



# Corporate *NO: R029*

# Report *COUNCIL DATE: February 18, 2002*

<b>REGULAR COUNCIL</b>			
<b>TO:</b>	<b>Mayor &amp; Council</b>	<b>DATE:</b>	<b>February 14, 2002</b>
<b>FROM:</b>	<b>General Manager, Planning &amp; Development</b>	<b>FILE:</b>	<b>7901-0182-00</b>
<b>SUBJECT:</b>	<b>Discharge of Land Use Contract No. 342 for Property at 15330 – 102A Avenue – Mirage Cabaret</b>		

## RECOMMENDATION

It is recommended that Council receive this report as information.

## BACKGROUND

At the November 19, 2001 Regular Council - Land Use meeting, Council considered a report from the Planning and Development Department concerning a request from the Mirage Cabaret, at 15330 – 102A Avenue (Appendix I), which is located on a property that is regulated under Land Use Contract No. 342, to expand the licensed seating capacity from 350 seats to 450 seats, in accordance with new liquor licensing regulations. Council passed a resolution to approve the increased seating capacity and passed the following additional resolution (Res. R01-2558):

That staff be directed to pursue the question of discharge of the Land Use Contract and report back to Council.

## DISCUSSION

Land Use Contract No. 342 ("LUC No. 342") was adopted on May 17, 1977 and regulates the land uses over a number of properties in the Guildford area (Appendix II). LUC No. 342 required that the owner of the properties enter into a Development Agreement to define the uses on the properties and to regulate the servicing, the form and character of the buildings, signage, parking and landscaping on each of the individual parcels of land within ten years of its adoption. Development Agreement 342-7 for the subject land was executed on October 20, 1980.

Land Use Contract ("LUC") legislation was introduced by the Province in the early 1970s and discontinued in 1977. During that time, approximately 370 LUCs were approved in Surrey. LUCs were an alternative to

traditional zoning. In addition to regulating land uses, LUCs set out conditions for the provision of services and payment of impost fees. LUCs were intended to provide flexibility and to achieve what could not be achieved under the zoning authority of the day. The provisions of LUCs have tended to be more restrictive than zoning regulations. This relates to the fact that Zoning By-law text amendments can be initiated by the City to address provisions that may be outdated or lacking. LUCs, on the other hand, cannot be amended or discharged, under current legislation, unless the owner is in agreement.

LUC No. 342, which covers the lot currently occupied by the Mirage Cabaret, allows uses (listed in Appendix III) ranging from those typical in a town centre (banks, medical offices, retail stores, restaurants, theatres, hotels and dwelling units) and highway commercial areas (automotive sales and service, hardware stores, ice rink and veterinarian offices) to those more typical in industrial areas (manufacturing, warehousing, laboratories, cold storage and book binding). There is no single zone in Surrey Zoning By-law, 1993, No. 12000 that permits all the uses permitted by LUC No. 342.

LUC No. 342 regulates several properties and some of these properties have been stratified. A complete discharge of LUC No. 342 (blanket discharge) would require the consent of all properties covered by the LUC. Given the range of permitted uses and the number of property owners involved, it is unlikely that consent from all affected property owners could be achieved. A further challenge would be in selecting appropriate zoning for each affected lots and then proceeding through a rezoning process for each lot.

Discharging LUC No. 342 on the subject lot only (partial discharge) would result in the underlying Highway Commercial Industrial Zone (CHI) coming into effect. The existing cabaret use on the site is considered an entertainment use, which is not permitted within the CHI Zone. Therefore, to discharge the LUC for this site and maintain the cabaret as a conforming use, a rezoning to Community Commercial Zone (C-8) would be necessary. However, if the owner wanted to retain a broader range of the currently permitted uses as listed in Appendix III, a Comprehensive Development Zone (CD) would be needed.

