



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 4320-20

From: Chief Administrative Officer

Date: September 15, 2014

Subject: Forbidden Brew Corp. Lounge Endorsement

PURPOSE:

The purpose of the report is to respond to the application by the Forbidden Brew Corp. for a Brewery Lounge Endorsement.

CAO RECOMMENDATIONS:

That, based on the September 15, 2014 staff report, "Forbidden Brew Corp. Lounge Endorsement", Council approve Option 1 and direct staff to publish notice for two consecutive weeks in a local newspaper and post on the City's website requesting input on the proposed brewery lounge endorsement for Council consideration at the regular meeting scheduled for October 6, 2014.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM
Chief Administrative Officer

BACKGROUND:

As per the attached request, the new Forbidden Brew Corp. is planning to open at 1590 Cliffe Avenue and is requesting a Brewery Lounge Endorsement.

DISCUSSION:

If Council wishes to comment on the application, the *Liquor Control and Licencing Regulations* require a local government detailed resolution as outlined in Appendix 1.

In addition, prior to recommending approval of an application, the local government must gather the views of residents if it considers the amendment may affect nearby residents and businesses. Staff are of the opinion that notices in a local newspaper and on the City's website will satisfy the requirements of the Liquor Control and Licencing Branch (LCLB).

Once Council receives public input on the applications, a resolution addressing the points outlined in Appendix 1 must be forwarded to the LCLB. A proposed resolution in the correct format will be presented to Council for consideration at the regular meeting scheduled for October 6, 2014.

Council may choose to “opt out” of the process. This is a valid option only if Council feels the operation of the brewery lounge would not affect nearby residents (includes businesses).

FINANCIAL IMPLICATIONS:

Cost of advertising is anticipated to be in the range of \$250.

ADMINISTRATIVE IMPLICATIONS:

Administration of liquor licence amendments is included in the general statutory duties of the Legislative Services Department work plan. The recent Gladstone Brewery application consumed over 8 hours of staff time; however this application should be significantly less.

STRATEGIC PLAN & PRIORITIES REFERENCE:

Statutory in nature.

OFFICIAL COMMUNITY PLAN REFERENCE:

Not referenced.

REGIONAL GROWTH STRATEGY REFERENCE:

Not referenced.

CITIZEN/PUBLIC ENGAGEMENT:

Public notice required if Council wishes to comment on the application.

OPTIONS:

- Option 1: Direct staff to publish notice for two consecutive weeks in a local newspaper and post on the City’s website requesting input on the proposed Brewery Lounge Endorsement for Council consideration at the regular meeting scheduled for October 6, 2014. (recommended).
- Option 2: Direct staff to obtain public input through an alternative method.
- Option 3: Opt out of the process and advise the LCLB.

Prepared by:



John Ward, CMC
Director of Legislative Services

Attachments

1. Application summary and notification from the LCLB.

APPENDIX 1

Excerpts from the Liquor Control and Licencing Act Regulations:

- (9) *In considering an application for which notice has been given under subsection (8), the local government or first nation must, in providing comments with respect to the application, take into account the following criteria:*
- (a) *the location of the winery lounge, brewery lounge, distillery lounge or special event area;*
 - (b) *the proximity of the winery lounge, brewery lounge, distillery lounge or special event area to other social or recreational facilities and public buildings;*
 - (c) *the person capacity and hours of liquor service of the winery lounge, brewery lounge, distillery lounge or special event area;*
 - (d) *the impact of noise on the community in the immediate vicinity of the winery lounge, brewery lounge, distillery lounge or special event area;*
 - (e) *the impact on the community if the application is approved.*
- (10) *If the operation of a winery lounge, brewery lounge, distillery lounge or special event area may affect nearby residents, the local government or first nation must gather the views of residents of an area determined by the local government or first nation.*
- (11) *If the local government or first nation wishes to provide comments to the general manager, it must provide the following in writing:*
- (a) *its comments addressing the criteria in subsection (9);*
 - (b) *if it has gathered the views of residents under subsection (10),*
 - (i) *the views of the residents,*
 - (ii) *the method used to gather the views of the residents, and*
 - (iii) *its comments and recommendations respecting the views of the residents;*
 - (c) *its recommendations with respect to whether the endorsement should be issued;*
 - (d) *the reasons for its recommendations.*
- (12) *The written comments referred to in subsection (11) must be provided to the general manager within 90 days after the local government or first nation receives notice*

