

City of Surrey  
**PLANNING & DEVELOPMENT REPORT**

File: 7917-0351-00

Planning Report Date: September 11, 2017

**PROPOSAL:**

- **Terminate Land Use Contract No. 264**

to permit the existing underlying RM-45 Zone to come into effect.

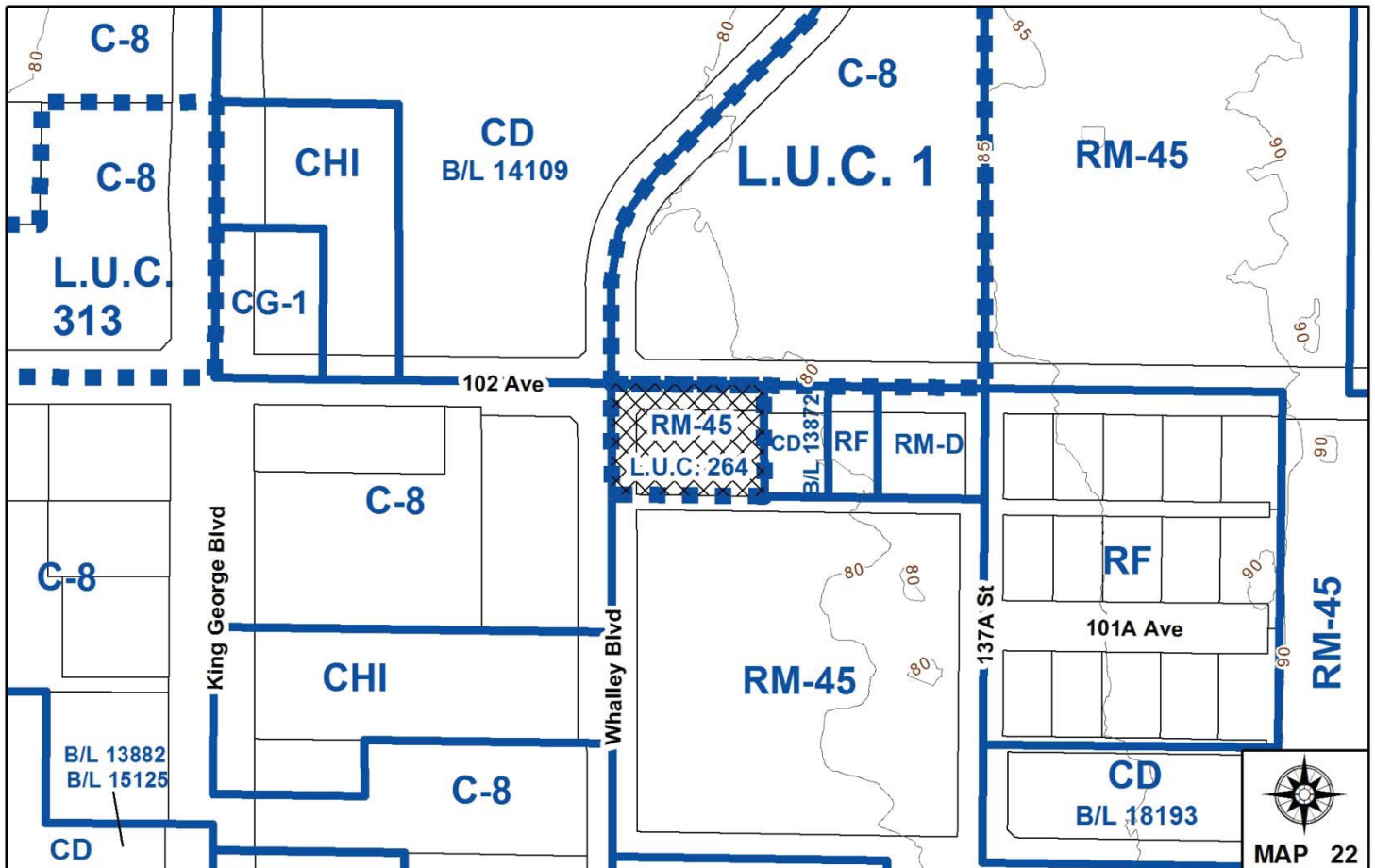
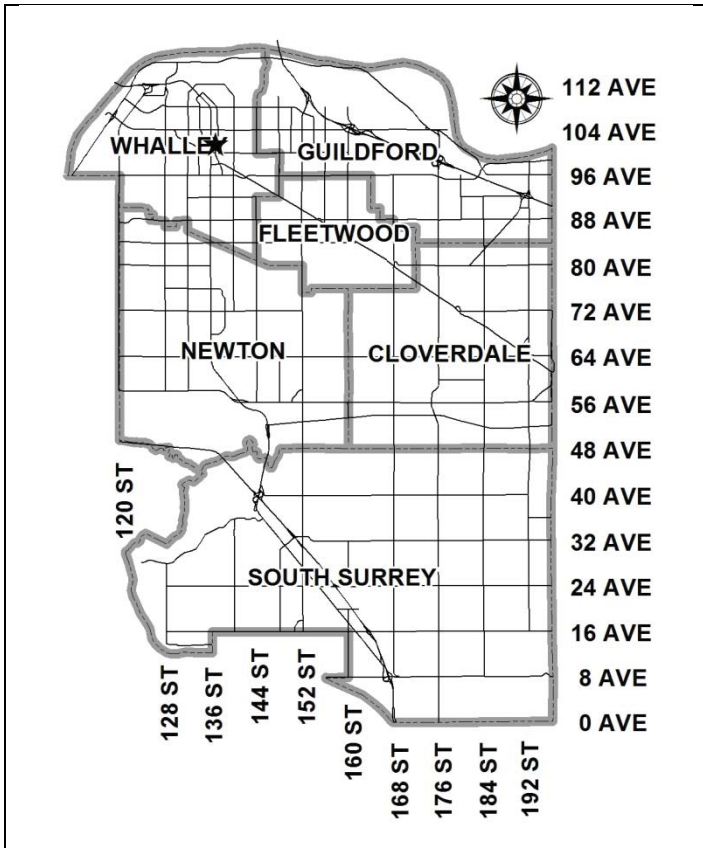
**LOCATION:** 10188 - Whalley Boulevard

