

Report to Community and Protective Services Committee

To: Chair and Members
Community and Protective Services Committee
From: Scott Mathers, MPA, P. Eng., Deputy City Manager,
Planning & Economic Development
Subject: Adult Live Entertainment Parlour – 2010 Dundas Street - Deletion of
Location - Public Participation Meeting
Date: October 4, 2022

Recommendation

That, on the recommendation of the Managing Director, Planning & Economic Development and Deputy City Manager, and the Director, Municipal Compliance in response to a Council resolution to consider the deletion of an Adult Live Entertainment Parlour location at 2010 Dundas Street from Schedule 3A of the Business Licensing By-law, this report **BE RECEIVED** noting that Community and Protective Services Committee shall recommend to Council whether or not to make an amendment to Schedule 3A of this By-law, and that City Council shall make the final decision whether or not to amend Schedule 3A, as per Schedule 3, Section 9.7 of this By-law.

Previous Council Resolution

On September 6, 2022, Council resolved:

That the following actions be taken with respect to the staff report dated August 23, 2022, related to an application made under the Business Licensing By-law L.-131-16 (the By-law) to substitute an existing Adult Live Entertainment Parlour location at 2010 Dundas Street to a proposed new location at 238 Dundas Street:

- a) the above-noted staff report BE RECEIVED;
- b) the request to transfer the adult entertainment license from 2010 Dundas Street to 238 Dundas Street BE DENIED; and,
- c) the Civic Administration BE DIRECTED to undertake the necessary steps to allow Municipal Council to consider the deletion of the license from 2010 Dundas Street and hold a public participation meeting at the October 4, 2022 Community and Protective Services Committee meeting with respect to this matter;

This report provides background information for the purposes of holding a public participation meeting and to advise Council of the necessary steps to achieve what Civic Administration believes is Council's intention on this matter, based on the previous Committee and Council meetings.

1.0 Background

1.1 Previous Reports Pertinent to this Matter

On **May 5, 2011**, Council considered reducing the number of Adult Live Entertainment Licences in the By-law from five to three, including removing the 2010 Dundas Street location, and 50 Piccadilly Street. The resolution removed 50 Piccadilly Street from the By-law but asked Civic Administration to report back at the June 14th 2011, "Community and Neighbourhoods Committee" (now CPSC) to provide additional information related to the license at 2010 Dundas Street.

On **June 14, 2011**, Council received an information report specifically regarding 2010 Dundas Street which reviewed the "additional information" requested from the May 5th meeting: Affidavits to demonstrate that the Adult Live Entertainment Parlour had been operating, contrary to the May 5th, Staff Report. 2010 Dundas Street was not deleted from the By-law at that time.

Since May of 2018, the Paris Clubs Corporation has made two formal substitution requests:

1. On **May 1, 2018**, a public participation meeting was held to consider substituting the 2010 Dundas Street location for a location at 802 Exeter Road. Council resolved on May 8th, 2018, that no amendment be made to the By-law to permit the substitution, thus preventing the substitution request.
2. On **August 23, 2022**, a public participation meeting was held to consider amend Schedule A by substituting the 2010 Dundas Street location for a location at 238 Dundas Street. Council resolved on September 6, 2022, that no amendment be made to the By-law to permit the new location, thus preventing the substitution request.

1.2 2010 Dundas Street

2010 Dundas Street has previously been used as an Adult Live Entertainment Parlour off and on between 1988 and 2019. It has gone by several names, including The Airport Hotel Royal Lancasters and Goldiggers However, there has not been a functioning Adult Live Entertainment Parlour here for at least two years.

There are two active Food Premises business licenses on site; one for a restaurant called “Indian Bites” (2019-present) and one for a “Banquet Hall” (2020-present). A “Travelodge” hotel franchise opened in the last year. Previously it was operating as the “London Residency Inn”.

1.3 Owner & Operator Licences

2010 Dundas does not have a current, active Owner Licence. At the time the application for substitution was submitted, there was an active Adult Live Entertainment Parlour Licence, however that has now expired.

