



STAFF REPORT

TO: Committee of the Whole **MEETING DATE:** September 26, 2023
FROM: Planner II **FILE NO:** 3220-Marine Dr-458
SUBJECT: Form and Character Development Permit (DP-2022-33), Development
Variance Permit (DVP-2022-09), and Flood Exemption (DVP-2022-08) for a
proposed mixed-use commercial and 9-unit residential building at 458
Marine Drive.

RECOMMENDATIONS

THAT form and character Development Permit DP-2023-33 for 458 Marine Drive be authorized as presented;

AND THAT development variance permit DVP-2022-09 for 458 Marine Drive be authorized to increase the maximum building height to 7.5 m and relax the parking requirements by one parking space, on condition that the relocated 3-metre Right-of-Way for stormwater infrastructure along the North-East property Line also allow for public pedestrian access, linking Marine Drive to the Seawalk.

AND FURTHER THAT a Flood Exemption be authorized, reducing the required flood setback in Part 4.11 (2) of the Zoning Bylaw from 15 m from the natural boundary of the sea to 3 m for construction of a mixed-use building at 458 Marine Drive, subject to:

- a) Site-specific modelling confirming the 6 m FCL; and
 - b) Registration of a Section 219 covenant to the property title, saving the Town harmless of any hazards of development within the designated floodplain.
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PURPOSE

The Town of Gibsons has received development applications for a proposed mixed-use building, containing one retail unit, nine residential units, and underground parking at 458 Marine Drive.

The following applications have been received:

1. Development Permit Area 1 – Geotechnical Hazards
2. Development Permit Area 2 – Environmentally Sensitive Areas

3. Development Permit Area 5 – Gibsons Landing (form and character)
4. Development Permit Area 9 – Gibsons Aquifer
5. Development Variance Permit – requesting to increase the height limit of 4.5m to 7.5m and reduce the parking by one space.
6. Flood Exemption – to allow construction within the designated Flood Plain.

The purpose of this report is to provide Council with the application and obtain direction on the issuance of the following applications:

- Form and Character Development Permit (DPA 5),
- Development Variance Permit (building height and parking),
- Flood Exemption (ocean setback).

BACKGROUND

Planning Context

The Official Community Plan (OCP) designates the subject property as Mixed-Use Commercial which allows for a wide range of retail and office use, restaurants, and visitor accommodations in a pedestrian oriented environment, and to allow for residential uses as a secondary use, above or under a commercial use at ground level.

The property is located within the following Development Permit Areas (DPAs) and will require issued Permits prior to obtaining a Building Permit:

1. Development Permit Area 1 – Geotechnical Hazards (ocean shoreline)
2. Development Permit Area 2 – Environmentally Sensitive Areas (marine shore areas)
3. Development Permit Area 5 – Gibsons Landing (form and character)
4. Development Permit Area 9 – Gibsons Aquifer (excavation in the lower Gibsons subarea)

DPAs 1, 2 and 9 are delegated to staff to review and issue. DPAs for form and character, such as DPA 5, require Council authority to issue.

The property is zoned Marine Drive Commercial 8 (C-8), consistent with the OCP's mixed-use commercial designation. The intent of the C-8 zone is to provide for a limited range of commercial uses which may be combined with apartment use on smaller lots in the Gibsons Landing area, on the downhill side of Marine Drive.

The property is located within View Protection Sub-Area D and is designated in a Flood Plain.

Site and surrounding area

The subject properties are shown in Figure 1. The development site is currently vacant. It contains two parcels (458 and Lot B Marine Drive) that are approximately 417.5 m² (4000 ft²) and 307.5 m² (2975 ft²), which would be consolidated into one larger parcel for the development.

The mixed-use commercial and residential building, Casa Luna, is located to the south which contains the Bayview Restaurant and 7 apartment units. To the north is a single-detached

house, and across Marine Drive are commercial businesses, including Barquette's Barber dog groomer, Fong's Market, Ikhaya, Theo's Barber, Gibsons Chiropractic Health and Wellness Centre, and Zocalo. On the other side of Jack's lane is the Black Bean Café, and farther up Jack's lane, accessed from Cruice Lane is Tapworks Brewery.

