
CITY OF KELOWNA

MEMORANDUM

Date: July 17, 2003
File No.: TA03-0006/Z03-0029
To: City Manager
From: Planning and Development Services Department

Subject:

APPLICATION NO. TA03-0006/
Z03-0029
OWNER: OK Corral
AT: 1978 Kirschner Road
APPLICANT: OK Corral (Gerald Bruggera)

PURPOSE: TO AMEND ZONING BYLAW NO. 8000 TO ADD LIQUOR PRIMARY ESTABLISHMENT, MAJOR AND RETAIL LIQUOR SALES ESTABLISHMENT AS PERMITTED USES IN THE C10 – SERVICE ZONE (WITH REZONING)

TO REZONE THE SUBJECT PROPERTY FROM C10 – SERVICE COMMERCIAL TO C10 – SERVICE COMMERCIAL **(LP/RLS)**

EXISTING ZONE: C10 – SERVICE COMMERCIAL

PROPOSED ZONE: C10 – SERVICE COMMERCIAL **(LP/RLS)**

REPORT PREPARED BY: RYAN SMITH

1.0 RECOMMENDATION

THAT Zoning Bylaw Text Amendment No. TA03-0006 to amend City of Kelowna Zoning Bylaw No. 8000 by adding Liquor Primary Establishment, Major and Retail Liquor Sales establishment as permitted uses in the C10-Service Commercial Zone (with rezoning to LP/RLS designation) as outlined in the report of the Planning & Development Services Department dated July 17, 2003 be considered by Council;

AND THAT Rezoning Application No. Z03-0029 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, Block 129, Plan 23146, ODYD, located at Kirschner Road, Kelowna, from the C10- Service Commercial Zone to the C10- Service Commercial (LP/RLS) zone be considered by Council;

AND THAT Zoning Bylaw Text Amendment No. TA03-0006 and the zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT the Zone amending bylaw be with held until the applicant has received final approval for the Licensee Retail Store from the British Columbia Liquor Control and Licensing Branch.

2.0 SUMMARY

The applicant seeks to amend the C10 – Service Commercial Zone of City of Kelowna Zoning Bylaw No.8000 in order to add Liquor Primary establishments, major and Retail Liquor Sales establishments as permitted uses where the property has the C10 LP/LRS zoning designation. The applicant is also seeking to rezone the subject property from C10 – Service Commercial to C10 – Service Commercial LP/RLS (add LP/RLS designations).

3.0 ADVISORY PLANNING COMMISSION

At the regular meeting of June 3, 2003 it was resolved:

THAT the Advisory Planning Commission supports Rezoning Application No. Z03-0029 and Text Amendment Application No. TA03-0006, 1978 Kirschner Road, Lot A, Plan 23146, Sec. 20, Twp. 26, ODYD, by the OK Corral (Gerald Bugera), to rezone the subject property from the C10 - Service Commercial zone to the C10 - Service Commercial (Liquor Primary / Retail Liquor Sales - LP/RLS) zone; and to amend Zoning Bylaw No. 8000 to allow liquor primary establishments as a permitted principal use and retail liquor stores as a permitted secondary use in the C10 - Service Commercial zone.

4.0 BACKGROUND

The applicant is the owner/operator of the OK Corral Cabaret at 1978 Kirschner Rd. The Cabaret exists as a legal non-conformity with regards to zoning. Liquor Primary, major (formerly Eating and Drinking establishments, major) are not a permitted use in the C10 – Service Commercial zone. In addition, the OK Corral has an application in-stream with the Liquor Control and Licensing Branch for a Licensee Retail Store. Retail Liquor Stores are not a permitted use in the C10 zone.

4.1 The Proposal

The applicant is proposing a text amendment to the C10 – Service Commercial zone that would add Liquor Primary Establishments, major and Retail Liquor Sales establishments at principal uses with a rezoning to add either a LP or RLS to the parent zone of the property (See Schedule “A”). This is a similar approach to the rezoning required for secondary suites in some urban residential zones.

The applicant is proposing an interior renovation to accommodate the Licensee Retail Store. The renovation would decrease the floor area of the existing cabaret by approximately 25%. There will not be a change to the size of the existing building. The façade of the existing building that fronts on Kirschner Road will be refurbished and used as the storefront for the Licensee Retail Store.

In concurrence to the proposed text amendment the applicant is proposing to rezone the subject property, adding both an LP and RLS designation to the parent zone (C10). The adoption of the proposed text amendments in conjunction with approval of the rezoning application would allow the subject property to conform to the C10 zone.

