

City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7910-0277-00

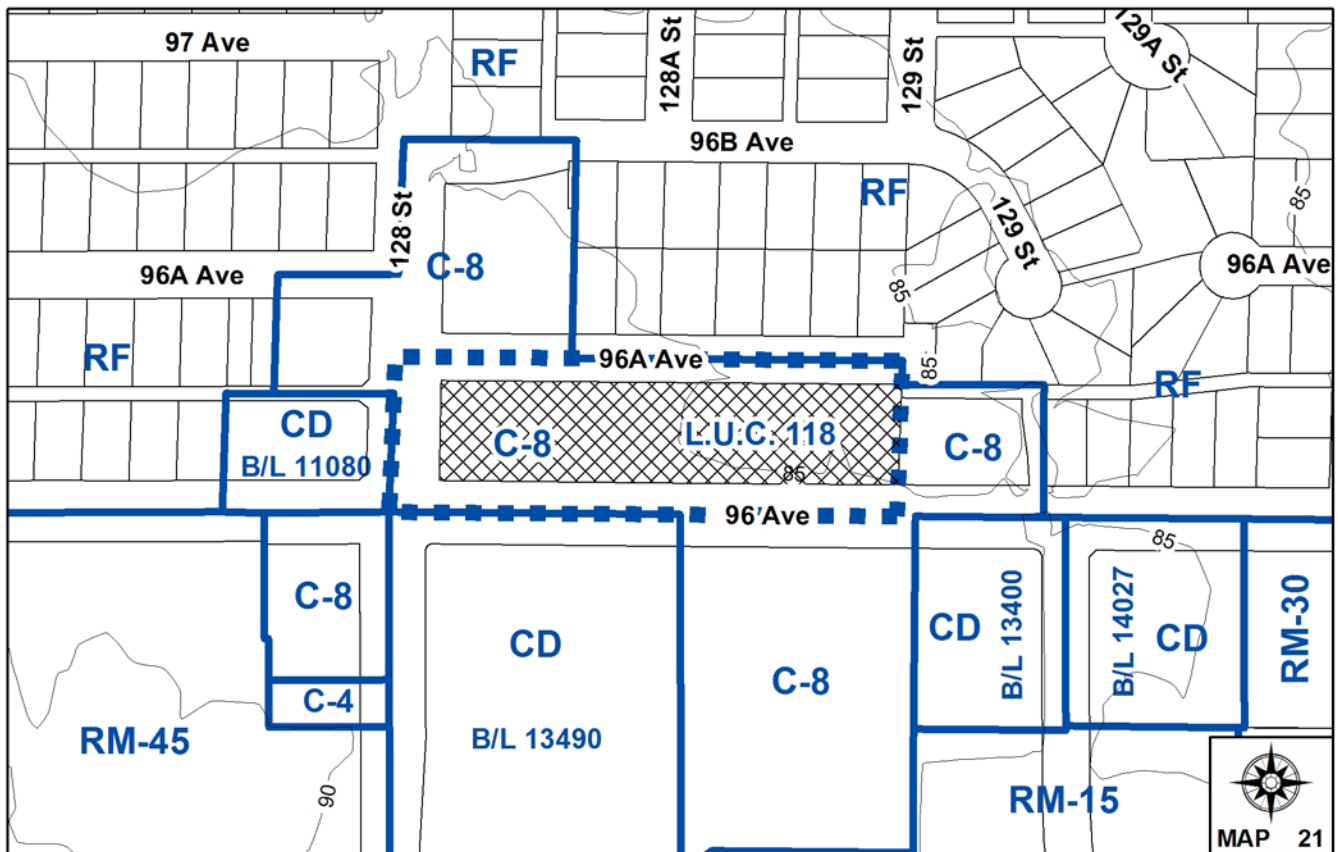
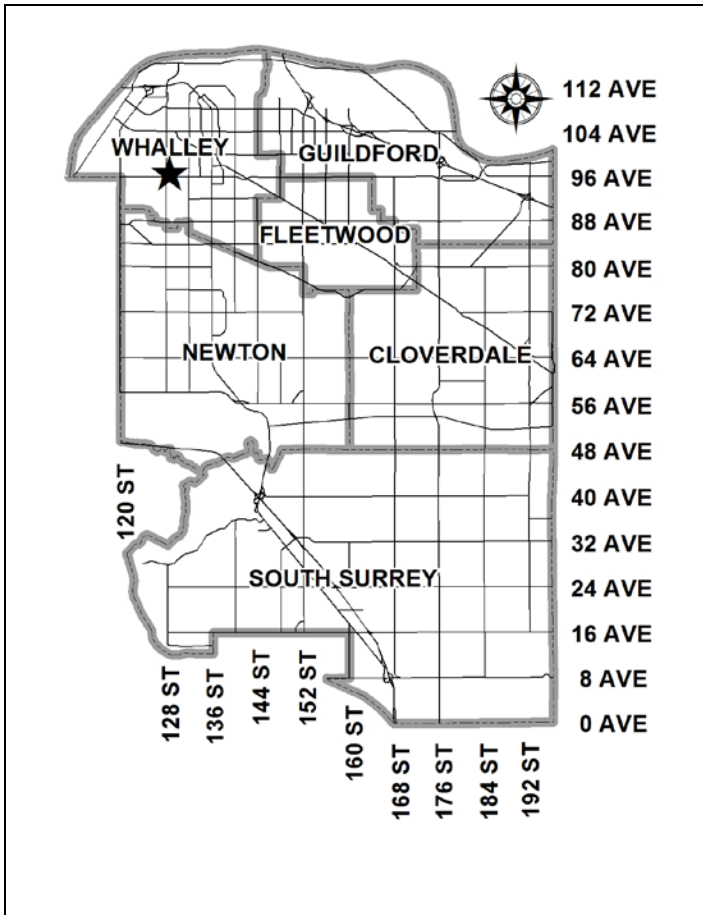
Planning Report Date: December 13, 2010

