

**EXPLANATION**

**A By-law to amend  
Zoning and Development By-law No. 3575  
to rezone an area to CD-1**

Following the Public Hearing on June 14, 2022. Council gave conditional approval to the rezoning of the site at 1406-1410 East King Edward Avenue. The Director of Legal Services has advised that all prior to conditions have been met, and enactment of the attached by-law will implement Council's resolutions.

Director of Legal Services  
July 11, 2023

1406-1410 East King Edward Avenue

**BY-LAW NO. \_\_\_\_\_**

**A By-law to amend  
Zoning and Development By-law No. 3575  
to rezone an area to CD-1**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

**Zoning District Plan Amendment**

1. This by-law amends the Zoning District Plan attached as Schedule D to By law No. 3575, and amends or substitutes the boundaries and districts shown on it, according to the amendments, substitutions, explanatory legends, notations, and references shown on the plan attached as Schedule A to this by law, and incorporates Schedule A into Schedule D of By law No. 3575.

**Designation of CD-1 District**

2. The area shown within the heavy black outline on Schedule A is hereby designated CD-1 (856).

**Uses**

3. Subject to Council approval of the form of development, to all conditions, guidelines and policies adopted by Council, and to the conditions set out in this by-law or in a development permit, the only uses permitted within this CD-1 and the only uses for which the Director of Planning or Development Permit Board will issue development permits are:

- (a) Dwelling Uses, limited to Multiple Dwelling;
- (b) Utility and Communication Uses; and
- (c) Accessory Uses customarily ancillary to the uses permitted in this section.

**Conditions of Use**

4. All residential floor area must be used for social housing.

**Floor Area and Density**

5.1 Computation of floor area must assume that the site area is 612 m<sup>2</sup>, being the site area at the time of the application for the rezoning evidenced by this by-law, prior to any dedications.

5.2 The floor space ratio for all uses combined must not exceed 11.07.

5.3 Computation of floor area must include all floors having a minimum ceiling height of 1.2 m, both above and below base surface, measured to the extreme outer limits of the building.

5.4 Computation of floor area must exclude:

- (a) balconies and decks, and any other appurtenances which in the opinion of the Director of Planning are similar to the foregoing, except that:
  - (i) the total area of all such exclusions must not exceed 12% of the floor area being provided for dwelling uses, and
  - (ii) the balconies must not be enclosed for the life of the building;
- (b) patios and roof decks, if the Director of Planning first approves the design of sunroofs and walls;
- (c) where floors are used for off-street parking and loading, the taking on or discharging of passengers, bicycle storage, heating and mechanical equipment, or uses which in the opinion of the Director of Planning are similar to the foregoing, those floors or portions thereof so used that are at or below base surface, except that the exclusion for a parking space must not exceed 7.3 m in length;
- (d) all residential storage area above or below base surface, except that if residential storage area above base surface exceeds 3.7 m<sup>2</sup> for a dwelling unit, there will be no exclusion for any of the residential storage area above base surface for that unit.

5.5 Computation of floor area may exclude, at the discretion of the Director of Planning or Development Permit Board, amenity areas accessory to a residential use, to a maximum of 10% of the total floor area being provided for dwelling uses.

### **Building Height**

6.1 Building height, measured from base surface to top of parapet, must not exceed 51.0 m.

6.2 Despite the provisions of section 6.1 of this by-law and of section 10.18 of the Zoning and Development By-law, if the Director of Planning permits common indoor rooftop amenity space, the height of the portion of the building used for the common indoor rooftop amenity space must not exceed 54.0 m.

6.3 Despite sections 6.1 and 6.2 of this by-law and section 10.18 of the Zoning and Development By-law, the Director of Planning may permit a greater height not to exceed 56.4 m for rooftop appurtenances such as stairs and elevators for roof-top access, elevator machine rooms, mechanical screens, a vestibule accessing a green roof, or similar features, if the Director of Planning first considers:

- (a) siting and sizing in relation to views, overlook, shadowing, and noise impacts; and
- (b) all applicable policies and guidelines adopted by Council.

## Horizontal Angle of Daylight

7.1 Each habitable room must have at least one window on an exterior wall of a building.

7.2 The location of each such exterior window must allow a plane or planes extending from the window and formed by an angle of 50 degrees, or two angles with a sum of 70 degrees, to encounter no obstruction over a distance of 24.0 m.

7.3 Measurement of the plane or planes referred to in section 7.2 must be horizontally from the centre of the bottom of each window.

7.4 The Director of Planning or Development Permit Board may relax the horizontal angle of daylight requirement if:

- (a) the Director of Planning or Development Permit Board first considers all the applicable policies and guidelines adopted by Council, and
- (b) the minimum distance of unobstructed view is not less than 3.7 m.

7.5 An obstruction referred to in section 7.2 means:

- (a) any part of the same building excluding permitted projections; or
- (b) the largest building permitted under the zoning on any adjoining site.

