

Queen Street West (between Dufferin Street and Roncesvalles Avenue) Restaurant Study - Request for Direction Report

Date:	April 16, 2018
To:	Toronto and East York Community Council
From:	Acting Director, Community Planning, Toronto and East York District
Wards:	Ward 14 – Parkdale-High Park
Reference Number:	11 232412 STE 14 OZ

SUMMARY

This report recommends amending area specific By-laws 1049-2013 and 1050-2013, currently under appeal and adjourned *sine die* at the Local Planning Appeal Tribunal (LPAT) (formerly the Ontario Municipal Board), as they pertain to Queen Street West between Dufferin Street and Roncesvalles Avenue, to remove a performance standard limiting the concentration of eating establishments to no more than 25 percent of the properties within each of Areas A – D, as identified on the Study Area Map (Attachment 1).

City Planning, in conjunction with its consultant, 360 Collective, studied the effectiveness and the impacts of the concentration provision of By-laws 1049-2013 and 1050-2013 and determined that the By-laws generally met their intended objectives of limiting the number of eating establishments, particularly for the section of the street identified as Area D, located between Dufferin Street and Brock Avenue. This, in turn, helped mitigate some of the land use conflicts between this use and the surrounding residential neighbourhood. Furthermore, the By-laws were drafted to restrict the further proliferation of eating establishments in the areas already



containing a large concentration (Areas B and D), while at the same time permitting some growth in the Study Area as a whole. However, despite this flexibility, the number of eating establishments within the Study Area actually declined from 71 to 64 between the passing of the By-laws in 2013 and the present day.

A number of market forces present within the Study Area itself, and generally across the city as a whole, help to explain why this decline may have occurred, including, increases in land values overall, increases in commercial rents, decreases in commercial vacancy rates, changes in the functionality of retail along main streets and, new trends related to the business operation of the restaurant industry. While the concentration provision in the By-laws may have had an immediate impact on quelling the influx of eating establishments in Areas B and D, the overall decline in eating establishments within the Study Area as a whole over the past three to four years is more likely due to the changing market forces noted above than the concentration restriction. For this reason, it is the recommendation of staff that the concentration restriction be removed from the By-laws.

This report reviews and recommends that area specific By-laws 1049-2013 and 1050-2013 be amended to delete the performance standard restricting the maximum permitted concentration of eating establishments to no more than 25% of the properties along Queen Street West between Dufferin Street and Roncesvalles Avenue. The other performance standards of the By-laws, including maximum restaurant gross floor area of 200 square metres, restricting the use to the ground floor, limitations on accessory uses and prohibiting restaurant patios from locating in the rear yard or on the rooftop, would remain in each By-law.

To this end, this report seeks Council's direction for the City Solicitor and other appropriate City staff, to request the LPAT to re-convene the hearing, adjourned *sine die* on June 23, 2014, and to delete this performance standard in By-laws 1049-2013 and 1050-2013. Furthermore, this report also recommends that, in five years, the City conduct a follow-up analysis on Queen Street West in the Study Area to determine the impacts, if any, that eating establishments are having on the main street function of the street and whether there are any continued land use conflicts with the surrounding residential neighbourhood.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct the City Solicitor and City staff, as appropriate, to attend at the Local Planning Appeal Tribunal to support the proposed amendment to area specific Zoning By-laws 1049-2013 and 1050-2013 to delete clause 1.(4) and 2.(1)(A) respectively, limiting the permitted concentration of eating establishments, and to amend Map 1 to remove area designations (Area A-D), for reasons set out in the report (April 16, 2018) from the Acting Director, Community Planning, Toronto and East York District.

2. City Council direct City Planning staff to conduct another analysis in 2023 of the impact that eating establishments are having on the main street function of Queen Street West between Dufferin Street and Roncesvalles Avenue and of the continued land use conflicts, if any, between eating establishments and the surrounding residential neighbourhood, and assess whether there are any further concerns which would warrant another restaurant study.

Financial Impact

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

DECISION HISTORY

Purpose of the Original 2012 Restaurant Study

Conflicts between main streets having a high concentration of eating establishments, particularly licensed eating establishments, and the surrounding residential neighbourhood are quite common due to issues related to nuisances such as increased noise, garbage and traffic. This is particularly true when main streets with a high concentration of eating establishments become a destination with a regional draw, attracting people from other parts of the city and from outside Toronto as well.

The conflict is further exasperated when certain licensed eating establishments morph into late-night drinking establishments where, after a certain hour, and usually on weekend evenings, the focus of the establishment shifts from the service of food to the service of liquor. In such instances, the land use conflicts between this commercial use and the surrounding residential uses also include congestion on sidewalks as establishments often have line-ups of patrons waiting to get in and concerns associated with public drunkenness, particularly after closing time when a large number of patrons spill out onto the sidewalks and surrounding neighbourhood streets.

Recognition of these concerns has prompted numerous motions at City Council directing staff to conduct studies of main streets with a high concentration of restaurants to investigate whether new zoning provisions could be implemented to mitigate their impact. Examples of studies completed to deal with this issue include: Queen Street West between Dovercourt Road and Gladstone Avenue; Ossington Avenue between Queen Street West and Dundas Street West; and, College Street between Bathurst Street and Ossington Avenue. These studies resulted in a reduction in the permitted restaurant size, restrictions on accessory uses such as a stage and DJ booth, limitations on where within the building a restaurant can locate and the number of restaurants in one building.

