

Development Applications for Pawn Stores and Other Potentially Sensitive Land Uses Proposed in Established Commercial Areas

Recommendation:

That the April 19, 2017, Sustainable Development report CR_4329, be received for information.

Report Summary

This report provides information on how Development Officers exercise discretion and outlines three approaches to manage future development permit applications for Pawn Stores.

Previous Council/Committee Action

At the December 6, 2016, Executive Committee meeting, the following motion was passed:

That Administration explore tools that would provide direction to development officers in exercising discretion in considering development permit applications for pawn stores and other potentially sensitive land uses proposed in established commercial areas and return to Committee in the First Quarter of 2017.

Report

Pawn Stores in Zoning Bylaw 12800

Pawn Stores are a distinct use in Zoning Bylaw 12800 and are defined by two main activities: a financial service (“to provide secured loans in exchange for goods offered as collateral”) and a retail service (“the sales of such goods”). The financial services component of Pawn Stores is similar to those outlined in the Professional, Financial and Office Support Services use, which includes “banks, credit unions, loan offices and similar financial Uses.” The retail service component of Pawn Stores is similar to both the Secondhand Stores and General Retail use. Both Secondhand and General Retail can include consignment sales, where patrons may receive money, but not a loan, in exchange for goods.

Attachment 1 - Further Information on Current Regulations provides additional detail on how Pawn Stores are regulated in Zoning Bylaw 12800, as well as a comparison of how Pawn Stores are regulated in other jurisdictions in Canada.

Attachment 2 - Current State and Recent Applications for Pawn Stores in Edmonton provides information on existing locations, recent development permit applications, and related appeals to the Subdivision and Development Appeal Board.

Discretionary Uses

Each zone has a list of permitted and discretionary uses. While discretionary uses are generally considered to be appropriate in a zone, consideration of the specific context and characteristics of the site is required. Applications for discretionary uses are decided by the Development Officer, who may choose to refuse, approve, or condition a development permit for the use.

The role of the Development Officer is to consider context-specific land use impacts, including effects on the amenities of the neighbourhood, the use, enjoyment or value of the surrounding area, and other valid planning considerations. Land use impacts are those that have a direct and measurable affect on adjacent lands, such as traffic or noise, which can be quantified and directly attributed to the proposed development being considered. They can also include safety and crime when these can be clearly linked to the location or design of the use.

Tools for directing discretion for sensitive uses in Zoning Bylaw 12800

A number of sensitive uses in Zoning Bylaw 12800 have regulations known as Special Land Use Provisions. These provisions are above and beyond requirements of the zone and apply to both permitted and discretionary uses. Special Land Use Provisions provide additional contextual considerations for the Development Officer to assess when rendering their decision on a permit for these uses. Examples of uses with Special Land Use Provisions include adult mini-theatres, alcohol sales, bars and neighbourhood pubs, body rub centres, child care services, flea markets, garage and garden suites, hotels, nightclubs, religious assemblies, and urban agriculture uses. Pawn Stores do not have any Special Land Use Provisions in Zoning Bylaw 12800.

Overlays are another tool that can be used to modify regulations for a specific use. Overlays cannot prohibit uses that are listed as either permitted or discretionary in the underlying zone, but may add additional requirements. One example of this tool is Section 818, Secondhand Stores and Pawn Stores Overlay, located along portions of 118 Avenue and 111 Avenue. The Overlay requires applicants for Secondhand or Pawn Stores to share information with adjacent landowners, community leagues, and presidents of any Business Improvement Area associations within 60 metres of the site prior to submitting their development permit application. The applicant must then submit the feedback they received as part of their development permit application, and address any concerns raised, through either a letter of justification or modifications to their application. Any feedback that identifies land use impacts will be considered by the Development Officer in rendering their decision. The Development Officer is not able to consider non-land use related comments received from stakeholders, including preferences for business mix or other socio-economic concerns.

Approaches to Managing Future Applications

Regulations and restrictions in Zoning Bylaw 12800 must be rooted in land use considerations. Establishing land use impacts that are unique to Pawn Stores is challenging due to the similarities to other uses. The financial services provided through Pawn Stores are similar to those of other financial institutions, such as banks, where loans are often provided with real property secured as collateral and interest is accrued over the period of time the loan is given. The land use impacts associated with the resale of pawned goods is also hard to distinguish from other secondhand or consignment store uses.

Administration has identified three potential approaches that could be introduced to guide future decisions for Pawn Store development permit applications.

Approach 1 - Introduce notification requirements

Outside of the Secondhand Stores and Pawn Stores Overlay, Business Improvement Areas located within 60 metres of a Pawn Store application will only receive notice of the application when a development permit is issued. At that point, the only action the associations can take is to make an appeal to the Subdivision and Development Appeal Board within 14 days. An alternative approach would be to introduce notification requirements for the Development Officer to inform relevant Business Improvement Areas when an application for a Pawn Store is received. The notification could provide the applicant's contact information to allow the Business Improvement Area to reach out directly. Alternatively, Administration could support information sharing and dialogue between the parties. This approach would allow earlier awareness of the application for Business Improvement Areas, and provide an opportunity for the applicant and Business Improvement Areas to meet and discuss the proposal.

A risk of Approach 1 is that Business Improvement Areas may have raised expectations in influencing decisions, whereas the Developer Officer's decision will continue to be guided by land use considerations. Benefits of this approach are that it would allow the Development Officer to collect relevant land use considerations earlier in the process, and provide an opportunity for Business Improvement Areas to connect directly with Pawn Store applicants earlier in the process.

