



Corporate Report

2003

NO: R248

COUNCIL DATE: November 24,

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **November 20,
2003**

FROM: **General Manager,
Planning and Development** FILE: **4320-50**

SUBJECT: **Provincial Policy Changes With Respect to the
Location of
Private Liquor Stores**

RECOMMENDATION

It is recommended that City Council:

1. Confirm its intention in using the words "only in conjunction with a liquor primary licensed establishment" in the Surrey Zoning By-law to mean "only physically connected to or on the same lot as a liquor-primary licensed establishment";
2. Authorize the Mayor to forward a letter to the Minister of Public Safety and Solicitor General, with a copy to the General Manager of the Liquor Control and Licensing Board and to each of the Surrey MLAs, expressing Surrey Council's very strong concern with Policy Directive No. 03-12, related to permitting licensee retail stores to be relocated away from the "adjoining liquor-primary outlet" and the potential relocation of licensee retail stores across municipal and First Nations jurisdictions, the complete absence of consultation with municipalities prior to announcing this liquor policy change and the absence of any period of notice for municipalities in advance of the subject policy taking effect and further advising, despite Policy Directive No. 03-12, based on the provisions of the Surrey Zoning By-law a licensee retail store in the City of Surrey must be physically attached to or located on the same lot as the liquor primary establishment with which it is associated; and
3. Authorize that a copy of this report be included with the Mayor's letter.

INTENT

The purpose of this report is to provide Council with information regarding the most recent Policy Directive No. 03-12 (attached as Appendix I) issued by the Ministry of Public Safety and Solicitor General, related to licensee retail stores (private liquor stores) and to recommend that Council authorize the Mayor to forward a letter to the Provincial government expressing strong concerns related to the provisions of this policy and the complete lack of reasonable protocol on the part of Provincial authorities in formulating and issuing this policy directive.

BACKGROUND

As has been reported to Council on several occasions, over the past three years the Provincial government has announced a series of sweeping changes to the liquor regulations and policies. As of December 2, 2002, there are two classes of liquor licences in the Province - "food primary" and "liquor primary".

As part of this on-going series of changes, in March 2002, the Minister of Public Safety and Solicitor General (the "Minister") lifted a moratorium on new applications for beer and wine stores. Based on the liquor regulations in effect at that time, these stores, known as "licensee retail stores", could only be located in association with certain types of "liquor primary" licensed establishments limited to neighbourhood pubs, hotels, cabarets and resorts. Applications for new licensee retail stores had to be made to the Liquor Control and Licensing Board by November 29, 2002, when the moratorium was reinstated. On April 2, 2002, the liquor regulations were changed to allow licensee retail stores to sell all types of beverages containing alcohol, including beer, wine and spirits.

On July 21, 2003 Council adopted amendments to the Surrey Zoning Bylaw, 1993, No. 12000 and Surrey Zoning Bylaw, 1979, No. 5942, (the "Zoning By-law") to control the location of licensee retail stores within the City. The amendments included a new definition for "liquor store" and acted to limit the location of a liquor store to the Community Commercial (C-8), and Town Centre Commercial (C-15) Zones and only in conjunction with a liquor-primary licensed establishment. The liquor store use was also included in several site-specific CD zones through subsequent zoning amendments considered by Council on a site-by-site basis and again, the liquor store use was permitted only in conjunction with a liquor-primary licensed establishment. The words "in conjunction with a liquor-primary licensed establishment" mean the same as "physically attached to or on the same lot as with a liquor-primary licensed establishment".

On November 10, 2003, the Minister released Policy Directive No. 03-12, attached as Appendix I to this report. This policy directive, which took effect immediately and without prior consultation or notice, allows any operator of a licensee retail store to apply to the Province to relocate the store to another location in the same local government jurisdiction or to a location outside the local government jurisdiction that is within five kilometres of the liquor-primary establishment with which the licensee retail store is associated. More simply put, a licensee retail store is no longer required to be at the same location as the licensed premise to which it is attached by ownership and no longer needs to be linked by name to the liquor-primary establishment.

DISCUSSION

The following specific Zoning By-law amendments have been enacted by Council over the past several months to ensure that liquor stores are established at reasonable locations within the City.

