

Encroachment Appeal - 140 Cumberland Street

Date: November 7, 2025

To: Toronto and East York Community Council

From: Director, Street Permits, Transportation Services

Wards: 11, University-Rosedale

SUMMARY

This staff report is about a matter that Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is for Toronto and East York Community Council to consider an appeal from the property owner of 140 Cumberland Street regarding their encroachment application. The encroachment consists of an existing enclosed patio structure within the Cumberland Street boulevard and sidewalk, which is in contravention of City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

The property owner is seeking authority from Toronto and East York Community Council to allow the ongoing maintenance of the enclosed patio structure within the public right-of-way at 140 Cumberland Street, which is in contravention of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

RECOMMENDATIONS

The Director, Street Permits, Transportation Services recommends that:

1. Toronto and East York Community Council authorize the General Manager of Transportation Services to enter into an encroachment agreement with property owner of 140 Cumberland Street, to permit ongoing maintenance of the permanent all seasoned existing enclosed patio structure subject to the following conditions:
 - a. Indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages, and expenses that may result from such permission granted;

- b. Maintain the enclosed patio structure and other encroachments at their own expense in good repair and a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement;
- c. Accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
- d. Remove the encroachment upon receiving written notice from the General Manager, Transportation Services to do so;
- e. The property owner shall pay (i) an annual licence fee in the amount of \$6,955.00 as estimated by Real Estate Services, and (ii) any applicable real property taxes eligible. The licence fee shall increase annually by an amount equivalent to the percentage increase in the Consumer Price Index (all items – Toronto) and shall further be recalculated every five (5) years.
- f. The property owner will enter into an encroachment agreement with the City of Toronto, at the applicant's expense, and assume all liability and damages related to the encroachments; and
- g. The property owner and/or occupant must obtain all required Municipal Licensing and Standards and Toronto Building permits and/or licences.

FINANCIAL IMPACT

If Toronto and East York Community Council adopt the staff recommendations the property owner will be responsible for the costs for the ongoing maintenance, repair and operation of the existing enclosed patio structure.

The property owner shall pay (i) an annual licence fee in the amount as established by Real Estate Services, and (ii) any applicable real property taxes eligible. The licence fee shall increase annually by an amount equivalent to the percentage increase in the Consumer Price Index (all items – Toronto) and shall further be recalculated every five (5) years.

DECISION HISTORY

This report addresses a new initiative.

COMMENTS

An encroachment application was received on August 18, 2025, from the agent acting on behalf of the property owner of 140 Cumberland Street, requesting permission to maintain an existing enclosed patio structure made of aluminium framing, panel glazing, and wood within the public right-of-way along the Cumberland Street frontage of the subject property.

Transportation Services has reviewed the application, and the property located at 140 Cumberland Street. The review determined that the existing enclosed patio structure contravenes Municipal Code Chapter 743, Use of Streets and Sidewalks. The contraventions are as follows:

- The east side and west side of the enclosed patio structure extend from the exterior building wall by 4.29 metres and 2.92 metres respectively. These extensions encroach 0.77 metres and 0.82 metres into the public right-of-way, occupying approximately 4.16 square metres of space on Cumberland Street, which is not a permitted encroachment within Municipal Code Chapter 743.
- The patio structure encroaches between 0.77 metres to 0.82 metres within the sidewalk area and does not maintain the required 0.50 metre setback from the sidewalk, contrary to Municipal Code Chapter 743 article 743-34B and 743-31.E.(2) that "E. Unless otherwise specified in this chapter, no encroachments other than soft landscaping are permitted: ... (2) Within 0.50 metres of the edge of sidewalk located closest to the street line".

It is also important to note that the existing patio structure results in the removal of a section of City of Toronto sidewalk and has narrowed the travelled portion of the sidewalk from approximately 3.1 metres to 2.3 metres.

