



# Corporate

 NO: L013

# Report

 COUNCIL DATE: November 25, 2002

<b>REGULAR COUNCIL - LAND USE</b>			
TO:	<b>Mayor &amp; Council</b>	DATE:	<b>November 22, 2002</b>
FROM:	<b>General Manager, Planning and Development</b>	FILE:	<b>3900-01</b>
SUBJECT:	<b>Liquor Licensing of Coffee Shops in the Light Impact Industrial Zone (IL) – Request from Mr. Tom Pangalia</b>		

## RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Maintain the current restriction within the Light Impact Industrial Zone (IL) of permitting a coffee shop as an accessory use provided the seating does not exceed 35 seats and the coffee shop is not licensed by the *Liquor Control and Licensing Act*, R.S.B.C., 1996, as amended (the "*Liquor Control and Licensing Act*"); and
3. Instruct the Acting City Clerk to forward a copy of this report and Council's resolution to Mr. Tom Pangalia, owner/operator of the Lagoon Café & Catering Ltd.

## INTENT

This report provides a response to the delegations to Council from Mr. Tom Pangalia and Mr. Paxton and examines the current restriction within the Light Impact Industrial (IL) Zone which does not permit a licensed dining room or dining lounge and evaluates the relative merits of a licensed dining room at #9 - 13025 – 84 Avenue in the Newton industrial area.

## BACKGROUND

Council on November 4, 2002, received a delegation from Mr. Tom Pangalia, owner/operator of Lagoon Café & Catering Ltd. and Mr. Ted Paxton, a consultant. The Lagoon Café & Catering Ltd. is a 35-seat eating establishment located at #9 - 13025 - 84 Avenue. This property is zoned Light Impact Industrial (IL) and is located in the Newton industrial area (Appendix I). The delegation advised that they would like to provide alcoholic beverages to the customers of their restaurant, especially in the evenings. However, City staff has advised them that the IL Zone does not allow liquor-licensed restaurants (the IL Zone permits coffee shops as an accessory use provided that the seating capacity does not exceed 35 and the coffee shop is not licensed by the *Liquor Control and Licensing Act*). The delegation commented that they had received a previous response from the Planning and Development Department advising that staff could not support his request to amend the zoning regulations to allow a licensed eating establishment at the subject industrial site (Appendix II). As such, the delegation was appearing before Council to request Council to re-examine this restriction within the Light Impact Industrial Zone (IL).

During the presentation, the delegation indicated that they had invested over \$200,000 for the strata-title ownership of the unit for the restaurant and that the City issued a business license for the restaurant on July 15, 2002. The delegation also advised that they are willing to restrict the sale of alcoholic beverages at the restaurant to after 5:00 p.m. in the afternoon.

Subsequent to hearing the delegation, Council referred the item to staff for a report.

## DISCUSSION

### Policy Context - Coffee Shops In the Light Impact Industrial Zone

The Light Impact Industrial Zone (IL) permits a coffee shop as an accessory use provided it is limited to a maximum of 35 seats and is not licensed under the *Liquor Control and Licensing Act*. The intent of this regulation is to permit a small eating establishment with limited seating to provide light meals and non-alcoholic beverages to employees of neighbouring industrial businesses during typical business hours. Underlying this regulation are two objectives. With respect to the maximum seating capacity restriction, the objective is to ensure that eating establishments remain an accessory use within industrial areas and not occupy large areas of floor space. In order to preserve the integrity of the industrial zones, the coffee shops in industrial areas were not intended to compete with full service restaurants that must be located within areas zoned for commercial development. With respect to the regulation not to permit liquor licensing, the objective is to discourage liquor consumption during working hours by the employees of nearby industrial development.

### Site Description/Land Use Context

The site, at which the delegation wishes to have a licensed dining room, is a strata unit in a multi-tenant building located in a light impact industrial business centre at #9 - 13025 - 84 Avenue in the heart of the Newton industrial area.

The subject site is bounded to the north, east, south and west by light impact industrial uses. All of the surrounding properties are designated Industrial in the Official Community Plan and are zoned Light Impact Industrial Zone (IL) (Appendix III).

There are no other licensed restaurants in the general vicinity of the subject site. However, there is a neighbourhood pub (Hook and Ladder) located at 8599 – 132 Street on the edge of the Newton Industrial Area and licensed banquets are held at the Grand Taj Banquet Hall and Restaurant located at 8388 - 128 Street (Appendix I). The subject site is located within the area that Council has declared by policy not to allow further retail and commercial establishments (Appendix IV). This policy was established after Council had received concerns regarding the amount of commercial development that had occurred in the Khalsa Business Centre at the southeast corner of 84 Avenue and 128 Street.

At its Regular Meeting on Monday, November 4, 2002, Council received a delegation of owners of commercial properties on Scott Road, who advised Council, at that time, that they were very concerned with the City's approach to allowing commercial businesses to be set up in the industrial areas along 128 Street because it was undermining their investments in commercial developments on Scott Road that they had made in good faith, on an understanding that the City would restrict commercial developments to commercially zoned areas in the City. They advised that the City's current approach was not encouraging to commercial development in the City.

