



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 4320-20

From: Chief Administrative Officer

Date: May 2, 2016

Subject: Billy D's Pub and Bistro Structural Change

PURPOSE:

The purpose of the report is to respond to the application by Billy D's Pub and Bistro for a structural change to allow for an outdoor patio.

CAO RECOMMENDATIONS:

That, based on the May 2, 2016 staff report, "Billy D's Pub and Bistro Structural Change", Council approve Option 1 and direct staff to post notice on the City's website requesting public input on the proposed structural change for an outdoor patio for Council consideration at the regular meeting scheduled for May 16, 2016; and

That the Downtown Courtenay Business Improvement Association (DCBIA) be advised of the application.

Prepared by,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

As per the attached documentation, Billy D's Pub and Bistro has applied for a structural change to allow for an outdoor patio.

Billy D's also will be submitting an application with City staff for a sidewalk café pursuant to the Council resolution of June 15, 2016 (report attached for reference).

DISCUSSION:

If Council wishes to comment on the application, the *Liquor Control and Licencing Regulations* require a local government detailed resolution as outlined in Appendix 1.

In addition, prior to recommending approval of an application, the local government must gather the views of residents if it considers the amendment may affect nearby residents and businesses. Staff are of the opinion that notice on the City's website and notification of the DCBIA will satisfy the requirements of the Liquor Control and Licencing Branch (LCLB).

Once Council receives public input on the applications, a resolution addressing the points outlined in Appendix 1 must be forwarded to the LCLB. A proposed resolution in the correct format will be presented to Council for consideration at the regular meeting scheduled for May 16, 2016.

Council may choose to “opt out” of the process. This is a valid option only if Council feels the structural change would not affect nearby residents (includes businesses).

FINANCIAL IMPLICATIONS:

None.

ADMINISTRATIVE IMPLICATIONS:

Administration of liquor licence amendments is included in the general statutory duties of the Legislative Services Department work plan. This application is estimated to take 4 hours of staff time.

ASSET MANAGEMENT IMPLICATIONS:

None.

STRATEGIC PRIORITIES REFERENCE:

<p>We actively pursue vibrant economic growth</p> <ul style="list-style-type: none">● Revitalizing our downtown is critical to our economic future● Continue to improve our relationship with business in our community	<p>We focus on organizational and governance excellence</p> <ul style="list-style-type: none">● We support and encourage initiatives to improve efficiencies● We support meeting the fundamental corporate and statutory obligations
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● **Area of Control**
The policy, works and programming matters that fall within Council's jurisdictional authority to act.

OFFICIAL COMMUNITY PLAN REFERENCE:

Not referenced.

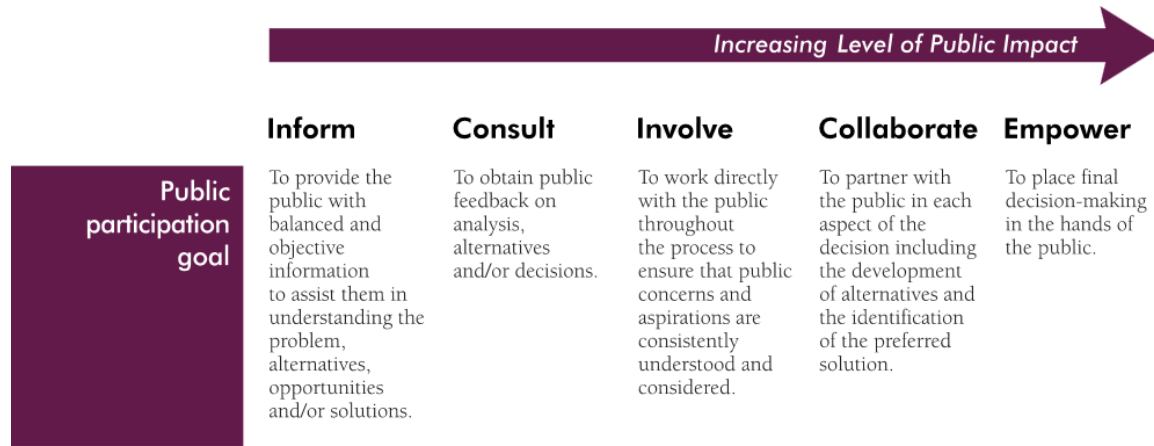
REGIONAL GROWTH STRATEGY REFERENCE:

Not referenced.

