



ADMINISTRATIVE REPORT

Report Date: September 21, 2009  
Contact: Lucia Cumerlato  
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RTS No.: 08222  
VanRIMS No.: 08-2000-20  
Meeting Date: October 6, 2009

TO: Standing Committee on Transportation and Traffic

FROM: Chief License Inspector

SUBJECT: 138 West Cordova Street - Provincial Rental Housing Corporation  
Relocation of Liquor Primary Liquor Licence Application

**RECOMMENDATION**

- A. 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 September 21, 2009, entitled "138 West Cordova Street - Provincial Rental Housing Corporation, Relocation of Liquor Primary Liquor Licence Application", endorse the request by Provincial Rental Housing Corporation to relocate their existing Liquor Primary liquor licence (#003745) and the addition of a 50 seat patio from 403 Powell Street (New Marr Hotel) to the Woodward's project at 138 West Cordova Street (Gastro Pub), subject to:
- i. Standard hours of operation for the first six months are limited to 11 am to 1 am, Sunday to Thursday; and 11 am to 2 am, Friday and Saturday; after which time the Extended hours of operation may be considered which are limited to 9 am to 2 am, Sunday to Thursday; and 9 am to 3 am, Friday and Saturday;
  - ii. The patio ceasing all liquor service and vacated by 11 pm;
  - iii. No entertainment permitted on the patio;
  - iv. Food service to be provided during operating hours, seven days a week;
  - v. A maximum total capacity of 150 persons inside and 50 persons on the patio;
  - vi. Acoustic report to be submitted certifying that the establishment meets Noise Control By-law requirements;
  - vii. Signing a Good Neighbour Agreement with the City prior to business license issuance; and
  - viii. 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 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.

### ***PURPOSE***

The applicant, Provincial Rental Housing Corporation, is requesting a Council resolution endorsing their application to relocate their Liquor Primary liquor licence (#003745 - 125 patrons) from 403 Powell Street (New Marr Hotel) to the Woodward's project located at 138 West Cordova Street. The applicant is requesting an increase of capacity from 125 to 150 patrons (Liquor Establishment Class 2 - Pub) and a new 50 seat patio. The applicant is requesting operating hours of 9 am to 2 am, seven days a week at 138 West Cordova Street.

### ***BACKGROUND***

#### ***Site History***

Provincial Rental Housing Corporation purchased the New Marr Hotel in January 2008 with the intention of converting this building into a social housing project. The liquor licence is being relocated approximately .91 km from 403 Powell Street due to the social housing project.

If this application is endorsed, the applicant intends on transferring the ownership of the liquor licence #003745 from Provincial Rental Housing Corporation to 101 West Hastings Holdings Ltd who is the landlord and developer of new Woodward's project. The ownership of the licence will then be transferred to another party who currently operates other liquor primary establishments in the city.

The Woodward's project is a mixed-use development consisting of four buildings and a central atrium space and containing 536 market and 200 non-market residential units, retail, office and institutional uses, including a childcare facility and Simon Fraser University campus for the contemporary arts.

### ***Application***

The applicant is proposing to establish a 150 seat Liquor Establishment Class 2 (Pub) with a 50 seat patio at this location with licensed hours from 9 am to 2 am, seven days a week. The establishment will be a pub style operation and will cater to the people living, working, shopping and attending educational instructions in the immediate area of the Woodward's development. The applicant intends on providing food service during operating hours, 7 days a week.

The proposed establishment is located on the ground floor of 138 West Cordova Street (northwest portion of the building - refer to Appendix B).

The City of Vancouver hours of service policy for this Primarily Mixed-Use area allows for standard hours of liquor service from 11 am to 1 am on weekdays and 11 am to 2 am on weekends. If certain criteria are satisfied, the operator can extend their hours of liquor service to their proposed hours of 9 am to 2 am, seven days a week. The applicant feels that there is a strong demand for this type of establishment which will provide quality food and beverage service in this massive comprehensive development. The applicant will take all necessary measures to make sure their presence at this location will not disrupt the area residents.

### ***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 am 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 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 premises is located in a CD-1(450) zoning district and for the purposes of liquor policy it is considered a primarily mixed-use area. The surrounding area is a mixture of retail, office, cabarets, neighbourhood pubs, hotels, residential, liquor retail store, park, church, schools and restaurant uses (refer to Appendix A).