7.6 A habitable room referred to in section 7.1 does not include:

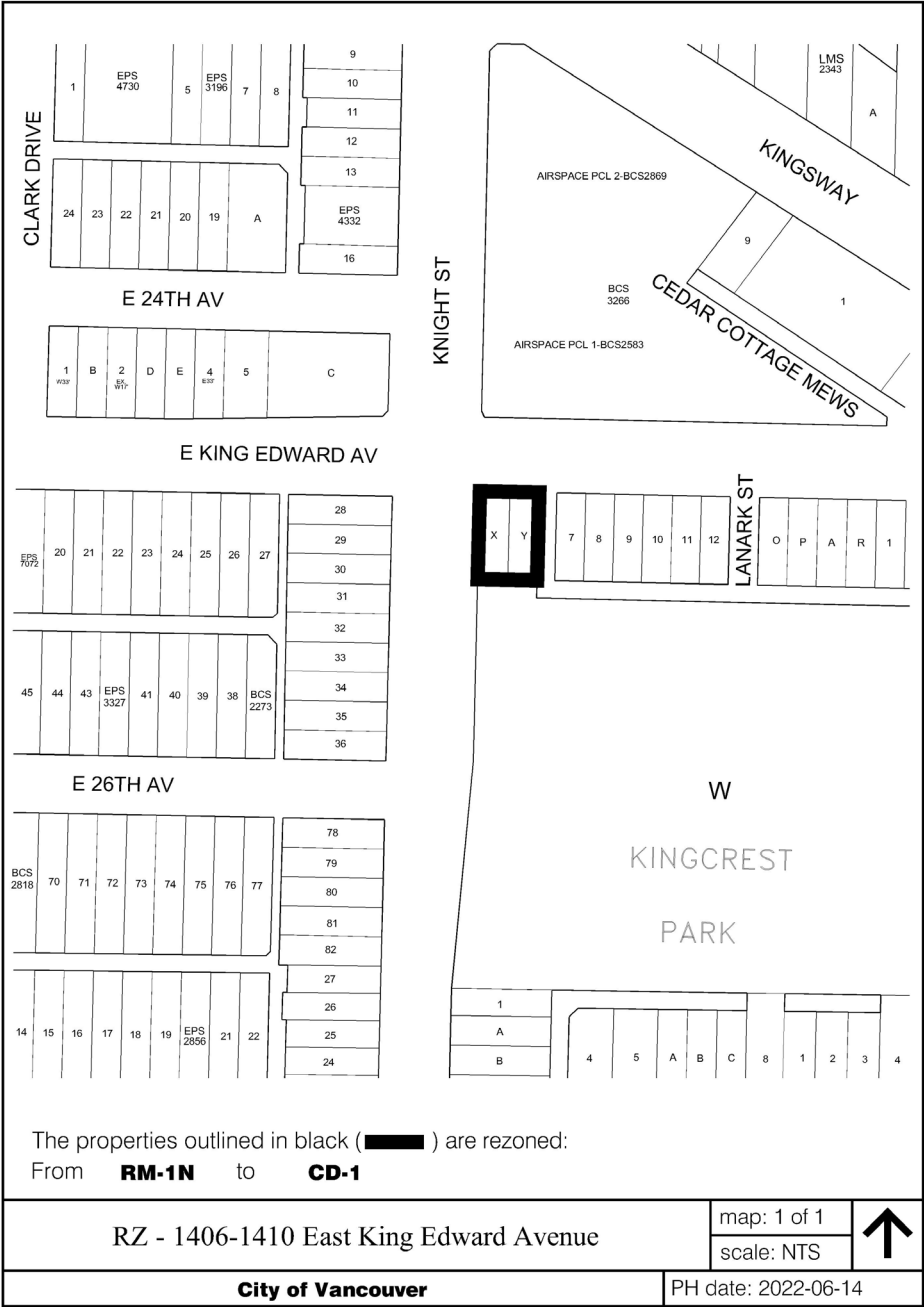
- (a) a bathroom; or
- (b) a kitchen whose floor area is the lesser of:
  - (i) 10% or less of the total floor area of the dwelling unit, or
  - (ii) 9.3 m<sup>2</sup>.

## Acoustics

8. A development permit application for dwelling uses must include an acoustical report prepared by a registered professional acoustical engineer demonstrating that the noise levels in those portions of the dwelling units listed below will not exceed the noise levels expressed in decibels set opposite such portions of the dwelling units. For the purposes of this section, the noise level is the A-weighted 24-hour equivalent (Leq24) sound level and will be defined simply as noise level in decibels.

Portions of dwelling units	Noise levels (Decibels)
Bedrooms	35
Living, dining, recreation rooms	40
Kitchen, bathrooms, hallways	45





The properties outlined in black ( **■** ) are rezoned:  
 From **RM-1N** to **CD-1**

RZ - 1406-1410 East King Edward Avenue

map: 1 of 1  
 scale: NTS



City of Vancouver

PH date: 2022-06-14

**EXPLANATION****Authorization to enter into a Housing Agreement  
Re: 191 E 49<sup>th</sup> Avenue**

On December 14, 2022, the Director of Planning approved in principle a development on the above noted property, subject to, among other things, a Housing Agreement being entered into by the City and the land owner, on terms satisfactory to the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services, prior to the issuance of a Development Permit.

A Housing Agreement has been accepted and signed by the applicant land owner and the City now seeks enactment of a By-law as contemplated by section 565.2 of the Vancouver Charter, to authorize such Housing Agreement and to authorize the City to enter into the Housing Agreement with the land owner.

Director of Legal Services  
July 11, 2023







1. Application

**Lawson Lundell LLP (Andrew T. Beechinor / Jillian Sych)**  
1600-925 West Georgia Street  
Vancouver BC V6C 3L2  
(604) 685-3456

File No.: 110113-167835  
Housing Agreement (191 E 49th Ave)

2. Description of Land

PID/Plan Number	Legal Description
EPP127863	LOT A BLOCK 7 DISTRICT LOT 648 GROUP 1 NWD PLAN EPP127863

3. Nature of Interest

Type	Number	Additional Information
COVENANT		Section 219 Entire Instrument
PRIORITY AGREEMENT		Granting the Covenant with one registration number less than this priority agreement priority over Mortgage CA9263398, Assignment of Rents CA9263399, Mortgage CA9263400 and Assignment of Rents CA9263401

4. Terms

Part 2 of this instrument consists of:  
**(b) Express Charge Terms Annexed as Part 2**

5. Transferor(s)

**HUDSONMORRIS (6495 MAIN) PROJECTS CORP., NO.BC1314713**  
**PEOPLES TRUST COMPANY, NO.A0033943, AS TO PRIORITY**  
**PETERSON INVESTMENT GROUP INC., NO.BC1059668, AS TO PRIORITY**

6. Transferee(s)

**CITY OF VANCOUVER**  
453 WEST 12TH AVENUE  
VANCOUVER BC V5Y 1V4

7. Additional or Modified Terms



**B. Execution(s)**


This instrument creates, assigns, modifies, enlarges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

<p>Witnessing Officer Signature</p>  <hr/> <p><b>PETER J. HALEY</b>  <i>Barrister &amp; Solicitor</i>        1600 - 925 WEST GEORGIA ST.        VANCOUVER, B.C. V6C 3L2        (604) 685-3456</p>	<p>Execution Date</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">         YYYY-MM-DD          2023-05-25       </div>	<p>Transferor / Transferee / Party Signature(s)</p> <p><b>HUDSONMORRIS (6495 MAIN)        PROJECTS CORP.</b>        By their Authorized Signatory</p>  <hr/> <p>Name: <i>Andrew Beechman</i></p>
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\_\_\_\_\_  
 Name:

**Officer Certification**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

<p>Witnessing Officer Signature</p>  <hr/> <p><b>PETER J. HALEY</b>  <i>Barrister &amp; Solicitor</i>        1600 - 925 WEST GEORGIA ST.        VANCOUVER, B.C. V6C 3L2        (604) 685-3456</p>	<p>Execution Date</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">         YYYY-MM-DD       </div>	<p>Transferor / Transferee / Party Signature(s)</p> <p><b>PEOPLES TRUST COMPANY</b>        By their Authorized Signatory</p>
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\_\_\_\_\_  
 Name:

\_\_\_\_\_  
 Name:

**Officer Certification**

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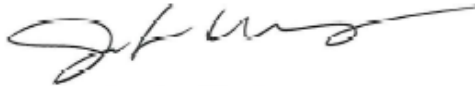
8. Execution(s)

This instrument creates, assigns, modifies, enlarges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Witnessing Officer Signature  _____	Execution Date  <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">           YYYY-MM-DD         </div>	Transferor / Transferee / Party Signature(s)  <b>HUDSONMORRIS (6495 MAIN)          PROJECTS CORP.</b> By their Authorized Signatory  _____ <b>Name:</b>  _____ <b>Name:</b>
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**Officer Certification**

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Witnessing Officer Signature   _____  <b>Darren Kozol</b> Barrister & Solicitor 604-331-2238	Execution Date  <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">           YYYY-MM-DD            2023-06-06         </div>	Transferor / Transferee / Party Signature(s)  <b>PEOPLES TRUST COMPANY</b> By their Authorized Signatory   _____ <b>Name:</b> <u>Gailleen Copeland</u> <u>AVP, Mortgage Services</u>   _____ <b>Name:</b> <u>Jonathan Wong</u> <u>Vice President &amp; Regional Manager</u> <u>Commercial Banking BC</u>
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**Officer Certification**

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Witnessing Officer Signature

**DAVID K. WONG**  
Peterson Group - Associate Counsel  
Barrister & Solicitor  
1701-1166 Alberni Street  
Vancouver, B.C. V6E 3Z3  
604.688.4885

Execution Date

YYY-MM-DD  
**2023-05-26**

Transferor / Transferee / Party Signature(s)

**PETERSON INVESTMENT GROUP INC.**

By their Authorized Signatory

  
Name: **Evan Carew-Gibson**

\_\_\_\_\_  
Name:

**Officer Certification**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

Witnessing Officer Signature

\_\_\_\_\_

Execution Date

YYY-MM-DD

Transferor / Transferee / Party Signature(s)

**CITY OF VANCOUVER**

By their Authorized Signatory

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

**Officer Certification**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**Electronic Signature**

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSBC 1996 c.250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.

\_\_\_\_\_

TERMS OF INSTRUMENT - PART 2  
HOUSING AGREEMENT AND BUILDING USE COVENANT  
RENTAL HOUSING  
191 E 49<sup>TH</sup> AVENUE

WHEREAS:

- A. It is understood and agreed that this instrument and Agreement will be read as follows:
- I. the Transferor, HUDSONMORRIS (6495 MAIN) PROJECTS CORP. is called the “Owner”, as more particularly defined in Section 1.1(r); and
  - II. the Transferee, CITY OF VANCOUVER, is called the “City” or the “City of Vancouver” when referring to corporate entity continued under the *Vancouver Charter*, and “Vancouver” when referring to geographic location;
- B. The Owner is the registered owner of the Lands;
- C. The Owner made an application for a development permit pursuant to Development Permit Application No. DP-2022-00513 (the “Development Application”) to develop on the Lands a 6-storey mixed-use building consisting of Commercial Retail Units at grade, and Residential Multiple Dwelling above, including up to 94 Secured Market Rental Units, over two levels of underground parking to be accessed from the lane (the “Development”), which Development Application was approved by the Director of Planning in principle, subject to, among other things, fulfilment of the condition that, prior to issuance of a Development Permit, the Owner will:
- “2.1 Make arrangements to the satisfaction of the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services to enter into a Housing Agreement and a Section 219 Covenant to secure all residential units as secured market rental housing units, excluding Seniors Supportive or Assisted Housing, pursuant to the City’s Secured Rental Housing Policy, for a term equal to the longer of 60 years or the life of the building, subject to a no-separate-sales covenant and a no-stratification covenant, and such other terms and conditions as the General Manager of Planning, Urban Design and Sustainability and the Director of Legal Services may require.”; and*
- D. The Owner is entering into this Agreement to satisfy the foregoing conditions.

NOW THEREFORE THIS AGREEMENT WITNESSES that for good and valuable consideration (the receipt and sufficiency of which the parties hereby acknowledge and agree to) the Owner and the City, pursuant to Section 565.2 of the *Vancouver Charter* and to Section 219 of the *Land Title Act*, agree as follows in respect of the use of the Lands and the New Building:

ARTICLE 1  
DEFINITIONS AND INTERPRETATION

1.1 Definitions. Terms defined in this Section 1.1, unless specifically otherwise provided in this Agreement, will have the following meanings:

- (a) “Agreement” means this housing agreement and building use covenant, including the foregoing recitals and all schedules hereto;
- (b) “Building Permit” means any building permit issued by the City authorizing the building of a New Building as contemplated by the Development Permit;
- (c) “City” and “City of Vancouver” have the meaning ascribed to those terms in Recital A(ii);
- (d) “City Manager” means the chief administrator from time to time of the City and her successors in function and their respective nominees;
- (e) “City Personnel” means any and all of the elected and appointed officials, and officers, employees, agents, nominees, delegates, permittees, contractors, subcontractors and volunteers of the City;
- (f) “Development” has the meaning ascribed to it in Recital C;
- (g) “Development Application” has the meaning ascribed to it in Recital C;
- (h) “Development Permit” means any development permit issued by the City authorizing the development of the Lands contemplated by the Development Application;
- (i) “Director of Legal Services” means the chief administrator from time to time of the City’s Legal Services Department and her/his successors in function and their respective nominees;
- (j) “Dwelling Unit” means a self-contained dwelling unit, comprised of two or more rooms, including toilet, bathing and cooking facilities;
- (k) “Effective Date” means the date as of which this Agreement has been executed by all parties to it;
- (l) “General Manager of Planning, Urban Design and Sustainability” means the chief administrator from time to time of the City’s Planning, Urban Design and Sustainability Department and her/his successors in function and their respective nominees;
- (m) “*Land Title Act*” means the *Land Title Act*, R.S.B.C. 1996, c. 250, as may be amended or replaced from time to time;
- (n) “Lands” means the parcel of land situate in Vancouver, British Columbia, and legally described in Item 2 of the General Instrument - Part 1, and includes any parcels into which such land is consolidated or further subdivided;
- (o) “Losses” means any and all damages, losses, fines, penalties, costs (including legal costs on a solicitor and own client basis), actions, causes of action, claims, demands, judgements, builders liens, liabilities, indirect or consequential damages (including loss of profit and loss of use and damages arising out of delays) and expenses of every nature or kind whatsoever;

