



## **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. 00008 for 2650-2654 Quadra Street

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### **RECOMMENDATION**

That Council decline Temporary Use Permit Application No. 00008 for the property located at 2650-2654 Quadra 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 2650-2654 Quadra Street. The proposal would allow the use of a storefront cannabis retailer within the C1-QV Zone, Quadra Village District, through a Temporary Use Permit.

The following points were considered in assessing this application:

- the proposal is consistent with the Large Urban Village designation in the *Official Community Plan*, 2012
- the proposal is consistent with the retail designation in the *Hillside-Quadra Neighbourhood Plan*
- the proposal is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy* as there is a permitted storefront cannabis retailer within 400m and a secondary school within 200m of the subject property.

## **BACKGROUND**

### **Description of Proposal**

This Temporary Use Permit 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 the ground floor
- storefront cannabis retailer would be restricted to a maximum floor area of 110m<sup>2</sup>, which is in keeping with the size of the existing operation.

All other requirements within the C1-QV Zone, Quadra Village District, remain the same. However, there is evidence of unlawful construction and unlawful occupancy on-site as the plans submitted identify four residential units within the existing building, whereas previous approvals only permit three residential units. A separate Development Permit with Variances will be needed to address this non-conformance.

Staff have also requested a Statutory Right-of-Way (SRW) of 3.20m off Quadra Street to meet future transportation-related needs. If this application is forwarded to a Public Hearing, staff recommend for Council's consideration that the SRW be made a condition of the Temporary Use Permit.

### **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 subject property is located within Quadra Village, which is characterized mainly by ground floor retail and restaurant uses and some mixed-use buildings. Residential uses are located on flanking streets.

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

The site is presently a two-storey building with commercial uses on the first storey and residential uses on both the first and second storeys.

Under the current C1-QV Zone, Quadra Village District, the property could be developed up to four storeys in height and the zone permits both commercial and commercial/residential uses.

### Relevant History

A previous Rezoning Application at 2650-2654 Quadra Street was cancelled by the applicant after the storefront cannabis retailer across the street at 2639-2641 Quadra received approval by Council. Subsequently, a Temporary Use Permit Application was submitted for 2650-2654 Quadra Street. As per the applicant's letter dated October 30, 2017, the Temporary Use Permit would be utilized while the business is relocated to a more suitable location. As such, staff recommend the expiration of the permit be set for one year if Council approves the Temporary Use Permit, which would allow the applicant enough time to find a new location and complete 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 Hillside-Quadra Neighbourhood Action Committee 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 12)
Calls to the immediate area	5	2	1
Calls to the block	257	185	127

## ANALYSIS

### Official Community Plan

The *Official Community Plan, 2012* (OCP) identifies this property within the Large Urban Village urban place designation, within which ground-oriented commercial uses are envisioned.

### Local Area Plans

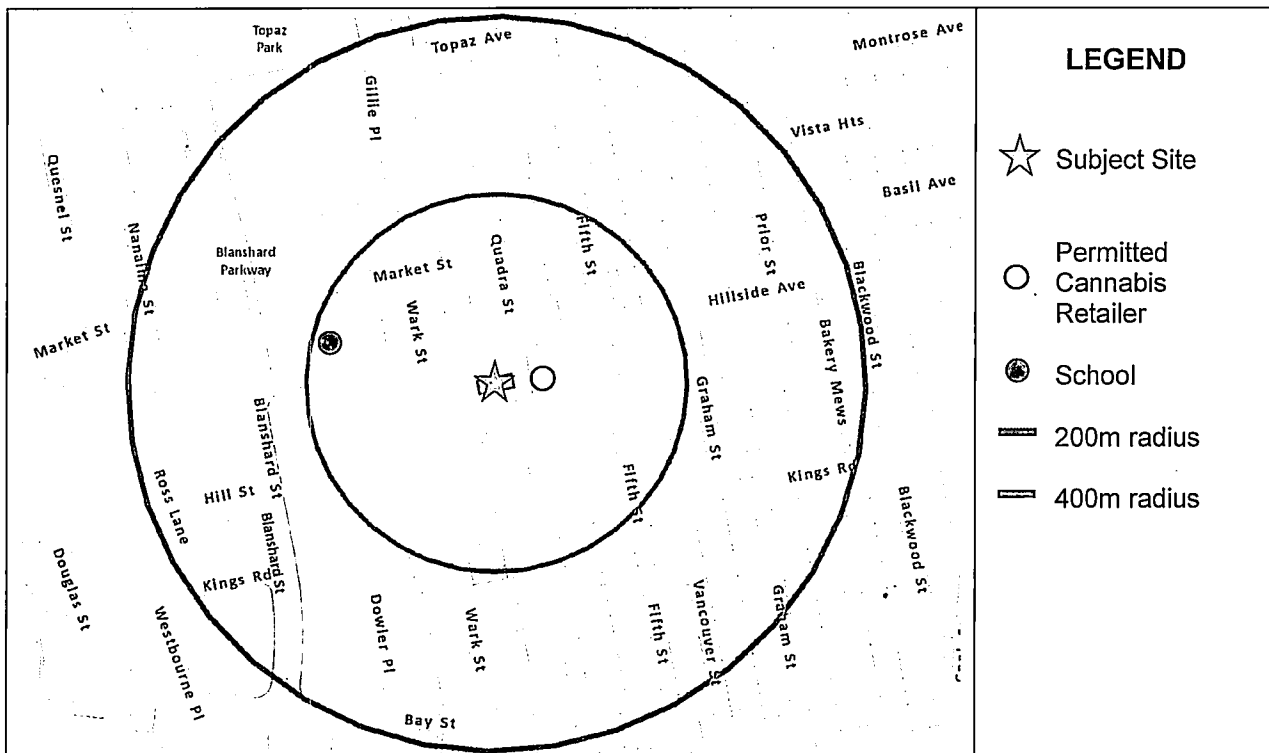
The *Hillside-Quadra Neighbourhood Plan* identifies the property within the "Consider Reduction of Allowable Height, More Street Retail" designation, where continuous commercial uses fronting the street are envisioned.

