



THE CORPORATION OF THE CITY OF COURTENAY

## STAFF REPORT

**To:** Council

**File No.:** 4530-20/LL000016

**From:** City Manager (CAO)

**Date:** January 25<sup>th</sup>, 2023

**Subject: Structural Change to Liquor Licence Application and Change to Hours of Liquor Service to Liquor Licence Application (Ace Brewing Company Limited) – 150 Mansfield Drive**

### **PURPOSE:**

The purpose of the report is to obtain Council direction to request public input with respect to Ace Brewing Company's applications made to the Liquor & Cannabis Regulation Branch (LCRB) for 1) a structural change and 2) change in hours to their liquor licence at the above referenced location.

### **CAO RECOMMENDATIONS:**

That based on the January 25<sup>th</sup>, 2023 staff report "**Structural Change to Liquor Licence Application and Change to Hours of Liquor Service to Liquor Licence Application (Ace Brewing Company Limited) – 150 Mansfield Drive**", Council approve OPTION 1 and direct staff to publish notice on the City's website for two weeks requesting public input on the proposed structural change to a liquor primary licence for Council consideration at a future meeting, and provide a mail out notification to neighbours within 30m radius of all property lines.

Respectfully submitted,

Geoff Garbutt, M.Pl., RPP, MCIP  
City Manager (CAO)

### **BACKGROUND:**

The applicant is making an application to the LCRB for the following changes to their existing liquor licence for the property at 150 Mansfield Drive:

1. The permanent incorporation of the existing temporary patio area as a permanent patio into the endorsed Liquor Licence area.
2. The permanent increase in the total occupancy (inside and outside) from 140 currently to 215 patrons. This represents an increase in 75 persons, all to be located in the new permanent patio.
3. A change in hours of liquor sales from 11:00am – 22:00 Sunday – Thursday and 11:00am – 23:00 Friday and Saturday to 09:00am – 01:00am seven days a week (Monday – Sunday).

The applicant's letter of rationale, which discusses the request and the project, can be found in **Attachment No. 1.**

Pursuant to Section 38 (1) of the *Liquor Control and Licencing Act*, such a liquor licence must not be issued or amended unless the applicant has given the local government notice of application in accordance with the regulations.

The subject brewery and patio are located approximately 120m from the intersection of Mansfield Drive and Cliffe Avenue, and approximately 85m from the Riverway Heritage Walk. The property is surrounded by other commercial and residential properties, and is near the Courtenay Airpark and Rotary Skypark (**Figure No. 1**). The proposal is illustrated below with the proposed changes to the patio in **Figure No. 2** and detailed below.



Figure 1. Subject property map.

The brewery occupies part of a commercial building. The existing, licensed patio (shown in green in **Figure No. 2**) has been operational since the outdoor patio was endorsed by Council in May 2020. The establishment currently has a total occupancy limit of 140 patrons (72 patrons inside the building and 68 on the existing patio). The total occupancy with the existing temporary patio becoming permanent will be 215 patrons.

The temporary patio area that is proposed to be made a part of the permanent liquor licensing area was opened autumn of 2020 under the Temporary Expanded Service Area (TESA) program, as part of the LCRB's response to COVID-19 and the need for additional space due to physical distancing guidelines. As a result of this expansion, the total outdoor/patio occupancy limit did not increase; rather, the outdoor/patio area was allowed to temporarily increase to allow for physical distancing. This resulted in the business owners creating a new temporary patio which they now seek to make permanent.

