
CITY OF KELOWNA

MEMORANDUM

DATE: DECEMBER 4, 2007
TO: CITY MANAGER
FROM: PLANNING AND DEVELOPMENT SERVICES DEPARTMENT
APPLICATION NO. LL07-0010 **LICENSEE:** Blue Gator Bar & Grill 2005 Ltd.
AT: 441 Lawrence Avenue **APPLICANT:** Larry Smith

PURPOSE: TO OBTAIN COUNCIL SUPPORT FOR A PERMANENT EXTENSION OF HOURS FOR LIQUOR SERVICE FOR AN EXISTING LIQUOR PRIMARY LIQUOR LICENSE, THE BLUE GATOR BAR & GRILL LOCATED AT 441 LAWRENCE AVENUE FROM 11:00 AM TO 2:00 AM TO 9:00 AM TO 2:00 AM AND EXTENSION OF THE HOURS OF LIQUOR SERVICE ON THE EXTERIOR PATIO BEYOND 11:00 PM TO 1:00 AM

REPORT PREPARED BY: Corine (Cory) Gain, MCIP, CPT

1.0 RECOMMENDATION

In compliance with Section 53 of the *Liquor Control and Licensing Regulation* be it resolved THAT:

1. Council does **NOT** support an application from Larry Smith, Operating Partner, Blue Gator Bar & Grill 2005 Ltd. located at 441 Lawrence Avenue and legally described as: Lot 1 DL 139 ODYD Plan 3508 for an **extension of hours of liquor service** because the proposed change in hours of liquor service will not be consistent with the operation of a full service kitchen between the hours of 11:00 am and 9:00 pm. Although no change to licensed area has been proposed and the extended hours will be confined to the interior of the establishment currently under license there is concern that expansion of the hours of service for liquor sales only would be inconsistent with the spirit of the Kelowna Downtown Plan to renew the image and economic health of the downtown. The proposal is inconsistent with policies established by the Kelowna Downtown Plan to support residential, retail and office-related uses as the principal uses in the downtown.
2. The Council's comments on the prescribed considerations are as follows:
 - a) The potential for noise if the application is approved is anticipated to remain relatively unchanged;
 - b) The impact on the community if the application is approved is considered uncertain. While the establishment is currently located within a predominantly commercial area, it is anticipated that

residential uses will become increasingly common as a component of re-development above the commercial street level. As such, there is concern that early morning liquor-only sales would be detrimental to the perceived character of the area; a perception which will tend to discourage the re-development of more intensive land uses; and

- c) It is anticipated that the amendment will result in the establishment being operated in a manner that is contrary to its primary purpose of providing a lunch, afternoon and evening-time drinking establishment.
3. The Council's comments on the views of residents are as contained within the staff report submitted for consideration and the minutes of the meeting at which the application was considered by Council.

AND FURTHER THAT:

1. Council does **NOT** support an application from Larry Smith, Operating Partner, Blue Gator Bar & Grill 2005 Ltd. located at 441 Lawrence Avenue and legally described as: Lot 1 DL 139 ODYD Plan 3508 for an **extension of hours of liquor service on the exterior patio** because it would extend the potential for noise and rowdy behaviour in the area.
2. The Council's comments on the prescribed considerations are as follows:
 - a) The potential for noise if the application is approved increases significantly;
 - b) The impact on the community if the application is approved is considered significant over the long term as evidenced by the issues that have arisen at other late night patios; and
 - c) It is anticipated that the amendment will result in the establishment being operated in a manner that is contrary to its primary purpose as exterior spaces are at greater risk for liquor license abuse.
3. The Council's comments on the views of residents are as contained within the staff report submitted for consideration and the minutes of the meeting at which the application was considered by Council.

