



COMMUNITY SAFETY & DEVELOPMENT DIVISION

2013-NOV-20

Our File: LA000097

Via email: liquor.licensing@gov.bc.ca

General Manager
Liquor Control and Licensing Branch
Ministry of Public Safety and Solicitor General
P.O. Box #9292, Station Provincial Government
Victoria, BC V8W 9J8

To whom it may concern:

Re: [Application for a Permanent Change to a Primary Liquor License – Carlos O'Bryan's - 1724 Stewart Avenue, Nanaimo, BC](#)

I am writing to advise that Council, at its meeting of 2013-NOV-18, reviewed an application from Mr. Reginald Henry, on behalf of Carlos O'Bryan's Neighbourhood Pub and Liquor Store, for a structural change to an existing licensed establishment at 1724 Stewart Avenue. It is our understanding Mr. Henry has applied to the Liquor Control and Licensing Board (LCLB) to increase the permitted occupant load of the pub from 120 persons to 190 persons. **Council voted to support the application.** Please note, Council support of the application is conditional upon the applicant entering into a Good Neighbour Agreement with the City.

As part of the review process, the local government commented on the following:

1. ***The potential for noise if the application is approved:*** The subject property is separated by Stewart Avenue from an established low density residential neighbourhood. Given the proximity of the residential homes in the area, there is some potential for pub noise to be heard by the nearby residents. As such, when considering the application Council is asked to consider what impact noise from an increase in patrons will have on these and other nearby residents.

In order to mitigate any potential noise concerns, the applicants have incorporated a number of features into the renovation of the existing building design to reduce noise transfer. These noise reducing features, as highlighted by the applicant, include:

- Thick, insulated walls and a fully insulated concrete and wooden plank floor.
- Relocating the entrance to the pub from the west (neighbourhood facing) to the northeast side of the building away from the neighbourhood. Access into the pub involves going through two sets of doors.
- The west (neighbourhood) facing liquor store will continue to act as a buffer between the neighbourhood and pub activities facing the marina.
- No opening windows and, according to management, deck access doors are planned to remain closed. The building includes a heating and air conditioning system so window and door openings are not required.
- A five-foot tall glass railing on the east (marina) facing outside deck.

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Given the noise mitigation efforts carried out by the applicants, Staff believes any increased noise concerns resulting from the increased occupant load request will be minimal.

2. **The impact on the community if the application is approved:** When considering what impact the proposed increase in occupant load would have on the subject property, it is important to note that there is another existing liquor primary (Millers Pub) on the neighbouring property. Both pubs can be accessed through adjoining parking lots. Miller's Pub has a licensed capacity of 150. As such, if the proposed application is granted, there would be a net seating capacity of over 300 between the two liquor-primary establishments. When considering the application Council is asked to consider what, if any, impact the increase in occupant load will have on the potential for disorder or noise that may disturb the peace and enjoyment of the community.

Given the above concerns regarding the number of liquor primary seats in the area, the RCMP recommends the applicant enter into a Good Neighbour Agreement (GNA) with the City.

A GNA, if employed, will be tied to the applicant business license and can include regulations pertaining to noise emissions and how the business controls the conduct of patrons both inside and outside of the establishments. Typically, GNA's are employed for downtown establishments; although a GNA is in place for the Wellington Pub in central Nanaimo.

Given the proximity of the neighbouring residents and the number of liquor primary seats in the area, Staff agrees with the RCMP's recommendation and suggests Council recommend the applicant sign a GNA as a condition of local government support. A sample GNA is included (Attachment C of the Council report). Overall, the RCMP suggests Council consider the quality of the application and the applicant's ability to satisfy neighbourhood concerns and minimize public disturbances. A copy of the RCMP's response is included (Attachment D of the Council report).

The applicants plan to completely renovate the existing Muddy Waters building in order to clean up the existing older structure and design the building with a maritime architectural style suitable to the pubs waterfront location. Through the design review process the applicant contacted the Brechin Hill Community Association. The Association approved of the appearance of the pub and noted "*it will once again be an attractive component of the waterfront*". It is anticipated that the renovation and reopening of the pub as Carlos O'Bryan's will be a positive addition to the Stewart Avenue waterfront. The applicant's letter of rationale is included (Attachment E of the Council report).

3. **The views of residents:** A public notice and comment sheet was mailed to all owners and occupants of the buildings and properties within 100m of the subject property. A total of 34 comment sheets were mailed and delivered. Of the 15 responses received, 14 are in support of the application and none are opposed, while one respondent did not indicate if they were in support or opposed to the application. It should be noted that one resident returned three comment sheets representing three different addresses. Comment sheets returned are included (Attachment F in the Council report).

Through the application process City Staff and the property owner have contacted the Brechin Hill Community Association regarding the proposed occupant load increase. The community association expressed a concern regarding parking and asked how many parking spaces will be provided, but otherwise had no concerns with the application. A copy of the community association response is included (Attachment G in the Council report). The association was concerned that if not enough parking is provided on site patrons may park on Stewart Avenue. The property owner has stated 60 spaces will be dedicated for the pub's use, 55 are required through the City's off-street parking bylaw. In Staff's opinion sufficient parking is provided on site for the proposed use and occupancy. In addition, one member of the association responded to the applicant with a question regarding noise reduction.

Council, at its meeting of 2013-NOV-18, considered the application and Moved and Seconded that Council recommend the LCLB approve the application for a permanent change to an existing licensed establishment at 1724 Stewart Avenue for an occupant load of 190. As such, **Council recommends that the LCLB approve the application.**

I have attached a copy of the Staff report which was forwarded to Council regarding the application. If you have any questions or require further clarification, please do not hesitate to contact me at 250-755-4460, ext. 4332.

Sincerely,



Dave Stewart, MCIP, MURP
Planner, Planning & Design
Community Safety & Development

DS/pm

ec: Mr. Bruce Anderson, Manager, Planning & Design
Ms. Lesley Metcalfe, LCLB
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