

**Outdoor Café Encroachment Request
1060-1064 The Queensway**

Date:	April 27, 2009
To:	Etobicoke York Community Council
From:	Curtis Sealock, District Manager, Municipal Licensing and Standards
Wards:	Ward 5, Etobicoke Lakeshore
Reference Number:	ML& S Folder No. 09-116752

SUMMARY

This staff report is in response to an application by the Architect of Spin Imporium Inc., operating as Spin Dessert Café to lease 46.35 square metres of the municipal boulevard for the purpose of an Outdoor Boulevard Café at the front of 1060-1064 The Queensway, for which the Etobicoke York Community Council has delegated authority from City Council to make a final decision.

RECOMMENDATIONS

Municipal Licensing and Standards recommends that Etobicoke York Community Council approve this application on the following conditions:

1. The owner to enter into an Encroachment Agreement with the City of Toronto.
2. The City Solicitor to be authorized to prepare an Encroachment Agreement.
3. The owner to pay all fees associated with the preparation and execution of this Agreement, and pay an annual fee to the City of Toronto for use of the road allowance in the amount of \$11.00 per square metre (subject to changes), plus GST.
4. The signed agreement to be returned to the City along with the required Certificate of Insurance, evidencing a third party bodily injury and property damage insurance in the amount of \$2,000,000.00 or such other coverage and

- greater amount as the City may require, and naming the City of Toronto as an additional insured party under the policy.
5. The Certificate of Insurance shall be renewed and a copy thereof submitted to Municipal Licensing and Standards on an annual basis for the life of the encroachment.
 6. The outdoor boulevard café only to be licensed for seasonal use, between the period of May 1st to October 31st and the patio furniture and fence to be removed from the municipal boulevard at the end of the season.
 7. Subject to the approval of Transportation Services, the proposed 0.91 metres high steel patio fence shall be located not less than 0.50 metres from the northern edge of the existing concrete sidewalk, and not be permanently attached to the municipal boulevard.
 8. The owner to obtain a construction/streets occupation permit and contact the utility suppliers prior to the commencement of any construction because of the proximity of the proposed patio to their respective services underground.
 9. A clearance of 0.60 metres to the existing Bell Plant shall be maintained and only hand digging is allowed when crossing a Bell Plant.
 10. The owner to operate the boulevard café in strict compliance with the requirements as stipulated under Toronto Municipal Code, Chapter 591, Noise, and the prohibition of live bands under Section 320-23G of the Etobicoke Zoning By-law, Chapter 320.
 11. The outdoor boulevard café shall be closed at 11 p.m.
 12. No smoking is permitted within the outdoor patio.
 13. All existing outdoor furniture shall be removed before the boulevard café permit is obtained.
 14. All existing illegal signs shall be removed.
 15. The owner to maintain the boulevard café in good repair and comply at all times with the regulations set out in the former Municipality of Metropolitan Toronto By-law 41-93, as amended.

Financial Impact

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

ISSUE BACKGROUND

An application has been submitted by the Architect of Spin Imporium Inc., operating as Spin Dessert Café to lease 46.35 square metres of the municipal boulevard for the purpose of an Outdoor Boulevard Café at the front of 1060-1064 The Queensway, measuring 10.35 metres wide along The Queenway frontage, and 4.57 metres deep beyond the front property line (Attachments 1 and 2).

COMMENTS

This application has been circulated to Transportation Services, Toronto Fire Services, Toronto Public Health and various utilities suppliers for comments.

While there were no negative responses received, Transportation Services recommended the following conditions to be included:

- (a) The temporary steel fence enclosing the patio shall be located not less than 0.50 metres from the north edge of the existing concrete sidewalk;
- (b) The steel patio fence shall not be permanently attached to the municipal boulevard; and
- (c) The outdoor patio is for seasonal use only.

In addition, Bell Canada requested for special cautions in carrying out the construction work because of the proximity of their existing services underground, allowing for a minimum clearance of 0.60 metres to be maintained and hand digging to be used when crossing the Bell plant.

To obtain the view of the local residents with respect to the operation of this boulevard outdoor cafe, the Ward Councillor has consulted with the respective Boards of Directors of the two condominium buildings in the immediate neighbourhood, namely 1040 and 1050 The Queensway, who requested the following conditions to be imposed:

- (a) To limit the noise, no live or taped music to be played;
- (b) The hours of operation shall be limited to 11 p.m.;
- (c) Smoking at the patio is prohibited; and
- (d) The design and materials of the patio shall cope with the existing building and environment.

CONTACT

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SIGNATURE

Curtis Sealock, District Manager
Etobicoke York District
Municipal Licensing and Standards

ATTACHMENTS

Attachment 1: Plot Plan, Patio Floor Plan and Proposed Patio Fence Details
Attachment 2: Photos showing the Location of the Proposed Boulevard Café



Attachment 2: Photographs of the Location of the Proposed Boulevard Café