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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** November 12, 2003  
**File No.:** DP03-0116/DVP03-0144

**To:** City Manager

**From:** Planning and Corporate Services Department

**Subject:**

**APPLICATION NO.** DP03-0116                      **OWNER:** Peter Becker  
DVP03-0144

**AT:** 1125 Bernard Avenue                      **APPLICANT:** John Mailey

**PURPOSE:** TO CONSTRUCT A MIXED USE BUILDING WITH COMMERCIAL AREA  
AT GRADE AND THREE STOREYS OF RESIDENTIAL ABOVE (17  
UNITS)

TO VARY THE OFF-STREET PARKING SETBACK (ALONG A  
PROPERTY LINE ADJACENT TO A RESIDENTIAL ZONE) FROM 1.5M  
REQUIRED TO 0.0M PROPOSED

TO VARY THE SETBACK FROM RESIDENTIAL ZONES FOR  
REFUSE/RECYCLING BINS FROM 3.0M REQUIRED TO 0.0M  
PROPOSED

**EXISTING ZONE:** C4 – TOWN CENTRE COMMERCIAL

**REPORT PREPARED BY:** RYAN SMITH

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**1.0 RECOMMENDATION**

THAT Council authorize the issuance of Development Permit No. DP03-0116 for Lot B, Section 20, Township 26, ODYD Plan 5803 except Plan KAP46597, located on Bernard Avenue, Kelowna, B.C. subject to the following:

1. The dimensions and siting of the building to be constructed on the land be in general accordance with Schedule "A";
2. The exterior design and finish of the building to be constructed on the land be in general accordance with Schedule "B";
3. Landscaping to be provided on the land be in general accordance with Schedule "C";
4. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper;

5. The applicant be required complete dedications as required by the Works and Utilities Department;

AND THAT Council authorize the issuance of Development Variance Permit No. DVP03-0144; Lot B, Section 20, Township 26, ODYD Plan 5803 except Plan KAP46597, located on Bernard Avenue, Kelowna, B.C.;

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

Section 7: Refuse and Recycling Bins: Subsection: 7.3.6:

- Vary setback from residential zones for refuse/recycling bins from 3.0m required to 0.0m proposed (side yard east).

Section 8: Parking and Loading: Subsection: 8.1.10(d):

- Vary side yard setback for parking adjacent to residential zone from 1.5m required to 0.0m proposed (south side and east side).

AND FURTHER THAT the applicant be required to complete the above-noted conditions within 180 days of Council approval of the development permit application in order for the permit to be issued.

## 2.0 SUMMARY

The applicant is seeking a development permit for the construction of a mixed-use commercial/residential building. The proposed structure will have retail units and parking at grade. The 3 proposed retail units will be oriented towards Bernard Avenue. Also included in the plan are seventeen residential units to be located on three storeys above the retail and parking for a total of four storeys.

## 3.0 ADVISORY PLANNING COMMISSION

At the regular meeting of October 21, 2003 it was resolved:

THAT the Advisory Planning Commission supports Development Permit Application No. DP03-0116, 1125 Bernard Avenue, Lot B, Plan 5803, Sec. 29, Twp. 26, ODYD, by Mailey Developments Ltd. (John Mailey), to obtain a Development Permit to allow for a mixed use commercial / 17 unit residential development.

\*Note: The Advisory Planning Commission will not support a variance for the siting of the parking.

## 4.0 BACKGROUND

### 4.1 The Proposal

The applicant is seeking a development permit for the construction of a mixed use commercial/residential building. The proposed structure will have retail units and parking at grade. The proposed retail spaces will be oriented towards Bernard Avenue. Also included in the plan are seventeen residential units to be located on three storeys above the retail and parking level for a total of four storeys.

The structure has been designed so that the commercial component of the building observes a zero setback, bringing the retail facade close to Bernard Avenue. The

residential units above are stepped back significantly from the retail portion of the building. The applicants are proposing a colour scheme that will incorporate elements of red brick and stucco (ivory tone). The applicant has also designed a cornice line above the retail frontage of the building to further enforce the setback of the residential units rising above. This cornice line is replicated along the top of the residential part of the building.

The applicant has separated the proposed retail space into four units measuring 37m<sup>2</sup>. The residential unit breakdown is as follows: 12 two bedroom units and 5 one bedroom units. All residential units have access to a small balcony.

