

DATE OF MEETING July 8, 2019

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SUBJECT REZONING APPLICATION NO. RA427 – 4061 NORWELL DRIVE

## OVERVIEW

### **Purpose of Report**

To present Council with an application to amend the existing zoning of the property located at 4061 Norwell Drive to allow “Cannabis Retail Store” as a site-specific use in the Neighbourhood Centre (CC2) zone.

### **Recommendation**

That Council deny the application and associated readings to “Zoning Amendment Bylaw 2019 No. 4500.151” (To rezone 4061 Norwell Drive in order to permit “Cannabis Retail Store” as a site-specific use in the Neighbourhood Centre [CC2] zone).

## BACKGROUND

A rezoning application, RA427, was received for 4061 Norwell Drive from Monte’s Green House on behalf of 561177 BC LTD. 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, fourteen other cannabis applications have been reviewed by Council, with one rezoning application (RA413) adopted:

#	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
5	RA413	3923 Victoria Avenue	<b>Adopted 2019-JUN-17</b>
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	Received third reading on 2019-JUN-13

9	RA408	3200 Island Highway North	Received third reading on 2019-JUN-13
10	RA418	52 Victoria Crescent	Received third reading on 2019-JUN-13
11	RA420	140 Terminal Avenue	Received third reading on 2019-JUN-13
12	RA422	111 Terminal Avenue	Scheduled for public hearing on 2019-JUL-04
13	RA430	350 Terminal Avenue	Scheduled for public hearing on 2019-JUL-04
14	RA425	6404 Metral Drive	Scheduled for public hearing on 2019-JUL-04

In total, Staff have received 18 CRS rezoning applications to date.

### Subject Property

<i>Location</i>	4061 Norwell Drive is located at the intersection of Norwell Drive and Victoria Avenue within a small block of commercial stores in the Wellington Neighbourhood.	
<i>Total Lot Area</i>	916.9m <sup>2</sup>	
<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 267m (Island Connect Education)	Approximately 1km (Wellington Secondary School)
<i>Proximity to nearest licensed daycare</i>	Approximately 829m (Home daycare - Beaver Creek Crescent)	
<i>Proximity to nearest CRS</i>	Approximately 85m from the proposed CRS at 3923 Victoria Avenue (RA413), which received fourth reading on 2019-JUN-17, and is the first CRS in Nanaimo to receive zoning approval.	

The subject property includes a small shopping centre located on Victoria Avenue between Country Club Mall and Long Lake / Loudon Park. Other uses within the shopping centre include a barber shop, golf equipment store, and cell phone repair shop. The unit previously included an illegal cannabis retail store, managed by a different operator than the applicants.

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, the Wellington 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 business hours are 10:00 a.m. to 9:00 p.m., seven days a week. The proposed retail floor area is approximately 73m<sup>2</sup> within an existing commercial building.

## 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 was 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 “fit and proper” assessment results.

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, 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
<b>Location</b>		
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 Norwell Drive, which is considered a urban arterial 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.	No licensed daycare or school are within 200m of the subject property.  The closest school to the subject property is located 267m 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. The property also includes a licensed daycare facility.

	<p>The closest traditional school is Wellington Secondary School, which is approximately 1km from the subject property.</p> <p>The next closest licensed daycare is approximately 860m from the subject property and on the opposite side of the Island Highway.</p> <p>Island Health (Community Care and Licensing) and School District 68 have no objection to the application.</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>On 2019-JUN-17, the City adopted “Zoning Amendment Bylaw 2019 No. 4500.138” to allow “Cannabis Retail Store” as a site specific use at 3923 Victoria Avenue (RA413), which is approximately 85m from the subject property.</p> <p>No other applications have been received for properties within 200m of the subject property.</p>
<b>Building or Site</b>	
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 the upper floor of an existing small commercial shopping centre. The size of the proposed CRS is consistent with the size of existing retail stores within the 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. A conceptual building elevation is included as Attachment D.
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 use. As the use of the property is not changing from retail, no additional parking will be required. Eleven existing parking spaces will be provided onsite with four dedicated to customers of the proposed CRS.
<b>Community Impact</b>	
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 F) that addresses concerns related to consumption onsite, security, and sales to minors.

