



The Corporation of the City of Courtenay

Staff Report

To: Council

File No.: 3090-20-2407/DVP00053

From: Director of Development Services

Date: December 11, 2024

Subject: Development Variance Permit Application No. 2403 – 407 4th Street

PURPOSE:

For Council to consider approval of Development Variance Permit No. 2403 to allow for the development of a four-storey, approximately 5,046m², mixed-use residential and commercial building at 407 4th Street (LOT 1 SECTION 61 COMOX DISTRICT PLAN EPP141927) which varies Zoning Bylaw No. 2500, 2007, Division 6, Part 7, section 6.7.1 - Sight Triangle; Division 7, Part 1, section 7.1.10 - Small Car Parking; Division 7, Part 3 section 7.3.2 - Bicycle Parking Requirements, and Division 8, Part 13, Commercial One Zone (C-1) section 8.13.7 - Height of Buildings.

BACKGROUND:

The property owner of 407 4th Street is seeking variances to Zoning Bylaw No. 2500, 2007, Commercial One Zone (C-1), to construct a new four-storey, approximately 5,046m², mixed-use building consisting of 36 residential units and 499m² of commercial space, representing four commercial retail units (CRU). The proposed development is anticipated to be financed by CMHC and as part of this funding the units will be rental for the first ten years and include building performance targets for energy efficiency and greenhouse gas emissions.

The proposed height variance meets the minor threshold for delegation to the Director of Development Services (25% or less) while the sight triangle, small car parking and bicycle parking specification variances are greater than 25%. As a result, all variances are being considered by Council. There are eight variances, five of them alone pertain to bicycle parking requirements.

The C-1 zone permits a variety of residential, commercial and combined commercial and residential uses. The proposed uses are permitted in the C-1 zone. To facilitate the proposed development, the subject property consolidated two lots; 407 and 419 4th Street and the two existing single residential homes used for commercial purposes will be demolished. As a result of the consolidation, the frontage of the new subject property is now England Avenue.

To accommodate this proposed development the applicant is requesting to vary Zoning Bylaw No.2500, 2007, Division 6, Part 7, section 6.7.1 - Sight Triangle; Division 7, Part 1, section 7.1.10 - Small Car Parking; Division 7, Part 3 section 7.3.2 - Bicycle Parking Requirements, and Division 8, Part 13, Commercial One Zone (C-1) section 8.13.7 - Height of Buildings. The requested variances are as follows:

- Section 6.7.1 – Sight Triangle – from 6.0 m from the point of the street intersection to 3.0 m.
- Section 7.1.10(1) – Small Car Parking – from 10% of the total number of parking stalls for small cars to 26% of the total number of parking stalls for small cars.
- Section 7.3.2 (1) – Bicycle Parking Specifications – from each standard bicycle parking space shall be a minimum of 1.8 metres (length) to 1.2 metres (length) and from 0.6 metres (width) to 0.3 metres (width).

- ### Figure 1: Site Location



The map shows a city block with the following lot numbers and street names:

- Streets:** FITZGERALD AVENUE (west), ENGLAND AVENUE (east), 3RD STREET (north), 4TH STREET (south).
- Lot Numbers:**
 - Along Fitzgerald Avenue (from north to south): 326, 480, 468, 468A, 468B, 456, 444, 432, 420, 408.
 - Along England Avenue (from north to south): 374, 391, 379, 367, 355, 347, 343, 331.
 - Along 3rd Street (from west to east): 491, 479, 461, 443, 431, 374, 356A, 344.
 - Along 4th Street (from west to east): 420, 478, 464, 455, 456, 407.
- Subject Property:** A gray-shaded lot located between Fitzgerald Avenue and England Avenue, and between 3rd Street and 4th Street. It is labeled "SUBJECT PROPERTY".

