

DATE OF MEETING | August 13, 2018 |

AUTHORED BY | DAVE STEWART, PLANNER, CURRENT PLANNING AND
SUBDIVISION |

**SUBJECT | COVENANT AMENDMENT APPLICATION NO. CA9 –
6201 OLIVER ROAD |**

OVERVIEW

Purpose of Report

To present Council with an application to amend the Section 219 covenant registered on the title of 6201 Oliver Road that contains terms that pertain to a previous development plan. |

Recommendation

That Council direct Staff to proceed with a Public Hearing for Covenant Amendment Application No. CA9 at 6201 Oliver Road. |

BACKGROUND

The City has received a covenant amendment application, CA9, for 6201 Oliver Road from MacDonald Gray Consultants on behalf of Insight Holdings Ltd. to amend the Section 219 covenant (FA009239) in order to remove language referencing a previous development plan regarding geotechnical considerations, works and service requirements, tree protection, use, density, and height. The covenant also includes a condition that 57% of the required parking be located underground, which will remain on title.

The existing covenant was registered as part of a rezoning application (RA113), which was adopted on 2005-JAN-24. At the time of the rezoning, the property included the lot now known as 6205 Oliver Road, which currently includes Origin at Longwood, seniors' housing. The properties were rezoned from RS-1 to RM-5 and C-15 in order to permit the development of multiple-family dwellings and a small office complex. The area of the subject property was rezoned to C-15 at that time. As a condition of rezoning, Council directed that a covenant amendment be registered on title securing the following:

1. Limited commercial development scale;
2. Off-site road improvements;
3. Tree retention;
4. Development of land in general compliance with the plan proposed at the time of rezoning;
5. Underground parking; and
6. Community contribution.

The covenant was later amended on 2005-NOV-28 (RA154) in order to reduce the required amount of underground parking for the residential portion from 65% to 50% and to revise the existing site plan to allow for the development of a seniors' congregate housing facility.

When Zoning Bylaw 4500 was adopted in 2011, the subject property was rezoned to Mixed Use Corridor (COR2).

Subject Property

Zoning	COR2 - Mixed Use Corridor
Location	The subject is located on the northwest corner of the intersection of Oliver Road and Uplands Drive, to the east of the Origin at Longwood.
Total Area	2,147m ²
Official Community Plan	Map 1 – Future Land Use Plans – Corridor Map 3 – Development Permit Area No. 9 – Commercial, Industrial, Institutional, Multiple Family and Mixed Commercial/ Residential Development

The subject property is located on the corner of Oliver Road and Uplands Drive. Nanaimo North Town Centre is on the opposite side of the property to the south and the Thornbridge at Longwood multiple-family development is located to the north. |

DISCUSSION

The applicant is proposing to amend the covenant in order to remove the following conditions:

Covenant Section	Condition	Rationale for Amendment
2 (a)	Commercial development shall be limited to one professional office building with: <ul style="list-style-type: none"> i. no greater than 550m² in gross floor area; and, ii. a maximum height of two storeys above underground parking. 	The covenant was created prior to adoption of the current OCP and Zoning Bylaw. The use and size restrictions are inconsistent with the intent of the Official Community Plan, which supports a mixed-use, two- to six-storey building form within the Corridor designation. In addition, the COR2 zone limits the scale of office on the ground floor to 500m ² .
2 (b)	Residential - the residential development of the land shall be limited to two buildings providing no less than 50% of the required parking underground.	A minimum of 57% of the total required parking must be underground regardless of use. This portion of the covenant was intended to apply to the development at 6205 Oliver Road and creates confusion by having it remain on title for the subject property.
3 (a) and (b)	Storm Water - requires post-development flows to not exceed the pre-development storm flow levels.	Our current engineering requirements match this standard, and as such, the covenant requirement is redundant and can be removed.

4 Schedule B	Geotechnical - requires a Geotechnical report be updated with an erosion and sediment control plan for site development.	An updated geotechnical report will be required for a future building permit to meet current standards, so this section is redundant and can be removed.
5	Tree Management - tree removal is prohibited until a Development Permit is issued.	The Management and Protection of Trees Bylaw has been adopted since the covenant was registered and will ensure significant trees are protected prior to construction, and that a tree management plan is submitted prior to development of the property.
6 Schedule C	Works and Services - the covenant requires works and services, including the profiling of Oliver Road.	The re-profiling was completed with the development of 6205 Oliver Road. Any outstanding works in the frontage of the site can be obtained through a future building permit frontage works and services requirements.
7	Community Contribution - the covenant secured a \$25,000 community contribution towards parks.	The community contribution was paid to the City.
8	Highway Improvements - requires the lengthening of a left-turn lane onto Oliver Road from Highway 19A.	The City's Transportation Manager and the Ministry of Transportation have confirmed the turn lane improvements are constructed.
Schedule A	Development Plan - the covenant includes a development plan for the property at 6205 Oliver Road.	The plan does not reference the subject property.

The covenant conditions that no surface parking be provided between the building and adjacent streets (Uplands Drive and Oliver Road) and that no less than 57% of required parking to be underground will remain in the amended covenant. All other restrictions within the covenant will be removed as outlined in the table above.

Staff are requesting Council's direction to proceed with public notification and a Public Hearing for this application.

SUMMARY POINTS

- A covenant amendment application (CA9) was received to amend an existing covenant by removing conditions that relate to geotechnical considerations, works and service requirements, tree protection, use, density, and height.
- The covenant relates to an older development plan and is no longer relevant.
- Underground parking and siting restrictions related to the permitted surface parking will remain.
- Staff support the proposed amendments to the Section 219 covenant.

ATTACHMENTS

ATTACHMENT A: Location Plan
ATTACHMENT B: Existing Covenant
ATTACHMENT C: Aerial Photo |

Submitted by:

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Concurrence by:

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Director, Community Development |