



Governance and Priorities Committee Report

For the October 9, 2014 Meeting

To: Governance and Priorities Committee **Date:** October 1, 2014

From: Robert Woodland, Director of Legislative and Regulatory Services

Subject: Application for a permanent change to extend Hours of Sale in relation to a Liquor Primary Liquor Licence, for **D'arcy McGee's**, 1127 Wharf Street, Licence No. 212046

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 D'arcy McGee's in relation to their Liquor Primary Liquor Licence for the premises located at 1127 Wharf Street, for a permanent change to extend their hours of operation in relation to their liquor service.

The current hours of liquor service are from 11:00h to 01:00h Monday through Sunday. The occupant load for the nightclub is 238 persons. If approved, the hours of operation for liquor service would be 11:00h to 01:00h Monday to Friday and 09:00h to 01:00h Saturday and Sunday. There would be no change in occupancy as a result of this application.

Recommendation:

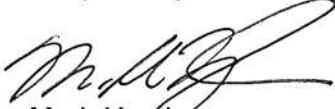
That Council, after conducting a review with respect to noise and community impacts regarding the application to amend the occupant load respecting liquor service for the Liquor Primary Liquor Licence of **D'arcy McGee's**, Liquor License No. 212046, located at 1127 Wharf Street, supports:

- The application of **D'arcy McGee's** to amend its Liquor Primary Liquor Licence to allow an increase in operating hours to include 11:00h to 01:00h from Monday to Friday and 09:00h to 01:00h Saturday and Sunday.
- The Council provides the following comments on the prescribed considerations:
 - (a) The location is in the historic commercial district which authorizes restaurants, hotels, retail stores, tourist services and associated uses. There is limited residential use in the immediate vicinity. The Liquor Primary Liquor licensed operation is compatible with the neighbouring land uses. The business is located within the Old Town Wharf Pub District and is within the Intermediate Noise District which allows for a higher noise threshold.
 - (b) This request represents a change in operating hours to enable liquor service 2 hours earlier on Saturdays and Sundays, a net increase in 4 hours weekly for the premises. This change is expected to have minimal impact on the

neighbourhood due to the configuration and use of the licensed premises. The pub has had no complaints of noise or nuisance in the past 13 years. 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. No responses were received by the City.

Respectfully submitted



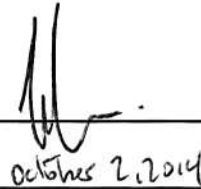
Mark Hayden
Manager, Bylaw and
Licensing Services



Robert Woodland
Director Legislative and
Regulatory Services

Report accepted and recommended by the City Manager:

Date:


October 2, 2014

MATERIALS RECEIVED VIA PUBLIC CONSULTATION PROCESS:

Attached 1 Available N/A

[A letter from the proponent is attached]

Purpose

The purpose of this report is to seek a Council resolution regarding an application by D'arcy McGee's, in relation to their Liquor Primary licensed business located at 1127 Wharf Street for a change to extend their hours of liquor service to be open at 09:00h on Saturday and Sunday instead of 11:00h as currently authorized for their pub business.

Background

D'arcy McGee's pub is located at 1127 Wharf Street and has been in operation since 2001. The venue is licensed for 238 patrons including a 48 seat patio and the current operating hours are from 11:00AM until 1:00AM, 7 days per week. The applicant is seeking an extension of business hours on Saturday and Sunday mornings, opening at 9:00AM, so that the business can serve breakfast to patrons wishing to view televised sporting events in the pub. In their attached letter (see Attachments), the operator has described the full rationale for their request. A map of the subject property and immediate area is also attached to this report.

Location

Official Community Plan:

- The property is within Core Historic Urban Place designation in the Official Community Plan. Core Historic uses include: commercial, including office and retail, and visitor accommodation. Multi-unit residential and home occupations.
- The area is covered by Development Permit Area #1: Core Historic, which enables Council to review and approve the detailed design finish and landscape of any new development in this area.

Downtown Core Area Plan:

- The property is within the Historic Commercial District. The area envisages low-rise mixed-use buildings up to 15 m in height and 3:1 FSR. Anticipated land uses are retail stores, cafes, restaurants and multi-unit residential, hotels, public institutions, tourist services and personal service businesses.

