



1715 Government Street
Victoria, BC, V8W 1Z4

Mayor Lisa Helps and Council
City of Victoria
No.1 Centennial Square
Victoria, BC V8W 1P6

10 November 2021

Re: Application to Extend Hours of Liquor Service for Food Primary Licence and Obtain Patron Participation Endorsement – 1515 Douglas Street/Toptable Victoria

Dear Mayor Helps and Council,

With regards to the Application to extend the hours of Liquor Service for the Food Primary Licence and obtain a Patron Participation Endorsement at 1515 Douglas Street for Toptable Victoria, from the Letter Of Intent and the Application, the DRA Land Use Committee understands the following:

- The applicant seeks to extend their operating hours from 9AM to 12AM daily to 9AM to 2AM.
- The total occupant load of 177 includes a 38-person outdoor patio.
- The application includes a request for a Patron Participation Entertainment Endorsement to “enable patrons to dance in the food primary area of the establishment”.
- If approved, the patron participation entertainment will end at 12AM.

In a subsequent conversation with Bert Hick from Rising Tide, it was outlined that this application is for a high-end restaurant modelled after the Aquilini Group’s Blue Water in Vancouver. He offered that the patron participation and extended hours are to accommodate buyouts for weddings and events.

Feedback in response to the submitted documents is as follows:

- This venue has yet to open its doors to the public so the impacts on the neighbouring community within its current business model are unknown and unproven, so an extension of hours and a change of business model to include patron participation entertainment seems premature.

- As with all the food primary late night liquor applications, are these operations pubs or restaurants? Is there a difference any more? Or are they restaurants by day that turn into pubs at night?
- In a similar trend evolution, we are seeing restaurants requesting extended liquor service hours so often that it is obviously a new need or at least a common customer request. I think that the LCRB needs to review their policies and categories in this post-Covid new F&B market rather than making this a neighbourhood association policy decision.
- If they will not make an updated policy and we (all LUCs and Planning Departments) are to be in charge of these applications, then I recommend double licensed facilities, as stated previously: with a restaurant license from time A to time B and a pub license from time B to time C. Then they can follow the established rules for those categories during those times.
- Without these changes, then we are being asked to sanction either rule breaking or possibly law breaking, which is not something I can support.
- The “letter of intent” for this application is submitted by Susan Mander, a liquor-licensing specialist with Rising Tide Liquor and Cannabis Licensing Consultants, on behalf of the applicant, Roberto Aquilini. Unfortunately, the letter is virtually absent any specific information, treating the details as unproblematic. It asserts that food primary licensees “tend not to create problems in the community” and so “there should be no noise impact on the community” but rather “will add to the Restaurant and Hospitality offerings in Downtown Victoria” and offer “greater flexibility for the dining public”.
- I understand that this application is essentially an addendum to a current application for food primary licensing. I hope that the latter application provides more useful information for making a decision. The applicant, Mr. Roberto Aquilini, of the well known Vancouver-based Aquilini Group, owns many properties and businesses, including hotels and restaurants. It is striking to me that Mr. Aquilini apparently does not feel the need to be more responsive.
- I agree that this application follows a trend in wanting to treat a food primary restaurant as a late-night drinking establishment. It is not enough, as this application does, to merely assert that; “this establishment is not operated as a pub.”
- I’m not sure this particular location or the Victoria market would support the high-end business model that’s being proposed but I’m confident that the Jawls would not allow a public nuisance to emanate from one of their signature buildings.
- While the patio represents a small portion of the total occupancy, it’s unclear from the information provided what the hours of operation are for this area, whether amplified music will be included, etc. Historically, during hours of operation, patios have often been a source of public nuisance noise to existing residential neighbours.
- While the applicant’s consultant offered that the patron participation and extended hours are intended for occasional buyouts for events, there are no restrictions provided in the licensing that these events won’t become a regular occurrence along with the corresponding late night impacts on neighbours, the community and calls for police.

In addition to the comments provided by committee members, we have assessed the application in relation to our DRA LUC Liquor Policy (attached below for reference).

