



ADMINISTRATIVE REPORT

Report Date: September 8, 2009
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Meeting Date: September 24, 2009

TO: Standing Committee on City Services and Budgets

FROM: Chief Licence Inspector

SUBJECT: 99 Powell Street - 561109 BC Ltd.
Liquor Primary Liquor License Application for an Increase in Patron Capacity (Canvas Lounge)

RECOMMENDATION

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, noise impacts and relevant city policy as outlined in the Administrative Report dated September 8, 2009, entitled "99 Powell Street - 561109 BC Ltd., Liquor Primary Liquor License Application for an Increase in Patron Capacity", endorse the application by 561109 BC Ltd. for an increase in patron capacity for the Liquor Primary Liquor License (License #300430) from 143 seats to 292 seats (Liquor Establishment Class 3) at Canvas Lounge, 99 Powell Street, subject to:

- i. A maximum interior capacity of 292 persons;
- ii. Signing a Good Neighbour Agreement with the City prior to the issuance of the revised business licence; and
- iii. 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, 561109 BC Ltd., is requesting a Council resolution endorsing their application for an increase in patron capacity to their existing Liquor Primary liquor license from 143 seats to 292 seats (Liquor Establishment Class 3) via the expansion into the existing art gallery (Canvas Gallery) at 91 Powell Street. The hours of operation would remain unchanged from the current operations (11 am to 1 am, Sunday to Thursday and from 11 am to 2 am, Friday and Saturday).

BACKGROUND

Site History

561109 BC Ltd. has been operating a Liquor Primary Liquor License (Liquor Establishment Class 2) as well as a Food Primary Liquor License (96 licensed seats, 24 patio seats) at this location since April 2003. The adjacent gallery space at 91 Powell Street, where the applicant is requesting to expand the seating capacity, has been approved for an occupant load of 149 seats (see Appendix B).

Over the past few years, the applicant has been operating with a temporary increased capacity by applying for Temporary Area Extensions through the City and the Liquor Control and Licensing Branch in the adjacent gallery space in order to hold specific private events.

The Liquor Control and Licensing Branch has advised the applicant that the “temporary changes are designed to meet the occasional needs for changes to licences, it was never intended that temporary changes be used on a continual basis”. The Branch has requested that the applicant apply for an increase in patron capacity to expand into the art gallery space which also includes a Council resolution from local government.

Application

The applicant is requesting a Council resolution endorsing their application for an increase in person capacity to their existing Liquor Primary liquor license from 143 seats to 292 seats (Liquor Establishment Class 3) via the expansion into the existing art gallery (Canvas Gallery) at 91 Powell Street.

The hours of operation would remain unchanged from the current operations (11 am to 1 am, Sunday to Thursday and from 11 am to 2 am, Friday and Saturday).

The applicant proposes that the operation of the venue will continue to operate as a full service Private Event Venue from Sunday through Thursday, and as an Event Ultra-Lounge on Friday and Saturday nights. They offer their event patrons a full service palate which includes private Event Planning, Catering, Audio Visual Services, and full Service Execution. It is a

complete package designed to deal with the myriad and minute details of executing special Events.

The style of their weekend operations can best be characterized as “high end and low impact”. The applicant is keenly aware of the neighbourhood impact issues, preferring to operate only sporadically during the weekdays as events occur, and on the weekends in the manner already described. They are not requesting any change in their operating protocol or hours of operation. The applicant is merely seeking a permanent solution to Liquor Control and Licensing Branch requirement to replace the temporary permits with a permanent solution.

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 are subject to local government support.

Area Surrounding Premises

The subject site is located in Historic Gastown (HA-2) Zoning District and for the purposes of liquor policy, it is considered to be located in the Downtown Primarily Mixed Use Area. The surrounding area is a mixture of retail, office, adult education centre, neighbourhood pubs, cabarets, restaurants, hotels, residential (non profit, market and non-market) and other commercial uses.

There is one Liquor Establishment Class 2 (136 seats) and three Liquor Establishment Class 3 (702 total seats) located within a 600’ radius of the subject site. Also, there are 12 licensed restaurants within the area which hold Food Primary liquor licenses.

