

ADMINISTRATIVE REPORT



TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: September 22, 2022

RE: Liquor and Cannabis Regulation Branch Referral – Electoral Area “D” Cannabis Retail Store (D2022.013-LCRB)

Administrative Recommendation:

THAT, in accordance with Section 33(1) of the *Cannabis Control and Licencing Act*, the Regional District support the application from Esha Randhawa for a proposed relocation of a non-medical retail cannabis location to 5-5350 Highway 97 (Lot A, District Lot 2883S, SDYD, Plan KAP60058);

AND, THAT the following comments be provided to the Liquor and Cannabis Regulation Branch:

- a) the subject property is located in the General Commercial (C1) Zone and the use is permitted in this zone;
 - b) no significant negative impact on the community is anticipated if this application is approved;
 - c) the Regional District provided the following opportunities for residents to submit their views, in writing, on this Cannabis Retail Store licence relocation application:
 - i) publication in the Penticton Western News on August 10, 2022, and August 17, 2022;
 - ii) publication in Castanet.net from August 18 to 24, 2022;
 - iii) posting on the Regional District’s web site and social media accounts from July 29, 2022;
 - iv) mailed notification to owners and tenants within 100 metres of the subject parcel on July 28, 2022;
 - v) placement of a notification sign on the subject property from July 27, 2022, until the Board considered the application on September 22, 2022; and
 - vi) consideration by the Electoral Area “D” Advisory Planning Commission (APC) at its meeting of August 9, 2022.
 - d) The views of residents were considered by the RDOS Board at its meeting of September 22, 2022.
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Proposed Development:

The applicant is seeking approval from the Liquor and Cannabis Regulation Branch (LCRB) to relocate a cannabis retail store from the property located at 5272 9th Ave to an existing commercial building on the subject property at 5350 Highway 97.

Statutory Requirements:

Under Section 33(1) of the *Cannabis Control and Licencing Act*, the LCRB is prevented from issuing a license for a Cannabis Retail Store (CRS) unless the local government “for the area in which the establishment is proposed to be located or is located gives the [LCRB] a recommendation that the licence be issued or amended.”

In providing a recommendation on a CRS to the LCRB, a local government must “gather the views of residents ... by one or more of the following methods”:

- a) *by receiving written comments in response to a public notice of the application;*
- b) *by conducting a public hearing in respect of the application;*
- c) *by holding a referendum;*
- d) *by using another method the local government ... considers appropriate.*

Site Context:

The subject property is approximately 1.2 ha in area and is situated on the north side of Highway 97/ 9th Ave. It is understood that the parcel is comprised of a commercial shopping centre with multiple rental units. The surrounding pattern of development is generally characterised by commercial and residential development.

Background:

The current boundaries of the subject property were created by a Plan of Subdivision deposited with the Land Titles Office in Kamloops on September 18, 1997 while available Regional District records indicate that building permits were issued for a shopping centre (1997), and various tenant improvements (1999, 2000, 2003, 2016, 2020) and signage. The Regional District currently has an active building permit application for a secure storage room associated with the subject cannabis retail store.

The subject property is within a Primary Growth Area as designated under the South Okanagan Regional Growth Strategy (RGS) Bylaw No. 2770, 2017.

Under the Electoral Area “D” Official Community Plan (OCP) Bylaw No. 2603, 2013, the subject property is currently designated Town Centre (TC) and is the subject of an Okanagan Falls Town Centre (OFTC) Development Permit area.

Under the Okanagan Valley Zoning Bylaw No. 2800, 2022, the property is currently split-zoned General Commercial (C1) and Okanagan Falls Town Centre (OFTC). The existing commercial building which would contain the relocated cannabis retail store is within the C1 zoned portion of the property which permits “retail” as a permitted use.

The 2020 Okanagan Falls Economic Development and Recovery Plan has since been completed, building upon previous plans, and seeks to create an attractive community for young families, support local businesses, build Okanagan Falls as a tourism destination and revitalize downtown, among other goals.

This Plan identified the vibrancy of downtown Okanagan Falls as a concern and identified that community perceptions of quality of life have declined, including the community's perception of Okanagan Falls as a place to retire and to raise a family.

BC Assessment has classified the property as "Business and Other" (Class 06).

Public Process:

Public consultation, in accordance with Schedule 9 of the Regional District's *Development Procedures Bylaw No. 2500, 2011*, included a 28-day period for written comments to be received. Based upon feedback received as part of this process, the Board may decide that additional consultation is required and direct that a public hearing be scheduled.

At its meeting of August 9, 2022, the Electoral Area "D" Advisory Planning Commission (APC) resolved to recommend to the RDOS Board that the subject development application be approved.

All comments received to date in relation to this application are included as a separate item on the Board agenda.

Analysis:

In considering this proposal, Administration notes that a cannabis retail store is permitted in the General Commercial (C1) zone as cannabis retail sales are considered to be a "retail" use. In this regard, the subject property is consistent with previous Board direction to permit cannabis retail sales in any zone in which retail sales are permitted.

