



# CORPORATION OF THE TOWNSHIP OF ESQUIMALT

Municipal Hall  
1229 Esquimalt Road  
Esquimalt, B.C. V9A 3P1

## Legislation Text

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File #: 21-244, Version: 1

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### REQUEST FOR DECISION

**DATE:** April 22, 2021

Report No. DEV-21-033

**TO:** Laurie Hurst, Chief Administrative Officer

**FROM:** Bill Brown, Director of Development Services

**SUBJECT:**

Section 219 Covenant Related to the Building Permit Application for the Oakwood's and Rosemead developments (formerly known as the English Inn)

**RECOMMENDATION:**

That ARAGON (LAMPSON) PROPERTIES LTD., INC.NO. BC863902 (the Owner) has submitted multiple Building Permit applications to the Township that were issued and have subsequently expired, further to Section 15.4 of the Township's Building Regulation Bylaw ("Bylaw") and

That, ARAGON (LAMPSON) PROPERTIES LTD., INC.NO. BC863902 (The Owner) has requested that the Building Inspector exercise their discretion under the Bylaw to renew and otherwise permit the Building Permits to continue and be collected, and in support thereof has:

- (a) provided reports of independent registered professionals including updated Letters of Assurance from the current Coordinating Registered Professional and report prepared by GHL Consultants Ltd. dated December 4, 2020 (the "Reports"), originals with Township files, and copies of which are attached as Schedule);
- (b) acknowledged the Building Inspector's reliance on the Reports and the public interest of the Owner being responsible for its complex development on the Lands; and
- (c) the Owner has offered and voluntarily provided this Section 219 Covenant to the Township, and the Township has accepted this covenant and required its registration as a condition of renewing and otherwise continuing the Building Permits, and

That, Section 219 of the *Land Title Act* gives authority for a covenant and indemnity, whether of a negative or positive nature, to be registered against the Lands and granted in favour of the Township with provisions:

- in respect of the use of land or the use of a building on or to be erected on land;

- that land is to be built on in accordance with the covenant;
- that land is not to be built on or subdivided except in accordance with the covenant;
- that land is not to be used, built on or subdivided;
- that parcels of land designated in the covenant and registered under one or more infeasible titles are not to be sold or otherwise transferred separately; and
- that land or a specified amenity in relation to it be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state in accordance with the covenant and to the extent provided in the covenant.

Now Therefore, Council, through a resolution of the majority, authorizes the Mayor and Chief Administrative Officer to execute the Section 219 Covenant, a copy of which is attached as Appendix A to Staff Report DEV-21-033, and cause the Covenant to be registered on the title for, Lot B, Section 11, Esquimalt District, Plan VIP60066 (the "Lands").

#### **RELEVANT POLICY:**

Land Title Act

Local Government Act

Official Community Plan Bylaw, 2018, No. 2922

Zoning Bylaw, 1992, No. 2050

Parking Bylaw, 1992, No. 2011

#### **STRATEGIC RELEVANCE:**

Strategic Priority - Healthy, Livable and Diverse Community

Strategic Objective - Support community growth, housing, and development consistent with our Official Community Plan (OCP)

#### **BACKGROUND:**

The original building permits for the Oakwood's and Rosemead developments, previously known as the English Inn, were submitted under the previous Building Code and never picked up. Rather than have the owner go through the expensive and time-consuming process to submit a new building permit application, the owner has requested that the Township enter a Section 219 Covenant (Appendix "A") which transfers all liability to ARAGON (LAMPSON) PROPERTIES LTD., INC. NO. BC863902. The Covenant has been reviewed by a lawyer working for the Township.

#### **ISSUES:**

##### 1. Rationale for Selected Option

Entering a Section 219 Covenant is a far more efficient use of resources compared to submitting a new building permit application. The Section 219 Covenant contains provisions to protect the Township from liability.

##### 2. Organizational Implications

There are no significant organizational implications.

##### 3. Financial Implications

There are no significant financial implications.

#### 4. Sustainability & Environmental Implications

There are no significant sustainability or environmental implications.

#### 5. Communication & Engagement

There is no requirement for any communications or engagement related to his matter.

### **ALTERNATIVES:**

1. That Council authorizes the Mayor and Chief Administrative Officer to execute the Section 219 Covenant, a copy of which is attached as Appendix A to Staff Report DEV-21-033, and cause the Covenant to be registered on the title for, Lot B, Section 11, Esquimalt District, Plan VIP60066 (the "Lands").
2. That Council **not** authorize the Mayor and Chief Administrative Officer to execute the Section 219 Covenant, a copy of which is attached as Appendix A to Staff Report DEV-21-033, and cause the Covenant to be registered on the title for, Lot B, Section 11, Esquimalt District, Plan VIP60066 (the "Lands").