



Governance and Priorities Committee Report For the June 12, 2014 Meeting

To: Governance and Priorities Committee **Date:** May 20, 2014
From: Robert Woodland, Director of Legislative and Regulatory Services
Subject: Application for a Liquor Primary Licence, **Hermann's Jazz Club Inc. (Hermann's)**, 753 View Street

Executive Summary

The purpose of this report is to seek a Council resolution regarding an application by Hermann's Jazz Club Inc. (Hermann's) located at 753 View Street for a Liquor Primary Licence. This is a new licence application and will require Council to receive input from the Public through a Liquor Licence hearing as set out in the Liquor Licensing Fee Bylaw and the City's Liquor Licensing Policy and Process.

The proposed hours of liquor service would be from 09:00h (9:00AM) to 01:00h (1:00AM) Monday through Saturday and 09:00h (9:00AM) to Midnight on Sunday. The occupant load for the proposed lounge/club is 80 persons (all inside the building).

Recommendation:

That Council, after conducting a review of the staff assessment of the application for a Liquor Primary Licence for **Hermann's** located at 753 View Street and in accordance with the City's Liquor Licensing Fee Bylaw and Liquor Licensing Policy approves:

1. The scheduling of a Liquor Licence Hearing before Council to receive written and oral submissions from residents, property owners and the public with respect to this application; and
2. Based upon the results of the public input received through the Liquor Licence hearing process, approve a resolution (with comments on the relevant factors) either supporting the licence application or not supporting the licence application. The appropriate resolution will be brought to Council at the earliest opportunity after completion of the Liquor Licence hearing.
3. That this motion be forwarded to the June 12th Council Meeting for ratification.

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:

May 25, 2014

Purpose

The purpose of this report is to seek Council direction regarding a Liquor Primary Liquor Licence application by Hermann's Jazz Club Inc., in relation to their proposed liquor primary lounge/club style business located at 753 View Street.

Background

This is a new application requesting the ability to provide liquor service as part of a lounge/club style business. The maximum proposed hours of service would be from 9:00AM to 1:00AM Monday through Saturday and 9:00AM to Midnight on Sunday.

The proposed business is located at 753 View St. near the corner of Blanshard Street. With the closing of the "Army, Navy, Airforce Veterans in Canada" business at this address, the applicant is seeking to open a new business to provide a similar type of service for the general public (beverage and food service at reasonable prices). A Letter of Intent from the business owner (submitted in December 2012 to the LCLB when the applicant first initiated this request) is attached in the Appendix to this Report as well as the Application Summary prepared by the LCLB. An occupant load of 80 persons has been approved by the City's Chief Building Official.

Location

Official Community Plan:

- The OCP designates the property within the "Primary Centre".
- The area is designated within Development Permit Area 2 (Heritage Conservation) Core Business.

Downtown Core Area Plan:

- The property is within the "Central Business District" (CBD).
- The CBD is the main employment centre for the Region as a whole. With its concentration of higher density office buildings, this helps to attract and retain a range of supporting commercial uses – such as restaurants, cafés, convenience stores, office supply stores, retail stores, hair salons and other personal service businesses, as well as major banks and other financial institutions – to provide the daily amenities and services required by the businesses, employees and residents within the CBD.

Zoning:

- The property is zoned CA-4, Central Area Commercial Office.
- This zone permits a mix of uses including restaurants, clubs, theatres, retail sales, transient accommodation and office space.
- Off-street parking is required for transient accommodation purposes, but not required for other uses listed in the zone.

Neighbourhood Compatibility:

- Surrounding land uses include: retail, restaurants, personal services hotels, offices, residential and public/cultural buildings. There is residential use on the second story above commercial space located at 1114/1126 Blanshard St., which is adjacent to this building.
- The subject property is included in the "Intermediate District" under the Noise Bylaw.

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 new liquor-primary licence applications regarding the following criteria:

- a) The location of the establishment;
- b) The proximity of the establishment to other social or recreational facilities and Public buildings;
- c) The person capacity and hours of liquor service of the establishment;
- d) The number and market focus or clientele of liquor-primary licence establishments within a reasonable distance of the proposed location;
- e) The impact of noise on the community in the immediate vicinity of the establishment; and
- f) The impact on the community if the application is approved.

