

CITY OF SURREY

BY-LAW NO. 12890

A by-law to amend the provisions of "Surrey Land Use Contract No. 6, Authorization By-law, 1973, No. 3896," as amended

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

1. "Surrey Land Use Contract No. 6, Authorization By-law, 1973, No. 3896" 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 Whalley & District Senior Citizens Housing Society, 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 and described as:

Lot 152, Section 27, Block 5 North, Range 2 West, New Westminster District, Plan 44004.

(13333 Old Yale Road)

(hereinafter referred to as "the lands")

which said development shall be carried out and completed in accordance with the terms of the modification of land use contract (the "Amending Land Use 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 addition to the Land Use Contract which forms Schedule One (1) of By-law 3896.

(b) The Amending Land Use Contract between the City of Surrey and Whalley & District Senior Citizens Housing Society 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 Amending Land Use Contract.

2. This By-law shall be cited for all purposes as "Surrey Land Use Contract No. 6, Authorization By-law, 1973, No. 3896, Amendment By-law, 1996, No. 12890."

PASSED FIRST AND SECOND READING on the 29th day of July, 1996.

PUBLIC HEARING HELD thereon on the 1st day of October, 1996.

PASSED THIRD READING on the 2nd day of February, 1998.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 2nd day of February, 1998.

_____ MAYOR

_____ CLERK

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SCHEDULE ONE OF BY-LAW NO. 12890

CITY OF SURREY

MODIFICATION OF LAND USE CONTRACT

THIS AGREEMENT made the 2nd day of February, 1998.

BETWEEN:

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

(hereinafter called the "City")

OF THE FIRST PART:

AND:

Whalley & District Senior Citizens Housing Society
14875 - 103 Avenue
Surrey, B.C.

(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:

Lot 152, Section 27, Block 5 North, Range 2 West,
New Westminster District, Plan 44004

(hereinafter called "the land";)

AND WHEREAS the City and Whalley & District Senior Citizens Housing Society entered into a Land Use Contract, designated "Land Use Contract No. 6" respecting the land, which Land Use Contract was adopted by the Council of the City of Surrey on the 4th day of

June, 1973, and registered in the Land Title Office, in the City of New Westminster, in the Province of British Columbia, on the 26th day of July, 1973, under Number J93669.

AND WHEREAS the City and Whalley & District Senior Citizens Housing Society entered into a "Modification of Land Use Contract No. 6" respecting the land which modification of Land Use Contract was adopted by the City Council of the City of Surrey on the 1st day of December, 1986, and registered in the Land Title Office, in the City of New Westminster, in the Province of British Columbia, on the 5th day of May, 1987, under Number AA78870;

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 and Modification of the Land Use Contract filed under Numbers J93669 and AA78870 respectively 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. 6, 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. 6;

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. 6", filed under Number J93669 and Modification to the "Land Use Contract No. 6", filed under Number AA78870 and amendments 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 and Clause 3.
2. Upon the execution of this Agreement by the parties hereto and registration thereof at the Land Title Office, in the City of New Westminster, Land Use Contract No. 6 filed under J93669 shall be amended as hereinafter provided:
 - (a) Schedule "D2" is appended as follows:

The City of Surrey
Modification of
"Surrey Land Use Contract No. 6"
"Schedule D2"

LANDSCAPING, SURFACE TREATMENT, FENCES AND SCREENS:

To be completed to the satisfaction of the City and in accordance with Drawing No. 7995-0286-00 (C) as prepared by Wendy Grandin Ltd. dated June 1996, which is attached hereto and forms part of the contract.

As a condition of Land Use Contract Amendment By-law No. 12890 the City is holding the security set out below to ensure satisfactory provision of landscaping in accordance with the terms and conditions above. There is filed accordingly:

- An Irrevocable Letter of Credit in the amount of \$1,402.02.

Should any interest be earned upon the security it shall accrue to the Whalley & District Senior Citizens Housing Society and be paid to the Whalley & District Senior Citizens Housing Society if the security is returned. A condition of the posting of the security is that should the Whalley & District Senior Citizens Housing Society fail to carry out the works or services as hereinabove stated, according to the terms and conditions of this agreement 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 Whalley & District Senior Citizens Housing Society.

The Whalley & District Senior Citizens Housing Society shall complete the landscaping works required by this agreement within six (6) months of the occupancy permit being issued for occupancy of the new wing. Within this six (6) month period, the required landscaping must be installed by the Whalley & District Senior Citizens Housing Society, 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 above will be returned to the Whalley & District Senior Citizens Housing Society. A holdback of 10% of the original security outlined above 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 Whalley & District Senior Citizens Housing Society. 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.

3. Upon the execution of this Agreement by the parties hereto and registration thereof at the Land Title Office, in the City of New Westminster, Modification to Land Use Contract No. 6 filed under No. AA78870 shall be amended as hereinafter provided:

(a) Schedule "A" is hereby amended as follows:

(i) Land, buildings and structures shall be used for a senior citizens' high-rise housing development, community service uses, and customary accessory uses.

