



Committee of the Whole Report

For the Meeting of August 1, 2019

To: Committee of the Whole **Date:** July 10, 2019

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

Subject: Application for a Change to Hours for Café Veneto, Food Primary License at 1450 Douglas 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 Café Veneto located at 1450 Douglas Street having hours of operation from 9:00 am to 1:00 am daily with the existing occupant load of 96 persons.

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 negligible based on experience with the operator, and nature of the request. The requested hours of operation in conjunction with the existing occupant load are not expected to result in negative impacts to the community.
- 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. If the application is approved, it is not expected to result in the service area being operated in a manner contrary to the primary purpose.
- d. The views of residents were solicited via a mail out which included 370 letters 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 response to the request, both of which supported the application and included one letter of support from the Downtown Residents Association.
- e. 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 Café Veneto. The Hotel is

currently processing two applications simultaneously and this application is for a food primary licence operating as Café Veneto, and the other application is for a liquor primary licence operating as Veneto Tapa Lounge. The application is to adjust existing hours, 11:00 am to 12:00 am daily to 9:00 am to 1:00 am daily. The existing occupant load is not proposed to change and is 96 persons. 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, 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.

Café Veneto's application to change existing hours to 9:00 am to 1:00 am daily with an existing occupant load of 96 is not in conflict with the City's current Liquor License Policy. Generally speaking, and outside of police concerns related to resources, staff have not expressed concern for the adjustment mainly due to the small size of the existing establishment. Opportunity for public comment included two letters, both of which supported the application. Staff have recommended for Council's consideration that a resolution be made regarding the application, and that Council support the application to change hours of operation to 9:00 am to 1:00 am daily with an occupant load of 96 persons at 1450 Douglas 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 Café Veneto to increase hours of operation associated with their existing food primary licence

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 Café Veneto, the establishment is regulated under a food primary licence.

This application is to extend hours of licensed service with no change to occupant load of an existing food primary license for Café Veneto. The letter of intent provided in conjunction with the application is included as Appendix A.

The existing hours are 11:00 am to 12:00 am daily with an existing occupant load of 96 persons. The application seeks a change to the hours and not the occupant load, proposing 9:00 am to 1:00 am daily. The LCRB is requesting a resolution from the City of Victoria regarding:

1. The impact of noise on nearby residents.
2. Impact on the community if the application is approved.
3. Whether the amendment will result in the service area being operated in a manner that is contrary to the primary purpose.

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 identify key issues and provide analysis for Council's consideration:

Zoning

Zoning for the establishment is Old Town District 1, which permits "drinking establishments," and imposes no restriction on hours or occupant loads. Compliance would be demonstrated through application for a building permit and the resulting construction verified for compliance through the City inspection process related to an 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. Café Veneto 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 several 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 fallback 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.

Café Veneto's application has been considered regarding the impact it would have on the community and its potential to generate noise related issues. The establishment is regulated under a food primary licence and has been compared in terms of existing capacity in the vicinity and citywide, for comparison and understanding of likely impact.

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 the application is seen to be modest in terms of existing licence capacity. If approved, it represents a 11.7% increase to food primary licenced capacity in the evening hours within the vicinity and an increase of 0.2% citywide. 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 resulted in the following feedback.

Planning

- The application is supportable as the establishment is zoned appropriately for use as a drinking establishment.

Engineering

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

Community and Business Relations

- Community and Business Relations has noted that the application, if approved, is not expected to result in negative community impacts. The licenced establishment and the hotel residents are all under the same care and control and impacts to guests are entirely within the control of the operator.

Bylaw

- Bylaw has not identified concerns associated with application.

Police

- Police generally express concern where hours are extended into the evening but are less concerned where earlier hours are proposed. Police have not provided correspondence in relation to this application.

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 to the 370 letters sent, Café Veneto 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 two letters were received, both of which supported the application and one was a letter from the Downtown Residents' Association. The letters are available in Appendix F.

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 not to provide additional correspondence related to the staff review and the report.

IMPACTS

Accessibility Impact Statement

Not applicable

Strategic Plan 2019 – 2022

The recommendation to support the application is likely to increase the viability of the hotel as a local employer, which is consistent with Strategic Objective #4 – *Prosperity and Economic Inclusion*.

Impacts to Financial Plan

None

Official Community Plan

The proposed license changes are consistent with the *Official Community Plan* objectives for this neighbourhood as the property is located within the Old Town, Core Historic designation which permits commercial, visitor accommodation and other mixed uses.

CONCLUSIONS

The application to change hours at Café Veneto from 11:00 am to 12:00 am daily, to 9:00 am to 1:00 am daily with no change to the existing occupant load of 96 people is not in conflict with the City's current liquor licensing policy. Staff recommend for Council's consideration that a resolution be made regarding the application and that Council support the application for proposed hours for Café Veneto at 1450 Douglas Street.

ALTERNATE MOTIONS

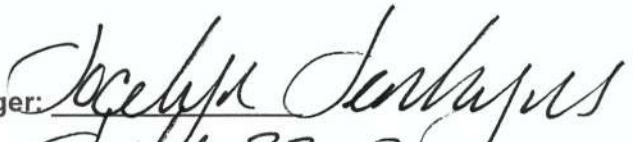
1. That Council, after conducting a review with respect to noise and community impacts regarding the application of Café Veneto, at 1450 Douglas Street, does not support the request for the amendment.

Respectfully submitted,


Ryan Morhart
Manager, Permits & Inspections


Andrea Hudson, Acting Director
Sustainable Planning & Community Dev.

Report accepted and recommended by the City Manager:


Date July 23, 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: Public Response from 30 day posting
Appendix G: Provincial Liquor License Types