

ADVISORY LAND USE COMMISSION

Agenda for the Advisory Land Use Commission Meeting of the Village of Pemberton to be held Tuesday, September 08, 2015 at 5:30pm (7400 Prospect/White Building)

1. CALL TO ORDER

2. MINUTES

- Draft Minutes of July 07, 2015 3

3. OR118-Zoning Amendment-Restaurant Uses

- Report to the Committee of the Whole-June 2, 2015 10
- Report to Council-September 01, 2015 10

6. NEW BUSINESS

7. NEXT MEETING

8. ADJOURNMENT

ADVISORY LAND USE COMMITTEE MINUTES

Minutes for the Advisory Land Use Commission of the Village of Pemberton held July 7, 2015 at 5:00 pm at 7400 Prospect Street.

IN ATTENDANCE:

Saad Hasan, Chairperson
Bob Adams, Co-Chairperson
Niki Vanker, Member
Tracy Napier, Member
Drew Meredith, Member

STAFF IN ATTENDANCE:

Lisa Pedrini, Village Planner
Suzanne Bélanger, Project Coordinator

PUBLIC IN ATTENDANCE:

n/a

1) CALL TO ORDER

At 5:08 pm the Chair called the Meeting to Order.

2) MINUTES

Moved/Seconded

THAT the minutes of the ALUC meeting held February 24th, 2015 be approved as circulated.

CARRIED

3) OR118-ZONING AMENDMENT-RESTAURANT USES

The Village Planner gave an overview of the Village initiated Zoning Amendment (Restaurant Uses) and its intent to protect and maintain the small town and unique nature of Pemberton's entrance. The Zoning Amendment is to redefine "restaurant" to specifically exclude "drive-in restaurant" and to remove "drive-in restaurants" as a permitted use on lands zoned Tourist Commercial (C-2), Portage Road Commercial (C-3) and Neighbourhood Pub Commercial (C-5) in the Village's Zoning Bylaw No. 466, 2001.

The Advisory Land Use Commission discussed the zoning amendment.

- Limiting the use is supported as well as the intent to drive visitors to the downtown core for shopping.
- It was mentioned that the amendment is akin to "social engineering". It may not be profitable for fast food restaurants to come to Pemberton anyway. Removing the ability to have drive-through restaurants may not respond to future consumer needs.
- It was noted by staff that drive-through restaurants would be removed as an outright permitted use, but may be considered by way of a rezoning application.
- The amendment is perhaps just scratching the surface and is too weak for the intent "to protect the unique characteristic of Pemberton". It was questioned if perhaps removing commercial zoning (in particular, C2 Zoning) altogether should be considered by Council?

- It was felt that any kind of commercial use along the entrance into town takes away from the downtown.
- However, it was discussed that it would be difficult to dramatically downzone the properties on highway frontage and that the current amendment is a step in the right direction.
- Members considered the types of restaurants/businesses that could establish on the highway frontage and the impact of this amendment.
- The Village Planner commented that the change in uses cannot discriminate against any particular business, the Village has the right to regulate “use” but not “user”. The lands being potentially rezoned are part of a Development Permit Area. The Development Permit would allow the Village to work with the applicants on the form and character of their buildings to make sure the exterior appearance of the business meets Village’s goals.

Moved/Seconded

THAT the ALUC recommend to Council to support the Zoning Amendment Bylaw (Restaurant Uses) No 793, 2015.

CARRIED

4) OR108-ZONING AMENDMENT-HILLSIDE MIXED USE DEVELOPMENT

The Village Planner gave a verbal update on the “580” Development Lands.

- Since the ALUC last saw the application, staff presented a report to the COW in June outlining outstanding items that would be either dealt with through a Section 219 No Build Covenant (Land Use Agreement) or at subdivision. The other recommendation is that the applicants hold a public info meeting, at their expense, prior to 2nd reading.
- Staff has a report going to Council tonight (July 7th) recommending 1st reading only; and staff is not advising the consideration of the 2nd reading until a number of items are addressed.
- The Agent for the application has agreed to hold a public info meeting, but has not provided the Village with an anticipated date.

The Advisory Land Use Commission discussed the timeline of the rezoning application and the phasing of the review by Council as well as the opportunities that the general public will have to comment on the rezoning amendment. The members will be kept up to date as to the timing of the open house, should be they wish to attend.

5) DEVELOPMENT UPDATE

The Village Planner gave a verbal update of the Development Services Department since she started as the Village Planner in September 2014.

- Sunstone Development
 - DVP to vary the servicing requirements for the eight (8) Lot Subdivision has still not been issued (Waiting on the registration of the 219 (No-Built) Covenant which the Village has signed off on, but the applicants decided to defer until after the festival.)
 - Eight (8) lot Subdivision (on-hold until DVP is issued).
- Recreational Site
 - Rezoning to amend minimum parcel size that applies to portions of Lot 4 zoned AGR (approved)
 - Five (5) lot Subdivision (imminent)

- School Site
 - Subdivision (on hold)
 - DP (on hold)
 - Projected Opening: potentially Fall 2017 (timing tbd)
- Pemberton Music Festival-3 year term TUP, expires after 2016 Festival
- Benchlands-Phase 1b (24 Lots) - TAL issued in September 2014 / Servicing Agreement to be completed. Staff and Applicant are in the process of negotiating the Community Amenity Contributions to fulfill the landowner's obligations.

