

# CITY OF DUNCAN



**Public Hearing Agenda**  
**for Bylaw No. 3045**  
**to Amend Zoning Bylaw No. 1540, 1988**  
**Monday, December 19, 2011 @ 7:30 p.m.**  
**Council Chamber, City Hall, 200 Craig Street**

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	<b>Page #</b>
<b>1. Call to Order</b>	<b>1</b>
<b>2. Explanation of Procedures</b>	
<b>3. Hearing</b>	
<b>3.1. Zoning Amendment Bylaw No. 3045, 2011</b>	<b>2-15</b>
Reclassifying the property legally described at Lot 2, Section 18, Range 6, Quamichan District, Plan 4332 (163 First Street; PID: 001-320-050) from P-1 INSTITUTIONAL to C-1 GENERAL COMMERCIAL.	
<b>3.1.1. Correspondence</b>	
➤ In favour of the proposal:	
• None	
➤ Opposed to the proposal:	
• Mary Taylor	<b>16-17</b>
<b>3.1.2. Presentations or questions from the Public</b>	
<b>3.1.3. Opportunity for Proponent to explain proposal or address any concerns</b>	
<b>3.1.4. Final opportunity for public presentations</b>	
<b>4. Adjournment</b>	

THE CORPORATION OF THE CITY OF DUNCAN

BYLAW NO. 3045

A Bylaw to Amend Bylaw No. 1540 being  
Zoning Bylaw, 1988.

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**WHEREAS** there has been an application to rezone a particular piece of property to allow a restaurant use;

**AND WHEREAS** Council desires to ensure a wide range of retail and office uses, restaurants, visitor accommodations, and entertainment facilities in appropriate locations;

**AND WHEREAS** Council considers the effects of said application to be consistent with the Official Community Plan;

**NOW THEREFORE**, The Municipal Council of the City of Duncan enacts as follows:

1. **Schedule "Z-1" Official Zoning Map shall be amended by:**

(a) Reclassifying the property legally described as Lot 2, Section 18, Range 6, Quamichan District, Plan 4332 (163 First Street; PID: 001-320-050) from P-1 INSTITUTIONAL to C-1 GENERAL COMMERCIAL.

2. This Bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 3045, 2011".

READ THE FIRST TIME ON THE 21<sup>st</sup> DAY OF November, 2011.

READ THE SECOND TIME ON THE 21<sup>st</sup> DAY OF November, 2011.

PUBLIC NOTICE IN ACCORDANCE WITH SECTION 892 OF THE LOCAL GOVERNMENT ACT PUBLISHED IN THE COWICHAN VALLEY CITIZEN THE 7<sup>th</sup> DAY OF DECEMBER, 2011, AND THE 14<sup>th</sup> DAY OF DECEMBER, 2011.

APPROVED BY THE MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE ON THE 6<sup>th</sup> DAY OF DECEMBER, 2011.

PUBLIC HEARING HELD THE      DAY OF      , 2011.

READ THE THIRD TIME ON THE      DAY OF      , 2011.

ADOPTED THE      DAY OF      , 2011.

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Director of Corporate Services

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Mayor

SCHEDULE A2(i)

THE CORPORATION OF THE CITY OF DUNCAN

Application/File No. \_\_\_\_\_

APPLICATION FOR ZONING AMENDMENT

I/We hereby apply for

\_\_\_\_\_ an amendment to the text of Zoning Bylaw No. \_\_\_\_\_

the rezoning of the property described as (legal description): \_\_\_\_\_

LT 2 SEC 18 RAE 6 Quamichan PL 4332

PID 001-320-050

and located at (street address or general location) 163 First Street, Duncan

from P1 to C1 zone.

Required application fee of \$ \_\_\_\_\_ and the completed Rezoning Information Forms are attached.

Oct 7/2011  
Date

[Signature]  
Applicant's Signature

THIS APPLICATION IS MADE WITH MY FULL KNOWLEDGE AND CONSENT.

