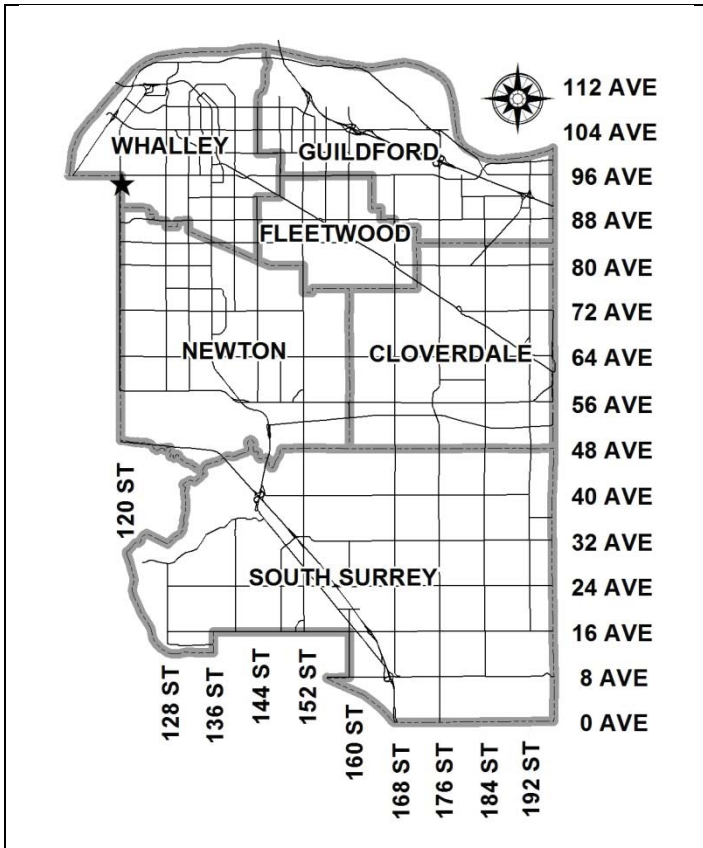


City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7917-0202-00

Planning Report Date: May 29, 2017



PROPOSAL:

- **Terminate Land Use Contract No. 508**

to permit the existing underlying CHI Zone to come into effect.

