

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 ²
<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 125m² 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
Location		
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).
Building or Site		
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.
Community Impact		
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 |

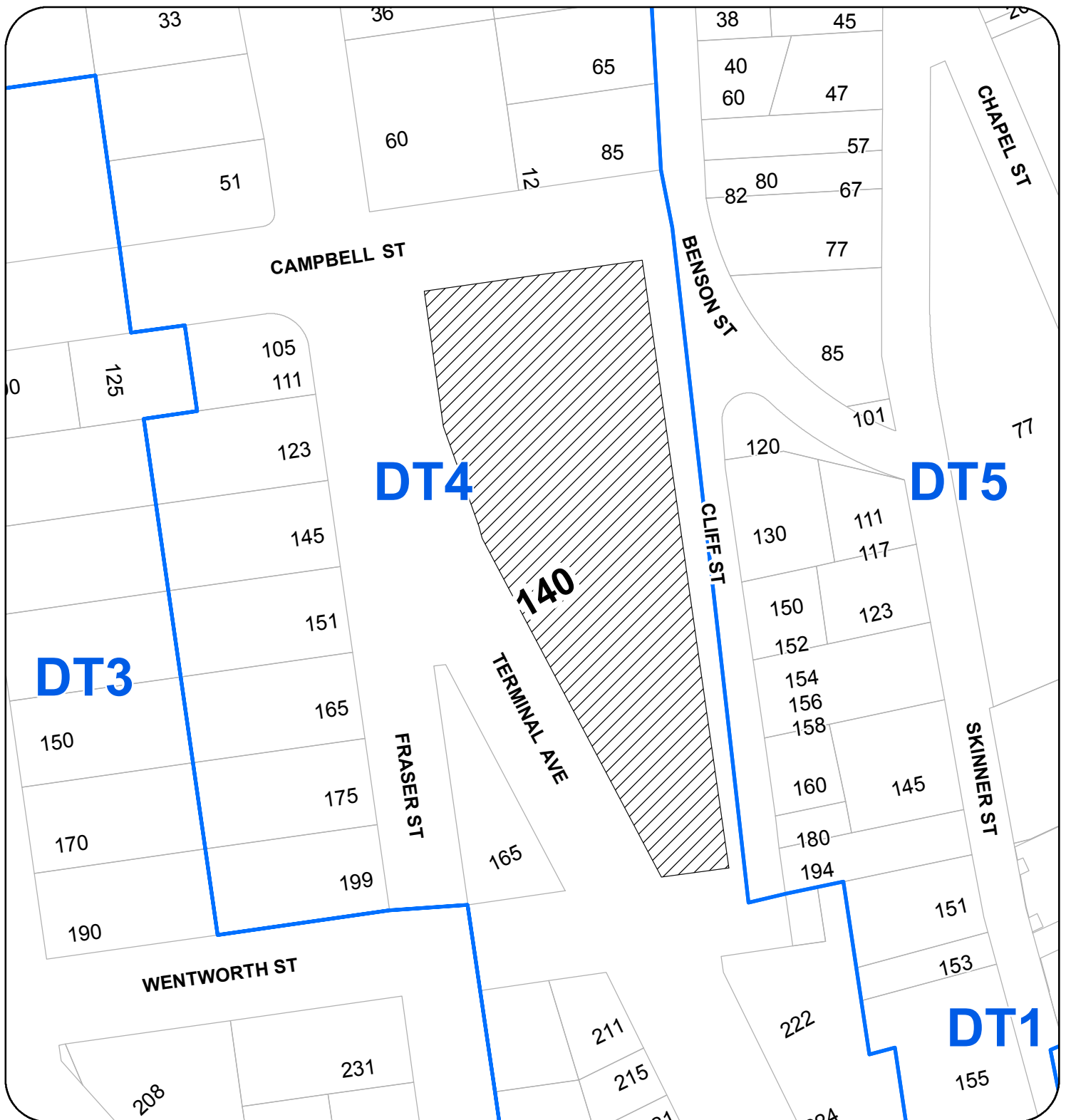
Submitted by:

L. Rowett,
Manager, Current Planning

Concurrence by:

D. Lindsay
Director, Community Development

ATTACHMENT A
LOCATION PLAN



REZONING APPLICATION NO. RA000420

LOCATION PLAN

CIVIC: 140 TERMINAL AVENUE

LEGAL: LOT 1 SECTION 1 NANAIMO DISTRICT PLAN VIP62978

N



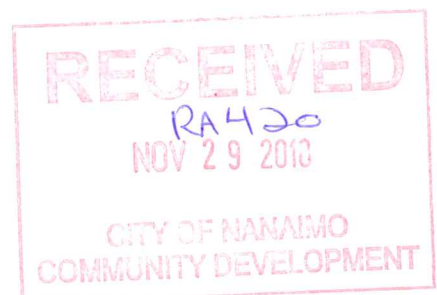
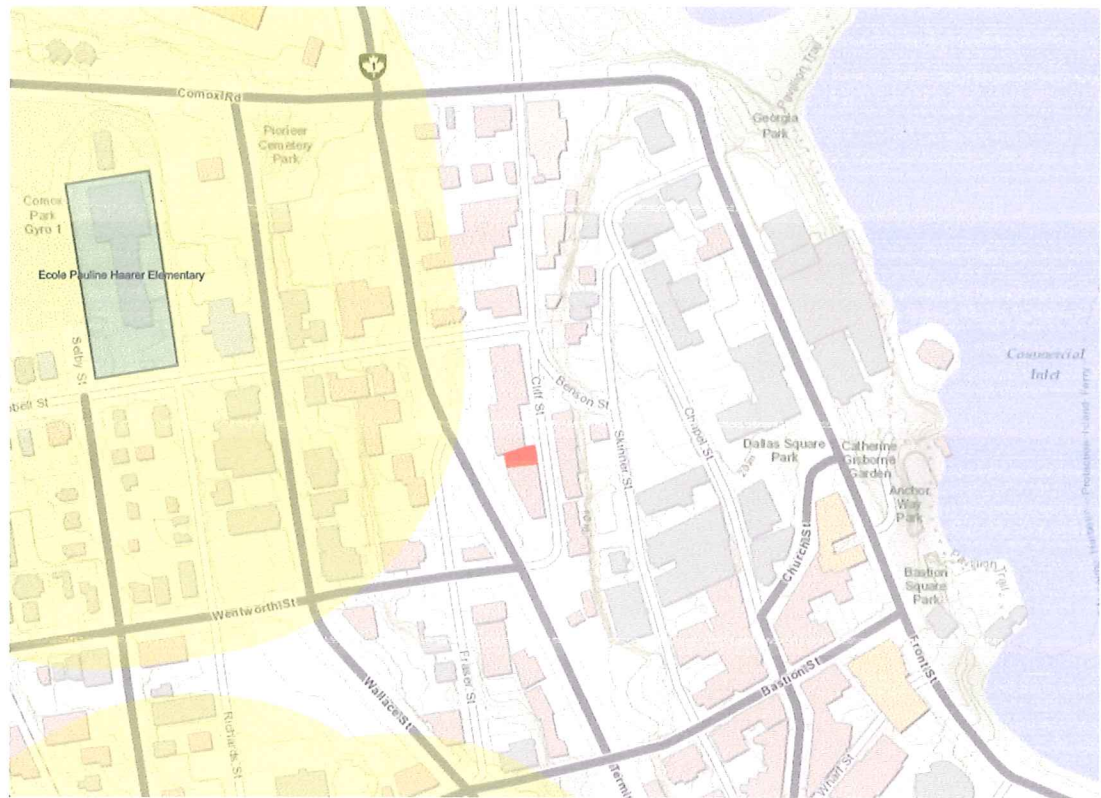
SUBJECT PROPERTY

