



ADMINISTRATIVE REPORT

Report Date: May 4, 2009
Contact: Lucia Cumerlato
Contact No.: 604.871.6461
RTS No.: 08028
VanRIMS No.: 08-2000-20
Meeting Date: May 21, 2009

TO: Standing Committee on Planning and Environment
FROM: Chief License Inspector
SUBJECT: 1046 Hamilton St - Raw Canvas Studios Inc.
Liquor Primary Liquor License Application

RECOMMENDATION

- A. THAT Council, having considered the opinion of local area residents and business operators as determined by neighbourhood notifications, noise impacts and relevant Council policy as outlined in this Administrative Report dated May 4, 2009, entitled "1046 Hamilton Street - Raw Canvas Studios Inc., Liquor Primary Liquor License Application", endorse the request by Raw Canvas Studios Inc. for a Liquor Primary liquor licence (Liquor Establishment Class 1) at 1046 Hamilton Street subject to:
- i. Hours of operation for the first six months are limited to 11:00 a.m. to 12:00 a.m., 7 days a week; after which time the requested hours of operation may be considered which are 11:00 a.m. to 12:00 a.m., Sunday to Thursday; and 11:00 a.m. to 1:00 a.m., Friday and Saturday;
 - ii. A maximum total capacity of 37 persons;
 - iii. Acoustic report to be submitted if entertainment consists of amplification certifying that the establishment meets Noise Control By-law requirements;
 - iv. Signing a Good Neighbour Agreement with the City prior to business license issuance;
 - v. A Time-limited Development Permit; and
 - vi. Food service to be provided while the establishment is operating.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services RECOMMENDS approval of the foregoing.

COUNCIL POLICY

Council policy requires new Liquor Primary liquor licenses to be subject to a Time-Limited Development Permit, Good Neighbour Agreement, and public consultation.

On May 16, 2006, Council enacted amendments to the Business Premises Regulation of Hours By-law that implements the Hours of Liquor Service policy for the city bars into by-law regulation.

On July 14, 2005, Council approved policy and guidelines relating to the size and location for new liquor establishments or for capacity increases to existing liquor establishments.

On November 18, 2004, Council adopted the Hours of Liquor Service Policy that established a new model for regulating hours of liquor service for Liquor Primary establishments, based on an area approach and incorporating a two-tiered licensing system and impact reduction measures.

PURPOSE

Raw Canvas Studios Inc. is requesting a Council resolution endorsing their application for a 37 person Liquor Primary liquor license ancillary to the existing art gallery/limited service food establishment located at 1046 Hamilton Street.

BACKGROUND

The applicant, Raw Canvas Studios Inc. is proposing to establish a 37 person Liquor Establishment Class 1 ancillary to the existing art gallery. The proposed hours of operation for the liquor primary (lounge) are from 11:00 a.m. to 12:00 a.m., 7 days a week for the first six months of operation. Staff feel these hours will ensure that noise impacts of this establishment on adjacent residents will be limited. The requested hours of operation may be considered once the six month trial period has elapsed and no issues/concerns arose during this time period. The requested hours of operation are 11:00 a.m. to 12:00 a.m. weekdays and 11:00 a.m. to 1:00 a.m. weekends.

Raw Canvas Studios Inc. has operated at this location as an art gallery with limited service food establishment (café) since July 2008. The applicant states that the proposed liquor establishment (lounge) will cater to guests 19 years and older, and will be appealing to a broad demographic from a variety of socio-economic groups. It is hoped that in addition to catering to the artist community, Raw Canvas will attract members of the public interested in painting and sculpture, as well as discussing the arts with the added benefit of being able to consume an alcoholic beverage while doing so. The applicant hopes to create a gathering place for all people interested in cultivating their artistic talents. Customers will be encouraged to purchase a canvas to work on in the studio area and all paints and materials will be supplied. The exchange of ideas and socializing will be encouraged in the licensed social gathering space. A floor plan of their proposed layout is shown in Appendix D.

