

DATE OF MEETING July 6, 2020

AUTHORED BY GEPKE STEVENSON, PLANNER, CURRENT PLANNING

SUBJECT **REZONING APPLICATION NO. RA000451 – 1840 STEWART AVENUE**

## OVERVIEW

### **Purpose of Report**

To present Council with an application to amend the existing zoning of the property located at 1840 Stewart Avenue to allow “Cannabis Retail Store” as a site-specific use in the W2 (Harbour Waterfront) zone.

### **Recommendation**

That:

1. “Zoning Amendment Bylaw 2020 No. 4500.178” (To rezone 1840 Stewart Avenue to allow “Cannabis Retail Store” as a site-specific use in the W2 [Harbour Waterfront] zone) pass first reading;
2. “Zoning Amendment Bylaw 2020 No. 4500.178” pass second reading; and
3. Council direct Staff to acquire written confirmation that the proposed donation has been received by Snuneymuxw First Nation Emergency Housing Program prior to bylaw adoption.

## BACKGROUND

A rezoning application, RA451, was received from Coast Salish Canna Corp., for 1840 Stewart Avenue. The applicant proposes to amend the existing W2 zone to allow “Cannabis Retail Store” as a site-specific use for the subject property.

The City of Nanaimo adopted amendments to “City of Nanaimo Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) on 2018-SEP-17 and established a Cannabis Retail Store (CRS) Rezoning Criteria policy to consider future applications for CRS developments in anticipation of changing Federal and Provincial legislation. Following enactment of new legislation to decriminalize cannabis consumption and legalize the retail sale and distribution of Provincially-licensed cannabis product, the City of Nanaimo began receiving CRS rezoning applications on 2018-OCT-22.

To date, 22 CRS rezoning applications have been received, 11 have been approved by Council, 1 has been denied, and 10 are currently under review:

| # | Application No. | Address                | Status                    |
|---|-----------------|------------------------|---------------------------|
| 1 | RA413           | 3923 Victoria Avenue   | Bylaw adopted 2019-JUN-17 |
| 2 | RA407           | 6683 Mary Ellen Drive  | Bylaw adopted 2019-AUG-26 |
| 3 | RA408           | 3200 Island Highway N. | Bylaw adopted 2019-AUG-26 |
| 4 | RA425           | 6404 Metral Drive      | Bylaw adopted 2019-AUG-26 |

|    |        |                        |                                       |
|----|--------|------------------------|---------------------------------------|
| 5  | RA430  | 350 Terminal Avenue    | Bylaw adopted 2019-SEP-09             |
| 6  | RA418  | 52 Victoria Crescent   | Bylaw adopted 2019-SEP-16             |
| 7  | RA406  | 111 Nicol Street       | Bylaw adopted 2019-OCT-21             |
| 8  | RA 436 | 120 Commercial Street  | Bylaw adopted 2019-DEC-02             |
| 9  | RA410  | 1599 Dufferin Crescent | Bylaw adopted 2020-JAN-13             |
| 10 | RA439  | 847 Bruce Avenue       | Bylaw adopted 2020-APR-27             |
| 11 | RA440  | 5800 Turner Road       | Bylaw adopted 2020-MAR-16             |
| 12 | RA427  | 4061 Norwell Drive     | Denied by Council on 2019-JUL-08      |
| 13 | RA415  | 2220 Bowen Road        | Received third reading on 2019-APR-04 |
| 14 | RA411  | 25 Front Street        | Received third reading on 2019-MAY-02 |
| 15 | RA416  | 1483 Bowen Road        | Received third reading on 2019-MAY-02 |
| 16 | RA417  | 510 Fifth Street       | Received third reading on 2019-MAY-02 |
| 17 | RA420  | 140 Terminal Avenue    | Received third reading on 2019-JUN-13 |
| 18 | RA422  | 111 Terminal Avenue    | Received third reading on 2019-JUL-04 |
| 19 | RA431  | 50 Tenth Street        | Received third reading on 2019-OCT-07 |
| 20 | RA437  | 115 Chapel Street      | Received third reading on 2019-NOV-07 |
| 21 | RA449  | 5801 Turner Road       | Received third reading on 2020-JUN-18 |
| 22 | RA451  | 1840 Stewart Avenue    | Application under consideration       |

### Subject Property and Site Context

|  |   |
|--|---|
| <i>Location</i>                                  | The subject property is located to the southeast of the intersection of Stewart Avenue and Zorkin Road. |
| <i>Total Lot Area</i>                            | 1.92ha  |
| <i>Current Zoning</i>                            | W2 – Harbour Waterfront   |
| <i>Proposed Zoning</i>                           | W2 with site-specific “Cannabis Retail Store” use   |
| <i>Official Community Plan (OCP) designation</i> | Waterfront  |
| <i>Neighbourhood Plan designation</i>            | Newcastle and Brechin Neighbourhood Plan – Medium High Density Waterfront                               |
| <i>Proximity to nearest school</i>               | Approximately 800m<br>( <i>Ecole Oceane – 1951 Estevan Road</i> )                                       |
| <i>Proximity to nearest licensed daycare</i>     | Approximately 650m<br>( <i>Bright Beginnings Early Childhood Centre – 22 Cortez Place</i> )             |
| <i>Proximity to nearest CRS</i>                  | Approximately 2 km<br>( <i>1483 Bowen Road – received third reading</i> )                               |

The subject property contains three buildings: approximately one-fifth of the main building contains a restaurant, the remainder is unoccupied; the second building contains a neighbourhood pub; and the final building contains a retail store. The proposed CRS will operate in a portion of the main building. The buildings are served by a large on-site parking area and no additional parking is needed for the proposed CRS.

