



Committee of the Whole Report

For the Meeting of March 5, 2020

To: Committee of the Whole

Date: January 30, 2020

From: Karen Hoese, Acting Director, Sustainable Planning and Community Development

Subject: **Application for a New Food Primary Licence with Entertainment Endorsement for January Gin Joint & Eatery at 1820 Government 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 January Gin Joint & Eatery located at 1820 Government Street to have hours of operation from 9:00 am to 12:00 am Sunday through Wednesday and 9:00 am to 1:00 am Thursday through Saturday, an occupant load of 43 people and an entertainment endorsement.

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 assumptions are the noise impacts would be comparable in proportion to existing licence capacity in the vicinity.
- b. If the application is approved, the impact on the community is expected to be positive economically as the approval supports this new business and the long-term viability of the establishment.
- c. The views of residents were solicited via a mail out which included 474 letters to neighbouring property owners and occupants within 100 metres of the licensed location and a notice posted at the property. The City received one letter from the Downtown Residents Association opposing the application in response to the request.
- d. Council recommends the hours supported for the establishment 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 January Gin Joint & Eatery. The application is for a new Food Primary Licence with hours of operation, being 9:00 am to 12:00 am Sunday through Wednesday and 9:00 am to 1:00 am Thursday through Saturday, an occupant load

of 43 people and an entertainment endorsement. Provisions of an entertainment endorsement end at midnight, regardless of later closing hours.

January Gin Joint & Eatery's application for a new food primary licence with an entertainment endorsement is consistent with the City's current Liquor License Policy. The application has been reviewed by City staff including Planning, Engineering, Business and Community Relations, Bylaw, and Police against policy, and their inputs have been considered. Staff have not expressed concern for the application and police have indicated that the licence will have minimal effect in terms of its contribution to issues associated with late night liquor seats. LCRB regulations state that activities associated with an entertainment endorsement are required to end at 12:00 am. 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.

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. Opportunity for public comment included one letter opposed to the application 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 for a new Food Primary licence having hours of operation from 9:00 am to 12:00 am Sunday through Wednesday and 9:00 am to 1:00 am Thursday through Saturday, an occupant load of 43 people and an entertainment endorsement at 1820 Government 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 January Gin Joint & Eatery for a new food primary license with an entertainment endorsement.

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 January Gin Joint & Eatery, the establishment is regulated under a food primary licence.

This application is for a Food Primary licence with an entertainment endorsement and a letter of intent has been provided in conjunction with the application, included in Appendix A.

The applicant proposes hours from 9:00 am to 12:00 am Sunday through Wednesday and 9:00 am to 1:00 am Thursday through Saturday, an occupant load of 43 people and an entertainment endorsement. 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 or not the amendment, if approved, would 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.

ISSUES & ANALYSIS

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

Zoning

Zoning for the establishment is OTD-1, which permits "drinking establishment," and "restaurant" uses 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. January Gin Joint & Eatery 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 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.

January Gin Joint & Eatery'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. Approval of the licence at this location will have the incremental impact of increasing licenced seating capacity in the vicinity by 2.9%. Other food primaries in the vicinity have compatible hours of business and occupant loads. City wide, incremental impacts on licenced seating capacity is 0.07%. 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 its intended use.

Engineering

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

Community and Business Relations

- Community and Business Relations did not bring forward objections to this application.

Bylaw

- Bylaw Services did not bring forward objections to this application.

Police

- Police note the application is for a food primary licence outside the downtown core and that it shouldn't be significantly affected by, or contribute to, the collective and incremental effects of the increase in late night liquor seats. Full police comments are available in Appendix F.

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, January Gin Joint & Eatery posted a notice poster at the entrance for 30 days, which invited input to the City with respect to this application.

Notices were mailed to 474 owners and occupants and in response, one letter was received from the Downtown Residents Association opposed to the application. The letter is available in Appendix G.

Applicant Response

As is standard practice as a part of the liquor licence process the applicant has a chance to review this report and respond 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 and the report. This correspondence is available in Appendix H.

IMPACTS

Accessibility Impact Statement

None

Strategic Plan 2019 – 2022

The recommendation to support the application also supports the business plan of the establishment and presumably its long term viability, 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 Historic designation which permits a mix of uses including commercial, retail, office and multi-unit residential.

CONCLUSIONS

The application of January Gin Joint & Eatery located at 1820 Government Street is supportable where hours of operation are from 9:00 am to 12:00 am Sunday through Wednesday and 9:00 am to 1:00 am Thursday through Saturday, has an occupant load of 43 people, and an entertainment endorsement. Concern for the application was expressed by the Downtown Residents Association, however impacts are not expected as the establishment is relatively small, and the area is experienced with similarly sized establishments and hours of operation. Standard Food Primary Licenses allow licensed service up to 12:00 am daily without referral to local government and activities permitted by an entertainment endorsement are required to end at midnight.

ALTERNATE MOTIONS

1. That Council, after conducting a review with respect to noise and community impacts regarding the application of January Gin Joint & Eatery, at 1820 Government Street, does not support the application.

Respectfully submitted,




Ryan Morhart
Manager, Permits & Inspections



Karen Hoese, Director
Sustainable Planning & Community Dev.

Report accepted and recommended by the City Manager:


Date: Feb 24, 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