



Committee of the Whole Report

For the Meeting of November 9, 2017

To: Committee of the Whole **Date:** October 26, 2017

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

Subject: **Temporary Use Permit with Variance Application No. 00005 for 2610 Rock Bay Avenue**

RECOMMENDATION

That Council defer the proposal outlined in Temporary Use Permit with Variance Application No. 00005 for 2610 Rock Bay until after the Public Hearing for Rezoning Application No. 00533 for 603 Gorge Road East.

LEGISLATIVE AUTHORITY

In accordance with section 493 of the Local Government Act, Council may issue a Temporary Use Permit. A Temporary Use Permit may allow a use not permitted by zoning, may specify conditions under which the temporary use may be carried on, and may allow and regulate construction of buildings and structures in respect of the use of which the permit is issued.

EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Temporary Use Permit with Variance Application for the property located at 2610 Rock Bay Avenue. The proposal is to permit a storefront cannabis retailer for a period of up to three years.

The following points were considered in assessing these applications:

- the proposal is generally consistent with the Industrial Employment designation in the *Official Community Plan, 2012*
- the proposal is generally consistent with the Industrial Employment designation in the *Burnside Gorge Neighbourhood Plan*
- the proposal is currently consistent with the *Storefront Cannabis Retailer Rezoning Policy*; however, it is within 400m of an existing storefront cannabis retailer (603 Gorge Road East), which is scheduled for a Public Hearing on December 14, 2017.

BACKGROUND

Description of Proposal

This Temporary Use Permit Application is to allow for the retail sale of cannabis in an existing warehouse building. The property is currently used for the manufacturing, processing and shipping of cannabis products, with an ancillary retail store. The following differences from the standard zone are being proposed and would be accommodated in the Temporary Use Permit:

- 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 the ground floor
- storefront cannabis retailer would be restricted to an accessory use of products manufactured, cleaned, stored, or otherwise handled in the primary use; and the area for accessory use not to exceed 25% of the total building area.

All other requirements within the M-2 Zone, Light Industrial District remain the same.

A Temporary Use Permit is being sought by the applicant due to the potential redevelopment of the subject site by the property owner.

Sustainability Features

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

Active Transportation Impacts

The application has proposed five Class 1 bicycle parking stalls and subsidized bus passes for employees which support active transportation.

Public Realm Improvements

No public realm improvements are proposed in association with this Temporary Use Permit Application.

Accessibility Impact Statement

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

Existing Site Development and Development Potential

The site is presently a two-storey light industrial building. Under the current M-2 Zone, Light Industrial District, the property could be developed at a density of 3.0:1 floor space ratio up to a height of 15m for a variety of light industrial uses and accessory retail.

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 Burnside Gorge Community Association 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 (July 24)
Calls to the immediate area	5	2	2
Calls to the block	41	48	20

ANALYSIS

Official Community Plan

The *Official Community Plan* (OCP) identifies this property within the Industrial Employment urban place designation. The submitted site plans identify warehousing and manufacturing as the major components of the use on site, and the introduction of retail sale of cannabis would be an accessory use. The application is therefore consistent with the OCP.

