



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: January 16, 2006
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RTS No.: 05618
CC File No.: 11-4600-50
Meeting Date: February 2, 2006

TO: Standing Committee on City Services and Budgets

FROM: Chief License Inspector

SUBJECT: 860 Denman Street - Howard Murray Investments Ltd.
Liquor Primary Liquor License

CONSIDERATION

- A. 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 site signage, neighbourhood notification and a 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 dated January 17, 2006 and titled "860 Denman Street - Howard Murray Investments Ltd., Liquor Primary Liquor License", endorse the application by Howard Murray Investments Ltd. for a 149 seat Liquor Primary liquor license (Liquor Establishment Class 2) at 860 Denman Street subject to:
- i. A signed Good Neighbour Agreement prior to issuance of the business license;
 - ii. Standard Hours of operation of 11:00 a.m. to 1:00 a.m., Sunday to Thursday, 11:00 a.m. to 2:00 a.m. Friday and Saturday subject to Council enactment of the required Business Premise Regulation Bylaw;
 - iii. Extended Hours of operation of 9:00 a.m. to 2:00 a.m., Sunday to Thursday, 9:00 a.m. to 3:00 a.m. Friday and Saturday per the license bylaw requirements subject to Council enactment of the required Business Premise Hours of Regulation Bylaw; and
 - iv. Adherence to clean air principles.

OR

- B. THAT Council, having considered the opinion of area residents and business operators as determined by site signage, neighbourhood notification and a public meeting and having considered the issues and relevant Council policy as outlined in the report dated January 17, 2006 and titled "860 Denman Street - Howard Murray Investments Ltd., Liquor Primary Liquor License", DOES NOT endorse the application by Howard Murray Investments Ltd. for a 149 seat Liquor Primary liquor license (Liquor Establishment Class 2) at 860 Denman Street.

GENERAL MANAGER'S COMMENTS

The General Manager, Community Services, submits the choice of A or B for CONSIDERATION.

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 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.

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.

SUMMARY

Howard Murray Investments Ltd. has applied for a new 149 seat Liquor Primary liquor license at 860 Denman Street to replace the previous liquor license which was cancelled by the Liquor Control and Licensing Branch.

Significant public consultation (2842 notices delivered) was conducted for this application. The applicant has generated broad support for his request, particularly within the gay community. However, the majority of those respondents live outside the immediate notification area.

Thirty nine (39) residents within the notification area are opposed to the request, compared to 21 residents in support (including 3 residents that only provided conditional support). Staff note that although the overall response rate from the area residents does not seem high (60 out of 2842), it is high relative to other liquor license applications.

This type of application and the operator's track record would generally result in staff supporting the request. However, staff have put this application forward for Council's

consideration due to the city's inability to require a time-limited development permit, concerns raised by a number of area residents and the potential that the issues and problems associated with the change in ownership of the previous liquor license could be repeated at a future date.

PURPOSE

Howard Murray Investments Ltd. is requesting a Council resolution endorsing their application for a 149 seat Liquor Primary liquor license Liquor Establishment Class 2 at 860 Denman Street.

BACKGROUND

The approved use at this location is Cabaret. Previously, a Liquor Primary liquor license operated from 1988 to 2004 under different owners. The applicant is looking at replacing the previous license which ceased operation in 2004. The applicant has partnered with the owners of the PumpJack Pub, a Liquor Primary establishment on Davie Street. The proposal is to revive the 149 seat Liquor Primary type establishment with operating hours from 11:00 a.m. to 2:00 a.m., seven days a week with limited food service, catering to the local gay community.

The applicant advises that the interior of the premise suffered significant water damage. As a result, the applicant will be undertaking renovations to the space. This work will include the following:

- New bar millwork (new design for the rear bar and upgrade for the other bar),
- New flooring,
- New furnishings,
- New sound system and lighting, and
- Washroom upgrades.

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 West End zoning district. The surrounding area is a mixture of residential, hotel, retail, restaurants, office, recreation uses and other commercial uses (refer to Appendix A).

