

December 23, 1998

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EW-1025-27/Y3)

Department of Urban Planning and Public
Works

Ward/Quartier
OT5 – Bruyère–Strathcona

- Community Services and Operations
Committee / Comité des services
communautaires et des opérations
- City Council / Conseil municipal

Action/Exécution

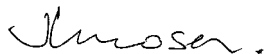
Private Sector Proposals for Streetscaping City Rights-of-Way - York Street Modifications

Propositions du secteur privé concernant l'aménagement esthétique des emprises de la Ville - Modifications à la rue York

Recommendations

1. That the process and criteria for reviewing and approving proposals submitted by the private sector to streetscape city rights-of-way, as set out in **Document 1**, be adopted.
2. That the proposal for the roadway modification for streetscaping of the parking compound on York Street (north side between William Street and Dalhousie Street) serve as the first prototype for such proposals and be evaluated against the process and criteria set out in **Document 1**.
3. That the Commissioner of Urban Planning and Public Works be authorized to:
 - i. approve the final York Street streetscape plan and approve the implementation thereof only if the criteria set out in **Document 1** and the terms and conditions listed in **Document 2** have been met, and
 - ii be authorized to negotiate and finalize the required agreements in accordance with the terms and conditions set out in **Documents 1 and 2**.

4. That following an evaluation by staff of the completed project, a report either confirming the process and criteria set out herein or recommending an expanded/revised process and criteria be submitted to Committee and Council for approval.



December 23, 1998 (12:32p)

for/ Edward Robinson
Commissioner of Urban Planning and
Public Works



December 23, 1998 (1:10p)

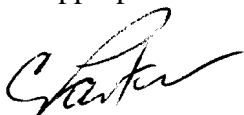
Approved by
John S. Burke
Chief Administrative Officer

AG:ag

Contact: Arlene Gregoire - 244-5300 ext. 1-3799

Financial Comment

Subject to City Council approval of these recommendations, the execution of agreements with the Proponents will ensure that all costs for construction and any additional maintenance are fully recovered by the City. Once the streetscape is in place and the Proponents obtain permits for the temporary outdoor patios, additional revenues from encroachment fees will be credited to the appropriate account. Financial details will be provided in future reports as appropriate.



December 23, 1998 (10:22a)

for Mona Monkman
City Treasurer

CP:cds

Executive Report

Reasons Behind Recommendations

Recommendation 1

In the past, the City would initiate and manage streetscaping projects within the rights-of-way, particularly where Business Improvement Areas were being planned or were in place, and especially where the City had established pedestrian malls (eg., the Sparks Street Mall). These joint ventures were initiated by the City at a time where capital funding, including grants and

subsidies, were more plentiful, and/or alternatively, to coincide with the renewal of the infrastructure. This has not been the case in recent years.

The desire to improve and beautify the streetscape has nevertheless continued and the Department has been approached by the business community with proposals to modify the roadway to permit streetscaping. As there is no process in place to guide the proponents of such proposals and as there is no established criteria to evaluate such proposals, a process and criteria set out in **Document 1** has been developed to guide both the private sector and staff.

The process and criteria will serve to ensure that private sector proposals to modify the rights-of-way to permit streetscaping meet all the identified prerequisites and technical requirements. The process and criteria will also identify to the private sector proponents the terms by which the City will review unsolicited proposals and will assist staff in managing the review of, and if approved, the implementation of such proposals. Finally, the criteria will ensure that the evaluation of such proposals will be objective and transparent to all stakeholders.

Recommendation 2

Four businesses (Tucker's Market Place, the Hard Rock Café, the Keg and the Canadian Cabin), hereinafter referred to as the Proponents, fronting the north side of York Street between William Street and Dalhousie Street, have approached the City with a proposal to modify the north side of York Street to permit the development of a new streetscape.

