



Item
Meeting 2020 July 27

COUNCIL REPORT

TO: CITY MANAGER 2020 July 22

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: REZONING REFERENCE #19-24
Liquor Primary Establishment

ADDRESS: Unit B – 6681 MacPherson Avenue (see *attached* Sketches #1 and #2)

LEGAL: Lot 98, District Lot 94, Group 1, NWD Plan 47057

FROM: C4 Service Commercial District

TO: CD Comprehensive Development District (based on C4 and C4f Service Commercial District, and in accordance with the development plan entitled “Proposed Rezoning: Liquor Primary Application – Unit B, 6681 MacPherson Ave, Burnaby” prepared by Vancouver Drafting).

APPLICANT: Van Land Use Consulting
413 Alberta Street
New Westminster, BC V3L 3J6
Attn: Joe Van Vliet

PURPOSE: To seek Council authorization to forward this application to a Public Hearing on 2020 August 25.

RECOMMENDATIONS:

1. **THAT** a Rezoning Bylaw be prepared and advanced to First Reading and to a Public Hearing on 2020 August 25 at 5:00 pm.
2. **THAT** the following be established as prerequisites to the completion of the rezoning:
 - a) The submission of a suitable plan of development.
 - b) The granting of any necessary Section 219 Covenants, including to ensure that licensed capacity and operating hours are maintained as described in Section 4.1 of this report.

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REPORT

1.0 REZONING PURPOSE

The purpose of the proposed rezoning bylaw amendment is to permit the subject karaoke box room to operate as a liquor primary license establishment.

2.0 POLICY CONTECT

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.

An Inclusive Community

- Create a sense of community - Provide opportunities that encourage and welcome all community members and create a sense of belonging.

A Healthy Community

- Healthy life - Encourage opportunities for healthy living and well-being.

A Dynamic Community

- Economic opportunity - Foster an environment that attracts new and supports existing jobs, businesses and industries.

3.0 BACKGROUND

- 3.1 The subject karaoke box room is located at 6681 MacPherson Avenue, on the southwest corner of Kingsway and MacPherson Avenue (Sketch #1 *attached*). The karaoke box room is comprised of the southern CRU, totalling approximately 375.4 m² (4,041 sq. ft.), within a three unit commercial building zoned C4 Service Commercial District. There are currently three business licences issued for the property, including two restaurant licenses (the karaoke box room and pizza restaurant) and one retail licence. The subject property is located within the Royal Oak Community Plan area and is designated for medium density mixed use development (Sketch #2 *attached*). Commercial developments under the C4 District are located immediately to the west, to the east across MacPherson Avenue and to the north across Kingsway from the subject property. To the south, across Lane Street, are low rise industrial developments under the M4 Special Industrial District. Vehicular access to the site is from MacPherson Avenue and loading access is from Lane Street.

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- 3.2 On 2009 April 06, Preliminary Plan Approval #09-084 was given for a 50 seat karaoke box room (KBR) facility with a restaurant component in the subject unit. The applicant is now requesting to operate as a liquor primary karaoke establishment. While karaoke establishments are considered a public assembly and entertainment use, and are permitted in a variety of Commercial Districts in Burnaby, establishments with a liquor primary licence are considered a liquor licence establishment. New liquor licence establishments are permitted subject to a rezoning to an appropriate sub-district in specific Commercial or Institutional Districts. In this case, a liquor primary licence at the proposed location requires rezoning to the “F” sub-district of the C4 District, which permits liquor licence establishments that serve up to 100 persons at any one give time.
- 3.3 On 1999 June 14, Council adopted guidelines for karaoke in food primary establishments. The 1999 guidelines include consideration of proximity to other liquor primary establishments and to single- and two-family residential zones, minimum seating capacity, and physical requirements such as transparency of walls and lighting. In the absence of karaoke guidelines for liquor primary establishments, this application will consider, where applicable, the existing 1999 guidelines in addition to the guidelines discussed below.
- 3.4 On 2003 May 05, Council adopted guidelines for assessing applications for new liquor licence establishments. The 2003 guidelines include consideration of the observance of a sufficient distance from existing liquor primary establishments, residential uses, schools, care facilities and other uses such as gaming facilities, amusement arcades, and billiard halls; the nature of the proposed establishment (e.g. entertainment, hours, and person capacity); the satisfaction of all parking requirements on site; the safe and convenient vehicular and pedestrian access; and, the proximity to public transit.
- 3.5 It is noted that if minors were to be permitted in a liquor primary establishment, the Liquor and Cannabis Regulation Branch (LCRB) would require a Family Food Service term and condition on the licence, requiring that minors (anyone under 19 years of age) would only be permitted in the facility until 10 pm, provided they are accompanied by a parent or guardian and meal service is available. LCRB regulations regarding private rooms in liquor primary establishments, including karaoke, which include providing designated servers, glass front doors with no obstructions, and video surveillance, would also need to be considered.
- 3.6 On 2019 June 10, Council received the report of the Planning and Building Department concerning the rezoning of the subject site and authorized the Department to work with the applicant in the preparation of a suitable plan of development with the understanding that a further and more detailed report would be submitted at a later date.
- 3.7 The applicant has now submitted a plan of development suitable for presentation to a Public Hearing.

