

CITY OF SURREY

BY-LAW NO. 17198

A by-law to amend the provisions of "Surrey Land Use Contract No. 581, Authorization By-law, 1978, No. 5761, Amendment By-law, 1985, No. 8170, Amendment By-law, 1995, No. 12732"

.....

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

I. "Surrey Land Use Contract No. 581, Authorization By-law, 1978, No. 5761, Amendment By-law, 1985, No. 8170, Amendment By-law, 1995, No. 12732" 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 ELLARD JOHN WHALEN, UNIVERSAL FITNESS CENTRE LTD. (INC. NO. BC0759020), FRANK ALEXANDER NOSEK, WESTERN PRIDE DEVELOPMENTS LTD. (INC. NO. 224109), and HOOK & LADDER PUB LTD. (INC. NO. 459929), 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:

Parcel Identifiers: 002-183-374, 000-952-508, 000-964-778, 000-960-870, 000-964-816, 000-949-558

Strata Lots 1 to 6 inclusive, all under Section 29 Township 2 New Westminster District Strata Plan NW2086 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as shown on Form 1

8593, 8591, 8585, 8565, 8557 & 8555 - 132 Street

which said development shall be carried out and completed in accordance with the terms of modification (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" to this By-law;

- (b) The Amending Land Use Contract between the City of Surrey and ELLARD JOHN WHALEN, UNIVERSAL FITNESS CENTRE LTD. (INC. NO. BCo759020), FRANK ALEXANDER NOSEK, WESTERN PRIDE DEVELOPMENTS LTD. (INC. NO. 224109), and HOOK & LADDER PUB LTD. (INC. NO. 459929), 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; and
- (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. 581, Authorization By-law, 1978, No. 5761, Amendment By-law, 1985, No. 8170, Amendment By-law, 1995, No. 12732, Amendment By-law, 2010, No. 17198".

PASSED FIRST AND SECOND READING on the 21st day of June, 2010.

PUBLIC HEARING HELD thereon on the 12th day of July, 2010.

PASSED THIRD READING on the 12th day of July, 2010.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 26th day of July, 2010.

_____ MAYOR

_____ CLERK

SCHEDULE ONE OF BY-LAW NO.

CITY OF SURREY

MODIFICATION OF LAND USE CONTRACT NO. 581 (BY-LAW NO. 5761) AS
MODIFIED BY BY-LAW NO. 8170 AND FURTHER MODIFIED BY BY-LAW NO. 12732

THIS AGREEMENT made the ... day of....., 201 .

BETWEEN:

CITY OF SURREY
14245 - 56th Avenue
Surrey, British Columbia
V3X 3A2

(hereinafter called the "City")

OF THE FIRST PART

AND:

ELLARD JOHN WHALEN
UNIVERSAL FITNESS CENTRE LTD. (INC. NO. BCo759020)
FRANK ALEXANDER NOSEK
WESTERN PRIDE DEVELOPMENTS LTD. (INC. NO. 224109)
HOOK & LADDER PUB LTD. (INC. NO. 459929)

(hereinafter called the "Developer")

OF THE SECOND PART

A. 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:

Parcel Identifiers: 002-183-374, 000-952-508, 000-964-778, 000-960-870, 000-964-816, 000-949-558

Strata Lots 1 to 6 inclusive, all under Section 29 Township 2 New Westminster District Strata Plan NW2086 Together with an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as shown on Form 1

(8593, 8591, 8585, 8565, 8557 & 8555 - 132 Street)

(hereinafter called "the Land")

B. AND WHEREAS the City and MARGARET ISABELL SPURR have entered into a Land Use Contract, designated "Land Use Contract No. 581" respecting the land, which Land Use

Contract was adopted by the City Council of the City of Surrey on the 18th day of December, 1978 and registered in the Land Title Office, in the City of New Westminster, in the Province of British Columbia, on the 28th day of December, 1978, under Number 126531.

