

Committee of the Whole Report
For the Meeting of January 31, 2019

EXECUTIVE SUMMARY

The purpose of this report is to seek a Council resolution, in accordance with the requirements of the *Liquor Control and Licensing Act*, regarding an application by Hudson Brew Corp. to add a Lounge Endorsement to each of the Manufacturer's Licences and having hours of operation from 9:00 am to 12:00 am daily with an occupant load of 358 persons at 785 Caledonia Avenue. The application has been reviewed by City staff including Planning, Engineering, Business and Community Relations, Bylaw, and Police. In addition, a public notification process has been conducted, as required by the Liquor Licence Policy, to allow individuals and the community to share comments through written correspondence. The application has been reviewed against technical policy, inputs provided by City staff, and through the public notification process. The proposal has also been considered in the context of the local vicinity and the City as a whole, all of which are reflected in this report and the resulting recommendation.

The Hudson Brew Corps.' application to add a Lounge Endorsement to each of the Manufacturer's Licences and having hours of operation from 9:00 am to 12:00 am daily and an occupant load of 358 persons is not in conflict with the City's current Liquor License Policy. Staff have not identified any technical rationale to oppose the application and the Opportunity for Public Comment has resulted in limited opposition. The Police, Bylaw and Business and Community Relations departments have identified the relationship between mixed-use developments and potential for creating noise related issues where tenancy is given to liquor related establishments. Opportunity for Public Comment included two letters in support of the application, and seven opposed, and no correspondence was received from the Community Association Land Use Committee.

The applicant had initially requested daily hours from 9:00 am to 1:30 am, and in respect of staff comments, the applicant voluntarily adjusted the daily hours from 9:00 am to 12:00 am. Staff have recommended for Council's consideration that a resolution be made regarding the application, and that Council support the application to add a Lounge Endorsement to each of the Manufacturer's Licences and having hours of operation from 9:00 am to 12:00 am daily with an occupant load of 358 persons at 785 Caledonia Avenue.

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 Hudson Brew Corp. to have a lounge endorsement added to each of their two manufacturing licenses and having hours of operation from 9:00 am to 12:00 am daily with an occupant load of 358 persons.

The letter of intent provided in conjunction with the application is included as Appendix B.

BACKGROUND

The Liquor and Cannabis Regulations Branch (LCRB), formerly the Liquor Control and Licensing Branch (LCLB), issues liquor licences under the authority of the *Liquor Control and Licensing Act* and regulations. LCRB determines the category of licence appropriate for the business based on submitted details. In the case of Hudson Brew Corp., the establishment will have two manufacturing licences, one for the manufacturing of spirits and the other for the manufacturing of brewed beverages. The manufacture licences with lounge endorsements are the appropriate licences for the proposed business model, and while they are not a food primary, licence conditions do require that food is available while open. The manufacturing licence component of an application is not referred to local governments; however, lounge endorsement applications are. At a minimum, the manufacturing component can be approved with no input from the local government.

With regard to the applications for lounge endorsements on each manufacturing licence at Hudson Brew Corp., the local government is asked to provide comments and recommendations to the LCRB regarding:

1. The impact of noise on nearby residents.
2. Impact on the community if the application is approved.

A map of the subject property and the immediate area is attached to this report (Appendix B) and illustrates the 100m public notification area targeted for comment.

As noted above, this application is to permit a lounge endorsement for each of the two manufacturing licenses and having hours of operation from 9:00 am to 12:00 am daily with an occupant load of 358 persons. The Liquor and Cannabis Regulations Branch is requesting a resolution from the City of Victoria regarding the application and the review criteria noted above.

ISSUES & ANALYSIS

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

Zoning

The site is zoned for a Brew-Pub, which is defined as facilities used for the consumption of beer, spirits, wine or other alcoholic beverages that are produced and manufactured on the premises and which may be provided in combination with Food and Beverage Service or Retail Trade. The zone places no restrictions on occupant loads or hours of operation. The production and manufacturing area for a Brew Pub (beer, spirits, wine) must not be located above the first-storey of a building and is not permitted within 6m of the wall of any building that abuts a street or pedestrian walkway, except where the Brew Pub (beer, spirits, wine) is provided in conjunction with Retail Trade or Food and Beverage Service. Production capacity is limited to not more than 35% of the first-storey floor area of a Brew Pub (beer, spirits, wine) for the purpose production and manufacturing of beer, spirits, wine and other alcoholic beverages.

