

City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7910-0030-00

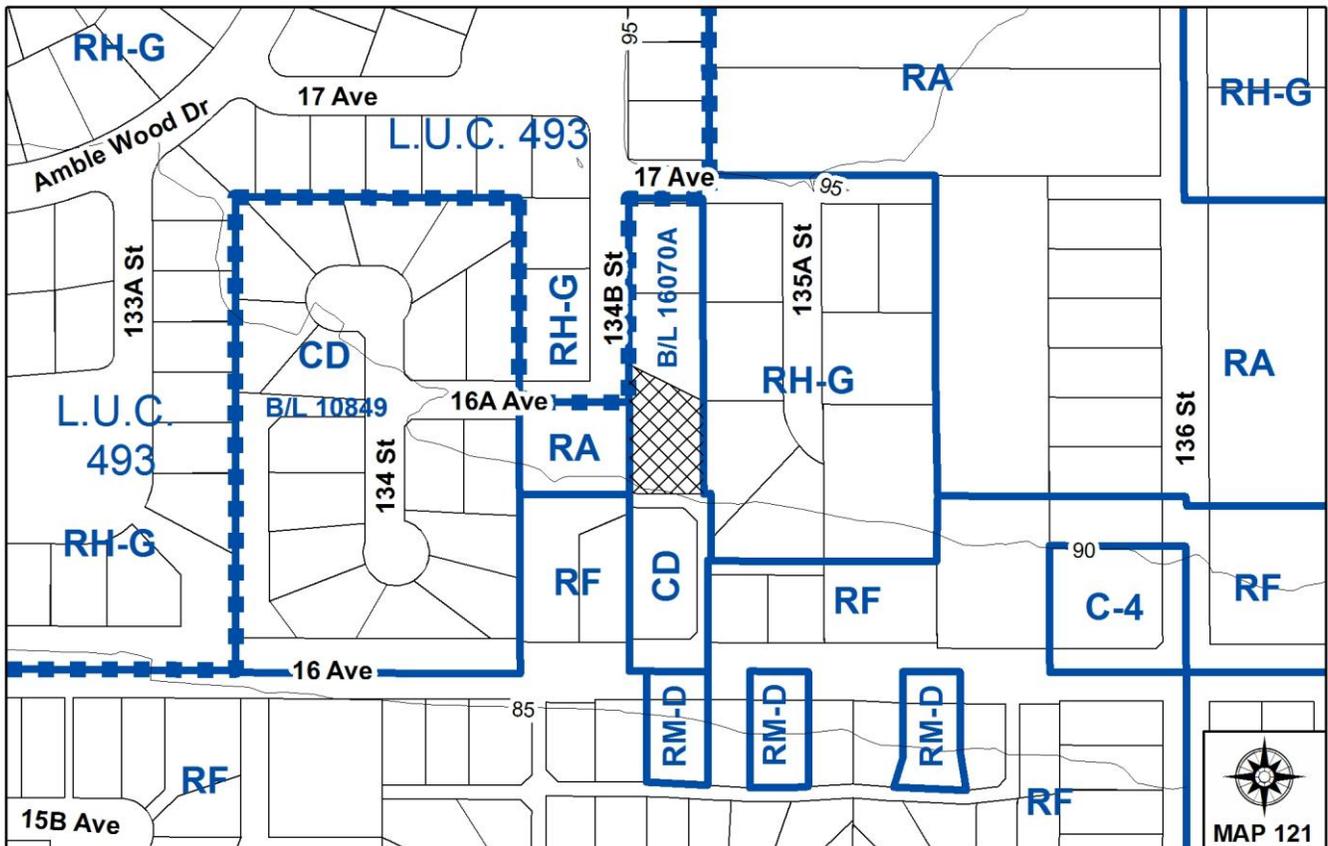
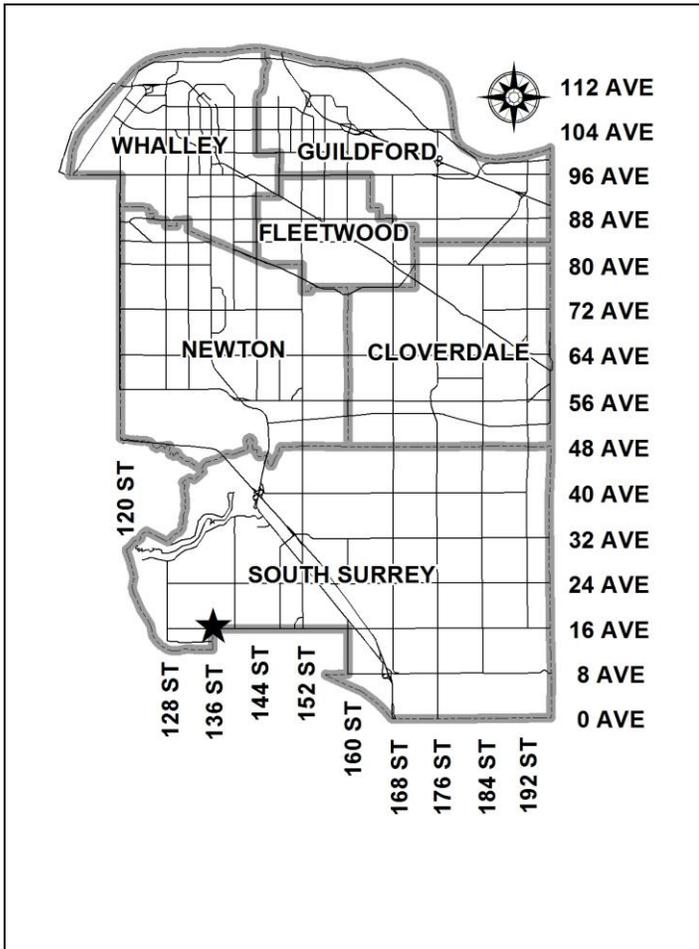
Planning Report Date: March 1, 2010

