



ADMINISTRATIVE REPORT

Report Date: June 10, 2009
Contact: Lucia Cumerlato
Contact No.: 604.871.6461
RTS No.: 08184
VanRIMS No.: 08-2000-20
Meeting Date: July 23, 2009

TO: Standing Committee on Planning and Environment

FROM: Chief License Inspector

SUBJECT: 1619 West Broadway - Tiara Food & Beverage Concepts Ltd.,
Liquor Primary Liquor License Application with Outdoor Patio Seating
Bogart's

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 June 10, 2009, entitled "1619 West Broadway - Tiara Food & Beverage Concepts Ltd., Liquor Primary Liquor License Application with Outdoor Patio Seating" (Bogart's), endorse the request by Tiara Food & Beverage Concepts Ltd. for a Liquor Primary liquor licence (Liquor Establishment Class 3) at 1619 West Broadway subject to:

- i. Standard hours of operation for the first six months are limited to 11:00 a.m. to 12:00 a.m., Sunday to Thursday; and 11:00 a.m. to 1:00 a.m., Friday and Saturday; after which time the Extended hours of operation may be considered which are limited to 9:00 a.m. to 1:00 a.m., Sunday to Thursday; and 9:00 a.m. to 2:00 a.m., Friday and Saturday;
- ii. The patio ceasing all liquor service and vacated by 11:00 p.m.;
- iii. A maximum total capacity of 164 persons inside and 28 persons on the patio;
- iv. Acoustic report to be submitted certifying that the establishment meets Noise Control By-law requirements;
- v. No music permitted on the patio;
- vi. Signing a Good Neighbour Agreement with the City prior to business license issuance and a license agreement with Engineering Services with an initial one-year term for the patio;
- vii. A Time-limited Development Permit;

- viii. Food service to be provided while the establishment is operating as well as on the patio when open;
- ix. The terminating the Liquor Primary liquor license #022580 which was for Barcode Nightclub and Lounge (360 seats) in support of this application; and
- x. The surrendering of the existing Food Primary liquor license #300467 at the time of issuance of the Liquor Primary liquor license.

GENERAL MANAGER'S COMMENTS

The General Manager of 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 April 17, 2007, Council approved policy and guidelines that Liquor Primary liquor establishments be permitted to have sidewalk patios on public property subject to the current Council-approved sidewalk patio guidelines for restaurants and subject to additional restrictions which would apply to liquor primary patios on both public and private property. These restrictions included food service (Provincial Food Premises Operating permit from Vancouver Coastal Health), including consideration as to whether the food preparation area is large enough to safely handle the 20% increase, closing time of no later than 11:00 p.m., outdoor seating limited to 20% of total seating capacity, no sidewalk patios adjacent to liquor establishments in the 700, 800 and 900 blocks of Granville Street and public consultation.

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.

SUMMARY

Tiara Food & Beverage Concepts Ltd. (doing business as Bogart's), located at 1619 West Broadway, is seeking a Council resolution endorsing their application for a 164 persons (indoor) total capacity and a 28 persons (outdoor patio) Liquor Primary liquor licence (Liquor Establishment Class 3) which includes hours of licensing of 9:00 a.m. to 2:00 a.m., seven days a week.

The request from Tiara Food & Beverage Concepts Ltd. is consistent with Council's liquor policy for the area and Council's policy for outdoor patios. The establishment is an existing Restaurant Class 1 currently with a Food Primary liquor license. The applicant seeks to replace the Food Primary liquor license with a new Liquor Primary liquor license (pub) and

will continue to provide food service. If this application is endorsed, the applicant intends on terminating the Liquor Primary liquor license #022580 which was for Barcode Nightclub and Lounge (1236 West Broadway) in support of this application. The applicant has entered into an agreement (refer to Appendix B) with the holder of this liquor primary license (#022580), Josephine Topham and Orchid Caterers Ltd. to cancel Liquor Primary liquor license #022580 concurrently with the issuance of a new Liquor Primary liquor license for Tiara Food & Beverage Concepts Ltd. (Bogart's) located at 1619 West Broadway. This liquor primary license (#022580) is currently in dormancy.