The current grade of the subject property (see Figure 3) decreases gradually, approximately 2 metres from the property line along 4th Street to the rear property line at the lane. The property also has a similar elevation change dropping from its internal southwest property line to the property line along England

Avenue, making the northeast corner of the lot the low point of the property. The proposal will utilize this existing grade change to assist in building an underground parkade where less excavation will be needed at the northern, lower end of the property and where the height of the building along the 4th Street will present as shorter than along most of England Avenue and from the lane.

There are currently four mature trees on-site, two Ash and two Holly (Holly are invasive and the City promotes removal). In conformance with Courtenay's Tree Protection and Management Bylaw No. 2850, 2006, the site's trees are subject to removal through a Tree Cutting Permit, if Council approves the requested variances.

The proposed building is classified as a mixed-use development (residential and commercial) and is subject to DPA-1: Commercial Form and Character Development Permit Area and issuance of a Development Permit. If Council approves the requested variances, the Director of Development Services will be able to proceed with consideration of the applicant's concurrent Development Permit Application. If both planning permits are issued, the owner will be able to proceed through the Building Permit process.

Figure 3: Existing Site from 4th Street



Figure 4: Rendering of proposal from 4th Street



DISCUSSION:

The variances being considered are to support the proposal for a 4-storey mixed use residential and commercial building intended to provide 36 dwelling units (purpose-built rental for at least 10 years) and 499m² of street level commercial space. The proposed design includes an underground parkade, an amenity room and secure bike storage facilities for residents. The unit composition for the 36 residential is:

- 5 micro units (<29m²)
- 7 one-bedroom units
- 21 two-bedroom units
- 3 three-bedroom units

The C-1 zone accounts for density via a volumetric calculation that can be simplified as a combination of lot coverage and height. The maximum coverage allowed in the C-1 zone is up to 100% of the total lot area for all buildings and accessory buildings and the maximum height of building is 13.5 m. Based on the lot size and coverage, the subject property is allowed up to 5,050m³ of volumetric density. The proposed development is 3,933m³ and therefore the height variance requested does not affect the property's density or use and no rezoning is required.

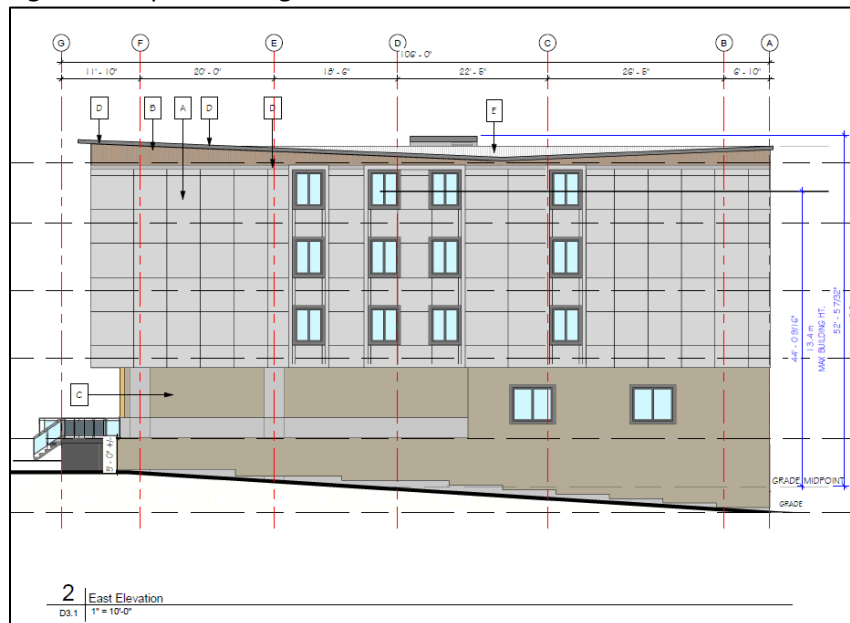
Maximum Building Height Variance

The maximum permitted height in the C-1 zone is 13.5 m. This proposal is requesting a 2.5 m variance to

accommodate a 16.0 m building.

