

SPECIAL COUNCIL MEETING
FOR THE PURPOSES OF A **PUBLIC HEARING**
HELD IN THE COUNCIL CHAMBERS
SAANICH MUNICIPAL HALL, 770 VERNON AVENUE
TUESDAY, OCTOBER 19, 2004 AT 7:30 P.M.

Present: **Chair:** Mayor Leonard
Council: Councillors Brownoff, Cubberley, Derman, Ngai, Pickup, Wade and Wergeland.
Staff: Tim Wood, Municipal Administrator; Chris Nation, Municipal Solicitor; Russ Fuoco, Director of Planning Services; Dwayne Halldorson, Development Manager; and MaryAnn Greco, Senior Committee Clerk.

No. 387
Bylaw No. 8608
ADM40

“ZONING BYLAW, 2003, AMENDMENT BYLAW, 2004 NO. 8608”

PROPOSED BYLAW AMENDMENT TO PROHIBIT ALL LIQUOR RETAIL STORES EXCEPT IN EXISTING LICENSED LOCATIONS

The intent of this proposed bylaw is to amend the Zoning Bylaw as follows:

- i) Include a new definition of “Liquor Retail Store” as follows:

Liquor Retail Store – means an establishment that engages in the retail sale of wine, beer or other liquor, as defined by the *Liquor Control and Licencing Act*, for consumption elsewhere than in that establishment.
- ii) To amend Section 5.2 to prohibit liquor retail stores in all commercial zones except where expressly permitted.
- iii) To amend the C-14 (Neighbourhood Public House) zone to include liquor retail stores as a permitted use and to limit the gross floor area for a liquor retail store to 275 m² (2960 sq. ft).
- iv) To create a new C-3L (Shopping Centre/Major Liquor Retail Zone). This new zone is identical to the existing C-3 (Shopping Centre) zone with the exception that liquor retail store has been added as a permitted use with a limit of one liquor retail store per site with a gross floor area not to exceed 700 m² (7535 sq. ft).
- v) To create new C-2LRS (General Commercial/Liquor Retail Zone), C-3LRS (Shopping Centre/Liquor Retail Zone), C-5LRS (Civic Core/Liquor Retail Zone), and C-11LRS (Tourist Accommodation/Liquor Retail Zone – High Density) zones. These new zones are identical to the existing C-2 (General Commercial), C-3 (Shopping Centre), C-5 (Civic Core Zone) and C-11 (Tourist Accommodation Zone – High Density) zones with the exception that liquor retail store has been added as a permitted use with a limit of one liquor retail store per site with a gross floor area not to exceed 275 m² (2960 sq. ft).
- vi) To rezone the following properties that currently have a licensee retail store, VQA wine shop, specialty wine shop or government liquor store from their existing zones to proposed new zones C-2LRS (General Commercial/Liquor Retail Zone), C-3L (Shopping Centre/Major Liquor Retail Zone), C-3LRS (Shopping Centre/Liquor Retail Zone), C-5LRS (Civic Core/Liquor Retail Zone), and C-11LRS (Tourist Accommodation/Liquor Retail Zone – High Density) as listed below:

Address	Legal Description	Current Zone	Proposed Zone
5325 Cordova Bay Road Mattick's Farm VQA Wine Shop	Lot A, Section 33, Lake District, Plan VIP64104	C-2	C-2LRS
1095 McKenzie Avenue Government Liquor Store	Lot A, Section 32, Victoria District, Plan 32631	C-3	C-3L
3669 Shelbourne Street Government Liquor Store	Lot 1, Sections 38 and 39, Victoria District, Plan 13078 except parts in plans 13992, 18473 and 50288	C-3	C-3L
777 Royal Oak Avenue Government Liquor Store	Lot 1, Section 8A, Lake District, Plan VIP53456	C-3	C-3L
2929 Tillicum Road Government Liquor Store	Lot A, Section 12, Victoria District, Plan 26750	C-3	C-3L
3825 Cadboro Bay Road Smuggler's Cove Liquor Store	Lot A, Section 44, Victoria District, Plan 14863	C-3	C-3LRS
3830 Cadboro Bay Road Mark Anthony's Wine Mart	Lot 1, Section 44, Victoria District, Plan 49808	C-3	C-3LRS
3510 Blanshard Street Liquor Depot	Lot 2, Sections 9 and 33, Victoria District, Plan 43132	C-5	C-5LRS
3366 Douglas Street Red Lion Inn Cold Beer and Wine Store	Lot A, Section 7, Victoria District, Plan 18155 except part in Plan VIP74204	C-11	C-11LRS

The Notice of Public Hearing; the reports from the Director of Planning Services dated December 5, 2003, February 4, March 4, August 20 and October 4, 2004 recommending approval; a memorandum from Chief Constable Derek Egan dated March 18, 2004 outlining the number and types of calls to liquor licensed establishments that the Police Department responded to since 2002 and endorsing the recommendation of the Director of Planning Services; 5 letters in support and 10 letters in opposition; were introduced.

APPLICANT:

The Corporation of the District of Saanich.

