

DATE OF MEETING | May 27, 2019 |

AUTHORED BY | DAVE STEWART, PLANNER, CURRENT PLANNING |

SUBJECT | REZONING APPLICATION NO. RA420 – 140 TERMINAL AVENUE |

## **OVERVIEW**

### **Purpose of Report**

To present Council with an application to amend the existing zoning of the property located at 140 Terminal Avenue to allow “Cannabis Retail Store” as a site-specific use in the Terminal Avenue (DT4) zone.

### **Recommendation**

That:

1. “Zoning Amendment Bylaw 2019 No. 4500.145” (To rezone 140 Terminal Avenue to allow “Cannabis Retail Store” as a site-specific use in the Terminal Avenue [DT4] zone) pass first reading;
2. “Zoning Amendment Bylaw 2019 No. 4500.145” pass second reading; and
3. Council direct Staff to secure the amenity contribution and BC Liquor and Cannabis Regulation Branch approval prior to adoption of the bylaw, should Council support the bylaw at third reading.

## **BACKGROUND**

A rezoning application (RA420) was received for 140 Terminal Avenue from Jeffery R. Horricks, on behalf of 0806305 BC Ltd. The applicant proposes to amend the existing DT4 zone to allow “Cannabis Retail Store” as a site-specific use for the subject property.

The City of Nanaimo adopted amendments to “City of Nanaimo Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) on 2018-SEP-17 and established a Cannabis Retail Store (CRS) Rezoning Criteria policy to consider future applications for CRS developments in anticipation of changing Federal and Provincial legislation. Following the enactment of new legislation to decriminalize cannabis consumption and legalize the retail sale and distribution of Provincially-licensed cannabis product, the City of Nanaimo began receiving CRS rezoning applications on 2018-OCT-22.

To date, nine other cannabis applications have been reviewed by Council:

#	Application No. #	Address	Status
1	RA406	111 Nicol Street, Unit 115	Received third reading on 2019-FEB-07
2	RA410	1599 Dufferin Crescent	Received third reading on 2019-APR-04
3	RA415	2220 Bowen Road	Received third reading on 2019-APR-04
4	RA411	25 Front Street	Received third reading on 2019-MAY-02

5	RA413	3923 Victoria Avenue	Received third reading on 2019-MAY-02
6	RA416	1483 Bowen Road	Received third reading on 2019-MAY-02
7	RA417	510 Fifth Street	Received third reading on 2019-MAY-02
8	RA407	6683 Mary Ellen Drive	Scheduled for Public Hearing on 2019-JUN-13
9	RA408	3200 Island Highway North	Scheduled for Public Hearing on 2019-JUN-13

In total, Staff have received 17 CRS rezoning applications to date.

### Subject Property and Site Context

<i>Location</i>	140 Terminal Avenue, is a small shopping centre on the east side of Terminal Avenue within the downtown core.
<i>Total Lot Area</i>	5,510m <sup>2</sup>
<i>Current Zone</i>	DT4- Terminal Avenue Zone
<i>Proposed Zone</i>	DT4 with site-specific “Cannabis Retail Store” use
<i>Official Community Plan (OCP) Designation</i>	Downtown Centre Urban Node
<i>Neighbourhood Plan Designation</i>	Nanaimo Downtown Plan – Terminal Parkway
<i>Proximity to nearest school</i>	Approximately 235m ( <i>École Pauline Haarer</i> )
<i>Proximity to nearest licensed daycare</i>	Approximately 400m ( <i>Katie’s Korner – Wesley Street</i> )
<i>Proximity to nearest CRS</i>	Approximately 88m from proposed CRS at 111 Terminal Avenue (RA422).

The proposed CRS will be located within an existing shopping centre (City Centre Plaza) within the downtown. The subject property is surrounded on all four sides by roads, with frontage on Terminal Avenue (west), Cliff Street (east), Campbell Street (north), and Wentworth Street (south). Access to the property is available from Terminal Avenue (right-in/right-out), Cliff Street, and Campbell Street. Other tenants on the property include: Lordco Parts Ltd., Sprott Shaw College, H&R Block tax office, and Canada Post. Neighbouring land uses around the subject property are predominately retail, service, and auto-oriented commercial. ]

## **DISCUSSION**

### **Proposed Development**

The applicant is proposing to rezone the subject property to allow “Cannabis Retail Store” use in addition to the existing DT4 zone permitted uses. While the DT4 zone allows “retail” as a permitted use, a CRS requires site-specific rezoning.

