



STAFF REPORT ACTION REQUIRED

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

Date:	March 17, 2017
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 32 – Beaches-East York
Reference Number:	16 103072 SPS 00 OZ

SUMMARY

This proposal is to amend the Zoning By-law 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.

Staff are recommending a number of amendments to the Zoning By-law which seek to balance the concerns of the residents and the business/property owners. The cumulative effects of the amendments aim to continue to limit the overall impacts of restaurants and related uses on adjacent residential areas, while improving options and allowing opportunities for new restaurants and related uses to open and prosper.

This report reviews and recommends approval of amendments to the Zoning Bylaw.

RECOMMENDATIONS

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.



2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

In 1985, a City Planning report entitled "Queen Street East Licensed Eating Establishment Study" went to Council with recommendations on zoning standards for restaurants. The report outlined a study that was undertaken due to concerns about the proliferation of liquor licensed eating establishments and the impacts associated with their operation.

The report recommended a maximum restaurant size of 185 square metres, whereas the by-law that was ultimately adopted by City Council restricted the restaurant size to 165 square metres. The by-law, under restrictive exception 12(2)174, also prohibited patios unless they were in front of the establishment and required a parking spot for a restaurant over 100 square metres. The main concerns related to the existing restaurants at that time were noise, garbage, traffic congestion and disruptive behaviour from patrons.

The 1985 study identified that the average lot size of Queen Street East was approximately 185 square metres. In order to maintain the character of the street, City staff had recommended that the floor area of restaurants be limited to an equivalent size. Due to fact that the nature of development on Queen Street East, with no front and side lot line setbacks, did not leave space to accommodate parking, the study had also reviewed parking solutions and availability on Queen Street East and concluded that relief from the parking requirement would be appropriate.

At the November 3, 2015 City Council meeting, Council directed City Planning and Economic Development & Culture to consult with the local community and review the existing by-laws governing licensed restaurants along Queen Street East from Woodbine Avenue to Nursewood Road.

The existing by-law governing restaurants in the study area restrict the size of a restaurant use and require parking. The intent of the by-law was to halt the proliferation and growing size of nightclubs and bars in the Beach. While the intent of the by-law may have helped limit the number of nightclubs and bars, it has been observed that the by-law may have been detrimental to the economic health of the restaurants in the area.

Several area-specific zoning by-laws exist across the City that limit restaurant sizes. These by-laws were the result of restaurant studies completed in the past, and were tailored to suit the needs and character of the neighbourhoods in which they apply. The by-laws were intended to help mitigate concerns caused by larger restaurants such as noise, vandalism, garbage, disruptive behaviour, and congestion problems including automobile traffic and patrons blocking sidewalks. Another concern related to restaurants, particularly restaurant size, is that the larger restaurants tend to become a regional draw, changing the character of the street from a local main street to an entertainment district. In a restaurant study conducted for a portion of Queen Street West, the concentration of restaurants was restricted by block.

Study Area Context

Queen Street East is a significant arterial road that begins at Fallingbrook Road and transitions from Queen Street East to Queen Street West at Yonge Street. The segment of Queen Street East between Woodbine Avenue and Nursewood Road (the "Study Area") is similar to a traditional main street with a mix of residential, commercial and retail uses, including restaurants. To the north and south of Queen Street East are typical low density residential neighbourhoods.

A total of 320 properties are located within the Study Area. Of those 320 properties, approximately 68 include a restaurant, lounge, bar or nightclub, coffee shop or fast food establishment which would continue to be subject to the existing area-specific by-law applying to this part of Queen Street East. Restaurants and related uses are considered service uses, and there are a total of 107 service uses on Queen Street East.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources; and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. City Council's planning decisions are required, by the *Planning Act*, 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, as the case may be, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

This segment of Queen Street East is 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.

Queen Street East between Woodbine Avenue and Nursewood Road is designated *Mixed Use Areas* on both sides of the street. 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 2 a) 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.

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 East 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*.

The Study Area is within Official Plan Amendment 466 ("OPA 466"), adopted by City Council in 2014, which is intended to guide and shape development within the Queen Street East, Coxwell Avenue to Nursewood Avenue Area by establishing compatible development/redevelopment through local built form policies. These policies reinforce the existing character of the area as a whole and in three individual precincts (the Woodbine Beach Precinct, the Kew Beach Precinct and the Balmy Beach Precinct). The policies also ensure appropriate building scale in relation to Queen Street East, appropriate transition between new development and adjacent neighbourhoods, and appropriate design details for new development, which include streetscape and public realm improvements. In addition to OPA 466, an area-specific zoning by-law and urban design guidelines were also implemented, both of which are discussed below.

