

Planning Report Date: September 16, 2019

PROPOSAL:

- Terminate Land Use Contract No. 175
- Rezoning from RM-15 and CPG to CD

to permit the Zoning By-law to come into effect with a zone that aligns with the existing land uses on the site.

LOCATION:

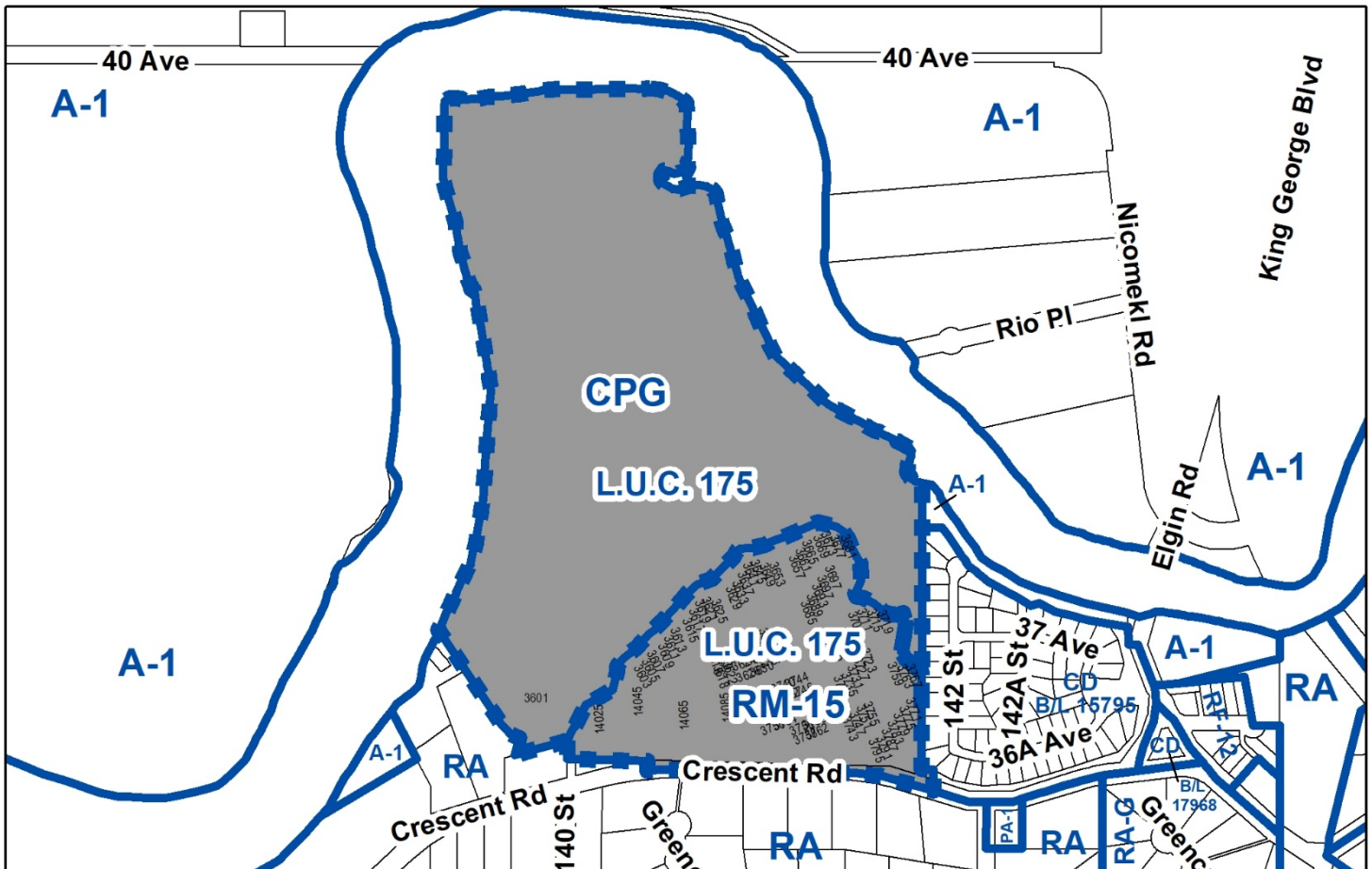
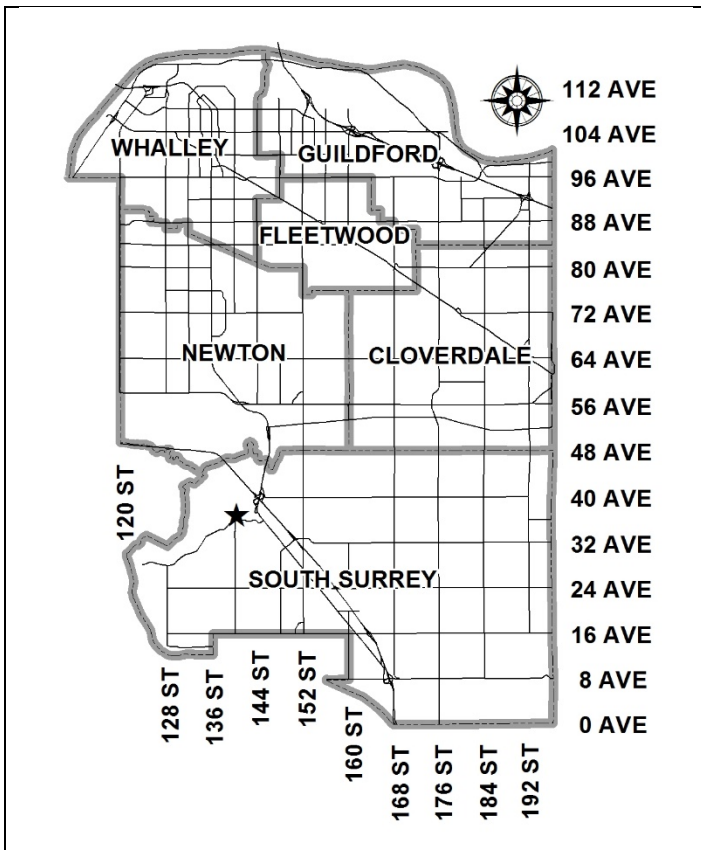
Nico Wynd Estates and Golf Course, generally located north of Crescent Road between 140 Street and 142A Street.

