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**MEETING TYPE:** Regular Council Meeting  
**MEETING DATE:** May 7, 2024  
**AUTHOR:** Jason Tran, Planner  
**DEPARTMENT:** Planning and Development  
**ITEM TITLE:** Development Permit Amendment | DP001065 | 19960 & 19972 McCarthy Rd  
**DESCRIPTION:** Development Permit Amendment to accommodate over-height retaining wall

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#### **PURPOSE**

To consider a Development Permit Amendment for an over-height retaining wall.

#### **RECOMMENDATION**

THAT Development Permit Amendment DP001065 (Attachment A to the Report to Council date May 7, 2024) for properties at 19960 & 19972 McCarthy Road (Rolls 02250.162 & 02250.163; PIDs 031-228-330 & 031-228-348) to allow for a 2.5 m high retaining wall be approved.

#### **EXECUTIVE SUMMARY**

Council previously approved the 196-unit multi-family development through DP2019-034-C. The proposed development is under construction.

The original Development Permit application did not include the proposed height of the patio retaining walls on the west side of the site. The detailed site design provided through the building permit process confirmed the height of the proposed wall at 2.5m. The purpose of the structure: to retain the patios for ground-level units and to regrade the site adjacent to the parkland.

The Zoning Bylaw limits the height of retaining walls to 1.5m. The proposed amendment would authorize a 2.5m retaining wall, a variance of 1.0m.

The applicant also proposes to change the design of the proposed retaining wall along the south side of the site.

Staff support the proposed Development Permit Amendment.

#### **BACKGROUND/HISTORY**

An application for a Zoning Bylaw Amendment (Z2016-009) was approved by Council on June 6, 2017, to rezone the parent property (9950 Bottom Wood Lake Road) from RR1 – Rural Residential 1 to RM5 – Medium Density Multiple Housing, RM2 – Low Density Row Housing, and RU2 – Small Lot Single Family Housing. A three-lot subdivision (S2020-006) was completed on November 24, 2020, which created the subject properties.

As part of the subdivision, a portion of the parent property adjacent to Vernon Creek was dedicated to the District and cash-in-lieu of riparian area restoration was given to the District to provide habitat restoration and public trail construction. The public trail is proposed to be constructed by the District.

On November 4, 2021, a Development Permit (DP2019-034-C) was issued to the applicant for 196 multiple rental units, including six two-storey townhouse buildings, two four-storey apartment buildings, and a clubhouse.

In the original Development Permit, the site and landscaping plans did not show a clear design intention of the two retaining walls.

On March 10, 2023, Building Permits were issued to the applicant for 26 townhouse units and the first 67-unit apartment building. The Building Permit for the second 103-unit apartment building was issued on April 10, 2024 (Site Photos #1, #2, and #3).