The waterfront properties and development site are in a prominent, walkable, location in the Lower Gibsons Landing area, adjacent to the sea walk, the public transit route, and amenities.

Figure 1: Location of subject property



DISCUSSION

Proposal

The applicants propose to consolidate the two lots to develop a mixed-use building with one retail space and nine apartments. The application drawings are enclosed as Attachment A. The building will be two storeys as seen from Marine Drive and five stepped storeys from the seawalk, shown in Figures 2, 3 and 4. The proposal requires a Development Variance to allow for a second floor at Marine Drive.

The retail space and residential lobby will be accessed from Marine Drive. An internal staircase travels through the building from the lobby at Marine Drive down to the seawalk for residents.

A right of way is proposed to be relocated and widened from 2.1-metres to 3-metres along the north-east property line, as it is currently located in the middle of the proposed consolidated lot. This will accommodate Town Storm infrastructure and provides a view corridor for pedestrians walking along Marine Drive. Staff suggest that this right-of-way could also allow a pedestrian link between Marine Drive and the Seawalk.



Figure 2: Marine Drive (west) elevation



Figure 3: Seawalk (east) elevation

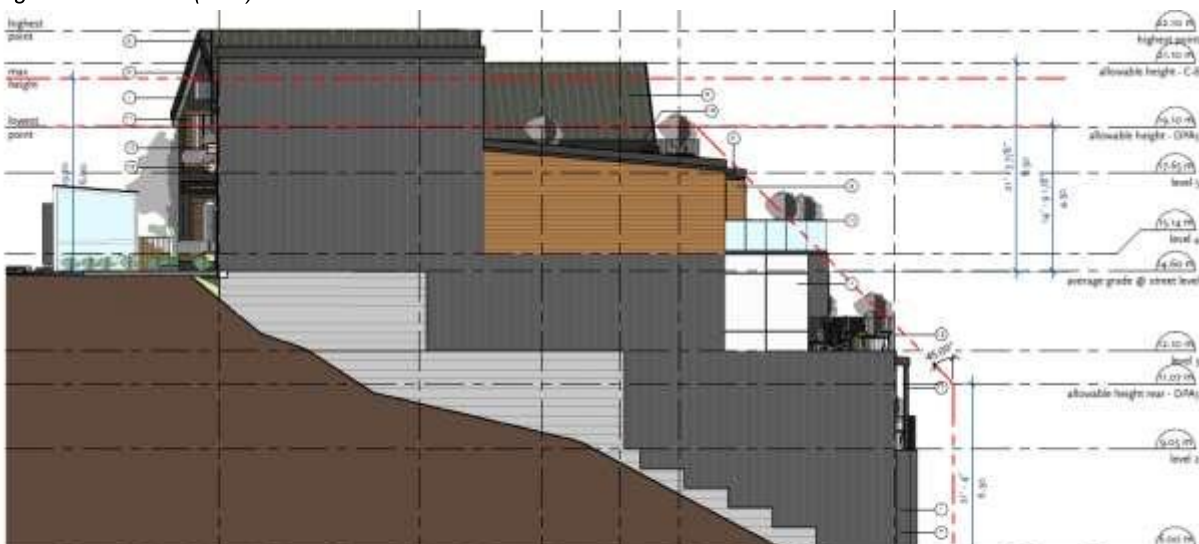


Figure 4: South side elevation

Zoning Bylaw Review

Table 1 provides a plan check summary; the proposed development requires a variance for both height and parking and a Flood Exemption.

Table 1: Plan Check Summary

	Bylaw Requirement	Zoning Bylaw Section	Proposed
Setback Front	0 m	C-8 Section 11.83	0 m
Setback side (North)	0 m	C-8 Section 11.83	3m
Setback side (South)	0 m	C-8 Section 11.83	0m
Setback rear	15 m from Natural boundary	Flood Plain Section 4.11	3m Flood Exemption required
Height	4.5m	View Protection Sub Area D Section 5.07	7.5m DVP required
Lot Coverage	90%	C-8 Section 11.84	80%
Parking	No loading space 1 space /957m ² of retail 1.1 spaces for apartment	C-8 Section 11.86 1 space Retail 10 space Residential	1 Retail 9 Residential DVP required

View Protection

The property is located within View Protection Sub Area D under Part 5 of the Zoning Bylaw.