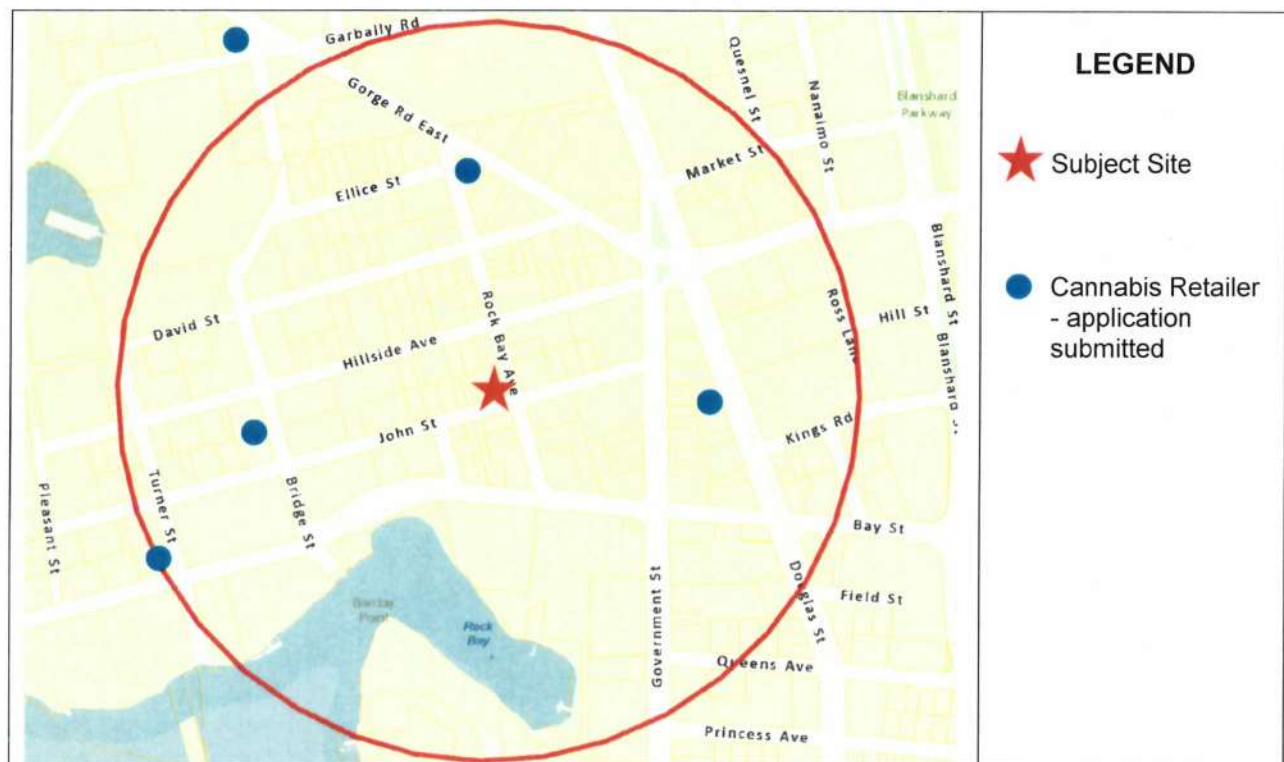
Local Area Plans

The *Burnside Gorge Neighbourhood Plan* identifies this property within the Industrial Employment designation. 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 making a condition of the Temporary Use Permit that a maximum of 25% of the building area is permitted to be retail.

Storefront Cannabis Retailer Rezoning Policy

At the time of submission, this application was consistent with the *Storefront Cannabis Retailer Rezoning Policy*, as there are no storefront cannabis retailers within 200 metres of the property. However, there are four storefront cannabis retailers within 400 metres of the property, which is inconsistent with the updated policy. While none of those applications are permitted (formally approved by Council through a rezoning process), the application for an existing storefront cannabis retailer at 603 Gorge Road East is scheduled for a December 14, 2017 Public Hearing, and is approximately 204m to the north of the subject site. In addition, the application at 2616-2626 Douglas Street is 211m east of the subject site, and is currently deferred until after the Public Hearing at 603 Gorge Road East. Staff are awaiting revised materials for the applications at 2612 Bridge Street (233m away) and 2520 Turner Road (383m away).

No public or independent elementary, secondary or high schools are within 200m of the property.



Regulatory Considerations

Due to the change of use to retail there is a parking deficiency of one stall. The parking requirements are for six stalls on-site, and the proposal is to provide for five stalls on-site. The applicant has proposed subsidized bus passes and five Class 1 bicycle stalls. Therefore, if the Temporary Use Permit with Variance is approved by Council, the permit would reduce the parking requirements for storefront cannabis retailer from one stall per 37.5m² of floor space to one stall per 76m² of floor space, with the condition that the aforementioned Transportation Demand Management measures are undertaken.

