

ADMINISTRATIVE REPORT

TO: Planning Committee
FROM: Administration
DATE: July 18, 2022
RE: Zoning Amendment – 2220 2 nd Avenue

ISSUE

An application to amend the zoning of 2220 2nd Avenue from CS – Service Commercial to CSx – Service Commercial (modified) to allow for a Retail Service, Restricted premise on a site located 100 m from a school.

REFERENCES

- Location Map (Appendix A)
- [2018 Cannabis Control and Regulation Act – General Regulation](#)
- [2010 Official Community Plan \(OCP\)](#)
- [Zoning Bylaw 2012-20](#)
- Proposed Zoning Amendment Bylaw 2022-27

HISTORY

The proponent has applied to rezone 2220 2nd Avenue from CS – Service Commercial to CSx – Service Commercial (modified) to allow for a Retail Service, Restricted (cannabis retail store) premise on a site located 100 m from a school.

Under section 11(1) of the *Cannabis Control and Regulation Act – General Regulation* (the Act), a cannabis retail store must be located more than 150 m from a building that is, or is part of, a secondary school. The proposed cannabis retail store does not meet this requirement as it is located within 150 m of the Whitehorse Individual Learning Centre building.

Under section 11(2), a provision of a municipal bylaw however prevails over the requirements of section 11(1). The proponent is therefore seeking to amend the City's Zoning Bylaw to allow a cannabis retail store located more than 100 m from a school.

The proposal was reviewed by the Development Review Committee on June 15, 2022 and no significant concerns were raised.

Administration met with Yukon Liquor Corporation (YLC) staff on June 28, 2022. YLC advised they had no strong objections with the proposed amendment. They researched the reasoning of the 150 m school buffer in the Act and undertook a jurisdictional review of other legislation with school buffers ranging from 100 to 300 m. YLC could not find a rationale for the specific distance or evidence of greater harm occurring between 100 and 150 m. They advised the buffer is not a critical piece of youth protection in this instance as other requirements will remain (e.g. ID check, visual and noise screening, etc.).

The Government of Yukon’s Department of Education also advised they did not have a strong objection with buffer changes in general, but that any proposed change needs to be examined individually in how it may affect the local school community. If this application is brought forward for consideration under the bylaw process, a Public Hearing notice will be sent to the Department of Education advising that they may comment on the proposed amendment through verbal or written submission.

The proposed schedule for the Zoning Bylaw amendment is:

Planning Committee:	July 18, 2022
First Reading:	July 25, 2022
Newspaper Advertisements:	July 29 and August 5, 2022
Public Hearing:	September 12, 2022
Report to Committee:	October 3, 2022
Second and Third Reading:	October 10, 2022

ALTERNATIVES

1. Proceed with the amendment under the bylaw process.
2. Do not proceed with the amendment.

ANALYSIS

Site Context

Properties to the north, west and south of the subject site are zoned CS – Service Commercial. To the east is Shipyards Park which is zoned PW – Public Waterfront. The proposed rezoning to CSx (modified) will maintain the existing permitted uses on the site.

Official Community Plan

The subject site is designated as Commercial – Service in the OCP which allows for a wide range of uses designed for and largely dependent upon automobile access. The rezoning aligns with the intent of the OCP designation as it will not enable any new uses which are not already allowed to occur on the site if otherwise in compliance with the specific use requirements of the Zoning Bylaw. The OCP also does not specify minimum separation distances between Retail Services, Restricted uses and other uses.

Proposed Use and Zoning Approach

The current zoning of the subject site is CS, which is intended to provide for a mix commercial uses, including those that are vehicle oriented. Retail Services, Restricted is a permitted use in the CS zone and is subject to specific use regulations under section 6.19 of the Zoning Bylaw. Of note, the lot line of a Retail Services, Restricted operation may not be within 100 m of:

- a lot used for Temporary Shelter Services;
- a lot which provides services to youth at risk or people suffering from substance abuse;
- a lot zoned PR – Parks and Recreation that includes a play structure; and

- of another lot used for Retail Services, Restricted.

The subject site is located more than 100 m from any known temporary shelters, substance abuse treatment centres, youth at risk facilities, neighbourhood parks with play structures and other cannabis retail stores, as required by the Zoning Bylaw provisions.

The special modification therefore seeks to align the school separation requirement with the above separation requirements under the Zoning Bylaw.

ADMINISTRATIVE RECOMMENDATION

THAT Council direct that Bylaw 2022-27, a bylaw to amend the zoning of 2220 2nd Avenue to allow for a cannabis retail operation located 100 metres of a school, be brought forward for consideration under the bylaw process.