

Corporate Report

NO: R142

COUNCIL DATE: June 23, 2003



REGULAR COUNCIL

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

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

SUBJECT: **Proposed Amendments to Surrey Zoning By-law to Regulate Private Liquor Stores**

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Approve amendments to Surrey Zoning By-law, 1993, No. 12000 and Surrey Zoning By-law, 1979, No. 5942, (the "Zoning By-law") as documented in Appendix I, including adding a definition for "Liquor Store", adding a new definition for "Retail Store" which specifically excludes a liquor store use as a retail store and adding "liquor store" as a permitted use in combination with a liquor-primary licensed establishment in the "Community Commercial" (C-8) Zone and the "Town Centre Commercial" (C-15) Zone; and
3. Instruct the City Clerk to bring forward the necessary amendment by-laws for the required readings and to set a date for the related Public Hearing.

INTENT

The purpose of this report is to obtain Council approval to proceed with changes to the Surrey Zoning By-law to address recent changes in the Provincial liquor licensing regulations. Specifically, this report recommends a regulatory framework, through amendments to the City's Zoning By-law, to control the location of licensee retail stores (i.e., 'private liquor stores').

BACKGROUND

In March 2002, the Minister of Public Safety and Solicitor General lifted the moratorium on new applications for cold beer and wine stores, which are known as "licensee retail stores". These stores can only be located in association with certain liquor-primary licensed establishments limited to neighbourhood pubs, hotels, cabarets and resorts. Parties interested in establishing a cold beer and wine store were required to hold a valid liquor-primary permit from the Liquor Control and Licensing Branch ("LCLB") and had to make their application by November 29, 2002. After the November 29, 2002 deadline, the moratorium was re-instated. No new applications for licensee retail stores are being accepted by the LCLB.

As of April 2, 2002, licensee retail stores are permitted to sell all types of beverage alcohol, including spirits. With the increased product range that can be sold, these licensee retail stores operate, in effect, as 'private liquor stores'.

DISCUSSION

Changes to LCLB Licensing Policy

Changes to the British Columbia Liquor Control and Licensing Act, R.S.B.C 1996, c.267, s.84 (the "Act") came into effect December 2, 2002. These changes were made in response to the Provincial government's agenda to reduce or eliminate red tape, to streamline and modernize liquor regulations in the Province, and to allow liquor inspectors to focus on public safety issues (i.e. compliance). Among these changes was the simplification of liquor licence categories to only two general classes of license, liquor-primary and food-primary. The category of liquor-primary includes hotel, stadium, recreation facility, neighbourhood public house (pub), cabaret, resort and private club.

Under the new legislation and regulations, qualified existing liquor-primary operations were able to apply for a licensee retail sales license up to November 29, 2002. The LCLB reports that 13 applications for licensee retail sales licenses were received for new licensee retail stores in Surrey.

Current Liquor Store and Licensee Retail Store Locations

At present, there are eight B.C. LCLB-run liquor stores in the City of Surrey. These stores are zoned as follows:

- 4 are located in the "Community Commercial" (C-8) Zone;
- 1 is located in Land Use Contract 452 (with a C-8 underlying zone);
- 1 store is located in a "Comprehensive Development" (CD) Zone that is based on the "Community Commercial (C-8) Zone";
- 1 store is located in a "Comprehensive Development" (CD) Zone based on the "Retail Commercial" (C-R(1)) Zone of Zoning By-law No. 5942; and
- 1 store is located in the "Town Centre Commercial" (C-15) Zone.

These liquor stores are currently permitted in each of these zones under the definition of retail store in the Zoning By-law. The locations of these stores are illustrated in Appendix II and summarized in Appendix V.

In addition to the 8 LCLB-run liquor stores, there are 18 existing licensee retail stores in the City, associated with liquor-primary licensed establishments, either neighbourhood pubs or hotels. These 18 establishments are zoned as follows:

- 11 are located in the "Community Commercial" (C-8) Zone;
- 5 are located in the "Town Centre Commercial" (C-15) Zone; and
- 2 are located in the "Highway Commercial" (CHI) Zone.

The locations of these licensee retail stores are illustrated in Appendix II.

