

## REPORT

Report Date: September 15, 2020  
Contact: Sarah Hicks  
Contact No.: 604.873.7546  
RTS No.: 13985  
VanRIMS No.: 08-2000-20  
Meeting Date: October 7, 2020  
[Submit comments to Council](#)

TO: Standing Committee on Policy and Strategic Priorities

FROM: Chief Licence Inspector

SUBJECT: 1178 Davie Street – The Cap on Davie Ltd. (The Capital)  
Liquor Primary Liquor Licence Application  
Liquor Establishment Class 2

### **RECOMMENDATION**

THAT Council, having considered the opinion of area residents and business operators as determined by neighbourhood notification, site sign, noise impacts and relevant Council policy as outlined in this report, endorse the application submitted by Dan Wilson, Principle Director of The Cap on Davie Ltd. (doing business as “The Capital”), to operate a new Liquor Primary liquor licence, with an interior capacity of 130 persons (Liquor Establishment Class 2) via the conversion of the existing Food Primary liquor licence (Restaurant Class 1), located at 1178 Davie Street, subject to:

- i. A maximum interior capacity of 130 persons;
- ii. Hours of operation, 9 am to 3 am, seven days a week;
- iii. Food service to be available while the establishment is operating;
- iv. A Time-Limited Development Permit;
- v. An acoustic report to be submitted certifying that the establishment meets Noise Control By-law requirements;
- vi. Signing a Good Neighbour Agreement with the City prior to business licence issuance; and
- vii. The surrendering of the existing Food Primary liquor licence (#305442) at the time of issuance of the new Liquor Primary liquor licence.

### **REPORT SUMMARY**

Dan Wilson, Principle Director of The Cap on Davie Ltd., has submitted an application requesting a Council resolution endorsing a new Liquor Primary liquor licence (Liquor Establishment Class 2) via the conversion of the existing 130 persons (interior) Food Primary liquor licence (Restaurant Class 1), located at 1178 Davie Street (refer to Appendix A).

Operating at this location since 2013, this existing restaurant is located on the ground level of a two-storey mixed-use building with residential units above, accessible from 1180 Davie Street. Hours of liquor service for a Food Primary (restaurant) establishment is limited to 9 am to 1 am, Sunday to Thursday, and 9 am to 2 am, Friday and Saturday. The proposed establishment will continue to provide a full food menu and beverage service in a pub environment. Entertainment options for the proposed establishment will include background music, television monitors and the occasional live music.

Requested hours of operation are 9 am to 3 am, seven days a week, which meet the Extended Hours of liquor service policy for this Downtown – Primarily Commercial area. The applicant is also applying for the Family Food Service endorsement to their Liquor Primary licence which will allow minors, accompanied by a parent or guardian, to enter in all licensed areas until 10 pm when food service is available for families.

In addition, a Time-Limited Development Permit and a Good Neighbour Agreement will be required, to ensure the premise operates in a manner conducive to the surrounding area. An acoustical report is to be submitted and reviewed to ensure the operation of the business meets the Noise Control By-law.

Staff is recommending Council endorse the applicant's request with the conditions outlined in the recommendation.

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

*City role in Liquor Primary licence applications* – The Liquor and Cannabis Regulation Branch (LCRB) of the Provincial Government has senior authority in approving liquor licence applications. Their regulations require the local government to provide a Council resolution on liquor primary licence applications unless the local government decides to opt out of the application review process. Council policy has been to consider the impact of the licence application on the community and to provide comment, generally in the form of a resolution. However, staff will opt out if there is a conflict of interest due to a licence application located on City property or if the local government is the applicant.

*LCRB criteria for comment on applications* – In providing comment, the location of the establishment; and the person capacity and hours of liquor service must be taken into account:

*Size and Location of New Establishments (July 14, 2005)* – Council Policy states that no Class 2 Liquor Primary establishment shall be located within 100 metres of another Class 2 establishment. This policy only pertains to Liquor Primary establishments and not Food Primary establishments (restaurants)

*Hours of Service Policy (May 16, 2006)* for this Downtown – Primarily Commercial 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

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

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

The City Manager recommends approval of the foregoing.

### ***REPORT***

#### ***Background/Context***

The Liquor and Cannabis Regulation Branch requires that Local Government provide a resolution with comments on public input gathered from the community within the immediate vicinity of the establishment, including the location of the establishment, its person capacity and hours of liquor service. Once received, the LCRB will review the resolution/comments for a final decision to issue/endorse the liquor licence.

