

NO: **R053**

COUNCIL DATE: **April 14, 2014**

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **April 14, 2014**

FROM: **City Solicitor
General Manager, Planning &
Development**

FILE: **3900-20-12000**

SUBJECT: **Proposed Zoning By-law Amendment to Regulate the Location of Cheque
Cashing Centres and Payday Loan Stores**

RECOMMENDATION

The Legal Services Division recommends that Council:

1. Receive this report as information;
2. Approve amendments to the Surrey Zoning By-law, 1993, No. 12000 (the "Zoning By-law") as documented in Appendix "I" to this report; and
3. Instruct the City Clerk to bring forward the appropriate amending by-law for the required readings.

INTENT

The purpose of this report is to provide amendments to the Zoning By-law that, if adopted, will create new definitions of "cheque cashing centre" and "payday loan store", and introduce a minimum separation distance between these types of businesses as a means of regulating their geographic concentration.

BACKGROUND

Payday lending is a provincially regulated industry. Pursuant to the *Business Practices and Consumer Protection Act*, S.B.C. 2004 c.2 (the "Act"), payday loan stores are required to obtain a provincial license before they are lawfully permitted to carry on business. The Act provides that a payday lender is "a supplier who offers, arranges or provides payday loans to consumers", with payday loans themselves defined as "loans of a principal of \$1,500 or less and for a term of 62 days or less".

Although cheque cashing centres are not subject to specific provincial regulation, both cheque cashing centres and payday loan stores are subject to the City's standard business licensing requirements as set out in the Business License By-law, 1999, No. 13680 (the "Business License By-law").

For the purpose of issuing licenses, the Business License By-law distinguishes between cheque cashing centres and payday loan stores. The Business License By-law defines a "Cheque Cashing Centre" as:

"a premise where the business of cashing cheques or negotiable instruments for a fee charged or chargeable to the payee of the cheque or the payee's agent is carried on, but does not include a bank."

By comparison, payday loan stores are licensed under the category of "Financial Agent", which is defined to mean:

"a person who carries on the business of lending money, or financing for other persons the sale or purchase of goods or services."

The City has issued business licenses for cheque cashing centres and payday loan stores in relation to thirty seven (37) separate storefront locations. Of this total, thirty one locations are licensed as Financial Agents and twenty six (26) as Cheque Cashing Centres. Overlap exists between these categories as a result of businesses being permitted to have both licenses simultaneously; twenty (20) businesses are presently licensed as both a Financial Agent and a Cheque Cashing Centre.

The majority of cheque cashing centres and payday loan stores in Surrey are clustered together in either City Centre, Newton or Guildford. Maps illustrating the geographic distribution of cheque cashing centres and payday loan stores are attached to this report as Appendix "II".

The Zoning By-law does not contain a definition for cheque cashing centres or payday loan stores. These types of businesses both fall within the Zoning By-law's definition of "General Service Uses", which means:

"a business which provides services, other than *personal service uses* to the individual or to other businesses and includes photocopying services, film processing, rentals, appliance repair services, veterinary clinics, *adult education institutions*, banks, but excludes *automotive service uses*, *firearms certification*, *industrial equipment rental* and *retail stores*."

DISCUSSION

As detailed above in this report, cheque cashing centres and payday loan stores are geographically concentrated in three areas of the City.

Where this type of geographic concentration has occurred in other North American jurisdictions, local governments have frequently responded through use of their zoning powers. Examples are

seen where Councils have chosen to limit operation of cheque cashing centres/payday loan stores to one or more specific zones, or imposed minimum separation distances between them.

These local government responses to clustering of cheque cashing centres and payday loan stores have been informed by a significant body of research. Canadian studies have previously examined the effect of payday lending in Toronto and Winnipeg. In the case of Toronto, researchers observed the movement of mainstream financial institutions (particularly banks but also credit unions) from lower-income, inner city neighbourhoods to the suburbs and their partial replacement by payday loan stores. Similarly in Winnipeg, researchers established that the distribution of banks, credit unions and payday loan stores correlates with neighbourhood income and that, over time, less affluent areas are forced to rely on payday loan stores as their primary banking option as banks and credit unions reduce their presence.