Queen Street East – Coxwell Avenue to Nursewood Road – Urban Design Guidelines

At its meeting of January 10, 2012, Toronto and East York Community Council requested the City Planning Division to undertake a Visioning Study in 2012 for Queen Street East, between Coxwell Avenue and Neville Park Avenue.

The purpose of the Visioning Study was to look at the built form and physical character of this portion of Queen Street East and to develop urban design guidelines for future development. The study involved extensive community consultation between June and September of 2012. The final report on the proposed guidelines were before Toronto and East York Community Council on November 6, 2012 and resulted in the adoption of new Design Guidelines for the area by City Council on November 27, 2012.

Prior to the adoption of the new Urban Design Guidelines, the area was covered by the "Queen Street East – Beaches Urban Design Guidelines" that dated to 1987, which predated the policies of the Official Plan adopted by City Council in 2002. Both the 1987 and the current 2012 guidelines encourage new development to be in keeping with the character of this portion of Queen Street East. The 2012 guidelines allow for development that also maintains the intent and purpose of the Avenue policies of the Official Plan in a manner specifically appropriate for this portion of Queen Street East.

The Official Plan states that "implementation plans, strategies and guidelines will be adopted to advance the vision, objectives and guidelines and policies of this Plan". The Queen Street East Design Guidelines comply with the policies of the Official Plan and form part of the City's planning framework for the review of development applications. The Guidelines ensure that new development on Queen Street East in the Beach is carefully designed and shaped to reflect the character of Queen Street East. The Guidelines apply to all development on this portion of Queen Street East so that change is managed appropriately as this main street continues to evolve over time.

The Urban Design Guidelines encourage restaurant uses along Queen Street East as part of the streetscape character. The guidelines state that "restaurants and cafes are an important part of the Queen Street East streetscape in the Beach. New developments are to be designed in a way that does not restrict the possibility of restaurant use by being able to accommodate appropriate mechanical, air handling units and garbage storage. Restaurant uses in new development are strongly encouraged." As the guidelines guide new development on Queen Street East, it is expected that new development will include retail activities that serve a range of needs from local to area wide, including restaurants, hardware stores, laundry mats, and cinema.

Zoning

The applicable Zoning By-law is the former City of Toronto By-law 438-86. The majority of the commercial strip is zoned MCR T2.0 C1.0 R2.0, except for the lands on the south side of Queen Street East between Wineva Avenue and Nursewood Road, which are zoned MCR T2.0 C0.5 R2.0, and Kew Gardens and Glen Stewart Park, both of which front onto Queen Street East and are zoned G for parkland. The height limit is 12 metres for all of the properties zoned CR.

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 400 square metres when they are located within 6.1 metres 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 10 metres from the nearest R lot.

The Citywide Zoning By-law 569-2013 does not apply to this portion of Queen Street East between Woodbine Avenue and Nursewood Road; however, the performance standards as they relate to restaurants in Zoning By-law 569-2013 were considered in drafting the proposed area-specific by-law. 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". Zoning By-law 569-2013 also has a 400 square metre size restriction for any eating establishment that is located within 6.1 metres of an R zone and is located within either Development Standard Set1 or Development Standard Set 2. 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 30 square metres or 30% of the interior floor area of the premises, whichever is lesser, and must be set back at least 30 metres from any Residential lot. Additionally, an outdoor patio located above the first storey must be at least 40m from any Residential lot.

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 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.

Despite the above, the difference between Zoning By-law 438-86 and 569-2013 is that Zoning By-law 569-2013 does have a "nightclub" as a defined use. A nightclub is defined as a dance facility, such as a dance hall or disco, for patrons and where food or beverages may be offered for sale. A nightclub is permitted in Commercial Residential (CR) zones subject to the following:

- A commercial density of 4 times the lot area or greater;
- It must be located on the first storey;
- It must be the only nightclub in the building;
- It must be on a lot that does not abut a lot in the Residential Zone or Residential Apartment Zone category.

Given that the lots on Queen Street East abut lots in the Residential Zone category, a nightclub would not be permitted under Zoning By-law 569-2013.

Recorded Complaints

Staff conducted a search of all complaints recorded by Municipal Licensing and Services related to a restaurant or related use. Complaints ranged from graffiti and improper disposal of solid waste to loud music, loud noise or a loud exterior fan. Of the 68 restaurants located in the Study Area, 11 of them received noise complaints, some of which were repeat offenders.

Minor Variance Applications Related to Restaurant Uses

Staff reviewed minor variance applications from 2008 to 2016 within the Study Area related to restaurant uses. Below is a summary of those variances.

In 2008, the Committee of Adjustment approved the expansion of an existing restaurant into the basement of a mixed use building, allowing a restaurant size increase to 237.87 square metres. The property address for this application was 2116 Queen Street East, which currently includes Castro's Lounge, Mamma's Pizza, and Yumei Sushi.

