

# **Staff Report for Decision**

File Number: RA000422

DATE OF MEETING May 27, 2019

AUTHORED BY DAVE STEWART, PLANNER, CURRENT PLANNING

SUBJECT REZONING APPLICATION NO. RA422 – 111 TERMINAL AVENUE

# **OVERVIEW**

# **Purpose of Report**

To present Council with an application to amend the existing zoning of the property located at 111 Terminal Avenue to allow "Cannabis Retail Store" as a site-specific use in the Terminal Avenue (DT4) zone.

#### Recommendation

That Council deny the application and associated readings to "Zoning Amendment Bylaw 2019 No. 4500.146" (To rezone 111 Terminal Avenue in order to permit "Cannabis Retail Store" as a site-specific use in the Terminal Avenue [DT4] zone).

# **BACKGROUND**

A rezoning application, RA420, was received for 111 Terminal Avenue from CSC Cannabis Stores Company on behalf of Rag Gods Holdings Inc. The applicant proposes to amend the existing DT4 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 the 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, nine other cannabis applications have been reviewed by Council:

#	Application	Address	Status
	No.		
1	RA406	111 Nicol Street, Unit 115	Received third reading on 2019-FEB-07
2	RA410	1599 Dufferin Crescent	Received third reading on 2019-APR-04
3	RA415	2220 Bowen Road	Received third reading on 2019-APR-04
4	RA411	25 Front Street	Received third reading on 2019-MAY-02
5	RA413	3923 Victoria Avenue	Received third reading on 2019-MAY-02
6	RA416	1483 Bowen Road	Received third reading on 2019-MAY-02
7	RA417	510 Fifth Street	Received third reading on 2019-MAY-02
8	RA407	6683 Mary Ellen Drive	Scheduled for Public Hearing on 2019-JUN-13
9	RA408	3200 Island Highway North	Scheduled for Public Hearing on 2019-JUN-13



In total, Staff have received 17 CRS rezoning applications to date.

# **Subject Property and Site Context**

Location	111 Terminal Avenue is located on the southwest corner of	
	Terminal Avenue and Campbell Street.	
Total Lot Area	544m <sup>2</sup>	
Current Zone	DT4 - Terminal Avenue Zone	
Proposed Zone	DT4 with site-specific "Cannabis Retail Store" use	
Official Community Plan	Downtown Centre Urban Node	
(OCP) Designation		
Neighborhood Plan	Nanaimo Downtown Plan – Terminal Parkway	
Designation		
Proximity to nearest	Approximately 150m	
school	(Ecole Pauline Haarer Elementary School – 400 Campbell Street)	
Proximity to nearest	Approximately 434m	
licensed daycare	(Katie's Korner Childcare - 357 Wesley Street)	
Proximity to nearest CRS	Approximately 88m from proposed CRS at 140 Terminal Avenue	
	(RA420).	

The proposed CRS will be located in an existing commercial retail unit (currently a car and truck rental business). Neighbouring land uses around the subject property are predominately retail, service, and auto-oriented commercial uses.

# **DISCUSSION**

# **Proposed Development**

The applicant is proposing to rezone the subject property to allow a "Cannabis Retail Store" use in addition to the existing DT4 zone-permitted uses. While the DT4 zone allows "retail" as a permitted use, a CRS requires site-specific rezoning.

The proposed business hours are 9 a.m. to 11 p.m., seven days a week. The proposed retail floor area is approximately 185m<sup>2</sup> within an existing commercial building.

# **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 has 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 will advise the City of the results 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 indicating that the proposed CRS use is permitted.



# **Official Community Plan**

The Official Community Plan (OCP) designates the subject property as Downtown Centre Urban Node. The OCP does not address CRS use specifically, but the land-use designation supports retail uses and encourages a diversity of commercial, professional, and residential uses. The proposed CRS generally complies with the intent of the Urban Node land-use designation.