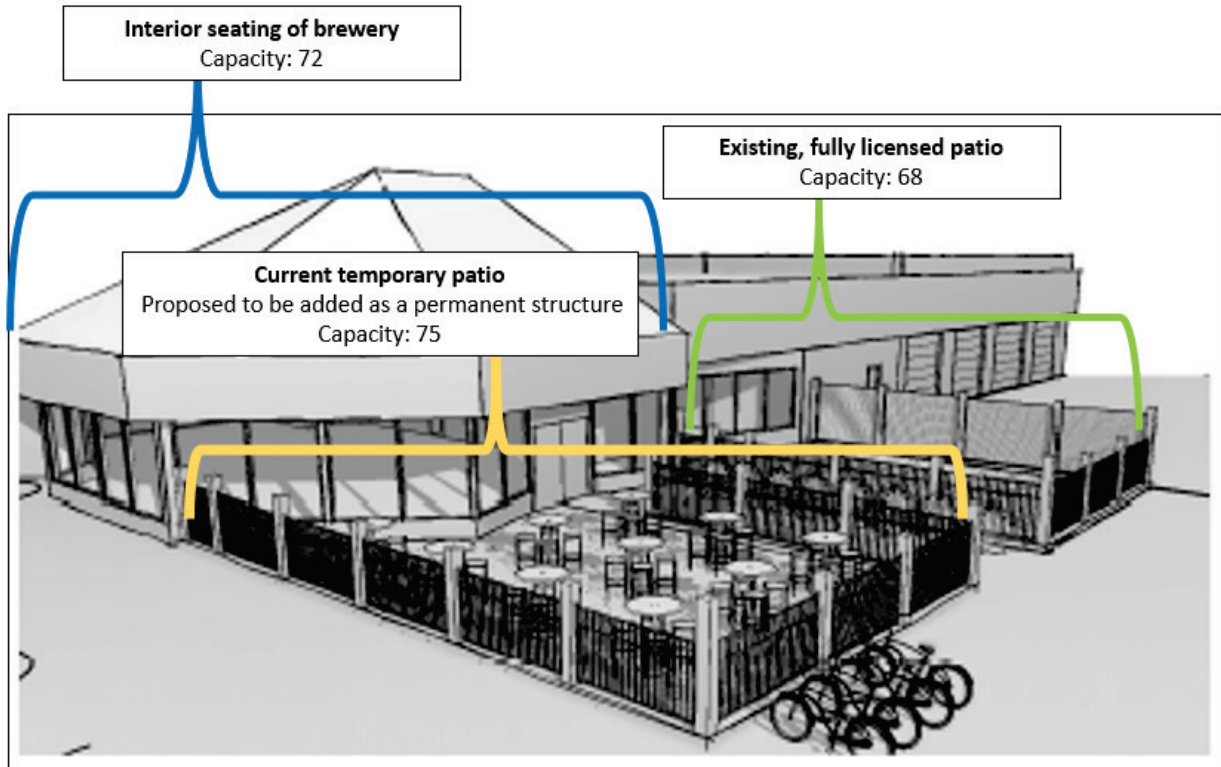


Figure 2. Rendering of Ace Brewery which illustrates the proposed and existing licenced areas.

A change in the hours of the sale of liquor for the liquor primary licensed area is also requested at this time.

The current hours of sale are:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start	<b>11:00</b>	<b>11:00</b>	<b>11:00</b>	<b>11:00</b>	<b>11:00</b>	<b>11:00</b>	<b>11:00</b>
End	<b>22:00</b>	<b>22:00</b>	<b>22:00</b>	<b>22:00</b>	<b>23:00</b>	<b>23:00</b>	<b>22:00</b>

The proposed hours of sale would be 9:00am – 1:00am seven days a week:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Start	<b>09:00</b>	<b>09:00</b>	<b>09:00</b>	<b>09:00</b>	<b>09:00</b>	<b>09:00</b>	<b>09:00</b>
End	<b>01:00</b>	<b>01:00</b>	<b>01:00</b>	<b>01:00</b>	<b>01:00</b>	<b>01:00</b>	<b>01:00</b>

The requested change in hours could result in the establishment being open both earlier and later than has previously been permitted.

**DISCUSSION:**

The subject location is zoned Commercial Two (C-2) which permits the intended use. The patio is not large enough to trigger a commercial form and character Development Permit. The majority of the building appearance has been contemplated with past Development Permits. The patios (proposed and existing) sit on either side of the entrance to the brewery, which faces into the parking lot.

