



## Committee of the Whole Report

### For the Meeting of November 23, 2023

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**To:** Committee of the Whole **Date:** November 9, 2023

**From:** Karen Hoese, Director, Sustainable Planning and Community Development

**Subject:** **Rezoning Application No. 00843 and associated Development Permit with Variances Application No. 00257 for 133 and 135 Gorge Road East**

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## RECOMMENDATION

### Rezoning Application

1. That Council instruct the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff report dated October 26, 2023, for 133 and 135 Gorge Road East.
2. That, pursuant to section 30 of the *Land Use Procedures Bylaw*, Council waives the requirement for the holding of a public hearing.
3. That, after publication of notification in accordance with section 467 of the Local Government Act first, second, and third reading of the zoning bylaw amendment be considered by Council once the following conditions are met:
  - a. the following revisions to the plans, to the satisfaction of the Director of Sustainable Planning and Community Development:
    - i. confirmation that the glass atrium connecting the two portions of the Phase One building incorporates bird-friendly design elements.
  - b. the following revisions to the plans, to the satisfaction of the Director of Engineering and Public Works:
    - i. revisions to the Gorge Road East SRW design to ensure a continuous accessible grade is maintained.
  - c. the following revisions to the plans, to the satisfaction of the Director for Parks, Facilities, and Recreation to address outstanding comments including:
    - i. confirm that Tree Minimum will be met on Phase One
    - ii. confirm that replacement tree plan meets the siting, soil volume and other requirements outlined in the Tree Protection Bylaw No. 21-035, Schedule E.

- iii. a letter of consent from the owner at 123 Gorge Road East, agreeing to the removal of shared tree #765
    - iv. one additional boulevard tree to be planted on Gorge Road East frontage.
  - d. adjustments to the proposed variances necessary to accommodate the required plan revisions.
- 4. That following the third reading of the zoning amendment bylaw, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Sustainable Planning and Community Development and form satisfactory to the City Solicitor prior to adoption of the bylaw:
  - a. the property shall be rental in perpetuity
  - b. a Tenant Assistance Plan to be provided prior to Development Permit for Phase Two
  - c. a unit mix consisting of a minimum of forty junior two-bedroom units, thirty-two two-bedroom units and sixteen three-bedroom units.
- 5. That following the third reading of the zoning amendment bylaw, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor prior to adoption of the bylaw:
  - a. reciprocal access agreements between 137, 133, and 129-135 Gorge Road East registered over all lots for the purpose of driveway with a minimum width of 6 m
  - b. a statutory right-of-way of 4.94 m wide on Gorge Road East for highway purposes
  - c. a statutory right-of-way of a minimum of 2m wide on 133 Gorge Road East to provide pedestrian access from Gorge Road East to the northern boundary of 129-135 Gorge Road East
  - d. a blanket statutory right-of-way over 129-135 Gorge Road East for pedestrian access purposes, in accordance with the following requirements:
    - i. the statutory right-of-way location and design will generally be in the location in the plans dated October 27, 2023, and will be finalized prior to issuance of the Phase Two Development Permit
    - ii. the statutory right-of-way will connect the south end of 133 Gorge Road East to the Gorge waterway and be a minimum of 2m wide
    - iii. the owner may occupy and maintain the existing building within the right of way area until it is substantially destroyed or damaged.
  - e. a statutory right-of-way of a minimum of 15 m as measured from top of bank along the Gorge waterway for pedestrian access purposes, in accordance with the following requirements:
    - i. the statutory right-of-way location and design will generally be in the location in the plans dated October 27, 2023, and will be finalized prior to issuance of the Phase Two Development Permit
    - ii. the statutory right-of-way will provide pedestrian access along the Gorge waterway
    - iii. the owner may occupy and maintain the existing building within the right of way area until it is substantially destroyed or damaged.
  - f. provision of transportation demand management measures including:
    - i. three car share vehicles, one to be delivered within Phase 1, and two to be delivered with Phase 2,
    - ii. three shared vehicle parking stalls equipped with dual EV chargers,

- iii. public access to the shared vehicle parking stalls,
  - iv. car share memberships and usage credits for residential units without access to a parking space
  - v. ten percent of required bicycle parking to be oversized to accommodate cargo bikes
  - vi. fifty percent of the required long term bicycle parking to have access to an electrical outlet for charging
  - vii. BC Transit Eco-passes for ten percent of residential units for a minimum 5-year term
  - viii. a bicycle maintenance station in each building of both Phase One and Phase Two for a total of five stations.
- g. a Section 219 covenant to secure provision of the following public realm improvements:
- i. soil cells to achieve recommended soil volumes for all new street trees
  - ii. boulevard rain gardens on the municipal frontage of Gorge Road East in accordance with landscaping plans dated October 27, 2023.
6. That adoption of the zoning bylaw amendment will not take place until all of the required legal agreements that are registrable in the Land Title Office have been so registered to the satisfaction of the City Solicitor.
7. That subject to adoption of the zoning bylaw amendment, Council authorize the projecting encroachments over the City right of way on Gorge Road East generally as shown on the plans submitted to the City and date stamped October 27, 2023, provided that the applicant enters into an encroachment agreement with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor at the time of building permit approval.
8. That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

### **Development Permit with Variance Application**

That Council, after giving notice and after the public hearing for Rezoning Application No. REZ00843 if it is approved, consider the following motion:

- “1. That subject to the adoption of the necessary Zoning Regulation Bylaw amendment, Council authorize the issuance of Development Permit with Variances No. 000627 for 133 and 135 Gorge Road East, in accordance with plans submitted to the Planning department and date stamped by Planning on October 27, 2023, subject to:
- a. proposed development meeting all City zoning bylaw requirements, except for the following variances:
    - i. increase the Phase One building storeys from six storeys to seven storeys
    - ii. increase the Phase One building height from 18.5m to 22.0m
    - iii. reduce the Phase One residential parking from 165 stalls to 95 stalls
    - iv. reduce the Phase One visitor parking from 18 stalls to 15 stalls
    - v. reduce the open site space from 50.0 percent to 41.0 percent.
2. That the Development Permit with Variances, if issued, lapses two years from the date of this resolution.”

