



## COUNCIL REPORT

To: Mayor and Council

Date: March 14, 2023

From: Paul Gipps, CAO

File No: Z 22-02 & DP 22-06

Subject: **Z 22-02 and DP 22-06; Zoning Amendment Bylaw No. 0265.09 (Adoption) and Development Permit; 3746A Wetton Road**

Report Prepared By: Yvonne Mitchell, Planner II

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**RECOMMENDATION** to consider and resolve:

**THAT** Council adopt Zoning Bylaw No. 0265.09, 2022; and

**THAT** Council authorize the issuance of a Development Permit (DP 22-06) for 3746A Wetton Road with the following variances:

- That the 0.6m siting exemption for balconies (s.3.8.4(a)ii.b)) into the required minimum siting distance from the interior side and exterior side parcel boundary be increased from 35% of the overall length of the building face to 100%.
- That the maximum height for a principal building (s.10.10.5(f)) be increased from 10.0 m to a maximum of 3 storeys to 13.7m to a maximum of 4 storeys.
- That the front parcel boundary setback (s.10.10.5(g)i.) be reduced from 4.5m to 2.9m.
- That the minimum distance parking spaces shall be located from the front parcel boundary in multiple residential zones (s.4.3.2(b)) be reduced from 3.0m to 0.71m; and

**THAT** issuance of the Development Permit be withheld pending receipt of:

- Landscaping security in the amount of **\$90,927.87**, and

**THAT** if the Development Permit has not been issued within one year from the date of approval, the Permit with variances shall be deemed to have been refused and the file closed.

### **STRATEGIC AREA(S) OF FOCUS**

**Economic Growth and Prosperity** – We will work with our partners on the Westside and throughout the region to advocate for and support efforts aimed at helping West Kelowna businesses prosper. With a focus on the future, we will advance opportunities to expand

our economy, increase employment, and develop the community in ways that contribute towards prosperity for all.

## BACKGROUND

The subject property, located at 3746A Wetton Road, is in the Goats Peak/Gellatly neighbourhood. The property is currently developed with a quadplex and backs onto Smith Creek. Another quadplex is adjacent to the property. A previous development permit with variances (DP 18-33) for 18 stacked townhouse units in 3 standalone buildings and a partially exposed underground parkade was approved by City Council in 2019. However, this development permit with variances was never issued and has since been withdrawn.

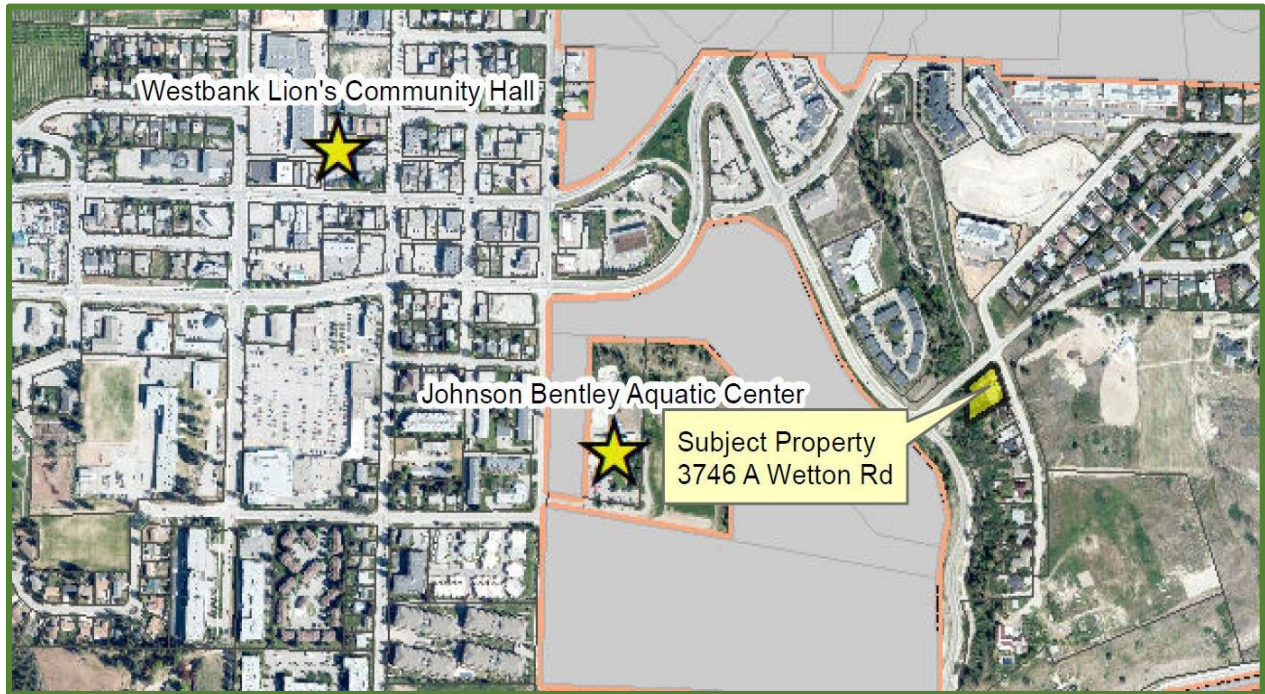
The proposed Bylaw Amendment was given first and second readings on December 13, 2022 and a Public Hearing was held on January 24, 2023. Council gave third reading on January 24, 2023, after which staff forwarded the Bylaw to the Ministry of Transportation and Infrastructure for approval.

