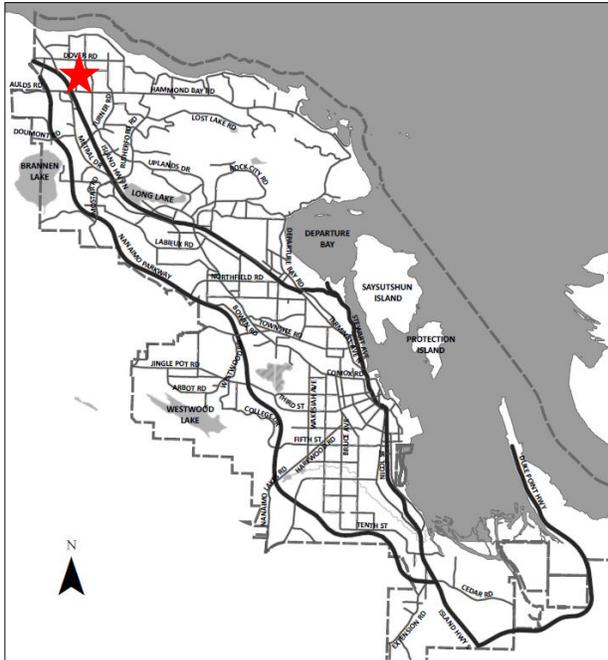


DATE OF MEETING | October 16, 2023

AUTHORED BY | CALEB HORN, PLANNER, CURRENT PLANNING

SUBJECT | COVENANT AMENDMENT APPLICATION NO. CA17 – 6340  
McROBB AVENUE



**Proposal:**

To amend covenants on the property title to facilitate the development a multi-family residential project



**Zoning:**

R9 – High Density Residential

**City Plan Land Use Designation:**

Woodgrove Secondary Urban Centre

**Development Permit Areas:**

DPA8 - Form and Character

**Lot Area:**

1.28ha – Total Lot Area

1.04ha – Phases 2/3 Area



## **OVERVIEW**

### **Purpose of Report**

To present Council with an application to discharge and replace existing Section 219 covenants at 6340 McRobb Avenue, in order to facilitate the development of Phases 2 and 3 of a 6-storey multi-family residential project. |

### **Recommendation**

That Council direct Staff to proceed with a Public Hearing to consider the proposed Covenant Amendment. |

## **BACKGROUND**

A Covenant Amendment Application, CA17, was received from Williamson & Associates, on behalf of 6340 McRobb Holdings Ltd., to discharge and replace existing Section 219 covenants on the property title of 6340 McRobb Avenue, in order to facilitate the development of Phases 2 and 3 of a multi-family residential project. Phase 1 of the project, branded as “The Mint”, is currently under construction and will consist of 66 dwelling units in a 6-storey building.

The subject property was rezoned in 2004 (RA112) to allow for high-density residential use with two 15-storey buildings. A subsequent rezoning in 2009 (RA202) increased the permitted height to allow 20-storey buildings. Section 219 covenants, FB226410 and FB287633/4, were registered on the subject property to dictate the development details, site plan, and Community Amenity Contributions. The covenants were later amended by modification covenants CA8431401 and CA8431402, when a Covenant Amendment (CA11) was approved in 2020 to facilitate the development of Phase 1 on the easterly portion of the lot.

The applicant now intends to develop the remaining Phases 2 and 3 as 6-storey buildings to better meet current market needs and reflect the context of surrounding developments. A covenant amendment is required to deviate from the 20-storey building forms and associated conditions as previously secured by covenant. A Development Permit application, DP1260, for Phases 2 and 3 has also been received, and consideration of approval for the DP will follow the Covenant Amendment, should it be approved.

### **Subject Property and Site Context**

The subject property is located in north Nanaimo in the Woodgrove Secondary Urban Centre. The property is presently vacant and the lot has previously been cleared of most vegetation except for some stands of trees. Sentinel Drive, a privately maintained road with public access, borders the northeast portion of the property and connects to McRobb Avenue. Another portion of Sentinel Drive bisects the lot to connect with Calinda Street, and separates the undeveloped portion of the site from Phase 1.

The surrounding neighbourhood is a mix of medium-density residential, institutional, and commercial uses within the Woodgrove Secondary Urban Centre. Adjacent properties include a 16-unit townhouse development to the north (“Pachena Place”), a 50-unit residential building at

6330 McRobb Avenue across Sentinal Drive to the north (“Dover Ridge”), a 48-unit residential development to the northeast (“The Texada”), a recently completed 108-unit residential development at 6117 Uplands Drive to the east (“Uplands Terrace”), Nanaimo Seniors Village to the southeast, ICBC across Calinda Street to the south, and Georgia View Village commercial plaza to the west. A second residential building with 88 dwelling units at 6330 McRobb Avenue to the north was approved in 2022 (DP1241). Residential building heights on neighbouring properties range from two to six storeys.