PUBLIC INPUT:

Mr. P. Morris, Colliers International, stated:

- In the Spring, it was unclear if the British Columbia Liquor Distribution Branch (BCLDB) was to continue as a retailing entity due to the privatization initiative; currently, they will continue to operate liquor stores for the time being.
- The new format for BCLDB stores now range in size from 8,000 to 14,000 square feet due to the need to provide display and stocking space resulting from the increase in vendors and manufacturers.
- The proposed size restriction is too low to accommodate the new format let alone provide for additional stores such as a specialty wine shop.
- Private vendors are also increasing in size to accommodate new alcoholic products and other products related to wine and spirits; such as gifts, barware, tableware, books and specialty products.
- If the municipality has determined that it prefers liquor retail stores in C-3 zones, then regulations on the size of operation are not relative to customer access; there are other bylaw requirements covering issues such as parking.

-
- In terms of the C-3LRS zones, if business fundamentals dictate that with the abundance of new products on the market that larger stores are now required, why would any shopping centre apply for a smaller store zoning.
 - Limiting the size of stores or number within the individual property will squeeze out other license types such as speciality wine shops; there will likely be no specialty wine stores in Saanich under this proposed bylaw.
 - The limit of one store per site, particularly for larger sites, encourages more not fewer total number of stores overall due to the lack of other licensees.
 - The municipality should limit the location of liquor retail stores within its boundaries to areas that can support the principles of good zoning such as larger scale shopping centres that have the infrastructure to handle traffic and security.

Mr. B. Trotter, 3823 Merriman Drive, stated:

- If there are more liquor retail stores, there will be more people becoming addicted to alcohol and youth having access to it.
- Liquor causes rowdiness in people who drink it, abuse against women and neglect of children; allowing private profit for public expense is not acceptable.
- The court system is full of cases that are directly related to the use and abuse of liquor and insurance rates have increased because of drinking and driving.
- Council should restrict the number, size and availability of liquor as much as possible as it will lead to higher taxes in terms of increased policing costs and provincial costs dealing with welfare and medical expenses.

Ms. E. Turnbull, President of the Royal Oak Community Association, 785 Viaduct Avenue East, stated:

- The *Liquor Control and Licensing Act* states that the hours of liquor service must start no earlier than 9am and end no later than 11pm; she questioned if there is an intention to limit the hours of operation for liquor retail stores.
- The *Act* also states that a new liquor establishment must be at least .5km from the site of an existing establishment; the proposed zoning amendment should include a .5 km radius restriction and not anything less than that.
- The *Act* also allows local governments to limit the location of liquor stores in close proximity to schools; the proposed zoning amendment should include a radius restriction of not less than 2 or 3km from a school.
- Perhaps there should be a new zone created for government liquor stores so that the bylaw can be rescinded easily if government operated liquor stores cease to exist.
- The City of Vancouver passed a moratorium where they were not accepting any business license or building permit applications for new liquor retail stores; it is disappointing that Saanich did not do the same.
- The Association is pleased to see a restriction on the size of any new liquor retail store.
- She hopes that there will be a committee struck in the future to review the impact of liquor retail stores in terms of infrastructure costs.

Mr. B. Patrick, 263 Stevens Road, interest in Tuscany Village, stated:

- Establishing a liquor retail store at Tuscany Village will bring convenience to beverage shopping and offer employment opportunities.
- A liquor retail store at Tuscany Village will provide new products and special services not available at government liquor stores.

-
- If government liquor stores close down, private liquor stores will require large retail space in order to provide the same products as well as more choices not available at government liquor stores.
 - The Gordon Head Residents Association believes a full service liquor retail store will better serve the community at large and provide the quality of selection that will help the growth module of an urban village.
 - A liquor retail store has to be large enough to accommodate retail space together with a bottle return area, warm and cold storage and a loading bay.
 - An addition of a liquor retail store at Tuscany Village will enhance the vitality of the area and complement the shopping centre.
 - In terms of underage consumption, the *Liquor Control Act* places more restrictions and penalties on private operations than government ones; there has been no enforcement problems with private liquor retail stores.
 - In terms of panhandlers, as a private property owners have the right to ask them to vacate the premises.
 - This is a land use issue so he supports the proposed zoning amendment; private liquor stores will complement existing uses in private shopping centres.
 - The addition of private liquor stores does not result in an increase in the amount of liquor consumption just an increase in the amount of selection.

Mr. R. Wilson, 4420 West Saanich Road, Director and Owner of Liquor Plus, stated:

- He operates one of the largest private liquor stores in British Columbia at the Super Eight Hotel on Douglas Street.
- He has one of the two applications that were submitted before Council imposed restrictions and will be opening in one week.
- It is not fair that he will be operating as legal non conforming because he was conforming and the zoning was in place when he applied; his two stores should be included in the proposed zoning bylaw.
- They have a 30 year lease and will serve the public in shopping centre environments for a long time.
- In terms of wineries and breweries, they are taxed by the hectolitre so some wineries do not want to make more wine because it raises their tax bracket so when it comes to offering products Liquor Plus offers more products.
- The BCLCB requires that they ask for identification for someone who has the appearance of being under 25 and if they do not, a contravention notice will be received, a fine imposed and the license removed; a private liquor store will not risk losing its investment and capital cost to sell beer to an underage person.
- His stores are used as the example for all future liquor retail stores to see how it should be done as they have taken the sale of liquor to a different level.
- Private liquor stores are a way of revitalizing what is a dormant form of retail in terms of government liquor stores.
- VQA stores are specific to VQA products and are only sold on consignment so they only pay for it when they sell it and they can not offer other beverages; liquor retail stores provide more products and service and enforcement is higher than at government liquor stores.
- Selling alcohol is not irresponsible but selling it irresponsibly is; to this end, they are sponsors of road blocks and ask people to drink responsibly in their marketing material.