The proposed business hours are 10 a.m. to 10 p.m. Monday to Saturday and 11 a.m. to 8 p.m. on Sunday. The proposed retail floor area will be approximately 125m<sup>2</sup> within an existing commercial unit.

## Provincial Licensing Requirements

The City was advised by the BC Liquor and Cannabis Regulation Branch (LCRB) that an application for a non-medical cannabis retail licence has been made for the subject property.

As part of the LCRB's review, the branch determines if the applicant is "fit and proper" to receive a licence, in accordance with Section 23(1) of the *Cannabis Act* (Bill 30), based on indicators such as financial integrity and security screening. The LCRB will advise the City of the results of the "fit and proper" assessment.

The LCRB will not proceed with a licensing application unless the local government submits a positive recommendation to the LCRB indicating that the proposed CRS use is permitted.

## Official Community Plan

The Official Community Plan (OCP) designates the subject property as Downtown Centre Urban Node. The OCP does not address CRS use specifically, but the land-use designation supports retail uses and encourages a diversity of commercial, professional, and residential uses. The proposed CRS generally complies with the intent of the Urban Node land-use designation.

## Cannabis Retail Store Rezoning Criteria

The following table summarizes how the proposed rezoning addresses the Cannabis Retail Store Rezoning Criteria adopted by Council on 2018-SEP-17, which are intended to inform Council's consideration of the rezoning application:

Criteria		Response
<b>Location</b>		
1.1	The proposed CRS should be located on, or in close proximity to a provincial highway, urban arterial or urban major collector road, as defined in the City's Functional Road Classification Working Plan; or in an Urban Node, Commercial Centre or Corridor as designated in the City's Official Community Plan.	The subject property is located within the Downtown Centre Urban Node land-use designation, and is located on a provincial highway.
1.2	The proposed CRS should not be located directly adjacent, or in close proximity to a school or licensed daycare facility. A minimum separation of 200m from these facilities is considered necessary, as measured from the front door of the CRS to the school or daycare property line.	<p>The proposed CRS is located more than 200m from any licensed daycares or schools, with the nearest school (École Pauline Haarer Elementary – 400 Campbell Street) approximately 240m away and the nearest daycare (Katie's Korner ChildCare – 357 Wesley Street) approximately 400m away.</p> <p>The application was referred to School District No. 68 and Island Health (Community Care and Licensing) and they confirmed they have no concerns.</p>

1.3.	The proposed CRS should not be located within 200m of another CRS as measured from the front doors of the CRS. Where the CRS is to be located within a dense urban area (i.e. downtown), consideration shall be given to the overall urban density and context of the area.	The proposed CRS is located approximately 88m (across Terminal Avenue) from a proposed CRS at 111 Terminal Avenue (RA422). Both applications are included on the 2019-MAY-27 Council agenda; however, Staff note the rezoning application for the subject property was received 2019-NOV-29, before the rezoning application for 111 Terminal Avenue (received 2018-DEC-14).
<b>Building or Site</b>		
2.1.	The size of the proposed CRS should be consistent with the nature of the immediate area and the size of existing retail stores within the area.	The proposed CRS will be located within an existing commercial centre. The size of the CRS is consistent with other commercial units in the commercial centre and within the downtown area.
2.2.	The design of the proposed CRS should enhance or improve the aesthetics of the surrounding area, not detract from them.	The proposed CRS will be located within an existing building with only minor exterior improvements proposed.  The proposed façade of the CRS is consistent with other units within the existing shopping centre and surrounding area.
2.2.1.	The revitalization of heritage buildings is encouraged.	The proposed CRS is located within Heritage Conservation Area 1 as designated by the OCP, but is not located on the Heritage Register or considered a heritage building.
2.3.	Outside the downtown core, consideration should be given to a requirement for onsite parking and loading for every CRS.	The subject property is located within the downtown core, and onsite parking is not required. The proposed CRS will be located within an existing commercial centre. Parking is provided on the property.
<b>Community Impact</b>		
3.1.	The applicant must outline their awareness of potential negative impacts of the proposed CRS on the community, and must identify the specific measures that will be taken to minimize or prevent these impacts from occurring.	The applicants have included a Letter of Rationale (Attachment F) that addresses community outreach programs sponsored by the applicant, including a non-profit opiate substitution program. The applicant has also noted that security staff and cameras will be provided, and staff and customers will be educated regarding cannabis and smoking regulations.
3.1.1.	Possible measures could include efforts to prevent service to minors, minimize smells, prevent smoking or cannabis consumption on or near the premises, property maintenance and beautification programs designed to prevent unsightliness, etc.	

