

City of Kelowna Public Hearing AGENDA



Tuesday, July 27, 2021
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. **Due to COVID-19 a Public Hearing Agenda will also include Regular Meeting Items**
2. **Call to Order the Public Hearing - START TIME 6:00 PM - Boyd Rd 2840 - LUCT20-0010 Z20-0084 - Dennis Victor Miller and Kimberley Marie Miller**

The purpose of the Hearing is to hear from the public on matters contained in the various bylaws which, if adopted, will amend *Kelowna 2030* - Official Community Plan Bylaw No. 10500 and Zoning Bylaw No. 8000.

After the close of the Public Hearing, Council will then debate and vote on the proposed bylaws at the Regular Meeting that follows.

Council has been provided with the information, correspondence, petitions or reports that have been received concerning the subject bylaws. This information is available to the public online at Kelowna.ca/council or by request to the Office of the City Clerk.

For those participating this evening, or who have already submitted letters to Council, a reminder that this Hearing is open to the public and all representations to Council form part of the public record. A live audio-video feed is being broadcast and recorded on kelowna.ca.

This public hearing is being held both in person and electronically. In accordance with the most recent Provincial Health Officer Order regarding gatherings and events, a maximum of 67 members of the public is permitted to attend Council meetings in person. Members of the public must remain seated unless invited to address Council and must return to their same seats.

Following the close of the Public Hearing, no further information from the applicant or members of the public will be accepted by Council.

Thank-you for your cooperation.

3. **Individual Bylaw Submissions**
 - 3.1. **START TIME 6:00 PM - Boyd Rd 2840 - LUCT20-0010 (BL12219) Z20-0084 (BL12221) - Dennis Victor Miller and Kimberley Marie Miller**

6 - 18

To consider an early termination of the Land Use Contract (LUC76-1112) and to rezone the subject property from the A1 – Agriculture 1 zone to RU1 – Large Lot Housing zone.

4. Termination

5. Call to Order the Regular Meeting

6. Bylaws Considered at Public Hearing

- 6.1. START TIME 6:00 PM - Boyd Rd 2840 - BL12219 (LUCT20-0010) - Dennis Victor Miller and Kimberley Marie Miller** 19 - 19

To give Bylaw No. 12219 second and third reading and be adopted in order to proceed with the early termination of Land Use Contract LUC76-1112.

- 6.2. START TIME 6:00 PM - Boyd Rd 2840 - BL12221 (Z20-0084) - Dennis Victor Miller and Kimberley Marie Miller** 20 - 20

To give Bylaw No. 12221 second and third reading and be adopted in order to rezone the subject property from the A1 - Agriculture 1 zone to the RU1 - Large Lot Housing zone.

7. Termination

8. Call to Order the Public Hearing - START TIME 6:00 PM - Bernard Ave 520-526 - TA21-0008 Z21-0024 - GBD Holdings Inc., Inc.No. BC0941235

The purpose of the Hearing is to hear from the public on matters contained in the various bylaws which, if adopted, will amend *Kelowna 2030* - Official Community Plan Bylaw No. 10500 and Zoning Bylaw No. 8000.

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members of the public will be accepted by Council.

Thank-you for your cooperation.

9. Individual Bylaw Submissions

- 9.1. START TIME 6:00 PM - Bernard Ave 520-526 - TA21-0008 (BL12247) Z21-0024 (BL12248) - GBD Holdings Inc., Inc.No. BC0941235** 21 - 44

The Mayor to invite the Applicant, or Applicant's Representative, to participate online.

To consider a staff recommendation to NOT support a site-specific text amendment to allow for a retail cannabis sales establishment within 500 metres of other establishments and within 150 metres of Kasugai Gardens and NOT support an application to rezone the subject property from the C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone.

10. Termination

11. Call to Order the Regular Meeting

12. Bylaws Considered at Public Hearing

- 12.1. START TIME 6:00 PM - Bernard Ave 520-526 - BL12247 (TA21-0008) - GBD Holdings Inc., Inc. No. BC0941235** 45 - 45

To give Bylaw No. 12247 second and third reading to allow for a retail cannabis sales establishment within 500m of other approved retail cannabis establishments and within 150m of Kasugai Gardens.

- 12.2. START TIME 6:00 PM - Bernard Ave 520-526 - BL12248 (Z21-0024) - GBD Holdings Inc., Inc. No. BC0941235** 46 - 47

To give Bylaw No. 12248 second and third reading in order to rezone the subject property from the C7 - Central Business Commercial zone to the C7rcs - Central Business Commercial (Retail Cannabis Sales) zone.

13. Termination

14. Call to Order the Public Hearing - START TIME 6:30 PM Bernard Ave 266 - TA21-0012 Z21-0039 - Macarther Ventures Inc., Inc.No. BCo684166

The purpose of the Hearing is to hear from the public on matters contained in the various bylaws which, if adopted, will amend *Kelowna 2030* - Official Community Plan Bylaw No. 10500 and Zoning Bylaw No. 8000.

After the close of the Public Hearing, Council will then debate and vote on the proposed bylaws at the Regular Meeting that follows.

Council has been provided with the information, correspondence, petitions or reports that have been received concerning the subject bylaws. This information is available to the public online at Kelowna.ca/council or by request to the Office of the City Clerk.

For those participating this evening, or who have already submitted letters to Council, a reminder that this Hearing is open to the public and all representations to Council form part of the public record. A live audio-video feed is being broadcast and recorded on kelowna.ca.

This public hearing is being held both in person and electronically. In accordance with the most recent Provincial Health Officer Order regarding gatherings and events, a maximum of 67 members of the public is permitted to attend Council meetings in person. Members of the public must remain seated unless invited to address Council and must return to their same seats.

Following the close of the Public Hearing, no further information from the applicant or members of the public will be accepted by Council.

Thank-you for your cooperation.

15. Individual Bylaw Submissions

15.1. START TIME 6:30 PM - Bernard Ave 266 - TA21-0012 Z21-0039 - Macarther Ventures Inc., Inc.No. BCo684166

48 - 72

The Mayor to invite the Applicant, or Applicant's Representative, to participate online.

To consider a staff recommendation to NOT support a site-specific text amendment to allow for a retail cannabis sales establishment within 500 metres of other establishments and within 150 metres of City Park and 150 metres of Stuart Park and NOT support an application to rezone the subject property from the C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone.

16. Termination

17. Call to Order the Regular Meeting

18. Bylaws Considered at Public Hearing

18.1. START TIME 6:30 PM - Bernard Ave 266 - BL12249 (TA21-0012) - Macarther Ventures Inc., Inc.No. BCo684166

73 - 73

To give Bylaw No. 12249 second and third reading to allow for a retail cannabis sales establishment within 500m of other approved retail cannabis establishments and within 150m of City Park and Stuart Park.

18.2. START TIME 6:30 PM - Bernard Ave 266 - BL12250 (Z21-0039) - Macarther Ventures Inc., Inc.No. BCo684166

74 - 74

To give Bylaw No. 12250 second and third reading in order to rezone the subject property from the C7 - Central Business Commercial zone to the C7rcs - Central Business Commercial (Retail Cannabis Sales) zone.

19. Termination

20. Procedure on each Bylaw Submission

- (a) Brief description of the application by City Staff (Development Planning).
- (b) The applicant has up to 15 minutes to make representation to Council regarding the project.
- (c) The Chair will call for representation from the public participating in person or online as follows:
 - (i) The Chair determines the speaking order.
 - (ii) Any person wishing to make representation during the Hearing will have the opportunity to do so.
 - (iii) Speakers have up to 5 minutes to share their remarks.
- (d) Final calls for representation (ask three times). Unless Council directs that the Public Hearing on the bylaw in question be held open, the Chair shall state to participants that the Public Hearing on the Bylaw is closed.
- (e) Once the public has had an opportunity to comment, the applicant is given up to 10 minutes to respond to any questions raised.
- (f) Questions of staff by members of Council must be asked before the Public Hearing is closed and not during debate of the bylaw at the Regular Meeting, unless for clarification.

Note: Any applicant or member of the public may use electronic visual aids to assist in their presentation or questions. If participating online, the participant must be able to share their screen to display the item.

REPORT TO COUNCIL



Date: July 12th, 2021

To: Council

From: City Manager

Department: Development Planning

Application: LUCT20-0010, Z20-0084 **Owner:** Dennis Victor Miller and Kimberley Marie Miller

Address: 2840 Boyd Road **Applicant:** The City of Kelowna

Subject: Land Use Contract Termination and Rezoning Application

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

Proposed Zone: RU1 – Large Lot Housing

1.0 Recommendation

THAT Land Use Contract Termination No. LUCT20-0010 to terminate LUC76-1112 from Lot 2 District Lot 130 ODYD Plan KAP89521, located at 2840 Boyd Road, Kelowna, BC be considered by Council;

AND THAT Rezoning Application No. Z20-0084 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2 District Lot 130 ODYD Plan KAP89521, located at 2840 Boyd Road, Kelowna, BC from the A1 – Agriculture 1 to the RU1 – Large Lot Housing zone be considered by Council;

AND THAT Council waive the development sign requirement under Public Notification & Consultation for Development Applications No. 367 for Rezoning Bylaw No. 12221.

AND FURTHER THAT the Land Use Contract Termination Bylaw and Rezoning Bylaw be forwarded to a Public Hearing for further consideration.

2.0 Purpose

To consider an early termination of THE Land Use Contract (LUC76-1112) and to rezone the subject property from the A1 – Agriculture 1 zone to RU1 – Large Lot Housing zone.

3.0 Development Planning

Staff are recommending the Land Use Contract (LUC76-1112) to be terminated and for the subject property to be rezoned. The underlying zone is A1 – Agriculture 1 and is not appropriate for the current land use. The current use is a single-family home, which is permitted in the Land Use Contract. The LUC gives the subject property the development regulations of the former Zoning Bylaw no. 4500’s R1 zone, so the RU1 zone is the most appropriate zone to match the uses. Therefore, Staff are proposing to adopt the RU1 – Large Lot Housing zone for the subject property.

4.0 Proposal

4.1 Background

Land Use Contracts were a tool regularly used in the 1970’s before it was eliminated on November 15th, 1978. The purpose of the tool was to allow local governments to arrive at agreements with specific developers to grant development rights over and above what was allowed under current zoning. This was typically done in exchange for commitments by developers to help finance the infrastructure costs of development.

Issues have arisen, specifically with the continued application of land use contracts as they supersede any subsequent bylaw dealing with land use and development including: Zoning Bylaws, Development Cost Charge Bylaws, and Development Permits. The Local Government Act was amended in 2014 stating all land use contracts in the province will be terminated as of June 30th, 2024. Land use contracts will remain in force until that date unless terminated early by the municipality. By June 20th, 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination. However, LUC terminations (unlike LUC discharges) do not apply when Council adopts the bylaw. Terminations require a one-year grace period as outlined by the Local Government Act.

