



Town of Niagara-on-the-Lake

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REPORT #: CDS-25-187 **COMMITTEE DATE:** N/A
REPORT TO: Council **DUE IN COUNCIL:** 2025-12-09
SUBJECT: Cash-in-Lieu of Parking Request
245 King Street (Irish Harp) – Recommendation Report

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 That the request for Cash-in-Lieu of Parking for the removal of six (6) required parking spaces at the rate of \$72,664 per parking stall (total being \$435,984) for lands municipally known as 245 King Street, **BE REFUSED** for reasons outlined in this report.

2. EXECUTIVE SUMMARY

- On September 16, 2025, Council directed Staff to receive and consider a request for Cash-in-Lieu (“CIL”) of Parking at 245 King Street (Irish Harp Pub), which requested relief from a total of six (6) parking spaces.
- The *Planning Act* allows landowners and municipalities to enter into agreements to allow for the CIL of parking funds to be placed into a reserve for municipalities to use to address local needs.
- The Town has a CIL of parking by-law (By-law No. 3093-97) and associated policy (PDS-PLG-001) which governs the process for CIL requests.
- The applicant for the Irish Harp provided documentation and information to support the request in order to facilitate a permanent patio on the lands. The materials were circulated to Town Departments for feedback and comments.
- Through the circulation period, substantial comments in objection to the request were received from the Public Works and Infrastructure Department.
- For reasons outlined in this report, Town Staff recommend refusal of the requested CIL of parking for the removal of a total of six (6) on-site parking spaces on the subject lands.

3. PURPOSE

This report is prepared to provide a recommendation to Council regarding a request for CIL of Parking to reduce the number of required parking spaces at 245 King Street (Irish Harp Pub). The CIL request has been submitted to remove required parking spaces in order to facilitate a permanent outdoor patio on the subject lands.

As part of the CIL request, the applicant was required to submit supporting materials, including building drawings/plans and a memorandum including the reason for the request, a parking impact analysis, and a community benefits analysis.

The applicant's supporting memorandums and drawings are attached as **Appendix I** and **Appendix II**, respectively, to this report. A letter prepared by the owner in support of the permanent patio is also attached as **Appendix III** to this report.

4. BACKGROUND

4.1 Cash-in-Lieu of Parking Process

Section 40 of the *Planning Act* provides an exemption to providing required parking spaces, based on municipal By-laws, and allows owners and municipalities to enter into agreements and allow the CIL. Funds received from CIL of parking are to be placed into a reserve fund for municipalities to use to address local needs. The Town passed a by-law on March 10, 1997 (By-law No. 3093-97) pursuant to Section 40 of the *Planning Act*, to establish a process for the acceptance and assessment of CIL of parking requests. As part of the By-law, Policy PDS-PLG-001 establishes the following guidelines in assessing CIL of parking requests:

- Cash-in-lieu of parking may be considered by Council where a definable community benefit has been demonstrated.
- The burden of demonstrating a community benefit is the responsibility of the applicant, and submissions shall be prepared by appropriate and competent persons for review by Council.
- Council, in considering community benefit, will have regard to safety, impact on heritage resources, retention of heritage resources, number of parking spaces, requested availability of public parking in the vicinity, any parking improvement programs underway or contemplated which may be assisted by the funds, potential financial impacts on commercial viability, potential landscaping enhancements (lot coverage), assessment of all alternatives and any other aspect that Council may deem appropriate in evaluating the request.
- Cash-in-lieu shall be implemented through a suitable agreement which will contain details on the method of calculation employed, including area calculations, type of use(s) and the by-law requirements assigned.

4.2 Property Approvals History and Council Motion

In 2009, and as part of Minor Variance Application A-20/09, the property owner was granted approval for a reduction of parking spaces generated from additional restaurant space, being the addition of an interior room and the addition of a patio across the front of the building. The approved variance sought relief from four (4) parking spaces to zero (0) parking spaces. At that time, three (3) existing parking spaces at the rear of the lands remained. The Minor Variance Application was granted, and a total of three (3) parking spaces remained on-site to support the use.

The subject lands have an existing patio located within the three (3) parking spaces on the property. This patio has been functioning through the Town's Temporary Patio Program, which will cease at the end of this year (December 31, 2025). The CIL of parking request has been made to facilitate permission to maintain the existing patio in the area of the existing three (3) parking spaces. The proposed permanent patio warrants an additional three (3) parking spaces based on the provisions of Zoning By-law 4316-09, as amended.

Town Staff have been in discussions with the applicant on the proposal for a permanent patio and the removal of parking spaces for years, dating back to a pre-consultation held in October of 2022.

