



REPORT

Report Date: May 2, 2022
Contact: Sarah Hicks
Contact No.: 604.873.7546
RTS No.: 15204
VanRIMS No.: 08-2000-20
Meeting Date: July 5, 2022
[Submit comments to Council](#)

TO: Vancouver City Council

FROM: Chief Licence Inspector

SUBJECT: 1025 - 1027 Davie Street - Application for an Amendment to a Liquor Primary Licence - Liquor Establishment Class 3 (Pub)

RECOMMENDATION

- A. THAT Council not support the application submitted by Rising Tide Consultants on behalf of the applicant, The Fountainhead Pub Ltd., for an increase to the occupant load of its existing Liquor Primary (Liquor Establishment Class 2) licence at this site, with changes to the licensed service areas via the expansion into the adjacent vacant space (1027 Davie Street). This proposal consists of the following characteristics:
- i. Interior capacity increase from 111 persons to 255 persons (Liquor Establishment Class 3);
 - ii. Outdoor patio capacity increase from 36 persons to 64 persons;
 - iii. Maximum occupant load (interior and patio areas combined) not to exceed 300 persons;
 - iv. Current hours of operation: 9 am to 3 am, seven days a week;
 - v. Patio hours of operation: 9 am to 11 pm, seven days a week. No entertainment or music may be permitted in the outdoor patio; and
 - vi. Food and beverage service will be provided.
- B. THAT Council support a new Liquor Primary licence (Liquor Establishment Class 1) with an interior capacity of 65 persons and a 19 person outdoor patio located at 1027 Davie Street, subject to:
- i. A maximum total interior capacity of 65 persons and a 19 person outdoor patio;
 - ii. Hours of operation, 9 am to 3 am, seven days a week;
 - iii. Patio hours of operation: 9 am to 11 pm, seven days a week. No entertainment or music may be permitted in the outdoor patio;

- iv. Food service to be available while the establishment is operating as well as on the patio when open;
- v. A Time-Limited Development Permit;
- vi. An acoustic report to be submitted certifying that the establishment meets Noise Control By-law requirements; and
- vii. Signing a Good Neighbour Agreement with the City prior to business licence issuance.

REPORT SUMMARY

Rising Tide Consultants, (representative for The Fountainhead Pub Ltd.) has submitted an application to the Chief Licence Inspector requesting an increase the occupant load of its existing Liquor Primary licence (Liquor Establishment Class 2) at 1025 Davie Street via the expansion into the adjacent space located at 1027 Davie Street (see Appendix A).

Current hours of operation are 9 am to 3 am, seven days a week, which fall under the Extended Hours of liquor service policy for this Downtown – Primarily Commercial area.

The Chief Licence Inspector is recommending Council not endorse the applicant's request outlined in Recommendation A.

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 new 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 approved creation of licence classes 1 – 6 for Liquor Establishments based on number of occupants, and approved guidelines for liquor establishment location and distancing that vary by licence class. Council Policy states that no Class 3 Liquor Primary establishment shall be located within 100 metres of another Class 3 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.

Outdoor patios adjacent to liquor establishments (April 17, 2007) – Council policy and guidelines allow liquor primary establishments to have adjacent outdoor patios on both public and private property, subject to a requirement for food service, closing time of no later than 11 pm.

Liquor Policy Update (June 14, 2017) – Council approved a recommendation to streamline and clarify procedural policies, which gives the Chief Licence Inspector authority to provide comment to the Liquor and Cannabis Regulation Branch (LCRB) on applications for all liquor licence amendments. In addition, Council approved policy and guidelines removing a twenty percent limit on Liquor Primary patio seats, if a Good Neighbour Agreement is signed, neighbourhood liquor seat limitations can be met, and community impacts (e.g. noise) are managed.

Liquor Policy Implementation Update (May 2, 2018) – Council approved policy allowing Arts and Culture businesses to apply for ancillary Liquor Primary licences; that patios be considered in the Granville Entertainment District, on a case by case basis, public notification, neighbourhood fit and review by the Vancouver Police Department.

Fire By-law Occupant Load Calculation (June 11, 2020) – Council directed staff to prepare necessary Fire By-law amendments to enable Liquor Primary establishments and other assembly uses to expand their occupant load capacity, to align with Provincial building and fire code requirements.

