



The Corporation of the City of Courtenay

Staff Report

To: Council

File No.: 3090-20-2306/DVP00048

From: Director of Development Services

Date: June 12, 2024

Subject: Development Variance Permit Application No. 2306 – 1580 Fitzgerald Avenue

PURPOSE:

For Council to consider approval of Development Variance Permit No. 2306 to allow for the redevelopment of the existing property to permit the construction of a new church at 1580 Fitzgerald Avenue (LOT A, (DD P54316) SECTION 41, COMOX DISTRICT, PLAN 7449) within the property's current Public Assembly One (PA-1) Zone.

BACKGROUND:

The property owners of 1580 Fitzgerald Avenue are seeking variances to the Zoning Bylaw's Public Assembly One (PA-1) zone, sections 8.26.2, 8.26.5 and 8.26.10, to construct a new church on the property identified in Figure 1 Subject Property and Figure 2 Site location

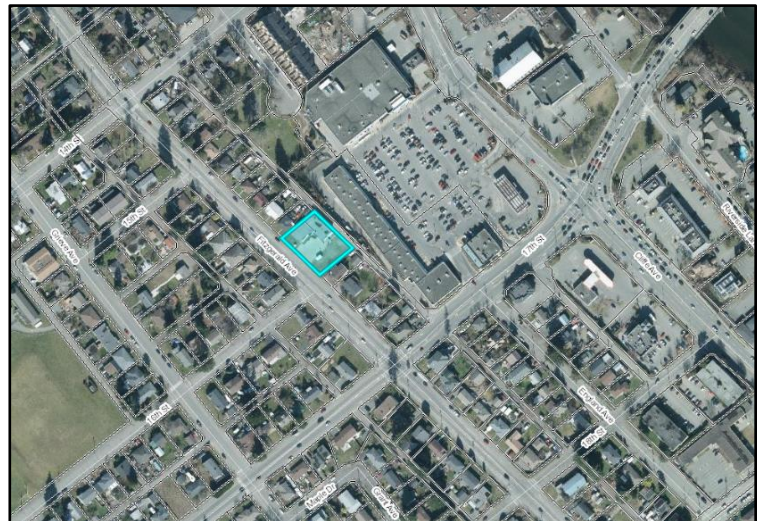
The Development Variance Permit application is requesting variances to setbacks and landscape buffers in the PA-1 zone to support the design of a new two storey church with sanctuary, hall, kitchen, meeting rooms and offices (Figure 4). This includes variance requests to the zone's minimum lot size, rear and side yard setbacks and its side and rear yard landscaping area requirements.

The property is designated *Institutional* in the Official Community Plan (OCP). Single residential dwelling lots designated as *Urban Residential* adjoin the site's property lines to the north and south. Fitzgerald Avenue runs along its east facing frontage and a City owned lane along the west property line.

Figure 1: Subject Property



Figure 2: Site location - 1580 Fitzgerald



The property drops approximately 2 metres in elevation from its property line along Fitzgerald Avenue, to the rear property line. The property also has a similar elevation change dropping north to south, making the southeast corner of the lot the low point of the property.

The property's existing church (Figure 3) is sited toward the north half of the lot with a paved parking lot located directly off Fitzgerald, west and south from the church. The existing building is legally non-conforming to some of the zone's setbacks and landscape requirements and has stood in its current form since the mid-1980s.

Beyond the existing building and parking lot, the property primarily consists of previously disturbed but un-manicured lawn and gravel. The property does not currently contain any mature trees.

The site previously contained Schedule 2 uses and is registered in the Provincial Contaminated Site Registry. In 2016, the site was issued a Certificate of Compliance (from what is now the Ministry of Environment and Climate Change Strategy) indicating that the site had been satisfactorily remediated and that development could be allowed as long as future proposals still met the requirements and conditions specified in the Certificate of Compliance.

Due to the site's institutional use, a Development Permit will not be required. If Council approves the requested variances, the owner has submitted a Building Permit Application that can be issued subsequently.

Figure 3: Existing Site from Fitzgerald Avenue



Figure 4: Rendering of Proposed Development from Fitzgerald Avenue



DISCUSSION:

The PA-1 zone determines density through lot coverage whereas the maximum allowed is 40% of the total lot area for all *buildings* and *accessory buildings*. The current proposal has a lot coverage of 27.1%. Therefore, the variances do not affect the property’s density or use and no rezoning is required to facilitate the proposed development.

