

DATE OF MEETING | October 21, 2019

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**SUBJECT | REZONING APPLICATION NO. RA437 – 115 CHAPEL STREET**

## **OVERVIEW**

### **Purpose of Report**

To present Council with an application to amend the existing zoning of the property located at 115 Chapel Street to allow “Cannabis Retail Store” as a site-specific use the Core (DT1) zone.

### **Recommendation**

That:

1. “Zoning Amendment Bylaw 2019 No. 4500.160” (To rezone 115 Chapel 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. 4500.160” 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, RA437, was received from 1080632 BC Ltd, on behalf of Island Releaf, for 115 Chapel 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	RA436	120 Commercial 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 located on the west side of Chapel Street, immediately north of its intersection with Church Street and Commercial Street.
<i>Total Lot Area</i>	579m <sup>2</sup>
<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 420m (Ecole Pauline Haarer Elementary – 400 Campbell Street)
<i>Proximity to nearest licensed daycare</i>	Approximately 380m (Katie’s Korner – 357 Wesley Street)
<i>Proximity to nearest approved CRS</i>	Approximately 190m from an approved CRS at 350 Terminal Avenue (RA430), and approximately 145m from a proposed CRS at 120 Commercial Street (RA436) being considered by Council on 2019-OCT-21

The proposed CRS will be one of two commercial units in an existing one-storey commercial building. Neighbouring land uses are primarily commercial, but there is also a 66-unit mixed-use building (Studio NA) to the north and St. Paul’s Anglican Church on the opposite side of Chapel Street.

## **DISCUSSION**

### **Proposed Development**

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

The proposed business hours are from 9 a.m. to 11 p.m., seven days a week. The proposed retail floor area is approximately 110m<sup>2</sup> and will be located within an existing commercial building (Unit 102).

### **Provincial Licensing Requirements**

The City was advised on 2019-MAY-24 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. Should Council approve “Zoning Amendment Bylaw 2019 No. 4500.160”, 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 for consideration of the rezoning application:

<b>Criteria</b>		<b>Response</b>
<b><i>Location</i></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	The subject property is located within the Urban Node land-use designation, and is located in close proximity to Commercial Street, which is considered a major collector road.

	Centre or Corridor as designated in the City's Official Community Plan.	
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 approximately 420m away, and the nearest daycare approximately 380m away.
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>The proposed CRS is located approximately 190m away from the nearest approved CRS at 350 Terminal Avenue. The proposed CRS is also located approximately 185m away from a proposed CRS at 140 Terminal Avenue that has received third reading, and approximately 145m away from a proposed CRS at 120 Commercial Street that is being considered by Council on 2019-OCT-21.</p> <p>While the proposed CRS is located approximately within 200m of three other proposed CRSs, the City's CRS Rezoning criteria allows consideration of the overall urban density and context of downtown area. The proposed location is within the core of Nanaimo's Downtown, where retail density is at its greatest.</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 within an existing building. The size of the CRS is consistent with other retail units in the downtown area.
2.2.	The design of the proposed CRS should enhance or improve the aesthetics of the surrounding area, not detract from them.	No major exterior upgrades are proposed at this time.
2.2.1.	The revitalization of heritage buildings is encouraged.	The existing building is a former hotel from the early 20 <sup>th</sup> century, but is not a registered heritage building in the City of Nanaimo. No concerns from a heritage perspective have been raised.
2.3.	Outside the downtown core, consideration should be given to a requirement for onsite parking and loading for every CRS.	The proposed CRS is located in the downtown core and no onsite parking is required.
<b>Community Impact</b>		
3.1.	The applicant must outline their awareness of potential negative impacts	The applicant provided a Business Plan Overview (Attachment D) that proposes

	<p>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>the following measures to minimize or prevent potentially negative impacts:</p> <ul style="list-style-type: none"> <li>• Implement procedures to prevent service to minors;</li> <li>• keep cannabis products locked in a secure storage area;</li> <li>• prohibit cannabis consumption on the premises; and</li> <li>• maintain adequate lighting and post signage to discourage loitering.</li> </ul>
<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 within walking distance of a number of small downtown parks and cultural facilities, including:</p> <ul style="list-style-type: none"> <li>• St. Paul’s Anglican Church (approximately 30m)</li> <li>• Dallas Square Park (approximately 70m)</li> <li>• Catherine Gisborne Garden (approximately 110m)</li> <li>• Diana Krall Plaza (approximately 140m)</li> <li>• Vancouver Island Regional Library (approximately 180m)</li> </ul> <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 site parking for the proposed commercial use. 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 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 completed notification to the neighbouring properties as outlined in the policy. A rezoning notice has been placed on the property, and if Council gives first and second reading to “Zoning</p>

	Amendment Bylaw 2019 No. 4500.160”, 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 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.

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 Contribution

The applicant proposes a monetary contribution of \$10,000 be directed towards parks and open space improvements in the downtown area.

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. 4500.160”, 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 open space improvements in the downtown area.
2. *LCRB Approval* – Confirmation from the LCRB that it has approved the applicant's suitability for a cannabis retail license.

### **SUMMARY POINTS**

- A rezoning application has been received to allow Cannabis Retail Store use within an existing commercial building in the DT1 - Core zone for the subject property located at 115 Chapel Street as site-specific use.
- The Provincial Liquor and Cannabis Regulation Branch is reviewing the licensing application for this proposal.
- Staff support this application, which substantially complies with the 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: Business Plan Overview  
ATTACHMENT E: CRS Rezoning Applications - Downtown Core Map  
ATTACHMENT F: Aerial Photo  
"Zoning Amendment Bylaw 2019 No. 4500.160" |

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