



**NOTICE OF SPECIAL
PAC MEETING**

There will be a Special Planning Advisory Committee Meeting on Wednesday, June 29, 2022, at 7:00 P.M. via Zoom. The public can participate in the meeting by registering on the Town of Saint Andrews website www.townofstandrews.ca under the Planning Advisory Committee Meeting Notice, Event Post, or using the following link:

https://us02web.zoom.us/webinar/register/WN_I_PeUpBaHTnScSaCD_w1Guw



Paul Nopper,
Clerk – Senior Administrator



**TOWN OF SAINT ANDREWS
SPECIAL PLANNING ADVISORY COMMITTEE MEETING
AGENDA**

June 29, 2022 7:00 pm
Electronic Meeting

Pages

1. RECORDING OF ATTENDANCE

2. APPROVAL OF AGENDA

Recommended Motion:

That the Agenda be approved as presented.

3. DECLARATION OF CONFLICT OF INTEREST

4. AGENDA ITEMS

1. SPECIAL BUSINESS

- 1. Amendment Z22-03 to Zoning By-Law Z22-01 Regarding Text Amendment to Section 3.33 for Licenced Premises, PED220614**

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Recommended Motion:

That the Planning Advisory Committee of the Town of Saint Andrews, under Section 110 of the Community Planning Act, provides the following views to the Text Amendment Z22-03 to the Town of Saint Andrews Zoning By-Law Z22-01 for Section 3.33 (2) Licenced Premises:

5. ADJOURNMENT

Recommended Motion:

At _____ p.m. that the meeting be adjourned.



TOWN OF SAINT ANDREWS

Planning Advisory Committee

Chair: Chris Flemming

June 29, 2022 Planning Advisory Committee

Reference Number	Date	Submitted By	Subject
PED220614	June 22, 2022	Chris Flemming	Amendment Z22-03 to Zoning By-Law Z22-01 Regarding Text Amendment to Section 3.33 for Licenced Premises
Background	<p>The Council of the Town of Saint Andrews is seeking the opinion of the Planning Advisory Committee regarding a text amendment to Section 3.33 Licenced Premises of the Zoning By-Law Z22-01.</p> <p>Presented to Council at the June 20, 2022, Regular Council Meeting</p> <p>The Town of Saint Andrews has been approached by the owners of the Char and Chowder for consideration of an amendment to the Zoning By-Law regarding Section 3.33 Licenced Premises. Please see the attached staff reports and draft Zoning By-Law Amendment Z22-03 for background information. Staff are seeking to complete a text amendment change to the By-Law that would allow for businesses to apply for Lounge Licences with terms and conditions to be stipulated by the Council and would be enforced by the Public Safety of the Province of New Brunswick under a lounge liquor licence.</p>		
Action	<p>Motion:</p> <p><i>That the Planning Advisory Committee of the Town of Saint Andrews, under Section 110 of the Community Planning Act, provides the following views to the Text Amendment Z22-03 to the Town of Saint Andrews Zoning By-Law Z22-01 for Section 3.33 (2) Licenced Premises:</i></p> <p>Moved by: _____</p> <p>Seconded by: _____ Motion Carried: _____</p> <p>Motion Defeated: _____</p>		

Town of Saint Andrews

Planning Report

To: Council

From: Xander Gopen, MCIP, RPP (NB)
Southwest New Brunswick Service Commission

Date: June 14th, 2022

Zoning By-law: Z22-01

Summary: Z22-03 would allow lounges as a licensed premises in zones where such uses are allowed, subject to terms and conditions as applied by Council to the license.

Municipal Plan:

2.5.2 Economy Policies

(1) Council shall seek to provide an economic climate conducive to investment and the growth of year-round employment opportunities while protecting and enhancing the quality of life in Saint Andrews

Planners note: Allowing lounge licenses in certain commercial zones will new and existing business expansion opportunities. Ensuring that lounge licenses have terms and conditions applied by Council and enforced by Public Safety will protect against any spillover effects.