As required by Section 743-48 of the Toronto Municipal Code, Transportation Services has responded to the appeal by preparing this report for Toronto and East York Community Council consideration and to provide the applicant with an opportunity to be heard.

Transportation Services have reviewed the application, and staff is of the opinion that the existing enclosed patio structure will not have a negative impact on the public right-of-way for pedestrians, for traffic on the affected streets, or the City's ability to properly maintain the right-of-way. Therefore, Transportation Services recommends that the City enter into an encroachment agreement with the property owner to allow the ongoing maintenance of the enclosed patio that encroaches within the City's right-of-way.

The Ward Councillor has been advised of the recommendations in this report.

A site plan, elevations, and photos of the encroachment of the enclosed patio and premises are included in Attachments 1-5.

CONTACT

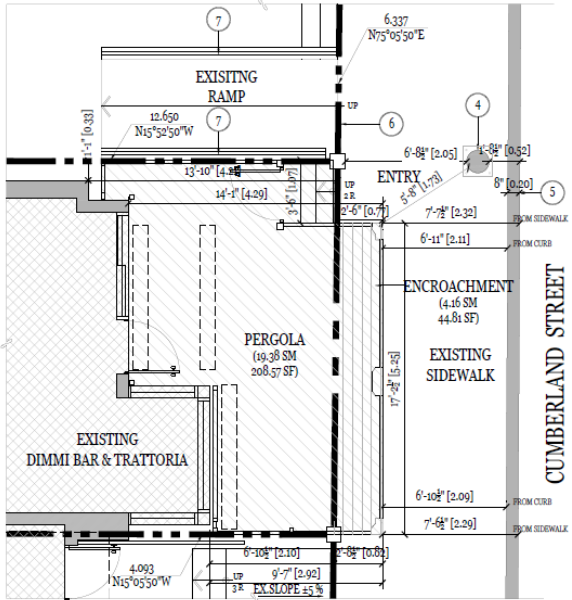
Elio Capizzano, Manager, Street Permits - Transportation Services, 416-392-7878,
Elio.Capizzano@toronto.ca

SIGNATURE

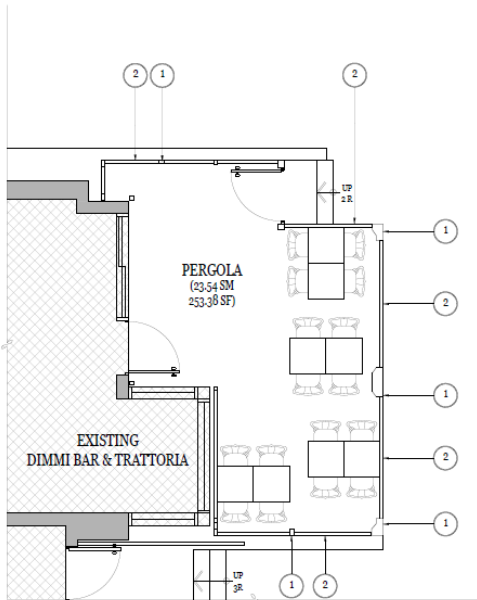
Antonia Markos
Director, Street Permits, Transportation Services

ATTACHMENTS

- Attachment 1: Site Plan/Ground Floor Plan & Furniture Plan of the Enclosed Patio at 140 Cumberland St
- Attachment 2: South Elevation of the Enclosed Patio at 140 Cumberland St
- Attachment 3: East Elevation of the Enclosed Patio at 140 Cumberland St
- Attachment 4: West Elevation of the Enclosed Patio at 140 Cumberland St
- Attachment 5: Photos of the Enclosed Patio at 140 Cumberland St



