

DATE OF MEETING | April 1, 2019

AUTHORED BY | DAVE STEWART, PLANNER, CURRENT PLANNING

SUBJECT REZONING APPLICATION NO. RA413 – 3923 VICTORIA AVENUE

OVERVIEW

Purpose of Report

To present Council with an application to amend the existing zoning of the property located at 3923 Victoria Avenue to allow “Cannabis Retail Store” as a site-specific use in the Neighbourhood Centre (CC2) Zone.

Recommendation

1. That “Zoning Amendment Bylaw 2019 No. 4500.138” (To rezone 3923 Victoria Avenue to allow “Cannabis Retail Store” as a site-specific use in the Neighbourhood Centre [CC2] Zone) pass first reading;
2. That “Zoning Amendment Bylaw 2019 No. 4500.138” 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, RA413, was received from Mood Cannabis Company on behalf of Somerset Landscaping for 3923 Victoria Avenue. The applicant proposes to amend the existing CC2 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.

To date, three other cannabis applications have been reviewed by Council:

Application No. #	Address	Status
RA406	111 Nicol Street, Unit 115	Received third reading on 2019-FEB-07
RA410	1599 Dufferin Crescent, Unit 9	First and second reading received on 2019-MAR-04
RA415	2220 Bowen Road, Unit 9	Received first and second reading on 2019-MAR-18.

In total, Staff have received 15 CRS rezoning applications to date.

Subject property and Site Context

<i>Location</i>	3923 Victoria Avenue is located across the street from the Wellington Pub and Liquor Store, within a small block of commercial stores in the Wellington Neighbourhood.	
<i>Total Lot Area</i>	681m ²	
<i>Current Zone</i>	CC2- Neighbourhood Centre	
<i>Proposed Zone</i>	CC2 with site-specific “Cannabis Retail Store” use	
<i>Official Community Plan (OCP) Designation</i>	Neighbourhood Commercial Centre	
<i>Neighbourhood Plan Designation</i>	N/A	
<i>Proximity to nearest school</i>	Approximately 325m (<i>Island Connect Education</i>)	Approximately 935m (<i>Wellington Secondary School</i>)
<i>Proximity to nearest licensed daycare</i>	Approximately 827m (Home daycare - Beaver Creek Crescent)	
<i>Proximity to nearest CRS</i>	No CRS use exists within 200m of the subject property. An application was recently received for a CRS at 4061 Norwell Drive, which is approximately 85m from the subject property.	

The subject property is located on Victoria Avenue between Country Club Mall and Long Lake/Loudon Park. The property previously included a small topiary retail store.

The property is included within a group of small of commercial properties within the Wellington Neighbourhood. Surrounding land uses include a neighbourhood pub, liquor store, restaurant, medical offices, glass repair, a community centre, and low-density residential housing.

DISCUSSION

Proposed Development

The applicant is proposing to rezone the subject property to allow a “Cannabis Retail Store” use in addition to the existing CC2 permitted uses. While the CC2 Zone allows “retail” as a permitted use, a CRS requires site-specific rezoning.

The proposed private CRS will be located on a fee-simple lot within the larger of two separate buildings onsite. The CRS building is approximately 73m² in size. The smaller building to the rear of the property will be used as a staff room and offices, but not to store or sell cannabis.

The applicant is requesting operating hours from 9 am to 11 pm Monday through Saturday, and 9 am to 9 pm on Sundays.

Provincial Licensing Requirements

The City was advised by 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

The Official Community Plan (OCP) designates the subject property as Neighbourhood Commercial Centre. Uses in Commercial Centres include community services and facilities, and personal service, commercial and retail facilities. The proposed CRS generally complies with the intent of the Neighbourhood Commercial Centre land use designation.

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 is intended to inform Council for 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 OCP.	The subject property is located on Victoria Avenue, which is considered a commercial road. The property is within the Neighbourhood Commercial Centre 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.	<p>No licensed daycare or school are within 200m of the subject property.</p> <p>The closest school to the subject property is located 325m away at 4355 Jingle Pot Road. The Jingle Pot Road property was the former location of Mt. Benson Elementary school. The elementary school closed in 2008. The property now includes the Island ConnectEd K-12 public home school office and classroom.</p> <p>The closest traditional school is Wellington Secondary School, which is approximately 935m from the subject property.</p> <p>The closest licensed daycare is approximately 827m from the subject property and on the opposite side of the Island Highway.</p>

