

THE CORPORATION OF THE
CITY OF WHITE ROCK
CORPORATE REPORT



DATE: March 27, 2023
TO: Mayor and Council
FROM: Anne Berry, Director, Planning and Development Services
SUBJECT: Application for Liquor Primary Licence for 15165 Russell Avenue
(LL 22-035)

RECOMMENDATIONS

THAT Council:

1. Receive for information the corporate report dated March 27, 2023, from the Director of Planning and Development Services titled, "Application for a Liquor Primary Licence at 15165 Russell Avenue (LL 22-035)";
 2. Direct staff to schedule the required public hearing for the proposed Liquor Primary Licence at 15165 Russell Avenue; and
 3. Authorize staff, pending the results of the public hearing, to forward a copy of the March 27, 2023 report and results of the Public Hearing to the Liquor and Cannabis Regulation Branch along with a resolution to advise that Council has considered the potential impact for noise and the impact on the community, and is in support of the application for at 15165 Russell Avenue, with the following conditions:
 - that the operating hours for the outdoor patio area be limited to no later than 9:00 p.m. on Monday through Saturday and 7:00 p.m. on Sunday; and
 - that live entertainment ceases not less than one (1) hour before the end of liquor service.
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EXECUTIVE SUMMARY

This corporate report provides a planning assessment of a proposed licensed establishment at 15165 Russell Avenue. The proposal is subject to a liquor license referral application, which seeks a Council resolution of support (or non-support) to the Liquor and Cannabis Regulation Branch (LCRB).

The proposal is appropriate considering the use and is consistent with Economic Development, Land Use, and Town Centre goals, policies of the White Rock Official Community Plan and intent of the CR-1 Town Centre Commercial / Residential Zone. Therefore, staff conditionally support the requested liquor primary licence, contingent on the outdoor patio being limited to 9:00 p.m. from Monday to Saturday and 7:00 p.m. on Sunday. This approach will reduce potential nuisances and incompatibility issues with surrounding residences while allowing for the continued indoor operation of the establishment.

The location and ortho map of the subject property is attached in Appendix A. The proposed floor plans, patio layout and proposed hours of operations are attached as Appendix B. The Applicant's internal policy plans to minimize and address nuisance on-site (the 'Letter of Intent and Conduct of Conduct') are attached in Appendix C. The notification letter mailed to the public is attached in Appendix D. Written correspondence from the public in response to the public notice mailout is included in Appendix E. An endorsement supporting the proposal, including approximately 144 signatures, is included in Appendix F.

Staff recommends that the application for a liquor license referral proceed to a public hearing as required by the city's Planning Procedures Bylaw.

INTRODUCTION/BACKGROUND

The Applicant and principals of Galaxie Craft Brewhouse Ltd. (1122 Vidal Street) have applied for a new liquor primary licence for their new premises at 15165 Russell Avenue (civic address of 1513 Johnston Road). Their proposed business, "Galaxie Public House," would operate as a craft beer taphouse and would not involve manufacturing liquor on-site. Accordingly, the Applicant is proposing the following parameters for their primary liquor license:

1. Hours of Liquor Service - If approved by the LCRB, the license will allow the establishment to sell and serve liquor for consumption during the following hours:

Applicant's Proposed Hours of Liquor Service							
Day	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	12:00 p.m.	12:00 p.m.	12:00 p.m.	12:00 p.m.	10:00 a.m.	10:00 a.m.	10:00 a.m.
Closed	11:00 p.m.	11:00 p.m.	11:00 p.m.	11:00 p.m.	2:00 a.m. (Saturday)	2:00 a.m. (Sunday)	9:00 p.m.

2. Entertainment: Live music performances, comedy shows, and other special nights like trivia would be permitted as noted in the Applicant's Letter of Intent and Code of Conduct (Appendix C).
3. Outdoor Patio: If approved by the LCRB, liquor service would also be provided in the proposed outdoor patio (approximately 26.2 square metres or 282 square feet in size) that would be located adjacent (south) of the licensed establishment, wholly on private property, beside the Russell Avenue sidewalk. The patio would be located within the subject property, therefore it will not require a subsequent Sidewalk Use License per the *White Rock Sidewalk Use Agreement Bylaw 2017, No. 2203*.

