

REPORT TO COUNCIL

LIQUOR LICENSE



Date: June 13, 2023
To: Council
From: City Manager
Address: 274 Lawrence Avenue
File No.: LL23-0005

	Existing	Proposed
OCP Future Land Use:	UC – Urban Centres	UC – Urban Centres
Zone:	UC ₁ – Downtown Urban Centre	UC ₁ – Downtown Urban Centre

1.0 Recommendation

THAT Council directs Staff to forward the following Recommendation to the Provincial Liquor and Cannabis Regulation Branch (LCRB):

In accordance with ‘Division 9 (71)’ of the Liquor Control and Licensing Regulation and Council Policy 359, BE IT RESOLVED THAT:

1. Council NOT recommend support of an application from Quail Place Estates for a liquor primary license amendment to extend the close time from 2 am to 3 am seven days a week for Lot 3 Block 13 District Lot 139 ODYD Plan 462, located at 274 Lawrence Avenue, Kelowna, BC for the following reasons:

- A permanent change to the current hours of operation from 2 am to 3 am seven days a week will greatly impact policing resources which may adversely affect community/public safety and livability.

2. Council NOT recommend support of an application from Quail Place Estates for a liquor primary license amendment to increase the approved occupant load from the current 500 persons to 655 persons for Lot 3 Block 13 District Lot 139 ODYD Plan 462, located at 274 Lawrence Avenue, Kelowna, BC for the following reasons:

- An increase to the approved occupant load from the current 500 persons to 655 persons will further tax existing policing resources and does not comply with Council Policy 359 which suggests a limit of 500 persons for a Liquor Primary.

3. Council’s comments on LCRB’s prescribed considerations are as follows:

a) The potential for noise if the application is approved:

- The noise levels are not expected to increase due to the change of hours alone. However, the noise would occur later in the night with the proposed 3am close time which could negatively affect livability of the area.
- The proposed increase in capacity could exacerbate existing noise levels. This area of downtown is transitioning to include more mixed-use developments and will see increased residential density in the coming years. The proposed amendments may negatively affect the downtown livability for surrounding residential dwelling units now and in the future.

b) The impact on the community if the application is approved:

- The proposed later close time coupled with the increased capacity could encourage more excessive drinking which could increase community disturbance issues following the bar flush.

4. 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 review a Staff recommendation to NOT support a liquor primary license amendment to permanently change the close time from 2 am to 3 am and to increase the occupant load from 500 persons to 655 persons.

3.0 Development Planning

Development Planning Staff are not supportive of the proposed amendments to the existing Liquor Primary Licence. Council Policy #359 – Liquor Licensing Policy and Procedures outlines that when considering expansions of Liquor Primary Establishments the following guidelines should be considered:

- No establishment with a person capacity greater than 500 persons should be permitted.
- Large establishments (with a person capacity greater than 249 persons) should:
 - i. Only be located within an Urban Centre
 - ii. Be located a minimum of 250 m from another Large Establishment
 - iii. Be located a minimum of 100 m from a Medium Establishment
 - iv. Not be located beside a Small Establishment

While the property is located within an Urban Centre, the applicant is proposing to increase the occupant load beyond the suggested maximum of 500 persons to 655 persons and the business is located less than 250 m from other large Liquor Primary establishments as follows:

- Gotham Nite Club - approx. 150 m, with a capacity of 440 persons
- Cheetahs Show Lounge – approx. 70 m, with a capacity of 200 persons
- Bernie's Supper Club– approx. 200 m, with a capacity of 333 persons

The Official Community Plan (OCP) indicates significant residential growth within the downtown core. To encourage and foster downtown living, a number of factors need to be addressed to ensure a successful transition, such as public safety and livability. The extended close time of 3 am will further tax policing resources and increase potential negative consequences associated with 'bar flushes' later into the evening and early morning hours. There is value in having a predictable 2 am closure for all late-night establishments for current and future downtown residents. Further, it is beneficial to limit establishments to the 500 person capacity as this helps to not concentrate potential negative consequences associated with 'bar flushes' to a single establishment.