The Surrey Zoning By-law now includes the following definition of liquor store:

"Liquor Store means a business licensed as a "licensee retail store" operation under the regulations to the Liquor Control and Licensing Act, R.S.B.C. 1996, chapter 267, s. 84, as amended".

Any zone or CD Bylaw, which allows, "liquor store" as a permitted use contains the following provision:

"Liquor Store, permitted only in conjunction with a "liquor-primary" licensed establishment, with a valid license issued under the regulations to the Liquor Control and Licensing Act, R.S.B.C. 1996, chapter 267, s. 84, as amended".

It was the clear understanding of City staff, as a result of consultation with Provincial Ministry staff at the time of the crafting of these by-law amendments, that the term "**in conjunction with a liquor-primary licensed establishment**" meant that the liquor store must be physically attached to or be located on the same lot as the liquor-primary establishment with which the store is associated. In adopting these amendments, Council was advised that this would limit the potential locations for liquor stores in the City to those sites, which contain a

liquor-primary establishment. Any application for a new liquor-primary licence in the City is subject to a new liquor permit application to the City. The process of considering such an application involves public notification, a public hearing and Council approval.

Policy Directive No. 03-12, which took effect November 10, 2003, on the same date as the notice of the directive was mailed to municipalities, permits the operators of licensee retail stores to relocate their store away from the related liquor-primary establishment (or vice versa) provided that the site to which they move the store:

- is properly zoned for such use; and
- is within the local government or First Nation jurisdiction in which the store is presently located **or** is in a neighbouring local government or First Nation jurisdiction as long as the site is within 5 km "as the crow flies" of the liquor primary establishment with which the licensee retail store is associated.

While the policy directive states that the new site must be properly zoned, it contains no requirement for local government input with respect to the decision regarding the relocation of any licensee retail store. As previously noted, there was no prior notice from the Provincial authorities of this policy change during the preparation of Surrey's Zoning Bylaw amendments and certainly no indication that liquor-primary establishments would be eligible to relocate their liquor store component to a site in a neighbouring municipality or First Nation jurisdiction.

In addition, the name of the licensee retail store no longer needs to be linked to the name of the qualifying liquor-primary establishment.

The November 10, 2003 policy directive from the Minister also contains provisions for the relocation of any liquor-primary establishment, but such a relocation will only be approved if the local government within which the establishment is being moved does not object to the relocation.

Liquor-Primary Establishments and Licensee Retail Stores in Surrey

The Liquor Control and Licensing Board has confirmed that there are 55 liquor-primary licensed establishments in Surrey. Of these, 27 have an existing licensee retail store or have made application for a licensee retail store prior to the November 29, 2002 deadline. There are five more liquor primary establishments that could apply for a licensee retail store if the Provincial moratorium is lifted. The other establishments are not a pub, hotel, resort or cabaret and, therefore, could not apply. The location of each of the existing licensee retail stores is illustrated on the map attached as Appendix II, which also shows the location of the six government-operated liquor stores in the City.

CONCLUSION

It is recommended that Council authorize the Mayor to forward a letter to the Minister of Public Safety and Solicitor General with a copy to the General Manager of the Liquor Control and Licensing Board and each of Surrey's MLAs, expressing Surrey Council's very strong concern with Policy Directive No. 03-12 related to:

- permitting licensee retail stores to be relocated away from the "adjoining liquor primary outlet" with which they are associated;

- the potential relocation of licensee retail stores across municipal and First Nations jurisdiction boundaries;
- the complete absence of consultation with municipalities prior to announcing this liquor policy change;
- the absence of any period of notice to municipalities in advance of the subject policy taking effect; and,

further advising that despite Policy Directive No. 03-12, based on the provisions of the Surrey Zoning By-law a licensee retail store in the City of Surrey must be attached to or be located on the same lot as the liquor-primary establishment with which it is associated. It is further recommended that a copy of this report be included with this letter.

Murray Dinwoodie
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Planning and Development

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Attachments:

Appendix I Policy Directive No. 03-12

Appendix II Map of Licensee Retail Stores and LCLB-run Liquor Stores in Surrey

Appendix II

