



Committee of the Whole Report For the Meeting of October 24th, 2019

To: Committee of the Whole **Date:** October 22nd, 2019
From: Chris Coates, City Clerk
Subject: Recommendation for Pineapple Express at 608 Esquimalt Road

RECOMMENDATION

1. That Council direct staff to advise the Liquor and Cannabis Regulation Branch:

Council does not support the application of Pineapple Express at 608 Esquimalt Road to receive a provincial cannabis retail store license with following comments on the prescribed considerations:

- a. The Council recommends that the LCRB does not issue a license to Pineapple Express at 608 Esquimalt Road.
- b. Pineapple Express at 608 Esquimalt Road has not been compliant with the City of Victoria business licensing requirements regarding the following issues:
 - i. The applicant has not obtained required building permits.
 - ii. The business never obtained a municipal business license and continued to operate without until July 9, 2019.
- c. City staff did not raise any concerns about this application in terms of community impacts.
- d. The views of residents were solicited through a mail-out to neighboring property owners and occupiers within 100 meters of this address and to the relevant neighborhood association.

The City sent 645 notices and received 94 letters in response. 51 letters were from residents or businesses within 100 metres of the property, while 12 were from other Victoria residents, 21 were from residents of another municipality, and 10 did not specify an address. The City did not receive correspondence from the Vic West Community Association.

Of the 94 letters received, 63 support issuing a license and 29 oppose issuing a license. However, of the 51 respondents within 100 metres of the proposed cannabis retail store that provided written comments, 22 support issuing a license, 27 oppose issuing a license, and 1 did not provide comments about a license.

Respondents raised concerns about increased traffic, insufficient parking resulting in use of residential parking, hours of operation, and proximity spaces used by children such as Vic West Elementary School, Vic West Park and Vic West Skate Park, and residential areas.

EXECUTIVE SUMMARY

Since the Government of Canada legalized cannabis on October 17, 2018, the Province of British Columbia is responsible for cannabis retail store licensing. The Province established a framework that sends referrals to the City for a positive or negative recommendation, which must include residents' views. The City adopted the *Cannabis Retail Store Licensing Consultation Policy and Fee Bylaw 18-120* to manage these referrals by setting a public consultation process and fees.

There is no specific City policy that guides staff in the evaluation of a proposed cannabis retail store. Staff take into consideration:

- the applicant's compliance and enforcement history as a cannabis retail store in the City, if applicable, and
- comments from residents and businesses within 100 metres of the proposed location.

Staff would recommend a negative recommendation for an application if the applicant did not obtain a municipal business license while operating before legalization, operated without a provincial and municipal license after legalization, and received negative comments from most residents and businesses responding within 100 metres.

Pineapple Express at 608 Esquimalt Road operated in Victoria starting in November 2015. The applicant applied for a municipal business licence but never obtained one due to unresolved building issues. The applicant also continued to operate until July 9th, 2019, despite advice from Bylaw Officers to shut down on May 9th, 2019 and on June 15th, 2019.

The City sent 645 notices to owners and occupiers within 100 metres of the proposed cannabis retail store and received 94 letters in response. 51 of 94 letters were from residents or businesses within 100 metres of the property. 27 of 51 letters from residents or businesses within 100 metres were opposed to issuing a license to the proposed cannabis retail store. The City did not receive correspondence from the Vic West Community Association.

Respondents raised concerns about increased traffic, insufficient parking for clients resulting in use of residential parking, hours of operation, and proximity spaces used by children such as Vic West Elementary School, Vic West Park and Vic West Skate Park, and residential areas.

In the absence of a City policy for evaluating the eligibility of a proposed cannabis retail store, staff recommend providing a negative local government recommendation for Pineapple Express at 608 Esquimalt Road based on a failure to obtain a municipal business licence, operation without any licence after legalization, and negative feedback from 27 of 51 respondents within 100 meters.

PURPOSE

The purpose of this report is to seek a Council resolution, in accordance with the requirements of the *Cannabis Control and Licensing Act*, regarding an application by Pineapple Express at 608 Esquimalt Road to obtain a provincial cannabis retail store license.