The report and recommended motion have been structured to have the Zoning Bylaw Amendment and the Development Permit with variances to be considered at one time, despite being considered two separate applications. The intent is that the proposed increased density associated with the Zoning Bylaw Amendment and the proposed development be linked and considered one proposal due to the property's unique characteristics.

PROPERTY DETAILS			
<b>Address</b>	3746A Wetton Road		
<b>PID</b>	030-401-241		
<b>Folio</b>	36415471.076		
<b>Lot Size</b>	2359.32 m2		
<b>Owner</b>	Rajinder Vermani	<b>Agent</b>	Bluegreen Architecture Inc.
<b>Current Zoning</b>	R3 (Low Density Multiple Residential Zone)	<b>Proposed Zoning</b>	Site Specific Text Amendment
<b>Current OCP</b>	Low Density Multiple Family	<b>Proposed OCP</b>	N/A
<b>Current Use</b>	Quadplex	<b>Proposed Use</b>	Townhouses
<b>Development Permit Areas</b>	Aquatic, Hillside, Sensitive Terrestrial Ecosystem, Form and Character		

ADJACENT ZONING & LAND USES		
<b>North</b>	^	Westbank Centre Multiple Residential Zone (R5) Parks and Open Space Zone (P1) (Majoros Pond Park)
<b>East</b>	>	Agricultural Zone (A1)
<b>West</b>	<	Smith Creek

**NEIGHBOURHOOD MAP**



**PROPERTY MAP**



## **Legislative Requirements**

Council has the authority under s.479 of the *Local Government Act* to amend the Zoning Bylaw. Council has the authority under s.490 of the *Local Government Act* to issue Development Permits, and the authority under s.498 of the *Local Government Act* to issue Development Variance Permits.

## **Proposal**

Following the previous Development Permit that lapsed, a new Development Permit with variances application was submitted this year. The proposal includes a floor area ratio (FAR) above that maximum permitted in the R3 Zone. As such, a Site Specific Text Amendment to increase the maximum FAR in the R3 Zone from 0.75 to 0.95 is required. The Development Permit has also been included as part of this adoption report for the rezoning as the rezoning application and Development Permit are directly associated with each other.

### *Development Permit with Variances*

The applicant is proposing 12 townhouse units in two buildings with partial underground parking and an attached garage for each unit (See Attachment 3 for development plans). The applicant has also requested a number of variances outlined in detail later in this report.

## **Applicants Rationale**

See Attachment 4 for the applicant's rationale.

## **DISCUSSION**

### **Policy and Bylaw Review**

#### Official Community Plan Bylaw No. 0100

#### *General Development Permit Guidelines*

The proposed development complies with the General Development Permit Guidelines in the Official Community Plan. For example, the proposed development includes (see Figure 1 and 2):

- Protection of environmental features (Guideline 7);
- Landscaping which enhances the development (Guideline 28); and
- Incorporation of universal design (Guideline 64)

#### *Hillside, Sensitive Terrestrial and Aquatic Ecosystem Development Permit Guidelines*

The subject property is within the Hillside, Sensitive Terrestrial and Aquatic Ecosystem Development Permit Areas. The purpose of these guidelines is to ensure that development is safe from hazardous conditions, protects or enhances riparian areas and

fragile habitat, and does not adversely affect the natural environment or surrounding people or property.

