



REPORT

Report Date: October 3, 2023
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Meeting Date: October 17, 2023
[Submit comments to Council](#)

TO: Vancouver City Council

FROM: General Manager of Planning, Urban Design and Sustainability

SUBJECT: Directions Report: Consideration of Modification to Conditions of Approval -
1450 West Georgia Street, 1157 Burrard Street and 1640-1650 Alberni
Street

RECOMMENDATION

- A. THAT Council approves an amendment to Council's approval in principle of the rezoning application for 1450 West Georgia Street by amending rezoning Condition of Approval 2.17 (set out in Appendix B – Part 2 of the Referral Report, enclosed as Appendix A of this report) to grant a 6 month extension to the current deadline for enactment of the CD-1 By-law and instructs the Director of Legal Services to make any appropriate modifications to the legal agreements and securities to give effect to this modification, as may be required at the discretion of the Director of Legal Services.
- B. THAT Council approves an amendment to Council's approval in principle of the rezoning application for 1157 Burrard Street by amending rezoning Condition of Approval 2.12 (set out in Appendix B – Part 2 of the Referral Report, enclosed as Appendix B of this report) to grant a 6 month extension to the current deadline for enactment of the CD-1 By-law and instructs the Director of Legal Services to make any appropriate modifications to the legal agreements and securities to give effect to this modification, as may be required at the discretion of the Director of Legal Services.
- C. THAT Council approves an amendment to Council's approval in principle of the rezoning application for 1640 – 1650 Alberni Street by amending rezoning Condition of Approval 2.11 (e) (set out in Appendix B – Part 2 of the Referral Report, enclosed as Appendix C of this report) to grant a 6 month extension to the current deadline for enactment of the CD-1 By-law, as described in this report, and instructs the Director of Legal Services to make any appropriate

modifications to the legal agreements and securities to give effect to this modification, as may be required at the discretion of the Director of Legal Services.

FOR CONSIDERATION

- D. THAT, in addition to Recommendation A, Council approves a further amendment to rezoning Condition of Approval 2.17 (as noted above in Recommendation A) for the rezoning of 1450 West Georgia Street to grant an additional 6 month extension, totalling a 12 month extension to the deadline for enactment of the CD-1 By-law, and instructs the Director of Legal Services to make any appropriate modifications to the legal agreements and securities to give effect to this modification, as may be required at the discretion of the Director of Legal Services;

FURTHER THAT interest be accrued from the amended deadline for enactment of the CD-1 By-law, pursuant to Recommendation A, until such time that the CAC obligation is satisfied pursuant to the Condition of Approval, as amended pursuant to Recommendation A.

- E. THAT, in addition to Recommendation B, Council approves a further amendment to rezoning Condition of Approval 2.12 (as noted above in Recommendation B) for the rezoning of 1157 Burrard Street to grant an additional 6 month extension, totalling a 12 month extension to the deadline for enactment of the CD-1 By-law, and instructs the Director of Legal Services to make any appropriate modifications to the legal agreements and securities to give effect to this modification, as may be required at the discretion of the Director of Legal Services;

FURTHER THAT interest be accrued from the amended deadline for enactment of the CD-1 By-law pursuant to Recommendation B until such time that the CAC obligation is satisfied pursuant to the Condition of Approval.

- F. THAT, in addition to Recommendation C, Council approves a further amendment to rezoning Condition of Approval 2.11 (e) (as noted in Recommendation C) for the rezoning of 1640-1650 Alberni Street to grant an additional 6 month extension, totalling a 12 month extension to the deadline for enactment of the CD-1 By-law, and instructs the Director of Legal Services to make any appropriate modifications to the legal agreements and securities to give effect to this modification, as may be required at the discretion of the Director of Legal Services;

FURTHER THAT interest be accrued from the amended deadline for enactment of the CD-1 By-law, pursuant to Recommendation C until such time that the CAC obligation is satisfied pursuant to the Condition of Approval.

