

**MINUTES**  
SPECIAL COUNCIL MEETING (PUBLIC HEARING)  
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE  
80 COMMERCIAL STREET, NANAIMO, BC  
THURSDAY, 2018-SEP-06, AT 7:00 P.M.

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Present: Mayor W. B. McKay, Chair  
Councillor S. D. Armstrong  
Councillor W. L. Bestwick  
Councillor M. D. Brennan  
Councillor G. W. Fuller  
Councillor J. A. Kipp  
Councillor I. W. Thorpe

Absent: Councillor J. Hong  
Councillor W. M. Yoachim

Staff: J. Rudolph, Chief Administrative Officer (arrived 7:07 p.m., vacated 7:51 p.m.)  
D. Lindsay, Director of Community Development  
K. Fry, Fire Chief (vacated 7:51 p.m.)  
D. Fox, Manager, Building Inspections  
L. Rowett, Manager, Current Planning and Subdivision (vacated 9:20 p.m.)  
D. Stewart, Planner, Current Planning and Subdivision (vacated 9:20 p.m.)  
S. Snelgrove, Deputy Corporate Officer  
K. Gerard, Recording Secretary

1. CALL THE SPECIAL COUNCIL MEETING TO ORDER:

The Special Meeting was called to order at 7:00 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Remove Agenda Item 9(e) - Bylaw Contravention Notice – Construction Started Without a Building Permit - 154 Royal Pacific Way.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. CALL THE PUBLIC HEARING TO ORDER:

The Public Hearing Meeting was called to order at 7:00 p.m. Mayor McKay spoke regarding the purpose of a Public Hearing, advised that Council was meeting on the traditional territory of the Snuneymuxw First Nation and advised of the standard protocols for a Public Hearing.

5. PUBLIC HEARING AGENDA:

Lainya Rowett, Manager, Current Planning and Subdivision, explained the required procedures in conducting a Public Hearing and the regulations contained within Part 14 of the *Local Government Act*.

J. Rudolph entered the Shaw Auditorium at 7:07 p.m.

(a) Covenant Amendment Application No. CA9 - 6201 Oliver Road

Introduced by David Stewart, Planner, Current Planning and Subdivision.

Mayor McKay called for submissions from the Public:

1. Kelly Hiltz, 107 - 5660 Edgewater Lane, spoke in opposition, and stated:

- that these small pockets of forest should be saved throughout Nanaimo;
- forests hold water, trees, encourage plant life and animals;
- forest keep us cool in the summer, are a natural sound barrier and clean the air;
- studies show that people who live near forests live longer, and;
- suggested that Council require developers to leave one block of forest intact for every one block of development.

No written submissions were received at the meeting with respect to Covenant Amendment Application No. CA9 - 6201 Oliver Road.

(b) Rezoning Application No. RA389 - 65 and 77 Chapel Street

Introduced by David Stewart, Planner, Current Planning and Subdivision.

Presentation:

1. Peter de Hoog, de Hoog & Kierulf Architects, the Applicant spoke in favour and stated:

- design discussions with City staff for this project have been ongoing for the past year;
- area is in need of improvements and development;
- residential tower is 24 stories with 4 to 5 units per floor, the top floor is 2 penthouse suites, commercial and business space will be on the ground floor as well as an athletic club;
- 2 storey townhouse units will front Skinner Street;
- parking includes 138 underground stalls for residential use and 29 spaces for commercial use in addition to on-street parking along Chapel Street;
- the tower siting maintains views of Mount Benson and water views for residences behind the development;

Council discussion included parking, number of parking spots per unit, parking for the commercial, businesses, and the athletic club, and the community contribution.

Mayor McKay called for submissions from the Public:

1. Felicity Adams, 1502 38 Front Street spoke in opposition, and stated:
  - feels that the proposal does not fit in with the urban design and scale of downtown and doesn't reflect the Downtown Plan objectives to maintain and enhance existing views, vistas and corridors;
  - does not feel that there is a market for this type of high end development;
  - believes this project needs more consultation and requested that Council consider development that is smaller in scale and not as high; and,
  - view of the harbour and Mount Benson will be compromised.

Mayor McKay called for submissions from the Public for a second time.

2. Bonnie Eaton, 802 Fitzwilliam Street, spoke in opposition, and stated:
  - she has concerns regarding the building height and impacts on views of the harbour and Mount Benson; and,
  - the value of properties behind the development such as Milton Street and Kennedy Street will be negatively impacted.

Mayor McKay called for submissions from the Public for a third time.

