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**File: Z-8763
Chuck Parker**

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: CITY OF LONDON DELETING SECTION 4.18.5 OF ZONING BY-LAW Z-1 TO PERMIT AMPLIFIED MUSIC AND DANCING ON PATIOS CITY-WIDE PUBLIC PARTICIPATION MEETING ON Tuesday, June 6, 2017 Item not to be heard before 5:00 pm

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions **BE TAKEN**:

- a) with respect to the application of the City of London relating to entertainment permitted on outdoor patios associated with a restaurant or tavern in the City of London: the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on June 13, 2017 to delete Section 4.18 5), and renumber the following subsections, of the General Provisions Section of Zoning By-law Z-1, in conformity with the Official Plan, to permit amplified music, dancing or other forms of entertainment, **IT BEING NOTED** that Noise By-law (PW-12) regulates noise levels and hours of operation and can provide regulations therein to address specific locations and situations; and
- b) replacement pages 63 to 67, together with the other edits Council requested to the Music, Entertainment and Culture District Feasibility Study, **BE PRESENTED** at a future meeting of the Strategic Priorities and Policy Committee, to document comprehensively the City's Music, Entertainment and Culture District strategy.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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1. Planning Entertainment Uses for Downtown Revitalization (PC-April 9, 1996, August 26, 1996 and September 30, 1996)
2. Regulation of Noise from Outdoor Patios and/or Restaurants/Taverns (PC-June 18, 2001)
3. Regulation of Noise from Outdoor Patios and/or Restaurants/Taverns (PC-October 29, 2001)
4. Regulation of Festivals/Events on Private and Public Property (PC-March 2002)
5. Residential-Entertainment Interface Study –Preliminary Report (PC-June 21,2004)
6. London's Cultural Prosperity Plan (2013)
7. Z-8335/City of London – Entertainment on Outdoor Patios (PEC-May 13, 2014)
8. London Music Strategy (August 27, 2014)
9. "Our Move Forward" – London's Downtown Plan (PEC-Council adopted April 14, 2015)
10. Potential Culture Districts in the City of London (SPPC - June 9, 2015)

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11. Potential Culture Districts in the City of London – Study Terms of Reference (SPPC – October 26, 2015)
12. Music, Entertainment and Culture District Study – Study Status Report (SPPC – March 21, 2016)
13. Z-8625/City of London- Temporary Zoning Changes in Downtown Business Improvement Area and Old East Village Community Improvement Area (PEC – July 18, 2016)
14. Z-8625/City of London - Temporary Zoning Changes in Downtown Business Improvement Area and Old East Village Community Improvement Area – Result of Appeals (PEC – November 14, 2016)
15. Music, Entertainment and Culture District Feasibility Study (SPPC – March 20, 2017)

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The purpose and effect of this zoning by-law amendment will be to remove Section 4.18 5) (ENTERTAINMENT) from Zoning By-law Z-1 to permit amplified or electronic music, dancing and other forms of entertainment on outdoor patios associated with a restaurant or tavern.

RATIONALE

Outdoor patios on private property established after July 1993 are not permitted to have amplified music or dancing. This prohibition does not apply to outdoor patios on private property established before adoption of Zoning By-law Z-1. Thus zoning permissions for private outdoor patios regarding amplified music and dancing are inconsistent across the city. The proposed zoning by-law amendment creates zoning consistency in this particular regulation, which would be applicable to all property owners who operate patios associated with a restaurant or tavern in the City of London. This action would implement one part of the strategy [“Permitted Activities on Private Patios”] in the Music, Entertainment and Culture District Feasibility Study approved by Council on March 21, 2017.

BACKGROUND

Date Application Initiated: April 3, 2017

REQUESTED ACTION:

Municipal Council, at its meeting held on March 21, 2017 resolved:

That the following actions be taken with respect to Music, Entertainment and Culture Districts:

a) the staff report dated March 20, 2017 BE RECEIVED; and

b) the recommended Strategy contained in the staff report noted in a), above, BE APPROVED subject to the following:

i) Operating Hours of Festivals and Events and Volume of Noise (Pages 63 to 65 of the Strategy contained in the Feasibility Study) being excluded from the approval and being reported upon separately to the Strategic Priorities and Policy Committee within two meeting cycles; it being noted that staff will work to implement the Strategy over time and within existing budgets or in association with the next 4-Year Multi-Year Budget; (4/7/SPPC)

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SIGNIFICANT DEPARTMENT/AGENCY COMMENTS

No significant concerns expressed to date.