**TABLE 1: PROPERTY INFORMATION**

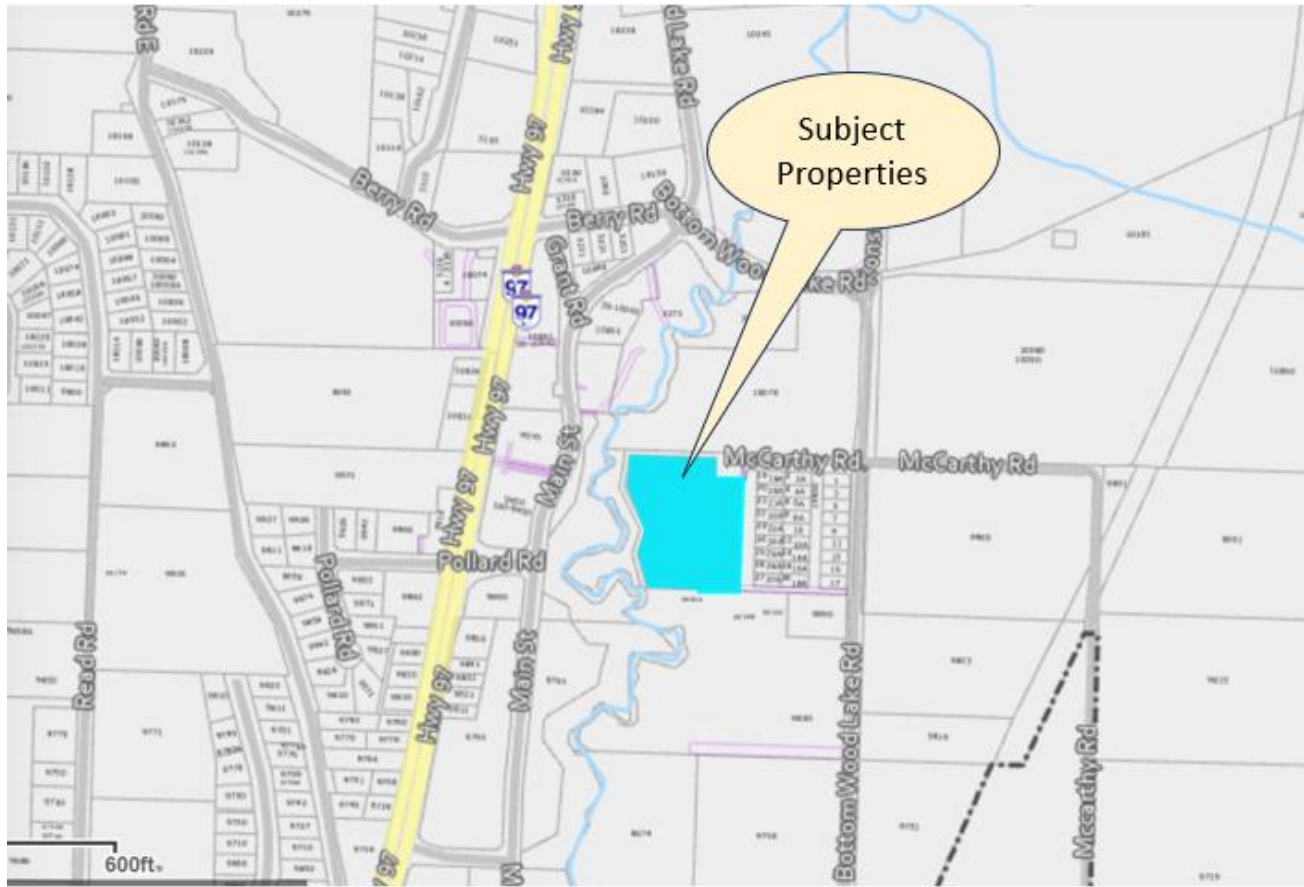
PROPERTY INFORMATION			
Civic Address:	19960 & 19972 McCarthy Road		
Roll Number:	02250.162 & 02250.163		
Legal Description:	PIDs: 031-228-330 & 031-228-348; Lots B & C District Lot 118 OSOYOOS Division Yale District Plan EPP90725		
Applicant:	EGLAUER, BRENT (Carrington)	Owner(s):	1231905 BC LTD
OCP Designation:	High Density Residential		
Existing Zoning Designation:	RM2 – Low Density Row Housing & RM5 – Medium Density Multiple Housing		
Proposed Zoning:	N/A		
Land Use Contract:	N/A		
ALR:	N/A		
Parcel Size:	1.59 ha (3.94 Ac)		
DP Area(s):	Town Centre Commercial, Drainage Hazard, Natural Environment, and Greenhouse Gas Reduction and Resource Conservation Area		
Water Supply:	Municipal		
Sewer:	Municipal		
Site Context:	Zoning:	Use:	
<i>North:</i>	P1 – Public Park and Open Space	Public Park	
<i>East:</i>	RU2 - Small Lot Single Family Housing	Single Detached Housing	
<i>South:</i>	P2 - Administration, Public Service and Assembly	Community Recreation Services	
<i>West:</i>	P1 – Public Park and Open Space	Public Park	

#### SITE CONTEXT

The subject properties are located at the end of McCarthy Road (Maps 1& 2). The properties are in an area with many amenities: Middle Vernon Creek runs along the west boundary of the property, the Multigenerational Activity Centre and Nexus Complex are located to the south, and Swalwell Park is situated to the north. The high school, new middle school, restaurants, grocery store, library, and public transit are all within easy walking distance of the properties. A pedestrian bridge across the creek to the north connects the development to Main Street. The properties directly to the east are slated for a single-family dwelling development.

The first proposed apartment building is at the framing stage of construction. Preliminary work has begun to construct the proposed townhouses.

