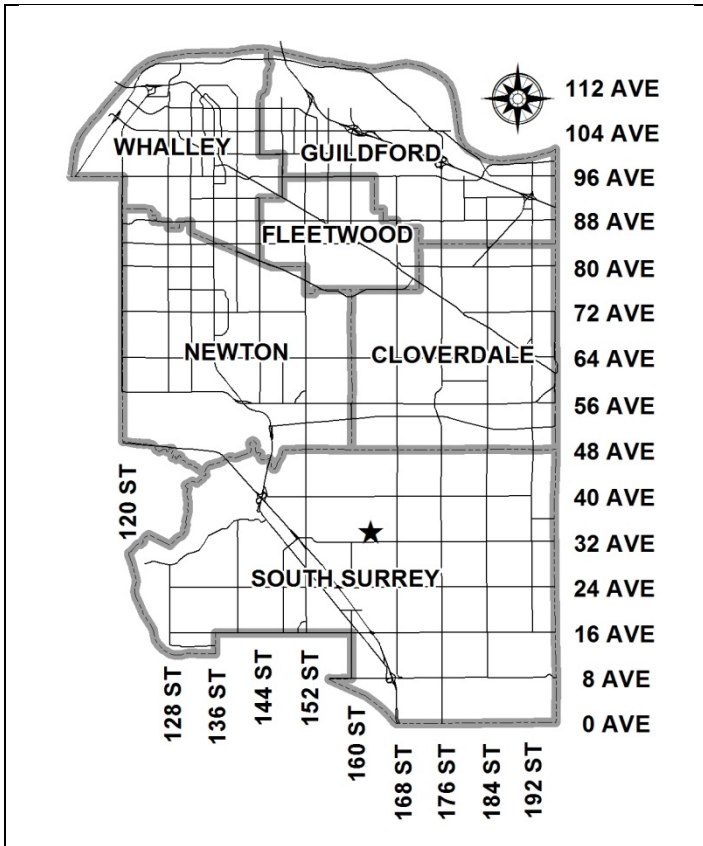


City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7915-0137-00

Planning Report Date: September 14, 2015

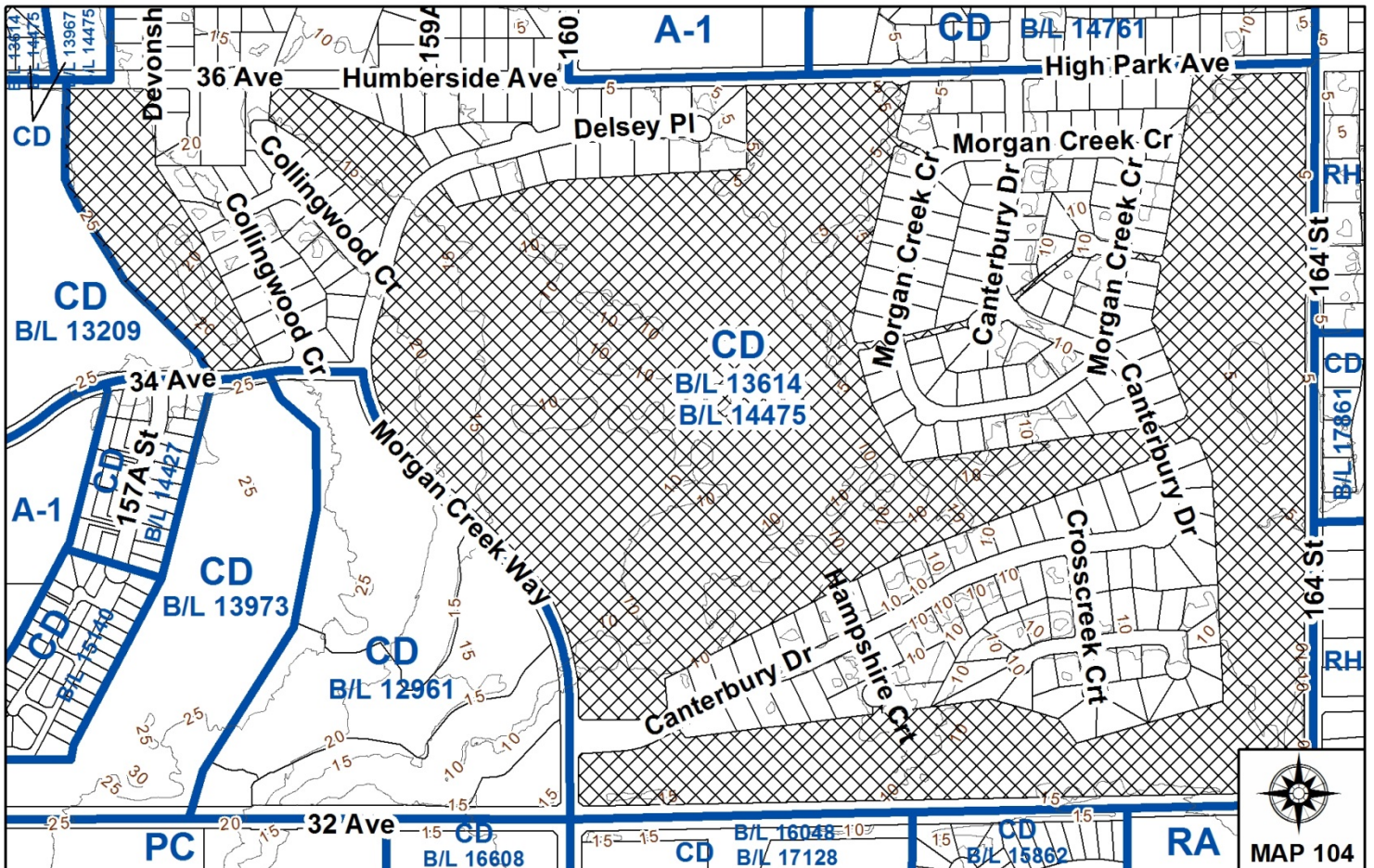


PROPOSAL:

- **Liquor License Amendment**

to allow patron participation entertainment (private functions) for an existing food primary licensed establishment.

LOCATION: 3500 - Morgan Creek Way
OWNER: Morgan Creek Holdings Inc.
ZONING: CD (By-Laws No. 13614, No. 14475)
OCP DESIGNATION: Suburban



RECOMMENDATION SUMMARY

- Approval of the proposed liquor license amendment to proceed to Public Notification.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- None.

RATIONALE OF RECOMMENDATION

- The business has a valid Food Primary License, and currently operates from 11 am to 1 am, Monday to Saturday, and 11 am to midnight on Sundays.
- Proposal complies with the Liquor Control & Licensing Branch for hours of patron participation entertainment to end at midnight.
- In accordance with City Policy No. M-25, as a condition of their business license, food primary licenses with patron participation endorsement are required to enter into a Good Neighbour Agreement, and therefore any neighbourhood concerns can be addressed.
- The proposed addition of patron participation entertainment is not expected to negatively impact the neighbourhood.
- The business currently operates with live and pre-recorded music (license for special events). This amendment would allow patrons to dance and sing to the music being played (at private functions only).