2. Al Benjamin, 5339 Williamson Road, spoke in favour, and stated:
  - he has spoken with people and businesses along Chapel Street and most are in favour of this development, which will support and encourage more restaurants, coffee shops and people to the downtown core; and
  - the development will add to the tax base in Nanaimo.
4. Sharon Stares, 47 Skinner Street, spoke in favour overall but stated concerns about the viability of the project proceeding, public parking supply and building height.
5. Michelle White, 95 Milton Street, spoke in opposition and stated:
  - the tower is too high and will hinder the view of the waterfront from the residences behind it;
  - concerned about the impacts of the proposed density on downtown infrastructure and traffic;
  - concerned that the proposed design does not maintain the character of the downtown core; and,
  - this development does not attract tourism to the downtown core.
6. Bonnie Eaton, 802 Fitzwilliam Street, spoke a second time and asked if the existing high rises also had to apply for height variances.

7. Amanda Orum, 98 Fifth Street, spoke in favour and stated that numerous people including retirees move to Nanaimo every month and this is the type of development that will attract new buyers.
8. Warren Cook, 421 99 Chapel Street, spoke in favour and stated that he owns a business in the downtown core and is not concerned about parking. He stated that this new development will help refurbish the area and attract more people to the downtown core.
9. Richard Scott, 25 Front Street, spoke in favour and stated that this development will attract more residents, businesses and customers to downtown.

No written submissions were received at the meeting with respect to Rezoning Application No. RA389 - 65 and 77 Chapel Street.

J. Rudolph and K. Fry vacated the Shaw Auditorium at 7:51 p.m.

Mayor McKay vacated the Shaw Auditorium at 7:51 p.m., Councillor Bestwick assumed the Chair.

(c) Cannabis Zoning Regulation

Introduced by David Stewart, Planner, Current Planning and Subdivision.

Acting Mayor Bestwick called for submissions from the Public.

Mayor McKay returned to the Shaw Auditorium at 7:59 p.m. and resumed the Chair

1. Cliff Wiltshire, 646 Railway Avenue, Executive Officer, Salvation Botanicals, spoke in opposition and stated:
  - Salvation Botanicals has been a legally licensed processor of marijuana since 2016 and currently operates in an I2 zoned area;
  - proposed change in zoning would restrict his business and others to operate only in the Duke Point area;
  - bylaw should allow a micro-processor to operate in any I2 location;
  - Salvation Botanicals has plans for a renovation, at it's current location, which would add more space and approximately 150 – 200 employees in Nanaimo;
  - new zoning would require them to build a new facility and basically start over;
  - asking Council to change the wording in the bylaw from processor to production so their business can remain in it's current location; and,
  - they have received a legal opinion which stated that Salvation Botanicals is not considered a "heavy industry type".

Council discussion included the difference between production and processing, small industry and heavy industry type businesses and how the Cannabis Task Force defined these when completing the guidelines.

Mayor McKay called for submissions from the Public for the second time.

2. John Cheek, 1550 Fern Crescent, spoke in opposition and stated:

- in 2010 he started an application to Health Canada to open a dispensary, in 2015 he completed his application and received the go ahead in 2018 but the Regional District of Nanaimo changed the zoning after his application was approved by Health Canada;
- concerned that the proposed zoning amendment would restrict cannabis production facilities to heavy industrial locations where dirt, fumes and contaminated soil could effect production;
- the City should look at alternative cleaner locations rather than heavy industry zones; and,
- investments have been made and buildings have been built but zoning is holding up the start of businesses.

Mayor McKay called for submissions from the Public for the third time.

3. Kim Smythe, Chief Executive Officer & President, Chamber of Commerce, 2133 Bowen Road, spoke in opposition and stated:

- in August, Chamber members from MNP and a Cannabis team spoke with the members of the Chamber of Commerce;
- many layers to the Cannabis industry: growing, production, distribution, trucking, technical support, processing;
- major and smaller producers all will be taxpayers and contribute to Nanaimo;
- The Chamber of Commerce supported Tilray when they first applied and they are now an international company with 250 employees;
- asked Council to reconsider the zoning to allow cannabis production on AR1 and AR2 zoned lands to align zoning with the Regional District of Nanaimo; and,
- needs further consideration to ensure Nanaimo benefits from the legalization of marijuana.

4. Leo Therrien, 206 - 158 Promenade Drive, Shareholder/Owner Northgate Liquor Store, spoke in opposition to the rezoning criteria regarding proximity to a liquor store.

