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THE CORPORATION OF THE DISTRICT OF CENTRAL SAANICH

Minutes of the **PLANNING AND DEVELOPMENT COMMITTEE** Meeting
Monday, May 10, 2004 at 7:13 p.m.
Central Saanich Municipal Council Chamber

PRESENT: Councillor Robert Thompson, Chair
Mayor Allison Habkirk
Councillors: Graham, Haddon, King, Korol and Mason
Gary C. Nason, Administrator
Trish Flanders, Municipal Clerk
Hope V. Burns, Director of Planning & Building Services
Nirmal Bhattacharya, Municipal Engineer

APPROVAL OF THE AGENDA:

The Administrator, Mr. Gary C. Nason, noted the addition to the agenda of the following late item:

- Proposed Resolutions from Councillor Thompson Re: Proposed Rezoning Application – Four Properties, Southeast Corner of Keating Cross Road and West Saanich Road (Proposed Hotel, Restaurant, Conference Centre, Accessory Retail Space), to be included as Item 4;

During a brief discussion, the Committee suggested that the proposed motions from Councillor Thompson be referred to the May 17th, 2004 Regular Council Meeting for discussion;

634.04 MOVED BY COUNCILLOR KOROL
NO SECONDER

That the Agenda for the Planning & Development Committee Meeting held on May 10, 2004 be approved as circulated.
CARRIED UNANIMOUSLY

1. Liquor Control and Licensing Regulations & Procedures

The Administrator, Mr. Gary C. Nason, introduced Ms. Mary Freeman, Acting General Manager of the Provincial Liquor Control and Licensing Branch. Ms. Freeman introduced her colleague, Ms. Cheryl Caldwell, who advised that she would give an overview of the new Provincial Liquor Regulations; how these Regulations have changed since December 2002; and the role of Local Government with respect to these Regulations. She advised that the key changes were made to Licensee Retail Stores, regulations pertaining to two new license classes (Food Primary and Liquor Primary), and the recent changes to occupant load calculations. She then proceeded to give a comprehensive overview of the Provincial Liquor Control and Licensing Regulations and Procedures, during which time the following points were noted:

Licensee Retail Store Regulations:

- Moratorium temporarily lifted from August to November 2002
- Eligibility for licensing retail stores was restricted to existing pub and bar owners
- 525 applications were received, and 139 have been licensed to date
- Changes were made to allow the relocation of retail stores away from liquor primary site

General Manager will issue license if:

- Meets previously stated criteria
- Property zoning is in place
- Applicant has satisfactory compliance history
- General Manager retain authority to refuse to issue license if contrary to the public interest

Two New License Classes: Liquor Primary and Food Primary

Liquor Primary

- Restricted to businesses primarily oriented to beverage service, entertainment or hospitality, and does not include movie theatres, take-away establishments, motor vehicles, video game arcades and businesses primarily frequented by minors

Food Primary

- Food primary establishments must maintain a primary focus on food during all hours of operation
- Able to serve any type of liquor
- Games permitted as long as they do not alter primary focus on the service of food
- Liquor service hours are the same as liquor primary
- No prohibition on standing service

Occupant Load

- Maximum capacities no longer set in regulation
- Person capacity will equal occupant load for all new applications or changes to licenses
- Occupant load is calculated as the least number of persons allowed in a licensed establishment under:
 - The Provincial Building Regulations
 - The Fire Services Act and the BC Fire Code Regulations
 - Any other safety requirements established by Local Government Bylaw
 - Existing licensees can apply for a one-time increase

Restaurant Lounges

- Food primary establishments with a minimum capacity of 50 may apply for a lounge where the primary focus may be liquor service
- Capacity of the lounge is the lesser of 40 persons or 20 percent of the interior capacity of the establishment
- Minors permitted in a lounge with an adult