LUC AND UNDERLYING ZONING:

LUC No. 175
 (RM-15 and CPG underlying)

OCP DESIGNATION:

Multiple Residential, Suburban, and Agricultural



RECOMMENDATION SUMMARY

- By-law Introduction and set date for Public Hearing for:
 - Termination of Land Use Contract No. 175; and
 - Rezoning.

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.
- The subject property is regulated by LUC No. 175, which was adopted by Authorization By-law No. 4926 on August 29, 1977.
- LUC No. 175 permits 132 townhouse units, common property to be used for recreational and commercial recreational uses. These recreational uses include a golf course, boat launch, and marina, which are to be made available to the public, and an indoor swimming pool, and tennis and badminton courts for private use.
- The property has also been assigned two zones, "Multiple Residential 15 Zone (RM-15)" and "Golf Course Zone (CPG)", under Surrey's Zoning By-law No. 12000. This zoning is underlying LUC No. 175 and has no effect at this time. Once LUC No. 175 is terminated and the one-year grace period ends, the Zoning By-law automatically comes into effect on the subject property. Due to the nature of the split zoning on the property, the property owners would not be permitted to update or expand their current facilities under the Zoning By-law. As such, a "Comprehensive Development Zone (CD)", is proposed to facilitate the existing uses on the site.
- The proposed LUC Termination By-law and Rezoning By-law are housekeeping measures to allow for the transition to the Zoning By-law and are not associated with a development proposal at this time. Further, the rezoning and termination process will not affect the ownership, tenure status, or Strata By-laws of the given properties.