5. Jeff Guignard, Executive Director, Alliance of Beverage Licensees, 200 - 948 Howe Street, Vancouver, BC, spoke in opposition regarding the rezoning criteria for proximity to liquor stores or nightclubs and stated:

- the Alliance of Beverage Licensees has worked closely with the Province and various municipal governments regarding liquor sales and licensing;
- many private liquor store owners are looking to extend their services in retailing controlled substances in cannabis;

- liquor stores follow stringent rules regarding distance from school, parks and daycares which make liquor stores a great place to sell cannabis;
  - the provincial government allows licensed cannabis retailers to operate directly adjacent to a liquor store or share a common vestibule or foyer;
  - the City of Nanaimo rezoning criteria/guidelines are inconsistent with the provincial rules, this will cause an unnecessary burden and will impact existing businesses thriving in Nanaimo and future prospective business owners;
  - data shows that when cannabis and liquor are sold in the same place consumers will consistently choose one or the other;
  - there is no public health rationale or data to support this part of the rezoning criteria and no other municipalities have imposed these regulations; and,
  - restrictions should include hours of operation, proximity to schools, parks and daycares and age limits.
6. Andrew Peters, 2176 Lark Crescent, representing Island Cannabis Company, spoke in opposition to regarding the rezoning criteria for proximity to liquor stores and stated:
- removing the ability to purchase both liquor and cannabis in close proximity to each other creates an unnecessary inconvenience by forcing customers to drive to two locations;
  - the Province has no regulations regarding proximity to liquor stores and Victoria and Vancouver don't have this rule; and,
  - supports the requirement of 150m between schools, daycares and parks.
7. Dean Gaudry, 126 Cilaire Drive, spoke in opposition to the requirement for rezoning and stated that this regulation will lead to further delay in processing and the black market will thrive for a longer period of time.
8. Dr. Hasselbeck, Medical Health Officer, Island Health, 6475 Metral Drive spoke in opposition and stated:
- not opposed to the bylaw specifically but advised we are entering into a new era with a product that is not necessarily going to benefit the health of the community;
  - supports the legalization which will decrease the illicit sales and use but warns that there is still a need for rules and regulations regarding consumption;
  - legalization was to address the black market; it wasn't meant for economic benefits;
  - City of Nanaimo choose to not move forward prior to Oct 17<sup>th</sup>, and are one of the few communities that are waiting to ensure the appropriate rules are in place;
  - recommended that Council restrict where cannabis can be consumed much like tobacco, vaping and alcohol;

- some of the expected harms to youth include increased mental health issues and incidents of impaired driving;
  - encouraged Council to take a conservative approach to the rules and regulations as it is Council's responsibility to limit risks; and,
  - the School District requested 300 metres from schools and Council choose to go with 150 metres.
9. Adam Carmichael, 3353 Wishart Road, Victoria, BC, spoke in favour in principle, but opposed as written regarding proximity to liquor stores and stated:
- the zoning and proximity to liquor stores portion of the rezoning criteria hinder businesses from opening and operating in Nanaimo and could discourage new owners;
  - Council could consider site specific zoning with variances to the rezoning criteria on a case by case basis by looking at geographic locations and obstacles between liquor stores and cannabis retail stores; and,
  - suggested Council adopt the same language from the Provincial and Federal legislation for micro-cannabis production and processing.
10. Jasmine Liu, Owner, Trees - Island Grown, 1483 Bowen Road, spoke in opposition and stated:
- owns 2 dispensaries in Nanaimo and 4 cannabis retail stores in Victoria;
  - opposed to the distance requirement between cannabis retail stores, schools, parks and daycares and suggested removing this from the rezoning criteria; and,
  - typically daycare attendees are under the age of 5 and never left unattended so there is no danger of them walking into a store.
11. Matthew O'Donnell, 310 Victoria Road, spoke in opposition and stated:
- he is the Director of Public Relations at The Globe, 25 Front Street;
  - concerned that having the retail stores so far apart will decrease the number of legal stores and increase the black market;
  - integrity of youth has not been compromised while cannabis stores have been operating in Nanaimo for years;
  - asked why the distance between cannabis retail stores is 300m but the distance from school, daycares and parks is 150m;
  - there are numerous empty storefronts and businesses downtown that could be opened and create jobs which would assist in the revitalization of the downtown core;
  - liquor stores, nightclubs and cannabis retail stores have been operating in close proximity already with no increase in crime or vandalism; and;
  - over-regulating dispensaries will decrease jobs, new businesses and will limit the benefit to Nanaimo.