## LEGISLATIVE AUTHORITY

This report discusses a Rezoning Application and a concurrent Development Permit with Variances Application. The relevant rezoning considerations are an increase to the density and the introduction of multi-unit residential and commercial as new uses.

Relevant DPV considerations include the application's consistency with design guidelines and the impact of the variances.

### Enabling Legislation

In accordance with Section 479 of the *Local Government Act*, Council may regulate within a zone the use of land, buildings and other structures, the density of the use of the land, building and other structures, the siting, size and dimensions of buildings and other structures as well as the uses that are permitted on the land and the location of uses on the land and within buildings and other structures.

In accordance with Section 483 of the *Local Government Act*, Council may enter into a Housing Agreement which may include terms agreed to by the owner regarding the occupancy of the housing units and provided such agreement does not vary the use of the density of the land from that permitted under the zoning bylaw.

In accordance with Section 489 of the *Local Government Act*, Council may issue a Development Permit in accordance with the applicable guidelines specified in the *Community Plan*. A Development Permit may vary or supplement the Zoning Regulation Bylaw but may not vary the use or density of the land from that specified in the Bylaw.

Pursuant to Section 491 of the *Local Government Act*, where the purpose of the designation is the establishment of objectives for the form and character of intensive residential development, a Development Permit may include requirements respecting the character of the development including landscaping, and the siting, form, exterior design and finish of buildings and other structures.

## EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations for a Rezoning Application for the properties at 133 and 135 Gorge Road East and a concurrent Development Permit with Variances application for the property located at 133 Gorge Road East.

The proposal is to rezone from the T-1 Zone, Limited Transient Accommodation District to a new zone to increase the density and allow mixed-use multi-unit residential rental uses at this location. There is a concurrent Development Permit with Variances Application for 133 Gorge Road East pertaining to the proposed form, character, exterior design, finishes and landscaping and variances related to height, and vehicle parking.

The development would be undertaken in a phased approach; 133 and 135 Gorge Road East are proposed to be rezoned at this time, with the site at 133 Gorge Road East redeveloped in the first phase.

The following points were considered in assessing the Rezoning Application:

- the proposal is consistent with the use and built form in the *Official Community Plan (OCP)* Urban Residential urban place designation
- the proposal is consistent with what is envisioned in the *Burnside Gorge Neighbourhood Plan (BGNP)* in the geographic location (south of Gorge Road)
- the application fulfils the requirements under the City's Tenant Assistance Policy and adequately supports the relocation of the vulnerable tenant population residing in the building
- the proposal furthers City strategic priorities including purpose built rental housing, improved public access both to and along the Gorge waterway, and improved multi-modal transit options along Gorge Road East.

The following points were considered in assessing the Development Permit with Variances:

- the proposal is generally consistent with *Design Guidelines for: Multi-Unit Residential, Commercial, and Industrial*
- given the locational factors (proximity to AAA bike network and transit infrastructure), as well as a TDM program, the parking variance is considered supportable
- height and storey variances are minimal and primarily due to the slope of the site and resulting grade measurements
- the open site space variance is minimal and considered supportable as it is also offset by the rooftop amenity space.

## **BACKGROUND**

### **Description of Proposal**

The proposal is to rezone the properties at 133 and 135 Gorge Road East to increase the density and add multi-unit residential and commercial uses. The development of the property is proposed to occur in two phases, one for each property.

Phase One includes the demolishing and replacement of an existing 59 unit converted motel with a six-storey secured rental residential building with commercial uses at grade on the property at 133 Gorge Road East.

Phase Two is the future redevelopment of the property at 129-135 Gorge Road East. A DP for the second phase has not yet been submitted, but the applicant has shown the general intention is to replace the existing three buildings with four purpose-built rental buildings. The timeline for redevelopment of 135 Gorge Road East is not currently known and would be guided by a future development permit.

Four statutory right-of-ways (SRWs) are being sought at time of rezoning: one along Gorge Road East to provide for transportation and pedestrian mobility upgrades; one running north-south through both phases of development to provide pedestrian access to the waterfront (to be divided into two SRWs, to be constructed at the respective phases of development); and one along the Gorge Waterway to promote connectivity along the waterfront. Portions of the north-south SRW and the entire waterfront SRW would be constructed later, when Phase Two is redeveloped, but would be secured at time of rezoning.

The following differences from the current zone are being proposed and would be accommodated in the new zone:

- increased FSR from 1.2:1 to 2:1 for both phases of development.
- introduce multi-unit residential as a permitted use
- introduce commercial uses
- rental tenure (to be secured in the zoning bylaw as well as a housing agreement).

The associated Development Permit DPV is for form, character, and landscaping of Phase One of the development.