PUBLIC LIAISON:	<p>Notice of Application was published in the <i>Public Notices and Bidding Opportunities</i> section of <i>The Londoner</i> on April 27, 2017. The notice was also posted on the City website.</p> <p>On May 2, 2017 a notice of application was e-mailed to 63 individuals on our mailing list and 31 letters were sent to those who did not provide e-mail addresses. The notice was also sent to the President of the Urban League to be circulated to all registered community associations City-wide.</p>	41 replies were received
<p>Nature of Liaison: Remove Clause 5) "Entertainment" from Section 4.18 (Outdoor Patio Associated with a Restaurant or Tavern) of Zoning By-law Z-1.</p> <p>The purpose and effect of this zoning by-law amendment will be to remove from the Zoning By-law a regulation which currently prohibits amplified and electronic music, dancing and other forms of entertainment on patios. This change would implement one action from the Music, Entertainment and Culture Districts Strategy approved on March 21, 2017 by City Council.</p> <p>The intent is to regulate noise and hours of operation regulations using the Noise By-law instead of the Zoning By-law. Proposed amendments to Noise By-law PW12 will be considered separately at a meeting of the Strategic Priorities and Policy Committee (SPPC).</p>		
<p>Responses: To date, Planning staff have received 23 letters/e-mails (including a 11 name petition from the Camden Place Residents and a 18 name petition from the Downtown London Noise Committee) and one telephone call all objecting to the proposed amendment primarily on the basis that it will produce more noise, over a longer time period, and impact their quality of life.</p> <p>Planning staff also received 17 letters of support for the amendment on the basis that it will make the City more vibrant and exciting and increase tourism.</p>		

PLANNING HISTORY

Section 4.18 (Outdoor Patio Associated with a Restaurant or Tavern) has remained largely unchanged since Zoning By-law Z-1 came into force July 1, 1993 except for a title change and addition of the words, noted below, to subsection 5) in 2014. The restrictions on new patios next to residential uses have continued to be applied since that date. All patios in existence before that date are considered legal conforming uses.

The issue of noise emanating from patios, especially next to residential uses, was the subject of planning reviews in 2001 (Z-6072/City of London), 2004 and 2014. The first review was initiated in response to residents' complaints about excessive noise from bars and restaurants in the Richmond Row area. Issues of noise, hours of operation and the regulation of noise were raised. A number of options were considered; however no changes were made. A Noise Task Force was established but did not hold its first meeting until April 2004.

In 2004 a Residential/Entertainment Interface Study was initiated which included Downtown and Richmond Row. Again a number of options were considered including changes to the Zoning By-law, Noise By-law, Licensing By-law and Liquor License process. No further changes were made until 2013/2014.

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Following Council resolutions on August 27, 2013 and April 1, 2014 City staff initiated a zoning by-law amendment to permit non-amplified music on patios during the 2014 patio season as a pilot program and monitor the results. The Council approved a zoning by-law amendment which added text (highlighted below in grey) to Section 4.18 clause 5). The clause has been in place since 2014.

5) ENTERTAINMENT

No amplified or electronic music (whether performed live or recorded), dancing or other forms of entertainment shall be permitted, with the exception of non-amplified acoustical music. (Z-1-142303)

On May 31, 2016 Council gave direction, at the request of the Culture Office of the City of London, for Planning staff to process a City-initiated zoning by-law amendment with public circulation, to temporarily remove the application of Section 4.18 5) of Zoning By-law Z-1 to allow the City to monitor the impact of music and dancing on patios in the Downtown and Old East Village during the summer festival season, particularly during Country Music Week September 8-11, 2016. This test period was to be used to gather information for the consideration of permanent changes through the Music, Entertainment and Culture District Feasibility Study. On July 26, 2016 Council resolved;

- 19. That, on the recommendation of the Managing Director, Planning and City Planner, with respect to the application of the City of London, the proposed attached, revised, by-law (Appendix "A") BE INTRODUCED at the Municipal Council meeting to be held on July 26, 2016, to amend Section 50.2 (Temporary Zone) of Zoning By-law No. Z.-1, (in conformity with the Official Plan), to temporarily allow, notwithstanding the regulations of Section 4.18 5) of the General Provisions Section, amplified music and dancing on outdoor patios legally in place as of July 26, 2016 within the Downtown Business Improvement Area and Old East Village Community Improvement Program Area for a temporary period not to exceed September 30, 2016;*

Notice of the Passing of the Zoning By-law amendment was sent August 4, 2016. The City received two appeals in response, on August 17th and August 19th, 2016. On October 4, 2016 the City received a letter indicating that the Ontario Municipal Board had closed the file because the Council approved zoning by-law amendment that was to be temporarily applied until September 30, 2016 had passed, and with no OMB hearing having been scheduled by then, there was no longer any reason to argue the merits of the amendments.

