

---

**CITY OF KELOWNA**

**MEMORANDUM**

---

**Date:** January 27, 2003  
**File No.:** LL03-0002

**To:** City Manager

**From:** Planning and Development Services Department

**Subject:**

APPLICATION NO. LL03-0002                      OWNER: Darwin Enterprises

AT: 311 Harvey Avenue                      APPLICANT: Ken Hutchinson

PURPOSE: TO OBTAIN COUNCIL SUPPORT FOR AN EXTENSION TO  
THE PERMITTED HOURS OF LIQUOR SERVICE FROM  
MIDNIGHT TO 2 A.M. THURSDAY TO SATURDAY.

REPORT PREPARED BY: RYAN SMITH

---

1.0 RECOMMENDATION

THAT Council not support an extension to the permitted hours of liquor service proposed by Ken Hutchinson of the Chicago Grill Restaurant for 311 Harvey Avenue;

2.0 SUMMARY

The applicant is seeking Council support for an extension to the permitted hours of liquor service for an existing Food Primary Licensed establishment (Chicago Grill) on Harvey Avenue. The applicant is proposing to extend by two the permitted hours of operation Thursday through Saturday (midnight to 2a.m.).

3.0 BACKGROUND

3.1 The Proposal

In December of 2002 the Provincial government's Liquor Control and Licensing Branch made significant changes to Liquor Licensing regulations in British Columbia. The Liquor Control and Licensing Branch issues food-primary licences to businesses (restaurants) where the service of food, as opposed to liquor, is the primary focus of the business. Licensed restaurants may serve any kind of liquor, even to customers who do not order food. However, a full range of appetisers and main courses must be available whenever liquor is available. Restaurants may remain open 24-hours-a-day, but may serve liquor between 9:00 am and 4:00 am only (late-night hours, after midnight, require local government approval).

The applicant is seeking Council support for an extension to the permitted hours of operation for an existing Food Primary Licensed establishment (Chicago Grill) on Harvey Avenue. The Chicago Grill Restaurant has existed in this location since 2001 and received a new façade before opening in the late fall of that year. At this time Council also approved a patron participant entertainment endorsement for the restaurant and a Designated Food Optional Seating area (DFO) consisting of 20 seats was also granted.

### 3.2 Site Context

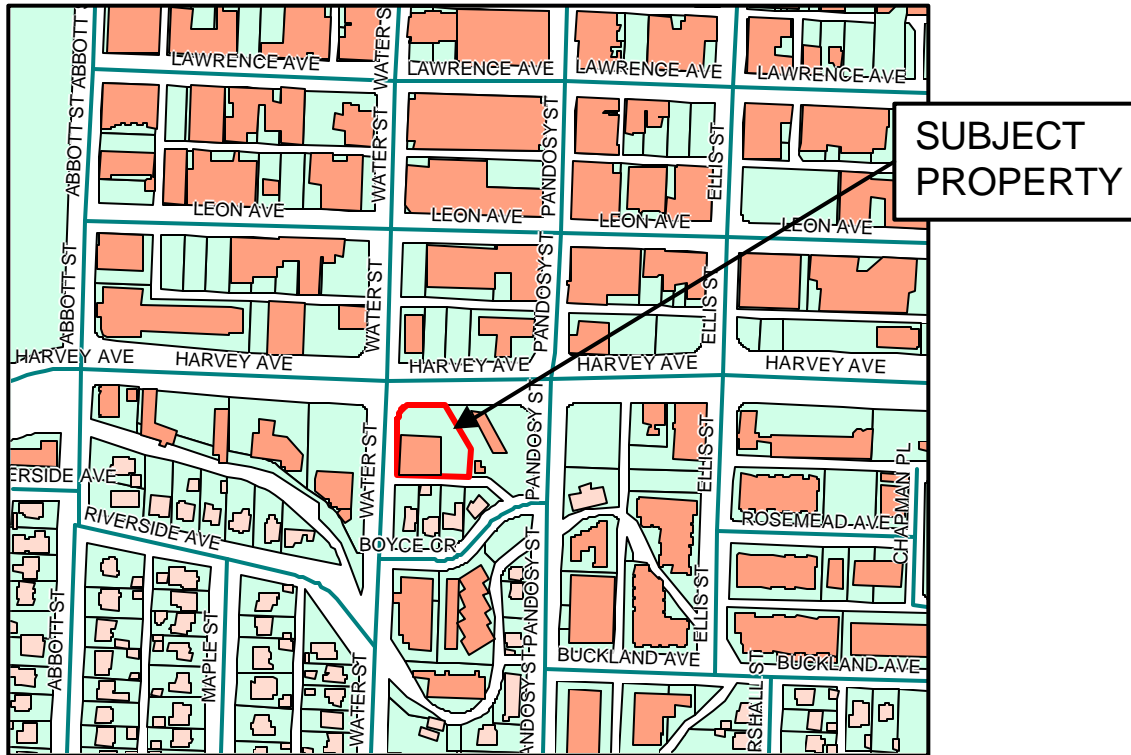
The subject property is located on the south-east corner where Harvey Avenue meets Water Street in the Central City Sector.

