



COUNCIL REPORT

To: Paul Gipps, CAO

Date: December 8, 2020

From: Chris Oliver, Planner III

File No. Z 20-12

Subject: **Z 20-12; Site-Specific Rezoning – Cannabis Application Acceptance Consideration; 2475 Dobbin Road**

RECOMMENDATION

THAT Council direct staff to accept a Non-Medical Cannabis Retail Store Rezoning application for a government operated cannabis retail outlet located at 2475 Dobbin Road.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity (Strategic Plan Priorities 2020-2022)

BACKGROUND

The Liquor Distribution Branch is applying to relocate their proposed non-medical cannabis retail store at 2475 Dobbin Road into a different unit on the same property.

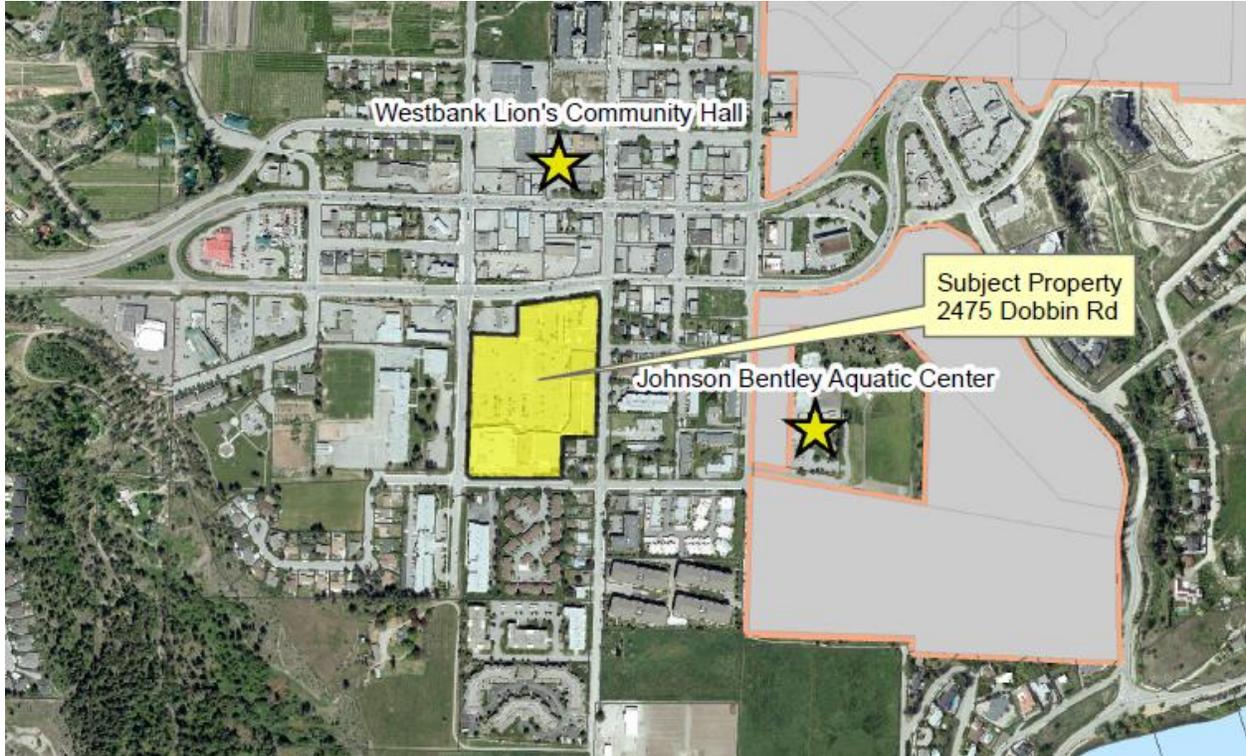
PROPERTY DETAILS

| | | | |
|-----------------------|--|------------------------|--|
| Address | 2475 Dobbin Road | | |
| PID | 002-768-666 | | |
| Folio | 36412643.726 | | |
| Lot Size | 9.657 acres (39080.5 sqm) | | |
| Owner | Anterra Westbank Towne Centre Ltd. | Agent | Liquor Distribution Branch |
| Current Zoning | C1 – Urban Centre Commercial <u>w</u> Site-Specific | Proposed Zoning | C1 – Urban Centre Commercial <u>w</u> Site-Specific |
| Current OCP | Commercial | Proposed OCP | Commercial |
| Current Use | Retail, General | Proposed Use | Retail, General |