Parking for this development will be located partly under the building (at grade) and the remainder will be located along the drive aisle along the eastern property line. The parking located along the eastern property line does not meet the 1.5m setback for off-street parking adjacent to residential zones (Zoning Bylaw No.8000: Section 8.1.10(d)). The applicant is seeking Council approval of a development variance permit in conjunction with the development permit to relax the required setback.

The application meets the requirements of the C4 – Town Centre Commercial zone as follows:

CRITERIA	PROPOSAL	C4 ZONE REQUIREMENTS
Lot Area (m <sup>2</sup> )	1743m <sup>2</sup>	460m <sup>2</sup>
Lot Width (m)	38.14m	13.0m
Lot Depth (m)	44.45m	30.0m
Storeys (#)	4	4
Site Coverage	46.02%	75%
Residential Floor Area Ratio	0.96	N/A
Commercial Floor Area Ratio	0.07	N/A
Total Floor Area	1.03	1.3
<b>Setbacks</b>		
Front Yard	0.0m	0.0m
Side Yard (e)	14.63 <sup>①</sup>	4.5
Side Yard (w)	4.67	0.0m
Rear Yard	6.1m	6.0m
Parking Spaces	27 stalls	27 stalls
Bicycle Parking Spaces	13 stalls	13 stalls

<sup>①</sup>Note: Applicant is seeking to vary the side yard setback for parking from 1.5m required to 0.0m proposed. Applicant is also seeking a variance from 3.0m required to 0.0m proposed to locate refuse/recycling bins in the eastern side yard.

#### 4.2 Site Context

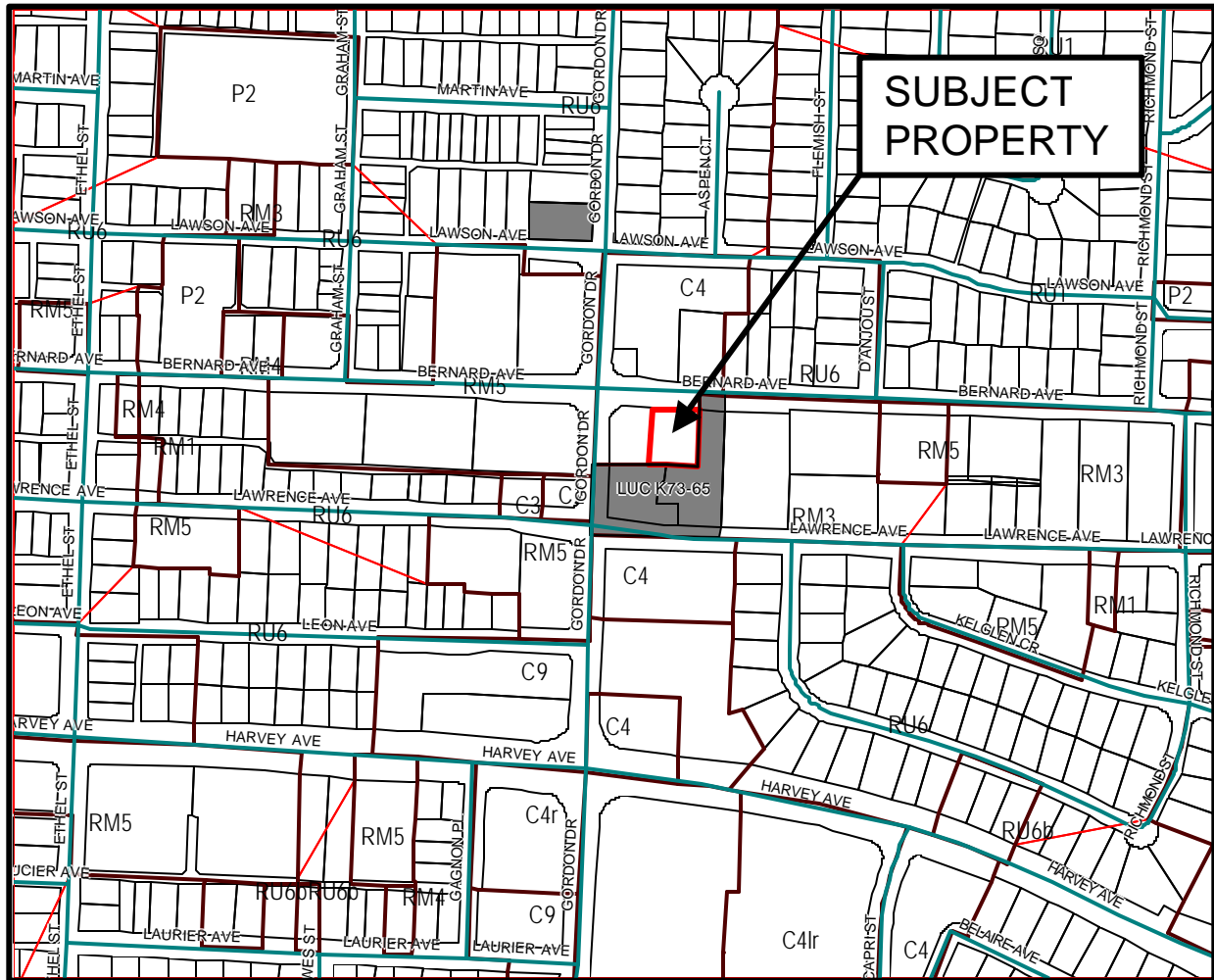
The subject property is located on the south side of Bernard Avenue, one lot east of the intersection of Bernard Avenue and Gordon Drive.

