



Public Hearing Information Package

July 20, 2015 at 7:00 pm

Sooke Council Chamber
2225 Otter Point Road, Sooke, BC

6527 Sooke Road and Lot A

Modification of Covenant FB126369:	Modification of Covenant registered on the subject property legally described as <i>Lot A, Section 14, Sooke District, Plan 31351 and Lot C (DD D4015), Block 12, Section 14, Sooke District, Plan 217</i>
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*Please note that written and verbal submissions will
become part of the public record.*



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NOTICE OF PUBLIC HEARING

Public Hearings will be held in the Sooke Council Chambers at 2225 Otter Point Road, Sooke, BC on **Monday July 20, 2015 at 7:00 pm** to hear presentations on the following matters:

Amendment to Covenant FB126369 - 6527 Sooke Road and Lot A

Covenant FB126369 restricts the land use on 6527 Sooke Road and Lot A (the property in between 6527 Sooke Road and the closed Kennedy Road) to a mixed use commercial, office/residential building.

The Owner has applied to remove the "land use" restrictions from the covenant. The following will remain as requirements in the covenant:

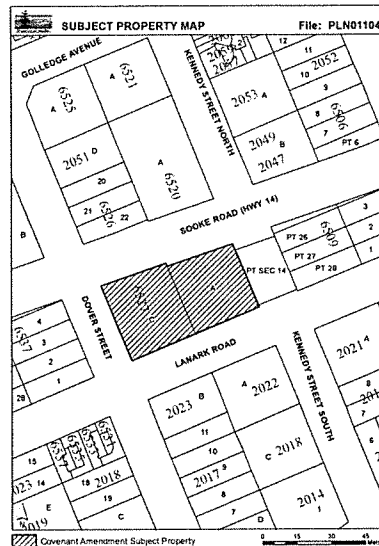
- A maximum height limit of four (4) stories
- Traffic Study prior to Building Permit
- Construct and design all roadway improvements identified in the Traffic Study, including the intersection of Sooke Road, with Ministry of Transportation and Infrastructure approval and to the standards acceptable to the District of Sooke.
- Connection to community sewer system.

To ensure consistency with current standards of District of Sooke's Subdivision and Development Standards Bylaw, 2014 (Bylaw 404), it is recommended that the following items be removed from Schedule "A" of the covenant as these items are already required by Bylaw 404:

- Design and construct improvements to Dover, Kennedy Road, Lanark Avenue and Sooke Road along the frontage of the land;
- Design and construct where the land fronts along Dover Street, Lanark Avenue, Sooke Road, a sidewalk and if deemed appropriate by the Municipality, a sidewalk along Kennedy Road;
- Service the new development with underground utilities;
- Complete a storm water management plan and build a storm water management system and any off-site storm water infrastructure.

All persons who believe their interests in property are affected by these proposed amendments shall be afforded an opportunity to be heard or to present written submissions before Council on the matters contained in the proposed amendments at the above time and place. If you are unable to attend the hearing, we ask that written submissions be provided prior to the close of the public hearing. Please be advised that submissions to Council will become part of the public record.

Commencing from July 8, 2015 to and including July 20, 2015 copies of the Covenant FB126369 and relevant background documents may be inspected at the District of Sooke Municipal Hall, 2205 Otter Point Road, Sooke, BC between the hours of 8:30 am and 4:30 pm, Monday to Friday, except statutory holidays. If you have any questions regarding this application, please contact the District of Sooke Planning Department at (250) 642-1634.





File No. PLN01104

REQUEST FOR DECISION

Regular Council

Meeting Date: July 20, 2015

To: Gord Howie, Chief Administrative Officer
From: Planning Department
Re: **Amendment to Covenant FB126369 - 6527 Sooke Road and Lot A**

RECOMMENDATION:

THAT COUNCIL approve the Modification of Covenant FB126369 registered on the subject property legally described as *Lot A, Section 14, Sooke District, Plan 31351 and Lot C (DD D4015), Block 12, Section 14, Sooke District, Plan 217;*

AND THAT COUNCIL authorize the Mayor and the Chief Administrative Officer to execute the Modification of Covenant.

1. Executive Summary:

Covenant FB126369 restricts the land use on 6527 Sooke Road and Lot A (the property in between 6527 Sooke Road and the closed Kennedy Road) to a mixed use commercial, office/residential building.

