



STAFF REPORT TO COMMITTEE

DATE OF REPORT September 29, 2023

MEETING TYPE & DATE Electoral Area Services Committee Meeting of November 1, 2023

FROM: Richenda Woods, Development Services
Land Use Services

SUBJECT: Application No. RZ23A02 (855 Shawnigan-Mill Bay Road/PID: 000-278-122)

FILE: RZ23A02

PURPOSE/INTRODUCTION

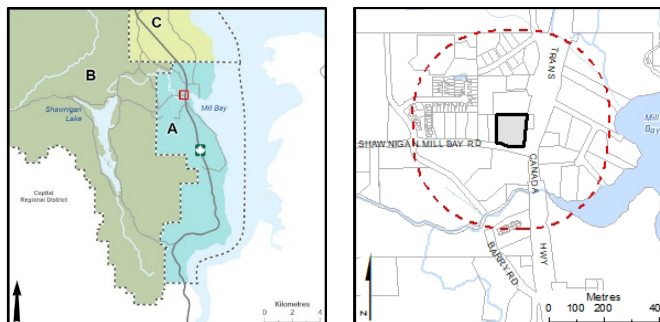
The purpose of this report is to present an application to amend the South Cowichan Zoning Bylaw No. 3520 to permit 'cannabis storefront retail' as a site-specific use on the subject property located at 855 Shawnigan-Mill Bay Road.

RECOMMENDED RESOLUTION

That it be recommended to the Board that Application No. RZ23A02 (855 Shawnigan-Mill Bay Road, PID: 000-278-122), be referred to the following external agencies:

1. Electoral Area A – Mill Bay/Malahat Advisory Planning Commission;
2. BC Transit;
3. Cowichan Valley School District (S.D. No. 79);
4. Mill Bay Improvement District;
5. Mill Bay Waterworks District;
6. Island Health;
7. Ministry of Transportation & Infrastructure;
8. Royal Canadian Mounted Police (RCMP);
9. Cowichan Tribes; and
10. Malahat Nation.

LOCATION MAP



**The red dotted line represents a 300-meter radius around the subject property*

BACKGROUND

The subject property is located on the corner of the Trans Canada Highway and Shawnigan-Mill Bay Road and is within the Mill Bay Village Growth Containment Boundary. The topography rises roughly 15 metres (m) from the southeast corner to the northwest corner of the lot. Approximately 40 m on the north and east borders of the subject property are buffered with vegetation.

The property is within the Mill Bay Waterworks service area and has an onsite septic system. Neighbouring properties consist of a mix of uses. A vacant lot, once Pioneer Square Mall, is located to the south of the property, Mill Bay Church is located across the Trans Canada Highway and is the closest property to the east, and “village residential” uses are to the north and west of the subject property. Frances Kelsey Secondary School is located approximately 400 m to the west of the subject property. Additionally, the properties to the south of Frances Kelsey are zoned for significant comprehensive development.

The subject property is currently zoned C-6 – Mixed Use Village Commercial/Residential 6 in the South Cowichan Zoning Bylaw and designated Village Commercial in the Official Community Plan (OCP).

For more information, please see:

- Attachment A – Background Table
- Attachment B – Site Context Maps
- Attachment C – Site Plan
- Attachment D – Applicant Rationale

OFFICIAL COMMUNITY PLAN / POLICY CONSIDERATIONS

CVRD Development Application Referral Policy:

In accordance with the CVRD Development Application Referrals Policy, rezoning applications are generally deemed major applications and will proceed directly to the Electoral Area Services Committee (EASC) where a preliminary report highlighting key information with a list of recommended referral agencies will be presented. The EASC may:

- i. forward the preliminary report to referral agencies for comment;
- ii. refer the preliminary report back to staff for further information, prior to further consideration;
- iii. advance the application without seeking comments from referral agencies; or
- iv. deny the application, citing reasons for the denial.

CVRD South Cowichan OCP Bylaw No. 4270: Schedule B, Area A Mill Bay/Malahat Local Area Plan:

The subject property is [regionally](#) designated Commercial with a [local area plan \(LAP\)](#) designation of Village Commercial. The objective of the regional commercial designation is to support a range of mixed-use commercial establishments in areas that have minimal impacts to major transportation networks. The singular Commercial policy is below:

Policy 4.9.2

The CVRD Board:

- 1. Supports commercial development consistent with local heritage.***

In addition, Goal 8 – Realizing the Region’s Economic Potential speaks to supporting sustainable, diverse economic opportunities that contributes to the local economy. The following policies from these goals are relevant to this application:

Policy 3.2.5.2

- 1. Encourages diverse economic opportunities that attract and retain young families.*
- 2. Encourages businesses and development that attract and maintain a highly skilled workforce.*
- 5. Supports employment land needs that are consistent with transportation, settlement nodes and growth projections.*
- 9. Encourages economic growth and diversification reflective of the community’s vision.*

The objective of the Electoral Area M Mill Bay LAP Village Commercial designations includes improving the local economy and raising the quality of life by increasing commercial opportunities and employment. Village Commercial policies will be considered in the modernized OCP.

