



RESORT MUNICIPALITY OF WHISTLER

4325 Blackcomb Way TEL 604 932 5535
Whistler, BC Canada V8E 0X5 TF 1 866 932 5535
whistler.ca FAX 604 935 8109

STAFF REPORT TO COUNCIL

PRESENTED: December 20, 2022 **REPORT:** 22-153
FROM: Planning - Development **FILE:** LLR01374
SUBJECT: FORGED AXE THROWING STRUCTURAL CHANGES TO ADD TWO NEW
OUTDOOR PATIO AREAS

RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

That the recommendation of the General Manager of Resort Experience be endorsed.

RECOMMENDATION

That Council approve an application from Forged Axe Throwing Ltd. to add two outdoor patio licensed areas with a total licensed person capacity of 18 persons to its Liquor Primary Licence No. 308877, subject to Development Permit approval of the proposed patios having considered the criteria as required by the Liquor and Cannabis Regulation Branch (LCRB) as set out in support of this application attached as Appendix A to Administrative Report to Council 22-153; and further

That Council authorize the letter attached as Appendix A to be executed on behalf of the Resort Municipality of Whistler by its authorized representatives and sent to the LCRB in support of the application.

PURPOSE OF REPORT

This report presents a recommendation for Council's consideration regarding an application from Forged Axe Throwing Ltd. requesting structural changes to their liquor primary licence to extend the service area to add two outdoor patio areas resulting in an increased capacity from 61 persons to 79 persons. For this type of licence change, Municipal Liquor Licensing Council Policy G-17 requires Council approval and the provincial Liquor and Cannabis Regulation Branch (LCRB) requires local government comment in the form of a resolution from Council addressing prescribed regulatory criteria and a recommendation as to whether the licence change should be approved. The proposed letter, including the Council resolution in favour of the application and the rationale for support, is attached as Appendix A.

Information Report

Administrative Report (Decision or Direction)

DISCUSSION

Background

Forged Axe Throwing Ltd. (the Applicant) is located at 1-1208 Alpha Lake Road in Function Junction (See Appendix B for a location map), and has been in operation since 2016.

The Applicant was issued liquor primary licence no. 308877 by the LCRB in October, 2020 for an interior occupant load of 61 persons. The hours of service are from 11 a.m. to 11 p.m. Sunday through Thursday and 11 a.m. to midnight Friday and Saturday.

In March 2021 the Applicant received authorization from the Resort Municipality of Whistler (RMOW or Municipality) and Liquor and Cannabis Regulation Branch (LCRB) for a Temporary Expanded Service Area (TESA) that has now been extended to operate through to March 31, 2023 in accordance with applicable LCRB policy directives. The Applicant's TESA comprises the two patio areas that are the subject of this application to become permanently licensed.

The LCRB implemented TESAs to help food and beverage establishments to continue to provide seating capacity while complying with the physical distancing requirements under the Provincial Health Orders related to the COVID-19 pandemic, with the extensions through to March 31, 2023 granted to enable establishments' time to apply for permanent licenses of their TESAs and not interrupt business operations.

Analysis

The Applicant's application includes:

- Structural changes to liquor primary licence no. 308877 to add two new outdoor patio areas, resulting in a total increase in capacity of 18 persons.
 - One patio occupancy of 3 persons.
 - Second patio occupancy 15 persons.
 - Total proposed new patio area: 37.9 square metres.
- Occupant load: the occupant load will increase from 61 to 79 (61 interior, 18 outdoor).
- Patios have been in operation as part of TESA program through LCRB since March, 2021.
- No changes to hours of service.

The Applicant has supplied a letter of intent providing rationale for the application which is attached as Appendix C. The rationale letter describes that the TESA patios have a very positive record and that they do not anticipate any adverse impacts with this proposal to make them permanently licensed. Occupant load calculations and a floor plan that provides basic details of the proposed patio location, size and seating layout, are attached as Appendix D.

The proposed patio is also subject to development permit approval for the form and character of development. The approval and issuance of the development permit is delegated to the Director of Planning per "Land Use Procedures and Fees Bylaw No. 2205, 2022". The overall design of the

proposed patios is supported, with some final details to be resolved. This report recommends Council support and approval of the proposed liquor license change, subject to Development Permit approval.

Current Good Standing Status

In order for the Municipality to give consideration to an application requesting a permanent change to a liquor licence the Applicant must be in “Good Standing” with respect to the compliance and enforcement history of the establishment. A Good Standing review was conducted to determine the compliance history of the applicant. The application was referred to the RCMP, the Whistler Fire Rescue Service and the RMOW Building and Bylaws Departments. Each was asked to provide a written list of any contraventions and their disposition for the 12-month period preceding the date of the application and any other comments considered to be relevant. There were no compliance issues identified, and the RCMP have determined the applicant to be in Good Standing.

LCRB Review Criteria and Process

For a structural change application to add a new outdoor patio(s) to an existing liquor primary establishment, local government must provide comments to the LCRB in the form of a resolution from Council. Local government must also gather public input for the community in the immediate vicinity of the proposed service area. The resolution from Council must take into account:

- The location of the establishment, and
- The person capacity and hours of liquor service of the establishment.

