

1100 Queen St W - Rezoning Application – Refusal Report

Date:	April 29, 2010
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 18 – Davenport
Reference Number:	10 103027 STE 18 OZ

SUMMARY

This application was made on or after January 1, 2007 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

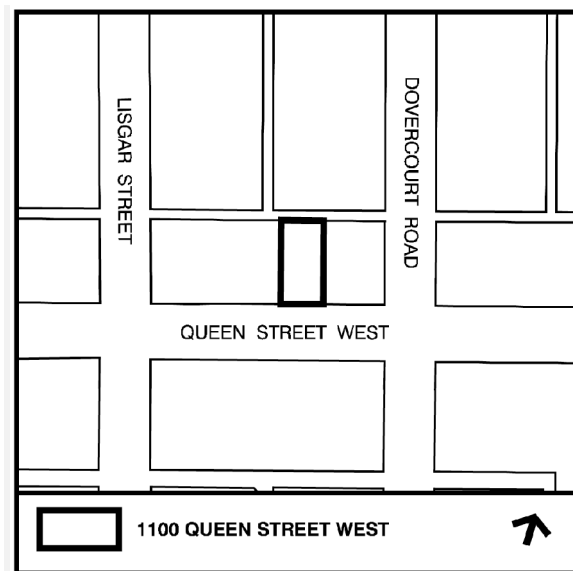
This application proposes to permit an *Entertainment Facility* use at 1100 Queen St West. The existing establishment at this location, known as “The Social” has been operating for approximately five years after having obtained building permits and a business licence for a *Restaurant* use. However, its current operation more closely reflects that of an *Entertainment Facility*, as defined by Zoning By-law 438-86. Therefore, the applicant proposes to rezone the site to allow an *Entertainment Facility* use in order to reflect its current operation.

This report reviews and recommends refusal of the application to amend the Zoning By-law.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse application 10-103027 STE 18 OZ for 1100 Queen Street West because *Entertainment Facilities* are not permitted and are



not appropriate in MCR districts that are directly adjacent to low-density residential neighbourhoods.

2. City Council instruct the City Solicitor, together with other appropriate City staff, to attend any Ontario Municipal Board hearing in support of the positions recommended in this report.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

The first building permit application for The Social was issued in 2004 for interior alterations for a *Restaurant* use on the ground floor of the building with a 180 seat capacity. A further building permit was issued in 2006 to expand the existing restaurant by 30 seats.

ISSUE BACKGROUND

Proposal

The proposal seeks approval for the use of the existing ground floor facility as an *Entertainment Facility*. The existing ground floor gross floor area is 348 square metres. The floor plans submitted with the application show 176 seats and a total capacity of 351 people. Entry is provided from Queen Street West and line-ups and a smoking area are proposed within roped-off areas outside the establishment in the right-of-way. The facility is primarily open between 10pm and 2am Thursday, Friday, Saturday and Monday. The applicant advised that there will be no changes to the existing operation of the business if the rezoning is approved. Refer to Attachment No. 1 for project data.

Site and Surrounding Area

The site at 1100 Queen Street West has an area of 464.5 square metres and is occupied with a building that is two storeys above grade and also contains a basement level. The Social shares the ground floor and basement level with the retail clothing store located next door. The second floor level is not currently occupied or part of this application.

The site is located on Queen Street West between Dovercourt Road and Lisgar Street. This section of Queen Street West has a traditional main street character with a mix of residential (second floor level and above), commercial and retail uses, including art galleries, hotels and restaurants.

Land uses surrounding the site are as follows:

North: The site abuts a lane way and a single row of diagonal parking spaces. Immediately to the north of the parking spaces lies a low-density residential neighbourhood.

South: To the south of Queen Street West lies an existing retail building at 1093 Queen Street West, which is subject to a rezoning application that has been appealed to the Ontario Municipal Board to allow a 9 storey mixed commercial residential building. Further to the south lies a low-density residential neighbourhood fronting onto Dovercourt Road. To the west of the low-density residential neighbourhood lies the West Queen West Triangle lands that are being redeveloped into a series of mid to high rise mixed-use condominiums.