4.2 Notification

Staff sent a letter to the owner of the property on September 22nd, 2020, explaining the process and providing contact information. Local governments must also provide notice to each owner that the termination of Land Use Contract is occurring and must provide notice of what the new development regulations apply to the land. The municipality must also send an additional letter within 30 days of adoption, informing the owners and providing information about the Board of Variance. Staff are recommending Council Notification Policy #367 development signage requirements be waived for this Land Use Contract Termination application. Development Signs, in this case, are not recommended as the LUCT is City-initiated, and the proposed RU1 is a minor land use change.

4.3 Site Context

The subject property is on Boyd Road in the South Pandosy – KLO OCP Sector. The property has the Future Land Use Designation of REP – Resource Protection. The surrounding area is primarily zoned A1 – Agriculture 1 and has the Future Land Use Designation of S2RES – Single/Two Unit Residential and REP – Resource Protection.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Vacant Single-Family Lot
East	A1 – Agriculture 1	Vacant Single-Family Lot
South	A1 – Agriculture 1	Single-Family Home (s)
West	A1 – Agriculture 1	Vacant Single-Family Lot



LUCT20-0010/Z20-0084

2840 Boyd Road

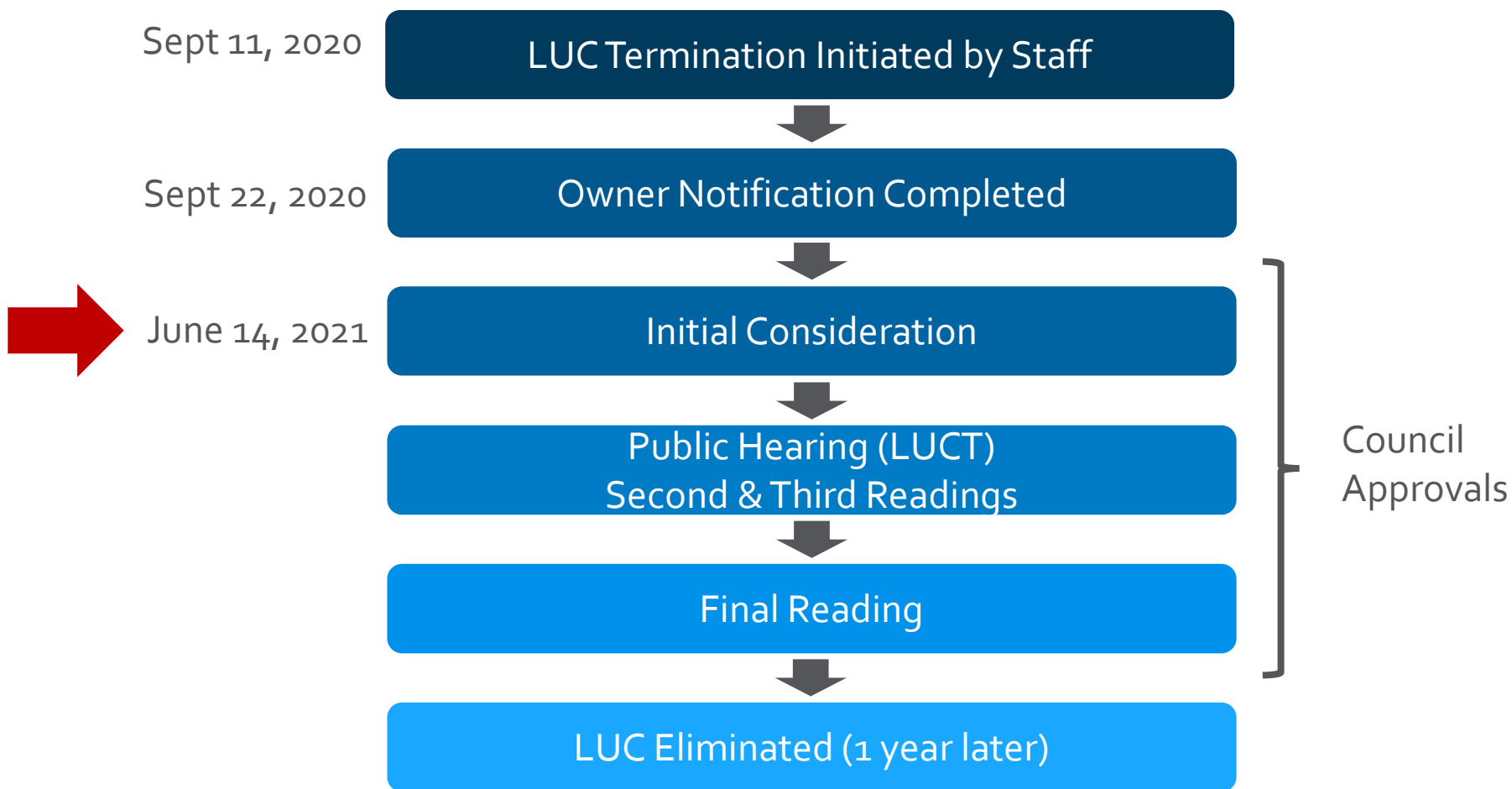
Land Use Contract Termination and Rezoning Application



Proposal

- ▶ To terminate the Land Use Contract (LUC76-1112) and to rezone the property from A1 – Agriculture 1 to RU1 – Large Lot Housing.

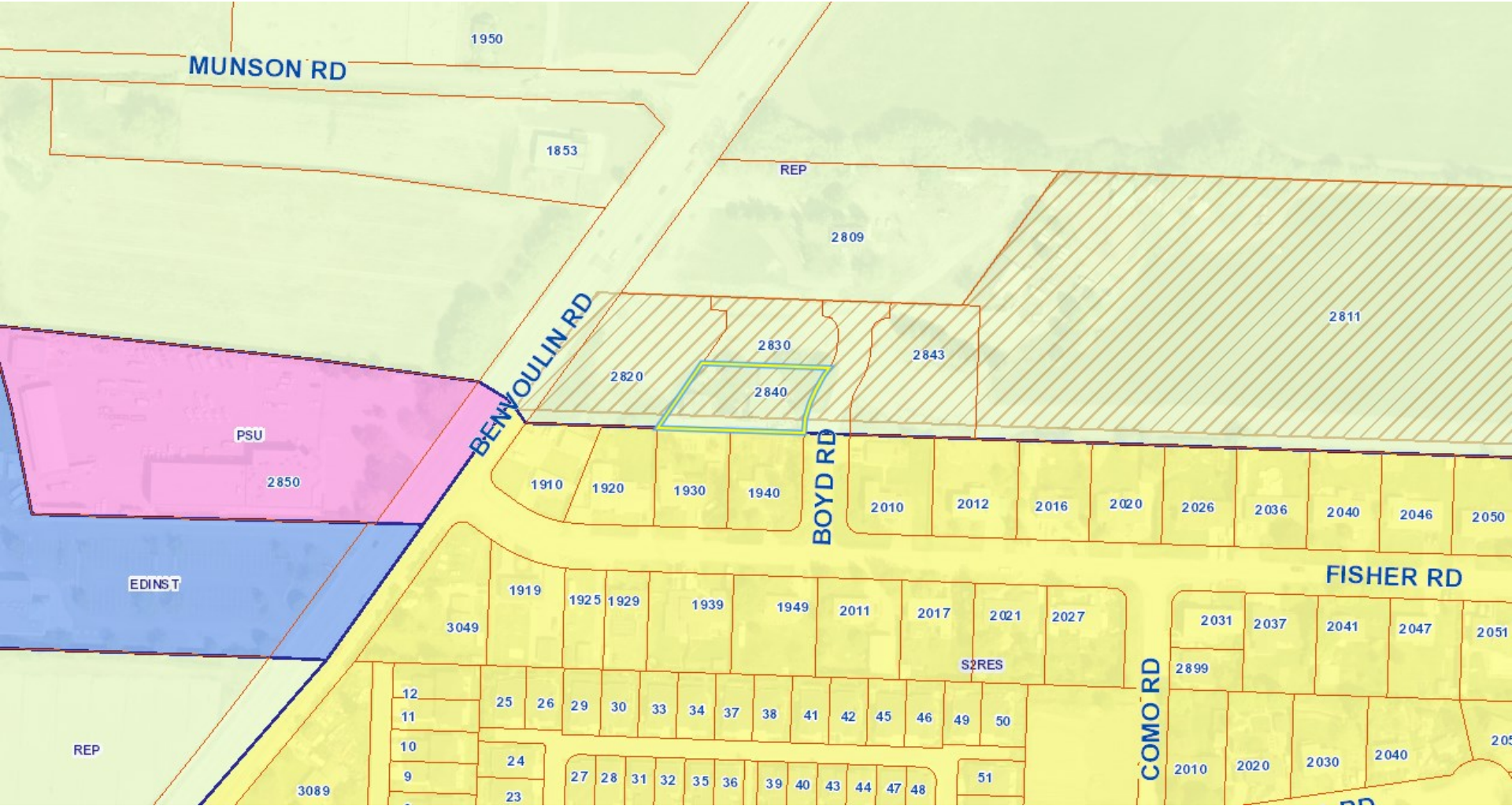
Development Process



Context Map



OCP Future Land Use



Background

- ▶ Land Use Contracts: 1970's tool
- ▶ Allow local governments to grant development rights above and beyond current zoning
- ▶ Exchange for commitments from developers to help infrastructure costs
- ▶ BC Government requires all contracts to be discharged and/or terminated by 2024 and the appropriate zoning in place by 2022.

Project Details

- ▶ Staff initiated the termination of LUC76-1112.
- ▶ Staff are proposing to adopt the RU1 – Large Lot Housing, which allows for the existing use.
- ▶ The RU1 also best matches the allowable development regulations in the LUC.
- ▶ If successful, all properties will get full use of current Ru1 zone, one year after termination date.

Public Notification Policy #367

- ▶ Staff sent a letter of Proposed Termination of Land Use Contract to the property owner in the LUC area.
 - ▶ Sent on Sept 22nd, 2020
- ▶ One-year grace period from Council consideration before full uses of RU1 – Large Lot Housing zone (as per Zoning Bylaw no. 8000).

Staff Recommendation

- ▶ Development Planning Staff recommend **support** for the proposed land use contract termination:
 - ▶ The proposed zone Ru1 is appropriate for the area and it matches the LUC.
 - ▶ Province of BC requires all LUC's to be discharged/terminated.



Conclusion of Staff Remarks

CITY OF KELOWNA

BYLAW NO. 12219

LUCT20-0010

Early Termination of Land Use Contract LUC76-1112 2840 Boyd Road

WHEREAS a land use contract (the "Land Use Contract LUC76-1112") is registered at the Kamloops Land Title Office under the charge number N70788 against lands in the City of Kelowna particularly known and described as Lot 2 District Lot 130 ODYD Plan KAP89521 (the "Lands"), located on Boyd Road, Kelowna, B.C.;

AND WHEREAS Section 548 of the *Local Government Act* provides that a local government may impose an early termination to land use contracts registered in a Land Title Office that applies to land within the jurisdiction of the local government;

NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. This Bylaw may be cited for all purposes as "Early Termination of Land Use Contract LUC76-1112 Bylaw No. 12219";
2. Land Use Contract Bylaw No. 4682-78 establishing Land Use Contract LUC76-1112 and all amendments thereto, are hereby repealed and the Land Use Contract is terminated as of the date of adoption; and
3. This bylaw will come into force and effect one year after the adoption date.

