



STAFF REPORT ACTION REQUIRED

Refusal of a sidewalk boulevard café permit application located at 119 Harbord Street, on the Major Street flankage

Date:	March 21, 2012
To:	Toronto and East York Community Council
From:	Marcia Stoltz, Acting Manager, Municipal Licensing & Standards, Licensing Services
Wards:	Ward 20 Trinity Spadina

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 based on the application for a sidewalk boulevard café permit application located at 119 Harbord Street, Major Street flankage.

RECOMMENDATIONS

Municipal Licensing and Standards recommends that the Toronto and East York Community Council:

1. Deny the application for the proposed sidewalk boulevard café permit at 119 Harbord Street, Major Street flankage.

Financial Impact

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

ISSUE BACKGROUND

An application for a sidewalk boulevard café permit with wooden deck located at 119 Harbord Street, on the Major Street was received on August 8, 2011 from the business owner representing 2FKT Inc, operating as Loire Casual Gourmet.

The application submitted was seeking permission to establish a boulevard café with a wooden deck located on Major St flankage of 119 Harbord Street for 59.15 square meters which would accommodate approximately 49 patrons. (**Appendix No. 1**)

A Site Inspection conducted on August 16, 2011 determined that a wooden deck within the unlicensed café area had been constructed without permission or approval. The applicant was advised on January 23, 2012 that the wooden deck does not meet the criteria contained in Chapter 313-36 C1, of the former City of Toronto Municipal Code Chapter 313-36.

To ensure that the physical connection between the café and the adjacent pedestrian traffic is maintained, the former City of Toronto, Municipal Code Chapter 313-36 provides specific criteria for the construction of decks within the public street allowance as follows:

- (a) Boulevard café decks only be permitted on sidewalks or boulevards that exceed a slope of 5% and over;
- (b) The deck should be no higher than what is required to accommodate a level area and the deck framing members (which should be the minimum depth required);
- (c) Where the distance between grade and the top of the deck is greater than the total thickness of the deck and framing member, a skirt or screen should be provided;
- (d) When wood is used for the decking, skirt, uprights or railing, it should be treated, painted or stained;
- (e) When wood is used for uprights, post widths should not exceed 0.10 m x 0.10 m (4 x 4 inches), top and bottom railings should not exceed 0.06 m x 0.09 m (2.5 x 3.5 inches), and pickets or balusters should not exceed 0.04 m x 0.04 m (1.5 x 1.5 inches); the spacing between the pickets or balusters should not exceed 0.10 m (4 inches);
- (f) A minimum width of 1.03 m (3.3 ft.) break in the railing must be provided at the high side of the slope to provide wheelchair access;
- (g) Boulevard café decks are not to be constructed over existing underground services (i.e. hydro vaults, chambers, maintenance holes, etc.) unless written approval is given by the public utility;

- (h) Should future installation of services within the boulevard area be required, the boulevard café owner, upon receipt of a 30-day notice, be required to remove the boulevard cafe deck;
- (i) The boulevard café deck be removed at the end of the café season; and
- (j) The boulevard café owner be required to enter into an agreement with the City of Toronto.

Boulevard café decks can only be permitted on sidewalks or boulevards that exceed a slope of 5% and over. The slope of the sidewalk on the Major Street flankage of 119 Harbord Street is 4% which is less than the required 5% slope.

In addition, boulevard cafes, which are located on City of Toronto street allowance, must be available and accessible to all persons. A licensed boulevard café with deck within the City street allowance must be sufficient to accommodate a wheelchair ramp constructed in accordance with physical disabilities criteria. A minimum width of 1.03 m (3.3 ft.) break in the railing must be provided at the high side of the slope to provide wheelchair access. The proposed wooden deck does not provide access from the street allowance.

COMMENT

The criteria set out in Chapter 313 of the former City of Toronto Municipal Code allows business owners an opportunity to modify the abutting landscape by installing a removable deck within licensed café areas in cases where the existing grade of sidewalk is substantial to operate a boulevard café safely.

The request for the wooden deck at 119 Harbord Street, Major Street flankage does not meet the Deck Criteria of Municipal Code 313-36, Street and Sidewalks of the former City of Toronto Municipal Code and is not wheelchair accessible or removable as required under the by-law provisions.

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SIGNATURE

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APPENDICES

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