
CITY OF KELOWNA

MEMORANDUM

Date: September 22, 2006
File No.: **DVP06-0124**

To: City Manager

From: Planning & Corporate Services Department

Subject:

DEVELOPMENT VARIANCE PERMIT
APPLICATION NO. DVP06-0124

OWNER: CANADA LANDS CO. CLC
LIMITED

AT: 1130 & 1092 ELLIS ST /
1089 SUNSET DR.

APPLICANT: LEDINGHAM MCALLISTER
(FRED PRITCHARD)

PURPOSE: TO SEEK A DEVELOPMENT VARIANCE PERMIT:
1. TO VARY THE BUILDING HEIGHT FROM 16 STOREYS
PERMITTED TO 26 STOREYS PROPOSED,
2. TO VARY THE DAYLIGHTING STANDARD ANGLE FROM 65°
PERMITTED TO 85° PROPOSED,
3. TO VARY THE AMOUNT OF OFF-STREET PARKING
PROVIDED FROM 1129 STALLS REQUIRED TO 1028 STALLS
PROPOSED, AND
4. TO VARY THE SOUTH SIDEYARD SETBACK FROM 4.5 M
REQUIRED TO 0.0 M TO THE PARKING STRUCTURE

EXISTING ZONE: RM6 – HIGHRISE APARTMENT HOUSING ZONE

REPORT PREPARED BY: PAUL McVEY

1.0 RECOMMENDATION

THAT Council authorize the issuance of Development Variance Permit No. DVP06-0124; Lots 2, 3, & 4, DL 139, O.D.Y.D., Plan KAP76304, located on Sunset Drive and Ellis Street, Kelowna, B.C.;

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

- a) Section 6.1 **Daylighting Standards** to vary Vertical Angle from 65° permitted to 85° proposed
- b) Section 8.1.2 **Number of Spaces** to vary the number of parking stalls from 1129 stalls required to 1028 stalls provided,
- c) Section 13.12.6 (c) **Development Regulations** to vary the maximum building height from 55.0 m or 16 storeys permitted, to 81.5 m or 26 storeys proposed, and

- d) Section 13.12.6(e) – **Development Regulations**, to vary the minimum south side yard setback from 4.5 m required to the 0.0 m proposed to the parking structure.

Subject to the applicant providing a redesign to top of high-rise building to mitigate the effect of shadows and to be more in keeping with the area buildings that currently exist, or are proposed to be constructed; the use of improved finish materials in keeping standards of the area, and the provision of a “Crime Prevention Through Environmental Design” review report of the proposed project.

2.0 SUMMARY

The applicant is proposing a comprehensive development of the subject property comprising eight – 4 storey buildings, and one 26 storey tower. The two buildings proposed to be located adjacent to Ellis Street and are designed to be Mixed-Use, commercial and residential.

Associated with the Development Permit application (DP06-0123), there is also a Development Variance Permit application which seeks to vary the maximum building height from 16 storeys permitted to 26 storeys proposed, the daylighting standard angle from 65° permitted to 85° proposed, and to vary the amount of off-street parking from 1129 stalls required to 1028 stalls proposed. There has also been a request to vary the south side yard setback, when measured to the parking structure, to allow a 0.0 m setback, where a 4.5 m setback is required adjacent to the proposed Icon Development project.

The associated Development Permit (DP06-0123) report will be provided separately for consideration at the same meeting as this Development Variance Permit application.

2.1 Advisory Planning Commission

The above noted application (DVP06-0124) was reviewed by the Advisory Planning Commission at the meeting of July 4, 2006 and the following recommendations were passed:

THAT the Advisory Planning Commission supports Development Variance Permit Application No. DVP06-0124, for 1092 & 1130 Ellis Street; 1089 Sunset Drive and Lots 2, 3 & 4, Plan 76304, Sec. 25, Twp. 25, ODYD, by Ledingham McAllister Communities Ltd. (Fred Pritchard), to obtain a Development Variance Permit to vary the maximum building height from 16 storeys to 26 storeys

AND THAT the Advisory Planning Commission supports Development Variance Permit Application No. DVP06-0124, for 1092 & 1130 Ellis Street; 1089 Sunset Drive and Lots 2, 3 & 4, Plan 76304, Sec. 25, Twp. 25, ODYD, by Ledingham McAllister Communities Ltd. (Fred Pritchard), to vary the day lighting angle from 65° to 85°.