- The proposal for patron participation is restricted to private functions and pre-booked events, such as weddings, retirement parties, anniversaries, birthdays and corporate events.
- The RCMP, the Fire Department and By-Laws and Licensing Division have no concerns with the proposal.

RECOMMENDATION

The Planning & Development Department recommends that Council approve the following proposed amendment to food primary liquor license to proceed to Public Notification:

- (a) The addition of patron participation entertainment, restricted to private functions.
2. Council instruct staff to resolve the following issue prior to final approval:
- (a) Execution of a Good Neighbour Agreement with the City.

REFERRALS

Engineering: The Engineering Department has no objection to the project.

Surrey RCMP: No concerns.

Surrey Fire Department: No concerns.

Surrey By-laws & Licensing Services: No concerns.

SITE CHARACTERISTICS

Existing Land Use: Morgan Creek Golf Course and restaurant

Adjacent Area:

Direction	Existing Use	OCP/NCP Designation	Existing Zone
North (Across Morgan Creek way):	Single family dwellings	Suburban	CD (By-Laws No. 13614, No. 14475)
East:	Single family dwellings	Suburban	CD (By-Laws No. 13614, No. 14475)
South:	Single family dwellings	Suburban	CD (By-Laws No. 13614, No. 14475)
West (Across Morgan Creek Way):	Townhouses and vacant lot	Urban / Townhouses	CD (By-Law No. 12961)

DEVELOPMENT CONSIDERATIONSBackground and proposal

- The subject site is located at 3500 - Morgan Creek Way, in South Surrey, north of 32 Avenue, east of the Rosemary Heights Central Neighbourhood Concept Plan. The site is designated Suburban in the Official Community Plan (OCP).

