

REPORT TO COUNCIL



Date: November 1, 2021

To: Council

From: City Manager

Department: Development Planning

Application: TA21-0016 Z21-0092 **Owner:** KELOWNA HWY 97 / 33
HOLDING LTD., INC.NO.
BC1003626

Address: 1604-1620 Powick Road **Applicant:** Kootenay Cannabis Ltd.

Subject: Rezoning and Text Amendment Application (Site Specific)

Existing OCP Designation: COMM - Commercial

Existing Zone: C4 – Urban Centre Commercial

Proposed Zone: C4rcs – Urban Centre Commercial (Retail Cannabis Sales)

1.0 Recommendation

THAT Zoning Bylaw Text Amendment Application No. TA21-0016 to amend City of Kelowna Zoning Bylaw No.8000 as outlined in the Report from the Development Planning Department dated November 1, 2021 for Lot 1 District Lot 125 Osoyoos Division Yale District Plan 18724 Except Plans KAP78413 and KAP80632 located at 1604-1620 Powick Road, Kelowna, BC NOT be considered by Council;

AND THAT Rezoning Application No. Z21-0092 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 1 District Lot 125 Osoyoos Division Yale District Plan 18724 Except Plans KAP78413 and KAP80632, located at 1604-1620 Powick Road, Kelowna, BC from the C4 – Urban Centre Commercial zone to the C4rcs – Urban Centre Commercial (Retail Cannabis Sales) zone NOT be considered by Council.

2.0 Purpose

To NOT support a site-specific text amendment to allow for a retail cannabis sales establishment within 500 metres of another property zoned for retail cannabis sales and within 500 metres of a school and to NOT rezone the subject property from the C4 – Urban Centre Commercial zone to the C4rcs – Urban Centre 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 1604-1620 Powick Road. The proposal requires a text amendment to reduce the minimum setback distance of 500 metres between two approved establishments, as a retail cannabis sales establishment is approved at approximately 424 metres away, at 1675-1677 Commerce Avenue. 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 and there are sufficient number of approved cannabis establishments across the City to serve overall need.

The application also requires a site-specific text amendment to reduce the minimum setback distance of 500 metres from a public middle school. The intent of this regulation was to restrict the proximity of retail cannabis sales establishments to potentially sensitive uses, and user groups. Springvalley Middle School is approximately 337 metres from this property, when measured from closest lot line to closest lot line. The specific use regulations for cannabis retail sales in Section 9.16.4 of the Zoning Bylaw establish the following:

9.16.4 Any Retail Cannabis Sales Establishment must be set back a minimum distance of 500 metres from any public middle or secondary school, measured from closest lot line to closest lot line

4.0 Proposal

4.1 Background

Since the first retail cannabis sales 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. An additional four rezoning applications have been supported by Council and 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 11 (eleven) 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 for one of the commercial units at 1604-1620 Powick Road.

