



Committee of the Whole Report

For the Meeting of January 6, 2022

To: Committee of the Whole **Date:** December 23, 2021

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

Subject: **Application for a New Liquor Primary Licence for Victoria Regent Hotel at 1234 Wharf Street**

RECOMMENDATION

That Council direct staff to provide the following response to the Liquor and Cannabis Regulation Branch:

1. That Council, after conducting a review with respect to noise and community impacts, does support the application of Victoria Regent Hotel located at 1234 Wharf Street for a new liquor primary licence to provide in-room minibar service with no assigned occupant load and 24 hours of service each day.

The following comments are provided regarding the prescribed considerations:

The impact of noise on the community near the establishment was considered in relation to the request, and the provision of in-room minibar service at the location would reasonably be expected in conjunction with normal operations of the hotel. Approval of the licence is not expected to result in unacceptable levels of noise.

- a. 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 as a local employer.
- b. The views of residents were solicited through a mailout to neighbouring property owners and occupiers within 100 metres of the licensed location and a notice posted at the property. In response to the notification that went to 331 owners and occupants, the City received two letters in response to the notification that expressed support for the application where one was from the Downtown Residents Association.
- c. Council recommends to the Province that the liquor primary licence be approved as proposed.

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 Regent Hotel, located at 1234 Wharf Street. The application is for a new Liquor Primary licence to provide in-room minibar service with no assigned occupant load and 24-hour service each day.

The Victoria Regent Hotel's application was evaluated against City policy, staff commentary, and feedback received through the public notification process, and has also been considered in the context of the local vicinity and the City as a whole. The City's Liquor Licencing Policy did not anticipate this type of application for minibar licencing needs, and the application is not consistent with the policy which considers application proposing hours not later than 2am. However, the application is not seen as being incompatible with the intent of the policy which considers licenced seating in conjunction with hours, and where either hours or occupant load do not exist, impacts would be negligible. On this basis, it is recommended that the application of Victoria Regent Hotel at 1234 Wharf Street be supported as proposed by application.

PURPOSE

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 Regent Hotel at 1234 Wharf Street. The Liquor and Cannabis Regulations Branch is requesting a resolution from the City of Victoria regarding:

1. Impact of noise on nearby residents.
2. Impact on the community if the application is approved.

The Victoria Regent Hotel is seeking approval for a new liquor primary licence to allow in-room minibar service in hotel guest rooms. The licence would not have an assigned occupant load and hours of licensed service would be 24 hours each day. 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.

ISSUES & ANALYSIS

The following sections provide Council with information, analysis and recommendations for consideration of the Council resolution to the Liquor and Cannabis Regulations Branch.

LCRB Jurisdiction

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.

The LCRB issues liquor primary licences to businesses where the primary purpose of the business is not the service of food and where liquor is being served in the service area. All liquor primary licence applications are referred to local government by LCRB. In the case of Victoria Regent Hotel, the primary focus of the business is not the service of food and they have made application for a liquor primary licence.

City Liquor Licensing Policy

The City's *Liquor Licensing Policy* (2017) (included as Appendix E) provides direction on a number of matters including: which applications the City will opt out of reviewing and commenting on; the procedures for the application process for those the City has not opted out of commenting on; and the approach to enforcement. The policy further indicates that applications for liquor licences having hours of operation later than 2am will not be considered (except New Year's Eve).

This licence application is not typical and was not anticipated by current policy and proposes a licence to provide minibar service with no occupant load with 24 hour service each day. LCRB licencing of in-room minibars is typically associated with a hotel's food primary or liquor primary licence. The Victoria Regent Hotel has neither licence as they have suspended operation of their licenced seating areas and must therefore make application for a new liquor primary licence to permit the minibar service.

Zoning

Zoning for the establishment is IHR, Inner Harbour Regent District Zone. This zone allows restaurants as well as residences and transient accommodation, leaving hours and occupant loads as unrestricted. Compliance would be demonstrated through the building permit process and verified through a City inspection.

City Referrals

An inter-departmental review of the application is conducted prior to public notification. Review of the application for a liquor primary licence at 1234 Wharf Street resulted in the following feedback.

Sustainable Planning & Community Development

- The application is supportable as the establishment is zoned appropriately for the use allowing transient accommodation.