- The property is large, and includes the entire golf course; however, this application is relevant to the club house, which is located on the east side of Morgan Creek Way, opposite 34 Avenue.
- The site has a current license for Food Primary License (#167533). The hours of operation are 11 am to 1 am Monday to Saturday, and 11 am to midnight on Sundays. The license is for sale and consumption of all types of liquor, with a primary focus on service of food.
- The capacity is currently a total of 427 patrons indoors, and 211 on the outdoor patios. No changes in capacity are proposed.
- The applicant often applies for temporary licenses for non-patron participation entertainment, which includes pre-recorded music and live bands, but does not allow patrons to dance or sing. These temporary licenses are for schedule events, such as weddings and private parties.
- Patron Participation Entertainment, as defined by the Guide for Liquor Licensees in British Columbia, refers to entertainment that patrons may participate in, such as karaoke or "dine and dance".
- This proposal is for the addition of patron-participation entertainment, in the form of dancing and singing to live and pre-recorded music. Patron participation is proposed to be limited to private functions and pre-booked events, such as weddings, retirement parties, anniversaries, birthdays, corporate events, etc.

Applicant's Rationale

- The nature of the establishment is such that no noise impact is expected on the community and the establishment will not operate contrary to its primary purpose as a food primary licensed establishment.
- The patron participation will end at midnight, as stated by the Liquor Control and Licensing Branch (LCLB).
- Morgan Creek Golf Course has a positive record with the LCLB, the City of Surrey and the RCMP.
- Having patron participation entertainment endorsement will offer added amenity and greater flexibility for the enjoyment of the patrons.
- No significant changes are proposed to the operation of the establishment. Music is already being played, and this application will allow patrons to dance and sing to the music.

Liquor License Amendment

- The LCLB requires that the applicant secure local government endorsement before an application can be considered for approval by the LCLB.

- The LCLB also requires that Council comment on how the site satisfies a specified list of criteria to ensure that adequate consideration has been given to the application by the local government. The analysis of the three criteria for this site is provided as follows:

a) Potential for Noise

- The subject site is located within a golf course. The club house where the restaurant is located is situated along Morgan Creek Way, close to the 34 Avenue intersection. There are single family dwellings across the street on the north side of Morgan Creek Way, which are buffered from the club house by landscaping and parking. The closest dwelling to the club house is approximately 70 m [300 ft.] away. Hours of operation are not proposed to be changed.
- The business is currently licensed to have live and pre-recorded music, but without patron participation. This application will add dancing and singing, restricted to private functions only (not open to the general public). Therefore, an increase in the noise levels is not expected.
- The applicant has agreed to a Good Neighbour Agreement that will address any noise concerns from the establishment or from the patrons entering and exiting the establishment.
- It is not anticipated that the neighbouring properties will be adversely impacted by any noise resulting from the proposed addition of patron participation entertainment.

b) Impact on the Community

- As outlined above, the closest dwelling to the club house is approximately 70 m [300 ft.] away. Hours of operation are not proposed to be changed.
- Both the RCMP and Surrey By-laws and Licensing Services have no concerns with the proposed liquor license amendment.
- The addition of patron participation in the form of dancing and singing is not expected to adversely impact the neighbouring properties. Patron participation will be restricted to private functions and pre-booked events, such as weddings, retirement parties, anniversaries, birthdays and corporate events.

c) Operation of the Establishment

- The main purpose of the restaurant (food primary license) is to provide food service. The addition of patron participation entertainment in the form of dancing and singing is not expected to change the overall market focus, and therefore, will not result in the establishment being operated in a manner that is contrary to its primary purpose.

PRE-NOTIFICATION

Pre-notification letters were sent on May 25, 2015. Staff received twenty (20) emails and phone calls expressing concerns:

- Concerns with increase in noise levels.

(Patron non-participation is already provided, and the patron participation is not expected to increase the noise levels. The owner has agreed to enter into a Good Neighbour Agreement).

- Concerns with karaoke.