RECOMMENDATION

The Planning & Development Department recommends that:

1. A By-law be introduced to terminate Land Use Contract No. 175 and set Public Hearing for October 21, 2019; and
2. A By-law be introduced to rezone the subject site from "Golf Course Zone (CPG)" and "Multiple Residential 15 Zone (RM-15)" to "Comprehensive Development Zone (CD)" and set Public Hearing for October 21, 2019.

BACKGROUND

Land Use Contract

- 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 landowners 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 landowners/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.
- 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. To date, Council has adopted Termination By-laws for most LUCs in Surrey through the early termination process, with only ten (10) LUCs remaining. For those LUCs that have not yet been presented to Council, further review by staff is required or additional actions are needed before the underlying zone can come into effect.
- Staff, in consultation with the representatives of the property strata, have completed the review of LUC No. 175 and the existing uses on the subject property. It is now in order to move forward with termination of LUC No. 175 in accordance with the approved process noted above.

Zoning

- When Zoning By-law, 1979, No. 5942 was adopted on April 21, 1980, zones were assigned to all properties in Surrey. Properties regulated by LUCs were also provided zones to align with the existing land uses in those areas. The zone assigned to an LUC lot is known as the "underlying zone" of that property. This means that the property is included in the Zoning By-law, but the regulations of the zone are not in effect while the LUC is on the property's title.
- During the creation of underlying zones, some LUC properties were given zones that did not align with the existing land uses on those sites. For these properties, a Rezoning By-law is required alongside the LUC Termination By-law to ensure that non-conforming situations are not created when Zoning By-law No. 12000 comes into effect.
- Rezoning to a "Comprehensive Development Zone (CD)" is proposed alongside the LUC termination process in order to create a zone that better aligns with the existing uses on the subject site. See the "Discussion" section in this report for a more detailed explanation of the current and proposed underlying zoning.

PUBLIC NOTIFICATION

Early termination of LUC No. 175, and the accompanying rezoning, is a Council-initiated project and does not require a Development Proposal Sign to be installed or pre-notification letters sent to surrounding residents.

However, the LUC Termination By-law and Rezoning By-law are 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. 175, and to neighbouring properties within 100 metres or three lots of the subject property, whichever is greater, to inform them that Council is considering terminating the LUC and to rezone the underlying zone. In addition, the Public Hearing notice will be published in two consecutive issues of the Peace Arch News.

Staff recommend that Council set October 21, 2019 as the Public Hearing date. This is the second scheduled meeting after the introduction of the proposed by-laws. Given the number of people receiving Public Hearing notices from this application, the later Public Hearing date allows more time for staff to respond to inquiries that may arise from the public. This scheduling has been implemented in the past and has aided the successful communication of LUC termination process to residents within and surrounding the City's LUC areas.

SITE CHARACTERISTICS

Existing Land Use: Townhouses, marina, and golf course with accessory uses.

Adjacent Area:

Direction	Existing Use	OCP Designation	Existing Zone
North (Across Nicomekl River):	Agricultural properties in the ALR.	Agricultural.	A-1
East (Across Nicomekl River and 142 Street):	Agricultural properties in the ALR, single family dwellings on bare-land strata lots.	Agricultural and Urban.	A-1 and CD (By-law No. 15795)
South (Across Crescent Road):	Single family dwellings.	Suburban.	RA
West (Across Nicomekl River):	Agricultural properties in the ALR.	Agricultural.	A-1

DISCUSSION

- LUC No. 175 was adopted by Authorization By-law No. 4926 on August 29, 1977.
- LUC No. 175 permits 132 townhouse units, and common property to be used for recreational and commercial recreational uses. These recreational uses include a golf course, boat launch, and marina, which are to be made available to the public, and an indoor swimming pool, and tennis and badminton courts for private use.
- 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, after which the underlying zone will come into effect.
- The subject site has been assigned two underlying zones, "Multiple Residential 15 Zone (RM-15)" generally covering the area of the townhouse units and "Golf Course Zone (CPG)" for the rest of the site. However, the application of these zones does not account for the existing marina use on site and, more importantly, would create a situation whereby the property would be regulated by two zones ("split zoned") should the LUC be terminated, and Zoning By-law No. 12000 come into effect.