On September 16, 2025, the applicant requested a non-agenda delegation to the Committee of the Whole – General meeting to present the proposal for CIL for the subject lands. Relief has been requested for all required parking spaces (a total of 6 parking spaces). The Committee passed the following motion:

That Council direct staff to receive the cash-in-lieu of parking request at the Irish Harp and review the community benefit assessment for the cash-in-lieu of parking in line with Policy PDS-PLG-001; and That Staff return to Council with a staff report in Q4 2025 (pending timing of submission of the formal request and supporting information); and Further that Staff review the cash-in-lieu of parking policy for public and private lands and provide an updated policy and process for consideration of these requests following the completion of the Old Town parking study.

On October 2, 2025, Staff received the formal request for CIL. The applicant provided additional information, including an addendum to their memorandum to respond to comments, as well as a letter of support from the landowner, on November 25, 2025.

4.3 Next Steps

If the CIL request is approved by Council, the applicant is expected to apply for a Minor Variance application to seek relief from the applicable zoning provisions for an outdoor restaurant patio, including but not limited to the size of the patio (in combination with the existing patio spaces at the front of the property) and the setback from a driveway. The Town's Committee of Adjustment reviews and approves Minor Variance applications. Subsequently, a Site Plan Approval application would be required to formally implement the permanent patio. Site Plan Approval has been delegated by Council to the Director of Planning, Building and Development Services.

If the CIL request is not approved by Council, the applicant will be required to explore alternatives to the proposed parking reduction and/or the permanent patio. This will require further discussion with the applicant and may include future planning applications.

5. DISCUSSION / ANALYSIS

5.1 Circulation Comments

Planning Staff circulated the CIL request and supporting materials to internal departments for comment. The *Planning Act* does not require public circulation or notice of such request.

Comments received from Town Departments are attached as **Appendix IV** to this report and are summarized in the table below:

Department	Comment
Building	<ul style="list-style-type: none"> No objections. Comments provided regarding the future Site Plan Application.
By-law Enforcement	<ul style="list-style-type: none"> No objections. The existing overnight rentals on the second storey do not fall under the Short-Term Rental by-law, as they are considered a hotel use.
Climate Change	<ul style="list-style-type: none"> No objections.
Economic Development	<ul style="list-style-type: none"> No objections to facilitating a permanent patio on the subject lands.
Fire & Emergency Services	<ul style="list-style-type: none"> No objections. Comments provided regarding the future Site Plan Application.
Heritage	<ul style="list-style-type: none"> No objections to the proposal to remove required parking. Additional heritage review (via a Heritage Permit) is required for the proposed permanent patio.
Finance	<ul style="list-style-type: none"> No objections. The 2025 Cash-in-lieu of parking rate is \$72,664 per parking stall.
Public Works and Infrastructure	<ul style="list-style-type: none"> Not supportive of the proposal, as summarized below. More detailed comments are included in Appendix IV. <ol style="list-style-type: none"> The property is currently deficient by three (3) parking spaces and are already dependent on the public parking inventory to service that deficit. The area is already one of the highest-demand parking areas in the Heritage District, which is in a deficit in parking supply and cannot accommodate additional overflow from commercial operations. It will impose on the public inventory for a total of six (6) parking spaces in an area where there is no available inventory to offset for the accommodation. The resulting loss of on-site parking space and delivery area would result in deliveries being facilitated from the Court House parking area or on street abutting the property, creating dangerous situations for pedestrians, motorists and those delivering to the business. Businesses within the Heritage District face similar challenges, as limited parking restricts their ability to intensify or expand operations. The Public Works and Infrastructure Department has expressed concerns about the potential impact on surrounding businesses.

5.2 Planning Review

The subject lands at 245 King Street are designated as “General Commercial” in the Town’s Official Plan, which permits retail commercial uses such as a restaurant. Furthermore, the lands are zoned “Queen Picton Commercial (QPC-28) Site-Specific Zone” under Zoning By-law 4316-09 (as amended). The site-specific zone permits an existing four (4) room hotel and restaurant; however, the existing building contains only three (3) rooms for overnight accommodations.

Town Zoning By-law 4316-09, as amended, includes parking requirements. The parking rate for hotel use is one (1) parking space per guest room. The parking rate for outdoor patios is one (1) parking space per 30 square metres of gross leasable floor area. The parking rate for a restaurant in the Queen-Picton Commercial Zone is one (1) space per 18.5 square metres of gross leasable floor area. Based on the application of the Zoning By-law, including consideration for the use of the existing building (restaurant and three (3) hotel rooms), and the proposed permanent outdoor patio, it was determined that six (6) parking spaces are required.

