

Supports Item No. 3  
PT&E Committee Agenda  
December 15, 2011



ADMINISTRATIVE REPORT

Report Date: October 5, 2011  
Contact: Lucia Cumerlato  
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RTS No.: 09336  
VanRIMS No.: 08-2000-20  
Meeting Date: December 15, 2011

TO: Standing Committee on Planning, Transportation and Environment

FROM: Chief Licence Inspector

SUBJECT: 1039 Mainland Street - Section 3 Restaurant Ltd.  
Liquor Primary Liquor Licence Application (Section 3)  
Liquor Establishment Class 1 (Lounge)

**RECOMMENDATION**

THAT Council, having considered the opinion of local area residents and business operators as determined by site signage, neighbourhood notifications, noise impacts and relevant Council policy as outlined in this Administrative Report dated October 5, 2011, entitled "1039 Mainland Street - Section 3 Restaurant Ltd., Liquor Primary Liquor Licence Application (Section 3) - Liquor Establishment Class 1(Lounge)", endorse the request by Section 3 Restaurant Ltd., for a 40 person Liquor Primary liquor licence (Liquor Establishment Class 1) in conjunction with the existing Food Primary Liquor Licence (Licence #303264) at 1039 Mainland Street (Section 3), subject to:

- i. A maximum capacity of 40 persons;
- ii. Signing a Good Neighbour Agreement with the City prior to the issuance of the new business licence;
- iii. A Time-limited Development Permit;
- iv. 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; and
- v. An acoustic report to be submitted certifying that the establishment meets Noise Control By-law requirements; and
- vi. Food service to be provided while the establishment is operating.

### ***GENERAL MANAGER'S COMMENTS***

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

### ***COUNCIL POLICY***

Council policy requires new Liquor Primary liquor licences to be subject to a Time-Limited Development Permit, Good Neighbour Agreement, 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.

On July 11, 1996, Council approved policy and guidelines that favourable consideration be given to endorsing applications for smaller neighbourhood pubs and that the minimum distancing requirement be waived in Yaletown on a case-by-case basis, subject to polling nearby residents and property owners.

### ***PURPOSE***

The applicant, Section 3 Restaurant Ltd., is requesting a Council resolution endorsing their application for a 40 person Liquor Primary liquor licence (Liquor Establishment Class 1 - Lounge) in conjunction with the existing Restaurant Class 1 via the conversion of seats from the existing Food Primary liquor licence at Section 3 located at 1039 Mainland Street. The applicant is requesting hours of operation from 9 am to 2 am, Monday to Saturday and 9 am to 1 am on Sunday (see Appendix B).

### ***BACKGROUND***

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

Section 3 has been operating as a Restaurant Class 1 with a Food Primary liquor licence for the past 15 years serving a diverse clientele including local, tourists and fellow Vancouverites between 25 to 45 years of age. The applicant has a positive track record with the operation of this existing restaurant. "Section 3" is a popular lunch and dinner destination and gathering place for many patrons prior to attending a sporting event, concert or movie. The current capacity on the Food Primary liquor licence (#303264) is 113 persons and a 42 person patio. The hours of operation under the existing Food Primary liquor licence are 9 am to 2 am, seven days a week. Under the City of Vancouver Licence Bylaw, the restaurant's current allowable hours of operation are 9 am to 1 am, Sunday to Thursday; and 9 am to 2 am, Friday and Saturday. When conflicts arise between the City of Vancouver and Liquor Control and Licensing Branch (LCLB) hours of liquor service, the most restrictive regulation applies. The proposal is to convert 40 of the existing 113 seat Food Primary licensed seats to Liquor Primary seats.

**Application**

The applicant, Section 3 Restaurant Ltd., is requesting a Council resolution endorsing their application for a 40 person Liquor Primary liquor licence (Liquor Establishment Class 1 - Lounge) to operate in conjunction with the existing Restaurant Class 1 via the conversion of seats from the existing Food Primary liquor licence at Section 3 located at 1039 Mainland Street (refer to Appendix B). The proposed changes are summarized in the table below:

