



## **Committee of the Whole Report**

### **For the Meeting of June 1, 2023**

---

**To:** Committee of the Whole **Date:** January 9, 2023

**From:** Karen Hoesle, Director, Sustainable Planning and Community Development

**Subject:** **Application for a Liquor Primary Licence Structural Change (Extended Hours) for Artemis, Unit 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 Unit 27 – 560 Johnson Street, to extend hours by one hour on Thursday, Friday and Saturday so hours would be 11 a.m. to 10 p.m. Sunday, 11 a.m. to 11 p.m. Monday to Wednesday, 11 a.m. to 12 a.m. Thursday, and 11 a.m. to 1 a.m. Friday and Saturday where the existing occupant load of 110 people is retained.

The following comments are provided regarding the prescribed considerations:

The impact of noise on the community near the business was considered in relation to the request, and the recommended hours and occupant load are compatible with the area.

- 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 1,440 owners and occupants and the Downtown Residents Association (DRA), the City received four letters of correspondence related to the notification to extend the hours of the liquor primary license at Unit 27 – 560 Johnson Street. Three letters expressed support, and one expressed opposition, for extended hours. The DRA confirmed they had no objection to the extended hours and would not be providing a letter in response to the notification.
- c. 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 Artemis, located at Unit 27 – 560 Johnson Street. The application is for an existing liquor primary licence to extend hours of licenced service by one hour on Thursday, Friday and Saturday. The resulting hours would be 11 a.m. to 10 p.m. Sunday, 11 a.m. to 11 p.m. Monday to Wednesday, 11 a.m. to 12 a.m. Thursday, and 11 a.m. to 1 a.m. Friday and Saturday and the existing occupant load of 110 people is not proposed to change.

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 Licensing Policy*. The establishment has been in operation since 2021 and has established a reputation as a responsible neighbour and business. On this basis, it is recommended that the application of Artemis at Unit 27 – 560 Johnson Street be supported to allow the one-hour extension on Thursday to Saturday.

## 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 Artemis at Unit 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.

## PROPOSAL

Artemis is seeking approval to extend hours associated with their existing liquor primary licence by one hour on Thursday, Friday and Saturday. The current hours are 11 a.m. to 10 p.m. Sunday, 11 a.m. to 11 p.m. Monday to Thursday, and 11 a.m. to 12 a.m. Friday and Saturday. The proposal would result in hours that are 11 a.m. to 10 p.m. Sunday, 11 a.m. to 11 p.m. Monday to Wednesday, 11 a.m. to 12 a.m. Thursday, and 11 a.m. to 1 a.m. Friday and Saturday. The occupant load of 110 people is not proposed to change.

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 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.

Liquor primary licences are required where the primary purpose of the business is not the service of food and where liquor is being served in the service area. All liquor primary licence applications are referred to local government by LCRB.

In the case of Artemis, the establishment's primary focus of business is the service of whiskeys and cocktails and the appropriate licence for this type of business is a liquor primary licence.

### **City Liquor Licensing Policy**

The City's *Liquor Licensing Policy* (2017) (included as Appendix E) provides direction on several matters including: which applications the City will opt out of reviewing and commenting on; the procedures for the application process for those the City has not opted out of commenting on; and the approach to enforcement. The policy further indicates that applications for liquor licences having hours of operation later than 2 a.m. will not be considered (except New Year's Eve).

The hours of licensed service proposed in this application for Artemis at Unit 27 – 560 Johnson Street are within the parameters of the City's policy.

### **City Referrals**

An inter-departmental review of the application is conducted prior to public notification. A review of the application to extend the hours of the liquor primary licence at Unit 27 – 560 Johnson Street resulted in the following feedback:

#### Sustainable Planning & Community Development

- The establishment is zoned appropriately for use as a *drinking establishment*.
- This property is zoned Old Town District 1 (OTD-1). This zone permits drinking establishments, which includes facilities licenced through the *Liquor Control and Licencing Act* and includes entertainment venues with live or recorded music, night clubs, bars and pubs.
- The zone does not restrict the hours of operation or the occupant load of these establishments and also permits residential uses within the same property.
- Compliance would be demonstrated through the building permit process and verified through the City inspection.

#### Engineering & Public Works

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

#### Business & Community Relations

- The request for a later closing time of one hour on Thursday (to 12 a.m.) and on Friday and Saturday (to 1 a.m.) is not likely to have a negative impact on the community.

#### Bylaw Services

- Bylaw supports the application and notes that complaints have not been made related to the business and does not anticipate the extension of hours will result in this status changing.

## Police

- Police can support the application and do not anticipate negative community impacts. 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 1,440 notices) were solicited by a mailed notice to provide input regarding this application. The notice was also sent to the Downton Residents Association (DRA). The public notification letter and poster reflected the applicant's intent to extend the hours of operation by one hour on Thursday, Friday and Saturday. The comment period was open for 30 days.