ANALYSIS

Policy Framework

White Rock Official Community Plan 2017, No. 2220 (the OCP)

The subject property is designated as "Town Centre," which is the centre for cultural, civic, economic, and public life in the city and is characterized by diverse uses. This land use policy area aims to enable a concentrated mix of multi-unit and commercial uses to strengthen the heart of the city. The proposal is consistent with the Economic Development, Land Use, Town Centre goals, and policies of the OCP.

White Rock Zoning Bylaw, 2012, No. 2000 (Zoning Bylaw)

The subject property is zoned 'CR-1 Town Centre Commercial / Residential'. This zone intends to accommodate a mix of uses and activities, including residential and commercial development along with cultural and civic facilities, to support the ability of residents to walk to meet their daily needs. Containing the greatest concentration and variety of employment-generating uses, this zone establishes this area as the city's pedestrian and transit-focused growth area, consistent with the objectives and policies of the OCP.

White Rock Sidewalk Use Agreement Bylaw, 2017, No. 2203 (Sidewalk Use Bylaw)

Section 6.16.7 (3) of the Zoning Bylaw states that notwithstanding sub-sections 6.16.6 and 6.16.7 (2), patios and awnings are permitted in the front and exterior side yard areas per the White Rock Licence Agreement (Sidewalk Café / Business Licence) Bylaw requirements.

Staff have reviewed the applicability of the White Rock *Sidewalk Use Agreement Bylaw, 2017, No. 2203* to the proposed permanent patio feature. As a result, the most applicable regulation from the Sidewalk Bylaw is provided below [staff emphasis in bold]:

"7. **No structure or display may be within 2.4 m of the face of the curb** and must be 1.5 m away from any power/telecom pole, fire hydrant, manhole, bench, sign pole, pay station or curb box. The exits from a building must directly lead to the street without any impediment from displays or structures."

The Sidewalk Bylaw is not applicable in this circumstance as it expressly refers to public rights-of-way / city land. The proposed patio would not be on city land but on private property. Any patio in the CR-1 zone would require a 0.0-metre setback to the lot line to extend on and over a city right-of-way possibly. This interpretation is consistent with the current location of other patios on the subject property - specifically, the existing outdoor patios at the Wooden Spoon (15171 Russell Avenue) and the White Rock Beach Beer Company (15181 Russell Avenue), both wholly located on private property.

Planning Review

Staff have reviewed the proposal against the factors outlined in the *Liquor Control and Licensing Act* and *Liquor Control and Licensing Regulation* and offer the following for Council's consideration:

(i) Location of the Establishment:

Galaxie Public House is proposed to be located on the northwest corner of Johnston Road and Russell Avenue. The establishment is in the Town Centre. The Town Centre area is a mixed-use commercial area with access to taxi cabs, passenger-directed vehicles (i.e., Uber and Lyft) and public transit as an alternative to driving. Uses surrounding two blocks of the subject property include the parking areas, childcare centre, and commercial uses to the north, east and west, and mixed-use (commercial - residential) development to the south (see Appendix A – Location and Ortho Maps). The presence of roadways adjacent to the property provides separation and buffering of the proposed business from nearby sensitive (residential) uses.

(ii) The Person Capacity and Hours Of Liquor Service of the Establishment

The requested licence would allow liquor to be served indoors and on the outdoor patio (see Appendix B).

The proposed total occupant load for both the indoor area and the outdoor patio (on private property) is 123 persons (109 patrons – indoor; 10 patrons – outdoor patio; 4 – staff). The Building Department noted that the proposed indoor and outdoor patio occupancy of the licenced establishment of 123 persons is appropriate based on site conditions. Additionally,

the establishment's proposed liquor service hours are not in contravention of the *White Rock Business Bylaw, 1997, No. 1510*. The bylaw does not regulate the hours of operation for licensed establishments in White Rock.

(iii) The impact of noise on nearby residents:

To address future noise issues generated from the establishment, the Applicant has provided staff with a formal code of conduct letter regarding how future nuisances (such as noise) will be minimized and addressed on-site (see Appendix C). Further comment regarding potential impacts on the surrounding community is provided in the section below. The RCMP has communicated that they have no concerns with this proposal.