BACKGROUND

The LCRB issues cannabis retail store licences under the authority of the *Cannabis Control and Licensing Act* (the Act). LCRB refers an application to the City for a recommendation about whether or not to issue a licence. The LCRB does not issue a provincial licence without a positive recommendation.

The City must consider the location of the proposed retail store, provide comments about community impact, and include the views of residents. The *Cannabis Retail Store Licensing Consultation Policy and Fee Bylaw* establishes a public consultation method and fees (Appendix A). Owners and occupiers of parcels within 100 metres of the proposed location, the neighbourhood association for the area, and relevant City departments have an opportunity to provide written comments about the application.

A provincially licensed cannabis retail store may obtain a municipal business licence. In addition to federal and provincial rules, a cannabis retail store must comply with the *Business Licence Bylaw* and *Storefront Cannabis Retailer Regulation Bylaw 19-053* which set out licensing and operating conditions for storefront cannabis retailers.

Council has given a positive local government recommendation for 6 cannabis retail stores in Victoria. 5 cannabis retail stores are currently operating in Victoria with a provincial and municipal license. Another cannabis retail store is at the final stage of the provincial licensing process.

ISSUES AND ANALYSIS

Pineapple Express is located at 608 Esquimalt. A map of the property and the immediate 100 metre area is attached as Appendix B. A site plan for the property is attached as Appendix C.

There is no specific City policy that guides staff in the evaluation of a proposed cannabis retail store. Staff take into consideration:

- the applicant's compliance and enforcement history as a cannabis retail store, if applicable, and
- comments from residents and businesses within 100 metres of the proposed location.

Previous Operations

The business operated between November 2015 and July 2019. They applied for a business licence in November 2015 but it was not issued because the property was not zoned for cannabis retail use and there were outstanding building issues. The applicant applied to rezone the property on November 10, 2016 and the City rezoned the property on June 14, 2018. The applicant never obtained a business license due to failure to satisfy building requirements, although they paid annual business licence fees.

The applicant applied for a building permit on September 14, 2017. The City sent a building deficiency list on October 19, 2017. The building permit was outstanding on June 19, 2019. After the applicant worked to resolve these building issues, the City conducted a final inspection on September 20, 2019. Although the applicant has not obtained an occupancy permit because there remains an outstanding electrical issue.

Staff conducted monthly inspections between December 2017 and January 2019. There have not been any issues noted in Inspection Reports since September 28, 2017. However, the applicant did not close the store until July 9th, 2019, which staff verified on 5 occasions during monthly visits between January 2019 and July 2019.

The applicant was issued a ticket on March 23, 2017 for not having a sign permit in the amount of \$250.00 and paid the ticket on May 15, 2017.

A history of compliance and enforcement is attached as Appendix D.

Community Impact

Bylaw Services and Sustainable Planning and Community Development reviewed the application and did not raise any issues with previous operations. The Victoria Police Department did not provide any comments about the application.

Residents' Views

The City sent 645 notices to owners and occupiers within 100 metres of the proposed location for the cannabis retail store and received 94 letters in response (attached as Appendix E). 51 letters were from respondents within 100 metres of the property, while 12 were from other Victoria residents, 21 were from residents of another municipality, and 10 did not specify an address. The City did not receive correspondence from the Vic West Community Association.

Of the 94 letters received, 63 support issuing a license and 29 oppose issuing a license. However, of the 51 residents and businesses within 100 metres of the proposed cannabis retail store that provided written comments, 22 support issuing a license, 27 oppose issuing a license, and 1 did not provide comments about a license.

Respondents raised concerns about increased traffic, insufficient parking for clients resulting in use of residential parking, hours of operation, and proximity spaces where there are children such as Vic West Elementary School, Vic West Park and Vic West Skate Park, and residential areas.

Municipal Requirements for Building Exteriors

The Act requires a licensed cannabis retail store to have non-transparent walls, which would require the applicant to alter the building exterior. For this property, any replacement of exterior materials such as window coverings requires a Development Permit. Internal improvements such as curtains do not require a Development Permit.

Summary

Staff would recommend that Council provide a negative recommendation for Pineapple Express at 608 Esquimalt Road as the applicant did not obtain a municipal business license before legalization, operated without a provincial and municipal license after legalization, and received negative comments from most residents and businesses responding within 100 metres.