Oct. 10/11  
Date

[Signature]  
Registered Owner's Signature

Where the Applicant is NOT THE REGISTERED OWNER, the Application must be signed by the REGISTERED OWNER or his SOLICITOR.

FOR OFFICE USE ONLY

Application fee \$ 2100 received.

Receipt No. 144351

10/19/2011  
Date

[Signature]  
Signature of Official



SCHEDULE A2 (ii)

CORPORATION OF THE CITY OF DUNCAN  
ZONING AMENDMENT INFORMATION FORM

THE INFORMATION REQUESTED IN THIS FORM IS REQUIRED TO EXPEDITE THE APPLICATION AND ASSIST THE STAFF IN PREPARING A RECOMMENDATION.

This form is to be completed in full and submitted with all requested information, Official Community Plan and Zoning Amendment Application, Application Fee and Certificate of State of Title or of Indefeasible Title for the subject property.

Applicant and Registered Owner

1. (1) Applicant's Name Petra and Claus Flemming

Address \_\_\_\_\_ Postal Code \_\_\_\_\_

Telephone: Business 250-743-1147 Home \_\_\_\_\_

(2) Registered Owner's Name Theodore and Katherine Lassche

Address \_\_\_\_\_ Postal Code \_\_\_\_\_

Telephone: Business 250-748-9794 Home \_\_\_\_\_

(3) A copy of a State of Title of Certification, or a copy of a Certificate of Indefeasible Title, dated no more than 30 days prior to submission of the application must accompany the application as a proof of ownership.

Application Fee

2. An Application Fee as set out in Fees and Charges Bylaw No. 1759 shall be made payable to the City of Duncan and shall accompany the Application

Text Amendment

3. Describe the Proposed Text Amendment \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Rezoning – Property to be Rezoned

4. (1) Legal Description in Full LT2 SEC 18 R6E6 Quamichan PL 4332  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## SCHEDULE A2 (iii)

(2) Location (street address of property, general description or map) \_\_\_\_\_  
163 First Street, Duncan

(3) Size of Property (area, number of parcels) 8,712 sqft or 0.20 Acres

(4) Present Zoning P1

(5) Proposed Zoning C1

Description of the Existing Use/Development \_\_\_\_\_

This building is presently being used as a music school  
(Mulberry Lane School of Music)

(6) Description of the Proposed Use/Development (use Separate sheet if necessary)

Fine Dining Restaurant

(7) Approximate Commencement Date of the Proposed Project \_\_\_\_\_

Early Spring 2012.

Reasons in Support of Application

5. Reasons and comments in support of the application (use separate sheet if necessary)

- ① There is minimal exterior alterations needed to the existing building / property, therefore, it will continue to help preserve & maintain the character of Historic Duncan.
- ② Location is ideal as it is next to C1 and many higher density residential properties.
- ③ There is already some existing parking on site & easy walking from "Paid Public Parking", as well it is easy walking for many businesses / shoppers and residents in Duncan.
- ④ There is a growing need for a fine dining establishment with in Duncan & surrounding area.
- ⑤ Most importantly the operators are educated, trained and experienced in fine dining hospitality and management.

SCHEDULE A2 (iv)

Attachments

6. At the time of providing Application and Information Forms to the applicant the CAO or Director of Corporate Services shall indicate which of the following attachments are required or not required for this Application. The CAO or Director of Corporate Services may require additional information.

(1) A dimensioned Sketch Plan drawn to scale of \_\_\_\_\_ to \_\_\_\_\_ showing, the parcel(s) of part of the Parcel(s) to be redesignated, rezoned and the location of the existing buildings, structures and uses.

REQUIRED: Yes \_\_\_\_\_ No \_\_\_\_\_

(2) A dimensioned Site Development Plan drawn to a scale of \_\_\_\_\_ to \_\_\_\_\_ showing the proposed use, buildings and structures, highway access, etc.