In another recent study, one hundred (100) payday loan borrowers from the Greater Toronto Area were interviewed with the objective of better understanding the motivations and social dynamics that lead people to patronizing cheque cashing centres and payday loan stores. Many respondents reported utilizing several different payday loan businesses, with the most common reason given for doing so being the need to pay off other pre-existing payday loans.

The City is permitted by the *Local Government Act*, R.S.B.C. 1996 c. 323, (the "LGA") to impose minimum separation distances between specified uses. To this end, section 903 provides the following:

- (1) A local government may, by bylaw, do one or more of the following:
 - (a) divide the whole or part of the municipality or regional district into zones, name each zone and establish the boundaries of the zones;
 - (b) limit the vertical extent of a zone and provide other zones above or below it;
 - (c) regulate within a zone
 - (i) the use of land, buildings and other structures,
 - (ii) the density of the use of land, buildings and other structures,
 - (iii) the siting, size and dimensions of
 - (A) buildings and other structures, and
 - (B) uses that are permitted on the land, and
 - (iv) the location of uses on the land and within buildings and other structures;
 - (d) regulate the shape, dimensions and area, including the establishment of minimum and maximum sizes, of all parcels of land that may be created by subdivision, in which case
 - (i) the regulations may be different for different areas, and
 - (ii) the boundaries of those areas need not be the same as the boundaries of zones created under paragraph (a).
- (3) The regulations under subsection (1) may be different for one or more of the following, as specified in the bylaw:
 - (a) different zones;
 - (b) different uses within a zone;
 - (c) different locations within a zone;

- (d) different standards of works and services provided;
- (e) different siting circumstances;
- (f) different protected heritage properties.

Accordingly, pursuant to section 903 of the LGA, the City has the power to amend the Zoning By-law in order to impose a minimum distance separation that would apply to any new cheque cashing centre or payday lending store. The proposed amendments would not apply to any of these businesses already licensed and in operation (as they would be considered lawful non-conforming uses), but it can be expected that, after proximity restrictions have been established in the Zoning By-law, the presently-observed clustering of cheque cashing centres and payday lending stores at certain locations would gradually diminish.

The proposed Zoning By-law amendments would create new definitions of "cheque cashing centre" and "payday loan store", and introduce a minimum 400 metre separation distance between these types of businesses. Should a new cheque cashing centre or payday loan store seek to locate within 400 metres of an existing cheque cashing centre or payday loan store, they would be able to apply for a Development Variance Permit. This approach is consistent with how the City has chosen to regulate small scale drug stores.

CONCLUSION

Based on the above discussion, it is recommended that Council:

- Approve amendments to the Surrey Zoning By-law, 1993, No. 12000 (the "Zoning By-law") as documented in Appendix "I" to this report; and
- Instruct the City Clerk to bring forward the appropriate amending by-law for the required readings.

CRAIG MacFARLANE
City Solicitor

JEAN LAMONTAGNE
General Manager, Planning & Development

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Appendix "I" - Proposed Amendments to Surrey Zoning By-law, 1993, No. 12000, as amended
Appendix "II" - Maps illustrating the geographic distribution of cheque cashing centres and payday loan stores

Appendix "I"

Proposed Amendments to Surrey Zoning By-law, 1993, No. 12000, As amended (the "By-law")

That the By-law be further amended as follows:

1. Part 1 – Definitions be amended by adding the following new definition of "Cheque Cashing Centre" immediately following the existing definition of "Casino Hall":

Cheque Cashing Centre

means a premise where the business of cashing cheques or negotiable instruments for a fee charged or chargeable to the payee of the cheque or the payee's agent is carried on, but does not include banks or *drive-through banks*.

2. Part 1 – Definitions be amended by adding the following new definition of "Payday Loan Store" immediately following the existing definition of "Pawnshop":

