

Report to Council



Date: May 25, 2020
To: Council
From: City Manager
Subject: Sidewalk Patio Permit – Temporary Expansion
Department: Real Estate

Recommendation:

THAT Council receive, for information, the Sidewalk Patio Permit Temporary Expansion report from the Real Estate department dated May 25, 2020;

AND THAT Council support the closure of Bernard Avenue between Abbott Street and St. Paul Street, Abbott Street between Lawrence Avenue and Bernard Avenue, and Mill Street, to vehicle traffic from June 29, 2020 to September 8, 2020 to facilitate the temporary expansion of the Sidewalk Patio Permit over the road right of way area;

AND THAT Council support the establishment of a staff Public Space Task Force to review and approve general public space use requests throughout the City of Kelowna, as outlined in the report from the Real Estate department dated May 25, 2020;

AND THAT the 2020 Financial Plan be amended to re-instate the patio program revenue budget that was reduced at Final Budget;

AND FURTHER THAT Council direct staff to prepare bylaw and guideline amendments as required to implement the recommendations in the report from the Real Estate department dated May 25, 2020.

Purpose:

To establish temporary outdoor patio and pedestrian zones on Bernard Avenue and other suitable public lands to create opportunities for retail and restaurant service providers to operate safely and in a manner that is compliant with provincial physical distancing requirements

Background:

On March 17th, the Provincial Health Officer ordered all restaurants to cease seated dining as one of the measures to slow the spread of the COVID-19 virus. Other businesses including personal care and retail have also been affected by the public health orders and have either been required to close or have seen huge reductions in service levels.

On May 6th, Premier John Horgan announced a phased plan to reopen the economy. Restaurants that can comply with social distancing requirements are able to open their seated dining areas, but in many cases the ongoing restrictions for distancing will result in significant reductions to capacity, and to quote Dr. Bonnie Henry, “outdoor is better than indoor.”

Local businesses, as well as the BC Restaurant and Foodservice Association, are seeking municipal support to provide fast, flexible and nimble permitting with regards to the outdoor patio spaces, in order to support recovery and bolster employment and revenue opportunities.

Discussion:

Existing Consolidated Sidewalk Patio Program

The City of Kelowna’s [Consolidated Sidewalk Patio Program](#) provides the framework for permitting outdoor seating in key urban areas of our community, including Downtown, South Pandosy and Rutland. In light of current guidelines and requirements associated with safely operating food and retail establishments (as mandated by the Provincial Health Officer), staff are seeking Council approval for temporary amendments and additions to the existing patio program in order to better meet the needs of the business community. These changes are summarized as follows:

1. Approval to close Bernard Avenue to vehicular traffic and expand the principles of the sidewalk seating program over the entirety of the roadway; and
2. Creation of a Public Space Task Force authorized to review and approve appropriate requests for the temporary use of public lands throughout Kelowna (such as plazas, parks, parklets, roads, etc.) in a manner that is consistent with the intentions and general guidelines of the existing patio program.

Request #1: Closure of Bernard Avenue between Lawrence Avenue & St. Paul Street

Main streets and traditional downtowns are at the heart of communities. Our Downtown is arguably the heart of Kelowna, a social and commercial hub that serves the City of Kelowna (the “City”) as a whole. Investments in downtown have been shown to drive tourism, community engagement and civic pride.

Bernard Avenue has periodically been closed for a variety of events over the past number of years, and the removal of vehicle use from the street provides a great opportunity to create an enhanced pedestrian and patio zone. Staff have been working collaboratively with the Downtown Kelowna Association on a plan to temporarily close Bernard Avenue between Abbott Street and St. Paul Street, Abbott Street between Lawrence Avenue and Bernard Avenue, and Mill Street from June 29th up to and including September 8th. The cross streets will remain open and traffic measures will be put in place on Abbott Street between Lawrence Avenue and Leon Avenue. The proposed road closure area is shown highlighted in red below.



