

RETAIL COMPATIBILITY: A PROBLEM
FOR COMPREHENSIVE PLANNING OF THE CENTRAL BUSINESS DISTRICT

by

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ABSTRACT

The retail sections of central business districts of municipalities of British Columbia have a low degree of retail compatibility. Many unrelated commercial and other land uses that exist within the prime retail areas of central business districts weaken the degree of retail compatibility of the prime retail areas. The hypothesis of this study is that planning measures can and should be taken to improve the low degree of retail land use compatibility existing in the central business districts of municipalities in British Columbia.

The need for study of this subject is justified on the basis of the importance and concern placed on central business districts. The improvement of a central business district must include the improvement of the retail section which comprises a vital component of any central business district. The decline of the shopping function in central business districts has been the cause of serious concern to planning and city officials alike, and needless to say, to the affected retailers as well. The convenience factor can be increased appreciably in a retail area which is planned or partially redeveloped to increase the degree of retail land use compatibility. Similarly, the tax base of the municipality would be improved because of the increased

viability due to greater retail compatibility in the central business district.

The central business districts of the three municipalities of Duncan, Grand Forks, and Castlegar in British Columbia are investigated in the study. It is shown that the degrees of retail compatibility in the central business districts of the three municipalities are poor.

The main objectives of the study are to identify and analyze certain planning measures which could be implemented to improve the degree of retail compatibility. The reclassification of the widely-permissive general business type of zoning category is desirable in order to improve retail compatibility. The objective of reclassification is to direct the grouping together of compatible retail land uses, as well as other commercial uses commonly found in central business districts. On the basis of analysis of the attitudes of the three municipal councils, it is concluded that reclassification is politically feasible and it is strongly recommended that reclassification to be seriously considered by planning agencies for recommendation to their respective councils.

The elimination of nonconforming uses that constitute "dead spots" in the retail areas of central business districts is urged strongly. It is revealed that this problem has been neglected to date by the selected municipal

councils as reflected by the lack of enforcement of the statutes of the British Columbia Municipal Act to control or eliminate nonconforming uses. It is suggested that amortization approach to eliminate nonconforming uses which is used in parts of the United States should be added to the British Columbia Municipal Act.

It is suggested that it is necessary for the municipal councils to review their policies in relation to reclassification of general commercial zones and in relation to the elimination of "dead spots" within a comprehensive central business district planning program.

The use of Federal Urban Renewal Legislation to improve commercial areas is a distinct possibility to achieve a higher degree of retail compatibility. It is recommended that the objectives of a central business district urban renewal scheme should coincide with the objectives of a comprehensive central business district planning program. The inclusion of a scheme to improve retail compatibility within a central business district renewal scheme appears to be politically acceptable. Also, the potentially affected retailers appear to be in favor of schemes to improve retail compatibility.

It is concluded that planning measures can and could be taken to improve the low degree of retail land use compatibility existing in the central business districts of municipalities in British Columbia.

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CHAPTER I

INTRODUCTION

I. A PLANNING PROBLEM--POOR RETAIL COMPATIBILITY

The retail sections of central business districts* of selected municipalities in British Columbia have a low degree of retail land use compatibility. Retail land use compatibility may be measured by the degree to which retail businesses interchange customers. The greater the rate of interchange of customers between retail businesses the higher is the degree of retail compatibility between those businesses. Unrelated commercial and other land uses that exist within the prime retail areas of CBD's weaken the degree of retail land use compatibility of the prime retail areas.

This study identifies and measures the degree of retail land use compatibility in the CBD's of selected municipalities in British Columbia. The main objective of the study is to identify and analyze certain planning measures which can be implemented to improve the degree of retail land use compatibility.

The need for study can be justified on the basis of

*Hereinafter referred to as the CBD.

the importance and concern presently placed on CBD's. The improvement of a CBD, or the "heart" of a city as it is sometimes called, must include improvement of the retail section which comprises a vital part of any CBD. The decline of the shopping function in CBD's has been the cause of grave concern to planning and city officials alike, and, needless to say, to retailers as well. Whether or not the shopping function is declining in a CBD, the degree of retail compatibility should be increased for the sake of the shopper as well as the retailer. The convenience factor can be greatly increased in a retail area which is planned or partially redeveloped to increase the degree of retail land use compatibility. Similarly, the existing capital investment in retail land uses in the CBD would be protected because of increased viability due to greater retail land use compatibility. Thus, the tax base of the municipality or city would be strengthened somewhat.

It was not possible to analyze the degree of retail compatibility of all of the municipalities of British Columbia because of the limitations in time and resources available to conduct this study. Therefore the study has been restricted to a sample of municipalities selected according to specific criteria: population; regional centrality; transportation linkages; and economic base similarity. It is difficult to be very restrictive on the basis of the

above criteria but it is felt that some practical basis of comparison is afforded. The British Columbia municipalities chosen for the study are Duncan, Grand Forks, and Castlegar.

Only the prime retail areas in the CBD's are analyzed, although the objectives of the study are applicable in many respects to other types of retail areas. The study could conceivably be extended to cover planned or unplanned regional and neighborhood shopping centres, although the problem is not serious in many planned centres. Limitations in time necessarily restrict the scope of the study to shopping areas in CBD's. This decision is justified on the basis of the importance of the viability of downtown areas. Another factor restricting the study to the CBD is that the municipalities chosen do not contain sufficiently large outlying shopping centres to facilitate research.

II. ORGANIZATION AND METHODOLOGY OF THE THESIS

The principle of retail land use compatibility is reviewed in Chapter II. The views of various authors on this subject are reviewed and compared. Special attention is given to the work of Richard L. Nelson in the development of retail compatibility ratings. A review of the principle of retail compatibility provides the basis for analysis of the selected municipalities carried out in Chapter III. An attempt is made to establish the present situation in the

case study municipalities in regard to retail land use compatibility in the CBD's. The compatibility rating method developed by Richard L. Nelson was applied to the retail land uses of the CBD's of the case study municipalities. The validity of the results may be questioned in consideration of the fact that the rating system devised by Nelson was based on surveys conducted in various cities of the United States of America. The rating system may not be totally applicable to the case study municipalities. The assumption was made that whatever discrepancies did exist would not be important enough to distort the findings. Another assumption made was that the results of this analysis are representative of the relative degree of retail land use compatibility in the downtown shopping areas of most British Columbia municipalities.

After the status of the problem was determined, it then became necessary to analyze the planning means or measures that are available to solve the problem in practice. An analysis was conducted in Chapter IV to determine whether or not the broad general commercial zone classification could be reorganized for the purpose of increasing retail land use compatibility within CBD commercial zones.

Library research was conducted to investigate zoning regrouping attempts and model zoning bylaws in order to determine the number and content of commercial land use

categories which could induce a high degree of retail land use compatibility. This research was hampered by the lack of model zoning bylaws available as well as the lack of information on zoning regrouping attempts. A mailed questionnaire was sent to the members of the municipal councils of the case study municipalities to obtain their views of zoning regrouping of commercial land uses to improve retail compatibility. The mailed questionnaire technique was used because it was felt that the questions were simple enough to secure meaningful replies. The validity of the findings was hindered by the poor returns of the Castlegar municipal council. Two replies out of a possible five were received.

In Chapter V, an analysis was carried out concerning the elimination of nonconforming uses from the CBD zones. The purpose of the analysis was to determine the effectiveness of the existing statutes of the British Columbia Municipal Act to eliminate nonconforming uses. In this section, other methods to eliminate nonconforming uses that have been held constitutional in various parts of the United States are analyzed in respect to their potential acceptance in British Columbia.

Library research was undertaken to clarify the various means available to eliminate nonconforming uses. Questionnaires were then used as a basis for interviewing the city clerks for the purposes previously mentioned. It

was felt that the city clerks may not have been sufficiently familiar with some of the means to eliminate nonconforming uses that have been held constitutional in various parts of the United States. For this reason, the personal interview method was preferred over the mailed questionnaire technique as described in this particular chapter. A limitation on the validity of the findings is that the opinion of just one municipal official was obtained in each municipality. Only one official was interviewed due to limitations of time.

The use of the Federal Urban Renewal provisions of the National Housing Act was studied in Chapter VI, as a possible means of attack on the problem. The analysis consists of the determination of the municipalities' acceptance of urban renewal schemes to improve retail land use compatibility. Also, an investigation was conducted to determine the potential acceptance of such urban renewal schemes by selected commercial proprietors. The commercial proprietors selected were those who would most likely be affected by an urban renewal scheme to improve retail compatibility.

As in Chapter V, the personal interview method was selected in preference to the mailed questionnaire technique. It would have been very difficult to derive satisfactory replies through the use of the mailed questionnaire technique. Personal explanations were necessary in order for the city clerks and the proprietors to reply with an

understanding of the proposals.

Recommendations and conclusions are contained in Chapter VII, which also provides a summary of the findings of the thesis. Subject areas related to the thesis topic that require further study are indicated.

III. STATEMENT OF THE HYPOTHESIS

It is necessary at this point to present a statement of the hypothesis of this study, namely, Planning measures can and should be taken to improve the low degree of retail land use compatibility existing in the CBD's of municipalities in British Columbia.

CHAPTER II

PRINCIPLE OF RETAIL LAND USE COMPATIBILITY AND ITS RELATIONSHIP TO PLANNING

The purpose of this chapter is to describe the generally accepted principles governing the relationships that exist between retail land uses. A relatively well established body of knowledge regarding such relationships has been developed, primarily in the field of retailing. Clarification of the principles of retail land use relationships is facilitated through a review of the pertinent literature. This chapter is also designed to indicate the relationship between the principles of retail land use compatibility, and implementation of planning objectives in the CBD.

I. CUMULATIVE ATTRACTION

It is common to find several stores selling similar goods side by side in a shopping district. These stores are said to be complementary, that is, each store aids each other in relation to sales. The theory of cumulative attraction reveals that "a given number of stores dealing in the same merchandise will do more business if they are located adjacent or in proximity to each other than if they are widely scattered."¹ Four women's clothing stores in close

¹Richard L. Nelson, The Selection of Retail Locations, (New York: F. W. Dodge Corporation, 1958), p. 58.

proximity will do more business than if they were located several blocks apart. If brought together, they will become a "women's clothing center." Generally in such instances the total trading area is increased and frequently each store's percentage share of business from the original total sales area is increased.

A prospective retailer attempting to select a location and a landlord or realtor renting space must decide whether or not to follow the principle of cumulative attraction. The prospective retailer has the alternative of placing a store in an intercepting location, that is, a location that competes by creating a new sales area. Although sales volume estimates are necessary for final determination, generally, the interceptor position is preferable for convenience type stores such as groceries and other stores dealing in standard brand articles.² When the items sold involve comparison shopping to satisfy criteria such as; fit, style, design, price, and colour, the cluster position is generally preferable. Also, the lower the generative power of the individual store, the more important a cluster position becomes.³ Women's clothing stores are a good example. Women when shopping for clothing tend to compare items from

²Ibid., p. 48

³Ibid.

various stores before making a final decision.

II. CLASSIFICATION OF RETAIL STORE GROUPINGS

There are three main classifications of retail store groupings.⁴ This tendency seems to be profitable for the merchant and is convenient for the shopper. The theory of cumulative attraction is the basic principle behind one of the groupings. Further examples of this principle in practice is the tendency for department stores to locate near each other, and similarly for car sales lots to group together. Obviously, there is a limit to which competitive retail outlets can group together. When the additional stores do not attract new trade but rather divide the existing trade, they are then detrimental rather than helpful to the competitors.⁵

A second grouping is made up of stores of the same general class of trade but each selling different types of goods.⁶ The following groupings are quite often found in retail districts: (1) grocery stores, meat markets, bakeries and candy shops; (2) shoe stores, dry-goods stores, jewelry stores, and millinery stores; (3) paint stores, furniture

⁴Clare Barker, Ira Anderson, Principles of Retailing, (New York: McGraw-Hill Book Co., 1935), pp. 48-49.

⁵Ibid., p. 48

⁶Ibid., p. 49

stores, curtain and drapery stores, upholstery stores, hardware stores. Often the second group breaks into men's shop groupings and women's shop groupings. Each store complements the others by attracting shoppers with similar purchasing objectives. Moreover, a favorable buying mood is created because of the presence of many stores offering a wide range of goods.

A third type of grouping involves grouping for borrowed support.⁷ Many stores locate near department stores to benefit from the large number of shoppers they attract. Such stores sell goods similar to those available in the department store, and benefit from the overflow of shoppers not completely satisfied with the selection offered by the department store. To be successful, the smaller stores must be relatively similar in grade because shoppers generally will not compare goods in stores of varying grade.

III. PRINCIPLE OF RETAIL LAND USE COMPATIBILITY

The foregoing discussion establishes the basis of the principle of retail land use compatibility. To date, relatively little research has been concerned with retail land use compatibility. The only notable research found regarding this topic was conducted by Richard L. Nelson.⁸ Nelson

⁷Ibid.

⁸Richard L. Nelson, The Selection of Retail Locations, (New York: F. W. Dodge Corporation, 1958), pp. 66-78.

indicates that, "the measure of compatibility is the degree to which the two businesses interchange customers."⁹

Nelson studied several hundred business districts and shopping centers as well as more than 10,000 individual shopping trips. On the basis of this study, he found that, "there is a direct relationship between the rate of interchange in two establishments and their business volumes."¹⁰

The results of the study facilitated the formation of Nelson's rule of retail compatibility:

Two compatible businesses located in close proximity will show an increase in business volume directly proportionate to the incidence of total customer interchange between them, inversely proportionate to the ratio of the business volume of the larger store to that of the smaller store, and directly proportionate to the sum of the ratios of purposeful purchasing to total purchasing in each of the two stores.¹¹

A purposeful purchase is one made by a shopper who, when interviewed, states that a visit to the store was a major purpose of the shopping trip. Total purchases, of course, include incidental and impulse purchases as well.¹²

The rule is expressed by these relationships:

$$V = I(V_1 + V_s) \times \frac{V_s}{\bar{V}_1} + (P_1 + P_s) \frac{V_s}{(\bar{V}_1 \bar{V}_s)}^{13}$$

⁹Ibid., p. 66.

¹⁰Ibid.

¹¹Ibid.

¹²Ibid.

¹³Ibid.

in which:

V = volume of larger store (total purchasing)
 p = purposeful purchasing in larger store
 V = volume of smaller store (total purchasing)
 P = purposeful purchasing in smaller store
 V = increase in total volume of two stores
 I = degree of interchange.¹⁴

An example, explaining further the use of the rule is given in Appendix A.

In conjunction with business interchange, Nelson uses other factors to measure compatibility. These factors are negative since they tend to be detrimental to near-by retail stores. Nelson states that harmful interruptions in the traffic flow may be caused by:

(1) dead spots where a shopper loses interest in going farther (pedestrians dislike dead frontage); (2) driveways and other physical breaks in the sidewalk; (3) cross traffic, either vehicular or pedestrian; (4) areas that are identified with hazard, noise, odor, unsightliness, or other pedestrian-inhibiting qualities; (5) businesses which generate traffic in the form of trucks, public vehicles, private automobiles, or pedestrians who are not shoppers, and which tend, therefore, to create congestion; (6) businesses whose customers' average parking time is extremely long.¹⁵

Nelson constructed compatibility tables for four types of shopping districts, they are: (1) rural trading center; (2) neighborhood district or center; (3) shopper's goods center (the downtown of a medium-size community, a major outlying shopping district in a big city, or a

¹⁴Ibid.

¹⁵Ibid., p. 68

retail section of the central commercial district of a large city.

An analysis was conducted of more than 10,000 shopping trips in these four types of shopping districts and centers in all parts of the United States. Along with this, the records of many hundred different store types in different situations forms the basis of the compatibility tables. The tables account for two factors; "the incidence of interchange of business between store types and occurrence of impulse interruption."¹⁶ Business interchange was found through personal interview of shoppers determining where purchases were made for each shopping trip. The physical relationships were then noted for each shopping trip. Pedestrian traffic counts were used to determine impulse interruption.

The tables contain quite a complete list of retail uses and include many non-retail uses which are commonly found in shopping districts. The existence of many non-retail uses in retail areas is a result of zoning bylaws that allow such non-retail uses in broad business or commercial categories.

Five degrees of compatibility were formed by Nelson, they are: (1) highly compatible--10-20 per cent of the total

¹⁶Ibid., p. 69

customers of both establishments are interchanged (that is, this percentage visited both establishments); (2) moderately compatible--5-10 per cent customer interchange; (3) incompatible--negligible interchange; and (4) deleterious--one of the uses has a deleterious effect on the other use.¹⁷ The size of stores is not accounted for in the compatibility calculation. Only the level of interchange between stores is considered.

For the purposes of this study the compatibility table, shown as Table I, which was developed for the shoppers' goods center of a medium-size community, will be used. This particular table was chosen because it is the most useful in the analysis of retail compatibility in the CBD's of the selected British Columbia municipalities.

IV. RELATIONSHIP OF RETAIL LAND USE COMPATIBILITY TO PLANNING

Before the actual relationship of retail land use compatibility and planning can be adequately explained, it is necessary to place the downtown retail section in its proper planning perspective. In other words, the CBD itself must be discussed in terms of its present problems and possibilities. The problems are many. Congestion, blight,

¹⁷Ibid., p. 78.

TABLE I

RETAIL COMPATIBILITY TABLE--
MEDIUM-SIZED COMMUNITY

[illegible]

Source: Richard L. Nelson, The Selection of Retail Locations, (New York: F.W. Dodge Corporation, 1958), Table 8.3, p. 74.

the decline of the shopping function, and the erosion of the assessed values of the downtown area are the prime problems. The planning objectives have been basically the same for the revitalization of CBD's, namely: improved circulation and parking; elimination of blight; provision of new amenities in terms of aesthetics and convenience; unification in design and layout to prevent deterioration; and the improvement of the municipal tax base.

The difficulties encountered in attempts to improve the CBD lay in the fact that:

Downtown is slow to adjust to changing conditions. Because of its conflicting interest, its failure to achieve unified action downtown development lags behind rapid suburban development. Downtown real estate has the rigor of age; suburban real estate the flexibility of youth. Suburban properties because of their control by individual owners in large areas lend themselves to comprehensive development within a short two or three year period.¹⁸

The degree to which the CBD will be affected by suburban developments depends upon the extent to which the CBD takes action to protect itself against further suburban development.¹⁹ Although the CBD is in need of improvement, certain strengths of CBD are evident, such as:

. . . a better selection of merchandise, better selection of prices, more frequent bargain sales,

¹⁸Ross McKeever, Shopping Centers Re-studied, Part One--Emerging Patterns (Washington: Technical Bulletin No. 30, Urban Land Institute, May 1957), p. 14.

¹⁹Ibid.

better access to public transportation, and more convenient reasons for meeting their friends from other parts of the city for shopping trips, better eating facilities, and more errands that they can accomplish at a single time in the downtown business district.²⁰

Countering these strength of the CBD are the weaknesses that are associated with the convenience factor. For instance, the inconveniences caused by traffic congestion and the situation of limited parking spaces. The general belief today regarding the CBD is that its deficiencies must be eliminated and its advantages emphasized if it is to compete effectively with outlying shopping areas.

Where does the problem of the lack of retail land use compatibility enter? The improvement of retail land use compatibility in the CBD should be directly utilized in the struggle to halt the decline of the shopping function in the CBD and possibly to increase it. Improved retail compatibility would create a higher degree of convenience for the shopper in terms of shopping time. Distances for comparison shopping would be decreased. Also, greater retail store compatibility would provide other shopping amenities in terms of greater selection of types of consumer goods in close proximity offering a greater range in style, quality, color, size, and price. Thus, the planning objective of increasing retail compatibility would provide greater shopping amenities and increased shopping convenience.

²⁰Ibid.

V. SUMMARY

The principle of retail compatibility is recognized in the field of retailing even though relatively little research has been conducted on the subject. The only notable study found regarding retail compatibility was that of Richard L. Nelson.

More study of retail compatibility is desirable for planning purposes in CBD's. The improvement of retail compatibility should be one of the many objectives in CBD improvement.

