



Corporate NO: L011

Report COUNCIL DATE: November 4, 2002

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| REGULAR COUNCIL – LAND USE | | | |
| TO: | Mayor & Council | DATE: | November 1, 2002 |
| FROM: | General Manager, Planning & Development | FILE: | 4320-50 7902-0317-00 7902-0319-00 7902-0321-00 7902-0323-00 |
| SUBJECT: | Changes to Liquor Licensing Regulations and Proposed Amendments to Selected CD Zoning By-laws | | |

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Approve amendments to four Comprehensive Development (CD) By-laws, as documented in Schedule "A", which will prohibit liquor-licensed eating establishments on the properties covered by these by-laws;
2. Instruct the Acting City Clerk to introduce the necessary amendment by-laws as contained in Schedules "B", "C", "D" and "E" and to set November 18, 2002 as the date for the related Public Hearing; and
3. Authorize the Acting City Clerk to forward a registered letter to the owner of each of the properties that is affected by any of these four amendment by-laws advising each owner of the proposed amendments and providing each owner with a copy of this report.

INTENT

In accordance with commitments made in Corporate Report No. R209 (attached as Schedule "F), which was considered by Council on October 21, 2002, the purpose of this report is to summarize the results of a staff review of 10 CD Zoning By-laws and to recommend amendments to four of these by-laws to specifically prohibit liquor-licensed eating establishments on the lots covered by these four by-laws (location maps attached as Schedule "G).

BACKGROUND

Effective December 2, 2002, new Provincial liquor regulations will allow liquor-licensed restaurants to operate a lounge area within the restaurant, provided the lounge is limited in size to 20% of the seating capacity of the eating establishment or 40 seats, whichever is less. Local government will not have an opportunity to comment on these licensing requests.

On October 21, 2002, Council approved the recommendations contained in Corporate Report No. R209 to amend Surrey Zoning By-law, 1993, No. 12000 ("Zoning By-law No. 12000") and Surrey Zoning By-law, 1979, No. 5942 ("Zoning By-law No. 5942") to address the liquor licensing regulation changes pertaining to eating establishments. The necessary amendment by-laws were introduced and given first and second readings by Council on October 28, 2002. The Public Hearing for these by-law amendments is set for November 18, 2002.

Corporate Report No. R209 indicated that a subsequent report would be submitted to Council in two weeks' time, following the review of the identified CD By-laws (Schedule "H") and amendments to these CD By-laws would be recommended, where deemed appropriate. The objective is to ensure that any necessary Zoning By-law amendments be adopted prior to December 2, 2002, the date on which the new liquor regulations take effect.

DISCUSSION

The nine CD By-laws listed in Corporate Report No. R209, which are the subject of this report, were identified using the same criteria that was used as the basis for recommending amendments to Zoning By-law No. 12000 and Zoning By-law No. 5942, augmented by certain location criteria. The criteria were:

- The property covered by the CD Zone is not designated Commercial in the Official Community Plan;
- The permitted uses under the CD Zone are generally based on the C-4, C-5 or C-L Commercial Zones;
- Eating establishments are permitted uses within the CD Zone; and
- Neighbourhood pubs or licensed establishments are not permitted uses in the CD Zone.

Review of Selected CD By-laws

Each of the nine CD By-laws was examined using the following criteria:

- Whether the CD By-law was intended to provide local or neighbourhood commercial uses;
- Whether there is any eating establishment currently in operation on the site covered by the CD By-law; and
- Whether the surrounding land uses were residential.

During the review process, one additional CD By-law (No. 11659) was identified for review, bringing the total number of CD By-laws under review to 10.

Based on the results of the review, staff recommend that four (No. 8463, No. 11659, No. 12740 and No. 13310), of the 10 CD By-laws, be amended to specifically prohibit liquor-licensed eating establishments. The following section lists the 10 CD By-laws that were reviewed and identifies the four by-laws that staff recommend be amended to prohibit liquor-licensed eating establishments.

CD By-laws Not Proposed for Amendment

During the review process, staff determined that it was not necessary to amend six of the 10 identified CD By-laws. In three cases (CD By-laws No. 7292, No. 13087 and No. 14533), the intent of the CD By-laws, the existing land uses on the subject sites and the surrounding land uses demonstrated that a licensed facility would be an acceptable use. One of these CD By-laws (No. 14533) is intended for a regional scale assembly hall and banquet facility located in City Centre at 13674 Grosvenor Road. The other two CD By-laws are related to properties at 12818 – 72 Avenue and 3531 King George Highway that are located adjacent to properties zoned C-5 and which either have existing liquor-licensed facilities or are permitted to have liquor-licensed facilities.