6) NEW BUSINESS

- Village staff is expecting a new Development Permit application for the land next to Portage Station.

7) NEXT MEETING

TBA-As required

8) ADJOURNMENT

At 7:20 p.m. the meeting was terminated.

This is a true and correct copy of a meeting of the Advisory Land Use Commission of the Village of Pemberton, held July 7, 2015.

Chair

Project: OR118- Restaurant Uses

Civic Address				
Legal Description	Lot	District Lot	Plan	L.L.D.
various				Lillooet Land District
Owner's Name(s)/Address		Agent's Name:		
various		Village of Pemberton		
		Phone 604-894-6135, ext. 234		
		Cell:		
		E-Mail Address: lpedrini@pemberton.ca (Village Planner)		

Application Request	Village-Initiated Removal of "Drive-in Restaurants" as a Permitted Use
Existing OCP Designation	Pemberton Gateway & Portage Road
Existing Zoning Designation	Tourist Commercial C-2, Portage Road Commercial C-3 & Neighbourhood Pub Commercial C-5
Proposed OCP Amendment	n/a
Proposed Zoning Amendment	Bylaw 793, 2015 Drive-in Restaurants


Proposed Lots	n/a
----------------------	-----

Proposed Public Road Access	n/a
Proposed Services Connections	n/a
Water	
Sewer	

Village Planning Staff Comments:

In order to create a strong sense of arrival to the Pemberton community through natural, landscaped and built elements distinctive to Pemberton, and to protect the unique commercial characteristics of Pemberton's existing businesses, the Village of Pemberton Council has directed staff to undertake an amendment to the Zoning Bylaw to prohibit drive-through restaurants on the highway frontage lands designated Gateway and Portage Road in the Village's Official Community Plan.

The attached bylaw aims to clarify the definitions of "restaurant" vs. 'drive-in restaurant' and to remove 'drive-in restaurants' as a permitted use on the lands zoned as Tourist Commercial (C-2), Portage Road Commercial (C-3) and Neighbourhood Pub Commercial (C-5) zones in the Village's Zoning Bylaw No. 466, 2001. Currently, these Zones allow for drive-in restaurants explicitly; by omitting them as an outright permitted use, they will only be contemplated via a rezoning application.

	June 26, 2015
Planning Department Signature	Date

Date: June 2, 2015
To: Nikki Gilmore, Chief Administrative Officer
From: Lisa Pedrini, Contract Planner
Subject: Zoning Bylaw Amendment to Limit Formula Based Restaurants
in Pemberton's Gateway

PURPOSE

This report provides information to Council about a possible land use restriction that could be applied to limit formula based restaurants in Pemberton.

BACKGROUND

Earlier in 2014, the former Council directed Staff to explore limiting the number of formula based (particularly franchise, fast food) restaurants in Pemberton. There was particular concern with the Gateway (Highway 99 and Portage) corridor as it may negatively impact Pemberton's entry and small town character.

Former Development Services Staff undertook research on the issue and presented a legal opinion to Council In Camera in September 2014 with respect to the legality of undertaking land use restrictions that could be applied to restrict formula based restaurants in Pemberton. More recently, staff brought this issue back to Council In Camera for information and direction on next steps. At the Council Meeting No. 1397 held May 19, 2015, Council rose from In Camera with report on the following:

Moved/Seconded

THAT Staff be directed to research and prepare a report for a Committee of the Whole meeting with respect to enhancing certain zoning and development permit requirements to deter certain formula based businesses in Pemberton's Gateway area.

CARRIED

DISCUSSION & COMMENTS

This report responds to Council's request in terms of zoning amendments¹ that could be made to deter certain formula based businesses in Pemberton's Gateway Area. Formula based businesses have been described as:

"A business which is required by contractual or other arrangement to maintain one or more of the following items: standardized ("formula based") array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than five (5) other businesses regardless of ownership or location. Formula

¹ Staff requires more time to research options for enhancing development permit requirements to deter formula based businesses. A report will be brought forward in due course, and would most likely combine any amendments to the OCP with other village-initiated amendments, for example any changes to Development Permit guidelines associated with species at risk.

based businesses can include, but are not limited to: restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons and hotel/motel/inn/B&B." (Reference from Bristol, Rhode Island Zoning Bylaw)

Formula based Restaurants have been described as:

"A retail establishment primarily devoted to the on-site preparation and offering of food and beverage for sale to the public for consumption either on or off the premises and which is required by contractual or other arrangement to offer any of the following: standardized menus, ingredients, food preparation, decor, uniforms, architecture, signs or similar standardized features and which causes it to be substantially identical to more than eleven (11) other restaurants regardless of ownership or location." (Reference from Arcata, California Zoning Bylaw)

The first section of the discussion will focus on the existing policy/practice in Pemberton, and the next section of the report will provide examples of how other municipalities have attempted to limit certain formula based businesses. The final section will provide recommendations to Council as to next steps.

