

Authority: Toronto and East York Community Council Item ##, as adopted by City of Toronto Council on ~, 2018

CITY OF TORONTO

Bill No. ~

BY-LAW No. XXXX-2018

To amend Zoning By-law No. 569-2013, as amended, with respect to the lands municipally known in the year 2017 as 88 Queen Street East, 10 Mutual Street and parts of 30-50 Mutual Street.

Whereas Council of the City of Toronto has the authority to pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*; and

Whereas the Official Plan for the City of Toronto contains provisions relating to the authorization of increases in height and density of development;

Whereas pursuant to Section 37 of the *Planning Act*, a by-law under Section 34 of the *Planning Act*, may authorize increases in the height and density of development beyond those otherwise permitted by the by-law and that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law; and

Whereas subsection 37(3) of the *Planning Act* provides that where an owner of land elects to provide facilities, services and matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services and matters; and

Whereas the owner of the aforesaid lands has elected to provide the facilities, services and matters hereinafter set out; and

Whereas the increase in height and density permitted beyond that otherwise permitted on the aforesaid lands by By-law No. 569-2013 as amended, is permitted in return for the provision of the facilities, services and matters set out in this By-law which is secured by one or more agreements between the owner of the land and the City of Toronto;

The Council of the City of Toronto enacts:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law.
2. Zoning By-law No. 569-2013, as amended, is further amended by amending Article 900.11.10 Exception Number 1391 so that it reads:

Exception CR 1391

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

- (A) Prevailing City of Toronto By-law 180-2005 does not apply to Parcels B and C therein, being the lands subject to By-law [Clerks to insert the by-law ##].
- (B) On 88 Queen Street East, 10 Mutual Street and parts of 30-50 Mutual Street (being Parcels B and C in By-law 180-2005), if the requirements of By-law [Clerks to supply by-law ##] are complied with, none of the provisions of regulations 40.10.40.10(1) and 40.10.40.40(1) apply to prevent the erection or use of a **building, structure**, addition or enlargement permitted in By-law [Clerks to supply by-law ##] including compliance with (B) to (Y) below.
- (C) Prevailing Sections 12(2) 132, 12(2) 216, and 12(2) 259 of former City of Toronto By-law 438-86, as amended, do not apply to the lands subject to By-law [Clerks to insert the by-law ##].
- (D) Despite regulation 40.10.20.100(4) a **hotel** room or suite may be located in the same **storey** as a **dwelling unit**.
- (E) Despite regulation 40.10.40.40(1), the total **gross floor area** of all **buildings** and **structures** must not exceed 97,500 square metres, of which:
 - (i) a maximum of 86,250 square metres of **gross floor area** may be used for residential uses; and
 - (ii) a maximum of 11,750 square metres of **gross floor area** may be used for non-residential uses.
- (F) The total number of **dwelling units** must not exceed 1,140.
- (G) A minimum of 50% of the total number of **dwelling units** must contain two or more bedrooms, and a minimum of 9% of the total number of **dwelling units** must contain three or more bedrooms.
- (H) Despite regulation 40.5.40.10(1), the height of a **building** or **structure** is measured as the vertical distance between the Canadian Geodetic Datum elevation of 86.4 metres and the highest point of the **building** or **structure**.
- (I) Despite regulations 40.10.40.10(1) and 40.5.40.10(4) the height of any **building** or **structure** must not exceed the maximum height in metres specified by the numbers following the letters "HT" as shown on Diagram 2 of By-law [Clerks to supply by-law ##], provided that all building elements are located to ensure that

there is no impact on Obstacle Limitation Surfaces as cited in Ontario Regulation 114/16 and City of Toronto By-law 1432-2017.

