

City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7918-0304-00

Planning Report Date: April 1, 2019

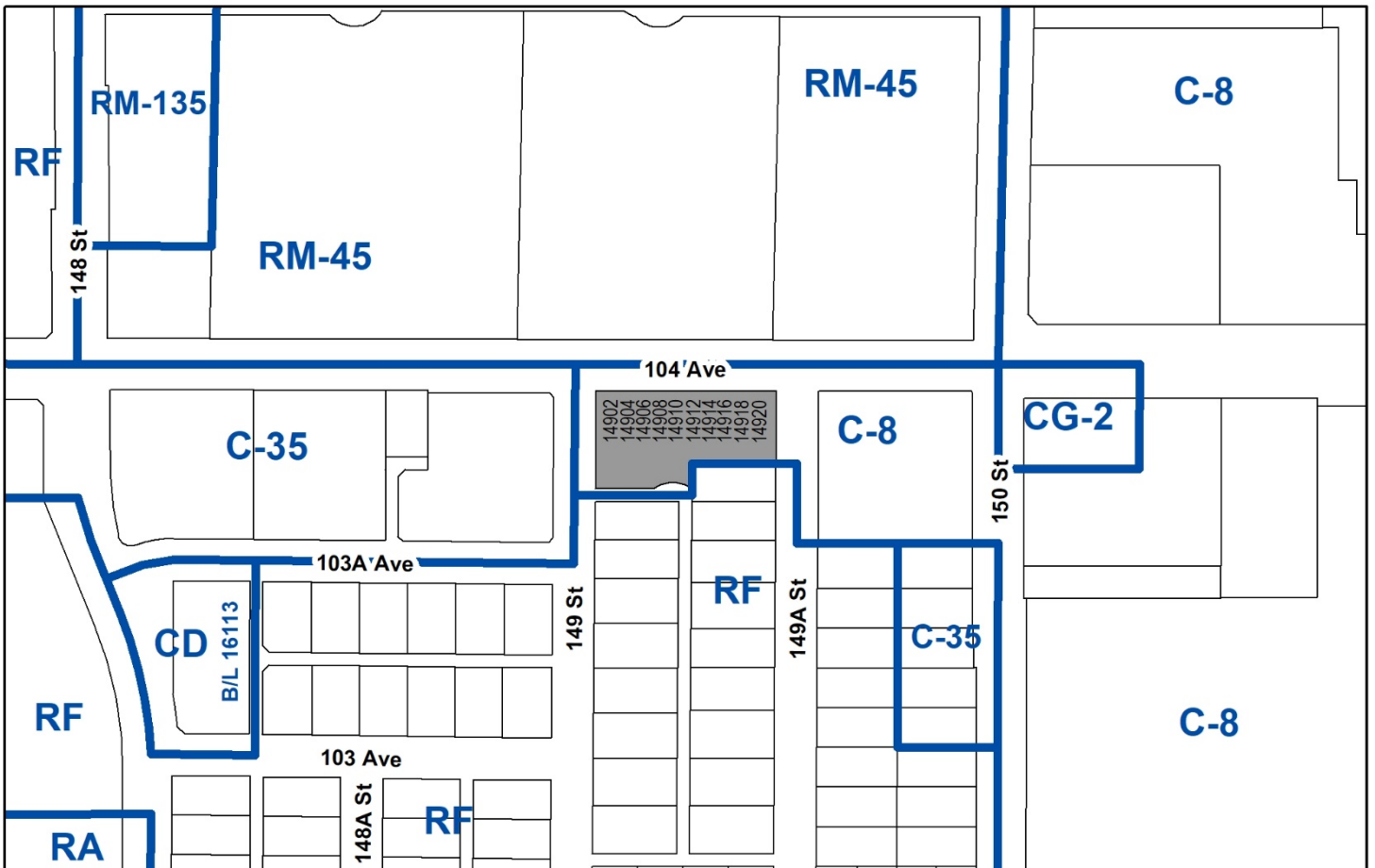
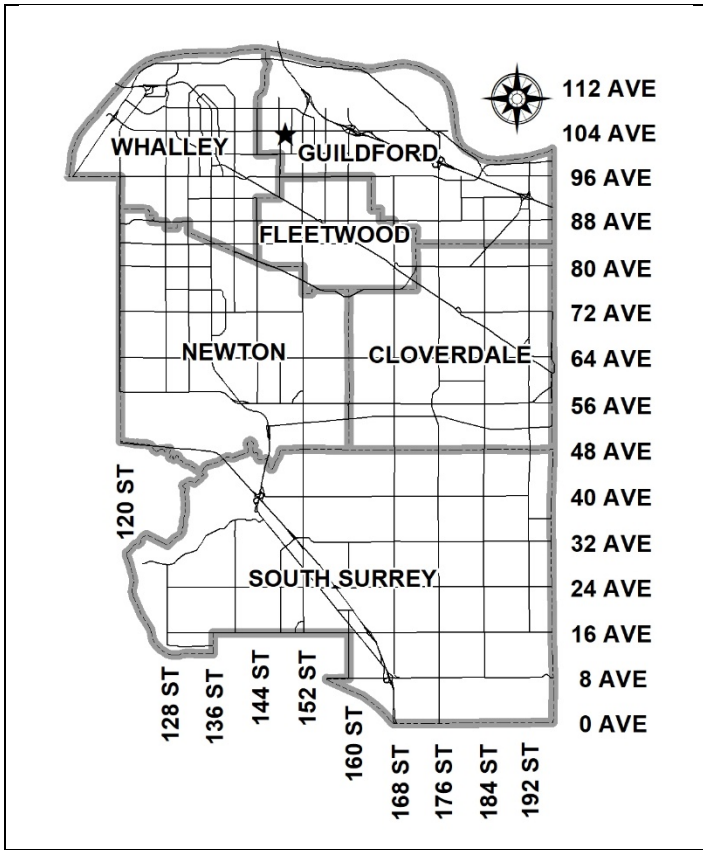
PROPOSAL:

- **New Liquor Primary License**
 to allow for conversion of an existing karaoke restaurant from a food primary to a liquor primary licensed establishment.

LOCATION: 14914 - 104 Avenue, Unit B

ZONING: C-8

OCP DESIGNATION: Commercial



RECOMMENDATION SUMMARY

- Set date for a Public Information Meeting in the form of a Public Hearing to solicit resident opinions on the proposed liquor primary license.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- None.

RATIONALE OF RECOMMENDATION

- The proposed liquor primary license will permit liquor to be sold and consumed at an existing karaoke restaurant (K-Pop Restaurant). The establishment is currently operated as a food primary licensed premise and has been in operation, at the current location, for approximately 5 years.
- The primary focus of establishments that operate under a food primary license is the service of food to patrons (e.g. restaurants, bistros and cafes). In contrast, a liquor primary license would be required for businesses that want to offer liquor service as an additional service to patrons or have a liquor focused area (e.g. bars, pubs and night clubs).
- The proposed operating hours are within Council's policy on hours of operation for liquor primary licensed establishments.
- The applicant has agreed to enter into a Good Neighbour Agreement to assist in mitigating any impact the liquor primary license may have on the surrounding neighbourhood.

RECOMMENDATION

The Planning & Development Department recommends that:

1. A Public Information Meeting in the form of a Public Hearing be set to solicit opinions from area residents regarding the proposed liquor primary license, with the following limitations:
 - (a) A proposed maximum occupant load of 73 persons; and
 - (b) The proposed hours of operation for the liquor primary establishment are as follows:
 - 4:00 p.m. to no later than 1:00 a.m. Sunday through Thursday; and
 - 4:00 p.m. to no later than 2:00 a.m. Friday and Saturday.
2. Council instruct staff to resolve the following issue prior to final approval:
 - (a) The applicant enter into a Good Neighbour Agreement with the City (Appendix IV).