When the application for substitution was received in November of 2021, Staff indicated to the applicant by email that, notwithstanding the substitution application, “If the existing location is to continue operating after January 31st, a renewal will need to be submitted for that location.”

The City of London has not received the necessary materials to consider renewing the Adult Live Entertainment Licence, and the 2021 Licence has expired.

Furthermore, there is no active Operator Licence. The last Operator Licence expired January 31, 2021. The Operator licence is a separate \$130.00/year fee, over and above the annual Owner Licence fee of \$4,071.00/year.

Finally, on September 7, 2022 a Municipal Law Enforcement Officer inspected the premises at 2010 Dundas Street. The Officer indicated that there is no signage on the exterior or interior of the building and no remaining evidence that an Adult Live Entertainment Parlour was ever present on site. Any fixtures or signage that may have been associated with the Adult Live Entertainment Parlour have been removed or locked away in favour of the operating banquet hall, restaurant, and hotel.

It should be noted that the building is owned by a different numbered company than the Adult Live Entertainment Parlour owner and there appears to be no overlap between the owners of either corporation.

1.4 Process Review

The general authority of licensing adult entertainment establishments comes from *The Municipal Act*.

154. (1) *Without limiting sections 9, 10 and 11, a local municipality, in a by-law under section 151 with respect to adult entertainment establishments, may,*

- (a) despite section 153, define the area of the municipality in which adult entertainment establishments may or may not operate and limit the number of adult entertainment establishments in any defined area in which they are permitted;*

The Municipal Act grants municipalities the power to define the area of the municipality in which adult entertainment establishments may or may not operate (as our By-law does through Schedule 3, Section 3.1) and to limit the number of licenses granted in any defined area in which they are permitted (as our By-law does through Schedule 3, Sections 3.2 and 4.1).

The Business Licensing By-law States:

- No person shall own or operate an Adult Live Entertainment Parlour except in a defined area or location shown on Schedule 3A of this By-law (Schedule 3, Section 3.1).
- Council may, at any time, consider an application to amend Schedule 3A of this By-law to delete a location, to substitute a new location for an existing location, or to add a new location (Schedule 3, Section 9.1).

Therefore, for an Adult Live Entertainment Parlour to operate in London, two important criteria must be met:

1. The Adult Live Entertainment Parlour location must be identified in in Schedule 3A of the Business Licensing By-law by one of the maps; and
2. An Adult Live Entertainment Parlour Owner Licence must be issued by the Licence Manager for those locations identified in Schedule 3A.

2010 Dundas Street is identified by Map 3; one of the three maps that form Schedule 3A to the Business Licensing By-law. If Council wishes to delete this location as a location in which an ALEP can operate, then the Business Licensing By-law would need to be amended, deleting Map 3 - 2010 Dundas Street - from Schedule 3A. The attached draft by-law provides for this amendment.

If 2010 Dundas Street (Map 3) is deleted from Schedule 3A of the by-law, then, as per section 3.1 of Schedule 3 of the Business Licensing By-law, an Adult Live Entertainment Parlour could not be operated from that location, and the Licence Manager would not be able to issue, or renew, a Licence for that location. There would still be two locations identified by Shedule 3A Maps.

It should be noted that Council has delegated authority to the Licence Manager (Director, Municipal Compliance) to administer the Business Licensing By-law, including receiving and processing applications for licences and renewals, and issuing licences. It is thus the discretion of the Licence Manager to issue or deny licences under the by-law, pursuant to the provisions of the by-law. However, the fact that there would no longer be a location map in the By-law to consider issuing a licence for negates that possibility.

It should also be noted that Section 7.6 of the By-law specifically prohibits the transfer of a licence. *“(N)o licence issued under this By-law may be sold, purchased, leased, mortgaged, charged, assigned, pledged, transferred, seized, distrained or otherwise dealt with.”*

1.5 Reducing the Number of Licensed Adult Live Entertainment Parlours

The Business Licensing By-law states that *“Council may, at any time, consider an application to amend Schedule 3A of this By-law to delete a location, to substitute a new location for an existing location, or to add a new location.”* (Schedule 3, Section 9.1).