Existing Policy/Practice

The Village of Pemberton Zoning Bylaw No. 466, 2001 currently regulates the locations in which a restaurant or drive-in restaurant would be permitted to operate. Fortunately, the Village Zoning Bylaw makes a clear distinction between restaurant and drive-in restaurants as individual permitted uses. For example, Zoning Bylaw No. 466 uses the following definitions:

drive-in restaurant means a building providing for restaurant use with drive-through takeout facilities or consumption of food in vehicles parked on the lot;

restaurant use means an eating establishment where food is sold to the public for immediate consumption within the premises or delivered to other premises, but excludes facilities for the consumption of food in motor vehicles parked on the site, or with drive-through takeout facilities.

Both **restaurants** and **drive-in restaurants** are a permitted use in the C-2 (Tourist Commercial), C-3 (Portage Road Commercial), and C-5 (Neighbourhood Pub Commercial Zone). The number of properties potentially impacted is approximately 24 in total and a map depicting the location and the exact properties contained within these three zones, identified in red, is attached as **Appendix A**.

Drive-in restaurants are not a permitted use in the C-1 (Town Centre Commercial), or C-4 (Service Commercial Zones), but restaurants are a permitted use in both these two commercial zones, and in several other non-commercial zones, including the M-1 (Industrial), and the PR-1 (Parks and Recreation).

Research Results

An Internet search done in August of 2014 by the former Manager of Development Services found two communities in Western Canada that had investigated restricting formula based businesses, but in the end did not succeed: Tofino, BC and Banff, AB. Tofino planner Aaron Rodgers advised that their Official Community Plan does not support formula based restaurants but the District of Tofino has not brought forward any specific zoning bylaws to implement this

policy, despite news articles reporting these intentions in 2012 in papers such as the Globe and Mail:

- <http://www.theglobeandmail.com/news/british-columbia/bc-surf-town-proposes-fast-food-ban/article1209762/>
- <http://www.canada.com/Tofino+Starbucks+Hortons+McDonalds/2663552/story.html>

Banff reviewed this matter for more than seven (7) years (which included a public engagement process and a working group) with a focus on defining formula based businesses and then limiting their existence and/or number in certain zoning districts. Their formula based businesses considered both retail (i.e. Bell, Patagonia, North Face, David's Team, Hatley, CD Plus, Athlete's World, Louis Vuitton, La Cache, Tabi and Ardene) and restaurants (i.e. Ricky's, Tim Horton's, and Boston Pizza). The prepared bylaw, however, met its demise in March 2013. Banff is regulated by Alberta's land use legislation.

More recently, Staff research found several examples of local governments in B.C. who have successfully removed drive-through restaurants as a permitted use in their Zoning Bylaws, each with their own motivations.

Nelson, BC

The City of Nelson approved a new Zoning Bylaw in February 2014 that removed the opportunity for any new drive-through restaurants to develop anywhere in their city. In developing their new zoning bylaws, Staff had removed drive-through restaurants as a permitted use in several zones (that formerly had permitted them), but allowed them to remain in the City's highway commercial zone. However, during the Public Hearing for the new Zoning Bylaw many residents opposed the idea and wanted "*all mention of them struck from the bylaw*". The City of Nelson's Councillors agreed with this direction, and removed drive-through restaurants as a permitted use in all zone, as a final amendment before approving the bylaw.

The reasons cited for the change were to protect local businesses (since few to no drive-through restaurants are operated by establishments that are not franchises); to entice the travelling public to stop and patronize businesses in the downtown area; and to meet their sustainability goals. The sentiments of one supporter of the bylaw felt that fast-food drive-through franchises "*did not serve the economic interests of their city aside from providing a few minimum wage jobs, and sending most of the profit to a corporate head office someplace else*".

To see more information on this change, here is link to a 2014 article from the Nelson Star: <http://www.nelsonstar.com/news/243525471.html>

New Westminister, BC

In 2011, the City of New Westminister passed a Zoning Amendment Bylaw to amend and clarify that drive-through restaurants are not permitted in pedestrian oriented commercial districts for several reasons. Drive-through restaurants were thought to pose a safety risk to pedestrians as the business results in additional vehicles crossing sidewalks to enter and exit a site. Drive-through restaurants were also felt to focus on automobile functionality rather than on improving the pedestrian environment. City Staff argued that drive-through restaurants defeated the spirit of the City of New Westminister's Street Traffic Bylaw which prohibits idling for more than three minutes. And finally, it was thought that drive-through restaurants reinforced a transportation

mode split that strongly favours automobiles over other alternative modes, which has an adverse environmental impact.

Resort Municipality of Whistler, BC (RMOW)

Whistler Council directed their Staff in 2012 to bring forward a Zoning Amendment Bylaw to define “restaurant” in order to specifically exclude drive-in and drive-through restaurants in the resort municipality. In the RMOW’s case at the time, their Zoning Bylaw did not include a definition of a “restaurant”; however, all but three zones in their Zoning Bylaw specifically excluded a “drive-in restaurant” as a permitted use. As a result, the RMOW Council approved Zoning Amendment Bylaw (Restaurant Uses) No. 2014, 2012 to bring clarity and consistency across all zones by creating a definition of “restaurant” to exclude drive-in and drive-through restaurants, unless expressly provided otherwise. The bylaw also proposed to amend a certain zone to allow for an existing drive-through restaurant in the Marketplace. Further, they now have regulations in place to state that any future requests for a drive-in or drive-through restaurant in a zone that allows for restaurant use would require a zoning amendment.