- C. AND WHEREAS the City and ELLARD JOHN WHALEN, ROBERT EDMUND JAMES, THE ROYAL BAND OF CANADA, SUPREME FLOORING LTD. (INCORPORATION NO. 248995), FRANK ALEXANDER NOSEK, NATIVE HOLDINGS INC. (INCORPORATION NO. 283803), and VENTAIRE OF B.C. LTD. (INCORPORATION NO. 103821) subsequently agreed to further modify Surrey Land Use Contract No. 581 under By-law No. 8170, adopted by Council on July 8, 1985, and which said modification to said Land Use Contract No. 581 was registered in the Land Title Office, in the City of New Westminster, in the Province of British Columbia on the 9th day of February, 1996, under Number BK39402.
- D. AND WHEREAS pursuant to the provisions of the said Land Use Contract No. 581, filed under Number 126531 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 drawings Numbers 77-R2-107(A) and 77-R2-107(B).
- E. AND WHEREAS the City and ELLARD JOHN WHALEN and DIANNE WHALEN, SUDAGAR SINGH SANDHU and KAHMIR KAUR SANDHU, FRANK ALEXANDER NOSEK, NATIVE HOLDINGS INC. (INCORPORATION NO. 283803), VENTAIRE OF B.C. LTD. (INCORPORATION NO. 103821) and RANO KAUR SANDHU subsequently agreed to further modify Surrey Land Use Contract No. 581 under By-law No. 12732, adopted by Council on February 12, 1996, and which said modification to said Land Use Contract No. 581 was registered in the Land Title Office, in the City of New Westminster, in the Province of British Columbia on the 15th day of April, 1996, under Number BK106996.
- F. AND WHEREAS the City and the Developer agree that certain of the requirements, conditions, covenants and agreements set out and expressed in Land Use Contract No. 581 as amended are not properly applicable to the desired development of the Land.
- G. AND WHEREAS the Developer has proposed that Land Use Contract No. 581, and its subsequent modifications under By-law No. 8170 and By-law No. 12732 be further modified as hereinafter provided and has made application to the City to initiate such modification.

H. AND WHEREAS the Developer acknowledges that it is fully aware of the provisions and limitations of Section 930 of the *Local Government Act*, R.S.B.C. 1996, Chapter 323, as amended (the "*Local Government Act*") 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. 581, until the Council has held a Public Hearing thereon, pursuant to Sections 890-894 of the *Local Government Act*, 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.

NOW THEREFORE THIS AGREEMENT 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 No. 581, and its subsequent modifications made pursuant thereto shall apply, mutatis mutandis, to this Agreement and to the Land and shall continue to apply thereto save and except as provided in Paragraph 2 herein.
2. Schedule "B" attached to Land Use Contract No. 581 is hereby amended by adding the following use in Section 2 between "neighbourhood pub" and "pickup and delivery or courier service":

"Liquor store, permitted only in conjunction with a "liquor-primary" licensed establishment, with a valid license issued under the regulations to the Liquor Control and Licensing Act, R.S.B.C, 1996, chapter 267, s. 84, as amended."
3. Upon the execution of this Agreement by the parties hereto and registration thereof at the New Westminster Land Title Office, Land Use Contract No. 581 shall stand amended as herein provided.

4. Subject to the definitions herein, all terms shall be defined in accordance with the Surrey Zoning By-law, 1993, No. 12000 as amended from time to time including amendments after the date of this Agreement.

5. 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 Agreement or the parties so required.

6. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

7. Subject to this Agreement, the within works and the development herein shall comply with all of the by-laws of the City as amended from time to time including amendments after the date of this Agreement.

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

Officer Signatures

Execution Date

Transferor/Borrower/Party
Signature(s)

Y	M	D

ELLARD JOHN WHALEN

Ellard John Whalen

UNIVERSAL FITNESS CENTRE
LTD., (INC. NO. BC0759020) BY
ITS AUTHORIZED SIGNATORIES

Universal Fitness Centre Ltd. (Inc.
No. BC0759020)

Officer Signatures

Execution Date

Transferor/Borrower/Party
Signature(s)

Y	M	D

FRANK ALEXANDER NOSEK

Frank Alexander Nosek

WESTERN PRIDE
DEVELOPMENTS LTD. (INC. NO.
224109) BY ITS AUTHORIZED
SIGNATORIES

Western Pride Developments Ltd.
(Inc. No. 224109)

HOOK & LADDER PUB LTD.
(INC. NO. 45992) BY ITS
AUTHORIZED SIGNATORIES

Hook & Ladder Pub Ltd. (Inc. No.
459929)

CITY OF SURREY BY ITS
AUTHORIZED SIGNATORIES

Mayor – Dianne L. Watts

City Clerk – Jane Sullivan