CITIZEN/PUBLIC ENGAGEMENT:

Public notice required if Council wishes to comment on the application. Staff would consult the public based on the IAP2 Spectrum of Public Participation:

http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/imported/IAP2%20Spectrum_vertical.pdf



OPTIONS:

Option 1: Direct staff to publish notice on the City's website requesting public input on the Structural Change for Council consideration at the regular meeting scheduled for May 16, 2016 (recommended); and

That the Downtown Courtenay Business Improvement Association (DCBIA) be advised of the application.

Option 2: Direct staff to obtain public input through an alternative method.

Option 3: Opt out of the process and advise the LCLB.

Prepared by:

John Ward, CMC
Director of Legislative Services

Attachments

1. Appendix 1
2. Structural Change Application
3. Sidewalk Café staff report dated June 15, 2015

APPENDIX 1

Excerpts from the Liquor Primary and Liquor Primary Club Structural Change Application:

All of the items outlined below in points (a) through (d) must be addressed in the resolution in order for the resolution to comply with section 53 of the Liquor Control and Licensing Regulation. Any report presented by an advisory body or sub-committee to the council or board may be referenced in and attached to the resolution.

- (a) The potential for noise if the application is approved (provide comments).
- (b) The impact on the community if the application is approved (provide comments).
- (c) If the amendment may affect nearby residents, the local government or first nation must gather the views of residents in accordance with 11.3(2)(c) of the Act.

If the local government or first nation gathered the views of residents, they must provide:

- (i) the views of the residents
- (ii) the method used to gather the views of the residents, and
- (iii) its comments and recommendations respecting the views of the residents. (Residents includes residents and business owners)

If the views of residents were not gathered, provide reasons.

- (d) Its recommendation with respect to whether the amendment should be approved.

What is a Structural Change?

It is defined as a change to the existing approved licensed area(s), including but not limited to:

- a change in the position of a wall or partial height divider (pony wall) or fixed planters used as separation between/within a licensed area
- new construction
- the removal or addition of permanent display cabinets, stages or dance floors
- a change to the food and liquor service bar location or size
- in the position of access and exit points leading to or from a licensed area
- the removal of a licensed area from the liquor licence
- addition of a new outdoor patio or the removal or expansion of an existing patio
- increase to capacity (occupant load) of a licensed establishment with or without changes to the licensed area(s)
- such other construction or changes the general manager considers may affect patron routing, capacity, or the line of sight between a staff control point and the licensed area of the establishment.

If you are making changes to the current approved floor plan, other than cosmetic changes, a structural alteration application is required.

Note: This does not include cosmetic changes such as changes to existing flooring, wallpaper, reconfiguring tables and chairs, countertops, painting, or changing the type of material used in the perimeter bounding of an outdoor patio.

If you have any questions about this application, call the Liquor Control and Licensing Branch (LCLB) toll-free at: **1 866 209-2111**

Licence Information

Please check if licence is currently dormant.

Licence # affected: 185505

If yes, attach a letter signed by the licensee requesting the licence to be reactivated if this application is approved.

Do you currently hold other licences at this location? Food Primary _____ (Licence #)

Liquor Primary _____ (Licence #) Licensee Retail Store _____ (Licence #) UBrew/UVin _____ (Licence #) or Other

Licensee name [as shown on licence]: BILLY D'S PUB & BISTRO

Establishment name [as shown on licence]: BILLY D'S PUB & BISTRO

Establishment Location address: 268 - 5TH STREET COURTENAY BC V9N 1J6
(as shown on licence) Street City Province Postal Code

Business Tel with area code: 250-334-8811 Business Fax with area code: 250-334-0509

Business e-mail: deanasimkin@shaw.ca

Business Mailing address: _____
(if different from above) Street City Province Postal Code

Contact Name: SIMKIN / DEANA / MARGARET Title/Position: OWNER/OPERATOR
last / first / middle

Type of Change Requested

Please check appropriate box(es) below:

Sub- Job Number
Office Use ONLY

Part 1	<input checked="" type="checkbox"/> Addition of a New Outdoor Patio	Outdoor Patio (C3-LIC) _____
Part 2	<input type="checkbox"/> Alteration/Renovation <input type="checkbox"/> Removal of an existing licensed area <input type="checkbox"/> Other	Structural - capacity change (C3-LIC) _____ Structural - no capacity change (C4-LIC) _____

Application Contact Information

This applicant authorizes the person below to be the primary contact for the duration of the application process only.

