



Item
Meeting 2018 February 26

COUNCIL REPORT

TO: CITY MANAGER 2018 February 21

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: REZONING REFERENCE #17-37
Private Liquor Store

ADDRESS: Unit #18 – 5901 Broadway (see *attached* Sketch #1)

LEGAL: Lot 19 Except: Part Subdivided By Plan 67600; District Lot 130 Group 1 NWD Plan 21055

FROM: C1 Neighbourhood Commercial District

TO: CD Comprehensive Development District (based on C1 Neighbourhood Commercial District and C2h Community Commercial District and in accordance with the development plan entitled “Jak’s Liquor Store” prepared by David Wong with WHG Design)

APPLICANT: Jak’s Beer, Wine, Spirits
Attention: Mike McKee
170 – 5665 Kingsway
Burnaby, BC V5H 2G4

PURPOSE: To seek Council authorization to forward this application to a Public Hearing on 2018 March 27.

RECOMMENDATIONS:

1. **THAT** a Rezoning Bylaw be prepared and advanced to First Reading on 2018 March 12 and to a Public Hearing on 2018 March 27 at 7:00 p.m.
2. **THAT** the following be established as prerequisites to the completion of the rezoning:
 - a) The submission of a suitable plan of development.
 - b) The granting of Section 219 Covenants, including but not necessarily limited to ensuring that operating hours are maintained as described in Section 3.2.3 of this

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report, permitting only C1 Commercial District and Licensee Retail Store (LRS) uses; and prohibiting the sale of any cannabis products.

- c) The provision of any necessary statutory rights-of-way, easements and/or covenants.

R E P O R T

1.0 REZONING PURPOSE

The purpose of the proposed rezoning bylaw amendment is to permit a license retail store (LRS) within an existing commercial shopping centre.

2.0 BACKGROUND

- 2.1 The subject tenant space is located within an established neighbourhood shopping centre, which includes surface parking, situated on the northwest corner of Broadway and Fell Avenue. There are currently 15 active business licences issued for the property, which include a supermarket, five restaurants, two aestheticians, a salon, a barbershop, a fishing tackle store, a trophy store, a florist, an insurance company, and a dollar store. The proposed liquor store, located on the eastern end of the shopping centre next to a hair salon, was previously occupied by a bank.

The subject tenant space is located within the Parkcrest-Aubrey residential neighbourhood, with R2 Residential District properties located to the north across the lane, to the east across Fell Avenue, and to the south across Broadway. Immediately east of the subject property are R5 Residential District properties. Vehicular access to the site is from both Broadway and Fell Avenue.

- 2.2 The subject site is located half a block north of the Holdom Mixed-Use Community Plan area and half a block northeast of the Brentwood Town Centre Plan boundary. The Residential Policy Framework of the Burnaby Official Community Plan (OCP) identifies the subject area as a future Urban Village.
- 2.3 On 2006 May 08, Council adopted a Liquor Store Location Framework ("Framework") for Burnaby, along with the Guidelines for Assessing Rezoning Applications for Liquor Stores. The Framework divides the City into four quadrants based on the Town Centres, in order to ensure a balanced distribution of liquor stores throughout the City. Principal objectives of the Framework include the establishment of a Liquor Distribution Branch (LDB) Signature Liquor Store in each Town Centre prior to the establishment of smaller LDB and private liquor stores, or Licensee Retail Stores (LRS) in the respective quadrants. The Framework also prioritized the establishment of LDB stores in the Big

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Bend Community Plan area and at the Kensington Shopping Centre which are in operation. The purpose of these objectives is to offer equity and certainty for consumers throughout the City in terms of product availability, convenience and stable pricing.

- 2.4 On 2017 October 02, Council received the report of the Planning and Building Department concerning the subject rezoning and authorized the Department to continue to work with the applicant with the understanding that a further and more detailed report would be submitted at a later date. The applicant has now submitted a plan of development suitable for presentation at a Public Hearing.
- 2.5 On 2018 January 29, Council received a report from the Planning and Building Department recommending advancement to a Public Hearing for the subject rezoning application. Council referred the item back to staff until such time that the Provincial Government has determined the distribution model for non-medical (recreational) cannabis sales. On 2018 February 05, the Provincial Government announced that, in preparation for the federal government's legalization of non-medical cannabis in July 2018, the Liquor Control and Licensing Branch (LCLB) will be responsible for licensing and monitoring the retail sector in B.C. using a mixed public/private model. At this time, it is anticipated that non-medical cannabis retail stores would be self-contained businesses operated in a completely separate location from any liquor and/or tobacco sales. Under this Provincial Government distribution model for non-medical cannabis sales, the applicant would not be permitted to sell cannabis at the proposed LRS on the subject property.

