

STAFF REPORT TO COUNCIL

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DATE: March 9, 2022

TO: MAYOR AND COUNCIL

NAME AND TITLE: Deanna Wasnik, Director of Planning and Development

SUBJECT: Section 219 Covenant Application No. RC000020 (Bylaw No. 9264)

APPLICANT: McCarthy Tétrault LLP for 4288 P.G. Holdings Ltd., Inc. No. 483735

LOCATION: 4288 5th Avenue

ATTACHMENT(S): Location and Existing Zoning Map
Appendix "A" to Bylaw No. 9264
Restrictive Covenant (Land Title Office Document No. PF28450)

RECOMMENDATION(S):

That Council GIVES FIRST AND SECOND READING to "City of Prince George Restrictive Covenant Discharge Bylaw No. 9264, 2021" to discharge the Section 219 restrictive covenant registered as Land Title Office Document No. PF28450 from Lot A, District Lot 2507, Cariboo District, Plan PGP36482, as shown on Appendix "A" to Bylaw No. 9264

PURPOSE:

The applicant has applied to discharge the Section 219 restrictive covenant registered on title of the subject property located at 4288 5th Avenue. The Section 219 restrictive covenant (Land Title Document No. PF28450) registered on the subject property only permits the following uses: commercial service, medical or dental offices, public health and welfare, restaurant, dwelling, local multiple family and multiple-family. The subject property is currently used as a restaurant (i.e. China Sail Restaurant). The applicant would like to discharge the Section 219 restrictive covenant to allow the permitted uses of C4: Local Commercial zone to prevail.

Site Characteristics

Location	4288 5 th Avenue
Legal Description	Lot A, District Lot 2507, Cariboo District, Plan PGP36482
Current Use	Restaurant
Site Area	0.45 ha (1.1 acres)
Current Zoning	C4: Local Commercial
Future Land Use	Neighbourhood Corridor
Growth Management Class	Growth Priority and Infill
Servicing	City Services Available

Surrounding Land Use Table

North	Multiple Residential and Carrier Avenue
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South	5 th Avenue; Commercial (i.e., gas station); and Multiple Residential
East	Residential and Carrier Place
West	Tabor Boulevard and Multiple Residential

Relevant Applications

Zoning Bylaw Amendment Bylaw No. 5740, 1992: On March 30, 1992, Council adopted Bylaw No. 5740, 2991 to rezone the subject property from URM3-A (Multiple Family) to C-2C (Local Convenience Shopping Facility); the intent of this application was to permit a mixed-use development comprised of local commercial and multiple residential uses pursuant to the C-2c zoning. A condition of the application included the registration of a Section 219 restrictive covenant to limit the number of uses permitted.

POLICY / REGULATORY ANALYSIS:

Official Community Plan

Future Land Use

The subject property is designated as Neighbourhood Corridor in Schedule B-6: Future Land Use of the Official Community Plan (OCP). Neighbourhoods are primarily residential in nature, with associated schools and parks within them. They are typically small-scale dominated by single-family and similar sized buildings. However, along major collector and arterial streets, higher densities and commercial uses may be appropriate. This designation permits local commercial nodes at intersections of collector and arterial streets (OCP Policy 8.3.54).

The existing restaurant is located at the intersection of 5th Avenue (arterial) and Tabor Boulevard (major collector). These road classes facilitate movement of large volumes of people and goods between different areas of the City. The subject property is adjacent to residential uses to the east and multiple residential to the north, however there is not direct access to the local residential road network. The single-family neighbourhood to the east is buffered with vegetation and screening to mitigate the impacts of the commercial use to adjacent residential uses.

Administration supports the removal of the restrictive covenant (Land Title Office Document No. PF28450) from title, as the existing C4 zoning is consistent with the Neighbourhood Corridor designation.

Development Permit

The OCP designates any commercially zoned property within a Commercial Form and Character Development Permit Area. The Commercial Form and Character Development Permit Area is intended to foster improved building design, consider the human-scale for all users of a commercial site, and provide appropriate landscaping. Through the development permit process, Administration will evaluate the proposed development by its location; lot size; site access; volume of site usage; parking; landscaping and screening; development size, massing and quality of design (OCP Policy 8.3.7).