**LUC AND UNDERLYING** LUC No. 264

**ZONING:** (RM-45 Zone underlying)

**OCPC** Central Business District

**DESIGNATION:**



### RECOMMENDATION SUMMARY

- By-law Introduction and set date for Public Hearing to terminate LUC No. 264.

### 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. 264 was adopted by Authorization By-law, 1978, No. 5165 on February 6, 1978.
- LUC No. 264 permits a commercial office building as set out in Part XI C-2 General Business Zone of Surrey Zoning By-law, 1964, No. 2265 while prohibiting any Medical-Dental offices.
- 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. 264 is terminated and the one-year grace period ends, the current underlying "Multiple Residential Zone (RM-45)" will automatically come into effect and will regulate the twelve (12) residential strata lots.
- The RM-45 Zone permits multiple unit residential buildings, ground-oriented multiple unit residential buildings, and child care centres as an accessory use.
- 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. 264 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. 264 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. 264, 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: Two-storey strata apartment building.

Adjacent Area:

Direction	Existing Use	OCP Designation	Existing Zone
North (Across 102 Avenue):	Multi-tenant building with retail stores (Toys "R" Us and Dollarama)	Central Business District	LUC No. 1 (C-8 Zone underlying)
East:	Rowhouses	Central Business District	CD (By-law No. 13872)
South (Across lane):	Two four-storey apartment buildings	Central Business District	RM-45
West (Across Whalley Boulevard):	Single-storey commercial building	Central Business District	C-8

DISCUSSION

- LUC No. 264 was adopted by Authorization By-law, 1978, No. 5165 on February 6, 1978.
- LUC No. 1 currently regulates twelve (12) residential strata lots in a 2-storey apartment building in the Surrey City Centre area, located at 10188 – Whalley Boulevard.
- The subject site is designated as "Central Business District" under the Official Community Plan (OCP) with an underlying "Multiple Residential Zone (RM-45)" under Surrey Zoning By-law, 1993, No. 12000, as amended. The site is designated "Mixed-use 3.5 FAR" in the City Centre Plan.
- LUC No. 264 permits a commercial office building as set out in Part XI C-2 General Business Zone of Surrey Zoning By-law, 1964, No. 2265, while prohibiting any Medical-Dental offices.
- In 1981, Development Application No. 6781-0186-00 was approved by Council for a 12-unit strata apartment building. However, a Termination By-law of LUC No. 264 was not included as part of Development Application No. 6781-0186-00.
- Discharging LUC No. 264 through the Council initiated early termination process will formalize the intended removal of this LUC from the subject site. No changes to the underlying zone or the existing strata development are proposed with this termination application.
- 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. 264 is terminated and the one-year grace period ends, the current underlying "Multiple Residential Zone (RM-45)" will come into effect and will regulate the use of the twelve (12) residential strata lots.
- The RM-45 Zone permits multiple unit residential buildings, ground-oriented multiple unit residential buildings, and child care centres as an accessory use.
- 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 23 Multiple Residential 45 Zone (RM-45) of Surrey Zoning By-law, 1993, No. 12000, as amended

INFORMATION AVAILABLE ON FILE

- Land Use Contract No. 264.