LOCATION: Portion of 9412 - 120 Street

LUC AND UNDERLYING: LUC No. 508

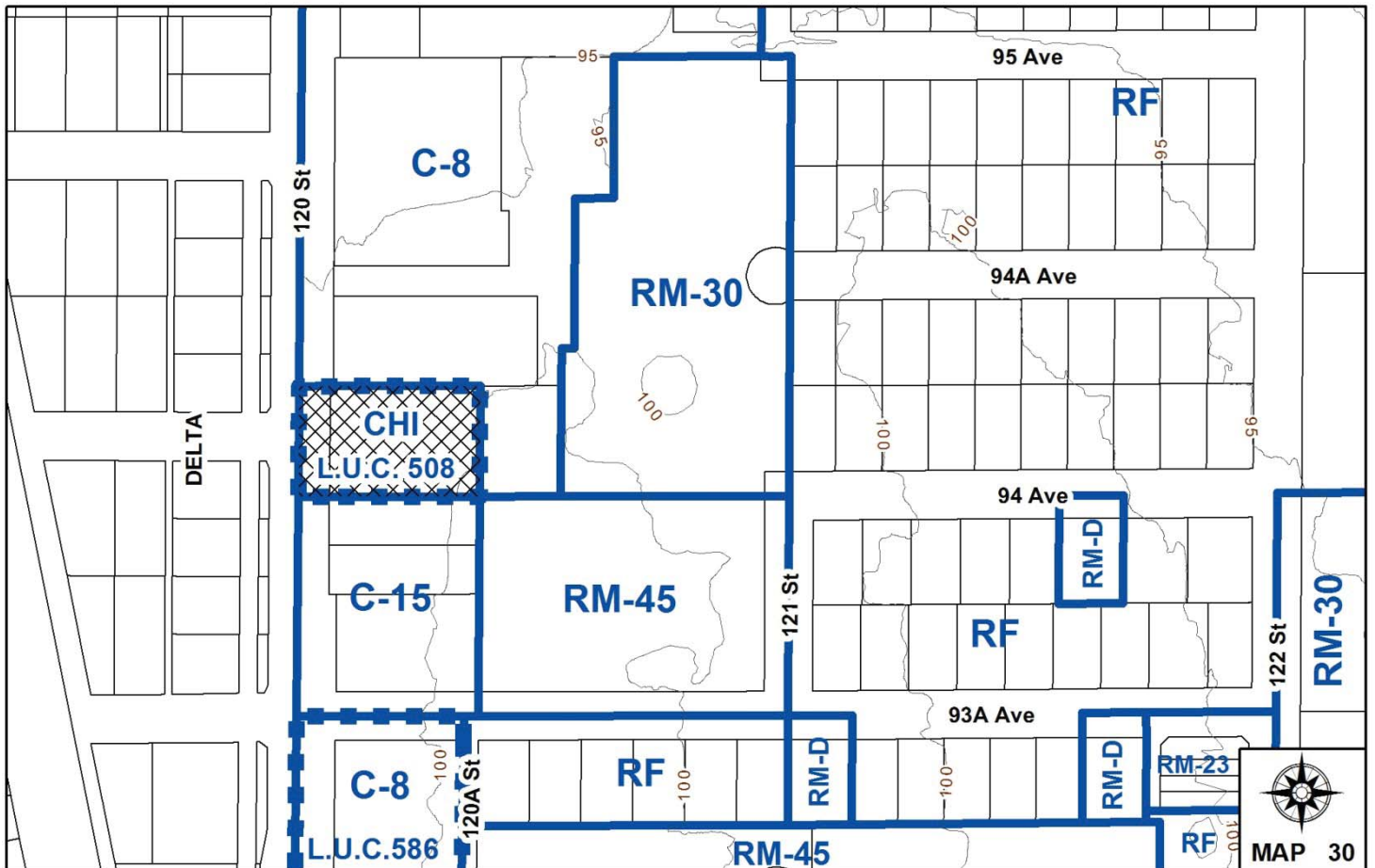
(CHI Zone underlying)

ZONING:

Commercial

OCP

DESIGNATION:



RECOMMENDATION SUMMARY

- By-law Introduction and set date for Public Hearing to terminate LUC No. 508.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- None

RATIONALE OF RECOMMENDATION

- In 2014, the Provincial Government adopted changes to the *Local Government Act* that terminate all Land Use Contracts (LUCs) in the Province on June 30, 2024. However, the legislation also permits municipalities to undertake early termination of LUCs in advance of 2024.
- On June 15, 2015, City Council endorsed the recommendations in Corporate Report No. R122, which outlined a process with respect to the early termination of LUCs in Surrey.
- LUC No. 508 was adopted by Authorization By-law, 1978, No. 5647 on November 6, 1978.
- In 1980, a subdivision was approved, which resulted in the original LUC No. 508 lot being consolidated with vacant land to the east.
- LUC No. 508 permits a 90-seat restaurant with a drive-through. A Wendy's restaurant has operated on this site since the building was constructed in 1979/1980.
- In accordance with the legislation, the LUC Termination By-law must include an effective date that is no less than one year from adoption of the by-law, resulting in a grace period.
- Once LUC No. 508 is terminated and the one-year grace period ends, the current underlying "Highway Commercial Industrial Zone (CHI)" will automatically come into effect and will regulate the western portion of the subject lot.
- The "Highway Commercial Industrial Zone (CHI)" permits a variety of commercial and industrial uses intended for large lots and exposure to major highways, including drive-through restaurants.
- The eastern portion of the subject lot is vacant and not regulated by LUC No. 508 but zoned "Community Commercial Zone (C-8)".
- If the land owner feels that the termination of the LUC will cause undue hardship, the property owner has the right to appeal to the City's Board of Variance (BOV). The application to the BOV must be received by the BOV within 6 months after the LUC Termination By-law has been adopted by City Council.

RECOMMENDATION

The Planning & Development Department recommends that a By-law be introduced to terminate Land Use Contract No. 508 and a date be set for Public Hearing.

