



PLANNING AND DEVELOPMENT

400 LA CROSSE STREET | LA CROSSE, WI 54601 | P: (608) 789-7512

Memorandum

To: Common Council

From: Tim Acklin, AICP

Senior Planner

Date: November 2, 2020

Re: Outdoor Café Program and Program Extension Legislation (20-1492, 20-1494, 20-1496)

In July 2020 the Common Council approved the creation of the Outdoor Café Program. This program allowed for our City's restaurants, taverns, and tasting rooms to utilize outdoor spaces, such as adjacent parking lots, public sidewalks, and on-street parking spaces, for outdoor seating as a way to assist business in getting through the pandemic. This program has a sunset date of November 13, 2020, but this date may be extended by the Common Council. Additionally, Downtown Mainstreet, Inc. was instrumental in partnering with the La Crosse Center who was able to provide their event fencing/barriers for the applicants to use.

Once the program was approved we worked with 20 businesses, 19 of which were approved for outdoor seating.

In mid to late October Planning Department Staff sent a survey to these businesses asking for their feedback on the program. Below were the questions we asked.

1. *Business name.*
2. *Has the program been beneficial to your business? If yes will you share what percent increase in sales you saw?*
3. *Would you be interested in continuing operations through the Winter months if the program was extended? Can you share any ideas/strategies to facilitate cold weather outdoor dining? (There has been a request from Downtown Mainstreet Inc to extend the program through the winter months. This would be heard in November and potentially allow for uninterrupted use of the program.)*
4. *What aspects of the program went well?*
5. *Are there any changes we can make to the program/process to make it easier for our restaurant, tavern, tasting room community?*
6. *Any other comments or information you would like to share?*

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Planning staff received six (6) responses, which are provided below. Due to the severity this pandemic is having on these types of businesses and the importance of this program we felt it was beneficial to provide their responses word for word rather than paraphrase or summarize them.

1. *Business name. **Dream Once LLC (DBA: The Arterial Bar & Grill)***
2. *Has the program been beneficial to your business? If yes will you share what percent increase in sales you saw? **Extremely Beneficial! We do not split up our customer tickets exclusively by patio or dine in. However, by our estimations it added 6-8 tables of guests per day, many of them being customers we hadn't seen since the pandemic began. It was often at-risk age groups that felt safe in an outdoor environment.***
3. *Would you be interested in continuing operations through the Winter months if the program was extended? Can you share any ideas/strategies to facilitate cold weather outdoor dining? (There has been a request from Downtown Mainstreet Inc to extend the program through the winter months. This would be heard in November and potentially allow for uninterrupted use of the program.) **This would be difficult for us to do but if there were unique ideas for how to make this happen we would participate if we could.***
4. *What aspects of the program went well. **Quick approval and fantastic cooperation between departments when we applied!***
5. *Are there any changes we can make to the program/process to make it easier for our restaurant, tavern, tasting room community? **Being able to re-implement this early in the Spring would be the most helpful for us. We are very appreciative of the time we had to do this in 2020, however had we had the ability in March or April we could have really got some momentum going early.***
6. *Any other comments or information you would like to share? **I don't think I can overstate the dual importance of this program. It doesn't just help our small business survive but it has equal importance to members of the community. Take my parents for example. Both are in their 60's and would be high risk if they contracted Covid-19. They were cooped up in their house for the longest time and then this program allowed them to come visit with me, sit in the sunshine and enjoy some sense of normalcy. That was an invaluable activity for them, and can really help maintain a positive mental attitude during a difficult time. Please consider bringing this back in 2021 regardless of the state of Covid, I think many people will be cautious in returning to dine in settings even when a vaccine or treatment is available. Thank you!***

1. *Business name. **Piggy's Restaurant and Lounge***
2. *Has the program been beneficial to your business? If yes will you share what percent increase in sales you saw? **Minimal increase, more overflow seating. We did have some requests for outside, too buggy so they would come inside. 2% if I had to guess.***
3. *Would you be interested in continuing operations through the Winter months if the program was extended? Can you share any ideas/strategies to facilitate cold weather outdoor dining?*

