

DATE OF MEETING February 4, 2019

AUTHORED BY MADELEINE KOCH, PLANNER, CURRENT PLANNING

**SUBJECT COVENANT AMENDMENT APPLICATION NO. CA10 –
1371 STEWART AVENUE**

OVERVIEW

Purpose of Report

To present Council with an application to amend a Section 219 covenant registered on the property title of 1371 Stewart Avenue in order to remove restriction on the use of this property.

Recommendation

That Council direct Staff to proceed with a Public Hearing for Covenant Amendment Application No. CA10 at 1371 Stewart Avenue.

BACKGROUND

The City has received a covenant amendment application, CA10, for 1371 Stewart Avenue from Alair Homes, on behalf of Harbour City Entertainment Development Ltd, to discharge the Covenant (S126899) in order to remove the restriction on the use of this property for surface parking only.

The covenant was registered on the title of 1371 Stewart Avenue in 1987, as part of an application to rezone the property for use as a parking lot. The subject property was zoned for parking (Parking 1 Zone) until “Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) was adopted in 2011, at which time it was rezoned to R1 – Single Dwelling Residential. However, the covenant has remained in place and continues to limit use of the property. The subject property was originally restricted to parking use to secure parking for a restaurant use located on the east side of Stewart Avenue (1340-1370).

The owners are now looking to construct a single residential dwelling on the subject property, which is a permitted use in accordance with the existing R1 – Single Dwelling Residential zoning. In order to permit a dwelling to be constructed, the covenant must be removed.

Subject Property

<i>Zoning</i>	R1 – Single Dwelling Residential
<i>Location</i>	The subject property is located on the west side of Stewart Avenue.
<i>Total Area</i>	642m ²
<i>Official Community Plan</i>	Map 1 – Future Land Use Plans – Neighbourhood

The subject property is a vacant lot with a gravel surface. The property is surrounded by single residential dwellings on R1-zoned lots on the west side of Stewart Avenue, and a mix of commercial and marine-related uses to the north of Larch Street and along the waterfront on east side of Stewart Avenue.

DISCUSSION

The restaurant for which the parking was intended has not been in operation for a number of years.

The applicant has confirmed that the owner of 1371 Stewart Avenue also owns 1340-1370 Stewart Avenue on the waterfront. The applicant and owners are aware that parking requirements will need to be addressed as part of any future redevelopment of lands to the east of Stewart Avenue.

In addition, the parking arrangement pre-dates and is not in compliance with the City's "Off-Street Parking Bylaw 2018 No. 7266" (the "Parking Bylaw"). While the Parking Bylaw allows for offsite parking in certain cases, it does not allow offsite parking on lands zoned residential, and it does not allow a Provincial highway to separate a parking area from the property it is intended to serve.

The proposed release of the covenant would bring the use of the property into compliance with the existing R1 Zone, which would not otherwise permit a public parking lot. Allowing the property to be developed with a single residential dwelling would be more compatible with adjacent residential uses and would reflect the intent of the Official Community Plan (OCP) "Neighbourhood" designation for the subject property. The "Neighbourhood" designation supports low density residential uses in two- to four-storey building forms and densities of 10 to 50 units per hectare.

Given that the proposed discharge of Covenant (S126899) is consistent with the existing zoning, Parking Bylaw regulations, and OCP policies, and Staff do not anticipate any negative impact on the future development potential of surrounding properties, Staff support the proposal to discharge the Covenant.

SUMMARY POINTS

- The Covenant (S126899) restricts use of the subject property to surface parking only.
- The applicant wishes to develop a single residential dwelling on the lot.
- The proposal to use the subject property for a single residential dwelling is consistent with existing zoning and OCP policies.
- Staff support discharging Covenant No. S126899.

ATTACHMENTS

ATTACHMENT A: Existing Registered Covenant (S126899)

ATTACHMENT B: Location Plan

ATTACHMENT C: Aerial Photo

Submitted by:

L. Rowett
Manager, Current Planning

Concurrence by:

D. Lindsay
Director, Community Development