
CITY OF KELOWNA

MEMORANDUM

Date: March 13, 2002
File No.: LL01-012

To: City Manager

From: Planning and Development Services Department

Subject:

APPLICATION NO. LL02-001 OWNER: 476462 BC LTD.

AT: 262 BERNARD AVENUE APPLICANT: KELLY O'BRYAN'S (520528 BC LTD., REG HENRY)

PURPOSE: TO OBTAIN COUNCIL SUPPORT FOR A CLASS "D" NEIGHBOURHOOD PUB LICENCE

REPORT PREPARED BY: KIRSTEN G. BEHLER

1.0 RECOMMENDATION

THAT the Council of the City of Kelowna considers the majority of the area residents to be in favour of the application for a Class "D" Neighbourhood Public House liquor licence at 262 Bernard Avenue, Kelowna, BC (Kelly O'Bryan's);

AND THAT Council support the following amendments to the current operating restrictions specifically requested by 520528 BC Ltd. (Reg Henry) subject to the applicant meeting the requirements of the Inspection Services Department:

- To obtain a Class "D" Neighbourhood Public House Liquor Licence for the upper floor at the premises at 262 Bernard Avenue (Kelly O'Bryan's) for a total of 60 seats (interior and patio);
- To obtain the ability of "off-premises" sales of liquor;
- To allow the hours of operation to be extended until 1:00 a.m. on Friday and Saturday nights;

AND THAT Council direct staff to forward the appropriate resolution to the Liquor Control and Licensing Board in Victoria.

2.0 SUMMARY

The applicant has made application to the Liquor Control and Licensing Board for a Class "D" (Neighbourhood Pub) liquor licence for Kelly O'Bryan's. He has received Preliminary Site and Applicant Approval (PSA) from the Liquor Control and Licensing Board and is now seeking Council support for the proposed licence, as well as for off-premises sales of liquor and an extension to the hours of operation to 1:00 a.m on Fridays and Saturdays.