- In accordance with Part 4 - General Provisions Section E.13(b) of Zoning By-law No. 12000, a lot that lies within two or more zones can only have a principal building located in one zone and no further buildings erected on the portions of the lot lying in any other zone. Consequently, the property owners would not be able to renovate, expand, or rebuild the existing buildings on site while the property is "split zoned".
- Therefore, rezoning the site to a single "Comprehensive Development Zone (CD)" with a block plan corresponding to the existing uses on site has been proposed alongside the LUC termination process.
- The CD Zone permits:
 - Ground-oriented townhouses in Block A;
 - Golf course and related accessory uses and structures in Block B; and
 - Marina in Block C.
- The Rezoning By-law for the CD Zone will be adopted concurrently with the LUC Termination By-law. Accordingly, the CD Zone will become the new underlying zone to LUC No. 175 while the one-year LUC grace period is in effect. Once the grace period ends, the CD Zone will automatically come into effect with no further action required by staff or Council.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I. Proposed CD By-law

INFORMATION AVAILABLE ON FILE

- Land Use Contract No. 175.

original signed by Ron Hintsche

Jean Lamontagne
General Manager
Planning and Development

ARR/cm

CITY OF SURREY

BYLAW NO. _____

A by-law to amend Surrey Zoning By-law, 1993, No. 12000, as amended
.....

THE CITY COUNCIL of the City of Surrey ENACTS AS FOLLOWS:

- 1. Surrey Zoning By-law, 1993, No. 12000, as amended, is hereby further amended, pursuant to the provisions of Section 479 of the Local Government Act, R.S.B.C. 2015 c. 1, as amended by changing the classification of the following parcels of land, presently shown upon the maps designated as the Zoning Maps and marked as Schedule "A" of Surrey Zoning By-law, 1993, No. 12000, as amended as follows:

FROM: MULTIPLE RESIDENTIAL 15 ZONE (RM-15) AND GOLF COURSE ZONE (CPG)

TO: COMPREHENSIVE DEVELOPMENT ZONE (CD)

Strata Lots 1 – 132 District Lots 157, 158 and 166 Group 2 NWD Strata Plan NW1378
Together with an Interest in the Common Property in proportion to the Unit Entitlement of the Strata Lot as shown on Form 1; and

Common Property Strata Plan NW1378

(hereinafter referred to as the "*Lands*")

- 2. The following regulations shall apply to the *Lands*:

A. Intent

This Comprehensive Development Zone is intended to accommodate and regulate the development of *ground-oriented multiple residential buildings*, a golf course, marina, and accessory uses.

The *Lands* are divided into Blocks A, B, and C as shown on the Survey Plan attached hereto and forming part of this Bylaw as Schedule A, certified correct by Gary Rowbotham, B.C.L.S. on the 6th day of September 2019.

B. Permitted Uses

The *Lands* and *structures* shall be used for the following uses only, or for a combination of such uses:

1. Block A

1. *Ground-oriented multiple unit residential buildings.*
2. *Childcare centres* provided that such centres:
 - (a) Do not constitute a singular use on the *lot*; and
 - (b) Do not exceed a total area of 3.0 square metres [32 sq.ft.] per *dwelling unit*.

2. Block B

1. *Golf courses.*
2. *Golf driving ranges.*
3. *Agricultural and horticultural uses* excluding *kennels*, provided that the *lot* is 2 hectares [5 acres] or more and further provided that the *lot* is within the *Agricultural Land Reserve (ALR)* as determined by the *Agricultural Land Commission Act/Regs/Orders*.
4. *Accessory uses* to Sections B.1 and B.2, including the following:
 - (a) *Eating establishments*, excluding *drive-through restaurants*;
 - (b) *Clubhouse*;
 - (c) *Indoor recreational facilities*; and
 - (d) *Childcare centres*.

