Refusal of a boulevard café permit with deck application located at 641 Bloor Street West, Euclid Avenue Flankage

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<td>To:</td>
<td>Toronto and East York Community Council</td>
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<td>From:</td>
<td>Bruce Robertson, Director, Licensing Services, Municipal Licensing &amp; Standards</td>
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<td>Wards:</td>
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**SUMMARY**

This staff report is about a matter for which the Toronto 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 in the matter of an application for a boulevard café permit with deck application located at 641 Bloor Street West.

**RECOMMENDATION**

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

1. Deny the application for the proposed boulevard café permit with deck located at 641 Bloor Street West.

**Financial Impact**

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

An application for a boulevard café permit with deck located at 641 Bloor Street West, Euclid Avenue flankage was received on August 13, 2012 from 2324211 Ontario Ltd, operating as The White Brick Kitchen.

The application submitted is seeking permission to establish a boulevard café with deck on the Euclid Avenue flankage of 641 Bloor Street West for 50.7 square meters which would accommodate approximately 45 patrons. (Appendix No. 1)

A site inspection conducted on August 28, 2012 determined that the wooden deck installed within the boulevard café area had been constructed without permission or approval. The applicant was advised on August 28, 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 1% which
is less than the required 5% or greater slope.

As the proposed boulevard café flanks a residential district, the former City of Toronto
Municipal Code Chapter 313, Section 313-36F (2F) states that no part of the boulevard
café shall be less than 25 meters from a residential zone.

Site inspection conducted on August 28, 2012 revealed that the boulevard café area is
located within 1.5 meters from the residential district. The required clearance from a
residential district for cafes located on a residential flank is 25 meters.

The former City of Toronto Municipal Code Chapter 313-36B (4) also requires a public
poll of owners and tenants within 120 metres of the proposed café on a residential flank.

A poll dated October 9, 2012 with the last date for filing a response being November 7,
2012 was conducted by the City Clerk's Office, Elections and Registry Services for the
Euclid Avenue flankage, in English, Italian and Portuguese between the premises 648 –
682 Euclid Avenue, 657 – 693 Euclid Avenue and also 637 Bloor Street West to
determine neighbourhood support.

The results of the poll received from Election and Registry Services indicate that the poll
did not meet the minimum response rate and therefore is considered negative. A poll can
only proceed when at least 25% of the ballots mailed have been returned.

On September 12, 2012 a refusal letter was sent to the business owner representing
2324211 Ontario Inc advising that the boulevard café application was denied due to the
requirement to be 25 meters from a residential zone and the non-approval of the
installed deck.

On September 13, 2012 a letter was received by Municipal Licensing & Standards from
the business owner representing 2324211 Ontario Ltd, to appeal the decision of the denial
for a boulevard café permit.
COMMENTS

As the proposed café flanks a residential district, the former City of Toronto Municipal Code Chapter 313-36 F, requires that no part of the boulevard café is less than 25 meters from a residential zone.

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.

CONTACT

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SIGNATURE

________________________________________
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Municipal Licensing & Standards

APPENDICES

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