Alignment of Occupancy Limits between Building and Fire By-laws (July 7, 2020) – Council approved amendments to the Fire By-law to align Vancouver's occupant load with the occupant load set out in the BC Fire Code. The amended occupant load calculation enables liquor-serving establishments an opportunity to expand their occupant load capacity.

One Time Exceptions to Liquor Primary Establishment Distancing and Moratoria (March 30, 2021) – Council approved a one-time exception to liquor policy on Distancing and the Granville Entertainment District and Downtown Eastside moratorium areas.

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

REPORT

Background/Context

The applicant, The Fountainhead Pub Ltd, with Michel Duprat listed as its Principal Director, has authorized the consulting firm of Rising Tide Consultants Ltd., to act as the representative for this application.

Operating since 2002, Fountainhead Pub at 1025 Davie is one of the original neighbourhood pubs in the heart of Davie Village. The applicant proposes to expand into the adjacent space (1027 Davie Street) through a structural alteration by the removal of the demising wall between the two units. The proposed establishment is for a 255 person (interior) Liquor Primary with a 64 person outdoor patio. The maximum occupant load (interior and patio areas combined) is not to

exceed 300 persons at any time, as determined by the number of washrooms and number of exits provided in the building design layout. This proposal does not align with distancing policy requirements for a minimum of 100 metres between Class 3 Establishments in the Downtown – Primarily Commercial Area. The Chief Licence Inspector finds the Policy to be compelling and as a result, does not support the application.

Should Council not approve the increase in capacity and the expansion into 1027 Davie Street, the applicant is alternatively seeking Council approval to separately license the adjacent space (1027 Davie Street) for a new 65 person (interior) Liquor Primary Establishment Class 1 business licence with a 19 person outdoor patio, while maintaining the existing Liquor Primary Establishment Class 2 (66 to 150 seats) business at 1025 Davie Street. This application is aligned with distancing policy and the Chief Licence Inspector supports the application.

Food menus will continue to include classic pub food and a variety of beverages. Current hours of liquor service for the restaurant are 9 am to 3 am, seven days a week and would remain. Entertainment will consist of background and DJ music and live performances. The pub is known for its drag shows and various charity fundraising events held throughout the year.

In addition, a Time-Limited Development Permit and a Good Neighbour Agreement would 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.

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.

If either application is approved, The Fountainhead Pub Ltd. will remain as the Licensee (holder of the liquor licence).

Strategic Analysis

The Chief Licence Inspector does not support the application for an increase to the occupant load of the existing Liquor Primary (Liquor Establishment Class 2) licence at 1025 Davie Street, with changes to the licensed service areas via the expansion into the adjacent space (1027 Davie Street). The Chief Licence Inspector does support the secondary application for a new 65 person (interior) Liquor Primary Establishment Class 1 business licence with a 19 person outdoor patio at 1027 Davie St. The following analysis was completed to arrive at this determination.

Public Input – Results of Neighbourhood Notification

A neighbourhood notification advising of the Liquor Primary application was conducted by distributing approximately 850 postcard notifications to property owners within the notification area of approximately 750 ft. radius (see Appendix B). The notice informed of Fountainhead's application to amend the existing liquor licence (LP #202415) for a capacity increase to a maximum 300 persons combined for both the interior and outdoor patio areas (see Appendix C). 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 32 pieces of feedback (email and phone messages) were received from the public in response to the liquor application. 31 responses in support and 1 response in opposition were

received. The majority of responses received were from within the notification area (approx. 750 ft. radius).

Respondents in support of the application expressed how the establishment has been an integral part of the community for decades and that the expansion will have a positive impact and will continue to enhance and improve the vibrancy and economic viability of the neighbourhood. In addition, a letter of support was received from the West End Business Improvement Association (see Appendix D).

The concern expressed regarded the potential for increased noise and public nuisances.