- (J) Despite regulations 40.10.40.60(1)(B), 40.10.40.70(1) and 40.10.40.80(1), no portion of any **building** or **structure** above finished ground level is other than wholly within the areas delineated by heavy lines shown on Diagram 2 of By-law [Clerks to supply by-law ##], with the exception of:
- (i) underground garage ramps including associated enclosures and **structures**; and
 - (ii) balconies located only within the areas delineated and labeled "Area of Balcony Projection" on Diagram 2 of By-law [Clerks to supply by-law ##] to a maximum of 1.5 metres.
- (K) Despite (K) above, no portion of any **building** or **structure** may be located between finished ground level and 5.0 metres above finished ground level within the areas delineated and labeled "Area of Privately Owned Publicly Accessible Pedestrian Walkway" on Diagram 3 of By-law [Clerks to supply by-law ##].
- (L) Despite regulation 40.5.40.10(6), unenclosed **structures** providing safety or wind protection to rooftop **amenity space** may exceed the permitted maximum height for that **building**.
- (M) Despite (J) and (K) above, a maximum of two (2) bridges between **buildings** may be permitted within the location shown in hatching on Diagram 2 of By-law [Clerks to supply by-law ##], subject to the following:
- (i) the maximum height of each bridge is one **storey**;
 - (ii) bridges must be unenclosed such that they do not contain **gross floor area**; however, they may contain unenclosed **structures** providing safety or wind protection to outdoor **amenity space**; and
 - (iii) bridges must be located above a height of 25.0 metres and below a height of 43.6 metres, measured between the Canadian Geodetic Datum elevation of 86.4 metres and the highest point of the bridge.
- (N) No portion of any **building** or **structure** above or below finished ground level may be located within the area delineated and labeled "Parkland Dedication" on Diagram 3 of By-law [Clerks to supply by-law ##].
- (O) Regulation 600.10.10(1), with respect to tall building setbacks, does not apply.
- (P) Despite regulations 40.10.40.50(1) and (2), **amenity space** must be provided and maintained at a minimum rate of 2.5 square metres for each **dwelling unit**, of which:

- (i) at least 1.5 square metres for each **dwelling unit** is indoor **amenity space**; and
 - (ii) at least 1.0 square metres for each **dwelling unit** is outdoor **amenity space**.
- (Q) Despite Table 200.5.10.1, **parking spaces** must be provided as follows:
- (i) a minimum of 0.35 **parking spaces** for each **dwelling unit** for use by residents;
 - (ii) a minimum of 0.06 **parking spaces** for every **dwelling unit** for use by visitors, and such **parking spaces** may be designated as shared commercial/residential visitor **parking spaces** and may be provided within a **public parking** use; and
 - (iii) a minimum of 1.0 **parking spaces** for each 371 square metres of **hotel gross floor area**.
- (R) Despite regulation 200.5.1.10(2), a maximum of 15 of the required **parking spaces** for residents that are obstructed may have a minimum width of 2.6 metres.
- (S) Despite regulation 200.15.1(1), an accessible **parking space** must have the following minimum dimensions: length of 5.6 metres, width of 3.9 metres and vertical clearance of 2.1 metres.
- (T) Clause 200.15.1.5, with respect to the location of accessible **parking spaces**, does not apply.
- (U) For each car-share **parking space** provided, the minimum number of **parking spaces** required by (Q) above may be reduced by four **parking spaces**, up to a maximum reduction of eight **parking spaces**.
- (V) For the purpose of this Exception:
- (i) Car-share means the practice whereby a number of people share the use of one or more motor vehicles that are owned by a profit or non-profit carsharing organization and such car-share motor vehicles are made available to at least the occupants of the **building** for short term rental, including hourly rental; and
 - (ii) A car-share **parking space** means a **parking space** exclusively reserved and signed for a car used only for car-share purposes.

- (W) Despite regulation 230.5.1.10(10), both "long term" and "short term" **bicycle parking spaces** may be provided in a **stacked bicycle parking space**, with a minimum width dimension of at least 0.375 metres.
- (X) Despite Clause 220.5.10.1, a minimum of one **loading space – type G**, one **loading space – type B** and one **loading space – Type C** must be provided and maintained.
- (Y) Despite regulation 40.10.100.10(1), **vehicle** access may be shared over the lands delineated and labeled "By-law 180-2005 Parcel A" on Diagram 1 of By-law [Clerks to supply by-law ##].