Engineering & Public Works

- No concerns.

Community & Business Relations

- No concerns.

Bylaw Services

- Bylaw did not provide comment regarding the application.

Police

- No concerns. Full police comments are available in Appendix F.

Impact Assessment

As part of the licence application review, the LCRB has referred this application to the City of Victoria to review and provide comments regarding noise impacts and the overall impact on the community if the application is approved.

Noise and other community impacts are challenging to predict and there are several variables that can contribute to the level of impact including the business model, target clientele, quality of owner/operator, existing density of licenced capacity in the area, hours of service, and fluctuating populations due to tourism.

The application made by Victoria Regent Hotel is for a new liquor primary licence to allow the hotel to provide in-room minibar service and the applicant has included a letter of intent, attached as Appendix A, which provides background information for the application.

Victoria Regent Hotel is in the Inner Harbour Regent District zone. This zone allows restaurants as well as residences and transient accommodation. Based on the City's Noise Bylaw, this site is within the Intermediate Noise District and is subject to the noise limits prescribed for this district.¹ The Noise District Map is included in Appendix D.

The LCRB inspects premises regularly to ensure compliance with their regulations and operates within a two-year period of reference with respect to compliance issues, if they exist. The Victoria Regent Hotel does not have any recorded infractions with the LCRB during this period.

The licence application is to provide minibar service in guest rooms where the hours of licenced service would be 24 hours a day with no associated occupant load. On this basis, it is not expected that approval of the licence will result in unacceptable levels of noise or other community impacts.

Consideration of the factors noted above can assist a municipality to predict negative aspects associated with licensed establishments; however, these factors can also change over the life of a licensed establishment. If 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 include:

- LCRB enforcement, which ensures responsible and appropriate service as required by the terms of the licence with LCRB
- Noise Bylaw enforcement by Bylaw Officers
- where issues are more complex, the Police have additional authority to bring an establishment back into compliance.

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 (a total of 331 notices) were solicited by a mailed notice to provide input regarding this application. The notice was also sent to the Downtown Residents Association. The public notification letter and poster reflected the licence type, the application's proposed hours and that no occupant load was associated with the application. The comment period was open for a total of 30 days.

In terms of community feedback, the City received 2 letters in response to the notification expressing support for the application which included response from the Downtown Residents Association.

The public letter of response is included in Appendix G and the letter from the Downtown Residents Association is included as Appendix H.

¹ The Noise Bylaw sets limits for four key areas within the City: Quiet District, Intermediate District, Harbour Intermediate and Activity District. The Intermediate Noise District is limited to 60dBA at the point of reception until 10pm; after 10pm, noise at the point of reception is limited to 50dBA in Quiet districts, 55dBA in 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.

Applicant Response

As a part of the liquor licence process, it is standard practice to provide the applicant with an opportunity to review this report and its recommendation including feedback from the public notification and other attachments so they may respond to the report prior to the report being forwarded to Council.

In response, the applicant has chosen not to provide additional correspondence.

IMPACTS

Accessibility Impact Statement

As the establishment is an existing building, current accessibility requirements may not be met. There is no retroactive application of accessibility requirements under the *BC Building Code* and the establishment is therefore conforming.

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 use as transient accommodation is consistent with the Official Community Plan objectives for this neighbourhood.

CONCLUSIONS

This application of Victoria Regent Hotel, for a new liquor primary licence at 1234 Wharf Street to provide in-room mini bar service, with no assigned occupant load and hours of licenced service that are 24 hours each day, is considered supportable. The site is appropriately zoned for the use, and any impacts are expected to be minimal.

ALTERNATE MOTION

That Council, after conducting a review with respect to noise and community impacts regarding the application of Victoria Regent Hotel, at 1234 Wharf Street, does not support the application.

Respectfully submitted,

Ryan Morhart, Manager
Permits & Inspections Division

Karen Hoese, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager.

List of Attachments

- Appendix A: Rationale Letter
- Appendix B: Site Map
- Appendix C: Vicinity Map
- Appendix D: Noise District Map
- Appendix E: Council Policy
- Appendix F: Police Comments
- Appendix G: Public Response from 30 day posting
- Appendix H: Response from the Downtown Residents Association
- Appendix I: Provincial Liquor Licence Types