

# Memo



Date: December 11/09

To: City Manager

From: Community Sustainability Division

File No: LL09-0012                      Applicant/Licensee: Wood, Brenda

At: 538-540 Leon Avenue              Property Owner: 569699 BC LTD.

Purpose: TO RECEIVE COUNCIL SUPPORT FOR THE PROPOSED FOOD PRIMARY LICENSE  
ALLOWING LICENSED HOURS OF SALE FROM MIDNIGHT TO 1:00AM  
TO RECEIVE COUNCIL SUPPORT FOR THE PATRON PARTICIPATION ENTERTAINMENT  
ENDORSEMENT FOR THE PROPOSED FOOD PRIMARY LICENSE

Existing Zone: C7LP - Central Business Commercial (with 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 recommends the issuance of the Food Primary license for the application from Brenda Wood (Cush Restaurant) to allow licensed hours of sale until 1:00am and obtain a Patron Participation Entertainment endorsement at 538-540 Leon Avenue, Kelowna, BC, and legally described as Lot A, District Lot 139, ODYD, Plan 16322, for the following reasons: the proposal is not anticipated to have significant impact on the surrounding area, and is not thought to be inconsistent with the surrounding commercial development.
2. The Council's comments on the prescribed considerations are as follows:
  - a) *The potential for noise if the application is approved* would not negatively impact the surrounding area given the location and form of the establishment, assuming the hours of sale on the patio are limited to midnight.
  - b) *The impact on the community if the application is approved* is considered minimal given that the establishment is located within the downtown commercial area, with several liquor and food primary establishments in close proximity.
  - c) It is not anticipated that the amendment will result in the *establishment being operated in a manner that is contrary to its primary purpose*.
3. The Council's comments on the views of residents (if applicable) are as contained within the minutes of the meeting at which the application was considered by Council. The methods used to gather views of residents were as per Council Policy #315 "Liquor Licensing Procedures - Liquor Primary and Retail Liquor Sales."

## 2.0 SUMMARY:

A liquor license application has been forwarded by the owner to the Provincial Liquor Control and Licensing Branch (LCLB) for their approval. Procedurally, any food primary applications requesting hours of liquor service past midnight require local government resolution, commenting on the application.

The applicant is seeking Council support for hours of liquor sale until 1:00am, as well as a “Patron Participation Entertainment” endorsement. The requested hours would assist the new restaurant in competing with other restaurants in the downtown area, the majority of which already have licensed hours past midnight. As the business owners intend to regularly use the establishment as a venue for weddings and receptions, the additional hours of sale would provide greater opportunities for potential clients. The Patron Participation Entertainment endorsement would allow any form of entertainment that encourages patrons to participate, such as sing-along, dancing and karaoke, or perform stand-up comedy routines. This endorsement is typical of establishments wishing to have wedding receptions.

### 2.1 Liquor License Information

Proposed License Summary	Details
Food Primary License Capacity	<b>134 Total Person Capacity</b> Restaurant: 106 persons Patio: 28 persons
Hours of Operation	11:00am-1:00am, 7 days a week
Endorsements	Patron Participation Entertainment

### 2.2 Site Context

The proposed food primary establishment is located in Downtown on the north side of Leon Avenue, between Ellis and Bertram Streets. The surrounding area is comprised of primarily office, retail and professional uses.



## 2.3 Site Location Map

Subject property: 538-540 Leon Avenue



## 5.0 DEVELOPMENT POTENTIAL/CURRENT POLICY:

### 5.1 Mayor's Entertainment District Task Force/ Council Policy #315

The Task Force report is silent on extension to hours of sale requests, as well as food primary applications.

## 6.0 TECHNICAL COMMENTS:

### 6.1 Public Health Inspector

Liquor license subject to inspection and issuance of Health Permit.

### 6.1 RCMP

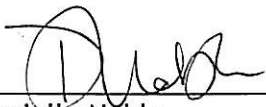
No response.

## 7.0 LAND USE MANAGEMENT DEPARTMENT:

The Land Use Management Department supports the proposed licensed hours of sale until 1:00am for the interior restaurant space with the stipulation that the hours of sale for the outdoor patio space are limited to midnight. A large number of food primary establishments in the Downtown area are licensed until 1:00am (or later). Extending the closure of the interior restaurant for an additional hour is not perceived to have significant impact on the surrounding area. The end of liquor sales on the patio at midnight would be congruent with other patios in the Downtown area.

The Patron Participation Entertainment endorsement would allow the venue to hold wedding receptions and other functions where patrons would typically participate in some form of entertainment (usually dancing). This endorsement is not perceived to have negative effects on the surrounding area, and would allow the business owners to provide a greater variety of options to potential clients.