Read a first time by the Municipal Council this 12th day of July, 2021.

Considered at a Public Hearing this

Read a second and third time by Municipal Council on the

Adopted by the Municipal Council this

Mayor

City Clerk

CITY OF KELOWNA

BYLAW NO. 12221

Z20-0084

2840 Boyd Road

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 2 District Lot 130 ODYD Plan KAP89521 located on Boyd Road, Kelowna, BC from the A1 – Agriculture 1 zone to the RU1 – Large Lot Housing zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 12th day of July, 2021.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

REPORT TO COUNCIL



Date: June 28, 2021

To: Council

From: City Manager

Department: Development Planning

Application: 520-526 Bernard Avenue

Owner: GBD HOLDINGS INC., INC.NO.
BC0941235

Address: Z21-0024 TA21-0008

Applicant: Leaning House Productions Inc.

Subject: Rezoning and Text Amendment Application (Site Specific)

Existing OCP Designation: MXR – Mixed Use (Residential / Commercial)

Existing Zone: C7 – Central Business Commercial

Proposed Zone: C7rcs – Central Business Commercial (Retail Cannabis Sales)

1.0 Recommendation

THAT Zoning Bylaw Text Amendment Application No. TA21-0008 to amend City of Kelowna Zoning Bylaw No.8000 as outlined in the Report from the Development Planning Department dated June 28, 2021 of all land shown on Strata Plan K12 located at 520-526 Bernard Avenue, Kelowna, BC NOT be considered by Council;

AND THAT Rezoning Application No. Z21-0024 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of all land shown on Strata Plan K12, located at 520-526 Bernard Avenue, Kelowna, BC from the C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone as shown on Map "A" attached to the Report from the Development Planning Department dated June 28, 2021 NOT be considered by Council.

2.0 Purpose

To consider a staff recommendation to NOT support a site-specific text amendment to allow for a retail cannabis sales establishment within 500 metres of other establishments and within 150 metres of Kasugai Gardens and NOT support an application to rezone the subject property from the C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone.

3.0 Development Planning

Staff do not recommend support for the proposed site-specific text amendments and rezoning application to allow for a retail cannabis sales establishment on the subject property at 520-526 Bernard Avenue. The proposal requires a text amendment to reduce the minimum setback distance of 500 metres between two approved establishments; 547-549 Bernard Avenue (+/- 63 metres) and 1636-1652 Padosy Street (+/- 245 metres). The specific use regulations for cannabis retail sales in Section 9.16.1 of the Zoning Bylaw establish the following:

9.16.1 Any retail cannabis sales establishment must be set back a minimum distance of 500 metres from another Retail Cannabis Sales Establishment, measured from closest lot line to closest lot line.

The minimum distance of 500 metres between retail cannabis sales establishments is intended to avoid clustering of multiple stores. The application to reduce the distance between cannabis stores does not meet the intent to limit clustering of this use. Additionally, the proposal is requesting a reduction for two establishments which exacerbates the clustering issue.

The application also requires a site-specific text amendment to reduce the minimum setback distance of 150 metres from Kasugai Gardens (+/- 82 metres). The specific use regulations for cannabis retail sales in Section 9.16.5 of the Zoning Bylaw establish the following:

9.16.5 Any Retail Cannabis Sales Establishment must be set back a minimum distance of 150 metres from the following parks, measured from closest lot line to closest lot line:
g) Kasugai Gardens

Cannabis businesses by nature restricts interaction with the public realm, is not street oriented and is restricted to those over 19 years of age. To comply with regulations from the federal *Cannabis Act* prohibiting display of cannabis or cannabis accessories in a manner that may result in it being seen by a young person, windows are often frosted and stores often have roller shutters for added security. As such, this use will not significantly contribute to or align with the City's public realm objectives for the downtown's main shopping street. Due to a narrow unit frontage, Staff recognize the negative impact of the cannabis use on the public realm may not be as significant.

4.0 Proposal

4.1 Background

Since the first applications were considered in the Spring of 2019, 20 properties have been fully rezoned with the "rcs" subzone to allow retail cannabis sales as a permitted use. Further, an additional two rezoning applications are currently at third reading while outstanding requirements are met prior to Council considering final adoption of the bylaws. At the time of writing, the Liquor and Cannabis Regulation Branch (LCRB) has issued licenses to ten of these establishments to allow for legal operation within the City of Kelowna. Several locations and licences have changed ownership over the past two years and licences are taking significant processing time at the LCRB. This has resulted in multiple approved properties not yet opening.

4.2 Project Description

A retail cannabis sales establishment is proposed in a portion of 526 Bernard Avenue, which is an existing retail store (Hemp City).

4.3 Site Context

The subject property is located on the north side of Bernard Avenue, between Ellis Street and St. Paul Street. It is within the City Centre Urban Centre and is in close proximity to parks and downtown shopping areas.

Subject Property Map: 520-526 Bernard Avenue



5.0 **Current Development Policies**

Downtown Plan Policies

Policy 28 – Bernard Main Shopping Street. Support Bernard Avenue as the focus on the Downtown’s shopping area.

6.0 **Technical Comments**

6.1 Development Engineering Department

See Schedule A: City of Kelowna Memorandum

6.2 Parks & Building Planning

Parks & Building Planning does not support the text amendment application proposed to reduce the required distance of a retail cannabis sales establishment from the required 150m to Kasugai Gardens.

7.0 **Application Chronology**

Date of Application Accepted: March 22, 2021
Date Public Consultation Completed: May 7, 2021

8.0 **Alternate Recommendation**

THAT Zoning Bylaw Text Amendment Application No. TA21-0008 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in the Report from the Development Planning Department dated June 28, 2021 of all land shown on Strata Plan K12 located at 520-526 Bernard Avenue, Kelowna, BC be considered by Council;

AND THAT Rezoning Application No. Z21-0024 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of all land shown on Strata Plan K12, located at 520-526 Bernard Avenue, Kelowna, BC from the C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone as shown on Map “A” attached to the Report from the Development Planning Department dated June 28, 2021 be considered by Council.

AND THAT the Rezoning Bylaw and the Zoning Bylaw Text Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule “A” attached to the Report from the Development Planning Department dated June 28, 2021;

AND THAT final adoption of the Rezoning Bylaw and Zoning Bylaw Text Amending Bylaw be considered subsequent to the approval of the Ministry of Transportation and Infrastructure;

AND FURTHER THAT if the Rezoning Bylaw is adopted, Council direct Staff to send a recommendation to the Provincial Liquor and Cannabis Regulation Branch that they support issuance of a non-medical cannabis retail store license for this legal lot with the following comments:

- The proposed store location meets local government bylaw requirements and as such, no negative impact is anticipated;
- The views of the residents were captured during a public hearing process for the rezoning of the property and Council meeting minutes summarizing those views are attached; and
- Local government recommends that the application be approved because of the compliance with local regulations and policies.

Report prepared by: Kimberly Brunet, Planner II
Reviewed by: Jocelyn Black, Urban Planning Manager
Reviewed by: Terry Barton, Development Planning Department Manager
Approved for Inclusion: Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Map "A": 520-526 Bernard Avenue

Schedule A: City of Kelowna Memorandum


Schedule B: Site Specific Amendment to City of Kelowna Zoning Bylaw No. 8000

Attachment A: Applicant's Letter of Rationale and Draft Floorplan

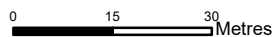


MAP "A" PROPOSED ZONING
 File: Z21-0024

 Subject Property

 C7 - Central Business Commercial to C7rcs - Central Business Commercial (Retail Cannabis Sales)

This map is for general information only.
 The City of Kelowna does not guarantee its
 accuracy. All information should be verified.



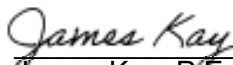
Rev. 5/25/2021

CITY OF KELOWNA
MEMORANDUM

Date: March 29, 2021
File No.: Z21-0024
To: Urban Planning (KB)
From: Development Engineering Manager (JK)
Subject: 520-526 Bernard Ave C7 to C7rcs

Development Engineering comments and requirements regarding this development permit application are as follows:

1. This application to rezone from C7 to C7rcs to allow for a retail cannabis sales establishment. On the subject property does not compromise any City of Kelowna municipal infrastructure.
2. Lane to Be dedicated as road reserve at 0.8m see SS-R2 Commercial Lane.
3. The comments included in this Memo are those of the Development Engineering Branch of the City of Kelowna. As the subject property is within the 800-m Ministry of Transportation and Infrastructure (MoTI) HWY 97 buffer, this application is subject to the review, comments, and requirements of MoTI.



James Kay P.Eng.
Development Engineering Manager

RO

Schedule "B" – Proposed Site Specific Text Amendments - TA21-0008

No.	Section	Current Wording	Proposed Wording			Reason for Change
1.	Section 9 - Specific Use Regulations, 9.16 - RETAIL CANNABIS SALES ESTABLISHMENTS	Section 9.16.1 Any Retail Cannabis Sales Establishment must be set back a minimum distance of 500 metres from another Retail Cannabis Sales Establishment, measured from closest lot line to closest lot line.	9.16.8 Site Specific Regulations			To allow for a retail cannabis sales establishment within 500 metres of other approved retail cannabis sales establishments in the City Centre Urban Centre
			Regulations apply for Retail Cannabis Sales Establishments on a specific basis as follows:			
2.	Section 9 - Specific Use Regulations, 9.16 - RETAIL CANNABIS SALES ESTABLISHMENTS	9.16.5 Any Retail Cannabis Sales Establishment must be set back a minimum distance of 150 metres from the following parks, measured from closest lot line to closest lot line: g) Kasugai Gardens		Legal Description	Civic Address	Regulation
			2	All Land Shown on Strata Plan K12	520-526 Bernard Avenue	To allow for a retail cannabis sales establishment within 500 metres of other approved retail cannabis sales establishments located at 547-549 Bernard Avenue and 1636-1652 Pandosy Street and within 150 metres of Kasugai Gardens

Lee Schurian
Hemp City
526 Bernard Ave
V1Y 6P1

To Whom it May Concern;

Hemp City is proposing a site specific zoning to allow a licensed and regulated retail cannabis store at 526 Bernard Avenue. Currently Hemp City has a zoning of C7 and we would like to modify the zoning to allow for a Cannabis sub zone. We recognize that Hemp City is located within the 150m boundary from Kasugai Gardens when measured from the back entrance of Molly's Garden Cafe (520 Bernard Avenue) to the corner of the park. However, we would like to request an amendment to this requirement on the grounds that Hemp City is 250 meters from Kasugai, a walled garden, when measured from entrance to entrance (see attached map).

