

REPORT TO COUNCIL



Date: February 2, 2016

RIM No. 0930-50

To: City Manager

From: Community Planning Department (PMc)

Application: LL15-0023

Owner: 1568447 Alberta Ltd.

Address: 275 Leon Ave.

Applicant: 0749038 BC Ltd. (dba Level Night Club)

Subject: Liquor License

Existing OCP Designation: MXR - Mixed Use (residential/commercial)

Existing Zone: C7lp - Central Business Commercial (Liquor Primary)

1.0 Recommendation

THAT Council directs Staff to forward the following Recommendation to the Provincial Liquor Control and Licensing Branch (LCLB):

In accordance with Section 53 of the Liquor Control and Licensing Regulation and Council Policy 359, BE IT RESOLVED THAT:

1. Council recommends non-support of an application from The Level Night Club for a liquor primary license amendment for Lot 1, DL139, O.D.Y.D., Plan 32713, located at 275 Leon Avenue, Kelowna, BC for a change in capacity from the current occupant load of 464 persons to the proposed 500 persons, and changes to the licensed hours of sales from the current 7:00pm to 2:00am seven days a week to the proposed 11:00am to 2:00 am seven days a week for the following reasons:

2. Council's comments on LCLB's prescribed considerations are as follows:

Criteria for license amendment:

- a. The potential for noise if the application is approved:
There is potential for an increase in noise due to the additional hours of service. .
- b. The impact on the community if the application is approved:
There is the potential for negative impacts to public safety and policing costs.

3. Council's comments on the views of residents are as contained within the minutes of the meeting at which the application was considered by Council. The methods used to gather views of residents were as per Council Policy #359 "Liquor Licensing Policy and Procedures."

2.0 Purpose

To consider a staff recommendation NOT to support a structural change to an existing Liquor Primary license to increase establishment capacity from 464 persons to 500 persons (including patio area) and for a permanent change to an existing Liquor Primary license to change hours of operation to open at 11 AM and close at 2 AM seven days a week.

3.0 Community Planning

Staff are supportive of the earlier opening time to the facility, as this will provide an opportunity to animate a space that is normally vacant during the day. Having activity in the space will improve the animation of the street during the day time.

However, Staff and the RCMP have concerns with the increase in occupant loads that the applicant has proposed. RCMP resources are already at capacity dealing with issues related to the "bar flush" that occurs in this area of the City between 1:30 AM and 2:30 AM. Staff's concern relates to adding more patrons to the numbers of people that are already putting a strain on the police and taxi industry in this area at this time. Staff are also concerned about the potential impacts that multiple LP establishments may have on this area in the future as it begins to transition a more mixed use neighbourhood as envisioned by the Official Community Plan. It is for this reason that staff are recommending for non-support.

An alternative recommendation has been provided should Council support all aspects of this application (patron capacity and hours of operation).

4.0 Proposal

4.1 Background

The subject property has been operated as a nightclub since the 1980's. There had been a number of applications processed since that time to amend their liquor licenses over the years in order to take advantage of changes that had occurred to the Provincial liquor license regulations of the time. Project Description

4.2 Site Context

The applicant is seeking Council support for both a Permanent Change to the hours of operation of the existing Liquor Primary Establishment, as well as a Structural Change to the capacity of an existing Liquor Primary Establishment and to add an outdoor patio area to the liquor license.

The Level night club (formerly known as Splashes) has been operating as a cabaret at this location since the 1980's. This application seeks to change hours of operation for an existing Liquor Primary Establishment from the existing license hours of 7:00 PM to 2:00 AM seven days a week, to the proposed hours of 11:00 AM to 2:00 AM seven days a week. This application also seeks to increase the licensed capacity of the establishment from the current occupant load of 232 persons per floor (464 persons entire building) to the proposed capacity of 250 per floor for a total capacity of 500. This revised capacity also includes a small patio area adjacent to the lane with a capacity of 55 persons, which is included in the certified occupant load. The certified occupant load has been limited by the washroom capacity of the facility. The increase in capacity has been authorized by a reconfiguration of the washroom fixture counts, and not by an increase in floor area. No change to the business focus, clientele or management are anticipated through these changes. Please note that the LCLB application forms request an increase in occupant load to a total of 522 persons,

including staff and patrons. However, the certified occupant load provided by the Building Department limits the capacity to a maximum of 500 persons, including patrons and staff.

