



STAFF REPORT ACTION REQUIRED

Appeal of the denial of a boulevard café permit located at 258 Lansdowne Avenue, Lumbervale Avenue flankage

Date:	May 3, 2010
To:	Toronto and East York Community Council
From:	Richard Mucha, Manager, Licensing Services, Municipal Licensing & Standards
Wards:	Ward 18 – Davenport

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.

To report on the results of a public poll and refusal to issue a permit by the Municipal Licensing and Standards, based on the results of the public poll conducted in the matter, of an application for a boulevard café permit at 258 Lansdowne Avenue, Lumbervale Avenue flankage.

RECOMMENDATIONS

Municipal Licensing and Standards recommends that the Toronto and East York Community Council:

1. Deny the application for the proposed café at 258 Lansdowne Avenue, Lumbervale Avenue flankage; **OR**
2. Approve the application for the proposed cafe at 258 Lansdowne Avenue, Lumbervale Avenue flankage.

Financial Impact

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

DECISION HISTORY

An application for a boulevard café on the Lumbervale Avenue, flankage of 258 Lansdowne Avenue was received on April 15, 2009 from the business owner, representing Café Encontro Inc, operating as Café Encontro. The application submitted was seeking permission to establish a boulevard café on the Lumbervale Avenue flankage for 47.67 square meters which would accommodate approximately 40 patrons. No part of the boulevard café is less than 25 metres from a residential zone. **(Appendix No. 4)**

As the proposed boulevard café flanks a residential district, a public poll was conducted of owners and tenants within 120 metres of the proposed café in accordance with the polling provisions of the City of Toronto Municipal Code Chapter 190. A negative response was received.

ISSUE BACKGROUND

A poll dated August 31, 2009 with the last date for filing a response being September 29, 2009 was conducted by the City Clerks Office, Elections and Registry Services for the Palmerston Avenue flankage, in English and Portuguese, between the premises 1 – 23 Lumbervale Avenue, to determine neighbourhood support.

The results of the poll received from Election and Registry Services indicate that the majority of ballots cast did not support the application. The provisions of Municipal Code Chapter 190 indicate that if the majority of ballots cast are opposed to the application, the application must be refused. **(Appendix No. 1)**

The applicant was notified of the refusal in writing on October 1, 2009.
(Appendix No. 2)

On March 23, 2010 Municipal Licensing and Standards received a letter of appeal from the applicant. **(Appendix No. 3)**

COMMENTS

This application meets the physical criteria for a boulevard café, as set out in Chapter 313, Section 313-36 of the former City of Toronto Municipal Code.

Chapter 313, Chapter 313-36 A(6) of the former City of Toronto Municipal Code requires Municipal Licensing and Standards, to refuse the application where the results of a poll indicates the majority are not in favour of the application.

When there is a negative response, re-polling for the same purpose may not take place until two years have passed from the closing date of the previous poll.

As a result, no further application for boulevard café privileges at this location can be accepted until September 29, 2011, two years from the closing date of the public poll.

CONTACT

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SIGNATURE

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APPENDICES

1. Letter from City Clerk's, Elections and Registry Office regarding the polling results
2. Refusal letter from Municipal Licensing and Standards
3. Letter of Appeal
4. Sketch of proposed café area
5. Photo of proposed café area