BACKGROUND

- In the early 1970s the Provincial Government adopted changes to the *Municipal Act* (now called the *Local Government Act*) that allowed local governments to enter into Land Use Contracts (LUCs) with land owners and/or developers that incorporated zoning, development control and servicing issues into one document. As a result, on lands within an LUC, the LUC became the governing land use control and, in some instances, the subdivision and development control as well.
- Although LUCs are an agreement between the City and land owners/and developers, all LUCs were adopted by By-law. The first LUC in Surrey was adopted by City Council by By-law on August 7, 1972.
- In the late 1970s the Provincial Government adopted changes to the *Municipal Act* (now called the *Local Government Act*), eliminating the ability of municipalities to enter into LUCs.
- Approximately 370 LUCs were adopted in Surrey, most of which remain in effect.
- In 2014, the Provincial Government adopted changes to the *Local Government Act* that terminate all Land Use Contracts (LUCs) in the Province on June 30, 2024. However, the legislation also permits municipalities to undertake early termination of LUCs in advance of 2024, should they choose to do so.
- On June 15, 2015, Council approved the recommendations in Corporate Report No. R122, which outlined a proposed process with respect to the early termination of LUCs in Surrey. Over three-quarters of the LUCs in Surrey have now been presented to Council for early termination.
- As a result, City staff are moving forward with the termination of LUC No. 508 in accordance with the approved process.

PUBLIC NOTIFICATION

Early termination of LUCs is a Council-initiated project that does not require the consent of landowners within the LUC being terminated. A Development Proposal Sign has not been installed and no pre-notification letters have been mailed.

However, the LUC Termination By-law is required to have its own Public Hearing. As a result, the Public Hearing Notice will be delivered to all owners and tenants of properties within LUC No. 508, informing them that Council is considering terminating the LUC. In addition, the Public Hearing notice will be published in two consecutive issues of the Surrey Now-Leader.

SITE CHARACTERISTICS

Existing Land Use: Drive-through restaurant (Wendy's).

Adjacent Area:

Direction	Existing Use	OCP Designation	Existing Zone
North:	Older, 2-storey commercial building on the northern portion and recently constructed, one-storey, multi-tenant commercial building on the southern portion.	Commercial	C-8
East:	Townhouses	Multiple Residential	RM-30
South:	Single storey commercial/office building.	Commercial	C-15
West (Across 120 Street):	Three-storey commercial/office building and three-storey mixed-use building in Corporation of Delta.	N/A	N/A

DISCUSSION

- LUC No. 508 was adopted by Authorization By-law, 1978, No. 5647 on November 6, 1978.
- LUC No. 508 currently regulates the western portion of one (1) commercial lot. The subject site is located in Whalley at 9412 – 120 Street.
- In 1980, a subdivision was approved, which resulted in the original LUC No. 508 lot being consolidated with vacant land to the east.
- The subject site is designated as "Commercial" in the Official Community Plan (OCP). The western portion of the lot has an underlying "Highway Commercial Industrial Zone (CHI)" and the eastern portion is zoned "Community Commercial Zone (C-8)" under Surrey Zoning By-law 1993, No. 12000, as amended.
- LUC No. 508 permits a 90-seat restaurant with a drive-through. A Wendy's restaurant has operated on this site since the building was constructed in 1979/1980.
- In accordance with the legislation, the LUC Termination By-law must include an effective date that is no less than one year from adoption of the by-law, resulting in a grace period. The subject Termination By-law has a one-year grace period.

- Once LUC No. 508 is terminated and the one-year grace period ends, the current underlying CHI Zone will come into effect and will regulate the use of the western portion of land.
- The "Highway Commercial Industrial Zone (CHI)" permits a variety of commercial and industrial uses intended for large lots and exposure to major highways, including drive-through restaurants.
- The eastern portion of the subject lot is vacant and not regulated by LUC No. 508 but zoned "Community Commercial Zone (C-8)".
- If the land owner feels that the termination of the LUC will cause undue hardship, the property owner has the right to appeal to the City's Board of Variance (BOV). The application to the BOV must be received by the BOV within 6 months after the LUC Termination By-law has been adopted by City Council.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I. Copy of Part 39 Highway Commercial Industrial Zone (CHI) of Surrey Zoning By-law, 1993, No. 12000, as amended

