



Corporate Report

NO: R229

COUNCIL DATE: September 7,

2004

REGULAR COUNCIL

TO: Mayor & Council DATE: August 11,
2004

FROM: General Manager, Planning FILE: 4320-50
and Development 3900-20-12000
3900-20-5942

SUBJECT: Amendments to Surrey Zoning By-law, 1993, No.
12000 in Relation to "Government Liquor Stores" and
Amendments to Several Comprehensive Development
Zones in Relation to "Liquor Stores"

RECOMMENDATION

It is recommended that Council:

1. Receive this report as information;
2. Approve a text amendment to Comprehensive Development By-law No. 10911, under Surrey Zoning By-law, 1979, No. 5942, as documented in Appendix I, to remove "liquor stores and tobacconists" as a permitted use;
3. Approve text amendments to Comprehensive Development By-law Nos. 11302 and 11590, under Surrey Zoning By-law, 1979, No. 5942, as documented in Appendices II and III, to remove "liquor stores and tobacconists" as a permitted use and replace this use with the "liquor store" permitted use and related definition;
4. Approve text amendments to Surrey Zoning By-law, 1993, No. 12000, as amended, as documented in Appendix IV, to add a definition of government liquor store and to clarify that government operated liquor store is included under the definition of "retail store"; and
5. Authorize the City Clerk to bring forward the necessary amendment by-laws for the required readings and to set a date for the related Public Hearings.

INTENT

The purpose of this report is to obtain Council approval for refinements to the City's zoning by-laws, related to the definitions of, and locations for, private liquor stores (licensee retail stores) and government operated liquor stores in Surrey.

BACKGROUND

At its Regular meeting on July 21, 2003, Council adopted amendments to Surrey Zoning By-law, 1979, No. 5942 and Surrey Zoning By-law, 1993, No. 12000 (the "Zoning By law") to control the location of licensee retail stores (i.e., private liquor stores) within the City. The amendments included a new definition for liquor store as follows:

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.

The zones, which allow a liquor store as a permitted use, contain 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.

A liquor store use, as defined above, is limited to the Community Commercial (C-8) Zone, the Town Centre Commercial (C-15) Zone and to several specific Comprehensive Development (CD) Zones and is only permitted in conjunction with a liquor-primary licensed establishment. Such establishments include neighbourhood pubs, hotels, cabarets and resorts. This policy framework provides reasonable business opportunities for operators of licensed establishments, while limiting the potential proliferation of liquor stores at new locations in the City.

To ensure consistency in the Zoning By-law, staff have reviewed all Comprehensive Development ("CD") By-laws which make reference to liquor stores. Three CD By-laws were identified, which include liquor stores and tobacconists as a permitted use.

At the time of the preparation and adoption of these CD By-laws, liquor store was not a defined term in the City's Zoning By-law. Only government operated liquor stores were permitted under Provincial licensing policy and these government operated stores were generally considered, in the context of the Zoning By-law, to be retail stores. The CD By laws which permit liquor stores and tobacconists are anomalies that should be amended to eliminate confusion and achieve consistency with Council's policy on the location and definition of private liquor stores.

A new definition of liquor store was developed in 2003, when it was anticipated that government operated liquor stores would gradually be phased out or privatized. The phasing out of the government operated liquor stores, however, is no longer expected in the short term. Zoning By-law No. 12000 needs to be amended to make a distinction between government operated liquor stores and licensee retail stores (i.e., private liquor stores).

DISCUSSION

Proposed Amendments to CD By-laws

Through a review of existing CD By-laws, staff have identified three CD By-laws which include liquor stores and tobacconists as a permitted use. Despite the amendments to the Zoning By-law, there is the potential for applications to be made on any of these sites for a private liquor store under British Columbia Liquor Control and Licensing Branch regulations. This could result in up to three additional private liquor stores at locations that do not comply with Council's adopted course of action for the location of private liquor stores in the City. In reviewing the three specific CD By-laws, it is apparent that the intent of these CD Zones was not to permit private liquor stores, but instead to allow a government operated liquor store at each site. All three by-laws were adopted in the early 1990s when the only liquor stores in the City were government operated stores.

Provincial Policy Directive No. 03-12, dated November 10, 2003, allows the 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, provided that is within five kilometres of the liquor-primary establishment with which the licensee retail store is associated. More restrictive than the Provincial Policy, the Zoning By-law requires that the licensee retail store be on the same lot as the lot containing the liquor-primary establishment with which it is associated. The Provincial Policy Directive No. 03-12 could result in a licensee retail store being relocated to one of the above-referenced CD zoned sites that permits liquor stores and tobacconists.

To cause the three CD zoned sites (By-law Nos. 10911, 11302, and 11590) to be consistent with Council policy, related to the location of licensee retail stores (i.e., private liquor stores), the following amendments are appropriate:

- Remove liquor stores and tobacconists as a permitted use in CD By-law No. 10911, related to the property at 9987 King George Highway, currently being used as a parking lot and recently purchased by the City for parks purposes; and
- Replace the permitted use "liquor stores and tobacconists" in CD By-law Nos. 11302 and 11590, related to the properties at 16033 – 108 Avenue and 6350 – 120 Street, respectively, with the permitted use "liquor store" and include the current definition of liquor store to ensure that such a use is permitted only in conjunction with a liquor primary establishment. These two CD zones are based on the C-8 Zone and are, therefore, appropriate to continue to allow a liquor store as a permitted use.