Adjacent zones and uses are:

- North - C4 – Town Centre Commercial – Former supermarket
- East - RM3 – Low Density Multiple Housing
- South - RM3 – Low Density Multiple Housing
- West - C4 – Town Centre Commercial – 7 Eleven Convenience Store

#### 4.3 Site Location Map

Subject Property: 1125 Bernard Avenue



#### 4.4 Current Development Policy

##### 4.4.1 Kelowna Official Community Plan

The Official Community Plan future land use designation for this property is commercial. The form and character of the proposed development is generally consistent with Objectives for Development within Urban Centres identified in the OCP (massing/relationship to the street/parking/access).

In addition the application is consistent with the following OCP policy:

**Section 6.4.30** - Work towards increasing the number of building with mixed uses by encourage developers to incorporate retail uses on the lower storeys with office and/or residential above.

4.4.2 Kelowna Strategic Plan (1992)

**Objective 1.10:** Encourage a closer integration of residential, commercial, and employment oriented uses within existing and proposed future urban areas.

**Objective 1.13:** Provide for an increased diversity of land use in the existing and proposed future urban areas including a range of commercial uses and employment related uses.

5.0 TECHNICAL COMMENTS

This application was circulated to various departments and agencies and the following pertinent comments were received:

5.1 Inspection Services Department

- a) Code references are incorrect. Should be - Group D 3.2.2.52; Group E 3.2.2.58; Group F3 3.2.2.76
- b) An additional exit directly to the exterior is required from the parkade.

5.2 Works and Utilities Department

5.2.1 Domestic Water and Fire Protection

- (a) The existing water mains and fire hydrant spacing on Bernard Avenue and Gordon Drive are sufficient to support the proposed development. No system upgrading is required if sufficient fire flows can be achieved to satisfy the proposed wood frame, sprinkled construction intended.
- (b) Collect \$500.00 to disconnect the existing small diameter water service.
- (c) It will be necessary for the development to install a new water service of sufficient size to satisfy the domestic and fire sprinkler requirements of the proposed new building. The cost of this will be determined when the size and location of the new service is known.

(d) A water meter is mandatory for this development which must be installed on the service inlet in the building in accordance with the City Water Regulation Bylaw and the City Plumbing Regulation Bylaw. The developer must pay the City for the water meter when applying for the water service and/or the building permit. The developer is then responsible for constructing the water meter setting at his cost in conformance with the meter installation regulations. When the meter setting is completed, and before the internal walls are covered in, the developer or builder must contact the City's meter installation contractor (Schlumberger) at 868-3339 to have the meter installed, and the remote device wired and installed.

If there is to be any landscape irrigation on the site, a sewer credit meter must also be installed at the developer's cost as outlined above.

#### 5.2.2 Sanitary Sewer

(a) The existing sanitary sewer main within Bernard Avenue is sufficient to support the proposed development. No additional construction is requested.