East: Nyood Restaurant at 1096 Queen Street West, a flower shop and a cafe lie immediately to the east of the site. The mixed-use character of Queen Street West continues past Dovercourt Road.

West: A retail clothing store is located to the immediate west of the subject site. Further along to the west, the mixed-use character of Queen Street West continues, including restaurants, take-out restaurants, a corner grocery store and other retail stores.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS. The proposal is consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. City Council's planning decisions are required by the Planning Act, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe. The proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The Official Plan designates the subject site as *Mixed Use Areas* (Map 18). Additionally, this section of Queen Street West is designated as an *Avenue* on the Urban Structure Map (Map 2). The low-density neighbourhood to the north of the site is designated as *Neighbourhoods* and the Queen West Triangle lands to the south of Queen Street West are designated as a *Regeneration Area*.

The *Mixed Use Areas* designation in the Official Plan provides for a broad range of commercial, residential and institutional uses subject to a range of development criteria. Section 2.3.1.2 states that developments in *Mixed Use Areas* that are adjacent or close to *Neighbourhood* areas are to be compatible with those *Neighbourhoods*.

Avenues are important corridors along major streets where reurbanization is anticipated and encouraged to create new housing and job opportunities. *Avenues* are identified as an area where growth can be best accommodated, with mixed use *Avenues* emphasizing residential growth.

Zoning

Within former City of Toronto Zoning By-law 438-86, as amended the site is zoned Mixed Commercial Residential ('MCR') T3.0 C1.0 R2.5. A broad range of commercial and residential uses are permitted in the 'MCR' district, including *Restaurants*, *Take-out Restaurants* and *Retail* stores, however an *Entertainment Facility* is not a permitted use. Developments are permitted to have a total density of 3.0 times the area of the lot, of which a maximum of 1.0 times the area of the lot is permitted to be commercial and 2.5 times the area of the lot can be residential.

In 1988, City Council adopted a new definition of an *Entertainment Facility* to clarify the difference between a restaurant and an establishment that provides entertainment as a major attraction along with the sale of food and beverages. The current definition of an *Entertainment Facility* is:

“a building or portion of a building used for providing food, beverages, and entertainment to the public and includes a dance hall or dance floor, stage, teletheatre gambling, discotheque, dinner theatre, supper club, night club, cabaret or entertainment lounge, but does not include an adult entertainment parlour, restaurant or any other use otherwise defined or a mechanical or electronic game machine to be used for the purpose of gambling”.

Entertainment Facilities are only permitted in certain parts of the City, such as King-Spadina and King-Parliament, primarily where there is ample parking and transit accessibility and sufficient separation from low-density residential districts. The use is permitted on other specific sites through permissive exceptions in Section 12 of the Zoning By-law. Exceptions primarily resulted from area studies to address concerns about the size of food and entertainment establishments and the impact on the nearby community.

Draft City-wide Zoning By-law

Amendments are included in the latest draft of the new City-wide Zoning By-law relating to *Nightclubs* (which will replace existing *Entertainment Facility* definition). Based on a request from the Planning and Growth Management Committee of November 4, 2009, current zoning by-law restrictions applying to *Nightclubs* were examined by the Zoning By-law team. As a result of the review, new provisions are included in the latest draft of the new Zoning By-law applying to *Nightclubs* in the CR (previously MCR) zone. One of the new provisions prohibits *Nightclubs* in buildings on a lot that abuts a residential or apartment residential category. The latest draft was reviewed and approved at Planning and Growth Management Committee on April 21, 2010.

Queen Street West Restaurant Study and By-law Amendments

In December 2009, staff completed a study of *Restaurants* and related uses in the section of Queen Street West between Dovercourt Road and Gladstone Avenue (the “Study Area”), where the subject site is located.

The residential community surrounding the Study Area had raised a number of concerns related to the growing concentration of *Restaurants* and related uses and the tendency for these uses to be operated more like bars and late night drinking establishments, where entertainment and alcohol service are the primary activities rather than the service of food. The impacts of these establishments and their patrons include noise, sidewalk overcrowding, littering, public urination and vomiting, parking and traffic congestion.