ATTACHMENT B SCHOOL AND LICENSED DAYCARE BUFFER MAP

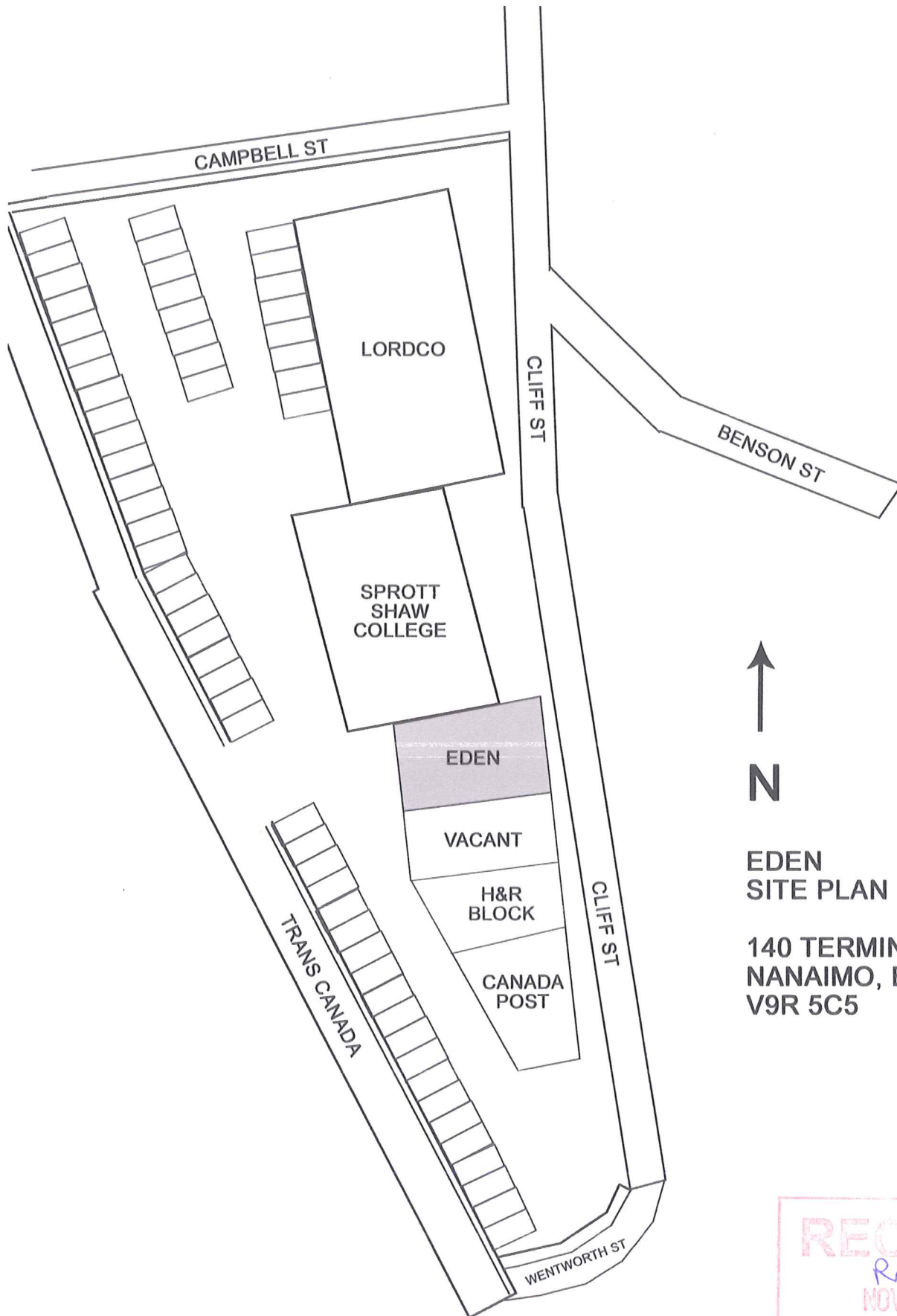
EDEN - AERIAL PLAN (200M BUFFER)
140 Terminal Ave
Nanaimo, BC
V9R 5C5