Relevant City Policy / Bylaw

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

Issues and Analysis

As stipulated in the *Liquor Control and Licensing Act*, Council has been requested to provide input to the LCLB with respect to this application. Under the City's Liquor Licensing Fee Bylaw and the City's Liquor Licensing Policy, Council is required to hold a Liquor Licence hearing to receive input on new applications for a Liquor Primary Licence, such as this application.

Under the rules established by the Liquor Control and Licensing Branch, Council can choose to "opt out" of providing comment on this application. As proceeding to opt out is contrary to the City's Policy on Liquor Licensing, that option has not been further explored in this report.

Within a 2 block radius of the proposed business, there are 6 other Liquor Primary Licensed establishments with a total patron capacity of 1250 seats. Details are set out in the table:

VENUE	HOURS	SUNDAY HOURS	SEATING	TYPE
Bedford Regency Hotel 1140 Government St.	11:00h to 01:00h	11:00h to Midnight	198	Hotel
Irish Times Pub 1200 Government St.	11:00h to 01:00h	11:00h to 01:00h	250	Public House
Touch Lounge 751 View Street	19:00h to 02:00h	19:00h to Midnight	400	Cabaret
Boutique Lounge 1318 Broad St.	19:00h to 02:00h	19:00h to 02:00h	292	Cabaret
Dalton Hotel (DORMANT) 759 Yates Street	11:30h to 01:30h	11:00h to Midnight	50	Hotel
Peacock Billiards (Licence application i/p) 1175C Douglas St.	11:00h to 02:00h	11:00h to 02:00h	60	Lounge

The City has received and processed 8 Liquor Primary Liquor licence change applications since

December 1, 2013. Three of these (including this application) are for new licenses totalling 400 seats (260 are for a theatre application). The remaining 5 applications were for an increase in occupant load for a total of 190 additional seats for all applications combined.

Bylaw Enforcement

The Bylaw and Licensing Services Division has no concerns with the application. If this application is ultimately approved, the applicant would need to complete a Good Neighbour Agreement in accordance with the requirements of the Business Licence Bylaw. This would become a condition of their City issued business licence.

Engineering & Public Works Department

The Downtown Community Development Section (DCDS) provided the following comments:

- The location of the venue is in the entertainment area of the downtown,
- The applicant has operated their Food Primary venue much like a Liquor Primary Licence,
- A daycare has been historically operating in the immediate area, and
- The rationale for an opening of 9:00am seven days a week is not understood, but impacts are conceivable if used extensively.

The change of licence from the Army, Navy, Airforce Veterans Club to this new business is not believed likely to increase behaviour issues in the area significantly, if at all. As a result, the DCDS has no concerns with this application being approved.

Police

The Police Department has no concerns with this application being approved. They note a general concern with the number of applications coming forward in the past 6 months which will collectively serve to increase the number of liquor primary licensed seats in the downtown.

Public Engagement and Consultation

If Council endorses the recommendation of this Report, in accordance with the City's Liquor Licensing Fee Bylaw and Liquor Licensing Policy, all owners and occupiers of property within 100 metres of the applicant's location will be solicited by mail to provide input regarding this application and invited to attend the Liquor Licence Hearing. In addition, the business will be required to display posters at the access points to their proposed business location for a minimum 3 week period which will also invite the Public to provide input to the City with respect to this application and to attend the Liquor Licence Hearing.

Conclusions

As required under the City's bylaws and policy, the staff review has been completed and has identified no barriers to this application proceeding to the next step – public consultation via a Liquor Licence hearing before Council.

If the recommendations are approved, staff will arrange to receive public input via a Liquor Licence hearing in accordance with City policy within 30 days. A final Report to Council would be prepared and submitted summarizing the results of the Liquor Licence Hearing. This report will also provide a draft Resolution for submission to the Liquor Control and Licensing Branch for Council's consideration.