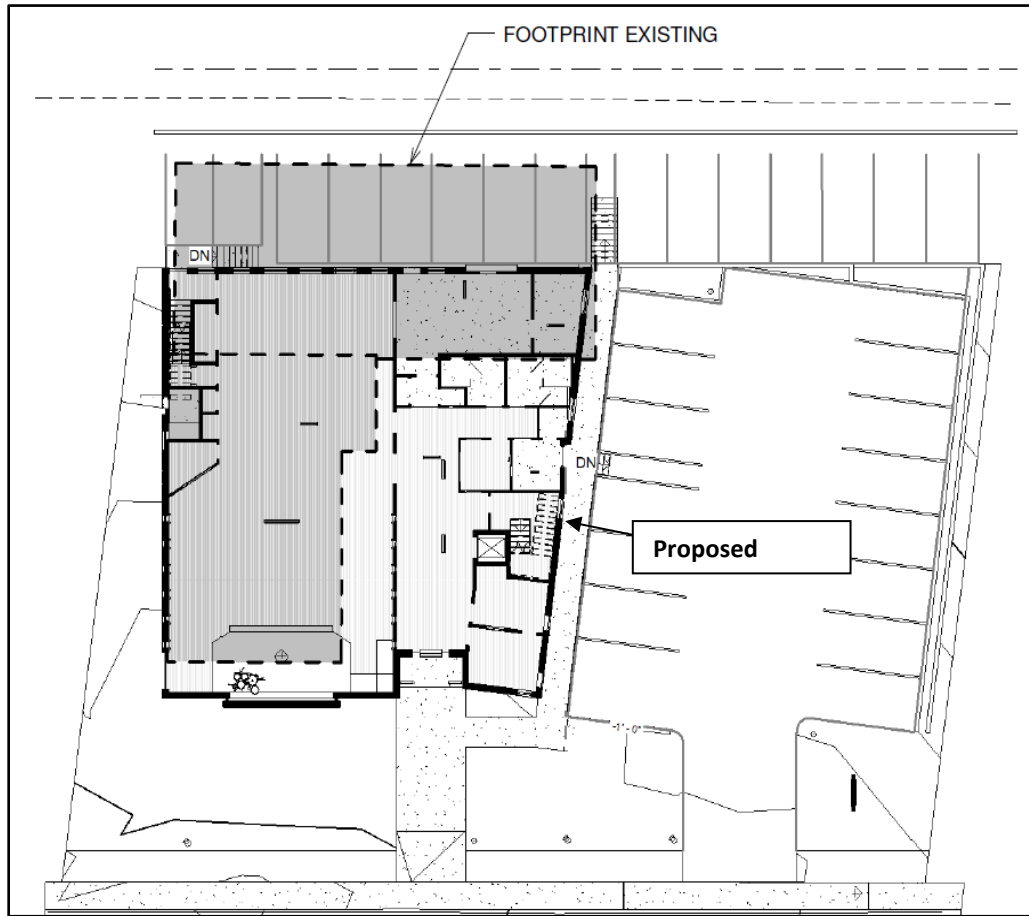
The OCP designates this block as *Urban Residential* and consists primarily of single-residential dwellings. The institutional use was retained in the OCP for the church property. The church will provide community services that are sought within *Urban Residential* neighbourhoods and a mix of compatible uses is recognized in the OCP as important for creating complete, vibrant neighbourhoods.

The three lots (1570, 1580 and 1590 Fitzgerald Avenue) were consolidated in 1985 that now form the subject property. Following consolidation, a 3,000 ft² addition was approved by the City that permitted the construction of the church as it stands today. This building expansion was approved well before Courtenay’s current zoning bylaw was adopted and is legal non-conforming.

The requested variances are largely to accommodate the required off-street parking while still allowing a building large enough to meet the needs of the Salvation Army and its community members. As shown in the Figure 5 below where the dashed line is the existing building footprint and the solid line is the proposed building footprint, the requested variances allow the building to be sited on the property so that:

- Additional parking is created in the rear along the lane, below the frontage and out of public sight.
- The current on-site parking lot is shifted south and east, recapturing landscaped area inside the Fitzgerald Avenue property line.
- The building shifts slightly toward the Fitzgerald Avenue but where the building is tapered to be narrower in the front and wider in the rear.
- The building is largely redeveloped over the current footprint where it can utilize existing excavation and work within the development restrictions relating to the site’s contamination.