Payday Loan Store

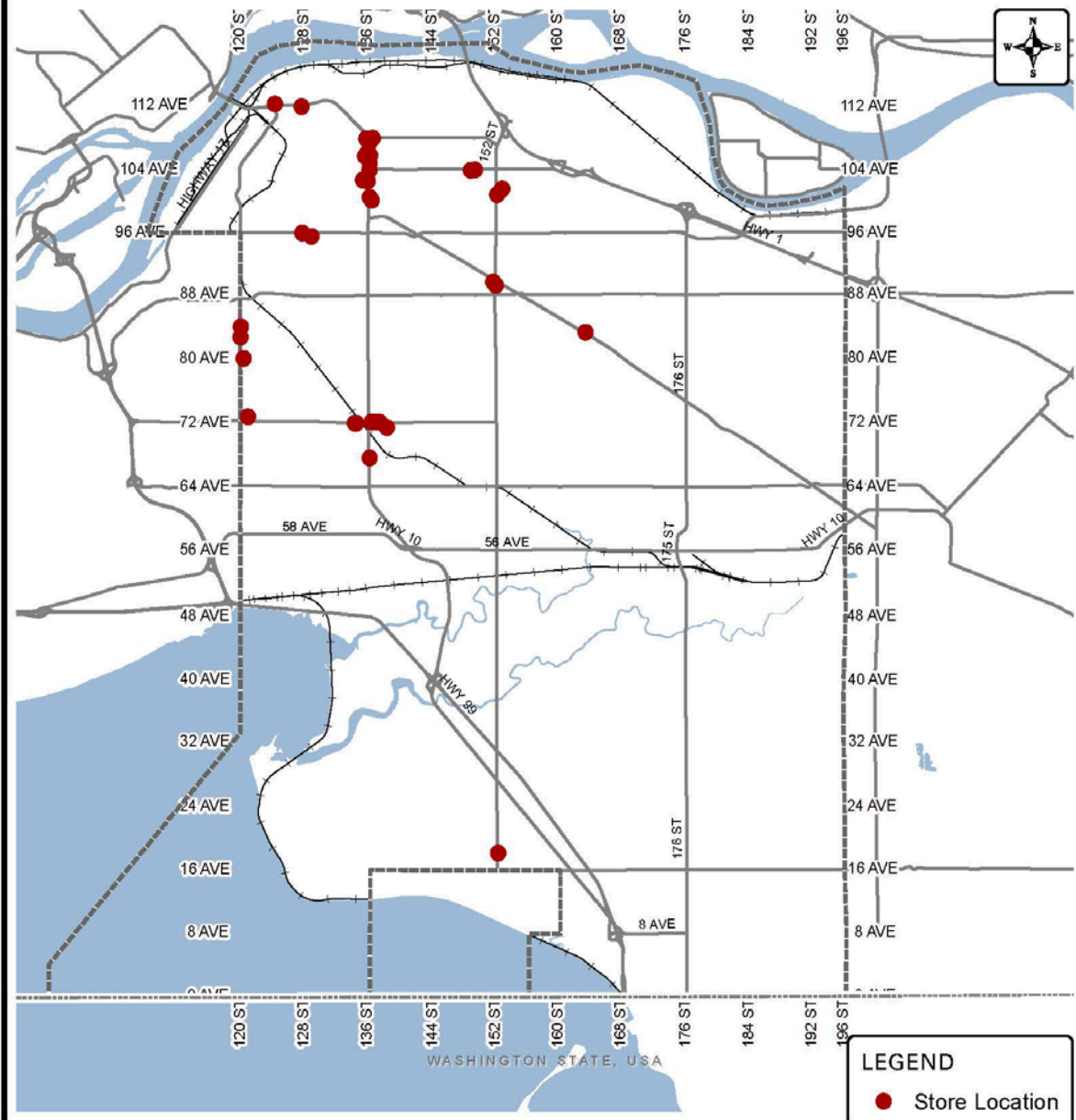
means the business of offering, arranging or providing payday loans (as defined in the Business Practices and Consumer Protection Act, S.B.C. 2004 c. 2, as amended, and regulated by the Payday Loans Regulation, B.C. Reg. 57/2003, as amended) to consumers.

3. By adding a new Sub-section 29 to Part 4 – General Provisions, Section E – Regulations Applicable to All Zones as follows:

29. Cheque Cashing Centres and Payday Loan Stores

No *cheque cashing centre* or *payday loan store* shall locate within 400 metres [1,300 ft.] of the *lot line* of an existing *cheque cashing centre* or *payday loan store*.