REQUIRED: Yes \_\_\_\_\_ No \_\_\_\_\_

(3) A Contour Map (Plan) drawn to the scale of \_\_\_\_\_ to \_\_\_\_\_ with contour interval of \_\_\_\_\_, if warranted by the topographic condition (of the subject site).

REQUIRED: Yes \_\_\_\_\_ No \_\_\_\_\_

(4) A dimensioned Sketch Plan drawn to scale of \_\_\_\_\_ to \_\_\_\_\_ of the proposed subdivision, where subdivision (small or large) is contemplated.

REQUIRED: Yes \_\_\_\_\_ No \_\_\_\_\_

October 11/2011  
Date

[Signature]  
Applicant's Signature

FOR OFFICE USE ONLY

Forms duly completed, received.

10/19/2011  
Date

[Signature]  
Signature of Officer





## CITY OF DUNCAN

November 22, 2011

To Whom It May Concern:

**Re: Notice of Public Hearing for Rezoning Application RZ-2011-04, for 163  
First Street (Lot 2, Section 18, Range 6, Quamichan District, Plan 4332)**

Your attention is drawn to the Public Hearing Notice on the reverse side of this letter, the content of which will appear in a larger advertisement in the Citizen newspaper on Wednesday, December 7<sup>th</sup> and Wednesday, December 14<sup>th</sup>, 2011.

This advertisement gives notice of a Public Hearing to be held on **Monday, December 19, 2011 at 7:30 p.m.** at City Hall, 200 Craig Street, Duncan, BC, regarding a proposed Zoning Bylaw Amendment. The proposed Zoning Bylaw Amendment would change the zoning of the subject property from P-1 Institutional to C-1 General Commercial, to allow for a restaurant development near the property owned or occupied by you.

If you believe your interests are affected by the proposed Bylaws you may express your views to City Council at the Public Hearing. If you cannot attend the hearing, you may write to City Council at the address or fax number shown at the bottom of this letter or send an e-mail to [duncan@duncan.ca](mailto:duncan@duncan.ca) before 4:30 p.m. on Monday, December 19, 2011. Your submission will become part of the public record. Even if you attend, the City would appreciate your comments in writing.

If you have any questions or want to inspect copies of the proposed Bylaw and related information, please contact City Hall from Monday to Friday, between 8:30 a.m. and 4:30 p.m., from the date of this letter until 4:30 p.m., Monday, December 19, 2011.

Yours truly,

Michelle Geneau  
Planner

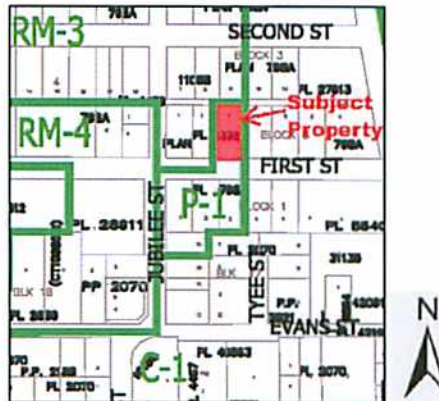


## CORPORATION OF THE CITY OF DUNCAN

### NOTICE OF PUBLIC HEARING

City of Duncan Council gives notice, under Section 892 of the *Local Government Act*, that it will hold a Public Hearing on December 19, 2011 at 7:30 p.m. in the Council Chambers of City Hall, 200 Craig Street, Duncan, BC. The purpose of the Public Hearing is to allow Council to receive public input on an amendment to the "City of Duncan Zoning Bylaw 1540, 1988".