LEGEND

 EDEN STORE	 BUFFER ZONE
--	---

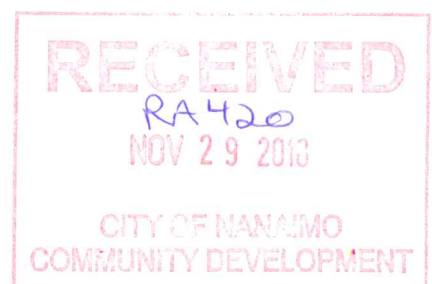


ATTACHMENT C
SITE PLAN

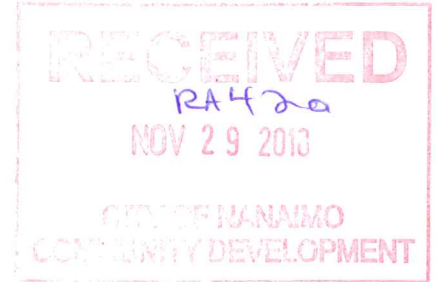
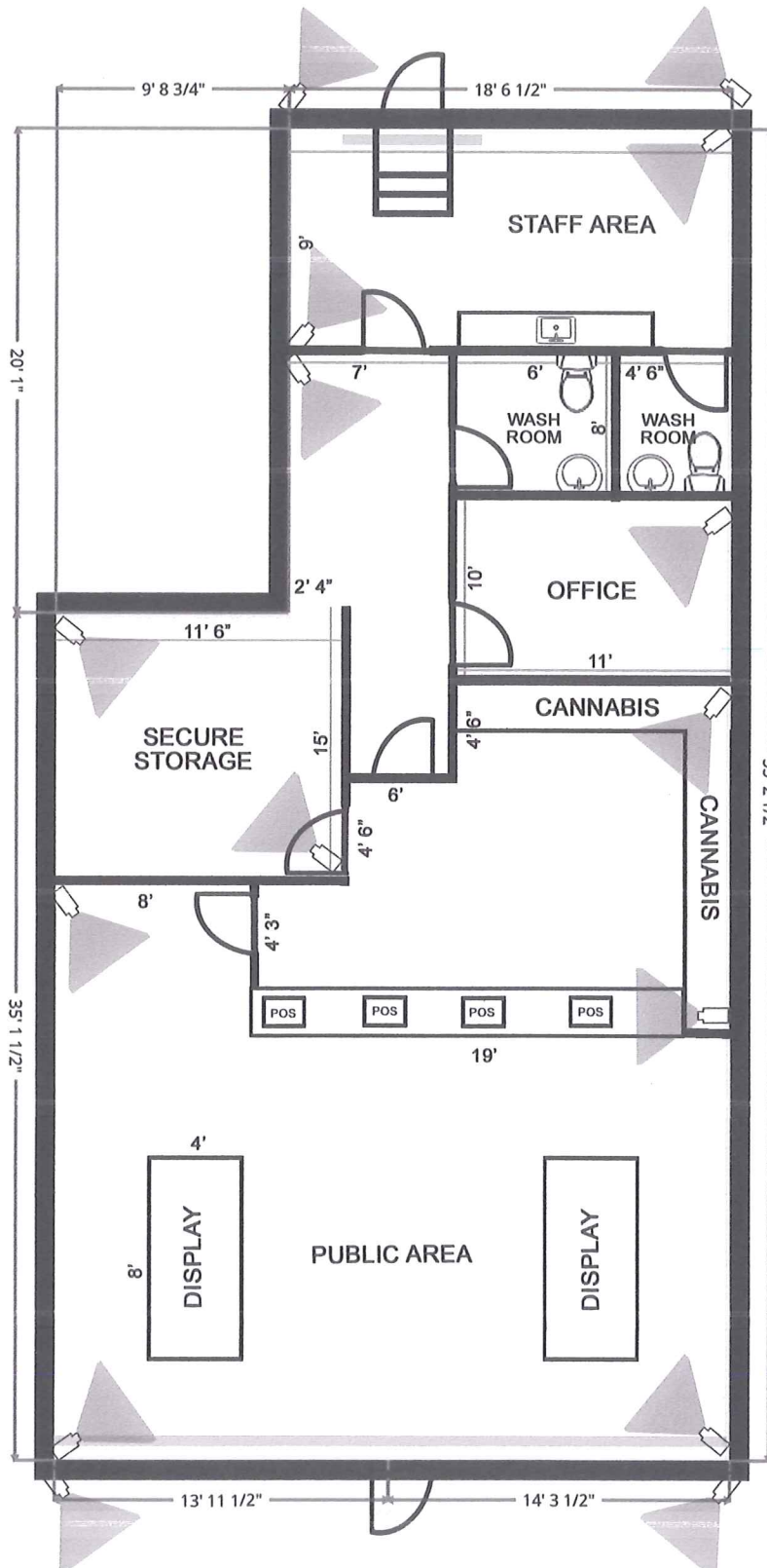


