

MINUTES
SPECIAL COUNCIL MEETING (PUBLIC HEARING)
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE
80 COMMERCIAL STREET, NANAIMO, BC
THURSDAY, 2021-JAN-21, AT 7:00 P.M.

Present: Mayor L. Krog, Chair
Councillor S. D. Armstrong
Councillor D. Bonner
Councillor T. Brown (joined electronically, disconnected 8:19 p.m.)
Councillor B. Geselbracht
Councillor E. Hemmens
Councillor Z. Maartman
Councillor I. W. Thorpe
Councillor J. Turley (joined electronically)

Staff: J. Holm, Director, Development Approvals
D. Fox, Manager, Building Inspections
D. LaBerge, Manager, Bylaw Services
L. Rowett, Manager, Current Planning
L. Stevenson, Planner
D. Blackwood, Client Support Specialist
S. Snelgrove, Deputy Corporate Officer
J. Vanderhoef, Recording Secretary

1. CALL THE SPECIAL COUNCIL MEETING TO ORDER:

The Special Meeting was called to order at 7:00 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Remove Agenda Item 6(d) - Bylaw Contravention Notice - Construction Started Without a Building Permit – 3844 Sundown Drive.
- (b) Remove Agenda Item 6(g) - Bylaw Contravention Notice - Construction Started Without a Building Permit - 6384 Icarus Drive.
- (c) Agenda Item 6(f) - Replace report titled "Bylaw Contravention Notice - Construction Started Without a Building Permit - 235 Nicol Street".

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

Mayor Krog spoke regarding the purpose of a Public Hearing, advised that Council was meeting on the traditional territory of the Snuneymuxw First Nation and advised of the standard protocols for a Public Hearing.

Mayor Krog outlined the process to accommodate members of the public who wanted to call in to participate by phone.

4. PUBLIC HEARING PROCEDURES:

Lainya Rowett, Manager, Current Planning, noted that the public hearing was being held in accordance with the Public Hearing requirements under Part 14 of the *Local Government Act* and noted that the topic of this Public Hearing was a Covenant Amendment. The City has a Council policy to outline the process and public notification requirements for amendments to covenants that were originally secured through a rezoning process. The *Local Government Act* does not require a public hearing for covenant amendments; however, in accordance with Council's policy, covenant amendments that proceed to public hearing shall be done so in a similar manner as with the public hearing requirements for a rezoning application.

5. PUBLIC HEARING FOR COVENANT AMENDMENT APPLICATION NO. CA14 – 6010 BRICKYARD ROAD

(a) Covenant Amendment Application No. CA14 - 6010 Brickyard Road

Mayor Krog called the Public Hearing to order at 7:05 p.m.

Lainya Rowett, Manager, Current Planning, introduced Covenant Amendment Application No. CA14 – 6010 Brickyard Road and noted that seven (7) written submissions had been received prior to the start of the Special Council Meeting (Public Hearing), 2021-JAN-21.

Mayor Krog called for submissions from the Applicant and the Public:

1. Fay Laing, F. M. Laing Consulting, Nanaimo, spoke in favour, on behalf of Fairhaven Properties Inc., via telephone, and stated:
 - Property was purchased as a medical facility and has since been sold
 - Current owners are looking to repurpose the existing building for similar use
 - Current zoning is restricted
 - Currently expanding physio therapist services within the building and looking at adding a medical laboratory and pharmacy
 - Planning to stay within the supported use, but would like the opportunity to lease some office spaces to professionals
 - Heard concerns from neighbourhood regarding parking; however, improvements have been made and anticipate the improved parking will be adequate for the location and services planned
 - Plan to improve the visibility and landscaping of the property
 - Current owners want to continue to pursue doctors, medical professionals, and other professionals for tenants

Council requested clarification that the applicant plans to continue providing medical office space and is wanting to add other professional offices.

2. Bill Manners, Nanaimo, spoke in opposition, via telephone, and stated he would rather see an amendment to the existing covenant than see it discharged. He noted that concerns had been raised by neighbours and that dismissing the covenant would disregard the concerns of individuals who purchased properties based on the covenant being in place.

Mayor Krog called for submissions from the Public for a second time:

No one wished to speak regarding Covenant Amendment Application No. CA14 – 6010 Brickyard Road.

Mayor Krog called for submissions from the Public for a third and final time:

No one wished to speak regarding Covenant Amendment Application No. CA14 – 6010 Brickyard Road.

Mayor Krog announced that following the close of a Public Hearing, no further submissions or comments from the public or interested persons could be accepted by members of City Council.

Hearing no further comments from the public the Mayor declared the Public Hearing for CA14 – 6010 Brickyard Road be closed at 7:20 p.m.

