
TO: CITY MANAGER **DATE:** 2019 July 24

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** 46000 06
Reference: LLA#19-01

SUBJECT: LIQUOR LICENCE APPLICATION #19-01
RESPONSE TO PUBLIC CONSULTATION PROCESS
CACTUS CLUB CAFÉ
6090 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 3.0 of this report, subject to the following:
 - liquor service hours from 9:00 a.m. to 1:30 a.m. daily within the interior and on the patio of the establishment;
 - patio sliding glass weather barrier system to be closed at 12:00 midnight on Sunday through Thursday and at 1:30 a.m. on Friday and Saturday;
 - lounge NanaWall folding glass door system to be closed at 12:00 midnight on Sunday through Thursday and at 1:30 a.m. on Friday and Saturday;
 - the sound system on the patio and the speakers located in the lounge near Silver to be lowered at 10:00 p.m. to comply with Burnaby Noise or Sound Abatement Bylaw 1979 when the sliding glass weather barrier system on the patio and the NanaWall system for the lounge are open past 10:00 p.m.; 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 applicant, Mr. Randall Olafson, Randall Olafson Consultants Ltd., #200-11575 Bridgeport Road, Richmond, BC, V6X 1T5; and to the respondents to the public input process, as described in Section 3.0 of this report.
3. **THAT** following registration of the above noted Section 219 Covenant, 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.

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REPORT

1.0 POLICY FRAMEWORK

The subject application aligns with the following goals and sub-goals of the Corporate Strategic Plan:

A Connected Community

- Social connection - Enhance social connections throughout Burnaby.
- Partnership - Work collaboratively with businesses, educational institutions, associations, other communities, and governments.

A Dynamic Community

- Economic opportunity - Foster an environment that attracts new and supports existing jobs, businesses and industries.
- Community development - Manage change by balancing economic development with environmental protection and maintaining a sense of belonging.

2.0 BACKGROUND INFORMATION

On 2019 June 10, Council received a report on the subject liquor licence application (LLA) for the Cactus Club Café (Cactus Club) at 6090 Silver Drive (Sketches #1 and #2 *attached*), within the Station Square development. The Cactus Club, currently located nearby at 4653 Kingsway, will continue to operate until such a time that their lease agreement for that location ceases. The subject site is proposed to have 217 seats inside the restaurant and 76 seats on the patio for a total of 293 seats. The report concluded that the requested hours of liquor service from 9:00 a.m. to 1:30 a.m. daily within the interior of the establishment and on the patio, subject to requiring the patio sliding glass weather barrier system and the lounge NanaWall folding glass door system be closed at 12:00 midnight on Sunday through Thursday and 1:30 a.m. on Friday and Saturday, was supportable, subject to gathering public input and providing a subsequent report on the application.

3.0 DISCUSSION

- 3.1 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 property owners and residents within a 30 m distance of the subject site (2,349 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 two comments from property owners and/or residents within the notification area in response to the public notification (0.085% response rate to the mailed notifications). Staff address concerns regarding noise and

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disturbances from cars and intoxicated patrons, property damage, hours of liquor service, and the potential for smoker loitering and littering in the subsections below:

3.1.1 Intoxication, noise, safety and loitering

Issue: Concerns were raised that the requested food primary liquor licence could lead to an increase in the number of intoxicated patrons creating disturbances and noise, an increase in the number of loud vehicles, and an increase in property damages.

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 related to safety concerns, or property damage.

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

Issue: One respondent expressed a concern that the patio could be especially noisy and therefore should be required to close at 11:00 p.m. daily. The other respondent raised concerns that the requested hours of liquor service could increase late night alcohol consumption, and that the issues raised in section 3.1.1 above could occur beyond liquor service hours. This respondent requested that liquor service hours be limited to midnight daily.

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 June 10 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 purchasers of these units were made aware of the commercial and, in particular, the restaurant and entertainment uses along Silver Drive in the disclosure statements associated with the sale of their units.

