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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** October 31, 2008  
**File No.:** LL08-0005  
**To:** City Manager  
**From:** Land Use Management Department  
**Subject:**

**APPLICATION NO.** LL08-0005

**APPLICANT:** The Grateful Fed (K. Abougoush)

**AT:** 509 Bernard Avenue

**OWNERS:** 507 Bernard Joint Venture

**LEGAL DESCRIPTION:** Lot A, District Lot  
139, ODYD, Plan  
36295

**LAND OWNER:** Western Interior Financial Ltd.

**PURPOSE:** TO RECEIVE COUNCIL SUPPORT FOR THE PROPOSED  
LIQUOR PRIMARY ESTABLISHMENT WITH AN  
INTERIOR CAPACITY OF 41 PATRONS, AND A PATIO  
CAPACITY OF 49 PATRONS, WITH HOURS OF  
OPERATION FROM 9AM TO 1AM DAILY.

**EXISTING ZONE:** C7 – Central Business Commercial

**PROPOSED ZONE:** C7LP – Central Business Commercial (Liquor Primary)

**REPORT PREPARED BY:** Luke Turri

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## **1.0 RECOMMENDATION**

In accordance with Section 53 of the *Liquor Control and Licensing Regulation* and Council Policy 315 be it resolved THAT:

1. Council supports an application from The Grateful Fed located at 509 Bernard Avenue, Kelowna, BC and legally described as Lot A, District Lot 139, ODYD, Plan 36295 to obtain a new liquor primary license for their existing food primary establishment.
2. The Council's comments on the prescribed considerations are as follows:
  - a) The potential for noise if the application is approved remains relatively unchanged, except for the street-level patio space. The proposed closing time should remain midnight on the patio space, as opposed to the 1:00am proposed.
  - b) The impact on the community if the application is approved is considered minimal given that the facility is well established and is outside of the downtown's "yellow zone" as described in Kelowna's Downtown Plan.
  - c) The proposed start to the establishment's hours of sale should remain 10:00am, as opposed to the 9:00am proposed. 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;

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 applicant is seeking Council support for a liquor primary license located on the subject property, which would allow the current food primary liquor establishment to operate as a liquor primary establishment, under the name "Grateful Fed Pub & Grill".

## 3.0 BACKGROUND

### 3.1 The Proposal

The Grateful Fed Deli currently operates as a food primary establishment on Bernard Avenue. The proposed zoning amendment would allow the owners to operate as a liquor primary establishment, under the proposed name "The Grateful Fed Pub & Grill."

A liquor license application has been forwarded by the owner to the Provincial Liquor Control and Licensing Branch for their approval. Procedurally, all new liquor primary license applications require local government resolution, commenting on the application. The local government may chose not to participate in the process but must provide a resolution explaining the decision.

The proposed patron capacity would not change from the existing food primary license, which includes a total of 90 patrons, with 41 in the interior, and 49 on the street level patio space.

The current food primary hours of sale are as follows:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	1000	1000	1000	1000	1000	1000	1100
Close	Midnight	Midnight	Midnight	Midnight	Midnight	Midnight	Midnight

The applicant is proposing the new liquor primary hours of sale to be as follows:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	900	900	900	900	900	900	900
Close	0100	0100	0100	0100	0100	0100	0100

The proposed licensee capacity would remain the same as the current food primary capacity:

Location	Licensee Person Capacity
Interior Floor Space	41
Outdoor Patio	49
Total: 90 persons	