The proposed variances are to:

- reduce residential vehicle parking from 165 stalls to 95 stalls
- reduce visitor vehicle parking from 18 stalls to 15 stalls
- increase building height from 18.5m to 22.0m
- increase the number of storeys from six storeys to seven storeys
- decrease the open site space from 50.0 percent to 41.0 percent.

### **Existing Site Development and Development Potential**

The subject site, shown in Figure 1 (including both Phase One and Phase 2), is presently used for rental dwelling buildings, with two surface parking lots. Phase One (133 Gorge Road East) currently consists of 59 rental units in one building. Phase Two (129–135 Gorge Road East) currently consists of 141 rental units in three buildings.

Under the current T-1 Zone, Limited Transient Accommodation District, the property could be developed with single family dwellings or transient accommodation uses up to 1.2:1 Floor Space Ratio (FSR).



Figure 1. Site Area

## Data Table

The following data table compares the proposal with the existing T-1 Zone, Limited Transient Accommodation District Zone and the standard URMD Zone, Urban Residential Multiple Dwelling District. An asterisk is used to identify where the proposal does not meet the requirements of the existing Zone.



<b>Zoning Criteria</b>	<b>Proposal (Phase 1)</b>	<b>Existing Zone (T-1)</b>	<b>Zone Standard (URMD)</b>	<b>OCP/DPA 7</b>
Site area (m <sup>2</sup> ) – minimum	6370.00	1850.00	1840.00	n/a
Density (Floor Space Ratio) – maximum	<b>1.83:1*</b>	1.2:1	2.0:1	1.2:1 up to 2.0:1 (OCP)
Total floor area (m <sup>2</sup> ) – maximum	<b>11,658.00*</b>	7644.00	12,740.00	7644.00-12,740.00
Height (m) – maximum	<b>22.00*</b>	21.5	18.5	n/a
Storeys – maximum	<b>7*</b>	6+	6	6
Site coverage (%) – maximum	37.00	30.00	40.00	n/a
Open site space (%) – minimum	<b>41.00*</b>	30.00	50.00	n/a
<b>Setbacks</b> (m) – minimum				
Front	5.00	7.5	4.00	
Rear	25.00	7.5	10.00	
Side (east)	6.00	7.5	6.00	
Side (west)	6.00	7.5	6.00	
Parking – minimum	<b>126*</b>	195	195	n/a
Accessible	5	5	5	n/a
Van Accessible	2	2	2	
Visitor parking included in the overall units – minimum	<b>15*</b>	18	18	n/a
Bicycle parking stalls – minimum				
Short term	26	21	21	n/a
Long term	234	219	219	n/a



## Mobility

The application proposes the following features which support multi-modal transportation:

- enhanced bike parking (including oversized stalls to accommodate cargo bikes and access to charging facilities for electric bicycles)
- three carshare vehicles with spaces, and memberships for residential units without access to a parking space
- the provision of BC Transit EcoPASSes for ten percent of residential units
- upgrades on Gorge waterway pathway.

These would be secured via legal agreements, registered on the property's title, prior to Council giving final consideration of the proposed Zoning Regulation Bylaw Amendment.

## Public Realm

The following public realm improvements are proposed in association with this application:

- 4.94m SRW on Gorge Road East to provide mobility and transportation upgrades
- SRW a minimum of 2m wide running north-south across both phases of development to allow pedestrian access to the Gorge waterfront
- 15m SRW (measured from the top of bank) along the southern extent of Phase Two, to provide pedestrian connectivity along the Gorge waterfront
- soil cells for municipal trees
- rain gardens within the boulevard.

These would be secured via legal agreements, registered on the property's title, prior to Council giving final consideration of the proposed Zoning Regulation Bylaw Amendment.

## Community Consultation

Consistent with the *Community Association Land Use Committee (CALUC) Procedures for Processing Rezoning and Variance Applications*, prior to submission of the application, it was posted on the Development Tracker along with an invitation to complete a comment form on November 4, 2022. Mailed notification was sent to owners and occupiers of property within 100m of the subject property advising that a consultation process was taking place, and that information could be obtained, and feedback provided through the Development Tracker. A sign was also posted on site, to notify those passing by of this consultative phase. Additionally, the applicant participated in an online meeting with the CALUC on November 21, 2022. A letter dated December 6, 2022, along with the comment forms are attached to this report.

Fifty-six responses were received as a result of the pre-application feedback survey. A majority (47) respondents opposed the proposal. Reasons offered in opposition included the displacement of existing tenants from relatively affordable units, blocking of views of the Gorge waterfront, loss of trees, and that it is too much density for the area.

The applicant has not significantly revised the building based on the community consultation responses.

The associated application proposes variances, therefore, in accordance with the City's *Land Use Procedures Bylaw*, it requires notice, sign posting and a meeting of Council to consider the variances.

## ANALYSIS

### Rezoning Application

#### Official Community Plan

The *Official Community Plan* (OCP, 2012) designates the properties as Urban Residential, which envisions multi-unit residential, commercial, and mixed-used buildings (in certain areas) from three storeys to six storeys. Density is envisioned to be low to medium, from a base of 1.2:1 FSR, up to a max of approximately 2:1 FSR in locations that support the OCP's growth management concept, as well as sites where public benefit consistent with the plans (both OCP and Neighbourhood Plans) is provided. The proposal complies with the use and height policies in the OCP, as well as the envisioned residential density. As justification for proposing density at the higher end of the envisioned range, Gorge Road East is designated as a Cumulative Frequent Service Rapid Transit Priority Corridor in the OCP and is expected to receive additional density. The proposal also advances several key policies and objectives in the OCP and the *Burnside Gorge Neighbourhood Plan* (BGNP, 2017), which need to be taken into consideration when evaluating the proposed density and merits of this application. The key features of this proposal include:

- purpose-built rental housing secured in perpetuity
- secured public access both to and along the Gorge waterfront
- improved pedestrian and multi-modal transportation on Gorge Road East.