The Owner has applied to remove the "land use" restrictions from the covenant. The maximum height limit of four (4) stories will remain as a requirement within the covenant.

As per the requirements from Ministry of Transportation and Infrastructure (MOTI), the owner is required to submit a Traffic Study prior to Building Permit and design and construct all roadway improvements identified in the Traffic Study, including the intersection of Sooke Road. These will remain as requirements within the covenant.

To ensure consistency with current standards of District of Sooke's Subdivision and Development Standards Bylaw, 2014 (Bylaw 404), it is recommended that the following items be removed from Schedule "A" of the covenant as these items are already required under Bylaw 404:

- Design and construct improvements to Dover, Kennedy Road, Lanark Avenue and Sooke Road along the frontage of the land;
- Design and construct where the land fronts along Dover Street, Lanark Avenue, Sooke Road, a sidewalk and if deemed appropriate by the Municipality, a sidewalk along Kennedy Road;
- Service the new development with underground utilities;
- Complete a storm water management plan and build a storm water management system and any off-site storm water infrastructure.

2. Background:

The properties were zoned to Town Centre Commercial (CTC) from General Commercial (C2) on November 26, 2007 and a covenant (FB126369) was registered. At that time, the property was designated "Town Centre" in the 2001 Official Community Plan. The Town Centre boundary changed with adoption of the 2010 Official Community Plan (OCP) and the subject property is now designated "Community Residential".

The owner has made a development permit application for a four (4) story building with three floors of multi-family residential (seen from Sooke Road) with a commercial unit and the first floor parking that would be seen from Lanark Avenue. This application is preliminary and has not yet been reviewed against the Zoning Bylaw or Official Community Plan for form and character, parking, zoning permissions, variances etc. The applicant will consolidate 6527 Sooke Road and Lot A prior to developing the site.

Removing the mandatory requirement to include commercial and office uses within the development provides the developer with more flexibility.

3. Analysis:

The proposed amendments to the covenant are in compliance with the Zoning Bylaw and OCP. The CTC zone allows residential development without or with commercial. As per the conditions of use in the CTC zone, the following uses are not permitted on the land: auto service facility, equipment sales, repairs and rentals, gas bar, service station and vehicle repair.

This property is no longer in the Town Centre and with its location being in a predominantly residential neighbourhood that is within short walking distance to many businesses in the Town Centre, removing the covenant requirement for mandatory commercial uses on the site is supported by many policies within the OCP and the Town Centre Plan.

4. Legal Impacts:

When a covenant is granted in connection with a rezoning and was integral to the approval of the rezoning, changes to any part of the Schedule of Restrictions requires a Public Hearing.

Neighbours within a 100 meter radius of the subject properties will be notified by mail. An advertisement will be placed in the Sooke News Mirror for two consecutive weeks before the Public Hearing (weeks of July 8 and July 15).


5. Financial Impacts:

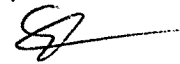

The proposed Modification to Covenant FB126369 will not impose additional costs on the District. The Owner has paid the Public Hearing fee and will pay legal and registration fees for preparation and registration of the s.219 covenant modification.

Attachments:

1. Subject Property Map
2. Draft Modification of Covenant
3. Original Schedule of Restrictions from Covenant

Respectfully Submitted,


Tara Johnson, RPP, MCIP

Approved for Council Agenda	
	
Engineering	Planning
Corp. Services	Finance
	
CAO	

/TERMS OF INSTRUMENT – PART 2

MODIFICATION OF COVENANT

(Modification of No. FB126369 on _____, 2015)
(Section 219 of the Land Title Act)

THIS AGREEMENT, dated for reference _____ day of _____, 20____, is made
BETWEEN:

Harbour View Center Ltd., Inc. No. BC0795774
210-2780 Veterans Memorial Parkway
Victoria, BC V9B 3S6

(the "Owner")

AND:

DISTRICT OF SOOKE, a municipality incorporated under the Local
Government Act, R.S.B.C. 1996, c.323 and having its office at 2205
Otter Point Road, Sooke, BC V9Z 1J2

(the "Municipality")

AND:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH
COLUMBIA AS REPRESENTED BY THE MINISTER OF TRANSPORTATION
AND INFRASTRUCTURE**, having a local area office at 240-4460 Chatterton Way,
Victoria, BC, V8X 5J2

