



## **Committee of the Whole Report**

### **For the Meeting of July 9, 2020**

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**To:** Committee of the Whole **Date:** June 11, 2020

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

**Subject:** Application for a New Liquor Primary Licence for The Humboldt at 777 Douglas Street

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### **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 Humboldt located at 777 Douglas Street having hours of operation from 9:00 am to 1:00 am daily with a total occupant load of 46 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 not expected as the application is required by LCRB administrative process to separate an existing liquor primary licence area from an existing licence. This application to separate portions of a liquor primary licence to allow for separate ownership and operation results in no net increase to licenced capacity or hours.
- b. If the application is approved, the impact on the community is expected to be neutral economically as the approval does not result in a net increase to businesses capacity.
- 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 seven letters in response to the notification that went to 635 owners and occupants. Four letters stated opposition and three were supportive which included one from the Downtown Residents Association.
- 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 The Humboldt. The application is for a new Liquor Primary licence having hours of operation from 9:00 am to 1:00 am daily with a total occupant load of 46 people. The Humboldt'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.

The Humboldt's application is consistent with the City's Liquor License Policy and the establishment, while existing, is processed as a new application by LCRB to separate the licenced area from a larger licenced area. Staff are generally supportive of the application, but highlight that issues exist in the vicinity and the current potential opportunity to reduce impacts by not supporting the application. Vicinity issues are not known to be connected to the licenced area being considered and currently, there is no policy direction to reduce the density of licence seating, and staff recommend that the 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 The Humboldt 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 The Humboldt, the operator is seeking to separate a liquor primary licenced area from an existing liquor licenced area. The LCRB administrative process requires application for a new Liquor Primary licence to separate the licenced area that is to be owned and operated separately. The application will not result in a net increase to hours or occupant load.

This application for a liquor primary license for The Humboldt included a letter of intent providing information about application and is included as Appendix A.

The Humboldt is seeking approval for hours of licensed service from 9:00 am to 1:00 am daily with an occupant load of 46 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 CA-11, Central Area (Executive House) District which allows uses permitted in the CA-4 Zone, Central Area zone. This includes uses that are secondary to transient accommodation such as a pub. Similarly, restaurants, clubs and theatres are permitted in this zone which would anticipate uses up to the hours specified and liquor service.

## **Noise Bylaw**

The City's Noise Bylaw sets limits for four key areas within the City, which are the Quiet District, Intermediate District, Harbour Intermediate and Activity District. The Humboldt is within the Intermediate Noise District and limited to 80dBA 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 for any application approval 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.

The Humboldt's application has been considered regarding the impact it would have on the community and its potential to generate noise related issues. The establishment would be regulated 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. Approval of the licence at this location would not result in a net increase of hours or occupant load as the liquor primary licenced area is existing and this application is required by LCRB administrative process to split the licenced area from a larger licence to allow for separate ownership. 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 pub or restaurant.

### Engineering

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

### Community and Business Relations

- Community and Business Relations notes that residents in the area have been vocal about the impacts of late-night noise, but also that issues specific to this location are not known. Community and Business relations identifies this as an opportunity to reduce licenced density in the area.

### Bylaw

- Bylaw has not brought forward concern for the application.

### Police

- Police do not have concern where the closing time and occupant load are unchanged. 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, The Humboldt displayed a notice poster at the entrance for 30 days, which invited input to the City with respect to this application.

Seven letters were received in response to the notification that went to 635 owners and occupants. Four letters stated opposition and three were supportive which included one from the Downtown Residents Association. All correspondence is 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 has provided additional correspondence related to the report.

This correspondence is available in Appendix H.

### **IMPACTS**

#### Accessibility Impact Statement

None

#### 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 Inner Harbour/Legislative designation which permits commercial, visitor accommodation and other mixed uses.

### **CONCLUSIONS**

The application for a new liquor primary licence is supportable where hours of operation are from 9:00 am to 1:00 am daily with a total occupant load of 46 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 application for The Humboldt at 777 Douglas Street.

### **ALTERNATE MOTIONS**

1. That Council, after conducting a review with respect to noise and community impacts regarding the application of The Humboldt, at 777 Douglas Street, does not support the request for the amendment.

Respectfully submitted,



Ryan Morhart  
Manager, Permits & Inspections



Karen Hoese, Director  
Sustainable Planning & Community Dev.



**Report accepted and recommended by the City Manager:** \_\_\_\_\_

**Date:** June 30, 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