The applicant states that Raw Canvas will be a new concept in the hospitality market of Vancouver. In addition to attracting local customers, it is expected that the establishment will also be a venue where local art and artists can be promoted to tourists visiting the city. Food service will continue to be available during operating hours which is a requirement under the Provincial Liquor Primary license "Terms and Conditions" guide. Any entertainment provided will be acoustic only. No heavy bass will be used in the entertainment.

The proprietors of this establishment believe that there are very few licensed venues in the city for people to gather and connect within the creative process. The current landscape of galleries and social gatherings in the city consist of locations at one-off events which are largely unregulated through the use of "Special Occasion Licenses". Both the artists and regulators have expressed frustration with this.

In addition, the proprietors will be offering their space for the use of non-profit artist groups. It is hoped that the studio space located in this establishment will provide an opportunity for artists and groups who are struggling to find space.

Liquor Control & Licensing Branch (LCLB) Regulations and Policies

Branch regulations allow liquor service between the hours of 9:00 a.m. to 4:00 a.m., seven days a week for Liquor Primary licenses. Any new liquor license application is subject to local government support. All previous Branch policy has been eliminated. The LCLB has no specific policy for patios.

Area Surrounding Premises

The subject site is located in the HA-3 Zoning District and for the purposes of liquor policy it is considered a downtown primarily mixed-use area. The surrounding area is a mixture of retail, office, healthcare office, residential, park and restaurant uses.

There is 1 Liquor Establishment Class 2 (143 seats - Yaletown Brewing Co Pub) and 1 Retail Liquor Store (1116 Hamilton St) located within a 650' radius of the subject site. Also, 15 licensed restaurants are within the area which hold Food Primary liquor licenses.

RESULTS OF NOTIFICATION

A neighbourhood notification was conducted by circulating 1000 notices in the survey area (see Appendix A). A site sign was erected advising the community of the application and where to send concerns or comments. From within the notification area 3 emails and 1 telephone call was received supporting the application; and 1 letter, 1 email and 1 telephone call was received opposing the request. The letter received opposing the application (See Appendix B) was from a Property Management Company representing a 24 unit strata building (this letter was also sent to the applicant). A petition which was signed by 14 residents of this building opposing the application was also received. The applicant responded to the concerns/issues which were identified in the letter from the property management company (See Appendix C).

The following are some key measures which will be implemented by Raw Canvas Studios in order to ensure that any noise concerns are alleviated:

1. Signage will be posted at the entry and exit to the establishment indicating to customers to keep their voices down when outside the establishment given that the area has residences.
2. Staff will be posted at the entry of the door to ensure that customers who do leave the premises are reminded to keep their voices down.
3. Patrons will be encouraged to leave the establishment to the north. If they must leave to the south, they will be encouraged to cross the street and walk along the west side sidewalk, thus ensuring that they do not disturb residents located in the vicinity.
4. Any entertainment provided will be acoustic only. No heavy bass will be used in the entertainment.
5. Contact numbers and name of operator will be made available for residents to contact directly if there are any concerns.

Forty eight emails were received in support of the application from respondents with no attached address.

Responses received in support of the application generally felt that this "one-of-a-kind" establishment which caters to the arts and culture community was much needed in the area and all respondents provided a personal endorsement of the operators.

Respondents opposing the application are most concerned with the effects of increased noise from patrons entering and exiting the establishment, music level emanating from the establishment and increased nuisance issues for the community.

DISCUSSION

Policy Issues

The subject site is located in the Downtown Primarily Mixed-Use area. The proposed Liquor Establishment - Class 1 venue is greater than 50 metres away from another Liquor Establishment Class - 1 venue. The applicant contends to provide a small relaxed style lounge environment focusing on art and social gathering with the availability of liquor service as an enhancement. Food service will remain to be an integral part of the business and will not change. The 1996 policies do support the consideration of liquor primary liquor licenses (referred to as pubs) and Restaurants Class 2, limited to 150 seats (that permit live entertainment and dancing).

Hours of Operation

The applicant is requesting hours of operation within the parameters of the Standard hours permitted in the Downtown Primarily Mixed-Use Area. The permitted standard hours for the area are 11:00 a.m. to 1:00 a.m. weekdays and 11:00 a.m. to 2:00 a.m. weekends. The applicant has requested the following hours of operation, 11:00 a.m. to 12:00 a.m. weekdays and 11:00 a.m. to 1:00 a.m. weekends. Staff may consider granting these requested hours of operation once the six month trial period has elapsed and no issues/concerns have been received.