The applicant intends on operating a pub style establishment with food and beverage service featuring typical pub type entertainment. The outdoor patio which is existing and approved with Engineering Services (09-164964), will continue to operate under the conditions outlined on this permit/license approval.

Response to the notification generated comments both for and against the application. Of the 1000 notices circulated, a total of 14 responses were received from area residents (3 in support and 11 in opposition). We also received 5 responses opposing the application with incomplete contact information. Respondent in favour felt the proposal would be a welcomed addition to the area which would provide an additional entertainment choice on West Broadway.

The respondents opposed are concerned about the potential for increased noise, increase in drinking and driving, issues with loud music and the number of residential buildings surrounding the area.

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

PURPOSE

Tiara Food & Beverage Concepts Ltd. is requesting a Council resolution endorsing their application for a 164 person Liquor Primary liquor license (Liquor Establishment Class 3) with a 28 seat outdoor patio on city property at 1619 West Broadway.

BACKGROUND

Site History

The proposed location of this Liquor Primary liquor licence is in an existing Restaurant Class 1 situated in the Non-Downtown - Primarily Mixed-Use area. The applicant has been operating at this location since May 2003 catering to the diverse population of the south Granville community and the Kitsilano community. No complaints have been received related to the management of this business.

Application

The applicant is requesting a Council resolution endorsing their application for a 164 persons (indoor) and 28 persons (outdoor patio) total capacity Liquor Primary liquor license (Liquor Establishment Class 3) with hours of operation between 9:00 a.m. to 2:00 a.m., seven days a week. Hours of service policy for this Non-Downtown Primarily Mixed-Use area allows for standard hours of liquor service from 11:00 a.m. to 1:00 a.m. weekends and 11:00 a.m. to 12:00 a.m. weekdays. Furthermore, if certain criteria are satisfied, the operator can extend their hours of liquor service to 9:00 a.m. to 2:00 a.m. weekends and 9:00 a.m. to 1:00 a.m. weekdays. The outdoor patio will continue to operate under the conditions outlined on the

business license, 09-164964 issued by Engineering Services (the patio must be vacated by 11:00 p.m. and all liquor service must cease at that time). This approval would result in the cancellation of the existing Food Primary liquor license (#300467-interior capacity 166 persons/28 person patio), which has hours of liquor service from 9:00 a.m. to midnight, 7 days a week.

If this application is endorsed, the applicant intends on terminating the Liquor Primary liquor license #022580 (capacity 360 persons) which was for Barcode Nightclub and Lounge (1236 West Broadway) in support of this application. The applicant has entered into an agreement (see Appendix B) with the holder of this liquor primary license (#022580), Josephine Topham and Orchid Caterers Ltd. to cancel Liquor Primary liquor license #022580 concurrently with the issuance of a new Liquor Primary liquor license for Tiara Food & Beverage Concepts Ltd. (Bogart's) located at 1619 West Broadway. This liquor primary license (#022580) is currently in dormancy.

The applicant intends on operating a pub style establishment catering to the diverse population of South Granville and Kitsilano areas with food and beverage service featuring typical pub type entertainment. The footprint and layout of the establishment will be the same as the current layout (refer to Appendix C).

Liquor Control and Licensing Branch (LCLB) Regulations and Policies

Branch regulations allow the licensing of liquor establishments with a Liquor Primary liquor licence and liquor service between the hours of 9:00 a.m. to 4:00 a.m., seven days a week. The liquor licence capacity for a new establishment is based on the building capacity for the premise as determined by local authority. Any amendments/changes to a liquor licence application is subject to local government support. The LCLB has no specific policy for patios.

Area Surrounding Premises

The subject site is located in the C-3A Zoning District (Commercial District) and for the purposes of liquor policy it is considered a non-downtown primarily mixed-use area. The approved use of this space is a Restaurant Class 1. The surrounding area is a mixture of retail, office, health care office, community police office, residential (market and non-market), church and restaurant uses.
(refer to Appendix A).

There are no Liquor Primary Liquor Establishments located within a 700' radius of the subject site. Also, 11 licensed restaurants are within the area which hold Food Primary liquor licenses.

