



Planning and Land Use Committee Report

For the May 15, 2014 Meeting

To: Planning and Land Use Committee
From: Robert Woodland, Director of Legislative and Regulatory Services
Date: April 30, 2014
Subject: Application for a permanent change to Occupant Load of Licensed area in relation to a Liquor-Primary Liquor Licence, for the **Ocean Pointe Resort**, 45 Songhees Road, Licence, No. 144102

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 Ocean Pointe Resort in relation to their Liquor Primary Liquor Licence for the premises located at 45 Songhees Road, for a permanent change to increase the occupant load.

The current occupant load for the liquor primary service area of the pub is 26 persons. The hours of liquor service are from 11:00h to 01:00h Monday through Saturday and 11:00h to Midnight on Sunday. The requested change is due to the reconfiguration of the lobby, restaurant and lounge area on the ground floor of the hotel. If approved, the occupancy for the liquor primary service area would be increased to 54 persons. There would be no change in the hours of operation as a result of this application.


Recommendation:

That Council, after conducting a review with respect to noise and community impacts regarding the application to amend the occupant load respecting liquor service for the Liquor Primary Liquor Licence of the **Ocean Pointe Resort**, Liquor License No. 144102, located at 45 Songhees Road, supports:

1. The application of the **Ocean Pointe Resort** to amend its Liquor Primary Liquor Licence to allow an increase in occupant load to 54 persons.
2. The Council provides the following comments on the prescribed considerations:
 - (a) The location is in a designated mixed use commercial area which authorizes restaurants, hotels, clubs and associated uses. There is a significant amount of residential use in the immediate vicinity. The Liquor Primary operation within the hotel is compatible with the neighbouring land uses. The business is located within the Songhees Transient Accommodation Residential District and is within the Intermediate Noise District which allows for a higher noise threshold.

- (b) While this request represents a capacity increase of approximately 100% in the occupant load of Liquor Primary Licensed seats, there is expected to be minimal impact on the neighbourhood as the number of licensed seats after the proposed increase still makes this a small establishment. There is no concern that this change would result in the business being operated contrary to its primary purpose.
- (c) The views of residents were solicited via a mail out to neighbouring property owners and occupiers within 50 metres of the hotel and a notice posted at the property. Four responses were received by the City. One letter was received supporting the application. Three letters not supporting the application were received, 2 of these letters expressed concern about parking issues in the neighbourhood and 1 letter was concerned about the potential for increased nuisance from the additional seats.

Respectfully submitted



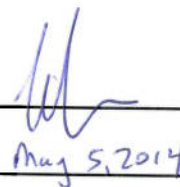
Mark Hayden
Manager, Bylaw and
Licensing Services



Robert Woodland
Director Legislative and
Regulatory Services

Report accepted and recommended by the City Manager: _____

Date: _____


Aug 5, 2014

MATERIALS RECEIVED VIA PUBLIC CONSULTATION PROCESS:

Attached 5 Available ____ N/A ____

[A letter from the proponent's agent, 1 letter supporting the increase in occupant load and 3 letters not supporting the occupant load increase]

Purpose

The purpose of this report is to seek a Council resolution for submission to the Liquor Control and Licensing Branch regarding an application by the Ocean Pointe Resort in relation to their Liquor Primary licensed operation located at 45 Songhees Road for a permanent change to increase the occupant load of the business.

Background

The Ocean Pointe Resort is located at 45 Songhees Road and includes a hotel, restaurant, lounge and spa facility. The hotel is undergoing renovations and the lobby, restaurant and lounge spaces are all being reconfigured as a result.

The hotel holds just the one Liquor Primary licence which allows it to operate the lounge on the main floor of the hotel adjacent to the lobby. This licence has been in place since 1992. The hotel also holds a Food Primary liquor licence for an onsite restaurant and banquet space that is part of the hotel. The renovations to the floor space will result in a slightly larger area proposed for the Liquor Primary business that will support an occupant load of 54 persons as determined by the Chief Building Official of the City. The current hours of operation are 11:00 AM to 1:00 AM, Monday through Saturday, and 11:00 AM to midnight on Sunday and will not change if this application is approved. It is also noted that the hotel does have onsite (mostly underground) parking spaces as required by the zoning regulations

In their attached letter (see Attachments), the owner's representatives have described the business plan for the overall operation of the licensed area of the hotel complex. A map of the subject property and immediate area is also attached to this report.