The subject property is currently developed as the China Sail Restaurant and related surface parking. Should re-development be proposed, a Commercial Form and Character Development Permit will be required.

Zoning Bylaw

The subject property is zoned as C4: Local Commercial, which is intended to provide for local commercial areas and complementary residential uses. The removal of the existing Section 219 restrictive covenant will allow the permitted uses and development regulations of the C4 zoning to prevail on the subject property. The table below compares the permitted uses of the restrictive covenant to the permitted uses of the C4: Local Commercial zone:

Table 1: Comparison between the permitted uses of the Restrictive Covenant to the C4: Local Commercial zone.

Section 219 Restrictive Covenant Title Document No. PF28450 Permitted Uses	C4: Local Commercial Principal Uses
<ul style="list-style-type: none"> • Commercial Service • Medical or Dental Offices • Public Health and Welfare • Restaurant • Dwelling, Local Multiple Family • Dwelling, Multiple Family 	<ul style="list-style-type: none"> • Community Care facility, Major • Community Care Facility, minor • Health Service, Minor • Office • Recreation, indoor • Restaurant • Retail, Cannabis only in C4c • Retail, convenience • Retail, general • Service, business support • Service, financial • Service, household repair • Service, massage therapy • Service, personal • Service, pet grooming and daycare

The restrictive covenant permits uses that are currently permitted under the C4 zone such as restaurant, health service and community care facilities and other commercial service uses. The uses permitted under the C4 zone are not anticipated to negatively affect the surrounding area as the subject property is located within a mixed-use area surrounded by a commercial use to the south (i.e., gas station, retail convenience), multiple residential development to the north and west of the property.

The C4 zone permits housing, apartment as a secondary use and requires that dwellings only be located above the first story of a principal building. In addition, the development regulations of the C4 zone allows up to 50% site coverage; a maximum height of 10.0 m; and minimum front, side and rear yard of 3.0 m. These regulations would ensure that the size and scale of the building is compatible with form and character of the surrounding residential neighbourhood.

Administration supports the applicant's proposal to discharge the Section 219 restrictive covenant to allow for the permitted land uses of the C4 zone to prevail. Furthermore, the application is consistent with OCP future land use policy.

OTHER CONSIDERATIONS:

Charges on Title

Administration has reviewed the subject property's land title. There are no concerns with any charges on title.

Referrals

This application was referred to internal City divisions and external agencies for comments with no outstanding comments.

Council Procedures and Statutory Notification

As per the requirements set out in the *Local Government Act* and "City of Prince George Development Procedures Bylaw No. 7635, 2005", the City of Prince George will mail or otherwise deliver a notice to adjacent property owners and tenants whose interests may be affected by these applications.

Members of the public may provide comment by written submission, telephone or in person. Written submissions received in response to the public notice for these applications will be provided to Council for their consideration during the public hearing and prior to third reading of the proposed bylaws. Residents who wish to speak in person can do so during the Public Hearing in Council Chambers. Additional information on methods to provide comments to Council can be found on the [City's website](#).

ALTERNATIVES:

1. Approve the bylaw
2. Approve the bylaw as amended
3. Refuse the bylaw
4. Defer or otherwise deal with the bylaw

Administration recommends that Bylaw No. 9264, 2021 be approved to discharge the Section 219 Restrictive Covenant registered as Land Title Office Document No. PF28450.

SUMMARY AND CONCLUSION:

The applicant has applied to discharge the Section 219 restrictive covenant registered on legal title of the subject property. Administration recommends that Council approve the discharge of the Section 219 Restrictive Covenant registered as Land Title Office Document No. PF28450 for the reasons outlined in this report.

RESPECTFULLY SUBMITTED:

Deanna Wasnik, Director of Planning and Development

PREPARED BY: Melissa Nitz, Planner

APPROVED:

Walter Babicz, City Manager

Meeting Date: 2022/03/28