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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** March 10<sup>th</sup>, 2003  
**File No.:** LL03-0003

**To:** City Manager

**From:** Planning and Development Services Department

**Subject:**

APPLICATION NO. LL03-0003

OWNER: Whitworth Holdings Ltd.

AT: 1250-1298 Ellis Street

APPLICANT: Flashbacks Entertainment Ltd.

PURPOSE: TO OBTAIN COUNCIL SUPPORT FOR AN INCREASE IN SEATING CAPACITY (195 PERSONS)

TO EXTEND THE PERMITTED HOURS OF LIQUOR SALES TO 9:00 A.M.-4 A.M. MONDAY THROUGH SUNDAY

REPORT PREPARED BY: RYAN SMITH

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1.0 RECOMMENDATION

THAT Council not support a licensed person capacity increase proposed by Flashbacks Entertainment Ltd. for 1250-1298 Ellis Street;

AND THAT Council not support an extension to the permitted hours of liquor sales proposed by Flashbacks Entertainment Ltd. For 1250-1298 Ellis Street.

2.0 SUMMARY

The applicant is seeking Council support for a Licensed Capacity Increase and an extension to hours of operation. The applicant is proposing to expand the floor area of the establishment to accommodate a larger person capacity (686 Persons) and extend the hours of operation to 9 a.m.-4 a.m., 7 days per week.

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. One of the results being that local governments now have input on capacity increases only in cases where the physical size of a liquor primary licensed establishment is proposed to change. Local governments were also given the opportunity to comment on all applications pertaining to hours of liquor sale.



The applicant is proposing to renovate an area on the second floor of the cabaret. The renovation would involve the conversion of several storage rooms into useable floor space. The existing person capacity of the establishment is 491. The applicants are requesting a person capacity of 686, an increase of 195 persons. The applicants will be required to provide an additional 49 parking spaces on-site or pay cash in-lieu for the spaces. The applicant has indicated that Flashbacks is attempting to acquire additional parking on an adjacent site; or alternatively will pay cash in-lieu for the additional spaces that are required.

The applicant has proposed two options to consider for an extension to the establishments permitted hours of liquor sales. The first option would be an extension to permitted hours of liquor sales to include the following:

- 9:00 a.m. to 4:00 a.m., Monday to Sunday

The second option would include the following:

- 9:00 a.m. to 2:00 a.m. Monday to Sunday

The applicant intends to use these extended hours for special occasions or on a limited basis.

The application compares to the requirements the City of Kelowna Sign Bylaw No. 8000 as follows:

<b>CRITERIA</b>	<b>PROPOSAL</b>	<b>ZONING BYLAW REQUIREMENTS</b>
Person Capacity Existing	491	491 (Max Occupancy Load)
Proposed Person Capacity	686	686 (Max Occupancy Load after renovation)
Required Parking	Acquire additional parking or pay cash in-lieu.	49 (1 Stall per 4 seats)

### 3.2 Site Context

The subject property is located on the West Side of Ellis Street between Cawston and Clement Avenues in the Central City Sector.

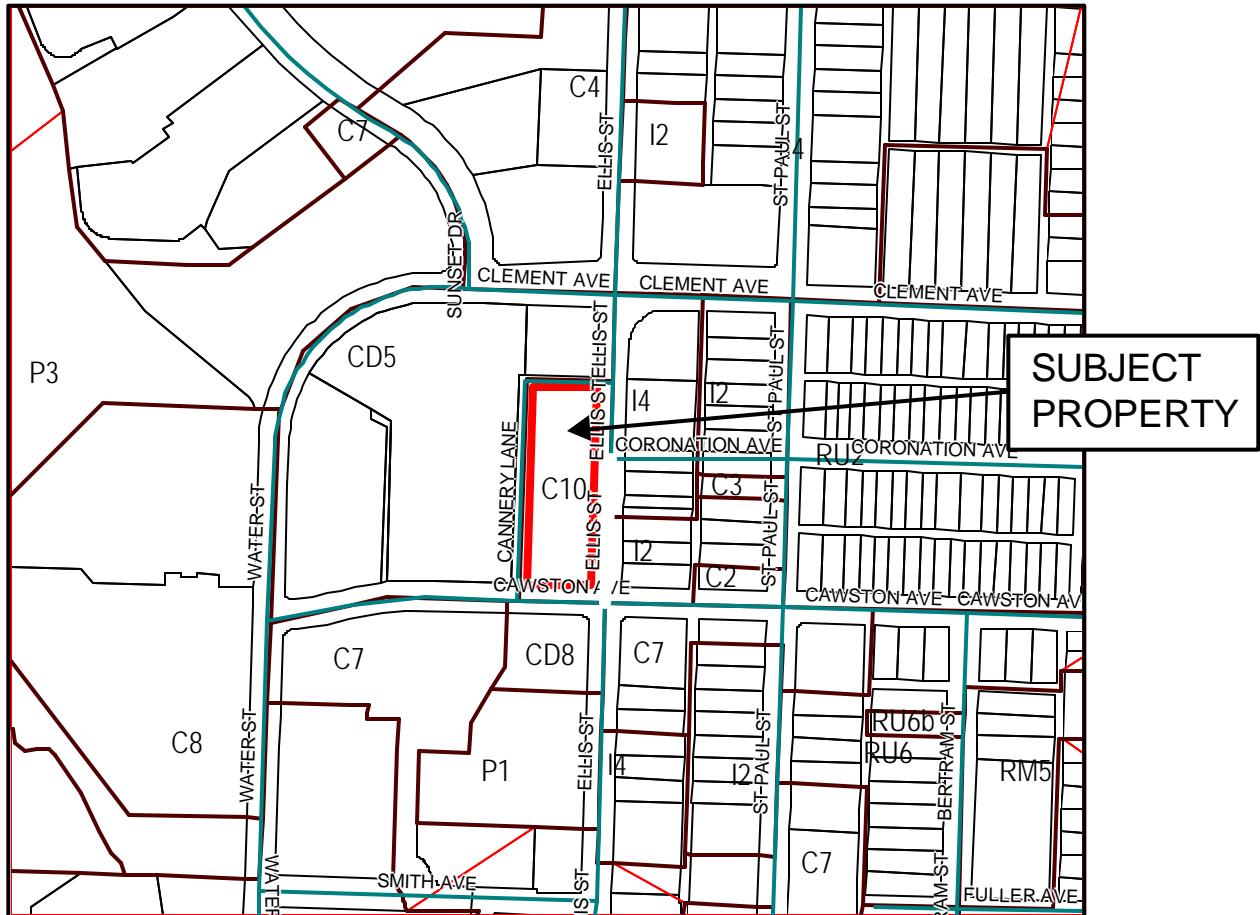
Adjacent zones and uses are:

