



## Committee of the Whole Report

### For the Meeting of September 17, 2020

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**To:** Committee of the Whole **Date:** August 3, 2020

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

**Subject:** Development Permit Application (DDP No. 00529) for 848 Yates Street

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### RECOMMENDATION

That Council decline Development Permit No. 00529 for 848 Yates Street and proposed modifications to the through-block walkway and terms of the statutory right-of-way.

### LEGISLATIVE AUTHORITY

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 revitalization of an area in which a commercial use is permitted, 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 Development Permit Application for the property located at 848 Yates Street, specifically the through-block walkway between Yates and Johnson Street associated with a mixed-use residential building currently under construction. The proposal is for modifications to the design of the walkway (location of the security gates, adding a third security gate, installation of fencing and modifications to planters) as well as a request to modify the terms of an existing statutory right-of-way (SRW) registered on the property's title in favour of the City. The proposal is inconsistent with relevant policy and is not supported by staff.

The following points were considered in assessing this application:

- the property is subject to regulation under Development Permit Area 2: Core Business, and is not consistent with the applicable Design Guidelines in the *Downtown Core Area Plan*, 2011 (DCAP) which identifies the walkway as a Key Pedestrian Connection in the downtown pedestrian network

- permanently closing the walkway would be inconsistent with the intent of the previously-approved Development Permit for the building under construction (approved by Council in May 2017).



## BACKGROUND

### Relevant History

#### Previous Development Approvals at 848 Yates Street

In May 2017, Council approved a Development Permit (DP) for a mixed-use residential building at 848 Yates Street, which included construction of a 1.22 metre walkway on the western edge of the property, secured as a statutory right-of-way (SRW). The SRW would widen the existing through-block walkway on the adjacent property at 836 Yates Street and was intended to integrate two linear sections of what was supposed to be a shared midblock walkway connecting Yates and Johnson Streets, running between the two buildings. The conditions of the SRW permit gates in specified locations at either end of walkway, provided that the gates are open between 7 a.m. and 10 p.m. The final design of the walkway was the result of a collaborative process between staff and the owner (Chard Developments), with agreement in principle from the owner of 836 Yates Street (Coronet Ventures Ltd.), and included a number of design elements to ensure the walkway was accessible, welcoming and safe for users:

- the grades of the western property line matched to the existing through-block walkway, with the exception of steps adjacent to the Johnson Street sidewalk
- orientation of townhouse units, a residential lobby entrance and bike storage room access along the through-block walkway to ensure natural surveillance
- removal of existing concrete planters at 836 Yates Street along the majority of the walkway that currently creates a barrier between the two properties, resulting in a more usable and accessible space

- removal of the existing globe light fixtures on the adjacent property to replace with recessed wall lighting both on the building and in the concrete planters
- planting within the private patios between the at-grade residential units
- decorative metal security gates at either end of the through-block walkway.

In reviewing the original Development Permit, staff expressed concern that the expansion of the walkway on the subject property was too narrow and didn't meet minimum standards for accessibility; however, the commitment to match the grade of the adjacent site was considered an acceptable compromise for the 1.22m setback on private property. The overall width of the walkway was proposed to be expanded to 5.79m which is consistent with the Guidelines.

#### Installation of Gates at 836 Yates Street

In March 2019, shortly after construction of 848 Yates Street began, the adjacent owner (Coronet Ventures Ltd.) installed unauthorized gates and fencing at the front and rear of the former Atlas Theatre located at 836 Yates Street, which blocks a pedestrian walkway accessed through a breezeway between Johnson Street and Yates Street. In conversations with City staff, Coronet Ventures Ltd. stated that the gates became necessary for security and crime prevention and to ensure the safety of existing commercial tenants.

#### **Description of Proposal**

Although the location of the SRW and expanded through-block walkway is currently boarded by construction fencing, the intent of the original Development Permit is to open this to the public once construction was complete. However, in response to the gated condition of the adjacent property, Chard Developments is requesting the following:

- Physical modifications to the walkway, which includes moving the northern security gate further north towards Johnson Street, adding a third security gate at the south end towards Yates Street, modifications to planters along the walkway and the addition of a north south linear fence along the property line adjoining the neighbour (836 Yates Street). This would bring the security gates closer to the street and omit all originally proposed work on the adjacent property (removal of the concrete planters and globe light fixtures), thereby eliminating the opportunity for the expansion of the walkway.
- Modifications to the SRW to remove public access from the walkway, until such a time that the City secures an SRW on the adjacent parcel.

The owner cites the need to align the security gates to those installed on the adjacent property at 836 Yates Street as well as the recent unwillingness of Coronet Ventures Ltd. to coordinate access along this shared property line, as the reason for their request.

