



Committee of the Whole Report

For the Meeting of June 7, 2018

To: Committee of the Whole **Date:** May 11, 2018

From: Jonathan Tinney, Director, Sustainable Planning and Community Development

Subject: Application for a Permanent Change to Hours of Service for a Food Primary License (0302087), Earl's Restaurant, 1199 Government Street.

RECOMMENDATION

That Council direct staff to provide the following response to the Liquor Licensing Agency:

1. Council, after conducting a review with respect to noise and community impacts, does support the application of Earl's Restaurant, located at 1199 Government Street to change hours from 9:00 am to 12:00 am, Sunday through Thursday and 9:00 am until 1:00 am, Friday and Saturday to 9:00 am to 1:00 am, Sunday through Thursday, and 9:00 am until 2:00 am Friday and Saturday.

Providing the following comments on the prescribed considerations:

- a. The impact of noise on the community in the vicinity of the establishment has been considered. Consideration of the application with respect to potential to generate noise related issues has not resulted in specific concerns associated to the operator or the change in hours.
- b. If the application is approved, the net impact on the community is expected to be positive economically as the approval supports the request of the business and presumably their long term viability as a local business and employer.
- c. The views of residents were solicited via a mail out to neighbouring property owners and occupiers within 100 metres of the licensed location and a notice posted at the property. The City received two letters in support of the application and one letter from the Downtown Victoria Residents Association expressing neutrality. No letters were received in opposition.
- d. Council recommends support for approval to change the hours of operation for the licensee.

PURPOSE

The purpose of this report is to seek Council resolution, in accordance with the requirements of the *Liquor Control and Licensing Act* (the Act), regarding an application by Earl's Restaurant to change their Food Primary License service hours at 1199 Government Street as follows.

Current Hours of Liquor Service:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	9:00 am	9:00 am	9:00 am	9:00 am	9:00 am	9:00 am	9:00 am
Close	12:00 am	12:00 am	12:00 am	12:00 am	1:00 am	1:00 am	12:00 am

Proposed Hours of Liquor Service:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	9:00 am	9:00 am	9:00 am	9:00 am	9:00 am	9:00 am	9:00 am
Close	1:00 am	1:00 am	1:00 am	1:00 am	2:00 am	2:00 am	1:00 am

BACKGROUND

The Liquor Control and Licensing Branch (LCLB) issues liquor licences under the authority of the *Liquor Control and Licensing Act* and regulations. Local governments are asked to provide comments and recommendations to the LCLB on all food-primary licence applications open past midnight regarding:

1. The potential for noise,
2. impact on the community if the application is approved, and
3. whether the amendment may result in the establishment being operated in a manner that is contrary to the primary purpose.

LCLB applications for a permanent change to hours of business for Food Primaries do not require the applicant to submit a corresponding letter of intent.

A map of the subject property and the immediate area is attached to this report (Appendix A).

As noted above, this application is for a permanent change of hours to an existing Food Primary license and, therefore, the LCLB is requesting a resolution from the City of Victoria regarding the application.

ISSUES & ANALYSIS

The following sections will identify the key issues and provide analysis for Council's consideration.

City Liquor Licensing Policy

The City's Liquor Licensing Policy directs staff to consider applications for Food Primaries having hours of operation not later than 2:00 am. The applicable Council Policy is attached to this report (Appendix B).

The hours of licensed service proposed in the application are within the parameters of the policy.

City Referrals

An inter-departmental review of the project has been undertaken by City staff. The inter-departmental review includes circulation to Police, Bylaw, Planning, Community Development and Engineering. That review has resulted in the following feedback:

- The extension of hours contributes incrementally to the hours of licenced service available and in doing so, increases potential for issues associated with over-consumption to be perpetuated into the morning.

Community Consultation

In accordance with the City's Liquor Licensing Fee Bylaw and Liquor Licensing Policy, all property owners and occupiers within 100 metres of the applicant's location were solicited by a mailed notice to provide input regarding this application. In addition, Earl's Restaurant displayed a notice poster at its entrance for 30 days which invited people to provide input to the City with respect to this application.

Two letters were received in support of the application and one letter from the Downtown Victoria Resident's Association expressed neutrality. No letters were received opposing the application to change the hours.

The Downtown Victoria Resident's Association submitted a letter stating neutrality on the application and attributed the inability to reach consensus to a lack of information in the application. Specifically, the DVRA would have liked a letter of intent from the applicant. LCLB applications vary and while some do have a requirement for a letter of intent to be submitted with the application, this is not the case for a change to hours of business for a food primary licensee.

All letters are available in Appendix C.

Applicant Response

As is standard practice as a part of the liquor licence process, after City staff give input, the applicant has a chance to review the information (and this report) and respond prior to the report being forwarded to Council. After the applicant reviewed this report, the applicant declined on the opportunity to provide additional correspondence.

IMPACTS

Strategic Plan 2015 – 2018

The recommendation to support the application is likely to increase the business viability of the club, which is consistent with Strategic Plan Objective #5 - *Create Prosperity Through Economic Development*.

Impacts to Financial Plan

None

Official Community Plan

The existing and proposed uses of the liquor primary license are consistent with the *Official Community Plan* objectives for this neighbourhood.

CONCLUSIONS

In summary, after conducting a review with respect to noise and community impacts and soliciting community views regarding Earl's Restaurant's application for a change to hours of licenced service, it is considered that the proposal is consistent with current City policy.

The establishment has a long history of responsible operation, and issues related to consumption of alcohol are not known. While moderate concern was expressed by staff, the application is supportable based on existing policy.

Therefore, staff recommend that Council consider directing staff to notify the Liquor Licensing Agency that Council supports the application for the change to hours of licenced service.

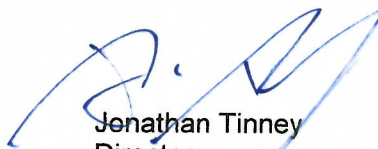
ALTERNATE MOTION (No Support)

That Council, after conducting a review with respect to noise and community impacts regarding the application for a change to hours of licenced service, at Earl's Restaurant, 1199 Government Street, does not support the application for the change to hours of licensed service.

Respectfully submitted,



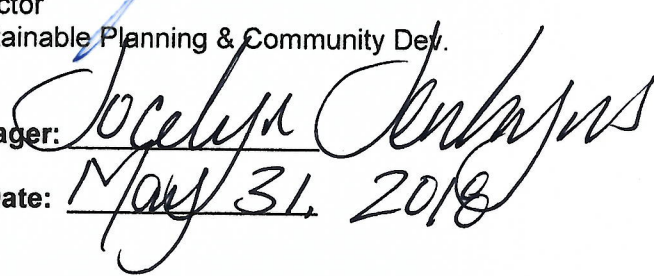
Ryan Morhart
Manager
Permits & Inspections



Jonathan Tinney
Director
Sustainable Planning & Community Dev.

Report accepted and recommended by the City Manager:

Date:


May 31, 2018

List of Attachments

- Appendix A: Aerial photograph (map) of the establishment and surrounding area.
- Appendix B: Liquor Licencing Policy – October 12, 2017
- Appendix C: Letters from the public
- Appendix D: Provincial Liquor License Types