1 SITE PLAN / GROUND FLOOR PLAN



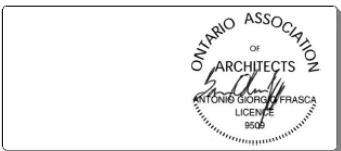
2 FURNITURE PLAN

| LEGEND | |
|--------|--------------------------|
| | EXISTING WALLS TO REMAIN |
| | EXISTING PERMIT AREA |
| | EXISTING TO REMAIN |
| | ENCROACHED AREA |

| NOTES | |
|-------|------------------------------------|
| 1 | PRE-FINISHED ALUMINUM, COLOR WHITE |
| 2 | GLAZING PANEL |
| 3 | - |
| 4 | EXISTING CROSSWALK POST |
| 5 | EXISTING CONCRETE CURB |
| 6 | PROPERTY LINE |
| 7 | EXISTING GUARD RAIL |
| 8 | - |

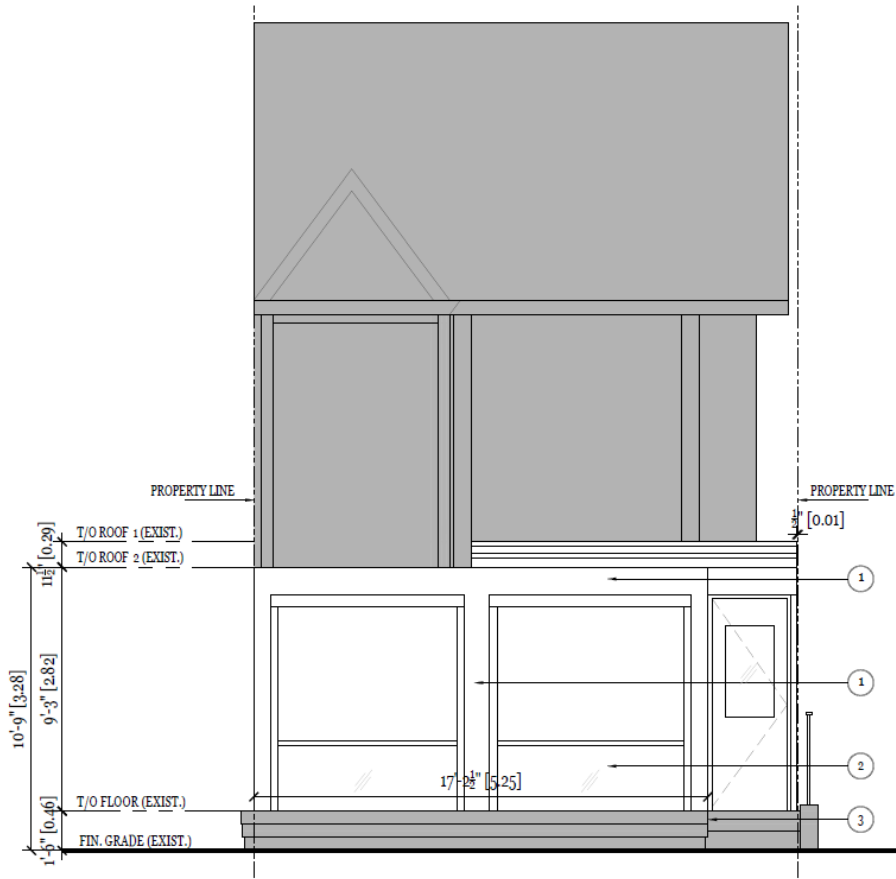
| PROPOSED COVERED PATIO - PERGOLA | |
|---|---------------------|
| Project: 140 CUMBERLAND ST, TORONTO, ON, M5R 1A8 | Project #: 24009 |

| No. | Description | Date | By |
|-----|---------------------------------------|---------------|----|
| 6. | REVISED AS PER F. CHEN'S COMMENT (06) | SEP. 10, 2025 | DH |
| 5. | REVISED AS PER F. CHEN'S COMMENT (06) | SEP. 08, 2025 | DH |
| 4. | REVISED AS PER F. CHEN'S COMMENT (05) | AUG. 06, 2024 | GF |
| 3. | ISSUED FOR ENCROACHMENT (04) | JULY 10, 2025 | DH |
| 2. | REVISED AS PER CITY COMMENTS (04) | AUG. 01, 2024 | MA |
| 1. | ISSUED FOR PERMIT (03) | JUNE 11, 2024 | MA |