The Proponents are proposing to establish, at their cost, an esplanade comprising of a wider sidewalk and improved (inner) boulevard and relocating the parking from an off-street compound to streetside, all within the right-of-way. Other features included in the proposal are:

- ▶ decorative lighting, including the relocation of the existing;
- ▶ trees and planters;
- ▶ poles for banners;
- ▶ sufficient area to accommodate four patios with a seating capacity of 60 seats each, and
- ▶ railings which will frame and contain the outdoor patios that will be identical for each patio area thus providing a unified appearance within the north side of the block. These will be modular, such that sections can be removed when patios are not in place thus providing an open space for programming events.

Preliminary concept plans have been circulated and reviewed by staff and as a result of the discussions and comments, the Proponents have refined the design and have retained the services of an engineering consultant to address the technical aspects of the project. Attached, for information purposes only, is a copy of the most recent version of the plans (refer to **Document 3**).

The Proponents are proposing to proceed to install the streetscaping in the spring of 1999. Implementation in the spring would minimize disruption and inconvenience to Market businesses, standholders and patrons, and would permit a full season of patio operation thus enabling the businesses to recover the installation costs in a reasonable amount of time.

Approval to proceed is being sought as further evaluation, consultation with stakeholders within the By Ward Market, planning and implementing the project will entail significant outlays of resources by the Proponents and by the City.

Recommendation 3

Due to the nature of the proposal and issues identified as part of the reviews by staff, the streetscape plan cannot be submitted for approval at this time. While many of the issues have been addressed, there remains the need to finalize the review in terms of the impact of the proposal on traffic, parking (the “perpendicular” versus the “diagonal” parking arrangement), Market vending operations, maintenance requirements, etc., and to consult with all stakeholders.

In order to expedite matters such that construction can proceed early spring of 1999, it is recommended that both the streetscape plan and the implementation of the plan be approved by the Commissioner of Urban Planning and Public Works once the criteria listed in **Document 1** and the terms and conditions listed in **Document 2** have been met. The terms and conditions set out in **Document 2** reflect those standards which the City would adhere to if the City were to streetscape this block, and which are being made to apply to this proposal.

In addition, agreements setting out the terms for the design and construction phase, for ongoing maintenance, repair and replacement and liability responsibilities must also be prepared and negotiated. In order to expedite matters, it is recommended that the Commissioner of Urban Planning and Public Works be authorized to negotiate and finalize the required agreements in accordance with the terms and conditions set out in **Documents 1 and 2**.

Recommendation 4

The “York Street Modification” proposal will serve as the prototype as its scale and complexity (the project involves a number of properties (owners and tenants), stakeholders and departments) makes it as an appropriate “test” for staff to determine the viability and completeness of the process and criteria. The proposal, the process and criteria will be featured at an Open House to be held on January 21, 1999 and will be subject of discussions at the upcoming By ward Market Future Search Reunion on January 23, 1999.

In addition, at the post construction phase, an evaluation will be undertaken by staff to determine the viability of and completeness of the process and criteria and such will be revised and/or expanded based on the results of the evaluation. The final process and criteria will then be submitted for approval.

Consultation

The businesses have met the Ward Councillor and the ByWard Market BIA and as a result of discussions, the BIA by motion (refer to **Document 4**), has indicated support in principle. In addition, as required under provisions of the Municipal Act, the proposal was advertised for four consecutive weeks (November 14th, November 20th, November 27th, December 4th) in the local newspapers to solicit any comments. No comments have been received to date.

The report contains input from all the branches within the Department of Urban Planning and Public Works and the Markets Management Division of the Office of the Chief Administrative Officer.

All stakeholders, including landlords and tenants, adjacent property owners, standholders, etc., will be consulted in the review and evaluation of the proposal. Public consultation will include an open-house presentation on January 21, 1999, followed by discussions at the upcoming By ward Market Future Search Reunion on January 23, 1999.

Disposition

Upon approval by City Council:

The Department of Urban Planning and Public Works in conjunction with the Markets Management Division of the Office of the Chief Administrative Officer, will coordinate the review and approval of this proposal.

