



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: August 29, 2006
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VanRIMS No.: 11-4600-50
Meeting Date: September 14, 2006

TO: Standing Committee on Planning and Environment

FROM: Chief Licence Inspector

SUBJECT: 432 Richards Street - 0729439 BC Ltd
Liquor Primary Liquor License

CONSIDERATION

- A. THAT Council, having considered the opinion of area residents and business operators of the community as determined by neighbourhood notification, the proximity of residential developments, potential noise impacts and relevant Council policy as outlined in the Administrative Report dated August 29, 2006, entitled "432 Richards Street - 0729439 BC Ltd - Liquor Primary Liquor Licence", endorse the application by 0729439 BC Ltd for a Liquor Primary liquor licence (Liquor Establishment Class 2) on the second floor at 432 Richards Street subject to:
- i. A maximum of 102 persons (patrons and staff);
 - ii. A Time-Limited Development Permit to review compliance and mitigation of traffic, noise, parking, other zoning issues and an agreement, to the satisfaction of the Director of Planning, to work with the "Building Opportunities with Business" society to provide jobs and training opportunities for local residents;
 - iii. Standard hours of operation limited to 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; or
Extended hours of operation limited to 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;

- iv. A signed Good Neighbour Agreement prior to business licence issuance; and
- v. Adherence to clean air practices.

OR

- B. THAT Council having considered the opinion of area residents and business operators of the community as determined by neighbourhood notification, the proximity of residential developments, potential noise impacts, the applicant's compliance history and relevant Council policy as outlined in the Administrative Report dated August 29, 2006, entitled, "432 Richards Street - 0729439 BC Ltd - Liquor Primary Liquor Licence", does NOT endorse the request by 072439 BC Ltd for a 102 seat Liquor Primary liquor licence (Liquor Establishment Class 2) on the second floor at 432 Richards Street.

GENERAL MANAGER'S COMMENTS

The General Manager of 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 May 16, 2006, Council enacted amendments to the Business Premises Regulation of Hours Bylaw that implements the Hours of Liquor Service policy for the city bars into by-law regulation.

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

The applicant, 0729439 BC Ltd., has requested Council endorsement for a new 102 seat (person) Liquor Primary liquor licence (Liquor Establishment Class 2 business licence) on the 2nd floor at 432 Richards Street. The request is consistent with Council liquor policy for the area. However, the Vancouver Police Department has indicated it does not support the request and 2 of the 4 company principals are associated with restaurants that have had previous enforcement issues (2001 and 2002).

Response to the public consultation was limited. Liquor establishments of this size generally do not generate complaints or negative issues with the surrounding residents and business operators. However, as the liquor licence will be operated in conjunction with a restaurant there is the potential that the entire facility could create issues normally associated with a bar of the equivalent size (i.e.: both Food and Liquor Primary areas).

As a result, staff have submitted this application forward for Council's CONSIDERATION.

PURPOSE

0729439 BC Ltd. is requesting a Council resolution endorsing their application for a 102 seat Liquor Primary liquor licence (Liquor Establishment Class 2) at 432 Richards Street.

BACKGROUND

Site History

On April 10, 2003, for a previous tenant and under the old Liquor Control and Licensing Branch application process, Council endorsed on the second floor a request for a 97 seat Class 'D' Neighbourhood Pub at 432 Richards Street. Unfortunately, that previous tenant did not proceed further with the request and ultimately abandoned the application after going out of business.

Application

The applicant is proposing to convert the second floor of the existing restaurant to a 102 seat neighbourhood pub use (Liquor Establishment Class 2 business licence/102 seat provincial Liquor Primary liquor licence). The applicant proposes that the venue will cater to a 25 to 45 year old clientele and to the students attending the post-secondary institutions in the area. The applicant intends to provide occasional live entertainment and to allow the space to be used for community events and by local groups from time to time.

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.

Area Surrounding Premises

The subject premise is located in the Downtown (DD) - sub-area C Zoning District. The surrounding area is primarily office towers and a mixture of hotels, restaurants, neighbourhood pubs, cabarets, retail and other commercial uses. The nearest residential development is located approximately 300' from the subject site (refer to Appendix A).

There are 1 Liquor Establishment Class 1 (50 seats), 4 Liquor Establishment Class 2 (500 seats), 5 Liquor Establishment Class 3 (1010 seats), 2 Liquor Establishment Class 4 (755 seats), 4 Liquor Establishment Class 7 (574 seats) located within a 1000' radius of the subject site (2889 total liquor seats). Also, 1 Liquor Retail Store (Beer and Wine) and approximately 28 licensed restaurants are within the area. The closest government liquor store is located in Harbour Centre at 555 West Hastings Street.

RESULTS OF NOTIFICATION

A neighbourhood notification was conducted by circulating 1600 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, 1 email was received supporting the application; 1 telephone call was received with concerns about the application; and 5 telephone calls were received opposing the request.

Respondents opposing the application are most concerned with the establishment closing at 3:00 a.m. in the area, including increased noise, concerns for safety and increased nuisance issues for the community. One respondent called and was concerned with forthcoming residential developments in the area and the impact that the later closing hours would pose to future residents.

DISCUSSION

POLICY

Venue size and location

The subject site is located in the Downtown-Primarily Mixed use area. The proposed Liquor Establishment - Class 2 venue (Neighbourhood Pub land use) is greater than 100 metres away from another Liquor Establishment Class 2 venue. The applicant contends that food service shall be an integral part of the business and that the kitchen for the main floor restaurant will service the second floor pub. As a result the proposed establishment complies with the venue size and location policy.

Hours of Operation

The applicant is requesting hours of operation within the parameters of the Extended hours permitted in the Downtown-Primarily Mixed Area. Maximum permitted extended hours for the area are 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. The applicant has requested 11:00 a.m. to 2:00 a.m. Sunday to Thursday and 11:00 a.m. to 3:00 a.m., Friday and Saturday.

The applicant is aware that the Extended Hours Liquor Establishment Class of business licence is contingent on continued compliance with additional bylaw regulations.

Affirmative Proposal Aspects

Small liquor establishments of this size generally do create significant negative issues for area residents. The application complies with Council's liquor policy for Venue Size & Location, and Hours of Liquor Service.

Finally, the applicant will be required to obtain a change of use development permit (change from Restaurant Class 1 to Neighbourhood Pub). Council policy is to only allow time-limited development permits for new liquor establishments. The time-limited development permit should provide adequate controls to ensure the land use or business operations remain compatible with the surrounding community.

Negative Proposal Aspects

Approval of the establishment may result in increased street noise and other related nuisance behaviour for area residents and business operators. The liberalization of the LCLB regulations pertaining to liquor service and consumption in restaurants may compound the

street noise and other related nuisance issues. As a result, the entire facility [Liquor Primary liquor licence (Neighbourhood Pub seats on the 2nd floor) and the Food Primary liquor licence (Main Floor Restaurant)] may function as one entity and have an impact on the surrounding community similar to that of a much larger bar/nightclub facility.

COMMENTS

The Police Department has reviewed the application and does not support the application for a Liquor Primary establishment and note that there are presently a sufficient number of Liquor Primary establishments in the area to serve the community. The VPD also note that two of the shareholders of 0729439 BC Ltd have indicated that they are involved in Lucy Mae Brown (Food Primary liquor licence) which has had Liquor Licensing Act compliance issues since 2003 with the most recent being two overcrowding contraventions in 2005.

The Development Services Department has reviewed the application and notes the site is regulated by the Downtown Official Development Plan. The existing space is approved as a Restaurant Class 1 use and Neighbourhood Public House can be conditionally allowed. Any proposal to change the use of the premises from Restaurant Class 1 to Neighbourhood public House will require a Development Permit application. As part of the review, processing staff would include assessment of the anticipated impacts on nearby sites and for compliance with the Downtown Official Development Plan. In addition, the building has a municipal heritage designation. Any proposed exterior changes will require a Heritage Alteration Permit.

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

- i. Detailed drawings of the liquor establishment are to be submitted for review by the Environmental Health Division for compliance with Health By-law No. 6580 and the Food Premises Regulation prior to construction; and
- ii. Provide a letter from an acoustical consultant that assesses the construction of the walls separating this establishment from the adjacent residential premises (440 Richards Street). Improvement to the sound transmission rating of the wall within the liquor establishment may be required to mitigate the impact of amplified sound on the adjacent residential premises and to satisfy the requirements of the Noise control By-law No. 6555.

The Housing Centre and The Social Planning Department have no comments at this time.

The Central Area Planning Department has reviewed the application and note that the proposed Neighbourhood Pub is consistent with the Victory Square Plan in that it will help ensure the viability of the Century House as a Class A Heritage Building and provide an entertainment venue in the area - especially the young people involved with the area's many educational institutions and the emerging arts and cultural enterprises. That said, it is important that the facility is well managed and that it enters into Good Neighbour conditions to help minimize potential negative impacts of such a facility with respect to noise and conditions on the street. For this to be effective, the managers should commit to establishing more positive relations with the Police and other enforcement staff and the facility must remain on a temporary development permit. Further, the proponents should commit to working with Building Opportunities with Business (non-profit society developed by the Vancouver Agreement) to provide job and training opportunities for local residents.

Comments to Satisfy LCLB Resolution Requirements:

Location: as noted previously.

Proximity of the establishment to other social or recreational and public buildings: Staff are not concerned about the proximity of this establishment to social, recreational or public buildings.

Person capacity and hours of operation: as outlined above.

Market Analysis: The City of Vancouver has no authority to regulate an operator's clientele/target market. As a result, commenting or basing a decision on Market Analysis is an unproductive use of staff time.

Traffic, noise, parking and zoning: review, compliance and mitigation of these issues will be conducted during the Development Permit application process, provided Council supports the application and allows it to proceed to the permitting system.

FINANCIAL IMPLICATIONS

There are no financial implications.

Enforcement History

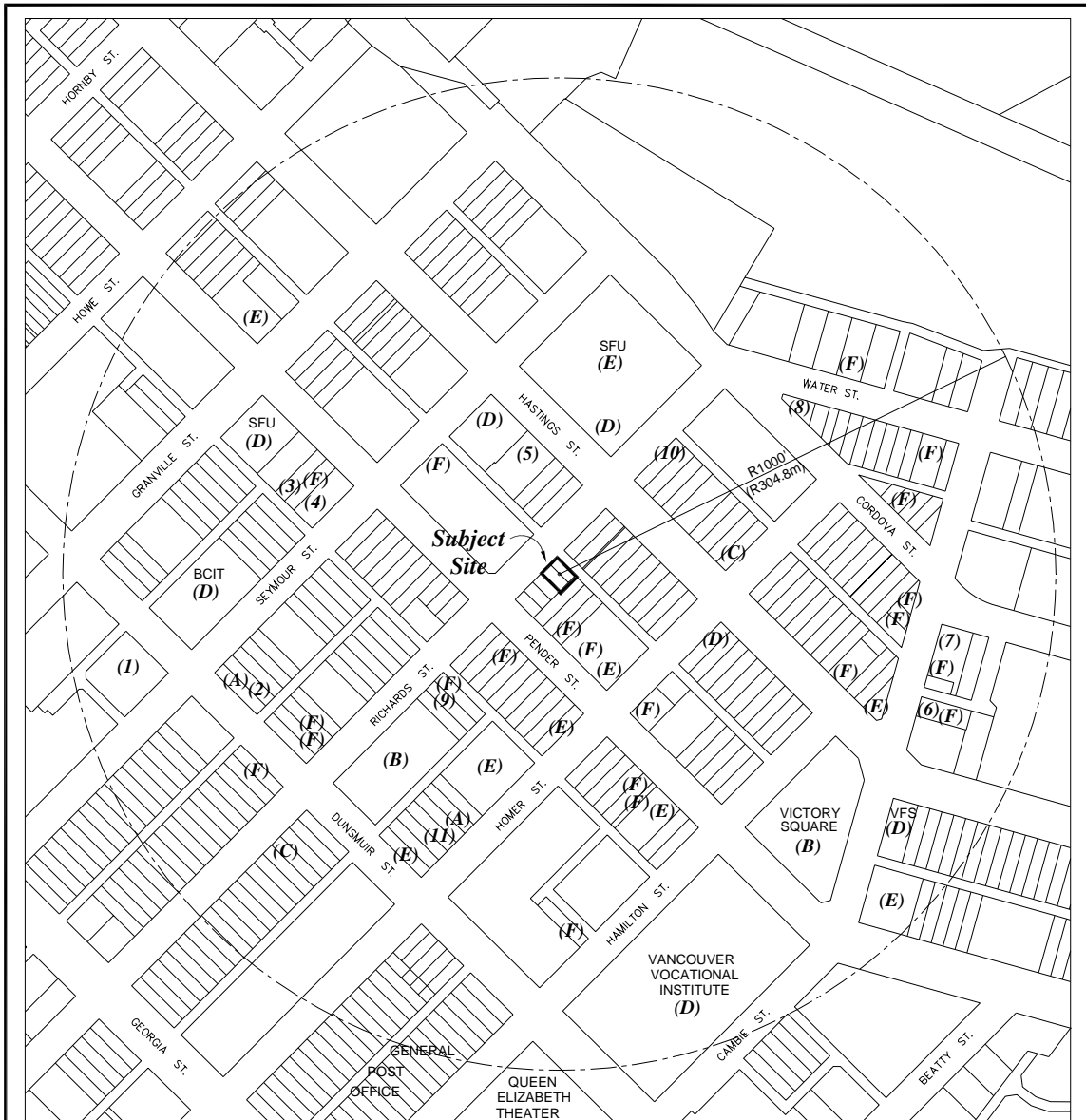
Two of the four shareholders, Mike Mitton and Sean Sherwood, are involved with other restaurant businesses in the city that have experienced enforcement issues in the past.

1. **Crime Lab Restaurant**, 1280 West Pender Street (Mike Mitton): evidence was obtained of the business operating outside their class of liquor licence (operating as a bar), liquor service after hours and noise complaints. The operator served a 3 day suspension in December 2001. Staff are not aware of any significant issues since that time.
2. **Lucy Mae Brown Restaurant**, 862 Richards Street (Mike Mitton and Sean Sherwood): similar issues were also documented with this business. In September 2002, this business also served a 3 day suspension. Since that time, staff have occasionally received noise complaints regarding late night activity at the rear of the building.

CONCLUSION

Generally staff would recommend approval of this type of application as it meets Council policy (Venue size and location and hours of operation) and there was no significant opposition from area residents and businesses. However, in this situation, 2 of the company's principals are involved with businesses that have had enforcement issues in the past and the Vancouver Police Department has indicated they do not support the request. As a result, staff have put two items forward for Council's CONSIDERATION; one endorsing the request and the other to refuse the request.

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LEGEND

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|----------------------------|-----------------------|-----------------|
| (A) Social / Private Clubs | (B) Parks | (C) Churches |
| (D) Schools | (E) Social Facilities | (F) Residential |

- | | |
|---|---------------------------------------|
| (1) 608 Dunsmuir St. {Jester's} | (7) 300 Cambie St. {Cambie Hotel} |
| (2) 579 Dunsmuir St. {Railway Club} | (8) 364 Water St. {Shine} |
| (3) 622 W Pender St. {Piccadilly Pub} | (9) 518 Richards St. {The Gecko Club} |
| (4) 608 W Pender St. {Malone's - Clarence Hotel} | (10) 398 Richards St. {The Red Room} |
| (5) 550 W Hastings St. {Delta Van Suite Hotel - Spencers's} | (11) 573 Homer St. {BC Marine Assoc.} |
| (6) 340 Cambie St. {Pub 340} | |

LIQUOR PRIMARY (LIQUOR ESTABLISHMENT CLASS 2)
432 Richards Street

map: 1 of 1



City of Vancouver - Licenses & Inspections

date: Aug. 23, 2006