



Governance and Priorities Committee Report For the May 22, 2014 Meeting

To: Governance and Priorities Committee **Date:** May 2, 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 Food Primary Liquor Licence, for **West Coast Waffles**, 1235 Broad Street, Licence No. 305053

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 West Coast Waffles in relation to their Food Primary Liquor Licence for the premises located at 1235 Broad 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 09:00h to midnight seven (7) days per week. The occupant load for the restaurant is 39 persons. If approved, the hours of operation for liquor service would be 09:00h to 02:00h seven days a week. There would be no change in occupancy as a result of this application.

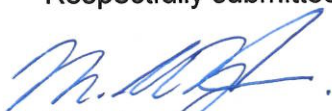
Recommendation:

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 Food Primary Liquor Licence of **West Coast Waffles**, Liquor License No. 305053, located at 1235 Broad Street, **does not support**:

- The application of **West Coast Waffles** to amend its Food Primary Liquor Licence to allow an increase in operating hours to include 09:00h (9:00am) to 02:00h (2:00am) daily.
- 1. However, Council does partially support the application of **West Coast Waffles** to amend its Food Primary Liquor Licence to allow an increase in operating hours to include 09:00h (9:00AM) to 01:00h (1:00AM) on Fridays and Saturdays, and
- 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 very small amount of residential use in the vicinity. The Food Primary Liquor licensed operation within the restaurant is compatible with the neighbouring land uses. The business is located within the Old Town District and is within the Intermediate Noise District which allows for a higher noise threshold.

- (b) While the original request by the applicant represents a maximum 2 hour nightly increase to the allowed hours for liquor service, there is a concern that this change will create an incremental increase in the disorder that can and does occur during late night (2:00AM) liquor licensed establishments closing in the downtown core. Council has previously considered this issue and believes a 1:00AM closing on Friday and Saturday evenings represents a reasonable compromise between the business interests of Food Primary Licensees and concerns for additional noise and nuisance in the community. 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. One response, from the Downtown Resident's Association, was received by the City supporting the application.

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 14, 2014

MATERIALS RECEIVED VIA PUBLIC CONSULTATION PROCESS:

Attached 2 Available ____ N/A ____

[A letter from the proponent and 1 letter supporting the increase in operating hours are attached]

Purpose

The purpose of this report is to seek a Council resolution regarding an application by West Coast Waffles, in relation to their Food Primary licensed operation located at 1235 Broad Street for a change to extend their hours of liquor service from midnight to 2:00am seven (7) days per week in relation to their restaurant business.

Background

West Coast Waffles is located at 1235 Broad Street and It is noted that the current advertised closing hours of the restaurant are: 20:00h (8:00PM) Monday to Wednesday, 0230h (2:30AM) Thursday, Friday and Saturday and 17:00h (5:00PM) on Sunday. In their attached letter (see Attachments), the owner has described the business plan for the restaurant. A map of the subject property and immediate area is also attached to this report.

Location

Official Community Plan:

- The property is within the Core Historic Urban Place designation in the Official Community Plan. Employment area uses in this designation are commercial, including retail, office and visitor accommodation.
- The area is covered by Development Permit Area 1 (HC): Historic Core, which enables Council to review and approve the form and character of commercial, industrial and multi-family residential development. Heritage conservation is also included as one of the purposes of this DPA.

Zoning:

- The property is zoned CA-3C (Old Town District) which permits bakeries, restaurants, clubs, theatres, transient accommodation and residential units (restricted to the upper floors of mixed use buildings)
- No off-street parking is required under this zone with the exception of office use
- The property is Heritage Registered
- The site falls within the Intermediate Noise District under the Noise Bylaw

Neighbourhood Compatibility:

- Above the ground floor retail units are predominantly offices. A dance studio is located above the Waffle shop at 1221 Broad Street. The Victoria English Language Centre is located 1290 Broad Street above the Bagel restaurant.
- The closest residential use to the site is located one block to the north, which contains a 9 unit suite in the upper floors of 1314 Broad Street. One block further north at 1407 Broad Street, contains 4 rental suites in the upper floors.

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 restaurant owner wishes to be able to provide alcoholic beverages to his late night customers. A letter from the applicant detailing the reasons for the requested change is attached to this Report.

Under the general provincial regulations for Food Primary Liquor Licensees, the province allows these businesses to operate from 9:00AM (09:00h) to Midnight (24:00h) on a daily basis without requiring approval from the local government where the business is located.

In 2007 Council adopted as part of the City's Liquor Licensing Policy, specific hours of operation limitations for Food Primary Liquor licensed businesses that wanted to operate outside of the provincially approved hours. The policy that Council adopted includes:

- that Council will only support openings* for Food Primary Liquor licensed businesses later than midnight (24:00h) on Friday and Saturday nights; and
- that Council will not support closing hours* for Food Primary Liquor licensed businesses on Friday and Saturday nights later than 1:00AM (01:00h).