REPORT SUMMARY

This report evaluates proposed modifications to the conditions of approval relating to Council's approval in principle for each of the respective rezoning applications for 1450 West Georgia Street, 1157 Burrard Street & 1640-1650 Alberni Street. These projects were approved by Council following Public Hearings in 2021. The purpose of this report is to seek Council direction to amend the respective Council approved Conditions of Approval, as set out in Appendix B – Part 2 of the respective rezoning Referral Reports, by extending the deadline for enactment of the CD-1 By-law for each of the respective approvals in principle, in relation to the conditions for a Community Amenity Contribution (CAC).

COUNCIL AUTHORITY/PREVIOUS DECISIONS

- Community Amenity Contributions (CAC) Policy for Rezoning (2020)
- Council's approval in principle of the Rezoning application for 1450 West Georgia Street on October 12, 2021
- Council's approval in principle of the Rezoning application for 1157 Burrard Street on October 12, 2021
- Council's approval in principle of the Rezoning application for 1640-1650 Alberni Street on December 9, 2021

REPORT

Background/Context

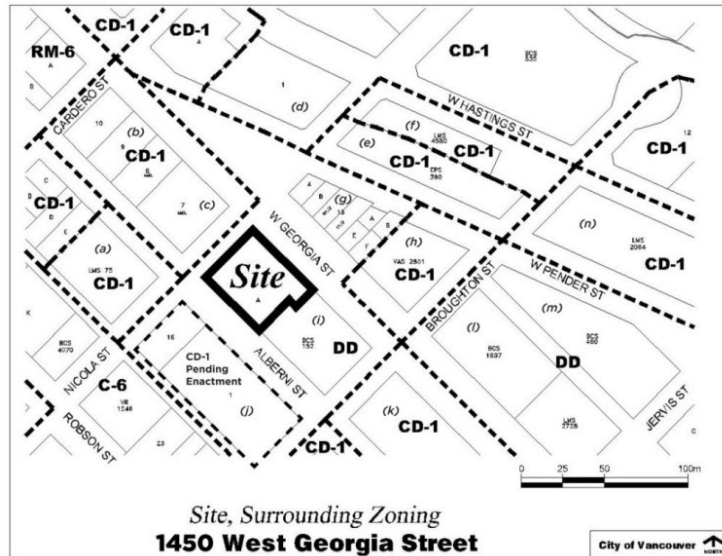
1. Background

Council considered and approved in principle the rezoning applications, respectively, for 1450 West Georgia Street, 1157 Burrard Street & 1640-1650 Alberni Street following Public Hearings in fall of 2021 (the "Rezoning Lands"). The CD-1 By-laws for the respective Rezoning Lands have not yet been enacted by Council. A brief description of each project is below.

Rezoning Application Summary

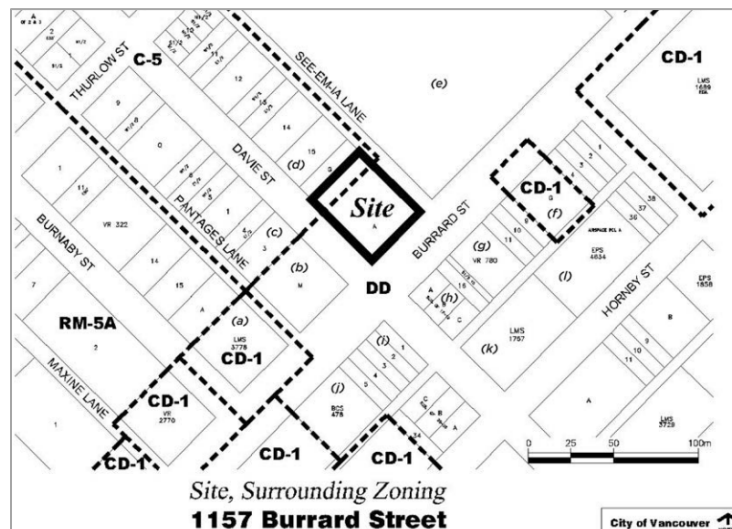
- **1450 West Georgia Street** – Wesgroup Properties, on behalf of 1450 West Georgia Investments Ltd, submitted a proposal for a 49-storey mixed-use building with a floor area of 26,604 sq. m (286,363 sq. ft.) and a floor space ratio (FSR) of 14.14. A total of 193 market strata units and 162 market rental units are proposed. The proposal includes a cash community amenity contribution of \$8,900,000 payable prior to enactment of the CD-1 By-law. As discussed below, there is a condition of approval to bring forward the CD-1 Bylaw for Council's consideration and enactment within 24 months following Council's approval in principle.
 - **Council Approved in Principle – October 12, 2021**
 - **Target Enactment deadline – October 12, 2023**