CD By-law No. 13102, which covers the property at 10833 – 160 Street, is intended to provide neighbourhood commercial uses and is one of three commercially zoned properties located at the intersection of 108 Avenue and 160 Street. Currently, there is one eating establishment, a coffee shop/restaurant, located in the small commercial complex on the site. There are single-family residential lots located to the north and west of the site. When the property was originally rezoned to a CD Zone, the public raised a number of concerns about the proposed commercial development, including traffic issues and proximity to the high school. In response, Council passed a resolution to delete "Neighbourhood Pub" from the list of permitted uses in the CD By-law. However, given the context of this site in the commercial node of Fraser Heights and even though neighbourhood pubs are not a permitted use on the site, allowing liquor-licensed eating establishments is considered reasonable. No change to this CD By-law is proposed.

The remaining two CD By-laws, No. 8593 and No. 10580, covering the properties at 796 - 176 Street and 8270 - 144 Street respectively, stipulate as permitted uses the uses that are permitted in the C-L Local Commercial Zone from Zoning By-law No. 5942. Therefore, as Council is already in the process of amending the C-L Zone, based on the recommendations from Corporate Report No. R209 (Public Hearing is scheduled for November 18, 2002), it is not necessary to further amend these two CD By-laws.

CD By-laws Proposed for Amendment

Both CD By-law No. 8463 and No. 12740 regulate the commercial use of properties that are surrounded by single-family residential land uses. CD By-law No. 8463, that covers the property at 17619 - 96 Avenue, controls the use of a solitary commercial building, which includes one restaurant located in a suburban residential area. Similarly, CD By-law No. 12740, that covers the property at 9868/9880/9886 - 120 Street and 12028 - 99 Avenue, regulates the use of a neighbourhood scale commercial complex that is surrounded by single-family residential development. While an eating establishment is one of the permitted uses in CD By-law No. 12740, there are currently only retail stores and a convenience store operating in the complex.

In both cases, CD By-law No. 8463 and CD By-law No. 12740, given the location of the properties and the original intent of the CD By-laws, it is considered appropriate to amend the CD By-laws to prohibit liquor-licensed eating establishments. While an eating establishment is an appropriate land use in each of the above locations to service the surrounding neighbourhoods, these are not considered suitable locations for a licensed eating establishment.

CD By-law No. 11659, that covers the property at 16814 – 104 Avenue and CD By-law No. 13310, that covers the property at 10422 – 168 Street, are located on opposite corners of the intersection of 104 Avenue and 168 Street. The two remaining corners contain properties zoned C-4 and CG-2. The intent of these two CD By-laws is to provide neighbourhood scale retail and commercial services. Currently, there is a coffee shop located at 10422 - 168 Street and a pizza restaurant located at 16814 - 104 Avenue. Neither eating establishment currently has a liquor license. Both CD-zoned properties are designated Urban and are adjacent to residential development. The permitted uses (neighbourhood scale commercial development) in both CD By-laws, coupled with their immediate proximity to residential development, supports the conclusion that both CD By-laws should be amended to prohibit licensed eating establishments.

Recourse for Owners of Affected Lands

The owners of each of the properties affected by the recommended CD By-law amendments have been contacted by staff, in writing, to advise of staff's recommendations to amend the zoning on their properties. Should the owners object to the recommended amendments, they will have an opportunity to express their views before Council at the Public Hearing that will be held regarding each CD By-law amendment. If Council adopts the recommended CD By-law amendments and if the owner of any of the affected properties wish to operate a liquor-licensed eating

establishment, they may apply to rezone their land to allow a liquor-licensed restaurant as a permitted use. As part of the rezoning process, a Public Hearing would be required (standard requirement) to seek community input regarding the proposed use.

CONCLUSION

New Provincial liquor-licensing regulations come into effect on December 2, 2002. Under the new regulations, an owner of a liquor-licensed eating establishment will be able to apply directly to the Liquor Control and Licensing Branch for a small lounge area (i.e. designated food optional area) within the eating establishment and the approval process for such an application will not include any local government input. In response to these proposed changes, Council approved amendments to certain zones and sections of Zoning By-law No. 12000 and Zoning By-law No. 5942. These changes include prohibiting licensed eating establishments in the two local commercial zones (C-4 and C-L). Further to these amendments, Council also instructed staff to review all Comprehensive Development (CD) By-laws in the City to determine whether any amendments to these by-laws are necessary in response to the changes in the Provincial liquor licensing regulations.

Based on a detailed review of the Comprehensive Development Zones that permit eating establishments, but not licensed establishments, staff recommend that four CD By-laws be amended to specifically prohibit licensed eating establishments. The Legal Services Division has reviewed the draft CD By-law amendments and finds them satisfactory.

It is recommended that Council approve amendments to four CD By-laws, No. 8463, No. 11659, No. 12740 and No. 13310, introduce and give first and second readings to the necessary amendment by-laws and set November 18, 2002 as the date for the related Public Hearing. It is also recommended that the Acting City Clerk forward a registered letter to the owner of each of the properties that is affected by any of these four amendment by-laws, advising each owner of the proposed amendments and providing each owner with a copy of this report.