(b) Schedule "B" is hereby amended as follows:

(i) The words and figures "Site Coverage: Approximately 23 percent" are hereby deleted and the words and figures "Site Coverage: Approximately 24.5 percent" are hereby inserted in their place.

(ii) The words and figures "Yards: Front 35 feet" are hereby deleted and the words and figures "Yards: Front: 25 feet" are hereby inserted in their place.

(c) Schedule "B1" is hereby amended as follows:

(i) The words and figures "Floor Space Ratio: 0.99" are hereby deleted and the words and figures "Floor Space Ratio: 1.10" are hereby inserted in their place;

(ii) The words and figures "Building Floor Area: 60,900 square feet" are hereby inserted in their place;

(d) Plans:

In addition, Drawing Nos. 7995-0286-00(A) and 7995-0286-00 (B)

(iii) The following sentence is hereby added as the last paragraph:
"Amendments: As shown on Drawings No. 7995-0286-00(A) and
7995-0286-00 (B) which are attached hereto and form a part of this
contract.

4. Upon the execution of this Agreement by the parties hereto and registration thereof at the Land Title Office, in the City of New Westminster, Land Use Contract No. 6 shall stand amended as herein provided:
5. 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 B forming Part of this Agreement.
6. 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. 6.
7. This agreement shall have the force and effect of a Restrictive Covenant running with the land and shall be registered in the Land Title Office by the City pursuant to the provisions of Section 982(7) of the "Municipal Act" and in accordance with the "Land Title Act."
8. WHEREVER the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or body corporate or politic where the Contract or the parties so require.
9. This Contract shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

10. Subject to this Contract, the within works and the development herein shall comply with all of the by-laws of the City of Surrey.

IN WITNESS THEREOF the said parties to this Contract have hereunto set their hands and seal the day and year first above written.

OFFICER SIGNATURE(S)

EXECUTION DATE

TRANSFEROR/BORROWER/PARTY SIGNATURES(S)

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C. William Clapperton, Chief Executive Officer for Whalley & District Senior Citizens Housing Society

CITY OF SURREY:

MAYOR - DOUG W. MCCALLUM

CITY CLERK-DONNA B. KENNY

CONSENT

RE MODIFICATION OF LAND USE CONTRACT NO. 6

Whalley & District Senior Citizens' Housing Society of 14875 - 103 Avenue, Surrey, B.C., being the registered owner in fee simple of Lot 152, Section 27, Block 5 North, Range 2 West, New Westminster District, Plan 44004, registered in the Land Title Office at New Westminster, British Columbia, under Certificates of Indefeasible Title numbered J74226E in consideration of the sum of \$1.00, the receipt and sufficiency of which is hereby acknowledged, hereby agrees, acknowledges and consents to:

1. the registration of the Modification of Land Use Contract between the City of Surrey and Whalley & District Senior Citizens' Housing Society which Modification of Land Use Contract is attached as Schedule One of City of Surrey By-law No. 12890, being a by-law to amend the provisions of Surrey Land Use Contract No. 6 Authorization By-law, 1973, No. 3896, as amended, a copy of which has been given to and reviewed by us; and
2. the Modification of Land Use Contract having the force and effect of a restrictive covenant running with the lands and against the aforementioned land.

Officer's Signature

Execution Date

Party(ies) Signature(s)

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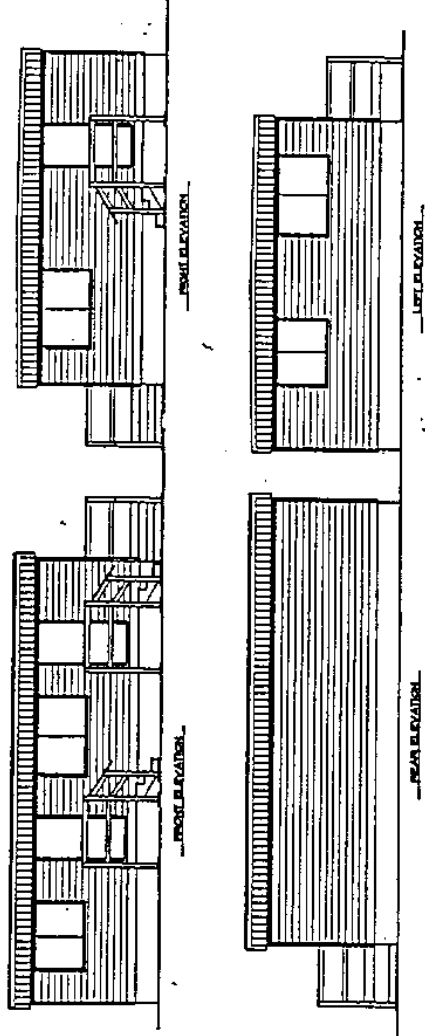
Whalley & District Senior Citizens'
Housing Society
by its authorized signatory(ies)

(As to signature)

C. William Clapperton, Chief
Executive Officer

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act R.S.B.C. 1979 c.116 to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.