CONCLUSIONS

This proposal to permit the use of a storefront cannabis retailer is consistent with both the *Official Community Plan* and the *Burnside Gorge Neighbourhood Plan* in permitting retail as an ancillary use to an industrial use. The proposal does not have any schools within 200m of the parcel; however, the application at 603 Gorge Road East is scheduled for a Public Hearing on December 14, 2017, and as per the *Storefront Cannabis Retailer Rezoning Policy*, retailers should be a distance of 400m from another retailer. Upon approval of one application, the other would be in violation of the policy. Staff recommend Council consider deferring this application until after the Public Hearing for 603 Gorge Road East.

ALTERNATE MOTIONS

Approve

- (1) "That Council authorize the issuance of Temporary Use Permit with Variance Application No. 00005 for 2610 Rock Bay, in accordance with:
1. Plans date stamped September 22, 2017
 2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
 - i. reduce the parking requirements for retail stores from 1 stall per 37.5m² to 1 stall per 76m²
 3. The Development Permit lapsing three years from the date of this resolution."

Decline

- (2) That Council decline Temporary Use Permit with Variance Application No. 00005 for the property located at 2610 Rock Bay Avenue.

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:

Nov. 1/17

List of Attachments:

- Appendix A: Subject Map
- Appendix B: Aerial Map
- Appendix C: Plans date stamped September 22, 2017
- Appendix D: Letter from applicant to Mayor and Council dated October 23, 2017

ATTACHMENT A



2610 Rock Bay Avenue
Rezoning No.000529



TREES, 2610 ROCK BAY AVENUE

2016528	A-000
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Alex Robb
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 Office: (778) 265-8733



Received
 City of Victoria

SEP 22 2017

Planning & Development Department
 Development Services Division

4	ISSUED FOR REVIEW	2017-07-14
3	ISSUED FOR REVIEW	2017-05-01
2	ISSUED FOR REVIEW	2016-10-20
1	ISSUED FOR REVIEW	2016-08-29