INFORMATION AVAILABLE ON FILE

- Land Use Contract No. 508.

original signed by Judith Robertson

Jean Lamontagne
General Manager
Planning and Development

RT/da



Part 39 - CHI, Highway Commercial Industrial Zone

Highway Commercial Industrial Zone

Part 39

CHI

A. Intent

Amendments: 13774, 07/26/99

This Zone is intended to accommodate and regulate those commercial and related uses requiring large *lots* and exposure to major *highways*, which generally are not accommodated in *shopping centre*, *Town Centre* or *Surrey City Centre* as shown in Schedule D.1 developments.

B. Permitted Uses

Amendments: 12333, 07/25/94; 12523, 02/13/95; 12715, 12/04/95; 13201, 09/16/97; 13316, 02/09/98; 13251A, 03/16/98; 13497, 09/15/98; 15271, 11/01/04; 15977, 04/24/06; 17462, 09/12/11; 17471, 10/03/11

Land and *structures* outside the sub-area of the *City Centre*, as identified on Map D.1(a), shall be restricted to the uses listed in Sub-sections 1 through 16 only, or for a combination of the uses listed in Sub-sections 1 through 16. Land and *structures* located within the sub-area of the *City Centre*, as identified on Map D.1(a), shall be restricted to any of the uses listed in Sub-section 17 only or for a combination of any of the uses listed in Sub-section 17.

Outside the sub-area of the *City Centre* as shown on Map D.1(a)

1. *Automotive service uses of vehicles* less than 5,000 kilograms [11,023 lbs.] *G.V.W.*
2. *Eating establishments* including *drive-through restaurants*.
3. *General service uses* including *drive-through banks*.
4. *Beverage container return centres* provided that:
 - (a) the use is confined to an enclosed *building* or a part of an enclosed *building*; and
 - (b) the *beverage container return centre* does not exceed a *gross floor area* of 418 sq. metres (4,500 sq.ft.).

5. Indoor *recreational facilities*, including *bingo halls*.
6. *Light impact industry* including retail of products processed or manufactured on the *lot*.
7. *Tourist accommodation*
8. *Parking facilities*.
9. *Retail stores* limited to the following:
 - (a) Animal feed and tack shops;
 - (b) Appliance stores;
 - (c) Auction houses;
 - (d) Automotive parts, new;
 - (e) Building supply stores;
 - (f) *Convenience stores*;
 - (g) Used clothing stores or flea markets, provided that the operation is contained within a *building*;
 - (h) Furniture stores;
 - (i) Garden supply stores;
 - (j) Marine parts, new;
 - (k) *Retail warehouse uses*;
 - (l) Sales and rentals of boats;
 - (m) Sports card shops; and
 - (n) Sporting goods stores.
10. *Warehouse uses*.

11. Sales and rentals of *vehicles* less than 5,000 kilograms [11,023 lbs.] *G.V.W.*
12. *Assembly halls.*
13. *Community services.*
14. Office uses limited to:
 - (a) Engineering and surveying offices;
 - (b) General contractor offices;
 - (c) Government offices; and
 - (d) Utility company offices.
15. *Child care centres.*
16. *Accessory uses* including the following:
 - (a) One *dwelling unit* per *lot* provided that the *dwelling unit* is:
 - i. Contained within the *principal building*; and
 - ii. Occupied by the owner or the owner's employee, for the protection of the businesses permitted on the *lot*.
 - (b) Automobile painting and body work provided that:
 - i. it is part of a business selling and renting *vehicles* less than 5,000 kilograms [11,023 lbs.] *G.V.W.*;
 - ii. the storage of damaged or *wrecked vehicles* shall be completely enclosed within a *building* or approved walled or fenced area;
 - iii. *wrecked vehicles* shall not be visible from outside the *building* or the walled or fenced area in which they are stored;
 - iv. all automobile painting and body work shall be carried out only in an enclosed *building*; and
 - v. the number of *wrecked vehicles* stored within the walled or fenced area shall not exceed 5 at any time.