Liquor Primary application process

- Branch assesses application for compliance with requirements of the Act (e.g. “fit and proper” and no tie to a liquor manufacturer or UBrew)
- If acceptable, applications are forwarded to Local Government or First Nation for resolution recommending whether the license should be issued
- General Manager considers resolution and decides whether license should be issued
- General Manager review floor plans, conducts final inspection and grants license
- Local Government or First Nation must consider:
 - Location of the establishment
 - Proximity of the establishment to other social or recreational facilities and public buildings
 - Person capacity and hours of liquor service
 - Number and market focus or clientele of liquor primary establishments within a reasonable distance
 - Traffic, noise, parking and zoning
 - Population, population density and trends
 - Relevant socio-economic information
 - The impact on the community if the application is approved
- Local Government or First Nation must collect the views of residents if it considers that the operation of the establishment may affect them
- Local Government determines how to gather these views
- Resolution must be provided within 90 days unless an extension is authorized by the General Manager
- The Liquor Control and Licensing Branch may override Local Government or First Nation recommendation if the Local Government or First Nation has not met the regulatory requirement or if the resolution is contrary to the public interest
- Local Government and First Nation may opt out of the process
- Local Government and First Nation may recover costs associated with assessing applications

Food Primary application process

- Local Government and First Nation are not involved in licensing process except if application requests liquor service beyond midnight or patron participation entertainment

Amendments to Licenses

- Local Government and First Nation input is required for:
 - Amendments to liquor primary and winery lounges respecting hours, capacity and addition of a patio
 - Amendments to food primary respecting patron participation entertainment and liquor service hours beyond midnight
- General Manager must take into account comments received from Local Government or First Nation
- Local Government or First Nation must consider the following:
 - The potential for noise if the application is approved
 - The impact on the community if the application is approved
- For food primary licenses, Local government or First Nation must also consider whether the amendment may result in the establishment being operated in a manner that is contrary to its primary purpose
- Local Government or First Nation must collect the views of residents if it considers that the amendment may affect them

Impact on Bylaws

- Local Governments retain authority under *Local Government Act* to regulate business within their areas of jurisdiction
- Local Governments may continue to use existing terms for licensed establishments but may need to amend definitions
- Local Governments retain the ability to restrict or prohibit types of entertainment

A lengthy question and answer session took place in regards to the Liquor and Food Primary application processes, manufacturer licenses, lounge and picnic endorsements, retail stores, special occasion licenses (public function and private function), licenses for banquet facilities, and the "Committee to Approve Public Events (CAPE)" program.

- 635.04 MOVED BY MAYOR HABKIRK
 NO SECONDER
 That It Be Recommended To Council:

That the presentation from the representatives from the Provincial Liquor Control and Licensing Branch be received with thanks, and Staff be requested to provide further information to Council in regards to the "Committee to Approve Public Events (CAPE)" Program for approval of Special Occasion Licenses.

CARRIED UNANIMOUSLY

The Committee thanked Ms. Freeman and Ms. Caldwell for their informational presentation.

Due to a potential conflict of interest on the following item, Councillor Thompson took his leave from the meeting at 7:46 pm. Councillor Thompson stated that he is involved with a direct farm marketing issue related to the Victoria Estate Winery.

Councillor Korol assumed the Chair.

2. Proposed Rezoning for Restaurant Use, Victoria Estate Winery – 1445 Benvenuto Avenue

- a) Staff Memorandum dated May 5, 2004 from Hope V. Burns, Director of Planning & Building Services Re: Proposed Rezoning for Restaurant Use, Victoria Estate Winery – 1445 Benvenuto Avenue;
- b) Correspondence received pertaining to this issue:
- Scott McKinnon, Just Joeys Restaurant, November 21, 2003
 - Gerald and Elizabeth Puttergill (3 letters), December 2, 2003, February 10 and 24, 2004
 - Victoria Estate Winery (3 letters), December 10 and 11, 2003, April 13, 2004
 - Peter and Katherine Tyson (2 letters), February 17 and March 9, 2004
 - Dave Thomas, February 20, 2004
 - Robin and Betsy Dening, February 23, 2004
 - Gary E. Coad, February 13, 2004
 - Leo and Leona Friss, February 27, 2004
 - Central Saanich Ratepayers Association, March 5, 2004

The Director of Planning & Building Services, Ms. Hope V. Burns, gave a comprehensive overview of the Staff Memorandum in regards to the Proposed Rezoning Application for Restaurant Use at the Victoria Estate Winery, and responded to several questions from members of the Committee.