Existing licensed premises do exist in Town without causing significant issues (Red Herring and Kennedy Inn). While previous Councils have wished to limit the proliferation of lounge licenses within Town, nothing in the current Municipal Plan addresses or prohibits them – in fact, business expansion is promoted. The amended by-law will be drafted so that Council can require terms and conditions on the license itself. These conditions would be enforced by the Provincial Department of Public Safety, not the Town. As currently drafted, the amendment would only allow lounge licenses in the Central Commercial zone.

Recommendation:

The Southwest New Brunswick Service Commission staff recommends that Council gives first reading to By-law Z22-03, requests the written view of the Planning Advisory Committee on the proposed By-law Z22-03 and set a date for the public hearing of objections in accordance with Sections 110 & 111 of the Community Planning Act.



Xander Gopen, MCIP, RPP (NB)

Senior Planner



Town of Saint Andrews

Staff Report

From:	Paul Nopper – Clerk - Senior Administrator	Register #	PED220613
Subject:	Discussion on Amendment Z22-03 to Zoning By-Law Z22-01 Regarding Text Amendment to Section 3.33 for Licenced Premises	Date:	June 15, 2022

Council,

The Town of Saint Andrews was provided a presentation from Charlie Bartlett, owner of the Char and Chowder, regarding the request for a lounge licence for their business.

With regards to the request, the Char and Chowder, under Public Safety of the Province of New Brunswick, in 2021 were granted a Special Facilities Licence for the serving of liquor under the Liquor Control Act. At the time, their outdoor, open-air facility, was granted this licence as it met the requirements of Public Safety. With the construction of their new facility and recommendations by the Fire Marshal’s Office, as the property has an enclosed building, Public Safety revoked this licence at the beginning of June, as the property no longer qualifies under their licencing regulations for Special Facilities Licences. As such, the owners now are required to get a different licence to be able to serve liquor.

As heard in the presentation, from the Char and Chowder, have a business model that uses limited staffing and does not provide table service for food or liquor. It is the responsibility of patrons to order food and liquor and pick it up at a designed service area and then walk to a table. This business model does not meet the regulations of a Dining-Room licence, as these licences need servers to bring liquor and food to a table. Due to limited staffing and their business model, a Dining-Room licence is not feasible. The licence that would meet their requirements is a Lounge Licence. Without the Lounge Licence, it will be difficult for a new business to operate in the Town.

LIQUOR LICENCE TYPES

Liquor Control Act

- Lounge Licence – sale of alcohol in a designated area, food is optional.
- Dining-Room Licence – sale of food with the option to sell alcohol in a designated area.
- Special Facility Permit/Manufacturing – mainly for hotels, casinos, sporting facilities, micro/nano breweries, etc.

Note that within the Town of Saint Andrews, there are a series of businesses operating under different licence processes that are governed by Public Safety. The only licence that is subject to further regulations under the Zoning By-Law is the Lounge Licence.



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PREVIOUS LOUNG LICENCE REQUEST BACKGROUNDS

Previous Councils have been approached by businesses to attain Lounge Licences to operate in the downtown. Prior to 1990, only one business was approved for a Lounge Licence and has been grandfathered in through the Zoning By-Law, Kennedy Inn. From 1990 to 2019, there have been 7 requests for Lounge Licences for the Central Commercial Zone of the Town. Out of the 7 requests, two were provided one-year temporary uses with terms and conditions. Only one of the businesses is still in operation today, the Red Herring Pub, which was provided with a one-year temporary use and is still under terms and conditions for operation. In 2020, Council was approached by Seasons By-the-Sea for a Lounge Licence and was denied with the recommendation they attain a Dining Room Licence as their business model was conducive to this Licence. In addition, Council made changes to the Zoning By-Law to allow for Nanobreweries to operate in the community, which is subject to a Special Facility Licence.

