



## Committee of the Whole Report

### For the Meeting of October 22, 2020

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**To:** Committee of the Whole **Date:** October 8, 2020

**From:** Karen Hoese, Director, Sustainable Planning and Community Development

**Subject:** Rezoning Application No. 00743 for 901 Gordon Street

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### RECOMMENDATION

1. That Council decline Rezoning Application No. 00743 for the property located at 901 Gordon Street.
2. That Council authorize the street-level projecting canopies over the City right-of-way on Gordon Street, Courtney Street and Broughton Street, provided that the applicant enters into an Encroachment Agreement prior to a Public Hearing in a form satisfactory to the City Solicitor and the Director of Engineering and Public Works.

### 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 901 Gordon Street. The proposal is to add the use of storefront cannabis retailer to the OTD-1 Zone, Old Town District-1 as a site-specific regulation for 901 Gordon Street.

The following points were considered in assessing this application:

- the proposal is consistent with the Core Historic designation in the *Official Community Plan* and the Historic Commercial District designation in the *Downtown Core Area Plan*, both of which envision active commercial uses on the ground floor
- the proposal is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy*, as there are three properties within 400m with storefront cannabis retailer as a permitted use and there is a school within 200m.

## **BACKGROUND**

### **Description of Proposal**

This Rezoning Application is to permit the use of storefront cannabis retailer at 901 Gordon Street. The following differences from the current OTD-1 Zone are being proposed:

- storefront cannabis retailer would be a permitted use
- only one storefront cannabis retailer would be permitted to operate on the property at a time
- storefront cannabis retailer would be restricted to a maximum floor area of 160m<sup>2</sup>.

### **Sustainability**

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

### **Active Transportation**

The applicant has not identified any active transportation impacts associated with this Application.

### **Public Realm**

No public realm improvements beyond City standard requirements are proposed in association with this Rezoning Application.

### **Accessibility**

The British Columbia Building Code regulates accessibility as it pertains to buildings.

### **Land Use Context**

The area is characterized by primarily retail and restaurant uses, located at street level, with office uses and some residential uses located on the upper storeys.

### **Existing Site Development and Development Potential**

The site is presently occupied by ground floor commercial units with a parkade on the upper storeys. Under the current OTD-1 Zone, Old Town District-1, the property could be developed for commercial and mixed-use buildings up to a height of 15m and a density of up 3.0:1 floor space ratio.

### **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 Downtown Residents Association. Also consistent with the Policy, the application has been referred to School District No. 61 and the Victoria Police Department (VicPD). No responses had been received at the time of writing this report.

## **ANALYSIS**

### **Official Community Plan**

The *Official Community Plan* (OCP) lists this property within the Core Historic urban place designation, within which retail is an envisioned use. The property is also included in Development Permit Area 1 (HC): Core Historic which among other things contains design guidelines that aim to create animated and welcoming streetscapes. Provincial regulations prohibit cannabis products from being visible from the street. While staff would encourage the applicant to maintain a positive street relationship, it should be noted that interior improvements that restrict visibility into the storefront, such as blinds or curtains, are not subject to staff approval. However, extensive use of non-transparent glass or screening films applied to glass would be considered contrary to the design guidelines and would require Council consideration and approval.

### **Downtown Core Area Plan**

The *Downtown Core Area Plan* designates this property as Historic Commercial District. The application is consistent with the neighbourhood plan, in which zoning accommodates a diverse range of active commercial uses.

