

**Queen Street West (between Roncesvalles Avenue and Dufferin Street) – Restaurant Study – Final Report**

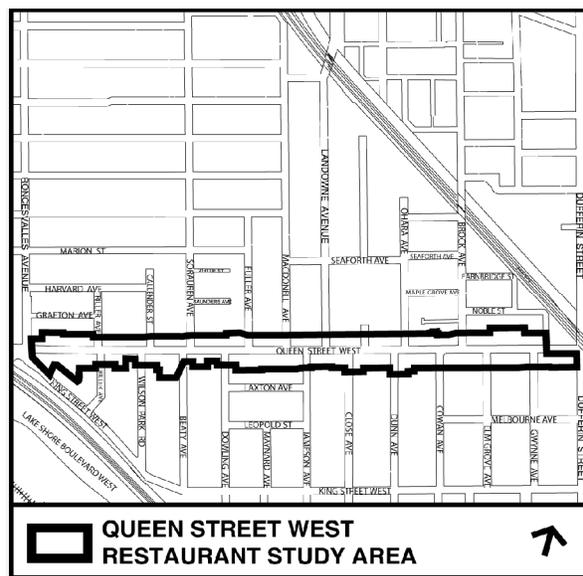
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| <b>Date:</b>             | May 24, 2013   |
| <b>To:</b>               | Toronto and East York Community Council                      |
| <b>From:</b>             | Director, Community Planning, Toronto and East York District |
| <b>Wards:</b>            | Ward 14 – Parkdale-High Park                                 |
| <b>Reference Number:</b> | 11-232412 STE 14 OZ  |

**SUMMARY**

This proposal is to amend the Zoning By-law with respect to implementing additional restrictions on restaurants and related uses on Queen Street West between the east side of Roncesvalles Avenue and the west side of Dufferin Street (the Study Area) in Ward 14.

Staff recommend a number of amendments to the Zoning By-law which seek to balance the interests of area residents and businesses and address concerns related to the degree of concentration of restaurants and bars along this section of Queen Street West as well as the changing nature of some restaurants which function more like bars later in the evening. The cumulative effects of the amendments aim to limit the overall impacts of restaurants and related uses on the adjacent residential and commercial uses, while still allowing opportunities for new restaurants and related uses to open and for the expansion of existing uses.

This report reviews and recommends approval of amendments to the Zoning By-law.



## RECOMMENDATIONS

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### **The City Planning Division recommends that:**

1. City Council amend Zoning By-law 438-86, as amended, substantially in accordance with the draft Zoning By-law amendment attached as Attachment No. 3 to the report (May 24, 2013) from the Director, Community Planning, Toronto and East York District.
2. City Council amend Zoning By-law 569-2013 substantially in accordance with the draft Zoning By-law amendment attached as Attachment No. 4 to the report (May 24, 2013) from the Director, Community Planning, Toronto and East York District.
3. City Council direct that staff continue to investigate means of restricting the concentration of licensed restaurants and bars on Queen Street West and that the Director, Community Planning, Toronto and East York District report back to Toronto and East York Community Council in the first quarter of 2014 on whether it is feasible to enact such restrictions and the regulatory and administrative changes necessary to effectively implement them.
4. If it is feasible for the City of Toronto to restrict the concentration of licensed restaurants and bars on Queen Street West, City Council direct the Director, Community Planning, Toronto and East York District to report back to Toronto and East York Community Council on appropriate amendments to the zoning by-law implemented for the Study Area including limits on the concentration provisions for licensed establishments only.
5. Within three years of the concentration provisions of the attached by-laws coming into force and effect, City Council direct the Director, Community Planning, Toronto and East York District, to report back to Toronto and East York Community Council on the impact of the concentration provisions of the by-laws.
6. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendments as may be required.

### **Financial Impact**

The recommendations in this report have no financial impact.

### **ISSUE BACKGROUND**

In 2011 City Council directed Planning staff to undertake a planning analysis of Queen Street West between Roncesvalles Avenue and Dufferin Street. This segment of Queen Street has traditionally operated as a main street with a wide mix of uses serving the surrounding neighbourhood, but has also experienced vacant store fronts and undesirable activities related to drug use and crime. Over the past several years the area has been transforming with new retailers along with more restaurant/bar type uses which serve the local community but also have a regional draw. Since 2008, approximately 34 new restaurants have opened in the Study Area.

In particular, the increase in restaurant/bar uses has created conflicts with adjacent commercial and residential uses. Residents and business owners have raised concerns that restaurants are operating like lounges and bars which has generated complaints to the City related to noise,

Staff report for action – Final Report – Queen Street West between Roncesvalles Avenue and Dufferin Street

vandalism, garbage and congestion problems including automobile traffic and patrons blocking sidewalks while waiting to get into establishments. There is also a concern that if the level of concentration of restaurants continues to rise, Queen Street West may no longer function as a main street which serves the widely varied daily needs of area residents, but rather will change into an entertainment district with a regional draw.

## **Site and Surrounding Area**

The Study Area is located within the Parkdale neighbourhood of the City which has a very diverse population and a varied mix of income levels, with the area north of Queen Street known to be generally more affluent than the area to the south. The properties on Queen Street between Roncesvalles Avenue and Dufferin Street primarily contain two-storey buildings with commercial uses at grade and residential uses above. At the west end of the Study Area, the south side of the street contains a few two-storey detached and semi-detached houses as well as three to five-storey walk up apartment buildings. The south side of the street also contains some institutional uses such as Our Lady of Lebanon Church, St. Christopher's House, a Toronto Hydro Building, CAMH Archway Clinic, the Parkdale Library and a City of Toronto building housing Gallery 1313 and the Parkdale BIA. There is one privately owned public parking lot located at the north-west corner of Queen Street West and Triller Avenue which will likely one day be replaced by a commercial and/or residential development. Additionally, there are two small parking lots located just west of Cowan Avenue and also on Noble Street.

The neighbourhood immediately to the north is mostly comprised of detached and semi-detached houses and townhouses, with some interspersed apartment buildings such as a 22-storey apartment building on Triller Avenue and an 11-storey building on West Lodge Avenue belonging to the Toronto Community Housing Corporation. Additionally, there is a small pocket at the east end of the Study Area on Nobel Street which contains some remnant light industrial uses. Public lanes separate the majority of the properties fronting Queen Street West from the adjacent neighbourhood.

The adjacent neighbourhood immediately to the south of the Study Area also has a mix of detached, semi-detached and townhouse dwellings along with apartment buildings, ranging from six to twenty-stories situated along Jameson Avenue and Dunn Avenue. Over half the blocks located on the south side of Queen Street contain public lanes which separate the properties fronting Queen Street from the adjacent neighbourhood.

There are approximately 303 properties located within the Study Area containing a range of commercial, institutional, residential and restaurant uses. Of the 303 properties, 71 contain restaurants and similar uses. Of the 71 restaurants, 46 have liquor licenses with a total licensed seating capacity of 4,340 patrons. Over half of the licensed seating capacity is located within the block between Brock Avenue and Dufferin Street at the east end of the Study Area, shown as Area D in the map attached to the draft zoning by-law (Attachment 3). This block contains 19 restaurants with a total seating capacity of 2,393 patrons. Attachment 2 to this report shows the location of restaurants and identifies which are licensed and which are not.

## **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 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.

## **Official Plan**

Queen Street West between Roncesvalles Avenue and Dufferin Street is designated *Mixed Use Areas* on both sides of the street. One exception is the north side of Queen Street between Nobel Street and Dufferin Street which is designated *Employment Areas* and therefore has been excluded from the Study Area. The *Mixed Use Areas* designation of the Official Plan provides for a broad range of commercial, residential and institutional uses subject to a number of development criteria as identified in chapter 4.5. Namely Policy 2a) requires that in *Mixed Use Areas* development will: create a balance of high quality commercial, residential, institutional and open space uses that reduce automobile dependency and meets the needs of the local community.