3. Block C

1. *Marinas.*

C. Lot Area

Not applicable to this Zone.

D. Density

1. Block A

For the purpose of *building* construction:

1. *Ground-Oriented Multiple Unit Residential Buildings*: The maximum *density* shall not exceed a *floor area ratio* of 0.70 and 37 *dwelling units* per hectare [15 u.p.a.].
2. *Indoor Amenity Space*: The *amenity space* required in Sub-section J.1(b) of this Zone, is excluded from the calculation of the *floor area ratio*.

2. Block B

The *floor area ratio* shall not exceed 0.10.

3 Block C

1. For the purpose of this Section and notwithstanding the definition of *floor area ratio* in Part 1 Definitions of this By-law, any *building* or *structure* floating on water excluding docks shall be included in the calculation of *floor area ratio*; and
2. For the purpose of *building* construction on the *lot*, the maximum *density* shall not exceed a *floor area ratio* of 0.40.

E. Lot Coverage

1. Block A

The *lot coverage* shall not exceed 45%.

2. Block B

The *lot coverage* shall not exceed 10%.

3. Block C

The *lot coverage* shall not exceed 40%, where the *lot* includes that portion covered by water.

F. Yards and Setbacks

1. Block A

Buildings and *structures* shall be sited not less than 7.5 metres [25 ft.] from all *lot lines* (measurements to be determined as per Part 1 Definitions, of Surrey Zoning By-law, 1993, No. 12000, as amended).

2. Block B

Use	Setback	Front Yard	Rear Yard	Side Yard	Side Yard on Flanking Street
<i>Buildings and Structures for Uses Permitted Under Sections B.2.1, B.2.2, B.2.3. of this Zone</i>		12.0 metres [39 ft.]	12.0 metres [39 ft.]	12.0 metres [39 ft.]	12.0 metres [39 ft.]
<i>Buildings and Structures for Uses Permitted Under Sections B.2.4. of this Zone</i>		30.0 metres [98 ft.]	30.0 metres [98 ft.]	15.0 metres [49 ft.]	30.0 metres [98 ft.]

Measurements to be determined as per Part 1 Definitions of Surrey Zoning By-law, 1993, No. 12000, as amended.

3. Block C

Buildings and structures shall be sited not less than 12 metres [25 ft.] from all *lot lines* (measurements to be determined as per Part 1 Definitions, of this Surrey Zoning By-law, 1993, No. 12000, as amended).

G. Height of Buildings

Measurements to be determined as per Part 1 Definitions of Surrey Zoning By-law, 1993, No. 12000, as amended.

1. Block A

1. Principal buildings: The *building height* shall not exceed 11 metres [36 ft.].

2. Accessory buildings and structures:

a. Indoor amenity space buildings: The *building height* shall not exceed 11 metres [36 ft.]; and

b. Other accessory buildings and structures: The *building height* shall not exceed 4.5 metres [15 ft.].

2. Block B

The *building height* of any *building* or *structure* shall not exceed 12 metres [40 ft.].

3. Block C

The *building height* of any *building* or *structure* shall not exceed 9 metres [30 ft.].

H. Off-Street Parking

1. Block A

1. Resident and visitor *parking spaces* shall be provided in accordance with Part 5 Off-Street Parking and Loading/Unloading of Surrey Zoning By-law, 1993, No. 12000, as amended.

2. Fifty percent (50%) of all required resident *parking spaces* shall be provided as *underground parking* or as parking within the *building envelope*.

