

REPORT TO COUNCIL



Date: May 31, 2016

RIM No. 0930-50

To: City Manager

From: Community Planning Department (TB)

Application: LL15-0031 **Owner:** Klar Enterprises Inc. No. BC0926554

Address: 165 Hwy 33 E **Applicant:** HQ49 - Chun Li

Subject: Liquor License Application

Existing OCP Designation: MXR - Mixed Use Residential Commercial

Existing Zone: C4 - Urban Centre Commercial

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 10 of the Liquor Control and Licensing Regulation and Council Policy 359, BE IT RESOLVED THAT:

1. Council recommends support for the application from Headquarters49 Entertainment Ltd (HQ49) at 165 Hwy 33 E, legally described as Lot B, Section 23, Township 26, ODYD, Plan 38074, for a liquor primary license with hours of operation from 8:30 pm to 12:00 midnight, seven days a week subject to the following conditions:
 - a. The licenced area supported be restricted to the "general seating area" as outlined on the floor plan submitted and two karaoke rooms adjacent to the proposed bar area numbered 101 and 102 with permanent signs. Licensing of the two karaoke rooms is contingent on the licensee keeping the windows unobstructed to permit line of sight monitoring when the room is occupied and this monitoring is to be supported with an operational CCTV video monitoring system.
 - b. The maximum occupant load is 40 during licensing hours.
 - c. No minors will be permitted within the premises when operating under a Liquor Primary licence. No liquor will be permitted outside of the permitted licenced area within the floor plan. When converting the venue from an all-ages establishment to Liquor Primary, policy requires the premises be vacant for a period of not less than 30

minutes with the exception of staff. When operated as an all-ages establishment all liquor must be removed out of view and secured.

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

(a) The location of the establishment;

The location of the establishment is suitable for liquor service.

(b) The potential for noise if the application is approved;

The potential for noise may increase but it has not been a problem in this location in the past.

(c) The impact on the community if the application is approved:

The impact on the community will be minimal.

3. The 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 liquor license application for Liquor Primary Minor in a C4 zone with an occupant load of 40 persons.

3.0 Community Planning

The applicant is requesting a liquor primary license on the subject property known as HQ49. It is consistent with the guidelines of Council Policy #359 "Liquor Licensing Policy and Procedures" and so Community Planning recommends support to Council for this application. The relatively small capacity establishment is not located near to any other liquor primary establishments, and the business model offers karaoke and other games during licensing hours and therefore has a diversified approach with less focus on alcohol.

4.0 Proposal

4.1 Background

The subject property was first developed as an office building in 1978. In 2011, a building permit was taken out to change the use from an office building to an amusement arcade. In August 2014, the current applicant HQ49 received a building permit to make alterations for the current use.

HQ49 is a family-oriented entertainment establishment that provides electronic darts, pool, board games, private-room karaoke, and non-alcoholic beverages such as bubble tea and smoothies. The applicant was given conditional occupancy in December 2014 allowing them to have a maximum occupant load of 50 people. Final occupancy was received on February 24, 2016 after previous infractions were corrected to the satisfaction of the Building and Permitting Manager.

Due to washrooms and existing water supply the maximum occupant load of 50 people for the entire space will remain in place until the applicant wishes to pursue water service upgrades to provide handicapped washrooms as per BC Building Code requirements.

HQ49 applied for their business license on November 21, 2014 with the business model of being a place for low-cost family entertainment with no food service and no alcohol service. Their business license was not released until they were able to resolve all issues with their building permit and receive their final occupancy (February 2016). They have been operating with their current model since December 2014.

4.2 Project Description

HQ49 has applied for a liquor primary liquor license that would allow them to serve alcohol 7 nights a week. They currently offer only non-alcoholic beverages and no food service. The business will continue to operate as it currently does prior to licensed hours with a focus on family entertainment. As per LCLB policy, all patrons must leave the establishment ½ hours prior to licensed hours. The establishment will then open during licensed hours with no minors permitted. The applicant's rationale is to use the profits from the sale of liquor to offset and lower the costs of entertainment and non-alcohol items during the non-licensed hours of operation.