This segment of Queen Street is also identified as an Avenue on the Urban Structure Map (Map 2). Chapter 2.2.3 Avenues: Reurbanizing Arterial Corridors; notes that Avenues are important corridors along major streets where re-urbanization is anticipated and encouraged to create new housing and job opportunities while improving the pedestrian environment, the look of the street, shopping opportunities and transit service for community residents. The Official Plan notes that ultimately all Avenues should perform a main street role and become meeting places for local neighbours and the wider community.

Development in *Mixed Use Areas* that are adjacent to or close to *Neighbourhoods* are also required to be compatible with those *Neighbourhoods*. The abutting properties to the north and south side of Queen Street are designated *Neighbourhoods*. These are considered physically stable areas made up of residential uses in lower scale buildings. In Chapter Four, Neighbourhoods, it is noted that a key objective of the Plan is that new development respect and reinforce the general physical patterns in a Neighbourhood. Additionally, Chapter 2.3.1 Healthy Neighbourhoods, includes policies requiring development in *Mixed Use Areas*, *Regeneration Areas* and *Apartment Neighbourhoods* that are adjacent or close to *Neighbourhoods* to be compatible with those Neighbourhoods.

## **Zoning By-law 438-86**

The majority of the properties in the study area are Zoned MCR T2.5 C1.0 R2.0 under former City of Toronto Zoning By-law 438-86. The exception are the properties on the north side of Queen Street West between Nobel Street and Dufferin Street which are zoned Industrial. As mentioned above, these properties have been excluded from the Study Area.

The 'MCR' zoning classification permits a variety of uses including residential, parks, community services, institutional uses, commercial and retail (which includes restaurants) and office with a total density of 2.5 times the area of the lot. Of this total density, 1.0 times the area of the lot is permitted to be commercial and 2.0 times residential. The maximum permitted

height is 14 m (approximately 4 storeys). The abutting properties to the north and south of Queen Street are zoned Residential (R) which permits a variety of low-density house forms.

Zoning By-law 438-86 defines restaurants as a "building or portion of a building used for the preparation and cooking of meals and the sale of food and beverages to the public while they are seated, for consumption on the premises" and permits a number of accessory uses. The By-law does not restrict where within a building a restaurant may be located, but it does restrict the size of restaurants to 400m<sup>2</sup> when they are located within 6.1m of a residential property, as is the case in the Study Area. Additionally, rear yard and rooftop patios associated with restaurants are permitted so long as the MCR lot on which they are located is at least 10m from the nearest R lot.

### **Harmonized By-law 569-2013**

City Council enacted Harmonized By-law 569-2013 on May 9, 2013. The Study Area is designated Commercial Residential and is within Development Standard Set 2 (SS2), a designation typically reserved for main streets along the Avenues. The neighbourhood on to the north and south of Queen Street is zoned Residential.

By-law 569-2013 does not include a definition for restaurants but defines these as *eating establishments* with the following definition: "premises where food or beverages are prepared and offered for sale to patrons for immediate consumption on the premises while they are seated, and which may include an incidental take-out service". The Harmonized By-law also has a 400 m<sup>2</sup> size restriction for any eating establishment that is located within 6.1m of an R zone and is located within either SS1 or SS2. The By-law however exempts areas used for associated offices, storage rooms, and staff rooms located in the basement or on a different storey than the eating establishment from the GFA calculation of the eating establishment. Outdoor patios associated with eating establishments are restricted to a maximum size of 30m<sup>2</sup> or 30% of the interior floor area of the premises, whichever is lesser, and must be set back at least 30m from any Residential lot. Additionally, an outdoor patio located above the first storey must be at least 40m from any Residential lot. Accordingly, pursuant to By-law 569-2013, rear yard or rooftop patios are not permitted on any lots within the Study Area because they are all located within proximity to Residential lots.

### **Distinguishing Bars versus Restaurants and Similar Uses**

Neither Zoning By-law 438-86 or 569-2013 differentiates between restaurants that serve alcohol versus ones that do not. Historically, By-law 438-86 contained a 'Tavern' definition, however, this was deleted from the By-law due to the fact that, as will be discussed further below, the alcohol licensing process by the Alcohol and Gaming Commission (AGCO) was linked to the service of food as a specific use requirement and required that a minimum of six menu items be offered. This use requirement made it very difficult to distinguish a bar (or tavern) from a restaurant as every licensed establishment technically had to function as a restaurant. This lack of ability to distinguish between bar and restaurant has, and continues to, create difficulty in attempting to deal with land use conflicts created by late night drinking establishments. The consequence is that any measures taken to mitigate issues created by late night drinking establishments are equally placed on restaurants, many of which may not necessarily be contributing to the problem.

As well, previous studies and Interim Control By-law 1393-2012 adopted for the Study Area considered all uses related to restaurants, such as bake shops, places of assembly and places of amusement under the same umbrella and therefore resulting by-laws applied to all such uses equally. To scope the study and get at the root of the problem, staff narrowed the focus to restaurants/eating establishments specifically and the majority of the new by-law provisions attached to this report apply to restaurants/eating establishments only, unless otherwise specified.

## **Community Consultation**

A preliminary community consultation meeting was held by Planning staff on June 28, 2011 to obtain feedback from area residents and business owners regarding the potential conflicts with the adjacent residential neighbourhood created by bars and restaurants in the Study Area and for suggestions about potential mitigation measures.

At this meeting staff learned that while opinions were split, the majority of those in attendance identified that there are issues related to:

- A number of restaurants functioning more like bars later in the evening where tables are cleared to make room for dancing/standing room only;
- Unruly behaviour by intoxicated patrons spilling out onto the street and the surrounding residential streets at closing time with the accompanying noise, garbage, vomiting and public urination;
- Noise from inside venues and outside patios;
- Smoke drifting from outdoor patios onto residential areas;
- Congested sidewalks with patrons waiting in outdoor lineups to get into establishments and people loitering/smoking on sidewalks;
- Lack of parking for residents due to patrons parking on residential streets;
- Considerable traffic congestion late at night with cabs and patron vehicles on Queen Street West and on neighbourhood streets;
- Over-saturation of bars and restaurants on Queen Street which may have resulted in a reduction in the number of other retailers/services to allow Queen Street to function as a main street and serve the community;
- Over-saturation of bars and restaurants particularly on the block between Brock Avenue and Dufferin Street and a concern with the impact on the street should this level of concentration replicate itself westwards; and
- Lack of enforcement - concern over the seeming inability by enforcement agencies such as the AGCO, MLS, Toronto Building and Toronto Police to act quickly and prosecute businesses which demonstrate bad behaviour and are the main source of conflict with residential uses.

Staff held another community consultation meeting on November 26, 2012 to update the public on the progress of the study, review findings and obtain feedback on some preliminary study recommendations. Additionally, staff conducted two working group meetings comprised of representatives from the Residents Association, Parkdale BIA, the Police, Alcohol and Gaming Commission (AGCO), Municipal Licensing and Standards (MLS), Toronto Building, the Councillor's Office and Planning Staff, in September 28, 2011 and April 8, 2013.

A final community consultation meeting was held on April 29, 2013 to present final findings and recommendations. Staff proposed new performance standards to be introduced in a zoning by-

law for the Study Area related to restaurants including maximum restaurant GFA per establishment, location within the building restricted to the first storey above grade, maximum of one restaurant use per building and prohibition of rear yard and rooftop patios. Staff also noted that research results have demonstrated that there is a correlation between over-concentration of restaurants and similar uses and land use conflicts with adjacent residential uses. This is most notably evident in the block between Brock Avenue and Dufferin Street where it was previously mentioned that of the 4,340 licensed seats found in the entire study area, 2,393 (55%) are located just within this one block. As will be discussed further below in this report, this is also the block with the most complaints related to noise, unruly behaviour by patrons, traffic congestion and congestion of sidewalks created by patrons waiting in line ups. Staff are of the view that if this level of concentration were to replicate itself elsewhere in the Study Area this may have negative outcomes and measures to limit concentration are an appropriate course of action.

