



Committee of the Whole Report For the Meeting of January 16, 2020

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

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

Subject: Application for a New Liquor Primary Licence for Kwench Culture Club at 2031 Store 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 Kwench Culture Club located at 2031 Store Street having hours of operation from 9:00 am to 11:00 pm daily with a total occupant load of 265 people.

Providing the following comments on the prescribed considerations:

- a. The impact of noise on the community near the establishment was considered in relation to the request and noise impacts are expected to be proportional to existing licence capacity and associated noise levels in the vicinity. Kwench Culture Club's primary business focus is not the service of alcohol. The primary business focus is to provide a one-stop, multi-service work club that provides office space, fitness facilities, creative studio space and food services. Approval of the licence is not expected to result in unacceptable levels of noise in due to the primary focus of business and hours of operation.
- b. If the application is approved, the impact on the community is expected to be positive economically as the approval supports the business plan to provide a unique interpretation of large-scale office facilities available to small businesses oriented to towards this model of office environment.
- c. The views of residents were solicited via a mail out 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 notification that went to 56 owners and occupants. One letter stated opposition and the other was from the Burnside Gorge Residents Association, and they have no objection to the application.
- d. Council recommends 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 Kwench Culture Club. The application is for a new Liquor Primary licence having hours of operation from 9:00 am to 11:00 pm daily with a total occupant load of 265 people. Kwench Culture Club's application was 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 invite public comments through written correspondence. The application was evaluated using City policy, comments provided by City staff, and comments received 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.

Kwench Culture Club's application is consistent with the City's Liquor License Policy and concerns brought forward through the initial staff review of the application have been addressed. Staff had concern regarding hours and occupant load initially proposed as they were not seen to be consistent with the primary focus of the business. In response to staff concerns, the applicant adjusted their proposed closing time from 12:00 am to 11:00 pm daily. This adjustment to the closing time has addressed the City's concerns brought forward by staff and therefore, staff recommend that the revised application be supported.

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 Kwench Culture Club for a Liquor 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 or acceptable for the business based on submitted details. In the case of Kwench Culture Club, the operator is seeking a liquor primary licence. Liquor primary licences allow for a greater level of operational flexibility where a focus on food service is not a condition of operation or the primary focus of the business.

This application is for a liquor primary license for Kwench Culture Club and a letter of intent has been provided with information about the business model and is included as Appendix A.

Kwench Culture Club is seeking approval for hours of licensed service from 9:00 am to 11:00 pm daily with an occupant load of 265 people. 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.

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 MD-1, which permits the uses of "office" and "clubs" 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. Kwench Culture Club is within the Activity Noise District and limited to 70dBA 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 55dBA in Quiet districts, 60dBA in the Harbour Intermediate and Intermediate districts and 70dBA in the Activity district. 55dBA 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.

Kwench Culture Club has been considered regarding the impact it would have on the community and its potential to generate noise related issues. The establishment proposes licencing under a liquor primary licence and has been compared in terms of existing capacity in the vicinity and citywide, for comparison and understanding of likely impact. The establishment's primary business focus is not the service of alcohol, but in the event the business is unsuccessful, there would be a residual liquor primary licence, and an adjustment to the primary business focus may not involve referral to local government. For this reason, staff expressed concern for hours of operation more closely aligned with an establishment that has an emphasis on service of alcohol. This concern was addressed by the applicant reducing hours to 11:00 pm daily.

If approved, the licenced capacity of 265 people is a 44% increase in licenced capacity in the vicinity. This is not seen as significant where the primary business focus is an office and this focus

is maintained by closing hours of 11:00 pm daily. Conversion to something more impactful would likely include an adjustment to hours associated with drinking establishments and the adjustment to hours would result in referral to local government where the application could again be considered in terms of impacts. 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 an office or club.

Engineering

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

Community and Business Relations

- Community and Business Relations supports the establishment having closing hours of 11:00 pm daily aligned with the primary business focus to minimize current impacts and potential for future impacts.

Bylaw

- Bylaw does not have concern where the closing time is 11:00 pm daily.

Police

- Police do not have concern where the closing time is 11:00 pm daily. Full police comments are available in Appendix F.

The original application proposed a closing time of 12:00 pm daily and, more closely aligned with hours associated with an establishment focused on the service of alcohol. In appreciation of the concern, the applicant adjusted hours to 11:00 pm daily reflective of the primary business focus as an office.

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, Kwench Culture Club displayed a notice poster at the entrance for 30 days, which invited input to the City with respect to this application.

Two letters were received in response, one was opposed, and the other from the Burnside Gorge Residents Association did not express concern. Letters were sent to 56 owners and occupants within 100 metres of the establishment, and response 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. The applicant was notified of concerns associated with the proposed closing hours of 12:00 pm daily. Appreciative of concerns, the applicant reduced hours to 9:00 am to 11:00 pm daily. These hours are seen to be more closely associated with the business' primary focus of the business as an office.

Following public notification, the applicant was again given opportunity to review this report including community feedback and the applicant chose to provide additional correspondence. The applicant has no objection to the recommendation and has chosen to provide additional correspondence to reinforce and outline their commitment to the community.

This correspondence is available in Appendix H.

IMPACTS

Accessibility Impact Statement

The establishment is accessible at ground level and meets accessibility requirements of the BC Building Code.

Strategic Plan 2019 – 2022

The recommendation to support the application is likely to increase the viability of the business 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 is consistent with the *Official Community Plan* objectives for this neighbourhood as the property is located within the Core Employment District which permits industrial, high tech, commercial office and complimentary retail.

CONCLUSIONS

The application for a new liquor primary licence is supportable where hours of operation are from 9:00 am to 11:00 pm daily with a total occupant load of 265 people. The site is appropriately zoned for the use, is consistent with current City policy, and staff recommend for Council's consideration that a resolution be made supporting the hours of operation from 9:00 am to 11:00 am for Kwench Culture Club.

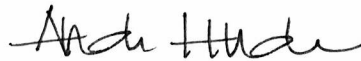
ALTERNATE MOTIONS

1. Council could also support the application of Kwench Culture Clubs initially requested hours of 9:00 am to 12:00 am daily, and an occupant load of 265 people.
2. That Council, after conducting a review with respect to noise and community impacts regarding the application of Kwench Culture Club, at 2031 Store Street, does not support the application.

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 7, 2020

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