Compliance is demonstrated through an application for a building permit and the resulting construction is verified for compliance through a City inspection process related to the issued building permit.

Noise Bylaw

The City's Noise Bylaw sets forth limits on four key areas within the City which are the Quiet District, Intermediate District, Harbour Intermediate and Activity District. The Hudson Brew Corp. is within the Intermediate Noise District and limited to 60 dBA at the point of reception during daytime hours which end at 10:00 pm. During nighttime hours, noise at the point of reception received is limited to 50dBA in Quiet districts, 55dBA in the Harbour Intermediate and Intermediate districts and 65 dBA in the Activity district. 50dBA is comparable to rainfall, light traffic or a refrigerator; 60dBA is comparable to conversational speech or an air conditioner. Where issues of non-compliance exist, Bylaw Officers and Police have authority to order compliance.

The City of Victoria Noise District Map is included for reference (Appendix C).

Vicinity and Municipal Impacts

Predictability of noise related issues or other community impacts, negative or positive in effect, is challenging due to several variable factors. The business model, target clientele, the quality of the owner/operator, existing density of licenced capacity in the area, hours of service, demographics, and fluctuating populations due to tourism, factor into predicting the likelihood of noise related issues and impacts on the community.

Consideration of those factors can assist a municipality to predict negative aspects associated with licenced establishments. The factors considered with the approval of an application change over the life of a licenced establishment. When factors change, and if unanticipated issues arise, the course of action to re-establish compliance related to noise and other aspects is to use tools of enforcement including LCRB enforcement which ensures responsible and appropriate service as required by the terms of the licence with LCRB. The Noise Bylaw can be enforced to bring an establishment into compliance, and police have authority to bring an establishment back into compliance where issues are more complex.

The Hudson Brew Corp.'s application has been considered with regard to the impact it would have on the community and its potential to generate noise related issues. The impact has been considered in terms of the vicinity and within the city as a whole. The category of licence required by the Hudson Brew Corp. for their operational concept is a Manufacturer's Licence with Lounge Endorsement. This type of licence carries a requirement that manufacturers must provide, at a minimum, a variety of hot or cold snacks and non-alcoholic beverages during all hours of operation. The establishment is neither a Liquor Primary nor Food Primary establishment but has been compared to both to illustrate the impact it is likely to have on the local vicinity.

Vicinity Analysis – Licenced Occupant Load and % Increase							
	Hudson Brew Corp Seating	Existing Liquor Primary Seats	Increase in Seat Capacity	Existing Food Primary Seats	Increase in Seat Capacity	All Existing Seats	Increase in Seat Capacity
9:00 AM	358	9,338	3.8%	383	93.5%	9,721	3.7%
12:00 AM	358	14,708	2.4%	948	37.8%	15,656	2.3%
City Wide Analysis							
	Hudson Brew Corp Seating	Existing Liquor Primary Seats	Increase in Seat Capacity	Existing Food Primary Seats	Increase in Seat Capacity	All Existing Seats	Increase in Seat Capacity
9:00 AM	358	13,102	2.2%	24,978	1.4%	41,080	0.9%
12:00 AM	358	41,208	0.9%	54,312	0.7%	95,520	0.4%

The local vicinity and the city as a whole have been considered in terms of impact related to occupant load and hours of operation. The application is seen to be modest in terms of existing licence capacity, and if approved, represents a 2.3% increase to licenced capacity in the evening hours within the vicinity, and an increase of 0.4% city wide. Vicinity information is attached as Appendix D.

The applicant had originally sought closing hours of 1:30 am, but after considering hours of other establishments in the area, the application was amended to propose a 12:00 am closing time which is common to the majority of licenced establishments in the vicinity. This application contributes in terms of licenced capacity to the vicinity and the city but does not contribute in terms of extending hours beyond that which is common to the area.

City Liquor Licensing Policy

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

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

City Referrals

An interdepartmental review of the project has been undertaken by City staff. The interdepartmental review includes circulation to the Planning, Engineering, Business and Community Relations, Bylaw, and Police departments. The review has resulted in the following feedback, and in response to that feedback, the applicant has revised closing hours from 1:30 am to 12:00 am to minimize the impact of concerns identified by staff.

Planning

- The application is supportable as the site is within the Central Business District which envisions commercial employment uses and the establishment is zoned appropriately. It meets the floor area limitations for production areas associated with the use. The development is a mixed-use building with residential uses and commercial uses at street level.

Engineering

- Transportation related noise impacts or general community impact are not anticipated.

