



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: October 18, 2005
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CC File No.: 2615
Meeting Date: November 3, 2005

TO: Standing Committee on Planning and Environment

FROM: Chief License Inspector

SUBJECT: 1181 Davie Street - David Battersby
Liquor Primary Liquor License

RECOMMENDATION

THAT Council, having considered that the majority of area residents and business operators of the community are in favour of the application as determined by neighbourhood notification and public meeting and having considered the proximity of residential developments, traffic patterns, road access, availability of parking, noise impacts, the overall design, and relevant Council policy as outlined in the report titled "1181 Davie Street - David Battersby - Liquor Primary Liquor License", endorse the application by David Battersby for a 60 seat Liquor Primary liquor license Liquor Establishment Class 1 (Neighbourhood Pub use) at 1181 Davie Street subject to:

- i. A Time Limited Development Permit;
- ii. A signed Good Neighbour Agreement prior to issuance of the business license;
- iii. Standard Hours of operation of 11:00 a.m. to 2:00 a.m., Monday to Sunday subject to Council enactment of the required Business Premise Regulation Bylaw;
- iv. Extended Hours of operation of 9:00 a.m. to 3:00 a.m., Monday to Sunday per the license bylaw requirements subject to Council enactment of the required Business Premise Hours of Regulation Bylaw; and
- v. Adherence to clean air principles.

GENERAL MANAGER'S COMMENTS

The General Manager, Community Services, RECOMMENDS approval of the foregoing.

COUNCIL POLICY

Council policy requires new Liquor Primary liquor licenses to be subject to a Time-Limited Development Permit, Good Neighbour Agreement, and public consultation.

On November 18, 2004, Council adopted the Hours of Liquor Service Policy that established a new model for regulating hours of liquor service for Liquor Primary establishments, based on an area approach and incorporating a two-tiered licensing system and impact reduction measures.

On June 16, 2005, Council approved amendments to the Hours of Liquor Service Policy for the 1000 to 1200 blocks of Davie Street to allow extended hours of liquor service that are equivalent to those in the "primarily commercial" areas.

On July 14, 2005, Council approved amendments to the License By-law to provide new definitions for businesses in which the primary function is the sale and consumption of alcohol on the premises (Standard Hours Liquor Establishment Classes 1-7) and endorsed policy and guidelines relating to their size and location.

SUMMARY

The applicant, David Battersby, has requested Council endorsement for a new 60 seat Liquor Primary liquor license (Liquor Establishment Class1) at 1181 Davie Street. The request is consistent with Council's recently approved policy for size and location of new liquor license. The Police Department does not support the request at this time and the Housing Centre has expressed concern regarding the proximity to residential buildings. However, the other commenting departments are generally supportive.

The public consultation generated comments both for and against the application. Respondents in favour felt the proposal would be a welcomed addition to the area, fit an empty niche in the Davie Village liquor market and offered personal endorsements of Mr. Battersby's character. The respondents opposed are concerned about the potential for increased noise and the concentration of liquor establishments in the area.

Staff are recommending Council endorse the applicant's request with the conditions noted.

PURPOSE

David Battersby is requesting a Council resolution endorsing his application for a 60 seat Liquor Primary liquor license Liquor Establishment Class 1 at 1181 Davie Street.

BACKGROUND

The applicant is part owner of an internationally recognized design firm. The proposal is to construct a 60 seat Liquor Primary type establishment with licensed hours from 9:00 a.m. to 1:00 a.m., Sunday to Wednesday and 9:00 a.m. to 2:00 a.m., Thursday to Saturday with no patio. The proposed lounge is also intended to function as an occasional venue to showcase

local musical and artistic talent, as well as to offer support to local charitable organizations for special events and fundraising.

Liquor Control and Licensing Branch (LCLB) Regulations and Policies

Branch regulations allow liquor service between the hours of 9:00 a.m. to 4:00 a.m. seven days a week for Liquor Primary licenses. The liquor license capacity for a new establishment is based on the building capacity for the premise as determined by the local authority. Any new liquor license application is subject to local government support. All previous branch policy has been eliminated.

