



## ADMINISTRATIVE REPORT

Report Date: May 15, 2014  
Contact: Harley Machielse  
Contact No.: 604.873.7545  
RTS No.: 10519  
VanRIMS No.: 08-2000-20  
Meeting Date: May 27, 2014

TO: Standing Committee on Planning, Transportation and Environment  
FROM: Deputy Chief Licence Inspector  
SUBJECT: 2<sup>nd</sup> Floor - 1216 Bute Street - Heaven's Door - Liquor Primary Licence Application - Liquor Establishment Class 2 - Lounge

### *RECOMMENDATION*

THAT Council, having considered the opinion of local area residents and business operators as determined by neighbourhood notification, site sign, noise impacts and relevant Council policy as outlined in the Administrative Report dated May 15, 2014, entitled "2<sup>nd</sup> Floor - 1216 Bute Street - Heaven's Door - Liquor Primary Licence Application - Liquor Establishment Class 2 - Lounge", endorse the request by 0973248 BC Ltd. for a 150 person Liquor Primary licence (Liquor Establishment Class 2 - Lounge) with a 30 person (outdoor) patio located on the 2<sup>nd</sup> floor of 1216 Bute Street subject to:

- i. A maximum total capacity of 150 persons inside and 30 seat outdoor patio;
- ii. Standard Hours of operation, for the first year, limited to 11 am to 2 am, seven days a week; after which time Extended Hours of operation may be considered which are limited to 9 am to 3 am, seven days a week;
- iii. The outdoor patio ceasing all liquor service and vacated by 10 pm nightly, for the first year;
- iv. No music or entertainment permitted on the patio
- v. A Time-Limited Development Permit;
- vi. Acoustic report to be submitted certifying that the establishment meets Noise Control By-law requirements;
- vii. Food service to be provided while the establishment is operating as well as on the patio when open;
- viii. Signing a Good Neighbour Agreement with the City prior to business licence issuance; and
- ix. The surrendering of the existing Food Primary liquor licence #305651 at the time of issuance of the Liquor Primary liquor licence.

### *REPORT SUMMARY*

0973248 BC Ltd. is requesting a Council resolution endorsing their application for the conversion of their existing Food Primary licence to a new 150 person Liquor Primary licence in addition to a 30 person outdoor patio located on the 2<sup>nd</sup> floor of 1216 Bute Street, Heaven's Door.

The proposal for a new Liquor Primary establishment is consistent with Council's liquor policy for size and location. The application also aligns with the West End community plan that identifies the Davie Village as an area for nightlife for the LGBTQ community. The proposed patio is also consistent with Council's policy for permitted seating capacity for outdoor patios when associated with a Liquor Primary. The total number of seats being proposed will be reduced from 309 to 180 seats (reduction of 40 interior seats and 89 patio seats).

Respondents opposing the application are primarily concerned with the potential of increased levels of nuisance noise. In order to address these concerns, the southern patio located closest to the residential buildings, would not be permitted for use; the northern patio would only be available until 10pm; and the business would be required to submit and adhere to an acoustic report based on the Noise Control Bylaw.

Staff are recommending approval of this application noting it aligns with the West End community plan and includes several measures to mitigate nuisance impacts.

### ***COUNCIL AUTHORITY/PREVIOUS DECISIONS***

*City role in liquor licence applications* - The Liquor Control and Licensing Branch of the Provincial Government has senior authority in approving liquor licence applications. Their regulations require local governments to provide a Council resolution on any liquor primary licence application unless the local government decides to opt out of the application review process. Council policy has been to provide comments on these applications.

*Approval process/requirements* - Council policy requires new Liquor Primary licences to be subject to a Time-Limited Development Permit, Good Neighbour Agreement, and public consultation.

*Hours of service* - policy for this Downtown Primarily Commercial-Use area are:

Standard hours of liquor service:

- 11 am to 2 am, seven days a week

Extended hours of liquor service:

- 9 am to 3 am, seven days a week

*Size and location of new establishments* (Council July 14, 2005) - Council Policy states that no Class 2 venue shall be located within 100 meters of another Class 2 venue.