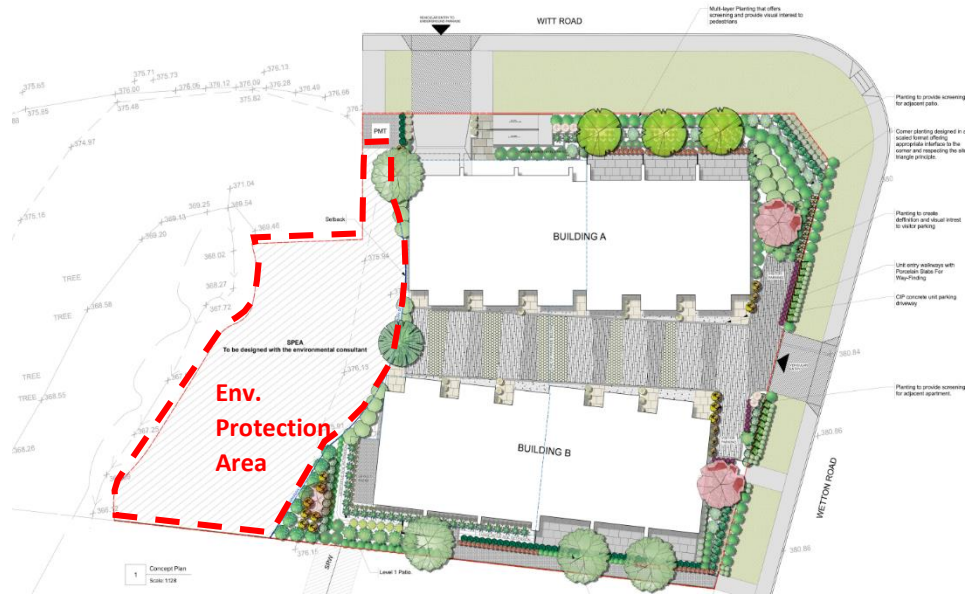


Figure 1 – Landscape plan showing protection of the sensitive area

The subject property has a steep slope at the rear as it transitions towards Gellatly Road. Smith Creek also runs parallel to the rear parcel boundary on the subject property and is a key aquatic feature. The large Hillside and Aquatic area on the property have been assessed and the applicant has demonstrated that the development complies with the associated guidelines.

- Environmental reports have been provided in accordance with the Terrestrial and Aquatic Ecosystem DP guidelines. The Environmental reporting has identified a 15m streamside and protection and enhancement area (SPEA) and recommended that environmental monitoring be present during construction works. The report also recommend restoration of the SPEA (\$26,125 of the total bonding) and that this area is fenced from the remainder of the property to limit future disturbance (See Figure 2).
- For hillside considerations, geotechnical reports have been provided which indicate the subject site is suitable for the intended use and includes consideration of the proposed site grading.



Figure 2 – Current condition of the streamside protection and enhancement area for Smith Creek. Area to be restored with a variety of native plantings and a permanent fence to be constructed along the boundary with the proposed development.

### *Form and Character Development Permit Guidelines*

The proposed development complies with the form and character development permit guidelines for multi-family developments (Figure 3). For example, the proposed development includes:

- Variations in height and massing (Guideline 6);
- A variety of windows and various types of balconies (Guideline 15); and
- A variety of building materials (Guideline 29);



Figure 3 – Rendering of proposed townhouse units showing variations in building height, a variety of windows and balconies, and materials (looking Southeast).

## Zoning Bylaw No. 0265

The proposal conforms to the regulations in Zoning Bylaw No. 0265 and the R3 Zone except for the following:

1. A variance that the 0.6m siting exemption for balconies into the required minimum siting distance from the interior side and exterior side parcel boundary be increased from 35% of the overall length of the building face to 100% (Figure 4 and 5).
2. A variance to increase the maximum building height from 10.0m to a maximum of 3 storeys to 13.7m to a maximum of 4 storeys (Figure 6).
3. A variance to reduce the front parcel boundary setback from 4.5m to 2.9m (Figure 7).
4. A variance to reduce the minimum distance parking spaces are to be located from the front parcel boundary in multiple residential zones from 3.0m to 0.71m (Figure 8).