(Karaoke was initially listed on the Development Proposal Sign and the Pre-notification Letter. After receiving concerns from the community, the applicant clarified that karaoke is only proposed as part of private functions, and will not be open to the general public. The reference to karaoke was since removed from the Development Proposal Sign, and the Planning Report further clarifies that karaoke is only proposed in the context of a private function).

- Concerns with safety.

(No events open to the general public are proposed, and the events with patron participation will be restricted to private functions only [weddings, retirement parties, anniversary parties, corporate functions...]. The owner has agreed to enter into a Good Neighbour Agreement).

TREES

- No trees will be impacted by this proposal.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I.	Lot Owners, Action Summary and Project Data Sheets
Appendix II.	Location Map
Appendix III.	Good Neighbour Agreement

original signed by Nicholas Lai

Jean Lamontagne
General Manager
Planning and Development

Information for City Clerk

Legal Description and Owners of all lots that form part of the application:

1. (a) Agent: Name: Bert Hick
 Rising Tide Consultants
 Address: 1070 - Douglas Street, Suite 740
 Victoria, BC V8W 2C4

 Tel: 604-669-2928 - Primary
 604-669-2928 - Fax

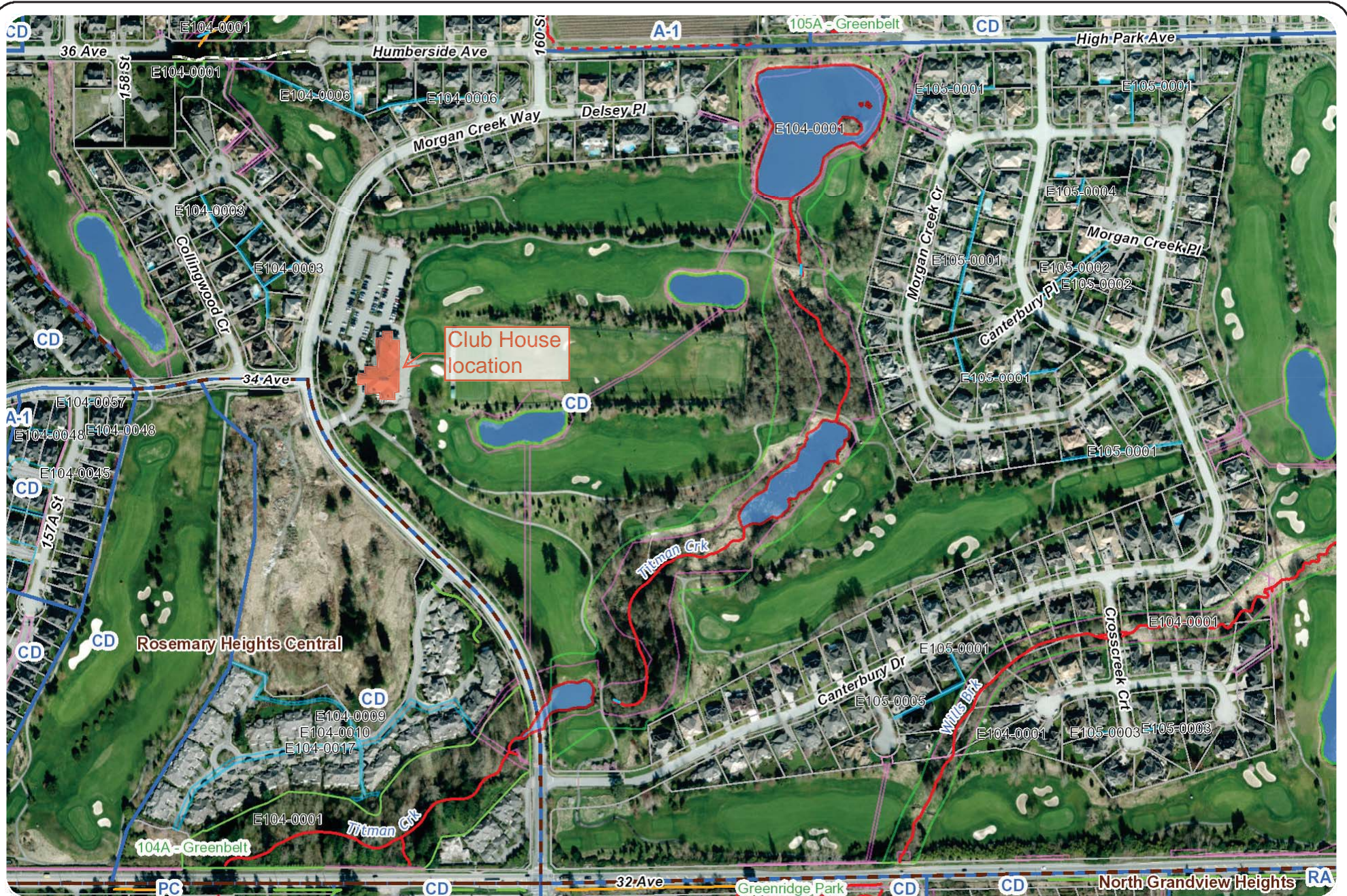
2. Properties involved in the Application