After the LCLB lifted the moratorium on beer and wine stores (licensee retail stores), a total of 13 applications for new licensee retail stores in Surrey were received by the LCLB. One of these applications, for the Clydesdale Inn in Cloverdale, was approved in December 2002. A listing and addresses of the remaining in-stream applications is attached as Appendix IV. These 12 applications are for licensee retail sales in the following types of establishments:

- 9 neighbourhood pubs
- 2 hotels
- 1 cabaret

The property on which these establishments are located is zoned as follows:

- 6 are located on sites that are in a "Comprehensive Development" (CD) Zone [These CD By-laws are based on a range of zones including "Local Commercial" (C-4) Zone, "Downtown Commercial" (C-35) Zone, "Community Commercial" (C-8) Zone, "Retail Commercial One (C-R(1)) Zone, and "Tourist Commercial Two (C-T(2)) Zone];
- 1 is located in "Town Centre Commercial" (C-15) Zone;
- 2 are located in the "Community Commercial" (C-8) Zone;

- 1 is located in Land Use Contract 342, with an underlying "Highway Commercial (CHI) Zone";
- 1 is located in the "Retail Commercial One" C-R(1) Zone (By-law No. 5942); and
- 1 is located in the "Retail Commercial Three" C-R(3) Zone (By-law No. 5942);

Neighbourhood pubs and hotels are permitted uses in each of the referenced zones.

The majority of liquor sales from existing LCLB-run liquor stores and licensee retail stores take place from properties zoned C-8 or C-15 with 84% of currently operating LCLB-run liquor stores and licensee retail stores being located in the C-8 and C-15 Zones.

With the existing 8 LCLB-run liquor stores and the 18 current licensee retail stores associated with neighbourhood pubs and hotels, there are a total of 26 locations at which to purchase beer, wine and spirits in Surrey, not including the 12 applications that are pending.

Future Liquor Store Locations

The current trend towards de-regulation in the Provincial government, combined with recent statements by Provincial officials, suggests that further changes in liquor sales will be implemented in the near future, including the potential that all existing LCLB-run retail outlets will be privatized. Media reports have indicated that the Provincial government is committed to the privatization of liquor sales and distribution in the Province. However, the timeline for the transition to a fully private system of liquor sales and distribution has not yet been determined.

It is considered reasonable for the City to take a pro-active approach to addressing the matter of private sector liquor sales and distribution in Surrey.

Under the current regulations of the *Act* licensee retail stores must be 'tied' to an existing liquor-primary operation being a pub, hotel, cabaret or resort. It is recommended that the City's Zoning By-law reinforce this requirement. On this basis, it is recommended that the Zoning By-law be amended to differentiate "liquor store" from a "retail store" by creating a new definition for "liquor store" and by specifically excluding liquor store from the definition of "retail store". It is further recommended that the "Community Commercial" (C-8) Zone, and the "Town Centre Commercial" (C-15) Zone be amended as documented in Appendix I to permit a "liquor store" as a principal use, but only in combination with a liquor-primary licensed establishment. This will limit the potential locations for liquor stores in the City to those sites which have a liquor-primary establishment. Any application for a new liquor-primary license in the City would be subject as a minimum to a Liquor Permit application, which would involve public notification, a Public Hearing and Council approval. Those applications that are currently in process will be "grandfathered", notwithstanding these currently proposed changes.

In relation to the existing LCLB-run liquor stores, if the Provincial government devolves control of these stores to the private sector, each of these stores could continue to operate at its current location as a legal non-conforming use.

The LCLB has confirmed that there are a total of 55 liquor-primary licensed establishments in Surrey. Of these 55 establishments, 18 have an existing licensee retail store, 9 others have made an application under the November 29, 2002 LCLB deadline for licensee retail stores (i.e., these 9 are included in the 12 applications noted previously in this report, the other 3 applications are associated with applications that have not yet been approved for new liquor-primary establishments in the City) and 23 establishments are a license category other than pub, hotel, resort or cabaret and, therefore, cannot make an application for licensee retail stores (i.e., a private liquor store). There are 5 establishments (1 pub, 2 cabarets, 2 hotels) that could, if the Province lifted the moratorium on licensee retail sales applications, make application for a licensee retail store license.

