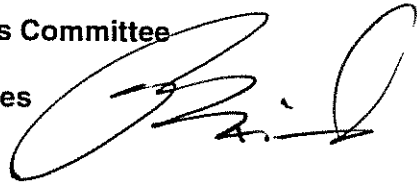




TO: Chairman and Members of Development Services Committee
FROM: Jim Baird, Commissioner of Development Services
PREPARED BY: Sally Campbell, Senior Planner – Urban Design
DATE: March 11, 2014
RE: Boulevard Patio Policy – Update Memorandum



RECOMMENDATION:

- 1) That the Memorandum dated March 11, 2014, entitled "Boulevard Patio Policy – Update Memorandum", be received;
- 2) That Committee and Council adopt the recommendation in the staff report dated March 18, 2014, subject to the updated and revised provisions in Appendices 'A' and 'B' as attached to the March 11, 2014 Memorandum.

Background

At the meeting of Development Services Committee held March 4, 2014 a recommendation report seeking approval of an amendment to the Road Occupancy By-law 2013-136 to permit boulevard patios within highways under the jurisdiction of the City of Markham was deferred to the meeting of March 18, 2014. The deferral period has enabled staff to consult with a local business that has been assisting staff in the formulation of the Boulevard Patio Policy. The Assistant City Solicitor has also provided further review and comments to the Boulevard Patio Policy and the implementing By-law amendment to ensure consistency and enforceability.

Revisions to the Boulevard Patio Policy

1. The terminology has been adjusted to be consistent across all documents. Patios will be referred to as Boulevard Patio for the purpose of the Policy, the By-law amendment and the forthcoming Design Guidelines;
2. General grammatical corrections have been made to ensure that the policy is written in plain English and is user-friendly and that the By-law amendment achieves its intended purpose and is enforceable;
3. Clarification has been provided regarding the application of the policy and the By-law amendment to highways under the jurisdiction of the City of Markham only.

The City does not have jurisdiction over Regional roads and therefore boulevard patios are not currently permitted on Regional roads.

Staff will discuss with the Region opportunities to permit boulevard patios on certain highways within its jurisdiction. This would require amendment to the applicable Region of York by-law to allow such patios to be regulated in accordance with the City of Markham Boulevard Patio Policy and Road Occupancy By-law.

4. Section D of the policy pertaining to Seizure and Disposal of a non-complying patio has largely been omitted, as the ability to enforce the City's regulations is provided through the Road Occupancy By-law, as amended. For the avoidance of doubt there is no need to duplicate the terms under which a patio might be removed and any ensuing action.
5. The permit application requirements have been revised to include the submission of details relating to the style of the fence proposed, the patio furniture and other physical components required as part of the boulevard patio. This will ensure that staff have all the necessary information to undertake a thorough review.
6. Careful consideration has been given to the method by which the required patio fence might be made secure and installed in a manner that does not require bolts to penetrate the surface of the sidewalk or the boulevard. In the event that an alternative method of securing the patio fence is neither safe nor feasible then the policy allows some flexibility subject to review and approval by the Director of Operations. The wording of the policy now reflects this.

Potential Expansion of Boulevard Patios

A question raised at Committee on March 4th, 2014 relates to the ability of a business wishing to have a boulevard patio to expand the extent of the patio across the front of the neighbouring business property with the permission of owner. This has the potential to create a number of issues that staff have concerns with, as set out as follows:

- a. Ability of the business to effectively staff and manage a larger area to which direct views from the main building or service area might not be possible;
- b. Relatively limited scope to provide expanded patio areas due to potential conflicts with street trees, light poles, street furniture, fire hydrants and other utilities;
- c. Potential conflict between business owners in the event of a disagreement;
- d. Desire to ensure that municipal sidewalks and boulevards are primarily for the safety and comfort of the general public to access local services.

For these reasons staff do not support the expansion of boulevard patios across the frontage of neighbouring premises.

Recommendation Report dated March 18, 2014

The recommendations set out in the report dated March 18, 2014 that was deferred from the March 4, 2014 Development Services Committee remain unchanged and staff seek Council approval of the amendment to the Road Occupancy By-law 2013-136, which is attached to this memorandum as Appendix 'A'. It is also requested that authority to finalize and approve the Boulevard Patio Policy and Patio Design Guidelines be delegated to the Director of Operations and the Director of Planning and Urban Design respectively.

Attachments

Appendix A – By-law Amendment (Boulevard Patios)

Appendix B – Boulevard Patio Policy