SITE PLAN/GROUND FLOOR PLAN & FURNITURE PLAN
SCALE 3/16" = 1'-0"
1
A1.2





| LEGEND | |
|--------|--------------------------|
| | EXISTING WALLS TO REMAIN |

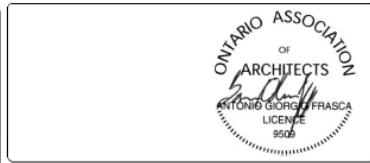
| NOTES | |
|-------|------------------------------------|
| ① | PRE-FINISHED ALUMINUM, COLOR WHITE |
| ② | GLAZING PANEL |
| ③ | EXISTING WOOD DECK |



EXISTING FRONT VIEW

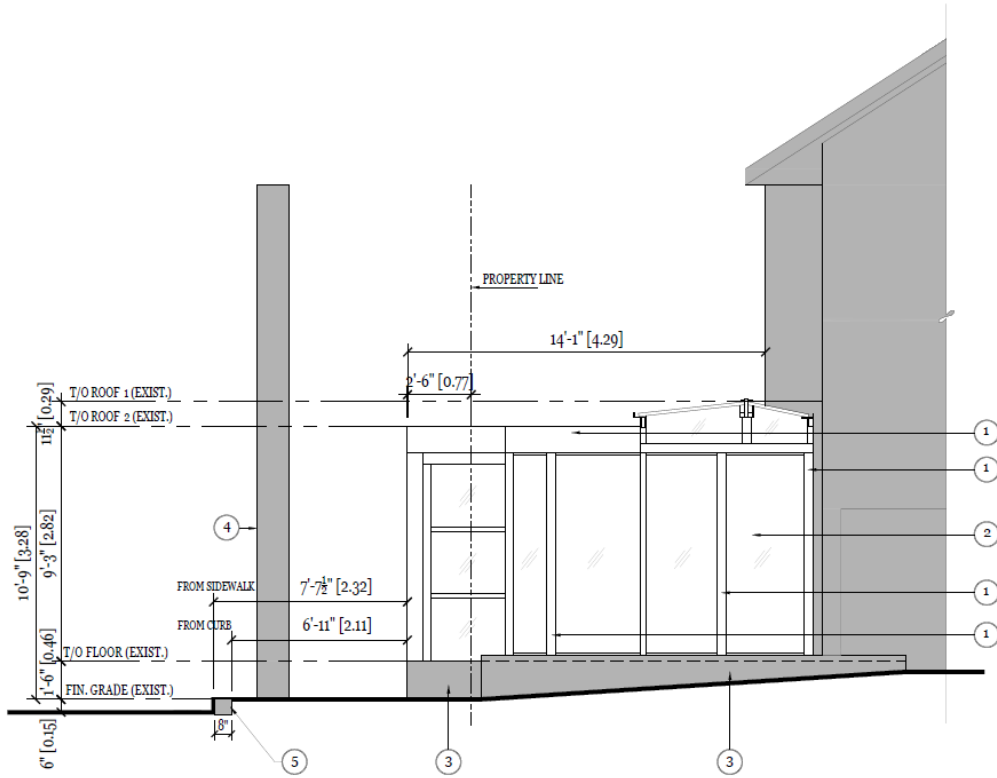
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SOUTH ELEVATION
SCALE 1/4" = 1'-0" ①
A1.4



