



CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: October 3, 2006
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VanRIMS No.: 11-4600-50
Meeting Date: October 19, 2006

TO: Standing Committee on Planning and Environment

FROM: Chief License Inspector

SUBJECT: 1780 Davie Street - Denman St. Free House Enterprises Ltd.,
Liquor Primary Liquor License Application

RECOMMENDATION

THAT Council, having considered the opinions of area residents and business operators in the community as determined by neighbourhood notification, an on-site sign, and public meeting, the proximity of residential developments, noise impacts and relevant city policy as outlined in the Administrative Report dated October 3, 2006, titled "1780 Davie Street - Denman St. Free House Enterprises Ltd, Liquor Primary Liquor License Application", endorse the request by Denman St. Free House Enterprises Ltd, for a 65 seat Liquor Primary liquor license (Liquor Establishment Class 1) at 1780 Davie Street subject to:

- i. A Time-Limited Development Permit to review compliance and mitigation of traffic, noise, parking and other zoning issues;
- ii. The signing of a Good Neighbour Agreement prior to the issuance of a Business License;
- iii. Standard hours of operation limited to 11:00 a.m. to 1:00 a.m., Sunday to Thursday, 11:00 a.m. to 2:00 a.m., Friday and Saturday; or
Extended hours of operation limited to 9:00 a.m., Sunday to Thursday, 9:00 a.m. to 3:00 a.m., Friday and Saturday; and
- iv. Adherence to clean-air principles.

GENERAL MANAGER'S COMMENTS

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

COUNCIL POLICY

Council Policy requires that amendments to existing Liquor Primary licenses be subject to public consultation and Good Neighbour Agreements.

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.

PURPOSE

The applicant, Denman St. Free House Enterprises Ltd. is requesting a Council resolution endorsing their application for a 65 seat Liquor Primary liquor license (Liquor Establishment Class 1) at 1780 Davie Street.

BACKGROUND

Denman St. Free House Enterprises Ltd. has operated at this location as a Restaurant Class 1 since 2003.

The applicant currently operates a number of other licensed establishments in the city; Bar None (1222 Hamilton Street), Bimini's Neighbourhood Pub (2010 West 4th Avenue), Library Square Public House (330 West Georgia Street), Republic (958 Granville Street), Granville Room Restaurant (957 Granville Street).

In 2002, Council was presented with a similar request (a 40 seat Class 'D' Neighbourhood Pub with a 20 seat patio). The public consultation conducted at the time presented similar results to the current application before Council. On May 16, 2002, Council deferred a decision on the applicant's request pending the results of a telephone survey at the cost of the applicant.

However, prior to initiating the process to start the telephone survey, the provincial government implemented significant changes to the liquor regulations. Of particular importance to the application of that time was the regulation change that allows restaurants with 50 or more seats to have 20 percent of their capacity, up to a maximum of 40 seats, where food service was optional without any public consultation (ie: essentially a 40 seat pub without any public consultation). There is at least one restaurant in close proximity to the subject site that is eligible for the 40 seat "lounge" endorsement on their Food Primary liquor license without any public consultation. As a result of this provincial regulation change it seemed to both staff and the operator, unfair to require such extensive public consultation (a

telephone survey) for essentially the same type of business that could open and operate a short distance up the street with no public consultation.

Therefore, the applicant put that previous application on hold pending their review of options. Eventually the application was terminated. A new provincial application was initiated under the new Liquor Primary liquor license application processing system. By the time staff had received the provincial application summary package, 4 years had elapsed since the previous Council decision. As a result, staff determined that due to the length of time, a new city application should be submitted and the city application process should start at the beginning.

Area Surrounding Premises

The subject premise is located in the C-5 (Commercial West End) zoning district. The surrounding area is a mixture of mixture of retail, restaurants, hotels and a significant number of multi-residential uses (refer to Appendix A). The nearest residential building is located on the subject site.

There are 1 Liquor Establishment Class 1 (52 seats), 2 Liquor Establishment Class 3 (395 seats), and 1 Liquor Establishment Class 7 (Private Club - 520 seats) located within a 1000' radius of the subject site (967 total liquor seats). Also, there are approximately 22 licensed restaurants within the area. The closest provincial government liquor store is located at 1655 Davie Street.

RESULTS OF NOTIFICATION

A neighbourhood notification was conducted by circulating 1832 notices in the survey area (refer to Appendix A). Twenty-three written, email and telephone responses were received in opposition to the application and 1 email was received supporting the application conditionally.

The majority of responses in opposition to the application expressed concerns with the establishment closing at 3:00 a.m. on the weekends and the impact this would have in the area, as well as increased noise, concerns for safety and increased nuisance issues for the community.

A public information meeting was held on August 17, 2006 and was attended by 17 residents as well as 3 people on behalf of the applicant and 2 agents 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 general concern for the current management practices at this particular establishment to date.

Staff note that the subject site's location at the corner of Davie and Denman Streets is a highly active area of the West End with pedestrian and vehicular traffic as well as activity on the beach due to the proximity to English Bay Beach. It is possible that current noise problems may be mistakenly associated with the existing restaurant. Staff are only aware of one complaint between the previous public consultation review and the current application's public consultation.

DISCUSSION

POLICY

Venue size and location

The subject site is located in the Downtown-Primarily Mixed use area. The proposed Liquor Establishment - Class 1 venue (Neighbourhood Pub land use) is greater than 100 metres away from another Liquor Establishment Class 1 venue. The applicant contends that food service shall be an integral part of the business even though food service is not required under the policy. Therefore, 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 Use 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 10:00 a.m. to 2:00 a.m., 7 days per week.

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

Affirmative Proposal Aspects

Small liquor establishments of this size generally do not create significant negative issues for area residents and businesses. The application complies with Council's liquor policy for Venue Size & Location, and Hours of Liquor Service. The fact that food service shall remain a component of the business will provide a mitigating factor to the liquor service and consumption. Also, the applicant indicates that if the request is approved, then the operations of the business will not change with the exception that their ability to serve alcohol will be more liberal. If true, staff acknowledge that impacts will likely remain minimal from the current levels and that the new Liquor Establishment Class 1 business license has significantly more operating regulations than the current Restaurant business.

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, as suggested by respondents to the public consultation.

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 previously.

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.

COMMENTS

The Vancouver Police Department has reviewed the application and will not take a position at this time.

The Development Services Department has reviewed the application and noted that the site is zoned C-5 and the existing space is approved as Restaurant Class 1. Neighbourhood Public House is a conditionally allowable use within the C-5 District Schedule. Any proposal to change the premises to Neighbourhood Pub will require a Development Permit application. As part of the review, processing staff would include assessment of: the anticipated impacts on nearby sites and compliance with the Zoning and Development By-law and the Parking By-law. This proposal may cause the building to be non-compliant with respect to the Parking By-law.

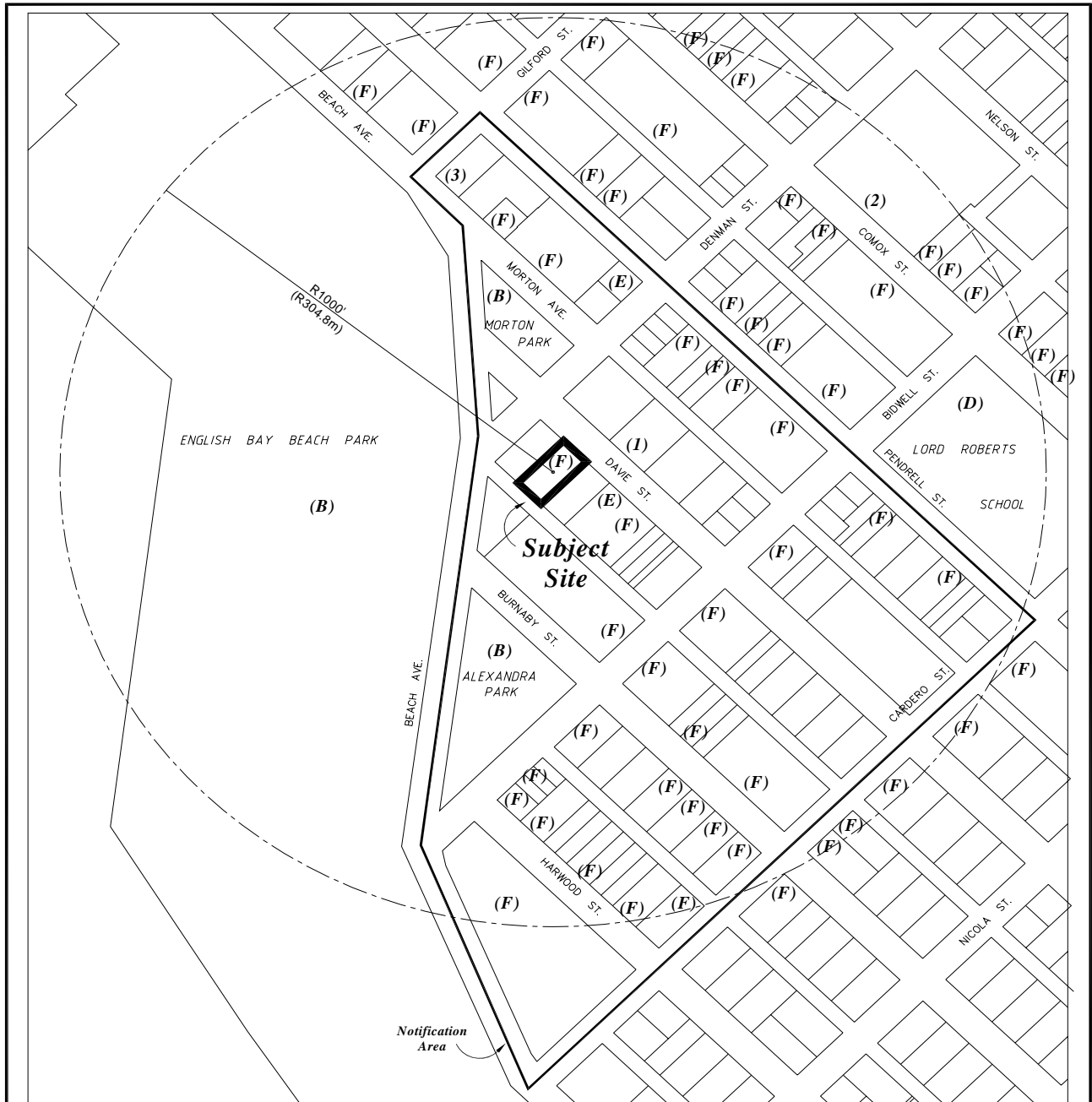
The Environmental Health Department has reviewed the application and has concerns around potential noise issues. It is noted that there is an apartment tower located behind 1780 Davie Street and condominiums located across the street.

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

CONCLUSION

Staff recommend approval of the applicant's request based on the compliance with the venue size and location policy as well as the requirement for a time-limited Development Permit to ensure the business is operated in a manner that is considerate of the surrounding community. Staff acknowledge the concerns of the area residents but think the controls from the time-limited Development Permit and the new license bylaw regulations should adequately address the concerns.

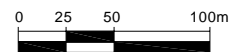
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LEGEND

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

- (1) 1755 Davie St. {Sands Motor Hotel - Bayside Lounge}
- (2) 1763 Comox St. {Coast Plaza Hotel - Comox Long Bar & Grill}
- (3) 1154 Gilford St. {Sylvia Hotel}



LIQUOR PRIMARY (LIQUOR ESTABLISHMENT CLASS 2) 1780 Davie Street	map: 1 of 1
City of Vancouver - Licenses & Inspections	date: Oct. 2, 2006