



## **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:** Temporary Use Permit Application No. 00009 for 543-549 Herald Street

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### **RECOMMENDATION**

That Council decline Temporary Use Permit Application No. 00009 for the property located at 543-549 Herald Street.

### **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 Application for the property located at 543-549 Herald Street. The proposal would allow the use of a storefront cannabis retailer within the CA-3C Zone, Old Town District, through a Temporary Use Permit.

The following points were considered in assessing this application:

- the proposal is consistent with the Core Historic designation in the *Official Community Plan, 2012*
- the proposal is consistent with the Historic Commercial designation in the *Downtown Core Area Plan*
- the proposal is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy*, as the application is within 400m of two permitted storefront cannabis retailers.

## **BACKGROUND**

### **Description of Proposal**

This Temporary Use Permit Application is to allow for the retail sale of cannabis in an existing building. A new fire exit door is being proposed near the south west corner of the building and if this permit is approved a delegated development permit would be required for this alteration. The following differences from the standard zone are being proposed and would be accommodated in a 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 a maximum floor area of 100m<sup>2</sup>, which is in keeping with the size of the existing operation.

All other requirements within the CA-3C Zone, Old Town District, remain the same.

### **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 Temporary Use Permit Application.

### **Accessibility Impact Statement**

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

### **Land Use Context**

The subject property is located within Chinatown. The area is characterized by low-rise brick buildings, many of which are heritage designated, with retail and restaurant uses on the ground floor and residential uses on the upper floors.

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

The site is presently a two-storey building with commercial uses on the ground floor and residential units on the second floor. The building has heritage value through its representation of early 1900's industrial architecture in Victoria's Chinatown; however, the building is not heritage designated or registered.

Under the current CA-3C Zone, Old Town District, the property could be developed up to a height of 15m with a maximum floor space ratio of 3:1. A variety of commercial uses, with residential uses on the upper storeys, are permitted in this zone.

## Relevant History

On September 7, 2017, Council voted to decline a Rezoning Application for a storefront cannabis retailer at this property. As per the applicant's letter dated November 30, 2017, the Temporary Use Permit would be utilized while the business is relocated to a more suitable location. As such, if Council approves the Temporary Use Permit, staff recommend the expiration of the permit be set for one year, which would allow the applicant enough time to find a new location and go through the Rezoning process.

## 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 VicPD service calls:

Calls for Service	2015	2016	2017 (December 14)
Calls to the immediate area	5	4	2
Calls to the block	116	136	82

## ANALYSIS

### Official Community Plan

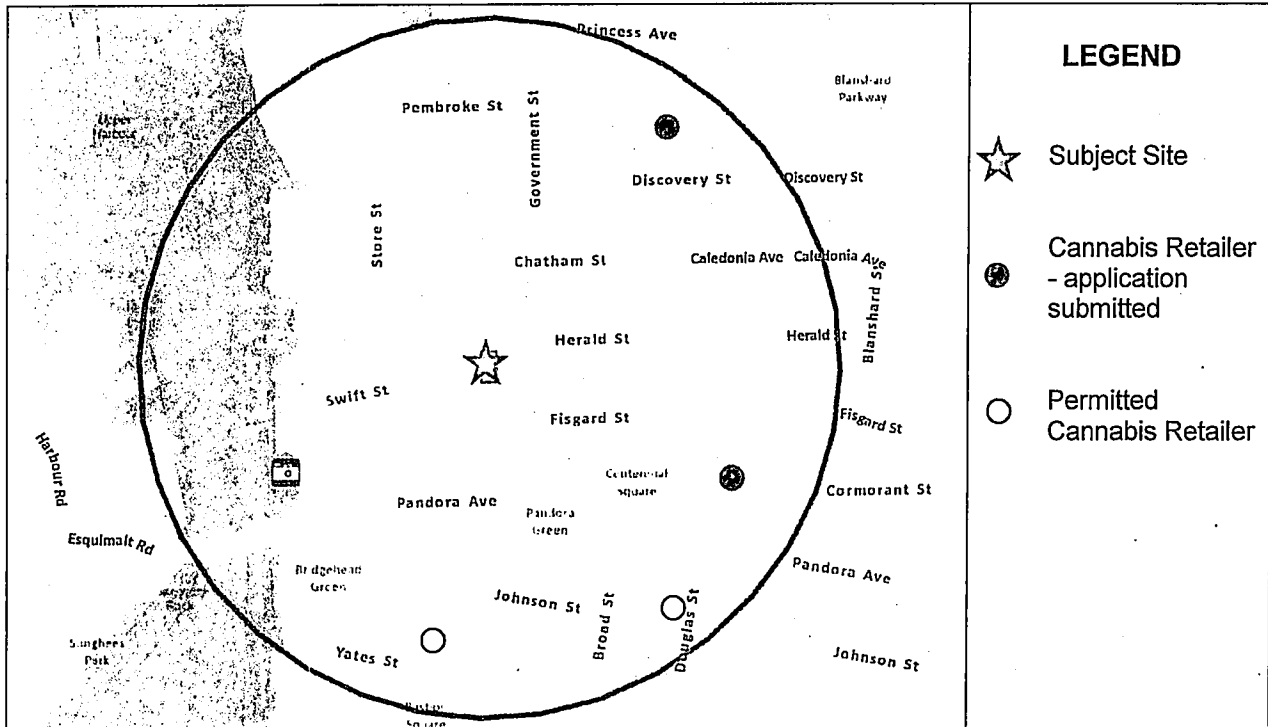
The *Official Community Plan, 2012* (OCP) identifies this property within the Core Historic urban place designation, within which at-grade commercial uses, including retail, are envisioned.

### Local Area Plans

The *Downtown Core Area Plan* identifies the property in the Historic Commercial designation, within which a range of active commercial uses such as retail stores are envisioned.

### 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 the storefront cannabis retailer at 546 Yates Street is 284m from the subject site and the storefront cannabis retailer at 1402 Douglas Street is 323m from the subject site. Although there are no elementary, middle, or secondary schools within 200m of the property, the Chinese Public School, which teaches Chinese culture and language, is 137m from the subject site.



## CONCLUSIONS

This proposal to permit the storefront cannabis retailer use is consistent with the *Official Community Plan* and the *Downtown Core Area Plan* in accommodating at-grade commercial retail uses. However, the proposal is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy* as there are permitted storefront cannabis retailers within 400m of the property. Staff recommend Council consider declining the Temporary Use Permit Application.

## ALTERNATE MOTION

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

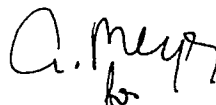
"That Council authorize the issuance of a Temporary Use Permit Application for 543-549 Herald Street in accordance with:

1. Plans date stamped December 1, 2017.
2. Development meeting all *Zoning Regulation Bylaw* requirements.
3. The Temporary Use Permit lapsing one year from the date of this resolution."

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:

*Joseph J. J. J.*  
*Jan 2, 2018*

**List of Attachments:**

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped December 1, 2017
- Attachment D: Letter from applicant to Mayor and Council dated November 30, 2017.