In sum, we do not feel the applicant has made a convincing case in support of this application. The DRA LUC offers concerns based the unproven claims that this operation as would not negatively impact the community in its original conception so an expansion of the business model will not contribute to greater negative impacts. Likewise, we need to consider a possible change in ownership after the extended hours and patron participation have been granted, if the current owner sells the operation.

Sincerely,

A handwritten signature in purple ink, appearing to read "WBowkett", with a stylized flourish at the end.

Wendy Bowkett
Secretary, Land Use Committee
Downtown Residents Association

**Victoria Downtown Residents Association
Land Use Committee
Liquor Primary & Late Night Food Primary Liquor Licence
Applications: Policy
02 February 2020**



The Victoria Downtown Residents Association's Land Use Committee ("LUC") has been extremely consistent in expressing concerns regarding Food Primary Applications that propose to operate after midnight and Liquor Primary Applications within the Downtown Harris Green Community. As residents, we support an active, dynamic community with a diversity of entertainment and business operations. In addition, we support the long-term coexistence of residential uses and business operations. The following policy provides clarity to community stakeholders regarding the parameters the LUC uses to assess each application. The LUC may withhold support for an application if any of the following aspects are not adequately addressed.

1. Proximity to residential buildings and units

Sufficient separation between licenced venues and residential units is required to ensure liveability for residents and the successful coexistence of licenced operations and residents. Support may be withheld for applications that propose inserting licenced venues proximal to residential units. We may decline to support any liquor application that is proposed to be located in an existing residential building. (Likewise, we do not provide wholesale support for the creation of residential units adjacent to established licenced venues without comprehensive mitigation strategies.)

2. Sound mitigation

Support may be withheld for applications that have not properly mitigated noise impacts on effected residential units through proper design and soundproofing assemblies with consideration for whether neighbouring residential units have sufficient window Sound Transmission Class Ratings and air-conditioning.

3. Capacity (Indoor seating)

Support for an application may be withheld if the requested capacity is expected to negatively impact the residential community. EG. Large capacity operations with late night hours of operation adjacent to residential units will not be supported.

4. Days and hours of operation (Indoor seating)

An application may be supported if the days and hours of operation are not expected to negatively impact the residential community.

5. Excess patron noise

Late Night Food Primary and Liquor Primary operations often come with associated nuisance noise, such as patrons congregating on the street, yelling, and smoking, etc, patrons exiting en masse on closing, and interior noise related to capacity. An application may be supported if excess patron noise is not expected to negatively impact the residential community.

6. Outdoor seating (Patio or Sidewalk): proximity, capacity and hours of operation

Hours of operation for outdoor seating areas may be regulated differently than for the related indoor operations. An application may be supported if the capacity and hours of operation for outdoor seating areas are not expected to negatively impact the residential community. The proximity of residential units to outdoor seating areas will be assessed on a case-by-case basis in terms of the potential impact.

7. Late night hours – rationale and justification required for both Liquor and Food Primary

Support for late night hours may be withheld if an applicant does not supply their rationale and justification for extended hours. These will be assessed on a case-by-case basis in terms of the potential impact on the residential community.

8. Patron participation

Support for the inclusion of patron participation will be assessed on a case-by-case basis relative to the other aspects of this policy.

9. Entertainment endorsement

Support for the inclusion of entertainment endorsement will be assessed on a case-by-case basis relative to the other aspects of this policy.

10. Implications of licencing in perpetuity

Support for an application will consider the potential long-term impact of the existence of the licence beyond the proposed business model and current operator/applicant.

11. Food service strategy (Food primary licences)

Applications for new food primary liquor licences requesting late operating hours will also be reviewed on the basis of their food service strategy. Support may be withheld if an application does not demonstrate that food service is the focus of the operation after midnight. Food primary applications for venues that intend to effectively operate as liquor primary venues will not be supported.

12. Food Primary Licences: Sales records

Applicants are requested to demonstrate that food service will remain the focus of their operations. Support for the extension of operating hours for existing food primary liquor licences will be determined on the basis of sales records for food and alcoholic beverages for evening hours. Food primary venues that intend to effectively operate as liquor primary venues in the late night will not be supported.

13. Level of support of residents

Support or concerns expressed by residents in the neighbourhood through letters and emails also inform the LUC and will shape the level of support for applications.