The initial application for a Liquor-Primary license that was made to the City of Kelowna on December 3, 2015 was not supported by the Community Planning Department. After consultation with Kelowna RCMP and Community Planning the applicant made revisions to the application so that it could be supported. These revisions included reducing the hours, reducing the occupancy, and reducing the floor area that is licensed.

The current revised application indicates a request for operating hours from 8:30pm until 12:00 am midnight, 7 days per week.

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	8:30 PM	8:30 PM	8:30 PM	8:30 PM	8:30 PM	8:30 PM	8:30 PM
Close	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM

The requested hours of sale are within the scope of what the City has supported in the past for areas that are not within the downtown core.

The floor plan of the business as it is operated currently includes number of private rooms that are not easily visible or accessible from the main lounge area. This creates a level of privacy which may not support a safe environment for patrons and staff should alcohol be allowed. It would also provide an impediment to the safety and efficiency of police and other authorities conducting compliance checks with regards to the liquor license. For these reasons, the applicant has proposed to license only the front portion of the floor plan which includes the lounge seating area and only two private rooms (Room 101 and 102). These two rooms have windows that are visible from the bar area as well as CCTV and therefore there is limited safety concern.

Due to the smaller scope of the licensed area, the occupant load for the area that is licensed has been reduced from 50 (total floor plan) to 40 during hours of licensing. During hours when the property is not licensed, the total occupancy will remain at 50.