CHAPTER III

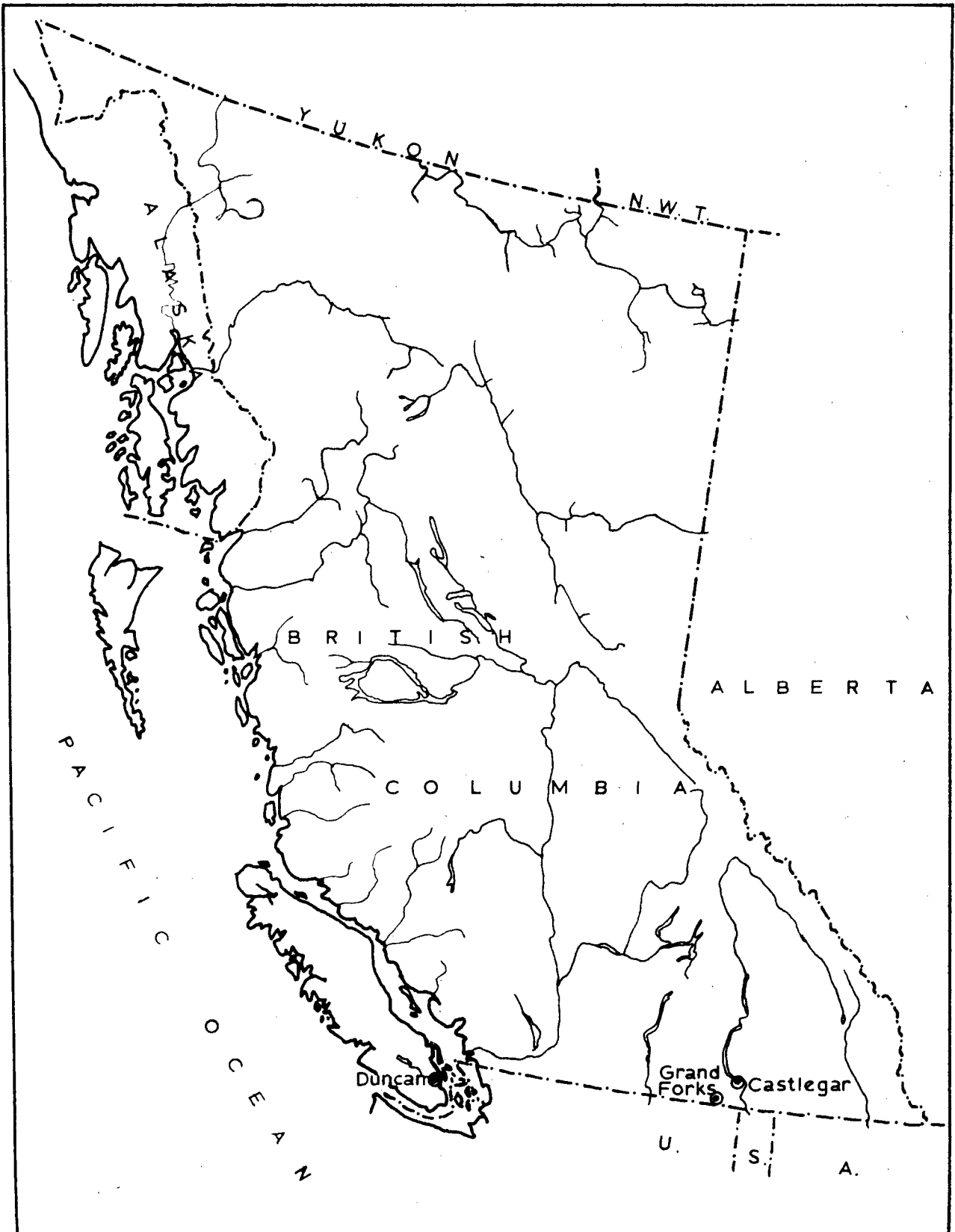
MEASUREMENT OF RETAIL LAND USE COMPATIBILITY- CASE STUDIES IN BRITISH COLUMBIA

The analysis in this chapter illustrates and explains the existing degree of retail land use compatibility in the selected British Columbia case study communities of Duncan, Grand Forks, and Castlegar shown on Map 1, page 21.

Purposes of this analysis are twofold. Firstly, it is imperative that the existing degree of retail land use compatibility be measured prior to determining what remedial action should be recommended if any. In other words, the extent and significance of the problem must be clearly analyzed and understood before a proper consideration can be given to the planning measures necessary to solve that problem. Secondly, poor retail compatibility has several causes which are revealed through the analysis presented in this chapter. Consideration of appropriate means to alleviate or eradicate these causes forms the basis of analysis in the remainder of the study. Obviously, these causes must be well understood before any planning recommendations can be made.

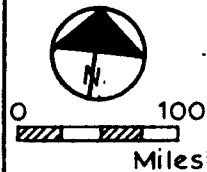
I. CASE STUDY MUNICIPALITIES

The case study municipalities were chosen on the basis of their similarity in relation to four criteria;



CASE STUDY MUNICIPALITIES

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Div. of Community
& Regional Planning
M.A. Thesis A. Merlo



April 1966

Map No.

1

regional centrality, population size, economic base, and transportation linkages. Because of a lack of time the study was restricted to the analysis of three municipalities. The three municipalities chosen for the case study are relatively similar in respect to the above criteria. Similarity on the basis of the four criteria is necessary before a practical comparison can be made. The basic elements of the comparison are shown in Table II on the following page.

The municipalities, being regional centers, satisfy the first criterion. Duncan is part of the District Municipality of North Cowichan and is the main center of employment and commerce of the Cowichan Valley.¹ Similarly, Grand Forks is the center of the Boundary region between the West Kootenays and the Southern Okanagan. Castlegar, being at the southern extremity of the Arrow Lakes as well as at the confluence of the Kootenay and Columbia Rivers is in a natural central location. Castlegar is the center of a region including the communities of Blueberry Creek, Brilliant, Krestova, Pass Creek, Renata and Robson. All three cities are centers of economic regions delimited in the Regional Index of British Columbia.²

¹Bureau of Economics and Statistics, Regional Index of British Columbia, (Victoria: Department of Trade, Commerce and Industrial Development, 1966), p. 299.

²Ibid., pp. 51, 107, 299.

TABLE II

CASE STUDY MUNICIPALITIES--ELEMENTS OF SIMILARITY

	Duncan	Grand Forks	Castlegar
Regional Centrality ^a	-Economic region center -Main center in School District No. 65.	-Economic region center -Main center in School District No. 12.	-Economic region center -Main center in School District No. 9.
Population (1961) ^b Estimated Dec. 31, 1964. ^c	3,726 4,100	2,347 2,600	2,253 2,750
Sectors of Economy ^d	1.Forestry 2.Service industries 3.Agriculture 4.Cement manufacturing 5.Commercial fishing	1.Forestry 2.Retail trade 3.Mining 4.Agriculture 5.Tourism	1.Forestry 2.Service industries 3.Trade 4.Tourism 5.Agriculture
Transportation facilities ^e	-Two-rail lines -Trans-Canada Highway -Ferry services	-Two-rail lines -Trans-Canada Highway	-One-rail line -Trans-Canada Highway -Airport (CPA)

^aBureau of Economics and Statistics, Regional Index of British Columbia, January 1966, pp. 51, 107, 299.

^bIbid.

^cBritish Columbia Department of Municipal Affairs, Municipal Statistics, (Victoria: Department of Municipal Affairs, 1964), pp. 10, 11.

^dOp. cit.

^eIbid.

The use of school districts can show further the centrality of the above municipalities. Duncan, Grand Forks, and Castlegar are the centers of School District Numbers sixty-five, twelve and nine, respectively.³ School districts are merely one index of regional centrality but are sufficient to prove that the principal cities are regional centers. The boundaries of the school districts may not coincide exactly with that of the particular region but will be approximately similar because of the restrictive nature of the terrain in the three areas discussed. In other words, the regions have been largely predetermined by natural features such as mountains and water bodies.

The three cities are comparable on the basis of population size even though Duncan is somewhat larger than Castlegar and Grand Forks. The prime consideration is that population size determines the range of goods and services available. The difference in population is not large enough to cause any great variance in the types of goods and services that are necessary. The main concern is to have municipalities that offer basically the same types of outlets. Although Duncan has more retail outlets than either Grand Forks or Castlegar, the types of business establishments are similar as shown by Table III on the following page. This table is comprehensive list of the types of land

3Ibid.

TABLE III
COMMON CBD BUSINESS ESTABLISHMENTS IN CASE MUNICIPALITIES

<u>Convenience Goods</u>		<u>Services</u>	
Drugs	*	Barber	*
Supermarket	*	Beautician	*
Bakery	*	Cleaner, laundry	*
Grocery	*	Glazing	-
Meat	*	Laundromat	G, C
Liquor	*	Medical Clinic	*
Hardware	*	Offices	*
Paint, Wallpaper	*	Real Estate	*
Books	*	Optometrist, Optical	*
Camera	*	Photographer	*
Candy	*	Post Office	*
Florist	*	Utility Collection	*
Gifts, Cards	D	Repairs, -cycle	D
Office Equipment	G	-household	*
Hobbies, toys	-	Shoe repair, shine	*
Gardening	-	<u>Auto Sales, Services</u>	
<u>Shoppers' Goods</u>		Car Dealer	D, G
Department Store	D, G	Auto parts, accessories	D, G
Apparel -children's	*	Auto repair	D, G
-family	*	Service Station	*
-men's	*	Used Car lot	D, G
-women's	*	<u>Miscellaneous</u>	
Hosiery, women's	*	Bank, financial	*
Lingerie	*	Bowling	*
Shoes, -family	*	Mortuary	G
-men's, boys	*	Theatre	*
-women's	*	<u>Other^a</u>	
Variety 5¢ & 10¢	*	Billiards	*
Jewelry	*	Motels	C
Furniture	*	Hotels	*
Dry goods	*	Residences	*
Knitting	D	Vacant Stores	*
Linens	-	Parking lots	*
Appliances	*	Vacant Lots	*
Bar, Tavern	*		
Drive-in Eating	-		
Eating, Drinking	*		
Tearooms	-		

Legend:

- * Use common to all three case municipalities.
- D Use existing in Duncan.
- G Use existing in Grand Forks.
- C Use existing in Castlegar.
- Use not existing in all three municipalities.

^aThe uses listed in this category are those not included in Richard L. Nelson's list shown in Table I on page 16.

uses found in CBD's of small communities and shows those uses common to all of the case municipalities.

The economic bases of the three case municipalities are similar in that the main sectors of the economies are similar. Forestry is the most important economic activity in all three areas while the service and retail activities are secondary.⁴ Other minor economic activities are shown in Table II. All three communities show promise of potential growth, thus, increasing the stability of the economies. Growth is expected in the forestry industries of Duncan and Grand Forks while it is likely that Castlegar will increase as a center of tourism and transportation.⁵ The construction of the Arrow Dam near Castlegar, which will provide employment for 650 men until 1968, must not be overlooked.⁶

All three communities are well served by railways and the trans-Canada highway. All three communities have railroad freight service while only Duncan has passenger service. The communities benefit by the bus and truck services that operate on all trans-Canada highways. Although, Duncan has ferry services available because of its coastal location and Castlegar operates an airport used daily by Canadian

⁴Ibid.

⁵Ibid., pp. 53, 107, 299.

⁶Ibid., p. 51.

Pacific Airlines the communities are quite comparable in regard to transportation linkages. The main point is that the three communities are served equally well by rail and highway which are the important transportation linkages in this class of community.

The foregoing analysis reveals that for all intents and purposes the three communities are similar enough to be practicably compared. The degree of retail compatibility in the CBD's of the three case municipalities obviously is not totally representative of the degree of retail compatibility in the CBD's of all British Columbia municipalities. Municipalities varying greatly according to the four criteria discussed will in all likelihood have the same problems related to retail compatibility but varying in extent. The problems that exist in larger CBD's could be expected to be greater in magnitude and more complex than those in smaller CBD's. It is highly unlikely that many CBD's, if any, would not have any of the problems that are discussed later in this chapter. The assumption is that the problems related to retail compatibility in the CBD's of the case study municipalities are similar to those found in the CBD's of other municipalities or cities of British Columbia.

II. METHOD OF ANALYSIS

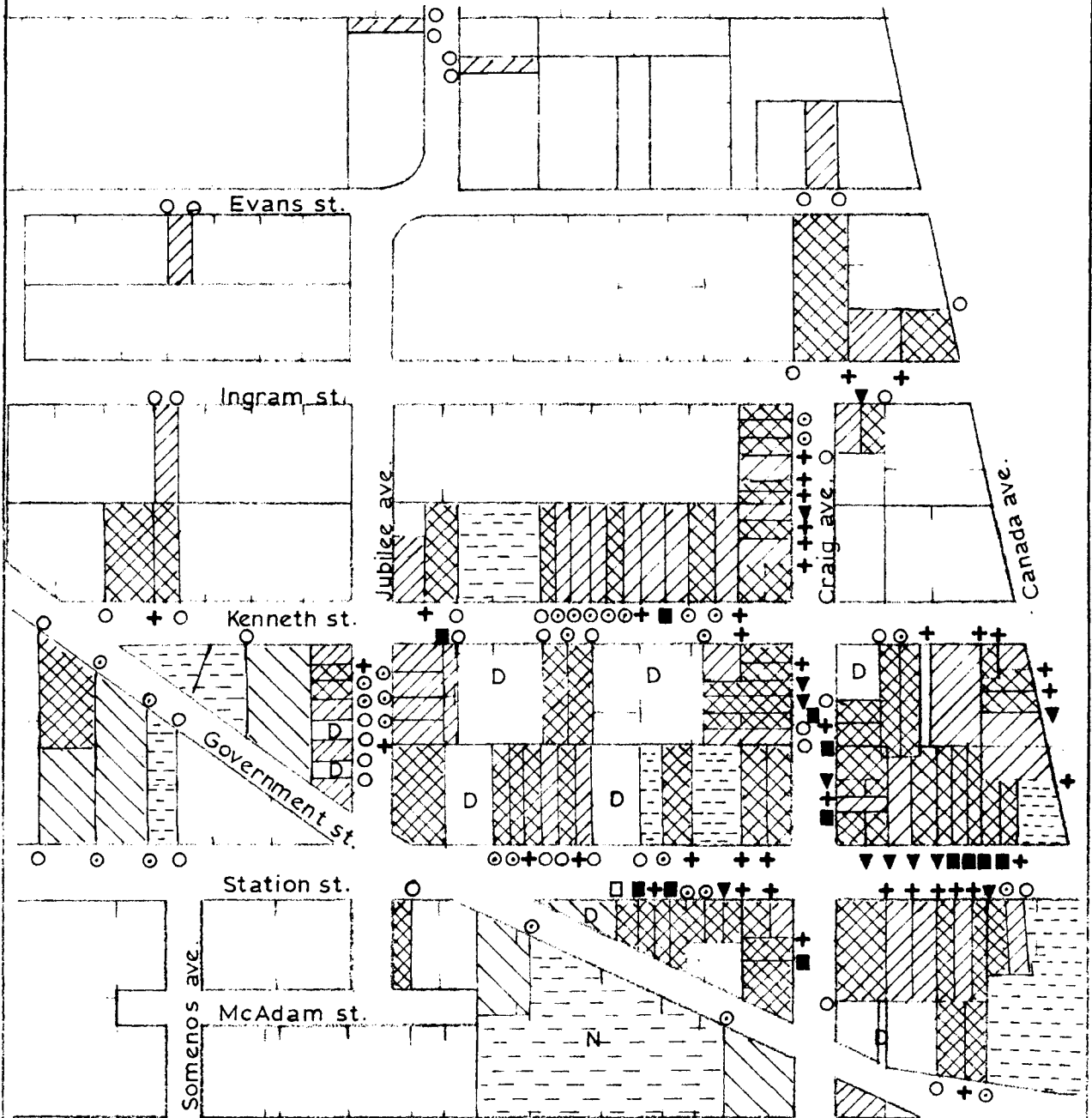
As mentioned in Chapter II, Richard L. Nelson's compatibility table for the downtown area of a medium-sized community, shown as Table I on page 16 is used in the analysis undertaken in this Chapter. The five symbols representing relative degrees of retail compatibility are used as well. Although the table has a large list of uses that are generally found in downtown areas, some very critical uses are not listed. The omission of residential uses, vacant retail stores and motels from the table has required the adoption of a sixth symbol. The adopted symbol (for uses omitted by Nelson) is equivalent in relative compatibility to his fifth symbol (deleterious), except that it is in the shape of a circle rather than a square. The lowest degree of retail compatibility given in this instance is justified on the basis of Nelson's definition of retail compatibility cited on page 12 of Chapter II. No interchange of customers would occur between a vacant store and any type of commercial use. A similar situation exists where residences and motels are adjacent to any commercial land use since the types of residences and motels found in the three municipalities studied have low densities. Thus the interchange for all intents and purposes is negligible.

Each symbol shown on Maps 2, 3, and 4 on the following pages represent the degree of compatibility between two adjacent uses. It is felt that it is not possible to illustrate effectively the degree of compatibility between uses that are separated by other uses. Besides, Nelson does not fully explain when two uses are in close proximity; this is necessary before commercial uses can have an effect upon one another.

A very small number of cases occurred where the effect of one store to another was more favorable than the converse, in effect they are not equally compatible. For example, a department store is highly compatible to a wool shop whereas a wool shop is moderately compatible to a department store. In such cases the highest degree of compatibility was designated.

The use of the symbols is not to be interpreted as the exact degree of interchange as cited by Nelson. Since the relationships are based on analysis of various cities in the United States they are not fool-proof in their application to the British Columbia municipalities. The classification is possibly the only and best one available for the purposes of this study. The object of their use is to provide an approximate measurement of the relative degrees of retail land use compatibility in the case study municipalities.

RETAIL COMPATIBILITY



LEGEND

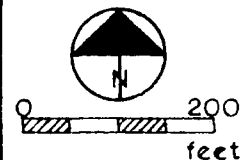
- highly compatible
- ▼ moderately compatible
- + slightly compatible
- incompatible
- deleterious
- deleterious (note p.28)
- D dead spots
- N nonconforming uses

- ▨ convenience & shoppers goods
- ▨ services
- ▨ automotive
- ▨ miscellaneous
- ▨ other

(note p.25)

CENTRAL BUSINESS DISTRICT
OF
DUNCAN B.C.

University of
British Columbia
Div. of Community
& Regional Planning
M.A. Thesis-A. Merlo

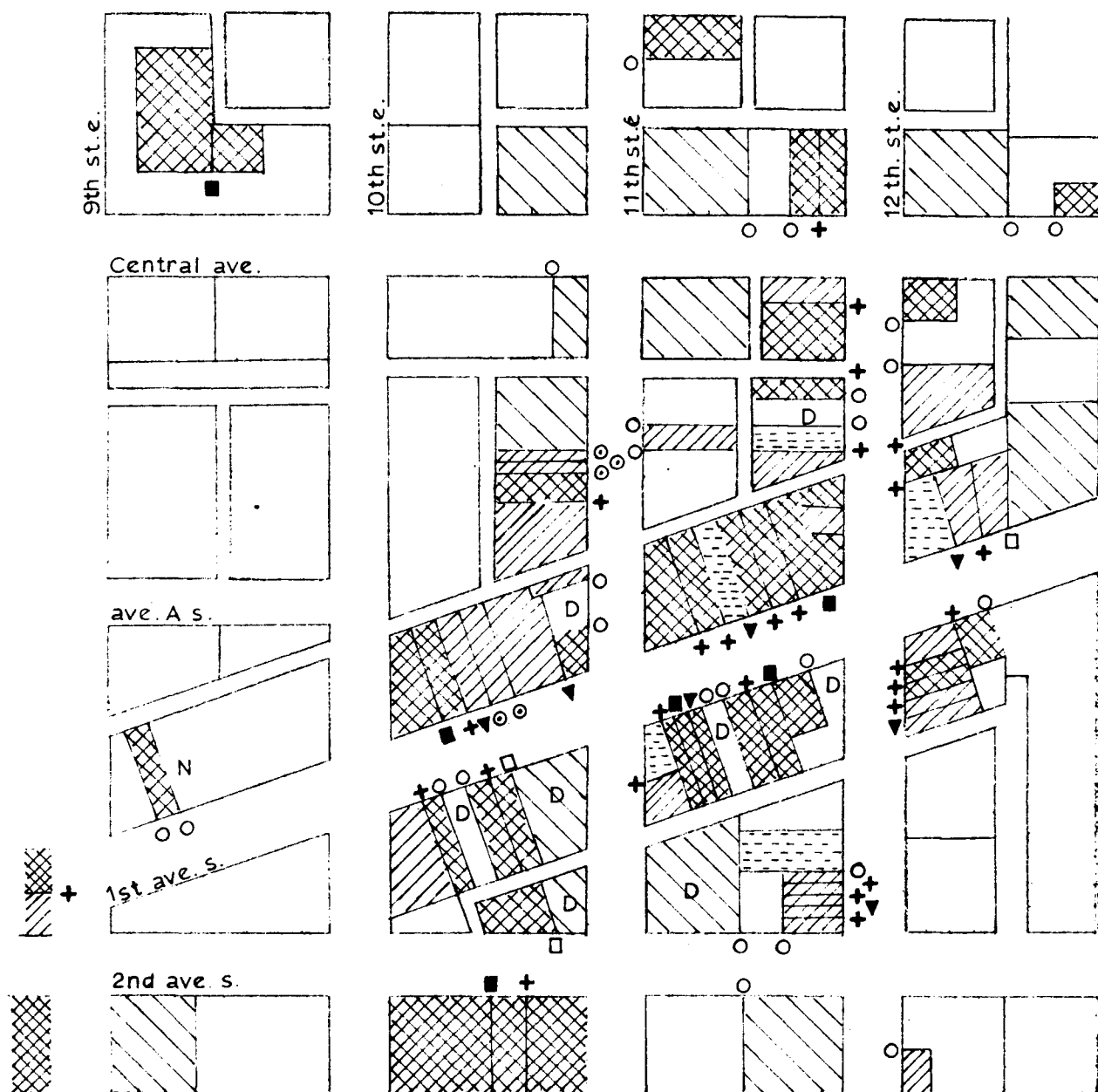


April 1966

Map No.

2

RETAIL COMPATIBILITY



LEGEND

- highly compatible
- ▼ moderately compatible
- + slightly compatible
- incompatible
- deleterious
- deleterious (note p.28)
- D dead spots
- N nonconforming uses

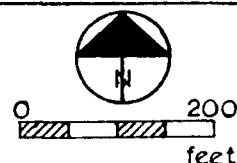
- convenience & shoppers goods
- services
- automotive (note p.25)
- miscellaneous
- other

CENTRAL BUSINESS DISTRICT
OF

GRAND FORKS B.C.

