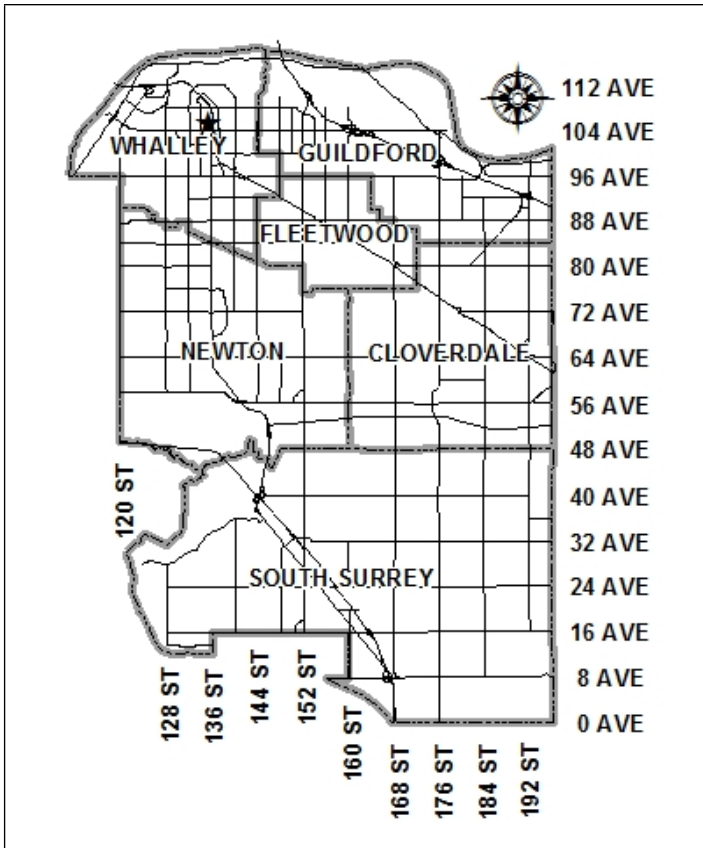


City of Surrey  
**PLANNING & DEVELOPMENT REPORT**

File: 7917-0422-00

Planning Report Date: December 4, 2017



**PROPOSAL:**

• **Temporary Use Permit**

to permit automotive sales, rentals and service of vehicles less than 5,000 kilograms (11,023 lbs.) and automobile painting and body work for a period not to exceed 3 years.

**LOCATION:**

10512 - 135A Street

**ZONING:**

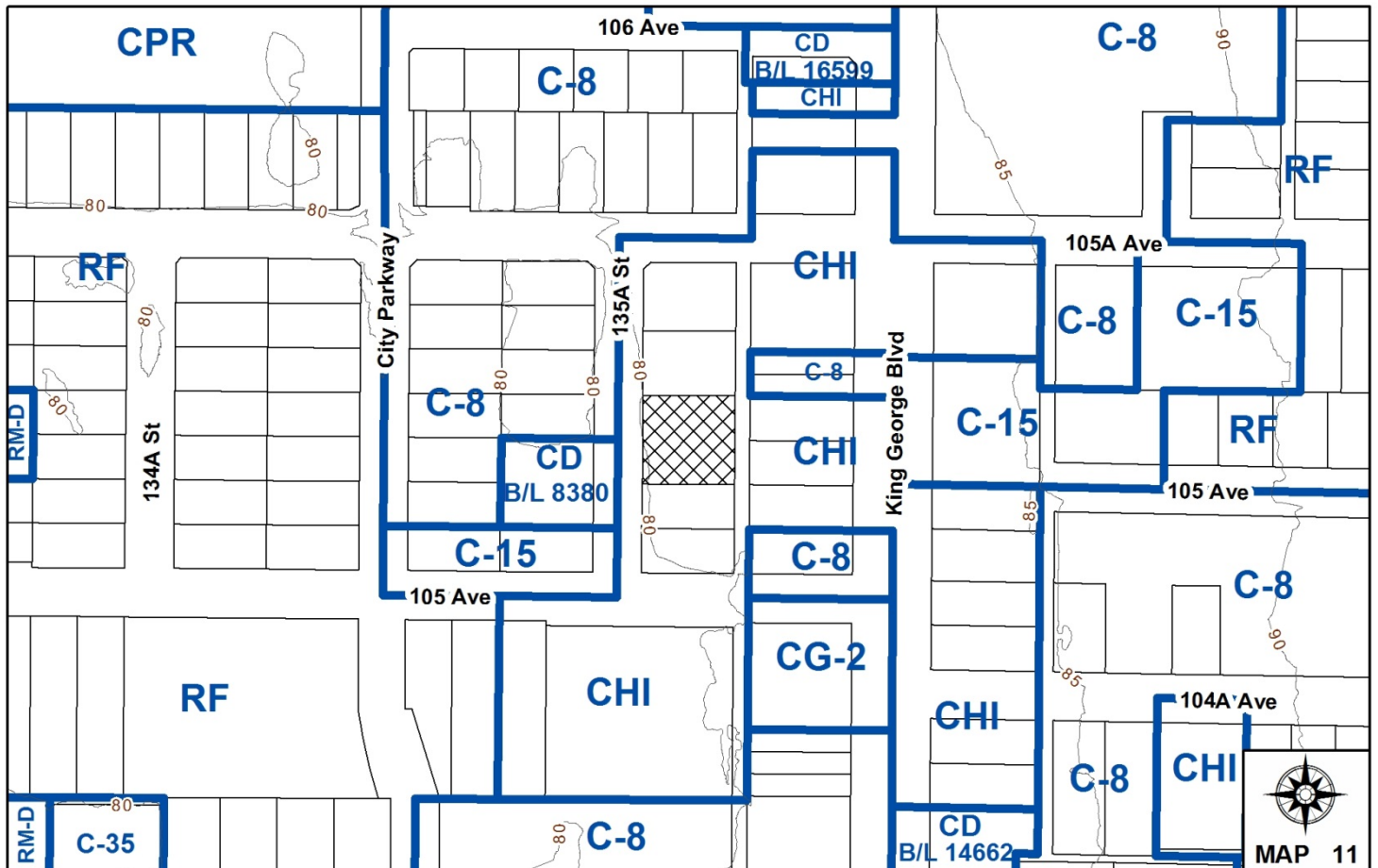
Highway Commercial Industrial Zone (CHI)