-
- The proposed zoning bylaw amendment should reflect their current situation and provide the same rights afforded to Liquor Depot; he looks forward to offering services that the provincial government can not or chooses not to offer.
 - The .5 kilometre distance is only pertaining to liquor retail stores and does not apply to government retail stores; there could be a large government store within a .5 kilometre radius of a large private liquor retail store.
 - The net retail space area of the Saanich Centre liquor store is 2300 square feet and the gross floor area is 3200; the net retail space of the Royal Oak Shopping Centre is 3000 square feet and the gross floor area is 4000 square feet.
 - He does not feel the rezoning process would be an impediment to opening a future liquor retail store.
 - Being legal non conforming affects his insurance so he is not being afforded the same rights as other liquor retail stores included in the proposed bylaw.
 - They complied with the bylaws at the time they applied but due to the luck of the draw Liquor Depot opened up earlier so they are a reality but he is not; this is not fair.

Mr. K. Whitcroft, 1044 Inverness Road, stated:

- He supports the rezoning because it will help control where and what liquor retail stores open next to.
- He believes that most property owners will apply under the zone that provides the largest gross floor area; he questioned how Council will determine the qualifications for the C-3L zone over the C-3LRS.
- None of the existing liquor retail stores should be grandfathered; they should all be legal non conforming so that they have to go through the rezoning process if they close down or change ownership.
- He questioned how the liquor retail store at Saanich Centre is permitted to open given the close proximity to the Monkey Tree Pub and the Bird of Paradise pub.

Mr. M. Lindholm, Principal of Canadian Liquor Cabinet Corporation (CLCC), stated:

- The CLCC is an organization that is trying to advance the business of private liquor stores in a province he believes is trying to put government liquor stores out of operation.
- The .5km radius restriction will ensure that there will not be a proliferation of liquor retail stores.
- Throughout the Tuscany Village rezoning process, it was always the intention that a liquor retail store would go into the plaza; Building D was designed in contemplation of a high end liquor retail store and not a beer and wine store.
- A liquor retail store at Tuscany Village can be supported from a land use and transportation perspective given its location; it will reduce the need for additional vehicular trips elsewhere as it is within a shopping centre environment.
- In terms of the new liquor retail store opening at University Heights Shopping Centre, an application has been made to the LCLB for a discretion from the .5km radius restriction to allow an additional liquor retail store at Tuscany Village.
- The intention is to open a liquor retail store at Tuscany Village with a gross floor area of less than 700 square metres.

Mr. B. Mark, co-owner of the Howard Johnson Hotel and Suites, Elk Lake Drive, stated:

- He would like to request that those properties currently zoned C-L (Tourist Accommodation) be included in the proposed bylaw; the Red Lion Inn, who is under the same zone, had the same liquor primary license as the Howard Johnson Hotel but presently have an existing liquor retail outlet.
- Although they had received building permit approval to construct a liquor retail store, they decided against opening one for the present time however this does not mean an opportunity or necessity may not arise in the future.
- The hotel industry is volatile and affected by business cycles, dollar fluctuations and tourist trends; in order to survive they must be able to alter business plans quickly.
- It may be mandatory to offer off sales in order to compete and keep their guests.
- Both the Red Lion Inn and themselves are taxed at the same rate but their property would lose any future opportunity to benefit from a liquor retail outlet which is unfair and inequitable
- They have proven that they are qualified and able to serve liquor responsibly; properties under their zone have had a long and historic right to promote their business with liquor sales as an important income source.
- Council should reject any change to their rights and permitted uses under the C-L zone; their property values will be negatively affected by this proposed change.
- Rezoning can be a long process and they want to remain flexible; if the provincial government adopted a new regulation to allow off sales to rooms, they would like to be able to offer that service quickly and without going through the rezoning process.
- He questioned why a few months ago, they were included on the list of properties to be zoned and in the meantime they were not included.

Mr. D. Ford, Bond Development Corporation, stated:

- Liquor should be sold in shopping centres where people are sober and doing their grocery shopping.
- He questioned the rationale for restricting the size of private liquor stores; it is unfair to allow government liquor stores to be larger than private liquor retail stores.
- It seems that government liquor stores are being phased out and if this is the case, it will be better to have fewer, larger stores than a proliferation of smaller ones.
- Tuscany Village was always envisioned as a one stop shopping centre including a liquor retail store where customers can find all they need and not have to leave the site to drive elsewhere.
- A full service liquor retail store can not be offered with a gross floor area of 3000 square feet; there is not enough space to offer a selection of products.
- He does not oppose the idea of new liquor retail stores going through the rezoning process as it should not be automatic on any one site.

