

**Queen Street West – Restaurant Study – Final Report**

<b>Date:</b>	December 14, 2009
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 18
<b>Reference Number:</b>	09-135165 SPS 00 TM

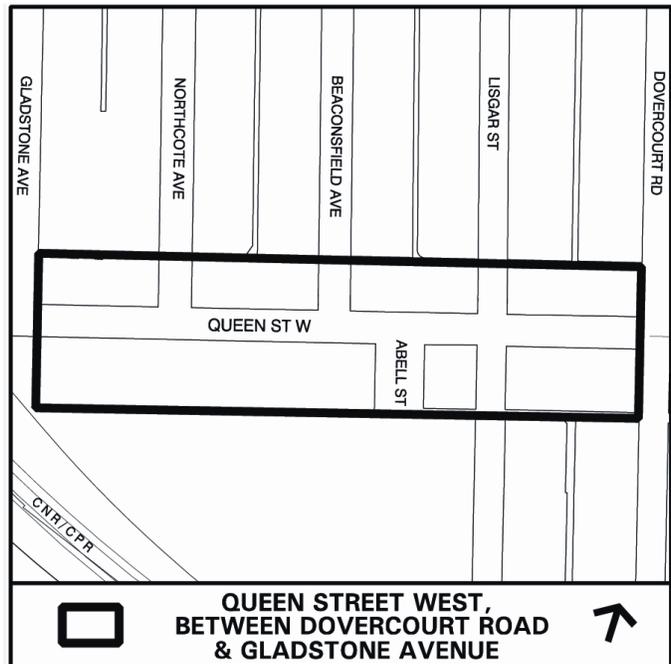
**SUMMARY**

This City-initiated amendment is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

The proposal is to amend Zoning By-law 438-86 to implement additional restrictions on restaurants and related uses on Queen Street West, between Dovercourt Road and Gladstone Avenue, in Ward 18.

Staff are recommending a number of amendments to the Zoning By-law that seek to balance the concerns of the residents and the business/property owners relating to the impacts of restaurants and related uses. The cumulative effects of the amendments will help to limit the impacts of restaurants and related uses on the nearby residential area, while still allowing new restaurants and related uses.

This report reviews and recommends approval of amendments to the Zoning By-law.



## **RECOMMENDATIONS**

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### **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. 2.
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.
3. City Council direct the Chief Planner and Executive Director, City Planning Division, through the Zoning By-law Project, in consultation with Municipal Licensing and Services and Toronto Building, to report to Planning and Growth Management Committee on potential amendments to the City-wide By-law regarding restaurants and related uses.

### **Financial Impact**

The recommendations in this report have no financial impact.

### **ISSUE BACKGROUND**

The section of Queen Street West between Dovercourt Road and Gladstone Avenue (the “Study Area”) is experiencing a transformation from an area once characterised by vacant storefronts and undesirable activities, to a more vibrant mixed-use street. The revitalisation has included an increase in the number of restaurants and related uses (take-out restaurants, patios etc). Since 2004, approximately 13 new restaurants or related establishments have opened within the Study Area.

The residential community surrounding the Study Area has raised a number of concerns related to the concentration of restaurants and related uses in the Study Area and the tendency for these uses to be operated more like bars and late night drinking establishments, where entertainment and alcohol services are the primary activities rather than the service of food. The impact of these establishments includes noise, garbage, parking and traffic congestion in the area. In 2008, residents submitted a petition to the City signed by approximately 250 people expressing a concern that there were too many bars in the area and that action was needed to address the issues.

On May 14, 2009 the Toronto and East York Community Council directed that City Planning staff, in consultation with Buildings and Municipal Licensing and Standards (MLS) staff, initiate a study to determine if there is need for amendments to the Zoning By-law or other measures to restrict the operation of restaurants and related uses in the Study Area.

The study allowed staff the opportunity to: complete a review of land use policies regarding these uses in the Study Area; identify potential changes that could be made to address resident's concerns; and consult with the residents and business/property owners.

## **Study Area Context**

Queen Street West is a traditional main street with a mix of residential, commercial and retail uses, including art galleries, hotels, restaurants and related uses. The Study Area is a short, four block section of Queen Street West between Dovercourt Road and Gladstone Avenue (see attachment 1) in Ward 18. The lot pattern on the north side of Queen Street West is of a regular configuration, fairly typical of many main streets in the former City of Toronto. The lots on the south side of Queen Street West are larger and more irregular than the north, due to the former industrial uses south of Queen Street West.

To the north of the Study Area is a typical low density residential neighbourhood, with the exception of a large property containing a grocery store at 22 Northcote Avenue. A 3.6m lane separates the residential area from the Study Area. To the south of the Study Area lies the "West Queen West Triangle" lands that are now being redeveloped into a series of mid to high rise, mixed-use condominiums.

A total of 49 properties are located within the Study Area, with 41 on the north and eight on the south side of Queen Street West. Of these 49 properties, 23 have one or more restaurants, or related establishments, operating on the site. A total of 21 of these establishments are operating on the north side of the street, meaning there is a restaurant or related establishment on 51% of all lots on the north side of the street. Of the 23 establishments, 15 are liquor licensed, and again all are located on the north side of the street. The existing combined liquor license capacity of all establishments in the Study Area is approximately 2,267 people.

