
TO: Electoral Area Services Committee **DATE:** June 12, 2018
FROM: Stephen Boogaards
Planner **FILE:** PL2018-074
SUBJECT: No. PL2018-074 Liquor Licence Amendment Application -
1548 Grafton Ave – Electoral Area ‘F’
Lot 1, District Lot 139, Nanoose District, Plan 15854

RECOMMENDATIONS

1. That the Board consider submissions or comments from the public regarding Liquor Licence Amendment Application No. PL2018-074.
2. That the Board adopt the resolution pertaining to Liquor Licence Amendment Application No. PL2018-074 attached to this report as Attachment 2.

SUMMARY

An application has been received from the Trails End Restaurant Ltd. to amend their food-primary licence (licence number 307720) to include an entertainment endorsement. The entertainment endorsement would allow for patron participation. The licensee has indicated on their application that their purpose is to provide live music within the restaurant and they would also like to allow patron participation associated with the live music, such as karaoke and dancing.

The amendment requires a resolution from the Board before it can be processed by the Liquor Control and Licensing Branch (LCLB). The Regional District of Nanaimo (RDN) is requested by the LCLB to consider the impact on the community, as well as to consult with neighbouring property owners. Given that the proposed patron participation events are complementary and incidental to the existing restaurant and limited in scale, no negative impacts are anticipated from the proposed entertainment endorsement. It is recommended that the prepared resolution in Attachment 2 be forwarded to the LCLB, pending Board consideration and subject to the outcome of public notification.

BACKGROUND

The LCLB has referred an application to the RDN for the Trails End Restaurant Ltd. for a permanent amendment to their food-primary liquor licence. The amendment is a food-primary entertainment endorsement, which will allow for patron participation entertainment. The LCLB requires the RDN to provide a Board resolution within 90 days of receiving the application, commenting on the permanent

change to the liquor licence prior to approval by the LCLB. The LCLB requests that the local government gather the views of the nearby residents affected by the liquor licence amendment.

The Trails End Restaurant Ltd., which is the licensee, is located within the Errington Village plaza owned by Gas 'N' Go Petroleum (see Attachment 1 – Subject Property Map). The property is zoned Commercial 1 (C-1) with an additional site specific zone of C-1.1 pursuant to “Regional District of Nanaimo Electoral Area ‘F’ Zoning and Subdivision Bylaw No. 1285, 2002”. The property is located within the Errington Rural Village Centre in the “Regional District of Nanaimo Electoral Area ‘F’ Official Community Plan Bylaw No. 1152, 1999.” Adjacent properties across Grafton Road and to the south and west are zoned Agriculture 1. Properties across Errington Road are zoned C-1 and Village Residential 3 (R-3) (see Attachment 3 – Current Zoning Map). The property is also the site of other commercial uses, including mini storage.

Proposed Development

The applicant requests an entertainment endorsement for their existing food-primary licence in order to allow for patron participation within the restaurant. The applicant proposes live music for patrons, and requests patron participation to allow for dancing or karaoke associated with the live music. The live music as patron non-participation entertainment is permitted without an application, though patron participation requires an application and a local government resolution. As a food-primary licence, the service must focus on food and the kitchen must remain open.

The hours of operation for the restaurant as per the existing licence are 9:00 am to midnight daily. The applicant is not requesting a change to the hours of liquor service. While liquor service must currently occur within the building, the applicant has also recently applied for a food-primary liquor licence structural change, which, if approved by LCLB, would expand the liquor service area to include the patio.

Liquor Licence Implications

Prior to LCLB consideration of the application, under the *Liquor Control and Licensing Act*, the applicant is required to obtain a resolution from the local government providing input on the proposed liquor licence amendment. The LCLB requires a resolution from the Board that considers the potential for noise for nearby properties, impact on the community, the consistency of the amendment with the purpose of a food-primary licence, and the view of residents including a description of the methods to gather feedback.