2.0 SUMMARY

The use of the property is consistent with the C7L – Central Business Commercial (Liquor Primary) zoning. The applicant has an existing Liquor Primary License (Licence Number 301403) with a capacity of 102; 90 persons inside the establishment and 12 persons on the patio (see Attachment 'D'). The Inspection Services Department has confirmed the occupant load for the building and patio (see Attachment 'E'). The applicant is seeking Council support for an extension of the hours of liquor service on the existing Liquor Primary Liquor License from 11:00 am earlier to 9:00 am. The applicant is not extending the hours of operation of a full service kitchen beyond the current hours of 11:00 am and 9:00 pm.

The extension of hours of service on the patio is being sought to allow the establishment to serve liquor on the patio beyond 11:00 pm. The applicant has stated that the reason for the

change in hours in a letter dated September 11, 2007 a copy of which is included in Attachment 'E'.

There is no record of a signed City of Kelowna Good Neighbour Agreement relative to Blue Gator Bar & Grill in the City of Kelowna files.

3.0 **LIQUOR LICENSE INFORMATION**

Existing Licence Summary	Licence 301403
Food Primary Licence Capacity	102 persons
Hours of Operation	11:00 am – 2:00 am

Refer to Attachment 'D' to review the terms and conditions of the license.

4.0 **LIQUOR CONTROL AND LICENSING BRANCH CRITERIA**

- (a) The potential for noise if the application is approved:

An earlier opening time is not expected to generate any substantial change to the amount of noise generated by the establishment.

Extending the hours of liquor service on the patio is anticipated to generate additional noise.

- (b) The impact on the community if the application is approved:

It is anticipated that there will be a change to the existing level of impact on the community as a result of the extension of hours from 11:00 am to an earlier opening at 9:00 am. Although the extended hours will be confined to the interior of the establishment currently under license there is concern that expansion of the hours of service for liquor sales only would be inconsistent with the spirit of the Kelowna Downtown Plan to renew the image and economic health of the downtown. The proposal is inconsistent with policies established by the Kelowna Downtown Plan to support residential, retail and office-related uses as the principal uses in the downtown.

With respect to extended hours of service on the patio, the impact on the community if the application is approved is considered significant over the long term as evidenced by the issues that have arisen at other late night patios.

- (c) Whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose:

It is not anticipated that the earlier opening hours for liquor service will result in the establishment being operated in a manner that is contrary to its primary purpose.

It is anticipated that the amendment allowing extended hours of service on the patio will result in the establishment being operated in a manner that is contrary to its primary purpose as exterior spaces are at greater risk for liquor license abuse.

(d) The views of residents:

Views of the residents will be gathered at a public meeting in accordance with Council Policy #315.

5.0 TECHNICAL COMMENTS

See Attachment 'C'.

NOTE: Additional comments have been provided by the Bylaw Enforcement Division and the RCMP relative to the draft of this Council Report. Concern with the extension of patio hours was expressed by each; the message is that extended hours and activities on patio's will only increase the problem of noise and bar closures and disbursement of patrons in areas which have already been a significant concern to authorities, along Bernard Avenue in particular.

6.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT COMMENTS

As outlined in the report, the Planning and Development Services Department has concerns with the applicant's request for the extension of hours of liquor service from 11:00 am earlier to 9:00 am and with extension of the hours of liquor service on the patio beyond 11:00 pm.