Comments received from attendees of the Community Meeting were mixed. While there generally was support for the new proposed performance standards, there was some concern that these would limit the opportunity for existing businesses to expand their operations either to the second storey or to a rear yard/rooftop patio. Opinions were also split regarding the issue of concentration. Some members of the community were in support of the recommendation due to concerns over the conflicts created between restaurants and surrounding residential uses, while others were of the opinion that zoning measures should not be relied on to influence market forces.

### **Agency Consultation**

The findings of this study were discussed with appropriate agencies such as the Alcohol and Gaming Commission (AGCO) and City divisions such as Municipal Licensing and Standards (MLS), Toronto Police, Toronto Buildings and Economic Development. Responses received have been used to assist in the formulation of the attached by-law and recommendations of this report.

## **COMMENTS**

### **Provincial Policy Statement and Provincial Plans**

The recommendations of this Study are consistent with the Provincial Policy Statement (PPS). The PPS promotes strong communities, a clean and healthy environment and a strong economy. It acknowledges the importance of creating communities which meet the long term needs of residents by accommodating an appropriate range and mix of residential, employment, recreational and open space uses. It also recognizes the importance of achieving long-term economic prosperity by maintaining and, where possible, enhancing the vitality and viability of main streets. The recommendations of this Study are intended to encourage a mix of uses on Queen Street West, resulting in a vibrant main street.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth which includes supporting vibrant neighbourhoods by encouraging the provision of a diverse and compatible mix of land uses, including residential and employment uses, to support vibrant neighbourhoods. The proposal also conforms to the Growth Plan.

## The Licensing Process

The licensing, permitting and oversight of the operation of restaurants and associated uses in Toronto involves a provincial government agency (the Alcohol and Gaming Commission or AGCO) and several City Divisions including Municipal Licensing and Standards (MLS) and Toronto Building. These bodies have different mandates and are granted their powers through the various pieces of legislation under which they operate. It is necessary to understand how these agencies operate and interact with regard to restaurants and bars for several reasons:

- in order to understand how City Planning staff came to the conclusions and the recommendations in this report;
- to understand how the staff recommendations fit within the broader picture of the operations of bars and restaurants and the means of dealing with various issues associated with late night drinking establishments; and
- to gain an understanding of the additional measures (beyond the proposed changes to the zoning by-law discussed in this report) which will be necessary to address issues associated with late night drinking establishments.

There are three different types of permits/licenses required in order to open a restaurant in the City of Toronto. The first is a building permit, issued by Toronto Building, to complete any renovations or construction required to make a space suitable to accommodate a restaurant. The second is a business license issued by MLS granting permission to operate a restaurant. Finally there is a liquor license through the AGCO which is only required for restaurants that intend to sell alcohol for consumption on the premises. The section below explores the role of each of these agencies in granting these permits and licenses, with a primary focus on the issuance of alcohol licenses.

### Alcohol and Gaming Commission (ACGO)

The Alcohol and Gaming Commission (ACGO) is a provincial government agency which regulates the sale, service and consumption of alcoholic beverages in the Province of Ontario. The rules for the licensing of establishments to sell and serve alcohol are spelled out in the *Liquor Licence Act (LLA)* and its regulations.

AGCO uses a 'risk-based' licensing approach for processing applications for the sale and service of alcohol in licensed establishments. This involves evaluating levels of risk of non-compliance with the LLA and its regulations that an establishment may pose based upon the location, type of establishment proposed and an assessment of the risk associated with the applicant. The AGCO adopted the risk-based licensing process in 2008 as part of the AGCO's overall move towards a compliance-based approach to regulation.

The reference to 'primary use' (i.e., a business whose primary function is the sale and service of beverage alcohol) was deleted from the LLA in 2011 to allow any business operation to apply for a liquor licence. For example, a spa or an art gallery could apply for a liquor licence; however, there is still a requirement that food must be available to patrons on the premises.

It appears that the risk-based assessment carried out by the AGCO is a function of three factors:

- The rights of an applicant to obtain a liquor licence. Legally, obtaining a liquor licence is a right in Ontario, making it necessary to deal with the risk of issuing a licence as opposed to whether or not a license should be issued (the Registrar of Alcohol and Gaming does have the authority to refuse to issue a licence if certain criteria are not met);
- Allows the AGCO to make a distinction between different types of establishments applying for a licence (i.e., bar, restaurant, night club, etc.); and,
- The need to allocate staff resources in the most efficient manner possible by focusing resources on the establishments which pose the greatest risk.

There are four key principles behind risk-based licensing:

1. To identify persons or places that pose specific risks to public safety or the public interest;
2. To lessen any risks and ensure compliance with the LLA through the entire lifecycle of a liquor licence;
3. To reduce the administrative burden for those who pose a lower risk, where possible; and,
4. To focus more AGCO resources on those establishments that pose enhanced risks.

As noted, the risk-based assessment begins with an evaluation of the type of establishment, potential risks associated with the establishment and the history and experience of the applicant. This assessment may be used as the basis for developing conditions which could be imposed on the license in order to mitigate risks of non-compliance. The assessment of risks can also be used to establish a threshold for the loss of a licence in the event conditions are breached.

As required under Section 50 of the LLC, before issuing a liquor licence in Toronto, the AGCO contacts the City through the Clerk's office to confirm that the use is permitted in the Zoning By-law as well as to confirm that the proposed use meets Fire Code, Building Code and Public Health regulations. The City's internal process for reviewing the application and responding to the AGCO is described below, along with the roles of the various City Divisions involved.

As part of the AGCO licensing application process, a placard containing a notice of application for a liquor license is posted on the property of the applicant's establishment and a copy of the application along with the proposed conditions, if any, is provided to the Clerk's Office. The placard posted at the proposed establishment invites written submissions from members of the community, which may result in community representatives participating in a public interest hearing. If the objectors and the applicant are unable to reach an agreement, then the matter may be referred to a hearing before the Licence Appeal Tribunal (LAT). It is common practice for the City and/or residents to appear before the LAT and to request that additional conditions be imposed on the granting of a specific licence to ensure that potential issues such as noise can be identified up front.

While the LLA prescribes a single licence for the sale and service of alcohol in licensed establishments, the AGCO's risk-based licensing approach allows for a thorough review of licence applicants as well as the type and size of the proposed establishment while also identifying any potential risks of non-compliance posed by the proposed establishment. If specific risks are identified during the risk-based assessment, the Registrar of Alcohol and Gaming can issue a range of conditions on the licence—should the licence be issued—in order to mitigate any of the identified risks. So while there is only a single liquor sales licence for all licensed establishments, the risk-based licensing process allows the AGCO to identify the nature of the establishment (type, location, activities, capacity, hours of operation), any risks that the establishment may pose as well as providing the opportunity to mitigate these risks through the issuing of conditions.

### City Clerk's Office

The AGCO will request the input of various City of Toronto Divisions into the licensing process by sending a request for information to the City's Clerk's Office. The Clerk's Office will forward that request to various City Divisions, including Toronto Building, Fire Services, Public Health and MLS. The City is responsible for inspecting and confirming that an establishment meets fire codes, building, zoning and municipal licensing standards and health regulations. The AGCO will not issue a liquor license until sign off from these City Divisions has been received.

### Municipal Licensing and Standards (MLS)

Municipal Licensing and Standards (MLS) is responsible for issuing business licences for various types of commercial establishments under the City's Licensing By-laws. As part of this process MLS staff will confirm that an application for a business license will comply with the City's zoning, building code requirements and public health requirements. MLS conducts a similar review on behalf of the AGCO as part of the liquor licence application.

With regard to restaurants and entertainment uses (licensed and unlicensed), MLS generally considers a restaurant as any premises where food is stored, prepared or sold for human consumption. To distinguish between 'restaurants' and 'entertainment uses' (which include uses such as 'entertainment facilities' or nightclubs), 'restaurants' are defined as having seating for more than 50% of the patrons, while 'entertainment uses' provide seating for less than 50% of the facility's patrons. Again, there is no definition for a bar or any other establishment with mixed restaurant and entertainment type uses (such as dance floors, stages for live music and dj's).