ANALYSIS

Section 34 of the Planning Act provides that Zoning By-laws may be passed by the Councils of local municipalities restricting use of land in conformity with the Official Plan. London's Zoning By-law already provides that outdoor patios associated with a restaurant or tavern *are a permitted use of land*. Section 4.18 5), on the other hand, restricts entertainment activities and equipment that may be found on outdoor patios. These restrictions appear to act as a proxy for regulating the undesirable *consequences* that may ensue from the entertainment activities and equipment such as what time they occur, how loud they are, and so on. Noise levels and hours of operation are more appropriately located in the Noise By-law where they can be monitored and measured as performance characteristics of patios, as opposed to land use attributes regulated under the Zoning By-law.

The existing legislative framework includes the following;

Relevant Sections of the Municipal Act 2001 to Support the Proposed Zoning By-law Amendment

The *Municipal Act 2001* does allow for the regulation of noise and hours of operation. Various sections of the Act allow the City to regulate these performance characteristics. The City has its

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own Noise By-law (PW-12 - 2009) which was passed under the provisions of the *Municipal Act*. Some of the relevant sections include;

Section 128 of the Municipal Act, 2001 provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

AND WHEREAS in the opinion of Council for the City of London, certain kinds of noise are or could become a public nuisance;

Section 129 of the Municipal Act, 2001 provides that, without limiting sections 9 and 10 of the Act, a municipality may: (a) prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors; and (b) prohibit the matters described in clause (a) unless a permit is obtained from the municipality for those matters and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

Relevant Sections of Noise By-law (PW-12 – 2009)

Relevant definitions include;

“Point of Reception” means any point on the premises where sound originating from other than those premises is received;

“Residential Area” means any area of the Municipality where residential use is permitted under the provisions of the City’s Zoning By-law from time to time, including but not limited to land zoned R1, R2, R3, R4, R5, R6, R7, R8, R9, R10, or R11;

“Stationary Source” means a source of sound which does not normally move from place to place, and includes the premises of a person as one stationary source unless the dominant source of sound on those premises is Construction or a Conveyance;

General Prohibition

2.1 No person shall make, cause or permit an unreasonable noise, or a noise that is likely to disturb the inhabitants.

2.2 Without limiting the generality of section 2.1 of this By-law, the provisions of sections 2.3 through 2.4 shall be deemed to be unreasonable noise, or noise that is likely to disturb the inhabitants.

2.4 (b) the sound created by any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers intended for the production, reproduction or amplification of sound, including but not limited to a radio, television, amplifier, loud speaker, public address system, sound equipment, that is clearly audible at a Point of Reception in a Residential Area at any time;

(c) any shouting, yelling, loud hooting, loud whistling or loud singing that is clearly audible at a Point of Reception in a Residential Area at any time;

3.2 No person shall emit or cause or permit the emission of sound from a Stationary Source such that the level of sound from that source at the Point of Reception:
(a) in a Residential Area exceeds the applicable sound level limit prescribed in publication NPC-205– Sound Level Limits for Stationary Sources in Class 1 & 2 Areas (Urban), dated October 1995;

Application for a Temporary Noise Permit

4.1 (5) (b) The Manager of By-law Enforcement shall impose conditions on a temporary noise permit for Community Event (Class 2) with respect to:
(i) the volume of amplified sound that may be made; and

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- (ii) the times during which sounds may be made.*
- (c) The minimum conditions that the Manager of By-law Enforcement shall impose under subsection (5)(b) are:*
 - (i) the volume of amplified sound that may be made shall not exceed a sound pressure of at most 90 decibels beyond at least 30m (100 feet) from the source of the amplified sound; and*
 - (ii) the times during which sound may be made shall be limited to the hours of 9:00 a.m. at the earliest and to 11:00 p.m. at the latest.*

The Proposed Zoning By-law Amendment

The City’s existing Noise By-law has all the regulations sufficient to address noise levels and hours of operation, so regulations in the Zoning By-law are not needed. An amendment to the Zoning By-law should delete the existing regulations.

The recommended amendment would result in the following deletion;

~~5) ENTERTAINMENT~~

~~No amplified or electronic music (whether performed live or recorded), dancing or other forms of entertainment shall be permitted, with the exception of nonamplified acoustical music. (Z.-1-142303)~~

and renumber subsection 6 to 5);

~~6) 5) PARKING~~

Parking spaces shall be required for the gross floor area associated with the outdoor patio at the same ratio as for restaurants.