Prevailing By-laws and Prevailing Sections:

- (A) Section 12(2) 132 of former City of Toronto By-law 438-86;
 - (B) Section 12(2) 216 of former City of Toronto By-law 438-86;
 - (C) City of Toronto By-law 180-2005; and
 - (D) On 80 Queen St. E., and 88 Queen St. E., Section 12(2) 259 of former City of Toronto By-law 438-86.
3. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law No. 569-2013, Chapter 800 Definitions, as amended, with the exception of the following that will have the meaning stated below:
- (A) "**Phase 1**" means the development proposed within Parcel A as described in By-law 180-2005 and may include phasing within the lands for construction purposes to facilitate the shared access as well as the future public park shown on Diagram 3;
 - (B) "**Phase 2**" means the development proposed within the lands subject to By-law [Clerks to insert the by-law ##];
4. Section 37 Provisions
- (A) Pursuant to Section 37 of the *Planning Act*, and subject to compliance with this By-law, the increase in height and density of the development is permitted beyond that otherwise permitted on the lands shown on Diagram 1 in return for the provision by the owner, at the owner's expense of the facilities, services and matters set out in Schedule A hereof and which are secured by one or more agreements pursuant to Section 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the City Solicitor.
 - (B) Where Schedule A of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.

- (C) The owner shall not use, or permit the use of, a building or structure erected with an increase in height and density pursuant to this By-law unless all provisions of Schedule A are satisfied.

Enacted and passed on month ##, 2018.

Name,

Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE A
Section 37 Provisions

The facilities, services and matters set out below are required to be provided to the City at the owner's expense in return for the increase in height and density of the proposed development on the lands as shown in Diagram 1 in this By-law and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the owner agrees as follows:

- (A) prior to issuance of the first above-grade building permit, the owner shall pay by certified cheque payable to the Treasurer – City of Toronto, a financial contribution in the amount of \$3.3 million dollars to be applied in the vicinity of the site and allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor as follows: \$1.1 million to park or streetscape improvements; \$1.1 million to community, recreation and/or cultural space improvements and \$1.1 million for purpose built rental housing with mid-range or affordable rents and/or land for affordable housing and/or affordable ownership housing;
- (B) the cash contribution set out in item a. shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto calculated from the date of execution of the Section 37 Agreement to the day the payment is made;
- (C) prior to issuance of the first above-grade building permit, the owner shall pay by cash or certified cheque payable to the Treasurer – City of Toronto, a financial contribution in the amount of \$600,000 dollars to be allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor toward one or more of the following: the establishment and/or the improvement of a community facility at 261 Jarvis Street; off-site streetscape improvements within the Shuter Street right-of-way; and/or other local community facilities;
- (D) the cash contribution set out in item c., originally secured pursuant to By-law 108-2005, shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto calculated from March 16, 2005 to the day the payment is made;
- (E) in the event the cash contributions set out in items a. and c. as indexed have not been used for the intended purpose within three (3) years of the by-law coming into full force and effect, the cash contributions may be redirected for another purpose(s), at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose(s) is identified in the Official Plan and will benefit the community in the vicinity of the lands;
- (F) a Public Art contribution in the amount of \$1.5 million will be secured as part of the development;
- (G) the following matters will be secured in the Section 37 Agreement in support of the development:

- i. the owner shall pay for and construct any improvements to the municipal infrastructure in connection with the site servicing assessment, should it be determined that upgrades are required to the infrastructure to support the development, to the satisfaction of the Chief Engineer and Executive Director Engineering & Construction Services;
- ii. prior to the issuance of the first building permit, the owner shall post securities and make satisfactory arrangements to guarantee completion of the construction of any municipal infrastructure required to service the development in accordance with the accepted servicing and storm water management reports and associated municipal servicing plan, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- iii. prior to the issuance of the first building permit, the owner shall grant to the City, for the use of the TTC, a 3 m buffer along the south property line in fee simple and negative support and access easements, if required, with the detailed requirements determined through a TTC Technical Review, to the satisfaction of the Toronto Transit Commission;
- iv. prior to the issuance of the first building permit, the owner shall provide confirmation from St Michael's Hospital, or their representative, that any temporary (including construction cranes) and permanent structures are below or outside the protected flight path to the satisfaction of the Chief Planner and Executive Director, City Planning;
- v. provision that neither of the two midblock buildings proposed to be linked will include units that have principal rooms with principal windows directly facing the adjacent linked building to the satisfaction of the Chief Planner and Executive Director, City Planning;
- vi. the owner shall construct and maintain to the satisfaction of the Chief Planner and Executive Director, City Planning, an area of not less than 847 square meters at grade for use by the general public as publicly accessible, privately-owned open space (POPS), along the east side of the block and in the southeast corner in a location generally identified on Diagram 3 of By-law [Clerks to supply By-law ##], with the location configuration and design of the POPS to be determined in the context of site plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning Division, in consultation with the Ward Councillor and secured in a site plan agreement with the City;
- vii. the owner shall construct and maintain, to the satisfaction of the Chief Planner and Executive Director, City Planning, at grade publicly accessible pedestrian walkways having a minimum 7.5 m width for the west-east mid block connection and a minimum 8.3 m width for the north-south pedestrian mews connection in a location generally identified on Diagram 3 of By-law [Clerks to supply By-law ##], with the details of the location, configuration and design of the POPS to be determined in the