In 2010, the Committee of Adjustment approved the expansion of an existing restaurant on the main floor of a two-storey mixed-use building, which required two parking spaces. The restaurant was approved at 149.96 square metres and zero parking spaces. The property address for this application was 2485 Queen Street East.

In 2013, the Committee of Adjustment approved the conversion of a retail unit in a three-story mixed-use building into a restaurant. The building included two existing restaurants and one proposed restaurant. The combined residential gross floor area for the three restaurants was approved at 242.92 square metres. While one parking space was required, the Committee approved zero parking spaces. The property address for this application was 2014 Queen Street East.

In 2013, the Committee of Adjustment approved a conversion of an existing ground floor retail unit to a restaurant with 40 seats. The only variance requested was a reduction in parking from the one space requirement to zero spaces. The property address for this application was 2084 Queen Street East.

In 2015, the Committee of Adjustment approved a restaurant in a two-storey mixed-use building. The restaurant was approved at a floor area of 172.98 square metres and with zero parking spaces. The property address for this application was 2032-2038 Queen Street East.

In 2016, the Committee of Adjustment approved two non-residential uses consisting of any combination of restaurants and/or take-out restaurants. The combined non-residential gross floor area allowed was 250 square metres, shared between the two restaurants. While four parking spaces were required, the Committee approved a variance for zero parking spaces. The property address for this application was 1960-1962 Queen Street East which also has a site specific zoning by-law amendment placed on it under by-law no. 772-2012.

The recommended zoning by-law amendment, in the opinion of staff, is consistent with the direction taken with past minor variance approvals by the Committee of Adjustment and may serve to avoid the need for future variance applications.

Community Consultation

Staff held a community consultation meeting in an open house format on March 23, 2016 with an attendance of 43 members of the public. The open house presented display panels on the existing conditions of the restaurants on Queen Street East and the typical issues that have been raised with restaurants and in particular late night drinking establishments, such as noise, solid

waste, traffic congestion, and disruptive behaviour. Staff were available to answer questions and a survey/comment sheet was provided for written submissions.

The following is a summary of the key comments received from the public:

- The majority of commenters wanted the restaurant sizes to increase and felt that 165 square metres was too small, suggesting increases ranging from 185-300 square metres;
- Smaller restaurants are conducive to fast food restaurants and the local community wanted "higher calibre" restaurants, which, in order to survive, need additional space;
- In contrast to the above comment, some residents cautioned against the increase in restaurant size, advising that small restaurants could thrive if they served interesting and high quality food and that larger restaurants could compound the issues of parking, solid waste, noise, and traffic;
- Residents were concerned over the level of noise caused by music or exterior exhaust fans and requested better enforcement of noise by-law standards;
- Commenters believed that parking standards should be relaxed as there is no need for parking to service local residents and parking is difficult to provide on a street like Queen Street East, which has a main street character to it;
- Residents felt there was a lack of diversity in the types of restaurants in the Beach;
- Concerns were raised over the proper removal of solid waste;
- Most members of the public did not want patios at the rear or rooftop of the restaurant and wanted to limit the size of patios from the flanking street, while a few commented that patios should be in the rear and on the roofs;
- Concerns were raised over disruptive behaviours by patrons leaving bars open late into the night and generally wanted to protect for restaurants and remove permissions for nightclubs (such as a dance floor);
- Commenters believed that the property taxes in the area were too high and discouraged restaurateurs from investing in the area; and
- Some members of the public did not believe there was an issue with the existing by-laws and felt they created a street and restaurant character that was preferred.

Comments received from attendees of the community consultation meeting were mixed. It is the opinion of City Planning that the recommended draft zoning by-law seeks to strike a balance between these varying interests.

In February 2017, staff provided a draft zoning by-law and detailed the changes that are proposed on the City's website. Staff invited members of the public to review and comment on the draft by-law. Overall, residents welcomed the changes to the by-law, mainly the increase in the restaurant area and the removal of the parking standard. There were some questions on why restaurants had to be restricted to the ground floor only, to which staff provided an explanation and rationale. Two comments were received with regard to allowing dance floors and disc jockeys while other concerns received were in regard to noise impacts caused by larger restaurants, the potential for rear yard patios, and loud music.

Agency Circulation

The Queen Street East restaurant study was conducted by City Planning staff in consultation with Economic Development and Culture, Municipal Licensing and Services, Toronto Building and the local councillor. Responses received have been used to assist in the formulation of the attached by-law and recommendations of this report.

COMMENTS

The in-force 1985 area-specific zoning by-law for the Study Area appears to be outdated and the area is in need of an updated set of regulations, particularly given that the Queen Street East Urban Design Guidelines encourage restaurant uses at grade. The recommended amendments described below seek to increase the restaurant size to improve the viability of restaurants on Queen Street East while balancing the concerns of residents and the current and future business/property owners. The recommendations are generally consistent with other recently completed restaurant studies and are a reflection of past experiences as well as the character and planned context of Queen Street East.

