



Committee of the Whole Report For the Meeting of October 3, 2019

To: Committee of the Whole **Date:** August 7, 2019

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

Subject: Application for a Change to Hours of Licence Service for the Union Club of British Columbia's, Liquor Primary License at 805 Gordon 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 Union Club of British Columbia located at 805 Gordon Street to adjust opening hours from 11:00 am to 9:00 am daily with no change to existing closing hours of 1:00 am Monday through Saturday and 12:00 am Sunday, or the existing occupant load of 759 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 proportional in comparison to existing licence capacity and associated noise levels in the vicinity. The request, if approved affects only opening hours and the adjustment is not likely to cause impacts.
- b. If the application is approved, the impact on the community is expected to be positive economically as the approval supports operational flexibility for the establishment to host a variety of special events.
- c. The views of residents were solicited via a mail out which included 534 letters to neighbouring property owners and occupants within 100 metres of the licensed location and a notice posted at the property. The City received two letters in support of the application including one from the Downtown Residents Association.
- d. Council recommends the requested change to the license 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 Union Club of British Columbia. The application is to adjust only the opening hours from 11:00 am to 9:00 am daily. The existing closing time is 1:00 am Monday through Saturday and 12:00 am Sunday, and the existing occupant load of 759 persons will remain unchanged. 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 was reviewed for consistency with City policy, and inputs provided by City staff, and 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 Union Club of British Columbia's application to change existing opening hours from 11:00 am to 9:00 am daily with no change to the closing hours or occupant load is not in conflict with the City's current Liquor License Policy. Police and staff have not expressed concern for the adjustment due to the nature of the change and long-standing experience with the establishment as a responsible operator. Opportunity for public comment included two letters in support of the application including one from the Downtown Residents Association. 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 Monday through Saturday and 9:00 am to 12:00 am Sunday with an occupant load of 759 persons at 805 Gordon 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 Union Club of British Columbia to change the opening time from 11:00 am to 9:00 am daily.

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 Union Club of British Columbia, areas affected by the requested change are regulated under a liquor primary licence.

The application is to extend hours of licensed service associated with the liquor primary licence for the Union Club of British Columbia to allow a 9:00 am opening time daily where the current opening time 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 hours of business are not regulated through 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 Union Club of British Columbia 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 Union Club of British Columbia's application has been considered regarding the impact it would have on the community and its potential to generate noise related issues. The change affecting the operators liquor primary licence 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	Union Club Seats	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	759	449	169%	2769	n/a	3,218	23.6%
City Wide Analysis							
Opening & Closing Hours	Union Club Seats	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	759	15,682	0.90%	16,965	n/a	32,647	2.3%

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 23.6% at 9:00 am. On a city-wide basis, the approval would represent a 2.3% 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

- No concerns have been identified with the request.

Police

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

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 Union Club of British Columbia displayed a notice poster at the entrance for 30 days which invited people to provide input to the City with respect to this application.

The mailout included letters to 534 owners and occupants, and two letters were received including one from the Downtown Residents 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 not to provide additional correspondence related to the staff review. The applicant has provided floor plans and documents related to the licence for information and they are available in 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 licenced establishment, which is consistent with Strategic Plan Objective #5 - *Create Prosperity Through Economic Development*.

Impacts to Financial Plan

None

Official Community Plan

The proposed license is consistent with the *Official Community Plan* objectives for this neighbourhood as the property is located within the Core Historic District which permits commercial and mixed uses.

CONCLUSIONS

The application to extend hours of licenced service is supportable where hours of operation are 9:00 am to 1:00 am Monday through Saturday and 9:00 am to 12:00 am Sunday. The site is appropriately zoned for the use, and potential impacts related to noise are not expected as the hours of operation are in keeping with other establishments in the area and the operator has a long history of responsible management. Staff recommend for Council's consideration that a resolution be made regarding the application and that Council support the recommendation associated with the Union Club of British Columbia's application for increased hours.

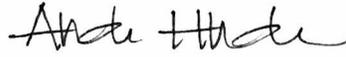
ALTERNATE MOTION (No Support)

That Council, after conducting a review with respect to noise and community impacts regarding the application of the Union Club of British Columbia, at 805 Gordon Street, does not support the request for the amendment.

Respectfully submitted,



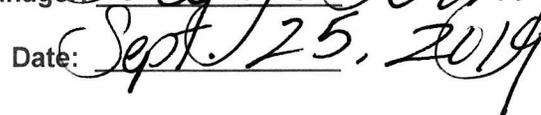
Ryan Morhart
Manager
Permits & Inspections



Andrea Hudson
Acting Director
Sustainable Planning & Community Dev.

Report accepted and recommended by the City Manager:

Date:

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 Correspondence
- Appendix I: Provincial Liquor License Types