Whistler’s rationale was as follows: Whistler Planning Staff examined the zoning amendment against the directions contained in the Whistler 2020 Comprehensive Sustainability Plan. Staff’s analysis determined that by excluding drive-in and drive-through restaurants, this moved Whistler toward their sustainability objectives: it helped support Whistler’s preferred methods of transportation: Pedestrian, bicycle and other non-motorized means; and it continued to reinforce Whistler’s strong pedestrian character. However, they did find that drive-in and drive-through restaurants offer a valuable service for accessibility, people with small children or the older generation with mobility issues. For this reason, they included the potential for a zoning amendment bylaw to allow for any future drive-in or drive-through restaurants on a case by case basis.

Examples from the United States (U.S.)

Many U.S. municipalities have considered regulating the existence and number of formula based businesses by adopting ordinances (in the U.S. zoning bylaws are referred to as ordinances) that prohibit or limit the number of formula based businesses or assign conditional zoning. Some of the regulations limit the number of chain stores or alternatively set certain design criteria to ensure the businesses do not visually compromise the community character. Often the added design requirements deter certain formula based restaurants from setting up business in a town, but not always. In some situations, the land use tools available in the U.S. may not be possible under Canadian or BC law.

Staff Recommendation

Legally, the options available to the Village of Pemberton are far less than that of the U.S., given BC and Canadian legislation. Basically, the Village is only able to regulate a “use” not a “user”; therefore the zoning bylaw shall not regulate uses based on factors such as merchandise, trademarks, menus, interior décor, uniforms, and/or sign logos.

The Village is also able to regulate:

- signs as far as materials, lighting and size;
- building/façade architecture, colour schemes and materials in accordance with approved Development Permit Guidelines (and the *Local Government Act*);

- parking, access, loading and drive-throughs;
- setbacks, height and other site development regulations; and
- location of certain land uses or development permit approvals.

Options available to the Village implementing the above-mentioned additional items will be the subject of a future Staff report. The most straight-forward (and timeliest) change the Village can do at this point is to examine the permitted uses in the Commercial Zones applicable to Pemberton's Gateway Area, and consider excluding particular uses that are often associated with formula based restaurants.

Staff suggests that a municipality-initiated zoning amendment bylaw be prepared to clarify the definition and remove "drive-in restaurants" from the list of permitted uses in the C-2 (Tourist Commercial), C-3 (Portage Road Commercial), and C-5 (Neighbourhood Pub Commercial) zones. Fortunately, the Village of Pemberton already distinguishes between a restaurant use and a drive-in restaurant (which would be normally operated by a franchise). However, Staff would recommend re-visiting the definition of "drive-in restaurant" to clarify that the definition includes the notion of "drive-through" window sales.

This zoning amendment is recommended in order to maintain the small town and unique nature of Pemberton's entrance, and to enhance the commercial characteristics of our existing businesses. This change would also be considered consistent with the Village's Greenhouse Gas Emissions (GHG) Reduction Targets and the Community Principles, Planning Directions, Planning Policies, Strategies and Actions as contained in the Village's Official Community Plan (OCP) given that they all contain initiatives that move the community forward in reducing Pemberton's GHG emissions.

In terms of the existing drive-through restaurant (McDonald's) located in the C2 (Tourist Commercial) Zone at the corner of Highway 99 and Portage Road, this amendment would result in that use being able to continue its operations as a legally non-conforming use (see **Legal Considerations** below). Any future applications for new drive-through restaurants in the applicable zones (C2, C3 and C5) could be considered via the Village's rezoning application process.

COMMUNICATIONS

This issue will be referred to the regular list of referral agencies, including the Advisory Land Use Commission for review and comment. The minutes from the ALUC will be forwarded to Council for consideration prior to Public Hearing.

LEGAL CONSIDERATIONS

Uses and siting which do not conform to the current Zoning Bylaw but existed at the time of adoption of the bylaw are "grandfathered" and are considered to be legally non-conforming.

Non-conforming uses and siting are regulated by section 911 of the *Local Government Act*.

A legally non-conforming use will cease to be legally non-conforming if:

- The use is discontinued for a continuous period of 6 months;
- The building or structure to which the use applies is damaged to an extent of 75% or more of its value; or
- The scale or degree of the non-conforming use is undertaken to a degree that is higher than that which occurred at the time of the adoption of the bylaw.

IMPACT ON BUDGET & STAFFING

The investigations done to date were prepared in-house by the Operations and Development Services Department and the cost associated with legal expenses were accounted for/ included in the current Five Year Financial Plan. Should Council consider introducing the future zoning amendment bylaw, it is estimated that further \$300 would be required for statutory advertising, which can also be accommodated in the current Five Year Financial Plan.

INTERDEPARTMENTAL IMPACT & APPROVAL

The above noted project will not impact the day to day operations of any other department other than the Development Services Department.

IMPACT ON THE REGION OR NEIGHBOURING JURISDICTIONS

A review of this initiative has no impact on other jurisdictions.

ALTERNATIVE OPTIONS

An alternative option for consideration is to not move forward with any zoning bylaw amendments, or to only consider removing "drive-in restaurants" in only one or two of the Commercial Zones.

POTENTIAL GOVERNANCE CONSIDERATIONS

As per the Village's Strategic Plan, this initiative supports Theme One: Economic Vitality and Theme Two: Good Governance.

