



Committee of the Whole Report For the Meeting of December 12th, 2019

To: Committee of the Whole

Date: November 25th, 2019

From: Chris Coates, City Clerk

Subject: Recommendation for Burnside Buds at 3175 Harriet Road

RECOMMENDATION

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

Council supports the application of Burnside Buds at 3175 Harriet 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 Burnside Buds at 3175 Harriet Road, subject to the condition that this license not be issued until after the applicant obtains a Delegated 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 property owners and occupiers within 100 meters of this address and the Burnside/Gorge Community Association.

The City sent 247 notices and received 9 responses. All respondents live within 100 metres of the property. The City did not receive correspondence from the Burnside/Gorge Community Association.

4 support issuing a license, 4 oppose issuing a license, and 1 did not provide comments about issuing a license. The concerned respondents raised issues related to traffic, parking, proximity to residential, nuisances (noise, smell, smoke), and public safety.

- d. A Delegated 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. Council wishes the Province to make its own deliberations about the fact that this operation remained in operation for at least 6 months following legalization.
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 17th, 2018, the Province of British Columbia (the Province) is responsible for cannabis retail store licensing.

The BC Liquor and Cannabis Regulation Branch (the LCRB) sends referrals to the City for a positive or negative recommendation, which must include residents' views. The City develops a recommendation using a process and fee set out in the City's *Cannabis Retail Store Licensing Consultation Policy and Fee Bylaw 18-120*. The City conducts this process only if the property is zoned for cannabis retail use and after the Province has completed financial integrity and security screening checks.

In the absence of a specific City policy that guides staff in evaluating a proposed cannabis retail store, staff consider:

- 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 applied for a general business license on October 26th, 2016. After the property was zoned for cannabis retail use on August 9th, 2018, the City issued a storefront cannabis retail licence on October 16th, 2018. The applicant continued to operate the business during this process, in accordance with transitional provisions in the City's *Cannabis Related Business Regulation Bylaw* which permit businesses to continue operating as long as a rezoning application was progressing.

Bylaw Services conducted regular inspections between January 10th, 2017 and August 25th, 2019. The applicant addressed signage and fire inspection issues. The City did not issue any tickets.

A Bylaw officer visited the business on April 2nd, 2019. The business was open. A Bylaw Officer did not visit the business again until August 25th, 2019. The business was not open. The date of closure is between the visits in April 2019 and August 2019 is unknown.

The City sent 247 notices and received 9 responses. All respondents live within 100 metres of the property. The City did not receive correspondence from the Burnside/Gorge Community Association. 4 support issuing a license, 4 oppose issuing a license, and 1 did not provide comments about issuing a license. The concerned respondents raised issues related to traffic, parking, proximity to residential, nuisances (noise, smell, smoke), and public safety.

Staff recommend that Council provide a positive recommendation to the LCRB for Burnside Buds at 3175 Harriet 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 Burnside Buds at 3175 Harriet Street 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). The LCRB refers an application to the City for a positive or negative recommendation about whether or not to license an applicant. 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 City develops a recommendation using a process and fee set out in the City's *Cannabis Retail Store Licensing Consultation Policy and Fee Bylaw 18-120*. The City conducts this process only if the property is zoned for cannabis retail use and after the Province has completed financial integrity and security screening checks.

Under the City's *Cannabis Retail Store Licensing Consultation Policy and Fee Bylaw 18-120*, the City must notify and seek written comments from owners and occupiers of parcels within 100 metres of the proposed location and the neighbourhood association for the area. In addition, Bylaw Services, the Victoria Police Department, and Development Services may provide written comments about the application.

If the Province licenses a cannabis retail store in the City, the licensee must have a municipal business license for storefront cannabis retailers and comply with City rules for operation of these storefront cannabis retailers as set out in the *Business Licence Bylaw* and *Storefront Cannabis Retailer Regulation Bylaw 19-053*.

Council has provided 10 positive recommendations to the LCRB. The Province has licensed 8 cannabis retail stores in Victoria and 2 more proposed cannabis retail stores are at the final stages of provincial licensing. Five cannabis retail stores have municipal business licenses.

ISSUES AND ANALYSIS

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

- 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

The applicant is Burnside Buds at 3175 Harriet Road. 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

The applicant applied for a general business license on October 26th, 2016. After the property was zoned for cannabis retail use on August 9th, 2018, the City issued a storefront cannabis retail licence on October 16th, 2018. The applicant continued to operate the business during this process, in accordance with transitional provisions in the City's *Cannabis Related Business Regulation Bylaw* which permit businesses to continue operating as long as a rezoning application was progressing.

Bylaw Services conducted regular inspections between January 10th, 2017 and August 25th, 2019. The applicant addressed signage and fire inspection issues. The City did not issue any tickets.

A Bylaw officer visited the business on April 2nd, 2019. The business was open. A Bylaw Officer did not visit the business again until August 25th, 2019. The business was not open. The date of closure is between the visits in April 2019 and August 2019 is unknown.

During Committee of the Whole in October 2019, Council addressed the issue of cannabis retail stores operating without a provincial license after legalization. Council resolved to raise the issue in the recommendation and defer this consideration to the Province. This approach is represented in the recommendation for this application.

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

Community Impact

Bylaw Services and the Victoria Police Department did not raise any concerns about impact on the community.

Bylaw Services comments are attached as Appendix D and the Victoria Police Department comments are attached as Appendix E.

Residents' Views

The City sent 247 notices and received 9 responses. All respondents live within 100 metres of the property. The City did not receive correspondence from the Burnside/Gorge Community Association.

4 support issuing a license, 4 oppose issuing a license, and 1 did not provide comments about issuing a license. The concerned respondents raised issues related to traffic, parking, proximity to residential, nuisances (noise, smell, smoke), and public safety.

Residents' views are attached as Appendix E.

Municipal Requirements for Building Exteriors

The property is located within Development Permit Area 6A: Small Urban Villages. Within this DPA, exterior changes such window coverings, require a Delegated Development Permit (DDP). The relevant design guidelines do not support permanent window coverings and as such staff are unlikely to support an application to permanently cover the windows. Please note that curtains/blinds are considered internal improvements and do not require a DDP, but can still meet the provincial requirements to restrict sightlines into the storefront.

Summary

Staff would recommend that Council provide a positive recommendation for Burnside Buds at 3175 Harriet Road. The applicant completed a rezoning of the property for cannabis retail use and obtained a storefront cannabis retailer license. The applicant addressed any compliance issues to the satisfaction of Bylaw Officers.

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

Staff recommend that Council provide a positive recommendation to the LCRB for Burnside Buds at 3175 Harriet Road. The applicant completed a rezoning of the property for cannabis retail use and obtained a storefront cannabis retailer license. The applicant addressed any compliance issues to the satisfaction of Bylaw Officers. A positive recommendation would allow the Province to continue the provincial licensing process and potentially issue a cannabis retail store license.

Respectfully submitted,



Monika Fedyczkowska
Legislative and Policy Analyst



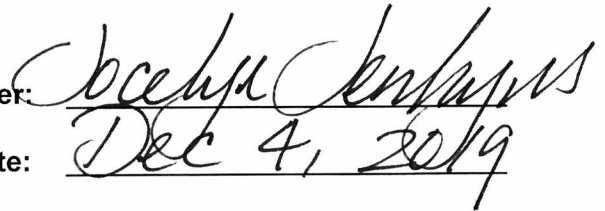
Chris Coates
City Clerk



Susanne Thompson
Deputy City Manager

Report accepted and recommended by the City Manager:

Date:


Dec 4, 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