## **Official Plan**

The Study Area is located within an *Avenues* area on the Urban Structure Map (Map 2) and is designated as a *Mixed Use Area* on the Land Use Plan Map (Map 18).

*Avenues* are important corridors along major streets where reurbanization is anticipated and encouraged to create new housing and job opportunities. *Avenues* are identified as an area where growth can be best accommodated, with mixed-use *Avenues* emphasizing residential growth.

The *Mixed Use Areas* designation in the Official Plan provides for a broad range of commercial, residential and institutional uses subject to a number of development criteria. The proportion of commercial and residential uses will vary widely among *Mixed Use Areas*. For example, office and retail uses will continue to be paramount in the *Financial District*, but much of the new development along the *Avenues* will have a residential emphasis. Developments in *Mixed Use Areas* that are adjacent or close to *Neighbourhoods* are to be compatible with those *Neighbourhoods*.

The Queen West Triangle lands, located on the south side of Queen Street West, are designated *Regeneration Areas* in the Official Plan and are within the Garrison Common North Secondary Plan Area. However, with the redevelopment of the West Queen West Triangle these lands were subject to an Official Plan Amendment and site specific zoning by-law amendments to allow a mix of employment, residential uses and retail uses.

The low density residential areas to the north of the Study Area, and a small portion to the south fronting Dovercourt Road, are designated as *Neighbourhood Areas* in the Official Plan. *Neighbourhoods Areas* are considered physically stable areas made up of residential uses in lower scale buildings.

## **Zoning**

Under the former City of Toronto Zoning By-law 438-86 the majority of Queen Street West between Dovercourt Road and Gladstone Avenue is zoned 'MCR T3.0 C1.0 R2.5'. The properties located within the Queen West Triangle lands at 1155 and 1171 Queen Street West are zoned 'RA' (Regeneration Area) and are subject to site specific Zoning By-laws, and the property at 1119 Queen Street West is zoned 'G' (Park Land).

The 'MCR' zoning classification permits a broad range of commercial and residential uses, up to a total density of 3.0 times the area of any lot, of which a maximum of 1.0 times the area of a lot is permitted to be commercial and 2.5 times the area of a lot residential. An *Entertainment Facility* is not a permitted use in the 'MCR' zone. The maximum permitted height for the majority of the Study Area is 16.0 metres.

With the exception of the grocery store property at 22 Northcote Avenue, which is zoned 'I1D2', (Industrial), the neighbourhood to the north of Queen Street West is zoned 'R4 Z1.0', which permits a range of residential uses up to a total density of 1.0 times the area of a lot, with a maximum height of 10.0 metres. South of the Study Area, east of Lisgar Street, the zoning is 'R4 Z4.0', and west of Dovercourt Road the zoning is 'R3 Z1.0', which permit a range of residential uses up to a density of 4.0 and 1.0 times the area of the lot.

## **Community Consultation**

A community consultation meeting was held on May 27, 2009 and was attended by approximately 50 people, with staff from City Planning, MLS, Toronto Police Services and the local area Councillor. The key issues and concerns raised at the community meeting, and in subsequent correspondence received by the City, include:

- The area residents' believe there is an over-concentration of late night drinking establishments in the Study Area;
- The number of people emptying out onto the streets after the establishments close is a major concern to residents, because of the associated noise, littering, drunk driving, traffic, violence, public urination and vomiting;
- Large numbers of people clog-up the sidewalk in front of venues (some are lining up to enter venues, some are smoking or just 'hanging out'), limiting the amount

- of room on the sidewalk, which forces people passing by to walk on the busy street;
- Noise from inside the venues and from the patios;
  - Smoke drifting onto residential areas from outdoor patios;
  - There are not enough enforcement officers available to respond effectively to resident's calls and complaints;
  - There is considerable traffic congestion on Queen Street West and the surrounding residential streets at night caused by the large numbers of patrons visiting the area and a number of illegal taxi stands that block traffic movement;
  - There is a lack of on-street parking on the surrounding residential streets due to the large numbers of patrons visiting the area; and
  - A better balance of uses is desired for this section of Queen Street West.

At the end of the meeting, a working group was established involving approximately 15 local area residents and property/business owners, including members of the West Queen West BIA, the Queen Beaconsfield Resident's Association, Active 18 and the local Councillor's office. City Planning, Municipal Licensing and Standards ("MLS") and the Alcohol and Gaming Commission of Ontario ("AGCO") staff were in attendance. The objectives of the working group were to:

- Address concerns raised by residents about the negative impacts of late night drinking establishments;
- Provide a forum for open dialogue and collaboration between parties with different interests in the restaurant and related establishment issues;
- Help inform City staff more thoroughly about the issues;
- Discuss ideas and solutions for addressing the issues; and
- Provide feedback to staff about proposed solutions/changes to recommend to City Council for approval.