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(There has been a request from Downtown Mainstreet Inc to extend the program through the winter months. This would be heard in November and potentially allow for uninterrupted use of the program.) **No, the cost would be too much**

4. *What aspects of the program went well?* **We were able to offer safe outdoor seating for guests that may not have dined with us at all or ordered carryout and then we would have missed residual sales. It showed that the city is looking forward**
5. *Are there any changes we can make to the program/process to make it easier for our restaurant, tavern, tasting room community?* **Make this a permanent offering to all restaurants, then we would have time to plan and budget for a more inviting area as opposed to the cattle arena most of us used for the 6 weeks.**
6. *Any other comments or information you would like to share?* **If this was available from April to Oct then it may be worth the expense to do it right, but starting in mid-August it was hard to justify the barrier and cone expense, let alone any decorations, just my 2 cents. Thanks for your efforts, Chris.**

1. *Business name.* **Uptowne Cafe & Bakery**
2. *Has the program been beneficial to your business? If yes will you share what percent increase in sales you saw?* **The program was successful and led to customers choosing to eat outside rather than order take-out, we noticed a net conversion. Profits didn't necessarily increase but rather shifted. The weather and timing had to be perfect in order to attract the clientele we needed.**
3. *Would you be interested in continuing operations through the Winter months if the program was extended? Can you share any ideas/strategies to facilitate cold weather outdoor dining? (There has been a request from Downtown Mainstreet Inc to extend the program through the winter months. This would be heard in November and potentially allow for uninterrupted use of the program.)* **No. We would not want to keep outdoor seating through the winter months, but would see a benefit if it resumed sometime in March, April.**
4. *What aspects of the program went well?* **Blocking off the parking spots served a marketing function to advertise that outdoor seating is available, attracting customers that otherwise wouldn't have come in.**
5. *Are there any changes we can make to the program/process to make it easier for our restaurant, tavern, tasting room community?* **The program was fair and worked well enough, I do not have any suggestions for improvement, other than resuming it in the spring.**
6. *Any other comments or information you would like to share?* **NO REPSONSE PROVIDED.**

1. *Business name.* **4 Sisters Inc**
2. *Has the program been beneficial to your business? If yes will you share what percent increase in sales you saw?* **Yes, we were able to use the grass space next to our restaurant that is owned by our landlords. Without being able to use this space we would have struggled to make payments. We would have done much better if we were able to have this space operational in May rather than August.**

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3. *Would you be interested in continuing operations through the Winter months if the program was extended? Can you share any ideas/strategies to facilitate cold weather outdoor dining? (There has been a request from Downtown Mainstreet Inc to extend the program through the winter months. This would be heard in November and potentially allow for uninterrupted use of the program.) It is very difficult to operate outdoor patio spaces during the winter months. For us we took down our tables and chairs every night because we were afraid of theft and damage. Many times, our GM had to ask the homeless people to vacate. We purchased 4 Igloos to place on our patio for outdoor dining. This is a costly investment but less than trying to install outdoor heaters. 25% capacity is definitely going to hurt all of the restaurants and it's a shame there isn't relief in sight. We have spent a lot of time and money to be sure we were compiling with all the regulations and requirements. From day one we had a sanitation process in place, all our staffs wore masks, all tables were placed 6' apart and now we are going to have to operate at 25%. It would be nice if we were taxed on 25% of our taxes. We will need to be creative to make it through this winter and hopefully have a nice summer to try and catch up.*
 4. *What aspects of the program went well? For us the expanded outdoor seating area went very well. Because its right next to our building it was easy for us to walk the customers to their table. We felt comfortable with how we serviced them. The only thing that would have helped is if we would have been able to have it open in May rather than Aug.*
 5. *Are there any changes we can make to the program/process to make it easier for our restaurant, tavern, tasting room community? Understand the urgency of our needs. Decisions and processes have to move faster. Every day closed or partially closed can mean the difference between staying open and employing staff or closing and laying off employees.*
 6. *Any other comments or information you would like to share? Anything that can be done to reduce fees is appreciated. For example, reducing the liquor license fees was helpful. Tax relief would be huge.*
1. *Business name. Dublin Square Irish Pub & Eatery*
 2. *Has the program been beneficial to your business? If yes will you share what percent increase in sales you saw? Yes it has. On the days we were able to use it with overflow and nice weather, we saw our four tables being used frequently. Can't say an exact percentage but we were able to realize a few thousand dollars in additional revenue. Would you be interested in continuing operations through the Winter months if the program was extended? (There has been a request from Downtown Mainstreet Inc to extend the program through the winter months. This would be heard in November and potentially allow for uninterrupted use of the program.) I don't think this would be possible even with heaters unless the cafes are enclosed. Can you share any ideas/strategies to facilitate cold weather outdoor dining? Tents with heaters would be the only possible way I*