DATE: _____

TIME: _____

BY: _____

FOR: _____

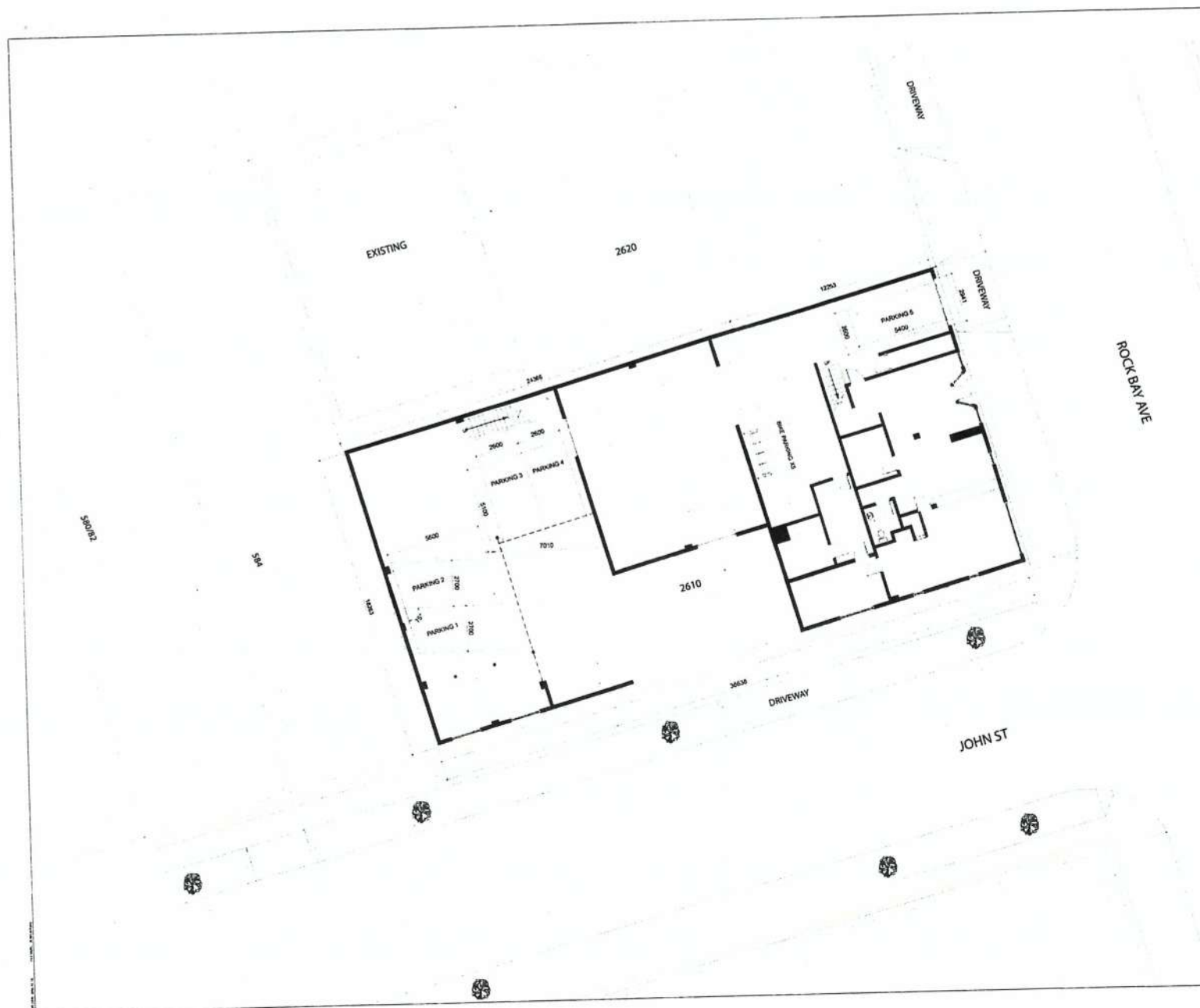
SCALE: 1:100 DATE: 2017-05-01

2610 Rock Bay Ave
 Storefront Cannabis Retailer Rezoning

2610 Rock Bay Ave
 Site Plan

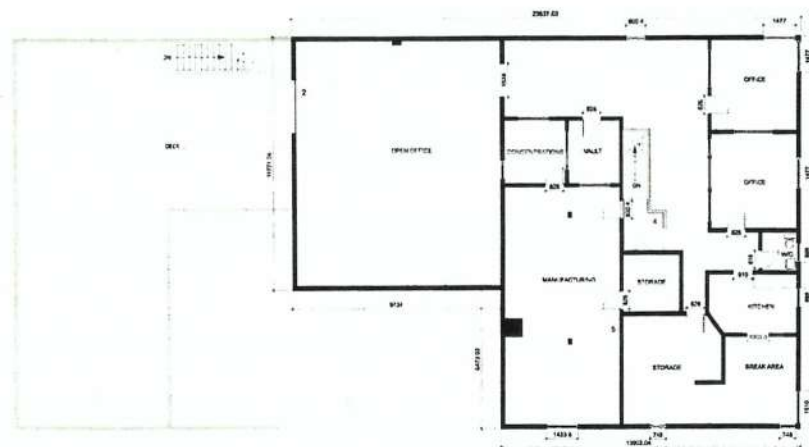
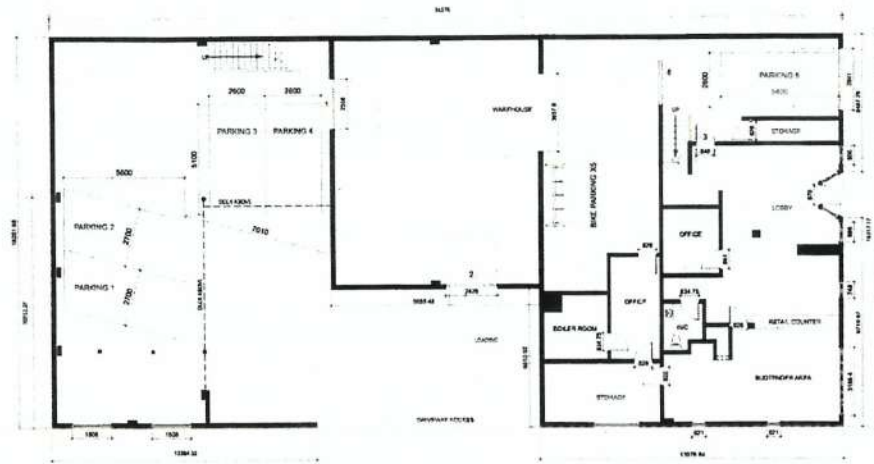
DATE: 2017-05-01	LT	LM
DATE: 2016-05-01	LT	LM

