

Consolidated Clause from Report No. 11 of the Toronto East York Community Council, as adopted by the Council of the City of Toronto at its regular meeting held on November 26, 27 and 28, 2002, and its Special Meeting held on November 28 and 29, 2002.

**23a**

**Appeal of Denial of Application for  
Boulevard Cafe - 119 Harbord Street  
Major Street Flankage  
(Trinity-Spadina, Ward 20)**

*(City Council, at its regular meeting held on November 26, 27 and 28, 2002, and its Special Meeting held on November 28 and 29, 2002, amended this Clause by striking out the recommendation of the Toronto East York Community Council and inserting in lieu thereof the following:*

*“It is recommended that the application for a boulevard café licence at 119 Harbord Street, Olive and Lemon Restaurant, be approved for one year, subject to the following conditions:*

- (1) that the patio be closed and cleared by 10:00 p.m., Monday to Thursday, and by 11:00 p.m., Friday to Sunday;*
- (2) that there be no amplified music; and*
- (3) that the Commissioner of Urban Development Services report back to the Toronto East York Community Council on the operation of the patio in one year’s time, should there be complaints from the residents.”)*

(City Council on October 29, 30 and 31, 2002, deferred this Clause to the next regular meeting of City Council scheduled to be held on November 26, 2002.)

**The Toronto East York Community Council recommends that City Council deny the appeal for the approval of a boulevard café licence at 119 Harbord Street, Olive and Lemon Restaurant.**

**The Toronto East York Community Council submits the following report (September 20,2002) from the Manager, Municipal Licensing and Standards:**

Purpose:

To report on the results of the public poll conducted in connection with the business operator's request for a licence on the Major Street Flank.

Financial Implications and Impact Statement:

There is no financial implication connected to this report.

Recommendations:

That Toronto East York Community Council recommend that:

City Council deny the appeal for the approval of a boulevard café license at 119 Harbord Street, Olive and Lemon Restaurant.

Background:

Mr. Giancarlo Carnevale, Owner of Olive and Lemon Restaurant (Attachment No. 1) has requested an appeal of staff's decision to refuse an application for a boulevard café at 119 Harbord Street, Major Street Flankage.

The proposed café area is approximately 52.5 square metres as shown on the attached sketch (Attachment No. 2). It can accommodate 11 tables with a potential seating capacity of 47 people. This application meets the physical criteria for boulevard cafe set out in § 313-36 of Municipal Code Chapter 313, Streets and Sidewalks, of the former City of Toronto Municipal Code.

Major Street Flank of 119 Harbord Street – Café on Residential Flank

As the proposed café flanks a residential district, the Municipal Code requires a public poll of owners and tenants within 120 m from the proposed café. If the majority of ballots cast are in favour of the application, the application is approved. If the majority is opposed, the Commissioner must deny the application. If 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.

A poll dated February 6, 2002 to March 7, 2002 was conducted on Major Street, in English, French, Chinese, Portuguese and Italian between premises No. 133 to 177 and on west side of Major Street from 98 to 162, including 119 and 121 Harbord Street to determine neighbourhood support. The results of the poll were as follows:

Polling Summary

Ballots cast		90
Opposed	53	
in favour	37	
No response		136
Returned by post office		1
Total ballots issued		227

Mr. Giancarlo Carnevale was advised in writing on March 20, 2002 that given the poll results were not favourable, a boulevard café licence could not be issued.

#### Conclusion

Staff can not issue Mr. Giancarlo Carnevale a licence for a boulevard café at 119 Harbord Street, Major Street Flankage, as the café application does not meet the criteria of the Municipal Code Chapter 313, Streets and Sidewalks of the former City of Toronto Municipal Code, as the poll was not favourable.

On hearing the depositions, East York Community Council must decide whether or not to recommend that City Council grant the appeal for the proposed café location.

#### Contact:

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(Attachments referred to in the foregoing report were forwarded to all Members of the Toronto East York Community Council with the agenda for its meeting on October 15, 2002, and copies are on file in the office of the City Clerk.)

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The Toronto East York Community Council reports, for the information of Council, having also had before it during consideration of the foregoing matter, the following communications, and a copy is on file in the office of the City Clerk.

- (October 8, 2002) from Andrew and Pascale Sliwa;
- (October 8, 2002) from Janice Dembo;
- (October 8, 2002) from John M. Bingham;
- (October 8, 2002) from Alexandra Brum;
- (October 8, 2002) from Susan J. Potts;
- (October 7, 2002) from Sheila Gilbert and Muriel W. Patterson;
- (October 9, 2002) from Peter Murphy;
- (October 11, 2002) from Ronald M. Kanter, McDonald & Hayden LLP, forwarding 138 letters of support for the Olive & Lemon boulevard café;
- (October 11, 2002) from Ronald M. Kanter, McDonald & Hayden LLP, on behalf of the applicant;
- (October 11, 2002) from Helen and Sheldon Silverman;
- (October 10, 2002) from Keith Winn and Jennifer Ramage-Winn;
- (October 11, 2002) from M. Sarah Stollmeyer;
- (October 9, 2002) from Wenona Giles and Peter Murphy;