If, as recommended, Council allows for licensee retail stores only in conjunction with a liquor-primary establishment (i.e., pubs, hotels and cabarets) in the City, there could potentially be up to 43 private liquor stores in the City. These 43 locations are illustrated on Appendix II and are listed in Appendix VI. Currently, counting both the LCLB-run liquor stores and the cold beer and wine stores, there are the equivalent of 26 licensee retail stores in the City (i.e., 8 LCLB-run liquor stores and 18 licensee retail stores).

Proposed Zoning By-law Amendments

Surrey Zoning By-law, 1993, No. 12000 and Surrey Zoning By-law, 1979, No. 5942 have been reviewed to determine where these by-laws need to be amended to ensure that they correlate to Provincial liquor licensing

regulations and to accommodate the above referenced recommendations that will act to assist in ensuring the impacts of liquor-licensed businesses are minimized. The following is a brief summary of the proposed amendments to the City's Zoning By-laws, which are listed in Appendix I.

Definition of Retail Store

It is recommended that Surrey Zoning By-law, 1993, No. 12000 and Surrey Zoning By law, 1979, No. 5942, include a new definition for "retail store" which excludes a "liquor store".

Definition of Liquor Store

It is recommended that Surrey Zoning By-law, 1993, No. 12000 and Surrey Zoning By law, 1979, No. 5942 include a new definition of "liquor store" as follows:

"a licensee retail store licensed under the regulations of the British Columbia Liquor Control and Licensing Act, R.S.B.C 1996, c.267, s.84;"

The definition of "liquor store", as proposed, limits the sale of beverage alcohol to operations with a licensee retail sales licence from the LCLB which currently will only be issued to existing liquor-primary establishments including pubs, hotels and resorts.

Liquor Stores Permitted in the "Community Commercial" (C-8) Zone and the "Town Centre Commercial" (C-15) Zone

It is recommended that Surrey's Zoning By-law No. 12000 be amended to allow a "liquor store" as a principal use, but only in combination with a liquor-primary licensed establishment in the "Community Commercial" (C-8) Zone and the "Town Centre Commercial" (C-15) Zone. Both of these zones allow for neighbourhood pubs and hotels as principal uses.

Under Surrey's Official Community Plan By-law, 1996, No. 12900, as amended, land within the C-8 and C-15 Zones are mandatory Development Permit areas, enabling staff to ensure that design and interface issues between the uses under these zones, including neighbourhood pubs and licensee retail stores and adjacent land uses are addressed appropriately.

A map illustrating the location of all lots currently zoned "Community Commercial" (C 8) Zone or "Town Centre Commercial" (C-15) Zone is attached as Appendix III.

Surrey Zoning By-law, 1979, No. 5942 currently permits liquor stores in the C-S, C-C, C-R(1), C-R(2) and C-R(3) Zones. Other than amending the definitions section, no other amendments to this By-law are required.

These proposed amendments to the Zoning By-laws will provide the City with adequate land use control to respond to applications for "licensee retail stores" (i.e., private liquor stores) even if the moratorium on applications for licensee retail stores is lifted by the Province.

As mentioned earlier in this report, there are currently 12 Surrey-based applications for licensee retail stores (in conjunction with an existing liquor-primary licensed establishment) currently before the LCLB for consideration. Each of these applications for licensee retail sales is associated with an existing liquor-primary establishment in Surrey, which was subject to a liquor permit application or a rezoning process. Accordingly, there should not be any significant land use conflicts arising from the 12 licensee retail sales applications that are in-stream with the LCLB.

Hours of Operation for Licensee Retail Stores (Private Liquor Stores)

Based on current LCLB regulations, licensee retail stores may operate between 9:00 a.m. and 11:00 p.m. seven days a week. If Council wanted to be more restrictive with respect to the hours of operation for these establishments, it could direct that an amendment be made to the Business License By-law incorporating a provision that specifies the more restrictive hours for liquor stores.

Legal Services has reviewed this report and concurs with the recommendations.

CONCLUSION

Recent changes to the regulations related to the distribution of liquor in British Columbia has resulted in a number of applications to the LCLB to add licensee retail stores ('private liquor stores') to existing liquor-primary operations in Surrey including neighbourhood pubs, cabarets and hotels. These licensee retail stores act in effect, as 'private liquor stores'.

