



COUNCIL REPORT

To: Mayor and Council

Date: April 18, 2023

From: Paul Gipps, CAO

File No: DP 22-29

Subject: **DP 22-29; Development Permit with Variances; 3595 Elliott Road**

Report Prepared By: Jayden Riley, Planner III

RECOMMENDATION to Consider and Resolve:

THAT Council approve the issuance of a Commercial Form and Character Development Permit with Variances (File: DP 22-29) for a six-unit live/work building at 3595 Elliott Road, in accordance with the attached permit (*Attachment 1*) and subject to receipt of a landscape security in the amount of \$25,698.06.

STRATEGIC AREA OF FOCUS

Economic Growth and Prosperity

BACKGROUND

The subject property was previously rezoned under File Z 21-08 via site-specific text amendment to permit live/work unit use in the existing Neighbourhood Commercial (C2) zone. During the application process, concerns were noted regarding the site being able to accommodate parking for the potential live/work use; therefore, the site-specific text amendment was adopted with specific language that off-street parking requirements would need to be calculated separately for commercial and residential components of a live/work unit use.

PROPERTY DETAILS			
Address	3595 Elliott Road		
PID	004-645-839		
Folio	36412643.580		
Lot Size	1,011 m ²		
Owner	0798781 BC LTD.	Agent	Matt Johnston, Lime Architecture Inc.

Current Zoning	Neighbourhood Commercial (with Text Amendment for Live/Work)	Proposed Zoning	Neighbourhood Commercial (C2) with Live/Work Unit use
Current OCP	Commercial	Proposed OCP	N/A
Current Use	Vacant	Proposed Use	Live/Work
Development Permit Areas	Commercial		
Hazards	None		
Agricultural Land Reserve	No		

ADJACENT ZONING & LAND USES

North	^	Neighbourhood Commercial (C2)
East	>	Westbank Centre Compact Residential (RC1)
West	<	Single Detached Residential (R1)
South	v	Westbank Centre Multiple Residential Zone (R5)

NEIGHBOURHOOD MAP



PROPERTY MAP



Legislative Requirements

Council has the authority under Part 14 of the *Local Government Act* to issue a Development Permit specific to the form and character of a proposed commercial development.

S. 498 of the *Local Government Act* gives Council the authority to issue a Development Variance Permit that varies, in respect to the land covered in the permit, the provision of its Zoning Bylaw.

DISCUSSION

Site-Specific Considerations

The subject property is located in the Westbank Centre neighbourhood, on the corner of Elliott Road and Springer Lane. The site shares an access from Elliott Road with the adjacent Neighbourhood Commercial (C2) property immediately to the north and will continue to be the principal access to the site. Immediately to the south is Springer Lane, a 6.0 m wide public lane that provides access to the Gateway townhome community (south) and to Elliott Road (west) and Springer Road (east). Due to the 6.0 m width of the lane, on-street parking is not permitted.

Proposal

The applicant is seeking a Commercial Form and Character Development Permit for a six-unit live/work building with variances to building height and parcel coverage (Figures 1-4).

Each unit is proposed to be accessed by the shared easement access from Elliott Road with ground floor commercial space and pedestrian access from Springer Lane (units 2-6) and Elliott Road (unit 1) – see *Figure 5*. The area of each commercial space is proposed to be 27.3 sq. m. (293.3 sq. ft.), with two of six units proposed to contain Office use and four of six units proposed for Personal Service Establishment use¹.

Above the ground floor commercial, the units are proposed to contain a kitchen and living space on the second level, bedrooms on the third level, and a rooftop patio. Units 1 and 6 are proposed to contain three bedrooms and units 2-4 are proposed to contain two bedrooms and a den (*Attachment 2*).



Figure 1: rendering of building from corner of Elliott Rd and Springer Lane

¹ These uses have different off-street parking requirements under Part 4 of Zoning Bylaw No. 0265 – see *Table 1*.



