

# TORONTO STAFF REPORT

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July 26, 2006

To: Chair and Members,  
North York Community Council

From: Bryan Byng, Manager  
Municipal Licensing and Standards  
North York District

Subject: Boulevard Leasing Agreement - 2178 Eglinton Avenue West, York  
  
(Ward 15 - Eglinton Lawrence)

Purpose:

To consider a request by the owner of Bar Spazio 3000, to lease approximately 10.0 square metres of the municipal boulevard at 2178 Eglinton Avenue West, for the purpose of a boulevard Patio Café.

Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that the Boulevard Lease Agreement application be approved, subject to the following conditions:

- (a) That the area be no greater than 4.1 metres in width by 2.4 metres in length with a 1.0 metre clearance to the neighbouring planter box at the westerly limit of the property;
- (b) That the applicant enter into a Boulevard Lease Agreement with the City for a Patio Café license to the satisfaction of the Executive Director Municipal Licensing & Standards;
- (c) That the Boulevard lease Patio Café license be renewable on an annual basis with the appropriate insurance in place and any required fee being paid;

- (d) That a Street Allowance construction permit, as necessary, be acquired for any resurfacing of the area of occupancy, or attachment to or alteration thereof;
- (e) That no claims will be made against the City by the owner(s) for damages occurring to the patio, equipment, enclosure or its elements during snow removal;
- (f) That the occupancy permitted by the license is to be removed by the owner, at the expense of the licensee, within 30 days of receiving written notice from the Executive Director of Municipal Licensing & Standards;
- (g) The licensee agrees that the City, or any gas, telephone, telegraph, electric light or other public utility company, shall have the right at all times to enter upon the permitted encroachment for the purpose of constructing, repairing, maintaining, replacing or removing any sewer, mains, culverts, drains, water pipes, pole wires or other underground services and installations. The licensee shall not be entitled to any damages or compensation by reason of the exercise of the City and utility company's rights; and the licensee, at his own expense, shall carry out such alterations or removal of the encroachment as may be directed by the City;
- (h) In default of the removal not occurring as directed, the City may carry out the removal, at the expense of the licensee, and may recover the costs incurred by legal action or in a like manner as municipal taxes;
- (i) The licensee under the agreement must provide the City of Toronto with a certificate of insurance evidencing a third party bodily injury and property damage insurance in an amount not less than \$2,000,000 or such other coverage and greater amount as the City may require, and naming the City of Toronto as additional insured party under the policy;
- (j) The licensee will, at his expense and to the satisfaction of the Executive Director of Municipal Licensing & Standards, keep and maintain the boulevard café enclosure and all or any of its components in a good and proper state of repair and safety, and will not make any additions or modifications beyond what is allowed pursuant to the terms of the License permit;
- (k) The licensee pay an annual fee to the City of Toronto in accordance with former City of York Municipal Code Chapter 1004.12, namely \$25.00 plus \$5.50 per square metre, including G.S.T. All fees are subject to change;
- (l) The licensee will secure an endorsement on their business license for a patio from Municipal Licensing & Standards.
- (m) The patio is for temporary seasonal use only for the period between May 1<sup>st</sup> and September 30<sup>th</sup>;
- (n) Remove the fence and all furniture from the public right-of-way at the end of each season, and thereafter immediately restore the boulevard at no cost to the City of Toronto;

- (o) No music shall be played on the exterior and the patio shall be closed no later than 11:00 p.m. in strict accordance with Chapter 591 of the Toronto Municipal Code, Noise.

Background:

A request has been received from the owner of Bar Spazio 3000, for a boulevard Patio Café encroaching on City property. The approximate size of the patio is 2.4 metres x 4.1 metres for a total of 10 square metres, located at 2178 Eglinton Avenue West, and which will be enclosed by a 1.2 metres high aluminium alloy railing.

The owner has provided a sketch and base map (*See Attachments 1 and 2*).

Comments:

Transportation Services have reviewed the submitted proposal and have no objections subject to the patio fence enclosure having a 1.0 metre clearance to the neighbouring planter box on the City Boulevard and located no less than .46 metres to the rear of the public sidewalk.

A Notice of Application was sent to all landowners within a radius of 60 metres of the subject property. To date one negative response has been received.

Conclusions:

The proposed temporary boulevard café enclosure subject to adherence of the fulfilment of the conditions outlined for approval would be in accordance with the former City of York provisions for a boulevard leasing license, for an outdoor patio café.

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North York District

List of Attachments:

1. Sketch
2. Base Map