Location

Official Community Plan:

- The OCP designates the property within "Core Songhees".
- The area is designated within Development Permit Area 13 Songhees and Lime Point.

Zoning:

- The property is zoned STR-1 Songhees Transient Accommodation Residential District.
- This zone permits a mix of uses including restaurants, multiple dwellings, transient accommodation, clubs and lounges.
- Off-street parking is required for transient accommodation and residential uses (.5 parking space per unit), but is not required for other commercial uses listed in the zone.

Neighbourhood Compatibility:

- Surrounding land uses include: multiple dwellings, public green space and a vehicle sales outlet.
- There is residential use within a 50m radius at the following locations:
 - 27 – 33 Songhees (82 apartments and 10 townhouses)
 - 50 Songhees (multiple dwelling, 97 units)

The Sustainable Planning & Community Development Department has no objection to the application as the use is permitted.

Liquor Control and Licensing Branch

The General Manager of the provincial Liquor Control and Licensing Branch (LCLB) issues liquor licences under the authority of the *Liquor Control and Licensing Act* and regulations. Local government is to provide comments and recommendations to the LCLB on all liquor-primary licence applications regarding the potential for noise and impact on the community if the application is approved.

Relevant Policy / Bylaw

- a) Liquor Licensing Policy;
- b) Liquor Licensing Fee Bylaw.

Issues & Analysis

This application is being pursued as a permanent change to the operating conditions as the hotel owners are reconfiguring the floor space of the main floor of the building which will affect the layout of the lobby, restaurant and lounge areas. A letter from the applicant outlining the purposes of the requested change and a diagram outlining the proposed changes are attached to this Report.

Within a 100-metre radius of the Ocean Pointe Resort, there are no other Liquor Primary establishments.

Bylaw Enforcement

The Bylaw and Licensing Services Division has no concerns with the application. There have been no complaints made about the hotel operation with respect to nuisance or noise since 2000 (when electronic record keeping started). The applicant has Good Neighbour Agreement in place (since 2008) for their Liquor Primary business. This is a condition of their business licence.

Engineering & Public Works Department

The Downtown Community Development Section reviewed this application and provided the following comments:

The location is adjacent to the downtown centre and supports the service that guests at a hotel of this size might expect. Although the applicant's location is adjacent to a residential area, the total number of seats (including the requested additional seats) is modest. It is not considered to present an unreasonable, if any negative impact to neighbours. We therefore have no significant concerns with this request.

Police

The Police Department has no concerns with or objections to, the application.

Public Engagement and Consultation

In accordance with the City's Liquor Licensing Fee Bylaw and Liquor Licensing Policy, all owners and occupiers within 50 metres of the applicant's location were solicited by a mailed notice to provide input regarding this application. In addition, the business displayed a poster at the access points to their business for a 4 week period which also invited people to provide input to the City with respect to this application.

The result of this consultation was that the City received 1 letter supporting the application and 3 letters not in support of the application. In analysing the responses from residents who were not supportive of the application, the concern in 2 of the letters was that there would be parking problems created in the area by the increased number of patrons attending the lounge. One letter expressed concern about the potential for increased noise and nuisance from additional patrons should the application be approved. Copies of all feedback received are attached to this Report.

Conclusions

The request complies with the City's current liquor licensing policy because:

- the requested use is compatible with the neighbourhood;
- allowing the extra seats would be a positive economic benefit to the licensee;
- the business has a positive compliance record with no complaints received in the past 14 years; and
- the request complies with existing City regulations governing this type of business.