(the "Ministry of Transportation and Infrastructure")

WHEREAS:

- A. The Owner is the registered owner in fee simple of those lands and premises situate,
lying and being in Sooke, British Columbia, and being more particularly known and
described as:

Parcel Identifier: 001-166-808
Lot A, Section 14, Sooke District, Plan 31351

Parcel Identifier: 018-674-011
Lot C (DD D4015), Block 12, Section 14, Sooke District, Plan 217

(the "Lands");

- B. The Owner and the Municipality and the Ministry of Transportation and Infrastructure
entered into a Development Agreement forming part of an instrument in which the Owner
granted to the Municipality and the Ministry of Transportation and Infrastructure a

Covenant pursuant to S. 219 of the *Land Title Act* registered in the Victoria Land Title Office under No. FB126369 (the "Covenant"):

- C. The Owner wishes to amend the Covenant and the Municipality and the Ministry of Transportation and Infrastructure have agreed to modify the Covenant as hereinafter provided.

NOW THEREFORE, pursuant to S. 219 of the Land Title Act and in consideration of the sum of one dollar (\$1.00) now paid to the Municipality by the Owner (the receipt and sufficiency whereof is hereby acknowledged) the Municipality and Owner and the Ministry of Transportation and Infrastructure agree to amend and modify the Covenant as follows:

1. Item B on Page 4 is amended to say that the Owner proposes to develop the Land.
2. Schedule "A" be deleted in its entirety and replaced with the attached Schedule "A".

DRAFT

SCHEDULE "A"

SCHEDULE OF RESTRICTIONS

1. The height of a structure or building on the Land shall not exceed 4 storeys.
2. The Owners shall, in advance of the issuance of any building permit on the Land, complete a traffic study, acceptable to the Ministry of Transportation and Infrastructure and the Municipal Engineer. The Owner must design and construct improvements as recommended by the traffic study, with Ministry of Transportation and Infrastructure approval and to the standards acceptable to the Municipality.
3. The Owners shall, in advance of the issuance of any building permit on the Land, design and construct improvements to the appropriate intersection of Sooke Road, as determined by the Ministry of Transportation and Infrastructure and to the standards acceptable to the Municipality.
4. No occupancy permit for any building within the development shall be issued until that building has connected to the Community Sewer system.

END OF DOCUMENT

Covenant FB126369

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SCHEDULE "A"

SCHEDULE OF RESTRICTIONS

LAND USES

1. The Land shall be developed for a multi storey commercial office building and residential dwelling units that shall not exceed 4 storeys, not including underground or concealed parking.

ROADS AND IMPROVEMENTS

2. The Owners shall, in advance of the issuance of any building permit on the Land, complete a traffic study, acceptable to the Ministry of Transportation and the District of Sooke and design and construct all roadway improvements identified in the traffic study, to the standards acceptable to the Ministry of Transportation and the Municipality.
3. The Owners shall, in advance of the issuance of any building permit on the Land, design and construct improvements to Dover Street, Kennedy Road, Lanark Avenue and Sooke Road along the frontage of the Land, in accordance with the requirements specified in the Development Permit, to the standards acceptable to the Municipality.
4. The Owners shall, in advance of the issuance of any building permit on the Land, design and construct, where the Land fronts along Dover Street, Lanark Avenue, Sooke Road a sidewalk, to the standards acceptable to the Municipality, and if deemed appropriate by the Municipality, along Kennedy Road
5. The Owners shall, in advance of the issuance of any building permit on the Land, design and construct improvements to the appropriate intersection of Sooke Road, as determined by the Ministry of Transportation and to the standards acceptable to the Municipality.
6. The Owners shall, in advance of the issuance of any building permit on the Land, service the new development with underground utilities, to the standards acceptable to the Municipality.
7. The Owners shall, in advance of the issuance of any building permit on the Land, complete a storm water management plan and build a storm water management system and any off-site storm water infrastructure, to the standards acceptable to the Municipality.
8. In all obligations and covenants where the Owners are required to construct certain works and improvements, including but not limited to paragraphs 3 to 5 herein, the Owners may post sufficient security with the Municipality, in a form and amount acceptable to the Municipality, in exchange for completing the works and/or improvements within a specified time period.
9. The Owners may, therefore, request a discharge of any particular covenant granted in this Agreement, for which, either sufficient security was posted by the Owners and accepted by the Municipality, or the work has been completed and accepted by the Municipality, therefore deemed to be fully satisfied by the Owners, and the Municipality shall execute and deliver a discharge in respect of any such covenant.

