



<i>COUNCIL AGENDA</i>	
Date: <u>December 15, 2025</u>	Item: <u>9.9.</u>



**DISTRICT OF WEST VANCOUVER**  
750 17TH STREET, WEST VANCOUVER BC V7V 3T3

## COUNCIL REPORT

Date:	November 25, 2025
From:	Eric Villeneuve, Manager of Land Development
Subject:	Proposed Modification to Aquila Development Covenant
File:	1010-20-21-131

### RECOMMENDATION

THAT the District enter into the covenant modification agreement for the Aquila development.

#### 1.0 Purpose

To present the proposed modification to the Aquila Development covenant and seek authorization to enter into the agreement attached as **Schedule 1**.

#### 2.0 Legislation/Bylaw/Policy

Section 219 of the *Land Title Act* allows a municipality to register a covenant against a property's title, imposing positive or negative obligations on the owner.

#### 3.0 Council Strategic Objective(s)/Official Community Plan

Council's Strategic Objectives do not apply as this report is for administrative purposes to modify an existing section 219 covenant.

#### 4.0 Financial Implications

None.

#### 5.0 Background

The Aquila development covenant was registered to secure the District's interests in the land including a new park area, rights-of-ways for trails and utilities, habitat restoration, and off-site public realm improvements. The covenant includes a requirement for the developer to enter into a works and servicing agreement and payment of securities for District works being completed by the developer on behalf of the District.

##### 5.1 Previous Decisions

Council, at its October 28, 2024, regular meeting, passed the following resolutions:

*THAT proposed “Official Community Plan Bylaw No. 4985, 2018, Modification Bylaw No. 5292, 2024” be adopted.*

*THAT proposed “Zoning Bylaw No. 4662, 2010, Modification Bylaw No. 5293, 2023” be adopted.*

*THAT proposed Development Permit 21-131, which would regulate the form and character of the proposal and require land development controls to address hazardous conditions for developments on steep slopes (sites with difficult terrain), be approved.*

On November 12, 2024, the Director of Planning, Development and Environment Services, as delegated by Part 19 of the Development Procedures Bylaw, approved Development Permit 24-057 to require development controls to mitigate wildfire hazards and to protect environmental habitat areas.

Council, at its February 24, 2025, regular meeting, passed the following resolution:

*THAT the private road names proposed by the property owner (Aquila Avenue and Aquila Close for the private roads accessed from Daffodil Drive and Peregrine Court for the private road accessed from Westport Road) for access to the development at Lots C and D Daffodil Drive, be approved.*

## 5.2 History

Prior to adoption of the OCP modification and rezoning bylaw on October 28, 2024, staff prepared the development covenant which was executed on October 25, 2024. Registration of the covenant was a pre-requisite of the rezoning approval.

## 6.0 Analysis

### 6.1 Discussion

The proposed modification to the Aquila development covenant intends to remove on-site servicing obligations from the works and servicing agreement. Originally the covenant required the developer to undertake both off-site and on-site servicing works, supported by financial securities to guarantee completion. These provisions were intended to ensure that servicing infrastructure were delivered in accordance with approved plans.

Following a detailed review of the development process and associated responsibilities, staff determined that on-site servicing should no longer be included in the works and servicing agreement. This decision reflects the principle that on-site works, such as private roads and utilities, are typically the responsibility of the developer and do not require municipal oversight or bonding. Removing these obligations from the agreement

reduces administrative complexity and aligns with standard practice for private development projects.

The proposed modification also clarifies the scope of prepayment required by the developer for District forces to complete off-site servicing work, and clarifies the scope of building and construction that may be authorized prior to completion of all of the obligations of the covenant.

The covenant with modifications maintains all provisions related to off-site works and habitat restoration works and associated securities, ensuring that public infrastructure commitments remain protected.

## **7.0 Options**

### **7.1 Recommended Option**

THAT the District enter into the covenant modification agreement for the Aquila development.

### **7.2 Considered Options**

1. Request further information (to be specified) to assist in the consideration of the modification agreement; or
2. Reject the modification agreement.

## **8.0 Conclusion**

The covenant modification agreement intends to reduce administrative complexity and align with standard practice for private development projects.

Author:



Eric Villeneuve

Manager of Land Development

Appendix:

1. Schedule 1: Proposed Modification of Covenant

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**TERMS OF INSTRUMENT – PART 2****MODIFICATION OF COVENANT CB1674390****BACKGROUND**

- A. The Transferor, Sterling Pacific Developments Inc., is called the "Owner";
- B. The Transferee, The Corporation of the District of West Vancouver, is called the "District";
- C. The Owner is the registered owner of the lands described in item 2 of the Form C to which this Part 2 is attached (the "Lands");
- D. The Owner wishes to develop the Lands with thirty-six dwelling units and has made an application for zoning amendment to facilitate the development of the Lands;
- E. In relation to the rezoning and to ensure use and development of the Lands in the manner approved by the District, the Owner granted a covenant agreement in favour of the District pursuant to Section 219 of the *Land Title Act*, which covenant was registered on October 25, 2024 under no. CB1674390 (the "**Agreement**"); and
- F. The District and the Owner have agreed to enter into this modification agreement (the "**Modification**") to make certain amendments or clarifications to the Agreement.

