



AGENDA

President and Board of Trustees

Village of Arlington Heights

Committee-of-the-Whole

Community Room

33 S. Arlington Heights Rd, Arlington Heights, IL 60005

May 6, 2019

7:45 PM

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL OF MEMBERS

IV. NEW BUSINESS

- A. Hey Nonny - 10 S. Vail Ave. License Agreement for Outdoor Eating Area

V. OTHER BUSINESS

VI. ADJOURNMENT

Persons with disabilities requiring auxiliary aids or services, such as an American Sign Language interpreter or written materials in accessible formats, should contact David Robb, Disability Services Coordinator, at 33 S. Arlington Heights Road, Arlington Heights, Illinois 60005, (847)368-5793 (Voice), (847)368-5980 (Fax) or drobb@vah.com.



Committee-of-the-Whole
5/6/2019

Item: Hey Nonny - 10 S. Vail Ave. License Agreement for Outdoor Eating Area

Department: Planning & Community Development

Hey Nonny, located at 10 S. Vail Ave, has submitted an application for outdoor dining on the public sidewalk along Vail Ave. The Village Code permits the use of public sidewalks for outdoor eating cafes subject to certain criteria, including the entering into a License Agreement with the Village for the use of the public property. In the event that alcoholic beverages are to be served on the public sidewalk, the Village's application requires review at a Committee-of-the-Whole meeting and subsequent approval by the Village Board. Hey Nonny has executed the License Agreement and that Agreement is on the agenda for the May 6th Village Board meeting.

Hey Nonny's proposal for use of the public sidewalk is consistent with the Village's requirements for a barrier that consists of planters/fencing with openings that allow for a shared walkway for pedestrians, restaurants, patrons, and restaurant servers. The proposed outdoor dining area will be located along the façade of the restaurant, in a configuration similar to other previously approved outdoor cafes within Downtown. This configuration allows for outdoor seating to be accommodated while maintaining five feet of unobstructed sidewalk. Hey Nonny is proposing planters along the sidewalk to delineate their outdoor eating area.

Recommendation

It is recommended that the Committee-of-the-Whole recommend to the Village Board approval of the request from Hey Nonny to use a portion of the public sidewalk for outdoor dining, including the serving of alcohol.

ATTACHMENTS:

Description

License Agreement

Type

Agreement

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") entered into between the Village of Arlington Heights, a municipal corporation of the County of Cook, State of Illinois ("Village") and Harmony Hospitality LLC d/b/a Hey Nonny, ("Licensee"); and

WHEREAS, the Village is the owner of right-of-way on Vail Ave ("Site") located directly adjacent to 10 S Vail Ave in the Village of Arlington Heights; and

WHEREAS, Licensee is the owner of Hey Nonny, a restaurant located at 10 S Vail Ave, in the Village of Arlington Heights; and

WHEREAS, the Licensee's restaurant is located directly adjacent to the Site; and

WHEREAS, Licensee has requested permission from the Village to use the Site solely for the purposes described herein,

NOW THEREFORE, in consideration of ten dollars and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, and the mutual covenants contained herein, the Parties agree as follows:

1. The Village grants the Licensee a license to use the Site for an outdoor eating area, as set forth on Exhibit A, which is attached and made a part of this Agreement. The Licensee understands and agrees that the Site is on public-right-of-way and, as such, may be utilized by individuals not utilizing the Licensee's facility.

2. Recognizing that the use of the Site is seasonal, the term of this Agreement shall be for the period commencing May 7, 2019 and terminating October 31, 2022, with the understanding that in each year of this Agreement the outdoor eating area shall not begin until April 1 of that year. While this is a three year agreement, the ability to have an outdoor eating area in each of the years is dependent upon Licensee's receipt of an annual permit from the Village and providing valid proof of insurance.

Each year, as part of the permit review process, the Village, in its sole discretion, will determine upon receipt and review of appropriate documentation and prior history whether a subsequent permit will be granted. If the Village determines that a permit will not be granted for another year, it will notify the Licensee in writing of the termination of this License Agreement.

3. The Licensee will obtain any required permits and licenses and pay all required fees.

4. The Licensee acknowledges that it has physically inspected the Site completely and thoroughly and accepts possession in an "as-is, where-is" condition.

5. The Licensee agrees to keep the Site in a safe, clean, and hazard-free condition throughout its possession. It is expressly understood that the Licensee will be placing planters, tables, and chairs on the Site and that these will not be attached in any way to the Site. During hours when the Licensee is not open for business, the Site shall be kept in an aesthetic orderly manner and the tables and chairs shall not be stacked. In addition, the windows may only be open during the times that the outdoor eating area is open.

The Licensee further understands that the Village assumes no responsibility whatsoever for any injury or damage that may occur in any way from any of the items or furnishings the Licensee places on the Site, regardless of whether the damage or injury occurs on the Site or elsewhere.

6. The Licensee agrees that the Village shall have no liability whatsoever with respect to the Site throughout the term of this Agreement. Licensee shall be responsible for all loss or damage to the Site and to any persons or property therein, regardless of cause, excluding any loss or damage arising out of the negligence or willful misconduct of the Village and its agents and employees.

