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# CITY OF KELOWNA

## MEMORANDUM

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**Date:** October 18, 2002  
**File No.:** LL02-0009

**To:** City Manager

**From:** Planning and Development Services Department

**Subject:**

APPLICATION NO. LL02-0009

OWNER: FAIRHAVEN ENTERPRISES

AT: 1255/1265 ELLIS STREET

APPLICANT: DAVID HABIB  
(QUAIL PLACE ESTATES)

PURPOSE: TO OBTAIN COUNCIL SUPPORT TO RELOCATE AN EXISTING CLASS "C"  
CABARET LICENSE FROM 540 LEON AVENUE TO 1255/1265 ELLIS STREET

REPORT PREPARED BY: RYAN SMITH

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Note: The intent and content of this application has changed very little from the original application (LL02-0008) and therefore it is being re-submitted by staff in a similar format as the previous report (August 21, 2002). The position of the Planning and Development Services Department remains unchanged regarding this application.

### 1.0 RECOMMENDATION

THAT Municipal Council not support the transfer of a Class "C" cabaret license for the relocation of the Snooty Fox from 540 Leon Avenue to 1255 Ellis Street;

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

### 2.0 SUMMARY

The applicant is requesting Council support for the relocation of a Class "C" liquor license from 540 Leon Avenue to 1255/1265 Ellis Street. The new cabaret would have an occupancy load of approximately 304 persons and would operate from 7:00 p.m. to 2:30 a.m.

### 3.0 BACKGROUND

#### 3.1 The Proposal

The current location at 540 Leon Avenue has had a Class "C" Cabaret liquor licensed establishment since October 1999. The existing premises suffered a fire in the summer of 2001 and have not operated since, the applicant now wishes to relocate the license from 540 Leon Avenue to 1255/1265 Ellis Street.

The new cabaret would have an occupancy load of approximately 304 persons. The hours of operation would be from 7:00 p.m. to 2:30 a.m.

The proposed new location of the cabaret does not include any parking. The parking for the former dance studio and mini-storage was non-conforming, and 61 stalls can therefore be grandfathered. The applicant is required to provide the additional stalls to meet today's parking standards for eating and drinking establishments, which require him to provide an additional 15 stalls.

The parking calculations are as follows:

<b>Type of Use</b>	<b>Stalls required</b>	<b>Stalls provided</b>
Mini-storage	5	0
Dance Studio	56	0
<b>Cabaret</b>	76 less 61 stalls grandfathered for above listed uses: <b>15 required</b>	0

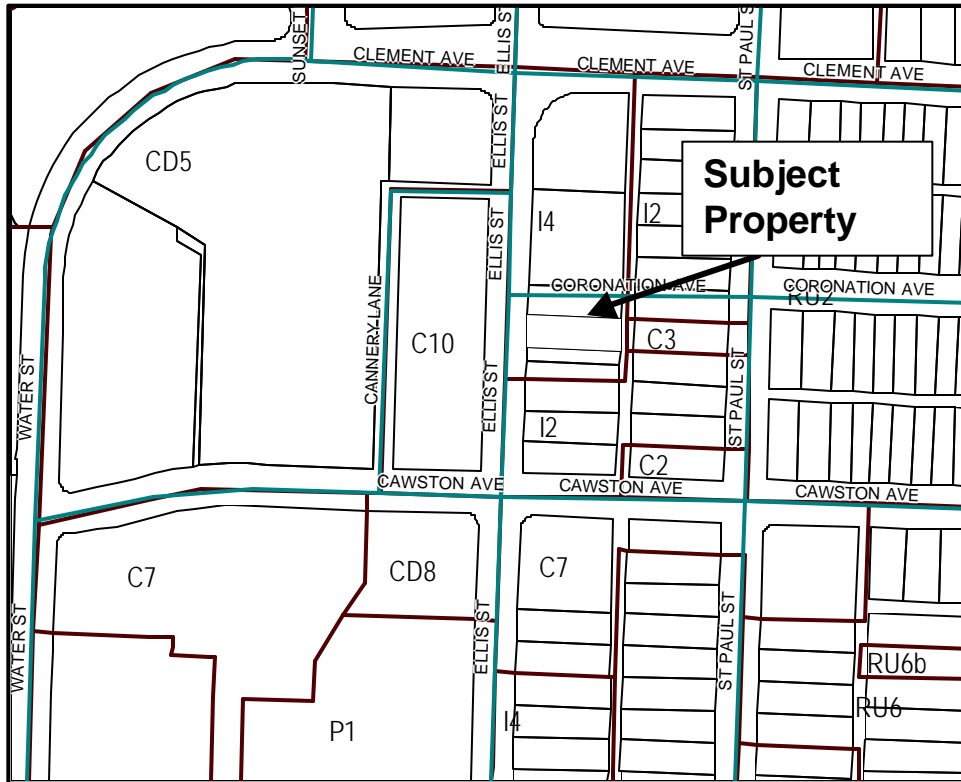
### 3.2 Site Context

The proposed location for the cabaret is located in downtown Kelowna, on the east side of Ellis Street, south of Coronation Avenue. The nearest Class "C" licensed establishment is located across the street from the subject property at 1268 Ellis Street. The nearest residential uses can be found east of the property, across the lane on St. Paul Street.

