

TO: CHIEF ADMINISTRATIVE OFFICER **DATE:** 2022 July 20

FROM: GENERAL MANAGER **FILE:** 46000 06
PLANNING AND DEVELOPMENT *Reference:* LLA#22-01

SUBJECT: LIQUOR LICENCE APPLICATION #22-01
RESPONSE TO PUBLIC CONSULTATION PROCESS
EARL'S RESTAURANT BRENTWOOD
1308 – 4525 LOUGHEED HIGHWAY

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. Monday to Saturday and 9:00 a.m. to 12:00 a.m. on Sunday for the interior of the establishment, and 9:00 a.m. to 12:00 a.m. Monday to Sunday for the patio.
 - 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 establishment to be lowered at 10:00 p.m. to the extent necessary to comply with Burnaby Noise or Sound Abatement Bylaw 1979; 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, Ms. Kelly Gannon, Earl's Restaurant (Brentwood) Ltd., 200 – 425 Carrall St., Vancouver, BC, V6B 6E3; 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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1.0 POLICY FRAMEWORK

The subject application aligns with the following City Policies: Regional Context Statement (2013), Official Community Plan (1998), Economic Development Strategy (2007), Brentwood Town Centre Plan (1996), and Brentwood Town Centre Master Plan (2012).

2.0 BACKGROUND INFORMATION

On 2022 May 30, Council received a report on the subject liquor licence application for Earl's Restaurant at 1308–4525 Lougheed Highway, within the Amazing Brentwood Development (Sketches #1 and #2 *attached*). This application is requesting to relocate the Earl's food primary licence from its current location at 3850 Lougheed Highway to the subject site. The subject establishment is proposed to have 181 seats for patrons inside the restaurant, and 50 seats on the patio. In addition there are 40 staff for a total person capacity of 271. The requested hours of liquor service are from 9:00 a.m. to 1:30 a.m. Monday to Saturday and 9:00 a.m. to 12:00 a.m. on Sunday for the interior of the restaurant, and 9:00 a.m. to 12:00 a.m. seven days a week for the patio. The folding glass door system separating the interior of the establishment from the patio is to be closed at 12:00 a.m. on Sunday through Thursday and 1:30 a.m. on Friday and Saturday. The report concluded that the requested liquor licence application 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 (1,532 notifications); advertisements were placed in two consecutive issues of the Burnaby Now (June 16 and June 23); and signage was posted on the subject site that invited respondents to submit written comments to the Planning and Development Department.

Five comments were received from property owners and/or residents in response to the public notification. Two responses were in support of the application with the other three responses raising concerns regarding noise and disturbances, and hours of liquor service. These concerns are addressed below:

3.1.1 Noise and disturbances

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 from patrons leaving the establishment.

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. Nearby residents

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and/or the operator may also contact the RCMP to address incidents related to safety concerns or property damage. Further, it is noted that this liquor licence application was referred to the RCMP who had no concerns.

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

Issue: Concern was expressed that the restaurant and patio are in close proximity to residential towers and therefore liquor sales should end at 12:00 a.m. (midnight) daily.

Response: Staff advise that the proposed food primary liquor licence is intended for dining and is related to the service of food. The operator has confirmed the patio will be completely closed by 12:00 a.m. when patio liquor service ends. As noted in the 2022 May 30 Council report, the subject establishment fronts the Civic Plaza of the Amazing Brentwood development. The Brentwood Mall Master Plan envisions the Civic Plaza as the heart of the entertainment district for the site and includes retail stores, restaurants, cafes, and the Rec Room entertainment complex.

In addition, the applicant will be required to lower the sound system on the patio and the restaurant speakers near the patio at 10:00 p.m., as needed, to comply with Burnaby Noise or Sound Abatement Bylaw 1979, and ensure that the restaurant folding glass door system is closed at 12:00 midnight on Sunday through Thursday and 1:30 a.m. on Friday and Saturday. To ensure the above noted conditions are maintained, a Section 219 Covenant must be registered on the property.

3.2 In the 2022 May 25 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 near the SkyTrain and major roads, which provide ambient traffic noise. Further it is not anticipated that approving the application would have a 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. Further, there have been no objections from City departments regarding the proposed liquor licence application.

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 12:00 a.m. daily on the patio. Staff also recommend that the applicant be required to lower the sound system on the patio and the speakers near the patio 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.

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4.0 CONCLUSION

Based on the information presented above, and as outlined in the 2022 May 25 report to Council which assessed the application 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, Kelly Gannon, Earl's Restaurant, 200 – 425 Carrall Street, Vancouver, BC, V6B 6E3; 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.