MAP 1: OVERVIEW MAP



MAP 2: ORTHOPHOTO





FIGURE 1: CONCEPTUAL SITE PLAN (NW PROPERTY CORNER)

Over-height Retaining Walls

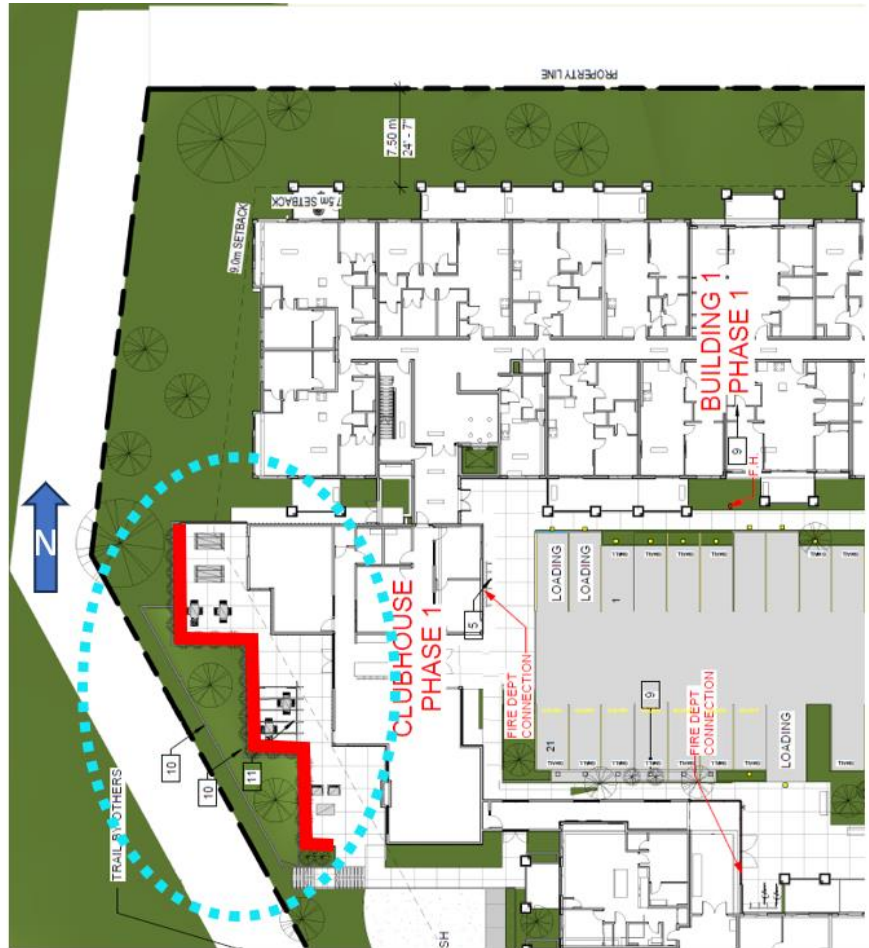


FIGURE 2: RENDERING OF OVER-HEIGHT RETAINING WALLS (1.5M TO 2.5M)



