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TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON MAY 29, 2012
FROM:	JOHN LUCAS DIVISION MANAGER - TRANSPORTATION ENGINEERING AND JOHN M. FLEMING DIRECTOR OF LAND USE PLANNING AND CITY PLANNER
SUBJECT:	SIDEWALK CAFES PILOT PROGRAM

RECOMMENDATION

That, on the recommendation of the Division Manager for Transportation Engineering and the Director of Land Use Planning and City Planner, the following actions shall be taken to assist Downtown London, on a cost neutral basis in the implementation of a sidewalk cafe pilot program for the 2012 summer season:

- a) The Civic Administration **BE DIRECTED** to develop technical and design standards/guidelines for sidewalk cafes, using the pilot program as a local case study; and
- b) A pilot program using on street parking spaces for sidewalk cafes along Dundas from Wellington Street to Talbot Street, along Carling Street between Richmond Street and Talbot Street and along Talbot Street from Dundas to York Street **BE APPROVED**.

PREVIOUS ITEMS PERTINENT TO THIS MATTER
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Letter Dated April 11, 2012 to Mayor Joe Fontana from Downtown London.

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The purpose of this report is to respond to the request by Downtown London for a Sidewalk Cafe pilot program.

This report is to establish the direction City staff will take in:

- Facilitating the pilot program;
- Identifying what controls the City will maintain; and
- Developing sidewalk cafe technical and design standards.

This pilot program will provide an opportunity to assess the impact of sidewalk cafes in the Downtown.

BACKGROUND

The City of London currently licenses sidewalk cafes within the municipally owned road allowances. These are handled through a permit and encroachment agreement process. The program operates on a license renewal system of 1 to 3 years. In order to obtain a license, a business owner must demonstrate and maintain a minimum of 1.5 metres (5 feet) of sidewalk space for unobstructed pedestrian traffic. Cafes will typically abut the business allowing for direct access to and from the building.

Realty Services staff is undertaking a review the existing Sidewalk Cafes' agreement requirements to develop a more accountable and responsive program. This review may involve

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changes to the renewal requirements of the program. This provides an opportunity to consider alternatives within the existing process including additional locations for sidewalk cafes.

Existing limitations due to obstructions or narrow sidewalk widths have limited certain businesses from having a sidewalk cafe, many of whom wish to do so. To increase opportunities for businesses, staff is looking at the notion of permitting sidewalk cafes to be set up in existing on-street parking stalls. Access to the patio would be from the sidewalk. A minimum of 1.5 metres (5 feet) of sidewalk for unobstructed pedestrian traffic would need to be maintained.

Changes to the Province of Ontario's liquor laws have enabled food establishments to provide licensed areas, separated by public spaces. This has made the option of sidewalk cafes, which replace parking stalls, viable from a liquor-licensing point of view. Until this change was made, access to the patio had to be directly from the adjacent business.

PILOT PROGRAM DETAILS

Downtown London has requested the opportunity, through Council, to undertake a sidewalk cafe pilot program in the downtown that would use on-street parking stalls. The primary target of this program will be along Dundas Street, Carling and Talbot Street. Downtown London has requested up to a maximum of 10 pilot sites.

The pilot program is targeted at testing the viability of sidewalk cafes, which occupy on-street parking stalls. The participants' sidewalk cafe will be located, where a space is available, in front of the respective business. The cafes will be located on a platform raised appropriately to match the existing grade of the sidewalk. Sidewalk cafes will also require fencing and a controlled access to maintain public health and safety.

General Pilot Program Area



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Examples of sidewalk cafes from Birmingham, Michigan:



CITY'S PARTICIPATION PRINCIPLES

The City of London's participation in the Sidewalk Cafes pilot program is based on a series of principles that are to be maintained to protect and build upon the City's assets. The City's principles for this pilot program are as follows:

THE PILOT PROGRAM WILL BE "COST NEUTRAL" TO THE CITY:

The over-arching requirement for this program to work is a "net-zero" cost to the municipality. The City will recuperate lost revenue from parking spaces through agreement fees. Standard agreement and building permit fees will also be applied.