*West End Liquor Licensing Policy* - Davie Village was identified in the 1999 West End Liquor Licensing policy as a district where an increased number of Liquor Primary establishments could be considered, including this block. The West End community plan which was recently approved by Council identifies the Davie Village as an area for local business, nightlife and gathering and as the City's gay village. The plan is to enhance Davie Village's distinctive character as a hub for the LGBTQ community as a space for nightlife, celebration, events, gathering and community programming. The plan also supports commercial and community facilities/spaces above the first floor level.

*Sidewalk patios adjacent to liquor establishments* - On April 17, 2007, Council approved policy and guidelines that allow Liquor Primary establishments to have sidewalk patios on both public and private property subject to:

- Food service being available to the patio;

- A food preparation area large enough to safely handle the capacity increase;
- Closing time of no later than 11 pm;
- Outdoor seating limited to 20% of total seating capacity; and
- Public consultation.

Outdoor patios on private property adjacent to Liquor Primary establishments require amendments to existing Liquor Primary licences and are subject to a Time-Limited Development Permit, Good Neighbour Agreement, and public consultation.

#### *CITY MANAGER'S/GENERAL MANAGER'S COMMENTS*

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

#### *REPORT*

##### *Background/Context*

The applicant is requesting a Council resolution endorsing Heaven's Door application for a 150 person Liquor Primary licence (Liquor Establishment Class 2 - Lounge) and for a 30 person outdoor patio located on the second floor of 1216 Bute Street (refer to Appendix A). The conversion from a Food Primary to a Liquor Primary licence will reduce the number of internal seats by 40 and patio seats by 89. The current Food Primary licence will be terminated if the Liquor Primary licence is approved. See table on the next page for the proposed changes.

Licence Category	Current		Proposed		Recommended	
	Capacity	Hours	Capacity	Hours	Capacity	Hours
Food Primary (#305651)	190	9am -12am 7 days a week	N/A	N/A	N/A	N/A
Liquor Primary	N/A	N/A	150	9 am - 3 am 7 days a week	150	11am - 2am 7 days a week
Outdoor Patio(s)	Patio 1: 75 Patio 2: 44	11am - 11pm 7 days a week	Patio 1: 30 Patio 2: 0	11am - 11pm 7 days a week	Patio 1: 30 Patio 2: 0	11am - 10pm 7 days a week
TOTAL	190 (interior) 119 (exterior)		150 (interior) 30 (exterior)		150 (interior) 30 (exterior)	

The applicant purchased the existing restaurant in August 2013 and intends to continue to offer full food service in a lounge/cabaret environment catering to the LGBTQ community, area residents and tourists. Their business model is focussed on providing adult type entertainment such as comedy shows, karaoke, drag shows, and theme nights which is more consistent with a Liquor Primary licence. The application supports the West End Plan that identifies the Davie Village as the LGBTQ entertainment district and provides a venue within walking distance for many residents who do not want to commute outside their neighbourhood.

Food service is still expected to be a component of the business which will provide a mitigating factor to the liquor service and consumption. If the application for the Liquor Primary licence is approved, the total reduction of 129 seats, in particular, the reduction of 89 patio seats is expected to help address any nuisance concerns.

### ***Strategic Analysis***

Staff support the proposed application based on the following analysis.

### ***Results of the Neighbourhood Notification***

A neighbourhood notification was conducted by circulating 847 notices in the survey area (refer to Appendix B). Two site signs were 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 28 responses were received in response to the application.

The results of the notification are summarized as follows:

	Within 800' radius of subject site	Outside 800' radius of subject site	No contact information	Total
Support	6	0	8	14
Opposed	14	0	5	19

Five of the responses received supporting the application were from cast members and board members of the Queer Arts Society. The Queer Arts Society runs the show *Queer Prov*, which is performed by The Bobbers, a comedy improve group. The Bobbers have been performing at Heaven's Door every Monday night since October 28, 2013.

Respondents opposing the application are most concerned with nuisance issues for the community including; noise, drunkenness and disturbances with patrons leaving the establishment and the close proximity to residential buildings. As well, respondents generally felt that there are currently sufficient liquor establishments in the area.