We also recognize that Hemp City is within the 500m boundary that is required between locations that have been awarded a cannabis license. However, three cannabis retail licenses were awarded two years ago and none have yet to start progress. Two have been sold repeatedly and the other has not yet begun proper renovations to open. We feel that this denies our customers, and the downtown residents, the right to access safe and legal cannabis.

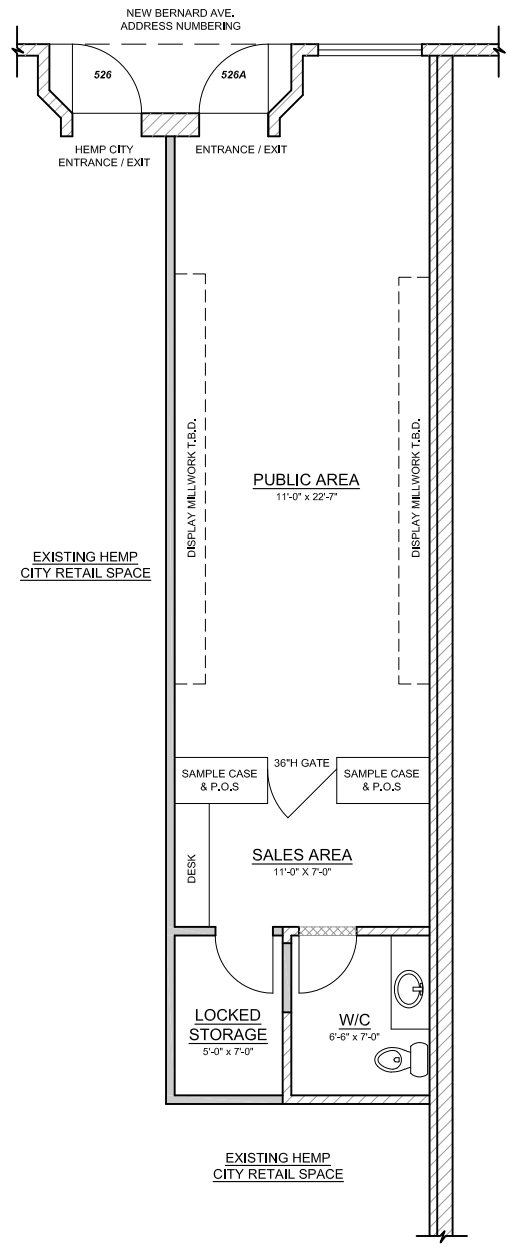
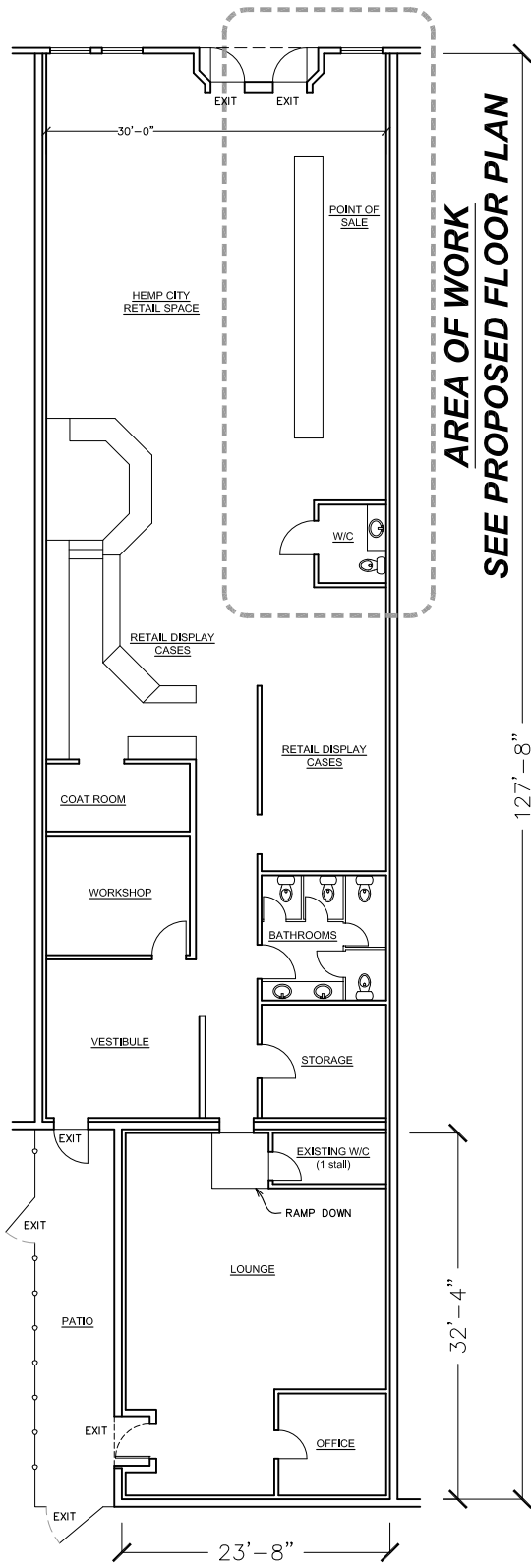
Hemp city has been serving the downtown core and adjacent area for 15+ years, own the building and have consistently contributed to the culture of the downtown core by providing what is now considered an essential service. We have done so alongside other smoking accessory stores and continue to grow and expand. If the other stores finally do open we don't feel there would be a conflict because

more people are moving to Kelowna and high rise construction will provide more clientele for all the businesses involved. Truly, downtown is only getting busier by the day and having a few stores in the area would only create better service and prices.

As well, my family has a deep and rich history of developing businesses that have served Kelowna. My grandfather Doug Mervyn started Mervyn motors and brought the first Volkswagens to the area. He also helped create the valley's first ski resort Big White. My Father Georg Schurian brought Doppelmayr ski lifts to the valley resorts. I believe it is a great honour to be part of Kelowna's business community. I am excited to continue my families legacy by taking part in this development of Kelowna and creating the first operational cannabis retail location in the downtown core.

I have attached a large digital petition and have some written signatures I can drop off in person showing over 1500 signatures of support from our customers and other locals in the area. I feel we would be a great asset to Kelowna and the downtown core.

Thank you for your consideration.
Lee Schurian.
Owner/Operator of Hemp City Kelowna.



Existing Floor Plan
Scale: 1:200

Proposed Floor Plan
Scale: 1:100

PROJECT:
**526 BERNARD AVENUE -
CANNABIS RETAIL RENOVATION**
LOCATION:
KELOWNA, BC

DATE
16-MAR-2021
SCALE
1:200

DRAWING NO.
SK-01c



TA21-0008 Z21-0024 520-526 Bernard Avenue

Text Amendment and Rezoning Application



Proposal

- ▶ To consider a site-specific text amendment to allow for a retail cannabis sales establishment within 500 metres of other establishments and within 150 metres of Kasugai Gardens and to consider an application to rezone the subject property from the C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone.

Development Process

Mar 22, 2021

Development Application Submitted

Staff Review & Circulation

May 7, 2021

Public Notification Received

June 28, 2021

Initial Consideration

Public Hearing
Second & Third Readings

Final Reading

Recommendation sent to LCRB
Building Permit

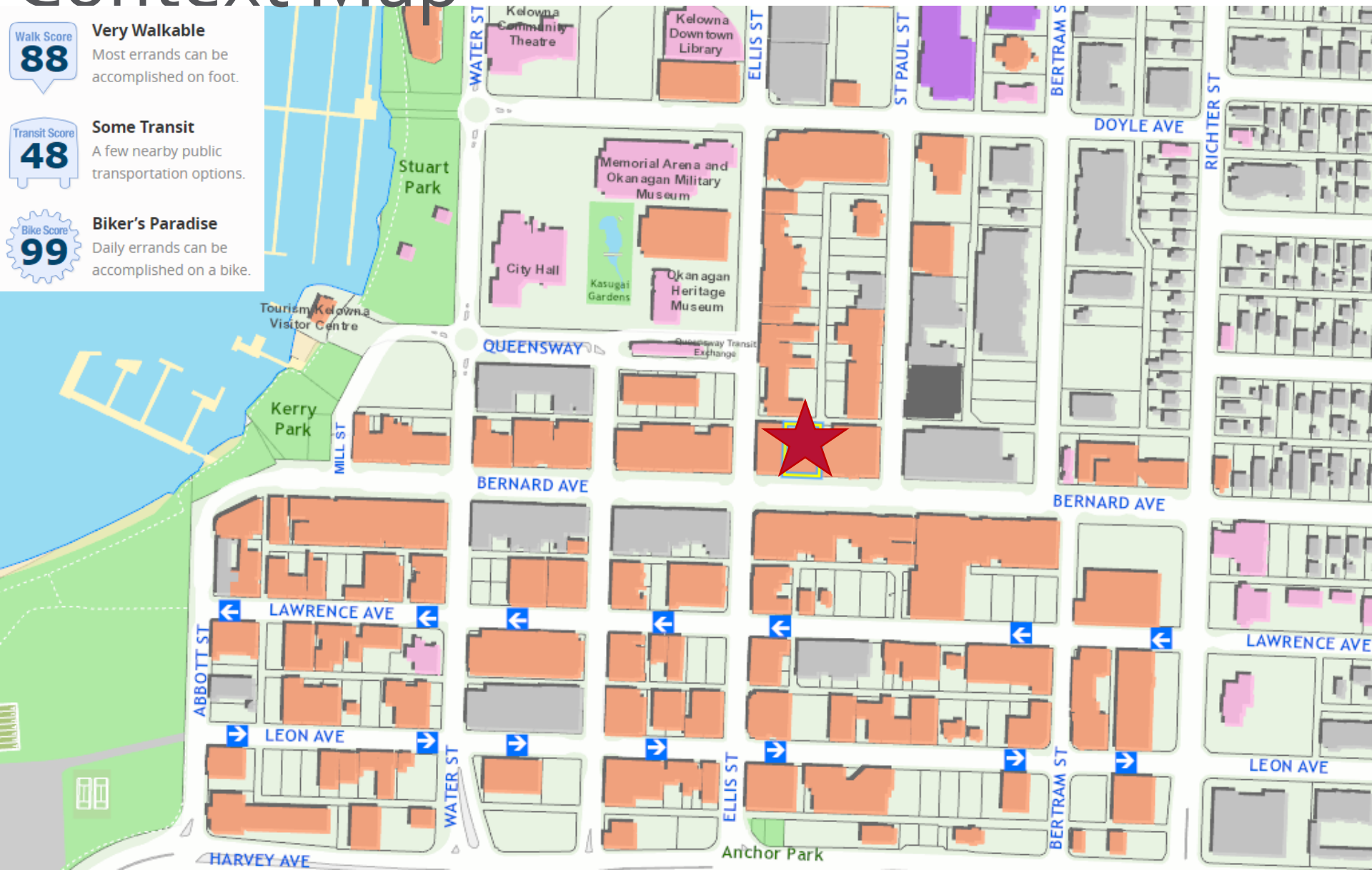
Council Approvals

Context Map

Walk Score
88
Very Walkable
Most errands can be accomplished on foot.