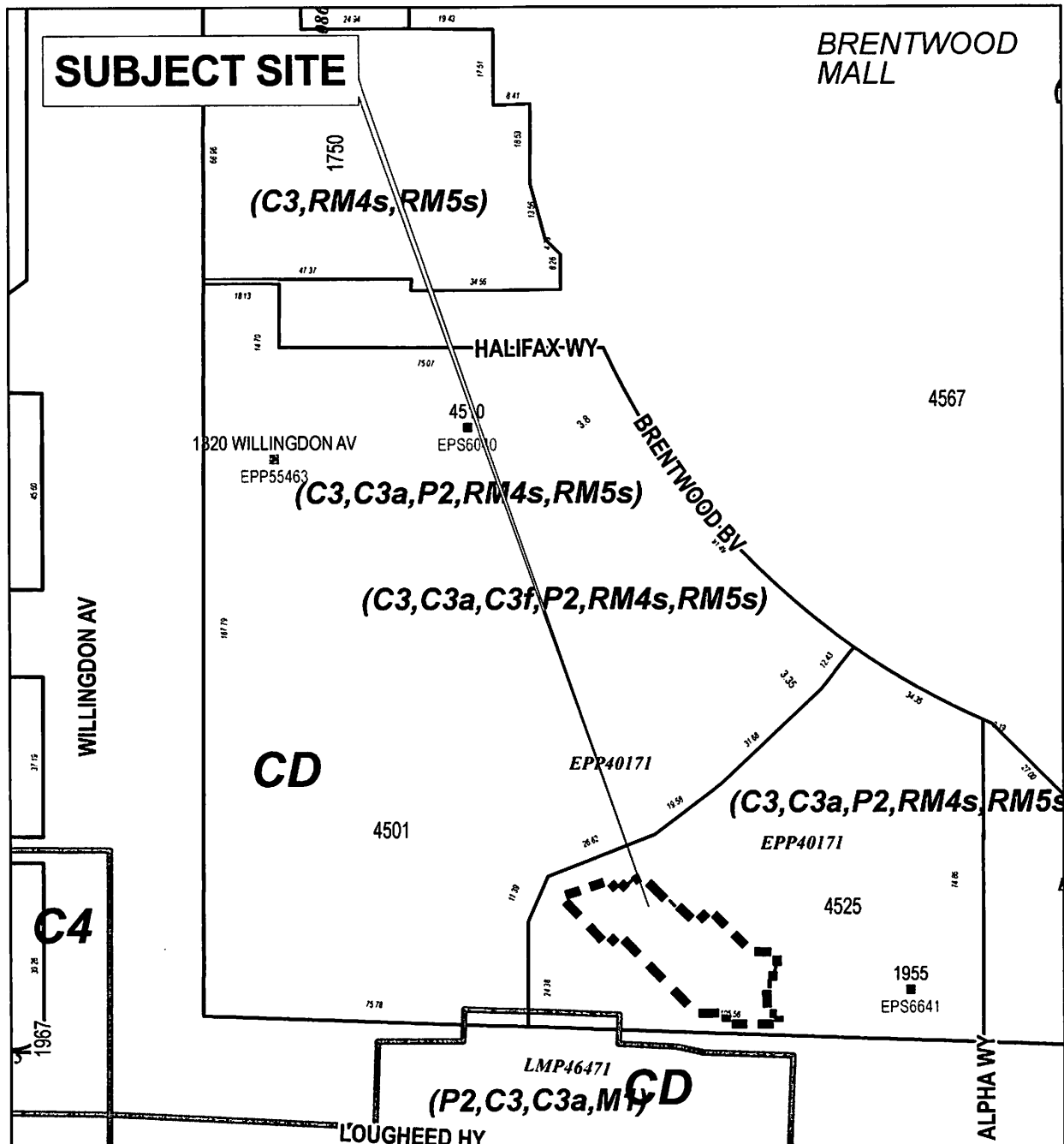



E.W. Kozak, General Manager
PLANNING AND DEVELOPMENT

PJL

Attachments

cc:	Acting Chief Financial Officer	General Manager Community Safety
	General Manager Corporate Services	General Manager Parks, Recreation and Cultural Services
	Acting General Manager Engineering	Chief Licence Inspector
	Officer-in-Charge, RCMP, Burnaby Detachment	City Solicitor
	City Clerk	