3.0 BACKGROUND

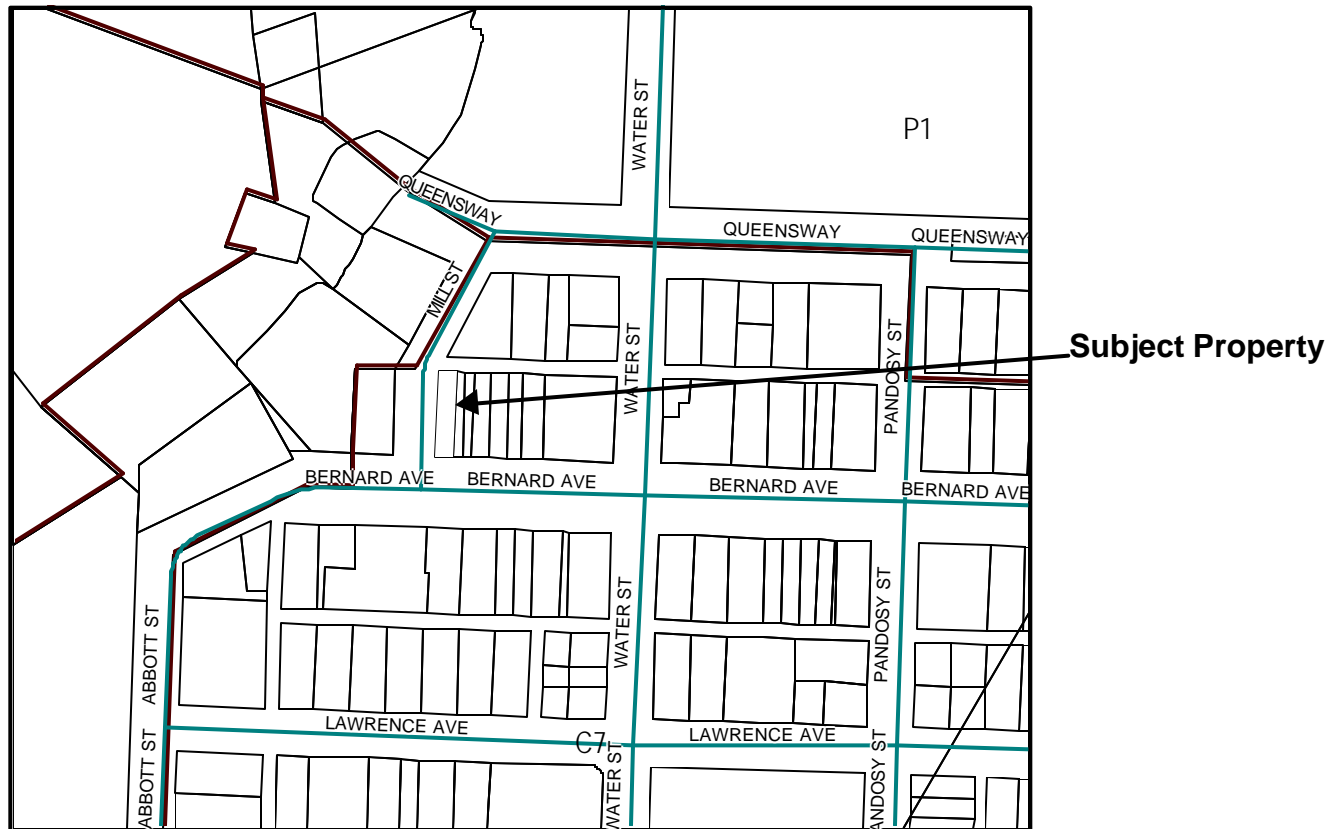
3.1 The Proposal

The applicant has made application for a Class “D” (Neighbourhood Pub) liquor licence for Kelly O’Bryan’s. Presently, he holds a restaurant licence for the premises at 262 Bernard Avenue. The operator would like to retain the restaurant licence for the main floor and obtain a Class “D” Neighbourhood Pub Licence for the upper floor of the two storey building. The maximum occupancy load of the upper storey is 60 persons, including seats on the patio. The applicant would like to be able to extend the hours of operation until 1:00 AM. He does not expect to stay open until that time year-round, but would like have the option to do so on busy nights, especially in the summer. Furthermore, he would like to have “off-premises” sales of liquor.

The Liquor Control and Licensing Branch requires Council to consider a number of factors when assessing this application. The factors, along with associated information provided by staff, are:

- Whether or not Council considers that the residents are in favour of granting the licence. The level of support and opposition will be assessed at the public meeting;
- The proximity of the subject property to other licensed operations and other social facilities: Four licensed hotels, four cabarets and one Neighbourhood Pub are located within a 500 m radius of the subject property. The hotels are likely to serve a different clientele than that expected to visit Kelly O’Bryan’s, although there may be some overlap between the clientele of Kelly O’Bryan’s and Rose’s Pub in the Grand Hotel. The Liquor Control and Licensing Board exercised discretion when evaluating the location of the subject property in relation to the only existing Neighbourhood Pub “Doc Willoughby’s”, because the pub is likely to be frequented by adult persons who already patronize the existing restaurant. The cabarets serve a different clientele than neighbourhood pubs and have different hours of operation;
- Traffic, road access and availability of parking: The subject property is located downtown, at the northeast corner of the intersection of Mill Street and Bernard Avenue. Other than two parking stalls at the rear, there is no on-site parking, however, like all other businesses on Bernard Avenue, the facility is served by on-street parking, city-operated parking facilities, as well as by transit.
- Noise and appearance of the establishment: The pub will be located on the second floor of the existing building, and the appearance of the building will not change. The patio is oriented towards open space and the pub section of the adjacent Willow Inn Hotel; therefore, the noise impact on adjacent properties should be minimal.
- Any other issues that Council considers relevant: The proposed hours of operation are not likely to have a negative impact on the area, since the pub would stay open longer than restaurant facilities and close earlier than the cabarets located closeby.

