



Committee of the Whole Report

For the Meeting of January 25, 2018

To: Committee of the Whole **Date:** December 22, 2017

From: Jonathan Tinney, Director, Sustainable Planning and Community Development

Subject: Application for a Structural Change to increase the occupant load for a Liquor Primary License (300068), Upstairs Cabaret, 15 Bastion Square.

RECOMMENDATION

That Council direct staff to provide the following response to the Liquor Licensing Agency:

1. Council, after conducting a review with respect to noise and community impacts, does support the application of Upstairs Cabaret, located at 15 Bastion Square for a structural change to increase the occupant load from 300 to 500 persons.

Providing the following comments on the prescribed considerations:

- a. The impact of noise on the community in the vicinity of the establishment has been considered. The consideration of noise related to the Upstairs Cabaret recognized that noise is partly due to the sound system as a constant which is not substantially impacted by occupant load. The impacts of the increased occupant load were also considered and are consistent with uses contemplated for the area and therefore supportable.
- b. If the application is approved, the net impact on the community is expected to be positive economically as the approval supports the request of the business and presumably their long term viability as a local entertainment destination and as a local employer.
- c. The views of residents were solicited via a mail out to neighbouring property owners and occupiers within 100 metres of the licensed location and a notice posted at the property. The City received 39 letters in support of the application and 5 letters opposed to the application. The letters of opposition describe issues resulting from patrons leaving the establishment which include, noise, loud use of profanities, vomiting and the overall impact this has on the occupants and business of the Victoria Regent Hotel.

Letters of support commonly noted the proposed capacity is needed to support local talent with adequately sized venues. Respondents also supported the application for the impact it would have on reducing queue times and improved atmosphere, both to the benefit of patrons.

- d. Council recommends the issuance of the license.

PURPOSE

The purpose of this report is to seek Council resolution, in accordance with the requirements of the *Liquor Control and Licensing Act* (the Act), regarding an application by Upstairs Cabaret at 15 Bastion Square for a structural change to increase the occupant load from 300 to 500 persons.

BACKGROUND

The Liquor Control and Licensing Branch (LCLB) issues liquor licences under the authority of the *Liquor Control and Licensing Act* and regulations. Local governments are asked to provide comments and recommendations to the LCLB on all liquor-primary licence applications regarding:

1. the potential for noise
2. impact on the community if the application is approved

A map of the subject property and the immediate area is attached to this report (Appendix A).

As noted above, this application is for a structural change to increase the occupant load from 300 to 500 persons. The Liquor Control and Licensing Branch is requesting a resolution from the City of Victoria regarding the application and the review criteria noted above.

ISSUES & ANALYSIS

The following sections will identify the key issues and provide analysis for Council's consideration:

City Liquor Licensing Policy

The City's Liquor Licensing Policy is that it consider applications for Liquor Primaries having hours of operation not later than 2:00 am.

*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 Policy is attached to this report (Appendix B).

The hours of licensed service proposed in the application are existing and within parameters of the policy.

City Referrals

An inter-departmental review of the project has been undertaken by City staff. The inter-departmental review includes circulation to Police, Bylaw, Planning, Community Development and Engineering. That review has resulted in the following feedback:

- The property is zoned appropriately for the use and the majority of adjacent buildings are occupied by commercial tenants. The potential for impacts related to the increased occupant load and associated noise is minimized by the significant distance between the establishment and residential occupancies.
- Increased occupant loads would, in relation to transportation and taxi services, create potential for additional noise and congestion as patrons queue for service or travel elsewhere.
- Police note the general vicinity as source for numerous noise complaints and street disorder issues and do not support the application.

- Bylaw Services share a general concern for increased issues from increased noise and congestion related to the increase.

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 were solicited by a mailed notice to provide input regarding this application. In addition, Upstairs Cabaret displayed a notice poster at its entrance for 30 days which invited people to provide input to the City with respect to this application.

39 letters were received in support of the application and 5 letters were received opposing the application to increase the occupant load.

The letters of concern listed common issues associated with the negative behaviours of patrons exiting drinking establishments and also the audibility of the Upstairs Cabaret, regardless of occupants, as amplified music permeates the Regent Hotel. The proximity of the hotel to this establishment and others in the area is claimed to result in lost revenue due to the disruption to guests and is a persistent issue.

The Victoria Downtown Resident Association submitted a letter stating neutrality on the application and provided additional comment on the technical requirements of Provincial Building and Fire Codes. The Fire Department provides approvals to LCLB confirming applications meet the technical requirements of applicable codes as they apply to occupant loads and the BC Building Act prevents municipalities from regulating matters regulated by the Building Code.

The 39 letters of support focus on a number of reasons to support the application and examples include; lack of suitably sized venues to support local talent; unnecessary queues as maximum capacity does not fill the space; and, the owners being responsible business operators;

All letters are available in Appendix C.

Applicant Response

As is standard practice as a part of the liquor licence process, after City staff give input, the applicant has a chance to review the information (and this report) and respond prior to the report being forwarded to Council. After the applicant reviewed City staff comments, the applicant submitted a letter in response which can be found in Appendix E.

IMPACTS

Strategic Plan 2015 – 2018

The recommendation to support the application is likely to increase the business viability of the club, which is consistent with Strategic Plan Objective #5 - *Create Prosperity Through Economic Development*.

Impacts to Financial Plan

None

Official Community Plan

The existing and proposed uses of the liquor primary license are consistent with the *Official Community Plan* objectives for this neighbourhood.

CONCLUSIONS

In summary, after conducting a review with respect to noise and community impacts and soliciting community views regarding Upstairs Cabaret's application for a structural change to increase the occupant load from 300 to 500 persons, it is considered that the proposal is consistent with current City policy.

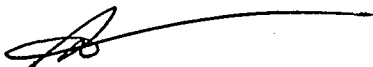
While there were letters of opposition, the establishment has a long history of responsible operation and noise and issues related to consumption of alcohol are known to be existing issues for the nearby residential tenancies. While concern exists, the application is supportable based on existing policy.

Therefore, staff recommend that Council consider directing staff to notify the Liquor Licensing Agency that Council supports the application for the structural change increasing the occupant load to 500 persons.

ALTERNATE MOTION (No Support)

That Council, after conducting a review with respect to noise and community impacts regarding the application for a structural change to increase the occupant load from 300 to 500 persons, at Upstairs Cabaret, 15 Bastion Square, does not support the application for the structural change.

Respectfully submitted,



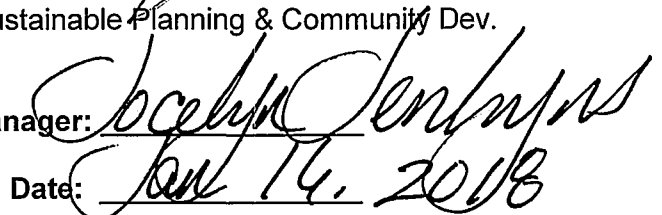
Ryan Morhart
Manager
Permits & Inspections



Jonathan Tinney
Director
Sustainable Planning & Community Dev.

Report accepted and recommended by the City Manager:

Date:


Jan 14, 2018

List of Attachments

- Appendix A: Aerial photograph (map) of the establishment and surrounding area.
- Appendix B: Council Minute from May 24, 2007
- Appendix C: Letters from the public
- Appendix D: Provincial Liquor License Types
- Appendix E: Response from Applicant regarding Committee of the Whole report