The liquor primary licence associated with this hotel has been operating since 1992 with an excellent compliance record. City staff from all Departments have no concerns about the proposed change to increase the occupant load as requested by the applicant. It is noted that the hotel does have onsite underground parking that provides sufficient spaces for guests as required by the Zoning Regulation Bylaw. The closing hours of the applicant's Liquor Primary business is 1:00AM (midnight on Sunday) and therefore patrons will have left the premises by 1:30AM. The hotel is not known as a destination establishment for the consumption of alcohol and most patrons in the lounge are hotel guests

Given the specifics of the reconfigured space within the hotel and the location of the lounge, it is not expected that this change will have anything other than a minor effect on noise or nuisance in the local area.

Recommendations

That Council, after conducting a review with respect to noise and community impacts regarding the application to amend the occupant load respecting liquor service for the Liquor Primary Liquor Licence of the **Ocean Pointe Resort**, Liquor License No. 144102, located at 45 Songhees Road, **supports:**

1. The application of the **Ocean Pointe Resort** to amend its Liquor Primary Liquor Licence to allow an increase in occupant load to 54 persons.
2. The Council provides the following comments on the prescribed considerations:
 - (a) The location is in a designated mixed use commercial area which authorizes restaurants, hotels, clubs and associated uses. There is a significant amount of residential use in the immediate vicinity. The Liquor Primary operation within the hotel is compatible with the neighbouring land uses. The business is located within the Songhees Transient Accommodation Residential District and is within the Intermediate Noise District which allows for a higher noise threshold.

- (b) While this request represents a capacity increase of approximately 100% in the occupant load of Liquor Primary Licensed seats, there is expected to be minimal impact on the neighbourhood as the number of licensed seats after the proposed increase still makes this a small establishment. There is no concern that this change would result in the business being operated contrary to its primary purpose.
- (c) The views of residents were solicited via a mail out to neighbouring property owners and occupiers within 50 metres of the hotel and a notice posted at the property. Four responses were received by the City. One letter was received supporting the application. Three letters not supporting the application were received, 2 of these letters expressed concern about parking issues in the neighbourhood and 1 letter was concerned about the potential for increased nuisance from the additional seats.

ATTACHMENTS

The following documents are attached:

1. A letter from the proponent's agent explaining the purpose for the requested change.
2. A copy of the approved floor plan.
3. An aerial photograph (map) of the property and surrounding area.
4. One letter in support of the application.
5. Three letters not supportive of the application.

March 10, 2014

VIA EMAIL MHayden@victoria.ca

Mr. Mark Hayden
Manager of Bylaw &
Licensing Services
City of Victoria
625 Pandora Street,
Victoria, B.C. V8W 1P6

Dear Mark:

**Re: Application for a structural change to a liquor primary license
to increase the capacity from 26 to 54
At: Ocean Pointe Resort
45 Songhees Road, Victoria, B.C. V9A 6T3
Applicant: Delta Hotels No. 40 Limited Partnership
Liquor Primary License Number: 144102**

Further to our telephone conversation, the writer is assisting the above applicant with a request to the City of Victoria and the Liquor Control & Licensing Branch for an increase in the capacity from 26 to 54 on this liquor primary license number 144102.

The liquor primary licensed area in the hotel currently includes the lounge soft seating and bar located on Level 2. The current capacity is 26 persons however, the maximum occupant load to B.C. Building Code scale is 54 patrons. This area operates as a lounge/bar.

The Ocean Point Resort has a very positive record with the City of Victoria, the Victoria Police and the Liquor Control & Licensing Branch. It is a full service hotel that is primarily engaged in the provision of quality accommodation, restaurant, bar/lounge facilities and conference facilities to the general local public, tourists and business people from British Columbia, throughout Canada, the United States and around the world. Accordingly, the Ocean Pointe Resort wants to better serve the public and provide their guests with comparable quality and level of service that is available at other major full service hotels in British Columbia.

The increase in capacity of this liquor primary license will encourage more tourists and locals to enjoy the amenities of the hotel rather than travel to another establishment.