There are five Liquor Establishment Class 2 (614 seats), six Liquor Establishment Class 3 (1,230 seats), two Liquor Establishment Class 4 (737 seats), one Liquor Establishment Class 5 (520 seats), one Liquor Retail Store (395 Water Street) and approximately 26 licensed restaurants within the 850' radius of the subject site.

### ***RESULTS OF NOTIFICATION***

A neighbourhood notification was conducted by circulating 1000 notices in the survey area (See Appendix A) and 54 notices were mailed to appropriate Business Improvement Associations, neighbourhood groups and stakeholders. A site sign was erected advising the community of the application and where to send concerns or comments.

A total of seven responses were received from residents and businesses within the notification area and surrounding areas. The responses consisted of three comments in opposition to the application (two emails and one letter), and four comments (three emails and one letter) in support of the application.

Concerns were expressed over increased noise, safety and nuisance issues in the neighbourhood. Respondents supporting the application felt it would add to the revitalization of the area.

## *DISCUSSION*

### *Policy Issues*

The subject site is located in the Downtown-Primarily Mixed Use area. The following policy issues apply in this area:

- The proposed Liquor Establishment - Class 2 venue must be greater than 100 metres away from another Liquor Establishment - Class 2 venue. Since there are no Liquor Establishments in this class within 100 metres of the site, the proposed establishment complies with Council's liquor policy for venue size and location.
- Policy also states that preference will be granted to applications relocating equivalent Liquor Primary liquor licence seats from an undesirable location within the City of Vancouver. This application complies with Council policy.
- Policy also supports the transfer of seats from Downtown South, the Downtown Eastside, Gastown and other areas of the city with a history of land use incompatibility issues. This application complies with Council policy.
- The proposed patio is not consistent with Council's policy for outdoor patios with respect to the permitted seating capacity. The policy states that outdoor seating for patios is limited to 20% of total seating capacity of the liquor primary establishment. For this application, policy would allow for a 30 seat patio but the applicant is requesting approval for a 50 seat patio. Staff generally support outdoor patio areas subject to comments from the neighbourhood. In this case, there are no concerns from the surrounding neighbourhood provided the patio is closed and vacated by 11:00 p.m. each night. The time-limited development permit and 11:00 pm closing time should address any potential problems.

The applicant contends that food service shall be an integral part of the business. The capacity increase does not result in a change to the establishment's business licence class (i.e.: the business remains a Liquor Establishment - Class 2) and therefore meets the existing distancing 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. The applicant has requested 9 am to 2 am, seven days a week. However, the hours of operation for the first six months of operation will be the standard hours for the area which are 11 am to 1 am, Sunday to Thursday and 11 am to 2 am, Friday and Saturday. The applicant has requested that once the six month trial period has elapsed, that staff consider granting them the Extended hours of operation if no issues/concerns have been received. 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***

- The application complies with Council's liquor policy for venue size and location;
- The proposed operator has demonstrated the ability to operate his other businesses in a responsible manner;
- Council policy is to support relocation of Liquor Primary establishments out of the area of Downtown Eastside and areas of the City with a history of land use incompatibility issues and relocating equivalent Liquor Primary liquor licence seats from an undesirable location within the City of Vancouver;
- The fact that food service shall remain a component of the business will provide a mitigating factor to the liquor service and consumption;
- 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); and
- The time-limited development permit should provide adequate controls to ensure the land use/business remains 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. Strong management and sound operational practices should limit this type of activity from having a negative impact on the surrounding community. This application does not meet Council policy for the size of patios associated with liquor primary establishments.

### ***COMMENTS***

***The Police Department*** has reviewed this application and note that food service must be available and the kitchen remain open during operating hours. There are no concerns with this application.

***The Development Services Department*** has reviewed the application and notes that this application falls within a CD-1(450) zoning district. The current approved use of this building is retail on the ground floor with residential units (market housing) above. A Building Permit has been issued to change the use of one of the ground floor retail units to a Restaurant Class 1. This permit has not received final inspection or occupancy.