South Cowichan Zoning Bylaw No. 3520:

The subject property is zoned C-6 – Mixed Use Village Commercial/Residential 6. “Retail stores” are a principal permitted use in the C-6 zone.

CVRD Cannabis Retail Store Criteria Policy:

In July 2021, the CVRD adopted the [Cannabis Retail Store Criteria Policy](#). The Policy outlines criteria for reviewing cannabis retail store applications, locations where application will be considered, as well as building and siting policies.

- Location – Item 1 states that cannabis retail stores are permitted only in zones which allow retail stores as a principal permitted use.
“Retail stores” under 230 m² are a principal permitted use in the C-6 Zone.
- Location – Item 2 states that only one cannabis retail store will be permitted per lot.
There are currently no other cannabis retail stores on the subject property.
- Location – Item 3 states that the cannabis retail store shall not be located within a building containing residential units or on residential properties.
There are no residential units on the subject property.
- Location – Item 4 states that proposed cannabis retail stores shall be at least 300 meters from the following surrounding sites (measured from closest lot line to closest lot line). A map has been attached as Attachment E.

300 m Setback From	Proposed Location
Public/independent school	<i>Does not meet:</i> Brentwood College School – <ul style="list-style-type: none">• approx.180m to the north corner of the Brentwood College, bordering Shawnigan Creek
Park zone	<i>Does not meet:</i> <ul style="list-style-type: none">• Mill Bay Church and Historic Cemetery – approx. 60 m• Park zone along Shawnigan Creek – approx. 150 m

Institutional zone	<i>Does not meet:</i> • approx. 290 m to vacant industrial parcel
Water zone	<i>Does not meet:</i> • approx. 180m to Mill Bay
Playground	<i>Meets requirement</i>
Licensed daycare	<i>Meets requirement</i>
Sports field	<i>Meets requirement</i>
Community centre	<i>Meets requirement</i>
Area where children/youth frequent	<i>Does not meet:</i> The subject property contains a thrift store and restaurant utilized by children and youth.
Another lot where cannabis retail sales permitted	<i>Meets requirement</i>

Liquor and Cannabis Regulation Branch:

In addition to CVRD regulations, cannabis retail stores are further regulated by the Liquor and Cannabis Regulation Branch (LCRB) who may issue a Non-Medical Cannabis Retail Store (CRS) license subject to prior approval of the local government. The applicant has submitted a CRS application to the LCRB.

Additional Permit Requirements:

The rezoning application will only approve the proposed land use and not the building/site design. Should a zoning amendment be adopted by the Board, any proposed renovations, placement of signage or alteration to the land may require issuance of a development permit, building permit, and meeting any other applicable CVRD bylaw regulations.

COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS

In accordance with the CVRD Development Application Referrals Policy, this application has not been referred to external agencies at this time. Should the application proceed, staff recommend forwarding referrals to the following external agencies and First Nations:

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|---|--|
| 11. Electoral Area A – Mill Bay/Malahat
Advisory Planning Commission | 17. Ministry of Transportation &
Infrastructure |
| 12. BC Transit | 18. Royal Canadian Mounted Police
(RCMP) |
| 13. Cowichan Valley School District
(S.D. No. 79) | 19. Cowichan Tribes |
| 14. Mill Bay Improvement District | 20. Malahat Nation |
| 15. Mill Bay Waterworks District | |
| 16. Island Health | |

PLANNING ANALYSIS

Warmland Cannabis Corporation has applied to rezone the subject property to include the site-specific use of 'cannabis storefront retail' at 855 Shawnigan-Mill Bay Road. The site is zoned C-6 Mixed Use Village Commercial/Residential 6 and contains one existing multi-unit commercial building property is accessed via Shawnigan-Mill Bay Road. The proposed cannabis retail store would occupy one unit of the existing commercial building. Current tenants of the commercial

building include a restaurant and thrift store. No external renovations or land alteration are proposed; however, renovations to the interior of the building may require building permit.

The CVRD Cannabis Retail Store Application Policy applies to all applications that would allow for a cannabis retail store within the Electoral Areas of the CVRD. The policy defines a process by which the Board will consider applications to permit new cannabis retail store locations. As part of the Cannabis Retail Store License Application process, applicants are required to arrange and conduct a public information meeting to provide residents and property owners within 300 m of the subject property with information regarding the proposed cannabis retail store. This meeting will be advertised in two consecutive issues of the local newspaper, and the applicant will mail, or otherwise deliver, written notice to residents and owners. This public information meeting is anticipated to be held prior to the public hearing, which is required for this rezoning application. The public hearing will also be advertised in the newspaper, by mail or hand delivered, as well as on the CVRD website. A rezoning application sign will be placed on the site, and will be updated with the appropriate meeting information as the details become available.