The study resulted in staff recommending a number of amendments to Zoning By-law 438-86 to help limit the impacts of the *Restaurants* and related uses on the nearby residential uses. A copy of the final staff report can be found at: <http://www.toronto.ca/legdocs/mmis/2010/te/bgrd/backgroundfile-25913.pdf>. Amendments to the Zoning By-law related to: limiting floor size, restricting the location of patios, limiting the area permitted for accessory uses and opening doors and windows, and prohibiting certain accessory uses, including *Entertainment Facilities*.

Zoning By-law 438-86 allows accessory uses, including *Entertainment Facilities* in *Hotels*, where the *Hotel* is the primary use of the land. The Drake and the Gladstone Hotels, located within the Study Area, both contain accessory *Entertainment Facility* uses. Given *Entertainment Facilities* within hotels can have the same negative impacts as stand-alone *Entertainment Facilities*, staff amended the By-law to ensure no future *Entertainment Facilities* can be opened as accessory uses.

Toronto and East York Community Council adopted staff’s recommended changes to the Zoning By-law, with minor modifications, at its meeting on January 12, 2010 and City Council adopted the Zoning By-law amendments on January 26 and 27, 2010.

The owner of The Social subsequently appealed the Zoning By-law amendments to the Ontario Municipal Board (OMB). As the owner of The Social is the only appellant, City Legal staff applied to the OMB, with the owner’s consent, to issue an order pursuant to subsection 34(31) of the Planning Act to bring the By-law amendments into force on all other properties within the Study Area, except 1100 Queen Street West. The OMB issued an order to this effect on April 15, 2010.

Community Consultation

A community consultation meeting was held to discuss the proposed Entertainment Facility on April 19, 2009 and was attended by approximately 40 people. Additionally, staff received a number of written comments from people who could not attend the meeting. Comments ranged from those specific to the existing operation at The Social to more general comments about the cumulative impacts of all of the existing establishments and the possible precedent that would be set if an *Entertainment Facility* were to be permitted.

The key issues raised by the community specifically about The Social include:

- The large amount of congestion on the sidewalk in front of The Social due to the line-ups and people smoking at the front. This sometimes forces people to walk on to the road, endangering themselves;
- Excess noise and vibration from the establishment;
- Cigarette butts littering the sidewalk;
- Garbage bins behind The Social occasionally blocking the lane way; and
- The Social is primarily open to the public late at night, not during the day and does not contribute to the local community and daytime street-life.

The key issues raised about the impacts of all of the existing establishments and the possible impacts of approving an *Entertainment Facility* include:

- The possibility that a precedent would be set if the application were approved. Many community members believe there is already an over concentration of restaurants behaving like bars and nightclubs and to approve an *Entertainment Facility* would exacerbate the issues. There is concern the approval could lead to the area becoming more like the ‘Entertainment District’ in King-Spadina.
- The large amount of people leaving venues when they close at 2am, many of which walk the residential streets and lanes yelling, urinating, vomiting, littering, vandalizing property, fighting or partaking in other disruptive behaviour;
- Large numbers of taxis stop in front of the venues where there are no designated taxi stands, blocking traffic flow; and
- Increased traffic and parking supply issues.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

COMMENTS

Land Use

Entertainment Facilities generally have a focus on late night entertainment and alcohol consumption, versus the service of food, and can accommodate significant numbers of patrons due to the lack of tables and chairs. These establishments can have considerable impacts on the surrounding area, many of which are evidenced in the “Entertainment District”. Impacts can include:

- Given their large capacity, the establishments often have a regional, rather than local focus, which can create traffic congestion and parking issues in areas not intended or equipped to be a big regional draw;
- Large crowds and line-ups often form outside venues blocking the sidewalk and making it unsafe for passing pedestrians;

- The entertainment component, including loud music can often generate noise and vibration impacts that are heard/felt off-site;
- Patrons tend to leave in large numbers early in the morning creating noise and other disturbances, often related to alcohol intoxication, such as fighting and vandalism; and
- *Entertainment Facilities* often lack daytime activity and do not contribute positively to the neighbourhood street life during the day.

As such, *Entertainment Facilities* are only permitted in certain areas where it has been determined that the infrastructure is in place to deal with the anticipated crowds, noise, garbage and other associated issues and that there is sufficient separation from low-density residential neighbourhoods. *Entertainment Facilities* are not appropriate in MCR districts that are directly adjacent to low-density residential neighbourhoods.

