

DATE OF MEETING | June 17, 2019 |

AUTHORED BY | DAVE STEWART, PLANNER, CURRENT PLANNING |

SUBJECT | REZONING APPLICATION NO. RA430 – 350 TERMINAL AVENUE |

## OVERVIEW

### **Purpose of Report**

To present Council with an application to amend the existing zoning of the property located at 350 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. 4500.152” (To rezone 350 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. 4500.152” pass second reading; and
3. That 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, RA430, was received for 350 Terminal Avenue from RH Hospitality Solutions on behalf of 1135648 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, 11 other cannabis applications have been reviewed by Council:

#	Application No. #	Address	Status
1	RA413	3923 Victoria Avenue	Scheduled for fourth reading on 2019-JUN-17
2	RA406	111 Nicol Street	Received third reading on 2019-FEB-07
3	RA410	1599 Dufferin Crescent	Received third reading on 2019-APR-04
4	RA415	2220 Bowen Road	Received third reading on 2019-APR-04
5	RA411	25 Front Street	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
10	RA418	52 Victoria Crescent	Scheduled for public hearing on 2019-JUN-13
11	RA420	140 Terminal Avenue	Scheduled for public hearing on 2019-JUN-13

In total, Staff have received 18 CRS rezoning applications to date.

### Subject Property

<i>Location</i>	350 Terminal Avenue is located on the eastern side of Terminal Avenue between Bastion Street and Commercial Street in the downtown core.
<i>Total Lot Area</i>	The subject area includes four separate lots with a total lot area of approximately 620m <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 476m (École Pauline Haarer Elementary School – 400 Campbell Street)
<i>Proximity to nearest licensed daycare</i>	Approximately 227m (Katie’s Korner Childcare - 357 Wesley Street)
<i>Proximity to nearest CRS</i>	Approximately: 112m from proposed CRS at 78 Wharf Street (RA436) 281m from proposed CRS at 52 Victoria Crescent (RA418) 290m from proposed CRS at 140 Terminal Avenue (RA420)  The application for 78 Wharf Street was received after the subject application (350 Terminal Avenue).

The subject site includes four separate fee-simple lots. The building that will contain the proposed CRS is located on three of the four lots. No other buildings are located on the lots. The proposed CRS will be located in an existing commercial retail unit (previously Arc Document Solutions, a printing 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 “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 282m<sup>2</sup> within the 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.	The proposed CRS not within 200m of a school or daycare.  École Pauline Haarer Elementary (400 Campbell Street) is located approximately 476m away from the proposed CRS. The nearest daycare (Katie’s Korner Childcare – 357 Wesley Street) is approximately 272m away.

	<p>The application was referred to School District No. 68 and Island Health (Community Care and Licensing). Island Health and School District No. 68 had no concerns with 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 112m from the proposed CRS at 78 Wharf Street (RA436) and 175m from a proposed CRS at 115 Chapel Street. Both rezoning applications for 78 Wharf Street and 115 Chapel Street were received after the subject application at 350 Terminal Avenue.</p> <p>The 78 Wharf Street application was received on 2019-MAY-15. The application for 115 Chapel Street was received on 2019-MAY-24. The subject application was received on 2019-MAR-15.</p> <p>While the two other properties are less than 200m from the proposed CRS, measured 'as the crow flies'; due to the downtown road geometry, walking distance from the subject property to the other two properties is approximately 350m (78 Wharf Street) and 500m (115 Chapel Street) respectively.</p> <p>The distance the subject property is from other downtown cannabis retail rezoning applications is as follows:</p> <ul style="list-style-type: none"> <li>• 52 Victoria Crescent (RA418) – approximately 281m</li> <li>• 140 Terminal Avenue (RA420) – approximately 290m</li> <li>• 111 Terminal Avenue (RA422) – Approximately 360m</li> <li>• 25 Front Street (RA411) – Approximately 411m</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 in an existing commercial retail unit within the subject site. 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. The applicant is proposing a façade upgrade to enhance the appearance of the existing building. A rendering of the proposed façade upgrade is included as Attachment E</p>
<p>2.2.1. The revitalization of heritage buildings is encouraged.</p>	<p>The subject property is located within the Heritage Conservation Area 1 as designated by the OCP, but is not included in 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 Specified Area and does not require parking for the proposed commercial use. Ten parking spaces are provided on the property.</p>
<p><b>Community Impact</b></p>	
<p>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.</p>	<p>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 and measures to mitigate those impacts.</p>
<p>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>	<p>The applicant proposes the following mitigation measures:</p> <ul style="list-style-type: none"> <li>• Restricting entry to minors and training staff in identifying minors and requiring ID;</li> <li>• Security measures;</li> <li>• Prohibiting loitering and on-site cannabis consumption; and</li> <li>• Prohibiting outside patron queuing.</li> </ul>
<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 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>

<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 proposed CRS is located within an existing commercial building with existing parking provided.</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>
<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.</p>	<p>The subject property is not included within the boundaries of an active Neighbourhood 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 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>

Staff support the proposed rezoning, which is in keeping with the mix of commercial uses in the downtown area, and 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 to be directed towards local park improvements.

#### **Conditions of Rezoning**

Should Council support this application and pass third reading of "Zoning Amendment Bylaw 2019 No. 4500.152", 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 local park and trail improvements in the Downtown area.
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 permitted use within an existing commercial building in the DT4 Terminal Avenue zone for the subject property located at 350 Terminal Avenue.
- The Provincial Liquor and Cannabis Regulation Branch is reviewing the licensing application for this proposal.
- The proposed rezoning is in keeping with the mix of commercial uses in the Downtown Urban Node and substantially complies with the 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: Conceptual Elevation  
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. 4500.152" |

#### **Submitted by:**

L. Rowett  
Manager, Current Planning

#### **Concurrence by:**

D. Lindsay  
Director, Community Development