In order to accommodate an increase in building occupancy, the applicant is required to renovate the existing washrooms to meet the new requirements set out by the increased occupant load. The current washrooms can accommodate 99 patrons. The applicant will be required to apply and receive a Building Permit for the construction of additional washroom facilities.

The proposed patio would permanently eliminate approximately 3 informal parking spaces that were previously available. However, the off-street parking on site remains compliant with Zoning Bylaw 2500, 2007. 36 parking stalls are required (1 per every 6 persons capacity), and 31 marked parking spaces are provided for customers and the other 5 required spaces can be provided at the rear of the building for staff parking.

The patios are located a minimum of about 45m away from the nearest residences across Mansfield Drive. The change in hours of liquor sales could increase noise nuisance for some of these residents. However, permission to sell liquor with extended hours does not mean that the applicant will opt to have the premise open 09:00am - 01:00am every day; the permission for extended hours allows for operational flexibility depending on such circumstances as scheduled events.

Among other referral bodies, staff has referred the application to enforcement branches of the RCMP and City Bylaw department, and neither has expressed concern regarding the proposed changes.

#### **FINANCIAL IMPLICATIONS:**

There is no direct financial implication related to this application. The application fee for all types of liquor licence applications is \$500 plus GST.

#### **ADMINISTRATIVE IMPLICATIONS:**

Administration of liquor licencing is included in the City's general statutory duties. To date, staff has spent fifteen hours processing the application.

#### **2019 – 2022 STRATEGIC PRIORITIES REFERENCE:**

We focus on organizational & governance excellence

- Communicate appropriately with our community in all decisions we make
- Responsibly provide services at levels which the people we serve are willing to pay

#### **OFFICIAL COMMUNITY PLAN REFERENCE:**

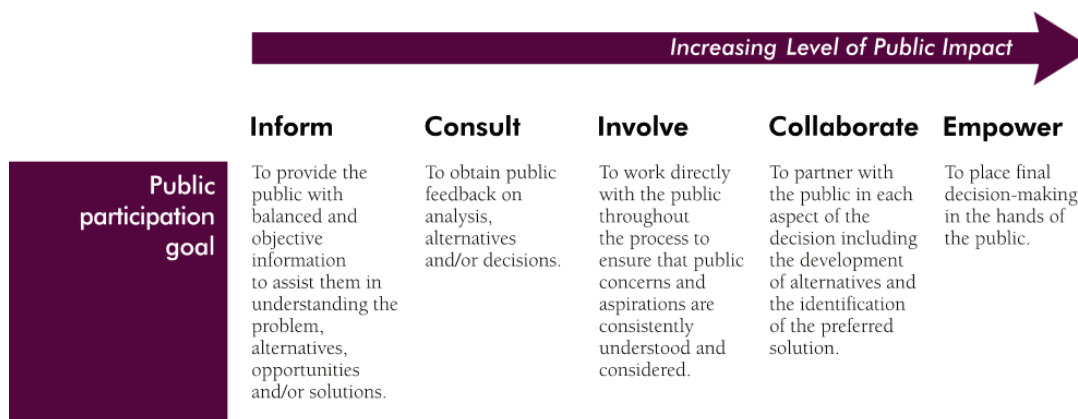
There is no direct reference related to this application.

#### **REGIONAL GROWTH STRATEGY REFERENCE:**

There is no direct reference related to this application.

**CITIZEN/PUBLIC ENGAGEMENT:**

Staff will **consult** members of the public based on the IAP2 Spectrum of Public Participation:



Pursuant to Section 38 (3)(c) of the *Liquor Control and Licensing Act*, the local government must gather the views of residents when the applicant has given the local government notice of the application. The local government may determine which method is best to gather such views from the options of: holding a public hearing, holding a referendum, receiving written comments in response to a public notice, or using another method the local government considers appropriate. In order to gather the views of residents, the City will post notice of the application on the City’s main website for two weeks as per past practice.

