

SUMMARY AND RECOMMENDATION

3. REZONING: 119-133 West 41st Avenue

Summary: To rezone 119-133 West 41st Avenue from RS-1 (One-Family Dwelling) District to CD-1 (Comprehensive Development) District, to permit development of a courtyard townhouse residential development with 20 market residential units. A height of 15.25 m (50 ft.) and a floor space ratio (FSR) of 1.78 are proposed.

Applicant: DYS Architecture Inc.

Referral: This item was referred to Public Hearing at the Regular Council Meeting of July 10, 2018.

Recommended Approval: By the General Manager of Planning, Urban Design and Sustainability, subject to the following conditions as proposed for adoption by resolution of Council:

- A. THAT the application, by DYS Architecture Inc. on behalf of Nexst Oakridge 2 Development Ltd., the registered owner, to rezone:
- 119 West 41st Avenue [PID 011-572-744; AMENDED LOT 15 (SEE 298807L), EXCEPT PART IN EXPLANATORY PLAN 5778, OF LOT 2 BLOCK 1003A DISTRICT LOT 526 PLAN 4381],
 - 125 West 41st Avenue [PID 011-572-736; AMENDED LOT 13 (SEE 304281L), EXCEPT PART IN EXPLANATORY PLAN 5951, OF LOT 2 BLOCK 1003A DISTRICT LOT 526 PLAN 4381], and
 - 133 West 41st Avenue [PID 007-930-461; LOT 12, EXCEPT THE SOUTH 10 FEET NOW ROAD, OF LOT 2 BLOCK 1003A, DISTRICT LOT 526, PLAN 4381]

all from RS-1 (One-Family Dwelling) District to CD-1 (Comprehensive Development) District, to increase the floor space ratio (FSR) from 0.70 to 1.78 and to increase the building height from 10.7 m (35 ft.) to 15.25 m (50 ft.), to permit the development of a courtyard townhouse residential building containing a total of 20 market residential units, generally as presented in Appendix A of the Policy Report dated June 26, 2018 entitled "CD-1 Rezoning: 119-133 West 41st Avenue", be approved subject to the following conditions:

CONDITIONS OF APPROVAL OF THE FORM OF DEVELOPMENT

- (a) That, the proposed form of development be approved by Council in principle, generally as prepared by DYS Architecture Inc. and received September 29, 2017, provided the Director of Planning may allow minor alterations to this form of development when approving the detailed scheme of development as outlined in (b) below.

- (b) That, prior to the approval of Council of the form of development, the applicant shall obtain approval of a development application by the Director of Planning, who shall have particular regard to the following:

Urban Design

1. Design development to improve front yard condition on both 41st Avenue and Woodstock Avenue by:
 - (i) Softening the transitions from the respective back boulevards on both 41st Avenue and Woodstock Avenue to the townhouse front patios through more robust planting;
 - (ii) Enlarging the 41st Avenue townhouses' patio depths for better use;
 - (iii) Pushing the parkade's roof slab at the site's southeast corner back at least 1 m (3.3 ft.) away from the east property line, introducing planters along the patio's east edge to provide privacy screening, and reducing the patio's depth accordingly; and
 - (iv) Accommodating the Statutory Right-of-Way (SRW) along 41st Avenue (see Engineering By-Law Enactment Condition #3).

Note to Applicant: The above conditions are meant to better respond to the *Cambie Corridor Plan* recommendation to treat the yard spaces as an extension of the wider public realm. With regards to providing the SRW, ensure that the front steps, as well as the parkade access stairs, do not encroach into the SRW. This may entail shifting the location of some of the steps, porches and wall planes on the ground floor.

2. Design development to improve the quality and amount of useable outdoor space by creating a combined open area with seating features between the Phase 1 and Phase 2 courtyards.

Note to Applicant: In lieu of indoor amenity spaces, an improved outdoor area may suffice. This entails revisiting some of the Phase 1 landscape, grading and parkade design.

3. Design development to further introduce variations between these townhouses and those in Phase 1 by varying the ratio and location of the various cladding materials and windows.