### 3.2 Site Context

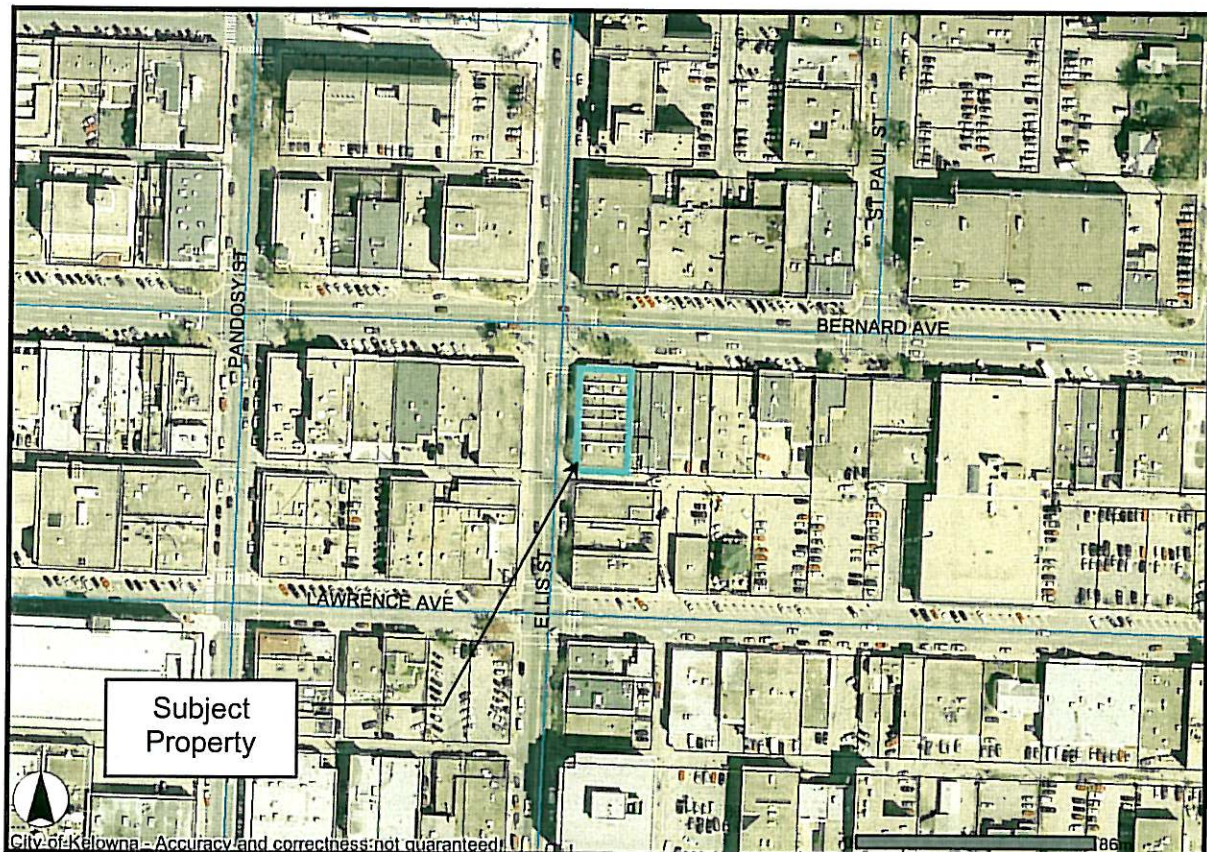
The subject property is located near the southeast corner of Bernard and Ellis Street, within the same building as the Valley First Credit Union. The lot is within the Urban Town Centre.

More specifically, the adjacent land uses are as follows:

North	C7 – Central Business Commercial (Retail, Café, Jeweller)
East	C7 – Central Business Commercial (Social Services)
South	C7 – Central Business Commercial (Retail)
West	C7 – Central Business Commercial (Credit Union)

### 3.3 Site Location Map

Subject property: 509 Bernard Avenue





#### 4.0 DEVELOPMENT POTENTIAL

The purpose of the C7 zone is to designate and preserve land for the orderly development of the financial, retail and entertainment, governmental and cultural core of the Downtown, which shall provide for high density residential uses, and commercial uses. The C7 zone allows for "liquor primary establishment, minor" as a primary use. This use is intended for establishments with a patron capacity of under 100 persons.

#### 5.0 CURRENT DEVELOPMENT POLICY

##### 5.1 Mayor's Entertainment District Task Force Report

The proposed license does not contravene any policies within these guidelines, as the proposed establishment is only 90 patrons, and is not adjacent to any other liquor establishments. As stated within the Policy:

*"Any new, expanded or relocated Liquor Primary License application with a person capacity of less than 150 persons shall not be located adjacent or abutting an existing Liquor Primary Establishment."*

The closest Liquor Primary establishments to the subject property are The Blue Gator and Tonics Pub, both approximately 100m from the property (see attached map).

