

CITY OF SURREY

BY-LAW NO. 11877

A by-law to amend the provisions of  
"Surrey Land Use Contract No. 371  
Authorization By-law, 1978, No. 5676," as  
amended,

.....

NOW, THEREFORE, the City Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

1. "Surrey Land Use Contract No. 371, Authorization By-law, 1978, No. 5676" as amended is hereby further amended as follows:

(a) The CITY OF SURREY is hereby authorized and empowered to enter into an amending Land Use Contract with Owners, Strata Plan NW1769 for the development and use of certain lands and premises located within the City of Surrey, in the Province of British Columbia, and more particularly known as described as:

All that part of the common property of Strata Plan NW1769, Section 15, Township 1, New Westminster District in the City of Surrey, which may be more particularly described as follows:

Commencing at a point in the easterly limit of the said Strata Plan NW1769, said point being 4.00 metres southerly of the northeast corner of the said Strata Plan NW1769;

Thence following in the said easterly limit  $179^{\circ}44'25''$ , 26.05 metres more or less to a bend point in the said easterly limit;

Thence continuing in the said easterly limit  $180^{\circ}41'14''$ , 55.0 metres;

Thence  $300^{\circ}00'00''$ , 13.0 metres;

Thence  $270^{\circ}00'00''$ , 13.0 metres;

Thence  $300^{\circ}00'00''$ , 3.2 metres;

Thence  $270^{\circ}00'00''$ , 42.0 metres;

Thence  $300^{\circ}00'00''$ , 36.0 metres;

Thence 00°00'00", 59.0 metres more or less to a point in the northerly limit of the said Strata Plan NW1769, said point being 10 metres westerly of the said northeast corner;

Thence following in the said northerly limit 89°44'25", 97.0 metres;

Thence 134°44'37", 5.6 metres more or less to the point of commencement and containing by admeasurement 0.757 hectares plus or minus.

(Portion of 1870 Southmere Crescent East)

which said development shall be carried out and completed in accordance with the terms of the contract, a copy of which is attached to and forms a part of this By-law, and is marked Schedule "One (1)" to this By-law, and which contract becomes an amendment to the Land Use Contract which forms Schedule One (1) of By-law 5676.

(b) The said amending Land Use Contract between the City of Surrey and Owners, Strata Plan NW 1769 shall have the force and effect of a Restrictive Covenant running with the hereinbefore described lands and shall be registered in the Land Title Office by the City of Surrey.

(c) The Mayor and Clerk are hereby authorized and empowered to sign and affix the Corporate Seal to the amending Land Use Contract and to do all acts necessary and incidental to the completion of the said amending Land Use Contract No. 371.

2. This By-law shall be cited for all purposes as "Surrey Land Use Contract No. 371, Authorization By-law, 1978, No. 5676 Amendment By-law, 1993, No. 11877."

FIRST AND SECOND READINGS this 25th day of May, 1993.

PUBLIC HEARING HELD this 5th day of July, 1993, and on the 30th day of August, 1993.

READ A THIRD TIME on the 24th day of October, 1994.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 5th day of September, 1995.

\_\_\_\_\_MAYOR

\_\_\_\_\_CLERK

SCHEDULE ONE OF BY-LAW NO. 11877

CITY OF SURREY

MODIFICATION OF LAND USE CONTRACT

THIS AGREEMENT made the     day of     199 .

BETWEEN:

The CITY OF SURREY, a District Municipality under the "Municipal Act" of the Province of British Columbia, and having its City Offices at 14245 - 56th Avenue, in the City of Surrey, in the Province of British Columbia.

(hereinafter called the "City")

OF THE FIRST PART:

AND:

OWNERS, STRATA PLAN NW1769

c/o Porte Realty Limited

#670 - 1665 West Broadway Street in the City of Vancouver, in the Province of British Columbia

(hereinafter called the "Developer")

OF THE SECOND PART:

WHEREAS the Developer is the registered owner of an estate in fee simple of all and singular those certain parcels or tracts of land and premises situated, lying and being in the City of Surrey, in the Province of British Columbia, being more particularly known and described as:

All that part of the common property of Strata Plan NW1769, Section 15, Township 1, New Westminster District in the City of Surrey which may be more particularly described as follows:

Commencing at a point in the easterly limit of the said Strata Plan NW1769, said point being 4.00 metres southerly of the northeast corner of the said Strata Plan NW1769;

Thence following in the said easterly limit  $179^{\circ}44'25''$ , 26.05 metres more or less to a bend point in the said easterly limit;