EDEN
SITE PLAN

140 TERMINAL AVE
NANAIMO, BC
V9R 5C5



ATTACHMENT D PROPOSED FLOOR PLAN



EDEN
FLOOR PLAN

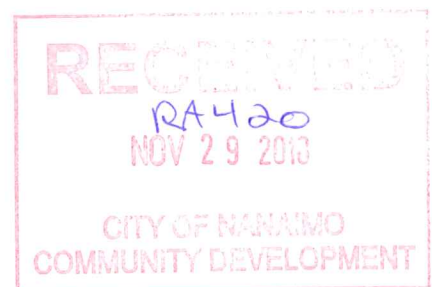
140 TERMINAL AVE
NANAIMO, BC
V9R 5C5

SECURITY GATE

**ATTACHMENT E
BUILDING ELEVATION**

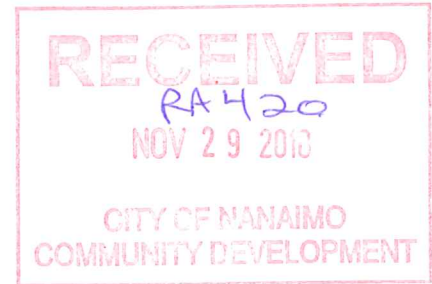
**EDEN
140 Terminal Ave
Nanaimo, BC
V9R 5C5**

SIGNAGE / STOREFRONT





Nanaimo City Hall
455 Wallace St
Nanaimo, BC
V9R 5J6



Eden's goal is to revolutionize the cannabis industry by employing fresh ideas built upon a strong foundation of knowledge and experience. We strive to maintain our position as an industry leader through the dissemination of reliable information to create a legacy of competence in providing quality assured cannabis products and customer service. We understand the intent behind the policies endorsed by the City of Nanaimo Council, and acknowledge that our adherence to these policies as being an essential part of Eden's journey through the federal legalization of recreational cannabis.

Eden's intention for this rezoning is to maintain a recreational cannabis store that both educates the community and provides quality assured cannabis products. We have been made aware that our proposed location is in close proximity to Ecole Pauline Haarer, and that our parking lot is currently within 200m of the school. The distance from the school's property line from our actual retail unit is 240m, as crow flies. The walking distance from the school's main entrance to the door of our proposed cannabis retail unit is 685m, with crossing Highway 1 at the lights at Comox Rd. However, we still believe Eden's contribution to the neighbourhood can outweigh the minor consequence of our proximity to the school for the following reasons.

Eden has proven to have a positive impact on the communities in which we operate. Eden has also organized numerous community outreach programs. Our non-profit Opiate Substitution Program was the subject of a study conducted by UBC and gained attention from numerous publications ranging from VICE to the Canadian Journal of Public Health.

While our competitors may see providing premium cannabis as being their sole business outcome, at Eden we seek to achieve more. All employees will attend a supplementary education program provided by Eden, in addition to the requisite provincial training. Our educational



Trust me, you'll like this.

Info@MyEden.ca

604-568-9337

3441 Kingsway, Vancouver, BC, V5R 5L3

training program will cover product knowledge, retail expertise, as well as legal and regulatory awareness. We emphasize the importance of providing compassionate service and acknowledge that to sell responsibly, all employees will need to be informed and educated with the most current knowledge on cannabis.

Customers will be able to ask questions, discuss and learn about the products, which will enable them to make an informed purchase best suited to their needs. We hope that customers will be able to recognize the educated difference in their retail experience at our stores. Lastly, security will play a fundamental role in our day to day operations. In order to ensure public safety and compliance with provincial and municipal rules, we will take financial responsibility for retaining a dedicated security team for monitoring our store location. This includes the placement of numerous security cameras both inside and outside the establishment, which will be supervised by our experienced security team. The surrounding area will benefit from an increase in foot traffic, and increased surveillance and security.

Eden's history of legal and regulatory compliance has prepared our team to cooperate and work closely with the surrounding community. We understand the need for transparency in our operations during this time, and we intend on maintaining open communication with the local police to keep our neighbourhoods safe. Eden hopes to earn the public's support and confidence during this transition, and we look forward to building a positive relationship with the city of Nanaimo. We appreciate this opportunity to present our case in the rezoning rationale, and we are grateful for your time and consideration regarding this matter.