Note to Applicant: This is to better respond to the Cambie Corridor Plan recommendation to express a strong unifying architectural concept while providing some degree of variation.

4. Consideration to improve the parking structure accessibility by providing access path(s) to and from it from all units.

Note to Applicant: Providing on-site access paths may require redesign of the private patio spaces, the courtyards, and potentially the ground-floor layout of some of the buildings.

5. Identification on the architectural and landscape drawings of any built features intended to create a bird friendly design.

Note to Applicant: Refer to the *Bird Friendly Design Guidelines* for examples of built features that may be applicable, and provide a design rationale for the features noted. For more information, see the guidelines at <http://former.vancouver.ca/commsvcs/guidelines/B021.pdf>.

Housing

6. Design development to meet the requirements in the Family Room: Housing Mix Policy for Rezoning Projects (2016) which requires at least 10% of the total dwelling units be three-bedroom units and at least 25% of the total dwelling units must be two-bedroom units.

Note to Applicant: The application currently exceeds the policy requirements, but further design development to meet the conditions of approval may result in a revision of the unit count and mix. Ensure the *Family Room* policy requirements are met at a minimum through the development permit stage.

Crime Prevention through Environmental Design (CPTED)

7. Design development to respond to the principles of CPTED, having particular regard for:
 - (i) theft in the underground parking;
 - (ii) residential break and enter;
 - (iii) mail theft; and
 - (iv) mischief in alcoves and vandalism, such as graffiti.

Landscape

8. Design development to the landscape treatment to increase the volume of soil, tree canopy cover and planting on slab, as follows:
 - (i) Provision of trees in planters (minimum 1.25 m width) for each private rooftop patio;
 - (ii) Lower the slab in the courtyard area below the planters, to the greatest extent that is practical;

- (iii) Provision of one medium to tall branched tree to be located on private property in front of each unit along Woodstock Avenue and 41st Avenue.

Note to Applicant: Wherever possible, planted landscapes on slab should be designed to maximize soil depths. This will require integration of the landscape design and the structural plan. Soil depths should exceed the BCLNA Landscape Standard. At the perimeter of the building, the slab can be angled downward (1 m across and 1.2 m down) to maximize contiguous soil volumes.

- 9. Design development to the final grades along the west property line to be compatible with a possible shared pathway with the adjacent development proposal to the west.
- 10. Design development to locate, integrate and fully screen parking garage vents in a manner which minimizes their impact on the architectural expression and the project's open space and public realm.
- 11. Design development to the Integrated Rainwater Management Strategy to explore opportunities for onsite rain water infiltration and soil absorption, as follows:
 - (i) Maximize natural landscape management best practices;
 - (ii) Minimize the necessity for hidden mechanical water storage;
 - (iii) Increase the amount of planting on the rooftop areas;
 - (iv) Provide a linear infiltration bio-swale along the north and south property lines;
 - (v) Use permeable paving;
 - (vi) Employ treatment chain systems (gravity fed, wherever possible);
 - (vii) Use grading methods to direct water to soil and storage areas; and
 - (viii) Maximize opportunities to infiltrate water to the soil areas outside the underground parkade (i.e. lane setback).

Note to Applicant: Refer to the City of Vancouver Integrated Rainwater Management Plan (I.R.M.P), Vol.1 & 2 for further information. A consulting engineer (subject matter expert) will need to be engaged and early phase soil analysis will be needed. Further comments may be outstanding at the development permit stage.

- 12. Provision of plans, plan details, and documentation/calculations that support integrated rainwater management, including absorbent landscapes, soil volumes and detention systems, as follows:

- (i) A detailed storm water report with calculations describing how the various best management practices contribute to the quality and quantity targets;
- (ii) A separate soil volume overlay plan with schematic grading indicating intent to direct rainwater to infiltration zones; and
- (iii) An overlay plan that shows amount and ratio of vegetative cover (green roof), permeable/impermeable hardscaping, and notations describing the storage location of rainwater falling on each surface, including roofs.