context of site plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning Division and secured in a site plan agreement with the City;

- viii. prior to the earlier of any non-residential or residential use or occupancy and registration of the first condominium, the owner shall have completed construction of the POP'S and pedestrian walkways referred to in g(vi) and g(vii) above and shall prepare all documents and convey to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, free and clear of encumbrances and for nominal consideration, a public access easement in perpetuity in favour of the City over the privately-owned open space (POPS) and the pedestrian walkways, including rights of support as applicable, on such terms and conditions as are set out in the section 37 agreement, including provision for insurance and indemnification associated with public access easements;
 - ix. prior to the issuance of the first building permit, the owner agrees to convey to the City, at nominal cost and free and clear of encumbrances, a 0.6 m wide road widening to the full extent of the westerly limit of the lot for the widening of Dalhousie Street to the satisfaction of the Chief Engineer and Executive Director Engineering & Construction Services on terms and conditions as are set out in the section 37 agreement, including environmental requirements in accordance with City Council policies respecting environmental conditions of lands being conveyed to the City;
- (H) in addition to the matters set out in item g. the section 37 Agreement will also secure the owner's obligations to convey a public park respecting parkland contributions for both **Phase 1** and **Phase 2** in the location shown on Diagram 3 of By-law [Clerks to supply By-law ##] having a minimum size of 962 square meters (the "Proposed Park") and to design and construct base and above-base park improvements, on terms and conditions set out in the section 37 Agreement to the satisfaction of the General Manager Parks Forestry and Recreation, including the following:
- i. prior to the issuance of the first above-grade building permit for all or any part of **Phase 1**, excluding a permit for demolition or a rental/sales centre, the owner shall register a Section 118 restriction on title to the Proposed Park, in form and priority to the satisfaction of the City Solicitor, to secure the conveyance to the City;
 - ii. the owner shall prepare all documents and convey the Proposed Park to the City to the satisfaction of the General Manager, Parks Forestry and Recreation prior to the earlier of any residential or non-residential use of all or any part of **Phase 1**, including first or interim occupancy, and registration of the first condominium pursuant to the Condominium Act, 1998, on all or any part of **Phase 1** and the remaining 22m² of parkland dedication be made by cash in lieu payment prior to issuance of the first building permit for all or part of **Phase 2**;
 - iii. prior to conveyance of the Proposed Park to the City, the owner shall complete all required environmental assessment and remediation of the lands in order to meet applicable laws, regulations and guidelines respecting sites to be used for public park

purposes, including City Council policies respecting remediation of lands being conveyed to the City, to the satisfaction of the Chief Engineer and Executive Director, Engineering & Construction Services;