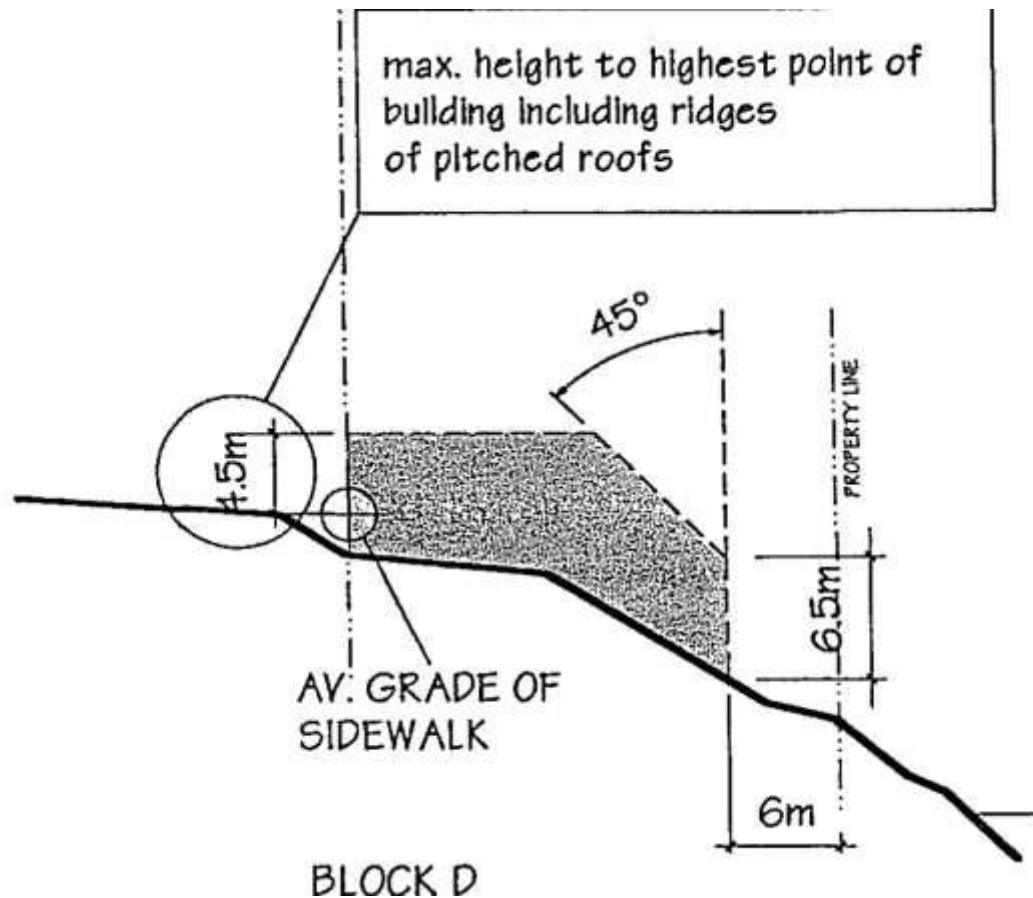


Figure 5: Regulations for sub area D

The regulations in Part 5-View Protection of the Zoning Bylaw supersede the building height and setback regulations of the C-8 zone, and therefore the property has a building height limit of 4.5m from the average natural grade of the Marine Drive sidewalk to the highest point of the building, as shown in Figure 5.

This building height measurement is more restrictive than the rest of the Zoning Bylaw, where building height is measured to the midpoint of a pitched roof.

The applicants are requesting a 3 m height increase variance from the average grade of the sidewalk to allow a building height of 7.5 m (2-storeys) at Marine Drive.