The proposal for a "Neighbourhood Pub" (Liquor Establishment Class 2) 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 this application and advises the applicant must submit full scale drawings and apply for a new Occupant Load Permit.

***The Social Development Department*** has no comments at this time.

***The Central Area Planning Department*** has no comments at this time.

### 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. Staff have no concerns with traffic and zoning at this time. The zoning is CD-1 which considers "neighbourhood public house" use a "conditional" use within this comprehensive development. The traffic and zoning matters will be considered further as part of the Development Permit process. With respect to parking, there are 538 off-site parking stalls located at 151 West Cordova Street to serve this project.

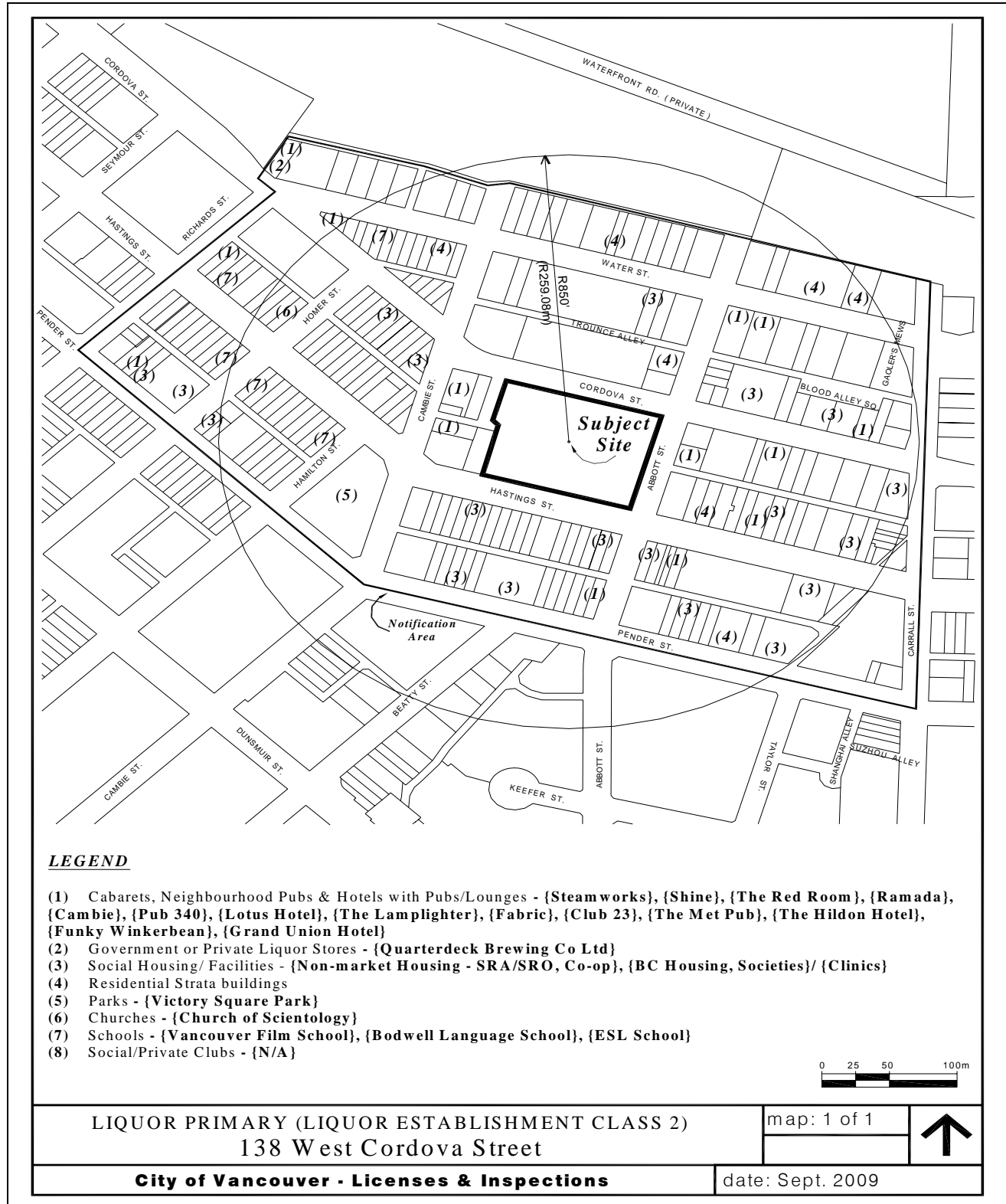
### *FINANCIAL IMPLICATIONS*

There are no financial implications.