The existing patio has been permitted through the Town’s Temporary Patio Program, which was introduced in 2020. The Temporary Patio Program negated zoning matters, allowing food and drink establishments to facilitate a temporary patio on private lands or the public boulevard allowance to continue accommodating patrons based on the COVID-19 pandemic restrictions with respect to social distancing and indoor capacity limits. With the Temporary Patio Program concluding at the end of 2025 (December 31, 2025), permissions to negate the Zoning By-law will no longer be in effect. Landowners who wish to maintain their temporary patio on a permanent basis may require subsequent *Planning Act* applications and approvals.

Pursuant to the Town’s CIL of parking by-law, the applicant requesting the parking exemption is required to demonstrate a definable community benefit, including but not limited to matters relating to: safety, heritage, availability of public parking facilities, financial impacts on commercial viability, and landscaping. In addition to these community benefit considerations, Staff have also requested that the applicant prepare information relating to the operational functions of the business (deliveries, waste collection, etc.), as well as justification for the parking reduction through a parking impact analysis.

5.2.1 Parking

To support parking for the outdoor patio and ongoing hotel use, the applicant’s memorandum identifies that there are approximately 122 public parking spaces available within approximately 150 metres of the subject lands. This includes 47 on-street spaces and 75 spaces in the municipal lot on Market Lane.

Paid municipal parking (on-street and lots) is available 7 days a week between 10:00 a.m. and 8:00 p.m.; outside of these hours, individuals are not required to pay for municipal parking. By-laws limit on-street parking to a maximum of 12 hours. The Town does not have an overnight parking by-law that would allow for guests of the hotel accommodation to park their vehicles in excess of 12 hours, unless done so through a private parking arrangement. Given the limited public transit options in the Town, it is anticipated that most overnight guests of the subject lands would be arriving in Old Town with a vehicle and require parking.

The applicant's memorandum states that the parking demand generated by the hotel use and proposed patio expansion has little to no impact on overall parking availability in Old Town. However, based on the comments provided by Public Works and Infrastructure Staff, the proposal would further impose on the Town's existing limited parking stock in this area (the Heritage District), which is already in a deficit. The memorandum further states that customers of the restaurant are likely to visit other nearby business, using a "shared use" parking model. As per comments from Public Works and Infrastructure Staff, this parking approach has been proven not to be applicable to small tourist towns such as NOTL.

The applicant has indicated that overnight guests are advised of their parking options in the surrounding vicinity. Staff have concerns that the lack of parking in the Heritage District further burdens the residential neighbourhoods that surround the main tourist area and could adversely impact the residents and their quality of life.

Overall, Staff have concerns that overnight guests' vehicles cannot be reasonably accommodated by public parking facilities and would rely heavily on private parking arrangements. There is no guarantee that private parking will be available upon arrival. Impacts are anticipated to the Town's existing parking stock in the area, including the residential areas, and the removal of parking from the site may similarly pose inconveniences to the overnight guests with respect to adequate parking arrangements.

5.2.2 Operational Functions of Business Related to Safety

The applicant has advised that waste collection and deliveries are facilitated on the curbside off Johnson Street and are further coordinated outside of operational hours to minimize conflicts with pedestrians and vehicular traffic. These operational functions have been in place prior to facilitating the temporary patio on the subject lands. The applicant's submitted memorandum demonstrates the pre-patio arrangement at the rear of the lands (being Figure 1 in their memorandum dated October 2, 2025, and attached as **Appendix I**). Staff note that the garbage bin that is seen on Figure 1 has been removed, as per discussions with the applicant. The applicant's memorandum addendum reinforces that the proposed permanent patio would not result in any functional changes on the property with respect to delivery and waste collection operations. The applicant has indicated that there are no changes proposed to the operational functions of the business as a result of the permanent patio, and that no known adverse impacts have resulted from these operational functions with respect to safety. Further, the applicant states that the temporary patio has been organized in a manner that provides unhindered access to the rear service area of the building.

Staff are of the opinion that, while the business' operational activities have been functioning this way for some time, this approach is not desirable from a safety perspective. Facilitating deliveries on-street abutting the property may create unsafe situations for pedestrians, motorists, and even delivery personnel. This creates risk and liability to the Town, as any incident resulting from deliveries could be on the Town's boulevard. Public Works and Infrastructure Staff are not in favour of these operational functions, given the above analysis and comments.

