**City of Nanaimo**

**REPORT TO COUNCIL**

DATE OF MEETING: 2014-APR-28

AUTHORED BY: DAVE STEWART, PLANNER, PLANNING & DESIGN SECTION

RE: REZONING APPLICATION NO. RA330 - 2875 DEPARTURE BAY ROAD

STAFF RECOMMENDATION:

That Council:

1. receive the report pertaining to “ZONING AMENDMENT BYLAW 2014 NO. 4500.064”; and
2. direct Staff to secure the community contribution and road dedication reserve fund prior to the adoption of the bylaw should Council support the bylaw at Third Reading.

ADVISORY PLANNING COMMITTEE RECOMMENDATION:

The application was presented to the Advisory Planning Committee (APC) at is meeting of 2014-JAN-21. The APC did not achieve a quorum during the meeting and, as such, were unable to provide a formal recommendation. The Committee members indicated they were generally in favour of this application provided neighbourhood consultation is undertaken.

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**Map 1 – General City Location**

PURPOSE:

The purpose of this report is to present a rezoning application for the property located at 2875 Departure Bay Road in order to permit a site specific liquor retail store use.

BACKGROUND:

The City has received a rezoning application from Rising Tide Consultants on behalf Mr. John Wicks (Black Bear Pub) and 7-Eleven Canada Inc., to rezone the subject property in order to permit a site specific liquor retail store (LRS) use within the Neighbourhood Centre (CC2) zone.

***Subject Property:***

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| --- | --- |
| Current Zoning: | Neighbourhood Centre (CC2) |
| Proposed Zoning: | Neighbourhood Centre (CC2) |
| Purpose: | To permit a LRS as a site specific use |
| Location: | 2875 Departure Bay Road |
| Lot Size / Area: | 3,326m2  |

The subject property is located on the corner of Departure Bay Road and Bay Street within the village core of the Departure Bay neighbourhood and across the street from the Departure Bay Beach. The property is located directly adjacent to Departure Bay Centennial Park to the west and Crown land, which includes a significant First Nation’s archeological site to the south.



DISCUSSION:

***Official Community Plan (OCP) / Neighbourhood Plan***

The subject property is located within the Neighbourhood Commercial Centre designation of the Official Community Plan (OCP). The Neighbourhood Commercial Centre designation supports stand-alone commercial services, including community services and facilities, personal service, commercial and retail facilities providing for the day to day needs of local residents.

The subject property is included within the village core of the Departure Bay Neighbourhood Plan in an area which encourages small-scale, mixed use development that would provide locally-appropriate retail and basic community services.

Staff is of the opinion that the proposed rezoning complies with the intent of the OCP and the Departure Bay Neighbourhood Plan.

***Proposed Development***

The applicant is proposing to relocate the existing liquor store from the property located at 6201 Doumont Road (Black Bear Pub) to the subject property at 2875 Departure Bay Road. The existing LRS is located in a 134m2 stand-alone building. The proposed LRS will be located adjacent to the 7-Eleven within the unused portion of the building previously occupied by Terry’s Save Rite convenience store. The proposed LRS will have a floor area of 238m2.

The hours of the proposed LRS will be restricted by the City of Nanaimo “BUSINESS LICENCE BYLAW 1998 NO. 5351”, which applies to the subject property and restricts the operating hours to between 6am and 11pm, and Provincial Liquor Policy which further restricts the hours of operation from 9am to 11pm, seven days a week. The applicant’s letter of rationale is included (Attachment A).

***Licensed Retail Store Criteria***

Following a decade long provincial moratorium on the addition of new liquor stores, the province allowed new applications for a brief period of time between 2002-AUG-12 and 2002-NOV-29. Within that timeframe, 17 applications were made to the province for new liquor stores within Nanaimo. Of the 17 applications, six had zoning in place. The remaining 11 required rezoning.