Sincerely,

Eden



EDEN

602-777 Richards St
Vancouver, BC
V6B 0M9

Nanaimo City Hall
455 Wallace Street
Nanaimo, BC
V9R 5J6

Eden - Community Impact Statement

Eden understands the intent behind the policies and regulations, endorsed by the City of Nanaimo and the province of British Columbia. We acknowledge that our adherence to these policies will play an integral role in our company's success in the cannabis industry.

Our goal is to have a positive impact on the community. In order to achieve this goal, Eden will ensure that the community's concerns are properly addressed. The primary concerns from the city and the local residents are for the prevalence of cannabis odour, minors and smoking on or near the site. The following sections will address the above-mentioned concerns in further detail.

Minors:

Eden's products and services are reserved for those purchasing on-site with proper identification. Minors are not permitted inside our retail establishment under any circumstances.

Our 'Policy Manual' clearly states that all products must not be redistributed, sold or shared with underage clients. Any attempts by our customers to do so will be reported, recorded and the offending party will be permanently banned. This will be strictly enforced as it is a federal offence. If there is an attempt by a minor to acquire any of Eden's products, the Location Manager will be immediately notified. The Location Manager will complete an incident report for security and take all necessary actions to prevent another incident.

Odour and Smoking:

Due to our strict no-consumption policy, there will be no issues regarding cannabis odours permeating the surrounding neighbourhood.

Wholesale cannabis product will arrive sealed, pre-packaged (no bulk products) and labelled in accordance with federal standards. All Eden products will be transported, sold and stored in tamper-evident, child-resistant and discreet packaging.

Security:

Security will play a fundamental role in our day to day operations and we will take full financial responsibility for retaining a dedicated security team for each location. This includes the placement of numerous security cameras, both inside and outside of the establishment, supervised by our experienced security team.

In addition to monitoring the cameras, Eden's security team will:

- patrol the premises and address security breaches on-site as required; such as restricting access to minors, preventing disruptive behaviour and on-site consumption;

R E C E I V E D
RA420
2019-MAY-13
Current Planning

EDEN

602-777 Richards St
Vancouver, BC
V6B 0M9

- maintain a positive relationship with the city and police officials and be available to provide security footage to the police or the LCRB at any time;
- communicate all policies that storefront employees must follow to the Operations Officer and the Location Manager; and

Concluding Remarks:

Eden's history of legal and regulatory compliance has prepared our team to cooperate and work closely with the surrounding community. We understand that in order to sell responsibly, all employees will need to be equipped with the latest information regarding any legislation pertaining to cannabis. As such, all employees will receive specialized training; in addition to their BC Worker Verification, because we want our neighbours to feel comfortable and safe.