*original signed by Ron Gill*

Jean Lamontagne  
General Manager  
Planning and Development

RT/da



Part 23 - RM-45, Multiple Residential 45 Zone

## Multiple Residential 45 Zone

### Part 23

### RM-45

#### A. Intent

This Zone is intended to accommodate and regulate the development of medium *density*, medium-rise, *multiple unit residential buildings* and related *amenity spaces*, which are to be developed in accordance with a *comprehensive design*.

#### B. Permitted Uses

**Amendments: 13774, 07/26/99; 17462, 09/12/11**

Land and *structures* shall be used for the following uses only, or for a combination of such uses, provided such combined uses are part of a *comprehensive design*:

1. *Multiple unit residential buildings* and *Ground-Oriented Multiple Unit Residential Buildings*.
2. *Child care 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*.

#### C. Lot Area

Not applicable to this Zone.

#### D. Density

**Amendments: 12333, 07/25/94; 13155, 02/09/98; 17462, 09/12/11; 17704, 07/23/12; 18414, 03/23/15; 19073, 02/20/17**

For the purpose of *building* construction:

1. In Areas as described and outlined on the maps attached as Schedule F attached to this By-law, the maximum *density* shall not exceed a *floor area ratio* of 0.1 or *building* area of 300 square metres [3,230 sq. ft.] whichever is smaller. The maximum *density* may be increased to that prescribed in Sub-sections D.3 and D.4 of this Zone if amenities are provided in accordance with Schedule G of this By-law.

2. In areas other than the ones in Sub-section D.1 of this Zone, the maximum *density* shall not exceed that prescribed in Sub-sections D.3 and D.4 of this Zone.
3. Multiple Unit Residential Buildings and Ground-Oriented Multiple Unit Residential Buildings: The *density* shall not exceed a *floor area ratio* of 1.30 and 111 *dwelling units* per hectare [45 u.p.a.].
4. Indoor Amenity Space: The space required in Sub-section J.1(b) of this Zone, is excluded from the calculation of the *floor area ratio*.

#### **E. Lot Coverage**

The maximum *lot coverage* shall be 45%.

#### **F. Yards and Setbacks**

*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 this By-law).

#### **G. Height of Buildings**

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

1. Principal buildings: The *height* shall not exceed 15 metres [50 ft.].
2. Accessory buildings and structures: The *height* shall not exceed 4.5 metres [15 ft.].

**H. Off-Street Parking and Loading/Unloading**

**Amendments: 12333, 07/25/94; 13094, 05/12/97; 13774, 07/26/99; 14120, 10/16/00; 17471, 10/03/11; 18414, 03/23/15; 18434, 04/27/15; 18719, 05/30/16**

1. Resident, visitor and employee *parking spaces* shall be provided as stated in Table C.1 of Part 5 Off-Street Parking and Loading/Unloading of this By-law.
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. No parking shall be permitted in the front of the main entrance of a *multiple unit residential building*, except for the purpose of short term drop-off or pick-up and parking for the disabled.
5. *Tandem parking* for *ground-oriented multiple unit residential buildings* shall be permitted as follows:
  - (a) 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.

**I. Landscaping**

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.

## J. Special Regulations

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*; and
  - (b) *Indoor amenity space*, in the amount of 3.0 square metres [32 sq.ft.] per *dwelling unit*, of which a maximum of 1.5 square metres [16 sq.ft.] per *dwelling unit* may be devoted to a *child care centre*.
2. *Child care centres* shall be located on the *lot* such that these centres:
  - (a) Are accessed from a *highway*, independent from the access to the residential uses permitted in Section B of this Zone; and
  - (b) Have direct access to an *open space* and play area within the *lot*.
3. *Balconies* are required for all *dwelling units* which are not *ground-oriented* and shall be a minimum of 5% of the *dwelling unit* size or 4.6 square metres [50 sq.ft.] per *dwelling unit*, whichever is greater.

## K. Subdivision

**Amendments: 13155, 02/09/98**

1. For the purpose of subdivision in Neighbourhood Concept Plan and Infill Areas as described and outlined on the maps attached as Schedule F attached to this By-law:
  - (a) Where amenities are not provided in accordance with Schedule G of this By-law, the *lots* created shall conform to the minimum standards prescribed in Section K of Part 12 One-Acre Residential Zone (RA) of this By-law.
  - (b) Where amenities are provided in accordance with Schedule G of this By-law, the *lots* created shall conform to the minimum standards prescribed in Sub-section K.2 of this Zone.

2. *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 sq. m. [0.5 acre]	30 metres [100 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 and loading/unloading 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.