

## STAFF REPORT

TO: A. TUCKER, DIRECTOR, PLANNING & DEVELOPMENT, DSD

FROM: D. LINDSAY, MANAGER, PLANNING DIVISION, DSD

RE: REPORT OF THE PUBLIC HEARING HELD THURSDAY, 2008-FEB-07  
FOR BYLAW NO. 4000.431

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### STAFF'S RECOMMENDATION:

That Council receive this report and the minutes of the Public Hearing held on Thursday, 2008-FEB-07.

### EXECUTIVE SUMMARY:

A Public Hearing was held on 2008-FEB-07, the subject of which was two items. Five members of the public were in attendance. Minutes of the Public Hearing are attached.

### BACKGROUND:

#### **1. BYLAW NO. 4000.431:**

*RA200 – 6334 Metral Drive*

This bylaw, if adopted, will permit 'Fast Food Restaurant' as a site specific use within a Mixed Use Commercial Zone (C-4) for property located at 6334 Metral Drive. The subject property is legally described as LOT 2, SECTION 12, WELLINGTON DISTRICT, PLAN 7469, EXCEPT PART IN PLANS 33807, VIP69755 AND VIP72220 and is shown on Map 'A'.

This application appears before Council this evening for consideration of Third Reading.

One verbal and no written submissions were received for this bylaw.

#### **2. LIQUOR LICENSE APPLICATION:**

*LA15 – 99 Chapel Street and 221 Commerical Street*

The City has received an application, through the Provincial Liquor Control and Licensing Branch (LCLB) to transfer a liquor license. This application, if approved, will permit the transfer of the existing liquor license from 99 Chapel Street (Old Flag Inn) to the second floor of 221 Commercial Street (The Modern Café). The applicant, Post Modern Enterprises Limited, is proposing to operate a 'Nightclub' at the new location, above the Modern Café, serving liquor from 12:00 p.m. to 1:30 a.m., Monday to Sunday, and with a capacity of 148 persons (including staff). Existing capacity at the Old Flag Inn is 100 patrons.

This application appears before Council this evening for direction.

One verbal and no written submissions were received for this application.

Respectfully submitted,



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D. Lindsay  
Manager, Planning Division  
**Development Services Department**

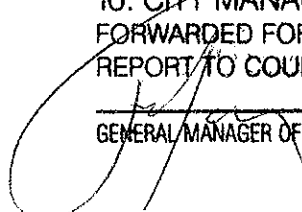


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A. Tucker  
Director, Planning & Development  
**Development Services Department**

/pm  
Council: 2008-FEB-25  
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TO: CITY MANAGER  
FORWARDED FOR CITY MANAGER'S  
REPORT TO COUNCIL



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GENERAL MANAGER OF DEVELOPMENT SERVICES

**MINUTES OF THE PUBLIC HEARING HELD PURSUANT TO THE  
LOCAL GOVERNMENT ACT, IN THE BOARD CHAMBERS OF THE  
REGIONAL DISTRICT OF NANAIMO, 6300 HAMMOND BAY ROAD, NANAIMO, BC,  
ON THURSDAY, 2008-FEB-07, TO CONSIDER AN AMENDMENT TO  
THE CITY OF NANAIMO "ZONING BYLAW 1993 NO. 4000" AND  
TO CONSIDER DIRECTION FOR THE TRANSFER OF A LIQUOR LICENSE**

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**PRESENT:** Councillor M.D. Brennan  
Councillor J.D. Cameron  
Councillor W.J. Holdom  
Councillor C.S. Manhas  
Councillor L.D. McNabb – Acting Mayor  
Councillor L.J. Sherry  
Councillor W.M. Unger

**REGRETS:** Mayor G.R. Korpan  
Councillor W.L. Bestwick

**STAFF:** A. Tucker, Director, Planning and Development, DSD  
D. Stewart, Planner, Planning Division, DSD  
S. Smith, Planner, Planning Division, DSD  
P. Masse, Planning Clerk, Planning Division, DSD

**PUBLIC:** There were five members of the public present.

**CALL TO ORDER:**

Councillor McNabb called the meeting to order at 7:00 pm. Ms. Smith explained the required procedure in conducting a Public Hearing and the regulations contained within Section 892 of the Local Government Act. Ms. Smith read the items as they appeared on the Agenda, adding that this is the final opportunity to provide input to Council before consideration of Third Reading to Zoning Amendment Bylaw No. 4000.431 at the next regularly scheduled Council meeting of 2008-FEB-25. The liquor license transfer application is appearing for Council's direction.