### ***Location of Establishment***

The subject site is located in Commercial - West End (C-5) Zoning District and for the purposes of liquor policy, it is considered to be located in the Downtown Primarily Commercial Area. The surrounding area is a mixture of residential, hotel, retail, restaurants, office and other commercial uses.

### ***Proximity to other social or recreational facilities and to other Liquor Primary Establishments***

There are no social or recreational facilities in the immediate area that would create a potential conflict with the proposed application.

Within a 100 meter radius of the subject site, there are two (2) Liquor Establishment Class 1 (up to 65 seats) and one (1) Liquor Establishment Class 3 (151 to 300 seats), and approximately 16 licensed restaurants within the survey area. There are no Liquor Establishment Class 2 located within 100 meters of the subject site; therefore, this application meets Council Policy for distancing requirements.

### *Person Capacity and Hours of Operation*

The Vancouver Fire Department has reviewed the application and approved an interior occupant load of 150 persons and an additional 30 persons on the outdoor patio.

The hours of operation for the first year will be 11 am to 2 am, seven days a week. Extended hours of 9 am to 3 am, may be considered after the first year if no issues/concerns have been received. The 30 person outdoor patio will operate until 10pm for the first year after which time the 11pm closing time may be considered if no issues/concerns have been received. No entertainment or music will be permitted on the patio.

The one year restriction on the business operation and patio hours will provide an evaluation period for staff and the business to address any potential issues.

### *Noise*

The applicant will be required to submit and adhere to an acoustic report which stipulates the sound levels permitted inside the establishment in order to comply with the Noise Control Bylaw and this should mitigate potential negative community impacts due to noise. In addition, the reduction of patio hours and seats, and the elimination of the existing patio located in close proximity to residences is also expected to help mitigate negative noise impacts.

### *Impact on the Community*

Staff have received three noise complaints in the past three months regarding the bass levels of the music. The operators have been advised of the complaints and have committed to rectify the noise issues. They have agreed to monitor the bass levels with a sound meter and will be submitting an acoustic report from a sound engineer. Their door staff will monitor patrons entering and exiting the establishment, smokers and patrons outside on the sidewalk and patio noise. Staff are also encouraging the business to participate in the Bar Watch program.

The Time-Limited Development Permit will provide ongoing reviews to ensure the land use/business remains compatible with the surrounding community. In addition, the Good Neighbour Agreement will set out the City expectations that the business needs to be responsive in dealing with any issues and responsible for creating a positive relationship with the community.

The Police Department has reviewed the application and have no concerns about this application.

