

Refusal of a boulevard café permit located at 80 Gladstone Avenue frontage and Alma Avenue flankage

Date: May 29, 2019

To: Toronto and East York Community Council

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

Wards: Ward 9 - Davenport

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.

To report on the refusal to issue a permit by Municipal Licensing & Standards in the matter of an application for a boulevard café area located at 80 Gladstone Avenue frontage and Alma Avenue flankage.

RECOMMENDATIONS

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

1. The application for the proposed boulevard cafe permit located at 80 Gladstone Avenue frontage and Alma Avenue 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 80 Gladstone Avenue frontage and Alma Avenue flankage.

COMMENTS

An application was received from the business owner representing Fix Coffees + Bikes Inc. operating as Fix Coffee + Bikes on March 7, 2019. The application submitted was seeking permission to establish a boulevard café at 80 Gladstone Avenue frontage for 9.36 square metres and the Alma Avenue flankage for 20.40 square metres which would accommodate approximately 25 patrons in total. (Appendix 1 and 2).

Upon receipt of an application, it is reviewed for compliance with the physical criteria of Chapter 313-36 of the Former City of Toronto Municipal Code.

A site inspection conducted on March 14, 2019 revealed that the boulevard café area would only provide a pedestrian clearance of 1.50 metres from the curb on Alma Avenue flankage and 1.9 metres from the curb on Gladstone Avenue frontage. 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.

The former City of Toronto Municipal Code, Chapter 313-36B (5) states; Where the application is for a boulevard cafe to be located on a commercial frontage, the Commissioner shall prepare a notice advising of the application and shall post the notice on the property in a manner so that the notice is visible to passersby, for a period of not less than fourteen (14) days before a date specified by the Commissioner.

A public notice was posted on March 14, 2019 to March 27, 2019 to determine neighbourhood support.

Letters of objection to the public posting were received by Municipal Licensing & Standards.

Boulevard cafes are governed by the criteria set out in Chapter 313-36 of the former City of Toronto Municipal Code. As stated in the Municipal Code, "where the Commissioner receives one or more letters of objection in response to the boulevard café application," the Commissioner shall refuse the application.

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 April 25, 2019 in English with the last date for filing a response being May 24, 2019 by the City Clerk's Office, Elections and Registry Services, and included the premises between 7-32 Alma Avenue, 441 Dufferin Street, 78 Gladstone Avenue and 80 Gladstone Avenue 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.

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 May 24, 2021.

A refusal letter was sent on April 3, 2019 to the business owner representing Fix Coffees + Bikes Inc. operating as Fix Coffee + Bikes, advising the applicant that letters of objection to the 14 day public posting was received and that the boulevard café permit application was denied.

On April 3, 2019 a letter was received by Municipal Licensing and Standards from the business owner representing Fix Coffees + Bikes Inc. operating as Fix Coffee + Bikes, to appeal the decision of the denial for a boulevard café permit.

On April 16, 2019, Municipal Licensing and Standards received letters of support for the application for a boulevard café on 80 Gladstone Avenue frontage and Alma Avenue flankage.

The application submitted included a café fence sketch to be constructed of steel bike frames steel along the perimeter of the proposed café area which does not meet the criteria in the former City of Toronto, Municipal Code Chapter 313-36G (1).

The former City of Toronto, Municipal Code Chapter 313-36G (1) provides specific criteria for the installation of a cafe fence within the public street allowance as follows:

- (a) The fence shall be located on the perimeter of the licensed boulevard café area and shall be constructed of materials such as metal railings and posts with or without fabric inserts, which enhance the light appearance of the fence and permit visual accessibility to the cafe;
- (b) To maximize visual access between the sidewalk and the café, the height of the railing of the fence shall not be less than nine-tenths (0.9) metre or more than one and two-tenths (1.2) metres;
- (c) The fence may be free-standing if its supports do not project beyond the limits of the boulevard cafe area, or the fence may be supported on removable plates anchored to the paved surface of the boulevard cafe area, as determined satisfactory by the Commissioner, but any post shall not penetrate below the surface grade and footings shall not be used;
- (d) The fence shall be easily removable.

The former City of Toronto, Municipal Code Chapter 313-36 which governs cafes within the public right of way, does not contain provisions for planters within the café fence.

CONTACT

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SIGNATURE

Fiona Chapman
Director
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ATTACHMENTS – 80 GLADSTONE AVENUE FRONTAGE AND ALMA AVENUE FLANKAGE

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