

TO: CITY MANAGER 2019 July 24

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: **REZONING REFERENCE #19-04**
Licensee Retail Store (Private Liquor Store)

ADDRESS: 5097 Canada Way (see *attached* Sketch #1)

LEGAL: Lot 247 District Lot 85 Group 1 NWP 49735

FROM: C2 Community Commercial District

TO: CD Comprehensive Development District (based on C2h Community Commercial District and in accordance with the development plan entitled "5097 Canada Way Proposed Liquor Store" prepared by Vancouver Drafting)

APPLICANT: Van Land Use Consulting
413 Alberta Street
New Westminster, BC V3L 3J6
Attn: Joe Van Vliet

PURPOSE: To seek Council authorization to forward this application to a Public Hearing on 2019 September 17.

RECOMMENDATIONS:

1. **THAT** a Rezoning Bylaw be prepared and advanced to First Reading on 2019 July 29 and to a Public Hearing on 2019 September 17 at 6:00 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 a Section 219 Covenant to ensure that operating hours are maintained as described in Section 4.2.3 of this report.
 - c) The provision of any necessary statutory rights-of-way, easements and/or covenants.
 - d) The approval of the Ministry of Transportation of the rezoning application.

R E P O R T

1.0 REZONING PURPOSE

The purpose of the proposed rezoning bylaw amendment is to permit a licensee retail store (LRS) within an existing commercial retail unit (CRU).

2.0 POLICY FRAMEWORK

The advancement of the rezoning application aligns with the following goals and sub-goals of the Corporate Strategic Plan:

An Inclusive Community

- Create a sense of community – Provide opportunities that encourage and welcome all community members and create a sense of belonging.

A Dynamic Community

- Economic opportunity – Foster an environment that attracts new and supports existing jobs, businesses and industries.

3.0 BACKGROUND

- 3.1 The subject tenant space is located within a commercial development located on the south side of Canada Way, between Sperling Avenue and Chiselhampton Street. The site is improved with surface parking and a one-storey commercial building. There are currently two active business licences issued for the property: one for a 24-seat Subway restaurant and the other for Ming Kee Kitchen Chinese food delivery. The proposed liquor store, located on the eastern end of the development next to the food delivery business, was most recently occupied by a kickboxing school.

The subject site is located within the Morley-Buckingham neighbourhood, with R1 Residential District properties across the lane to the south. Immediately west of the subject property is another C2 Community Commercial District property, with a gas station beyond, which is zoned CD Comprehensive District (based on the C6b Gasoline Service Station District), and immediately to the east are other C2 District properties. To the north across Canada Way are a CD RM2 Multiple-Family Residential District property improved with newer townhouse dwellings (Rezoning Reference #07-49), a C2/R4 District property improved with a residential dwelling listed on Burnaby's Heritage Inventory, and a CD P5 Institutional District property improved with a place of public worship. Vehicular access to the site is from both Canada Way and the rear lane.

- 3.2 The subject site and properties to the west, south, and east are not located within a Community Plan area, while the properties to the north across Canada Way are located in the Rayside Suburban Multi-Family Community Plan area. The Commercial Policy Framework of the Burnaby Official Community Plan (OCP) identifies the subject site as a Neighbourhood Centre.

- 3.3 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 location of 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 LDBs, and LRSs (private liquor stores), in the respective quadrants. The Framework also prioritized the establishment of LDB stores in the Big Bend Community Plan area and at the Kensington Shopping Centre. 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.
- 3.4 On 2019 April 29, 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.

4.0 GENERAL COMMENTS

- 4.1 The applicant wishes to relocate an existing LRS from outside of Burnaby to the subject site, and is therefore seeking to rezone the subject unit, a 167.23 m² (1,800 sq. ft.) CRU within a three-unit commercial development, from the C2 Community Commercial District to the CD Comprehensive Development District (based on 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 easternmost CRU in the development. It is noted that the proposed C2h District zoning for the subject unit would permit the LRS use, in addition to all other uses permitted in the C2 District.
- 4.2 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:

4.2.1 Locational Criteria

The locational criteria for liquor stores require establishment of an LDB Signature Store in a Town Centre prior to establishment of supporting LDB stores or LRSs in the same quadrant. In the City’s southeast quadrant, which includes the subject site, the locational criteria require the establishment of an LDB Signature Store in the Edmonds Town Centre area. As the Highgate Village Liquor Store in the Edmonds Town Centre is an LDB Signature store, this criterion has been met.

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 is located in an established commercial development which, as indicated above, is identified as a Neighbourhood Centre in the OCP.