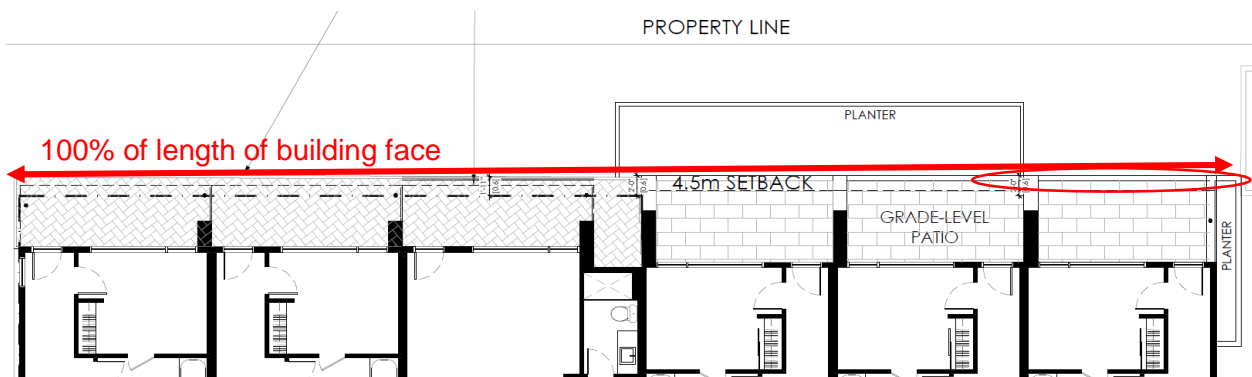


Figure 4 – Proposed balcony siting exemption variance (adjacent to Witt Road)

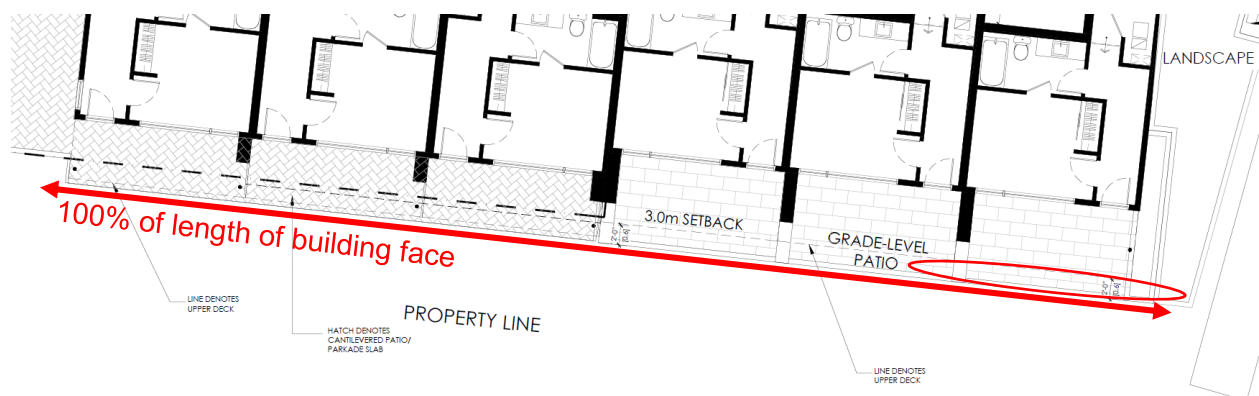


Figure 5 – Proposed balcony siting exemption variance (adjacent to 3752 Wetton Road)

The siting requirement for balconies is to ensure projections on buildings do not encroach into the setbacks to a point that impacts adjacent land uses. The balconies proposed do not encroach further than the 0.6m permitted in the Zoning Bylaw. However, they extend along 100% of the building face instead of the permitted 35%. The applicant has indicated the large private balconies allow a significant amount of natural light deep into the interior of the units which improves the quality and livability for the homeowners.



Figure 6 – Proposed height variance.

The height variance is largely caused by the change in site topography sloping down towards Smith Creek increasing the grade, and the partially exposed parkade increasing the number of storeys on one side of the building.