Positive Proposal Aspects

The location and seating capacity for this establishment is a positive feature of the application. Small liquor establishments of this size generally do not create significant negative issues for the area community. It is highly unlikely that any activities within the establishment would directly impact the residential residents. The application complies with Council's liquor policy for Venue Size and Hours of Liquor Service.

The time-limited development permit should provide adequate controls to ensure the land use/business remains compatible with the surrounding community. The acoustic report requirement and earlier closing time should address any potential problems with entertainment noise.

Negative Proposal Aspects

There is a possibility that the proposed establishment may increase street related nuisance activity for the area. Strong management and sound operational practices should limit this type of activity from having a negative impact on the surrounding community.

Enforcement History

The applicant has no enforcement history.

FINANCIAL IMPLICATIONS

There are no financial implications.

COMMENTS

The Police Department: This is a new type of operation with no history so it may be necessary to have some conditions on their license. The Police will support this application with the following conditions:

- Hours of operation will be 11:00 am to 11:00 pm seven days a week.
- Must be limited to a 37 person capacity (this includes staff).
- No music, dancing or other type of entertainment.
- Must provide food during licensed hours.

The Development Services Department has reviewed this application and would note that this site is located in the HA-3 Zoning District.

The existing Heritage 'B' building on this site is currently approved for Retail, Restaurant class 1, Beauty Salon and Office use. Any proposed change of use to provide a Neighbourhood Public House (Liquor Primary) would require a Development Permit application. The review process for this type of proposal would include an assessment of the impacts of such a facility on nearby sites and compatibility with surrounding uses.

The Vancouver Fire Department has reviewed the application and approved an Occupant Load application (F1406404) for 37 seats @ 1046 Hamilton St.

The Social Development Department has reviewed the application and the proposed establishment is located in the Yaletown area which is a mixed use area. There are about 200 non-market housing units in the 2 blocks radius. However there are more market housing in the area. Noting that the proposed establishment is small, Social Development Department will support the application provided the capacity be limited to 37 and that the hours of operations no later than 11 p.m.

The Central Area Planning Department has reviewed the application and staff advise that the liquor primary application for 1046 Hamilton, if approved, would have benefits for the Raw Canvas enterprise as a location to create art and socialize. The 1996 policies do support the consideration of liquor primary licenses (referred to as pubs) and Class II Restaurants, limited to 150 seats (that permit live entertainment and dancing).

Old Yaletown is primarily a commercial area, with about one third of the area's floor space occupied by residents. It is also one of the most vibrant areas in the downtown peninsula with many restaurants. The large floor plates of the restored warehouse and adjacent loading docks are among the best suited in the central area for this type of business. Some residents have advised staff that the restaurants have noise impacts on them. However, unlike liquor primary establishments, most food primary establishments close before midnight.

Should Council chose to support this application, Central Area Planning staff will support the hours of liquor service suggested by licensing staff and that the capacity be no more than 37 persons. This will ensure that the noise impacts of this enterprise on adjacent residents will be limited.

The Cultural Services Department has reviewed the application and offers the following comments:

- In general we support the application and addition of a liquor primary license to the established gallery/studio function. Also, unlike the Police comment, we support live performance at this venue in the form of music, media arts, etc., and suggest if there are concerns with the provision of entertainment on site, that guidelines to address those concerns be outlined, as opposed to an outright non-support.
- It should be noted that while the statement "Raw Canvas intends to act as a gathering place for all people interested in cultivating their artistic talents in combination with a social lounge." is supportable and accurate, the statements regarding this space being a place for "artists to express themselves" or that it is a "working artist studio," or that it caters "to the artist community" are not supportable as they are not accurate.
- Raw Canvas is not unlike the pottery studios around town that allow citizens/visitors to pay to paint clay products. It is not a gallery or studio per se dedicated to the needs of the professional arts community.
- If Raw Canvas is claiming to support the professional artist community, they should identify more precisely how they intend to be an "establishment...focused on the working Gallery rather than the licensed area." or as stated elsewhere... how they intend to..."focus...more on the art and social gathering, with the availability of liquor as an enhancement."
- Also they should articulate how they intend to realize the following statements a) "proprietors will be offering their space for the use of non-profit artists groups" and b)"it is hoped that the studio space located in this establishment will provide an opportunity for artist and groups who are struggling to find space..."