under subsection (8), or any further period authorized by the general manager in writing.

- (13) *If under subsection (11) (c), the local government or first nation recommends that an endorsement be issued, the general manager must take that recommendation into account in deciding whether to issue the endorsement.*
- (14) *Subject to subsection (15), the general manager must not approve an application that is not supported by the local government or first nation.*
- (15) *The general manager need not comply with subsection (14) if the general manager is satisfied that*
- (a) *the local government or first nation did not comply with the requirements of this section, or*
 - (b) *the recommendation provided by the local government or first nation is contrary to the public interest.*
- (16) *If, after notice is provided to the local government or first nation under subsection (8), the local government or first nation informs the general manager that the local government or first nation will not provide input to the general manager in respect of the application or does not respond to the notice within the time allowed under subsection (12), the general manager may, in deciding whether or not to approve the application, take into account*
- (a) *the criteria in subsection (9), and*
 - (b) *any other matters the general manager considers relevant.*



August 13, 2014

Job #23716601-2

via email: jward@courtenay.ca

John Ward, Planning City of Courtenay
830 Cliffe Avenue
Courtenay, B.C. V9N 2J7

Dear John:

Re: Application Summary - Application for Brewery Lounge Endorsement
Applicant: Forbidden Brew Corp
Proposed Establishment Location: 1590 Cliffe Avenue in Courtenay
Proposed Establishment Name: Forbidden Brew

The applicant, Forbidden Brew Corp., has applied to the Liquor Control and Licensing Branch (the Branch) for a Brewery Lounge Endorsement to be located at the above-noted address, the Brewery manufacturing licence application is still in process. The Branch has completed the initial review of the application to determine applicant suitability and eligibility of the establishment type for licensing. As part of that process, a Liquor Inspector has completed a site visit at the proposed establishment location.

Having determined applicant eligibility, we are now proceeding to the Site and Community Assessment (SCA) stage which is the stage for local government input.

The City of Courtenay (Council) is requested to consider the application and provide the Branch with a resolution which includes comments and recommendation with respect to the licence application. To assist with Council's assessment of the application, the Branch has prepared a summary report (enclosed) for review and consideration by Council. The summary report is based on information provided by the applicant and by Branch staff.

Council has 90 days to either provide comments, in the form of a Council resolution, to the General Manager of the Branch, or to advise that they wish to "opt out" of the process. Additional time over the 90 days can be approved by the Branch if the request is received in writing prior to the end of the 90 day period.

Upon receipt of a Council Resolution, the Branch will review the Resolution to determine if all the regulatory criteria have been met in accordance with section 10 of the Liquor Control and Licensing Regulation and, if recommended by local government, assess whether the granting of the Lounge Endorsement to the Brewery licence would be contrary to the public interest. Should you gather the views of local residents and

**Liquor Control and
Licensing Branch**

Mailing Address:
PO Box 9292 Stn Prov Govt
Victoria BC V8W 9J8
Telephone: 250 952-5787
Facsimile: 250 952-7066

Location:
4th Floor, 3350 Douglas Street
Victoria, BC

<http://www.pssg.gov.bc.ca/lclb>

businesses as part of your consideration, please be reminded that the applicant cannot gather the views themselves. As part of your process, the gathering of the views must be administered by the local government. Following the rendering of a decision by the General Manager as to whether to grant Site and Community Approval, the applicant and the local government will be advised in writing.

