

REPORT TO COUNCIL DEVELOPMENT VARIANCE PERMIT & LIQUOR LICENCE



Date: August 13, 2024
To: Council
From: City Manager
Address: 1080-1090 Richter St
File No.: DVP24-0087 & LL23-0007
Zone: I2 – General Industrial
OCP Future Land Use: IND – Industrial

1.0 Recommendation

THAT Council authorizes the issuance of Development Variance Permit No. DVP24-0087 for Lot 1 District Lot 139 ODYD Plan 7858, located at 1080-1090 Richter St, Kelowna, BC;

AND THAT variances to the following section of Zoning Bylaw No. 12375 be granted as shown on Schedule "A":

Table 8.3.4: Industrial, Parking Requirement

To vary the required parking from 7 stalls to 0 (zero) stalls proposed for a maximum of 30 individual single day events per calendar year.

AND THAT this Development Variance Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

AND FURTHER 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 Red Bird Brewing for a special event area endorsements / license amendment for Lot 1 District Lot 139 ODYD Plan 7858, located at 1080-1090 Richter St, Kelowna, BC for the following reasons:
2. Council's comments on LCLB's prescribed considerations are as follows:
 - a. The location of the special event area:
The subject property is located in the north end of the City adjacent to Recreation Avenue Park to the west. The applicant is proposing a special event area endorsement that will include the existing rear building, seasonal patio area located between the building and street & surface parking lot area adjacent to Richter St.

b. The proximity of the special event area to other social or recreational facilities and public buildings:

The subject site is located adjacent to Recreation Avenue Park to the west which includes recreational facilities and public buildings. The liquor service area proposed for the site predominantly faces Richter St and the building location and orientation on-site provides a natural buffer to Recreation Avenue Park.

c. The person capacity of the special event area endorsement:

The existing establishment has a maximum capacity of 500-persons including a maximum of 186-persons inside the rear building with the remaining 314-person capacity located in the seasonal outdoor area located between the building and street. The application proposes to increase the maximum site capacity for events to 900-persons. Of the 900-person capacity for events a maximum of 186-persons would be located inside the building with the remaining 714-person capacity located outside the building.

d. Traffic, noise, parking and zoning:

Expanding the existing liquor service for the site to increase the maximum capacity from 500-persons existing to 900-persons will increase the potential conflict for traffic, noise, and parking demand. Should Council support the parking variance, the existing surface parking lot containing seven parking stalls could be converted for event use for a maximum of 30 individual single day events per calendar year. The combination of a capacity increase of 400-persons during events and zero available on-site parking will subsequently create increased competition for street parking in the immediate area, especially when events are being held. This could have a negative impact on street parking availability for other businesses in the area. Additionally, a vast majority of the site's capacity (approximately 80%) would be located outside the building which creates a larger potential for noise conflicts within the neighbourhood, especially with a patio closure time of 12 AM which exceeds the standard 11 PM closure time for outdoor spaces.

e. The impact on the community if the application is approved:

Red Bird Brewing hosts a variety of annual events. The number of hosted events has ranged over the last few years but has typically been between 10-18 individual event days. The increase to host up to 30 individual single day events will increase local traffic demands, parking and potential for noise conflict with other businesses and uses.

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 issue a Development Variance Permit to vary required parking to 0 (zero) stalls for a maximum of 30 individual single day events per calendar year to facilitate additional events on site with a maximum event capacity of 900-persons. To seek Council's support for a permanent change to the liquor licence to add a special event area endorsement, increase the event capacity and to change the opening time from 12:00 PM to 9:00 AM seven days a week.

3.0 Development Planning

Variance

Staff support the proposed Development Variance Permit to allow the existing establishment to convert seven existing required parking stalls on-site to event use for a maximum of 30 individual single day events per calendar year.

The existing establishment currently has a maximum capacity of 500-persons including a maximum of 186-persons inside the building with the remaining 314-person capacity located in the seasonal outdoor space between the building and street adjacent to surface parking.

The proposed event capacity of 900 people would allow for a maximum of 186 people inside the building with the remaining 714-person capacity located outside in the existing seasonal outdoor space combined with the surface parking lot area. During events only, the establishment, if approved, would be permitted to increase the capacity. The seven on-site parking stalls would be inaccessible during these events, which is what necessitates the variance to parking.