REFERRALS

Engineering:	The Engineering Department has no objection to the proposal.
School District:	The subject property is located within 260 metres (853 ft.) of Hjorth road Elementary School. The School District is generally concerned with any business that sells or serves liquor, especially during school hours, which is located in close proximity to a school. However, the subject site is situated on the opposite side of a busy arterial road and resides a block apart from the elementary school thereby mitigating some of the concerns between the proposed land-use and school.
Parks, Recreation & Culture:	No concerns.
Surrey RCMP:	No concerns.
Surrey Fire Department:	No concerns.
Surrey By-laws & Licensing Services:	No concerns.
Building Division:	No concerns.

SITE CHARACTERISTICS

Existing Land Use: Karaoke (K-Pop) Restaurant

Adjacent Area:

Direction	Existing Use	OCP	Existing Zone
North (Across 104 Avenue):	Low-rise apartment building	Multiple Residential	RM-45
East (Across 149A Street):	Multi-tenant commercial building	Commercial	C-8
South:	Single family residential	Multiple Residential	RF
West (Across 149 Street):	Multi-tenant commercial building and residential tower	Commercial & Multiple Residential	C-35

DEVELOPMENT CONSIDERATIONSBackground

- The subject property is located on the south side of 104 Avenue and situated between 149 Street and 149A Street. The property is designated "Commercial" in the Official Community Plan (OCP) and zoned "Community Commercial Zone (C-8).
- The property is occupied by a 2,748 square metre (29,579 sq. ft.) multi-tenant commercial building. The proposed liquor primary licensed establishment (K-Pop Restaurant) occupies a total floor area of 359 square metres (3,864 sq. ft.) within the existing building on-site.
- A liquor primary licensed establishment is a permitted use under the C-8 Zone.
- K-Pop Restaurant has been in operation for approximately 5 years, at this location, and has operated as a food primary licensed establishment.
- The applicant previously applied for a Liquor License Amendment in order to permit patron participation, in the form of karaoke, and extend the hours of operation for the food primary liquor license as follows (Development Application No. 7912-0340-00):
 - 11:00 a.m. to 1:00 a.m. Monday through Thursday;
 - 11:00 a.m. to 2:00 a.m. Friday and Saturday; and
 - 11:00 a.m. to 12:00 a.m. Sunday.

The liquor license amendment was endorsed by Council on May 6, 2013.

Proposed Liquor Primary License

- The applicant is proposing a liquor primary license to permit K-Pop Restaurant to operate as a liquor primary establishment. The restaurant will continue to offer patron participation, in the form of karaoke.
- The applicant proposes the following hours of operation for the liquor primary establishment:
4:00 p.m. to no later than 1:00 a.m. Sunday through Thursday; and
4:00 p.m. to no later than 2:00 a.m. Friday and Saturday.
- The hours of operation proposed by the applicant are in keeping with the hours endorsed by Council through Corporate Report No. L003 on February 23, 2004 which provide parameters for the operation of a liquor primary establishment in the City of Surrey. In the report, the following hours of operation are identified for a liquor primary license establishment:
11:00 a.m. to no later than 1:00 a.m. Sunday through Thursday; and
11:00 a.m. to no later than 2:00 a.m. Friday and Saturday.
- In accordance with Good Neighbour Agreement Policy No. M-25, the City of Surrey requires that proprietors of liquor establishments sign a Good Neighbour Agreement in order to allow proprietors a more formal and defined role in the prevention of, and response to, any negative issues that may arise from the operation of their business.
- As part of the Liquor Primary License application, the applicant has agreed to enter into a Good Neighbour Agreement with the City, prior to Council consideration of support of the proposed license.