Name: DEANA SIMKIN

Phone number: 250-334-8811

Fax number: 250-334-0509

E-mail address: deanasimkin@shaw.ca

PART 1: Addition of New Outdoor Patio

Fee: \$440 C3 - LIC

Provide the following information:

1. Attach one 11" x 17" copy of the proposed patio floor plan that shows furniture layout, entrance, exits, and abutting areas that may be licensed and/or unlicensed areas.

The branch requires an occupant load (patrons plus staff) for the proposed patio area(s) which must be marked/stamped and dated ON the plan you submit. Do **not** submit this application if you do not have the occupant load calculation stamped on your patio plans.

Note: The occupant load calculation is generally provided by local building or fire authorities in your area. If you are advised that local building or fire authorities do not have jurisdiction or opt out of providing this calculation, provide written confirmation from that authority. You may then take your plan to an alternate qualified architect or design professional who will authorize the calculation.

2. What is the occupant load calculation for the new patio(s)?

Patio #1: 14

Patio #2:

Patio #3:

3. If the patio(s) is already constructed, **attach a photo**

4. Provide the height and composition of the patio perimeter or bounding that is designed to control patron entry/exit (i.e., railings, fencing, planters, hedging, etc.):

42" railing around entire patio with planters.

5. Describe the location of the patio in relationship to the licensed interior. The patio should be immediately adjacent or contiguous to the interior licensed area so that it does not appear to be a standalone patio.

Immediately out the front door on the sidewalk.

6. Describe how patrons will access the patio.

Via a gateway in the fencing

7. Will servers have to carry liquor through any unlicensed areas to get to the patio? No Yes If yes, please explain:

8. Describe how staff will manage and control the patio from the interior licensed area.

All patrons will order through their server. Servers will monitor the patio at all times.

9. Is the patio located on: (a) grass, (b) earth, (c) gravel, (d) finished flooring, (e) cement sidewalk or (f) other (please specify below). If located on grass, earth or gravel, please make sure that you have local health authority approval.

sidewalk paving stones

10. Will the patio have a fixed or portable liquor service bar? Yes No

11. If "No", will liquor be served from the interior service bar? Yes No

Note: A resolution from your local government or First Nation commenting on the application is required. Please see Parts 3 and 4 for an explanation of what the local government or First Nation is required to consider.

PART 2: Structural Changes (Excluding construction of new patios)

Fee: \$440

C3 - Cap Ch.

C4 - No Cap Ch.

Provide the following information:

1. Describe in full detail the reason for this application and what the changes are that you want considered.

2. Attach one 11" x 17" updated floor plan of the establishment which shows the changes proposed and has the determined occupant load calculations stamped on the plan. The floor plan is a view of the establishment as seen if you were to remove the roof or ceiling.

Floor plans must:

- Show acceptable levels of detail
- Show the dimensions of rooms and provide labels for each room as well as identify unlicensed areas, partial height walls, full height walls, planters, doors and windows, stairs showing direction of travel and all entrances and exits, washrooms, kitchens, bar, patio(s), and furniture layout must be marked on the plan you submit

Note: The occupant load calculation is generally provided by local building or fire authorities in your area. If you are advised that local building or fire authorities do not have jurisdiction or opt out of providing this calculation, provide written confirmation from that authority. You may then take your plan to an alternate qualified architect or design professional who will authorize the calculation. Do not submit this application if you do not have updated floor plans with updated current occupant load.

3. Current total of all licensed areas (as shown on the liquor licence):

4. By making these alterations, the total occupant load will:

Decrease to: (patrons plus staff)

Stay the same: (patrons plus staff)

Increase to: (patrons plus staff)

If there is an increase, a resolution from your local government or First Nation commenting on the application is required. Please see Parts 3 and 4 for an explanation of what the local government or First Nation is required to consider.