Section 38 (3) of the *Liquor Control and Licensing Regulation* states that a local government or first nation that wishes to provide comments and recommendations must do so in accordance with the following requirements:

- 38 (3)** A local government or first nation that receives notice under subsection (1) must, if it wishes to provide comments and recommendations under this section with respect to the application,
- (a) take into account the prescribed criteria before providing the comments and recommendations,
  - (b) provide the comments and recommendations to the general manager
    - (i) in accordance with the regulations, and
    - (ii) within the prescribed time period, or any further period authorized by the general manager, and
  - (c) in the prescribed circumstances, gather the views of residents of an area determined by the local government or first nation in respect of the application by
    - (i) receiving written comments in response to a public notice of the application,
    - (ii) conducting a public hearing in respect of the application,
    - (iii) holding a referendum, or
    - (iv) using another method the local government or first nation considers appropriate.

With respect to the requirement in section 38 (3) (c) of the *Liquor Control and Licensing Act*, the current practice is to advertise a notice on the City’s website, and additionally provide a mail out notice to neighbours on a case by case basis. In this case staff recommend conducting a mail out to within 30m of all property lines similar to a Development Variance Permit notification radius. Staff recommend the additional mail out given that the two previous liquor licence applications for Ace Brewing, as well as neighbouring Whistle Stop Pub, have garnered public comment in the past.

Staff consider that the combined 2-week website notice and mail outs will satisfy the requirements of the LCRB. Once Council receives public input on the application, a resolution addressing these points will be forwarded to the LCRB for their final decision.

Mail out notices will be sent immediately upon Council decision below who may return comments by February 8<sup>th</sup>, 2023. The public comment gathering period will be open between January 26<sup>th</sup> and February 8<sup>th</sup>, 2023 on the City's website. Any comments received from the public will be attached to the staff report for Council's final consideration at a future Council meeting.

**OPTIONS:**

- Option 1: Direct staff to publish notice on the City's website for two weeks requesting public input on the proposed structural change to a liquor primary licence for Council consideration at a future meeting, and provide a mail out notification to neighbours within 30m radius of all property lines. **(Recommended)**
- Option 2: Direct staff to obtain public input through an alternative method such as only posting to the City's website for two weeks.
- Option 3: Direct staff not to proceed with the application and advise the LCRB that the City does not support the request.

Prepared by:



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Devin Croin  
Planner 1 – Development Planning

Reviewed by:



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Nancy Gothard, RPP, MCIP  
Acting Manager of Development Planning

Concurrence by:



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Rob Roycroft, RPP, MCIP  
Interim Director of Development Services

Concurrence by:



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Geoff Garbutt, M.Pl., RPP, MCIP  
City Manager (CAO)

*Attachments: Attachment No. 1: Letter of Intent*

### Attachment No. 1: Letter of Intent



Letter of Intent for Patio Application Ace Brewing Company Limited located at 150 Mansfield Drive, Courtenay B.C..

Thank you from the Ace Team to put forward making our Temporary Patio permanent and change of oh hours.

Ace Brewing Company, 150 Mansfield Drive Courtenay, opened its doors September 13<sup>th</sup> 2019 with it's Manufacturing License and Lounge Appendix. Due to COVID, six months later we had to close our Lounge, laying off all our employees and only offer beer to go for two months. After reopening at half capacity, we were able to rehire some of our staff, open a temporary patio, at half capacity and in the Fall of 2020, we added our permanent patio at half capacity, then restrictions were put in place with no indoor dining, thankfully we had our patios or else we would have had to close our doors again. When restrictions loosened, we are at full capacity, since COVID is still very active, many patrons prefer being seated on the patio, unfortunately the permanent patio only has a partial covering. We've been able to gradually hire more employees since reopening, with having our temporary patio permanent we will be able to increase our staff hours and hire more employees.