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Further locational criteria require a reasonable distribution of both LDB liquor stores and LRS stores. The closest liquor stores to the subject site are the Bainbridge Liquor Store (7000 Lougheed Highway), located approximately 2.16 km (1.34 miles) to the north in the Bainbridge Urban Village; Jak's Beer Wine Sprits (5665 Kingsway), located approximately 2.22 km (1.38 miles) to the southwest in the Royal Oak Urban Village; the Oliver Twist Liquor Store (7555 Edmonds Street), located approximately 2.32 km (1.44 miles) to the southeast in the Edmonds Town Centre; and the Highgate Village Liquor Store (7155 Kingsway), located approximately 2.36 km (1.47 miles) to the south in the Edmonds Town Centre. As such, there are no other liquor stores within a 2 km radius of the proposed LRS, and there is a disbursed distribution of liquor stores within this area of Burnaby.

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

- ***Private and public schools, particularly secondary schools***

Buckingham Elementary School is located more than 0.8 km (0.5 miles) southeast of the subject site, and Burnaby Central Secondary School is located more than 0.9 km (0.56 miles) northwest of the site.

- ***Adjacent residential dwellings and parks***

The site is across the lane from single-family residential dwellings, and across the street from a single-family heritage building and newer multiple-family dwellings. The nearest park, Deer Lake Park, is located approximately 100 m (328 ft.) west of the site.

- ***Other potential sensitive uses (e.g. cabarets, child care centres)***

The closest childcare centre (Deer Lake Child Care at 5135 Sperling Avenue) is located approximately 125 m (410 ft.) southwest of the site. The closest facilities with liquor primary licences (James Cowan Theatre at 6450 Deer Lake Avenue and Burnaby Winter Club at 4990 Canada Way) are located more than 400 m (1,312 ft.) to the northwest. A future supportive housing project at 3986 Norland Avenue, approved under Rezoning Reference #18-35, is located more than 1.2 km (0.75 miles) northwest of the site.

Given the modest size of the proposed LRS, its integration into an established commercial development and orientation towards Canada Way, and its general separation from the proximate single-family neighbourhood and other sensitive land uses, the opportunity for nuisance behaviours, such as public drinking, panhandling or loitering, is considered low. As such, the proposed LRS outlet is not expected to pose a conflict with nearby schools, parks, child-oriented and sensitive uses, or neighbouring residential dwellings.

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As per the guidelines, assessment for rezoning applications for liquor stores also includes consideration of adequate vehicular and pedestrian circulation on the site, and 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 Canada Way and the lane. It is noted that, for safety purposes and as a condition of Rezoning Reference #07-49 (for the townhouses located across Canada Way), a raised concrete median will be constructed along Canada Way in front of the subject site that will limit Canada Way access to right-in right-out movements only. Sufficient off-street parking and loading is provided on-site, and there would be no change in parking and loading requirements for this use (relative to other commercial uses in the C2 District). Sidewalks are provided along Canada Way, and the site is located less than 50 m (164 ft.) from a bus stop located on Canada Way. Therefore, the subject site generally provides adequate vehicular and pedestrian access, as required by the locational criteria. It is further noted that the proposed liquor store use is not anticipated to have a greater impact on the surrounding neighbourhood than any other retail use that is currently permitted under the prevailing C2 District zoning.

4.2.2 Store Size Criterion

The proposed LRS, at 167.23 m² (1,800 sq. ft.) does not exceed the maximum store size criterion of 418.06 m² (4,500 sq. ft.).

4.2.3 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 businesses be considered. The Liquor and Cannabis Regulation Branch (LCRB) 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.

On the subject property, Subway has operating hours of 7:00 am to 10:00 pm Monday to Friday and 8:00 am to 10:00 pm Saturdays and Sundays, while Ming Kee Kitchen has operating hours of 4:00 pm to 11:30 Monday to Thursday, 4:00 pm to 12:30 Fridays and Saturdays, and 4:00 pm to 11:00 pm Sundays. One other nearby business has closing hours extending to 11:00 pm six days a week, and the nearby gas station is open 24 hours a day. Therefore, the proposed hours of operation for the subject site, 9:00 am to 11:00 pm, seven days a week, do not exceed the operating hours of other tenants in the development, or other nearby businesses, and are considered generally acceptable. 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.

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- 4.3 The Director Engineering will be requested to provide an estimate for any services necessary to serve the site, including, but not necessarily limited to, a cash-in-lieu contribution towards the future construction of a separated sidewalk along Canada Way.
- 4.4 A Section 219 Covenant is required to ensure that hours of operation are maintained as described in Section 4.2.3.
- 4.5 A 4.5 m statutory right-of-way is required for future construction of a separated sidewalk along Canada Way.
- 4.6 Ministry of Transportation approval of this rezoning is required.
- 4.7 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.