University of
British Columbia

Div. of Community
& Regional Planning
M.A. Thesis-A. Merlo

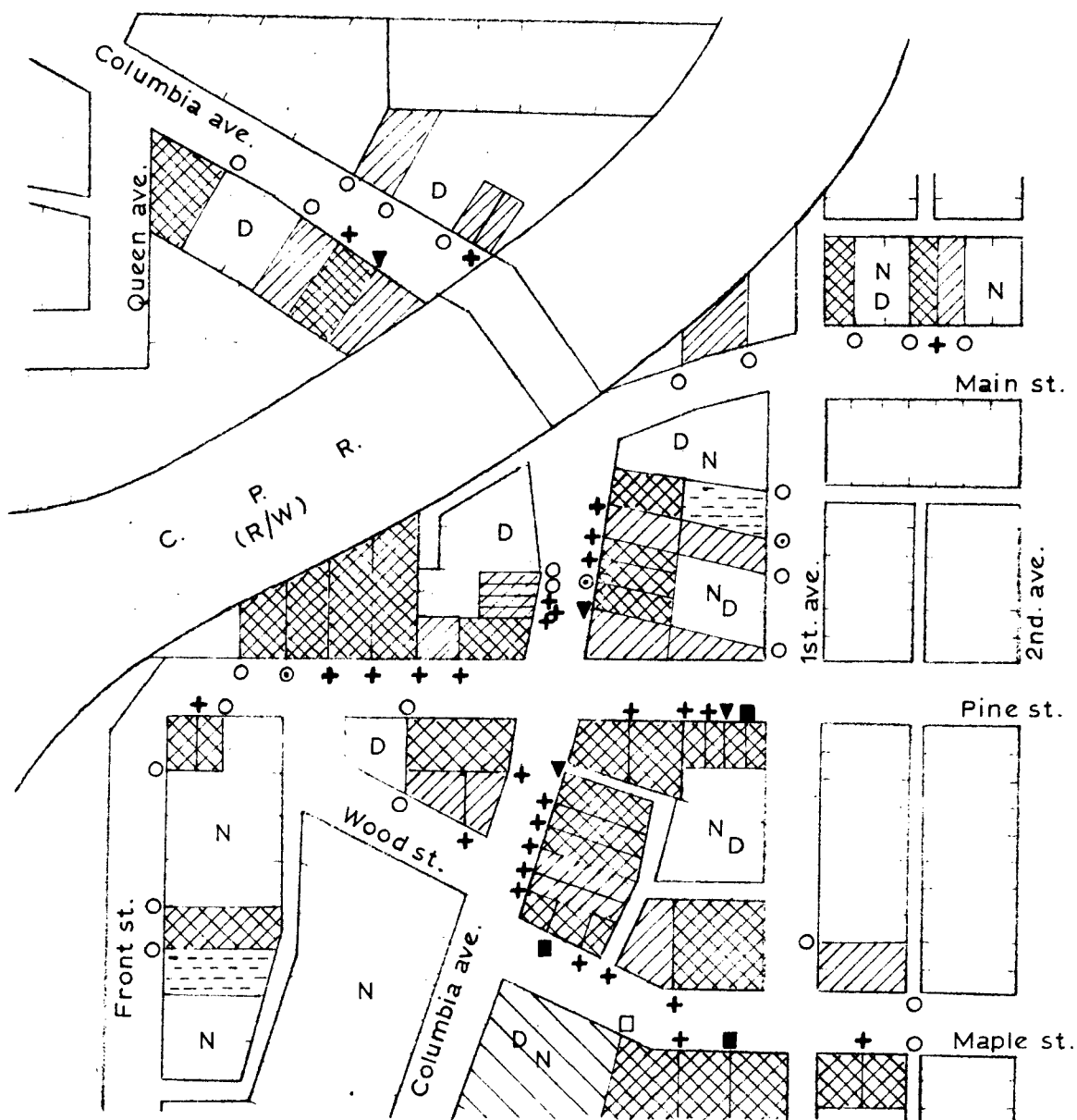


April 1966

Map No.

3

RETAIL COMPATIBILITY



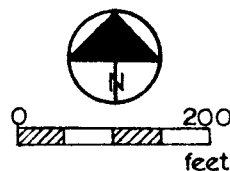
- highly compatible
 ▼ moderately compatible
 + slightly compatible
 ○ incompatible
 □ deleterious
 ○ deleterious (note p.28)
 D dead spots
 N nonconforming uses

LEGEND

- [Cross-hatched box] convenience & shoppers goods
 [Diagonal lines box] services
 [Horizontal lines box] automotive (note p.25)
 [Dashed lines box] miscellaneous
 [White box] other

CENTRAL BUSINESS DISTRICT
OF
CASTLEGAR B.C.

University of
British Columbia
Div. of Community
& Regional Planning
M.A. Thesis-A. Merlo



April 1966

Map No.

4

III. DEGREE OF RETAIL COMPATIBILITY

Before the degree of retail compatibility of each case municipality is analyzed individually, certain common characteristics affecting retail compatibility are discussed. Lack of compactness of the central retail areas and the existence of "dead spots" in the central retail areas are evident in the communities of Duncan, Grand Forks and Castlegar whose CBD's are illustrated on Maps 2, 3, and 4. Admittedly, the two characteristics exist in the case municipalities in varying degrees. Nevertheless, the causes of a lack of compactness and the causes of the existence of "dead spots" are similar in all three case municipalities.

Retail Compactness

It appears that a higher degree of retail compatibility is caused by a higher degree of retail compactness. The reason being that fewer incompatible or non-retail uses are located between retail uses when a high degree of retail compactness exists. Grand Forks is superior in this respect as compared with Duncan and Castlegar. In the latter two communities several retail uses are located scattered around the prime retail area which are separated by certain non-retail uses. The Canadian Pacific Railway right-of-way adjacent to the CBD of Castlegar separates

certain retail uses from the prime retail section situated around the intersection of Columbia Avenue and Pine Street. The results are that a poor degree of retail compatibility exists between the uses separated from and an opportunity has been lost for increased compatibility in the prime retail areas by the inclusion of these separated uses. In Duncan, retail uses are located north of Ingram Street and on McAdam Street as well as in the block bounded by Ingram Street, Jubilee Avenue and Kenneth Street. In total this accounts for fourteen retail uses that generally have a deleterious degree of retail compatibility with adjacent uses. Although Grand Forks is relatively more compact than either Duncan or Castlegar, the problem exists in Grand Forks as well. Four retail uses located at the intersection of Ninth Street East and Second Avenue South are remote from the prime shopping area which is located on First Avenue South between Tenth Street East and Twelfth Street East. Also, certain retail uses north of Central Avenue are remote from the prime shopping areas, not so much by distance as by heavy traffic along Central Avenue which is the Southern trans-provincial highway. Two of the above mentioned retail uses located on the block bounded by Ninth Street East, Central Avenue, and Tenth Street East are separated by distance as well as by traffic from the prime retail area. The locations of these two retail uses, a supermarket and liquor

store, are critical in regard to future retail compatibility. The strong drawing power of the two uses may have a tendency to attract other retail uses wishing to capitalize on the shopper traffic. Thus a minor nucleus could develop separately from the prime retail area. It is likely, in such an event, that retail compatibility would weaken since there would exist a greater opportunity for non-retail uses to locate between the two nodes of retail land uses than if a compact character were achieved.

Lack of compactness of the retail uses of a CBD can have several causes. Overzoning, high land values and broad central commercial zoning classifications can have a serious weakening effect on the attainment of a high degree of retail compactness.

The effect of overzoning for commercial purposes is summed up by the following:

The area and frontage zoned for commercial purposes in the entire city should not exceed by more than a reasonable margin what careful and realistic estimates indicate will likely be absorbed by business developments within the predictable future. The common practice of zoning too much property for business purposes results in a scattered type of development, depreciation of values, ruining of property for residential purposes in advance of its need for business, excessive expenditures for municipal services, and so on. For example, all of the frontage on major streets is sometimes regarded as potential business frontage. In most cities the lots along major streets represent about 25 per cent of the total developed urban area but only 2 to 5 percent is required for business purposes. Zoning a substantial portion of this frontage for business purposes ruins it for its only practicable purposes --

residential uses. Many cities have zoned from three to ten times as much frontage for business uses as will ever be required."⁷

Overzoning, as well as being detrimental to residential areas, is harmful to the compactness of retail areas. The possibility is greater for development of a scattered pattern of retail uses when a CBD is overzoned commercially than if the CBD is adequately zoned for commercial purposes as described above.

The influence of variations in land values in or near the CBD area on compactness of the retail core is quite evident. Retailers choosing a site may decide to locate two or three blocks from the prime retail area, favoring cheaper capital costs in land and buildings over greater potential sales volumes that are possible in or adjacent to the prime retail area.

It is conceivable that a central commercial zoning classification that permits many non-retail uses would not be conducive to obtaining a compact retail center. The adoption of such a zoning district would result in the encouragement of a mixture of land uses, thus limiting the degree of retail compactness which could be achieved.

⁷Mary McLean (ed.), Local Planning Administration, (Chicago: The International City Managers' Association, 1948), pp. 277-278.

"Dead Spots". The term, "dead spots", as used by Richard L. Nelson, (explained on page 13 of Chapter II.) is held synonymous with dead frontages. For the purposes of this study "dead spots" are vacant stores, non-retail uses and certain automotive uses in or near the prime retail areas. The inclusion of automotive uses as "dead spots" is justified on the basis of the incompatibility of the pedestrian and the automobile in relation to the shopping function.

All three of the case study communities have certain dead spots which are detrimental to adjacent retail establishments. The influence of such dead spots is readily evident upon analysis of maps 2, 3, and 4, of Duncan, Grand Forks, and Castlegar respectively. In all cases, the dead spots have a deleterious effect on their neighbors.

Dead spots are the effect of three causes; (1) over-zoning, (2) broad central commercial zoning classifications and, (3) the existence of nonconforming uses.

Over-zoning allows greater opportunity for dead spots to exist. The relationship of over-zoning to dead spots is similar to the relationship between over-zoning and a lack of retail compactness. A higher degree of compactness of retail uses would result in fewer dead spots.

Central commercial classifications that allow a wide range of land uses, many of which are non-retail uses, engen-

der the existence of dead spots in the prime retail areas. This is especially evident in the case of Duncan which has a very broad general business classification imposed on the CBD which allows virtually any use which is not of noxious nature.⁸ Basically the same situation exists in Grand Forks which has a very broad commercial classification.⁹ The effects are more evident in Duncan than in Grand Forks.

Castlegar does not have a broad commercial classification, rather, the core commercial classification includes several non-retail uses.¹⁰ Even so, dead spots do exist abundantly in the prime retail area in the form of non-conforming uses. It seems that Castlegar is in a more favorable position in this regard, gradual elimination of the non nonconforming uses in favor of conforming uses would increase retail compatibility.

How do the three CBD's rate in Relation to Retail Compatibility?

It is necessary to discuss the over-all retail compatibility of the three case study municipalities taking each one in turn. The CBD of Duncan shows promise in one respect and is disappointing in another respect.

⁸See Appendix B, page 120.

⁹See Appendix C, page 123.

¹⁰See Appendix D, page 126.

The business uses located near the intersection of Station street and Craig Avenue have the highest degree of retail compatibility. The hundred per cent location or the highest valued properties per square foot in the CBD are probably found in this location. There are few incompatible or deleterious relationships in this area. The relationships in most instances range from slightly compatible to highly compatible. An exceptional series of moderately compatible and highly compatible uses are found on the north side of Station Street bound by Craig and Canada Avenues. The remainder of the CBD exhibits primarily incompatible and deleterious relationships with some slightly compatible uses and virtually no moderately or highly compatible uses. The reasons for this have been expressed in the foregoing sections discussing compactness and dead spots.

Grand Forks, like Duncan, shows promise although the same degree of retail compatibility has not been achieved in the prime retail area. The frontages along First Avenue South bounded by Eleventh Street East and Twelfth Street East exhibit the highest degree of retail compatibility. Except for two dead spots which have deleterious effects on neighboring establishments, this area ranges from slightly compatible uses to highly compatible uses. The frontages on First Avenue South bound by Tenth Street East and Eleventh Street East do not attain the same degree of compatibility

as the previously mentioned frontages. Three dead spots in this area are seriously harmful.. The replacement of these dead spots by suitable retail uses would raise the degree of retail compatibility considerably. The remainder of the uses are seriously affected by a lack of association to other retail uses. The existence of dead spots and non-retail uses interspersed between the remainder of the retail uses is noticeably harmful.

Basically the same situation is evident in Castlegar as in Duncan and Grand Forks. The highest degree of retail compatibility is found between the stores on the east side of Columbia Avenue bounded by Maple Street and Pine Street. The range is from slightly compatible to highly compatible. The remainder of retail uses are hampered by the deleterious effects of dead spots and nonconforming uses. Some slightly compatible uses are found in the block bound by Pine Street, Columbia Avenue and the Canadian Pacific railway right-of-way.

IV. SUMMARY

The analysis of retail compatibility presented in this chapter reveals that the CBD's of the case study municipalities are relatively equal in their degrees of retail compatibility. All three municipalities have prime retail areas located within the CBD where retail

compatibility, in general, ranges from slightly compatible to highly compatible. In each case, the degree of compatibility in the area surrounding the prime retail intersections or areas leaves much to be desired. The degrees of retail compatibility in the surrounding areas are mostly deleterious, with a few instances showing slight compatibility.

The four main causes of poor retail compatibility are: overzoning; broad CBD commercial zoning classifications; existence of nonconforming uses; and the fact that property values are lower in the periphery of the CBD's than in or near the prime retail areas. A lack of compactness and the existence of dead spots are the results of the above causes which in turn are detrimental to retail compatibility.

All of the above causes are not analyzed in the remainder of this study due to limitations in time. Analysis is not made of overzoning and property values in the CBD's of the case study municipalities.

CHAPTER IV

COMMERCIAL ZONE RECLASSIFICATION

This chapter shows the relationship between reclassification of commercial zones and CBD retail land use compatibility. The main purpose of this chapter is to analyse the possibilities of reclassifying commercial categories found in selected municipal zoning bylaws in British Columbia. The purpose of reclassification is to achieve a higher degree of retail compatibility.

I. RELATIONSHIP OF ZONING AND RETAIL LAND USE COMPATIBILITY

An important objective of zoning is to protect certain areas from the encroachment of undesirable land uses. Originally, such protection was felt necessary primarily for residential areas. Little consideration was given to other uses, --such as retail business zones. The objective of zoning for protection is as applicable to retail areas as it is to residential areas, even though this concept has not been widely implemented.¹ The place of zoning in achieving retail land use compatibility is that:

It is a mechanism for long-term re-grouping of compatible uses, in which various types of retail business zones will be made up of businesses which are comple-

¹Richard L. Nelson, Frederick T. Aschman, Conservation & Rehabilitation of Major Shopping District, (Technical Bulletin No. 22, Washington: Urban Land Institute, February, 1954), p. 35.

mentary to each other (as in customer-interchange) or at least are not adverse to the proper functioning of a district (as in the case of businesses which are "dead spots", so far as other businesses are concerned.) If proper zones are established, it is then possible that over a period of time many incompatible uses may gradually disappear or be relocated in more proper areas.²

II. CLASSIFICATION OF RETAIL BUSINESS USES

Classification of retail business uses involves grouping together compatible uses and separating uses which are not compatible or in other words, uses which are deleterious to one another. This results in a list of categories much too large for practical use in a zoning bylaw. The long list must be consolidated into fewer districts before they can be properly administered in the form of a zoning bylaw. Since all cities have individual characteristics, a thorough analysis would be required to determine the most suitable number of districts and their composition. Reclassification or classification should be based on the following:

Classification should be so arranged as to result in the grouping together of those establishments which will draw trade which is mutually interchangeable. Where the introduction of an establishment would create a "dead spot", it should insofar as possible be given separate classification.³

²Ibid.

³Ibid.

III. COMMERCIAL CLASSIFICATIONS OF CASE STUDY MUNICIPALITIES

Before any recommendations for reclassification of retail business zones can be made, it is necessary to establish the nature of the commercial classifications that exists in selected British Columbia municipalities. For this purpose, the commercial zone classifications of Duncan, Grand Forks, and Castlegar are analyzed. Analysis is restricted to those districts designed for the CBD area.

The zoning bylaw of the City of Duncan provides two types of commercial districts, --local shopping districts and general business districts. The general business district, which applies to the CBD of Duncan, allows a wide range of commercial uses. This bylaw is a prohibitive bylaw, allowing all uses except certain specified uses which are of the noxious industrial variety, as shown in Appendix B. This bylaw, besides allowing a wide range of commercial uses, allows many non-commercial uses, such as dwellings, that are not of the noxious industrial variety. It is unlikely that such a classification would promote a high degree of retail land use compatibility. No attempt has been made to group mutually complementary uses and to segregate incompatible or deleterious uses.

The zoning bylaw of the City of Grand Forks is similar to that of Duncan in that it provides for two types

of commercial districts, --local shopping districts and general business districts. The general business district permits uses allowed in residential districts, local commercial districts and several other commercial uses, as shown in Appendix C. In effect, basically the same situation exists in Grand Forks as in Duncan in regard to retail business classification.

The zoning bylaw of Castlegar allows for six commercial classifications.⁴ A local commercial classification allows convenience type businesses. The core commercial classification allows a retail-service group of businesses which offers for sale or repair household or personal goods and personal services. Hotels are also permitted while dwellings are not. A service commercial classification allows the latter retail-service group as well as a second retail-service group of businesses which offers for sale or service any goods that require access by automobile.⁵ The grouping together of compatible uses is attempted as revealed by the classifications. An attempt has been made to separate uses that cater to automobile traffic and those that cater to pedestrian traffic. Another classification, service station commercial, allows the second retail-service group and uses that offer for sale motor fuels or

⁴See Appendix D, page 126.

⁵Ibid.

lubricating oils with or without minor repairing of motor vehicles or the sale of motor vehicles accessories. The service station commercial classification also permits tourist accommodations. There are also two service tourist commercial classifications which permit tourist accommodations and accessory one-family dwellings, the difference between the two being that one allows for trailer sales while the other does not.

The Castlegar commercial classification is much more sophisticated than either that of Grand Forks or Duncan. The fact is that the Castlegar zoning bylaw, adopted shortly after June 1965, is a result of a recent planning study conducted for Castlegar by a town planning consulting firm.⁶ The previous zoning bylaw of Castlegar specified just one commercial classification allowing office uses, commercial uses and residential uses when in conjunction with permitted commercial uses.⁷ The uses included by the terms "office uses" and "commercial uses" were not specified. It is obvious that the latter classification has had more of an effect upon the existing state of retail compatibility than the recently adopted

⁶Formerly Rawson & Williams Co. Ltd, Vancouver B. C., presently Rawson & Wiles Co. Ltd. Vancouver, B.C.

⁷The Corporation of the Village of Castlegar, Bylaw No. 242. p. 5.

classification since it was in effect much longer.

There has not been an attempt in either Duncan or Grand Forks to group compatible uses in the CBD areas through the use of zoning classifications. Both existing general business classifications, applicable to the CBD's of Duncan and Grand Forks, are very general, allowing a variety of uses. Such broad classifications are not conducive to retail compatibility.

Dwellings are one of the uses permitted without any restrictions in the CBD commercial zones of both Duncan and Grand Forks. Here again, the Castlegar Bylaw reflects greater understanding of the problems of retail compatibility. Dwellings are not permitted in the core commercial zones, service commercial zones and service station commercial zones of Castlegar but are permitted as accessory uses in the local commercial zones and service tourist commercial zones. The exclusion of residences from the CBD commercial areas eliminates the chances of residences creating "dead spots".

IV. EXCLUSION OF RESIDENTIAL LAND USES FROM THE CBD

Before zoning classifications are discussed to improve retail compatibility in CBD's, a policy regarding dwellings in the business zones must be established. The policy of excluding dwellings from business zones is

spreading.⁸ The situation in regard to permitting dwellings in business zones may be summarized by the following:

Dwellings in business zones are of several varieties. Some are located above stores, others are located in separate buildings. Homes above stores do not interfere with the business carried on below, but the dwellings are bound to be affected by their location. Closely knit groups of stores and the transportation lines conducive to good business leave little room for light, air, and open space necessary for residential uses--dwellings, schools, playgrounds. What is good for business is not necessarily good for family life. Traffic, noise, heat, dust, and dirt from the streets in a business section are detrimental to home life and the rearing of children. Residential uses that are not part of business structures break up business districts and create dead spots that reduce the close interaction of business activities. Intruding uses cause undue scattering of businesses which in turn slows down movement of goods and people. Free standing dwellings are also affected by a business district environment.⁹

A special case is presented in the case of residential land use because, as indicated above, they break up retail frontages and sometimes create "dead spots". The adverse effects on dwellings in the CBD's of Duncan, Grand Forks and Castlegar are not nearly as extreme as described above. The quotation describes the situation existing in much larger cities where the detrimental effects are considerably greater. However, residences do break-up retail

⁸American Society of Planning Officials, Exclusive Industrial and Commercial Zoning, (Chicago: Information Report No. 91, Planning Advisory Service, American Society of Planning Officials, October 1956.) p. 22.

⁹Ibid.

frontages and create dead spots in Duncan, Grand Forks and Castlegar. For the purposes of improving retail compatibility it would be desirable to disallow residential land uses in the commercial zones of CBD's. This would be met with severe criticism in small communities because a relatively high percentage of people would be affected as compared to large cities. As indicated previously, the adverse effects on dwellings in small CBD's is not harmful. At least it is not harmful enough to prevent a high percentage of people from choosing to live there. In view of this fact the policy taken is a compromise. Dwellings should be allowed in the CBD's of Duncan, Grand Forks, and Castlegar if the dwellings are of an accessory nature. Also dwellings may be permitted on a conditional basis.

