



The Corporation of the City of Courtenay

Staff Report

To: Council

File No.:3710-01-2401

From: Director of Development Services

Date: September 25, 2024

Subject: Temporary extension of designated work hours at 1540-2751 Cliffe Avenue (CIBC)

PURPOSE:

For Council to consider the request by ONSite Construction to carry on work past the designated hours of 7 am to 10pm as per the provisions of the Prevention of Public Nuisance Bylaw No 2804 at 1540-2751 Cliffe Avenue. The applicant is requesting to extend hours of construction from after 10:00 pm to before 7:00 am Monday to Friday, and on weekends from 10:00pm to 8:00 am not to exceed 15 business days.

BACKGROUND:

A building permit (BP015649) has been issued for a tenant improvement for the Canadian Imperial Bank of Commerce (CIBC) unit 1540 2751 Cliffe Avenue, located in the Drift Wood Mall. The CIBC falls under federal jurisdiction and regulation which does not allow financial institution to be closed for more than 15 business days. In order to meet this timeline ONSite Construction Inc would need to extend their working hours outside the current bylaw requirements and has made a formal request to Council for their consideration (Attachment 1).

The applicant wishes to undertake construction works outside of the hours as per 5 (B) of the Public Nuisances Bylaw No. 2804, 2014 which is:

“No person shall, before 7:00 a.m. on any day from Monday to Saturday when such day is not a Statutory Holiday, or before 8:00 a.m. on any Sunday or Statutory Holiday, and after 10:00 p.m. on any day, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land in any manner which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of persons in the vicinity.”

In order to construct from after 10 pm and to before 7 am the Bylaw states in 5 (g) the applicant is responsible to make an application for Council’s approval.

“Where it is impossible or impractical to comply with this section, the Council may upon application, give written approval to carry on work that is found to be necessary during designated hours.”

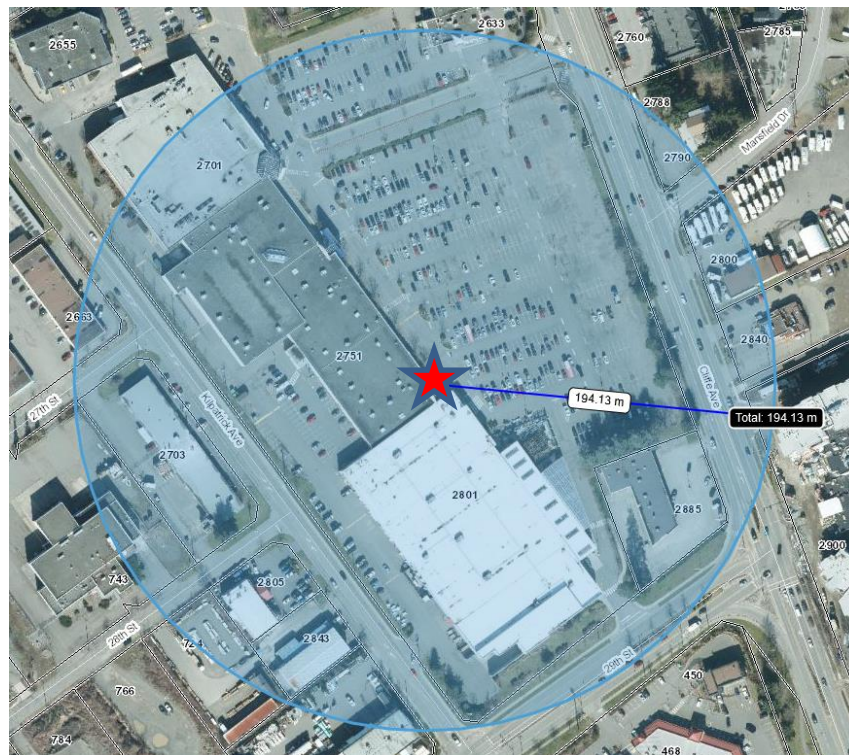
DISCUSSION:

A written request by ONSite Construction has been submitted to Council for an extension of work hours to the Prevention of Public Nuisance Bylaw No 2804, 2014. The request is to allow for the demolition and construction work to take place outside the time restriction prescribed in the bylaw which is 7 am to 10pm Monday to Friday, and 8 am to 10pm on weekends. The Prevention of Public Nuisance Bylaw No 2804, 2014 does allow Council to give written approval to an applicant where it is impractical to meet the requirements of the bylaw. Given the Federal regulation that requires that banks may not be closed for more than 15 business days, as such the designated hours in the bylaw do not permit the works to be completed within this time frame.

The applicants proposed start date is the 26th September 2024 with the temporary extension to the permitted hours of work extending to 17th October 2024. The applicant has indicated that the greatest disturbance will be within the first 6 days due to the demolition and wall construction phase. The applicant has proposed to undertake these works during the 7 am to 10 pm hours as per the bylaw.

The subject property is located in the Drift Wood Mall which is in an area of the city which is predominately commercial businesses with the closest residential building located approximately 200m away on the opposite side of Cliffe Avenue (Figure 1). The contractor will limit activities that would create the most noise to day time hours limiting any impact to the neighbouring residence.

Figure 1 Subject property 1540-2751 Cliffe Ave (CIBC)



In order to meet the restrictive time line that the applicant is required to meet by the federal regulation, the location of the property within a commercial use area, and their proposed approach to minimize noise, staff are supportive of this temporary extension to working hours.

POLICY ANALYSIS:

The Prevention of Public Nuisance Bylaw No 2804, 2014 regulates matters relating to the nuisance and disturbances of property within the City of Courtenay. Section 5 specifically regulates noise and 5.0 (b) sets out the time restrictions when construction or demolition activities are permitted. Section 5. (g) provides Council the ability to approve work that is impossible or impractical to comply with section 5 of the bylaw.

5.(b) *“No person shall, before 7:00 a.m. on any day from Monday to Saturday when such day is not a Statutory Holiday, or before 8:00 a.m. on any Sunday or Statutory Holiday, and after 10:00 p.m. on any day, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or*

excavate or fill in land in any manner which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of persons in the vicinity.”

5.(g) *“Where it is impossible or impractical to comply with this section, the Council may upon application, give written approval to carry on work that is found to be necessary during designated hours.*

Responsibility for obtaining written approval lies with the person carrying on the work.”

FINANCIAL IMPLICATIONS:

There will be no financial implications associated with this request.

ADMINISTRATIVE IMPLICATIONS:

The request for exemption will be recorded in the building permit folder and notification will be provided to Administration and Bylaw compliance staff if the City receives any complaints within the requested time period

OPTIONS:

1. THAT Council approve a temporary extension of designated work hours from 10 pm to 7 am Monday to Friday, and 10pm to 8 am on weekends for 3 weeks starting on 26th September 2024 and ending on 17th October 2024 for the construction works regulated under building permit BP015649 for the subject property, located at 1540-2751 Cliffe Avenue (CIBC).
2. THAT Council provide alternative direction to staff.

ATTACHMENTS:

1. ONSite Construction letter “Request for Noise Permit or Exemption”

Prepared by: Paul Preston, Manager of Building Services
Reviewed by: Marianne Wade, Director of Development Services
Concurrence: Geoff Garbutt, M.Pl., MCIP, RPP, City Manager (CAO)