Submitted by:



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Daniëtte Noble  
Manager, Urban Land Use

Approved for inclusion:



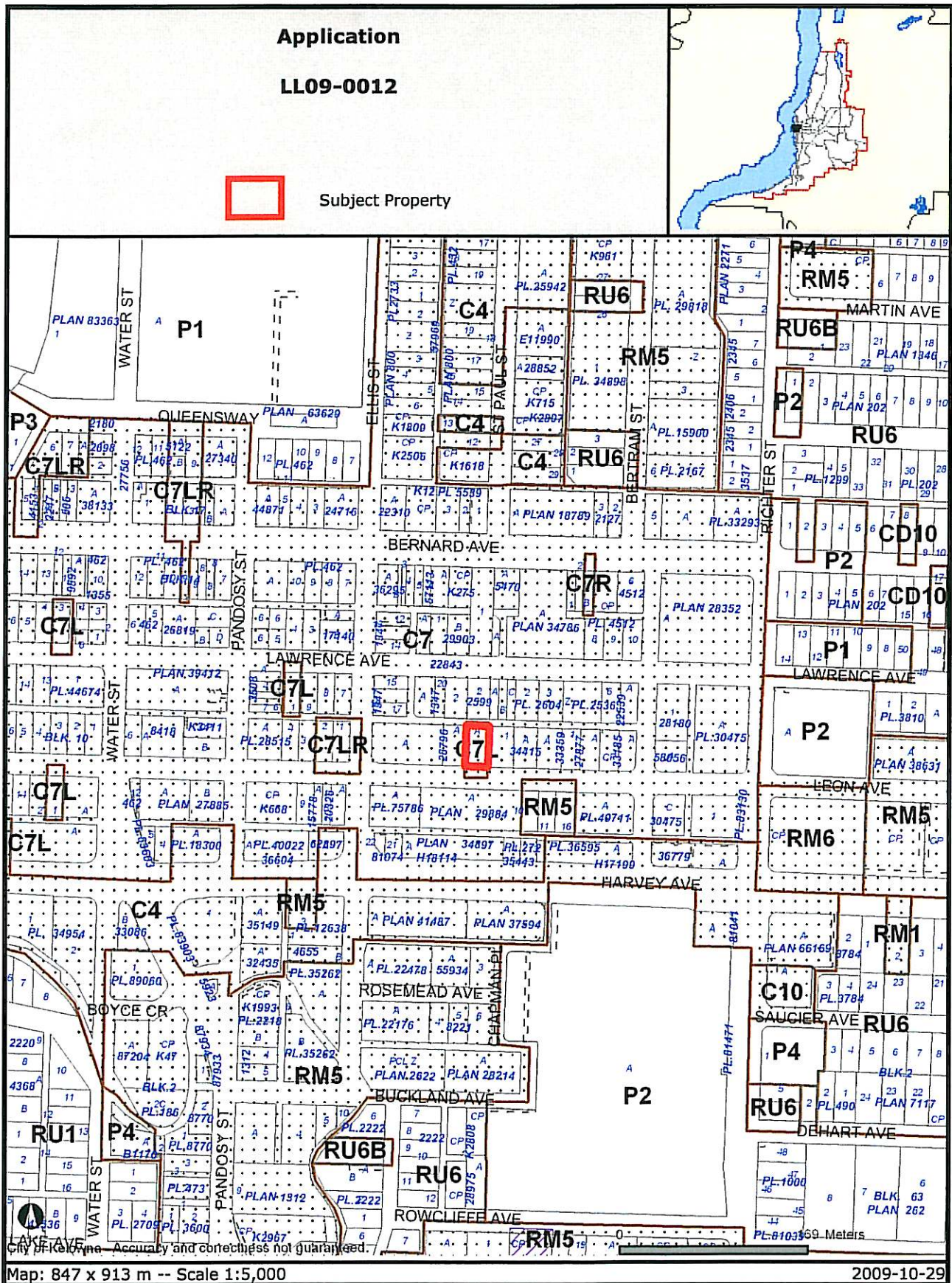
Shelley Gambacort  
Director, Land Use Management