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

Staff applied the City’s Liquor Establishment capacity and location policy (the “Distancing Policy”) in considering the structural change application for an occupant load increase at 1025 Davie. The Distancing Policy was adopted by Council in 2005¹ and reaffirmed in 2017². It distinguishes between small, medium and large establishments based on the approved number of occupants (Liquor Establishment Class 1 – 6) and sets requirements for distance between Liquor Establishments of the same Class in different areas of the city (Table 1). The purpose of the policy is to manage the density and distribution of pubs and nightclubs throughout the city, maintaining a number and size of establishments that is suitable for a neighbourhood or area.

Table 1 Distancing between Liquor Establishments of the same size per 2005 Report: [Liquor License Policy: Liquor Primary Size, Capacity, and Location](#).

Liquor Establishment	Downtown	Non-Downtown
Class 1 – up to 65 persons	Not within 50 m of another Class 1	Not within 500 m of another Establishment of the same Class
Class 2 – 66 to 150 persons	Not within 100 m of another Establishment of the same Class	
Class 3 – 151 to 300 persons		
Class 4 – 301 to 500 persons		
Class 5 – 500 to 950 persons	Not within 500 m of another Class 5	Not within 750 m of another Class 5
Class 6 – over 950 persons	Not within 750 m of another Class 6	Not within 1 km of another Class 6

The location and distance requirements consider the relative impact that smaller compared to larger establishments can have on communities, for example noise, traffic and parking. They also distinguish between Downtown and Non-Downtown locations. Small establishments (Class 1, up to 65 occupants) generally have a low impact. They can be located relatively close to one another (within 50 meters). The larger venues can draw patrons from around the region, and

¹ See 2005 Report: <https://council.vancouver.ca/20050714/documents/pe1.pdf>

² See 2017 Report: <https://council.vancouver.ca/20170614/documents/cfsc4.pdf>

can have a high impact on neighbourhoods. Downtown supports a higher density of liquor establishments of all classes than Non-Downtown locations.

The application at 1025 - 1027 Davie Street proposes a maximum occupant load of 300 persons for the establishment which would make it a Liquor Establishment Class 3 business as set out in the License By-law and in the Distancing Policy. For the Downtown – Primarily Commercial area, the Distancing Policy requires a minimum distance of 100 metres between Liquor Establishment Class 3 businesses. Spatial analysis shows that one Liquor Establishment Class 3 business is located within a 100 metre radius of the proposed location (Appendix B) which means that the proposal does not meet the policy requirements. The Chief Licence Inspector finds the Policy to be compelling and as a result, does not support the application.

A new Liquor Establishment Class 1 (0 to 65 seats) would not be in any distancing conflict as there are no other Class 1 establishments within a 50 metre radius. As such, the Chief Licence Inspector supports a Liquor Establishment Class 1 business at this location.

Person Capacity and Hours of Operation

Per Recommendation A: The proposed structural change capacity for the Liquor Primary licence at 1025/1027 Davie Street is a 255 person interior occupant load with a 64 person outdoor patio capacity (see Appendix A). The maximum occupant load (interior and patio areas combined) must not exceed 300 persons.

Per Recommendation B: The proposed capacity for the new Liquor Primary licence at 1027 Davie Street is a 65 person interior occupant load with a 19 person outdoor patio (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.

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 potential impact of noise on the community. Given there is already a Liquor Establishment Class 3 business within a 100 metre radius of the proposed location, the addition of 150 additional persons at 1025 - 1027 Davie Street (from Liquor Establishment Class 2 to Liquor Establishment Class 3) could create nuisance impacts for the neighbourhood.

In contrast, a new Liquor Establishment Class 1 would have a maximum occupant load of 65 persons. This smaller number of patrons may pose less risk of nuisance from noise.

An acoustical report certifying that the establishment meets Noise Control By-law requirements will be required.

Impact on the Community

Approval of the proposed structural change application at 1025 - 1027 Davie Street would increase the density of Class 3 establishments in the area beyond that established by the City's

Distancing Policy and in doing so, could risk neighbourhood impacts like noise, traffic and parking. It would disrupt the current distribution of Liquor Establishments in the area.

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.

Implications/Related Issues/Risk

The City's Distancing Policy was developed through a comprehensive process that included mapping the density of existing Liquor Establishments and identifying areas of opportunity; consideration of previous Liquor Control and Licensing Branch location policy;³ and sharing proposed location criteria with the public for feedback.⁴ Staff apply the Policy consistently and in general, it meets its purpose of managing the density and distribution of Liquor Establishments throughout the city.