In addition to the above land use conflicts between licensed eating establishments and the surrounding residential neighbourhood, on Queen Street West between Dufferin Street and Roncesvalles Avenue, there was also a concern that an over-concentration of restaurants was negatively affecting the vibrant mixed-use balance of this main street, displacing some of those commercial uses needed to meet the daily needs of area residents. To address this concern, staff were also directed to analyze the impact that eating establishments were having on the main street function of this section of Queen

Street West and determine whether this was, in fact, negatively affecting the commercial activity on the street.

Interim Control By-law

At its meeting on October 30, 2012, City Council passed Interim Control By-law 1393-2012 (ICB) prohibiting the establishment of new restaurants and the expansion of existing restaurants along Queen Street West between Dufferin Street and Roncesvalles Avenue so as to give staff time to complete the planning study. The ICB was to be repealed upon the adoption of the by-laws resulting from the planning study, or was to expire by October 31, 2013, whichever came first.

Completed Restaurant Study

At its meeting on July 19, 2013, City Council adopted recommendations of the staff report from the Director, Community Planning, Toronto and East York District dated May 24, 2013, regarding a completed restaurant study on Queen Street West between Roncesvalles Avenue and Dufferin Street. The staff report and accompanying By-laws can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.TE25.3>

The main recommendation of the 2013 report was to amend former City of Toronto By-law 438-86 as well as Harmonized Zoning By-law 569-2013, as it pertains to the Study Area, to implement new provisions related to eating establishments. The first four provisions included in the recommended amendments were intended to address the land use conflict created by eating establishments and were thereby similar to those that resulted from the previous restaurant studies noted above:

- A reduction in the permitted restaurant Gross Floor Area from 400 square metres to 200 square metres.
- Restricting the location of restaurants to the ground floor.
- Prohibiting patios associated with restaurants from locating in the rear yard or on the rooftop.
- Limiting permitted accessory uses such as a stage, teletheatre gambling or any other entertainment area, to a maximum of 6 percent or 12 square metres, of the restaurant gross floor area.

To address the proliferation of repetitive eating establishments in the Study Area, the following additional provision was recommended for the Study by-laws:

- Limiting the concentration of restaurants and bars to no more than 25 percent of the properties within each of the following blocks (A-D):
 - A. Roncesvalles Avenue to Sorauren Avenue/Beaty Avenue

- B. Sorauren Avenue/Beaty Avenue to Lansdowne Avenue/Jameson Avenue
- C. Lansdowne Avenue/Jameson Avenue to Brock Avenue/Cowan Avenue
- D. Brock Avenue/Cowan Avenue to Dufferin Street

City Council also adopted the recommendation that, within three years of the adopted by-law amendments related to the study (By-laws 1049-2013 and 1050-2013) coming into force and effect, City Council direct the Director, Community Planning, Toronto and East York District in consultation with the local BIA, resident association and Ward Councillor, to report back to Toronto and East York Community Council on the impact of the concentration provision of the By-laws. The remaining provisions of the By-laws related to size and location of eating establishments, patio prohibition and restrictions on accessory uses, are consistent with the zoning provisions that resulted from previously completed restaurant studies for other main streets in Toronto and were not included in the Council Direction as provisions that require further study. These provisions therefore were not further considered by staff and are not discussed in this report.

Ontario Municipal Board Appeal

As noted above, the ICB was to be automatically repealed upon the completion of the restaurant study and the subsequent passing of area-specific by-law amendments for the Study Area. However, before study By-laws 1049-2013 and 1050-2013 came into force and effect, they were appealed to the Ontario Municipal Board (OMB) by the Ontario Hotel, Motel and Restaurant Association (OHMRA) and, thereby, the ICB was not repealed. The key issue of OHMRA's appeal was the proposed concentration provision, however, upon the consent of both the City and OHMRA, the appeal was adjourned sine die on June 23, 2014. Due to the adjournment of the OMB appeal, on July 8, 2014, City Council adopted By-law 727-2014 to repeal By-law 1392-2012. This means that July 2014 was the start of the clock for staff to monitor the success of the concentration provision of the By-laws and report back to Community Council.

'Restaurant' versus 'Eating Establishment'

The term 'eating establishment' instead of 'restaurant' is found in both, this report and the 2013 report so as to be consistent with the terminology found in harmonized By-law 569-2013, which replaced the term 'restaurant' previously used in former City of Toronto By-law 438-86. Generally however, the meaning of both terms is the same.

ISSUE BACKGROUND

Studying the Impact of the By-laws

In 2017 City Planning initiated further study on Queen Street West between Dufferin Street and Roncesvalles Avenue to assess the impact of the concentration provision of the By-laws, as directed by City Council. As the study required an economic impact analysis, City Planning retained the consultant firm, 360 Collective (the Consultant), to complete this portion of the review. The Consultant's findings and recommendations, together with input from other City Divisions, (including Economic Development, Toronto Building and Municipal Licensing and Standards) and consultation with the local community, the Parkdale Business Improvement Area and the Parkdale Residents' Association, were considered in the drafting of the recommendations of this report.

Community Consultation

City Planning staff held a community consultation meeting together with the Consultant and the local Councillor, on September 27, 2017, which was attended by approximately 35 members of the public. Additionally, a survey was made available in both hard copy and electronic format and received 736 responses.

