



CITY OF VANCOUVER
POLICY REPORT
DEVELOPMENT AND BUILDING

Report Date: October 17, 2006
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Meeting Date: October 31, 2006

TO: Vancouver City Council

FROM: Director of Planning in consultation with the Director of Legal Services

SUBJECT: Amendments to Retail and Wholesale Definitions in the Zoning and Development By-law

RECOMMENDATION

THAT the Director of Planning be instructed to make application to amend the Zoning and Development By-law to introduce definitions for "retail" and "wholesale" and amend the definitions for Adult Retail Store, Furniture or Appliance Store, Grocery or Drug Store, Retail Store, Vehicle Dealer, Bulk Fuel Depot, Lumber and Building Materials Establishment, Wholesaling - Class A, and Wholesaling - Class B, generally in accordance with Appendix A, and that the application be referred to a Public Hearing;

FURTHER THAT, the Director of Legal Services be instructed to prepare the necessary amending by-law, generally in accordance with Appendix A, for consideration at the Public Hearing.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services RECOMMENDS approval of the foregoing.

COUNCIL POLICY

In 1987, Council adopted the Policy on Large-Scale Retail Uses in Industrial Areas limiting the size of retail stores to 10,000 sq. ft. (subsequently amended to 10,764 sq. ft. or 1 000 m²) and allowed applications for larger sites to be considered through a rezoning process.

In 1989, Council approved further amendments, requiring that any floor area in accessory retail uses accessible to the general public be separated by a wall from floor area in other uses.

In March 1995, Council adopted the Industrial Lands Policies, to retain most of the City's existing industrial land base for industry and service businesses to meet the needs of port/river industry and city serving and city oriented industries.

In June 1995, Council adopted City Plan which provides for the development and reinforcing of neighbourhood centres, a diverse economy and jobs close to home.

In 1996, Council approved amendments to the Zoning and Development By-law to clarify that "wholesale club", "warehouse store", "discount warehouse", and "factory outlet" not requiring membership are retail uses because they sell directly to the public. Warehouse or wholesale clubs where membership is required and restricted to institutions, government agencies or businesses are considered wholesale uses. In addition, accessory retail use was made a conditional approval use when ancillary to a wholesale use.

In May 2001, and July 2002, respectively, Council adopted Highway Oriented Retail (HOR) Rezoning Policies and Guidelines for the Marine Drive Industrial Area and Grandview Boundary Industrial Area Plan and Rezoning and Development Policies and Guidelines that provide limited opportunities for large scale retail uses in the city.

In July 2006, Council reaffirmed that the Marine Drive Industrial Area between Main and Yukon Streets be retained for large format uses, and that large format retail uses be limited to Marine Drive frontage between Manitoba and Main Streets.

SUMMARY AND PURPOSE

This report recommends introducing new definitions to improve and clarify the differentiation between retail and wholesale functions by identifying the end user. Zoning By-law amendments are proposed to specify that businesses selling or renting merchandise for personal consumption would be considered retail. The intent of the changes is to provide a clearer distinction between retail and wholesale uses thereby making it easier for applicants and staff to understand, ensuring that applicants obtain the appropriate permits, and strengthening the City's ability to enforce land use. The proposed changes would reinforce the City's policies to preserve industrial land and employment.

BACKGROUND

The nature of retailing is constantly evolving with the development of new concepts and selling approaches. For example, in the mid 1980s some retailers began to employ a large format, warehouse-like approach where goods were sold in bulk or large quantities to members who paid annual fees (i.e. Costco, Real Canadian Wholesale Club). Furniture, office supply and houseware stores are other retailers who adopted the hybrid retail/warehouse appearance although typically they do not charge membership fees.

While many of these establishments adopted warehouse features, they operated as a retail type business and in the vast majority of cases complied as permitted land uses. However,

there were instances where businesses approved as wholesale uses operated as retail uses in industrial areas. Furthermore, these establishments operated like retail businesses in terms of the amount of parking they provided and the number of customers they served.