The working group met on three occasions. The group agreed to focus firstly on potential Zoning By-law amendments that could be made to help address the issues and following this to focus on enforcement and licensing issues surrounding the existing establishments. While the group agreed about many of the issues, there was not an agreement about the potential solutions. The majority of attending residents felt the Zoning By-law amendments proposed by staff did not go far enough to address their concerns. Some residents asked whether there was an opportunity to ban the opening of any new establishments that could be operated like a late night drinking establishment, or to put a cap on the total number of late night drinking establishments permitted in the Study Area or introduce a minimum separation distance requirement between establishments.

The working group included a number of business and property owners who expressed concern that the recommended changes to the Zoning By-laws would impact the success of their businesses/properties and ability to expand, especially those recommendations restricting size, patios and entertainment uses.

A second community consultation session with the broader public was held on October 15, 2009 to present to the community the findings of the restaurant study and outline the recommended Zoning By-law amendments proposed by staff. Approximately 35 people were in attendance. Following presentations made by the Councillor and City staff, the community was given a chance to ask questions and respond to staff's recommendations. In general, the responses reflected the two opposing views of the residents and business/property owners expressed at the working group. The residents felt stronger restrictions were required and the businesses/property owners were largely opposed to the proposed Zoning By-law amendments.

## **Agency Involvement**

The Queen Street West restaurant study was conducted by City Planning staff in consultation with MLS, Toronto Building and the local area Councillor.

While the results of this review should aid in addressing some of the conflicts that arise between businesses in the Study Area and the nearby residential neighbourhoods, it is recognized that enforcement and zoning/licence compliance issues will need to be addressed to solve a number of the conflicts that currently and will continue to exist. MLS, Toronto Building, Toronto Police Services and the AGCO will continue to play a significant role beyond the conclusion of this study to ensure appropriate efforts are made through enforcement and review of liquor licence applications.

MLS is currently in the process of revising the Business Licensing By-law and has been consulting with City Planning staff, including the draft Zoning By-law team, regarding the issues involving restaurants and related establishments, particularly Zoning compliance and enforcement. MLS staff are exploring ways to address the issues and advise that a report should be before the Licensing and Standards Committee early in 2010.

## **COMMENTS**

### **Definitions**

Throughout the study, residents reinforced that their main concern was with the venues that operate late at night as drinking establishments, not with traditional restaurants that close soon after the dinner hour. There was some initial confusion about why this study focused on restaurants and not 'bars' or 'late night drinking establishments'.

There is no definition in Zoning By-law 438-86 for a 'late night drinking establishment', 'bar' or the like that would define an establishment based on its hours of operation or the fact that more alcohol is being served than food during any particular time. To amend the Zoning By-law to include such a definition would in staff's opinion, be inappropriate. Operating hours are currently regulated for some business types through the Toronto Municipal Code Chapter 545, Licensing. For example, the City restricts hours of operation for boulevard cafes, because they are located on City property. The AGCO regulates hours of operation for liquor licensed premises.

Zoning By-law 438-86 contains a definition for a *Restaurant* and an *Entertainment Facility*. The By-law defines a *Restaurant* as a “building or a 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 definition of an *Entertainment Facility* is “a building or a portion of a building used for providing food, beverages and entertainment to the public and includes a dance hall or dance floor, stage, teletheatre gambling, discotheque, dinner theatre, supper club, night club, cabaret or entertainment lounge, but does not include an *adult entertainment parlour, restaurant* or any other use otherwise defined...”.

Members of the local community suggested that a new Zoning By-law definition should be created to define the hybrid restaurant/bar establishments that operate as a restaurant for part of the day, and then morph into a late night drinking establishment. It was suggested that a new definition would provide the opportunity to prohibit that type of use in the area. However, the difficulty with creating such a definition relates to the fact that the AGCO requires at least five entrée items (food) to be available for purchase in order for premises to obtain and operate under a Liquor Licence, meaning that the premises must have facilities available for food preparation. This can make it very difficult to distinguish between a restaurant that serves alcohol and a bar that serves food and this is the main reason the ‘Tavern’ definition was deleted from the Zoning By-law in 1992.

Therefore, the defined term *Restaurant* can apply to both a traditional restaurant and one that offers food for sale, but operates more like a bar, especially after the dinner hour. Given these difficulties, our study determined that to control the uses that cause disruption, rather than attempt to create a new definition for a hybrid restaurant/bar, it will be more useful to amend the applicable Zoning By-law to introduce more restrictive regulatory standards, such as imposing a smaller maximum floor size and further restricting accessory uses permitted within these establishments. Restaurants that continue to operate like bars, despite the definitions, will have to be controlled through various enforcement measures.

### **Proposed Amendments to the Zoning By-law**

Staff are recommending amendments to Zoning By-law 438-86 to help balance the concerns of the residents and the business/property owners. The cumulative effects of the amendments aim to limit the impacts of restaurants and related uses on the nearby residential areas, while still allowing new restaurants and related uses. However, there is a limit to what can be achieved through a zoning by-law and there is a significant amount of work still to be done by a number of supporting City divisions, and the AGCO to ensure that the relationship between Queen Street West and the nearby residential neighbourhood improves and stabilizes.

