



Council Report

For the Meeting of September 20, 2018

To: Council **Date:** September 6, 2018
From: Jonathan Tinney, Director, Sustainable Planning and Community Development
Subject: Update Report on Rezoning Application No. 00604 and Development Permit with Variances Application for 356-360 Bay Street and 2520 Turner Street

RECOMMENDATION

Rezoning Application No. 00635:

That Council give first and second reading to Zoning Regulation Bylaw Amendment (Bylaw No. 18-103).

Development Permit with Variances Application No. 00072:

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

"That Council authorize the issuance of a Development Variance Permit Application for 356-360 Bay Street and 2520 Turner Street, in accordance with:

1. Revised plans with a reduced retail floor area.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - i. reduce the vehicle parking requirement for a storefront cannabis retailer from one stall per 37.5m² to one stall per 93m².
3. The Development Permit lapsing two years from the date of this resolution."

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information regarding a Rezoning Application for the property located at 356-360 Bay Street and 2520 Turner Street.

The Committee of the Whole report for the June 21, 2018 meeting indicated the owner was willing to provide a Statutory Right-of-Way (SRW) of 4.91m off Bay Street; however, the property owner has now indicated he is not willing to provide the SRW at this time, but may consider it in the future should he redevelop the property.

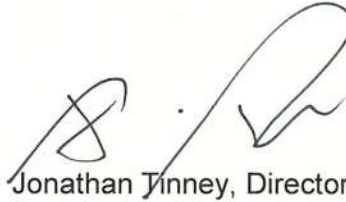
City policy for Bay Street contemplates a wider road right-of-way in order to meet future transportation-related needs, such as cycling infrastructure. When the road right-of-way is insufficient, it is common that a Statutory Right-of-Way (SRW) be provided for projects for redevelopment including rezoning applications. In this case, the proposal relates only to the use of the property and there are no plans for new development. Therefore, in this instance, foregoing the SRW requirement may be warranted.

The necessary conditions that would authorize the approval of the Rezoning Application for the property located at 356-360 Bay Street have, therefore, been fulfilled. The recommendation provided for Council's consideration would advance this application to a Public Hearing.

Respectfully submitted,

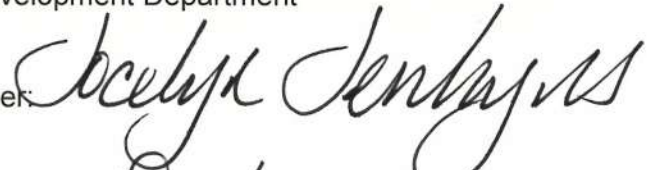


Michael Angrove
Planner
Development Services



Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:


Date: Sept. 14, 2018

List of Attachments:

- Attachment A: Committee of the Whole Report dated June 7, 2018
- Attachment B: Minutes from Committee of the Whole Meeting dated June 21, 2018
- Attachment C: Letter from the property owner dated August 13, 2018



Committee of the Whole Report

For the Meeting of June 21, 2018

To: Committee of the Whole **Date:** June 7, 2018

From: Jonathan Tinney, Director, Sustainable Planning and Community Development

Subject: Rezoning and Development Variance Permit Application No. 00604 for 356-360 Bay Street & 2520 Turner Street

RECOMMENDATION

Rezoning

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00604 for 356-360 Bay Street and 2520 Turner Street, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set once:

1. Staff receive revised plans illustrating the retail area as approximately 25% of the total floor area of the unit
2. Staff receive proof of registration at the Land Titles Survey Authority of a registered Statutory Right-of-Way (SRW) of 4.91m on Bay Street.

Development Variance Permit

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motion:

"That Council authorize the issuance of a Development Variance Permit Application for 356-360 Bay Street and 2520 Turner Street, in accordance with:

1. Revised plans with a reduced retail floor area.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variance:
 - i. reduce the vehicle parking requirement for a storefront cannabis retailer from 1 stall per 37.5m² to 1 stall per 93m².
3. The Development Permit lapsing two years from the date of this resolution."