The RDN’s Liquor Licence Applications Board Policy B1.6 provides guidance for how the RDN should review and consider liquor licence applications from the LCLB. The policy identifies public consultation required such as a public hearing, public notice sign on the property, mailout notice to adjacent property owners, and advertisements in the newspaper. However, the Policy B1.6 provides that the Board may consider a minor amendment to an existing liquor licence, without the requirement to hold a public hearing, if the proposal will not negatively impact the surrounding community and it complies with the applicable RDN bylaws and policies. All other requirements must be met for public notice, and the LCLB must be satisfied that residents have had an opportunity to provide their view.

Policy also provides guidelines to the Board for consideration of community impact including the location of the establishment, proximity to other social or public buildings, occupant load, and liquor-primary establishments within a reasonable distance, traffic, noise, parking, zoning, and other social or

demographic trends. A draft resolution meeting the general form required by the LCLB has been drafted for the Board's consideration. This resolution may be amended as deemed necessary by the Board and pending the outcome of public notification.

Land Use Implications

The licensee requests an entertainment endorsement for the restaurant to allow for patron participation in conjunction with live music. While musicians and entertainers are permitted within a food-primary liquor licence, the participation of patrons in the entertainment requires an amendment to the licence. Patron participation could include activities such as karaoke or dancing.

The proposed patron participation complements the existing restaurant by allowing guests to participate in live entertainment while maintaining the emphasis on serving food. The plaza is located within the Errington Rural Village Centre in the Official Community Plan which is intended to support a variety of commercial, recreational, community and professional services. In consideration of the OCP designation and permitted uses in zoning, ancillary restaurant uses such as entertainment are appropriate for the property. The zoning permits other complementary commercial uses such as retail store, personal service use and outdoor market. Uses within the plaza and within the Errington general store across Errington Road are commercial, though the property is also surrounded by residential and Agricultural Land Reserve (ALR) properties. Potential impacts to residential or ALR lands within proximity of the food-primary amendment are not anticipated, provided the emphasis is on food preparation and entertainment is incidental to the existing restaurant.

Both LCLB criteria and Board policy require local government consideration of noise impacts on the community. The patron participation entertainment in the existing licenced area is not expected to impact nearby residential or immediately adjacent commercial properties. However, without restrictions by the LCLB, the patron participation endorsement would extend to all licenced areas of the restaurant, including the outdoor patio area if the pending structural change is approved. The maximum occupant load for the patio is 41 and may be open until 12:00 am. Given the potential for noise to affect residential or agriculture lands across Grafton Road or in the general area of the restaurant if patron participation entertainment were to occur in the patio area, it is recommended that the patron participation endorsement be restricted to the area inside the building, which is currently licensed for 103 persons.

The RDN's Liquor Licence Applications Board Policy B1.6 provides guidance for the RDN to consider impacts from traffic and parking related to the licence amendment. Since the entertainment is incidental to the existing restaurant use, traffic and parking demand is not anticipated to change as parking space in zoning is based on the capacity of the restaurant, being one space per three seats. There is no requirement for additional parking as a result of the patron participation endorsement.

Another criteria considered by LCLB and Board policy is if the application to amend a food-primary will result in the service being operated in a manner contrary to its intended purpose. Specifically the concern would be a food-primary licence being operated in a manner similar to a liquor-primary licence, which may have different impacts on the community. One criterion LCLB considers is if the kitchen will remain open and serve food during hours of operation. The application appears to be consistent with a food-primary licence, given that patron participation is incidental to the restaurant.

Patron participation also offers various entertainment options, such as dancing, singing, trivia nights or events such as weddings and birthdays that are not currently being contemplated for the business. Pending the outcome of public notification, the Board may consider recommending other restrictions on the proposed licence amendment where a potential community impact is identified through public consultation.

Intergovernmental Implications

The applicant's proposal has been referred to RDN Building Inspection department, the local RCMP, and the Ministry of Transportation and Infrastructure. The departments and agencies provided no comment or did not express any concern with the application for an entertainment endorsement.

