

August 21, 2020

Charlotte Wain
Senior Planner, Urban Design Development Services
City of Victoria
1 Centennial Square
Victoria, BC V8W 1P6

Dear Ms. Wain,

Re: 848 Yates Street Statutory Right-of-Way

Further to our letter dated July 4, 2020 (Chard's Letter) and your e-mail response received on August 6, 2020 ("City's Response"), we hereby submit revised plans for a minor Amendment to Development Permit regarding the statutory right-of-way ("SROW") and through-block walkway that runs along the western edge of Chard Development's project currently under construction at 848 Yates Street ("848").

As Chard cannot trespass onto our neighbour property without the City obtaining a SROW to secure the midblock right of way we are unable to fulfill the proposed modifications on the 836 Yates property. In the preliminary Approved Development Permit discussions, Chard always understood the City had a SROW on the then existing mid block walkway. However, once construction had already commenced, Chard was informed by the neighbour that this is not the case and from a title search, this was later proven. To follow the Official Community Plan and DCAP provisions, Chard originally worked with staff to lower the entire grade of the 848 building to provide similar elevations to the 836 Yates walkway, incorporated City homes, and created bicycle and commercial parking access to the retail and lobby frontage from the midblock to create animation and interest—all of which are still being fulfilled.

The City's Response indicates that the changes originally proposed in Chard's Letter on July 4, 2020 will ultimately remove official public access through the property and create a linear division along the walkway which is intended to be a shared public pathway as part of the original Development Permit approval granted to us in 2017.

While we fully understand the City's desire in this respect, a public walkway cannot be fully implemented until such time as the City secures a SROW over the adjacent property currently owned by Coronet Ventures Ltd. ("Coronet"), which is not within our control. In addition, the security issues identified in Chard's Letter will continue to impact the SROW area until such time as the through-block walkway is fully expanded which is once again dependent on the City securing a Statutory Right of Way over Coronet's Property. The portion of through-block walkway located on the 848 Yates property was, and remains, quite narrow (see image attached in Appendix C). This width, while appropriate to provide access for residents, visitors, and those frequenting commercial establishments on site, cannot safely provide through-block access to the general public.

The 848 Yates building is nearing completion with the massing of the building complete, planters installed for the townhomes, and finishing details underway. The form and intent of the midblock on the 848 Yates property fulfills the obligations under the Approved Development Permit. Below is a comparison to the Approved Development Permit and Revised Application to illustrate this:

	Approved Development Permit	Revised Application
Gate Height	8'+ feet	Decreased to 6' feet to work cooperatively with City Staff despite having an approved drawing with 8' gates
Gate Design	Refer to appendix A	Same design, entry width of first Yates Gate has been increased to make easier to transport bikes through the gate to the bike lockers.
Location of Gates	Two gates. Gate one located south of the townhomes, at the Yates entrance to midblock. Gate two located south of the parkade exhaust, at the Johnson entrance to midblock.	Three gates. Gate one located in line Yates inner vestibule doors, at the Yates entrance to midblock. Gate two located south of the townhomes. Gate three located north of the parkade exhaust, at the Johnson entrance to midblock
Access to Midblock	Open 7am to 10pm for public access	Fobbed access. Once the City secures an SRW on the neighbour and the mid block is complete to be wider, the gates will be publicly accessible from 7am to 10pm for public access.
Width	4'-1" feet on the 848 property and 14'-5" feet on 836 Yates Street Property	Remains 4'-1" feet on 848 Yates Property
Access to Townhomes	From the midblock walkway	No Change
Bicycle Access	From the midblock walkway	No Change
Commercial Parkade Access	From the midblock walkway	No Change

The physical proportions, shape and grade of the new through-block walkway along 848 remain unchanged from the approved DP on the 848 Yates property. Further, there are no changes proposed to the hard or soft surface materials installed along the SROW area over 848. Given the resulting inability for 848 to create a wider, physical-distance-friendly through-block walkway, the new through-block walkway is proposed as fobbed access to the Yates and Vivid townhomes and the associated bike storage rooms, as well as a fire exit for both new buildings, but only until such time as the City is able to secure an Statutory Right of Way over Coronet's Property.

We propose an amendment to the SROW registered against title to the Property in such a manner so as to make it effective once the City obtains a Statutory Right of Way over Coronet's property. In other words the SROW will continue to remain on title to the 848 Property in favour of the City, but will be suspended until the through block walkway is capable of being expanded at which time all of the provisions therein will apply.

As strong advocates of downtown living, Chard recognizes the benefits of the midblock walkway and remains committed to providing a mid-block walkway to benefit the neighbourhood, local shops, and residents of the building. Chard has agreed to deliver the same experience as Approved by Council on our property and has further worked with Staff to reduce the gate height than previously approved.

Thank you in advance for your consideration of this matter. Should you wish to discuss this further, please do not hesitate to reach out to me directly. I would be happy to meet in person or virtually at your earliest convenience in an effort to expedite the requested amendment to the 848 Yates Development Permit.

Yours truly,

CHARD DEVELOPMENT LTD.

A handwritten signature in dark ink, appearing to read "David Chard", is written over a light gray rectangular background.

David Chard

CC: Alison Meyer, Assistant Director, Development Services, City of Victoria
Byron Chard, President & CEO, Chard Development Ltd.
Daniel Eagling, Development Manager, Chard Development Ltd.