1. The intent and purpose of Zoning Amendment Bylaw No. 3045, 2011 is to amend the Zoning Bylaw to Rezone 163 First Street (Lot 2, Section 18, Range 6, Quamichan District, Plan 4332) from P-1 Institutional Zone to C-1 General Commercial Zone, for a restaurant development:



If you believe your interests may be affected by the proposed amending Bylaw you may express your views to City Council at the PUBLIC HEARING to be held at 7:30 p.m., Monday, December 19, 2011 at City Hall, 200 Craig Street, Duncan, BC. If you cannot attend the Public Hearing, you may write to City Council at the address or fax number shown below, or send an e-mail to [duncan@duncan.ca](mailto:duncan@duncan.ca), before 4:30 p.m., Monday, December 19, 2011. Your submission will become part of the public record.

If you have any questions, or if you want to inspect copies of the proposed Bylaw and related information, please contact City Hall, 200 Craig Street, Duncan, BC, 250-746-6126, Monday to Friday, between 8:30 a.m. and 4:30 p.m., from the date of publication of this notice to December 19, 2011.

Lynn Ketch, Director of Corporate Services  
200 Craig Street  
Duncan, BC V9L 1W3; Phone: 250-746-6126; Fax: 250-746-6129

# Request for Decision



**Date:** October 25, 2011  
**To:** Committee of the Whole – November 7, 2011  
**From:** Michelle Geneau, Interim Planner  
**Re:** Application to Amend Zoning Bylaw No. 1540, 1988 in order to rezone property with a civic address of 163 First Street from P-1 Institutional to C-1 General Commercial - Rezoning No. RZ-2011-04

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## RECOMMENDATION:

That the following recommendation be forwarded to Council for approval

That Council authorize the introduction of an amendment to Zoning Bylaw No. 1540, 1988 to rezone Lot 2, Section 18, Range 6, Quamichan District, Plan 4332 (PID 001-320-050), 163 First Street, from P-1 Institutional to C1-General Commercial, subject to the following conditions:

1. Registration on Title of a covenant with the following items:
  - a. Heritage designation restricting future modifications and expansions of the primary building to be consistent with the heritage architecture; costs to be borne by the applicant.
  - b. Replacement of the existing sidewalk and construction of a 0.5 meter expansion to be provided as a dedication to the City, constructed to the Master Municipal Construction Documents Platinum Edition standards, in a form acceptable to the Director of Public Works.
  - c. Cost of sidewalk widening and curb repair and replacement to be borne by the applicant, security of 125% of the estimated cost to be provided to the City and returned upon completion.

## KEY ISSUES AND BACKGROUND:

### Application

The City is in receipt of an application (attached) by Claus and Petra Flemming, to rezone this property from P-1 Institutional to C-1 General Commercial for the purpose of converting the historical residential building on this property from Mulberry Lane School of Music to a 'fine dining' restaurant. The purchase of this property is subject to its Rezoning and Development Variance Permit to vary the amount of required off-street parking (proposed DVP-2011-08). The operators of the proposed restaurant will be the applicant's daughter and son-in-law, both

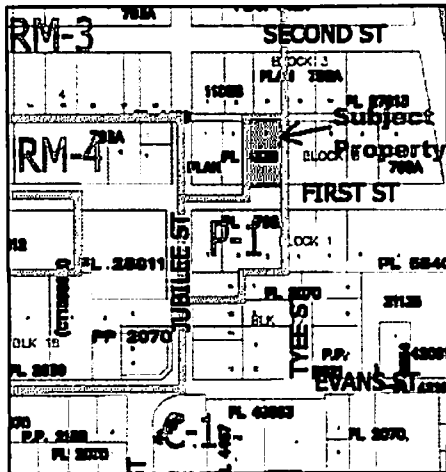
professionally trained in fine dining hospitality and management. The applicants do not intend to make any exterior changes to the existing building, other than replacing the signage, which can be addressed with a Development Permit application at a future date.



**Property and context**

The subject property is on the north side of First Street, between Canada Avenue and Jubilee Street.

The property contains a single family home built in 1906. In 1993 the property was rezoned from RM-3 to P-1, to accommodate administrative uses for St. John the Baptist Anglican Church, across the street. Following rezoning, an accessory building at the rear of the property was removed to facilitate eight parking spaces accessed from the back laneway.