 City of Burnaby


Date: APR 20 2022

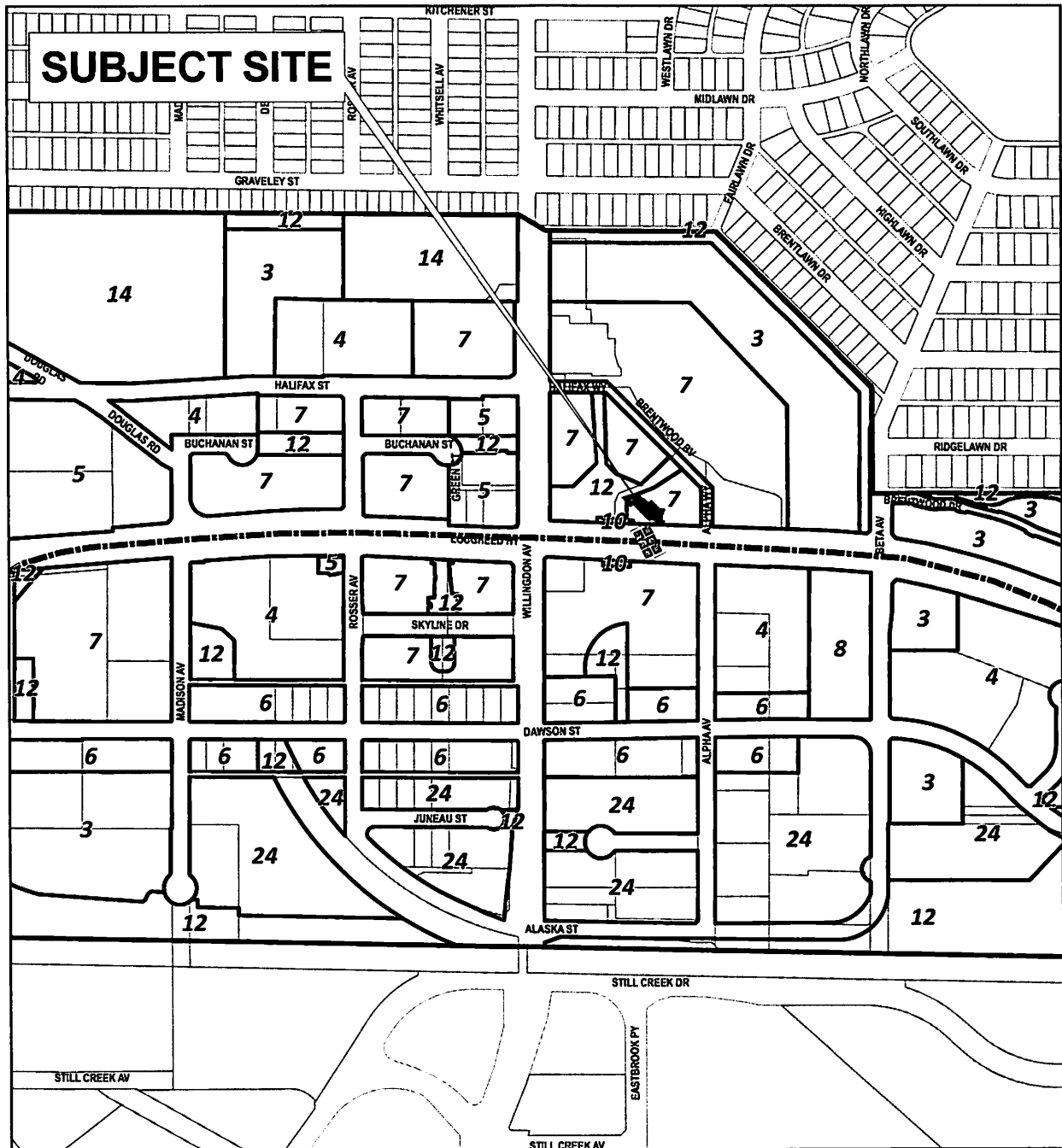
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Drawn By: JS

PLANNING AND DEVELOPMENT DEPARTMENT

LIQUOR LICENSE APPLICATION #22-01
01308-4525 LOUGHEED HIGHWAY

 Subject Site

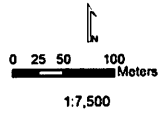


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|---|---|
| 3 Medium Density Multiple Family Residential | 8 Medium or High Density Multi Family Residential |
| 4 High Density Multiple Family Residential | 10 Institutional |
| 5 Commercial | 11 Business Centre |
| 6 Medium Density Mixed Use | 12 Park and Public Use/Public School |
| 7 High Density Mixed Use | 14 Cemetery |
| | 24 High Density Multiple Family Residential -
Brentwood Succession (RM4s) |



PLANNING AND DEVELOPMENT DEPARTMENT

Brentwood Town Centre Plan



Printed April 20, 2022

Sketch #2