PROPOSAL:

- **Restrictive Covenant** amendment

in order to reduce the rear yard setback covenant area from 5.0 metres (16 ft.) to a minimum of 1.2 metres (4 ft.).

LOCATION: 1648 – 134B Street
OWNER: Deep Blue Investment Corporation, Inc. No. 751211
ZONING: CD (By-law No. 16070A)
OCP DESIGNATION: Suburban
LAP DESIGNATION: Suburban Residential (1/2 Acre)



RECOMMENDATION SUMMARY

- Council approve an amendment to Restrictive Covenant No. BB538955 to reduce the rear yard setback covenant area from 5.0 metres (16 ft.) to a minimum of 1.2 metres (4 ft.) in accordance with the plan attached in Appendix III.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- None

RATIONALE OF RECOMMENDATION

- The lot orientation and house design require that the rear yard be located along the south property line, thus negating the need for the full 5-metre (16 ft.) setback established in the Restrictive Covenant along the east property line.
- The proposed amendment fully satisfies the intent of the Restrictive Covenant which is to preserve trees on the lot.
- The applicant has discussed the proposal with the adjacent property owner to the east and to other surrounding property owners and has received no objections. Staff received only one response to the notification letters that were mailed to neighbouring property owners from a neighbour who was concerned about the impact the proposed setback reduction would have on the existing trees. Staff have verified that no impact is anticipated.

RECOMMENDATION

The Planning & Development Department recommends that Council approve an amendment to Restrictive Covenant No. BB538955 to reduce the rear (easterly) yard setback covenant area from 5.0 metres (16 ft.) to a minimum of 1.2 metres (4 ft.) in accordance with the plan attached in Appendix III.

REFERRALS

Engineering: The Engineering Department has no objection to the proposal.

SITE CHARACTERISTICS

Existing Land Use: The subject site is currently vacant.

Adjacent Area:

Direction	Existing Use	OCP/NCP Designation	Existing Zone
North:	Vacant lot.	Suburban/Suburban Residential (1/2 Acre)	CD (By-law No. 16070A)
East:	Single family dwellings.	Suburban/Suburban Residential (1/2 Acre)	RH-G
South:	Vacant lot.	Suburban/Suburban Residential (1/2 Acre)	CD (By-law No. 16070A)
West (Across 134B Street):	Single family dwellings.	Suburban/Suburban Residential (1/2 Acre)	RA and RH-G