It should be noted that the recommended area-specific zoning by-law is just one facet to support the economic viability and vibrancy of Queen Street East as it relates to restaurants. Other strategies and private market activity are required to improve the functioning of the street as a neighbourhood main street overall.

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 East, 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.

Economic Viability

Restaurants play an important role to the economic vitality and viability of traditional main streets such as Queen Street East. The performance standards placed on restaurants on Queen Street East in 1985 are among the most restrictive in the Toronto and East York district. These restrictions appear to have placed Queen Street East in an unfair economic position relative to other traditional main streets such as Queen Street East within Riverside and Leslieville, Queen Street West, Danforth Avenue, Ossington Avenue, and others. The draft zoning by-law lessens some of those restrictions to improve the economic vitality and viability of Queen Street East while maintaining a balanced relationship with nearby residential dwellings.

Maximum Restaurant/Eating Establishment GFA Cap

Zoning By-law 438-86 contains a maximum permitted non-residential gross floor area (GFA) of 400 square metres for any restaurant/eating establishment located on a lot that is closer than 6.1 metres to the nearest residential lot. By comparison, Zoning By-law 569-2013 also contains a maximum permitted non-residential GFA of 400 square metres, but excludes associated office, storage and washroom space if located in the basement or on a different storey than the eating establishment.

Restrictive exception 12(2)174, applying to Queen Street East, restricts the GFA to 165 square metres for any restaurant, take-out restaurant, place of assembly, place of amusement, club, caterer's shop or bake shop. Maximum seating capacity is based on life-safety standards of the Ontario Building Code. Depending on the configuration of a restaurant space, between 0.6-1.1 square metres of GFA is required per seat. Based on this, a restaurant measuring 400 square metres can roughly hold 240 to 440 seats. Some of the 400 square metres of GFA would be occupied by kitchen, storage and washroom space, which impacts the actual amount of space available for seating. For a restaurant on Queen Street East, using the maximum allowable gross floor area, the seating capacity would be approximately 99 to 181. This seating capacity is based on the 165 square metres of space; however, it does not include the space needed for kitchen, storage and washroom and therefore the seating capacity would be less than the 99 to 181 range.

In order to determine the average size of restaurants, staff looked at building permits and land use data. Of the 68 restaurants in the Study Area:

- 57 are at or below 165 square metres;
- 30 are below 100 square metres;
- 11 are above 165 square metres;
- 5 are at or above 200 square metres; and
- 1 is above 300 square metres.

The average ground floor area of the 68 restaurants is 120.7 square metres, which is 44.3 square metres less than the maximum 165 square metres allowed in the current zoning by-law. This average ground floor area is due to the siting of a majority of buildings and the existence of a rear yard setback.

Several area-specific zoning by-laws exist across the City that limit restaurant sizes, as displayed in the table below:

Area	Date	Size Limit on Restaurant
Mount Pleasant (Merton to Eglinton)	1993	200 square metres
College Street (Bathurst to Ossington)	2005	300 square metres
Ossington Avenue	2009	175 square metres
Queen Street West (Dufferin to Roncesvalles)	2013	200 square metres

The restaurant studies and resultant area-specific by-laws were tailored to suit the needs and character of the neighbourhoods in which they apply and are intended to mitigate concerns caused by restaurants with larger footprints.

Larger restaurants generally pose two concerns. The first is that larger establishments typically generate high levels of noise, garbage, and parking demand, given that they seat and attract larger number of patrons. The proliferation of establishments which cater to a regional market threatens to change the character of the street from a local shopping strip with main street character to more of a regional entertainment destination.

In the past, restaurant studies were undertaken to decrease the size of restaurants from the 400 square metres allowed in the zoning by-law to a standard that reflected the character and needs of local areas. The intent was to control and balance growth and minimize the impact of future establishments within the Study Area and adjacent residential areas.

In this case, staff are recommending a slight increase in the total non-residential gross floor area for restaurants, take-out restaurants, bake shops, places of assembly, places of amusement and clubs. The goal is still to maintain a balance between economic viability for restaurants and mitigate potential impacts of larger establishments. As previously mentioned, when the by-law to restrict restaurant sizes to 165 square metres was enacted in 1985, staff had put forward a recommendation to restrict the size to 185 square metres.

