

DATE OF MEETING | May 27, 2019 |

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**SUBJECT                      REZONING APPLICATION NO. RA422 – 111 TERMINAL AVENUE**

## **OVERVIEW**

### **Purpose of Report**

To present Council with an application to amend the existing zoning of the property located at 111 Terminal Avenue to allow “Cannabis Retail Store” as a site-specific use in the Terminal Avenue (DT4) zone. |

### **Recommendation**

That Council deny the application and associated readings to “Zoning Amendment Bylaw 2019 No. 4500.146” (To rezone 111 Terminal Avenue in order to permit “Cannabis Retail Store” as a site-specific use in the Terminal Avenue [DT4] zone).|

## **BACKGROUND**

A rezoning application, RA420, was received for 111 Terminal Avenue from CSC Cannabis Stores Company on behalf of Rag Gods Holdings Inc. 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>	111 Terminal Avenue is located on the southwest corner of Terminal Avenue and Campbell Street.
<i>Total Lot Area</i>	544m <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>Neighborhood Plan Designation</i>	Nanaimo Downtown Plan – Terminal Parkway
<i>Proximity to nearest school</i>	Approximately 150m (Ecole Pauline Haarer Elementary School – 400 Campbell Street)
<i>Proximity to nearest licensed daycare</i>	Approximately 434m (Katie’s Korner Childcare - 357 Wesley Street)
<i>Proximity to nearest CRS</i>	Approximately 88m from proposed CRS at 140 Terminal Avenue (RA420).

The proposed CRS will be located in an existing commercial retail unit (currently a car and truck rental business). Neighbouring land uses around the subject property are predominately retail, service, and auto-oriented commercial uses.

## **DISCUSSION**

### **Proposed Development**

The applicant is proposing to rezone the subject property to allow a “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 9 a.m. to 11 p.m., seven days a week. The proposed retail floor area is approximately 185m<sup>2</sup> within an existing commercial building.

### **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 is 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 within the Downtown Centre Urban Node land-use designation, and 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 within 200m from an elementary school. École Pauline Haarer Elementary (400 Campbell Street) is located approximately 150m away from the proposed CRS, as measured from the front door of the proposed CRS to the school property. The nearest daycare (Katie's Korner Childcare – 357 Wesley Street) is approximately 434m away.</p> <p>The application was referred to School District No. 68 and Island Health (Community Care and Licensing). Island Health expressed concerns regarding the proposed CRS given its proximity to child care facilities. Island Health notes a cannabis retail store located close to child care facilities may contribute to exposure to marketing and normalization and increased access to cannabis, both of which may influence a child's beliefs regarding the safety of cannabis.</p> <p>School District No. 68 has no comment on the proposed CRS rezoning application.</p>

<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.</p>	<p>The proposed CRS is located approximately 88m (across Terminal Avenue) from a proposed CRS at 140 Terminal Avenue (RA420). Both applications are included on the 2019-MAY-27 Council agenda; however, Staff note the rezoning application for the subject property was received 2018-DEC-14 after the rezoning application for 140 Terminal Avenue (received 2018-NOV-29).</p> <p>Other downtown cannabis retail rezoning applications include:</p> <ul style="list-style-type: none"> <li>• 25 Front Street - approximately 253m from the proposed CRS</li> <li>• 350 Terminal Avenue - approximately 366m from the proposed CRS</li> <li>• 52 Victoria Crescent - approximately 720m from the proposed CRS</li> </ul> <p>A map showing the location of proposed CRS locations within the downtown core is included as Attachment G.</p>
<b>Building or Site</b>	
<p>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.</p>	<p>The proposed CRS will be located within an existing commercial retail unit. One other smaller unit exists on the property. The size of the CRS is consistent with other commercial units within the downtown area.</p>
<p>2.2. The design of the proposed CRS should enhance or improve the aesthetics of the surrounding area, not detract from them.</p>	<p>The proposed CRS will be located within an existing building with only minor exterior improvements proposed.</p>
<p>2.2.1. The revitalization of heritage buildings is encouraged.</p>	<p>The proposed CRS is located within the Heritage Conservation Area 1 as designated by the OCP, but is not located on the Heritage Register or considered a heritage building.</p>
<p>2.3. Outside the downtown core, consideration should be given to a requirement for onsite parking and loading for every CRS.</p>	<p>The subject property is located within the downtown core; onsite parking is not required. Parking is provided on the property.</p>