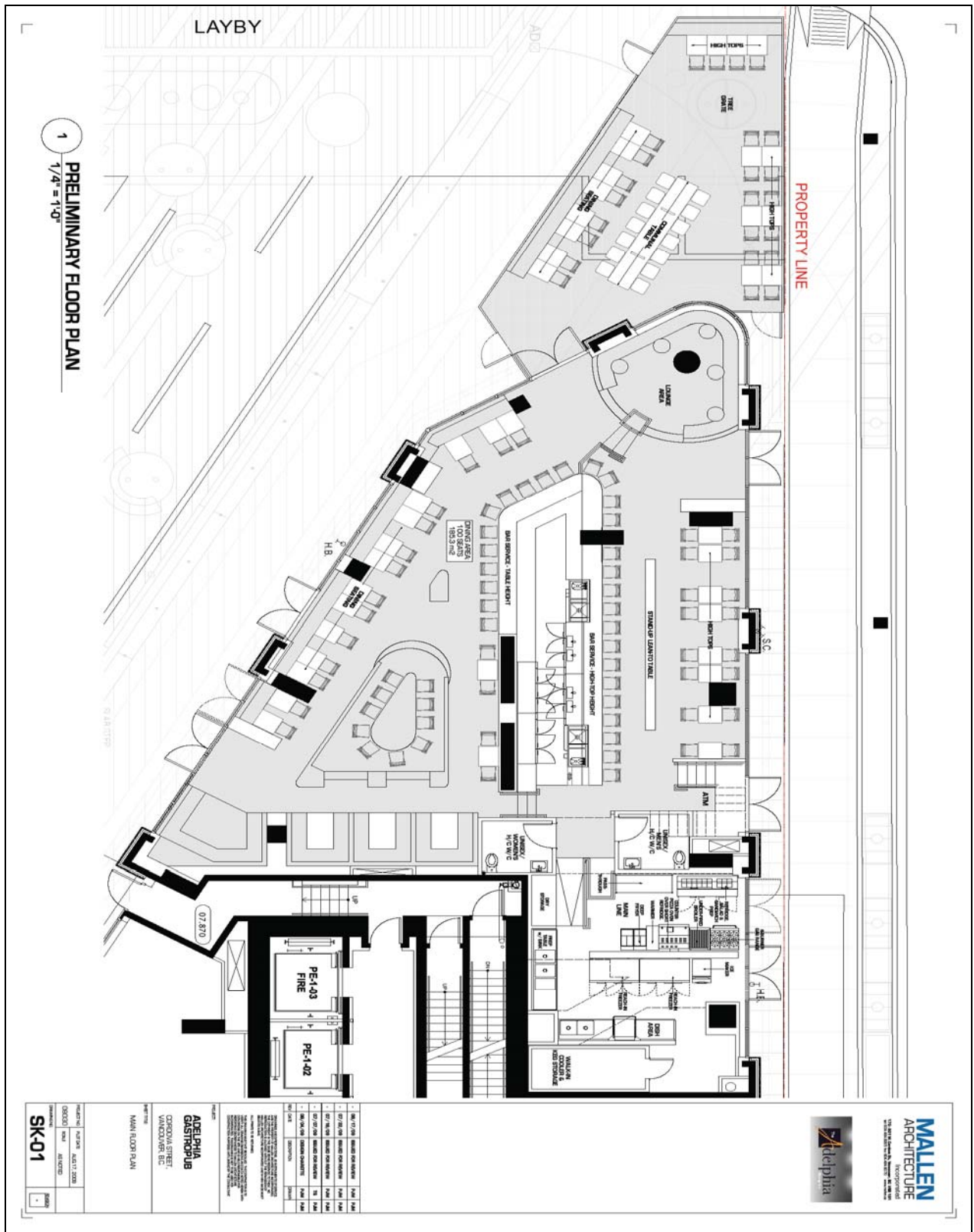
### *CONCLUSION*

Staff are recommending Council endorse the applicant's request to relocate their existing Liquor Primary liquor license to 138 West Cordova Street subject to the conditions outlined in Recommendation A. This application meets current Council policy regarding size and distance from other establishments and also meets the intent of Council policy for relocating Liquor Primary establishments out of the Downtown Eastside. 