Variance Request – Height and Parking (DVP-2022-09)

Staff have reviewed the variance requests alongside Council Policy 3.9 and provide the following comments:

Council Policy 3.9

1. *The request is not within the jurisdiction of the Board of Variance;*

A hardship has not been identified by the applicant and therefore this is not going to the Board of Variance.

2. *The same request has not been previously denied by the Board of Variance;*

The application has not been denied by the Board of Variance.

3. *The variance will not result in significant negative impacts on neighbouring properties;*



Figure 6: Visual image of proposed development from Jacks Lane

While the construction of a mixed-use building from a former vacant property will inevitably have some degree of adverse effects upon neighbouring properties, such impacts are not in this case considered to be significantly negative.

Height – The overall height is 7.5 m and offset with a 3 m setback on the north-east side, providing a view corridor and helping to transition the mixed-use building to the adjacent existing single-family dwelling.

The additional height provides for a 2nd storey with a pitched roof, which staff considers fits into the quaint, seaside character of Lower Gibsons. The 2nd storey matches the building form of the Black Bean Café building across the road, as shown in Figure 6.

No windows are proposed along the sides of the 2nd storey to minimize privacy impacts on neighbours.

Parking – 10 parking spaces are proposed on site, with the use of a parking elevator. Each residential unit will have 1 parking space and the commercial unit will have 1 parking space. The zoning bylaw requires 11 parking spaces, and therefore 1 space is missing.

There are parking limitations in the Lower Gibsons area. Providing each residence with a parking space ensures that local street parking is available to shoppers and visitors.

The cumulative effect of multiple developments in the same area reducing their parking may have a negative effect on neighbouring properties over time.

4. *There is a demonstrated need for the variance in order to permit reasonable use of the property;*

The proposal looks to provide residential density and retail space on a vacant lot within Lower Gibsons. The location itself is walkable, the added residents would provide street activation and economic benefits to local businesses and services.

Height – Adding an additional storey allows for the development of nine residential units – economically, the development costs is split between 9 parties to make it more feasible for buyers.

Parking – due to the site limitations including building height, the aquifer beneath, the lot size and topography, fitting parking in is a challenge. The proponents have designed the building with 10 parking spaces which includes 1 space for each residential unit and 1 space for the commercial unit. An additional parking space would be helpful for visitors and/or commercial patrons, however, it would be difficult to manage with the car elevator. Staff note that the site is directly beside a bus stop and on the public transit route. It is also in an area that is being improved for active transportation and is walkable to amenities.

5. *The overall intent of the original bylaw requirement or standard is not compromised;*

The original intent of the bylaw is compromised, as the proposal requests to build over the 4.5m, which was likely set to protect views from uphill properties. Figure 7 shows that properties on Cruice Lane will still be able to look over the road, to the ocean and Keats Island.

It should be noted that the across the street from the property, View Protection Sub Area E allows buildings heights of up to 10 m tall, from the average natural grade of the property line at Marine Drive which is substantially taller than Sub Area D's maximum of 4.5 m from the average natural grade of the property line at Marine Drive, as shown in Figure 8.

The View Protection Sub-areas were introduced to Zoning Bylaw No. 555, 1986, in 1996 with amending Bylaw 555-79. In 2007, the Zoning Bylaw was re-written and incorporated the 1996 View Protection Sub-Areas into Zoning Bylaw 1065 without any amendments. Thus, it does not take into account areas designated as Flood Plain, and the associated setbacks (15m in this case) and new standards of climate change adaptation including Flood Construction Levels.

While staff considers the original intent of the view protection area is comprised, staff also considers the intent of the OCP is not compromised.

Council must weigh the trade-offs. Are the regulations outlined in the View Protection sub areas aligned to current community needs? Or should the regulations be updated to build-out in accordance with the OCP's vision, while incorporating climate change adaptation standards in response to sea level rise and natural asset management with Aquifer 560 underground. Maintaining residential density and commercial uses in core areas meets the original principles of smart growth, however, the view protection regulations limit the build out opportunity without obtaining variances.

In terms of the parking variance, staff does not consider the intent of the parking requirements compromised as most (10/11) parking spaces are in place.



