

REPORT TO COUNCIL



Date: November 3, 2015

RIM No. 0930-50

To: City Manager

From: Community Planning Department (PMc)

Application: LL13-0005 **Owner:** J.Q. Developments Inc.

Address: 248 Leon Avenue **Applicant:** QB Habitat resources Inc.

Subject: Liquor License - Permanent Change and Structural Change

Existing OCP Designation: Mixed Use (Residential/Commercial) (MXR)

Existing Zone: C7lp - Central Business District (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 Habitat for a liquor primary license amendment for Lot 6, Block 10, DL139, O.D.Y.D., Plan 462, located at 248 Leon Avenue, Kelowna, BC for a change in capacity from the current occupant load of 225 persons to the proposed 332 persons, and changes to the licensed hours of sales from the current 11:00am to 1:00am six days a week to the proposed 10:00am 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 hour of service. Any increase in noise would be compatible with the current use in the area but not compatible with the anticipated future mixed-use in the area.
- b. The impact on the community if the application is approved:
There is the potential for significant 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."

2.0 Purpose

To consider a Staff recommendation NOT to support an application for a structural change to an existing Liquor Primary license and for a permanent change to an existing Liquor Primary license.

3.0 Community Planning

The Habitat has been operating as an events-driven establishment, catering to live events focused on entertainment, arts and culture. This application seeks to change hours of operation for an existing Liquor Primary Establishment from the existing license hours of 11:00 AM to 1:00 AM Monday to Saturday, to the proposed hours of 10:00 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 225 persons to the proposed capacity of 332. The increase in capacity has been created by a proposed building renovation to utilize an existing second floor area as a licensed area, as well as the addition of an adjacent small patio area. The applicant has engaged an architect to address building code concerns associated with these changes to ensure compliance with BC Building Code requirements. No change to the business focus, clientele or management are expected through these changes.

Staff and the RCMP have concerns with the later closing time 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 to address the request for the earlier opening time of 10:00am while retaining the current closing time of 1:00am and to add Sunday openings to license the facility seven days a week, and to increase cap from the current occupant load of 225 persons to the proposed capacity of 332 persons. This alternate recommendation has been provided for consideration should Council support only the applicant's proposal to open earlier at 10:00 AM seven days a week and support the increase in capacity to 332 persons.

4.0 Proposal

4.1 Background

The subject property has been operated as an events oriented facility since 2005. The facility was originally operated as a banquet hall, and then in 2007 was licensed as a food primary establishment with a patron participation entertainment endorsement. In 2011, the site was rezoned to add a Liquor Primary designation to the existing C7 zone in order to permit the liquor license to be changed to a liquor primary establishment.

At this time, the applicant is proposing to update the building frontage, as was recently authorized under issued Development Permit DP14-0174, and to renovate the interior to repurpose some existing interior space to add capacity to the licensed area.

A liquor license application has been forwarded by the owner to the Provincial Liquor Control and Licensing Branch (LCLB) for their approval. Procedurally, any liquor primary applications requesting a permanent change to a liquor primary license require Local Government comment.

4.2 Project Description

The applicant is seek 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 in order to increase capacity of the facility by licensing an existing upper level floor area within the building.

Proposed Permanent Change:

Existing 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	-
Close	1:00 AM	1:00 AM	1:00 AM	1:00 AM	1:00 AM	1:00 AM	-

Proposed Hours of Sale:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	10:00 AM	10:00 AM	10:00 AM	10:00 AM	10:00 AM	10:00 AM	10:00 AM
Close	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM

Proposed Hours of Sale: (alternative recommendation)

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	10:00 AM	10:00 AM	10:00 AM	10:00 AM	10:00 AM	10:00 AM	10:00 AM
Close	1:00 AM	1:00 AM	1:00 AM	1:00 AM	1:00 AM	1:00 AM	1:00 AM

Proposed Structural Change Summary:

Person Capacity:

Licensed Area	Capacity
Total Existing Licensed Capacity	225
Proposed Total Licensed Capacity (includes patio)	332

4.3 Site Context

The subject property is located within the City Centre Urban Centre, within the "Entertainment District". The subject property is located adjacent to an existing Liquor Primary establishment (Sapphire Night Club) and across the street from the Gospel Mission. The Level Night Club is also across the street to the east of the subject property.