The OCP includes policies pertaining to market rental housing. Specifically, it recognizes the existing tight rental market, characterized by low vacancy rates and high demand. Though many of the policies are calibrated to ensure retention and redevelopment of existing rental housing stock, the addition of rental housing stock furthers the City's goals as it relates to providing more available rental housing.

As the application is substantially consistent with the OCP, the recommendation includes waiving the public hearing. If Council opts to hold a public hearing, an alternate motion to do so has been provided.

#### Burnside Gorge Neighbourhood Plan

The BGNP identifies the subject properties as Urban Residential, as well as being within the Gorge Sub-Area. Land-use policies specific to the Gorge Sub-Area include a height limit generally up to six storeys in the area south of Gorge Road East, with density in the range of 1.2:1 FSR up to 2:1 FSR where amenities support the increase. The Gorge Sub-Area land use policies also support ground floor commercial uses along Gorge Road.

The BGNP also contains broader policies for land management and development that apply across the Burnside Gorge Neighbourhood, these include: support for development of a variety of new housing forms, improving public access to the shoreline where appropriate, and support for transit oriented development along transit routes (such as Gorge Road).

Although the relevant Development Permit Area 7A guideline primarily inform the form and character of development (see DPV section below), the BGNP also contains some residential urban design objectives. The following table provides a brief description of how the proposal responds to relevant BGNP Guidelines.

BGNP Design Guideline	Proposal Response
Ensure new development is compatible with adjacent properties	Consistent with the use and density envisioned for the area; setbacks are sufficient to allow for appropriate transition
Ensure new development on Gorge Road is positively oriented towards the street	Seeks to establish a strong street presence on Gorge Road through at-grade commercial spaces
Ensure a sensitive transition to the Gorge waterfront	Phase Two, if developed, would incorporate a new 15m SRW to allow a more sensitive transition to the Gorge waterfront than presently exists
Preserve, enhance, or establish native shoreline ecosystems	Phase Two, if developed, would incorporate a new 15m SRW on the Gorge waterfront to allow the preservation, enhancement, or establishment of native shoreline ecosystems
Mitigate impact of corridor noise on adjacent buildings	Due to the property shape, much of the development is oriented perpendicular to Gorge Road and away from the greatest area of noise impacts

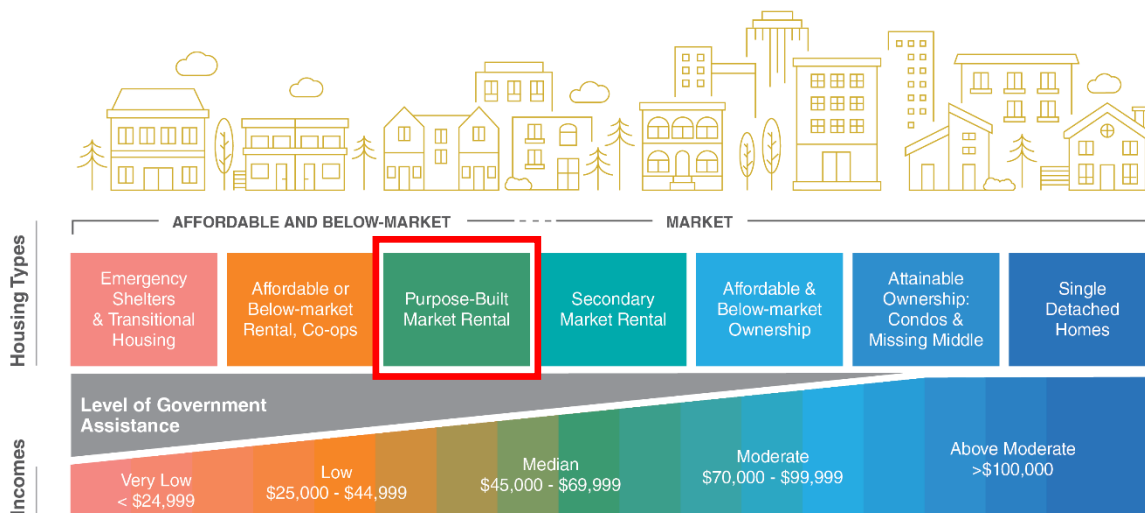
Several of the “Big Moves” contemplated in the BGNP are relevant to the proposal including: reconnecting with the Gorge waterfront, achieved through the requested SRWs both to and along the Gorge waterfront; creating better pedestrian and cycling connections, achieved through the Gorge Road SRW that will result in an improved pedestrian realm; and, calming the busy arterial streets, achieved with the Gorge Road SRW that will facilitate the construction of the Gorge Road AAA/separated bike path.

#### Inclusionary Housing and Community Amenity Contribution Policy

The City’s Inclusionary Housing and Community Amenity Contribution Policy established levels of residential density bonus that can be achieved through a rezoning. The proposed development involves a “Level ‘B’” increase – from the OCP base density (1.2:1 FSR) to the proposed (2:1). Under the Policy, secured rental housing applications (100 per cent purpose built rental projects) that conform to the existing OCP urban place designation are not expected to provide Community Amenity Contributions (CAC’s, typically provided as affordable units or cash-in-lieu), and none have been provided in this case.

