



City of Port Moody

Report/Recommendation to Council

Date: January 3, 2020
Submitted by: Planning and Development Department – Policy Planning Division
Subject: Cannabis Retail Use Rezoning Applications – Update and Potential Next Steps

Purpose

- 1) To provide an update on the status of Cannabis Retail Use Rezoning applications for the second round of application processing; and
 - 2) To present Zoning Amendment Bylaw No. 3228 for consideration of first and second reading.
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Recommended Resolutions

THAT City of Port Moody Zoning Bylaw, 2018, No. 2937, Amendment Bylaw No. 27, 2020, No. 3228 (Site Specific Cannabis Rezoning) be read a first time as presented in the report dated January 3, 2020 from the Planning and Development Department – Policy Planning Division regarding Cannabis Retail Use Rezoning Applications – Update and Zoning Bylaw Amendment.

THAT Bylaw No. 3228 be read a second time;

AND THAT Bylaw No. 3228 be referred to a Public Hearing.

THAT the Cannabis Retail Use rezoning application for the property at 2506 St. Johns Street (Purp City & CBD) be denied.

Executive Summary

The City did not receive any additional Cannabis Retail Use rezoning applications with completed fit and proper assessments by December 31, 2019 to be included in the second round of application processing. Given the uncertain timelines associated with the Port Moody based applications currently in-stream with the Province, staff recommend that Council consider the applications which received fit and proper assessment before October 15, 2019 and were referred by Council on December 3, 2019 to be considered in the second round of application processing. Specifically, staff recommend that Council give first and second readings to Zoning Amendment Bylaw No. 3228 associated with a Cannabis Retail Use at 3034 St. Johns Street – Westcanna (New Elite Investment Inc.). Staff further recommend that the application for the property at 2506 St. Johns Street – Purp City & CBD (Stellava Ventures) be denied as it does not meet the City's sensitive use buffer requirement.

Staff's recommended approach ensures adherence to the Council approved Corporate Policy and timely consideration of these applications. Any Cannabis Retail Use rezoning applications received after December 31, 2019 can be brought forward to Council individually, as they are received.

Background

Policy and Land Use Regulation

On May 14, 2019, Council adopted Zoning Bylaw Amendments that define Cannabis Retail Use and exclude this as a permitted use in the City. This requires that any proposed Cannabis Retail Use be considered through a site specific rezoning.

On April 9, 2019, Council adopted Corporate Policy – 09-4300-2019-01 – Cannabis Retail Use (**Attachment 1**) which provides guidelines for a site-specific rezoning consideration by Council, including locational criteria and additional business licensing requirements. The Corporate Policy also includes a process/timeline for processing two batches of Cannabis Retail Use rezoning applications. For the first round of application processing, Council extended the deadline for the City to receive fit and proper assessments from the Liquor and Cannabis Regulation Branch (LCRB) from September 30, 2019 to October 15, 2019 to accommodate applicants awaiting Provincial processing timelines. For the second round, rezoning applications submitted after October 15, 2019 will be accepted and processed after December 31, 2019. Per the Corporate Policy, Council will consider up to a maximum of five (5) Cannabis Retail Use locations in Port Moody within the first 12 months following the adoption of the Zoning Bylaw Amendment.

Cannabis Retail Use Rezoning Applications in Port Moody

Council considered first and second readings for four site-specific Cannabis Retail Use rezoning applications at the November 5, 2019 Special Council meeting. A Public Hearing for each of the applications was held on November 26, 2019.

At the December 3, 2019 Special Council meeting, Council gave third reading to Land Use Contract Amendment Bylaw No. 3216 to rezone the following property to a site specific Cannabis Retail Use:

- Unit 1 – 101 Morrissey Road – Burb (Burb Cannabis).

At the same meeting, Council also gave third reading to Zoning Bylaw Amendment No. 3215 to rezone the following property to a site specific Cannabis Retail Use:

- 2816 St. Johns Street – Kiara (Kiara Brands Inc.).