Nearby amenities and their approximate distances from the property include the Costco Wholesale store (100m west), McGirr Sports Fields (350m east), Dover Bay Secondary School (400m southeast), Vancouver Island Regional Library – Nanaimo North Branch (300m south), and commercial services in the Woodgrove Shopping Centre (400m southwest). ]

## **DISCUSSION**

### **Proposed Development**

The applicant is proposing to develop the next two phases in a similar manner as Phase 1 with two 6-storey buildings and underground parking. Phases 2 and 3 are expected to have a total of 266 dwelling units. The existing covenant references 308 units therefore the proposed number of units is 42 units less than what could be developed in the 20-storey buildings already permitted by the covenants on title. All required parking is proposed to be underground and accessed via a ramp connecting to a driveway from Calinda Street, shared with the commercial plaza to the west. An area for pick-up/drop-off and emergency vehicles is proposed in front of the building adjacent to Sentinal Drive (see Attachment D).

### **Proposed Covenant Amendment**

In order to facilitate the development of Phases 2 and 3, the applicant is proposing a Covenant Amendment to discharge covenants FB226410, FB287633/4, CA8431401, and CA8431402, replacing all with a new Section 219 covenant. The new covenant will secure conditions of development as outlined in the Letter of Rationale, submitted in support of this application (Attachment C) and summarized below:

- Referencing Phase 1 on the easterly portion of the lot with a maximum 6-storeys and 66 dwelling units, as previously approved through a covenant amendment (CA11) and development permit (DP1130) application and is currently under construction;
- Limiting Phase 2/3 on the westerly portion of the lot to no more than 6-storeys and a total of 266 dwelling units;
- Requiring a 10m setback for the uppermost floor of a building from the north property line;
- Requiring 95% of the parking to be underground with access from Calinda Street; and,
- Clarifying the timing of the previously agreed-upon Community Amenity Contributions for all phases (\$68,800 Phase 1 and \$175,000 Phases 2 and 3).

A comparison of the current and proposed covenants are provided in the table below as it relates to future phases on the subject property:

<b>Regulation</b>	<b>Existing Covenants</b>	<b>Proposed Covenant</b>
<i>Maximum Building Height</i>	66.0m and 20 storeys	20.5m and 6 storeys
<i>Maximum Number of Units</i>	308 units	266 units
<i>Minimum Setback from North Property Line</i>	17.0m	7.5m (per R9 zoning); 10.0m for uppermost floor
<i>Parking</i>	Minimum 95% underground	Minimum 95% underground
<i>Maximum Building Footprint</i>	809m <sup>2</sup> – West Tower 838m <sup>2</sup> – East Tower	n/a
<i>Minimum Separation Between Buildings</i>	23.0m	n/a

The proposed building height of 20.5m (six storeys) is significantly less than what is permitted in the existing covenants and the maximum building height of 36.0m in the R9 zone. The applicant proposes to reduce the rear yard setback to 7.5m from the north property line, adjacent to the Pachena Place townhouses, given the reduced building height. The uppermost floor, however, is proposed to require a 10m setback to mitigate any impact on adjacent properties to the north. In support of the proposed setback, the applicant has provided a comparison cross-section (Attachment E) and shadow study (Attachment F) showing that the visual and shadowing impacts would be less as a result of the proposed covenant amendments than if the site were developed under the existing covenants.

The maximum building footprint and minimum separation between buildings are proposed to be removed from the covenants given that high-rise buildings are no longer proposed and these aspects will be regulated by the Zoning Bylaw (e.g. setbacks and lot coverage).

## **Policy Context**

### *City Plan – Future Land Use*

City Plan identifies the subject property within the Woodgrove Secondary Urban Centre future land use designation where residential uses are supported in apartment building forms with typical building heights between two and 12 storeys. City Plan also includes policy (D4.3.10) which encourages a transition in building heights from 12 storeys to six storeys adjacent to Neighbourhood designated lands. The proposed amendment to reduce the building height to six storeys is supported by City Plan policies for Secondary Urban Centre and the relative proximity of neighbourhood-designated properties to north, on the opposite side of McRobb Avenue. Staff are of the opinion that the proposed Covenant Amendment is consistent with City Plan and will bring the property in better conformance with the plan than under the existing covenants.