Thence continuing in the said easterly limit 180°41'14", 55.0 metres;

Thence 300°00'00", 13.0 metres;

Thence 270°00'00", 13.0 metres;

Thence 300°00'00", 3.2 metres;

Thence 270°00'00", 42.0 metres;

Thence 300°00'00", 36.0 metres;

Thence 00°00'00", 59.0 metres more or less to a point in the northerly limit of the said Strata Plan NW1769, said point being 10 metres westerly of the said northeast corner;

Thence following in the said northerly limit 89°44'25", 97.0 metres;

Thence 134°44'37", 5.6 metres more or less to the point of commencement and containing by admeasurement 0.757 hectares plus or minus.

(Portion of 1870 Southmere Crescent East [bordering on 19 Avenue and 152 Street] as generally shown outlined in bold on the plan attached as Schedule "A" to this Agreement.)

hereinafter called "the land";

AND WHEREAS the City and Saratoga Holdings Ltd. entered into a Land Use Contract, designated "Land Use Contract No. 371" respecting the land, which Land Use Contract was adopted by the City Council of the City of Surrey on the 20th day of November, 1978, and registered in the Land Title Office, in the City of New Westminster, in the Province of British Columbia, on the 21st day of November, 1978, under Number P112956.

AND WHEREAS the City and Southmere Development Corporation subsequently entered into a development agreement, designated "Development Agreement No. 371-10" respecting the land, which development agreement was executed on the 18th day of December, 1980;

AND WHEREAS pursuant to the provisions of the said Land Use Contract No. 371, filed under Number P112956 the land was granted a permitted subdivision plan with the number of parcels to be created as set out in Schedule "H" and draft plan of subdivision which is attached to and forms part of the said Land Use Contract as drawing Numbers 77-R2-107(A) and 77-R2-107(B);

AND WHEREAS the City and the Developer agree that certain of the requirements, conditions, covenants and agreements set out and expressed in the said Land Use Contract are not properly applicable to the desired development of

the land;

AND WHEREAS the Developer has proposed that the said Land Use Contract filed under Number P112956 be amended as hereinafter provided and has made application to the City to initiate such change;

AND WHEREAS the Council of the City having given due regard to the considerations set forth in Sections 956 to 959 and Section 982 of the "Municipal Act," and of the "Surrey Land Use Contract Procedure By-law, 1973, No. 4053," and the Surrey Official Community Plan, has agreed to the terms, conditions and considerations herein contained.

AND WHEREAS a Land Use Contract is deemed to be a Zoning By-law for the purposes of the "Controlled Access Highways Act" and if the land is so situated that it is subject to such "Act", the approval of the Minister of Highways to the use set forth in this Contract must first be obtained before the City can enter into same;

AND WHEREAS a Land Use Contract may not deal with any lands designated flood plain on the Official Regional Plan, until the said Contract is approved by the Minister of Municipal Affairs;

AND WHEREAS the Developer acknowledges that he is fully aware of the provisions and limitations of Section 982 of the "Municipal Act" and of the "Surrey Land Use Contract Procedure By-law, 1973, No. 4053," and the City and the Developer mutually acknowledge and agree that the Council of the City cannot enter into this agreement for the Modification of Land Use Contract No. 371, until the Council has held a Public Hearing thereon, in the manner prescribed by law, has duly considered the representations made and the opinions expressed at such hearing, and unless a majority of all the members of the Council present at the meeting at which the said amendment is considered, vote in favour of the By-law authorizing the City to enter into this agreement for the Modification of Land Use Contract No. 371;

NOW THEREFORE THIS CONTRACT WITNESSETH that in consideration of the premises and the conditions and covenants hereinafter set forth, the City and the Developer covenant and agree as follows:

1. The City and the Developer acknowledge and agree that the terms and provisions set forth in Land Use Contract designated as "Land Use Contract No. 371", filed under Number P112956 and Development Agreement No. 371-10 made pursuant thereto shall apply, mutatis mutandis, to this agreement and to the land and shall continue to apply thereto save and except as hereinafter provided in Clause 2.
2. (a) Notwithstanding any provision contained in Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, the land and any and all buildings, structures and improvements constructed or erected upon the land shall be used only for the purpose set forth in Schedule "B" attached to and forming part of this Agreement and for no other use or purpose and the said Land Use Contract and Development Agreement are amended accordingly.
  - i. Schedule "B" of Land Use Contract No. 371 for Development Units 10 and 15 is amended as aforesaid.
  - ii. Schedule "B" of Development Agreement No. 371-10 made pursuant to Land Use Contract No. 371 is amended as aforesaid.
- (b) Notwithstanding any provision contained in Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, the land and any and all buildings, structures and improvements constructed or erected upon the land shall be subject to the following restrictions:

- i. A maximum of 83 multi-family residential units may be constructed or used.
- ii. The height of any building or structure constructed or erected upon the land shall not exceed four (4) storeys or a maximum of fifteen (15) metres.
- iii. A maximum floor area ratio (F.A.R.) of 1.5 excluding any municipal or public use facilities or buildings in the calculation thereof.
- iv. Development Cost Charges shall be payable by the Developer to the City in accordance with the provisions of Surrey Development Cost Charge By-law No. 7996 and as amended, as if the multi-family residential units (paragraph 2(b)(i) herein) are deemed to be zoned Multiple Residential Zone Two (RM-2) pursuant to Surrey Zoning By-law No. [5942](#) and as if the commercial development (paragraph 2(b)(ii) herein) is deemed to be zoned Retail Commercial Zone Two (CR-2) pursuant to Surrey Zoning By-law No. [5942](#) and as if the municipal or public use facilities (paragraph 2(b)(iii) herein) are deemed to be classified as "public use", Schedule "H", pursuant to Surrey Development Cost Charge By-law No. 7996 and as amended.

All applicable provisions of Land Use Contract No. 371 and Development Agreement No. 371-10 are amended as aforesaid.

(c) Notwithstanding any provision contained in Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, building design, siting, and landscaping on the land shall be developed as shown on Drawings Numbered 5591-0579-00 (A) to (L) which are attached hereto and form part of the said Land Use Contract.

Minor changes to the aforesaid drawings that do not affect the intent of this Land Use Contract and the general appearance of the buildings and character of the development may be permitted, subject to the approval of the City.

All applicable provisions of Land Use Contract No. 371 and Development agreement No. 371-10 are amended as aforesaid.

(d) Notwithstanding any provision contained in Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, the following standards for landscaping are required:

(i) All landscaping works and planting materials shall be provided in accordance with the landscaping plan and specifications thereon, which form part of the said Land Use Contract and are attached hereto as Drawings Numbered 5591-0579-00 (I) to (J).

(ii) All planting materials provided shall be able to survive for a period of one (1) year from the date of the site approval by the City.

All applicable provisions of Land Use Contract No. 371 and Development agreement No. 371-10 are amended as aforesaid.

(e) Notwithstanding any provision contained in Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, the following apply:

(i) The developer covenants and agrees to contribute forthwith to the City, the security set out below to ensure satisfactory provision of landscaping in accordance with the terms and conditions as set forth in Section 2, Sub-Section (d) of this by-law. There is filed accordingly:

- An irrevocable Letter of Credit in the amount of \$99,717.00.

(ii) Should any interest be earned upon the security, it shall accrue to the Developer and be paid to the Developer if the security is returned. A condition of the posting of the security is that should the Developer fail to carry out the works or services as hereinabove stated, according to the terms and conditions of this By-law within the time provided, the City may use the security to complete these works or services by its servants, agents or contractors, and any surplus shall be paid over to the Developer.

(iii) The Developer shall complete the landscaping works required by this By-law within six (6) months of the occupancy permit being issued for the buildings. Within this six (6) month period, the required landscaping must be installed by the Developer and inspected and approved by the City.

If the landscaping is not approved within this six (6) month period, the City has the option of continuing to renew the security until the required landscaping is completed or has the option of drawing the security and using the funds to complete the required landscaping. In such a case the City or its agents have the irrevocable right to enter into the property to undertake the required landscaping for which the security was submitted.

If the landscaping is approved within the six (6) months or thereafter in accordance with the preceding paragraph, without the City having to draw the security, 90% of the original security outlined in Clause 2(e)(i) will be

returned to the Developer. A holdback of 10% of the original security outlined in Clause 2(e)(i) will be retained until a final inspection is undertaken within 14 months of the date of the original inspection approval was given to the landscaping. If the landscaping receives approval at final inspection, the 10% holdback will be returned to the Developer. If, after the final inspection, approval of the landscaping is not given, the City has the option of continuing to renew the security until the required landscaping is approved or has the option of drawing the security and using the funds to complete the required landscaping. In such a case, the City or its agents have the irrevocable right to enter onto the property to undertake the required landscaping for which the security was submitted.