At the same meeting, two applications were removed from Bylaw No. 3215 during consideration of third reading after Council passed the following resolution:

RC19/522

THAT the applications from New Elite Investment for 3034 St. Johns Street and from Stelleva Ventures Inc. for 2506 St. Johns Street be referred to the next intake of applications for Cannabis Retail Use rezoning.

The remaining seven in-stream provincial cannabis retail license applications have not been accepted for a rezoning application by the City as they are still awaiting determination of a fit and proper assessment. As such, information on the applicant and store location of the remaining locations are not public information at this time.

Discussion

The City has not received any additional fit and proper assessments for the second round of Cannabis Retail Use Rezoning application processing. In total, four applications have received fit and proper assessment: this includes the two applications which received third reading by Council on December 3, 2019 and the two applications that were referred by Council to the second round of application processing. Another seven applications are currently awaiting fit and proper assessment. As such, there are a total of 11 potential Cannabis Retail Use locations in Port Moody that could be considered by Council.

According to the LCRB, the typical time to complete a fit and proper assessment as required for a provincial cannabis retail licence is between 3-6 months. At the time of writing the Corporate Policy, staff had allotted approximately 6 months from the date of the Zoning Bylaw amendment to the first deadline (i.e. September 30, 2019) for the City to have received LCRB referral. However, the Provincial timelines associated with the security screenings and financial integrity checks are taking much longer than anticipated. On October 8, 2019, Council amended the deadline for the first round of applications to have received LCRB referral from September 30, 2019 to October 15, 2019 to accommodate applicants affected by Provincial processing times. The LCRB is unable to provide in-stream applicants with an expected timeframe for the fit and proper assessment, which is conducted by a separate provincial ministry.

The fit and proper assessments are comprehensive, rigorous, and in-depth checks which can significantly vary depending on the complexity of the corporate structure and other factors. From staff discussions with the Province, it is the City's understanding that even if an applicant has a licence elsewhere, that does not necessarily mean that a provincial license application in Port Moody will be expedited as the corporate structure/associates often change between locations. The Provincial screening process assesses:

- the applicant's personal background and history;
- the financial integrity of the business the applicant is in, or is proposing – including the sources of any money backing the investment, and;
- the history and background of any associates or persons that have a connection to the applicant and their associates, including any investors, and/or family members that may have influence on licensed activities.

Table 1 outlines the dates when the City received notification from the Province of the 11 in-stream applications for a provincial cannabis retail license and when the fit and proper assessment was completed. The address/names for applications that have not received fit and proper assessment are not listed as the City has not received a rezoning application and therefore the information is not public. Once the fit and proper assessment is completed and satisfactory, the City may accept a rezoning application for Cannabis Retail Use.

Table 1: Status of provincial cannabis retail licence applications in Port Moody

Address/name*	Notification of Provincial License Application	Notification of Fit and Proper Assessment
–	April 10, 2019	In-stream.
3030 St. Johns Street – City Cannabis Co. (City Cannabis Corp.)	April 23, 2019	June 3, 2019 (revoked – undergoing further assessment with the addition of associates to Provincial license application)
2506 St. Johns Street – Purp City & CBD (Stellava Ventures)	May 1, 2019	October 1, 2019
3034 St. Johns Street – Westcanna (New Elite Investment Inc.)	June 12, 2019	August 15, 2019
–	July 5, 2019	In-stream.
–	August 15, 2019	In-stream.
–	August 17, 2019	In-stream.
–	September 19, 2019	In-stream.
2816 St. Johns Street – Kiaro (Kiara Brands Inc.).	September 20, 2019	October 1, 2019
–	September 25, 2019	In-stream.
Unit 1 - 101 Morrissey Road – Burb (Burb Cannabis)	September 25, 2019	September 30, 2019

* – Denotes applications that have not made a rezoning application to City and are therefore not public.