There are currently five licensed cannabis retail stores within the CVRD Electoral Areas, one of which is in on the corner of Barry Road and Deloume Road, approximately 500 m from the subject property. Of the five licensed cannabis retail stores, the applicant currently operates two of them, one in Cobble Hill and one in Whippetree Junction. To date, the CVRD has not received any bylaw enforcement complaints regarding any of the five cannabis retail stores.

It should be noted that cannabis retail stores are regulated by the Liquor and Cannabis Regulation Branch (LCRB). The mandate of the LCRB is to "...enable vibrant liquor and non-medical cannabis industries, while ensuring public health and safety." Licensee retail stores are required to ensure staff hold Selling it Right tickets, display social responsibility materials in a conspicuous place, pass a "fit and proper" assessment undertaken by the LCRB, and take reasonable measures such as installing adequate lighting outside the establishment, supervising parking areas or posting signs to ensure that the operation of the establishment does not cause a disturbance in the area. Additionally, no minor (an individual under 19 years of age) is permitted in a licensed retail cannabis store, even if accompanied by an adult.

Community Amenity Contributions:

Community Amenity Contributions (CACs) can be voluntarily offered by an applicant during the rezoning process. It is important to note that CACs are typically outlined by policy and not mandatory but can be negotiated with the developer. To remain within the authority granted to Local Governments through the *Local Government Act*, principles of 'nexus' and 'proportionality' should be applied when negotiating CACs. That is to say, there should be a direct and demonstratable link between the CACs and the impact of the development and are consistent with CACs made by other developers.

Staff have provided information to the applicant regarding CACs. As of the date of this report, no further discussion has been conducted with the applicant. As the CVRD does not have a CAC policy adopted, referral comments may help identify potential contributions that would benefit the community.

Cannabis Retail Licence:

Should the Board choose to advance this rezoning application to adoption in the future, a Cannabis Retail Licence (CRL) application must also be issued by the CVRD Board and LCRB. The LCRB will not proceed with a licensing application unless the local government submits a positive recommendation to the LCRB to support issuance of the licence. The local government may negotiate additional requirements including limiting store hours through terms of a covenant at the rezoning stage. It should be noted that any local licensing requirements become the responsibility of the local government to enforce. The local government may also make additional recommendations to the licensing authority. A CRL licence application referral has been received by CVRD staff (Attachment F); however, it will not proceed to the Board until the rezoning has been successfully adopted.

Rezoning's are analyzed under the merits of the proposed land use and should ensure that complementary activities are located near each other, that the request is consistent with policies outlined in the Official Community Plan and whether the proposed land use will provide a net benefit to the community. Staff have assessed this application based on existing CVRD policies including the CVRD Cannabis Retail Store Criteria Policy and Official Community Plan for the Electoral Areas and recommend Option 1.

OPTIONS

Option 1:

That it be recommended to the Board that Application No. RZ23A02 (855 Shawnigan-Mill Bay Road, PID: 000-278-122), be referred to the following external agencies:

1. Electoral Area A – Mill Bay/Malahat Advisory Planning Commission;
2. BC Transit;
3. Cowichan Valley School District (S.D. No. 79);
4. Mill Bay Improvement District;
5. Mill Bay Waterworks District;
6. Island Health;
7. Ministry of Transportation & Infrastructure;
8. Royal Canadian Mounted Police (RCMP);
9. Cowichan Tribes; and
10. Malahat Nation.

Option 2: (refer application back to staff for more information, prior to further consideration)

That it be recommended to the Board that Application No. RZ23A02 (855 Shawnigan-Mill Bay Road, PID: 000-278-122), be referred back to staff for further information, including: *[requested information to be identified by the Board]*, prior to further consideration.

Option 3: (advance the application without seeking comments from referral agencies)

That it be recommended to the Board that Application No. RZ23A02 (855 Shawnigan-Mill Bay Road, PID: 000-278-122), be forwarded back to staff for preparation of a report with planning analysis on the merits of the application and a detailed policy review, prior to further consideration.

Option 4: (deny the application)

That it be recommended to the Board that Application No. RZ23A02 (855 Shawnigan-Mill Bay Road, PID: 000-278-122), be denied

Prepared by:



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Planner I

Reviewed by:



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Reviewed for form and content and approved for submission to the Committee:

Resolution:

☒ Corporate Officer

Financial Considerations:

☒ Chief Financial Officer

ATTACHMENTS:

Attachment A – Background Table
Attachment B – Site Context Map
Attachment C – Site Plan
Attachment D – Applicant Rationale
Attachment E – Company Profile
Attachment F – LCRB Referral Letter