

RE: ADMIRAL HOTEL
4125 EAST HASTINGS STREET
CLASS "A" PUB LICENCE
EXTENDING HOURS OF OPERATION
(ITEM 9, REPORT NO. 8, 1979 JANUARY 29)
(ITEM 13, REPORT NO. 14, 1979 FEBRUARY 19)
(ITEM 16, REPORT NO. 38, 1979 MAY 14)
(ITEM 19, REPORT NO. 39, 1979 MAY 22)

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Attached is a report from the Director of Planning regarding a request from the operator of the Admiral Hotel for an extension of hours with respect to the operation of a pub.

Following, for Council's information, are previous actions that have been taken on this matter:

1. 1979 February 19
(Item 13, Report No. 14)

Item 13, Municipal Manager's Report No. 14, February 19, pertaining to this subject, was brought forward for consideration at this time.

The Municipal Manager recommended:

1. THAT a copy of this report item be referred to Mr. George H. Coles and the Management of the Liquor Control and Licensing Branch.

MOVED BY ALDERMAN RANDALL:
SECONDED BY ALDERMAN LAWSON:

"THAT the recommendation of the Municipal Manager be adopted."

CARRIED UNANIMOUSLY

MOVED BY ALDERMAN AST:
SECONDED BY ALDERMAN GUNN:

"THAT this Council recommend to the Liquor Control and Licensing Branch that the 'Pub' in the Admiral Hotel be not permitted to remain open beyond 23:00 h and that the beverage room in the Admiral Hotel also be required to close at 23:00 h."

MOVED BY ALDERMAN LAWSON:
SECONDED BY ALDERMAN MERCIER:

"THAT further consideration of this matter be tabled until such time as the Director of Planning submits a final report on this subject."

CARRIED UNANIMOUSLY

2. 1979 May 14
(Item 16, Report No. 38)

MOVED BY ALDERMAN EMMOTT:
SECONDED BY ALDERMAN MERCIER:

"THAT Item 16, Municipal Manager's Report No. 38, 1979 May 14, pertaining to this subject, be brought forward for consideration at this time."

CARRIED UNANIMOUSLY

The following are the recommendations contained in that report:

1. THAT Council not give favourable consideration to the subject request and that those remedial measures outlined in Section 3.3 of the Director of Planning's report to resolve the existing problems be undertaken by the hotel management and that upon re-examination of the situation in six months, the request may be brought forward to Council for further consideration.

2. THAT a copy of this report be sent to Mr. L. Barry Roitman, Admiral Hotel, 4125 Hastings Street, Burnaby, B.C. V5C 2J3

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MOVED BY ALDERMAN MERCIER:
SECONDED BY ALDERMAN EMMOTT:

"THAT this Council give favourable consideration to the request for an extension to the operating hours of the Class "A" Pub Licence for the Admiral Hotel subject to the closing of access to the Admiral Hotel to and from Albert Street and subject to the applicant working with the Planning Department to ensure any design problems are met."

MOVED BY ALDERMAN LEWARNE:
SECONDED BY ALDERMAN MERCIER:

"THAT further consideration of this subject be postponed for one week pending receipt of additional information on the questions raised in Council this evening."

RECOMMENDATION:

1. THAT the recommendations of the Director of Planning be adopted.

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REPORT

1. IF THE REQUESTED EXTENSION OF OPERATING HOURS IS APPROVED BY COUNCIL, CAN THIS DECISION BE SUBSEQUENTLY REVOKED?

As outlined in the regulations of the Liquor Control and Licensing Act, Item 17(1)(h) and pursuant to Section 10 of the Act, the General Manager has the power to grant an extension of hours to a class "A" pub upon first receiving a resolution from the Municipal Council. As such, the Municipality does not have any direct control over the issuance or revocation of a liquor licence.

However, the Municipality, through powers given to the Licence Inspector as per Section 458 of the Municipal Act (attached), may suspend a business licence should the holder of the licence be liable for any of those conditions outlined in items "a" through "e". As a result, suspension of a business licence would preclude operation of the affected liquor establishment.

In view of the foregoing legal considerations, it appears rather difficult for the Municipality to exercise any direct control over the operating hours of the subject facility once the extension request has been approved by Council. However, upon discussion of this situation with an official of the L.C.A.B., it may be possible that the General Manager would revoke the liquor licence if the Municipal Council requested such action in view of the facility creating a number of problems. Council will note that the General Manager has not to date taken this action under these circumstances, nor would he be legally required to do so.

2. CAN THE MUNICIPALITY ENFORCE A LEGAL AGREEMENT THAT REVOKES ITS APPROVAL OF THE SUBJECT EXTENSION REQUEST IF THE REQUISITE PHYSICAL IMPROVEMENTS ARE NOT MADE WITHIN A SPECIFIED TIME PERIOD?