4.0 GENERAL COMMENTS

4.1 Details of the proposed liquor licence establishment include:

- maximum person capacity of up to 90 persons (including patrons and staff); and,
- hours of liquor service from 11:00 am to 2:00 am, seven days a week.

In order to permit the proposed liquor primary karaoke establishment, the inclusion of the C4f District zoning designation is required. The subject use must therefore meet Council adopted guidelines for assessing the location of new liquor primary establishments. The following is an assessment of the proposal's consistency with the 2003 liquor primary licence guidelines and the 1999 KBR food primary licence guidelines.

4.1.1 *Observance of a sufficient distance from, or physical separation from:*

- *Existing liquor primary establishments*
Three existing liquor primary establishments are located in the vicinity: Great Bear Pub at 5665 Kingsway to the northeast across Kingsway, approximately 130 m (427 ft.) away, the Portuguese-Canadian Seniors Foundation at 5455 Imperial Street to the southwest across Imperial Street, approximately 150 m (492 ft.) away, and the Burnaby Legion Club 83 at 5289 Grimmer Street, approximately 335 m (1,100 ft.) away.

The 1999 guidelines establish a minimum distance of 200 m (656 ft.) as an acceptable separation between food primary licensed establishments with karaoke and liquor primary establishments. Although the subject site does not meet this separation, since Kingsway and Imperial Street act as significant physical barriers to those establishments less than 200 m (656 ft.) away, it is not anticipated that the subject karaoke establishment will be a concern.

- *Residential uses*
There are a few houses located in the M4 District across Lane Street and Imperial Street to the south of the subject property. These properties are designated for future CD Comprehensive Development (based on C9 Urban Village Commercial District) within the Royal Oak Community Plan and are currently located in the context of light industrial uses. Single and two-family homes, zoned R5 Residential District, are located across Kingsway and beyond the commercial uses, more than 150 m (492 ft.) away.

The 1999 guidelines establish a minimum distance of 100 m (328 ft.) as an acceptable separation between food primary licensed restaurants with karaoke and properties that are zoned for single and two-family dwellings. The R5 District properties are located more than 100 m (328 ft.) from the subject unit.

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▪ *Schools and care facilities*

The proposed liquor primary karaoke is located more than 500 m (1,640 ft.) to the nearest school (Windsor Elementary) and more than 330 m (1,082 ft.) to the nearest care facility.

▪ *Other uses such as gaming facilities, cyber centres, amusement arcades and billiard halls*

The proposed liquor primary karaoke establishment is located approximately 130 m (427 ft.) from a hookah lounge located across Kingsway and approximately 150 m (492 ft.) from another karaoke establishment located at 5679 Imperial Street. It should be noted that, should the subject rezoning application be approved, this would likely preclude additional rezoning applications in the area to permit liquor service within KBRs.

4.1.2 *Nature of proposed establishment (e.g. entertainment, outdoor patio, hours and person capacity).*

The proposed form of entertainment establishment would continue to be karaoke. No outdoor patios are proposed. The proposed hours of liquor service are 11:00 am to 2:00 am, seven days a week. These hours are in line with Council adopted guidelines and are consistent with the hours of other liquor primary establishments within the immediate area. The maximum occupancy of the facility is 90 persons.