12. George Hansen, Victoria, spoke in opposition and stated:
  - concerned that the timelines for rezoning purposes are too long and will limit the current businesses and deter new businesses from applying; and,
  - Health Canada will not approve an application until all municipal rezoning requirements are met and approved.
13. Leo Green, 129 Nicol Street, spoke in opposition and stated:
  - the regulation of distance between liquor stores and cannabis retail stores is unreasonable;
  - dispensaries are already operating in Nanaimo, paying taxes and creating jobs;
  - numerous retail/commercial space sits empty and could be occupied and creating more jobs; and,
  - has not seen opposition to the existing operators and have not seen any negative effects on residents or other businesses.
14. Richard Scott – Owner of The Globe, 25 Front Street, spoke in opposition and stated that he does not agree with the proximity to liquor stores or nightclubs rezoning criteria and no research or facts support this approach.
15. Andrew Pederson, 420 Heron Place, spoke in opposition and stated:
  - that the rezoning criteria for separation between cannabis retail stores is excessive;
  - Health Canada promotes cannabis consumption and it is less physically addicting than liquor and alcohol which have no physical benefits; and
  - branding, marketing and advertising outside of retail stores is limited by the Provincial and Federal legislation.
16. Amanda Orum, 98 Fifth Street, spoke in opposition and stated:
  - advocates are asking Council for more public consultation;
  - regulations state that a home owner can grow up to four cannabis plants in their home; asked if this information would have to be placed on the title of their home;
  - Cannabis Task Force lawyers are currently suing the City of Vancouver because the new rules caused 52 cannabis retail stores to close due to new regulations and/or rezoning; and,
  - distance between cannabis retail stores will limit or close existing businesses in downtown and could close an existing business if a new application is approved before the existing store is approved.
17. John Cheek, 1550 Fern Crescent, spoke in opposition and stated that decisions regarding the rules and regulations are being made by people without direct life experience and asked Council to slow down and take all the information given tonight into consideration.

(d) Off-Street Parking Regulations Bylaw

Introduced by David Stewart, Planner, Current Planning and Subdivision.

Mayor McKay called for submissions from the Public.

No one in attendance wished to speak regarding Off-Street Parking Regulations Bylaw.

Mayor McKay called for submissions from the Public for a second time.

No one in attendance wished to speak regarding Off-Street Parking Regulations Bylaw.

Mayor McKay called for submissions from the Public for the third time.

No one in attendance wished to speak regarding Off-Street Parking Regulations Bylaw.

No written submissions were received at the meeting with respect to Off-Street Parking Regulations Bylaw.

6. FINAL CALL FOR SUBMISSIONS:

Mayor McKay announced that following the close of a Public Hearing, no further submission or comments from the public or interested persons can be accepted by members of City Council, as established by provincial case law. This is to ensure a fair Public Hearing process and provide a reasonable opportunity for people to respond.

7. ADJOURNMENT OF THE PUBLIC HEARING:

It was moved and seconded that the Public Hearing adjourn at 9:18 p.m. The motion carried unanimously.

8. BYLAWS:

(a) "Zoning Amendment Bylaw 2018 No. 4500.126"

It was moved and seconded that "Zoning Amendment Bylaw 2018 No. 4500.126" (To rezone 65 and 77 Chapel Street to allow a site-specific Floor Area Ratio of 4.25m and a site-specific maximum building height of 78.5m in the Chapel Front [DT5] zone) pass third reading. The motion carried unanimously.

(b) "Zoning Amendment Bylaw 2018 No. 4500.127"

It was moved and seconded that Council defer consideration of "Zoning Amendment Bylaw 2018 No. 4500.127" to the Regular Council meeting to be held on September 17, 2018. The motion carried unanimously.

(c) "Off-Street Parking Regulations Bylaw 2018 No. 7266"

It was moved and seconded that "Off-Street Parking Regulations Bylaw 2018 No. 7266" (To regulate parking within the City of Nanaimo) pass third reading. The motion carried unanimously.

L. Rowett and D. Stewart vacated the Shaw Auditorium at 9:20 p.m.

9. REPORTS:

(a) Bylaw Contravention Notice – Construction Started Without A Building Permit – 2309 Kingsford Place

Dale Lindsay, Director of Community Development introduced all the Bylaw Contravention Notice reports

Mayor McKay advised that there were no members of the public in attendance.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 2309 Kingsford Place for construction started without a building permit in contravention of "Building Bylaw 2016 No. 7224". The motion carried unanimously.

(b) Bylaw Contravention Notice – Construction Started Without A Building Permit 320 Hecate Street

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 320 Hecate Street for construction started without a building permit in contravention of "Building Bylaw 2016 No. 7224". The motion carried unanimously.

(c) Bylaw Contravention Notice – Construction Not Completed As Per Conditions of Building Permit – 151 Roberta Road West

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 151 Roberta Road West for construction not completed as per the conditions of the building permit. The motion carried unanimously.

(d) Bylaw Contravention Notice – Construction Not Completed As Per Conditions of Building Permit – 899 Beaufort Drive

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 899 Beaufort Drive for construction not completed as per the conditions of the building permit. The motion carried unanimously.

(e) Bylaw Contravention Notice – Construction Started Without A Building Permit – 5009 Sedona Way

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 5009 Sedona Way for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. The motion carried unanimously.

(f) Bylaw Contravention Notices – Secondary Suites

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the following property:

1. 1115 St Patrick Crescent – authorized secondary suite.

The motion carried unanimously.

10. ADJOURNMENT:

It was moved and seconded at 9:43 p.m. that the meeting terminate. The motion carried unanimously.

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CHAIR

CERTIFIED CORRECT:

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CORPORATE OFFICER