A-001



CONDITIONS OF REZONING

1. ITS OVERHEAD DOOR TO BE REPLACED BY TWO (2) NEW DOORS WITH TUMBLER
2. ITS OVERHEAD DOOR TO BE REPLACED BY TWO (2) NEW DOORS WITH TUMBLER
3. REPLACE ITS DOOR BY TWO (2) NEW DOORS WITH TUMBLER
4. CONSTRUCT A SIGNAGE FOR IDENTIFICATION
5. CLOSE OFF ITS DOOR TO MAKE A TUMBLER
6. CONSTRUCT A SIGN TO IDENTIFY THE DOOR



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SEP 22 2017
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Development Services Division

4	ISSUED FOR REVIEW	2017-07-18
3	ISSUED FOR REVIEW	2017-05-01
2	ISSUED FOR REVIEW	2016-10-26
1	ISSUED FOR REVIEW	2016-09-29

numberTEN
number
10

2610 Rock Bay Ave	2017-05-01
Storefront Cannabis Retailer Rezoning	
2610 Rock Bay Ave	
Existing Floor Plans	

2610 Rock Bay Ave	2017-05-01
Storefront Cannabis Retailer Rezoning	
2610 Rock Bay Ave	
Existing Floor Plans	
2016528	A-002

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1 Entrance On Rock Bay Avenue



2 East & North Face of Building



3 Loading Off Of John Street



4 South Face Of Building; Loading Off Of John Street

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SEP 22 2017

Planning & Development Department
Development Services Division

4	REVISED FOR REZONING	2017-07-18
3	REVISED FOR REZONING	2017-05-01
2	ISSUED FOR REZONING	2016-10-20
1	ISSUED FOR REVIEW	2016-09-29

