



**REPORT TO THE CAPITAL REGIONAL DISTRICT BOARD
MEETING OF WEDNESDAY, AUGUST 2, 2017**

SUBJECT **Release of Covenant CA4632092 for Lot 11, Section 128, Sooke District, Plan VIP58851 – 5353, 5351 and 5347 Mt. Matheson Road**

ISSUE

The owner has submitted a Form C Release of Covenant request to the Capital Regional District (CRD) for the purpose of discharging Covenant CA4632092 from title of the land.

BACKGROUND

The 4.09 ha property is located at 5353, 5351 and 5347 Mt. Matheson Road in East Sooke and is zoned Rural A in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040 (Attachment 1). The owner received approval from the CRD Board on October 10, 2016 to convert the three single-family dwellings on the property to a building conversion strata (ST-04-11). Proposed strata plan EPS3931 is included as Attachment 2.

The property is designated as a Steep Slopes, a Watercourses, Wetlands and Riparian Areas, and a Sensitive Ecosystems development permit area in the East Sooke Official Community Plan, 2012, Bylaw No. 3718. A development permit (DP-10-14) was issued on February 20, 2015 for the building strata conversion.

One condition of DP-10-14 is that a restrictive covenant be registered on title as part of the building strata conversion process, securing the Ryzuk Geotechnical report, certified by Bruce Dagg, P.Eng., dated September 30, 2014. The geotechnical report outlined hazards identified with the driveway design and provided several recommendations to improve the driveway and ongoing monitoring by a qualified professional. Covenant CA4632092 was registered in August 2015 securing that report, as well as a subsequent report dated June 9, 2015 (Attachment 3). The June 9, 2015, report provided a supplemental geotechnical review of a portion of the driveway and includes recommendations for barricading the outer portion of the driveway from traffic.

The owner has since undertaken further geotechnical upgrades to the driveway to eliminate the ongoing monitoring requirements outlined in the covenant. Reports prepared by Bruce Dagg, P.Eng., dated July 11, 2017, and July 6, 2016, confirmed that the driveway is now safe for the use intended and that 5-year monitoring is no longer required (Attachment 4). The owner is now requesting that Covenant CA4632092 be released from title. Staff have prepared an amendment to DP-10-14 to remove the condition for the covenant should the CRD Board support its release.

ALTERNATIVES

1. That Form C Release of Covenant CA4632092 for Lot 11, Section 128, Sooke District, Plan VIP58851 be executed.
2. That Covenant CA4632092 remain on the title.
3. That Covenant CA4632092 be modified to include the geotechnical report prepared by Bruce Dagg, P.Eng., dated July 6, 2016.
4. That the issue be referred back to staff for more information.

PUBLIC CONSULTATION IMPLICATIONS

Notice of the Capital Regional District Board meeting is posted on the CRD website.

PLANNING ANALYSIS

Covenant CA4632092 was registered in accordance with section 219 of the *Land Title Act* as a condition of the development permit DP-10-14 and as part of the building conversion strata process for ST-04-11. The covenant requires that the land is to be used only in the manner determined and certified by the engineer in the reports dated September 30, 2014 and June 9, 2015. The covenant indemnifies and saves harmless the CRD and states that it is in the public interest that the development and use of the land be limited due to the presence of hazardous conditions.

The geotechnical reports were also submitted to address safe access and egress as a condition of completing the building permit for 5347 Mt. Matheson Road. In order to eliminate the unsafe condition and requirement for ongoing monitoring of the driveway, the owner undertook additional improvements to the driveway and retained further geotechnical review, as outlined in the report dated July 6, 2016. That report indicated the driveway is now safe for the use intended and ongoing monitoring by a qualified professional is no longer required.

The CRD Board gave final approval to ST-01-04 on October 12, 2016. The owner has now submitted their request to deposit strata plan EPS3931. Prior to registering the strata plan, however, the owner has requested that Covenant CA4632092 be released from title as it no longer reflects the current condition of the driveway. Should the Regional Board support release of the covenant, the development permit would be amended to remove the condition requiring it. The amended development permit includes a statement advising that the CRD does not represent or warrant that the land can be safely developed and used for the use intended and that it is acting in reliance on the conclusions of the Geotechnical Reports regarding the conditions to be followed for safe development of the land. A Notice of Permit is registered on title of the land indicating the property is subject to a development permit.

CONCLUSION

The applicant has requested that Covenant CA4632092 be released from title as it no longer reflects the condition of the driveway. The owner retained further geotechnical review of the driveway and has submitted reports dated July 11, 2017, and July 6, 2016, indicating it is now safe for the use intended and that a 5-year review is no longer required. Should the CRD Board support release of the covenant, DP-10-14 would be amended accordingly.

RECOMMENDATION

That Form C Release of Covenant CA4632092 for Lot 11, Section 128, Sooke District, Plan VIP58851 be executed.

Submitted by:	Emma Taylor, MA, MCIP, RPP, Planner
Concurrence:	Iain Lawrence, MCIP, RPP, Manager, Local Area Planning
Concurrence:	Robert Gutierrez, Manager, CRD Building Inspection
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning and Protective Services
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

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- Attachment 1: Subject Property Map
- Attachment 2: Strata Plan EPS3931
- Attachment 3: Form C Release of Covenant CA4632092
- Attachment 4: Ryzuk Geotechnical Report, dated July 11, 2017
- Attachment 5: Ryzuk Geotechnical Report, dated July 6, 2016