Surrounding land uses include a parking area and boat launch to the north, the Departure Bay Ferry Terminal to the northwest, a marina and Neighbourhood Pub to the south, and across Stewart Avenue to the west, a neighbourhood of predominantly low-density housing.

## **DISCUSSION**

### **Proposed Development**

The applicant is proposing to rezone the subject property to allow “Cannabis Retail Store” use in addition to the existing W2 permitted uses. While the W2 zone allows “retail” as a permitted use, a CRS requires site-specific rezoning.

The proposed business hours are from 9:00 a.m. to 11:00 p.m., seven days a week. The proposed retail floor area is approximately 102m<sup>2</sup>.

### **Provincial Licensing Requirements**

The City was advised by the BC Liquor and Cannabis Regulation Branch (LCRB) that an application for a non-medical cannabis retail licence had been made for the subject property.

As part of the LCRB’s review, the branch determines if the applicant is “fit and proper” to receive a licence, in accordance with Section 23(1) of the *Cannabis Act* (Bill 30), based on indicators such as financial integrity and security screening. The LCRB has advised the City that the applicant, Coast Salish Canna Corp, has met the requirements of the “fit and proper” assessment.

The LCRB will not proceed with a licensing application unless the local government submits a positive recommendation to the LCRB. Should Council approve “Zoning Amendment Bylaw 2020 No. 4500.178”, the bylaw approval would constitute a positive recommendation in support of the licensing application.

### **Official Community Plan**

The Official Community Plan (OCP) designates the subject property as Waterfront. The OCP does not address CRS use specifically, but the land use designation supports the provision of a mix of land uses that contribute to the vitality of the waterfront and recommends working with the Snuneymuxw First Nation to achieve the objectives of the OCP. The proposed CRS generally complies with the intent of the Waterfront designation.

## Cannabis Retail Store Rezoning Criteria

The following table summarizes how the proposed rezoning addresses the CRS Rezoning Criteria adopted by Council on 2018-SEP-17, which is intended to inform Council's consideration of the rezoning application:

| Criteria   | Response  |
|--|---|
| <b>Location</b>  |   |
| 1.1 The proposed CRS should be located on, or in close proximity to a provincial highway, urban arterial, or urban major collector road, as defined in the City's Functional Road Classification Working Plan; or in an Urban Node, Commercial Centre or Corridor as designated in the City's Official Community Plan. | The subject property is located within the Waterfront land use designation and is adjacent to a provincial highway (Stewart Avenue and Brechin Road).   |
| 1.2 The proposed CRS should not be located directly adjacent, or in close proximity to a school or licensed daycare facility. A minimum separation of 200m from these facilities is considered necessary, as measured from the front door of the CRS to the school or daycare property line.                           | The proposed CRS is located approximately 650m away from the nearest licensed daycare and approximately 900m away from the nearest school.<br><br>School District 68 and Island Health (Community Care and Licensing) confirmed they have no objections to the application. |
| 1.3. The proposed CRS should not be located within 200m of another CRS as measured from the front doors of the CRS. Where the CRS is to be located within a dense urban area (i.e. downtown), consideration shall be given to the overall urban density and context of the area.                                       | The proposed CRS is located approximately 2km from the nearest proposed CRS at 1483 Bowen Road.<br><br>The nearest approved CRS is approximately 2.75km away at 120 Commercial Street.  |
| <b>Building or Site</b>  |   |
| 2.1. The size of the proposed CRS should be consistent with the nature of the immediate area and the size of existing retail stores within the area.   | The proposed CRS will be located within an existing building. The size of the CRS unit is consistent with other commercial units.   |
| 2.2. The design of the proposed CRS should enhance or improve the aesthetics of the surrounding area, not detract from them.   | The building is pre-existing and is in good condition. The existing storefront will be retained.  |
| 2.2.1. The revitalization of heritage buildings is encouraged.   | N/A   |
| 2.3. Outside the downtown core, consideration should be given to a requirement for onsite parking and loading for every CRS.   | The onsite parking is pre-existing and no additional parking or loading spaces are required for this use.   |