# **Cannabis Retail Store Rezoning Criteria**

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

Criteria		Response
	Location	on
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 within the Downtown Centre Urban Node land-use designation, and located on a provincial highway.
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 within 200m from an elementary school. École Pauline Haarer Elementary (400 Campbell Street) is located approximately 150m away from the proposed CRS, as measured from the from the front door of the proposed CRS to the school property. The nearest daycare (Katie's Korner Childcare – 357 Wesley Street) is approximately 434m away.  The application was referred to School District No. 68 and Island Health (Community Care and Licensing). Island Health expressed concerns regarding the proposed CRS given its proximity to child care facilities. Island Health notes a cannabis retail store located close to child care facilities may contribute to exposure to marketing and normalization and increased access to cannabis, both of which may influence a child's beliefs regarding the safety of cannabis.
		School District No. 68 has no comment on the proposed CRS rezoning 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 88m (across Terminal Avenue) from a proposed CRS at 140 Terminal Avenue (RA420). Both applications are included on the 2019-MAY-27 Council agenda; however, Staff note the rezoning application for the subject property was received 2018-DEC-14 after the rezoning application for 140 Terminal Avenue (received 2018-NOV-29).  Other downtown cannabis retail rezoning applications include:  • 25 Front Street - approximately 253m from the proposed CRS  • 350 Terminal Avenue - approximately 366m from the proposed CRS  • 52 Victoria Crescent - approximately 720m from the proposed CRS
		A map showing the location of proposed CRS locations within the downtown core is included as Attachment G.
	Building o	or Site
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 commercial retail unit. One other smaller unit exists on the property. The size of the CRS is consistent with other commercial units within the downtown area.
2.2.	The design of the proposed CRS should enhance or improve the aesthetics of the surrounding area, not detract from them.	The proposed CRS will be located within an existing building with only minor exterior improvements proposed.
2.2.1.	The revitalization of heritage buildings is encouraged.	The proposed CRS is located within the Heritage Conservation Area 1 as designated by the OCP, but is not located on the Heritage Register or considered a heritage building.
2.3.	Outside the downtown core, consideration should be given to a requirement for onsite parking and loading for every CRS.	The subject property is located within the downtown core; onsite parking is not required. Parking is provided on the property.



	Community Impact		
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.  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	The applicants have included a Letter of Rationale (Attachment F) that outlines their awareness of potential negative impacts of the proposed CRS on the community. The applicants note security systems, including camera surveillance, will be provided onsite; staff will keep the property and surrounding area clean; and customers will be educated about safe cannabis use and smoking regulations.	
	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 proposed CRS is located approximately 211m from Maffeo Sutton Park, 214m from Comox Gyro Park (shared with Pauline Haarer Elementary School), and approximately 428m from the downtown library and Diana Krall Plaza.	
		Overall, downtown Nanaimo supports family-oriented facilities and public spaces, and a wide range of commercial uses, including liquor primary establishments. Staff consider the proposed CRS to be in keeping with the mix of commercial uses in the downtown area.	
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 property is located within the Downtown Specified Area and does not require parking for the proposed commercial use.  The subject property is accessed from a provincial highway (right-in/right-out) and Campbell Street. The use of the site as a cappable retail store is not expected to	
		cannabis retail store is not expected to negatively impact traffic volumes.	
3.3.	The support of the local community, neighbouring property owners and the local neighbourhood association for the proposed CRS is important to Council's decision.	The subject property is not included within the boundaries of an active Neighbourhood Association.	
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 completed notification of the neighbouring properties as outlined in the policy. A development proposal sign has been placed on the property, and if Council gives first and second reading to the Bylaw, the application will proceed to public hearing.	



All rezoning applications for CRS's 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 have reviewed the proposal and have indicated they have no comment.

New Council committees have yet to be established; therefore, committee review has not taken place.

If approved, the front door of the proposed CRS will be located approximately 150m from the Pauline Haarer Elementary School grounds and 185m from the front door of the Pauline Haarer Elementary School. The estimated travel distance between the properties is 210m (a three-minute walk). No major barrier, such as a highway, exists between the school and the proposed CRS. The route between the school and the proposed retail store includes sidewalks and crosswalks and, as such, is considered walkable. The subject property cannot be seen from the school property. The 200m buffer from schools is included in the Cannabis Retail Store Rezoning Criteria recommended by the Cannabis Task Force. The intent of the setback is to minimize the exposure of cannabis products and use to children.