There are 1 Liquor Establishment Class 2 (22 seats), 1 Liquor Establishment Class 3 (218 seats), 1 Specialty Wine Store and approximately 32 licensed restaurants within the 1000 ft survey area. The closest government liquor store is located at 1655 Davie Street.

DISCUSSION

Policy

New Liquor Establishment Class 2 businesses located in the Downtown peninsula must maintain a 100 metre distancing requirement from other Liquor Establishment Class 2 venues.

The subject site is located in a designated Mixed-Use policy area and as such, food service, a specified kitchen size and limits on the type and size of entertainment are not required. However, staff note that these factors often mitigate the impact of liquor establishments on adjacent residents and suggest that the applicant may wish to employ one or more of these measures.

Hours of Operation

If approved, the liquor establishment would be eligible to operate to the maximum hours permitted by Council for the area. The effective hours of liquor service for all Liquor Primary establishments in the area are:

- Standard Hours of Operation of 11:00 a.m. to 1:00 a.m., Sunday to Thursday, and 11:00 a.m. to 2:00 a.m., Friday and Saturday; and
- Extended Hours of Operation of 9:00 a.m. to 2:00 a.m., Sunday to Thursday, and 9:00 a.m. to 3:00 a.m., Friday and Saturday,

subject to Council enacting a Business Premise Regulation of Hours 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 the area. However, should the applicant change his mind or sell the business to someone who wants longer hours of liquor service upon meeting the criteria for the extended hours business license the operator would be entitled to those hours of operation.

Rationale to Support the Request

The application meets the Location Policy for the Downtown.

A liquor license will eliminate the premise from the possible use as a Non-alcohol "Dance Hall" Cabaret. Liquor license issuance will:

- Provide a statutory right for Vancouver Police Department members to inspect the premises during all hours of operation (no statutory right to enter a Non-alcohol Cabaret Dance Hall);
- Prevent 24 hour operation on weekends (a Dance hall is permitted to operate weekends anytime between 7:00 a.m. Friday to 2:00 a.m. Monday; up to 67 continuous hours); and
- Add regulations (both municipal and provincial) to mitigate/monitor the business operations.

Additional entertainment options for residents of the West End, particularly members of the gay community.

Finally, the operating partners of the proposed establishment have experience operating other Liquor Primary establishments in the city. Staff have few issues with the operation of

these other establishments. Generally, in staff's experience, the operator responds promptly to resolve issues or concerns raised by area residents or staff.

Rationale to Oppose the Request

Approval of the establishment may result in the increased street noise and other related nuisance activity for area residents and business operators. The extended hour of liquor service may exacerbate the noise and nuisance activity in the neighbourhood during the week.

The city has no authority to regulate clientele. Therefore, the city has no ability to prevent a change of ownership and/or theme and clientele. As a result, it is possible that events similar to what occurred with the previous liquor license could be repeated at some future date.

Finally, as the Cabaret use is existing, staff will not have the ability to link a time-limited development permit to Council's endorsement. As a result, staff will not have the significant leverage provided from a time-limited development permit to ensure the business operates its land use compatibly with the surrounding land uses.

Enforcement History

Site: There have been no issues since the Cabaret closed approximately 2 years ago. During the final year of the Cabaret's operation, staff received regular complaints from area residents regarding noise from the Cabaret and patrons traveling to or from the Cabaret. Staff received very few complaints when the business was operated as the "Denman Station" with a primarily gay clientele.

Proposed operators: As noted above, relatively good operators that make an effort to respond and resolve resident and staff issues in a timely manner.

FINANCIAL IMPLICATIONS

There are no financial implications.

RESULTS OF NOTIFICATION

A neighbourhood notification was conducted by circulating 2842 notices in the survey area (see Appendix A). Notices were not distributed to one residential building at 1655 Barclay. A site sign was erected advising the community of the application and where to send concerns or comments. From within the notification area 3 emails and 15 form letters were received supporting the application; 3 emails were received supporting the application conditionally; and 12 letters, 10 emails and 17 telephone calls were received opposing the request. Of the twelve letters received opposing the application, one letter was from a Strata Council representing 36 units and another was from a 14 unit building.

The following responses were received all in support of the application from interested parties outside of the immediate notification area but within the West End: 1 letter, 21 emails and 174 form letters. One letter was received from outside the notification area but within the West End opposing the application. From outside of the notification area and the West End but within the City of Vancouver, 1 letter, 12 emails and 78 form letters were

received in support of the application and 1 email was received in opposition. Forty two emails, 3 form letters were received in support as well as 1 email supporting the application conditionally was received from respondents with no attached address. Three emails with no attached address were received in opposition of the application.

Responses received in support of the application generally felt that an establishment that caters to the local gay community was much needed in the area and most respondents provided a personal endorsement of the operators. Those responses received with conditional support, would support the application if proposed closing hours were reduced.

Respondents opposing the application are most concerned with the effects of reopening this liquor serving establishment in the area, including increased noise, lack of parking, concerns for safety and increased nuisance issues for the community. There was also a general feeling that there were enough liquor establishments in the area.

A public information meeting was held on November 22, 2005 and was attended by 32 area residents as well as 2 people on behalf of the applicant and 1 agent representing the applicant. Comments made at the meeting included the concern for parking and traffic impacts on the area, late night noise created by patrons leaving the establishment and concerns that the business could be sold at any time to new operators and cabaret use at this location is to remain. Others acknowledged that the partners involved in the application operate another Liquor Primary Establishment and commended them for their continued community work.

COMMENTS

The **Police Department** has reviewed the application and do not have any concerns.

The **Vancouver Fire Department** has reviewed and approved the application.

The **Development Services Department** has reviewed the application and note that the site is zoned C-5 and the existing space is approved as Cabaret. This use remains a conditionally allowable use within the C-5 District Schedule and is considered appropriate at this location.

The **Environmental Health Department** has reviewed and accepted the application subject to the following recommendations:

- i. Implement measures to minimize noise complaints associated with patrons congregating outside the establishment while smoking;
- ii. 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 Noise Control Bylaw No. 6555; and
- iii. Detailed drawings of the food storage, preparation and service areas are required for review by the Environmental Health Division for compliance with the Health Bylaw No. 6580 and the Provincial Food Premises Regulation.

The **Social Planning Department** has no comments at this time.

The Housing Centre notes that there are three non-market housing projects within a two block radius:

- Gordon Fahrni House, 1630 Barclay Street (41 seniors units)
- Sunset Towers, 1655 Barclay Street & 1650 Haro Street (491 seniors units)
- Sojourn Co-Op, 1763 Nelson Street (30 singles units)

Housing Centre staff are concerned about late night impacts.

The Central Area Planning Department has reviewed the application and support the application. Staff are familiar with the applicants and acknowledge their good track record operating their existing establishments. Staff recommend a Good Neighbourhood Agreement be signed to provide clear expectations about how the business is to operate and minimize community impacts.

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 community centre and Secondary School located at Denman and Barclay Streets or the other nearby institutional buildings.

Person capacity and hours of operation: as outlined above.

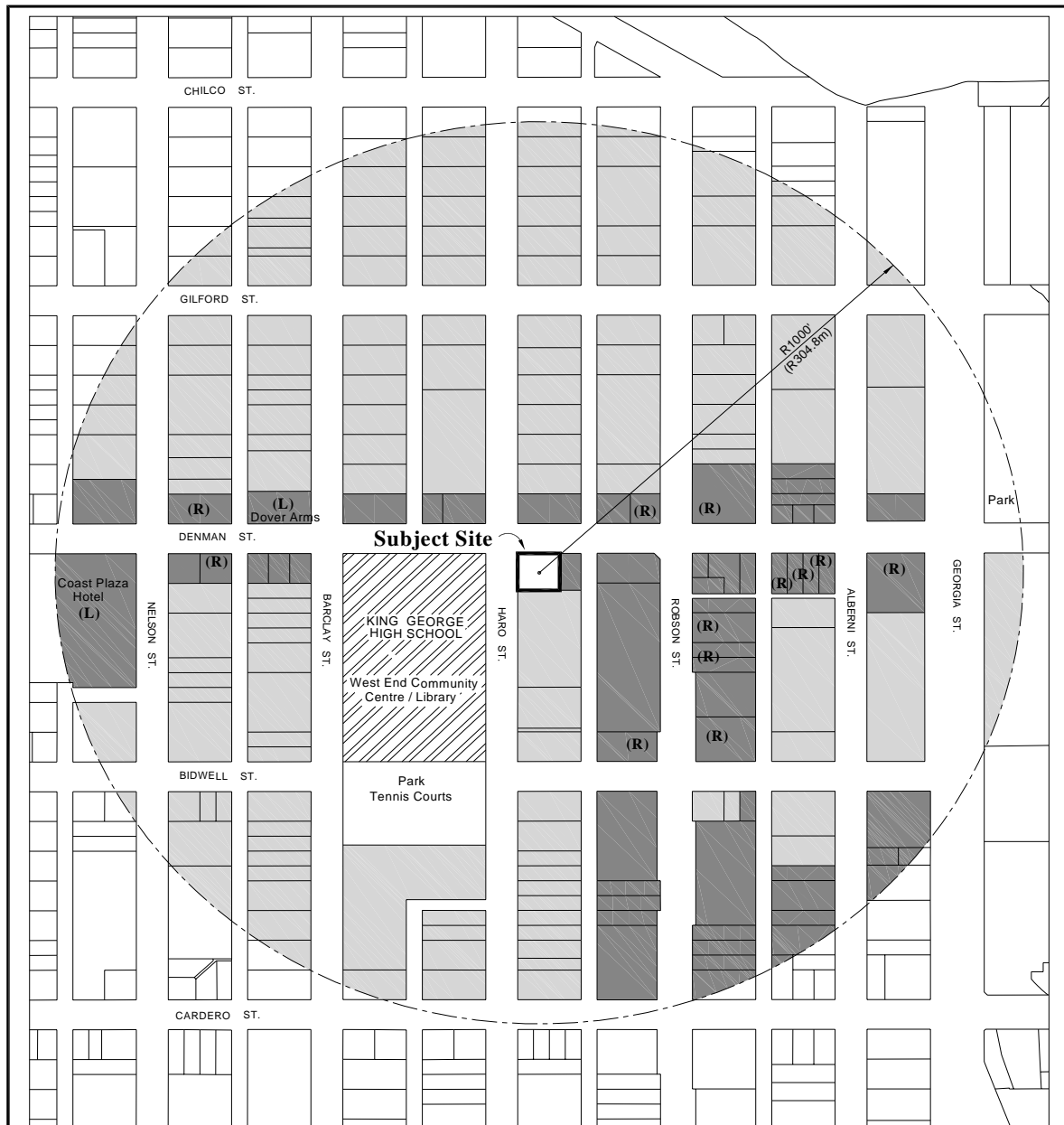
Market analysis: Staff feel this is a criteria best left to the applicant to determine as there is no authority for the city to require the operator to maintain a specific clientele.

Traffic, parking and zoning: The approved use of the space is Cabaret, as such, these issues were resolved with the issuance of the original Development Permit.

CONCLUSION

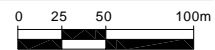
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LEGEND

- Residential Only
- Retail / Commercial Only
- (R) Mixed Use Retail Units + Residential
- (H) Hotel + Resturant
- (L) Liquor Establishment
- School



LIQUOR PRIMARY (LIQUOR ESTABLISHMENT CLASS 2)
860 Denman Street

map: 1 of 1



City of Vancouver - Licenses & Inspections

date: Dec. 12, 2005