To support this application, please find attached the following:

- A Letter of Authorization from the applicant.
- A copy of the Liquor Branch Application for a Structural Change to a liquor primary license as required by the Liquor Control & Licensing Branch.
- Copy of Liquor Primary License Number 144102.
- Copy of the stamped floor plan from the City of Victoria.

I understand that you have a public notification process which includes a mail-out that the City of Victoria does and also a sign needs to be posted at the establishment for a 4 week period.

Please do not hesitate to contact me if you require further information.

Thanks kindly.

Yours truly,

RISING TIDE CONSULTANTS LTD.

Susan Mander

Susan Mander

Licensing Specialist

cc: Delta Hotels No. 40 Limited Partnership

City of Victoria

*Reviewed for Occupant Load Only

Maximum Occupant Load is:

Building Official:

Mar 10, 2014

Main Floor:

54

Lounge liquor primary
Persons

Name:

Ang Woo
Ang Woo

ANT - OCCUPANT LOAD CALCULATION

Signature:

RESTAURANT : 3085 sq. ft. [287.77 sq. m.]
287.77 sq. m. / 1.2 sq. m. per person = 239 patrons
1530mm + 920mm = 2450mm
2450mm / 12.2mm per person = 200 occupants
121 patrons + staff
121 TOTAL OCCUPANTS (limited by design of space)

NET FLOOR AREA:
OCCUPANT LOAD BY NET AREA:
TOTAL EXIT WIDTH
OCCUPANT LOAD BY EXIT WIDTH:
TOTAL OCCUPANT LOAD:

LOUNGE : 1418 sq. ft. [131.73 sq. m.]
131.73 sq. m. / 1.2 sq. m. per person = 109 patrons
1530mm + 920mm = 2450mm
2450mm / 12.2mm per person = 200 occupants
54 patrons + staff
54 TOTAL OCCUPANTS (limited by design of space)

EXTERIOR RESTAURANT PATIO : 1477 sq. ft. [137.3 sq. m.]
137.3 sq. m. / 1.2 sq. m. per person = 114 patrons
1830mm
1830mm / 12.2mm per person = 150 occupants
60 patrons + staff
60 TOTAL OCCUPANTS (limited by single exit) (REFER TO NOTE #1)