The proposed CRS is located within 200m of another CRS application, received prior to the subject application. Three other CRS applications have been received for locations within 750m of the subject property. It is worth noting that where the property is located within the downtown, the Cannabis Retail Store Rezoning Criteria states consideration shall be given to the overall urban density and context of the area. Council is asked to consider what, if any, impact two CRSs will have when located on opposite sides of Terminal Avenue within the downtown area.

Given the proximity of the proposed CRS in relation to an elementary school and another proposed CRS (140 Terminal Avenue), Staff conclude the proposed CRS location does not substantially comply with City policy.

# **Conditions of Rezoning**

Should Council wish to proceed with this application and pass third reading of "Zoning Amendment Bylaw 2019 No. 4500.146", Staff recommend the following items be secured prior to final adoption of the Bylaw:

- 1. *Community Contribution* a monetary contribution of \$10,000 to be directed towards a community planning social development grant to support social programs.
- 2. *LCRB Approval* Confirmation from the LCRB that it has approved the applicant's suitability for a cannabis retail licence.



# **OPTIONS:**

- 1. That Council deny the application and the associated readings to "Zoning Amendment Bylaw 2019 No. 4500.146: (To rezone 111 Terminal Avenue to permit "Cannabis Retail Store" as a site-specific use in the Terminal Avenue [DT4] Zone).
  - **Policy Implication**: The proposed CRS is within 200m of a school and another proposed CRS and therefore does not comply with "Cannabis Retail Store Rezoning Criteria". Denying the rezoning is consistent with Council's Cannabis Rezoning Policy.
  - **Engagement Implication**: Island Health (Community Care and Licensing) does not support the rezoning. Denying the rezoning is consistent with the Island Health recommendation.
- 2. That Council grant first and second reading to "Zoning Amendment Bylaw 2019 No. 4500.146" (To rezone 111 Terminal Avenue in order to permit "Cannabis Retail Store" as a site-specific use in the Terminal Avenue [DT4] Zone); and direct Staff to secure the community amenity contribution, should Council support third reading of the bylaw.
  - Policy Implication: The "Cannabis Retail Store Rezoning Criteria" states
    consideration shall be given to the overall urban density and context of the area
    when considering the distance between proposed cannabis retail stores.
    Consideration may be given to walking distances and sightlines when considering
    the recommended 200m distance between a CRS and a school property.
  - **Engagement Implication**: Denying the rezoning at first and second reading will deny the public the opportunity to speak to the application at the public hearing.

# **SUMMARY POINTS**

- A rezoning application has been received for "Cannabis Retail Store" use as a sitespecific use within an existing commercial building within the DT4 zone for the subject property at 111 Terminal Avenue.
- The Provincial Liquor and Cannabis Regulation Branch is reviewing the licensing application for this proposal.
- The City's Cannabis Retail Store Rezoning Criteria Policy allows consideration of the overall urban density and context of the area when a CRS is proposed to be located within 200m of another CRS. The proposed application was received after others, and there are already three CRS locations proposed within 800m downtown.
- The proposed CRS location is within 200m of another proposed CRS (across Terminal Avenue) and is within a walkable distance to an elementary school.
- Given the proximity of the proposed CRS in relation to an existing elementary school and another proposed CRS, Staff conclude that the proposed CRS location does not substantially comply with City policy.
- Staff are seeking Council's direction.



# **ATTACHMENTS**

ATTACHMENT A: Location Plan

ATTACHMENT B: School and Licensed Daycare Buffer Map

ATTACHMENT C: Site Plan

ATTACHMENT D: Proposed Floor Plan

ATTACHMENT E: Proposed Building Elevations

ATTACHMENT F: Letter of Rationale / Community Impact Statement

ATTACHMENT G: Map of Downtown Cannabis Retail Store Rezoning Applications

ATTACHMENT H: Aerial Photo

"Zoning Amendment Bylaw 2019 No. 4500.146"