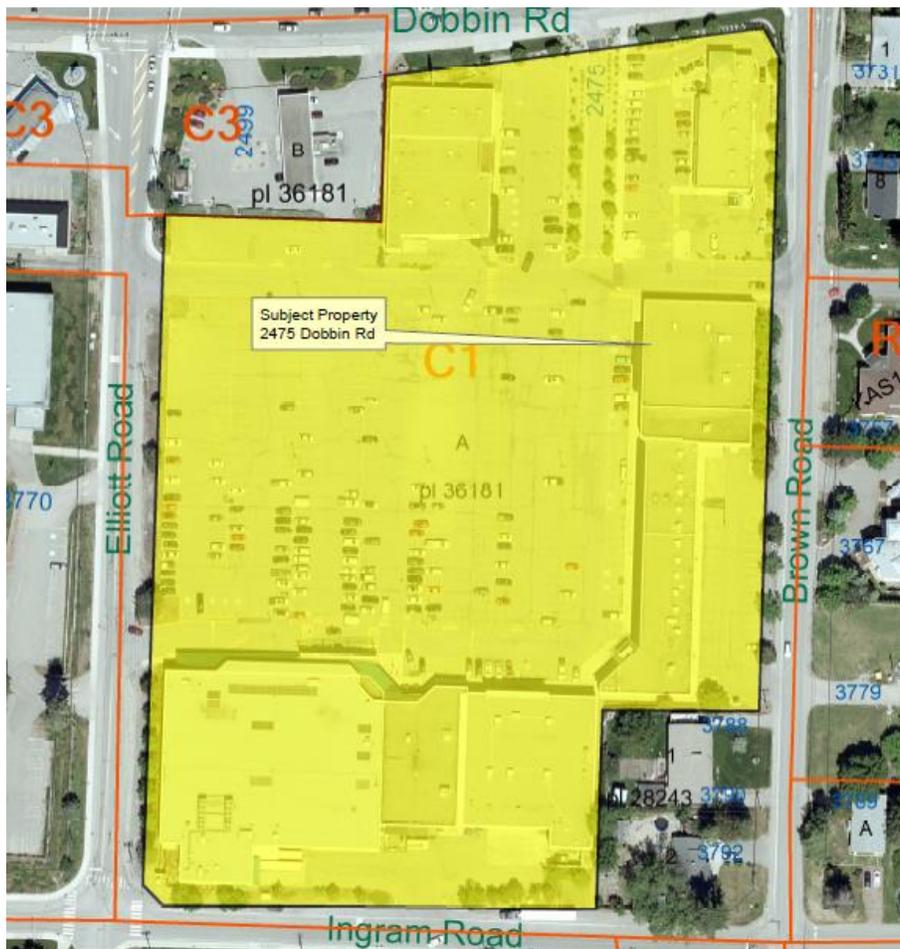
ADJACENT ZONING & LAND USES

| | |
|--------------|--|
| North | ^ Gasoline Service Commercial (C3) and Urban Centre Commercial (C1) |
| East | > Single Family Residential (R1) and Medium Density Residential (R4) |
| West | < Parks and Open Space (P2) zoned property (George Pringle) |
| South | v Urban Centre Commercial (C1), Westbank Centre Multiple Residential (R5), and Westbank Centre Compact Residential (RC1) |

NEIGHBOURHOOD MAP



PROPERTY MAP



Legislative Requirements

Council has the authority under s.479 of the *Local Government Act* to create and amend the Zoning Bylaw. Council has the authority under the *Community Charter* to create and amend regulatory bylaws.

Under the *Cannabis Control and Licensing Act*, private cannabis retail stores may not operate without a license issued by the general manager, but public cannabis stores are authorized under different legislation, the *Cannabis Distribution Act*, and do not require a license. While licenses are not required, the LDB are committed to following all municipal zoning processes and meeting all bylaw requirements, as well as working with local law enforcement agencies to maintain public safety.

Non-Medical Cannabis Retail Store Overview

On September 4, 2018 Council reviewed a variety of decision points regarding the preferred City framework for the future retail sale of non-medical cannabis in the community. At this meeting, Council directed the development of a municipal framework that would require proponents for non-medical cannabis retail stores to obtain site-specific zoning approval and further directed the development of a proposed intake framework and review matrix that would guide the acceptance and evaluation of applications. The framework and matrix were largely based on the criteria that the LDB were applying in the selection of their store locations and store operation.

On October 2, 2018, Council adopted the Non-Medical Cannabis Retail Store Rezoning Policy. The Policy was created to help inform Council's decision making on selecting retail cannabis retail stores in the City based on the following considerations:

- Proposed Neighbourhood and Proposed Location Within Neighbourhood
- Preferred Underlying Zoning and/or Land Use Designation
- Separation from Sensitive Uses
- Separation from other Non-Medical Cannabis Retail Stores
- Building Design, Aesthetics and Neighbourhood Security (including CPTED review)
- Nuisance Activity
- Parking
- Municipal Bylaw Compliance History
- Qualifications and Experience of the Applicant/ Owner (including operational plan)

The Council Policy further outlines the framework for the review and processing of applications for non-medical cannabis stores in West Kelowna. While the recommended motion is based on the Policy, Council retains full discretion to choose to follow the Policy and approve or reject recreational cannabis stores through the subsequent rezoning application process. There is currently no ability to operate a non-medical cannabis retail store in the City without amending the Zoning Bylaw.