PART 3: Local Government/First Nation Resolutions: Information for the Applicant

A resolution from your local government or First Nation commenting on the application is required for the following change types:

- Part 1: Addition of a new patio
- Part 2: Any alteration/addition, when the proposed change increases the occupant load calculation.

Licensee responsibilities:

1. Fill out applicable sections of this form.
2. Attach floor plan showing the proposed changes and stamped with an updated and current occupant load calculation.
3. **Take your completed application, updated floor plan with updated occupancy load calculation to your local government/First Nation office. They will photocopy all of the documents and complete Part 4.**
4. Request that a resolution be provided within 90 days and sent via email or post directly to the Liquor Control and Licensing Branch, Victoria.
5. Send the completed original form, floor plan and application fees to the branch.
6. The Liquor Control and Licensing Branch will follow up with the local government/First Nation if a resolution has not been received by the Branch within 90 days of the local government's receipt of your request.

Your local government/First Nation may decide that it does not wish to provide comment on your change request. However, they must still provide a resolution or letter stating this decision and submit it directly to the Liquor Control and Licensing Branch.

PART 4: Local Government/First Nation Confirmation of Receipt of Application

This is to be filled out by your local government/First Nation office in relation to Parts 1 and 2. Applies to Liquor Primary and Liquor Primary Club licences.

Local government/First Nation (name): _____

Name of Official: _____ Title/Position: _____
(last / first / middle)

Email: _____ Phone: _____

Signature of Official: _____ Date of receipt of application: _____
(day / month / year)

This application serves as notice from the Liquor Control and Licensing Branch (LCLB) that an application for a permanent change to a liquor licence is being made within your community. LCLB requests that a resolution commenting on the application be sent to the LCLB Victoria Head Office within 90 days of the above date of receipt. If more than 90 days is required to provide a resolution, please contact the branch to make a request to the general manager for an extension. If the local government/First Nation decides not to provide comment, a resolution or letter indicating this decision must be provided to the branch.

All of the items outlined below in points (a) through (d) must be addressed in the resolution in order for the resolution to comply with section 53 of the Liquor Control and Licensing Regulation. Any report presented by an advisory body or sub-committee to the council or board may be referenced in and attached to the resolution.

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 - If the local government or first nation gathered the views of residents, they must provide:
 - (i) the views of the residents
 - (ii) the method used to gather the views of the residents, and
 - (iii) its comments and recommendations respecting the views of the residents.
(Residents includes residents and business owners)
 - If the views of residents were not gathered, provide reasons.
- (d) Its recommendation with respect to whether the amendment should be approved.

For more information on resolutions regarding B.C. liquor licences, please visit the LCLB website publication index to consult the guide *Role of Local Government and First Nation* at <http://www.pssg.gov.bc.ca/lclb> under "Publications, Legislation & Resources".

PART 5: Declaration of Signing Authority Including Valid Interest

My signature, as Applicant, indicates that, with respect to the establishment:

- I am the owner of the business to be carried on at the establishment or the portion of the establishment to be licensed.
- I am the owner or lessee of the establishment or portion of the establishment to be licensed. If I have an option/offer to lease the establishment, or portion of the establishment to be licensed, prior to a licence being issued, I will obtain a completed lease that will not expire for a minimum of 12 months after the date the licence is issued.
- I understand that the general manager has the right to request the following documentation supporting valid interest at any time and I agree to provide the requested documentation in a timely manner upon request:
 - If the applicant owns the property, a Certificate of Title in the applicant's name.
 - If the applicant is renting or leasing, a fully executed lease or assignment/offer of lease which does not expire for at least 12 months from the date the licence is issued. An offer for rent/lease must show rent paid, have a term and an expiry date and be signed by both the applicant and the property owner.
 - If the applicant is buying the land and the building(s), a copy of the offer or option to purchase the property and building(s). An offer must show price paid, have a term and expiry date, and be signed by both the applicant and the property owner.
- I understand that loss of valid interest at any time while holding a licence is reason for the general manager to consider cancelling the licence.
- I understand that I must advise the branch immediately if at any time the potential exists to lose valid interest either during the licensing process or once a licence has been issued.
- I understand that the name(s) on documentation demonstrating valid interest must be identical to the applicant name(s).
- As the licensee, I will be accountable for the overall operation, for all activities within the establishment and will not allow another person to use the licence without having first obtained a written approval from the general manager.
- I understand that a licence can only be renewed if I am the owner of the business carried on at the licensed establishment and I am the owner or lessee of the licensed portion of the establishment.

