

# REPORT TO COUNCIL



**Date:** May 9, 2022

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** TA22-0001 Z22-0011      **Owner:** 0838239 B.C. Ltd., Inc.No. BC0838239

**Address:** 590 Hwy 33 W      **Applicant:** Argent Diversified Holdings Inc.

**Subject:** Rezoning and Site Specific Text Amendment Application

**Existing OCP Designation:** UC – Urban Centre

**Existing Zone:** C4rls – Urban Centre Commercial (Retail Liquor Sales)

**Proposed Zone:** C4rls/rcs – Urban Centre Commercial (Retail Liquor Sales/Retail Cannabis Sales)

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## 1.0 Recommendation

THAT Zoning Bylaw Text Amendment Application No. TA21-0001 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in the Report from the Development Planning Department dated May 9, 2022 for Lot B Sections 26 and 27 Township 26 Osoyoos Division Yale District Plan 30302 located at 590 Hwy 33 W, NOT be considered by Council.

AND FURTHER THAT Rezoning Application No. Z22-0011 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot B Sections 26 and 27 Township 26 Osoyoos Division Yale District Plan 30302, located at 590 Hwy 33 W, Kelowna, BC from the C4rls – Urban Centre Commercial (Retail Liquor Sales) zone to the C4rls/rcs – Urban Centre Commercial (Retail Liquor Sales/Retail Cannabis Sales) zone NOT be considered by Council.

## 2.0 Purpose

To review a Staff recommendation 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 to review a Staff recommendation to NOT support an application to rezone the subject property from the C4rls – Urban Centre Commercial (Retail Liquor Sales) zone to the C4rls/rcs – Urban Centre Commercial (Retail Liquor Sales/Retail Cannabis Sales) zone.

### **3.0 Development Planning**

Staff do not recommend support for the proposed site-specific text amendment and rezoning application to allow for a retail cannabis sales establishment on the subject property at 590 Hwy 33 W. 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 101 metres away, on a lot at 110-250 Hollywood Rd S. 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 a sufficient number of approved cannabis establishments across the City to serve overall need. Online sales are also available through the Government BC Cannabis Stores.

### **4.0 Proposal**

#### **4.1 Background**

A rezoning and text amendment application to allow for retail cannabis sales on this property was previously considered by Council in February, 2020, and was ultimately not supported. This application has been submitted by a different applicant.

Since the first retail cannabis sales applications were considered in the Spring of 2019, 23 properties have been fully rezoned with the "rcs" subzone to allow retail cannabis sales as a permitted use. One additional rezoning application has been supported by Council and is 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 18 of these establishments to allow for legal operation within the City of Kelowna, and the businesses are now open. 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 several approved properties not yet opening.

Of note, there are 27 liquor stores in Kelowna. This includes two government BC Liquor Stores and 25 private liquor stores. In addition, there are four grocery stores that sell wine.

#### **4.2 Project Description**

A retail cannabis sales establishment is proposed, and it would be in a mixed-use building, on the east side of the property. A Development Permit for the building was approved by Council in May 2021, and it is currently under construction. The proposed location would be in a ground-floor north-facing commercial unit, which would be located directly below 95 residential units.

#### **4.3 Site Context**

The Willow Park Mall was originally constructed in 1960. In 1995, approximately 40 residential infill town home units were constructed at the north end of the property adjacent to Aurora Cr. The site has undergone several tenant improvements to the existing commercial spaces located throughout the site, and a medium density mixed-use development is currently under construction on the property.

The subject property is in the Rutland Urban Centre and is comprised of a variety of commercial and service commercial uses along the Highway 33 W corridor. The Walk Score is 70, indicating that most errands can be accomplished on foot.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C <sub>4</sub> – Urban Centre Commercial RM <sub>5</sub> – Medium Density Multiple Housing	General commercial Multiple dwelling housing
East	C <sub>4</sub> /C <sub>4r</sub> – Urban Centre Commercial	General Commercial, Food primary, multiple dwelling housing
South	C <sub>4</sub> – Urban Centre Commercial RU <sub>1</sub> – Large Lot Housing	Food primary, general commercial Single dwelling housing
West	C <sub>4</sub> – Urban Centre Commercial RM <sub>5</sub> – Medium Density Multiple Housing	Gas bar, food primary Multiple dwelling housing

**Subject Property Map: 590 Hwy 33 W**



**5.0 Technical Comments**

**5.1 Development Engineering Department**

All comments and requirements are addressed in the Development Engineering memo for Development Permit under file DP20-0055.

## 6.0 Application Chronology

Date of Application Accepted: February 7, 2022

Date Neighbourhood Notification Completed: March 28, 2022

## 7.0 Alternate Recommendation

THAT Zoning Bylaw Text Amendment Application No. TA22-0001 to amend City of Kelowna Zoning Bylaw No.8000 as outlined in the Report from the Development Planning Department dated May 9, 2022 for Lot B Sections 26 and 27 Township 26 Osoyoos Division Yale District Plan 30302 located at 590 Hwy 33 W, Kelowna, BC be considered by Council;

AND THAT Rezoning Application No. Z22-0011 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot B Sections 26 and 27 Township 26 Osoyoos Division Yale District Plan 30302, located at 590 Hwy 33 W, Kelowna, BC from the C4rls – Urban Centre Commercial (Retail Liquor Sales) zone to the C4rls/rcs – Urban Centre Commercial (Retail Liquor Sales/Retail Cannabis Sales) zone, be considered by Council;

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

AND 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.

AND FURTHER 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.

**Report prepared by:** Kimberly Brunet, Planner II

**Reviewed by:** Lydia Korolchuk, 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: Applicant's Rationale Letter