Mr. W. Pruvichov, 304-2425 Wark Street, representing the Liquor Board Employees, stated:

- He hopes there will be consultation with Police and School Boards in determining the location of new liquor retail stores.

-
- The University of Victoria (UVic) will be a big market for the Tuscany Village site and there is already a lot of problems with alcohol consumption in students.
 - There are already 5 outlets within 2 km of UVic so there is no need for additional liquor retail stores in the area.
 - The government has announced that they will maintain and enhance liquor retailing; 30 stores will be closed and most of them are in rural, small towns or do not meet a certain revenue threshold.
 - He supports the proposed zoning bylaw amendment as it restricts the number of liquor retail outlets .
 - In Alberta, there has been a proliferation of liquor retail stores and the number of alcohol related problems have increased.
 - The government liquor stores are subject to the same enforcement issues such as underage drinking as private liquor stores.

Mr. H. Charania, 757 Genevieve Road, President of the North Quadra Land Use Protection Association, stated:

- The new liquor store at Saanich Centre should be legal non-conforming; should the government liquor store be closed then this applicant will be required to go through the rezoning process.
- Whether to permit liquor retail stores is a land use issue so there should be some limits on the square footage.

Mr. M. Brown, Area Director, Quadra Cedar Hill Community Association, stated:

- The Zoning Bylaw is the most powerful tool to regulate business and development in Saanich.
- He is concerned that the proposed bylaw does not limit the distance to schools or areas of large congregation of youth.
- The bylaw should not care if the stores are publicly or privately owned; what the community is interested in is how many, how big, how close and what other regulations should be included relating to these stores.
- In terms of grandfathered use, a government liquor store should not be permitted without going through the rezoning process to determine whether it complies with the community's needs.
- Drive through liquor store operations should not be permitted.

Mr. B. Large, 4420 West Saanich Road, Saanich Centre representative, Liquor Plus, stated:

- Reference to legal non conforming, both locations will be operating as legal non conforming; should they have to close in the future, they will have to go through the rezoning process.
- If private liquor store have to go through the same rezoning process then so should government liquor stores.

APPLICANT'S RESPONSE:

Nil.

In response to questions from Council, the Municipal Solicitor stated:

- It was not possible to impose a moratorium in the sense that it would prevent people from submitting applications to rezone.

In response to questions from Council, the Director of Planning Services stated:

- The stores listed in the bylaw amendment will be permitted to operate under the proposed new zones and will be considered lawful and conforming.
- There is no differentiation between government liquor stores or private liquor stores in the proposed new zones, they all include size limitations.
- If a government liquor store closed down, it could be reoccupied by other permitted uses subject to business licensing.
- In terms of neighbourhood pubs, the intent was to permit liquor stores in existing licensed facilities and all of the pubs have liquor retail stores in them already.
- The intent behind the proposed Zoning Bylaw amendment is to recognize existing liquor stores meaning that the store had to be up and running to qualify for zoning.
- It is not legal to limit hours of operation under the Zoning Bylaw.
- If the purpose of the proposed Zoning Bylaw amendment is to recognize existing liquor stores; a policy will be established that will include criteria for evaluating a new application for a liquor retail store such as distance from schools and hours of operation.

Moved by Councillor Pickup and Seconded by Councillor Cubberley: “That the Zoning Bylaw be amended as follows:

- 1. To include a new definition of Liquor Retail Store;**
- 2. To amend Section 5.2 to prohibit liquor retail stores in all commercial zones except where expressly permitted;**
- 3. To amend the C-14 zone to include liquor retail stores as a permitted use and to limit the gross floor area for a liquor retail store to 275 m² (2960 sq. ft);**
- 4. To create a new C-3L zone with liquor retail store as a permitted use with a limit of one liquor retail store per site with a gross floor area not to exceed 700 m² (7535 sq. ft);**
- 5. To create new C-2LRS, C-3LRS, C-5LRS and C-11LRS zones with liquor retail store as a permitted use with a limit of one liquor retail store per site with a gross floor area not to exceed 275 m² (2960 sq. ft); and,**
- 6. To rezone the properties listed with existing licenses to permit liquor retail store use as noted in the table.”**

Councillor Pickup stated:

- She does not see liquor retail stores as strictly a business enterprise; the sale of liquor has many costs to society including the death of youth.
- The more liquor retail stores are permitted, the more policing will be required.
- Parameters should be set for liquor retail stores and the community should be given the opportunity to provide input on where they are situated.
- The proposed Zoning Bylaw amendment provides some control on the number of liquor retail stores at the municipal level.

Councillor Cubberley stated:

- Without the proposed zoning bylaw amendments, 35 licenses for liquor retail stores could relocate in Saanich in 1 of 230 possible locations; the question of zoning was posed to determine where those licenses could go and to allow public input in that process.