Once granted SCA, the application proceeds to the building assessment stage of the process, where floor plans are reviewed and if approved in principle, the applicant may proceed with construction/renovation of the establishment, followed by the final stages of the licence endorsement process.

Further details of the liquor licensing application process can be found in the "Role of Local Government and First Nations in the Provincial Liquor Licensing Process" guidelines, enclosed for your reference and also available on the branch website at <http://www.hsd.gov.bc.ca/lclb/>.

If you have any questions regarding this application please contact me at 250 952-7052 or emma.ross@gov.bc.ca.

Sincerely,



Emma Ross
Senior Licensing Analyst

Enclosure

copy: Terrence Trytten, Liquor Inspector
Michael Vincent, Forbidden Brew



APPLICATION SUMMARY

For Applicant and Local Government/First Nation

Lounge Endorsement

Date: August 13, 2014

Job #23716601-2

Created by: Emma Ross
Senior Licensing Analyst

Re: Application for a Brewery Lounge Endorsement Area
Proposed Manufacturer Name: Forbidden Brew
Applicant Name: Forbidden Brew Corp.
Location: 1590 Cliffe Avenue in Courtenay

1. APPLICATION INFORMATION

Date Application deemed complete: August 12, 2014

Local Government or First Nation Jurisdiction: City of Courtenay

The primary business focus of the proposed endorsement area: Food and Beverage

Person Capacity/Occupant Load Requested: Person 01 = 50 persons (interior lounge)
(person capacity is patrons plus staff)

Note: Person capacity requested is shown as 30 in the letter of intent portion. It was confirmed that 50 is the requested capacity.

Liquor Service Hours Requested:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM	11:00 AM
11:00 PM	11:00 PM	11:00 PM	11:00 PM	11:00 PM	11:00 PM	11:00 PM.

Statutory Prohibitions to Consider: none identified

Terms and Conditions Requested: none

The Brewery Lounge Endorsement Area, if approved, will allow patrons to consume liquor in a designated interior lounge area on the manufacturing site. In the case of a brewery, the sale and service of liquor is restricted to beer registered to the licensee, by the glass (or other single serving). Food and non-alcoholic beverages must be available at reasonable prices to customers. Minors are permitted in a lounge endorsement area when accompanied by a parent or guardian.

2. APPLICANT SUITABILITY INFORMATION (Fit and Proper)

Applicant has met the eligibility and suitability requirements of the Liquor Control and Licensing Act.

3. LOCATION/SITE FACTORS

The legal description of the site is: Lot 1, Plan VIP68779, Section 41 Comox Land District. The proposed brewery lounge endorsement area is an interior area of the manufacturing facility, overlapping the on-site store endorsement area at the front of the building facing into the shared parking with the Best Western Hotel on Cliffe Avenue(see attached site plan).

See the attached Applicant's Letter of Intent for details of the proposed Liquor Primary establishment, including the following details:

- a) **Business Focus or Purpose**
- b) **Target Market**
- c) **Composition of the Neighbourhood and Reasonable Distance Measure**
- c) **Benefits to the Community**
- d) **Noise in the Community**
- f) **Impact on the Community**
- g) **Other impacts, comments or requests**

Please note that the applicant's letter of intent is enclosed as an attachment to this report for reference purposes. The information or statements included in the letter of intent have not been confirmed unless otherwise stated in this report.

4. CONTRAVENTION STATISTICS:

The Liquor Control and Licensing Branch will provide contravention statistics for liquor primary and liquor primary club establishments near the subject location upon request.