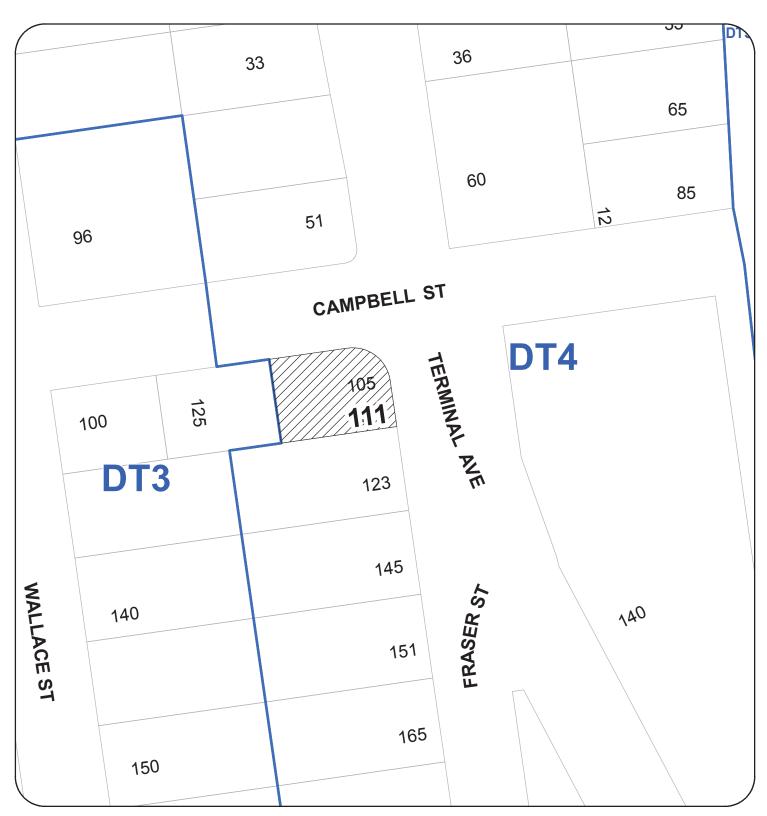
Submitted by:

Concurrence by:

L. Rowett, D. Lindsay

Manager, Current Planning Director, Community Development

# ATTACHMENT A LOCATION PLAN



# REZONING APPLICATION NO. RA000422 LOCATION PLAN

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CIVIC:111 TERMINAL AVENUE LEGAL: LOT B SECTION 1 NANAIMO DISTRICT

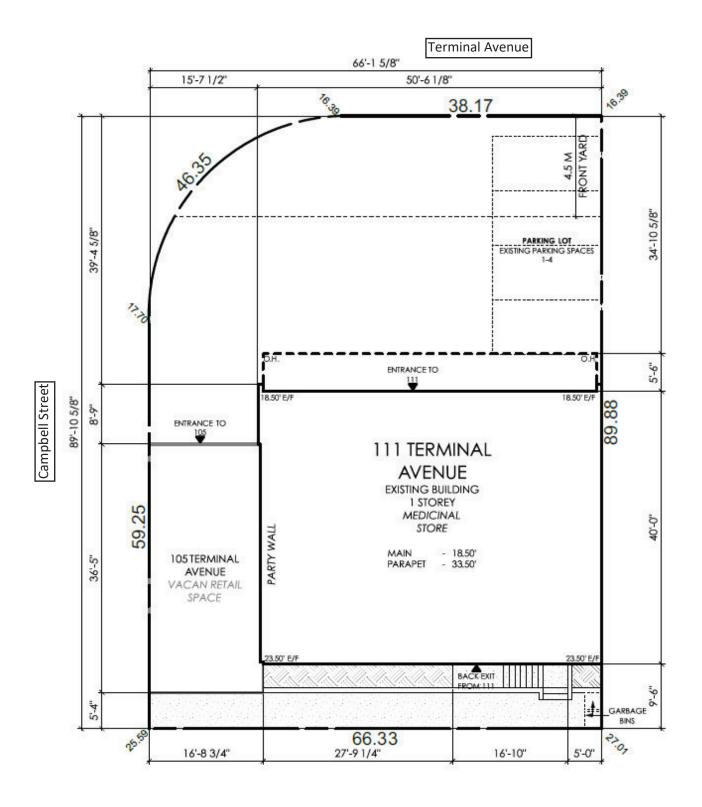
PLAN VIP75182



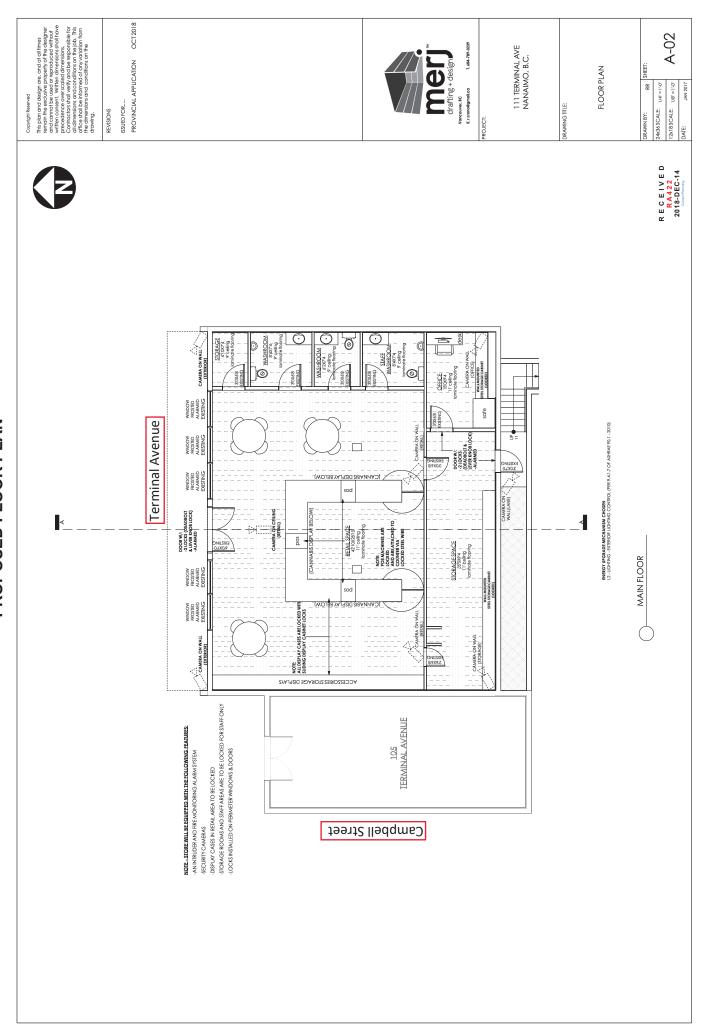
# ATTACHMENT B SCHOOL AND LICENSED DAYCARE BUFFER MAP



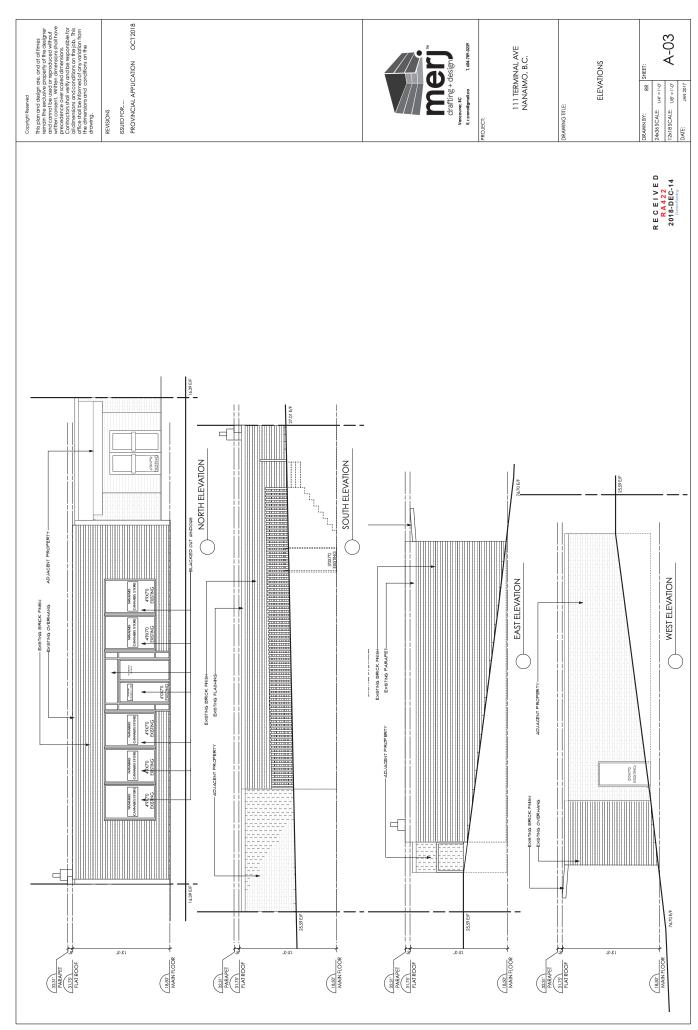
# ATTACHMENT C SITE PLAN



# ATTACHMENT D PROPOSED FLOOR PLAN



# ATTACHMENT E PROPOSED BUILDING ELEVATIONS



# ATTACHMENT F LETTER OF RATIONALE / COMMUNITY IMPACT STATEMENT

#### **Project Proposal**

CSC Cannabis Stores Company (further CSC or Cannabis Stores Company) is a BC company that operates provincially licensed cannabis stores. It was incorporated in September 2018 by an experienced team who has more than 20 years experience in this industry. CSC is in the last stages of obtaining a license for a store in Vancouver, one location in Calgary, and secured leases or acquired building in Toronto and Ottawa for future applications. This company is looking to obtain eight provincial licenses in BC and 25 licenses in Ontario by 2021. CSC is famous for providing the safest service and comfortable stay for its clients.

Cannabis Stores Company is proposing to open and operate a provincially and municipally licensed cannabis storefront located at 111 Terminal Ave, Nanaimo. The company has secured a lease for this location and applied for a provincial license with the BC Liquor and Cannabis Board. This location is more than 200 meters of walking distance from the nearby school. The storefront will follow all municipal and provincial regulations. Our proposal includes changing the use of the location to the Cannabis Retail Store. Since the storefront follows zoning regulations of the City of Nanaimo, we are hoping to get approved for a change of use.

#### <u>Project Benefits and Amenities – positive impacts on the community</u>

The economic, environmental, and social benefits of this project are numerous. The regulation of this business sector in Nanaimo is likely to stimulate the local economy, making Nanaimo a hub of this emerging regulated and taxed business activity in the city and so help transition this industry (that previously was 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 Nanaimo's population many of whom are highly educated, especially in the field of alternative healthcare. Cannabis Stores Company offers high paying jobs to local public and proper training and education to store's employees and members to achieve a higher standard of living.