The need for an allowable height of 16.0 metres is partially the result of the site's topography and how the Zoning Bylaw measures height; in this instance the natural average grade along the future building face fronting England Avenue. This does not diminish the fact that from England Avenue and the lane especially, where the elevation is at its lowest, the building may be more imposing in its massing. The architectural features (design, materials and colour variation) however, break up the expansiveness of the building's faces and minimize massing. The integration of the building into the site's topography also reduces the building's mass as you move around the building's perimeter from the lane to its main entrance on 4th Street. The proposal meets DPA-1 form and character guidelines for multi-residential buildings.

Figure 5: Depiction Height – East Elevation



When compared to the site's permitted right-of-zoning height, the additional height requested (2.5 m) is unlikely to impact the adjacent properties significantly. The height variance is classified as minor per Development Procedures Bylaw No. 3106, 2023; less than 25%.

With the C-1 zone's maximum height of 13.5m, it will generally not be possible for properties zoned C-1 to build higher than four-storeys without a variance or a rezoning. From this standpoint the height variance is supportable, as the height aligns with the form and character envisioned by the OCP for the Downtown Town Centre, which encourages up to eight-storey buildings.

Bicycle Parking Specifications Variance

The intent of the zoning bylaw is to ensure a variety of bike types as well as the needs and abilities of users are accommodated for when storing their bikes. To meet this intent requires not only considering the number of bicycle spaces provided but also the size and siting of these stalls, the security of the bikes, and supplementary needs of some bikes, such as electrification.

Where the Zoning Bylaw requires 80 bicycle parking spaces (72 Class II, 8 Class I) the proposal provides 72 spaces (66 Class II, 6 Class I) all in secure and sheltered locations. While the proposal seeks relaxation in the dimensions require for *each* bicycle stall, the proposal provides a variety of different sizes of spaces and

types of racks (i.e. horizontal versus vertical). The 16 horizontal stalls meet the dimensions required by the bylaw without needing variance and can meet the needs of residents who are unable to use the vertical style racks. For residents who can, the 46 vertical spaces continue provide secure high-quality bicycle parking. The four oversized stalls are accommodating of larger bikes, bikes with non-traditional tire sizes, and other types of wheeled devices. Accounting for things such as unit composition, target demographic, and the overall accessibility of the building, the proposal's bicycle parking collectively provides a satisfactory variety and overall quality that can meet needs of the building's users. For this reason, Staff support the variances.

Small Car Parking Percentage Variance

The maximum permitted percentage of small car parking stalls for parking areas of 20 or more vehicles is 10%. This proposal is requesting a 16% increase in the percentage of small car parking allowed; up to 26% of the total parking stalls provided. Based on the 27 proposed stalls, this amounts to a maximum of 7 small car parking stalls.

It was recently established through a third-party transportation consultant that 20-30% small car parking is a common benchmark in other BC communities. This standard was recently incorporated when drafting parking requirements for a multi-residential comprehensive development zone within a core growth area of Courtenay. Based on this development's similar context, the same standard is suitable here.

Additionally, the 7 proposed small car stalls are still larger dimensionally than the minimum requirement for a small car stall (2.5 m in width x 4.6 m in length) and are likely to more easily accommodate a broader make of vehicles. Smaller vehicles may also reflect the location's transportation context and the needs of single and small households who occupy the building.

Sight Triangle Variance

For corner lots, the zoning bylaw requires that nothing shall be erected, placed, planted or allowed to grow in a manner that impedes vision between a height of 1.0 m to 3.0 m within the area of the subject property created by drawing a diagonal line between two points 6.0 m from the corner of the property. The intent of this regulation is to ensure sight lines are kept clear for the benefit of vehicle and pedestrian safety.