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**Attachments:**

Subject Property Map  
Proposed Floor Plan





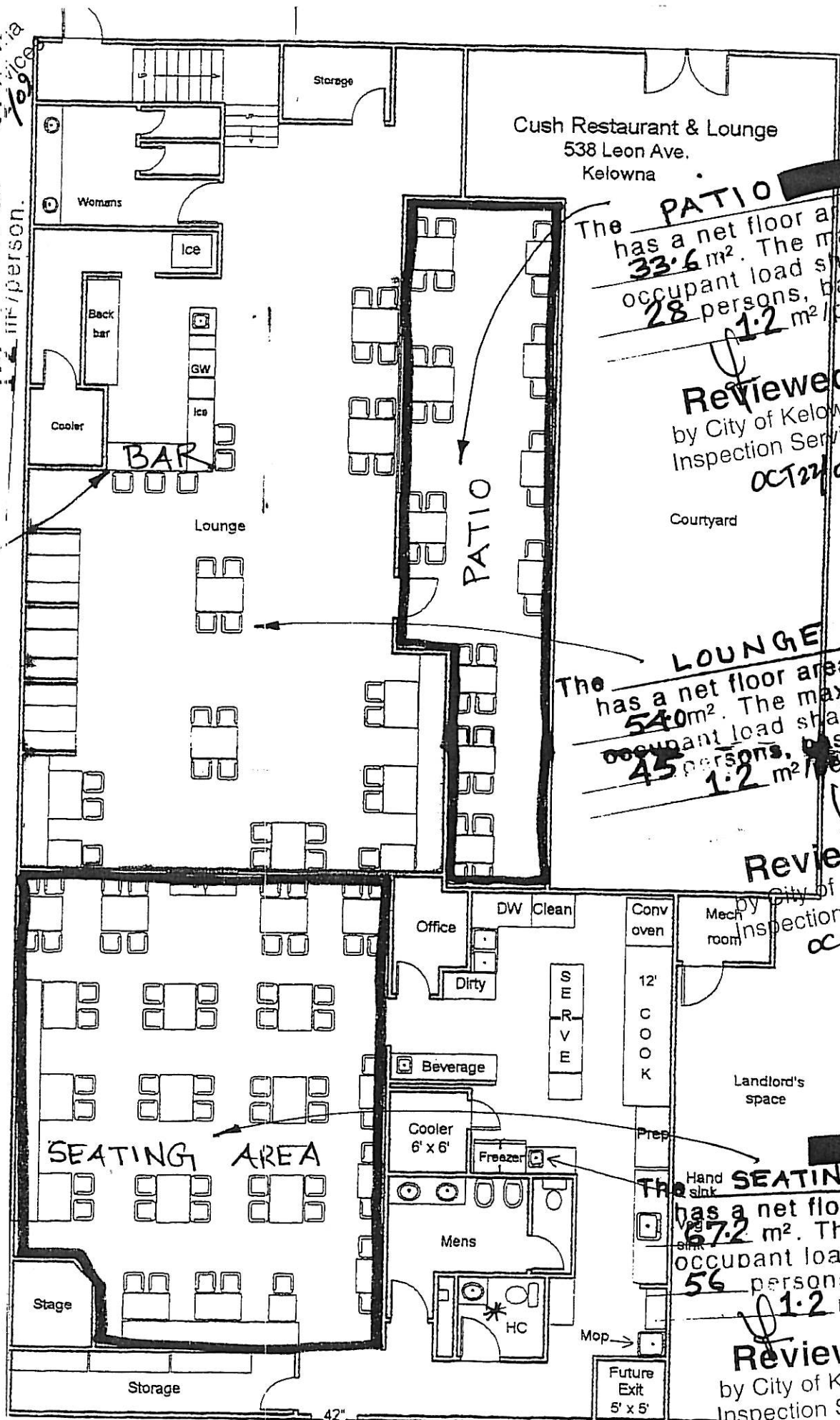
Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only.  
The City of Kelowna does not guarantee its accuracy. All information should be verified.



**Reviewed**  
by City of Kelowna  
Inspection Services  
OCT 22/09

The **BAR** has a net floor area of **6.0m<sup>2</sup>**. The maximum occupant load shall be **5** persons, based on **1.2 m<sup>2</sup>/person**.

\* H/C WASH ROOM MAY BE CONSIDERED AS PART OF THE WOMENS WASHROOM



Cush Restaurant & Lounge  
538 Leon Ave.  
Kelowna

The **PATIO** has a net floor area of **33.6 m<sup>2</sup>**. The maximum occupant load shall be **28** persons, based on **1.2 m<sup>2</sup>/person**.

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Inspection Services  
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The **LOUNGE** has a net floor area of **54.0m<sup>2</sup>**. The maximum occupant load shall be **45** persons, based on **1.2 m<sup>2</sup>/person**.

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The **SEATING AREA** has a net floor area of **67.2 m<sup>2</sup>**. The maximum occupant load shall be **56** persons, based on **1.2 m<sup>2</sup>/person**.

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