CONNECTION TO COMMUNITY SEWER

10. No occupancy permit for any building within the development shall be issued until that building has connected to the Community Sewer system.

END OF DOCUMENT

NB-1 Amendment to Covenant FB126369 – 6527 Sooke Road and Lot A

MOVED and seconded to direct staff to schedule a Public Hearing for a Modification Covenant FB126369 in accordance with the requirements in the *Community Charter* and the *Local Government Act*.

CARRIED UNANIMOUSLY

MOVED and seconded to cancel the Regular Council meeting scheduled on July 13, 2015;

AND TO schedule a Special Council meeting on July 20, 2015 at 7:00 p.m.

CARRIED UNANIMOUSLY



File No. PLN01104

REQUEST FOR DECISION
Regular Council
Meeting Date: June 22, 2015

To: Gord Howie, Chief Administrative Officer
From: Planning Department
Re: **Amendment to Covenant FB126369 - 6527 Sooke Road and Lot A**

RECOMMENDATION:

THAT COUNCIL direct staff to schedule a Public Hearing for a Modification of Covenant FB126369 in accordance with the requirements of the Community Charter and the Local Government Act

1. Executive Summary:

The owner of 6527 Sooke Road and Lot A (the property abutting 6527 Sooke Road to the east) would like to construct a multi-family residential development on the property but is restricted by Covenant FB126369 to a mixed use commercial office/residential building.

The Owner would like Council to consider removing the requirement for a commercial and office component.

To ensure consistency with current standards of District of Sooke's Subdivision and Development Standards Bylaw, 2014 (Bylaw 404), it is recommended that the following items also be removed from Schedule "A" of the covenant as these items are addressed in Bylaw 404:

- Design and construct improvements to Dover, Kennedy Road, Lanark Avenue and Sooke Road along the frontage of the land;
- Design and construct where the land fronts along Dover Street, Lanark Avenue, Sooke Road, a sidewalk and if deemed appropriate by the Municipality, a sidewalk along Kennedy Road;
- Service the new development with underground utilities;
- Complete a storm water management plan and build a storm water management system and any off-site storm water infrastructure;

2. Background:

The property was zoned to Town Centre Commercial (CTC) from General Commercial (C2) on November 26, 2007. At that time, the property was designated "Town Centre" in the 2001 Official Community Plan. The Town Centre boundary changed with

adoption of the 2010 Official Community Plan (OCP) and the subject property is now designated "Community Residential".

The applicant will consolidate 6527 Sooke Road and Lot A prior to developing the site.

3. Analysis:

The proposed amendments to the covenant are in compliance with the Zoning Bylaw. The CTC zone allows residential development without commercial in the form of "townhouse" and "apartment".

Since this property is no longer in the Town Centre and with its location being in a predominantly residential neighbourhood within short walking distance to many businesses in the Town Centre, removing commercial uses on the site is supported by many policies within the OCP and the Town Centre Plan.

4. Legal Impacts:

When a covenant is granted in connection with a rezoning and was integral to the approval of the rezoning, changes to any part of the Schedule of Restrictions requires a Public Hearing.

Neighbours within a 100 meter radius of the subject properties will be notified at least 10 days in advance of the Public Hearing date. An advertisement will also be put in the Sooke News Mirror for two consecutive weeks.

5. Financial Impacts:

The proposed Modification to Covenant FB126369 will not impose additional costs on the District. The Owner has paid the Public Hearing fee and will pay legal and registration fees for preparation and registration of the s.219 covenant modification.