Regardless, it should be noted that on 2018 February 01, prior to the Provincial Government announcement about the non-medical cannabis distribution model, the applicant indicated in writing that they would not retail cannabis at the proposed LRS and would add a restrictive covenant to the subject property preventing the sale of any cannabis products. Martello Property Services Inc., the asset and property managers of the subject property, confirmed in writing on 2018 January 31 that the sale of cannabis on the subject property would not be permitted by any tenants and that they are prepared to alter the lease for Jak's to reference a restrictive covenant preventing the sale of any cannabis products. A Section 219 Covenant would prohibit the sale of any cannabis products on the subject property and therefore satisfy concerns raised. As this responds to the concern raised, this report seeks authorization to forward the application, with the addition of a pre-requisite condition for a Section 219 Covenant on the prohibition of the sale of cannabis products, to a Public Hearing.

3.0 GENERAL COMMENTS

- 3.1 The applicant is seeking to rezone Unit #18, a 286.61 m² (3,085 sq. ft.) commercial retail unit (CRU) within the shopping centre from the C1 Neighbourhood Commercial District to the CD Comprehensive Development District (based on C1 Neighbourhood

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Commercial District and C2h Community Commercial District guidelines) in order to permit the establishment of an LRS (see *attached* Sketch #1). The proposed use is located within the eastern most CRU in the shopping centre. Under the proposed amendment, the subject unit would retain the underlying C1 District zoning, in addition to the proposed C2h District zoning, in order to allow future reversion of the unit to C1 District uses should the private liquor store use cease to operate.

The applicant is seeking rezoning in order to open a new LRS, Jak's Beer Wine and Spirits. The applicant currently owns eleven private liquor stores in BC, including Jak's Burnaby at 5665 Kingsway, located about 7 km (4.3 miles) from the proposed new site location.

- 3.2 The Liquor Store Location Framework contains Guidelines for Assessing Rezoning Applications for Liquor Stores, including locational, store size, and operational criteria. The following subsections review the consistency of the proposed development with these criteria:

3.2.1 Locational Criteria

The locational criteria for liquor stores require establishment of an LDB Signature Store in a Town Centre prior to establishment of smaller supporting LDB stores or LRSs in the same quadrant. In the City's northwest quadrant, which includes the subject site, the locational criteria require the establishment of an LDB Signature Store in the Brentwood Town Centre area. This criteria has been met as the Solo Liquor Store (4455 Skyline Drive) and was approved as an LDB Signature store under the Rezoning Reference #13-22.

Additional locational criteria require that supporting LRSs are a component of an established or new commercial service centre (Town Centre, Urban Village, or Neighbourhood Centre as outlined in the OCP). The proposed LRS location is part of an established commercial development which, as indicated above, is identified for future Urban Village uses in the OCP.

Further locational criteria require that there is a reasonable distribution of both LDB liquor stores and LRS stores. The Bainbridge Liquor store (7000 Lougheed Highway), located in the Bainbridge Urban Village, is located approximately 1.75 km (1.1 miles) away from the proposed LRS, the Bottle Jockey Liquor Store (#107-1899 Rosser Avenue) and the Solo Liquor Store (4455 Skyline Drive) are both located in the Brentwood Town Centre area approximately 2 km (1.2 miles) away and the Kensington Liquor store (6512 Hastings Street) is located in the Lochdale Urban Village approximately 2.7 km (1.7 miles) away. As such, there is a reasonable distribution of both LDB and LRS liquor stores within this area of Burnaby.

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Other locational criteria require appropriate relationships between a proposed liquor store and the following uses:

- private and public schools, particularly secondary schools;
- adjacent residential dwellings and parks; and,
- other potential sensitive uses (e.g. cabarets, child care centres).