<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 outlines their awareness of potential negative impacts of the proposed CRS on the community. The applicants note security systems, including camera surveillance, will be provided onsite; staff will keep the property and surrounding area clean; and customers will be educated about safe cannabis use 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.	
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>The proposed CRS is located approximately 211m from Maffeo Sutton Park, 214m from Comox Gyro Park (shared with Pauline Haarer Elementary School), and approximately 428m 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>
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>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 (right-in/right-out) and Campbell Street. The use of the site as a cannabis retail store is not expected to negatively impact traffic volumes.</p>
3.3. The support of the local community, neighbouring property owners and the local neighbourhood association for the proposed CRS is important to Council's decision.	The subject property is not included within the boundaries of an active Neighbourhood Association.
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.	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>3.4. All rezoning applications for CRS's 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 have indicated they have no comment.</p> <p>New Council committees have yet to be established; therefore, committee review has not taken place.</p>
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If approved, the front door of the proposed CRS will be located approximately 150m from the Pauline Haarer Elementary School grounds and 185m from the front door of the Pauline Haarer Elementary School. The estimated travel distance between the properties is 210m (a three-minute walk). No major barrier, such as a highway, exists between the school and the proposed CRS. The route between the school and the proposed retail store includes sidewalks and crosswalks and, as such, is considered walkable. The subject property cannot be seen from the school property. The 200m buffer from schools is included in the Cannabis Retail Store Rezoning Criteria recommended by the Cannabis Task Force. The intent of the setback is to minimize the exposure of cannabis products and use to children.

The proposed CRS is located within 200m of another CRS application, received prior to the subject application. Three other CRS applications have been received for locations within 750m of the subject property. It is worth noting that where the property is located within the downtown, the Cannabis Retail Store Rezoning Criteria states consideration shall be given to the overall urban density and context of the area. Council is asked to consider what, if any, impact two CRSs will have when located on opposite sides of Terminal Avenue within the downtown area.

Given the proximity of the proposed CRS in relation to an elementary school and another proposed CRS (140 Terminal Avenue), Staff conclude the proposed CRS location does not substantially comply with City policy.

### Conditions of Rezoning

Should Council wish to proceed with this application and pass third reading of "Zoning Amendment Bylaw 2019 No. 4500.146", 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 a community planning social development grant to support social programs.
2. *LCRB Approval* - Confirmation from the LCRB that it has approved the applicant's suitability for a cannabis retail licence.



## **OPTIONS:**

1. That Council deny the application and the associated readings to “Zoning Amendment Bylaw 2019 No. 4500.146: (To rezone 111 Terminal Avenue to permit “Cannabis Retail Store” as a site-specific use in the Terminal Avenue [DT4] Zone).
  - **Policy Implication:** The proposed CRS is within 200m of a school and another proposed CRS and therefore does not comply with “Cannabis Retail Store Rezoning Criteria”. Denying the rezoning is consistent with Council’s Cannabis Rezoning Policy.
  - **Engagement Implication:** Island Health (Community Care and Licensing) does not support the rezoning. Denying the rezoning is consistent with the Island Health recommendation.
2. That Council grant first and second reading to “Zoning Amendment Bylaw 2019 No. 4500.146” (To rezone 111 Terminal Avenue in order to permit “Cannabis Retail Store” as a site-specific use in the Terminal Avenue [DT4] Zone); and direct Staff to secure the community amenity contribution, should Council support third reading of the bylaw.
  - **Policy Implication:** The “Cannabis Retail Store Rezoning Criteria” states consideration shall be given to the overall urban density and context of the area when considering the distance between proposed cannabis retail stores. Consideration may be given to walking distances and sightlines when considering the recommended 200m distance between a CRS and a school property.
  - **Engagement Implication:** Denying the rezoning at first and second reading will deny the public the opportunity to speak to the application at the public hearing.

## **SUMMARY POINTS**

- A rezoning application has been received for “Cannabis Retail Store” use as a site-specific use within an existing commercial building within the DT4 zone for the subject property at 111 Terminal Avenue.
- The Provincial Liquor and Cannabis Regulation Branch is reviewing the licensing application for this proposal.
- The City’s Cannabis Retail Store Rezoning Criteria Policy allows consideration of the overall urban density and context of the area when a CRS is proposed to be located within 200m of another CRS. The proposed application was received after others, and there are already three CRS locations proposed within 800m downtown.
- The proposed CRS location is within 200m of another proposed CRS (across Terminal Avenue) and is within a walkable distance to an elementary school.
- Given the proximity of the proposed CRS in relation to an existing elementary school and another proposed CRS, Staff conclude that the proposed CRS location does not substantially comply with City policy.
- Staff are seeking Council’s direction.

## **ATTACHMENTS**

ATTACHMENT A: Location Plan  
ATTACHMENT B: School and Licensed Daycare Buffer Map  
ATTACHMENT C: Site Plan  
ATTACHMENT D: Proposed Floor Plan  
ATTACHMENT E: Proposed Building Elevations  
ATTACHMENT F: Letter of Rationale / Community Impact Statement  
ATTACHMENT G: Map of Downtown Cannabis Retail Store Rezoning Applications  
ATTACHMENT H: Aerial Photo  
“Zoning Amendment Bylaw 2019 No. 4500.146”  
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### **Concurrence by:**

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