Figure 1: 1450 West Georgia Street and surrounding zoning



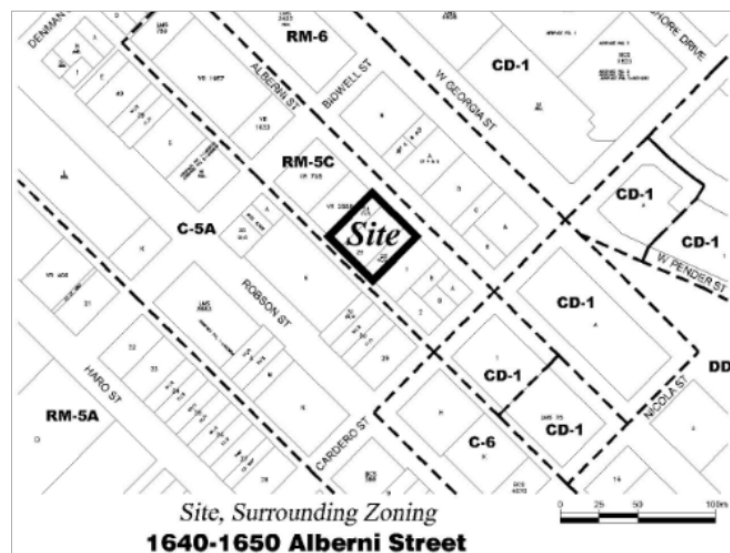
- **1157 Burrard Street** – Merrick Architecture, on behalf of Prima Properties (135) Ltd., submitted a proposal for a 47-storey mixed-use building with a floor area of 26,850 sq. m (289,014 sq. ft.) and a floor space ratio (FSR) of 13.37 FSR. A total of 289 strata-titled residential units, commercial units at grade, a 37-space childcare facility and a 1,466 sq. m (15,781 sq. ft.) arts and culture hub is proposed, as well as a cash CAC of \$10,600,000 payable prior to enactment of the CD-1 By-law. As discussed below, there is a rezoning condition of approval to bring forward the CD-1 Bylaw for Council’s consideration and enactment within 24 months following Council’s approval in principle.
 - **Council Approved in Principle – October 12, 2021**
 - **Target Enactment deadline – October 12, 2023**

Figure 2: 1157 Burrard Street and surrounding zoning



- **1640-1650 Alberni Street** – IBI Group, on behalf of 1650 Alberni Residential Ltd. and 1650 Alberni Commercial Ltd., submitted a proposal for a 43-storey residential building comprised of approximately 198 strata-titled residential units and 66 secured rental units. The required rental floor area provides that 20% is proposed to be below-market rental. A height of 117.3 m (385 ft.) and an FSR of 14.97 are proposed. A cash CAC payment of \$32,700,000, subject to a phased CAC payment, is a condition of enactment. As discussed below, there is a condition of approval to bring forward the CD-1 Bylaw for Council’s consideration and enactment within 24 months following Council’s approval in principle.
 - **Council Approved in Principle – December 9, 2021**
 - **Target Enactment deadline – December 9, 2023**

Figure 3: 1640-1650 Alberni Street and surrounding zoning



2. Policy Context

Community Amenity Contribution (CAC) – In accordance with City’s Financing Growth Policy, an offer of a Community Amenity Contribution to address the impacts of rezoning was secured for the respective Rezoning Lands. CACs are typically made through the provision of either on-site amenities or a cash contribution towards public benefits and takes into consideration community needs, area deficiencies and the impact of the proposed development on City services. As part of these applications, the applicants offered in-kind amenities and/or cash CACs (noted above), which were supported by the Staff and approved by Council following a Public Hearing. The cash CAC will be allocated to support delivery of the West End Public Benefits Strategy.