The applicant has been advised of the City's current policy in relation to Food Primary Liquor Licensee operating hours but has requested that Council consider his application for 2:00AM closing as that is what he ideally wishes to have in place for his business.

*The limitations for opening and closing hours adopted by Council only refers to the sale of liquor and not the other aspects of the business. The applicable Council Minute is attached to this Report.

Within a 50 metre radius of West Coast Waffles, there are five other Food Primary licensed establishments and one Liquor Primary licensed establishment.

VENUE	HOURS	SUNDAY HOURS	SEATING	TYPE
Food Primary				
Old Victoria Fish & Chips	11:00h to 01:00h	11:00h to 24:00h	80	Restaurant
King Sejong Restaurant	11:00h to 24:00h	11:00h to 24:00h	110	Restaurant
Azuma Sushi	11:00h to 24:00h	11:00h to 24:00h	130	Restaurant
Fatburger	10:00h to 22:00h (Mon-Thur) 10:00h to 23:00h (Fri-Sat)	10:00h to 22:00h	50	Restaurant
Tapa Bar Restaurant**	12 Noon to 02:00h	12 Noon to 02:00h	99	Restaurant
Liquor Primary				
Boutique Lounge	19:00h to 02:00h	19:00h to 02:00h	292	Lounge

** This business may be applying to expand (increase occupant load) later in 2014.

Bylaw Enforcement

The Bylaw and Licensing Services Division has no concerns with the application. There have been no complaints made about the restaurant operation with respect to nuisance or noise since 2012 (when they were first licensed).

Engineering & Public Works Department

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

- There are no residences or hotels in the immediate area.
- The nature and location of the business suggest that the extension of hours for this number of seats is not likely to contribute to disorder issues in the downtown late at night.

The Downtown Community Development Section has no objections to the application.

Police

The Police Department has no significant concerns with the application as the occupant load is quite small in comparison to most licensed businesses. However, adding another establishment to the list of businesses open to sell liquor until 2:00AM which will add to the late night "bar rush" is not ideal from the police perspective.

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 generally supporting the application (from the Downtown Resident's Association). A copy of the letter is attached to this Report.

Conclusions

The request does not comply with the City's current liquor licensing policy because the current policy of Council in respect to opening hours for Food Primary licensees is

- that Council will only support openings later than midnight (24:00h) on Friday and Saturday nights; and
- that Council will not support closing hours on Friday and Saturday nights later than 1:00AM (01:00h).

The Food Primary Liquor licence associated with this restaurant has been operating since August 2012 with no complaints received in respect to liquor service. City staff from all Departments have no concerns about the proposed change to increase the operating hours for liquor service other than the general concerns expressed by the Police Department. The one letter providing feedback was from the Downtown Resident's Association who generally supports the request.

As Council may wish to support the application due to the specific circumstances, an alternate Resolution supporting the application has been drafted to meet the Liquor Control and Licensing Branch requirements. It is attached in the Appendix.

Alternatively, Council may wish to consider a Resolution that conforms to the current City Policy that applies to Food Primary Liquor Licensees. An additional alternate Resolution is attached that would support opening hours until 1:00AM on Friday and Saturday with a midnight closing between Sunday and Thursday. This Resolution has been drafted to meet the Liquor Control and Licensing Branch requirements and is also attached in the Appendix.

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 Food Primary Liquor Licence of **West Coast Waffles**, Liquor License No. 305053, located at 1235 Broad Street, **does not support**:

- The application of **West Coast Waffles** to amend its Food Primary Liquor Licence to allow an increase in operating hours to include 09:00h (9:00am) to 02:00h (2:00am) daily.
1. However, Council does partially support the application of **West Coast Waffles** to amend its Food Primary Liquor Licence to allow an increase in operating hours to include 09:00h (9:00AM) to 01:00h (1:00AM) on Fridays and Saturdays, and
 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 very small amount of residential use in the vicinity. The Food Primary Liquor licensed operation within the restaurant is compatible with the neighbouring land uses. The business is located within the Old Town District and is within the Intermediate Noise District which allows for a higher noise threshold.
 - (b) While the original request by the applicant represents a maximum 2 hour nightly increase to the allowed hours for liquor service, there is a concern that this change will create an incremental increase in the disorder that can and does occur during late night (2:00AM) liquor licensed establishments closing in the downtown core. Council has previously considered this issue and believes a 1:00AM closing on Friday and Saturday evenings represents a reasonable compromise between the business interests of Food Primary Licensees and concerns for additional noise and nuisance in the community. 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. One response, from the Downtown Resident's Association, was received by the City supporting the application.

APPENDIX

This Appendix contains both a draft Council Resolution not supporting the Licence Application as requested by the applicant and a second draft Council Resolution that supports extended the opening hours until 2:00AM daily as requested by the applicant. Both draft Resolutions are in the specified format required by the Liquor Control and Licensing Branch.