### *Implications/Related Issues/Risk (if applicable)*

#### *Financial*

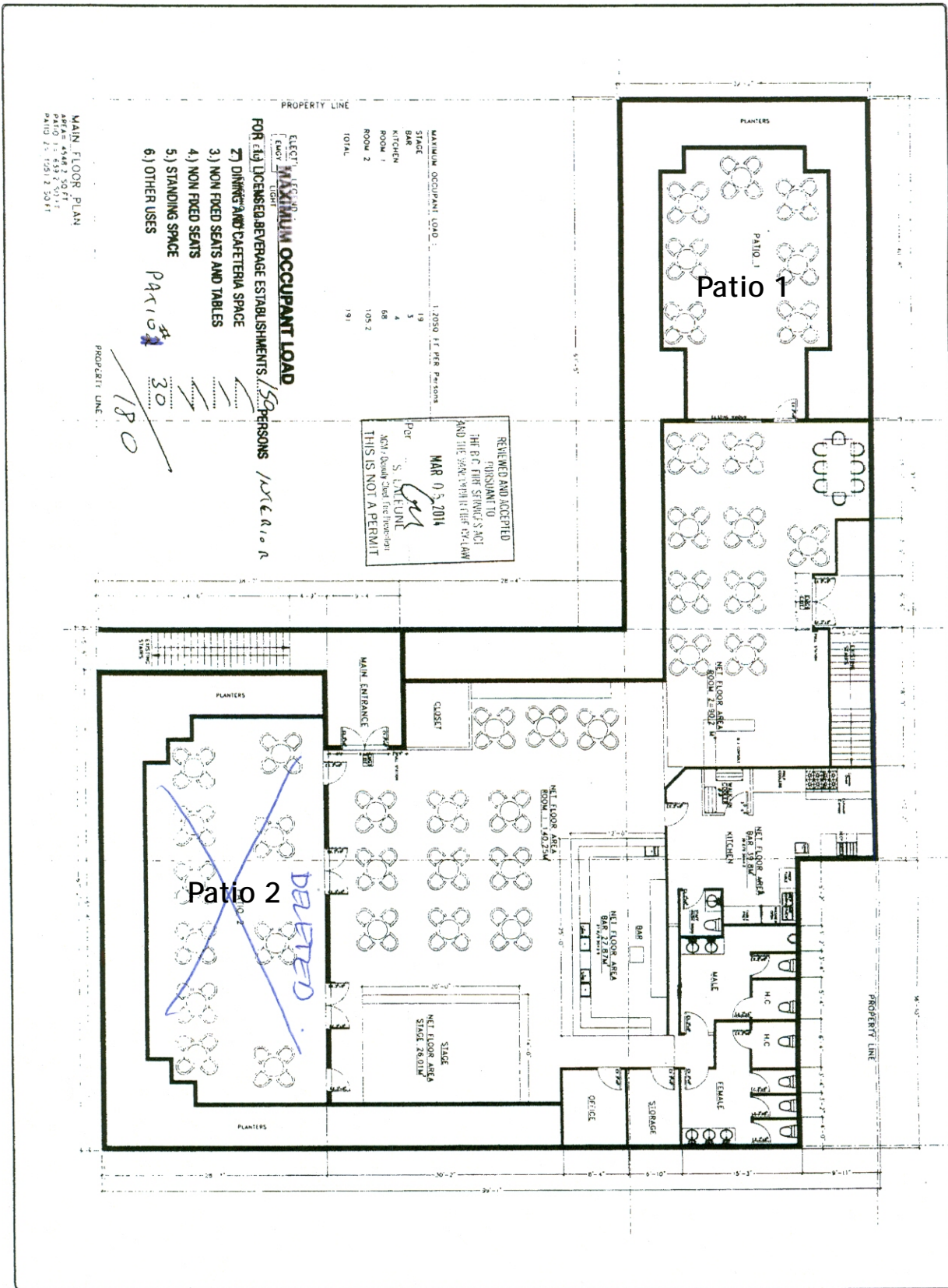
There are no financial implications.

### **CONCLUSION**

Staff are recommending Council endorse the applicant's request for a 150 person Liquor Primary license with 30 person outdoor patio subject to the conditions outlined in the Recommendation. This application meets current Council policy regarding size and distance

from other Class 2 Liquor Primary establishments. Noise impacts are expected to be mitigated by restricting the patio size and use; as well as, requiring the business to adhere to an acoustical report that meets the Noise Control Bylaw. This establishment is considered to be an asset for the LGBTQ community in order to secure gay spaces and advance the West End Plan's direction to strengthen the Davie Village as the LGBTQ entertainment district. The requirement for a Time-Limited Development Permit and Good Neighbour Agreement will provide the necessary controls to ensure the premise operates in a manner that will mitigate any impacts to the neighbourhood. As well, the one year restriction to Standard Hours and 10 pm closing time for the patio will provide an evaluation period for staff, Vancouver Police Department and the operator to identify and respond to any concerns. Food service will also remain a component of the business which will provide a mitigating factor to the liquor service and consumption.

