



Committee of the Whole Report

For the Meeting of January 9, 2025

To: Committee of the Whole **Date:** December 27, 2024

From: Karen Hoese, Director, Planning and Development Department

Subject: **1022 Government Street (Bard & Banker Pub) - Application to Allow an Outdoor Patio Area**

RECOMMENDATION

That Council direct staff to provide the following response to the Liquor and Cannabis Regulation Branch:

1. That Council supports the application of Bard & Banker Pub, located at 1022 Government Street, to licence an existing 80-person outdoor patio area (currently licenced under the Province's Temporary Expanded Service Area (TESA) program) under the establishment's existing liquor primary licence, conditional on the following.
 - a. The establishment having a total occupant load of 320 people, which includes two unenclosed outdoor patios with a seating capacity of 99 including the proposed 80-person outdoor patio.
 - b. Maintaining daily hours of service from 9 a.m. to 1 a.m. inside and 9 a.m. to 11 p.m. on all patios.
2. The following comments are provided regarding the prescribed considerations:
 - a. If the application is approved, it is anticipated to have a positive economic impact on the community as the approval supports the viability of the business as a local employer.
 - b. The views of residents were solicited through a mailout to neighbouring property owners and occupiers within 100 metres of the licensed location and a notice posted at the property. In response to the notification that went to 379 owners and occupants, the City received one letter expressing concern for the patio from the public and the Downtown Residents Association confirmed that they did not have any comments to provide.
3. Council recommends to the Province that the liquor primary licence be approved as recommended.

EXECUTIVE SUMMARY

The purpose of this report is to seek a Council resolution, in accordance with the requirements of the *Liquor Control and Licensing Act*, regarding an application by Bard & Banker Pub at 1022 Government Street. The application is to licence an existing 80-person outdoor patio area, which is currently licenced under the Province's TESA program, under their existing 320-person liquor primary licence. The total occupant load would remain at 320 people, including an existing 19-person outdoor patio that faces Langley Street and the 80-person outdoor patio on Government Street. The overall occupant load of 320 people is managed operationally where some inside seats are not used when the patio is in use. All licenced areas would have the same daily hours as the existing licenced areas that are 9 a.m. to 1 a.m. inside and 9 a.m. to 11p.m. on the patios.

The application was evaluated according to City policy, with staff commentary and feedback received through the public notification process. It has also been considered in the context of the local vicinity and the city as a whole and is consistent with the City's *Liquor Licensing Policy*. The establishment has a history of responsible operation, and one letter of concern was brought forward through the public notification process.

Based on the above, this report recommends support for the application conditional on the following:

- The establishment having a total occupant load of 320 people that includes 99 unenclosed outdoor patio seats.
- Maintaining hours of service from 9 a.m. to 1 a.m. inside and 9 a.m. to 11 p.m. on the patios daily.

PURPOSE

The purpose of this report is to seek a Council resolution, in accordance with the requirements of the *Liquor Control and Licensing Act*, regarding an application by Bard & Banker Pub at 1022 Government Street. The Liquor and Cannabis Regulations Branch (LCRB) is requesting a resolution from the City of Victoria regarding:

1. impact of noise on nearby residents
2. impact on the community if the application is approved.

PROPOSAL

Bard & Banker Pub is seeking approval to licence an 80-person outdoor patio area under the establishments existing liquor primary licence. The patio area exists under the TESA program, which was created to support businesses during the pandemic. As the TESA program expires on December 31, 2024, the patio now requires new approval. The existing occupant load of 320 people is not increasing as some inside seats will remain unused when the patio is in use. All licenced areas would have hours that are the same as the existing licenced area, which are:

- 9 a.m. to 1 a.m. daily inside
- 9 a.m. to 11p.m. daily on the unenclosed patio areas.

This application seeks to licence the patio area that is located within the City's right of way and permission to occupy the outdoor patio is provided by licence which is renewed annually with the City.

A letter of intent has been provided in Appendix A and includes information about the business model and the rationale for the licence application. A map of the subject property and the immediate area is provided in Appendix B and illustrates the 100m public notification area.

ISSUES & ANALYSIS

The following sections provide Council with information, analysis and recommendations for consideration of the Council resolution to the LCRB.

LCRB Jurisdiction

The LCRB issues liquor licences under the authority of the *Liquor Control and Licensing Act* and regulations. The LCRB determines the category of licence appropriate or acceptable for the business based on submitted details. In the case of Bard & Banker Pub, the establishment is licenced under a liquor primary licence to accommodate the business model; this is an appropriate licencing arrangement for the business.

City Liquor Licensing Policy

The City's *Liquor Licensing Policy* (2017) is included as Appendix E and provides direction on the procedures for the liquor licence application process. The hours of licensed service proposed in this application for Bard & Banker Pub are within the parameters of the City's policy.

Community Consultation

In accordance with the City's *Liquor Licensing Fee Bylaw* and *Liquor Licensing Policy*, all property owners and occupiers within 100 metres of the applicant's location (a total of 379 notices) were solicited by a mailed notice to provide input regarding this application. The notice was also sent to the Downtown Resident's Association. The public notification letter and poster reflected the applicant's intent to add the 80-person outdoor patio to their existing liquor primary licence, the occupant load and requested hours of service. The comment period was open for 30 days.