Figure 2: east elevation (rear)



Figure 3: west elevation (front, Elliott Road)



Figure 4: north elevation (interior)

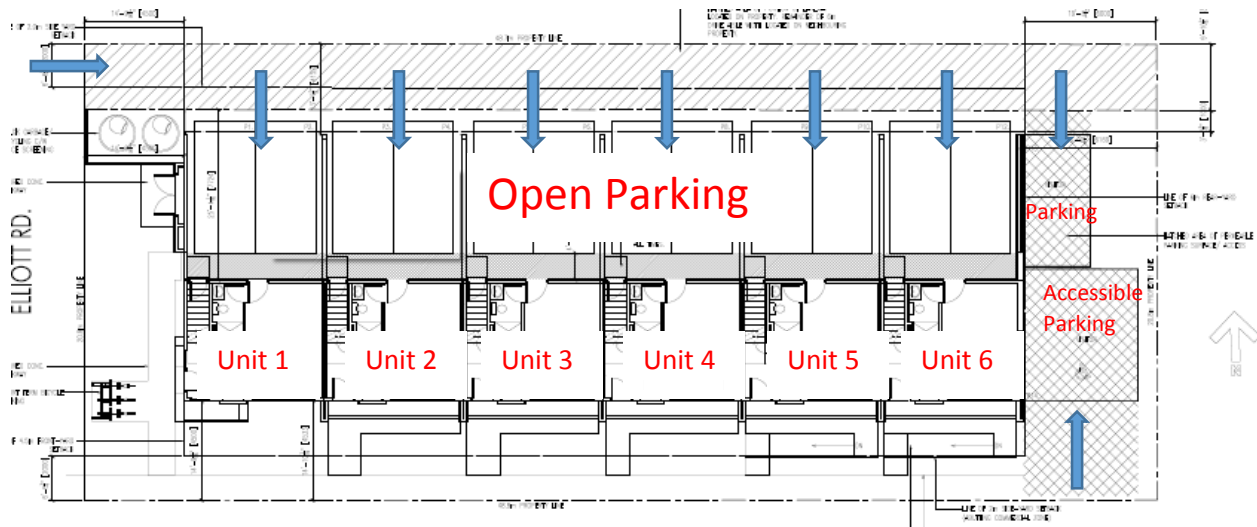


Figure 5: site plan showing units 1-6 and vehicle access, parking

The proposal also includes variances to City of West Kelowna Zoning Bylaw No. 0265, S.11.2.5(d) to increase the maximum parcel coverage from 40% to 45.4% and S.11.2.5(e) to increase the maximum building height from 9.0 m to 12.6 m (*Figure 6*). The variance to building height is required to accommodate the rooftop access structure and associated railing and façade for the private rooftop space.



Figure 6: proposed building height (Springer Lane elevation).

Policy and Bylaw Review

Official Community Plan No. 0100

The subject property contains a Commercial Land Use Designation (LUD). S.3.3 of the Official Community Plan Bylaw No. 0100 outlines the intention of this LUD to accommodate a variety of built forms reflecting a diversity of retail, office, and personal service uses, with opportunities for increased density and height in Westbank Centre, and opportunity for above street residential where appropriate. The purpose of the LUD is noted to meet the needs of residents at strategic locations for employment, shopping, and services.

This development is subject to a Commercial Form and Character Development Permit. The purpose of this DP area is to ensure that building and site design is attractive, incorporates a pedestrian scale, and protects the natural environment. Objectives of this DPA ensure that infill is appropriately integrated into the existing neighborhood and reflects, preserves, and enhances the positive architectural, landscape and sense of place aspects of the neighborhood.

The proposed building materials include arctic white stucco, iron grey hardiplank and smoked birch mac panel siding, black corrugated metal, as well as black fascia, windows and doors, railings, and drip flashing (*Figure 2-4, Attachment 2*). The proposal is found to be generally consistent with the objectives and guidelines of the Commercial DPA.

The live/work unit use is also consistent with the built form anticipated for the neighbourhood in the City's Growth Concept (2022), which has informed the future land uses in the draft OCP 2020-2040.

The proposal also includes a landscape plan that contains a mixture of native trees, shrubs, perennials, and grasses, as well as screened Molok garbage and recycling receptacles at the north-west corner of the subject property (*Figure 7*). The landscaping is estimated at \$20,558.45. A security would be required for this work in the amount of 125% as a condition of permit issuance.