### **Tree Preservation Bylaw and Urban Forest Master Plan**

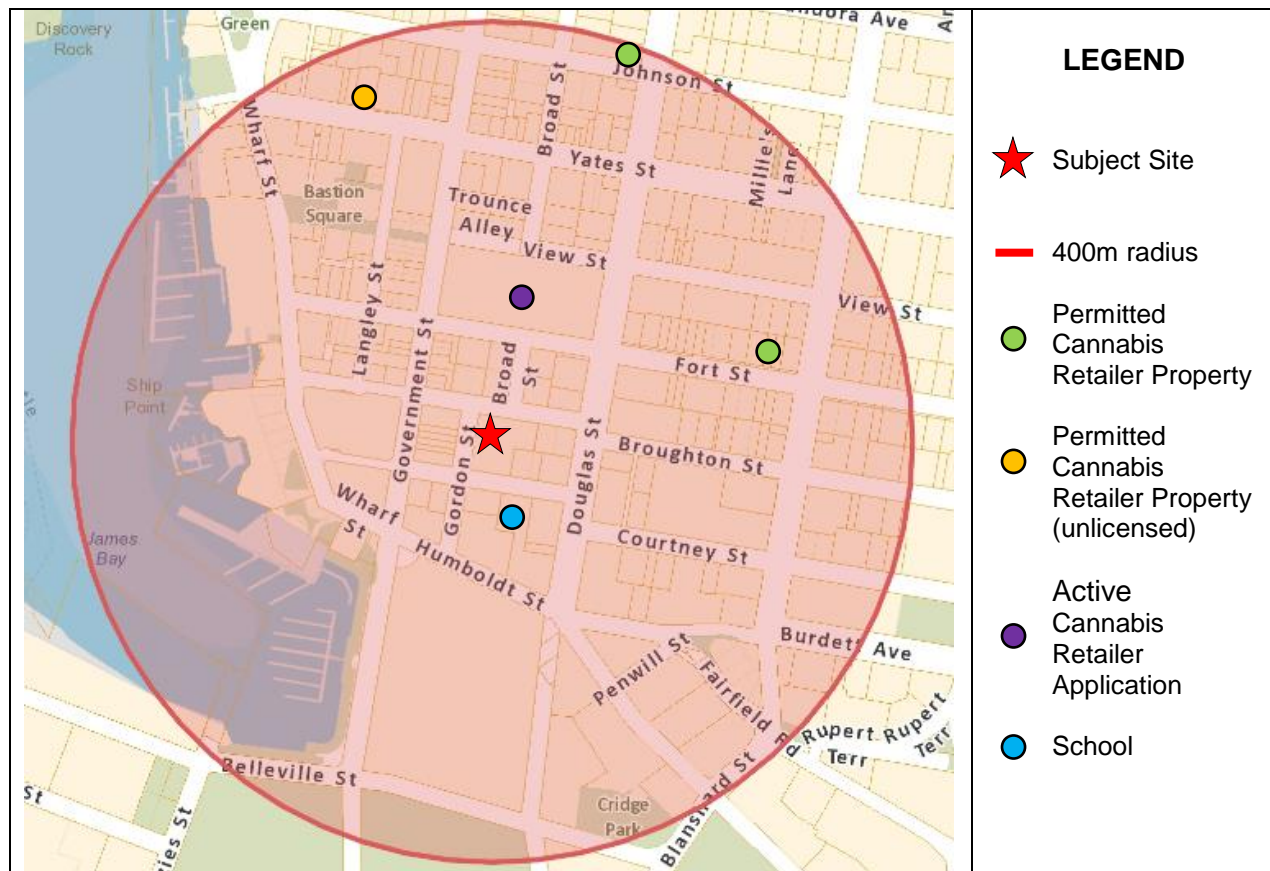
There are no Tree Preservation Bylaw impacts and no impacts to public trees with this Application.

### **Storefront Cannabis Retailer Rezoning Policy**

The proposal is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy* as there are three properties within 400m of the subject property that have storefront cannabis retailer as a permitted use:

- 778 Fort Street is 238m away and is provincially licensed]
- 1402 Douglas Street is 385m away and is provincially licensed
- 546 Yates Street is 333m away and non-operational and not provincially licensed.

Finally, there is one independent high school, the Pacific Institute for Innovation and Inquiry, 19m away from the subject property.



## Encroachment Agreement

A number of street-level canopies are also existing along Gordon Street, Courtney Street and Broughton Street, which project above the City right-of-way. These are encouraged in the Guidelines to provide pedestrian weather protection and welcoming streetscapes. In order to continue to facilitate these canopies, the applicant is required to enter into an Encroachment Agreement with the City. As these are existing canopies, passage of motion #2 is recommended regardless of the decision on the main application.

## CONCLUSIONS

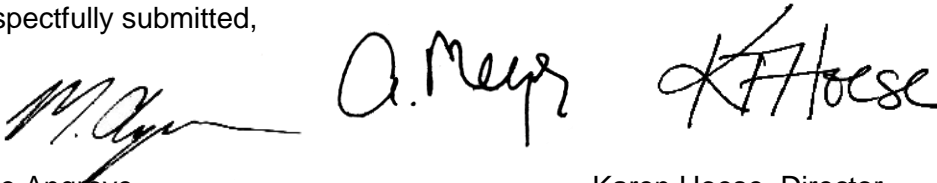
The proposal to permit the storefront cannabis retailer use is consistent with the *Official Community Plan* and the *Downtown Core Area Plan*. The proposal is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy* as there are three other properties within 400m that permit the use of storefront cannabis retailer and there is a school within 200m of the subject property. Staff therefore recommend that Council consider declining the application. However, an alternate motion has been provided for Council's consideration.

## ALTERNATE MOTION

1. That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00743 for 901 Gordon Street, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council and a Public Hearing date be set.

2. That Council authorize the street-level projecting canopies over the City right-of-way on Gordon Street, Courtney Street and Broughton Street, provided that the applicant enters into an Encroachment Agreement prior to a Public Hearing in a form satisfactory to the City Solicitor and the Director of Engineering and Public Works.

Respectfully submitted,



Mike Angrove  
Senior Planner  
Development Services Division

Karen Hoese, Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager:



Date: October 15, 2020

#### List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped September 10, 2020
- Attachment D: Letter from applicant to Mayor and Council dated July 15, 2020
- Attachment E: Correspondence