Transit Score
48
Some Transit
A few nearby public transportation options.

Bike Score
99
Biker's Paradise
Daily errands can be accomplished on a bike.



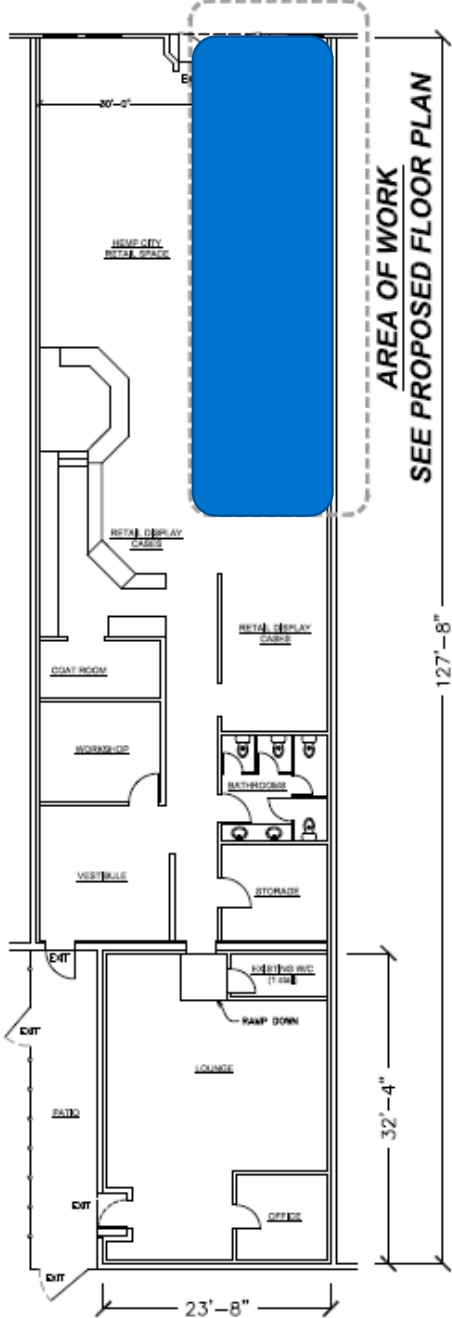
Subject Property Map



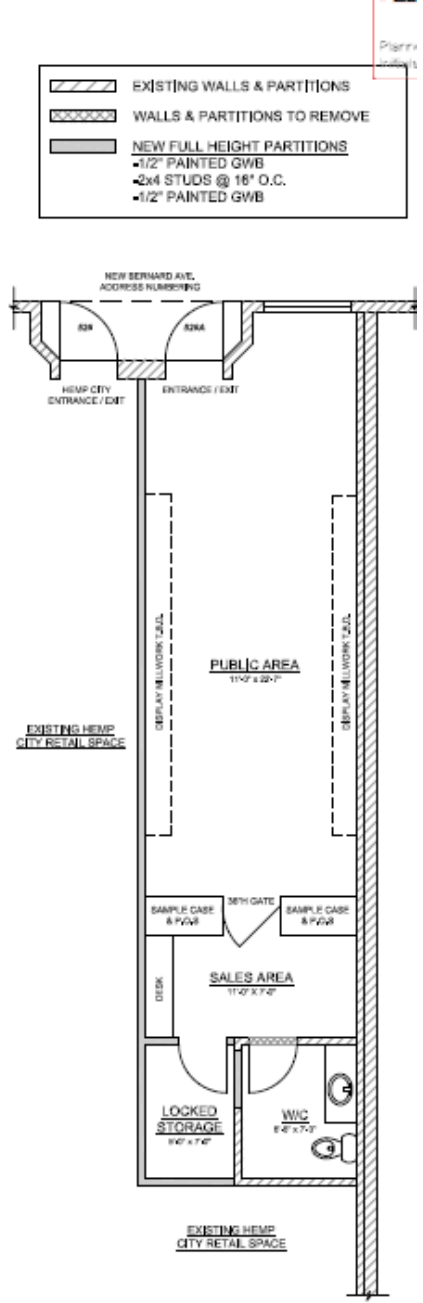
Street View



Floorplan



Existing Floor Plan
Scale: 1:200



Proposed Floor Plan
Scale: 1:100

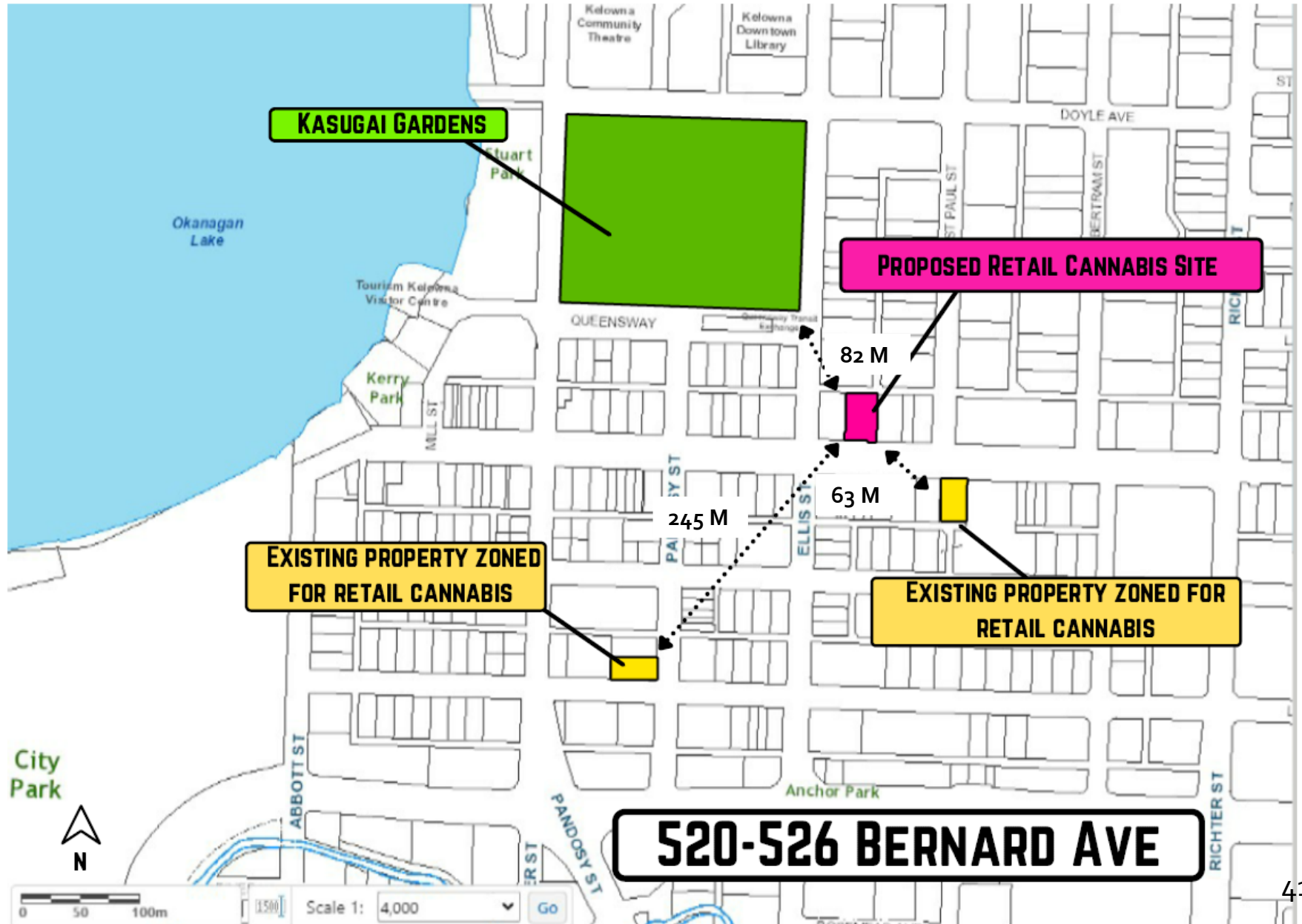
Rezoning Application

- ▶ Application to rezone:
 - ▶ From C7 – Central Business Commercial zone
 - ▶ To C7rcs – Central Business Commercial (Retail Cannabis Sales) zone

Text Amendments

- ▶ To facilitate this application, site-specific text amendments are required:
 - ▶ within 500 metres of other retail cannabis sales establishments
 - ▶ 547-549 Bernard Avenue (+/- 63 metres)
 - ▶ 1636-1652 Pandosy Street (+/- 245 metres)
 - ▶ within 150 metres of Kasugai Gardens
 - ▶ (+/- 82 metres)

Text Amendments



Development Planning

- ▶ Text Amendment Applications
 - ▶ 500 m separation between retail cannabis stores
 - ▶ intended to prevent clustering of use
 - ▶ 150 m setback from Kasugai Gardens
 - ▶ Intended to prevent retail cannabis sales close to these civic spaces and other family oriented amenities
- ▶ Public Realm
 - ▶ Stores are internally oriented
 - ▶ Downtown Plan Policy to support Bernard Avenue as the focus of the Downtown's shopping area

Staff Recommendation

- ▶ Staff recommend non-support of the proposed rezoning and text amendment applications



Conclusion of Staff Remarks

CITY OF KELOWNA
BYLAW NO. 12247
TA21-0008
520-526 Bernard Avenue

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000, **Section 9 – Specific Use Regulations, 9.16 RETAIL CANNABIS SALES ESTABLISHMENTS, 9.16.8 Site Specific Regulations** be amended by adding in its appropriate location the following:

“

	<i>Legal Description</i>	<i>Civic Address</i>	<i>Regulation</i>
	All Land Shown on Strata Plan K12	520-526 Bernard Avenue	To allow for a retail cannabis sales establishment within 500 metres of other approved retail cannabis sales establishments located at 547-549 Bernard Avenue and 1636-1652 Pandosy Street and within 150 metres of Kasugai Gardens.

”

2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 12th day of July, 2021.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA
BYLAW NO. 12248
Z21-0024
520-526 Bernard Avenue

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of All Land Shown on the Strata Plan K12 located on Bernard Avenue, Kelowna, BC from the C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone as per Map "A" attached to and forming part of this bylaw.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 12th day of July, 2021.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk



MAP "A" PROPOSED ZONING
File: Z21-0024

 Subject Property

 C7 - Central Business Commercial to C7rcs - Central Business Commercial (Retail Cannabis Sales)

This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.



