



## **Committee of the Whole Report**

**For the Meeting of January 11, 2018**

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**To:** Committee of the Whole **Date:** December 28, 2017

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

**Subject:** Rezoning Application No. 00600 for 1038-1040 Fort Street

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### **RECOMMENDATION**

That Council decline Rezoning Application No. 00600 for the property located at 1038-1040 Fort Street.

### **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 1038-1040 Fort Street. The proposal is to rezone from the CA-42 Zone, Harris Green Commercial District, to a site-specific zone in order to permit the use of storefront cannabis retailer.

The following points were considered in assessing this application:

- the proposal is consistent with the Core Residential designation in the *Official Community Plan, 2012*
- the proposal is consistent with the Residential Mixed-Use District designation in the *Downtown Core Area Plan*
- the proposal is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy*, as the application is within 400m from a permitted storefront cannabis retailer.

## **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 zone are being proposed and would be accommodated in the new zone:

- 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 197m<sup>2</sup>, which is in keeping with the size of the existing operation.

All other requirements within the CA-42 Zone, Harris Green Commercial District, would remain the same.

Staff have requested a Statutory Right-of-Way (SRW) of 3.42m on Fort Street 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.

### **Sustainability Features**

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

### **Active Transportation Impacts**

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

### **Public Realm Improvements**

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

### **Accessibility Impact Statement**

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

### **Land Use Context**

The area is characterized mainly by ground floor retail with some buildings having office or residential use on the upper storeys.

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

The site is presently a two-storey building with retail fronting the street. Under the current CA-42 Zone, Harris Green Commercial District, the property could be developed for a variety of commercial uses including commercial/residential, up to a height of 15.5m and a density of 2.5 to 1.

## 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 constructing a new building; however, the application was referred to the Downtown Residents 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 (November 30)
Calls to the immediate area	0	7	2
Calls to the block	109	123	130

## ANALYSIS

### Official Community Plan

The *Official Community Plan, 2012* (OCP) identifies this property within the Core Residential urban place designation, in which commercial activities are an envisioned use.

### Local Area Plans

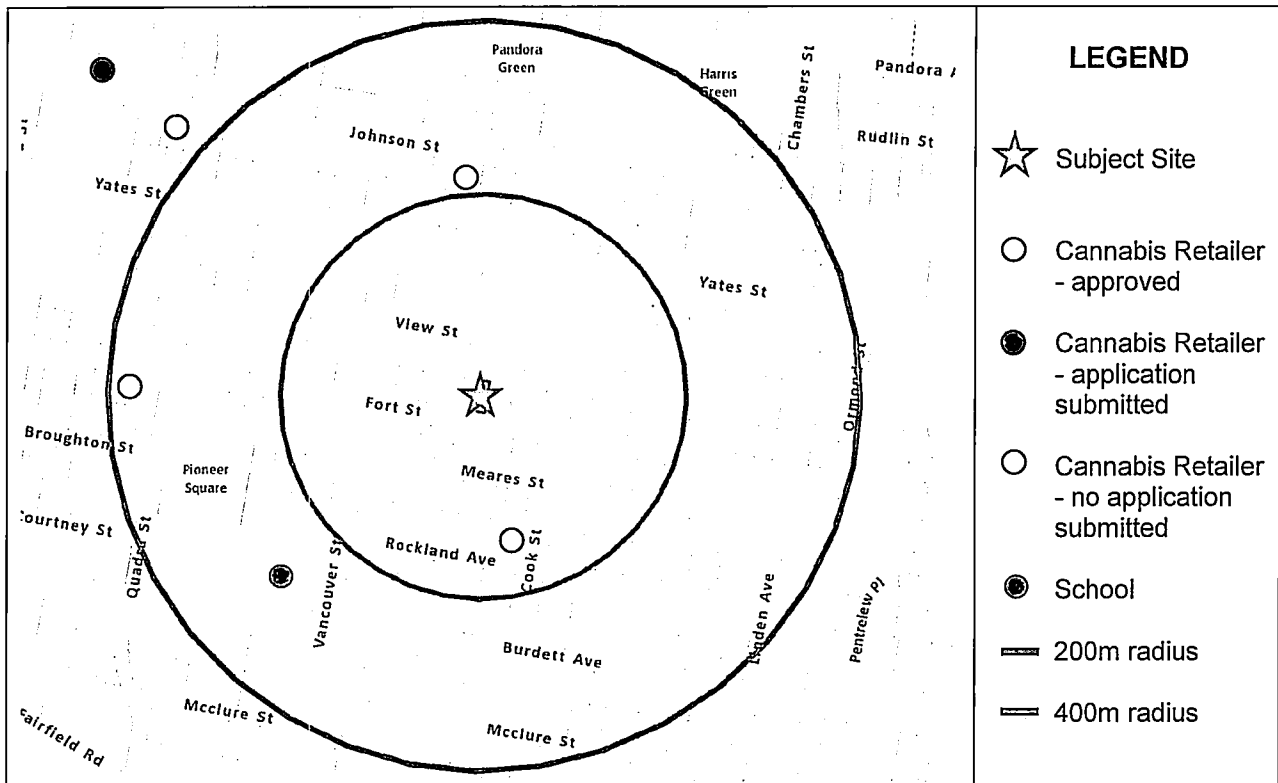
The *Downtown Core Area Plan* identifies the property within the Residential Mixed-Use District, within which active commercial and retail uses at street level along Fort Street are encouraged.

### Tree Preservation Bylaw and Urban Forest Master Plan

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

### Storefront Cannabis Retailer Rezoning Policy

This application was one of the sites identified as operating as a storefront cannabis retailer at the time of Council adopting the regulations and policy framework related to cannabis. The proposal is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy* as there is an approved storefront cannabis retailer 107 metres from the subject site at 1010 Cook Street. No public or independent elementary, secondary or high schools are within 200m of the property. Christ Church Cathedral School is 227m from the subject site.



## CONCLUSIONS

This proposal to permit the use of a storefront cannabis retailer is consistent with both the *Official Community Plan* and the *Downtown Core Area Plan* in accommodating retail uses. The proposal does not have any schools within 200m of the parcel; however, there is an approved storefront cannabis retailer within 400m of the subject property. The application is therefore inconsistent with the *Storefront Cannabis Retailer Rezoning Policy* and Staff recommend that Council consider declining this application.

## ALTERNATE MOTION

That Council instruct staff to prepare the necessary Zoning Regulation Bylaw Amendment that would authorize the proposed development outlined in Rezoning Application No. 00600 for 1038-1040 Fort Street, that first and second reading of the Zoning Regulation Bylaw Amendment be considered by Council, and that a Public Hearing date be set once staff receive proof of registration at the Land Titles Survey Authority of a Statutory Right-of-Way (SRW) of 3.42m on Fort 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:

*Carolyn Jenkins*  
*Jan 2, 2018*

**List of Attachments:**

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped July 12, 2017
- Attachment D: Letter from applicant to Mayor and Council dated July 7, 2017.