



Committee of the Whole Report **For the Meeting of May 13, 2021**

To: Committee of the Whole **Date:** April 14, 2021

From: Karen Hoese, Director, Sustainable Planning and Community Development

Subject: Application for a New Liquor Primary License for Artemis at #27 – 560 Johnson Street.

RECOMMENDATION

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

1. That Council, after conducting a review with respect to noise and community impacts, does support the application of Artemis located at #27 – 560 Johnson Street having hours of operation from 11:00 am to 11:00 pm Monday through Thursday, 11:00 am to 12:00 am Friday and Saturday, and 11:00 am to 10:00 pm Sunday with a total occupant load of 110 people.

The following comments are provided regarding the prescribed considerations:

- a. The impact of noise on the community near the establishment was considered in relation to the request, and the proposed hours, occupant load, and location are compatible with the area. Approval of the licence is not expected to result in unacceptable levels of noise.
- b. 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.
- c. 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 1,352 owners and occupants, the City received 1 piece of correspondence in support of the application from the Downtown Residents Association.
- d. Council recommends the license be approved.

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 Artemis. The application is for a new Liquor Primary licence having hours of operation from 11:00 am to 11:00 pm Monday through Thursday, 11:00 am to 12:00 am Friday and Saturday, and 11:00 am to 10:00 pm Sunday with a total occupant load of 110 people.

Artemis's application was evaluated against City policy, 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 License Policy. On this basis, it is recommended that the application of Artemis at 560 Johnson Street be supported as proposed.

PURPOSE

The purpose of this report is to seek a Council resolution, in accordance with the requirements of the *Liquor Control and Licensing Act* (the Act), regarding an application by Artemis for a Liquor Primary licence at #27 – 560 Johnson Street. The 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.

Artemis is seeking approval for hours of licensed service from 11:00 am to 11:00 pm Monday through Thursday, 11:00 am to 12:00 am Friday and Saturday, and 11:00 am to 10:00 pm Sunday with a total occupant load of 110 people. A letter of intent has been provided with information about the business model and is included as Appendix A. A map of the subject property and the immediate area is attached to this report (Appendix B) and illustrates the 100m public notification area.

The Liquor and Cannabis Regulations Branch (LCRB) issues liquor licences under the authority of the *Liquor Control and Licensing Act* and regulations. LCRB determines the category of licence appropriate or acceptable for the business based on submitted details. In the case of Artemis, the operator is seeking a liquor primary licence. Liquor primary licences allow for a greater level of operational flexibility where a focus on food service is not a condition of operation or the primary focus of the business.

ISSUES & ANALYSIS

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

Zoning

Zoning for the establishment is OTD-1, which permits “drinking establishments”, and hours and occupant loads are unrestricted by the zoning. Compliance would be demonstrated through application for a building permit and the resulting construction verified for compliance through the City inspection process related to an issued building permit.

City Liquor Licensing Policy

The City's Liquor Licensing Policy directs staff to consider applications for liquor licences having hours of operation not later than 2:00 am and is attached to this report (Appendix C). The hours of licensed service proposed in this application are within the parameters of the policy.

For reference, in terms of hours of liquor service, applications for food primary licences (as opposed to liquor primary licenses) are entitled to closing hours of 12:00 am and the occupant load is limited only by washrooms or parking, with no referral to local government. This is notable as it creates an unintended baseline of standard hours for licenced establishments.

Impact Assessment

As part of the liquor primary license application review, the LCRB is requesting a resolution from the City of Victoria regarding noise impacts, specifically on nearby residents, as well as the overall impact on the community if the application is approved.

To understand the impact Artemis would have on the community and its potential to generate noise related issues, the application has been compared to the existing licensed capacity both in the vicinity and citywide. If approved, the proposed licenced capacity of 110 people is a 2.5% increase in licenced capacity in the vicinity. Vicinity information is attached as Appendix D.