RESULTS OF NOTIFICATION

A neighbourhood notification was conducted by circulating 1000 notices in the survey area (refer to Appendix A). A site sign was erected advising the community of the application and where to send concerns or comments. A total of 3 responses were received within the notification area supporting the application. These responses were from two businesses and a resident in the area. A total of 11 responses were received within the notification area opposing the application. These responses were from residents who felt that the approval of such an application will increase noise, crime, vandalism and drunkenness for the area. Five responses opposing the application were also received but contained incomplete contact information.

DISCUSSION

Policy Issues

The subject site is located in the Non-Downtown Primarily Mixed-Use area. The proposed Liquor Establishment - Class 3 venue is greater than 500 metres away from another Liquor Establishment Class - 3 venue. Since there are no liquor establishments in this class within 500 metres of the site, the proposed establishment complies with Council's liquor policy for venue size and location. Also, the proposed patio is consistent with Council's policy for outdoor patios with respect to the permitted seating capacity.

Staff generally supports outdoor patio areas subject to comments from the neighbourhood. In this case, there are no enforcement issues regarding the operation of this existing patio. There will be no change to the existing patio operation. A small patio of this size generally would not create negative issues for area residents and business operators. Food service will remain a component of the business which will provide a mitigating factor to the liquor service and consumption.

Staff have no significant issues with the proposed patio provided the patio is closed and vacated by 11:00 p.m. each night. The license agreement with an initial one year term and 11:00 p.m. closing time should address any potential problems.

Hours of Operation

The applicant is requesting hours of operation which are not within the parameters of the hours permitted in the Non-Downtown Primarily Mixed-Use area. Maximum permitted extended hours for the area are 9:00 a.m. to 1:00 a.m., Sunday to Thursday and 9:00 a.m. to 2:00 a.m., Friday and Saturday. The applicant has requested hours of operation from 9:00 a.m. to 2:00 a.m., 7 days a week. The applicant will be required to operate within the Standard Hours of operation for the first six months which are limited to 11:00 a.m. to 12:00 a.m., Sunday to Thursday; and 11:00 a.m. to 1:00 a.m., Friday and Saturday; after which time the extended hours of operation may be considered. The proposed patio must cease all liquor service and vacate by 11:00 p.m.

Positive Proposal Aspects

- The applicant will be required to submit an Acoustical report certifying that the establishment meets Noise Control By-law requirements;
- Food service to be provided during operating hours, 7 days a week;
- The applicant intends on terminating the Liquor Primary liquor license #022580 which was for Barcode Nightclub and Lounge (360 persons) in support of this application;
- The applicant has a positive track record with the operation of the existing restaurant (Bogart's); and
- The application complies with Council's liquor policy for venue size and location.

Food service will remain a component of the business which will provide a mitigating factor to the liquor service and consumption. Very little is likely to change with respect to how the premise currently operates. Staff acknowledges that impacts will likely remain minimal from the current levels and that the new Liquor Establishment Class 3 business license has significantly more operating regulations than the current Restaurant business. The application complies with Council's liquor policy for Venue Size and Hours of Liquor Service and Council's policy for outdoor patios.

The applicant will be required to obtain a Time-limited Development Permit as per Council policy for new liquor establishments. This will provide adequate controls to ensure the land use or business operations remain compatible with the surrounding community. The existing patio license agreement with an initial one year term and 11:00 p.m. closing time should address any potential problems with the patio.

Negative Proposal Aspects

There is a possibility that the proposed establishment may increase street related nuisance activity for the area. Strong management and sound operational practices should limit this type of activity from having a negative impact on the surrounding community.

FINANCIAL IMPLICATIONS

There are no financial implications.

COMMENTS

The Police Department has reviewed the application and advise that potential noise may disturb the residents in the new complex to the north. No other concerns have been raised with this application.

The Development Services Department has reviewed the application and advise that this application falls within the C-3A Zoning District. The current approved use of this building is restaurant class 1, fitness centre and health enhancement centre.

The proposal for a "Neighbourhood Pub" at this location would require a Development Permit application. The review process for this type of approval would involve an assessment of neighbourhood impacts, including compatibility with surrounding uses, hours of operation, social and policing impacts and noise control. As well, this application would be reviewed in accordance with the provisions of the Neighbourhood Public House Guidelines adopted by City Council.

