Appeal of the denial of a boulevard café permit extension application located at 1961 Queen Street East, Kenilworth Avenue flankage

Date: May 4, 2011
To: Toronto and East York Community Council
From: Marcia Stoltz, Acting Manager, Municipal Licensing & Standards, Licensing Services
Wards: Ward 32 – Beaches – East York

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 appeal received from the business owner representing 2215574 Ontario Inc, operating as Whitlock's for the refusal to issue a permit by Municipal Licensing and Standards, in the matter, of an extension application for a boulevard café permit located at 1961 Queen Street East, on the Kenilworth Avenue flankage.

RECOMMENDATIONS

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

1. Deny the application for the proposed boulevard café extension application at 1961 Queen Street East, on the Kenilworth Avenue flankage based on the application not meeting the requirements as stated in Chapter 313.

Financial Impact

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

An application for a boulevard café located at 1961 Queen Street East, on the Kenilworth Avenue flankage was received on April 13, 2010 from the business owner, representing, 2215574 Ontario Inc operating as Whitlock's. The application submitted was seeking permission to establish an extension of boulevard café area, on the Kenilworth Avenue flankage for 22.0 square meters which would accommodate approximately 16 additional patrons. (Appendix No.1)

As the proposed boulevard café flanks a residential district, the former City of Toronto Municipal Code Chapter 313, Section 313-36F (2F) states that no part of the boulevard café shall be less than 25 meters from a residential zone.

Site inspection conducted on April 28, 2010 revealed that the boulevard café extension area is within 19.5 meters of the required 25 meters from a residential zone.

The former City of Toronto Municipal Code Chapter 313-36 B (4) also requires a public poll of owners and tenants within 120 metres of the proposed café on a residential flank.

A poll dated March 30, 2011 with the last date for filing a response being April 28, 2010 was conducted by the City Clerk's Office, Elections and Registry Services for the Delaware Avenue flankage, in English, between the premises 75 - 109 Kenilworth Avenue, 70 - 106 Kenilworth Avenue and also 1963Queen Street East 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

ISSUE BACKGROUND

On May 7, 2010, a refusal letter was sent to the business owner representing 2215574 Ontario Inc, operating as Whitlock's advising the applicant that the boulevard café application was denied due to the required 25 meters from a residential zone. (Appendix No.2)

A letter dated May 12, 2010 was received by Municipal Licensing & Standards from the business owner representing 2215574 Ontario Inc, operating as Whitlock's to appeal the decision of the denial of the boulevard café extension application.

On May 4, 2011, a refusal letter was sent to the business owner representing 2215574 Ontario Inc, operating as Whitlock's advising the applicant that the majority of ballots cast did not support the application.
COMMENTS

As the proposed café flanks a residential district, the former City of Toronto Municipal Code Chapter 313-36 F, requires that no part of the boulevard café is less than 25 meters from a residential zone and the application be refused.

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 April 28, 2013, two years from the closing date of the public poll.

CONTACT

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SIGNATURE

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APPENDICES

1. Sketch of boulevard café
2. Photo of proposed café area