LEGISLATIVE AUTHORITY

In accordance with Section 479 of the *Local Government Act*, Council may regulate within a zone the use of land, buildings and other structures, the density of the use of the land, building

and other structures, the siting, size and dimensions of buildings and other structures as well as the uses that are permitted on the land and the location of uses on the land and within buildings and other structures.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Rezoning Application for the property located at 356-360 Bay Street and 2520 Turner Street. The proposal is to rezone from the current M-3 Zone, Heavy Industrial District, to a site-specific zone in order to allow for the retail sale of cannabis.

The following points were considered in assessing this Application:

- the proposal is consistent with the Industrial Employment urban place designation in the *Official Community Plan*, 2012 which envisions retail sales ancillary to an industrial use
- the proposal is consistent with the Industrial Employment designation within the *Burnside Gorge Neighbourhood Plan*, which envisions retail sales ancillary to an industrial use
- the proposal is consistent with the *Storefront Cannabis Retailer Rezoning Policy*, as there are no permitted storefront cannabis retailers within 400m or schools within 200m of the subject site.

BACKGROUND

Description of Proposal

This Rezoning Application is to allow for the retail sale of cannabis in an existing building. The following differences from the standard current zone are being proposed:

- storefront cannabis retailer would be a permitted use
- only one storefront cannabis retailer be permitted to operate on the property at a time
- storefront cannabis retailer would be restricted to an accessory use to products manufactured, cleaned, stored, or otherwise handled in the primary use; the area for accessory use would not be permitted to exceed 25% of the total area of the existing unit, which would equate to 22.75m².

All other requirements within the M-3 Zone, Heavy Industrial District remain the same.

Staff have requested a Statutory Right-of-Way (SRW) of 4.91m off the Bay Street frontage to meet future transportation-related needs. If this Application is moved forward to Public Hearing, Staff recommend for Council's consideration that the SRW be made a condition of rezoning. The applicant has indicated a willingness of the property owner to provide this SRW.

Sustainability Features

The applicant has not identified any sustainability features associated with this Application.

Active Transportation Impacts

The applicant has installed a five-stall bicycle rack, which supports active transportation.

Public Realm Improvements

No public realm improvements are proposed in association with this Rezoning Application.

Land Use Context

The immediate area has a brewpub and a bakery, while the general area is characterized mainly by existing industrial uses, some with ancillary retail.

Existing Site Development and Development Potential

The site is presently developed as a one-storey building with a cabinet construction company and a pie bakery. Under the current M-3 Zone, Heavy Industrial District, the property could be developed for a variety of heavy industrial uses. A new building could be constructed with a density of up to 3.0 to 1 floor space ratio and a height of 15m.

Community Consultation

Consistent with the *Storefront Cannabis Retailer Rezoning Policy*, the requirement to arrange and participate in a Community Association Land Use Committee (CALUC) Community Meeting is waived unless the application involves construction of a new building; however, the Application was referred to the Burnside Gorge CALUC. Also consistent with the Policy, the Application has been referred to School District No. 61 and the Victoria Police Department (VicPD). The following table displays the number of service calls:

Calls for Service	2015	2016	2017	2018 (to June 7)
Calls to the immediate area	0	0	0	0
Calls to the block	19	23	22	4