Further, the proposed Cactus Club is requesting similar liquor service hours to the existing Cactus Club at 4653 Kingsway, with the difference being a 1.5 hour extension for the liquor services on Sundays from 12:00 midnight to 1:30 a.m. The Planning and Building Department has solicited comments on this application from relevant City Departments, including the RCMP Burnaby Detachment. No City Departments have expressed any objections to the proposed liquor service hours for the subject proposed restaurant nor have they expressed any concerns regarding the existing Cactus Club at 4653 Kingsway.

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It is also noted that the requested liquor services hours are similar to those of the existing Earl's restaurant, located at 6070 Silver Drive within the same development, for which Council approved a recommendation to support LLA18-04 on 2019 April 08. LLA18-04 approved liquor service hours from 9:00 a.m. to 1:30 a.m. within the interior of the establishment, patio operating hours until 12:00 midnight on Sunday through Thursday and 1:30 a.m. on Friday and Saturday, and the registration of a Section 219 Covenant, to ensure compliance with the conditions.

Staff recommend a similar approach for Cactus Club. Specifically, it is recommended that the subject application be approved for liquor service hours inside the establishment and on the patio from 9:00 a.m. to 1:30 a.m. daily, but with the requirement that the sliding glass weather barrier system on the patio and the NanaWall folding glass door system for the lounge be closed at 12:00 midnight on Sunday through Thursday and 1:30 a.m. on Friday and Saturday.

In addition, the applicant will be required to lower the sound system on the patio and the speakers located in the lounge near Silver at 10:00 p.m. to comply with Burnaby Noise or Sound Abatement Bylaw 1979 when the sliding glass weather barrier system on the patio and the NanaWall system for the lounge are open past 10:00 p.m. To ensure the above noted conditions are maintained, a Section 219 Covenant must be registered on the property.

3.1.3 Potential for smoking, litter, and loitering

Issue: One respondent raised concerns that the requested food primary liquor licence could increase both the number of people smoking and the amount of litter (e.g. cigarette butts) outside of the premises and in the surrounding block, impacting the pedestrian experience, cleanliness and aesthetics of the area.

Response: Staff will advise the operator of Cactus Club of this concern and request that measures to reduce litter and loitering outside the premise be undertaken by the operator. It should be noted that, per Provincial Legislation, the Tobacco and Vapour Products Control Regulation, smoking is not permitted within 6 m (20 ft.) of a doorway, air intake or open window to any public or work place.

3.2 In the 2019 June 10 Council report, comments were provided as per the LCRB requirements on the impact of noise on nearby residents, the impact on the community if 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 in an entertainment district, and on a more animated and vibrant street near the 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

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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.


- 3.3 In summary, the response rate to the public consultation process was low and as such staff recommend supporting the application with the proposed limitation on liquor service hours to 1:30 a.m. daily within the interior of the establishment and on the patio, and ensuring that the lounge NanaWall folding glass door and the patio sliding glass weather barrier system are closed at 12:00 midnight on Sunday through Thursday and 1:30 a.m. on Friday and Saturday. Staff also recommend that when the sliding glass weather barrier system on the patio and the NanaWall system for the lounge are open past 10:00 p.m., the applicant be required to lower the sound system on the patio and the speakers located in the lounge near Silver at 10:00 p.m. to comply with Burnaby Noise or Sound Abatement Bylaw 1979. It is further recommended that a Section 219 Covenant be registered on the property, within 45 days of Council approval of this application, with the above conditions.

4.0 CONCLUSION

Based on the information presented above, and as outlined in the 2019 June 10 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 subject establishment, as discussed in Section 3.0 of this report.

Staff recommend that a copy of this report be forwarded to the applicant, Mr. Randall Olafson, Randall Olafson Consultants Ltd., #200-11575 Bridgeport Road, Richmond, BC, V6X 1T5; and to the respondents to the public input process, as described in Section 3.0 of this report.

Staff also recommend that, following registration of the above noted Section 219 Covenant, 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.