### *Covenant Amendment Process Policy*

Council's *Covenant Amendment Process Policy* outlines the process for considering an amendment to a covenant secured through rezoning. Where the proposed Covenant Amendment pertains to land use, density, or community contributions, Council may choose to direct the application to be forwarded to a Public Hearing. While the Covenant Amendment may not be strictly required to proceed to Public Hearing under the policy, it may be advisable given the extent of the proposed changes (e.g. reducing the density and changing the building form), the interest

expressed by the public, and the length of time since the original rezoning as more development has occurred in the immediate neighbourhood. Staff recommend that the application proceed to Public Hearing, and as with any Covenant Amendment this will be at Council's discretion. Notices will be distributed to adjacent properties prior to the Public Hearing.

### *Community Amenity Contribution Policy*

Council's *Community Amenity Contribution Policy* encourages the provision of a Community Amenity Contribution (CAC) relative to growth or density through a rezoning or Covenant Amendment. The proposed development and covenant amendment would result in a reduced density, therefore no CAC beyond what was previously secured is recommended, and no change is proposed to the previously secured CACs including:

- \$68,880 towards the McGirr Sports Fields, paid with Phase 1; and,
- \$175,000 towards the City's Housing Legacy Reserve Fund, payable at the time of building permit application for the first building in Phase 2 or 3.

### **Community Consultation**

The subject property is within the area of the Dover Community Association (DCA) and the application was forwarded to the association for their comment. A response from the DCA was received on 2023-APR-18 with a comment that the current proposal was an improvement from the previous 20-storey proposal, but with concerns expressed as summarized below.

1. *Greenspace / Parkland.* The DCA has recommended that additional greenspace be preserved and that a portion of the land be secured for public park. It is Staff's opinion that the amount of outdoor greenspace proposed is appropriate for the scale of the development. The proposed lot coverage is approximately 36%, less than the maximum permitted lot coverage of 40% in the R9 zone. With regards to a public park, this was never secured as condition of rezoning and is not something proposed to be revisited at this stage; however, Staff from the Parks, Recreation, and Culture Department will be reviewing future park opportunities in the Dover Community as part of the Woodgrove Secondary Urban Centre plan review.
2. *Building Setback.* The reduction of the setback from the north property line, from 17.0m to 7.5m, was identified as a concern by the DCA. The applicant has demonstrated that with reduced building height, the potential impacts on properties to the north will be less than under the existing covenant. To address some of the concerns heard from neighbours, the proposed Covenant Amendment will include a greater setback of 10.0m for the uppermost sixth storey. Additionally, through the Development Permit a more significant and robust landscape buffer along the north property line is proposed than what would typically be expected.
3. *Parking.* Concerns regarding parking and traffic along Sentinal Drive have been expressed by the DCA. In an earlier 2021 iteration of the development plans, a second underground parking vehicle ramp was suggested to connect to Sentinal Drive which was removed in the current proposal at Staff's request. All vehicle access to the underground parking will be via the shared driveway from Calinda Street and only an area for pick-up/drop-off and emergency access is proposed on Sentinal Drive.

4. *Public Hearing.* Lastly, the DCA has requested that Council not waive a Public Hearing and that the Covenant Amendment be afforded a hearing per the *Covenant Amendment Process Policy*.

The applicant hosted two public information meetings, on 2022-NOV-16 and 2022-NOV-17, at the Oliver Woods Community Centre to discuss the proposed Covenant Amendment. An invitation to the first meeting was circulated to immediate neighbours, and the wider neighbourhood was invited to the second meeting. Approximately 26 residents attended the first meeting and 12 attended the second meeting. The applicant reported that feedback was mostly positive regarding the lower building height, with some concerns heard with respect to the north property line setback as discussed above. While Council could choose to waive the requirement for a Public Hearing, given that the proposed amendments would reduce the permitted density, Staff recommend that the application proceed to a Public Hearing to allow residents the opportunity to speak to Council. |

### **SUMMARY POINTS**

- Covenant Amendment Application No. CA17 proposes to discharge and replace existing Section 219 covenants at 6340 McRobb Avenue, in order to facilitate the development of Phases 2 and 3 of a six-storey multi-family residential project.
- Staff are of the opinion that the proposed Covenant Amendment is consistent with *City Plan* and will bring the property in better conformance with the plan than under the existing covenants.
- Development Permit application, DP1260, has been received and consideration of approval for the DP will follow the Covenant Amendment should it be approved. |

### **ATTACHMENTS**

ATTACHMENT A: Subject Property Map  
ATTACHMENT B: Existing Covenants  
ATTACHMENT C: Letter of Rationale and Proposed Amendments  
ATTACHMENT D: Conceptual Site Plan  
ATTACHMENT E: Building Cross-Section Comparison  
ATTACHMENT F: Shadow Study |

#### **Submitted by:**

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#### **Concurrence by:**

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