Rev. 5/25/2021

REPORT TO COUNCIL



Date: June 28, 2021

To: Council

From: City Manager

Department: Development Planning

Application: Z21-0039 TA21-0012 **Owner:** MACARTHER VENTURES INC.,
INC.NO. BC0684166

Address: 266 Bernard Avenue **Applicant:** 0903141 BC LTD. (Krista
Lusted)

Subject: Rezoning and Text Amendment Application (Site Specific)

Existing OCP Designation: MXR – Mixed Use (Residential / Commercial)

Existing Zone: C7 – Central Business Commercial

Proposed Zone: C7rcs – Central Business Commercial (Retail Cannabis Sales)

1.0 Recommendation

THAT Zoning Bylaw Text Amendment Application No. TA21-0012 to amend City of Kelowna Zoning Bylaw No.8000 as outlined in the Report from the Development Planning Department dated June 28, 2021 for Lot 2 District Lot 139 Osoyoos Division Yale District Plan 4153 located at 266 Bernard Avenue, Kelowna, BC NOT be considered by Council;

AND THAT Rezoning Application No. Z21-0039 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2 District Lot 139 Osoyoos Division Yale District Plan 4153, located at 266 Bernard Avenue, Kelowna, BC from the C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone NOT be considered by Council.

2.0 Purpose

To consider a staff recommendation to NOT support a site-specific text amendment to allow for a retail cannabis sales establishment within 500 metres of other establishments and within 150 metres of City Park and 150 metres of Stuart Park and NOT support an application to rezone the subject property from the C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone.

3.0 Development Planning

Staff do not recommend support for the proposed site-specific text amendments and rezoning application to allow for a retail cannabis sales establishment on the subject property at 266 Bernard Avenue. The proposal requires a text amendment to reduce the minimum setback distance of 500 metres between two approved establishments; 1636-1652 Pandosy Street (+/- 234 metres) and 547-549 Bernard Avenue (+/- 410 metres). The specific use regulations for cannabis retail sales in Section 9.16.1 of the Zoning Bylaw establish the following:

9.16.1 Any retail cannabis sales establishment must be set back a minimum distance of 500 metres from another Retail Cannabis Sales Establishment, measured from closest lot line to closest lot line.

The minimum distance of 500 metres between retail cannabis sales establishments is intended to avoid clustering of multiple stores. The application to reduce the distance between cannabis stores does not meet the intent to limit clustering of this use. Additionally, the proposal is requesting a reduction for two establishments which exacerbates the concerns regarding clustering.

The application also requires a site-specific text amendment to reduce the minimum setback distance of 150 metres from Stuart Park (+/-74 metres) and City Park (+/- 140 metres). The specific use regulations for cannabis retail sales in Section 9.16.5 of the Zoning Bylaw establish the following:

9.16.5 Any Retail Cannabis Sales Establishment must be set back a minimum distance of 150 metres from the following parks, measured from closest lot line to closest lot line:

- d) City Park; and
- s) Stuart Park

Cannabis businesses by nature restricts interaction with the public realm, is not street oriented and is restricted to those over 19 years of age. To comply with regulations from the federal *Cannabis Act* prohibiting display of cannabis or cannabis accessories in a manner that may result in it being seen by a young person, windows are often frosted and stores often have roller shutters for added security. As such, this use will not significantly contribute to or align with the City's public realm objectives for Bernard Ave and the Downtown's shopping area. Due to a narrow lot frontage and limited redevelopment potential without greater land assembly, Staff recognize the negative impact of the cannabis use on the public realm may not be as significant.

4.0 Proposal

4.1 Background

Since the first applications were considered in the Spring of 2019, 20 properties have been fully rezoned with the "rcs" subzone to allow retail cannabis sales as a permitted use. Further, an additional two rezoning applications are currently at third reading while outstanding requirements are met prior to Council considering final adoption of the bylaws. At the time of writing, the Liquor and Cannabis Regulation Branch (LCRB) has issued licences to ten of these establishments to allow for legal operation within the City of Kelowna. Several locations and licences have changed ownership over the past two years and licences are taking significant processing time at the LCRB. This has resulted in multiple approved properties not yet opening.

7.0 Application Chronology

Date of Application Accepted: April 23, 2021
Date Public Consultation Completed: May 13, 2021

8.0 Alternate Recommendation

THAT Zoning Bylaw Text Amendment Application No. TA21-0012 to amend City of Kelowna Zoning Bylaw No.8000 as outlined in the Report from the Development Planning Department dated June 28, 2021 for Lot 2 District Lot 139 Osoyoos Division Yale District Plan 4153 located at 266 Bernard Avenue, Kelowna, BC be considered by Council;

AND THAT Rezoning Application No. Z21-0039 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 2 District Lot 139 Osoyoos Division Yale District Plan 4153, located at 266 Bernard Avenue, Kelowna, BC from the C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone be considered by Council;

AND THAT the Rezoning Bylaw and the Zoning Bylaw Text Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Rezoning Bylaw be considered subsequent to the outstanding conditions of approval as set out in Schedule "A" attached to the Report from the Development Planning Department dated June 28, 2021;

AND THAT final adoption of the Rezoning Bylaw and Zoning Bylaw Text Amending Bylaw be considered subsequent to the approval of the Ministry of Transportation and Infrastructure;

AND FURTHER THAT if the Rezoning Bylaw is adopted, Council direct Staff to send a recommendation to the Provincial Liquor and Cannabis Regulation Branch that they support issuance of a non-medical cannabis retail store license for this legal lot with the following comments:

- The proposed store location meets local government bylaw requirements and as such, no negative impact is anticipated;
- The views of the residents were captured during a public hearing process for the rezoning of the property and Council meeting minutes summarizing those views are attached; and
- Local government recommends that the application be approved because of the compliance with local regulations and policies.

Report prepared by: Kimberly Brunet, Planner II
Reviewed by: Jocelyn Black, Urban Planning Manager
Reviewed by: Terry Barton, Development Planning Department Manager
Approved for Inclusion: Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Schedule A: City of Kelowna Memorandum

Schedule B: Site Specific Amendment to City of Kelowna Zoning Bylaw No. 8000

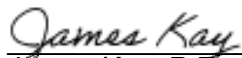
Attachment A: Applicant's Letter of Rationale and Draft Rendering

CITY OF KELOWNA
MEMORANDUM

Date: April 29, 2021
File No.: Z21-0039
To: Urban Planning (KB)
From: Development Engineering Manager (JK)
Subject: 266 Bernard Ave C7 to C7rcs

Development Engineering comments and requirements regarding this development permit application are as follows:

1. This application to rezone from C7 to C7rcs to allow for a retail cannabis sales establishment. On the subject property does not compromise any City of Kelowna municipal infrastructure.
2. Lane to be dedicated as road reserve at 0.8m see SS-R2 Commercial Lane.
3. This application is within 335m of another C7rcs.
4. The comments included in this Memo are those of the Development Engineering Branch of the City of Kelowna. As the subject property is within the 800-m Ministry of Transportation and Infrastructure (MoTI) HWY 97 buffer, this application is subject to the review, comments, and requirements of MoTI.



James Kay P.Eng.
Development Engineering Manager

RO

Schedule B – Proposed Site Specific Text Amendments

No.	Section	Current Wording	Proposed Wording	Reason for Change								
1.	Section 9 - Specific Use Regulations, 9.16 - RETAIL CANNABIS SALES ESTABLISHMENTS	Section 9.16.1 Any Retail Cannabis Sales Establishment must be set back a minimum distance of 500 metres from another Retail Cannabis Sales Establishment, measured from closest lot line to closest lot line.	9.16.8 Site Specific Regulations Regulations apply for Retail Cannabis Sales Establishments on a specific basis as follows: <table border="1" data-bbox="1143 419 2492 883"> <thead> <tr> <th></th> <th><i>Legal Description</i></th> <th><i>Civic Address</i></th> <th><i>Regulation</i></th> </tr> </thead> <tbody> <tr> <td></td> <td>Lot 2 District Lot 139 Osoyoos Division Yale District Plan 4153</td> <td>266 Bernard Avenue</td> <td>To allow for a retail cannabis sales establishment within 500 metres of other approved retail cannabis sales establishments located at 547-549 Bernard Avenue and 1636-1652 Pandosy Street and within 150 metres of City Park and within 150 metres of Stuart Park.</td> </tr> </tbody> </table>		<i>Legal Description</i>	<i>Civic Address</i>	<i>Regulation</i>		Lot 2 District Lot 139 Osoyoos Division Yale District Plan 4153	266 Bernard Avenue	To allow for a retail cannabis sales establishment within 500 metres of other approved retail cannabis sales establishments located at 547-549 Bernard Avenue and 1636-1652 Pandosy Street and within 150 metres of City Park and within 150 metres of Stuart Park.	To allow for a retail cannabis sales establishment within 500 metres of other approved retail cannabis sales establishments in the City Centre Urban Centre
	<i>Legal Description</i>	<i>Civic Address</i>		<i>Regulation</i>								
	Lot 2 District Lot 139 Osoyoos Division Yale District Plan 4153	266 Bernard Avenue	To allow for a retail cannabis sales establishment within 500 metres of other approved retail cannabis sales establishments located at 547-549 Bernard Avenue and 1636-1652 Pandosy Street and within 150 metres of City Park and within 150 metres of Stuart Park.									
2.	Section 9 - Specific Use Regulations, 9.16 - RETAIL CANNABIS SALES ESTABLISHMENTS	9.16.5 Any Retail Cannabis Sales Establishment must be set back a minimum distance of 150 metres from the following parks, measured from closest lot line to closest lot line: d) City Park s) Stuart Park		To allow for a retail cannabis sales establishment within 150 metres of City Park								



April 15, 2021

Attn: Kim Brunet
City of Kelowna
1435 Water Street
Kelowna, BC V1Y 1J4

RE: Letter of Rationale

To whom it may concern,

0903141 BC Ltd (DBA: Green Pineapple) of 1432 Bay Ave, Trail BC (PO Box 510 Rossland BC, V0G 1Y0) is applying for a text amendment and the rezoning of 266 Bernard Ave, Kelowna BC, V1Y 6N4 to allow for retail cannabis sales. The site in question is PID: 009-046-011 and it is currently in the C7 commercial zoning.

We, the ownership group of the Green Pineapple holdings, believe that the site is ideal for a retail cannabis location based on several rationalizations that we will outline through this letter.

Background for Context

The writers of this application, Krista Lusted and Peter Angle, are longtime Kelowna residents and were part of the original merit based application process with the City in 2018. They received the highest score for the downtown sector, and despite having top marks for the downtown area, they were included in the lottery that ensued to determine the winning applications. Ultimately, they were unsuccessful, but two other applicants in the downtown sector did receive approval at that time.

In December of 2019, a zoning bylaw and text amendment approval was given for a third downtown location to Grasshopper Cannabis Inc. Since that time, two of the successful downtown applicants have sold off the zoning rights to other companies, and today, three years later, not a single location is currently open and operating. This practice of horse-trading zoning rights has largely contributed to the lack of accessibility of legalized cannabis in the downtown area.