\* \* \* \* \*

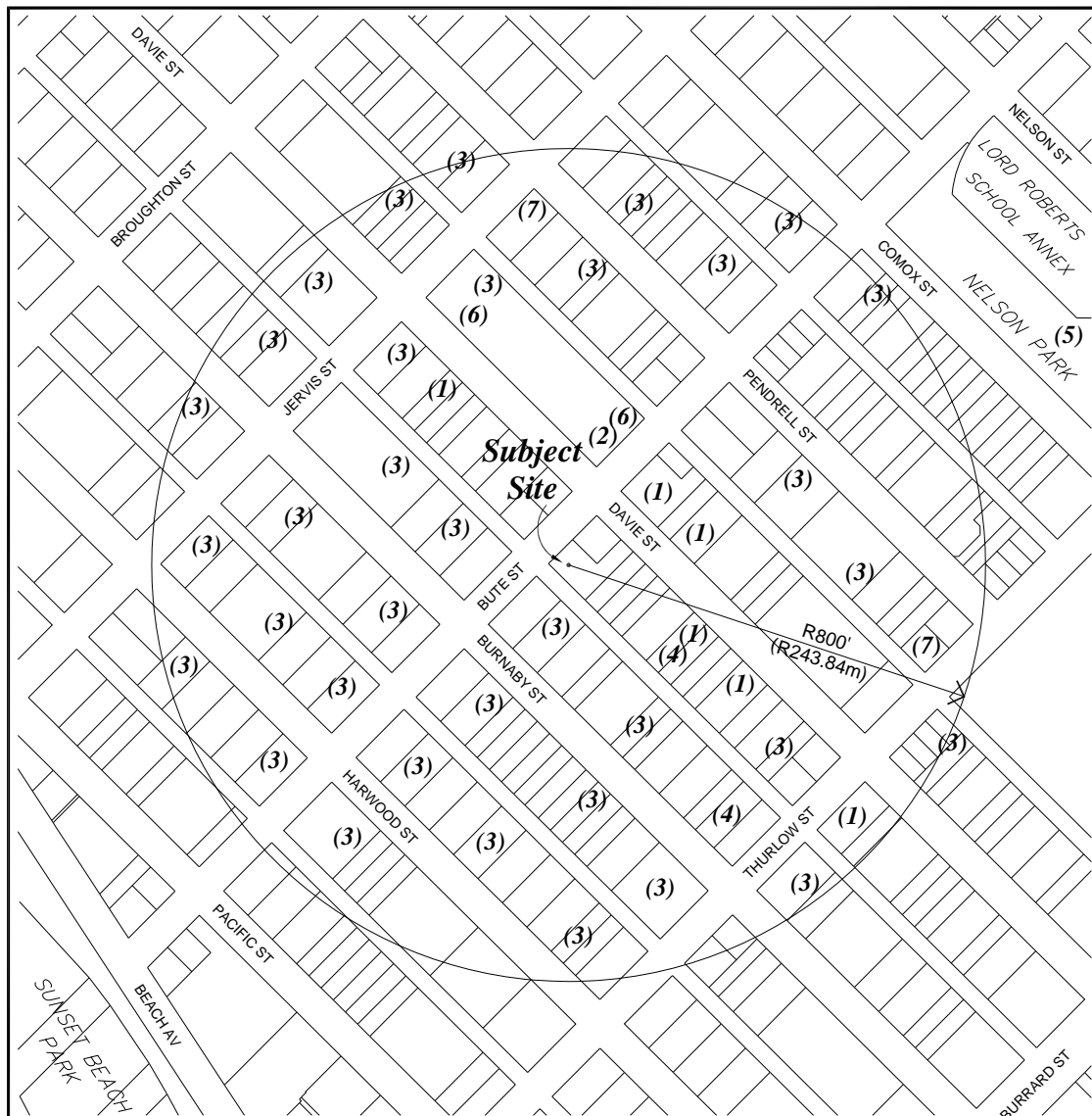


HEAVEN DOOR  
 1206 BAIN STREET  
 VANCOUVER BC

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**LEGEND**

- (1) Cabarets, Neighbourhood Pubs & Lounges - {Score on Davie}, {1181}, {The PumpJack Pub}, {Moxie's}, {The Junction Public House}, {Oasis Ultra Lounge}
- (2) Government or Private Liquor Stores - {BCLS #094 Bute St}
- (3) Residential buildings
- (4) Hotel - {Sandman Suites on Davie}, {Sunset Inn}
- (5) Parks - {Nelson Park}
- (6) Community facilities - {West End - Coal Harbour Community Policing Centre}, {Bute Street Clinic}
- (7) Churches - {St. Paul's Anglican Church}, {Presbyterian Church in Canada}
- (8) Schools - {N/A}



LIQUOR PRIMARY (LIQUOR ESTABLISHMENT CLASS 2)  
1216 Bute Street - Heaven's Door

map: 1 of 1



**City of Vancouver - Licenses & Inspections**

date: 2014-04-24