Comments received at the consultation meeting and through the survey fell on both sides of the spectrum with some support for maintaining the concentration provision and some support for deleting it or amending it in some manner. Those in support noted that the concentration limit has helped to curb some of the night-time noise experienced on the street and also resulted in a better mix of uses on the street. On the other hand, those opposed to the concentration limit voiced concerns that it was negatively impacting the free market operation of the street, was stifling innovation and that the influx of eating establishments and nightlife on the street has resulted in a much livelier, safer street. A summary of the common themes heard regarding the concentration provision can be found in Attachment 2 of this report.

Site and Surrounding Area

The Study Area is located within Toronto's Parkdale neighbourhood 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. This neighbourhood has a long history of being a place where working-class and low-income individuals cluster and many of the formerly large, single-family homes constructed in the late 1800s and early 1900s have been subdivided into smaller apartments and rooming houses. Additionally, in the 1980s, the deinstitutionalization of patients from local mental health institutions increased the population of low-income and government-assisted residents in Parkdale. However, recent gentrification of Parkdale has also attracted investment from middle-class professionals and has contributed to the socio-economic diversity found today.

The south side of Queen Street West between Roncesvalles Avenue and Dufferin Street is primarily comprised of mixed-use buildings between one and three-storeys in height, often containing commercial uses at grade and residential uses above. A number of

institutional uses are found on the south side of the street including, 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. The west end of the Study Area contains a few two-storey detached and semi-detached house-form buildings as well as some three-storey and six-storey walk-up apartment buildings. The opposite, east end of the street contains a recently completed eight-storey mixed-use building at the southwest corner of Queen Street West and Dufferin Street.

The adjacent neighbourhood immediately to the south of the Study Area has a mix of detached, semi-detached and townhouse dwellings along with apartment buildings, ranging from six to twenty-storeys situated along Jameson Avenue and Dunn Avenue.

The built form on the north side of Queen Street West is quite similar to that of the south side, containing primarily two and three-storey buildings with commercial uses at grade and residential uses above. More so than on the south side, public lanes separate the majority of the properties fronting Queen Street West from the adjacent neighbourhood. A surface parking lot owned and operated by the Toronto Parking Authority is located at the northwest corner of Queen Street West and Callender Street, and a privately owned public parking lot is located at the northwest corner of Queen Street West and Triller Avenue.

The neighbourhood immediately to the north of the Study Area 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 light industrial uses.

There are approximately 303 properties located within the Study Area containing a range of commercial, institutional, residential and eating establishment uses. Of the 303 properties, 64 contain eating establishments, which is down from 71 in 2013.

Provincial Policy Statement and Provincial Plans

Section 2 of the *Planning Act* sets out matters of provincial interest, which City Council shall have regard to in carrying out its responsibilities. The matters include: the orderly development of safe and healthy communities; the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems; the conservation of features of significant architectural, cultural, historical and archaeological or scientific interest; the appropriate location of growth and development; and the promotion of a built form that is well designed, encourages a sense of place and provides for public spaces that are of high quality, safe, accessible, attractive and vibrant.

The Provincial Policy Statement (2014) (PPS) provides policy direction province-wide on land use planning and development to promote strong communities, a strong economy,

and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- The efficient and wise use and management of land and infrastructure over the long term to minimize impacts on air, water and other resources;
- Protection of the natural and built environment;
- Building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment;
- Residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit; and,
- Encouraging a sense of place in communities, by promoting well-designed built form and by conserving features that help define local character.

The City of Toronto uses the PPS to guide its Official Plan and to inform decisions on other planning and development matters. The PPS is issued under Section 3 of the *Planning Act* and all decisions of Council affecting land use planning matters "shall be consistent with" the Provincial Policy Statement. Policy 4.7 further states that the Official Plan is the most important vehicle for implementing the PPS.

The Growth Plan for the Greater Golden Horseshoe (2017) provides a strategic framework for managing growth in the Greater Golden Horseshoe region including:

- Setting minimum density targets within settlement areas and related policies directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, cultivate a culture of conservation and promote compact built form and better-designed communities with high quality built form and an attractive and vibrant public realm established through site design and urban design standards;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;
- Building complete communities with a diverse range of housing options, public service facilities, recreation and green space that better connect transit to where people live and work;

- Retaining viable employment lands and encouraging municipalities to develop employment strategies to attract and retain jobs;
- Minimizing the negative impacts of climate change by undertaking stormwater management planning that assesses the impacts of extreme weather events and incorporates green infrastructure;
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas; and,
- Conserving cultural heritage resources, including built heritage resources, in order to foster a sense of place and benefit communities.

Like other provincial plans, the Growth Plan builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. All decisions by Council affecting land use planning matters are required by the *Planning Act*, to conform, or not conflict, as the case may be, with the Growth Plan.

Staff assessed the proposed Zoning By-law amendment for consistency with the PPS and for conformity 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 Noble 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, 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 Official Plan's Urban Structure (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.

Further, Official Plan Policy 3.5.1 Supporting the Foundations of Competiveness, speaks, in part, to the safe, cohesive, congenial and inclusive neighbourhoods and in particular, contains Policy 3.a) which indicates that a balanced growth of jobs and housing across the City will be pursued to maintain a complete community.

Additionally, 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 Official Plan is that new development respect and reinforce the general physical patterns in a *Neighbourhood*. Additionally, Chapter 2.3.1 *Healthy Neighbourhoods*, requires that development in *Mixed Use Areas*, *Regeneration Areas* and *Apartment Neighbourhoods* that are adjacent or close to *Neighbourhoods* be compatible with those *Neighbourhoods*.

