



STAFF REPORT ACTION REQUIRED

Boulevard Cafe Request 2853 Dufferin Street

Date:	June 2, 2010
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 15 - Eglinton-Lawrence
Reference Number:	IBMS No. 10-169618

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 café.

RECOMMENDATIONS

Municipal Licensing and Standards, North York District, recommends that:

- 1. The North York Community Council not approve the Boulevard Café application for 2853 Dufferin Street, as the necessary clearances have not been received.**

FINANCIAL IMPACT

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

DECISION HISTORY

The application was received from the business owner(s) in April 2010 and was circulated to Transportation Services, Forestry and the relevant utilities.

ISSUE BACKGROUND

The property is zoned general commercial (C1) and it is in the former City of North York on the south-east corner of Dufferin Street and Glencairn Avenue (*Attachment 1*).

The proposed café will be located on the flanking street of Glencarin Avenue and it will be approximately 2.2 metres by 10.2 metres. The amount of right-of-way required for this will be approximately 1.8 metres in width and 10.2 metres in length for a total of 18.36 square metres.

COMMENTS

Transportation Services, as part of their review of this application, have provided two objections from separate Divisions. Traffic Planning/ROW stated that the café fence and gate at the corner cannot be located on the sidewalk and all gates to swing inward, and that a 0.46 metre setback is required – application not approved. Road Operations stated that the fence is too close to the sidewalk – application not approved. Forestry has no objection.

The business operates as “Darosa Café and Restaurant” and they hold a current City of Toronto business licence No. B71-3501292 that expires on February 20, 2011.

Should the recommendation not be accepted and the request approved, the conditions of approval should include:

1. That the area of the boulevard café on the City of Toronto right-of-way be no greater than 1.8 metres by 10.2 metres, for a total area of 18.36 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;
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.

CONTACT

Michael Carey, Supervisor, Municipal Licensing and Standards, North York District
Tel: (416) 395-7012; Fax: (416) 395-7056; Email: mcarey@toronto.ca

SIGNATURE

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

ATTACHMENTS

1. Zoning map
2. Site plan
3. Relief diagram main floor
4. Transportation photos May 13, 2010 facing west and east
5. Transportation photo May 13, 2010 facing south