

Report

Date August 17, 2022 File: 3360-20 21.02
Subject Zoning Bylaw Amendment Application No. ZB000153 (3288 Cowichan Lake Road) –
Cannabis Retail Sales

PURPOSE

To introduce Zoning Amendment Bylaw No. 3878, 2022, which proposes a site specific zoning amendment to permit retail cannabis sales at the Berkey's Corner Shopping Centre. A staff presentation will be provided at the meeting.

BACKGROUND

The 1.8 ha (4.4ac) subject property is located at 3288 Cowichan Lake Road at the Berkey's Corner Shopping Centre (Attachments 1 & 2). The property is designated Neighbourhood Commercial under the Official Community Plan (OCP), zoned Commercial General (C2) (Attachments 3 and 7), and is located within the Urban Containment Boundary.

Land Use Context

Lands to the north and east of the site are zoned for a mixture of commercial and residential uses, Lands to the west are zoned for residential use, and directly south, the zoning is commercial.

DISCUSSION

Proposal

The applicant, Honeycomb Cannabis Duncan Inc., is proposing to amend the Commercial General - C2 Zone to permit a cannabis retail store for 3288 Cowichan Lake Road at the Berkey's Corner Shopping Centre (see Attachments 5 & 6).

Berkey's Corner Proposed Retail Cannabis Location (green unit) – facing west



In October, 2018, the Federal government legalized non-medical cannabis with the adoption of Bill C-45 the *Cannabis Act*. This federal legislation created several responsibilities for all levels of government regarding cannabis use, possession, production, and sales. The Province of BC has since adopted the *Cannabis Control and Licensing Act* and the *Cannabis Distribution Act*, as well as a series of regulations, to regulate private cannabis retail stores and authorize the creation and operation of provincial government cannabis retail/wholesale sales.

The Province has been clear that local governments can choose not to allow cannabis stores, restrict the number of stores permitted in the community, or establish criteria for permitting cannabis retail stores. On January 16, 2019, Council considered and adopted the Retail Cannabis Sales Policy to establish criteria to guide Council in its consideration for zoning amendment applications requesting site-specific cannabis retail sales. The policy was subsequently amended on July 17, 2019 (Attachment 6).

Confirmation that a completed application was received by the Province from the Liquor Cannabis Regulation Branch (LCRB) on July 6, 2021 permitting municipal application processing as per Council policy for Retail Cannabis Sales - Policy 4.6:

Policy 4.6 LCRB Application

The Municipality will not accept applications for proposals that are not associated with an application that has been accepted by the Liquor and Cannabis Regulation Board (LCRB).

Subsequently, a letter confirming that applicant eligibility and suitability requirements had been met with respect to the *Cannabis Control and Licensing Act* - "fit and proper" assessment was received from the LCRB on October 13, 2021 (Attachment 9).

Additional policy consideration regarding this application are:

Official Community Plan

Policy 2.4.5 *The Municipality will protect and promote the economic viability of existing commercial enterprises in North Cowichan; attract new and emerging service, retail and other commercial businesses; and encourage diverse types of commercial activity.*

Policy 2.4.5.1 b) *The Municipality supports commercial infill and intensification of existing commercial areas. Emphasis will be given to the redevelopment or intensification of use on existing commercial sites over the designation of new commercial lands on "green field" sites. Increased density within existing commercial areas makes more efficient use of land and infrastructure, encourages transit and alternative transit modes, and promotes pedestrian-oriented development.*

Policy 2.4.5.2 *The Municipality encourages a range of commercial facilities from local to regional in scope.*

Retail Cannabis Sales Policy

Policy 4.1 Location

Retail cannabis use must be located on, or in close proximity to, a provincial highway, urban arterial road ...; and in commercial areas zoned for retail use...

The subject site is located on an urban arterial road (Cowichan Lake Road) and is in an established commercial area.

Policy 4.2 *Only one retail cannabis sales storefront will be allowed per parcel.*

No other retail cannabis store has been approved for this parcel.

Policy 4.5 Community Impact

Council will consider the impact of retail cannabis sale in proximity to schools, libraries, public recreation centres, public community centres, parks, places of worship and family-oriented facilities.

The subject property (Berkey's Corner Shopping Centre) is located (as measured in metres from lot line to lot line):

- 259m from Ecole Mount Prevost Elementary School (or as measured from centre of each building - the proposed cannabis retail store to the elementary school is 465m). School District #79 (SD79) identify an approximate measurement of approximately 400 metres through the referral response letter (Attachment 8);
- 295m from the Duncan Sikh Temple;
- 329m from Glen Harper Curling Centre;
- 63m from Sherman Road Soccer Fields;
- 435m from Evans Park Ball Fields.

Policy 4.9 Application Process

The municipality will refer all retail cannabis sales applications to School District #79, North Cowichan RCMP, and jurisdictional neighbours for up to 30 days to ensure that their comments are considered in Council's decision.

Referrals were sent to internal municipal departments and external local governments and agencies. External referrals included SD79, North Cowichan RCMP and the jurisdictional neighbours of, Cowichan Tribes, City of Duncan, and the Cowichan Valley Regional District (CVRD), to notify them and invite comment about the proposal.