On-site Parking

- The subject property was previously regulated under a Land Use Contract (LUC #392). The LUC required a total of 55 parking spaces on the subject site to accommodate all land-uses.
- Under Development Application No. 7917-0044-00, a Council initiated LUC termination by-law was granted Final Adoption in June 2017.
- K-Pop Restaurant occupies a total floor area of 359 square metres (3,864 sq. ft.). Under the Zoning By-law, a parking rate of 10 spaces per 100 square metres (1,075 sq. ft.) of gross floor area is required for a Food Primary Licensed business of this size (i.e. eating establishment). A Liquor Primary Licensed establishment (e.g. neighbourhood pub) would require the same parking rate of 10 spaces per 100 square metres (1,075 sq. ft.) of gross floor area. As such, the proposal to convert the existing business from a Food Primary Licensed to Liquor Primary Licensed establishment would not require any additional on-site parking.
- Given that the applicant is not proposing to increase the total floor area of K-Pop Restaurant, the establishment is considered legal non-conforming for the purposes of calculating on-site parking. In addition, the business has operated on the site with a valid business license since April 2013 and would have complied with the minimum on-site parking requirement specified in the Land Use Contract (LUC #392).

- Should the owner submit an application to expand the total floor area, request a change in land-use or should the existing tenant (K-Pop Restaurant) relocate, any future tenant that occupies 14914 – 104 Avenue, Unit B is required to provide the minimum on-site parking, per the Zoning By-law.

Liquor Licensing Approval Procedure

- The Liquor and Cannabis Regulation Branch (LCRB) requires that the applicant secure local government endorsement before a liquor primary application can be considered for approval by the LCRB.
- The LCRB 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 criteria for this site is provided as follows:

(a) The location of the establishment

- The City's long-standing locational guidelines for liquor primary establishments are as follows:
 - Select a site close to a residential area but not surrounded by a residential area;
 - Select a site that is adjacent to or in a local commercial node;
 - Do not select a site on a provincial highway; and
 - Locate further than 400 metres (1,310 ft.) from a school, children's park or playground.
- K-Pop Restaurant is located directly adjacent to an existing residential area. However, the restaurant is one of several businesses operating on-site within the existing multi-tenant commercial building. In addition, the applicant has operated the restaurant for approximately 5 years as a food primary licensed establishment which includes patron participation, in the form of karaoke, and similar hours of operation.
- The subject site is located within an existing commercial node along 104 Avenue.
- The subject site is not located on a provincial highway.
- The subject property is located within approximately 260 metres (853 ft.) of Hjorth Road Elementary School and 240 metres (787 ft.) of Hjorth Road Park. The School District has expressed general concern with any business that sells or serves liquor, particularly during school hours, that is located in close proximity to a school. The subject site is located on the opposite side of 104 Avenue, a busy arterial road, as well as situated a block apart from the elementary school which mitigates somewhat the concerns raised by the School District between the proposed land-use and existing school.

- According to the locational criteria established by the City, a new liquor primary license should not be located within 1.6 kilometres (1 mile) of an existing liquor primary license. The following liquor primary licenses were identified within the vicinity of the subject property:
 - Jolly Mac's Pub, located approximately 0.8 kilometres (0.5 mile) from the subject site at 14817 – 108 Avenue; and
 - Guildford Station Pub, located approximately 0.9 kilometres (0.6 miles) from the subject site at 10176 – 154 Street.

Unlike the existing liquor primary licensed establishments noted above, K-Pop Restaurant focuses on a different type of clientele, those who are interested in patron participation, in the form of karaoke.

(b) The proximity of the establishment to social or recreational facilities and public buildings

- As noted above, the subject site is located within approximately 260 metres (853 ft.) of Hjorth Road Elementary School and 240 metres (787 ft.) of Hjorth Road Park. No concerns were expressed by the Parks, Recreation and Culture Department. As noted above, the subject site is located on the opposite side of 104 Avenue and a block apart from Hjorth Road Elementary School thereby helping to mitigate the School District's concerns regarding the proposed land-use.