To address the issue of size, staff recommend a restaurant GFA maximum of 200 square metres, which would include all useable space, but would exclude areas exclusively used for food preparation, bathrooms, storage and mechanical areas. The proposed size is considered appropriate and aligns with staff's originally recommended 185 square metres, which reflects the current lot and building size and configuration of Queen Street East; recognizes the 2012-2014 Official Plan Amendment and Urban Design Guidelines that encourage the ground floor of new development to include restaurants; and aligns with Zoning By-law 569-2013 in terms of excluding certain spaces in the restaurant from the overall GFA calculation. A non-residential GFA cap of 200 square metres would allow for the expansion of all but six restaurants in the Study Area, while at the same time is less than the average size of the six largest establishments in the area.

When determining the 200 square metre GFA cap, staff also undertook a comparison analysis of restaurants that are well-known and well-established in the Study Area. A snapshot of this analysis is below:

- Peppery Cat – 1953 Queen Street East – 216 square metres;

- Beacher's Café – 2162 Queen Street East – 208.5 square metres;
- The Stone Lion – 1958 Queen Street East – 193.9 square metres;
- The Gull and Firkin – 1943 Queen Street East – 190.3 square metres;
- Green Basil – 2120 Queen Street East – 166 square metres;
- Outrigger – 2232 Queen Street East – 109.4 square metres;
- Gabby's – 2076 Queen Street East – 105.1 square metres;
- Vivetha – 2485 Queen Street East – 94.8 square metres; and
- Hogtown Smoke – 1959 Queen Street East – 79.4 square metres.

A comparison analysis was also undertaken for the portion of Queen Street East that includes Leslieville and Riverdale. The restaurants chosen below are examples for comparison purposes.

- Prohibition Gastrohouse – 696 Queen Street East – 300 square metres;
- Gio Rana's Really Really Nice Restaurant – 1220 Queen Street East – 241 square metres;
- La Carnita – 780 Queen Street East - 216.5 square metres;
- Sauvignon – 1862 Queen Street East – 187.8 square metres;
- Tabule – 810 Queen Street East – 165.4 square metres;
- Edward's 1290 – 1290 Queen Street East – 154.7 square metres;
- Barrio Cervceria – 884 Queen Street East – 104.5 square metres;
- Lil' Baci – 892 Queen Street East – 105.7 square metres;
- Ascari Enoteca – 1111 Queen Street East – 91.7 square metres;
- East Side Social – 1008 Queen Street East – 81.3 square metres; and
- Leslie Jones – 1181 Queen Street East – 75 square metres.

Out of the selected restaurants in the Beach, Riverdale and Leslieville, only five are above the recommended 200 square metres. It should be noted that those restaurants sizes would include the kitchen, washrooms, and mechanical equipment, meaning that, for example, the 241 square metres for Gio Rana's Really Really Nice Restaurant may in fact be less than 241 square metres when deducting the space used for the kitchen, washrooms, and mechanical equipment. Staff believe the recommended 200 square metres size allowance is consistent and comparable with restaurant sizes of other well-known and well-established restaurants in and near the Study Area.

Existing establishments that exceed 200 square metres will be deemed legal non-conforming with respect to their size, and can continue as such even through ownership change. If the existing uses are discontinued, then the legal non-conforming protection will cease and the recommended by-law will apply in full to any future proposals.

Number and Location of Establishments within a Building

Restrictive exception 12(2)174 includes a provision that the individual use of an eating establishment or the combination of eating establishments in a building will not exceed 165 square metres. The restrictive exception does not prohibit the number of restaurants within a building or on which floor of a building they can operate. This lack of provision means that more than one restaurant can operate out of one building and any establishment can be located on any storey 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 any noise escaping through open windows and doors can carry further into the adjacent residential properties and be especially disruptive at night. Municipal Licensing and Services has recorded noise complaints for restaurants that utilize both the ground floor and the second storey. 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.

During analysis, staff noted that a few properties in the Study Area have larger building footprints and wider street frontages. These properties are:

- 2112 Queen Street East with an approximate frontage of 56 metres;
- 2122 Queen Street East with an approximate frontage of 54 metres;
- 2299 Queen Street East with an approximate frontage of 76 metres; and
- 2142 Queen Street East with an approximate frontage of 52 metres.

More than one restaurant typically exists at the properties above and would exceed the current maximum allowable floor area of 165 square metres, since that floor area is for all restaurant uses in a single building, not for individual restaurant uses in a single building. Even at 200 square metres of space, more than one restaurant in these wider buildings would exceed the limit or would need to split the 200 square metres among more than one restaurant, which is contrary to the intent of the draft by-law. As such, staff recommends that for a lot that with a frontage on Queen Street East of 40 metres or greater, more than one restaurant establishment or related use would be allowed, each at a maximum of 200 square metres, provided the sum of restaurant and related uses does not exceed 50% of the lot frontage. For buildings with frontages less than 40 metres, only one restaurant establishment would be permitted. In addition, staff recommends that any future restaurant or related use be limited to the ground floor only.

