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## CITY OF KELOWNA

### MEMORANDUM

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**Date:** January 10, 2005  
**File No.:** Z04-0080

**To:** City Manager

**From:** Planning and Corporate Services Department

**Subject:**

**APPLICATION NO.** Z04-0080  
**AT:** 1949-1989 Harvey Avenue

**OWNER:** Jabs Development Ltd.  
**APPLICANT:** Cory Jmaeff  
708011 BC Ltd.

**PURPOSE:** TO REZONE THE SUBJECT PROPERTY FROM C4 – URBAN CENTRE COMMERCIAL TO C4RLS – URBAN CENTRE COMMERCIAL (RETAIL LIQUOR SALES) TO ALLOW FOR A 273M<sup>2</sup> RETAIL LIQUOR STORE

**EXISTING ZONE:** C4 – URBAN CENTRE COMMERCIAL

**PROPOSED ZONE:** C4RLS – URBAN CENTRE COMMERCIAL (RETAIL LIQUOR SALES)

**REPORT PREPARED BY:** RYAN SMITH

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#### 1.0 RECOMMENDATION

THAT Rezoning Application No. Z04-0080 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of LOT 1, D.L.129, ODYD PLAN KAP55442, located on Harvey Avenue, Kelowna, B.C. from the C4 – Urban Centre Commercial zone to the C4RLS – Urban Centre Commercial (Retail Liquor Sales) zone be considered by Council;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration;

## 2.0 SUMMARY

The applicant is seeking to rezone the subject property from the C4 – Urban Centre Commercial zone to the C4RLS – Urban Centre Commercial (Retail Liquor Sales) zone to accommodate a new licensee retail store in a retail unit on the subject property.

## 3.0 BACKGROUND

In the fall of 2003 the Liquor Control and Licensing Branch relaxed some of their policy with regards to licensee retail stores. Operators of licensee retail stores are now permitted to apply for relocation of their store to another location in the same local government jurisdiction, or to a location outside the local government jurisdiction that is within 5km of the liquor primary establishment. A licensee retail store is no longer required to be at the same location as the licensed premise to which it is attached by ownership.

The regulations continue to require that a licensee retail store and associated liquor-primary establishment be owned by the same person. If the liquor-primary establishment goes out of business or no longer qualifies to be licensed, then the licensee retail store license will be cancelled.

The applicant has entered into an agreement with the licensee of Tonics Pub to operate their licensee retail store.

### 3.1 The Proposal

The applicant is seeking to rezone the subject property from the C4 – Urban Centre Commercial zone to the C4RLS – Urban Centre Commercial (Retail Liquor Sales) zone to accommodate a new licensee retail store in an existing commercial retail unit located on the subject property. The applicant is proposing to open a small licensee retail store to serve this area of the Harvey Avenue corridor. The licensee retail store will be approximately 273m<sup>2</sup> in size.

The application meets the requirements of the proposed C3RLS – Community Commercial (Retail Liquor Sales) zone as follows:

CRITERIA	PROPOSAL	C3RLS ZONE REQUIREMENTS
Size (Retail and Cooler Area)	273m <sup>2</sup>	N/A
Parking Spaces	Sufficient parking provided in existing mall lot.	9 stalls

### 3.2 Site Context

The subject property is located on the south side of Harvey Avenue between Ambrosi Road and Spall Road.

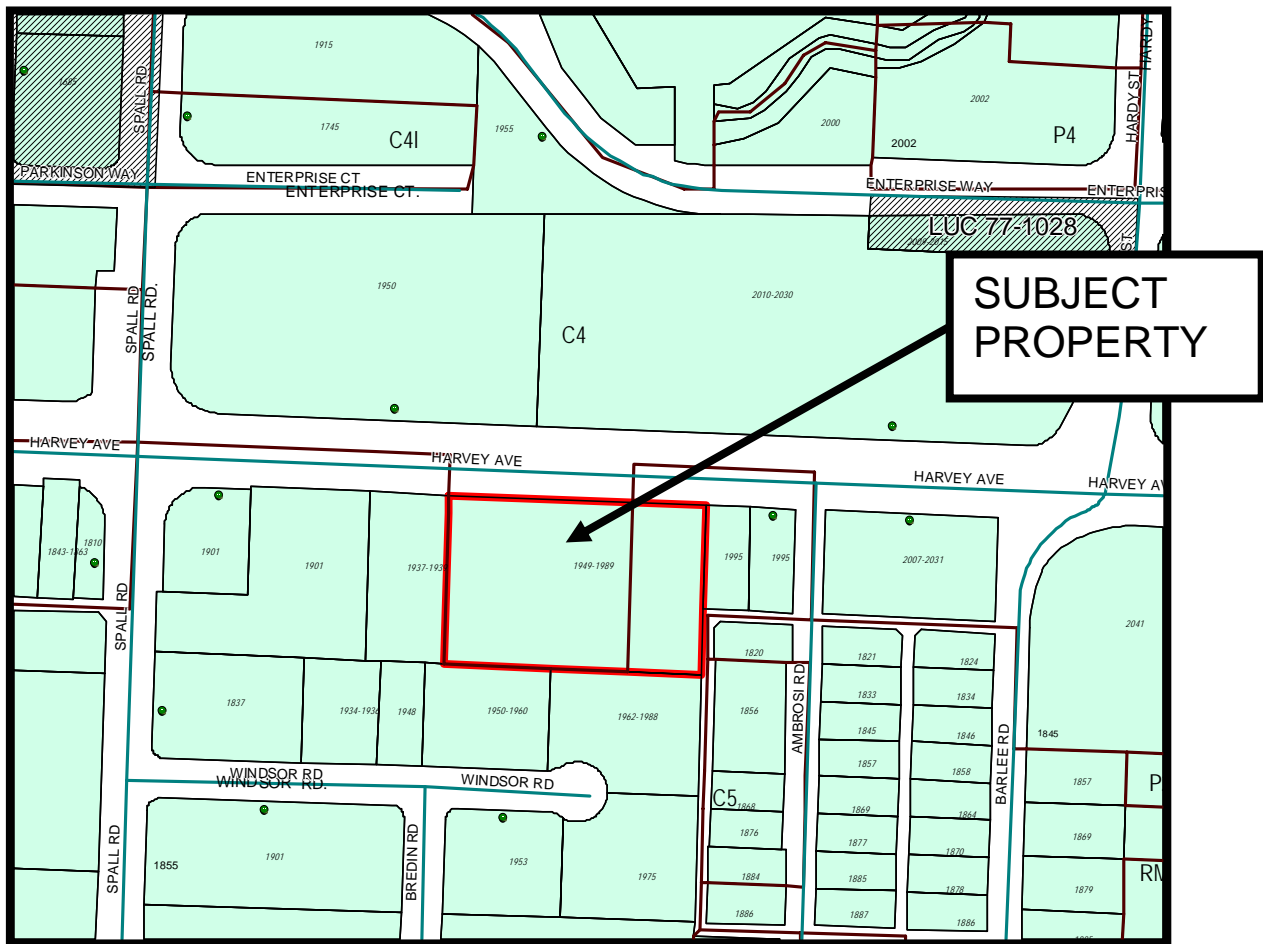
Adjacent zones and uses are:

North - C4 – Urban Centre Commercial  
 East - C4 – Urban Centre Commercial

South - C10 – Service Commercial  
West - C4 – Urban Centre Commercial

### Site Location Map

Subject Property: 1949-1989 Harvey Avenue



### 3.3 Existing Development Potential

The purpose of the C4 – Urban Centre Commercial zone is to provide for the development of community commercial centres to serve more than one neighbourhood.

### 3.4 Current Development Policy

#### 3.4.1 Kelowna Official Community Plan

The subject property is a unit of a building on a parcel that is currently zoned C4 - Urban Centre Commercial is designated as Commercial in the Official Community Plan therefore a retail liquor store could be supported

at this location. This property is subject to OCP Urban Centre DP Guidelines however the applicant is proposing no changes to the existing building structure other than internal renovations to the tenant space.

The proposal meets the requirements of the Entertainment District Task Force as there is no other RLS establishment in the immediate area (within 300m). This proposal capitalizes on a recent amendment to the provincial liquor licensing regulations. Policy Directive No. 03-12, dated November 10, 2003, allows for the relocation of a retail liquor store attached to any liquor primary license to a location within 5km of the parent establishment (Tonic's).

This proposal also satisfies the OCP directive of encouraging new retail commercial business to locate within an Urban Centre.

#### 3.4.2 Mayor's Entertainment District Task Force

a) Store should be located at least 300m from an existing licensee retail store, BC Liquor Store, Wine store.

b) Proximity to existing liquor primary liquor primary licensed establishments should not exasperate problems of rowdy behaviour, noise, crime.

#### 3.4.3 Liquor Control and Licensing Branch

The new location must not be within 500m of any existing LRS location.

### 4.0 TECHNICAL COMMENTS

The application has been submitted to various technical agencies and City departments and no concerns have been expressed.

#### 4.1 Inspection Services Department

No concerns.

#### 4.2 Works and Utilities Department

##### 4.2.1 Highway Access and Site Related Issues

- (a) The existing frontage road, which is covered by easement plan A8352, (9.14 m wide), presents a problem in its present location. There is minimal stacking distance for vehicles turning in off the highway and the driveway slope is too steep over that short distance. It is recommended that the private road be shifted 6.0 m to the south. This would permit installation of a row of parking stalls along the highway frontage boulevard and increase the entrance driveway vehicle stacking length. Although the current applicant will not be required to relocate his section of frontage road at this time, the site layout must be configured to permit this to happen in the future.

- (b) The City will pursue the access road realignment with the neighbouring businesses as well as the business at the Ambrosi Street corner.

4.3 RCMP

No concerns.

4.4 Fire Department

No Concerns.

## 5.0 PLANNING AND CORPORATE SERVICES DEPARTMENT

The Planning and Corporate Services Department has no concerns regarding the proposed rezoning. The proposal is consistent with the Official Community Plan and the size is consistent with recommendations made by the Mayor's Entertainment District Task Force. The subject property is a unit of a building on a parcel that is currently zoned Urban Centre commercial and is designated as Commercial in the Official Community Plan therefore a retail liquor store could be supported at this location. This property is subject to OCP Commercial DP Guidelines however the applicant is proposing no changes to the existing building structure other than internal renovations to the tenant space. The proposal meets the requirements of the Entertainment District Task Force as there are no other RLS establishment in the immediate area (within 300m). This proposal capitalizes on an amendment to the provincial liquor licensing regulations that states licensee retail stores no longer have to be on the same property as their associated bar or pub. Policy Directive No. 03-12, dated November 10, 2003, allows for the relocation of a retail liquor store attached to any liquor primary license to any location within a municipality or within 5km of the parent establishment if located in a different municipality. This proposal satisfies the OCP Policy 9.1.11 encouraging commercial use in commercial designated areas.

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Andrew Bruce  
Manager of Development Services

Approved for inclusion ☐

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

RM/AB/rs  
Attach

**ATTACHMENTS**

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

- Subject Property Map
- Floor plans
- Site Plan