### ***Size of Establishments***

Staff have particular concerns with the size of restaurants in the Study Area. Size relates directly to capacity; the larger the restaurant, the more people it can accommodate. Larger establishments typically generate higher levels of noise, garbage, disruptive social behaviour by patrons and parking demand, given that they seat and attract larger groups

and crowds. Larger restaurants also tend to attract people on a more regional basis. The more large establishments there are that cater to a regional market, the greater the likelihood that the character of the street will change from a local shopping strip to a regional entertainment destination. Smaller establishments often open near the larger establishments, benefiting from any overflow of patrons from the larger establishments, adding to the regional draw of the area.

Current 'MCR' Zoning By-law restrictions limit restaurants and related uses to 400m<sup>2</sup> of non-residential gross floor area where they are within 6.1m of a residential zone. The majority of lots in the Study Area are within 6.1m of a residential zone. However, there are a number of lots in the Study Area, including some large lots, which are not within 6.1m of a residential zone, meaning there is no size restriction on restaurants or related uses, other than the 'C' commercial density restriction.

Most of the existing establishments within the Study Area are well below 400m<sup>2</sup> and would not be classified as large, however the five largest establishments that approach or exceed 400m<sup>2</sup> have a combined liquor licensed capacity of approximately 1,700 people or 78% of the liquor licensed capacity in the Study Area, and tend to attract large crowds. Staff have received enquiries from a number of bar, club and lounge operators looking to move into the area. There is a real risk that more large establishments could open given there are a number of large lots and buildings within the Study Area.

Any future large establishments opening within the Study Area would exacerbate the current problems. An influx of establishments as large as (or larger than) some of the existing establishments in the Study Area would also serve to promote Queen Street West as a primarily regional draw rather than a local retail street.

In an effort to control and balance growth and minimize the impact of future establishments, staff recommend that a size restriction of 175m<sup>2</sup> (1,883 square feet) of *non-residential gross floor area* be applied to *restaurants, take-out restaurants, bake shops, places of assembly, places of amusement and clubs* in the 'MCR' zone within the Study Area.

The rationale for the 175m<sup>2</sup> was determined through a review of the ground floor areas and lot sizes within the Study Area, as well as the existing establishments. The study revealed that:

- Of the 23 existing establishments within the Study Area, only seven exceed a floor area of 175m<sup>2</sup>. The recommended size restriction, when evaluated against the existing restaurants, would not have prohibited the majority of establishments from opening and operating at their current size.
- The average gross floor area of the existing establishments within the Study Area is 197m<sup>2</sup>, while the median is 110m<sup>2</sup>. The average gross floor area of all liquor licensed establishments within the Study Area is 249m<sup>2</sup>, while the median

is 121m<sup>2</sup>. A floor area capped at 175m<sup>2</sup> would still allow for ground floor expansion for a number of the establishments currently in operation.

- The average ground floor area for all of the existing buildings in the Study Area is 319m<sup>2</sup>, however the median is 100m<sup>2</sup>, meaning that a floor area capped at 175m<sup>2</sup> would still allow for a number of new restaurants to open within the Study Area while keeping their scale more local in character.
- The Study Area's draw as a regional destination for restaurants/bars and the existence of a number of large properties and buildings on the street has generated interest for the types of establishments more appropriate for the Entertainment District. A size restriction of 175m<sup>2</sup> would serve to prevent larger operators expanding or locating within the Study Area, thereby limiting the ability of the Study Area to further develop as a regional attraction.

The 175m<sup>2</sup> is to include all useable space, with only areas exclusively used for food preparation, bathrooms, storage and mechanical spaces being exempt from the calculation. Establishments that currently have operations exceeding 175m<sup>2</sup>, will be permitted to continue operating at their existing size, so long as the use continues at that extent.

### *Accessory Entertainment Uses*

While the opportunity exists for any restaurant or related use to disrupt a residential neighbourhood, our review concluded that, for the purpose of the Study Area a restaurant or related use will not always be incompatible with the adjacent residential neighbourhoods. Rather, the question of compatibility often relates to the type of activities occurring at a particular establishment. The source of a majority of the residents' complaints, specifically noise, vandalism and drunken, disruptive behaviour, revolves around a number of establishments that operate more like a bar late at night when entertainment and alcohol service act as the primary activities rather than the service of food. Our study determined that, to prevent the type of establishments that cause disruption, in addition to reducing floor size permissions, it would be useful to limit the types of accessory uses permitted within these establishments.

The definition of *Restaurant* in Zoning By-law 438-86 provides for a number of *Accessory Uses* so long as they are limited to 6% (or 47m<sup>2</sup>, whichever is larger) of the establishment's gross floor area (for restaurants greater than 350m<sup>2</sup> in size). For a restaurant size of 350m<sup>2</sup> or smaller a maximum area of 21m<sup>2</sup> can be used for a dance floor, stage, disc jockey and any other entertainment area, amongst other uses. The as-of-right permission for these types of uses within a restaurant provides an opportunity for an establishment to cater to a crowd in which entertainment and alcohol service are the primary activities rather than food service. It is therefore recommended that dance floors and disc jockeys be prohibited from any future establishment within the Study Area and that any other accessory use, as identified in the definition of *Restaurant* in By-law 438-86, be limited to a maximum gross floor area of 11m<sup>2</sup> (6% of 175m<sup>2</sup>).