Noise and Crowd Control

The applicant submitted a Noise Control Plan and a Crowd Control Plan with its rezoning application and these plans were circulated to Municipal Licensing and Standards (MLS) for review. Although these plans are normally reviewed through the business licence process after zoning approval is in place, MLS staff provided some preliminary comments:

- The crowd control plan is considered insufficient because the Toronto Municipal Code Chapter 545 - Licensing By-law states that “a crowd control plan should include a description of the manner in which people seeking entry or re-entry into the establishment may line up outside of the establishment prior to entry, including the location of such line ups, the maximum number of people permitted to be in such line ups, and the procedures used by the establishment to monitor the line ups, to control the number of people in the line ups, and to ensure orderly conduct by the people in the line ups”.
- Normally, submissions include a detailed written description including any written procedures the establishment may have including but not limited to, where all security staff will be located in regards to effecting control over their queuing, how security is to be dressed / identifiable, etc. basically ensuring that the above requirements are met.
- Regarding the Noise Control Plan submitted by Aercoustics Engineering Limited dated February 7, 2008, ML&S staff advised that the noise levels in the report would be unacceptable and in violation of the Toronto Municipal Code section 591-2.1A(1). ML&S staff also advised that a charge under this section was processed for a violation observed on November 15, 2008, which was after the Noise Control Plan was prepared, and a subsequent conviction was registered on a guilty plea, September 14, 2009. Another charge for the same violation was observed May 3, 2009 and a conviction was registered on April 1, 2010 with a fine of \$250.

ML&S staff also advised that four charges (offence dates of July 2008, August 2009, September 2009 and October 2009) against the owner for operating an Entertainment Establishment without the proper business licence are currently before the Court.

Conclusion

Entertainment Facilities are only permitted in certain areas where it has been determined that the infrastructure is in place to deal with the anticipated crowds, noise, garbage and other associated issues and that there is sufficient separation from low-density residential neighbourhoods. *Entertainment Facilities* are not appropriate in MCR districts that are directly adjacent to low-density residential neighbourhoods. The Licensing By-law requirements for Entertainment Facilities/Nightclubs, such as security guards, metal detectors and crowd control speak to the relatively intense nature of these facilities and provides further support for the locational restrictions this use is subject to in the Zoning By-law.

There is already an issue on this section of Queen Street West with a number of establishments in the area that have municipal permits and licences to operate as restaurants, but actually operate more like bars and nightclubs, where the main focus is on alcohol consumption and entertainment versus serving food. The local area community is already suffering some of the negative impacts noted above and are very concerned that Queen Street West will become another “Entertainment District”.

Staff are of the opinion that the application is not appropriate and if approved, would set a negative precedent that could encourage others to apply to open other *Entertainment Facilities* in ‘MCR’ districts adjacent to low-density residential neighbourhoods across the City. Staff respectfully recommend the application be refused.

CONTACT

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SIGNATURE

Raymond David, Director
Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Application Data Sheet

Attachment 2: Existing Zoning

Attachment 3: Applicant's Submitted Floor Plans

Attachment 1: Application Data Sheet

APPLICATION DATA SHEET

Application Type	Rezoning	Application Number:	10 103027 STE 18 OZ
Details	Rezoning, Standard	Application Date:	January 11, 2010

Municipal Address: 1100 QUEEN ST W
 Location Description: PL D186 LTS 59 & 60 **GRID S1807
 Project Description: Rezoning application to permit an Entertainment Facility/Nightclub on land zone MCR. Proposal is to use existing restaurant facility for such purpose.