Figure 7: View from Tapworks patio with proposed development



Figure 8: View Protection Sub Areas with their corresponding maximum heights,

6. *The variance does not appear to establish a precedent for other properties, but responds to a site-specific situation or difficulty;*

The applicants are balancing flood construction level of 6 m as well as limiting excavation on the site to prevent negative impacts on the aquifer.

While this request responds to a site-specific situation, this will likely be the same case for most small-lot waterfront properties in Lower Gibsons that wish to develop or redevelop in the future, and thus will be a precedent.

Parking – Historically, parking was not required for some development in Lower Gibsons, including the commercial portion of the Casa Luna development next door which has undoubtedly contributed to the parking shortage. Most, if not all, new development applications in this area are now requesting a parking reduction due to the small lots, excavation confinement because of the aquifer, flood construction levels, topography, and cost of construction. A reduction of one parking space does not set a precedent.

7. *As per the Municipal Act provisions, does not result in a change in land use or an increase in permitted density;*

There is no change to the permitted land use or an increase in density.

8. *The variance results in suitable development that is an asset and compatible in the context of surrounding uses;*

Both the height and parking variance was supported by the Advisory Design Panel, with the following recommendation to Council:

The ADP support the requested height variance as the height and peaked appearance of the roof provides visual interest and character.

The ADP acknowledge that parking is a challenge and support the requested reduction in parking onsite.

9. *In the case of variance of specific development standards for off-site servicing, that any additional costs that may be incurred by the municipality or future land owners are considered.*

Not applicable to this variance request.

Should Council be comfortable authorizing the variance request to increase building height and reduce the parking by one stall, staff suggest that the variance be on condition that the relocated and widened 3-metre right of way along the north-east property should include public pedestrian access. This would provide a pedestrian link from Marine Drive to the Seawalk. Due to the grade, it will require some form of stairway.

This recommendation is in option 1.

Notification

Neighbour notification letters were sent to properties within 50 m of the subject property on September 11, outlining the requested variances and explaining the process to provide comments to Council.

At the time of writing no submissions have been received.

An opportunity should be provided at the meeting for anyone who feels they will be affected by the requested variances to speak and provide comments to members of Council.

Flood Exemption (filed under DVP-2022-08)

Section 524 of the Local Government Act enables local governments to designate land by bylaw as a floodplain. The Act states that local governments may specify the flood level for the flood plain, and the setback from a watercourse or body of water.

The Town has designated flood plain areas in the Zoning Bylaw and in the OCP's Development Permit Area 1 for geotechnical hazards. Areas near creeks and all shoreline areas are designated Flood Plain. Section 4.11 of the Zoning Bylaw requires a 15-metre setback from the ocean and the underside of any floor system of habitable space to have a height elevation of 1.5-metres above the natural boundary of the sea to address flood risks for this property.

The Town's Floodplain regulation requires that a building/structure's location is determined through a geotechnical report for a Development Permit for Geotechnical Hazards. Moreover, a save harmless covenant is required to be registered on Title to relieve the Town of liability before a Development Permit is issued.

As the property is 25 m deep and the building setback is 15 m from the natural boundary of the sea, this regulation renders much of the property undevelopable without a Flood Exemption.

A Flood Hazard Assessment has been submitted by Stirling Geoscience Ltd. The applicant requests to construct the buildings 3 m from the natural boundary, rather than 15 m. The applicants are therefore requesting a 12 m Flood exemption.

The report has analyzed various background reports, including, provincial guidelines, the Town's Official Community Plan Development Permit Areas, Flood Construction Level Assessments for recent projects along the Gibsons Shoreline, and Town led projects, such as the Gibsons Foreshore and Seawalk Improvements report dated 2017 from KWL and the Environmental and Hydrogeological Assessments for the subject property.

The Flood Hazard Assessment provides a 6.0 m Flood Construction Level (FCL) which includes freeboard. The author has suggested that this is conservative and has recommended that site-specific coastal modelling be carried out, as the FCL may be slightly lower than 6.0m after a more detailed assessment.