Proposed Permanent Change:

Existing Hours of Sale:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	7:00 PM	7:00PM	7:00PM	7:00PM	7:00PM	7:00PM	7:00PM
Close	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM

Proposed Hours of Sale:

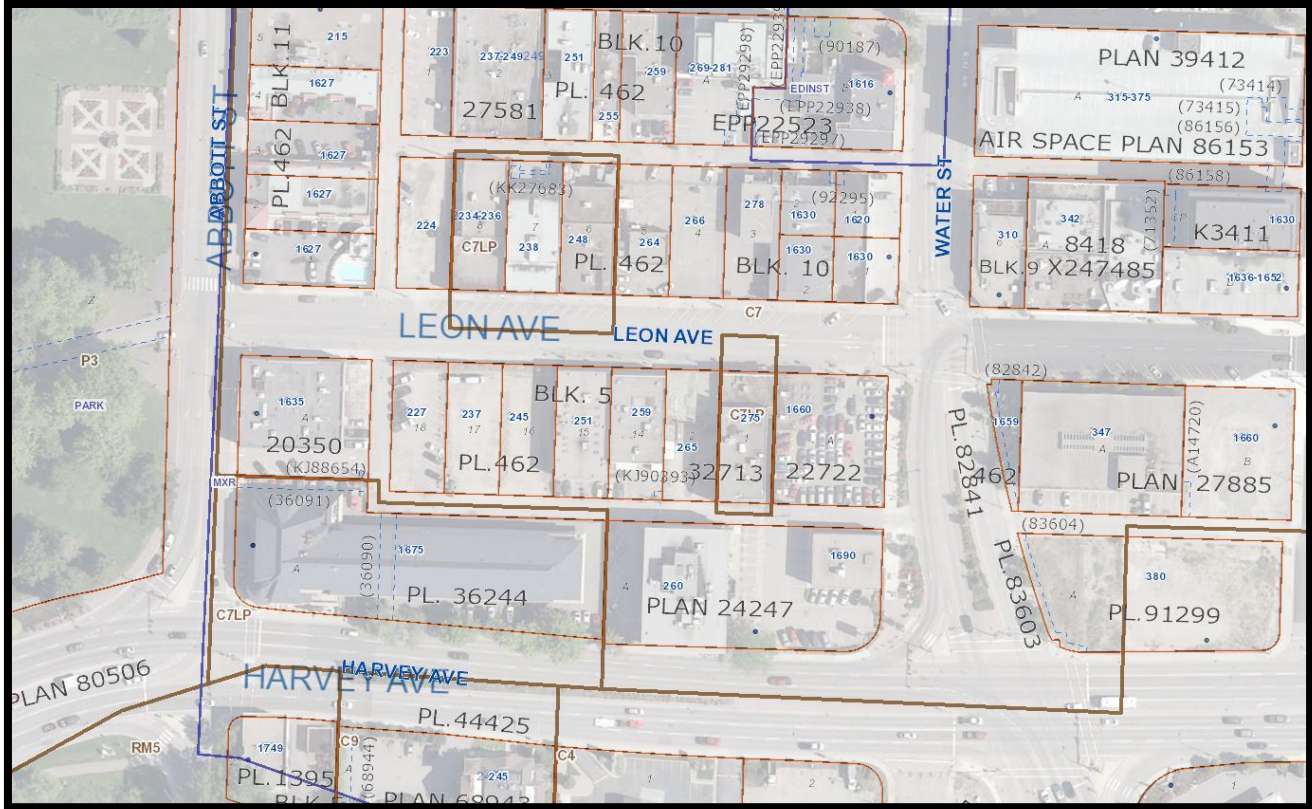
	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM
Close	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM

Proposed Structural Change Summary:

Person Capacity (including staff):

Licensed Area	Capacity
Existing Licensed Capacity lower floor	232
Existing Licensed Capacity upper floor	232
Total Existing Licensed Capacity	464
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Proposed Licensed Capacity lower floor	250
Proposed Licensed Capacity upper floor	250
Licensed Patio area included with lower floor area	(55)
Proposed Total Licensed Capacity (includes patio)	500

Subject Property Map: 275 Leon Ave.



