

Late Agenda Items

**Regular Council Agenda
November 7, 2023**

Recommendation:

That Council amend the agenda to add the following item(s), received after publication of the agenda:

	Page(s)
8.1 Liquor Special Event Area Endorsement – Bayview Brewing (204 Dogwood Drive) Add public submissions.	2-5

Received November 3, 2023

Bayview Brewing Company
204 Dogwood Drive
Ladysmith BC
V9G 1S8

November 3rd, 2023

Mayor and Council
Town of Ladysmith
410 Esplanade Avenue
Ladysmith BC
V9G 1A1

To Mayor and Council,

We are grateful to be a part of this thriving community of Ladysmith and look forward to seeing how we can continue to support and be involved in the various events that make our town an amazing place to live, work and play in. In reference to our Special Event Area Endorsement application, after reading some of the feedback submitted in response to our application, I feel it necessary to provide more insight and clarification into our intentions.

We are planning to host two scheduled events per year. Over the last calendar year, we held two events: April 29 Anniversary Celebration and September 29 Labour of Love end of summer event. We hosted live music from 12-8pm and 1-9pm for those events. After trial of both times, we plan to move forward keeping the times to within the 12-8pm window. On both occasions, we hired a professional sound company to regulate and keep decibel levels reasonable for a live music event.

We do not plan to host an unlimited number of events with 300 people any time we choose. Putting on events is a costly and time-consuming process that pushes our staff to limits that require us to close the next day. The proposed limit of 300 includes staff and any hired musicians. At our first event, we had approximately 25 staff working and 45 musicians over the course of the day. We set the patron limit to 200 people at that event.

The purpose of the application is, firstly, to simplify the reporting process with the Liquor and Cannabis Regulation Branch in the future for hosting events onsite. Secondly, to engage with the town regarding parking and traffic when we do have events. We are happy to openly communicate with Town staff and work together on any recommendations the Council may have. The solution could be as simple as using town barriers on Dogwood Dr. and Bayview Ave. with signage that says, "no parking for special events - local traffic only" to force people to walk here.

If this application is not approved, we would revert to applying for Special Event Permits as needed through the LCRB to proceed with events in the future. I look forward to working with the Mayor, Council, and the Town of Ladysmith in moving forward with this application.

Thanks for your time and consideration.

Sincerely,

Rod Alsop
Bayview Brewing Company

November 6, 2023

To: Town of Ladysmith, Mayor and Council

RE: STAFF REPORT TO COUNCIL, incorporated in the Agenda Package for the meeting taking place November 7, 2023, on pages 14-65 inclusive.

On page 24, paragraph 1: *"Late submissions were accepted until November 7, 2023"*

There is a material misstatement in the Executive Summary, under Previous Council Direction: *"hours of operation are proposed to be between 11am and 9pm on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays, and 11am and 11pm on Fridays and Saturdays"* whereas regular "summer hours" are 11 am to 11 pm, 7 days a week. The same material misstatement appears on Page 19, paragraph 1. It is further misleading that a footnote on page 15 states *"Bayview Brewing's existing liquor manufacturing license and lounge endorsement allows liquor sales from 11:00 am to 11:00pm"* as though those are not actual operating hours.

In the Introduction/Background, the author, Mr Wilson, states *"The applicant has indicated they plan to host four events per year during the hours of noon to 10:00 pm."* The only reference to intent should be information provided in the signed application to the liquor licensing board which includes no such limitation. The statement is conjecture and not factual.

Events taking place on weekends only should not be read as a favourable distinction; weekends are when neighbouring, working residents are most likely to be impacted by excessive, pervasive sound levels on their properties, that are unrelenting for the better part of a day.

Regarding location, an LCRB required consideration, Mr Wilson writes on page 18 of the *"institutional zoned property - Melody Hall - is located across the street to the southeast and is currently vacant."* I live across the street and there clearly appears to be habitation still, in the lower, residential portion of the building. In addition to always having a residential component, it is highly likely that the property will be redeveloped by the purchaser as multi-unit residential. I do not know how the author presumes the property is vacant.

"According to the applicant, a professional sound company will be hired to ensure the amplified music is kept to reasonable decibel levels. The LCRB does not regulate decibel levels, however a limitation to the hours of amplified music can be added as a condition of the liquor permit which differs from the proposed hours of liquor sales."