The applicant, The Cap on Davie Ltd., with Dan Wilson listed as its Principle Director, has submitted an application to operate a Liquor Primary licence which will consist of 130 persons. The proposed establishment is in the Davie Village of the West End neighbourhood. The applicant has been operating a restaurant at this location since 2013 and also operates other food establishments in the city and across the country. If this application is approved, The Cap on Davie Ltd. would become the Licensee (holder of the liquor licence) and they intend to operate and manage the business rather than appoint a third party operator.

This proposal will replace the existing Food Primary licence (restaurant) with a new Liquor Primary licence. The existing seating capacity of 130 will remain unchanged and there will be no structural alterations or changes to the menus or facilities. Food menus include a variety of pub-style food and beverages. Current hours of liquor service for the restaurant are 9 am to 1 am, Sunday to Thursday, and 9 am to 2 am, Friday and Saturday. The applicant would be permitted to operate from 9 am to 3 am, seven days a week under a new Liquor Primary licence with Extended Hours.

The applicant will also be applying to the LCRB for the Family Food Service endorsement to their Liquor Primary licence which will allow minors, accompanied by a parent or guardian, to enter in all licensed areas until 10 pm when food service is available for families.

#### ***Strategic Analysis***

Staff support the proposed application based on the following analysis.

#### ***Public Input – Results of Neighbourhood Notification***

A neighbourhood notification advising of the Liquor Primary application was conducted by distributing approximately 298 postcard notifications to property owners within the notification area of approximately 750 ft. (see Appendix B). A site sign was installed 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 five pieces of feedback in opposition to the liquor application were received from the public. Three of five responses were within the notification area and the other two did not provide addressing information.

Respondents expressed concerns regarding the proposed hours of liquor service and the potential for increased noise and public nuisances and disturbances. The applicant is committed to working with the area residents and the community to help mitigate their concerns and minimize negative impacts.

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

The subject site is located in C-5 (West End Commercial District) and for the purposes of liquor policy, it is considered to be located in the Downtown – Primarily Commercial area.

### ***Proximity to other Liquor Primary Establishments***

There are no other Class 2 liquor establishments within a 100 metre radius of the proposed site and therefore, the application meets City liquor policy distancing requirement for liquor primary size and location.

### ***Person Capacity and Hours of Operation***

The proposed capacity for the Liquor Primary licence at this location is a 130 person interior occupant load (see Appendix A). Final occupancy calculations will be provided in accordance with Building and Fire codes once building permits have been finalized. Final occupant load calculation will not increase beyond what Council approves.

As this application and public notification was processed prior to the change in occupancy calculations as approved by Council on July 7, 2020, where the Vancouver Fire Bylaw was updated to align occupant load calculation methods with the BC Fire Code calculations, the applicant has chosen to move forward with the initial occupancy of 130 persons. The applicant may choose to apply for an increase in their occupant load at a future date. Any increase in occupancy will be reviewed against current liquor policies and regulations as well as determining further public consultation needs.

The hours of operation for the Liquor Primary licence are 9 am to 3 am, seven days a week, which are within the parameters of the Extended Hours permitted in the Downtown – Primarily Commercial area.

### ***Noise***

Staff have considered the impact for noise on the community and have no concerns at this time. An acoustical report certifying that the establishment meets Noise Control By-law requirements will be required and should mitigate potential negative community impacts due to noise. It is also a condition of the licence and will support compliance and enforcement efforts if necessary. This operator has no history of noise complaints.

### ***Impact on the Community***

A Time-Limited Development Permit will be required which will provide ongoing reviews to ensure the land-use and business remains compatible with the surrounding community. The permit review process will involve an assessment of neighbourhood impacts, including compatibility with surrounding uses, hours of operation, social and policing impacts and noise control. In addition, the Good Neighbour Agreement will set out 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 Vancouver Police Department has reviewed the application and have no concerns with this application.

Planning, Urban Design and Sustainability has reviewed the application and noted the following:

*Planning is supportive of the proposal. West End Plan policy for Davie Village seeks to enhance the village as an area for nightlife and entertainment, (see pages 38 and 90 of the [West End Community Plan](#)), so this proposal would meet that intent.*

### **Implications/Related Issues/Risk**

#### **Financial**

There are no financial implications.

### **CONCLUSION**

Staff recommend Council endorse the applicant's request to operate a new 130 person Liquor Primary licence (Liquor Establishment Class 2) via the conversion of the existing Food Primary liquor licence located at 1178 Davie Street, subject to the conditions noted in this report. The application meets current Council policy regarding size and distance from other establishments. The requirement for a Time-Limited Development Permit, a Good Neighbour Agreement and submission of an acoustical report will provide the necessary controls to ensure the premise operates in a manner that will mitigate impacts to the neighbourhood and surrounding area.