##### 5.2 Liquor Control and Licensing Branch Criteria

###### (a) The location of the establishment:

The location of the site within the core of downtown is well-suited for liquor establishment and entertainment facilities.

###### (b) The proximity of the establishment to other social or recreational facilities and public buildings:

Land Use Management Department have no concerns with surrounding land-uses.

###### (c) The person capacity and hours of liquor service of the establishment.

The proposed capacity of the establishment (90 person maximum) is consistent with applicable policy. There would no expansion from the current food primary license capacity.

There are some concerns with the proposed hours of operation. The Land Use Management Department feels the proposed hours of sale opening at 9:00am is unwarranted. The 10:00am opening currently attached to the food-primary license seems more than sufficient. In addition, the Department has concerns about the proposed 1:00am closing time for the patio area, including the noise and safety issues with the rather large patio space.

In this regard, the Department has recommended to limit the hours of sale to begin at 10am daily, as opposed to 9am proposed. The Department has also

recommended to limit the hours of sale on the patio to midnight, as reflected in the Council recommendations.

(d) The number and market focus or clientele of liquor-primary licence establishments within a reasonable distance of the proposed location:

Several upscale pub/lounge style facilities are in the neighbouring area, designed for the downtown business/professional crowd. These include Tonic's Pub, Doc Willoughby's and Sturgeon Hall. Also in the vicinity is the Blue Gator, a popular liquor-primary venue for live music entertainment.

(e) Traffic, noise, parking and zoning:

The proposed license is not anticipated to have any change on the traffic and parking status of the area, as the capacity of the venue is not changing. The potential for increased noise on the patio area is concern.

(f) Population, population density and population trends:

There is a residential population in Kelowna's Downtown area continues to grow. This trend is expected to continue as the City of Kelowna pursues policies which support densification in urban centres.

(g) Relevant socio-economic information:

Both City staff and the RCMP are concerned with regard to the number of liquor primary establishments in Kelowna's downtown core. The RCMP are concerned that the addition of another liquor primary licensed establishment in the area will further increase their workload and add to the strain on existing resources.

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

If the application is approved, with the recommended restrictions, the impact is expected to be minimal in that the proposed establishment is not expected to attract the type of clientele whom would normal trigger problems in this area. As stated, the person capacity of the current food-primary establishment is not being expanded.

## 6.0 TECHNICAL COMMENTS

### 6.1 Fire Department

No Comment.

### 6.2 Public Health Inspector

No Comment.


### 6.3 RCMP


The RCMP have concerns with the concentration of liquor primary establishments in the downtown core in general, the RCMP do not oppose this application. Of concern related to noise and potential conflicts with other sidewalk users would be the suspension of liquor service to the outdoor patio by midnight.

## 7.0 LAND USE MANAGEMENT DEPARTMENT

The Land Use Management Department is guided by the Mayor's Entertainment District Task Force Policy regarding all Liquor Primary (LP) and Retail Liquor Sales (RLS) establishments. The proposed license does not contravene any specific policies within the stated document. That being said, there is a concentration of liquor establishments in the Downtown area, and any LP and RLS applications within this area must be reviewed with caution to ensure the highest standards of public safety are achieved. Of note with this specific application, is the sizable patio space on Bernard Avenue, which accommodates more than half of the licensee capacity for the establishment. The patio may also be a concern in terms of the proposed hours of sale. Alcohol service past midnight in an outdoor setting may be detrimental to image and economic health of the downtown, as referenced in the Kelowna Downtown Plan.

With the recommended restrictions to the proposed hours of sale, including closing the patio by midnight, the potential impacts of the proposal could be greatly minimized. As the person capacity is not being expanded, and the clientele is not expected to change drastically, the Land Use Management Department is recommending a positive support from Council.