The proposed amendments to the three CD By-laws are discussed in further detail below and summarized in Appendices I, II and III, respectively.

CD By-law No. 10911

1.	Former Impark Parking Lot #960 now Holland Park addition	9987 King George Highway
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CD By-law No. 10911, adopted in April 1991, rezoned the property from the Shopping Centre Zone (C-S) to a CD zone, to allow a mixed use development incorporating retail, office, commercial and multi-residential components. Permitted commercial uses include liquor stores and tobacconists, as well as hotels and neighbourhood pubs. The property has been used as a parking lot and was recently purchased by the City for the enlargement and redevelopment of Holland Park. Liquor stores and tobacconists should be removed from CD By-law No. 10911, as this is an inappropriate use for a City park. Appendix I summarizes the proposed

amendment to CD By-law No. 10911.

CD By-law No. 11302

2.	Fraser Heights Village Centre	16033-108 Avenue
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CD By-law No. 11302 was adopted in August 1992. The property was rezoned from Retail Commercial Zone One (CR-1) to a CD Zone to permit a neighbourhood shopping centre containing a food store not exceeding 1,180 square metres (12,700 sq. ft.) in area. The CD By-law was required because the CR-1 Zone limited retail stores to an area no greater than 900 square metres (9,687 sq. ft.). With minor variations, the CD By-law essentially permitted the same uses as the CR-1 Zone.

When the Zoning By-law was adopted in 1993, the majority of properties in Surrey zoned CR-1 were converted to the Community Commercial Zone (C-8). Despite minor deviations, CD By-law No. 11302 is very similar to a C-8 Zone. This site, therefore, meets the location requirements for the establishment of private liquor stores. To be consistent with current policy, it is proposed that the use liquor stores and tobacconists in this CD Zone be replaced with the definition of liquor store.

While the current CD By-law also permits a hotel and licensed premises, none currently operate on the site covered by the CD Zone (i.e., Fraser Heights Village Centre). Should an application for a liquor-primary establishment be made, a liquor permit application and related public hearing would be required. Tobacconists and government operated liquor stores would continue to be permitted in the CD By-law under the permitted use category of "other

similar retail stores".

CD By-law No. 11590

3.	Boundary Park Plaza	6350 - 120 Street (Scott Road)
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CD By-law No. 11590, adopted in July 1993, rezoned the property at 6350 – 120 Street from Suburban Residential (RS) to a CD Zone to permit the construction of a shopping centre. A CD Zone was required because the Retail Commercial Zone One (CR-1) did not permit a drive-through bank. With this exception, as well as minor setback variations, CD By-law No. 11590 was the same as the CR-1 Zone. In 1993, most sites in the City zoned CR-1 were converted to the C-8 Zone with the adoption of the Zoning By law. The CD Zone on the site is comparable to the C-8 Zone. Many other properties along 120 Street, currently zoned C-8, were converted from the CR-1 when the Zoning By-law was adopted. It is reasonable to continue to allow liquor stores in this CD Zone, subject to the liquor store being established in conjunction with a liquor-primary establishment.

While CD By-law No. 11590 also permits neighbourhood pubs, hotel and licensed premises, none currently exist on the property. Opening a liquor-primary establishment at this location would require a liquor application and a public hearing. With the amendment to the CD Zone covering this site, as documented in Appendix III, a private liquor store would only be permitted on this site in conjunction with a liquor-primary establishment. Tobacconists and government liquor stores would continue to be permitted under the permitted use category "other similar retail stores".

Consultation with Affected Property Owners

The amendments proposed above have been discussed with each of the respective property owners. Representatives of Fraser Heights Village Centre are concerned that the proposed amendment to CD By-law No. 11302, covering that shopping centre site, would eliminate the possibility of a private liquor store use at that Centre. Their concern is based on the broader concern that the Centre is across the street from Fraser Heights High School and does not fit the locational criteria for a neighbourhood pub and, as such, it is unlikely that a neighbourhood pub would be approved for the Centre. Based on the CD Zone amendment a private liquor would only be permitted on the site in conjunction with a neighbourhood pub. However, the proposed amendment is consistent with City wide policy regarding the location of private liquor stores.

