

City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7909-0121-00

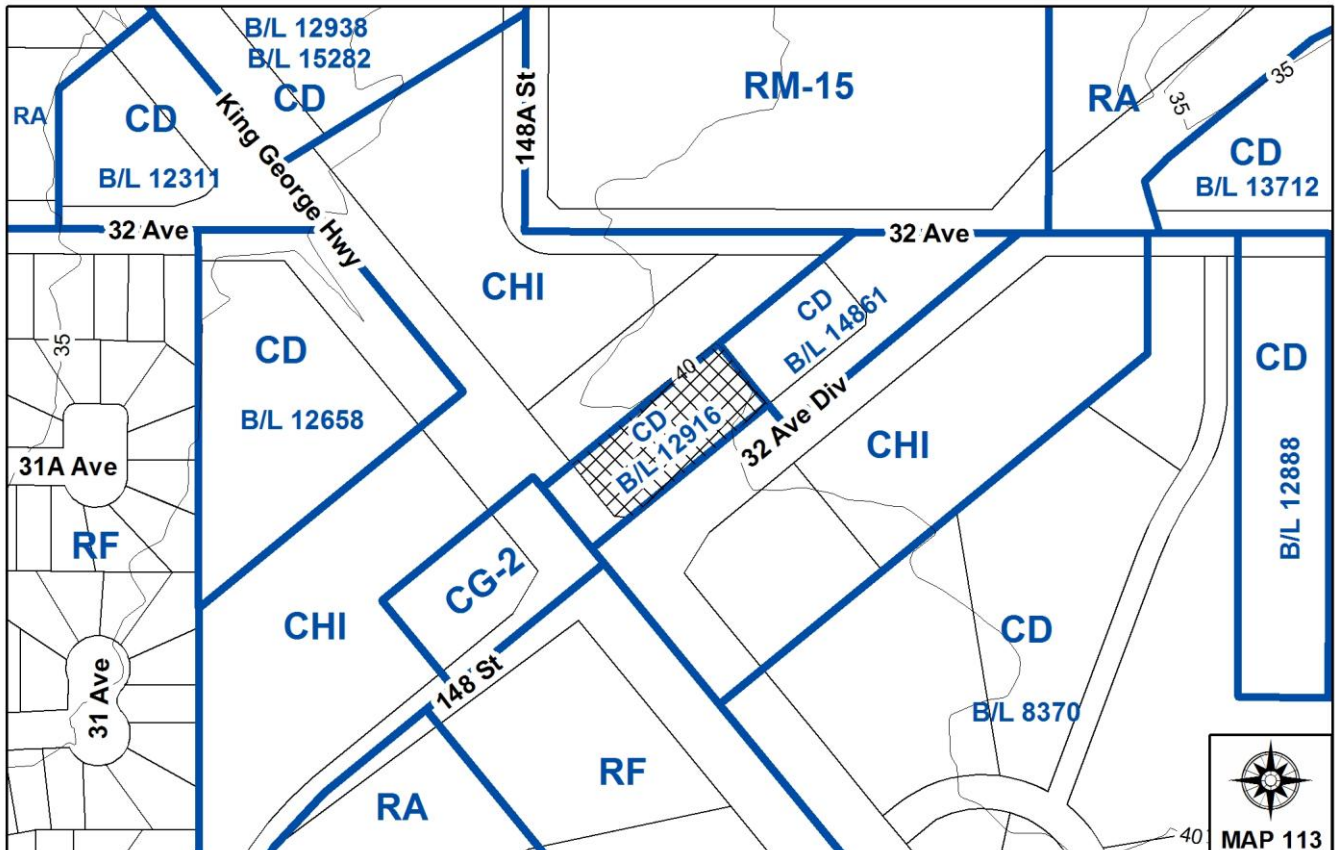
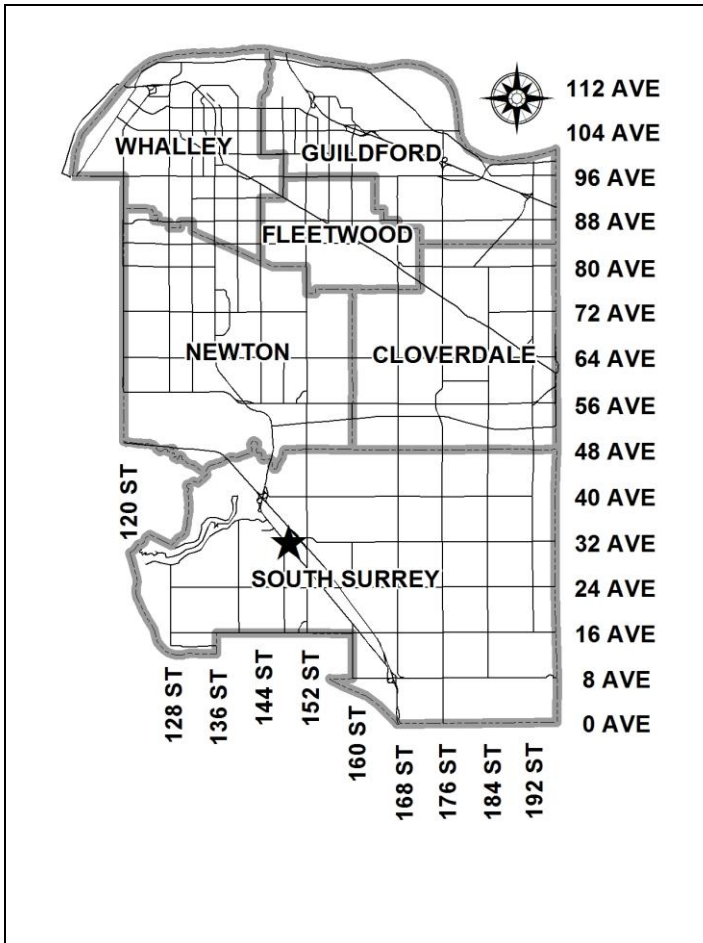
Planning Report Date: November 30, 2009

