

# REPORT TO COUNCIL



**Date:** May 2, 2017

**RIM No.** 0930-50

**To:** City Manager

**From:** Community Planning Department (PMc)

**Application:** LL16-0006

**Owner:** J.Q. Developments Inc.

**Address:** 248 Leon Ave.

**Applicant:** QB Habitat resources Inc.

**Subject:** Liquor License application for a Structural Change

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

Existing Zone: C7lp – Central Business District

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## 1.0 Recommendation

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 Habitat for a liquor primary license amendment for Lots 6, BLK 10, DL139, O.D.Y.D., Plan 462, located at 248 Leon Avenue, Kelowna, BC for a change in licensed area to add the outdoor patio area to the current Liquor Primary located at 248 Leon Avenue with a maximum capacity of 34 persons to the patio area, and limit the licensed hours of the patio to 11:00AM to 10:00PM, seven days a week for the following reasons:

The addition of the outdoor patio area to the existing liquor license will allow more options to utilize the space during the day, as well as to provide a venue for summer time events oriented to the outdoors.

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 an increase in noise, but closing the outdoor patio entertainment at 10:00 PM should limit that potential impact.
- b. The impact on the community if the application is approved:  
The potential for negative impacts to public safety and policing costs are minimized by the early closing hours for the patio space. No conflict with the bar flush, which is normally a concern for the Downtown. The addition of the patio area to the existing Liquor License

will allow more opportunity to utilize the outdoor space with different user groups, and provide additional flexibility for events.

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 seek Council's support for a structural change to an existing Liquor Primary license to add a patio area to the rear of the building

## 3.0 Community Planning

The Habitat has been operating as an events-driven establishment, catering to live events focused on entertainment, arts and culture. There had been a recent application approved for a structural change to add capacity to an existing floor area and for a permanent change to the existing liquor license in order to open earlier. These changes increased the capacity to 332 persons. No change to the business focus, clientele or management are expected through these changes.

The Habitat had recently been attempting to lease the properties located to the east of the Habitat establishment. Unfortunately, the properties were committed to other uses and not available. This current application seeks to add a small outdoor patio area located to the rear of the Habitat to the existing liquor license located at 248 Leon Avenue in order to allow the existing licensed capacity to be applied to the patio area. This change will provide additional options to support additional summertime activities oriented to the outdoors. The original submission has been amended to reflect these changes.

## 4.0 Proposal



Figure 1.1: Air Photo of site

#### 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.

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 seeking Council support for a structural change application to keep the same occupant load but adding new patio areas to apply this occupant load.

##### **Current 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

##### **Person Capacity:**

Licensed Area	Capacity
Total Existing Licensed Capacity (including proposed patio)	332
Proposed Patio Area #1 Capacity	34

##### **Proposed Hours of Sale: (for patio area only)**

	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	10:00 PM	10:00 PM	10:00 PM	10:00 PM	10:00 PM	10:00 PM	10:00 PM

#### 4.3 Site Context

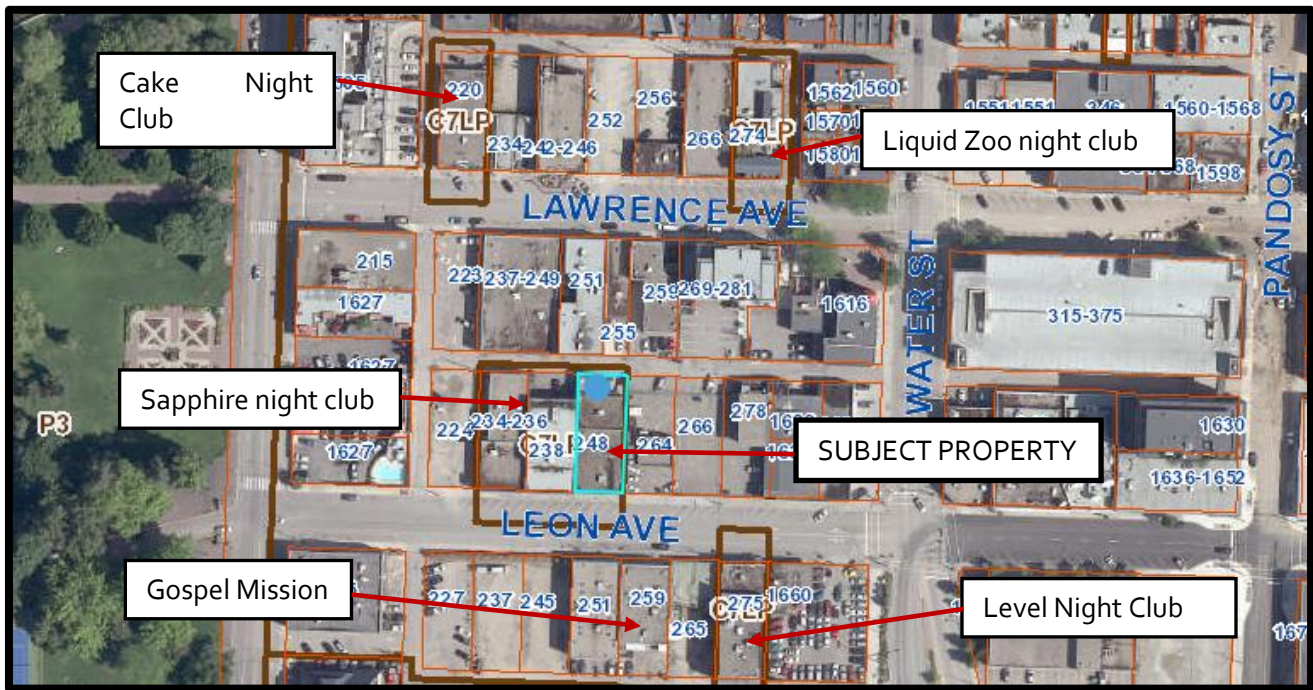
The subject property is located within the City Centre Urban Centre, within the "Entertainment District". The subject property is located adjacent to an existing Liquor Primary establishment (Sapphire Night Club) and across the street from the Gospel Mission. The Level Night Club is also across the street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

Subject Property Map:

248 Leon Ave.



## 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.
  - 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**

No Comment

### **6.2 Fire Department**

- Patio #1 requires the exit door swing to be changed to flow with the path of travel - to the outside alley in the NE corner of the patio
- A door should be installed at the bottom of the stairs from the upstairs patio so that the path of travel for those exiting is NOT through the patio area (to be addressed as part of building permit)

### **6.3 R.C.M.P.**

The RCMP are not opposed to the addition of a new outdoor patio by The Habitat provided its hours of operation are restricted to minimize noise complaints. Accordingly, the RCMP are recommending that the hours of operation for the patio venue are restricted to no later than 10:00 p.m.

## **7.0 Application Chronology**

Date of Application Received:	April 18, 2016
R.C.M.P. comments:	August 23, 2016
Revised floor plan:	March 2, 2017
Revised statement:	April 6, 2017

**Report prepared by:** Paul McVey, Urban Planner

**Reviewed by:** Terry Barton, Urban Planning Manager

**Approved for Inclusion:** Ryan Smith, Community Planning Department Manager

### **Attachments:**

Subject Property Map  
Site Plan  
Letter of Intent (revised)  
Certified Occupant Load (revised)  
LCLB Structural Change application (revised)