5. POPULATION AND SOCIO-ECONOMIC INFORMATION

- Circle population statistics for 2001 and 2006 are available from BC Stats by emailing your request to BC.Stats@gov.bc.ca
- BC Stats Community Facts includes the BC Benefits recipient and EI Beneficiary statistics and is available at <http://www.bcstats.gov.bc.ca/data/dd/facsheet/facsheet.asp>
- Statistics Canada Population breakdown by categories is available at: <http://www12.statcan.ca/census-recensement/2006/dp-pd/prof/92-591/index.cfm?Lang=E>

6. PUBLIC INTEREST

In providing its resolution on the proposed Liquor Primary application, local government must consider and comment on each of the regulatory criteria indicated below. The written comments must be provided to the general manager by way of a resolution within 90 days after the local government receives notice of the application, or any further period authorized by the general manager in writing.

Regulatory Criteria local government or First Nation must consider and comment on:

- a) The location of the establishment;
- b) The proximity of the establishment to other social or recreational facilities and public buildings;
- c) The person capacity and hours of liquor service of the establishment;
- d) The number and market focus or clientele of liquor primary licence establishments within a reasonable distance of the proposed location;
- e) The impact of noise on the community in the immediate vicinity of the establishment; and
- f) The impact on the community if the application is approved.

The local government or first nation must gather the views of residents in accordance with section 11.1 (2) (c) of the Act and include in their resolution:

- (i) the views of the residents,
- (ii) the method used to gather the views of the residents, and
- (iii) its comments and recommendations respecting the views of the residents;

A sample resolution template and comments are enclosed as attachments 2 and 3 to this report for reference purposes.

For use by Liquor Control and Licensing Branch:

REGULATORY CONSIDERATIONS

Liquor Control and Licensing Act, sections: 11, 16 and 18

Liquor Control and Licensing Regulations sections: 4, 5, 6, 8, 9, 10

POLICY CONSIDERATIONS

Class of Licence

Applicant Eligibility Assessment

Site and Community Assessment

Building Assessment and Issue of a Licence

ATTACHMENT 1

APPLICANT'S LETTER OF INTENT

ATTACHMENT 2**Sample Resolution Template for a Winery Lounge or Special Event Area Endorsement**

General Manager, Liquor Control and Licensing Branch

RE: Application for a winery lounge or special event area endorsement at: (address of proposed establishment)

At the (council/board) meeting held on (date), the (council/board) passed the following resolution with respect to the application for the above named Winery licence:

“Be it resolved that:

1. The (council/board) (recommends/does not recommend) the issuance of the winery lounge or special event area endorsement for the following reasons: (detail and explain reasons for recommendation)

2. The (council’s/board’s) comments on the prescribed considerations are as follows: (see the following page for sample comments for each criterion – a comment on each must be included in the resolution. Where a staff report has been prepared that addresses the criteria this can be used to provide Council’s comments provided the staff report is referenced in the resolution and there is a clear statement that Council endorsed the comments in the report.)
 - (a) The location of the winery lounge or special event area (provide comments)
 - (b) The proximity of the winery lounge or special event area to other social or recreational facilities and public buildings (provide comments)
 - (c) In the case of a winery lounge, the person capacity of the winery lounge (provide comments)
 - (d) hours of liquor service of the winery lounge or special event area
 - (e) traffic, noise, parking and zoning, and
 - (f) The impact on the community if the application is approved (provide comments)

If the operation of the winery lounge or special event area may affect nearby residents, the local government must gather the views of residents of an area determined by the local government or first nation.

If the local government or first nation wishes to provide comments to the general manager, it must provide the following in writing:

- (a) Its comments addressing the criteria in subsection (9);
- (b) If it has gathered the views of residents under subsection (10),
 - (i) the views of the residents*
 - (ii) the method used to gather the views of the residents*, and
 - (iii) it’s comments and recommendations respecting the views of the residents*
 - (iv) The reasons for its recommendations.

*** Note: “residents” includes business owners**

3. The (council’s/board’s) comments on the views of residents are as follows: (describe the views of residents, the method used to gather the views and provide comments and recommendations with respect to the views. If the views of residents were not gathered, provide reasons).