-
- He is pleased that the business community is not opposed to the proposed amendments.
 - The cap approach is somewhat arbitrary however it is bigger than any existing outlet and three or eleven times larger than any of the existing private liquor retail stores; it may be arbitrary but not unreasonable.
 - Government liquor stores are in the business of recycling and need large recycling space and given that this is a social space, perhaps it should not be calculated into the operating space for private liquor retail stores.
 - In terms of the restriction of one liquor retail store per commercial entity, a speciality wine store should be exempt from this so that it can be permitted if a small service liquor retail store already exists.

Councillor Derman stated:

- There are reasons why liquor is a controlled substance; when used inappropriately it causes destructiveness to young lives, family abuse and carnage on the highways.
- Private liquor retail store operators are not at fault for the cost to the community, policing, or the public health system; society has made the decision that alcohol will be part of life and it is society's obligation to be careful on how it is controlled and how the substance is retailed.
- The sale of liquor is not similar to the sale of a pair of jeans or a t-shirt; it brings different issues into play such as transportation, hours of operation, cost to the community and activity outside a liquor store.
- In Alberta, they ran into problems when outlets were established by people who lacked the professionalism to run them appropriately.
- Council is not banning new liquor retail stores just establishing a level of control and a process for community input.
- He is pleased that the representatives from the private sector support the proposed zoning bylaw amendments.

In response to a question from Council, the Municipal Solicitor stated:

- The properties that are legal non conforming can not be included within the proposed Zoning Bylaw amendment as it would not be permissible at this Public Hearing; it would have to go through a Public Hearing and advertising process.

Councillor Wergeland stated:

- The rezoning process is reasonable and will address issues of transportation and location.
- He supports liquor stores randomly placed around the municipality but not increased density in concentrated areas.
- He does not think more liquor retail outlets will create stronger communities; the more outlets the greater the consumption.
- If there is a need in the community for a liquor outlet, he believes the community will come out and support it.

Councillor Brownoff stated:

- A liquor retail store policy will allow Council to minimize impacts on the community such as noise, hours of operation, parking, delivery of product, signage and bottle return; the policy will ensure an appropriate place for these liquor retail stores and the draft should be circulated to the community associations and business operators for comment.

- In small commercial malls, liquor retail stores cause havoc in terms of parking for other merchants.
- Perhaps future applications can be referred to the Police Department to comment on safety issues that have occurred in the area.

Councillor Ngai stated:

- She does not believe that the rezoning process will be a better regulator than the market place through supply and demand.
- She does not believe that liquor retail business should be treated differently than other retail stores; supply and demand it will be the best determinant of success or failure.

Councillor Wade stated:

- The liquor retail stores that will be operating as legal non-conforming should have been included in the proposed Zoning Bylaw amendment; this is not fair and an oversight.
- She does not believe students will shop in liquor retail stores that are close to their school as their parents or parents friends may shop there; the issue is how can youth be stopped from getting it illegally and abusing it.
- The convenience of these stores is critical in terms of dense urban growth to preserve large open spaces; she is disturbed that Saanich will be limiting the access to these stores based on some other rules.
- She does not understand why there is a need to limit the size of a liquor store; people do not buy more alcohol because there is more square footage, they just buy more of other products.

Mayor Leonard stated:

- He was supportive of Option 3 outlined in the August 20, 2004 report of the Director of Planning which allowed a liquor retail use in shopping centres greater than 6000 square metres; it directed the use to land that is already zoned and most appropriate.
- He cannot support a land use decision that downzones a site like Tillicum Mall; if Tillicum Mall chose to have a tenant that had a liquor store or speciality wine store that is where land use policies should point that person to go.
- Option 3 would have avoided the problem of legal non-conforming which is a significant issue for businesses in order to be flexible to changes within the markets and to compete with competitors who already have zoning in place.
- He believes the Howard Johnson Hotel is being down zoned with these proposed amendments whereas their competitor is not and their competitor is more valuable because of it.

**The Motion was then Put and CARRIED
with Mayor Leonard and Councillors Ngai and Wade voting against.**

No. 388
Bylaw No. 8608
ADM40

AZONING BYLAW, 2003, AMENDMENT BYLAW, 2004, NO. 8608"
Second and Third Readings.

**Moved by Councillor Cubberley and Seconded by Councillor Pickup: "That
Bylaw No. 8608 be read a second time."**

**CARRIED
with Mayor Leonard and Councillors Ngai and Wade voting against.**

Moved by Councillor Cubberley and Seconded by Councillor Pickup: “That Bylaw No. 8608 be now passed.”

CARRIED

with Mayor Leonard and Councillors Ngai and Wade voting against.

No. 389
Bylaw No. 8609
ADM40

i “ZONING BYLAW, 2003, AMENDMENT BYLAW, 2004, NO. 8609”

NEW WASTE MANAGEMENT ZONE

The intent of this proposed Zoning Bylaw amendment is to:

a. Create a new P-10 (Waste Management) zone with waste management, accessory wholesale and retail, accessory residential and accessory buildings and structures as permitted uses. Regulations for accessory buildings and structures are unique to this proposed zone. Interested persons are encouraged to obtain a copy of the bylaw.

b. Include two new definitions as follows:

Waste Management - means the use of land, buildings or structures for receiving, handling, sorting, landfilling, composting, recycling and processing solid waste and recyclable materials and accessory uses and, without limiting the generality of the foregoing, includes any use of land, buildings, or structures permitted in a Solid Waste Management Plan.