Recommendation

That Council, after conducting a review of the staff assessment of the application for a Liquor Primary Licence for **Hermann's** located at 753 View Street and in accordance with the City's Liquor Licensing Fee Bylaw and Liquor Licensing Policy approves:

1. The scheduling of a Liquor Licence Hearing before Council to receive written and oral submissions from residents, property owners and the public with respect to this application; and
2. Based upon the results of the public input received through the Liquor Licence hearing process, approve a resolution (with comments on the relevant factors) either supporting the licence application or not supporting the licence application. The appropriate resolution will be brought to Council at the earliest opportunity after completion of the Liquor Licence hearing.
3. That this motion be forwarded to the June 12th Council Meeting for ratification.

ATTACHMENTS

The following documents are attached:

1. An aerial photograph (map) of the property and surrounding area.
2. The Application Summary prepared by LCLB
3. A letter from the applicant explaining the purpose for the application.

A map of the Tokyo Metropolitan Area, showing the city limits and surrounding regions. A red square in the center indicates the location of the study area, which is the central urban core of Tokyo.

Legend

Victoria Parcels

1: 2,425

Notes



123.2 Meters

123.2

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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.

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

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NAD_1983_CSRS_UTM_Zone_10N
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THIS MAP IS NOT TO BE USED FOR NAVIGATION



BRITISH
COLUMBIA

APPLICATION SUMMARY

For Applicant and Local Government/First Nations

Date: March 27, 2014

Job #20186465-1

Created by: Janine Lind

Re: Application for a Liquor-Primary (LP) Licence
Applicant: Hermann's Jazz Club Inc.
Proposed Location: 753 View Street, Victoria
Proposed Establishment Name: View Street Pub *Hermann's*

1. APPLICATION INFORMATION

Date application deemed complete: November 5, 2013

Local Government Jurisdiction: City of Victoria

The primary business focus of the proposed establishment: Food & Beverage

Total person capacity/occupant load requested: Person 01 = 80 persons
(this number includes patrons plus staff)

Hours of Operation requested:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
9:00 AM	9:00 AM	9:00 AM	9:00 AM	9:00 AM	9:00 AM	9:00 AM
1:00 AM	1:00 AM	1:00 AM	1:00 AM	1:00 AM	1:00 AM	12:00 Midnight

Terms and Conditions and/or Endorsements Requested:

- Minors not permitted.

2. APPLICANT ELIGIBILITY AND SUITABILITY INFORMATION (Fit and Proper)

Applicant has met the eligibility and suitability requirements of the Liquor Control and Licensing Act (LCLA) as well as Liquor Control and Licensing Policy section 3.2.

3. LOCATION/SITE FACTORS

The following sections are compiled from information provided by the applicant except where indicated otherwise.

The legal description of the proposed site is: Lot 38 Victoria District with a civic address of 753 (and 751) View Street. The landlord company is comprised of related shareholders with the Applicant company, and a 10 year lease agreement between the Applicant and the Landlord effective April 1, 2013, has been signed.

The proposed establishment location is currently occupied by the Army Navy Air Force Veterans (ANAFV) Unit #12, holding liquor licence LP Club #115328, under an informal month to month agreement; however, that tenancy agreement has been terminated and the ANAFV has agreed to a notice to vacate the premises by April 30, 2014. If the ANAFV does not request cancellation of the LP Club licence #115328 at that time, the Branch will issue a notice of

cancellation given the licensee will no longer hold valid interest in the location.

The Applicant's proposal for the establishment is a pub style lounge facing View Street, in the front half of the ground floor that is shared with the Applicant's Food Primary licence #119715; the two areas are separated by a shared kitchen.

See the attached **Applicant's Letter of Intent** for details of the proposed Liquor Primary establishment, including the following details:

- a) **Business Focus or Purpose**
- b) **Target Market**
- c) **Composition of the Neighbourhood and Reasonable Distance Measure**
- d) **Benefits to the Community**
- e) **Noise in the Community**
- f) **Impact on the Community**
- g) **Other impacts, comments or requests**

Please note that the applicant's letter of intent is attached to this report for reference purposes. The information or statements included in the letter of intent have not been confirmed unless otherwise stated in this report.