- (p) “New Building” means any new building or structure to be built on the Lands and any building or structure on the Lands being renovated, upgraded or refurbished as contemplated by the Development Permit, and includes any portion of any such building or structure, but does not include temporary buildings or structures on the Lands during the period of, and required for the purposes of, any construction contemplated by the Development Permit;
- (q) “Occupancy Permit” means a permit issued by the City authorizing the use and occupation of any New Building, development or partial development on the Lands issued after the Effective Date;
- (r) “Owner” means the registered owner of the Lands as of the Effective Date, namely, Hudsonmorris (6495 Main) Projects Corp., and its successors and permitted assigns;
- (s) “Related Person” means, where the registered or beneficial owner of the Rental Housing Units is:
  - (i) a corporation (as that term is defined in the *Business Corporations Act*, S.B.C. 2002, c. 57), then a Related Person is:
    - (A) an officer, director or shareholder of such corporation or of another entity which is a shareholder of such corporation; or
    - (B) the spouse, parent, child, sibling, niece or nephew of any such officer, director or shareholder referred to in paragraph (A); and
  - (ii) an individual, then a Related Person is the spouse, parent, child, sibling, niece or nephew of such individual;
- (t) “Rental Housing” means a Dwelling Unit which is not occupied by the registered or beneficial owner of the same or by a Related Person, but which is made available by such owner to the general public, at arm’s length, for use as rental accommodation on a month-to-month basis or longer in accordance with this Agreement, reasonably prudent landlord-tenant practices for rental residential accommodation and any and all laws applicable thereto, including, without limitation, residential tenancy and human rights legislation in British Columbia;
- (u) “Rental Housing Units” means at least 94 new residential units of Rental Housing to be contained within the New Building upon its completion, as part of the Development, which units will comply with the terms in this Agreement and the Development Permit applicable to the same, and “Rental Housing Unit” means any one of them;
- (v) “Replacement Rental Housing Unit” has the meaning ascribed to that term in Section 2.1(c) and “Replacement Rental Housing Units” means all of such units;
- (w) “Residential Tenancy Act” means the *Residential Tenancy Act*, S.B.C. 2002, c. 78, as may be amended or replaced from time to time;
- (x) “Term” means the term of this Agreement, which will commence on the Effective Date and will end on the later of:

- (i) the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building; and
- (ii) the date as of which the New Building is demolished or substantially destroyed;
- (y) “Vancouver” has the meaning ascribed to that term in Recital A(ii); and
- (z) “*Vancouver Charter*” means the *Vancouver Charter*, S.B.C. 1953, c. 55, as may be amended or replaced from time to time.

1.2 Interpretation. In this Agreement:

- (a) *Party*. Any reference to a party herein will be deemed to include the heirs, executors, administrators, successors, assigns, employees, servants, agents, officers, contractors, licensees and invitees of such parties wherever the context so permits or requires.
- (b) *Singular; Gender*. Wherever the singular or masculine or neuter is used in this Agreement, the same will be construed to mean the plural or the feminine or body corporate or politic, and vice versa, as the context or the parties so require.
- (c) *Captions and Headings*. The captions and headings appearing in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any of the provisions hereof.
- (d) *References*. References to the or this “Agreement” and the words “hereof” “herein” and similar words refer to this Agreement as a whole and not to any section or subsection or other subdivision hereof and any reference in this Agreement to a designated Recital, Section, subsection or other subdivision is a reference to the designated Recital, Section, subsection or subdivision hereof.
- (e) *Governing Law*. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in British Columbia. Any reference to a statute is to the statute and its regulations in force on the Effective Date and to subsequent amendments to or replacements of the statute or regulations.
- (f) *Legislation*. Any reference to a statute or by-law includes and is a reference to such statute or by-law and to the regulations made pursuant thereto, with all amendments made thereto and as in force from time to time, and to any statute, by-law and regulations that may be passed which have the effect of supplementing or superseding such statutes, by-laws and regulations.
- (g) *Time*. Time will be of the essence of this Agreement and each part of it. If any party expressly or impliedly waives this requirement, that party may reinstate it by delivering notice to the other party(ies). If a time is specified in this Agreement for observing or performing any obligation, such time will be local Vancouver, British Columbia time.



ARTICLE 2  
RESTRICTIONS ON USE OF LANDS AND SUBDIVISION

2.1 Use of Lands. The Owner covenants and agrees with the City, in respect of the use of the Lands and the construction and use of the New Building, that:

- (a) throughout the Term, the Lands and the New Building will not be used in any way that is inconsistent with the terms of this Agreement;
- (b) the Owner will construct, fit and finish, at its sole cost and expense, the New Building containing not less than 94 Rental Housing Units, in accordance with this Agreement, the Development Permit, the Building Permit and all applicable City by-laws and policies, all to the satisfaction of the City;
- (c) when the New Building is completed and an Occupancy Permit has been issued and thereafter throughout the Term, all Rental Housing Units in the New Building will be used only for the purpose of providing Rental Housing in accordance with the terms of this Agreement, and if the New Building is damaged, destroyed or demolished before the 60 year anniversary of the issuance of the final Occupancy Permit for the New Building, then then it will promptly take all steps reasonably necessary to enable it to repair the New Building or build a replacement building or buildings on the Lands, which repaired or replacement building(s) on the Lands (together with any remaining undestroyed or undemolished building) will also contain not less than 94 Rental Housing Units, which replacement Rental Housing Units will also be used only for the purpose of providing Rental Housing (each such replacement Rental Housing Unit hereinafter referred to as a "Replacement Rental Housing Unit"), in accordance with the terms of this Agreement and the applicable by-laws of the City and which Replacement Rental Housing Units will be subject, for the remaining duration of the Term, to the same use restriction as the Rental Housing Units are pursuant to this Agreement;
- (d) throughout the Term, it will not rent, licence to use or sublet, nor will it allow to be rented, licenced to use or sublet, any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) for a term of less than one month at a time;
- (e) throughout the Term, except by way of a tenancy agreement to which the *Residential Tenancy Act* applies, it will not suffer, cause or permit, beneficial or registered title to any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) to be sold or otherwise transferred unless title to every one of the Rental Housing Units (or Replacement Rental Housing Units, as applicable) is sold or otherwise transferred together and as a block to the same legal or beneficial owner, as applicable, and subject to Section 7.7;
- (f) throughout the Term, it will not suffer, cause or permit, the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, to be subdivided, whether by subdivision plan, strata plan or otherwise, without the prior written consent of the Director of Legal Services which consent may be arbitrarily withheld; provided, however, the Owner may, without obtaining any such consent, subdivide the Lands by strata plan or airspace subdivision plan so long as all of the Rental Housing Units are contained within one strata lot or one airspace parcel, respectively;