numberTEN number
10

2610 Rock Bay Ave
Storefront Cannabis Retailer Rezoning

2610 Rock Bay Ave
Exterior Photos

A-003

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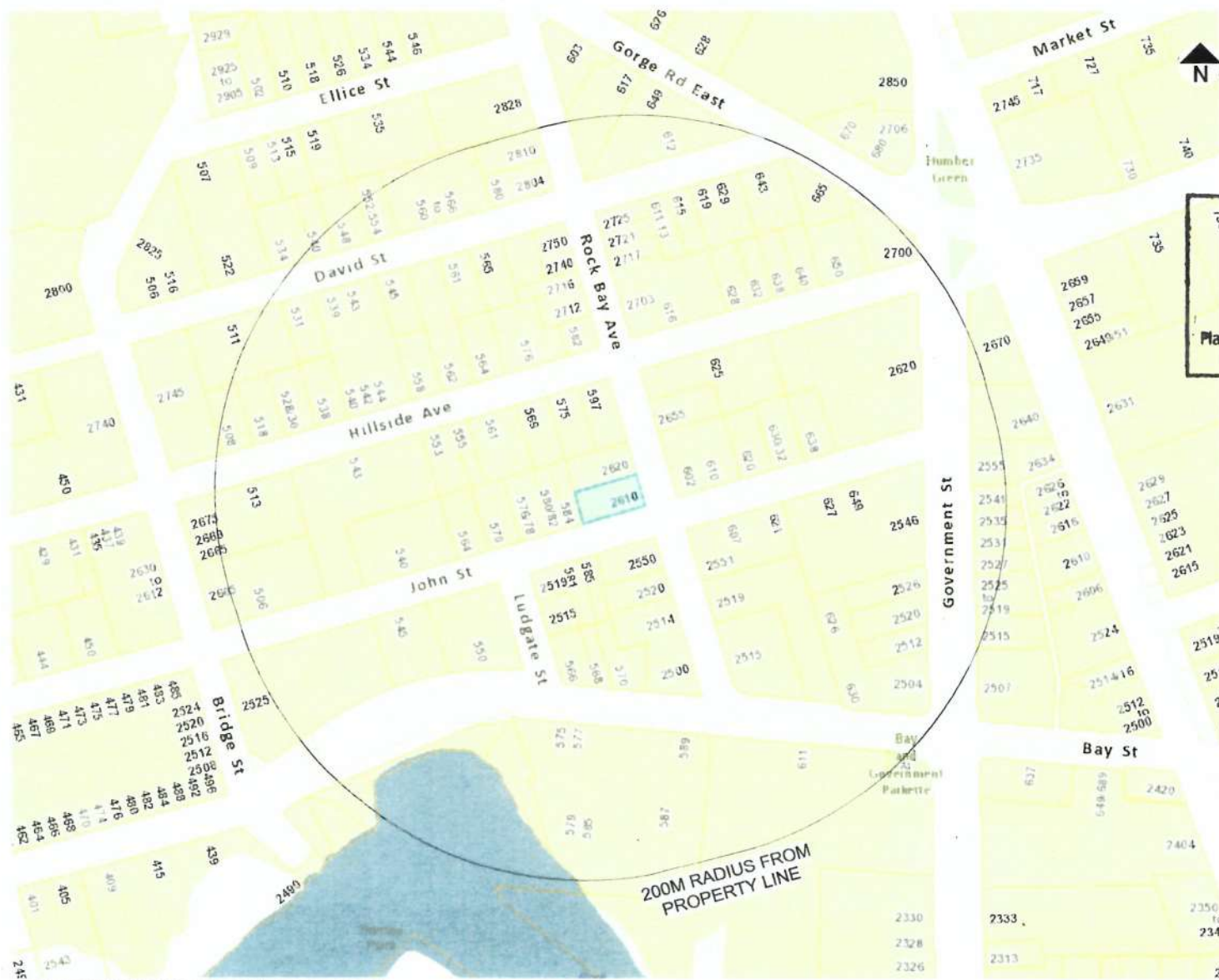
4	REVISED FOR REZONING	2017-03-18
3	REVISED FOR REZONING	2017-05-07
2	ISSUED FOR REZONING	2016-10-26
1	ISSUED FOR REVIEW	2016-09-29



2610 Rock Bay Ave
Storefront Cannabis Retailer Rezoning

2610 Rock Bay Ave
200m Radius Map

2016528
A-004



NO OTHER CANNABIS STOREFRONTS WITHIN 200m RADIUS

200M RADIUS FROM
PROPERTY LINE



To: Mayor Lisa Helps and members of Victoria City Council

From: Alex Robb, Community Liaison for Trees Dispensary

Date: October 23, 2016

Subject: Temporary Use Permit for Cannabis Related Business for 2610 Rock Bay Avenue

Dear Mayor and City Council,

This is a resubmission of the letter for our application for rezoning from October 20, 2016 for cannabis-related business for the property at 2610 Rock Bay Avenue. This revision to our application seeks to alter it from a permanent rezoning to an application for a Temporary Use Permit (TUP). Other revisions to our application include an updated transportation management plan to address the shortfall of two parking spaces for this property. As part of the resubmission of this application, I am also submitting a temporary development variance permit application to reduce the number of required parking spaces by one.

Description of Proposal Revisions

The main reason we are now seeking to revise our application from a permanent rezoning to a Temporary Use Permit (TUP) is because over the course of this rezoning application process the ownership of the building has changed hands, and the new landlord has announced plans to retrofit the building in 2018. This development will likely take nine months to a year to complete during which time we will have to vacate the premises.