The undersigned hereby certifies the above resolution to be a true copy of the resolution passed by the (council/board) of (local government/First Nation) on (date).

Sincerely,

(signature)

(name and title of official)

(local government/First Nation)

Note:

- All of the items outlined above in points 1, 2 (a) through (f) and 3 must be addressed in the resolution in order for the resolution to comply with section 10 of the Liquor Control and Licensing Regulation.
- Any report presented by an advisory body or sub-committee to the council or board may be attached to the resolution.

ATTACHMENT 3

Sample Resolution for a Winery Lounge or Special Event Area Endorsement Application

The following are examples that illustrate the type of comments that local government and First Nations might provide to demonstrate they have taken into consideration each of the criterion in reaching their final recommendation. Comments may be a mix of positive, negative and neutral observations relevant to each criterion. The final recommendation is the result of balancing these 'pros and cons'.

The list is not intended to illustrate every possible comment as the variations are endless, given the wide range of applications and local circumstances.

It is important that the resolution include the comment and not refer to a staff report, as the general manager cannot suppose that the local government considered all the criteria unless comment on each criterion is specifically addressed in the resolution itself.

Local government or First Nation staff may wish to contact the Liquor Control and Licensing Branch for assistance on drafting the content of a resolution before it is presented to local government or First Nation to avoid resolutions that do not comply with the regulations.

(a) The location of the winery lounge or special event area:

The location of the winery lounge is within the primary manufacturing facility. It has an interior and a patio area. It is located in a remote location and is suitable for such an endorsement.

(b) The proximity of the winery lounge to other social or recreational facilities and public buildings:

The only nearby social, recreational and public buildings do not conflict with the operation of a winery lounge.

– or –

The proposed location of the winery lounge is across a lane from a church with an attached retirement facility and church hall routinely used for youth group gatherings. The proximity of the proposed winery lounge is considered compatible with the neighbouring facilities.

(c) The person capacity of the winery lounge:

The maximum person capacity of the winery lounge is 65 persons as per building authorities.

(d) Hours of liquor service of the winery lounge:

Hours of liquor service are proposed to be from 4 PM to 10 PM daily. A larger capacity or later hours is not supported given the few number of police on duty to respond to concerns.

(e) Traffic, noise, parking and zoning:

Traffic in the area is not an issue. The road is located away from the main road resulting in noise not being an issue. Ample parking is available at the winery. Zoning permits a winery lounge for the sale and service of wine by the glass or bottle.

(f) The impact on the community if the application is approved:

If the application is approved, the impact is expected to be positive in that it will support the growth in tourism and offer a new social venue for residents.

The Council's comments on the views of residents are as follows:

The views of residents within a half mile* of the proposed winery lounge area were gathered by way of *written comments that were received in response to a public notice posted at the site and newspaper advertisements placed in two consecutive editions of the local newspaper. Residents were given 30 days from the date of the first newspaper advertisement to provide their written views. Residents were also given an opportunity to provide comments at the public meeting of Council held on date.

A total of 63 responses were received from businesses and residents. Of the responses received, 21 were in support of the application citing the creation of additional jobs and a new entertainment venue for the area as their primary reasons. A total of 42 letters were received in opposition to the application. The primary reason cited by those in opposition was the proposed closing hours. A number of business residents in the area also cited the lack of parking as an area of concern.

The following examples illustrate one option that Council may complete their comments on the views of residents based upon the preceding fact pattern.

Based upon the input received by residents within a half mile of the proposed winery lounge there is a two to one ratio of opposed residents to residents that support the application. The opposition to this endorsement comes from both homeowners and businesses. Council is of the view that with both the residential and business communities' opposition to this proposed establishment that the issuance of a winery lounge endorsement would be contrary to the community standard for this area.

Despite the potential creation of additional jobs and a new entertainment venue for the area Council is unable to support the issuance of the endorsement. Council recommends that a licence not be issued.