Area Surrounding Premises

The subject premise's is located in the C-5 (Commercial West End) zoning district. The surrounding area is a mixture of residential, hotel, retail, restaurants, office, recreation uses and other commercial uses. There are a significant number of residential apartments in the area (refer to Appendix A). The nearest residential buildings are located north across the lane and directly adjacent to the west side of the site above the commercial units.

There are 1 Liquor Establishment Class 1 (46 seats), 2 Liquor Establishment Class 2 (217 seats total), 1 Liquor Establishment Class 3 (195 seats), 1 Specialty Wine Store and approximately 25 licensed restaurants within the 1000 ft survey area. The closest government liquor store is located at 1155 Bute Street.

There are a total of six Liquor Primary liquor licenses in the Davie Village area consisting of 954 seats.

DISCUSSION

Policy

Council recently approved new policy regarding venue size and location. The policy set up a number of liquor establishment business license classifications and basic location criteria (50 metres from the same class of establishment) for new liquor applications.

The applicant's request is for a Liquor Establishment Class 1 (i.e. under 66 seats). The closest Liquor Establishment Class 1 is greater than 50 metres away (a 46 seat lounge in the Hotel at 1160 Davie Street).

Hours of Operation

If approved, the liquor establishment would be eligible to operate to the maximum hours permitted by Council for the area. On June 16 of this year, Council amended the Hours of Liquor Service policy for the Davie Village area. The effective hours of liquor service for all Liquor Primary establishments in the Davie Village area are:

- Standard Hours of Operation of 11:00 a.m. to 2:00 a.m., Monday to Sunday; and
- Extended Hours of Operation of 9:00 a.m. to 3:00 a.m., Monday to Sunday,

subject to Council obtaining the authority from the Provincial Government to enact a Business Premise Hours of Regulation Bylaw to control the hours of operation of liquor licensed establishments.

The applicant has indicated that they do not intend to operate at the maximum permissible hours of operation for Davie Village. However, should the applicant change his mind or sell the business to a new operator that wants longer hours of liquor service, then upon meeting the criteria for the extended hours business license, staff would be obligated to issue that license. The operator would then be entitled to the maximum permissible hours of operation.

Affirmative Proposal Aspects

Small liquor establishment generally do not create significant negative issues for area residents. Also, the location meets the Venue Size and Location policy.

Furthermore, the applicant has indicated that the business will be owner managed and operated. Generally, staff experience indicates that owner operated liquor establishments are more responsive in correcting neighbourhood impacts once they are made aware of the issue(s). However, staff have no authority to make owner management and operation a permanent requirement.

Finally, the time-limited development permit should provide adequate controls to ensure the land use/business remains compatible with the surrounding community.

Negative Proposal Aspects

Approval of the establishment may result in increased street noise and other related nuisance activity for area residents and business operators. Negative synergy may result from the addition of another Liquor Primary establishment in the area.

The extended hour of liquor service may exacerbate the noise and nuisance activity in the neighbourhood during the week.

Enforcement History

As this is a new operator, the applicant has no enforcement history.

FINANCIAL IMPLICATIONS

There are no financial implications.

RESULTS OF NOTIFICATION

A neighbourhood notification was conducted by circulating 1800 notices in the survey area (see Appendix A). A site sign was erected advising the community of the application and where to send concerns or comments. From within the notification area 4 letters, 3 emails, 2 telephone calls and 13 form letters were received supporting the application; and 3 letters, 4 emails and 1 telephone call was received opposing the request. The following responses were received all in support of the application from interested parties outside of the immediate notification area: 21 letters, 10 form letters, as well as 1 email supporting the application conditionally and 1 letter opposing the application. Fourteen letters, 4 emails and 31 form letters with no attached address were also received in support of the application.

Respondents supporting the application generally felt that an establishment of this size and calibre would be a welcomed addition and would contribute to the improvement of the area.

A number of respondents were also supportive of the applicant and offer a personal endorsement of Mr. Battersby's character.

