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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** May 4, 2005

**To:** City Manager

**From:** Planning and Corporate Services Department

**Subject:**

**APPLICATION NO.** Z05-0028/LL05-0002

**OWNER:** Denver Carrington Developments Inc.

**AT:** 538-540 Leon Avenue

**APPLICANT:** Denver Carrington Developments Inc.  
(Colin Darrow)

**PURPOSE:** TO REZONE THE SUBJECT PROPERTY FROM THE C7 – CENTRAL BUSINESS COMMERCIAL ZONE TO THE C7LP –CENTRAL BUSINESS COMMERCIAL– LIQUOR PRIMARY ZONE IN ORDER TO ACCOMMODATE A NEW LIQUOR PRIMARY LICENSED ESTABLISHMENT ON THE SUBJECT PROPERTY. THE PROPOSED PERSON CAPACITY IS 122 (INTERIOR) AND 28 (PATIO) AND THE PROPOSED HOURS OF OPERATION ARE SUNDAY-THURSDAY: 10A.M. TO 12A.M. AND FRIDAY/SATURDAY 10A.M. TO 1A.M.

**REPORT PREPARED BY:** RYAN SMITH

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**1.0 RECOMMENDATION**

THAT Rezoning Application No. Z05-0028 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot A, District Lot 139, ODYD Plan 16322, located on Leon Avenue, Kelowna, B.C. from the C7 – Central Business Commercial zone to the C7LP – Central Business Commercial Liquor Primary zone be considered by Council;

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

AND THAT final adoption of the zone amending bylaw be considered in conjunction with Council's consideration of a Liquor License application on the subject property;

AND THAT final adoption of the zone amending bylaw be withheld pending the applicant entering into a Good Neighbour Agreement with the City of Kelowna and RCMP;

## 2.0 SUMMARY

The applicant is seeking to rezone the subject property to add a liquor primary designation to the parent zone in order to accommodate a proposed liquor primary license for a new pub on the main floor of a two storey building.

## 3.0 BACKGROUND

My Martini Place Restaurant formerly operated from a tenant space on the second storey of the building on the subject property.

### 3.1 The Proposal

The subject property is located on the north side of Leon Avenue between Ellis Street and Bertram Street. The applicant is seeking to rezone the subject property to add a liquor primary designation to the existing C7 – Central Business Commercial Zone. The liquor primary license will accommodate a proposed pub which will seat 122 persons on the interior and an exterior patio seating 28 persons. The applicant is seeking to target downtown business/professional clientele.

The applicant is seeking the following hours of operation for the liquor primary licensed establishment:

Sunday to Thursday : 10 a.m. to 12a.m.  
Friday/Saturday: 10p.m. to 1 a.m.

The applicant is not proposing any structural changes or additions to the building and therefore no additional parking is required.

Liquor Licensing/Zoning breakdown for a proposed liquor primary license:

| Criteria                     | Proposed  | Required                                    |
|------------------------------|---|---|
| Lot Size                     | 747m <sup>2</sup>   | N/A   |
| Liquor Primary Licensed Area | 550m <sup>2</sup>   | N/A   |
| Capacity (interior)          | 122   | N/A   |
| Capacity (patio)             | 28  | N/A   |
| Parking                      | N/A   | N/A   |
| Hours of Operation           | Sunday-Thursday:<br>10 a.m. to 12 a.m.<br><br>Friday/Sunday:<br>10a.m. to 1a.m. | No extensions beyond<br>2 a.m. as per MEDTF |