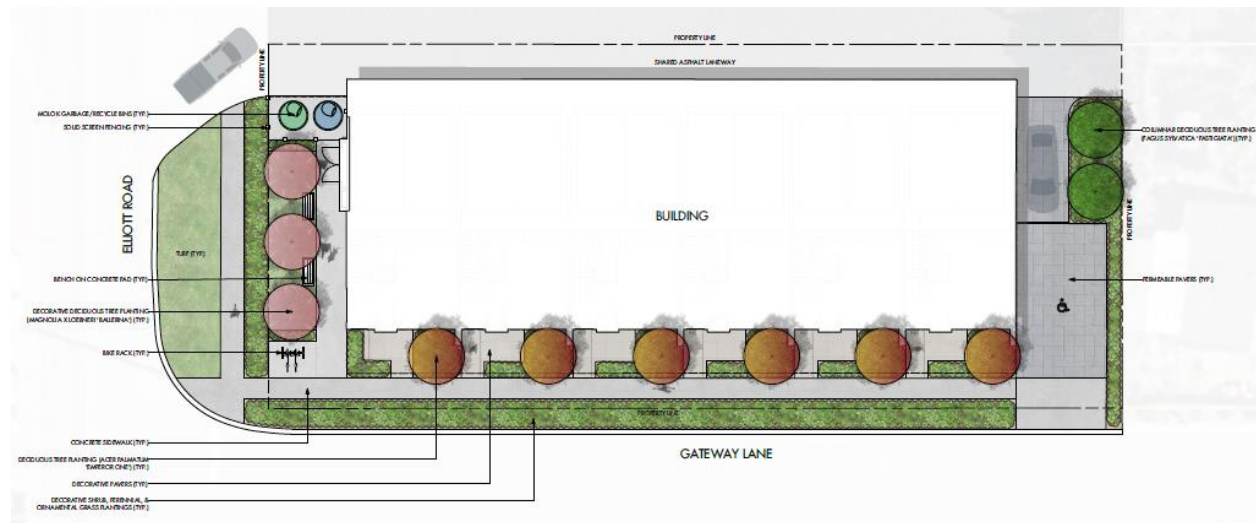


Figure 7: landscape plan

Zoning Bylaw No. 265

The subject property is zoned Neighbourhood Commercial (C2). The purpose of the C2 Zone is to permit a limited range of convenience services typically required on a day-to-day basis by residents of local neighborhoods. Permitted uses in the C2 zone include office, retail (convenience), personal services establishment, and apartment use (above commercial).

The subject property was rezoned under File Z 21-08 via site-specific text amendment to permit live/work unit use in the existing C2 Zone. Due to concerns related to parking, specific language was included in the amendment bylaw to require that parking requirements would need to be calculated separately for commercial and residential components of a live/work unit use. No parking variances are being requested with this proposal.

Variances

The proposal is seeking variances to the following sections of Zoning Bylaw No. 0265:

- S.11.2.5(d), to increase the maximum parcel coverage from 40% to 45.4%; and
- S.11.2.5(e), to increase the maximum building height from 9.0 m to 12.6 m.

As noted by the elevation drawing (*Figure 6*), the variance to building height from 9.0 m to 12.6 m is being requested to accommodate the rooftop access structure. The structure

comprises a small section of each rooftop at the 12.6 m height. The railing and façade of the building are noted to otherwise measure 10.9 m, and the top of the third floor of the building is measured at 9.8 m (*Figure 6, Attachment 2*).

Staff are supportive of the height variance to accommodate rooftop patio space, as the access is limited to a small percentage of the overall roof area of each unit. Also, the railing and extended façade to 10.9 m height will provide a degree of privacy for the owner/operator of the live/work units and the adjacent residential units. While the development of live/work units is unique to the City, the zone where this use is permitted² allows up to four storeys and 15 m in height. The use is also generally supported under the Growth Concept (2022), which has informed the land use plan that supports mixed uses at similar heights under the draft OCP 2020-2040.

Off-Street Parking

The proposal includes a total of 14 off-street parking spaces; this includes an uncovered visitor and accessible space on the east side of the building and eight covered parking spaces under the north side of the building (*Figure 5*). A parking analysis has been provided below (*Table 1*).