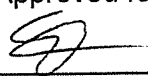
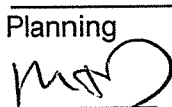
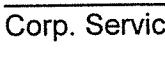
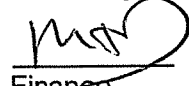

Attachments:

1. Subject Property Map
2. Draft Modification of Covenant
3. Original Schedule of Restrictions from Covenant

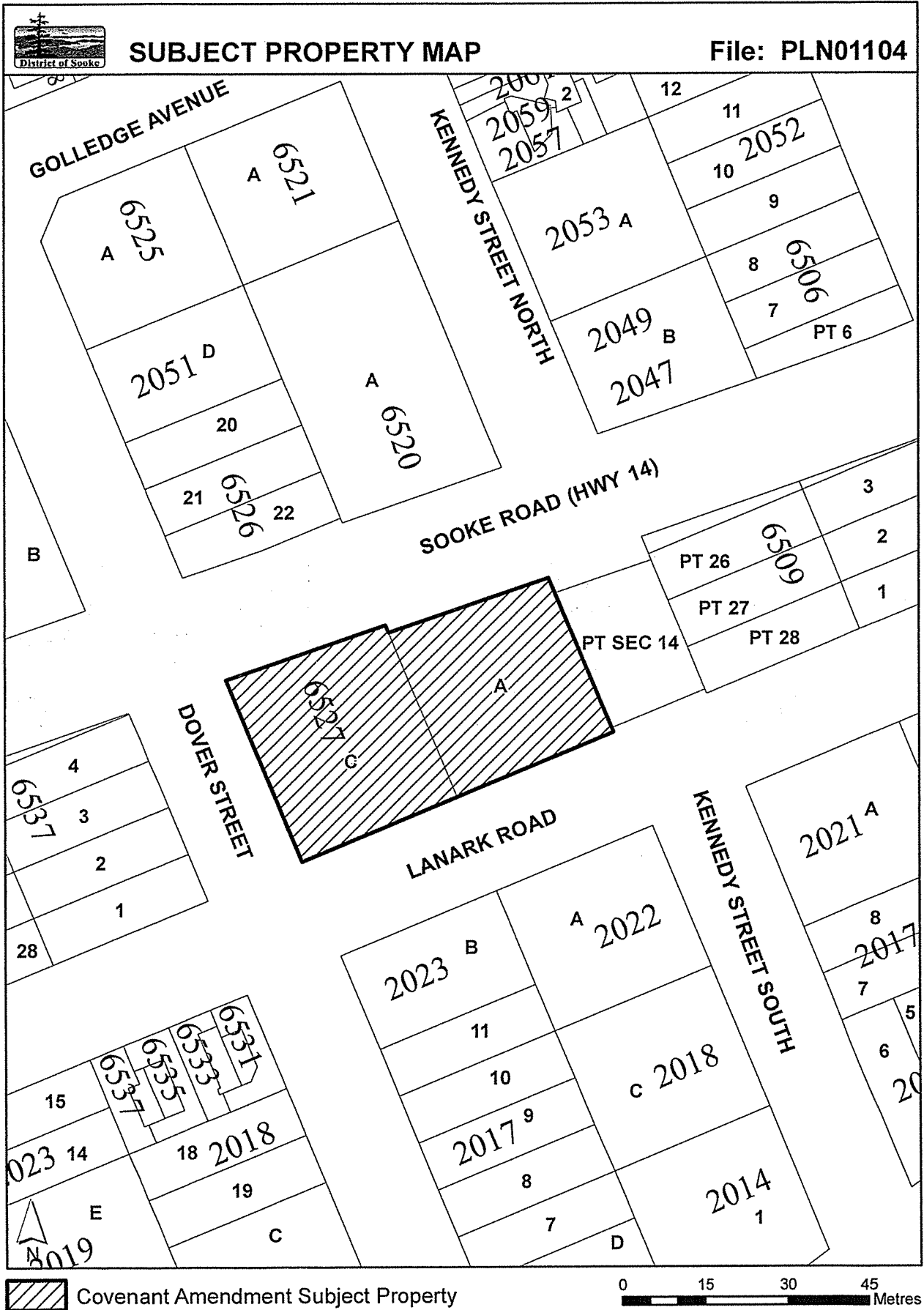
Respectfully Submitted,



Tara Johnson, BPP, MCIP

Approved for Council Agenda	
 Engineering	 Planning
 Corp. Services	 Finance
 CAO	

