

SUMMARY AND RECOMMENDATION

6. REZONING: 109 East 40th Avenue

Summary: To rezone 109 East 40th Avenue from RS-1 (Residential) District to RR-3A (Residential Rental) District, to permit the development of a four-storey mixed-use market rental building with non-residential uses at grade. A height of 15.3 m (50 ft.) and a floor space ratio (FSR) of 2.50 are proposed.

Applicant: GMC Projects Inc.

Referral: This relates to the report entitled "Rezoning: 109 East 40th Avenue", dated April 25, 2023, ("Report"), referred to Public Hearing at the Council Meeting of May 9, 2023.

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 GMC Projects Inc., on behalf of 40th Avenue Apartment Holdings Inc., the registered owner of the land located at 109 East 40th Avenue [*PID 031-806-902; Lot A Block F District Lots 639 and 640 Group 1 New Westminster District Plan EPP100728*], to rezone the land from RS-1 (Residential) District to RR-3A (Residential Rental) District, generally as presented in the Report, be approved in principle;

FURTHER THAT the draft zoning amendment by-law, prepared for the Public Hearing in accordance with Appendix A of the Report, be approved in principle;

AND FURTHER THAT the above approvals be subject to the Conditions of Approval contained in Appendix B of the Report.

- B. THAT subject to approval in principle of the rezoning and the Housing Agreement described in Part 2 of Appendix B of the Report, the Director of Legal Services be instructed to prepare the necessary Housing Agreement By-law for enactment prior to enactment of the zoning amendment By-law, subject to such terms and conditions as may be required at the discretion of the Director of Legal Services and the General Manager of Planning, Urban Design and Sustainability.

- C. THAT subject to approval of the zoning amendment by-law, the Subdivision By-law be amended generally as set out in Appendix C of the Report;

FURTHER THAT the Director of Legal Services be instructed to bring forward the amendment to the Subdivision By-law at the time of enactment of the zoning amendment by-law.

- D. THAT Recommendations A to C 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; any expenditure of funds or incurring of costs is at the risk of the person making the expenditure 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 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.

[Rezoning: 109 East 40th Avenue]