Consistent application of the Policy provides a level of certainty for industry. To date, any exceptions to Distancing Policy have been made using Council approved criteria that are applied to all applications, for example the policy to allow one-time exceptions to distancing for liquor establishments that are unable to take full advantage of recalculated occupant loads under the new calculation implemented by Vancouver Fire and Rescue Department in 2021⁵. To make an exception for the proposed structural change at 1025 - 1027 Davie Street could introduce uncertainty and could undermine confidence in the City's process of equitable assessment of applications.

Financial

There are no financial implications.

CONCLUSION

Staff recommend that Council support a new Liquor Primary licence (Liquor Establishment Class 1) consisting of 65 persons with a 19 person outdoor patio located at 1027 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.

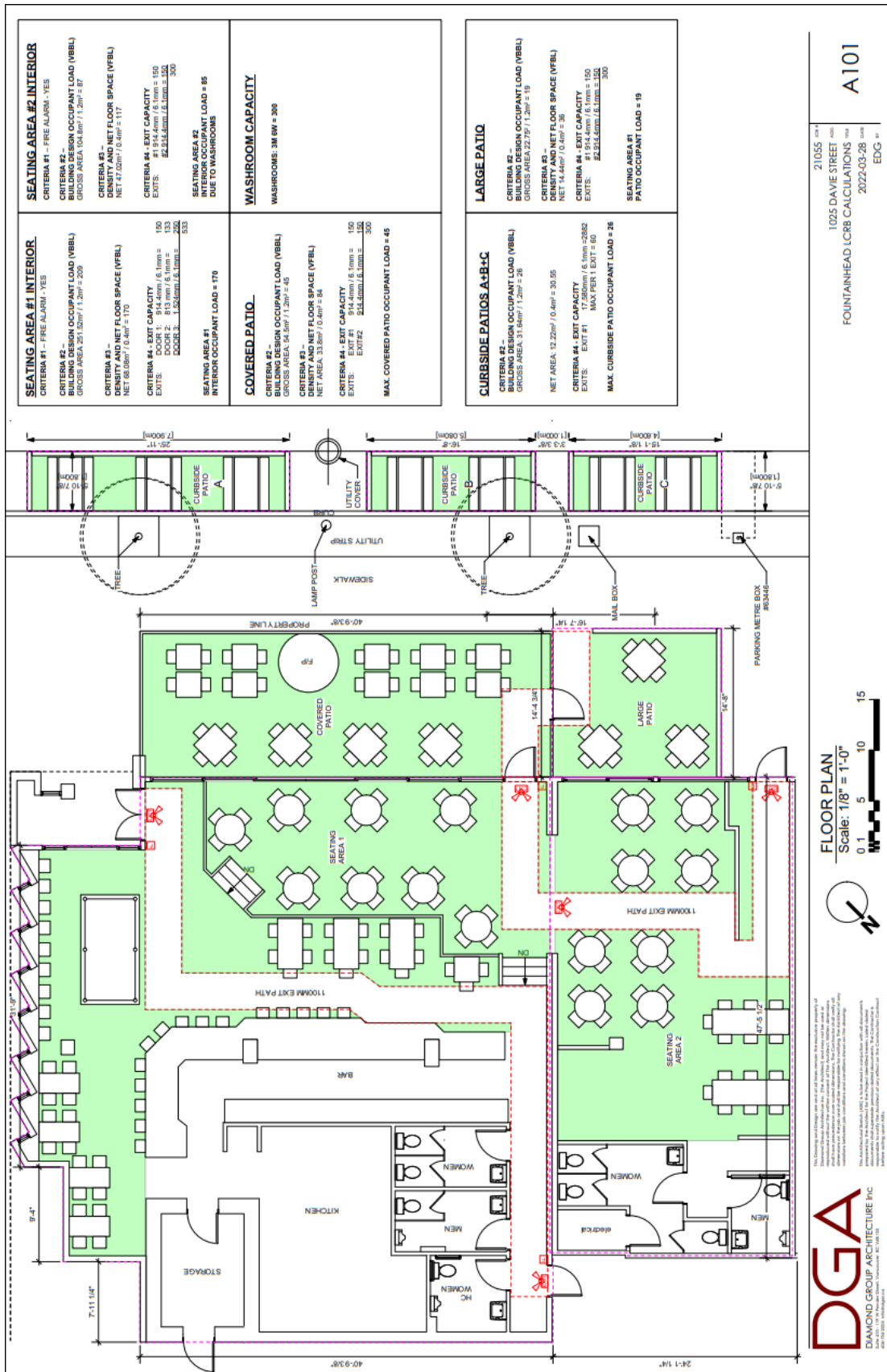
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³ The LCRB removed its location based policies in 2002 which left a policy gap at the municipal level.