Figure 5: Existing Footprint over Proposed Footprint



The application looks to vary Zoning Bylaw No. 2500 Section PA-1:

1. Section 8.26.2 minimum lot size from an area not less than 2,500m² to an area not less than 1,600m²,
2. Section 8.26.5(2) rear yard setback from 10m to 6.8m,
3. Section 8.26.5(3) side yard setback from 9.0m to 1.2m on the west side yard,
4. Section 8.26.10(1) landscaping area from 7.5m to 0.7m on the west side yard, and from 7.5m to 1.0m on the east side yard and,
5. Section 8.26.10(2) from 6.0m to 0.0m in the rear yard adjoining the lane.

Many of the variance requests do not deviate significantly from the long standing, non-conforming siting of the existing church. The new church is largely being redeveloped on the footprint of the existing church. Table No. 1 below identifies the PA-1 zone regulations, the proposed variances and the existing Church legal non-conforming siting.

Table 1 - Proposed Variances

Public Assembly One (PA-1)	Required	Proposed	Existing
Lot Coverage	40%	27.1%	--
Minimum Lot Frontage	45m	45.7m	--
Building Height	12m	10m	--
Minimum Lot Size	Not less than 2,500m ²	Not less than 1,600m ²	1,658m ²
Front Yard Setback	7.5m	7.5m	--
Rear Yard Setback	10m	6.8m	1.66m
Side Yard Setback (North West Side)	9.0m	1.2m	1.1m
Side Yard Setback (South East Side)	9.0m	21.4m	--
Front Yard Landscape Area	6.0m	6.0m	--
Side Yard Landscape Area (North West Side)	7.5m	0.7m	1.14m
Side Yard Landscape Area (South East Side)	7.5m	1.0m	--
Rear Yard Landscape Area	6.0m	0.0m	1.66m
Parking Required	23	29	--

Site Contamination

Regulation of contaminated sites is the jurisdiction of the province (Ministry of Environment and Climate Change Strategy). A “risk based” Certificate of Compliance was issued in 2016. The Certificate of Compliance represented a provincial decision to allow development to proceed on-site, with conditions, based on contamination that was first identified in December 2010 while removing underground heating oil storage tanks. The tanks serviced a previously demolished single detached residential dwelling.

The ministry responsible has confirmed that the Certificate of Compliance is still valid and that it is the responsibility of the municipality to review the Certificate of Compliance and ensure that the development proposal meets the land use and development requirements required by the Certificate. The applicant has provided a report by a qualified professional that opines that the proposed development meets the conditions of the Certificate of Compliance (**Attachment No. 5**).

No substantial changes to the site plan will be allowed without an amendment to the Development Variance Permit and re-review of the Certificate of Compliance. Adherence to the site plan and review by an environmental consultant will be a condition of the Development Variance Permit and subsequent the Building Permit, if they are to be issued.

Infrastructure

The property is already connected to City sewer, water and storm water services. As part of their Building Permit application, the applicant will be required to pay for modeling for sanitary and water flow to determine if any off-site infrastructure improvements are necessary to permit the development.

The City is also requiring a lane condition assessment for the rear lane to review the need for potential frontage improvements in this public right-of-way.

Landscaping

Based on the cost estimate provided by Arianne Huene Landscape Design dated November 14, 2023, a Landscape Security for \$51,044.00 will need to be paid prior to the issuance of a Building Permit. This is a condition of Development Variance Permit No. 2306.

The Landscape Plan shows 5 trees to be planted, whereas the Tree Density Target (TDT) for this site is 8 trees. Because no Tree Cutting Permit is required for this proposal, the *Tree Protection and Management Bylaw No. 2850* does not come into effect. Instead, staff rely on other policies such as our OCP and Urban Forest Strategy to encourage additional tree planting where possible. Staff inquired about the potential of additional trees to be planted but the applicant relayed that they had operational needs for open spaces for the various programs they offer. They prefer open sight lines throughout the property so the ‘eyes on the street’ principle of CPTED can be applied. Staff support this rationale.