Section 4.1 of Schedule 3 of the By-law limits the number of Adult Live Entertainment Parlour Owner licences that may be issued. Currently, the maximum number of licences that can be issued is three, which corresponds with the number of locations in which an ALEP is allowed to operate.

Therefore, if one of the locations was deleted from Schedule 3A, it would be reasonable for Council to consider reducing the number of ALEP Owner licenses by amending Section 4.1 of Schedule 3 of the By-law. The draft amending by-law attached to this report provides for this consideration.

It should be noted that both the City of Guelph and the City of Hamilton have amended their business licensing by-laws to reduce the maximum number of Adult Entertainment licences to two. The Court of Appeal in *Brantford (City) v. Konakov* [2004] O.J. No. 114, stated “The powers of ‘licensing, regulating, governing, classifying and inspecting’ contained in s. 225 of the Municipal Act relating to adult entertainment parlours do not include the power to prohibit what is an otherwise lawful activity: *Treesann Management Inc. v. Richmond Hill (Town)* (2000), 47 O.R. (3d) 221 (Ont. C.A.).” Under the Municipal Act, 2001, a municipality may limit the number of adult entertainment establishments in any defined area in which they are permitted. Also under the Municipal Act, 2001 a municipality is prohibited from conferring on any person the exclusive right of carrying on any business, trade or occupation unless specifically authorized to do so under the Act.

1.6 Public Meeting

Before an amendment to Schedule 3A of this By-law is passed, the Community and Protective Services Committee shall hold at least one meeting that is open to the public for the purpose of affording an opportunity to the requester and any other person who attends the meeting to make submissions in respect of the request (Section 9.6).

This report has been submitted on behalf of Civic Administration to provide background as part of the required public meeting; October 4, 2022.

1.7 Committee Recommendation and Council Decision

Section 9.7 of the Business Licensing By-law states that the Community and Protective Services Committee shall recommend to the Council whether to make an amendment to Schedule 3A of this By-law, and that City Council shall make the final decision whether to amend Schedule 3A of this By-law.

2.0 Additional Information

The License Manager considers the following research & information necessary for Community and Protective Services Committee and Council, as per Section 9.7 of the By-law.

2.1 The Impacts of Adult Entertainment

The primary means that municipalities use to regulate adult-oriented businesses include zoning and licensing by-laws. These municipal regulations are justified on the general grounds that adult-oriented businesses generate negative secondary impacts. The zoning and licensing by-laws are considered by municipal Councils in a public forum via advertised public meetings.

As has been provided in previous reports regarding substitution and deletion of Adult Live Entertainment Parlours and Adult Entertainment Body-rub Parlours, staff often refer to land use commentary provided in the book, *“Everything You Always Wanted to Know about Regulating Sex Businesses”* by David E. Kelly & Connie Cooper (American Planning Association, Chicago, 2001).

This reference presents survey data, among other evidence, demonstrating the significant negative impacts concentrations of adult-oriented businesses have on surrounding neighbourhoods; for 2-3 blocks from the ‘source’. These impacts include:

- Reduction in residential and commercial values
- Difficulty in selling or renting homes and businesses
- Perceived impact that neighborhood is unsafe
- Increases in vice-related activities and other crimes
- Negative impacts re. noise, lighting, and traffic
- Risk for minors to exposure or contact
- Overall community blight

More recent examples can be found in “Cities and Adult Businesses – A Handbook for Regulatory Planning”, Edited by Roger Kemp (McFarland & Company, North Carolina, 2010). This reference reports on case studies that describe the impacts of, and analyze the regulation of, adult-oriented businesses identifying various methods undertaken by local governments.

As Hakes^a writes after reviewing studies undertaken in other communities:

- Crime rates are higher in areas of adult uses
- Sex crimes are higher in areas near adult uses
- Residential property values are decreased when in close proximity to adult uses
- Physical blight is seen near adult uses
- Near adult uses residential properties are not well maintained, financial institutions are more hesitant to invest, etc.
- Most patrons of adult oriented businesses do not live within one mile of the site.