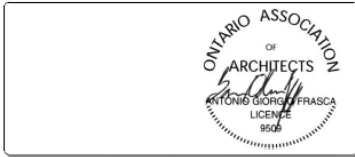


| LEGEND | |
|--------|--------------------------|
| | EXISTING WALLS TO REMAIN |

| NOTES | |
|-------|------------------------------------|
| ① | PRE-FINISHED ALUMINUM, COLOR WHITE |
| ② | GLAZING PANEL |
| ③ | EXISTING WOOD DECK |
| ④ | EXISTING CROSS WALK POLE |
| ⑤ | EXISTING CURB |

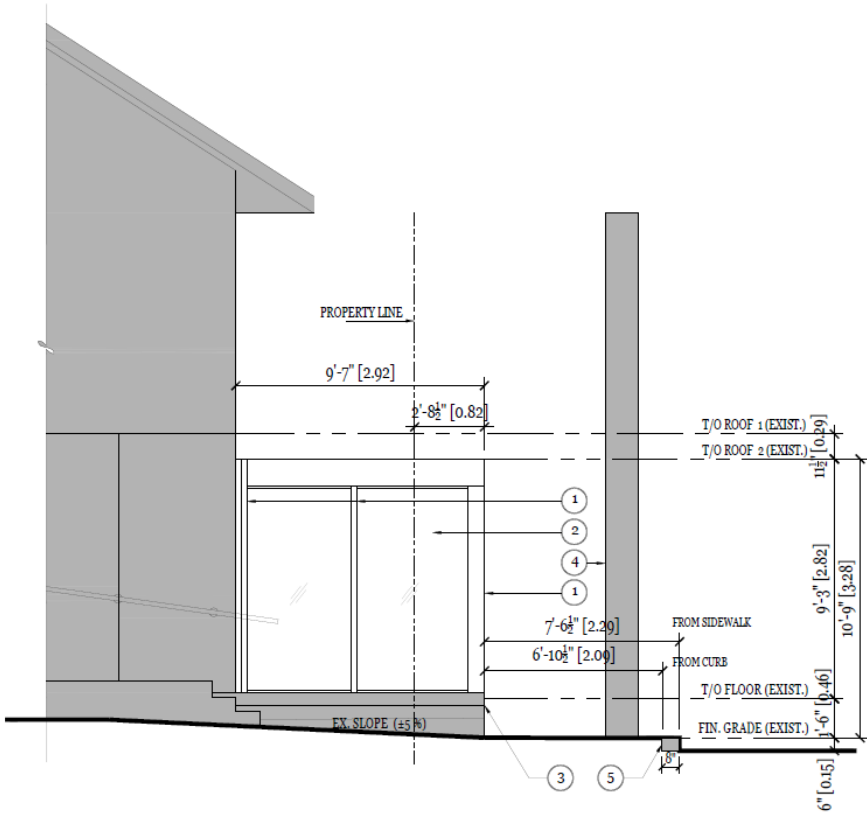
| PROPOSED COVERED PATIO - PERGOLA | |
|---|---------------------|
| Project: 140 CUMBERLAND ST, TORONTO, ON, M5R 1A5 | Project #: 24009 |

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EAST ELEVATION ①
 SCALE 1/4" = 1'-0" A1.5

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 2010giorgio@gmail.com & giorgio@frascadesignandplanning.com



| LEGEND | |
|--------|--------------------------|
| | EXISTING WALLS TO REMAIN |

| NOTES | |
|-------|------------------------------------|
| ① | PRE-FINISHED ALUMINUM, COLOR WHITE |
| ② | GLAZING PANEL |
| ③ | EXISTING WOOD DECK |
| ④ | EXISTING CROSS WALK POLE |

| | |
|---|---------------------|
| PROPOSED COVERED PATIO - PERGOLA | |
| Project: 140 CUMBERLAND ST, TORONTO, ON, M5R 1A8 | Project #: 24009 |

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WEST ELEVATION
SCALE 1/4" = 1'-0" ①
A1.6



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Attachment 5: Photos of the Existing Enclosed Patio at 140 Cumberland St



Looking Northwest along Cumberland St



Looking North at 140 Cumberland St