Respondents opposing the application are most concerned with the effects of having another liquor serving establishment in the area, including increased noise and lack of parking. There was also a general feeling that there were enough liquor establishments in the Davie Village area.

A public information meeting was held on September 15, 2005 and was attended by 35 area residents as well as 4 people on behalf of the applicant and 1 agent representing the applicant. Comments made at the meeting included the concern for the number of establishments that currently serve liquor in the area as well as placing limits and restrictions on the amount and type of entertainment. Others commended the applicant for the design and concept of the establishment and commented that this application would improve the area and set higher standards for future businesses.

COMMENTS

The Police Department does not support any further applications for Liquor Primary establishments in this area at this time.

The Vancouver Fire Department comments that the application appears to meet the Vancouver Fire Department's criteria for occupant load and exiting. However, a technical plan check for By-law compliance has not been conducted.

The Development Services Department has reviewed the application and note that the establishment is located within the C-5 zoning district and the approved land use for the premises is retail. Neighbourhood Public House (Liquor Establishment Class 2) is a "conditional" use in this zone and any proposal for such a use at this location would require a Development Permit Application.

The Environmental Health Department supports the application subject to the following requirements:

- i. The front alcove or "seasonal space" shall not be used as a smoking area as it is open on one side only;
- ii. Implementing measures to minimize noise complaints associated with patrons congregating outside the establishment while smoking;
- iii. All doors and windows shall be closed by 11:00 p.m.;
- iv. An acoustic consultant shall be hired to assess noise impacts from the site and to provide recommendations that mitigate noise and satisfy the requirements of the City of Vancouver Noise Control Bylaw No. 6555;
- v. Detailed drawings of the food storage, preparation and service areas are required for review by the Environmental Health Division for compliance with the City of Vancouver Health Bylaw No. 6580 and the provincial Food Premises Regulation prior to construction; and
- vi. The garbage storage area is to be designed to minimize nuisances.

The Social Planning Department supports the application.

The Housing Centre has reviewed the application and has concerns that the location of this proposal is in the midst of a residential area, one block away from Mole Hill. In addition, there are six social housing developments in the two block radius with approximately 500 units, of which over 300 units are for seniors.

The Central Area Planning Department is in support of the application at this location as it reflects the new Council policy for the location of different types of licenses. Staff also believe that the location of this establishment will assist in the transformation of a troublesome area and support the venue's small size.

Comments to Satisfy LCLB Resolution Requirements

Location: as noted previously.

Proximity of the establishment to other social or recreational and public building: Staff do not feel the Liquor Primary liquor license will have an adverse reaction on the church located at Thurlow and Pendrell or the other nearby institutional buildings.

Person capacity and hours of operation: as outlined above.

Market analysis: Staff feel this is a criteria best left to the applicant to determine and since there is no authority for the city to require the operator to maintain a specific focus clientele.

Traffic, noise, parking and zoning: compliance and mitigation of these issues will be conducted during the Development Permit application review.

CONCLUSION

There is a significant amount of residential in close proximity to the proposed site, and community impact issues may be compounded by the number of liquor premises in the area. However, small Liquor Establishments generally do not raise major concerns, and the time-limited development permit requirement should ensure compatibility with the adjacent community and residents.

As a result of the above and the application compliance with the new Venue Size and Location policy, Staff are recommending Council endorse the applicant's request for a 60 seat Liquor Primary (Liquor Establishment Class 1) liquor license subject to the conditions outlined in Recommendation A.

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LEGEND

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|-------------------|---------------------------------------|----------------------|
| (A) Pump Jack Pub | (B) Sandman Suites on Davie (Moxie's) | (C) Church |
| (D) Oasis | (E) Numbers | (F) Fountainhead Pub |
| (G) Celebrities | | |

LIQUOR PRIMARY (LIQUOR ESTABLISHMENT CLASS 1)
1181 Davie Street

map: 1 of 1

scale: 1:2000



City of Vancouver - Licenses & Inspections

date: Oct. 13, 2005