There is no parking requirement for those outdoor patios associated with an adjacent restaurant zoned Downtown Area (DA).

Comprehensive Adoption of the Music, Entertainment and Culture District Strategy

The strategy approved on March 20, 2017 in the Music, Entertainment and Culture District Feasibility Study excluded pages 63 to 65 dealing with matters involving the Noise By-law. The proposed zoning by-law amendment subject of this report, deals with the zoning matters referenced on pages 66 and 67, but not proposed amendments to the Noise By-law that would address noise matters also referenced on pages 66 and 67. Administration is recommending that replacement pages be prepared to reflect Council decisions made regarding proposed Noise By-law and Zoning By-law amendments. The replacement pages 63 to 67, together with the other edits Council requested, would be brought before a future meeting of the Strategic Priorities and Policy Committee, with the intent of having a finalized adopted document that comprehensively addresses the City’s Music, Entertainment and Culture District strategy which can be posted on the City’s website and its implementation monitored on an ongoing basis from that point forward.

CONCLUSION

The proposed amendment will remove regulations pertaining to performance characteristics for permitted outdoor patios from the Zoning By-law which deals with land use regulations. All permitted outdoor patios would thereby be equally regulated through the zoning by-law (removing “grandfathering” inconsistency applicable to patios established after July 1993). All outdoor patios, as with all sources of nuisance noise, would still be subject to the regulations of the Noise By-law.

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PREPARED BY:	SUBMITTED BY:
W.J. CHARLES PARKER M.A. SENIOR PLANNER - URBAN REGENERATION	JIM YANCHULA, MCIP, RPP MANAGER, URBAN REGENERATION
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

May 11, 2017
cp

\\FILE2\users-z\pdp\Shared\policy\URBAN REGENERATION\CITY-INITIATED FILES\Z-8763 - City-Wide - Delete Section 4.18.5 to allow Music and Dancing on Patios (CP)\PEC report june6 2017.docx

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Responses to Public Liaison Letter and Publication in “The Londoner”

<u>Telephone</u>	<u>Written/E-Mail In Support</u>	<u>Written/E-mail Opposed</u>
John Warner 131 Ann Street (Opposed)	Barb Charron-Papp	Joe Sadowski 250 Pall Mall Street Unit 1304
	James E. Clark AON Risk Solutions 255 Queens Ave #1400	Mindy Gorman ████████████████████
	Toni Reinholt	Mary Howard 460 Wellington Street Unit 208
	Brad Scrinko Glenda James Real Estate 295 Wolfe St.	Mary Brand 22 Picton Street
	Art & Vonna Smith 612-800 Wonderland Rd S.	Mike and Ann Beaudoin
	Bill Mills	Yvonne Glass 460 Wellington Street Unit 205
	Larry Carter 1135 Southdale Rd W.	Shirley Clement 2 Carothers Avenue
	Dave & Bren Adams	Susan McLean 280 Queens Avenue Unit 101
	Mike Roseburgh	Pat Tripp 7 Picton Street Unit 405
	Shane Byers Trademark Property Management 7-89 Wharncliffe Rd N.	Jim Harcourt 7 Picton Street Unit 1103
	Malcolm Shantz	George Fox 22 Picton Street Unit 1408
	Taylor Holden and the Law of Averages	Wayne Flintoff 152 Albert Street Unit 16
	Fred Smith Roots Music Director CHRW 147 Laurel St.	Val Grant 22 Picton Street Unit 1008
	Cindy Bailey	Tom and Heather Chapman 152 Albert Street Unit 3 And Petition from Camden Place Residents signed by 11 residents
	Laura Buchanan	J. Patricia Gray 22 Picton Street Unit 502
	Adam & Dennis Winkler	Alice Thomson 460 Wellington Street Unit 301
	Candace MacKay	Sharon Gillespie 460 Wellington Street Unit 109
	Dave & Rachelle Peterson	Margaret L. Smith 7 Picton Street Unit 602
		Jeanne Li 7 Picton Street Unit 206
		Catherine Charlton 7 Picton Street Unit 701
		Kathryn Kopinak 152 Albert Street Unit 24
		Oscar Crawford-Richie 193 Hyman St
		Danya Walker 570 Wellington St.
		Marcus Coles 38 Palace St.
		Gloria Tandipayuk

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		Kathryn Kopinak
		Maureen Brand
		Petition from Kings Court Apartments/Downtown London Noise Committee signed by 18 people
		Mrs. P. Sweeney 23 Picton Street #806
		Rob Greason 13 Kensington Ave.

