

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 Spinnakers to change hours of licenced service associated with their liquor primary licence from 11:00 am to 11:00 pm daily to 9:00 am to 12:00 am daily. The application has been reviewed by City staff including Planning, Engineering, Business and Community Relations, Bylaw, and Police. In addition, a public notification process is 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, and inputs provided by City staff, and through the public notification process have been considered. 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.

Spinnakers application to adjust hours associated with their liquor primary licence from 11:00 am to 11:00 pm daily to 9:00 am to 12:00 am is not in conflict with the City's current Liquor License Policy; however, a restrictive covenant exists which prohibits the owner from providing licenced service past 11:00 pm daily. Police, Bylaw and Business and Community Relations have expressed no concern for an adjustment of opening hours to 9:00 am. The public notification process provided 30 days for individuals to provide comment which resulted in fourteen letters received regarding the application. Six were opposed to any adjustment to existing hours while eight expressed no concern or support for an adjustment to opening hours. The Victoria West CALUC did not provide correspondence regarding this application. Staff have recommended for Council's consideration that a resolution be made regarding the application, and that Council support the application to change the opening hours only for the liquor primary license of Spinnakers from 11:00 am to 9:00 am daily and request that LCRB adjust the food primary closing hours from 12:00 am to 11:00 pm.

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 Spinnakers to change their Liquor Primary License service hours at 308 Catherine Street as follows.

Current Hours of Liquor Service:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	11:00 am	11:00 am	11:00 am	11:00 am	11:00 am	11:00 am	11:00 am
Close	11:00 pm	11:00 pm	11:00 pm	11:00 pm	11:00 pm	11:00 pm	11:00 pm

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	12:00 pm	12:00 pm	12:00 pm	12:00 pm	12:00 pm	12:00 pm	12:00 pm

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 liquor-primary licence applications regarding:

1. The potential for noise.
2. Impact on the community if the application is approved.

LCLB applications for a permanent change to hours of business for Liquor 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 to the hours of liquor service for the Liquor Primary License. The Liquor Control and Licensing 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 properly zoned for the establishment and the operations of the establishment are limited by a restrictive covenant registered to the property which prohibits licenced service past 11:00 pm daily.

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. Spinnakers 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 50 dBA in Quiet districts, 55 dBA in the Harbour Intermediate and Intermediate districts and 65 dBA in the Activity district. 50 dBA is comparable to rainfall, light traffic or a refrigerator and 60 dBA 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 B)

Vicinity and Municipal Impacts

Predictability of noise related issues or other community impacts, negative or positive in effect, is challenging due to a number of variable factors. The business model, target clientele, quality of 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 in conjunction with any application approval at time of consideration change over the life of a licenced establishment, and when they do change, and unanticipated issues arise, the fall back to re-establish compliance related to noise and other aspects is to use tools of enforcement. These tools include LCRB enforcement which ensure 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.

Spinnakers' application has been considered regarding 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, and since Spinnakers is the only licenced establishment in the area, impacts are therefore more predictable. Spinnakers has a liquor and a food primary

licence. The food primary currently has opening hours of 9:00 am and the liquor primary opens at 11:00 am. Regardless of the hour of day, reported issues are not known to exist with respect to the establishment's licenced service to patrons.

Since there are no other licenced establishments in the area, analysis is straight forward in that approval of the request will result in an additional 118 licenced seats between the hours of 9:00 am and 11:00 am. This capacity is in addition to the existing 189 seat capacity associated with the food primary licence, and in total, would represent a 59% increase in licenced capacity between the hours of 9:00 am to 11:00 am.

City wide, the addition of 118 seats at 9:00 am to the existing capacity of 32,570 licenced seats at that hour represents a 0.36% increase to licence capacity.