<p>3.1.2 Consideration must be given to the impact a CRS will have when they are located in close proximity to libraries, public recreation centres, public community centres, parks, places of worship and other family-oriented facilities.</p>	<p>The proposed CRS is located approximately 268m from Maffeo Sutton Park, 305m from Comox Gyro Park (shared with Pauline Haarer School – 400 Campbell Street), approximately 160m from St. Paul's Anglican Church (100 Chapel Street) and Dallas Square Park, and approximately 400m from the downtown library and Diana Krall Plaza.</p> <p>Overall, downtown Nanaimo supports family-oriented facilities and public spaces, and a wide range of commercial uses, including liquor primary establishments. Staff consider the proposed CRS to be in keeping with the mix of commercial uses in the downtown area.</p>
<p>3.2. Projected traffic volumes and on-street parking demands associated with a proposed CRS should not adversely impact nearby residential and commercial areas.</p>	<p>The property is located within the Downtown Specified Area and does not require parking for the proposed commercial use.</p> <p>The subject property is accessed from a provincial highway as well two city streets. The use of the site as a cannabis retail store is not expected to negatively impact traffic volumes.</p>
<p>3.3. The support of the local community, neighbouring property owners and the local neighborhood association for the proposed CRS is important to Council's decision.</p>	<p>The subject property is not included within the boundaries of an active Neighborhood Association.</p>
<p>3.3.1. The applicant is required to notify all neighbouring property owners within 200m of the subject property of the rezoning application, prior to the application proceeding to Council.</p>	<p>The applicant completed notification of the neighbouring properties as outlined in the policy. A development proposal sign has been placed on the property and if Council gives first and second reading to the bylaw, the application will proceed to public hearing.</p>
<p>3.4. All CRS rezoning applications must be reviewed by the Community Vitality Committee and the RCMP, in addition to being reviewed by the City's Community Planning and Development Committee</p>	<p>The RCMP have reviewed the proposal and indicated they have no comment.</p> <p>New Council committees have yet to be established; therefore, committee review has not taken place.</p>

Staff support the proposed rezoning, which is in keeping with the mix of commercial uses in the downtown area and the existing shopping centre in which it is located. Staff consider the application to be substantially in compliance with the City's Cannabis Retail Store Rezoning Criteria policy.

### *Community Contribution*

The applicant proposes a monetary contribution of \$10,000 be directed towards habitat restoration and riparian planting by the City along the Chase River.

### **Conditions of Rezoning**

Should Council support this application and pass third reading of “Zoning Amendment Bylaw 2019 No. 4500.145”, Staff recommend the following items be secured prior to final adoption of the Bylaw:

1. *Community Contribution* – a monetary contribution of \$10,000 to be directed towards habitat restoration and riparian planting by the City along the Chase River.
2. *LCRB Approval* - Confirmation from the LCRB that it has approved the applicant’s suitability for a cannabis retail licence.

### **SUMMARY POINTS**

- A rezoning application has been received to allow “Cannabis Retail Store” as a site-specific use within an existing commercial building within the DT4 zone for the subject property at 140 Terminal Avenue.
- The Provincial Liquor and Cannabis Regulation Branch is reviewing the licensing application for this proposal.
- The proposed rezoning substantially complies with the City of Nanaimo Cannabis Retail Store Rezoning Criteria.

### **ATTACHMENTS**

ATTACHMENT A: Location Plan  
ATTACHMENT B: School and Licensed Daycare Buffer Map  
ATTACHMENT C: Site Plan  
ATTACHMENT D: Proposed Floor Plan  
ATTACHMENT E: Building Elevation  
ATTACHMENT F: Letter of Rationale / Community Impact Statement  
ATTACHMENT G: Aerial Photo  
“Zoning Amendment Bylaw 2019 No. 4500.145 |

### **Submitted by:**

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### **Concurrence by:**

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