Patios

Restrictive exception 12(2)174 allows patios at the front of the building and prohibits patios to the side or rear or roof of the building. Zoning By-law 438-86 prohibits any patio in the rear yard or on a rooftop of a building within an MCR zone if the lot is located within 10 metres of a lot in an 'R' (residential) zone. The intent of the 10 metre separation distance provision is to minimize possible noise, overlook, privacy, fumes and lighting impacts of outdoor patios on nearby residential properties. In Zoning By-law 569-2013, the requirement was increased from 10 to 30 metres, and may not be used to provide entertainment such as performances, music and dancing. In previous restaurant studies, such as for Queen Street West or Ossington Avenue, rear yard patios had been prohibited. The majority of properties within the Study Area are located closer than 10 metres to the adjacent residential zone.

Of the 11 patios located in the Study Area, one is at the rear and one is on the flanking street and 9 are in front of their respective buildings. There are a total of 15 licensed boulevard cafes, which are located on the flanking street. The difference between the two is that a patio is on the

property owner's land while a boulevard café is on the City's road allowance and is obtained through permit. Typically, boulevard cafes are located on the flanking street and need to be at least 25 metres from the nearest residential property. Patios are regulated through the zoning by-law and are located on private property whereas boulevard cafes are subject to Municipal Code 313, are obtained through a permit, and are located on public property. The recommended changes to the by-law will not affect an owner's ability to obtain a boulevard café license.

At the community consultation meeting, concerns were raised with regard to noise complaints related to patios in the area, including people talking loudly, yelling, and loud music being played on the patio. It has been reported on other patios across the City that even where mitigative measures, such as fences or high walls have been installed at the rear of the lot or a patio, noise can still travel further than 10 metres, and is reportedly most noticeable at night. The concerns about noise from patios were centred around rear yard and rooftop patios.

While the City's Noise By-law can be used to address loud music on the patio, the by-law cannot regulate or address noise generated by patrons using the space. Staff do not believe that the 10 metre separation distance limitation is sufficient and it is recommended that the Zoning By-law be amended to prohibit any new rear yard and rooftop patios in the study area, without exception. Staff are also recommending an allowance for patios on the flanking street and 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 streets. This provision has been recommended in other restaurant studies in the past, such as Ossington Avenue and Queen Street West. Patios may also be permitted within the City boulevard where a boulevard café license application is applied for, which is subject to a poll of the neighbourhood and an 11:00 p.m. closing time. A boulevard café license must be applied for if a patio is proposed wholly or partially on public property. If a patio is located wholly on private property, a boulevard café license is not required.

All legally permitted patios existing within the Study Area on the date that the proposed by-law is enacted will be deemed legal non-conforming uses and will be subject to the limitations set out in the *Planning Act*, in this respect. Where patios have been permitted on a temporary basis, upon the expiry of the existing permission, the patio use will no longer be permitted and these patios will not benefit from legal non-conforming status.

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 square metres, which would generally allow for a door and a window, depending how the space is distributed. This recommendation will help to further reduce noise impacts during the summer months which can result through music and patron noise. The current restrictive exception 12(2)174 does not include a provision of this type; however, staff have considered it necessary to manage future restaurant growth effectively.

Accessory Entertainment Uses

Limiting gross floor area where accessory uses such as a stage, 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. Restrictive exception 12(2)174 does not include any provisions related to accessory uses. Bylaw 438-86 allows up to 47 square metres or 6% of the non-residential gross floor area, whichever is lesser, to be occupied by such uses. Similarly, Zoning By-law 569-2013 permits 50 square metres 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 12 square metres. Staff also recommend that dance floors and disc jockeys be prohibited from any future establishment within the Study Area to limit the opportunity for an eating establishment to cater to a crowd in which entertainment and alcohol service are the primary activities rather than food service.

Parking

Restrictive exception 12(2)174 includes a provision which states that the owner of a restaurant related use will provide and maintain at least one parking space for each 100 square metres of total floor area used for the restaurant, and that the parking will be provided in a parking facility on the same lot.

The original recommendation from City Planning in 1985 did not recommend a minimum parking standard for restaurant uses. In most of the Toronto and East York district, the Zoning By-law currently does not require parking to be provided for restaurants. Most of the establishments within the Study Area do not and are not physically able to provide parking on-site due to the narrow widths of the properties and insufficient space located at the rear of most buildings off the laneway. The Queen Street East Urban Design Guidelines state that private parking facilities should be located underground or in the rear of the site for new development; however, several blocks in the Study Area do not have access to laneway making the provision for parking on existing lots and buildings unrealistic. For this reason, the draft zoning by-law does not include a parking standard. Queen Street East is well served by public transit and has public parking facilities located on Lee Avenue south of Queen Street East as well as on Hammersmith Avenue north of Queen Street East.