Table 1: parking analysis (note: one accessible space is required when commercial and residential spaces are combined)

Parking Analysis					
Use	Area / Units	Bylaw Requirements	Spaces Required	Proposed	Within Carport (Y/N)
<i>Commercial</i>					
Personal Service	54 sq. m.	4 spaces / 100 sq. m.)	2 spaces	2 spaces	Y
Office	109 sq. m.	2 spaces / 100 s.q m.)	2 spaces	2 spaces	Y
Accessible Spaces		0 spaces (1-10 total)	0 spaces	0 spaces	N/A
Loading Spaces		1 space (300 - 3,000 sq. m.)	0 spaces	0 spaces	N/A
Sub-total			4 spaces	4 spaces	
<i>Residential (Westbank Centre)</i>					
2-bedroom	4 units	1.25 spaces / unit	5 spaces	5 spaces	Y
3-bedroom	2 units	1.5 spaces / unit	3 spaces	3 spaces	Y
Visitor Spaces		10% of total (0.8)	1 space	1 space	N
Accessible Spaces		0 Spaces (1-10 units)	0 spaces	1 space	N
Loading Spaces		0 spaces (< 10 units)	0 spaces	0 spaces	N/A
Sub Total			9 spaces	10 spaces	
Accessible Spaces (when combined)*			1 space*	1 space	N
Total Parking Spaces			14 spaces*	14 spaces	

² Live/Work Unit is permitted in Urban Centre Commercial (C1) zone.

Technical Review

Staff have reviewed technical documents related to the application, including a functional servicing report and geotechnical assessment report. Advisory comments related to servicing have been included in a comprehensive letter to the applicant. At time of building permit, the owner is responsible for frontage improvements at Elliott Road in accordance with City Bylaws. The site is currently connected to water but will need to connect to sewer and storm services.

Referrals

The application has been reviewed by multiple internal departments and external agencies. No significant concerns were noted during the review process. Advisory comments have been provided to the applicant in advance of building permit.

Public Notification

A notice of application sign has been posted on site in accordance with the City's Development Applications Procedures Bylaw No. 0260. Additionally, 66 notices were mailed to property owners and tenants within 100 sq. m. of the subject property, advising them of the application and how to make a submission for Council's consideration. A notification map has been attached to the report (*Attachment 4*). At the time of writing this report, one submission has been received (*Attachment 5*).

CONCLUSION

Staff recommend that Council approve the issuance of the Development Permit with variances based on the following rationale:

- The proposal meets the parking requirements that were established at time of rezoning under File Z 21-08;
- The variance to height is primarily required due to the rooftop access structure, which comprises a small percentage of the rooftop. The railing and façade will otherwise extend to 10.9 m in height and will provide a degree of privacy between the owner/operator of the live/work units and neighbouring residents;
- The C1 zone in which live/work unit use is permitted allows up to four storeys and 15 m in height. The built form of live/work units is therefore generally anticipated to be greater in height than a standard neighbourhood commercial (C2) development otherwise restricted to 9.0 m in height and is consistent with the Growth Concept for the neighbourhood; and
- Impacts related to the variance to parcel coverage are anticipated to be negligible, as the required setbacks are being met by the proposed development.

Alternate Recommendation to Consider and Resolve:

1. Postpone consideration of the Development Permit with Variances.

THAT Council postpone issuance of Development Permit (DP 22-29) for 3595 Elliott Road.

Should Council choose to postpone consideration of the application, further direction to staff is requested.

2. Deny issuance of the Development Permit with Variances.

THAT Council deny issuance of Development Permit (DP 22-29) for 2595 Elliott Road.

Should Council choose to deny the application. The file will be closed. In accordance with the City's Development Applications Procedures Bylaw No. 0260, a similar application may not be considered for a period of six months.

REVIEWED BY

Chris Oliver, Planning Supervisor

Brent Magnan, Director of Development Approvals

Corinne Boback, Legislative Services Manager / Corporate Officer

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

1. Development Permit, 3595 Elliott Road, DP 22-29 (draft)
2. Architectural Submission (site plan, rendering, elevations, floor plans)
3. Landscape Plan
4. Public Notification Map
5. Submission as of April 13, 2023