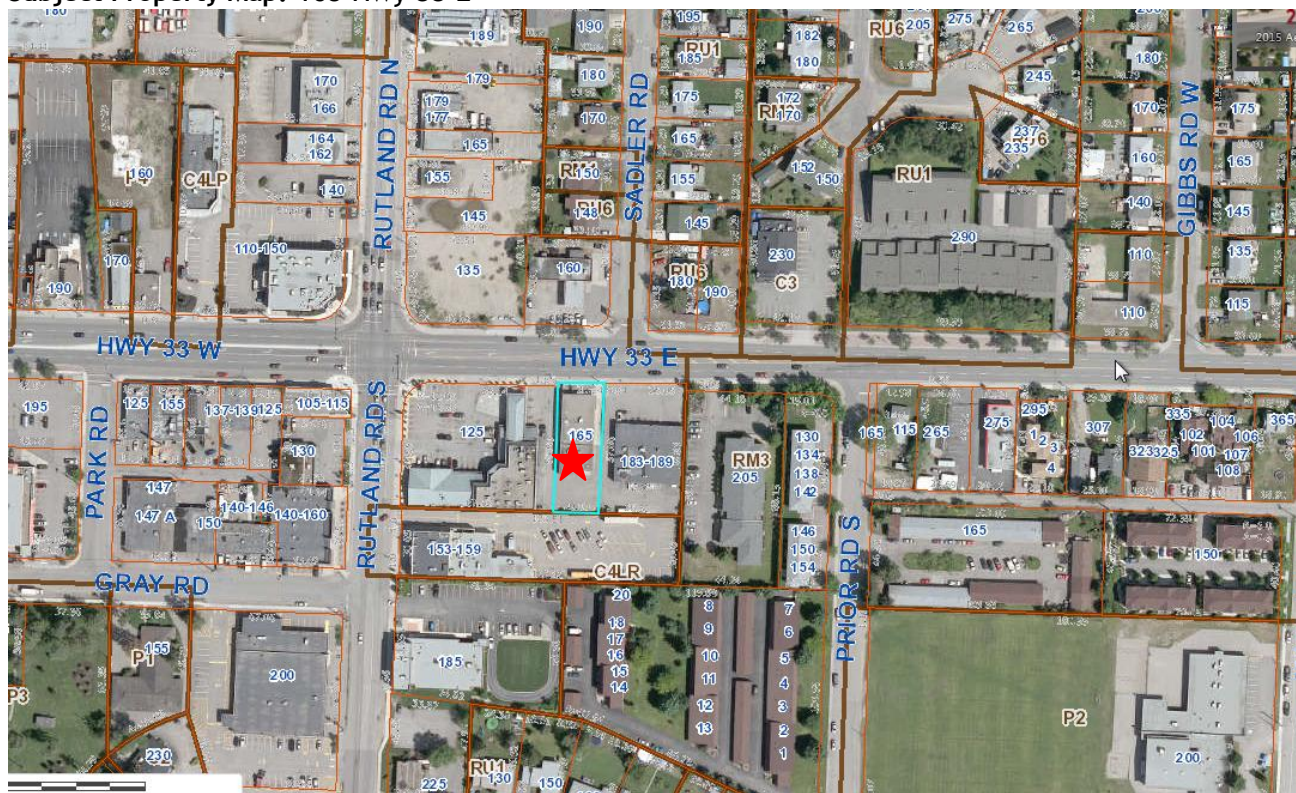
4.3 Site Context

The subject property is located on the south side of Hwy 33 E between Rutland Rd S and Hollywood Rd S. It is in an existing commercial area between two commercial shopping plazas.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C4 - Urban Centre Commercial	Commercial
East	C4 - Urban Centre Commercial	Commercial
South	C4LR - Urban Centre Commercial Liquor Retail	Commercial
West	C4 - Urban Centre Commercial	Commercial

Subject Property Map: 165 Hwy 33 E



5.0 Current Development Policies

5.1 Council Policy #359 - Liquor Licensing Policy & Procedures

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

- Small establishments (with person capacity less than 100 persons):
 - Should not be located beside another liquor primary establishment.
- Where appropriate, support alternative entertainment options, and/or establishments which are less focused on alcohol consumption (including event-driven establishments, and Food Primary establishments with the Patron Participation Entertainment Endorsement) to add a mix of entertainment options

in Urban Centres. Consider limiting potential community impacts via license terms and conditions (hours, capacity, etc.)

The application meets the requirements for siting of small establishments as it is not beside another liquor primary establishment. The policy also supports alternative entertainment options which are less focused on alcohol consumption. The applicant proposes to have karaoke, darts, and other games available during licensed hours. The potential community impacts are reduced by limiting the hours, capacity, and location of licensed area.

6.0 Technical Comments

6.1 Building & Permitting Department

- This tenant space has a maximum occupancy of 50 persons.

6.2 RCMP

RCMP will support this application with the following provisions:

- i. Liquor Service to end at midnight and no later;
- ii. The licensed area is restricted to the “general seating area” and the two karaoke rooms adjacent to the proposed bar area. This is contingent on the licensee keeping the windows of the two rooms unobstructed and an operational CCTV video monitoring system is required;
- iii. The maximum occupancy will need to be recalculated based on the amended licensed floor area; and
- iv. No minors to be permitted on the premises when operating under a Liquor Primary License. No liquor to be permitted outside of the licensed area within the floor plan. When converting the venue from an all-ages establishment to Liquor Primary, policy requires the premises be vacant for a period of not less than 30 minutes. All liquor must be removed from view and secured when operated as an all-ages establishment.

6.3 Bylaw Services

- No response.

6.4 Fire Department

- The occupant load shall be kept under 150 or a fire alarm system will have to be installed.
- Appropriate exit door to be maintained. Upon our last inspection, an exit door was required from the parkade area to the exterior. Ensure this is complete.

7.0 Application Chronology

Date Application Received:	December 3, 2015
Date of Occupancy Permit:	February 2, 2016
Date of Consultation with Uptown Rutland Business Association:	April 20, 2016
Date Revised Application Received:	April 26, 2015

Report prepared by:

Trisa Brandt, Planner I

Reviewed by:

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Terry Barton, Urban Planning Manager

Approved for Inclusion:

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Ryan Smith, Community Planning Department Manager

Attachments:

Letter of Intent
Context Plans
Certified Floor Plans
Liquor Primary License Application
Letter Submitted to Uptown Rutland Business Association