13. Provision of a detailed Landscape Plan illustrating soft and hard landscaping.

Note to Applicant: The plans should be at a 1/8 in.:1 ft. scale, minimum. The plant list should include the common and botanical name, size and quantity of all existing/proposed plant material. Plant material should be clearly illustrated on the Plan and keyed to the Plant List. The landscape plan should include the public realm treatment (to the curb) and all existing or proposed street trees, adjoining walkways, surface materials, PMT/Vista transformers, and public utilities such as lamp posts, hydro poles, fire hydrants.

14. Provision of detailed architectural and landscape cross-sections (minimum 1/4 in. scale) through common open spaces, semi-private patio areas and the public realm.

Note to Applicant: The sections should illustrate the slab design and location, the soil profile, tree root ball, tree canopy and any associated landscaping. For private patios and amenity areas, illustrate and dimension planters on slab, planter sizes (inside dimension), soil, root ball, retaining walls, steps, patios and portions of the adjacent building, such as residential units or amenity rooms.

15. Provision of a Tree Management Plan.

Note to Applicant: It is preferred that the arborist tree management plan become the primary document for tree removal/ protection related matters. Attach a large scale tree management sheet (same size sheet as architectural sheets) to the landscape plan submission.

16. Provision of new street trees adjacent to the development site, where applicable.

Note to Applicant: Street trees are to be shown on the development permit plans and confirmed prior to the issuance of the building permit. Contact Eileen Curran, Streets Engineering (604.871.6131) to confirm tree planting locations and Park Board (604.257.8587) for tree species selection and planting requirements. Provide a notation on the plan as follows, "*Final spacing, quantity and tree species to the satisfaction of the General Manager of Engineering Services. New trees must be of good standard, minimum 6 cm caliper, and installed with approved root barriers, tree guards and appropriate soil. Root barriers shall be 8 feet long and 18 inches in. Planting depth of root ball must be below sidewalk grade. Call Park Board for inspection after tree planting completion*".

17. Provision of high efficiency irrigation for all planted areas and hose bibs for all patios and common areas greater than 100 sq. ft.

Note to Applicant: On the plan, illustrate irrigation connection points and hose bib symbols accurately, and provide a highlighted note to verify the irrigation is to be designed and constructed. Hose bibs are requested to encourage patio gardening and hand watering on private patio and amenity decks.

18. Provision of enlarged detailed elevations for all vertical landscape structures and features (i.e. green walls, trellis).

19. Provision of an outdoor Lighting Plan.

Note to Applicant: Consider CPTED principles and avoid any lighting that can cause glare to residential uses

Sustainability

20. All new buildings in the development will meet requirements of the Green Buildings Policy for Rezoning (amended February 7, 2017), including all requirements for Near Zero Emissions Buildings (i.e. Passive House certified or alternate near zero emissions standard approved by the Director of Sustainability), or Low Emissions Green Buildings. The requirements for Low Emissions Green Buildings are summarized at <http://guidelines.vancouver.ca/G015.pdf>.

Note to Applicant: The applicant will be required to demonstrate that the development is on track to achieve the above requirements at each stage of permit. For more detail on the above requirements and what must be submitted at each stage, refer to the most recent bulletin Green Buildings Policy for Rezonings – Process and Requirements (amended April 28, 2017 or later).

Engineering

21. The owner or representative is advised to contact Engineering to acquire the project's permissible street use. Prepare a mitigation plan to minimize street use during excavation & construction (i.e. consideration to the

building design or sourcing adjacent private property to construct from) and be aware that a minimum 60 days lead time for any major crane erection / removal or slab pour that requires additional street use beyond the already identified project street use permissions.