Shelley Gambacort
Current Planning Supervisor

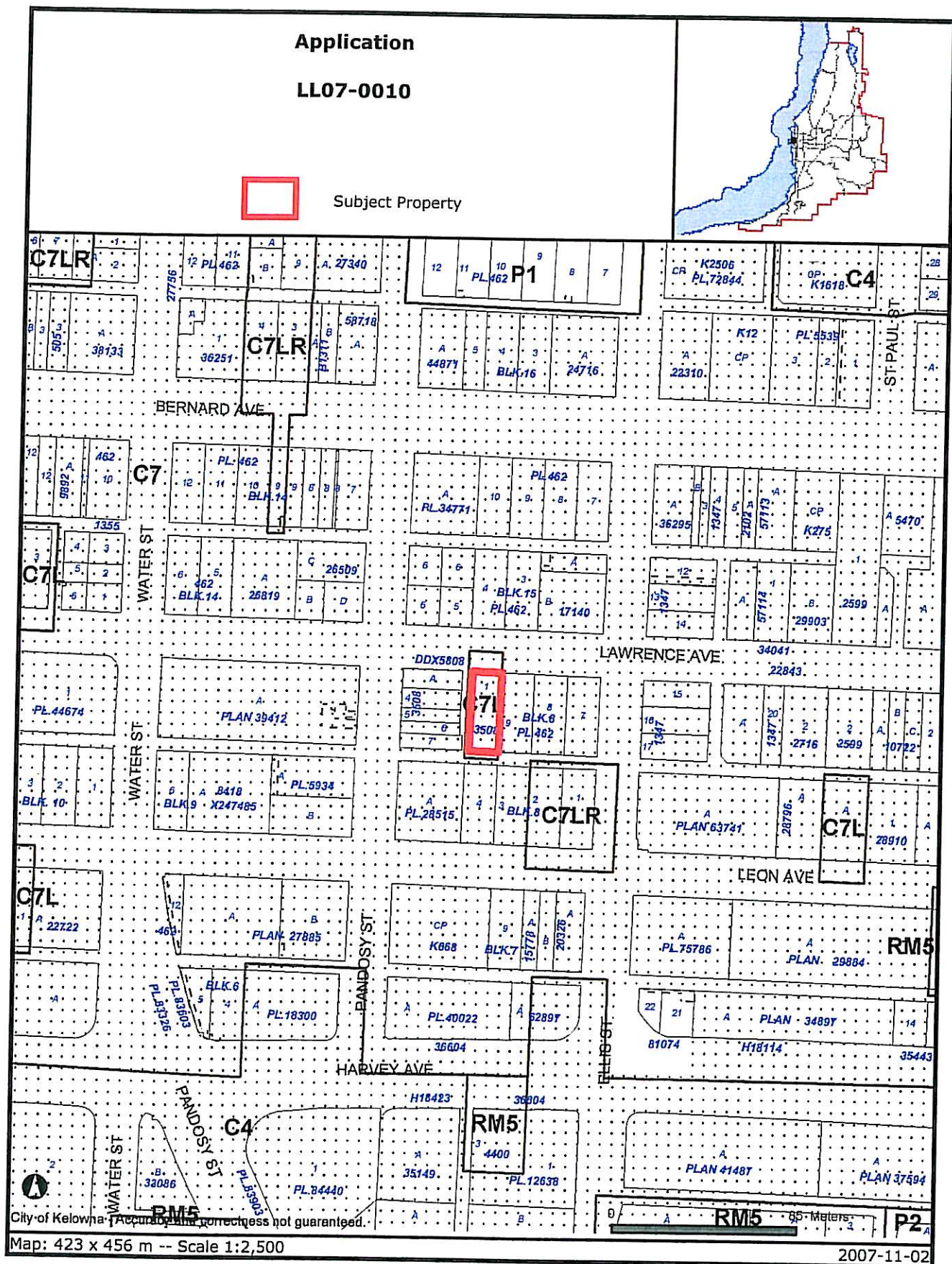
 Approved for inclusion 
Paul Macklem
Acting Director of Planning & Development Services