3. Parking within the required *setbacks* is not permitted.

4. *Tandem parking* for *ground-oriented multiple unit residential buildings* shall be permitted as follows:

(a) A maximum of fifty percent (50%) of all required resident *parking spaces* may be provided as *tandem parking spaces*, excluding *parking spaces* provided as *underground parking*. For *underground parking* a maximum of ten percent (10%) of all required resident *parking spaces* may be provided as *tandem parking spaces*;

(b) *Dwelling units* with *tandem parking spaces* shall not be permitted direct vehicular access to an adjacent *highway*;

(c) *Tandem parking spaces* must be attached to each *dwelling unit*, excluding *parking spaces* provided as *underground parking*; and

(d) Both *tandem parking spaces* must be held by the same owner.

2. Block B and C

1. *Parking spaces* shall be provided in accordance with Part 5 Off-Street Parking and Loading/Unloading of Surrey Zoning By-law, 1993, No. 12000, as amended.

2. *Tandem parking* may be permitted for company fleet *vehicles*.

I. Landscaping

1. Block A

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. Garbage containers and *passive recycling containers* shall be screened to a height of at least 2.5 metres [8 ft.] by *buildings*, a *landscaping* screen, a solid decorative fence, or a combination thereof.

2. Blocks B and C

1. A continuous buffer not less than 12 metres [40 ft.] wide, containing mature trees, natural bush and *landscaping*, shall be provided and maintained along all *lot lines*.
2. 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*.

J. Special Regulations

1. Block A

1. *Amenity space* shall be provided on the *lot* as follows:
 - a. Outdoor *amenity space*, in the amount of 3.0 square metres [32 sq.ft.] per *dwelling unit* and shall not be located within the required *setbacks*;
 - b. Indoor *amenity space*, in the amount of 3.0 square metres [32 sq.ft.] per *dwelling unit*; and
 - c. *Childcare centres* shall be located on the *lot* such that these centres have direct access to an *open space* and play area within the *lot*.

2. Block B

1. *Golf courses* and golf driving ranges shall be permitted only if:
 - a. The *golf course* or golf driving range is situated and designed so that golf balls do not create a nuisance or a danger to any uses on an abutting *lot* or *highway*;
 - b. No lights shall be mounted so as to direct a glare onto any *residential lot* or any *highway*; and
 - c. No fence for the control of stray golf balls shall be located closer than 12 metres [40 ft.] to any *lot line* and any such fence shall be kept in good repair and shall be bordered with appropriate screening and *landscaping*.
2. *Childcare centres* shall be located on the *lot* such that these centres have direct access to an *open space* and play area within the *lot*.

K. Subdivision

1. Block A

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>
2,000 square metres [0.5 acre]	30 metres [100 ft.]	30 metres [100 ft.]

Dimensions shall be measured in accordance with Section E.21 of Part 4 General Provisions of Surrey Zoning By-law, 1993, No. 12000, as amended.

2. Blocks B and C

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>
4,000 square metres [1.0 acre]	50 metres [164 ft.]	60 metres [200 ft.]

Dimensions shall be measured in accordance with Section E.21 of Part 4 General Provisions of Surrey Zoning By-law, 1993, No. 12000, as amended.

L. Other Regulations

In addition to all statutes, bylaws, orders, regulations or agreements, the following are applicable, however, in the event that there is a conflict with the provisions in this Comprehensive Development Zone and other provisions in Surrey Zoning By-law, 1993, No. 12000, as amended, the provisions in this Comprehensive Development Zone shall take precedence:

1. Definitions are as set out in Part 1 Definitions of Surrey Zoning By-law, 1993, No. 12000, as amended.
2. Prior to any use in Block A, the Block A portion of the *Lands* must be serviced as set out in Part 2 Uses Limited, of Surrey Zoning By-law, 1993, No. 12000, as amended and in accordance with the servicing requirements for the RM-15 Zone as set forth in the Surrey Subdivision and Development By-law, 1986, No. 8830, as amended.
3. Prior to any use in Block B, the Block A portion of the *Lands* must be serviced as set out in Part 2 Uses Limited, of Surrey Zoning By-law, 1993, No. 12000, as amended and in accordance with the servicing requirements for the CPG Zone as set forth in the Surrey Subdivision and Development By-law, 1986, No. 8830, as amended.
4. Prior to any use in Block C, the Block C portion of the *Lands* must be serviced as set out in Part 2 Uses Limited, of Surrey Zoning By-law, 1993, No. 12000, as amended and in accordance with the servicing requirements for the CPM Zone as set forth in the Surrey Subdivision and Development By-law, 1986, No. 8830, as amended.
5. General provisions are as set out in Part 4 General Provisions of Surrey Zoning By-law, 1993, No. 12000, as amended.
6. Additional off-street parking requirements are as set out in Part 5 Off-Street Parking and Loading/Unloading of Surrey Zoning By-law, 1993, No. 12000, as amended.
7. Sign regulations are as set out in Surrey Sign By-law, 1999, No. 13656, as amended.
8. Special *building setbacks* are as set out in Part 7 Special Building Setbacks, of Surrey Zoning By-law, 1993, No. 12000, as amended.
9. *Building* permits shall be subject to the Surrey Building Bylaw, 2012, No. 17850, as amended.
10. *Building* permits shall be subject to Surrey Development Cost Charge Bylaw, 2016, No. 18664, as may be amended or replaced from time to time, and the development cost charges shall be based on the RM-15 Zone for Block A, CPG Zone for Block B, and CPM Zone for Block C.

11. Subdivisions shall be subject to the applicable Surrey Development Cost Charge Bylaw, 2016, No. 18664, as may be amended or replaced from time to time, and the development cost charges shall be based on the RM-15 Zone for Block A, CPG Zone for Block B, and CPM Zone for Block C.
12. Tree regulations are set out in Surrey Tree Protection Bylaw, 2006, No. 16100, as amended.
13. Development permits may be required in accordance with the Surrey *Official Community Plan* By-law, 2013, No. 18020, as amended.
14. Provincial licensing of *childcare centres* is regulated by the Community Care and Assisted Living Act S.B.C. 2002, c. 75, as amended, and the Regulations pursuant thereto including without limitation B.C. Reg 319/89/213.

3. This By-law shall be cited for all purposes as "Surrey Zoning By-law, 1993, No. 12000, Amendment By-law, _____, No. _____."

PASSED FIRST READING on the _____ th day of _____, 20__ .

PASSED SECOND READING on the _____ th day of _____, 20__ .

PUBLIC HEARING HELD thereon on the _____ th day of _____, 20__ .

PASSED THIRD READING on the _____ th day of _____, 20__ .

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the _____ th day of _____, 20__ .

_____ MAYOR

_____ CLERK

0 10 20 30

The intended plot size of this plan is 600m in width, 856m in height (D Scale) when printed at a scale of 1:1250