22. Provision of any gas service is to connect directly to the building without any portion of the service connection above grade within the road right of way.
23. Clarify garbage storage and pick-up space. Please show containers and toters on plans for recycling and garbage needs and refer to the Engineering garbage and recycling storage facility design supplement for recommended dimensions and quantities of bins. and Note; pick up operations should not rely on bins being stored on the street or lane for pick up, bins are to be returned to storage areas immediately after emptying.
24. Provision of construction details to determine ability to meet municipal design standards for shotcrete removal (Street Restoration Manual section 02596 and Encroachment By-law (#4243) section 3A) and access around existing and future utilities adjacent your site. Current construction practices regarding shotcrete shoring removals have put City utilities at risk during removal of encroaching portions of the shoring systems. Detailed confirmations of these commitments will be sought at the building permit stage with final design achievements certified and confirmed with survey and photographic evidence of removals and protection of adjacent utilities prior to building occupancy. Provision of written acknowledgement of this condition is required. Please contact Engineering Services for details.
25. Please place the following statement on the landscape plan; *This plan is "NOT FOR CONSTRUCTION" and is to be submitted for review to Engineering Services a minimum of 8 weeks prior to the start of any construction proposed for public property. No work on public property may begin until such plans receive "For Construction" approval and related permits are issued. Please contact Engineering, Development Services and/or your Engineering, Building Site Inspector for details.*
26. Please update the landscape and/or site plan to reflect the public realm changes including all of the off-site improvements sought for this rezoning, where a design or detail is not available please make note of the improvement on the site and/or landscape plans. Please submit a copy of the updated plan to engineering for review.

Note to Applicant: Add note to landscape plans "Installation of parking regulatory signage on West 41st Avenue and West Woodstock Avenue adjacent the site to the satisfaction of the General Manager of Engineering Services".

27. Provision of standard crossing design, a crossing application is required.

28. Compliance with the Parking and Loading Design Supplement and Bicycle Design supplement to the satisfaction of the General Manager of Engineering Services as follows:

- (i) Provide section drawings showing elevations and minimum vertical clearances for parking levels, ramps, and security gates. These clearances must consider mechanical projections and built obstructions.
- (ii) Areas of minimum vertical clearances are to be labelled on the parking level.

Note to Applicant: 2.3 m of vertical clearance is required for disability spaces.

- (iii) Design elevations on both sides of the ramp and drive aisles at all breakpoints, and at all entrances. The slope and length of the ramped sections at all breakpoints to be shown on the submitted drawings. Slope and cross-fall within the parking levels is to be shown on the submitted drawings.
- (iv) Dimension the drive aisle width on parking level.
- (v) Provide Class A and Class B bicycle spaces as per the Vancouver Parking By-Law.
- (vi) On-site access from West Woodstock Avenue to all of the units is required to facilitate move-in/move-out requirements.

Note to Applicant: Parking will not be available on West 41st Avenue as future transportation installations will need to be accommodated at the curbside.

29. Green Infrastructure submission requirements for the development permit stage must include the following:

- (i) Pre-development site plan showing orthophoto and existing drainage areas and appurtenances;
- (ii) A proposed site plan that delineates drainage areas, including the area measurements for pervious/impervious areas, and identifies appropriately sized green infrastructure practices for each of those areas;
- (iii) Hydrologic and hydraulic analysis prepared by a qualified professional in the area of rainwater management showing how the site will meet the requirements of the Policy;
- (iv) If lower tier green infrastructure options are chosen, then justifications must be included in the RMP report;

- (v) Details on how the targets set out above will be achieved through the development phases and once all development phases are complete;
- (vi) Include supplementary documentation for any proprietary products that clearly demonstrates how they contribute to the targets;
- (vii) The plan and report must demonstrate that access has been provided for maintaining the rainwater management system, such as providing truck access for pumping out sediment traps;
- (viii) Maintenance and operation guide for the rainwater management system that will be provided to the eventual owner or party responsible for maintenance.

Note to Applicant: The building/public realm should be designed to show leadership in the City's commitment to Green Building systems including an integrative approach to rainwater management to minimize potable water use and encourage the use of alternative water sources in areas such as toilet flushing and irrigation.

CONDITIONS OF BY-LAW ENACTMENT

- (c) That, prior to enactment of the CD-1 By-law, the registered owner shall on terms and conditions satisfactory to the Director of Legal Services, the General Manager of Planning, Sustainability and Urban Design, the General Manager of Engineering Services and the Approving Officer, as necessary, and at the sole cost and expense of the owner/developer, make arrangements for the following:

Engineering

1. Arrangements are to be made to the satisfaction of the General Manager of Engineering Services and the Director of Legal Services for the consolidation of Lot 12, Except the South 10 Feet Now Road, Amended Lot 13 (See 304281L), Except Part in Explanatory Plan 5951, and Amended Lot 15 (See 298807L), Except Part in Explanatory Plan 5778; all of Lot 2, Block 1003A, District Lot 526, Plan 4381 to create a single parcel.