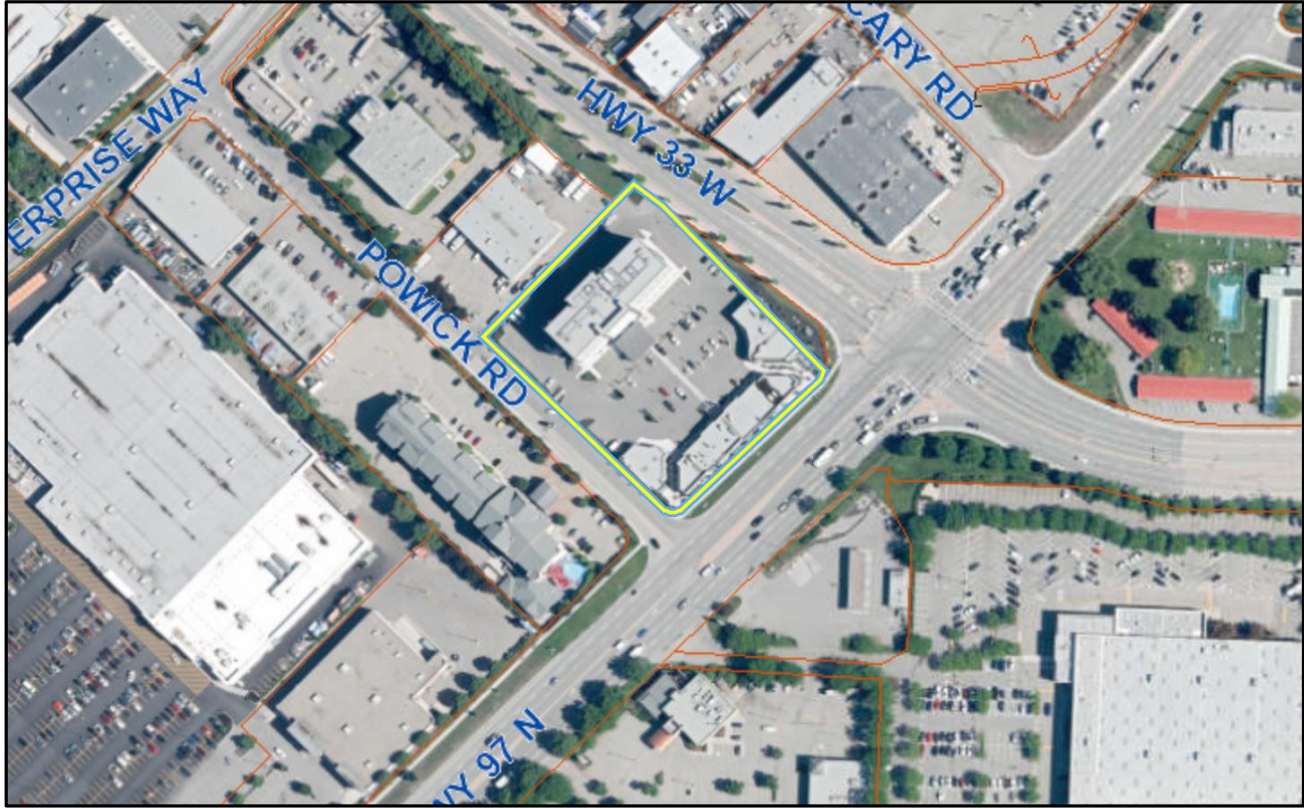
4.3 Site Context

The subject property is located at the corner of Highway 97 N and Highway 33 W. It has been constructed within the last five years, and contains a hotel, several restaurants and other commercial businesses. It's located within the Midtown Urban Centre and has a Walk Score of 73, indicating that it's very walkable.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C10 – Service Commercial	Warehouse Sales
East	C4 – Urban Centre Commercial	Gas Bar
South	C4 – Urban Centre Commercial	Hotels
West	C10 – Service Commercial	Retail Stores, Service Commercial

Subject Property Map: 1604-1620 Powick Road



5.0 Technical Comments

5.1 Development Engineering Department

This application does not compromise any municipal infrastructure.

6.0 Application Chronology

Date of Application Accepted: September 9, 2021
 Date Public Consultation Completed: October 13, 2021

7.0 Alternate Recommendation

THAT Zoning Bylaw Text Amendment Application No. TA21-0016 to amend City of Kelowna Zoning Bylaw No.8000 as outlined in the Report from the Development Planning Department dated November 1, 2021 for Lot 1 District Lot 125 Osoyoos Division Yale District Plan 18724 Except Plans KAP78413 and KAP80632 located at 1604-1620 Powick Road, Kelowna, BC be considered by Council;

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

AND THAT final adoption of the Zoning Bylaw Text Amending Bylaw and Rezoning 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: Site Specific Amendment to City of Kelowna Zoning Bylaw No. 8000

Attachment A: Site Plan, Draft Renderings, and Applicant's Letter of Rationale