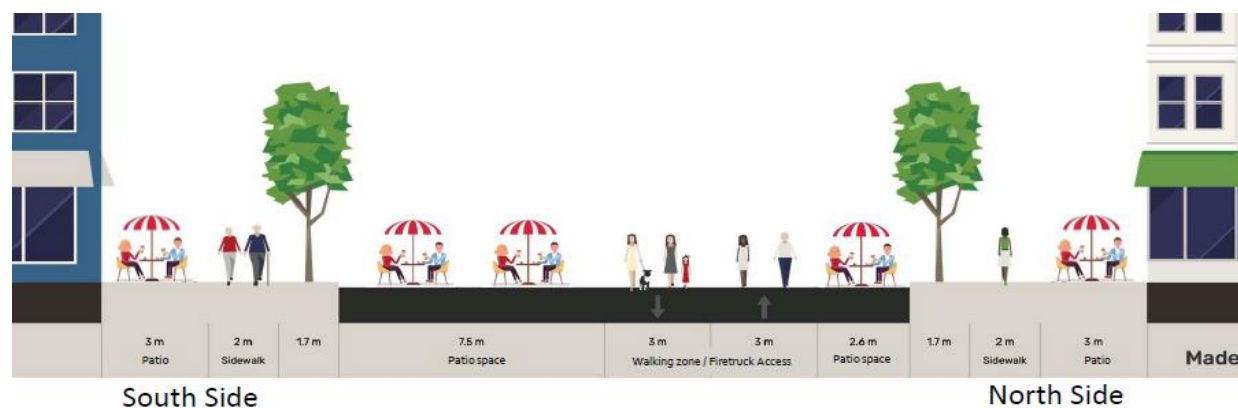
By establishing Bernard Avenue as a car free zone, staff are able to expand the patio seating program over the road right of way area, substantially expanding the potential outdoor patio space available to businesses. While wide, the sidewalks remain a constraint to physical distancing and closure of the traffic lanes is necessary for pedestrian corridors around the expanded patio spaces that will allow people to maintain personal boundaries that will make them feel comfortable.

As shown in the cross-section below, key parameters of this temporary measure include the following:

- Creation of approximately 7.5m deep patio space on Bernard Avenue for those businesses on the south side of the street.
- 3m wide north-bound pedestrian corridor.¹
- 3m wide south-bound pedestrian corridor.
- Creation of approximately 2.6m deep patio space on Bernard Avenue for those businesses on the north side of the street.²

¹ This corridor will also serve as a drive aisle for emergency vehicles.

² Patios on the south side of Bernard Avenue are proposed at 7.5m deep as there is a higher concentration of restaurants on this side of the road. On the north side of the road, there are fewer restaurants and more opportunity for restaurant owners to work with neighboring business to increase the width (as opposed to depth) of the patios.



While it is anticipated that interest in this opportunity will be largely focused on food and beverage providers, retail stores are also encouraged to participate. Doing so will allow them to provide shoppers a way to browse their wares in open air displays on the sidewalk or the newly created patio zone. A summary of Bernard Avenue businesses between Abbott Street and St. Paul Street in a high-level review completed by staff is as follows:

	Number of Businesses	Current Patio Program Participants
Food & beverage	41	30
Retail	37	
Other	28	
Total	106	30

Key Considerations

The closure to vehicles and activation of Bernard Avenue as described above will be based on the following key guidelines and considerations:

- The default size of a permitted patio will be the width of the business's storefront by a depth of:
 - Up to 7.5m on the south side of Bernard Avenue; or
 - Up to 2.6m on the north side of Bernard Avenue.
- Provided they receive written consent of the adjacent property owner, businesses may expand their 'default' patio size to include the frontage (and depth) associated with the adjacent property(s).
- Businesses serving liquor will be required to provide fencing demarcating their service area. To ensure consistency and maintain aesthetic standards, staff will provide direction on the type of temporary fencing to be installed as part of the approval process.

- Installation of fencing for businesses not serving liquor will be optional; however, the patio area must be clearly demarcated by some visual means which must be approved by staff as part of the approval process.
- Patio fees will be payable based on fair market value of the patio area. Based on social distancing requirements and a review of a sample of existing patios, staff anticipate a 50% reduction in the number of guests that can be accommodated in a given patio area. Accordingly, staff are recommending a 50% reduction of fees as outlined in the existing patio program to better reflect fair market value in light of the reduced density of seating. Staff are also recommending the application fee be reduced to \$100 (current fee is \$300 for new patios and \$180 for amendments).
- Application requirements for the proposed program will remain consistent with those associated with the existing Consolidated Sidewalk Seating Program. This includes submission of an application form and fee, inclusive of dimensioned drawings, security deposit, certificate of insurance, and approval of impacted businesses/property owners.