Amendments to the Surrey Zoning By-laws as documented in Appendix I will assist in ensuring that there is no uncontrolled proliferation of private liquor stores in the City. It is recommended that Council approve the amendments to Surrey Zoning By-law, 1993, No. 12000 and Surrey Zoning By-law, 1979, No. 5942 as documented in Appendix I and instruct the City Clerk to bring forward the necessary amendment by-laws for the required readings and the setting of a date for the Public Hearing. Staff will also review all CD By-laws and Land Use Contracts under which several licensee retail stores and liquor-primary licensed establishments operate, to determine whether further amendments should be made to be consistent with the recommendations of this report.

Where amendments are considered necessary the affected property owners will be contacted and staff will submit a separate report to Council with appropriate recommendations.

Murray Dinwoodie
General Manager
Planning and Development

BK/kms/saw

Attachments

- Appendix I – Proposed Zoning By-law Amendments
- Appendix II – Distribution of Existing Liquor Retail Outlets, and In-stream LCLB Applications for Licensee Retail Stores
- Appendix III – Distribution of C-8 and C-15 Zones
- Appendix IV – Applicants for New Licensee Retail Stores
- Appendix V - Existing B.C. LCLB Operated Liquor Stores
- Appendix VI - Liquor Primary Establishments and Licensee Retail Store Status

v:\wp-docs\admin & policy\03\data\06101056.bk.doc
SAW 6/23/03 2:01 PM

APPENDIX I

Proposed Zoning By-law Amendments

- A. Proposed amendments to Surrey Zoning By-law, 1993 No. 12000:
 1. In Part 1 Definitions insert the following definition of "Liquor Store" between *Limited Advertising Sign* and *Livestock*:

"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."
 2. 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* warehouses, and flea markets which are wholly enclosed within a *building*, but excludes *vehicle* sales and rentals, and *liquor stores*."

3. Amend Part 36 Community Commercial Zone as follows:

Renumber Sub-sections B.7 to B.15 as Sub-section B.8 to B.16

Insert the following text as Sub-section B.7:

"7. *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."

4. Amend Part 37 Town Centre Commercial Zone:

Renumber Sub-sections B.6 to B.15 as Sub-section B.7 to B.16

Insert the following text as Sub-section B.6:

"7. *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."

- B.** Proposed amendments to Surrey Zoning By-law, 1979 No. 5942:

1. In Part 1, Definitions insert the following definition of "Liquor Store" between *Limited Advertising Signs* and *Lot - Record*:

"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."

Appendix IV

Applications for Licensee Retail Stores in Surrey

The LCLB received applications for Licensee Retail Sales from the following liquor-primary licensed establishments:

| Establishment Name & Address | Current Zoning |
|--|--------------------------|
| Samz Neighbourhood Pub 19580 - 56 Avenue | CD BL 12835 |
| Cloverdale Station Neighbourhood Pub 5855-176 A. Street | C-15 |
| Central City Brew Pub 2153 Surrey Place | CD BL 23714 |
| Bigridge Brewing Co. Pub & Restaurant 15133 No. 10 Highway | CD BL 12282 |
| Mirage Cabaret 15330-102A Avenue | LUC 342 (CHI underlying) |
| Tudor Inn Hotel 187-176th Street | CD BL 8537 |
| Arnoldo's 700-7380 King George Highway | CD BL 11578 |
| Eagle and Beaver Pub 17637-1st Avenue | C-8 |
| Garry T's Neighbourhood Pub 12025-72nd Avenue | C-R(3) |
| Parkside Inn 7300 King George Highway | C-R(1) |
| Hampton's Pub 960-15355 24th Avenue | C-8 |
| Brownsville Bar Marine Pub 11940 Old Yale Road | CD BL 8818 |

APPENDIX V

Existing British Columbia LCLB-Operated Liquor Stores

1. 12850 – 96 Avenue
Cedar Hills Mall
2. #101 – 10760 King George Highway
3. #280 – 15355 – 24 Avenue
4. 8904 – 152 Street
Evergreen Mall
5. #8 – 13783 – 72 Avenue
Sommerset Square
6. 12881 – 16 Avenue
Ocean Park Shopping Centre
7. 1720 Guildford Town Centre
8. #100 – 5630 – 176 Street