

DATE OF MEETING | October 21, 2019

AUTHORED BY | GEPKE STEVENSON, PLANNER, CURRENT PLANNING

SUBJECT | **REZONING APPLICATION NO. RA436 – 120 COMMERCIAL STREET**

OVERVIEW

Purpose of Report

To present Council with an application to amend the existing zoning of the property located at 120 Commercial Street to allow “Cannabis Retail Store” as a site-specific use in the Core (DT1) zone.

Recommendation

That:

1. “Zoning Amendment Bylaw 2019 No. 4500.161” (To rezone 120 Commercial Street to allow “Cannabis Retail Store” as a site-specific use in the Core [DT1] zone) pass first reading;
2. “Zoning Amendment Bylaw 2019 No. 4500.161” pass second reading; and
3. Council direct Staff to secure the amenity contribution prior to adoption of the bylaw, should Council support the bylaw at third reading.

BACKGROUND

A rezoning application, RA436, was received from Aura Cannabis Inc. (doing business as Kiaro Retail), for 120 Commercial Street. The applicant proposes to amend the existing DT1 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 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, six CRS rezoning applications have received Final Adoption, and ten other applications have been reviewed by Council in addition to the subject application:

#	Application No.	Address	Status
1	RA413	3923 Victoria Avenue	Received fourth reading (Final Adoption) on 2019-JUN-17
2	RA407	6683 Mary Ellen Drive	Received fourth reading (Final Adoption) on 2019-AUG-26

3	RA408	3200 Island Highway N.	Received fourth reading (Final Adoption) on 2019-AUG-26
4	RA425	6404 Metral Drive	Received fourth reading (Final Adoption) on 2019-AUG-26
5	RA430	350 Terminal Avenue	Received fourth reading (Final Adoption) on 2019-SEP-09
6	RA418	52 Victoria Crescent	Received fourth reading (Final Adoption) on 2019-SEP-16
7	RA406	111 Nicol Street	Received third reading on 2019-FEB-07
8	RA410	1599 Dufferin Crescent	Received third reading on 2019-APR-04
9	RA415	2220 Bowen Road	Received third reading on 2019-APR-04
10	RA411	25 Front Street	Received third reading on 2019-MAY-02
11	RA416	1483 Bowen Road	Received third reading on 2019-MAY-02
12	RA417	510 Fifth Street	Received third reading on 2019-MAY-02
13	RA420	140 Terminal Avenue	Received third reading on 2019-JUN-13
14	RA422	111 Terminal Avenue	Received third reading on 2019-JUL-04
15	RA427	4061 Norwell Drive	Denied by Council on 2019-JUL-08
16	RA431	50 Tenth Street	Received third reading on 2019-OCT-07
17	RA437	115 Chapel Street	Being considered by Council on 2019-OCT-21

In total, 20 CRS applications have been received to date.

Subject Property and Site Context

<i>Location</i>	The subject property is an historic building located within the downtown core at the intersection of Commercial Street and Wharf Street.
<i>Total Lot Area</i>	218m ²
<i>Current Zoning</i>	DT1 - Core
<i>Proposed Zoning</i>	DT1 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 - Core
<i>Proximity to nearest school</i>	Approximately 525m (<i>Ecole Pauline Haarer Elementary – 400 Campbell Street</i>)
<i>Proximity to nearest licensed daycare</i>	Approximately 350m (<i>Katie’s Korner – 357 Wesley Street</i>)
<i>Proximity to nearest CRS</i>	Approximately 105m from an approved CRS at 350 Terminal Avenue (RA422); and approximately 145m from a proposed CRS at 115 Chapel Street (RA437), being considered by Council on 2019-OCT-21.

The subject property is located within the historic Gusola Block. The proposed cannabis retail store would be located in the partially-below-grade retail unit. The at-grade unit entrance faces Wharf Street and is addressed with the alias of 78 Wharf Street. The subject property also contains a café and bakery on the ground floor and apartments on the second floor.

Neighbouring land uses include commercial retail, offices, public institutions, and public plazas.

DISCUSSION

Proposed Development

The applicant is proposing to rezone the subject property to allow “Cannabis Retail Store” use in addition to the existing DT1 permitted uses. While the DT1 zone allows “retail” as a permitted use, a CRS requires site-specific rezoning.

The proposed business hours are from 10 a.m. to 8 p.m., seven days a week. The proposed retail floor area is approximately 177m².

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 has advised the City that Aura Cannabis has passed 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. Should Council approve “Zoning Amendment Bylaw 2019 No. 4500.161”, the bylaw approval would constitute a positive recommendation in support of the licensing application.

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 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 – Downtown Centre land-use designation.

Cannabis Retail Store Rezoning Criteria

The following table summarizes how the proposed rezoning addresses the CRS Rezoning Criteria adopted by Council on 2018-SEP-17, which is intended to inform Council’s consideration of the rezoning application:

Criteria		Response
<i>Location</i>		
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 within the Urban Node land-use designation, and is located in close proximity to a major collector road and a provincial highway.

