



COUNCIL REPORT
Development Services
For the July 23, 2019 Council Meeting

DATE: July 12, 2019
TO: Paul Gipps, CAO
FROM: Chris Oliver, Planner
RE: Consideration of an Application for a Government Operated Cannabis Retail Outlet

RECOMMENDED MOTION:

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.

RATIONALE:

The recommended motion is based on the following considerations:

- 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 and 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.

LEGISLATIVE REQUIREMENTS:

As of October 17, 2018, non-medical cannabis is legal in Canada under the Federal *Cannabis Act*. In British Columbia, the Liquor and Cannabis Regulation Branch¹ oversees retail sales of non-medical cannabis as per the *Cannabis Control and Licensing Act*, *Cannabis Distribution Act* and the Cannabis Control and Licensing Regulations. Under this Federal and Provincial framework, municipalities in BC have the authority to regulate certain aspects of non-medical cannabis retail sales, including zoning regulations, public consultation methods, public consumption and business licensing regulations.

Under the *Cannabis Control and Licensing Act*, private 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 licences are not required, the LDB are committed to following all municipal zoning processes and

¹ Previously named the Liquor Control and Licensing Branch

meeting all bylaw requirements, as well as working with local law enforcement agencies to maintain public safety.

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.

BACKGROUND:

Since 2014, West Kelowna Council has reviewed the topic of cannabis production and cannabis sales a number of times as a result of evolving changes to Federal legislation for medical cannabis as well as the increasing establishment of illegal dispensaries within the community. Council last amended the City's Zoning Bylaw in June 2018 to ensure a clean slate in the bylaw prior to the legalization of non-medical cannabis.

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 four 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 instead of the four determined as part of the development of the Non-Medical Cannabis Retail Store Rezoning Policy. As of July 9, 2019 all five rezoning applications have been adopted by Council.

PROPOSAL:

Having concluded the rezoning process, the LDB has requested that Council consider an additional (6th) Non-Medical Cannabis Retail Store Application in the Westbank Centre Neighbourhood area (Attachment 1).

The proposed Government operated cannabis retail outlet would be located in a 7,116 ft², C1-Urban Centre Commercial Zoned Unit within the Westbank Town Centre complex (2475 Dobbin Road) (Figure1.).



Figure 1. Proposed BC Cannabis Outlet Location

The LDB has indicated in their letter to Mayor and Council that they undertook efforts to locate available spaces as part of the City's initial intake process but were unable to do so due to a lack of availability to substantiate long term tenancy and capital investment (Attachment 1). 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 (CPTED) 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. Additional review of the proposal and information will be presented to Council as part of the rezoning 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 until the Non-Medical Cannabis Retail Store Rezoning Policy is reviewed in April – October 2020 (18-24 months after Policy adoption) to determine if additional applications will be accepted.

Respectfully submitted,

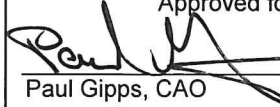
FOR 
Chris Oliver
Planner III


Nancy Henderson
General Manager of Development
Services

Powerpoint: Yes ☐ No ☒

Attachments:

1. Letter from the Liquor and Distribution Branch

Approved for Agenda

Paul Gipps, CAO
Date July 18, 2019

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LIQUOR DISTRIBUTION BRANCH

May 8, 2019

City of West Kelowna
2760 Cameron Road,
West Kelowna, bC V1Z 2T6

Dear Mayor and Councillors:

Re: Cannabis Retail Store Application

Please accept this letter and information package to request that Council consider adding a 6th non-medical retail cannabis store to the recently amended Cannabis Retail Store Rezoning Policy.

The store, located at Westbank Town Centre (2475 Dobbin Road) would be a **Government operated cannabis retail outlet**. The Liquor Distribution Branch (LDB) has received support from the property owner to proceed with an application, should Council decide to amend the policy.

In 2018 The LDB undertook efforts to locate available retail spaces within the permitted zones in order to submit an application within the October 17th, 2018 to January 2nd, 2019 intake period. Unfortunately there was a lack of availability at that time to substantiate long term tenancy and capital investment. The BC Cannabis Store model calls for a minimum spatial requirement of 3,500 sq feet which significantly reduced options.

Discussions were held over a number of locations which were ultimately not fruitful due to the aforementioned size constrictions or impingement upon sensitive use buffers.