These studies highlight the negative impacts sex businesses have on property values and crime levels, especially when the businesses are geographically concentrated.

In Chapter 33, Owens^b concludes that among the best practices for regulating sex-oriented businesses is to include minimum separation distances not only from sensitive land uses (as the City of London Business Licensing By-law does) but from other sexually oriented businesses as well.

3.0 Conclusion

2010 Dundas Street is listed as a permitted location for an Adult Live Entertainment Parlour as per Schedule 3A (Map 3) of the Business Licensing By-law, however the location has not functioned as an Adult Live Entertainment Parlour for at least two years, does not have an active Owner License, and has not had an active Operator Licence since January of 2021.

In the past five years, Council has considered two separate applications by Paris Clubs Corporation to substitute a new Adult Live Entertainment Parlour location for the 2010 Dundas Street location and twice these amendments have been refused: 802 Exeter Road (2018) and 238 Dundas (2022).

^a Hakes, Jaclyn, “Saratoga Springs Planning Board Reviews its Adult Use Laws”, from Chapter 36, *“Cities and Adult Businesses – A Handbook for Regulatory Planning”*, Edited by Roger Kemp (McFarland & Company, North Carolina, 2010)

^b Owens, David, “Raleigh Laws Challenged By Adult Businesses” from Chapter 33, *“Cities and Adult Businesses – A Handbook for Regulatory Planning”*, Edited by Roger Kemp (McFarland & Company, North Carolina, 2010)

In 2011 Council considered removing this location from the By-law due to inactivity, but did not, for various reasons.

If Council recommends an amendment to Schedule 3A of the By-law - deleting 2010 Dundas Street (Map 3) - it would reduce the number of defined areas/locations within Schedule 3A of the By-law from three to two.

If a location was deleted from the By-law, it would be reasonable for Council to consider reducing the limitation on the total number of licences authorized under this By-law in Section 4.1 of Schedule 3 from three to two, in order to match the number of locations defined in Schedule 3A.

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Submitted By:	Nicole Musicco, Coordinator, Municipal Compliance
Reviewed & Concurred by:	Orest Katolyk, MPL, MLEO(C), Director, Municipal Compliance
Recommended by:	Scott Mathers, MPA, P. Eng., Deputy City Manager, Planning and Economic Development

Appendix “A”

Bill No. - 2022

By-law No. L.-131(____)-____

A by-law to amend By-law No. L.-131-16 entitled “A by-law to provide for the Licensing and Regulation of Various Businesses” to delete an Adult Live Entertainment Parlour location at 2010 Dundas Street, and to reduce the total number of Adult Live Entertainment Parlour Owner licences to two (2).

WHEREAS the Municipal Council of The Corporation of the City of London wishes to amend By-law No. L.-131-16, as amended, entitled “A by-law to provide for the Licensing and Regulation of Various Businesses” to delete an Adult Live Entertainment Parlour location at 2010 Dundas Street (Map 3);

AND WHEREAS the Municipal Council of The Corporation of the City of London wishes to amend By-law No. L.-131-16, as amended, entitled “A by-law to provide for the Licensing and Regulation of Various Businesses” to reduce the total number of Adult Live Entertainment Parlour Owner licences to two (2) licenses from the current three (3);

AND WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

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

1. The Business Licensing By-law No. L.-131-16 is hereby amended by deleting “Schedule 3A, Adult Live Entertainment Parlour Locations, Municipal Address: 2010 Dundas Street, Map 3” in its entirety”.
2. The Business Licensing By-law No. L.-131-16 is hereby amended by removing Section 4.1 of Schedule 3 and replacing it with the following. *“4.1 The total number of Adult Live Entertainment Parlour Owner licences authorized under this By-law is limited at any time to two (2) licences, and not more than one (1) licence shall be issued with respect to each defined area or location shown on Schedule 3A of this By-law.”*
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on MONTH / DAY, 2022.

This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on Month, Day, 2022

Ed Holder
Mayor

Michael Schulthess
City Clerk

First reading - , 2022
Second reading - , 2022
Third reading - , 2022