- *Kennedy Inn* – first licensed as a dining-room in 1962 until 1998 and lounge from 1987 to 1998 under the name of Shiretown Inn & Restaurant. Both licences were cancelled in 1998. The Kennedy Inn applied for a lounge licence in 1998 but zoning was denied by the Town of Saint Andrews, so they obtained a dining-room licence from 1998-1999, then again from 2004-2005. In 2005, the Kennedy Inn changed licences to a **special facility**, which is the current licence that they have at this time.
- *Red Herring Pub* – First licensed as a lounge in 1996 under the name of Pickled Herring. The licence was valid until 1999 at which time the Pickled Herring cancelled their licence and Market Square obtained a licence under a new legal entity. Market Square changed its name to Red Whale in 2005 and cancelled their licence in 2007. **Red Herring Pub then obtained a lounge licence for this location in 2007.** Zoning authorization would have been required for each licence but due to retention schedules, our office would no longer have copies.

Councils of the past have limited the allowance of Lounge Licences in the community as they:

- Did not want a proliferation of Lounge Licences to be operating in the Town.
- Concerns regarding the Town's liability in the event of incidents.
- Concerns about activities in the downtown in the late evening and into the night.

Note that over the last 20+ years, the Town of Saint Andrews has had only one reported incident of issues related to the Lounge Licences. However, this was a noise complaint after the facility was closed and was handled by both the owner of the facility and the RCMP respectively. No other issues have been reported.

ZONING BY-LAW REGULATIONS

- Research from 1965 Zoning By-Law to present.
- Zoning By-Law 98-5 showed the first introduction of Zoning on Lounge Licences.
- The decision on Lounge Licence was moved from PAC to Council.



Town of Saint Andrews

- Those with Lounge Licences were grandfathered, others must go through a Zoning Amendment, Council review and approval process for the amendment before a Lounge Licence being issued.

Under the Zoning By-Law Z22-01, Section 3.33 Licenced Premises currently states:

- (1) Any existing licenced premises featuring a lounge shall be permitted to continue.
- (2) Applications for a licenced premises featuring a lounge will only be permitted through an amendment to the Zoning By-Law and subject to such terms and conditions as may be imposed by Council.
- (3) Applications for licenced premises featuring a live entertainment licence shall be permitted by the Town of Saint Andrews under the following terms and conditions:
 - a. No music (live or recorded) on the deck after 9:00 p.m.
 - b. No liquor services or use on the deck after 11:00 p.m.
 - c. Hours: Thursday to Saturday noon to 2:00 a.m., no live music after 1:00 a.m.
 - d. Hours: Sunday to Wednesday: live music on permission of Town.

Section 3.33(3) was modified in 2021 to allow businesses with approved licences and that attain a live entertainment licence through Public Safety, have to follow these terms and conditions.

For anyone that is applying for a Zoning Amendment:

- \$1,000.00 application fee.
- Would need three readings of Council.
- Would need a Public Hearing of Objections.
- Would need views of the Planning Advisory Committee.

There is no guarantee that the process would be approved and the cost of the

MUNICIPAL PLAN REGULATIONS

The Municipal Plan MP20-01 for the Town of Saint Andrews does not have any regulations regarding liquor licences in the community. Section 2.5.2 Economic Policies state:

- (1) Council shall seek to provide an economic climate conducive to investment and the growth of year-round employment opportunities while protecting and enhancing the quality of life in Saint Andrews.

LIABILITY

When reviewing liability under the Liquor Control Act of the Province of New Brunswick, the liability for liquor licences falls on the sole parties/corporations who are the holders of licence. It is the responsibility



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of Public Safety to enforce the measures of the Liquor Control Act and any terms and conditions that are stipulated by the Town if referenced as such under the Zoning By-Law. The Town does not have any responsibility for enforcement under the Liquor Control Act or can be held liable for any actions that are taken by the parties/corporation, or the patrons that have consumed liquor at the businesses.