The City Solicitor will prepare and coordinate the execution of all required agreements for execution by the City and the Proponents.

List of Supporting Documentation

- Document 1 Process and Criteria
- Document 2 Terms and Conditions for Implementation
- Document 3 Concept Plan (November 1998)
- Document 4 Motion of the By Ward Market BIA Board of Management

Part II - Supporting Documentation

Process and Criteria

Document 1

PROCESS:

Step One

Proponents will submit in writing a proposal which will include at a minimum the following:

- identification of each party to the proposal and the applicable legal status of each party
- identification as to what capacity (in legal terms) the parties intend to enter into agreements as determined by the City
- outline of the proposal together with concept plans
- identification of property owners of the properties fronting the proposed streetscaping and their confirmation in writing of their support
- confirmation in writing of the intent of the parties to cover the costs associated with the evaluation and implementation of the the proposal.

Step Two

Upon receipt of a proposal to modify rights-of-way to permit streetscaping, the Department of Urban Planning and Public Works will:

1. Establish a cross-functional committee comprising of staff from the following branches and/or departments to undertake the review and evaluation of the private sector proposal:
 - ▶ Engineering
 - ▶ Operations
 - ▶ Licensing, Transportation and Buildings
 - ▶ Asset Management (as required)
 - ▶ Planning
 - ▶ City Solicitor (as required)
 - ▶ Markets Management Division (where the rights-of-way proposed to be modified is located within or adjacent to the boundaries of the By Ward Market or the Parkdale Market).

2. Staff will meet with the Proponents of the private sector proposal to discuss the details of the concept plan and to commence identifying the process, criteria, and preliminary technical requirements depending on how detailed the concept plan is.
3. Stakeholders will be consulted by staff and the Proponents via meetings and open-house forums and in the case of the By Ward Market, timing permitting, via such forums as the By Ward Market Future Search Reunion.
4. Once the evaluation is complete, staff will prepare a report to the Commissioner of Urban Planning and Public Works, who will then direct the preparation of the appropriate reports to Committee and Council and/or agreements as delegated.
5. Staff will advise the Proponents of the outcome of the review.

CRITERIA:

The criteria for evaluating private sector proposals for streetscaping rights-of-way include the following:

1. The project must be of a significant scale to significantly improve/benefit the streetscape, with landscaping elements - not just for the creation of expanded business opportunities
2. The expanded business opportunities must fit with the character of the area
3. The proposed modifications must include an entire block - not half or entail only the frontage of one or two buildings
4. The streetscape design, including any patio design layout must meet the Official plan policies and guidelines adopted for the specific area and any other City policies and by-laws
5. The proposed modifications must preserve as much on-street parking as possible
6. The proposed modifications must meet traffic circulation requirements
7. The streetscape plan must accommodate any Market standholders, or licensees affected
8. The modifications and the construction thereof must meet all City standards and specifications (which include Regional and other utilities' standards as applicable)
9. The timing of the implementation of the proposal must be sensitive to the impact of the construction on neighbouring businesses and patrons/customers
10. The private sector proponents must be responsible for all costs related to the streetscaping project/modifications

11. The private sector proponents must be responsible for any additional maintenance and operating costs, as well as the newly installed inventory of decorative elements such as planters, decorative pedestrian lights, fencing, etc., including maintenance, repair and replacement of these. The City will not assume additional operating expenses unless City Council has specifically approved the increase in the applicable operating program
12. The private sector proponents will pay any appropriate fees associated with the use of the space
13. All affected stakeholders identified by the staff committee must be consulted in the development and implementation of the streetscaping plan, and
14. The private sector proponents will be required to enter into agreements as determined by the City Solicitor

Terms and Conditions for Implementation

Document 2

Technical:

1. The following elements of the streetscape will be designed and constructed/installed to the satisfaction of the Commissioner of Urban Planning and Public Works:
 - ▶ grading and drainage;
 - ▶ sidewalk;
 - ▶ improved boulevard (where the patio encroachments and decorative elements will be located);
 - ▶ parking area and stalls;
 - ▶ streetlighting;
 - ▶ planting of trees;
 - ▶ roadway
 - ▶ traffic circulation
 - ▶ decorative lighting.
2. The following technical requirements will be satisfied based on the directions provided by the Region, affected utilities and other agencies:
 - ▶ water main and hydrants;
 - ▶ utility relocations as required by the utility agencies.
3. The Proponents will be responsible for the undertaking of inspections and evaluations of the sewers, laterals, and any other infrastructure affected by the proposed construction to establish the pre-construction and post-construction condition of these infrastructure. Such inspections and evaluations will be to the satisfaction of the Commissioner of Urban Planning and Public Works.

Streetscape design:

4. The final streetscape design must meet the Official Plan policies and guidelines adopted for the applicable area.
5. The final design for the esplanade will respect the following design principles:
 - ▶ The design will enhance the streetscape such that area to be streetscaped is a vibrant, pedestrian and visitor-oriented destination.
 - ▶ The design will enhance the open space and pedestrian linkages as identified for the area.
 - ▶ The design will provide for a secure environment which is attractive to all users.
 - ▶ The design will provide for bicycle parking.

- ▶ Wrought-iron patio railings will frame and contain the outdoor patios. These will be of high quality design, complementing both heritage and the modern storefronts; identical for each patio area, to provide a unified appearance within the north side of the block; high durability, to withstand the elements and use; modular, such that sections can be removed; and permit the attachment of flower boxes on the inside of the approved patio area.
- ▶ The use of either retractable awnings or umbrellas will be consistent across all patio areas (ie., all umbrellas or all retractable awnings) to provide a unified appearance.
- ▶ Where the plan includes additional pedestrian lights, these must be compatible to the existing decorative pedestrian lights and the design of other streetscaping elements such as wrought iron fencing. These will be of high quality design, of high durability, and the sole responsibility of the Proponents.
- ▶ Xmas lights may be added to the trees located in the improved (inner) boulevard or the railings to further enhance the lighting of the block for the benefit of the pedestrians and patio patrons.
- ▶ Large calliper trees will be installed at grade and will provide a balanced symmetry of vertical elements within the esplanade.
- ▶ The chairs and tables to be located within the approved outdoor patio areas will be of good quality and compatible with the other streetscape elements.

Maintenance and Operation:

6. Once the streetscaping has been constructed and approved by the Commissioner of Urban Planning and Public Works, the Proponents/property owners shall agree to be responsible for the regular maintenance and repair of the following elements of the new streetscaping located within the improved boulevard only:
 - ▶ decorative pedestrian lights, excluding the City's inventory
 - ▶ fencing
 - ▶ patio surface
 - ▶ trees and landscaping
 - ▶ planters
 - ▶ poles for banners, and
 - ▶ any other elements as approved.
7. The Proponents/property owners will agree to keep the patio area within the improved boulevard clear of snow and ice pursuant to an agreed upon standard.
8. The Proponents/property owners will agree to relamp the newly installed decorative lights within the improved boulevard, excluding the City's inventory, at an agreed upon frequency.

9. The Proponents/property owners will agree to conduct annual inspections of the elements listed in #6 above to determine the integrity and condition of these and to take remedial action as identified by the inspection report.

Legal and Insurance:

Written confirmation is required from all the property owners fronting the area proposed to be streetscaped indicating agreement with this proposal and confirming their intent to enter into any agreements as required by the City and to register said agreements on title.

The property owners/Proponents will enter into agreements setting out the terms and conditions for the design and construction of the streetscape, for the maintenance, operation, repair and replacement of the streetscape elements and associated liabilities. The responsibilities and liabilities set out within these agreements and assumed by the property owners/Proponents will be joint and several. Failure to comply to the provisions within the agreements may result in the City taking remedial action, which may include the removal of the decorative elements installed by the property owners/Proponents, all at the expense of the property owners/Proponents.