#### Housing

Phase one of the application, if approved, would add approximately 115 net new residential rental units (174 total). Phase Two of the application, if approved, would add approximately 169 net new residential rental units. This would increase the overall supply of housing in the area and contribute to the targets set out in the *Victoria Housing Strategy*.



**Figure 1. Housing Continuum**

### *Affordability Targets*

There is no affordable housing included in the proposal.

### *Housing Mix*

At present there is no policy that provides targets regarding housing mix and unit type is not typically regulated or secured by the City. However, the OCP identifies a mix of units as an objective and identifies the need for a diverse range of housing units including family housing. As submitted, Phase One would provide 174 (115 net new) rental dwellings. Nearly half (86) of the units are one-bedroom (59) or junior one-bedroom (27). The other 88 units are proposed to be junior two-bedroom (40), two-bedroom (32) and three-bedroom (16). This unit mix will be secured through a legal agreement.

### *Security of Tenure*

Rental tenure will be secured in perpetuity via legal agreement, and the new zone will require secured rental tenure to achieve the maximum density of 2:1 floor space ratio. A covenant will also be registered on the title of the property to prohibit the stratification of individual units.

### *Existing Tenants*

The proposal is to demolish the existing buildings, which would result in a loss of 59 existing residential rental units in Phase One and 141 residential rental units in Phase Two. Consistent with the Tenant Assistance Policy, the applicant has provided an approved Tenant Assistance Plan which is attached to this report.

Tenant consultation and engagement was initiated by the applicant in September 2022 with two workshops and an additional virtual tenant meeting on May 9, 2023, which City staff attended. Tenants were presented with project timelines, information on compensation and support available under the *Tenant Assistance Policy (TAP)*. As well, eligible tenants were provided the opportunity to request additional assistance as per the TAP. The applicant has engaged in on-going communications with impacted tenants through the tenant relocation coordinator.

Consultations with current tenants have identified vulnerable tenants including several low-income households. These households include persons with disabilities, seniors, individuals with accessibility needs and newcomers. Relocation efforts have commenced, with nine of the eligible tenants under the Tenant Relocation Policy already relocated, and 27 remaining. Tenants remaining include individuals with low incomes as well as accessibility and health needs. Current tenants will have right of first refusal of new units at twenty percent below market rent.

## **Development Permit with Variance Application**

### Official Community Plan: Design Guidelines

The *Official Community Plan* (OCP) identifies this property within [Development Permit Area 7A: Corridors](#), which envisions revitalization of the built form along the corridors (e.g. Gorge Road), and minimizing of conflicts between vehicles and pedestrians and cyclists. The revitalization is intended to be achieved through a high quality of design (architecture, landscape, and urban), resulting in a coherent design along the corridors, strengthen commercial viability and encourage pedestrian use.

The proposal is subject to the *Design Guidelines for: Multi-Unit Residential, Commercial, and Industrial* (2012, revised 2019), as well as the *Revitalization Guidelines for Corridors, Villages and Town Centres* (2017). Below is a summary of how the DPV proposal for phase one addresses some of the key elements in the design guidelines.

#### *Context and Transition*

The *Multi-Unit Residential, Commercial, and Industrial Guidelines* include specific guidelines to ensure that new development is compatible with the character of established areas. The proposed phase one building is consistent with the envisioned OCP and built form. At six storeys, the proposal is higher than adjacent four storey apartments at 137 Gorge Road East, as well as the four-storey hotel at 123 Gorge Road East. Adjacent apartment buildings include the eight-storey buildings at 103/105 Gorge Road East (Treelane Estates).

#### *Relationship to the Street*

The *Multi-Unit Residential, Commercial, and Industrial Guidelines* stress the importance of new development that contributes to the cohesion, identity, and quality of the adjacent streetscapes and create a strong relationship to the street. This can be accomplished in several ways, both through architectural expression (variations in building height, rooflines, and massing) and the uses that provide direct street access (commercial) at the ground level. The proposal generally satisfies these requirements by providing a stronger street presence where none currently exists.

The existing stretch of Gorge Road East near the subject site generally sees buildings set back from the road with no real relationship to the street. The shape of the subject lots are primarily oriented north-south, which limits the extent of the building at 133 Gorge Road that can be located along the street frontage. However, by locating commercial uses at grade, with residences above with balconies overlook the street, the project will contribute to a more animated streetscape. The nearly 5m SRW that is being secured along Gorge Road will allow for long-term improvements in both the pedestrian and multi-modal transportation realms.

### *Scale and Massing*

Under the guidelines, large and long buildings are intended to be visually broken into human-scaled proportions so that the perception of the building does not overwhelm the visual experience from the public realm. This can be done in several ways, including breaks in form, adding projections and balconies, and building articulation. Building entrances are intended to be prominent and other aspects of the building, such as vehicle maneuvering and back of house functions (e.g., waste collection) are subordinate features.

The proposed Phase One building is substantial; it is a very long building at approximately 125m. The building is articulated into three sections – the front retail section of approximately 20m, and two sections of residential at 35m and 55m. The residential sections are joined by a glass atrium area approximately 10m wide. The applicant has indicated that providing a physical break in the building so that it is split into two buildings is challenging; this would require two building cores and underground structure. The applicant has undertaken a significant design revision from the initial application to make the proposed building appear as separate as possible, though it still functions as one building. The balconies, both inset/covered and projecting, as well as variations in materials for the two residential portions are intended to differentiate the two.