- (a) Civic Address: 3500 - Morgan Creek Way

- (b) Civic Address: 3500 - Morgan Creek Way
 Owner: Morgan Creek Holdings Inc
 PID: 024-557-323
 Lot 1, Except Portions in Plans LMP₃₄₅₇₁, LMP₄₂₂₀₅ and LMP₄₂₅₃₇, LMP₅₁₈₀₇ Sections 25
 and 26 Township 1 New Westminster District Plan LMP₂₁₇₅₉

3. Summary of Actions for City Clerk's Office

- (a) Proceed with Public Notification to solicit public opinion with respect to a liquor license amendment.



Enter Map Description

Scale: 1:5,000

The data provided is compiled from various sources and is NOT warranted as to its accuracy or sufficiency by the City of Surrey. This information is provided for information and convenience purposes only. Lot sizes, legal descriptions and encumbrances must be confirmed at the Land Title Office. Use and distribution of this map is subject to all copyright and disclaimer notices at cosmos.surrey.ca



Map created on: 02/07/2015



**CITY OF SURREY
GOOD NEIGHBOUR AGREEMENT**

BETWEEN:

MORGAN CREEK HOLDINGS INC. and MORGAN CREEK GOLF COURSE, a
division of NANOOSE HARBOUR HOLDINGS LTD.
(the "Owner")

AND:

CITY OF SURREY
(the "City")

WHEREAS the City and the Owner of the restaurant located at 3500 Morgan Creek Way (the "Licensed Establishment") (collectively the "Parties"), recognize that all food primary liquor license establishments with patron participation have a civic responsibility, beyond the requirements of the *Liquor Control and Licensing Act*, to control the conduct of their patrons;

AND WHEREAS the Owner wishes to demonstrate to the citizens of Surrey its desire to be a responsible corporate citizen;

AND WHEREAS the Parties wish to promote Surrey as a vibrant, safe and attractive community for the enjoyment of everyone, including residents, visitors, businesses and their workers.

NOW THEREFORE the Owner agrees with the City to enter into this Good Neighbour Agreement, the terms and conditions of which follow:

1. Noise and Disorder

- (a) The Owner acknowledges its responsibility not to violate Surrey Noise Control Bylaw, 1982, No. 7044, as amended;
- (b) The Owner shall assign staff to monitor the activity of patrons in areas outside of the Licensed Establishment to promote the orderly dispersal of patrons, and to discourage patrons from engaging in behaviour that may disturb the peace, quiet and enjoyment of the neighbourhood;
- (c) The Owner undertakes to take commercially reasonable measures to ensure disturbances are prevented. Examples of reasonable measures include installing adequate lighting outside the Licensed Establishment and in the parking lot, supervising parking areas, making structural changes to allow indoor line-up areas, and posting signs at the exit doors asking the patrons not to disturb the neighbours;

- (d) In those instances where patrons are lining up on the public sidewalks the Owner shall ensure that the patrons are lined up in an orderly fashion allowing for the free flow of pedestrians along the sidewalk, not blocking laneways or driveways and not spilling onto the roadway; and
- (e) In cases where the presence of employees does not facilitate an orderly dispersal of patrons, the Owner shall contact the RCMP to request assistance in dealing with any persons or crowds.

2. **Criminal Activity**

- (a) The Owner shall not tolerate any criminal activity within the Licensed Establishment; and
- (b) The Owner shall make commercially reasonable effort to scrutinize patrons as they enter the building to ensure that no items of contraband, including weapons and controlled substances, are brought onto the premises.