  
for \_\_\_\_\_  
Danielle Noble  
Urban Land Use Supervisor

Approved for inclusion   
Shelley Gambacort  
Director of Land Use Management

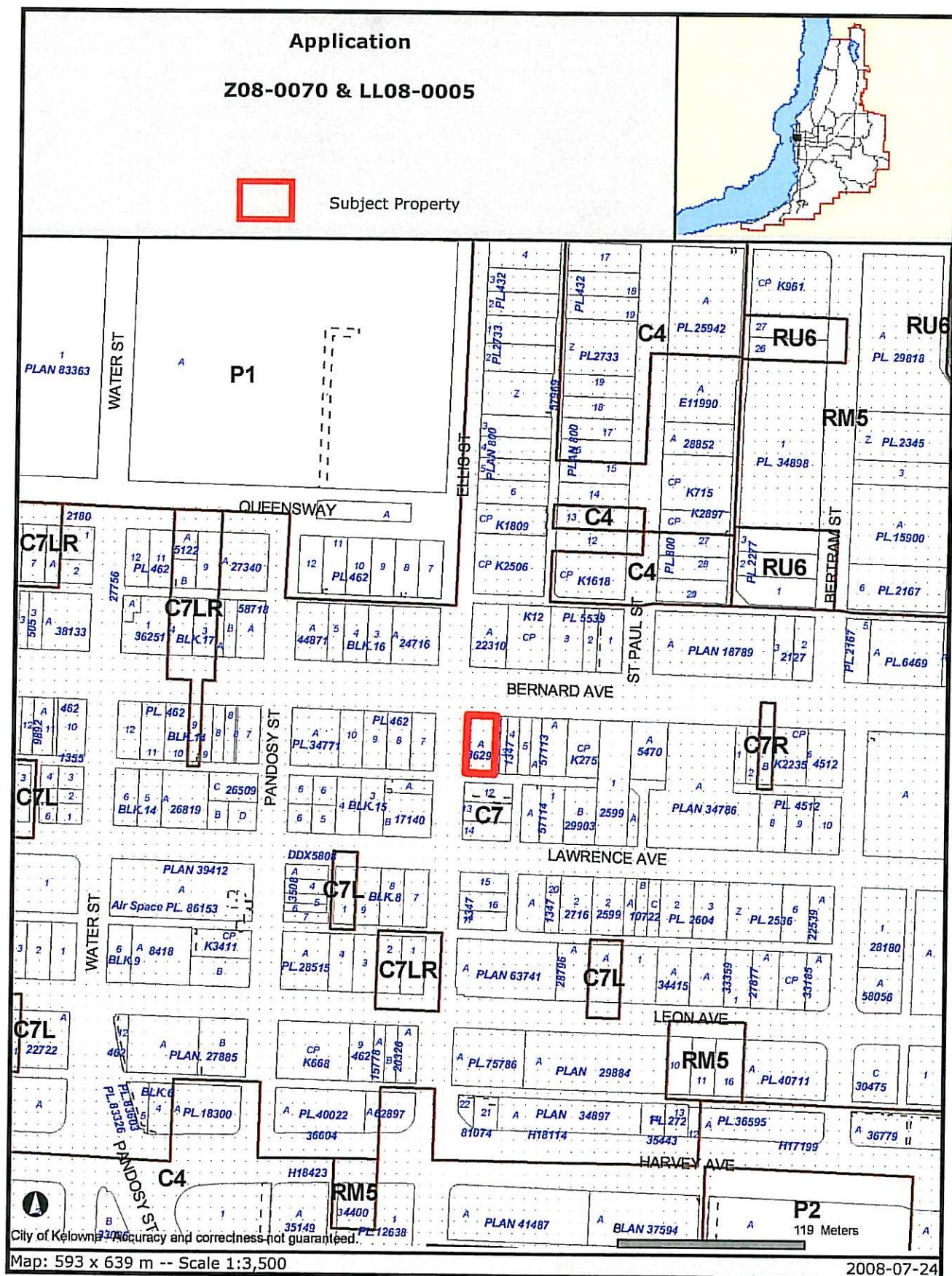
SG/DN/lt

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## ATTACHMENTS

- A – Subject Property Map
- B – Proximity to Existing Liquor Primary Establishments Map
- C – Copy of Existing Food Primary License
- D – “Grateful Fed” Interior/Patio Floor Plans (2 pages)