Staff recommend that the hours of patio operation be limited to 7:00 p.m. on Sunday and 9:00 p.m. on Monday through Saturday to contain the noise that may otherwise impact surrounding residents.

Staff also note that the city does not have the authority to limit noise coming from an establishment beyond the provisions of the *Noise Control Bylaw*. Therefore, staff recommend that any live music be required to cease at least one (1) hour before the end of liquor service.

If staff is authorized to schedule a public hearing, Council will have the opportunity to receive further feedback from the public on this topic.

(iv) The impact on the community if the application is approved:

The proposal is supported by the goals, objectives, and policies outlined in the OCP's Economic Development and the Town Centre sections. In addition, the proposed business would further support the Town Centre as a distinctive and lively commercial/entertainment area and provide additional leisure-supportive spaces for the community within walking distance of residential apartments and other commercial uses.

As part of the initial application submission process, the city has requested that the Applicant provide a document that clarifies how on-site staff will internally monitor, minimize, and address any perceived and real nuisances (including noise, rowdiness etc.) associated with their proposal. This document is attached as Appendix C: Applicant's Letter of Intent and Code of Conduct.

The Applicant is also requesting to set the following hours of liquor service for the establishment per Table 1.0 below:

Table 1.0: Hours of Proposed Liquor Service							
Day	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	12:00 p.m.	12:00 p.m.	12:00 p.m.	12:00 p.m.	10:00 a.m.	10:00 a.m.	10:00 a.m.
Closed	11:00 p.m.	11:00 p.m.	11:00 p.m.	11:00 p.m.	2:00 a.m. (Saturday)	2:00 a.m. (Sunday)	9:00 p.m.

Table 2.0, which should be read in concert with Table 1.0, further clarifies the actual hours of public operation for the establishment:

Table 2.0: Proposed Hours of Public Operation							
Day	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	12:00 p.m.	12:00 p.m.	12:00 p.m.	12:00 p.m.	10:00 a.m.	10:00 a.m.	10:00 a.m.
Closed	10:00 p.m.	10:00 p.m.	11:00 p.m.	11:00 p.m.	11:00 p.m.	11:00 p.m.	9:00 p.m.

Typically, the hours of operation will be less than those of the proposed liquor service noted above. The Applicant's stated purpose for extending the hours of liquor service past the usual hours of operation (11:00 p.m. or earlier) is primarily intended to accommodate private groups and special events that may take place on the premises, for example, a private New Year's Eve event etc. (see Appendix C). The proposed hours of liquor service and Public Operation are considered appropriate.

Finally, in recognition of the increasingly residential character of the surrounding Town Centre area, along with written concerns regarding the potential late-night operation of the patio received by the Planning & Development Services Department, staff have recommended to the Applicant that the hours of operation for the outdoor patio be limited according to the times identified in Table 3.0: Proposed Hours of Patio Operation below:

Table 3.0: Proposed Hours of Patio Operations							
Day	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Open	12:00 p.m.	12:00 p.m.	12:00 p.m.	12:00 p.m.	12:00 p.m.	10:00 a.m.	10:00 a.m.
Closed	9:00 p.m.	9:00 p.m.	9:00 p.m.	9:00 p.m.	9:00 p.m.	9:00 p.m.	7:00 p.m.

This conditional measure will reduce potential incompatibility and nuisance issues with surrounding residents while allowing for the continued operation of the establishment indoors. Therefore, the Applicant re-affirms the proposed patio operation hours in writing, as attached in Appendix B.

- (v) The views of residents and a description of the method used to gather views:

The city's Planning Procedures Bylaw sets out a process of soliciting feedback from the public as it relates to liquor licence referrals. The process requires that notice of the application be provided to property owners within 100 metres of the subject property. For new licence applications, as is the case here, the process requires a public hearing before finalizing a Council resolution, which is then submitted to the LCRB.

Based on the above requirements, staff provided notice of the liquor license referral application to all property owners within 100 metres of the subject property (see Appendix D – Notification Letter). The notification letter also clarified that further input from the community on the proposal would be collected through a required public hearing before a Council decision on the application. On February 13, 2020, approximately 1451 letters were mailed, with initial comments requested by March 3, 2023 (see Appendix E – Notification Letter). Staff have reviewed all public correspondence received by the city regarding the proposal.