FIGURE 3: CROSS-SECTION OF OVER-HEIGHT RETAINING WALLS

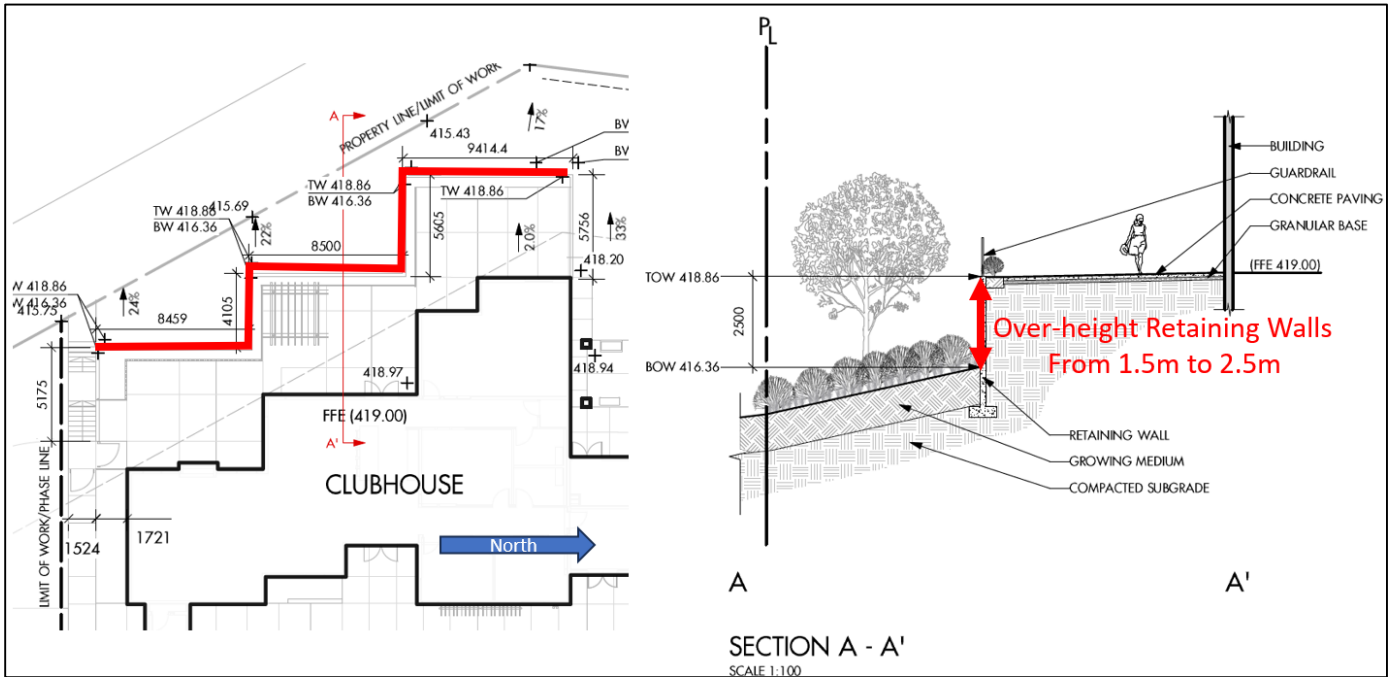
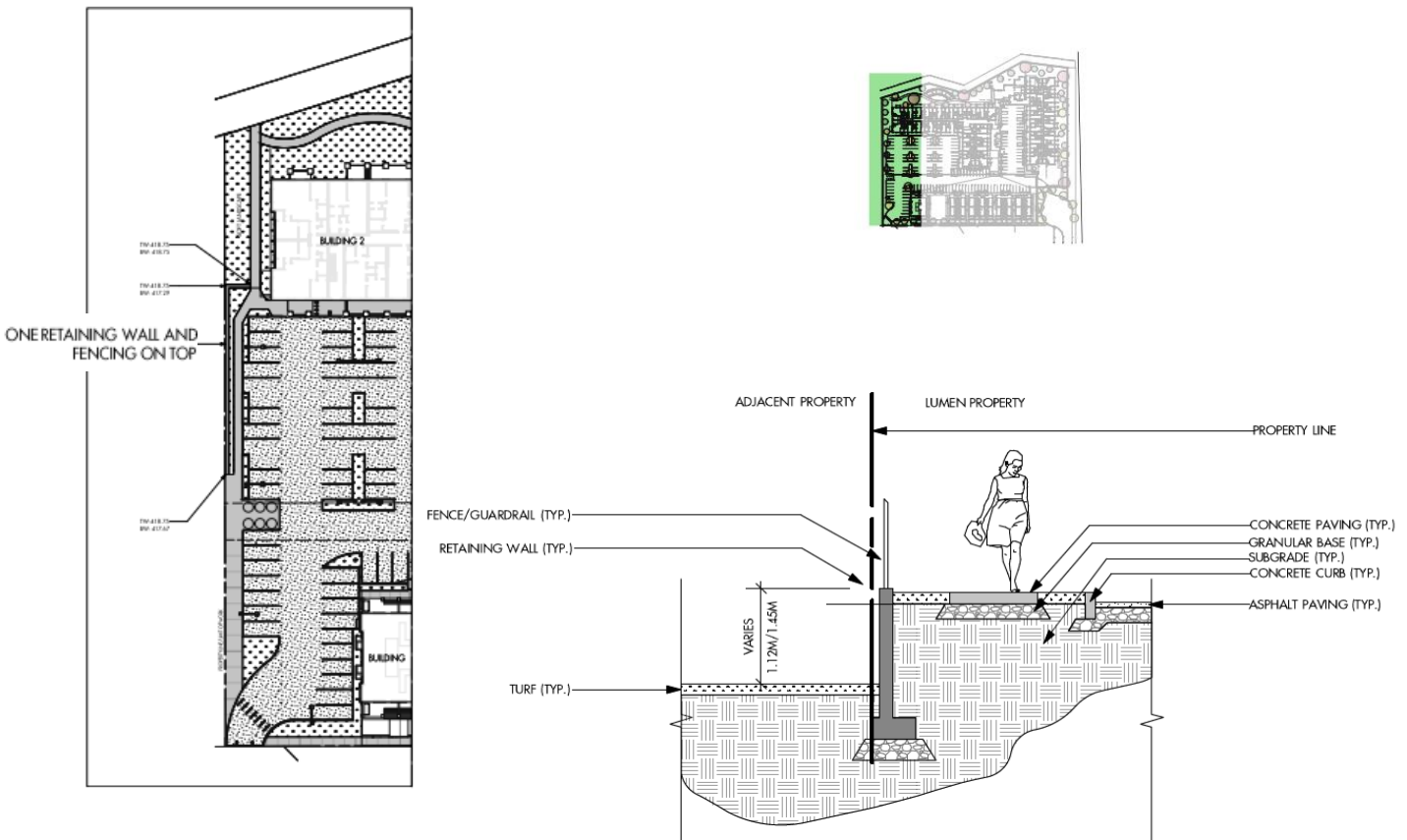


