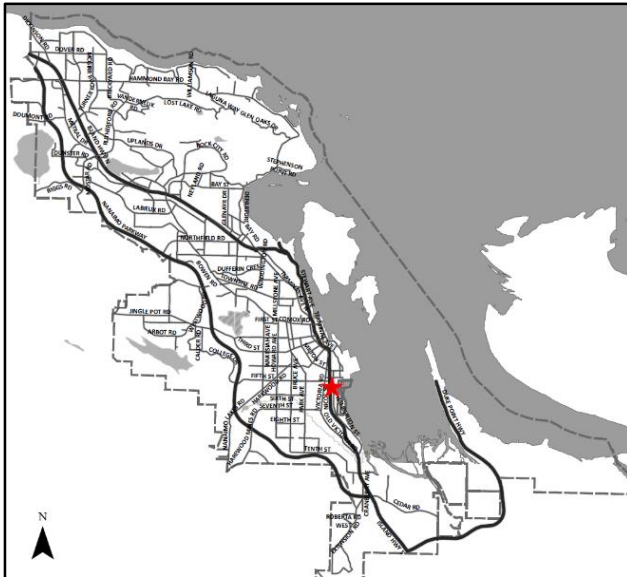


DATE OF MEETING | November 21, 2022

AUTHORED BY | CALEB HORN, PLANNER, CURRENT PLANNING |

SUBJECT **COVENANT AMENDMENT APPLICATION NO. CA18**
– 514, 540 HALIBURTON STREET, 120 NEEDHAM STREET AND
575 NICOL STREET



Proposal:

To discharge covenants from the property titles to facilitate future redevelopment.

Zoning:

CC2 – Neighbourhood Centre
COR3 – Community Corridor
R1 – Single Dwelling Residential

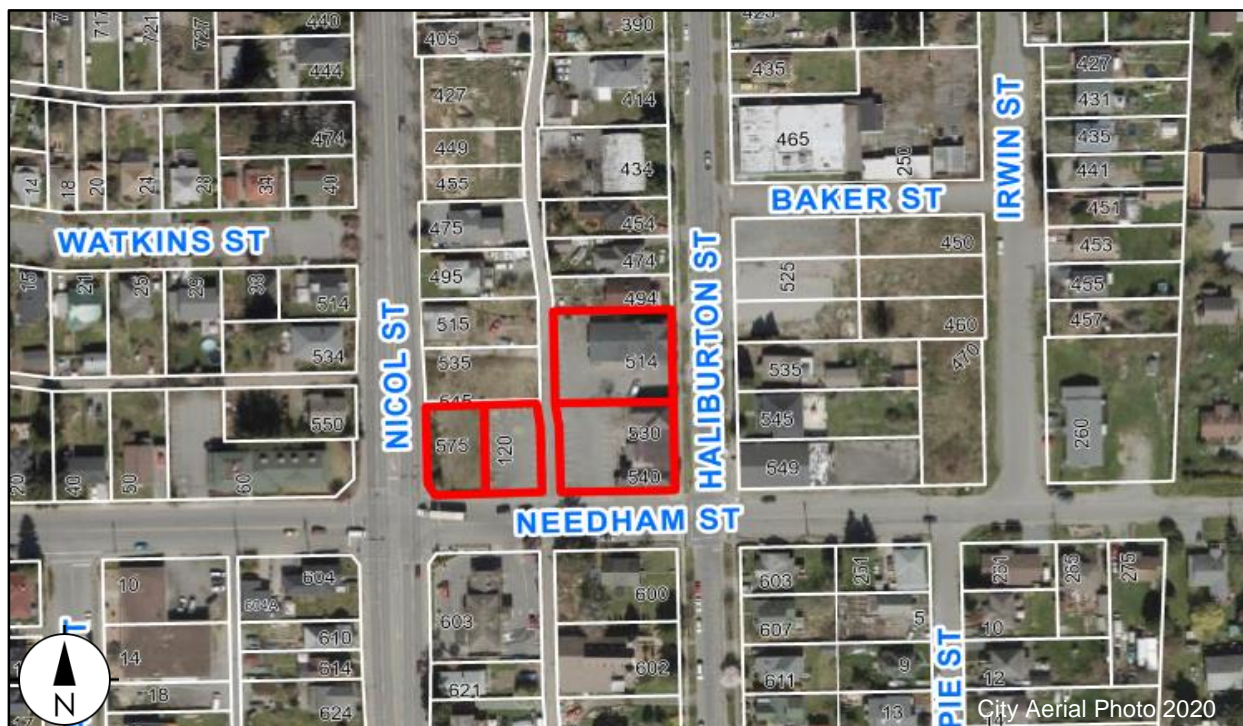
City Plan Land Use Designation:

Neighbourhood Centre
Residential Corridor

Lot Areas:

1,200m² – 514 Haliburton Street
1,125m² – 540 Haliburton Street
526m² – 120 Needham Street
568m² – 575 Nicol Street

CA



OVERVIEW

Purpose of Report

To present Council with an application to 1) discharge a Section 215 and Section 219 covenant from the property titles of 514, 540 Haliburton Street, 120 Needham Street, and 575 Nicol Street; and, 2) secure a covenant to bind the titles of 120 Needham Street and 575 Nicol Street, in order to facilitate redevelopment of the subject properties. |

Recommendation

That Council direct Staff to proceed with public notification prior to Council's consideration of Covenant Amendment Application No. CA18 at an upcoming Council meeting. |

BACKGROUND

A Covenant Amendment Application, CA18, was received from Iwang Holdings Corp. to discharge a Section 215 covenant (EK132940 / EK132941) from the property titles of 540 Haliburton Street, 120 Needham Street, and 575 Nicol Street, and to discharge a Section 219 covenant (EX069290 / EX069291) from the property titles of 514 Haliburton Street and 575 Nicol Street.

