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Planner: E. Lalande

TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	ON-STREET BOULEVARD CAFÉ PERMIT PROGRAM MEETING ON MAY 6, 2013

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions shall be taken to permit the use of on-street municipal parking spaces for boulevard cafes in the Downtown:

- a) The attached on-street boulevard cafe principles for the use of on-street municipal parking spaces for boulevard cafes **BE APPROVED** for a period of up to three years, ending November 1, 2016;
- b) The Civic Administration **BE DIRECTED** to finalize and report back to Council regarding technical and design guidelines for boulevard cafes, it being noted that the establishment of on-street boulevard cafes under the program shall be at no cost to the City; and
- c) The current Boulevard Cafe Permit Program **BE AMENDED** to provide for the use of on-street municipal parking spaces for seasonal boulevard cafes.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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May 29, 2012 - Sidewalk Cafes Pilot Program

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The purpose of this report is to permit the use of on-street municipal parking spaces for boulevard cafes in the Downtown. The use of on-street municipal parking spaces will be administered as part of the existing Boulevard Cafe Permit Program, which is used to permit the use of public sidewalks for cafe use. It is proposed that the use of on-street parking spaces will be for three years, and may be extended by Council.

Technical and design guidelines are being finalized by municipal staff and will be presented to Council. This report is presented in advance of technical and design guidelines in order to avoid any undue hardship on local business owners seeking to apply for boulevard cafes during 2013 summer season.

The attached principles will be used as additional criteria for the review of on-street boulevard cafe proposals and do not replace the technical and design guidelines that will be brought forward at a later date.

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BACKGROUND

Boulevard Cafe Permit Program

The City of London currently licenses boulevard cafes within municipally owned road allowances. Owners of food establishments with a valid business licence can apply to the City of London for a Boulevard Cafe Permit. Typically, applications are received from restaurants that desire an outdoor cafe, but do not have sufficient room on their own property. Applications are reviewed to ensure they are compatible with City requirements such as not interfering with the public use of the road allowance or not interfering with City operations. Permits are issued with various conditions, including the payment of an annual fee, a requirement to maintain adequate insurance, and an encroachment agreement. The program operates a license renewal system of 1 to 3 years. In order to obtain a license, a business owner must ensure that:

- In the case of downtown sidewalk cafes, the cafe must be designed such that there is an unobstructed 1.2 metre (5 foot) wide passageway for pedestrian traffic. The unobstructed passageway must not include tree grates. In the case of curb parking, bus stops or mail boxes, additional room will be required.
- No cafe can be situated on top of, or within 1 metre (3 feet) of, an underground hydro vault.
- Cafes are typically fenced with removable fencing. Fencing is required if the establishment has a liquor licence.
- No electrical installations (lighting, for example) are permitted on the boulevard.
- Most boulevard Cafe Permits are seasonal, where all restaurant paraphernalia must be removed during the winter months to enable snow removal.

The criteria listed above for Boulevard Cafes will also apply to On-Street Boulevard Cafes.

On-Street Parking Sidewalk (Boulevard) Cafe Pilot Program

Due to changes to the Province of Ontario’s liquor laws, food establishments may provide licensed areas which are separated by public spaces. This has made the option of licensed sidewalk cafes, such as those, which occupy parking spaces, viable from a liquor-licensing point of view. Further, existing limitations due to obstructions or narrow sidewalk widths, specifically in the downtown, have limited certain businesses from having a boulevard cafe. To increase opportunities for downtown businesses, boulevard cafes within existing on-street parking spaces were proposed as a possible solution, a “Sidewalk Cafe Pilot Program” was implemented during the summer of 2012. Two Downtown London businesses (Jambalaya, Early Bird/Night Owl) established boulevard cafes within on-street parking spaces as part of the pilot program.

Council has directed staff to develop technical and design guidelines, based in part on the pilot program, for boulevard cafes including those that would use the on-street parking model. Staff is working toward finalizing these guidelines. However, provide the opportunity for businesses to apply for the 2013 season, staff recommends that the attached principles and criteria, which served as the basis for the pilot program, be used in the interim until the technical and design guidelines for boulevard cafes can be adopted.

The Boulevard Cafe Permit 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.

CONCLUSION

In anticipation of the summer months when outdoor patios and boulevard cafes are operated, staff recommends that the use of on-street parking spaces for boulevard cafes in the Downtown be included as part of the Boulevard Cafe Program. The on-street parking boulevard cafes

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would be subject to the attached principles and criteria until technical and design standards are finalized and adopted by Council. A three-year time period is recommended to ensure the viability of the program, whereby extensions to the on-street parking portion of the program may be considered.

PREPARED BY:	SUBMITTED BY:
E. LALANDE PLANNER II POLICY PLANNING & PROGRAMS	G. BARRETT, AICP MANAGER POLICY PLANNING & PROGRAMS
RECOMMENDED BY:	
J.M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

April 22, 2013

EL/el

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APPENDIX "A"

ON-STREET BOULEVARD CAFÉ PRINCIPLES

The use of on-street boulevard parking spaces for boulevard cafes guiding principles

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ON-STREET MUNICIPAL PARKING FOR BOULEVARD CAFÉ PRINCIPLES

In addition to the City of London’s existing Boulevard Café Permit Program, the following principles will need to be achieved. These principles are intended to maintain, protect and build upon the City’s assets. The City’s principles for the On-street Boulevard Cafe Program are as follows:

ON-STREET BOULEVARD CAFES 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.

THE CITY WILL BE PROTECTED FROM LIABILITY:

Any participant in the on-street boulevard cafe 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 on-street boulevard cafe 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 Boulevard 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 On-street Boulevard Cafe Program is intended to guide staff in developing technical and design standards for Boulevard 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 work with proponents 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 ON-STREET BOULEVARD CAFE 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 On-street Boulevard Cafe Program.

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 reserves the right to modify, limit or cancel this On-street Boulevard Cafe 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 program.

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CRITERIA FOR THE ON-STREET BOULEVARD CAFE PROGRAM:

On-street parking space boulevard cafe proposals received for Downtown businesses, in the interim, will be required to meet the additional 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) All fees for the use of on-street parking spaces must be paid by the City prior to construction;
- d) The space shall not be used for standing customers;
- e) Provision of safety measures to address pedestrian/vehicular conflicts;
- f) A building permit must be approved by the City;
- g) The space used is located directly in front of the respective business;
- h) Design shall be submitted for approval by staff prior to construction;
- i) No third party advertisements shall be permitted within the sidewalk cafe area (including furniture, umbrellas and awnings); and
- j) The program is limited Dundas Street from Wellington Street to Talbot Street, along Carling Street between Richmond Street and Talbot Street and along Talbot Street from Dundas Street to York Street.