- iv. prior to issuance of the first above grade building permit for all or any part of **Phase 1**, the owner shall submit all necessary plans and drawings and financial security equal to 120% of the estimated cost of base park improvements to the satisfaction of the General Manager, Parks Forestry and Recreation;
- v. prior to issuance of the first above grade building permit for all or any part of **Phase 1**, the owner shall submit a design and cost estimate for the above base park improvements together with financial security in the amount of 120% of the Parks and Recreation Development Charges payable for development within such **Phase 1** to the satisfaction of the General Manager, Parks Forestry and Recreation and, prior to issuance of the first above grade building permit for all or any part of the respective subsequent phase, the owner shall submit financial security in the amount of 120% of the Parks and Recreation Development Charges payable for the development within the subsequent phase, as required to the satisfaction of the General Manager Parks, Forestry and Recreation;
- vi. within four months after issuance of the first above-grade building permit for all or any part of **Phase 1**, the owner shall submit detailed working drawings, specifications and landscape plans showing the scope of work for the above base park improvements for review and approval of the General Manager, Parks Forestry and Recreation;
- vii. the owner shall install and maintain at its own expense, temporary perimeter fencing around the Proposed Park until completion of park construction;
- viii. the owner shall complete construction of the base park improvements and above base park improvements not more than six months after the conveyance of the Proposed Park to the City, to the satisfaction of the General Manager, Parks, Forestry and Recreation, subject to extensions for seasonality at the discretion of the General Manager, Parks, Forestry and Recreation;
- ix. following completion of the base park improvements and the above base park improvements to the satisfaction of the General Manager, Parks Forestry and Recreation, the owner shall provide as built drawings together with certification from a landscape architect certifying that the work has been completed in accordance with the approved drawings and, further, the owner shall be required to guarantee all work and associated materials for a two year period; and
- x. in the event that **Phase 2** proceeds to first building permit in advance of **Phase 1**, all obligations set out in item h) i. to viii. shall apply to **Phase 2**, read with the necessary modification.

- (I) all conveyances to the City, including easements, shall be for nominal consideration, free and clear of encumbrances and at no cost to the City on terms set out in the Section 37 Agreement to the satisfaction of the City Solicitor and the owner shall be responsible to prepare, submit to the City for approval and deposit all required reference plans to describe the lands being conveyed.

