



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

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

Legislation Text

File #: 19-346, **Version:** 1

REQUEST FOR DECISION

DATE: August 7, 2019

Report No. DEV-19-064

TO: Laurie Hurst, Chief Administrative Officer

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

SUBJECT:

Rezoning Application - 1314 Esquimalt Road

RECOMMENDATION:

That Council:

1. resolves that Bylaw No. 2974 (Appendix A), which would amend Zoning Bylaw, 1992, No. 2050, by changing the zoning designation of 1314 Esquimalt Road (PID 002-535-939 Lot A, Suburban Lot 38, Esquimalt District Plan 27046) from Core Commercial Zone (C-3) to Comprehensive Development District (CD-125), 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. 2974, and to advertise for these purposes in the local newspaper.

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. 2974 - 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 Neighbourhood meeting synopsis

Purpose of the Application

This rezoning application is to allow for the retail sale of cannabis in an existing building. The applicant proposes to rezone the property at 1314 Esquimalt Road to a site specific (CD-125) 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: Misty Mountain Cannabis Inc.

Owners: 0775462 BC Ltd.

Property Size: 1360 m²

Existing Land Use: Twelve rental apartments and five ground floor commercial units

Surrounding Land Uses:

North: Strata Apartment (RM-4)

South: Strata Apartment (C-3)

West: Rental Apartment (RM-4)

East: Commercial (C-3)

Existing Zoning: Core Commercial (C-3)

Proposed Zoning: Comprehensive Development (CD - 125)

Existing OCP Designation: Commercial/Commercial Mixed Use

Timeline

Application Date: April 4, 2019

Neighbourhood Meeting: May 21, 2019

APC meeting: June 18, 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 non-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 can 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-125 zone.

	Core Commercial Zone	Proposed Comprehensive Development Zone
Front Setback	0 m	2.8
Rear Setback	3 m	16.7
Side Setback	0 m	1.5
Exterior Side Setback	0 m	1.4
Building Height	13 m	9.5
Off Street Parking	29 spaces	20 spaces

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

- One Accessory Building is permitted
- 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 67 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.

Parking

The residential apartments require 1.3 parking spaces per unit and the existing businesses, plus the proposed cannabis store will require 1 space per 25-35 m². The total number of parking spaces required is 29 spaces. Originally, the building was constructed with 30 parking spaces. Using the current standards for parking space dimensions, this is reduced to 26. Refuse bins and storage use an additional 6 spaces leaving 20 spaces available for the entire building, three of which have been designated for the cannabis sales store.

The applicant is also proposing to purchase 6 bicycle racks to install in front of the building for a total of 12 bike parking spots and would also be providing a voluntary contribution of \$7500 towards the purchase of additional bicycle racks for elsewhere along Esquimalt Road. This voluntary contribution must be used towards the purchase and installation of additional bicycle racks along Esquimalt Road, and the money cannot be used for other uses. There are also an additional 6 one-hour public parking spots in front of the building.

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 at 1318A Esquimalt Rd., consistent with the site plan prepared by EDDA Creative, stamped "Received June 7, 2019" be forwarded to Council with a recommendation by the Esquimalt Advisory Planning Commission to approve as the proposal meets the land use requirements and is a good location.

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 retail stores.
- The store will have three dedicated parking stalls on site and has access to 6 additional one-hour parking stalls on the street in front of the building.
- The applicant will be installing 6 additional bicycle racks on the property and is willing to voluntarily donate \$7500 towards purchase of bicycle racks for Esquimalt Road.
- The building is outside of the 'prohibition zone' of 500 m around schools.
- The Advisory Planning Commission has recommended approval of this application.

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, located next to a bus stop and within easy walking distance for many residents. The applicant is proposing to add six bike racks for the building to improve end of trip facilities for both residents and customers and will make a contribution towards the purchase of additional bike racks for Esquimalt Road.

5. Communication & Engagement

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. A sign indicating that the property is under consideration for a change in zoning has been installed on the property. This sign would be updated to include the date, time, and location of the Public Hearing.

The applicant held a Neighbourhood Meeting (Appendix F) on May 21, 2019 in order to comply with the public consultation procedures of Development Application Procedures and Fees Bylaw,

2018, No. 2971.

ALTERNATIVES:

1. That Council:
 - (1) resolves that Bylaw No. 2974 (Appendix A), which would amend Zoning Bylaw, 1992, No. 2050, by changing the zoning designation of 1314 Esquimalt Road (PID 001-759-817, Lot A, Section 10, Esquimalt District, Plan 28540, except part in Plan VIP86936), from Core Commercial Zone (C-3) to Comprehensive Development District (CD-125), be considered for first and second reading; and
 - (2) That Council authorizes the Corporate Officer to schedule a public hearing for Zoning Bylaw, 1992, No. 2050, Amendment Bylaw No.2974, and to advertise for these purposes in the local newspaper.
2. Council postpone consideration of Bylaw No. 2974 pending receipt of additional information.
3. Council deny first and second reading of Bylaw No. 2974