It is also important to note that the City is not able to regulate operating hours associated with restaurants and bars through the City's Licensing By-law as the *City of Toronto Act* (S. 97(3)(a)(i)) explicitly prohibits a municipality from doing so. The *Planning Act* does not allow for the regulation of operating hours.

### Toronto Building

Toronto Building receives applications from the AGCO by way of the City Clerk's Office. Toronto Building is responsible for confirming that an establishment seeking a liquor licence meets Building Code standards and complies with applicable zoning requirements. Toronto Building is also responsible for confirming for MLS staff that a proposed restaurant is a legal use

under the By-law for the purposes of issuing a business licence. Toronto Building will complete a 'Use-only' Preliminary Project Review (PPR) in the case of an application for a business licence, which will include only an assessment as to whether the proposed use is a listed permitted use at the specific location, under the current applicable zoning by-law. When reviewing an application for a building permit, a review by Toronto Building Staff will include a more comprehensive assessment of the proposal including a review of parking, loading, built form standards, or any other qualifications or conditions related to that use.

### **Introducing Licensed Eating Establishment as a Defined Term**

As mentioned above, the AGCO is the Provincial agency which regulates the sale, service and consumption of alcoholic beverages in the province of Ontario and rules for the licensing of establishments are outlined in the *Liquor License Act*. This means that individual municipalities, including the City of Toronto, do not have jurisdiction over the actual administration of liquor licenses. The City's involvement in the process is limited to confirmation of zoning, fire and health regulations for the location within which the license is proposed and attendance at Licence Appeal Tribunal hearings to request that certain conditions be imposed on the license. Any consideration of the introduction of a land use in the Zoning By-law which specifies whether the use is licensed, such as 'licensed establishment', would require the ability for the City to confirm the zoning, fire and health regulations for such a use.

Toronto Building has advised that a major administrative difficulty would have to be resolved should 'licensed establishment' be introduced as a new defined term in the Zoning By-law. This would ultimately create a situation where, under the current process, Toronto Building would not be able to issue a building permit for a 'licensed eating establishment' as liquor license approvals are granted by the AGCO after the legal use has been established by way of a building permit. Toronto Building would therefore not be able to demonstrate compliance for a 'licensed eating establishment' prior to the applicant having their license granted by the AGCO. This means the current business practice which the AGCO follows in regards to circulation and municipal zoning clearances would have to be significantly revamped to accommodate the defined use of 'licensed eating establishment'. Ultimately, the AGCO would have create a license clearance process that runs simultaneously with building permit applications within the City of Toronto.

Generally, there are concerns with defining a term in the By-law which the City does not regulate. However, there are other municipalities in Ontario, such as Niagara Falls, which do include a defined term for 'licensed establishment', which means any premises issued a license by the Alcohol and Gaming Commission under the *Liquor License Act*, to serve liquor as a permanently-licensed facility or as a temporary or occasionally-licensed facility. At this time, staff have not had the opportunity to speak with staff from the City of Niagara Falls to inquire about the administration and effectiveness of licensed establishment as a defined term. It is clear that before introducing 'licensed eating establishment' or any such term in the City of Toronto By-law is further contemplated, staff need to research the logistics of administering such a term. It would also be necessary for all applicable Divisions such as City Legal, Toronto Building, City Planning including the Zoning By-law Team, and MLS to meet regarding the matter, discuss the issues and come to an agreement on how to solve them. It would also be necessary to obtain confirmation from the AGCO that they would be willing and able to work with the City in developing a workable system to deal with the administration of a By-law which would define licensed establishments. This should be considered further through a Standing Committee as it has City-wide implications.

## **Study Findings**

The Parkdale neighbourhood has a long and varied socio-economic history. It served as a wealthy commuter suburb in the late nineteenth and early twentieth centuries due to its waterfront location, rail access to downtown, and large Victorian and Edwardian housing. However, from the 1930s to the 1950s, the concentration of working-class and low-income tenants in Parkdale increased as many homes were subdivided into multiple units. The construction of the Gardiner Expressway in the 1960s caused the further loss of single-family houses and reduced access to Lake Ontario. In the 1980s, the deinstitutionalization of patients from local mental health centres and hospitals increased the population of low-income and government-assisted residents in Parkdale, typically in rooming houses. However, gentrification also began to occur during this time period as Toronto experienced increasing housing prices, leading Parkdale to attract investment from middle-class professionals through its location, affordability, and housing character. Higher-income residents have tended to concentrate north of Queen Street in North Parkdale, while lower-income tenants have tended to concentrate south of Queen Street in South Parkdale. This has resulted in a neighbourhood that is very socio-economically diverse with widely varied needs by its residents.

### **Concentration of Restaurants**

At the onset of the study staff were essentially asked to consider two things related to mitigating the concentration of restaurants in the Study Area. One was to implement zoning controls that would limit the land use conflicts that may arise between restaurants and the adjacent residential neighbourhood. The other was to find ways to actually limit the general concentration of bars and restaurants on Queen Street as there is a concern that when commercial uses on a main street become too homogenous, it may negatively impact the overall function of the main street which is to serve the variety of daily needs of area residents. Specifically, there is a concern that bars and restaurants threaten to become the main commercial activity on Queen Street, making it harder for other types of businesses to take root. As Parkdale is a very diverse community, the needs of its members are also very diverse and there is a need for a full range of businesses and services available to serve the daily needs of this community. There is concern that the process of gentrification may be changing the economic activity along Queen Street West as second-hand stores, low-cost restaurants and other organizations and businesses providing services to low-income residents are being replaced by more expensive restaurants, bars, boutiques, and cafes catering to middle and high-income customers and attracting a higher proportion of patrons from well outside the neighbourhood. There is also concern that as entertainment facilities are slowly being replaced by residential condo development in the downtown Entertainment District, they are being pushed out to other neighbourhoods such as Parkdale.

At community consultation meetings, staff heard from some owners of non-restaurant type businesses that when there are large numbers of restaurants, particularly ones only open later in the day, it can result in reduced day-time foot traffic that so many other retailers rely on. It was also noted that oftentimes restaurants have the potential to draw higher profits than other types of business and thus pay increased rent, which poses a threat to the tenure of other local businesses that provide a range of neighbourhood services as rents in the area increase.

In order to begin to answer the question of whether or not Queen Street between Roncesvalles Avenue and Dufferin Street is properly functioning as a main street in its current form, it would be necessary to compare the existing businesses and services available and compare them to what existed in the past and determine if the Queen Street of the past fit the criteria of a main

street any more or less than it does today. However, establishing a time series chronology of how businesses on Queen Street have evolved over time is a difficult task as, due to the building permit process, new permits are not typically required when one use replaces another similar use. It can therefore be hard to keep track of when one business replaces another, particularly with older records. However, staff were generally able to determine that of the 71 existing restaurants, 34 opened in 2008 or later and of these 15 opened in 2011 or later (one of which is now closed). The block between Brock Avenue and Dufferin Street, which contains 19 restaurants, has seen 11 of these open since 2008, of which six opened in the last two years.

The Land Use Map (Attachment 1) and Restaurant Location Map (Attachment 2) to this report shows a distribution of land uses and the location of restaurants respectively, in the Study Area. A review of these maps clearly illustrates that there is a higher concentration of restaurants in the east end of the area, between Brock Avenue and Dufferin Street, as compared to the rest of the street. There is a concern if this level of concentration was to replicate itself in other parts of the Study Area, particularly in the form of licensed restaurants. For this reason, staff recommend that there be a cap on the absolute numbers of restaurants permitted in the Study Area, but that this be distributed equally throughout the Study Area. As the Study Area has an approximate length of 1.4 km and contains 303 properties, providing one cap for the entire area would not be sufficient as this would not stop over-concentration from happening in one portion of the Study Area by absorbing most of the restaurants permitted within the maximum cap.