Applicant's Response

The applicant provided a letter responding to the staff report. This letter is attached as Appendix F.

OPTIONS AND IMPACTS

Option 1 – Refer application to the LCRB with a positive local government recommendation, subject to obtaining all necessary City permits.

Alternate Motion:

1. That Council direct staff to advise the Liquor and Cannabis Regulation Branch:

Council supports the application of Pineapple Express located at 608 Esquimalt Road to receive a provincial cannabis retail store license with following comments on the prescribed considerations:

- a) The Council recommends that the LCRB issue a license to Pineapple Express located at 608 Esquimalt Road, subject to the condition that a license not be issued until after the applicant obtains a Development Permit for any proposed alterations to the building exterior that are required to operate the business, if required.
- b) Bylaw Services and Sustainable Planning and Community Development reviewed the applicant and did not raise any concerns in terms of impacts on the community. The Victoria Police Department did not provide any comments.
- c) The views of residents were solicited through a mail-out to neighboring property owners and occupiers within 100 meters of this address and to the relevant neighborhood association.

The City sent 645 notices and received 94 letters in response. 51 letters were from residents or businesses within 100 metres of the property, while 12 were from other Victoria residents, 21 were from residents of another municipality, and 10 did not specify an address. The City did not receive correspondence from the Vic West Community Association.

Of the 94 letters received, 63 support issuing a license and 29 oppose issuing a license. However, of the 51 respondents within 100 metres of the proposed cannabis retail store that provided written comments, 22 support issuing a license, 27 oppose issuing a license, and 1 did not provide comments about a license.

Respondents raised concerns about increased traffic, insufficient parking for clients resulting in use of residential only parking, proximity spaces where there are children such as Vic West Elementary School, Vic West Park and skate park, and residential areas, and early hours of operation (e.g. 7:30 a.m.).

- d) A Development Permit may be required to ensure alterations to the building exterior do not diminish the pedestrian experience and create safety concerns by obstructing the view from the sidewalk or street into the store.

2. That Council direct staff to advise the LCRB of Council's recommendation subject to the applicant's compliance with City bylaws and permits.

Option 2 – Refer application to the LCRB with a negative local government recommendation due to history of non-compliance and negative comments from owners and occupants of nearby parcels. (Recommended)

Accessibility Impact Statement

The recommended option has no accessibility implications.

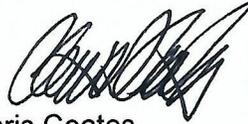
CONCLUSION

Pineapple Express at 608 Esquimalt Road operated as an unlicensed cannabis storefront retailer until July 9th, 2019 and has yet to rectify all long-standing building issues. Further, residents and businesses within 100 metres identified issues, especially with the impacts resulting from a retail store in this location. Based on a history of non-compliance with municipal business licensing requirements and negative feedback from residents within 100 meters, staff recommend providing a negative local government recommendation to the LCRB. The proposed option would prevent the Province from issuing a cannabis retail store licence to Pineapple Express at this location.

Respectfully submitted,



Monika Fedyczkowska
Legislative and Policy Analyst

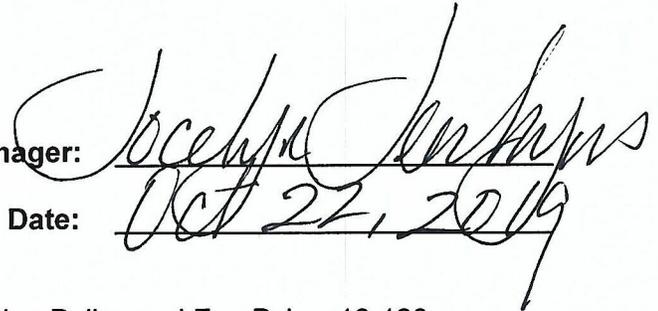


Chris Coates
City Clerk



Susanne Thompson
Deputy City Manager

Report accepted and recommended by the City Manager:


Date: Oct 22, 2019

Attachments

- Appendix A: Cannabis Retail Store Licensing Consultation Policy and Fee Bylaw 18-120
- Appendix B: A map of the property and the immediate 100 metre area
- Appendix C: A site plan of the property
- Appendix D: Bylaw Services comments
- Appendix E: Residents' views
- Appendix F: Letter from applicant