1. Reasonable decibel levels is not a definition:
 - a. The Town did not rely on the LCRB in enacting "Noise Suppression Bylaw 2003, No.1478" Section 8(a) of which states: *"No person shall make, cause or permit to be made or caused continuous sound on any land within a Shopping Centre Zone, the sound level of which exceeds 58 decibels measured at a point of reception in*

a Quiet Zone any time between 9:00 a.m. and 10:00 p.m.” (Specific measurement.)

- b. Section 1 (a) defines continuous sound as *“any sound occurring for a duration of more than 3 Minutes, or occurring continually, sporadically or erratically but totaling more than 3 minutes in any 15 minute period of time”*
 - c. A Quiet Zone is defined as: *“any area of land or highway included within any zone ... other than land in an Industrial Zone or Commercial Zone on which no residential dwelling units have been constructed”*
 - d. The suggestion that a reasonability test might be applied is nonsensical when no parameters are set and no measurements are taken at neighbouring properties, or in other words: *“at a point of reception in a Quiet Zone”*
2. Surely residents in the vicinity of Bayview Brewing are deserving of the same protection afforded those neighbouring a shopping centre!
 3. Mr Wilson’s only suggestion is a limitation of the hours of amplified music when a defined decibel level could be set that is in keeping with public safety guidelines. For example, sounds above 85 dB are considered harmful.
 4. The LCRB can limit and enforce hours of amplified music (page 17, paragraph 4 of the report)

“Should Council wish to endorse the application with conditions (see Alternative 2), Council may wish to recommend an earlier end time for live music.” This is not mitigation to the disturbance caused by amplified music. Replacing live with recorded is not mitigation.

The author appears to use live music and amplified music interchangeably throughout the relevant pages of the report whereas the level of all amplified music, including sound checks, is the subject of an overwhelming number of complaints. “Amplified music” is the terminology carefully used in LCRB documentation and it is prudent to adopt consistent language.

“If Council directs staff to develop a Special Events Bylaw, staff will consult with event organizers and community stakeholders (e.g. Chamber of Commerce, Ladysmith Downtown Business Association etc.) in developing the bylaw.” It is to be hoped that the required public consultation on the adoption of a new bylaw affecting business regulations will not be overlooked. As in the executive summary *“staff recommend postponing a decision on this referral until such time as a Special Events Bylaw with regulations that mitigate resident concerns is adopted.”*

Residents, by living here, also provide economic benefit and might encourage further, long-lasting, community growth and enrichment. More so even than the transient drinking public.

What is the intent of postponement? Postponement will not address:

- road safety and parking capacity on or near the subject property
- LCRB application deficiency: the missing Letter of Intent which must also include a description of the measures that will be implemented to ensure nearby residents *are not disturbed by the establishment or patrons of the establishment*

- the blanket hours and days proposed for events on the application
- the false statements given by the applicant that “ample notice is given to neighbours of upcoming events” when more than one respondent reported none received at any time, for any of the three events held to date
- the conceded unlikelihood of any bylaw enforcement
- and further does not preclude Bayview Brewing from applying for future Special Event Permits

I am deeply concerned that there is bias in favour of this commercial enterprise as evidenced by the recorded discussion at the regular meeting of council on September 5, 2023. Mayor Stone has already stated his approval of the application in concept, without voicing thought for current and future property-tax-paying, neighbouring residents. His mentions of helping the business be a good neighbour, as though that responsibility lay with someone other than the business owners, refer only to public property usage and not the far-reaching impact of the activities that extend onto neighbouring private property. Councillor Jacobson appears to have voted against opting in to the public participation process all together. Councillor Gourlay seems motivated to exempt the brewery from the expense and red tape of a fair and consistent regulatory process that takes into consideration the likely impacts and liabilities associated with the combination of large numbers of people, loud music and alcohol consumption at extra ordinary events.

There remain fabulous, suitable, local public and private venues that are not only able to accommodate the proposed activities but designed to do so. These are not supported by this application. I fail to see how council could approve, at any time, the current application submitted for its consideration, at this location.

Sincerely,

Christine Mathers
210 Dogwood Drive