(b) The existing site is presently serviced with a 150 mm diameter sanitary sewer service that may be used for the proposed development. If a larger service is required it can be provided at the developer's cost.

#### 5.2.3 Storm Drainage

(a) There is no storm drainage main in Bernard Avenue fronting on this parcel. It will be necessary for the developer to construct a storm pipe in Bernard Avenue from the Gordon Drive intersection to the east property line of the subject lot. The cost of this storm main construction for bonding purposes is \$26,000.00.

(b) The development will be required to contain and dispose of site generated storm water on the site by installing a ground recharge system consisting of drywells and perforated pipe bedded in drain rock.

(c) A storm drainage service is required for this site to provide positive relief for the foundation drains and for surface catchment overflow. The cost of this service is included in the storm drainage construction costs.

#### 5.2.4 Road Improvements

(a) Bernard Avenue fronting on this property is temporarily upgraded to an urban standard. The City deems it will be necessary to widen Bernard Avenue in this location to match the right-of-way width of Bernard Avenue west of Gordon Drive to provide space for a separate sidewalk. Presently there is a monolithic sidewalk fronting this property. Collect \$10,000.00 for future removal of the existing monolithic sidewalk and construction of a separate sidewalk. This would only occur when the property immediately to the west of the subject proposed development re-develops as well, and additional road widening is procured.

(b) It will be necessary to close the two existing driveway accesses, construct a new driveway access and re-construct the sidewalk and curb and gutter as required and landscape the existing boulevard, complete with underground sprinklers. The cost of this construction for bonding purposes is \$8,000.00.

#### 5.2.5 Subdivision

By registered plan to provide the following:

(a) Dedicate a Bernard Avenue widening in the form of a blunt end wedge, which measures 4.13 m wide at the west property line and 2.8 m wide at the east property line (see attached sketch).

(b) Grant statutory rights-of-way if required for utility services.

#### 5.2.6 Electric Power and Telecommunication Services

The services to this development are to be installed underground. It is the developer's responsibility to make a servicing application to the respective utility companies. The utility companies are then required to obtain the City's approval before commencing their servicing works.

5.2.7 Street Lighting

a) Street lights must be installed on all fronting roads as determined by the Electrical Manager.

5.2.8 Engineering

a) Design, construction supervision and inspection of all off-site civil works and site servicing must be performed by a Consulting Civil Engineer and all such work is subject to the approval of the City Engineer.

5.2.9 Development Cost Charge Reduction Consideration

a) None of the required off-site improvements are eligible for DCC credit.

5.2.10 Latecomer Protection

Under provisions of Section 990 of the Municipal Act, the applicant will be eligible for latecomer protection for the following items:

(a) Storm drainage main construction on Bernard Avenue.

5.2.11 Geotechnical Report

a) Not required, except as required for building permit foundation approval.

5.2.12 Survey Monuments and Iron Pins

a) If any legal survey monuments are removed or disturbed, during construction, the developer will be invoiced a flat sum of \$1,200.00 per monument to cover the cost of replacement.

5.2.13 Bonding and Levy Summary

(a) Bonding

Storm drainage construction on Bernard Avenue	\$26,000.00
Driveways on Bernard Avenue	\$ 8,000.00

Total Bonding \$34,000.00

(b) Levies

Payment for future separate sidewalk and boulevard landscaping	\$10,000.00
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Disconnect small diameter water service	\$ 500.00
Total Levies	\$10,500.00

#### 5.2.15 Development Permit and Site Related Issues

(a) The required road widening of 4.13 m tapering to 2.8 m will affect the front yard building setback. This will have to be addressed by a design alteration, or a development variance application.

(b) The proposed new access driveway is correctly placed as far from the intersection as possible.

(c) The proposed location of the garbage bins is directly below the balconies of the existing Kiwanis Tower which is immediately above. This could create some complaints from the Tower residents. Also, based on the site plan submitted, the garbage bins in that location would not allow an SU-9 standard size garbage truck to turn around on the site before returning to the public road, which is necessary. What might work with some adjustment of the curb lines, would be to place the garbage bins at the west side of the parking lot and use the proposed bin area as the back-in turn around area. This change would reduce the number of parking stalls on site, which is marginal already.