The City received one letter expressing concern for the patio in response to the notification and the Downtown Residents Association (DRA) confirmed that they did not have any comments to provide related to the notification, as the hours of operation are not proposed to change. The public letter of response is included in Appendix F.

Impact Assessment

Context

The Bard & Banker Pub is in the Old Town District 1 zone, which permits a range of uses, including mixed-use buildings with residential uses. Drinking establishments are permitted in this zone, including facilities licenced through the *Liquor Control and Licensing Act* and entertainment venues

with live or recorded music, night clubs, bars and pubs. The zone does not restrict the hours of operation or occupant loads of these establishments.

The business is located in a three-storey heritage designated commercial building at 1022 Government Street. Adjacent buildings include a mix of commercial uses. The 80-person outdoor patio is located within the public right of way along Government Street and the outdoor patio licence is renewed annually with the city.

Operations

The Bard & Banker Pub operates under a liquor primary licence. The establishment currently has an occupant load of 320 people, including an existing unenclosed outdoor patio with a seating capacity of 19, and operates the proposed outdoor patio that has an occupant load of 80 people under the TESA program. The existing outdoor patio licenced service area has hours that are 9 a.m. to 11 p.m. daily and these are not proposed to change. Based on the establishment's history of responsible operation and limited hours of licenced service it is not anticipated that approval of the patio will result in unacceptable negative community impacts.

Noise Considerations

Based on the City's *Noise Bylaw*, Bard & Banker Pub is within the Intermediate Noise District and is subject to the noise limits prescribed for this district. The Noise District Map is included in Appendix D, and Appendix C illustrates the composition of licenced establishments in the area, which includes the block of the establishment and adjacent blocks.

If approved, the additional licenced patio for Bard & Banker Pub would not increase the overall occupant load, as inside seats will remain unused when the patio is in use. The hours of service are consistent with other licensed establishments in the area. Based on this and experience with operations of the patio, noise impacts are not anticipated if approved.

Applicant Response

As a part of the liquor licence process, it is standard practice to provide the applicant with an opportunity to review the report recommendations, so they may provide a response to the report prior to the report being forwarded to Council.

The applicant has confirmed they are satisfied with the recommendations and have included a letter (Attachment G).

OPTIONS & IMPACTS

Option 1 (Recommend support of the application to the LCRB)

1. That Council supports the application of Bard & Banker Pub, located at 1022 Government Street, to licence an existing 80-person outdoor patio area (currently licenced under the Province's TESA program) under the establishment's existing liquor primary licence, conditional on the following.

- a. The establishment having a total occupant load of 320 people, which includes two unenclosed outdoor patios with a seating capacity of 99 that includes the proposed 80-person outdoor patio.
 - b. Maintaining daily hours of service from 9 a.m. to 1 a.m. inside and 9 a.m. to 11 p.m. on all patios.
2. The following comments are provided regarding the prescribed considerations:
- a. If the application is approved, it is anticipated to have a positive economic impact on the community as the approval supports the viability of the business as a local employer.
 - b. The views of residents were solicited through a mailout to neighbouring property owners and occupiers within 100 metres of the licensed location and a notice posted at the property. In response to the notification that went to 379 owners and occupants, the City received one letter expressing concern for the patio from the public and the Downtown Residents Association confirmed that they did not have any comments to provide.
3. Council recommends to the Province that the liquor primary licence be approved as recommended.

Option 2 (Recommend decline of the application to the LCRB)

That Council does not support this application and recommends to the Province that the liquor primary license be declined.

Impacts

Accessibility Impact Statement

As the establishment is an existing building, current accessibility requirements may not be met. There is no retroactive application of accessibility requirements under the BC Building Code and the establishment is therefore conforming. The proposed patio has one accessible designated seat that conforms to the CSA accessibility guidelines.

2023 – 2026 Strategic Plan

The recommendation to support the application is likely to support small business and the visitor economy, and work to strengthen and add vitality to the downtown core, consistent with the Strategic Objective for *Economic Health and Community Vitality*.

Impacts to Financial Plan

None.

Official Community Plan Consistency Statement

The use as a *drinking establishment* is consistent with the Official Community Plan objectives for this neighbourhood.

CONCLUSIONS

The Bard & Banker Pub is seeking approval to add an existing 80-person outdoor patio area, currently licenced under the TESA program, to their liquor primary licence with no net increase to the existing 320-person liquor primary licence. The establishment would retain two outdoor patios having a combined seating capacity of 99 that includes the 80-person patio currently licenced through the TESA program. The existing hours are not proposed to change and are 9 a.m. to 1 a.m. inside and 9 a.m. to 11p.m. on the patios daily. The site is appropriately zoned for the use, is consistent with current City *Liquor Licensing Policy*. The review did not identify any concerns with the application and the public notification process resulted in one letter of concern with the application. Based on this, the application is considered supportable.

Respectfully submitted,

Samantha Cole
Development Process Coordinator
Development Services Division

Karen Hoese
Director
Planning and Development Department

Report accepted and recommended by the City Manager

List of Appendices

- Appendix A: Rationale Letter
- Appendix B: Site Map
- Appendix C: Vicinity Information and Map
- Appendix D: Noise District Map
- Appendix E: Council Policy
- Appendix F: Public Response
- Appendix G: Applicant's Comments
- Appendix H: Provincial Liquor Licence Types.