PROPOSAL:

- **Rezoning** from CD (By-law No. 12916) to CD (based on CHI and C-5)
- **Development Permit**

in order to permit the operation of a liquor store and installation of new signage on the site.

LOCATION: 3140 King George Highway
OWNER: Tiffany Restaurant Ltd., Inc. No. BC0588309
ZONING: CD (By-law No. 12916)
OCP DESIGNATION: Commercial
LAP DESIGNATION: Commercial



RECOMMENDATION SUMMARY

- By-law Introduction and set date for Public Hearing for Rezoning, subject to the applicant amending the hours of operation for the Forest Pub in compliance with City Policy.
- Approval to draft Development Permit.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- The existing Comprehensive Development (CD) Zone (By-law No. 12916) permits a Neighbourhood Pub, but does not permit a Liquor Licensee Retail Store (LRS). The applicant proposes to rezone the property to operate an LRS in conjunction with the existing Forest Pub.
- The existing Provincial liquor primary license for the Forest Pub allows the Pub to operate from 10:00 am to 2:00 am Monday to Saturday, and 10:00 am to 1:00 am on Sunday. These hours do not comply with Council's policy on hours of operation for liquor primary establishments in the City. The policy specifies maximum hours of operation from 11:00 am to 1:00 am Sunday through Thursday and 11:00 am to 2:00 am on Friday and Saturday.

