



## **Council Report**

**For the Meeting of September 21, 2017**

---

**To:** Council **Date:** September 14, 2017  
**From:** Jonathan Tinney, Director, Sustainable Planning and Community Development  
**Subject:** **Update Report 3 - Development Permit with Variances Application No. 00025 for 848 and 852-856 Yates Street and 845 and 849 Johnson Street**

---

### **RECOMMENDATION**

That Council rescind third reading of the Housing Agreement Bylaw No. 17-091, replace Schedule A with the updated version attached to this report and give third reading to Housing Agreement Bylaw No. 17-091.

### **EXECUTIVE SUMMARY**

The purpose of this report is to provide an update on the Council conditions set out in the motion moved by Council on May 11, 2017 (attached). The Housing Agreement Bylaw was not adopted concurrent with Council's authorization of Development Permit with Variances Application No. 00025 for 848 and 852-856 Yates Street and 845 and 849 Johnson Street and requires Council's adoption for the issuance of the permit.

The proposal is to construct a mixed-use building comprised of two towers, both at 21 storeys, with ground-floor retail facing Johnson Street and Yates Street with residential above.

### **Housing Agreement**

A Housing Agreement (attached) has been prepared to ensure that future strata bylaws cannot restrict the age of occupants or prohibit strata owners from renting residential strata units. First, second and third reading of the Housing Agreement Bylaw No. 17-091 was given at the Council meeting of September 7 (minutes attached). Since this meeting, the applicant has secured funding from BC Housing, and as one of the conditions to the funding, owners of the Johnson Street tower must not rent units for a period of two years from the date of sale. This has been included to discourage investment purchasing. An additional clause to this effect has been added under Section 2.4 of the attached Schedule A of Housing Agreement Bylaw No. 17-091.

### **CONCLUSIONS**

The required Housing Agreement has been updated in response to the conditions set out by Council and in response to the requirements for BC Housing. Development Permit Application No. 00025 for 848 and 852-856 Yates Street and 845 and 849 Johnson Street is ready for issuance subject to adoption of the Housing Agreement Bylaw.

Respectfully submitted,

*C. R. Wain*

Charlotte Wain  
Senior Planner - Urban Design  
Development Services Division

*A. May*

*J. Tinney*

Jonathan Tinney, Director  
Sustainable Planning and Community  
Development Department

Report accepted and recommended by the City Manager:

*Jocelyn Jenkins*  
Date: Sept. 15, 2017

#### List of Attachments

- Attachment A: Council Minutes dated May 11, 2017
- Attachment B: Council Minutes dated September 7, 2017
- Housing Agreement Bylaw No. 17-091 with revised Schedule A

**PUBLIC AND STATUTORY HEARINGS**

**1. Development Permit with Variances Application No. 00025 for 848, 852-856 Yates Street and 845 & 849 Johnson Street**

**1. Hearing**

**Development Permit with Variances No. 00025**

The Council of the City of Victoria will consider issuing a Development Permit with Variances for the land known as 848 and 852-856 Yates Street and 845 and 849 Johnson Street, in Development Permit Area 2 (HC) Core Business, for the purpose of approving the exterior design and finishes for the mixed-use building as well as landscaping.

The Development Permit will vary the following requirements of the *Zoning Regulation Bylaw*:

- Section 3.67.5(2) - increase the building height from 30m to 59.7m; and
- Section 3.67.5(2) - increase the number of storeys from 10 storeys to 21 storeys.

Legal description of the land:

Lot 374, Victoria City; Lot 375, Victoria City; Lot 380, Victoria City; and Lot 381, Victoria City.

Charlotte Wain (Senior Planner): Advised that the application is for a Development Permit with Variances for a 21-storey (two tower) mixed-use building.

*Mayor Helps opened the public hearing at 7:08 p.m.*

David Chard (Chard Development): Provided information regarding the application which would be mixed use building of commercial and residential. Also noted is the inclusion of 81 parking stalls designated for commercial parking.

Project Architect: Provided information regarding the improvements to mid-block walkway and specification on the height and setback of the proposed application.

Project Landscaper: Provided information regarding the landscaping of the mid-block walkway and the roof. A habitat garden for birds will also be included on the roofs.

*Council discussed the following:*

- *The voluntary inclusion of 81 parking stalls for commercial parking in the downtown core.*

Jane McGregor (CEO of the Victoria Conservatory of Music): Expressed support for the application as it will enhance the neighbourhood.

Dylan Willows (Yates Street): Expressed support for the application as it will enhance the neighbourhood, and hope that they will work with the club to mitigate noise concerns.

Jason Markus (Yates Street): Expressed concerns regarding the application due to the possible affect to an access door to their building.

Debra Nelson (Yates Street): Expressed concerns regarding the noise-proofing that would be provided with the buildings due to potential noise concerns in the neighbourhood.

Dan Markus (Yates Street): Expressed support for the application, but noted concerns relating to the access door to the neighbouring building.