AND THAT the Advisory Planning Commission support application No. DVP06-0124, for 1092 & 1130 Ellis Street; 1089 Sunset Drive, Lots 2, 3 & 4, Plan 76304, Sec. 25, Twp. 25, ODYD, to obtain a Development Variance Permit to vary off-street parking from 1220 stalls to 1028 stalls, subject to internal road covenant to maintain public access; and for Engineering Department to review an updated engineering traffic study.

3.0 BACKGROUND

The subject properties were created as part of the redevelopment of the former CN Railyard. This area was the subject of the “Downtown North Area Structure Plan”, which was commenced in 1996. The land use development patterns identified in that document were adopted into the City of Kelowna Official Community Plan in December 2000.

3.1 The Proposal

This current application for Development Permit and Development Variance Permit seeks approval for the development of the northern portion of the Canada Lands property identified in the “Downtown North Area Structure Plan” with Multiple Unit Residential buildings, and the portion of the site fronting Ellis Street with Mixed-Use buildings. The Area Structure Plan has identified the largest component of the subject properties for RM6 zone uses, while the lands fronting onto Ellis Street are identified for Commercial uses. The Official Community Plan identifies this same land use pattern.

The site plan submitted in support of this application shows access to the development site coming from Sunset Drive by the use of a driveway located near the northern boundary of the site, near the Brandts Creek linear park and walkway. This driveway provides access to a roadway that runs along the top of the underground parking structure that connects the Sunset driveway through to Ellis Street, at a location across from the intersection of Ellis St. and Gaston Avenue. The roadway is designed to function as a minor vehicular route, while also providing a pedestrian access through the development site. This roadway winds through the centre of the development site, and has a number of “lay-bys” located adjacent to each of the proposed buildings in order to provide a temporary stopping and drop-off area near the main entrance of each of the buildings. There is a second driveway from Sunset drive located adjacent to the driveway proposed for the “Icon” development. The driveway locations at both Sunset Drive and Ellis Street are identified with gateway features that are reminiscent of stone and timber railway construction. There is an access ramp to the under building parking garage located near Building 1, while there is another access ramp located near the north boundary of the site at Ellis Street. The cross section through the parking structure indicates that the parking structure is approximately 2.0M below grade, with the top of the structure approximately 1.0m above the sidewalk elevation along Sunset Drive. The outer perimeter of the parking structure has a chamfered edge in order that the top of the parking structure is only .6 m above the finished grade at those locations.

Building 1 (Highrise Tower) is located at the northernmost corner of the property adjacent to both Sunset Drive and Brandts Creek trail. The building is designed as a 26 storey, 183 unit high-rise building. The proposed building height of 26 storeys has triggered a height variance to the RM6 zone, as the maximum building height permitted in the RM 6 zone is 16 storeys. As well, the proposed location of the building near the north boundary of the development site impacts the required Daylighting Standards, as the vertical daylighting angle for one corner of the building is 85°, where the zoning bylaw standard is 65°.

The proposed development includes an underground parking structure that is set partially into the ground. It is anticipated that the structure will yield approximately 1082 parking stalls, and 718 bicycle parking lockers. The parking structure is to be accessed from 3 ramps, one located near the north end of the site from Ellis Street, one from Sunset Drive near the south end of the site, and the third located adjacent to the drop-off area near Building 1 (Highrise Tower). There has been a variance requested to vary the amount of parking provided from 1129 stalls required to 1028 stalls provided.

There has also been a request to vary the south side yard setbacks from 4.5m to 0.0m measured to the parkade structure, as it is anticipated that the parkade structure will project greater than 0.60m above the grade of the adjacent properties to the south (Icon Project). The residential buildings constructed on top of the parking structure do comply to the required sideyard setback identified in the RM6 zone. When the neighbouring property is filled to an appropriate finished grade elevation, the top of the parking structure will then be less than 0.60 m above grade, and the side yard setback will not apply to that portion of the parking structure.

This application for a Development Variance Permit has been circulated separately from the associated Development Permit in order to provide the applicant additional time to sort out some outstanding Development Permit design issues while the Development Variance Permit goes through the required public notification process.

The proposal as compared to the RM6 & C4 zone requirements is as follows:

CRITERIA	PROPOSAL	ZONE REQUIREMENTS
Site Area (m ²) RM6 portion C4 portion (2 lots) TOTAL SITE AREA	30,071.4 m ² <u>5,803 m²</u> 35,874.4 m ²	1,700 m ²
Site Width (m) Sunset Dr. Ellis Street	174 m 106 m	30.0 m
Site Depth (m)	234 m	35.0 m
Site Coverage (%) RM6 portion C4 portion	32.16% 48.53%	50% max. bldg, prkg & driveways 75% max.
Total Floor Area (m ²) RM6 Net C4	53,587.2 m ² net 8,600. m ² net	
F.A.R. RM6 C4 Resulting FAR over entire site	1.782 1.482 (mixed use) 1.733	Base FAR = 1.5 + bonuses Base FAR = 1.3 + bonuses
Storeys (#)	26 storeys (81.5 m) ❶	16 storeys or 55 m max.
Setbacks (m)		
- Front (Sunset Dr.)	6.0 m	6.0 m min. (RM6 zone)
- Front (Ellis Street)	0.0 m	0.0 m min. (C4 zone)
- North Side to building	4.5 m	4.5 m min.
- South Side to building	4.5 m	4.5 m min.
- South Side to parkade	0.0 m ❷	
Private Open Space	Balconies 5,118 m ² Open space 7,500 m ²	12,561 m ² open space req'd
Parking Stalls (#)	1028 stalls provided ❷	1129 stalls required
Bicycle Parking Stalls (#)		Class I 780 x 0.5 = 390 Class II 780 x 0.1 = 78

Notes;

FAR = 1.5 base + 0.10 bonus open space + 0.182 under building parking = 1.782 FAR

FAR = 1.3 base + 0.182 under building parking = 1.482 FAR (commercial)

Variances requested;

- (a) ❶; Vary building height from 16 storeys, and 55m permitted, to 26 storeys and 81.5 m proposed,
- (b) ❷; Vary the amount of off street parking provided from 1129 stalls required to 1028 stalls proposed
- (c) Vary daylighting angle from maximum 65° permitted to 85° proposed
- (d) ❸; Vary south sideyard setback to parking structure from 4.5 m required to 0.0 m proposed

Parking and Open Space summary table

Type of units	Quantity Of units	Parking required	Number of stalls Required	Open Space Required	Amount of Open Space Required
Com/Res units	119	1.0	119	15	1785
1 br units	187	1.25	234	12	2244
2 br units	344	1.5	516	18	6192
3 br units	130	2.0	260	18	2340
TOTAL	780		1129 Stalls		12561 m²

3.2 Site Context

The subject property is located within the former rail yard that was located on the east side of Sunset Drive, north of the commercial designated sites. The site is generally flat and level.

3.3.2 City of Kelowna Strategic Plan (2004)

The City of Kelowna Strategic Plan 2004 describes a vision of what residents hope Kelowna will be like in the future and has identified as one of the themes that overall, residents aspire to live in a community that:

- Embraces the social, cultural and physical well-being of its residents through the delivery of quality services at a reasonable price, the development and maintenance of quality infrastructure and built forms, and meaningful opportunities to be involved in major decision made by the City.

The City of Kelowna Strategic Plan 2004 also states as Goal 3;

“To foster the social and physical well-being of residents and visitors.”