Applicant:	Agent:	Architect:	Owner:
PAPAZIAN HEISEY MYERS			GUS KAKRIDONIS

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:
Zoning:	MCR T3.0 C1.0	Historical Status:
Height Limit (m):	16	Site Plan Control Area:

PROJECT INFORMATION

Site Area (sq. m):	464.5	Height:	Storeys:	2
Frontage (m):	15.24		Metres:	0
Depth (m):	30.48			
Total Ground Floor Area (sq. m):	464.5			Total
Total Residential GFA (sq. m):	0		Parking Spaces:	0
Total Non-Residential GFA (sq. m):	929		Loading Docks	0
Total GFA (sq. m):	929			
Lot Coverage Ratio (%):	100			
Floor Space Index:	2			

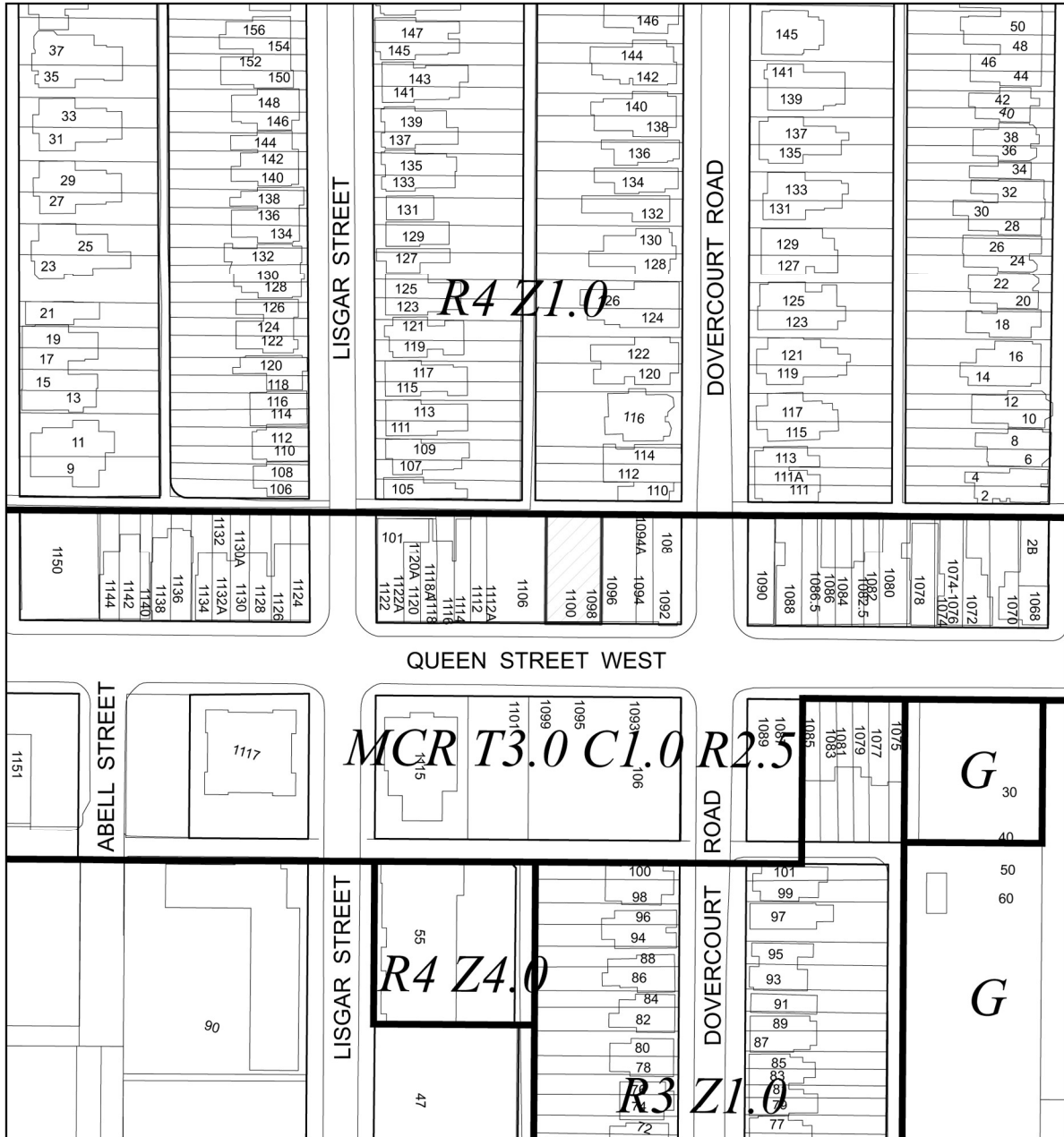
DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Tenure Type:			
Rooms:	0	Residential GFA (sq. m):	0
Bachelor:	0	Retail GFA (sq. m):	116.13
1 Bedroom:	0	Office GFA (sq. m):	0
2 Bedroom:	0	Industrial GFA (sq. m):	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	812.87
Total Units:	0		