ANALYSIS

Official Community Plan

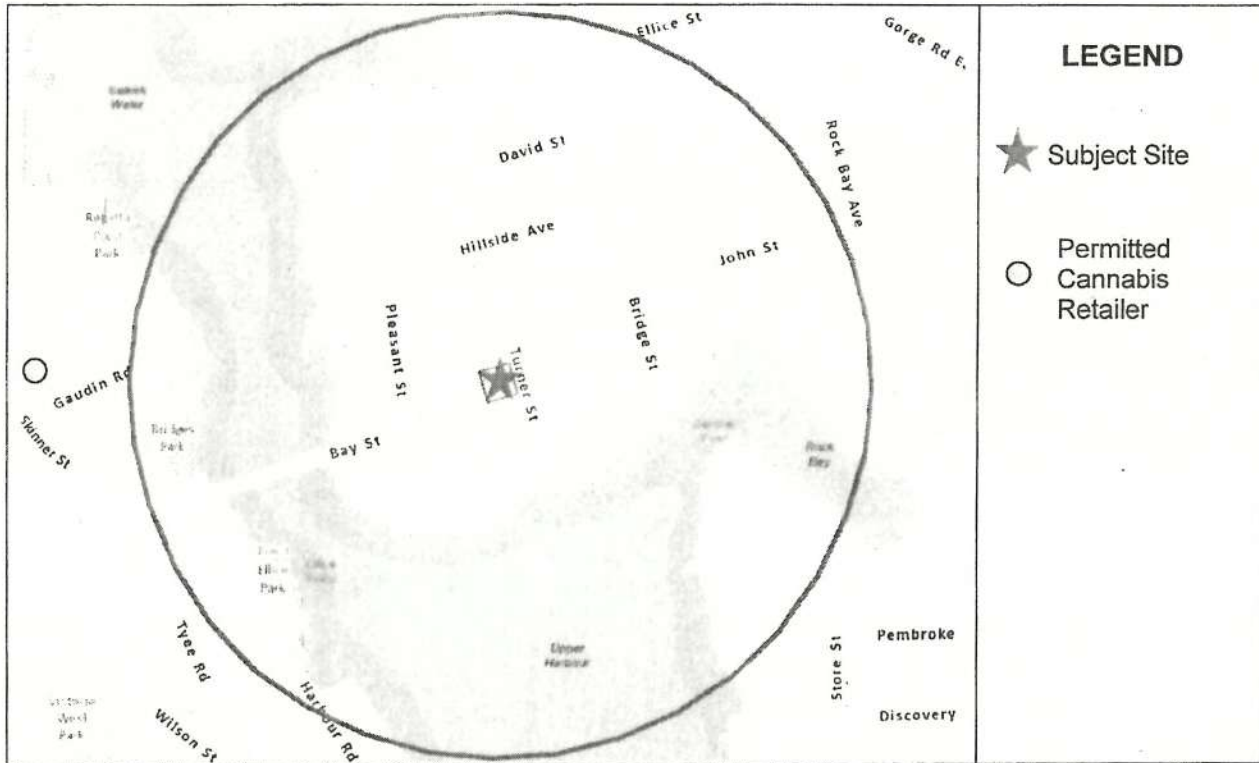
The *Official Community Plan* identifies the site within the Industrial Employment urban place designation, in which ground floor retail is envisioned as an accessory use to industrial uses. The submitted site plans identify warehousing and project preparation as major components of the use on site, and the retail sale of cannabis would be an accessory use. The Application is therefore consistent with the OCP.

Local Area Plans

The *Burnside Gorge Neighbourhood Plan* identifies the property within the Industrial Employment designation, within which retail is envisioned as accessory to a primary use. Storefront cannabis retailer is proposed as an accessory use and is therefore consistent with the Plan. To ensure retail is maintained as no more than an accessory use, staff recommend the site-specific zone limit the use to a maximum of 25% of the existing unit area. This percentage of floor area is consistent with the general retail use found in the standard M-3 Zone. In this instance, a maximum of 25.75m² would be permitted for retail use in the unit. The current proposal is for approximately 43.2m²; however, the applicant has noted a willingness to reduce the floor area of the retail space.

Storefront Cannabis Retailer Rezoning Policy

The Application is for an existing retailer that was in operation prior to July 28, 2016. The proposal is consistent with the *Storefront Cannabis Retailer Rezoning Policy* as there are no permitted storefront cannabis retailers within 400 metres of the property and no public or independent elementary, secondary or high schools are within 200m of the property.



Regulatory Considerations

The change of use from warehousing to storefront cannabis retailer triggers an increase of one parking stall, which cannot be accommodated on-site. As such, the applicant has proposed a five-stall bicycle rack to offset the parking variance. In 2016, a three-stall variance for the bakery on the subject site was approved by Council.

CONCLUSIONS

The proposal is consistent with both the *Official Community Plan* and the *Burnside Neighbourhood Plan* in maintaining the industrial uses within the area while permitting accessory retail. Furthermore, the proposal is consistent with the *Storefront Cannabis Retailer Rezoning Policy* as there are no permitted storefront cannabis retailers within 400m and no schools within 200m of the subject property.

