

RE: CHANGES IN THE MUNICIPAL ROLE IN CONSIDERATION OF  
LIQUOR LICENSE FACILITIES  
(ITEM 3, MANAGER'S REPORT NO. 38, 1988 MAY 24)

ACTING MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendations of the Director Planning & Building Inspection be adopted.

TO: MUNICIPAL MANAGER 1988 JUNE 21

FROM: DIRECTOR PLANNING &  
BUILDING INSPECTION

SUBJECT: CHANGES IN THE MUNICIPAL ROLE IN CONSIDERATION  
OF LIQUOR LICENSE FACILITIES

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RECOMMENDATIONS:

1. THAT the Burnaby Zoning Bylaw be amended to include the C2a Community Commercial District and the C3a General Commercial District designations, and that the Municipal Solicitor be authorized to prepare the necessary text amendments for initiation of a formal Amending Bylaw and submission to a Public Hearing.
2. THAT Council adopt as its policy the requirement that all applicants applying for a retail beer and wine store be required to deposit sufficient monies with the Municipality in order to conduct a neighbourhood survey.
3. THAT a copy of this report be sent to the General Manager of the Liquor Control and Licensing Branch in Victoria, and Mr. Glen Stearn, Area 1 Inspector.

R E P O R T

1.0 BACKGROUND INFORMATION:

- 1.1 On 1988 May 24 the Director Planning & Building Inspection submitted a report to Council regarding municipal involvement in the approval of retail beer and wine stores. The report stated that the approval of the local Municipal Council is now included as part of the Provincial approval process and that a further report would be submitted to Council recommending a processing procedure for Municipal consideration of these applications and outlining a set of general guidelines to be utilized for assessing such applications.
- 1.2 In addition to the above-noted change in Provincial procedure regarding the approval of retail beer and wine stores, the Liquor Control and Licensing Branch has implemented a number of other changes over the last year regarding Municipal involvement in the approval of changes to existing liquor license establishments and new liquor license facilities. The Municipal involvement in these changes is outlined as follows:

i) The Liquor Control and Licensing Branch stipulated that it will not accept applications for Class "A", "C", "D", and "F" licenses unless there is a written resolution by the Municipal Council indicating their position on the application.

A full report was received by Council on 1987 October 26 regarding this matter and the procedure and guidelines to be utilized for assessing such applications. The recommendation of the Director Planning & Building Inspection was adopted by Council at that time.

For information, these categories of liquor licenses apply to different classes of establishments as follows:

Class "A": Hotels, resorts, establishments in resort areas, clubs, recreational centres, aircraft, trains, motor vehicles, airports, municipally and provincially owned cultural centres, universities and military messes.

Class "C": Cabarets.

Class "D": Neighbourhood Public Houses.

Class "F": Marine Public Houses.

Applicants for Class "D" Neighbourhood Public Houses are required by the Liquor Control and Licensing Branch to have an independent marketing firm conduct a neighbourhood survey of all the residents and businesses within one half mile of the site. In order for the Liquor Control and Licensing Branch to continue processing the application, the referendum must indicate that at least 60% of those voting are in favour of the proposed pub.

On 1975 July 17, Council adopted a policy endorsing an administrative procedure for dealing with applications for neighbourhood pubs, which established the conducting of the neighbourhood referendum as a requirement of Council prior to Council adopting a resolution on the subject neighbourhood pub application. The adopted administrative procedure allows the Municipality to take an active role in scrutinizing the methodology proposed by the independent marketing firm and to retain sufficient monies deposited by the applicant for the conducting of the survey to meet the costs involved.

ii) The Provincial Government changed the Liquor Control and Licensing Act to allow Class "C" cabarets to increase their capacity from 225 seats to 350 seats. As part of the application, the applicant is required to submit a letter from the municipality commenting on the requested increase. A resolution of Council is not required.

iii) Municipalities are now being asked to comment on applications to expand the seating capacity or alter the hours of operation of prime licensed facilities, which includes virtually all licensed facilities in Burnaby, with the exception of restaurants. A resolution of Council is not required.

iv) The Liquor Control and Licensing Branch recently lifted the moratorium on Licensee Retail Stores (retail beer and wine stores). Under the new procedure, full service hotels and neighbourhood pubs which are presently licensed or who have applied for pre-clearance approval by 1988 May 03 are eligible to apply for a retail beer and wine store. Municipal Council approval is required as part of the application.