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would imagine. We currently have an enclosed patio with over 400k BTU's and it can still get cold in there once temps drop down below 20-25 degrees.

4. *What aspects of the program went well? **Allowing us free access to barriers and providing us with parking spaces to do the program.***
5. *Are there any changes we can make to the program/process to make it easier for our restaurant, tavern, tasting room community? **Please start this in March next year and not in August.***
6. *Any other comments or information you would like to share? **Thank you very much for allowing Dublin Square to be a part of the program. Highly recommended for next year. We appreciate you looking out for the restaurants in downtown La Crosse.***

1. *Business name. **Turtle Stack Brewery***
2. *Has the program been beneficial to your business? If yes will you share what percent increase in sales you saw? **Yes, this program has been extremely beneficial to our business. We were essentially able to double our seating capacity as most people now are coming out in pairs. We only have 6 tables indoors so 6 pairs is a total of 12 people. Adding 7 smaller tables outdoors means that we have 26 people (13 pairs) purchasing beer for a minimum 50% boost in sales. More people are comfortable sitting outdoors too so during the weekend, when weather is cooperative, that percentage boost would be closer to 100%.***
3. *Would you be interested in continuing operations through the Winter months if the program was extended? Can you share any ideas/strategies to facilitate cold weather outdoor dining? (There has been a request from Downtown Mainstreet Inc to extend the program through the winter months. This would be heard in November and potentially allow for uninterrupted use of the program.) **We would certainly be interested in continuing the program. I sat in last week on the meeting with DMI and a number of La Crosse City departments as we discussed potential issues and benefits. It's difficult to say at this time if the people of La Crosse would utilize outdoor winter seating but I guess we don't know if we don't try. We are living in unprecedented times and I believe we should be open to any program that will potentially help these small downtown businesses survive the winter. Outdoor pub crawls on Saturdays could be fun group event. Have people put on their warm clothes and go from bar to bar, staying outside and each bar can showcase a hot drink, ie Hot Toddy, Hot Buttered Run, Irish Coffee. Incorporate this somehow with support local downtown Holiday shopping? Maybe building Ice Bars at a few of the nicer establishments.***
4. *What aspects of the program went well? **Just about every aspect of the program worked for us. We have minor hiccups here and there with people not listening or understanding the few new rules that came along with the parklets, ie vertical drinking, not being able to carry your beer inside and out. These rare instances were typically corrected on the spot. We understand that the city doesn't want beer gardens in the streets so keeping the capacity in line with the seating capacity works great for us. It makes it much easier to control overall.***