(d) The developer must disconnect all existing utility services, call the City's agent to remove the water meter and obtain all permits required before demolition or removal of the existing buildings on the site.

(e) We have no comments about or objections to the OCP amendment.

(f) We have no comments on the form and character of the proposed building.

#### 5.3 Shaw Cable

Owner/developer to supply and install an underground conduit system as per Shaw Cable drawings & specifications.

#### 5.4 Telus

TELUS will provide underground facilities to this development. Developer will be required to supply and install conduit as per TELUS policy.

#### 5.5 Aquila

No comment.

5.6 Terasen

No comment.

5.7 Kelowna Fire Department

Fire department access and hydrants as per the BC Building Code and City of Kelowna Subdivision By-law. Engineered fire flows will be required. It appears that a new hydrant will be required to be installed. Contact F.P.O. for preferred location.

3.0 PLANNING AND CORPORATE SERVICES DEPARTMENT

The Planning and Corporate Services Department supports this development permit application and the associated development variance permit. This mixed-use concept is one that staff encourages and would like to see more of in the future. The proposed development is located in close proximity to many commercial services and is located on an established transit route. The design of the building is in general conformance with OCP guidelines for development in Urban Centres and is also a mixed-use style of building which is encouraged in the plan.

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Andrew Bruce  
Development Services Manager

Approved for inclusion ☐

R.L. (Ron) Mattiussi, ACP, MCIP  
Director of Planning & Corporate Services

RM/AB/rs

Attach.

## FACT SHEET

1. **APPLICATION NO.:** DP03-0116
2. **APPLICATION TYPE:** Development Permit
3. **OWNER:** Peter Becker  
· **ADDRESS** 604 Barnaby Road  
· **CITY** Kelowna, BC  
· **POSTAL CODE** V1W 4N7
4. **APPLICANT/CONTACT PERSON:** John Mailey  
· **ADDRESS** #2-3800 Gallaghers Pinnacle Way  
· **CITY** Kelowna, BC  
· **POSTAL CODE** V1W 3Z8  
· **TELEPHONE/FAX NO.:** 712-6323
5. **APPLICATION PROGRESS:**  
  **Date of Application:** September 29, 2003  
  **Date Application Complete:** September 29, 2003  
  **Servicing Agreement Forwarded to Applicant:** N/A  
  **Servicing Agreement Concluded:** N/A  
  **Staff Report to APC:** October 21, 2003  
  **Staff Report to Council:**
6. **LEGAL DESCRIPTION:** Lot B, Section 20, Township 26,  
ODYD Plan 5803 except Plan KAP46597
7. **SITE LOCATION:** The subject property is located on the south side  
Bernard Avenue, one lot east of the intersection  
Bernard Avenue and Gordon Drive.
8. **CIVIC ADDRESS:** 1125 Bernard Avenue
9. **AREA OF SUBJECT PROPERTY:** 1743m<sup>2</sup>
10. **AREA OF PROPOSED REZONING:** N/A
11. **EXISTING ZONE CATEGORY:** C4- Town Centre Commercial
12. **PROPOSED ZONE:** N/A
13. **PURPOSE OF THE APPLICATION:**  
  
TO CONSTRUCT A MIXED USE BUILDING WITH COMMERCIAL AT  
AT GRADE AND THREE STOREYS OF RESIDENTIAL ABOVE  
UNITS) .  
  
TO VARY THE OFF-STREET PARKING SETBACK (ALONG  
PROPERTY LINE ADJACENT TO A RESIDENTIAL ZONE) FROM  
REQUIRED TO 0.0M PROPOSED.  
  
TO VARY THE SETBACK FROM RESIDENTIAL ZONES  
REFUSE/RECYCLING BINS FROM 3.0M REQUIRED TO  
PROPOSED.

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| 14. | MIN. OF TRANS./HIGHWAYS FILES NO.:<br>NOTE: IF LANDS ARE WITHIN 800 m OF A<br>CONTROLLED ACCESS HIGHWAY | N/A |
| 15. | DEVELOPMENT PERMIT MAP 13.2<br>IMPLICATIONS   | N/A |

### **ATTACHMENTS**

**(not attached to the electronic version of the report)**

- Location of subject property
- Site plan
- Floor plans
- Elevations
- Landscape Plan
- Colour Sample