

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.

4.2 Project Description

A retail cannabis sales establishment is proposed at 266 Bernard Avenue, which currently is an existing retail store.

4.3 Site Context

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

Subject Property Map: 266 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.

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