4.2 Site Context

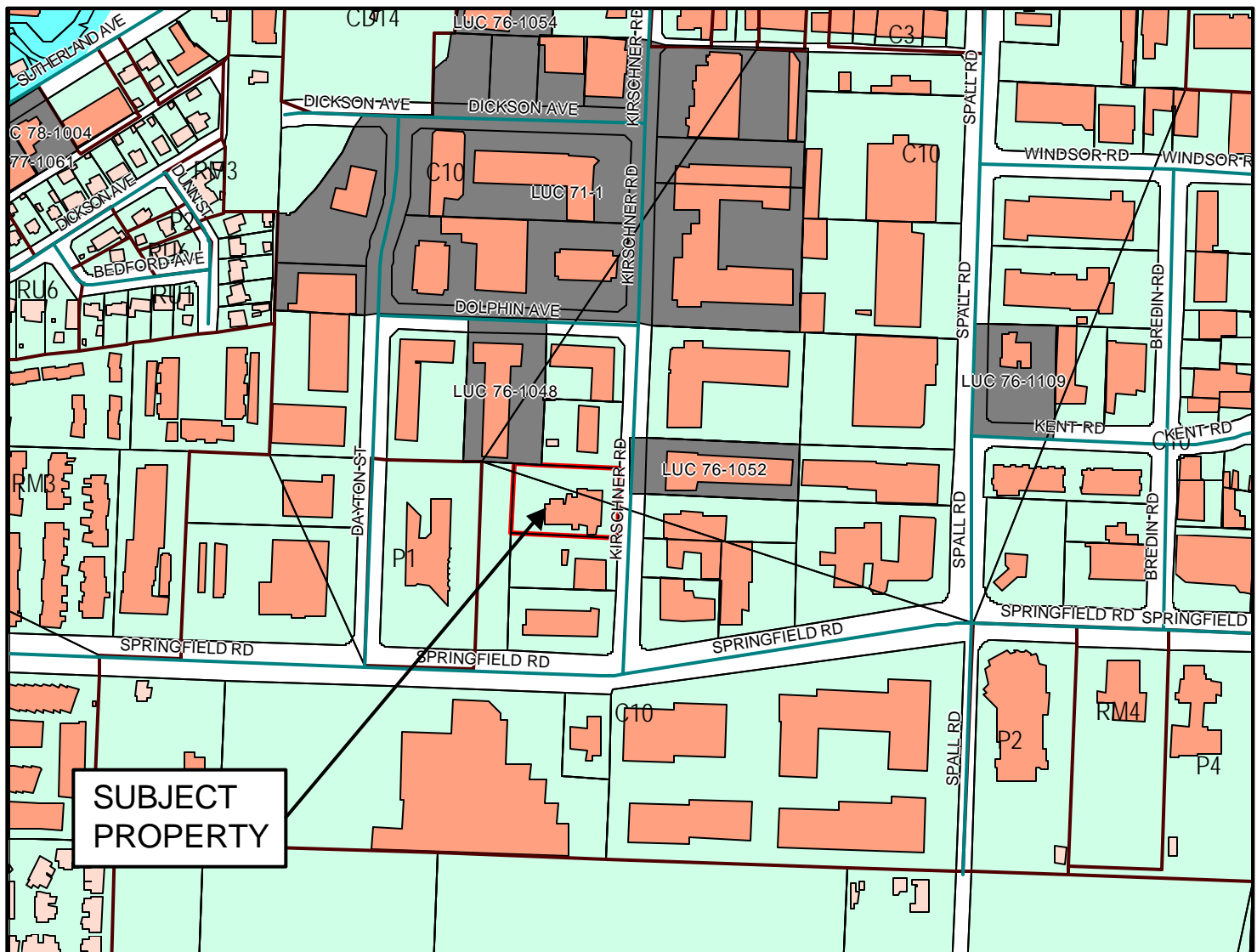
The subject property is located in the Central City Sector on the west side of Kirschner Road, Between Dolphin Avenue and Springfield Road.

Adjacent zones and uses are:

- North - C10 – Service Commercial (A-Z Autotech/Bow Wow Parts)
- East - C10 – Service Commercial (Emco Ltd./Western Supplies)
- South - C10 – Service Commercial (Satellite Recyclable Depot)
- West - C10 – Service Commercial (Insurance Corporation of British Columbia)

4.3 Site Location Map

Subject Property: 1978 Kirschner Road



4.4 Existing Development Potential

The property is currently zoned C10 – Service Commercial. The purpose of this zone is to designate and preserve land for the accommodation of a mix of commercial uses, including vehicular oriented areas, not provided for in other zones.

4.5 Current Development Policy

The future land use designation identified in the official community plan for the property is Commercial. The proposal is consistent with this designation.

5.0 TECHNICAL COMMENTS

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

5.1 Inspection Services Department

No comment.

5.2 Ministry of Transportation

No objection.