### *Open Space and Landscaping*

Site landscaping is intended to be usable and well integrated into the design of the building, with features that help to distinguish between public and private space. Landscaping can also be utilized to soften the visual impact of larger and longer buildings, with the scale and location of landscaping consistent with the scale and massing of the building. Given the location of the building and the immediately adjacent SRW, there is limited opportunity to provide landscaping along Gorge Road East, though the frontage design does propose expanded boulevard area, with additional boulevard (municipal) trees and a bioswale to direct runoff. Open space area is primarily restricted to the southern end of the building, where a communal open space is provided. Additional open space, though with more minimal landscaping, is also provided on a portion of the rooftop area.

### *Accessibility*

Development of the subject properties requires addressing significant changes in grade; both along the Gorge Road East frontage, as well as throughout the site to the Gorge waterway. A high standard of accessibility is required, and the needs of people with disabilities are to be accommodated in the design. The proposed Phase One design appears to address accessibility through smooth routes and access ramps. The SRW that is proposed for Phase Two may require refinements to the design at time of development to address any issues with grade changes that affect the accessibility through the site. A blanket SRW is recommended to ensure that design refinements necessary to ensure accessibility can be accommodated at the time of Phase Two development permit.

### *Parking*

Parking, whenever possible, is to be provided underground. The guidelines also stress that pedestrian and vehicle conflicts should be minimized in site design, with minimal disruption to pedestrian circulation. Most of the proposed parking is underground in Phase One, though there are several surface parking stalls (approximately ten) along the building frontage access road, to accommodate loading and commercial uses. The parking stalls will also serve as car share stalls when the vehicles are delivered at different phases of development. This will allow the car share

vehicles to be accessed by the public and prevent any issues with needing underground parkade access to use the car share vehicles.

The location of the parkade is subordinate to the overall building design, with access at the southern end of the Phase One building. Pedestrian conflicts are minimized in this placement.

## Variances

### *Height and Setbacks*

The Phase One proposal also requires a minor increase to the height limit, from 18.5m to 22m. The overall storey count is also increased to seven (from six). These changes are mostly due to the projection of a portion of the underground parkade, which is created primarily due to the north-south grade changes experienced on the site.

No reductions in the setbacks are required for the Phase One building from the Urban Residential Multiple Dwelling Zone (URMD) standard that the proposal has been largely reviewed against.

In drafting the new zone for Phase Two, it is recommended that a more stringent rear yard setback be included for Phase Two – at 15m instead of 10m, to ensure that the proposed SRW along the Gorge waterfront has the space necessary for construction. It is recommended that these changes be accommodated in the development permit with variances application, as opposed to being entrenched in the new zone. This will ensure that any substantive revisions to the design will require further Council approval. Given the siting of the existing Phase Two buildings, a Development Variance Permit will be needed to permit the existing setback of 6.2m.

### *Parking*

For Phase One of the development, the applicant is seeking a residential vehicle parking reduction from the 165 stalls required under Schedule C of the Zoning Regulation Bylaw, to 95 residential stalls, a shortfall of 64 spaces. For Phase Two a reduction of 139 residential stalls is likely to be sought at time of DPV application, reducing the provision from 325 residential parking stalls to 186. Given the rezoning for both Phase One and Phase Two occurring at the same time, it is recommended that all TDM measures be secured at this time. No variance to the required number of commercial, visitor, or accessible parking stalls for either Phase 1 or Phase 2 is proposed.

Staff are supportive of a reduction in residential vehicle parking stalls when offset by a comprehensive Transportation Demand Management (TDM) program. The applicant has offered the provision of a total of three car share vehicles, to be located at ground level on the Phase One portion of the access road. One car share vehicle and stall with charger will be provided at time of occupancy of Phase One, with the remaining two vehicles and stalls to be delivered at time of Phase Two development, all three car share vehicles and stalls are to be secured at time of rezoning. Also included in the TDM program are car share memberships and usage credits for all residential units without access to a parking space, BC Transit EcoPASSES for ten percent of the units, bicycle maintenance facilities for all buildings in Phase One and Phase Two, the provision of oversized long term bicycle stalls to accommodate cargo bikes, and half of the long-term bicycle parking stalls to have e-bike charging ability.

An overprovision of long-term bicycle parking of 26 bicycle stalls is proposed, split between the two phases of development.



Approximately seven of the parking stalls included in the variance are at the request of staff to accommodate notching of the parkade at the north-west corner to allow for the retention of several off-site trees that were initially proposed for removal. The revisions to the parkade that the applicant has undertaken should result in the retention of several mature trees on the adjacent property.

Given the proposed parking variance and the measures provided to address any negative impacts, combined with the site's proximity to the cycling network and transit options, the variance is recommended for support.

### *Open Site Space*

A modest reduction in the open site space minimum is required from 50.0 percent down to 41.00 percent. This is due to the building layout and the applicant's intention to achieve 2:1 FSR. The diminished open site space is offset by the provision of outdoor amenity space on the rooftop, and so the overall impact of the reduction is expected to be minor and is considered supportable.