Council discussion took place. Highlights included:

- Possibility of amending the covenant restrictions to add office use rather than discharge the covenant
 - Staff would need to consult with the applicant to ensure the amendment fits their purpose
- Council can not impose a change as this is an agreement between two parties
- Options/methods of amending a covenant
- Potentially adjourning this topic to another date to allow time for consultation with the applicant
- At Council's direction Staff can consult with the applicant and proceed with the amendment if agreeable
- Differences between living next to a restaurant and living next to an office building
- Amendment could potentially satisfy the proponent and the neighbourhood
- COR1 zoning for other property located west on Hammond Bay Road and the difference between COR1 zoning and the COR3 zoning of the subject property

It was moved and seconded that Council direct Staff to consult with the proponent with a view to amending the covenant as follows:

"Include medical offices with optional drug dispensary facilities, lab facilities and office space."

The motion carried.

Opposed: Mayor Krog, Councillors Bonner and Brown

6. REPORTS:

(a) 3111 Departure Bay Road - Nuisance Property

Introduced by David LaBerge, Manager, Bylaw Services.

- One storey residence with no building permit on file to finish the basement with a suite
- 54 complaints/calls to this property with 1/3 of calls being of a nuisance nature such as yelling, family disputes, loud music, and fights
- City has a number of open calls regarding garbage and furniture on the property
- The property has a steep downward slope toward Bay Street where the Parks Department staff noted a large amount of garbage had come from the property and landed in a fish bearing stream. Staff cleaned the stream and notified the Bylaw Department
- Staff have attended the property to remove garbage; however, there have been further complaints since then regarding garbage on the property
- Animal Control has attended to this property to apprehend a dog
- Although medical aid calls are not considered a nuisance matter it is of note that the Nanaimo Fire Department has received a number of calls for this property
- Staff have informed the owner of the “Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250”
- There are some challenges communicating with the owner due to a language barrier
- Owner is dealing with some very difficult tenants and has requested help with removing the tenants
- Staff have encouraged the owner to seek assistance with communication in order for Staff to better direct him to resources and assistance
- This report was previously planned for the Fall of 2020; however, Staff decided to wait and move slowly to provide more opportunities for the owner to take action, but no action has been taken to mitigate serious issues in the neighbourhood

Delegation:

1. Zhibin Li, provided a presentation explaining his situation and examples of the damage and vandalism he has experienced due to the tenants on his property.

Council discussion took place. Highlights included:

- Potential safety concerns for the owner if they apply to the Residential Tenancy Branch
- Government limitations regarding evictions during COVID-19
- Sufficient evidence in presentation for owner to proceed with an application to the Residential Tenancy Board
- Declaration of nuisance property could support an application to the Residential Tenancy Branch and Staff could use discretion on how to proceed with billing

- Once the tenant has been removed, and the situation has been corrected, the declaration could be removed
- This matter relates to safety and provincial matters
- Contacting the Nanaimo Multicultural Society for assistance with translation
- Property owner at the mercy of other people and Staff will exercise discretion with the property owner
- Must consider the neighbourhood being impacted as well
- Providing assistance and sharing the presentation with the Residential Tenancy Branch instead of declaring a nuisance property
- This is the most clear and urgent case of a nuisance property seen by this Council
- There are methods and resources available to the owner to address the issues
- Given the tenants behaviour a nuisance declaration will not change the situation without providing assistance to the owner
- Owner had ample time to contact the Residential Tenancy Branch and was recommended to do so

It was moved and seconded that Council declare 3111 Departure Bay Road a “Nuisance” pursuant to the “Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250”, and to authorize Staff to record and charge for municipal services, including police required to abate nuisance activity. The motion carried.

Opposed: *Councillors Brown, Geselbracht and Turley*

Councillor Brown disconnected from the meeting at 8:19 p.m.

(b) Bylaw Contravention Notice - Secondary Suite

Introduced by Darcy Fox, Manager, Building Inspections.

Council requested clarification regarding what constitutes an illegal suite.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for suite authorization at 135 Townsite Road. The motion carried unanimously.

(c) Bylaw Contravention Notice - Construction Started Without a Building Permit – 563 Bradley Street

Introduced by Darcy Fox, Manager, Building Inspections.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 563 Bradley Street for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. The motion carried unanimously.

- (d) Bylaw Contravention Notice - Construction Started Without a Building Permit – 5433 Metral Drive

Introduced by Darcy Fox, Manager, Building Inspections.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 5433 Metral Drive for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. The motion carried unanimously.

- (e) Bylaw Contravention Notice - Construction Started Without a Building Permit – 235 Nicol Street

Introduced by Darcy Fox, Manager, Building Inspections.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 235 Nicol Street for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. The motion carried unanimously.

7. ADJOURNMENT:

It was moved and seconded at 8:30 p.m. that the Special Council meeting be adjourned. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

CORPORATE OFFICER