The unit proposed in this letter has subsequently become available and is within the required C1 Zone designation.

At 7,116 sq feet, it offers the space and layout to optimize customer experience.

About the LDB

The LDB is one of two branches of government responsible for the beverage alcohol industry in BC. The *Liquor Distribution Act* gives the LDB the sole right to purchase and distribute beverage alcohol for the Province. The LDB is also the public liquor retailer in the province's mixed public-private model, operating 197 retail outlets under the brand 'BC Liquor Stores.'

As per the *Cannabis Distribution Act*, the LDB is also the sole wholesale distributor of non-medical cannabis for the province and operates standalone, public retail stores and provides online sales. The LDB currently operates one non-medical cannabis store, under the brand 'BC Cannabis Stores,' in the City of Kamloops.

The LDB is self-insured as a branch of the provincial government.

Revenue generated through the LDB's wholesale and retail operations is directed to the Provincial Government and contributes to supporting vital public services such as health care and education. For the 2017/2018 fiscal year, the LDB contributed \$1.12 billion to fund government services.

Location of Proposed BC Cannabis Store

The location at was selected by the LDB for a proposed BC Cannabis Store for a number of reasons, including that the site is:

- Located in an existing retail node and therefore consistent with the nature of the immediate area;
- Easily accessible to customers with ample parking; and
- Not expected to adversely impact traffic in the surrounding area, given its location in an already established retail complex.
- 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.

Community engagement and social responsibility

The LDB works closely with the Liquor and Cannabis Regulation Branch (LCRB), the Ministry of Public Safety and Solicitor General, and the Ministry of Attorney General to encourage the safe and responsible consumption of alcohol and non-medical cannabis in BC.

The LDB is committed to working in partnership with local governments to ensure a smooth introduction of the legal cannabis retail market to BC communities. While government-operated BC Cannabis Stores do not require a licence from the LCRB^[1], we 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.

Social responsibility is integral to the LDB and is one of the four pillars we have identified to support our success. Our efforts are focused on three themes: encouraging and promoting the responsible use of alcohol and cannabis, reducing the impact our business has on the environment, and giving back to the communities we serve. We meet these objectives by:

- Delivering products that meet strict safety and quality requirements. All cannabis products purchased through the LDB wholesale channel and sold through BC Cannabis Stores are purchased from federally licensed producers..
- Promoting the safe and responsible use of non-medical cannabis through social responsibility campaigns aimed at keeping cannabis out of the hands of youth*,

^[1] As a branch of the Ministry of Attorney General, the LDB does not require a formal license from the LCRB to operate a retail cannabis store - written confirmation from the LCRB is attached.

preventing driving under the influence, and informing the public about potential associated health risks.

- Actively discouraging customers from engaging in high-risk behavior such as driving high, consuming cannabis during pregnancy and participating in sporting activities while under the influence of cannabis;
- Increasing awareness of the dangers associated with over-consumption or risky behavior through various [in-store campaigns](#) with strategically placed messaging;
- Running regular in-store fundraising campaigns for dry grad celebrations, Red Cross disaster relief, kids in need, and local community charities (through the Provincial Government's Employee Workplace charitable giving campaign); and
- Incorporating environmental sustainability into all facets of our business with a goal of reducing our environmental footprint and being a leader in sustainable retailing.

Keeping cannabis out of the hands of minors is a top priority for the LDB. Unlike liquor stores, minors will not be permitted to enter cannabis retail stores, even if they are accompanied by a parent or guardian. Our two ID-check policy at store entrances prevents minors from entering our cannabis stores. All staff receive comprehensive training for ID-checking

Store Operations

BC Cannabis Stores are bright, clean, welcoming and professional, with the intent of creating a safe and favourable alternative to purchasing non-medical cannabis from the illicit market. Storefronts have frosted windows to align with Health Canada's requirement that cannabis not be visible to minors.

All BC Cannabis Stores employ unionized staff; stores in large municipalities will have approximately 12-20 employees and stores in smaller municipalities will have approximately 6-12 employees. Each store will have a Store Manager, at least one Assistant Store Manager, and staff comprised of full and part-time Cannabis Consultants. Wages start at \$21.00 per hour. All prospective employees must undertake an Enhanced Security Screening (ESS) as mandated by the provincial government.