*** The local government or First Nation determines the appropriate area to be included and the method for gathering those views**

PART 5: Letter of Intent (Functions and Services to be Provided)

Explain the functions and services your facility or venue will provide. The information you provide in the letter of intent must address all of the factors indicated below.

I have attached a separate sheet.

1. Purpose

Describe the purpose of the endorsement including beverage service, entertainment and hospitality services you intend to provide:

2. Describe the target market. Your proposed endorsement area may serve some of the following:

Urban locals Suburban locals Rural locals Neighbouring communities Tourists

Other (please specify):

3. Describe the composition of the neighbourhood. The composition of the neighbourhood may include some of the following:

Commercial Residential Industrial Light Industrial Urban Downtown Suburban

Rural Agricultural Land Reserve (ALR) First Nations' Land Neighbouring residents

Other (please specify): hospitality/hotel

4. Provide a street map of the area surrounding the manufacturing site which identifies the following social and public facilities within a reasonable distance* (see below):

- All other licensed liquor primary or liquor primary club establishments
- Churches
- Clubs
- Schools (K-12, colleges, universities)
- Preschools
- Day care centres
- Health care facilities
- Seniors facilities
- Recreational/sports facilities
- Neighbouring residents
- Police stations
- Fire halls
- Libraries
- Government buildings
- Any other relevant local public or private facilities

*Note: What constitutes a reasonable distance will vary depending on individual circumstances.

Reasonable Distance Guidelines:

- In a densely populated city or municipality, reasonable distance is probably a 2 block radius;
- In a pocket community having no adjacent developed regional areas (e.g. Gold River, Tumbler Ridge, Whistler, Valemont) reasonable distance is probably the whole community;
- In a rural area having large acre parcels, reasonable distance is probably up to 8 km (five miles);
- In a moderately populated area of developed subdivisions, suburbs, reasonable distance is probably 1.5 or 2 km (1 mile).

On the same map, please mark the boundaries of the neighbourhood of the proposed location as per the reasonable distance guidelines above. State what distance measure you chose.

5. Benefits to the Community

Describe the community/market need you are addressing by providing an additional licensed area within the community (e.g. the proposed lounge will support tourism activities at the manufacturing facility OR there are currently no licensed establishments in the area).

6. Impact of Noise on the Surrounding Community

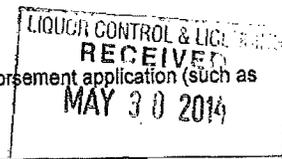
Describe the noise impact expected from your proposed endorsement area and describe the measures you will take to ensure others, including neighbouring residents, are not disturbed if the endorsement area is approved (e.g. entertainment will not involve amplified music given the bylaws in place; noise from outdoor patio will be addressed by closing patio at 10 p.m.; outdoor lighting and cameras will be installed; additional traffic should not create additional noise given the location and size of the endorsement).

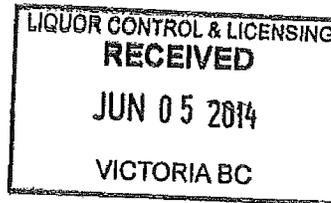
7. Other Impacts on the Surrounding Community

Describe any further impacts of the new licensed area(s) on the surrounding community if the endorsement application is approved.

8. Other Information and Requests

Provide any additional information or requests that might be relevant to your manufacturer endorsement application (such as zoning restrictions, bylaw restrictions, entertainment, etc.)