(c) The person capacity and hours of liquor service of the establishment

- The applicant is proposing the following hours of operation for the liquor primary licensed establishment:

4:00 p.m. to no later than 1:00 a.m. Sunday through Thursday; and
4:00 p.m. to no later than 2:00 a.m. Friday and Saturday.

The proposed hours of operation are in keeping with the hours endorsed by Council through Corporate Report No. L003, as noted above.

- The applicant contends that later hours of operation will attract locals as well as residents of Surrey, Langley and White Rock, many of whom currently drive to Richmond to partake in karaoke entertainment where businesses are permitted to operate later hours.
- The establishment will maintain a maximum occupant load of 73 persons, as per the previously approved Building Permit drawings.

(d) The number and market focus or clientele of liquor primary licensed establishments within a reasonable distance of the proposed location

- The intent of the proposed liquor primary license is to provide liquor service and patron participation, in the form of karaoke, to nearby residents, tourists and regular customers.

- The applicant advises that K-Pop Restaurant is known within the community as a safe and fun location for karaoke entertainment.

(e) The impact of noise on the community in the immediate vicinity of the establishment

- There are several other businesses operating within the vicinity including eating establishments on the subject site with customers coming and going throughout the day and evening.
- The applicant notes that K-Pop Restaurant will include a small lounge, main dining area and nine karaoke box rooms. The staff members will be trained and certified by "serving it right" which is a mandatory self-study course that educates licensees, managers as well as servers about their legal responsibilities when serving alcohol and provides effective techniques to prevent problems related to over-service.
- It is anticipated that there will be minimal impact from the proposed liquor primary licensed establishment on the surrounding neighbourhood given the establishment has operated for 5 years under a food primary license with similar operating hours.

(f) The impact on the community if the application is approved

- K-Pop Restaurant has been in operation as a food primary licensed establishment for approximately 5 years. It is expected that, if the liquor primary license application is approved, there will be little community impact given the establishment has been in operation on the subject site for 5 years with similar hours of operation. In addition, the City of Surrey's By-laws and Licensing Division has indicated that staff have no files of concern for this premise.
- The applicant has agreed to sign a Good Neighbour Agreement that will help to prevent negative issues, including litter and untidiness, which may arise from the operation of K-Pop Restaurant as a liquor primary licensed establishment.
- The applicant is seeking a Family Food Service endorsement from the LCRB which permits minors in the establishment, when accompanied by a parent or guardian, until 10:00 p.m. for the purposes of family dining.
- K-Pop Restaurant will install video camera surveillance equipment on the premise to provide security and better monitor activities within the liquor primary licensed area.

PRE-NOTIFICATION

The applicant installed the development proposal sign on October 25, 2018 and pre-notification letters were mailed out on October 18, 2018. To date, staff have received the following responses from residents concerning the proposed development (staff comments in italics):

- Five individuals expressed concern about drunken and disorderly behavior, excessive noise lasting into the evening and early morning hours, smells, drug-use, prostitution, loitering and problems with homeless individuals on the subject site.

(The applicant has indicated that there have been no liquor or by-law infractions at K-Pop Restaurant. All staff are trained in "servicing it right" (responsible alcohol service) and the establishment strictly abides by these principles. Additional steps are taken to ensure that customers are not over-served including bag searches at the entry to prevent illicit liquor being brought into the establishment.)

The applicant has advised that the establishment takes reasonable steps to ensure that the neighbours are not disturbed by its customers and operation. This includes posting signage reminding patrons to respect the neighbours by keeping their voices down while they leave, having staff outside the business at closing time and ensuring that patrons are not intoxicated. No illegal activity takes place within the current establishment. Homelessness and prostitution are ongoing issues that the applicant, City and RCMP continue to work to address. These issues are not the result of this business operation or its patrons.)

- Two individuals expressed concern regarding personal safety, the safety of customers visiting other establishments on-site and the safety of staff working on the subject site.

