



Corporate

 NO: R223

Report

 COUNCIL DATE: November 25, 2002

REGULAR COUNCIL			
TO:	Mayor & Council	DATE:	November 25, 2002
FROM:	General Manager, Planning & Development	FILE:	7902-0319-00
SUBJECT:	Proposed Amendment to CD By-law No. 13310 at 10422 – 168 StreetCouncil-Initiated Rezoning to Control Liquor-Licensed Eating EstablishmentsText Amendment By-law No. 14853		

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. File By-law No. 14853 to amend CD By-law No. 13310 based on further review undertaken by staff, as outlined in this report, in response to concerns raised at the Public Hearing; and
3. Authorize the Acting City Clerk to forward a copy of this report and a copy of Council's resolution to the delegation that spoke in opposition to this proposed CD By-law Amendment at the Public Hearing on November 18, 2002, as well as the owners of the subject property.

INTENT

The purpose of this report is to provide Council with further information on the rationale for amending the CD zoning on the site at 10422 – 168 Street (Appendix I) to prohibit liquor-licensed eating establishments and to comment on the concerns raised at the Public Hearing held on November 18, 2002.

BACKGROUND

The new Provincial liquor regulations, that take effect on December 2, 2002, will allow a food primary eating establishment to obtain a liquor license and/or to operate a lounge area within a restaurant, provided the lounge is limited in size to 20% of the seating capacity of the eating

establishment or 40 seats, whichever is less. Unlike the past, local governments will no longer have an opportunity to comment on these liquor license applications.

In response to these proposed changes, on November 18, 2002, Council adopted, after the necessary Public Hearing, text amendments to Surrey Zoning By-law, 1993, No. 12000, Surrey Zoning By-law, 1979, No. 5942 and to three of four CD By-laws to disallow eating establishments servicing alcoholic beverages to be located in small local commercial areas. Council tabled the proposed amendment to a fourth CD By-law (No. 13310) amendment and requested staff to further consider the comments raised by a delegation at the Public Hearing and report back to Council on the matter. This report responds to this direction of Council

DISCUSSION

The proposed amendment to CD By-law No. 13310 was based on Council's direction to staff to review all existing CD By-laws in Surrey in response to proposed amendments to the Provincial liquor licensing regulations. Due to time constraints, general criteria were used to determine which CD-zoned sites would be examined further. Sites meeting all of the following criteria were examined:

- 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 Zones;
- Eating establishments are permitted uses within the CD Zone; and
- Neighbourhood pubs or licensed establishments are not permitted uses in the CD Zone.

Based on the above, ten CD By-laws were identified as warranting a closer review. These 10 By-laws were then further reviewed using the following criteria. Those satisfying all of these criteria would warrant an amendment to the CD By-law to restrict liquor-licensed eating establishments from operating on the related site:

- Whether the CD By-law was initially 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.

Based on this closer review, staff recommended that four of the 10 CD By-laws be amended to prohibit liquor-licensed eating establishments. One of the four was the subject site at 10422 – 168 Street. The subject site was recommended for by-law amendment on the basis that the site was initially intended to provide local commercial services to the surrounding residential neighbourhoods and there is currently no eating establishment in the development on the site.

The subject site is part of an existing commercial node at the intersection of 104 Avenue and 168 Street in eastern Fraser Heights. The three remaining corners of the intersection are zoned as follows:

- CG-2 on the south-west corner;
- CD By-law No. 11659 (based on C-L) on the south-east corner; and
- C-4 on the north-west corner, but under application to rezone to CD (based on C-5).

After the Public Hearing on November 18, 2002, Council adopted By-law No. 14851 to amend CD By-law No. 11659 to prohibit liquor-licensed eating establishments on the site in the southeast corner of the same intersection. Also on November 18, 2002, Council gave Third Reading to a by-law to rezone the site in the northwest corner of the same intersection from C-4 to CD (File No. 7902-0038-00). This proposed CD Zone is intended to accommodate a 5,060 sq. ft. commercial building for retail and general service uses, but does not include a neighbourhood pub and, specifically, prohibits liquor-licensed eating establishments.

