



Committee of the Whole Report

For the Meeting of April 4, 2019

To: Committee of the Whole **Date:** March 6, 2019

From: Andrea Hudson, Acting Director, Sustainable Planning and Community Development

Subject: Application for increased hours for The Beagle Pub's liquor primary licence at 301 Cook 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 The Beagle Pub located at 301 Cook Street having hours of operation from 11:00 am to 11:00 pm Monday through Thursday, 11:00 am to 12:00 am Friday, 9:00 am to 12:00 am Saturday, and 9:00 am to 11:00 pm Sunday.

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 in relation to the request and assumptions are the noise impacts would be proportional in comparison to existing licence capacity and associated noise levels in the vicinity. The request, if approved affects only opening hours on Saturday and Sunday allowing the establishment to open two hours early on those days and the adjustment is not likely to cause additional impacts.
- b. If the application is approved, the impact on the community is expected to be positive economically as the approval supports the business plan and long term viability of the establishment.
- c. The views of residents were solicited via a mail out to 306 neighbouring property owners and occupiers within 100 metres of the licensed location and a notice posted at the property. The City received nine letters in response to the request which included three in support of the application and six opposed.
- d. Council recommends the license endorsements be approved.

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 The Beagle Pub to increase existing hours of operation to affect opening times only on Saturday and Sunday. Current opening time is 11:00 am on both days and the requested change is to set 9:00 am as the opening time, and no changes are proposed to closing times or opening times on any other days. The application has been reviewed by City staff including Planning, Engineering, Business and Community Relations, Bylaw, and Police. In addition, a public notification process was 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, input provided by City staff, and comments received 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.

The Beagle Pub's application to change the opening time from 11:00 am to 9:00 am on Saturdays and Sundays is not in conflict with the City's current Liquor License Policy. Approval of an adjusted opening time on Saturday and Sunday is unlikely to have impacts beyond what currently exist. Opportunity for public comment included three letters in support of the application, six opposed, and no correspondence was received from the community association.

Staff have recommended for Council's consideration that a resolution be made regarding the application, and that Council support the change to opening time to 9:00 am from what is currently 11:00 am, on Saturday and Sunday only, for The Beagle Pub at 301 Cook Street.

PURPOSE

The purpose of this report is to seek a Council resolution, in accordance with the requirements of the *Liquor Control and Licensing Act* (the Act), regarding an application by The Beagle Pub to change the opening time from 11:00 am to 9:00 am on Saturday and Sunday only.

BACKGROUND

The Liquor and Cannabis Regulations Branch (LCRB) 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 The Beagle Pub, the establishment is regulated under a liquor primary licence.

The application is to extend hours of licensed service associated with the liquor primary licence for The Beagle Pub to allow a 9:00 am opening time on Saturday and Sunday. Existing opening hours on Saturday and Sunday is 11:00 am. Please see the applicant's proposal and rationale in Appendix A. Local government is asked to provide comments and recommendations to the LCRB on all liquor-primary licence applications 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.

ISSUES & ANALYSIS

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

Zoning

The establishment is existing and the proposed change is supportable as the zoning of the property permits neighbourhood pub use. Hours of business are not regulated by the Zoning Regulation Bylaw, and there are no restrictions registered on the title of the property that would prevent the change.

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 Beagle Pub is within the Intermediate Noise District and limited to 60dBA 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 65dBA in the Activity district. 50dBA is comparable to rainfall, light traffic or a refrigerator and 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 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 the time of consideration, change over the life of a licenced establishment. 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 additional authority to bring an establishment back into compliance where issues are more complex.

The Beagle Pub'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 establishment is regulated under a liquor primary licence and has been compared in terms of existing capacity in the vicinity and city wide for comparison and understanding of likely impact.

Vicinity Analysis – Licenced Occupant Load and % Increase							
Opening & Closing Hours	The Beagle Pub	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	144	144	100%	249	n/a	393	57.8%
City Wide Analysis							
Opening & Closing Hours	The Beagle Pub	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	144	15,694	0.90%	16,965	n/a	32,659	0.40%

The local vicinity and the city as a whole have been considered in terms of impact related to occupant load and hours of operation, and if approved, represents an overall increase to licenced seating in the vicinity of 57.8% at 9:00 am. On a city wide basis, the approval would represent a 0.40% increase to available licenced capacity at 9:00 am. Vicinity information is attached as Appendix D.

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 inter-departmental review of the project was undertaken and included circulation to Planning, Engineering, Community and Business Relations, Bylaw, and Police. That review has not resulted in concerns associated with adjusted hours if approved.

Planning

- The application is supportable as the existing establishment is permitted in the Zoning Regulation Bylaw.

Engineering

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

Community and Business Relations

- No concerns have been identified with the request.

Bylaw

- Bylaw supports Community and Business Relations conclusion that no concern exists related to the proposed change.

Police

- Police have no objections with this request. Full police comments are available in Appendix F.

The Beagle is the only liquor primary in the area, so the proposed increase in their hours represents a 100% increase in liquor primary seating capacity for the hours between 9:00 am and 11:00 am. However, of the seven licenced establishments in the vicinity, five are currently entitled to provide licenced service at 9:00 am on Saturday and Sunday. The Beagle Pub is a liquor primary establishment while the other five existing establishments are licenced as food primary. The request is seen to be consistent with hours established for licenced service in the area.

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, The Beagle Pub displayed a notice poster at the entrance for 30 days which invited people to provide input to the City with respect to this application.

Nine letters were received in response which included three in support of the application and six opposed. 306 public notification letters were distributed in conjunction with this application. No correspondence was received from the representative community association. The letters are available in Appendix G.

Applicant Response

As is standard practice, after City staff provides input, community feedback is received and the report is prepared for COTW, the applicant has a chance to review and respond to issues and concerns expressed if they exist 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 (see Appendix H).

IMPACTS

Accessibility Impact Statement

None

Strategic Plan 2019 – 2022

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 application to change hours of licensed service is consistent with the *Official Community Plan* which designates the property within a Large Urban Village which envisions commercial uses including pubs.

CONCLUSIONS

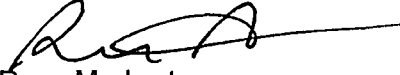
The application to extend hours is supportable where hours of operation are 11:00 am to 11:00 pm Monday through Thursday, 11:00 am to 12:00 am Friday, 9:00 am to 12:00 am Saturday, and 9:00

am to 11:00 pm Sunday. The site is appropriately zoned for the use, and potential impacts related to noise are expected to be minimal as the hours of operation are in keeping with other establishments in the area. Staff recommend for Council's consideration that a resolution be made regarding the application and that Council support the recommendation associated with The Beagle Pub's application for increased hours.

ALTERNATE MOTION (No Support)


That Council, after conducting a review with respect to noise and community impacts regarding the application of The Beagle Pub, at 301 Cook 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: March 28, 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