Bibliography of Information and Materials

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Chuck Parker**

Parker, Charles

From: [REDACTED]
Sent: Friday, May 12, 2017 3:22 PM
To: Parker, Charles
Subject: Noise is zoning by-law

City of London

Planning Services –Attention: Chuck Parker

cparker@london.ca

May 10th, 2017

To: Chuck Parker:

**RE: Z-8763; Notice of Application to Amend the Zoning By-Law
 Amplified Music and Dancing on Patios**

Residents of London were notified of an application from the Municipal Council to ***“Remove clause 5) “Entertainment” from section 4.18 (Outdoor patio associated with a Restaurant or Tavern) of Zoning By-Law Z-1”***. We do not support this change and believe the limited comment period (10 days) curtails public action.

Last summer, Councillor Jesse Helmer was quoted in a Blackburn News interview commenting on two Ontario Municipal Board (OMB) citizen appeals concerning a pilot project regarding amplified music on patios:

“We have to deal with the issue of why are we regulating amplified music and dancing on patios in the zoning bylaw, rather than just dealing with it through the noise bylaw where it’s more

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appropriate ,” says Helmer. Regulating this pilot project under the noise bylaw would not be appealable to the Ontario Municipal Board.”

(source: <http://blackburnnews.com/london-news/2016/08/23/appeals-halt-patip-dancing-amplified-music/>)

Under the current noise by-law, amplified music and dancing on outdoor patios will be permissible until 2 am and at 90 decibels. The city pilot program of additional by-law enforcement officers Friday and Saturday evenings will end in 2017 and there will be no enforcement at all, leaving residents vulnerable and unprotected. In addition, we believe the proposed amendment is nothing less than a strategy aimed at taking away our right to appeal to OMB by moving current noise By-Laws out of Zoning By-Law Z-1.

Sincerely,

Pat Tripp
405 – 7 Picton St
London, ON
N6B 3N7

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**File: Z-8763
Chuck Parker**

Parker, Charles

From: [REDACTED]
Sent: Friday, May 12, 2017 10:31 AM
To: Parker, Charles
Subject: By-law Z-8763

Winks Eatery which has been located at 551 Richmond in the heart of Richmond Row for past 11 years fully supports the proposed changes to this by-law. Our business is very competitive and music helps attract new customers to the core as well as help retain existing customers who will stay if there is entertainment on the patios which means more revenue for us. In the nice weather people want to be outdoors. It will also mean more staff can be hired and more musicians can find a venue to perform their budding talent. Who knows the next Celine Dion could just be starting out on a London patio. We also agree that guidelines must be in place as we have to work and play in harmony with our downtown residents who are also very good customers and supporters of our business. I know many of our local customers over the age of 50 will be those sitting on the patio enjoying the music. Please support these changes to give London an up to date and progressive downtown. So often changes cannot be made because of a very small vocal and negative group of people.

Thank you
Adam & Dennis WINKler

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Parker, Charles

From: [REDACTED]
Sent: Sunday, May 14, 2017 7:26 PM
To: Parker, Charles
Cc: dennis WINKLER
Subject: Live Music on London Patios

I think having live music, and music in general on London's patios would be a great think, and very enjoyable. Count me in as a supporter of this good move forward.

Brad Scrinko
Salesperson
Glenda James Real Estate Brokerage Inc.
295 Wolfe Street
London, ON N6B 2C4
[REDACTED]

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Chuck Parker

Parker, Charles

From: [REDACTED]
Sent: Sunday, May 07, 2017 12:30 PM
To: Parker, Charles
Cc: Veronica Sadowski; Park, Tanya
Subject: Notice of Application to Amend the Zoning By-Law Z-1, Noise By-Law PW12

Mr.Parker

My wife and I live at 250 Pall Mall St. Currently the noise levels that emanate from Barney's Patio and Jack Astor's is loud during the summer months. We must sleep with our windows closed and a "ambient noise" activated in order to get to sleep. The noise often goes past 2am on the weekends. We have accepted this as part of "Downtown life" when we moved into our condo in 2015.

The proposed Noise By-Law change, with the amplified sound, has the potential to making living beside these patios unbearable. Last summer during the test period the Whiskey House (on the corner of Albert and Talbot - now closed) had a band play on their patio one Sunday afternoon. The noise was excessively loud and could be heard clearly inside the condos we were looking at on Kent Street. This was unacceptable for the residents in the area. Fifty bar patrons inconvenienced a whole neighbourhood!

