

# Staff Report

Presented By: Mark Paoli  
Meeting Date: September 9, 2024  
Subject: Paradise Inn Parking Area Licence  
Attachment(s): None

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## **Recommendation**

That Council adopt By-law 71-2024, a By-law to authorize a licence agreement for the Paradise Inn parking lot.

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## **Report Summary**

Paradise Inn has requested permission to use of part of the Brook Lane road allowance for parking purposes. This report sets out the evaluation of the request and recommends entering into a licence agreement. The proposed licence agreement is included in the By-law section of the Council agenda.

## **Background/Analysis**

Bird Investments Inc. owns the Paradise Inn at 188 Mill Street in Port Elgin. The property is adjacent to: Harbour Street on the west; Mill Street on the north; Brook Lane on the east; and a townhouse development to the south (see sketch attached to proposed licence agreement).

The Inn business has been using part of the Brook Lane road allowance for customer parking, as shown in the photos attached. The part of the parking area that is in the road allowance is approximately 7.3 m by 12.8 m (93 square metres). The parking area abuts, and is accessed by, the parking area on the Inn property.

This request is different from some recent “encroachment” situations because the request is not about allowing a “structure”; rather, it is for the use of land (parking). In this respect, it is more like a sidewalk patio or café licence. Accordingly, the analysis that follows and the draft agreement attached to the By-law, it generally follows that framework, with certain distinctions.

The following sections set out the criteria/analysis and the main elements of the proposed licence agreement.

### Criteria and Analysis

The criteria considered and analysis in this request are:

1. The Town's intent and purpose in holding the land:

Lands that are part of a right-of-way are generally intended for movement of traffic or pedestrians. In the case of the lands in question, the part of Brook Lane in which the travelled portion of the road has been built is separated from the parking area by a slope. This grade separation makes the area proposed to be licenced impractical for a sidewalk or road widening.

2. Interference with work, plans, efforts or initiatives of the Town to maintain Town owned lands:

The 10-year Capital Plan for roads does not include any projects on Brook Lane. Therefore, no widening or reconstruction of Brook Lane is planned for the next 10 years and the Public Works Manager does not have concerns with future maintenance of adjacent Town lands.

3. Safety

The parking area is not anticipated to create an unsafe condition.

4. Liabilities

Potential liabilities are addressed in the licence agreement and insurance is required.

5. Utilities

There are no utilities or municipal services in the Brook Lane right-of-way. The parking area would not interfere with existing utilities.

6. Need

The applicant indicates that the Inn is needed, and has for many years functioned, as part of its adjacent parking area for 10 customer vehicles and that this is sufficient for current and future needs.

### Main Licence Provisions:

- Grants non-exclusive permission to use the licenced area for parking use and to place temporary curbs, and other features for safety, subject to the Town's prior approval.
- Term is 10 years with an annual fee.
- Maintenance is at sole cost of the licensee and maintenance requirements are set out.
- Indemnification of the Town from liability.
- Insurance, including for public liability and property damage, of \$2,000,000 is required.
- Termination provisions are set out.
- Clear statement that this would be a licence and not a lease.
- Transfer (assignment) to a future owner is possible subject to prior written consent of the Town and a further written agreement with the new licensee.
- Other provisions that are normal for this type of agreement.

### **Linkages**

- Strategic Plan Alignment: Pillar 4: Fostering a Vibrant Place to Live and Visit
- Business Plan Alignment: Development Services Business as Usual

### **Financial Impacts/Source of Funding**

Estimated revenue of \$980.00 annually associated with this licence would be included in the future years Business Plan.

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Prepared By: Mark Paoli, Director, Development Services  
Reviewed By: Tammy Grove, Municipal Solicitor  
Approved By: Kara Van Myall, Chief Administrative Officer

Parking Area Photo – looking east towards Brook Lane



Parking Area Photo – looking north towards Mill Street