BCSS 92G 006

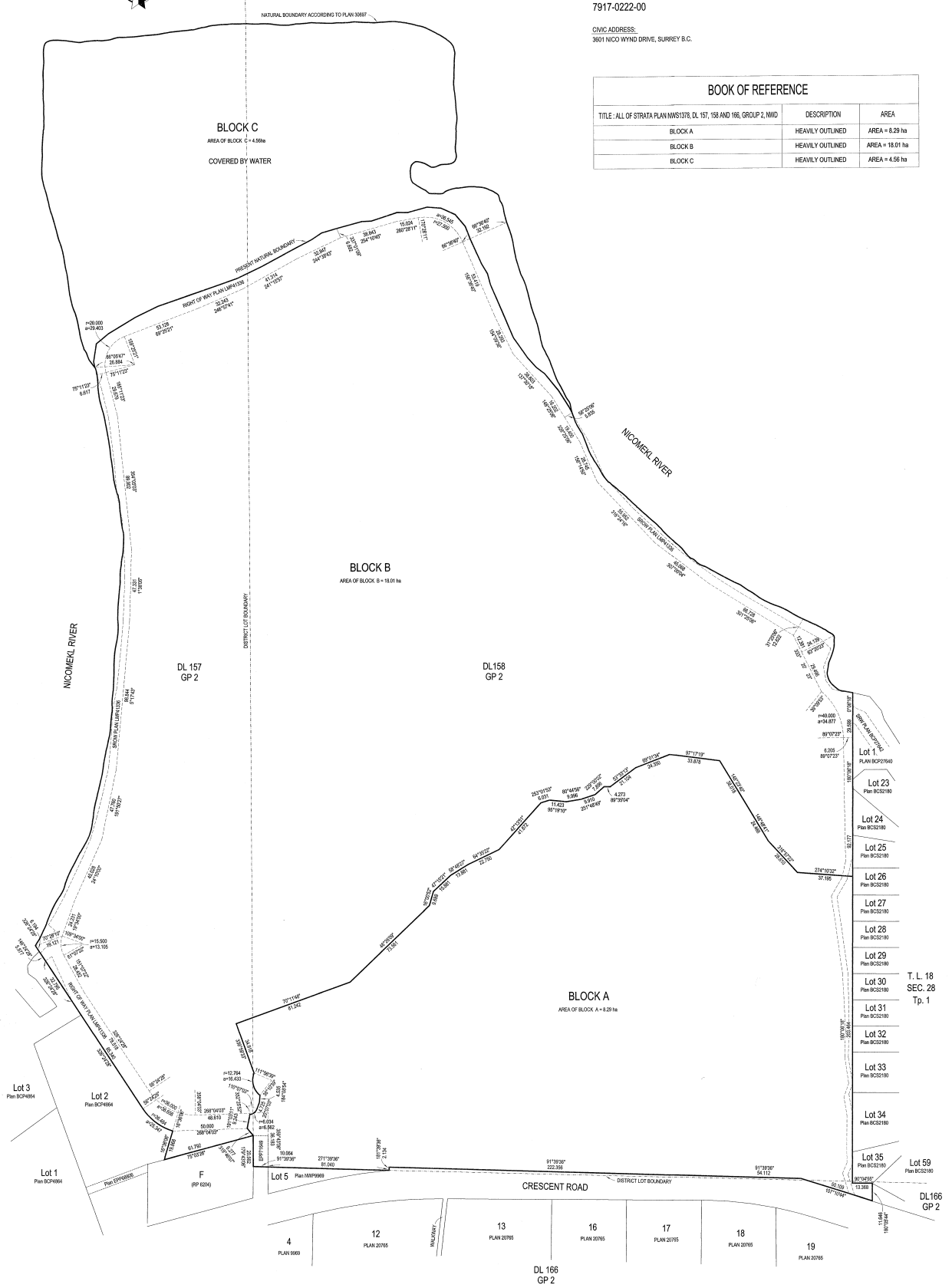


NICOMEKL RIVER

SURREY FILE No.
7917-0222-00

CIVIC ADDRESS:
3601 NICO WYND DRIVE, SURREY B.C.

BOOK OF REFERENCE		
TITLE	DESCRIPTION	AREA
ALL OF STRATA PLAN NWS1378, DL 157, 158 AND 166, GROUP 2, NWD		
BLOCK A	HEAVILY OUTLINED	AREA = 8.29 ha
BLOCK B	HEAVILY OUTLINED	AREA = 18.01 ha
BLOCK C	HEAVILY OUTLINED	AREA = 4.56 ha



LEGEND
GRID BEARINGS ARE DERIVED FROM OBSERVATIONS BETWEEN OLD CONTROL MONUMENTS 445222 AND 444914

OLSEN & ASSOCIATES
BRITISH COLUMBIA LAND SURVEYORS
204-15565 24th AVENUE, SURREY, B.C. V4A 2J4
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email: info@olsensurveying.ca

File No: 18039 REZONING

THIS PLAN LIES WITHIN METRO VANCOUVER REGIONAL DISTRICT

CONTROLLED DOCUMENT
DATE: 05/11/2019
THIS DOCUMENT IS NOT VALID UNLESS ORIGINALLY SIGNED AND SEALED
©