I am concerned that allowing amplified music on patios near residential units will adversely affect the quality of life for the residents. Council wants people to move and live Downtown, but people who and will live there deserve to not be subjected to loud music / noise for the enjoyment of the few.

I am not in favour of any change to the By-Law

Joseph Sadowski
Unit 1304 - 250 Pall Mall St.
London ON N6A 6K3

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Chuck Parker

Parker, Charles

From: Yanchula, Jim
Sent: Monday, May 08, 2017 8:41 PM
To: Parker, Charles; Katolyk, Orest
Subject: FW: Amplified Music and Dancing on Patios - Notice of Amendment to Zoning By-law

Not sure why I got this, instead of you, Chuck. Please add it to the ZBA correspondence file.
 Orest, I think the writer is [mistakenly?] mixing your proposed changes with ours for the ZBA
 JIM

From: steve.o [REDACTED]
Sent: Monday, May 08, 2017 8:35 PM
To: Yanchula, Jim <jyanchul@london.ca>; City of London, Mayor <mayor@london.ca>; van Holst, Michael <mvanholst@london.ca>; Armstrong, Bill <BArmstro@london.ca>; Salih, Mo Mohamed <msalih@london.ca>; Helmer, Jesse <jhelmer@london.ca>; Cassidy, Maureen <mcassidy@london.ca>; Squire, Phil <psquire@london.ca>; Morgan, Josh <joshmorgan@london.ca>; Hubert, Paul <phubert@london.ca>; Hopkins, Anna <ahopkins@london.ca>; Ridley, Virginia <vridley@london.ca>; Turner, Stephen <sturner@london.ca>; Usher, Harold <husher@london.ca>; Park, Tanya <tpark@london.ca>; Zafman, Jared <jzafman@london.ca>
Subject: Re: Amplified Music and Dancing on Patios - Notice of Amendment to Zoning By-law

Re: Amplified Music and Dancing on Patios - Notice of Amendment to Zoning By-law

Dear Mayor and Councillors,

Residents of London were notified of a zoning amendment to move amplified music and dancing on patios from the zoning by-law to the noise by-law and provided ten days to submit comments to this change.

Noise has been a long standing issue for residents along Richmond Row that has never been resolved and continues to worsen.

Amplified music and dancing on patios is a land use issue and the reason why it belongs in a zoning by-law. The limitations governing this particular land use is regulated through a noise by-law. That's appropriate and we are unaware of any city that places land use direction in a noise by-law.

Under the current noise by-law, amplified music and dancing on patios will be permissible until 2 am and at 90 decibels.

This will cause us harm and tensions will rise. The city pilot program of additional by-law enforcement officers Friday and Saturday evenings will end in 2017 and there will be no enforcement at all leaving residents vulnerable and unprotected.

We urge you to reject this zoning amendment and do more research to better understand why cities do not place land use under noise by-laws.

Sincerely,

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Steve Olivastri
141 Central Ave
London, Ont. N6A 1M6

[REDACTED]
[REDACTED]

CC: Jim Yanchula
Manager, Urban Regeneration. jyanchul@london.ca

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File: Z-8763
Chuck Parker

City of London
Planning Services –Attention: Chuck Parker
P.O. Box 5035
London, On, N6A 4L9

Wednesday, May 24, 2017

To: Chuck Parker:

**RE: Z-8763: Notice of Application to Amend the Zoning By-Law
Amplified Music and Dancing on Patios**

Residents of London were notified of an application from the Municipal Council to *“Remove clause 5) “Entertainment” from section 4.18 (Outdoor patio associated with a Restaurant or Tavern) of Zoning By-Law Z-1”*. I do not support this change and believe the limited comment period (10 days) curtails public action.

Last summer, Councillor Jesse Helmer was quoted in a Blackburn News interview commenting on two Ontario Municipal Board (OMB) citizen appeals concerning a pilot project regarding amplified music on patios:

“We have to deal with the issue of why are we regulating amplified music and dancing on patios in the zoning bylaw, rather than just dealing with it through the noise bylaw where it’s more appropriate,” says Helmer. Regulating this pilot project under the noise bylaw would not be appealable to the Ontario Municipal Board.”