The Liquor Control and Licensing Branch has indicated that a neighbourhood survey will be required for those applications in connection with neighbourhood pubs while the General Manager of the Liquor Control and Licensing Branch will determine whether or not a survey is required in connection with those applications related to a full service hotel.

## 2.0 GENERAL DISCUSSION:

- 2.1 In light of the amount of interest expressed in establishing retail beer and wine stores in recent months, the Municipality's experience with the only existing retail beer and wine store in Burnaby (at Greystone Village) and the potential for problems created by such facilities, this Department has concluded that the processing of applications for such facilities warrants thorough consideration by Municipal staff and Council, including any appropriate public input.
- Staff have concluded that the potential exists for serious negative social impacts if applications for establishment of retail liquor outlets are not assessed in a thorough manner, with regards to adjacent land uses and in particular, the location of adjacent institutional uses such as public or private schools. The term "retail liquor outlets" is intended to refer to all retail stores that sell liquor for consumption off the premises, as distinguished from liquor license facilities, such as neighbourhood pubs, cabarets and lounges. The chief social concerns relate to youth problems and potential residential neighbourhood disruption.

Through the establishment of separate zoning categories in which retail liquor outlets would be the sole permitted use, the Municipality would be able to ensure that retail liquor outlets are located in suitable locations with a minimum potential for various types of social and neighbourhood disruption. In this regard the C2 District and C3 Districts are considered to be the most suitable zones through which liquor outlet locations should be assessed in terms of the appropriate commercial orientation, as these commercial districts are designed to serve shopping needs ranging from the residents of several neighbourhoods up to consumers at a municipal level. The establishment of a sub-designation within the C2 and C3 District (C2a and C3a), with "retail liquor outlets" identified specifically as a permitted use, and the insertion of a suitable definition of the term "retail liquor outlets" in Section 3 of the Zoning Bylaw is recommended.

The intention of establishing these new zoning districts would be to ensure that all retail liquor outlets in Burnaby be assessed for suitability of location through a rezoning process, under an application to rezone to the C2a District or the C3a District, (including government liquor stores). As all existing government liquor stores are located in either the C2 District or the C3 District, it would be necessary to rezone each store to the respective C2a District or C3a District, if this approach is approved by Council, and if it is intended that non-conformity of use is to be avoided and the respective locations are considered appropriate.

Staff also considered recommending that night clubs, neighbourhood pubs and Class "A" hotel pubs be included as being required to be rezoned to the C2a or C3a District, but chose not to forward such a recommendation at this time due to the resultant non-conformity that might be created as well as uncertainty as to the need for such a text amendment.

With regards to the establishment of new night clubs, neighbourhood pubs and cabarets, as well as the continuing operation of this type of liquor license facility, these liquor license facilities and the process through which they are approved will be monitored by this Department to ascertain if sufficient control can be administered by the Municipality to ensure that these facilities are compatible with adjacent neighbouring residential areas. If staff are not satisfied that the present administrative procedure for approving night clubs, neighbourhood pubs and cabarets is adequate, the requirement that these liquor license facilities also be assessed for suitability of location through a rezoning process and that the uses be included in the appropriate "a" designation will be considered by this Department.

2.2 Another item of concern staff have regarding the processing of applications for retail beer and wine stores is the apparent uncertainty in connection with the conducting of surveys for those applications related to hotels. The Liquor Control and Licensing Branch has stipulated that a survey will be required for those hotels located in an area that is predominantly residential. The judgment as to whether the hotel is located in a residential area is with the discretion of the General Manager of the Liquor Control and Licensing Branch and is not currently within the control of the Municipality.

The only experience this Department has had with regards to this new decision making process through the General Manager of the Liquor Control and Licensing Branch is with the North Burnaby Inn, in which the applicant was informed that the hotel is not completely within a residential area and a survey would not be required. The Planning & Building Inspection Department would consider this case to be a good example of an instance where the establishment of a retail beer and wine store could have a significant impact on the adjacent residences, particularly the apartments to the north on Albert Street and where the residents should be allowed to provide their input.