V. MODEL ZONING ORDINANCES - WHAT CBD COMMERCIAL CLASSIFICATIONS?

Before any recommendations can be made concerning proper CBD commercial classifications for the case study municipalities, a review of classification attempts is necessary. A review of the available model zoning ordinances is made in an effort to determine the generally accepted planning principles, if any, that are related to CBD commercial classifications. The difficulty of recommending classifications is related to the fact that the

number and types of districts to be included in a zoning plan depends upon the size and characteristics of the community and that no generalizations can be made in this respect.¹⁰ Regardless of the limitations, it is felt that there is some evidence of general agreement regarding the nature of the various classifications of CBD commercial areas. Most of the uncertainty in classifying CBD commercial areas is in determining the number of zones in relation to population size of the particular urban area. The problem of classifying CBD commercial areas is made up of two aspects; number of classifications, and the nature or make-up of the various classifications, both of which are directly interrelated.

Generally, the larger the population of a city, the larger will be the number of commercial classifications in the CBD commercial area. This fact is borne out by the analysis of several model zoning ordinances. Even though this fact is readily apparent, many discrepancies exist. For example, some model zoning ordinances specify the same number and types of CBD commercial classifications for specific communities that vary markedly in population sizes. Table IV on page 51 shows this point. Four classifications are recommended for the CBD's of the urban areas in Jackson

¹⁰Murlin R. Hodgell, Zoning, (Manhattan: Kansas Engineering Experiment Station, Bulletin 84, Vol. XLII, No. 6. Kansas State College, April 1, 1958), p. 40.

TABLE IV
RECOMMENDED ZONING CATEGORIES FOR CBD
--MODEL ZONING ORDINANCES

Area	No. of Muni- cipa- lities	Popula- tion Range	Average Popula- tion size	Zones related to CBD	
				No.	Description
Hood River County, Oregon ^a	2	660- 3,657	2,158	1.	General
Jackson County, Oregon ^b	6	764- 24,425	6,440	4.	1. Retail business and ser- vices 2. Heavy Commercial 3. Office Commercial 4. Thoroughfare Commercial
State of Kansas ^c	--	5,000- 15,000	10,000	1.	1. General
Stanislaus County, Californ- ia ^d	15	1,109- 36,585	5,683	3.	1. Offices 2. Retail, services and wholesale and offices 3. Commercial-light manu- facturing
A general recommendation for "small towns". ^e				3.	1. Retail, offices, service 2. Wholesale, warehousing, repair shops 3. Drive-in establishments

Sources:

^a. Bureau of Municipal Research and Service, Uniform Zoning Ordinance for Hood River County and the Cities of the County, University of Oregon, April 1963, pp. 10-11.

^b. Bureau of Municipal Research and Service, Zoning Ordinance Pattern, University of Oregon, December 1962, pp. 4-5.

^c. Murlin R. Hodgell, Zoning, (Manhattan: Kansas Engineering Experiment Station, Bulletin 84, Vol. XLII, No. 6. Kansas State College, April 1, 1958), p. 40.

^d. William E. Spangle Jr., Model Zoning Ordinance, (Menlo Park, California: Stanislaus Cities-County Advance Planning Staff, January 4, 1960), pp. 87-97.

^e. Richard L. Nelson, Frederick T. Aschman, Conservation and Rehabilitation of Major Shopping Districts, (Technical Bulletin No. 22, Washington: Urban Land Institute, February 1954), pp. 41-42.

County, Oregon. These urban areas range in population from 769 to 24,425. It is unlikely that the classification is equally suitable for all of the towns, indeed, it may not be suitable at all for some towns of a certain size. This situation exists with respect to the other model zoning bylaws shown on Table IV, especially in the case of the model zoning bylaw recommended for Stanislaus County, California, which has a town population range of 1,109 to 36,585. Another discrepancy becomes evident when comparing the recommendations of various model zoning bylaws. In some instances more classifications are recommended for communities that are smaller than other communities. For example, one general CBD commercial zone is recommended for towns between 660 and 3,657 population in Hood River County, Oregon, while four CBD classifications are recommended for towns between 769 and 3,657 population in Jackson County, Oregon. Other similar situations are observable in Table IV.

There are no standards that relate population size to numbers and types of commercial zones. General standards based on functional relationships between population size and the types of commercial classifications would be very useful as general guidelines in drafting CBD commercial classifications. An exhaustive survey, beyond the scope of

this study, would be necessary to attempt formulation of such standards. The task of determining the favorable number of classifications for a particular CBD is made more difficult by the inconsistency revealed in the recommendations of the various model zoning bylaws.

As indicated previously, the number of classifications and the nature or make-up of the classifications are inter-related. The number of classifications is directly dependent upon the degree to which various use groups should be segregated. The experience of Chicago's rezoning project can serve as an example for clarification.¹¹ At the outset of the study twenty-three classifications were specified.¹² Each classification consisted of a group of business uses which were economically and mutually compatible. The twenty-three categories did not represent a classification which could be directly applied to a zoning ordinance. This was considered administratively impossible and also the factor of existing practice was considered to be too great to permit an arbitrary classification on the basis of pure economic compatibility.¹³

¹¹Richard L. Nelson, Frederick T. Aschman, Conservation and Rehabilitation of Major Shopping Districts, (Technical Bulletin No. 22, Washington: Urban Land Institute, February, 1954), pp. 36-42.

¹²See Appendix E, page 129.

¹³Nelson, op. cit., p. 40.

The result was that the twenty-three classifications were synthesized into six major divisions which could be worked into the zoning ordinance, many of the classifications being absorbed by non-business districts.¹⁴ The new categorization had to consider "lack of economic harm" as well as that of economic benefit.¹⁵

The same approach would be useful in preparing business classifications for Duncan, Grand Forks and Castlegar, although two factors would tend to reduce the number of classifications for such small towns as compared to larger cities, they are:

1. The geographic areas of business are small and not as many business classifications are needed--would merely become confusing.
2. The shopping areas in most small towns are rural trading centers. This means that substantial proportion of their business comes from farm areas--from people who make relatively infrequent trips but of longer duration. To these people a theatre and tavern may be essential attractions of the same business district.¹⁶

Table IV gives an indication of the various categorizations of businesses recommended for zoning purposes in CBD's. The main groupings in general seem to be:

1. Retail businesses and services
2. Office commercial
3. Wholesaling
4. Highway-Oriented uses

¹⁴Ibid.

¹⁵Ibid.

¹⁶Ibid., p. 41

On the basis of the twenty-three categories formulated in the Chicago study and the four main general groupings above, classifications are listed which represent compatible categories of the types of uses found in smaller urban areas. The two factors cited above were kept in mind when formulating these categories. These categories are not recommended for adoption into a zoning bylaw. This list merely represents the compatible groupings which should be analyzed prior to consolidation into zoning bylaw form.

1. Retail Businesses:¹⁷

Group I.

Includes those types of businesses whose customers are mutually interchangeable, in other words, those types of businesses that are compatible with one another.

Bakery goods stores	Cosmetic stores
Book stores	Custom dressmaking stores
Banks	Currency exchanges
Beauty parlors	Camera shops
Barber shops	Clothes cleaning agencies,
Branch post offices	pressing establishments
Cigar stores	or cleaners pick-up stations
Confectionery and	Drug stores
Candy stores	Delicatessens
Diaper service stations	Music conservatories,
Dry goods stores	music schools and
Department stores	musical instrument stores
Electric appliances and	Notion stores
radio stores	Photographic supply shops
Fruit and vegetable	Paint stores
stores	Restaurants

¹⁷Ibid., pp. 37, 38.

Frozen food stores	Ready-to-wear shops
Furriers	Retail florists (without
Grocery stores	nurseries or greenhouses)
Gift shops	Super marts
Hardware and paint stores	Shoe stores
Haberdasheries	Shoe repair shops and
Household appliance stores	shoe shining
Heating equipment	Studios (photographic)
showrooms	Stationery stores
Hat repair	Sporting goods
Interior decorating and	Toy stores
furniture stores	Travel bureaus
Jewelry stores with	Tailor, clothing and
watch and clock repair	wearing apparel shops
Launderettes	Tearooms and cafes
Laundry agencies	(excluding dancing
Leather goods and	and entertainment)
luggage stores	Tire and auto accessory
Liquor stores (package)	stores where there is
Loan offices	no break in the side-
Meat markets	walk)
Millinery shops	Variety stores

Group II.

The businesses in this group have minor interchange of customers from group I. These uses are included with the uses of group I. In smaller urban areas such uses do not occur in large enough numbers to warrant segregation. In larger cities segregation of group II uses may be warranted on the basis of unattractive appearance, and nuisances in operation.

Antique shops	Live bait stores
Art stores and art studios	Masseur salons
Bird stores	Orthopedic and medical
Boat showrooms	appliance stores
Coin and philatelic stores	Pawnshops
Costume rental shops	Pet shops
Fuel stores, building	Public baths
material and lumber	Picture framing
stores (where the	Reducing salons
operations take place	Retail feed stores
inside a single building	Second-hand stores and
only)	rummage shops
Garden supplies	Taxidermists

2. Entertainment Facilities¹⁸

There is little interchange between entertainment facilities and retail stores. These establishments represent a different time and category of economic action.

Bowling alleys	Shooting galleries
Billiard and pool halls	Penny arcades
Dance halls and studios	Skating rinks
Night clubs, Show clubs	Taverns, Bars
Supper clubs	Hotels
Restaurants	Theatres

3. Offices

There is little interchange of trade between offices and other types of business establishments except that the office employees are customers of adjacent shops and eating establishments.

Medical Offices	Clinics
Dental offices	Professional and
Administrative and	Business offices
Editorial Offices	Public offices

4. Highway-oriented Uses

This category provides for those commercial uses that are appropriate to highway or thoroughfare locations and are dependant upon vehicular travel.

Auto service stations	Boat and Trailer sales
New and used car lots	Motels and Hotels
Drive-in auto wash	Tourist courts
Restaurants	Trailer camps
Drive-in eating places	

5. Heavy Commercial District

This district is designed to provide a location for the necessary heavy commercial uses and services. The uses are parallels to the retail businesses in that there are functional linkages between the two categories.

¹⁸Ibid., p. 39.

Wholesale business	Plumbing and heating shops
Storage	Bakery
Warehousing	Bottling plants
Automobile and truck repair	Cleaning and laundry
Building material sales	establishments
yards	Glass cutting and glazing
Contractor storage yards	establishments
Carpentry shops	Sign painting shops
Upholstering shops	Soldering and welding shops

It is questionable whether or not the five categories listed would be useful classifications in urban areas the size of Duncan, Grand Forks and Castlegar. Perhaps there are too many categories and these should be consolidated on the basis of the two reasons cited on page 54. At this point, when deciding the number of classifications, one finds that no empirical data or techniques are available. As mentioned previously, the main classifications or compatible groupings are generally agreed upon but the number of classifications in relation to population sizes are not. Because of a lack of generally accepted standards, and due to inconsistency between model zoning bylaws it is not possible to make a definite recommendation for Duncan, Grand Forks and Castlegar that is completely free from value judgement. Regardless of this, a recommendation in view of all the facts presented is desirable--the most reasonable consolidation would be to group retail businesses, entertainment facilities and offices together leaving the highway-oriented category and the heavy commercial group as they are.

VI. ANALYSIS OF QUESTIONNAIRE RESPONSES ON POLITICAL ACCEPTABILITY OF RECLASSIFICATION

The questionnaire shown as Appendix F was used for interviewing members of the municipal councils of Duncan, Grand Forks, and Castlegar. The purpose of the questionnaire is to determine the political acceptance of the recommendations expressed in this chapter. Recommendations can be suggested but they must be politically feasible or acceptable before they can be implemented.

The questionnaire is designed to determine the attitude of individual municipal councils' towards retaining dwellings in the CBD, in other words, to what degree would dwellings be allowed in the CBD by the individual councils. The main purpose of the questionnaire was to obtain the individual municipal councils' reaction to the CBD zoning classification system proposed in this chapter. Replies from the city clerks were sought free of bias that could be caused by the influence of the existing zoning regulations.

A questionnaire form was sent to each of the members of the municipal councils of Duncan, Grand Forks, and Castlegar. Out of the five members of the Duncan council (one mayor and four aldermen) three replies were received. In Grand Forks, four replies were received from a council of one mayor and six aldermen and in Castlegar two replies

were received from a council of one mayor and four aldermen. The mayors replied from each municipality.

The first question asks whether dwellings should be: permitted completely; allowed as accessory uses; allowed on a conditional basis; or disallowed completely. Not one member of any council is in favor of allowing dwellings in the CBD of their municipality without having some form of control or restriction. Two of the Duncan council members were in favor of disallowing dwellings completely while one member felt they should be allowed on a conditional basis. Both respondents of Castlegar felt that dwellings should be allowed in the CBD as accessory uses. The four replies from Grand Forks revealed that the responding council members were in favor of allowing dwellings on a conditional basis.

The replies of the Duncan and Grand Forks council members reveal dissatisfaction with their existing zoning regulations which allow dwellings in the CBD. It is quite likely that in the future the zoning regulations may change in this respect. The possibility of a change may be dependent upon the degree of planning which will take place for the municipalities. At present, planning for Duncan and Grand Forks is handled by private consultants. Only in recent years have the municipalities hired planning consultants. Castlegar is similar in that planning has been a recent occurrence. Nevertheless, Castlegar has had a general

plan study and a zoning study compelled by consultants. The replies of the Castlegar council members were in keeping with the regulations of the recently adopted zoning by-law regarding dwellings in the CBD indicating that they are satisfied with the existing regulations.

The second question asked whether or not the classification system shown on pages 55-57 is acceptable. This system is made up of five categories: retail business; entertainment facilities; offices; highway-oriented uses; and heavy commercial uses. The third question provided an alternative to the above classification system offering three categories whereby retail businesses, entertainment facilities, and offices, comprise one category; while highway-oriented uses and heavy commercial uses comprise the remaining two categories. A fourth question was designed to obtain each council member's views on other classification systems which they felt would be more suitable for their municipality. This was to be done in case they were not satisfied with the two alternatives given. Not one council member provided a response for this particular question.

The three respondents from Duncan stated that they would not accept the classification of five categories but would accept the classification consisting of three categories. The Mayor of Duncan commented that, "a certain amount of blending is desirable in a smaller city". This

statement reflects the two factors stated previously on page 54 which would tend to reduce the number of classifications in small towns.

Similarly, the four respondents of the Grand Forks council rejected the five category classification and accepted the three category classification. They did not identify reasons for their choice.

The two Castlegar respondents accepted both classification systems but unfortunately they did not indicate which system was preferable.

VIII. SUMMARY

Zoning may be considered as a mechanism for long-term re-grouping of compatible uses. Reclassification of existing zones in CBD's of municipalities may be necessary to achieve retail land use compatibility. Also, municipalities must give special consideration to dwellings in the CBD which are detrimental to retail land use compatibility.

No generalizations can be made in regard to the number of zoning categories desirable for the CBD's of Duncan, Grand Forks, and Castlegar. The construction of a commercial zoning classification system on the basis of compatibility would produce a list of categories which could not be directly applied to a zoning bylaw. Problems of administration would arise. In the case of the selected

municipalities, two factors would require the consolidation of a list of uses grouped together on the basis of mutual compatibility: many business classifications in small geographic areas of business are not needed and become confusing; because of the nature of shopping in small towns, a higher degree of "mix" of various commercial uses is needed.

As reflected by the responding council members, none of the municipal councils are in favor of allowing dwellings unrestricted in the CBD. This is an important finding, in that the existing zoning bylaws of Duncan and Grand Forks allow dwellings in the respective CBD's. The conclusion is drawn that a proposed bylaw restricting dwellings in the CBD would be acceptable.

Another important finding is that both the municipalities of Duncan and Grand Forks would react favorably to a proposal to reclassify the existing commercial zones. The number of zones they would permit is questionable but it is known that they would accept three categories. The replies of the Castlegar council reflect the regulations of the recently adopted zoning bylaw and it is unlikely that further changes would be acceptable or desirable.

CHAPTER V

ELIMINATION OF NONCONFORMING USES TO IMPROVE RETAIL COMPATIBILITY

This chapter describes the means available for eliminating nonconforming uses in general, with specific interest in CBD commercial zones. A general approach is necessary since the procedures for the elimination of nonconforming uses are applicable to all types of zones. The questionnaire section of this chapter deals specifically with the elimination of nonconforming uses in the CBD commercial zones or selected British Columbia Municipalities (Duncan, Grand Forks, and Castlegar).

The purpose of this chapter is to analyze the existing statutes of the British Columbia Municipal Act¹ that have to do with the elimination of nonconforming uses. The statutes involved deal with three main subject areas: zoning; expropriation; and the abatement of nuisances. Other legal means to eliminate nonconforming uses which are held constitutional in various parts of the United States are analyzed as well.

¹The British Columbia Municipal Act is an enabling act conferring the responsibility of municipal regulation from the provincial legislature to the municipal councils. The responsibility for making laws for municipal institutions are under the jurisdiction of the provinces as dictated under section 92 subsection 8 of the British North America Act of 1867.

As pointed out in Chapter III, some nonconforming uses are "dead Spots" in CBD commercial zones. The elimination of nonconforming uses which constitute "dead spots" would increase retail compatibility provided that they are replaced with compatible uses. The desired objective is not to eliminate all nonconforming uses but rather to eliminate certain detrimental land uses in relation to retail land use compatibility.

The statutes controlling the elimination of nonconforming uses are analyzed in respect to their effectiveness in the selected municipalities. Similarly, the acceptance by the selected British Columbia municipalities of the legal means used in various parts of the United States is studied.

I. ZONING PROVISIONS FOR THE ELIMINATION OF NONCONFORMING USES

The principle of zoning was developed before the rapid growth of metropolitan cities, the automobile era, and the technological revolution. The main concept of zoning was and still is that cities can be divided into "zones" or "districts" in which only certain types of compatible land uses are allowed; uses incompatible with them are not allowed. The first advocates of zoning, hoped that nonconforming uses would eventually disappear, but this has not been the case. Nonconforming uses have continued to

exist because they derive benefit from their monopolistic positions created by the zoning laws.

The zoning provisions contained in the British Columbia Municipal Act are representative of those provisions conferred by other provinces of Canada as well as by the individual states in the United States of America. The British Columbia statutes tend to protect the nonconforming use by avoiding harshness in their elimination. The statutes analyzed in this section are actually meant to control nonconforming uses with the hope that the control will eventually extinguish the use.² The basic doctrine in the law controlling nonconforming uses is that zoning cannot operate retroactively. Court decisions sanction this principle by recognizing the fact that the requirement of immediate elimination of existing nonconforming uses under a newly adopted ordinance places undue hardship on the individual. Thus, retroactive zoning applications have been held unconstitutional. Retroactive zoning as well as amortization are the direct methods of eliminating nonconforming uses. The British Columbia Municipal Act has provision for the typical in-

²Beverly J. Pooley, Planning and Zoning in the United States (Ann Arbor: Legislative Research Center, The University of Michigan Law School, Michigan Legal Publications, 1961), p. 105.

direct methods discussed in the following sections but not for the direct methods mentioned above.

Limitation on Expansion and Alteration

This method of eliminating or controlling nonconforming uses is permitted in the British Columbia Municipal Act, Section 705, Subsection 3.³ This statute restricts the expansion and alteration of nonconforming uses. Throughout the history of zoning this method has been recognized as legitimate. Two main theories have developed regarding what limitations may be placed on the extension of the existing use, they are:⁴

1. The first is that the use once instituted may be restricted to the boundaries of the original lot, but within this sphere must be allowed to increase by natural expansion.

2. The narrower theory is that the use as of the date of the zoning enactment describes the exact limits.⁵

The latter theory is represented in the British Columbia Municipal Act which means that no structural alterations may be made unless specifically allowed by the Zoning Board of Appeal.

³See Appendix G, page 142.

⁴University of Pennsylvania Law Review, Nonconforming Uses: A Rationale and an Approach (Philadelphia: University of Pennsylvania Law School, Vol. 102, 1953), p. 98.

⁵Ibid.

The rationale of the extension method is dependent upon the basic conflict of zoning that allows nonconforming uses to continue in order to protect present investment, encourage future investment, and to prevent economic waste. Limitations on expansion seem to encourage conversion to a conforming use without altering the original reasons for allowing the use. The owner is able to exploit the monopoly created by law but must relocate when expansion is required. The problem here is that most reasonable businessmen expect to be able to expand facilities when business warrants expansion. Therefore a strict limitation rule allowing for changes through the Zoning Board seems the most reasonable solution such as the provision in the British Columbia Municipal Act Section 705, Subsection 3.⁶

Discontinuance of Nonconforming Uses

The principle of discontinuance of nonconforming uses is provided for in the British Columbia Municipal Act, Section 705, Subsection 2.⁷ This is a common method of eliminating nonconforming uses through adoption of a bylaw which requires that if a use is discontinued for a specified period of time, the property must conform with the land use

⁶See Appendix G, page 142.

⁷Ibid.

zoning regulation when brought back into use. The stated period of time in the British Columbia Municipal Act is thirty days.

