
TO: CITY MANAGER **DATE:** 2019 April 03

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** 46000 06
Reference: LLA#18-04

SUBJECT: LIQUOR LICENCE APPLICATION #18-04
RESPONSE TO PUBLIC CONSULTATION PROCESS
EARL'S RESTAURANT LTD.
6070 SILVER DRIVE

PURPOSE: To provide Council with recommendations regarding the subject food primary liquor licence.

RECOMMENDATIONS:

1. **THAT** Council support the requested amendment to the subject food primary liquor licence, as described in Section 2.0 of this report, subject to the following:
 - liquor service hours from 9:00 a.m. to 1:30 a.m. within the interior of the establishment;
 - patio operating hours to cease at 12:00 midnight on Sunday through Thursday and at 1:30 a.m. on Friday and Saturday; and,
 - the registration of a Section 219 Covenant, within 45 days of Council approval of this application, to ensure compliance with the above conditions.
2. **THAT** a copy of this report be forwarded to the General Manager, Liquor and Cannabis Regulation Branch, P.O. Box 9292, Stn. Provincial Government, Victoria, BC, V8W 9J8; and to the applicant, Ms. Kelly Tsang, Earl's Restaurant Ltd., #200-425 Carrall Street, Vancouver, BC, V6B 6E3; and to the respondents to the public input process, as described in Section 2.0 of this report.

REPORT

1.0 INTRODUCTION

On 2019 February 11, Council received a report on the subject liquor licence application (LLA) to transfer the existing food primary licence from Earl's Restaurant (Earl's) at 4361 Kingsway to the proposed relocated Earl's, at 6070 Silver Drive (Sketch #1 and #2 *attached*), located within the nearby Station Square development. Specifically, Earl's is requesting that the permitted hours of liquor service at the proposed subject site be from 9:00 a.m. to 1:30 a.m. daily. It is noted that at their current Kingsway location, Earl's holds a food primary liquor licence which permits the service of liquor from 9:00 a.m. to 1:30 a.m. Monday through Saturday, and 9:00 a.m. to 12:00 a.m. Sunday. It is noted that the approved seating capacity for Earl's at their Kingsway location

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is 245 seats total (within the interior and patio area). The proposed subject site is proposing 229 seats inside the restaurant and 80 seats on the patio for a total of 309 seats.

The report concluded that the proposal to transfer Earl's existing food primary licence from their current Kingsway location to the proposed relocated Earl's on the subject site within the Station Square development, with requested hours of liquor service from 9:00 a.m. to 1:30 a.m. daily was supportable, subject to gathering public input and providing a subsequent report on the application.

2.0 DISCUSSION

- 2.1 In line with Provincial requirements for local governments to gather the views of nearby residents, as part of their assessment of liquor licence applications, written notice was sent out to all property owners and residents within a 30 m distance of the subject site (2,203 notifications); advertisements were placed in two consecutive issues of a local newspaper; and signage was posted on the subject site, which invited respondents to submit written comments to the Planning and Building Department.

The Planning and Building Department received 11 comments in response to the public notification (0.005% response rate to the mailed notifications). Of these responses, ten were received from property owners and/or residents within the notification area and one respondent did not provide an address. Three responses were supportive of the proposal, three responses were not supportive of the proposal, and the remaining five responses provided general comment or expressed concerns regarding the proposal. Staff have addressed the main concerns regarding intoxication, noise, safety and loitering, the hours of liquor service, and the potential for littering in the subsections below:

2.1.1 Intoxication, noise, safety and loitering

Issue: Some respondents raised concerns that the requested food primary liquor licence could increase the number of intoxicated patrons creating disturbances within the area, posing safety impacts to vehicular and pedestrian traffic, as well as noise impacts to nearby residents.

Response: It is the responsibility of the operator to discontinue liquor service to patrons who are intoxicated; this requirement is regulated by the LCRB (Liquor and Cannabis Regulation Branch). With regard to noise, the subject business is required to comply with the Burnaby Noise or Sound Abatement Bylaw. Staff will provide a copy of the Bylaw to the operators. Nearby residents and/or the operator may also contact the RCMP to address incidents which may arise and pose noise or safety concerns.

2.1.2 Hours of liquor service on the patio and inside the restaurant

Issue: Some respondents raised concerns that the requested hours of liquor service could increase late night alcohol consumption, and that the issues raised in item 2.1.1

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above could occur throughout the night. Further, there were concerns that the patio was too large and would therefore be especially noisy and cause congestion on the street and sidewalk.