Mr. Frank Edgell, representing the Victoria Estate Winery located at 1445 Benvenuto Avenue, introduced Mr. Edd Moyes, General Manager of Victoria Estate Winery. Mr. Edgell displayed original and proposed floor plans for the winery site and proceeded to give an informational presentation on the proposed Rezoning Application for Restaurant Use, during which time the following points were noted:

- The Winery conducted two Public Information Meetings: the first meeting resulting in a significant amount of negative feedback to the original proposal. As a result, several modifications were made to the Rezoning Application which were presented at the second meeting. Favourable response was received from the public who attended that meeting;
- The manufacturing and wine tasting areas, as well as the barrel storage room, are located in the lower floor of the Winery building;
- The winery lounge and patio lounge are located on the main floor of the Winery building; food will be available in both areas;
- The Winery is only allowed to serve wine that is manufactured through its own operations, and no other alcoholic beverages can be served;
- The current liquor license is for 188 people, with 54 on the outdoor patio deck and 134 in the winery lounge located inside the building;

- Victoria Estate Winery is not seeking to increase the seating capacity of its current liquor license; however, the Winery would like to be able to have as many as 90 people on the outdoor patio deck rather than the current limit of 54. Under the current license, the Winery is not able to accommodate its outdoor patio deck patrons to an inside area during inclement weather, notwithstanding the fact that the building is authorized to be occupied by a total of 316 people.
- Permission is being sought for a commercial kitchen within the Winery building to serve the winery lounge patrons;
- The Winery's "Good Neighbour Policy" was received positively by the local community; the intent of the policy is to minimize concerns respecting noise from the Winery operations and events;
- Measures have been undertaken to change the sound system on the patio deck to mitigate noise complaints.

A very lengthy question and answer session ensued with the Applicant, during which time the following points were made:

- ALC Regulations indicate that 125 m² floor space (indoor or outdoor) is equivalent to a seating capacity of 65 persons, for a total of 130 seats which is well below the Winery's current licensed allowable person capacity;
- Clarification is required in regards to the differences between the existing and proposed licenses with respect to occupant load, person capacity and seating capacity of the Winery's licensed areas;
- Members of the Committee expressed concern with the significant difference in the information that is being presented by the Applicant and Staff;
- The Committee felt that it would be helpful if the Victoria Estate Winery would provide the District with a copy of its current Liquor License, as well as written clarification on its various licensed areas and the Provincially-approved conditions for the Winery's License.

636.04 MOVED BY COUNCILLOR GRAHAM
NO SECONDER
That It Be Recommended To Council:

That the Memorandum dated May 5, 2004 entitled "Proposed Rezoning for Restaurant Use, Victoria Estate Winery – 1445 Benvenuto Avenue" be received, and the Victoria Estate Winery be requested to submit to the District a copy of its Provincially approved Liquor License for its various licensed areas, and clarification be sought from the Liquor Control and Licensing Branch and the Agricultural Land Commission as required in regards to issues related to the Occupant Load, approved Person Capacity and current number of seats in the Winery's various licensed areas.

CARRIED UNANIMOUSLY

637.04 MOVED BY COUNCILLOR KING
NO SECONDER
That It Be Recommended To Council:

That in connection with the above motion the Victoria Estate Winery be requested to provide its clarification on the various afore-noted issues in writing, including a complete synopsis of the Province's approved conditions for the Winery's interior and outdoor patio lounge and picnic endorsements for its Manufacturer's (Winery) Liquor License.

CARRIED UNANIMOUSLY

At this time, the Chair opened the floor for comments from the various letter writers.

It was noted that Mr. Scott McKinnon, Just Joeys Restaurant, was not in attendance at the meeting.

Mr. Gerald Puttergill, 6630 West Saanich Road, briefly commented on the Winery's "Good Neighbour Policy" and the Winery's attempts to address some of the concerns of the immediate neighbourhood. However, he stated that the Policy does not speak to abatement of noise that is emanating from the patio itself. He further stated that the Winery is seeking to increase the number of

people on the outdoor patio to a maximum of 90 people, which greatly concerns him. Mr. Puttergill advised that on three separate occasions, he asked the Winery representatives how they intended to address the noise and he has never received a response.