Breweries are permitted to utilize up to six temporary licence changes per year through the Liquor and Cannabis Regulation Branch (LCRB) to accommodate events. Each temporary licence extension can be for a multi-day event. In 2024, Red Bird Brewing has been approved for six temporary licence extensions this year with an event duration ranging from two-four days. The six licence extensions approved will allow for a total of 19 days this year. The applicant has indicated in the letter of rationale that the intent of the variance application is to facilitate 30 individual single day events to eliminate the need for seeking annual temporary licence changes. Limiting the number of events to 30 individual days per year will ensure that on-site parking is maintained in the long term for use of staff and patrons outside of when events are being hosted.

Parking requirements within the Zoning Bylaw are meant to reflect approximate demand. Traditionally, restaurants, breweries and other liquor serving establishments have excluded outdoor patios from requiring parking as typically those patios were seasonal, limited in size, and ultimately did not significantly increase the amount of parking demand. Required parking is determined based on the total floor area on-site not including seasonal use outdoor space. A majority of the liquor service area proposed would be located exterior to the building and as a result does not technically require any additional parking.

When events are held at the existing establishment, the parking area is typically closed off from the street and is utilized for the event whether it be for merchandise sales, additional seating, food truck service or general event use. During events there is no on-site parking available to employees, patrons and event performers. These events will typically see a higher frequency of patrons on the premises which creates greater competition for available on street parking.

The Official Community Plan (OCP) designates the subject property as Industrial. This designation encourages the protection of industrial lands while recognizing that new, creative ways are required for these lands to maintain economic viability. Liquor Licensing Policy and Procedures (Council Policy No. 359) supports alternative entertainment options for liquor serving establishments which are less focused on alcohol consumption to provide additional entertainment options. In addition to OCP and liquor licence policy, the North End Plan (NEP) is currently being developed and refined to guide development over the next 20 years and beyond for the north end.

The NEP includes a total of three different concepts and is anticipated to move forward for Council consideration and endorsement in Summer of 2024. All three draft concept plans proposed for the north end contemplate designating the subject site and surrounding neighbourhood as “Craft Industrial” with the area being recognized as a craft brewery area with other alcohol production (including wineries, cideries and breweries) businesses residing in the local neighbourhood.

Liquor License Changes to Accommodate a Special Event Area Endorsement & Hour Change

Staff support the proposed special event area endorsement, liquor licence capacity increase for events only and change of hours for the existing establishment. The applicant proposes a special event area endorsement for the subject site which would allow the existing surface parking lot containing seven parking stalls to be converted into event space for a maximum of 30 days per calendar year. The site has an existing occupancy of 500 people and converting the existing surface parking lot for events would provide an additional capacity of 400 people for a total site capacity of 900-persons.

In 2021, the existing establishment increased the site capacity from 99 to 500 persons, relocated from the front to the rear building on site, and expanded the seasonal outdoor patio area in between the two buildings. Since this application was approved Planning has been consistently requiring an 11:00 PM closure for all outdoor patios. Approving this application would allow for additional events in a higher frequency, and with a larger outdoor capacity than currently permitted, while maintaining a 12:00 AM patio closure.

Additionally, the applicant is proposing to expand the existing liquor service by changing the opening hours from 12:00 PM to 9:00 AM – 7 days a week to accommodate additional event-based opportunities such yoga sessions or an easter egg hunt as per the applicant’s letter of rationale.

4.0 Project Details

Existing Hours of Sale:

		Sun	Mon	Tues	Wed	Thurs	Fri	Sat
Open		12:00 PM	12:00 PM	12:00 PM	12:00 PM	12:00 PM	12:00 PM	12:00 PM
Close	Indoor	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM
	Patio	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM

Proposed Hours of Sale :

		Sun	Mon	Tues	Wed	Thurs	Fri	Sat
Open		9:00 AM	9:00 AM	9:00 AM	9:00 AM	9:00 AM	9:00 AM	9:00 AM
Close	Indoor	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM
	Patio	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM	12:00 AM

Occupant Load:

	Existing	Proposed
Indoor	186 persons	186 persons
Outdoor	314 persons	714 persons**
Total	500 persons	900 persons
**The additional 400-person site capacity will only be permitted when events are being held		

5.0 Subject Property & Background

Specifically, adjacent land uses area as follows:

Orientation	Zoning	Land Use
North	I2 – General Industrial	Industrial
East	I2 – General Industrial	Industrial
South	I2 – General Industrial	Industrial
West	P1 – Major Institutional	Park

Subject Property Map: 1080-1090 Richter St



The subject property is located in the north end industrial area of the City on the west side of Richter St. The majority of the properties within the immediate area are industrial zoned with Recreation Avenue Park being located west of the subject site. The closest residential properties are located approximately 165 m south and 320 m west of the subject site. The rail trail provides a walking and cycling connection approximately 160 m north of the property.