Licence Category	Current Operation		Proposed Operation		Staff Recommendation	
	Seats	Hours	Seats	Hours	Seats	Hours
Food Primary:						
Interior	113	9 am to 1 am, Sunday to Thursday and 9 am to 2 am, Friday and Saturday	72	Same as current	72	Same as current
Patio	42	11 am to 11 pm, Monday to Friday and 9 am to 11 pm, Friday and Saturday	43	Same as current	43	Same as current
Liquor Primary:						
Interior	0	N/A	40	9 am to 2am, Monday to Saturday and 9 am to 1 am, Sunday	40	First six months: 11 am to 1 am, Sunday to Thursday, 11 am to 2 am, Friday and Saturday;  After six months: 9 am to 2am, Monday to Saturday and 9 am to 1 am, Sunday
Patio	0	N/A	0	N/A		
Total Liquor Seats	155		155		155	

The proposed Liquor Primary liquor licence will enable the establishment to provide enhanced service to their target market by permitting them to patronize the establishment without mandatory meal service that is required of all Food Primary liquor licensed establishments. The applicant feels there is a demand for this type of establishment in the area and still maintain the high food standards they have built over the years. Also, the Liquor Primary liquor licence will allow more latitude for entertainment ideas, creating a particular ambiance, vibe and energy that cannot be created within a Food Primary Restaurant.

The Food Primary licensed area within the establishment will still permit families with children to continue to enjoy food and service. There will be no menu changes or décor changes. There will continue to be a full kitchen in the establishment to support a full menu to be paired with wines and liquor.

The applicant is requesting Extended Hours of operation for the Liquor Primary liquor licence which are from 9 am to 2 am, Monday to Saturday and 9 am to 1 am on Sunday. The existing 42 seat patio will remain licensed under the Food Primary liquor licence and the operating hours of the patio will remain unchanged (11 am to 11 pm, Monday to Friday and 9 am to 11 pm, Saturdays and Sundays).

***Liquor Control and Licensing Branch (LCLB) Regulations and Policies***

Branch regulations allow liquor service between the hours of 9 am to 4 am seven days a week for Liquor Primary liquor licences. The liquor licence capacity for a new establishment is based on the building capacity for the premise as determined by the local authority. Any new liquor licence application is subject to local government support.

***Area Surrounding Premises***

The subject site is located in the HA-3 Zoning District (Yaletown Historic Area) and for the purposes of liquor policy it is considered to be located in the Downtown Primarily Mixed-Use area. The approved use of this space is Restaurant Class 1. The surrounding area is a mixture of retail, office, health care office, beauty salon, residential (market and non-market), and restaurant uses (refer to Appendix A).

There is one Liquor Establishment Class 1 (Raw Canvass - 37 seats), one Liquor Establishment Class 2 (Yaletown Brewing Co Pub - 143 seats) and two liquor retail stores located within a 500' radius of the subject site. There are also 12 licensed restaurants which hold Food Primary liquor licences in the area.

***RESULTS OF NOTIFICATION***

A neighbourhood notification was conducted by circulating 500 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. Staff allowed three weeks for the community to respond with concerns or support for the application.

A total of 15 responses were received (all emails) in response to the neighbourhood notification which were all in support of the application. The following table summarizes the results of the notification:

	Within Notification	Outside Notification	No Attached Address	Total
Support	0	3	12	15
Non Support	0	0	0	0

The majority of the responses received were from customers of Section 3. Most respondents felt that Section 3 is a "one-of-a-kind" establishment which caters to an "older mature" clientele. Clientele of Section 3 stated that they are not interested in going to nightclubs but would prefer a more relaxed type of environment. Respondents also mentioned the need for this type of establishment in Yaletown. All respondents provided a personal endorsement of the operator.

## ***DISCUSSION***

### ***Policy Issues***

The subject site is located in the Downtown Primarily Mixed-Use area. The proposed Liquor Establishment - Class 1 venue is located more than 50 metres away from another Liquor Establishment Class - 1 venue. Since there are no liquor establishments in this class within 50 metres of the site, the proposed establishment complies with Council's liquor policy for venue size and location. Policy also states that favourable consideration be given to endorsing applications for smaller neighbourhood pubs and that the minimum distancing requirement be waived in Yaletown on a case-by-case basis, subject to polling nearby residents and property owners.

The applicant intends on providing a small relaxed style lounge environment focusing on social gathering with the availability of liquor service as an enhancement. Food service will remain to be an integral part of the business and will not change. In addition, this proposal will provide a small liquor primary licensed establishment for the Yaletown area.