To address this, staff divided the Study Area into four parts as identified on draft by-law Map (Attachment 3) this report and the chart below:

| <b>Area</b> | <b>Boundaries</b>   | <b>Number of Properties</b> | <b>Length of Area</b> | <b>Number of Restaurants</b> | <b>Percentage of Properties Containing Restaurants</b> |
|-------------|---|-----------------------------|-----------------------|------------------------------|--|
| <b>A</b>    | Roncesvalles Avenue to Sorauren Avenue/Beaty Avenue             | 89                          | 350m                  | 18                           | 20%  |
| <b>B</b>    | Sorauren Avenue/Beaty Avenue to Lansdowne Avenue/Jameson Avenue | 73                          | 350m                  | 18                           | 25%  |
| <b>C</b>    | Lansdowne Avenue/Jameson Avenue to Brock Avenue/ Connan Avenue  | 84                          | 400m                  | 16                           | 19%  |
| <b>D</b>    | Brock Avenue/Connan Avenue to Dufferin Street                   | 57                          | 300m                  | 19                           | 33%  |

As can be seen, the smallest of these areas is Area D between Brock Avenue and Dufferin Street. This also contains the highest existing concentration of restaurants. The three remaining areas, Areas A – C are larger with 87, 72 and 84 properties respectively but each contain a smaller number of restaurants, between 16-18, as compared to the 19 located in Area D.

In an effort to balance growth and minimize the impact of future new restaurants, staff recommend that not more than 25% of existing properties be permitted to contain retail uses in

the form of restaurants/eating establishments. This would result in the following absolute numbers of restaurants per area:

- Area A: 22
- Area B: 18
- Area C: 21
- Area D: 14

This means that while Areas A and C have room for growth, Area B is at capacity and Area D is currently over capacity. Staff selected 25% as the maximum level of concentration as this means that other, non-restaurant related businesses and services would be encouraged to situate within the remaining 75% percent of the properties.

There is evidence that similar businesses agglomerate around one another as they benefit from each other's customers. This means that the presence of restaurants is likely to draw other restaurants. As mentioned, the block between Brock Avenue and Dufferin Street has seen 11 new restaurants open in the last five years, six of which opened in the last two years. There is concern that the concentration on this block will continue and may begin to move westwards thereby threatening the main street function of the remainder of this street.

As will also be seen below, the block between Brock Avenue and Dufferin Street is where the greatest evidence of land use conflicts between restaurants and adjacent residential uses exists. Given that 33% of the properties within this block contain restaurants, selecting 25% as a cap is an effort to still allow growth within the Study Area, but to keep it reasonably lower than that which exists within this block.

### **Concentration of Licensed Restaurants and Bars**

Through this study staff came to the determination that the crux of the issue is more directly the concentration of licensed establishments and the land use conflicts with adjacent residential properties that can arise when there is an over-concentration of licensed establishments. This has also been clearly demonstrated in the other previously completed restaurant studies across the inner city area of Toronto. However, as noted above, the difficulty in addressing this compelling issue is the regulatory framework within which alcohol licenses are issued which the City does not have jurisdiction over.

The Restaurant Location Map (Attachment 2) shows evidence of the concentration of licensed establishments in the east end of the Study Area. Of the 71 restaurants found in the Study Area, 46 contain liquor licenses with a total licensed seating capacity of 4,340 patrons. Over half of the licensed seating capacity is located within the block between Brock Avenue and Dufferin Street at the east end of the Study Area. This block contains 19 restaurants with a total seating capacity of 2,393 patrons. Conversations with MLS staff, members of the Toronto Police, review of City records and comments received at Community Consultation meetings, show that noise and unruly behaviour by patrons spilling out on the street late at night impact the quality of life of area residents and negatively alter the main street character of Queen Street West. This is particularly true for the block between Brock Avenue and Dufferin Street where 55% of the Study Area's licensed capacity can be found.

Staff also conducted a late-night site visit on a Saturday evening and were able to record line-ups in front of certain establishments, live-bands, establishments transformed into entertainment facilities with tables pushed aside to make room for a dance floor covering most of the floor area and a general transformation of activities from eating to drinking later at night for a number of establishments. Some restaurants even charge an entrance cover after a certain hour. This was most evident in the block between Brock Avenue and Dufferin Street and based on the numbers of people observed, it is reasonable to conclude that this is an area with a regional draw. The site visit also took place in early April and it is possible that during warmer weather months some of the activities observed, such as outdoor lineups, will become more prominent. Additionally, due to the time of year, none of the patios were operational during the site visit.

A review of City records also unveiled evidence of land use conflicts between particular restaurants and the adjacent neighbourhood. While staff do not have access to Police records of drunken and disruptive behaviour, staff have access to noise violations recorded by MLS. Noise violations however, are complaint based and therefore are only recorded when members of the public report a complaint. As well, MLS records are linked to specific properties, therefore, general noise infractions that take place on the public sidewalk or street do not make up part of the record. Based on this, staff believe that the number of recorded noise complaints under-represents the actual extent of the land use conflict created.

Staff looked at the records of noise complaints generated over the last five years. In the Study Area, 18 licensed restaurants have complaints recorded against them, with a combined total of approximately 60 complaints over this time period. The reasons recorded for noise complaints range from noise created by loud music to noise created by patrons themselves. Of the 18 restaurants with noise complaints, eight are located in the block between Brock Avenue and Dufferin Street with a total of 34 individual complaints. While staff note that not every licensed establishment has noise complaints, noise complaints have been recorded for licensed establishments only.

The block between Brock Avenue and Dufferin Street contains 19 of the 71 restaurants, 15 of which are licensed, and received 34 of the 60 individual noise complaints recorded in the Study Area over the past five years. Restaurants occupy 19 (33%) of the 57 properties in this block, of which the vast majority (79%) are licensed. Complaints at community consultation meetings regarding this block included: establishments functioning more like bars than restaurants later in the evening; disruptive behaviour by patrons; patron lineups crowding sidewalks; and traffic congestion on Queen Street and on residential streets. Staff observed much of this activity on a site visit. This information has led staff to conclude that there is in fact a correlation between concentration of licensed seating capacity and land use conflicts for the adjacent residential neighbourhood. Should the level of concentration as currently exists between Brock and Dufferin replicate itself elsewhere on the street, there are concerns that the level of nuisance for the adjacent residential neighbourhood will also replicate itself and create further land use conflicts.

## **Limiting the Concentration of Licensed Restaurants/Establishments**

As demonstrated above, there is evidence to indicate a land use conflict created by the over-concentration of licensed restaurants and bars. However, due to the current regulatory framework which gives little powers to the City to control the granting of liquor licenses, staff had to focus on finding ways to mitigate the issues created by licensed establishments by casting the net wider and including all restaurants, including unlicensed ones.

Staff continue to explore ways to limit the concentration of licensed restaurants themselves, whether it be through placing a cap on the overall licensed seating capacity or the numbers of licensed restaurants. The first step in this process would be to introduce 'licensed eating establishment' as a defined term in the Zoning By-law. To this end, staff have had and continue to have extensive discussions with City Legal, Toronto Building, the Alcohol and Gaming Commission and Municipal Licensing and Standards staff to explore options.

Staff recommend that efforts to identify a means of regulating the concentration of licensed restaurants and bars continue and that staff report back to Toronto and East York Community Council on the findings of their research into this issue. Specifically, staff would look at the following questions:

- Does the City have the authority to regulate the concentration of licensed establishments (be it a cap on numbers or a minimum separation distance as is used in some jurisdictions)?
- If the City does have the authority to regulate the concentration of bars and licensed restaurants, what is the most effective way to use these powers to address the land-use conflicts associated with the concentration of these uses?
- What regulatory, administrative and/or procedural changes would be required by both the AGCO and the various City of Toronto Divisions involved in regulating the operation of bars and licensed restaurants to make such regulations effective in reducing land use conflicts?

## **Challenges Presented in Limiting the Concentration of Restaurants**

Staff recognize the administrative and operational challenges posed by limiting the concentration of restaurants, whether it be all restaurants or just licensed ones. Toronto Building has noted that a new data management process will have to be introduced between City Planning and Toronto Building to regulate the combined number of existing restaurants in order to have an understanding as to whether or not there is available capacity in each of the areas. This process would be further complicated should a 'licensed eating establishment' term be established for which a concentration limit would apply, as this would mean that in addition to City Planning and Toronto Building, the AGCO would have to be involved in the process of keeping track of available capacity. The feasibility of such a proposal requires further investigation with the AGCO and applicable City Divisions.