Zoning

The majority of the properties in the Study Area are Zoned CR 2.5 (c1.0; r2.0) under City of Toronto Zoning By-law 569-2013. The exception are the properties on the north side of Queen Street West between Noble Street and Dufferin Street which are zoned Industrial. As mentioned above, these properties have been excluded from the Study Area.

The 'CR' zoning classification stands for Commercial Residential and permits a variety of uses including residential, parks, community services, institutional uses, commercial and retail (which includes eating establishments) 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 metres (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.

Under the By-law, the term eating establishment means "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 in-force 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 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 eating establishments are permitted as long as the CR lot on which they are located is at least 30 metres from the nearest Residential lot, or 40 metres if located above the first storey of the building.

It is also important to note that, as By-law 569-2013 is currently under appeal at the Ontario Municipal Board, former City of Toronto By-law 438-86 also still applies to the Study Area and therefore the proposed by-law amendment has to be evaluated against the criteria of both By-laws. The only difference in the performance standards associated with eating establishments between the two By-laws is that, where By-law 569-2013

requires a 30-40 metre separation distance between outdoor patios associated with restaurants and the nearest residential property, By-law 438-86 required 10 metres.

COMMENTS

At the onset of the Queen Street West Restaurant Study in 2012, there were a number of concerns related to the proliferation of eating and drinking establishments on Queen Street West between Dufferin Street and Roncesvalles Avenue which are generally described below:

- that the proliferation of eating establishments, particularly liquor licensed establishments, would, over time, drive up commercial rents and in turn displace other types of retailers and services unable to afford the same rate of commercial rents;
- that, with the proliferation of eating establishments, the commercial activity on Queen Street West between Dufferin Street and Roncesvalles Avenue was becoming too homogeneous in nature and thereby would, over time, be less able to properly function as a cohesive main street meeting the daily needs of the local neighbourhood;
- that, further to the point above, given the social-economic diversity of the surrounding community, certain members of the community who rely most heavily on easy and convenient access to the various retailers and services, would be the most impacted if these uses were displaced with the proliferation of eating establishments; and,
- that the land use conflicts between eating establishments, particularly ones that morph into drinking establishments later in the evening, and the surrounding residential neighbourhood was negatively affecting the quality of life of the surrounding community by creating nuisances from noise, disorderly conduct by patrons spilling out onto the street after closing time, garbage, and traffic and parking issues.

To address these concerns, in the staff report from the Director, Community Planning, Toronto and East York District, dated May 24, 2013, staff recommended that the area-specific study By-laws restrict the permitted concentration of eating establishments to no more than 25 percent of the properties on Queen Street West within each, Areas A – D. To test the effectiveness of such a by-law provision, it was also recommended by staff that, once implemented, this concentration provision be studied over a three year period with a report back from staff with findings and further recommendations. The intent of the study period was to determine the impact that eating establishments were having on the Study Area, if any, related to:

- changes in the number of eating establishments;
- changes in the distribution of the type of available retail and service options;

- increases and/or decreases in commercial rents;
- increases and/or decreases in commercial vacancy rates;
- changes in the total number of people employed and the distribution of employees amongst various industry sectors including retail, office, manufacturing, institutional, community, entertainment and food service;
- increases and/or decreases in the number of noise and other nuisance complaints related to eating establishments;
- spillover effects related to any of the above points onto the immediately adjacent main streets: Queen Street West, (east of Dufferin Street), Ossington Street, Dundas Street West, Roncesvalles Avenue and King Street West; and
- determining if trends related to the points noted above deviate from related trends found on other main streets in the Toronto and East York District that are geographically and contextually similar to the Study Area and that do not have a concentration provision.

In 2017, City Planning retained 360 Collective to assist in preparing a response to the above noted points.

Findings

To conduct their analysis, the Consultant compared data collected by City staff in 2012-13 and their empirical and site visit data collected in the latter half of 2017, as well as data collected in 2016 and made available through the City of Toronto Employment Survey, the University of Ryerson Centre for the Study of Commercial Activity (CSCA) and Statistics Canada. Additionally, the Consultant also discussed the concentration by-law with community resident, business and property owner representatives, realtors, the OHMRA, City staff and the Ward Councillor. At the completion of their economic impact analysis, the Consultant released the following analysis and findings:

Decline in Number of Eating Establishments

The total number of eating establishments in the Study Area between City Council's adoption of the Study By-laws in 2013 and the Consultant's fieldwork in 2017 was reduced by seven. The chart below shows a comparison of the changes in number of eating establishments in each of Areas A – D:

	Number of Eating Establishments Permitted under the 25% Concentration Cap	Number of Eating Establishments in 2013 <i>(Toronto Building data, July 2013)</i>	Number of Eating Establishments in 2017 <i>(360 Collective data, September 2017)</i>
Area A	22	18	15
Area B	18	22	20
Area C	21	14	15

Area D	14	17	14
Total	75	71	64

It should be noted that the number of eating establishments recorded in the chart above is based on the number of existing businesses containing an eating establishment business license. Through the process of the Consultant's review, the difference between eating establishments versus take-out only establishments was clarified, in that, based on the Zoning By-law definition of 'eating establishment' versus 'take-out eating establishment' (which does not include any seating for patrons whatsoever), for business license purposes, the latter are licensed as 'retail stores (food)' and therefore are not subject to the concentration cap. This clarification accounts for a few discrepancies between the data shown in this report, and the data shown in the staff report dated May 24, 2013, of which the latter inadvertently counted a couple of take-out only restaurants as 'eating establishments'. Despite this discrepancy, however, the findings of the 2013 report identifying Areas B and D as being the two areas at or over the 25 percent capacity are still accurate.