The building was converted to a music school in 2003. The upkeep of the building has retained the heritage value and the current applicant intends to maintain the heritage features and character of the building.

Neighbouring properties on First Street contain a mix of uses: single family residences, multi-family residences, a church, Island Savings Centre, and other commercial uses. The property to the west of the subject property contains a single family dwelling, while the property to the west was cleared several years ago and is zoned C-1.

The location is within the Downtown Development Permit Area and is within walking distance to other businesses and shopping areas downtown, from which the applicants hope to draw patrons to their restaurant. Their view is that there is a growing need for more fine dining experiences in Duncan and the surrounding area.

**Key Issues**

A community meeting has not been held by the applicant. The current use of the property is already an assembly use allowed in a C-1 zone, but was also accommodated by the current P-1 zoning.

**Parking**

The applicant intends to develop a restaurant with 50 to 60 seats. Under the Off Street Parking Bylaw, a 60 seat restaurant would require 23 parking spaces (1

space per 3 seats, plus 3 seats). The property currently contains a parking area for 8 spaces, accessed by the rear laneway (Exhibit A-1, attached). The laneway has access from Jubilee Street and Canada Avenue, and is maintained by the City. The applicant does not wish to alter the front of the property and block street views of the heritage building to accommodate additional parking.

A Development Variance Permit (DVP-2011-08, also in the November 7, 2011 COW package) will be necessary to address the parking shortfall, and can be processed concurrently with the rezoning process for this property. Public parking beyond what the applicant proposes to provide onsite could be accommodated by street parking spaces on First Street as well as public and pay parking on Canada Avenue and Duncan Street nearby. The location is also within walking distance of many residences and businesses. To support active transportation, the applicant has voiced support of placing bicycle parking facilities on the property. DVP recommendations include a payment-in-lieu charge of \$8,000 to the City Parking Fund.

### *Noise*

While most of the commercial activities will occur indoors, any future use of the premises as a restaurant will create some noise, including a commercial kitchen exhaust fan. This issue can be addressed in the Development Permit review process by limiting restaurant operating hours and requiring the exhaust fan to be shielded with roof top design features (required in the DPA guidelines). Additionally, landscaping may be used as a mitigating measure, and the existing fencing and trees on the property provide significant privacy.

### *Building*

The City Building Inspector does not foresee any issues with the conversion of use from a music school to a restaurant. The renovations for a commercial kitchen and a 60 seat restaurant would require a *coordinating professional* to review and provide supervision of changes to the A-2 use under the BC Building Code. The coordinating professional would also determine whether updates to the municipal or other services would be required.

The property file shows that a fire alarm and emergency lighting system were installed in 2004, and significant foundation upgrades were undertaken in 2007.

Development Cost Charges (DCCs) under the current DCC Bylaw were calculated in the case that the building permit value for the proposed redevelopment is over \$50,000. It is noted that the current DCC Bylaw is under review and may be updated prior to the issuance of the building permit for the proposed redevelopment, therefore this amount, if any, may change.

### *Infrastructure*

The Director of Public Works provided the following comments regarding servicing and infrastructure for the subject property:

**Water:** The existing hookup is ¾ inches; the applicants may need to upgrade this for the commercial purpose of their development. A water meter will need to be installed. If a fire sprinkler system is installed in the building, a water study will need to be conducted.

**Storm:** There are no records showing that this property is connected to the storm main, but it may be and there does not appear to be any current issues with drainage. If exterior alterations are made to the property, more study on storm water management would need to be conducted and provided to the City in accordance with provincial guidelines.

**Sanitary:** There is existing 4 inch service to the property and the service size is most likely sufficient but the condition may need to be improved.

