

DATE OF MEETING | May 27, 2019 |

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SUBJECT | REZONING APPLICATION NO. RA418 – 52 VICTORIA CRESCENT |

OVERVIEW

Purpose of Report

To present Council with an application to amend the existing zoning of the property located at 52 Victoria Crescent to allow “Cannabis Retail Store” as a site-specific use in the Terminal Avenue (DT4) zone.

Recommendation

That:

1. “Zoning Amendment Bylaw 2019 No. 4500.144” (To rezone 52 Victoria Crescent to allow “Cannabis Retail Store” as a site-specific use in the Terminal Avenue [DT4] zone) pass first reading;
2. “Zoning Amendment Bylaw 2019 No. 4500.144” pass second reading; and
3. 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 (RA418) was received for 52 Victoria Crescent from 1175932 BC Ltd., on behalf of Hogler Enterprises Ltd. The applicant proposes to amend the existing DT4 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, nine other cannabis applications have been reviewed by Council:

| # | Application No. # | Address | Status |
|---|-------------------|------------------------|---------------------------------------|
| 1 | RA406 | 111 Nicol Street | Received third reading on 2019-FEB-07 |
| 2 | RA410 | 1599 Dufferin Crescent | Received third reading on 2019-APR-04 |
| 3 | RA415 | 2220 Bowen Road | Received third reading on 2019-APR-04 |
| 4 | RA411 | 25 Front Street | Received third reading on 2019-MAY-02 |

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| 5 | RA413 | 3923 Victoria Avenue | Received third reading on 2019-MAY-02 |
| 6 | RA416 | 1483 Bowen Road | Received third reading on 2019-MAY-02 |
| 7 | RA417 | 510 Fifth Street | Received third reading on 2019-MAY-02 |
| 8 | RA407 | 6683 Mary Ellen Drive | Scheduled for public hearing on 2019-JUN-13 |
| 9 | RA408 | 3200 Island Highway North | Scheduled for public hearing on 2019-JUN-13 |

In total, Staff have received 17 CRS rezoning applications to date.

Subject Property and Site Context

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| <i>Location</i> | The subject property is located within an established commercial building within the downtown core, between Albert Street and Nicol Street. |
| <i>Total Lot Area</i> | 422m ² |
| <i>Current Zone</i> | DT4 - Terminal Avenue Zone |
| <i>Proposed Zone</i> | DT4 with site-specific “Cannabis Retail Store” use |
| <i>Official Community Plan (OCP) Designation</i> | Urban Node - Downtown |
| <i>Neighbourhood Plan Designation</i> | Nanaimo Downtown Plan - South Gate |
| <i>Proximity to nearest school</i> | Approximately 815m (<i>Ecole Pauline Haarer</i>) |
| <i>Proximity to nearest licensed daycare</i> | Approximately 295m (<i>Jolly Giant Childcare on Selby Street</i>) |
| <i>Proximity to nearest CRS</i> | Approximately 300m from proposed CRS at 350 Terminal Avenue (not yet reviewed by Council) 439m from proposed CRS at 111 Nicol Street (received third reading) |

The subject property is located on the north side of Victoria Crescent within the downtown core. The store entrance will face Victoria Crescent, with the building backing onto Shaw Lane. Surrounding uses include two smoking paraphernalia stores, nightclubs, restaurants, offices (Input Cowork), and other retail uses. A 60-unit multiple-family development (30 Cavan Street) exists across the street from the subject property.

DISCUSSION

Proposed Development

The applicant is proposing to rezone the subject property to allow “Cannabis Retail Store” use in addition to the existing DT4 permitted uses. While the DT4 zone allows “retail” as a permitted use, a CRS requires site-specific rezoning.

The proposed business hours are Monday to Saturday 10:30 a.m. to 7:30 p.m. and Sunday 11 a.m. to 6 p.m. The proposed retail floor area will be approximately 102m².