Request #2: Establishment of a Task Force to Respond to General Public Space Use Requests

The ability to close a portion of Bernard Avenue is a direct function of the unique nature and characteristics of this roadway, and a similar approach to road right of way areas throughout the City is not appropriate. Nevertheless, as the most significant landowner within the community, the City of Kelowna can a leadership role in creatively leveraging municipal resources in a manner that best meets the needs of our community.

Accordingly, staff propose establishing a multi-disciplinary task force, led by the Property Management branch and including functions such as Parks, Transportation and Parking, to review and approve requests for the temporary use of public space in other areas of our community.

Key Considerations

The following key guidelines will be taken into account as part of any public space use requests:

- While staff acknowledge that there will be no 'one-size-fits-all' solution and that applications will need to be considered on an individual basis, approvals will be consistent with the vision and objectives stated in the existing Consolidated Sidewalk Patio Seating program. This includes high standards in visual and aesthetic appeal, appropriate consultation with the adjacent businesses/landowners and satisfaction of insurance requirements.
- Fees will be based on fair market value of the patio area. As previously stated, given social distancing requirements and the associated reduction in guest density, the fees outlined in the existing patio program for the downtown area, the South Pandosy and Rutland will be reduced by 50% and application fee reduced to \$100

- While staff commit to creatively exploring how to best respond to requests, due to location-specific factors, certain applications may not be approved. Any request will be balanced with other municipal needs, including those associated with parking, parks, transportation, etc.

Financial/Budgetary Considerations:

Property Management Impacts

As previously articulated, in order to maintain integrity and equity in the course of business, the City's Real Estate and Property Management department transact at fair market value. This approach is further supported by Section 25 of the Community Charter, which prohibits the City from providing any assistance to business. While fees associated with the existing patio seating program are based on an independent, third-party appraisal, the unique circumstances associated with the use of the program in a COVID-environment – in particular the requirement for social distancing – merits a reconsideration of what constitutes fair market value. Given the approximately 50% reduction in the density of seating on a given patio space, a 50% reduction in the existing patio program fees is recommended.

Despite the reduction in patio fees per square footage, staff anticipate total patio revenue remaining approximately the same as a result of a significant increase in square footage used. Patio program revenues were reduced at Final Budget to reflect the expected impacts of COVID-19. In light of this new opportunity, staff are recommending that the budget be re-instated. Patio program revenue over the past three years, as well as projected revenue in 2020, is shown below.

		2017	2018	2019	2020 (projected)
Patio Program Revenue		\$46,199	\$53,781	\$71,900	\$70,000

Parking Impacts

The closure of Bernard Avenue is anticipated to result in a significant reduction in on-street parking revenue due to the loss of 113 parking stalls. While on-street parking fees have temporarily been eliminated to reflect the significant COVID-related reduction in parking demand in March, April and May, as per Council's resolution dated March 23, 2020, staff are recommending a return to regular on- and off-street parking rates effective June 1, 2020.

Allowing for a modest reduction in on-street parking demand from historical norms, staff anticipate the following changes in revenue as a result of the temporary implementation of the recommendations in this report for the summer of this year.

Bernard Avenue	
Stalls Impacted (lost)	113
Monthly Revenue per Stall (est.)	189
Total Reduction in Revenue	\$42,714

As Parking Services is a self-funded department, a reduction in department revenues would be offset by anticipated contributions to parking reserves and have no direct impact on taxation. 2020 budget adjustments for this revenue reduction are not necessary at this time as adjustments made to parking revenue budgets at final budget in combination with potentially resuming parking rates effective June 1, 2020, will offset this expected revenue reduction.

Communications Comments:

City staff have been working closely with the Downtown Kelowna Association to ensure the recommendations associated with this report align with the needs of its membership. A letter of support for the closure of Bernard Avenue and the expansion of the patio seating program onto the roadway is attached to this report as Schedule A.

The Downtown Kelowna Association will assist the City in communicating the impact and opportunities associated with the closure of Bernard to the various businesses in the downtown.

Internal Circulation:

Active Living and Culture
Transportation
Parks
Finance
Planning & Development Services
Communication
Community Safety

Considerations not applicable to this report:

Legal/Statutory Authority
Legal/Statutory Procedural Requirements
Existing Policy
External Agency/Public Comments

Submitted by: J. Adamson, Manager, Property Management

Approved for inclusion: J. Saufferer, Department Manager, Real Estate

Attachments: 1. Schedule A – Downtown Kelowna Letter of Support
2. Schedule B – PowerPoint Presentation