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**CITY OF KELOWNA**  
**MEMORANDUM**

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**DATE:** November 2, 2006  
**FILE NO.:** **DVP06-0202**

**TO:** City Manager

**FROM:** Planning & Development Services Department

DEVELOPMENT VARIANCE PERMIT      OWNER:      NAVIGATOR  
APPLICATION NO. DVP06-0202      DEVELOPMENT ICON  
CORPORATION

AT:    1151 SUNSET DR.      APPLICANT: THE HULBERT GROUP /  
VICTOR TAM

**PURPOSE:**      TO SEEK A DEVELOPMENT VARIANCE PERMIT TO  
AUTHORIZE A 21 STOREY, 66.8 M BUILDING HEIGHT WHERE  
THE PREVIOUSLY ISSUED DVP AUTHORIZED 20 STOREY,  
64.7 M BUILDING HEIGHT, AND TO VARY DAYLIGHTING  
ANGLE FROM MAXIMUM 65° PERMITTED TO 74° PROPOSED.

**EXISTING ZONE:**    RM 6 – HIGH RISE APARTMENT HOUSING ZONE

**REPORT PREPARED BY:**    PAUL McVEY

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1.0    RECOMMENDATION

THAT Council authorize the issuance of Development Variance Permit No. DVP06;0202; Lot 5, DL 139, O.D.Y.D., Plan KAP76304, located on Sunset Drive, Kelowna, B.C.;

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

- a) Section **6.1.2(b)&(c) Daylighting Standards** – from the Daylighting Standard Vertical Angle for the east side lot line and the rear lot line of 65° required to 74° proposed,
- b) Section **13.12.6(c)** – High Rise Apartment Housing zone, **Development Regulations**, from the maximum building height of the maximum of 16 storeys or 55 m to 21 storeys or 66.8 m proposed.

2.0    SUMMARY

The applicant is seeking a Development Variance Permit to authorize a 21 Storey (66.77 m) building height where the RM6 – zone permits a maximum height of 16 storeys or 55m., and to vary the daylighting angle from maximum 65° required to 74° proposed.

There had been a Development Permit DP04-0018 and a Development Variance Permit DVP04-0019 issued in May 2006 which had authorized a building height of 20 storeys or 64.7 m. and to vary the daylighting angle to 73°

## 2.1 Advisory Planning Commission

The original applications (DP04-0018/DVP04-0019) were reviewed by the Advisory Planning Commission at the meeting of March 2, 2004 and the following recommendations were passed:

THAT the Advisory Planning Commission supports Development Permit Application No. DP04-0018, for (W of) Ellis Street & 1187 Sunset Drive, part of Lot 7, District Lot 139, ODYD, Plan KAP68693 except Plan KAP73017 & a part of Lot A, District Lot 139, ODYD, Plan KAP73017 by The Hulbert Group (Mark Hamilton) to obtain a Development Permit to authorize construction of a 90 unit residential development consisting of an 82 unit, 20 storey high rise apartment building and 7 townhouse units;

AND THAT the Advisory Planning Commission supports Development Variance Permit Application No. DVP04-0019, for (W of) Ellis Street & 1187 Sunset Drive, part of Lot 7, District Lot 139, ODYD, Plan KAP68693 except Plan KAP73017 & part of Lot A, District Lot 139, ODYD, Plan KAP73017 by The Hulbert Group (Mark Hamilton) to obtain a Development Variance Permit to vary the maximum building height from 16 storey's, or the 55 m permitted, to 20 storey's, or 63 m, proposed; and to vary the daylighting angle from a maximum of 63° permitted to the 73° proposed.

NOTE; This revised application was not circulated to APC for review as the proposed form and character of the resulting building remains virtually the same as was originally proposed, except for a building height of 21 storeys (66.77 m), and the revised tower design results in 86 residential units where the original design proposed 82 units. The applicant has consulted with the adjacent property owners who have no objection.

## 3.0 BACKGROUND

The subject property was 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

Applications DP04-0018 and DVP04-0019 were made in 2004 to authorize development of a multiple unit residential development on the site to create 7 town house units, and a 20 storey (64.7m) high residential tower designed to contain 82 residential units.