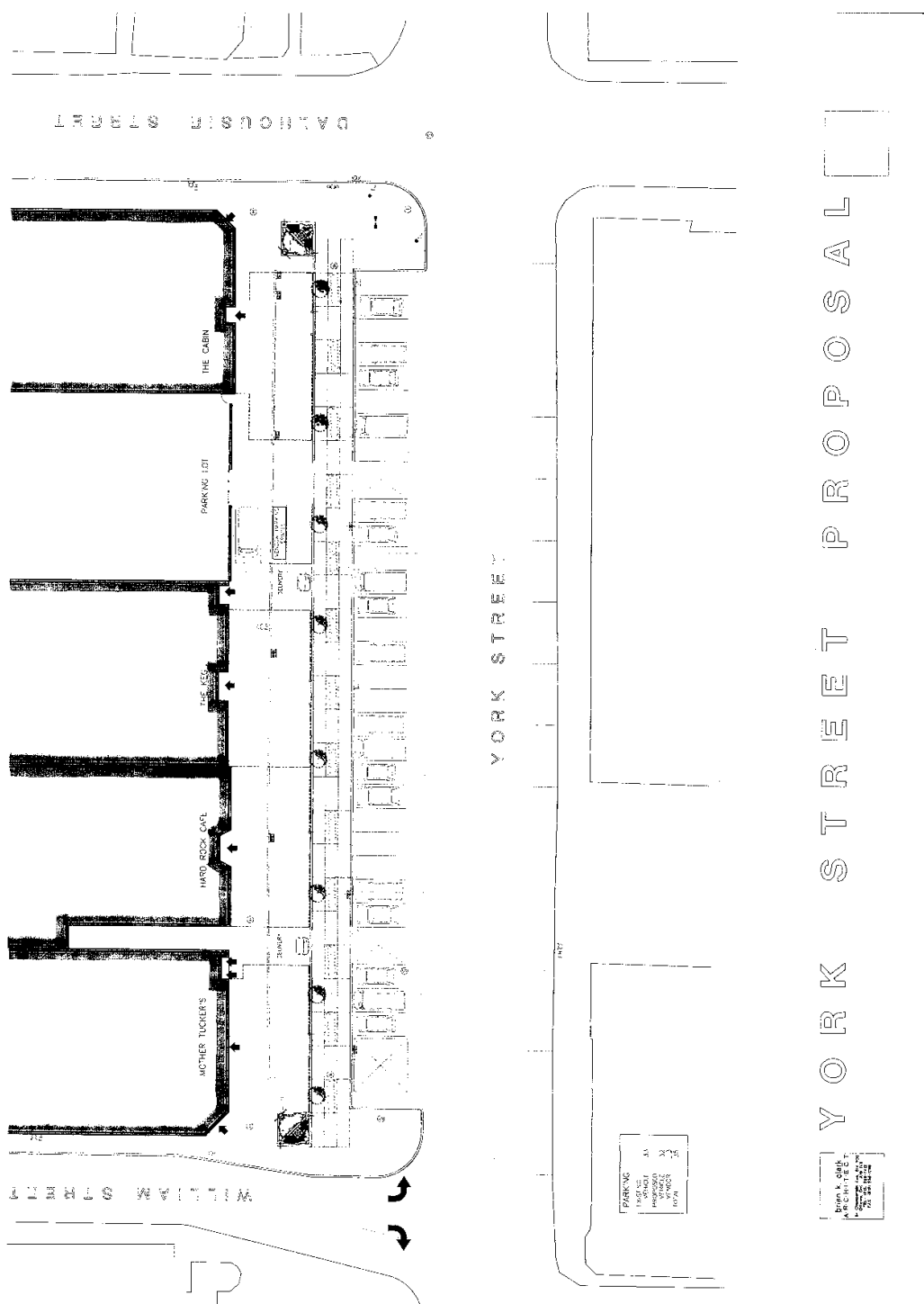
Should the right-of-way, upon which the decorative elements are located, be required by the City to accommodate roadway alterations or for other municipal purposes, the City may give written notice to the property owners/Proponents to that effect and terminate the applicable agreement, and remove at the City's expense the decorative elements without compensation, except the property owners/Proponents will be entitled to retain ownership to the decorative elements they installed and paid for.