4.0 Project Details

Existing Hours of Sale:

	Sun	Mon	Tues	Wed	Thurs	Fri	Sat
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 Hours of Sale :

	Sun	Mon	Tues	Wed	Thurs	Fri	Sat
Open	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM
Close	3:00 AM	3:00 AM	3:00 AM	3:00 AM	3:00 AM	3:00 AM	3:00 AM

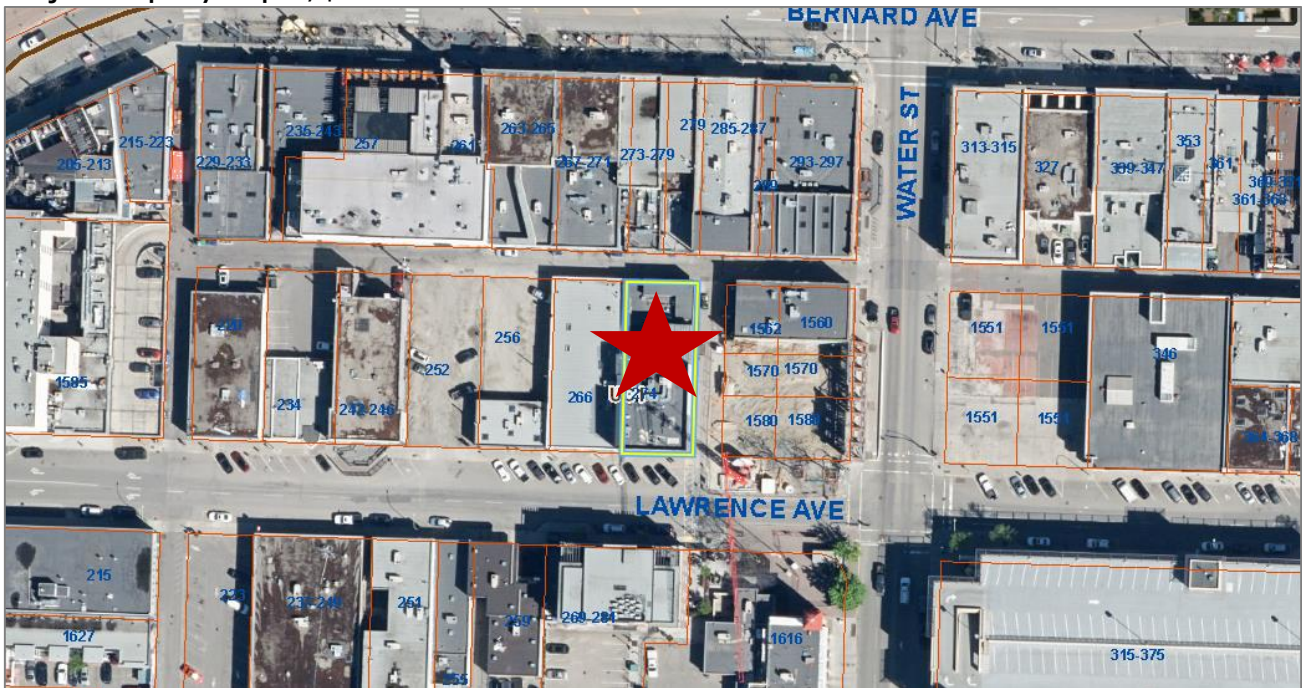
Occupant Load:

	Existing	Proposed
Total Persons Capacity	500	655

5.0 Site Context & Background

Orientation	Zoning	Land Use
North	UC1	Commercial
East	UC1	Commercial
South	UC1	Commercial
West	UC1	Commercial

Subject Property Map: 274 Lawrence Avenue



The subject property is located within the Downtown Urban Centre on the north side of Lawrence Avenue, near Water Street. The surrounding businesses are made up of a variety of commercial uses including offices, personal services and restaurants.

5.1 Background

The subject property has operated as a Liquor Primary establishment since the early 2000’s. In 2015, Council approved an increase to the total capacity (occupant load) from 301 persons to 450 persons. In 2019, the capacity was further increased from 450 persons to 500 persons.

A new application has been submitted to the Liquor and Cannabis Regulation Branch (LCRB) for their approval. Procedurally, the province requires input from the Local Government prior to LCRB making a final decision

5.2 Project Description

Currently, all existing Liquor Primary establishments have the opportunity to apply for a temporary change to a liquor license up to six times per year. The request may include a temporary change to:

- Hours of sale (to allow a later close time)
- Addition of the Patron Participation endorsement (to allow for entertainment to take place)
- An extension of the licensed area (to allow for an increase in capacity)

When an application for a temporary change is applied for, Staff circulate the request to the RCMP for comment. Typically, a temporary change requires an applicant to provide payment for the costs associated with extra policing for the requested time frame. However, the applicant is requesting a permanent change (seven days a week) and as such would not be required to provide payment for the additional resourcing.

The RCMP have significant concerns related to both the later close time (2 am to 3 am) and the increased capacity (from 500 persons to 655 persons). The RCMP’s statistical analysis of their call volume shows a spike at 3 am on both Fridays and Saturdays, which coincides with the current ‘bar flush’. The RCMP have noted that crime in Kelowna has escalated quickly in recent years.

Additionally, there is a noted spike in calls throughout the summer months. The RCMP have indicated that while members on day shifts are fielding more calls overall, the severity of calls at night is considerably higher and requires more resources to safely and appropriately respond. The applicants proposal will increase demands during these already critical nighttime hours.