During the review of the project for building permit drawings, it became apparent that there was mechanical equipment and storage lockers proposed to be located within the parking structure under the proposed building which would be situated lower than the 343.66 m. flood construction level. It has been necessary to redesign the underground parking structure to remove the storage lockers and mechanical equipment that had been proposed to be located there, and relocate them to a position on the top of the parking structure, which is also the ground floor of the residential development.

In the original proposal, the ground floor level, was designed with a 5.86 m. high space to provide a grand entrance lobby. The revised proposal reduces this ground floor level to a 4.45 m high space. This combined with a reduction of the floor to ceiling height in some of the upper levels from the original proposal results in the ability to add one storey to the building and only increase the overall height 2.1 m. The resulting tower is now proposed to be 21 storeys high, and has an overall height of 66.77 m.

The increase in overall building height will also have a minor impact on the daylighting angle. The resulting angle adjacent to the east property line increases from 73° previously approved by DVP04-0019 up to a maximum of 74°.

The ground floor level will now provide space for a mechanical and electrical room, while still providing space for common amenity features for the building residents.

The added second storey level adds 4 residential units and a guest suite to the development proposal, as well as space for storage lockers.

This additional floor area, will however, create a situation where the resulting floor area ratio exceeds the maximum FAR permitted in the RM6 – High Rise Apartment housing zone, previously approved by DP04-0018. The applicant is proposing to enter into a housing agreement for one affordable housing unit which will permit an additional density bonus of 0.1, which will authorize a maximum FAR of 1.9. The proposed FAR for this project is designed to be a maximum of 1.87, where the original proposal contemplated a max FAR = 1.8.

The exterior of the building is anticipated to change minimally from the building façade which was previously approved by Council on April 14, 2004. The exterior colours, details, and materials will remain the same as those that were proposed by DP04-0018. The only visible change to the exterior will be the addition of one level to the proposed building exterior.

The site plan and landscape plan for the proposed building project are not proposed to change from that which was originally reviewed by Council as part of DP04-0018.

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

CRITERIA	PROPOSAL	RM6 ZONE REQUIREMENTS
Site Area (m <sup>2</sup> ) (proposed lot)	5,868.48 m <sup>2</sup>	1,700 m <sup>2</sup>
Site Width (m)	92.4 m	30.0 m
Site Depth (m)	76.112 m	35.0 m
Site Coverage (%)	19.3% buildings 39.6% bldgs & pvmt	50% max. bldg, structures, parking areas and driveways
Total Floor Area (m <sup>2</sup> )	12,843.55 m <sup>2</sup> gross 10,976.42 m <sup>2</sup> net	
F.A.R.	1.87	Base FAR = 1.5 + bonuses
Storeys (#)	21 storeys (66.7 m) ❶	16 storeys or 55 m max.
Setbacks (m)		
- Front (Sunset Dr.)	6.0 m	6.0 m min.
- Rear to building to parking structure	20.9 m 0.0 m ❷	9.0 m min.
- Northwest Side to building to parking structure	18.0 m 0.0 m ❸	4.5 m min.
- East Side to building to parking structure	6.0 m 0.0 m ❹	4.5 m min.
Private Open Space	Balconies 1,200 m <sup>2</sup> Open space 1,101 m <sup>2</sup>	1 – 1 br @ 12 m <sup>2</sup> = 12 m <sup>2</sup> 78 - 2 br @ 18 m <sup>2</sup> = 1,404 m <sup>2</sup> 14 - 3 br @ 18 m <sup>2</sup> = 252 m <sup>2</sup> 1,668 m <sup>2</sup> open space req'd
Parking Stalls (#)	150 stalls provided	1 - 1br @ 1.25 = 1.25 78 - 2 br @ 1.5 = 117 14 - 3 br @ 2.0 = 28 147 stalls required
Bicycle Parking Stalls (#)		Class I 93 x 0.5 = 47 Class II 93 x 0.1 = 9

Notes;

Revised FAR = 1.5 base + 0.10 bonus open space + 0.20 under building parking + 0.1 Housing agreement = **1.9 FAR** max permitted (FAR proposed = 1.87)

Variances originally requested and authorized;