Comments to Satisfy LCLB Resolution Requirements:

Location: as noted previously.

Person capacity and hours of operation: as outlined above.

Market Analysis: The City of Vancouver has no authority to regulate an operator's clientele/target market. As a result, commenting or basing a decision on Market Analysis is an unproductive use of staff time.

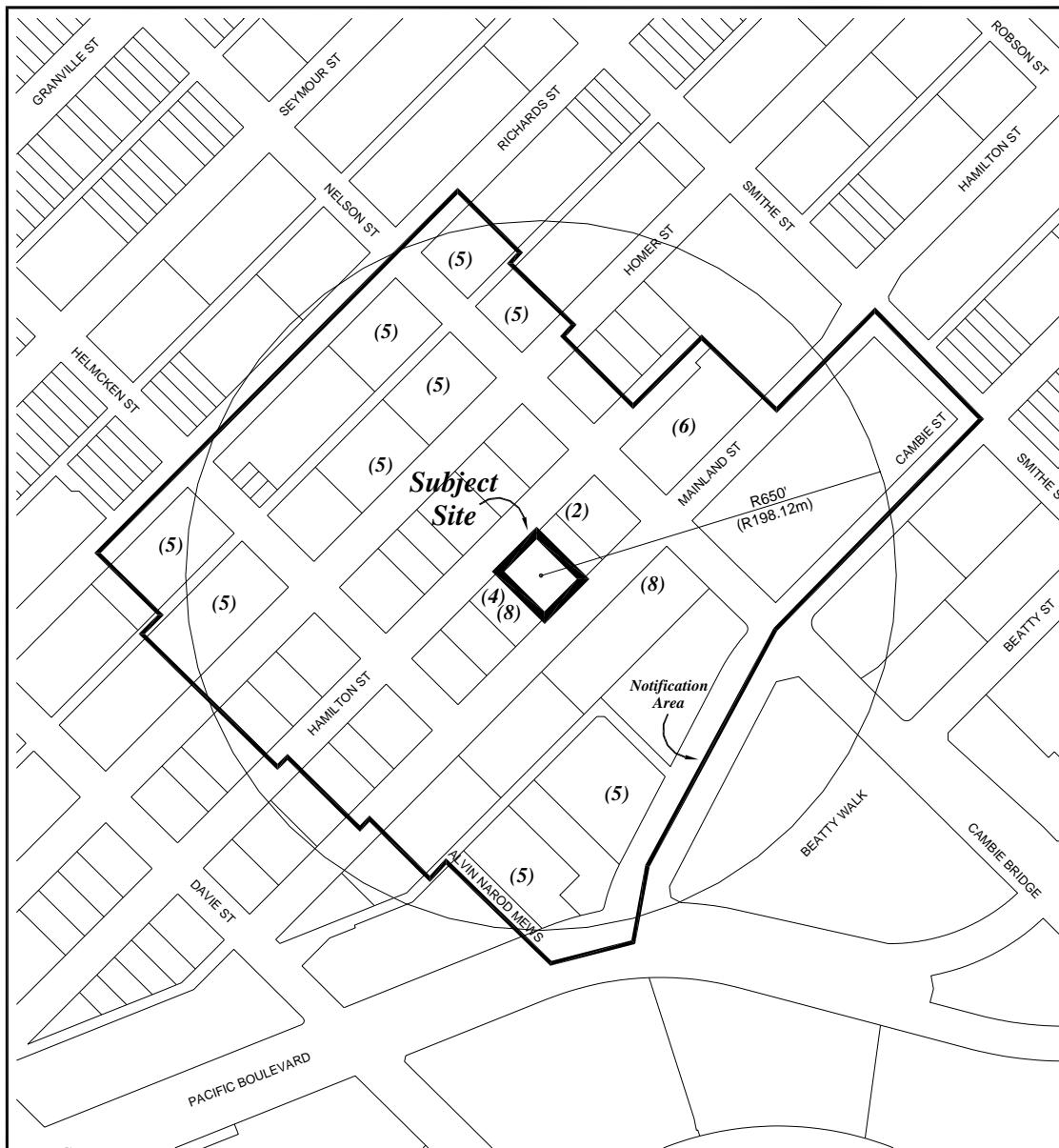
Traffic, noise, parking and zoning: Staff have considered traffic, noise, parking and zoning matters. Staff have no concerns with traffic, parking and zoning at this time. The zoning is HA-3 which considers "pub/lounge" use a "conditional" use in this zone. The traffic, parking and zoning matters will be considered further as part of the Development Permit process. Staff have some concerns with noise potentially coming from the establishment and when patrons are leaving the establishment in the early morning hours. The requirement of an "Acoustic Report" and the signing of a "Good Neighbour Agreement" should provide adequate controls to ensure compliance with the Noise Control By-law.