The building we are occupying was formally a car dealership, from the exterior it was very basic and not very attractive, an old, drab, rectangle building. The permanent patio has not only increased our capacity, increasing staffing hours, it also made our building more pleasing to look at, breaking up the shape of the building, giving it an overall cleaner, more attractive exterior appearance. We would like to twin the patios to make an even greater visual appearance, more inviting and having this permanent patio will expand our capacity which will increase staff hours and employ more employees. Many of our patrons have asked if we are planning to make our temporary patio permanent, say they love visiting the brewery because of the vast patio space and it would be more inviting if it was finished properly instead of being patio tables in a fenced area in the parking lot.

Since our opening we have been very involved within the community, hosting/taking part in fundraisers, collaborations to raise funds for charities, and donating to local events. Ace Brewing is noted in the community as a diverse and welcoming place to visit. Our establishment has had no RCMP incidences, altercations, or complaints since it's opening. We've had the opportunity to welcome not only locals but people through out Vancouver Island, B.C., Canada, and other parts of the world, it is amazing to see the tourism Comox Valley attracts. We have collaborated and taken part in events and special events with CFB Comox, we are very honored to have this connection and have many regular customers who are current and retired military. With nearby Mt. Washington, The River Walkway, hiking/walking trails, oceanside, adding mild seasons and warm summers, Comox Valley is noted for its outdoor activities. We have many regulars who are avid outdoor sport enthusiasts who general like to be outdoors even while having a beverage and a meal. The Valley attracts people who enjoy being outdoors during every season throughout the year.

Parking at Ace Brewing is never a problem as we have vast parking available with 30 parking stalls, staff parking behind our building, and lots of street parking along Mansfield Drive.

From Servers, Sales, Kitchen staff, Managers, to our back of house staff including our Brew Master, Ace currently employs over 14 part-time, full-time and salary persons. With the addition of the patio we'll be increasing this number, giving employees another employment opportunity within the Valley.

We are asking to amend our hours of operation including our patios to the following, Monday through Sunday 9:00am-1:00am. We are finding there are many days that customers think we are open at 9am and come in trying to purchase beer and we must turn them away. We have been asked to open earlier by many of our regulars and tourists, especially in the summer and Christmas season. At this time I don't see that we would be open at 9am daily but it would be beneficial for our business to be able to serve at an earlier time. Most importantly we have found over the past two years, since our opening, we have wanted to stay open longer but have had to stop serving alcohol because of our licencing, we are finding that people are wanting to stay at the brewery later. We are having music regularly and once restrictions loosen will have other events regularly including Music Trivia, Comedy and Darts, currently people come for these events but leave once they are finished and go else whereas we have to stop serving alcohol. We also sponsor many sport teams which are being impacted as are some of our regulars with our limited hours, therefor we are losing business which affects our employee hours and shifts. Since COVID the dynamics of the Comox Valley has shifted with its establishments, there has been a few key businesses that were noted for being a place to go later in the evening and they are now closed.

The seating capacity with changing the patio from temporary to permanent will change from 68 to 75, not a huge increase but would allow for a few more people to enjoy the space.

The patio will be South facing, extending into our large parking lot to the front of the Brewery, will be fully fenced, with Mountain views, surrounded with potted trees and shrubbery for an inviting, tranquil setting. The patio area will break up the open parking area, will add to the all-around look of the building and be more visually pleasant.

We are very proud to be part of the Comox Valley Ale Trail which is a leg of the B.C. Ale Trail. The B.C. Ale Trail has recognized the Comox Valley, as being a destination for brewery enthusiasts to visit, with five breweries now open in the Valley. There are many people who plan holidays and vacations around Brewery areas, there is a huge Microbrewery following, which for the Island has been centered in Victoria, now the Valley with it's five Breweries is making that shift to Central Vancouver Island.

We hope you recognize the positive effect the addition of our patio area and expansion of hours of being open will have within Comox Valley and indorse our Patio Application.

Regards,

Jo-Anne Landolt

Owner/Manager.

**Staff Note:** Staff confirm that the total outdoor permanent occupancy would increase to 143 patrons.