3.2 Site Location Map



4.0 TECHNICAL COMMENTS

The application has been submitted to various technical agencies and City departments, and the following comments have been submitted:

4.1. Inspection Services Department

1. There is a single exit for the second floor and patio roof. The interior staircase is not considered an exit. Therefore, the occupant load for the pub and the patio shall not exceed 60 persons.
2. The licensed area indicated on the floor plan only includes the interior of the second level. The owner may have to reapply with the Liquor Control and Licensing Board if he wishes the patio to be part of the pub and not the restaurant.
3. The pub is a change of occupancy from the approved restaurant use on the second level. A change of occupancy requires that access for persons with disabilities be provided (i.e. an elevating device). The code requires the access "where providing such access would be practical". The applicant must provide evidence that the installation of an elevating system is not practical. The reason may be a combination of costs vs. payback, difficulty of renovating existing construction, insufficient area for installation.

4. The width of the exit door on the patio is less than the minimum requirement. The opening shall be increased to accommodate a 810mm (32") door.
5. Verification of the fire alarm system.
6. Verification that the alarm system is monitored.
7. The Fire Department connection shall be relocated to allow easy access.
8. An additional sprinkler head(s) is required in the new storage room.
9. The tamper switches are to be connected to the fire alarm system.
10. The underground and above ground materials test certificate is required.
11. The test report for the sprinkler system double check valve is required.

4.2. RCMP

The RCMP has no concerns with the proposed Class "D" Neighbourhood Pub Liquor License, the request for off-premises sale of liquor, or the requested extension of the hours of operations to 1:00 AM on Friday and Saturday nights.

4.3. Fire Department

The only egress door to the outside from this floor area requires that the door opening be upgraded to meet building code requirements (the door upgrade is also a requirement of the Inspection Services Department – see above). The occupant load for the entire 2nd floor is 60 people, which includes the outside deck area and staff. Under no circumstances is this number to be exceeded, as there is only exiting for 60 persons, once the door is upgraded.

4.4. Health Unit

No comments pertaining to the liquor licence application.

5.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department has no concerns with the proposed Class “D” Liquor Licence subject to the applicant meeting the requirements of the Inspection Services Department. The pub is likely to serve a similar clientele to that of the existing restaurant. The hours of operation until 1:00 AM on Friday and Saturday nights are not expected to have a negative impact on the area, since the premises would close later than downtown restaurants, but earlier than all cabarets.

Andrew Bruce
Current Planning Manager

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Development Services

KGB
Attach.

FACT SHEET

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| 1. APPLICATION NO.: | LL02-001 |
| 2. APPLICATION TYPE: | Liquor License Application |
| 3. OWNER:
ADDRESS
. CITY
. POSTAL CODE | 476462 BC Ltd.
1056 Gordon Drive
Kelowna, BC |
| 4. APPLICANT/CONTACT PERSON:

. ADDRESS
. CITY
. POSTAL CODE
. TELEPHONE/FAX NO.: | 520528 BC Ltd. (Kelly O'Bryan's) /
Reg Henry
262 Bernard Avenue
Kelowna, BC

861-1338 / 861-5428 |
| 5. APPLICATION PROGRESS:
Date of Application:
Date Application Complete:
Staff Report to Council: | January 4, 2002

March 13, 2002 |
| 6. LEGAL DESCRIPTION: | Lot 5, Plan 505, ODYD |
| 7. SITE LOCATION: | Downtown Kelowna, on the northeast
corner of Mill Street and Bernard
Avenue |
| 8. CIVIC ADDRESS: | 262 Bernard Avenue |
| 9. AREA OF SUBJECT PROPERTY: | 277m" |
| 10. EXISTING ZONE CATEGORY: | C7 – Central Business Commercial |
| 11. PURPOSE OF THE APPLICATION: | To receive Council support for a Class
"D" liquor licence |
| 14. MIN. OF TRANS./HIGHWAYS FILES NO.:
NOTE: IF LANDS ARE WITHIN 800 m OF A
CONTROLLED ACCESS HIGHWAY | N/A |
| 15. DEVELOPMENT PERMIT MAP 13.2
IMPLICATIONS | N/A |

ATTACHMENTS

(not attached to the electronic version of the report)

- Location of subject property
- Floor plan of proposed pub