Development Permit for form and character (DP-2022-33)

The Harbour Area Plan – Part E of the Official Community Plan divides the Harbour Area into four Character Areas:

1. Village Landing
2. Village Waterfront
3. Village Cultural Precinct
4. Legacy Residential

The design guidelines are divided into those that pertain to the Harbour Area in general — “Area-wide Design Guidelines”, and those that pertain specifically to the Village Landing Character Area — “Village Landing Design Guidelines”. The property is located within the “Village Landing” character area within the Harbour Area Plan and therefore all guidelines apply to this development.

Staff have assessed the proposal with the guidelines, enclosed as Attachment C. It should be noted that some of the guidelines that were not applicable to this development have been removed for ease of reading.

Staff also note that some of the guidelines in DPA 5 may not be compliant with today’s building codes.

The proposal meets 36 out of the 46 guidelines that were deemed to be applicable to the project. The guidelines that were not met included “all windows should be surrounded with wood frames” and “banners and flags to provide bright accent colour are encouraged.”

The proposal meets the intent of the wood frames, using white accent windows over the darker siding, allowing for the windows to “pop”. Wood frames can become a costly maintenance issue, especially in a location that is exposed to inclement weather.

The applicants have also provided a yellow accent colour around the commercial retail unit and above the parking garage door, which helps to provide the bright accent colour without using flags.

Advisory Design Panel (ADP)

The application was presented to the ADP on August 9. The following recommendations were made.

The ADP recommends Council issue DP-2022-33 for the development at 456-458 Marine Drive with the following changes and suggestions:

1. *Landscaping on the seaward side has the opportunity to include soft armouring and reduce the visibility of the concrete retaining wall at the base of the building*
1. *Colour scheme for the building and roof be lighter to reduce heat absorption and more*
2. *lively natural colours*
3. *Bus stop be situated so that there's less impact to accessibility on the sidewalk*

4. *Visual and safety of the pad mounted hydro box on the sidewalk be reviewed, perhaps with collaboration with a local artist*
5. *Consider landscaping the North Side 3-metre right-of-way and provide pedestrian access to the seawalk by way of stairs*
6. *Incorporate commercial signage into the design for Council consideration*
7. *Remove trees from renderings that would be lost in construction*
8. *Parking garage elevator to have a warning light/sound system installed to warn pedestrians and traffic of a vehicle exiting the lift*

The ADP support the requested height variance as the height and peaked appearance of the roof

provides visual interest and character.

The ADP acknowledge that parking is a challenge and support the requested reduction in parking onsite.

The applicant submitted revised drawings, enclosed as Attachment A reflecting the ADPs comments, and included the following:

- Lighter metal siding colour
- Lighter trim colour
- More white stucco panels on all elevations
- wrapping the material around the elevations
- Added the retail sign with lights above
- Added the address number with a light above
- Changed PMT (hydro box) look (a placeholder for the local artists)
- Added a sign above the parking door and change the driveway path
- Added horizontal texture to the waterside retaining wall at the bottom
- Added the note on the utility easement: "Landscaping TBD, pending Town of Gibsons Infrastructure approval."
- Added a roof and bench to the bus stop

REFERRALS

The project was referred to the Gibsons and District Volunteer Fire Department, as well as the Town of Gibsons Public Works Department , Parks Department, Building Department and Infrastructure Services Department.

The following comments were received:

Department	Comments
Gibsons and District Volunteer Fire Department	<i>The Gibsons & District Volunteer Fire Department approves this application and has provided the BC Building Code regulations for sprinklers and access routes</i>
Parks Department	<i>No concerns. At Building Permit stage, Parks to meet with applicant to discuss location of garbage cans and benches on Town property.</i>
Infrastructure Services Department	<ul style="list-style-type: none"> • <i>DPA 9 Area. Drilling permit required (current submitted application pending Town drilling specifications review).</i> • <i>3-meter Service Right of Way required for the storm main.</i> • <i>Public access along the storm Service Right of Way</i> <ul style="list-style-type: none"> ○ <i>no concrete</i> ○ <i>should be removable for access to the storm line</i> ○ <i>please consult Infrastructure regarding preferred materials/design for the stairs</i> • <i>Note that future work is planned on the sanitary trunk main on the foreshore/seawalk to the east of the property. Currently there are no project design plans, however ultimately the seawalk will be raised 0.75 meters and there will be a build out of the foreshore (changing the natural grade and elevation). This will need to be taken into consideration with your designs.</i> • <i>Frontage works (as per Bylaw 1175) will be triggered with this development.</i> • <i>Development cost charges apply</i> • <i>Prowse Road Lift Station and Force Main Excess Services Latecomer's fee applies.</i> • <i>SCRD Bulk Water Facilities fee applies</i> • <i>Service connection fees apply</i> • <i>Servicing Agreement required.</i>

