

REPORT

Climate Action, Planning and Development

To: Mayor Cote and Members of Council **Date:** May 9, 2022

From: Emilie K. Adin, MCIP **File:** TUP00023
Director, Climate Action, Planning and
Development

Item #: 2022-318

Subject: **Temporary Use Permit Extension: 30 Capilano Way (Amusement Arcade)**

RECOMMENDATION

THAT Temporary Use Permit TUP00023 be extended for a period of two years to July 13, 2024 for the property located at 30 Capilano Way for the purpose of allowing an Amusement Arcade use in the existing industrial building, based on the terms and conditions outlined in the original Permit.

THAT Council extend the waiver of arcade-related Business Licence Bylaw conditions to the property located at #8-30 Capilano Way until July 13, 2024.

PURPOSE

To request Council consideration for a two-year time extension of a Temporary Use Permit at 30 Capilano Way for the operation of a local arcade business in support of COVID-19 business recovery efforts.

BACKGROUND

Policy and Regulations

A summary of related policies and regulations is included in **Attachment 3**.

Zoning Bylaw

The subject site is currently zoned Heavy Industrial Districts (M-2). The intent of this district is to allow heavy industrial uses and the proposed arcade use is not permitted. As such, an arcade located can only be permitted on this site through a Rezoning or a Temporary Use Permit.

SITE CHARACTERISTICS AND CONTEXT

The site is located on Capilano Way in the Braid Industrial area. The site is relatively flat with no significant slope. The multi-tenant industrial building on the site is used for a variety of industrial uses. Parking for the entire site is located around the perimeter of the building, with three parking spaces allocated specific to the applicant’s business, across the circulation lane/roadway.

To the north, south, and east of the site are additional industrial buildings and surface storage or parking of related industrial activities. To the west of the subject site is the Brunette Creek. The Brunette Fraser Regional Greenway runs in front of the site along Capilano Way. **Attachment 2** provides a location map of the subject site and the surrounding context.

PROJECT DESCRIPTION

The applicant proposes to extend TUP00023 (**Attachment 4**) for two years to July 2024, based on the on-going COVID-19 pandemic. The applicant’s Letter of Intent is included as **Attachment 1**.

On June 22, 2020, Council approved issuance of the Temporary Use Permit (TUP) to permit an arcade to operate within unit 8 of the existing multi-tenant industrial building. Pre-pandemic, the applicant’s business supplied retro vending and rentals of arcade games to bars and pubs. As a result of Public Health Orders, closures and revised operations of bars and pubs, the applicant's operations were significantly impacted. The applicant requested, and was approved, to temporarily amend their operations to operate an admission-based arcade within their existing warehouse unit.

The consideration of the TUP in 2020 was examined against the temporary use criteria contained in section 190.46 of the Zoning Bylaw. The considerations and the staff analysis of each was included in the 2020 report to issue the Temporary Use Permit. A copy of the agenda from the meeting (Item 17) and the report can be found [here](#). The minutes from the meeting can be found [here](#).

DISCUSSION

COVID-19 Pandemic Impacts

When the TUP was originally brought forward to Council in July 2020, the applicant requested a three year permit. Council approved a two year permit on the basis of ensuring industrially zoned lands remained for industrial uses.

Staff recommended that if the applicant wished to continue operating after the TUP's expiry date, the applicant would be encouraged to relocate to an appropriately zoned commercial property. However, staff did not anticipate that the pandemic would continue this long, making it difficult for the applicant to return to normal business operations (e.g. machines being rented by food and drink establishments). Appropriately-zoned and affordable premises have also not become available.

In response to Public Health Orders over the past two years, the applicant has operated with limited capacities and reduced customer attendance in response to public comfort levels.

The applicant continues to try and adapt their business model to generate revenue and contribute to the local economy during the pandemic. They employ six workers, including the owners. While they were eligible, they took advantage of the Canada Emergency Wage Subsidy (CEWS) and the Canada Emergency Response Benefit (CERB). Like many local businesses they have accrued debt as a result of decreased revenue and higher operating expenses and still face uncertainty. They continue to repair machines at the premises, as well as host limited events and gatherings as Public Health Orders have allowed, but until recently have experienced some form of restriction since March 2020. The applicant is requesting an extension of the TUP to facilitate a 'return to operations' for their business.

TUP Conditions

The TUP was issued with a number of conditions placed on the permit, which align with recent licensing of arcades. These conditions included:

- **No Liquor** - Liquor establishments are highly regulated uses as a result of the potential for impacts on surrounding properties and calls for service. Should the applicant wish to pursue a liquor licence in the future, an amendment to the TUP and a rezoning would be required.
- **Expiration Date** – Staff proposed that the TUP be set to expire after three years. To continue operating after that date would require the applicant to apply to Council for an extension of the TUP, or as recommended in the report, the applicant should be encouraged to relocate to an appropriately zoned commercial property. Council approved a two-year expiration date on the TUP.
- **No Gambling** - No arcade machines be used for any form of gambling.

- No Pornographic Material - No arcade games be permitted which show or depict any nudity, sexual acts or sexual behaviour.
- Fully Enclosed Building - Conducted within a fully enclosed building.
- Operating Hours - Operating hours between 6:00 am and 12:00 midnight.
- Signage - Appropriate signage be provided for the existing parking spaces corresponding to the applicant’s unit.

Since June 2020, no complaints or issues regarding the arcade operation have come to the City’s attention. With the exception of the time limit, these conditions are still valid and should be retained throughout the permit extension.

Given the above, staff recommend that Council consider issuing a time extension for two years, with the same conditions and the same length of duration as the originally issued permit.

Exemption from Business Licence Bylaw Conditions

To be consistent with recent practice of licensing arcades within the city, staff recommend that Council continue to waive the following requirements of the Business Licence Bylaw for the TUP:

- not permit more than 12 amusement machines in the amusement centre at any one time;
- provide one designated area consisting of a minimum of 100 square feet of floor space for each amusement machine;
- not use the designated area for any purposes other than the location and use of amusement machines;
- clearly separate the designated area from other areas of the premises not used exclusively for the location and use of amusement machines; and
- not open for business earlier than 6:00 am or later than 12:00 am

REVIEW PROCESS

Council can resolve to extend a temporary use permit. No opportunity to be heard is required for a temporary use permit extension.

While staff recommends a two year renewal term and the same conditions as the original permit, Council may choose to reduce or extend the renewal period (to a maximum of three years), add conditions, or add consultation steps beyond those recommended by staff.

INTERDEPARTMENTAL LIAISON

The Building Licensing, Parks and Recreation and Transportation staff have reviewed the application.

OPTIONS

Three options are presented for Council’s consideration; they are:

- 1. That Temporary Use Permit TUP00023 be extended for a period of two years to July 13, 2024 for the property located at 30 Capilano Way for the purpose of allowing an Amusement Arcade use in the existing industrial building, in support of business recovery efforts as a result of the COVID-19 pandemic, based on the terms and conditions outlined in the original Permit.
- 2. That Council extend the waiver of arcade-related Business Licence Bylaw condition’s application, to the property located at #8-30 Capilano Way until July 13, 2024.
- 3. That Council provide staff with other direction.

Staff recommends Option 1 and 2.

ATTACHMENTS

- Attachment 1: Applicant’s Letter of Intent
- Attachment 2: Location Map
- Attachment 3: Policies and Regulations
- Attachment 4: Draft Temporary Use Permit

APPROVALS

This report was prepared by:
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This report was reviewed by:
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