5.1 Background

Red Bird Brewing has been operating a brewery on the subject site since 2017. The business has transitioned from a 38-person capacity brewery to a 500-person capacity brewery that hosts a variety of regular events outdoors including music concerts, markets, fundraising events, festivals, and various cultural events.

2017 – Approved as an alcohol manufacturer with a lounge endorsement with a total occupancy of 38 persons.

2020 – Structural change to increase capacity from 38 persons to 79 persons.

2021 – Structural change to increase capacity from 99 persons to 500 persons.

Bylaw Services has received noise complaints from residents regarding amplified music originating from the subject property, particularly during hosted events / live music. The outdoor stage is oriented to the west and amplified music is projected towards the existing and future high density residential to the west.

Changes to On-Street Parking

On-street parking located along the west side of Richter St in between Recreation Ave to the north and Vaughan Ave to the south was converted from perpendicular on-street parking (90 degrees from the road) to parallel on-street parking in 2021 through a City of Kelowna interim sidewalk project. This project facilitated a pedestrian sidewalk along the west side of Richter St while reducing the overall on-street parking supply.

Since on-street parking was reconfigured along this portion of Richter St, Parking Services has received a substantial number of Bylaw enforcement requests to enforce the permitted 30 minute and two hour on-street parking zones in the area.

6.0 Zoning Bylaw Regulations Summary

PARKING REGULATIONS		
CRITERIA	I2 ZONE REQUIREMENTS	PROPOSAL
Total Required Vehicle Parking	7 stalls	0 (zero) stalls for 30 days per calendar year ❶
Industrial	7 stalls	0 (zero) stalls
Ratio of Regular to Small Stalls	Min. 50% Regular Max. 50% Small	86% Regular 14% Small
Min. Loading Stalls	1 stalls	1 stalls
Bicycle Stalls Short-Term	39 stalls	72 stalls
❶ Indicates a requested variance to 0 (zero) stalls proposed for a maximum of 30 individual single day events per calendar year		

7.0 Current Development Policies

7.1 Kelowna Official Community Plan (OCP)

Objective 5.8 Encourage employment-intensive industrial uses in the Core Area	
Policy 5.8.1. Protection of Industrial Lands	Discourage the re-designation of industrial lands and ensure their use for industrial purposes to protect employment, production, manufacturing, warehousing, logistics and repair functions in the city. This includes limiting residential and commercial uses within industrial areas that promote speculation and make developing industrial uses challenging. <i>If supported by Council, will allow for the site to be maintained as industrial.</i>
Policy 5.8.3. North End Industrial Lands	Support the growth of industrial development in Kelowna’s North End with additional opportunities for specialty retail where it is supportive of the production and manufacturing in the area. Develop more detailed policy guidance through the North End Neighbourhood Plan. <i>This application proposes additional opportunities for specialty retail while maintaining industrial uses.</i>

7.2 Council Policy #359 – Liquor Licensing Policy and Procedures

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

- Where appropriate, support alternative entertainment options, and / or establishments which are less focused on alcohol consumption (including event-driven establishments) to add a mix of entertainment options in Urban Centres. Consider limiting potential community impacts via license terms and conditions (hours, capacity, etc).

8.o Application Chronology

Application Accepted: March 8, 2023
Neighbour Notification Received: March 22, 2024

Report prepared by: Andrew Ferguson, Planner II
Reviewed by: Jocelyn Black, Urban Planning Manager
Reviewed by: Nola Kilmartin, Development Planning Department Manager
Approved for Inclusion: Ryan Smith, Divisional Director, Planning, Climate Sustainability & Development Services

Attachments:

Attachment A: Draft Development Permit DVP24-0087
Schedule A: Site Plan
Attachment B: Applicant's Letter of Rationale

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