Staff have discussed the potential for a LUC discharge for the subject lot with the agent of the owner and have been advised that they are not interested in pursuing such a discharge at this time, in consideration of the potential for the discharge to decrease the number of land uses which could be accommodated on the site, potential lease complications that such a discharge would create and unexpected complications that can arise through the Public Hearing process.

Staff will normally determine if an opportunity exists to have the LUC discharged when the owner of a site that is regulated by a LUC seeks an amendment to the LUC. In this situation, an amendment to the LUC was not requested, since the LUC permits cabarets and the tenant was simply seeking input from Council on an application the tenant had made to the Liquor Control and Licensing Branch, for an increase in licensed seating capacity for the cabaret, which is not a zoning or land use issue, but rather a Provincial liquor licensing matter. The City's involvement was limited to providing input to the Liquor Control and Licensing Branch with regard to the increased seating capacity. As noted earlier in this report, Council, at its meeting on November 19, 2001, authorized the City Clerk to forward a letter to the Liquor Control and Licensing Branch advising that the City approves the proposed seating capacity increase. Council's approval was subject to the owner submitting a building permit application to the City, together with the revised seating plan demonstrating that the plan meets the requirements of the B.C. Building Code and Fire Code.

## SUMMARY

Planning and Development Department staff routinely encourage property owners to discharge LUCs whenever an amendment to the LUC is sought that requires a Public Hearing. The Mirage Cabaret site is regulated by LUC No. 342 and the owner of the Cabaret recently requested Council approval to expand the licensed seating capacity of the Cabaret. Council input is necessary as a part of the Liquor Control and Licensing Branch approval process for applications for licensed seating capacity increases. Since no land use or other zoning

regulations were involved in approving the increased seating capacity, staff did not pursue a partial discharge of the LUC in this circumstance. In more recent discussions with the owner's agent, staff have been advised that the owner is not interested in pursuing a LUC discharge at this time, due to potential lease problems that such a discharge would create and the potential loss of certain land uses that are permitted under the existing LUC.

Murray D. Dinwoodie

General Manager

Planning & Development Department

LAP/kms/saw

Appendix I. Subject Site (Zoning Map)

Appendix II. Map of Area Regulated by LUC No. 342

Appendix III. List of Permitted Uses in LUC No. 342 for Subject Site

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Appendix III

**LIST OF PERMITTED USES IN LUC NO. 342**

Air conditioning equipment sales & service	Cold storage plant	Licensed premises
Animal hospital	Convention centre	Lithographing
Appliance repair shop	Curling rink	Medical-dental building
Appliance store	Dance hall & <b>cabaret</b>	Motion picture & television studios
Assembly hall	Drugstore	Offices
Auction room	Drycleaner	Off-street parking
Automotive parts (new) sale	Dwelling units	Pet shop
Automotive repair shop	Electrical & electronic appliances, tools, equipment & accessories	Professional scientific photographic & optical instruments & accessories

Automotive sales & rental	Engraving	Refrigeration equipment, sales, service & manufacturing
Bakery	Feed & seed retail	Restaurants
Bank	Food handling equipment, sales, service & manu'g	Retail stores (new or used goods for sale or rental)
Barber shop	Grocery store	Roller rink
Beauty parlour	Hardware store	Scientific research lab
Billiards	Health studio	Shoe repair
Book binding	Heating equipment sales, service & manufacturing	Sign manufacturing
Bowling alley	Hotels	Tailor shop (retail)
Building supplies	Hospital & medical equipment sales, service & manufacturing	Tent, awning & allied products manufacturing
Business machines, sales, service & manufacturing	Ice rink	Theatre, excluding drive-in
Butcher shop	Instrument manufacturing	Time recording equipment sales, service, manu'g
Candy manufacturing	Jewellery manufacturing	Upholstering
Café	Laboratory	Veterinarian office (for small domestic animals)
Clothing & garment manufacturing	Laundromat	Wholesale establishments
Clubrooms	Laundry, cleaning & dyeing establishments	Wholesale storage warehouses

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