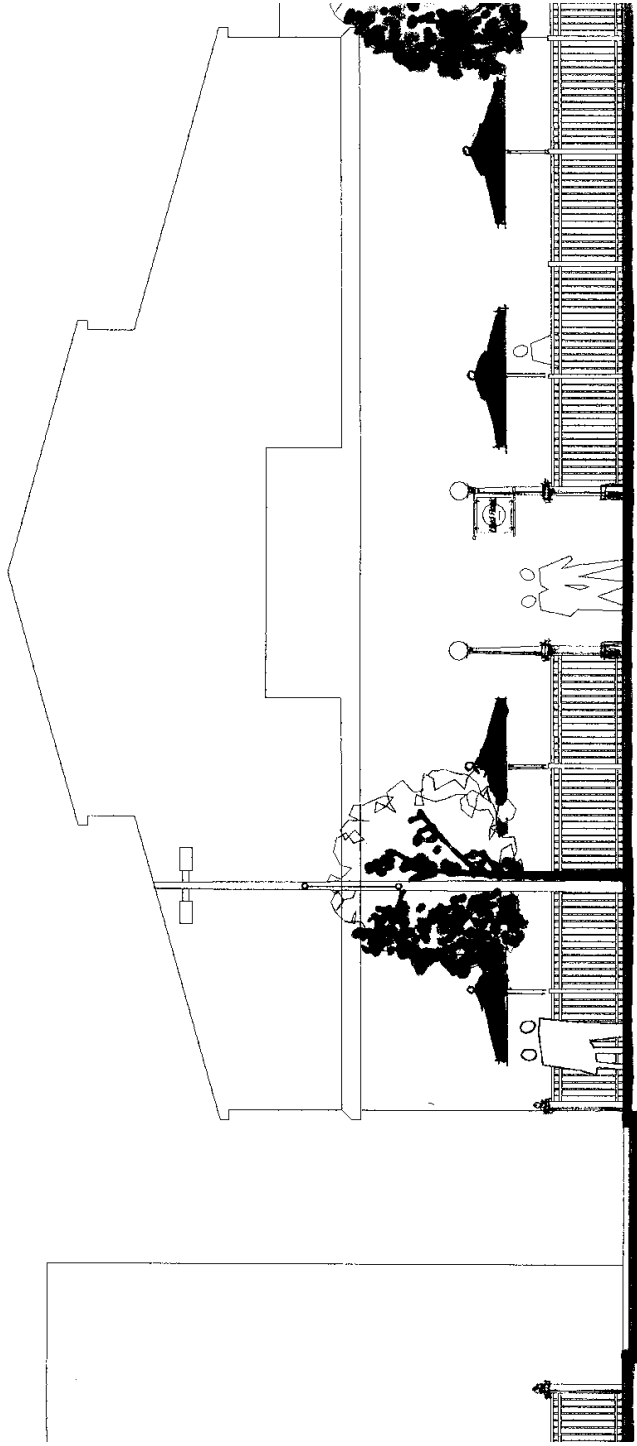
All agreements which will not be assignable unless by written consent from the City, will be executed and registered on title before commencement of construction.

The property owners/Proponents will agree to be responsible for damages to the specialized streetscaping elements howsoever caused, excepting where there is negligence on the part of the City in the performance of its responsibilities.

The property owners/Proponents shall indemnify and save harmless the Corporation from and against all claims, losses, costs, damages, suits, proceedings or actions by whosoever made that the Corporation may suffer, incur, or be liable for, resulting from the performance of the property owners/Proponents of its obligations, save and except damages, claims, causes or actions arising out of or as a result of the actions of the Corporation, its agents, or employees.