*Council discussed the following:*



- *Lack of consultation that occurred with the neighbouring building.*
- *How noise concerns in the neighbourhood would be communicated to potential purchasers.*
- *How the applicant is working with BC Housing to create housing affordability.*
- *That transient accommodation is not a permitted use.*

*Mayor Helps closed the public hearing at 7:58 p.m.*

*Councillor Loveday withdrew from the meeting at 7:58 p.m. and returned at 7:59 p.m.*

## **2. Development Permit with Variances Approval**

### **Motion:**

It was moved by Councillor Thornton-Joe, seconded by Councillor Lucas, that Council authorize the issuance of Development Permit Application No. 00025 for 848 and 852-856 Yates Street and 845 and 849 Johnson Street in accordance with:

1. Plans date stamped April 27, 2017.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
  - a. Section 3.67.5(2) - increase the building height from 30m to 59.7m;
  - b. Section 3.67.5(2) - increase the number of storeys from 10 storeys to 21 storeys;
3. Preparation and registration of the following documents, signed and executed by the applicant, to the satisfaction of the Director of Planning and Sustainable Development:
  - a. Section 219 covenant to ensure the security gates on the through block walkway remain open to the public between 7 a.m. and 10 p.m. in the form satisfactory to the City Solicitor;
  - b. Statutory Right-of-Way of a minimum of 1.22m along the western property line to allow for the expansion of the through-block walkway to the satisfaction of the Director of Planning;
  - c. Housing Agreement to ensure that future strata bylaws cannot restrict the age of occupants or prohibit strata owners from renting residential strata units.
4. Receipt of evidence that the application is in compliance with the Ministry of Environment's Environmental Management Act as it pertains to potentially contaminated sites;
5. That Council authorize the Mayor and City Clerk to execute an Encroachment Agreement for a fee of \$750, plus \$25 per m<sup>2</sup> of exposed shored face during construction in a form satisfactory to the Director of Engineering and Public Works. This is to accommodate shoring for construction of the underground parking structure if the method of construction involves anchor pinning into the public Right-of-Way;
6. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Director of Planning and Sustainable Development;
7. The Development Permit lapsing two years from the date of this resolution unless the permit holder substantially starts construction.

### **Amendment:**

It was moved by Councillor Isitt, seconded by Councillor Madoff, that the motion be amended to add a new clause 3 (d), as follows:

- d. **Section 219 covenant to ensure that the Property Disclosure Statement for all potential purchasers clearly discloses the presence of a nightclub adjacent to the property.**

**On the amendment:**  
**Carried Unanimously**

*Council discussed the following:*

- *Whether the increase of height to 21 storeys is supportable.*
- *Noise mitigation for the building to minimize impacts of the nearby nightclub.*
- *The positive inclusion of parking for commercial uses in the downtown core.*

**Main motion as amended:**

That Council authorize the issuance of Development Permit Application No. 00025 for 848 and 852-856 Yates Street and 845 and 849 Johnson Street in accordance with:

1. Plans date stamped April 27, 2017.
2. Development meeting all *Zoning Regulation Bylaw* requirements, except for the following variances:
  - a. Section 3.67.5(2) - increase the building height from 30m to 59.7m;
  - b. Section 3.67.5(2) - increase the number of storeys from 10 storeys to 21 storeys;
3. Preparation and registration of the following documents, signed and executed by the applicant, to the satisfaction of the Director of Planning and Sustainable Development:
  - a. Section 219 covenant to ensure the security gates on the through block walkway remain open to the public between 7 a.m. and 10 p.m. in the form satisfactory to the City Solicitor;
  - b. Statutory Right-of-Way of a minimum of 1.22m along the western property line to allow for the expansion of the through-block walkway to the satisfaction of the Director of Planning;
  - c. Housing Agreement to ensure that future strata bylaws cannot restrict the age of occupants or prohibit strata owners from renting residential strata units.
  - d. Section 219 covenant to ensure that the Property Disclosure Statement for all potential purchasers clearly discloses the presence of a nightclub adjacent to the property.
4. Receipt of evidence that the application is in compliance with the Ministry of Environment's Environmental Management Act as it pertains to potentially contaminated sites;
5. That Council authorize the Mayor and City Clerk to execute an Encroachment Agreement for a fee of \$750, plus \$25 per m<sup>2</sup> of exposed shored face during construction in a form satisfactory to the Director of Engineering and Public Works. This is to accommodate shoring for construction of the underground parking structure if the method of construction involves anchor pinning into the public Right-of-Way;
6. Final plans to be generally in accordance with the plans identified above to the satisfaction of the Director of Planning and Sustainable Development;
7. The Development Permit lapsing two years from the date of this resolution unless the permit holder substantially starts construction.

**On the main motion as amended:**

**Carried**

**For:**

**Mayor Helps, Councillors Alto, Coleman, Lucas, Thornton-Joe, and Young**

**Opposed:**

**Councillors Isitt, Loveday, and Madoff**

**BYLAWS**

**1. Bylaw for 848 and 852-856 Yates Street and 845 and 849 Johnson Street**

**Motion:**

It was moved by Councillor Thornton-Joe, seconded by Councillor Madoff, that the following bylaw be **given first, second, and third reading:**

- a. *Housing Agreement (848 Yates) Bylaw (2017) No. 17-091*

**Carried Unanimously**