RECOMMENDATIONS

THAT the Committee of the Whole direct staff to prepare a Zoning Amendment Bylaw that clarifies the definition of a drive-in restaurant and excludes drive-in restaurants as a permitted use in the C2, C3 and C5 zones for Council's consideration at the June 19, 2015 Regular Council Meeting.

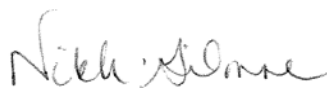
Attachments:

Appendix A – Map of C2, C3 and C5 Zones.



Lisa Pedrini
Contract Planner

Chief Administrative Officer/Acting Manager of Operations and Development Services Review



Nikki Gilmore
Chief Administrative Officer/ Acting Manager of Operations and Development Services

VILLAGE OF PEMBERTON

BYLAW No. 793, 2015

Being a bylaw to amend the Village of Pemberton Zoning Bylaw No. 466, 2001

WHEREAS pursuant to Section 903 of the *Local Government Act* a Council may amend its Zoning Bylaw from time to time;

AND WHEREAS the Council of the Village of Pemberton deems it desirable to create a strong sense of arrival to the Pemberton community through natural, landscaped and built elements distinctive to Pemberton;

AND WHEREAS the Council of the Village of Pemberton deems it desirable to protect the unique commercial characteristics of Pemberton's existing businesses by controlling the development of formula-based restaurants in the Gateway and Frontier Street areas;

NOW THEREFORE the Council of the Village of Pemberton in open meeting assembled **ENACTS AS FOLLOWS:**

1. CITATION

This Bylaw may be cited as "Village of Pemberton Zoning (Restaurant Uses) Amendment Bylaw No. 793, 2015"

2. Village Zoning Bylaw No. 466, 2001 be amended as follows:

a) Section 104 Definitions:

- i. by deleting the definition of 'restaurant use' and replacing it with the following:

- a. **restaurant use:** means an eating establishment where food is sold to the public for immediate consumption within the premises or delivered to other premises. Restaurant use when specified in this bylaw as a permitted use excludes, unless expressly provided otherwise, drive-in restaurants.

b) Section 307.1 Permitted Land Uses (C-2):

- i. by deleting 'Drive-in Restaurant' from the list of Permitted Land Uses under Tourist Commercial C-2.

c) Section 308.1 Permitted Land Uses (C-3):

- i. by deleting 'Drive-in Restaurant' from the list of Permitted Land Uses under Portage Road Commercial C-3.

d) Section 310.1 Permitted Land Uses (C-5):

- i. by deleting 'Drive-in Restaurant' from the list of Permitted Land Uses under Neighbourhood Pub Commercial C-5.

READ A FIRST TIME this ____ day of _____, 2015.

READ A SECOND TIME this ____ day of _____, 2015.

NOTICE OF PUBLIC HEARING for Village of Pemberton Zoning (Restaurant Uses) Amendment Bylaw No. 793, 2015 PUBLISHED IN THE _____ on this ____ day of _____ 2015 and **PUBLISHED IN THE _____** on this ____ day of _____ 2015.

READ A THIRD TIME this ____ day of _____, 2015.

ADOPTED this ____ day of _____, 2015.

Mayor
Mike Richman

Corporate Officer
Sheena Fraser

Date: September 1, 2015
To: Nikki Gilmore, Chief Administrative Officer
From: Lisa Pedrini, Contract Planner
Subject: Update on Zoning Amendment (Restaurant Uses) Bylaw No. 793, 2015

PURPOSE

This report provides an update on the status of Zoning Amendment Bylaw No. 793, 2015, a Village-initiated amendment (OR118) to restrict drive-through restaurants in certain areas of the Village's entrance (Gateway). The report includes additional agency referral and Village Advisory Land Use Commission's (ALUC) comments on the proposed amendment and recommends that Council postpone the scheduling of a public hearing until all re-referral comments have been received.

BACKGROUND

Earlier in 2014, former Council directed Staff to explore limiting the number of formula (particularly franchise, fast food) restaurants in Pemberton. There was particular concern with the Gateway (Highway 99 and Portage) corridor as it may negatively impact Pemberton's entry and small town character. Former Development Services Staff undertook research on the issue and presented a legal opinion to Council In Camera in September 2014 with respect to the legality of undertaking land use restrictions that could be applied to restrict formula restaurants in Pemberton. Earlier this spring, staff brought this issue back to Council In Camera for information and direction on next steps. At the Council Meeting No. 1397 held May 19, 2015, Council rose from In Camera with report on the following:

Moved/Seconded

THAT Staff be directed to research and prepare a report for a Committee of the Whole meeting with respect to enhancing certain zoning and development permit requirements to deter certain formula based businesses in Pemberton's Gateway area.

CARRIED

A report on a proposal to limit drive-through restaurants in the Gateway area of Pemberton was presented to the Committee of the Whole (COW) Meeting No. 134 held on June 2, 2015, where the following recommendation was passed:

Moved/Seconded

THAT the Committee of the Whole direct staff to prepare a Zoning Amendment Bylaw for Council's consideration that clarifies the definition of a drive-in restaurant and excludes drive-in restaurants as a permitted use in the C-2, C-3 and C-5 zones.

CARRIED

Moved/Seconded

THAT staff continues to explore enhancements to the Sign Bylaw and the OCP Bylaw, for example, additional and applicable Development Permit Area criteria to limit formula based businesses in Pemberton.

