

Appeal - Boulevard Cafe - Fronting 803 King Street West and on the Niagara Street Flank (Trinity-Niagara)

(City Council on December 14, 15 and 16, 1999, adopted this Clause, without amendment.)

The Toronto Community Council recommends that the application for a boulevard cafe fronting 803 King Street West and on the Niagara Street flank be denied.

The Toronto Community Council submits the following report (November 17, 1999) from the Right of Way Management, Transportation Services, District 1:

Purpose:

To report on the business owner's appeal of staff's refusal of an application for a boulevard cafe at 803 King Street West due to the negative response to the public notification and the negative poll result. As this is a matter of public interest, it is scheduled as a deputation item.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that:

- (1) City Council deny the application for a boulevard cafe fronting 803 King Street West and on the Niagara Street flank;

OR

- (2) City Council approve the application for a boulevard cafe fronting 803 King Street West, notwithstanding the negative response to the public notice and that such approval be subject to the applicant complying with the criteria set out in § 313-36 of Municipal Code Chapter 313, Streets and Sidewalks, of the former City of Toronto Municipal Code; and
- (3) City Council approve the application for a boulevard cafe on the Niagara Street flank of 803 King Street West, notwithstanding the negative result of the public poll and that such approval be subject to the applicant complying with the criteria set out in § 313-36 of Municipal Code Chapter 313, Streets and Sidewalks, of the former City of Toronto Municipal Code.

Background:

Mr. Edward Lee, in his letter dated June 8, 1999, has requested an appeal of staff's decision to refuse an application for a boulevard cafe at 803 King Street West.

Comments:

Mr. Edward Lee, Burger Ranch Corporation, o/a Draft Choice Bar and Grill, 803 King Street West, Toronto, Ontario M5V 1N4, submitted an application on March 24, 1999, requesting a licence for a boulevard cafe fronting 803 King Street West and on the Niagara Street flank for a total area of approximately 109.5 sq. m., as shown on the attached sketch (Attachment No. 1). It can accommodate 15 tables, with a potential seating capacity for 60 people.

The application meets the physical criteria for boulevard cafes as set out in § 313-36 of Municipal Code Chapter 313, Streets and Sidewalks, of the former City of Toronto Municipal Code.

Fronting 803 King Street West - Cafe on Commercial Frontage

Chapter 313 of the former City of Toronto Municipal Code requires that where a cafe proposal is to be located on a commercial frontage, a notice must be posted on the property for not less than 14 days to determine neighbourhood support. If a written objection is received, the application must be refused by staff, but such refusal may be subject to an appeal by the applicant.

A notice was posted on April 12, 1999, with an expiry date of April 25, 1999, to determine neighbourhood support. Prior to the expiry date of the notice, five letters of objection (Attachment No. 2) were received in opposition to the proposed cafe.

Niagara Street Flank of 803 King Street West - Cafe on Residential Flank

As the proposed cafe flanks a residential street the Municipal Code requires a public poll of owners and tenants within 120 m from the proposed cafe. If the majority of the ballots cast are in favour of the application, the application is approved. If the majority are opposed, the Commissioner must deny the application. If there is a negative response, re-polling for the same purpose may not take place until 2 years have passed from the closing date of the previous poll.

A poll dated July 30 to August 30, 1999 was conducted on the west side of Niagara Street between 167 and 201 and on the east side at 180 Niagara Street , including 801 and 833 King Street West to determine support. The results of the poll were as follows:

Polling Summary

Ballots cast		79
Opposed	61	
in favour	18	
No response		585
Returned by post office		82
Total ballots issued		746

Mr. Edward Lee was advised in writing on September 10, 1999 that given the negative poll, a licence could not be issued for the Niagara Street flank of 803 King Street West. Furthermore, Mr. Lee was advised that a further application for a boulevard cafe on the Niagara Street flank of 803 King Street West could not be considered for 24 months from the closing date of the public poll which was August 30, 1999.

For the information of the Toronto Community Council, our records show that a boulevard cafe licence was issued on April 4, 1995 to a former occupant of 803 King Street West and the file was closed in July 1996 as the business operator vacated the property. Furthermore, a new occupant of the location applied on March 13, 1997 for cafe privileges and was subsequently approved on October 2, 1997, subject to paying an annual fee and signing the requisite cafe agreements.

The provisions of the Municipal Code require the applicant approved for a boulevard cafe, prior to receiving a licence or permission to operate a boulevard cafe, to provide a third party liability insurance policy to indemnify the City, pay in advance an annual rental fee for the use of the City street allowance used for cafe purposes and enter into an agreement with the City of Toronto.

The applicant did not pay the annual fee and submit the executed agreements as required. Accordingly, the file was closed.

Conclusions:

Staff cannot issue Mr. Lee a licence for a boulevard cafe at 803 King Street West due to the negative response to the public notification and the negative poll result.

On hearing of depositions, the Toronto Community Council must decide whether or not to recommend that City Council grant the appeal.

Contact:

Ken McGuire, Supervisor, Construction Activities
Telephone: 392-7894, Fax: 392-0816, E-mail: kmcguire@city.toronto.on.ca

Curtis Sealock, District Manager, South District, Municipal Licensing and Standards
Telephone: 392-7616, Fax: 392-0677, E-mail: csealock@city.toronto.on.ca

The Toronto Community Council reports, for the information of Council, having also had before it during consideration of the foregoing matter, the following communications, and a copy thereof is on file in the office of the City Clerk:

- (December 1, 1999) from Andre Desroches, CFA Communications Ltd.;
- (November 28, 1999) from Ms. Doris Ng;and

- (undated) Petition with 48 signatures in opposition.

(A copy of the letters of objection referred to in the foregoing clause was forwarded to all Members of the Toronto Community Council with the agenda for its meeting on December 2, 1999, and a copy thereof is on file in the office of the City Clerk)

Ms. Monique Cozier, appeared before the Toronto Community Council in connection with the foregoing matter.

Insert Map – 803 King Street West