The problems normally associated with parking result primarily from illegal parking by patrons on adjacent residential streets and from competition for legal parking spaces on streets adjacent to the retail strip by commercial customers and area residents. Staff advise that it would be more appropriate to address the problems experienced by area residents through a review of the parking permit or parking enforcement process rather than to require parking on site for any new restaurant located in the Study Area.

Conclusion

Queen Street East, between Woodbine Avenue and Nursewood Road, continues to be a popular draw for restaurants and similar uses. The recommended area-specific zoning by-law seeks to update the current regulations around restaurant and related uses with the intent of improving the economic viability of restaurants and the vibrancy of the street, while balancing the concerns of the residents and the current and future business/property owners.

The recommendations are consistent with other recently completed restaurant studies, particularly Queen Street West, and allow for a balanced approach between the interests of and issues related to the restaurant uses along Queen Street East and the abutting residential uses.

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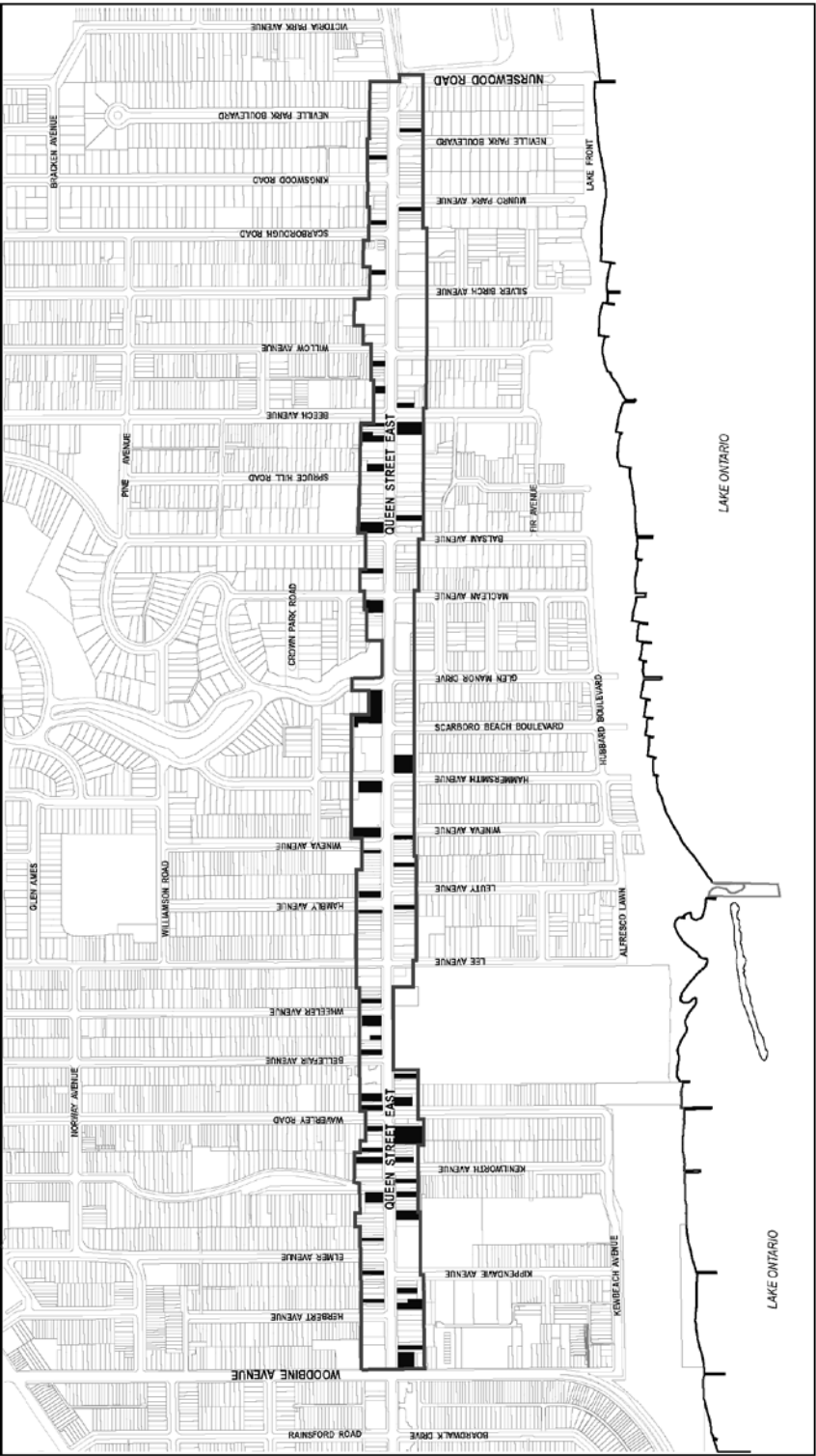
Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