As part of the initial Council consideration of the 10 non-medical cannabis retail applications received, Staff were directed to process Zoning Bylaw amendment applications for five locations. As of July 9, 2019 all five rezoning applications have been adopted by Council.

On August 13th, 2020 Council choose to waive the Council Policy and accept an additional application operated by the Liquor Distribution Branch. The application was ultimately approved by Council on January 14, 2020.

Proposal

The LDB has requested that Council consider amending the Zoning Bylaw to allow for their approved location to transfer to a smaller unit on the same property located at 2475 Dobbin Road. The proposal would still be considered the sixth Non-Medical Cannabis Retail Store Application in the Westbank Centre Neighbourhood area as the amendment bylaw would remove the eligibility of the previously approved location (Figure 1). The applicant has indicated in their rationale letter that they are pursuing the smaller location for greater flexibility given the current uncertain market conditions born out of the COVID-19 pandemic.

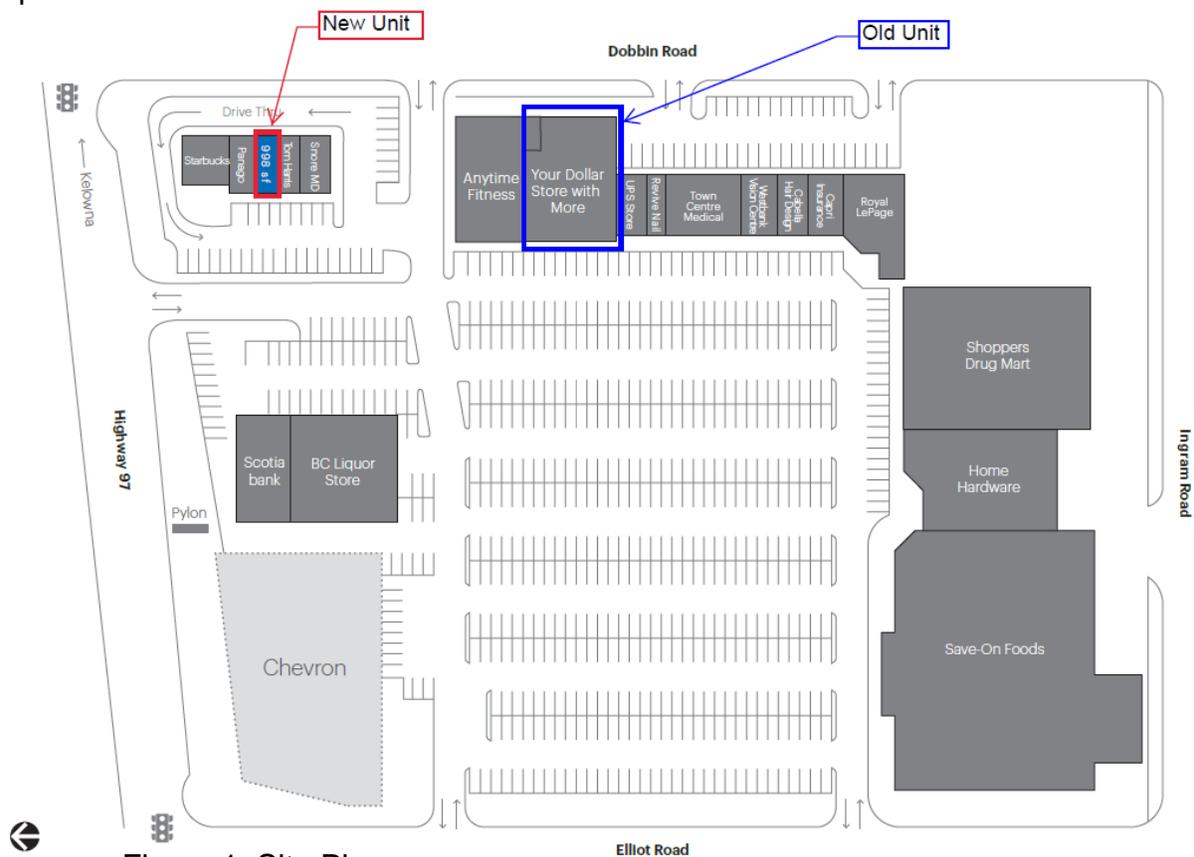


Figure 1. Site Plan

The proposed government operated cannabis retail outlet would be located in a 998 ft², C1-Urban Centre Commercial Zoned Unit within the Westbank Town Centre complex (Figures 1 & 2). The previously approved location was over 7,000ft² and included a large office component that is no longer being considered as part of the proposal.