3. **Minors**

- (a) The Owner shall not serve alcohol to any person under the age of 19 years of age; and
- (b) The Owner shall check two pieces of identification when verifying that a customer is at least 19 years of age, one piece of which must be picture identification and may be a driver's licence, a government identification card or a passport.

4. **Sale and Consumption of Alcohol**

- (a) While it is recognized that there may be occasional price reductions or promotions for specific alcoholic beverages, the Owner shall offer no deep discounts (i.e., "cheap drinks") or across-the-board discounts;
- (b) When offering price reductions and promotions, the Owner shall be particularly mindful of its legal obligation to refuse service to persons who may, based on appearance or amount of alcohol consumed, be intoxicated; and
- (c) The Owner shall not allow patrons to carry or consume open beverages in areas that are not licensed for such purposes, including areas outside of the Licensed Establishment.

5. **Hours of Operation and Liquor Service**

- (a) The Owner shall not allow the service of alcohol to extend beyond 12:00 am Sunday, 1:00 am on Monday through Saturday and the service of liquor must at all times be done in accordance with the terms and conditions of the Liquor Control and Licensing Branch;

- (b) The Owner shall be permitted an extra 30 minutes to clear the Licensed Establishment at the time of closing in order to facilitate the orderly dispersal of patrons; and
- (c) The Owner shall not allow patrons to enter the Licensed Establishment after liquor service ceases under any circumstances.

6. **On-Duty Employees**

- (a) The Owner shall ensure that each on-duty employee of the Licensed Establishment is clearly identified; and
- (b) The Owner shall ensure that the on-duty manager of the Licensed Establishment maintains a list showing the full identification of each on-duty employee, and shall make the list available to the Officer In Charge of the RCMP on request.

7. **Cleanliness**

- (a) The Owner shall assign staff to inspect the outside of the Licensed Establishment to ensure that there is no litter, garbage, broken glass or other foreign objects; and
- (b) The Owner shall undertake to remove, as soon as is practical, any graffiti from the building's exterior.

8. **Safety**

- (a) The Owner shall ensure the occupant load sign is visibly posted near the entrance to ensure overcrowding does not take place.

9. **Other Agencies and Programs**

- (a) The Owner agrees to work with the City and its departments, including the RCMP and Fire Department, to resolve any concerns that arise with respect to the operation of the Licensed Establishment;
- (b) The Owner agrees to attend a formal meeting, as and when required by the City, with the City and the RCMP to discuss issues and concerns;
- (c) The Owner shall demonstrate complete support for the RCMP and its members;
- (d) When incidents occur which require RCMP involvement, the Owner shall ensure that all personnel of the Licensed Establishment cooperate fully with RCMP members and do not impede or obstruct members in performing their duties;
- (e) The Owner shall accommodate programs which aim to eliminate occurrences of drinking and driving;
- (f) The Owner shall make a free telephone available to patrons for the purpose of contacting a taxi or arranging other transportation from the Licensed Establishment; and

- (g) The Owner shall provide non-alcoholic beverages at prices which are below those set for alcoholic beverages.

10. **Amendment and Transferability**

- (a) Any proposed changes to the terms of this Good Neighbour Agreement shall be discussed and resolved among the Parties; and
- (b) The Owner shall make the continuation of this Good Neighbour Agreement a condition of any sale, lease or transfer of all or part of the Licensed Establishment.

11. **Enforcement**

- (a) Any failure on the part of the Owner to comply with the terms outlined herein may be brought to the attention of City Council and Council may suspend the owner's business license for the Licensed Establishment, prohibit "patron participation" otherwise permitted under the liquor licence, or impose additional terms and conditions; and
- (b) Nothing contained or implied in this Good Neighbour Agreement shall prejudice or affect the City's rights and authorities in the exercise of its functions pursuant to the *Community Charter* and *Local Government Act*, as amended, and the rights and powers of the City and the RCMP under provincial and federal statutes and regulations, and City bylaws.

(c)

Executed the _____ day of _____, 20_____ in Surrey, British Columbia,

Owner)
)
 _____)
 Signature)
)
 _____)
 Name (*please print*))
)
 _____)

City of Surrey)
)
 _____)
 Mayor Linda Hepner)
)

LFM