Note to Applicant: Restrictive Covenant R63068 (See 111681L) on the title of Lot 12 requires the approval of the Canadian Pacific Railway Company for any proposed development. The applicant may wish to have this charge released from title; however, as this Restrictive Covenant is not in favour of the City, its release is not a condition of redevelopment of this site.

2. If the proposed shared vehicle access between the two phases is supported, then the provision of a knockout panel (as indicated on the applicant's drawings) at the appropriate location and arrangements (legal

agreements, including without limitation easements, Section 219 Covenants, etc.) to secure continued access to underground parking on each site (as well as any other cross boundary issues), will be required.

3. Provision of a building setback and a surface Statutory Right of Way (SRW) on West 41st Avenue for public pedestrian use to achieve a 0.61 m (2 ft.) distance measured from the back of the property line for public realm. The SRW will be free of any encumbrance such as structure, stairs, planter walls, door swing, benches, chairs and tables, and bicycle parking at grade.
4. Provision of a Services Agreement to detail the on-site and off-site works and services necessary or incidental to the servicing of the site (collectively called the "Services") such that they are designed, constructed and installed at no cost to the City and all necessary street dedications and rights of way for the services are provided. No development permit for the site will be issued until the security for the services is provided.
 - (i) Provision of adequate water service to meet the fire flow demands of the project. Based on an estimate of the development's water demands, the water system should be adequate to service the development. *No upgrades currently noted.*
 - a. Supply project details including confirmed fire flow calculations based on the Fire Underwriter's Survey's document, *Water Supply for Public Fire Protection*, the sprinkler demands based on NFPA 13/14, average day domestic water demands, and peak hour domestic water demands (sealed by a qualified Engineer) to confirm that water system upgrades are not required.
 - b. Should review of the confirmed project details deem upgrading be necessary, then arrangements to the satisfaction of the General Manager of Engineering Services and the Director of Legal Services will be required to secure payment for the upgrading. The developer is responsible for 100% of any water system upgrading that may be required.

Note to Applicant: The above analysis assumes the proposed building will *not* utilize wood-frame construction. Should the developer choose wood-frame construction, the water analysis completed above may not be valid. Contact Water Design for any further details.

- (ii) Design and construct 85 m of 600 mm diameter storm sewer and 200 mm diameter sanitary sewer on West 41st Avenue from the man hole fronting 151 West 41st Avenue to Manitoba Street.

The design must account for re-routing of sewer mains to eliminate existing easements. Contact the Sewer Design

Department for more information prior to commencing the design.

The lengths and diameters of these sanitary and storm sewer improvements are approximate and subject to a detailed design by the Developer's Engineer.

- (iii) The post-development 5-year flow rate discharged to the storm sewer shall be no greater than the 5-year pre-development flow rate. The pre-development estimate shall utilize the 2014 IDF curves, whereas the post-development estimate shall utilize the 2100 IDF curves to account for climate change.

The Developer's Engineer is to submit design brief, calculations and/or model, and design drawings to the City. Submittals are to be reviewed and accepted by City Engineer.

The sewer servicing plan for this area is under development. The developer should to contact the City Engineer prior to commencing design or analysis of sewer system as the upgrade requirement may be modified based on the servicing plan (the requirement will be approximately equivalent to the above condition).

This development is to be serviced to the new storm and sanitary sewers on West 41st Avenue.

- (iv) Provision of new or replacement duct banks adjacent the development site that meet current City standards. Duct banks are to consist of electrical and communication ducts sized to meet City needs in a configuration acceptable by the General Manager of Engineering Services and in conformance with applicable electrical codes and regulations. A detailed design will be required prior to the start of any associated street work.