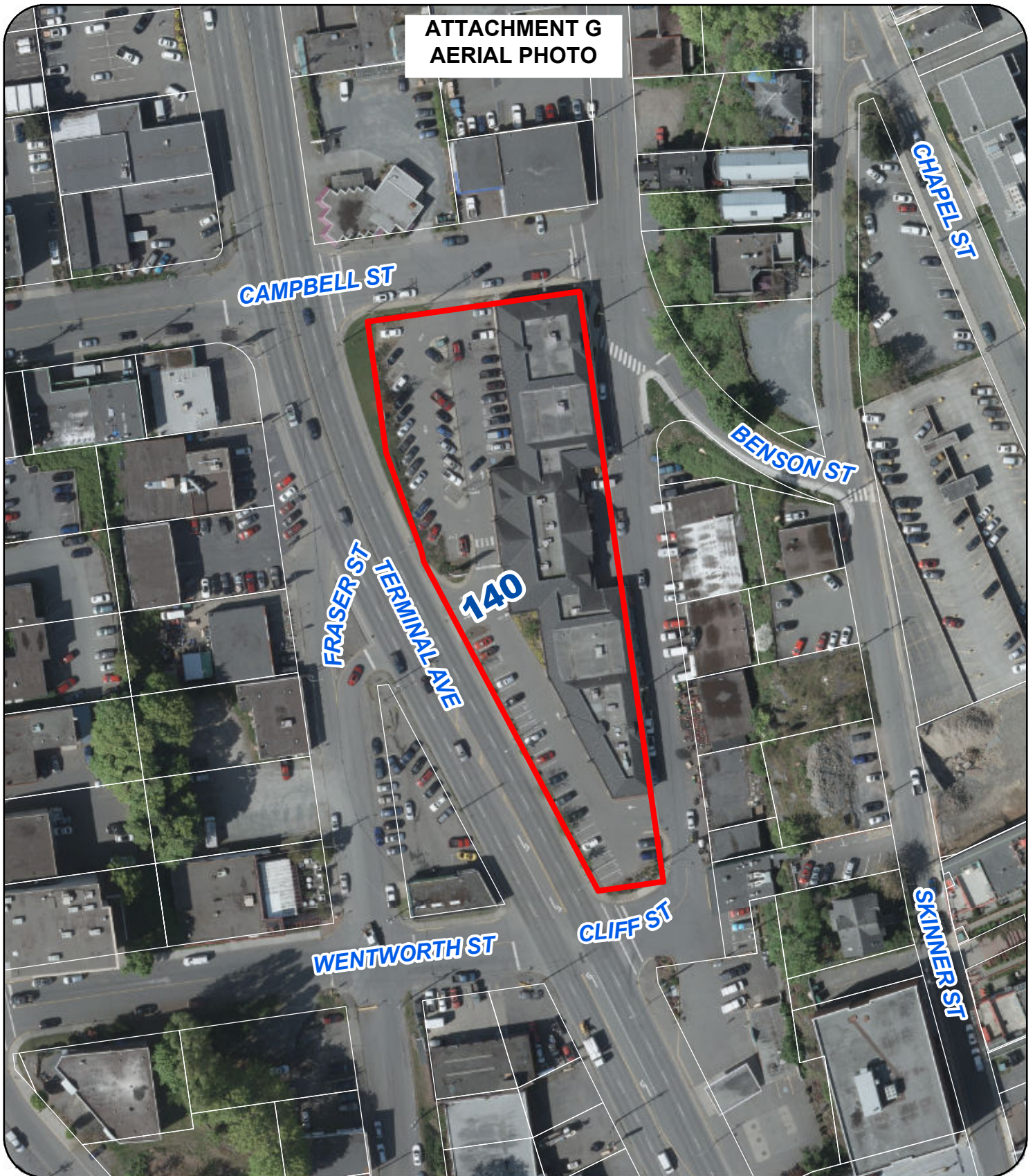
We understand the need for transparency in our operations during this time and we intend on maintaining open communication with the local police to keep our neighbourhoods secure. This is of crucial importance, not only for the communities we operate in, but also for our business as a licensed retail storefront. If given the opportunity, we firmly believe in Eden's ability to provide a beneficial service to the community and have a positive influence on the local economy.

We are grateful for your time and consideration of our community impact statement. Please do not hesitate to contact an Eden representative if the council has any questions or require additional information.

Sincerely,

Eden

ATTACHMENT G
AERIAL PHOTO



N



LEGEND



SUBJECT PROPERTY

REZONING APPLICATION NO. RA000420
AERIAL PHOTO

CITY OF NANAIMO

BYLAW NO. 4500.145

A BYLAW TO AMEND THE "CITY OF NANAIMO ZONING BYLAW 2011 NO. 4500"

WHEREAS the Council may zone land, by bylaw, pursuant to Sections 464, 465, 469, 477, 479, 480, 481, 482, and 548 of the *Local Government Act*;

THEREFORE BE IT RESOLVED the Municipal Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited as the "Zoning Amendment Bylaw 2019 No. 4500.145".
2. The "City of Nanaimo Zoning Bylaw 2011 No. 4500" is hereby amended as follows:

By rezoning the lands legally described as LOT 1, SECTION 1, NANAIMO DISTRICT, PLAN VIP62978 (140 Terminal Avenue) to allow Cannabis Retail Store as a site-specific use within the Terminal Avenue (DT4) Zone, as shown on Schedule A.