### *Patios*

Zoning By-law 438-86 prohibits any patio in the rear yard or on a rooftop of a building within a 'MCR' zone if the lot is located within 10 metres of a lot in a 'R' (residential) zone. The intent of the 10 metre separation distance provision is to minimize possible noise, overlook, privacy, cigarette smoke and lighting impacts of outdoor patios on nearby residential properties. The majority of the properties within the Study Area are located closer than 10 metres to the adjacent residential zone.

Of the eight patios located in the Study Area, two are at the rear, one is on a rooftop and five are on the flanking street boulevard. The City has received a number of noise complaints related to patios in the area, including people talking loudly, yelling, and loud music being played on the patio. Residents confirmed these as issues during the community meeting consultation sessions. Even where mitigative measures, such as fences or high walls have been installed at the rear of the lot or patio, noise can still travel further than 10 metres, and is reportedly most noticeable at night.

While the City's Noise By-law contains specific prohibitions relating to outdoor loud music, the By-law does not contain specific prohibitions to address noise generated by patrons using outdoor space, such as loud talking or yelling. Staff believe that rear yard and rooftop patios create significant land use conflicts with nearby low-density residential areas and that the 10 metre separation distance limitation is insufficient. Therefore, the recommended Zoning By-law amendment in Attachment 2 prohibits new rear yard and rooftop patios.

Staff are also recommending 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. Patios may also be permitted within the City Boulevard at the front or on the flanking street, 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.

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.

Given that the number of problems associated with rear yard and flanking patios when adjacent to a residential zone are not specific to any one part of the City, as an outcome of the recent Ossington Avenue Restaurant Study, City Council directed staff to undertake a review of rear yard and flanking patios on a City-wide basis to determine if the same amendments should be made to the draft City-wide Zoning By-law.

### *Windows and Doors on Rear and Flanking Walls*

There have been a number of complaints received and concerns raised about noise projecting from the inside of restaurants that can be heard throughout the low density residential neighbourhood. When windows and doors are opened during the summer months, music and patron noise is considerably increased. The draft Zoning By-law amendment in Attachment 2 recommends a maximum combined area for all operable doors and windows on rear and flanking walls of 4.0m<sup>2</sup>. This amendment is intended to prevent large windows and doors being located on a wall of a restaurant (or related use) facing a flanking residential street or a rear lot line so as to limit the level of sound transmission beyond the walls of any future establishment.

### *Number and Location of Establishments within a Building*

While the Zoning By-law currently restricts any restaurant or related use to 400m<sup>2</sup> when within 6.1m of a residential zone, it does not specify the number of restaurants within a building, or on which floor of a building they can operate. This means that more than one restaurant can operate out of one building and any establishment can be located on any storey within a building.

The draft Zoning By-law amendment in Attachment No. 2 includes a restriction that future restaurants or related uses be limited to the ground floor only, because even if there is no patio associated with the second floor, the noise that can escape through open windows or doors on a second floor can carry further than from restaurants on the ground floor, and is particularly disruptive at night. Additionally, residential dwellings are located on the second floor of many buildings in the 'MCR' zone in the Study Area. If restaurants or related uses are also allowed to be located on the second floor, they are more likely to be located directly adjacent to a residential dwelling and noise can often travel through the walls and disturb the adjacent residents.

Staff recommend that the 175m<sup>2</sup> size restriction be applied to single establishments or a combination of more than one establishment within the same building, because the ability to operate multiple restaurants within one building allows for two or more smaller establishments to create connections between the multiple operations and function as one larger establishment. Where adjoining restaurants are connected by internal passageways used by patrons or staff, the total non-residential gross floor area of all the connected uses must be calculated cumulatively for the purposes determining the floor area.

### *1155 and 1171 Queen Street West*

The properties located at 1155 and 1171 Queen Street West were part of the comprehensive planning exercise for the West Queen West Triangle lands and are subject to site specific Zoning By-laws that were approved through a settlement at the Ontario Municipal Board in 2007. During the settlement discussions staff negotiated additional restrictions on restaurants and related uses, above those already included in Zoning By-law 438-86.

Due to the comprehensive planning exercise associated with these properties and the recent Ontario Municipal Board approved settlement, staff are not recommending the zoning by-law amendments noted in this report apply to these properties.

## **Other Comments**

### *Draft City-wide Zoning By-law*

As indicated, staff will be undertaking a review of the draft City-wide By-law regulations relating to patios associated with restaurant and related establishments. Many of the other issues discussed in this report relating to restaurants and related uses located near low-density residential areas also occur in other parts of the City, and similar reviews of these issues have been conducted in the past on an area by area basis. Therefore, staff recommend that a comprehensive study of restaurants and related uses adjacent to residential zones be undertaken to determine if the amendments recommended in this report, or other amendments, should be made to the draft City-wide Zoning By-law.

### *Hotels*

There are currently two properties within the Study Area that contain hotels; 1146-1150 Queen Street West (The Drake Hotel) and 1204-1214 Queen Street West (the Gladstone Hotel). During the course of the study, Planning staff were asked to consider whether or not hotels should be exempt from the proposed amendments to the Zoning By-Law.