Alternate Resolution 1 – Not in support of opening hours until 2:00AM as requested by the Applicant

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 Food Primary Liquor Licence of **West Coast Waffles**, Liquor License No. 305053, located at 1235 Broad Street, **does not support**:

1. The application of **West Coast Waffles** to amend its Food Primary Liquor Licence to allow an increase in operating hours to include 09:00h (9:00am) to 02:00h (2:00am) daily.
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 very small amount of residential use in the vicinity. The Food Primary Liquor licensed operation within the restaurant is compatible with the neighbouring land uses. The business is located within the Old Town District and is within the Intermediate Noise District which allows for a higher noise threshold.
 - (b) While this request represents a maximum 2 hour nightly increase to the allowed hours for liquor service, there is a concern that this change will create an incremental increase in the disorder that can and does occur during late night (2:00AM) liquor licensed establishments closing in the downtown core. 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. One response was received by the City supporting the application.

Alternate Resolution 2 – Supporting opening hours until 2:00AM as requested by the Applicant

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 Food Primary Liquor Licence of **West Coast Waffles**, Liquor License No. 305053, located at 1235 Broad Street, supports:

1. The application of **West Coast Waffles** to amend its Food Primary Liquor Licence to allow an increase in operating hours to include 09:00h (9:00AM) to 02:00h (2:00AM) daily.
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 very small amount of residential use in the vicinity. The Food Primary Liquor licensed operation within the restaurant is compatible with the neighbouring land uses. The business is located within the Old Town District and is within the Intermediate Noise District which allows for a higher noise threshold.
 - (b) While this request represents a change in operating hours outside of those normally supported for Food Primary Liquor licensed businesses, there is expected to be minimal impact on the neighbourhood as the number of licensed seats 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. One response, from the Downtown Resident's Association, was received by the City supporting the application.

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 Food Primary Liquor Licensees
3. A letter from the applicant explaining the purpose for the requested change.
4. One letter (from the DRA) in support of the application.



Legend
 Victoria Parcels

1: 1,371



Notes



69.6 0 34.82 69.6 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.

NAD_1983_CSRS_UTM_Zone_10N

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

THIS MAP IS NOT TO BE USED FOR NAVIGATION

REPORTS OF THE COMMITTEE

1. COMMITTEE OF THE WHOLE – May 17, 2007

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.



March 19, 2014

Proposal for Permanent Liquor Extension

West Coast Waffles

West Coast Waffles is seeking to permanently change our hours of liquor sales. This proposal stems from the fact that on Friday and Saturday nights we are open for business until 2:00am. We are missing the potential liquor sales between midnight and 2:00am. We get a significant increase of traffic from 12:00am to 2:00am, compared to the preceding 3 hours. For example, sales on Saturday, March 18:

Date/Time	Transactions	Total Paid	Cash Paid	Card Paid
15/03/14 10:00 PM	8	\$ 137.55	\$ 26.87	\$ 110.68
15/03/14 11:00 PM	10	\$ 143.74	\$ 50.25	\$ 93.49
16/03/14 12:00 AM	21	\$ 334.40	\$ 126.12	\$ 208.28
16/03/14 01:00 AM	29	\$ 432.33	\$ 109.18	\$ 299.27
16/03/14 02:00 AM	27	\$ 407.91	\$ 49.31	\$ 358.60

The table above is sourced directly from our POS system. We believe these totals could be increase by \$50-\$100 per hour from the midnight hour onwards.

Our 'late night' customers enjoy our lively atmosphere, our delicious food and our tasty drinks, but also use West Coat Waffles as a place to have a conversation in comparison to a noisy club or bar. Many of our 'late night' clientele use West Coast Waffles as a means to meet up with friends, take a break from dancing, or end their evening with a waffle.

We have enjoyed an entirely trouble free past since we first started serving alcohol two summers ago. We will uphold all laws and regulations within our establishment, like we have done for all this time.

Our customers have highly enjoyed the beer and cocktails we serve with our food. This extension is to make the experience available at all times of business. Simply put, we want to increase our weekend sales numbers while at the same time meeting the demands of our customers.

On behalf of the management team of West Coast Waffles, thank you for your time in reviewing our proposal.

Regards,
Elliot Friesen



1715 Government Street
Victoria, BC
V8W 1Z4
250.386.5503

Manager Bylaw and Licensing c/o Legislative Services
City of Victoria
No.1 Centennial Square
Victoria, BC
V8W 1P6

April 16, 2014

Re: Permanent Change to a Liquor Licence-West Coast Waffles 1235 Broad Street

Dear Manager Bylaw and Licensing,

The DRA Land Use Committee has reviewed the proposed Liquor Licence change for West Coast Waffles at 1235 Broad Street.

Feedback from the committee is as follows:

- There are few residences within the immediate proximity and the occupant load is modest.
- The Licence change will apparently be contained within the existing building.
- It is expected that all other requirements of the Food Primary Licence will be adhered to.

The DRA LUC generally supports this proposal.

Sincerely,

Robert Florida

Downtown Residents Association