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 Urban Node - Downtown Centre. The OCP does not address CRS use specifically, but the Downtown Centre Urban Node land-use designation supports retail uses and encourages a diversity of commercial, professional, and residential uses. The proposed CRS generally complies with the intent of the Urban Node 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 are intended to inform Council’s consideration of the rezoning application:

| Criteria | | Response |
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| 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 Victoria Crescent, which is considered a commercial road. The property is within the Downtown Centre 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 (Ecole Pauline Haarer Elementary – 400 Campbell Street) located approximately 815m away, and the nearest daycare (Jolly Giant Childcare – 436 Selby Street) approximately 295m away. The applicant was referred to the School District 68 and Island Health (Community Care and Licensing). They have both confirmed they have no concerns with the proposed rezoning. |

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| <p>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.</p> | <p>The proposed CRS is more than 200m from another proposed CRS location. The nearest proposed CRS to date (350 Terminal Avenue) is located approximately 300m away and is awaiting Council review.</p> |
| <p>Building or Site</p> | |
| <p>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.</p> | <p>The proposed CRS will be located within an existing commercial unit, and the size of the CRS is consistent with other commercial units in the downtown area.</p> |
| <p>2.2. The design of the proposed CRS should enhance or improve the aesthetics of the surrounding area, not detract from them.</p> | <p>The proposed CRS will be located within an existing building with no major exterior improvements proposed.</p> |
| <p>2.2.1. The revitalization of heritage buildings is encouraged.</p> | <p>The proposed CRS is located within Heritage Conservation Area 1 as designated by the OCP, but is not located on the Heritage Register or considered a heritage building.</p> |
| <p>2.3. Outside the downtown core, consideration should be given to a requirement for onsite parking and loading for every CRS.</p> | <p>The subject property is located within the downtown core; onsite parking is not required. Three parking spaces are provided onsite at the rear of the building with access from Shaw Lane, plus additional public parking adjacent to Shaw Lane.</p> |
| <p>Community Impact</p> | |
| <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>The applicant has provided a community impact statement (Attachment E) indicating how they plan to address loitering, smoking in prohibited areas, and aggressive or impaired customers.</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>Measures to address and mitigate community concern:</p> <ul style="list-style-type: none"> • Limiting store hours to no later than 7 p.m. (Monday-Saturday) and 6 p.m. on Sundays to avoid conflict with potentially impaired nightclub patrons; • Posting smoking regulations within the store; • Installing an air filtration system within the product storage room; and • Reporting loitering to private security within the area, and illegal activity or aggressive behavior to the RCMP. |

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| | <p>The Community Policing Office and Victoria Crescent Bylaw Services office is approximately 30m from the subject property.</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 subject property is located within walking distance of a number of small downtown parks, including:</p> <ul style="list-style-type: none"> • The Italian Fountain at Port Place Mall (approximately 40m); • Pioneer Square Park (green space between Victoria Crescent, Esplanade, and Nicol Streets) (approximately 70m); • Piper Park (military museum location) (approximately 133m); • Nob Hill Park (approximately 215m); and • The Nanaimo Harbour - Bastion Square Park/Anchor Way Park (approximately 254m). <p>The subject property is also approximately 250m from the downtown library and Diana Krall Plaza.</p> <p>Overall, downtown Nanaimo supports family-oriented facilities and public spaces, and a wide range of commercial uses, including liquor primary establishments. Staff consider the proposed CRS to be in keeping with the mix of commercial uses in the downtown 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 proposed CRS is located within the Downtown-Specified Area and will not require parking for the proposed commercial use.</p> <p>The proposed CRS 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>A referral request was sent to the Victoria Crescent Business Association.</p> <p>No response has been received to date.</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. Development proposal signs have been placed on the property, and if Council gives first and second reading to "Zoning Amendment Bylaw 2019 No. 4500.144", the application will proceed to public hearing.</p> |

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| <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> |
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Staff support the proposed rezoning, which is in keeping with the mix of commercial uses in the downtown area, and consider the application to be substantially in compliance with the City's Cannabis Retail Store Rezoning Criteria policy.

Community Contribution

The applicant proposes a monetary contribution of \$10,000 to be directed towards a community grant to support substance and addictions treatment programs.

Conditions of Rezoning

Should Council support this application and pass third reading of "Zoning Amendment Bylaw 2019 No. 4500.144", 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 a community grant to support substance and addictions treatment programs.
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 Cannabis Retail Store as a site-specific permitted use within an existing commercial building in the DT4 Terminal Avenue zone for the subject property located at 52 Victoria Crescent.
- The Provincial Liquor and Cannabis Regulation Branch is reviewing the licensing application for this proposal.
- The proposed rezoning is in keeping with the mix of commercial uses in the downtown area and substantially complies with the Cannabis Retail Store Rezoning Criteria.

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: Aerial Photo
“Zoning Amendment Bylaw 2019 No. 4500.144”

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Concurrence by:

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