Adjacent zones and uses are to the:

- North – I4 – Central Industrial: Manufacturing company
- South – I4 – Central Industrial: Parking lot
- West – C10 – Service Commercial: Retail and offices
- East – I2 – General Industrial: Yoga studio and C3 – Community Commercial: Offices

### 3.3 Site Location Map



### 4.1 Inspection Services Department

Inspection Services has reviewed the application as submitted and offer the following comments:

- A H/C accessible toilet stall is required in at least on male and female washrooms. In addition a H/C toilet room is required.
- The exiting is sufficient except access out of the Patio area to the street shall be provided.
- The exiting and floor are will accommodate 620 persons. Seating is shown for 268 persons.
- Is the patio a licensed area?

### 4.2 RCMP

The RCMP are not in favour of this request to transfer the liquor licence from 540 Leon Avenue to 1255-165 Ellis Street for the following reasons:

- Although the transfer of this licence to the new location is not in the immediate downtown core where we are adamantly opposed to another liquor establishment, we are not in favour of this transfer. The proposed new location at 1255-1265 Ellis Street is in the dame block as another night club "Flashbacks". They have a seating capacity of

350 patrons and this new location for the "Snooty Fox" would accommodate another 520 patrons. We believe that another night club in the 1200 block of Ellis Street will create a similar situation to what we now experience in the 200 block of Leon Avenue every weekend of the year;

- The bar closure at 2:00 a.m. requires a significant police presence to ensure that law and order is upheld and does not escalate into something we cannot control. The creation of another similar situation will require additional police resources.
- The new amendments to the liquor licence regulations take affect on December 2, 2002. At this time we do not know if the hours of operation will be extended until 4:00 a.m. and what the impact would be. We understand that night clubs will be allowed to fill to fire load capacities under the new legislation and this will increase the numbers of people in attendance. This being the case, we would expect 1200-1500 people to vacate the two night clubs at approximately the same time and this would require additional policing and resources in order to keep the peace.

#### 4.3 Fire Department

The occupant loads shown on the drawing will have to be confirmed, as they appear too high. Fire separation will have to be addressed. Fire alarm and other life safety systems appear to be required. Plans to be approved by building department.

#### 4.4 Health Unit

The Health Unit has no objection to the relocation of the liquor licence, provided the applicant meets all Food Premises Regulations from the Ministry of Health.

## 5.0 PLANNING COMMENTS

The Planning and Development Services Department has concerns with the relocation of the Class "C" cabaret licence to the proposed location on Ellis Street. The department shares the RCMP's concerns regarding a large number of patrons leaving the two cabarets in the area at the same time. Although the provincial regulations may allow the venues to be operated until 4 a.m., it is premature to say whether these hours will be permitted in the City of Kelowna. Of further concern is the lack of parking for the proposed cabaret.

This is the third attempt by this applicant to relocate the Class "C" licence. Staff have had repeated concerns about any further concentration of Class "C" licensed facilities. While the current proposal moves the facility away from the concentration of cabarets on Leon and Lawrence Avenues, it proposes to locate across the street from another existing cabaret. According to the RCMP, they have not experienced many problems with that existing venue.

## 6.0 ALTERNATE RECOMMENDATION

THAT Council support the relocation of the Class "C" liquor licence from 540 Leon Avenue to 1255/1265 Ellis Street subject to the applicant providing 15 parking stalls and meeting all fire and building code requirements, as well as the requirements of the Health Unit;

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

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Andrew Bruce  
Current Planning Manager

Approved for inclusion

R.L. (Ron) Mattiussi, A.C.P., M.C.I.P.  
Director of Planning & Development Services

**List of Attachments**

**(not included in the electronic version of this report)**

- Subject Property Map
- Floor Plan

**FACT SHEET**

1. **APPLICATION NO.:** LL02-0009
2. **APPLICATION TYPE:** Liquor License Application
3. **OWNER:** Fairhaven Enterprises Ltd.  
· **ADDRESS** 1453 Alta Vista Drive  
· **CITY** Kelowna, BC  
· **POSTAL CODE**
4. **APPLICANT/CONTACT PERSON:** David Habib  
· **ADDRESS** 4493 Stewart Road East  
· **CITY** Kelowna, B.C.  
· **POSTAL CODE**  
· **TELEPHONE/FAX NO.:** 317-5055
5. **APPLICATION PROGRESS:**  
    **Date of Application:** October 11<sup>th</sup>, 2002  
    **Date Application Complete:**  
    **Staff Report to Council:** November 4<sup>th</sup>, 2002
6. **LEGAL DESCRIPTION:**
7. **SITE LOCATION:**
8. **CIVIC ADDRESS:** 1255/1265 Ellis Street
9. **EXISTING ZONE CATEGORY:** I4 – Central Industrial
10. **PURPOSE OF THE APPLICATION:** To receive Council approval to transfer an existing Class C Cabaret liquor license from 540 Leon Avenue to 1255/1265 Ellis Street