**OCP DESIGNATION:**

Central Business District

**CITY CENTRE PLAN DESIGNATION:**

Mixed Use 3.5 FAR



### RECOMMENDATION SUMMARY

- The Planning and Development Department recommends that this application be denied.

### DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- The "Highway Commercial Industrial Zone (CHI)" does not permit sales, rentals or service of vehicles less than 5,000 kilograms (11,023 lbs.) or automobile painting and body work within the City Centre. The proposed land use also does not comply with the Central Business District designation in the OCP or the Mixed -Use 3.5 FAR designation in the City Centre Plan.

### RATIONALE OF RECOMMENDATION

- The CHI Zone was amended in 2004 (Amendment By-law No. 15271) in response to Council's directive "to bring forward... appropriate recommendations for rezoning "CHI" zoned sites in the City Centre area so as to eliminate uses that are inconsistent with the vision for City Centre" [RES. R03-1749]. Following an extensive public consultation process (see Corporate Report No. R253; 2004), the CHI Zone was amended to differentiate what was permitted in the City Centre and the rest of Surrey. For City Centre, uses such as sales of vehicles and automotive service uses were prohibited, and retail stores and office uses were expanded.
- The existing purpose-built buildings for automotive uses on the subject site were constructed in 1960. The last business license for automotive service uses was held from 2002-2015. In 2004, the "Highway Commercial Industrial Zone (CHI)" was amended as described above, and at that time the automotive service uses on the subject site became existing non-conforming.
- When ownership or tenancy of an existing non-conforming property is transferred, the new owner or tenant has the right to continue the non-conforming use provided that the use is not discontinued for a period of six months or greater. The existing non-conforming automotive service use on the subject site has been discontinued since the business license (issued in 2002) expired in 2015. The applicant recognizes their failure to maintain the non-conforming status of the automotive uses on the subject site.
- If approved, the proposed automotive uses, even for a temporary basis, could further delay the redevelopment of this area to a higher density development more consistent with the Mixed Use 3.5 FAR designation in the City Centre Plan. Previous enquiries for automotive uses in the City Centre have not been supported by staff and Temporary Use Permit No. 7916-0015-00 for a used automobile dealership at 13669 - 104 Avenue in City Centre was recently denied by Council in March 2016.
- The proposed automotive uses are contrary to the vision of creating a livable, vibrant City Centre with an enhanced city form and public realm.
- The applicant should meet with staff to review alternative interim uses for the site that are supportable and more consistent with the vision for City Centre.
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RECOMMENDATION

The Planning and Development Department recommends that this application be denied.

However, should Council find merit in the proposal, the application should be referred back to staff to complete the development application review process, including the necessary referrals, and to then prepare Temporary Use Permit No. 7917-0422-00 for Council's consideration.