Within the sub-area of the City Centre as Shown on Map D.1(a)

17. Land and *structures* located within the sub-area of the *City Centre*, as shown on Map D.1(a), shall be used for the following uses only or for a combination of such uses:
 - (a) *Eating establishments* including *drive-through restaurants*;
 - (b) *General service uses* including *drive-through banks*;

- (c) *Beverage container return centres* provided that:
 - i. the use is confined to an enclosed *building* or a part of an enclosed *building*; and
 - ii. the *beverage container return centre* does not exceed a *gross floor area* of 418 sq. metres (4,500 sq.ft.);
- (d) *Indoor recreational facilities, including bingo halls*;
- (e) *Tourist accommodation*;
- (f) *Parking facilities*;
- (g) *Retail stores* excluding the following:
 - i. *adult entertainment stores*; and
 - ii. *secondhand stores and pawnshops*;
- (h) *Assembly halls*;
- (i) *Community services*;
- (j) *Office uses* excluding the following:
 - i. *social escort services*; and
 - ii. *methadone clinics*;
- (k) *Child care centres*; and
- (l) *Accessory uses* including the following:

One *dwelling unit* per *lot* provided that the *dwelling unit* is:

- i. Contained within the *principal building*; and
- ii. Occupied by the owner or the owner's employed, for the protection of the businesses permitted on the *lot*.

C. Lot Area

Not applicable to this Zone.

D. Density

Amendments: 14390, 05/22/01

1. In Neighbourhood Concept Plan and Infill Areas as described and outlined on the maps attached as Schedule F attached to this By-law, the *floor area ratio* shall not exceed 0.1 provided that the *gross floor area* on the *lot* does not exceed 300 square metres [3,230 sq. ft.]. The *floor area ratio* shall not exceed 1.00 if amenities are provided in accordance with Schedule G of this By-law, provided that not more than a *floor area ratio* of 0.50 may be used or intended to be used for *tourist accommodation*.

2. In areas other than those specified in Sub-section D.1 of this Zone, the *floor area ratio* shall not exceed 1.00 provided that not more than a *floor area ratio* of 0.50 may be used or intended to be used for *tourist accommodation*.

E. Lot Coverage

The maximum *lot coverage* shall be 50%.

F. Yards and Setbacks

Amendments: 12333, 07/25/94

Buildings and *structures* shall be sited in accordance with the following minimum *setbacks*:

<i>Setback</i>	<i>Front</i>	<i>Rear</i>	<i>Side</i>	<i>Side Yard</i>
<i>Use</i>	<i>Yard</i>	<i>Yard</i>	<i>Yard</i>	<i>on Flanking</i>
				<i>Street</i>
<i>Principal and Accessory Buildings and Structures</i>	7.5 m. [25 ft.]	7.5 m. [25 ft.]	7.5 m.* [25 ft.]	7.5 m. [25 ft.]

Measurements to be determined as per Part 1 Definitions, of this By-law.

* One (1) *side yard setback* shall be 7.5 metres [25 ft.] or 0.0 metre if the said *side yard* abuts a *commercial* or *industrial lot*.

G. Height of Buildings

Measurements to be determined as per Part 1 Definitions, of this By-law:

1. Principal building: The *height* shall not exceed 9 metres [30 ft.].
2. Accessory buildings and structures: The *height* shall not exceed 9 metres [30 ft.].

H. Off-Street Parking and Loading/Unloading

Amendments: 13774, 07/26/99; 18719, 05/30/16

1. Refer to Table C.1, Part 5 Off-Street Parking and Loading/Unloading of this By-law.
2. *Tandem parking* may be permitted as specified:

For company fleet vehicles in all commercial, industrial and mixed-use developments (where commercial or industrial uses are part of the development) required *parking spaces* may be provided as *tandem parking*.