- (g) throughout the Term, that any sale of any Rental Housing Unit (or Replacement Rental Housing Unit, as applicable) in contravention of the covenant in Section 2.1(e), and any subdivision of the Lands or the New Building (or any replacement building(s) on the Lands, as applicable) or any part thereof, in contravention of the covenant in Section 2.1(f), will in each case be of no force or effect, and the City will be entitled to the cancellation of the registration of any offending transfer of title or plan, as the case may be, at the Owner's expense;
- (h) throughout the Term, it will keep and maintain the New Building and all parts thereof in good repair and in a safe, clean, neat and tidy condition, to the standard of a reasonable and prudent owner of similar buildings;
- (i) if the New Building, or any part thereof, is damaged during the Term, it will promptly restore and repair the same whenever and as often as damage occurs, to a state and condition that is equal to or greater than the state and condition thereof as existed before such damage occurred; and
- (j) throughout the Term, it will insure, or cause to be insured, the New Building to the full replacement cost against perils normally insured against in Vancouver by reasonable and prudent owners of similar buildings and lands.

### ARTICLE 3 OCCUPANCY RESTRICTION ON THE LANDS

3.1 **No Occupancy.** The Owner covenants and agrees with the City in respect of the use of the Lands and the New Building, that:

- (a) the Lands and the New Building will not be used or occupied except as follows:
  - (i) the Owner will not apply for any Occupancy Permit in respect of, and will not suffer or permit the occupation of, the New Building and will take no action, directly or indirectly, to compel the issuance of any Occupancy Permit until such time as the Owner has delivered, to the General Manager of Planning, Urban Design and Sustainability, in form and substance satisfactory to the General Manager of Planning, Urban Design and Sustainability:
    - (A) proof of the insurance, consistent with the requirements of Section 2.1(j), is in force and effect; and
  - (ii) the City will be under no obligation to issue any Occupancy Permit, notwithstanding completion of construction of the New Building until such time as the Owner has complied with Section 3.1(a)(i); and
- (b) without limiting the general scope of ARTICLE 5, the Owner does hereby waive, remise and release absolutely any and all claims against the City and City Personnel for any Losses that may derive from the withholding of an Occupancy Permit until there is compliance with the provisions of this ARTICLE 3.

**ARTICLE 4  
ENFORCEMENT**

4.1 This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it shall be entitled to court costs on a solicitor and own client basis.

**ARTICLE 5  
RELEASE AND INDEMNITY**

5.1 Release and Indemnity. Subject to Section 5.2, the Owner hereby:

- (a) will not make any claims against the City or City Personnel and releases and discharges the City and all City Personnel from and against all Losses which may arise or accrue to the Owner in connection with this Agreement, including without limitation:
  - (i) by reason of the City or City Personnel:
    - (A) reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
    - (B) performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement;
    - (C) withholding any permit pursuant to this Agreement; or
    - (D) exercising any of its rights under any Section 219 Covenant or other right granted to the City pursuant to this Agreement; or
  - (ii) that arise out of, or would not have been incurred but for this Agreement, whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel, except to the extent such Losses are caused by the gross negligence of the City or the City Personnel; and
- (b) covenants and agrees to indemnify and save harmless the City and City Personnel, from and against all Losses which may arise or accrue to any person, firm or corporation against the City or any City Personnel or which the City or any City Personnel may pay, incur, sustain or be put to, by reason of or which could not have been sustained "but for" any of the following:
  - (i) this Agreement;
  - (ii) the release by the City or any or all of the City's rights under this Agreement or the loss of any rights purported to be granted hereby;
  - (iii) the City or City Personnel;

- (A) reviewing, accepting or approving the design, specifications, materials and methods for construction of the New Building or any part thereof;
  - (B) withholding any permit pursuant to this Agreement;
  - (C) performing any work in accordance with the terms of this Agreement or requiring the Owner to perform any work pursuant to this Agreement; or
  - (D) exercising any of its rights under any Section 219 covenant or other right granted to the City pursuant to this Agreement; or
- (iv) any negligent act or omission or wilful misconduct of the Owner or any of the Owner's Personnel in connection with the observance and performance of the obligations of the Owner under this Agreement; or
  - (v) any default in the due observance and performance of the obligations and responsibilities of the Owner under this Agreement,

whether or not such Losses are the result of, or relate in any way to any negligent acts or omissions on the part of the City or the City Personnel, except to the extent such Losses are caused by the gross negligence of the City or the City Personnel.

The indemnities in this ARTICLE 5 will be both personal covenants of the Owner and integral parts of the Section 219 covenants granted in this Agreement.

#### 5.2 Conduct of Proceedings.

- (a) In the event that a claim is made against the City which, pursuant to the terms of this Agreement, requires the Owner to indemnify the City or City Personnel, then the City will give notice of such claim to the Owner and, subject to Section 5.2(b), the Owner will have the right, upon written notice to the City, to conduct the proceedings in defence of the claim.
- (b) Section 5.2(a) will not apply and the City will have the right to conduct the defence of any claim described in Section 5.2(a) in the following circumstances:
  - (i) where the City Manager determines that the proper administration of the municipal government requires that decisions with respect to the claim be made by the City;
  - (ii) where the City Manager determines that the public interest requires that the matter be resolved in an open and public way; or
  - (iii) where, in the opinion of the City Manager, the claim is of a nature where decisions with respect to settling or defending it would create a precedent with respect to other existing or potential claims affecting or involving the City;

provided however that if the City wishes to settle any claim, the City will not do

so without the prior consent of the Owner, which consent will not be unreasonably withheld. In conducting any defence or making any settlement, the City will act in a manner reasonably consistent with the manner in which the City would act in connection with the defence or settlement of claims, suits, demands, actions or proceedings which would not be indemnified against under the provisions of this Section 5.2(b).

- (c) Regardless of whether the claim is being defended under Section 5.2(a) or Section 5.2(b), the party having conduct of the proceedings will, upon written request of the other party, provide to the other party all information in its possession relating to the proceedings which may be properly disclosed at law. If the party not having conduct of the proceedings so requests in writing in a timely fashion, the party having conduct of the proceedings will join the other party as a third party to the proceedings.