Performance obligation to enact the CD-1 By-law – *The Community Amenity Contributions Policy for Rezoning*s and West End Community Plan currently allows for CACs to be negotiated and for Council to approve conditions relating to the rezoning proposal. These applications were subject to extensive negotiations in 2019/2020 between the applicant and staff. Given the market uncertainty at the time (start of the pandemic) and the City’s intent to advance these projects to construction in a timely manner, Council approved the CAC offering and the

recommended performance obligation for the respective applicants to satisfy their rezoning conditions so that the respective CD-1 By-laws could be brought forward to Council for consideration and enactment. The resolution of these negotiations and the 24 month performance obligation was to encourage and support the timely delivery of much needed housing.

The enactment process and steps to satisfy the rezoning conditions of approval is largely applicant driven. At the time of the Public Hearings in 2021, enactment trend data showed that over 95% of rezoning applications proceeded to zoning enactment within 24 months of the Public Hearing. Accordingly, staff established this benchmark as a performance measure for these and other rezoning proposals in the West End Community Plan area. As such, the Condition of Approval stipulate that if enactment of the CD-1 By-law has not occurred prior to the date that is 24 months following the date of Council's approval in principle of this rezoning application, then the approval in principle may at such time be terminated, revoked, rescinded or reconsidered by Council, at its sole discretion, and the rezoning application or a revised rezoning application may be required to return to public hearing and shall in any event be brought to Council for consideration and approval, including of an appropriate CAC offering at such time.

Strategic Analysis

The applicants are requesting to modify the Condition of Approval relating to the performance obligation of securing an enacted CD-1 By-law for the rezoning application within 24 months of Council's approval in principle. For 1450 West Georgia Street and 1157 Burrard Street, the 24 month period is coming due in October 2023, while 1640-1650 Alberni Street is coming due in December 2023. The applicants have all requested a 12 month extension to this requirement (i.e. extending the performance obligation to enact the CD-1 By-law within 24 months of Council's approval in principle, to 36 months following such date).

Staff and the applicant teams have worked closely together to advance the respective agreements and Conditions of Approval, as well as the development permit applications which have been filed and under review for each project. Though it may have been possible for the applicant to have achieved enactment of the CD-1 By-laws for each of the rezoning applications within the 24 month timeframe, staff would characterize the process and effort on the part of the applicants as being supportive and interested in advancing their respective projects. A number agreements and conditions have been satisfied, with only a few outstanding Conditions of Approval remaining for each project. Based on the latest assessment of the remaining Conditions of Approval, staff believe that the various agreements can be negotiated and finalized, such that the CD-1 By-laws may be presented to Council for consideration and enactment with a 6 month extension (rather than the requested 12 month time period).

Staff have carefully considered these requests, and have sought direction from the City's Risk Management Committee (RMC), which is responsible for reviewing and making recommendations to Council pertaining to deviations from Council's adopted CAC Policy. The recommendation from RMC is to accept the requests for an extension, but limit such extension to 6 months to ensure the timely delivery of housing and the CAC offerings.

Table 1: Summary, staff recommended modifications

Rezoning Application	Public Hearing Date	30 Months following Public Hearing (6 month extension)
1450 W Georgia St	October 12, 2021	April 12, 2024
1157 Burrard St	October 12, 2021	April 12, 2024
1640-1650 Alberni St	December 9, 2021	June 9, 2024

Subject to Council approval of the proposed modification to the original Condition of Approval, staff will work with the respective applicants to amend or replace the existing or proposed legal agreements, legal covenants and financial securities that are contemplated in the Conditions of Approval to give effect to this direction.

Should Council wish to grant a 12-month extension as requested by the applicants, staff have prepared additional resolutions D, E and F for Council’s consideration. Given the intention of delivering housing in a timely manner and the respective statuses of the three projects, staff do not recommend a 12-month extension as the remaining Conditions of Approval are expected to be satisfied within 6-month extension, as recommended by staff.

Staff would like to note that CACs are determined in accordance with the Council adopted CAC Policy, and CACs (cash or in-kind) are generated in connection with a rezoning application to provide for public amenities and infrastructure to address the impacts of growth. Most rezoning applicants advance their projects to enactment within 24 months of Council’s approval in principle.

Cash CACs, secured in principle at a Public Hearing, diminish in value over time. In an environment of significant cost escalation, the longer the delay between Council’s approval in principle and By-law enactment, the higher the cost to the City for the delivery of public amenities and infrastructure. To preserve the purchasing power of the cash CACs for each of these projects, Council could apply interest, at prime rate plus 2% (per Bank of Montreal daily prime rates), to the outstanding cash CAC balance commencing after the 6-month extension, if approved by Council, until such time that the CAC obligation is satisfied. Interest will be accrued to the total cash CAC obligation and paid to the City prior to the enactment of the CD-1 by-law. This would allow for a 6-month grace period where no interest is applied (Recommendations A, B & C), and interest would only be accrued and added to the CAC balance payable following that initial 6-month period until such time as the obligation is satisfied (Considerations D, E & F).

Financial Implications

The rezoning Condition of Approval 2.17 for 1450 West Georgia Street requires a cash CAC of \$8.9 million payable prior to enactment of the CD-1 By-law.

The rezoning Condition of Approval 2.12 for 1157 Burrard Street requires a cash CAC of \$10.6 million payable prior to enactment of the CD-1 By-law.

The rezoning Condition of Approval 2.11 for 1640-1650 Alberni Street requires a cash CAC of \$32.7 million subject to a phased CAC payment.

Subject to Council approval, the cash CACs payable prior to enactment will continue to be applied through the Conditions of Approval, and the respective timelines for receipt of funds will be extended. It should be noted that the proposed modifications are considered on a case-by-case basis, and for the reasons set out above, staff support the 6-month extension. Council's consideration of this request does not constitute a change to the City's CAC Policy.

Legal Implications

The respective applicants are required to make payment of the rezoning Conditions of Approval for the CAC prior to enactment. Subject to Council's consideration, the obligation to enact the respective CD-1 By-laws will be extended as may be approved by Council pursuant to this Report. The City has taken and will continue to take the appropriate steps to secure the CAC obligations through the payment of cash CACs prior to enactment, and secure the delivery of amenities and deferred cash CACs through legal agreements, legal covenants and financial securities. The existing or proposed legal agreements, legal covenants and financial securities will be modified or replaced to give effect to this direction.

CONCLUSION

Pursuant to the recommendations from the Risk Management Committee, the General Manager of Planning, Urban Design and Sustainability recommends approval of the amendments, as set out in Recommendations A, B and C, to the rezoning Conditions of Approval, as set out in Appendix B – Part 2 for each of the respective rezoning application that received Council's approvals in principle, enclosed in the Appendices of this report.

Staff review of the proposed modifications noted in the Staff Recommendations to the respective Condition of Approval has concluded that the change is supportable and the payment will contribute to the delivery of public benefits consistent with the directions of the West End Community Plan and accompanying West End Public Benefits Strategy. The modification to the timing for enactment of the CD-1 By-law will not negatively impact the City's ability in achieving key public benefit objectives in and around the West End neighbourhood.

* * * * *

Appendix A
1450 West Georgia Street - Condition of Approval 2.17, as amended
(Appendix B – Part 2 of the Referral Report)

Referral Report ([link](#))

Community Amenity Contribution (CAC)

- 2.17 Pay to the City the cash Community Amenity Contribution of \$8,900,000 (cash CAC offering) which the applicant has offered to the City. 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. The \$8,900,000 is to be allocated to support delivery of the West End Community Plan Benefits Strategy.

If enactment of the rezoning by-law has not occurred prior to the date that is **24 30** months following the date of Council's approval in principle of this rezoning application, then the approval in principle may at such time be terminated, revoked, rescinded or reconsidered by Council. The rezoning application or a revised rezoning application may be required to return to public hearing and shall in any event be brought to Council for consideration and Council's approval, including an appropriate CAC offering at such time.

Note: 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 Covenants pursuant to Section 219 of 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-laws.

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.

Appendix B
1157 Burrard Street - Condition of Approval 2.12, as amended
(Appendix B – Part 2 of the Referral Report)

Referral Report ([link](#))

Community Amenity Contribution (CAC) – Cash Payments

- 2.12 Pay to the City the cash component of the Community Amenity Contribution of \$10,600,000 (cash offering) which the applicant has offered to the City to support delivery of the West End Community Plan Benefits Strategy.

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 Covenants pursuant to Section 219 of the Land Title Act.

Note to applicant: If enactment of the rezoning by-law has not occurred prior to the date that is **24 30** months following the date of Council's approval in principle of this rezoning application, then the approval in principle may at such time be terminated, revoked, rescinded or reconsidered by Council, in its sole discretion. The rezoning application or a revised rezoning application may be required to return to public hearing and shall in any event be brought to Council for consideration and Council's approval, including of an appropriate CAC offering at such time.

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-laws.

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.

Appendix C
1640 – 1650 Alberni Street - Condition of Approval 2.11 (e), as amended
(Appendix B – Part 2 of the Referral Report)

Referral Report ([link](#))

Community Amenity Contribution (CAC) – Cash Payments

- 2.11 Pay to the City the cash Community Amenity Contribution of \$32,700,000 (cash CAC offering) which the applicant has offered to the City to support delivery of the West End Community Plan Public Benefits Strategy. Payment of the CAC is to be made as outlined below, at no cost to the City, and on terms and conditions and in a form satisfactory to the Director of Legal Services:
- (a) \$20,000,000 must be paid by wire transfer prior to the enactment of the rezoning By-law;
 - (b) \$12,700,000 (the “Outstanding Balance”) must be secured with the City prior to enactment of the CD-1 By-law pursuant to 2.11 (d and e), and must be paid by wire transfer by the earlier of the following dates: (i) the issuance of the first building permit on the Rezoned Lands; and (ii) the date that is 24 months (measured in calendar days) following the date of enactment of the CD-1 By-law for the Rezoned Lands; and (iii) for certainty, the City is entitled to full payment of the Outstanding Balance on that date which is 2 year after the date of enactment of the CD-1 By-law; and
 - (c) The Outstanding Balance will be charged interest from the enactment date of the rezoning By-law for the Rezoned Lands at prime plus 2% (per Bank of Montreal daily prime rates) with interest paid to the City on quarterly instalments until the date that such amount is fully paid.
 - (d) The Applicant will enter into a Deferred CAC Agreement (which may be in the City’s sole discretion be registered on title to the Rezoned Lands), which will set out the particulars and obligations of the Applicant in respect of the payment of the Outstanding Balance, as provided for herein, all on terms and conditions to the satisfaction of the Director of Legal Services, including a requirement that if the Applicant should sell (in whole or in part), its interest in the development of the Rezoned Lands or shares in the owner or corporations which hold legal or beneficial interest in the owner of this development, then the City may immediately draw down all of the hereinafter described as the Letter of Credit security upon the closing of such sale transaction.
 - (e) The Outstanding Balance will be secured with the City in the following manner: \$12,700,000 will be secured by a Letter of Credit in a form and on such terms and conditions in the sole discretion of the Director of Legal Services and Director of Finance and the Letter of Credit must be, provided to the City prior to enactment of the rezoning By-law. (Collectively called the “City Security”) The City will be entitled to realize on the foregoing security if the required payments are not made to the City

in the amounts and at the times set out above. The deferred payments and interest will also be secured by building permit and occupancy permit holds for the development and Section 219 covenants registered in the Land Title Act, as appropriate, on terms and conditions to the satisfaction of the Director of Legal Services in priority to all other registered parties and to be released only on confirmation of receipt by the City of the full payment of the CAC offering and interest. If enactment of the rezoning By-law has not occurred prior to the date that is ~~24~~ 30 months following the date of Council's approval in principle of this rezoning application, then the approval in principle may at such time be terminated, revoked, rescinded or reconsidered by Council, in its sole discretion, and the rezoning application or a revised rezoning application may be required to return to public hearing and shall in any event be brought to Council for consideration and Council's approval, including of an appropriate CAC offering at such time.