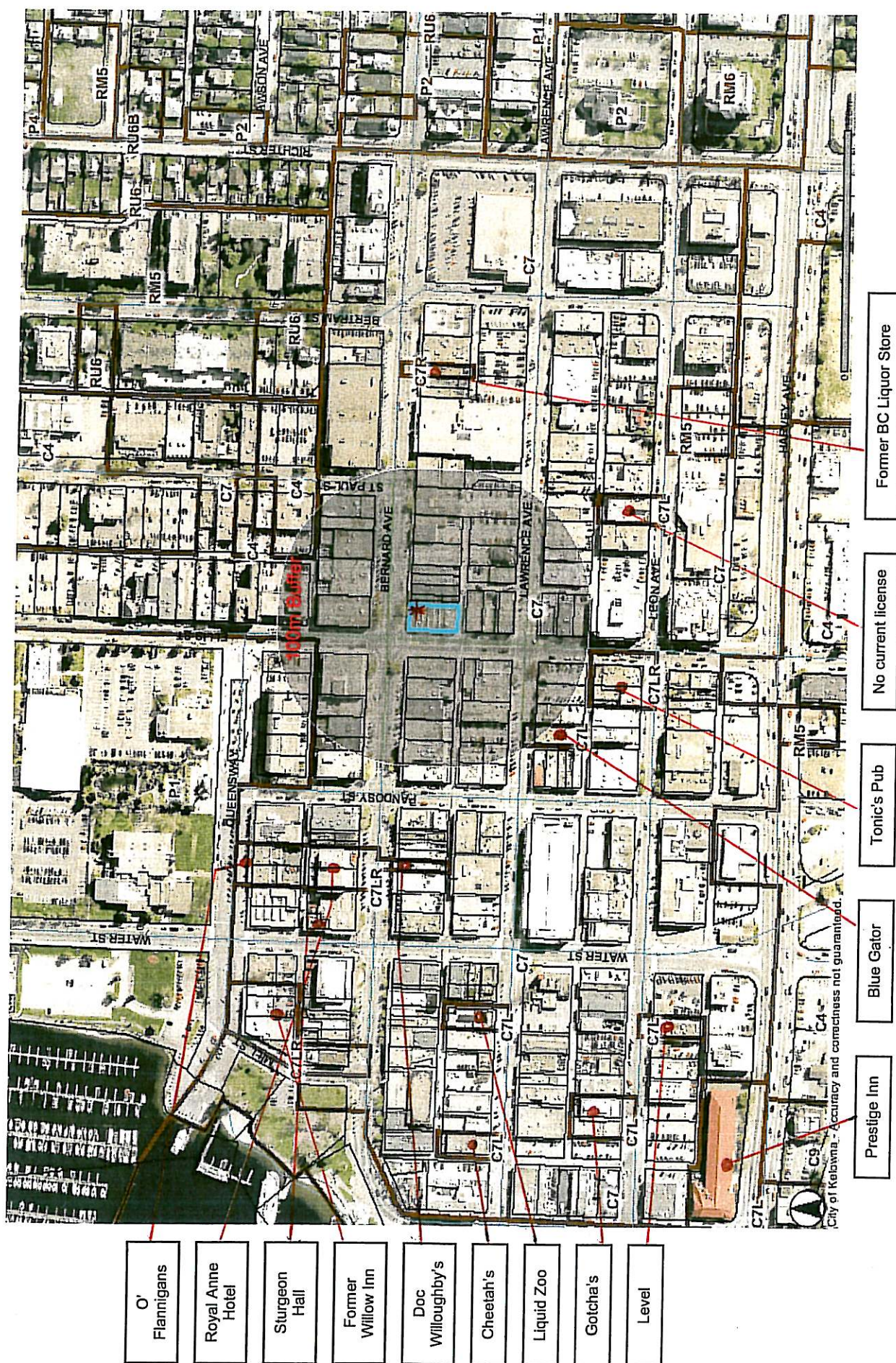




Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.  
The City of Kelowna does not guarantee its accuracy. All information should be verified.