Adjacent zones and uses are:

North	-C7 – Central Business Commercial
East	-C4 – Town Centre Commercial
South	-RM5 – Medium Density Multiple Housing
West	-C4 – Town Centre Commercial

### 3.3 Site Location Map

Subject Property: 311 Harvey Avenue



### 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

No Comment.

#### 4.2. RCMP

Pending the result of Mayor's task force we will not support any changes to existing or new license requests.

#### 4.3. Fire Department

No comment.

4.4 Public Health Inspector

No Comment.

5.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department is concerned with the proposed extension to hours of liquor service. The Department feels that any extension would set an unwanted precedent in the City and would compound existing problems in the downtown core. It is recommended that Council not support this application and not support any extension of hours for any Food Primary licensed or Liquor Primary licensed establishment until such time as the Mayor's Task force provides Council with comprehensive policy direction. Furthermore, staff are concerned that extending the hours of operation for a Food Primary licensed establishment already enjoying the privilege of a restaurant lounge (20 seats) and an entertainment (dancing) endorsement will result in a function too similar to a Liquor Primary establishment.

6.0 ALTERNATE RECOMMENDATION

THAT Council support an extension to the permitted hours of operation from midnight to 2 a.m. (Thursday, Friday, Saturday) proposed by Ken Hutchinson of the Chicago Grill Restaurant for 311 Harvey Avenue;

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

---

Andrew Bruce  
Current Planning Manager

Approved for inclusion

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

RWS  
Attach.

**FACT SHEET**

- |   |  |
|---|--|
| <b>1. APPLICATION NO.:</b>  | LL03-0002  |
| <b>2. APPLICATION TYPE:</b>   | Liquor License Application   |
| <b>3. OWNER:</b>  | Darwin Enterprises Inc   |
| <b>ADDRESS</b>  | P.O. Box 29094   |
| . CITY  | Kelowna, BC  |
| . POSTAL CODE   | V1W 4A7  |
| <b>OWNER:</b>   | Moltke Enterprises Inc   |
| <b>ADDRESS</b>  | 4588 Fuller Road   |
| . CITY  | Kelowna, BC  |
| . POSTAL CODE   | V1W 1Z7  |
| <b>4. APPLICANT/CONTACT PERSON:</b>                                   | Ken Hutchinson   |
| . ADDRESS   | 3300 Watt Rd.  |
| . CITY  | Kelowna, BC  |
| . POSTAL CODE   | V1W 3C8  |
| . TELEPHONE/FAX NO.:  | (250) 317-4081   |
| <b>5. APPLICATION PROGRESS:</b>                                       |  |
| Date of Application:  | January 7, 2003  |
| Date Application Complete:  | January 7, 2003  |
| Staff Report to Council:  | February 10, 2003  |
| <b>6. LEGAL DESCRIPTION:</b>  | Lot B, DL. 139, Plan 33086   |
| <b>7. SITE LOCATION:</b>  | The subject property is located on the south-east corner of Harvey Avenue and Water Street in the downtown area.     |
| <b>8. CIVIC ADDRESS:</b>  | 311 Harvey Avenue, Kelowna, BC   |
| <b>9. AREA OF SUBJECT PROPERTY:</b>                                   | 2042 m.sq.   |
| <b>10. EXISTING ZONE CATEGORY:</b>                                    | C4 – Town Centre Commercial  |
| <b>11. PURPOSE OF THE APPLICATION:</b>                                | TO OBTAIN COUNCIL SUPPORT FOR AN EXTENSION OF OPERATION HOURS FROM MIDNIGHT TO 2 A.M., THURSDAY, FRIDAY AND SATURDAY |
| <b>14. MIN. OF TRANS./HIGHWAYS FILES NO.:</b>                         | N/A  |
| <b>NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY</b> |  |
| <b>15. DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS</b>                   | N/A  |

**ATTACHMENTS**

**(not attached to the electronic version of the report)**

- Location of subject property