## **Proposed By-law Provisions**

Staff recommend that, in order not to delay the adoption by Council of zoning measures that can be addressed at this time, the provisions identified below and in the attached by-law be adopted.

Additionally, in order to narrow the scope of the attached by-law, staff recommend that the following proposed provisions apply to restaurants only, unless otherwise indicated.

#### *Concentration of Bars and Restaurants/Eating Establishments*

As efforts to clarify the powers of the City of Toronto to regulate the concentration of bars and licensed restaurants as well as the means of implementing such regulations are on-going, staff recommend that a concentration by-law be enacted to limit the number of restaurants in the study area as described above. This would result in a maximum number of restaurants for each of the four sections identified in the attached by-law based upon the principle that restaurants should occupy no more than 25% of the properties on a main street. Staff recommend that this measure be subject to review within three years of the implementation of this provision to examine the effectiveness of this aspect of the proposed by-law on the land use patterns of the street. This provision would apply to *restaurants* as defined in By-law 438-86 and *eating establishments* as defined in By-law 569-2013.

In the event that an effective means is identified to focus land use restrictions on licensed restaurants and bars, staff should be directed to bring forward a new or amended by-law on that basis.

#### *Maximum Restaurant/Eating Establishment GFA Cap*

By-law 438-86 and By-law 569-2013 both contain a maximum permitted non-residential GFA of 400m<sup>2</sup> for any restaurant/eating establishment located on a lot that is closer than 6.1m to the nearest Residential lot, as is the case in every instance in the Study Area. While By-law 438-86 does not exclude any elements of the restaurant from this calculation, By-law 569-2013 excludes associated office, storage and washroom space if located in the basement or on a different storey than the eating establishment.

Maximum seating capacity is based on life-safety standards of the Ontario Building Code. Depending on the configuration of a restaurant space, between 0.6m<sup>2</sup> – 1.1m<sup>2</sup> of gross floor area is required per seat. Based on this, a restaurant measuring 400m<sup>2</sup> can roughly hold 240 to 440 seats (naturally some of the 400m<sup>2</sup> of GFA would be occupied by kitchen, storage and washroom space, addressed differently in the two By-laws, which impacts the actual amount of space available for patron seats).

In order to determine the average size of restaurants, staff looked at building permit and business license data for a sample comprised of half of the existing restaurants to obtain information regarding the approximate average size of restaurants in the Study Area. It was generally concluded that due to the relatively narrow property frontages, the majority of restaurants have a gross floor area of less than 150m<sup>2</sup>. There are only five restaurants which have a non-residential GFA of 200m<sup>2</sup> or greater, one of which has a GFA of over 300m<sup>2</sup> and the other of approximately 400 m<sup>2</sup>. Four of these larger establishments, including the two over 300m<sup>2</sup> and 400 m<sup>2</sup>, are located within the block between Brock Avenue and Dufferin Street.

As concluded in previous Council-adopted restaurant studies such as the Ossington Study between Queen Street West and Dundas Street and the Queen Street West study between Gladstone Avenue and Dovercourt Road, size relates directly to capacity. For example, the five largest restaurants in the Study Area have an average GFA of just under 300m<sup>2</sup> of useable space (not including washroom, storage and food preparation areas) and a combined licensed seating

capacity of 2,021. Four of these are located between Brock Avenue and Dufferin Street and have a combined licensed capacity of 1,604. The concern with large establishments is that they characteristically generate higher levels of noise, garbage, disruptive social behaviour by patrons and parking demand. Additionally, larger establishments are more likely to have a regional draw which can change the character of the neighbourhood from a local shopping strip to a regional entertainment destination. Particularly, when large establishments are located within close proximity to one another, they are even more likely to have a regional draw and become an entertainment destination as patrons know that if one establishment reaches its patron capacity for the evening, they can just go down the street to the next establishment, which helps to further increase the popularity of the area.

To address the issue of size, staff recommend a restaurant GFA maximum of 200m<sup>2</sup> which would include all useable space, but would exclude areas exclusively used for food preparation, bathrooms, storage and mechanical areas. The proposed size is deemed appropriate as the vast majority of existing restaurants appear to have a useable gross floor area of 150m<sup>2</sup> or less, therefore, a non-residential GFA cap of 200m<sup>2</sup> would allow for the expansion of all but five restaurants in the Study Area, while at the same time is less than the average size of the five largest establishments in the area. This provision will apply to the following uses as defined in By-law 438-86: *bake-shop, place of amusement, restaurant and take-out restaurant*. It will apply to the following uses as defined in By-law 569-2013: *cabaret, eating establishment, entertainment place of assembly, and take-out eating establishment*.

#### *Number of Restaurants/Eating Establishments within a Building*

In order to reinforce the objective achieved via a gross floor area cap of 200m<sup>2</sup>, staff recommend that, in the event that two individual restaurants located in separate adjoining buildings are connected with internal corridors used by patrons and/or staff, the total gross floor area for all connected uses will be calculated cumulatively for the purpose of determining restaurant gross floor area. This provision will apply to the following uses as defined in By-law 438-86: *bake-shop, place of amusement, restaurant and take-out restaurant*. It will apply to the following uses as defined in By-law 569-2013: *cabaret, eating establishment, entertainment place of assembly, and take-out eating establishment*.

#### *Patios*

Zoning By-law 438-86 permits rear yard and rooftop patios associated with restaurants as long as the MCR lot on which they are located is at least 10m from the nearest R lot. However, findings of the previously completed restaurant studies have found that the 10m separation distance is not sufficient in protecting adjacent residential properties from noise and the By-laws that resulted from each of these studies prohibit rooftop and rear yard patios.

Lessons learned from these previous studies were taken into consideration in the writing of Harmonized By-law 569-2013, and while an outright prohibition was seen as too restrictive, the separation distance has increased to 30m for rear yard patios and 40m for rooftop patios (measured lot line to lot line, not to the location of the patio itself). This particularly benefits the more suburban areas of the City where such separation distances can be accommodated. Additionally, as outdoor patios can greatly increase the total seating capacity, By-law 569-2013 includes a patio size maximum of 30m<sup>2</sup> or 30% of the interior floor area of the premises, whichever is lesser, to further lessen the impact of rear yard and rooftop patios.

Under the performance standards set out in the Harmonized By-law, or even By-law 438-86, there are no lots in the Study Area zoned MCR which could accommodate a rear yard or roof top patio as-of-right. This is because the MCR lots either immediately abut an R lot, or are separated from an R lot by a public lane that is six metres wide or less. Of the 14 establishments containing patios (one of which closed earlier this year) eight have recorded noise violations against them. In addition to noise complaints, staff heard concerns from the community regarding privacy, cigarette smoke and debris such as beer bottles being thrown over the edges of patios into residential rear yards. Therefore, due to site conditions which result in Mixed-Use lots being in close proximity to Residential lots and the potential to create land use conflicts associated with rooftop and rear yard patios, staff recommend a prohibition of rooftop and rear yard patios in the Study Area. This provision will apply to *restaurants* as defined in By-law 438-86 and *cabaret and eating establishment* as defined in By-law 569-2013.

Additionally, staff are recommending that any future patio flanking a residential street be restricted to 50% of the depth of the building in which a restaurant is located (measured from the front wall), to restrict the level of noise that travels down the residential street. This same 50% depth permission for flanking patios has also made its way into the Harmonized By-law, therefore this recommendation only applies as a variance to By-law 438-86.