All applicable provisions of Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, are amended as aforesaid.

(f) Notwithstanding any provision contained in Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, "Off Street Parking", shall be as follows:

Twenty (20) surface parking spaces on the land and one hundred and thirty-nine (139) underground parking spaces on the land for a total of one hundred and fifty-nine (159) parking spaces, all as shown on Drawings Numbered 5591-0579-00 (A) and (B) attached hereto and forming part of this Agreement.

All applicable provisions of Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, are amended as aforesaid.

(g) Notwithstanding any provision contained in Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, "Signs", is amended to permit signage in accordance with the provisions of Part VI, Signs, of Surrey Zoning By-law, 1979, No. [5942](#), as amended.

(h) Notwithstanding any provision contained in Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, Schedule "H", "Subdivision Plans", is amended to permit the land to be subdivided from the remainder of Parcel One (By-law Plan 76170) of common property of Strata Plan NW 1769, Section 15, Township 1, New Westminster District, subject to the approval of the Approving Officer. Each building on the land may be strata-titled with the approval of the Approving Officer.

All applicable provisions of Land Use Contract No. 371 and Development agreement No. 371-10 are amended as aforesaid.

(i) Notwithstanding any provision of Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, the uses permitted in Schedule "B" shall be conditional upon the immediate availability and adequacy of those City facilities and services hereinafter set forth to serve the land and each unit of every building, structure and use to be erected, placed or carried on thereon. No use of the land and no use of any building or structure thereon shall be deemed to be authorized by Schedule "B" of

this Land Use Contract, and all uses otherwise permitted by this By-law are hereby prohibited unless and until all of the following services and facilities have been provided and are immediately available and are adequate therefor to the standards set out as follows:

(i) Sanitary sewer, water works and drainage works shall be provided and constructed to the standards set out for C-R(2) Zones in "Surrey Subdivision By-law No. 8830" and amendments thereto.

(ii) All highways abutting and serving the land including boulevards, street lighting, underground wiring, sidewalks, transit service facilities shall be provided and constructed to the standards set out for C-R(2) Zones in "Surrey Subdivision By-law No. 8830" and amendments thereto.

All applicable provisions of Land Use Contract No. 371 and Development agreement No. 371-10 are amended as aforesaid.

3. Upon the execution of this Agreement by the parties hereto and registration thereof at the Land Title Office, in the City of New Westminister, Land Use Contract No. 371 and Development Agreement No. 371-10 made pursuant thereto, shall stand amended as herein provided:

4. The Developer has obtained the consent of all persons holding any registered interest in the land as set out in the consents to the use and development of the land as set forth herein, which consents are attached hereto in Schedule C forming Part of this Agreement.

5. It is understood and agreed that the City has made no representations, covenants, warranties, guarantees, promises or agreements (verbal or otherwise) with the Developer, other than those in this agreement and in Land Use Contract designated as Land Use Contract No. 371.

6. This agreement shall have the force and effect of a Restrictive Covenant running with the land and shall be registered





- Drug stores
- Florist's shop
- Grocery stores, food stores, meat market, fruit and vegetable stores, and retail bakers
- Hardware stores and equipment stores
- Hobby brewing stores, providing that the brewing room does not exceed fifty (50) square metres [540 sq. ft.] and that the storage/warehouse facilities do not exceed one hundred (100) square metres [1,080 sq. ft.]
- Jewellery stores and gift shops
- Liquor stores and tobacconists
- Pet shops
- Sporting goods stores
- Variety stores
- Other similar retail stores compatible with the uses permitted in this Land Use Contract

2. Services except automotive services:

- Animal hospital
- Barber and beauty parlours
- Business schools, dancing schools
- Dry cleaners and laundromats
- Health spa
- Licensed premises
- Neighbourhood pubs
- Pool halls
- Restaurants and coffee shops
- Shoe repair shops and jewellery repair shops
- Theatres and cinemas
- Other similar services and repair shops not requiring the operation of heavy machinery, and compatible with the uses permitted in this zone

3. Offices:

- Banks and other finance offices
- Data processing centres
- Doctors' offices, dentists' offices and other medical or related offices
- General business offices
- Law offices, accountants' offices and other professional offices
- Real estate agencies and insurance agencies

- Travel agencies and travellers' clubs
  - Government offices
4. Parking facilities.
  5. Multiple family dwellings.
  6. Recreational facilities for the use of the residents.
  7. Accessory buildings provided that they are located at the rear of the principal building.
  8. City or public use buildings or facilities.