CARRIED

Following the COW meeting No. 134, while undertaking further research on this rezoning initiative, Staff discovered that a rezoning was undertaken in 2013 for a property in the Gateway that resulted in 'Drive-In Restaurants' being added to the list of permitted uses in the C-5 (Neighbourhood Pub Commercial) Zone. The rezoning application was submitted by Function Gate Pemberton Pub Holdings Ltd. and the lot in question is located at 1490 Portage Road, the only property in the Village zoned C-5. The original C-5 zone permitted: Neighbourhood Pub, Accessory Beer and Wine, Combined Commercial/Residential, Accessory Use and Storage Container.

Function Gate Pemberton Pub Holdings Ltd.'s request was to rezone the subject property to C-2 (Portage Road Commercial) but in the end it was decided to expand the list of uses allowed in the C-5 zone to include some, but not all, uses permitted in the C-2 zone. Zoning Amendment Bylaw 746, 2014 was approved on January 14, 2014 which resulted in the following additional uses added to the list of permitted uses in the C-5 zone: Hotel, Motel, Country Inn, Restaurant, Drive-In Restaurant, Recreation and Leisure Retail, and Spa Facility.

On June 25, 2015 staff reached out to Function Gate Pemberton Pub Holdings Ltd. to advise of the proposed bylaw amendment and the options available to the property owner to present any concerns to Council about this change. No formal response was received.

A report summarizing agency comments and introducing consideration of Zoning Amendment Bylaw No. 793, 2015 was presented to the Regular Council Meeting No. 1402 held July 21, 2015¹ where the following recommendations were passed:

Moved/Seconded

THAT Village of Pemberton Zoning Bylaw No. 466, 2001, Amendment (Restaurant Uses) Bylaw No. 793, 2015 receive First and Second Reading.

CARRIED

Moved/Seconded

THAT staff resend the referral package, including information on Bylaw 746, 2014, to the relevant referral agencies for feedback prior to the Public Hearing.

CARRIED

Moved/Seconded

THAT a public hearing for Bylaw 793, 2015 be scheduled for 7pm on Tuesday September 1, 2015.

CARRIED

¹At 10:00 a.m. Councillor Molinaro declared a conflict of interest pursuant to Community Charter Section 100 (2) (a) and (b) due to these lands under consideration being part of a family holding and left Council Chambers. At 10:25 a.m. Councillor Molinaro returned to Council Chambers.

Moved/Seconded

THAT a courtesy notification of the Public Hearing be mailed at least 10 days before the public hearing to all affected owners of bare land (undeveloped lands) despite the LGA, Section 892 (7) that states that notification requirements do not apply if 10 or more parcels owned by 10 or more persons are the subject of the bylaw alteration.

CARRIED

A copy of Village of Pemberton Zoning Bylaw No. 466, 2001, Amendment (Restaurant Uses) Bylaw No. 793, 2015 is attached as Appendix A.

DISCUSSION AND COMMENTS

As per Council's direction, an additional request for referral comments on Bylaw 793, 2015 was forward to the Pemberton and District Chamber of Commerce, Tourism Pemberton, the SLRD and the Village's Advisory Land Use Commission on July 28, 2015. The Village asked for comments to be received by August 18, 2015 and the Village received the following feedback:

Pemberton and District Chamber of Commerce

In an email dated July 28th, 2015 from Shirley Henry, Secretary-Treasurer of the Chamber of Commerce, the Village was informed that the Chamber Board of Directors would not be able to provide comments on the re-referral by the suggested deadline of August 18th, and that their next meeting would not occur until September 2, 2015 (see Appendix B & C).

The Chamber's initial response received in a letter dated July 14, 2015 stated that the Chamber Board of Directors had passed the following resolution:

THAT the Directors of the Pemberton & District Chamber of Commerce support the Rezoning Application OR118.
Carried.

Tourism Pemberton

IN an email dated August 26th, 2015 the Village has been advised that Tourism Pemberton has met and will be forwarding a letter of response (see Appendix C). Staff will provide a verbal update at the next meeting if communication from Tourism Pemberton is received by September 1, 2015.

No response was received by Tourism Pemberton to the first referral (sent June 26th).

Squamish-Lillooet Regional District (SLRD)

In an email received August 26, 2015 from the SLRD, the Village was informed that "*this change does not change our original comments. Interests unaffected*" (see Appendix D).

The SLRD had initially responded that the zoning amendment appears to be a positive change that will help to improve the overall village character.

Advisory Land Use Commission (ALUC)

Due to scheduling difficulties, the Advisory Land Use Commission did not meet again until Tuesday August 26, 2015 to discuss the re-referral. However, quorum was not reached therefore another meeting will need to be held.

Given that many of the referral agencies have not yet responded, staff recommends postponing the Public Hearing until Tuesday October 6th, 2015 at 7:00pm, to allow staff to give sufficient time to inform Council of any additional referral agency comments at the September 15th, 2015 meeting, before the Public Hearing is held.

COMMUNICATIONS

Subject to Section 890 of the *Local Government Act (LGA)*, a public hearing must be held for the Zoning Amendment Bylaw, after first reading of the bylaws and before third reading.

