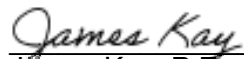

CITY OF KELOWNA
MEMORANDUM

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>								
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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