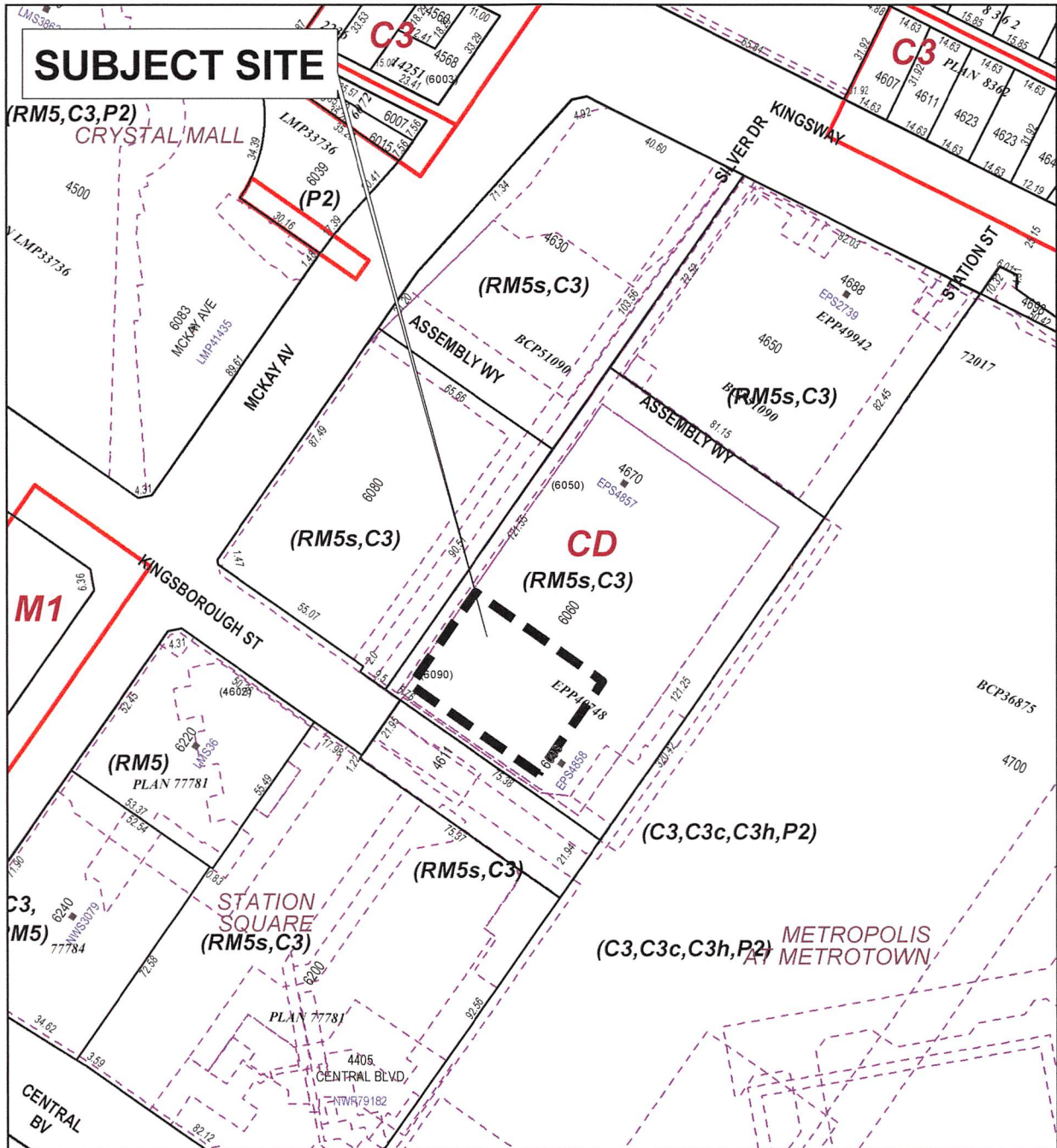
E.W. Kozak, Director
PLANNING AND BUILDING

KL:rh

Attachments

cc: Director Finance
Director Corporate Services
Director Engineering
Officer-in-Charge, RCMP, Burnaby Detachment
City Clerk

Director Public Safety and Community Services
Director Parks, Recreation and Cultural Services
Chief Licence Inspector
City Solicitor



PLANNING & BUILDING DEPARTMENT



DATE:

APR 16 2019

SCALE:

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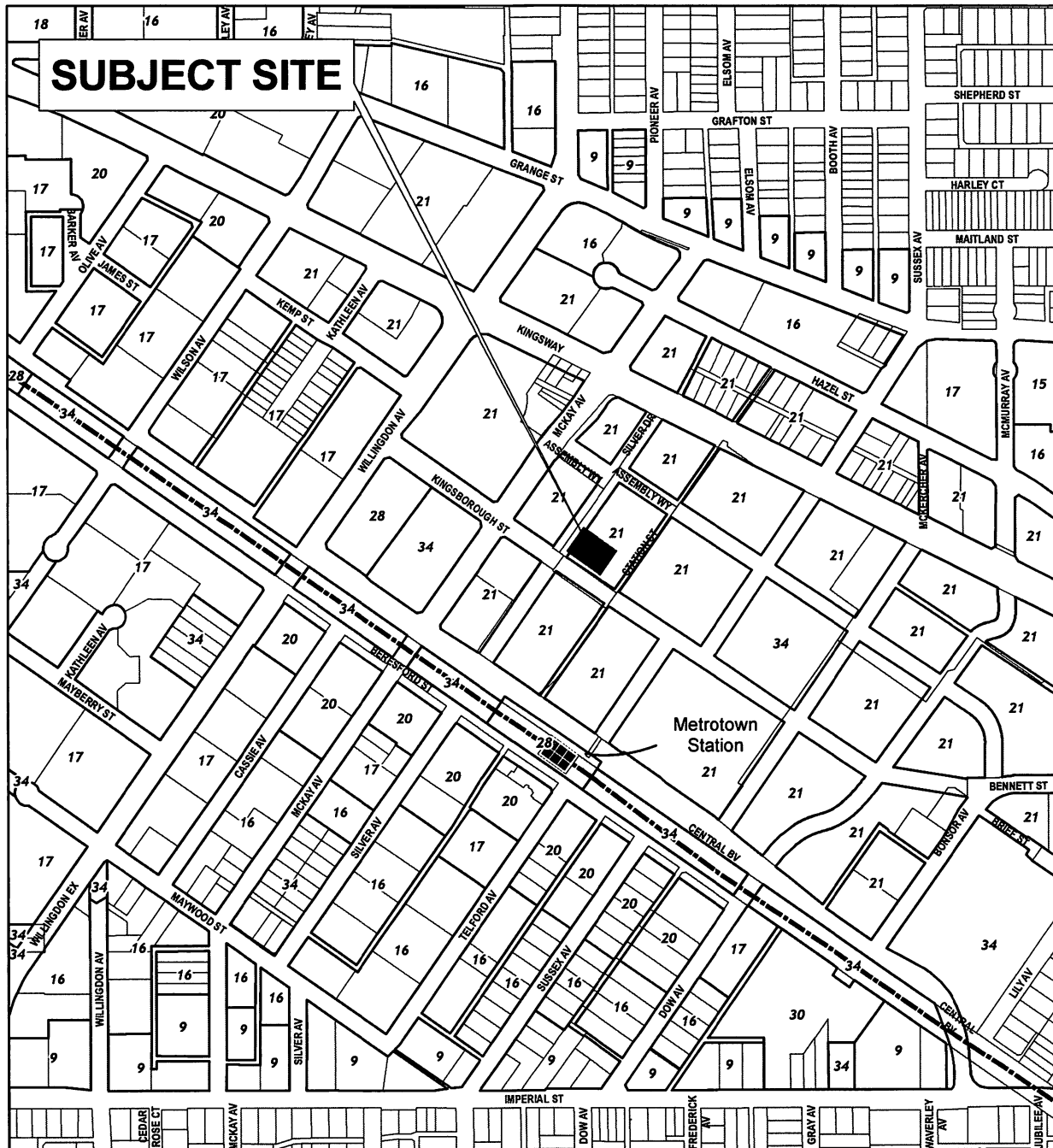
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LIQUOR LICENSE APPLICATION #19-01
6090 SILVER DRIVE



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