The City's Noise Bylaw sets limits for four key areas within the City, which are the Quiet District, Intermediate District, Harbour Intermediate and Activity District. Artemis is within the Intermediate Noise District and limited to 60dBA at the point of reception during daytime hours, which end at 10:00 pm. During nighttime hours, noise at the point of reception received is limited to 50dBA in Quiet districts, 55dBA in the Harbour Intermediate and Intermediate districts and 65dBA in the Activity district. For reference, 50dBA is comparable to rainfall, light traffic or a refrigerator and 60dBA is comparable to conversational speech or an air conditioner. The City of Victoria Noise District Map is included in Appendix E.

Noise related issues and other community impacts, negative or positive in effect, are challenging to predict as there are a number of variables that need to be considered. This includes the business model, target clientele, quality of owner/operator, existing density of licenced capacity in the area, hours of service, demographics, and fluctuating populations due to tourism.

Consideration of these factors can assist a municipality to predict negative aspects associated with licenced establishments; however, these factors can also change over the life of a licenced establishment. When they do change, and unanticipated issues arise, the fallback to re-establish compliance related to noise and other aspects is to use tools of enforcement including:

- LCRB enforcement, which ensures responsible and appropriate service as required by the terms of the licence with LCRB;
- Noise Bylaw enforcement by Bylaw Officers; and
- where issues are more complex, the Police have additional authority to bring an establishment back into compliance.

Approval of the licence is not expected to result in unacceptable levels of noise.

City Referrals

An inter-departmental review of the project is conducted prior to public notification. The review for the proposed liquor primary license at #27 – 560 Johnson Street resulted in the following feedback:

Sustainable Planning & Community Development

- The application is supportable as the establishment is zoned appropriately for use as a drinking establishment.

Engineering & Public Works

- Transportation related noise impacts or general community impact are not anticipated.

Community & Business Relations

- Community & Business Relations can support the application and does not anticipate its approval is likely to result in significant community impacts.

Bylaw Services

- Bylaw did not provide comment regarding the application.

Police

- In its proposed form as applied for, Artemis would not likely have a negative impact the community with respect to an increase in calls-for-service. Full police comments are available in Appendix F.

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 1,352 notices) were solicited by a mailed notice to provide input regarding this application. Both the public notification and the poster reflected the application's proposed hours and occupant load.

In terms of community feedback, the City received one letter in response to the notification. The letter received was in support of the application and was from the Downtown Residents Association.

The letters of response are included in Appendix G.

Applicant Response

As a part of the liquor licence process, it is standard practice to provide the applicant with an opportunity to consider public feedback and to respond to this and the report prior to the report being forwarded to Council. Based on the evaluation of the application, the applicant was advised that the recommendation to Council would be support.

In response, the applicant has chosen to provide additional correspondence that emphasizes Artemis will not be operated as a nightclub.

This correspondence is available in Appendix H.

IMPACTS

Accessibility Impact Statement

The establishment is an existing building and current accessibility requirements may not be met. There is no retroactive application of accessibility requirements under the BC Building Code and the establishment would be seen as conforming.

Strategic Plan 2019 – 2022

The recommendation to support the application is likely to increase the viability of the business as a local employer, which is consistent with Strategic Objective #4 – *Prosperity and Economic Inclusion*.

Impacts to Financial Plan

None

Official Community Plan

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

CONCLUSIONS

This application of Artemis, for a new liquor primary licence at #27 – 560 Johnson Street, with hours of operation from 11:00 am to 11:00 pm Monday through Thursday, 11:00 am to 12:00 am Friday and Saturday, and 11:00 am to 10:00 pm Sunday with a total occupant load of 110 people, is considered supportable. The site is appropriately zoned for the use and is consistent with current City policy.

ALTERNATE MOTIONS

1. That Council, after conducting a review with respect to noise and community impacts regarding the application of Artemis, at #27 560 Johnson Street, does not support the application.

Respectfully submitted,

Ryan Morhart
Manager, Permits & Inspections

Karen Hoese, Director
Sustainable Planning & Community Dev.

Report accepted and recommended by the City Manager: _____

Date: _____

List of Attachments

- Appendix A: Rationale Letter
- Appendix B: Site Map
- Appendix C: Council Policy
- Appendix D: Vicinity Map
- Appendix E: Noise District Map
- Appendix F: Police Comments
- Appendix G: Public Response from 30 day posting
- Appendix H: Applicants Comments
- Appendix I: Provincial Liquor License Types