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 that this application does not meet Council policy for outdoor patios (seating for patios is limited to 20% of total seating capacity of the liquor primary establishment - permitted 30 seat patio/proposed 50 seat patio), but given the proposed patio location, the requirement for a time-limited Development Permit (1 year for patio), and 11:00 pm closing time, staff do not anticipate any significant impacts from the operation of this patio.

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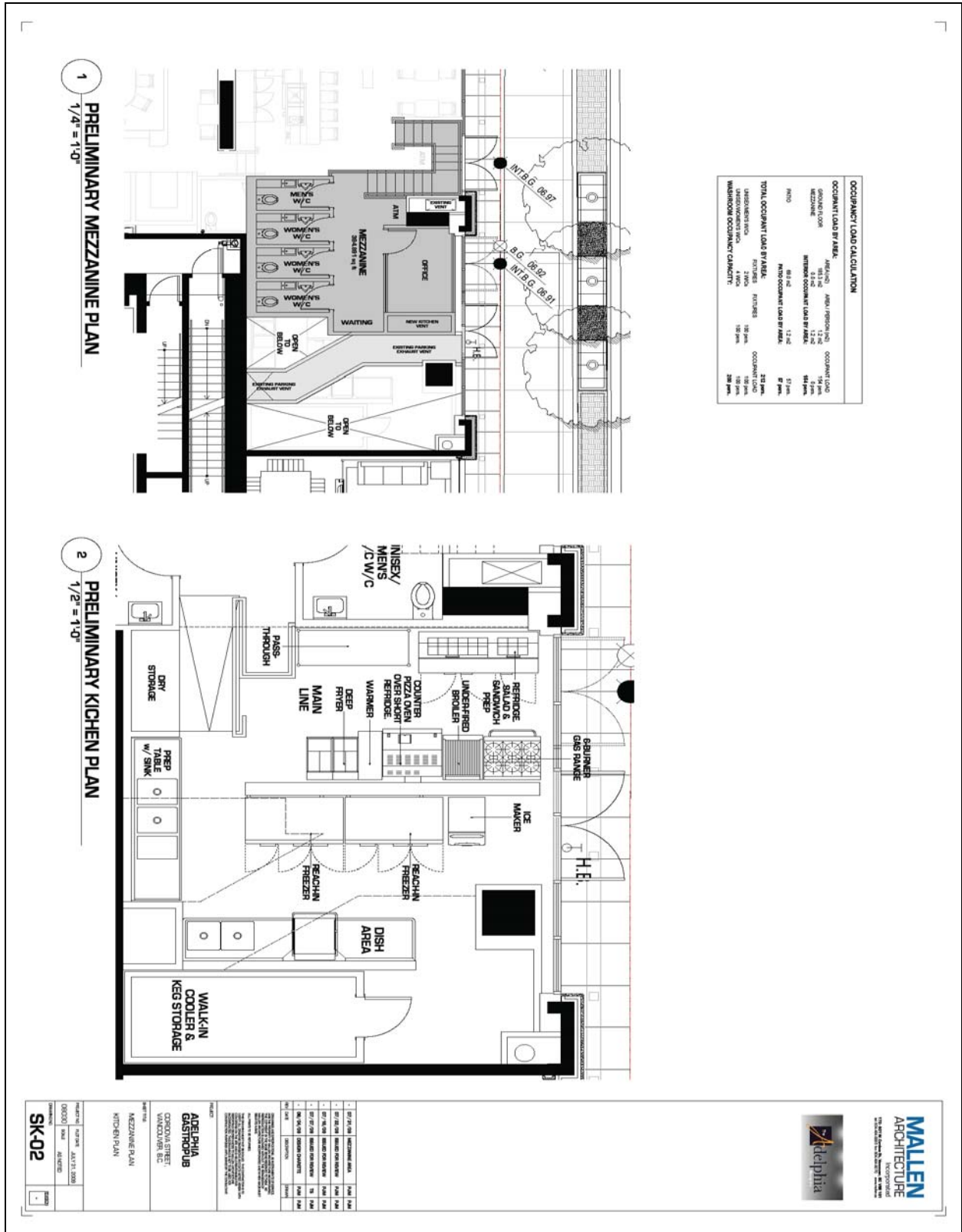


