Application to maintain a wooden deck within the licensed café area located at 405 - 407 Danforth Avenue

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<th>Date:</th>
<th>June 27, 2012</th>
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<td>To:</td>
<td>Toronto and East York Community Council</td>
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<tr>
<td>From:</td>
<td>Marcia Stoltz, Acting Manager, Municipal Licensing &amp; Standards, Licensing Services</td>
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<td>Wards:</td>
<td>Ward 30 Toronto Danforth</td>
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**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 application to maintain a wooden deck within the licensed sidewalk boulevard café area located at 405-407 Danforth Avenue.

**RECOMMENDATIONS**

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

1. Approve the application to maintain the wooden deck within the licensed sidewalk boulevard café area located at 405-407 Danforth Avenue until such time as the sidewalk reconstruction on Danforth Avenue is completed.

   OR

2. Deny the application for the wooden deck installed within the licensed café area located at 405 – 407 Danforth Avenue.

**Financial Impact**

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

An application to maintain an installed wooden deck within the licensed sidewalk boulevard café permit R57-2484000 located at 405 – 407 Danforth Avenue, was received on June 13th, 2012 from the business owner representing 1236692 Ontario Inc, operating as Pantheon Restaurant.

The application submitted was seeking permission to maintain a wooden deck installed approximately thirteen (13) years ago within the licensed sidewalk boulevard café area. (Appendix No. 1)

According to the records of Municipal Licensing and Standards Division, a sidewalk boulevard café permit number R57-2484000 without a deck endorsement was issued to the business owner representing 1236692 Ontario Inc, operating as Pantheon Restaurant on May 31, 2000. The sidewalk boulevard café permit was issued for 14.80 square meters which accommodates approximately 10 (ten) people and is in good standing with Municipal Licensing and Standards Division.

A site Inspection conducted on June 18, 2012 determined that the wooden deck installed within the licensed sidewalk boulevard café area had been constructed without permission or approval. The applicant was advised on June 26, 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 café 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 where the deck is installed is 2.79% which is less than the required 5% or greater slope.

The break in the railing for wheelchair access is provided at the low side of the slope and not the high side as required.

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 wooden deck installed within the public right of way provided the break in the railing at the low end of slope for wheelchair access.

**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 application to maintain the wooden deck at 405 – 407 Danforth Avenue does not meet the Deck Criteria of Municipal Code 313-36, Street and Sidewalks of the former City of Toronto Municipal Code.
Pat Thornback  
Acting Supervisor, Licensing Services  
Municipal Licensing & Standards  
Telephone: (416) 392-3128 Fax: (416) 338-7225  
E-mail: pthornba@toronto.ca  

SIGNATURE  

___________________________________________  
Marcia Stoltz,  
Acting Manager  
Municipal Licensing and Standards  
Licensing Services  

APPENDICES  

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