

REPORT

Office of the Chief Administrative Officer

To: Mayor Johnstone and Members of Council
Date: May 29, 2023

From: Lisa Spitale, Chief Administrative Officer
File: #2265052

Item #: 2023-335

Subject: **Liquor Primary Patio Application (Thirsty Duck Pub) for 606 Twelfth Street**

RECOMMENDATION

THAT the following resolution be approved:

WHEREAS New Westminster City Council considered a staff report regarding an application from the Thirsty Duck Pub to operate a 40 seat patio located at 606 Twelfth Street with liquor service hours from 12:00pm -10pm Sunday to Saturday;

WHEREAS the overall occupancy of the establishment remains at 107 people;

WHEREAS the location is in a Commercial zone (C-2A) along the upper Twelfth Street commercial corridor in the West End area;

WHEREAS the establishment is not expected to negatively affect traffic patterns or parking given proximity to transit, and noise is not expected to be an issue;

WHEREAS the establishment has operated a TESA patio during COVID-19 pandemic without any negative impact to the neighbourhood since May 2021;

WHEREAS the business has not generated noise complaints or negative community impacts and the proposed patio is not expected to result in noise or negative impacts to the community based on the establishment's size, hours of operation and location;

WHEREAS the New Westminster Police Department does not oppose the application;

WHEREAS a sign has been placed in front of the business for 27 days, two newspaper notices were published as well as circulated in the City's e-newsletter (Citypage Online),

to 1200+ subscribers, and to the West End Residents' Association, Moody Park Residents' Association, Brow of the Hill Residents' Association, and the New Westminster Chamber of Commerce, providing details regarding the application and inviting the public to submit comments to the City; and

WHEREAS the City has received one piece of correspondence in support of the application;

THEREFORE BE IT RESOLVED:

THAT New Westminster City Council recommends the approval of the application by Thirsty Duck Pub to operate a 40 person patio, located at 606 Twelfth Street with liquor service hours 12:00pm -10pm Sunday to Saturday.

PURPOSE

This report provides information regarding an application from the Thirsty Duck Pub to create a patio in front of the existing business. Details regarding the application are outlined in this report.

SUMMARY

The Thirsty Duck Pub, located at 606 Twelfth Street, has applied to the City of New Westminster and the Province's Liquor and Cannabis Regulation Branch (LCRB) to operate a patio directly in front of the pub. This application is to make permanent the pandemic-related patio (known as a Temporary Expansion Service Area) they were approved for and have operated since May 2021. The patio would be located in front of the business on public property (sidewalk), and around the side of the business on private property. It would accommodate up to 40 people. There is no change to the total maximum occupancy of the business, which remains at 107 people. The proposed operating hours would be 12:00pm -10pm Sunday to Saturday.

BACKGROUND

The Thirsty Duck Pub, located at 606 Twelfth Street, has applied to continue operating a 40-seat patio on private and public property in front and to the side of the business – see map below. The business has a Liquor Primary License, and a maximum occupant load of 107. The patio has been operational since May 2021, when it was approved as a temporary pandemic-related patio.

Policy and Regulations

Liquor Primary License holders wishing to operate a patio must obtain approval from both the Liquor and Cannabis Regulation Branch and the City.

Liquor and Cannabis Regulation Branch Policy

Liquor primary license holders who are operating an outdoor patio as a Temporary Expanded Service Area (TESA), can apply for a new outdoor patio to make their TESA permanent. The Branch's process to consider an application can be summarized as follows:

- The operator must submit an application for an outdoor patio;
- The local government provides a resolution to support or oppose the application. The local government has 90 days to provide a resolution unless an extension is requested. Prior to considering a resolution, the local government must conduct a public input process to obtain the views of residents. The resolution must contain comments pertaining to the potential for negative impacts on the community and the views of residents; and
- After the local government provides a resolution regarding the application, the Branch proceeds to make a final decision regarding amending the establishment's liquor license.

City Policy

The City's process to consider a patio application (on private and public property) from a business with a liquor license is as follows:

- City staff meet with the applicant to discuss bylaw requirements relating to the design and operation of the proposed patio;
- The applicant submits an application, as necessary, to the Planning division for a Minor Development Permit;
- The applicant posts a project sign on site for 30 days;
- Two notices are placed in the local newspaper as well as through the City's e-newsletter (1200 subscribers) inviting the public to comment on the application;
- Council considers a staff report regarding the application and adopts a resolution regarding the application; and
- Staff submits the resolution to LCRB and if the patio is supported by Council, finalizes the Minor Development Permit with the applicant.

Site Characteristics and Context

The subject site is situated in the West End neighbourhood of the city, on the corner of Twelfth Street and Sixth Avenue. The property contains three buildings with a large parking lot. Within the subject building are two other commercial units: a daycare and a private college. Within a second commercial building on the site, facing Twelfth Street and on the corner of Nanaimo Street is a barber and two tattoo shops. The property also has a single detached dwelling unit facing Nanaimo Street.