As can be seen in the chart above, by 2017, Areas B and D remained at or above the concentration limit and Areas A and C continued to be below. While it is recognized that various factors are considered when locating a business, it is interesting to note that, while the two areas that have capacity are immediately adjacent to areas that do not, the concentration limit did not result in a spillover effect from Areas B and D to Areas A and C. In fact, the total number of eating establishments declined from 71 to 64 during this time period.

There are a number of factors that may have contributed to the decline in eating establishments in the Study Area, however, there is no clear evidence that there is any direct correlation between the decline and the concentration provision in the By-laws. The By-laws were drafted to address concerns related to the rapid growth of eating establishments in Areas B and D, while at the same time permitting some growth in Areas A and C. However, the proliferation of eating establishments leading up to 2013 appears to have slowed down for reasons other than the By-laws, given that the two areas with capacity still have capacity today. Furthermore, both of the areas at capacity experienced a decline, which is surprising given the fact that in 2013, both Areas B and D were over capacity, and the existing eating establishments were 'grandfathered' into the Study By-laws. However, once a use with grandfathered rights ceases to exist for at least a year, those grandfathered rights are lost. Given this, one would expect that landlords with properties containing eating establishments in 2013 would have sought to continue to lease their premises to restaurateurs.

Relationship between Commercial Rents, Vacancy Rates and Proliferation of Eating Establishments:

Two key reasons to help explain the decline in eating establishments likely have to do with commercial rents and vacancy rates. This segment of Queen Street West in Parkdale has historically had inexpensive commercial rents and high vacancy rates, thereby, resulting in an influx of eating and drinking establishments prior to 2013. The cost of real

estate, including commercial rents, has increased significantly across Toronto, Parkdale included, over the last 10 plus years. Additionally, there has been a drop in commercial vacancy rates in many parts of the City, and the Study Area is no exception. While the rate of commercial rent increases in the Study Area is generally in line with increases experienced by similar main streets, the Consultant found some anecdotal evidence that landlords in Areas B and D are starting to charge premium rents. This, in fact, is the opposite of the intended outcome of the concentration limit in that, as previously noted, one of the reasons for the restriction, was the perception that the proliferation of eating establishments was driving up commercial rents.

Furthermore, according to the Consultant, vacancy rates are one of the most visible and immediate indicators that can be gathered quickly to ascertain changes in the viability and vitality of a main street. One of the criticisms of the concentration restriction was concern that vacancy rates may increase as it would be harder to lease some vacant commercial units in areas where the concentration limit for eating establishments had been met. However, data gathered by the Consultant shows that in the Study Area, particularly in Areas B and D, vacancy rates dropped considerably between 2006 and 2012 and then remained fairly stable with another drop in 2016 followed by a slight increase in 2017.

As it was in large part the low commercial rents and high commercial vacancy rates that originally attracted eating establishments to the Study Area, the increase in commercial rents and decline in vacancy rates present today helps to mitigate concerns that there will be a resurgence of eating establishments once the concentration provision is deleted from the By-laws.

Changes in the Commercial Activity

Changes to commercial rents and vacancy rates were not the only factors that supported the Consultant's findings that removing the concentration provision should not have adverse impacts on commercial activity in the Study Area. For one, since their enactment in 2013, there is little evidence to show that the By-laws substantially altered the balance of local-serving commercial activity found in the study area. Generally, while some improvement is evident in the central part of the Study Area, in Areas B and C, the two bookends, Areas A and D, have historically had regional draws and this continues to be the case today: Area D for its eating establishments and Area A, previously for its antiques (as this was once known as Antique Alley), and now for its clothing and accessory stores.

Furthermore, it was also noted by the Consultant that present day retailers, particularly bricks and mortar retailers found on main streets, face the challenge of not only competing with big box and chain retail, but also with the growing popularity of on-line retail. To stay competitive, business owners are looking for new ways to innovate and one emerging trend is to add value through the sale of liquor and the sale of an experience as much as the product itself. This is seen with retailers and services such as barber shops, hair salons and clothing stores offering liquor for consumption by patrons on the premises.

However, a liquor license requires an eating establishment business license. Therefore, a business operator wishing to operate a retail or personal service store with a liquor license must obtain both, a retail/personal service business license and an eating establishment business license. When a business license application is applied for, Municipal Licensing and Standards (MLS), which administers business licenses, circulates the application to Toronto Building to confirm that the proposed use is permitted under the zoning by-law. Therefore, in such instances, Toronto Building has to provide zoning clearances for both, retail/personal service and eating establishment.

The concentration provision of the By-laws therefore would hinder a business operator from operating a retail or personal service store with a liquor license in an area that is at or over the concentration limit for eating establishments. In such situations, zoning clearance would not be obtained for the eating establishment portion of the business license application. This is an unintended consequence of the By-laws and may potentially limit the ability of business owners to be flexible and adapt to changing market needs.

Changes in Employment

An interesting finding revealed by the Consultant is that, despite the drop in total numbers of eating establishments from 71 to 64 between 2013 and 2017, the Study Area experienced growth in the number of people employed in eating establishments during this same time period. According to the Consultant, 59 percent of employment growth in the Study Area was in the restaurant industry between the years 2012-2016. In 2016, 30 percent of all employment in Parkdale was in the restaurant industry, whereas, retail accounted for 25 percent of total employment. These findings are surprising given the drop in the numbers of eating establishments. The Consultant concluded that there is some anecdotal evidence that, among eating establishments, there is a shift of focus from the sale of liquor to a sale of food which may in part explain this phenomenon. As a result, there is a higher tendency for eating establishments to be open more frequently during the week (not just on Thursday and evening weekends as was oftentimes the case) and to have increased hours of operation, opening much earlier in the day.