CSC has sought to promote education about cannabis and cannabis products as alternative healthcare and recreational product by offering handouts and workshops in venues across town. We want to help the public understand the ways of consuming, advantages and disadvantages of all cannabis products, and help to find the most suitable product for them.

While our promotional and educational activities within our storefront are limited due to the provincial bylaws, we would like to build a strong connection the nearby community centers and provide our support. We are planning to provide a space in a different location for educational workshops, counseling, and Women empowerment session for our customers and those interested. Same activities are already implemented in the City of Vancouver.

The proposed development contributes significantly to the neighbourhood by providing an accurate menu of cannabis and cannabis products from the available list of provincial suppliers. The store will be operating in a customer service oriented atmosphere and create the list of variously priced products, which would suit people of different income levels. The increased employment in the area will also attract employees who wish to live closer to where they work, which will increase the standard level of the area.

CSC will provide a safe storefront while attracting higher traffic in the area, which makes the streets more populated and safer. Our staff will keep the area surrounding our business well maintained, clean, and free of litter and other refuse. Our security system records key areas of interior and exterior space via cameras at different angles. The camera system is equipped with motion sensing technology, and we will be able to extract the footage from our system if ever needed. There will be a designated team member who will watch the cameras throughout the day to make sure that the store is functioning properly and that the public and staff are safe.

This location will provide improvements to the quality of life and amenities available to neighbourhood denizens, both implicitly and explicitly. Higher foot traffic will make the store an anchor business in the neighborhood and attract commuters who will discover other neighborhood businesses such as cafes, coffee roasters, and other emerging businesses in the area. We will strive to have good relations with all our neighbors.

Therefore, we believe that CSC will provide numerous positive impacts (social, economic, and environmental) to the community.

#### Negative Impacts and Measures to address/reduce those

There are several, but limited negative impacts on the community resulted due to the store's future operations. CSC will address every problem and try to reduce a negative impact.