APPENDIX II



Produced by GIS Section: 03-Apr-2014, JJR



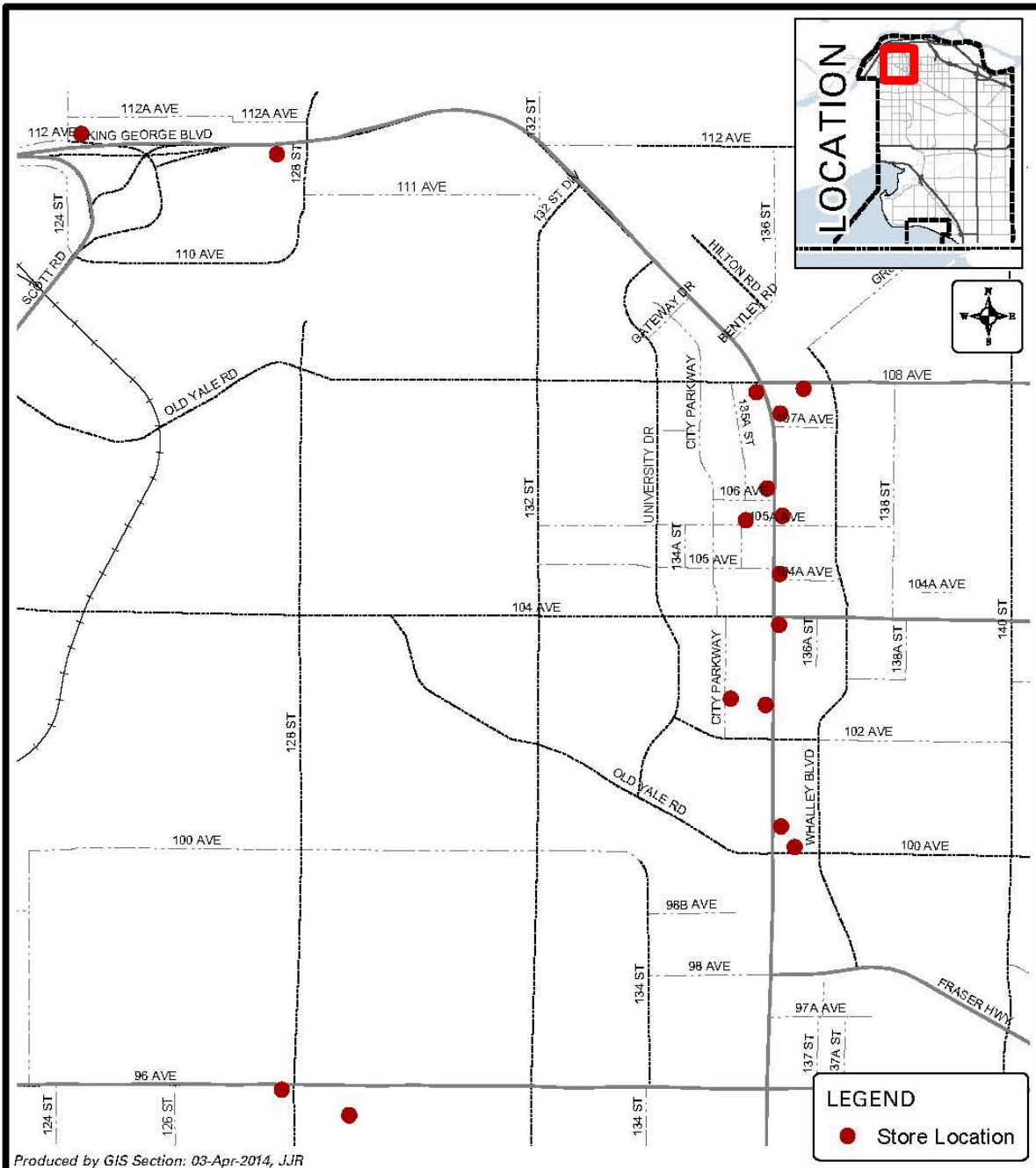
CHEQUE CASHING CENTRES & PAYDAY LOAN STORES

Based on
Business Licenses
as of March 26, 2014

The data provided is compiled from various sources and IS NOT warranted as to its accuracy or sufficiency by the City of Surrey. This information is provided for information and convenience purposes only.

