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# CITY OF KELOWNA

## MEMORANDUM

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**Date:** December 4<sup>th</sup>, 2002  
**File No.:** LL02-0011

**To:** City Manager

**From:** Planning and Development Services Department

**Subject:**

APPLICATION NO. LL02-0011

OWNER: QUAIL PLACE ESTATES

AT: 274 LAWRENCE AVENUE

APPLICANT: DAVID HABIB  
(QUAIL PLACE ESTATES)

PURPOSE: TO OBTAIN COUNCIL SUPPORT TO RELOCATE AN EXISTING LIQUOR  
PRIMARY (CLASS "C" CABARET) LICENSE FROM 540 LEON AVENUE TO  
274 LAWRENCE AVENUE

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 (LL02-0004) and therefore it is being re-submitted by staff in a similar format as the previous report. The report is being submitted with the understanding of the applicant that if the Planning and Development Services Department does not receive the required correspondence by Monday, December 16, the application will be omitted from the agenda. Revised comments by the RCMP may affect the position of the Planning and Development Services Department regarding the application.

### 1.0 RECOMMENDATION

THAT Municipal Council not support the transfer of a Class "C" (Liquor Primary) cabaret license for the relocation of the Snooty Fox from 540 Leon Avenue to 274 Lawrence Avenue;

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

### 2.0 SUMMARY

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 has not operated since, although the applicant has continued to hold a valid Class "C" license for the premises. The applicant now wishes to transfer the license from 540 Leon Avenue to 247 Lawrence Avenue, a premises where he has operated as a non-licensed after hours and special event dance club since the fire event. The applicant has also received a limited number of special occasion liquor licenses at the proposed location.

Under new Liquor Control and Licensing Branch regulations the Class "C" Liquor License has been amalgamated into the new "Liquor Primary" category.

The applicant wishes to operate both a restaurant and a cabaret at the new premises. The intent of operating a restaurant is to address Council's and the neighbourhood's concerns of "dead space" typically created by cabarets during the day. The restaurant would open at 11:30 am to serve a lunch clientele. It would then remain open for the rest of the day and could serve liquor for 14 consecutive hours, i.e. from 11:30 am to 1:30 am. The restaurant could remain open longer; however, no alcohol could be served past the 14-hour period. The area of the restaurant would have an occupancy load of 77 persons. In addition to the interior space, the restaurant would include a rooftop patio for approximately 45 persons.

In the rear of the building, the applicant wishes to operate a nightclub. In order to do so, he is asking Council to support the relocation of the Liquor Primary (Class "C") license to the premises at 274 Lawrence Avenue. The license permitted an occupancy load of 304 persons at the former location on Leon Avenue. The useable cabaret area is 240m<sup>2</sup>, which would allow for an occupancy load of 200 persons. The hours of operation of the cabaret would be from 7:00 p.m. to 2:00 a.m., with subject to later opening hours should future provincial regulations permit the applicant to do so.

### 3.2 Site Context

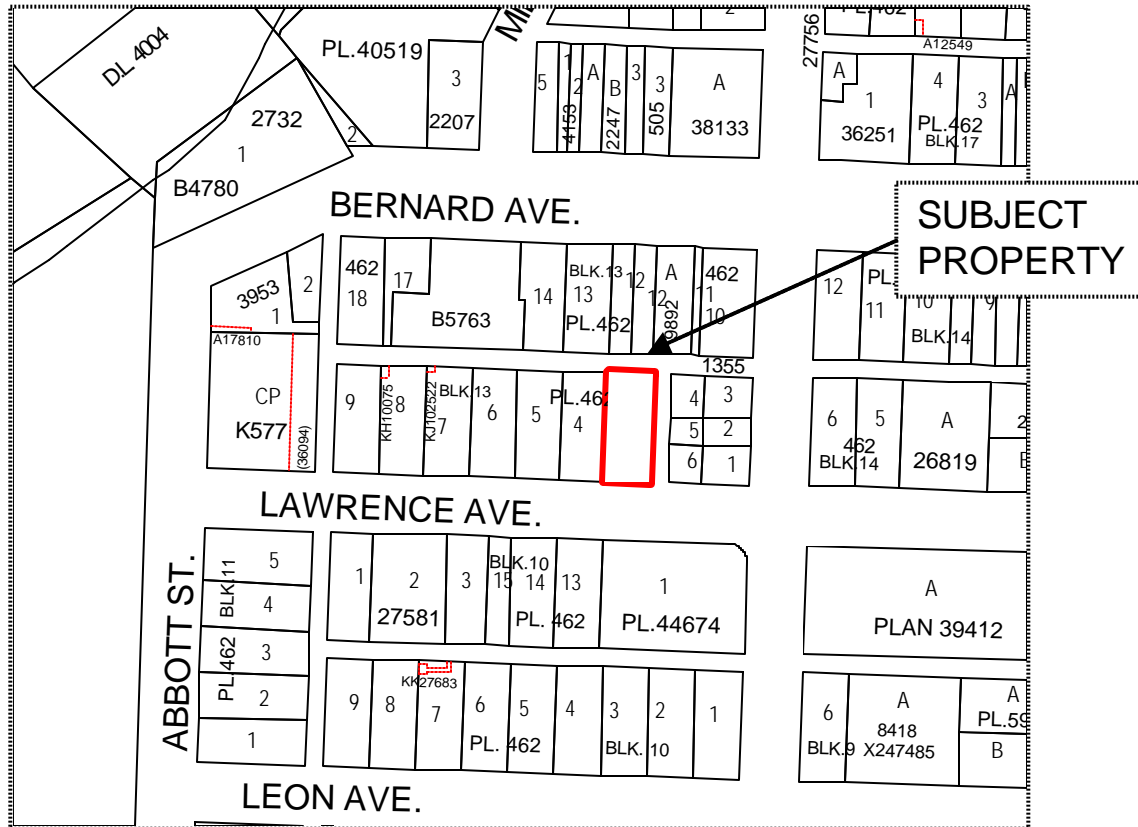
The proposed location for the cabaret is in downtown Kelowna, on the north side of Lawrence Avenue between Abbott and Water Streets.