Of those Municipal Departments, agencies or jurisdictions that provided comment, the RCMP, City of Duncan, CVRD, Cowichan Tribes and North Cowichan's Engineering Department had no concerns (Attachment 8).

School District #79 has adopted a Cannabis Retail Facilities policy (October 1, 2019) wherein objection will be registered against any proposed retail cannabis location determined to be within 300 metres of a school. The School District considers the distance between the proposed retail cannabis store and Ecole Mount Prevost Elementary School to be approximately 400 metres and thus triggers a review as opposed to an objection as per Board of Education Policy. On May 3rd, 2022 after reviewing the application referral the Board adopted the following motion (Attachment 8):

"That the Board of Education of School District No. 79 (Cowichan Valley) requests staff check with Ecole Mount Prevost administration and parents to assess concerns about the proposed cannabis

retailer at 3288 Cowichan Lake Road. Should there be any concerns by either party that staff provide feedback to the Municipality of North Cowichan.”

Following consultation, Ecole Mount Prevost administration provided the following feedback to the Board:

- *The school and parents were not previously aware of the application;*
- *Although the complex isn't visible from the school site, it is concerning as children often walk home in that direction and access other retailers in that complex;*
- *There are concerns that there are already a sufficient number of cannabis retailers in the community;*
- *The school questions if there is a process to notify residents and other retailers in the area of the zoning amendment proposal;*
- *Finally, the school expressed concerns about the messaging to students of locating a cannabis retailer near an Elementary School.*

The SD79 referral response was received in advance of this application being considered by Council for 1st and 2nd reading and as such the only notification the school and parents would receive at this point in the process is through the SD79 Board of Education application referral response. Municipal mail-out notification to adjacent property owners and residents, and newspaper notices will be issued in due course should Council choose to advance this application to public hearing. Additionally, the applicant is required to conduct a public information meeting and provide input comment to Council in advance of a scheduled public hearing – see Communications and Engagement section below.

Development Permit Areas

Should this zoning amendment be approved by Council, a Development Permit for the form and character of this storefront may be required (DPA-1) for exterior alterations.

Servicing and Infrastructure

Servicing, traffic access/egress, and parking related to this zoning amendment application proposal are considered adequate.

Communications and Engagement

Should Council choose to proceed with consideration of the application and give first and second reading to Zoning Amendment Bylaw No. 3878 (Attachment 10), the application will proceed to a public hearing. At that time, the general public will be provided an opportunity for input on the proposed Zoning Bylaw amendment. Neighbouring properties within a 60 metre radius of the subject property will be notified by the Municipality of this application and advertisements will be placed in the local newspaper, as required by the *Local Government Act*.

The applicant is required to arrange and conduct an information meeting to provide residents and property owners within 60 metres of the subject property with information about the application (Section 4.8, Cannabis Retail Sales Policy) before a Public Hearing and consideration of third reading. A summary of the information meeting will be provided to Council prior to the public hearing.

Conclusion

The proposal is consistent with the commerce policies of the OCP – Section’s 2.4.5, 2.4.5.1b), 2.4.5.2. Further, it is consistent with location policies - Section 4.1 and 4.2 respectively of Council’s Cannabis Retail Sales policy as the proposal is abutting an urban arterial road, in an established and purpose built commercial area and if approved will be the only retail cannabis store for this parcel.

The recently constructed Berkey’s corner commercial site is well lit, secure, (building alarm systems, security patrolled and continuous public observation via customer traffic and surrounding residential areas) and well-maintained. Staff consider the site to be a suitable location for cannabis retail sales.

OPTIONS

1. **(Recommended Option)** Support application and give Bylaw No. 3878 first two readings.

THAT Council:

- (1) Give first and second reading to “Zoning Amendment Bylaw (Cannabis Sales – 3288 Cowichan Lake Road), No. 3878,” 2022 to permit cannabis retail sales; and,
- (2) Require the applicant to conduct an Information Meeting before scheduling a Public Hearing and Council’s consideration of third reading.

2. Deny the application.

THAT Council deny the application from Honeycomb Cannabis Duncan Inc. to amend Zoning Bylaw No. 2950, 1997 to permit cannabis retail sales at 3288 Cowichan Lake Road.

IMPLICATIONS

Should this application be denied, a retail cannabis store will not be permitted to operate at 3288 Cowichan Lake Road.

RECOMMENDATION

That Council:

- (1) Give first and second reading to “Zoning Amendment Bylaw (Cannabis Sales – 3288 Cowichan Lake Road), No. 3878,” 2022 to permit cannabis retail sales; and,
- (2) Require the applicant to conduct an Information Meeting before scheduling a Public Hearing and Council’s consideration of third reading.

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Attachments:

1. Location Map
2. Air Photo
3. Zoning Map
4. Cannabis Policy Map
5. Letter of Rationale
6. Council Policy: Cannabis Retail Sales
7. Commercial General Zone (C2)
8. Referral Responses
9. LCRB Letter Fit and Proper
10. Draft Bylaw 3878