

## REPORT

COMMUNITY SERVICES COMMITTEE  
MEETING DATE: DECEMBER 11, 2012

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**FROM:** Engineering and Construction Department

**DATE:** November 19, 2012

**SUBJECT:** Patio License Agreement - 335 Kerr Street

**LOCATION:** 335 Kerr Streret

**WARD:** 3

Page 1

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### RECOMMENDATION:

1. That the request by Gingerman Social Eatery Inc. to enter into a license agreement to the satisfaction of the Town Solicitor, to permit the establishment of a seasonal outdoor patio within the road allowance along the property frontage of 335 Kerr Street, as detailed in the report from the Engineering and Construction department dated November 19, 2012, be approved; and
2. That the Mayor and Clerk be authorized to execute a license agreement with the owners of Gingerman Social Eatery Inc.

### KEY FACTS:

The following are key points for consideration with respect to this report:

- Gingerman Social Eatery is located at 335 Kerr St. within the Kerr Village Business Improvement Area (BIA)
- The owner is interested in entering into a license agreement with the town to establish and maintain a temporary seasonal outdoor patio within a portion of the public road allowance in front of the business.
- The town has a number of similar license agreements in place for seasonal outdoor patios at other comparable establishments.
- Staff supports the approval of the license agreement subject to a set of conditions.

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**BACKGROUND:**

Gingerman Social Eatery Inc. is located at 335 Kerr Street within the Kerr Village BIA district. The owner has submitted a written request (see Appendix 'A') to establish an outdoor seasonal patio within a portion of the road allowance directly in front of their business. A location map is provided in Appendix 'B'. The applicant proposes to occupy the area from May 1 to October 31 annually. A sketch of the patio layout is provided in Appendix 'C'.

In order to permit the establishment of a temporary patio within the public road allowance, Gingerman Social Eatery Inc. requires a license agreement with the town.

**COMMENT/OPTIONS:**

The town has several active license agreements with various restaurants for the operation of temporary seasonal patios located within public road allowances. These have been approved only where suitable space can be maintained within the boulevard for pedestrians. The proposed request by Gingerman Social Eatery is similar in nature to previously approved requests and staff has confirmed that sufficient space will be available within the boulevard to maintain appropriate and safe pedestrian mobility.

Based on a review of the application and discussions with Gingerman Social Eatery Inc., the request for a temporary patio enclosure is acceptable to the Engineering and Construction department, subject to an appropriate license agreement being executed with the following conditions:

- The proposed patio railing must maintain an unobstructed clearance of 1.5m (5 feet) for the public sidewalk platform.
- The town may at its sole discretion terminate the agreement at any time.
- The enclosed patio area shall be that detailed in Appendix 'C' comprising a maximum area of 23.0 square metres (247 square feet).
- The proposed railing will be inspected following installation and will be to the satisfaction of the Engineering and Construction Department.
- The patio enclosure (railings) can be installed no earlier than May 1 and must be removed by October 31, annually.
- The patio may be used between the hours of 11:00 a.m. and 10:00 p.m. daily.
- All appropriate statutes, by-laws and the requirements of the Town of Oakville and Liquor License Board of Ontario will be adhered to.
- Music will not be permitted on the patio.
- The agreement may be renewed annually upon written request of Gingerman Social Eatery Inc.; provided the above provisions are satisfied.

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The license agreement would also include provisions that require Gingerman Social Eatery Inc. to:

1. Pay an annual rental fee which may be adjusted yearly at the discretion of the town (as established by the Manager of Realty Services). For the commencement of this particular license agreement, the annual rental fee will be a \$500.
2. Indemnify, save harmless and defend the town from and against any and all claims for damages whatsoever due to the use and occupation of the portion of the public road allowance.
3. Provide to the town an insurance policy which names the town as an additional insured and containing an amount and provision acceptable to the town's Insurance Adjuster.
4. Post a \$1,000.00 security deposit to guarantee removal of the patio enclosure at the end of the seasonal lease period and for repair of any damage that may result from the occupation and use of the public portion of the road allowance.

As per the town's approved rates and fees schedule relating to road corridor management, a one-time administration/legal fee will be charged to the applicant to cover costs associated with the preparation of a license agreement.

#### **CONSIDERATIONS:**

##### **(A) PUBLIC**

The adjoining commercial establishments were advised of the request for a temporary boulevard patio and have been notified of the Community Services Committee meeting of December 11, 2012. They were invited to express their comments, concerns and/or support on this application.

##### **(B) FINANCIAL**

Administrative and legal costs the town may incur as a result of this application/license will be recovered via fees. In addition, the town will receive appropriate and reasonable revenue, in-line with market rental rates for the permitted temporary use of the portion of the public road allowance during the period of occupation.

##### **(C) IMPACT ON OTHER DEPARTMENTS & USERS**

Should Council approve the license agreement, Engineering and Construction will be responsible for inspecting the installation and ensuring compliance with the conditions of the agreement.

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**(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS**

This report addresses the corporate strategic goal to:

- enhance our economic environment
- enhance our social environment

**(E) COMMUNITY SUSTAINABILITY**

Licensing the use of the public road allowance for commercial benefit has been successfully implemented in several areas of the town. These uses add to the social vibrancy of our commercial districts and enhance customer attraction. These attributes improve the social and economic environments within our commercial areas.

**APPENDICES:**

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| Appendix 'A' | Letter of Request from Gingerman Social Eatery Inc. |
| Appendix 'B' | Location Map  |
| Appendix 'C' | Diagram of Proposed Temporary Patio Enclosure       |

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