Analysis

Successful completion of the fit and proper assessment ensures that applications for a Provincial cannabis retail license are vetted by the Province before a Cannabis Retail Use Rezoning application is presented to Council for consideration.

The original intent of processing applications in two batches was to allow Council to be able to consider all the land use and business options for proposed Cannabis Retail Uses in the City, while accommodating applicants with varying Provincial processing times. However, with lengthy fit and proper assessment timelines, the City has only received a total of four fit and proper assessments at the date of writing this report. Moving forward, Council could consider the following three options:

Option 1: Adhere to the process in the Council approved Corporate Policy which states that applications received after October 15, 2019 would be presented to Council after December 31, 2019.

Under this option, Council could consider proceeding with the following properties which have received fit and proper assessments:

- 3034 St. Johns Street – Westcanna (New Elite Investment Inc.); and
- 2506 St. Johns Street – Purp City Cannabis & CBD (Stellava Ventures).

No special meeting would be required as the applicants previously presented at a Special Council Meeting on November 5, 2019.

Any applications that receive fit and proper assessment after December 31, 2019 would be brought forward to Council individually, as they are received.

Option 2: Amend the Corporate Policy to include a new deadline of April 1, 2020 for the City to accept LCRB referrals for the second round of application processing.

The intent of this option would be to accommodate applicants still waiting for their Provincial fit and proper assessment in order to encourage a larger pool of applicants for Council consideration. The implications of this option are that there are no guarantees the fit and proper assessments would be received by the new deadline. Further, this would cause further delay and financial hardship for the two applicants that currently have completed fit and proper assessments and are awaiting Council consideration of their Cannabis Retail Use rezoning applications.

Option 3: Consider the remaining nine Cannabis Retail Use rezoning applications together, regardless of whether or not they have received a fit and proper assessment.

Other municipalities, such as the City of Port Coquitlam and the City of North Vancouver, have pursued this approach which does not require applicants to have received fit and proper assessment before Council consideration. In the City of North Vancouver, an application given third reading is held at this stage until confirmation of provincial approval is received. The implications of this approach are that Council would go through the rezoning process with applicants that may not satisfy the Provincial licensing requirements and therefore would not be eligible to open a Cannabis Retail Use in the City. An additional implication to this approach is timing, as it is unknown when the applicants would receive their fit and proper assessment after the property has been considered to be rezoned to the site-specific Cannabis Retail Use.

Recommendations

Staff recommend that Council pursue Option 1. This approach adheres to the Council approved Corporate Policy and ensures timely consideration of a site-specific rezoning for the applicants who received fit and proper assessment and also met the first deadline (i.e. October 15, 2019) for the first batch of application processing. Option 1 includes a more timely consideration of the following applicants that have received fit and proper assessment:

- 3034 St. Johns Street – Westcanna (New Elite Investment Inc.); and
- 2506 St. Johns Street – Purp City Cannabis & CBD (Stellava Ventures).

These applicants received fit and proper assessment on August 15, 2019 and October 1 2019, respectively.

Staff recommend that Council deny the application at 2506 St. Johns Street – Purp City Cannabis & CBD (Stellava Ventures), which does not meet the sensitive use buffer requirement as it is located within 61 metres to the Port Moody Arts Centre.

Generally, both applicants meet the Business Licensing and Regulation Bylaw Requirements and application requirements (**Attachment 2**). The applicants' business proposals are included

in **Attachment 3** and **Attachment 4**. The applicant at 2506 St. Johns Street – Purp City Cannabis & CBD (Stellava Ventures) submitted supplemental information regarding the distance to the sensitive use buffer (**Attachment 5**).

Attachment 6 includes draft Zoning Amendment Bylaw No. 3228 which includes a site specific Cannabis Retail Use for 3034 St. Johns Street – Westcanna (New Elite Investment Inc.);

Next Steps

If Council considers first and second readings of Bylaw No. 3228 on January 14, 2020, a Public Hearing on Bylaw No. 3228 could be held as early as February 11, 2020.

