



## Committee of the Whole Report For the Meeting of November 7, 2024

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**To:** Committee of the Whole **Date:** October 24, 2024  
**From:** Karen Hoese, Director, Planning and Development  
**Subject:** Request to Amend a Covenant Regarding 1321 Yates Street

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### RECOMMENDATION

That Council authorize amendment of the covenant FB004862 related to 1321 Yates Street (the “**Lands**”), with contents satisfactory to the Director of Planning and Development and form satisfactory to the City Solicitor to allow the 24-hour operation of the convenience store and gas bar, but not the carwash, on the Lands.

### EXECUTIVE SUMMARY

The purpose of this report is to present Council with information, analysis and recommendations regarding the amendment of a document related to the property located at 1321 Yates Street (the “**Lands**”) to remove a legal charge. In order to amend the document or remove it from title, the authorization of Council is required. The document (covenant FB004862) is attached to this report as an appendix.

The Lands are occupied by a gas bar, convenience store, and a car wash all operated by Shell Canada Limited. All uses on the Lands are restricted via covenant to 6:00 a.m. to 11:00 p.m. Sunday through Thursday and from 6:00 a.m. to 12:00 a.m. Friday and Saturday. The owner has requested amendment of the covenant to allow the 24-hour operation of the convenience store and gas bar. The owner’s rationale for removing the covenant is to provide mitigation of vandalism, theft, and damage that Shell states has occurred during hours when the convenience store and gas bar are closed.

The covenant restricting the hours of operation is not required by zoning. Given other examples of similar 24-hour convenience stores (e.g. Circle K and 7-Eleven) that operate near the proposed location, the requested amendment is considered supportable. As the applicant has indicated the car wash could still be limited to existing hours of operation, amending the covenant to reflect changes to the gas bar and convenience store is recommended, though an alternate motion to discharge the covenant entirely is provided.

## RELEVANT HISTORY

The Lands were rezoned in 2006 to permit the addition of a convenience store to an existing service station and car wash. At the time, it was recommended that the rezoning be declined, primarily on the basis that the proposed use did not comply with the since-rescinded *Service Station Policy (1985)* that was intended to limit the range of products that could be sold at service stations. Other rationale for decline was the proximity to other neighbourhood commercial centres (e.g. Fernwood Village and Stadacona Centre). Council opted to advance the application and approve the rezoning.

During the public hearing portion of the rezoning, Council heard concerns from members of the public about the impact of the convenience store to the neighbourhood (see Attachment D). The applicant indicated that the store would not be 24-hours. Council recommended that a covenant be required to restrict the hours of operation, to which the applicant agreed.

In July 2024, Shell Canada Limited wrote to the City to request changes to the covenant outlined in this report.

## CONCLUSIONS

Restricting the twenty-four-hour operation of the Lands is not required by zoning but was a condition of rezoning added in response to community concerns. However, successful operation of other similar 24-hour convenience stores in the area suggests that this restriction is not required. Therefore, the amendment is considered supportable. As the owner has indicated that the car wash hours would still be limited to those in the covenant, it is recommended that the restrictions on car wash operation continue to apply.

## ALTERNATE MOTION

### Alternative recommendation – discharge covenant

1. That Council authorize the discharge of covenant FB004862 related to 1321 Yates Street (the “**Lands**”) that prohibits the twenty-four-hour operation on the Lands.

Respectfully submitted,

Geordie Gordon  
Senior Planner  
Planning and Development

Alec Johnston, on behalf of  
Karen Hoese, Director  
Planning and Development

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

## List of Attachments

- Attachment A: Aerial Map
- Attachment B: Letter to Mayor and Council, dated July 15, 2024
- Attachment C: Covenant No. FB004862
- Attachment D: Rezoning Public Hearing Minutes November 23, 2006