Notice of the Public Hearing will be given as per Section 892 (3) of the *LGA*. Notification shall also consist of a written notice, mailed to all owners (as shown on the assessment roll as of July 21, 2015) and any tenants in occupation, at least 10 days before the public hearing, if the bylaw intends to alter the permitted use or density of an area as per Section 892 (4).

LEGAL CONSIDERATIONS

The processing of a Rezoning application is regulated by various sections contained in Part 26 of the *Local Government Act* and by the Village's Development Procedures Bylaw 725, 2013, as amended from time to time.

IMPACT ON BUDGET & STAFFING

The research and preparation of the report/draft bylaws is a component of the daily work undertaken by the Operations & Development Services Department. All costs associated with the processing of this application have been included in the budget.

INTERDEPARTMENTAL IMPACT & APPROVAL

There is no interdepartmental impact or approvals required respecting the processing of this application as it is a function of the Operations and Development Services Department.

ALTERNATIVE OPTIONS

There are no alternative options as the report is for information and rescheduling of the Public Hearing only.

POTENTIAL GOVERNANCE CONSIDERATIONS

Responding to the proposed OCP and Zoning Amendment Applications is consistent with Strategic Plan Priority 1: Economic Vitality to foster investment within the Village and Priority 3: Excellence in Service through the continuation of delivering quality municipal services by processing development applications efficiently.

RECOMMENDATIONS

THAT Council receive the Update on Zoning Amendment (Restaurant Uses) Bylaw No. 793, 2015 for information;

AND THAT a Public Hearing for Zoning Bylaw No. 466, 2001, Amendment (Restaurant Uses) Bylaw No. 793, 2015 be rescheduled for 7pm on Tuesday October 6, 2015 in Council Chambers;

AND THAT a courtesy notification of the Public Hearing be mailed at least 10 days before the public hearing to all affected owners of bare land (undeveloped lands) despite the LGA, Section 892 (7) that states that notification requirements do not apply if 10 or more parcels owned by 10 or more persons are the subject of the bylaw alteration.

Attachments:

Appendix A – Zoning Amendment Bylaw No. 793, 2015

Appendix B - July 28, 2015 Email from Chamber of Commerce

Appendix C – August 26, 2015 Email from Chamber/Tourism Pemberton

Appendix D – August 26, 2015 Email from SLRD



Lisa Pedrini
Contract Planner

**CHIEF ADMINISTRATIVE OFFICER/
ACTING MANAGER OF DEVELOPMENT SERVICES REVIEW**



Nikki Gilmore
Chief Administrative Officer

VILLAGE OF PEMBERTON

BYLAW No. 793, 2015

Being a bylaw to amend the Village of Pemberton Zoning Bylaw No. 466, 2001

WHEREAS pursuant to Section 903 of the *Local Government Act* a Council may amend its Zoning Bylaw from time to time;

AND WHEREAS the Council of the Village of Pemberton deems it desirable to create a strong sense of arrival to the Pemberton community through natural, landscaped and built elements distinctive to Pemberton;

AND WHEREAS the Council of the Village of Pemberton deems it desirable to protect the unique commercial characteristics of Pemberton's existing businesses by controlling the development of formula-based restaurants in the Gateway and Frontier Street areas;

NOW THEREFORE the Council of the Village of Pemberton in open meeting assembled **ENACTS AS FOLLOWS:**

1. **CITATION**

This Bylaw may be cited as "Village of Pemberton Zoning (Restaurant Uses) Amendment Bylaw No. 793, 2015"

2. **Village Zoning Bylaw No. 466, 2001 be amended as follows:**

a) Section 104 Definitions:

- i. by deleting the definition of 'restaurant use' and replacing it with the following:

a. **restaurant use:** means an eating establishment where food is sold to the public for immediate consumption within the premises or delivered to other premises. Restaurant use when specified in this bylaw as a permitted use excludes, unless expressly provided otherwise, drive-in restaurants.

b) Section 307.1 Permitted Land Uses (C-2):

- i. by deleting 'Drive-in Restaurant' from the list of Permitted Land Uses under Tourist Commercial C-2.

c) Section 308.1 Permitted Land Uses (C-3):

- i. by deleting 'Drive-in Restaurant' from the list of Permitted Land Uses under Portage Road Commercial C-3.

d) Section 310.1 Permitted Land Uses (C-5):

- i. by deleting 'Drive-in Restaurant' from the list of Permitted Land Uses under Neighbourhood Pub Commercial C-5.

READ A FIRST TIME this 21 day of July, 2015.

READ A SECOND TIME this 21 day of July, 2015.

NOTICE OF PUBLIC HEARING for Village of Pemberton Zoning (Restaurant Uses) Amendment Bylaw No. 793, 2015 PUBLISHED IN THE _____ on this ____ day of _____ 2015 and **PUBLISHED IN THE _____** on this ____ day of _____ 2015.

READ A THIRD TIME this ____ day of _____, 2015.

ADOPTED this ____ day of _____, 2015.

Mayor
Mike Richman

Corporate Officer
Sheena Fraser

APPENDIX B

From: Shirley & George Henry [<mailto:sghenry@telus.net>]
Sent: July-28-15 2:45 PM
To: Suzanne Belanger
Cc: Garth Phare
Subject: RE: Village of Pemberton-OR118 Referral Package No 2

Dear Suzanne,

I am afraid it will not be possible to get comments from the Directors by August 18th as we do not meet until September and many of our Directors will be on vacation.