The subject site (on the northeast corner) was previously zoned Local Commercial Zone (C-4). When the property was rezoned from C-4 to Comprehensive Development Zone (CD) in 1998, the intent was to transform the commercial node into a local neighbourhood centre, which permitted a greater variety of uses and services than permitted under the existing C-4 Zone. The CD By-law was further amended in 1999 to increase the maximum gross floor area of any one individual business from 279 sq. m. (3,000 sq. ft.) to 370 sq. m. (4,000 sq. ft.).

There is an existing 1,393 sq. m. (15,000 sq. ft.) two storey, commercial complex located on the site. Currently there is a mix of retail, office and service uses in the complex, as well as 465 sq. m. (5,000 sq. ft.) of vacant ground floor space.

Based on the comments from the delegation at the Public Hearing, staff have undertaken a further review of the proposed amendment to CD By-law No. 13310 and report as follows:

- The amendment to CD By-law No. 13310 in 1999 caused the by-law to more closely resemble the C-5 Zone than the C-4 Zone. The recently adopted amendment to the Zoning By-law acts to prohibit liquor-licensed eating establishments in the C-4 Zone but did not affect the C-5 Zone. Furthermore, the C-5 Zone permits neighbourhood pubs (although this use is not permitted on the subject site);
- Due to vacant leasable space on the subject site, the property manager at the Public Hearing, raised serious concerns about this proposed limitation, particularly because a full service restaurant use is specifically being sought as a tenant (letter received by Council on November 18, 2002, attached as Appendix II);
- The permitted uses in CD By-law No. 13310 appear to complement the uses on the sites at the other corners of this same intersection. Rather than duplicating the types of services already provided in this commercial node, this CD By-law provides complementary services thus assisting in creating a viable, healthy commercial node.

In addition, upon receiving notice of the proposed amendment to the CD By-law and as stated at the November 18, 2002 Public Hearing, the property manager of the commercial complex conducted a survey of the surrounding community to assess the types of services residents were looking for in the existing commercial node located at 168 Street and 104 Avenue. Although not submitted to Council at the Public Hearing, the survey was subsequently submitted to Planning staff for review.

The survey was conducted between November 2 and 6, 2002 and included a door-to-door survey of homes within walking distance (approximately 15 blocks) of the commercial complex, as well as surveys completed by patrons of the existing services within the commercial complex.

The survey asked residents to rank the businesses that they like to have at this location in Fraser Heights. The potential businesses included: day care, office space, sit-down family restaurant, beer and wine making, internet computer centre, baby and children's store/second hand store, bookkeeping/income tax assistance office, produce store, dollar store, bakery and medical/dental. Approximately 200 people responded to the survey and the highest ranking use (114) was for a sit-down family restaurant.

If the proposed amendment were to proceed, it would be difficult for the commercial property owner to attract a full service restaurant to the complex if they could not operate with a liquor-license. A liquor-licensed family restaurant at this location, based on the size of the complex and the permitted uses in the zone appears reasonable. In addition, due to the concerns expressed regarding the increased difficulty in leasing the currently vacant space at this commercial site, reconsideration of the amendment is justified.

It should be noted that the gasoline station at the south-west corner is zoned Combined Service Gasoline Station (CG-2). Although the delegation indicated a liquor-licensed restaurant was located on this site, staff determined that this is incorrect. The permitted uses in this zone are gasoline station and the permitted accessory uses are automotive service uses of vehicles and retail stores. Currently, there are two valid business licenses issued for the site. One license is for Northside Auto for a gas station and the other is for Jocko's, to permit the retail sale of coffee and donuts.

CONCLUSION

A further review of the proposed text amendment to CD By-law No. 13310, coupled with the concerns raised by the delegation opposed to the proposed amendment, has resulted in a staff recommendation that CD By-law No. 13310 not be amended and that liquor-licensed eating

establishments be retained as a permitted use. It is, therefore, recommended that Council file By-law No. 14853 and that the Acting City Clerk be instructed to forward a copy of this report and Council's resolution to the delegation who appeared at the Public Hearing regarding the subject by-law.

Murray Dinwoodie

General Manager

JR:saw Planning and Development

Attachments:

Appendix I Location Map

Appendix II Letter received by Council on November 18, 2002 from Commercial Complex Property Manager

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