

**Boulevard Café Application  
1853 Avenue Road**

<b>Date:</b>	September 16, 2008
<b>To:</b>	North York Community Council
<b>From:</b>	District Manager, Municipal Licensing and Standards, North York District
<b>Wards:</b>	Ward 16 – Eglinton-Lawrence
<b>Reference Number:</b>	IBMS No. 08 187849

**SUMMARY**

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This Staff Report is about a matter that the Community Council has delegated authority to make a final decision, provided that it is not amended so that it varies with City policy or by-laws.

The purpose of this Report is to consider a request by the applicant of 1853 Avenue Road, being a General Commercial Zone (C1), for a Boulevard Café. The proposed Boulevard Café consists of a total area of 12.88 square metres located on the City road allowance.

**RECOMMENDATIONS**

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**Municipal Licensing and Standards recommend that the Boulevard Café application be approved, subject to the following conditions:**

1. That the applicant install the patio fence enclosure no less than 0.46 metres to the rear of the public sidewalk, to the satisfaction of Transportation Services, North York District;
2. That the area be no greater than 2.80 metres by 4.60 metres, for a total area of 12.88 square metres;
3. That the boulevard café license be renewable on an annual basis with the appropriate insurance in place and the required fee being paid;

4. That a street allowance construction permit, as necessary, be acquired for any resurfacing of the area of occupancy, or attachment to or alteration thereof;
5. 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;
6. 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 and Standards;
7. 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;
8. 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;
9. The indemnification of the City by the owner(s) of the encroachments for all liability relating in any way to the encroachment and providing of an insurance policy for such liability for the lifetime of the Agreement in a form as approved by the City Solicitor in an amount not less than \$2,000,000 or such greater amount as the City Solicitor may require;
10. The licensee will, at his expense and to the satisfaction of the Executive Director of Municipal Licensing and 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;
11. The licensee pay the appropriate annual leasing rate, established by the City of Toronto, Corporate Services, Facilities and Real Estate Division;
12. The licensee will secure an endorsement on their business license for a patio from Municipal Licensing & Standards;
13. The patio is for temporary seasonal use only during the period between May 1<sup>st</sup> and October 31<sup>st</sup>.

## **FINANCIAL IMPACT**

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There is no financial impact anticipated resulting from the adoption of this report.

## **DECISION HISTORY**

A new application was received from the occupant in July 2008 and was circulated to Transportation Services.

## **ISSUE BACKGROUND**

The encroachments on the City road allowance would be as follows:

- (a) A boulevard patio café enclosed with a 0.91 metre high wrought iron fence approximately 2.80 metres x 4.60 metres, for a total of 12.88 square metres.

## **COMMENTS**

Transportation Services, North York District staff, as part of the review, have indicated that the patio fence enclosure be located no less than 0.46 metres to the rear of the public sidewalk.

## **CONTACT**

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## **SIGNATURE**

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

## **ATTACHMENTS**

1. Floor Plan & Elevation
2. Photos