Note the Liquor Control and Licensing Branch is now named the Liquor and Cannabis Regulation Branch.

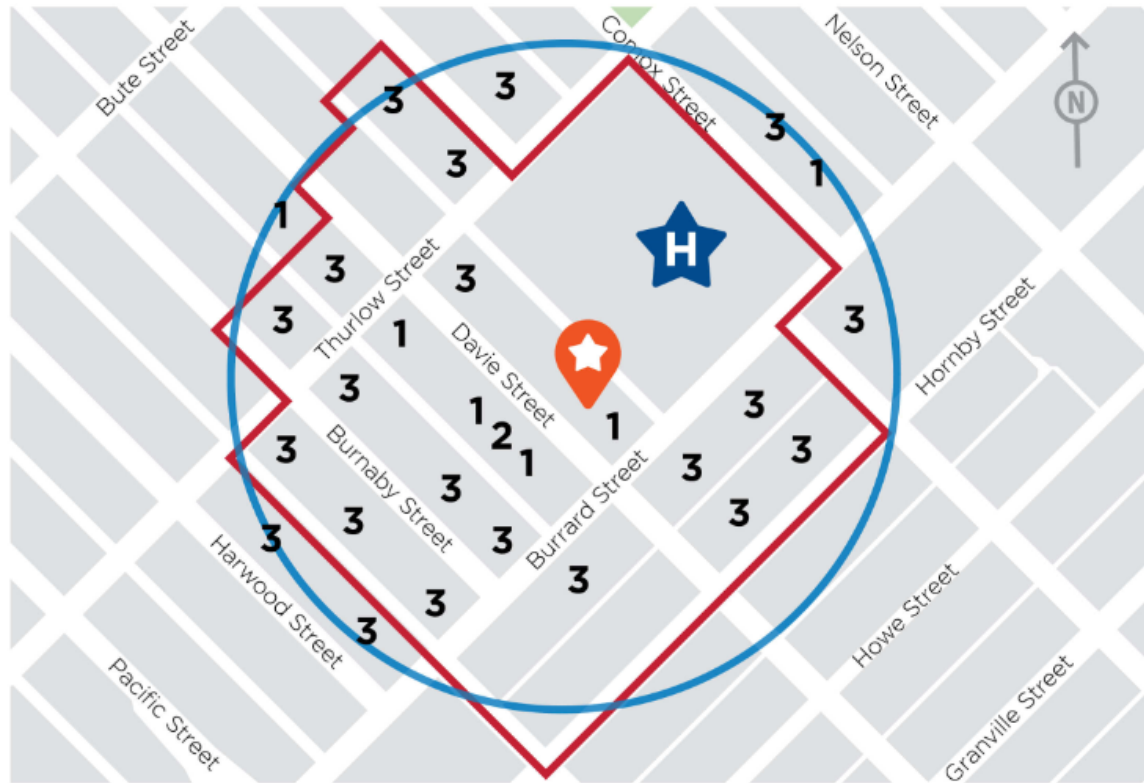
⁴ See 2005 Report: <https://council.vancouver.ca/20050714/documents/pe1.pdf>

⁵ See 2021 Report: <https://council.vancouver.ca/20210330/documents/r2.pdf>



Liquor Primary (Liquor Establishment Class 3 – Pub)