### Accessibility

No accessibility improvements are proposed beyond what is required through the *British Columbia Building Code*. The proposed SRWs are intended to be designed to be accessible, though the design and grading of the Phase Two SRW may require alternate routing. The blanket SRW is therefore recommended to address any route or design changes that may be required at time of SRW construction.

### Sustainability

The applicant has not identified any sustainability features beyond minimum requirements from the BC Energy Step Code for the buildings associated with this proposal.

### Advisory Design Panel

Staff intended to have the new design reviewed by the ADP; however, consistent with the Council motion of July 6, 2023, to forego ADP review due to a lack of panel members, no ADP review of the new proposal has occurred. At time of this report, the ADP has resumed regular meetings.

### **Tree Protection Bylaw and Urban Forest Master Plan**

The goals of the *Urban Forest Master Plan* include protecting, enhancing, and expanding Victoria's urban forest and optimizing community benefits from the urban forest in all neighbourhoods. This application was received March 2, 2023; therefore, Tree Protection Bylaw No. 21-035 applies.

Sixty-one trees have been inventoried. There are 27 trees located on the subject lot (including two shared trees, and two trees on the Phase 2 site), two trees on municipal property and 32 neighbouring trees impacted by the proposal. Of the trees inventoried, there are a total of 46 bylaw-protected trees: 21 on the subject site, (including two shared trees and two trees on the Phase 2 site), and 26 on neighbouring properties.

### Proposed Tree Removals

Fifteen bylaw-protected trees on the subject lot are proposed for removal (including one shared tree and one tree on the Phase 2 site).

### Trees Proposed for Retention

A total of 32 bylaw-protected trees would be retained with this development project including six trees on the subject lot, 24 neighbouring trees and two municipal trees. Majority of the trees proposed for retention are along the west property line of the subject lot. The project arborist has recommended mitigation measures at various stages of the project to ensure these trees shall be retained.

### Proposed Planting and Replacement Trees

One hundred and one trees are proposed with this application, including 26 replacement trees required under the *Tree Protection Bylaw*. Recommendations for Council's consideration includes requirements for the applicant to provide additional information on the replacement tree plan to ensure compliance with the *Tree Protection Bylaw* prior to bylaw readings.

### Tree Impact Summary Table

<b>Tree Status</b>	<b>Total # of Trees</b>	<b>To be REMOVED</b>	<b>To be PLANTED</b>	<b>NET CHANGE</b>
On-site trees, bylaw-protected	21	15	26	+11
On-site trees, not bylaw-protected	6	6	74	+68
Municipal trees	2	0	1	+1
Off-site trees, bylaw-protected	26	0	0	0
Off-site trees, not bylaw-protected	8	0	0	0
<b>Total</b>	<b>63</b>	<b>21</b>	<b>101</b>	<b>+80</b>

### Resource Impacts

<b>Increased Inventory</b>	<b>Annual Maintenance Cost</b>
Street Trees – 1 net new	\$60

### **Encroachment Agreement**

Several street-level canopies are also proposed along Gorge Road East, which project above the City right-of-way. These are encouraged in the Guidelines to provide pedestrian weather protection and welcoming streetscapes. To facilitate these canopies, the applicant is required to

enter into an Encroachment Agreement with the City. Appropriate wording is included in the recommendation for Council's consideration.

## **CONCLUSIONS**

The proposed application is consistent with OCP policy on use and density for the site and furthers goals of the Burnside Gorge Neighbourhood Plan by providing pedestrian connectivity both to, and along, the Gorge waterway. The proposed rental tenure of both Phase One and Phase Two further the City's strategic goals related to secured rental housing. The variances required for the application are generally minor, and measures have been provided to offset any impacts associated with the requested reduction in parking. While the proposal results in the displacement of existing residents, the submitted Tenant Assistance Policy adequately supports the relocation of the vulnerable tenant population residing in the building. For these reasons, the Rezoning Application and associated Development Permit with Variances Application are recommended for support.

## **ALTERNATE MOTIONS**

### **Option 1 - Hold Public Hearing**

1. That Council instruct the Director of Sustainable Planning and Community Development to prepare the necessary Zoning Regulation Bylaw amendment that would authorize the proposed development outlined in the staff report dated October 26, 2023, for 133 and 135 Gorge Road East.
2. That first and second reading of the zoning bylaw amendment be considered by Council and a public hearing date be set once the following conditions are met:
  - a. the following revisions to the plans, to the satisfaction of the Director of Sustainable Planning and Community Development:
    - i. confirmation that the glass atrium connecting the two portions of the Phase One building incorporates bird-friendly design elements.
  - b. the following revisions to the plans, to the satisfaction of the Director of Engineering and Public Works:
    - i. revisions to the Gorge Road East SRW design to ensure a continuous accessible grade is maintained.
  - c. the following revisions to the plans, to the satisfaction of the Director for Parks, Facilities, and Recreation to address outstanding comments including:
    - i. confirm that Tree Minimum will be met on Phase One
    - ii. confirm that replacement tree plan meets the siting, soil volume and other requirements outlined in the Tree Protection Bylaw No. 21-035, Schedule E.
    - iii. a letter of consent from the owner at 123 Gorge Rd. E, agreeing to the removal of shared tree #765
    - iv. one additional boulevard tree to be planted on Gorge Rd. E frontage
  - d. adjustments to the proposed variances necessary to accommodate the required plan revisions.
3. That subject to approval in principle at the public hearing, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Sustainable

Planning and Community Development and form satisfactory to the City Solicitor prior to adoption of the bylaw:

- a. the property shall be rental in perpetuity.
  - b. a Tenant Assistance Plan to be provided prior to Development Permit for Phase Two
  - c. a unit mix consisting of a minimum of forty junior two-bedroom units, thirty-two two-bedroom units and sixteen three-bedroom units.
4. That subject to approval in principle at the public hearing, the applicant prepare and execute the following legal agreements, with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor prior to adoption of the bylaw:
- a. reciprocal access agreements between 137, 133, and 129-135 Gorge Rd East registered over all lots for the purpose of driveway with a minimum width of 6 m.
  - b. statutory right-of-way 4.94 m wide on Gorge Road East for highway purposes.
  - c. statutory right-of-way a minimum of 2m wide on 133 Gorge Road East to provide pedestrian access from Gorge Road East to the northern boundary of 129-135 Gorge Road East.
  - d. a blanket statutory right-of-way over 129-135 Gorge Road East for pedestrian access purposes, in accordance with the following requirements:
    - i. The statutory right-of-way location and design will generally be in the location in the plans dated October 27, 2023, and will be finalized prior to issuance of the Phase Two Development Permit
    - ii. the statutory right-of-way will connect the south end of 133 Gorge Road East to the Gorge waterway and be a minimum of 2m wide
    - iii. the owner may occupy and maintain the existing building within the right of way area until it is substantially destroyed or damaged.
  - e. statutory right-of-way a minimum of 15 m as measured from top of bank along the Gorge waterway for pedestrian access purposes, in accordance with the following requirements:
    - i. the statutory right-of-way location and design will generally be in the location in the plans dated October 27, 2023, and will be finalized prior to issuance of the Phase Two Development Permit
    - ii. The statutory right-of-way will provide pedestrian access along the Gorge waterway
    - iii. the owner may occupy and maintain the existing building within the right of way area until it is substantially destroyed or damaged.
  - f. provision of transportation demand management measures including:
    - i. three car share vehicles, one to be delivered within Phase 1, and two to be delivered with Phase 2,
    - ii. three shared vehicle parking stalls equipped with dual EV chargers,
    - iii. public access to the shared vehicle parking stalls,
    - iv. car share memberships and usage credits for residential units without access to a parking space
    - v. ten percent of required bicycle parking to be oversized to accommodate cargo bikes
    - vi. fifty percent of the required long term bicycle parking to have access to an electrical outlet for charging
    - vii. BC Transit Eco-passes for ten percent of residential units for a minimum 5-year term

- viii. a bicycle maintenance station in each building of both Phase One and Phase Two for a total of five stations.
  - g. a Section 219 covenant to secure provision of the following public realm improvements:
    - i. soil cells to achieve recommended soil volumes for all new street trees,
    - ii. boulevard rain gardens on the municipal frontage of Gorge Road East in accordance with landscaping plans dated October 3, 2023.
- 5. That adoption of the zoning bylaw amendment will not take place until all of the required legal agreements that are registrable in the Land Title Office have been so registered to the satisfaction of the City Solicitor.
- 6. That subject to adoption of the zoning bylaw amendment, Council authorize the projecting encroachments over the City right of way on Gorge Road East generally as shown on the plans submitted to the City and date stamped October, 2023, provided that the applicant enters into an encroachment agreement with contents satisfactory to the Director of Engineering and Public Works and form satisfactory to the City Solicitor at the time of building permit approval.
- 7. That the above Recommendations be adopted on the condition that they create no legal rights for the applicant or any other person, or obligation on the part of the City or its officials, and any expenditure of funds is at the risk of the person making the expenditure.

### **Development Permit with Variance Application**

That Council, after giving notice and allowing an opportunity for public comment at a meeting of Council, and after the public hearing for Rezoning Application No. REZ00843 if it is approved, consider the following motion:

- 1. That subject to the adoption of the necessary Zoning Regulation Bylaw amendment, Council authorize the issuance of Development Permit with Variances No. DPV00257 for 133 and 135 Gorge Road East, in accordance with plans submitted to the Planning department and date stamped by Planning on October 27, 2023, subject to:
  - a. proposed development meeting all City zoning bylaw requirements, except for the following variances:
    - i. increase the Phase One building storeys from six storeys to seven storeys
    - ii. increase the Phase One building height from 18.5m to 22.0m
    - iii. reduce the Phase One residential parking from 165 stalls to 95 stalls
    - iv. reduce the Phase One visitor parking from 18 stalls to 15 stalls
    - v. reduce the open site space from 50.0 percent to 41.0 percent.
- 2. That the Development Permit with Variances, if issued, lapses two years from the date of this resolution.

### **Option 2 – Decline**

That Council decline Rezoning Application No. 00843 and associated Development Permit with Variances Application No. 00257 for 133 and 135 Gorge Road East.

Respectfully submitted,

Geordie Gordon  
Senior Planner  
Development Services Division

Karen Hoes, Director  
Sustainable Planning and Community  
Development Department

**Report accepted and recommended by the City Manager.**

**List of Attachments**

- Attachment A: Subject Map
- Attachment B: Plans date stamped November 16, 2023
- Attachment C: Letter from applicant to Mayor and Council dated September 7, 2023
- Attachment D: Transportation Impact Assessment (TIA) dated October 24, 2023
- Attachment E: Community Association Land Use Committee Comments dated December 8, 2023
- Attachment F: Pre-Application Consultation Comments from Online Feedback Form
- Attachment G: Correspondence (Letters received from residents).