DEVELOPMENT CONSIDERATIONSBackground

- The subject lot, located on the southeast corner of 134B Street and 16A Avenue (1648 – 134B Street), and neighbouring lots to the north and south, were created under rezoning and subdivision application No. 7905-0365-00. The rezoning component of this application, which proposed a rezoning from "One-Acre Residential Zone (RA)" and "Single Family Residential Zone (RF)" to "Comprehensive Development Zone (CD)" and "Half-Acre Gross Density Residential Zone (RH-G)", was approved by Council on June 26, 2007. The associated subdivision was approved on July 31, 2007.
- The original subdivision application included not only a parent parcel (13487 – 16 Avenue), but also a 10-metre (33 ft.) wide portion of unopened road allowance for 135 Street between 16 Avenue and 17 Avenue, which was deemed surplus by the City. As part of the subdivision, the westerly seven (7.0) metres (23 ft.) of this unopened road allowance was sold and consolidated with 3 of the newly created single family lots (including the subject lot). The remaining 3.0 metres (10 ft.) was sold and consolidated with 3 existing neighbouring lots to the east.

- During the original rezoning and subdivision application (No. 7905-0365-00), concerns were raised by neighbouring residents regarding tree preservation on the site. The site was heavily treed, particularly within the unopened road allowance area, and neighbouring residents sought to ensure that these trees would be retained. In response to these concerns, Council approved the registration of a no-build Restrictive Covenant (RC) for tree preservation over the unopened road allowance area, as a condition of final approval.
- The RC registered on the subject property, as well as the two other newly created lots to the north, includes two restricted zones: a 7.0-metre (23 ft.) tree protection zone; and an additional 5.0-metre (16 ft.) rear yard setback requirement to ensure that the homes on the new lots would not be constructed immediately next to the covenant area, and to provide some functional rear yard space outside of the tree protection zone (Appendix II).
- It is noted that staff received a similar application on this lot on December 14, 2009. That proposal (File No. 7909-0249-00), which was submitted by a prospective purchaser of the lot, included the same request to amend Restrictive Covenant No. BB538955 to reduce the rear yard setback area from 5.0 metres (16 ft.) to 3.2 metres (10.5 ft.) but also included a request to discharge another covenant on the lot (No. BB538952) which requires that any new dwelling constructed on the lot achieve vehicular access from the rear lane. While staff supported the proposed amendment to Restrictive Covenant No. BB538955 (Tree Preservation and Rear Yard Setback), staff did not support the discharge of Restrictive Covenant No. BB538952 (Driveway Access Via Lane) for a variety of reasons including the objections staff received from neighbouring property owners to the concept of allowing a front access driveway to 134B Street on this lot. A Planning Report was prepared for Council's consideration at the January 25, 2009 Regular Council – Land Use Meeting, however the applicant requested that the application be deferred to a later date. The applicant subsequently requested that the file be closed. The owner of the lot has now submitted the subject application which only includes a request to reduce the rear yard setback area.

Proposal

- The owner of the subject property advises that complying with the 5.0-metre (16 ft.) rear yard setback required in addition to the 7.0-metre (23 ft.) tree protection area results in a building envelope that is too narrow to accommodate a functional house design and floor plan. As a result, the owner seeks an amendment to Restrictive Covenant No. BB538955 to reduce the setback area from 5.0-metres (16 ft.) to a minimum of 1.2 metres (4 ft.) as illustrated in Appendix III. This proposal is evaluated below.

RESTRICTIVE COVENANT AMENDMENT EVALUATION

- (a) Amend Restrictive Covenant No. BB538955 to reduce the required rear yard setback area adjacent the tree preservation area from 5.0 metres (16 ft.) to a minimum of 1.2 metres (4 ft.).

Applicant's Reasons:

- The applicant advises that complying with the 5.0-metre (16 ft.) rear yard setback required in addition to the 7.0-metre (23 ft.) tree preservation area results in a building envelope that is too narrow to accommodate a functional house design and floor plan.

- The applicant has retained a certified arborist (Mike Fadum and Associates Ltd.) who has confirmed that varying encroachments up to a maximum of 3.8 metres (12.5 ft.) into the 5.0 metre (16 ft.) rear yard setback covenant area as illustrated in Appendix III can be accommodated with no anticipated impacts on the protected trees on the lot.