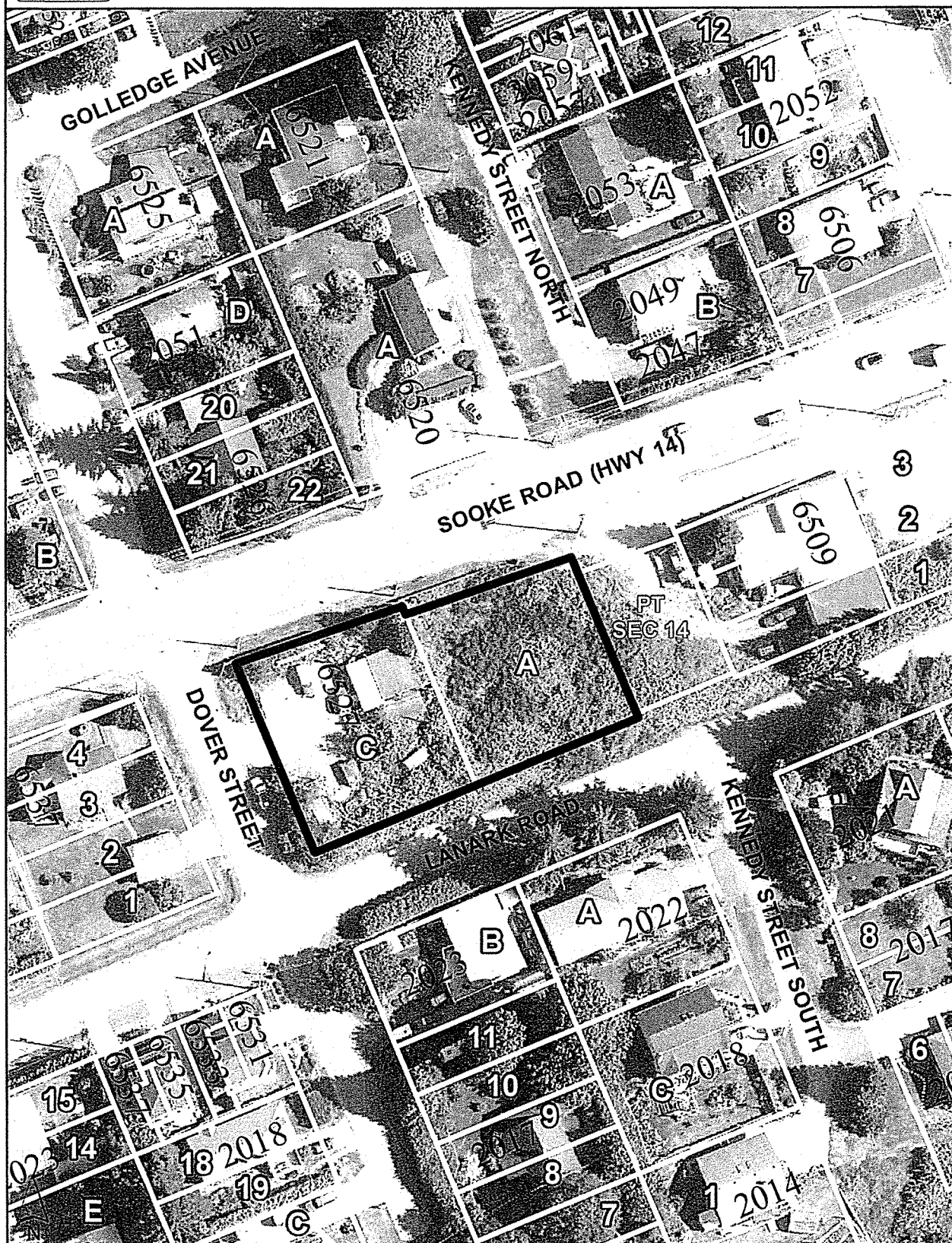
COVENANT AMENDMENT






SUBJECT PROPERTY MAP

File: PLN01104



 Covenant Amendment Subject Property

0 15 30 45
Metres

/TERMS OF INSTRUMENT – PART 2

MODIFICATION OF COVENANT

(Modification of No. FB126369 on _____, 2015)
(Section 219 of the Land Title Act)

THIS AGREEMENT, dated for reference _____ day of _____, 20____, is made
BETWEEN:

Harbour View Center Ltd., Inc.No.BC0795774
210-2780 Veterans Memorial Parkway
Victoria, BC V9B 3S6

(the "Owner")

AND:

DISTRICT OF SOOKE, a municipality incorporated under the Local
Government Act, R.S.B.C. 1996, c.323 and having its office at 2205
Otter Point Road, Sooke, BC V9Z 1J2

(the "Municipality")