Murray Dinwoodie
General Manager,
Planning and Development

AP:saw

Attachments

- Schedule "A" Table Summarizing Rationale Used to Determine Appropriateness to Amend Ten Selected CD By-laws
- Schedule "B" Proposed amendment to CD By-law No. 8463
- Schedule "C" Proposed amendment to CD By-law No. 11659
- Schedule "D" Proposed amendment to CD By-law No. 12740
- Schedule "E" Proposed amendment to CD By-law No. 13310
- Schedule "F" Corporate Report No. R209
- Schedule "G" Location Maps
- Schedule "H" Table of Selected CD By-laws Based on the C-4, C-5 and C-L Zones from Corporate Report No. R209

Schedule "H"

Selected CD By-laws Based on the C-4, C-5 and C-L Zones

| | CD BY-LAW NO. | STATUS | EATING EST. PERMITTED | NEIGH. PUB PERMITTED | CIVIC ADDRESS(ES) | OCP DESIGNATION |
|----|---------------------------|------------------------|-----------------------|----------------------|---|-----------------|
| 1. | 7292 (amended by 9529) | Approved 1/09/1989 | Yes | No | 12818 – 72 Avenue | Urban |
| 2. | 8463 | Approved 2/17/1986 | Yes | No | 17619 – 96 Avenue | Suburban |
| 3. | 8593 | Approved 7/28/1986 | Yes | No | 796 – 176 Street | Agricultural |
| 4. | 10580 | Approved 6/17/1991 | Yes | No | 8270 – 144 Street | Suburban |
| 5. | 12740 | Approved 2/13/1996 | Yes | No | (9886 - 120 Street); (Units 1, 2, 3 & 4 of 9880 – 120 Street); (Units 102, 101 & 201 of 9868 - 120 Street); (12028 - 99 Avenue) | Urban |
| 6. | 13087 | Approved 11/15/1999 | Yes | No | 3531 King George Highway | Urban |
| 7. | 13102 | Approved 7/28/1998 | Yes | No | 10833 – Street | Urban |
| 8. | 13310 | Approved 4/27/1998 | Yes | No | 10422 - 168 Street | Urban |
| 9. | 14533 | Approved 12/03/2001 | Yes | No | 13674 Grosvenor Road | Urban |

Schedule "A"

Rationale Used to Determine Appropriateness to Amend

Ten Selected CD By-laws

| | CD BY-LAW NO. | CIVIC ADDRESS(ES) | OCP DESIGNATION | CD BY-LAW INTENT | RATIONALE | RECOMMEND AMENDING CD BY-LAW? |
|----|-------------------|-------------------|-----------------|------------------|--|-------------------------------|
| 1. | 7292 (amended) | 12818 – 72 Ave | Urban | Local commercial | <ul style="list-style-type: none"> Adjacent to property zoned C-5, which permits licensed | No |

| | | by 9529) | | | facilities and fronting CHI-zoned property. | |
|-----|-------|---|--------------|--|---|-----|
| 2. | 8463 | 17619 – 96 Ave | Suburban | Local retail and service commercial uses | <ul style="list-style-type: none"> • Solitary neighbourhood commercial building surrounded by suburban residential properties. | Yes |
| 3. | 8593 | 796 – 176 St | Agricultural | All uses permitted in the C-L, C-G and A-1 Zones (By-law 5942) | <ul style="list-style-type: none"> • Amending the CL Zone eliminates the need to amend this CD Zone separately. | No |
| 4. | 10580 | 8270 – 144 St | Suburban | All uses permitted in the C-L and C-G(2) Zones (By-law 5942) | <ul style="list-style-type: none"> • Amending the CL Zone eliminates the need to amend this CD Zone separately. | No |
| 5. | 11659 | 16814 – 104 Ave | Urban | Local retail and service commercial uses | <ul style="list-style-type: none"> • One of 4 commercial sites located on each corner of the intersection of 104 Ave. & 168 St. • A gas station is located to the west; a neighbourhood commercial centre is to the north (CD B/L 13310) and an existing vacant C-4 site is to the north-west. • Bounded by single family residential to the east and south. | Yes |
| 6. | 12740 | 9868 - 120 St; 9880 – 120 St; 9886 - 120 St & 12028 - 99 Ave | Urban | Small scale local commercial centre | <ul style="list-style-type: none"> • Four separate lots appear as one commercial complex, surrounded by single family residences. | Yes |
| 7. | 13087 | 3531 King George Highway | Urban | Local commercial uses and gas station | <ul style="list-style-type: none"> • Located along a major arterial route, near properties zoned C-5 (which permit licensed facilities) and in the vicinity of existing licensed restaurants. | No |
| 8. | 13102 | 10833 - 160 St | Urban | Neighbourhood commercial uses | <ul style="list-style-type: none"> • Within a neighbourhood commercial node. | No |
| 9. | 13310 | 10422 - 168 St | Urban | Neighbourhood commercial uses | <ul style="list-style-type: none"> • One of 4 commercial sites located on each corner of the intersection of 104 Ave. & 168 St. • Neighbourhood pub not allowed. • Bounded by single family residential to the north and east. | Yes |
| 10. | 14533 | 13674 Grosvenor Road | Urban | Regional scale assembly hall | <ul style="list-style-type: none"> • Philippine Community Centre with banquet facilities. | No |