#### **ISSUES AND ANALYSIS**

##### **Official Community Plan**

The *Official Community Plan* (OCP, 2012) includes policies that direct staff to enhance and expand through-block pedestrian passageways throughout the Downtown Core Area in order to break up long blocks. Both Johnson Street and Yates Street include mid-block traffic crossings aligned with the through-block walkway. The proposed closure of the walkway would disrupt the continuity created through the alignment of the traffic crossings with the walkway.

## **Downtown Core Area Plan**

The property is subject to guidelines under Development Permit Area 2: Core Business and with respect to local area plans, the *Downtown Core Area Plan*, 2011 (DCAP) is applicable. The adjacent through-block walkway at 836 Yates Street is identified as a Key Pedestrian Connection within a Priority Through-Block Walkway Area within the DCAP with policies recognizing the opportunities to redesign and replace key pedestrian connections with new through-block walkways in these areas. The DCAP also includes policies related to Crime Prevention Through Environmental Design (CPTED) and suggests incorporating design elements that animate and improve the attractiveness, safety and usability of through-block walkways.

The proportions, shape and grade of the proposed new through-block walkway remain unchanged from the approved DP. However, the inability to create a wider, through-block walkway has resulted in the applicant proposing physical modifications to the walkway through gates and fencing and modifications to the terms of the SRW. These changes would ultimately remove public access through the property and would create a linear division along the walkway that was intended to be a shared public walkway. The proposed redesign of the walkway does not comply with relevant City guidelines as it is identified as a Key Pedestrian Connection in the DCAP and permanent closure of the walkway would be contrary to CPTED principles of creating attractive, safe and usable walkways.

## **Advisory Design Guidelines for Buildings Signs and Awnings (1981)**

The *Advisory Design Guidelines for Buildings Signs and Awnings* (1981) state that an acceptable application will include consideration of an attractive streetscape and that the architecture and landscaping of the immediate area be identified and acknowledged. In evaluating a design, particular emphasis will be placed on the solution to these general aspects: comprehensive design approach, relevancy of expression, context, pedestrian access, massing, scale, roofline, detailing, street relationship, vistas, landscaping plan, colours and textures. The application is not consistent with these Guidelines as it relates to pedestrian access.

## **Guidelines for Fences, Gates and Shutters (2010)**

The objective of these Guidelines is to ensure that where fences, gates and shutters are required, they are designed well and complement their surroundings. The application does include high-quality custom security fencing, details of which are included in the application package, consistent with the original Development Permit. However, the guidelines also note the cumulative impact of many fences and gates, which can damage the public's perception of whether a street or area is safe and alter the character of the street when gates are closed after hours. Relocating the gates closer to the street may be perceived as adding to the creation of a fortress-like appearance since the security gates will be more visually prominent to pedestrians along Yates Street and Johnson Street, which could contribute negatively to the current gated streetscape appearance.

## **Statutory Right-of-Way**

The applicant granted a statutory right-of-way (SRW) as part of the original Development Permit approval in 2017. Under the terms of the SRW, a public walkway of at least 1.22m currently allows all members of the public full, free and uninterrupted right to use the walkway between the hours of 7 a.m. and 10 p.m. The provisions of the SRW also give the owner the right to

prevent or remove any person who acts in a disorderly, threatening or offensive manner, poses a threat to the security of the land or takes shelter in the walkway.

The proposed modification to the terms of the SRW would only allow access to the walkway by key fob and public access would be prevented until such a time that the City obtained an SRW on the adjacent property. However, closure of the walkway to the public for an undetermined length of time would be contrary to the design guidelines, which identify this as a key pedestrian connection. Although having a 1.22m wide walkway is less than desirable (the guidelines state that existing walkways should be 2.5m wide and all new walkways should be a minimum of 5m wide), the design of the walkway with ground level entrances and hard and soft landscaping would help to mitigate the feeling of a “gauntlet” for pedestrians. In addition, the SRW already includes provisions to manage potentially unsociable behaviour, cited as a primary concern for the applicant. For these reasons staff recommend Council decline the proposed modifications to the terms of the SRW.

## CONCLUSIONS

The walkway forms part of a key pedestrian connection in the *Downtown Core Area Plan* that is aligned with two mid-block traffic crossings on both Yates Street and Johnson Street, and access was valued by local residents. The permanent closure of the walkway to the public is inconsistent with policy and would have negative implications to the City pedestrian network. Further, the proposed design modifications of relocating the gates closer to the street would create a fortress-like appearance and be more visually prominent to pedestrians. Staff therefore recommend Council decline the modifications to the walkway and terms of the SRW.

Respectfully submitted,

  

Charlotte Wain  
Senior Planner – Urban Design  
Development Services Division

Karen Hoese, Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager:



Date: September 10, 2020

## List of Attachments

- Attachment A: Subject Map
- Attachment B: Aerial Map
- Attachment C: Approved Site Plan from May 2017 (DPV No. 00025)
- Attachment D: Proposed Plans dated August 25, 2020
- Attachment E: Comparison Plans and Perspective Views
- Attachment F: Correspondence from 834 Johnson Street Residents.