Response: Staff advise that the proposed food primary liquor licence is intended for dining and is related to the service of food. As noted in the 2019 February 11 Council report, the subject establishment is located on Silver Drive, the High Street of the Station Square Master Plan area, in the Metro Downtown neighbourhood of the Council-adopted Metrotown Downtown Community Plan. The Master Plan describes Silver Avenue as both a "shopping street" and "restaurant row" with patios and a festive quality at night. There are five residential towers, either already constructed or proposed to be built, within the Station Square Master Plan area. It is noted that the purchasers of these units were made aware of the commercial, and in particular the restaurant, uses along Silver Drive in the disclosure statements associated with the sale of their units. Further, the proposed relocated Earl's is requesting similar interior liquor service hours to the existing Earl's restaurant located at 4361 Kingsway, with the difference being a 1.5 hour extension of the interior liquor service hours on Sundays from 12:00 a.m. to 1:30 a.m.

However, since the proposed relocated Earl's includes an 80 seat patio, staff propose that the patio be closed (i.e. no more food or alcohol service) at 12:00 midnight on Sunday through Thursday and at 1:30 a.m. on Friday and Saturday. To further address patio-related noise concerns, the operator will be required to abide by the Burnaby Noise or Sound Abatement Bylaw and has advised that they will program their music to be lowered at 10:00 p.m. Staff continue to recommend that Earl's be permitted to serve liquor inside the restaurant until 1:30 a.m. on a daily basis. It is not anticipated that the patio will cause unnecessary street and sidewalk congestion due to the sunken patio design and railings separating the patio from the sidewalk.

To ensure the above noted hours are maintained, a Section 219 Covenant must be registered on the property, within 45 days of Council approval of this application.

2.1.3 Potential for litter outside the premise

Issue: Some respondents raised concerns that the requested food primary liquor licence could increase litter (e.g. cigarette butts) outside of the premises and in the surrounding block, impacting the cleanliness and aesthetics of the area.

Response: Staff will advise the operator of Earl's Restaurant of this concern and request that potential measures to reduce litter outside the premise be undertaken by the operator.

2.2 In the 2019 February 11 Council report, comments were provided as per the LCRB requirements on the impact of noise on nearby residents, the impact on the community if

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the application is approved, and whether the amendment will result in the service area being operated in a manner that is contrary to its primary purpose. It was noted that the subject establishment is located on a more animated and vibrant street near SkyTrain and major roads which provide ambient traffic noise. Further it is not anticipated that approving the application would have a significant negative impact on the community, and it would not result in the service area being operated in a manner that is contrary to its primary purpose. It was also noted that no City departments expressed objections to the proposed liquor service hours for the subject proposed restaurant. Issues identified during the public consultation process have been further addressed, as per above, and the operator will be advised of these concerns which will need to be addressed through their business operations/practices.

- 2.3 In summary, the response rate to the public consultation process was low, and less than one third of the responses were not in support of the proposal as presented. The extension of hours to 1:30 a.m. within the interior of the subject food establishment is supportable. However, given the proximity of multi-family residential towers, it is recommended that the patio hours of operation be limited. It is further recommended that a Section 219 Covenant be registered on the property, within 45 days of Council approval of this application, to cease the operating hours on the patio at 12:00 midnight on Sunday through Thursday and at 1:30 a.m. on Friday and Saturday, and to limit the liquor service hours to 1:30 a.m. within the interior of the establishment.

3.0 CONCLUSION

Based on the information presented above, and as outlined in the 2019 February 11 report to Council where the application was assessed with respect to LCRB criteria, staff recommend that Council support the food primary liquor licence application at the proposed relocated subject establishment, as discussed in Section 2.0 of this report.

Staff also recommend that a copy of this report be forwarded to the General Manager, Liquor and Cannabis Regulation Branch, P.O. Box 9292, Stn. Provincial Government, Victoria, BC V8W 9J8; and to the applicant, Ms. Kelly Tsang, Earl's Restaurant Ltd., #200-425 Carrall Street, Vancouver, BC, V6B 6E3; and to the respondents to the public input process, as described in Section 2.0 of this report.