Council, at its regular meeting of 2003-AUG-18, adopted rezoning criteria for Licensed Retail Stores (LRS’s) and subsequently directed Staff to receive and process rezoning applications. The following chart attempts to summarize the criteria as they are applied to this application.

| ***CRITERIA*** | ***RESPONSE*** | ***MEETS******CRITERIA*** |
| --- | --- | --- |
| The LRS should be on or in close proximity to a major road. | The proposed liquor store will be located on the corner of Departure Bay Road and Bay Street. Departure Bay Road is a Major Collector Road.  | Yes |
| The LRS shall not be within 150m of a school. | The nearest school to the proposed site is Departure Bay Elementary School, which is located 220m from the site as measured from property line to property line or 300m from door to door, and is beyond the 150m criteria. | Yes |
| The LRS shall not be located adjacent to a nightclub. | There is currently no nightclub within the vicinity of the proposed LRS. | Yes |

| ***CRITERIA*** | ***RESPONSE*** | ***MEETS******CRITERIA*** |
| --- | --- | --- |
| The size of the LRS shall be consistent with the nature of the immediate area, and the size of the existing retail stores. | The applicant is proposing to construct an approximately 238m2 LRS within a portion of the existing retail building. The remaining 290m2 within the building will continue to be occupied by 7-Eleven.  | Yes |
| The design of the LRS should enhance or improve the aesthetics of the surrounding area, not detract from them. | The proposed LRS is to be located within the unused portion of the existing 7-Eleven building. In accordance with Liquor Control and Licensing Branch (LCLB) policy, the architecture of the proposed LRS must be distinct from the surrounding retail units. The proposed LRS area has been vacant since 2000 when 7-Eleven purchased the property. The facade currently includes a faded mural and does not include any windows or other openings. It is Staff’s opinion that a second tenancy within the building will improve the aesthetics of the building. An elevation drawing of the proposed facade improvements is included (Attachment B). | Yes |
| Consideration shall be given to a requirement for on-site parking and loading for each LRS within the downtown core, and mandatory outside the downtown core.* 1 space / 20m2 of Gross Floor Area must be provided.
 | The City’s “DEVELOPMENT PARKING REGULATIONS BYLAW 2005 NO. 7013” requires 11 parking spaces for the proposed liquor store and 14 for the existing convenience store; as such a total of 24 parking spaces are required. There are currently 25 marked parking spaces on site.  | Yes |
| The applicant must outline his awareness of potential negative impacts and include proposed limits on the hours of operation, the product range, target markets, property maintenance and beautification programs. | The applicant’s response is provided (Attachment C). | For Council Consideration |
| Consideration of impact of LRS when within close proximity of libraries, public recreation centres, community centres, parks, places of worship and other family oriented facilities. | The subject property is immediately across the road from the Departure Bay Beach and 260m from the Kin Hut community meeting space and playground on the beach. The property is also located adjacent to Departure Bay Centennial Park, which includes a children’s water park (75m from the property) and community centre (150m from the property).  | For Council Consideration |
| The projected traffic volumes and on-street parking associated with the LRS should not negatively impact nearby residential and commercial areas. | The proposed LRS is to be located on and accessed from Departure Bay Road, a major road with an already higher than average expected traffic volume. Commercial uses are supported at this location within the Neighbourhood Plan. Given the subject property’s location within the Departure Bay Village centre, within walking distance from a number of residences within the neighbourhood, it is anticipated some of the LRS’s customers will choose to walk to the store.  | For Council Consideration |
| The support of local community, neighbourhood property owners and the local Neighbourhood Association for the proposed LRS is important to Council’s decision. | This application is posted on the City website and was referred to the Departure Bay Neighbourhood Association and Snuneymuxw First Nation (SFN). To date no response has been received from SFN.The applicant hosted an Open House on 2014-FEB-05 at the Kin Hut. Approximately 80 local residents attended the open house. The neighbourhood association conducted a questionnaire regarding the proposed LRS. The questionnaire was mailed to 130 neighbourhood association members and hand delivered to 110 local residents between January 27 to February 7, 2014. A summary of the questionnaire results and the neighbourhood associations referral response is provided (Attachment D)To date Staff has received one letter of opposition to the proposed rezoning (Attachment E). | For Council Consideration |
| The application shall be reviewed by the Social Planning Advisory Committee (SPAC). | SPAC reviewed the application at its regular meeting of 2014-JAN-07 and recommended approval of the rezoning application.The committee did however recommend that the applicant consider entering into a Good Neighbour Agreement that could include addressing litter problems associated with the business, and that the applicant contact Snuneymuxw First Nations (SFN) to inform them of the application prior to the Public Hearing.Staff do not support entering into a Good Neighbour Agreement for a Licensed Retail Store. Concerns regarding litter and business hours can be better addressed through existing bylaws. | Yes |
| The application shall be reviewed by the RCMP. | The RCMP reviewed the application and is not opposed to the proposed relocation of the LRS (Attachment F). | For Council Consideration |
| The application shall be reviewed by the Rezoning Advisory Committee (RAC). *RAC, a subcommittee of PNAC (planNanaimo Advisory Committee) has since been dissolved back into PNAC (now APC).* | The Advisory Planning Committee (APC) previously known as the planNanaimo Advisory Committee) reviewed the application at its regular meeting of 2014-JAN-21. Due to one of the committee members declaring a conflict of interest, APC was not able to form a quorum but did indicate they were generally in favour of the application, but recommended additional consultation should be undertaken prior to proceeding to Council. | Yes |
| A copy of the LCLB letter of approval for the proposed LRS. | This applicant has submitted a preliminary approval letter for “approval in principal” as provide by the LCLB (Attachment G). | Yes |