Approach 2 - Introduce Pawn Store specific regulations in Zoning Bylaw 12800

Administration has observed that specific design elements associated with Pawn Stores can have a land use impact. Window coverings and signage have the potential to create a lack of visibility into the store, which may impact the vibrancy and safety of a street.

Special Land Use Provisions or regulations in an overlay could be added to Zoning Bylaw 12800 to address these specific design elements. In particular, requirements could be added to ensure Pawn Stores undertake a Crime Prevention Through Environmental Design analysis and incorporate design elements such as linear

transparency, minimal window coverings, and adequate lighting.

This approach would be in line with how other sensitive land uses are regulated in Zoning Bylaw 12800 and would provide the Development Officer with specific land use considerations to assess when reviewing applications for Pawn Stores. These regulations could ensure that Pawn Stores adhere to a high level of design and contribute to lively shopping streets.

Approach 3 - Create regulations to prevent clustering of Pawn Stores

Regulations could be included in Zoning Bylaw 12800 to create minimum separation distances between Pawn Stores that would limit the opportunity for clustering of these uses. A benefit of this approach is that it could encourage a mix of businesses in a specific area. The risk in this approach is it could contribute to vacant storefronts, impact property owners' ability to lease their commercial space, alter market competition within specific industries, and reduce customer access to services. Separation distances could result in Pawn Stores locating in less frequented areas of the city, which studies indicate are less safe than when Pawn Stores are located in dense and mixed use commercial areas.

Analysis of the location of recent Pawn Store development permit applications suggests that a separation distance would have a limited impact on current development patterns. As shown in Attachment 2 - Current State and Recent Applications for Pawn Stores in Edmonton, recent applications show both a low level of applications (five) since 2012, as well as dispersed geographic locations for new establishments. A 10 metre or greater separation distance would have affected one of the recent development permit applications. In the other four applications, however, a separation distance of 700 metres to three kilometres would have been necessary to have influenced the outcome.

A further limitation is that, while separation distances could prevent the addition of new businesses in the future, they would not apply retroactively to existing Pawn Stores. Some existing Pawn Stores may become legally non-conforming uses with the introduction of separation distances. Section 643 of the *Municipal Government Act* would guide the future operations and development of such non-conforming uses. Current Pawn Stores locations could continue to exist even if there was a change in operator, provided there was no more than a six month discontinuation of the use. However, this change in status to non-conforming could restrict future additions or reconstruction, which would have implications for existing businesses and landowners. Consultation with Edmonton Police Service indicated that they did not expect a separation distance between Pawn Stores to have any effect on criminal activity.

The introduction of a separation distance poses a number of technical challenges. As noted above, a distinct land use impact associated with either individual or clustered Pawn Stores that would justify a separation distance has not been identified. Given the similarity of Pawn Stores to other uses, separation distances could be perceived as

inequitable by these businesses and their users, and may be open to challenge if not grounded in a land use impact.

A further difficulty is determining the specific separation distance to apply. A review of existing research did not provide any specific metrics to establish an appropriate separation distance between Pawn Stores. Studies found that only a combination of a range of uses in addition to Pawn Stores can be correlated with socio-economic conditions, but causal and quantifiable land use impacts from Pawn Stores were not found. This creates a challenge in establishing a robust and defensible separation distance, and identifying how to measure the effectiveness of any implemented separation distances.

Conclusion

Should Committee direct Administration to add additional regulations for Pawn Stores, Approaches 1 and 2 are identified as the most effective ways to address land use impacts associated with Pawn Stores, and create an opportunity for Business Improvement Area associations to be informed throughout the development permit application process. Approach 3 faces a number of implementation challenges and would require further technical analysis and extensive consultation with affected landowners and businesses.

Policy

Policy 6.2.1 of *The Way We Grow*, Edmonton's Municipal Development Plan: "Develop sustainable, accessible and walkable retail and mixed use centres demonstrating high quality architecture and design."

Corporate Outcomes

This report contributes to the corporate outcomes "Edmonton is attractive and compact" and "Edmonton has a globally competitive and entrepreneurial business climate" by supporting high quality development along Edmonton's main streets.

Public Engagement

Potential approaches were circulated to internal and external stakeholders on January 19, 2017. Administration received a reply from the Edmonton Council of Business Improvement Areas. This group supported Approaches 2 and 3. They also recommend further research into the Vancouver and Calgary models to create a cohesive plan for business areas and create separation distance rules. They also emphasized the importance of Business Improvement Area Associations having greater input when Development Officers are making discretionary decisions in their area, which led to the introduction of Approach 1 in this current report.

Administration met with Edmonton Police Service on February 21, 2017, to discuss this report. Edmonton Police Service was supportive of Approach 2.

Metrics, Targets and Outcomes

Metrics	Targets	Outcomes
<ul style="list-style-type: none"> ● Number of development permits applications received for Pawn Stores - 5 (2012 - 2016) ● Number and percentage of Pawn Store development application decisions appealed to the Subdivision and Development Appeal Board - 3 (60%) (2012 - 2016) 	<ul style="list-style-type: none"> ● Not applicable ● 1% of Pawn Store development application decisions appealed 	<ul style="list-style-type: none"> ● Greater certainty in development application process

Attachments

1. Further Information on Current Regulations
2. Current State and Recent Applications for Pawn Stores in Edmonton

Others Reviewing this Report

- T. Burge, Chief Financial Officer and Deputy City Manager, Financial and Corporate Services
- R. Smyth, Deputy City Manager, Citizen Services
- C. Campbell, Deputy City Manager, Communications and Engagement
- D. Jones, Deputy City Manager, City Operations