**CONSIDERATION**

NOW THEREFORE THIS MODIFICATION WITNESSES that, in consideration of each party agreeing to modify the Agreement as set out hereinafter and for good and valuable consideration (the receipt and sufficiency of which the parties hereto acknowledge and agree to), pursuant to Section 219 of the *Land Title Act*, the Owner and the District hereby covenant and agree as follows:

1. Definitions

All capitalized terms used in this Modification which are defined in the Agreement will have the meaning ascribed to such terms in the Agreement unless defined in this Modification or the context otherwise requires.

2. Modifications of the Agreement

The Owner and the District agree that the Agreement shall be amended by making the following changes:

(a) section 1.6 shall be deleted in its entirety and replaced with the following:

"1.6 the Owner has entered into a works and services agreement with the District, which agreement is to be registered as a covenant on title to the Lands and the terms of which agreement are to be to the satisfaction of the District's Manager of Land Development, in which the Owner agrees to construct the following works (the "**Owner Works**"), which include:

1.6.1 sanitary works within the Sanitary Works Area for the relocation of a 250mm sanitary main, including but not limited to pipes, manholes, fittings, appurtenances, and bypass pumping, all required for proper and adequate installation to the specifications and engineering standards in accordance with sanitary servicing drawings to be provided to the District's satisfaction and acceptance;

1.6.2 off-site public realm improvements, including, but not limited to roads, curbs, sidewalks, letdowns, street lighting, line painting and signage, hedge trimmings, and tree removal, in accordance with civil drawings provided to

the District's satisfaction and acceptance;

1.6.3 habitat restoration works in the Eagle Creek area that is to the south end of the Lands, and within the riparian areas to the north and west sides of the Lands, as noted in the civil drawings attached to this Agreement as **Schedule D**, to the specifications and engineering standards provided by the District; and

1.6.4 signalized pedestrian crossing infrastructure at the intersection of Marine Drive and Cranley Drive in the District, as noted in the example civil drawings completed for similar works attached to this Agreement as **Schedule E**, to the specifications and engineering standards provided by the District, or provide cash-in-lieu of \$100,000 to the District; and"

(b) section 1.7 shall be deleted in its entirety and replaced with the following:

"1.7 the Owner has provided prepayment to the District for off-site water servicing to the Lands to be completed by the District in accordance with the off-site servicing drawings that are to be provided to the District's satisfaction and acceptance, which prepayment amount shall be the estimated construction cost of the off-site servicing plus a 20% administration fee and plus 50% security."

(c) the following shall be added as section 1A after the end of section 1.7 and before the heading "Restriction on Use, Occupancy, and Subdivision":

"1A Notwithstanding anything else in this Agreement, this Agreement does not restrict the building or construction on the Lands of roadways, and those structures that are required to enable the construction of roadways and on-site servicing."

3. Agreement Ratified and Confirmed

Except as hereby expressly modified, the Agreement is hereby ratified and confirmed by the District and the Owner to the effect and with the intent that the Agreement and this Modification will be read and construed as one document.

4. Amendment

No alteration or amendment of the Agreement or this Modification will have effect unless the same is in writing and duly executed by the parties to be charged.

5. Binding Effect

This Modification will enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

6. Time

Time shall be of essence of this Modification.

7. Conflict

In the event of any conflict between the terms and conditions of the Agreement and the terms and conditions of this Modification, the terms and conditions of this Modification will prevail.

IN WITNESS WHEREOF the parties hereto have executed this Modification on the General Instrument - Part 1 which is attached hereto and forms part hereof.

CONSENT AND PRIORITY AGREEMENT

In this consent and priority agreement:

- (a) "**Existing Charges**" means the Mortgage registered under number CB2190712 and the Assignment of Rents registered under number CB2190713;
- (b) "**Existing Chargeholder**" means PROSPERA CREDIT UNION;
- (c) "**New Charges**" means the registrable charges and encumbrances created by and contained in the attached Terms of Instrument – Part 2; and
- (d) Words capitalized in this agreement, not otherwise defined herein, have the respective meanings ascribed to them in the attached Terms of Instrument – Part 2.

For \$2.00 and other good and valuable consideration, the receipt and sufficiency of which the Existing Chargeholder acknowledges, the Existing Chargeholder:

- (i) consents to the Owner granting the New Charges to the District; and
- (ii) agrees with the District that the New Charges charge the Lands in priority to the Existing Charges in the same manner and to the same effect as if the Owner had granted the New Charges, and they had been registered against title to the Lands, prior to the grant and registration of the Existing Charges or the advance of any money under the Existing Charges.

To witness this consent and priority agreement, the Existing Chargeholder has caused its duly authorized signatory(ies) to sign the attached General Instrument – Part 1.

END OF DOCUMENT

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