LEGAL

In speaking with Richard McPhee, Lawyer for the Town of Saint Andrews, he provided the following comments:

- If Council moves towards a only terms and conditions for Lounge Permits, this process will take away from the opportunity for three readings of the Council for consideration and discussion.
- For feedback opportunities from adjacent business owners and the public.
- Feedback from the Planning Advisory Committee.

It was also noted that there are already a variety of licenced premises operating in the Town of Saint Andrews with different rules and regulations, under Public Safety, regarding the service of food and liquor that Council and the public did not have a process of providing feedback. The only licence in which Council has more processes and regulations on is the Lounge Licence.

Mr. McPhee noted that it would still be under the control of Council to allow Lounge Licences with terms and conditions or to deny a Lounge Licence. The difference is that Council would only have to make terms and conditions with one motion of Council versus three motions with public and PAC consultation.

DISCUSSION/RECOMMENDATION

With limited requests for Lounge Licences in the Town of Saint Andrews, operations of various other licences allowed under Public Safety that do not need food served with liquor, and Council's focus, through the Municipal Plan, to make an economic climate conducive to growth, there is an opportunity for Council to adjust the Zoning By-Law to support local businesses seeking Lounge Licences. Key important factors to consider:

- Council will still hold control over the allowance of Lounge Licences with terms and conditions. If Council passed the amendment, they would be reducing the consultation process with the public, however, still hold terms and conditions that would be enforced by Public Safety.
- Other versions of liquor licences, i.e. manufacturing licences and special facility licences, are in operation in the community that do not include the need for food to be served. In addition, Council had no say in businesses acquiring and retaining these permits based on Zoning By-Law regulations.
- All enforcement measures are on Public Safety to enforce to the specific business. In addition, the RCMP are also responsible for enforcement measures outside of the business.



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- Liability falls on the business proprietors that serve liquor to customers and must follow regulations under Public Safety or can have enforcement measures such as fines, penalties, criminal charges, or revocation of permits.
- The Municipal Plan notes that the Town should be encouraging economic growth and the potential of businesses to succeed.
- That responsible business owners would follow the rules, terms, and conditions laid out by the Town and through Public Safety to ensure they comply and are able to maintain their licences to help with the operation of their businesses or be subject to fines, charges, or other processes under the Liquor Control Act.
- That the Town of Saint Andrews has Noise By-Law regulations that would need to be followed and can be implemented under terms and conditions.

Staff recommends that Council move Amendment Z22-03 to the Town of Saint Andrews Zoning By-Law Z22-01 regarding Section 3.33 (2) forward for First Reading, call for Public Hearing of Objections, and Obtain Views of the Planning Advisory Committee.

June 15, 2022

To: Saint Andrews Town Council
From Charlie Bartlett and Kelly Meighen

Regarding: Liquor license for Char & Chowder at 182 Water Street

Char & Chowder Restaurant operated from June 23, 2021 to the end of October 2021 at 182 Water Street.

We employed 16 full and part-time staff in an “open air” seating format with a bar area. Our patrons were enthusiastic about the concept and were strongly supportive of the casual atmosphere and what we believe was the quality of our menu.

We had many positive comments on the outdoor format, our family friendly atmosphere and the fact that tourists and families could join us without a reservation.

Our business model is based on a “take-out” format. Patrons walk up to our “Order” window, place both their drink and food order with a staff member and then choose a table in our fenced-in seating area. The food order is then either “run” to the table by staff – or is picked up by the patron at the “Pick-up” window. This detail is critical to our success. We can provide good service with less “floor staff” – a particularly critical aspect in the town’s tight employee pool. Equally important, it allows our staff to focus on providing good value and a superior food and beverage product.

We were open every day of the week – from morning to 11:00 pm (in compliance with the agreement with the Town).

In 2021 we operated on a temporary development approval from the Town, using two former shipping containers for the kitchen and washrooms. The agreement with the Town was that we would move through a “staged” development of the property beginning in 2022, which we have undertaken.