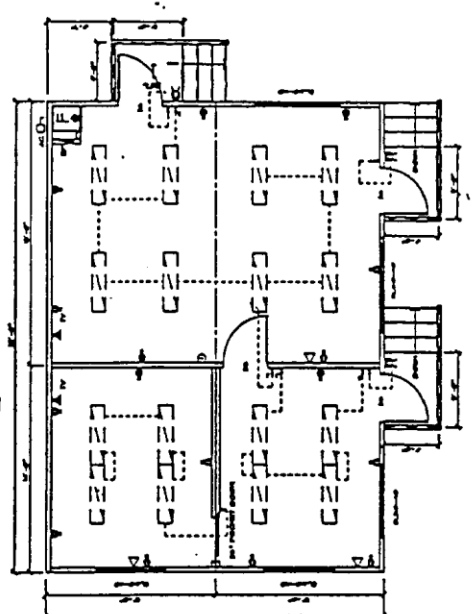
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FACTORY QUINCY BUILDINGS

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7995-0286-00(A)

ELECTRICAL LEGEND

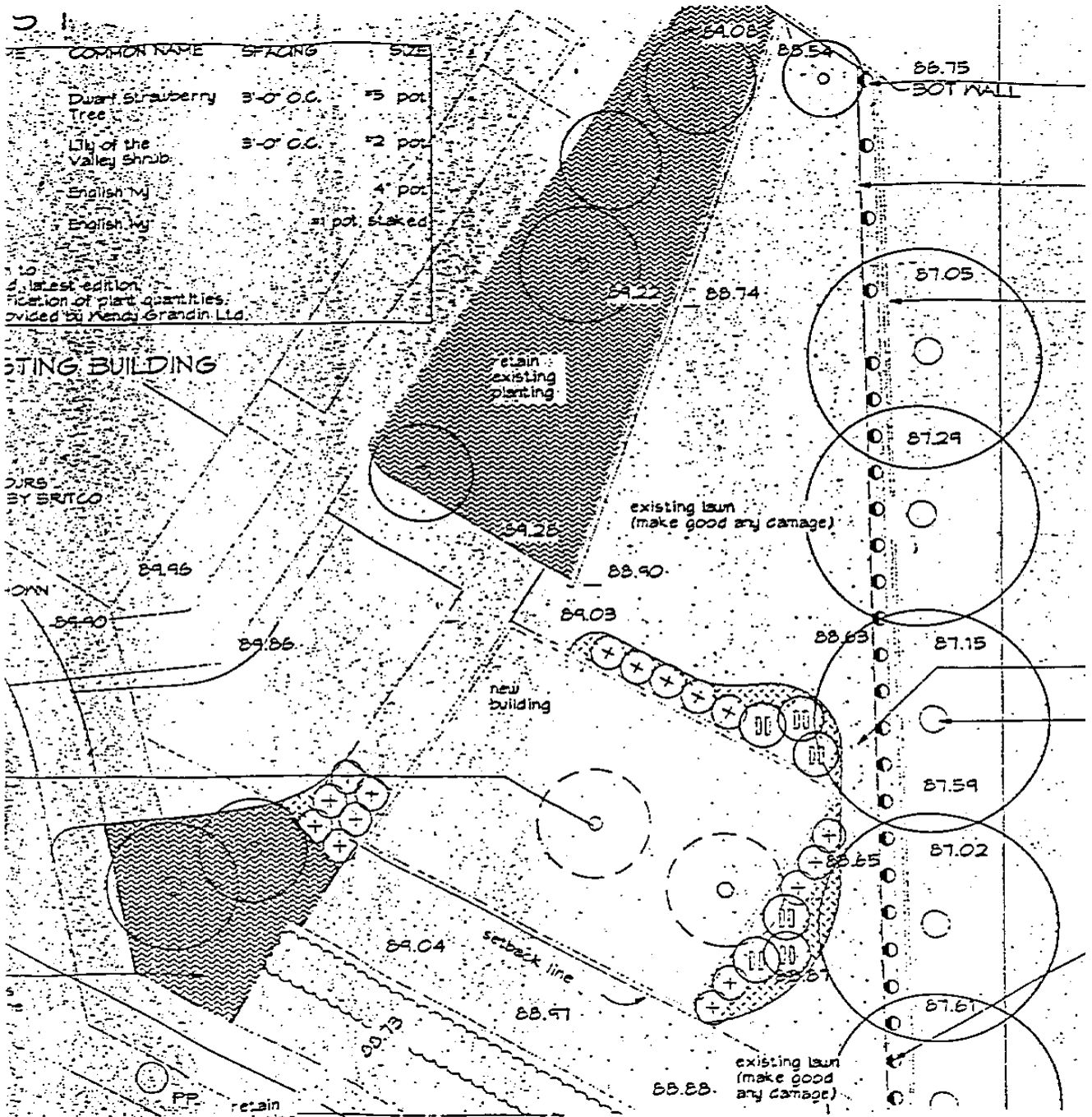
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FACTORY DAILY BUILDINGS

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PROJECT TITLE	KINSMAN PLACE LODGE			
DRAWING TITLE	OFFICE 14' X 37' FLOOR PLAN			
SHEET NO.	1 ELECTRICAL DIAGRAM			
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7995-0286-00(B)



7995-0286-00(C)