The reasoning behind this method is that once an owner shows that conformance to a zoning ordinance would not be an unreasonable demand the use is then required to comply with the ordinance. The courts agree that an owner, by discontinuance of the use for a specific time period reveals that conformance would not be unreasonable. In actuality, the courts have had difficulty in applying the provision to show discontinuance in various situations. This may be due to the manner in which the bylaw was drafted. A problem of interpretation arises as to what the word "discontinuance" means which is used in zoning ordinances. The courts have erroneously held that the meaning of the word "discontinuance" is synonymous with the meaning of the word "abandoned."⁸ Furthermore, the doctrine requires a voluntary, completed, affirmative act on the part of the owner.⁹ Abandonment requires the intent to abandon and some act or failure to act which implies abandonment.¹⁰ The passage of time alone does not necessarily indicate

⁸Op.cit., p. 100

⁹Ibid., quoting (or "citing") *Binghamton v Gartell*, 275 App. Div. 457, 90 N.Y.S. 2d 556 (3d Dep't. 1949)

¹⁰Ibid., quoting (or "citing") *Wood v. District of Columbia*, 39 A 2d (D.C. Mun. App. 1944.)

abandonment, since intent is of prime importance, but intent to abandon becomes easier to prove the longer the time period becomes. In determining the intent it must be known whether or not the building could still accommodate the use, and if the use has been changed. These two factors give considerable weight in determining the intent.

It is clear that the courts, through the doctrine of discontinuance have a desire to protect the nonconforming user. Protection is achieved by applying the narrow rules of abandonment of uses instead of applying the definite meaning of the word "discontinuance" as stated in the zoning provision. Correct interpretation of the bylaw is desirable in order to determine whether the community interest through the gradual elimination of nonconforming uses is greater than the community interest in the protection of abandoned nonconforming uses. The bylaw should define the term "discontinuance" so as to be absolutely clear of its meaning.

Seventy-Five per cent Rule

The provision of the British Columbia Municipal Act, Section 705, Subsection 4,¹¹ is related to the extension doctrine as well as the discontinuance method.

¹¹See Appendix G, page 142.

In the case where a nonconforming use is destroyed or damaged, the building inspector must ascertain whether or not the loss is up to or more than seventy-five per cent of the market value of the building above its foundations. If he decides that the use is damaged to this extent then the Zoning Board of Appeal is requested to review the decision and the reconstruction or repair of the property will not be permitted unless the new proposed use conforms with the existing land use zoning regulation.

It is doubtful whether or not many nonconforming uses are eliminated through the use of this provision. Nevertheless, destruction, either voluntary or involuntary, are very real occurrences and it is wise to recognize such opportunities to eliminate nonconforming uses. Once a nonconforming use is eliminated it can be replaced by a conforming use which presumably would increase retail compatibility.

II. EXPROPRIATION

There is no specific provision in the British Columbia Municipal Act which allows expropriation for the exclusive purpose of eliminating nonconforming uses. Rather, a municipality may expropriate nonconforming uses

through the provision of Section 465, Subsection 2b.¹²

This section provides that the municipality may expropriate property for the purposes of residential, commercial, or industrial development. This provision has the disadvantage that permission to expropriate nonconforming uses is dependent upon the discretionary powers of the Lieutenant-Governor in Council. It is questionable whether or not an application would be accepted for the purposes of improving retail compatibility, as well, there is no assurance of directness of permission. If a bylaw were drafted for the exclusive purpose of eliminating nonconforming uses by expropriation, results would occur sooner and the exact legal limitations would be expressed in writing.

The use of the word "property" in Section 465 leaves some doubt in the reader's mind as to what a municipality can expropriate, --land alone or land with all those things affixed. The Municipal Act offers definitions for "real property" and "land" but not for "property". The word "real" should be included to clear up this ambiguity since Section 465 does in actuality deal with real property.

It is generally accepted that the use of expropriation to eliminate nonconforming uses is not practical. In order to change nonconforming uses to conforming uses

¹²Ibid.

by expropriation excessive financing would be required, excessive in respect to the funds available to most municipalities. Arduous procedures would be involved in the purchase of several single parcels of real property.

The usefulness of expropriation as an effective means of eliminating nonconforming uses lies in the progress of urban renewal, the relatively recent approach to urban improvement whereby Federal grants up to 50 per cent of the project cost are available in Canada. Urban renewal has been concerned primarily with the elimination of blight and the provision of adequate housing in prescribed residential areas. Urban renewal assistance became available for commercial areas in 1964. It is expected that federal urban renewal will be used increasingly to improve central business districts by the eradication of blighted structures and the elimination of nonconforming uses. The removal of nonconforming uses in retail areas facilitated by urban renewal schemes would greatly increase retail compatibility. This is discussed further in Chapter VI.

III. ABATEMENT OF NUISANCES

When an incompatible land use constitutes a genuine menace to the surrounding area, it may be classified as a nuisance and therefore be ordered to discontinue. The abatement of nuisances existed before zoning, and is

considered the first stage of zoning. This first stage included a group of court cases dealing with "nuisance uses" and gained recognition as a legal use of the police power. The nuisance is generally considered a definite, tangible, physical effect that menaces public health, safety, and welfare.¹³

The abatement of nuisances is provided for in the British Columbia Municipal Act, Section 870.¹⁴ The nuisance doctrine has received little attention recently in the elimination of incompatible uses, let alone nonconforming uses. Generally, the feeling is that the "nuisance" must be so tangible as to be obviously harmful to public health, safety, and welfare. It appears that this general opinion of the use of the abatement of nuisance doctrine will continue, thus limiting the possibility of its usage as a means to eliminate nonconforming uses which constitute "dead spots".

IV. PROVISIONS HELD CONSTITUTIONAL OUTSIDE BRITISH COLUMBIA

Zoning provisions to eliminate nonconforming uses which have been held constitutional in various parts of the United States and which are not provided for in the British

¹³Norton C. McKim, "Elimination of Incompatible Uses, Law & Contemporary Problems, (A law quarterly. Durham, N.C.:Duke University School of Law, Spring 1955), p. 132.

¹⁴See Appendix G, page 142.

Columbia Municipal Act are described below. Through the ensuing discussion it is hoped that it will be clear whether or not such provisions would be acceptable in British Columbia.

Amortization of Nonconforming Uses

Amortization is a relatively new method of eliminating nonconforming uses. The method originated in the United States and has been authorized in several states including California, Oregon, Utah, Oklahoma, Colorado, Kansas, and Virginia. It seems that the acceptance of amortization of nonconforming uses will increase.

To improve zoning ordinances, it is necessary eventually to eliminate nonconforming uses. A conflict arises at this point between the rights of the private individual and the concern for the better development of the community. The process of amortization is an attempt to reconcile this conflict through the adoption of an ordinance which provides for the eventual liquidation of nonconforming uses within a designated period commensurate with the investment. In other words, the remaining useful life of a nonconforming property is determined and the owner is allowed to continue his use for the prescribed period, at the end of which he must either eliminate it or change it to a conforming use.

It is extremely difficult to determine when or where the word "amortization" was initially used in this sense, but over a period of 10 years the use of amortization statutes have been advocated. A few cases upheld such statutes and in turn other courts accepted these previous cases as authority. A series of cases resulted which may be considered as weak authority but are cited "en masse" as persuasive.¹⁵

The case which is generally recognized as having most influence on other cases is that of the city of Los Angeles v. Gage.¹⁶ The owner had a nonconforming use in a conforming building. The court analyzed the financial loss and the cost of moving and ruled that a five-year amortization period was reasonable as well as a constitutional exercise of the police power. The court adopted a balancing-of-interests approach. The court determined that the loss to the defendant was quite small as compared to the public gain. Further, the court felt that a well-planned community can only be achieved by the elimination of existing nonconforming uses and that reasonable amortization is the only effective method of eventual

¹⁵Samuel B. Hickman, "Zoning - Elimination of Nonconforming Uses by 'Amortization'," Cornell Law Quarterly (Ithaca: Cornell University Law School, Vol.44, Spring 1959), p. 454.

¹⁶Ibid., quoting (or "citing") Los Angeles v. Gage, 274 p. 2d 34 (Cal. App. 1954) p. 455.

elimination. The court also suggested that amortization is most likely to be reasonable if the ordinance does not restrict the local zoning board to fixed periods but allows adequate time for the affected owner to make necessary adjustments.

The court pointed out that the old indirect methods of eliminating nonconforming uses are ineffective. These indirect methods are discussed in this chapter in section I (Zoning Provisions For the Elimination of Nonconforming Uses). When these methods were originally drafted, it was felt that such restrictions would eventually eliminate nonconforming uses. Experience has shown that nonconforming uses have continued to thrive, enjoying their somewhat monopolistic positions. The amortization method could be considered a fair method of eliminating nonconforming uses as long as the owner is given an opportunity to make new plans to help offset any loss he might suffer. This loss is spread over a period of years while the owner enjoys a monopolistic position because of the zoning ordinance.

There are strong arguments against the use of amortization as expressed by Judge Van Voorhis in the case of *Harbison v. City of Buffalo*.¹⁷ In his dissent of the const-

¹⁷Samuel B. Hickman, "Zoning: Elimination of Nonconforming Uses by 'Amortization'," Cornell Law Quarterly, (Ithaca: Cornell University Law School, Vol. 44, Spring 1959) quoting (or "citing") *Harbison v. City of Buffalo*, 4 N.Y. 2d 553, 152 N.E. 2d 42, 176 N.Y.S. 2d 593., p. 454.

institutionality of the amortization method, Judge Van Voorhis points out that there is a relatively close split of authority on the problem with many courts soundly rejecting amortization provisions. He explains that the adoption of amortization provisions in zoning bylaws is an attempt to redevelop areas without due compensation to affected owners. He also states that such provisions would diminish the owner's stability to the point where he would be hesitant about improving his property in order to make complete productive use of the land. The effect would be the encouragement of run-down properties. There is the possibility that local pressure groups would use favorable legislation to force out legitimate but undesired business for their own personal gain. Furthermore, Judge Van Voorhis explains that courts are unable to determine what is a fair length for the amortization period. The result is the creation of new fields of discretion in administrative law without any guides in the nature of standards. He concludes that the acceptance of the amortization method provides a large new area for administrative and court decisions which will provide opportunities for discrimination, inconsistency, and arbitrariness.

From the foregoing discussion it is apparent that the method of amortization to eliminate nonconforming uses is in a state of "flux". The courts disagree with the con-

stitutionality of the method and both sides can offer very strong arguments in support of their cases. The problem really hinges on the use of the word "reasonable" in reference to the term "a reasonable period of time". The conflict of disagreement will continue into the future until at some point the constitutionality of the amortization method will be resolved. The use of the amortization method to eliminate nonconforming uses for the purpose of increasing retail compatibility is a definite possibility in the future of British Columbia..

Retroactive Application of Ordinances.

As mentioned previously, a basic principle in the law of nonconforming uses is that zoning cannot operate retroactively. Even so, there have occurred some cases which indicate that it would be constitutional to eliminate nonconforming uses providing that the benefit to the public is not absolutely out-weighted by the harm to the property owner. In New York the court of appeals upheld a retroactive zoning ordinance. The court stated that the enforcement of such a zoning regulation would be valid; "where the resulting loss to the owner is relatively slight and insubstantial."¹⁸ Florida and Louisiana as well have held

¹⁸James A. Young, "The Regulator and Removal of Nonconforming uses," Western Reserve Law Review, (Cleveland: Western University, 1961), p. 686.

retroactive zoning laws as constitutional. There are two main flaws in this doctrine.

1. the right to protect would in most cases be dependent upon the dollar value of the use in question and
2. the large nonconforming uses which are the ones most detrimental to the public, would in all probability be the uses that would be allowed to continue.¹⁹

It is unlikely that the use of retroactive zoning ordinances will become widespread, although the power that such ordinances provide would be very effectively used in many instances. Generally speaking, a provision of this nature would be more applicable in larger cities than small ones because of the inherent difficulty of imposing the regulations.

V. QUESTIONNAIRE-ELIMINATION OF NONCONFORMING USES IN SELECTED MUNICIPALITIES

The questionnaire shown as Appendix H was used as the basis for personal interview with the City Clerks of Duncan, Grand Forks and Castlegar. The purpose of the questionnaire is to determine: the existing municipal attitude toward nonconforming uses in CBD's; the effectiveness of the specific statutes of the British Columbia Municipal Act related to the elimination of nonconforming uses; and the degree of acceptance of procedures to eliminate nonconforming uses held constitutional in parts of the

¹⁹Ibid.

United States of America.

The three city clerks gave basically the same responses to the first question to determine whether or not the statutes mentioned earlier in this chapter are effective in eliminating nonconforming uses from the CBD of the particular municipality. One common element was indicated, that is that each of the municipalities had few experiences in eliminating nonconforming uses by the enforcement of the particular statutes. The City Clerk of Duncan indicated that there has never been a need for the elimination of nonconforming uses since there are very few nonconforming uses in Duncan even though there are many incompatible uses. This is the case because of the wide range of uses permitted in the CBD general business zoning category. Since there was no experience in the usage of the particular statutes the City Clerk of Duncan could not indicate whether or not the particular statutes were effective.

The City Clerk of Grand Forks indicated that there has not been a need for the elimination of nonconforming uses in Grand Forks for the same reason given by the City Clerk of Duncan. As in Duncan there are several incompatible uses in Grand Forks that are permitted in the CBD general business zoning category. It was pointed out that few opportunities arose in Grand Forks whereby some of the

statutes could be enforced. For instance, there had been no opportunities to enforce the statute related to the discontinuance of a use (Section 705, subsection 2) and to the seventy-five per cent regulation (Section 705, subsection 4).²⁰ It was indicated that the use of the statute related to the abatement of nuisances (Section 870)²¹ was effective in cleaning up one particular property in the CBD of Grand Forks.

The City Clerk of Castlegar expressed greater concern regarding certain nonconforming uses than did the City Clerks of Duncan and Grand Forks. This may be due to the fact that the recent adoption of a new zoning bylaw created many more nonconforming uses than existed previously. The previous zoning bylaw of Castlegar was similar to the present bylaws of Duncan and Grand Forks. The City Clerk of Castlegar indicated that all of the statutes concerned with nonconforming uses would be enforced except expropriation (Section 465, subsection 2b)²². He felt that they would be effective when enforced but since in the past there has been no need and few opportunities to eliminate nonconforming uses he couldn't comment on their effectiveness.

²⁰See Appendix G, page 142.

²¹Ibid.

²²Ibid.

The second question was not answered by the city clerks. It was designed to determine the order of effectiveness of the particular statutes in eliminating nonconforming uses.

The third question asked whether or not more effective statutes were required for the elimination of nonconforming uses. All of the city clerks felt that more effective statutes for the elimination of nonconforming uses were not needed. The City Clerks for Grand Forks and Castlegar felt that the existing statutes would be sufficient if they were enforced. The City Clerk of Duncan was not able to indicate whether or not more effective statutes were required since there has been little experience in Duncan related to the statutes.

In the fourth question it was asked if acceleration of nonconforming uses was necessary. The City Clerks of Duncan and Grand Forks felt that acceleration of the elimination of nonconforming uses was not necessary while the City Clerk of Castlegar felt that acceleration was necessary.

All of the city clerks answered negatively in relation to the fifth, sixth and seventh questions which are closely related. In relation to the elimination of nonconforming uses, the fifth, sixth, and seventh questions are designed to determine, respectively: if any studies have been authorized; if any specific policies and/or programs have been

contemplated for the future. None of the municipalities have: authorized any studies; formulated specific policies and/or programs in the present; or have contemplated any specific policies and/or programs for the future. It was indicated that the municipalities are faced with many more serious problems at the moment.

The two final questions refer to methods of eliminating nonconforming uses which are held constitutional in various parts of the United States but not in British Columbia. The eighth question asks whether or not the amortization of nonconforming uses would be acceptable to the individual municipal councils. The ninth questions whether or not the retroactive application of ordinances would be acceptable by the individual municipal councils. First of all, the city clerks felt that the amortization method of eliminating nonconforming uses would be acceptable to their municipal councils although they indicated that there is no acute need at the moment for the provision of amortization to be added to the British Columbia Municipal Act. Secondly, all of the city clerks felt that retroactive application of a zoning ordinance would not be acceptable.

It is unlikely that a statute allowing the amortization of nonconforming uses will be added to the British Columbia Municipal Act for many years, if at all. This conclusion is derived from the fact that municipalities

are faced with more serious planning problems relegating the problem of nonconforming uses far down on the list of study priorities. It is unlikely that provincial legislative action would take place unless there is a demand for such action originating from the municipalities themselves, or from within the Department of Municipal Affairs.

It is not possible to determine the effectiveness of the particular statutes discussed in this chapter for the elimination of nonconforming uses from the CBD's of the selected municipalities. There has not been a desire or a need to eliminate nonconforming uses from the CBD's of Duncan, Grand Forks, and Castlegar as expressed by the City Clerks. Only recently in Castlegar has it been recognized that certain incompatible nonconforming uses should be eliminated from the CBD.

The effectiveness of enabling legislation is dependent upon the willingness of a municipal council to use and enforce it in the form of a municipal bylaw. The bylaw itself must coincide with the expressed or implied policy of the council. Unless this relationship exists, it is questionable whether or not the particular bylaw will be effective, mainly because it probably will not be enforced. Strict and consistent enforcement of a bylaw reveals that the objectives are clear in the form of policies. Municipal councils should review their existing bylaws periodically

to re-align them with existing policies and to formulate new policies to complement existing bylaws to enable purposeful enforcement.

VL. SUMMARY

Nonconforming uses may be eliminated or controlled under five sections of the British Columbia Municipal Act. Three of the statutes are indirect zoning methods which tend to avoid harshness in the elimination of nonconforming uses. The remaining two means available to municipalities to eliminate nonconforming uses are expropriation and the abatement of nuisances. It is unlikely that expropriation will be used extensively to eliminate nonconforming uses except within an urban renewal program (discussed in Chapter VI). The abatement of nuisances is effective in eliminating detrimental nonconforming uses but is rarely applied.

Amortization and retroactive application of ordinances are methods used in various parts of the United States to eliminate nonconforming uses. In British Columbia, the latter method will probably never become legal while the amortization method may eventually become legal. It was found that the councils of the selected municipalities would probably desire the amortization method. The adoption of the amortization method by the British

Columbia Municipal Act is dependent upon future demand for such an adoption since the existing demand appears to be quite weak.

CHAPTER VI

IMPROVEMENT OF RETAIL COMPATIBILITY--A COMPONENT OF A TOTAL CBD RENEWAL SCHEME

A comprehensive approach to cope with the problem of improving retail land use compatibility in the CBD's of selected municipalities of British Columbia, has not been considered up to this point of this study. The elimination of nonconforming uses and the compatible reclassification of business zones of CBD's should be integral parts of a comprehensive approach to the improvement of poor retail land use compatibility.

The elimination of nonconforming uses which constitute "dead spots" would improve retail compatibility, but greater improvement is possible and desirable. Besides, the rate of elimination of nonconforming uses by the enforcement of specific statutes of the British Columbia Municipal Act (as discussed in Chapter V) would probably be very slow, requiring many years. Amortization of nonconforming uses would provide a much faster rate of elimination. Nevertheless, it is highly unlikely that amortization of nonconforming uses will be legally recognized in British Columbia for some time as pointed out in Chapter V. It is evident, therefore, that the elimination of nonconforming uses would more likely be achieved in some other fashion. For instance, the elimination of nonconforming

uses could be achieved as an integral part of a comprehensive CBD urban renewal scheme.

The reclassification of CBD commercial zones to improve retail compatibility could be effective, but results would occur very slowly for the same reasons cited above in regard to the elimination of nonconforming uses. Reclassification would provide for future grouping of compatible uses but the resultant nonconforming uses would not be eliminated rapidly. Therefore, reclassification of CBD commercial zones for the purposes of obtaining improved retail compatibility should be considered as an integral part of a comprehensive urban renewal scheme for the CBD.

I. HYPOTHETICAL SCHEME TO IMPROVE RETAIL COMPATIBILITY

Improvement of retail compatibility would be one of the many objectives related to CBD's that require application of the planning process. Generally, the prime objectives in CBD urban renewal are: improved circulation and parking; elimination of blight; provision of new amenities in terms of aesthetics and convenience; unification in design and layout to prevent deterioration; and the improvement of the municipal tax base. The improvement of retail compatibility is an integral part of the objective to provide convenience to shoppers. In the light of the foregoing, it is apparent that any scheme to improve retail compatibility should be

co-ordinated with all other plans of a comprehensive CBD urban renewal project. Nevertheless, a hypothetical scheme to improve retail compatibility can be stated.

First of all, the existing retail pattern would require study in relation to retail compatibility as shown in Chapter III. From such an analysis it would be possible to delineate that portion of the CBD which should be developed as the prime retail area. The delineation would also be based on a complete economic analysis considering future retail needs of the community. It would be necessary to determine what businesses should be relocated to improve retail compatibility. This would involve moving desirable retail businesses into the delineated retail area as well as moving out undesirable uses from within the delineated area. Changes may then be required in commercial zoning classifications to ensure that retail compatibility would be protected in the future. As noted in Chapter IV, no generalization can be made in this regard. The commercial zone classifications must be tailored to the needs of the individual city. Zones would necessarily be provided for those uses which would be moved from the delineated prime retail area. In effect, the relocation of businesses would tend to bring about greater compatibility of the zones by eliminating or relocating nonconforming uses. Total

conformity would not necessarily be desirable because of the probable high expense involved.