Attachments:

- Appendix A – Gate Design
- Appendix B – Rendering
- Appendix C – Through-block Image
- Appendix D – Amended SROW

July 4, 2020

Charlotte Wain
Senior Planner, Urban Design Development Services
City of Victoria
1 Centennial Square
Victoria, BC V8W 1P6

Dear Ms. Wain,

Re: 848 Yates Street Statutory Right-of-Way

We herewith submit application for a minor Amendment to Development Permit regarding the statutory right-of-way ("SROW") and through-block walkway that runs along the western edge of Chard Development's project currently under construction at 848 Yates Street ("848").

As per the requirements of the approved Development Permit, 848 includes a "statutory right-of-way of a minimum of 1.22m along the western property line". This SROW runs adjacent to an existing through-block walkway at 836 Yates Street ("836") which is owned and maintained by the owner of that property, Coronet Ventures Ltd. The intention of the 848 SROW was "to allow for the expansion of the through-block walkway to the satisfaction of the Director of Planning"; early interaction with Coronet indicated that they were amenable to embellishment of the through-block walkway on their property as encouraged by the City.

As such, 848 was designed with building setbacks, city townhomes, terraces, lobby entrances, storefronts, bicycle access and parkade elevator access adjacent to the through-block walkway. Working in collaboration with City planning staff and with agreement in principal from Coronet, Chard made countless landscape revisions to modify and remove the majority of the existing concrete planter walls, stairs, and decorative lighting along the 836 through-block walkway. Further, the entire parking structure below 848 was lowered to allow for grades to be level on the proposed expanded, walkway and the inclusion of enhanced fencing and gate materials to facilitate closure of the walkway after business hours and provide privacy to the urban townhomes that abut the through-block walkway.

The DP drawings dated April 27, 2017 were approved by the City based on the collaborative work noted above and the expanded through-block walkway concept. Building Permit drawings were prepared and submitted to the City based on the approved DP drawings.

Shortly thereafter – coinciding roughly with the start of excavation at 848 – BC Housing purchased the property at 844 Johnson Street and quickly began the process of relocating occupants of the tent city that had occupied the Victoria Courthouse property for some months. This move brought much anxiety to the area, residents, and businesses and increased security concerns for the owner and tenants of 836. The existing through-block walkway at 836 became a location of choice for drug use, drug trafficking, public consumption of alcohol and even a “public toilet”. We were advised by Coronet that their tenants were becoming increasingly concerned for their safety given their main office entrance is located off this walkway. On our side of the property line, tradespeople at 848 were equally concerned as the excavation site became a favoured place to throw discarded needles. BC Housing offered assistance by providing security patrols along the walkway and around the Johnson Street buildings. Unfortunately, as was well documented in numerous community meetings, these efforts did little to improve the safety or security of residents, offices workers and businesses.

In response, Coronet took action, installing gates at either end of the existing 836 through-block walkway. Their actions brought to light the fact that **no** SROW exists over Coronet’s lands. The lack of an SROW across the 836 property came as a surprise to Chard, particularly given our interpretation of the OCP and DCAP around through-block walkways. As noted above, an inordinate amount of time was spent adjusting design and construction detailing at 848 – and even extended to significant adjustments along 836 – at the request of the City, suggesting that a City SROW was in place. Coronet has advised given the safety and security concerns they are unwilling to grant access or adjustments to their property “for the purpose of constructing and operating a shared mid-block walkway” as noted in the attached letter, leaving Chard with no option but to apply for an Amendment to the 848 Development Permit.

As a SROW does not exist over the 836 property, the attached sketch details the following minor revisions and amendments we propose to the original Development Permit (submitted under separate cover):

1. The existing low planter that runs along the eastern edge of 836 will remain.
 - The owner has indicated no desire to make adjustments to their existing concrete planter walls, security or lighting.
2. The proposed gate and fence locations on 848 property have been moved to align with the fence and gates as they exist on 836 property.
 - Aligning these gates and fences will avoid creating any dead-end areas along either 836 or 848 that could compromise resident, tenant and public safety.

The physical proportions, shape and grade of the new through-block walkway along 848 remain unchanged from the approved DP. Further, there are no changes proposed to the hard or soft

surface materials installed along the SROW over 848. Given the resulting inability for 848 to create a wider, physical-distance-friendly through-block walkway, the new through-block walkway is proposed as a private access to the Yates and Vivid townhomes and the associated bike storage rooms, as well as a fire exit for both new buildings. The revised plans reflect enhanced fencing and gates to achieve these objectives.

As the SROW will require an amendment to reflect the discontinuance of public hours to the initial proposed walkway, we have taken the liberty of including a modified SROW.

Thank you in advance for your consideration of this matter. Should you wish to discuss this further, please do not hesitate to reach out to me directly. I would be happy to meet in person or virtually at your earliest convenience in an effort to expedite the requested amendment to the 848 Yates Development Permit.

Yours truly,

CHARD DEVELOPMENT LTD.

David Chard

CC: Alison Meyer, Assistant Director, Development Services, City of Victoria
Daniel Eagling, Development Manager, Chard Development Ltd.

Attachments: Modified SROW agreement
Amended D.P ground floor plan
Coronet Letter Dated XXX