

25 Dalhousie Street and 30 Mutual Street - Amendment to Section 37 Agreement to Permit a Seasonal Outdoor Patio

Date: May 20, 2025

To: Toronto and East York Community Council

From: Director, Community Planning, Toronto and East York District

Ward: 13 - Toronto Centre

Related Planning Application Number: 16 165239 STE 13 OZ

SUMMARY

This Report recommends amending the Section 37 Agreement registered on title at 25 Dalhousie Street and 30 Mutual Street to permit two seasonal outdoor patios within a Privately Owned Publicly-Accessible pedestrian walkway ("Pedestrian Walkway") constructed on the site, and secured through a public access easement in favour of the City pursuant to site specific zoning requirements.

RECOMMENDATIONS

The Director, Community Planning Toronto and East York District recommends that:

1. City Council authorize the City Solicitor to amend the Section 37 Agreement, dated July 24, 2018, (Instrument AT5062767) in connection with the development located at 25 Dalhousie Street and 30 Mutual Street to allow operation of two seasonal outdoor patios with associated obstructions on portions of the Pedestrian Walkway identified as the north-south pedestrian mews connection in the Agreement, subject to terms satisfactory to the Executive Director, Development Review, including the following:
 - a. the total area of the seasonal outdoor patios shall not exceed 48 square metres (south patio), and 46 square metres (north patio) respectively;
 - b. the retail unit(s) within 25 Dalhousie Street and 30 Mutual Street operating the seasonal outdoor patios must be adjacent to and have direct access to the patio area within the Pedestrian Walkway;
 - c. allow two seasonal outdoor patios within the Pedestrian Walkway which will be limited in operation to the period of May 1 to September 30;
 - d. any fencing and furniture associated with the patio use (including but not limited to tables, chairs, and planters) shall be entirely removed from the Pedestrian Walkway during the "off-season period" (between October

1 and April 30) of each calendar year and no portion of the Pedestrian Walkway shall be used for storage of any furniture or fencing during this "off-season" period;

e. no structure shall be erected on any portion of the Pedestrian Walkway to cover the seasonal outdoor patio;

f. the daily operation hours of the seasonal outdoor patio shall be limited to 8:00 a.m. to 11:00 p.m.; and,

g. the final patio configuration and key elements of design will be determined in the context of Site Plan approval for the subject property.

2. City Council authorize appropriate City officials to implement Council's recommendations, including execution and registration of the amended Section 37 Agreement on title to the lands municipally known as 25 Dalhousie Street and 30 Mutual Street.

FINANCIAL IMPACT

The Development Review Division confirms that there are no financial implications resulting from the recommendations included in this Report in the current budget year or in future years.

DECISION HISTORY

On April 24-27, 2018, City Council approved the Official Plan and Zoning By-law Amendment applications for the development at 88 Queen Street East. The approval included a requirement for the owner to enter into a Section 37 agreement with the City to secure various contributions, including the obligation to provide Privately-Owned Publicly Accessible Space and walkways with associated public access easements on the site. The decision document can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2018.TE31.7>

THE SITE

The construction of the four buildings associated with the overall development at 88 Queen Street East has been complete and encompasses the entire block bounded by Queen Street East, Dalhousie Street, Shuter Street, and Mutual Street. The development includes a new public park, and a central Privately Owned Publicly-Accessible courtyard ("POPS") with east-west and north-south Pedestrian Walkways providing connectivity and access through the site. The patio spaces are associated with the two buildings municipally known as 25 Dalhousie Street and 30 Mutual Street, which were part of central Phase 2A of the development as outlined within Zoning By-law 1294-2018. A mid-block pedestrian mews connection having a minimum width of 8.3 metres is required between the two buildings in Phase 2A and is where the two patio spaces would be located.

THE AMENDMENT

Reasons for Amendment

The Section 37 Agreement dated July 24, 2018, registered as Instrument AT5062767 on the overall development site, secured a 8.3 metre-wide walkway between the two buildings at 25 Dalhousie Street and 30 Mutual Street as a Privately-Owned Publicly Accessible Pedestrian Walkway. Multiple ground floor retail and commercial spaces within the two buildings have frontage onto the Pedestrian Walkway. The provisions of the Section 37 agreement related to the Pedestrian Walkway do not permit any exclusive use areas or patios to occupy the area. The site specific by-laws require a public access easement to be conveyed to the City free and clear of encumbrances, on terms set out in the Section 37 Agreement.

Proposed Patio Spaces

The two proposed patio spaces abut ground floor retail units that have frontage onto the Pedestrian Walkway. During their use from May 1 to September 30, the patios will include temporary fencing and furniture. During the off season, from October 1 to April 30, the Pedestrian Walkway will be free and clear of all obstructions. The patio space on the south side of the Pedestrian Walkway will be 48 square metres in area, and the patio on the north side will be 46 square metres. See Attachment 1 for the proposed ground floor plan.

POLICY & REGULATION CONSIDERATIONS

Official Plan

The Official Plan Urban Structure Map 2 identifies the site as Downtown and Central Waterfront, and Map 18 designates the site as Mixed Use Areas.

Zoning

The subject site is zoned CR 5.0 (c0.5; r5.0) SS1 (x1391) under Zoning By-law 569-2013 as amended. Exception 1391 was enacted through site-specific By-law 1294-2018 (and By-law 1293-2018 amending former City by-law 438-86) when the redevelopment proposal was approved by City Council. The amendments required for the Section 37 Agreement do not affect the site specific Zoning By-laws.

PUBLIC ENGAGEMENT

The Garden District Resident's Association has expressed their support for the proposed seasonal outdoor patio spaces.

COMMENTS

Official Plan Policies and Design Guidelines

This application has been reviewed against the Official Plan. Policy 3.1.1.20(a) of the Official Plan states that POPS may include temporary commercial uses which animate the POPS. The Pedestrian Walkway where the patios will be located provides pedestrian connection between the public park, POPS courtyard and Queen Street East.

Public Realm

Chapter 3 of the Official Plan describes Privately Owned Publicly-Accessible Spaces as spaces that contribute to the public realm but remain privately owned and maintained. The Pedestrian Walkway in this location provides access between the public park and central courtyard, and has ground floor retail units with frontage on the Pedestrian Walkway. The seasonal outdoor patio spaces within the Pedestrian Walkway provide animation to the space and do not detract from the intended use and function. The presence of the patios will provide appropriate animation between the public park to the central courtyard.

Adjacent to the south patio, a minimum walkway width of 5.75 metres will be provided, and adjacent to the north patio a minimum walkway width of 5.4 metres will be provided. These areas will be maintained as a Pedestrian Walkway connection through the site at all times. Staff will secure the final configuration and key elements of design through the Site Plan Control application.

CONTACT

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SIGNATURE



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Toronto and East York District

ATTACHMENTS

Attachment 1: Ground Floor Plan

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