Subject Properties and Site Context

The subject properties are located in the South End Neighbourhood and are bisected by a public lane. On the west side of the lane: 575 Nicol Street faces the intersection of Nicol Street and Needham Street and is presently vacant except for a freestanding sign, and 120 Needham Street contains an underutilized parking lot. On the east side of the lane: 514 Haliburton Street contains a liquor store, and 540 Haliburton Street contains a vacant structure that was formerly a pub and hotel (the "Jolly Miner Inn").

Surrounding land uses include residential, institutional, and commercial uses. Properties to the east on the opposite side of Haliburton Street are designated as part of the South End Neighbourhood's Commercial Centre.

DISCUSSION

Proposed Covenant Amendment

The applicant is proposing to discharge the following two covenants:

1. *EK132940 / EK132941* is a Section 215 covenant that was registered in 1996 as a condition of rezoning of 575 Nicol Street. The covenant binds the titles of 540 Haliburton Street, 120 Needham Street, and 575 Nicol Street so that the properties cannot be independently sold, and restricts the use at 575 Nicol Street and 120 Needham Street for parking purposes only to serve what was then the business at 540 Haliburton Street (Jolly Miner Inn).

2. EX069290 / EX069291 is a Section 219 covenant that was registered in 2005 as a condition of a development permit for 514 Haliburton Street. The covenant further binds the titles of 514 Haliburton Street with 575 Nicol Street to require parking on the latter property in support of an expansion of the liquor store that was never completed.

The applicant intends to dispose of 120 Needham Street and 575 Nicol Street for future redevelopment of these properties and cannot do so with the above covenants on title.

As a condition of the proposed Covenant Amendment, Staff recommend securing a covenant to keep 120 Needham Street and 575 Nicol Street title-bound until such time as the property owner either a) registers an access agreement across 120 Needham Street for vehicle access to 575 Nicol Street, or b) consolidates the two properties. This will be required to ensure that 575 Nicol Street does not redevelop independently without vehicle access secured from the rear.

Staff support the proposed discharge of both covenants given that parking requirements for the liquor store at 514 Haliburton Street are met and there is currently no active use at 540 Haliburton. As per the City of Nanaimo "Off-Street Parking Regulations Bylaw 2018 No. 7266", the existing liquor store requires 13 parking stalls and 17 stalls are provided on-site. An additional 20 parking stalls are available in the adjoining parking lot at 540 Haliburton Street. Should either 514 or 540 Haliburton Street redevelop in the future, it is anticipated that required parking will be provided and the covenants for off-site parking at 120 Needham Street and 575 Nicol Street will not be required.

Policy Context

City Plan – Future Land Use

City Plan identifies 120 Needham Street and 575 Nicol Street as part of the Residential Corridor land use designation, and 514 and 540 Haliburton Street as part of the Neighbourhood Centre designation. The existing restrictive covenants do not align with either land use designation where medium-density residential or commercial uses are contemplated. Requiring surface parking lots along a key transportation corridor such as Nicol Street is not supported by City Plan. The proposed Covenant Amendment to discharge both covenants will allow the lots to redevelop in the future in accordance with the City Plan vision for Residential Corridors and Neighbourhood Centres.

Covenant Amendment Process Policy

Council's *Covenant Amendment Process Policy* (the "Policy") states that Council can provide direction to proceed with public notification prior to consideration of a proposed Covenant Amendment, and that notification will be consistent with the notification process for development variance permits. Council may also choose to direct the application to a Public Hearing. Staff recommend proceeding with public notification as outlined in the Policy but not to direct the application to a Public Hearing given that the proposed Covenant Amendment is consistent with City Plan and will discharge covenants that are no longer necessary.

SUMMARY POINTS

- Covenant Amendment Application CA18 proposes to 1) discharge a Section 215 covenant (EK132940 / EK132941) from the property titles of 540 Haliburton Street, 120 Needham Street, and 575 Nicol Street, and to discharge a Section 219 covenant (EX069290 / EX069291) from the property titles of 514 Haliburton Street and 575 Nicol Street, and 2) secure a covenant to bind the titles 120 Needham Street and 575 Nicol Street.
- The applicant intends to dispose of 120 Needham Street and 575 Nicol Street for future redevelopment of these properties and cannot do so with the above covenants on title.
- Staff support the proposed discharge of both covenants given that parking requirements for the liquor store are met at 514 Haliburton Street, and there is currently no active use at 540 Haliburton Street.

ATTACHMENTS

ATTACHMENT A: Subject Property Map

ATTACHMENT B: Existing Covenants

Submitted by:

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Concurrence by:

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