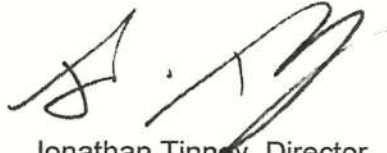
ALTERNATE MOTION

That Council decline Rezoning and Development Variance Permit Application No. 00604 for the property located at 356-360 Bay Street & 2520 Turner Street.

Respectfully submitted,



Michael Angrove
Planner
Development Services



Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Date:

June 15, 2018

List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped May 8, 2018
- Attachment D: Letter from applicant to Mayor and Council dated July 10, 2017.

Committee discussed:

- *Concerns with a reduction in flaggers at Ogden Point causing issues between traffic and horse drawn carriages.*
- *How the air quality is being affected by the increased cruise ship traffic.*
- *How increased taxi traffic is affecting the neighbourhood surrounding Ogden Point.*
- *Whether revenue ~~cross~~-sustains all the properties under the Greater Victoria Harbour Authority.*

Moved By Councillor Lucas

Seconded By Councillor Thornton-Joe

That Council receive the presentation from the GVHA for information.

CARRIED UNANIMOUSLY

F. LAND USE MATTERS

F.1 356-360 Bay Street and 2520 Turner Street - Rezoning and Development Variance Permit Application No. 00604 (Burnside)

Committee received a report dated June 7, 2018 from the Director of Sustainable Planning and Community Development regarding the proposal to rezone the property located at 356-360 Bay Street and 2520 Turner Street to a site-specific zone in order to allow for the retail sale of cannabis.

Moved By Councillor Isitt

Seconded By Councillor Loveday

Rezoning

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1. Staff receive revised plans illustrating the retail area as approximately 25% of the total floor area of the unit.
2. Staff receive proof of registration at the Land Titles Survey Authority of a registered Statutory Right-of-Way (SRW) of 4.91m on Bay Street.

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3. The Development Permit lapsing two years from the date of this resolution.

Committee discussed:

- *Concerns, given the location of the application, with legalized cannabis being used while operating heavy machinery.*

FOR (6): Councillor Coleman, Councillor Isitt, Councillor Loveday, Councillor Lucas, Councillor Madoff, and Councillor Thornton-Joe

OPPOSED (1): Councillor Young

CARRIED (6 to 1)

G. STAFF REPORTS

G.1 Topaz Park Improvement Plan

Committee received a report dated June 5, 2018 from the Director of Parks, Recreation, and Facilities seeking approval of the Topaz Park Improvement Plan and providing proposed timeline for the project.

Committee discussed:

- *Impacts on the permit holders during installation of the new artificial turf and grass.*
- *Possibility to turn the artificial turf back to natural turf.*

Moved By Councillor Isitt

Seconded By Councillor Young

That Council approve the Park Improvement Plan for Topaz Park, as described in Attachment A.

Committee discussed:

- *Retaining more natural areas over the proposed open spaces.*



Construction Ltd.

Mike Angrove
Planner, City of Victoria
1 Centennial Square
Victoria

AUG 13 2018

Re: 2520 Turner Street Zoning Amendment to allow for cannabis retail in our building

Dear Mike,

I am in receipt of a letter from the City of Victoria requesting a SRW of 4.91 meters along the Bay Street frontage of our entire property. This is a rather heavy handed request for what constitutes a very simple additional use being added to the current zoning. We will not agree to such a request at this time.

We realize that this discussion would be opened up a part of a negotiation should we choose to re-develop and re-zone the property in the future. The viability of a SRW would be discussed at that time.

I hope this makes our position on this issue clear. We are in support of the amendment to the zoning to allow the current sub-tenant to continue on as a cannabis retailer. It appears to be an appropriate location.

Yours truly,

A handwritten signature in black ink, appearing to read "Bill Patterson".

Bill Patterson, President/ Citta Investments Ltd

and

Bill Osborne

A handwritten signature in black ink, appearing to read "Bill Osborne".

President / Andrew Holdings Ltd