PASSED FIRST READING: _____

PASSED SECOND READING: _____

PUBLIC HEARING HELD: _____

PASSED THIRD READING: _____

MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE: _____

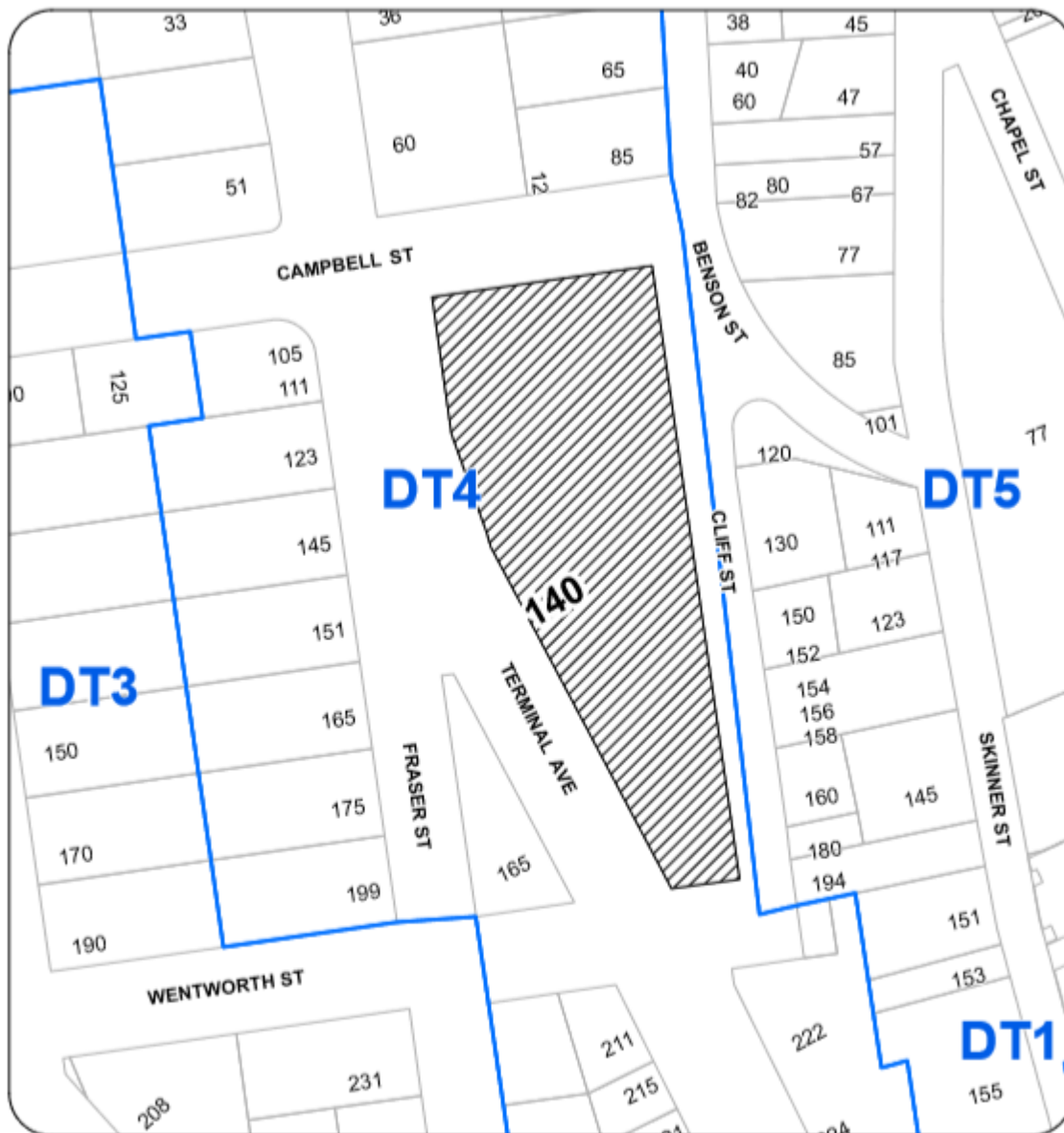
ADOPTED: _____

MAYOR

CORPORATE OFFICER

File: RA000420
Address: 140 Terminal Avenue

SCHEDULE A LOCATION PLAN



REZONING APPLICATION NO. RA000420

LOCATION PLAN

CIVIC: 140 TERMINAL AVENUE

LEGAL: LOT 1 SECTION 1 NANAIMO DISTRICT PLAN VIP62978



SUBJECT PROPERTY