The following information is provided by both the applicant and the Liquor Control and Licensing Branch

- h) **Distance measure used for public buildings and other liquor primary licensed establishments: 2 BLOCKS**

- i) **Social Facilities and Public Buildings within the distance measure of 2 BLOCKS radius:**

Name/Type of Facility	Distance from site	Clientele Affected	Identified by
1 Churches	Within 2 blocks	Residents, minors, tourists	Applicant
ESL School	Within 2 blocks	Residents, minors	Applicant
2 theatres	Within 2 blocks	Residents, minors, tourists	Applicant
3 government buildings	Within 2 blocks	Residents, minors	Applicant
Freedom Childcare	Next door	Minors, residents	Applicant
Tillicum after school care	Within 2 blocks	Minors, residents	Applicant

- j) **Liquor Primary and Liquor Primary Club establishments within the reasonable distance of 2 BLOCKS from the proposed location:**

Establishment Name	Licence Number	Establishment Type	Total Capacity	Distance from proposed site	Market Served	Identified by
Peacock Billiards	LP in progress	Lounge	60	Within 2 blocks	Residents, Tourists	Branch
Bedford Regency Hotel	116081 / 115527	Hotel	168 / 30	Within 2 blocks	Tourists, Residents	Branch
Irish Times Pub	301113	Public House	250	Within 2 blocks	Tourists, residents	Applicant
Touch Lounge	151099	Cabaret	400	Within 2 blocks	Residents, Tourists	Applicant
Boutique Lounge	113949	Cabaret	292	Within 2 blocks	Residents, Tourists	Branch
(DORMANT status) Dalton Hotel	161479	Hotel	50	Within 2 blocks	Tourists, Residents	Branch

The following information is provided by Liquor Control and Licensing Branch except where indicated otherwise.

Community Indicators

Contravention Statistics

The Liquor Control and Licensing Branch has compiled contravention statistics on the identified liquor primary and liquor primary club establishments within a 2 BLOCK radius of the proposed location. These statistics are based on a period covering from January 2007 to present and only include **proven** contraventions.

Contravention Type	Total number of LP contraventions within the 2 block radius
Supply to Minors, s. 33	1
Overcrowding beyond capacity/occ load, s. 6(4)	3

POPULATION AND SOCIO-ECONOMIC INFORMATION

- Circle population statistics for 2001 and 2006 are available from BC Stats by emailing your request to BC.Stats@gov.bc.ca
- BC Stats Community Facts includes the BC Benefits recipient and EI Beneficiary statistics and is available at <http://www.bcstats.gov.bc.ca/data/dd/facsheet/facsheet.asp>

4. PUBLIC INTEREST

In providing its resolution on the proposed Liquor Primary application, local government must consider and comment on each of the regulatory criteria indicated below. The written comments must be provided to the general manager by way of a resolution within 90 days after the local government receives notice of the application, or any further period authorized by the general manager in writing.

Section 10 of the Liquor Control and Licensing Regulation states that local government or First Nation must consider and comment on each of the following criteria:

- a) The location of the establishment;
- b) The proximity of the establishment to other social or recreational facilities and public buildings;
- c) The person capacity and hours of liquor service of the establishment;
- d) The number and market focus or clientele of liquor primary establishments within a reasonable distance of the proposed location;
- e) The impact of noise on the community in the immediate vicinity of the establishment; and
- f) The impact on the community if the application is approved.

The local government or first nation must gather the views of residents in accordance with section 11.1 (2) (c) of the Act and include in their resolution:

- (i) the views of the residents,
- (ii) the method used to gather the views of the residents, and
- (iii) its comments and recommendations respecting the views of the residents;

The local government or first nation must provide their recommendations with respect to whether the licence should be issued and the reasons for its recommendations.

The resolution must be provided to the general manager within 90 days after the local government or first nation receives notice or any period authorized by the general manager in writing.

A sample resolution template and comments are enclosed as attachments 2 and 3 to this report for reference purposes.

For use by Liquor Control and Licensing Branch:

5. REGULATORY CONSIDERATIONS

Liquor Control and Licensing Act, sections: 11, 16 and 18
Liquor Control and Licensing Regulations sections: 4, 5, 6, 8, 10

6. POLICY CONSIDERATIONS

Policy Manual Section 3.2 Applicant Eligibility Assessment
Policy Manual Section 3.3 Site and Community Assessment
Policy Manual Section 3.4 Building Assessment and Issue of a Licence

Hermann Nieweler
Hermann's Jazz Club Inc.
753 View Street
Victoria, BC
V8W 1J9

11 December 2012

Liquor Control and Licensing Branch
PO Box 9292
Stn Prov Govt
Victoria, BC
V8W 9J8

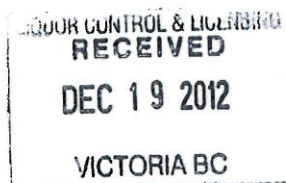
To Whom It May Concern:

Re: Letter of Intent for Liquor Primary Licence Application

Thank you for considering my application for a Liquor Primary Licence at 753 View Street. This letter is intended to provide relevant information pertaining to the functions and services that the facility will provide. The remaining information and documents that have been requested are included as part of this application.

The proposed establishment is intended to be a friendly local pub, where patrons are able to have a drink and eat good quality meals at a reasonable price. The establishment will be primarily geared to residents in the surrounding Downtown neighbourhood, as well as the large number of workers in the Central Business District. Due to its relatively close proximity to the tourist areas of the city centre and hotels, it is anticipated that tourists will become a secondary market, particularly during the summer months. There may also be some patrons that come from other parts of the city, particularly if they are planning to visit the other entertainment uses located in the surrounding area. The pub will be open throughout the year, and will not be reliant on single events. Due to its related pre-existing uses, rezoning will not be required.

This business will generate numerous benefits for the community. The establishment will be open for lunch and dinner, seven days a week, and will offer light snacks and coffee on weekday mornings, along with brunch on weekend mornings, when many televised sporting events in more eastern time zones are active. The pub may offer space for dartboards, allowing occasional tournaments to take place. The substantial number of office workers in the immediate vicinity will be a key market for the establishment, as they will patronize at lunch and after work. This will be good for Downtown Victoria, as there will be another choice for businesses, bureaucrats and clients to socialize in an informal environment. Furthermore, there will be a friendly place for members of our community to meet friends and neighbours, and feel a sense of belonging in their Downtown neighbourhood. The pending closure of the Army, Navy and Air Force Veterans Club would result in the loss of a meeting place for



many patrons. The new establishment would be a partial replacement for some of these patrons.

There have been a number of new mixed-use developments that have taken place in the area over the past few years. The neighbourhood continues to evolve into a more vibrant, mixed use and dense environment, and a number of nearby sites have redevelopment potential. The new residents and workers have increased the size of the immediate market, and there are few alternative neighbourhood pub options in the immediate vicinity. Similar establishments along Government Street are geared towards a different market, as they are in the middle of the tourist district.

We do not anticipate significant noise-related challenges related to this establishment. The entire building and most neighbouring structures are geared towards commercial uses, and the pub will be fully contained indoors, as there will not be an outdoor patio. We acknowledge the existence of a daycare facility on the top level of the neighbouring building (749 View Street). As its hours of operation are similar to standard office hours (8am-5pm), we do not expect there to be any significant level of interaction with the proposed use. It is unlikely that noise levels would differ from that which is currently experienced at this location. Nonetheless, we plan on placing signage at our entranceway, reminding patrons of their duty to show courtesy to all of our neighbours. Our staff will be trained to deal with situations as they arise, and take appropriate action, as necessary. They will ensure that patrons leave the establishment in a quiet and orderly manner.

The existing lease for this space will be terminating on March 31, 2013, therefore, it would be our hope that this Liquor Primary License commence after April 1, 2013.

Please feel free to contact me at 604.720.0292 if you have any additional questions. Thank you, once again, for considering this application for a Liquor Primary License.

Yours Sincerely,



Mr. Hermann J. Nieweler
Owner, Hermann's Jazz Club Inc.
604.720.0292
hermann.nieweler@gmail.com