FIGURE 4: SITE PLAN AND CROSS-SECTION OF THE SOUTH RETAINING WALL





SITE PHOTO 1: LOOKING WEST FROM MCCARTHY RD



SITE PHOTO 2: LOOKING SOUTH





**SITE PHOTO 3: LOOKING EAST AT THE CLUBHOUSE AREA****TABLE 2: FILE CHRONOLOGY**

Date	Event
2021-11-04	DP2019-034-C was issued for 196 multiple-rental units
	DVP2021-025 was issued to increase maximum site coverage from 50% to 63.5% & allow a pathway within rear yard landscape buffer
2024-04-04	Application Submission
2024-04-10	Internal Referrals
2024-04-12	Site Inspection
2024-05-07	Council consideration

**DISCUSSION/ANALYSIS**

As noted previously, during the detailed design of the site, the applicant evaluated the grades across the subject properties and quantified the height of retaining walls identified in the approved Development Permit. The grades along the western boundary of the subject property require an over-height retaining wall. The applicant proposes to construct a cast-in-place concrete structure with decorative vertical insets to create minor articulation in the flat wall (Figure 2). In addition, plant material is proposed to be added in front of the walls to soften the visual impact. The planting plan includes low-maintenance, drought-tolerant species.

The applicant investigated constructing tiered walls at 1.2m each so the retaining walls comply with our Zoning Bylaw. However, it was concluded that insufficient horizontal distance was available to comply with the regulations.

The proposed single 2.5 m retaining wall would retain the associated apartment patios, allow for a gentler slope towards the parkland, and allow maintenance access to the area.

The grades along the southern boundary of the site are proposed to be managed through an alternate retaining wall design. The applicant proposes to amend the plan by replacing the original two-wall design with one retaining wall and a barrier fence. The maximum height of the retaining wall will be lower than 1.5m and will taper on each end. As a result, the proposed redesign would create a larger area for plantings, creating greater visual enjoyment and a more natural experience for future residents (Figure 4).

The proposed amendments comply with the Development Permit guidelines. Staff support the proposed Development Permit amendment.

## **APPLICABLE LEGISLATION, BYLAWS AND POLICIES**

### **Local Government Act:**

#### **Development permits: general authority**

**490 (1)** Subject to this section, a local government may, by resolution, issue a development permit that does one or more of the following:

- (a) varies or supplements a land use regulation bylaw or a bylaw under Division 11 [Subdivision and Development: Requirements and Related Matters];

### **Official Community Plan:**

#### **Section 5.2 Main Street**

Objective

5.2.6 Protect and enhance the Vernon Creek corridor.

### **Zoning Bylaw 561, 2007:**

#### **Section 8.5.8:**

Retaining walls on all residential lots, except those required as a condition of subdivision approval must not exceed a height of 1.5 m measured from grade on the lower side. Retaining walls must be spaced to provide a horizontal separation equal to the height of the wall as a minimum and in no case shall a ratio of vertical rise to horizontal run exceed 1:1 as shown on Diagram 8.7.