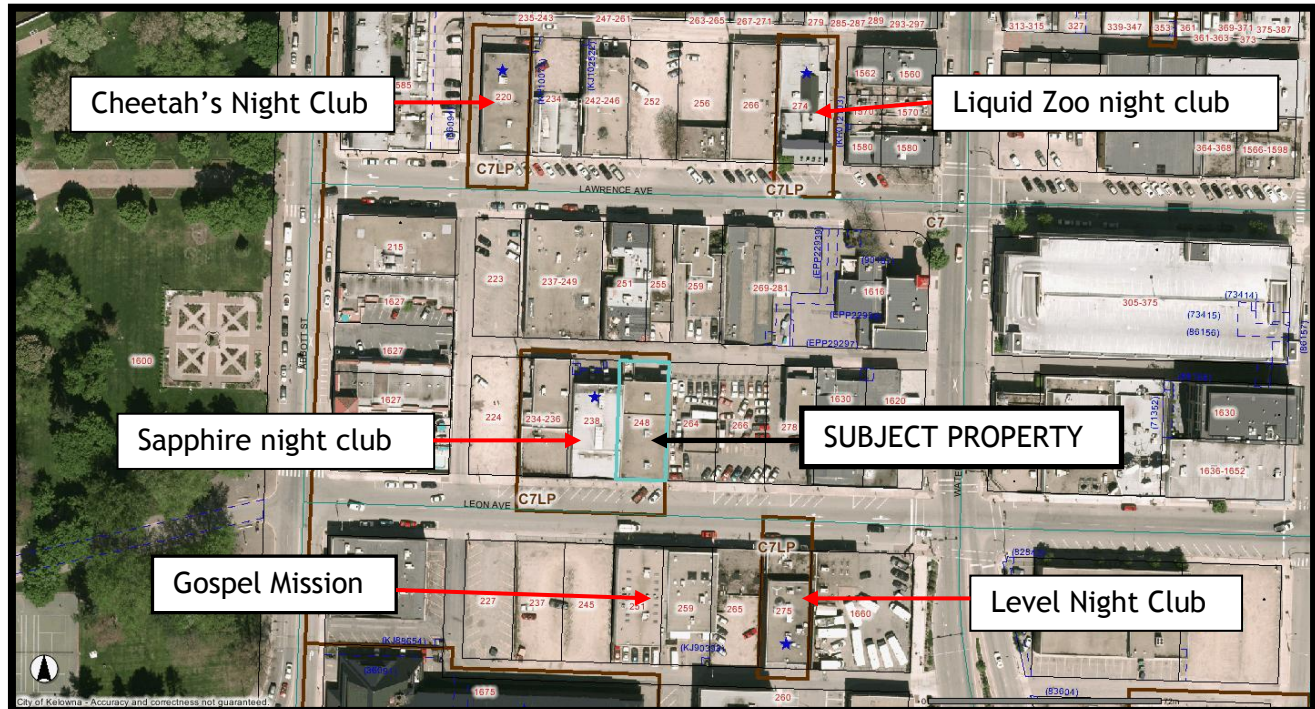
Adjacent land uses are as follows:

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

West	C7lp - central business Commercial(Liquor Primary)	Sapphire night club
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Subject Property Map:

248 Leon Ave.



5.0 Current Development Policies

5.1 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.
 - Should be located a minimum of 250m from another Large establishment.
 - Should be located a minimum of 100m from a Medium establishment.
 - Should not be located beside a Small establishment.
- Medium establishments (with person capacity between 100-249 persons):
 - Should only be located within an Urban or Village Centre.
 - Should be located a minimum of 100m from a Large or Medium establishment.
 - Should not be located beside a Small 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)

As shown above, the proximity of two of the surrounding establishments would not meet the siting/density guidelines provided in the Council Policy. However, the Policy also allows for special consideration of establishments which are less focused on alcohol consumption. The event-driven license makes this establishment somewhat unique, and a different style of facility

than the neighbouring properties. It is for this reason that the siting guidelines should not be applied in this circumstance. The guidelines are intended to regulate more traditional Liquor Primary establishments (pubs, nightclubs, lounges, etc).

6.0 Technical Comments

6.1 Building & Permitting Department

Original drawings do not meet BC Building Code and are not suitable for occupant load.

Revised drawings produced by Architect provided, occupant load produced July 10, 2015.

6.2 R.C.M.P.

The RCMP are not opposed to the Applicant's request for consideration for a permanent change to the hours of liquor service from 10:00 a.m. to 9:00 a.m. seven days a week.

Unfortunately, the RCMP cannot support extending the hours of liquor service until 2:00 a.m. as police resources are at maximum capacity with existing night club patrons at this time. The Applicant's request is also hindered by its proximity with two other large capacity night clubs, a concern the RCMP has presented to Council on numerous occasions.

7.0 Application Chronology

Date of Application Received:	May 14, 2013
Application on hold for drawings:	May 15, 2013
Architectural drawing received:	
Occupancy Load issued:	July 10, 2015
Updated RCMP input:	Sept 9, 2015

8.0 Alternate Recommendation

Should Council only support the applicant's request to change hours of operation to increase capacity from 225 persons to 332 persons and to open earlier at 10 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):

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1. Council recommends support of an application from The Habitat for a liquor primary license amendment for Lot 6, Block 10, DL139, O.D.Y.D., Plan 462, located at 248 Leon Avenue, Kelowna, BC for a change in capacity from the current occupant load of 225 persons to the proposed 332 persons, and changes to the licensed hours of sales from the current 11:00am to

1:00am six days a week to the proposed 10:00am to 1:00 am seven days a week for the following reasons:

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- b. The impact on the community if the application is approved:
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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:



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