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ATTACHMENTS

Attachment 1: Restaurants Map
Attachment 2: Patios Map
Attachment 3: Draft Zoning By-law Amendment

Attachment 1: Restaurants Map



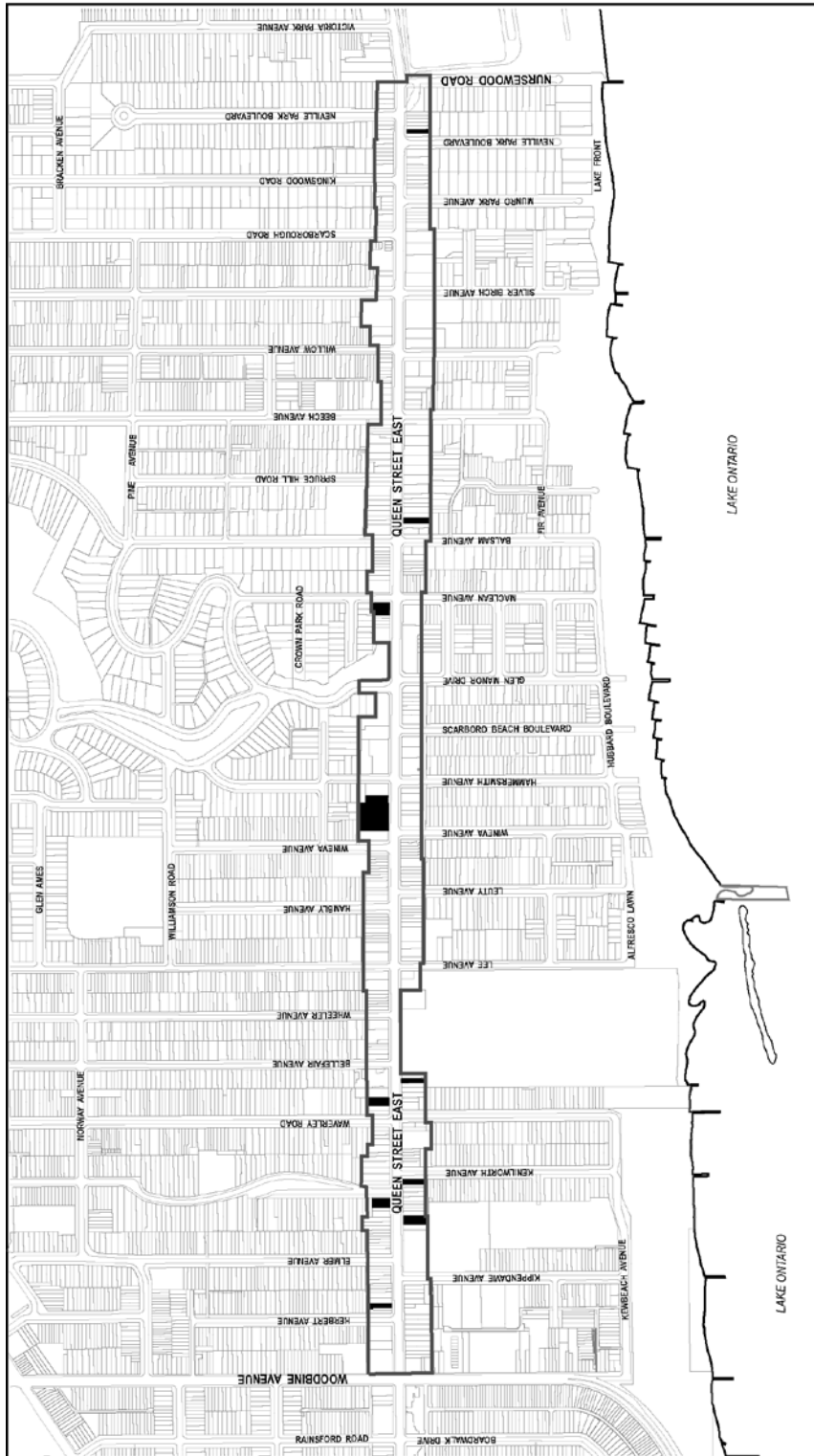
Study Area - Queen Street East between Woodbine Avenue and Nursewood Road

File # 16_103072

- Queen Street East Study Area - Lands Referred to in Section 12 (2) 174
- Existing Restaurants



Attachment 2: Patios Map



Study Area - Queen Street East between Woodbine Avenue and Nursewood Road

File # 16_103072

-  Queen Street East Study Area - Lands Referred to in Section 12 (2) 174
-  Existing Restaurants with Patios

↑
North to Scale
01/12/17

Attachment 3: Draft Zoning By-law Amendment

****To be provided on or before April 4, 2017****