AND:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH
COLUMBIA AS REPRESENTED BY THE MINISTER OF TRANSPORTATION
AND INFRASTRUCTURE**, having a local area office at 240-4460 Chatterton Way,
Victoria, BC, V8X 5J2

(the "Ministry of Transportation and Infrastructure")

WHEREAS:

- A. The Owner is the registered owner in fee simple of those lands and premises situate,
lying and being in Sooke, British Columbia, and being more particularly known and
described as:

Parcel Identifier: 001-166-808
Lot A, Section 14, Sooke District, Plan 31351

Parcel Identifier: 018-674-011
Lot C (DD D4015), Block 12, Section 14, Sooke District, Plan 217

(the "Lands");

- B. The Owner and the Municipality and the Ministry of Transportation and Infrastructure
entered into a Development Agreement forming part of an instrument in which the Owner
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- C. The Owner wishes to amend the Covenant and the Municipality and the Ministry of Transportation and Infrastructure have agreed to modify the Covenant as hereinafter provided.

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1. Item B on Page 4 is amended to say that the Owner proposes to develop the Land for multi-family residential purposes.
2. Schedule "A" be deleted in its entirety and replaced with the attached Schedule "A".

SCHEDULE "A"

SCHEDULE OF RESTRICTIONS

1. The Land shall be developed for Multi-Family Residential and shall not exceed 4 storeys.
2. The Owners shall, in advance of the issuance of any building permit on the Land, complete a traffic study, acceptable to the Ministry of Transportation and Infrastructure and the Municipal Engineer. The Owner must design and construct improvements as recommended by the traffic study, with Ministry of Transportation and Infrastructure approval and to the standards acceptable to the Municipality.
3. The Owners shall, in advance of the issuance of any building permit on the Land, design and construct improvements to the appropriate intersection of Sooke Road, as determined by the Ministry of Transportation and Infrastructure and to the standards acceptable to the Municipality.
4. No occupancy permit for any building within the development shall be issued until that building has connected to the Community Sewer system.

END OF DOCUMENT

8

SCHEDULE "A"**SCHEDULE OF RESTRICTIONS****LAND USES**

1. The Land shall be developed for a multi storey commercial office building and residential dwelling units that shall not exceed 4 storeys, not including underground or concealed parking.

ROADS AND IMPROVEMENTS

2. The Owners shall, in advance of the issuance of any building permit on the Land, complete a traffic study, acceptable to the Ministry of Transportation and the District of Sooke and design and construct all roadway improvements identified in the traffic study, to the standards acceptable to the Ministry of Transportation and the Municipality.
3. The Owners shall, in advance of the issuance of any building permit on the Land, design and construct improvements to Dover Street, Kennedy Road, Lanark Avenue and Sooke Road along the frontage of the Land, in accordance with the requirements specified in the Development Permit, to the standards acceptable to the Municipality.
4. The Owners shall, in advance of the issuance of any building permit on the Land, design and construct, where the Land fronts along Dover Street, Lanark Avenue, Sooke Road a sidewalk, to the standards acceptable to the Municipality, and if deemed appropriate by the Municipality, along Kennedy Road
5. The Owners shall, in advance of the issuance of any building permit on the Land, design and construct improvements to the appropriate intersection of Sooke Road, as determined by the Ministry of Transportation and to the standards acceptable to the Municipality.
6. The Owners shall, in advance of the issuance of any building permit on the Land, service the new development with underground utilities, to the standards acceptable to the Municipality.
7. The Owners shall, in advance of the issuance of any building permit on the Land, complete a storm water management plan and build a storm water management system and any off-site storm water infrastructure, to the standards acceptable to the Municipality.
8. In all obligations and covenants where the Owners are required to construct certain works and improvements, including but not limited to paragraphs 3 to 5 herein, the Owners may post sufficient security with the Municipality, in a form and amount acceptable to the Municipality, in exchange for completing the works and/or improvements within a specified time period.
9. The Owners may, therefore, request a discharge of any particular covenant granted in this Agreement, for which, either sufficient security was posted by the Owners and accepted by the Municipality, or the work has been completed and accepted by the Municipality, therefore deemed to be fully satisfied by the Owners, and the Municipality shall execute and deliver a discharge in respect of any such covenant.

CONNECTION TO COMMUNITY SEWER

10. No occupancy permit for any building within the development shall be issued until that building has connected to the Community Sewer system.

END OF DOCUMENT