The Planning Department has endeavored to examine this item in detail with the Municipal Solicitor. Unfortunately, the requested information has not been received to date. When this information is available the Planning Department will submit a further report should Council so desire.

3. COMPARISON OF HOTEL DRINKING ESTABLISHMENTS IN BURNABY.

HOTEL	# of ROOMS	LICENSED AREAS				TOTAL # OF SEATS
		CLASS "A" Lounge	Public House	Pub	CLASS "B" Dining Lounge	
SHERATON VILLA	100	105	230	125	130	590
LOUGHEED HOTEL	47	68	324		102	494
BURNABY HOTEL	22		140	86		326
ASTOR HOTEL	64	142	432		195	769
ADMIRAL HOTEL	42	85	120	203	6,*	698

*includes Coffee Shop.

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4. HISTORY OF THE ADMIRAL HOTEL.

The Admiral Hotel opened for business in 1956 and, at that time, was licenced for the following facilities:

- 42 apartment/sleeping rooms
- public house
- dining lounge/cabaret
- lounge
- coffee shop
- internal retail sales areas.

The hotel, since 1956, has continued to operate these facilities as bona-fide uses permitted in the C3 General Commercial Zoning District.

5. HOW IS CONTROL OF THE NUMBER OF SEATS EXERCISED?

The Planning Department advises that the Liquor Control Administration Branch in its issuance of liquor licence determines the total number of seats permitted. The Fire Department determines maximum seat numbers through the Fire Services Act which regulates maximum load capacities. The Municipality also exercises control of the number of seats through the parking regulations of the Zoning Bylaw which requires the provision of one off-street parking space for each five seats relative to restaurants, pubs, cabarets, etc.

At the present time, a total of approximately 135 parking spaces have been provided by the hotel which is less than the 161 spaces required to satisfy the Zoning Bylaw regulations. Notwithstanding the Bylaw requirements, the Municipality cannot through its powers exercised in the Zoning Bylaw require the prevailing parking regulations to be met for the existing premises since the hotel has been in operation on a bona-fide basis prior to the Bylaw's introduction. As such, the Zoning Bylaw requirements cannot be made retroactive under these circumstances. However, any additions or extensions to the existing building which generate an additional parking requirement would necessitate the providing of additional spaces to meet the additional new requirements.

6. HOW WAS THE DISCOTHEQUE ESTABLISHED?

The existing facility referred to as a "discotheque" is not in fact a discotheque as defined in the 1965 Zoning Bylaw, but is rather a cabaret which possesses a class "C" liquor licence and defined in the Cabaret Bylaw as:

"..any place in which refreshments or prepared food of any kind are served, and where music and dancing or any form of entertainment is permitted therein."

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6. Cont'd.

A discotheque is defined in the Zoning Bylaw as:

"...an establishment which provides music and dancing facilities for patrons 13 to 18 years of age inclusive. Such an establishment may also include facilities for the consumption of food and non-alcoholic beverages, a games area, as well as ancillary office and storage spaces."

As outlined in Section 4 of this report, the existing cabaret has been in operation and licenced as such since 1956 and was converted to a discotheque-style cabaret since takeover of the hotel by the present owner/operators in 1977.

7. IS THE MUNICIPALITY PROHIBITING ACTIVITIES IN THE HOTEL THAT ARE ALREADY BEING CARRIED ON?

Council is advised that the applicant has been issued the necessary business and liquor licences to carry on all activities outlined previously except for the sale of liquor within the class "A" pub beyond 23:00 h. As a result, the Municipality is not prohibiting any bona-fide activities within the hotel that are presently carried on.

8. WHAT MEASURES DOES THE MUNICIPALITY HAVE TO REQUIRE THE UPGRADING OF A DRINKING ESTABLISHMENT THAT SUFFERS FROM POOR LANDSCAPING, NOT ENOUGH PARKING, ETC.? WHAT RESTRICTIONS COULD BE IMPOSED ON A NEW DRINKING ESTABLISHMENT OF THE SIZE AND SCOPE OF THE ADMIRAL HOTEL UNDER CURRENT MUNICIPAL REGULATIONS?

Relative to the upgrading requirements outlined above and in the previous Planning Department report, Council is advised that the Municipality normally requires such physical upgrading to existing facilities where Rezoning, Subdivision or Preliminary Plan Approval is requested. The Municipality may also exercise its authority to require physical improvements to existing facilities (as deemed necessary) when Municipal Approval is required pursuant to the Liquor Act, Strata Titles Act, etc. Since Municipal Council Resolution is specifically required in this instance, Council may at its discretion require the applicant to make appropriate physical improvements to the facility as a requisite condition.