Figure 6: Zoning Bylaw Sight Triangle

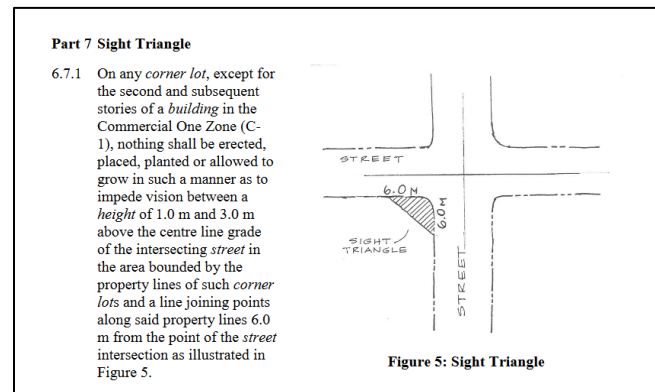
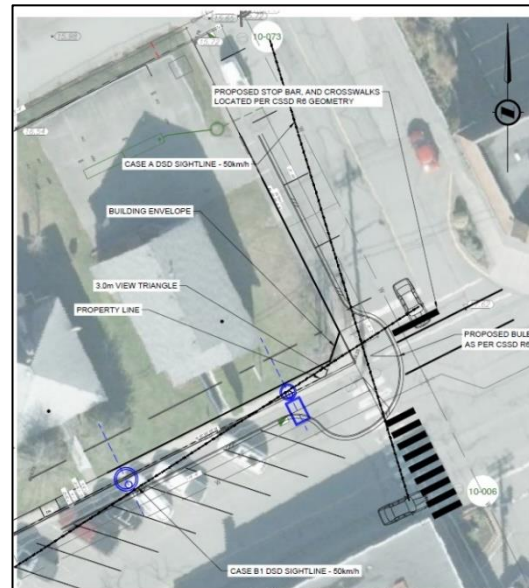


Figure 7: TAC Sight lines



This proposal is requesting a reduction in the zoning bylaw's requirement for the establishment of a sight triangle from a diagonal line drawn from two points from 6.0 metres from the corner of the intersection to 3.0 metres from the corner of the intersection.

This variance request is supported by a qualified civil engineer who recommends a 3.0 m x 3.0 m corner cut and a curb extension. The sight lines for vehicles at the intersection of 4th Street and England Avenue meet or exceed what is recommended by the Transportation Association of Canada (TAC). TAC is the standard bearer for transportation and road safety standards and is referenced as the City's criterion in other instances, including the Subdivision and Development Servicing (SDS) Bylaw No. 2919, 2018, where TAC forms a component of the bylaw through the Master Municipal Construction Documents (MMCD) Design Guidelines. The civil engineer's drawings support what is required by the City's SDS Bylaw for adequate sight line distances, and will be required to be met prior to Building Permit (See Figure 7 below). The Zoning Bylaw's site triangle requirement will be reviewed in 2025 and updated to align with best practices.

A 3.0 m by 3.0 m Statutory Right of Way (SRW) will restrict all building within the same internal corner of the subject property. This is a requirement of Courtenay's Subdivision and Development Servicing Bylaw No. 2919, 2018, in compliance with Master Municipal Construction Documents Design Guideline clause 5.5.3. To meet this, the City is requiring a Statutory Right of Way to be registered on title prior to Building Permit that will prohibit building in that defined area and reserve the space for the placement and access of future utilities.

Summary of Variances

Staff support the variances being requested as reasonable, and that the variances support a design concept the City's guiding land-use policies support.