It was noted that Peter and Katherine Tyson, 1550 McHattie Road, were not in attendance at the meeting.

It was noted that Dave Thomas, 1490 Kersey Road, was not in attendance at the meeting to address his correspondence.

It was noted that Robin and Betsy Dening, 1395 Benvenuto Avenue, were not in attendance at the meeting.

Mr. Gary E. Coad, 1231 Garden Gate Drive, expressed concern that the Winery's "Good Neighbour Policy" was only developed after a year of complaints from the immediate neighbourhood, and that he is opposed to the proposed Rezoning Application.

Mrs. Leona Friss, 6666 West Saanich Road, advised that the Winery started out as a small Winery with a "Mediterranean style" deli and that it should be left that way. She stated that if Council agrees to take this land out of the Agricultural Land Reserve, it would be making a huge mistake.

Mr. Peter King, representing the Central Saanich Ratepayers Association, addressed the contents of the Association's correspondence which advised that the Association is not supportive of a zoning change for the Winery and that the Winery's existing operations be upheld and restricted to its current zoning.

Mr. Fred Peet, 1210 Marin Park Drive, stated that he recently obtained a copy of the Winery's current Liquor License from the Province which expired on March 31st, 2004, and that the license authorizes 54 people outside and 134 people inside. However, the Agricultural Land Commission authorizes a total of 130 seats for these two areas. Mr. Peet suggested that Council not give any further consideration to this matter until it receives clarification from the Province and the Applicant in regards to the apparent discrepancies in the allowable and licensed seating capacity.

638.04 MOVED BY COUNCILLOR HADDON
NO SECONDER
That It Be Recommended To Council:

That upon suitable clarification of the afore-noted issues, this application be referred back to a future Committee Meeting for further discussion.

CARRIED UNANIMOUSLY

Councillor Thompson returned to the meeting at 8:30 pm.

3. Development Variance Permit Application, 770 Sea Drive

- a) Staff Memorandum dated May 4, 2004 from Hope V. Burns, Director of Planning & Building Services Re: Development Variance Permit Application, 770 Sea Drive.

The Director of Planning & Building Services gave a comprehensive overview of the Staff Memorandum pertaining to the proposed Development Variance Permit Application in connection with property located at 770 Sea Drive, and responded to questions from members of the Committee.

Mr. Wayne Midlane, property owner, provided a brief overview of his Development Variance Permit Application to vary the setbacks and building height to allow the construction of a new residence at 770 Sea Drive. He advised that the topography of the site, the restrictions of a panhandle lot and the required setbacks from the sea have made this a very challenging site to develop.

Mr. Tim Hackett, 766 Sea Drive, advised that he has no objection to the development of a new home on his neighbour's property, however he is opposed to the application as presented because of the proposed height and width of the new residence. Mr. Hackett advised that an agreement exists between the property

owner and himself that the encroachment onto his property located at 766 Sea Drive would be removed within 18 months. He expressed concern that the proposed new residence will impact his waterfront views.

639.04 MOVED BY MAYOR HABKIRK
 NO SECONDER
 That It Be Recommended To Council:

That the Staff Memorandum dated May 4, 2004 entitled "Development Variance Permit Application, 770 Sea Drive" be received, and:

1. *Council propose to consider the issuance of a Development Variance Permit to vary:*
 - *the maximum allowable building height from 4.5 metres (panhandle lot) to 6.4 metres;*
 - *the minimum allowable west sideyard setback from 3.0 metres (required both sides for panhandle lot) to 1.5 metres;*
 - *the maximum allowable front yard setback from 7.5 metres to 1.21 metres;*
 - *the maximum allowable driveway grade from 15% to approximately 25% (existing driveway grade); and*
2. *Staff be instructed to undertake the required statutory notification procedures.*

CARRIED UNANIMOUSLY

ADJOURNMENT:

On motion, the Planning & Development Committee Meeting held on May 10, 2004 adjourned at 8:45 pm.

Recorded By: Trish Flanders
Municipal Clerk