5.3 **Survival of Release and Indemnities.** The release and indemnities in this ARTICLE 5 will remain effective, and survive any modification of, or partial release or release of the covenants created by this Agreement, and any termination of this Agreement, whether by fulfilment of the covenants contained in this Agreement or otherwise.

#### ARTICLE 6 NOTICES

6.1 **Notices.** All notices, demands or requests of any kind which one party may be required or permitted to give to the other in connection with this Agreement, will be in writing and will be given by registered mail or personal delivery, addressed as set forth below. Any such notice, demand or request will be deemed given:

- (a) If to the City, addressed to:

City of Vancouver  
453 West 12th Avenue  
Vancouver, British Columbia  
V5Y 1V4

Attention: General Manager of Planning, Urban Design and Sustainability with a concurrent copy to the Director of Legal Services

- (b) If to the Owner, addressed to:

Hudsonmorris (6495 Main) Projects Corp.  
1600 - 925 West Georgia Street  
Vancouver, British Columbia V6C 3L2

Attention: Jeremy Waldman and Maxwell Carroll

and any such notice, demand or request will be deemed given:

- (c) if made by registered mail, on the earlier of the day receipt is acknowledged by the addressee or the third day after it was mailed, except when there is a postal service disruption during such period, in which case delivery will be deemed to be completed upon actual delivery of the notice, demand or request; and

(d) if personally delivered, on the date when delivered,

or to such other address in Canada as either party may specify in writing to the other party in the manner described above, provided that if and when the owner of the Land or any part thereof should change, in the absence of any such specification, then to the address as set out in the State of Title Certificate for that particular parcel of land.

#### ARTICLE 7 MISCELLANEOUS

7.1 **Agreement Runs With the Lands.** The covenants and agreements set forth herein on the part of the Owner will be covenants the burden of which will run with and will bind the Lands and will attach thereto.

7.2 **Agreement to be a First Charge.** The Owner agrees to cause, at its sole cost and expense, the registrable interests in land expressly agreed to be granted pursuant to this Agreement to be registered as first registered charges against the Lands, save only for any reservations, liens, charges or encumbrances:

- (a) contained in any grant from His Majesty the King in Right of the Province of British Columbia respecting the Lands;
- (b) registered against any of the titles to the Lands at the instance of the City, whether in favour of the City or otherwise, as a condition of any Development Permit; and
- (c) which the Director of Legal Services has determined, in her sole discretion, may rank in priority to the registrable interests in land granted pursuant to this Agreement.

7.3 **Enforcement.** This Agreement may be enforced by mandatory and prohibitory orders of the court. In any action to enforce this Agreement if the City is entitled to court costs, it will be entitled to court costs on a solicitor and own client basis.

7.4 **Enurement.** This Agreement will enure to the benefit of and be binding upon the City and its successors and assigns, and this Agreement will enure to the benefit of and be binding upon the Owner and its successors and assigns.

7.5 **Further Assurances.** The Owner will execute such further and other documents and instruments and do such further and other acts as may be necessary to implement and carry out the provisions and intent of this Agreement including all acts necessary to ensure that this Agreement is noted on title to the Lands.

7.6 **Owner's Representations.** The Owner represents and warrants to and covenants and agrees with the City that:

- (a) it has the full and complete power, authority and capacity to enter into, execute and deliver this Agreement and to bind all legal and beneficial interests in the title to the Lands with the interests in land created hereby;

- (b) upon execution and delivery of this Agreement and registration thereof, the interests in land created hereby will encumber all legal and beneficial interests in the title to the Lands;
- (c) this Agreement will be fully and completely binding upon the Owner in accordance with its terms and the Owner will perform all of its obligations under this Agreement in accordance with its terms; and
- (d) the foregoing representations, warranties, covenants and agreement will have force and effect notwithstanding any knowledge on the part of the City whether actual or constructive concerning the status of the Owner with regard to the Lands or any other matter whatsoever.

**7.7 Sale of Lands or New Building.** Prior to the sale or transfer of any legal or beneficial interest in the Lands and/or the New Building or any part thereof (other than the transfer of an interest in the Lands by way of mortgage), subject always to Sections 2.1(e) and 2.1(f), the Owner will cause the purchaser/transferee to enter into an assumption agreement with the City, in form and substance satisfactory to the Director of Legal Services, pursuant to which the purchaser/transferee will agree to be bound by all of the obligations, agreements and indemnities of the Owner under this Agreement, and upon complying with its obligations under this Section 7.7 and following such sale or transfer of the legal and beneficial interest in the Lands, the transferor Owner will be released from all covenants, agreements and obligations herein contained except for breaches or acts or omissions occurring during its ownership of the Lands and/or the New Building. The provisions in this Section 7.7 will apply equally to all subsequent purchasers/transferees (other than the transfer of an interest in the Lands by way of mortgage).

**7.8 Severability.** All the obligations and covenants contained in this Agreement are severable, so that if any one or more of the obligations or covenants are held by or declared by a court of competent jurisdiction to be void or unenforceable; the balance of the obligations and covenants will remain and be binding.

**7.9 Vancouver Charter.** Nothing contained or implied herein will derogate from the obligations of the Owner under any other agreement with the City or, if the City so elects, prejudice or affect the City's rights, powers, duties or obligations in the exercise of its functions pursuant to the *Vancouver Charter*, and the rights, powers, duties and obligations of the City under all public and private statutes, by-laws, orders and regulations, which may be, if the City so elects, as fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owner and the City.

**7.10 Waiver.** The Owner acknowledges and agrees that no failure on the part of the City to exercise and no delay in exercising any right under this Agreement will operate as a waiver thereof nor will any single or partial exercise by the City of any right under this Agreement preclude any other or future exercise thereof or the exercise of any other right. The remedies herein provided will be cumulative and not exclusive of any other remedies provided by law and all remedies stipulated for the City herein will be deemed to be in addition to and not, except as herein expressly stated, restrictive of the remedies of the City at law or in equity.

IN WITNESS WHEREOF the parties have executed this Agreement on the Forms C or D which are a part hereof.

## CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charge" means the Mortgage registered under number CA9263398 and the Assignment of Rents registered under number CA9263399;
- (b) "Existing Chargeholder" means Peoples Trust Company;
- (c) "New Charges" means the charges contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the meaning ascribed to them in the attached Terms of Instrument - Part 2.