Given that the cannabis retail store would be contained within an existing commercial building, there would not be any further zoning considerations regarding this proposal.

As it relates to the Town Centre (TC) OCP designation which applies to the property, it is noted that the proposed use is in alignment with the objectives of the TC designation within the OCP Bylaw; particularly, in that it supports the creation of a resilient and diverse commercial base that provides a diversity of shopping, dining, entertainment and employment opportunities for local residents.

Additionally, the property is within a Primary Growth Area (i.e., Okanagan Falls), and an objective of the RGS is to focus development to serviced areas in designated Primary Growth Areas and Rural Growth Areas. In this regard, the proposed use is seen to be appropriately sited within the purview of the objectives of the RGS.

In summary, Administration supports the proposed relocation of the cannabis retail store as it is generally consistent with the Zoning Bylaw, OCP Bylaw, and RGS.

Alternatives:

1. THAT the RDOS Board of Directors recommends that the subject development application be deferred to allow for additional consultation in the form of a public hearing;
AND THAT the holding of the public hearing be delegated to Director Obirek, or their delegate;
AND THAT staff schedule the date, time, and place of the public hearing in consultation with Director Obirek;

AND THAT staff give notice of the public hearing in accordance with the requirements of the Regional District's *Development Procedures Bylaw No. 2500, 2011*.

2. THAT the RDOS Board, in accordance with Section 33(1) of the *Cannabis Control and Licencing Act*, recommends denial of an application from Esha Randhawa for a proposed relocation of a non-medical retail cannabis location to 5-5350 Highway 97 (Lot A, District Lot 2883S, SDYD, Plan KAP60058);

AND THAT the following comments be provided to the Liquor and Cannabis Regulation Branch:

1. *TBD*

Respectfully submitted:



Shannon Duong, Planner II

Endorsed By:



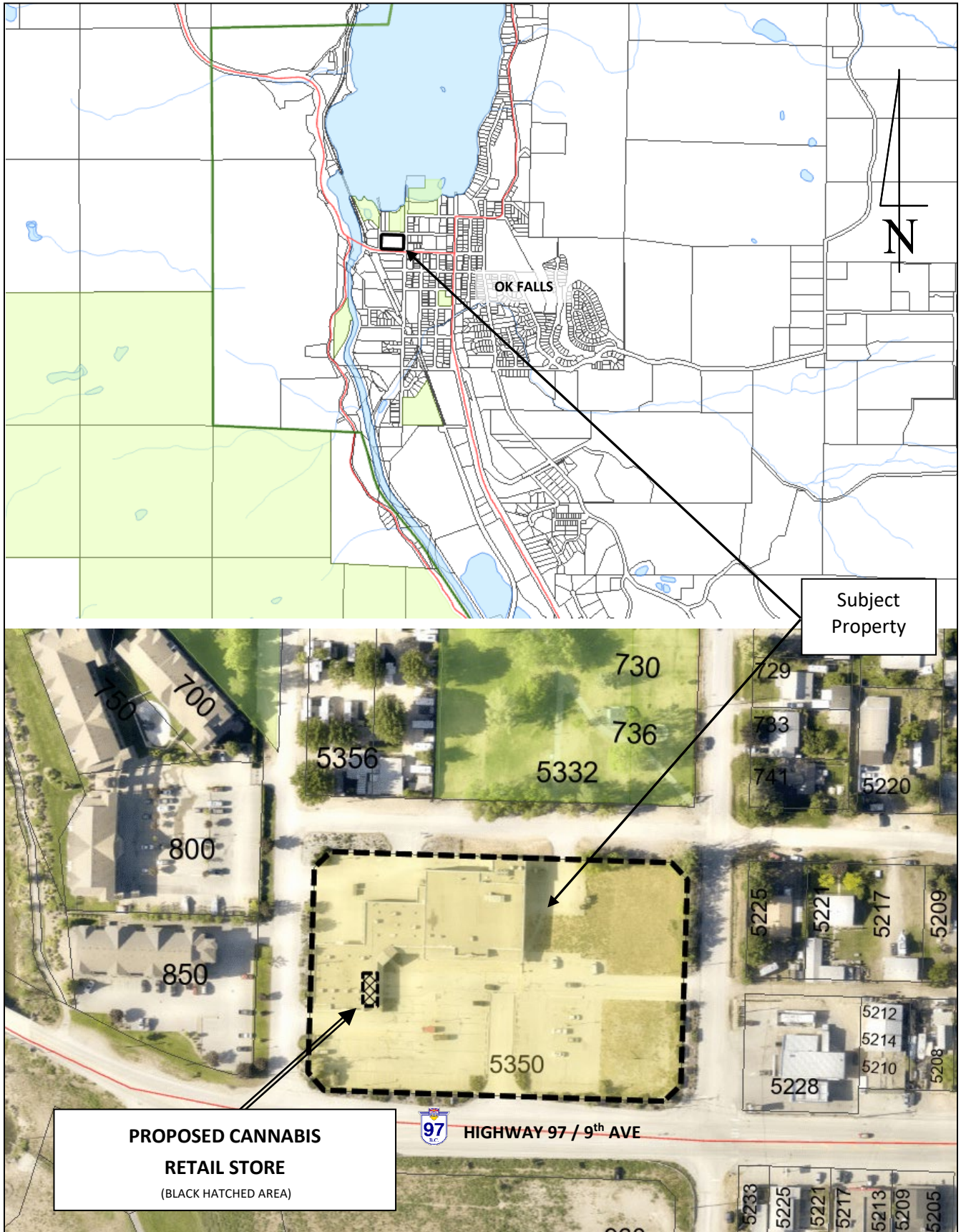
C. Garrish, Planning Manager

Attachments: No. 1 – Context Maps

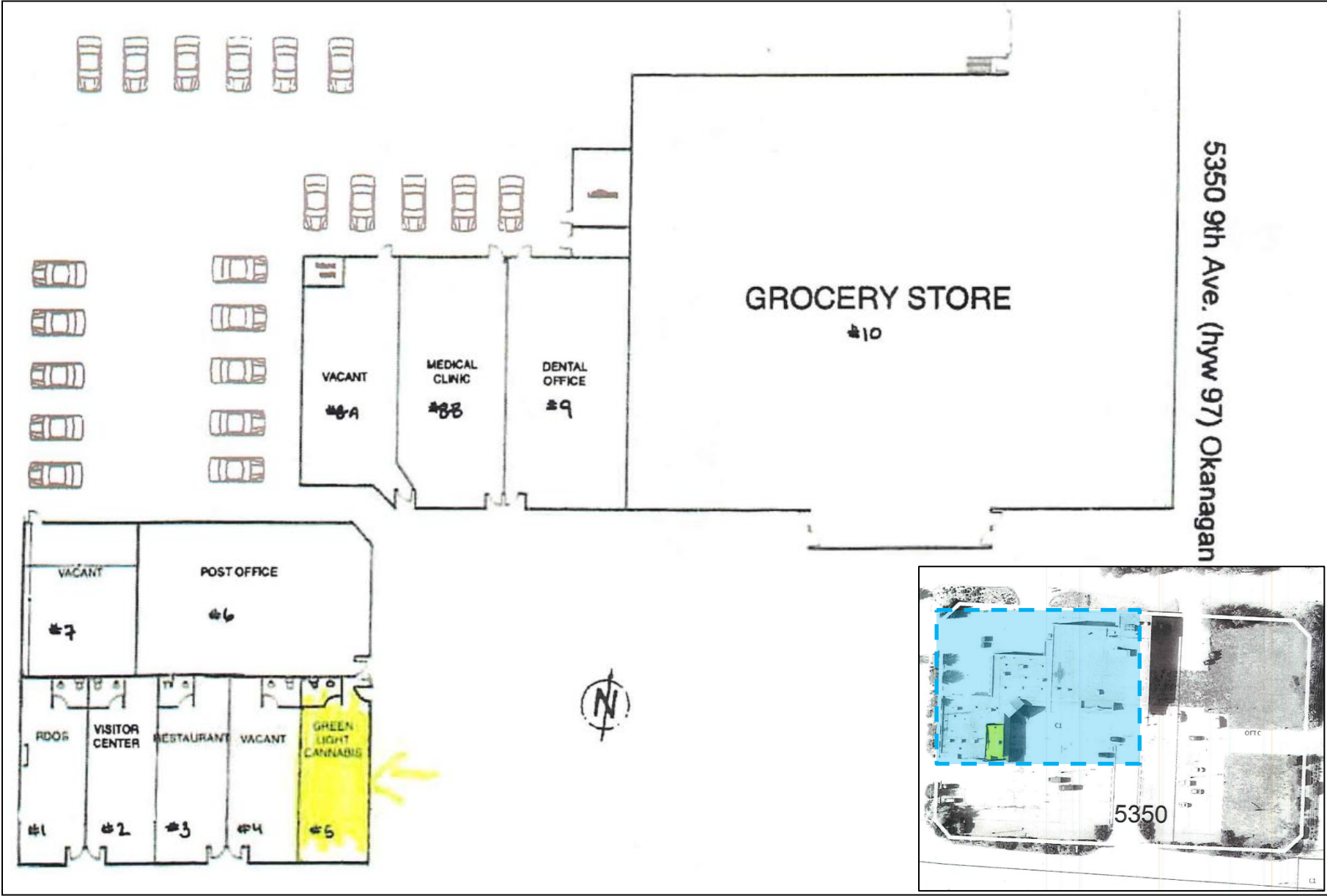
No. 2 – Applicant's Site Plan

No. 3 – Site Photo (2018)

Attachment No. 1 – Context Maps



Attachment No. 2 – Applicant’s Site Plan



Attachment No. 3 – Site Photo (2018)

Proposed Cannabis
Retail Store