Figure 2. Proposed Unit

DISCUSSION

The LDB has indicated in their letter to Mayor and Council (Attachment 1) that the revised location is well suited based on the previous site selection criteria including:

- Located in an existing retail node and therefore consistent with the nature of the immediate area;
- Easily accessible to customers with ample parking;
- Not expected to adversely impact traffic in the surrounding area, given its location in an already established retail complex; and
- The property is within range of the 100m sensitive use separation distance for both George Pringle Elementary School and Our Lady of Lourdes Catholic School, however the public entrance of unit itself is well over 100m from both locations as required in section 4.1.(d) of the Policy.

In addition to the background on location selection, the LDB also outlines the various priorities and operational considerations that they establish as part of their operation including:

- Community engagement and social responsibility.
- Keeping cannabis out of the hands of minors.
- Creating a safe and favorable alternative to purchasing non-medical cannabis from the illicit market.
- A neighbourhood strategy training program for employees.
- Implementing Crime Prevention Through Environmental Design strategies.

Since the Non-Medical Cannabis Retail Store Rezoning Policy was largely based on the criteria the LDB utilize when selecting their locations and operational format, the LDB (as an operator) and proposed location are in general accordance with the Policy. Should Council wish to accept an application for a Non-Medical Cannabis Retail Store from the LDB, at first and second reading a motion to waive the Policy for the proposed Provincial Cannabis Outlet will be included. If the application is accepted, additional review of the proposal and information will be presented to Council as part of the rezoning process.

COUNCIL REPORT / RESOLUTION HISTORY

| Date | Report Topic / Resolution | Resolution No. |
|---------------|---|----------------|
| Jan. 14, 2020 | THAT Council adopt City of West Kelowna Zoning Amendment Bylaw No. 0154.85, 2019 (Z19-11). | C013/20 |
| Dec. 16, 2019 | THAT Council give third reading to City of West Kelowna Zoning Amendment Bylaw No. 0154.85, 2019 (Z19-11); and THAT Council direct staff to schedule the bylaw for consideration and adoption following approval by the Ministry of Transportation and Infrastructure. | C471/19 |
| Nov. 26, 2019 | Public Hearing held and closed. | N/A |
| Oct. 8, 2019 | THAT Council give first and second readings to City of West Kelowna Zoning Amendment Bylaw No. 0154.85, 2019 (BC Cannabis Store, Z19-11); and THAT Council direct staff to schedule the bylaw for public hearing. | C340/19 |
| Aug. 13, 2019 | THAT Council direct staff to accept a Non Medical Cannabis Retail Store Rezoning application for a Government Operated Cannabis Retail Outlet located at 2475 Dobbin Road. | C293/19 |
| Jul. 23, 2019 | DEFEATED: THAT Council direct staff to accept a Non-Medical Cannabis Retail Store Rezoning application for a Government Operated Cannabis Retail Outlet located at 2475 Dobbin Road. | C283/19 |

CONCLUSION

Council may choose to consider the following when considering the recommended motion:

- The Government of Canada legalized non-medical cannabis on October 17, 2018 and proceeding to rezone this location will further the goal of providing safe access to cannabis in West Kelowna;
- The Liquor Distribution Branch (LDB) operates under a public-private model, with revenue generated through the LDB's wholesale and retail operations being directed to the Provincial Government and contributes to supporting vital public services such as health care and education;
- The operator and proposed location are in general conformance with the Non-Medical Cannabis Retail Store Rezoning Policy; and
- Council will have the opportunity to further evaluate the application and gather input from the public through the Public Hearing process.

ALTERNATE MOTION

1. **THAT** Council postpone acceptance of a government operated cannabis retail outlet.

Should Council wish to postpone acceptance of an application from the LDB, it is requested that Council provide specific direction as to what is required prior to reconsideration.

2. **THAT** Council direct staff to not accept a Non-Medical Cannabis Retail Store Rezoning application for a Government Operated Cannabis Retail Outlet located at 2475 Dobbin Road.

Should Council wish to not accept an application for an additional store in the Westbank Centre neighbourhood area, the applicant would be directed wait unit the Non-Medical Cannabis Retail Store Rezoning Policy is reviewed to determine if additional applications will be accepted.

REVIEWED BY

Brent Magnan, Planning Manager

Mark Koch, Director of Development Services

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

1. Letter from the Liquor Distribution Branch