### 3.2 Site Context

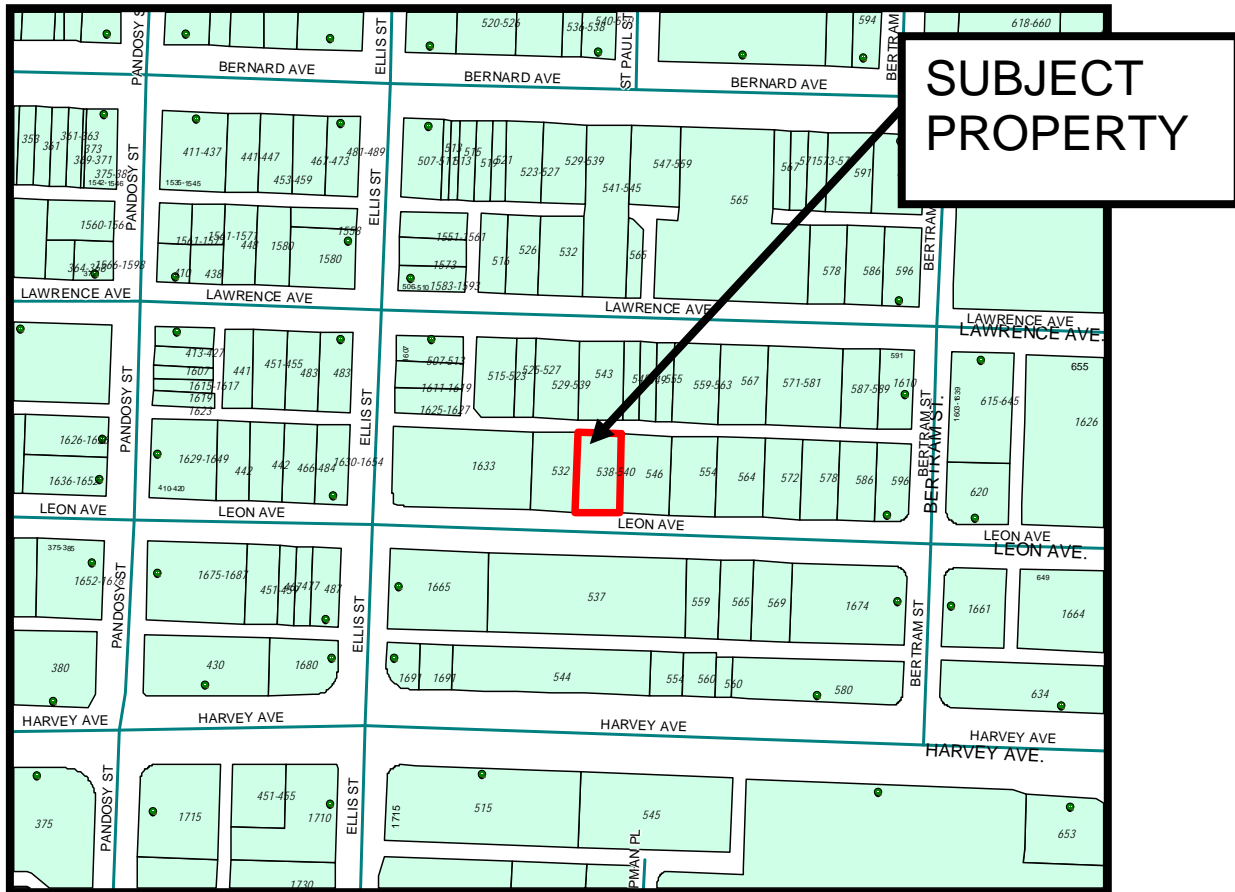
The subject property is located on the north side of Leon Avenue between Ellis Street and Bertram Street.

Adjacent zones and uses are:

North - C7 – Central Business Commercial – Retail/Offices  
East - C7 – Central Business Commercial – Offices  
South - C7 – Central Business Commercial – Offices  
West - C7 – Central Business Commercial – Offices

### 3.3 Site Location Map

Subject Property: 538-540 Leon Avenue



### 4.0 DEVELOPMENT REGULATIONS

The purpose of the zone is to designate and preserve land for the orderly development of the financial, retail and entertainment, governmental and cultural core of the City which shall provide for high density residential uses, and commercial uses. A liquor primary license establishment with a capacity greater than 100 persons is a permitted use with a rezoning to a "Liquor Primary" zoning designation.

## 5.0 CURRENT DEVELOPMENT POLICY

### 5.1 Mayors Entertainment District Task Force Report

The proposed capacity and hours of operation are within the guidelines for new liquor primary licensed establishments. The location of the subject property is also outside the “Yellow Zone” identified by the MEDTF and the closest liquor primary establishment is Tonics Pub at 103 metres which exceeds the 100m guideline in the task force report.

### 5.2 Kelowna Downtown Plan

The City of Kelowna support the plan area as the major retail complement to the evolving Cultural District, with support for restaurant and entertainment-related uses specifically, including the retention of one or more movie-viewing facilities.

## 6.0 TECHNICAL COMMENTS

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

### 6.1 Inspection Services Department

Building Permit for renovations required. All renovations must conform to the B.C. Building Code.

### 6.2 RCMP

The RCMP is concerned about the overall number of liquor primary seats in the downtown core but has not specific concerns relating to this application.

### 6.3 Works and Utilities Department

The proposed rezoning application does not compromise Works and Utilities servicing requirements.

A garbage dumpster location with access from the lane must be shown on the site plan.

## 7.0 PLANNING AND CORPORATE SERVICES DEPARTMENT

Although generally consistent with the applicable guidelines of the Mayor's Entertainment District Task Force, the Planning and Corporate Services Department has a concern with the proposed rezoning to add a "Liquor Primary" designation to the parent (C7-Central Business Commercial) zone of the subject property. As indicated to the applicant by staff, the subject property is located immediately east of a building which houses and organisation which helps youth with addictions. Planning staff have requested that the applicant contact this organisation in order to address any concerns of ARC as part of the review of this application. The applicant has indicated that he has been in contact with this organisation and that the director of the organisation had indicated that they are not concerned about potential conflict.

Staff also have concerns with regard to the hours of operation/liquor service on the patio area and will recommend to Council that they be limited to a closing time of 11p.m. In addition, in order to mitigate any potential impacts of the patio staff recommend that the applicant enter into a Good Neighbour Agreement with the City of Kelowna prior to final reading of the zone amending bylaw.

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Andrew Bruce  
Development Services Manager

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)**

- Location of subject property
- Floor Plan
- LCLB Correspondence