

Staff Report

Report To: City Council

Report From: Brent Fisher, Manager of Community & Business Development
Jacklyn Iezzi, Junior Planner

Meeting Date: May 9, 2022

Report Code: CS-22-058

Subject: Boat Launch Operating Agreement Amendment

Recommendations:

THAT in consideration of Staff Report CS-22-058 respecting the operating agreement for the Boat Launches, City Council:

1. Directs staff to bring forward a by-law to amend the existing agreement with Experience Grey Bruce to provide permission for a Food Truck on the leased lands and permit a licensed patio generally in accordance with Schedule B attached to this report subject to the following:
 - a. Insurance in the amount of \$5,000,000;
 - b. Timing and hours of operation of the proposed patio;
 - c. That the patio includes a fenced enclosure to the satisfaction of the City's Director of Community Services and the Alcohol Gaming Commission of Ontario (AGCO);
 - d. That the patio area, including any tables, stands, booths, structures, shall be kept in a neat and clean condition at all times by the operator;
 - e. That any patio furniture, including, without limitation, umbrellas, tables, chairs, flowerpots and shrubs, shall not protrude beyond the area of the proposed patio;

- f. Removal of garbage and recycling-related to the operation of the patio and mobile food unit;
 - g. Connection to services with respect to disposal of greywater only;
 - h. Updated lease agreement with Transport Canada; and
 - i. Other conditions recommended by the City solicitor;
2. Authorizes Experience Grey Bruce to make an application to the AGCO for a licensed patio and to permit alcohol sales and consumption on the subject lands;
3. Directs staff to execute a Street Vendor Agreement with Bombshell Stella's subject to:
 - a. the City's standard requirements, save and except the hours of operation which will begin at 5 a.m.
 - b. a fee of \$350 per month
4. Directs staff to bring forward a report regarding the updated lease for a portion of the West Side Boat Launch with Transport Canada.

Highlights:

- In 2021, the City issued an RFP and signed an agreement with Experience Grey Bruce for the operation of the West and East Boat Launch;
- The operator is proposing the addition of a licensed patio and a food truck on the site;
- The addition of a licensed patio and food establishment will encourage increased foot traffic in the City's inner harbour.
- A licensed patio and food services will provide animation and activation of the City's inner harbour consistent with the vision of the Official Plan for the area.

Strategic Plan Alignment:

[Strategic Plan](#) Priority: This report supports the delivery of Core Service.

Previous Report/Authority:

[Transport Canada Lease C9907105](#)

Background:

In 2021, the City initiated a public RFP for the operation of the municipal east and west boat launch. The successful proponent was Experience Grey Bruce. The proposal included the operation of the East and West municipal Boat Launches. It proposed the introduction of new and exciting experiences on the inner harbour, including food service, bicycle, kayak, and paddle-board rentals.

Experience Grey Bruce is requesting approval to expand their permissions under the agreement to fulfill their commitment outlined in their proposal.

The [West Side Boat Launch](#) area is comprised of a large parking lot, a small outbuilding for launch pass/concession sales, public washrooms, docks and a fish cleaning station. The majority of the lands are owned by the City, with a portion of the lands closest to the water being leased from Transport Canada (attachment 1).

The purpose of this report is to:

- Provide a brief overview of the Transport Canada lease and required approval
- Seek Council approval for the operation of a licensed patio operated by Experience Grey Bruce;
- Amend the operating agreement with Experience Grey Bruce to consider the operation of a licensed patio and adjacent mobile food business.

Analysis:

Transport Canada lease C9907105

Owen Sound is a Federal Harbour, and as the Owen Sound Harbour is owned and operated by Transport Canada. It is understood that any operations on Transport Canada land contemplate the requirements and commitment of the City and Transport Canada.

In 2021, City staff had discussions with Transport Canada regarding the operation, in part, of a municipal boat launch partially on Transport Canada leased lands. In recent weeks, staff has had a meeting with Transport Canada Staff respecting the addition of a licensed patio and a Food truck within the leased portion of the site.

Due to the commercial nature of the proposed additional uses, Transport Canada proposes an increase in the lease respecting the municipal boat launch from approximately \$500.00 to \$2000.00 annually. These costs will be recuperated from the lease and Food truck.

Staff will bring forward a separate report to Council as soon as the updated lease is received from Transport Canada.

Mobile Food Unit Lease

As noted, the food-service equipment contained within the building at the Boat Launch is dated, does not meet current standards, and would require significant capital investment to replace. To avoid this considerable cost, Experience Grey Bruce proposes that Bombshell Stella's, a mobile food trailer, be positioned at the launch to the immediate south of the service building. This would allow hot food to be served alongside the proposed licensed patio area.

Mobile Food Businesses require permission to operate on municipally-owned property such as streets, parks, and events. The City received an application for a mobile food unit placement at the West Side Boat Launch on Friday, April 29.

The Agreement for the operation of the Boat Launch will be updated to acknowledge the placement of the mobile food truck on this site.

Operating on a municipally-owned property requires an operating agreement under [Schedule "A" of the Business Licencing By-law No. 2014-150](#).

6. To Operate a Mobile Food Business on City property, including City parking lots, the Operator must:

a. have an approved lease or street vendor agreement; or

b. written permission from the Director of Community Services of the City to operate in a City park.

Bombshell Stella's (Heather Morrison) has a business license to operate in the City. A standard Mobile Food Truck Agreement will be required for this operator in this location and include the standard clauses, requirements for insurance etc.

Due to the early morning use of the boat launch by anglers, Bombshell Stella's is proposing to operate beginning at 5 a.m. The mobile food unit is self-contained and noise will not be an issue. Staff is supportive of this. A

monthly fee for the location of the Food Truck on the site is \$350, and this revenue will be remitted to the City.

