

Refusal of a boulevard café permit application located at 744 St. Clair Avenue West, Rushton Road flankage

Date: January 29, 2019

To: Toronto and East York Community Council

From: Fiona Chapman, Director, Business Licensing and Regulatory Services,
Municipal Licensing & Standards

Wards: Ward 12 – Toronto-St. Paul's

SUMMARY

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

This is a report on the refusal to issue a permit by Municipal Licensing & Standards in the matter of an application for a boulevard café permit located at 744 St. Clair Avenue West, Rushton Road flankage.

RECOMMENDATIONS

The Director of Business Licensing and Regulatory Services, Municipal Licensing & Standards recommends that:

1. The application for the proposed boulevard café permit located at 744 St. Clair Avenue West, Rushton Road flankage be denied.

FINANCIAL IMPACT

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

DECISION HISTORY

This is a new application for a boulevard café permit located at 744 St. Clair Avenue West, Rushton Road flankage.

COMMENTS

An application for a boulevard café located at 744 St. Clair Avenue West, Rushton Road flankage was received on May 24, 2018 from the business owner representing 2601598 Ontario Inc. operating as Kay Pacha. The application submitted was seeking permission to establish a boulevard café on the Rushton Road flankage for 34.09 square metres which would accommodate approximately 23 patrons. (Appendix No. 1 and 2)

A site inspection conducted on June 19, 2018 revealed that the boulevard café area would only provide a pedestrian clearance of 1.80 metres from the curb to the hydro pole. The required pedestrian clearance as outlined in the former City of Toronto Municipal Code 313-36 is 2.13 metres from the curb or any street installation.

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

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

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

The installation of a boulevard café at this location will make passage difficult for those with assisted mobility needs and reduce the pedestrian clearance requirement of 2.13 metres. The concept of a pedestrian clearway is not only to maintain the permitted distances but also to ensure pedestrian traffic moves freely and unencumbered.

On July 11, 2018 a refusal letter was sent to the business owner representing 2601598 Ontario Inc., operating as Kay Pacha advising the applicant that the proposed area for the boulevard café will provide insufficient sidewalk space.

A letter dated August 29, 2018, was received by Municipal Licensing & Standards from the business owner representing 2601598 Ontario Inc., operating as Kay Pacha to appeal the decision of the denial for a boulevard café permit on the Rushton Road flankage.

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

A poll was conducted on July 19, 2018 with the last date for filing a response being August 17, 2018 by the City Clerk's Office, Elections and Registry Services in English, and included the premises between 744 St. Clair Avenue West, 280-306 Rushton Road,

740-740A St. Clair Ave West and 281-307 Rushton Road to determine neighbourhood support.

The results of the poll received from the City Clerk's Office, Election and Registry Services indicate that the majority of the ballots received were not in favour. The provisions of Municipal Code Chapter 190 indicate that if there is a negative response during the polling process, the application must be refused.

On August 22, 2018, a letter was sent to the business owner advising that the boulevard café permit application was denied due to the negative response during the polling process.

Furthermore, when there is a negative response, re-polling for the same purpose may not take place until two years have passed from the closing date of the previous poll. Accordingly, no further application for boulevard café privileges at this location can be accepted until August 17, 2020.

CONTACT

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SIGNATURE

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ATTACHMENTS

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