mm above rootball (min. 60mm)
 - ii) Deciduous Shrub - spread (min. 450mm)
 - iii) Coniferous Tree - height (min. 2.5m)
 - iv) Coniferous Shrub - spread (min. 450mm)
 - v) Seed/Sod Mix according to location and proposed activity use.

- C. Shrub beds require plastic edge beside all areas abutting a city sidewalk of city land to prevent migration of mulch.
- D. Scale of plan and north arrow clearly indicated on plan.
- E. All plant materials (trees, shrubs, ground covers and seed/sod) used in BLVD to be reviewed by Parks Division. All materials located in BLVD to meet city standard for size and method of installation.
- 4. All plant material (trees, shrubs, ground covers and seed/sod) used in BLVD to be reviewed by City Parks Division. All materials located in BLVD to meet city standard for size and method of installation.
- 5. BLVD maintenance (irrigation, shrubs, ground cover, sod, and seeded areas) is the responsibility of owner/occupant.
- 6. All BLVD tree maintenance is responsibility of Parks Division.
- 7. Planting plan to include all u/g utility locations in BLVD.

5.6 Shaw Cable

Owner/Contractor to supply & install conduit system as per Shaw Cable drawings & specifications.

5.7 Telus

There may be some internal Telus cable rearrangement.

6.0 PLANNING COMMENTS

The Planning and Development Services Department has no major concerns with the proposed development of this site. The proposed redevelopment of the existing gas station will likely improve the visual appearance of this prominent intersection. The Department furthermore has no concerns with the requested variance to reduce the setback requirements of the gas pump and canopy. Had the subject site been in an Urban Town Centre, the required setback would have been only 4.5m. However, Spall Road is the western boundary of the Springfield/Highway 97 Urban Town Center and the subject property is therefore just outside of the Town Centre. A variance to allow the same setbacks as similar developments have east of Spall Road is therefore reasonable, and the reduced setback is not likely to have a negative impact on adjacent businesses, patrons or users of the highway. The Planning and Development Services Department has also no concerns with the variances requested for the two free-standing signs. The applicant explained that meeting the required distance of 30.0, rather than the 28.0m proposed, would lead to difficulties for on-site circulation and would impede the visibility of the sign on Spall Road due to a past road dedication. Allowing the same sign to be located at the property line, rather than 1.5m away from it, as required by the sign bylaw, is also reasonable due to the extremely wide boulevard on Spall Road.

The Planning and Development Services Department has concerns with the remaining sign variances the applicant has requested. The sign bylaw allows a sufficient number of signs for each business, and additional signs on the gas pumps and for the fast-food restaurant therefore should not be necessary. Likewise, the department is not supportive of variances to the size of two directional drive-through signs, located on the retail building.

Concerns were raised throughout the application process regarding the proposed location of the gasoline vapour venting stacks. Their location, as well as other technical and environmental issues, such as underground tanks and pump installation, storm water treatment, and leak detection alarms, will be addressed at Building Permit stage.

7.0 ALTERNATE RECOMMENDATION

THAT Council authorize the issuance of Development Permit No. 01-10,048 for Lot 1, Section 20, Twp. 26, ODYD, Plan 30767, except Plan 41382 located on Harvey Avenue, Kelowna, B.C, subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
5. Landscaping to be provided on the land be in general accordance with Schedule "C";
6. Signage to be provided be in general accordance with Schedule "D";
5. The applicants 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 professional landscaper;

AND THAT Council authorize the issuance of Development Variance Permit DVP01-10,049 for Lot 1, Section 20, Twp. 26, ODYD, Plan 30767, except Plan 41382 located on Harvey Avenue, Kelowna, B.C,

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

Section 6.10.1 Setbacks from Provincial Highways: Vary the required setback from Highway 97 from 15.0m required to 6.0m proposed for the canopy and 9.0m proposed for the gas pump;

AND THAT variances to the following section of Sign Bylaw No. 8235 be granted:

5.6.1. (d): Location of free-standing signs: Vary the minimum distance between two free-standing signs from 30.0m required to 28.0m proposed and vary the minimum distance to the property line from 1.5m required to 0.0m proposed for the easternmost free-standing sign;

Section 6.1 Specific Zone Regulations:

Vary the number of fascia/canopy/under-canopy signs from 2 per business permitted to 12 proposed for Chevron;

Vary the number of fascia/canopy/under-canopy signs from 2 per business permitted to six proposed for the fast-food restaurant;

AND FURTHER THAT the applicants be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

Andrew Bruce
Current Planning Manager

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Development Services

KGB
Attach.

FACT SHEET

- | | |
|--|---|
| 1. APPLICATION NO.: | DP01-10,048 / DVP01-10,049 |
| 2. APPLICATION TYPE: | Development Permit and
Development Variance Permit |
| 3. OWNER: | Chevron Canada Ltd. |
| . ADDRESS | 1500 – 1050 West Pender Street |
| . CITY | Vancouver, BC |
| . POSTAL CODE | V6E 3T4 |
| 4. APPLICANT/CONTACT PERSON: | Helmut Behlke |
| . ADDRESS | Same |
| . CITY | |
| . POSTAL CODE | |
| . TELEPHONE/FAX NO.: | (604) 668-5730 / (604) 668-5559 |
| 5. APPLICATION PROGRESS: | |
| Date of Application: | June 28, 2001 |
| Date Application Complete: | June 28, 2001 |
| Servicing Agreement Forwarded to Applicant: | |
| Servicing Agreement Concluded: | |
| Staff Report to APC: | July 25, 2001 |
| Staff Report to Council: | November 6, 2001 |
| 6. LEGAL DESCRIPTION: | Lot 1, Sec. 20, Twp. 26, ODYD, Plan 30767, except Plan 41382, |
| 7. SITE LOCATION: | Northwest corner of the intersection |
| 8. CIVIC ADDRESS: | Spall Road and Highway 97 |
| 9. AREA OF SUBJECT PROPERTY: | 1890 Harvey Avenue |
| 10. EXISTING ZONE CATEGORY: | 5018m" |
| 11. TYPE OF DEVELOPMENT PERMIT AREA: | C10 – Service Commercial |
| 13. PURPOSE OF THE APPLICATION: | Mandatory General Commercial DP |
| 14. MIN. OF TRANS./HIGHWAYS FILES NO.: | To construct a new gas station with a |
| NOTE: IF LANDS ARE WITHIN 800 m OF A | retail and drive-through restaurant |
| CONTROLLED ACCESS HIGHWAY | and to vary a setback requirement |
| | and provisions of the sign bylaw |
| | 02-081-19358 |
| | 02-081-19359 |
| 15. DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS | |
| General Commercial DP | Mandatory DP |

ATTACHMENTS

(not attached to the electronic version of the report)

- Location of subject property
- Schedule "A": Site Plan
- Schedule "B": Elevations & Colour Samples
- Schedule "C": Landscape Plan
- Schedule "D": Sign details