	Island Health (Community Care and Licensing) and School District 68 have no objection to the application.
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.	On 2019-FEB-01, the City received a CRS rezoning application for 4061 Norwell Drive (RA427), which is approximately 85m from the subject property. However, the subject property application was received prior to the Norwell Drive application. No other applications have been received for properties within 200m of the subject property.
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 proposed CRS will be located on a fee-simple property within a previously existing retail unit. The size of the CRS is consistent with other commercial units in 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.	The proposed façade of the CRS is consistent with other units in the surrounding area.
2.2.1. The revitalization of heritage buildings is encouraged.	N/A
2.3. Outside the downtown core, consideration should be given to a requirement for onsite parking and loading for every CRS.	The proposed CRS will replace a previous retail topiary store. As the use of the property is not changing from retail, no additional parking will be required. Four existing parking spaces will be provided onsite and will be directly accessed from Victoria Avenue.
Community Impact	
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.	The applicant has provided a community impact statement within their Letter of Rationale (Attachment E) that addresses concerns related to consumption onsite, odour, and sales to minors.
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.	The applicant proposes the following mitigation measures: <ul style="list-style-type: none"> • Require customers to produce government photo identification (ID); • Require ID swipe at Point of Sale system to permit purchasing; • Ensure marketing includes a 19+ messaging; • Place an age gate on the company website;

	<ul style="list-style-type: none"> • Display media related to B.C. Guidelines for cannabis consumption; • Maintain a clean, orderly space; • Staff training related to the sale of cannabis and Federal and Provincial legislation; • Refuse service to intoxicated individuals; and • Install a charcoal air-filtration system.
<p>3.1.2 Consideration must be given to the impact a CRS will have when located in close proximity to libraries, public recreation centres, public community centres, parks, places of worship and other family-oriented facilities.</p>	<p>The subject property is located on Victoria Avenue halfway between Long Lake/Loudon Park and Country Club Mall. Loudon Park is approximately 455m from the proposed CRS. Country Club Mall is approximately 460m from the subject property. In the summertime, Victoria Avenue is a frequently used as a pedestrian and vehicle connection to Loudon Park beach.</p> <p>The Wellington Hall community centre is located immediately behind the subject property. The centre is frequently used as a meeting space for various community groups, including children’s groups. The hall is also regularly used as a church and for dances, seniors groups and other social events.</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 portion of Victoria Avenue adjacent to the subject property is classified as commercial road. Traffic is common on the road due to destinations such as the liquor store and Loudon Park. While the proposed CRS will replace a previously existing commercial use (topiary nursery), it is expected the CRS may result in a minor increase in traffic volumes.</p> <p>Informal on-street parking is common and available within the area, and it is expected that some CRS customers may choose to park on the street.</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>The subject property is located within the Wellington Neighbourhood Association. The neighbourhood association is also responsible for operating the Wellington Community Hall, and has expressed concerns regarding the distance from the proposed CRS to the community hall and potential impacts (product exposure to minors, odour ,and fumes). Please see Attachment F - Neighbourhood Referral Response.</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 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 CRS rezoning applications 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 comment.</p> <p>New Council committees have yet to be established; therefore, committee review has not taken place.</p>

The Wellington Neighbourhood Association expressed a number of concerns with respect to cannabis advertising, odours and smoking of cannabis on the subject property, or near the Wellington Hall Community Centre (owned by the neighbourhood association). The City's "Smoking Regulation Bylaw 2018 No. 7268" prohibits smoking of any substance within 6m of a door or window; however, smoking is otherwise permitted.

The applicants have stated they will not allow cannabis consumption onsite. The applicant will install charcoal filters to eliminate odours, and all cannabis will be sold in pre-packaged bags as per LCRB requirements. The LCRB require all cannabis stores to have frosted glass windows and limits signage.

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 and Recreation for improvements within Loudon Park. Staff support this proposal.

Conditions of Rezoning

Should Council support this application and pass third reading of "Zoning Amendment Bylaw 2019 No. 4500.138", 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 and Recreation for improvements within Loudon Park.
2. *LCRB Approval* - Confirmation from the LCRB that it has approved the applicant's suitability for a cannabis retail store licence.
3. *Ministry of Transportation and Infrastructure (MOTI)* – MOTI approval of the bylaw is required after third reading.

SUMMARY POINTS

- A rezoning application has been received to allow Cannabis Retail Store use within an existing commercial building as a site-specific use in the CC2-Neighbourhood Centre Zone for the subject property located at 3923 Victoria Avenue.
- 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.
- Staff support the proposed amendment.

ATTACHMENTS

ATTACHMENT A: Location Plan
ATTACHMENT B: School and Licensed Daycare Buffer Map
ATTACHMENT C: Site Plan
ATTACHMENT D: Proposed Floor Plans
ATTACHMENT E: Letter of Rationale / Community Impact Statement
ATTACHMENT F: Neighbourhood Referral Response
ATTACHMENT G: Aerial Photo
“Zoning Amendment Bylaw 2019 No. 4500.138”

Submitted by:

L. Rowett
Manager, Current Planning

Concurrence by:

D. Lindsay
Director, Community Development