I solemnly declare that the statements in this declaration are true.

(Signature of any shareholder of a private corporation, signing officer of a public corporation or society, sole proprietor or all individuals in a partnership is required below):

Note: An agent, lawyer, resident manager or third party operator **may not** sign the declaration on behalf of the applicant.

Name of Official: SIMKIN / DEANA / MARGARET (last / first / middle) Position: OWNER Date: 05/04/2016 (Day/Month/Year)
 Signature: *Deana Simkin*

Name of Official: PLUE / WARREN / STANLEY (last / first / middle) Position: OWNER Date: 05/04/2016 (Day/Month/Year)
 Signature: *[Signature]*

Name of Official: _____ (last / first / middle) Position: _____ Date: _____ (Day/Month/Year)
 Signature: _____

Name of Official: _____ (last / first / middle) Position: _____ Date: _____ (Day/Month/Year)
 Signature: _____

Section 15(2) of the Liquor Control and Licensing Act states: "A person applying for the issue, renewal, transfer, or amendment of a licence who fails to disclose a material fact required by the form of application or makes a false or misleading statement in the form of application commits an offence".

False declaration of valid interest is reason for the general manager to consider terminating the licence application and/or cancelling the licence.

PART 6: Application Fees - Payment Options

TOTAL FEE Submitted: \$ _____

In accordance with Payment Card Industry Standards, the branch is no longer able to accept credit card information via email.

Payment is by (check one):

- Cheque, payable to Minister of Finance (if cheque is returned as non-sufficient funds, a \$30 fee will be charged)
- Money order, payable to Minister of Finance
- Credit card: VISA MasterCard AMEX
- I am submitting my application by email and I will call with my credit card information. I will call Victoria Head Office at 250-952-5787 or 1-866-209-2111 and understand that no action can proceed with my application until the application fee is paid in full.
- I am submitting my application by mail and have given my credit information in the space provided at the bottom of the page.

Note: To ensure legibility, do not submit by fax.