| <b>Community Impact</b>   |  |
|---|--|
| 3.1. The applicant must outline their awareness of potential negative impacts of the proposed CRS on the community, and must identify the specific measures that will be taken to minimize or prevent these impacts from occurring.                     | The applicant provided a Letter of Rationale (Attachment E) that proposes measures to minimize or prevent potentially negative impacts including the following: <ul style="list-style-type: none"> <li>• no onsite consumption will be allowed;</li> <li>• filter system to prevent product odours;</li> <li>• staff training; and</li> <li>• operate in accordance with LCRB requirements.</li> </ul> |
| 3.1.1. Possible measures could include efforts to prevent service to minors, minimize smells, prevent smoking or cannabis consumption on or near the premises, property maintenance and beautification programs designed to prevent unsightliness, etc. |  |
| 3.1.2. Consideration must be given to the impact a CRS will have when they are located in close proximity to libraries, public recreation centres, public community centres, parks, places of worship and other family-oriented facilities.             | The subject property is adjacent to property zoned PRC-2 (Parks, Recreation and Culture – 2) at 1890 Zorkin Road; however, this is a facility for boaters and consists solely of a parking lot and boat launch.  |
| 3.2. Projected traffic volumes and on-street parking demands associated with a proposed CRS should not adversely impact nearby residential and commercial areas.  | The proposed CRS is not expected to generate traffic volumes that differ significantly from other retail uses.<br><br>No negative impacts on traffic volumes or neighbourhood on-street parking are anticipated.   |
| 3.3. The support of the local community, neighbouring property owners and the local neighborhood association for the proposed CRS is important to Council's decision.   | The subject property is adjacent to the Brechin Hill Community Association boundary. The Association was consulted and confirmed they have no concerns.  |
| 3.3.1. The applicant is required to notify all neighbouring property owners within 200m of the subject property of the rezoning application prior to the application proceeding to Council.   | The applicant distributed notices to neighbouring properties at the beginning of March 2020. Two rezoning notice signs have been placed onsite, and if Council gives first and second reading to "Zoning Amendment Bylaw 2020 No. 4500.178", the application will proceed to Public Hearing.   |
| 3.4. All CRS rezoning applications must be reviewed by the Community Vitality Committee and the RCMP, in addition to being reviewed by the City's Community Planning and Development Committee.   | The RCMP reviewed the proposal and indicated they have no concerns. No Community Planning and Development Committee has been established by Council; therefore, committee review has not taken place.  |

The W2 zone supports retail uses that meet the needs of the community at large, and, pending LCRB approval, the proposed CRS will complement existing waterfront commercial uses that serve the community.

Staff support the proposed rezoning from a land use perspective and consider the application to be substantially in compliance with City's CRS Rezoning Criteria policy.

### **Donation in Lieu of Community Amenity Contribution**

In lieu of a community amenity contribution to the City, the applicant proposes to make a donation of \$10,000 to the Snuneymuxw First Nation Emergency Housing Program. Chief Wyse has provided written confirmation that the proposed donation to the Emergency Housing Program is supported.

Staff support the proposed donation to Snuneymuxw First Nation Emergency Housing Program in lieu of a community amenity contribution to the City of Nanaimo. Confirmation of receipt of the donation will be acquired prior to adoption of "Zoning Amendment Bylaw 2020 No. 4500.178".

### **SUMMARY POINTS**

- A rezoning application has been received to allow Cannabis Retail Store use within an existing commercial building as a site-specific use in the W2 zone for the subject property located at 1840 Stewart Avenue.
- The Provincial Liquor and Cannabis Regulation Branch has approved the applicant's suitability for a cannabis retail licence.
- Staff support this application, which substantially complies with the City's Cannabis Retail Store Rezoning Criteria policy.

### **ATTACHMENTS**

ATTACHMENT A: Location Plan  
ATTACHMENT B: School and Licensed Daycare Buffer Map  
ATTACHMENT C: Site Plan  
ATTACHMENT D: Conceptual Floor Plan  
ATTACHMENT E: Letter of Rationale  
ATTACHMENT F: Aerial Photo  
"Zoning Amendment Bylaw 2020 No. 4500.178"

#### **Submitted by:**

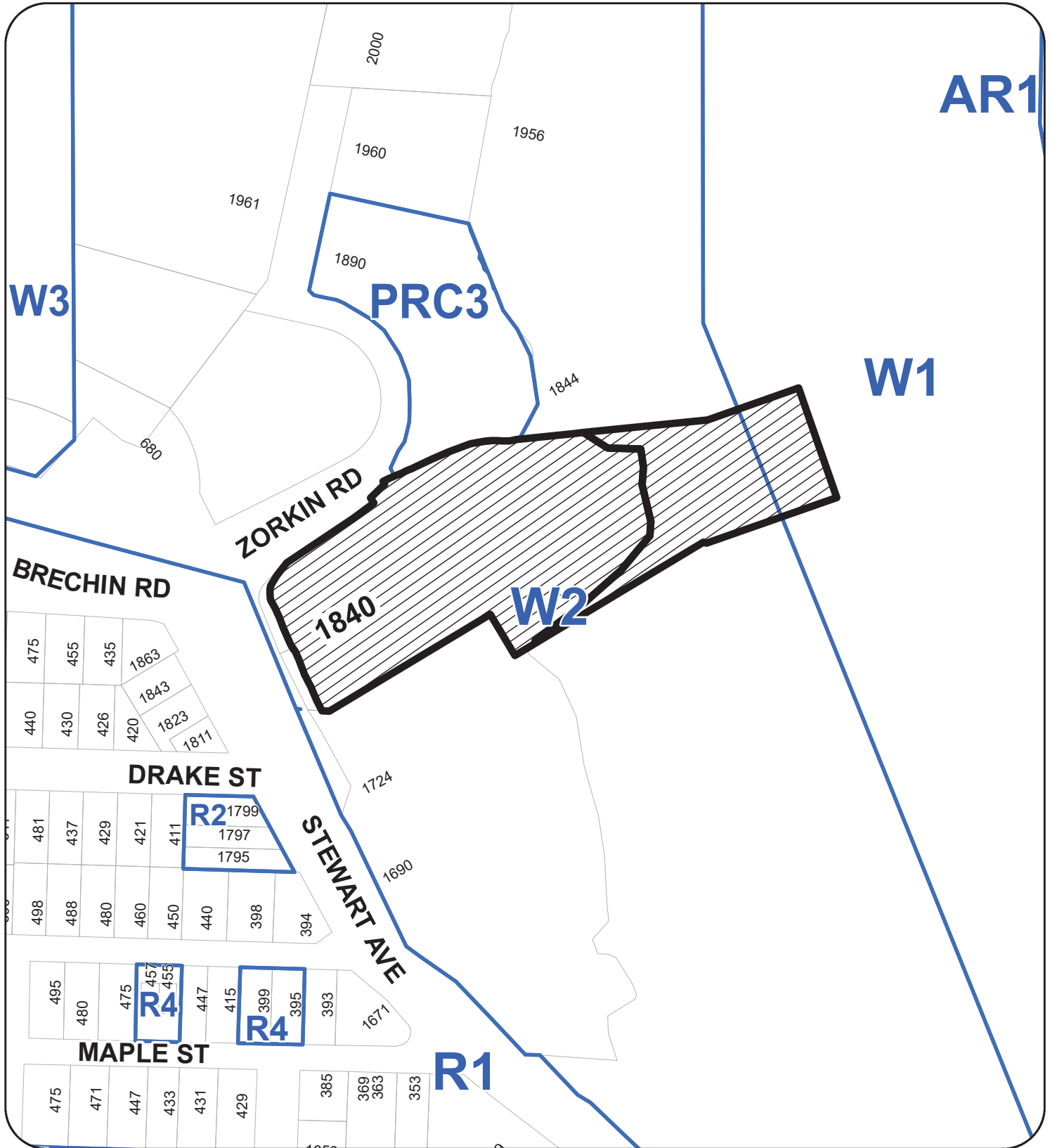
Lainya Rowett  
Manager, Current Planning