The property owners/Proponents shall provide and maintain without cost to the City insurance coverage to the satisfaction of the City's Insurance Administration.

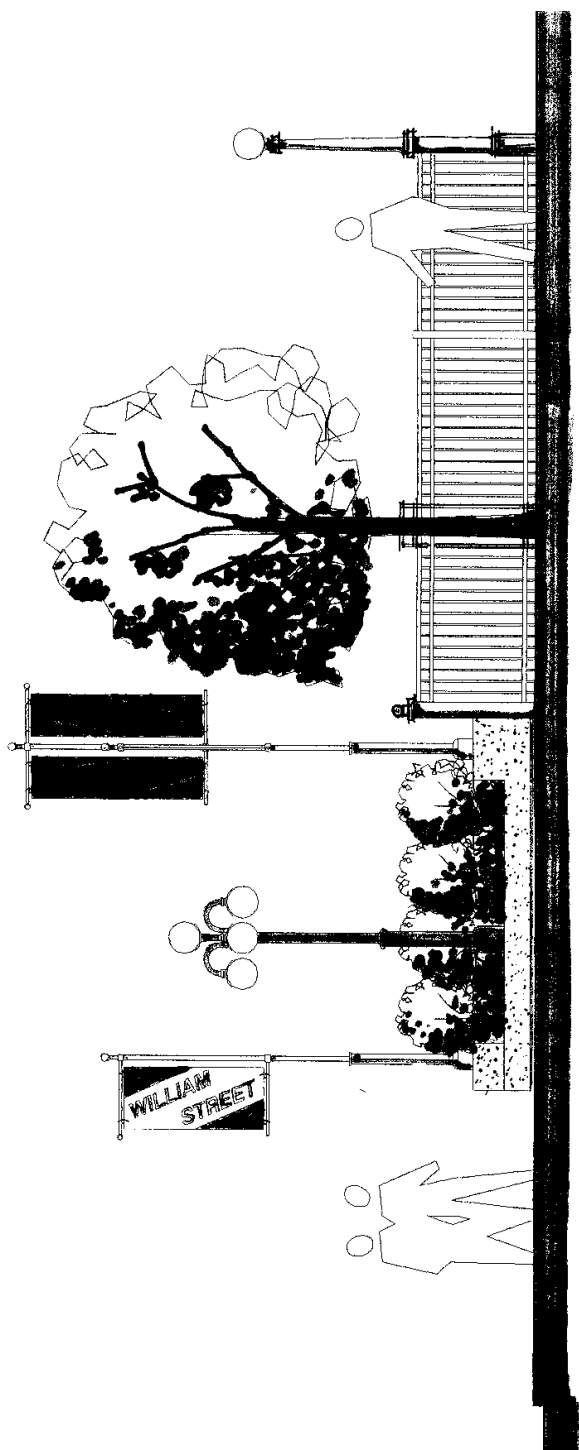




TYPICAL ELEVATION AND ENTRANCE

YORK STREET PROPOSAL

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CORNER AT YORK AND WILLIAM

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YORK STREET PROPOSAL

**York Street Patio motion
from the October 26, 1998 meeting of the
ByWard Market BIA Board of Management**

Moved by Sacha Rahaman Kerr, seconded by Janice Kelly.

That the Board of Management agrees in principle to the beautification of public property on the north side of York Street between William and Dalhousie, at the expense of the four proponents (Tucker's Marketplace, the Hard Rock Café, The Keg, the Canadian Cabin), with the following conditions:

- ▶ noise control;
- ▶ maximum of 60 seats on each of the four patios;
- ▶ accessibility of the whole area for BIA events;
- ▶ no loss of parking;
- ▶ accommodation/relocation of vendors;
- ▶ subject to design approval;
- ▶ all establishments must have full service kitchens;
- ▶ all patios must have sit down tables (ie. no stools);
- ▶ each proponent must pay full encroachment fees to the City for the space used;
- ▶ adequate enforcement procedures;
- ▶ control over assignment of agreements.

The motion was approved.