We are in negotiations with the landlord to sign a new lease in the newly retrofitted building when it is complete, or to take over another nearby space, but a condition of this new lease agreement will be that we must vacate the building throughout construction. The landlord is not able to commit to the details of the lease until the retrofit is complete, and so we cannot at this time be certain that we will have a long-term lease for this location. Thus, we wish to alter this application so that it is a three-year TUP rather than a permanent rezoning.

We do not want to permanently rezone a location in which we do not know we have secure long-term lease, especially if we intend to move our business to a nearby location. Given the insecurity of our position, we are also searching for a suitable alternative location in the same neighbourhood. We would not want to rezone one location only to have our lease expire and then have that property's zoning for cannabis retail prevent us from rezoning a nearby property in order to continue the same business. We would prefer to obtain a Temporary Use Permit now, in order to provide us with more time to decide whether we want to rezone this property, or another nearby property, within the next three years.

Description of Proposal

The property at 2610 Rock Bay Avenue (located on the intersection with John Street) has functioned as a medical cannabis dispensary since October 2012, when Ashley Topfer and Shannon Topfer began Shiva Compassion Society in the retail office of the former Allied Glass warehouse and ancillary retail store. It was the first dispensary in the neighbourhood and has proudly served the local community by providing affordable cannabis products, and educating about the use of cannabis as a medicine, offering space for related harm reduction workshops and events, and contributing to community vitality by holding neighbourhood BBQs at the location itself. We also have also organized food drives, and held monthly charity drives that have raised over a thousand dollars for Mustard Seed Food Bank and others, and collected hundreds of cans of non-perishable food products.

This was the first cannabis storefront in the neighbourhood, and over time a number of other cannabis businesses have set up shop. There are several other cannabis storefronts within a 400-meter radius of the location, but they are just outside of a 200-meter radius of 2610 Rock Bay Avenue. These other storefronts include Medijuana on Gorge Road, Green Buddha on Bridge Street, Absolute Medicinal on Turner Street, and Five Star Medicinal on Douglas Street.

City Policy

This rezoning application conforms to the City's Cannabis Storefront Rezoning Policy in every way. It is further than 200 meters from community centres and schools. It is appropriately zoned in a M2 industrial, which allows for accessory retail. No public nuisance is created by its operation. The location of the medical cannabis storefront in this area has made the streets safer by putting more "eyes on the street", increasing foot traffic, and contributed significantly to neighbourhood revitalization.

Project Benefits and Amenities

The economic, environmental, and social benefits of this project are numerous. The regulation of this business sector in Victoria is likely to stimulate the local economy, making Victoria a hub of this emerging regulated and taxed business activity in the city and so help transition this industry, (that was previously taking place in an informal, unregulated and untaxed manner), toward a better regulated marketplace. The cannabis industry on Vancouver Island contributes significantly to the economy and offers quality, high paying employment for Victoria's young population many of whom are highly educated, especially in the field of alternative healthcare.

Trees Dispensary has sought to promote education about cannabis as a medicine, adjunct therapy for terminal illness, and harm reduction tool by offering educational workshops in our own facility and at other venues across town: including the Our Place Housing Society and the headquarters of Peers Victoria Resources Society (the formerly known as Prostitutes Empowerment and Education Resource Society) in Victoria West.

Since May of 2015 Trees Dispensary has made our space available on a regular basis to PEERS so that they can offer workshops in the area Rock Bay area that many of their target population live and work. Two or three times a month PEERS offers workshops on such topics as: self-defense, reporting abuse to the police, aromatherapy, overdose prevention and other topics. They have also worked with nurses from Cool Aid and Aids Vancouver

Island – Victoria (AVI) to provide Hep C and HIV testing to the local population of sex workers in our unused space. Since we operate our business in an area with a high need for outreach to the street involved population, it has proven very beneficial to the local population and non-profits who are trying to serve groups that are difficult to access and organize for their collective interests.

The space that Trees provides has become an important part of PEERS programming and allowed Trees to connect with other harm reduction organizations in town to further contribute to the health of the community. We have invited AVI related nurses to give workshops to our staff in the administration of Naloxone, and we have Naloxone kits on site at each store and are able to intervene quickly to administer it in the event of someone overdosing on opioids in the vicinity. Additionally, Trees staff regularly cleanup the area around the Rock Bay neighbourhood of used needles and other refuse. And Trees staff have also organized a beach cleanup and sponsored other local environmental and cultural initiatives, and local art festivals.

