

DATE OF MEETING | December 21, 2020 |

AUTHORED BY | LAINY STEVENSON, PLANNER, CURRENT PLANNING |

**SUBJECT** | **COVENANT AMENDMENT APPLICATION NO. CA14 –  
6010 BRICKYARD ROAD** |

## **OVERVIEW**

### **Purpose of Report**

To seek direction from Council regarding Covenant Amendment application No. CA14 at 6010 Brickyard Road.

### **Recommendation**

That Council direct Staff to proceed with public notification prior to Council's consideration of Covenant Amendment Application No. CA14 at an upcoming Public Hearing.

## **BACKGROUND**

A covenant amendment application, CA14, was received from F.M. Laing Consulting, on behalf of Fairhaven Properties Inc., to discharge an existing Section 219 Covenant on the property title of 6010 Brickyard Road. The existing covenant (EC083186) was registered on the subject property in 1989 as a condition of rezoning and dictates that the property can only be used for “medical offices with optional drug dispensary facilities and lab facilities”. The applicant is proposing to discharge the existing covenant in order to allow the full range of uses permitted in the existing Community Corridor zone (COR3).

The City of Nanaimo’s Covenant Amendment Process Policy (No. 8-3360-02) states that where a covenant amendment pertains to land use, density, or community contributions, Council may choose to direct the application to a Public Hearing.

### **Subject Property and Site Context**

<i>Location</i>	The subject property is located at the northeast corner of the intersection of Brickyard Road and Hammond Bay Road.
<i>Total Lot Area</i>	0.47ha
<i>Current Zoning</i>	COR3 – Community Corridor
<i>Official Community Plan (OCP) Future Land Use Designation</i>	Corridor

The subject property is currently developed with an existing commercial building, Brickyard Clinic. The building was approved in 1994 (DP321) as a medical clinic with approximately 1,510m<sup>2</sup> of gross floor area. The medical clinic’s parking was later expanded onto the adjacent parcel to the north at the intersection of Brickyard Road and Newport Drive. A Section 219

Covenant (EK003688) restricts the use of the adjacent parcel to parking purposes only and prevents the lots from being sold independently.

At the time the covenant was registered to restrict the subject property to “medical offices with optional drug dispensary facilities and lab facilities”, the zoning was Mixed Use Commercial (C-4) under “City of Nanaimo Zoning Bylaw 1993 No. 4000”. This zone allowed for a similar mix of uses as the current COR3 zoning. The medical clinic has recently relocated to another site, leaving a large portion of the existing building vacant with the covenant restriction on use.

Surrounding land uses are predominantly single residential dwellings and low-density residential development.

## **DISCUSSION**

### **Proposed Development**

The applicant proposes to remove the existing covenant restricting the use of the subject property to “medical offices with optional drug dispensary facilities and lab facilities” (EC083186), in order to allow the full range of uses under the existing COR3 zoning. The proposed immediate use of the building is for general office use and for the expansion of Brickyard Physiotherapy. The covenant restricting the northern parcel to parking only (EK003688) will not be discharged as part of this application.

### **Proposed Amendment**

By removing the existing covenant, which restricts the uses on the property to “medical offices with optional drug dispensary facilities and lab facilities” only, a wider variety of uses would be permitted by the underlying COR3 zone such as:

- Commercial School;
- Financial Institution;
- Live/Work;
- Multiple Family Dwelling;
- Office;
- Personal Care Facility;
- Restaurant;
- Retail; and
- Seniors’ Congregate Housing.

### **Community Consultation**

The subject property lies within the area of the Dover Community Association and was referred for their comment. A representative of the association inquired about the permitted uses and indicated that neighbours may have concerns with the compatibility of some of the site-specific uses in the COR3 zone (e.g., automobile sales and rental) with nearby residential uses as a result of discharging the covenant. Staff confirmed the site-specific uses in the COR3 zone (including automobile sales and rental) are not permitted on this property without rezoning, and

the uses permitted in the COR3 zone are intended to be compatible with residential uses. The association had no further concerns.

## Policy Context

### *Official Community Plan*

The Official Community Plan (OCP) identifies the subject property as within the Corridor future land use designation. Development in Corridors is characterized by a mix of residential, mixed-use commercial/residential, and office land uses. The proposed covenant amendment to allow for the full range of uses under the COR3 zone meets the intent of the OCP future land use designation.

Staff support the proposed discharge of existing covenant EC083186.

### **SUMMARY POINTS**

- Covenant Amendment Application No. CA14 proposes to discharge an existing Section 219 Covenant on the property title of 6010 Brickyard Road.
- The existing covenant (EC083186) dictates that the property must be used for “medical offices with optional drug dispensary facilities and lab facilities”. The applicant is proposing to discharge the existing covenant in favour of the uses permitted within the existing Community Corridor zone (COR3).
- Staff support the proposed covenant amendment application.

### **ATTACHMENTS**

ATTACHMENT A: Context Map  
ATTACHMENT B: Location Plan  
ATTACHMENT C: Aerial Photo

### **Submitted by:**

Lainya Rowett  
Manager, Current Planning

### **Concurrence by:**

Jeremy Holm  
Director, Development Approvals

Dale Lindsay  
General Manager, Development Services