



## **Committee of the Whole Report**

### **For the Meeting of November 10, 2022**

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**To:** Committee of the Whole **Date:** September 9, 2022

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

**Subject:** **Application to Increase the Occupant Load associated with a Liquor Primary Licence for Peacock Billiards at 1175 C Douglas 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 Peacock Billiards to increase the occupant load associated with their liquor primary licence from 52 to 102 people where existing hours for licenced service are retained and are 11am to 1:30am daily, acknowledging the establishment also holds a food primary licence which is not proposed to change, and that the proposed increase of 50 people would result in a total licenced capacity of 280 people where both licences are considered.

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 to increase the occupant load by 50 people and 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 744 owners and occupants, the City received four letters including one from the Downtown Residents Association and all were supportive of the application.
- 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 Peacock Billiards, located at 1175 C Douglas Street. The application is to increase the occupant load associated with their liquor primary licence from 52 to 102 people where existing hours for licenced service are retained and are 11am to 1:30am daily. The establishment also holds a food primary licence which is not proposed to change, and the proposed increase of 50 people would result in a total licenced capacity of 280 people where both licences are considered.

Peacock Billiards application was evaluated against City policy, staff commentary, and feedback received through the public notification process and from the Liquor and Cannabis Regulations Branch. 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. Concerns have not been raised about the increased occupant load, and on the basis of experience with the establishment operating without known issues, it is recommended that the application of Peacock Billiards at 1175 Douglas 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 Peacock Billiards at 1175 C Douglas 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.

Peacock Billiards holds both a food primary and a liquor primary licence and is seeking approval to increase the occupant load associated with their liquor primary licence through a reconfiguration of the existing space. The existing hours for both licences are to be retained and are 11am to 2am daily for the food primary licence and 11am to 1:30am daily for the liquor primary licence. The proposed increase of 50 people would result in a total occupant load of 102 people for the liquor primary licence and an overall licenced capacity of 280 people where both licences are considered. A letter of intent has been submitted and provides explanation for the requested extension of hours 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).

### **LCRB Jurisdiction**

The LCRB issues liquor licences under the authority of the *Liquor Control and Licensing Act* and regulations and 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 Peacock

Billiards, the business has separate designated areas for the liquor primary and food primary licences where the appropriate terms and conditions of each licence apply to the corresponding service area.

### **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 increase to the occupant load associated with the liquor primary licence as proposed by this application for Peacock Billiards at 1175 C Douglas Street is within the parameters of the City's policy.

### **Zoning**

Zoning for the establishment is CBD-1, Central Business District, where the permitted uses include entertainment venues with live or recorded music, night clubs, bars and pubs. Hours and occupant loads are unrestricted by the zone and compliance would be demonstrated through the building permit process and verified through the City inspection.

### **City Referrals**

An inter-departmental review of the application is conducted prior to public notification. Review of the application to increase the occupant load for a liquor primary licence at 1175 C Douglas 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 finds the application to be supportable noting the establishment's history of responsible operation at the location and absence of residences in close proximity.

#### Bylaw Services

- Bylaw has noted a clean compliance history for the establishment and has not brought forward specific concerns.

#### Police

- Police have expressed that they have no objections to the application. Full police comments are available in Appendix F.

## Impact Assessment

As part of the license 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 Peacock Billiards is to increase the occupant load associated with their liquor primary licence by 50 people which would result in a total occupant load of 102 people for the liquor primary licence and an overall licenced capacity of 280 people as the establishment also holds a food primary licence. The existing hours for both licences are to be retained and are 11am to 2am daily for the food primary licence and 11am to 1:30am daily for the liquor primary licence. The applicant has included a letter of intent, attached as Appendix A, which outlines their supporting reasons for the request.

Peacock Billiards 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 Peacock Billiards' 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 increase of 50 people to the occupant load would result in a total occupant load of 280 people which is a 1.3% increase in licenced capacity in the vicinity. Vicinity information is attached as Appendix C.

The vicinity information illustrates the composition of licenced establishments in the area which includes a total of 3,853 licenced seats where:

- 1511 (39%) are liquor primary seats distributed over 2 establishments
- 2342 (61%) are food primary seats distributed over 6 establishments.

To provide perspective on the hours of operation, of the 1,288 licenced seats in the area:

- 1456 (38%) close by midnight
- 670 (17%) close by 1am
- 1727 (45%) close at 2am.

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

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

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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 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.

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. Peacock Billiards, operating under both a liquor primary and food primary licence, does not have any recorded infractions with the LCRB during this period.

The potential to create impacts in the area resulting from an increase of 50 people for a total of 280 people has been considered and is thought to be minimal and issues resulting from the occupant load increase for Peacock Billiards have not been identified. Additionally, the public notification process resulted only in letters of support for the proposed occupant load increase.

On this basis, it is not expected that the 50 person occupant load increase for Peacock Billiards, with history of responsible operation in its location, will result in unacceptable levels of noise.

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 744 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 intent to increase the occupant load and the hours of licenced service. The comment period was open for a total of 30 days.

In terms of community feedback, the City received four letters in response to the notification including one from the Downtown Residents Association and all were supportive of the application.

The public letters of response are 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**

The application of Peacock Billiards to increase the occupant load associated with their liquor primary licence from 52 to 102 people where existing hours for licenced service are retained and are 11am to 1:30am daily, is considered supportable. The establishment also holds a food primary licence which is not proposed to change and has an occupant load of 178 people and hours that are 11am to 2am daily, and the proposed increase of 50 people would result in a total licenced capacity of 280 people where both licences are considered. As the site is appropriately zoned for the use and is consistent with current City liquor licensing policy, and the establishment has demonstrated a history of responsible operation, 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 Peacock Billiards, at 1175 C Douglas 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