- ❶; vary building height from 16 storeys, and 55m permitted, to 20 storeys and 64 m proposed,
- ❷; Vary rear yard from the 9.0 m required to 0.0 m to parkade structure
- ❸; Vary northwest side yard from the 4.5 m required to 0.0 m to parkade structure
- ❹; Vary east side yard from the 4.5 m required to 0.0 m to parkade structure

Vary the Daylighting Standards from a vertical angle of 65° permitted to 73° proposed

REVISED Variances requested;

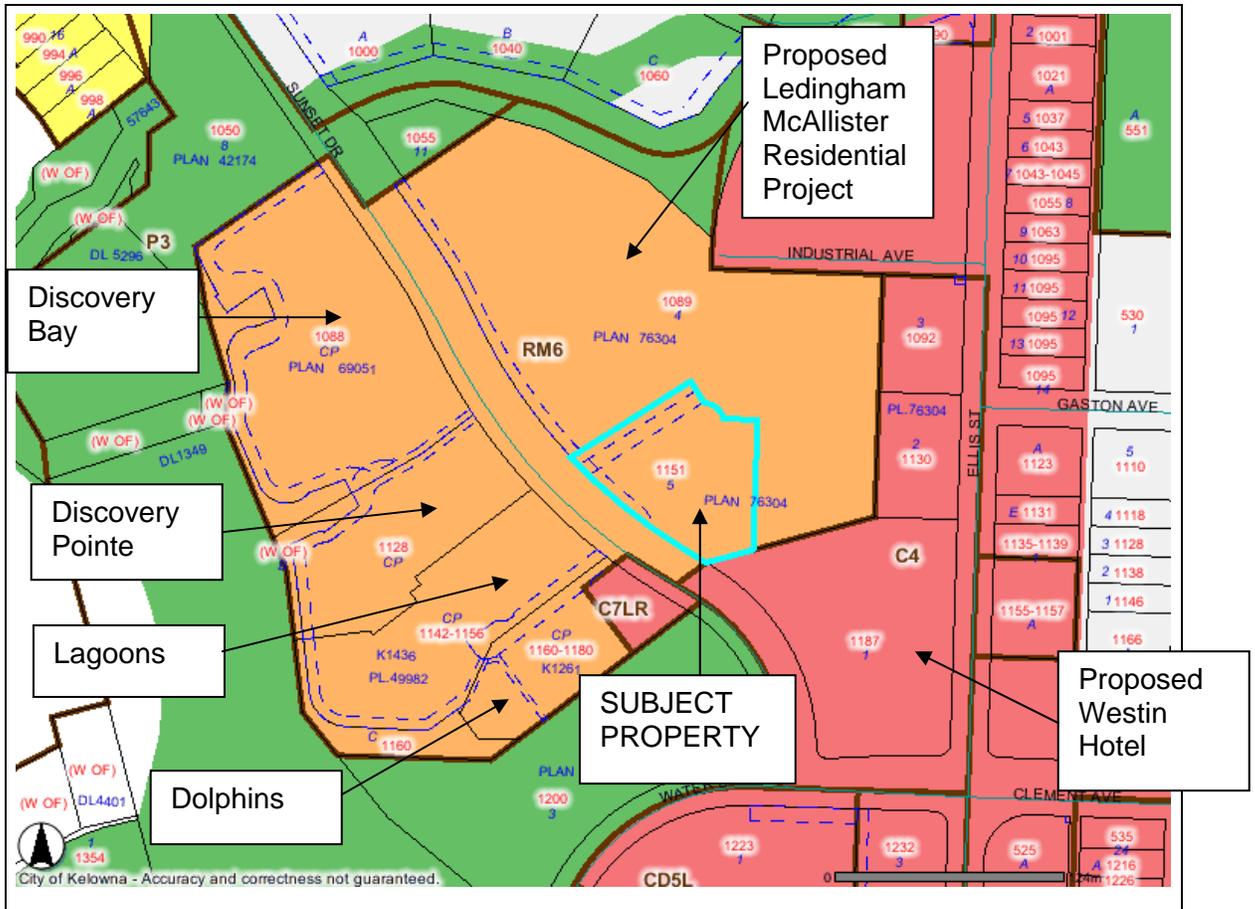
- ❶; vary building height from 16 storeys, and 55m permitted, to **21 storeys and 66.77m** proposed,