For \$10.00 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 City; and
- (ii) agrees with the City that the New Charges charge the Lands in priority to the Existing Charge 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 or registration of the Existing Charge or the advance of any money under the Existing Charge.

To witness this consent and priority instrument, the Existing Chargeholder has caused its duly authorized signatories to sign the attached General Instrument - Part 1.



### CONSENT AND PRIORITY INSTRUMENT

In this consent and priority instrument:

- (a) "Existing Charge" means the Mortgage registered under number CA9263400 and the Assignment of Rents registered under number CA9263401;
- (b) "Existing Chargeholder" means Peterson Investment Group Inc.;
- (c) "New Charges" means the charges contained in the attached Terms of Instrument - Part 2; and
- (d) words capitalized in this instrument, not otherwise defined herein, have the meaning ascribed to them in the attached Terms of Instrument - Part 2.

For \$10.00 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 City; and
- (ii) agrees with the City that the New Charges charge the Lands in priority to the Existing Charge 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 or registration of the Existing Charge or the advance of any money under the Existing Charge.

To witness this consent and priority instrument, the Existing Chargeholder has caused its duly authorized signatories to sign the attached General Instrument - Part 1.

END OF DOCUMENT

**EXPLANATION**

**A By-law to amend the Sign By-law  
Re: 6409-6461 Cambie Street and 505 West 49th Avenue**

Following the Public Hearing on April 12, 2022, Council resolved to amend the Sign By-law for this site. Enactment of the attached by-law will implement Council's resolution.

Director of Legal Services  
July 11, 2023



**EXPLANATION**

**A By-law to amend the Noise Control By-law  
Re: 6409-6461 Cambie Street and 505 West 49th Avenue**

After the Public Hearing on April 12, 2022, Council resolved to amend the Noise Control By-law regarding this site. Enactment of the attached by-law will implement Council's resolution.

Director of Legal Services  
July 11, 2023



## EXPLANATION

### **A By-law to amend the Sign By-law Re: 3304 Kingsway**

Following the Public Hearing on January 18, 2022, Council resolved to amend the Sign By-law for this site. Enactment of the attached by-law will implement Council's resolution.

Director of Legal Services  
July 11, 2023



**EXPLANATION****A By-law to amend the Noise Control By-law  
Re: 3304 Kingsway**

After the Public Hearing on January 18, 2022, Council resolved to amend the Noise Control By-law regarding this site. Enactment of the attached by-law will implement Council's resolution.

Director of Legal Services  
July 11, 2023





**EXPLANATION****A By-law to amend the Sign By-law  
Re: 5670 Cambie Street (formerly 495 West 41st Avenue)**

Following the Public Hearing on June 21, 2022, Council resolved to amend the Sign By-law for this site. Enactment of the attached by-law will implement Council's resolution.

Director of Legal Services  
July 11, 2023

5670 Cambie Street  
(formerly 495 West 41st Avenue)

**BY-LAW NO.**

**A By-law to amend Sign By-law No.11879**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This by-law amends the indicated provisions of Sign By-law No. 11879.
2. Council amends Schedule A (CD-1 Zoning Districts regulated by Part 9) by adding the following:

“

5670 Cambie Street (formerly 495 West 41st Avenue)	CD-1(855)	13744	C-2
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”

3. This by-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Acting City Clerk

**EXPLANATION****A By-law to amend the Noise Control By-law  
Re: 5670 Cambie Street (formerly 495 West 41st Avenue)**

After the Public Hearing on June 21, 2022, Council resolved to amend the Noise Control By-law regarding this site. Enactment of the attached by-law will implement Council's resolution.

Director of Legal Services  
July 11, 2023



**EXPLANATION****A By-law to amend  
Zoning and Development By-law No. 3575  
to rezone an area to CD-1**

Following the Public Hearing on October 14, 2021, Council gave conditional approval to the rezoning of the site at 4575 Granville Street. The Director of Legal Services has advised that all prior to conditions have been met, and enactment of the attached by-law will implement Council's resolutions.

Director of Legal Services  
July 11, 2023

4575 Granville Street

**BY-LAW NO. \_\_\_\_\_**

**A By-law to amend  
Zoning and Development By-law No. 3575  
to rezone an area to CD-1**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

**Zoning District Plan Amendment**

1. This by-law amends the Zoning District Plan attached as Schedule D to By-law No. 3575, and amends or substitutes the boundaries and districts shown on it, according to the amendments, substitutions, explanatory legends, notations, and references shown on the plan attached as Schedule A to this by-law, and incorporates Schedule A into Schedule D of By-law No. 3575.

**Designation of CD-1 District**

2. The area shown within the heavy black outline on Schedule A is hereby designated CD-1 (857).

**Uses**

3. Subject to Council approval of the form of development, to all conditions, guidelines and policies adopted by Council, and to the conditions set out in this by-law or in a development permit, the only uses permitted within this CD-1 and the only uses for which the Director of Planning or Development Permit Board will issue development permits are:

- (a) Dwelling Uses, limited to Multiple Dwelling; and
- (b) Accessory Uses customarily ancillary to the uses permitted in this section.

**Conditions of Use**

4. The design and layout of at least 35% of the dwelling units must:

- (a) be suitable for family housing; and
- (b) include two or more bedrooms.

**Floor Area and Density**

5.1 Computation of floor area must assume that the site area is 1,626 m<sup>2</sup>, being the site area at the time of the application for the rezoning evidenced by this by-law, prior to any dedications.

5.2 The floor space ratio for all uses combined must not exceed 1.23.

5.3 Computation of floor area must include all floors having a minimum ceiling height of 1.2 m, both above and below base surface, measured to the extreme outer limits of the building.

5.4 Computation of floor area must exclude:

- (a) balconies and decks, and any other appurtenances which in the opinion of the Director of Planning are similar to the foregoing, except that:
  - (i) the total area of all such exclusions must not exceed 12% of the floor area being provided for dwelling uses, and
  - (ii) the balconies must not be enclosed for the life of the building;
- (b) patios and roof decks, if the Director of Planning first approves the design of sunroofs and walls;
- (c) where floors are used for off-street parking and loading, the taking on or discharging of passengers, bicycle storage, heating and mechanical equipment, or uses which in the opinion of the Director of Planning are similar to the foregoing, those floors or portions thereof so used that are at or below base surface, except that the exclusion for a parking space must not exceed 7.3 m in length;
- (d) amenity areas accessory to a residential use, to a maximum of 10% of the total floor area being provided for dwelling uses; and
- (e) all residential storage area above or below base surface, except that if residential storage area above base surface exceeds 3.7 m<sup>2</sup> for a dwelling unit, there will be no exclusion for any of the residential storage area above base surface for that unit.