Neighbourhood

The proposed development contributes significantly to neighbourhood by providing low cost cannabis products in a customer service oriented atmosphere. This particular storefront also contributes vibrancy by sponsoring and promoting arts and culture events in the neighbourhood, providing rehearsal space to local artists, and providing space and funding for harm reduction and community health initiatives in the classroom type space we offer on the second floor. The increased employment in the area has also attracted employees who wish to live close to where they work.

Impacts

This location has already seen improvement to the quality of life and amenities available to neighbourhood denizens. When Trees began operation at 2610 Rock Bay in October of 2012, doing business as “Shiva Compassion Society”, it was the only such cannabis business in the area, and commercial vacancy rates in the neighbourhood were high and the area seemed stagnant. Trees Dispensary has become an anchor business in the neighbourhood and attracted commuters who have discovered other neighbourhood businesses such as cafes, coffee roasters, art studios, furniture stores, and other emerging creative businesses in the area. We are proud to have good relations with all our neighbours and have regularly attended Burnside Gorge community events and contributed to discussion around community revitalization at Community Conversations workshops put on by the City of Victoria.

Design and development permit guidelines

The current site of 2610 Rock Bay Avenue has a M-2 zoning which allows for the use of the premises as retail sales as an accessory use of products manufactured, stored, etc. in the primary use. As this is the company headquarters of Trees Dispensary, the majority of processing, handling and storage occurs in this location and is then shipped out to subsidiary stores. Less than 25% of the building area is dedicated to retail sales so this location meets the requirements of the zoning.

Safety and security

Trees Dispensary's presence in the area has contributed to the safety and security of the neighbourhood and residents, and resulted in a decrease in petty crime in the immediate area. The increased foot traffic in the area as a result of Trees business has made the streets more populated and safer. Our staff have kept the area surrounding our business well maintained, clean, and free of litter and other refuse. Our 24-hour high definition camera system can be used to provide information on crimes that may happen in the neighbourhood after hours. The Victoria PD's major crimes division have used our security cameras to investigate an aggravated assault that occurred in the neighbourhood in early October 2016, and we are able to offer up to four weeks of film footage of everything that happens on the intersection outside our storefront and across the streets, which has decreased graffiti and crime in the area.

Transportation

Under the zoning requirements of Schedule C, 1 parking space is to be provided per 37.5sq.m of gross floor area for retail stores, and 1 parking space is to be provided per 93sq.m of gross floor area for warehouse use, and 1 parking space is to be provided per 140sq.m of gross floor area for manufacturing use, therefore, six parking spots are required.

There are five available spots on-site, so there is a shortfall of one required parking spaces. For that reason we are submitting a development variance permit application, along with this rezoning application, in order to reduce the total number of required parking spots for this property to five.

Along with this request for one less parking space, Trees Dispensary has undertaken a transportation management plan for promoting cycling and public transportation for our employees. Already, the majority of the people who work in this building use a bicycle to commute, and they park their bicycle in the indoor bike parking we provide, pictured below, and noted in the revised drawings. There is not an existing need for more than five spaces, and there is no likelihood that we will require any more parking spots in the future.

In addition to the common use of bicycles among staff for commuting, Trees Dispensary also commits to subsidizing public transportation by staff by making free bus tickets available to staff at this store on request, and offering to pay half of a monthly bus pass for any staff person that commutes by bus. Together, these measures mitigate any undesirable consequences of reducing the required parking for the building by one space.

**Heritage**

This property does not have heritage status and no heritage buildings are effected by this application.

Thank you for your consideration and for your efforts to bring about regulation to this business sector in Victoria. I look forward to further developing the Trees Dispensary business in Victoria and finding other ways to contribute to this vibrant community.

All best wishes,

Alex Robb

General Manager, Trees Dispensary