(The applicant has worked with the Strata Council, RCMP and the City to address any issues that impact the neighbours. These measures included ensuring there is adequate lighting, security patrols of the parking lot, video surveillance and signage to deter loitering and/or graffiti. The establishment has security cameras as well as staff policies and procedures in place to ensure that staff are safe when leaving the establishment, as required by Worksafe B.C.)

- Two residents expressed concerns that a liquor primary licensed establishment is not an appropriate land-use within a residential neighbourhood with families and small children.

(The proposed liquor primary licensed establishment is permitted under the C-8 Zone. The applicant has advised that the establishment will continue to be family friendly given that a liquor primary license would allow parents to bring their children into the establishment until 10:00 p.m.)

- Three individuals noted there are enough existing liquor stores and neighbourhood pubs within the vicinity that provide alcohol for private consumption and/or social gatherings.

(The applicant has indicated that K-Pop Restaurant already serves liquor and operates under a Food Primary license which permits alcohol to be served along with food. The establishment will not operate as a pub but continue to operate as a destination entertainment premises.)

- Three individuals expressed concerns there is insufficient on-site parking to accommodate a liquor primary licensed establishment with later hours of operation.

(The applicant has indicated that the majority of businesses on the subject site are closed by 6:00 p.m. In addition, many patrons of K-Pop Restaurant will walk, take public transit, taxis or car share. This reduces the impact on parking and will mitigate any parking pressures.)

- One individual expressed concern about building code compliance and indicated the existing business already places increased pressure on the building's sanitary system.

(The existing business [K-Pop Restaurant] obtained a Tenant Improvement permit in March 2012. Building Division has indicated there are no concerns with the proposed liquor primary license application.)

Public Information Meeting

- In response to concerns raised by residents, the applicant held a public information meeting (PIM) on January 31, 2019 in K-Pop Restaurant. According to the sign-in sheet, 55 individuals attended the PIM. The majority of attendees expressed their support for the proposed liquor primary license application. A staff member from the Planning and Development Department was in attendance at the PIM.
- Of those individuals that attended the PIM, 19 individuals resided in Surrey and one individual resided within 100 metres (300 ft.) of the subject property.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I.	Lot Owners and Action Summary (Confidential)
Appendix II.	Strata Plan NW2493 Showing the Location of K-Pop Restaurant
Appendix III.	Proposed Floor Plan for the Liquor Primary Licensed Establishment
Appendix IV.	Good Neighbour Agreement