### ***Hours of Operation***

The hours of operation requested for the Liquor Primary liquor licence are 9 am to 2 am, Monday to Saturday and 9 am to 1 am on Sunday which are within the parameters of the Extended hours permitted in the Downtown Primarily Mixed-Use area. The applicant will be required to operate within the Standard Hours of operation for the first six months which are limited to 11 am to 1 am, Sunday to Thursday and 11 am to 2 am, Friday and Saturday; after which time their requested hours of operation may be considered.

### ***Positive Application Attributes***

- Little change with respect to how the premise currently operates (food service will remain a component of the business which will provide a mitigating factor to the liquor service);
- Smaller liquor establishments of this size generally have low impacts to the surrounding community;
- Should Council support the Liquor Primary application, then the applicant will simply have more flexibility to serve and accommodate those clients who only wish to consume alcohol;
- The application complies with Council's liquor policy for venue size and location;
- The applicant has a positive track record with the operation of this existing restaurant; and
- A time-limited development permit should provide adequate controls to ensure the land use/business remains compatible with the surrounding community.

### ***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.

### ***Enforcement History***

The applicant has no enforcement history.

## ***FINANCIAL IMPLICATIONS***

There are no financial implications.

## COMMENTS

*The Police Department* has reviewed the application and have no issues with this application as it is small in number. There will be no increase to the existing seating and it will operate in conjunction with their Food Primary License which requires their kitchen to remain open during hours of operation. There have been minimal calls for service to this particular location which would be cause for concern.

*The Development Services Department* has reviewed the application and note this Heritage B building is located in the HA-3 zoning district and is currently approved as a Restaurant Class 1. The proposal for a Liquor Primary (Lounge) to operate in conjunction with this existing Restaurant constitutes a change of use under the zoning and will require a Development Permit.

The review process for this type of approval will involve an assessment of neighbourhood impacts, including compatibility with surrounding uses, social and policing impacts and noise control, as well as a review of the operational requirements including hours of operation. In addition, this application will 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 note that Section 3 has been approved for an occupant load of 40 liquor primary seats as per FI409122 and stamped floor plan of August 24, 2011 (refer to Appendix B).

*The Social Development Department* has reviewed the application and have no comments.

*The Central Area Planning Department* has reviewed the application for the liquor primary at the Section 3 Restaurant at 1039 Mainland Street. Council's liquor licensing policy allow for the consideration of liquor primary licenses in Yaletown on a 'case-by-case' basis. Staff are convinced that this proposed change in the restaurant's licence will have a minimal impact on the neighbourhood because of the relatively small number of seats that will be licensed for patrons to have an alcohol beverage without ordering food. It is also notable that the business will continue to also be licensed as a restaurant with the opportunity for customers to order food.

Old Yaletown is primarily a commercial area, with about one third of the area's floor space occupied used for homes for residents. It is also one of the most vibrant areas in the downtown peninsula with many restaurants and a distinctive heritage character. The large floor plates of the restored warehouse and adjacent loading docks are among the best suited in the central area for restaurants due to the opportunity to have patio seating.

### *Comments to Satisfy LCLB Resolution Requirements:*

*Location:* as noted previously.

*Person capacity and hours of operation:* as outlined above.

