
**CITY OF KELOWNA
MEMORANDUM**

Date: November 4, 2005
To: City Manager
From: Planning & Corporate Services Department
Subject:

APPLICATION NO. DVP05-0119 **APPLICANT:** Northland Properties Limited
(Scott Thomson)

AT: 2130 Harvey Ave. **OWNER:** Northland Properties Limited

PURPOSE: TO OBTAIN A DEVELOPMENT VARIANCE PERMIT ALLOWING ONE LOADING SPACE WHERE THE PROPOSED USE REQUIRES FIVE LOADING SPACES.

TO OBTAIN A DEVELOPMENT VARIANCE PERMIT ALLOWING 202 VEHICLE PARKING STALLS WHERE 221 STALL ARE REQUIRED.

TO OBTAIN A DEVELOPMENT VARIANCE PERMIT ALLOWING FASCIA SIGNAGE ABOVE THE SECOND STOREY IN A MANNER WHICH IS INCONSISTENT WITH SECTION 5.5.2, AND SECTION 5.5.3 OF SIGN BYLAW NO. 8235

TO OBTAIN A DEVELOPMENT VARIANCE PERMIT ALLOWING EXISTING FREE-STANDING SIGNAGE TO BE RELOCATED, WHERE SUCH RELOCATION DOES NOT CONFORM TO EITHER THE SITING REQUIREMENTS WITHIN SECTION 5.6 OR THE SPECIFIC ZONE REGULATIONS IN SECTION 6 OF SIGN BYLAW NO. 8235

EXISTING ZONE: C9lp – TOURIST COMMERCIAL (LIQUOR PRIMARY)

PROPOSED ZONE C4lp – URBAN CENTRE COMMERCIAL (LIQUOR PRIMARY)

REPORT PREPARED BY: NELSON WIGHT

1.0 RECOMMENDATION

THAT Council authorize the issuance of Development Variance Permit No. DP05-0119 for Lot A, D.L. 127 O.D.Y.D. Plan 23746, located on Harvey Avenue, Kelowna, B.C.;

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

Section 8.2.2 – Off-Street Loading (Number)

Vary the number of loading spaces to allow one (1) loading stall where five (5) are required, as per Table 8.2.

Section 8.1.2 – Off-Street Vehicle Parking (Number)

Vary the minimum number of vehicle parking stalls to allow 202 stalls where 221 are required as per Table 8.1.

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

Section 5.5.2 – Prohibits Signage on a Wall that is Not a Business Frontage

Vary Section 5.5.2 of the Sign Bylaw, in order to allow fascia signage on a wall that is not a business frontage (see Sign # 4 and Sign #5 on attached Sign Plan).

Section 5.5.3 – Restricts Composition, Content, and Number of Signs Above 2nd Storey

Vary Section 5.5.3 of the Sign Bylaw to allow signage on the parapet in the manner shown on the attached Sign Plan (see Sign #4 and Sign #5 on attached Sign Plan).

Section 5.6.1(b) – Free-Standing Sign – Ensure Sight Line Triangle Maintained

Vary Section 5.6.1(b) to allow a free-standing sign to be located within the required sight-line triangle (Sign #2 on attached Sign Plan).

Section 5.6.1(c) – Free-Standing Sign – Minimum Clearance

Vary Section 5.6.1(c) to allow a free-standing sign having a minimum clearance above a vehicle traffic area of 3.9 m, where 4.4 m is required (see Sign # 3 on attached Sign Plan)

Section 5.6.1(d) – Free-Standing Sign – Setback to Street

Vary Section 5.6.1(d) to allow all three free-standing signs to be located within the required setback to the street, as follows: Sign #1 to be 0.4 m from Enterprise Way, where 1.5 m is required; Sign #2 to be 0.0 m from Harvey Avenue, where 1.5 m is required, and Sign #3 to be 0.1 m from Harvey Avenue, where 1.5 m is required.

Section 6.1 – Free-Standing Sign – Number

Vary the specific “Major Commercial (C3, C4, C6, C7, and C8)” zone regulations to allow two (2) free-standing signs where no more than one (1) is permitted.

2.0 SUMMARY

This application seeks to allow variances to certain sections of the Zoning Bylaw and Sign Bylaw. Variances required include those listed below:

1. Vary number of vehicle parking stalls from 221 to 202
2. Vary number of loading stalls from 5 to 1
3. Vary the Sign Bylaw to allow the “Sandman” sign on the parapet of building, which is above the 11th floor.
4. Vary the Sign Bylaw to allow relocation of three existing free-standing signs. The main non-conformities relate to the siting of these signs.

3.0 ADVISORY PLANNING COMMISSION

At a meeting held on August 2, 2005 the Advisory Planning Commission reviewed this application, and the following recommendation was passed:

THAT the Advisory Planning Commission not support Rezoning Application No. Z05-0040, for 2130 Harvey Avenue, Lot A, Plan 23746, Sec. 21, Twp. 26, ODYD, by Northland Properties Corporation (Scott Thompson), to rezone from the C9I-Tourist Commercial (Liquor Primary) zone to the C4Ip- Urban Centre Commercial Liquor Primary zone to allow for an expansion to the existing hotel.

As a result of the Advisory Planning Commission not supporting the rezoning application, there is no recommendation for Development Permit Application DP05-0-090 and Development Variance Permit Application DVP05-0119

4.0 BACKGROUND

4.1 The Proposal

Construction of an 11-storey, apartment hotel tower is proposed for the subject property. There are 82 one-bedroom units to be accommodated in a tower, which is to be constructed on the northwest portion of the existing Sandman Inn hotel site. All of the required parking is to be provided at grade.

The table below shows this application's compliance with the C4 zoning requirements:

Project details	Site area: 11,817 m ² (2.92 ac)	
	Existing Bldg. Footprint: 2,536 m ²	
	New Bldg. Footprint: 526 m ²	
	Existing Floor Area: 6,797 m ²	
	New Floor Area: 5,790 m ²	
	Existing Restaurant 130 seats	
	Existing Lounge: 70 seats	
	Existing Units: 120 hotel units	
	Proposed Units 80 hotel units	
	<u>2 apartment hotel units</u>	
202 total		
CRITERIA	PROPOSAL	C4 ZONE REQUIREMENTS
Subdivision Regulations		
Lot Area	11,817 m ² (2.92 ac)	1,300 m ²
Lot Width	94 m	40.0 m
Lot Depth	122 m	30.0 m
Development Regulations		
Floor Area Ratio	0.92	1.0 (commercial only) 1.3 (mixed-use)
Site Coverage	26%	75%
Height	35.2 m / 11-storeys	37.0 m or 12-storeys
Front Yard (south)	38.6 m	0.0 m
Side Yard (west)	4.5 m	0.0 m
Side Yard (east)	13.2 m	0.0 m
Front Yard (north)	5.7 m	0.0 m

Other Regulations		
Minimum Parking Requirements	202 spaces ^A (43 out of 221 or 21% small car)	<u>Residential (apmt hotel):</u> 1 per sleeping unit 1 x 2 units = 2 <u>Commercial:</u> 1.75 per 100m ² GFA 1.75 x 12,502 m ² /100 = 219 Total required: 221 spaces (max. 40% of required spaces can be small car)
Setback to parking	2.0 m	2.0 m to any front property line, or flanking street.
Bicycle Parking	Class I: 11 spaces Class II: 16 ^B	<u>Residential</u> Class I: 1 per 20 sleeping units = 1/20 x 202 = 10.1 Class II: 1 per 20 sleeping units = 1/20 x 202 = 10.1 <u>Commercial (food/liquor):</u> Class 1: 0.10 per 100 m ² GFA; or 1 per 10 employees = 1/10 x 50 = 5 spaces Total Class I: 16 spaces Total Class II: 10 spaces
Loading	1 space ^C	<u>Hotels/Motels, Food Primary, and Liquor Primary:</u> 1 per 2,800 m ² GFA 1 x 12,504 / 2,800 = 4.5 5 loading spaces required
Drive Aisle	7.0 m	7.0 m min. for 2-way
Landscaping	North – meets requirements East – meets requirements South – meets requirements West – meets requirements	North – Level 2 buffer East – Level 3 buffer South – Level 4 buffer West – Level 3 buffer

^A The Applicant has applied to vary the minimum number of vehicle parking stalls to allow 202 stalls where 221 are required as per Table 8.1.

^B The Applicant will be required to provide detail on the bicycle racks proposed for the south side of the new building.

^C The Applicant has applied to vary the loading requirements, providing one (1) loading space where five (5) are required.

The table below shows this application's compliance with the Sign Bylaw:

Building Frontage	94.36 m	
Free-Standing Signs		
Free-standing Signs (number)	2 free-standing signs on Harvey Avenue, 1 free-standing sign on Enterprise Way ^D	1 per building frontage, except for a flanking lot over 45 m long which may have 1 on each frontage, except a lot may have 1 additional for every additional 150 m frontage over 150 m to a maximum of 4 signs
Free-standing Signs (sightline triangle)	Does not meet this requirement ^E	does not obscure a pedestrian or drivers' line of vision from a street, access road or sidewalk to oncoming traffic. The line of vision shall be measured a distance of 8.0 m back along both abutting and intersecting streets along the abutting property lines of the lot from the point of intersection of the streets. In the case of an access road, the 8.0 m shall be measured back along the edge of the access road from the point of intersection with the street;
Free-standing Signs (minimum clearance above vehicle traffic area)	Does not meet this requirement ^F	maintains a minimum clearance of 4.4 m when it projects over a vehicular traffic area such as a parking lot aisle or driveway; and
Free-standing Signs (setback to street)	Does not meet this requirement ^G	is not located closer than 1.5 m to a lot line, within 1.0 m of any building, or within 30.0 m of another free standing sign.
Fascia Signs		
"Sandman" Sign on Parapet	Does not meet this requirement ^H	Section 5.5.2: No fascia signs shall be allowed on a wall which is not a business frontage.

<p>“Sandman” Sign on Parapet</p>	<p>Does not meet this requirement^I</p>	<p>A fascia sign may only be located more than 1.0 m above the second story provided that:</p> <p>(a) the sign consists only of a logo, the name of a building, the street address, or a particular tenant;</p> <p>(b) the sign, in the form of individual letters, symbols or logos is directly attached to or inscribed on the building face; and</p> <p>(c) there are no more than one sign per building face and no more than 4 per building provided all signs are identical and identify the same business.</p>
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^D The Applicant will be required to remove one of the two free-standing signs on Harvey Ave. or successfully vary this requirement of the Sign Bylaw.

^E The Applicant will be required to remove Sign #2 to comply with this requirement, or successfully vary this requirement of the Sign Bylaw.

^F The Applicant will need to comply with, or successfully vary this requirement of the Sign Bylaw.

^G The Applicant must relocate free-standing signs #1, #2, and #3, which do not comply with the 1.5 m setback to the street, or successfully vary this requirement of the Sign Bylaw.

^H The Applicant is applying to vary this requirement of the Sign Bylaw

^I The Applicant is applying to vary this requirement of the Sign Bylaw.

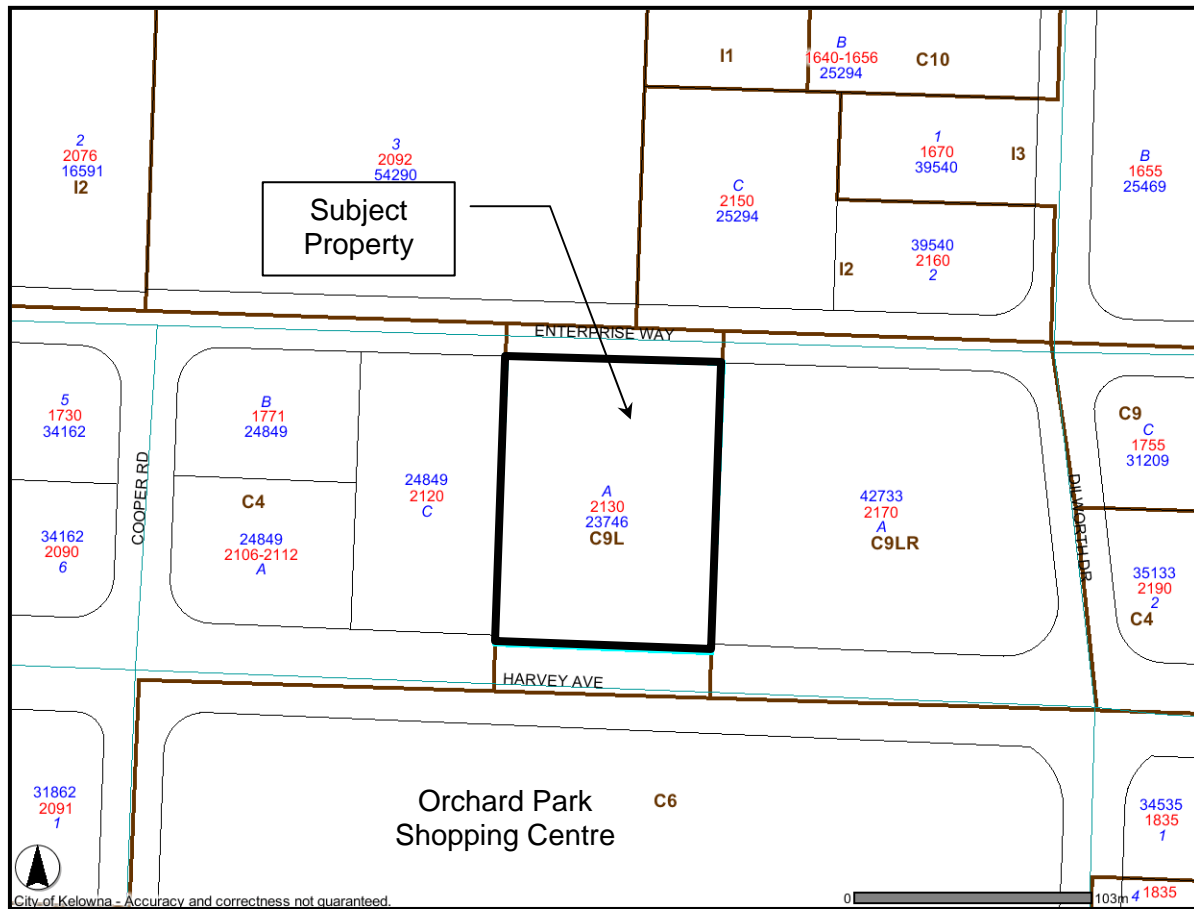
4.2 **Site Context**

The subject property is located north, across Harvey Avenue from Orchard Park Shopping Centre, ½-block west of Dilworth drive. The surrounding land has been developed primarily for commercial uses, with some industrial uses north across Enterprise Way. More specifically, the adjacent land uses are as follows:

North-	I2 – General Industrial
	I3 – Heavy Industrial
East	C9Irs – Tourist Commercial (Liquor Retail Sales)
South	C6 – Regional Commercial
West	C4 – Urban Centre Commercial

Site Location Map

Subject property: 2130 Harvey Avenue



4.3 Existing Development Potential

The purpose is to provide a zone for the development of community commercial centres to serve more than one neighbourhood.

4.4 Current Development Policy

4.4.1 City of Kelowna Strategic Plan (2004)

Goal #1 – To maintain, respect, and enhance our natural environment.

Goal #2 – To foster a strong, stable, and expanding economy.

Goal #3 – To foster the social and physical well-being of residents and visitors.

4.4.2 Kelowna Official Community Plan (OCP)

Future Land Use

The subject properties are designated as “commercial” in the OCP. Consequently, the proposal to rezone to the C4 – Urban Centre Commercial zone is consistent with that designation.

Objectives for Commercial Development

- All development should be an appropriate response to its physical context, or anticipated future context where an area is designated for increased density or land use transition in the OCP;
- All development should provide visual interest and human scale;
- All development should contribute to a sense of community identity and sense of place (integration of development within larger community belonging, community cohesiveness);
- All development should facilitate access by, and minimize conflicts among pedestrian, bicycle, and vehicular modes of transportation (access, mobility);
- All development should promote safety and security of persons and property within the urban environment (CPTED);
- All development within Urban Centres and Village Centres should contribute to the creation of pedestrian-oriented streets and public spaces (connections, social interaction).