Solid Waste Management Plan – means a plan approved by the Province of British Columbia that contains provisions, requirements, and an operating plan for the collection, treatment, handling, processing, storage, utilization and disposal of refuse and other waste within the whole of the Capital Regional District.

Bylaw No. 8610
ADM40

ii AZONING BYLAW, 2003, AMENDMENT BYLAW, 2004, NO. 8610A

PROPOSED ZONING OF THE UN-ZONED MT. WORK REGIONAL PARK, HARTLAND LANDFILL AND HEAL’S RIFLE RANGE

In June 1991, the Hartland Landfill site, Department of National Defence’s Heal’s Rifle Range and the Mt. Work Regional Park were annexed to the District of the Saanich. The intent of this proposed bylaw is to establish zones for these lands as follows:

AREA 1	Lot 1, Sections 54, 55 and 65, Highland District, Plan VIP64898 and all that part of Lot A, Section 54, Highland District and Section 126, Lake District, Plan VIP64601 lying within the Highland District (HARTLAND LANDFILL)	To new zone P-10 (Waste Management)
AREA 2	All that part of Lot 1, Sections 52, 53, 53A and 54, Highland District and of Sections 81, 82, 124, 125 and 126, Lake District, Plan 44200 except part in Plans VIP54024 and VIP64601 lying within the Highland District (HEAL’S RIFLE RANGE)	To zone A-1(Rural)

<p>AREA 3 & AREA 4</p>	<p>The Westerly 295 feet of Northerly 295 feet of Section 55, Highland District and Lot 2, Sections 55, 65, 66 and 79, Highland District, Plan VIP64898 (MT. WORK REGIONAL PARK)</p>	<p>To zone P-4 (Parks and Open Space)</p>
---	---	---

The Notice of Public Hearing; reports from the Director of Planning Services dated September 24, 2003 and September 17, 2004 recommending approval and that the CRD Environmental Services be asked to compensate Saanich in the amount of \$36,275 per year, adjusted for inflation, to offset road maintenance costs to Hartland Avenue; and 2 letters in support, were introduced.

APPLICANT:

The Corporation of the District of Saanich.

In response to questions from Council, the Municipal Solicitor stated:

- If the CRD and Saanich were at odds in terms of the public involvement process, there is a provision in the Community Charter for a dispute resolution between local governments/regional districts which includes the appointment of a dispute resolution officer.
- If the dispute resolution avenue was unsuccessful, the Community Charter also has a provision for the matter to go to binding arbitration.

In response to questions from Council, the Director of Planning Services stated:

- Once zoning is in place, Saanich can not impose an environmental process onto the CRD however the CRD may volunteer to undertake one.
- Saanich would not be able to control the level of activity or operational considerations at the landfill as zoning does not deal with that aspect of the operation.
- If a zoned business or operation increases their level of activity; the Municipality does not have the authority to impose an environmental study but can request that it be undertaken.
- The CRD is not required to raise the level of public involvement however Saanich can question an action of the CRD as they agreed to include a statement in the Solid Waste Management Plan (SWMP) which allows Saanich to request the CRD to raise the level of public involvement as the situation warrants.

PUBLIC INPUT:

Mr. M. Carson, Ross Durance Road, stated:

- It appears that Saanich is relinquishing its control over the activity that occurs at the Hartland Landfill.
- The proposed Zoning Bylaw amendment will give the CRD permission to do anything they want at the Hartland Landfill regardless of the scale of operation or impact on the community within the SWMP.
- The CRD can do composting or any type of solid waste activity of any scale; it could resurrect a commercial rock quarry operation and the only obligation is for the CRD to advise the stakeholders and that is it.
- Saanich should clearly indicate to the CRD that any change in operation that will have a significant impact on local residents must have approval from Saanich Council; if this can not be done then Council should table this matter until safeguards are brought in.

-
- One of the two reasons that the land was transferred to Saanich was to allow Saanich to better address the concerns of local residents that are most impacted.
 - The proposed Zoning Bylaw amendment with no provision for an ESR or Traffic Management Plan fails to reflect the respect bestowed to Saanich in the SWMP.
 - Mr. L. Resnick of 799 Sea Aira Heights, was unable to attend and requested that he provide the following comments on his behalf:
 - o The proposed zoning contains no restriction or conditions relating to the health and safety of Saanich residents and to Saanich's land use plans or long range goals as a community.
 - o Saanich has the option to designate West Saanich Road as a heritage road thus limiting it to two lanes and its capacity to traffic.
 - o Under the proposed zoning, Saanich has no rights to limit the size and scope of the landfill operation, planning for the future of rural Saanich, including West Saanich Road, would have to accommodate to whatever takes place at the landfill and not the other way around.
 - o Saanich should be able to impose restrictions on the importation of sewage sludge along West Saanich Road, Willis Point Road and Hartland Road.
 - o One of the reasons the proposed zoning is so weak is because municipal bylaws are without force with respect to the activities and uses in a provincially approved SWMP as the municipality can not overrule the province.
 - o The Municipal Solicitor has indicated that although a bylaw may impose conditions or restrictions on a landfill, if they conflict with the SWMP, the Minister can suspend the operation of the bylaw.
 - o The Supreme Court has determined that a conflict exists between a municipal bylaw and provincial laws only if obeying the provincial law would constitute violating the municipal law.
 - o The Supreme Court has stated that so long as the municipality legislates in matters that are closely related to the immediate interest of the community in a matter where local government usually legislate, then their bylaws have legal force to impose conditions and requirements on an activity approved by the province.
 - o There is no legal basis that municipal bylaws are not in force with respect to a Solid Waste Management Plan.
 - o The landfill is an industrial site that has the potential to harm the environment, endanger public safety and create conditions that are not in keeping with the land use and planning goals of Saanich; the proposed zoning provides no legal basis for dealing with these problems.
 - o A future CRD Board could remove an item from the SWMP so it would not be prudent for Saanich to give up the legal right to impose conditions and restrictions in the operation of the landfill.