It should be noted that the 1999 karaoke guidelines in food primary establishments require a minimum seating capacity of 100 patrons in order to provide more “eyes on” karaoke box room establishments. However, since generally most patrons within the subject site would be within their own karaoke room, the number of patrons required would have no impact. Further, as noted earlier, the C4f District permits liquor licence establishments that serve a maximum of 100 persons which would preclude the guideline requirement. It is also noted that the proposed establishment generally conforms to the Council-adopted karaoke guidelines for food primary establishments such that:

- the proposed establishment has glass doors and windows for the entrances to karaoke box rooms, thereby ensuring good visibility for the RCMP, Liquor Inspectors, and other patrons;
- the proposed establishment has suitable lighting in each of the box rooms; and,
- the proposed establishment has a video surveillance system, with exterior and interior cameras, as well as a camera in every box room.

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4.1.3 Satisfaction of all parking requirements on site

The subject unit currently meets the required number of parking stalls per Preliminary Plan Approval #09-084.

4.1.4 Safe and convenient access for vehicular traffic to the site, as well as safe access for pedestrians to the liquor licence establishment

Safe and convenient vehicular access to the parking area is provided via MacPherson Avenue, and pedestrians have access via Kingsway and MacPherson Avenue.

4.1.5 Good proximity (within 250 meters) of public transit

The subject unit is within 150 metres proximity to two bus stops, one at Kingsway and Elgin Avenue and another at Kingsway and Grimmer Street.

In general, the proposed development is consistent with the 2003 Council-adopted guidelines for assessing applications for new liquor primary licences. The proposal is also generally consistent with the 1999 Council-adopted guidelines.

4.2 The LCRB, as part of its assessment process for liquor primary liquor licence applications, requests that local government provide comments on the additional following criteria:

4.2.1 The impact of noise on nearby residents

Given the nature of the proposed liquor licence establishment, staff do not anticipate potential noise impacts beyond what would otherwise be expected in this Urban Village location. It is also noted that the proposed establishment is surrounded by the C4 Service Commercial Districts, C2 Neighborhood Commercial Districts and M4 Special Industrial Districts. Though the M4 Special Industrial District does permit single and two-family dwellings, such use is dependent on lawful residential use being established on or previous to 2004 January 01. As such, there are very few nearby residents to the proposed establishment. Furthermore, it is noted that all uses are subject to the Burnaby Noise and Sound Abatement Bylaw.

4.2.2 The impact on the community if the application is approved

The proposed liquor licence is considered supportable for the site and is not anticipated to result in significant community impact if approved.

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It is noted that the LCRB also requires that local government gather public input from the community within the immediate vicinity of the establishment. The Public Hearing process for this rezoning would be utilized to satisfy this provincial public input process, including written notice to residents/tenants and property owners within 30 m of the subject site and advertisement in two consecutive local newspapers. In addition, should the proposed rezoning advance, a separate liquor licence application (LLA) would be received by Council for consideration, concurrent with Final Adoption of the subject rezoning.

- 4.3 In summary, given the subject unit's Urban Village location and proximity to Metrotown, the proposal generally meeting the Council adopted guidelines for new liquor licence establishments, and the proposal's minimal noise impact and impact on the community, the proposed rezoning to permit a liquor primary licence is considered supportable.

5.0 DEVELOPMENT PROPOSAL

5.1	Site Area (no change)	-	2,289 m ² (24,638 sq. ft.)
5.2	Gross Floor Area for subject unit (no change)	-	387 m ² (4,165 sq. ft.)
5.3	Parking for entire building (no change)		
	Required	-	16
	Provided	-	17
5.4	Loading for entire building (no change)		
	Required	-	2
	Provided	-	3



E.W. Kozak, Director
PLANNING AND BUILDING

JT:tn

Attachments

cc: Director Public Safety and Community Services
Officer-in-Charge, RCMP, Burnaby Detachment
Chief Licence Inspector
City Solicitor
City Clerk