#### *Location of Restaurant/Eating Establishments within a Building*

Neither By-law 438-86 nor By-law 569-2013 restricts the location within the building where an eating establishment can be located or the number of such establishments that can be operated within the same building. Staff recommend that restaurants be restricted to locate within the first storey above grade only, as there is concern that when located on the second storey, any noise escaping through open windows and doors can carry further into the adjacent residential properties and be especially disruptive at night. As well, there are a number of instances where residential uses are located on the second storey of the buildings fronting Queen Street. Should a restaurant operate out of the second storey adjacent to such a unit, there is a high probability that noise will travel through the walls disturbing residents. This provision will apply to the following uses as defined in By-law 438-86: *bake-shop, place of amusement, restaurant and take-out restaurant*. It will apply to the following uses as defined in By-law 569-2013: *cabaret, eating establishment, entertainment place of assembly, and take-out eating establishment*.

#### *Accessory Uses*

Limiting Gross Floor Area where accessory uses such as a stage, dance floor, disc jockey, teletheatre gambling and sound room can be accommodated helps to reduce the potential of a restaurant from functioning more as a bar/entertainment facility than a traditional restaurant. By-law 438-86 allows up to 47m<sup>2</sup> or 6% of the non-residential gross floor area, whichever is lesser, to be occupied by such uses. Similarly, the Harmonized By-law permits 50m<sup>2</sup> or 6% of the non-residential gross floor area, whichever is lesser. Staff recommend that a limit of 6% of the non-residential GFA continue to apply which results in a maximum cap of 12m<sup>2</sup>. This provision will apply to *restaurants* and *place of amusement* as defined in By-law 438-86 and *eating establishments* as defined in By-law 569-2013.

#### *Windows and Doors on Rear and Flanking Walls*

In addition to recommending that rear yard and rooftop patios be prohibited, staff recommend a maximum combined area for all operable doors and windows on rear and flanking walls of 4.0 m<sup>2</sup>. This will help to further reduce noise impacts during the summer months which can result

through music and patron noise. This provision will apply to the following uses as defined in By-law 438-86: *restaurant and take-out restaurant*. It will apply to the following uses as defined in By-law 569-2013: *cabaret, eating establishment and take-out eating establishment*.

## **FURTHER STUDY**

As mentioned above, additional work is necessary to determine whether the City can regulate the concentration of licensed restaurants and bars. This report recommends that staff continue efforts to determine if this can be done under the City's current powers or if additional authority would be required to be granted to the City to effectively implement such regulations.

## **CONCLUSION**

The findings of the Queen Street West Restaurant Study between Roncesvalles Avenue and Dufferin Street have demonstrated that there is a land use conflict between restaurants, particularly licensed restaurants, and the adjacent residential neighbourhood. These conflicts often stem from licensed restaurants behaving more like bars later in the evening and range from issues related to disruptive behaviour by patrons, including noise, public urination and vomiting after closing time. Other land use conflicts are also related to congestion on public sidewalks and traffic congestion created by cars and taxi cabs on Queen Street and the surrounding residential streets. The presence of such land use conflicts may negatively impact the ability of Queen Street West to function as a healthy main street.

The Official Plan references the need to make sustainable choices about how the City grows in order to build a successful City. It is about integrating environmental, social and economic perspectives in decision making and meeting the needs of today without compromising the ability of future generations to meet their needs. Well-functioning main streets are an important factor in achieving this goal. Healthy main streets result in walkable, sustainable neighbourhoods which meet the daily needs of residents thereby resulting in a reduced reliance on the private car or on public transportation, ultimately alleviating traffic congestion. Main streets also contribute to healthy neighbourhoods when they serve the changing needs of residents through every stage of life, allowing residents to remain in their neighbourhood throughout their lifetime.

The overall concentration of restaurants found in the Study Area, particularly in the east end between Brock Avenue and Dufferin Street, may also negatively impact the ability of Queen Street West to function as a main street serving the varied needs of a diverse local community. There is a concern that the presence of too many restaurants, especially ones that do not open until later in the day, affect the day-time foot traffic which many other businesses rely on. There is also a notion that sometimes a concentration of restaurants can increase rents and thereby threaten the tenure of other local businesses. When there is a concentration of licensed establishments, the area begins to function more like an entertainment district with a regional draw and this further hinders the ability of the street to function as a main street. There is evidence of over-concentration of bars and restaurants at the east end of the Study Area and there is concern that there is potential for this level of concentration to replicate itself elsewhere in the Study Area.

The ultimate goal of this study is to balance the needs of local business and the residential community by helping mitigate some of the land use conflicts that arise when a substantial number of restaurants are located within close proximity to residential uses and to maintain the

function of Queen Street West as a main street. To this end, staff recommend a number of new zoning provisions which intend to allow for the expansion of existing restaurants and the establishment of new ones, but with limits. Similar performance standards to those which were approved at the conclusion of other restaurant studies within the inner city are recommended. The standards include maximum gross floor area, location within the building, prohibition of rear yard and rooftop patios, aggregate size of openings on rear and flanking walls and gross floor area dedicated to accessory uses. The standards have been carefully selected so as to still allow for the growth and expansion of the majority of the restaurants within the Study Area. However, to make the draft by-law even more effective in balancing the needs of residents and the business community, a cap on the numbers of restaurants permitted is also proposed as it has been found that the area with the greatest evidence of land use conflicts and which poses the greatest threat to the main street function of Queen Street West, is the area with a proportionally high number of restaurants and licensed seats as compared to the rest of the Study Area.

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## **SIGNATURE**

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Gregg Lintern, MCIP, RPP  
Director, Community Planning  
Toronto and East York District

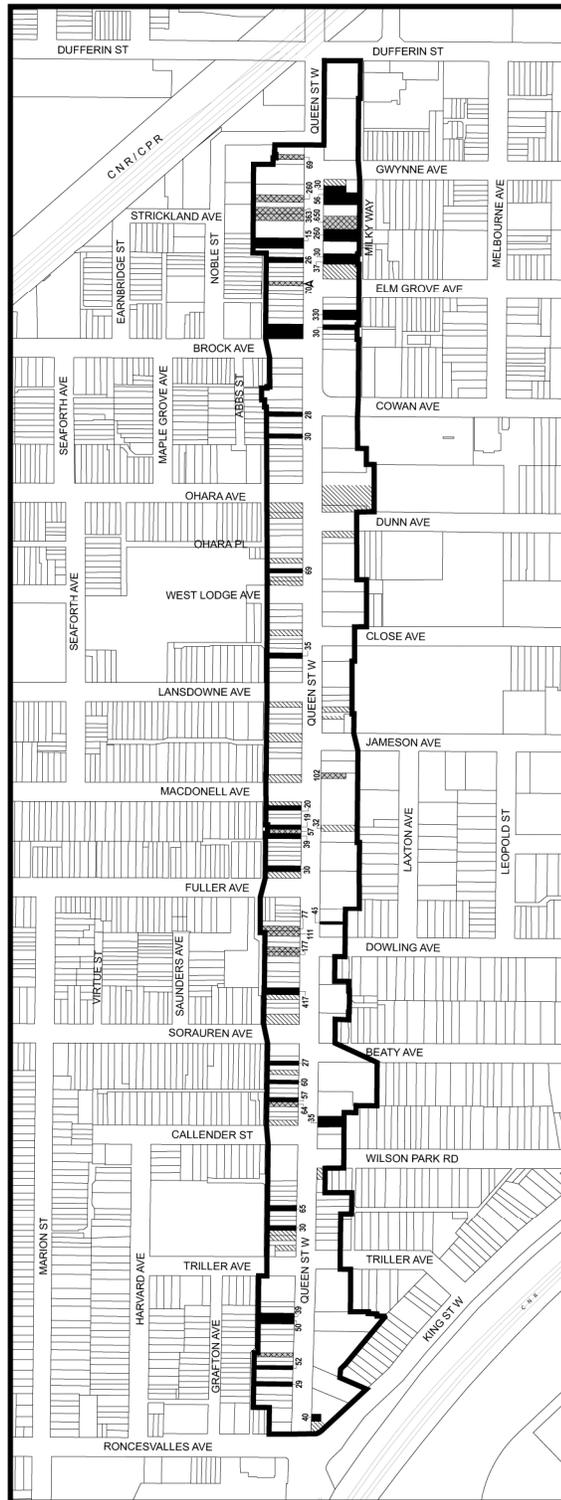
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## **ATTACHMENTS**