Fountainhead Pub – 1025-1027 Davie Street



LEGEND



Subject Site



228.6 metres (750 feet) radius
from Subject Site



Notification Area



St. Paul's Hospital

1 Liquor Primary Establishments

*Celebrities - Class 4, Century Plaza Hotel - Class 3,
Fountainhead Pub - Class 2, Junction Public House -
Class 3, Kiss & Tell Nightclub - Class 2, Numbers - Class 3.*

2 Liquor Stores

Marquis Wine Cellars

3 Residential

social, non-market and market housing

4 Parks

none

5 Schools

none

**NOTICE OF APPLICATION FOR AN AMENDMENT
TO A LIQUOR PRIMARY LICENCE (#202415) –
LIQUOR ESTABLISHMENT CLASS 3 (PUB)**



1025 Davie Street

April 20, 2022

The Fountainhead Pub Ltd. has applied to the City of Vancouver and the Provincial Liquor and Cannabis Regulation Branch for permission to increase the occupant load of its existing LIQUOR PRIMARY licence (Liquor Establishment Class 2) at the above-noted address, with changes to the licensed service areas via the expansion into the adjacent space (1027 Davie Street). This proposal consists of the following characteristics:

- Interior capacity increase from 111 persons to 255 persons (Liquor Establishment Class 3);
- Outdoor patio capacity increase from 36 persons to 64 persons;
- Maximum combined licensed capacity will not exceed 300 persons for both the interior and outdoor patio areas;
- Current hours of operation: 9 am to 3 am, seven days a week;
- Patio hours of operation: 9 am to 11 pm, seven days a week. No entertainment or music may be permitted in the outdoor patio; and
- Food and beverage service will be provided.

As a neighbour, we welcome your comments regarding this proposal no later than three weeks from the date of this notice. You may write to the Licence Coordinator at liquor.comments@vancouver.ca or leave a voice message at 604.871.6555.

For more information about the City's licensing and requirements for liquor serving establishments, visit: vancouver.ca/doing-business/liquor-serving-establishments

Information about Provincial liquor primary licence regulations is found in the BC Liquor Control and Licensing Regulation. **Website:** <https://gov.bc.ca/lcrb>



Three great streets.
One amazing neighbourhood.
DAVIE. DENMAN. ROBSON.

April 26, 2022

Sarah Hicks
Chief License Inspector - Licensing and Policy
City of Vancouver
453 West 12th Ave.
Vancouver, B.C. V5Y 1V4

Re: Fountainhead Pub (1025 Davie Street) – Application for an amendment to a liquor license

Dear Sarah,

On behalf of the West End Business Improvement Association (WEBIA), I would like to express our support for the application submitted by the Fountainhead Pub, located at 1025 Davie Street, to amend their primary liquor license to expand their interior and outdoor patio capacity.

The Fountainhead Pub has operated in Davie Village for more than twenty years, and has been an integral member of our community, serving as a prime LGBTQ2S+-friendly destination for locals and visitors alike. Their expansion into the adjacent space, which has been vacant since 2020, will positively impact the 1000 block of Davie Street, and the entertainment district, by activating a long-term vacancy and attracting more people into the neighbourhood.

WEBIA is a non-profit association that represents the interests of approximately 650 businesses and property owners across our three main commercial streets of Davie, Denman, and Robson. Ensuring our commercial streets are healthy and vibrant is key to the WEBIA's mandate. As such, we are actively engaged in various marketing, beautification, safety, economic development, and advocacy initiatives that support neighbourhood vitality. Advocating for a robust retail mix is critical, especially for a local-serving neighbourhood like the West End, which has unfortunately experienced a threefold increase in vacancies since 2013.

Aside from active storefronts, people and patios create animation on our commercial streets and WEBIA is a strong supporter of a patio zone within Davie Village. During the pandemic, WEBIA had the opportunity to successfully pilot more than twenty patios along Davie Street between Burrard and Jervis Streets, including a temporary one at the Fountainhead Pub, and would like to see this become a legacy in the West End, whether seasonal or all year round.

We fully support the Fountainhead Pub's application for an amendment to its primary liquor license and look forward to the positive connection and contribution they will continue to have within our community.

Sincerely,

Teri Smith,
Executive Director, West End Business Improvement Association

**THE WEST END BUSINESS
IMPROVEMENT ASSOCIATION**

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