



## STAFF REPORT

**Title:** Bylaw No. 813-LU-23 - Bylaw to Amend Land Use Bylaw No. 766-LU-23

**Meeting Date:** September 12, 2023

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### **Executive Summary:**

Proposal to establish a Direct Control District and to rezone the lands legally described as Plan 872 1702 (5109 51 Avenue) for the purposes of developing an Adult Entertainment Establishment on the property.

### **Background:**

The City has received an application to rezone the property at 5109 51 Avenue described as Plan 872 1702 from C1-Central Commercial District to DC-CC Central Commercial Direct Control District. The purpose of the proposed direct control district and rezoning is to provide for the development of an Adult Entertainment Establishment on the property.

The property at 5109 51 Avenue (La Plaza Mall) is a commercial condominium with 9 units that accommodate a variety of businesses. It should be noted that the applicant has provided a letter with signatures of support for the proposed Adult Entertainment Establishment from other unit owners and tenants located within the same building.

Under the City's Land Use Bylaw, Adult Entertainment Establishments may only be developed in Direct Control districts created specifically for that purpose. Given that the proposed location is a commercial condominium, with multiple units, Administration has drafted the proposed Direct Control district such that any application for the development of an Adult Entertainment Establishment requires approval from Council, while approval of other commercial uses that would have been allowable under the current C1 zoning has been delegated to the Development Officer. This division of approving authority minimizes the impact of the DC zoning on other commercial tenants in the building, while still ensuring that Council retains final approving authority over any proposed Adult Entertainment Establishment.

### **Compatibility with Surrounding Neighbourhood and Land Uses**

The subject lands are bordered on the north and east sides by developed C1-Central Commercial District properties and developed RMX-Residential Mixed-Use properties on the south and west. While the LUB is silent on specific locational criteria for Adult Entertainment Establishments, aside from specifying the requirement that any Adult Entertainment Establishment must be located in a Direct Control District created for that



purpose, Section C2.3(3) of the LUB provides the following setbacks for an Adult Retail Establishment, which may be used to guide Council's decision-making:

*C2.3(3)(a) An adult retail establishment shall maintain a minimum 50 m radius from a lot containing another adult establishment.*

*C2.3(3)(b) The 50 m separation distance referred to in subsection (a) shall be measured from the closest point of the subject lot line of the adult retail establishment to the closest point of the lot line containing another adult retail establishment.*

Administration notes that there is currently an Adult Retail Establishment operating on the same property as the proposed Adult Entertainment Establishment. Given this, the proposed location would not comply with the LUB intent of maintaining a minimum separation distance between adult establishments. The applicant did clarify that the two Adult Establishments would not be open at the same time, with the proposed Adult Entertainment Establishment being a late evening/night operation, while the existing Adult Retail Establishment closes at 7pm.

*C2.3(3)(c) An adult retail establishment shall not be located directly adjacent to any lot:*

- (i) Located in a residential district or the RMX district,*
- (ii) Containing a religious assembly facility,*
- (iii) Containing a private or public school,*
- (iv) Containing a public park or recreational facility,*
- (v) Containing a day care facility.*

Administration has visited the proposed site and did not identify any of the uses listed in C2.3(3)(c)(ii) through (v) directly adjacent to 5109 51 Avenue. The lot is, however, directly adjacent to several properties that are zoned as RMX on the west and south sides, as noted in C2.3(3)(c)(i). The intent of this requirement is to ensure that Adult Establishments are not located directly adjacent to properties that provide for residential developments, now in the future under its permitted uses in the zoning requirements. It is worth noting that none of the adjoining RMX parcels currently contain residences, at this time.

Given that the City's commercial areas have developed in a mostly linear manner, predominantly following Highway 28 through the City, there are limited locations where an Adult Entertainment Establishment could potentially be located that would meet the criteria listed above.



Notwithstanding that adult entertainment would be provided inside the establishment, the type of activity and potential external impacts would otherwise be expected to be essentially the same as a bar or night club, of which there are several in the downtown area. The most common off-site impacts associated with a bar or club would be the potential for noise/vibrations from the music being played inside the venue, or noise created by intoxicated patrons leaving the establishment.

To mitigate the potential impacts specific to an Adult Establishment, the LUB specifies the following requirements that would be a condition of any development permit issued for an Adult Establishment:

*C2.3(2)(a) All adult establishments shall provide translucent or opaque coverings on all exterior windows for the entire width and to a height that negates any of the adult activities contained within the building to be seen by passersby, to the satisfaction of the Development Authority.*

*C2.3(2)(b) Customer access to the business shall be limited to a store front that is visible from a public road.*

*C2.3(2)(c) All parking areas shall be well lit to the satisfaction of the Development Authority.*

Despite the fact that the proposed Adult Entertainment Establishment does not meet the intent of the LUB regulations governing Adult Establishments, administration is recommending that Council proceed with first reading of Bylaw No. 813-LU-23, and direct administration to schedule a statutory public hearing (this will allow Council to hear feedback on the regarding the suitability of the proposed location for an Adult Entertainment Establishment).

**Alternatives:**

Council may consider the following alternatives:

1. Proceed to give Bylaw No. 813-LU-23 first reading and direct Administration to schedule the statutory Public Hearing.
2. Defeat first reading of Bylaw No. 813-LU-23.

**Recommended Action:**

Administration recommends that Council give first reading to Bylaw No. 813-LU-23, being a Bylaw to Amend Land Use Bylaw No. 766-LU-23 for the establishment of a Direct Control District - Adult Entertainment Establishments, and direct Administration to schedule the statutory Public Hearing.



**Budget Implications (Yes or No):**

No

**Submitted by:**

Kevin Nagoya, Chief Administrative Officer