RESULTS OF NOTIFICATION

A neighbourhood notification was conducted by circulating 500 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.

A total of 46 responses were received from residents, businesses, non-profit organizations and the Gastown Business Improvement Society within the notification area and surrounding areas. The responses consisted of 41 in opposition to the application (3 letters, 31 emails and 6 telephone calls) including one petition containing 12 signatures from a residential building in the notification area.

Concerns were expressed over increased noise, safety and security, and disturbance and nuisance issues in the residential areas of the community.

There were 5 respondents in full support of the application which also included a letter from the Gastown Business Improvement Society unanimously supporting the Canvas Lounge application.

DISCUSSION

Policy Issues

The subject site is located in the Downtown Primarily Mixed Use Area. The capacity increase results in a change to the establishment's business license class from a Liquor Establishment Class 2 to Liquor Establishment Class 3. Therefore, the distancing policy between similar establishments becomes a factor for consideration. This application meets the existing distancing policy.

Hours of Operation

The hours of operation would remain unchanged from the current operations (11 am to 1 am, Sunday to Thursday and from 11 am to 2 am, Friday and Saturday).

Positive Application Attributes

The applicant contends the approval will have no impact on the local area as they have taken measures to mitigate any issues when requesting "temporary extensions" into the art gallery. The applicant contends the approval will facilitate the resolution of the problem they are having with applying for "temporary extensions" with the Liquor Control and Licensing Branch.

Very little is likely to change with respect to how the premise currently operates. Should Council support this application, then the applicant will simply have the ability to accommodate private events with a greater capacity of 143 patrons. The public perception of how this business operates should remain the same.

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

Negative Application Attributes

Staff feel that the capacity increase via the expansion into the art gallery should not create additional noise and nuisances issues for the surrounding area.

Enforcement History

There do not appear to be any outstanding enforcement issues associated with this liquor licensed establishment at this time.

FINANCIAL IMPLICATIONS

There are no financial implications.

COMMENTS

The Police Department has reviewed the application and have no concerns with this application. It is my understanding that Canvas has been operating in this manner for the past few years using Temporary Extensions. No concerns have arisen with Canvas and this approval will just allow them to continue to operate in the same manner.

The Development Services Department has reviewed this application and notes that the site is located in the HA-2 zoning district, and the building is listed on the Vancouver Heritage Register as Heritage C.

Our records show that the building is currently approved as a Neighbourhood Public House, Restaurant class 1, Retail and Rooming House. The current proposal to change the use of the adjacent retail (gallery) space to Neighbourhood Public House (Liquor Primary), is a conditional approval use in the HA-2 zone, and would require the submission of a Development Permit Application.

The review process for such a proposal would include an assessment of neighbourhood impacts, and compliance with the Neighbourhood Public House Guidelines adopted by City Council.

The Vancouver Fire Department has reviewed the application and approved an Occupant Load for 51 persons (upper floor) and 98 persons (lower floor).

The Social Development Department has reviewed the application and notes that since this is mainly a private event venue and we had no issue with the operations, the Social Development Department has no objection to the application. However, since the site is in a high residential area, we would like to stress the importance of managing the late night noise impacts to the residents.

The Central Area Planning Department has reviewed the application and has no comments at this time.

CONCLUSION

Staff are recommending Council endorse the applicant's request for a capacity increase from 143 seats to 292 seats (Liquor Establishment Class 3) via the expansion into the existing art gallery (Canvas Gallery) at 91 Powell Street subject to the conditions outlined in Recommendation A. Staff are generally not concerned with this size of the capacity increase request and there has been no enforcement issues with this establishment. By increasing the capacity into the art gallery, the operator will no longer be required to apply for "temporary area extensions". This will also allow the operator to comply with the request from the Liquor Control and Licensing Branch to obtain a Council resolution endorsing the request for a permanent capacity increase to their existing liquor primary licence. Staff feel the requirement for a Development Permit will ensure the space operates in a manner conducive to the surrounding area.

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