5.0 TECHNICAL COMMENTS

Ministry of Transportation and Highways

In response to your September 14, 2005 referral we have reviewed Northland Properties Corporation drawing nos. A1 and A2 dated April 22, 2005 and can advise that we are prepared to approve the rezoning bylaw subject to the following conditions:

- Okanagan Highway #97 to be established an additional 3.672 m wide by legal survey plan fronting Lot A, Plan 23746. This dedication must match the right-of-way that was established by Plan H17519 in front of the adjacent McDonalds property. We require a copy of the legal survey plan to be submitted to our office along with a written undertaking from the owner's solicitor to register the road dedication plan in the Land Title Office in Kamloops immediately upon successful completion of the rezoning.
- A minimum 203 parking stalls to be provided on the site

AMENDMENT November 7, 2005: The Ministry would be prepared to accept the deletion of one more parking stall in order to address City requirements. This would bring the total number of required stalls on the site down to 202.

- A minimum 22.5 metres of magazine storage to be provided from the new property line into the site for the highway access. Given the parking lot configuration shown this will require the driveway magazine to be protected all the way to the north end of stall 155 with no aisle connections or interruptions for that distance.
- Application for an amended controlled access permit for the right in/right out only access to Highway 97 be submitted to this office for processing. The amendment is to add the proposed new 82 hotel units to the allowable use currently recognized on the property. The application form is available on our website at www.th.gov.bc.ca/permits/forms.asp

Once all items have been addressed to our satisfaction we will be prepared to approve the rezoning bylaw.

Works and Utilities

1. Development Permit, Development Variance Permit and Site Related Issues
 - (a) 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.
 - (b) The requested variance to reduce the loading bay requirements, does not compromise Works and Utilities servicing requirements
 - (c) A bike rack must be provided in accordance with current bylaws and policies.

6.0 PLANNING AND CORPORATE SERVICES DEPARTMENT COMMENTS

6.1 VARIANCE TO PARKING

Should the tenants for whom this development is being designed (Sandman Inn and Denny's) consider 202 stalls satisfactory, then Staff would support the variance to the Zoning Bylaw to allow that shortfall in parking spaces.

The variance to parking seems reasonable in this case, given that there is no street parking on either Harvey Ave. or Enterprise Way that could be potentially impacted by a functional shortfall on the Sandman Inn property. The Applicant has also supplied an opinion based on the Institute of Transportation Engineers (ITE) Parking Generation Manual that argues for a lesser amount, based on a per-“sleeping unit” count, rather than a floor area count.

6.2 VARIANCE TO LOADING

Staff also is supportive of the variance in loading stalls to require one stall where five are required.

6.3 VARIANCE TO SIGN BYLAW TO ALLOW PARAPET SIGNAGE ABOVE THE 11TH STOREY

Staff do not support this variance application. The reason for this position is based on Staff's perception of the public interest served by strictly enforcing the Sign Bylaw. In this case, allowing such signage promotes that lowest form of vehicle-oriented development dominating many highway commercial corridors throughout North America. Such development detracts from the stated goals of the OCP, such as commercial development seeking to “contribute to a sense of community identity and sense of place”, “provide visual interest and human scale”; and “contribute to the creation of pedestrian-oriented streets and public spaces”.

6.4 VARIANCE TO SIGN BYLAW FOR FREE-STANDING SIGNAGE

Staff do not support any of these variances. It should be possible to provide adequate signage for identification of the Sandman Inn and Denny's, as well as directional signage indicating entrances, without encountering any variances to the Sign Bylaw.

It should be noted that—once alerted by Staff to these non-conformities regarding the free-standing signage—the Applicant did not have time to respond with revised drawings prior to the report deadline.

7.0 ALTERNATE RECOMMENDATION

THAT Council authorize the issuance of Development Variance Permit No. DP05-0119 for Lot A, D.L. 127 O.D.Y.D. Plan 12746, located on Harvey Avenue, Kelowna, B.C.;

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

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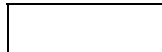
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Vary the specific “Major Commercial (C3, C4, C6, C7, and C8)” zone regulations to allow two (2) free-standing signs where no more than one (1) is permitted.

Andrew Bruce
Manager of Development Services

Approved for inclusion



R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Corporate Services
NW/nw

ATTACHMENTS

Location of subject property

Site Plan

Sign Plan (2 pages)

Elevations

Applicant's Letter of Rationale (2 pages)