### Tree Preservation Bylaw and Urban Forest Master Plan

There are no Tree Preservation Bylaw impacts with this application.

## Storefront Cannabis Retailer Rezoning Policy

The subject property 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 application is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy* as the property line for the playing fields at SJ Willis Education Centre is approximately 150m from the subject property. SJ Willis offers alternative education for students in grades 9-12 and has been considered in the past to be used as a temporary school while other School District buildings receive seismic upgrades. In addition, the Rezoning Application for the storefront cannabis use at 2639-2641 Quadra Street, approximately 20m away from the subject property, was given final approval by Council on November 23, 2017.



## Regulatory Considerations

The plans as submitted identify four residential units within the existing building, whereas previous approvals only permitted three residential units. Therefore, there is evidence of unlawful construction and unlawful occupancy on-site. Furthermore, the C1-QV Zone, Quadra Village District, does not permit residences to be located on the ground floor and as such a variance would be required. This could be accommodated in a Development Permit with Variances, which is supportable by staff as the residential unit does not front onto the commercial street.

In addition, the parking layout as submitted does not comply with Schedule C of the *Zoning Regulation Bylaw* for the following reasons:

- gravel is not a permitted surface for parking areas
- parking is not permitted within 1.0m of the property line
- the maximum permitted driveway crossing width is 7.0m
- the minimum permitted distance between a driveway crossing and a vertical obstruction is 1.2m.

Finally, the *British Columbia Building Code* requires a second exit door at the rear of the building.

If Council moves this application forward, staff recommend for Council's consideration requiring plan revisions prior to a Public Hearing to rectify the parking layout and rear exit door, as well as requiring a Development Permit with Variances to permit the residential unit on the ground floor. If Council declines the application, the property will be referred to Bylaw Services to bring the property into compliance.

## CONCLUSIONS

This proposal to permit the storefront cannabis retailer use is consistent with the *Official Community Plan* and the *Hillside-Quadra Neighbourhood Plan* in accommodating commercial retail uses fronting the street. However, the proposal is inconsistent with the *Storefront Cannabis Retailer Rezoning Policy* as there is a permitted storefront cannabis retailer within 400m of the subject property and a secondary school within 200m of the subject property. Staff recommend that Council consider declining this Temporary Use Permit Application.

## ALTERNATE MOTION

Subject to the applicant submitting revised plans to legalize construction and parking on the property within three months of the date of this Council motion, that Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, consider the following motions:

- (1) "That Council authorize the issuance of a Development Permit with Variance for 2650-2654 Quadra Street, in accordance with:
  1. Plans date stamped November 15, 2017.
  2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
    - i. allow residences to be located on the ground floor, subject to the frontage of Quadra Street being used for commercial purposes.
  3. The Development Permit lapsing two years from the date of this resolution."

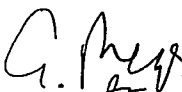
and

- (2) "That Council authorize the issuance of a Temporary Use Permit Application for 2650-2654 Quadra Street in accordance with:
  1. Plans date stamped November 15, 2017.
  2. Proof of registration at the Land Titles Office of a 3.20m Statutory Right-of-Way off Quadra Street.
  3. Development meeting all *Zoning Regulation Bylaw* requirements.
  4. 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

*Jocelyn Kenyars*  
*Jan 2, 2018*

Date:

**List of Attachments**

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Plans date stamped November 15, 2017
- Attachment D: Letter from applicant to Mayor and Council dated October 30, 2017.