There is a negative externality due to increased foot traffic around the store. Increased traffic could result in possible congestions around the block and increased litter on the streets. However, our team will keep streets nearby our location clean from litter and other refuse. While we cannot explicitly solve the problem of traffic congestions, we will provide parking space available at the location's vicinity. Further, we strongly believe that increased traffic will decrease the rate of petty crimes. Our team and security system will closely control the safety of the surrounding businesses and neighbors.

While some would claim that our operations will negatively affect the operations of the elementary school, we would like to state that our company will not negatively impact neither school nor children. Our products and any promotional materials will not reach the school in any way possible. We want to provide a safe environment for the school's operations. We are a company that has already provided help to tens of people to reach higher career standards through education and counseling. CSC will be happy to provide any support to the school or any other center without any affiliation with our company. We will not request anything back (including promotions, advertisements, or anything of that sort).

One negative externality could be an overuse of cannabis and cannabis products by people in the neighbourhood. However, our company will reduce the risk of this externality. Firstly, by federal and provincial laws the cannabis store is unable to sell more than 30g per customer. Secondly, we will educate our customers on the use of cannabis and cannabis products, advantages and disadvantages of those, as discussed before. Through accurate and careful education of our customers, we will remove this negative externality. CSC will train the staff to provide the safest environment for clients and neighbourhood.

# **Conclusion**

CSC will be happy to be the main point of cannabis distribution in the City of Nanaimo by providing the safest and most credible service. Our staff and team will control the cleanliness of the neighborhood and proper distribution and use of cannabis and cannabis accessories.

We want to thank you for your consideration.

# ATTACHMENT G MAP OF DOWNTOWN CANNABIS RETAIL STORE REZONING APPLICATIONS







**REZONING APPLICATION NO. RA000422** 



# CITY OF NANAIMO

#### BYLAW NO. 4500.146

# 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 2019 No. 4500.146".
- 2. The "City of Nanaimo Zoning Bylaw 2011 No. 4500" is hereby amended as follows:

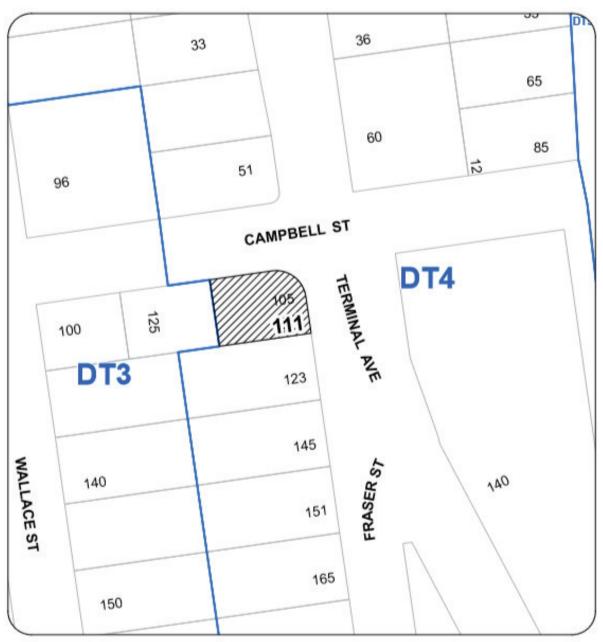
By rezoning the lands legally described as LOT B, SECTION 1, NANAIMO DISTRICT, PLAN, VIP75182 (111 Terminal Avenue) to allow Cannabis Retail Store as a site-specific use within the Terminal Avenue (DT4) Zone, as shown on Schedule A.

PASSED FIRST READING: PASSED SECOND READING: PUBLIC HEARING HELD: PASSED THIRD READING:	
MINISTRY OF TRANSPORTATION AND INFRASTRUCTURADOPTED:	RE:
	MAYOR
	WATOR
	CORPORATE OFFICER

File: RA000411

Address: 111 Terminal Avenue

SCHEDULE A LOCATION PLAN



# REZONING APPLICATION NO. RA000422 LOCATION PLAN



CIVIC:111 TERMINAL AVENUE LEGAL: LOT B SECTION 1 NANAIMO DISTRICT PLAN VIP75182



Document Park: Y/Source Data/Departmental Data/EngPub/Mol/ARPhylipson/TEMPLETES/LEASE\_LICENSE/Mopil/RADDM32\_LP/ro