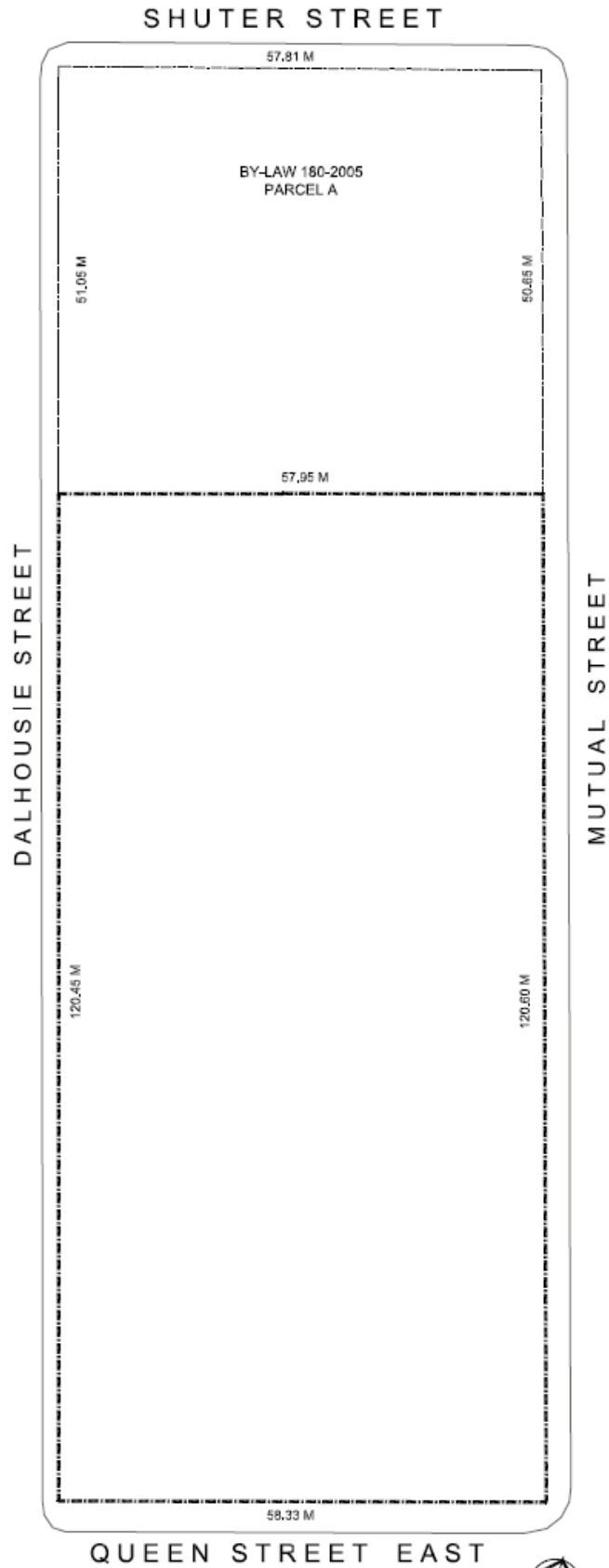


DIAGRAM 1



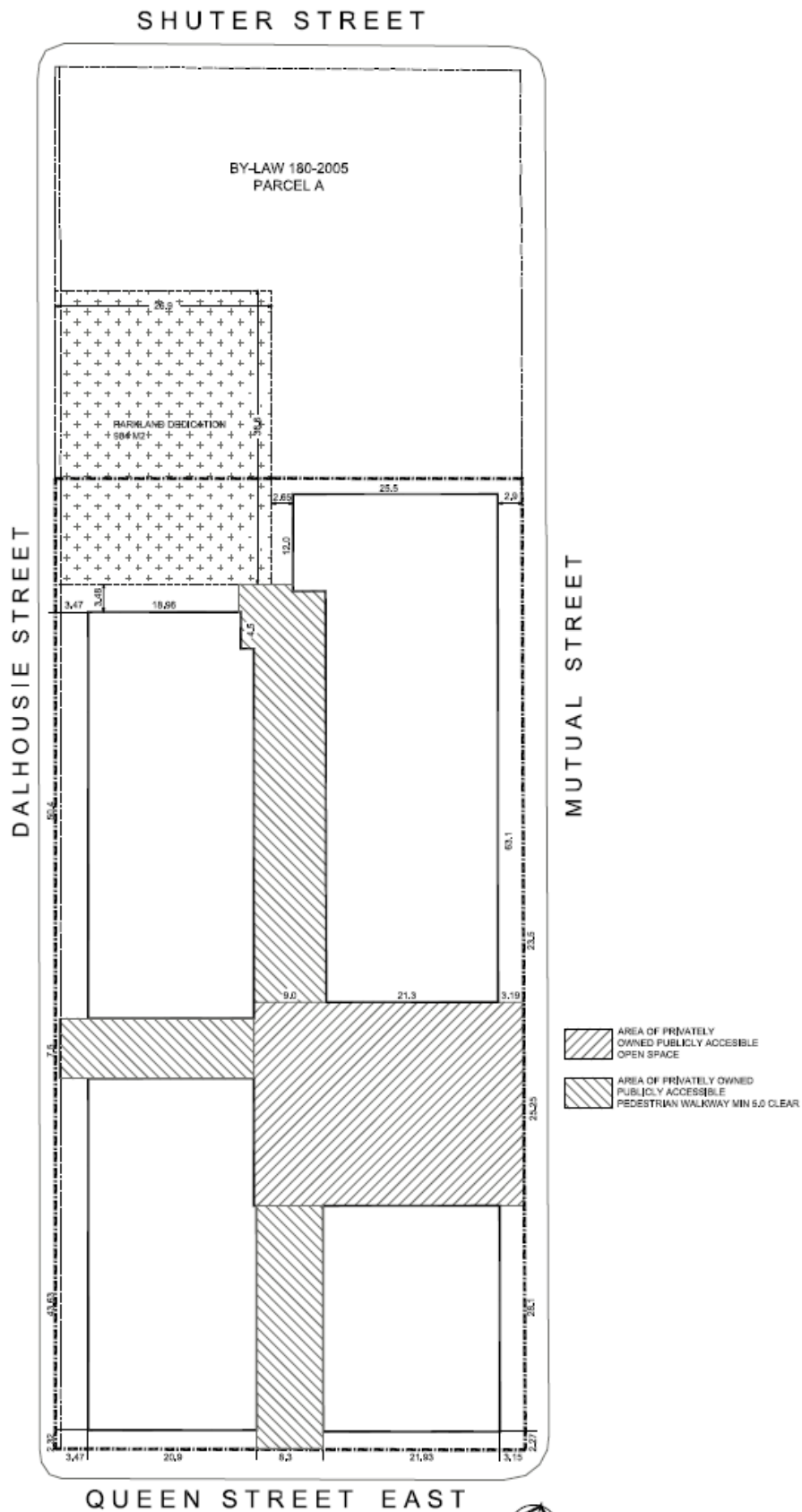


DIAGRAM 3