PM/SG/cg

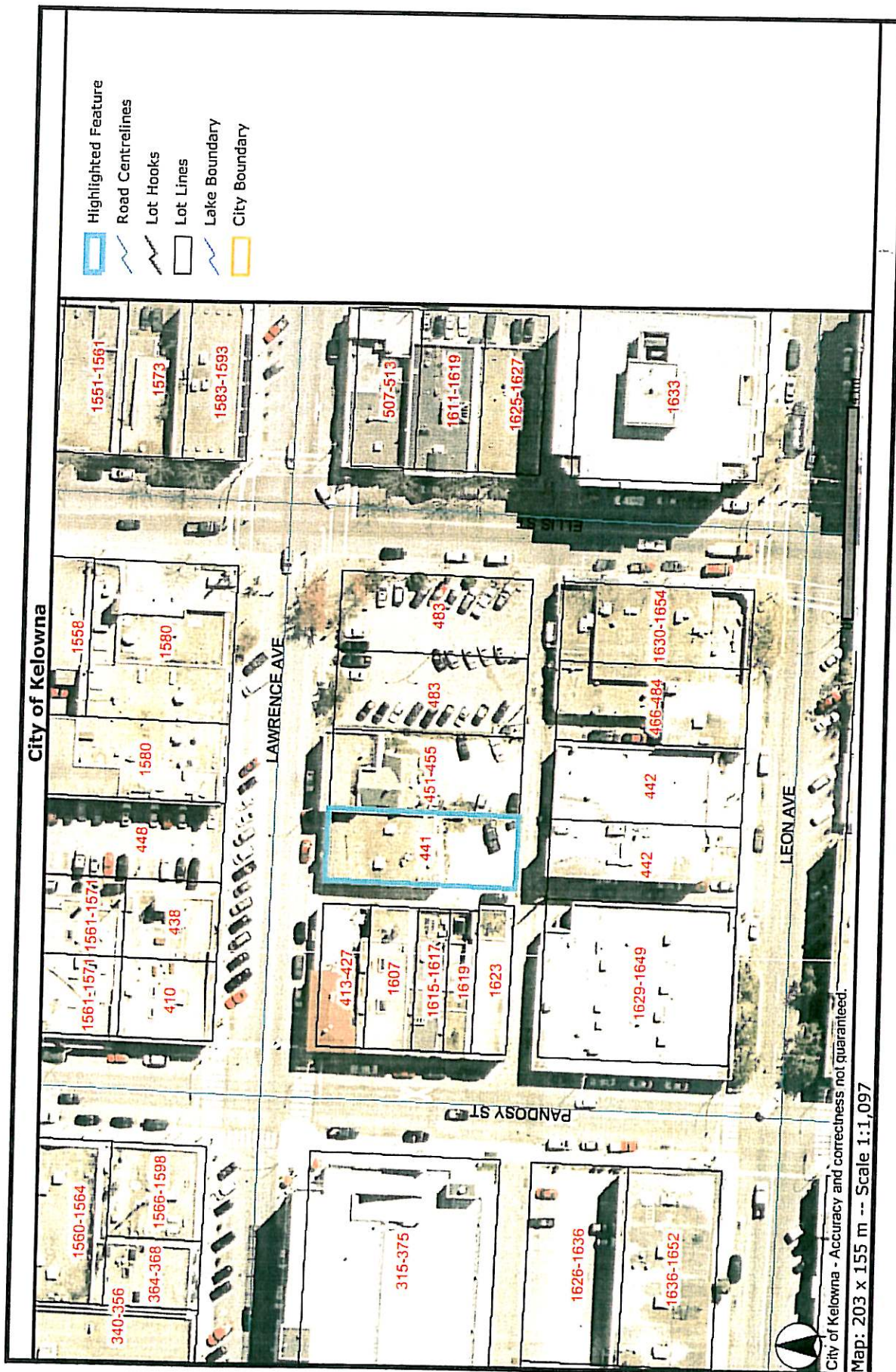
Attachments:

- A - Location Map
- B - Orthophoto Map
- C - Technical Comments
- D - Copy of Liquor Primary License Number 301403
- E - Occupant Load Calculation confirmation
- F - Letter of Intent

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Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.
The City of Kelowna does not guarantee its accuracy. All information should be verified.



This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.

File: LL07-0010

Existing Use:

Conform:

Proposed Use:

Proposed Lots: Units:
 Final Lots: Units: General Comment:
 Remainder Lots: ESA Remainder Comment:
 Floor Space: m2
 Lot Size: ha m2
 Front x Depth: m X m Irregular:

Development Areas**Zoning**

Existing Zone: C7L

Lots:

Fees

Invoice	Status	Date	Parameter	Fee	Charge
104312	Active	2007-09-06		Liquor License Application (no council resolution)	50.00
					50.00
104323	Active	2007-09-11		Liquor License Application (council resolution)	500.00
					500.00
104532	Paid	2007-11-02	1 signs	Development Sign (small)	18.00 G
104532	Paid	2007-11-02		GST Reg. No. R12193 7551 RT	1.08
					19.08