The hours of licenced service proposed for Spinnakers liquor primary licence align with their hours of service for the food primary licence and approval of revised opening hours is therefore seen to be consistent with licenced hours in the area. (Appendix C: Vicinity Map)

City Liquor Licensing Policy

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

The hours of licensed service proposed in this 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 Bylaw, Planning, Business and Community Relations, Engineering and Police Departments. That review has resulted in the following feedback:

- Review of the application has revealed the existence of a restrictive covenant to which the owner and the City are party, and this covenant prohibits the establishment from providing licenced service past 11:00 pm daily. Therefore, staff can support the request to provide licenced service at 9:00 am, but cannot support hours beyond 11:00 pm.
- Planning and Engineering Staff do not anticipate a noticeable impact on existing noise levels during licenced hours, transportation or the community in general due to the earlier hours and Bylaw Services has expressed no concern for the application.
- Police have no concern with earlier hours. Comments are available in Appendix E

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 establishment were solicited by a mailed notice to provide input regarding this application. In addition, Spinnakers displayed a notice poster at its entrance for 30 days which invited people to provide input to the City with respect to this application.

Fourteen letters were received regarding the application, and of those, six were opposed to any adjustment to existing hours while eight expressed no concern or support for an adjustment to opening hours. The Victoria West CALUC did not provide correspondence regarding this application.

All letters are available in Appendix F.

Applicant Response

As is standard practice as 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. The applicant acknowledged the covenant, and admitted that it had been forgotten. The applicant has indicated that they will not initiate a request to adjust the covenant and understand that only the opening hours may be adjusted. The applicant has also indicated that, while their LCRB food primary licence is approved for closing hours of 12:00 am, the posted hours and operational practices ensure licenced service is not provided beyond 11:00 pm.

In summary, after conducting a review with respect to noise and community impacts, and soliciting community views regarding Spinnakers' application to permanently change hours from 11:00 am to 11:00 pm daily to 9:00 am to 12:00 am daily at 308 Catherine Street, it is considered that the proposal is consistent with current City policy, and recognized that a covenant registered to the parcel impacts the City's ability to support the application. Therefore, it is recommended that Council consider directing staff to notify the Liquor and Cannabis Regulation Branch to indicate support for the application to adjust opening hours from 11:00 am to 9:00 am, and indicate no support for an adjustment to closing hours beyond 11:00pm, and also requests LCRB to adjust closing hours of the food primary licence to 11:00 pm to reflect the terms of the covenant.

IMPACTS

Accessibility Impact Statement

None

Strategic Plan 2015 – 2018

The recommendation to support the application is likely to increase the economic 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 OCP includes a strategic direction to maintain a diversity of employment uses in Victoria West.

CONCLUSIONS

The application regarding the Liquor Primary License for Spinnakers to change hours from 11:00 am to 11:00 pm daily to 9:00 am to 12:00 am daily is not in conflict with the City's current liquor licensing policy; however, in consideration of the restrictive covenant on title, staff recommend for Council's consideration that a resolution be made regarding the application, and that Council support the application to change the opening hours only for the Liquor Primary License of Spinnakers from 11:00 am to 9:00 am daily and request that LCRB adjust the food primary closing hours from 12:00 am to 11:00 pm.

ALTERNATE MOTION (No Support)

Alternate Motion

That Council, after conducting a review with respect to noise and community impacts regarding the application to extend hours of liquor service for a Liquor Primary License, Spinnakers, 308 Catherine Street, does not support the request for the amendment.

Respectfully submitted,

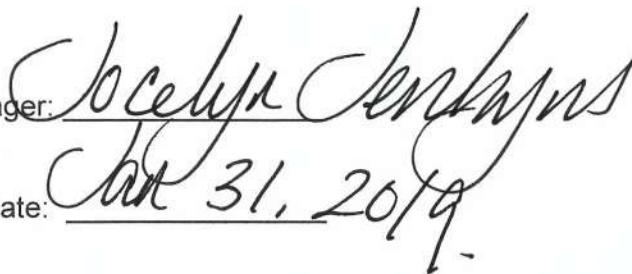


Ryan Morhart
Manager
Permits & Inspections



Andrea Hudson
Acting Director
Sustainable Planning & Community Dev.

Report accepted and recommended by the City Manager:



Date:

Jan 31, 2019

List of Attachments:

- Appendix A: Site Map with 100 m buffer
- Appendix B: Noise District Map
- Appendix C: Vicinity Map
- Appendix D: Liquor Licencing Policy – October 12, 2017
- Appendix E: Police Comments
- Appendix F: Public Response from 30 day posting
- Appendix G: Provincial Liquor License Types