



STAFF REPORT

TO: Council **MEETING DATE:** June 20, 2017
FROM: André Boel, Director of Planning **FILE NO:** 3220-20 Gower 377-385
SUBJECT: Hotel Use Covenant George Hotel & Residences

RECOMMENDATION

THAT the staff report regarding the “Hotel Use Covenant George Hotel & Residences” be received;

AND THAT Council endorse the Hotel Use Covenant and that the Mayor and the Corporate Officer be authorised to sign the agreement on behalf of the Town.

PURPOSE

The purpose of this report is to seek Council’s consideration of a proposed Hotel Use Covenant between the Town of Gibsons and the owner of the George Hotel & Residences project.

BACKGROUND

The George Hotel and Residences received Council approval of requested Official Community Plan and Zoning Bylaw amendments on October 6, 2015 (RS2015-330 and RS2015-331). At the time of rezoning a Development Agreement was registered at the Land Titles Office (reference CA4741913) to secure the delivery of development approval conditions.

DISCUSSION

When the topic of Hotel Use was discussed in the summer of 2015, there was a concern about the effects of a possible stratification of the proposed hotel. The staff report dated September 15, 2015 provided the following backgrounds:

“ Tourist Accommodation definition

Staff consulted with legal counsel for more information regarding issues related to the use of lands zoned for tourist accommodation. Property taxation is based on assessed values established by BC Assessment. Typically, properties with a commercial assessment pay more taxes than residential assessed properties. Where things become complicated is when a hotel is stratified into separate real estate entities. In that case there are certain conditions where owners can request BC Assessment to apply a residential rather than a commercial assessment. To address these risks legal counsel suggested a restrictive covenant which would outline how a strata lot is used. This would need to be reviewed further by legal counsel since the taxation scheme is complex.

For the George Hotel the use of a restrictive covenant is being proposed to cover the development agreement items. If Council supports it, direction could be given to include an item for a restrictive covenant that requests assurances from the applicant regarding the operation of a hotel on site. Staff recommends adding this topic to the development agreement overview.” (from the staff report dated September 15, 2015)

A requirement for a Hotel Use Covenant was subsequently agreed to in principle. It was added to the Development Agreement as item 4j) which requires the following:

“ (..) a covenant under section 219 of the Land Title Act, in a form satisfactory to the Town, which provides that the hotel building to be constructed as part of the Development will be used for only hotel use, as that term is interpreted, in the opinion of the Town. Without limiting the foregoing, the parties acknowledge that “hotel use” shall include the spa, retail, and commercial uses contemplated by the Zoning Amendment Bylaw.”

An agreement was drafted by Town legal counsel and reviewed and agreed to by the Town and the developer. The currently proposed terms are listed in items 2, 4, 5, 6, and 7 of the attached proposed covenant, outlining the restrictions / expectations about the hotel use on the property:

- Item 2 defines Public Lodging Use as *“the use of a Guest Room in the Hotel by the transient public for temporary accommodation (..)*
- Item 4 specifies that the Lands must be used for a full-service hotel of at least 100 rooms;
- Item 5 specifies that a Hotel must be build as part of the development;
- Item 6 requires that the Owner must take all reasonable commercial steps to keep the Hotel open;
- Item 7 prohibits the stratification (creating title for individual rooms or suites) of the Hotel.

RECOMMENDATIONS / ALTERNATIVES

Staff recommendations are listed on page 1. Alternative recommendations are listed below:

Alternatively, if Council would like to explore changes to the Hotel Use Covenant:

THAT staff be directed to discuss the following items with legal counsel and / or the applicant

.....

Alternatively, Council could forego the Hotel Use Covenant. In that case the Hotel Use would be regulated under the provisions of Zoning Bylaw No. 1065, 2007 only.

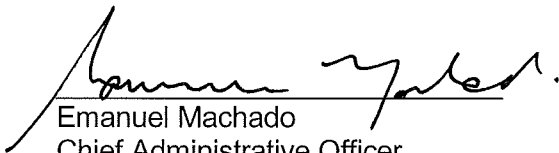
Respectfully Submitted,



André Boel, RPP
Director of Planning

CHIEF ADMINISTRATIVE OFFICER'S COMMENTS:

I have reviewed the report and support the recommendation(s).



Emanuel Machado
Chief Administrative Officer

ATTACHMENT:

Hotel Use Covenant (draft)