<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>The applicant notes consumption will not be permitted onsite and minors will not be permitted within the store.</p>
<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 the corner of Norwell Drive and Victoria Avenue halfway between Long Lake/Loudon Park and Country Club Mall. Loudon Park is approximately 370m from the proposed CRS. In the summertime, both Norwell Drive and Victoria Avenue are frequently used as a pedestrian and vehicle connection to Loudon Park beach.</p> <p>The Wellington Hall community centre is located immediately to the southeast of 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. During the rezoning application for 3923 Victoria Avenue, the Wellington Neighbourhood Association expressed concern with respect to a CRS located near the community centre. If the rezoning application is approved, two cannabis stores will be located within less than 50m of the community centre.</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 will be located within an existing commercial centre and will not require additional parking. The subject property is adjacent to Norwell Drive, which is classified as an urban arterial road. 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>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 to the community hall, in response to the proposed and previous CRS application on Victoria Avenue. The neighbourhood association has also expressed a concern regarding the number of CRS applications proposed within the neighbourhood area. In addition to the application at 3923 Victoria</p>

	Avenue (85m from the proposed CRS), a proposed CRS at 3200 Island Highway (Country Club Mall) received third reading on 2019-JUN-13, approximately 700m from the subject property.
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.	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.
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.	The RCMP have reviewed the proposal and indicated they have no comment.  New Council committees have yet to be established; therefore, committee review has not taken place.

The proposed CRS is located within 200m of another CRS application site (3923 Victoria Avenue), received prior to the subject application and adopted on 2019-JUN-17. Another CRS application site (3200 Island Highway, Country Club Mall) is within 700m of the subject property. Council is asked to consider what impact, if any, two CRS locations will have when located within 85m of each other in the Wellington Neighbourhood and in close proximity to the Wellington Community Hall.

Given the proximity of the proposed CRS to another CRS (3923 Victoria Avenue), Staff conclude the proposed CRS location does not comply with City policy.

### Community Contribution

The applicant proposes a monetary contribution of \$10,000 to be directed towards Loudon Park and Trail improvements. Staff support this proposal.

### Conditions of Rezoning

Should Council wish to proceed with this application and pass third reading of “Zoning Amendment Bylaw 2019 No. 4500.151”, 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 Loudon Park and Trail improvements.
2. *LCRB Approval* - Confirmation from the LCRB that it has approved the applicant’s suitability for a cannabis retail store licence.

## **OPTIONS**

- Option 1 – That Council deny the application and the associated readings to “Zoning Amendment Bylaw 2019 No. 4500.151: (To rezone 4061 Norwell Drive to permit “Cannabis Retail Store” as a site-specific use in the Neighbourhood Centre [CC2] zone).
  - The proposed CRS is within 200m of another proposed CRS and therefore does not comply with “Cannabis Retail Store Rezoning Criteria”. Denying the rezoning is consistent with Council’s Cannabis Rezoning Policy.
  - The Neighbourhood Association does not support the rezoning. Denying the rezoning is consistent with the Neighbourhood Association response.
- Option 2 – That
  - “Zoning Amendment Bylaw 2019 No. 4500.151” (To rezone 4061 Norwell Drive to permit “Cannabis Retail Store” as a site-specific use in the Neighbourhood Centre [CC2] zone) pass first reading;
  - “Zoning Amendment Bylaw 2019 No. 4500.151” pass second reading;
  - “Zoning Amendment Bylaw 2019 No. 4500.151” pass third reading; and
  - Council direct Staff to secure the community amenity contribution, should Council support third reading of the bylaw.
    - The “Cannabis Retail Store Rezoning Criteria” states consideration shall be given to the overall urban density and context of the area when considering the distance between proposed cannabis retail stores. The subject property is not located within an urban node or other dense urban area; therefore, it is Staff’s opinion that approving the proposed rezoning application would be contrary to the CRS rezoning criteria.
    - Denying the rezoning at first and second reading will deny the public the opportunity to speak to the application at the public hearing.

## **SUMMARY POINTS**

- A rezoning application has been received to allow “Cannabis Retail Store” as site-specific use within an existing commercial building in the CC2 zone for the subject property at 4061 Norwell Drive.
- The Provincial Liquor and Cannabis Regulation Branch is reviewing the licensing application for this proposal.
- The proposed CRS is within 200m of another CRS (3923 Victoria Avenue). Staff conclude the proposed CRS location does not comply with City policy.

## **ATTACHMENTS**

ATTACHMENT A: Location Plan

ATTACHMENT B: School and Licensed Daycare Buffer Map  
ATTACHMENT C: Site Plan  
ATTACHMENT D: Conceptual Building Elevation  
ATTACHMENT E: Proposed Floor Plan  
ATTACHMENT F: Letter of Rationale / Community Impact Statement  
ATTACHMENT G: Aerial Photo  
“Zoning Amendment Bylaw 2019 No. 4500.151”

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