Regards,

Shirley Henry, FBCC,
Secretary- Treasurer,
Pemberton & District Chamber of Commerce,
info@pembertonchamber.com

From: Suzanne Belanger [<mailto:sbelanger@pemberton.ca>]
Sent: July-28-15 2:25 PM
To: Suzanne Belanger
Cc: Lisa Pedrini
Subject: Village of Pemberton-OR118 Referral Package No 2

Hello,

[RE: OR118-Restaurant Uses Referral No 2](#)

On June 26, the Village referred to you a rezoning application package for your comments. At the last Council meeting, Council requested that we provided additional information for your review. Please see attached the No 2 referral document for your information.

We would appreciate if you could provide any comments you may have prior to August 18, 2015. Do not hesitate to contact us should you have any questions.

Regards,
Suzanne



Confidentiality Warning: This message and any attachments are intended only for the use of the intended recipient(s), are confidential, and may be privileged. If you are not the intended recipient, you are hereby notified that any review, retransmission, conversion to hard copy, copying, circulation or other use of this message and any attachments is strictly prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail, and delete this message and any attachments from your system. Thank you.

From: Shirley & George Henry [mailto:sghenry@telus.net]
Sent: August-26-15 4:57 PM
To: Lisa Pedrini
Subject: RE: Chamber and Tourism Board of Directors' Meetings

Hi Lisa,

You will be getting a letter from the Tourism Pemberton Board as they have already met and the Chamber meets the 2nd Tuesday in September and yes it is on the Chamber Agenda. This summer has been extremely busy at the Visitor Centre and continues to be so as well which is great for our business community.

Regards,

Shirley Henry, FBCC,
Secretary- Treasurer,
Pemberton & District Chamber of Commerce,
info@pembertonchamber.com

From: Lisa Pedrini [mailto:lpedrini@pemberton.ca]
Sent: August-26-15 3:01 PM
To: Shirley Henry
Cc: Nikki Gilmore
Subject: Chamber and Tourism Board of Directors' Meetings

Hello Shirley,

How are you? I hope you are enjoying the summer and not working too much!

Could you advise when the next board meetings will be held for the Chamber and Tourism Pemberton? Also can you let me know if the Village referral of Bylaw 793 (Restaurant Uses) will be added to those upcoming agendas? This Bylaw contemplates the removal of drive-in restaurants as a permitted use in the C2, C-3 and C-5 zones of Pemberton's Gateway.

I am writing an update report to Council for Sept 1, 2015 and wish to let them know if/when we can expect comments to our second referral from both the Chamber and Tourism Pemberton.

Thank you in advance for getting back to me,

Lisa



Confidentiality Warning: This message and any attachments are intended only for the use of the intended recipient(s), are confidential, and may be privileged. If you are not the intended recipient, you are hereby notified that any review, retransmission, conversion to hard copy, copying, circulation or other use of this message and any attachments is strictly prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail, and delete this message and any attachments from your system. Thank you.

APPENDIX D

From: Kimberly Needham [<mailto:KNeedham@slrd.bc.ca>]
Sent: August-26-15 3:50 PM
To: Lisa Pedrini
Cc: Claire Daniels
Subject: RE: Village of Pemberton-OR118 Re-referral Package No 2

Hi Lisa

This change does not change our original comments. Interests unaffected.

Kim



Kimberly Needham
Director of Planning and Development Services
kneedham@slrd.bc.ca
P: 604-894-6371 x242
F: 604-894-6526
1-800-298-7753
www.slrd.bc.ca

This message is intended only for the use of the individual or entity named above, and may contain information that is privileged, confidential or exempt from disclosure under applicable law. If you are not the intended recipient or their employee or agent responsible for receiving the message on their behalf, your receipt of this message is in error. Please notify us immediately, and delete the message and any attachments without reading any such information. Any dissemination, distribution or copying of this communication by anyone other than the intended recipient is strictly prohibited. Thank you.

From: Lisa Pedrini
Sent: August-12-15 5:11 PM
To: 'Kimberly Needham'
Subject: FW: Village of Pemberton-OR118 Re-referral Package No 2
Importance: High

Dear Kim,

On July 6th 2015, the Village referred to you a rezoning application package for your comments.

Council wanted staff to bring to your attention that in the course of processing this rezoning request, staff subsequently determined that the C-5 zone was recently amended via Bylaw 746, 2014 in January 2014 to add several permitted uses including a "Drive-In Restaurant", and that this information was not contained in the original referral. In light of this additional information, Council passed the following resolutions at Regular Council Meeting No. 1402, held July 21, 2015 with respect to Village of Pemberton Zoning Amendment (Restaurant Uses) Bylaw No. 793, 2015:

Moved/Seconded
THAT Village of Pemberton Zoning Bylaw No. 466, 2001, Amendment (Restaurant Uses) Bylaw No. 793, 2015 receive First and Second Reading.
CARRIED

Moved/Seconded

THAT staff resend the referral package, including information on Bylaw 746, 2014, to the relevant referral agencies for feedback prior to the Public Hearing.

CARRIED

For this purpose, I have re-forwarded the attached the No 2 referral document for your information. The deadline for comment is **August 18th**, 2015. Let me know when we could expect a response from your office.

Regards,
Lisa