Relative to the development of new facilities, the Municipality through its powers exercised in Rezoning, Subdivision and Preliminary Plan Approval requires the full compliance with the regulations of the Zoning Bylaw and the Subdivision Control Bylaw. As such, a new facility of the size and scope of the Admiral Hotel would be required to satisfy all prevailing Municipal regulations.

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9. HOW FEASIBLE ARE THE PHYSICAL IMPROVEMENT SUGGESTIONS OUTLINED IN THE ATTACHED REPORT? HOW LONG WOULD THEY TAKE TO IMPLEMENT? WHAT WOULD THEY COST?

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The Planning Department has not had an opportunity to fully examine the previously outlined improvement suggestions and, as a result, cannot accurately estimate their feasibility, implementation time and cost at this time.

However, we do not anticipate that the cost of providing additional landscaping adjacent to the rear parking area and the physical closure of the Albert Street driveway would be economically prohibitive and time consuming. Preliminary cost estimates for these improvements will be made available for Council's information at its meeting of 1979 May 28. The Planning Department is of the opinion that the placement of large trees within the existing landscape strip will provide partial visual and noise screening of the parking area from the adjacent apartments and will also provide a psychological barrier. Closure of the driveway will reduce the number of vehicles and resultant noise on Albert Street generated by hotel patrons.

In reference to the previously identified noise problems and the requisite physical alterations to the hotel that may be necessary to resolve such problems, the Planning Department has discussed the situation with the Environmental Health Department. In this regard, it has been concluded that the applicant should be required to retain the services of a professional noise consultant in order to determine what physical measures need to be taken to bring the noise levels within the standards set forth in the Burnaby Noise or Sound Abatement Bylaw. The implementation of these measures will then be appropriately undertaken prior to the issuance of Council's Resolution.

CONCLUSION:

In view of the foregoing information, the Planning Department is of the opinion that Council should resolve to approve the subject request only upon the applicant's demonstration of a concerted effort to resolve the existing problems outlined above. As a result, it will be appropriate for the applicant to undertake the implementation of those remedial measures outlined in Section 9 of this report which are reviewed as follows:

- (a) The provision of additional landscaping adjacent to the rear parking area.
- (b) The closure of the existing driveway onto Albert Street.
- (c) The preparation of an independent professional noise study of the hotel facility.

Should Council require any further information on this topic and specifically with respect to Items 2 and 9, a further report will be submitted.


A. L. PARR
DIRECTOR OF PLANNING

cc: Municipal Engineer
Municipal Solicitor
Chief Public Health Inspector

PDS:lf

Attachment

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otherwise be required to hold pursuant to this Division with respect to that business.

(7) The provisions of subsection (1) of section 452 apply to a trading area as if it were one municipality. 1964, c. 33, s. 38.

Exemptions from licensing.

457B. (1) No licence is required with respect to any performance, concert, exhibition, or entertainment the entire proceeds of which, above actual bona fide expenses, are devoted to any charitable purpose.

(2) No licence is required with respect to any performance, concert, exhibition, entertainment, or concession which is held in a licensed theatre or other duly licensed place.

(3) No licence is required for the business of letting or renting rooms where not more than two rooms are available for letting or renting. 1964, c. 33, s. 38.

Powers for licence inspector.

* 458. (1) The Council may by by-law delegate to any official designated in the by-law power to grant a licence where he is satisfied that the applicant therefor has complied with the requirements of the by-laws of the municipality regulating building, zoning, health, sanitation, and business, and may also delegate to such official the power to suspend for such period as he may determine any licence if the holder of the licence

- (a) is convicted of an offence indictable in Canada;
- (b) is convicted of any offence under any municipal by-law or Statute of the Province in respect of the business for which he is licensed or with respect to the premises named in his licence;
- (c) has, in the opinion of such official, been guilty of such gross misconduct in respect of the business or in or with respect to the premises named in his licence as to warrant the suspension of his licence;
- (d) has ceased to meet the lawful requirements to carry on the business for which he is licensed or with respect to the premises named in his licence.
- (e) has, in the opinion of such official,
 - (i) conducted his business in a manner; or
 - (ii) performed a service in a manner; or
 - (iii) sold, offered for sale, displayed for sale, or distributed to a person actually or apparently under the age of sixteen years any thing that may be harmful or dangerous to the health or safety of a person actually or apparently under the age of sixteen years.

Appeals to Council.

(2) Any person whose licence has been suspended under subsection (1) may appeal to the Council and upon such appeal the Council may confirm or may set aside such suspension on such terms as it may think fit.

Revocation and suspension of licence.

(3) The Council may revoke a licence for reasonable cause after giving notice to the licensee and after giving the licensee an opportunity to be heard.

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