4.3 Zoning Analysis Table

The subject property is located within the City Centre Urban Centre, within the “Entertainment District”. The subject property is located on the south side of Leon Avenue, across and to the east from the Habitat location. The Gospel Mission is located to the west of the subject property.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C7 - central business Commercial	Automotive sales and repair
East	C7 - central business Commercial	Automotive sales
South	C7 - central business Commercial	Commercial uses
West	C7 - central business Commercial	Gospel Mission and associated services

5.0 Current Development Policies

Council Policy #359 - Liquor Licensing Policy and Procedures

The following sections of Policy #359 are applicable to this application:

- Large establishments (with person capacity greater than 249 persons):
 - Should only be located within an Urban Centre. (Complies)
 - Should be located a minimum of 250m from another Large establishment. (does not comply)
 - Should be located a minimum of 100m from a Medium establishment.

(N/A)

- Should not be located beside a Small establishment.

(N/A)

As shown above, *the proximity of two of the surrounding establishments would not meet the siting/density guidelines provided in the Council Policy.* The subject property is located approximately 50m from the Habitat, a facility with an LP license for 332 persons capacity.

6.0 Technical Comments

6.1 Building & Permitting Department

Drawings to be revised for clarity, plan checker will revise and resubmit approved drawing for greater clarity.

(Drawings have been updated to clarify exiting through patio area)

6.2 Bylaw Services

Bylaws Services is concerned about the proposed capacity increase (and outdoor patio) which has the potential to further exacerbate noise issues with the neighbouring hotel. The change in hours to open earlier could be a positive change to activating some business activity in the area.

6.3 Fire Department

The creation of the outdoor patio creates an area that is blocking exiting from the second floor stairwell. It also now creates a dead end corridor at the north end of the patio. The plans will have to be revised as that these life safety issues are addressed.

(plans have been updated to delineate required clear exit path)

6.4 R.C.M.P.

The RCMP does not support the capacity increase and has concerns about the proposed patio. The increase would be inconsistent with established policies for liquor primary establishments.

7.0 Application Chronology

Date of Application Received:	September 21, 2015
Revised drawings received:	October 15, 2015
Updated circulation comments:	December 16, 2016

8.0 Alternate Recommendation

Should Council only support the applicant's request to change hours of operation to increase capacity from 464 persons to 500 persons and to open earlier at 11 AM and to close at 2:00 AM, seven days a week, the following alternate resolution is provided for consideration;

THAT Council directs Staff to forward the following Recommendation to the Provincial Liquor Control and Licensing Branch (LCLB):

In accordance with Section 53 of the Liquor Control and Licensing Regulation and Council Policy 359, BE IT RESOLVED THAT:

1. Council recommends support of an application from The Level Night Club for a liquor primary license amendment for Lot 1, DL139, O.D.Y.D., Plan 32713, located at 275 Leon Avenue, Kelowna, BC for a change in capacity from the current occupant load of 464 persons to the proposed 500 persons, and changes to the licensed hours of sales from the current 7:00pm to 2:00am seven days a week to the proposed 11:00am to 2:00 am seven days a week for the following reasons:

2. Council's comments on LCLB's prescribed considerations are as follows:

Criteria for license amendment:

- a. The potential for noise if the application is approved:
There is the potential for negative impacts to public safety and policing costs.

- b. The impact on the community if the application is approved:
There is the potential for negative community impacts and policing costs.

3. Council's comments on the views of residents are as contained within the minutes of the meeting at which the application was considered by Council. The methods used to gather views of residents were as per Council Policy #359 "Liquor Licensing Policy and Procedures."

Report prepared by:

Paul McVey, Urban Planner

Reviewed by:

Terry Barton, Urban Planning Manager

Reviewed by:

Todd Cashin, Suburban and Rural Planning Manager

Approved for Inclusion:

Ryan Smith, Community Planning Department Manager

Attachments:

Subject Property Map

Site Plan

Letter of Intent

Certified floor plans

LCLB Structural Change application

LCLB Permanent Change application