REFERRALS

Engineering: The Engineering Department has no objection to the project subject to the completion of Engineering servicing requirements as outlined in Appendix III.

SITE CHARACTERISTICS

Existing Land Use: Vacant since 2015 (Previously used for automotive service uses)

Adjacent Area:

<b>Direction</b>	<b>Existing Use</b>	<b>City Centre Plan Designation</b>	<b>Existing Zone</b>
North:	Parking lot	Mixed Use 3.5 FAR	CHI
East (Across lane):	Eating establishments, retail stores, and general service uses	Mixed Use 3.5 FAR	CHI
South:	Nonconforming automotive painting and body work	Mixed Use 3.5 FAR	CHI
West (Across 135A Street):	Nonconforming automotive services and gravel parking lot	Residential Mid to High Rise 3.5 FAR	C-8 and CD

DEVELOPMENT CONSIDERATIONS

- The subject site, located at 10512 – 135A Street in the City Centre is 1,393 square meters (14,997 sq.ft.) in area and is zoned "Highway Commercial Industrial Zone (CHI)". The site is designated "Central Business District" in the Official Community Plan (OCP) and "Mixed Use 3.5 FAR" in the City Centre Plan.

- Presently, the site contains two purpose-built buildings constructed for automotive uses. The site's immediate context along 135A Street includes non-conforming automotive uses including automobile painting and body work, and automotive sales.
- The existing purpose-built buildings for automotive uses were constructed on site in 1960. The last business license for automotive service uses was held from 2002-2015.
- The CHI Zone was amended in 2004 (Amendment By-law No. 15271) in response to Council's directive "to bring forward... appropriate recommendations for rezoning "CHI" zoned sites in the City Centre area so as to eliminate uses that are inconsistent with the vision for City Centre" [RES. R03-1749]. Following an extensive public consultation process (see Corporate Report No. R253; 2004), the CHI Zone was amended to differentiate what was permitted in the City Centre and the rest of Surrey. For City Centre, uses such as sales of vehicles and automotive service uses were prohibited, and retail stores and office uses were expanded.
- Upon amendment of the CHI Zone in 2004, automotive service uses on the subject site became existing non-conforming. The current owners of the subject site purchased the property in November, 2012.
- When ownership or tenancy of an existing non-conforming property is transferred, the new owner or tenant has the right to continue the non-conforming use provided that the use is not discontinued for a period of six months or greater. The existing non-conforming use on the subject site has been discontinued since the business license (issued in 2002) expired in 2015. The applicant recognizes their failure to maintain the non-conforming status of the automotive uses on the subject site.
- The applicant, who has indicated that they are having difficulties securing a new tenant for the site, is therefore proposing a Temporary Use Permit (TUP), to permit automotive sales, rentals and service of vehicles less than 5,000 kilograms (11,023 lbs.) and automobile painting and body work, for a period not to exceed 3 years.

## PROJECT EVALUATION

### Applicant's Justification

The applicant has provided the following rationale for supporting the proposed Temporary Use Permit to allow automotive uses on the subject site at 10512 – 135A Street, for a period of three (3) years (with staff comments in italics):

- The applicant has advised that they purchased the property on November 1, 2012. At the time of purchase, the subject property was leased to a tenant for automotive repair (mechanic shop) use. The owner understood at that time that the said property had been utilized for automotive service uses for many years.
- The subject property comprises approximately 1,394 square metres (15,000 sq.ft.), with 2 substantial buildings of approximately 483 square metres (5,200 sq.ft.) constructed for the specific purpose of automotive service related uses.

- The owner has indicated that the property was purchased with a view to ultimately develop it in accordance with the City Centre Plan.
- The owner acknowledges that the property is zoned CHI, which previously permitted a variety of automotive uses on the property but that these automotive uses were removed when the CHI Zone was amended in 2004 to prohibit such uses on lands within the City Centre. At the time of the amendment, the subject property was being utilized for automotive service uses. As such, the automotive service uses became existing non-conforming.

*(Under Section 528(2) of the Local Government Act, a non-conforming use ceases to become authorized if it is discontinued for a continuous period of six months. The City's records indicate that the most recent business license for automotive service use on the subject property expired on June 3, 2015, and the City is not aware of any evidence that the property was still being used for automotive services even by that time. Further, the City has no record of anyone making application to continue the automotive service use beyond June 3, 2015).*

- The owner contends that sometime in 2014, a prospective tenant inquired with the City about whether automotive uses were permitted on the subject property, and was erroneously informed by the City that it was not a permitted use. The owner also advises that sometime in 2015, anticipating an impending change in tenants, they inquired with the City on the procedure to obtain a new tenant business license for automotive service uses on the subject property. The owner contends that City staff at that time erroneously advised that they could not issue a business license to any new tenants for automotive service uses for the subject property.
- The owner contends that in 2016 they engaged the services of a realtor who was also erroneously advised by City staff that the automotive service uses could only be operated if the existing business (license) was sold to another individual and continued running the same usage. The owner advises that they attempted to purchase the business license from the previous tenant but were unsuccessful in doing so.