5.2.3 Heritage and Landscaping

The subject lands are designated under Part V of the *Ontario Heritage Act*. In order to assess and determine impacts on the Queen-Picton Heritage Conservation District and the designated lands at 245 King Street, the applicant would be required to submit a request for a heritage permit to facilitate the permanent patio. Given the lands' designation, any site alterations (excluding the removal of parking spaces through this CIL request) would necessitate municipal heritage permit approvals. As part of this heritage permit request, the applicant would be required to submit design and thematic details for the proposed permanent patio. This process may run concurrently with subsequent *Planning Act* approvals, may be a condition of such subsequent approvals, or may be a standalone process.

The temporary patio is currently on a paved/asphalted area where the existing three (3) parking spaces remain underneath. Depending on the outcome of the required heritage permit and any feedback received from the Municipal Heritage Committee or Council, it is anticipated that additional landscaping may be implemented around the proposed permanent patio to create a more attractive streetscape and accommodate more greenery for the benefit of future patrons.

5.2.4 Overall Community Benefit

Successful requests for CIL for parking must demonstrate a definable community benefit, as per the Town's CIL policy. The applicant's memorandum and supporting information states that the patio benefits the community by supporting the long-term success of a small business, all while accommodating a pedestrian-friendly and tourism-focused use on the lands. The memorandum further states that the patio generates customer activity, increases foot traffic, and encourages spending at nearby businesses, thereby contributing to a vibrant, people-centric environment.

The applicant also notes that the hotel use on the second storey of the building contributes to the local economy by providing additional tourist accommodations. With the combined presence of both a permanent patio and hotel rooms, it is stated that these uses represent a more beneficial and revenue-generating use of the property than a limited number of private parking spaces.

While Staff support the provision of outdoor patios in principle and maintaining the tourist accommodation use, outstanding concerns remain with respect to the safety of residents and visitors, as well as with the Town's existing parking stock in the immediate area. For reasons outlined in Public Works and Infrastructure comments and the analysis provided in subsections 5.2.1 and 5.2.2, Staff are of the opinion that a definable community benefit, that is of benefit to the Town and its residents and tourists, has not been adequately demonstrated. The community benefits referenced throughout the applicant's materials primarily benefit the business, which is viewed as a positive for the business and its ongoing operations; however, the elimination of private parking spaces outweighs the benefits of a permanent patio from a Town perspective, as explained throughout this report.

Given the discussion throughout this report, Staff are unable to support the proposed CIL request to eliminate six (6) parking spaces, being three (3) existing spaces that support the hotel use and an additional three (3) generated from the permanent patio proposal.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

- 7.1 **Option 1:** That Council refuses the request for cash-in-lieu of parking for the removal of six (6) required spaces on-site. **(Recommended)**
- 7.2 **Option 2:** That Council defers the request back to Staff for further consultation with the applicant and/or Town departments. *(Not Recommended)*
- 7.3 **Option 3:** That Council approves the request for cash-in-lieu of parking and directs Staff to provide a draft by-law and cash-in-lieu agreement at the next possible Council meeting for adoption. *(Not Recommended)*

8. FINANCIAL IMPLICATIONS

Should Council wish to approve the request, the payment will be placed into a reserve fund that would be used towards addressing parking issues; however, there is no immediate plan to facilitate additional municipal parking in the Heritage District. The Owner will be responsible for the legal fees associated with registering the by-law and agreement on the title of the property, in addition to providing the full cash-in-lieu amount requested.

9. ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with the request for cash-in-lieu of parking.

10. COMMUNICATIONS

The *Planning Act* does not contain provisions to allow for the appeal of cash-in-lieu of parking decisions. Should Council wish to approve the request, a by-law and agreement would be registered on title to further enforce payment of cash-in-lieu for the parking reduction.

11. CONCLUSION

Planning, Building and Development Services Staff recommend refusal of the cash-in-lieu-of-parking request for the removal of six (6) required parking spaces at 245 King Street, as the request may result in adverse impacts to the safety of visitors and residents, further impose on the Heritage District's parking deficiencies, and impact surrounding residential areas.

12. PREVIOUS REPORTS

- **PDS-01-035** – 245 King Street – Request to Waive Site Plan Control for Interior Alterations (March 5, 2001)
- **Municipal Heritage Committee Report MHC-09-025** – 245 King Street – Ontario Heritage Permit Application – Patio Construction, Signage & Paint (May 6, 2009)
- **Minor Variance Application A-20/09** – 245 King Street (May 19, 2009)

13. APPENDICES

- **Appendix I** – Supporting Memorandums
- **Appendix II** – Architectural Drawings
- **Appendix III** – Owner Letter of Support
- **Appendix IV** – Town Comments

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