Adjacent zones and uses are to the:

- North - C7 – Central Business Commercial
- South - C7 – Central Business Commercial
- West - C7 – Central Business Commercial
- East - C7 – Central Business Commercial

### 3.3 Site Location Map

Subject Property: 274 Lawrence Avenue



### 4.0 TECHNICAL COMMENTS

#### 4.1 Inspection Services Department

Inspection Services have reviewed the application as presented and provide the following comments:

- Exiting - OK
- Washrooms - The number of fixtures for female would only permit 100 ladies.  
- The number of fixtures for males is sufficient for 200 males.

We have no objections to this application based on fire and safety. All proposed improvements are subject to applicable building and occupancy permits.

#### 4.2 RCMP

The following are the RCMP comments from the previous two applications for a liquor license transfer to the subject property.

- 4.2.1 The RCMP does not support the transfer of the existing Class C license to the proposed location. While it is recognized that this is an existing license, the proposed transfer would move the license to an area closer to existing Class C licensed establishments. This would in effect add drinking establishment capacity within an area already served by four similar licenses. The RCMP would not object to moving this license to an area of the City that is not already served by similar types of establishments (LL02-0003).
- 4.2.2 There is no change in the RCMP's position from the previous application (LL02-0003). The downtown core cannot withstand an additional cabaret-licensed premise. The RCMP would have no objection to considering an application in an outlying location (LL02-0004).

#### 4.3 Fire Department

- Premise must conform to Smoking Regulations (Environmental Tobacco Smoke Reg. 03/2002).
- A Food Premises Permit is required from out office.

#### 4.4 Health Unit

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

## 5.0 PLANNING COMMENTS

The Planning and Development Services Department has some general concerns with the concentration of Liquor Primary (Class "C") licensed establishments within the downtown area. The current license for this establishment is regulated by the province with a limitation on hours of operation that restrict opening hours to those between 7:00 PM and 2:00 AM. This makes it impossible for these establishments to conduct any activity outside of these hours that is open to the public. It is therefore very difficult for such establishment to contribute to the daily activity of downtown life. However, under new provincial regulations the applicant could apply for longer operating hours. The other area of concern is that there is one other Liquor Primary (Class "C") licensed establishment on this street in this block and three more one street over but within the same block. The Planning and Development Services Department is concerned with concentrating these establishments in the downtown area as the cumulative effect will create "dead zones" during daytime hours. There is also additional concern that they all close at the same time, releasing patrons onto the street who have the capacity to be unruly, providing additional challenges to the RCMP.

## 6.0 ALTERNATE RECOMMENDATION

THAT Council support the relocation of the Liquor Primary (Class "C") liquor license from 540 Leon Avenue to 274 Lawrence Avenue;

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.:** LL02-0011
2. **APPLICATION TYPE:** Liquor License Application (Transfer)
3. **OWNER:** 614030 BC Ltd.  
· **ADDRESS** 327 Bernard Avenue  
· **CITY** Kelowna, BC  
· **POSTAL CODE** V1Y 6N6
4. **APPLICANT/CONTACT PERSON:** David Habib  
· **ADDRESS** 4493 Stewart Road East  
· **CITY** Kelowna, BC  
· **POSTAL CODE**  
· **TELEPHONE/FAX NO.:** 317-5055
5. **APPLICATION PROGRESS:**  
    **Date of Application:** November 27, 2002  
    **Date Application Complete:**  
    **Staff Report to Council:** December 17, 2002
6. **LEGAL DESCRIPTION:** Lot 3, Block 13, District Lot 139, ODYD, Plan 462
7. **SITE LOCATION:** North Side of Lawrence Avenue between Abbott and Water Streets.
8. **CIVIC ADDRESS:** 274 Lawrence Avenue
9. **EXISTING ZONE CATEGORY:** C7- Central Business Commercial
10. **PURPOSE OF THE APPLICATION:** To receive Council approval to transfer an existing Liquor Primary (Class "C") Cabaret liquor license from 540 Leon Avenue to 274 Lawrence Avenue