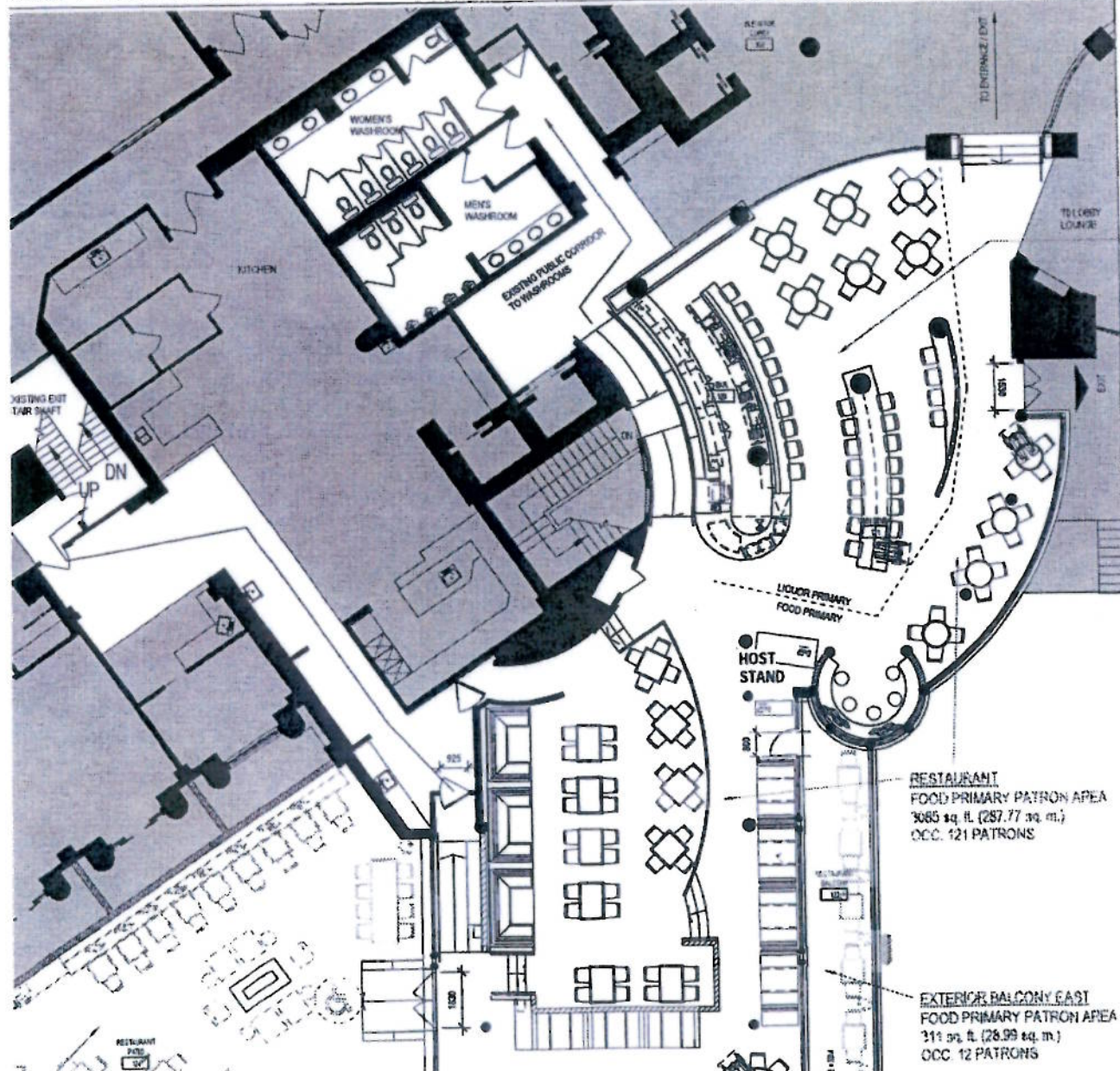
NET FLOOR AREA:
OCCUPANT LOAD BY NET AREA:
TOTAL EXIT WIDTH
OCCUPANT LOAD BY EXIT WIDTH:
TOTAL OCCUPANT LOAD:

EXTERIOR BALCONY EAST : 311 sq. ft. [28.99 sq. m.]
28.99 sq. m. / 1.2 sq. m. per person = 24 patrons
800mm
800mm / 12.2mm per person = 65 occupants
12 patrons + staff
12 TOTAL OCCUPANTS (limited by design of space) (REFER TO NOTE #1)

NET FLOOR AREA
OCCUPANT LOAD
TOTAL EXIT WIDTH
OCCUPANT LOAD
TOTAL OCCUPANT LOAD

ANT FLOOR PLAN

LEVEL 2 RES



FEMALE
MALE

NOTE:
#1. EXTERIOR PATIO
WOULD BE EITHER INS

LOUNGE
LIQUOR PRIMARY PATRON.
1418 sq. ft. (131.73 sq. m.)
OCC. 54 PATRONS

RESTAURANT
FOOD PRIMARY PATRON AREA
3085 sq. ft. (287.77 sq. m.)
OCC. 121 PATRONS

EXTERIOR BALCONY EAST
FOOD PRIMARY PATRON AREA
311 sq. ft. (28.99 sq. m.)
OCC. 12 PATRONS



Ocean Pointe Resort - 45 Songhees Rd.

04/23/2014



Legend

Victoria Parcels

1: 2,279



Notes

115.8 0 57.88 115.8 Meters

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

NAD_1983_CSRS_UTM_Zone_10N
Public domain: can be freely printed, copied and distributed without permission.

Mark Hayden

From: John Amon <[REDACTED]>
Sent: Thursday, Mar 20, 2014 3:40 PM
To: Liquor Licence Email
Subject: Re Delta Application

Memo to Manager, Bylaw and Licensing Services
c/o Legislative Services
1 Centennial Square
Victoria, BC

I fully support the proposed change in licence conditions for Liquor Primary venue in the Ocean Pointe Resort. I live nearby at Songhees Point, at 50 Songhees Road.