The proposed LRS is located in the end unit of a small shopping centre and is oriented to the south towards the surface parking lot, and not towards any of the residential dwellings. Parkcrest Elementary School is located approximately 330 m (0.2 miles) north of the subject site, Burnaby North Secondary School is located approximately 1.5 km (0.9 miles) away and Broadway Woolwich Park is located more than 350 m (0.2 miles) away. There is a bowling alley and billiards with Liquor Primary licensing (Revs Burnaby), located approximately 415 m (0.3 miles) east of the site. There are two family childcare centres (6100 Broadway and 6050 Halifax Street) located 175 m (574 ft.) and 275 m (902 ft.), respectively, from the site, and one in-home multi-age child care facility (5530 Halifax Street) located approximately 500 m (0.3 miles) from the subject property.

Given the modest size of the proposed LRS and its integration into an established commercial development, the opportunity for nuisance behaviours, such as public drinking, panhandling or loitering, is considered low. As such, the proposed LRS is not expected to pose a conflict with nearby uses, neighbouring residential dwellings, or parks.

Proposals must also provide adequate vehicular and pedestrian circulation, and allow for safe and convenient vehicular access to the site, without causing undue traffic impacts on the surrounding area. Vehicular access to the subject site is from both Fell Avenue and Broadway, with no additional parking being generated as a result of the proposed LRS use. The site thus provides adequate vehicular access, as required by the locational criteria. Sidewalks are provided along Broadway and the site is located approximately 50 m (164 ft.) from a bus stop located on Broadway at Fell Avenue.

3.2.2 Store Size Criteria

The proposed LRS, at 286.61 m² (3,085 sq. ft.), does not exceed the maximum store size criteria of 418.06 m² (4,500 sq. ft.).

3.2.3 Operational Criteria

Operational criteria include appropriate hours of operation, which must be formalized through registration of a Section 219 Covenant. The guidelines anticipate that the hours for LDB Signature Stores in Town Centres will be longer and later than smaller stores; they also require that the general pattern of operating hours of nearby commercial

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businesses be considered. The LCLB permits LRS establishments to be open from 9:00 am to 11:00 pm, seven days a week, with hours further regulated by the city.

At the subject site, the other tenant spaces are occupied by a variety of businesses with varying hours, none of which are open past 9:00 pm. The applicant initially indicated the proposed hours of operation would be 9:00 am to 11:00 pm, seven days a week but has been informed that hours would be limited to 9:00 am to 9:00 pm, in order to be more consistent with the hours of the other existing tenants. To ensure that the proposed hours are maintained, it is recommended that, as a condition of the Rezoning approval, the operating hours be established under a Section 219 Covenant.

The Guidelines also recommend that, for safety and security purposes, a minimum of two employees be present at all times and video surveillance systems be installed. The applicant has indicated that these measures will be undertaken.

- 3.3 As the subject rezoning application is for a change of use, no servicing is required.
- 3.4 Section 219 Covenants including but not limited to ensuring that the hours of operation are maintained as described in Section 3.2.3, to permitting only C1 Commercial District and LRS uses and to prohibiting the sale of any cannabis products.
- 3.5 A Statutory Right-of-Way on the subject site for future construction of a bus pad and shelter, adjacent to the existing bus stop on Broadway, as necessary.
- 3.6 Given there is no additional gross floor area proposed as part of the subject rezoning application, the GVS&DD Sewerage Charge does not apply to this rezoning.

4.0 DEVELOPMENT PROPOSAL

- 4.1 Lot Area (no change) - 17,036.54 m² (183,380 sq. ft.)
- 4.2 Gross Floor Area (no change)
 - Entire building - 2,332.70 m² (25,109 sq. ft.)
 - Unit #18 - 286.61 m² (3,085 sq. ft.)
- 4.3 Height (no change) - 1 storey
- 4.4 Parking (no change) Required/Provided
 - Entire building - 133 spaces

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4.5 Loading (no change)

Required/Provided

Entire building

- 3 spaces


Lou Pelletier, Director
PLANNING AND BUILDING

KL:eb
Attachment

cc: Director Engineering
Director Public Safety and Community Services
Officer-in-Charge, RCMP, Burnaby Detachment
City Solicitor
City Clerk