CONCLUSION

Staff are recommending Council endorse the applicant's request for a 37 person Liquor Primary liquor license subject to the conditions outlined in Recommendation A. This application meets current Council policy regarding size and distance from other establishments and the size of the establishment should limit any negative impacts in the

surrounding community. This application reflects the intent of Council policy for smaller type liquor licenses in the Yaletown area and the role and function of this area of the city as a home for a variety of businesses. The requirement for a Development Permit and Good Neighbour Agreement will ensure the premise operates in a manner conducive to the surrounding area and the six month earlier closing time will provide an evaluation period for staff and the operator.

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LEGEND

- (1) Cabarets, Neighbourhood Pubs & Hotels with Pubs/Lounges- N/A
- (2) Government or Private Liquor Stores- 1116 Hamilton St.
- (3) Social/Private Clubs (If easily visible/distinguishable)- N/A
- (4) Closest Residential Building/Units (Including Subject Site)- 1066 Hamilton St.
- (5) Large Residential Developments- 1001 Homer St. [150 Units], 988 Richards St. [51] Units, 1010 Richards St. [185 Units], 1055 Homer St. [135 Units], 1133 Homer St [192 Units], 415 Nelson St. [90 Units], 488 Helmscken St. [125 Units], 1099 Cambie St. [SNRF], 201 Alvin Narod Mews [60 Units].
- (6) Parks- 900 Mainland St.
- (7) Churches- N/A
- (8) Other Social Facilities (Clinics, Rehabs, Hospitals, etc.)- 1050 Hamilton St. {Dentist}, 1010 Mainland St. {Cosmetic Surgery}
- (9) Schools- N/A



<p>LIQUOR PRIMARY (LIQUOR ESTABLISHMENT CLASS 1) 1046 Hamilton Street</p>	<p>map: 1 of 1</p>	
<p>City of Vancouver - Licenses & Inspections</p>	<p>date: May, 2009</p>	



VANCOUVER CONDOMINIUM SERVICES LTD.

400 - 1281 W. GEORGIA STREET, VANCOUVER, B.C. V6E 3J7

April 21, 2009

Lucia Cumerlato
City of Vancouver
453 West 12th Avenue
Vancouver, BC V5Y 1V4

Dear Ms. Lucia Cumerlato:

**Re: Raw Canvas, 1046 Hamilton St.
Noise Complaints and Liquor License Application**

We are writing on behalf of the Owners of Strata Plan LMS-1490 located at 1066 Hamilton Street, Vancouver, BC. We write to advise of concerns relating to complaints of excessive noise and concerns relating to the current liquor license application for Raw Canvas located at 1046 Hamilton Street, Vancouver, BC.

We understand that Raw Canvas has recently applied to the City of Vancouver for a liquor license which also includes an extension of business hours to weekends from 11:00 a.m. to 1:00 a.m. and weekdays from 11:00 a.m. to midnight. We note that the current hours of operation posted on the Raw Canvas website are: Mon. – Tues. 8:00 a.m. – 5:00 p.m., Wed. – Thurs. 8:00 a.m. – midnight, Fri. 8:00 a.m. – 1:00 a.m., Sat. 10:00 a.m. – 1:00 a.m. and Sun. 10:00 a.m. – 4:00 p.m.