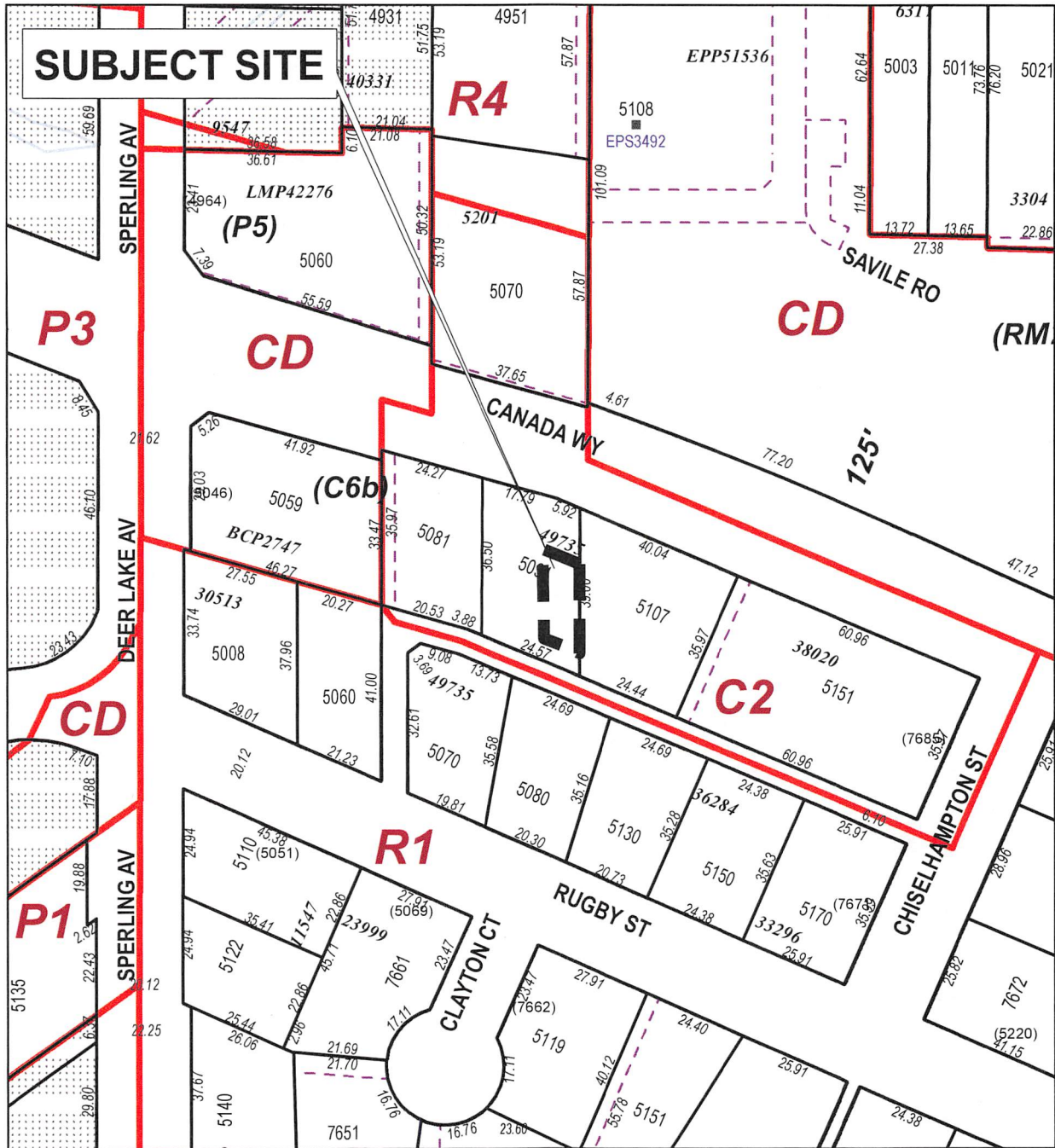
5.0 DEVELOPMENT PROPOSAL

- | | | |
|-----|---|--|
| 5.1 | <u>Lot Area (no change)</u> | - 861.02 m ² (9,267.94 sq. ft.) |
| 5.2 | <u>Gross Floor Area (no change)</u>
Subject unit | - 167.23 m ² (1,800 sq. ft.) |
| 5.3 | <u>Height (no change)</u> | - 1 storey |
| 5.4 | <u>Parking (no change)</u>
Entire building | <u>Required/Provided</u>
- 9 spaces |
| 5.5 | <u>Loading (no change)</u>
Entire building | <u>Required/Provided</u>
- 1 space |


E. W. Kozak, Director
PLANNING AND BUILDING

LS:rh
Attachment

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



PLANNING & BUILDING DEPARTMENT




DATE:
JUL 18 2019

SCALE:
1:1,500

DRAWN BY:
AY

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5097 CANADA WAY

 Subject Site

Sketch #1