Our commitment to moving to a permanent structure begins with the construction of a traditional, architecturally sympathetic façade on Water Street whose roof line mirrors that of our neighbours to the west.

Upon review, the addition of the roof has required us to make some design changes to the structure to comply with building codes and these changes are underway.

On June 10th of this year, we were made aware that the Liquor Board had temporarily suspended our liquor license given our construction remediation requirements. At that time (June 10th or thereabouts) the staff at the Liquor Board became aware that they had issued the “wrong” license last year.

We have had a Special Facilities license which allows us to execute our business model of take-out, self-seating, foodless drinks along with the ability of our patrons to move around within the designated outdoor space.

The NB Liquor licensing staff believe we should be granted a Lounge License stating that this will work well for our needs and acknowledged that a Dining Room license will not allow us to provide our patrons with the same experience as well as requiring a larger staff.

As you are aware, Saint Andrews currently has a bylaw regarding new Lounge Licenses. This is thought to be intended to limit the number of late night “watering holes”. Last year we agreed to close at 11:00 pm which we intend to continue this year. We also target an older audience and families. We are not primarily a “drinks place” – evidenced by our alcohol percentage of revenue which is lower than the industry average.

Until the Town has determined the future of the bylaw, the Liquor Licensing office has offered to grant us a temporary Lounge License with conditions, including closing at 11:00pm.

My partner and I would very much appreciate the help of council and are asking for this temporary license. We have made a significant financial investment this year, based on the commitments made to us, with the hope that we will continue to grow a successful innovative business that will offer something to enhance the resident and visitor experience.

We are caught “between a rock and a hard place” and I think we are correct in stating that this is not of our doing.

Last year we were gratified to have many patrons express their delight in our casual “grass roots” approach to food hospitality. We were also thanked by a number of neighbouring establishments for being open seven days a week to help manage the Town’s influx of tourists looking for quality options. We look forward to doing even better on their behalf this year.

We require a Lounge License - for the sake of our staff, our service to Saint Andrews but most importantly for our business’s financial viability.

Thank you for your consideration.

Respectfully

Charlie Bartlett

www.CharAndChowder.com

St. Andrews, N.B

cell: (416) 526-7321



BY-LAW NO. Z22-03

A BY-LAW TO AMEND BY-LAWS NO. Z22-01, BEING THE ZONING BY-LAW FOR THE TOWN OF SAINT ANDREWS

BE IT ENACTED by the Council of the Town of Saint Andrews as follows:

1. By repealing paragraph (2) in Section 3.33 and substituting the following:

(2) Applications for a *licensed premises* featuring a lounge will be subject to such terms and conditions as may be imposed by *Council* upon the lounge license;

Read the first time this 20th day of June 2022.

Read the second time this ___ day of _____ .

Read the third time this ___ day of _____ .

Brad Henderson, Mayor

Paul Nopper, Clerk – Senior
Administrator

I, **Paul Nopper**, of the Town of Saint Andrews, in the County of Charlotte and Province of New Brunswick, Town Clerk, DO SOLEMNLY DECLARE:

1. THAT I am the Town Clerk of the Town of Saint Andrews, a municipal corporation, and have personal knowledge of the facts herein declared.
2. THAT the requirements of Sections 110 and 111 of the *Community Planning Act* have been complied with in respect to By-Law No. Z22-03, A By-law to amend By-Law No. Z22-01, Being the Zoning By-law for the Town of Saint Andrews.
3. AND I make this solemn declaration conscientiously believing to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Evidence Act*.

DECLARED before me at
the Town of Saint Andrews,
in the County of Charlotte
and Province of New
Brunswick, this ____ day of
____, ____

COMMISSIONER OF OATH

Paul Nopper, Clerk – Senior
Administrator

Town of Saint Andrews Zoning By-Law Z22-01 Section 3.33 Licenced Premises

3.33 Licenced Premises

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