Store hours may vary by location, with most stores being open from Monday to Sunday 10 am to 10 pm.

The LDB's neighbourhood strategy includes:

- *Keep It Safe*, a mandatory full-day training program, for all staff. This program covers best practices for dealing with intoxicated customers, suspicious activities, and instances of violence, theft or nuisance. Additional topics covered include understanding cannabis related laws and strategies for maintaining a safe environment for employees and customers.
- Implementation of procedures on how to deal with unruly customers, store safety, loitering, and consumption outside the premises. Procedures are in place to ensure there are at least two employees in the store at all times and that stores are armed and locked outside

business hours. For events that occur outside of the store, staff are trained to contact mall security, if applicable, or to call 911.

- Training staff on how to verify a customer's age and to spot signs of fraudulent I.D.
- Transporting expired or defective product off-premises for destruction. There will be no disposal of cannabis at any store, further reducing the risk that cannabis will fall into the hands of minors or the illicit market

Security

Customer, employee, and community safety is paramount. The LDB brings over 40 years of experience working with local government, enforcement agencies, and security experts in establishing and operating secure retail stores in BC. The LDB utilizes Crime Prevention through Environmental Design (CPTED) principles when designing our retail stores.

BC Cannabis Stores are supported by the LDB's Corporate Loss Prevention department and privately contracted security personnel are available to work in conjunction with store staff to ensure security practices and protocols are followed.

All BC Cannabis Stores have:

- Centrally maintained province-wide intruder and fire monitoring systems;
- Interior and exterior camera surveillance;
- Locked and tempered glass display cases for cannabis accessories;
- A secure storage room for product storage;
- Durable and reliable commercial-grade doors and locks;
- Security shutters and smash-resistant windows.

Further details regarding BC Cannabis Stores and the LDB's social responsibility efforts are included in the attached presentation and accompanying materials. We appreciate Councils' consideration.

Best Regards,

Kevin Satterfield

Director of Retail Operations, Cannabis Operations – Store Operations
BC Liquor Distribution Branch.



October 5, 2018

Erin McEwan
Liquor Distribution Branch
2625 Rupert Street, Vancouver BC V5M 3T5

Dear Ms. McEwan:

Re: Non-Role of the Liquor and Cannabis Regulation Branch in the licensing of public stores.

This letter is to confirm that public stores that are established and operated by the Liquor Distribution Branch (LDB) do not require a licence from and are not regulated by Liquor and Cannabis Regulation Branch.

Under the *Cannabis Control and Licensing Act*, private retail stores may not operate without a licence issued by the general manager, but public cannabis stores are authorized under different legislation, the *Cannabis Distribution Act*, and do not require a licence. LDB should work directly with local governments that are interested in having public cannabis stores in their jurisdictions.

For information on the Liquor and Cannabis Regulation Branch, please refer to:
<https://www2.gov.bc.ca/gov/content/employment-business/business/liquor-regulation-licensing>

The guides below are intended to help local governments and Indigenous nations understand their role in the cannabis retail store licence application process. That role involves gathering the views of those potentially affected by the location of a private retail store and providing a recommendation to the General Manager. Please note that these guides may be updated from time to time.

https://www2.gov.bc.ca/assets/gov/employment-business-and-economic-development/business-management/liquor-regulation-licensing/documents/local_government_role_in_licensing_cannabis_retail_stores.pdf

https://www2.gov.bc.ca/assets/gov/employment-business-and-economic-development/business-management/liquor-regulation-licensing/documents/indigenous_nation_role_in_licensing_cannabis_retail_stores.pdf

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**Liquor and Cannabis
Regulation Branch**

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Victoria BC V8W 9J8
Telephone: 250 952-5787
Facsimile: 250 952-7066

Location:
400-645 Tye Road
Victoria, BC V9A 6X5

www.gov.bc.ca/liquorregulationandlicensing

If you have any questions or concerns, please do not hesitate to contact me at 778 974-2347 or Suzanne.Bell@gov.bc.ca.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Suzanne Bell', written in a cursive style.

Suzanne N. Bell
Deputy General Manager
Licensing and Local Government Liaison
Liquor Control & Licensing Branch

cc: Joshua Huska, Licensing Manager
Julia Bates, Licensing Manager