\* \* \* \* \*

**ESTABLISHMENT OCCUPANT LOAD**

- FOR 1.) LICENSED BEVERAGE ESTABLISHMENTS... PERSONS
- 2.) DINING AND CAFETERIA SPACE 130 / INCLUDES STAFF
- 3.) NON FIXED SEATS AND TABLES
- 4.) NON FIXED SEATS
- 5.) STANDING SPACE
- 6.) OTHER USES

REVIEWED AND ACCEPTED  
PURSUANT TO  
THE B.C. FIRE SERVICES ACT  
AND THE VANCOUVER FIRE BY-LAW  
MAY 0 2013  
Per: L. SZIKLAI  
AGM / Deputy Chief, Fire Prevention  
THIS IS NOT A PERMIT

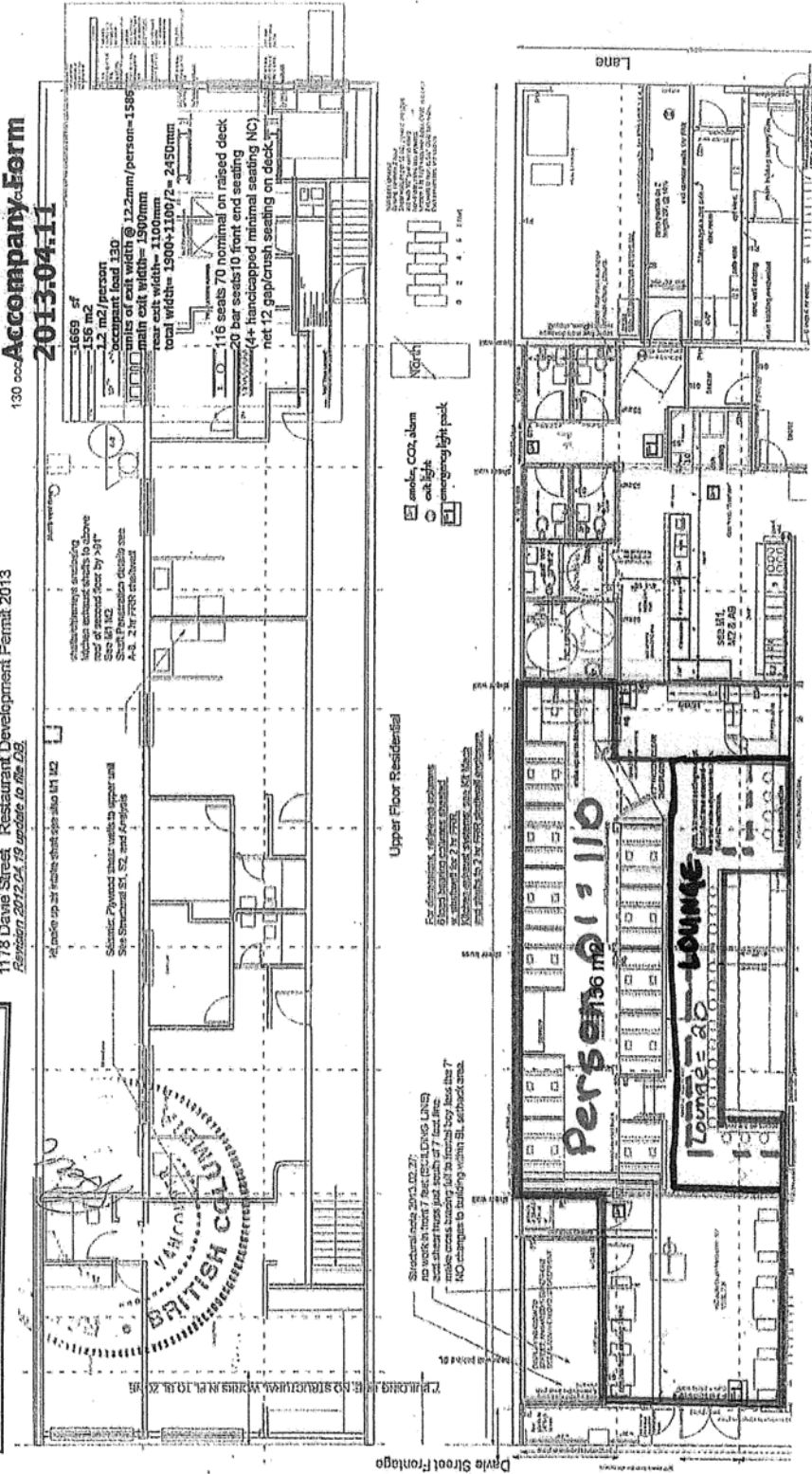
LCLB OFFICIAL PLAN  
MUST BE KEPT WITH LIQUOR LICENCE AND  
AVAILABLE FOR INSPECTION AT ALL TIMES  
Date Issued: June 3, 2013  
General Manager