**Roads:** ***Sidewalk replacement is recommended*** because 6 of the 14 sidewalk panels are cracked. Simple expansion of the sidewalk by adding new panels on the inner (yard) edge, without replacement of the existing panels is not recommended due to the already damaged condition of the sidewalk. Expansion of the sidewalk towards the building will require moving or replacement of the existing fence, or installation of a hand rail because of the approximate 8 inch drop from the sidewalk to the lawn. The grading of the edge of the road near the sidewalk is in fair to poor condition and may need restoration in the future.

## **RELEVANT BYLAWS AND LEGISLATION:**

### **Official Community Plan**

The subject property lies within the "Commercial" land use designation of the OCP (Map 1-Land Use). It also lies within the Downtown Neighbourhood and Development Permit Area.

#### *Economic Development*

Section 6, A Thriving Economy & Business Community, has the Economic Development Objective "to cultivate a business-friendly atmosphere to support existing, new, re-located and start-up business." Additional commercial zoning is anticipated by the plan to encourage economic development.

#### *Downtown*

Relevant Downtown Objectives include:

- To create a visually attractive, walkable, economically sustainable, more densely developed area containing a compatible blend of business, tourism, civic/institutional, residential and recreational uses.
- To promote economic and business activities and encourage new businesses to move into Downtown.

*Heritage*

This application provides an opportunity to preserve a well maintained heritage quality building, of which there are few remaining in the City. The applicant is willing to obtain a heritage designation that restricts changes to the exterior of the building.

Relevant Heritage Policies include:

- Work with the development community and owners of heritage structures to find innovative solutions that permit change, but in a manner that is respectful of the character and significance of the building or site (8.2.4)
- Designate suitable structures or land as municipal heritage sites or heritage conservation areas when requests are voluntarily received from private landowners (8.2.2)

**STRATEGIC SIGNIFICANCE:**

The proposal supports policies and objectives of the Official Community Plan.

The proposed development relates to the City's Core Value of "enhance and maintain a vibrant downtown core" as well as "value retaining our historical and cultural uniqueness". A key Objective is to work with the business community to support downtown.

**OPTIONS AND ALTERNATIVES:**

1. Recommend approval of the rezoning with conditions recommended by staff.
2. Recommend approval of the rezoning with modified conditions as determined by the Committee of the Whole.
3. Recommend tabling of the rezoning application subject to acquiring additional information.
4. Denial of this application.

**BENEFITS DISADVANTAGES AND NEGATIVE IMPACTS:**

1. Benefits include increased commercial activity in the Downtown.
2. Benefits of modified conditions are not known at this time.
3. Tabling the rezoning application may provide time to acquire additional information if deemed necessary, but may prevent the applicant from proceeding with the proposed development.
4. Denial of the application would prevent the applicant from purchasing this property and thus prevent development of this new commercial enterprise.

**COSTS AND BUDGET IMPACT - REVENUE GENERATION:**

The costs of processing this application are covered in the application fee. Costs to additional pressure on public parking may be addressed in the Development Variance

Permit stage by payment-in-lieu charges. Impacts to City services are addressed with Development Cost Charges.

**LEGISLATIVE IMPACTS, PRECEDENTS, POLICIES:**

There are no known legislative impacts.

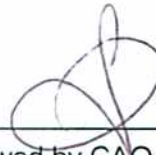
**COMMUNICATION:**

The applicant has placed signage on the property to publicize the Rezoning and DVP applications. If the application is forwarded to Council, notices will be sent to residents and property owners within 60 meters of the subject property, and notices will be placed in the newspaper prior to a Public Hearing, in accordance with the Local Government Act and Development Approvals Procedure Bylaw No. 1901, 2000.