II. FEDERAL URBAN RENEWAL ASSISTANCE

It is highly unlikely that many municipalities, large or small, are able to finance a comprehensive CBD renewal program. Nevertheless, a community can undertake a comprehensive CBD renewal program through the use of aid offered by the federal government which is specified in federal urban renewal legislation. Amendments made to the National Housing Act in 1964 removed a number of restraints on the form and content of possible renewal projects, aid was offered over a wider range of activities including, for the first time, non-residential renewal.¹ In summary the National Housing Act now allows the federal government:

- a) to bear half the cost of acquiring and clearing a substandard area and also of preparing the site for disposal even when there is no housing content, either existing or proposed;
- b) to bear half the cost of installing municipal services or works, other than buildings, in any renewal area including areas scheduled for rehabilitation rather than clearance;
- c) to bear half the cost of employing staff or consultants in connection with acquisition, clearance, relocation, public information and the assistance of affected property owners;

¹Stanley H. Pickett, "An Appraisal of the Urban Renewal Program in Canada," A paper read at the Graduate School of Public and International Affairs, University of Pittsburgh, March 17th and 18th, 1965. p. 3.

- d) to lend to a province or municipality up to two-thirds of the actual cost of implementing a renewal scheme, after the deduction of federal grants, and
- e) to insure loans made by approved lenders to the owners of housing scheduled for rehabilitation in urban renewal areas. These loans, up to 85% of the lending value after rehabilitation, are secured by first mortgage and allow for the discharge of existing encumbrances. Should lenders be unwilling to invest in a renewal area CMHC is empowered to make direct loans.²

Prior to the amendments of 1964, grants were available from the federal government for studies to determine: existing physical, economic, and social conditions; the need for additional housing; and the kind of renewal action which may be appropriate in various parts of the urban area.³ This type of federal renewal study assistance, which provides seventy-five per cent of cost of the study, has been available to municipalities since 1956 under the provisions of the National Housing Act.

A second type of study, sided by a 50% federal grant, was introduced in the 1964 amendments and is intended for the preparation of individual urban renewal schemes. These studies complete the detailed examination of areas previously identified for action in either an urban renewal study or through normal municipal planning work. The completed scheme includes a re-use plan set within the context of the official plan for the community; the designation of buildings for clearance and for rehabilitation; a re-housing plan for persons and families displaced; a program for new municipal services and facili-

²Ibid.

³Ibid.

ties; proposals for phasing the program where appropriate; statement on methods proposed for the control of development; for the encouragement of private rehabilitation and for retarding further depreciation in the area and, inevitably, an estimate of costs.

This urban renewal scheme arrangement is an important part of the new comprehensive approach to renewal in Canada. It is intended to bridge the gap between the general statements of needs and program contained in urban renewal studies and the hard detailed discipline of project applications. Experience has shown the dangers of entering upon project agreements with what are subsequently revealed to be inadequate staffing and financing arrangements and with insufficient knowledge of the economic and social aspects of the area concerned.⁴

Since aid is no longer restricted to residential areas it is possible for proposals to improve retail compatibility to be an integral part of such urban renewal schemes described above. As indicated previously the desire to improve retail compatibility should be one of the objectives of a CBD urban renewal scheme. Little experience can be drawn upon to point out the effectiveness of the 1964 amendments at this point, especially in retail compatibility. Indeed, it is questionable whether or not the improvement of retail compatibility has been a serious consideration in any urban renewal schemes prepared to date.

While it is not possible at this time to analyze any results of the 1964 amendments, it is possible to summarize some of the factors which have discouraged adequate local programs of renewal. The preparation of proposals for

⁴Ibid.

studies and programs is the responsibility of the municipalities. The following reasons account for the relatively slow response by municipalities:

...including lack of clarity about the conflicting objectives of urban renewal and difficulty in finding available capital for the substantial municipal share of the cost. Many of the smaller cities in particular have little comprehension of renewal objectives or processes, or of the aid offered by the federal government. Aggressive promotion of renewal by senior governments may not have been in accord with the political climate of the past five years, but programs of systematic information for the guidance of municipalities could have received more attention, at both federal and provincial levels of government.⁵

Another factor which has discouraged the urban renewal program in Canada is the inadequate staffing at the local level.⁶ The shortage of staff is also evident at the provincial level. Only the Province of Ontario has staff employed full-time on urban renewal.

III. LIMITED METHODS TO IMPROVE RETAIL COMPATIBILITY

Besides a comprehensive urban renewal scheme, there are limited methods which could be employed to increase the degree of retail compatibility. One possibility would be for the municipality concerned to become actively engaged in the real estate market. Such a municipality could then manipulate certain retail properties to reach the desired objective i.e. improving retail land use compatibility.

⁵Ibid., p. 6.

⁶Ibid.

This practice is unlikely to become widespread since most municipalities have limited funds and no desire to get into the real estate business. Besides, more pressing problems have a much higher priority in regard to municipal monetary policy.

Another possibility is for the municipal planning departments or the municipal council members to direct or influence prospective businesses in retail site selection in an effort to increase retail compatibility. It is questionable to what degree municipal council members would become actively engaged in this respect, but certainly the planning department should be very active in this regard. Unfortunately, most of the municipalities of British Columbia do not have planning departments. A disadvantage of this procedure is that it would be a "piecemeal" approach to improved retail compatibility.

IV. THE POLITICAL ACCEPTABILITY OF METHODS TO IMPLEMENT THE HYPOTHETICAL SCHEME

The questionnaire shown as Appendix H was used as the basis for personal interview with the City Clerks of Duncan, Grand Forks, and Castlegar. The purpose of the questionnaire is to determine the feasibility of implementing the hypothetical scheme described in this Chapter to improve retail compatibility in the selected municipalities. The

questionnaire is concerned with three ways in which the scheme could be implemented. The municipalities involvement in real estate is one method; the efforts by the municipality to direct private developers is another. The third method is by urban renewal made possible by federal government assistance.

The first two questions are concerned with the involvement of the municipalities in real estate transactions to improve retail land use compatibility. In relation to the first question, Duncan was the only municipality of the three which had dealt in commercial real estate in the past. All of the City Clerks replied negatively when asked whether or not the municipalities would deal in real estate in the future to implement the hypothetical scheme. The City Clerks felt that the municipalities could not afford this type of redevelopment. They stressed the point that there were more pressing problems to be taken care of.

The third and fourth questions are concerned with the role the municipal councils have played and will play in regard to influencing potential private developers in site selection for the purpose of improving retail compatibility. In the past, as indicated by the City Clerks, none of the municipal councils have attempted to direct potential retail developers in this regard. All of the City Clerks answered affirmatively when asked whether or not the council would

attempt to direct potential retail developers in the future. The City Clerks pointed out that in past years retail developments have been small in scale and did not warrant the councils concern. They also indicated that there is promise for larger scale retail developments in the future which will warrant the attention of the city councils in relation to site selection.

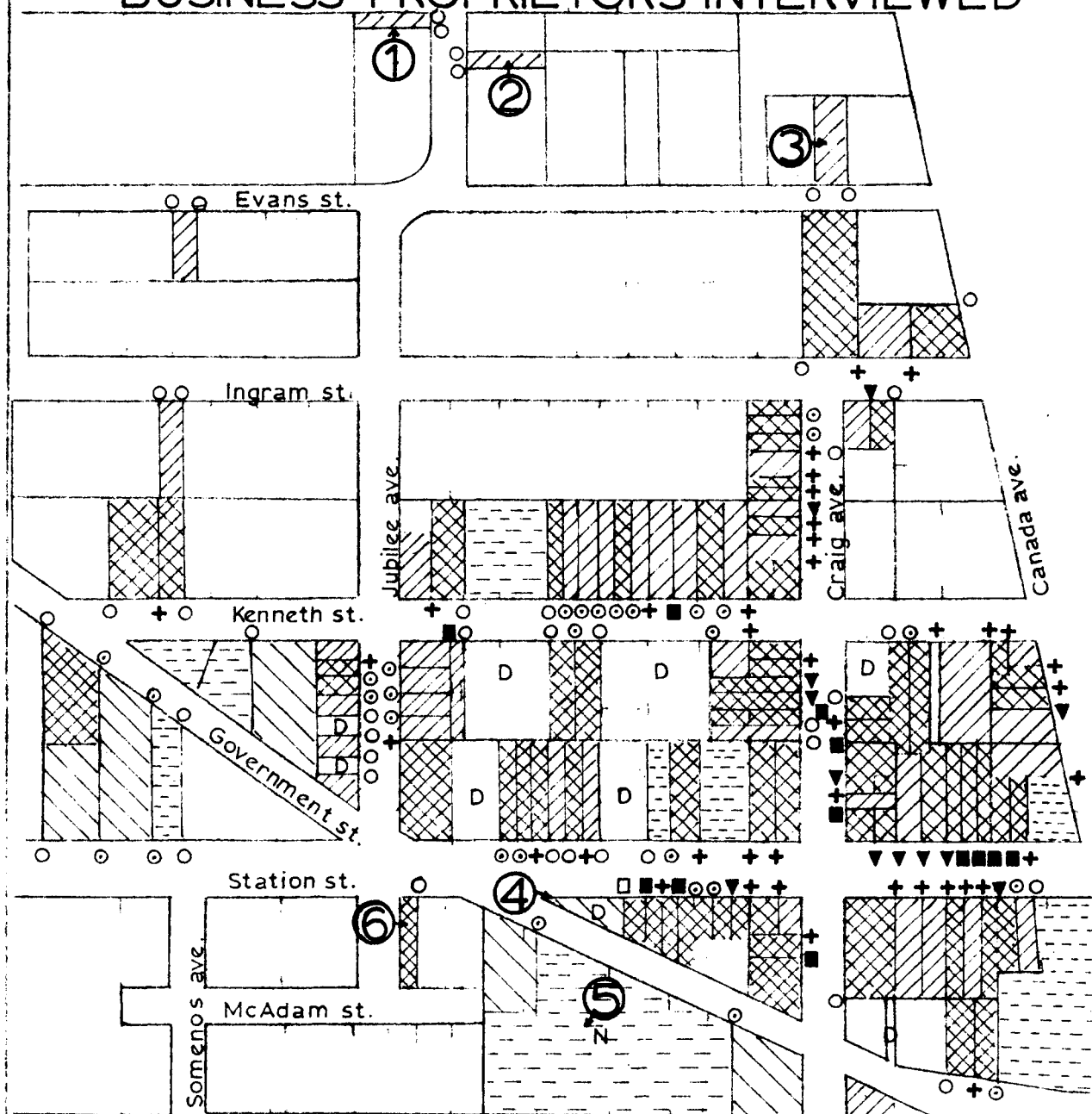
The fifth, sixth, and seventh questions of the questionnaire have to do with the use of federal assistance for urban renewal in relation to improving retail compatibility. First of all, it was found that Duncan is the only case study municipality which has applied for federal assistance to conduct an urban renewal study. The Castlegar council is contemplating a proposal for an urban renewal study for an area adjacent to the CBD, but at the moment the proposal is in the preliminary stages and little information is available. In relation to the sixth question, the City Clerk of Duncan expressed the opinion that improved retail compatibility is part of the urban renewal scheme although the main objective is for the development of a public building area. The replies to the seventh question revealed that all of the municipalities would be in favor of having the hypothetical scheme developed as described in this Chapter as a part of a federal urban renewal scheme for the CBD area.

On the basis of the questionnaire responses, it is felt that the possibilities to improve retail compatibility in the case study municipalities is limited to urban renewal with federal assistance, and possibly to municipal guidance of site selection for potential retail developers. What will happen in the future is questionable but the opportunity does exist to improve retail compatibility. The importance which will be given to improved retail compatibility within a CBD renewal scheme is questionable. It is stressed that improved retail compatibility should be seriously considered in any CBD renewal scheme.

V. REACTION OF COMMERCIAL PROPRIETORS TO HYPOTHETICAL SCHEME

A survey of several commercial proprietors was made in the case study municipalities shown on Maps 5, 6, and 7 on the following pages. The purpose of the survey was to discover the reactions of the proprietors when faced with a hypothetical urban renewal scheme which cause them to relocate; either into the prime retail area or out of the prime retail area depending on the nature of the establishment. The establishments queried were those which would likely be affected by the hypothetical scheme proposed earlier in this Chapter. The business establishments chosen for the survey do not necessarily represent the only commercial land uses which may be desirable to be relocated

LOCATIONS OF BUSINESS PROPRIETORS INTERVIEWED



LEGEND

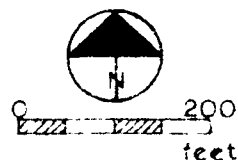
- highly compatible
- ▼ moderately compatible
- + slightly compatible
- incompatible
- deleterious
- deleterious
- D dead spots
- N nonconforming uses

- ▨ convenience & shoppers goods
- ▨ services
- ▨ automotive
- ▨ miscellaneous
- ▨ other

○ locations of interviewees

CENTRAL BUSINESS DISTRICT
OF
DUNCAN B.C.

University of
British Columbia
Div. of Community
& Regional Planning
M.A. Thesis—A. Merlo

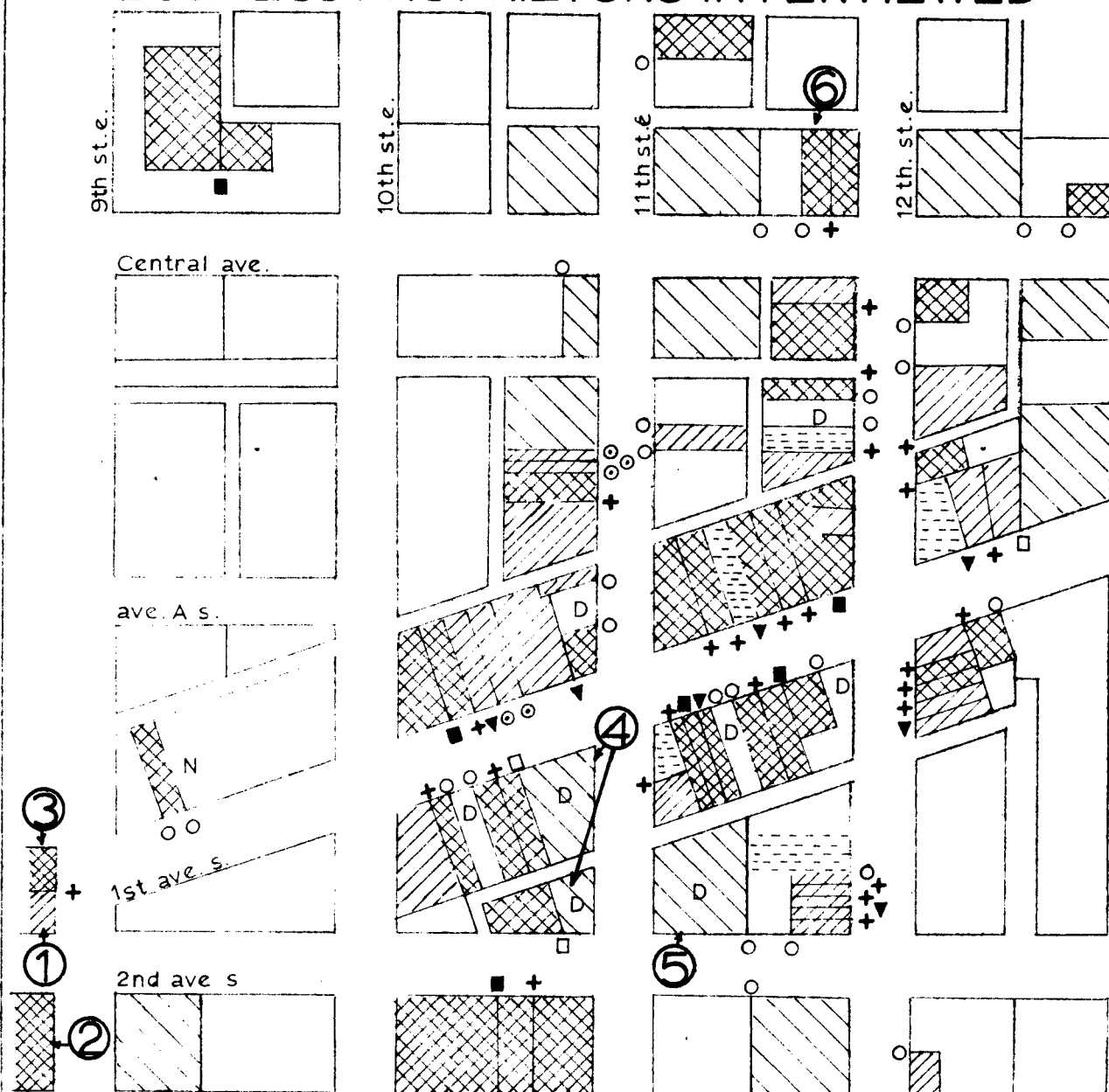


April 1966

Map No.

5

LOCATIONS OF BUSINESS PROPRIETORS INTERVIEWED



LEGEND

- | | |
|-------------------------|------------------------------|
| ■ highly compatible | convenience & shoppers goods |
| ▼ moderately compatible | services |
| + slightly compatible | automotive |
| ⊙ incompatible | miscellaneous |
| □ deleterious | other |
| ○ deleterious | ○ locations of interviewees |
| D dead spots | |
| N nonconforming uses | |

CENTRAL BUSINESS DISTRICT
OF

GRAND FORKS B.C.

University of
British Columbia

Div. of Community
& Regional Planning
M.A. Thesis-A Merle



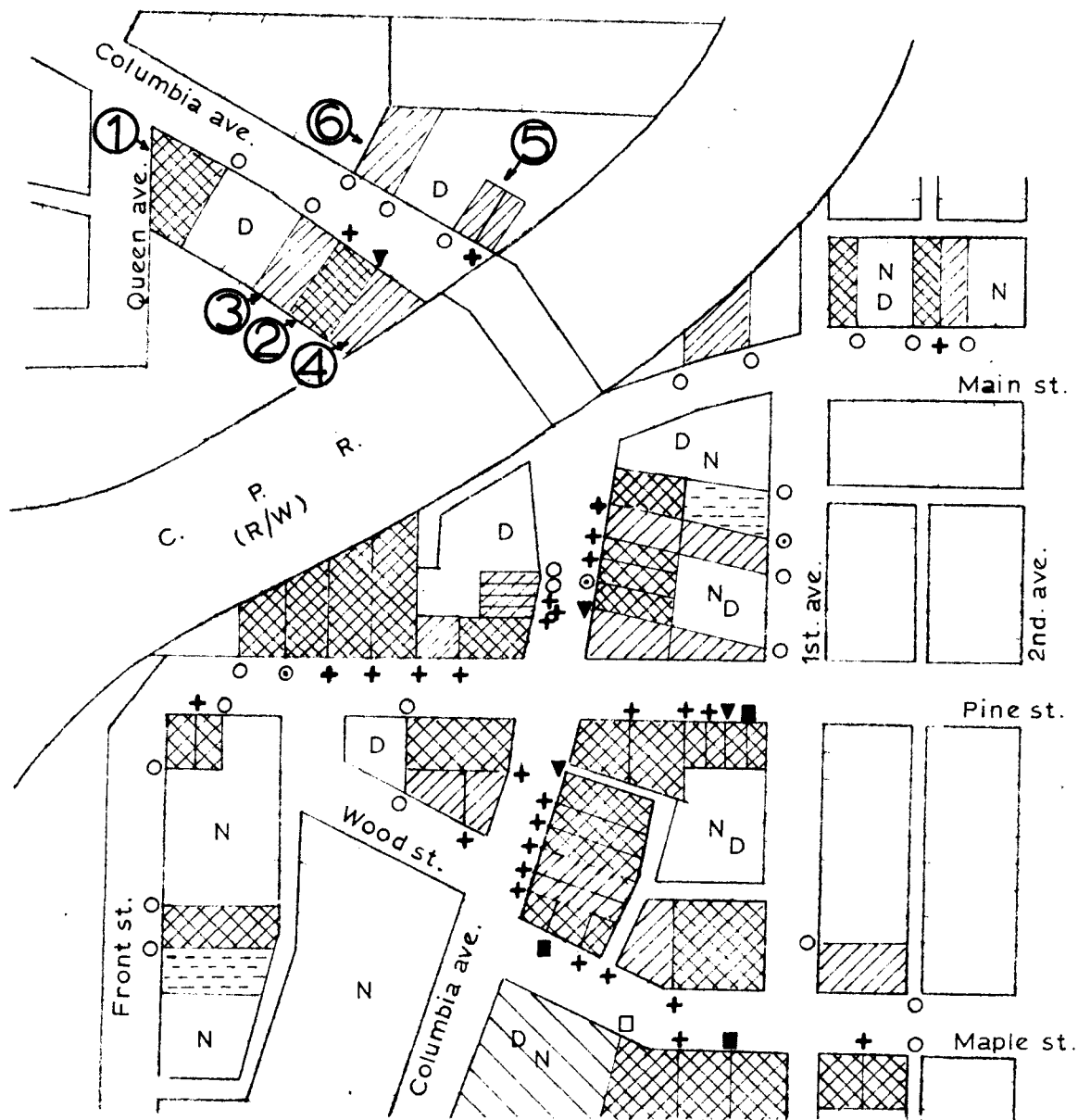
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Map No.

6

LOCATIONS OF BUSINESS PROPRIETORS INTERVIEWED



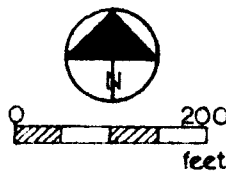
- highly compatible
- ▼ moderately compatible
- + slightly compatible
- ⊙ incompatible
- deleterious
- deleterious
- D dead spots
- N nonconforming uses

LEGEND

- ▨ convenience & shoppers goods
- ▨ services
- ▨ automotive
- ▨ miscellaneous
- other
- locations of interviewees

CENTRAL BUSINESS DISTRICT
OF
CASTLEGAR B.C.