Kindly note, that on behalf of the Owners of LMS-1490, the owners strongly oppose the approval of the liquor license and extended hours due to the already current complaints of excessive noise. The complaints of excessive noise are as a result of individuals and groups of individuals entering and exiting Raw Canvas in the late evening and early morning hours. These individuals have been observed to raise their voices beyond the level of ordinary conversation. In addition, the music and conversation noise emanating from Raw Canvas regularly causes disturbances to the Owners of Strata Plan LMS-1490. The Owners of Strata Plan LMS-1490 consider this noise to be disrupting their right to quiet, peace, rest, enjoyment, comfort and convenience and for this reason are very concerned about this application being approved as it will exacerbate an already intolerable situation.

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We therefore kindly ask that this application be denied. We would appreciate a reply to the above concerns and look forward to your reply.

Yours truly,

Vancouver Condominium Services Ltd.



Hanne Andersen
Strata Agent
Per the Owners
Strata Plan LMS-1490

HA/jg

4jg1ha

cc: Strata Council LMS-1490
Raw Canvas
Mr. Steve Barron, Agent for Raw Canvas
c/o: Host Consulting

H.O.S.T. CONSULTING LTD.

HOSPITALITY INDUSTRY CONSULTANTS • LIQUOR LICENSING SPECIALISTS • SINCE 1995

April 29, 2009

Vancouver Condominium Services
400-1281 W. Georgia Street,
Vancouver B.C. V5Y 1V4
Attention: Hanne Andersen

Re: Strata Plan LMS-1490 - Noise Complaints re Raw Canvas at 1046 Hamilton Street

Dear Ms. Andersen,

We are in receipt of your letter dated April 21, 2009. As a follow-up to our conversation this afternoon, we would like to provide the residents of 1066 Hamilton Street the following information regarding Raw Canvas. We appreciate the concerns of the residence and appreciate the opportunity to be able to address their concerns. We were pleased with your acknowledgement that the Strata at 1066 Hamilton wishes to dialogue with the business and provide some feedback into their operation.

The proprietors of Raw Canvas take any community complaints seriously. The intent of their business is to be part of the community and they wish to promote and build the community through their activities. Accordingly, they will be putting the following measures in place to ensure that any noise concerns are alleviated:

- 1) Signage will be posted at the entry and exit to the the establishment indicating to customers to keep their voices down when outside the establishment given that the area has residences.
- 2) Staff will be posted at the entry of the door to ensure that customers who do leave the premises are reminded to keep their voices down.
- 3) Patrons will be encouraged to leave the establishment to the North. If they must leave to the south, they will be encouraged to cross the street and walk along the west side sidewalk, thus ensuring that they do not disturb residents located at 1066 Hamilton Street.
- 4) Any entertainment provided will be acoustic only. No heavy bass will be used in the entertainment.
- 5) Contact numbers and name of operator will be made available for residents to contact directly if there are any concerns.

The operators would like to emphasize that the focus of their business is a wine bar/working gallery. It is a small capacity and accordingly will not generate large numbers of patrons. The application for a liquor primary licence will give them the ability to serve liquor, where the focus will be on local and organic wines. Their intention is not to operate a night club or cabaret. The focus of the wine bar/lounge will be the creation of art and conversation with the occasional live performer.

The proprietor, Mr. Steven Merkely is on-site during the evening hours and may be reached directly at 778-227-9642.

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TELEPHONE: 604.851.2571
FACSIMILE:

We would like the residents to come to the establishment and meet with the owners and see and hear their vision for the business and the community and look forward to hosting them in this regard.

Please direct any communication or correspondence in this matter to my attention.

Should you have any questions or require anything further, please contact me directly at 778-885-6582 or s.barron@telus.net.

Regards,
H.O.S.T. CONSULTING LTD.



Stephen Barron

Raw Canvas Proposed Plan