File Progress

Step	Date	Comment
Application Accepted	2007-09-06	
Applicant Contacted Re Sign	2007-11-02	
Application Circulated	2007-11-02	
All Agency Comments Received		
Additional Info Required		
Additional Info Received		
Report Forwarded to Council		
Council Consideration		
Fwd Resolution to LCCB		
File Closed		

File Circulation

Seq	Out	In	By	Comment
	Bylaw Enforcement Officer			
2007-11-02	2007-11-02		PTURNER	No concerns provided all City Bylaws/Regulations and Policies are met .
	Fire Department			
2007-11-02	2007-11-16			No comment
	Inspections Department			
2007-11-02				
	Public Health Inspector			
2007-11-02				

File: LL07-0010

Seq	Out	In	By	Comment
	RCMP - Liquor Licence			No previous problem history with this locations.
	2007-11-02 2007-11-14			

Remarks



Ministry of Public Safety and Solicitor General
Liquor Control and Licensing Act

LIQUOR PRIMARY LICENCE

Establishment Name: The Blue Gator
Licence Name: **The Blue Gator**
Mailing Address: 441 Lawrence Avenue
KELOWNA, BC V1Y 6L6

Licence Number
301403
Expiry Date
March 31, 2008

Location Address: 441 Lawrence Avenue
KELOWNA, BC V1Y 6L6

Issued to: Blue Gator Bar & Grill 2005 Ltd.

Third Party Operator: N/A

Hours of Sale:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	1:00 PM
Close	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM	2:00 AM

Capacity: Patio1 12 Person01 90

TERMS AND CONDITIONS

- The terms and conditions to which this licence is subject include the terms and conditions contained in the publication 'A Guide for Liquor Licensees in British Columbia' as that publication is amended from time to time.
- Liquor may only be sold, served and consumed within the areas outlined in red on the official plan, unless otherwise endorsed or approved by the LCLB.
- Subject to terms and conditions specified in the restriction or approval letter(s). A copy of restriction or approval letter(s) to be kept with current liquor licence.
- Patio extension permitted as outlined in red on the official plan.
- Hours of sale on patio restricted to 11:00 AM TO 11:00 PM Monday to Sunday (no liquor on patio after 11:00 PM).