The City of Kelowna Strategic Plan 2004 also states as Objectives for Goal 3;

1. Promote health and wellness initiative.
 - a. Develop or support programs that address the needs and engage the energies of seniors.
2. Ensure the availability of fiscal and human resources to provide quality services.
3. Realize construction of housing forms and prices that meet the needs of Kelowna residents.
 - a. Work in partnership with housing organizations and finance institutions to monitor the range of housing options required in the City.
 - b. Identify ways to establish partnerships with builders, developers and other levels of government in an effort and legislative tools to influence the supply and diversity of housing and to increase the supply of affordable housing.

4.0 TECHNICAL COMMENTS

The application has been circulated to various technical agencies and City departments and these comments will be included in the associated Development Permit application which will be reviewed at the same Council meeting as this Development Variance Permit application.

5.0 PLANNING AND CORPORATE SERVICES DEPARTMENT COMMENTS

The development proposal submitted is an ambitious residential and commercial development proposal that embraces key elements of the Downtown North (Canada Lands) Area Structure Plan. The Area Structure Plan identified 3 potential layouts; towers, mid-rise development, and 4 storey multiple unit residential development. Each of the proposals had its own strong points. This proposal incorporates the low rise buildings and adds 1 tower to the site plan. The proposed height variance under application does not increase the maximum allowable building area (FAR).

There are still some outstanding design and servicing issues that will have to be resolved prior to Council consideration of the associated Development Permit. However, this Development Variance Permit application has been circulated separately from the associated Development Permit in order that the Development Variance Permit can be advertised to affected property owners as part of the required public notification process.

The Planning and Development Services Department does not have concerns with the variances under application for change to the vertical angle of the Daylighting Standards or the variance to the number of parking stalls provided, and recommends for positive consideration by Council for these two items. However, Staff do have concerns with the request for the variance to building height up to 26 storeys. There have been height variances granted in the neighbourhood, but only to a maximum of 21 storeys. Staff have had discussion with the applicant and his architect to change the design of the upper floors of the high-rise building to reduce the impact of the tower's height variance. (e.g. a more tapered appearance in keeping with buildings which are in place or proposed for the area).

The associated parking variance to reduce the parking provided on site from 1129 stalls required to the 1028 stalls proposed does not create concern, in that the location of the subject property is located within the Downtown Urban Centre, and is located within walking distance to the Arts and Culture District, the Downtown Business district, and the Queensway Transit Centre. It is anticipated that there would be fewer occupants of the residential units having the same number of automobiles as you would find in more outlying residential developments. The reduction in parking also embraces elements of the Transportation Demand Management noted in the City of Kelowna Official Community Plan. Staff have requested a Crime Prevention Through Environmental Design (CPTED) report for the proposed development, with emphasis on the parking structure.

The variance to the south side of the parking structure has been triggered as the anticipated construction of the Icon Project, as authorized by DP04-0018, has not commenced at this time. Because the construction that was anticipated to raise the grade of the adjacent lot has not taken place yet, the top of the parking structure for the Ledingham McAllister project will project greater than 0.6 m above grade, which would then require that the construction meet the required sideyard setback for the zone. Once the Icon Project is started and the grade level raised, this side yard variance would no longer be required.

Council will have the opportunity to consider the associated Development Permit application (DP06-0123) at this same meeting under separate cover.

This is not a rezoning application so the current practice of seeking 50% of the increased number of units for special needs housing does not apply. However, the applicant has volunteered to contribute \$100,000.00 as seed funding for affordable housing (e.g. strategy or implementation plan).

In conclusion, while there are issues yet to be resolved, staff continue to work with the applicant and will bring back further details for Council consideration when the Development Permit report is submitted.

Shelley Gambacort
Acting Manager of Development Services

Approved for inclusion

Mary Pynenburg, MRAIC MCIP
Director of Planning & Development Services

PMc/pmc
Attach.

Attachments

Subject Property Map

Site Plan

Detail – Variance to Daylighting Angle

Detail – Variance to Building height