#### **Concurrence by:**

Jeremy Holm  
Director, Development Approvals

Dale Lindsay  
General Manager, Development Services

ATTACHMENT A  
LOCATION PLAN



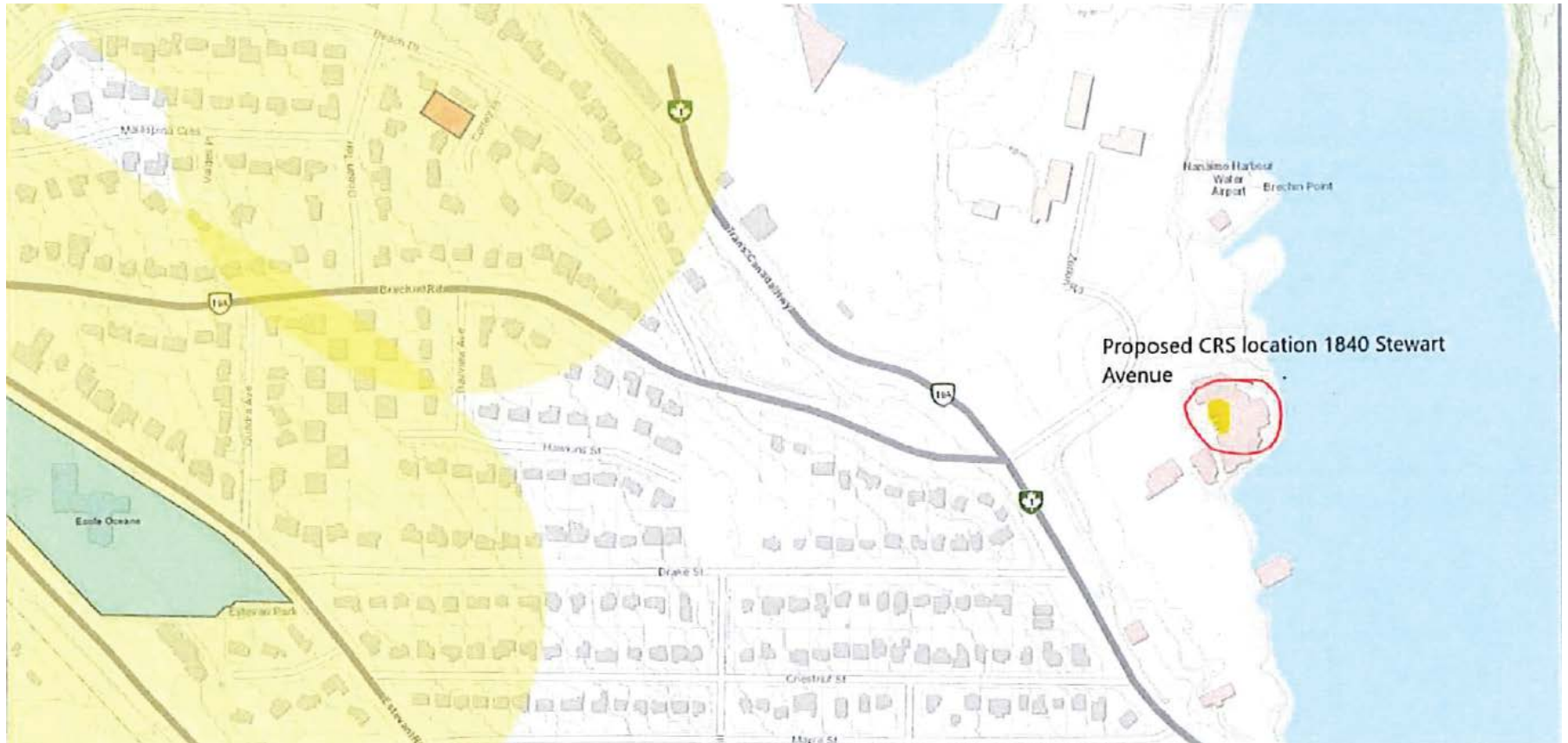
REZONING APPLICATION NO. RA000451

LOCATION PLAN

CIVIC: 1840 STEWART AVENUE  
 LEGAL: LEASE PL220 HELD BY THE PROVINCE FOR PUBLIC MARKET/MARINA  
 LD 32, PERMIT# 112942 BLK I, DL 227 & DL 2079 TOGETHER WITH THT PRT OF  
 BLK K & DL 2078 FOR MARINA, RESTAURANT, PUB, MARINE COMM RETAIL  
 SALES & SERVICES PURPOSES