	<ul style="list-style-type: none"> • <i>Servicing Agreement fees include security deposit, and engineering & admin fees (all based on estimated cost of offsite civil works).</i>
Building Department	<i>Building has no concerns for the proposal of the building. Code and Bylaw compliance is yet to be fully reviewed until official drawings have been submitted. Spatial separation to be considered.</i>

STRATEGIC PLAN IMPLICATIONS

<i>Priorities</i>	<i>Objectives</i>
Leadership	
✓ Liveability	✓ Implement the Gibsons Foreshore and Seawalk Improvements
Affordability	
Natural Assets	

OPTIONS

The three Permits must be considered in conjunction with one another, as each application involves the design, height and setbacks proposed.

Option 1 Issue Permits

THAT form and character Development Permit DP-2023-33 for 458 Marine Drive be authorized as presented;

AND THAT Development Variance Permit DVP-2022-09 for 458 Marine Drive be authorized to increase the maximum building height to 7.5 m and relax the parking requirements by one parking space, on condition that the relocated 3-metre Right-of-Way for stormwater infrastructure along the North-East property Line also allow for public pedestrian access, linking Marine Drive to the Seawalk.

AND FURTHER THAT a Flood Exemption be authorized, reducing the required flood setback in Part 4.11 (2) of the Zoning Bylaw from 15 m from the natural boundary of the sea to 3 m for construction of a mixed-use building at 458 Marine Drive, subject to:

- a) Site-specific modelling confirming the 6 m FCL*
- b) Registration of a Section 219 covenant to the property title, saving the Town harmless of any hazards of development within the designated floodplain.*

Option 2 Request Changes

If Council are concerned with an aspect of the proposal, this option would provide the applicant with direction on how to make the proposal more amenable to Council.

THAT the applicants of 458 Marine Drive revise applications [DP-2023-33 and/or DVP-2022-09] with the following changes...

Option 3 Deny the Permits and request a new proposal that conforms to the Zoning Bylaw.

This option would deny the variance request to increase the building height to 7.5 m (2-storeys) and relax the parking requirements by one space, and will require the applicant to redesign the development within the C-8 zone, View Protection, and Flood Plain zoning requirements.

THAT DP-2023-33 for 458 Marine Drive be denied due to the following reasons....

AND THAT DVP-2022-09 for 458 Marine Drive be denied, due to the following reasons...

AND FURTHER THAT a Flood Exemption be denied, reducing the required flood setback in Part 4.11 (2) of the Zoning Bylaw from 15m from the natural boundary of the sea to 3 m for construction of a mixed-use building at 458 Marine Drive be denied

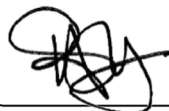
Attachments

- Attachment A – Architectural Plans, revised after ADP meeting
- Attachment B – Landscape Plan
- Attachment C – Form and Character Analysis
- Attachment D – Flood Hazard Assessment

Respectfully Submitted,



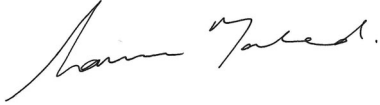
Katie Thomas
Planner II



Lesley-Anne Staats, MCIP, RPP
Director of Planning and Development Services

CHIEF ADMINISTRATIVE OFFICER'S COMMENTS:

I have reviewed the report and support the recommendation(s).

A handwritten signature in black ink, appearing to read "Emmauel Machado", written in a cursive style.

Emmauel Machado
Chief Administrative Officer