Other properties surrounding the site are similarly zoned Commercial, including several restaurant and retail units on Twelfth Street. To the east across Twelfth Street is a four-storey residential building with commercial units at grade, and to the south and southeast are four-storey low rise multi-family. Immediately adjacent to the subject site on the west side are single detached dwellings and duplexes, which are buffered from the proposed patio by the private college and parking lot.

A site context map is provided below (**Figure 1**):



Figure 1. Site Context Map

PROPOSAL

The Thirsty Duck Pub, located at 606 Twelfth Street, has applied to the City of New Westminster and the Province's Liquor and Cannabis Regulation Branch (LCRB) to operate a patio directly in front of the pub. This application is to make permanent the pandemic-related patio (known as a Temporary Expanded Service Area) they were approved for and have operated since May 2021. The patio would be located in front and along the side of the business on public and private property and accommodate up to 40 people. There is no change to the total maximum occupancy of the business, which remains at 107 people. The proposed operating hours of the patio would be 12:00pm -10pm Sunday to Saturday.

As the patio was approved through the City and Province's Covid-19 related patio program, the patio is already constructed, see **Figure 2**.



Figure 2. Existing patio on property

DISCUSSION

As part of the review process, public input was sought from the community as well as comments from New Westminster Police Department, the Provincial Liquor Inspector and other City departments.

Public Comments

The applicant posted a sign in front of the business for a total of 27 days. It was installed February 16. Five days after the sign was posted, several chairs/tables and the sign were stolen from the patio. The applicant had a new sign made, which was re-posted on February 25 where it remained until March 20, for a total of site for 27 days. A photo of the sign posted has not been provided by the applicant.

Two notices (February 16 and 23, 2023) were placed in the local newspaper as well as through the City's e-newsletter (+1200 subscribers), advising the public of the application and inviting comments. Invitations to provide feedback were also sent to the West End Residents' Association, Moody Park Residents' Association, Brow of the Hill Residents' Association, and the New Westminster Chamber of Commerce. One piece of correspondence was received via email, in support of the proposal. See Attachment 1.

Staff recommend that Council consider the application despite the shortened and interrupted on-site sign posting as other methods for notice were used to communicate the application to the public.

New Westminster Police Department

New Westminster Police Department advises the Thirsty Duck Pub has not generated calls for service and do not have issues with the application.

Provincial Liquor Inspector

The Liquor Inspector reports that the Thirsty Duck Pub has not generated any concerns or violations with respect to Provincial liquor regulations.

City Departments

The impact of noise on the community in the immediate vicinity of the establishment
Noise is not expected to be an issue because of the location of the establishment on the property, with the patio in the northeast corner of the building. The area already experiences some street noise, and residential units southwest of the patio are buffered by the college and parking lot. The City's Integrated Services division reports that the Thirsty Duck Pub has not generated any noise complaints in the past.

The Thirsty Duck Pub's maximum occupant load inside the premises is 107 people. The patio will not increase the overall maximum occupant load but rather allow flexibility to shift up to 40 occupants to patio space, depending on weather and/or customer demand. City regulations regarding patios on public property require businesses to close their patio at 10pm in a commercial area.

The impact on the community if the application is approved

If the application is approved, the impact is expected to be positive in that it will support a local business still recovering from the pandemic, support the local food and drink industry, offer an additional social venue for residents, workers and business, and add vibrancy to the commercial area.

Views of residents

One piece of correspondence was received regarding this application, and it was in support of the application. Given the location and long history of the establishment, as well as their successful operation of the temporary pandemic approved patio, this was not unexpected by staff.

Patio Design

The final design of the patio would be approved by City staff through a minor Development Permit process, when staffing resources within the Planning division can support a review. The patio would be permitted to continue operating in the meantime.

OPTIONS

There are two options Council presented for Council's consideration:

1. THAT the following resolution be approved:

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WHEREAS the overall occupancy of the establishment remains at 107 people;

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WHEREAS the business has not generated noise complaints or negative community impacts and the proposed patio is not expected to result in noise or negative impacts to the community based on the establishment's size, hours of operation and location;

WHEREAS the New Westminster Police Department does not oppose the application;

WHEREAS a sign has been placed in front of the business for 27 days, two newspaper notices were published as well as circulated in the City's e-newsletter (Citypage Online), to 1200+ subscribers, and to the West End Residents' Association, Moody Park Residents' Association, Brow of the Hill Residents' Association, and the New Westminster Chamber of Commerce, providing details regarding the application and inviting the public to submit comments to the City; and

WHEREAS the City has received one piece of correspondence in support of the application;

THEREFORE BE IT RESOLVED:

THAT New Westminster City Council recommends the approval of the application by Thirsty Duck Pub to operate a 40 person patio, located at 606 Twelfth Street with liquor service hours 12:00pm -10pm Sunday to Saturday.

2. THAT Council provide staff with alternate direction.

Staff recommend Option 1.

INTERDEPARTMENTAL LIAISON

Staff from Climate Action, Planning and Development were consulted regarding this matter. The Police Service and Liquor Inspector were also consulted.

ATTACHMENTS

Attachment 1 – Correspondence

APPROVALS

This report was prepared by:
Jen Arbo
Carolyn Armanini

This report was reviewed by:
Blair Fryer

This report was approved by:
Lisa Spitale, CAO