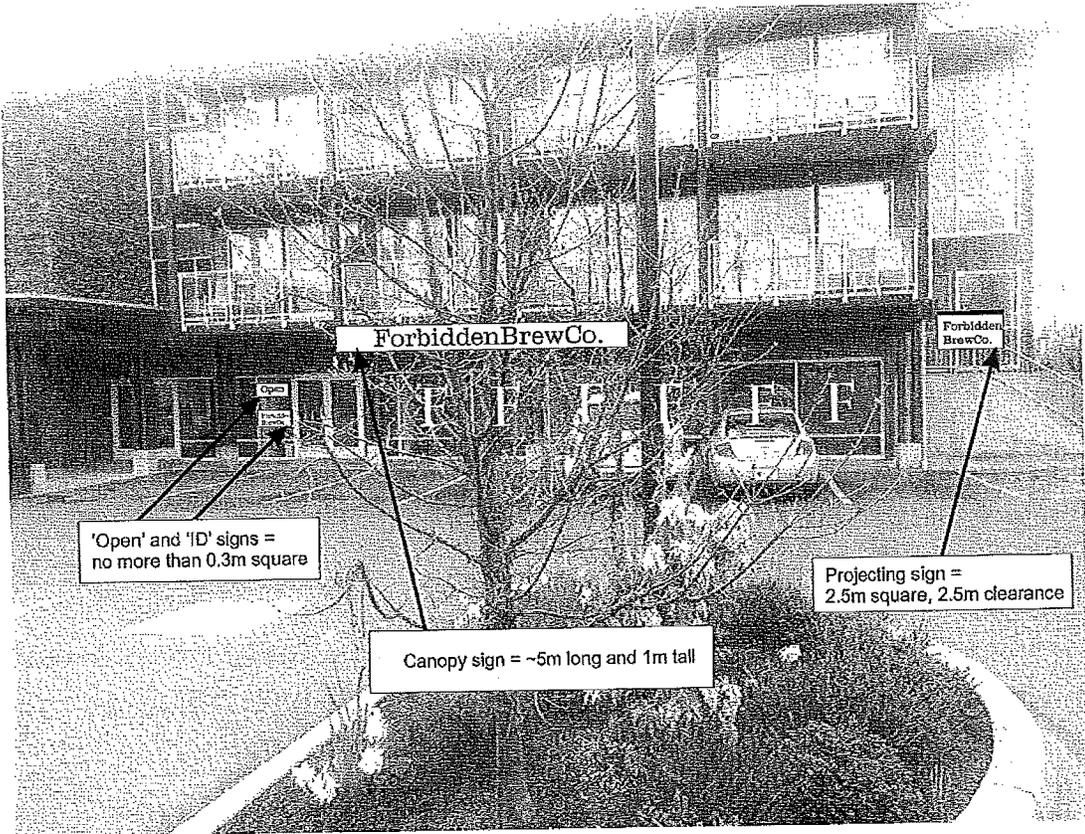


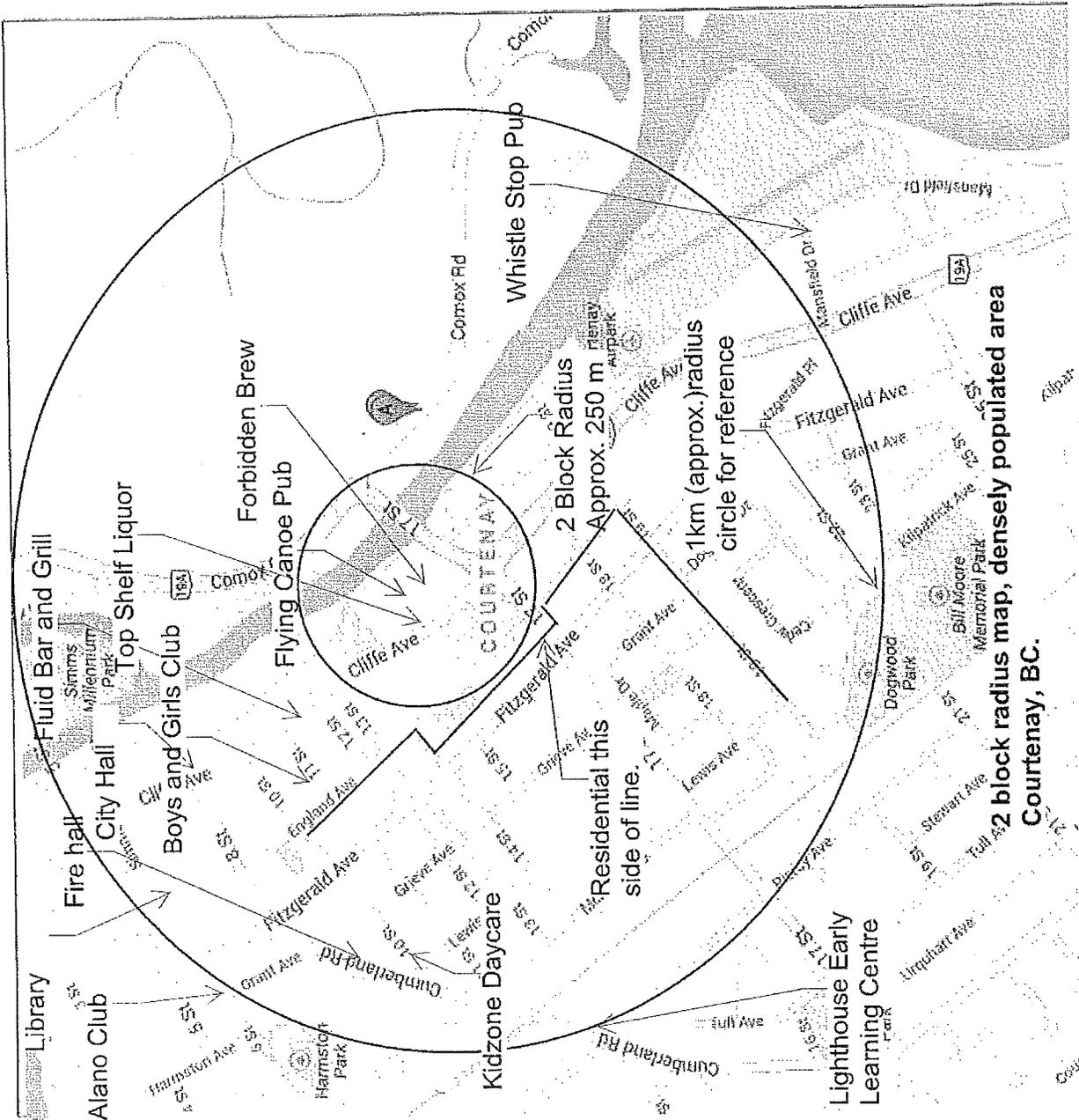
Community Benefits

Craft brewing is a growing market in the beer industry. The success of this segment of the beer industry can be seen in Victoria with one of the largest number of breweries per capita in British Columbia. The Comox Valley, which is already an agricultural community with strong representation of culinary and wine experiences, lacks a craft brewery. This addition will enhance the already established food and beverage offerings in the Valley for both tourists and local residence. Our brewery's strategy is to fulfill the desire of the beer community with local, fresh beer. The lounge endorsement is a important factor for our success, not just for the cash flow, but also as a place to offer tours and tastings as well as a place for the local craft beer enthusiasts to gather and sample, discuss, and enjoy local beer.

Community Impact

The location of brewery/lounge is within a space at the Westerly Hotel and Convention Centre (Westerly). The Westerly has a liquor primary, club endorsement, in their Flying Canoe outlet. The addition of the lounge endorsement within the brewery, with a seating capacity of 30 people, will not add an additional noise impact to neighbouring residents. We are requesting a 3PM - 11pm Wednesday, Thursday, Friday; 12pm - 11pm on Saturday and Sunday hours of operation, which is within the hours of operation of the Flying Canoe. The Westerly has given us full support of the brewery with lounge endorsement. At this time, there will be no outdoor patio or entertainment involving amplified music to cause additional noise issues.





2 block radius map, densely populated area
Courtenay, BC.

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