



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall
1229 Esquimalt Road
Esquimalt, B.C. V9A 3P1

Legislation Text

File #: 19-367, **Version:** 1

REQUEST FOR DECISION

DATE: August 15, 2019

Report No. DEV-19-075

TO: Laurie Hurst, Chief Administrative Officer

FROM: Tricia deMacedo, Policy Planner and Bill Brown, Director of Development

SUBJECT:

Rezoning Application - 524 Admirals Road

RECOMMENDATION:

That Council:

1. resolves that Bylaw No. 2976 (Appendix A), which would amend Zoning Bylaw, 1992, No. 2050, by changing the zoning designation of 524 Admirals Road (PID 001-031-066, Lot 179, Suburban Lot 39, Esquimalt District, Plan 2854), from Core Commercial Zone (C-3) to Comprehensive Development District (CD-127), be considered for first and second reading; and
2. authorizes the Corporate Officer to schedule a public hearing for Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2976, and to advertise for these purposes in the local newspaper, after such time as the owner receives a final approval on their demolition permit for unpermitted work and the work is completed.

RELEVANT POLICY:

Local Government Act

Official Community Plan Bylaw, 2018, No. 2922

Zoning Bylaw, 1992, No. 2050

Parking Bylaw, 1992, No. 2011

Development Application Procedures and Fees Bylaw, 2012, No. 2791

Advisory Planning Commission Bylaw, 2012, No. 2792

STRATEGIC RELEVANCE:

This Request for Decision supports the following specific strategic priorities:

- Support community growth, housing and development consistent with our Official Community Plan.
- Boost investment in the local economy and promote the growth and diversity of businesses.

BACKGROUND:

Appendix A Bylaw No. 2976 - Bylaw to Amend Zoning Bylaw 1992, No. 2050
Appendix B Aerial overview and zoning map
Appendix C Letter from applicant
Appendix D Survey, site plan, parking layout, exterior photos
Appendix E Parking rationale
Appendix F Public engagement
Appendix G Correspondence

Purpose of the Application

This rezoning application is to allow for the retail sale of cannabis in an existing building. The applicant has applied to rezone the property at 524 Admirals Road to a site specific (CD-127) zone.

Evaluation of this application should focus on issues relevant to a change in zoning, such as the appropriateness of the proposed uses, the fit with the neighbourhood, parking, pedestrian and vehicle traffic levels, and consistency with the overall direction contained within the Official Community Plan.

Context

Applicants: Mary Anne Emmott, Alternative Aromatics

Owners: Kuntai Holding Inc.

Property Size: 689.4 m²

Existing Land Use: One apartment and two commercial units.

Surrounding Land Uses:

North: Multi-family residential (C-3)

South: Multi-family residential (RM-1)

West: Multi-family/Commercial (C-3)

East: Commercial (C-6)

Existing Zoning: Core Commercial (C-3)

Proposed Zoning: Comprehensive Development (CD)

Existing OCP Designation: Commercial/Commercial Mixed Use

Timeline

Application Date: December 17, 2018

Neighbourhood Meeting: April 1, 2019

APC meeting: July 16, 2019

Cannabis Regulations

The production, sale and consumption of non-medical cannabis was legalized on October 17, 2018 under the federal *Cannabis Act*. Along with regulations for health and safety, product quality, etc., the *Act* also authorizes people to possess, sell or distribute cannabis so long as they have been authorized to sell cannabis under a provincial act. In British Columbia, this legislation is the *Cannabis Control and Licensing Act*. Under this *Act*, the province has established a retail licensing regime similar to the current licensing regime for liquor. The Liquor and Cannabis Regulation Branch (LCRB) will be responsible for licensing non-medical cannabis private stores and monitoring the non-medical cannabis retail sector. The province will be responsible for the following regulatory

measures:

- Licensing and monitoring the retail sector
- Ensuring sale of no-medical cannabis only
- Approving store name
- Approving store layout and security measures
- Conducting background checks of owners and staff
- Providing mandatory training for staff
- Conducting inspections on a random and complaint basis

The Liquor Distribution Branch (LDB) will be B.C.'s wholesale distributor of non-medical cannabis. The LCRB will ensure that all product sold in cannabis retail stores has been produced by a federally licensed producer and is packaged according to federal law.

Local governments have the following powers in respect of cannabis retail store licences:

- Impose restrictions in the Zoning Bylaw regarding the location of cannabis retail stores
- Regulate business by terms and conditions in municipal business licensing bylaw
- Charge applicant fees if choosing to assess a licence application to the province.

No cannabis retail licence will be issued by the provincial government unless the local government has responded that they approve the location and that the opinions of residents have been gathered on the specific location.

On June 11, 2018, Esquimalt Council adopted a series of Zoning Bylaw amendments to regulate the production, sale and consumption of recreational and medical cannabis in the Township. The Zoning Bylaw amendments prohibit the retail sale of cannabis unless the location is specifically rezoned to allow a 'Cannabis Sales Store'. In addition, changes were made to the Business Licence and Regulation Bylaw to limit the hours of operation of a cannabis sales store to between 9 am and 6 pm and establish a prohibition zone for cannabis retail within 500 m of all schools.

Official Community Plan

The Official Community Plan is silent on the subject of cannabis retail operations. There are however, a number of policies under Economic Development that support the proposal:

16.1 Support economic development that:

- Fosters investment and growth in local businesses, services and facilities that cater to the community;
- Works towards creating a complete community for families and seniors, including banking, medical and support services, daycare, an accessible trail system, public transit and recreational opportunities.
- Recognizes the value of locally owned and small businesses.