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5. *Are there any changes we can make to the program/process to make it easier for our restaurant, tavern, tasting room community? **We found all of the assistance this year from the City of La Crosse and especially the DMI team fantastic. No changes immediately jump to mind.***
6. *Any other comments or information you would like to share? **Whether or not the winter outdoor seating comes to fruition, we really hope that we can establish a date for next Spring to open up the outdoor seating options again. We're looking forward to working with DMI and local artists to try and make these parklets blend in with a vibrant downtown. Potentially using planters instead of jersey barriers as book ends, using reflector tape instead of orange cones if possible, cover up the fencing. I truly think these can be an integral part of keeping businesses downtown open and running throughout the duration of this pandemic and possibly have an even greater impact post Pandemic. We'll need almost immediate turn around to survive and these Parklets give us a pretty big push in the right direction for recovery.***

Planning staff's take away from these responses and the program are:

- 1) Overall the process was not viewed as cumbersome. After the initial applications were submitted City Hall staff were able to process and approve applications in about a week, if not less. Length of time also depended on when they submitted their application to the City in relation to the next Board of Public Works Meeting,
- 2) No complaints have been
- 3) The applicants were generally compliant with the regulations in place. Only minor aspects of the program had to be enforced, if any had to be at all.
- 4) Overall this program has been beneficial to the businesses for the short time they were able to use it. Even though some businesses did not respond to the survey Planning staff had heard from several of them during our compliance checks that even the 2-4 extra tables outside had helped a lot.
- 5) There is a strong desire to have this program in place when Spring arrives.
- 6) The waiver of, or reduced, fees were very helpful.
- 7) Of the 19 current outdoor programs it is expected that only a select few would seriously consider using it through the winter months. The ability to heat, or enclose, the spaces are a huge factor in this consideration.

In mid-October Planning staff was approached by Board members from Downtown Mainstreet, Inc. requesting that the program be extended through the winter months for those that want to.

The key topics of discussion related to this request were:

- 1) Snow Plowing logistics. (City snow plowing)
- 2) Outdoor heating options
- 3) Vertical Standing
- 4) Continued use of La Crosse Center fencing/barriers
- 5) Extend program through 2021 or indefinitely.
- 6) Any concerns or complaints about the program so far

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Planning Staff organized a virtual meeting on October 15, 2020 with City staff, board members of DMI, and businesses to discuss extending the program. Staff invited the City Clerk's Department, Engineering, Fire Department/Community Risk Management, Streets Department, Police Department, and the La Crosse Center to attend or provide their feedback on the discussion items above. Below is the feedback from City Staff.

Police

- The night commanders did not have any examples regarding issues. They did express concerns that standing could lead to a "beer garden" style atmosphere along with the concerns of traffic safety/drunk driver taking out a group of people.

Fire Department/Community Risk Management

- No open flames are permitted. Propane tank heaters, that are UL listed would be permitted however, no storage of propane tanks allowed indoors. No gas or electrical lines that would create a tripping hazard are permitted. Any building mounted infrared heaters would require permission from BPW and be installed with the proper permits and inspections.
- Not aware of any comments, or complaints about the existing program,

City Clerk

- If extended, must have an expiration date. License year ends June 30, but renewals begin in March.
- As a pilot program, it should be evaluated before it is made permanent. If a change is desired to have outdoor seating on a permanent basis, many ordinances must be reviewed and revised.
- Is it really an outdoor café if people are standing rather than sitting?
- A Resolution is needed to extend the program beyond November 13, 2020. An Ordinance is also needed, as it (Ord. 5151) sunsets November 13, 2020. The legislation must go through J&A and Council.

Engineering

- The biggest issues I see are: snow removal, temporary structures or portable heating, and lastly driving conditions. To me, this is hands down an issue of safety.
- For snow removal, I defer to the Street Department. However, I see this as needing to be addressed because even at low speed, snow plows will throw snow right into any areas that are in the parking lane or boulevard/sidewalk. If there are areas set up in the street or on the boulevard/sidewalk, the Street Department will no longer actually be plowing snow, but they will need to immediately remove it. There will be no room for snow storage. Lastly, if there is the typical "snow creep," that occurs when traffic lanes become progressively narrower due to snow being on the edges of the travel lanes, then traffic will not have adequate room.
- For any temporary structures and outdoor heating, I defer to the Fire Department. However, I will bring up that having either temporary structures that could

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blow over, or having gas or electrical power sources out in the public area, during inclement conditions would only add to concerns about pedestrian and vehicle safety.

