

# REPORT TO COUNCIL



**Date:** June 2<sup>nd</sup> 2020

**To:** Council

**From:** City Manager

**Department:** Development Planning Department

**Application:** DP19-0161 & DVP19-0162      **Owner:** MJI Contracting Inc., Inc. No. BC0915334

**Address:** 1659 Water Street      **Applicant:** MJI Contracting Inc – Mathew Isabelle

**Subject:** Development Permit & Development Variance Permit Application

**OCP Designation:** MXR – Mixed Use (Residential/Commercial)

**Zone:** C7 – Central Business Commercial

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## 1.0 Recommendation

That Council authorizes the issuance of Development Permit No. DP19-0161 for Lot 12, Block 6, District Lot 139, ODYD, Plan 462, Except Plan KAP82841 located at Water 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";

AND THAT Council authorize the issuance of Development Variance Permit DVP19-0162 for Lot 12, Block 6, District Lot 139, ODYD, Plan 462, Except Plan KAP82841 located at Water St, Kelowna, BC;

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

### **Section 14.7.5(h) - C7 – Central Business Commercial - Development Regulations**

1. To vary the setback above the 16.0 m height mark for the front yard from 3.0 m to 0.0 m.
2. To vary the setback above the 16.0 m height mark for the side yard (east) from 4.0 m to 0.1 m.
3. To vary the setback above the 16.0 m height mark for the flanking side yard (west) from 4.0 m to 0.0 m.

**Table 8.3.2 - Required Off-Street Parking Requirements - Commercial**

4. To vary the minimum off-street parking from 10 stalls to 3 stalls (cash-in-lieu for the remainder 3 stalls).

**Table 8.5 - Minimum Bicycle Parking Required**

5. To vary the minimum off-street short-term bicycle parking from 6 stalls to 0 stalls.

**Section 14.7.7(d) - C7 – Central Business Commercial - Other Regulations**

6. To vary the minimum commercial on ground floor area percentage from 90% to 68% on Leon Avenue and 40% on Water Street.

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 consider a Form & Character Development Permit of a six storey office and retail commercial building and to consider six variances to the Zoning Bylaw.

**3.0 Development Planning**

Staff are recommending support for the proposed Development Permit because of its consistency with architectural design principals within the Official Community Plan's (OCP) urban design guidelines as well as recommending support of the associated variances due to rationale stated below.

The original proposal was to vary the number of parking stalls from ten to zero. This issue was addressed and debated by Council on March 17<sup>th</sup> 2020. There is no viable area available for parking on this site thus the necessity to vary the parking regulations. The applicant could have provided cash-in-lieu of parking and this would have eliminated the necessity of a variance. However, the applicant argued this would eliminate the financial viability of the project. The Zoning Bylaw requires 10 stalls which would result in a cash-in-lieu payment of \$330,000. The lack of a cash-in-lieu of parking was the primary reason Staff recommended against the original proposal.

Council deferred the item and suggested the applicant renegotiate with Staff on the conditions of cash-in-lieu. The applicant has revised their application and is proposing to pay three cash-in-lieu stalls (totaling \$99,000) and to vary the remainder of the seven parking stalls. The applicant has provided an updated rationale justifying the proposal (attached to this report).

Despite the small building footprint and the small total building area, the applicant has included a bike storage room for 13 long term bike stalls on the ground floor with the associated End-of-Trip facilities (washrooms, change rooms, lockers, and showers) to encourage active transportation options to and from work.

Overall, due to the unique nature of the small lot and Council's suggestion to negotiate a compromise, Staff are recommending support for the proposed Development Permit and Development Variance Permit. The unique circumstances on this site is not readily applicable to other Urban Centre development sites and should not be seen as a precedent to vary parking regulations instead of providing cash-in-lieu.

#### 4.0 Proposal

##### 4.1 Project Description

The proposal is to build a six-storey commercial development with ground floor retail, upper floor offices, common rooftop patio, and no parking onsite. The proposal contains 964.4 m<sup>2</sup> (approx. 10,380 ft<sup>2</sup>) of commercial space.

The building materials are predominately glazing with metal siding stained in wood colour. The rear two storey addition is brick. The accent materials include wood canopies and exposed concrete. The lane facing façade and the east facing façade are concrete fire walls. There will also be a roof top patio deck providing amenity area for the various office staff.