RATIONALE OF RECOMMENDATION

- The regulatory framework adopted by Council to deal with the potential proliferation of licensee retail stores (LRS) in the City requires liquor stores to be in conjunction (i.e. in the same building or on the same lot) with a liquor-primary establishment. Since a neighbourhood pub is already a permitted use at this location, an associated LRS is also considered appropriate, subject to compliance with other policy criteria in relation to liquor uses, such as hours of operation.
- A liquor store is consistent with the surrounding land use context which includes not only typical highway commercial uses but also a variety of retail commercial businesses which serve the surrounding residential neighbourhoods
- The addition of the LRS on the site does not represent a significant departure from the current site uses, as the Forest pub currently has an off-sales endorsement which permits beer and wine to be sold and taken off the premises.
- The Surrey RCMP has no concerns with the addition of a liquor store on the site.
- The applicant will be required to enter into a Good Neighbour Agreement for both the existing pub and the proposed LRS.

- Staff has requested that the owners amend the hours of operation for the Forest pub to comply with Council policy. The owners have agreed to change the opening time from 10:00 a.m. to 11:00 a.m. every day of the week but have rejected the request to close earlier arguing that the earlier closing time would have a costly impact on their business. Despite the owner's objection, staff recommend that the reduction of hours to be fully in compliance with Council policy, including the closing hours, be made a condition of final adoption of the rezoning by-law. The hour reduction would not only bring a currently non-complying hours of operation into compliance with City policy but also responds to concerns received by staff from neighbouring property owners regarding noise generated by the pub late at night.
- The proposed new free-standing sign, building fascia signage and canopy sign, are an improvement to the existing signage on the site and comply with the Sign By-law.

RECOMMENDATION

The Planning & Development Department recommends that:

1. a By-law be introduced to rezone the subject site from "Comprehensive Development Zone (CD)" (By-law No. 12916) to "Comprehensive Development Zone (CD)" (By-law No. 12000) and a date be set for Public Hearing.
2. Council authorize staff to draft Development Permit No. 7909-0121-00 in accordance with the attached drawings (Appendix II).
3. Council instruct staff to resolve the following issues prior to final adoption:
 - (a) ensure that all engineering requirements and issues including restrictive covenants, and rights-of-way where necessary, are addressed to the satisfaction of the General Manager, Engineering;
 - (b) approval from the Ministry of Transportation and Infrastructure;
 - (c) the applicant enter into a "Good Neighbour Agreement" for both the existing neighbourhood pub and proposed Licensee Retail Store (LRS); and
 - (d) the applicant complete the following formal amendments to their existing liquor license approvals from LCLB in order to comply with established City Policy:
 - (i) reduce the operating hours on the Forest pub's Provincial liquor primary license from 10:00 a.m. to 2:00 a.m. Monday to Saturday and 10:00 a.m. to 1:00 a.m. Sunday to 11:00 a.m. to 1:00 a.m. Sunday to Thursday and 11:00 a.m. to 2:00 a.m. Friday and Saturday; and
 - (ii) eliminate the existing off-sales endorsement on the liquor primary liquor license for the pub.

REFERRALS

Engineering:	The Engineering Department has no objection to the project.
Ministry of Transportation & Infrastructure	The Ministry of Transportation & Infrastructure (MOTI) has granted preliminary approval for the rezoning for one year.
Surrey RCMP:	The Surrey RCMP has no concerns with the proposed addition of a liquor store.

SITE CHARACTERISTICS

Existing Land Use: Black Forest Restaurant and Forest Pub.

Adjacent Area:

Direction	Existing Use	OCP/LAP Designation	Existing Zone
North:	Automotive dealership (Hyundai) and Retail Commercial.	Commercial/Highway Commercial	CHI and CD
East (Across 32 Avenue Diversion):	McDonald's Restaurant and Automotive Dealership (Nissan)	Commercial/Highway Commercial	CHI
South (Across King George Highway):	Vacant land.	Commercial/Highway Commercial	RF
West (Across King George Highway):	Gas station and Rona store.	Commercial/Highway Commercial	CG-2 and CHI