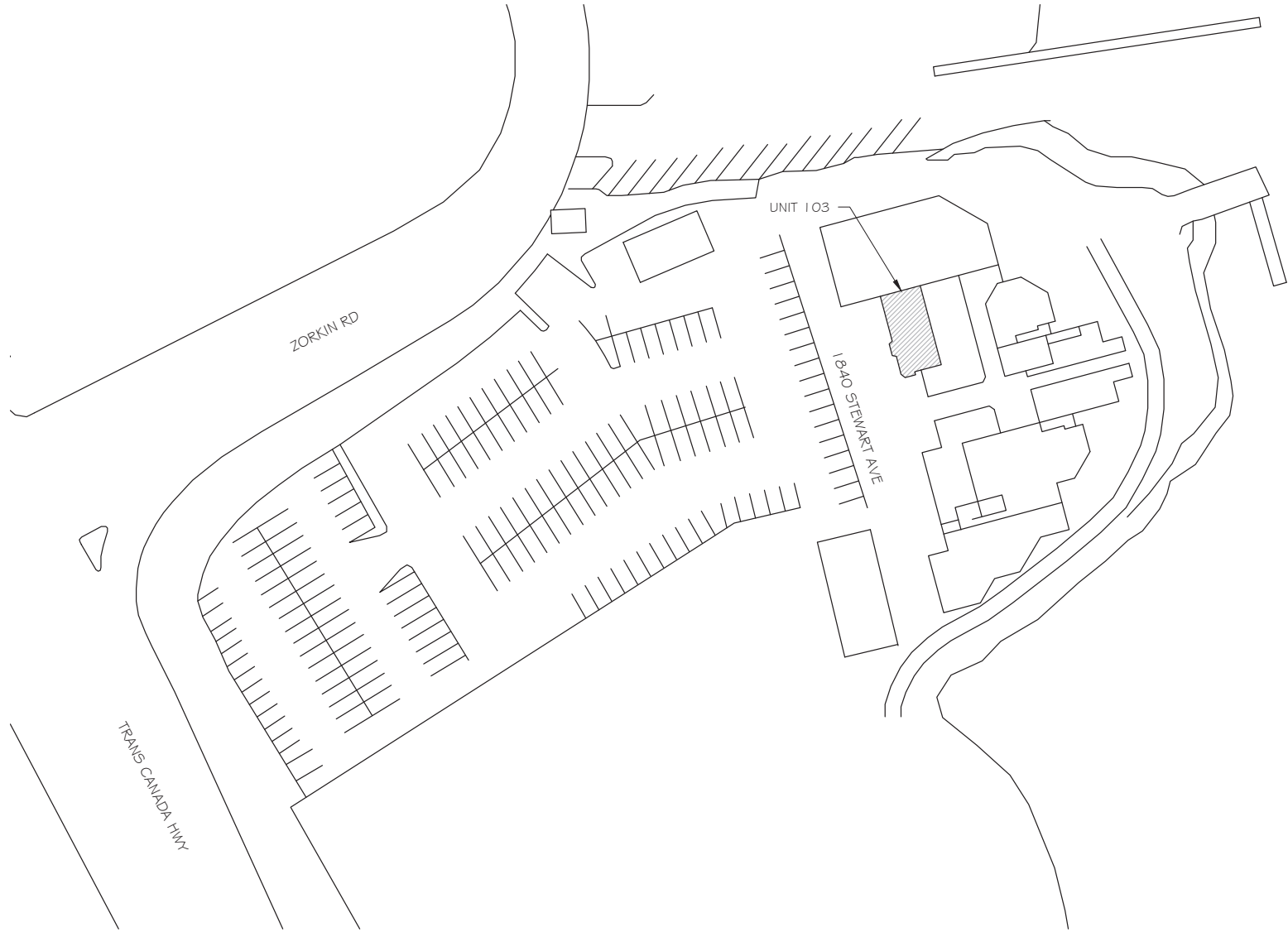


**ATTACHMENT B  
SCHOOL AND LICENSED DAYCARE BUFFER MAP**



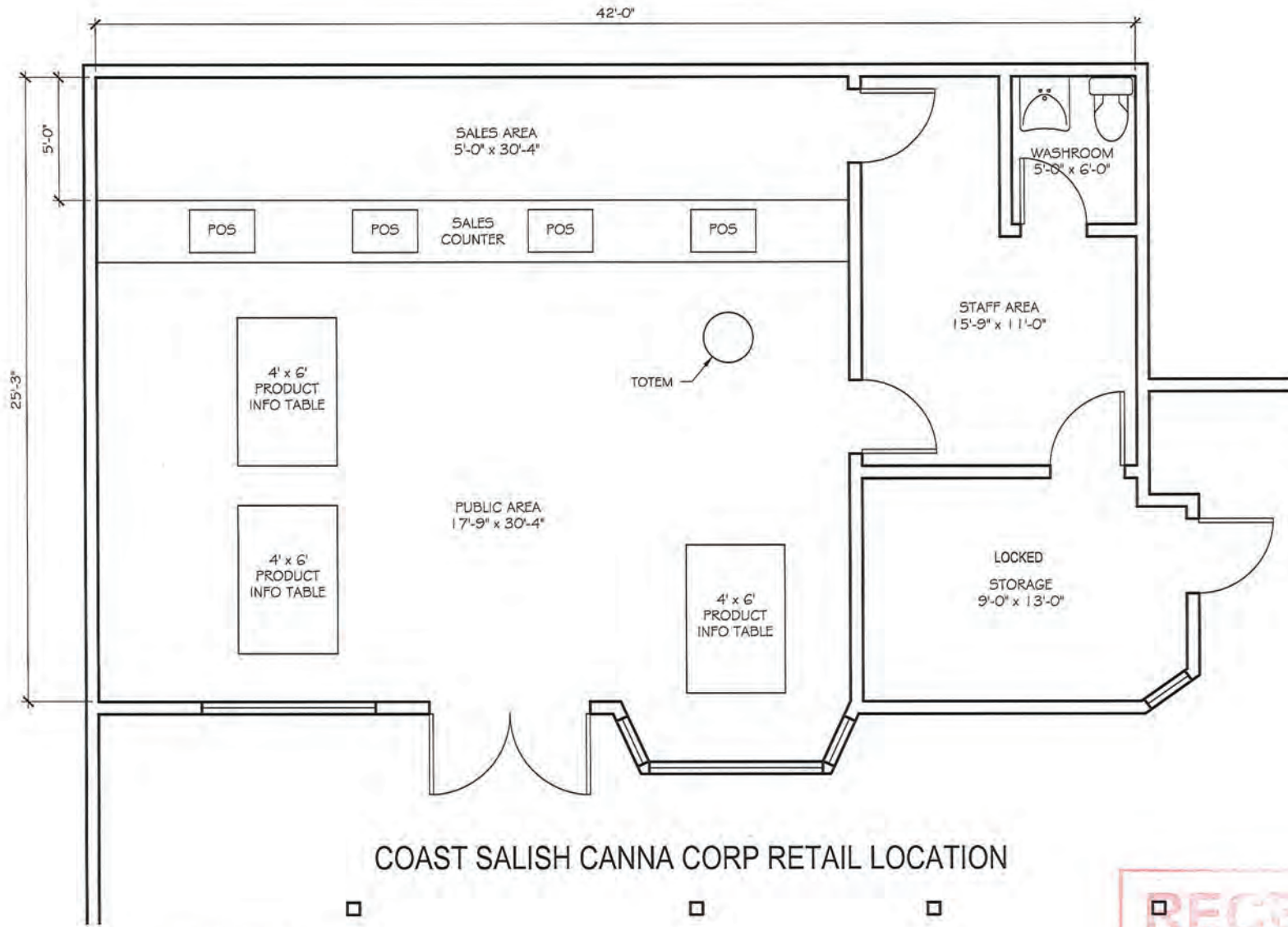


**ATTACHMENT C  
SITE PLAN**



RETAIL - SITE PLAN  
SCALE: 1/64" = 1'-0"

# ATTACHMENT D CONCEPTUAL FLOOR PLAN



COAST SALISH CANNA CORP RETAIL LOCATION

RETAIL - 1840 STEWART AVE  
SCALE: 1/4" = 1'-0"



**ATTACHMENT E  
LETTER OF RATIONALE**

**Coast Salish Canna Corp.**

Community Impact Statement

November 25, 2019

RE: Cannabis Retail Store – Rezoning

Coast Salish Canna Corp. (Snuneymuxw First Nations) Chief Michael Wyse/Terry Brown

At subject property of 103-1840 Stewart Avenue Nanaimo BC, V9S 4E6

1. There are no schools or daycares within the 200M boundary of the proposed location.

Rational:

The Snuneymuxw First Nation's and partners are excited for the proposed CRS location at 103-1840 Stewart Avenue. This location at 1840 Stewart Avenue with it's ample parking is considered on a main artery highway as well as directly adjacent to a travel terminal. The proposed location does not encroach on any schools or daycare buffers. The exterior of our CRS will follow all BC LCRB advertising guidelines and will target those of and above the legal age within the province.

All consumers and customers must be of legal age to enter the premises and at no point will any product be allowed to be consumed on site or in the surrounding location of the retail location. The site will have a staff presence of highly trained and helpful Snuneymuxw representatives to assist consumers within the newly designed retail storefront. State of the art technology including that of a filter system will ensure that air is kept fresh and no product odors will be emitted. All products and the way the operation is ran will strictly follow BC LCRB policies and procedures.

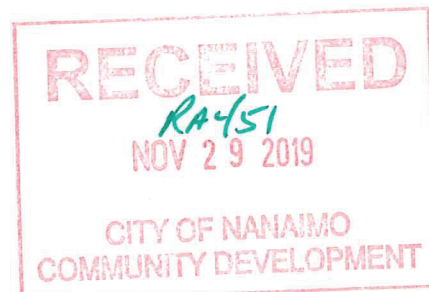
The location has ample parking space allowing it to become a destination that will not impede traffic flow in any manner. The use of the overall premises is a mix of retail and service providers and as such we feel that the CRS will work well in this location. The owner has also alluded to the commitment of refreshing the exterior and completing some capital improvements with a sense of property renewal that we are assuming the CRS will bring.