The retail at street level is designed to accommodate 1-2 tenants with floor to ceiling storefront glazing. Signage will be refined and intentional within the architectural design as per the attached drawings.

Staff have discussed the possible snow load issue on the adjacent property's roof and the applicant believes the issue is solvable through the building permit processes. The City considers the matter a civil issue between property owners.

##### Subject Property Map: 1659 Water St.



4.2 Zoning Analysis Table

The zoning analysis table shows the requirements of the C7 zone compared to the proposal:

Zoning Analysis Table		
CRITERIA	C7 ZONE REQUIREMENTS	PROPOSAL
For portion of building between 0.0 metres & 16.0 metres in height		
Front Yard (Leon Ave)	0.0 m	0.0 m
Side Yard (East)	0.0 m	0.0 m
Side Yard (Water St)	0.0 m	0.0 m
Rear Yard (Lane)	0.0 m	0.0 m
For portion of building between 16.0 metres & above in height		
Front Yard (Leon Ave)	3.0 m	0.0 m ❶
Side Yard (East)	4.0 m	0.1 m ❷
Side Yard (Water St)	4.0 m	0.0 m ❸
Rear Yard (Lane)	3.0 m	6.6 m
Floorplate	1,221 m <sup>2</sup>	177.5 m <sup>2</sup>
Development Regulations		
Height	76.5m (approx. 26 storeys)	26.5 m (6 storeys)
FAR	9.0	2.81
Parking Regulations		
Minimum Parking Requirements	10 Stalls	0 parking stalls ❹
Min. Loading Spaces	0 stalls	0 stalls
Ratio of Parking Stalls	Small Parallel: n/a Compact Size: 10% Max Medium Size: 40% Max Regular Size: 50% Min	Small Parallel: n/a Compact Size: n/a Medium Size: n/a Regular Size: n/a
Minimum Bicycle Parking Requirements	Long Term: 2 bikes Short Term: 6 bikes	Long Term: 13 bikes Short Term: 0 bikes ❺
Other Regulations		
Minimum frontage for commercial, civic, cultural, or ground oriented residential on 1 <sup>st</sup> floor	Leon Avenue: 90% (8.6m x 0.9 = 7.75m) Water Street: 90% (36.02m x 0.9 = 32.42m)	Leon Avenue: 5.9m / 68% ❻ Water Street: 14.2m / 39.4% ❼
❶ Variance to reduce the front yard setback for portions of building between 16.0 m & above in height ❷ Variance to reduce the side yard (north) setback for portions of building between 16.0 m & above in height ❸ Variance to reduce the side yard (south) setback for portions of building between 16.0 m & above in height.		

Zoning Analysis Table		
CRITERIA	C7 ZONE REQUIREMENTS	PROPOSAL
④	Variance to reduce the number of required parking spaces from 10 stalls to 3 stalls with 3 cash-in-lieu spots.	
⑤	Variance to decrease the amount of short-term bicycle stalls provided from 6 required to 0 provided	
⑥	Variance to reduce the minimum commercial on ground floor from 90% to 68% on Leon Avenue and 40% on Water Street	

## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Chapter 5: Development Process

**Compact Urban Form.**<sup>1</sup> Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

**Contain Urban Growth.**<sup>2</sup> Reduce greenfield urban sprawl and focus growth in compact, connected and mixed-use (residential and commercial) urban and village centres.

## 6.0 Technical Comments

### 6.1 Development Engineering Department

See attached memorandum dated August 19<sup>th</sup> 2019.

## 7.0 Application Chronology

Date of Application Received: August 8<sup>th</sup> 2019  
 Date of Public Notification: November 15<sup>th</sup> 2019  
 Date Application deferred by Council: March 17<sup>th</sup> 2020

**Report prepared by:** Adam Cseke, Planner Specialist  
**Reviewed by:** Terry Barton, Development Planning Department Manager  
**Approved by:** Ryan Smith, Divisional Director, Planning & Development Services

### Attachments:

Updated Applicant Rationale  
 Draft DP19-0161 & DVP19-0162

<sup>1</sup> City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).

<sup>2</sup> City of Kelowna Official Community Plan, Goals for a Sustainable Future, Objective 1 (Chapter 1 Introduction)