PROPOSAL:

- **Liquor License Amendment**

in order to extend the operating hours on Friday and Saturday and to increase the capacity of a Liquor Primary License (Wheelhouse Pub).

LOCATION: 12811 – 96 Avenue
OWNER: Broadway Properties Ltd.,
 (Incorporation No. 90626)
ZONING: Land Use Contract No. 118
 (underlying C-8)
OCP DESIGNATION: Commercial



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 site has been operating as a liquor licensed establishment for some time and there have been no concerns.
- The applicant has agreed to enter into a Good Neighbour Agreement to assist in mitigating any future impact the liquor primary license may have on the surrounding neighbourhood.

RECOMMENDATION

The Planning & Development Department recommends that:

1. Council approve the following proposed liquor primary liquor license amendment to proceed to Public Notification:
 - (a) The extension of hours of operation on Fridays and Saturdays from the existing hours of 11:00 a.m. to 1:00 a.m. to the proposed hours of 11:00 a.m. to 2:00 a.m.; and
 - (b) The increase in person capacity from 223 to 282 inside and from 40 to 52 on the patios.

REFERRALS

Surrey RCMP: No concerns.

Surrey By-laws and Licensing Services: No concerns.

Surrey Building Division: No concerns provided the applicant confirms compliance with the BC Building Code.

SITE CHARACTERISTICS

Existing Land Use: Mixed-use commercial building including the Wheelhouse Pub.

Adjacent Area:

Direction	Existing Use	OCP Designation	Existing Zone
North (Across 96A Avenue):	Bank and single family dwellings.	Commercial and Multiple Residential	C-8 and RF
East:	Non-conforming licensee retail store.	Commercial	C-8
South (Across 96 Avenue):	Commercial uses.	Commercial	CD (By-law No. 13490) and C-8
West (Across 128 Street):	Service station.	Commercial	CD (By-law No. 11080)

DEVELOPMENT CONSIDERATIONSBackground

- The subject application involves the Wheelhouse Neighbourhood Pub which is located on the north side of 96th Avenue in the Cedar Hills shopping district. The neighbourhood pub is located in a multi-tenant commercial building. The site is currently regulated under Land Use Contract No. 188 and is designated Commercial in the Official Community Plan.

- The proprietors of the Wheelhouse Pub submitted an application in 2003 (No. 7903-0436-00) to amend the hours of operation to 9:00 am to 2:00 am seven days a week. At the February 9, 2004 Regular Council – Land Use meeting, Council denied this proposal and requested that staff develop a policy for the hours of operation for neighbourhood pubs. Planning staff responded with Corporate Report No. L003 on February 23, 2004, and Council endorsed the following hours of operation policy for evaluating liquor license applications:
 - Sunday through Thursday 11:00 a.m. to no later than 1:00 a.m.; and
 - Friday and Saturday 11:00 a.m. to no later than 2:00 a.m.