The Snuneymuxw community and its partners in this venture have spent much time discussing not only this opportunity but also the concerns with a business that sells age restricted products to the public. The forums and meetings have allowed our community to align with how we want to ensure that we educate our your and become involved in this market in a proactive and non-reactive manner. We are committed to education and ensuring that we work with the city and province on matters of compliance to ensure that this venture is successful for our people.

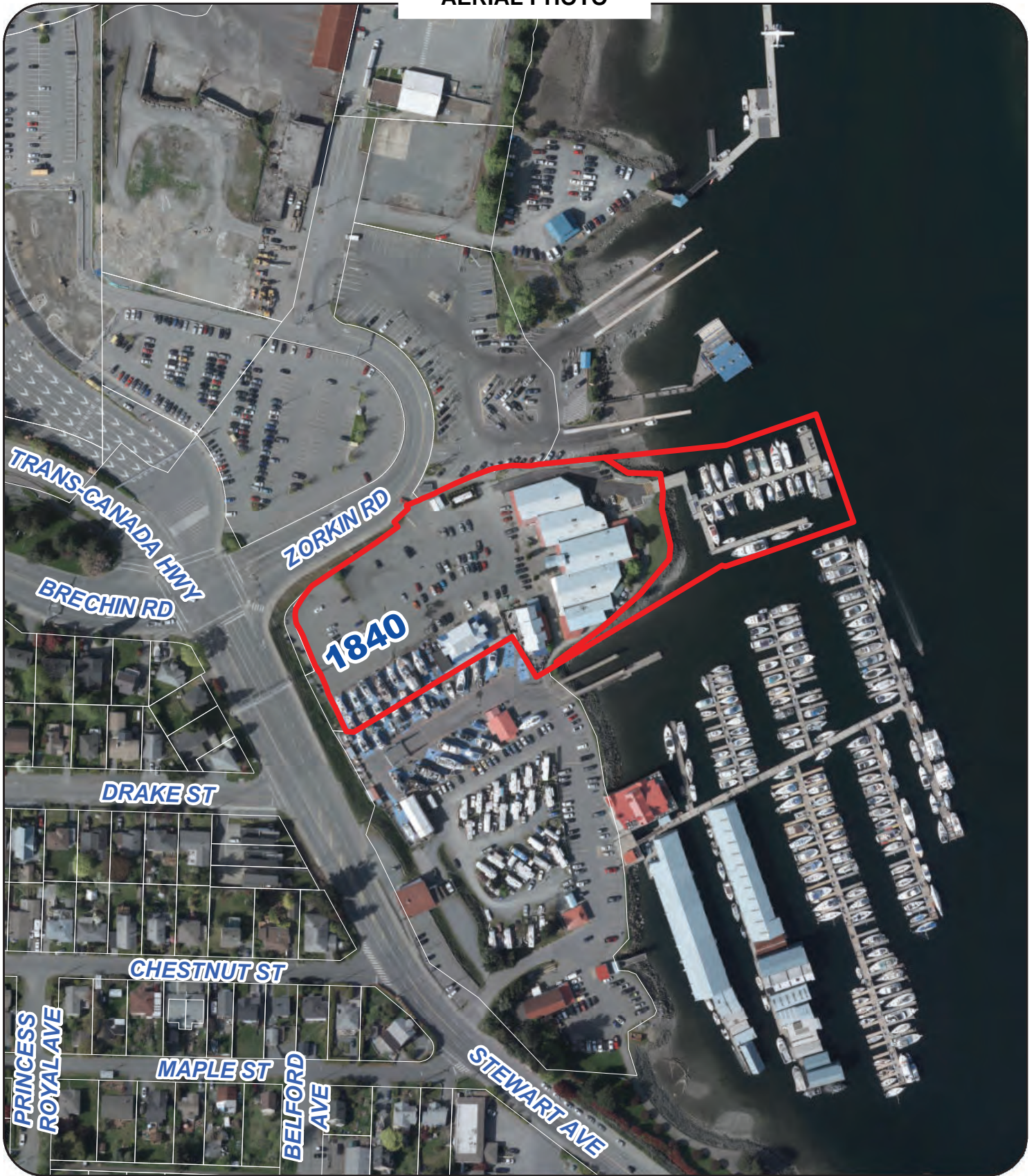
Sincerely,

Chief Michael Wyse

Terry Brown



ATTACHMENT F  
AERIAL PHOTO



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REZONING APPLICATION NO. RA000451

LEGEND

 SUBJECT PROPERTY

CITY OF NANAIMO

BYLAW NO. 4500.178

A BYLAW TO AMEND THE "CITY OF NANAIMO ZONING BYLAW 2011 NO. 4500"

WHEREAS the Council may zone land, by bylaw, pursuant to Sections 464, 465, 469, 477, 479, 480, 481, 482, and 548 of the *Local Government Act*;

THEREFORE BE IT RESOLVED the Municipal Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited as the "Zoning Amendment Bylaw 2020 No. 4500.178".
2. The "City of Nanaimo Zoning Bylaw 2011 No. 4500" is hereby amended as follows:

By rezoning the lands legally described as LEASE PL220 HELD BY THE PROVINCE FOR PUBLIC MARKET/MARINA, NANAIMO DISTRICT, PERMIT# 112942 BLK I, DL 227 & DL 2079 TOGETHER WITH THT PRT OF BLOCK K & DL 2078 FOR MARINA, RESTAURANT, PUB, MARINE COMMERCIAL RETAIL SALES & SERVICES PURPOSES (1840 Stewart Avenue) to allow Cannabis Retail Store as a site-specific use within the Harbour Waterfront (W2) Zone, as shown on Schedule A.

