

## REPORT

### PLANNING AND DEVELOPMENT COUNCIL MEETING ADDENDUM

MEETING DATE: MAY 13, 2019

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**FROM:** Legal Department

**DATE:** May 3, 2019

**SUBJECT:** **Downtown Mitigation Strategy - Use of Municipal Parking Lots  
(Not Previously Listed)**

**LOCATION:** Downtown Business Commercial District

**WARD:** 3

Page 1

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#### RECOMMENDATION:

1. That the Downtown Mitigation Strategy be expanded to include the use of town parking lots by adjacent businesses where feasible for mitigation purposes, including patios and other temporary occupancies.
2. That staff be authorized to enter into licensing agreements with respect to the use of town parking lots for purposes related to the Downtown Mitigation Strategy to the satisfaction of the CAO and Town Solicitor.
3. That the authorization of the filing of an application for minor variances for the proposed patios in Parking Lot 3 (224 Church Street) be ratified, and the Town Solicitor be authorized to file, or consent to the filing, of similar applications associated with the Downtown Mitigation Strategy.

#### KEY FACTS:

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

- Major construction affecting the downtown business commercial district will occur along the Lakeshore Road corridor in 2019 and 2020.
- The *Downtown Mitigation Strategy* authorizes implementation measures, including the extension of a pilot project authorizing patio/display areas within the boulevards and parking lanes of town streets.
- A request has been made to permit patios serving two businesses (Starbucks and Colossus restaurants), on a total of 6 parking spaces within one of the town's parking lots (Lot 3, 224 Church Street).

From: Legal Department  
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- A request has also been received from Cobs Bread to permit a food truck on Lot 2 at 184 Church Street.

## **BACKGROUND:**

As part of the town's capital program, major construction is taking place along the Lakeshore Road corridor in 2019 and 2020, including the Lakeshore Reconstruction/Streetscape and Towne Square Revitalization projects. On September 10, 2018, Council endorsed the *Downtown Mitigation Strategy*, which included mitigation initiatives to be implemented to assist in maintaining the vitality of the downtown business commercial district during construction.

One of the mitigation measures authorized by the strategy was an extension of an existing pilot project, providing fee waivers for patios and outdoor display areas within the boulevard/parking lane. This option was to be available through the pre-construction and construction phases, and to be assessed on a block-by-block basis to mitigate construction interruptions, ensure user comfort, and minimize financial costs for businesses.

The town was approached by two downtown merchants (Starbucks and Colossus Greek Taverna) with a request for patios to be installed within one of the town's parking lots (Lot 3), located at 224 Church Street. Staff have also received a request for the location of a mobile food truck associated with Cobs Bread Bakery, to be in Lot 2, located at 184 Church Street.

Although staff has been delegated authority to implement the *Downtown Mitigation Strategy*, the two requests are not covered by the pilot project, which only applied to patios within the boulevard or parking lane of the road allowance. In addition, a license agreement would be required instead of a road corridor occupancy permit.

## **COMMENT/OPTIONS:**

Although the proposals do not meet the exact requirements of the pilot project, they do satisfy the general intent and purpose of the *Downtown Mitigation Strategy*. Authorizing the patios at Lot 3 is supported by staff from the Economic Development, Planning Services, and Municipal Enforcement departments, subject to the conditions set out in this report. The Downtown Oakville BIA has also confirmed its support for temporary patios occupying parking spaces during construction.

If authorized, the proposed patios at Lot 3 would occupy a total of 6 parking spaces and part of a drive aisle, as shown in the sketch attached as Appendix A. A floating wooden deck and temporary barriers would be installed as illustrated. One of the

From: Legal Department  
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two restaurants (Colossus) would be seeking a liquor license for their portion of the patio. The proposed patios would only be for a temporary term during the construction on Lakeshore Road. The Municipal Enforcement Department has advised that the remainder of Lot 3 would be able to continue operating in a normal fashion subject to some minor modifications, such as reserving another parking space for turnaround purposes.

The restaurants will be required to enter into license agreements to the satisfaction of the Town Solicitor and CAO for the use of the town lands. The license agreements will protect the town by requiring the restaurants to maintain insurance, indemnify and release the town from liability, restrict the use of the lands to only what is necessary for the patios, and require the restoration of the lands once the license is over.

A variance from the town's Zoning By-law 2014-014 would be required for the patio since the patio would be on a different property than the primary use. Zoning compliance is required for municipal purposes and as a condition of a liquor license proposed by Colossus. Since there are time constraints if the patio is to be operational for the summer, staff has executed the Owner's consent required as part of the variance application for the purpose of allowing the application to be considered by the Committee of Adjustment. Staff's consent was subject to a qualification that the consent is not an endorsement of the proposal, that Council consent to the occupation of its land is still required, and that the consent may be withdrawn if not ratified by Council.

As of the date of this report, additional details are required with respect to the use proposed by Cobbs in Lot 2, in order to determine whether Municipal Enforcement Services will support the proposed use and whether any variances will be required for that use.

Since the proposed patios in Lot 3 are for the purpose of the *Downtown Mitigation Strategy*, the fees for the Committee of Adjustment application have been paid out of funds allocated to that project, and the license to use the property would be at nominal cost. Section 106(1) of the *Municipal Act, 2001* prevents municipalities from assisting commercial enterprises by giving or lending any property of the municipality, leasing or selling property of the municipality below fair market value, or giving a total or partial exemption from any fee. However, section 107 of the *Municipal Act* authorizes grants, including the lease of land for nominal consideration for purposes "that council considers to be in the interests of the municipality". Council, through its approval of the *Downtown Mitigation Strategy*, has determined that mitigating the impacts of municipal construction on the viability of downtown business area would fit within that description.

From: Legal Department  
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Given the time sensitive nature of requests associated with the *Downtown Mitigation Strategy*, in addition to approving the current proposals, delegated authority is requested to allow staff to respond to such requests in a timely fashion.

**CONSIDERATIONS:**

**(A) PUBLIC**

Staff from the Economic Development department have consulted with both the Downtown Oakville BIA and individual business owners adjacent to the proposed patio/food truck. The Downtown Mitigation Strategy was the subject of extensive consultation prior to adoption.

**(B) FINANCIAL**

Costs for the variance application, and foregone parking revenues would be covered under the budget for the Downtown Mitigation Strategy.

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

This report was prepared in consultation with staff from the Economic Development department, Planning Services department, Engineering and Construction department and Municipal Enforcement department.

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

This report addresses the corporate strategic goal to:

- be accountable in everything we do

**(E) COMMUNITY SUSTAINABILITY**

Maintaining the vitality of the town's business areas during construction impacts economic and social sustainability.

**APPENDICES:**

Appendix A – site plan illustrating proposed patios in Lot 3

Appendix B - Email from Downtown Oakville Business Improvement Area dated May 3, 2019.

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