1178 Davie St, Vancouver, BC V6E 1N2

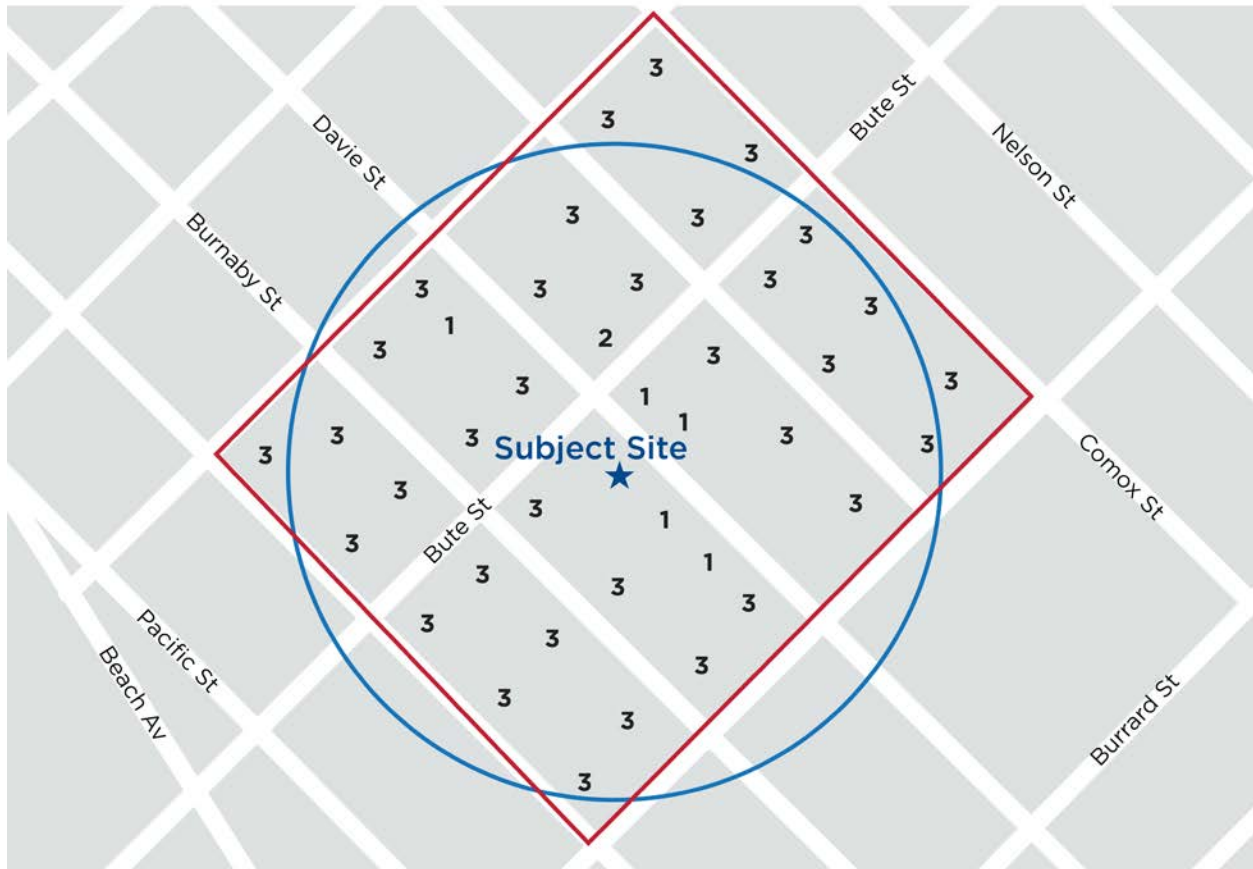
**Occupancy Plans to  
Accompany Form**

1178 Davie Street Restaurant Development Permit 2013  
Revised 2012.04.19 update to the DP

Licence #: 305442



Liquor Primary (Liquor Establishment Class 2)  
1178 Davie Street - The Capital



LEGEND

- 1 **Liquor Primary Establishments** - {1181}, {Junction Public House}, {Moxie's}, {PumpJack Pub}, {Score on Davie}
  - 2 **Liquor Stores** - {BC Liquor Store}
  - 3 **Residential** - {social, non-market and market housing}
  - 4 **Parks** - {n/a}
  - 5 **Schools** - {n/a}
- 
- 750ft radius from Subject Site
  - Notification Area