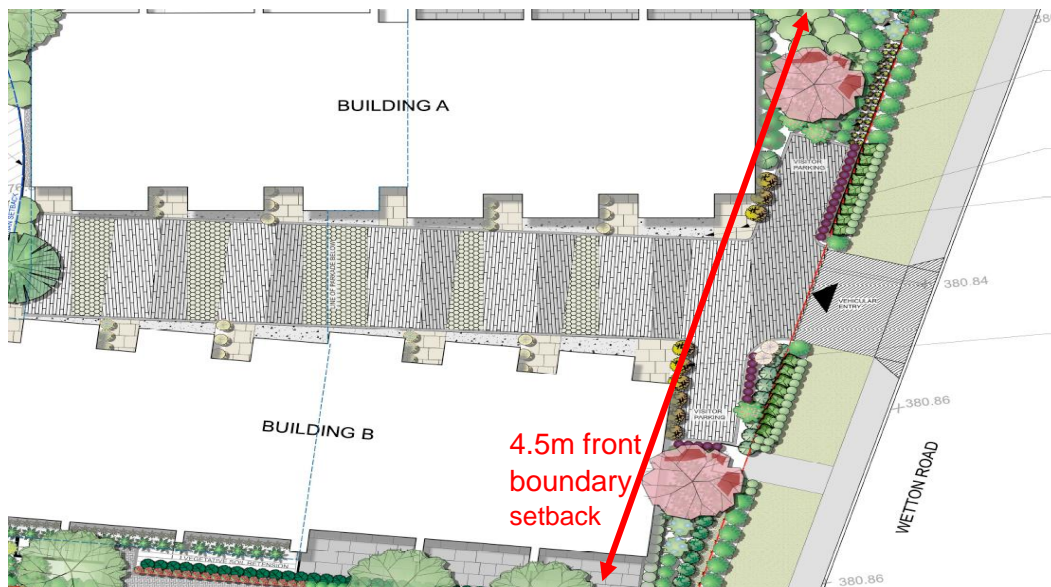


Figure 7 – Front parcel boundary setback reduction for building.

The intent of front parcel setback boundary setback requirement is to ensure buildings and projection do not interfere with sightlines on adjacent roadways and to create a common character of an area. The encroachment is fairly minor in nature and is mostly for Building B. The development also includes frontage improvements with a sidewalk and boulevard treatment. With the fully developed road standard, there will functionally be a large ~8m setback to the back of the curb.