University of
British Columbia
Div. of Community
& Regional Planning
M A Thesis-A. Merlo



April 1966

Map No.

7

nor is it supposed that they are the most critical. The purpose is not to propose a solution for the improvement of retail compatibility in the case study municipalities but rather to observe the reactions of the proprietors. Table V, page 103 shows the reactions of the proprietors queried.

The six establishments analyzed in Castlegar are situated north of the prime retail area separated by the Canadian Pacific Railway right-of-way. Presently the degree of compatibility is deleterious in this area. If those uses are properly situated in the prime retail area the retail compatibility of the prime retail area would improve.

In Grand Forks, the proprietors of four business establishments were queried in relation to moving into the prime retail area and two proprietors were questioned in relation to moving out of the prime retail area. Four establishments are scattered on the fringes of the CBD and represent retail uses which could be beneficial to the improvement of retail compatibility of the prime retail area. The two gas stations in the prime retail area would be better situated along Central Avenue which has considerable traffic. The removal of the gas stations, which presently cause deleterious compatibility, would provide space for retail uses which would improve the retail compatibility of that particular area.

TABLE V

PROPRIETORS REACTIONS TO A HYPOTHETICAL
SCHEME TO IMPROVE RETAIL COMPATIBILITY

CASTLEGAR:

- | | |
|------------------------|--|
| 1.* Grocery store | The owners would discontinue the business and retire. They would welcome the chance to sell property for a fair price enabling them to acquire new residence of equal utility. |
| 2. Jewelry store | The proprietors would like the opportunity to locate in the prime retail area. They feel that their business would increase despite the increase in property taxes which would result. |
| 3. Mechanical supplies | The lessee would move readily without any difficulties with the existing rent agreements. |
| 4. Cafe | The proprietor is satisfied with the existing location although he would favor a location in the prime retail area but he questions the availability of sites. |
| 5. Shoe Repair | The proprietor (lessee) desires to move into prime retail area. He would not have any problem with the existing rental agreements. |
| 6. Cafe | The proprietor (lessee) would favor the chance to move to improve business. The existing rental agreements would not be a problem. |

*The numbers correlate with those on Maps 5, 6, and 7 which show the locations of the proprietors interviewed.

GRAND FORKS:

1. Shoe Repair The proprietor would welcome the chance to sell his property since he will be soon receiving a pension. He would retire.
2. Appliances The proprietor originally tried to buy property in the prime retail area but no one would sell. He feels that his business would be better located in the prime retail area.
3. Paint Shop The proprietor is dissatisfied with the existing location. He would desire to sell the property and relocate in a location with more pedestrian traffic.
4. Gas Station The owner had mixed reactions. He indicated that he would sell for a fair price but that he was satisfied with his location. He likes his automobile show-room to be near pedestrian traffic. He feels that his gas business is good.
5. Gas Station The owner would favor an opportunity to move.
6. Bakery The owner would like to sell for a fair price and locate his business in an area where there is more opportunity for impulse buying.

DUNCAN:

1. Laundry The owner would relocate if the right price was offered although he was not too enthused about the prospect.
2. Beauty Salon The owner has the business in her dwelling (a house). She was concerned with how the property would be valued since it serves a double purpose. She would welcome the chance to relocate for a fair price.

3. Electric Shop The owner favors the scheme and feels that he would benefit by relocating.
4. Gas Station The owner feels it would be beneficial to his business to relocate providing the appraisal was reasonable.
5. Iron Works The owner would welcome the opportunity to move to an industrial site providing that he was fairly compensated for the existing property and that he could find an alternate site at a reasonable price.
6. Confectionery Store At present is looking for a new site nearer to the pedestrian stream.

Basically the same types of establishments were analyzed in Duncan as in Grand Forks. Four businesses analyzed are scattered outside of the main business area while two uses analyzed are in the main business area. The four businesses would be better located, in relation to retail compatibility in or near the prime retail area. The two uses, a gas station and an iron works shop, would be better located elsewhere.

The reactions of the proprietors are favorable to the hypothetical scheme. It appears that there would be little resistance to relocation. But it must not be overlooked that most of the owner-proprietors were favorable to the scheme assuming that a fair price would be paid for their properties. This is an assumption which in actual fact may not be true. In reality, the value of a property as interpreted by an appraiser may conflict markedly with the value of that property as interpreted by the owner. Another limitation of the findings is that most of the proprietors assumed that alternative locations would be provided. Actually, under federal urban renewal legislation it is not necessary to provide alternate sites for businesses affected by urban renewal.

VI. SUMMARY

It was pointed out in this chapter that a hypothetical scheme to improve retail compatibility should coincide with a comprehensive CBD urban renewal program. Efforts to eliminate detrimental nonconforming uses and to reclassify CBD commercial zones for the purpose of improving retail compatibility should be co-ordinated with the hypothetical scheme, rather than as separate approaches to the problem of deleterious retail compatibility.

Recent amendments to the National Housing Act provide financial aid to municipalities interested in commercial urban renewal. It was found that the case study municipalities favor the use of the recent legislation to improve retail compatibility. Also, a survey of commercial proprietors seemed to indicate that the opposition to relocation would not be very great. In fact, the majority of the proprietors seemed to welcome the opportunity to establish their businesses in new locations.

CHAPTER VII

CONCLUSIONS AND RECOMMENDATIONS

There is a need for more research in respect to retail compatibility as related to planning. The study conducted by Richard L. Nelson is a start in the right direction. Attempts should be made to develop a model system consisting of complete retail compatibility ratings applicable to cities and towns of varying sizes. Planning departments should conduct research in order to develop a retail compatibility system applicable to commercial areas within their jurisdiction. Such rating systems would be very useful in the analysis of the existing degree of retail compatibility in commercial areas. Analyses of the degree of retail compatibility through the use of rating systems would form the basis of synthesis and design of plans and programs for the improvement of retail compatibility.

The implementation of schemes to improve retail compatibility is critical. There are planning measures which can be implemented to improve retail compatibility. Proper use of the zoning technique is fundamental in encouraging compatibility in retail areas. The reclassification of the widely-permissive general business type of zoning category is desirable in order to improve retail compatibility.

It was found that no generalizations can be made in relation to the number and composition of zones which should be applied into a zoning bylaw form for communities the size of Duncan, Grand Forks, and Castlegar, nor for communities of any particular size. The reason for this is that each city has certain peculiarities which may not be properly accommodated by generalized regulations. There is general agreement that smaller towns require fewer classifications but no standards are evident in this respect. Also, there seems to be general agreement on the categorization of commercial uses, in other words, the grouping of certain uses together for the purposes of increasing compatibility within zones is generally agreed upon.

It appears highly possible that reclassification attempts would be accepted by British Columbia municipal councils. Reclassification should be carried out in municipalities of British Columbia which presently enforce the widely-permissive general business type of zoning category in their CBD's. The initiation of reclassification is the responsibility of the planners involved in planning for the municipalities.

The elimination of nonconforming uses that constitute "dead spots" in the retail areas of CBD's is necessary in order to improve retail compatibility. The existing zoning regulations of the British Columbia Municipal Act having to do

with nonconforming uses may eliminate nonconforming uses in an indirect fashion. They are designed to control nonconforming uses with the hope that the control will extinguish the uses. It may fairly be said that this approach through municipal control of nonconforming uses has not been particularly successful. The effectiveness of the specific bylaws in regard to eliminating nonconforming uses in the three municipalities analyzed was not determined because they had not been enforced. Similarly, it was found that the abatement of nuisances approach to eliminate nonconforming uses had rarely been utilized in the case study municipalities. It is suggested that such bylaws should be enforced in co-ordination with municipal policy in regard to the improvement of retail compatibility.

The amortization approach to eliminate nonconforming uses appears to be acceptable to British Columbia municipalities on the basis of the analysis of the attitudes of the three municipal councils. A statute providing for the amortization of nonconforming uses should be added to the British Columbia Municipal Act. This addition would provide municipalities with a more powerful device for the elimination of nonconforming uses than those which they presently have within their power.

The implementation of a scheme to improve retail compatibility can be facilitated through the use of Federal

Urban Renewal Legislation. A scheme to improve retail compatibility should be a component part of any CBD urban renewal scheme and must coincide with a comprehensive CBD planning program.

The possibilities are favorable that retail compatibility schemes will occur within urban renewal schemes in British Columbia; incidentally or as a result of direct consideration. The political acceptance of retail compatibility schemes appears to be favorable. It is the responsibility of the planners to be aware of the need for improved retail compatibility and to influence the decision-makers in this respect.

Another important factor is the reaction of potentially affected retailers. On the basis of analysis of the attitudes of retailers conducted in the case study municipalities, it appears that schemes to improve retail compatibility would be favored. The co-operation of the retailers who must relocate depends on the fairness of property appraisals and the provision of alternate locations. It is recommended that an amendment be made to Federal Urban Renewal Legislation which would require the provisioning of alternate sites for affected business proprietors.

Some of the conclusions are limited by the fact that a small sample of three communities were studied in British Columbia. Further research in relation to the problem presented in this thesis would require a larger sample of communities.

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APPENDIX A

EXAMPLE OF THE USE OF THE RULE OF RETAIL COMPATIBILITY

If there are two retail stores side by side and one customer in 100 makes a purchase in both, the rule indicates that together they will do 1 per cent more business than if separated by such a distance as to make this interchange impossible or unlikely. If one customer in ten makes purchases in both stores, their total increase in business will be about 10 per cent. Theoretically, if every customer bought in both stores, their total business volume would double, if both businesses did about the same dollar volume.

However, a very large store and a very small store would not show the same total increase as two stores of equivalent size. For example, if a department store doing \$5,000,000 worth of retail volume a year were next door to a variety store doing \$500,000 a year, their total would not double even with a 100 per cent interchange of customers. If their customer interchange were on the order of 25 out of 100, the total increase in business for the two establishments would be directly proportionate to the interchange, or 25 per cent, but *inversely* (italics in the original) proportionate to the ratio of their volumes, which is 10:1. Thus the total increase would equal one-tenth of 25 per cent, or 2.5 per cent. If, however, interviews showed purposeful purchasing at the department store and the variety store to be, respectively, on the order of 90 per cent and 15 per cent of total purchasing, the 2.5 per cent increase would have to be multiplied by 1.05 per cent. Thus, these two stores together would show a business increase of $2.5 \times 1.05 = 2.625$ per cent of the total of \$5,500,000, or an additional \$144,375. This is not a measure of market potential. All compatibility determinations assume that an adequate market exists.¹

¹Richard L. Nelson, The Selection of Retail Locations, (New York: F. W. Dodge Corporation, 1958), p. 67.

APPENDIX B

GENERAL BUSINESS CLASSIFICATION--DUNCAN, BRITISH COLUMBIA

10 In General Commercial Zones

- (a) It shall be lawful to operate commercial and private parking areas and to erect, construct, alter, reconstruct, repair or maintain buildings for any use other than the uses enumerated in Schedule "B" to this Bylaw, the provisions of which Schedule "B" shall be deemed to be expressly enacted by and to form an integral part of this Bylaw.

S C H E D U L E "B"

Uses prohibited in all Districts.

1. Ammonia, chlorine or bleaching powder manufacture.
2. Assaying (other than gold or silver).
3. Asphalt manufacturing or refining.
4. Blast furnaces.
5. Brick, concrete products, terra cotta or tile manufacturing.
6. Boiler making.
7. Brewing or distilling of liquors.
8. Candle manufacturing.
9. Coke manufacturing.
10. Celluloid manufacturing.
11. Creosote manufacturing.
12. Disinfectant, insecticide or poison manufacturing.
13. Crematory, except in cemetery.
14. Distillation of coal, wood or bones.
15. Dyestuff manufacturing.
16. Emery cloth and sand-paper manufacturing.
17. Explosives, fireworks or gunpowder manufacturing.
18. Fat rendering.
19. Fertilizer manufacturing.
20. Gas manufacture or storage.
21. Gasoline or naptha refining.
22. Glue, size and gelatine manufacture.
23. Incineration or reduction of garbage, effal, dead animals or refuse.

24. Match manufacturing.
25. Lamp-black manufacture.
26. Lime, cement or plaster of Paris manufacturing.
27. Oil-cloth or linoleum manufacturing.
28. Ore reduction.
29. Paint oil, varnish or turpentine manufacturing.
30. Paper and pulp manufacturing.
31. Petroleum refining or storage.
32. Printing ink manufacturing.
33. Pickle, sauerkraut, sausage or vinegar manufacturing.
34. Potash refining.
35. Pyroxyline manufacturing.
36. Rolling mill.
37. Rawhides or skins storage, curing or tanning.
38. Rubber manufacturing from the crude material.
39. Saw or planing mill.
40. Shoddy manufacture or wool scouring.
41. Soap manufacture.
42. Starch, glucose or dextrine manufacturing.
43. Sugar refining.
44. Sulphurous, sulphuric, nitrate or hydrochloric acid manufacturing.
45. Soda and soda compounds manufacturing.
46. Stove polish manufacturing.
47. Tallow, grease or lard manufacturing or refining.
48. Tar distillation or manufacturing.
49. Tar roofing or tar waterproofing manufacturing.
50. Tobacco manufacturing or treatment for chewing purposes.
51. Yeast manufacturing.
52. Any other trade, industry or use that is noxious or offensive by reason of the emission of odours, dust, smoke, gas or noise or vibration.
53. Trailer courts and trailers occupied as dwellings.

APPENDIX C

GENERAL BUSINESS CLASSIFICATION--GRAND FORKS,
BRITISH COLUMBIA

9. In () General Business Districts -

- (1) No buildings or part thereof and no land shall be used for purposes other than:
 - (a) Buildings and uses permitted in (B) Districts and which conform to the regulations controlling height, yard and area specified for the most restricted use district in which they are permitted:
 - (b) Buildings and uses permitted in (C) Districts:
 - (c) An office for the printing and publication of a newspaper:
 - (d) Salesroom or yard for motor vehicles:
 - (e) An undertaker's establishment:
 - (f) An hotel, restaurant, Y.M.C.A., Y.W.C.A.
 - (h) Billboard for advertising purposes:
 - (i) A theatre, dance hall, skating rink, or other like places of amusement but not including a shooting gallery, merry-go-round, or any other occupancy likely to cause a public nuisance:
 - (j) An accessory use which is customarily incident to uses permitted in this section and occupying not more than one-quarter of the floor space of the building to the use of which it is ancillary.
- (2) The height of any building shall not exceed twice the horizontal distance from the centre of the street upon which the building fronts to the face of the wall of the building fronting upon such street.

8. In (C) Local Shopping Districts-

- (1) No building or part thereof and no land shall be used for purposes other than:
 - (a) Buildings and uses permitted in (B) Districts, and which conform to the regulations of Section 7 hereof:
 - (b) A retail store or shop:
 - (c) An office for or in connection with a business or profession:
 - (d) A garage used only for the storage of motor vehicles in connection with a business carried on upon the same or adjoining premises:
 - (e) A motor service station:
 - (f) A bank:
 - (g) A moving picture theatre.

In (B) Residential Districts:

- (1) No building or part thereof and no land shall be used for purposes other than:
 - (a) One family and two family dwellings: multiple dwellings: rooming and boarding houses:
 - (b) Churches, libraries, museums, and similar uses.
 - (c) Nurseries, truck gardening and greenhouses:
 - (d) Playgrounds and recreational areas:
 - (e) Private schools, community hall, and club rooms:
 - (f) Hospitals other than for the treatment of inebriates, infectious and contagious diseases:
 - (g) The keeping of poultry and horses:
 - (h) Home occupations and the office of a professional person when located in his dwelling:
 - (i) Building accessory to the above uses not exceeding twelve feet in height, located in the rear yard of the building to which they are accessory and not occupying more than thirty-percent of the rear yard, provided that
 1. A private garage or small accessory building shall be situated not less than sixty feet from the street in front nor less than five feet from any other street line and where the building opens onto a lane it shall be not less than five feet from the lane.
 11. A building to shelter domestic animals or birds shall be situated not less than eight feet from the street in front nor less than thirty-five feet from the site of a residence on any adjacent lot.

APPENDIX D

COMMERCIAL CLASSIFICATIONS--CASTLEGAR, BRITISH COLUMBIA

"use, retail-service group 1" means land, buildings, or structures used for the sale at retail or repair of household or personal goods or things, or for providing services to persons; includes grocery stores, bakery shops, meat and fish markets, supermarkets, delicatessens, drug stores, clothing stores, personal furnishings shops, hardwares, variety stores, department stores, book shops, toy stores, home furnishing and appliance stores, camera shops, stationery stores professional and semi-professional offices, banks, business offices, finance offices, barbers, hairdressers, tailors, shoemakers, launderettes, dry cleaners, printers, trade and business schools, appliance repairs, restaurants and cafes, coffee houses, dance and music studios, art galleries, social clubs, billiard halls, legions, fraternal lodges, bowling alleys, and theatres; excludes "retail-service group 2 use", "service station use", "tourist accommodation use", and "hotel use".

"use, retail-service group 2" means land, buildings, or structures used for the sale at retail or servicing of non-household or non-personal goods or things, or for the sale at retail or servicing of any goods or things that necessitate access by motor vehicle; includes new and used automobile sales, the sale of goods in an unenclosed area, the sale of automotive goods, light marine sales, light machinery sales, building supply sales, glass sales, plumbing shops, sheet metal shops, heating shops, nurseries, automobile and light truck servicing and repair, car washes, drive-in facilities, drive-in cafes and restaurants, bowling alleys, skating and curling rinks, roller rinks, recreation clubs, health clubs, and mortuaries; excludes "retail-service group 1 use", "service station use", "tourist accommodation use", and "hotel use", includes trailer sales.

"use, service station" means land, buildings, or structures used for the retail sale of motor fuels or lubricating oils, with or without the servicing or minor repair of motor vehicles or the sale of automobile accessories.

C-1	Core Commerical
C-3	Local Commercial
CS-1	Service Commerical
CS-2	Service Station Commercial
CS-3	Service Tourist Commercial
CS-4	Service Tourist Commercial

USE	ZONE IN WHICH USE IS PERMITTED					
	C-1	C-3	CS-1	CS-2	CS-3	CS-4

Principal Use:

Local store	no	yes	no	no	no	no
retail-service group 1	yes	no	yes	no	no	no
retail-service group 2	no	no	yes	yes	no	no
service station	no	no	no	yes	no	no
hotel	yes	no	no	no	no	no
tourist accommodation	no	no	yes	yes	yes	yes
off-street parking	yes	no	no	no	no	no
trailer sales	no	no	no	no	no	yes
trailer courts	no	no	no	no	yes	yes

Accessory Use:

accessory one-family residential	no	yes	no	no	yes	yes
accessory off-street loading	yes	no	yes	yes	no	no
accessory off-street parking	yes	yes	yes	yes	yes	yes
accessory unenclosed storage	no	no	yes	yes	no	no

Source: Corporation of the Village of Castlegar, "Zoning Bylaw 1965," pp. 4, 5, 14.

APPENDIX E

AN EXPERIENCE IN RECLASSIFICATION

An Experience in Classification

In Chicago's rezoning project,¹ Real Estate Research Corporation listed 23 classifications of business groups in which physical adjacency of the components of each group results in mutual economic enhancement. Excluded from these listings were some business uses which have been almost universally and consistently classified in manufacturing and industrial zones, even though they do not directly involve the fabricating or making of products or the processing of materials. These were such businesses as scrap yards, junk yards, lumber yards, dumping places, freight yards, railroad repair shops, blacksmiths, experimental laboratories, building material sales yards, contractors equipment storage yards, feed and fuel yards, draying, freighting, or trucking yards, carpet and rug cleaning establishments, public utility service yards, or transforming stations. Such uses were considered economically incompatible with each of the 23 classifications and were recommended as properly belonging in separate categories apart from the normal business complex.

Following are the classifications set up as the first step in arriving at new business zones for Chicago:

1. Private schools (non-public day schools for children and not including trade or secondary schools or boarding schools). Such facilities for daytime care are needed because of the tremendous increase in incidence of working wives. (The study noted that 78% of newlywed wives had reported an intention to be permanently employed.) Private schools were recommended as being permissible in any residential zone provided that certain minimum standards were observed in terms of physical layout, facilities, architectural conformity, and occupancy.

2. Parking lots (including public lots, private lots operated for profit, metered lots and lots both with and without attendants, and lots in connection with permissible uses), were recommended to be allowed in all business and commercial areas provided adequate standards are met.

3. Clubs (including golf, country, tennis, beach, swimming, and social clubs; fraternal and religious associations and lodges of a non-profit variety only; without public advertising or signs other than small identification plaques) were not considered compatible

¹H. F. Chaddick, Director; Evert Kincaid, Consultant.

with business areas.

4. Public services (including electrical distributing sub-stations, telephone sub-stations, water sub-stations, fire stations, police sub-stations and libraries) are largely the utilities and public services required on a neighborhood basis. Provided that architectural, planning, and height, bulk, and setback restrictions are established, such facilities were recommended for inclusion in business districts only by special permission.

5. Medical clinics (buildings for human treatment only, used wholly or exclusively for doctors' and dentists' offices where sale of prescriptions and treatments is done inside the building with no separate entrance) were recommended for apartment zones under certain standards for signing, parking, and architecture, but first floor use by clinics was recommended to be excluded from retail and wholesale zones. It was noted that the incident of "trips to the doctor" coupled with shopping is so small as not to warrant the increased congestion which such clinics cause.