Noise Violations Related to Eating Establishments

As previously noted in this report, the land use conflict between eating establishments and surrounding residential uses is often further exacerbated when some eating establishments morph into drinking establishments later in the evening and on weekends. This often results in noise complaints registered with MLS and Toronto Police Services when large numbers of patrons spill out onto the street and surrounding neighbourhood late and also earlier in the evening when patrons wait in outdoor queues waiting to for admission into an establishment.

The Consultant reviewed the numbers of noise complaints registered annually between 2013-2017 and found that, on average, there were 8 noise complaints per year which is down from a yearly average of 13 complaints prior to 2013. As was the case prior to 2013, the majority of noise complaints were generated in Area D and the majority were for the same few eating establishments. This decline in noise complaints can partly be

explained by the fact that, during this time period, the number of eating establishments in Area D dropped from 17 to 14 and one particular establishment, which operated more like a drinking place than a restaurant, changed its business model and now places much more emphasis on the sale of food. However, as previously discussed, the By-laws cannot be directly linked to the decline in the number of eating establishments in Area D. Nor can the By-laws be used to explain the rationale behind the changing business model of the establishment which turned from a drinking place to a more traditional restaurant.

Distinguishing Between Liquor Licensed and Un-licensed Eating Establishments

At the outset of the original Queen Street West Restaurant Study in 2012, staff reviewed the possibility of placing different restrictions on licensed establishments than those placed on un-licensed ones. In particular, staff considered distinguishing between un-licensed and licensed eating establishments and placing the concentration limit only on the latter.

This, however, would require the creating of a new defined term in the Study By-laws as City-wide Zoning By-law 569-2013 does not contain a definition for 'licensed' eating establishment and does not distinguish between eating establishments with liquor licenses versus ones that do not. Rather, the By-law defines eating establishments as: "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". In this definition, there is no distinction between alcoholic versus non-alcoholic beverages.

In considering identifying 'bar' or 'licensed establishment' as a defined term in the area-specific By-laws, City Planning had wide ranging discussions with staff from Toronto Building, MLS, Legal Services, and the Alcohol and Gaming Commission (AGCO), and were advised that this is not possible for a number of reasons. Two key reasons are briefly summarized below:

- 1) The issuance of liquor licenses falls under the jurisdiction of the AGCO, a provincial body, governed by the *Liquor License Act*, and thereby, municipalities, which do not have any authority under the *Liquor License Act*, cannot regulate or restrict the licensing and/or sale of liquor.
- 2) Under the current regulatory system, the AGCO seeks various clearances from Toronto Building, Fire, Health and MLS before a liquor license is issued. For example, if an application is made for a liquor license for an eating establishment, the application is circulated by the AGCO to the various City departments noted above, to ensure that the particular use, eating establishment, meets various rules and regulations: that it is a permitted use under the zoning by-law; that it meets all appropriate building, health and fire code regulations including fire safety, total occupant capacity etc; and, that the appropriate business license has been applied for and/or obtained. In other words, final issuance of a liquor license is closely tied to the specific use that is being applied for. If 'licensed' eating establishment was to become a

defined use under the Zoning By-law, one that is distinct from an 'unlicensed' eating establishment, one would have to demonstrate compliance as a 'licensed' eating establishment in order to receive clearances from Toronto Buildings and MLS, but, to classify as a 'licensed' eating establishment, would require first obtaining a liquor license through the AGCO, resulting in a "Catch 22" as the AGCO cannot issue a liquor license until Toronto Building and MLS clearances are issued first. This would require a whole new process wherein the AGCO and the City clearance processes run simultaneously. While there are no changes currently proposed to this system, a working group comprised of representatives from various City Divisions, the AGCO, Toronto Police and the OHMRA has been created to review possible solutions over the next few years.

Compliance with Provincial and Official Plan Policy

City Planning's further study and economic impact analysis from 360 Collective, identifies that the By-laws' concentration performance standard followed by a number of market forces have lessened the need to regulate through zoning the number of eating establishments in a given area today. This report's recommendation to delete the concentration provision in By-laws 1049-2013 and 1050- 2013 is supported by provincial plans and policy, and the City's Official Plan as discussed below.

Provincial Policy Statement and Provincial Plans

Section 2 of the *Planning Act* requires municipalities to have regard for matters of provincial interest, including, as noted in Section 2(h) the orderly development of safe and healthy communities and (q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians. The proposed amendment to Zoning By-laws 1049-2013 and 1050-2013 to delete the provision limiting the concentration of eating establishments in the Study Area has regard for these policies of the *Planning Act*.

The Provincial Policy Statement (PPS) encourages intensification and efficient development, and Policy 4.7 of the PPS identifies the Official Plan as being the most important vehicle for implementing the PPS. In particular, Policy 1.1.1.b) speaks to accommodating an appropriate mix of uses which meet long-term needs. Further, Policy 1.7.1c) speaks to the promotion of long-term economic prosperity by maintaining, where possible, and enhancing the vitality and viability of downtowns and main streets.