Any other applications that receive Provincial fit and proper assessment will be brought forward for Council consideration individually, as they are received.

Other Options

1. THAT Corporate Policy – 09-4300-2019-01 be amended to include a new deadline of April 1, 2020 for the City to accept LCRB referrals for the second round of application processing.
2. THAT Corporate Policy – 09-4300-2019-01 be amended to clarify the wording associated with the requirement of confirmation of a fit and proper assessment by the Province, as a condition of the City accepting and processing a rezoning application.
3. THAT Corporate Policy – 09-4300-2019-01 be amended to include a new deadline of _____ for the City to accept LCRB referrals for the second round of application processing.
4. THAT City of Port Moody Zoning Bylaw, 2018, No. 2937, Amendment Bylaw No. 27, 2020, No. 3228 (Site Specific Cannabis Rezoning) be amended by adding 2506 St. Johns Street – Purp City application as a location for Cannabis Retail Use (Strata Lot 2 District Lot 201 Group 1 New Westminster District Strata Plan Bcs618).
5. THAT the remaining nine Cannabis Retail Use rezoning applications be considered together. Any application that does not have a complete fit and proper assessment will be held at third reading until the application receives a complete fit and proper assessment from the LCRB.

Financial Implications

There are no financial implications associated with this report.

Communications and Civic Engagement Initiatives

Public consultation for Cannabis Retail Use was conducted in the fall of 2018. The results of the public consultation were presented to Council for their consideration in determining policy directives related to cannabis retail use in the City.

Should the proposed Cannabis Retail Use zoning amendment bylaw proceed to a Public Hearing, a notification sign will be posted on the property and notices will be sent to adjacent properties within the required notification area and advertised in the local newspaper in accordance with the City's Development Approval Procedures Bylaw and the *Local Government Act*.

Council Strategic Plan Objectives

The information and recommendations contained in this report align with the Council 2019-2022 Strategic Plan Objectives of exceptional service and healthy city.

Attachments

1. Corporate Policy – 09-4300-2019-01 – Cannabis Retail Use.
2. Cannabis Evaluation Criteria Checklist.
3. Summary – 3034 St. Johns Street – Westcanna (New Elite Investment Inc.).
4. Summary – 2506 St. Johns Street – Purp City Cannabis CBD (Stellava Ventures).
5. Supplemental Information on Buffer Distance – 2506 St Johns Street (Purp City CBD).
6. City of Port Moody Zoning Bylaw, 2018, No. 2937, Amendment Bylaw No. 27, 2020, No. 3228 (Site Specific Cannabis Rezoning).

Report Author

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Report Approval Details

Document Title:	Cannabis Retail Use Rezoning Applications - Update.docx
Attachments:	<ul style="list-style-type: none">- Attachment 1 - Corporate Policy - 09-4300-2019-01 - Cannabis Retail Use.pdf- Attachment 2 -Cannabis Evaluation Criteria Checklist.docx- Attachment 3 - Summary - 3034 St Johns Street (Westcanna)1.pdf- Attachment 4 Summary -Purp City Cannabis and CBD.pdf- Attachment 5 - Supplemental Information on Buffer Distance - 2506 St Johns Street (Purp City CBD).pdf- Attachment 6 - Draft Zoning Bylaw Amendment Bylaw No. 27 2020 No. 3228 (Site Specific Cannabis Rezoning).pdf
Final Approval Date:	Jan 3, 2020

This report and all of its attachments were approved and signed as outlined below:

Dorothy Shermer, Corporate Officer - Dec 24, 2019 - 10:06 AM

Rosemary Lodge, Manager of Communications and Engagement - Jan 2, 2020 - 10:00 AM

Paul Rockwood, General Manager of Finance and Technology - Jan 2, 2020 - 10:17 AM

André Boel, General Manager of Planning and Development - Jan 3, 2020 - 9:10 AM

Paul Rockwood for Tim Savoie, City Manager - Jan 3, 2020 - 2:24 PM