- North -CD5 – Multi-Purpose Facility – Skyreach Place
- East -I4 – Central Industrial – Industrial Developments
- South -CD8 – Heritage Commercial – The Laurel
- West -CD5 – Multipurpose Facility – Skyreach Place



### 3.3 Site Location Map

Subject Property: 1250-1298 Ellis Street



### 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

- Maximum Occupant Load – 686 Persons
- Exits: Okay
- Washrooms: Okay
- 195 persons are being added to the original person capacity with this change of use of the existing floor ie. Storage/office assembly
- Applicant required to provide additional parking or pay cash in lieu



4.2. RCMP

The RCMP will not support any requests until the completion of the Mayor's Task Force on entertainment.

4.3. Fire Department

No increase in occupant load should be considered until sprinklers have been tested as per section 6.5.4.13 of the BC Fire Code (in service for more than 50 years).

4.4. Public Health Inspector

Seating areas must ensure compliance with Environmental Tobacco Smoke Regulation 03/2002 (WCB).



## 5.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department is unable to support the applicants request for a person capacity increase and extension to permitted hours of liquor sales. There is concern that should these licensing amendments be granted, they may lead to increases in noise and crime in the vicinity of the cabaret. Furthermore, the Mayor's Entertainment Task force has yet to forward policy to the Planning and Development Services Department regarding extensions to the hours of liquor sales.

## 6.0 ALTERNATE RECOMMENDATION

THAT Council support the person capacity increase (from 491 to 686 persons) proposed by Flashbacks Entertainment Ltd for 1250-1298 Ellis Street;

AND THAT Council support an extension to the permitted hours of liquor sales (9 a.m.-4 a.m. Monday to Sunday) proposed by Flashbacks Entertainment Ltd. for 1250-1298 Ellis Street;

AND THAT Council direct staff to forward the appropriate resolution to the Liquor Control and Licensing Branch in Victoria subject to the following:

- 1) The applicant meeting the parking requirement or arranging for a cash in-lieu payment to the City of Kelowna
- 2) Sprinkler testing and upgrading throughout the building.

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Andrew Bruce  
Current Planning Manager

Approved for inclusion

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

RWS  
Attach.



**FACT SHEET**

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|---|---|
| <b>1. APPLICATION NO.:</b>  | LL03-0003   |
| <b>2. APPLICATION TYPE:</b>   | Liquor License Application  |
| <b>3. OWNER:</b>  | Whitworth Holdings Ltd.   |
| <b>ADDRESS</b>  | 1264 Ellis Street   |
| . CITY  | Kelowna, BC   |
| . POSTAL CODE   | V1Y 1Z4   |
| <b>4. APPLICANT/CONTACT PERSON:</b>                                   | Bill Shepherd   |
| . ADDRESS   | PO Box 579  |
| . CITY  | Kelowna, BC   |
| . POSTAL CODE   | V1Y 1Z4   |
| . TELEPHONE/FAX NO.:  | 861-3039  |
| <b>5. APPLICATION PROGRESS:</b>                                       |   |
| Date of Application:  | January 23, 2003  |
| Date Application Complete:  | January 23, 2003  |
| Staff Report to Council:  | April 15, 2002  |
| <b>6. LEGAL DESCRIPTION:</b>  | Lot 1, DL139, Plan 660 ODYD   |
| <b>7. SITE LOCATION:</b>  | The subject property is located on the West Side of Ellis Street between Cawston and Clement Avenues in the Central City Sector.  |
| <b>8. CIVIC ADDRESS:</b>  | 1250-1298 Ellis Street, Kelowna, BC   |
| <b>9. AREA OF SUBJECT PROPERTY:</b>                                   | 5596m.sq.   |
| <b>10. EXISTING ZONE CATEGORY:</b>                                    | C10 – Service Commercial  |
| <b>11. PURPOSE OF THE APPLICATION:</b>                                | TO OBTAIN COUNCIL SUPPORT FOR AN INCREASE IN PERSON CAPACITY (59 PERSONS)<br>TO EXTEND THE PERMITTED HOURS OF LIQUOR SALES TO 9:00 A.M.-4 A.M.<br>MONDAY THROUGH SUNDAY |
| <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
- Proposed Area of Expansion