- (October 9, 2002) from Danielle and Christopher Rodrigues;
- (October 10, 2002) from Betty and Bill Pratt;
- (October 9, 2002) from Rose and Jack Rodrigues;
- (October 5, 2002) from Levi Waldron;
- (October 11, 2002) from Tom Lees and Sharon Vogel;
- (undated) from Diana Hunt;
- (October 9, 2002) from Mary and Walter Hardy;
- (October 10, 2002) from John and Marilyn Harrison;
- (October 10, 2002) from George Quan;
- (October 10, 2002) from Susan Purvis and Bryn Jones;
- (October 10, 2002) from John Chu and Wai Louie; and
- (October 11, 2002) from Ronald M. Kanter, McDonald & Hayden LLP, on behalf of the applicant.

The following persons appeared before the Toronto East York Community Council in connection with the foregoing matter:

- Ron Kanter, McDonald & Hayden, Solicitors, on behalf of the applicant;
- Neil Wright, Harbord Street BIA;
- Michael Kerman;
- Janice Dembo;
- George Quan;
- Dennis Hefferon, Solicitor, on behalf of Susan Potts and Dr. Jack Bingham; and
- Helen du Toit.

(City Council on October 29, 30 and 31, 2002, had before it, during consideration of the foregoing Clause, the following communication (October 29, 2002) from Councillor Olivia Chow:

Re: Olive and Lemon Boulevard Café

Some of you have been approached regarding the denial of an application for a Boulevard Café License for the Olive and Lemon at Harbord Street and Major Street in my ward.

Community Council denied this application for the following reasons:

- 1) Forty-seven additional patrons generated by this boulevard café on Major Street would disrupt the quality of life for residents immediately across from the patio on what is already a narrow residential street.
- 2) Poll results conducted in March of this year turned down the application by a solid margin, 53 against and 37 in favour.
- 3) A poll conducted in 1997, also turned down the application.

- 4) When the residents agreed to allow a restaurant to open a few years ago, there was a clear understanding that there would be NO boulevard café.
- 5) The neighbourhood is already inundated with parking problems. An additional 47 patrons would compound this problem.

I sincerely hope you will support Community Council's decision and turn down the application for a boulevard café at the Olive and Lemon.)

(City Council also had before it, during consideration of the foregoing Clause, the following communications:

- (a) (October 9, 2002) from Susan J. Potts, forwarding comments and photographs with respect to an application for a boulevard café at 119 Harbord Street; and
- (b) (October 10, 2002) from Keith Winn and Jennifer Ramage-Winn, forwarding comments with respect to an application for a boulevard café at 119 Harbord Street.)

*(City Council, at its regular meeting held on November 26, 27 and 28, 2002, and its Special Meeting held on November 28 and 29, 2002, had before it, during consideration of the foregoing Clause, the following communication from Councillor Olivia Chow, Downtown:*

*Re: Olive and Lemon Boulevard Café Patio*

*Some of you have been approached regarding the denial of an application for a boulevard café license for the Olive and Lemon at Harbord Street and Major Street in my ward. Please note that the patio applied for will not be located on Harbord, but on Major Street immediately adjacent to and facing residential homes.*

*Community Council denied this application for the following reasons:*

1. *Forty additional patrons generated by this boulevard patio on Major Street would disrupt the quality of life for residents immediately across from the patio on what is already a narrow, residential street.*
2. *Results of the City's poll, conducted in March of this year turned down the application by a solid margin, 53 against and 37 in favour.*
3. *A poll conducted in 1997, also turned down the application.*
4. *When the residents agreed to allow a restaurant to open a few years ago, there was a clear understanding that there would be NO boulevard café. That agreement was a condition of the Liquor License issued at the time.*

5. *The neighbourhood is already inundated with parking problems. An additional 40 patrons would compound this problem.*

*I sincerely hope you will support Community Council's decision and turn down the application for a boulevard café at the Olive and Lemon.*

*Attachments*

*Excerpt from Liquor License  
Map of Area)*

*(A copy of the Attachments, appended to the foregoing communication, is on file in the office of the City Clerk.)*

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*(City Council also had before it, during consideration of the foregoing Clause, the following communications respecting the application for a boulevard café at 119 Harbord Street:*

- (a) (October 9, 2002) from Susan J. Potts;*
- (b) (October 10, 2002) from Keith Winn and Jennifer Ramage-Winn;*
- (c) (November 15, 2002) from Carlos Fernandes;*
- (d) (November 19, 2002) from Ronald M. Kanter, McDonald & Hayden LLP, Barristers and Solicitors, on behalf of the Olive and Lemon Restaurant;*
- (e) (September 17, 2002) from Julia Moulden and David Dunne;*
- (f) (November 18, 2002) from Paul Wood;*
- (g) (November 19, 2002) from Neil N. Wright, President, Harbord Street B.I.A.;*
- (h) (November 25, 2002) from Dorothy Wahl;*
- (i) (November 27, 2002) from Giancarlo Carnevale, Olive and Lemon; and*
- (j) (various) letters of support from 131 residents, submitted by Councillor Frances Nunziata, York South-Weston.)*