Note to Applicant: As-constructed documentation will be required that includes photographic and measured evidence of the installed number of conduits, their final locations and depths.

- (v) Provision of 100% of funding for street re-construction and all necessary adjustments of existing infrastructure on West 41st Avenue adjacent to the site to the satisfaction of General Manager of Engineering Services.

Note to Applicant: The City will provide a geometric design.

- (vi) Provision of a 1.83 m (6 ft.) light broom finish saw cut concrete sidewalk on West Woodstock Avenue frontage.

Note to Applicant: Landscape drawings specify a 6 ft. sidewalk on West Woodstock Avenue, but the sidewalk shown on drawing

scales to 5 ft.

- (vii) Removal of existing driveway crossings on West Woodstock Avenue and provision of new curb and gutter.
- (viii) Provision of upgraded street lighting adjacent to the site on both West Woodstock Avenue and West 41st Avenue to current standards including a review of the existing lighting to determine its adequacy and a lighting design as required.

Note to Applicant: Existing wood pole in lane may conflict with ramp access. Arrangements to the satisfaction of the General Manager of Engineering Services and the appropriate public utility companies for pole relocation may be required.

- (ix) Provision of a contribution of \$15,000 towards signal modifications (payable at Development Permit issuance), LED lighting and countdown timers at Columbia Street and West 41st Avenue.

5. The Developer is required to submit a groundwater management plan to be reviewed and accepted by City Engineer. The plan shall include confirmation that no groundwater will be discharged to the sewer system.
6. Provision of all utility services to be underground from the closest existing suitable service point. All electrical services to the site must be primary with all electrical plant, which include but not limited to System Vista, Vista switchgear, pad mounted transformers, LPT and kiosks (including non-BC Hydro kiosks) are to be located on private property with no reliance on public property for placement of these features.

In addition, there will be no reliance on secondary voltage from the existing overhead electrical network on the street right-of-way. Any alterations to the existing overhead/underground utility network to accommodate this development will require approval by the Utilities Management Branch.

Note to Applicant: Please ensure that, in your consultation with B.C. Hydro, an area has been defined within the development footprint to accommodate such electrical plant. Please confirm that this space has been allocated and agreement between both parties has been met.

7. Provision of a Rainwater Management Plan (RMP) that details how the rainwater management system meets the IRMP requirements for retention, cleaning and safe conveyance, prepared by a subject matter expert (Engineer) and signed/sealed by same, subject to review and acceptance by the City Engineer. The applicant should take into account the following:
 - (i) Runoff from the first 24 mm of rainfall from all areas, including rooftops, paved areas, and landscape must be retained and

treated on site (landscapes over native subsoils with appropriately sized topsoil meets the 24 mm retention requirement);

- (ii) Staff will not accept the principle that distinct site areas that have large infiltration and/or storage capacity in some way compensate for those areas of the site that are impervious, without the runoff from the impervious areas being directed towards these absorbent areas, and this being clearly demonstrated.
 - a. Where areas of growing medium do not have runoff directed on to them (from above) from adjacent impervious surfaces, they shall be assumed to be receiving/treating/storing only the rainfall that falls directly on to them; and
 - b. IRMP targets are to be achieved on site i.e. without using street right-of-way.
- (iii) The applicant must prioritize methods of retention according to the three tiers below. Justification must be provided for using a lower tier retention option. The tiers are as follows:
 - a. **1st tier priority green infrastructure practices** – Rainwater Harvesting for Reuse, Green Roofs, and Infiltration;
 - b. **2nd tier priority green infrastructure practices** – Retention within non-infiltrating landscapes, including absorbent landscape on slab, closed bottom planter boxes, and lined bio retention systems;
 - c. **3rd tier priority green infrastructure practices** – Detention storage with treatment and slow release.
- (iv) Surfaces designed for motor vehicle use and other high pollutant generating surfaces require an additional 24 mm of treatment beyond the first 24 mm retained (for a total of 48 mm treated).
- (v) Water quality volume (24 mm for low pollutant generating surfaces like roofs and 48 mm for high pollutant generating surfaces like driveways) that leaves the site must be treated to a standard of 80% TSS removal by mass by using either individual BMPs that meet the standard or treatment trains of BMPs that, when combined, meet the standard. For proprietary treatment devices:
 - a. Provide product information for all treatment practices; and
 - b. Products need to be certified by TAPE - The Technology Assessment Protocol – Ecology Program, Washington State Department of Ecology’s process for evaluating and approving emerging rainwater treatment BMPs. The

applicant may propose other technologies but must provide supporting information that shows the technology meets the standard.