Mr. J. Grabavac, 205 Farmington Road, member of the Prospect Lake Community Association, stated:

- The Association is pleased that the efforts of the community surrounding the Hartland landfill have resulted in the CRD abandoning efforts to establish a commercial quarry and that the CRD acknowledges the need to inform, involve and consult the public on solid waste management plan issues.

-
- The Association is concerned that the P-10 (Waste Management) zone may open the door for other municipalities to offload and centralize problem waste issues in an unrestricted manner into their community under the umbrella of the SWMP.
 - Various groups have recently been lobbying for a sewer treatment plant involving a sewer sludge filtration and processing plant; a sewer sludge filtration plant must be located near the outfalls so finding sites for such facilities in the CRD will be difficult.
 - It will be convenient for other municipalities to simply transfer their sewage sludge to the Hartland community which would be most affected by changes to the SWMP and have little power to affect change.
 - A reasonable mechanism must be put in place to ensure that the public's voices are heard above P-10 zoning allowances.

APPLICANT-S RESPONSE:

Nil.

Councillor Pickup stated:

- She questioned whether Saanich is lacking in means to protect the adjacent communities in terms of environmental issues and an intensification of activity over the current situation such as a centralized composting plant or quarry.
- These are issues that she wants to have some comfort on so that Saanich will have a legitimate ability to influence what happens at the Hartland landfill site.

In response to questions from Council, the Director of Planning Services stated:

- Currently, Saanich has no control over the Hartland Landfill site as there is no zoning in place, however performance bylaws could be applied if complaints are received.
- If a bylaw was adopted that restricted the activity at the landfill to a sufficient manner that the CRD felt their operations were being hampered, the bylaw could be struck down; the question is whether such a bylaw can be enforced with regard to the uses taking place at the landfill.
- The proposed bylaw and amendments to the SWMP were negotiated with Saanich and the CRD to ensure each party was in agreement.
- In terms of the scale of activity, there are standards set out in the SWMP which include the provision of a detailed ESR study prior to a composting facility being established; the ESR study would be undertaken in consultation with Saanich and the area community associations.
- If there was significant increase in traffic to cause degradation to the road surface on Willis Point Road, the CRD could be asked to undertake a traffic management plan.
- A future Council could amend the Zoning Bylaw if there was an intensification of use or change of use at Hartland Landfill.

Moved by Councillor Wade and Seconded by Councillor Wergeland: "That,

- 1. The Zoning Bylaw be amended to add a New P-10 (Waste Management Zone);**
- 2. The Zoning Bylaw be amended to add new definitions for Waste Management and Solid Waste Management Plan;**

3. **Area 1 (Hartland Landfill) be zoned P-1, Area 2 (Heal's Rifle Range) be zoned A-1, Area 3 (Mt. Work Regional Park) be zoned P-4 and Area 4 (Mt. Work Regional Park–Hartland Mountain Bike Park) be zoned P-4;**
4. **The CRD Environmental Services be asked to compensate Saanich in the amount of \$36,275 per year, adjusted to inflation, to offset road maintenance costs to Hartland Road; and,**
5. **Prior to Council's consideration of final reading of Zoning Bylaw, 2003, Amendment Bylaw, 2004 No. 8610, the proposed Solid Waste Management Plan amendments be adopted by the CRD and in force as provided for in the *Waste Management Act*.**

Councillor Wade stated:

- There is a perception of how much control Saanich has had but it is not the reality; Saanich should continue to use moral persuasion and other options available.
- There are Saanich Councillors who sit on the CRD Board and provide input and are working on the behalf of Saanich Council and the citizens of Saanich in regard to these lands.

Councillor Cubberley stated:

- Council should have the power to initiate a process like an environmental and social review or traffic management plan to determine if the results are adequate to recommend the approval of the direction that is being proposed by the CRD.

Mayor Leonard stated:

- If the bylaw receives third reading, staff will verify that the CRD has done as committed in terms of taking the SWMP through to approval and then the proposed zoning bylaw amendment could receive final reading.
- If the CRD did not do that Council would have to re-open the Public Hearing.
- This property has been unzoned for the past nine years and during that time Saanich has worked in good faith with the CRD.
- If the proposed bylaws are adopted, it does not prevent Council from bringing forth a bylaw amendment in the future but at least the zoning regulations will be in place.
- There has been years of effort put into these proposed amendments and it is better to have zoning in place now then start a new discussion on amendments at a future date.