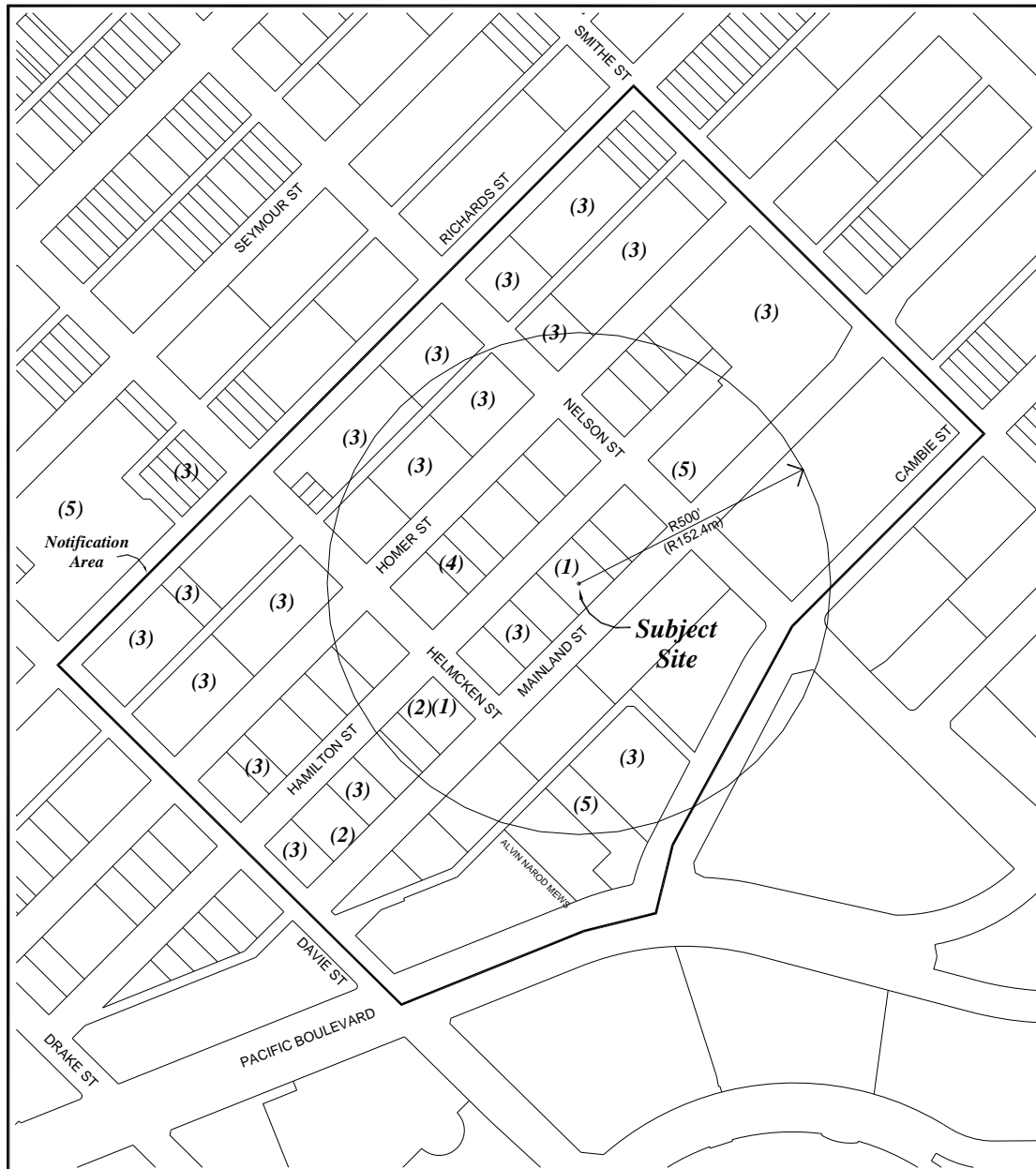
*Market Analysis:* The City of Vancouver has no authority to regulate an operator's clientele/target market. As a result, commenting or basing a decision on Market Analysis is an unproductive use of staff time.

*Traffic, noise, parking and zoning:* staff has considered traffic, noise, parking and zoning matters. Staff has no concerns with traffic and zoning at this time. The zoning is HA-3 (Historic Yaletown) which considers "pub" use a "conditional" use within this zone. The traffic and zoning matters will be considered further as part of the Development Permit process. With respect to parking, there is no parking on this site.

### **CONCLUSION**

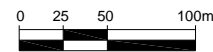
Staff are recommending Council endorse the applicant's request for a 40 person Liquor Primary liquor licence subject to the conditions outlined in the Recommendation. Should Council support the Liquor Primary application, then the applicant will simply have more flexibility to serve and accommodate those clients that only wish to consume alcohol even though food service will remain the primary focus throughout the premise. The applicant also has a positive track record with the operation of the existing restaurant. This application meets current Council policy regarding size and distance from other establishments and the size of the establishment should limit any negative impacts in the surrounding community. This application reflects the intent of Council policy for smaller type liquor licenses in the Yaletown area and the role and function of this area of the city as a home for a variety of businesses. 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 and the operator.