Table 1: Summary of the proposed variances

Regulation	Required	Proposed	Variance
Max Building Height	13.5 m	16.0 m	2.5 m
Maximum Small Car Parking	Maximum of 10% of total vehicle stalls	Maximum of 26% of vehicle stalls	16% increase in small car parking allowed
Sight Triangle	6m x 6m within the property lines	3m x 3m within the property lines	3.0 m x 3.0 m
Bicycle Parking Specifications	Section 7.3.2 (1) each standard bicycle parking space shall be a minimum of 1.8 metres (length) by 0.6 metres (width) and by 2.1 metres (height)	-1.2 metres (length) -0.3 metres (width)	-0.6 metres (length) -0.3 metres (width)
Bicycle Parking Specifications	Section 7.3.2 (2) 10% of minimum required bicycle parking spaces shall be designed for oversized bicycle parking spaces with the following minimum dimensions: 3.0 metres (length) by 0.9m (width) by 2.1 metres (height).	- 5% minimum of required bicycle parking spaces shall be designed for oversized bicycle parking spaces - 1.2 metres (length)	- 5% minimum required oversized bicycle parking spaces - 1.8 metres (length)
Bicycle Parking Specifications	Section 7.3.2 (3) each bicycle parking space must be	Remove	Remove

	independently accessible from a sturdy rack designed for frame, not wheel-only, support.		
Bicycle Parking Specifications	Section 7.3.2 (6) access shall be provided from each bicycle space to a street, excluding a lane.	- access shall be provided from each bicycle space to a street, including a lane	- Include access to be allowed from a lane
Bicycle Parking Specifications	Section 7.3.2 (14) (c.) no more than 20 bicycles [stalls] shall be provided in each bicycle room. However, larger bicycle rooms may be used if the room is compartmentalized into smaller rooms using chain link fencing with lockable chain link doors. If a larger room is utilized, each compartment shall provide no more than 20 bicycle parking spaces.	- from no more than 20 bicycles [stalls] to no more than 30 bicycle parking stalls	- 10 additional bicycle [stalls] can be provided in the bicycle room.

Off-Street Parking and Loading Spaces

In accordance with the Zoning Bylaw, the C-1 zone (primary zone within the downtown) requires one vehicle parking stall per residential dwelling unit and no stalls for loading or commercial space. Based on the proposal's 36 dwelling units, 36 vehicle stalls are required for the development. 27 parking stalls will be provided under the building in a parkade.

Zoning Bylaw section 7.1.7(2) allows applicants to pay to the City of Courtenay \$6,500.00 per parking stall required, rather than providing parking on-site. For this proposal, the applicant is choosing to provide 27 of the 36 required stalls on-site and will contribute \$58,500.00 (\$6,500.00 x 9 stalls) to compensate for the stalls not provided.

Notable Conditions of the Development Variance Permit

- Registration of 3m x 3m statutory right of way, inside the property lines, at the intersection of 4th Street and England Avenue to be registered on title prior to issuance of Building Permit.
- As per Zoning Bylaw section 7.1.7(2), payment of \$58,500.00 (\$6,500.00 x 9) as a cash in lieu option to pay for rather than provide nine vehicle parking stalls that otherwise would have been required on site.

POLICY ANALYSIS:

Official Community Plan Review

The subject property is designated Downtown Town Centre within the Official Community Plan (OCP). If the variances are approved, the proposed redevelopment would support, among others, the realization of the following OCP policies:

- Land Use Policy #2: “Direct residential intensification to the primary and secondary growth centres as shown as Downtown, Town Centre, Urban Corridor, and Neighbourhood Centre on Map B-1: Land Use Designation Map and in accordance with the land use designations contained within this Plan.”
- Land Use Policy #6: “Co-locate residential, commercial, institutional, and suitable employment generating land uses in the Downtown, Town Centres & Urban Corridor, and Neighbourhood Centres.”
- Downtown Land Use Policy #1: “Continue to support a diverse range of land uses within the downtown including diversity of multi-residential housing choices, small scale commercial uses, and other supportive uses to promote the establishment of a complete community and 10-minute neighbourhood.”
- Downtown Land Use Policy #4: “Require commercial uses at grade along 4th, 5th, and 6th Streets.”
- Local Economy Policy #10: “Support land uses that provide employment opportunities within or close proximity to the Town and Neighbourhood Centres and Corridors such as intensification of mixed-use office, retail, live- work studios and other commercial uses.”