Local Government: KELOWNA (CITY OF)
LDB Addresses: KELOWNA ORCHARD PK. GLS #167

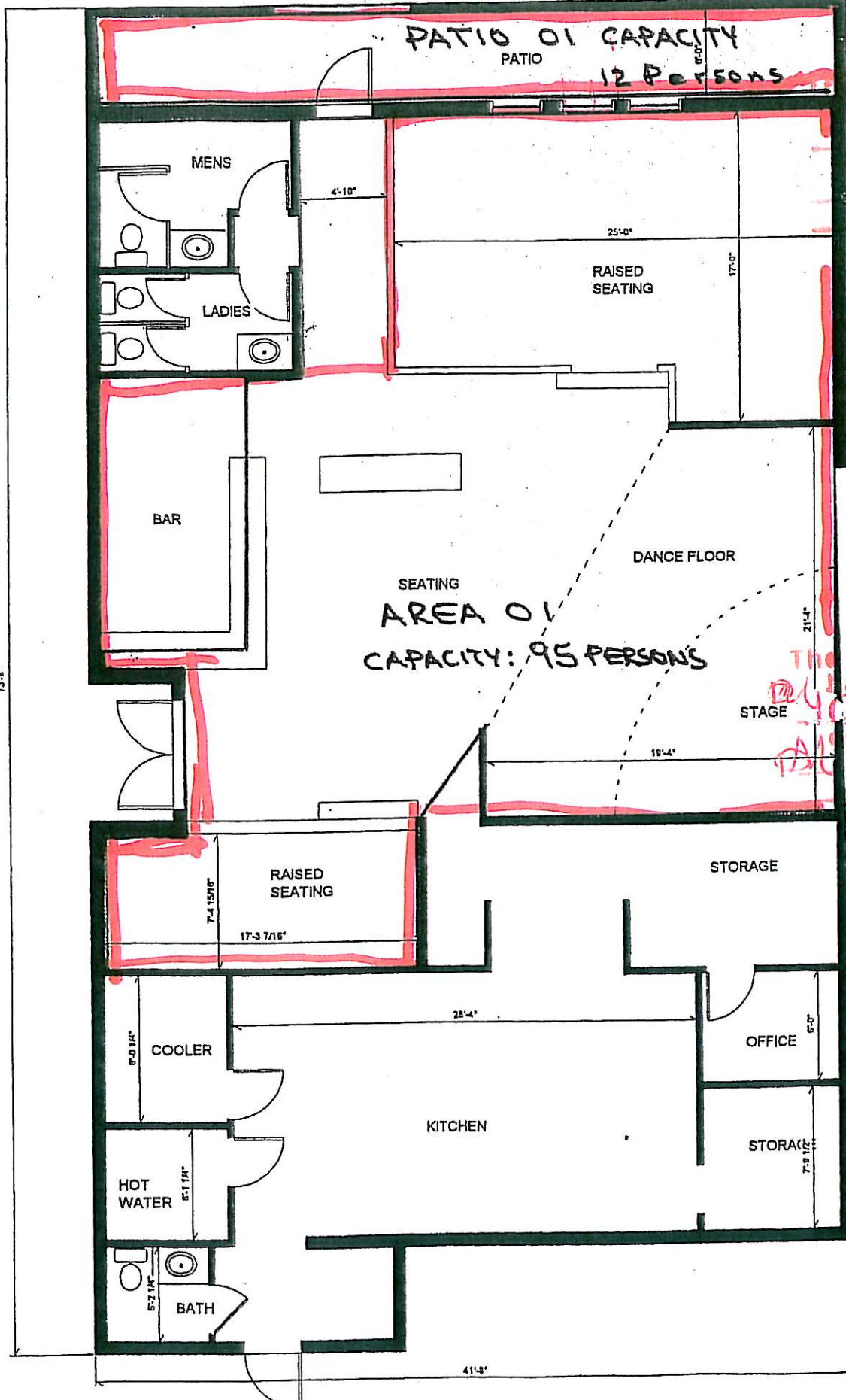
March 26, 2007
Printed Date

Karen Rogers
General Manager

441 Lawrence Ave

SIDEWALK

ATTACHMENT E



PATIO
has a net floor area of 14.4 m². The maximum occupant load shall be 12 persons, based on 1.2 m²/person.

Reviewed
by City of Kelowna
Inspection Services
**BLUE GATOR
RESTAURANT**

**KELOWNA
SEPT 20/01**

[Signature]

RESTAURANT AREA
The has a net floor area of 240.8 m². The maximum occupant load shall be 201 persons, based on 1.2 m²/person.

Reviewed
by City of Kelowna
Inspection Services
SEPT 20/01
[Signature]

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The Blue Gator Bar & Grill 2005 L
441 Lawrence Ave.
Kelowna, B.C. V1Y6L6

ATTACHMENT E

City of Kelowna

September 11, 2007

Att: Cory Gain

Dear Madam:

We would like to apply for a change in our operating hours from our present hours of 11:00 am til 2:00 am Monday to Friday and 12:00 pm til 2:00 am on Sundays to 9:00 am until 2:00 am seven days a week. Reason for the request is, the Willow Inn Hotel is closing on September 30/07 and the 9:00 opening has been ongoing there for may years and many customers will be looking for an early opening operation. We will operate a full service kitchen from 11:00 am until 9:00 pm daily.

We would also like to request permission to serve or allow alcohol on our patio past the current restrictions of 11:00 pm., much the same as other licensees such as Doc Willoughby's, Sturgeon Hall and The Grateful Fed. There are little or no residential spaces in our area at the present time.

Sincerely,



Larry Smith
Operating Partner

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