



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 High 5 Retail at 732 Tyee Road

RECOMMENDATION

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

Council supports the application of High 5 Retail at 732 Tyee 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 High 5 Retail at 732 Tyee Road, subject to the condition that this license not be issued until after the applicant obtains a Development Permit for any proposed alterations to the building exterior.
- b. City staff did not raise any concerns about this application in terms of community impacts.
- c. The views of residents were solicited through a mail-out to neighbouring property owners and occupiers within 100 meters of this address and to the relevant neighbourhood association.

The City sent 610 notices and received 15 letters in response. 12 letters were from respondents within 100 metres of the property, while 2 were from other Victoria residents, and 1 did not specify an address. The City did not receive correspondence from the Vic West Community Association.

Of the 15 letters received, 6 support issuing a license, 7 oppose issuing a license, and 2 do not provide a clear position on the application. However, of the 12 respondents within 100 metres of the proposed cannabis retail store that provided written comments, 5 support issuing a license, and 6 oppose issuing a license.

Respondents raised concerns about insufficient parking resulting in use of limited street parking, hours of operation near a residential area, increased nuisances such as loitering, consumption, and waste in the area, proximity to a residential area, and increased traffic.

- 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.

- e. The property currently permits cannabis retail use under a Temporary Use Permit that expires on October 12, 2020. The applicant must either obtain Council approval to renew the Temporary Use Permit or complete a successful rezoning process in order to operate a cannabis retail store at 732 Tyee Road after October 12, 2020. The City will notify the LCRB if cannabis retail use at 732 Tyee Road is approved or not.
2. That Council direct staff to advise the LCRB of Council's recommendation subject to the applicant's compliance with City bylaws and permits.

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's *Cannabis Retail Store Licensing Consultation Policy and Fee Bylaw 18-120* establishes a public consultation process and fees to manage these referrals.

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.

High 5 Retail, previously Buds and Leaves, began operating in October 2015. The current owners gained possession of building lease and business on November 9, 2018. The business has been closed since legalization and has been compliant with City business licensing requirements. A Temporary Use Permit that expires on October 12, 2020 allows cannabis retail use on this property. The applicant would need to renew the Temporary Use Permit or complete a successful rezoning process in order to operate at this property for cannabis retail use after this date.

The City sent 610 notices and received 15 letters in response. 12 of the 15 letters were from respondents within 100 metres of the property. 6 of the 13 letters from residents and businesses within 100 metres are 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 insufficient parking resulting in use of limited street parking, hours of operation near a residential area, increased nuisances such as loitering, consumption, and waste in the area, proximity to a residential area, and increased traffic.

In the absence of a City policy for evaluating the eligibility of proposed cannabis retail store, staff recommend that Council provide a positive recommendation for High 5 Retail at 732 Tyee Road.

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 High 5 Retail at 732 Tyee 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 will not issue a provincial licence without a positive recommendation from the City.

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, and 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. The *Business Licence Bylaw* and *Storefront Cannabis Retailer Regulation Bylaw 19-053* 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

High 5 Retail is located at 732 Tyee Road. A map of the property and the immediate 100 metre area is attached as Appendix B. A site plan of 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.

Land Use and Estimated Rezoning Timeline

Council approved a Temporary Use Permit for 732 Tyee Road for 3 years on October 12, 2017. The TUP expires on October 12, 2020. The applicant would need to renew the TUP or apply to rezone the property for cannabis retail use. If the applicant obtains a provincial license but does not extend the TUP or rezone the property for cannabis retail use, the applicant could not operate at this location without contravening provincial licensing conditions. The Province indicated that operating without a land use authority would contravene the provincial licensing conditions and that the City should advise the Province if this occurs.

Previous Operations

On October 27, 2015, Buds and Leaves applied for a business license. At that time, the City was not accepting any applications as staff were reviewing business licensing regulations. On September 22, 2016, approved the *Cannabis-Related Business Regulation Bylaw 16-058*.

On December 1, 2016, Buds and Leaves applied for and obtained a business license. There have been three owners of Buds and Leaves. The most recent transfer of ownership occurred on November 9, 2018. The new owners continued to operate under the name of Buds & Leaves until July 2019 and then changed their name to High 5 Retail.

Bylaw Services carried out monthly inspections between December 2016 and March 2019. The store was closed since legalization and transfer of ownership. There have not been any issues since October 2017. There have not been any Bylaw Calls for Service, and only one informal complaint from a neighboring business on July 21, 2017, which was quickly resolved. The City did not issue any tickets and there are no outstanding fees.

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

Community Impact

Bylaw Services and Sustainable Planning and Community Development did not indicate any concerns about impact on the community. The Victoria Police Department did not provide any comments.

Residents' Views

The City sent 610 notices and received 15 letters in response. 12 letters were from residents or businesses within 100 metres of the property, while 2 were from other Victoria residents, and 1 did not specify an address. The City did not receive correspondence from the Vic West Community Association.

Of the 15 letters received, 6 support issuing a license, 7 oppose issuing a license, and 2 do not provide a clear position on the application. However, of the 12 residents and businesses within 100 metres of the proposed cannabis retail store that provided written comments, 5 support issuing a license, and 6 oppose issuing a license.

Respondents raised concerns about insufficient parking for customers resulting in use of limited street parking, late hours of operation nearby a residential area, increased nuisances such as loitering, consumption in the area, and waste disposed in the area, proximity to a residential area, and increased traffic.

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 positive recommendation for High 5 Retail at 732 Tyee Road as the new business owner did not operate the business after legalization and the application received a balanced response from 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 with a positive local government recommendation to LCRB, subject to obtaining a Development Permit. (Recommended)

This option would enable to LCRB to issue a provincial cannabis retail store license to the applicant. If the TUP expires and the property is not zoned for cannabis retail store use, the provincial licensing conditions would prohibit the applicant to operate at this location. The Province would be responsible for enforcement.

Option 2 – Postpone decision until a successful TUP renewal or rezoning process is complete

This option would require a TUP renewal or rezoning process to be complete before Council provides a recommendation about this application in this location.

Option 3 – Refer application with a negative local government recommendation

This option would prevent the Province from issuing a license to the applicant in this location. The applicant would apply in another location, if desired.

Accessibility Impact Statement

The recommended option has no accessibility implications.

CONCLUSION

High 5 Retail at 732 Tyee Road, previously Buds and Leaves, changed ownership on November 9, 2018 and has not operated since this date. The previous business owners were compliant with City business licensing and regulations. The applicant would operate a cannabis retail store at this location under a Temporary Use Permit until October 12, 2020 and then could continue operations if the property is issued a renewed TUP or is rezoned for cannabis retail use.

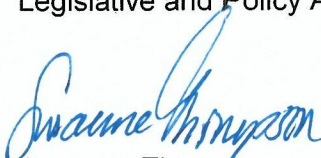
Respectfully submitted,



Monika Fedyczkowska
Legislative and Policy Analyst

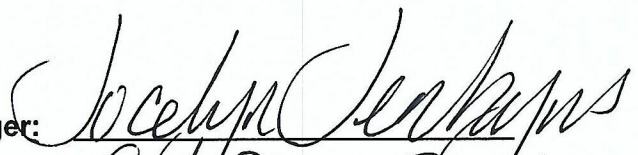


Chris Coates
City Clerk



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.