Hotels have been operating at 1146-1150 and 1204-1214 Queen Street West since the late 1800's. The properties both have long histories as liquor licensed premises and have existing legal non-conforming status. The Drake and the Gladstone were refurbished and re-opened in their current form in 2004 and 2005 respectively. The Drake has 19 hotel rooms, approximately 750m<sup>2</sup> dedicated to restaurant and entertainment uses and holds a liquor licences for 675 people. The Gladstone has 37 hotel rooms, approximately 600m<sup>2</sup> dedicated to restaurant and entertainment uses and holds a liquor licences for 326 people. These establishments are very popular destinations and in addition to local patrons, they attract crowds from outside the local area, especially on the weekends and when events are being held at the hotels or in the local area.

Zoning By-law 438-86 defines a *Hotel* as “a building or part of a building containing a hotel within the meaning of the hotel registration of Guests Act R.S.O 1970, Chapter 212, but does not include a *hostel*, a *rooming house*, or a *tourist or guest home* or mechanical or electronic game machine to be used for the purpose of gambling”. A hotel is a permitted use within a ‘MCR’ zone. Within the Study Area a total floor area up to 1.0 times the area of lot is allowed for a Hotel use.

Where a hotel is a primary use on a property, a restaurant or related uses, including Entertainment Facilities are considered Accessory Uses. The Zoning By-law definition of an *Accessory Use* is: “naturally and normally incidental, subordinate in purpose or floor

area, or both, and exclusively devoted to a principle use, building or structure...”. As such, there is no specific floor size limit on the restaurant, entertainment facility or other accessory uses, other than the total commercial density value for the site; however the restaurant, entertainment facility or other accessory uses are required to fall within with the definition of *Accessory Uses*.

Staff realize that the general nature of hotels is such that restaurant and related facilities are often provided to service the hotel guests and are usually open to patrons not staying overnight in the hotel. However, staff are of the opinion that in ‘MCR’ zones in close proximity to low-density residential neighbourhoods, restaurants, entertainment facilities and related establishments within hotels can have the same impact as a stand alone restaurant or related establishment, particularly when large floor areas can be dedicated to such uses and many patrons are drawn from outside the hotel. Therefore, within the Study Area staff consider it appropriate to apply the proposed floor size, patio and other restrictions to hotels and to prohibit *Entertainment Facilities* as accessory uses permitted in hotels. This is consistent with the approach being taken in the new City-wide draft Zoning By-law towards restaurants and related uses in hotels within the Study Area.

### *Residents’ Proposals to Ban, or Limit the Concentration of, Late Night Drinking Establishments*

As mentioned, the residents’ main concern is with venues that operate as late night drinking establishments, not necessarily with traditional restaurants. Some residents requested limiting the concentration of late night drinking establishments. Specifically, residents suggested a ban on any new establishments opening, a cap on the total number of late night drinking establishments permitted, or a separation distance between these uses. Residents felt these measures would also potentially have the benefit of freeing up space for other uses.

In response to requests from the Ward Councillor and area residents, staff examined a range of by-laws and other measures from municipalities in Ontario, other parts of Canada and the United States to understand how the issues resulting from restaurants being operated more like bars or nightclubs are addressed elsewhere. The review revealed that outside Ontario, the use definitions, by-laws, legislation and liquor licensing procedures vary significantly from the City of Toronto, meaning that comparison is difficult and problematic. The review also revealed that zoning by-laws are used to a limited extent and usually alternative approaches have been identified, for example the establishment of committees that make recommendations on all liquor license applications.

The review of other comparable municipalities in Ontario was more appropriate due to the shared planning framework and liquor licensing procedure. Of the municipalities reviewed, none had introduced limiting distances or caps on the total number of restaurants within an area. However, other municipalities do use floor size limitations and restrictions on patios as mechanisms to control restaurants and related uses.

Given there is no definition in Zoning By-law 438-86 for an establishment that serves alcohol late at night, and *Entertainment Facilities* are already prohibited in the study area, any ban, cap or limiting separation distance would have to be applied to *Restaurants* or related uses, as defined in the By-law. It is the opinion of staff that it would be inappropriate to apply a ban, cap or separation distance on *Restaurants* in the Study Area. The 'MCR' and 'CR' zones on main streets are where a mix of retail, business and residential uses are encouraged to locate. When operated as restaurants and not late night drinking establishments, restaurant uses belong in these areas and contribute to the attractiveness, success and vibrancy of local retail strips across the City.

Staff conclude that the main problem is with the way these establishments are being operated and the patron behaviour associated with those operations. Therefore it is preferable to maintain the use permissions, but place some thresholds on the use through the Zoning By-law to limit the impacts of the operations, while still allowing new restaurant uses in the area. These restrictions would then compliment enforcement, licensing and policing efforts.

### *Parking*

This report does not recommend the introduction of a new parking requirement for the area or any changes to the City's existing parking requirement. The Study Area is well served by public transit and has existing and planned public parking facilities located on and near to Queen Street West.

Like most of the rest of the City, the Zoning By-law currently does not require parking to be provided for restaurants in the Study Area. 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.