While support will be given by staff, this is to remain a community-led project. Staff will work with Downtown London and program participants to ensure that the pilot program will have no impact on revenues generated by the City nor create additional costs.

THE CITY WILL BE PROTECTED FROM LIABILITY:

Any participant in the Sidewalk Cafe pilot program will be required to enter into an agreement indemnifying the City of any and all liability. The responsibility of any incident which happens on or as a result of the sidewalk cafe pilot program will be borne by the participant. Platform structures will need to be approved through a building permit issued by the City.

Further agreements will be required between the City and participants to regulate the construction and operation of Sidewalk Cafes.

Where distribution of alcoholic beverages is present, sidewalk cafes must comply with the Liquor Control Act of Ontario.

THE CITY WILL SET TECHNICAL AND DESIGN STANDARDS:

The pilot program is intended to guide staff in developing technical and design standards for Sidewalk Cafes. However, to ensure that the pilot program runs effectively, the review of design and construction will be considered through the Building permit process.

Planning, Building and Engineering staff will be working with Downtown London and participants in delivering a product that will "raise the bar" for projects in the Downtown, and contribute to the City's on-going revitalization efforts.

THE PILOT PROGRAM IS A PRIVILEGE, NOT A RIGHT:

The City's responsibility shall remain dedicated to the health and safety of the public at large and ensure that this program does not create undue hardship to business owners in proximity to the pilot program.

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As this initiative provides private businesses the opportunity to use public space, the City expects that this privilege will be used to improve the overall aesthetic of the public streetscape and maintain public safety.

Therefore, the City of London will reserve the right to modify, limit or cancel this pilot program at any time and without notice. Staff will work to resolve any issues to ensure the success of this pilot project. Any irresolvable issues related to construction design, access, pedestrian-vehicular conflicts, behaviour or complaints, may result in the City’s immediate discontinuation of part, or all, of the pilot program.

CRITERIA FOR THE PILOT PROGRAM:

The locations to be considered for the sidewalk cafe pilot program will be limited to those that can meet all of the following criteria:

- a) The site does not impede the movement, or access to public transportation, including London Transit bus bays;
- b) No more than one (1) space shall be used per 8 m of street frontage occupied by the respective business;
- c) The space shall not be used for standing customers;
- d) Provision of safety measures to address pedestrian/vehicular conflicts;
- e) A building permit must be approved by the City;
- f) The space used is located directly in front of the respective business;
- g) Design shall be submitted for approval by staff prior to construction; and
- h) No third party advertisements shall be permitted within the sidewalk cafe area (including furniture, umbrellas and awnings).

TECHNICAL AND DESIGN STANDARDS

As part of the pilot program, staff will be monitoring the pilot program to assist in the development of technical and design standards for sidewalk cafes. Staff intend on bringing these technical and design standards forward by the end of the pilot program (Fall 2012).

APPLICABILITY

The Technical and Design Standards will be used for citywide application. This will primarily include areas such as the Downtown and Old East Village, among other pedestrian oriented environments.

It should be noted that planning has started for Dundas Street between Wellington Street and Talbot Street to be redeveloped into a “flexible” street that will allow for purposefully allotted sidewalk cafe areas within the City’s right-of-way. The technical and design standards are intended to continue to apply; however, the need to use parking stalls may not be required as a result of the Dundas Street redesign. Businesses located outside of the Dundas Street redesign area would continue to use on-street parking stalls for their sidewalk cafe.

CONCLUSION

Staff is of the opinion that the sidewalk cafe pilot program represents an opportunity for both the City of London and business owners. The opportunity to enhance the vitality of Downtown is consistent with the London Vision and downtown revitalization efforts. The pilot program will give staff a chance to evaluate how sidewalk cafes will work in London in order to develop a standard for quality that Londoners expect.

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May 9, 2012
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