Current Proposal

- The applicant currently holds a liquor primary license issued by the Liquor Control and Licensing Branch (LCLB) with an occupant load of 263 persons, including two patios and a food primary license of 80 persons including one patio.
- In 2003, the applicant included the food primary liquor license in the business operation and submitted a building permit application to confirm the occupant load for the two liquor licenses.
- A building permit issued in 2003, based on the BC Building Code requirements, identified the occupant loads are as follows:

Liquor Primary:	223 persons
Liquor Primary Patios	20 persons on each patio (total 40)
Food Primary	68 persons
Food Primary Patio	12 persons
TOTAL OCCUPANT LOAD	
Indoor:	291 persons
Patios:	52 persons

- The applicant has requested to convert the existing indoor and outdoor food primary licenses to liquor primary licenses. This amendment, if approved, will result in a liquor primary license with an occupant load of 291 persons indoors and a total of 52 on the three patios, which reflects the 2003 building permit.
- The conversion of the food primary license to a liquor primary license is considered by the Liquor Control and Licensing Branch as a capacity increase, and therefore requires a Council resolution with respect to the proposal.
- The current hours of operation for the liquor primary license are from 11:00 am to 1:00 am Monday through Saturday and from 10:00 am to 12:00 am on Sunday, and the food primary license hours are from 11:00 am to 1:00 am Monday through Saturday and from 11:00 am to 12:00 am on Sunday.

- The owner has requested amending the hours of operation for the expanded liquor primary license as shown on the following table:

	Existing Hours of Operation	Proposed Hours of Operation
Liquor Primary		
Sunday	11:00 am to 12:00 am	Unchanged
Monday through Thursday	11:00 am to 1:00 am	Unchanged
Friday and Saturday	11:00 am to 1:00 am	11:00 am to 2:00 am
Patios (Monday through Sunday)	11:00 am to 10:00 pm	11:00 am to 10:00 pm
Food Primary		
Monday through Saturday	11:00 am to 1:00 am	Not applicable
Sunday	11:00 am to 12:00 am	Not applicable
Patios (Monday through Sunday)	11:00 am to 10:00 pm	Not applicable

- In addition to Council providing a resolution with respect to a capacity increase, the LCLB requires a Council resolution on the amendment to the hours of operation past midnight, taking into consideration a specific list of criteria. The analysis of the criteria for this site is provided as follows:

Potential for Noise

- The Wheelhouse Pub is located in a commercial strip mall within a commercial designated area. There are existing single family residences located to the north of 96A Avenue, which are located at the rear of the building. The pub will continue to operate in a similar fashion as it has done since 1982.
- Two of the patios are located on the south side of the building facing 96 Avenue. The third patio is located on the east side of the building, facing the Wheelhouse Pub licensee retail store. Both patios are blocked by the existing structure, which assists in mitigating the noise to the residents located on the north side of 96A Avenue. As required under the Business License By-law, patios near residential uses are required to be closed by 10:00 pm to reduce any noise impacts on the residents.

Impact on the Community

- As noted above, the pub has been operating in the community since 1982.
- Both the RCMP and Surrey By-laws & Licensing Services have no concerns with the proposed liquor license amendments.
- As a requirement for this application, the proprietor has verbally agreed to enter into the attached Good Neighbour Agreement (Appendix III).

Will the amendment result in the establishment being operated in a manner that is contrary to its primary license?

- The main purpose of the business is a liquor primary license (Neighbourhood Pub). It is not anticipated that increasing the capacity or changing the hours of operation will result in the establishment being operated in a manner that is contrary to its primary purpose.

PRE-NOTIFICATION

- In accordance with Council Policy, Pre-notification letters were sent on November 29, 2001 and a development proposal sign was erected on the property. To date, staff have received three telephone calls requesting additional information on the proposal. Two callers did not have any concerns about the proposal. The third caller lives on the north side of 96A Avenue, north of the existing business. The caller expressed concerns about parking problems on 96A Avenue, fights in the street and vehicles racing out of the pub parking lot.

(By-law Enforcement does not have any records of complaints concerning these issues. If complaints are received concerning speeding vehicles or public fights in the street, they will be documented and discussed with the proprietors of the Wheelhouse Pub. The Good Neighbour Agreement can assist in outlining the responsibilities of the management of the operation.

The current application does not increase the physical size of the business operation; rather it is requesting an amendment to change the food primary license to a liquor primary license.)