Developing a land use definition that accurately captures this activity has been challenging. Municipalities in the GVRD employ a variety of approaches to define this type of use. For example, Richmond and Abbotsford define them as retail, while Burnaby, Surrey and Port Coquitlam have opted for a hybrid retail/wholesale definition. In Vancouver, some have been permitted as Wholesaling-Class B (Costco on Pacific Boulevard), some as Wholesaling-Class A (Real Canadian Wholesale on Renfrew Street) while others are approved as a retail use (Costco on Grandview Highway). This report recommends categorizing warehouse style stores as retail uses.

DISCUSSION

The City has made the retention of industrial areas for industrial and city-serving uses and jobs a priority through policies such as the Industrial Lands Strategy and City Plan. Various Community Visions also call for the strengthening and development of retail nodes throughout the city to allow residents to shop and work closer to home (mixed-use Neighbourhood Centres). The creation of areas along Grandview Highway and Marine Drive for large format retail uses was intended to provide limited opportunities for these uses.

The City has also endeavoured to control the location of businesses selling goods through various use definitions. The Zoning and Development By-law defines wholesaling as renting or selling merchandise to other businesses for resale or their own use and includes businesses described as wholesale clubs where sales are restricted to members limited to institutions, government agencies and licensed businesses (see Appendix A for full definitions). Wholesaling-Class A refers to premises where goods are sold in bulk and storage area exceeds showroom area. Wholesaling-Class B refers to premises where showroom area exceeds storage area.

Retailing is defined as renting or selling merchandise, without restrictions, and includes businesses described as wholesale clubs whose membership is open to the general public. In most industrial schedules, retailing is a conditional approval use and is permitted as an accessory use to wholesaling, provided that the retail space does not exceed 1 000 m², and has a wall separating the storage area from area accessible to the public. Stand-alone retail uses are also restricted to 1 000 m² in most industrial schedules.

In the M-2 and I-2 zoning districts, retail uses are further restricted to rentals, limited service food establishment with less than 17 seats, and only in the I-2 zone are furniture or appliance stores permitted. Convenience stores in the M-2 and I-2 zones developed in conjunction with a gasoline station are further limited in size to not more than 200 m².

While retailing is permitted as an accessory use to wholesaling, in many industrial zoning districts there have been instances where very little wholesale activity is taking place and retail has become the dominant use. It is often difficult to distinguish between retail and wholesale activity and as a result it has been challenging to enforce the Zoning and Development By-law.

Staff believe the current definitions do not sufficiently specify that businesses that possess wholesale features but sell for personal consumption are actually operating as retailers. The problem stems from the blurring of sales techniques between wholesalers and retailers. Retailers are taking on the features of wholesaling, including restricted membership, warehouse appearance, bulk products, etc. while wholesalers are no longer selling products solely in bulk quantities and in some cases are selling to end users.

Furthermore, the definitions for retail and wholesale uses require clarification to remove reference to vague terms (e.g. bulk merchandise) and membership requirements, and to specify that businesses which sell for personal consumption are considered retail uses. Proposed amendments to the use definitions will help businesses obtain the appropriate permits and will help staff with enforcement.

Amending Wholesale and Retail Definitions in the Zoning and Development By-law

Staff recommend introducing new definitions for “wholesale” and “retail” in the Zoning and Development By-law to clarify what constitutes wholesaling and retailing activities (Appendix A). Under the proposed definitions, a retail use would include any activity where merchandise is sold or rented to a person who is the end user and the merchandise is not intended for further sale or rent. All other forms of selling or renting merchandise would be considered wholesale. These definitions would be consistent with the 2002 North American Industry Classification System (NAICS) used by Statistics Canada where “retailing is the final step in the distribution of merchandise” and the wholesaling process is an “intermediate step in the distribution of merchandise.” Provincial regulations also distinguish between retail and wholesale businesses by not requiring payment of the provincial sales tax when a sale is not a retail sale.