Source:

Lot sizes, Legal descriptions and encumbrances must be confirmed at the Land Title Office. \\file-server2\eng\ENFILES\MAPPING\GIS\Maps\CorporateReps\Other\UJR_ActiveLicenceBusinessList.mxd



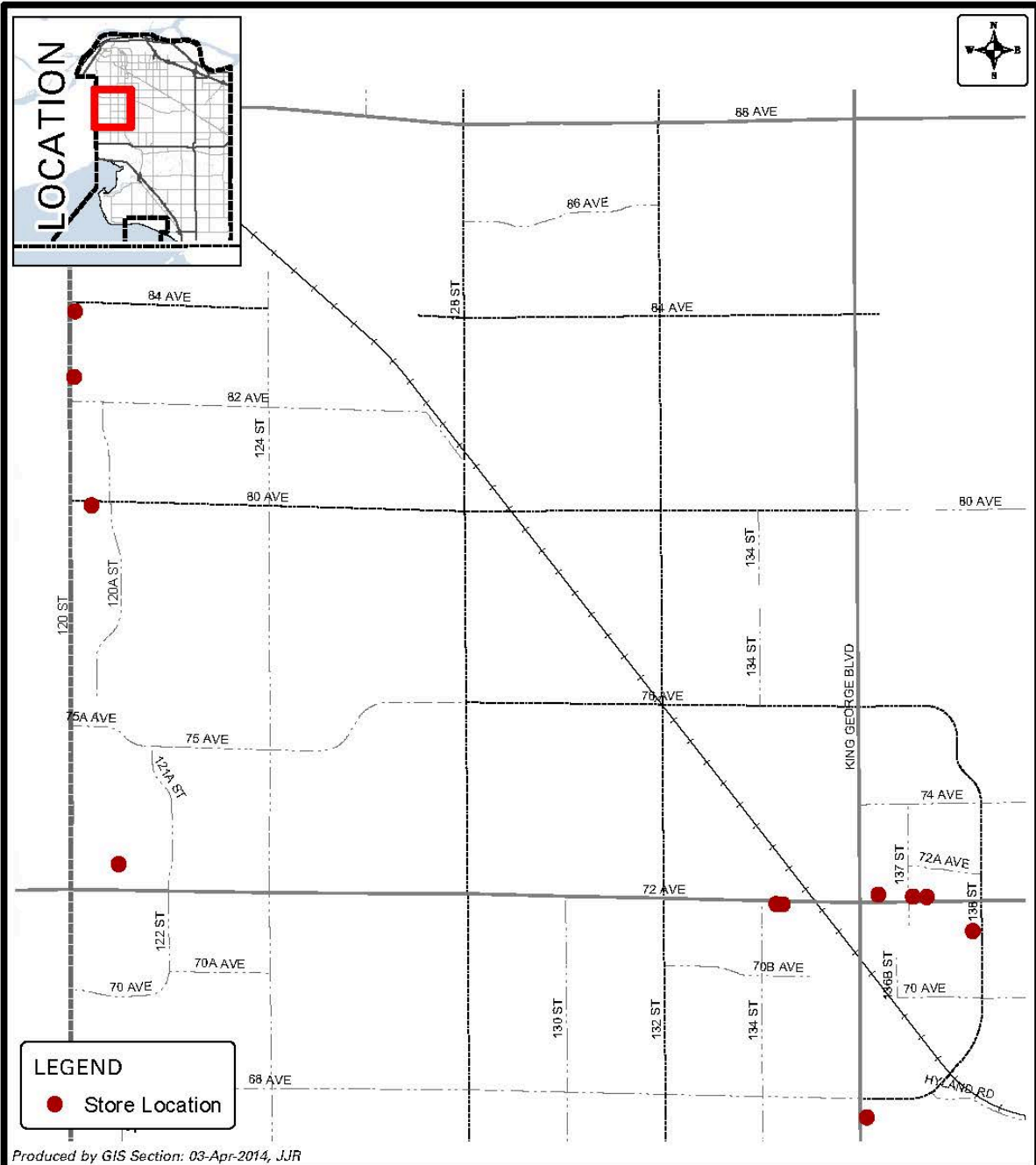
CITY CENTRE

Based on
Business Licenses
as of March 26, 2014

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Lot sizes, Legal descriptions and encumbrances must be confirmed at the Land Title Office. [W:\file-server2\eng\ENFILES\MAPPING\GIS\Maps\CorporateReps\Other\JJR_ActiveLicenceBusinessList.mxd](#)

Source:



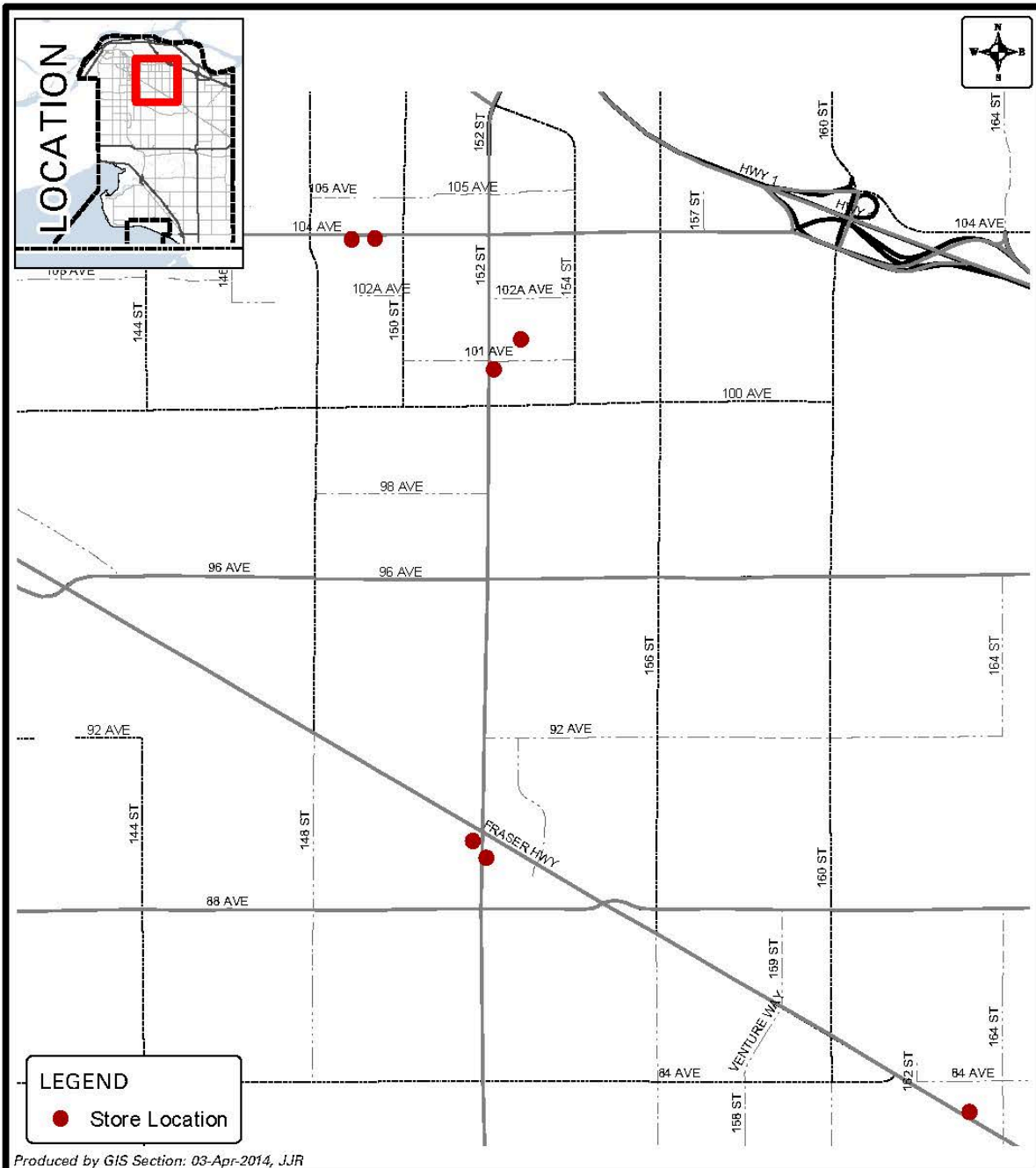
Produced by GIS Section: 03-Apr-2014, JJR



NEWTON

Based on
Business Licenses
as of March 26, 2014

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GUILDFORD

Based on
Business Licenses
as of March 26, 2014

The data provided is compiled from various sources and IS NOT warranted as to its accuracy or sufficiency by the City of Surrey. This information is provided for information and convenience purposes only. Source: Lot sizes, Legal descriptions and encumbrances must be confirmed at the Land Title Office. W:\file-server2\eng\ENGFILES\MAPPING\GIS\Maps\CorporateReps\Other\JJR_ActiveLicenceBusinessList.mxd