6.0 **Current Development Policies**

6.1 Kelowna Official Community Plan (OCP)

Objective 9.4 Ensure that all community members are safe.	
Policy 9.4.1 Personal and Collective Safety	Work with community members and partners to support solutions to matters of public safety. Acknowledge and address unique safety concerns experiences by members of equity-seeking groups.
	<i>The request for both a later close and an increased capacity for the subject business may increase public safety concerns.</i>

6.2 Council Policy #359 – Liquor Licensing Policy and Procedures

The following sections of Policy #359 are applicable to a Liquor Primary application:

B. Siting/Density Guidelines:

- a) No establishment with a person capacity greater than 500 persons should be permitted.
- b) Large establishments (with person capacity greater than 249 persons):
 - i) Should only be located within an Urban Centre.

- ii) Should be located a minimum of 250m from another Large establishment.
- iii) Should be located a minimum of 100m from a Medium establishment.
- iv) Should not be located beside a Small establishment

For the purposes of determining proximity, shortest walking distance (door-to-door) will be applied. These distances are meant to guide staff in their recommendations for particular applications, however, a number of other factors should be considered, including (but not limited to):

- a) Pertinent input from the RCMP;
- b) Vehicular and pedestrian traffic patterns for area and current zoning;
- c) Availability of on-site and off-site parking; proximity of playgrounds, schools, and other social facilities;
- d) Surrounding land-uses, and general impact on the local neighbourhood;
- e) Correspondence received from abutting property owners;
- f) Past licensee compliance and performance issues as may be provided by the LCLB.

E. Temporary License Changes

Staff may consider up to six temporary license changes per calendar year for Liquor Primary establishments that are members in good standing of the bar owners association know as "The Standard", including late closing requests. **These requests will be considered on a case-by-case basis, and will be subject to additional policing costs being paid prior to the event (for example, 4:00am closings).** Any establishment that generates concerns or complaints as a result of the use of temporary changes or through general operations of their establishment will have their temporary changes reduced to 3 for the first incident and for any subsequent incidents as the discretion of the RCMP and Liquor Licensing Inspector.

7.0 Technical Comments

7.1 R.C.M.P.

Refer to Attachment C dated April 19, 2023.

8.0 Application Chronology

Date of Application Accepted: February 17, 2023
Date of Neighbourhood Consultation Completed: May 17, 2023

9.0 Alternate Recommendation

THAT Council directs Staff to forward the following Recommendation to the Provincial Liquor and Cannabis Regulation Branch (LCRB):

In accordance with 'Division 9 (71)' of the Liquor Control and Licensing Regulation and Council Policy 359, BE IT RESOLVED THAT:

1. Council recommends support of an application from Quail Place Estates for a liquor primary license amendment to extend the close time from 2 am to 3 am seven days a week for Lot 3 Block 13 District Lot 139 ODYD Plan 462, located at 274 Lawrence Avenue, Kelowna, BC for the following reasons:
 - A permanent change to the current hours of operation from 2 am to 3 am seven days a week will greatly impact policing resources which may adversely affect community/public safety and livability.
2. Council recommends support of an application from Quail Place Estates for a liquor primary license amendment to increase the approved occupant load from the current 500 persons to 655 persons for

Lot 3 Block 13 District Lot 139 ODYD Plan 462, located at 274 Lawrence Avenue, Kelowna, BC for the following reasons:

- An increase to the approved occupant load from the current 500 persons to 655 persons will further tax existing policing resources and does not comply with Council Policy 359 which suggests a limit of 500 persons for a Liquor Primary.
3. Council's comments on LCRB's prescribed considerations are as follows:
- a. The potential for noise if the application is approved:
 - The noise levels are not expected to increase due to the change of hours alone. However, the noise would occur later in the night with the proposed 3am close time which could negatively affect livability of the area.
 - The proposed increase in capacity could exacerbate existing noise levels. This area of downtown is transitioning to include more mixed-use developments and will see increased residential density in the coming years. The proposed amendments may negatively affect the downtown livability for surrounding residential dwelling units now and in the future.
 - b. The impact on the community if the application is approved:
 - The proposed later close time coupled with the increased capacity could encourage more excessive drinking which could increase community disturbance issues following the bar flush.
4. 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: Lydia Korolchuk, Planner Specialist
Reviewed by: Jocelyn Black, Urban Planning Manager
Reviewed by: Terry Barton, Development Planning Department Manager
Approved for Inclusion: Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Attachment A: Floor Plan/Occupant Load
Attachment B: Letter of Rationale
Attachment C: RCMP Letter

For additional information, please visit our Current Developments online at www.kelowna.ca/currentdevelopments.