16.2 Encourage revitalization of underdeveloped commercial and industrial areas that have been in decline.

Encourage revitalization of commercial areas along Admirals Road, Esquimalt Road, corner of Tillicum and Craigflower Roads, and Head Street.

Zoning

The process for a prospective cannabis retailer in an existing building within Esquimalt is to rezone the entire property to allow for cannabis sales within a specific unit. The table below indicates the major changes from the current zone, to the new CD-127 zone.

	Core Commercial Zone	Proposed Comprehensive Development Zone
Front Setback	0 m	1.3 m
Rear Setback	3 m	17.5 m
Northern Side Setback	3 m	3.0 m
Southern Side Setback	3 m	0.5 m
Building Height	13 m	7.0 m
Off Street Parking	14 spaces	10 spaces

The proposed Comprehensive Development District also includes the following differences from the existing zone:

- Cannabis Sales Store is a permitted use
- Only one Cannabis Sales Store is permitted at any time on the property
- The Cannabis Sales Store is limited to a maximum floor area of 120 m²

Traffic

This proposal is not expected to increase the traffic in this area by any measureable level. The space that is proposed for cannabis sales is an existing commercial unit that is currently vacant, but that previously operated as a restaurant. There are four different bus routes that stop within one block of the site and it is in an easily walkable area located near many other services.

Parking

Using the current standards for parking space dimensions, the site requires 14 parking spaces. The current layout of the site will only allow for 10 spaces, once a storage container is removed in the parking area. The applicant proposes to replace the picnic tables in front of the building with bike parking to help alleviate parking requirements.

Unpermitted Construction

During the planning review of the application, it was determined that at some time in the past, the patio on the second storey residential suite was enclosed without benefit of a building permit. The applicant is aware that a public hearing cannot proceed without receiving a positive final inspection from the Senior Building Official. Once this is received, staff will schedule a public hearing date.

Business Licence and Regulation Bylaw

The Business Licence and Regulation Bylaw No. 2810 has four provisions related to cannabis sales in Section 24:

- No cannabis sales within a 0.5 km radius of any elementary, middle or high school property.
- No cannabis or drug paraphernalia displayed where it can be seen from the street.
- No sales to any person under 19 years of age.
- Store hours are limited to the hours between 9 am and 6 pm.

The applicant is adhering to the first three provisions of the Bylaw, but may at a future date request an amendment to the Business Licence Bylaw from Council to the required store hours to allow the business to remain open until 8 pm.

Comments from the Advisory Planning Commission (APC)

This application was considered at the regular meeting of the APC held on June 18, 2019 and the following motion was passed: *That the application for rezoning to allow for the operation of a Cannabis Sales Store, consistent with the BC Land Surveyor's certificate prepared by Glen Mitchell, BCLS, stamped "Received June 3, 2019" and the Proposed Parking Reconfiguration for 522 (524) Admirals Road stamped "Received June 3, 2019" be forwarded to Council with a recommendation by the Esquimalt Advisory Planning Commission to deny the application because the location of the building is not appropriate for this business.*

ISSUES:

1. Rationale for Selected Option

- The location is well suited to customers arriving on foot or by transit.
- The application is for a new retail use within a building that is currently zoned for commercial use including retail.
- The building is outside of the 'prohibition zone' of 500 m around schools.
- The retail use is not expected to increase traffic in the neighbourhood.
- A public hearing is one of the sanctioned methods by the provincial government for 'gathering the views of the residents.'

2. Organizational Implications

This Request for Decision has no organizational implications.

3. Financial Implications

This Request for Decision has no financial implications.

4. Sustainability & Environmental Implications

Providing services such as cannabis retail locally prevents the need for residents to travel to other municipalities to purchase product. The location is within the 'downtown' core of Esquimalt, within easy walking distance for many residents.

5. Communication & Engagement

The applicant held a Neighbourhood Meeting (Appendix F) on April 1, 2019 in order to comply with the public consultation procedures of Development Application Procedures and Fees Bylaw, 2018, No. 2971. The applicant has had follow up conversations with specific neighbours in order to address comments made at the Advisory Planning Committee. This engagement is summarized in Appendix F.

As this is a rezoning application, should it proceed to a Public Hearing, a notice would be mailed to tenants and owners of properties located within 100 metres of the subject property. Notice of the Public Hearing would be placed in two editions of the Victoria News. The rezoning sign installed on the property would be updated to include the date, time, and location of the Public Hearing.

ALTERNATIVES:

1. That Council:
 - (1) resolves that Bylaw No. 2976 (Appendix A), which would amend Zoning Bylaw, 1992, No. 2050, by changing the zoning designation of 524 Admirals Road (PID 001-031-066, Lot 179, Suburban Lot 39, Esquimalt District, Plan 2854), from Core Commercial Zone (C-3) to Comprehensive Development District (CD-127), be considered for first and second reading; and
 - (2) authorizes the Corporate Officer to schedule a public hearing for Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No. 2976, and to advertise for these purposes in the local newspaper, after such time as the owner receives a final approval on their demolition permit for unpermitted work and the work is completed.
2. Council postpone consideration of Bylaw No. 2976 pending receipt of additional information.
3. Council deny first and second reading of Bylaw No. 2976.