Although the By-law delegates authority for these approvals to the Director of Community Services or Manager of Economic Development and Tourism, provided that this is the first year for this proposed use at the West Side Boat Launch with Experience Grey Bruce as the operator, a report is presented to Council.

Licensed Patio

The operator proposes a 5.2 m by 18.2 m (95 m²) licensed patio consisting of ten (10) patio tables to the east of the existing boat launch building, between the building and harbour wall on an existing concrete pad. The location of the proposed patio and mobile food truck (noted above) is shown generally in Schedule 'A'. A detailed Site Plan of the proposed patio is attached as Schedule 'B'.

A request for comment on the Sidewalk Patio Application was sent to the Grey Bruce Health Unit, the Owen Sound Police Service, the Owen Sound Fire Department, and the City's Development Team on March 29, 2022. Comments were received without objection from the Owen Sound Fire Department.

City Planning Staff have undertaken a review of the proposed licensed patio in consideration of City policy and the requirements of the Zoning By-law, and the following merits note:

City of Owen Sound Official Plan:

The West Side Boat Launch, municipally known as 1415 1st Avenue West, and the adjacent Transport Canada Lands, are designated 'Waterfront Mixed Use' and 'Open Space' by the City's 2021 Official Plan (OP). Schedule 'B' of the OP further identifies the lands as being within the 'West Harbour Planning Area'. The Waterfront Mixed-Use designation is intended to integrate a broad array of land uses in a compact urban form at higher development densities. Activities and uses that supported recreation and tourism, such as the existing boat launch and proposed accessory licensed patio, are among the uses permitted within this designation.

City of Owen Sound Zoning By-law (2010-078, as amended)

The subject lands are zoned 'Mixed Use Commercial' (MC) by the City's Zoning By-law (2010-078, as amended). Public Uses are among the uses

permitted in the MC Zone. For ease of reference, the Zoning By-law defines a 'Public Use' as meaning, "the use of any lot, building or structure or portion thereof **by or for the Corporation of the City of Owen Sound** the Corporation of the County of Grey, the Grey Sauble Conservation Authority, the Province of Ontario, or the Dominion of Canada".

As noted, Experience Grey Bruce was selected through a public RFP process to operate the east and west boat launch on behalf of the City. The west side boat launch and proposed accessory licensed patio satisfy the definition of a "Public Use", as noted above.

As illustrated by the Site Plan attached as Schedule 'B', the proposed patio consists of a 95 m² roped-off area within an existing hard-surfaced, impervious area between the boat launch building and harbour wall. The roped-off area is not considered a 'building' or 'structure' within the meaning of the Zoning By-law and is, therefore, not subject to the setback and lot coverage requirements for Commercial Uses in the MC Zone. The proposed patio does not obstruct any off-street parking stalls required for zoning compliance, stormwater management facilities, or pedestrian travel pathways. Section 5.10 of the Zoning By-law regulates locations of outdoor patios accessory to dining establishments abutting any residential zone. Lands abutting 1451 1st Ave W are zoned 'Mixed Use Commercial' (MC) and 'Mixed-Use Industrial' (MU). The lands do not abut a residential zone therefore, Section 5.10 of the Zoning By-law does not apply.

The proposal meets the requirements of the City's Zoning By-law.

Site Plan Control

As shown on Schedule 'A', the location of the proposed patio is predominately located on the adjacent Transport Canada lands. Typically, the placement or expansion of a patio on private property would require Site Plan Approval, in accordance with the City's Site Plan Control By-law (2018-135).

In this case, the proposed patio does not result in the construction, erection, or placing of any buildings/structures that have the effect of substantially increasing the size or usability of the west side boat launch lands and does not result in the need to modify any existing off-street parking areas. Therefore, the proposal is not considered "development" requiring Site Plan Approval.

Given that an operating agreement is already in place with Experience Grey Bruce concerning the addition of a patio and mobile food unit, Staff are recommending that the following provisions be included within the agreement, which would be a typical requirement of a Site Plan Agreement and/or sidewalk patio located within a public right-of-way:

- Insurance for \$5,000,000;
- Timing and hours of operation of the proposed patio;
- That the patio includes a fenced enclosure to the satisfaction of the City's Director of Community Services and the Alcohol Gaming Commission of Ontario (AGCO);
- That the patio area, including any tables, stands, booths, and structures, shall be kept in a neat and clean condition at all times by the operator.
- That any patio furniture, including, without limitation, umbrellas, tables, chairs, flowerpots and shrubs, shall not protrude beyond the proposed patio area.
- Removal of garbage and recycling-related to the operation of the patio and mobile food unit
- Connection to services with respect to disposal of greywater only.

Financial Implications:

Revenue of \$350.00+HST per month for five months will be added to the City's operating revenue.

The increase in the Transport Canada lease will be offset by the increase in revenue from the uses on site.

In 2021, the revenue under the Boat Launch agreement was approximately \$5000.00.

Communication Strategy:

City staff will ensure that all necessary stakeholders are aware of the mobile food truck operations at the West Side Boat Launch.

Consultation:

Transport Canada

Planning & Heritage Division

Pam Coulter, Director of Community Services

Attachments:

1. Overhead Map
2. Patio Site Plan
3. Harbour Land Ownership Map

Recommended by:

Brent Fisher, Manager of Community and Business Development

Pamela Coulter, Director of Community Services

Jacklyn Iezzi, Junior Planner

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Brent Fisher, Manager of Community and Business Development at bfisher@owensound.ca or 519-376-4440 ext. 1254.