7. The Licensee will and does hereby agree to defend, indemnify, save and hold harmless the Village of and from all claims, loss damage, injury, causes and actions, suits of whatever nature for personal injury, including death resulting therefrom, and property damage arising out of, resulting from, or in connection with the use or operation, including without limitation, making of improvements, if any, of the Site, or any acts in connection with such use or operation, whether by the Licensee, or a contractor, if any contracting with Licensee, or any invitee, guest, workman, agent or employee of the Licensee. The Licensee further agrees to defend, indemnify, save and hold harmless the Village of and from all claims, loss damage, injury, causes and actions, suits of whatever nature that may occur in any way from any of the furnishings the Licensee places on the Site, regardless of whether the damage or injury occurs on the Site or elsewhere.

8. A default shall occur if the Licensee fails to pay any sum of money (whether the license fee or any other amount due to the Village) when due, if the Licensee's liquor license is revoked by the Village, or if the Licensee fails to comply with any other provision of this Agreement or the Village Code and such failure continues for 30 days after the date of written notice from the Village to the Licensee specifying the nature of the default.

Upon or after any default, this Agreement is terminated without any further notice. The Licensee may re-enter the Site and remove all property from the Site at the Licensee's sole expense.

9. Upon the expiration of the Term or the early termination of this Agreement for any reason, the Village may, in addition to any other rights granted herein, re-enter the Site and remove all property from the Site, storing such property at the Licensee's sole expense.

10. The Licensee agrees that it will, at its expense, obtain insurance to cover its liability hereunder, with the following minimum amounts:

Commercial General Liability:

Bodily Injury and Property Damage	\$1,000,000 per occurrence
Combined	\$2,000,000 aggregate
Personal Injury Liability	BFGL aggregate
Worker's Compensation	Statutory (\$100,000)
Employer's Liability	\$500,000

Umbrella Excess Liability:

Special coverage shall be \$1,000,000 over primary insurance

All underlying coverage needs to be included in the Umbrella or Excess Liability policy. Any exclusions or exceptions must be noted on the certificate of insurance.

The Licensee agrees that it will name the Village as Additional Insured in the general liability policies of insurance required herein (which may include a combination of underlying and umbrella coverage) with respect to the Site and the use, operation, and possession thereof and that it will provide to the Village the appropriate insurance policy endorsement evidencing compliance.

12. The Licensee agrees to use and operate the Site in complete compliance with all local codes, ordinances, and governmental rules and regulations. The Licensee specifically understands that all outdoor activity on the Site must be concluded no later than 11:00 p.m. The Licensee further understands that it is the responsibility of the Licensee to ensure that no one leaves the Site with any alcoholic beverages. The Licensee also agrees to take any action necessary should the Village notify the Licensee of complaints of excessive noise emanating from the Licensee's use of the Site.

13. The Village, at all times during the Term, shall have the right to enter the Site at any reasonable time to inspect the Site.

14. The Village shall not, by reason of this Agreement or any of its provisions, in any way become the landlord of the Licensee, or in any way become a partner or joint venture with the Licensee in the conduct of its business.

15. The Licensee acknowledges that this Agreement is not a lease and that it has no rights under the Illinois Forcible Entry and Detainer Law.

16. This Agreement shall be construed in accordance with the laws of the State of Illinois.

17. All notices required under this Agreement shall be deemed sufficiently given or served if delivered personally or if sent by receipted delivery to:

Village of Arlington Heights
Village Manager
33 S Arlington Heights Rd
Arlington Heights, IL 60005

Harmony Hospitality LLC d/b/a Hey Nonny
Chris Dungan
10 S Vail Ave
Arlington Heights, IL 60005

19. If any term, covenant, or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant, or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected, and each term, covenant, and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers this 1 day of MAY, 2019.