The Path to Today

Being unsuccessful with the application in 2018, Krista then took her cannabis industry corporate knowledge and experience and turned it into an opportunity to consult for other cannabis retail organizations. This led to her accepting the position of General Manager with the responsibilities of launching Hobo, the first retail cannabis store in Kelowna.

Subsequently, in August 2020, a partnership was formed with Pineapple Investments and Krista was appointed as the Director of Operations for Green Pineapple. This position furthered the career goal of developing and operating retail cannabis stores and has led to another chance to pursue the goal of opening a store in downtown Kelowna. It has been made abundantly clear that the intention with the first unsuccessful application and this current one, is to actively open and operate a store that contributes to the long term success of the downtown business community and further the growth of the legalized cannabis industry.

Revenue Impact to the City of Kelowna

Not only does a lack of accessibility to retail cannabis stunt the growth of the legal market, but it also results in a significant loss of tax revenue for the City. These funds would be derived from a portion of the federal cannabis excise tax revenue, of which the provinces and territories have the option to share with their municipalities. According to the Union of BC Municipalities, British Columbia is expected to receive \$50 million in revenue from the excise tax in the fiscal 2020-2021 year.

Bylaw Rezoning and Text Amendment Request - Setback Distance

Bylaw 9.16.1 - *Any Retail Cannabis Sales Establishment must be set back a minimum distance of 500 metres from another Retail Cannabis Sales Establishment, measured from closest lot line to closest lot line.*



Proximity to the Site at 1650 Pandosy St - Kairo, a cannabis organization based out of Vancouver, recently purchased the zoning rights and lease as an asset from Grasshopper Cannabis Inc for \$695,000. Kairo indicated at the time of purchase that they still needed to apply for a provincial license, a process which can easily take up to a year and a half.

This approved site is approximately 266m from the proposed site of 266 Bernard Ave, as the crow flies. However, the actual walking distance is over 380m as it is almost four city blocks away, two up and two over.

There is little concern about the proximity from a competitive standpoint because both sites would ultimately serve a completely different customer base. The 1650 Pandosy St location is ideally situated to service the new Ella development and the existing residences across Harvey Ave.

In January of 2021, the City of Kelowna approved the development of three major residential towers on Leon Ave which have been dubbed “Water Street by the Park.” This significant growth in the Leon Ave area provides even further confidence that the downtown core is more than prepared to handle a third retail cannabis location. The timing of the purchase by Kairo in February 2021 of the lease (and therefore zoning rights) indicates their strong confidence in the area to provide support for the significant investment. The location at 1650 Pandosy St, if and when it opens, will service a specific retail sector and will have very localized support.

Approval of a retail cannabis store at 266 Bernard Ave would allow for diversification of the services being offered to tourists and Kelowna residents visiting that end of the downtown sector. With over 350m in distance to 266 Bernard Ave, there is more than enough space between the two sites to offer a competitive yet proper operating distance while avoiding a clustering of stores.

Site at 559 Bernard Ave - This approved site is situated at the opposite end of Bernard Ave from the proposed site of this application, and is an estimated 430m away, well over four city blocks of walking distance between the two locations.

This is one of the originally approved sites for zoning for retail cannabis sales, as determined by the lottery for the downtown area. However, almost immediately following the lottery win in February 2019, the zoning rights to this location were sold as well. Today, with over three years since the zoning approval was given by the City, this location has still not been developed as a retail cannabis establishment. No tenant improvements have been made and there are no signs of a store opening soon, yet this empty space has hindered other retail cannabis locations from developing. However, similar to the Pandosy location, it too will be well supported with the new developments across the street and with the surrounding commercial area if developed.

Social Responsibility

Cannabis has become a quickly accepted part of society, as retailers and consumers demonstrate the social responsibility that comes along with legalization. No greater sign of this was when the Government of Canada declared cannabis an *essential service* with the onslaught of the Covid-19 pandemic. It has been proven that consumers are looking for ethical and trustworthy advice on cannabis products and they want access to a safe and reliable choice.

Increasing Accessibility to Legal Cannabis

The initial rationale for the 500m setback between establishments and the concerns of over saturating the retail cannabis market are easily understood as criteria was developed pre-legalization. The bylaw was intended to prevent a “green mile” from being established, but in Kelowna’s case, the opposite effect has occurred. Multiple sites have been approved for cannabis use, but still have not opened, creating a monopoly on the downtown market and restricting accessibility to consumers while stifling further development opportunities for retail cannabis.

Today, three years after legalization, it is not uncommon to see cannabis stores in very close proximity in several municipalities across BC, some with well under 200m in many cases. For example:

- Kamloops - setback of 100m with a population of 100,000, and 20 cannabis stores currently open, 9 of which are in their downtown city core
- Nelson - no setback, but instead a maximum of 5 stores segmented by area, with a population of 10,500.
- Grand Forks - 100m setback with a potential amendment to reduce to 36m. They currently have 3 stores in the same building, two side by side with one in the back, and their population is 4,000
- New Westminster - setback of 200m with a population of 71,000
- Trail - No setback requirement, 4 stores are currently open with a population of 8,000

This is one of the major concerns with a large 500m setback between retail cannabis establishments. There is no pressure or incentive to open in a timely manner, and many companies in the cannabis industry are prepared to pay exorbitant amounts to gain a zoning monopoly. It is apparent that plenty of time has been given to open and operate these sites. This level of control has impacted smaller independent operators and the future landscape of retail cannabis.

Kelowna Growth and Official Community Plan

Since legalization and the time the original City of Kelowna bylaws were implemented, several major residential developments have emerged with several more on the horizon. This contributes to Kelowna currently being the 4th fastest growing metropolitan city in Canada. This topic was addressed in the recently reviewed Kelowna Official City Plan (OCP) which estimates the municipality’s population to increase by more than 45,000 people between now and 2040. Below is a rendering showing the various future developments in the area.

To recognize this potential and promote quality of life, the OCP created 10 Pillars to Realize Vision, which builds the foundation for the more detailed policy direction. One of those key 10 pillars is “Focus Investment in the (5) Urban Centers”, one of which is the downtown core of Kelowna. The OCP states that for Kelowna to meet the goal of having a vibrant amenity rich downtown, it must have a diversity in sustainable retail options. A legal cannabis store at 266 Bernard Ave will complement that block and aligns with the OCPs key pillars.

This application is unequivocally supported by the property owner, Macarthur Ventures, owned by Mary Clark, and the surrounding community of businesses. To that end, the Downtown Kelowna Association has also been a supporting resource for this application and is prepared to show their support.



Bylaw Rezoning and Text Amendment Request - Proximity to Parks

Bylaw 9.16.5 - Any Retail Cannabis Sales Establishment must be set back a minimum distance of 150 metres from the following parks, measured from closest lot line to closest lot line.



City Park - Proximity from the proposed site is approximately 144m, a mere 6m shy of the minimum distance currently allowed. 144m is more than a reasonably acceptable distance from the park, considering everything that is now known about what the world of legalized cannabis looks like. Since legalization, cannabis has widely been socially accepted with minimal (if any) instances of being a nuisance or causing public harm.

Stuart Park - Proximity to Stuart Park is approximately 74m away. However, it should be noted that this is measured from property line to property line as stipulated in the bylaw requirements. That direct path as the crow flies leads to the back line of 266 Bernard Ave, which is a parking area with no accessibility to the store for customers. The back entrance would only be used for inventory order receiving to prevent cannabis inventory going down Bernard Ave, however, customers must walk around, or drive and park to access the front door. In addition, the pending Westcorp development of the neighboring property will also create a further barrier, but also additional patronage.

For customers to access the retail store from Stuart Park, they must walk 132 m up Water St to access the front of the retail store facing Bernard Ave. In comparison, O'Flannigan's Liquor Store is a mere 61m in proximity to Stuart Park and 68m to Kasugai Park, despite similar concerns of accessibility to minors and general public safety. With the walking/driving route in mind to 266 Bernard Ave, it is a more than reasonably adequate distance in terms of proximity.

Green Pineapple Store Operations

The Green Pineapple is currently operating two stores in the Kootenay area, with six more approved licenses in the region. Through the established partnership and the united goal of operating in Kelowna, there is an ability to reallocate a license through a transfer for the proposed location. The benefit is an expedited process for a quicker-to-market store opening, versus having to go through the very lengthy application process for a new license with the province of BC, with no guarantee of approval.

The Green Pineapple is a trademarked brand, and the store frontage and the interior design was created to ensure it has a strong esthetic appeal for any municipality it operates in. Following the strict security guidelines from the LCRB, neighboring businesses can be assured that all safety requirements will be met and that the store's clean aesthetic will contribute to the downtown as a retail amenity. Included are two attachments, one that shows the brand experience of the Green Pineapple and another of a rendering of the potential storefront.

In addition, all staff must have their worker Security Verification from the Province of BC and pass the Selling Right Course to ensure their ability to safely handle the product and provide sound recommendations to consumers. They are also required to adhere to the Green Pineapple code of conduct, as laid out in the standard operating procedures of the company.

It is anticipated that the store would support up to 10 full time positions with an additional 7 part-time employees, providing a significant employment opportunity for the community.

The Pineapple Investments group works closely with each municipality that they operate in, maintaining strong relationships with their communities and neighboring businesses. This is also true of Peter and Krista, who have had regular communication with City of Kelowna staff, and who have continually endeavored to understand and be professionally involved as regulations and policies evolve. In addition, the group understands that a key part of their success has been through establishing a strong working relationship with the LCRB to ensure that all industry and regulatory standards are not only being met, but are exceeded.

Drawing upon their experience with retail liquor operations, the Green Pineapple ownership group recognizes the critical understanding of the significance and importance of maintaining an operation that is accountable to the regulations as they evolve. If successful in this application, the City of Kelowna can have the confidence that the operation will be in good stewardship, therefore reducing the concerns and issues that may result with inexperienced operators. Green Pineapple, through its maturity in the industry, has the operational experience to navigate the world of legalized cannabis.

Summarizing Statement

As long standing citizens of Kelowna, and prominent members of the business community, we respectfully request that the City consider this application for this site specific zoning amendments. We believe that the ongoing growth of Kelowna provides rationalization to support three cannabis stores in the downtown core, as detailed here.

In summary, the ownership group of Pineapple Investments, believe that the 266 Bernard Ave site is ideal for a retail cannabis location. We look forward to continuing to work with the City and the community through our continued commitment to operate a successful retail store in the downtown core of Kelowna.

Thank you for your consideration.

Sincerely,

Krista Lusted
Director of Operations
250-215-9016
kl@greenpineapple.ca

Attached:

- Green Pineapple Brand Experience
- Storefront Rendering Example





TA21-0012 Z21-0039 266 Bernard Avenue

Text Amendment and Rezoning Application



Proposal

- ▶ To consider a site-specific text amendment to allow for a retail cannabis sales establishment within 500 metres of other establishments and within 150 metres of City Park and 150 metres of Stuart Park and to consider an application to rezone the subject property from the C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone.