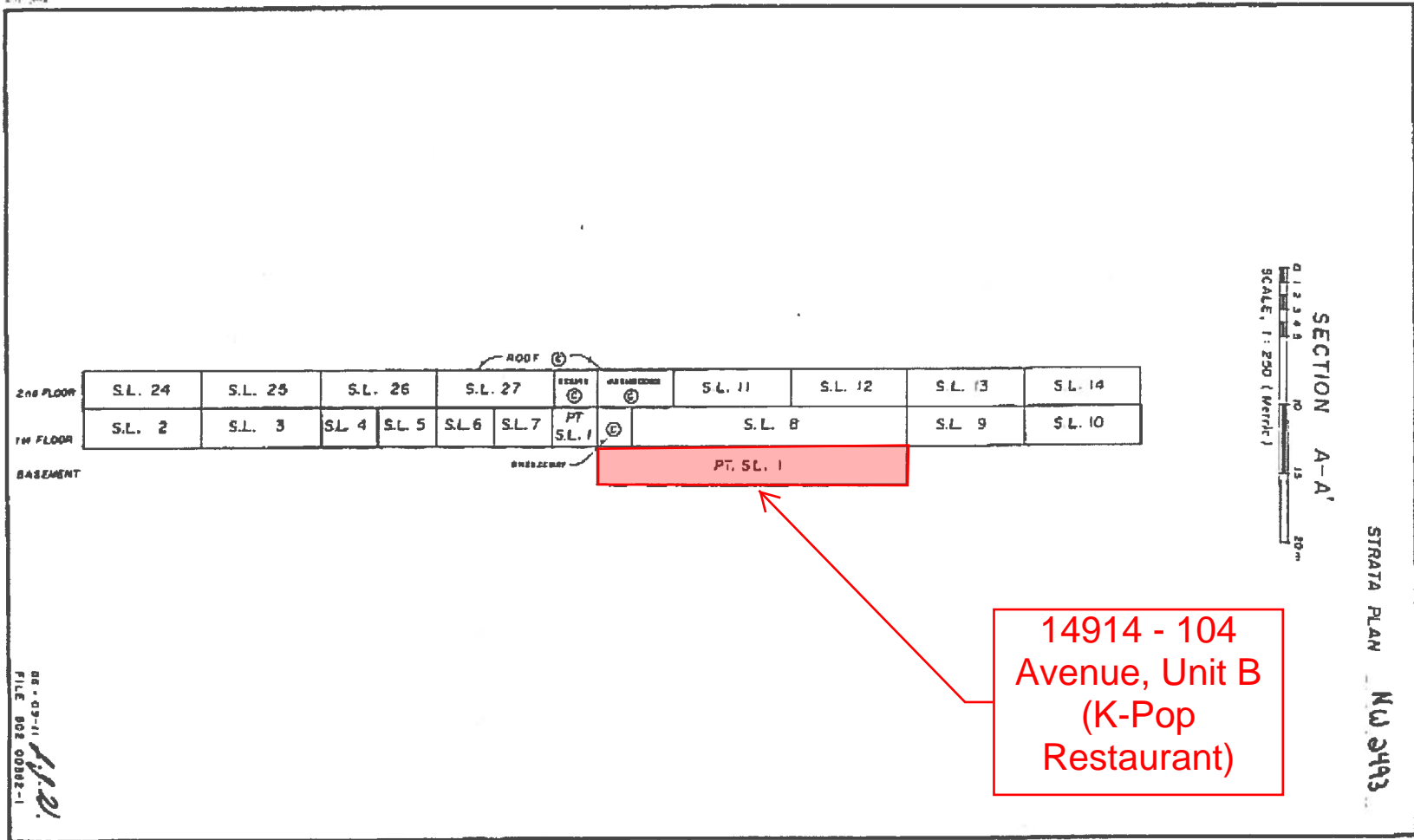
original signed by Ron Hintsche

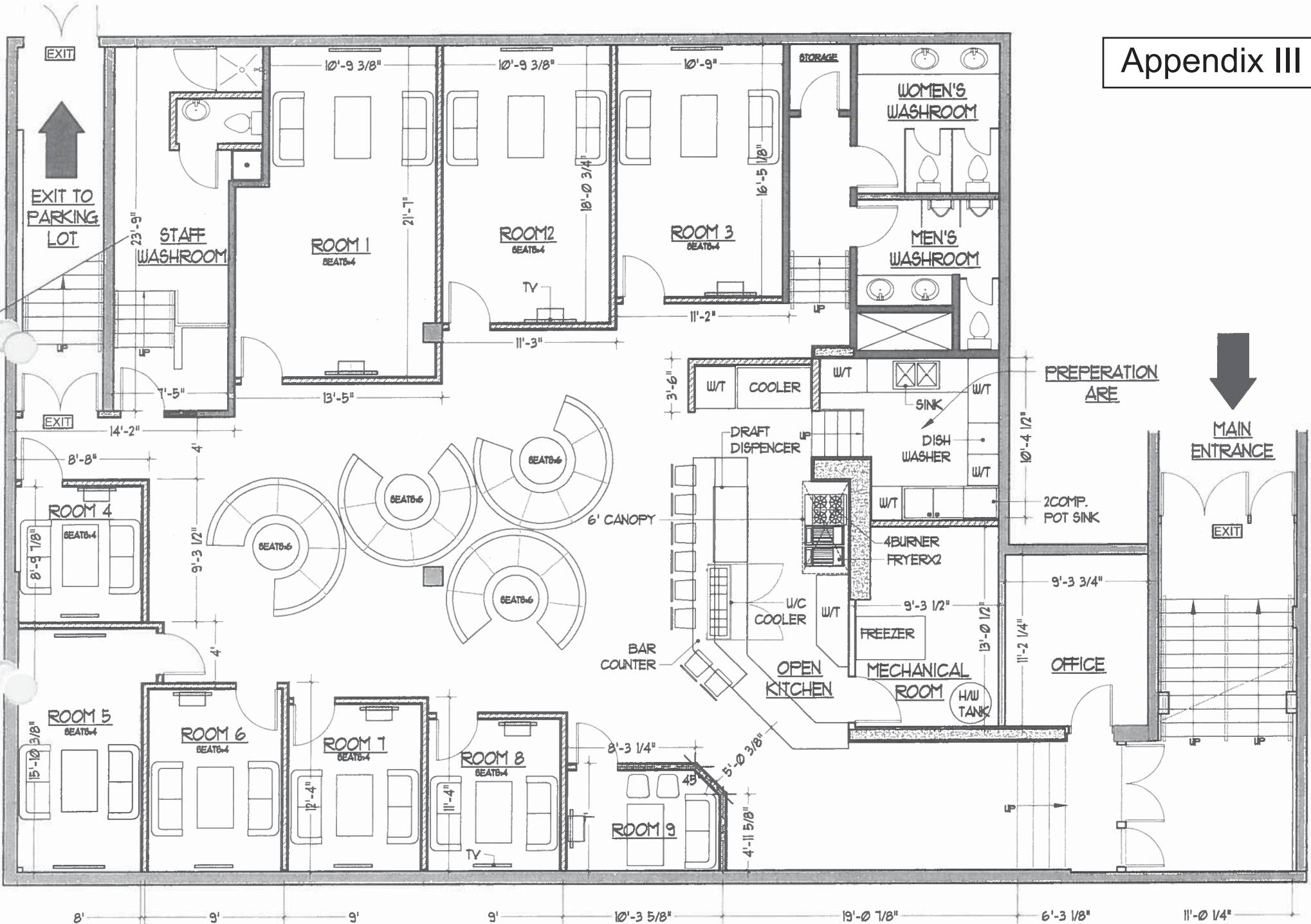
Jean Lamontagne
General Manager
Planning and Development

MRJ/cm

APPENDIX I HAS BEEN
REMOVED AS IT CONTAINS
CONFIDENTIAL INFORMATION

Appendix II





PROJECT NAME
K-POP Karaoke Restaurant
 PROJECT ADDRESS
 B 14914-104 Ave. Surrey, BC.

OCCUPANT LOAD:
68Seats+5Staff=73P

FLOOR PLAN
 SCALE: 1/8"=1'-0"



CITY OF SURREY GOOD NEIGHBOUR AGREEMENT

BETWEEN:

(the "Owner")

AND:

CITY OF SURREY
(the "City")

WHEREAS the City and the Owner of the neighbourhood pub located at 14914 – 104 Avenue, Unit B (the "Licensed Establishment") (collectively the "Parties"), recognize that all liquor primary 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 train and 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 shall monitor and log noise levels with a decibel meter every 60 minutes, beginning at 10:00 pm until the end of any private event;
- (d) The Owner endeavors to ensure that all exterior doors are closed at 1:00 am from Sunday to Thursday and 2:00 am on Friday and Saturday;
- (e) 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;

- (f) 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
- (g) 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 1:00 am from Sunday to Thursday and 2:00 am on Friday and 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.

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

Owner

Signature

Name (*please print*)

City of Surrey

Mayor Doug McCallum