While the City may accept cash payments from owners or occupants of buildings in lieu of the provision of parking spaces if they were required, these payments are not earmarked for use in the area where they are collected and would not necessarily add to parking opportunities for the Study Area.

The problems in the Study Area cited during the community consultation 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 recommend 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 West, between Dovercourt Road and Gladstone Avenue has emerged and continues to grow as a popular draw for restaurants and related establishments. This has resulted in land use conflicts with the adjacent residential area. Staff are of the opinion

that the proposed recommendations should balance the concerns of both the residents and business/property owners. The cumulative effects of the amendments aim to limit the impacts of restaurants and related uses on the adjacent residential area, while still allowing for a balanced growth of new restaurants within the Study Area.

These Zoning By-law amendments alone will not solve the problems currently experienced by this neighbourhood; however, they should contribute to a solution moving forward. There still is and will be a reliance on a number of supporting City divisions and the AGCO to ensure that the relationship between Queen Street West and the adjacent residential neighbourhood improves and stabilizes.

## **CONTACT**

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## **SIGNATURE**

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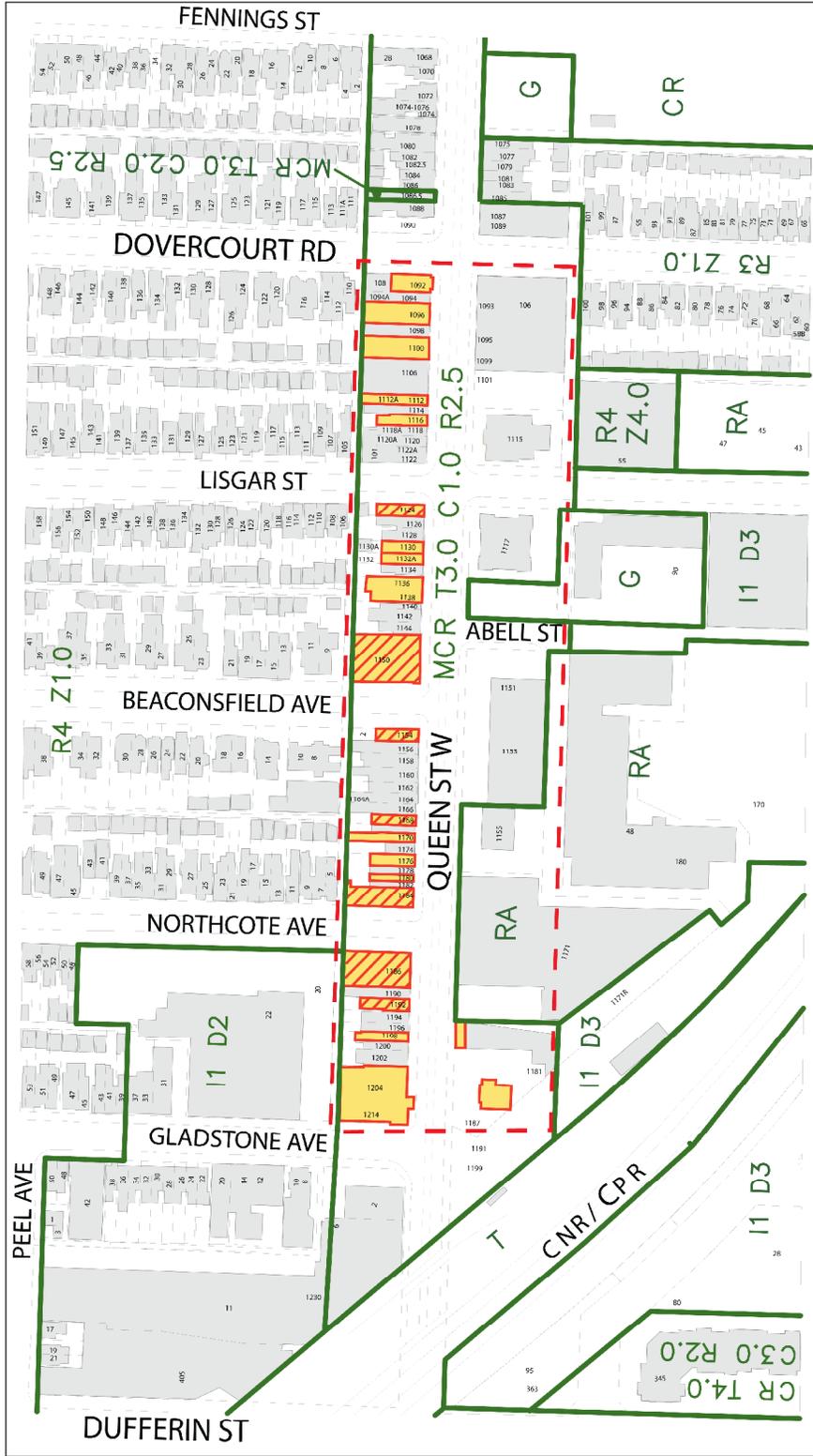
Raymond David, Director  
Community Planning, Toronto and East York District

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## **ATTACHMENTS**

Attachment 1: Study Area Map  
Attachment 2: Draft Zoning By-law Amendment to amend Zoning By-law 438-86