DEVELOPMENT CONSIDERATIONSBackground and Context

- The subject site (3140 King George Highway) is located on the north corner of King George Highway and the 32 Avenue Diversion. The site is designated "Commercial" in the Official Community Plan (OCP) and is identified as a highway commercial node in the King George Highway Corridor Land Use Plan (LUP), which was approved by Council in 1995.
- The site is currently occupied by a two-storey building which houses both the Black Forest Restaurant and the Forest Pub. The site was rezoned in 1996 to a "Comprehensive Development Zone (CD) (By-law No. 12916)" to permit the pub extension to the original Black Forest Restaurant.
- The Black Forest Restaurant has a floor area of 150 square metres (1,600 sq.ft.) and has seating for 52 persons. The Forest Pub has a total floor area of 400 square metres (4,300 sq.ft.) and has seating for 128 persons. The pub also has a 20 seat outdoor patio. The building has a second storey with a total floor area of 355 square metres (3,800 sq.ft.), which is currently used as office space and storage.
- The Black Forest Restaurant currently operates under a Food Primary Liquor License from the Liquor Control and Licensing Branch (LCLB). The Forest Pub currently operates under a Liquor Primary Liquor License from LCLB. Both establishments have operating hours from 10:00 am to 2:00 am Monday to Saturday, and 10:00 am to 1:00 am on Sunday. The liquor primary license for the pub currently has an off-sales endorsement, which permits bottled beer and wine to be sold and taken off the premises.
- The restaurant and pub have recently come under new ownership, and the new owners are seeking to convert the restaurant to a Liquor Licensee Retail Store (LRS) and operate it in conjunction with the existing pub. The existing CD Zone (By-law No. 12916) does not permit a liquor store therefore rezoning of the site to a new CD Zone is proposed.

- The new owners also propose to update the existing free standing signage on the site and add new fascia signage and a new canopy sign on the building. A Development Permit is proposed to accommodate these improvements.

Proposed CD By-law

- The existing CD By-law (No. 12916) was based on the Highway Commercial Zone (CHI), but with the addition of a Neighbourhood Pub (Liquor Primary), which is permitted under the Neighbourhood Commercial (C-5) Zone, and reflects that the site has a combination of both highway commercial and local commercial character.
- The proposed CD By-law is identical to the existing CD By-law (No. 12916) , with the exception that an LRS has been added as a permitted use. To reflect the standard restriction for an LRS in Surrey, the CD Zone requires the LRS to be operated only in conjunction with a liquor primary (LP) license establishment.
- The CD Zone is based on the CHI and C-5 Zone, recognizing that the site forms part of a highway commercial node at the corner of 32 Avenue and King George Highway but also is part of a local commercial node at this location. With the exception of the neighbourhood pub and liquor store, the CD By-law includes the same combination of uses as permitted under the CHI Zone. The CD By-law also has the same provisions for density, lot coverage, building height, and setbacks as the CHI Zone.

Evaluation of proposed liquor store use

- One of the fundamental elements of the regulatory framework adopted by the City to deal with the potential proliferation of licensee retail stores (LRS) in the City is to require liquor stores to be in conjunction (i.e. in the same building or on the same lot) with a liquor-primary establishment. The purpose of this restriction is to limit the potential locations for an LRS in the City to those sites that have a liquor primary establishment and already have liquor sales. Since a neighbourhood pub is already a permitted use at this location, an associated LRS is also considered appropriate given this regulatory approach, subject to compliance with relevant City Policy associated with such uses.
- The highway commercial node that has been established around the intersection of King George Highway and the 32 Avenue Diversion includes not only typical highway commercial uses including automotive dealerships and drive-thru restaurants but also forms part of a larger local shopping area with a variety of retail commercial businesses to serve the surrounding residential neighbourhoods. As such, the proposed liquor store is consistent with the surrounding land use context.
- The liquor primary liquor license for the Forest pub currently has an off-sales endorsement which permits beer and wine to be sold and taken off the premises. The applicant has confirmed that this off-sales endorsement would be terminated should the proposed liquor store be approved. As such, the addition of the liquor store does not represent a significant departure from the current business operations on the site.
- The Surrey RCMP has no concerns with the addition of a liquor store on the site.