In terms of community feedback, the City received four letters in response to the notification. Of the four letters received, three expressed support and one expressed opposition. The DRA confirmed they had no objection and would not be sending a letter.

The public letters of response are included in Appendix G.

## **Impact Assessment**

As part of the licence application review, the LCRB has referred this application to the City of Victoria to review and provide comments regarding noise impacts and the overall impact on the community if the application is approved.

Noise and other community impacts are challenging to predict and there are several variables that can contribute to the level of impact such as the business model, quality of owner/operator, context and existing density of licenced capacity in the area, hours of service, and fluctuating populations due to tourism.

## Context

Artemis is located in the basement level of Market Square, abutting only other commercial tenants, and its primary point of access is at ground level on Store Street. Old Town District and is appropriately zoned for this use. Based on the City's *Noise Bylaw*, this site is within the Intermediate Noise District and is subject to the noise limits prescribed for this district.<sup>1</sup> The Noise District Map is included in Appendix D.

The application is to extend hours by one hour on Thursday, Friday and Saturday and the existing occupant load of 110 people will be retained. To understand Artemis's potential to contribute to noise related issues, the application has been assessed against the existing licenced capacity in the vicinity, which includes the block of the establishment and adjacent blocks.

---

<sup>1</sup> The Noise Bylaw sets limits for four key areas within the City: Quiet District, Intermediate District, Harbour Intermediate and Activity District. The Intermediate Noise District is limited to 60dBA at the point of reception until 10 p.m.; after 10 p.m., noise at the point of reception is limited to 50dBA in Quiet districts, 55dBA in Harbour Intermediate and Intermediate districts and 65dBA in the Activity district. 50dBA is comparable to rainfall, light traffic or a refrigerator and 60dBA is comparable to conversational speech or an air conditioner.

The vicinity information, attached as Appendix C, illustrates the composition of licenced establishments in the area which includes a total of 3,379 licenced seats where:

- 2,110 (63%) are food primary seats distributed over 23 establishments
- 1,157 (34%) are liquor primary seats distributed over five establishments
- 112 (3%) are manufacturer's lounge endorsement seats distributed over one establishment.

To provide perspective on the hours of operation of the 3,379 licenced seats in the area:

- 933 (28%) are closed by midnight
- 1,249 (37%) close at 1 a.m.
- 1,197 (35%) close at 2 a.m.

In Victoria there are approximately 115,000 licenced seats of which:

- 53,400 (46%) close by midnight
- 42,500 (37%) close by 1 a.m.
- 19,000 (17%) close by 2 a.m.

### Operations

Artemis is an established whiskey and cocktail bar that has been in operation since 2021 and has developed a reputation as a responsible neighbour and business providing licenced service that has not resulted in negative community impacts. The applicant has provided a letter of intent, attached as Appendix A, which outlines their business operations, reasons for licence change and additional factors that minimize impacts to the community.

The LCRB Compliance and Enforcement has confirmed that the business has no record of infractions and is in good standing with respect to meeting the terms and conditions of their licence.

Based on the staff assessment, public feedback and experience with the business, it is unlikely the extended hours would result in unacceptable community impacts.

### Enforcement

Consideration of the factors noted above can assist a municipality to predict negative aspects associated with licensed establishments; however, these factors can also change over the life of a licensed establishment. If 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. These include:

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

## Applicant Response

As a part of the liquor licence process, it is standard practice to provide the applicant with an opportunity to review this report and its recommendations, including feedback from the public notification, so they may respond to the report prior to the report being forwarded to Council.

In response, the applicant has confirmed that they are satisfied with the report and would not be providing additional correspondence related to their application.

## 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.

### Strategic Plan 2019 – 2022

The recommendation to support the application as recommended 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

Artemis is seeking approval to extend hours for their existing liquor primary licence. The request is to extend the licenced hours by one hour on Thursday, Friday, and Saturday so hours are 11 a.m. to 10 p.m. Sunday, 11 a.m. to 11 p.m. Monday to Wednesday, 11 a.m. to 12 a.m. Thursday, and 11 a.m. to 1 a.m. Friday and Saturday. The site is appropriately zoned for the use and is consistent with current City *Liquor Licensing Policy*. Impacts are not anticipated based on experience with the business, and staff, community and LCRB input, indicate that the application is considered supportable.

## ALTERNATE MOTION

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

Respectfully submitted,

Ryan Morhart, Manager  
Permits & Inspections Division

Karen Hoese, Director  
Sustainable Planning and Community  
Development Department

**Report accepted and recommended by the City Manager.**

**List of Attachments**

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