Business and Community Relations

- The Business and Community Relations Department identified the potential issues associated with mixed-use arrangements: hours of operation were encouraged to be in keeping with normalized hours within the area to minimize impacts associated with the establishment's proximity to densified residential occupancies; patios were noted to have more potential to cause noise related impacts to the overall development.

Bylaw

- The Bylaw Department identified that, in general, mixed-use development would have a higher potential for noise related issues.

Police

- The Police Department identified the establishment's location in a mixed-use development and its proximity to densified residences. Police recommend that the establishment has closing hours of 11:00 pm Friday and Saturday and 10:00 pm Sunday through Thursday with the patio closing daily at 10:00 pm or earlier daily. Full Police comments attached separately as Appendix F.

The applicant has voluntarily revised closing hours from 1:30 am to 12:00 am in response to the staff comments. While staff was not consistent with recommended closing times, from a provincial perspective relative to Food Primary establishments, midnight can be considered as normal or expected. LCRB's Food Primary licence category, regardless of occupant load, is not referred to local government for consideration of impacts unless the closing hours are past midnight. This is recognized as a baseline for potential impact associated with the establishment as any Food Primary establishment could occupy the space with no limitations on occupant loads (capacity) and without consideration by local government where hours do not extend beyond midnight.

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, Hudson Brew Corp. displayed a notice poster at the entrance for 30 days which invited people to provide input to the City with respect to this application.

A total of nine letters were received, two in support of the application and seven expressing concern or opposition. Concerns were similar in nature to those expressed by staff and focused on potential for issues due to the nature of the development, as well as, existing circumstances associated with the arena and other establishments in the area. Individuals also expressed concern for the development in general. The letters are available in Appendix G.

Applicant Response

As is standard practice, as a part of the liquor licence process, after City staff gives 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 City staff comments, the applicant chose to provide additional correspondence related to the staff review. The correspondence received addresses areas of concern brought forward by staff and serves to reinforce the business model's compatibility with the area. The applicant has also included an additional letter of support; both letters are included in Appendix H.

In summary, after conducting a review with respect to noise and community impacts and soliciting community views regarding Hudson Brew Corp.'s application to have a lounge endorsement added to each of their two manufacturing licenses, and having hours of operation for the lounge from 9:00 am to 12:00 am daily with an occupant load of 358 persons, it is considered that the proposal is consistent with current City policy. Therefore, staff recommend that Council consider directing staff to notify the Liquor Licensing Agency that Council supports the application for the addition of lounge endorsements to each of the manufacturing licenses.

IMPACTS

Accessibility Impact Statement

None

Strategic Plan 2015 – 2018

The recommendation to support the application is likely to increase the business viability of the pub, 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 lounge endorsement and manufacturing license are consistent with the *Official Community Plan* (2012) objectives for this neighbourhood.

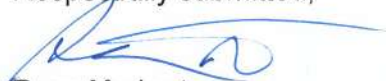
CONCLUSIONS

The application to add lounge endorsements to each of Hudson Brew Corp's two manufacturing licenses and having hours of operation for the lounge from 9:00 am to 12:00 am daily and an occupant load of 358 persons is not in conflict with the City's current liquor licensing policy. Potential impacts related to noise are expected to be proportional based on existing capacity in the vicinity and within the city, and since the establishment has proposed hours common to others in the area, the impact is predicted to be minimal. The site is appropriately zoned for the use and hours of operation are consistent with others in the area; therefore, staff recommend for Council's consideration that a resolution be made regarding the application and that Council support the application for lounge endorsements for Hudson Brew Corp., o/a Hudson Taphouse and Grill Brewery and Distillery

ALTERNATE MOTION (No Support)

That Council, after conducting a review with respect to noise and community impacts regarding the application to add lounge endorsements to the manufacturing licences of Hudson Brew Corp., o/a Hudson Taphouse and Grill Brewery and Distillery, at 2010 Government Street, does not support the request for the amendment.

Respectfully submitted,



Ryan Morhart
Manager
Permits & Inspections



Andrea Hudson
Acting Director
Sustainable Planning & Community Dev.

Report accepted and recommended by the City Manager:



Date:

Jan 25, 2019

List of Attachments

- Appendix A: Rationale Letter
- Appendix B: Site Map
- Appendix C: Noise District Map
- Appendix D: Vicinity Map
- Appendix E: Council Policy
- Appendix F: Police Comments
- Appendix G: Public Response from 30 day posting
- Appendix H: Applicants Comments
- Appendix I: Provincial Liquor License Types