



STAFF REPORT ACTION REQUIRED

Boulevard Cafe Request 126 Willowdale Avenue

Date:	March 31, 2009
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 23 - Willowdale
Reference Number:	IBMS No. 09-101882

SUMMARY

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 subject matter is an application for a boulevard cafe.

RECOMMENDATIONS

Municipal Licensing and Standards has received the necessary clearances to recommend that the Boulevard Cafe application be approved, subject to the following conditions:

1. That the area of the boulevard café on the City of Toronto right-of-way be no greater than 2.44 metres by 7.77 metres, for a total area of 18.96 square metres;
2. That the boulevard café license be renewable on an annual basis with the appropriate insurance in place and the required fee being paid;
3. That a street allowance construction permit, as necessary, be acquired for any resurfacing of the area of occupancy, or attachment to or alteration thereof;
4. 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;
5. 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 or designate;

6. 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;
7. 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;
8. 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;
9. 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;
10. The licensee pay the appropriate annual leasing rate, established by the City of Toronto, Corporate Services, Facilities and Real Estate Division;
11. The licensee will secure an endorsement on their business license for a patio from Municipal Licensing & Standards;
12. The patio is for temporary seasonal use only during the period between May 1st and October 31st.

FINANCIAL IMPACT

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

DECISION HISTORY

The application was received from the licensed business owner in January 2009 and was circulated to Transportation Services and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

ISSUE BACKGROUND

This two-storey retail building is located in a commercial (C1) zone (*Attachments 1 and 2*).

The proposed boulevard café will extend 3.65 metres by 7.77 metres for a total of 28.36 square metres. The portion of the boulevard café on the right-of-way is 2.4 metres by 7.77 metres for a total of 18.65 square metres. The boulevard café will be partially enclosed an iron railing 0.91 metres in height (*Attachments 3, 4, 5, 6 and 7*).

COMMENTS

Utilities have provided clearance letters indicating that they have no objection. Transportation Services, North York Division, reviewed the site and submitted plans and have no objection to the boulevard café provided the concrete bollards remain in place.

The business operating as “Inakaya” is a Japanese restaurant currently licensed by the City of Toronto as Licence No. B71-3835400 with an expiry date of July 15, 2009. The licence is currently endorsed to include an outside patio.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Aerial view
2. Zoning map
3. Proposed Front Elevation
4. Site plan
5. Proposed Floor Plan
6. Photograph – view to the north
7. Photograph – facing building