(source: <http://blackburnnews.com/london-news/2016/08/23/appeals-halt-patip-dancing-amplified-music/>)

Under the current noise by-law, amplified music and dancing on outdoor patios will be permissible until 2 am and at 90 decibels. The city pilot program of additional by-law enforcement officers Friday and Saturday evenings will end in 2017 and there will be no enforcement at all, leaving residents vulnerable and unprotected. In addition, we believe the proposed amendment is nothing less than a strategy aimed at taking away our right to appeal to OMB by moving current noise By-Laws out of Zoning By-Law Z-1.

Sincerely,
Susan McLean
101-280 Queens Ave
London ON N6B 1X3

[Redacted signature]

Email copies to:

mayor@london.ca; mvanholst@london.ca; barmstro@london.ca;
msalih@london.ca; jhelmer@london.ca; mcassidy@london.ca;
psquire@london.ca; joshmorgan@london.ca; phubert@london.ca;
ahopkins@london.ca; vridley@london.ca; sturner@london.ca; husher@london.ca;
tpark@london.ca; jzaifman@london.ca; jyanchul@london.ca

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Parker, Charles

From: [REDACTED]
Sent: Wednesday, May 17, 2017 2:13 PM
To: WINKLER
Cc: Parker, Charles
Subject: Re: By-law Z-8763

Hi Chuck:

On behalf of Downtown London's board of directors - we echo Dennis's response and would like to add a few observations of our own.

Downtown London represents over 1000 businesses. We have a large number of restaurants and taverns within our boundaries and a high number of them have outdoor patios. Some establishments were grandfathered by the zoning by law prior to 1993 to be able to offer amplified music and we feel that this is an unfair advantage and would like to see an even playing field and grant the same opportunities for all of our establishments.

Our hospitality sector is arguably our most successful and they rely heavily on the neighbouring residents to be clients of their establishments. Their intention is to happily coexist with the residential population and have the ability to be competitive.

Clearly the vibrancy of the core depends on the continued success of these establishments while attracting more residential builds and more retail to follow.

We can confidently rely on the City to judiciously enforce it's noise by law if the rules are broken.

Thank you for your consideration.

Rock on!!

Janette.

**Janette MacDonald,
CEO and General Manager.**

**Downtown London
123 King St,
London, ON. N6A 3N7.**

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**File: Z-8763
Chuck Parker**

Parker, Charles

From: [REDACTED]
Sent: Wednesday, May 17, 2017 9:40 AM
To: Parker, Charles
Subject: music on patios

I support music on patios.

Laura Buchanan

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**File: Z-8763
Chuck Parker**

Parker, Charles

From: [REDACTED]
Sent: Tuesday, May 09, 2017 5:08 PM
To: Parker, Charles
Subject: Bylaw

Good afternoon,

We would like to register our objection to amending the Zoning Bylaw Amplified Music on Patios.

Sincerely,
Mike and Ann Beaudoin

[REDACTED]

Sent from [Mail](#) for Windows 10

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File: Z-8763
Chuck Parker

Parker, Charles

From: [REDACTED]
Sent: Friday, May 12, 2017 10:44 PM
To: Yanchula, Jim; Parker, Charles; City of London, Mayor; van Holst, Michael; Armstrong, Bill; Salih, Mo Mohamed; Helmer, Jesse; Cassidy, Maureen; Squire, Phil; Morgan, Josh; Hubert, Paul; Hopkins, Anna; Ridley, Virginia; Turner, Stephen; Usher, Harold; Park, Tanya; Zaifman, Jared
Subject: Re: Z-8763 amplified music and dancing on patios

City Councillors and Mayor
 Planning Services -Attention Jim Yanchula and Chuck Parker
 P.O. Box 5035
 London, On, N6A 4L9

May 12, 2016

Dear Mayor and City Councillors:

RE: Z-8763; Notice of Application to Amend the Zoning By-Law
 Amplified Music and Dancing on Patios

I object to amending the above noted zoning by-law Z-1. "Remove clause 5) "Entertainment" from section 4.18 (Outdoor patio associated with a Restaurant or Tavern) of Zoning By-Law Z-1".

Under the current noise by-law this amendment will allow for amplified music at 90 decibels until closing at 2am.

Is that your intention?

No new noise by-law is being introduced concurrently with this amendment therefore I can only believe that is your intention. If so, I consider this move irresponsible and negligent. Ninety decibels is the current 'loudness' afforded to concert festivals such as Rock the Park. Is it appropriate to allow the same volume to patios but with extended hours that are within metres of residential homes?

The zoning by-law regulates land-use within a municipality. What activities can occur on private property is a land-use issue and belongs in the zoning by-law. The noise by-law regulates these activities.

