

DATE OF MEETING January 21, 2019

AUTHORED BY MADELEINE KOCH, PLANNER, CURRENT PLANNING

SUBJECT REZONING APPLICATION NO. RA406 – 111 NICOL STREET

OVERVIEW

Purpose of Report

To present Council with an application to amend the existing zoning of the property located at 111 Nicol Street to allow a site-specific Cannabis Retail Store use in the Gateway (DT12) Zone.

Recommendation

1. That “Zoning Amendment Bylaw 2019 No. 4500.132” (To rezone 111 Nicol Street to allow a site-specific Cannabis Retail Store use in the Gateway [DT12] Zone) pass first reading;
2. That “Zoning Amendment Bylaw 2019 No. 4500.132” pass second reading; and
3. That Council direct Staff to secure the amenity contribution and BC Liquor and Cannabis Regulation Branch approval prior to adoption of the bylaw, should Council support the bylaw at third reading.

BACKGROUND

A rezoning application (RA406) for 111 Nicol Street was received from 115737 BC Ltd. (Matt Charlton), on behalf of 636238 BC Ltd. The applicant proposes to amend the existing DT12 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.

Subject Property and Site Context

<i>Location</i>	111 Nicol Street
<i>Total Lot Area</i>	1,472m ²
<i>Current Zone</i>	DT12
<i>Proposed Zone</i>	DT12 with site-specific “Cannabis Retail Store” use
<i>Official Community Plan Designation</i>	Urban Node
<i>South End Neighbourhood Plan Designation</i>	Urban Node

<i>Proximity to nearest school (Bayview Elementary)</i>	Approximately 800m
<i>Proximity to nearest licensed daycare</i>	Approximately 450m
<i>Proximity to nearest CRS</i>	Approximately 430m from proposed CRS at 52 Victoria Cres.

DISCUSSION

Proposed Development

The applicant is proposing to rezone the subject property to allow “Cannabis Retail Store” in addition to the existing DT12 permitted uses. While the DT12 Zone allows “retail” as a permitted use, a CRS requires site-specific zoning.

The proposed private CRS will be located within Unit 115 in the existing strip mall located at 111 Nicol Street and will have an approximate floor area of 150m². The applicant has indicated the proposed business hours will be 9 a.m. to 11 p.m., 7 days per week. The strip mall also houses a gym, a tattoo shop, and retail-oriented businesses.

Provincial Licensing Requirements

The City has received confirmation from 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/ Neighbourhood Plan

Both the Official Community Plan (OCP) and the South End Neighbourhood Plan designate the subject property as Urban Node. Neither plan addresses CRS use specifically, but the Urban Node land use designation supports retail uses generally and encourages a diversity of commercial, professional, and residential uses.

In absence of OCP policy direction regarding CRS use, the Cannabis Retail Store Rezoning Criteria provides guidance for considering CRS applications. This application meets the rezoning criteria, as outlined in the table below.

It is not anticipated that the proposed development will require a development permit, as no exterior alterations are proposed at this time.

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 are intended to inform Council's consideration of the rezoning application:

Criteria	Response
Location	
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 located on a provincial highway and is within the Urban Node land use designation.
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 located more than 200m from any licensed daycares or schools, with the nearest school (Bayview Elementary) located approximately 800m away, and the nearest daycare is approximately 450m away. The applicant was referred to the School Board and they confirmed they have no concerns.
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 more than 200m from another proposed CRS location. The nearest proposed CRS to date (52 Victoria Crescent) is located approximately 430m away.
Building 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 size of the CRS is consistent with other units in the existing shopping centre and the surrounding area.
2.2. The design of the proposed CRS should enhance or improve the aesthetics of the surrounding area, not detract from them. 2.2.1. The revitalization of heritage buildings is encouraged.	The appearance of the CRS is consistent with other units in the building and the surrounding area. N/A
2.3. Outside the downtown core, consideration should be given to a requirement for onsite parking and loading for every CRS.	N/A

Community Impact	
<p>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.</p> <p>3.1.1. 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 programs designed to prevent unsightliness, etc.</p> <p>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.</p>	<p>The applicant has indicated that attempts by minors to enter the premises to purchase cannabis or minors engaging clients to purchase cannabis for them could be potential negative impacts.</p> <p>They propose the following mitigation measures:</p> <ul style="list-style-type: none"> • Requiring customers to produce government photo ID; • Encouraging employees to be vigilant in their examination of ID documents; • Discouraging loitering in the store's vicinity; • Contacting police if resale to minors is suspected. <p>The proposed site is approximately 215m from Deverill Hill Gyro 2 Park and approximately 250m from Nob Hill Park. Staff are not aware of other family-oriented facilities in the immediate area.</p>
<p>3.2. Projected traffic volumes and on-street parking demands associated with a proposed CRS should not adversely impact nearby residential and commercial areas.</p>	<p>The property is located within the Downtown Specified Area and does not require parking for the proposed commercial use.</p> <p>Staff are not aware of any existing traffic issues in this area and use of the site as a cannabis retail store is not expected to negatively impact traffic volumes.</p>
<p>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.</p> <p>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.</p>	<p>The application was referred to the South End Community Association. Staff responded to questions from the Association and confirmed they had no concerns.</p> <p>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.</p>

<p>3.4. 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</p>	<p>The RCMP have reviewed the proposal and indicated they have no concerns.</p> <p>New Council Committees have yet to be established, so committee review has not taken place.</p>
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In summary, Staff support the proposed rezoning, which substantially complies with Council's policy.

Community Contribution

The applicant proposes a monetary contribution of \$10,000 to be directed towards Parks, Recreation & Culture underprivileged youth programming within the City of Nanaimo.

Conditions of Rezoning

Should Council support this application and pass third reading of "Zoning Amendment Bylaw 2019 No. 4500.132", 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 Parks, Recreation & Culture underprivileged youth programming.
2. *LCRB Approval* - Confirmation from the LCRB that it has approved the applicant's suitability for a cannabis retail licence.

SUMMARY POINTS

- A rezoning application has been received to allow a cannabis retail store in an existing commercial building as a site-specific use in the DT12 Zone for the subject property at 111 Nicol Street.
- The Provincial Liquor and Cannabis Regulation Branch is reviewing the licensing application for this proposal.
- The application substantially complies with the Cannabis Retail Store Rezoning Criteria.

ATTACHMENTS

- ATTACHMENT A: Location Plan
 - ATTACHMENT B: School and Licensed Daycare Buffer Map
 - ATTACHMENT C: Proposed Floor Plan
 - ATTACHMENT D: Letter of Rationale
 - ATTACHMENT E: Aerial Photo
- "Zoning Amendment Bylaw 2019 No. 4500.132"

Submitted by:

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Concurrence by:

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