6. Retail business I, was set up as one of two classifications for general retail business, including retail shops, stores and businesses dispensing convenience goods, shoppers' goods and services. Retail Business I includes those types of establishments whose customers are mutually interchangeable; that is, those retail businesses which attract customers who are in turn prospects for adjacent retail establishments. They generally include stores and shops of a non-nuisance variety which are sources of regular or frequent periodic purchase. It was recommended that a separate retail category be established which would limit ground floor use to various of the uses listed and allowing use above the ground floor for retail, residential, office, or medical purposes only where additional adequate off-street parking is provided on site for such upstairs uses. Basements could be devoted to any of the uses specified in classifications 1 through 12 but might be used for classifications 8 through 12 only where the entrance to the basement is wholly within a building and adequate off-street parking is provided for that use. Listings in Retail Business I were recommended as follows:

Bakery goods stores	Electric appliances and
Book stores	radio stores
Banks	Fruit and vegetable
Beauty parlors	stores
Barber shops	Frozen food stores
Branch post offices	Furriers
Cigar stores	Grocery stores
Confectionery and	Gift shops
candy stores	Hardware and paint
Cosmetic stores	stores
Custom dressmaking	Haberdasheries
shops	Household appliance
Currency exchanges	stores
Camera shops	Heating equipment
Clothes cleaning agencies,	showrooms
pressing establishments	Hat repair
or cleaners pick-up	Interior decorating and
stations	furniture stores
Drug stores	Jewelry stores with
Delicatessens	watch and clock repair
Diaper service stations	Launderettes
Dry goods stores	Laundry agencies
Department stores	Real estate offices
Leather goods and	Super marts
luggage stores	Shoe stores
Liquor stores (package)	Shoe repair shops and
Loan offices	shoe shining
Meat markets	Studios (photographic)
Millinery shops	Stationery stores
Music conservatories,	Savings & Loan
music schools and	Associations
musical instrument	Sporting goods
stores	Toy stores
Notion stores	Travel bureaus
Photographic supply	Tailor, clothing and
shops	wearing apparel shops
Paint stores	Tearooms and cafes
Public utility collection	(excluding dancing
offices	and entertainment)
Restaurants	Tire and auto accessory
Ready-to-wear shops	stores where there is
Retail florists (without	no break in the side-
nurseries or green-	walk)
houses)	Variety stores

7. Retail Business II was recommended to include all uses in Retail Business I plus a number of secondary types of retail establishment points. The additions are

business which, in some degree, have an economic interchange of customers with establishments in Retail Business I but which nonetheless for one reason or another (e.g., unattractive appearance, nuisances in operation) are not warranted of inclusion in many retail areas. The additions to Retail Business I to make up Retail Business II include:

Antique shops	Masseur salons
Art stores and art studios	Optician offices
Bird stores	Optometrist offices
Boat showrooms	Orthopedic and medical
Coin and philatelic	appliance stores
stores	Pawnshops
Costume rental shops	Pet shops
Fuel stores, building	Professional offices other
material and lumber	than real estate
stores (where the	Public baths
operations take place	Picture framing
inside a single building	Reducing salons
only)	Retail feed stores
Garden supplies	Second-hand stores and
	rummage shops
Live bait stores	Taxidermists

8. Neighborhood repair establishments (where repair or the minor fabricating necessary to repair is done on the premises and are for neighborhood or emergency use) were recommended for exclusion from Retail Business I districts but possibly for inclusion with Retail Business II uses. Generally these establishments are rarely visited by shoppers in conjunction with any of the retail establishments, so it was recommended that they be categorized separately. The list includes:

Automobile showrooms	Laundry and cleaning es-
Automobile repair shops	tablishments (with res-
Battery repair shops	ervations)
Bicycle repair shops and	Plumbing shops and showrooms
bicycle rental shops	Public garages
and offices where no	Sheet metal shops
fabricating is done on	Sign painting and paint
the premises and where	shops
all storage of materials	Silver plating and repair
is inside a single build-	shops
ing only	Soldering shops
Cabinet or carpenter	Upholstering shops
shops (small)	(custom)
Exterminating shops	Umbrella shops

Glass cutting and glazing
establishments

Venetian blind and win-
dow repair shops.

9. Wholesale, storage and warehousing (all types other than those involving uncanned meat, fish, fruit and vegetables) are parallels to the retail business as another intermediary step in the distribution process and are located in areas where goods are sold to final sellers. It was recommended that a separate wholesale and storage zone be established in which, as a maximum retailing and office use should be permitted only when incidental to the wholesale or storage operation and as a minimum, such uses might be permitted regardless of incidence to the basic operation. No wholesaling should be allowed in retail areas or office areas.

10. Offices (including business and professional offices and schools, and certain services related thereto) by and large represent points of traffic interruption, and increase congestion and parking problems in retail and wholesale areas. There is little interchange of trade between such offices and other types of business establishments, except that employees thereof represent a market for retail purchases in adjacent shops and eating establishments. It was therefore recommended, from an economic standpoint, that business offices and professional and business schools be excluded from ground floor use in retail areas, but be permitted only in upper stories in such areas where adequate off-street parking for this is included. It was also recommended, however, that the separate office use category allow retailing and wholesaling.

11. Drive-In establishments. (included automobile service stations and gas stations, auction halls, barbecue stands, drive-in auto wash, drive-in theaters, drive-in restaurants, driving ranges and archery ranges, fruit and vegetable stands, hamburger and other eating stands, childrens amusement parks, miniature golf courses, pony riding rings, shuffleboard courts, etc.) Such establishments are economically incompatible with retail establishments, wholesale establishments and with office use because (a) they increase congestion and traffic, (b) they represent points of interruption of pedestrian traffic flow, and (c) they are inclined to be brightly colored and garish in appearance and extreme in architecture because of their need for quick attraction of rapidly moving cars. It was recommended that such uses (not including drive-in parking and automobile repair) be excluded from retail and wholesale zones.

12. Entertainment facilities (including bowling alleys, billiard and pool halls, dance halls and studios, night clubs, show clubs, supper clubs with dancing, shooting galleries and penny arcades, skating rinks, taverns, bars and other establishments dispensing alcoholic beverages but where food is not served and theatres) were recommended as a special category but with possible combination with the drive-in category. These establishments have virtually no interchange business with retail or wholesale establishments and represent a different time and category of economic action. In addition to lacking qualities of economic enhancement or compatibility with other businesses, these uses do in fact contain elements of considerable detriment to retail and wholesale establishments in that they (a) increase congestion and traffic, (b) may be noisy, and (c) often increase the incidence of vandalism on adjacent property.

13. Cemeteries (including all human burial places) were considered economically incompatible with any business use other than mortuaries, florists, nurseries and monument shops and were therefore recommended as a completely separate category.

14. Stables and animal hospitals were similarly considered incompatible with all other businesses and recommended for exclusion from all retail, wholesale, and office zones. The classification riding stables, animal hospitals and clinics, dog kennels, pounds, and such businesses as the raising of chickens, ducks and geese.

15. Major gathering places (including such installations as baseball stadia, boxing arenas, auditoriums, armories and large gymnasiums, football stadia, and race tracks) were considered as high nuisance factors during periods of use and not contributors to neighboring businesses except those which specifically cater to the assembly crowds. It was recommended that they be excluded from all retail, wholesale and office areas.

16. Wholesale food markets (handling food not preserved) represent a high nuisance to other types of business use by virtue of congestion, noise, odor and in some instances unsightliness, and were therefore recommended to be confined to specific market areas.

17. Mortuaries (all places other than churches where funeral services are held and where embalming is

performed) are highly incompatible with all other categories (except cemeteries) because (a) they are dead spots of business interruption, (b) they cause extreme congestion at funeral times, and (c) they represent an emotional depressant rather than the stimulant which most business men seek in their environment to encourage business.

18. Used car lots (where operations take place out of doors and not in conjunction with a showroom for new cars) were recommended as a separate category because of their general incompatibility from all types of retail or wholesale business. A distinction was made between such lots and those operated in conjunction with new car showrooms because of fundamental differences in mode of operation and attitude and, sometimes, in entrepreneurial stability.

19. Nurseries (nurseries for flowers and plants, greenhouses, with distinction from retail florists included in category 6) represent "dead spots" with no economic interchange with other retail or wholesale establishments and were recommended for exclusion from all retail, wholesale and office districts.

20. Trailer camps were considered not only incompatible with all retail, wholesale, and office uses, but with residential and industrial uses as well. The only concession to a general recommendation for exclusion from the entire community was to recommend permission by special permit only and then not in retail, wholesale, or office districts.

21. Tourist courts (including motels and other establishments where parking is adjacent to sleeping quarters leased on a transient basis) were considered a superior economic use over trailer camps but subject to the same general objections in varying lesser degrees. It was recommended that, contrary to wide general practice, this category be specifically excluded from all retail, wholesale and office areas, except for possible combination with the drive-in category.

22. Large-scale institutional uses were recommended for specific review in each instance due to the fact that colleges, hospitals, etc. may have varying degrees of compatibility or incompatibility with other uses, and might conceivably be properly permitted adjacent to retail or wholesale districts in special cases.

23. Temporary uses (all uses of vacant land which are temporary or transient in nature, such as transient circus and amusement enterprises, fiestas, and street fairs, billboards, advertising signs, advertising structures, large poster panels and large pole signs on vacant land) have no economic value to adjacent businesses and may in fact be areas of dirt, noise and unsightliness. On the other hand, such businesses have some value in giving earning power to vacant land which must be taxed despite its non-productivity. The recommendations were to allow such uses only in categories from 7 through 22 but only on a short-term permit basis.

APPENDIX F
QUESTIONNAIRE-CHAPTER IV

QUESTIONNAIRE-CHAPTER IV

1. Check the alternative that you feel is the most desirable regarding dwellings in central business district commercial zones of your municipality?

- (a) allow dwellings completely _____
- (b) allow dwellings as accessory uses _____
- (c) allow dwellings as conditional uses _____
- (d) restrict dwellings completely _____

Comment:

2. Would you accept the following zoning classification system for the central business district of your community?

Yes ____ No ____.

- (1) Retail Business
 - (2) Entertainment facilities
 - (3) Offices
 - (4) Highway-oriented Uses
 - (5) Heavy Commercial District
- (These categories are described in detail on the following pages)

Comment:

3. Would you accept the following zoning classification system for the central business district of your community?

Yes ____ No ____.

- (1) Retail Business, Entertainment facilities, Offices
- (2) Highway-oriented Uses
- (3) Heavy Commercial District

Comment:

4. If none of the above classification systems are acceptable to you, briefly describe the classification system that you think would be most desirable for your municipality. Also comment briefly on the reasons for your choice.

Comment:

Note: Your honest opinion is sought unaffected by the existing zoning regulations of your municipality.

1. Retail Businesses

Bakery goods stores	Jewelry stores with
Book stores	watch and clock repair
Banks	Launderettes
Beauty parlors	Leather goods and luggage
Barber shops	stores
Branch post offices	Liquor stores (package)
Cigar stores	Loan offices
Confectionery and	Meat markets
candy stores	Millinery shops
Cosmetic stores	Music conservatories,
Custom dressmaking shops	music schools and
Currency exchanges	musical instrument stores
Camera shops	Notion stores
Clothes Cleaning agencies,	Photographic supply shops
pressing establishments	Paint stores
or cleaners pick-up	Restaurants
stations	Ready-to-wear shops
Drug stores	Retail florists (without
Delicatessens	nurseries or green-
Diaper service stations	houses)
Dry goods stores	Super marts
Department stores	Shoe stores
Electric appliances and	Shoe repair shops and shoe
radio stores	shining
Fruit and vegetable	Studios (photographic)
stores	Stationery stores
Frozen food stores	Toy stores
Furriers	Travel bureaus
Grocery stores	Tailor, clothing and
Gift shops	wearing apparel shops
Hardware and paint stores	Tearooms and cafes
Haberdasheries	(excluding dancing and
Household appliances	entertainment)
stores	Tire and auto accessory
Heating equipment	stores where there is no
showrooms	break in the side-walk
Hat repair	Variety stores
Interior decorating and	Sporting goods
furniture stores	Live bait stores
Antique shops	Masseur salons
Art stores and art studios	Orthopedic and medical
Bird stores	appliance stores
Boat showrooms	Pawnshops
Coin and philatelic stores	Pet shops
Costume rental shops	Public baths
Fuel stores, building	Picture framing
material and lumber	Reducing salons
stores (where the	Retail feed stores
operations take place	Second-hand stores and
inside a single	rummage shops
building only	Taxidermists
Garden supplies	

2. Entertainment Facilities

Bowling alleys
Billiard and pool halls
Dance halls and studios
Night clubs, Show clubs
Supper clubs
Restaurants

Shooting galleries
Penny arcades
Skating rinks
Taverns, Bars
Hotels
Theatres, Movies

3. Offices

Medical offices
Dental offices
Administrative and
Editorial offices

Clinics
Professional and
Business offices
Public offices

4. Highway-Oriented Uses

Auto service stations
New and used car lots
Drive-in auto wash
Restaurants
Drive-in eating places

Boat and Trailer sales
Motels and Hotels
Tourist courts
Trailer camps

5. Heavy Commercial District

Wholesale business
Storage
Warehousing
Automobile and truck repair
Building material sales
yards
Contractor storage yards
Carpentry shops
Upholstering shops

Plumbing and heating shops
Bakery
Bottling plants
Cleaning and laundry
establishments
Glass cutting and glazing
establishments
Sign painting shops
Soldering and welding shops

APPENDIX G

SECTIONS OF THE MUNICIPAL ACT OF BRITISH COLUMBIA

Sections of the Municipal Act of British Columbia (R.S.B.C.
1965)

Buildings or
structures
under con-
struction.

Non-conform-
ing use.

Extension of
non-conform-
ing use.

Damaged
building or
structure not
to be repaired
if non-con-
forming.

Power to
acquire land
for sites
other than
for municipal
purposes.

705. (1) A building or structure lawfully under construction at the time of the coming into force of a zoning by-law shall, for the purpose of that by-law, be deemed to be a building or structure existing at that time.

(2) A lawful use of premises existing at the time of the adoption of a zoning by-law, although such use does not conform to the provisions of the by-law, may be continued; but if such non-conforming use is discontinued for a period of thirty days, any future use of those premises shall, subject to the provisions of this section, be in conformity with the provisions of the zoning by-law.

(3) A lawful use of a building or structure existing at the time of the adoption of the zoning by-law, although such use does not conform to the provisions of the zoning by-law, may be extended throughout the building or structure, but no structural alterations except those required by Statute or by by-law or those allowed by the Zoning Board of Appeal shall be made therein or thereto.

(4) Where any building or structure the use of which does not conform to the provisions of an applicable zoning by-law is damaged or destroyed to the extent of seventy-five per centum or more of its value above its foundations, as determined by the building inspector, whose decision shall be subject to review by the Zoning Board of Appeal, it shall not be repaired or reconstructed, except for a conforming use in accordance with the zoning by-law.

465. (1) The Council may develop property owned by the municipality for the use as a residential, commercial, or industrial area, or any combination of such uses, and provide such works and services as are deemed necessary or beneficial to the development.

(2) For the purposes of subsection (1), the Council of a city or district municipality may,

- (a) by resolution or by-law, acquire property other than by expropriation; or,
- (b) by by-law and with the approval of the Lieutenant-Governor in Council, acquire property by expropriation.

By-law provisions for preventing and abating nuisances and disturbances, etc.

870. The Council may by by-law
- (a) require owners or occupiers of buildings to prevent pigeons or other birds from perching, roosting, or nesting thereon, and regulate the feeding of pigeons or other birds by persons other than their owners;
 - (b) prevent, abate, and prohibit nuisances, and provide for the recovery of the cost of abatement of nuisances from the person causing the nuisance or such other person or persons as may be described in the by-law;
 - (c) regulate or prohibit the making or causing of noises or sounds in or on a highway or elsewhere in the municipality which disturb, or tend to disturb, the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood, or of persons in the vicinity, or which in the opinion of the Council are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public, and may make different regulations or prohibitions for different areas of the municipality.
 - (d) prevent or prohibit persons from shouting, using megaphones, and making other noise in or at or on streets, wharves, docks, piers, steamboat-landings, railway stations, or other public places;
 - (e) regulate or prohibit the sale or disposal to any person of fire-crackers and other fireworks of every nature or kind;
 - (f) prevent charivaries and other like disturbances of the peace;
 - (g) prohibit persons from causing or permitting water, rubbish, or noxious,

offensive, or unwholesome matter or substance to collect or accumulate around their premises, or from depositing or throwing bottles, broken glass, or other rubbish in any open place;

- (h) regulate untidy and unsightly premises, and require the owners or occupiers of real property, or their agents, to remove therefrom any accumulation of filth, discarded materials, or rubbish of any kind; and for providing that in default of such removal the municipality, by its workmen and others, may enter and effect such removal at the expense of the person so defaulting; and for providing that the charges for so doing, if unpaid on the thirty-first day of December in any year, shall be added to and form part of the taxes payable in respect of that real property as taxes in arrear;
- (i) require the owners or occupiers of real property, or their agents, to eliminate or reduce the fouling or contaminating of the atmosphere through the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes, or other effluvia; and for prescribing measures and precautions to be taken for such purpose; and for fixing limits not to be exceeded in respect of such emissions;
- (j) require manufacturers and processors to dispose of the waste from their plants in the manner directed by the by-law;
- (k) require the owners or occupiers of real property, or their agents, to clear such property of brush, trees, noxious weeds, or other growths; and for providing that in default of such clearing the municipality, by its workmen and others, may enter and effect such clearing at the expense of the person so defaulting; and for providing that the charges for so doing, if unpaid on the thirty-first day of December in any year, shall be added

to and form part of the taxes payable in respect of that real property as taxes in arrear;

- (l) require the owners or occupiers of real property, or their agents, to prevent infestation by caterpillars and other noxious or destructive insects, and to clear such property of caterpillars and other noxious or destructive insects; and for providing that in default of destruction and clearing the municipality, by its workmen and others, may enter and effect such destruction and clearing at the expense of the person so defaulting; and for providing that the charges for so doing, if unpaid on the thirty-first day of December in any year, shall be added to and form part of the taxes payable in respect of that real property as taxes in arrear;
- (m) prohibit the posting, exhibiting, or distributing of placards, play-bills, posters, advertising, writings, or pictures, or the writing of words, or the making of pictures or drawings which are indecent or may tend to corrupt or demoralize, on walls or fences, or elsewhere, on or adjacent to a highway or public place;
- (n) prevent vice, drunkenness, profane swearing, or indecent, obscene, blasphemous, or grossly insulting language, or other immorality and indecency;
- (o) regulate the bathing or washing of the person in any public waters in or near the municipality;
- (p) offer bounties for the destruction of beasts and birds of a noxious or destructive character;
- (q) provide, notwithstanding the provisions of the Sheep Protection Act, that no claim shall be authorized by the Council under that Act unless the Council is satisfied that the owner of sheep, goats, or poultry submitting the claim has taken all reasonable precautions for

- protecting such sheep, goats, or poultry;
- (r) regulate the sale of animals, and the driving of animals through the municipality;
 - (s) prohibit cruelty to animals, and provide for the destruction of any animal suffering from an incurable disease;
 - (t) require that owners, possessors, or harbourers of dogs, or any class of dogs, shall keep them effectively muzzled while they are at large or upon a highway or public place, or shall keep them on leash or under control of a competent person while upon a highway or public place, as the by-law may direct;
 - (u) prohibit the carrying-on of any noxious or offensive trade, business, or manufacture. 1957, c. 42, s. 875; 1958, c. 32, s. 340; 1961, c. 43, s. 49; 1964, c. 33, s. 71.

APPENDIX H
QUESTIONNAIRE-CHAPTER VI

QUESTIONNAIRE

1. In your Municipality are the following statutes of the British Columbia Municipal Act considered effective in eliminating nonconforming uses in the central business district?

- | | | |
|--|-----|----|
| a) Discontinuance: Section 705, subsection 2 | yes | no |
| b) Limit expansion and alteration; Section 705, subsection 3. | yes | no |
| c) Abatement of nuisances to public health, safety and welfare; sections 870, 635. | yes | no |
| d) Expropriation; Section 465, subsection 2b. | yes | no |
| e) 75% rule; Section 705, subsection 4. | yes | no |

2. Indicate by number, the order of effectiveness of the above statutes to eliminate nonconforming uses in the central business district of your Municipality.

- a) b) c) d) e)

3. Are more effective statutes required in the British Columbia Municipal Act in order to facilitate the elimination of nonconforming uses in the central business district of your municipality?

yes no

Comment:

4. Is there a need for the acceleration of the elimination of nonconforming uses in the central business district of your municipality?

yes no

Comment:

5. Has your Municipality conducted or authorized any studies on this problem.

yes no

If so, list:

6. Are there any specific policies and/or programs which your municipality has in progress to eliminate nonconforming

uses from the central business district?

yes no

If so, explain:

7. Are there any specific policies and/or programs being contemplated for the future to eliminate nonconforming uses in the central business district of your municipality?

yes no

If so, explain:

The next two questions refer to methods of eliminating nonconforming uses that have been held constitutional in some states of the U. S. in various instances. The amortization method allows a certain time limit which reflects the remaining useful life of a nonconforming use after which the nonconforming use must be discontinued. The time period is designed to allow a nonconforming user to plan and to reduce the loss of relocation as much as possible.

8. Would your municipality be in favor of eliminating nonconforming uses from the central business district by the amortization method?

yes no

Comment:

9. Would your municipality be in favor of a zoning ordinance that required immediate conformance of nonconforming uses once such an ordinance was introduced?

yes no

Comment: