



STAFF REPORT ACTION REQUIRED

Queen Street East (between Woodbine Avenue and Nursewood Road) – Restaurant Study – Supplementary Report

Date:	April 24, 2017
To:	City Council
From:	Chief Planner & Executive Director, City Planning Division
Wards:	Ward 32 – Beaches-East York
Reference Number:	16 103072 SPS 00 OZ

SUMMARY

Toronto and East York Community Council (TEYCC), on April 4, 2017, considered a staff report from the City Planning Division dated March 17, 2017 that recommended that City Council adopt a proposed City-initiated zoning by-law amendment to update the regulations respecting restaurants and related uses on Queen Street East between the east side of Woodbine Avenue and the west side of Nursewood Road in Ward 32.

TEYCC recommended approval of the proposed City-initiated Zoning By-law Amendment with a motion requesting the Chief Planner and Executive Director, City Planning, to report to City Council on a letter submitted by Goodmans LLP, representing the owners at 1960 and 1962 Queen Street East.

This supplementary report provides additional provisions in the proposed area-specific zoning by-law amendment to allow for a transition for any minor variance approval obtained prior to the date of City Council's adoption.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council delete Toronto and East York Community Council Recommendation 1 and replace it with the following:
 1. City Council amend Zoning By-law 438-86, as amended, substantially in accordance with the revised draft Zoning By-law Amendment attached as Attachment No. 1 to this report (April 24, 2017) from the Chief Planner & Executive Director, City Planning.
2. City Council determine that no further notice is required in respect of the revised draft Zoning By-law Amendment.

Financial Impact

The recommendations in this report have no financial impact.

COMMENTS

1960-1962 Queen Street East

On June 8, 2012, City Council approved a site specific zoning by-law amendment no. 772-2012 at 1960-1962 Queen Street East. This site specific by-law was subsequently appealed at the Ontario Municipal Board (OMB), and then ultimately approved by the OMB. The by-law amendment permits a 6-storey mixed-use building with 451 square metres of non-residential gross floor area. In addition to other provisions, the by-law limits retail space to no more than 325 square metres per unit except for a bank/financial institute.

In 2016, the owner of 1960-1962 Queen Street East applied to the Committee of Adjustment for permission to allow two non-residential uses consisting of any combination of restaurants and/or take-out restaurants on the site. The Committee granted the application. This application varied the existing restrictive exception in Section 12(2)174 of the Zoning By-law, which permits a maximum of 165 square metres for any one restaurant or related use and also requires a parking spot for every 100 square metres of restaurant space. The Committee approved a maximum non-residential gross floor area of up to 250 square metres for the two restaurants, which would be shared in the 451 square metres of non-residential gross floor area located on the ground floor of the development. While four parking spaces were required for the proposed restaurants, the Committee approved a variance for zero parking spaces.

Goodmans LLP, on behalf of the owners of 1960-1962 Queen Street East, submitted a letter to the Toronto and East York Community Council dated April 4, 2017. In light of the 2016 minor variance approval for the property, they expressed a concern that the proposed area-specific zoning by-law amendment for restaurants might impact the approval and the issuance of a building permit for 1960-1962 Queen Street East. The proposed by-law would delete Section 12(2)174 and replace it with a new section that is less permissive than the approved minor variances.

Revisions to the Draft Zoning By-law Amendment

Since the April 4, 2017 TEYCC meeting, staff have made revisions to the draft zoning by-law amendment based on feedback provided in the submission from Goodmans LLP. Further discussions with Toronto Building and City Legal led to City Planning staff providing a transition clause in the draft zoning by-law. The transition clause would make clear that any minor variance approval obtained prior to the date of City Council's adoption of the draft zoning by-law amendment prevails over the restrictive exception, provided that the minor variance application in question was related to a restaurant or related used.

The revision is supportable from a City Planning perspective as it recognizes past minor variance approvals for restaurants. In the future, should the owner of any restaurant apply to the Committee of Adjustment to vary the by-law with regard to restaurants or related uses, that application will be subject to the draft zoning by-law amendment and will be reviewed on its own merits.