## **IMPACT ON INFRASTRUCTURE, SERVICES AND STAFF CAPACITY**

The proposed amendment would not impact municipal infrastructure. Staff time has been dedicated to expediting this application as per OCP policy 7.1.7.

## **FINANCIAL IMPLICATIONS**

None       Budget Previously Approved       Other (see below)

## **CONSULTATION**

This application was referred to internal departments (Parks & Building) for comments. Staff had no concerns about the proposed amendment.

Parks commented: "The retaining wall near the clubhouse appears to be well screened with planting and there is significant space between the walls and our proposed multi-use trail. Also, the proposed change to the wall and fence on the south end of the property integrates better with our neighbouring park property."

## **COMMUNICATIONS**

The Local Government Act (LGA) allows local governments with the authority to vary land use bylaws through a Development Permit (S. 490 (1)). Public notification is not required for Council to approve a Development Permit.

## **ALIGNMENT WITH COUNCIL STRATEGIC PRIORITIES**

- Create and Support Opportunities for a Healthy, Active and Inclusive Community
- Create Infrastructure That Meets Community Needs
- Encourage Growth of the Downtown Core
- Ensure Sustainable Water Service Delivery for the Community
- Explore Opportunities to Engage With Regional Local Governments for the Betterment of the Community
- Honour Reconciliation by Strengthening Relationships and Inclusiveness With Our Indigenous Partners
- Identify and support improvements to the Development Process
- Implement the Agricultural Plan
- Preserve, Protect and Enhance Our Natural Environment



- Secure long term wastewater service delivery for our community
- Support Opportunities to Diversify Lake Country’s Tax Base

**ALIGNMENT WITH MASTER PLANS**

- |  |  |
|--|--|
| <input type="checkbox"/> Agricultural Plan                             | <input checked="" type="checkbox"/> Official Community Plan                |
| <input type="checkbox"/> Climate Action Charter                        | <input checked="" type="checkbox"/> Parks & Recreation Master Plan 2019    |
| <input type="checkbox"/> Housing Needs Report                          | <input type="checkbox"/> Sanitary Sewer System Map                         |
| <input type="checkbox"/> Liquid Waste Management Plan Stage 1/2 Report | <input type="checkbox"/> Transit Future Plan-Central Okanagan Region-DRAFT |
| <input type="checkbox"/> McCoubrey Plateau Area Structure Plan         | <input type="checkbox"/> Transportation for Tomorrow                       |
| <input type="checkbox"/> Mobility Master Plan                          | <input type="checkbox"/> Water Master Plan                                 |

**OPTIONS**

- A. THAT Development Permit Amendment DP001065 (Attachment A to the Report to Council date May 7, 2024) for properties at 19960 & 19972 McCarthy Road (Rolls 02250.162 & 02250.163; PIDs 031-228-330 & 031-228-348) to allow for a 2.5 m high retaining wall be approved.
- B. THAT Development Permit Amendment DP001065 (Attachment A to the Report to Council date May 7, 2024) for properties at 19960 & 19972 McCarthy Road (Rolls 02250.162 & 02250.163; PIDs 031-228-330 & 031-228-348) to allow for a 2.5 m high retaining walls not be approved.
- C. THAT Development Permit Amendment DP001065 (Attachment A to the Report to Council date May 7, 2024) for properties at 19960 & 19972 McCarthy Road (Rolls 02250.162 & 02250.163; PIDs 031-228-330 & 031-228-348) to allow for a 2.5 m high retaining wall be deferred pending receipt of additional information as identified by Council.

**Collaborators:**

Name	Date Reviewed

Respectfully Submitted,  
Jason Tran, Planner

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**Report Approval Details**

Document Title:	DP001065 - 19960 MCCARTHY RD - Amendment of a DP.docx
Attachments:	- Attachment A - DP001065 - Draft Development Permit.pdf - Attachment B - DP001065 - Original Development Permit.pdf
Final Approval Date:	Apr 29, 2024

This report and all of its attachments were approved and signed as outlined below:

**Brian Zurek, Manager of Planning - Apr 25, 2024 - 4:54 PM**

**Steven Gubbels, Manager of Development - Apr 26, 2024 - 11:51 AM**

**Reyna Seabrook, Director of Corporate Services - Apr 26, 2024 - 12:46 PM**

**Paul Gipps, Chief Administrative Officer - Apr 29, 2024 - 7:37 AM**