Zoning:

- The property is zoned CA-45, Old Town Wharf Pub District, which permits a neighbourhood pub.

Neighbourhood Compatibility:

- The building fronts on Wharf Street; parking is not provided or required. The property is located within the Intermediate Noise District. Immediately adjacent land uses are:
 - North (across Bastion Square): Retail and office
 - West (across Wharf): Parking lot, Victoria Regent Hotel
 - East (across Douglas): Retail and office
 - South: Retail and office

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 pub operator wishes to be able to provide licensed breakfast service to early morning customers on weekends that would come in to watch football and hockey. A letter from the applicant detailing the reasons for the requested change is attached to this Report.

In 2007 Council adopted as part of the City's Liquor Licensing Policy, specific hours of operation limitations for Liquor Primary licensed businesses. The applicable Council Minute is attached to this Report. This policy provides guidance on closing hours for Liquor Primary businesses, but does not specify approved opening hours other than what is allowed by the LCLB (which is 9:00AM).

As such, the changes to the operating hours being requested by the applicant are within the hours of operation contemplated by the City's Liquor Licensing Policy.

Within a 50 metre radius of D'arcy McGee's, there is 1 other Liquor Primary licensed establishment as set out below.

VENUE	HOURS	SUNDAY HOURS	SEATING	TYPE
Upstairs Cabaret #15 Bastion Square	4:00PM to 2:00AM	4:00PM to Midnight	300	Cabaret

In addition, there are 4 Food Primary Liquor licensed establishments within a 50 metre radius of D'arcy McGee's. Combined they have a total of 395 seats, but only 1 (The Local Kitchen at 1205 Wharf St.) is open at 9:00AM on weekends.

Bylaw Enforcement

The Bylaw and Licensing Services Division has no concerns with the application. There have been no complaints made about the pub operation with respect to nuisance or noise. There is a good neighbour agreement in place as required by the Business Licence Bylaw.

Engineering & Public Works Department

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

- As this application only involves opening 2 hours earlier in the morning on weekends, we have no concerns.

Police

The Police Department has no concerns with, or objections to, this 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 no feedback from the community.

Conclusions

The request complies with the City's current liquor licensing policy as the proposed opening hours contained in the request are within the allowable open hours specified by City Policy. This Liquor Primary licensee has been operating since 2001. There have been no noise or nuisance complaints received by the City in respect to these premises since that date.

City staff from all Departments have no concerns about the proposed change to the operating hours for liquor service. The public consultation conducted by the City has resulted in no feedback from the public which is a general indication that the community has no concerns about the proposed changes. Therefore, a resolution supporting the application has been drafted to meet the Liquor Control and Licensing Branch requirements.

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 **D'arcy McGee's**, Liquor License No. 212046, located at 1127 Wharf Street, supports:

- The application of **D'arcy McGee's** to amend its Liquor Primary Liquor Licence to allow an increase in operating hours to include 11:00h to 01:00h from Monday to Friday and 09:00h to 01:00h Saturday and Sunday.
- The Council provides the following comments on the prescribed considerations:
 - (a) The location is in the historic commercial district which authorizes restaurants, hotels, retail stores, tourist services and associated uses. There is limited residential use in the immediate vicinity. The Liquor Primary Liquor licensed operation is compatible with the neighbouring land uses. The business is located within the Old Town Wharf Pub District and is within the Intermediate Noise District which allows for a higher noise threshold.
 - (b) This request represents a change in operating hours to enable liquor service 2 hours earlier on Saturdays and Sundays, a net increase in 4 hours weekly for the premises. This change is expected to have minimal impact on the neighbourhood due to the configuration and use of the licensed premises. The pub has had no complaints of noise or nuisance in the past 13 years. 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. No responses were received by the City.

ATTACHMENTS

The following documents are attached:

1. An aerial photograph (map) of the property and surrounding area.
2. The Council Minute from May 24, 2007 detailing Council's policy on hours of service for Liquor Licensees
3. A letter from the applicant explaining the purpose for the requested change.