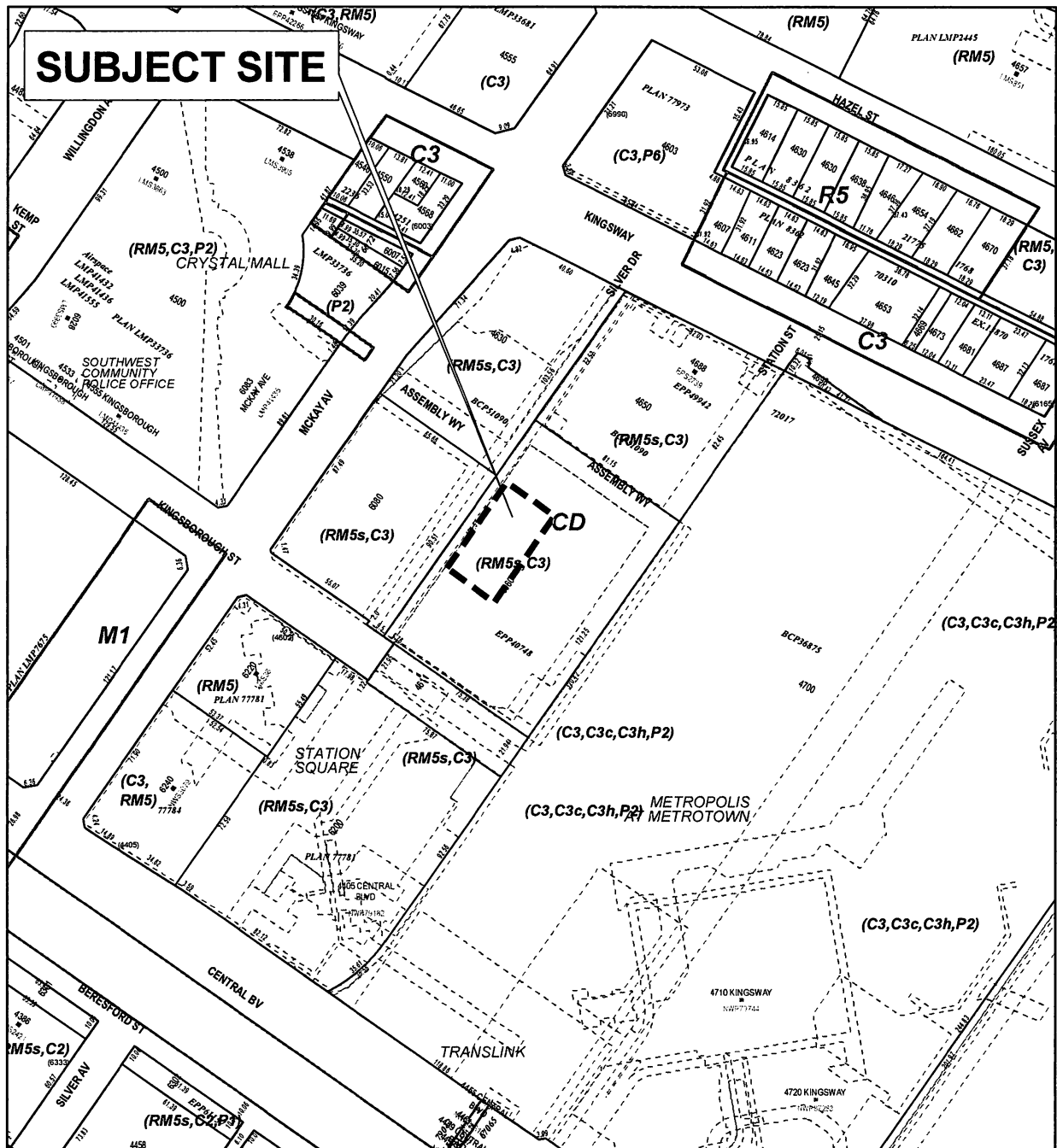

E.W. Kozak, Director
PLANNING AND BUILDING

KL:rh

Attachments

cc: Director Finance
Director Engineering
Officer-in-Charge, RCMP, Burnaby Detachment

Director Parks, Recreation and Cultural Services
Chief Licence Inspector
City Clerk
City Solicitor