Vary the Daylighting Standards from a vertical angle of 65° permitted to 74° proposed

### 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.

#### SUBJECT PROPERTY MAP



The adjacent zone uses are as follows:

- North - RM6 – Highrise Apartment Housing – pending Ledingham McAllister residential development
- East - RM6 – Highrise Apartment Housing – pending Ledingham McAllister residential development
- South - C4 – Urban Centre Commercial – Pending Westin Hotel
- West - RM6 – Highrise Apartment Housing/Sunset Dr.- Dolphins & Lagoons

### 3.3 Current Development Policy

#### 3.3.1 Kelowna Official Community Plan

The Kelowna Official Community Plan designates the area of the subject property as a “Multiple Family Residential – high density” and “Commercial” future land use.

#### 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.

#### 3.3.3 Crime Prevention Through Environmental Design

The applicant has provided a comprehensive CPTED report for the proposed project.

### 4.0 TECHNICAL COMMENTS

The original application had been circulated to various technical agencies and City departments in 2004. Those original DP and DVP applications addressed the major servicing issues.

There will be opportunity during the Building Permit review process for additional review of the technical issues associated with this project.

#### 5.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT COMMENTS

With the proposed changes to facilitate the relocation of the mechanical equipment and the storage lockers to a higher elevation, it has been necessary for a new Development Variance Permit to be considered as the overall building height has increased from the previously authorized 64.7 m up to the current proposed 66.8 m, an increase in height of 2.1 m. As well, the storey count of the resulting building is now 21 storeys, where the original proposal contemplated only 20 storeys. There is also a minor impact on the daylighting angles as well, in that the increase in building height increases the daylighting angle up to 74°, where the previously issued development variance permit authorized a maximum daylight angle of 73°.

The addition of one storey has created the additional floor area to provide space to locate the mechanical equipment and storage room on top of the parking structure. As well, this additional storey has provided sufficient floor area to permit 4 additional dwelling units.

However, the addition of the 4 dwelling units has resulted in a Floor Area Ratio of 1.87, where the original proposal was based on an FAR of 1.8. The RM6 zone does offer the provision of a density increase of 0.1 FAR, if the applicant enters into a Housing Agreement pursuant to Section 6.9 of the City of Kelowna Zoning Bylaw 8000. This is the course of action that the applicant has chosen to follow in order to authorize the addition of residential units. The applicant has discussed the issue of the housing agreement with staff, and reviewed three options; one unit for sale as affordable housing, two units as rental housing for a period of ten years, or a cash contribution to an affordable housing fund. At the time of the submission of this report to the Clerks Department to meet advertising deadlines, the applicant has not determined which course of action they intend to follow. However, the developer has committed to addressing the issue of “Affordable Housing” prior to the Council meeting at which the Development Variance Permit application will be considered.

It is interesting to note that an alternative to removing the mechanical equipment and storage lockers from the parking garage would be to raise the entire building and parking garage up approximately 1.8 m so that the floor level of the parking structure would be above the 343.66 m flood construction level. However, this solution would also impact the finished grade level around the adjacent proposed buildings (i.e. Westin Hotel, Brandt’s Creek Crossing – Leddingham McAllister). Therefore, the preferred option is to add a floor to the proposed building without altering the finished grade elevation of the development and impacting the adjacent development sites.

The overall change in appearance is relatively minor and is necessitated by the requirement not to have mechanical equipment in the flood level, so staff believe the redesign is appropriate. The applicant has agreed to provide affordable housing or cash in lieu so other larger community goals are also being achieved.

The applicant has also expressed interest in providing commercial space instead of residential along Sunset Drive and this could have a beneficial impact to the appearance and services to the area.

There may also be opportunities to investigate a review of the landscape plan to improve the streetscape along the Sunset Drive frontage with respect to the neighbouring developments (Brandt's Creek Crossing and the Westin Hotel), and to investigate the feasibility of some form of joint energy program to better utilize resources between the developments.

However, staff and the applicant agreed not to delay the present application . Any further changes or enhancements would be brought forward to Council as a separate application.

In conclusion, the Planning and Development Services Department supports this application and recommends for positive consideration by Council.

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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

Cross-Section showing issued height variance

Cross-Section showing revised height variance and daylighting angle