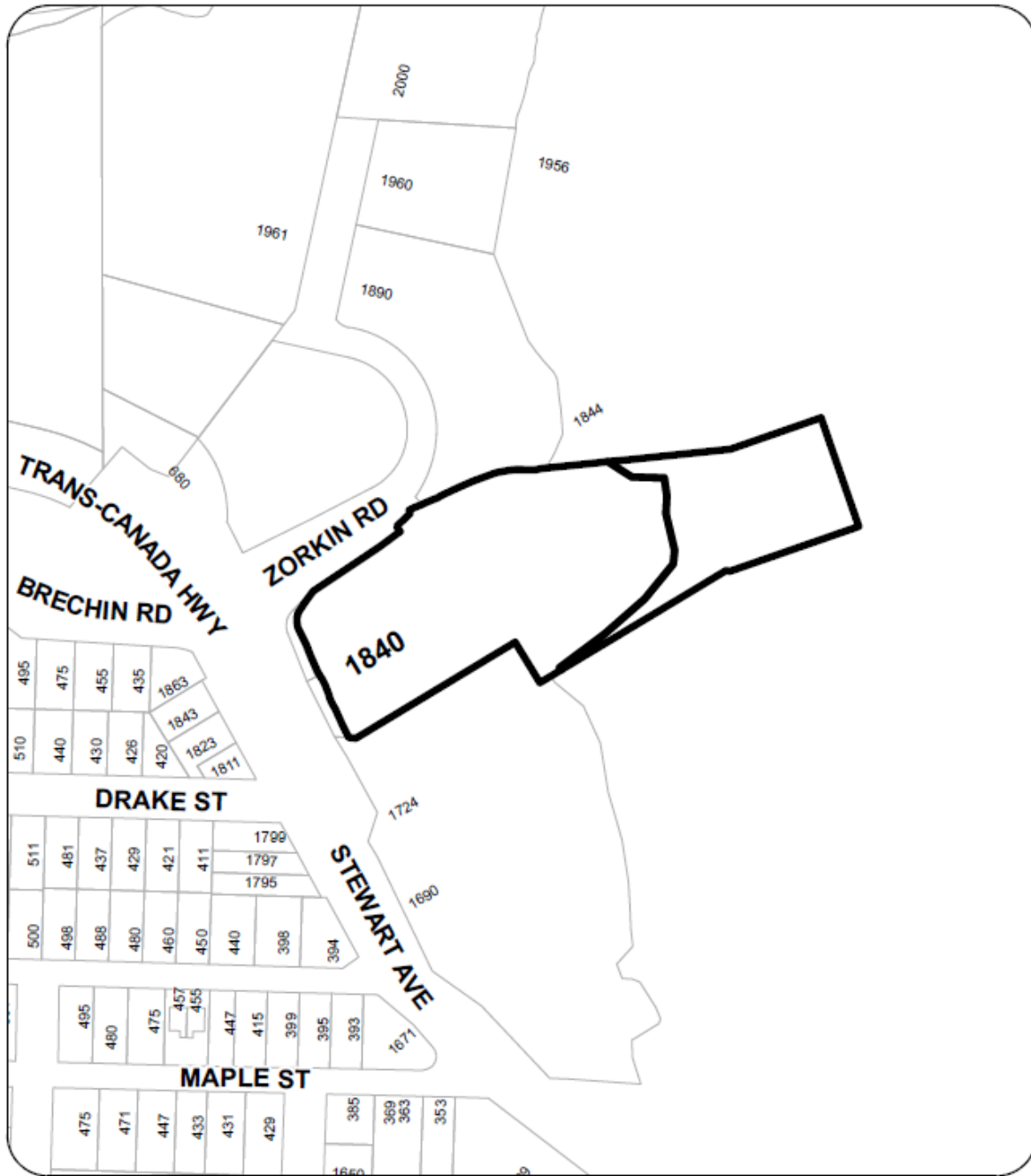
PASSED FIRST READING: \_\_\_\_\_  
 PASSED SECOND READING: \_\_\_\_\_  
 PUBLIC HEARING HELD: \_\_\_\_\_  
 PASSED THIRD READING: \_\_\_\_\_  
 MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE: \_\_\_\_\_  
 ADOPTED: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CORPORATE OFFICER

File: RA000451  
Address: 1840 Stewart Avenue

Schedule A



**REZONING APPLICATION NO. RA000451**



CIVIC: 1840 STEWART AVENUE  
LEGAL: LEASE PL220 HELD BY THE PROVINCE FOR PUBLIC MARKET/MARINA  
LD 32, PERMIT# 112942 BLK I, DL 227 & DL 2079 TOGETHER WITH THT PRT OF  
BLK K & DL 2078 FOR MARINA, RESTAURANT, PUB, MARINE COMM RETAIL  
SALES & SERVICES PURPOSES

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