You also have the option of simply changing the zoning by-law to allow amplified music and dancing on patios. This is not being considered, and I can only assume it is because your intention is purposely aimed at hindering citizen action to any future noise by-law change as it relates to amplified music and dancing on patio. Once moved to the noise by-law it cannot be challenged at the Board.

I find this incredibly disingenuous. Councillor Jesse Helmer, who was quoted in a Blackburn News interview commenting on two Ontario Municipal Board citizen appeals concerning a pilot project to allow amplified music on patios stated:

"We have to deal with the issue of why are we regulating amplified music and dancing on patios in the zoning bylaw, rather than just dealing with it through the noise bylaw where it's more appropriate," says Helmer. Regulating this pilot project under the noise



File: Z-8763
Chuck Parker

bylaw would not be appealable to the Ontario Municipal Board."

(source: <http://blackburnnews.com/london-news/2016/08/23/appeals-halt-patip-dancing-amplified-music/>)

That is the true motive for this amendment.

I believe this move by council is dishonest and residents are purposely not being informed of all the facts. I believe this is intentional because you cannot support your position with evidence.

Please make clear:

- 1) This amendment will allow amplified music at 90 decibels until 2 am under the current noise by-law. This amendment is not being accompanied by a new noise by-law.
- 2) The reason council does not change the zoning by-law to allow for amplified music and dancing on patios is because if moved to the noise by-law, citizens cannot challenge any future changes to the Ontario Municipal Board.
- 3) This is city-wide.

It has been over a year since requests were first made of Cory Crossman for any, any studies at all, that would defend the economic benefits of amplified music and dancing on patios as opposed to an indoor venue. Mr. Crossman finally acknowledged he had none, but it didn't seem to matter because this decision is political and council appears ready to sacrifice the well being of residents that live on the peripheral of commercial corridors.

And for what? So someone can dance outside on a patio as opposed to inside? Is it that important that residents' well being should be sacrificed, especially when staff have failed to produce any studies, even from other jurisdictions, that support their assertion that amplified music and dancing on patios will retain young people, increase revenue and culture in the city.

At the last public meeting on March 20th, Mayor Matt Brown assured councillors that the Middlesex Health Unit had studied the health impacts of loud amplified music over time on nearby residents and stated they had no concerns.

There have been many attempts to retrieve this report from the mayor's staff. To date, no report has surfaced from the Mayor's office. How can you state publicly that a report was done and then not release it upon request, especially if it supports your position?

Because there is no report.

I encourage you to be upfront with people.

AnnaMaria Valastro
133 John Street, Unit 1
London, Ontario N6A 1N7

cc. J. Yanchula

cc. mayor@london.ca; mvanholst@london.ca; barmstro@london.ca;
msalih@london.ca; jhelmer@london.ca; mcassidy@london.ca;
psquire@london.ca; joshmorgan@london.ca; phubert@london.ca;
ahopkins@london.ca; vridley@london.ca; sturner@london.ca; husher@london.ca;
tpark@london.ca; jzaifman@london.ca

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**File: Z-8763
Chuck Parker**

Z-8763

Reference Documents:

Ontario. Ministry of Municipal Affairs and Housing. *Planning Act, R.S.O. 1990, CHAPTER P.13*, as amended.

Ontario. Ministry of Municipal Affairs and Housing. *Municipal Act, R.S.O. 2001*

Ontario. Ministry of Municipal Affairs and Housing. *Provincial Policy Statement, 2014*.

City of London. *Official Plan*, June 19, 1989, as amended.

City of London. *Zoning By-law No. Z.-1*, May 21, 1991, as amended.

Correspondence: (all located in City of London File No. Z-8763)

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**File: Z-8763
Chuck Parker**

Appendix "A"

Bill No. (number to be inserted by Clerk's Office)
2017

By-law No. Z.-1-17 _____

A by-law to amend By-law No. Z.-1 to delete Section 4.18 5) to allow amplified music and dancing on outdoor patios City-wide.

WHEREAS the City of London has applied to amend Section 4.18 (General Provisions/Outdoor Patio Associated with a Restaurant or Tavern) of Zoning By-law Z-1;

AND WHEREAS this rezoning conforms to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

- 1) Section 4.18 of the General Provisions is amended by deleting Subsection 5) and renumbering Subsection 6) as 5).

The inclusion in this By-law of imperial measure along with metric measure is for the purpose of convenience only and the metric measure governs in case of any discrepancy between the two measures.

This By-law shall come into force and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on June 13, 2017.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading - June 13, 2017
Second Reading – June 13, 2017
Third Reading - June 13, 2017