- Lastly, my biggest concern is safety of both the traveling public and those who may be dining, drinking, or just gathering in the space in parking lanes or on the boulevard. If there is any ice and snow on the streets, vehicles may have serious issues maintaining control or being able to stop. I would hate to see a car or truck slide into one of these areas. Aside from causing damage to any errant vehicles, we could be knowingly placing pedestrians in the paths of vehicles unable to avoid them.
- I have no issues with people dining, drinking, or standing in the cold. I do not wish to obstruct anything that businesses are championing as good for the local economy. However, as the City's de facto Traffic Engineer, I would unethically negligent if I did not document my concerns about safety, specifically when there is snow and ice on the ground. If an extension is given, I would recommend not permitting anything under snowy or icy conditions.

Streets Department

- Concern about snow plow damaging any temporary structures or injuring people within the outdoor area. Downtown is hard to keep clean anyway.
- Are City plows covered by insurance?

La Crosse Center

- Concerned about snow plows damaging their fencing/barriers
- What would the outdoor cafés do if the La Crosse Center needs them back.

The Legal Department also suggested that the amount of insurance coverage by the applicant be increased to cover any additional liability that may occur with snow or ice. Their concern was that what was provided may not be enough and then action would be directed at the City.

At the request of Downtown Mainstreet, Inc and with the support of Council Member Chris Kahlow Planning staff has submitted legislation to extend the program through the winter months.

Planning staff have made the following proposed amendments to the program:

- 1) The program has a new sunset date of March 12, 2021. Staff felt it was important to have one more checkpoint to evaluate if there needs to be any further revisions to program. This date will also allow for the Common Council to take any action at their March meeting as we approach Spring. This date will also allow for City staff time to process applications and businesses to be ready to go with the warm weather.
- 2) Staff has amended the language to allow for vertical standing. This was a request by some businesses considering keep their outside seating through the winter months so that their customers could stand up at their seat and move around to keep warm. Staff amended the language to allow for customer to stand up in front of their chair and that no more chairs/people than what was approved are permitted. For example, if a table with four chairs was approved on their plan, then only fours chairs are permitted, and no more than four people would be permitted to stand at that table.

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- 3) Working with the City Clerk we have also submitted this legislation to allow those that want to continue operating their area may do so without have to be re-approved as long as they will operating under the same plan. Anything new will have to be approved.
- 4) Staff did add language increasing the amount of insurance that is required. (See item #4 on the Program Application)

As before, there are three (3) pieces of legislation. Two are going before the J&A Committee and one is going before the F&P Committee.

Planning staff recommends approval of these items with the following thoughts:

- 1) Planning staff is concerned that the increase in the amount of insurance will pose further financial burden to the businesses.
- 2) Planning staff supports establishing another checkpoint to evaluate the program. This will allow for any changes, if needed, as we head into the spring of 2021. This is also still considered a PILOT program to be used to evaluate whether to make it permanent.
- 3) Planning staff has no issues with the vertical drinking amendment. We can decide to remove it from the program at the March checkpoint if needed.
- 4) While removing snow from the Downtown is very difficult already, it is anticipated that there may only be 2-3 businesses attempting to continue through the winter months. Our Streets Department does a fantastic job already of plowing slowly and mostly at night when there are no people present. Additionally, Planning staff will work with the Streets Department to make them aware of the locations of those that want to keep them. There is already a requirement in the program guidelines that the owner is required to remove the snow so the Streets Department can give themselves a few more feet away from if they desire.