Public Consultation Implications

As part of the required public notification process, pursuant to the RDN Liquor Licence Applications Policy B1.6, the RDN is required to post a notice on the subject parcel advertising that the property is subject to a liquor licence amendment application and is required to advertise the amendment in a local newspaper. A notice was posted on the property on June 6, 2018. Should the Electoral Area Service Committee recommendation the Board consider the liquor licence amendment as presented, a notice of the Board's consideration will be published in the June 19 and 21, 2018 editions of the Parksville Qualicum Beach News. Property owners and tenants located within a 200 metre radius will receive a direct notice of the liquor licence amendment, and will have an opportunity to comment on the proposed amendment prior to the Board's consideration of the application on June 26, 2018.

ALTERNATIVES

1. To approve the attached resolution in support of the application.
2. To provide a resolution that does not support the application.
3. To not provide any resolution and have the Liquor Control and Licencing Branch undertake its own public input process and consider the application without Board input.

FINANCIAL IMPLICATIONS

The proposed development has been reviewed the proposal and there are no implications related to the Board 2017 – 2021 Financial Plan.

STRATEGIC PLAN IMPLICATIONS

The application has been reviewed and the proposal supports the Board's 2016-2020 Strategic Plan, specifically the Strategic Priority to Focus on Economic Health by supporting business to foster economic development.



Stephen Boogaards
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May 30, 2018

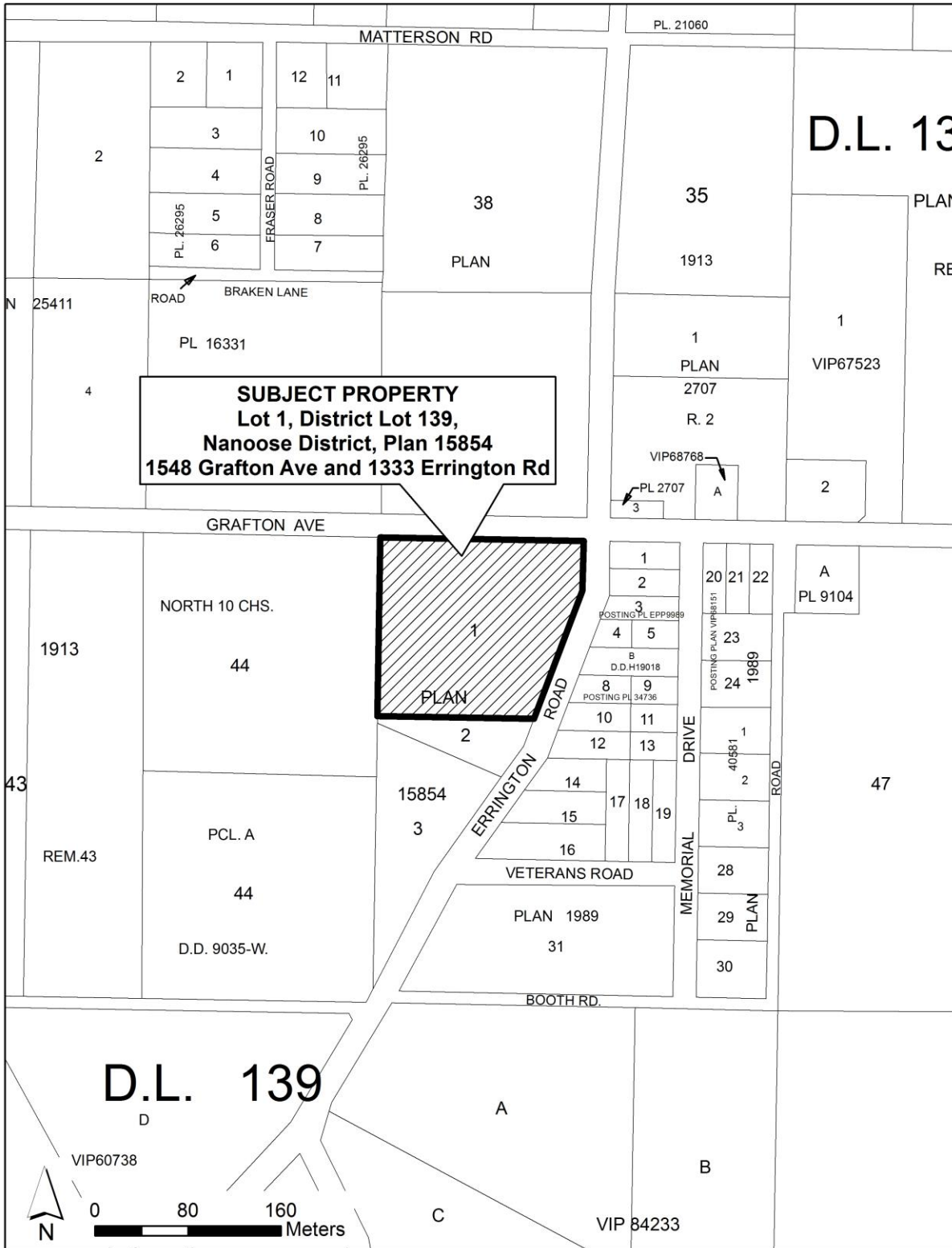
Reviewed by:

- J. Holm, Manager, Current Planning
- G. Garbutt, General Manager, Strategic & Community Development
- P. Carlyle, Chief Administrative Officer

Attachments:

1. Subject Property Map
2. Resolution for Trails End Restaurant Ltd. Liquor Licence Amendment
3. Current Zoning Map

Attachment 1
Subject Property Map



Attachment 2
Resolution for Trails End Restaurant Ltd. Liquor Licence Amendment
Liquor Licence Amendment No. PL2018-074

Be it resolved that:

1. The RDN Board has considered the following:
 - a. The location of the establishment
 - b. The person capacity and hours of liquor service
2. RDN Board Recommendation - The Board of the Regional District of Nanaimo recommends the amendment of the liquor licence to allow the food-primary entertainment endorsement, provided the patron participation entertainment occurs internally within the existing licenced building and is incidental to the primary purpose of the restaurant in serving food.
3. The Board's comments on the prescribed considerations are as follows:
 - a. Noise – The patron participation entertainment would generate little noise impact on the surrounding community given that the business is located within an existing commercial area zoned for the purpose of restaurant. It is recommended that the live music or patron participation only occurs within the existing licenced area, as surrounding residences or agricultural properties may be impacted where the activities occur outside the existing restaurant. Given that the live music and patron participation complements the existing restaurant, is internally within the existing licenced area, and is incidental to the food-primary licence, the amendment is not expected to disturb neighbouring properties. The restaurant has also not proposed to change its hours of operation.
 - b. Community Impact – The proposed patron participation complements the nature of the existing restaurant by providing guests with entertainment while maintaining the emphasis on food service. The restaurant is within the Errington Rural Village Centre designated within the Official Community Plan as a mixed use focal point for supporting a variety of commercial, recreational, community and professional services. The restaurant is adjacent to other commercial businesses within the same plaza and across Errington Road. However, properties around the plaza, situated outside of the Rural Village Centre, are within the Agricultural Land Reserve or are residential. Given that the emphasis is on food preparation and entertainment is incidental to the existing restaurant, the amendment would have minimal impact on the community.
 - c. Parking and Traffic – Since the entertainment is incidental to the restaurant use, traffic and parking demand will not likely change due to the endorsement. Parking space calculations in zoning are based on the capacity of the restaurant, being one space per three seats.
 - d. Consistency with Intent of Food Primary Licence – The proposed form of patron participation identified includes dancing or karaoke associated with live music permitted

within a food-primary licence. Given that the patron participation associated with the live music is incidental to the purpose of restaurant and serving of food, the application appears to be consistent with the food-primary licence.

- e. Public Notification – The opinions of residents were solicited and no objections to the application were received. A notice of the Board's intent to receive public input and consider the resolution with respect to a proposed amendment to the existing liquor licence was delivered to owners and tenants in occupation of land within a distance of 200 metres from the property. The Regional District of Nanaimo also provided notice in the June 19 and 21, 2018 editions of the Parksville Qualicum Beach News. All interested residents were invited to attend the Board meeting and provide comments on the proposal. Prior to considering the resolution, the Board asked for comments from the gallery on this application. A notice was also posted on the property advertising that the property is subject of a liquor licence amendment application and directing inquiries to the Strategic and Community Development department.

Attachment 3
Current Zoning Map