CONTACT: **PLANNER NAME:** **Jamaica Hewston, Planner**
TELEPHONE: **416-392-0758**

Attachment 2: Existing Zoning



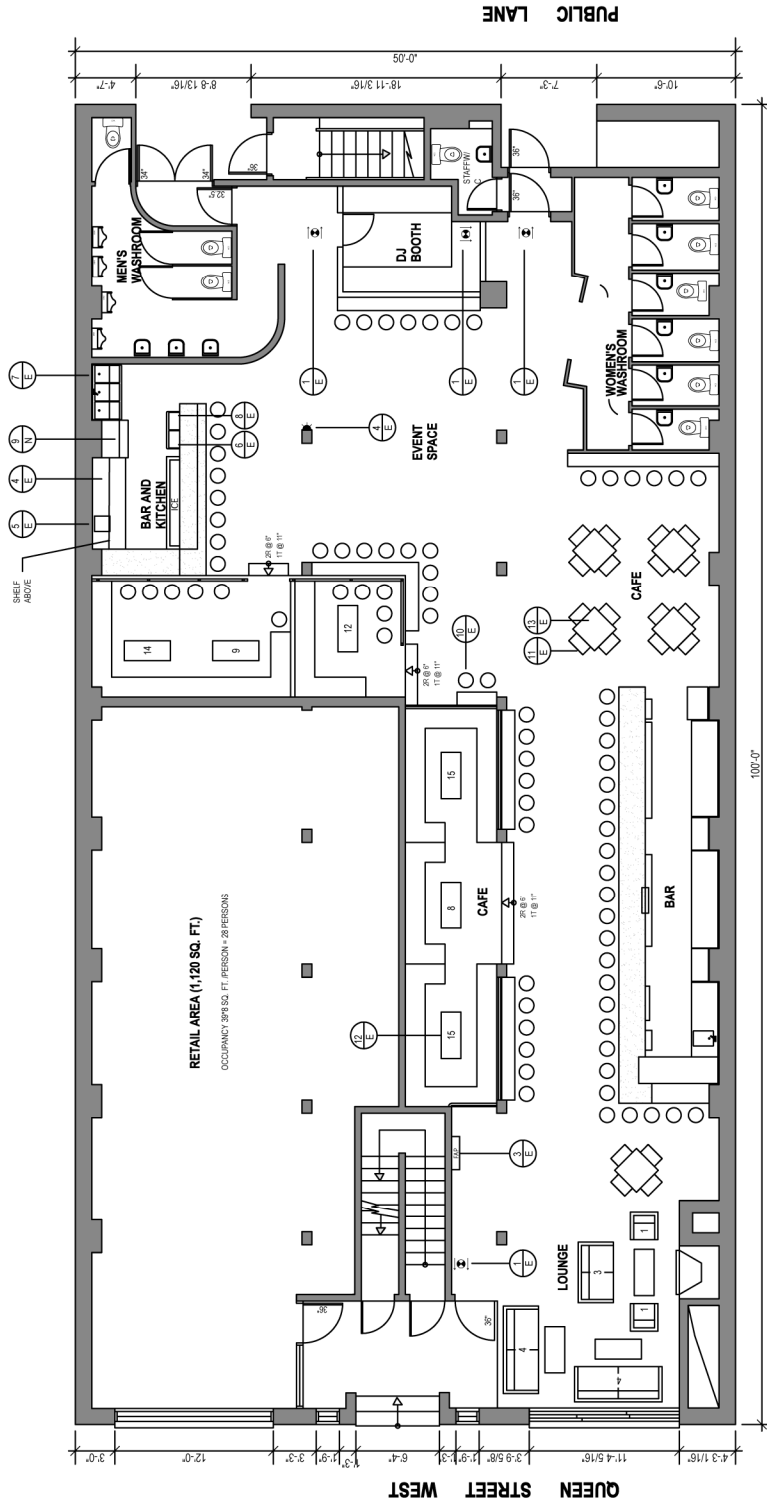
1100 Queen Street West
File # 10_103027

- R3 Residential District
- R4 Residential District
- MCR Mixed-Use District
- G Parks District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 04/23/2010