Conclusion

The attached by-law contains the appropriate transition clause and is recommended for adoption.

CONTACT

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SIGNATURE

Jennifer Keesmaat, MES, MCIP, RPP
Chief Planer and Executive Director
City Planning Division

ATTACHMENTS

Attachment 1: Draft Zoning By-law Amendment

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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 East
between Woodbine Avenue and Nursewood Road**

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. By-law No. 438-86 of the former City of Toronto, as amended, is further amended by replacing existing subsection 12(2)174 with the text and map below, so that it reads:

"174. No person shall, within the area shown within the heavy lines on Map 1 of this exception,

 - (i) use land or erect or use a building, addition, or structure for the purpose of a *bake-shop, caterer's shop, club, place of amusement, place of assembly, restaurant, or take-out restaurant* including where this use is *accessory* to other permitted uses unless:
 - (a) the *front lot line, flank* or *side lot line* of such *lot* is on Queen Street East;
 - (b) any such use or *accessory* use is wholly contained within the walls of the building or structure housing the principal use, except for a *patio*, subject to Section (i)(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 East shall not be greater than 4.0 square metres;
 - (d) any such use located at or above *grade* is limited to the ground floor only;
 - (ii) 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 East, or
- (b) between the wall facing the *side lot line* or *flank* of the building or structure housing the principal use and the *side lot line* or *flank* 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
- (iii) The total *non-residential gross floor area* used for any one or combination of a *bake-shop*, *caterer's shop*, *club*, *place of amusement*, *place of assembly*, *restaurant*, or *take-out restaurant* or combination of such uses or *accessory* uses in a building or structure does not exceed 200 square metres;
- (iv) Despite the regulation in Section 12(2)174(iii), any *lot* with a frontage of 40 metres or greater, more than one *bake-shop*, *caterer's shop*, *club*, *place of amusement*, *place of assembly*, *restaurant* or *take-out restaurant* or *accessory* use is permitted in a building or structure provided any one use does not exceed 200 square metres and the cumulative frontage of all aforementioned uses does not exceed 50% of the *lot* frontage;
- (v) For the purpose 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 By-law No. 438-86, including *restaurant* that is *accessory* to another permitted use, shall be deemed not to include subsections (iv) and (v), and shall be replaced with a new 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;
 - not more than two pinball or other mechanical electronic game machines, none of which machines to be used for the purpose of gambling;
 - 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 By-law No. 438-86, including a *place of amusement* that is *accessory* to another permitted use, shall be deemed not to include subsections (ii) and (iii), and shall be replaced with a new subsection (ii) to be read as:

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, caterer's shop, club, place of amusement, place of assembly, restaurant, or take-out restaurant* including where this use is *accessory* to other permitted uses 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 of 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.

- (vi) None of the provisions of Section 12(2)174 of this By-law shall apply to prevent the erection or use of a building or structure for a *bake-shop, caterer's shop, club, place of amusement, place of assembly, restaurant or take-out restaurant* including where this use is *accessory* to other permitted uses, and including a *patio* provided in connection with a *restaurant*, provided:

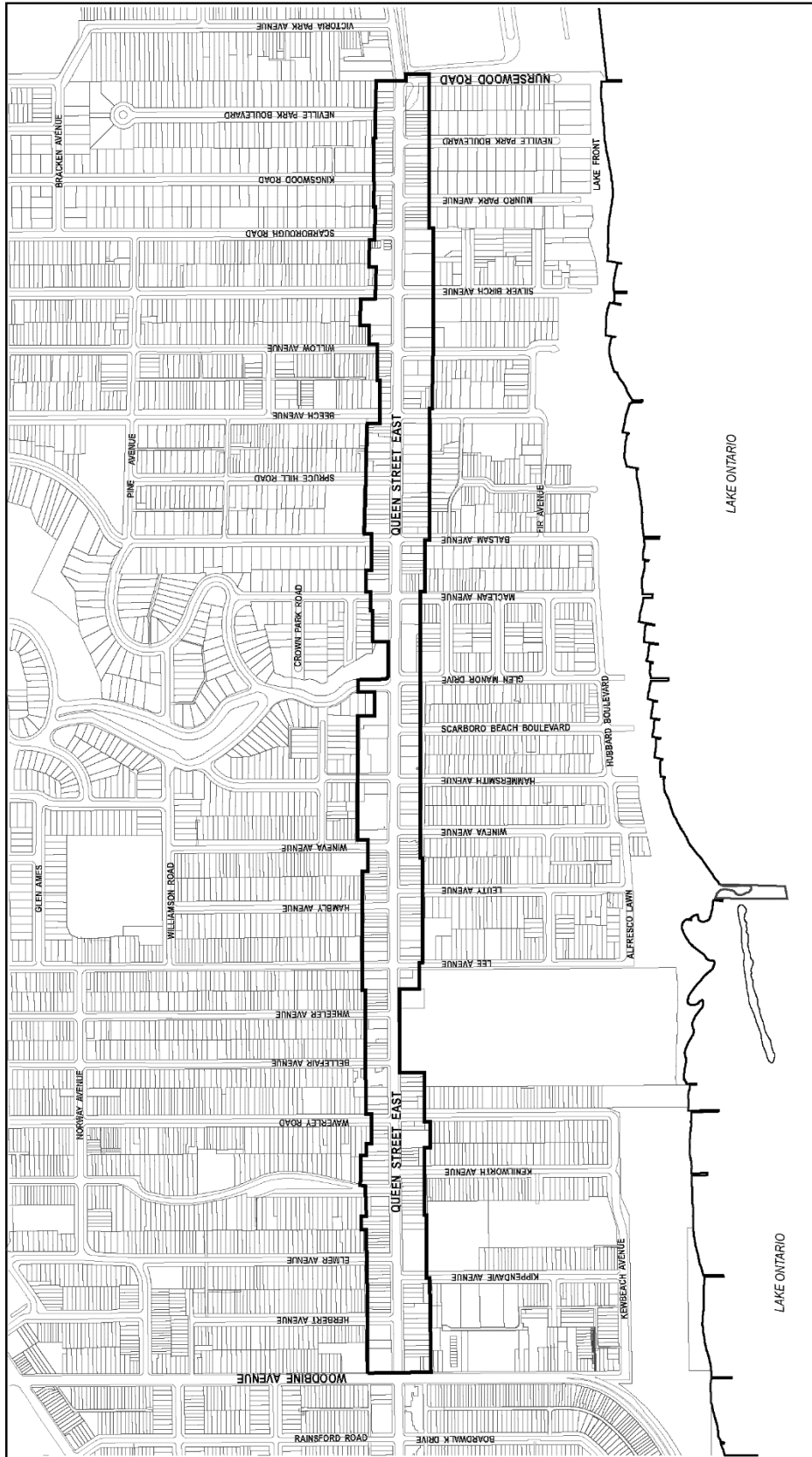
- (a) a minor variance for such purpose or purposes has been finally approved prior to April 26, 2017 in compliance with Section 45 of the Planning Act as it read on April 26, 2017.
- (b) a minor variance for such purpose or purposes is finally approved after April 26, 2017 in compliance with Section 45 of the Planning Act as it read on April 26, 2017 based upon a minor variance application filed prior to April 26, 2017 or based upon a minor variance application submitted after April 26, 2017 based upon a building permit application or zoning certificate application, filed with the City of Toronto prior to April 26, 2017; or
- (c) a building permit or zoning certificate application for such purpose has been filed with the City of Toronto prior to April 26, 2017 and the erection or use of such building or structure complies with the provisions of Section 12 (2)174 as it read on April 25, 2017.

ENACTED AND PASSED this ~ day of ~, A.D. 2017.

JOHN TORY,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)



Map 1

Queen Street East between Woodbine Avenue and Nursewood Road

File # 16_103072

 Lands Referred to in Section 12 (2) 174



Note to Scale
01/12/17