

Development Permit & Development Variance Permit

DP21-0277 & DVP21-0278



This permit relates to land in the City of Kelowna municipally known as

1070-1130 Ellis St

and legally known as

LOT 2 DL 139 ODYD PLAN KAP 86331

and permits the land to be used for the following development:

High-rise Residential

The present owner and any subsequent owner of the above described land must comply with any attached terms and conditions.

Date of Council Approval: July 11, 2023

Development Permit Area: Urban Centre

Existing Zone: UC1 – Downtown Urban Centre

Future Land Use Designation: UC – Urban Centre

This Development Permit is valid for two (2) years from the date of approval, with no opportunity to extend.

This is NOT a Building Permit.

In addition to your Development Permit, a Building Permit may be required prior to any work commencing. For further information, contact the City of Kelowna, Development Services Branch.

NOTICE

This permit does not relieve the owner or the owner's authorized agent from full compliance with the requirements of any federal, provincial or other municipal legislation, or the terms and conditions of any easement, covenant, building scheme or agreement affecting the building or land.

Owner: Waterscapes Homes Ltd Inc. No. BC0767408

Applicant: Dan Giordano

Terry Barton
Development Planning Department Manager
Planning & Development Services

Date of Issuance

1. SCOPE OF APPROVAL

This Development Permit applies to and only to those lands within the Municipality as described above, and any and all buildings, structures and other development thereon.

This Development Permit is issued subject to compliance with all of the Bylaws of the Municipality applicable thereto, except as specifically varied or supplemented by this permit, noted in the Terms and Conditions below.

The issuance of a permit limits the permit holder to be in strict compliance with regulations of the Zoning Bylaw and all other Bylaws unless specific variances have been authorized by the Development Permit. No implied variances from bylaw provisions shall be granted by virtue of drawing notations that are inconsistent with bylaw provisions and that may not have been identified as required Variances by the applicant or Municipal staff.

2. CONDITIONS OF APPROVAL

THAT Council authorizes the issuance of Development Permit No. DP21-0277 and Development Variance Permit No. DVP21-0278 for LOT 2 DL 139 ODYD PLAN KAP 86331 located at 1070-1130 Ellis 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";
3. Landscaping to be provided on the land be in accordance with Schedule "C";
4. The applicant be required to post with the City a Landscape Performance Security deposit in the amount of 125% of the estimated value of the Landscape Plan, as determined by a Registered Landscape Architect;
5. The applicant be required to make a payment into Housing Opportunities Reserve Fund as established by Bylaw No. 8593 in accordance with Table 6.8.b. in Zoning Bylaw No. 12375;

AND THAT variances to the following sections of Zoning Bylaw No. 12375 be granted:

- a) **Section 9.11.1 Table 9.11 – Tall Building Regulations:** To vary the minimum building separation measured from the exterior face of the building from 30.0 m required to 27.0 m proposed internal to the subject property;
- b) **Section 9.11.1 Table 9.11 – Tall Building Regulations:** To vary the maximum floor plate for Level 6 between 16.0 m and 23.0 m from 750 m² required to 1,846 m² proposed on south podium; 751 m² proposed on tower three; and 860 m² on tower four;
- c) **Section 9.11.1 Table 9.11 – Tall Building Regulations:** To vary the tower stepback above podium on the front building façade of tower two on the south podium from 3.0 m required to 0.0 m;
- d) **Section 14.11 – Commercial and Urban Centre Zone Development Regulations:** To vary the minimum side yard setback above 16.0 m in height from 4.0 m required to 0.0 m proposed between 16.0 m and 16.6 m in height;

AND FURTHER THAT this Development Permit is valid for two (2) years from the date of Manager approval, with no opportunity to extend.

3. PERFORMANCE SECURITY

As a condition of the issuance of this Permit, Council is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. Should any interest be earned upon the security, it shall accrue to the Developer and be paid to the Developer or his or her designate if the security is returned. The condition of the posting of the security is that should the Developer fail to carry out the development hereby authorized, according to the terms and conditions of this Permit within the time provided, the Municipality may use enter into an agreement with the property owner of the day to have the work carried out, and any surplus shall be paid over to the property owner of the day. Should the Developer carry out the development as per the conditions of this permit, the security shall be returned to the Developer or his or her designate following proof of Substantial Compliance as defined in Bylaw No. 12310. There is filed accordingly:

- a) An Irrevocable Letter of Credit **OR** certified cheque **OR** a Surety Bond in the amount of **\$1,108,960.50**

Before any bond or security required under this Permit is reduced or released, the Developer will provide the City with a statutory declaration certifying that all labour, material, workers' compensation and other taxes and costs have been paid.

4. HOUSING OPPORTUNITIES RESERVE FUND

Housing Opportunities Reserve Fund Payment in the amount of **\$2,380,000** required for 2% of the total number of dwelling units authorized by the building permit in accordance with Table 6.8.b in Zoning Bylaw No. 12375.

5. INDEMNIFICATION

Upon commencement of the works authorized by this Permit the Developer covenants and agrees to save harmless and effectually indemnify the Municipality against:

- a) All actions and proceedings, costs, damages, expenses, claims, and demands whatsoever and by whomsoever brought, by reason of the Municipality said Permit.

All costs, expenses, claims that may be incurred by the Municipality where the construction, engineering or other types of works as called for by the Permit results in damages to any property owned in whole or in part by the Municipality or which the Municipality by duty or custom is obliged, directly or indirectly in any way or to any degree, to construct, repair, or maintain.

**The PERMIT HOLDER is the CURRENT LAND OWNER.
Security shall ONLY be returned to the signatory of the
Landscape Agreement or their designates.**