Attachment 3: Applicant's Submitted Floor Plans



1100 Queen Street West

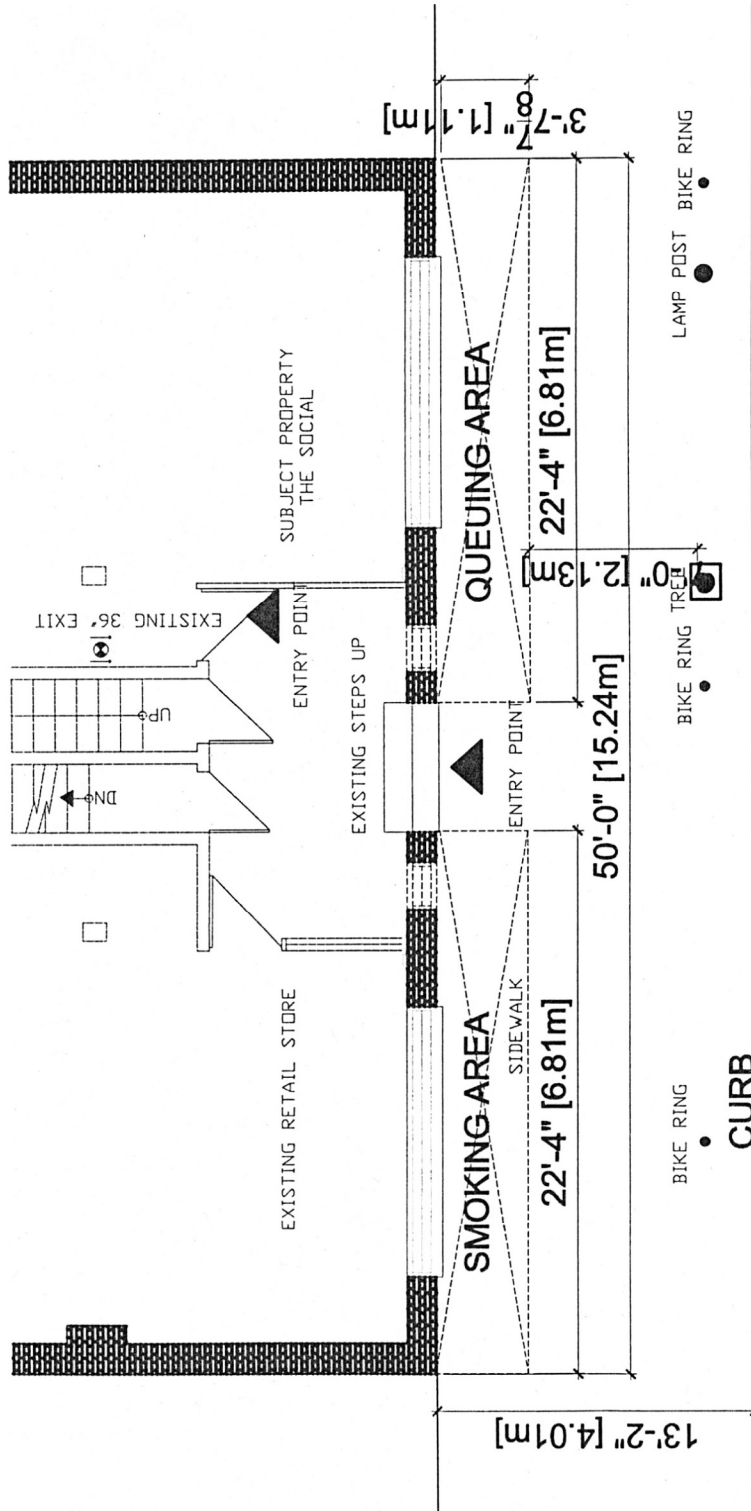
Ground Floor Plan

Applicant's Submitted Drawing

Not to Scale
04/23/2010



File # 10_103027



1100 Queen Street West

Crowd Control Plan

Applicant's Submitted Drawing

Not to Scale
04/23/2010



File # 10_103027