Staff also recommend that references to warehouse store, discount warehouse, factory outlet, warehouse club and wholesale club and the mention of members and/or membership be removed wherever they occur in the land use definitions. The naming of a store type and the requirement for membership is not indicative of whether the business is retail or wholesale and therefore should be deleted. The result would be that businesses selling for personal consumption, whether or not the business has the features of a wholesale business, would be considered retail. As well, the term “bulk” should be removed from the definition of Wholesaling-Class A, to allow wholesalers to sell their merchandise in a variety of quantities to other businesses. With these amendments, enforcement could be taken against retail businesses operating contrary to the intention of the City’s industrial and retail policies and the by-law definitions can reflect the current nature of the wholesalers business. Amendments are also proposed for some of the retail and wholesale use terms to be consistent with the proposed wholesale and retail definitions (see summary in Appendix B).

Existing Establishments

In most cases the proposed change in definitions will not impact existing establishments. However, there may be a few instances where existing establishments will have uses that become non-conforming. As specified in the Vancouver Charter these uses may continue to operate as legal non-conforming uses until they cease to operate for a period of 90 days after which they will no longer be permitted.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

Through policies such as the Industrial Lands Policies and City Plan, the City has made it a priority to preserve industrial land and to strengthen neighbourhood shopping areas. Businesses approved for wholesale use that operate as retail uses in industrial areas contravene these policies. Proposed amendments to the Zoning and Development By-law to define retail and wholesale activity and to revise existing retail and wholesale use terms are recommended in order to better reflect the activity occurring in these premises and to allow for effective enforcement when required.

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DRAFT ZONING AND DEVELOPMENT BY-LAW AMENDMENTS

A by-law will be prepared generally in accordance with the provisions listed below, subject to change and refinement prior to posting.

In Section 2, Definitions,

1. add the following new definitions:

Retail

means to offer to sell or rent, or to sell or rent, merchandise to a consumer who buys or rents the merchandise as the ultimate consumer or end user, being the last person in the chain of distribution, for personal consumption or use and not for further sale or rent.

Wholesale

means to offer to sell or rent, or to sell or rent, merchandise other than at retail.

2. amend the following definitions:

Adult Retail Store,

which means the use of premises *to display or retail* ~~for the display, retailing or renting of~~ either or both of the following:

- a. a sex object;
- b. adult magazines using more than 3.0 linear metres of shelving, being a maximum of .6 m in depth.

Furniture or Appliance Store

which means the use of premises with a floor area greater than 500 m² *to retail* ~~for the retailing or renting of~~ household furniture, major household appliances or household furnishings such as carpets and draperies, ~~and includes any such premises described as a warehouse store, discount warehouse, or factory outlet, or a warehouse club or wholesale club whose membership is open to other than institutions, government agencies and licensed businesses;~~

Grocery or Drug Store

which means the use of premises *to retail* ~~for the retailing of~~ food or drugs, including food and drugs which are manufactured on the premises as an integral part of the retail operation, ~~and includes any such premises which may be described as a warehouse store, discount warehouse, or factory outlet, or a warehouse or wholesale club whose membership is open to other than institutions, government agencies and licensed businesses,~~ but *which excludes* ~~does not include~~ Neighbourhood Grocery Store or specialty shops such as bakeries, butchers, delicatessens, candy shops and ice cream parlours where sales are limited to a particular type of food;

Retail Store

which means the use of premises *to retail* for the retailing or renting of merchandise, including *merchandise* that which is manufactured on the premises, if provided the total floor area *used for* in manufacturing use does not exceed 300 m², and includes any such premises which may be described as a warehouse store, discount warehouse, or factory outlet, or a warehouse club or wholesale club whose membership is open to other than institutions, government agencies and licensed businesses, but which excludes ~~does not include~~ *any other Retail Uses* retail use otherwise listed in this section 2 or included in a Lumber and Building Materials Establishment;

Vehicle Dealer

which means the use of premises *to retail* for the sale or rental of motor vehicles, boats, or recreational trailers;