## Alternative Courses of Action

Several alternative courses of action are available to Council in responding to the delegation's request to have a licensed dining room at the subject site. These alternative courses of action are described and evaluated below:

**Option 1** - Maintain the current restriction within the IL Zone of permitting a coffee shop as an accessory use provided the capacity does not exceed 35 seats and the coffee shop is not licensed by the *Liquor Control and Licensing Act*.

### Pros:

- continues to allow the operation of a small eating establishment with limited seating to provide light meals and non-alcoholic beverages to employees of neighbouring businesses.
- preserves the integrity of the IL Zone and supports the objective of not occupying large areas of floor space for non-industrial uses and maintains Council's long-standing position that liquor consumption by workers during office hours be discouraged.
- consistent with Council's policy which states that no further commercial, retail and ancillary retail development proposals be considered for the industrial designated lands in the vicinity of 84 Avenue and 128 Street.
- demonstrates a commitment to support the investments made by developers in commercially zoned areas where full service (liquor licensed) eating establishments are permitted.

### Cons:

- does not satisfy Mr. Pangalia.

**Option 2** - Amend the IL Zone to permit a coffee shop to be licensed by the *Liquor Control and Licensing Act*, provided the seating capacity does not exceed 35.

### Pros:

- This option allows the operation of small eating establishment with limited seating and supports the objective of not allowing large areas of floor space for non-industrial uses in industrial areas, but permits patrons to have an alcoholic beverage with a meal. As such, this option would satisfy Mr. Pangalia's request.

### Cons:

- Although Mr. Pangalia advises that he would be prepared to restrict the serving of alcoholic beverages to after 5:00 p.m., the Zoning By-law cannot be used to restrict operating hours and the City Solicitor has

previously advised that this Provincial liquor-licensing authority cannot be further restricted by a local government through conditions on a business license.

- This option will allow all other coffee shops located in the Light Impact Industrial Zone to serve alcoholic beverages and will, to some degree, negatively impact the market of other eating establishments located in the City's commercial areas. As previously referenced in this report, Council recently received a delegation from a group of owners of commercial properties on Scott Road who voiced concerns over commercial uses being allowed to operate in industrial areas, particularly in the vicinity of the 128 Street corridor.
- This option is not consistent with Council's policy which states that no further commercial, retail and ancillary retail development proposals be considered for the industrial designated lands in the vicinity of 84 Avenue and 128 Street.

**Option 3** – Rezone the subject site to a Comprehensive Development Zone to permit a licensed dining room at this location.

Pros:

- This option is limited to the subject site and allows Council an opportunity to consider the merits of this specific location for a limited seating licensed dining room. The rezoning process would include a Public Hearing at which members of the public can express their opinions about the proposed rezoning application.

Cons:

- the subject site is located in the heart of the Newton industrial area and is bounded to the north, south, east and west by established light impact industrial businesses. A licensed dining establishment should be located in one of the City's commercial areas such as Scott Road or the Newton Town Centre. In general, industrial designated properties should be used for industrial purposes with some limited accessory uses in support of the industrial uses.
- A rezoning to permit a commercial use at this location may be viewed by developers as not supporting the investments that have been made in commercially zoned properties throughout the City.
- This option is not consistent with Council's policy which states that no further commercial, retail and ancillary retail development proposals be considered for the industrial designated lands in the vicinity of 84 Avenue and 128 Street.

While the option of a Temporary Use Permit was considered by staff, the City Solicitor indicated that this approach is problematic as, unlike a Temporary Use Permit which is valid for two years; a liquor license issued by the Province does not have such a time limit. As such, if a Temporary Use Permit were used to regulate a liquor license use, it creates a conflict with Provincial liquor licensing.

## CONCLUSION

This report has discussed three alternative courses of action in relation to addressing the request made by Mr. Pangalia regarding the restriction in the IL Zone which does not permit an eating establishment to be licensed under the *Liquor Control and Licensing Act*. Based on the relative merits of these options, the Planning and Development Department recommends that Council support Option 1, which is to maintain the current restrictions on eating establishments within the Light Impact Industrial (IL) Zone.

This option supports various Council objectives of ensuring that eating establishments remain an accessory use within industrial areas, not allowing occupancy of large areas of industrial floor space for non-industrial uses and maintaining the integrity of the IL Zone. This option also supports Council's industrial land use policy of not allowing further commercial, retail and ancillary retail development within the industrial-designated lands in the vicinity of 84 Avenue and 128 Street. As well, this option recognizes the concerns of the owners of commercial businesses on the Scott Road commercial corridor.

It is also recommended that the Acting City Clerk be instructed to forward a copy of this report and Council's resolution to Mr. Pangalia and Mr. Paxton who appeared before Council as a delegation on this matter.

Murray Dinwoodie

General Manager

Planning and Development

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Attachments:

Appendix I Location of subject site

Appendix II Planning and Development Department letter dated September 26, 2002

Appendix III Surrounding OCP designations

Appendix IV Policy Area Restricting Retail and Commercial Establishments

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