



## Committee of the Whole Report For the Meeting of January 6, 2022

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**To:** Committee of the Whole **Date:** November 18, 2021  
**From:** Karen Hoese, Director, Sustainable Planning and Community Development  
**Subject:** **Application for a New Liquor Primary Licence for The Vicious Poodle at 726 Johnson Street**

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### 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 The Vicious Poodle located at 726 Johnson Street for a new liquor primary licence having hours of operation from 9am to 2am daily with outdoor patio hours of 9am to 11:30pm, and having a total occupant load of 140 people including a 17-person outdoor patio.

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 recommended hours, occupant load, and location are compatible with the area. 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 846 owners and occupants, the City received five letters in response to the notification: four responses expressed concern regarding the liquor primary establishment, and one was supportive of the application and 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 The Vicious Poodle, located at 726 Johnson Street. The application is for a new Liquor Primary licence having hours of operation from 9am to 2am daily with a total occupant load of 140 people that includes a 17-person patio.

The Vicious Poodle's application was evaluated against City policy, staff commentary, and feedback received through the public notification process. It has also been considered in the context of the local vicinity and the City as a whole and is consistent with the City's Liquor Licensing Policy. On this basis, it is recommended that the application of The Vicious Poodle at 726 Johnson Street be supported as recommended.

## **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 The Vicious Poodle at 726 Johnson Street. The LCRB 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 Vicious Poodle is seeking approval for a new liquor primary licence having hours of licensed service from 9am to 2am daily with a total occupant load of 140 people which includes a 17-person patio. 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 LCRB.

### **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 The Vicious Poodle, 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).

The hours of licensed service proposed in this application for The Vicious Poodle at 726 Johnson Street are within the parameters of the City's policy.

## **Zoning**

Zoning for the establishment is CBD-1, Central Business District-1 Zone and is Development Permit Area DPA 2(HC), which permits the uses of *food and beverage service* and *drinking establishments*; hours and occupant loads are unrestricted by the zoning. Compliance would be demonstrated through the building permit process and verified through the City inspection process.

## **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 726 Johnson Street resulted in the following feedback.

### Sustainable Planning & Community Development

- The application is supportable as the establishment is zoned appropriately for use as a *drinking establishment*.

### Engineering & Public Works

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

### Community & Business Relations

- Community & Business Relations does not anticipate significant impacts and recommends that patio hours are reduced to mitigate potential impacts to residents in the area.

### Bylaw Services

- Bylaw did not provide comment regarding the application.

### Police

- The proposal is supportable, and police have no concern with approval of the application. 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 The Vicious Poodle is for a new liquor primary licence which replaces the food primary licence they currently operate under and the applicant has included a letter of intent, attached as Appendix A, which outlines their business concept, entertainment provided, intended relationship to the community and other aspects of the business.

The Vicious Poodle is located in the Central Business District of the Downtown Core and is appropriately zoned for this use. 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.<sup>1</sup> The Noise District Map is included in Appendix D.

To understand The Vicious Poodle's potential to contribute to noise related issues, the application has been assessed against the existing licensed capacity in the vicinity, which includes the block of the establishment and adjacent blocks. If approved, the proposed hours, with a licensed capacity of 140 people, equates to a 2.4% increase in licensed capacity in the vicinity. Vicinity information is attached as Appendix C.

The vicinity information illustrates the composition of licensed establishments in the area which includes a total of 3,026 licensed seats where:

- 1,185 (39%) are liquor primary seats distributed over 7 establishments
- 1,841 (61%) are food primary seats distributed over 27 establishments.

To provide perspective on the hours of operation, of the 3,026 licensed seats in the area:

- 1,295 (43%) close by midnight
- 481 (16%) close by 1am
- 1,250 (41%) close at 2am.

In Victoria there are approximately 115,000 licensed seats of which:

- 53,400 (46%) close by midnight
- 42,500 (37%) close by 1am
- 19,000 (17%) close by 2am.

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 Vicious Poodle, as a food primary establishment, does not have any recorded infractions with the LCRB during this period.

It is recommended that outdoor patio hours are reduced to 11:30pm daily, from the requested time of 2am, to reduce impacts associated with noise from the patio. Closing the patio at 11:30pm ensures the area is vacated by 12am as patrons have an additional half hour to finish up beverages. The applicant is aware of the recommendation and is in agreement with the reduction in hours for the patio.

On this basis, it is not expected that approval of the licence, with a history of responsible operation in its location, will result in unacceptable levels of noise.

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<sup>1</sup> 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 10 pm; after 10 pm, 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.

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 846 notices) were solicited by a mailed notice to provide input regarding this application. The notice was also sent to the Downtown Resident's Association. The public notification letter and poster reflected the licence type, the application's proposed hours and occupant load. The comment period was open for a total of 30 days.

In terms of community feedback, the City received five letters in response to the notification: four expressed concern regarding the liquor primary establishment, and one was supportive of the application and was from the Downtown Residents Association.

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

## **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 to provide additional correspondence. This correspondence is available in Appendix I.

## **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 a *drinking establishment* is consistent with the Official Community Plan objectives for this neighbourhood.

### **CONCLUSIONS**

This application of The Vicious Poodle, for a new liquor primary licence at 726 Johnson Street, with hours of operation from 9am to 2am daily, with outdoor patio hours of 9am to 11:30pm, and having a total occupant load of 140 people including a 17-person outdoor patio, is considered supportable. The site is appropriately zoned for the use, is consistent with current City liquor licensing policy, 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 The Vicious Poodle, at 726 Johnson 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: Applicant's Comments
- Appendix J: Provincial Liquor Licence Types