Contact Information

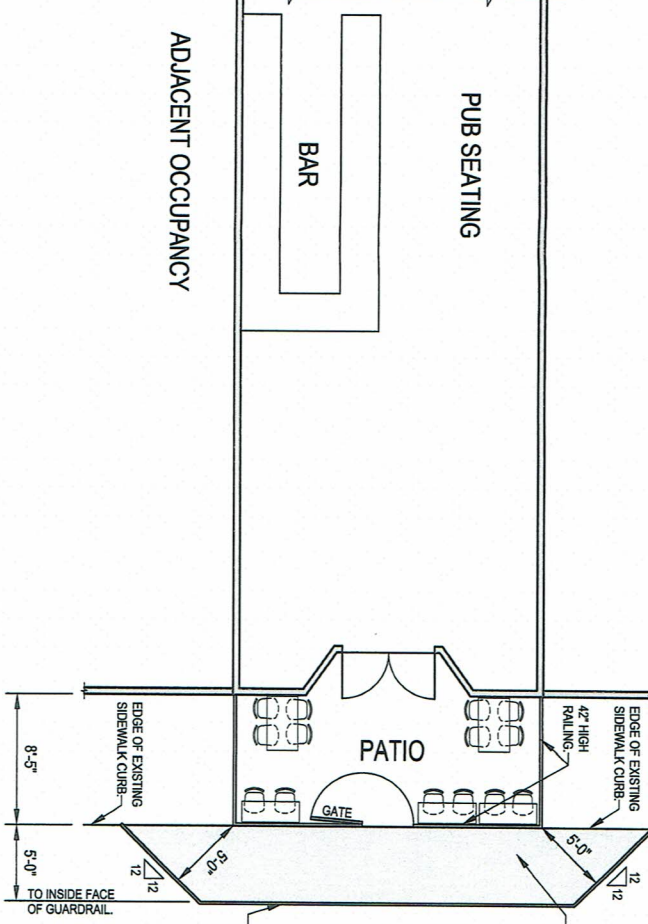
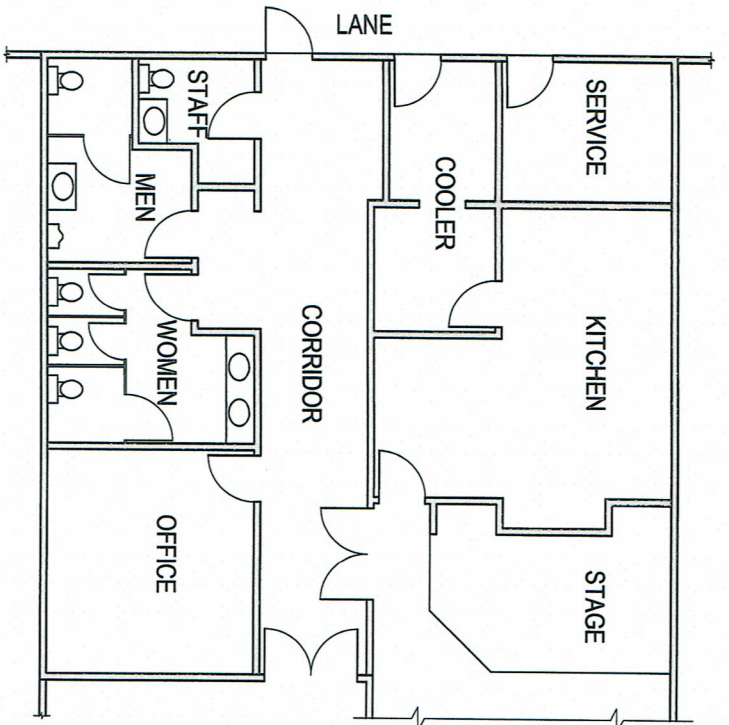
Liquor Control and Licensing Branch
 Location: 4th Floor, 3350 Douglas St., Victoria BC V8Z 3L1
For Mail Only: PO Box 9292 Stn Prov Govt Victoria, BC V8W 9J8
 Phone: 250 952-5787 Web: www.pssg.gov.bc.ca/lclb E-mail: liquor.licensing@gov.bc.ca

Freedom of Information and Privacy Act - The information requested on this form is collected for the purpose of obtaining or making changes to a liquor licence application. All personal information is collected under the authority of Section 15 of the Liquor Control and Licensing Act (RSBC 1996, c.267). Questions should be directed to: Liquor Control and Licensing Branch, Freedom of Information Officer, PO Box 9292 STN PROV GOVT, Victoria, BC V8W 9J8. Ph: In Victoria, 250 952-5787 Outside Victoria, 1 866 209-2111. Fax: 250 952-7066

Credit Card Information (To be submitted by fax or mail only)

Name of cardholder (as it appears on card): _____
 Credit card number: _____ Expiry date: _____ / _____
(Month) (Year)

Signature: _____



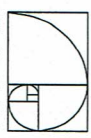
FIFTH STREET



BILLY D'S OCCUPANT LOAD:	OCCUPANT LOAD EXISTING:	98 PERSONS.
	EXTERIOR PATIO (16.72 SQ. M + 1.2):	14 PERSONS.
	TOTAL OCCUPANT LOAD:	112 PERSONS.
BILLY D'S W.C. REQUIREMENTS:		
	WC'S REQUIRED:	MALE 2, FEMALE 3.
	WC'S PROVIDED:	MALE 2 + URINAL, FEMALE 3.



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PROJECT:
PROPOSED SIDEWALK PATIO
for
BILLY D'S PUB & BISTRO
288 FIFTH STREET
COURTENAY, BC

DRAWING TITLE:
PROPOSED SIDEWALK PATIO

FILE:	1175 - Billy D's Pub & Bistro	SCALE:	1/8" = 1'-0"
DRAWN BY:	GW	PROJECT NO.:	1175
DATE:	04 August, 2015	DRAWING NO.:	1 of 1