



June 22, 2021

Karen Hoesé

Director of sustainable Planning and Community Development.

Alison Meyer

Assistant Director, Development Services

City of Victoria

1 Centennial Square

Victoria, BC V8W 1P6

Dear Ms Hoesé & Ms. Meyer,

Re: Midblock Pathway and Pedestrian Safety | 845 Johnson Street & 848 Yates Street

Further to our recent conversations, I am once again reaching out to ask City staff to address the substandard and unsafe situation that has been created for residents of 845 Johnson Street (845), 848 Yates Street (848) and as a result the pedestrian population of the downtown due to the minimal 4 ft width of this proposed midblock walkway. Initially the additional lands of approximately 4 ft were to enhance and widen the previous connection across the property known as 836 Yates.

As the City has been unable to obtain a Statutory Right of Way (SRW) on the adjacent property at 836 Yates Street to allow for the anticipated creation of a safe walkway that would meet minimum city recommended mid block width requirements, we herewith request a relaxation of the registered SRW against the 845 Johnson and 848 Yates properties.

Due to security and safety concerns for the new residents along the pathway, other residents of Vivid and Yates on Yates, commercial tenants, and the general public we herewith request the following modification of the SRW as an interim step until the City is able to secure an SRW on the immediately adjacent property:

- (a) Section 1.6 is hereby deleted in its entirety and replaced with the following:

“security gates at or near the boundary of the Right of Way Area on the Yates Street and the Johnson Street side as shown on the sketch plan attached hereto as Schedule B (the “**Security Gates**”), provided that such gates shall remain open and not block access to the Right of Way Area between the hours of 7:00 a.m. and 10:00 p.m. subject to section 2.4;

- (b) Article 2.0 is hereby amended by adding the following as a new paragraph immediately after the end of Section 2.3:

“2.4 Notwithstanding Section 1.6 and 2.3 hereof, due to security and safety concerns at the time of this Modification Agreement, the obligation of the

Transferor to keep the Security Gates open and not block access to the Right of Way will not apply until such time as the Transferee either:

- (a) secures a statutory right of way or such other right as the Transferee requires in its sole discretion over those lands running parallel to the Right of way Area on the neighbouring property civically known as 836 Yates Street, Victoria B.C. and legally described as PID: 023-003-995 Lot A Plan Lots 373 and 382 Victoria City Plan VIP60321 to enable the Public Walkway to be widened to 5 meters; or
- (b) deems that the security and safety concerns, in the Transferee's sole and absolute discretion, are no longer applicable on the fifth anniversary that this Modification Agreement is registered in the Land Title Office and every five year anniversary thereafter,

and the Transferee and provides written notice thereof to the Transferor.”

Attached is a full legal modification agreement for your review and consideration.

I would like to remind Staff and council we have taken the development of the initially proposed widening of the previous walkway very seriously and we have fulfilled all the original Development Permit commitments for design and construction on our lands. It is the City that has been unable to provide or deliver an SRW to allow for the creation of the envisioned walkway. It is my understanding that there was a city clerical error many years ago, that has created this unfortunate situation that must now be addressed.

As a long-time advocate for downtown Victoria, I am committed to creating safe, sustainable communities for residents, our neighbours, and the general public. In order to assist with the future widening of the walkway, we are willing to contribute \$30,000 to the City of Victoria with no obligation to return such funds should the pathway never be widened. This sum was the allocated amount for improving the adjacent property to create the proper width Mid Block Walkway.

We are optimistic that the city shares the same commitment to safety and community and look forward to working together to promptly execute our proposed interim measure and the future widening will be realized by the City.

Should Staff and Council not support our proposed SRW modifications and insist that the 4 ft pathway between the currently installed gates remain open during the stated hours, we request the city be solely responsible for all liability of any untoward events that may occur in this substandard or minimal width pathway.



The proposed modification agreement that we are submitting will require ratification by The Owners of Strata Plan EPS7014. We are concurrently forwarding the proposed modification agreement to the Strata.

Should city staff or council members wish to experience the 4 ft pathway width, we would be pleased to provide a tour of the lands at your earliest convenience.

We view this matter of the utmost importance for the safety and security of Victorians and sincerely request support and approval of these interim modifications to the SRW.

Please do not hesitate to reach out to me directly at 604.970.4900.

Yours truly,

CHARD DEVELOPMENT LTD.


David Chard

CC: Jocelyn Jenkins, City Manager

Attachments: Level 1 Architectural Plan
848 SRW and Section 219 Covenant – proposed Modification Agreement