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Michelle Geneau, Interim Planner



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Reviewed by CAO

**PARKING  
8 STALLS  
@ 9' (2.8M) WIDE**

28'-8" (8.7m)  
PARKING

10.24m  
(33'-6")

FENCE

5.02m 16'-6"  
RAMP

8.63m 28'-4"  
POUCH

9.22m 30'-3"  
POUCH

POUCH

36.58m  
(120')

3.5m  
(11.6")

27'-6"

3.35m  
(11.0')

↑  
↑  
FRONT  
ENTRY

8.91m (29.2")

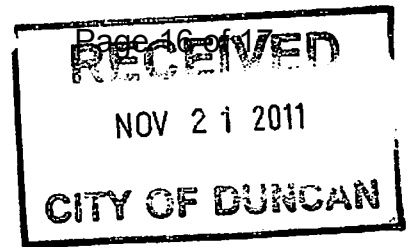
163-1<sup>ST</sup> STREET  
DUNCAN, DC. V9L1R1

LOT 2, SECT. 18, RANGE 6  
QUANTUM DISTRICT, PLAN 4332

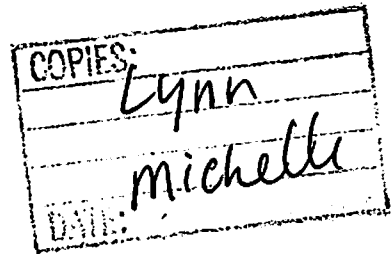
SCALE 1/8" = 1'-0"  
Oct. 17, 2011 BY CHF.

FIRST STREET

Rezoning No. RZ-2011-04  
Exhibit "A-1"



November 21, 2011  
To The Mayor and City Council  
City Hall  
200 Craig St  
Duncan BC  
V9L 1W3



Re: Application for zoning change at 163 First Street

I own the home at 177 First Street, it is next door to the property at 163 First Street. I am writing to express my concern over the proposed application for a zoning change at 163 First Street from P-1 institutional use zone to C-1 general commercial use zone. I am aware that the potential owner is intending to open a 60 seat restaurant and deli. I understand that this will bring more people into the neighborhood and force property values down. There will be increased traffic, noise and potential rise in crime, not to forget the problem with rats, this year I have caught 4, I can certainly see the rat problem increasing in our neighborhood with the opening of a 60 seat restaurant.

The traffic problem will increase, at present I can seldom park in front of my house to access my front door. I moved to Duncan last year having purchased my home in November 2009, this year (2011) I have seen the traffic problem increase as more people working in the downtown area park on my street and walk to work. The Coffee OnThe Moon café at the end of the street where it joins Canada Ave also contributes to the traffic. Since there is only space for 7 cars-8? to park at the back of the proposed site for this restaurant, where will the remainder park?

The noise level will increase with people coming and going from the restaurant 7 days a week until 10 o'clock at night, this will greatly impact my lifestyle, not to mention my neighbors. My kitchen window

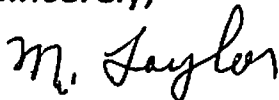
opens facing the proposed restaurant, now I hear childrens laughing voices and tasteful music being played, this will be replaced by noisy exhaust fans, trucks unloading supplies, gargage trucks and foot traffic. Despite living in this part of town, it is relatively quiet at night, even though St John's Anglican Church has activities during the week. This quiet corner will change with the zoning changes and a restaurant being opened.

There are many elderly people living in this neighborhood and a family park at the end of First street. The increased traffic will affect these elderly people who pass daily down this street using walkers and motorized wheelchairs.

When I reflect back on my move to Duncan it was because I liked the small town feel of it. When I went to City Hall to ask for information everyone was kind and helpful. There is a unique character here with the blend of older homes and small shops. The loss of these older character homes and conversion to businesses will change this and it will no longer have its appeal.

There are many restaurants in this area for people to frequent, some are barely staying afloat, do we need another one? You may call it Fine Dining if you will but it still brings with it all the concerns listed above. I'm sure there are other locations suitable for this restaurant venture in this town, so I ask you to consider my concerns for proposed rezoning of the Mulberry Lane Property.

Sincerely;

A handwritten signature in black ink that reads "M. Taylor". The signature is written in a cursive, flowing style.

Mary G Taylor  
177 First St