5.3 Works and Utilities Department

The proposal does not compromise Works and Utilities requirements.

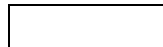
6.0 PLANNING AND CORPORATE SERVICES DEPARTMENT

In light of the policy direction laid out for Council by the Mayor's Entertainment District Task Force (MEDTF) the Planning and Corporate Services Department has no immediate concerns with the proposed text amendment and rezoning. The proposed retail liquor store is also generally consistent with MEDTF recommendations. Although the text amendment proposes to allow Liquor Primary establishments, major and Retail Liquor Sales establishments as permitted uses in the C10 Zone, a rezoning to add the LP/RLS designation will still be required before any new Liquor Primary establishment, major or Retail Liquor Sales establishment could locate in the C10 – Service Commercial Zone.

However, it should be noted that there is some uncertainty about what the final provincial strategy will be with regards to private liquor retail sales. The Planning and Corporate Services Department recommends that Council defer final adoption of the rezoning bylaw until the applicant has received final approval from the Liquor Control and Licensing Branch for the retail liquor sales outlet.

The OK Corral currently has adequate on-site parking to accommodate the Licensee Retail Store and the proposed hours of the store (9am to 11pm) are such that the “dead zone” commonly associated with night-club/cabaret type operations is reduced.

Andrew Bruce
Development Services Manager



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

RM/AB/rws
Attach.

FACT SHEET

1. **APPLICATION NO.:** TA03-0006/Z03-0029
2. **APPLICATION TYPE:** Text Amendment/Rezoning
3. **OWNER:** OK Corral
· **ADDRESS** 1978 Kirschner Road
· **CITY** Kelowna, BC
· **POSTAL CODE** V1Y 4N6
4. **APPLICANT/CONTACT PERSON:** Gerald Bruggera (OK Corral)
· **ADDRESS** 1978 Kirschner Road
· **CITY** Kelowna, BC
· **POSTAL CODE** V1Y 4N6
· **TELEPHONE/FAX NO.:** 763-5554
5. **APPLICATION PROGRESS:**
 Date of Application: May 02, 2003
 Date Application Complete: May 02, 2003
 Servicing Agreement Forwarded to Applicant: N/A
 Servicing Agreement Concluded: N/A
 Staff Report to APC: June 3, 2003
 Staff Report to Council
6. **LEGAL DESCRIPTION:** Lot A, Block 129, Plan 23146, ODYD
7. **SITE LOCATION:** The subject property is located in the Central City Sector on the west side of Kirschner Road, Between Dolphin Avenue and Springfield Road.
8. **CIVIC ADDRESS:** 1978 Kirschner Road
9. **AREA OF SUBJECT PROPERTY:** 4502m²
10. **AREA OF PROPOSED REZONING:** 4502m²
11. **EXISTING ZONE CATEGORY:** C10- Service Commercial
12. **PROPOSED ZONE:** C10 LP/RLS
13. **PURPOSE OF THE APPLICATION:** Text Amendment/Rezoning
14. **MIN. OF TRANS./HIGHWAYS FILES NO.:** N/A
NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY
15. **DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS** Commercial DP Area

**SCHEDULE A – AMENDMENTS TO CITY OF KELOWNA
ZONING BYLAW NO. 8000**

14.10 C10 – Service Commercial

Delete Section 14.10.2(p) and renumber the subsequent sections.

Add the following section as 14.10.2(p):

14.10.2(p) food primary establishment

Add the following section as 14.10.2(z) and renumber the subsequent sections:

14.10.2(z) liquor primary establishment, major (C4LP, only)

Add the following section as 14.10.2(gg):

14.10.2(gg) retail liquor sales establishment (C4RLS only)

Add the following section as 14.10.6 (d)

14.10.6(d) An “LP” notation shown on Schedule “A” as part of the identified zone classification indicates that a Liquor Primary, major establishment in the form of facilities primarily intended for the provision and consumption of alcoholic beverages which have a seating capacity of more than 100 persons is permitted on the properties so designated, subject to meeting the conditions of use of the zone. An “LP” zoning classification on a property shall be established by rezoning the subject property to the “LP” version of the parent zone.

Add the following Section as 14.10.6(e)

14.10.6(e) An “RLS” notation shown on Schedule “A” as part of the identified zone classification indicates that a Retail Liquor Sales Establishment in the form of a government operated liquor retail establishment or licensee retail store liquor sales establishment is permitted on the properties so designated, subject to meeting the conditions of use of the zone. An “RLS” zoning classification on a property shall be established by rezoning the subject property to the “RLS” version of the parent zone.

ATTACHMENTS

(not attached to the electronic version of the report)

- Location of subject property
- Site plan
- Floor plans
- Elevations
- Colour photos