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.	Floor Plan
Appendix III.	Good Neighbour Agreement

original signed by Judith Robertson

Jean Lamontagne
General Manager
Planning and Development

LAP/kms

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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: Rebecca Hardin, Berezan Hospitality Group
 Address: #210 – 8399 – 200 Street
 Langley, BC
 V2Y 3C2
 Tel: 1-360-305-6112

2. Properties involved in the Application
 - (a) Civic Address: 12811 – 96 Avenue

 - (b) Civic Address: 12811 – 96 Avenue
 Owner: Broadway Properties Ltd., Incorporation No. 90626
 PID: 004-208-358
 Lot 274 Section 33 Block 5 North Range 2 West New Westminster District Plan
 50860

3. Summary of Actions for City Clerk's Office

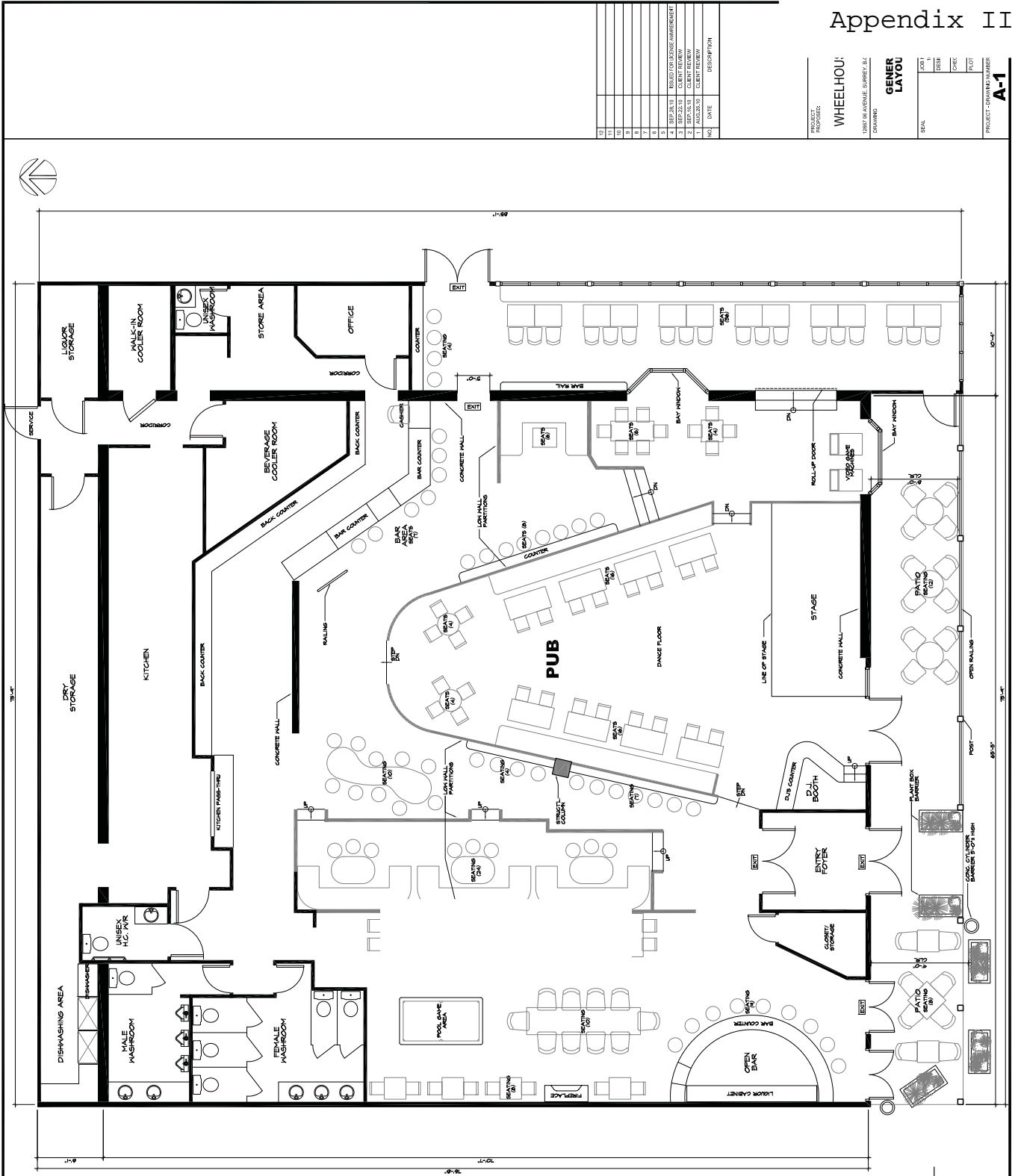
Liquor Applications

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

**WHEELHOUSE PUB
LIQUOR LICENSING DATA**

ADDRESS: 12867 - 46TH AVENUE, SURREY, BC, V5V 6V9
 GROUP A, DIVISION 2 OCCUPANCY
 TRAVEL DISTANCE: 45m
 LICENSED AREA = 440.9 sq. m.
 OCCUPANT LOAD (BCBC 2006 - TABLE 9.11.1.1)
 SPACE REQUIRED FOR LICENSED AREA: 440.9/0.915 = 484 PEOPLE
 REQUIRED EXIT WIDTH = 6.1mm PER PERSON
 484 = 2850mm (4 DOORS @ 614mm)
 EXIT WIDTH (100mm FOR PASSWAYS AND 4 CORRIDORS IN AN EXIT)
 CURRENT LIQUOR LICENCES
 LIQUOR PRIMARY
 PATIO 1: 20 PERSONS
 PATIO 2: 200 PERSONS
 PATIO 3: 285 PERSONS
 FOOD PRIMARY: PATIO 1: 12 PATRONS
 PATRONS: 80 PATRONS
 TOTAL: 545 PERSONS AND PATRONS
 MASHROOMS REQUIREMENTS (BCBC 2006 - TABLE 9.12.2.A)
 10 PERSONS
 5 PERSONS
 12 PERSONS
 12 PERSONS
 285 PERSONS
 UNIFORM TOILET ROOM
 *ONLY 2 OF 9 URINALS COATED (9.12.2.3)
 NOTE - STAIRS OF LESS THAN 9 RISERS ARE PERMITTED IN A DINING ROOM PROVIDED THE STAIRS ARE MORE THAN 200mm WIDE, HANDRAILS ARE PROVIDED ON BOTH SIDES AND STAIRS ARE ILLUMINATED AT ALL TIMES WHEN CUSTOMERS ARE ON THE PREMISES.

NOTE:
 -ALL DIMENSIONS SHOWN ARE APPROXIMATE ONLY AND ARE TO BE CONFIRMED ON SITE.



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PROJECT: WHEELHOUSE
 PROPOSED: LIQUOR LICENSING APPLICATION
 CLIENT: AARON, SURREY, BC
 DRAWING: GENERAL LAYOUT
 TOTAL: JOB #, REVISION, CHECK, DATE, DESCRIPTION
 PROJECT DRAWING NUMBER: A-1



**CITY OF SURREY
GOOD NEIGHBOUR AGREEMENT**

BETWEEN:

BEREZAN HOSPITALITY GROUP

(the "Owner")

AND:

CITY OF SURREY

(the "City")

AND:

RCMP SURREY DETACHMENT

(the "RCMP")

WHEREAS the City, including its Fire Services, the RCMP, and the Owner of the Wheelhouse Pub located at 12811 96 Avenue (the "Licensed Establishment") (collectively the "Parties"), recognize that all liquor licensed establishments 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 and the RCMP to enter into this Good Neighbour Agreement, the terms and conditions of which follow:

1. **Noise and Disorder**