In light of concerns over this application and other potential problems with regards to this Provincial policy, this Department recommends that the uncertainty on the conducting of surveys in Burnaby be removed and that all residents within one-half mile of a potential retail beer and wine store site be given the opportunity to state their position, through Council establishing the successful completion of the referendum as a requirement prior to Council's consideration of final approval of a retail beer and wine store. It is also recommended that Burnaby continue to act as the independent marketing firm's client for the conducting of such surveys in order to avoid possible conflict of interest situations and to maintain Municipal control over the survey methodology.

2.3 In light of the anticipated increase in the number of surveys that will be required to be conducted for the Municipality and the relatively nominal amounts involved for the cost of each survey, this Department would propose to revise its practice with regards to the selection of the independent marketing firms that will conduct the survey, in order to streamline the process. In order to save time for both the independent marketing firms and the Municipality and to provide a more efficient service for the applicant, this Department intends to work with the Purchasing Agent to solicit bids from all the eligible marketing firms (predetermined by the Liquor Control and Licensing Branch) in order to allow the selected firms to conduct neighbourhood surveys for a two year period. The tender notification would outline the minimum required survey methodology and establish a unit through which the marketing firms would base their bid.

Upon receiving and assessing all the bids, a report would be submitted to Council recommending the selection of two marketing firms to be utilized on a rotating basis during the two year period. The Municipal Purchasing Agent supports this approach, which would not be inconsistent with existing established purchasing practice guidelines. A further report will be submitted to Council in this regard once this Department has received the proposals from the various marketing firms.

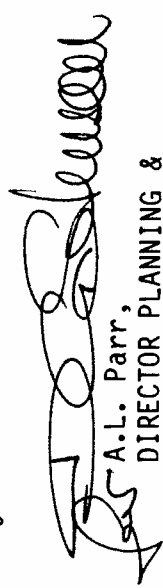
2.4 With regards to the Liquor Control and Licensing Branch request for Municipal comments on other liquor license matters, such as an expansion of the permitted seating area or extension of operating hours, unless otherwise directed by Council, staff propose to continue to process such requests in a manner similar to the established practice.

This would involve an applicant being required to formally make a Liquor License Application to the Planning & Building Inspection Department, upon which comments would be sought from all relevant Municipal Departments, including the R.C.M.P. After consideration of the information received and an evaluation by Planning staff, a report would then be submitted to Council with a recommendation concerning the proposed change in the liquor license operation, with the Council position then forwarded to the applicant and the Liquor Control and Licensing Branch.

2.5 The previously discussed changes in Provincial government policy requesting Municipal comments or a Council resolution on various liquor license matters have significantly increased the liquor license related work being administered by staff. In order to make the work created by these requests cost-recoverable to some degree, this Department considers that a \$100.00 application fee would be warranted, to apply to liquor license related applications, in order to at least partially offset the cost of processing. It is also proposed that Burnaby require that all applications that involve a survey processed by this Department be required to submit a further \$200.00 as part of the application. The proposed fees are subject to further discussion with the Municipal Solicitor, and will be the subject of a further report to Council.

3.0 SUMMARY AND CONCLUSION:

3.1 In response to a number of changes in Liquor Control and Licensing Branch policy regarding municipal involvement in liquor license matters, the Planning & Building Inspection Department are recommending a number of changes in the manner in which such requests for Municipal input are processed. In order to ensure that new liquor outlets, including retail beer and wine stores are located in suitable locations with a minimum of social and neighbourhood disruption it is recommended that the C2a District and the C3a District be included in the Burnaby Zoning Bylaw, with retail liquor outlets listed as a permitted use. It is also recommended that Council require that a survey be conducted in conjunction with all applications for retail liquor outlets in order to remove any uncertainty regarding the process and to allow the affected residents the opportunity to provide their input. Staff are also proposing that an application fee be instituted for Council consideration of liquor license applications and an additional fee be charged for processing a required survey.

  
A.L. Parr,  
DIRECTOR PLANNING &  
BUILDING INSPECTION

BW:jm/ap

cc: Municipal Solicitor  
Chief License Inspector  
Purchasing Agent