FINANCIAL IMPLICATIONS:

Proceeding with the approval of this Development Variance Permit application has no financial implications to the City’s Financial Plan 2024 – 2029. The cash-in-lieu of \$58,500.00 would be placed in the parking reserve fund to contribute to a parking structure in the Downtown.

ADMINISTRATIVE IMPLICATIONS:

Processing Development Variance Permit applications is a statutory component of the corporate work plan and a core duty of the Development Services Department. Work to date has primarily been carried out by Development Services staff, although other departments have provided referral comments.

STRATEGIC PRIORITIES REFERENCE:

This initiative addresses the following strategic priorities:

- Good Governance - Review and streamline development process and set targets for application processing times

PUBLIC ENGAGEMENT:

Per Development Procedures Bylaw No. 2106, 2023, no Community Information Meeting (CIM) is required for this Development Variance Permit Application.

In accordance with *Local Government Act* section 499, Staff delivered a public notification to 26 property owners and occupants within a 30-metre area on November 29, 2024 (see **Attachment 4**). This was done in-person by Staff as opposed to through the mail due to the Canada Post strike (on-going at the time of this report). Zero (0) public comments have been received at time of writing this report. Comments received after this report will be presented to Council at the Regular Council meeting

OPTIONS:

1. THAT Council vary the requirements of Zoning Bylaw No. 2500, 2007 as follows:
 - a. Section 6.7.1 – Sight Triangle – from 6.0 m from the point of the street intersection to 3.0 m.
 - b. Section 7.1.10(1) – Small Car Parking – from 10% of the total number of parking stalls for small cars to 26% of the total number of parking stalls for small cars.

- c. Section 7.3.2 (1) – Bicycle Parking Specifications – from each standard bicycle parking space shall be a minimum of 1.8 metres (length) to 1.2 metres (length) and from 0.6 metres (width) to 0.3 metres (width).
 - d. Section 7.3.2 (2) – Bicycle Parking Specifications – from 10% to 5% of minimum required bicycle parking spaces shall be designed for oversized bicycle parking spaces and from 3.0 metres (length) to 1.2 metres (length).
 - e. Section 7.3.2 (3) – Bicycle Parking Specifications – remove the requirement for each bicycle parking space must be independently accessible from a sturdy rack designed for frame, not wheel-only, support.
 - f. Section 7.3.2 (6) – Bicycle Parking Specifications – from access shall be provided from each bicycle space to a street, excluding a lane to access shall be provided from each bicycle space to a street, including a lane.
 - g. Section 7.3.2 (14) (c.) – Bicycle Parking Specifications – from no more than 20 bicycles [parking stalls] to no more than 30 bicycles [parking stalls] shall be provided in each bicycle room.
 - h. Section 8.13.7 – Height of Building – from no *building* in this zone shall exceed 13.5 m to no *building* in this zone shall exceed 16.0 m.
THAT Council approve Development Variance Permit No. 2403 (407 4th Street); and
THAT Council direct the Director of Development Services to issue “Development Variance Permit No. 2403 (407 4th Street).
2. THAT Council defer and request additional information from Staff for “Development Variance Permit No. 2403 (407 4th Street)”.
3. THAT Council deny the the application for “Development Variance Permit No. 2403 (407 4th Street)” and provide a reason for denial.

ATTACHMENTS:

- 1. Draft Development Variance Permit No. 2403
- 2. Architectural Drawings
- 3. Copy of Public Notification

Prepared by: Jacob Cramer, Planner II
Reviewed by: Jamai Schile, Manager of Development Planning
Marianne Wade, RPP MCIP, Director of Development Services
Concurrence: Geoff Garbutt, M.PI., MCIP, RPP, City Manager (CAO)