Staff Comments:

- The City's arborist has reviewed the plan prepared by the applicant's arborist (Appendix III) and has confirmed that the proposed amendment is not anticipated to have an impact on any of the existing trees within the covenant area on the basis that the minimum no disturbance zone as per City policy is still being adhered to. As such, the original intent of the covenant, which was to ensure tree preservation, is being fully protected under this proposal.
- While the covenant defines the east yard as being the rear yard for all 3 lots on which the covenant applies, the subject lot orientation actually results in the rear yard being located along the south property line. As such, encroachment of the dwelling within the 5.0-metre (16 ft.) setback protection area will not actually eliminate the functional rear yard, which is located on the south of the lot.
- A similar amendment was approved for one of the neighbouring lots to the north (1688 - 134B Street (File No. 7907-0343-00) which is a similar size and configuration as the subject lot. Similar to the rationale utilized to justify the amendment for that neighbouring lot, it can be argued that the additional 5.0-metre (16 ft.) rear yard setback requirement results in an unnecessary burden on the build-able area of this lot and is too onerous given that the trees are being fully preserved.
- The applicant has canvassed surrounding property owners including the immediate property owner to the east, and has received no objections to the proposed building envelope location. Staff has received only one response to this proposed amendment in reply to the development proposal sign which was erected on the property and the pre-notification letters which were sent to surrounding property owners on February 19, 2010. The one response was from a neighbouring property owner who was concerned about the potential impact on the trees to be preserved on the lot. Staff have verified that no impact is anticipated.
- On this basis, staff recommend that Council approve the proposed amendment to Restrictive Covenant No. BB538955 (Tree Preservation and Rear Yard Setback) to allow a single family dwelling to encroach up to 3.8 metres (12.5 ft.) into the 5.0 metre (16 ft.) setback area, adjacent the 7.0 metre (23 ft.) wide tree preservation covenant area as per the plan attached in Appendix III.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

- Appendix I. Lot Owners, Action Summary and Project Data Sheets
- Appendix II. Explanatory Plan Restrictive Covenant No. BB538955
- Appendix III. Tree Preservation and Proposed Building Envelope Plan

Jean Lamontagne
General Manager
Planning and Development

RG/kms

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Information for City Clerk

Legal Description and Owners of all lots that form part of the application:

1. (a) Agent: Name: Raghbir Gurm, Deep Blue Investment Corporation
 Address: 13063 – 56 Avenue
 Surrey, BC
 V3X 2Z3
 Tel: 604-880-5128

2. Properties involved in the Application

(a) Civic Address: 1648 – 134B Street

(b) Civic Address: 1648 – 134B Street
 Owner: Deep Blue Investment Corporation, Inc. No. 751211
 PID: 027-178-765
 Lot 2 Section 17 Township 1 New Westminster District Plan BCP31929

3. Summary of Actions for City Clerk's Office

SITE SHEET

Existing Zoning: CD (By-law No. 16070A)

Required Development Data	Minimum Required / Maximum Allowed	Proposed
LOT AREA* (in square metres)		
Gross Total		
Road Widening area		
Undevelopable area		
Net Total		1,498 m ²
LOT COVERAGE (in % of net lot area)		
Buildings & Structures	25%	25%
Paved & Hard Surfaced Areas		
Total Site Coverage		
SETBACKS (in metres)		
Front	7.5 m	7.5 m
Rear	7.5 m	8.2 m
Side #1 (North)	3.0 m	3.0
Side #2 (South)	3.0 m	3.0 m
BUILDING HEIGHT (in metres/storeys)		
Principal		
Accessory		
NUMBER OF RESIDENTIAL UNITS		
Bachelor		
One Bed		
Two Bedroom		
Three Bedroom +		
Total		
FLOOR AREA: Residential	479 m ²	479 m ²
FLOOR AREA: Commercial		
Retail		
Office		
Total		
FLOOR AREA: Industrial		
FLOOR AREA: Institutional		
TOTAL BUILDING FLOOR AREA	479 m ²	479 m ²

** If the development site consists of more than one lot, lot dimensions pertain to the entire site.*

Development Data Sheet cont'd

Required Development Data	Minimum Required / Maximum Allowed	Proposed
DENSITY		
# of units/ha /# units/acre (gross)		
# of units/ha /# units/acre (net)		
FAR (gross)		
FAR (net)	0.32	0.32
AMENITY SPACE (area in square metres)		
Indoor		
Outdoor		
PARKING (number of stalls)		
Commercial		
Industrial		
Residential Bachelor + 1 Bedroom		
2-Bed		
3-Bed		
Residential Visitors		
Institutional		
Total Number of Parking Spaces		
Number of disabled stalls		
Number of small cars		
Tandem Parking Spaces: Number / % of Total Number of Units		
Size of Tandem Parking Spaces width/length		

Heritage Site	NO	Tree Survey/Assessment Provided	YES
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