PLANNING & BUILDING DEPARTMENT



DATE:
JAN 30 2019

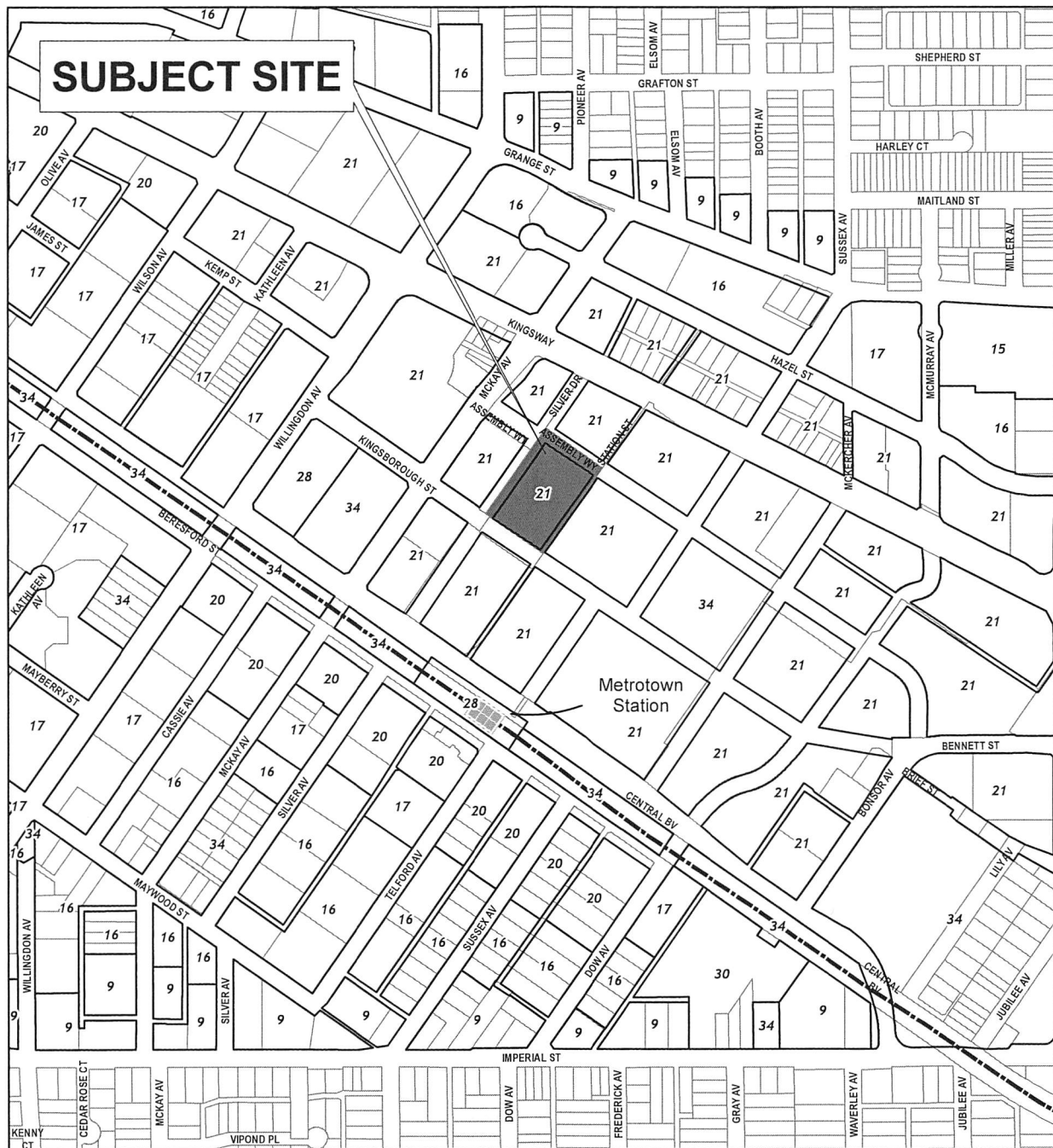
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LIQUOR LICENCE #18-04
6070 SILVER DRIVE

 Subject Site

Sketch #1



- 9** Medium Density Residential (RM3s)
- 15** High Density Residential (RM5)
- 16** High Density Residential (RM4s)
- 17** High Density Residential (RM5s)
- 18** High Density Mixed Use (RM4s/C2)
- 19** High Density Mixed Use (RM4s/C3)

- 20** High Density Mixed Use (RM5s/C2)
- 21** High Density Mixed Use (RM5s/C3)
- 28** Institutional
- 30** Public School (P3)
- 34** Park and Public Use (P3)



Planning and Building Dept

Metrotown Plan