I. Landscaping

Amendments: 13201, 09/16/97

1. All developed portions of the *lot* not covered by *buildings, structures* or paved areas shall be landscaped including the retention of mature trees. This *landscaping* shall be maintained.
2. Along the developed sides of the *lot* which abut a *highway*, a continuous *landscaping* strip of not less than 1.5 metres [5 ft.] in width shall be provided within the *lot*.
3. The boulevard areas of *highways* abutting a *lot* shall be seeded or sodded with grass on the side of the *highway* abutting the *lot*, except at *driveways*.
4. Except in those portions where a *building* abuts the *lot line*, screen planting at least 1.5 metres [5 ft.] high in a strip at least 1.5 metres [5 ft.] wide and a solid decorative fence at least 1.5 metres [5 ft.] high shall be provided along all *lot lines* separating the developed portion of the *lot* from any *residential lot*.

5. Loading areas, garbage containers and *passive recycling containers* shall be screened from any adjacent *residential lot*, to a height of at least 2.5 metres [8 ft.] by *buildings*, a *landscaping* screen, a solid decorative fence, or a combination thereof.
6. Open display and storage including the outdoor storage of damaged or *wrecked vehicles* shall be completely screened to a height of at least 2.5 metres [8 ft.] by *buildings* and/or solid decorative fencing and/or substantial *landscaping* strips of not less than 2.5 metres [8 ft.] in height and not less than 1.5 metres [5 ft.] in width. No display or storage of material shall be piled up to a height of 2.5 metres [8 ft.] within 5 metres [16 ft.] of the said screen and in no case shall these materials be piled up to the height of more than 3.5 metres [12 ft.].

J. Special Regulations

Amendments: 13201, 09/16/97; 13497, 09/15/98; 15271, 11/01/04

1. Garbage containers and *passive recycling containers* shall not be located along any required *setbacks* adjacent any *residential lot*.
2. *Child care centres* shall be located on the *lot* such that these centres have direct access to an *open space* and play area within the *lot*.
3. Land and *structures* shall be used for the uses permitted in this Zone only if such uses:
 - (a) Constitute no unusual fire, explosion, or safety hazard;
 - (b) Do not emit noise in excess of 70dB measured at any point on any boundary of the *lot* on which the use is located, provided that where a *lot* abuts a *lot* other than an industrial *lot* the noise level shall not exceed 60dB;
 - (c) Do not produce heat or glare perceptible from any *lot line* of the *lot* on which the use is located; and
 - (d) All automobile painting and body work is carried out only in an enclosed *building*.
4. Outdoor storage of any goods, materials, or supplies is specifically prohibited between the front of the *principal building* and the *highway*.
5. The outdoor storage or display of any goods, materials or supplies at *beverage container return centres* is specifically prohibited.

6. For land and *structures* located within the sub-area of the *City Centre*, as shown on Map D.1(a), outdoor storage of any goods, materials or supplies is specifically prohibited.

K. Subdivision

Lots created through subdivision in this Zone shall conform to the following minimum standards:

<i>Lot Size</i>	<i>Lot Width</i>	<i>Lot Depth</i>
1,000 sq. m. [10,800 sq.ft.]	25 metres [80 ft.]	30 metres [100 ft.]

Dimensions shall be measured in accordance with Section E.21, Part 4 General Provisions, of this By-law.

L. Other Regulations

Amendments: 13657, 03/22/99; 13774, 07/26/99; 17181, 06/07/10

In addition, land use regulations including the following are applicable:

1. Prior to any use, lands must be serviced as set out in Part 2 Uses Limited, of this By-law and in accordance with the "Surrey Subdivision and Development By-law".
2. General provisions on use are as set out in Part 4 General Provisions, of this By-law.
3. Additional off-street parking requirements are as set out in Part 5 Off-Street Parking and Loading /Unloading of this By-law.
4. Sign regulations are as provided in Surrey Sign By-law No. 13656.
5. Special *building setbacks* are as set out in Part 7 Special Building Setbacks, of this By-law.
6. *Building* permits shall be subject to the "Surrey Building By-law" and the "Surrey Development Cost Charge By-law".

7. Development permits may be required in accordance with the *Official Community Plan*.
8. Provincial licensing of *child care centres* is regulated by the Community Care and Assisted Living Act, S.B.C., 2002, c.75, as amended and the Child Care Licensing Regulation set out under B.C. Reg. 95/2009, as amended.
9. Provincial licensing of *neighbourhood pubs* is regulated by the Liquor Control and Licensing Act R.S.B.C.