



Committee of the Whole Report For the Meeting of November 28th, 2019

To: Committee of the Whole **Date:** November 19th, 2019
From: Chris Coates, City Clerk
Subject: Recommendation for Kiaro at 475 Gorge Road East

RECOMMENDATION

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

Council supports the application of Kiaro at 475 Gorge Road East 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 Kiaro at 475 Gorge Road East.
- 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 281 notices and received 9 letters in response. 6 letters were from respondents occupying an address within 100 metres of the property. The City did not receive a response from the Burnside/Gorge Community Association.

Of the 9 responses, 3 support issuing a license and 6 oppose issuing a license. The respondents raised concerns about a cannabis retail store nearby another licensed cannabis retail store in the neighbourhood, fit of a cannabis retail store in the neighbourhood, and public safety.

- d. Council wishes the Province to make its own deliberations about the fact that this operation was open until at least January 26th, 2019.
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.

The applicant, Kiaro, acquired the business on June 4th, 2019. The applicant advised staff that the previous business owner, Green Hart Health and Wellness, has less than one percent share in Kiaro. Staff conducted a review of ownership and concluded that the business appears to be under new ownership.

The City sent 281 notices and received 9 letters in response. 6 letters were from respondents occupying an address within 100 metres of the property. The City did not receive correspondence from the Burnside/Gorge Community Association. Of 9 responses, 3 support issuing a license and 6 oppose issuing a license. The respondents raised concerns about a cannabis retail store nearby another licensed cannabis retail store in the neighbourhood, fit of a cannabis retail store in the neighbourhood, and public safety.

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 Kiaro at 475 Gorge Road East.

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 Kiaro at 475 Gorge Road East 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.

The Province has licensed eight cannabis retail stores in Victoria.

ISSUES AND ANALYSIS

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.

Applicant

Kiara is located at 475 Gorge Road East. A map of the property and the immediate 100 metre area is attached as Appendix B. A site plan is attached as Appendix C.

Previous Operations

Green Hart applied for a general business license on February 10th, 2016. The City did not issue a license while staff were reviewing business licensing regulations towards the implementation of a licence for cannabis related businesses. When Council approved a licensing framework for cannabis related businesses under the Cannabis-Related Business Regulation Bylaw 16-058 on September 22nd, 2016, the City rejected this application on September 26th, 2016.

The applicant applied for a storefront cannabis retail licence on November 28th, 2016. The property was not zoned for cannabis retail use, so the applicant submit a rezoning application for the property on February 23rd, 2017. On December 14th, 2017 Council declined the rezoning. As a result, the City rejected the business licence.

The applicant submit a new rezoning application on July 31st, 2018 and was approved on December 13th, 2018. At this time, the City was no longer issuing business licences to storefront cannabis retailers and suspended any existing ones while staff reviewed City bylaws to adapt to the new provincial licensing process.

The applicant continued to operate the business during this process, however transitional provisions in the Cannabis Related Business Regulation Bylaw permitted businesses to continue operating provided their rezoning application was in progress.

Bylaw Services conducted regular inspections between October 21st, 2016 and September 29th, 2019. During this time, the applicant addressed compliance issues related to hours of operation, signage, and operating without a business licence. The City issued 19 Municipal tickets for a total of \$19,000. The previous owners paid the total amount and has no outstanding fees.

The business was open on January 26th, 2019 and no longer open on March 23rd, 2019.

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

Council recently addressed the issue of cannabis retail stores operating without a provincial license after legalization and resolved to raise the issue in the recommendation and defer that aspect to the Province. This approach is represented in the recommendation for this application.

Community Impact

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

The Victoria Police Department comments are attached as Appendix E.

Residents' Views

The City sent 281 notices and received 9 letters in response. 6 letters were from respondents occupying an address within 100 metres of the property. The City did not receive a response from the Burnside/Gorge Community Association.

Of the 9 responses, 3 support issuing a license and 6 oppose issuing a license. The respondents raised concerns about a cannabis retail store nearby another licensed cannabis retail store in the neighbourhood

Residents' views are attached as Appendix E.

Municipal Requirements for Building Exteriors

The property is located within DPA16, which does not require a development permit for exterior changes such as window coverings.

Summary

Staff would recommend that Council provide a positive recommendation for Kiaro. The applicant gained ownership on June 4th, 2019. The cannabis retail store has not operated under the current ownership.

Applicant's Response

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

OPTIONS AND IMPACTS

Option 1 – Refer application with a positive local government recommendation to LCRB, subject to obtaining a Delegated Development Permit. (Recommended)

This option would enable to LCRB to issue a provincial cannabis retail store license.

Option 2 – 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.

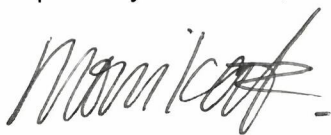
Accessibility Impact Statement

The recommended option has no accessibility implications.

CONCLUSION

The applicant gained ownership of Kiaro on June 4th, 2019. The cannabis retail store has not operated under the current ownership. A positive recommendation would allow the Province to continue the licensing process and potentially issue a cannabis retail store license.

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:

Bobyn Jenkins
Nov 21, 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: Victoria Police Department comments
- Appendix F: Residents' views
- Appendix G: Letter from applicant