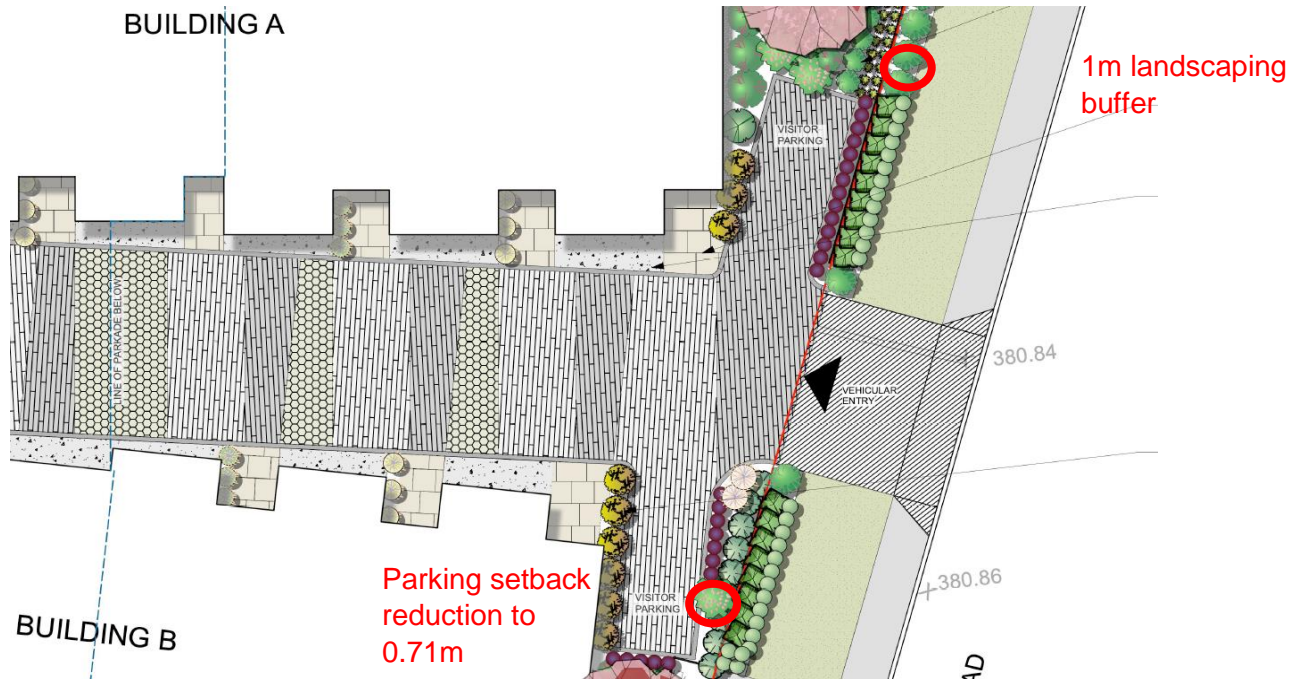


Figure 8 – Proposed parking setback variance from front parcel boundary.

The setback requirement for parking is to limit visibility of parking areas from the street and provide space for landscaping. The applicant has indicated that the visitor stalls are located at the main floor level to provide ease of access to the main residential entrances. These spaces have also been screened with landscaping from Wetton Road.

### Public Notification

In accordance the *Local Government Act*, 96 notices have been mailed to owners and occupants of properties within 100 m of the subject property advising of the proposed variances. At the time of writing this report, no submissions have been received in relation to the proposal.

### COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
December 13, 2022	<b>THAT</b> Council give First and Second Reading to City of West Kelowna Zoning Amendment Bylaw No. 0265.09, 2022; and  <b>THAT</b> Council direct staff to schedule a Public Hearing regarding the proposed zoning amendment.	C318/22
January 24, 2023	<b>THAT</b> Council consider and resolve to give third reading as amended to City of West Kelowna Zoning Amendment Bylaw No. 0265.09, 2022; and	C017/23

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**THAT** Council consider and resolve to direct staff to schedule the bylaw for consideration of adoption following approval of the bylaw by the Ministry of Transportation and Infrastructure.

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## **CONCLUSION**

The subject property is a challenging site to develop with varying topography and a large environmental protection area adjacent to Smith Creek. The proposed FAR increase and the requested variances have been deemed necessary by the applicant in order to develop the site. Staff are supportive of the proposal as it promotes more diverse housing options in this area of the community and aligns with policy objectives as outlined below:

### **Zoning Bylaw Amendment**

The Bylaw has been reviewed and approved by the Ministry of Transportation and Infrastructure.

### **Development Permit**

- The proposal increases residential density in an area served by transit and in walking distance to community amenities in accordance with the OCP;
- The proposal consistent with the Multiple Family and Intensive Residential Development Permit Guidelines;
- The development includes protection and restoration of the SPEA as outlined in the environmental report; and
- The primary uses and regulations in Zoning Bylaw No. 0265 and R3 Low Density Multiple Residential Zone are met, except for the following:

### ***Balcony Setback Exemption Variance***

- This variance request is supported as the proposed projections do not encroach further into the setbacks than what is permitted in the Zoning Bylaw and do not adversely impact surrounding properties. The balconies also add to the articulation of the buildings which is in keeping with the OCP guidelines.

### ***Building Height Variance***

- This variance request is supported as the highest point of the building fronts Smith Creek and will be screened from Gellatly Road by plantings in the SPEA and existing vegetation. The increase to four stories is for the partially exposed underground parkade the visibility of which is limited to a portion of Witt Road and adjacent to Smith Creek.

### ***Building Setback Variance***

- This variance is supported as the setback encroachment includes a limited portion of the buildings and the projection into the setback does not limit site lines on

Wetton Road. The large boulevard area also ensures that the general front parcel boundary area is consistent with the overall character in the area.

**Parking Setback Variance**

- This variance is supported as the applicant has agreed to provide one meter of landscaping in the right of way to screen the parking area.

**Alternate Recommendation** to consider and resolve:

**THAT** Council postpone adoption of Zoning Amendment Bylaw No. 0265.09, 2022; and

**THAT** Council postpone consideration of the requested Development Permit with variances (DP 22-06)

Council may wish to postpone the issuance of the Development Permit with variances and require the applicant to redesign components of the proposal in accordance with the City's Zoning Bylaw. If the proposal were revised to avoid the variances, the proposed buildings would have to be redesigned and the Development Permit would require further consideration of Council.

**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. Zoning Bylaw Amendment No. 0265.09, 2022
2. Draft Development Permit with variances
3. Development Drawings
4. Applicant's Rationale