Attachment 1: Land Use Map  
Attachment 2: Location of Restaurants  
Attachment 3: Draft By-Law (438-86)  
Attachment 4: Draft By-Law (569-2013)



## Attachment 2: Location of Restaurants



### Queen Street West Restaurant Study

File # 11 232412 0Z



Not to Scale  
05/24/2013

### Toronto City Planning Licensed Seating Capacity

- Study Area
  - Licensed Restaurants without Patios
  - Licensed Restaurants with Patios
  - Unlicensed Restaurants
- A Pending License Application (1 in total)  
Total Number of Restaurants = 71  
(25 are unlicensed, 46 are licensed, 1 has a pending license)

### Attachment 3: Draft By-law

Authority: Toronto and East York Community Council Item ~ as adopted by City of Toronto Council on ~, 20~  
Enacted by Council: ~, 20~

#### CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

**To amend ~ Zoning By-law No. ~, as amended,  
With respect to the lands along Queen Street West between  
Dufferin Street and Roncesvalles Avenue**

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The text of Section 12(2) of By-law No. 438-86, as amended, is further amended by adding the following restriction:
  - “xx. No person shall, within the area shown within the heavy lines on the map at the end of this exception,
    - (1) use land or erect or use a building, addition, or structure for the purpose of a *bake-shop, club, place of amusement, restaurant or take-out restaurant* including where this use is *accessory* to other permitted uses unless:
      - (a) the *front lot line* or *side lot line* of such *lot* is on Queen Street West;
      - (b) any such use or *accessory use* is wholly contained within the walls of the building or structure housing the principal use subject to Section (1)(d) of this By-law;
      - (c) the aggregate area of all operable windows and doors located in any ground floor wall facing the *rear lot line* or street other than Queen Street West shall not be greater than 4.0 square metres;
      - (d) any such use or *accessory use* located at or above *grade* is limited to the ground floor only;
    - (2) use land or erect or use a *patio* provided in connection with a *restaurant* unless it is located:

- (a) between the *front wall* of the building or structure housing the principal use and the *front lot line* of the *lot*, provided the *front lot line* of such *lot* is on Queen Street West, or
  - (b) between the wall facing the *side lot line* of the building or structure housing the principal use and the *side lot line* of the *lot*, to a maximum of 50 per cent of the depth of the building or structure housing the principal use, measured from the *front wall*; and
- (3) The total *non-residential gross floor area* used for any one or combination of a *bake-shop*, *place of amusement*, *restaurant* or *take-out restaurant* or combination of such uses or *accessory uses* in a building or structure does not exceed 200 square metres.
- (4) erect or use any building or structure for the purpose of a *restaurant*, where the combined number of *restaurants* exceeds the following:
- A. Within Area A, 22
  - B. Within Area B, 18
  - C. Within Area C, 21
  - D. Within Area D, 14

For the purposes of this exception, any italicized term contained within this exception shall have the same meaning as defined in By-law No. 438-86, except that:

- a) the term *restaurant* as defined in Section 2(1) of the By-law, including a *restaurant* that is *accessory* to another permitted use, shall be deemed not to include subsection (v), with subsection (iv) to be read as:
  - (iv) floor area up to 12 square metres or 6%, whichever is lesser, of *non-residential gross floor area* to be used for one or more of the purposes of:
    - a stage;
    - teletheatre gambling;
    - a sound room;
    - an area dedicated to recreational activities, but not a dance floor or disc jockey;
    - any other entertainment area, but not a dance floor or disc jockey; and
    - no exterior area may be used for those purposes;

- b) the term *place of amusement* as defined in Section 2(1) of the By-law, including a *place of amusement* that is *accessory* to another permitted use, shall be deemed not to include subsection (iii), with subsection (ii) to be read as:
- (ii) floor area up to 12 square metres of the *non-residential gross floor area* or 6%, whichever is lesser, to be used for one or more of the purposes of:
- a stage;
- teletheatre gambling;
- a sound room;
- but not a dance floor or disc jockey; and
- no exterior area may be used for those purposes.
- c) the *non-residential gross floor area* of a *bake-shop, place of amusement, restaurant* or *take-out restaurant* shall mean the aggregate of the areas of each floor and the spaces occupied by walls and stairs, measured above and below *grade*, measured between the exterior faces of the exterior walls of the building or structure at the level of each floor, exclusive of only *kitchen space* and a room or enclosed area that is used exclusively for storage, washrooms, heating, cooling, ventilating, electrical, mechanical (other than escalators) or telecommunications equipment that services the building. Where adjoining restaurants are connected by internal passageways used by patrons or staff, the total *non-residential gross floor area* of all the connected uses must be calculated cumulatively for the purposes of this subsection.
- d) the term *kitchen space* shall mean a separate space used exclusively for the preparation and cooking of meals.

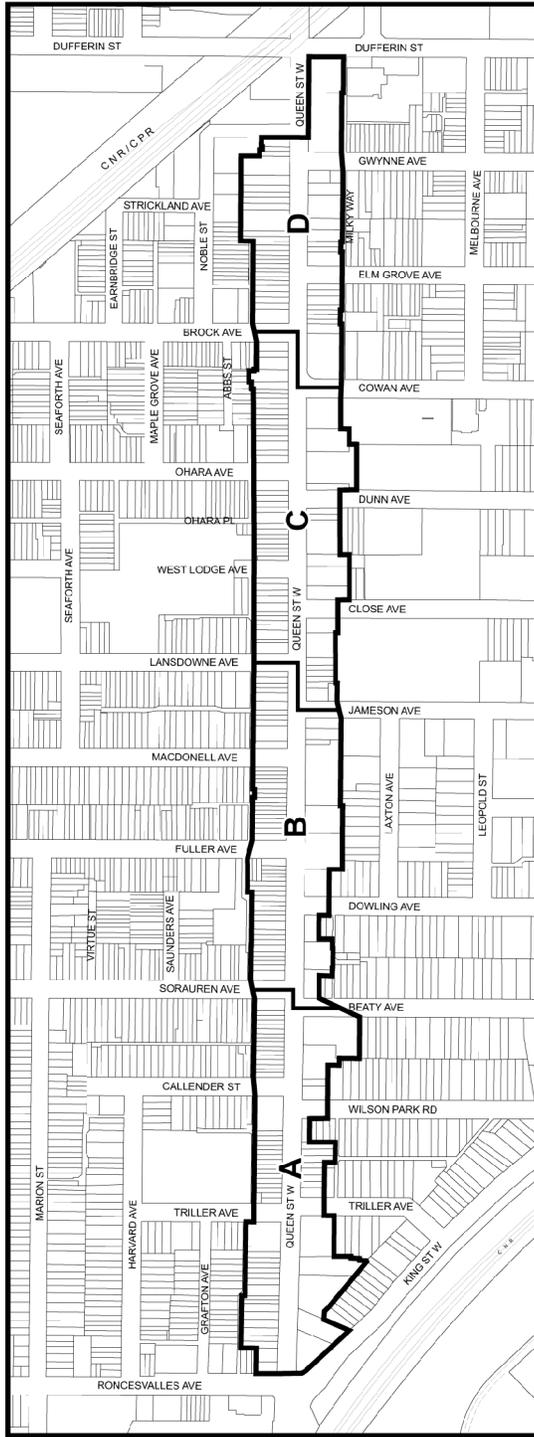
2. By-law No 1393-2012 being "A By-law to effect interim control on those lands on Queen Street between Roncesvalles Avenue and Dufferin Street" is hereby repealed upon the coming into force of this by-law.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

ROB FORD,  
Mayor

ULLI S. WATKISS,  
City Clerk

(Corporate Seal)



**Queen Street West Restaurant Study**

File # 11 232412 0Z



Study Area



Not to Scale  
06/21/2013

**Attachment 4: Draft By-Law (569-2013)**

The draft by-law amendment to By-law 569-2013 will be available for viewing at the time of the Toronto East York Community Council meeting of June 18, 2013.