\* \* \* \* \*



**LEGEND**

- (1) Cabarets, Neighbourhood Pubs & Hotels with Pubs/Lounges - {Raw Canvas}, {Yaletown Brewing Co Pub & Restaurant}
- (2) Government or Private Liquor Stores - {Yaletown Liquor Store}, {Swirl Wine Store}
- (3) Residential buildings/Social Housing (Strata buildings, rental apartments)
- (4) Social Facilities/Clinics
- (5) Parks
- (6) Churches - {N/A}
- (7) Schools - {N/A}



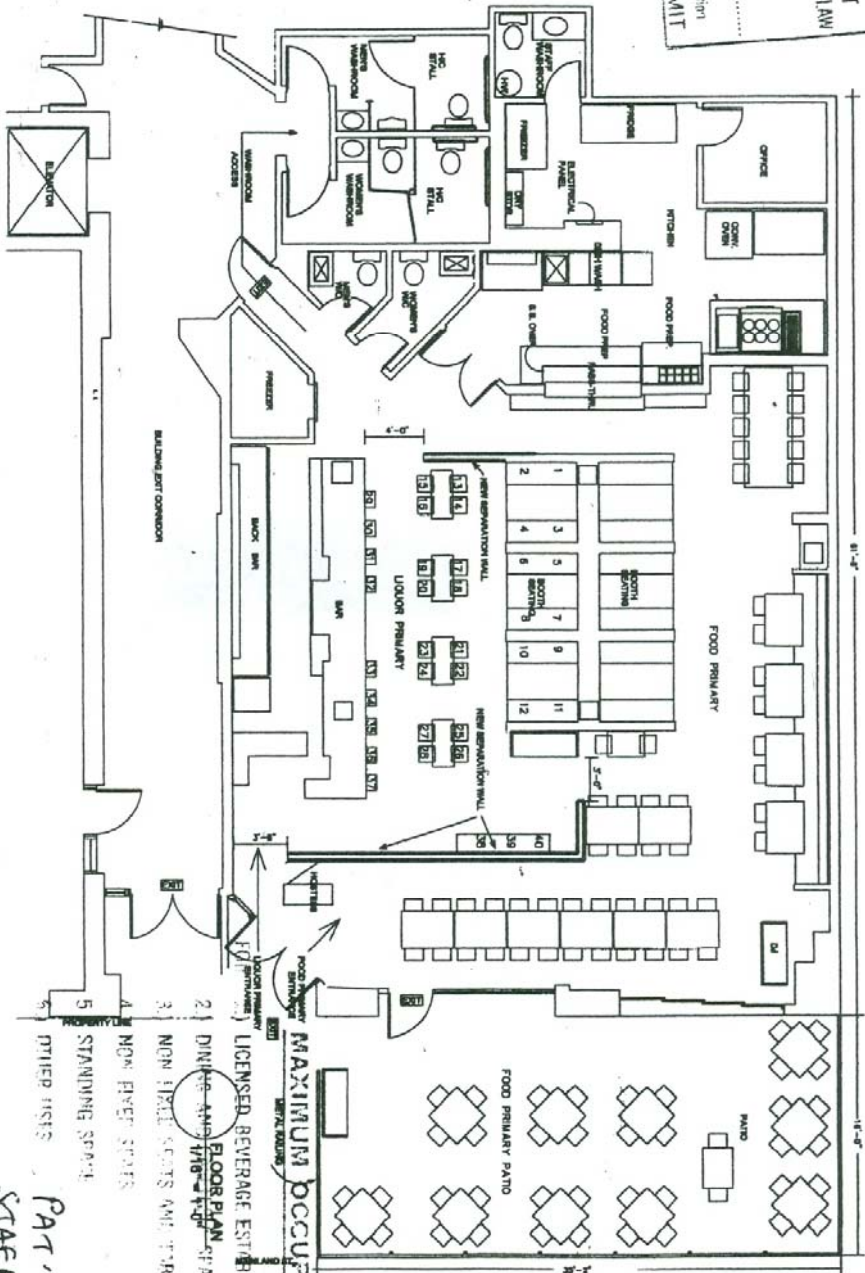
LIQUOR PRIMARY (LIQUOR ESTABLISHMENT CLASS 1 - LOUNGE)  
1039 Mainland Street - Section (3) Restaurant

map: 1 of 1





REVIEWED AND ACCEPTED  
PURSUANT TO  
THE B.C. FIRE SERVICES ACT  
AND THE VANCOUVER FIRE BY-LAW  
AUG 2 2011  
L. SZIKLAI  
AGM / Deputy Chief, Fire Prevention  
THIS IS NOT A PERMIT



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PROPOSED RED LINE AREA PLAN

PROPOSED LIQUOR AREA CHANGES  
SECTION "3"  
-1039 MAINLAND STREET  
VANCOUVER, B.C.

Floor Plan  
A-1  
Date: 7/16/11  
Scale: 1/8" = 1'-0"  
Author: [Signature]  
Date: 7/11/11