



Committee of the Whole Report

For the Meeting of November 26, 2020

To: Committee of the Whole **Date:** August 25, 2020

From: Karen Hoesle, Director, Sustainable Planning and Community Development

Subject: Application for a New Liquor Primary Licence for Victoria International Marina at 1 Cooperage Place

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 Victoria International Marina located at 1 Cooperage Place having hours of operation from 9:00 am to 10:00 pm Sunday through Thursday and 9:00 am to 11:00 pm Friday and Saturday with a total occupant load of 260 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 in acknowledgment of concern for residents in proximity, the applicant has reduced the proposed hours of licenced service and occupant load, and proposes no outdoor licenced service. Victoria International Marina will provide licenced service for private functions and to guests and crew of moored yachts. Approval of the licence is not expected to result in unacceptable levels of noise.
- b. If the application is approved, it is anticipated to have a positive economic impact on the community as the approval supports the viability of the business by providing services anticipated for the facility.
- c. The views of residents were solicited through a mailout that was sent to neighbouring property owners and occupants within 100 metres of the licensed location (a total of 951 notices) and through a notice posted at the property. In response to the notification, the City received 135 letters. Ten letters expressed support and 125 letters stated opposition. Nine of the letters in opposition included petitions with approximately 328 signatures, No correspondence was received from the Victoria West Community Association regarding 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 Victoria International Marina. The application is for a new Liquor Primary licence having hours of operation from 9:00 am to 10:00 pm Sunday through Thursday and 9:00 am to 11:00 pm Friday and Saturday with a total occupant load of 260 people.

Victoria International Marina's application was evaluated against City policy, staff commentary, and feedback 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.

Victoria International Marina's application is consistent with the City's Liquor License Policy and concerns that were brought forward through the initial staff review of the application have been addressed. These related specifically to the proximity of residences. In response, the applicant adjusted their proposed closing time, reduced the occupant load, and removed outdoor seating areas. On this basis, 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 Victoria International Marina for a Liquor Primary licence. 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.

Victoria International Marina is seeking approval for hours of licensed service from 9:00 am to 10:00 pm Sunday through Thursday and 9:00 am to 11:00 pm Friday and Saturday with a total occupant load of 260 people. A letter of intent has been provided with information about the business model and is included as Appendix A. A map of the subject property and the immediate area is attached to this report (Appendix B) and illustrates the 100m public notification area.

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 Victoria International Marina, 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.

The application initially included a closing time of 2:00 am daily, an occupant load of 402, and outdoor seating areas. After receiving preliminary comments from staff the applicant adjusted their proposed closing time to 10:00 pm Sunday to Thursday and 11:00 pm on Friday and Saturday, reduced the occupant load from 402 to 260, and removed outdoor seating areas.

ISSUES & ANALYSIS

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

Zoning

Zoning for the establishment is SCR-2, which permits the uses of “docks and accessory uses”, “restaurants”, 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 limits for four key areas within the City, which are the Quiet District, Intermediate District, Harbour Intermediate and Activity District. Victoria International Marina 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.

The Victoria International Marina proposes licensing under a liquor primary license and has been considered regarding the impact it would have on the community and its potential to generate noise related issues. To understand the potential impact of this establishment, it has been compared to the existing capacity both in the vicinity and citywide. If approved, the licenced capacity of 260 people is a 50% increase in licenced capacity in the vicinity. Vicinity information is attached as Appendix D.

In terms of hours of liquor services, while this is for a liquor primary application, if the application was for a food primary licence, the establishment would be entitled to closing hours of 12:00 am and an occupant load limited only by washrooms or parking with no referral to local government. This is notable as it creates an unintended baseline of standard hours for licenced establishments.

Through public feedback and staff review, the application raised concerns over noise in the area. In response, the operator has adjusted hours to address concerns and reduce impacts.

Public feedback also identified significant concerns over parking issues that may result from approval. Parking requirements for the establishment, a function of floor area, have been reviewed and it has been confirmed that adequate parking exists for the establishment.

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, and 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 staff in the following departments: Sustainable Planning & Community Development, Engineering & Public Works, Community & Business Relations, Bylaw Services, and Police. That review resulted in the following feedback.

Sustainable Planning & Community Development

- The application is supportable as the establishment is zoned appropriately for use as a marina or club.

Engineering & Public Works

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

Community & Business Relations

- Community & Business Relations can support the application as adjusted by the applicant but remains concerned about potential for noise issues, and other impacts of liquor primary establishments in close proximity to residences.

Bylaw Services

- Bylaw Services echoes concerns expressed by Community & Business Relations.

Police

- Police have limited concern where the hours are from 9:00 am to 10:00 pm Sunday through Thursday and 9:00 am to 11:00 pm Friday and Saturday with a total occupant load of 260. Full police comments are available in Appendix F.

The applicant has heard concerns brought forward by staff and has reduced hours and occupant load and has removed outdoor seating from the application. While potential for noise related issues exists, the applicant has made adjustments to minimize impacts.

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, Victoria International Marina displayed a notice poster at their entrance for 30 days, which invited input to the City with respect to this application.

The City received 135 letters in response to the notification that went to 951 owners and occupants. 125 letters stated opposition and nine of those included petitions with approximately 328 signatures. Ten Letters expressed support and no correspondence was received from the Victoria West Community Association regarding the application. Response letters are available in Appendix G.

Applicant Response

As is standard practice as a part of the liquor licence process, after City staff provide input, the applicant has a chance to review the information (and this report) and respond prior to the report being forwarded to Council. In response to staff concerns, the applicant adjusted closing hours and occupant load and removed outdoor seating to reduce impacts.

Following public notification, the applicant was again given opportunity to review this report including community feedback and the applicant chose to provide additional correspondence to address concerns and comments brought forward and provide additional information and perspective.

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 generally consistent with the *Official Community Plan* objectives for this area as the property is located within the Working Harbour where water borne transport and tourism activity is supported and a mix of active shoreline uses are encouraged including boat moorage, marine restaurants and pubs.

CONCLUSION

The application for a new liquor primary licence is supportable where hours of operation are from 9:00 am to 10:00 pm Sunday through Thursday and 9:00 am to 11:00 pm Friday and Saturday with a total occupant load of 260 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 Victoria International Marina.

ALTERNATE MOTIONS

1. That Council, after conducting a review with respect to noise and community impacts regarding the application of Victoria International Marina, at 1 Cooperage Place, 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: 2020-11-19

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