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April 23, 2021

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Staff Review & Circulation

May 13, 2021

Public Notification Received

June 28, 2021

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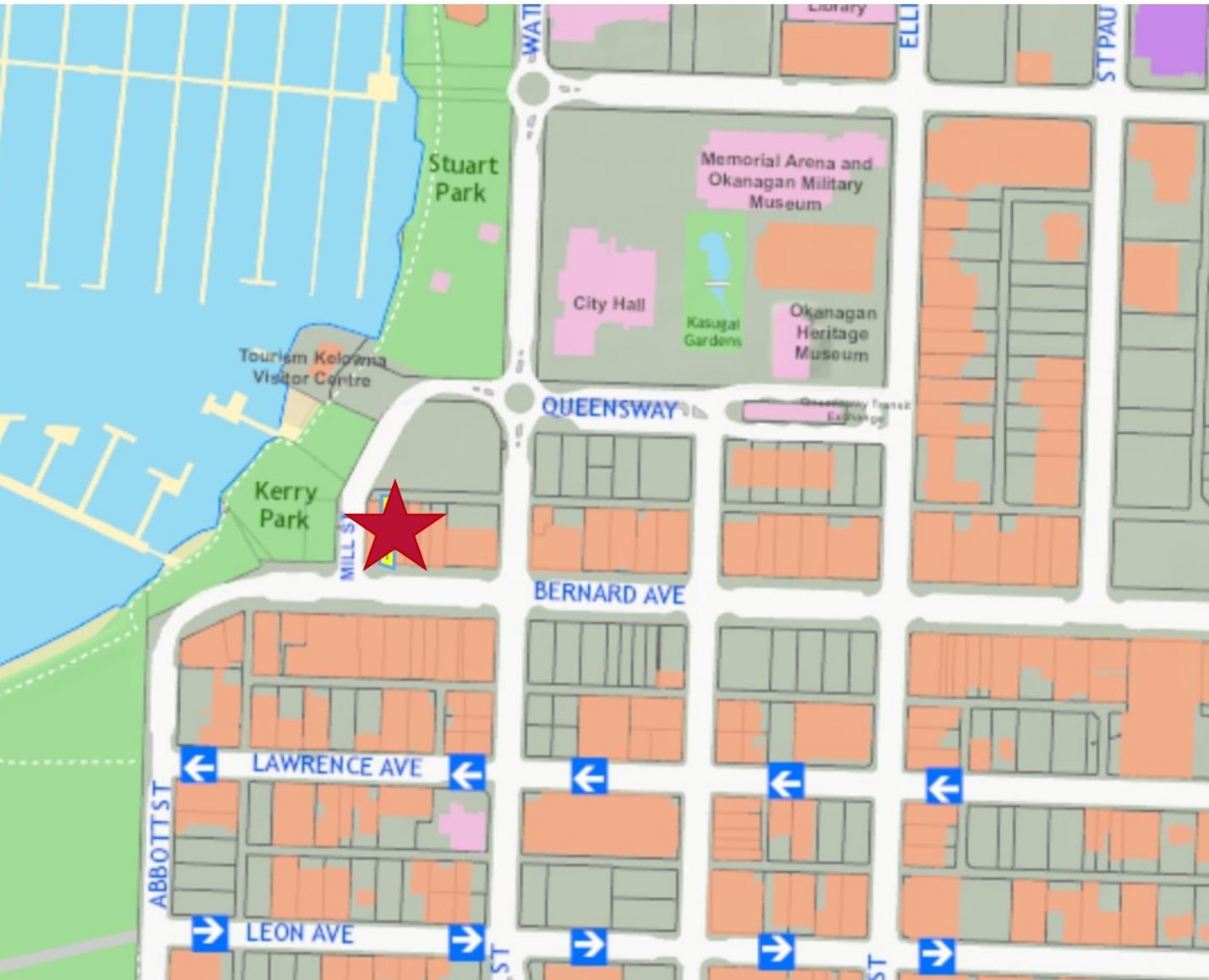
Council Approvals

Context Map

Walk Score
90
Walker's Paradise
Daily errands do not require a car.

Transit Score
48
Some Transit
A few nearby public transportation options.

Bike Score
75
Very Bikeable



Subject Property Map



Street View



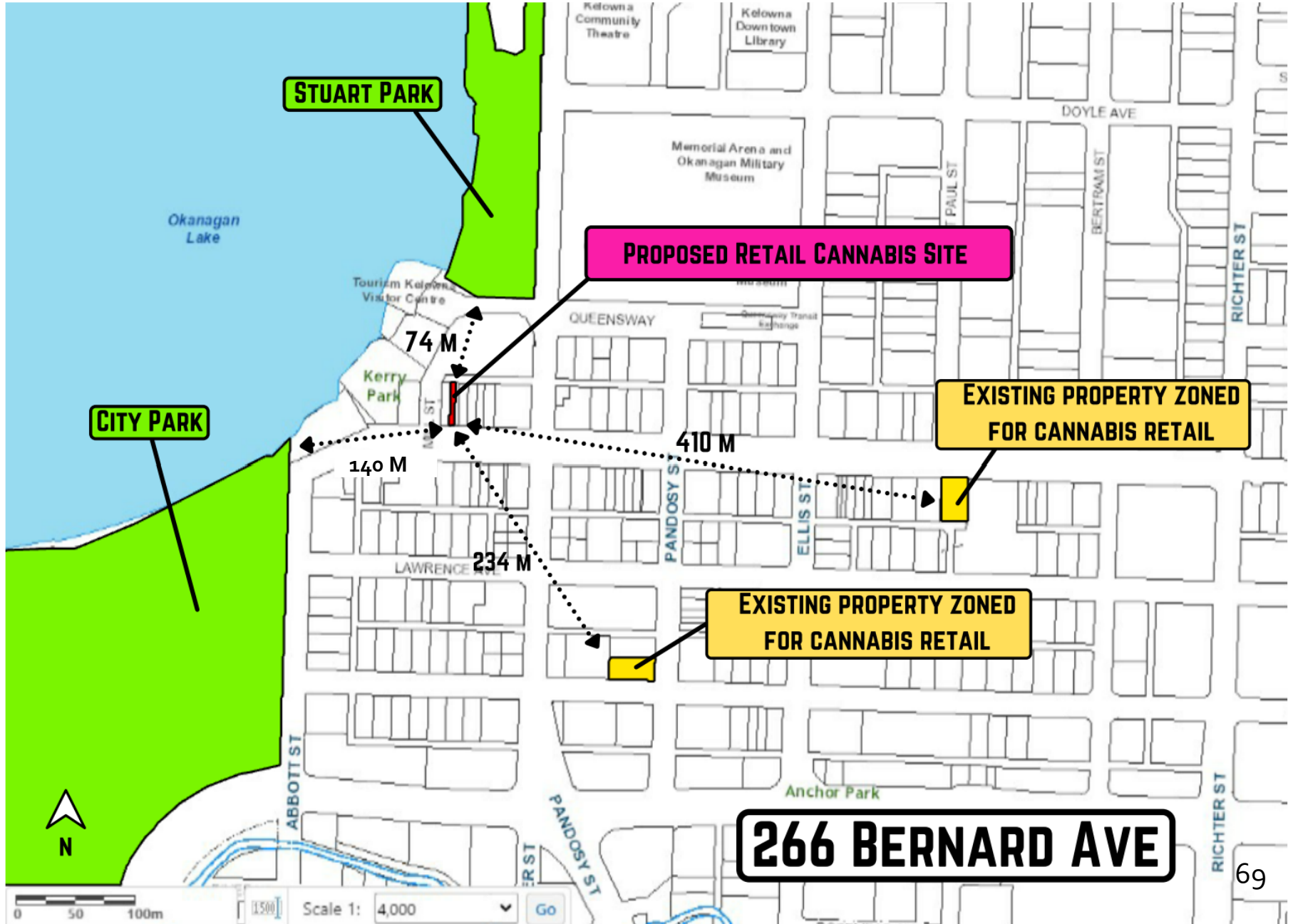
Rezoning Application

- ▶ Application to rezone:
 - ▶ From C7 – Central Business Commercial zone
 - ▶ To C7rcs – Central Business Commercial (Retail Cannabis Sales) zone

Text Amendments

- ▶ To facilitate this application, site-specific text amendments are required:
 - ▶ within 500 metres of other retail cannabis sales establishments
 - ▶ 1636-1652 Pandosy Street (+/- 234 metres)
 - ▶ 547-549 Bernard Avenue (+/- 410 metres)
 - ▶ within 150 metres of City Park
 - ▶ (+/- 140 metres)
 - ▶ within 150 metres of Stuart Park
 - ▶ (+/- 74 metres)

Text Amendments



266 BERNARD AVE

Development Planning

- ▶ Text Amendment Applications
 - ▶ 500 m separation between retail cannabis stores
 - ▶ intended to prevent clustering of use
 - ▶ 150 m setback from City Park and Stuart Park
 - ▶ Intended to prevent retail cannabis sales close to these civic spaces and other family-oriented amenities
- ▶ Public Realm
 - ▶ Stores are internally oriented
 - ▶ Downtown Plan Policy to support Bernard Avenue as the focus of the Downtown's shopping area

Staff Recommendation

- ▶ Staff recommend **non-support** of the proposed rezoning and text amendment applications



Conclusion of Staff Remarks

CITY OF KELOWNA
BYLAW NO. 12249
TA21-0012
266 Bernard Avenue

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended **Section 9 – Specific Use Regulations, 9.16 RETAIL CANNABIS SALES ESTABLISHMENTS, 9.16.8 Site Specific Regulations** be amended by adding in its appropriate location the following:

“

	<i>Legal Description</i>	<i>Civic Address</i>	<i>Regulation</i>
	Lot 2 District Lot 139 ODYD Plan 4153	266 Bernard Avenue	To allow for a retail cannabis sales establishment within 500 metres of other approved retail cannabis sales establishments located at 547-549 Bernard Avenue and 1636-1652 Padosy Street and within 150 metres of City Park and within 150 metres of Stuart Park.

”

2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 12th day of July, 2021.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk

CITY OF KELOWNA
BYLAW NO. 12250
Z21-0039
266 Bernard Avenue

A bylaw to amend the "City of Kelowna Zoning Bylaw No. 8000".

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. THAT City of Kelowna Zoning Bylaw No. 8000 be amended by changing the zoning classification of Lot 2 District Lot 139 ODYD Plan 4153 located on Bernard Avenue, Kelowna, BC from the C7 – C7 – Central Business Commercial zone to the C7rcs – Central Business Commercial (Retail Cannabis Sales) zone.
2. This bylaw shall come into full force and effect and is binding on all persons as and from the date of adoption.

Read a first time by the Municipal Council this 12th day of July, 2021.

Considered at a Public Hearing on the

Read a second and third time by the Municipal Council this

Approved under the Transportation Act this

(Approving Officer – Ministry of Transportation)

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk