

CITY OF VANCOUVER

ADMINISTRATIVE REPORT



Report Date: July 7, 2008  
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VanRIMS No.: 08-2000-20  
Meeting Date: July 22, 2008

TO: Standing Committee on Transportation and Traffic

FROM: Chief License Inspector

SUBJECT: 1199 West Pender Street - 5230 Investments Ltd.,  
Relocation of Liquor Primary Liquor License Application, Change in Hours  
and a Decrease in Patron Capacity

**RECOMMENDATION**

THAT Council, having considered the opinion of local area residents and business operators as determined by neighbourhood notifications, noise impacts and relevant Council policy as outlined in this Administrative Report dated July 7, 2008, entitled "1199 West Pender Street - 5230 Investments Ltd., Relocation of Liquor Primary Liquor License Application, Change in Hours and a Decrease in Patron Capacity", endorse the request by 5230 Investments Ltd. to relocate their existing Liquor Primary liquor license from 828 West Hastings Street (Jolly Tax Payer Hotel) to their proposed site at 1199 West Pender Street, subject to:

- i. Adhering to clean air practices;
- ii. Hours of operation limited to 12:00 noon to midnight, seven days a week;
- iii. A maximum total capacity of 50 patrons;
- iv. Signing a Good Neighbour Agreement with the City prior to business license issuance; and
- v. A Time-limited Development Permit.

**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 By-law that implements the Hours of Liquor Service policy for the city bars into by-law regulation.

On July 14, 2005, Council approved policy and guidelines relating to the size and location for new liquor establishments or for capacity increases to existing liquor establishments.

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, 5230 Investments Ltd., is requesting a Council resolution endorsing their application to relocate their Liquor Primary liquor license from 828 West Hastings Street (Jolly Tax Payer Hotel) to their proposed site at 1199 West Pender Street. The applicant will be reducing his current patron capacity from 177 seats to 50 seats (Liquor Establishment Class 1) and operating between the hours of 12:00 noon to midnight, 7 days a week at 1199 West Pender Street.

## BACKGROUND

5230 Investments Ltd. has operated a 177 seat Liquor Primary liquor license for nineteen years at the Jolly Tax Payer Hotel at 828 West Hastings Street and due to the demolition and redevelopment of this site, is applying to relocate to 1199 West Pender Street which is within .45 km of 828 West Hastings Street.

The applicant is proposing to establish a 50 seat Liquor Establishment Class 1 at this location with licensed hours from 12:00 noon to midnight, seven days a week.

The proposed establishment is located on the main floor (881 sq.ft.) of 1199 West Pender Street which also contains a mezzanine level (776 sq.ft.). This building is on a corner double fronting site which fronts West Pender, West Hastings and Bute Streets. The entrance to the proposed establishment is on West Hastings Street. The main floor will consist of 30 seats and the mezzanine level will consist of 20 seats. The operator will continue to serve the same clientele as well as local businesses after work, area residents and tourists. The hours of liquor service and patron capacity have been reduced at the new location. Their current Liquor Primary liquor license allows liquor service from 10:00 a.m. to midnight, 7 days a week and a patron capacity of 177 seats.

The applicant feels that this small liquor establishment will have no impact on the local area which is within the same community as their previous location at 828 West Hastings Street and the number of seats (50) is not significant.

### **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 premises are located in the Downtown (DD) Zoning District and for the purposes of liquor policy it is considered a primarily mixed-use downtown area. The surrounding area is a mixture of retail, office, residential, hotel and restaurant uses and a park. There are several developments under construction in the immediate area, most of them a mixed use of commercial and residential.

There is 1 Liquor Establishment Class 1 (55 seats) and 1 Liquor Establishment Class 3 (151 seats) located within a 500' radius of the subject site (206 total liquor seats). Also, approximately 5 licensed restaurants are within the area.

## **DISCUSSION**

### **Policy Issues**

The subject site is located in the Downtown-Primarily Mixed use area. The proposed Liquor Establishment - Class 1 venue is greater than 50 metres away from another Liquor Establishment Class 1 venue. The capacity decrease will result in a change to the establishment's business license class (i.e.: the business is now considered a Liquor Establishment - Class 1) and therefore meets the existing distancing policy.

### **Hours of Operation**

The applicant is requesting hours of operation within the parameters of the Standard hours permitted in the Downtown-Primarily Mixed Use Area. The permitted standard hours for the area are 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. The applicant has requested 12:00 noon to midnight, seven days a week in order to minimize the impacts on the residential area.

### **Positive Application Attributes**

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 and Hours of Liquor Service.

Furthermore, there is no enforcement history related to this establishment when they were located at 828 West Hastings Street. 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.

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

### **Negative Application Attributes**

Approval of the establishment may result in increased street noise and other related nuisance behaviour for area residents and business operators. Given the size of this establishment, staff do not feel the additional noise and nuisances will be significant.

### **Enforcement History**

The applicant has no enforcement history.

### **FINANCIAL IMPLICATIONS**

There are no financial implications.

### **RESULTS OF NOTIFICATION**

A neighbourhood notification was conducted by circulating 500 notices in the survey area (see Appendix A). A site sign was also erected advising the community of the application and where to send concerns or comments. Four email responses and two letters were received in opposition of the application. In addition, two phone messages were received requesting more information on the application.

The majority of the responses in opposition to the application expressed concerns with increased noise, concerns for safety and increased nuisance issues for the community as well as the impact the establishment will have on the residential towers in the area.

### **COMMENTS**

**The Police Department** has reviewed the application and support this application to relocate the Liquor Primary as long as they guarantee no more than 50 seats, continue to serve food during hours of operation and maintain the hours of 12:00 PM to 12:00 AM. These are to be listed as conditions on the Business License.

**The Environmental Health Department:** In accordance with the Health By-law, smoking is prohibited within "customer service areas" of food and/or liquor establishments and within six metres of the area's perimeter, an entryway, openable windows or air intake of a building.

**The Vancouver Fire Department** has reviewed the application and notes that a maximum Occupant Load Permit may be required. This is a separate permit issued by VFRS.

**The Housing Centre** has no comments at this time.

**The Social Planning Department** has reviewed the application and has no comments at this time.

**The Development Services Department** has reviewed the application and notes that the site is located within the (DD) Downtown District zoning area, and the space proposed for this Liquor Primary facility is currently approved as a Retail use. A change to the use to provide for a Liquor Primary Lounge (would be considered "similar to" a Neighbourhood Public House

in terms of land use definitions) would require a Development Permit application and the review would include an assessment of the impacts on adjacent uses, as well as an assessment of the applicable provisions of the Parking By-law.

The Central Area Planning Department has reviewed the application and support the proposed relocation of the liquor license to a new location for the following reasons:

- although there is housing on adjacent sites, the license remains in the Central Business district and the area west of Bute Street is a 'choice of use district' as defined by Council policy;
- staff view small liquor primary venues as being as appropriate size adjacent to areas with housing; and
- staff anticipate that the impacts of the establishment will be minimal because it will be a small venue, a small venue of this type will likely have a clientele of people living and working close by and the proposed hours call for it to stop liquor service at midnight.

#### 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.

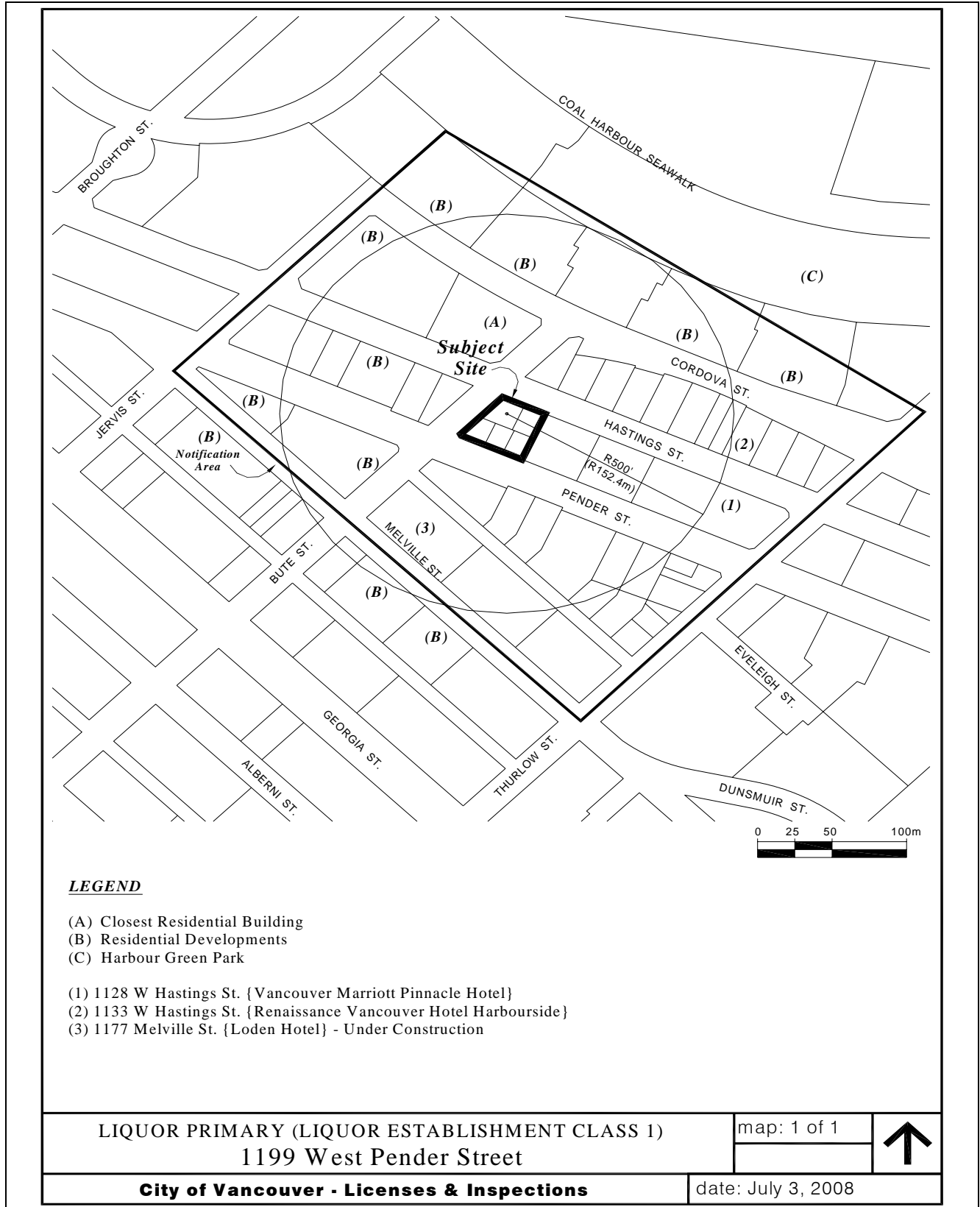
Market Analysis: The City of Vancouver has no authority to regulate the operator's clientele/target market. As a result, commenting or basing a decision on Market Analysis is an unproductive use of staff time.

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.

#### CONCLUSION

Staff recommend that Council endorse the applicant's request to relocate their Liquor Primary liquor license from 828 West Hastings Street to 1199 West Pender Street subject to the conditions outlined in the recommendation and based on the compliance with the venue size and location policy and hours of service policy. Staff are generally not concerned with this size of venue given the reduction of capacity from 177 seats to 50 seats. The requirement for a Development Permit and Good Neighbour Agreement will ensure the premise operates in a manner conducive to the surrounding area. 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.

\* \* \* \* \*



**LEGEND**

- (A) Closest Residential Building
- (B) Residential Developments
- (C) Harbour Green Park
  
- (1) 1128 W Hastings St. {Vancouver Marriott Pinnacle Hotel}
- (2) 1133 W Hastings St. {Renaissance Vancouver Hotel Harbourside}
- (3) 1177 Melville St. {Loden Hotel} - Under Construction

LIQUOR PRIMARY (LIQUOR ESTABLISHMENT CLASS 1)  
1199 West Pender Street

map: 1 of 1



**City of Vancouver - Licenses & Inspections**

date: July 3, 2008