Proposed Zoning Bylaw No. 12000 Amendments related to Government Operated Liquor Stores

When the new definition of liquor store was introduced into the Zoning Bylaw on July 21, 2003, the intent was to clarify that private liquor stores (i.e., licensee retail stores) would only be permitted in certain zones and under certain conditions. To make the distinction even clearer, liquor store was specifically excluded from the definition of retail store, a use permitted in a wide variety of zones. At the time, it was anticipated that government operated liquor stores would gradually be phased out. If privatized, each government operated liquor store would become a legal non-conforming use at its current location. In late 2003, the Provincial government agreed to continue the operation of the majority of its government operated liquor stores after reaching an agreement with the B.C. Government Employees Union. The complete phasing out of government liquor stores is no longer expected in the short term. With the continued presence of both government operated and private liquor stores into the foreseeable future, the definition of retail store in Zoning By-law No. 12000 requires further clarification. Specifically, the definition needs to be amended to confirm that "retail store" includes government liquor stores. The following revised definition of retail store is proposed to be included in Zoning By-law No. 12000:

Retail Store means the business of selling goods or merchandise to the ultimate consumer for personal consumption or household use and not for resale purposes and includes **convenience stores**, video rental, household equipment rental, **retail warehouse uses**, **government liquor stores** and flea markets, which are wholly enclosed within a **building**, but excludes **vehicle** sales and rentals and **liquor stores**.

A new definition of government liquor store needs to be included in Zoning By-law No. 12000 to further distinguish between the government operated and private liquor stores. The following definition is proposed:

Government Liquor Store means a government liquor store, government beer store, government wine store or an agency established by the General Manager of the Liquor Distribution Branch under the authority of the Liquor Distribution Act, R.S.B.C. 1996, chapter 268, as amended.

Included within the definition of government liquor store are a range of other private retailers of beverage alcohol that are licensed as "agency stores" under the Liquor Distribution Act. These include independent wine stores (for example, Liberty Wine Merchants), B.C. VQA wine stores (where only 100% B.C. wine may be sold) and off site appointments (stores under contract to sell only products from specific wineries or breweries). While there is currently only one independent wine store in Surrey, other stores could apply to relocate to Surrey from existing locations in B.C. The B.C. Wine Institute is subcontracted by the Province to administer the B.C. VQA wine stores. With the exception of private liquor stores (i.e., licensee retail stores) as defined in Zoning By law No. 12000, government liquor stores, including the above-mentioned agency stores, would be permitted in any zone which allows retail stores.

Appendix IV summarizes the proposed amendments to Zoning By-law No. 12000.

CONCLUSION

Based on the above discussion it is recommended that Council:

- Approve a text amendment to CD By-law No. 10911, as documented in Appendix I, to remove "liquor stores and tobacconists" as a permitted use;
- Approve text amendments to CD By-law Nos. 11302 and 11590, as documented in Appendices II and III, to remove "liquor stores and tobacconists" as a permitted use and replace this use with the "liquor store" permitted use and related definition;
- Approve text amendments to Surrey Zoning By-law, 1993, No. 12000, as documented in Appendix IV, to add a definition of government liquor store and to clarify that government operated liquor store is included under the definition of retail store; and
- Authorize the City Clerk to bring forward the necessary amendment by-laws for the required readings and to set a date for the related Public Hearings.

Murray Dinwoodie
General Manager
Planning and Development

TA/kms/saw

Attachments:

- Appendix I Proposed Amendment to CD By-law 10911
- Appendix II Proposed Amendment to CD By-law 11302
- Appendix III Proposed Amendment to CD By-law 11590
- Appendix IV Proposed Amendments to Surrey Zoning By-law, 1993, No. 12000

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Appendix I

Proposed Amendment to

Surrey Zoning By-law, 1979, No. 5942, Amendment By-law, 1991, No. 10911

The following amendment is proposed to Surrey Zoning By-law, 1979, No. 5942, Amendment By-law, 1991, No. 10911:

1. Subsection 2.B.2 is to be amended by deleting the following text:

Liquor stores and tobacconists.

Appendix II

**Proposed Amendments to
Surrey Zoning By-law, 1979, No. 5942, Amendment By-law, 1992, No. 11302**

The following amendment is proposed to Surrey Zoning By-law, 1979, No. 5942, Amendment By-law, 1992, No. 11302:

1. Subsection 2.B.1. is to be amended by deleting "Liquor stores and tobacconists" and inserting the following:

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

Appendix III

**Proposed Amendments to
Surrey Zoning By-law, 1979, No. 5942, Amendment By-law, 1992, No. 11590**

The following amendment is proposed to Surrey Zoning By-law, 1979, No. 5942, Amendment By-law, 1992, No. 11590:

1. Subsection 2.B (1) is to be amended by deleting "Liquor stores and tobacconists" and inserting the following:

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

Appendix IV

Proposed Amendments to Surrey Zoning By-law, 1993, No. 12000

The following amendments are proposed to Surrey Zoning By-law, 1993, No. 12000:

1. In Part 1 - Definitions delete the existing definition of "Retail Store" and replace it with the following:

Retail Store

means the business of selling goods or merchandise to the ultimate consumer for personal consumption or household use and not for resale purposes and includes *convenience stores*, video rental, household equipment rental, *retail warehouse uses*, *government liquor stores* and flea markets, which are wholly enclosed within a *building*, but excludes *vehicle sales* and rentals and *liquor stores*.

2. In Part 1 - Definitions insert the following definition of "Government Liquor Store" between *Golf Course* and *Grade*:

Government Liquor Store

means a government liquor store, government beer store, government wine store or an agency established by the General Manager of the Liquor Distribution Branch under the authority of the Liquor Distribution Act, R.S.B.C. 1996, chapter 268, as amended.