Councillor Derman stated:

- Adopting these proposed bylaws does not prevent Saanich from responding to any change in activity or direction that may occur in the future.
- He does not want to craft a bylaw that anticipates future activity at the Hartland Landfill.

Councillor Brownoff stated:

- The Council representatives on the CRD Board can raise composting and traffic management issues at Hartland Landfill.

Councillor Wergeland stated:

- The proposed bylaws have been negotiated with the CRD for a long time and it is time to move on with zoning the site.

- The CRD directors from Saanich Council can continue to work on this regional issue.

The Motion was then Put and CARRIED with Councillor Pickup voting against.

No. 390
Bylaw No. 8609
ADM40

“ZONING BYLAW, 2003, AMENDMENT BYLAW, 2004, NO. 8609”
Second and Third Readings.

Moved by Councillor Wade and Seconded by Councillor Derman: “That Bylaw No. 8604 be read a second time.”

CARRIED

with Councillor Pickup voting against.

Moved by Councillor Wade and Seconded by Councillor Derman: “That Bylaw No. 8604 be now passed.”

CARRIED

with Councillor Pickup voting against.

No. 391
Bylaw No. 8610
ADM40

“ZONING BYLAW, 2003, AMENDMENT BYLAW, 2004, NO. 8610”
Second and Third Readings.

Moved by Councillor Wade and Seconded by Councillor Cubberley: “That Bylaw No. 8604 be read a second time.”

CARRIED

with Councillor Pickup voting against.

Moved by Councillor Wade and Seconded by Councillor Cubberley: “That Bylaw No. 8604 be now passed.”

CARRIED

with Councillor Pickup voting against.

No. 392
Bylaw No. 8611
Finnerty Road

“ZONING BYLAW, 2003, AMENDMENT BYLAW, 2004, NO. 8611”

PROPOSED 2 LOT RESIDENTIAL SUBDIVISION ON FINNERTY ROAD/EDGELOW ROAD

To rezone Lot 1, Section 44, Victoria District, Plan 18529 (**3898 FINNERTY ROAD/EDGELOW ROAD**) from zone RS-14 (single family dwelling - minimum lot size 2020m²) to zones RS-8 (single family dwelling - minimum lot size 665m²) and RS-6 (single family dwelling - minimum lot size 560m²) for a proposed two lot residential subdivision. **A DEVELOPMENT VARIANCE PERMIT** applicable to the above lands will also be considered to reduce the minimum exterior side lot line requirement for proposed Lot A from 3.0m to 1.6m and the combined side lot line requirement for proposed Lot A from 4.5m to 3.1m.

The Notice of Public Hearing; report of the Director of Planning dated August 25, 2004 recommending approval; and 2 letters providing comments on the proposed amendment, were introduced.

APPLICANT:

Ms. S. Wong, 3898 Finnerty Road, stated:

- She has canvassed her neighbours and not received any objections.
- She is willing to offer a covenant to restrict the size of the new dwelling to 250m².
- She does have any plans for a major addition to the existing dwelling but would like to have flexibility for future improvements; she is willing to offer a covenant to restrict the size of the existing dwelling to 300-325m² to allow her family some future improvements.

PUBLIC INPUT:

Mr. D. Johnson, 2306 Arbutus Road, owner of 3900 Finnerty Road, stated:

- He is not happy with the size of the proposed new lot and would like the applicant to erect a fence to provide privacy.

APPLICANT-S RESPONSE:

Nil.

Moved by Councillor Ngai and Seconded by Councillor Wergeland: "That the application to rezone to RS-6 and RS-8 be approved and that the Approving Officer consider a restrictive covenant to limit the size of the existing dwelling to 300m to 325m and the new dwelling to 250 m²."

Councillor Brownoff stated:

- The Approving Officer should also consider the requirement of a fence for the privacy of the neighbour.

The Motion was then Put and CARRIED

No. 393
Bylaw No. 8611
Finnerty Road

"ZONING BYLAW, 2003, AMENDMENT BYLAW, 2004, NO. 8611"
Second, Third and Final Readings.

Moved by Councillor Ngai and Seconded by Councillor Cubberley: "That Bylaw No. 8611 be read a second time."

CARRIED

Moved by Councillor Ngai and Seconded by Councillor Cubberley: "That Bylaw No. 8611 be now passed."

CARRIED

Moved by Councillor Cubberley and Seconded by Councillor Ngai: "That Bylaw No. 8611 be adopted by Council and the Seal of the Corporation be attached thereto."

CARRIED

Moved by Councillor Cubberley and Seconded by Councillor Ngai: "That Council approve and issue Development Variance Permit No. DVP2004-00009 on Lot 1, Section 44, Victoria District, Plan 18529 (3898 Finnerty Road)."

CARRIED

Adjournment On a motion from Councillor Cubberley the meeting adjourned at 11:00 p.m.

.....
MAYOR

I hereby certify these Minutes are accurate.

.....
MUNICIPAL CLERK