The resolution from Council must specifically comment on the following:

- The impact of noise on the community in the immediate vicinity of the establishment,
- The impact on the community if the application is approved,
- The views of the residents and a description of the methods used to gather views, and
- Local government must include in its resolution a recommendation as to whether or not the new patio(s) should be approved and the reasons on which the recommendation is based.

Recommendations to the LCRB must include whether the application should be approved or rejected and must include the reasons on which those recommendations are based.

The proposed letter presented in Appendix A addresses all of the LCRB requirements.

Liquor Licence Advisory Committee (LLAC) Review Process

As part of the LLAC review process for the new patios, a summary of the Applicant’s proposal was referred by e-mail to LLAC members on October 25, 2022 and members were asked to provide their initial comments. Staff then prepared a report, which was presented at the November 17, 2022 meeting of the LLAC. The report addressed the LLAC review criteria regarding the need for the licence endorsement and the potential impacts on the resort community. A staff presentation clarified details of the application. The Applicant addressed LLAC member questions about the application related to patio materials. Relevant excerpts of the draft minutes of the LLAC meeting are attached as Appendix F.

POLICY CONSIDERATIONS

Relevant Council Authority/Previous Decisions

In accordance with Council Policy G-17, an application for a structural change to add new outdoor patios to a liquor primary licence specifies a public advertising period, a good standing review, a LLAC referral/report/recommendation, a staff report to Council and a Council resolution to the LCRB in a prescribed format.

In summary, the proposed licensing change is consistent with Council Policy G-17, would improve customer service for both visitors and residents and is not expected to have any significant negative impacts on the community.

Zoning Analysis

The lands are zoned IS1. The IS1 Zone permits indoor recreation and establishments licensed for the sale and consumption of alcoholic beverages on the premises including neighbourhood public house. The proposal is compliant with all other applicable Zoning Bylaw regulations including parking.

Corporate Plan

The RMOW Corporate Plan is updated annually and articulates strategic direction for the organization. This section identifies how this report links to the plan.

Council Focus Areas

Community Balance

*Effectively **balance resort and community needs** through deliberate planning, partnerships and investment*

Climate Action

*Provide leadership to **accelerate climate action and environmental performance** across the community*

Housing

*Advance strategic and innovative initiatives to enable and **deliver additional employee housing***

Pandemic Recovery

*Leadership and support for **community and tourism recovery and sustainability** – priority focuses are where recovery needs intersect with other Council focus areas*

Not Applicable

Community Vision and Official Community Plan

The Official Community Plan (OCP) is the RMOW's most important guiding document that sets the community vision and long-term community direction. This section identifies how this report applies to the OCP.

The recommended resolution included within this report is consistent with the goals, objectives and policies included within "OCP Bylaw No. 2199, 2018".

BUDGET CONSIDERATIONS

There are no budget considerations. The municipal application fee for an amendment to an existing licence is structured to cover staff costs for processing the application.

LÍŁWAT NATION & SQUAMISH NATION CONSIDERATIONS

The RMOW is committed to working with the LÍłwat People, known in their language as *L'íl'wat7úl* and the Squamish People, known in their language as the *Skwxwú7mesh Úxwumixw* to: create an enduring relationship; establish collaborative processes for Crown land planning; achieve mutual objectives; and enable participation in Whistler's resort economy.

There are no specific considerations to include in this report.

COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

Inform Consult Involve Collaborate Empower

In accordance with Council Policy G-17, the applicant advertised the proposed structural changes for the patio areas in the November 3 and 10, 2022 editions of the *Pique Newsmagazine* and posted a sign at the establishment for 30 days (commencing Nov 3, 2022) to provide opportunity for public comment. The advertisements and notice sign requested that any comments be provided in writing to municipal staff on or before December 3, 2022. No comments were received.

Also in accordance with Council Policy G-17, the application was reviewed by the LLAC at their meeting held on November 17, 2022. The LLAC supported the application. The draft meeting minutes are attached as Appendix F.

REFERENCES

Appendix A – Letter to LCRB including Council resolution for two liquor primary patios
Appendix B – Location map
Appendix C – Letter of Intent from Applicant dated October 13, 2022
Appendix D – Submitted floor plan calculations form and proposed floor plan
Appendix E – October 5, 2022 occupant load stamped plan
Appendix F – Draft Minutes of November 17, 2022 LLAC Meeting (relevant excerpt)

SUMMARY

This report presents a recommendation regarding an application to add two new licensed outdoor patio areas to the liquor primary licence for the Applicant, subject to Development Permit approval of the proposed patios by the Director of Planning. The patios are proposed to have an 18 person capacity, resulting in an increase to the occupant load for the establishment from 61 to 79. The proposed licensing change is consistent with Council Policy G-17, would improve customer service for both visitors and residents and is not expected to have any significant negative impacts on the community.

The report provides a recommended resolution in support of the application for Council's consideration that addresses criteria specified by the LCRB. This resolution is a result of the application of municipal policy and consultation with the community.

SIGN-OFFS

Written by:

Brook McCrady,
Planning Analyst

Reviewed by:

Melissa Laidlaw,
Manager of Development Planning

Mike Kirkegaard,
Director of Planning

Jessie Gresley-Jones,
General Manager of Resort Experience

Virginia Cullen,
Chief Administrative Officer