**Building Height**

6. Building height, measured from base surface, must not exceed 11.9 m.

**Horizontal Angle of Daylight**

7.1 Each habitable room must have at least one window on an exterior wall of a building.

7.2 The location of each such exterior window must allow a plane or planes extending from the window and formed by an angle of 50 degrees, or two angles with a sum of 70 degrees, to encounter no obstruction over a distance of 24.0 m.

7.3 Measurement of the plane or planes referred to in section 7.2 must be horizontally from the centre of the bottom of each window.

7.4 The Director of Planning or Development Permit Board may relax the horizontal angle of daylight requirement if the Director of Planning or Development Permit Board first considers all the applicable policies and guidelines adopted by Council and the minimum distance of unobstructed view is not less than 3.7 m.

7.5 An obstruction referred to in section 7.2 means:

- (a) any part of the same building including permitted projections; or



(b) the largest building permitted under the zoning on any adjoining site.

7.6 A habitable room referred to in section 7.1 does not include:

(a) a bathroom; or

(b) a kitchen whose floor area is the lesser of:

(i) 10% or less of the total floor area of the dwelling unit, or

(ii) 9.3 m<sup>2</sup>.

### **Acoustics**

8. A Development Permit application for dwelling uses must include an acoustical report prepared by a registered professional acoustical engineer demonstrating that the noise levels in those portions of the dwelling units listed below will not exceed the noise levels expressed in decibels set opposite such portions of the dwelling units. For the purposes of this section, the noise level is the A-weighted 24-hour equivalent (Leq24) sound level and will be defined simply as noise level in decibels.

<b>Portions of dwelling units</b>	<b>Noise levels (Decibels)</b>
Bedrooms	35
Living, dining, recreation rooms	40
Kitchen, bathrooms, hallways	45

### **Zoning and Development By-law**

9. Sections 2 through 14 of the Zoning and Development By-law apply to this by-law.

### **Severability**

10. A decision by a court that any part of this by-law is illegal, void, or unenforceable severs that part from this by-law, and is not to affect the balance of this By-law.

### **Force and Effect**

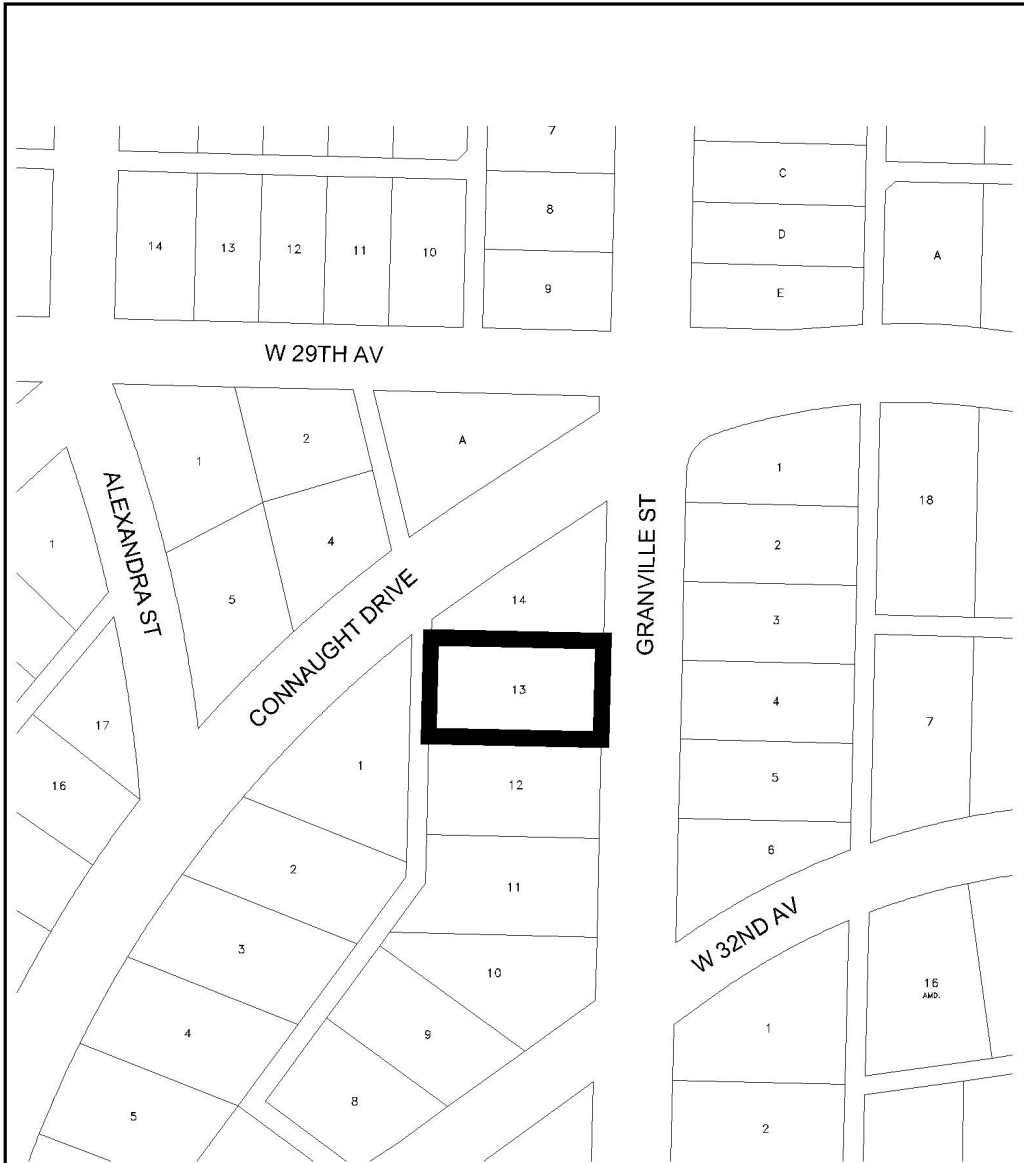
11. This by-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this      day of      , 2023


\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Acting City Clerk

**Schedule A**



The property outlined in black ( **█** ) is rezoned:  
 From **RS-5** to **CD-1**

RZ - 4575 Granville Street	map: 1 of 1	
	scale: NTS	
<b>City of Vancouver</b>	date: 2021-10-14	