Sign Permits

The proposed redevelopment includes signage. A separate Sign Permit will need to be obtained in compliance with Sign Bylaw No. 2760.

POLICY ANALYSIS:

Official Community Plan Review

Located in west central Courtenay, the subject property is designated Institutional within the Official Community Plan (OCP).

If the variances are approved, the proposed redevelopment would support the realization of numerous OCP policies for Institutional land use including:

1. Support integration of civic and institutional uses within centres and neighbourhoods.
2. Support limited office, commercial, and residential uses that are associated with and accessory to institutional uses.
3. Enable the flexible and appropriate adaptive use of institutional lands to meet evolving community needs.

Cycling Network

Located along Fitzgerald Avenue, the subject property directly fronts a portion of Courtenay’s Cycling Network. Fitzgerald Avenue currently operates as a ‘Bike Lane’ and is envisioned to remain a permanent component of the Recommended Long Term Cycling Network, including short-to-medium term upgrades that would see Fitzgerald Avenue as a buffered or painted bike lane.

Bus Stop Improvement

According to the Comox Valley Regional District, the existing BC Transit bus stop along the subject property’s frontage would benefit from a bus shelter and other potential amenities. City of Courtenay Staff

may request transit/bus stop improvements as part of the *works and services* required by the Building Permit.

FINANCIAL IMPLICATIONS:

In accordance with *Local Government Act* section 561, Development Cost Charges (DCCs) are not payable for places of public worship.

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.

The Salvation Army, the property owner and operator of the church, voluntarily held a public presentation on Wednesday, January 31, so that members of the public could see the proposed redevelopment and ask questions.

In accordance with *Local Government Act Section 499*, Staff mailed a public notification to 18 to property owners and occupants within a 30 metre area on May 31, 2024 (**Attachment No. 4**). Zero (0) public comments have been received at time of writing this report. Two public inquiries about the potential redevelopment were fielded by Staff prior to the official public notification being mailed. Comments received after this report will be presented to Council at the Regular Council meeting.

Neighbour Support

In consideration of the impact the requested variances could have on adjacent property owners, it is noteworthy that both of property owners directly adjacent to the subject property have provided letters of support for the development as proposed (**Attachment No. 3**).

OPTIONS:

1. THAT Council vary the following sections of Zoning Bylaw No. 2500, 2007:
 - a) Section 8.26.2 – *Minimum Lot Size* – A lot shall have an area of not less than, from 2,500m² to 1,600m²;
 - b) Section 8.26.5(2) – *Rear Yard Building Setback* – from 10.0m to 6.8m;
 - c) Section 8.26.5(3) – *Side Yard Building Setback* – for the north west side yard from a minimum of 9.0m to 1.2m;
 - d) Section 8.26.10(1) – *Landscape and Screening Requirements* – where a lot adjoins a residential zone, a minimum landscaped area shall be provided along the inside of all affected property lines from 7.5 m to 0.7 m for the north west side property line and from 7.5 m to 1.0m for the south east side property line; and

e) Section 8.26.10(2) – Landscape and Screening Requirements – where a lot adjoins a street, a landscaped area shall be provided along the entire frontage of the property facing the street, from 6.0m to 0.0m.”

THAT Council approve Development Variance Permit No. 2306 (1580 Fitzgerald Avenue) which would allow for the redevelopment of the property to construct a new church and parking subject to the following conditions:

- a) the payment of a landscape security in the amount of \$51,044.00 prior to the issuance of a Building Permit; and
 - b) no substantial changes to the site plan be permitted without an amendment to the Development Variance Permit and re-review of the Certificate of Compliance.
2. THAT Council defer and request additional information from staff for “Development Variance Permit No. 2306” (1580 Fitzgerald Avenue) through a resolution.
 3. THAT Council deny the application for “Development Variance Permit No. 2306” (1580 Fitzgerald Avenue).

ATTACHMENTS:

Attachment No. 1 – Draft Development Variance Permit No. 2306

Attachment No. 2 – Proposed Site Plan

Attachment No. 3 – Neighbour Letters of Support

Attachment No. 4 – Public Notification Mailout

Attachment No. 5 – Site Contamination – Site Design Confirmation Letter

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