The Guiding Principles contained in Policy 1.2.1 of the Growth Plan speak to the achievement of complete communities that are designed to support healthy and active living and meet people's needs for daily living throughout an entire lifetime. Further, Policy 2.2.1.4 notes that applying the policies of the Growth Plan support the achievement of complete communities that:

- a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services and public service facilities; and,

- b) improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes.

The decision of City Council to amend By-laws 1049-2013 and 1050-2013 is consistent with the PPS and conforms, or does not conflict, with the Growth Plan.

Official Plan

Chapter 4.5 of the City of Toronto Official Plan speaks to *Mixed Use Areas* as being areas where a multitude of planning objectives can be met by combining a broad array of residential uses, offices, retail and services, institutions, entertainment, recreation and cultural activities. The goal is to permit individuals to live, work and shop in the same area, or even within the same building, giving people the opportunity to depend less on their cars, and create districts along transit routes that are animated, attractive and safe at all hours of day and night. Further to this, Policy 4.5.2 notes that, in *Mixed Use Areas*, development will:

- a) create a balance of high quality commercial, residential, institutional, and open space uses that reduces automobile dependency and meets the needs to the local community.

Additionally, Chapter 3.5, Toronto's Economic Health, refers to the diversity of Toronto's economy as being this City's strength over time, which, in part, has helped to weather times of economic downturn. Chapter 3.5.1, indicates that, in order to support this diverse economy, the City needs various foundations supporting economic growth, including safe, cohesive, congenial and inclusive neighbourhoods. Furthermore, Chapter 3.5.1 also outlines the importance of, among other matters, permitting a wide range of business activity in appropriate locations across the City so as to remain economically competitive.

The recommendation to delete the performance standard limiting the concentration of eating establishments on Queen Street West between Dufferin Street and Roncesvalles Avenue conforms to Official Plan policies seeking to create a balance of high quality commercial uses that help reduce automobile dependency and meet the needs of the local community, and, also, in part, to support a competitive economy. Furthermore, deletion of this provision also addresses Provincial policies related to accommodating an appropriate mix of uses to support the long-term needs of the local population and to promote the long-term economic prosperity of this particular main street. In turn, this supports Growth Plan policies related to achievement of complete communities through the provision of convenient access to local stores and services, and improving overall quality of life of the local population.

Lessons Learned

A number of lessons have been learned through the process of this study. Most notably, there are difficulties related to the logistics of administering the concentration provision of the By-laws. The onus to keep track of the number of existing eating establishments in the Study Area has landed in the purview of Toronto's Chief Building Official, however,

while Buildings staff can keep track of the number of Building Permits issued for eating establishments and the number of Business License applications reviewed for zoning clearance, any time a restaurant ceases to exist, there is no automatic process to notify staff of this change.

Additionally, upon completing the original study in 2013, staff divided the Study Area into four segments, with each being approximately 400 metres in length. As Area D was a key area of concern regarding the over-concentration of eating establishments, the By-laws were drafted in such a manner so as to restrict the further proliferation of eating establishments within Area D and the remainder of the Study Area was divided into segments of similar size. In working with the Consultant, however, staff learned that a typical geographic area used for market retail studies is 800 metres in length (or a 10 minute walking distance). If a similar study were to be replicated in the future, the appropriate geographic area for the restriction would have to be further considered. As well, in working with the Consultant, staff also learned that economic data is usually collected on a per storefront, not per property, basis; whereas, the Study By-laws were drafted based on the latter.

Finally, staff also selected 25 percent as the concentration limit as, at the time the study was completed in 2013, 22 percent of properties within the Study Area contained restaurants and the intent was to permit some room for growth. Further analysis would have to be conducted to determine the appropriate balance between eating establishments and other commercial uses and services, and whether 25 percent is in fact the most optimal ratio to achieve that balance.

Further Study

Upon recommendation of the Ward Councillor, in five year's time, another analysis of the commercial activity on Queen Street West between Dufferin Street and Roncesvalles Avenue should be conducted to confirm that the initial concerns regarding the proliferation of eating establishments detracting from the main street function of this portion of Queen Street West have not re-emerged. The study would also review and analyze whether there are any further land use conflicts between licensed eating establishments and the surrounding residential neighbourhood.

Conclusion

The concentration provision in By-laws 1049-2013 and 1050- 2013 limiting the concentration of eating establishments to no more than 25 percent of each, Areas A-D in the Study Area may have had an immediate impact on quelling the influx of eating establishments, however, the overall decline in eating establishments over the past three to four years is more likely due to the changing market forces found here as well as the City as a whole. These include increases in land values overall, increases in commercial rents, decreases in commercial vacancy rates, changes in the functionality of retail along main streets and, new trends related to the business operation of the restaurant industry. As the immediate concerns related to the proliferation of eating establishments in the Study Area have been addressed, and there is no clear evidence showing a direct correlation between the evolution of the commercial activity on the street as it exists

today, staff do not see the merit in maintaining the concentration provision in the By-laws. As well, while there is no evidence of the concentration provision having negative spillover effects on surrounding main streets, it is not known what the spillover effects may be should such a restriction be replicated on other main streets around the City. Finally, the concentration provision was tested during a time of economic prosperity and it is not known what the impacts would be during a time of economic downturn.

This report recommends the removal of the concentration provisions from By-laws 1049-2013 and 1050-2013, and that the City conduct a follow-up analysis in five years to determine the impact, if any, of eating establishments on the main street functions of this portion of Queen Street West. The other restrictions in the By-laws relating to eating establishment size, number and location within a building, patios and accessory uses would remain.

