



## STAFF REPORT ACTION REQUIRED

### Approval for the Continuation of a Boulevard Café located at 1186 Queen Street West

|                          |  |
|--------------------------|--|
| <b>Date:</b>             | October 20, 2009   |
| <b>To:</b>               | Toronto East and York Community Council                                    |
| <b>From:</b>             | Municipal Licensing and Standards Division, Toronto and East York District |
| <b>Wards:</b>            | Ward 18 – Davenport  |
| <b>Reference Number:</b> | IBMS No. 09-109151   |

#### SUMMARY

---

This staff report is about a matter for which the Toronto and East York Community Council has delegated authority from City Council to make a final decision. The applicant is seeking approval to continue to operate the boulevard café at 1186 Queen Street West, operating as Brooklynn.

#### RECOMMENDATIONS

---

Municipal Licensing and Standards recommends that the Toronto and East York Community Council approve the continuation of the boulevard café permit for 1186 Queen Street West with the existing operating conditions imposed by Toronto and East York Community Council at its meeting on May 06, 2008 as follows;

- a. The boulevard café shall be closed and cleared by 10:00 pm, and no more than 35 people shall be present on the boulevard café at any time. In 2009, the closing shall be moved ahead to 10:30 pm, and the capacity to 40. Starting in 2010, the closing time shall be moved to 11:00 pm, and the capacity to 50. These annual increases in hours and capacity shall be subject to approval by the Toronto and East York Community Council;
- b. A barrier shall be erected of not less than 36 inches in height at the north end of the boulevard café;
- c. There shall be at least one tree planted on the boulevard café;

- d. Security staff shall make all reasonable efforts to ensure that customers and other people in the areas surrounding the establishment do not make excessive noise or engage in unruly behaviour, such as singing, shouting or using offensive language, until one hour after the closing of the establishment;
- e. The establishment shall not permit customers to bring or drink alcoholic beverages outside the licenced areas;
- f. No music or amplified sound shall be played, at any time, on the boulevard café;
- g. No loading, unloading, delivering, packing, unpacking or otherwise handling of containers, products or materials shall be permitted outside of the establishment between 11:00 pm and 7:00 am (9:00 am on Sunday and statutory holidays);
- h. Clearly visible signs, will be posted, at least 8.5” x 11” in dimensions, near each exit of the establishment, and any entrance to the boulevard café, reminding customers that people live nearby, and asking them to be respectful of neighbours by keeping noise to a minimum, and further signs shall be placed at the North end of the boulevard café and located on the Queen Street frontage of the establishment with the same or similar wording. The language, layout, and location of this signage shall be determined in cooperation with residents;
- i. Clearly visible signs, will be posted, at least 8.5” x 11” in dimensions, within the establishment and on the boulevard café stating that concerns regarding the establishment including noise levels and other disturbances should be brought to the attention of the management. The signage will also list other relevant contacts to whom to address concerns, including contact information for noise and licensing enforcement, the contact information for the residents association, the contact information for the City Councillor’s office, and contact information for the AGCO. The language, layout, and location of this signage shall be determined in cooperation with residents;
- j. An answering service will be provided as part of the establishment’s telephone service indicating the cellular phone number of the management for inquiries regarding emergencies, noise complaints or other concerns on the message. In addition, an email address will be made available for community members to contact regarding any concerns about the establishment on the corporate website. Residents will be able to quickly reach a manager or responsible staff member, when the establishment is open;
- k. The boulevard café shall adhere to all conditions of the Municipal Code, Chapter 313-36-F-2, with an exception provided for item (f), which requires that no part of a boulevard café may operate less than 25 metres from a residential zone;

- l. The establishment will, at all times, adhere to the City of Toronto Noise Bylaws, and Federal and Provincial Workplace Health and Safety laws and regulations setting noise limits;
- m. The establishment agrees to a maximum sound level of 90 dBA. The establishment will mount a sound meter in a visible area within the premises, which will be operational at all times when the establishment is open for business, and will be configured to provide a visible indication of when a sound level of 90 dBA is exceeded. Should any laws or bylaws require a lower maximum dBA, they shall take precedence and the sound meter will be reconfigured to indicate when the lower maximum legislated dBA is exceeded;
- n. A member of the staff will be designated to ensure the conditions of this agreement are adhered to;
- o. These conditions shall come into effect either one month after the boulevard café is approved by Toronto and East York Community Council, or when the boulevard café opens for business, whichever is earlier;
- p. None of these conditions shall be removed or modified without public consultation with the neighbours;
- q. An informal poll of area residents will be conducted, in accordance with an agreement between the establishment and area residents confirmed by the City Councillor's office, including a consultation that will include a public meeting and distribution of an informational flyer and ballot vote based on these conditions. This condition was completed on 17 April 2008;

## **Financial Impact**

There is no financial impact anticipated in this report.

## **DECISION HISTORY**

A previous boulevard café permit application was refused due to a low response rate during the statutory polling process. As a result, and in accordance with the provisions of former City of Toronto Municipal Code Chapter 313, this decision is under a two year moratorium period. The applicants wrote to Toronto and East York Community Council, Councillor Giambrone and Licensing Services and requested to appeal this decision. Councillor Giambrone worked with community residents to negotiate a set of conditions on the boulevard café license. Based on feedback from residents at a community meeting on 10 April 2008, as well as the results of an informal poll, Councillor Giambrone believed that the majority of the community would support a boulevard café at this location with conditions attached to their permit.

A permit to operate a boulevard café at 1186 Queen Street West was issued on June 26, 2008 to 1720208 Ontario Inc, operating as Brooklynn. The permit allowed for a boulevard café on the Northcote Avenue flankage of 67.59 square metres within the public right of way.

## **ISSUE BACKGROUND**

Toronto and East York Community Council at it's meeting of May 06, 2008 granted the boulevard café permit for 1186 Queen Street West, operating as Brooklynn on a probationary term with conditions attached to the permit. One of the conditions of the permit was to monitor the café operation during the 2008 season and the 2009 season and report back to the Toronto and East York Community Council prior to allowing the permit to continue for the 2009/2010 café season.

## **COMMENTS**

The café was inspected over the 2008 and 2009 café season, at that time there was no evidence of non-compliance with the boulevard café permit. Furthermore, only one complaint was received by Municipal Licensing and Standards regarding the operation of the boulevard café. As such, the boulevard café permit should be permitted to continue under the existing operation conditions.

## **CONTACT**

Joe Magalhaes, Supervisor of Investigations  
Toronto and East York District, Municipal Licensing and Standards  
Telephone: (416) 392-0874 Fax: (416) 392-0384 E-mail: [jmagalh@toronto.ca](mailto:jmagalh@toronto.ca)

## **SIGNATURE**

---

Elizabeth Glibbery, Manager  
Toronto and East York District

## **ATTACHMENTS**

Photograph 1 – north side of property  
Photograph 2 – south side of property  
Photograph 3 and 4 – east side of property