46.7	0	23.37	46.7 Meters
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Public domain: can be freely printed, copied and distributed without permission.

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



Legend

☐ **Victoria Parcels**

1: 920



Notes

To the attention Of the City Of Victoria,

Please accept this as our letter of intention for a change of hours to our existing liquor License # 212046. We are currently operating seven days a week with an opening time of 11:00 AM.

We would like to request the earlier start time, for Saturday and Sunday mornings of 9:00 AM.

Our intent is to provide an early breakfast option for weekend residents and tourists. As well, we will be showing all of the early morning NFL Football and NHL Hockey games which typically have a 10:00 AM start time.

If there is any more information I can provide please do not hesitate to call me.

Thank you so much,

W Dale Mallock

Owner / Operator

Darcy's Pub (2009) Ltd & Upstairs Cabaret (2009) Ltd.

CI (250) 216-5258

Councillor Young proposed that the motion be amended to allow this service for the 2007 cruise ship year. Councillor Hughes asked if BC Transit was being consulted and not the City, who owns the streets.

Robert Woodland: Advised that it is an operational issue not an authorization issue.

Mayor Lowe said that we need to look at the service itself; it is a valid service that we require. Other operators can apply to the City to offer a similar service.

Councillor Madoff asked how operators will be dealt with if they do not comply with the bylaws.

Robert Woodland: Advised that with the deregulation of the transportation industry it has opened up the market to newly formed operators. All licensees will be treated the same and we will enforce through ticketing and other means. This is a shuttle service not a tour service and is for a specific market from the Harbour Authority property to downtown.

It was moved by Councillor Young, seconded by Councillor Hughes, that the following motion be amended as follows:

That Council:

1. Endorse **for 2007** the Advisory Transportation Committee recommendation for three proposed pickup / drop off locations for Cruise Victoria Service, subject to written BC Transit approval for the use of existing bus zones.
2. That staff work with Cruise Victoria Service to explore options for a drop off location at the north end of downtown. Carried

On the main motion as amended:

Carried

Councillor Thornton-Joe returned to the meeting at 9:50 p.m.

Robert Woodland (Corporate Administrator): Advised Council that the Director of Parks, Recreation and Community Development has prepared a follow up report for Committee of the Whole that would make this recommendation redundant.

8. Pesticide Use Reduction Bylaw and Public Education Program Update

It was moved by Councillor Hughes, seconded by Councillor Chandler, that Council refer the following motion back to Committee of the Whole:

That Council directs staff to:

1. Circulate the draft bylaw to the City's Advisory Committees and other stakeholders for review and feedback, and
2. Continue to work with the CRD and other municipalities on the implementation of a Pesticide Use Reduction public education campaign, and
3. Report back to Committee with an implementation date for the Pesticide Use Reduction Bylaw. Carried

Councillor Coleman withdrew from Council Chambers at 9:52 p.m. as he works in a food primary business, which creates a direct pecuniary interest in this item.

9. Liquor Establishments Extended Hours

It was moved by Councillor Holland, seconded by Councillor Fortin, that:

1. **Liquor-Primary Extension of Hours on Sunday**
That City Council approve extended hours of service until 02:00h on a holiday Monday for liquor-primary establishments and authorize staff to implement this policy by approving multiple dates for each calendar year, through a Temporary Change to a Liquor Licence application; and
2. **Liquor-Primary Extension of Hours past 02:00h**
That City Council not consider applications for extended hours of sale past 02:00h for any date other than New Year's Eve; and
3. **Liquor-Primary and Food-Primary Extension of Hours on New Year's Eve**
That City Council approves extended hours of service until 03:00h January 1, for all licensees on the condition that food is available to patrons; and
4. **Food-Primary Extension of Hours past Midnight**
That Council considers applications for extended hours of service up to, but not past 01:00h, on Friday and Saturday only for all food-primary licensees. Carried

Councillor Coleman returned to the meeting at 9:52 p.m.

REPORTS OF THE COMMITTEE

2. PRIVATE PROPERTY MAINTENANCE COMMITTEE – May 17, 2007

1. Construction Without Building Permit – 3136 Quadra Street