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**Date:** May 14, 2018

**To:** Mayor and Council

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**RE:** Mare Nostrum  
16 Main St. W  
Request to install and operate a sidewalk café

**Report No.:** PDS 2018-027

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## **AIM**

To provide Council with information and request approval of a sidewalk patio licence agreement respecting a patio on a portion of the municipal sidewalk to be located in front of 16 Main Street West (Tony's Panini).

## **BACKGROUND**

In January, 2009 Council approved a policy establishing a procedure for addressing owner's requests for use of the municipal sidewalk for outdoor cafes. This procedure has been refined over time and is now in the form of a Standard Operating Procedure (SOP) titled Sidewalk Café Application Review. The reasons for the formal policy is to ensure an encroachment agreement was entered into for use of the municipal right-of-way, necessary insurance was provided, and proper planning was undertaken prior to the establishment of the café. Sidewalk cafes in the downtown area have been well received and enjoyed by tourist and residents alike since their inception in 2009.

## **DISCUSSION**

Tony's Panini (the applicant) has applied to establish an area on the municipal right-of-way (sidewalk) as illustrated on the attached sketch (see **Appendix A**). The café will provide for seating within the designated area. The boardwalk to be installed will be used to minimize any impact on the pedestrians by diverting them around the proposed sidewalk café.

If approved the sidewalk café would require the owner to agree to pay fees plus the applicable HST to cover the purchase and construction of the boardwalk and pedestrian barriers (to be paid over an agreed timeframe), occupation of the on-street parking during months of operation, and annual installation and disassembling.

Within the proposed licensing agreement, a number of items will be addressed including the requirement for insurance, use of the sidewalk, etc. The agreement provided for the applicant would be the standard agreement similar to those used for existing cafes that operate at The Main, O'Sarracino's and Elite Steak & Seafood.

## **LINK TO STRATEGIC PLAN**

Support growth of the business community.

## **FINANCIAL CONSIDERATIONS**

Application fee and billing deposit have been received.

Insurance provisions of the agreement must be satisfied. (Town named as additional insured)

Fees for the construction, installation and disassembly will need to be determined and included in the agreement.

## **CONSULTATIONS**

Town of Kingsville Management Team, Kingsville Accessibility Advisory Committee, Kingsville BIA.

KAAC has indicated no objection to the establishment of the café as long as a designated accessible space is redesignated elsewhere.

Comment: Municipal Services is in agreement with that and would look to relocate the space, preferably within the same block.

Kingsville BIA has provide a letter to administration (attached as Appendix B) requesting that the Town defer the request, "until further research can be completed by the Town to ensure fair public parking allocation of the Main Street to local businesses."

Comment: In the Fall of 2015 Council was presented with information on parking in the downtown area with the general outcome being that parking needs continue to be monitored and that individual development proposals be addressed on a case-by-case basis. At present there are two sidewalk cafes that occupy four parking spaces from May to October. One of those may be relocated however the existing location maybe needed by a future tenant. The third café was accommodate with the construction of a bump out area which resulted in the permanent loss of one parking space. If all of the requested sidewalk cafés are approved a total of eight parking spaces would be needed. The circumstance created in this particular location is that there is one existing café, one proposed and the subject location which would result in an almost continuous sidewalk patio and lose of six spaces back-to-back.

## Other Municipality Policies

In an effort to determine if other Essex County communities have dealt with the issue of multiple café locations staff reached out to the members of the IMPCC. While most do have policies in place there were none that have specifically addressed the issue of multiple requests or proximity. Each application is assessed based on its individual merits particularly whether it can be safely accommodated and not negatively affect either vehicular or pedestrian traffic.

## Conclusions

There is no official allocation of parking spaces in the downtown area unless a particular business has parking on its own property. This is not the case for most of the businesses in the downtown as such they rely on on-street parking and Town provided lots. The issue of fairness in that allocation is difficult to determine as all businesses without parking have equal opportunity to access the available spaces. The principle difference with the sidewalk cafes is those businesses, as a condition of having the café, must pay for the use of the parking spaces needed to reroute pedestrian traffic along with fencing, planters and boardwalks.

Municipal Services and Planning do share some of the general concern that is raised by the development of multiple sidewalk cafes particularly when they are in close proximity or potentially abut one another. The overall success of the restaurant businesses in the downtown is, in part, due to the support of uses like sidewalk cafes. While I certainly understand the BIA's position and comment I would also look to the BIA to suggest how the Town can "ensure fair public parking allocation along Main St." What does this look like? Do you limit the number of sidewalk café licenses that the Town issues? Do you reduce the size of each café? Do you rotate between restaurants each year? Do you limit the distance between cafes or the number per block? Do you consolidate the patios?

The Town currently has a spare set of planters the same ones used for the establishment of cafes at the The Main and Elite. It is recommended that this specific request be approved for a one-year term to determine if multiple café locations can be logistically accommodate within the same block. It is also recommended that the BIA may want to, in consultation with the Town and businesses in the Division St/Chestnut St. block, consider the establishment of a larger sidewalk patio that could be utilized by all of the businesses in this block which does include at least two other restaurants.

## RECOMMENDATION

It is recommended that Council approve a licensed patio on the municipal right-of-way for 16 Main St. W. (Tony's Panini) for an initial term of one year subject to the owner entering into an appropriate use agreement with the Town including the provision of the necessary monetary contribution to cover establishment and maintenance of the necessary temporary infrastructure.

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*Peggy Van Mierlo-West*

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