Appeal of the denial of a boulevard café permit located at 1079 St. Clair Avenue West, Lauder Avenue flankage

<table>
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<tr>
<th>Date:</th>
<th>July 30, 2014</th>
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<td>To:</td>
<td>Etobicoke York Community Council</td>
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<tr>
<td>From:</td>
<td>Richard Mucha, Manager, Licensing Services, Municipal Licensing &amp; Standards</td>
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<td>Wards:</td>
<td>Ward 17 – Davenport</td>
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**SUMMARY**

This staff report is about a matter for which the Etobicoke York Community Council has delegated authority from City Council to make a final decision.

To report the refusal to issue a permit by Municipal Licensing & Standards in the matter of an application for a boulevard café located at 1079 St. Clair Avenue West, Lauder Avenue flankage.

**RECOMMENDATION**

Municipal Licensing and Standards recommends that the Etobicoke York Community Council:

1. Deny the application for the proposed boulevard café permit application located at 1079 St. Clair Avenue West, Lauder Avenue flankage.

**Financial Impact**

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

An application for a boulevard café at 1079 St. Clair Avenue West and Lauder Avenue flankage was received on May 28, 2014 from 1807297 Ontario Inc., operating as Desotos Eatery.

The application submitted is seeking permission to establish a boulevard café on St. Clair Avenue West and the Lauder Avenue flankage for a total of 58.30 square metres which would accommodate approximately 50 patrons.  (Appendix No. 1)

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

A poll was conducted in English on July 12, 2013 with the last date for filing a response being August 12, 2013 by the City Clerk's Office, Elections and Registry Services and included the premises between 1081 St Clair Avenue West, 106-130 Lauder Avenue and 105-135 Lauder Avenue to determine neighbourhood support.

| Total owners/tenants/residents polled | 88 |
| Returned by post office               | 12 |
| Total eligible voters (total polled minus returned by post office) | 76 |
| No reply                               | 36 |
| **Total ballots received (response rate)** | 40 |
| In favour of this Boulevard Cafe (of ballots received) | 35 |
| Opposed to this Boulevard Cafe (of ballots received) | 3 |
| Spoiled ballots                        | 2 |

The results of the poll received from the City Clerk’s Office, Election and Registry Services indicate that the majority of the ballots were in favour.

A site inspection conducted on June 30, 2014 revealed that the boulevard café area is located within 5.8 metres from a residential zone. The required clearance from a residential zone for cafes located on a residential flank is 25 metres.

In order to maintain the required 2.13 metre pedestrian clearway outlined in the former City of Toronto Municipal Code, Chapter 313-36 and the Vibrant Streets Document, Right of Way permits for the occupation of the sidewalk and or boulevard are reviewed when streetscape reconstruction, utility installations or a change of business ownership occurs to ensure that the permits continue to conform to the current regulations.

The installation of a boulevard café at this location will make passage difficult for those with assisted mobility aids and reduce the pedestrian clearance requirement of 2.13 metres. The concept of a pedestrian clearway is not only to maintain the permitted distances but also to ensure pedestrian traffic moves freely and unencumbered.
On July 28, 2014, a refusal letter was sent to 1807297 Ontario Inc., advising that the boulevard café permit application was denied.

A letter dated July 29, 2014 was received by Municipal Licensing & Standards from the business owner representing 1807297 Ontario Inc. to appeal the decision of the denial for an extension to the existing boulevard café permit on the Lauder Avenue flankage.

COMMENTS

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

In accordance with the provisions of the former City of Toronto, Municipal Code, Chapter 313, the 2.13 metre clearance is required in order to provide a clear pathway for pedestrian traffic.

Council has approved the Vibrant Streets Document in order to create streetscapes where pedestrian traffic moves freely and unencumbered and to ensure that the placement of street furnishings, cafes and marketing areas and other features is better aligned to support pedestrian traffic.

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SIGNATURE

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APPENDICES

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