- As per the recently approved Good Neighbour Agreement Policy, the applicant will be required to enter into a Good Neighbour Agreement for both the existing pub and the proposed liquor store prior to final adoption of the rezoning by-law. The Good Neighbour Agreement will ensure that various measures are implemented to ensure that potential impacts on the surrounding community are minimized.

Operating Hours Reduction for Existing Pub

- The Forest Pub Provincial license allows the pub to currently operate from 10:00 am to 2:00 am Monday to Saturday, and 10:00 am to 1:00 am on Sunday. These hours do not comply with Council's policy on hours of operation for liquor primary establishments in the City. The policy specifies maximum hours of operation from 11:00 am to 1:00 am Sunday through Thursday and 11:00 am to 2:00 am on Friday and Saturday.
- Staff has requested that the owners amend the hours of operation to be fully in compliance with Council policy. This would require the pub to open one hour later everyday of the week and close 1 hour earlier on Monday to Saturday. The owners have agreed to open 1-hour later every day of the week but have rejected the request to close 1-hour earlier on Monday to Saturday arguing that the reduction of operating hours would have a costly impact on their business. A copy of the owner's letter outlining their objection to the requested earlier closing time is attached in Appendix III.
- Despite the owner's objection, staff recommend a reduction of hours fully in compliance with Council policy, including the closing times, and that this amendment be completed as a condition of final adoption of the rezoning by-law. The reduction in operating hours would not only bring a currently non-conforming pub into compliance with requirements established for all liquor primary establishments in the City but also responds to concerns received by staff from neighbouring property owners regarding noise generated by the pub late at night, as described below.

PRE-NOTIFICATION

In accordance with Council Policy, pre-notification letters were sent on July 27, 2009 and a follow-up letter was sent on November 10, 2009. In addition, a development proposal sign was erected on the property. As a result of the notification process, staff received the following calls and correspondence with respect to the proposal:

- In response to the first pre-notification letter, staff received 1 phone call, 2 letters, and a petition signed by 34 neighbouring property owners in objection to the proposal. Concerns included existing traffic congestion in the area and lack of parking on the site, as well as noise, littering, and inappropriate behaviour generated by the existing pub.

(The proposed conversion of the restaurant to a liquor store is not expected to increase the amount of vehicular traffic generated on the site. There are currently 55 parking stalls provided on site which exceeds the By-law requirements for the existing pub and proposed liquor store by 10 stalls.)

(The applicant will be required to enter into a Good Neighbour Agreement for both the existing pub and proposed liquor store as a condition of final adoption of the rezoning by-law. The Good Neighbour Agreement will ensure that various measures are implemented to ensure that potential impacts on the surrounding community minimized.)

(Staff recommends that as a condition of final adoption of the rezoning by-law, the owner be required to reduce the operating hours of the pub to bring them fully into compliance with Council's policy on hours of operation for liquor primary establishments in the City. Shortening the operating hours will address the noise concerns as well as help mitigate some of the inappropriate behaviour being generated by the pub late at night.)

- In response to concerns raised by surrounding property owners, the applicant held a public information meeting on October 22, 2009. Invitations to the meeting were sent to all property owners within 100 metres (300 ft.) of the subject site. The meeting was attended by 10 neighbouring property owners, none of whom completed comment sheets. At the meeting, the owners explained that since they took over the restaurant and pub they have made a concerted effort to improve business operations and mitigate any potential impacts on the surrounding neighbourhood. The owners also advised that they would be entering into a Good Neighbour Agreement with the City and were committed to continue to make improvements on an on-going basis. Since the public information meeting, staff have received no further calls or correspondence with respect to this proposal.