Bulk Fuel Depot

which means the use of premises *to wholesale* for the wholesaling in bulk of gasoline, fuel oil, heating oil, petroleum, propane, kerosene, coal, coke, fuel wood, natural gas or similar fuels;

Lumber and Building Materials Establishment

which means the use of premises *to wholesale and retail merchandise consisting for* wholesaling and retailing primarily of lumber, plywood, millwork and related building materials, and includes any premises described as a warehouse club or wholesale club where sales are restricted to members and membership is limited to institutions, government agencies and licensed businesses;

Wholesaling - Class A

which means the use of premises *to wholesale* for the wholesaling or renting of merchandise in bulk to retailers, other businesses, institutions or government agencies for their own use or for resale, where *the operator of the premises keeps* merchandise for sale or rent is kept on the premises and *the floor area for* in storage space exceeds *the floor area for* in showroom or display space, if any, and includes any premises described as a warehouse club or wholesale club where sales are restricted to members and membership is limited to institutions, government agencies and licensed businesses, but *which excludes* does not include any other Wholesale Uses included in this section 2;

Wholesaling - Class B

which means the use of premises *to wholesale* for the wholesaling or renting of merchandise to retailers, other businesses, institutions or government agencies for their own use or for resale, where *the operator of the premises keeps* merchandise for sale or rent is kept on the premises and *the floor area for* in showroom or display space exceeds *the floor area for* in storage space, *but which excludes any other Wholesale Uses listed in Section 2 and an office for an import agent or broker, manufacturer's agent or similar establishment* and includes any premises described as a warehouse club or wholesale club where sales are restricted to members and membership is limited to institutions, government agencies and licensed businesses, but does not include an office for an import agent or broker, manufacturer's agent, or similar establishment and does not include any other Wholesale Uses included in this section 2.

Summary and Rationale for Proposed Changes to Retail Use Terms

Retail Use	Proposed Change	Rationale
Adult Retail Store	delete reference to renting	new retailing definition includes renting
Farmers' Market	None	
Furniture or Appliance Store	delete reference to: <ul style="list-style-type: none"> • renting • warehouse store etc. • membership 	<ul style="list-style-type: none"> • new retailing definition includes renting • store name/type and membership requirement not indicative of land use
Gasoline Station - Full Serve	None	
Gasoline Station - Split Island	None	
Grocery or Drug Store	delete reference to: <ul style="list-style-type: none"> • warehouse store etc. • membership 	store name/type and membership requirement not indicative of land use
Liquor Store	None	
Neighbourhood Grocery Store	None	
Pawnshop	None	
Retail Store	delete reference to: <ul style="list-style-type: none"> • warehouse store etc. • membership 	store name/type and membership requirement not indicative of land use
Secondhand Store	None	
Small-scale Pharmacy	None	
Vehicle Dealer	replace reference to sale or rental with retailing	new retailing definition includes selling and renting

Summary and Rationale for Proposed Changes to Wholesale Use Terms

Wholesale Use	Proposed Change	Rationale
Bulk Fuel Depot	delete reference to: <ul style="list-style-type: none"> • bulk 	quantity of goods sold not indicative of land use
Cardlock Fuel Station	None	
Junk Yard or Shop	None	
Lumber and Building Materials Establishment	delete reference to: <ul style="list-style-type: none"> • warehouse store etc. • membership 	store name/type and membership requirement not indicative of land use
Wholesaling - Class A	delete reference to: <ul style="list-style-type: none"> • renting • bulk • warehouse store etc. • membership 	<ul style="list-style-type: none"> • new wholesaling definition includes renting • quantity of goods sold not indicative of land use • store name/type and membership requirement not indicative of land use
Wholesaling - Class B	delete reference to: <ul style="list-style-type: none"> • renting • warehouse store etc. • membership 	<ul style="list-style-type: none"> • new wholesaling definition includes renting • store name/type and membership requirement not indicative of land use