*(Staff disagrees with the owner's contention that any parties were misled by the City. City records indicate that on three separate occasions, City business licensing staff provided information to individuals at the front counter in the form of zoning inquiries for the subject site (November 30, 2012, May 19, 2014 and April 7, 2016, respectively). Zoning inquiries provide basic information on the zoning of a particular property and the permitted uses under that zone. The issued zoning inquiries correctly indicated that the Highway Commercial Industrial Zone (CHI), which regulates the subject site, does not permit automotive uses within the City Centre. The City does not provide legal advice or comment on the possible existence or validity of existing non-conforming uses through zoning inquiries).*

- The owner advises that due to the location of the property, combined with the limited uses permitted in the CHI Zone inside the City Centre, they have been unable to locate any tenants for the property. As such, the property remains vacant without any tenants.

*(The CHI Zone permits a variety of commercial retail, office, and service uses within the City Centre. As such, the applicant should meet with City staff to review alternative*

*interim uses for the site that are supportable and more consistent with the vision for City Centre).*

#### Advantages of the Proposal

- The proposed Temporary Use Permit would be an interim use until the subject site and the adjacent properties can redevelop into a land use and density more consistent with the Mixed-Use (3.5 FAR) designation in the City Centre Plan.
- The site has been vacant since 2015. Permitting automotive uses on the subject site would assist the owner to bring business activity, services, and employment to the area, which is an improvement over the current site condition.

#### Disadvantages of the Proposal

- The proposed land use does not comply with Central Business District designation in the OCP or with the Mixed Use 3.5 FAR designation in the City Centre Plan.
- If approved, the proposed automotive uses, even for a temporary basis, could further delay the redevelopment of this area to a higher density development more consistent the Mixed-Use (3.5 FAR) designation in the City Centre Plan, and OCP policies seeking increased densities in the City Centre.
- The proposed automotive uses are contrary to the vision of creating a livable, vibrant City Centre with an enhanced city form and public realm. The subject proposal will not improve upon the streetscape along 135A Street.
- The intent of separate regulations for City Centre in the CHI Zone was to restrict further automotive uses, particularly automotive service uses, from locating within City Centre.
- Previous enquiries for automotive uses in City Centre have not been supported by staff and Temporary Use Permit 7916-0015-00 for a used automobile dealership on 104 Avenue in City Centre was recently denied by Council in March 2016.

#### PRE-NOTIFICATION

- In accordance with Council policy, a development proposal sign was erected on October 13, 2017 and a pre-notification letter was sent on October 18, 2017. To date, staff has received no response.

#### Conclusion

- Staff recognize that the proposed automotive uses on the subject site are interim uses, and ones that previously existed on the subject site. Staff also recognize that other existing non-conforming automotive uses are currently operating along 135A Street in the vicinity of the subject site. However, in order to develop an attractive and vibrant City Centre with appropriate land uses consistent with the City Centre Plan, staff do not support the proposed Temporary Use Permit on the subject site for three (3) years.

- If approved for three (3) years and a possible further three (3) years, the proposed automotive uses could further delay the redevelopment of this area to a higher density that is consistent with the Mixed Use (3.5 FAR) designation in the City Centre Plan.
- The CHI Zone does permit a variety of retail, office, and service uses that could be introduced onto the subject site until such time as the owner pursues redevelopment.
- The Planning and Development Department recommends that the proposed 3-year Temporary Use Permit to allow automotive sales, rentals and service of vehicles less than 5,000 kilograms (11,023 lbs.) and automobile painting and body work for a period not to exceed 3 years be denied.
- Should Council find merit in the proposal however, the application should be referred back to staff to complete the development application review process including the necessary referrals and to then prepare Temporary Use Permit No. 7917-0422-00 for Council's consideration.

#### INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I. Lot Owners and Action Summary (Confidential)  
Appendix II. Aerial Map and Site Photo

*original signed by Ron Gill*

Jean Lamontagne  
General Manager  
Planning and Development

KL/da

APPENDIX I HAS BEEN  
REMOVED AS IT CONTAINS  
CONFIDENTIAL INFORMATION