The Delta Ocean Pointe Resort is a high quality establishment, a good neighbour, and a pleasant place to take guests to wine or dine. The increased capacity proposed in the Lounge is reasonable and appropriate.

Thank you for informing me of this Notice Of Application for Permanent Change to a Liquor Licence, and for providing me with the opportunity to comment.

John Amon
118-50 Songhees Road
Victoria BC, V9A7J4
[REDACTED]

Mark Hayden

From: Marilyn Hess [REDACTED]
Sent: Thursday, Mar 20, 2014 1:41 PM
To: Liquor Licence Email
Subject: Ocean Pointe Resort Application

Importance: High

Re. Liquor Control and Licensing Act – Permanent Change to Occupant Load

Ocean Pointe Resort – 45 Songhees Road

Thank you for this opportunity to express our opinion regarding the change requested by the Ocean Pointe Resort, in order to increase the occupant load for the Lounge area to **54** persons from **26** persons; an increase of **28** persons.

As residents of 50 Songhees Point, we have been awakened by rather happy, loud lounge patrons as they leave the Ocean Point and our concern is the 'more than doubling' of happy people carousing down the street late in the evening and early morning.

We know that the Ocean Pointe cannot control the noise and fumes as busses arrive and leave the facility, however limiting the amount of 'persons' enjoying the lounge and then leaving the resort hotel late at night can be reduced by having less patrons.

Therefore we are opposed to the increased amount of occupant load of the Ocean Point lounge area.

Herb and Marilyn Hess
415 – 50 Songhees Point
Victoria, BC V9A 7J4

Pho [REDACTED]

Mark Hayden

From: graham.zirul [REDACTED]
Sent: Tuesday, Apr 8, 2014 11:23 AM
To: Liquor Licence Email
Subject: Proposed Expansion of Liquor Licence - Ocean Point Resort

I am the owner of a condominium suite in the Peninsula Strata located at 29 Songhees Road. I have but one concern relating to the above proposal: **parking**. There are close to three hundred strata residences immediately adjacent to Ocean Point Resort and facing onto a single block of Songhees Road. Visitors to those residents are limited to the couple of dozen on-street parking spaces there, and they are invariably in short supply. Ocean Point events likewise put pressure on those spaces as their on-site, underground valet parking is used virtually exclusively by overnight guests in the Hotel. The current bar space was designed for and easily accommodates hotel guests and visitors...the expansion would be to accommodate outside public, bar patrons only. They will again be competing for the limited, one block of on-street parking. The parking is already currently stressed and what capacity remains should not be further intruded upon by approval of the Hotel's Proposal and to the detriment of local residents.

Thank you for your consideration,
Graham Zirul

Mark Hayden

From: Brenda.Leslie [REDACTED]
Sent: Tuesday, Apr 8, 2014 3:31 PM
To: Liquor Licence Email
Subject: Ocean Point Resort's application to expand Liquor Licence

I own a townhome at 33 Songhees and which faces onto Songhees Road immediately adjacent to the Hotel. Parking is already an issue in that location with pressure from several large condominium complexes there. These buildings have adequate parking for owners (though typically 1 stall per suite) but virtually all their numerous guests (including my own) need to park on the 1 short block fronting 33 Songhees. In addition, residents with the need to park an additional vehicle are typically there as well. Currently, when the Hotel has a scheduled function with outside guests, local parking and congestion is a "zoo". This proposed expansion of the bar area is not to accommodate Hotel guests (who park underground at the Hotel) but rather is for outside clientele. Check this out if you will ...I often stop by myself and there is invariably plenty of available seating. This expansion is obviously part of a plan to market the bar differently (perhaps to the after work crowd ...I don't know, but for sure they will be seeking to park on the street and further intrude on what is already a problematic situation for local residents.

I wish to see the Application declined. I do find it curious however that when in the Hotel yesterday they were in the midst of full-scale renovations of the lounge and bar area.

Sincerely,
Brenda Leslie