***Road Dedication Reserve Fund***

As part of any rezoning application, the City often requires a portion of the property as road dedication in order to accommodate future road widening.

By acquiring road dedication through rezoning the City is able to achieve the required road right-of-way needed to accommodate improvements suggested within the City’s Road Classification Standards without the need to purchase the required dedication.

Departure Bay Road is a Major Road within the City’s road classification network. The frontage adjacent to the subject property and adjacent to Departure Bay Road is flagged for long term improvements in the Transportation Master Plan. In order to achieve the road standard recommended within the plan, 2.3m to 4.5m of additional road right-of-way needs to be acquired. It should however be noted that the scope of improvements is unknown and the timing of improvements is likely in the longer term.

The property is currently owned by 7-Eleven Canada. Mr. Wicks is proposing to lease the space for the LRS from 7-Eleven. As 7-Eleven is unwilling to provide the requested road dedication or enter into a road reserve covenant with an option to purchase, the City has worked with Mr. Wicks to develop an alternative solution to assist the City in acquiring the road dedication when needed. Mr. Wicks has proposed an “in lieu” payment in place of the originally requested highway road reserve covenant. The sum of the “in-lieu” payment of $79,686.71 was calculated based on the current assessed value of road dedication area and will be held by the City in the reserve fund and then used to purchase the road area when needed. This proposal has been reviewed and is acceptable to Staff.

***Community Contribution***

As outlined in Section 7.3 of the OCP, in exchange for value conferred on land through a rezoning, the applicant should provide a community contribution. In response to Council’s policy, the applicant is proposing a community contribution of $10,000 which will be directed towards park improvements in the Departure Bay area.

Respectfully submitted,

B. Anderson, MCIP, RPP

MANAGER

PLANNING & DESIGN SECTION

Concurrence by:

D. Lindsay, MCIP, RPP I. Howat

DIRECTOR GENERAL MANAGER

COMMUNITY DEVELOPMENT CORPORATE SERVICES

CITY MANAGER COMMENT:

I concur with the staff recommendation.

*Drafted: 2014-APR-22 Prospero: RA000330*

*DS/pm*