Note to Applicant: Legal arrangements may be required to ensure on-going operations of certain rainwater storage, rainwater management and green infrastructure systems.

Sustainability

8. The applicant will enter into an agreement with the City, on terms and conditions acceptable to the Director of Sustainability and the Director of Legal Services, that requires the future owner of the building to report energy use data, on an aggregated basis, for the building as a whole and certain common areas and building systems. Such an agreement will further provide for the hiring of a qualified service provider to assist the building owner for a minimum of three years in collecting and submitting energy use data to the City.

Environmental Contamination

9. If applicable:
 - (i) Submit a site profile to Environmental Services (Environmental Protection);
 - (ii) As required by the Manager of Environmental Services and the Director of Legal Services in their discretion, do all things and/or enter into such agreements deemed necessary to fulfill the requirements of Section 571(B) of the Vancouver Charter; and
 - (iii) If required by the Manager of Environmental Services and the Director of Legal Services in their discretion, enter into a remediation agreement for the remediation of the site and any contaminants which have migrated from the site on terms and conditions satisfactory to the Manager of Environmental Services, the General Manager of Engineering Services, and Director of Legal Services, including a Section 219 covenant that there will be no occupancy of any buildings or improvements on this site constructed pursuant to this rezoning until separate Certificates of Compliance satisfactory to the City for the on-site and off-site contamination, issued by the Ministry of Environment, have been issued to the City.

Community Amenity Contribution

10. Pay to the City the cash Community Amenity Contribution of \$977,295 which the applicant has offered to the City and which is to be allocated to support the delivery of the Cambie Corridor Public Benefits Strategy. Payment is to be made prior to enactment of the CD-1 By-law, at no cost

to the City and on terms and conditions satisfactory to the Director of Legal Services.

Note to Applicant: Where the Director of Legal Services deems appropriate, the preceding agreements are to be drawn, not only as personal covenants of the property owners, but also as registerable charges pursuant to the Land Title Act.

The preceding agreements are to be registered in the appropriate Land Title Office, with priority over such other liens, charges and encumbrances affecting the subject site as is considered advisable by the Director of Legal Services, and otherwise to the satisfaction of the Director of Legal Services prior to enactment of the By-law and at no cost to the City.

The preceding agreements shall provide security to the City including indemnities, warranties, equitable charges, letters of credit and withholding of permits, as deemed necessary by and in a form satisfactory to the Director of Legal Services. The timing of all required payments, if any, shall be determined by the appropriate City official having responsibility for each particular agreement, who may consult other City officials and City Council.

- B. THAT, subject to enactment of the CD-1 By-law, the Director of Legal Services be instructed to bring forward for Council Approval the amendment to the Subdivision By-law generally as presented in Appendix C of the Policy Report dated June 26, 2018 entitled "CD-1 Rezoning: 119-133 West 41st Avenue".
- C. THAT A and B be adopted on the following conditions:
- (i) THAT the passage of the above resolutions creates no legal rights for the applicant or any other person, or obligation on the part of the City and any expenditure of funds or incurring of costs is at the sole risk of the person making the expenditures or incurring the cost;
 - (ii) THAT any approval that may be granted following the Public Hearing shall not obligate the City to enact a by-law rezoning the property, and any costs incurred in fulfilling requirements imposed as a condition of rezoning are at the sole risk of the property owner; and
 - (iii) THAT the City and all its officials, including the Approving Officer, shall not in any way be limited or directed in the exercise of their authority or discretion, regardless of when they are called upon to exercise such authority or discretion.

[RZ – 119-133 West 41st Avenue]