<p>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>	<p>The proposed CRS is located more than 200m from any licensed daycares or schools, with the nearest school approximately 525m away, and the nearest daycare approximately 350m away.</p> <p>School District 68 and Island Health (Community Care and Licensing) confirmed they have no objections to the application.</p>
<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 located approximately 105m from the nearest approved CRS at 350 Terminal Avenue. The proposed CRS is also located approximately 145m away from a proposed CRS at 115 Chapel Street, which is being considered by Council on 2019-OCT-21.</p> <p>While the proposed CRS is located approximately within 200m of other proposed CRSs, the City's CRS Rezoning Criteria allows consideration of the overall urban density and context of the downtown area. The proposed location is within the core of Nanaimo's downtown, where retail density is at its greatest.</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 multi-tenant building. 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>Minor repainting of the entry doors is proposed. A canopy sign and projecting sign are proposed for the front entrance.</p>
<p>2.2.1. The revitalization of heritage buildings is encouraged.</p>	<p>No alterations to the heritage façade are proposed. The application has been reviewed by the City's Community Heritage Planner.</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 proposed CRS is located in the downtown core and no onsite parking or loading is required.</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 provided a Letter of Rationale (Attachment E) that proposes the following measures to minimize or prevent potentially negative impacts:</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>	<ul style="list-style-type: none"> • preventing service to minors by requiring two pieces of ID, and training staff to recognize international forms of ID; • displaying no smoking signage and enforcement of no cannabis consumption on-site; • encouraging patrons to leave product sealed during transport; and • refusing service to intoxicated patrons and maintaining incident logs identifying problematic patrons or illegal acts.
<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 proposed CRS is located across Wharf Street from Diana Krall Plaza and is approximately 35m from the Vancouver Island Regional Library.</p> <p>The subject property is located within walking distance of a number of downtown parks including:</p> <ul style="list-style-type: none"> • Piper Park (military museum) (approximately 120m) • Nanaimo Harbour – Bastion Square Park/Anchor Way Park (approximately 145m) • The Italian Fountain at Port Place Mall (approximately 250m) <p>The subject property is also located within walking distance of a number of cultural facilities and places of worship including:</p> <ul style="list-style-type: none"> • Nanaimo Art Gallery (approximately 35m) • Port Theatre (approximately 65m) • Nanaimo Museum (approximately 100m) • St. Paul’s Anglican Church (approximately 175m) <p>Overall, downtown Nanaimo supports family-oriented facilities and public spaces as well as 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 of the Parking Bylaw and will not require on-site parking. The 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 neighborhood association for the proposed CRS is important to Council's decision.</p>	<p>There is no Neighbourhood Association and the Downtown Nanaimo Business Improvement Association has ceased operations.</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 distributed notices to neighbouring properties during the last week of July 2019. One rezoning notice sign has been placed in the window of the retail unit, and if Council gives first and second reading to "Zoning Amendment Bylaw 2019 No. 4500.161", 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 reviewed the proposal and indicated they have no comments. Council has not established a Community Planning and Development Committee; therefore, committee review has not taken place.</p>

While the proposed CRS is within 200 metres of CRS locations that have previously been approved or are under consideration by Council, the CRS Rezoning Criteria note consideration should be given to overall urban density and context for proposed CRS locations in dense urban areas, such as the downtown. Pending LCRB approval, based on the number of CRS proposals in the downtown area, the area should be well served by CRS locations.

Staff support the proposed rezoning from a land-use perspective and consider the application to be substantially in compliance with City's CRS Rezoning Criteria policy.

Community Amenity Contribution

The applicant proposes a monetary contribution of \$10,000 be directed towards the Housing Legacy Fund.

Staff support the proposed community amenity contribution.

Conditions of Rezoning

Should Council support this application and pass third reading of “Zoning Amendment Bylaw 2019 No. 4500.161”, Staff recommend the following be secured prior to final adoption of the bylaw:

- *Community Amenity Contribution* – A monetary contribution of \$10,000 to be directed towards the Housing Legacy Fund.

SUMMARY POINTS

- A rezoning application has been received to allow Cannabis Retail Store use as a site-specific use in the DT1 - Core zone for the subject property located at 120 Commercial Street.
- The Provincial Liquor and Cannabis Regulation Branch has reviewed the licensing application for this proposal and has confirmed a “fit and proper” assessment.
- Staff support this application, which substantially complies with the City’s Cannabis Retail Store Rezoning Criteria policy.

ATTACHMENTS

ATTACHMENT A: Location Plan
ATTACHMENT B: School and Licensed Daycare Buffer Map
ATTACHMENT C: Proposed Site Plan and Floor Plan
ATTACHMENT D: Conceptual Building Elevations
ATTACHMENT E: Letter of Rationale
ATTACHMENT F: CRS Rezoning Applications-Downtown Core Map
ATTACHMENT G: Aerial Photo
“Zoning Amendment Bylaw 2019 No. 4500.161”]

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