DESIGN PROPOSAL AND REVIEW

- As part of the proposal, the applicants propose to improve the free standing sign on the site and the fascia signage on the building.
- There is currently one free-standing sign on the property at the corner of 32 Avenue and King George Highway. The owners propose to update the top portion of this sign with new graphics and add a decorative base. The sign is 4.5 m (15 ft.) in height and 1.5 m (5 ft.) in width. Two new 'liquor store' fascia signs are proposed for the building, one fronting King George Highway and one fronting 32 Avenue. Both signs consist of individual channel letters. A new canopy sign is also proposed above the main entry to the pub fronting 32 Avenue. All of the proposed signage meets the provisions of the Sign By-law.
- All of the proposed new signage has been reviewed by the City architect and City urban designer and found to be acceptable.

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.	Proposed Signage
Appendix III.	Applicant's letter regarding requested operating hours for existing pub
Appendix IV.	Proposed CD By-law

Jean Lamontagne
General Manager
Planning and Development

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Information for City Clerk

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

1. (a) Agent: Name: Curtis Moyen, Tapwood Holdings Ltd.
 Address: 3140 King George Highway
 Surrey, BC
 V4P 1A2
 Tel: 604-536-7950

2. Properties involved in the Application
 - (a) Civic Address: 3140 King George Highway

 - (b) Civic Address: 3140 King George Highway
 Owner: Tiffany Restaurant Ltd., Inc. No. BC0588309
 PID: 025-511-360
 Parcel 1 Section 22 Township 1 New Westminster District Plan BCP1191

3. Summary of Actions for City Clerk's Office
 - (a) Introduce a By-law to rezone the property.

 - (b) Application is under the jurisdiction of MOTI.
 MOTI File No. 2009-04419

DEVELOPMENT DATA SHEET

Proposed Zoning: CD (based on CHI)

Required Development Data	Minimum Required / Maximum Allowed	Proposed
LOT AREA* (in square metres)		
Gross Total		
Road Widening area		
Undevelopable area		
Net Total	2,815 m ²	
LOT COVERAGE (in % of net lot area)		
Buildings & Structures	50%	20%
Paved & Hard Surfaced Areas		
Total Site Coverage		
SETBACKS (in metres)		
Front	7.5 m	8.5 m
Rear	7.5 m	15.0 m
Side #1 (East)	7.5 m	40.0 m
Side #2 (West)	0.0 m	0.0 m
BUILDING HEIGHT (in metres/storeys)		
Principal	9.0 m	8.7 m
Accessory		
NUMBER OF RESIDENTIAL UNITS		
Bachelor		
One Bed		
Two Bedroom		
Three Bedroom +		
Total		
FLOOR AREA: Residential		
FLOOR AREA: Commercial		
Proposed Liquor Store		150 m ²
Existing Pub		400 m ²
Upper Floor Storage		355 m ²
Total		905 m ²
FLOOR AREA: Industrial		
FLOOR AREA: Institutional		
TOTAL BUILDING FLOOR AREA	2,815 m ²	905 m ²

** If the development site consists of more than one lot, lot dimensions pertain to the entire site.*

Development Data Sheet cont'd

Required Development Data	Minimum Required / Maximum Allowed	Proposed
DENSITY		
# of units/ha /# units/acre (gross)		
# of units/ha /# units/acre (net)		
FAR (gross)		
FAR (net)	1.00	0.32
AMENITY SPACE (area in square metres)		
Indoor		
Outdoor		
PARKING (number of stalls)		
Proposed Liquor Store	5	10
Existing Pub	40	45
Residential Bachelor + 1 Bedroom		
2-Bed		
3-Bed		
Residential Visitors		
Institutional		
Total Number of Parking Spaces	45	55
Number of disabled stalls	1	1
Number of small cars		
Tandem Parking Spaces: Number / % of Total Number of Units		
Size of Tandem Parking Spaces width/length		

Heritage Site	NO	Tree Survey/Assessment Provided	YES
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