- (a) The Owner undertakes to ensure that noise emissions from the Licensed Establishment do not disturb surrounding residential developments and neighbourhoods, and do not violate Surrey Noise Control Bylaw, 1982, No. 7044, as amended;

Appendix I(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 ensure disturbances are prevented. Owner must take reasonable measures to make sure the Licensed Establishment is not operating contrary to the public interest and does not disturb people near the establishment. Examples of reasonable measures include installing adequate lighting outside the Licensed Establishment and in the parking lot, supervising parking areas, adding sound proofing, 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 every 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 allow any person under the age of 19 years of age into the Licensed Establishment;
- (b) The Owner shall not serve alcohol to any person under the age of 19 years of age; and
- (c) 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 and moral 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 approved hours of operation 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) If the Licensed Establishment is located within a Business Improvement Area, the Owner shall participate in any Business Improvement Area Watch Program, if such a program is created;
- (f) The Owner shall support programs which aim to eliminate occurrences of drinking and driving;
- (g) 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
- (h) 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 or cancel the Owner's business license for the Licensed Establishment 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.

12. **Indemnification**

- (a) The Owner hereby releases, indemnifies and saves harmless the City, its elected and appointed officials, employees and agents from any and against all liabilities, actions, causes of action, claims, damages, expenses, costs, debts, demands or losses suffered or incurred by the City arising from the granting or existence of this Agreement from the performance by the Parties of this Agreement or any default of the Parties under or in respect of this agreement.

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

Owner)

)

_____)

Signature)

)

_____)

Name (*please print*))

)

_____)

Signature)

)

_____)

Name (*please print*))

(*If more than one Owner, each Owner*))

must sign))

)

City of Surrey)

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_____)

Mayor Dianne L. Watts)

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Surrey Fire Services)

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Name (*please print*))

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Rank (*please print*))

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Rank (*please print*))

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Royal Canadian Mounted Police)

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