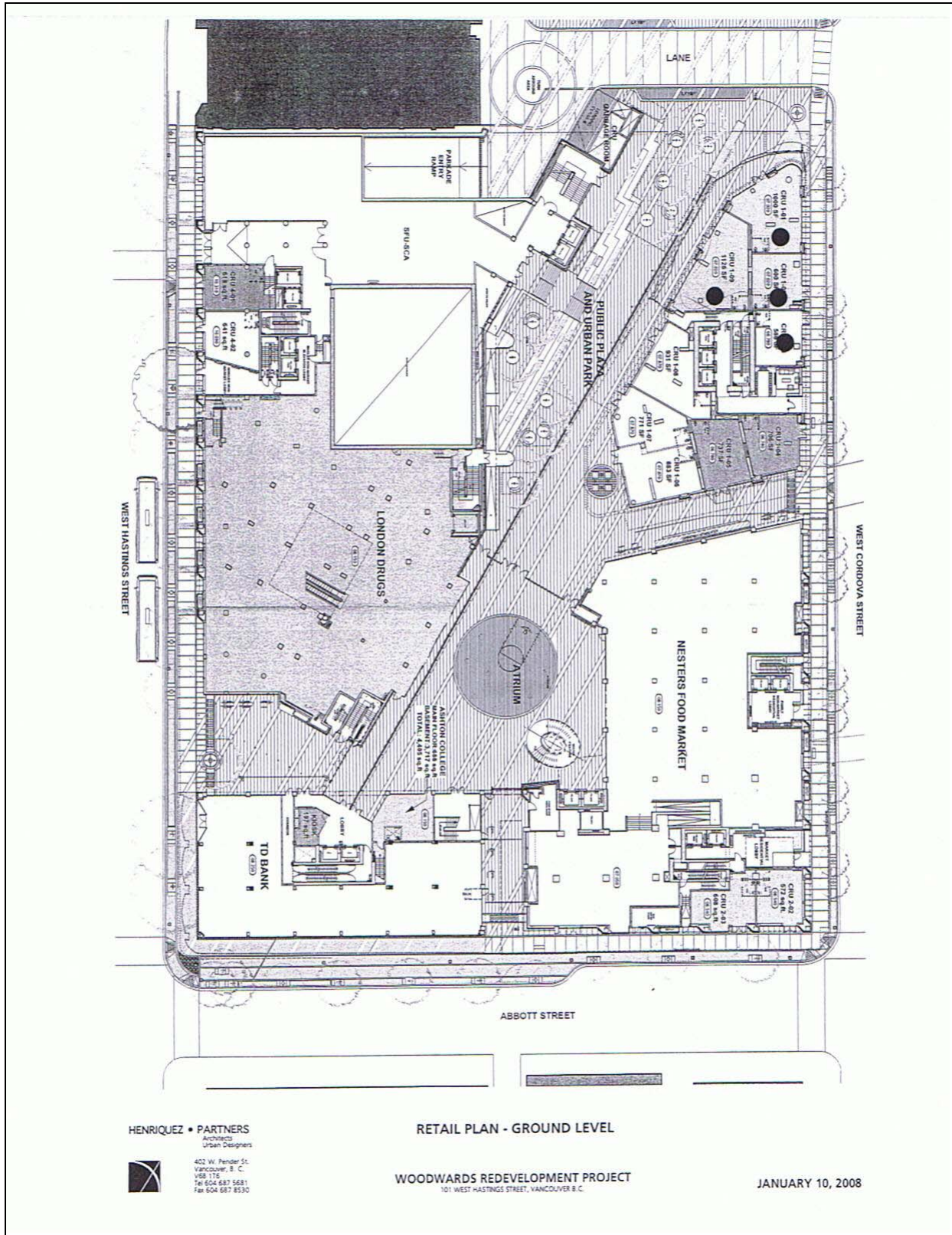
APPENDIX B  
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● Proposed area of pub