



Subject: AGCO Applications in Port Colborne

To: Council

From: Chief Administrative Office

Report Number: 2021-85

Meeting Date: March 8, 2021

Recommendation:

That Chief Administrative Office Department Report 2021-85 be received for information.

Purpose:

This report is provided to Council per direction at the February 22, 2021 Council Meeting. At that meeting, staff was directed to analyze the City's process for responding to the Municipal Information Form that is provided to prospective licensees by the Alcohol and Gaming Commission of Ontario (AGCO).

Background:

From time to time, the City is asked to complete the AGCO's Municipal Information Form which is a part of the Province's Liquor Sales Licence Application. This application form provides an opportunity for the City to identify as a municipality that is:

- Wet – permits the sale of spirits, wine, and beer
- Damp – permits the sale of wine and beer only
- Dry – does not permit the sale of alcohol within municipal boundaries

The Liquor Sales Licence Application form also provides the City the opportunity to identify concerns with an applicant's zoning or other municipal by-laws in a separate submission.

To reiterate – the City does not have an approval role in Liquor Sales Applications, this is strictly the purview of the AGCO, rather the City can comment on compliance with City zoning by-laws and other regulation.

Discussion:

The City is in receipt of a request to complete the Municipal Information Form (Appendix a) in response to an application for a Liquor Sales Licence before the AGCO on behalf of 7-Eleven. The Municipal Information Form was accompanied by a letter from 7-Eleven (Appendix b). Staff normally process these requests internally by ensuring compliance with municipal by-laws including planning and zoning and Provincial legislation administered by the City such as the Building Code and Fire Code.

Historically, staff have not engaged in a review of subjective considerations of applications before the AGCO such as:

- Profitability
- Competition with existing providers in the City
- Social impacts of licencing

In the past year, the City is aware of a number of applications before the AGCO, including:

- Breakwall Brewing Company – Alcohol
- True North Cannabis Company – Cannabis
- Weedy Point – Cannabis
- Storky's – Liquor
- Sessions – Cannabis
- The Pie Guys Bakery & Café – Alcohol
- 7-Eleven – Liquor

In each of these cases, staff have maintained the existing practice of limiting the City's involvement to the review of regulatory matters that are within the City's enforcement jurisdiction.

Staff recognize that these are legitimate concerns to the corporation and the community but are of the opinion that they are beyond the scope of the City's participation in the AGCO's application process. Any member of the public, including individual Council Members, could provide comments on the merits of an application to the AGCO and should be encouraged to do so when appropriate.

Council could direct staff to deviate from this practice by providing Council comments related to the current application before AGCO for their consideration, but staff do not recommend this course of action.

Likewise, Council could direct staff to bring future applications forward to Council in the form of a staff report for comments from Council. Staff feel that the completion of the Municipal Information Form is an objective administrative practice and that including a

Council component injects a subjective element into the process. It also can add time to a process that is viewed by applicants to be unreasonably lengthy to begin with.

Internal Consultations:

Staff have had internal discussion with the Clerks Division and the By-law Division in order to gather background information to provide in this report.

Financial Implications:

There are no financial implications.

Public Engagement:

The City has not conducted public engagement to prepare this report. The AGCO conducts public engagement for all licenced establishments in Ontario (alcohol and cannabis) through the iAGCO online service (iagco.agco.ca). This online portal allows licensees and applicants to access online services and allows members of the public to create and track complaints, submit inquiries, object to applications, and conduct searches for existing licences. iAGCO is currently providing an opportunity for Port Colborne to respond to 7-Eleven's application until March 11, 2021.

Conclusion:

Staff receives an opportunity to complete a Municipal Information Form for Liquor Sales License applications. Staff conduct an internal scan of by-laws and provincial legislation to process these forms. Historically, the completion of the form is not the subject of Council reports. Staff recommend maintaining the existing practice.

Alternatively, Council could direct staff to present future requests to complete the Municipal Information Form to Council in the form of a staff report and/or provide written objection to the current application before the AGCO in the form of a letter from the City. Neither of these options is recommended.

Appendices:

- a. AGCO – Municipal Information Form
- b. Correspondence Received – 7-Eleven

Respectfully submitted,

Scott Luey
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Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final approval is by the Chief Administrative Officer.