



Committee of the Whole Report For the Meeting of May 18, 2023

To: Committee of the Whole **Date:** April 6, 2023

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

Subject: Rezoning Application No. 00832 for 340-346 Mary Street and 247-253 Russell Street

RECOMMENDATION

That Council decline Rezoning Application No. 00832 for the property located at 340-346 Mary Street and 247-253 Russell Street.

LEGISLATIVE AUTHORITY

This report discusses a Rezoning Application. Relevant rezoning considerations include the proposal to add storefront cannabis retailer as new use.

Enabling Legislation

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 340-346 Mary Street and 247-253 Russell Street. The proposal is to rezone the property to add the use of storefront cannabis retailer limited to a maximum of 25% of the total building area.

The following points were considered in assessing the Rezoning Application:

- The properties are located within the Employment-Residential urban place designation of the *Official Community Plan, 2012 (OCP)*, within which retail is an envisioned use.
- The properties are located within the General Employment with Limited Residential designation, in the *Victoria West Neighbourhood Plan*, which envisions retail as an ancillary use to a primary use.

- The existing light industrial zoning permits for limited ancillary retail, but storefront cannabis retailer is a specific use in our zoning bylaw that is not found in the industrial zones and therefore a rezoning is required.
- The proposal is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy*, as there is an existing storefront cannabis retailer within 400m of the subject property. There are no schools within 200m of the subject property.
- That frontage works such as pedestrian access is not to present City standards and should be appropriate for retail use. The alternative motion would require frontage works such as a sidewalk and boulevard that would support public infrastructure to safely enable the retail use and support *Go Victoria* and urban forestry objectives.

BACKGROUND

Description of Proposal

This proposal is to allow for the retail sale of cannabis in an existing building. The property is in the M1-R Zone, Russell Street Light Industrial District. Storefront cannabis retailer would be a permitted use, and the following conditions of use would be accommodated in a new zone, should Council choose to advance the proposal:

- storefront cannabis retailer would be a permitted use
- only one storefront cannabis retailer would be permitted to operate on the property at a time
- a storefront cannabis retailer would be restricted to the ground floor
- a storefront cannabis retailer would be restricted to a maximum of 25% of the building area.

All other requirements within the M1-R Zone, Russell Street Light Industrial District, would remain the same.

Land Use Context

As illustrated in the below map, the area is characterized by industrial uses to the north and east and multi-unit residential uses across the street to the west. However, a rezoning application across the street at 480 Esquimalt Road would add multi-unit residential to that property, and another rezoning application at 225 Russell Street to the south would remove the industrial uses and permit a supportive housing building.



Figure 1: Subject Site

Existing Site Development and Development Potential

The site is presently used for a cannabis nursery and cultivation. Under the current M1-R Zone, Russell Street Light Industrial District the property could be developed for a variety of light industrial uses with a density of 3.0 Floor Space Ratio and heights up to 15m.

Sustainable Mobility

No sustainable mobility improvements are proposed in association with this application.

Public Realm

If the application is supported by Council, it is recommended in the alternate motion that Council secure, as a condition of rezoning, frontage improvements including the extension of the existing sidewalk across the frontage and improvements that would accommodate the E&N Rail Trail crossing. The following public realm and frontage works associated with this application would be secured as a condition of the Rezoning Application:

- concrete sidewalk at 1.8m width
- grassed boulevard at least 1.8m wide, so a new street tree could potentially be added
- driveway crossing and pedestrian and cycle connectivity compatible with the new multi-use trail crossing of Mary Street.

Relevant History

A rezoning application was approved by Council on September 22, 2022, which added manufacturing, processing and assembly as uses.

Community Consultation

Consistent with the *Storefront Cannabis Retailer Rezoning Policy*, the requirement to arrange and participate in a Community Association Land Use Committee (CALUC) meeting is waived unless the application involves construction of a new building; however, the application was referred to the Victoria West CALUC on December 14, 2022.

Also consistent with the policy, the application has been referred to School District No. 61 and the Victoria Police Department (VicPD). As of the date of this report, no correspondence has been received by the CALUC, School District No. 61, or Victoria Police Department.

ANALYSIS

Rezoning Application

Official Community Plan

The property is located within the Employment-Residential urban place designation of the *Official Community Plan, 2012* (OCP), within which retail is an envisioned use.

Victoria West Neighbourhood Plan

The *Victoria West Neighbourhood Plan* designates the subject property General Employment with Limited Residential, which discourages retail uses which are not ancillary to another primary use. In this instance, the floor area of the storefront cannabis retailer would be limited to 25% of the building area and the applicant notes the majority of the product to be sold in the retail store would be manufactured and processed on-site in the industrial component.

Storefront Cannabis Retailer Rezoning

The application is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy* because there is an existing storefront cannabis retailer approximately 152m from the property, which is inconsistent with the Policy's envisioned minimum distance of 400m. No schools are within 200m of the property. The map below illustrates distance requirements as laid out in the policy.



Map 1: Distance Requirements for Storefront Cannabis Retailers

Tree Preservation Bylaw and Urban Forest Master Plan

There are no *Tree Preservation Bylaw* impacts with this application. The addition of a barrier curb and new boulevard, as noted in the alternative motion, may enable a new tree to be planted on the public right of way, pending confirmation through revised plans.

CONCLUSIONS

The proposal to permit the storefront cannabis retailer use is consistent with the *Official Community Plan, 2012* (OCP) and the *Victoria West Neighbourhood Plan*. The proposal is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy* as there is one other property within 400m that permits the use of storefront cannabis retailer. 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 the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff report March 8, 2023 for 340-346 Mary Street and 247-253 Russell Street.
2. That first and second reading of the zoning bylaw amendment be considered by Council and a public hearing date be set once the following conditions are met:

- a. Revised plans detailing the required frontage works and driveway crossings in compliance with the requirements of the Highway Access Bylaw which include works as they relate to the new multi-use trail crossing of Mary Street.
3. That subject to approval in principle at the public hearing, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor prior to adoption of the bylaw:
 - a. Design and provide security for the installation of full frontage works to current City of Victoria standards including full height curb, sidewalk (1.8m), boulevard and potential tree, and which are compatible with recent E&N Trail construction and the new multi-use trail crossing of Mary Street including a new crosswalk and cross ride as a condition of rezoning to be completed within 180 days of adoption of the Zoning Bylaw.
4. That adoption of the zoning bylaw amendment will not take place until all of the required legal agreements that are registrable in the Land Title Office have been so registered to the satisfaction of the City Solicitor.
5. That the above recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

Respectfully submitted,

Mike Angrove
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Development Services Division

Karen Hoese, Director
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Report accepted and recommended by the City Manager.

List of Attachments

- Attachment A: Subject Map
- Attachment B: Plans date stamped December 1, 2022
- Attachment C: Letter from applicant to Mayor and Council dated November 30, 2022