# Attachment 1: Study Area Map



## Toronto City Planning Restaurants & Related Uses and Zoning

Queen Street West  
between Dovercourt Road and Gladstone Avenue

<b>G</b> Parks District	<b>CR</b> Mixed-Use District	Study Area
<b>R3</b> Residential District	<b>MCR</b> Mixed-Use District	Restaurant without Patios
<b>R4</b> Residential District	<b>I1</b> Industrial District	Restaurants with Patios
<b>RA</b> Reinvestment Area District	<b>T</b> Industrial District	

Note to Scale  
12/08/09

## Attachment 2: Draft Zoning By-law Amendment

Authority: Toronto and East York Community Council Item ~ as adopted by City of  
Toronto Council on ~, 2010  
Enacted by Council: ~, 2010

### CITY OF TORONTO

Bill No. ~

### BY-LAW No. ~-2010

**To amend the General Zoning By-law No. 438-86 of the former City of Toronto for those lands along Queen Street West between Dovercourt Road and Gladstone Avenue.**

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The text of Section 12(2) of By-law No. 438-86, as amended, is further amended by adding the following restriction:

“345. No person shall, within the area shown within the heavy lines on the map at the end of this exception,

- (1) use land or erect or use a building, addition, or structure for the purpose of a *bake-shop, club, place of amusement, place of assembly, restaurant, take-out restaurant*, including where these uses are *accessory* to other permitted uses, or *patio* provided in connection therewith unless:
  - (a) the *front lot line* or *side lot line* of such *lot* is on Queen Street West;
  - (b) any such use or *accessory use* is wholly contained within the walls of the building or structure housing the principal use, except for a *patio*, subject to Section (1)(d) and (e) of this By-law;
  - (c) the aggregate area of all operable windows and doors located in any ground floor wall facing the *rear lot line* or street other than Queen Street West shall not be greater than 4.0 square metres;

- (d) any such use or *accessory use* located at or above *grade* is limited to the ground floor only;
- (e) the *patio*, if any, is located,
  - (i) between the *front wall* of the building or structure housing the principal use and the *front lot line* of the *lot*, provided the *front lot line* of such *lot* is on Queen Street West, or
  - (ii) between the wall facing the *side lot line* of the building or structure housing the principal use and the *side lot line* of the *lot*, to a maximum of 50 per cent of the depth of the building or structure housing the principal use, measured from the *front wall*; and
- (2) erect or use any building or structure for the purpose of a *restaurant, take-out restaurant, bake-shop, place of amusement, place of assembly or club*, including where these uses are *accessory* to other permitted uses, unless the total *non-residential gross floor area* used for any one or combination of said uses and or *accessory uses* in a building or structure does not exceed 175 square metres.
- (3) erect or use any building or structure for the purpose of an *Entertainment Facility*, including where such use is an *accessory use* to another permitted use.

For the purposes of this exception, any italicized term contained within this exception shall have the same meaning as defined in By-law No. 438-86, except that:

- (a) the term *restaurant* as defined in Section 2(1) of the By-law, including a *restaurant* that is *accessory* to another permitted use, shall be deemed not to include subsection (v), with subsection (iv) to be read as:
  - (iv) floor area up to 11 square metres of *non-residential gross floor area* to be used for one or more of the purposes of :
    - a stage;

teletheatre gambling;

a sound room;

not more than two pinball or other mechanical electronic game machines, none of which machines to be used for the purpose of gambling;

an area dedicated to recreational activities, but not a dance floor or disc jockey;

any other entertainment area, but not a dance floor or disc jockey; and

no exterior area may be used for those purposes”;

- (b) the term *place of amusement* as defined in Section 2(1) of the By-law, including a *place of amusement* that is *accessory* to another permitted use, shall be deemed not to include subsection (iii), with subsection (ii) to be read as:

- (ii) floor area up to 11 square metres of the *non-residential gross floor area* to be used for one or more of the purposes of:

a stage;

teletheatre gambling;

a sound room;

not more than two pinball or other mechanical electronic game machines, none of which machines to be used for the purpose of gambling;

but not a dance floor or disc jockey; and

no exterior area may be used for those purposes”.

- (c) the *non-residential gross floor area* of a *restaurant, take-out restaurant, bakeshop, place of amusement, place of assembly* or *club* shall mean the aggregate of the areas of each floor and the spaces occupied by walls and stairs, measured above and below *grade*, measured between the exterior faces of the exterior walls of the building or

structure at the level of each floor, exclusive of only *kitchen space* and a room or enclosed area that is used exclusively for storage, washrooms, heating, cooling, ventilating, electrical, mechanical (other than escalators) or telecommunications equipment that services the building. Where adjoining restaurants are connected by internal passageways used by patrons or staff, the total *non-residential gross floor area* of all the connected uses must be calculated cumulatively for the purposes of this subsection.

- (d) The term *kitchen space* shall mean a separate space used exclusively for the preparation and cooking of meals.”

ENACTED AND PASSED this ~ day of ~, A.D. 2010.

DAVID R. MILLER,  
Mayor

ULLI S. WATKISS,  
City Clerk

(Corporate Seal)