The Vancouver Fire Department has reviewed the application and approved an Occupant Load for 164 persons indoor and 28 seat patio at 1619 West Broadway.

The Social Development Department has no comments on this application.

The Central Area Planning Department has reviewed the application which is supportable from a Planning perspective for the following reasons:

- the land use is an allowed use (conditional approval) in the applicable District Schedule (C-3A),
- C-3A requires that we consider the intent of the schedule (no concerns) and applicable policies/guidelines (meets Council policy for Liquor Primary establishments) and the submissions from the public (you have already done so and identified no significant amount of public objection)
- I have not identified any particular concerns with the use.

The Engineering Services Department has reviewed the application and have no concerns with the proposal given the conditions. This is based on the current area of the sidewalk patio on public property.

Comments to Satisfy LCLB Resolution Requirements:

Location: as noted previously.

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: staff have considered traffic, noise, parking and zoning matters and have no concerns at this time. These matters will be considered further as part of the Development Permit process.

CONCLUSION

Staff are recommending Council endorse the applicant's request for a 164 person Liquor Primary liquor license with a 28 person patio subject to the conditions outlined in Recommendation A. This application meets current Council policy regarding size and distance from other establishments. The requirement for a Development Permit and Good Neighbour Agreement will ensure the premise operates in a manner conducive to the surrounding area and the six month earlier closing time will provide an evaluation period for staff, VPD and the operator. Given the proposed patio location, the license agreement subject to terms, and 11:00 p.m. closing time, staff do not anticipate any significant impacts from the operation of this patio. The termination of Liquor Primary liquor license #022580 which was for Barcode Nightclub and Lounge (360 persons) in support of this application is a positive aspect. Food service will also remain a component of the business which will provide a mitigating factor to the liquor service and consumption.

* * * * *



LEGEND

- (1) Cabarets, Neighbourhood Pubs & Hotels with Pubs/Lounges- N/A
- (2) Government or Private Liquor Stores- N/A
- (3) Social/Private Clubs (If easily visible/distinguishable)- N/A
- (4) Closest Residential Building/Units (Including Subject Site)- 1616 W Broadway (12 Dwelling Units)
- (5) Residential Buildings -
- (6) Community Police Office - 1687 W Broadway
- (7) Churches- {Vancouver Grace Presbyterian}, {Fairview Gospel Hall}
- (8) Other Social Facilities (Clinics, Rehabs, Hospitals, etc.)- {Seymour Medical Clinic}
- (9) Schools- N/A

<p>LIQUOR PRIMARY (LIQUOR ESTABLISHMENT CLASS 3) 1619 W Broadway</p>	<p>map: 1 of 1</p>	
<p>City of Vancouver - Licenses & Inspections</p>	<p>date: June, 2009</p>	

May 28, 2009

Ms. Joan Fredericks
Senior Licensing Analyst
Liquor Branch
2nd Floor – 1019 Wharf Street
Victoria, B.C.

Dear Ms. Fredericks:

**Re: Cancellation of Liquor Primary License No. 022580
Issued to Orchid Caterers Ltd. & Josephine Topham
Location: 1236 West Broadway, Vancouver, B.C.
Establishment Name : Barcode Nightclub and Lounge**

Please be advised that I have entered into an agreement with Tiara Food & Beverage Concepts Ltd. I have agreed to cancel the above liquor primary license (copy attached) concurrently with the issuance of a new liquor primary license to Tiara Food & Beverage Concepts Ltd. for a site at 1619 West Broadway, Vancouver. This license is currently in dormancy.

I understand that the application by Tiara Food & Beverage Concepts Ltd. is currently before the City of Vancouver for their review. Therefore, I hereby give my consent to the Liquor Branch to terminate the above liquor primary license issued to my company and myself at the time of the issuance of the new liquor primary license to Tiara Food & Beverage Concepts Ltd.

Thank you.

Yours truly,



JOSEPHINE TOPHAM
ORCHID CATERERS LTD. 

cc: Lucia Cumerlato, City of Vancouver
cc: Tiara Food & Beverage Concepts Ltd.