**Z08-0070 – 509 BERNARD AVENUE – PROPOSED GRATEFUL FED PUB & GRILL**  
Proximity to Existing Liquor Primary Establishments







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

# FOOD PRIMARY LICENCE

Establishment Name: The Grateful Fed Deli  
Licence Name: **The Grateful Fed Deli**  
Mailing Address: 509 BERNARD AVE  
KELOWNA, BC V1Y 6N9

Licence Number  
**158178**  
Expiry Date  
**September 30, 2008**

Location Address: 509 BERNARD AVE  
KELOWNA, BC V1Y 6N9

Issued to: Abougoush, Kamel

Third Party Operator: N/A

## Hours of Sale:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	10:00 AM	10:00 AM	10:00 AM	10:00 AM	10:00 AM	10:00 AM	11:00 AM
Close	Midnight	Midnight	Midnight	Midnight	Midnight	Midnight	Midnight

Capacity: Patio1 49 Person01 41

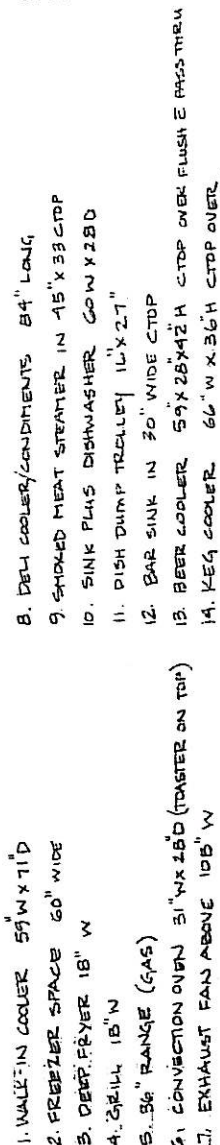
## TERMS AND CONDITIONS

- For the sale and consumption of all types of liquor in establishments with a primary focus on the service of food.
- The terms and conditions to which this licence is subject include the terms and conditions contained in the publication '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.
- Only servers are permitted to carry liquor across the unlicensed sidewalk
- Patio extension permitted as outlined in red on the official plan.
- Patron non-participation entertainment permitted

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

October 12, 2007  
Printed Date

*Karen Agnew*  
General Manager



8. DELI COOLER/CONDIMENTS 84" LONG
9. SMOKED MEAT STEAMER IN 15"X33CTOP
10. SINK PLUS DISHWASHER 60W X28D
11. DISH DUMP TRUCKLEY 16"X27"
12. BAR SINK IN 30" WIDE CTOP
13. BEER COOLER 59"X28"X42"H CTOP OVER
14. KEG COOLER 66" W X36" H CTOP OVER

REVIEWS FOR GRATEFUL FED RESTAURANT  
1/4" SCALE

LABOR CONTROL & LICENSING  
RECEIVED  
MAR - 7 2006  
PM VICTORIA BC

Food Primary License # 158178  
LIQUOR CONTROL AND LICENSING BRANCH  
APPROVED, IN PRINCIPLE, INTERIOR STRUCTURAL ALTERATION  
Subject to the terms and/or conditions specified in the approval  
In principle letter(s) dated: APRIL 5/2006  
Authority: John J. [Signature]  
Maximum Person Capacity: Person 01-41  
Table # 3C0993-25



APPROVED BY OWNER  
10 MARCH 2005  
*[Signature]*  
CENTRO-AMERICA INC.

Fencing as per existing

replacing water fountain space

Proposed  
20' x 10'  
20' x 10'  
20' x 10'

The ~~area~~ area with existing  
has a net floor area of  
59 sq. ft. The maximum  
occupant load shall be  
49 persons, based on  
1 sq. ft./person

Tree

Tree

PATIO - 49 ppl.

5'6" x 14'0"

5'12" x 14'0"

20' x 10' x 10'

Valley 1st

GRATEFUL FED  
PATIO PLAN

"509 BERNARD AVE"

RESTAURANT  
ENTRANCE

Reviewed  
by City of Kelowna  
Inspection Services

DECEMBER

JUL 03 2005

CITY OF KELLOWNA  
Inspection Services Dept.

The Grateful Fed Deli, F# # 158178  
LIQUOR CONTROL AND LICENSING BRANCH  
APPROVED, IN PRINCIPLE to expand patio  
Subject to the terms and/or conditions specified in the approval  
in principle letter(s) dated: Aug 4/05  
Authority: A. White  
Maximum Person Capacity: PATIO - 49