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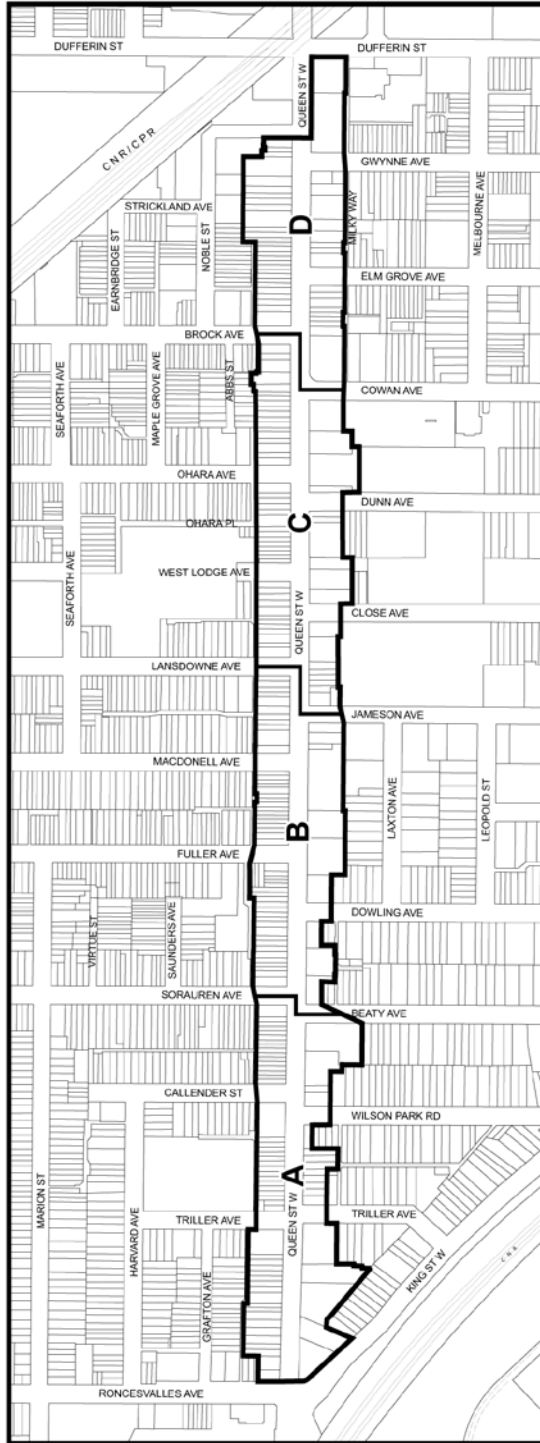
Lynda H Macdonald
Acting, Director, Community Planning
Toronto and East York District

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ATTACHMENTS

Attachment 1: Study Area Map
Attachment 2: Summary of Public Input related to the Concentration Provision of Bylaws 1049-2013 and 1050-2013

Attachment 1: Study Area Map

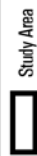


Queen Street West Restaurant Study

File # 11 232412.0Z



Map 1



Study Area



Not to Scale
05/21/2013

**Attachment 2: Summary of Public Input related to the Concentration Provision of
By-laws 1049-2013 and 1050-2013**

Comments related to General Support for keeping the Concentration Provision	Comments related to General Non-Support for keeping the Concentration Provision
Concentration has helped curb some night time noise	<p>More restaurants means more jobs</p> <ul style="list-style-type: none"> ○ Restaurants are thirds largest employer in the country
Achieved balance of uses	<p>Concentration limit does not work without other tools/subsidies</p> <ul style="list-style-type: none"> ○ to bring in other desired, small, family-run businesses ○ To monitor alcohol service industry
There are already enough restaurants	<p>Concentration has placed a premium on properties already containing a restaurant and landlords charging more for rent. This increase in prices has lead to neighbourhood mainstays being replaced by high-end, chef driven restaurants</p>
No need for more than 25% of commercial space occupied by restaurants	<p>Blocks immediately east of Roncesvalles have gotten worse</p> <ul style="list-style-type: none"> ○ More vacant storefronts ○ More dispensaries/vape shops
Most restaurants are too expensive for many Parkdale residents – need other uses	<p>Increase in commercial rents means need liquor license to afford rent – not conducive to bookstores and green grocers</p>
Need more healthy but affordable food options	<p>Cap inhibits growth and creativity</p>
Limit on restaurants positively helps slow down gentrification	<p>Need for active street</p> <ul style="list-style-type: none"> ○ Restaurants better than empty storefronts

Traffic and garbage are already enough of a problem	Recent influx of chain retailers replacing local retailers
Concentration limit helps achieve a good mix of day-time businesses and night-time restaurants	Decline of brick and mortar (mom and pop) shops
Concentration limit helps protect street from becoming a homogeneous 'restaurant alley' like some of the City's other main streets - this deadens neighbourhoods	Parkdale is so socio-economically diverse that very hard for any-one business to cater to whole community Problems still exists <ul style="list-style-type: none"> ○ Have not seen any real changes
	Dufferin to Lansdowne and Lansdowne to Roncesvalles are very different and unfair to group together
	Percentage selected (25%) is arbitrary and should partner with community to arrive at more appropriate number
	Despite occasional public drunkenness, Parkdale is a lot more safe/lively now than was before evening-friendly places opened
	Public drunkenness not a late-night drinking establishment problem but a socio-economic problem