Harmony Hospitality LLC d/b/a Hey Nonny

Village of Arlington Heights

MEMBER

Title

Village Manager

Date

Date

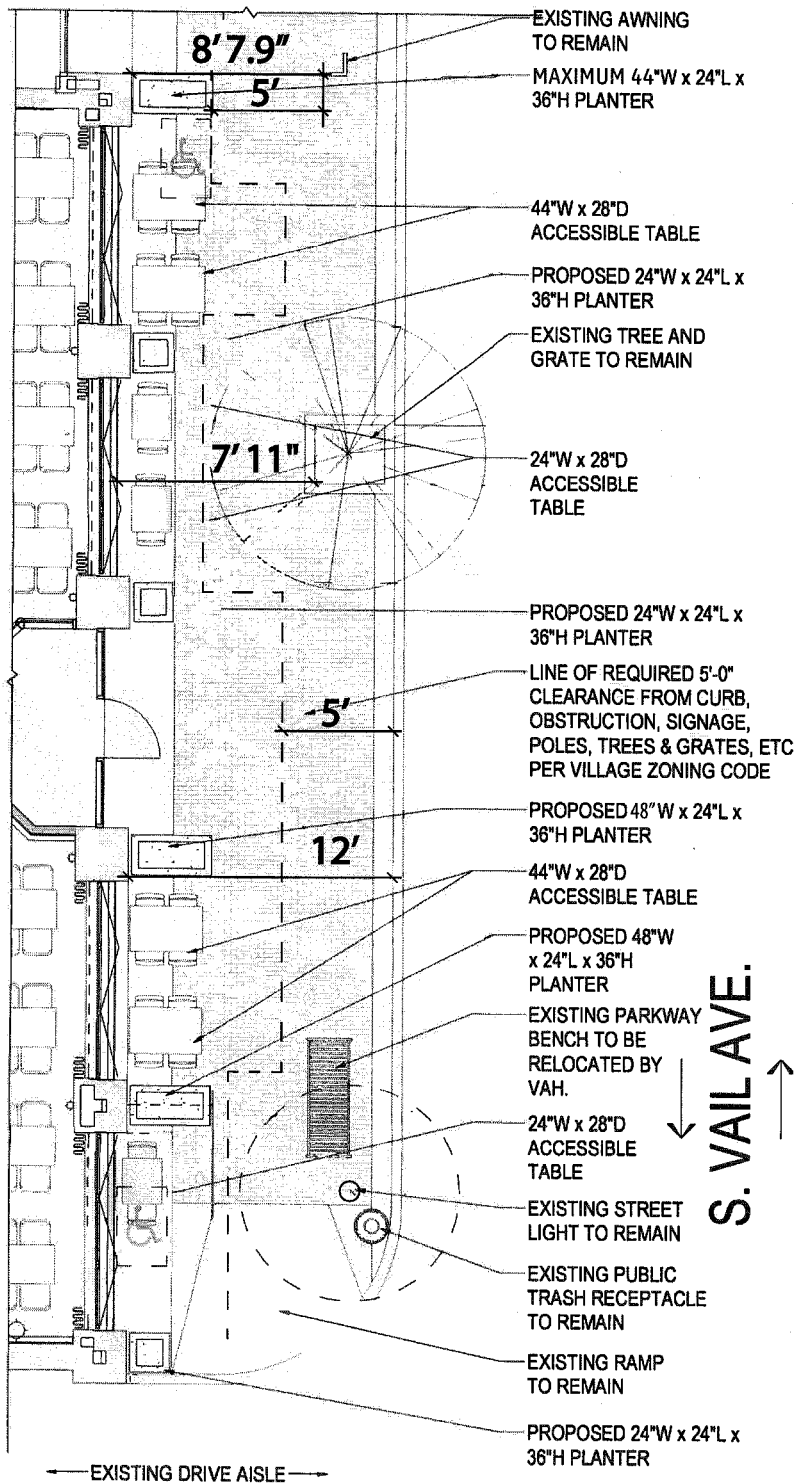
Attest:

Attest:

HEY NONNY OUTDOOR DINING CONCEPT

10 S. VAIL AVE.

3/26/2019



SIDEWALK CAFE GENERAL NOTES:

1. MAINTAIN A MINIMUM OF 5'-0" CLEAR OF OPEN SIDEWALK AROUND ALL TEMPORARY AND PERMANENT FIXTURES AND FURNITURE AT ALL TIMES.
2. ENSURE PROPER SPACING BETWEEN TABLES IS MAINTAINED AT ALL TIMES.
3. ENSURE CLEAR MEANS OF EGRESS FROM THE RESTAURANT AND SIDEWALK CAFE IS MAINTAINED AT ALL TIMES.
4. ALL EXISTING PUBLIC UTILITY ACCESS TO REMAIN ACCESSIBLE AT ALL TIMES.
5. ALL FURNITURE IS TO BE REMOVED PRIOR TO WINTER SNOW REMOVAL AND MAINTENANCE.
6. ALL FURNITURE SHALL HAVE SUBSTANTIAL WEIGHT SO AS TO NOT MOVE AROUND DURING INCLEMENT WEATHER.
7. SIDEWALK CAFE BOUNDARY MUST NOT BE BOLTED TO THE SIDEWALK.
8. MAINTAIN 5'-0" OF CLEARANCE FROM OUTER EDGE OF CITY BARRIERS SUCH AS STREET SIGNS, PLANTERS, NEWSPAPER DISPENSERS, FIRE HYDRANTS, BUS SHELTERS, OR OTHER OBSTACLES. WHERE NO OBSTACLES ARE PRESENT, MAINTAIN 5'-0" FROM EDGE OF SIDEWALK (NOT INCLUDING THE CURB). SIDEWALK CAFE SHALL NOT ENCLOSE CITY BARRIERS.
9. A MINIMUM OF 5%, BUT NOT LESS THAN 1 OF THE TABLES IN THE SIDEWALK CAFE MUST BE ACCESSIBLE, AND DISPERSED THROUGHOUT THE SEATING AREA.
10. PROVIDE A MINIMUM 36" (MAX 60") WIDE SIDEWALK CAFE ENTRANCE. PROVIDE MINIMUM (1) AND MAXIMUM (2) ENTRANCES PER SIDEWALK CAFE SECTION.