**1. BYLAW NO. 4000.431:**

RA200 – 6334 Metral Drive

This bylaw, if adopted, will permit 'Fast Food Restaurant' as a site-specific use within a Mixed Use Commercial Zone (C-4) for property located at 6334 Metral Drive. The subject property is legally described as LOT 2, SECTION 12, WELLINGTON DISTRICT, PLAN 7469, EXCEPT PART IN PLANS 33807, VIP69755 AND VIP72220.

**Mr. Neil Fairman, #24 - 6325 Metral Drive – Opposed**

- Concerned about the amount of traffic that could be generated by a Starbucks so close to Pleasant Valley School, especially if a drive-thru is proposed.

Councillor Brennan asked Staff for clarification regarding the possible future implications if this rezoning were to be approved and any form of 'Fast Food Restaurant' being constructed in the future.

Ms. Smith confirmed that if the Starbucks proposal did not go ahead after approval that any form of 'Fast Food Restaurant' would be permitted.

No written submissions and one verbal submission were received for this application.

**2. LIQUOR LICENSE TRANSFER:****LA15 – 99 Chapel Street and 221 Commercial Street**

The City has received an application, through the Provincial Liquor Control and Licensing Branch (LCLB) to transfer a liquor license. This application, if approved, will permit the transfer of the existing liquor license from 99 Chapel Street (Old Flag Inn) to the second floor of 221 Commercial Street (above the Modern Café). The applicant, Post Modern Enterprises Limited, is proposing to operate a 'Nightclub' at the new location, above the Modern Café, serving liquor from 12:00 p.m. to 1:30 a.m., Monday to Sunday, and with a capacity of 148 persons (including staff). Existing capacity at the Old Flag Inn is 100 patrons.

**Mr. Bill Belland, 221 Commercial Street – Applicant / Modern Café Owner**

- Available to answer any questions Council may have regarding this proposal.

Councillor Sherry asked for clarification on the proposed access to the second floor.

Mr. Belland confirmed the access is planned for the rear of the building, off Skinner Street. The back of the building will be cleared, cleaned, and upgraded.

Councillor Brennan asked Mr. Belland if he had any previous experience running a nightclub.

Mr. Belland confirmed he been in the nightclub business for over 30 years and is the current owner of the Odyssey Nightclub in Vancouver (23 years). The Odyssey enjoys an excellent reputation with the City of Vancouver and the Police Department.

- Read from an newspaper article published in March 2004 in the Vancouver Courier that noted that the "Odyssey Nightclub on Howe Street is an example of how a club can stay open until 4:00 a.m. without causing problems for the police or area residents through good management. There are a number of residential towers around there and they do not get complaints. It is an example of how the late hours can work if the pieces are put together".
- The Odyssey was voted one of the ten best places in Vancouver by "Vancouver Magazine" in 2006.

- Understands Council's concern regarding Liquor Primary Licenses, "it is not about the license, it is about the operator".
- Many people have indicated to him that they are looking for a "safe place to go" downtown.
- Five new restaurants have opened in the 4.5 years since The Modern Café opened. Competition has increased his sales and he is excited about the changes that have occurred in the downtown.
- Plans are for a contemporary design that would cater to the 19-40 year old demographic.

Councillor Manhas asked for clarification on whether or not the access to the second floor would be from inside The Modern Café.

Mr. Belland noted that the two properties have been amalgamated, however the address of the proposed nightclub would be 170 Skinner Street and it would have its own access.

Councillor Manhas asked for clarification on the proposed hours of business.

Mr. Belland stated that the hours proposed (12:00 p.m. to 1:30 a.m.) are to allow him to open earlier for special occasions, however, the regular hours would be from 8:00 p.m. to 1:30 a.m.

Councillor McNabb asked the applicant why the previous application had been abandoned.

Mr. Belland noted that there were some issues that needed to be resolved and it was inconvenient at that time.

Councillor McNabb asked for clarification regarding the square footage of the proposed nightclub.

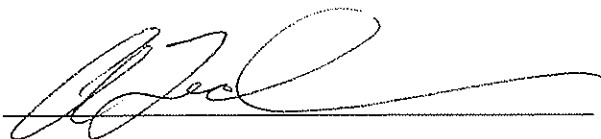
Mr. Belland noted that the proposed size is approximately 2,500 ft<sup>2</sup>, added that the requested maximum occupancy of 148 persons will more than likely not be utilized as he only has a preliminary design at this stage. Final inspection will include measurement and allocation of seat allowance.

No written submissions were received and no further verbal submissions received for this application.

MOVED by Councillor Sherry, SECONDED by Councillor Holdom, that the meeting be adjourned at 7:12 pm.

**CARRIED**

Certified Correct:



A. Tucker  
Director, Planning and Development  
**Development Services Department**