Thirty-four (34) letters were received by staff during the public notification period – two (2) in support and thirty-two (32) in opposition. These letters are included in Appendix E:

Public correspondence. The contents of received public correspondence ultimately informed the comments and recommendations put forward in this report.

The public consultation to date has identified a high level of public support for the proposal in addition to several areas of concern that staff believe can be remedied appropriately through operational controls tied to the business and conditions built into the liquor license. Suppose Council supports the applications proceeding to a Public Hearing. In that case, those interested in the proposal will have an opportunity to communicate their support or opposition to the proposal directly to Council. All written correspondence received by staff will be compiled and submitted as part of the Council resolution letter.

LEGAL IMPLICATIONS

Section 38(3) of the *Liquor Control and Licensing Act* allows local governments to provide comments on proposed liquor licence applications, and section 71 of the *Liquor Control and Licensing Regulation* requires that if comments are provided, the comments must include views on:

- the location of the establishment;
- the person capacity and hours of liquor service of the establishment;
- the impact of noise on the community in the immediate vicinity of the establishment;
- and
- the general impact on the community if the application is approved.

The local government is also required to identify residents' views and describe the method used to gather views. In addition, planning Procedures Bylaw No. 2234 requires that applications for new liquor primary licences have public input obtained by a Public Hearing.

COMMUNICATION AND COMMUNITY ENGAGEMENT IMPLICATIONS

Per Planning Procedures Bylaw No. 2234, a notification of the Liquor Primary Licence application was mailed to approximately 1,451 property owners and occupants within 100 metres of the property. The mailout generated 34 written comments, including 32 comments in opposition and 2 in support of the application.

If the application proceeds to a public hearing, notification will be provided through advertisement in the Peace Arch Newspaper and mailout to property owners and occupants within 100 metres of the property. In addition, all written correspondence received by staff will be compiled and submitted as part of the Council resolution letter.

INTERDEPARTMENTAL INVOLVEMENT/IMPLICATIONS

The Liquor Primary Licence application was circulated to internal city departments for review and comments. The White Rock RCMP noted that they had no concerns regarding this application. No other issues were identified.

ALIGNMENT WITH STRATEGIC PRIORITIES

This topic is not directly aligned with a project in Council's Strategic Priorities, though allowing for the expansion of an existing White Rock-based business does offer an opportunity to improve the prosperity of local businesses, in alignment with the "Our Economy" goal to "support the prosperity and diversification of the city's economic base."

OPTIONS / RISKS / ALTERNATIVES

Alternate options for Council consideration are:

1. Defer consideration of the application and refer it to staff to address any issues Council identifies. This delay may require extending the 90-day comment deadline from the LCRB; or
2. Authorize staff to opt out of providing input into the liquor licensing process for this application, leaving the required public consultation process to the LCRB.

CONCLUSION

Staff conditionally support the requested liquor primary licence at 15165 Russell Avenue, contingent on the outdoor patio being limited to 9:00 p.m. Monday through Saturday and to 7:00 p.m. on Sunday. If approved by Council and LCRB, this approach will reduce potential nuisances and incompatibility issues with surrounding residences while allowing for the continued indoor operation of the establishment.

Otherwise, the proposed application is consistent with the relevant Land Use, Town Centre, and Economic Development goals, objectives, and policies of the OCP. Furthermore, it is being proposed by a local business that has recently contributed to the community's social life. If approved, this business will further enhance the existing establishment's contribution to the community, improve the livelihood of surrounding businesses, and provide support for innovative employment-generating use in the Town Centre area.

Respectfully submitted,



Anne Berry, RPP, MCIP
Director, Planning and Development Services

Comments from the Chief Administrative Officer

I concur with the recommendations of this corporate report.



Guillermo Ferrero
Chief Administrative Officer

- Appendix A: Location and Ortho Maps
- Appendix B: Floor Plan and Patio Layout (Patio Details and Proposed Hours of Operation)
- Appendix C: Applicant's Letter of Intent and Code of Conduct
- Appendix D: Notification Letter
- Appendix E: Written Correspondence from the Public
- Appendix F: Endorsement in Favour of Application Submitted by the Applicant