
Committee Members

Councillor M. Kalivas, Chair
Councillor J. Baker
Councillor D. Beatty
Councillor J. Earle
Mayor D. Henderson,
Ex-Officio

Areas of Responsibility

Economic Development
Planning
Chamber of Commerce
DBIA
Heritage Brockville

Museum Board
Library Board
Arts Centre
Tourism

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DISCLOSURE OF INTEREST

CORRESPONDENCE

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1. Nancy Hauk, MagnetSigns Thousands Islands
Portable Signs (Sign By-law)

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Pro Oil Change, Owner: Pakenham Holdings Limited

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Review of Noise By-law

CONSENT AGENDA

TO: ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE
FROM: **NANCY HAUK, FRANCHISE OWNER – MAGNETSIGNS THOUSANDS ISLANDS**
SUBJECT: REQUEST TO APPEAR AS DELEGATION AT OCT 4, 2011 MEETING
DATE: September 29, 2011

Members of Economic Development and Planning Committee,

I would like an opportunity to address your committee at the October 4, 2011 meeting. The topic for discussion is the Sign By-law 84-89, specifically focusing on Portable Signs.

The content of my presentation will include;

- a) Who uses portable signs and Why
- b) What is a Portable Sign?
- c) Permanent vs Portable Signs
- d) Sign By-law Comparisons and other Numbers
- e) Sign By-law 84-89 Section 8.3
- f) Sign Permit Fees

I look forward to meeting with the Economic Development and Planning Committee.

Kind Regards,



Nancy Hauk
Magnetsigns Thousand Islands
613-342-9650

**20 SEPTEMBER 2011
REPORT TO THE ECONOMIC DEVELOPMENT PLANNING COMMITTEE
4 OCTOBER 2011**

**2011-100-10
PROPOSED AMENDMENT TO SIGN BY-LAW 84-89
103 BROOME ROAD
PRO OIL CHANGE
OWNER: PAKENHAM HOLDINGS LIMITED**

**M. PASCOE MERKLEY
DIRECTOR OF PLANNING
ANDREW MCGINNIS
PLANNER II**

RECOMMENDATION:

THAT City of Brockville Sign By-law 84-89 be amended to allow a ground sign to be constructed at 103 Broome Road, City of Brockville. Said sign to include an electronic message board, with a maximum sign area of 4.64 m² (50 ft²) per side.

PURPOSE:

The purpose of this report is to report on an application for Amendment to City of Brockville Sign By-law 84-89, received from Mr. Joe Norton, acting as Agent for Pakenham Holdings Limited, owner of Pro Oil Change identified municipally as 103 Broome Road, City of Brockville.

The application requests that City of Brockville Sign By-law 84-89 be amended to permit a new sign to be erected on the Broome Road frontage Pro Oil Change. The sign location and sign format are discussed in more detail elsewhere in this report.

BACKGROUND:

An application for Amendment to City of Brockville Sign By-law 84-89 has been received from Mr. Joe Norton, agent for Pakenham Holdings Limited, owners of the subject property located at 103 Broome Road, City of Brockville.

Currently Pro Oil Changer is utilizing a number of advertising options that are affixed to the building. In the past, Pro Oil Changer has also utilized the advertising option of a portable sign for this location. However, currently no portable signs are present and the location for the proposed ground sign was approved through the site plan approval for this property.

The proposed sign as designed is not permitted under Sign By-law 84-89, as amended. Amendments to Sign By-law 84-89 are required to be granted by Council for the Corporation of the City of Brockville. The application is for the following amendments:

- To permit an illuminated sign of an animated and/or flashing nature.

Proposed Amendment to Sign By-law 84-89**Applicant:** Joe Norton – Pro Oil Change**Owner:** Pakenham Holdings Limited

ANALYSIS:

Various sections of the Municipal Act provide municipalities with the authority to pass by-laws to control signage and other advertising devices. Signs within the Corporation of the City of Brockville are regulated under City of Brockville By-law 84-89, known as the Sign By-law.

Currently there are no ground signs located at 103 Broome Road.

Schedules “A” and “B” to this report identify the proposed sign location and a photograph of the existing property. This sign is to be used to identify Pro Oil Change and to provide an area for periodic messages. The sign shall not overhang the City lands.

The proposed sign is composed of a double support column system and a double faced back-lit sign. The sign colouring will resemble to business colours. **Schedule “C”** to this report illustrates the proposed sign, including dimensions for the proposed sign. Construction materials and construction details are subject to review and approval under the Ontario Building Code.

The proposed sign is composed of two distinct sections. The upper section identifies “Pro Oil Change” and the lower section provides an area for changeable messages. The applicant has stated that “messages such as warranty approved, no appointment necessary, and then various oil change and tire specials” will be the advertising on the digital board. The applicant was notified that should Council approve the proposed amendment, advertising other companies on the property is not permitted on the digital board or otherwise.

POLICY IMPLICATIONS:

103 Broome Road is located within the Power Centre area of the City and is zoned C7-X9-4 – Power Centre Site Specific Zone. The proposed sign meets all by-law regulations. However, it is to be of an illuminated and flashing display nature.

The proposed sign design and location has been circulated to the Operations Department, Environmental Service Department, Building Department and the Ministry of Transportation. No objections were received. However, based on the drawing submitted for review, the sign is supported on columns that will require an engineer to review and stamp prior to the building permit application being reviewed.

In addition, By-law 84-89, as amended, Part 5, Section 5.10 states that *“Illuminated or luminous signs of an animated and/or flashing nature shall not be permitted.”*

Proposed Amendment to Sign By-law 84-89**Applicant: Joe Norton – Pro Oil Change****Owner: Pakenham Holdings Limited**

To-date, there have been four (4) electronic message signs authorized within the City as amendments to the Sign By-law as follows:

- 125 Stewart Boulevard, Brockville Shopping Centre (1999)
- 555 Stewart Boulevard, 1000 Islands Toyota (2001)
- 2510 Parkedale Avenue – Thousand Island Secondary School (2004)
- 2288 Parkedale Avenue, St. Lawrence College (2006)

The above-noted signs were evaluated from safety, traffic, visibility, driver distraction and overhead clearance concerns and the final locations were tailored to resolve the concerns brought forward.

FINANCIAL CONSIDERATIONS:

All costs associated with this application and further requirements are the responsibility of the Applicant.

CONCLUSION:

The Planning Department, Operations Department, Environmental Services Department, Building Department and the Ministry of Transportation all have no objections to the proposed amendments to City of Brockville Sign By-law 84-89. The proposed location would not pose any problems in terms of sightlines and driver distraction is relatively low due to Broome Road being a lower traffic area of the City. This conclusion is provided in the recommendations section of this report.



M. Maureen Pascoe Merkley
Director of Planning

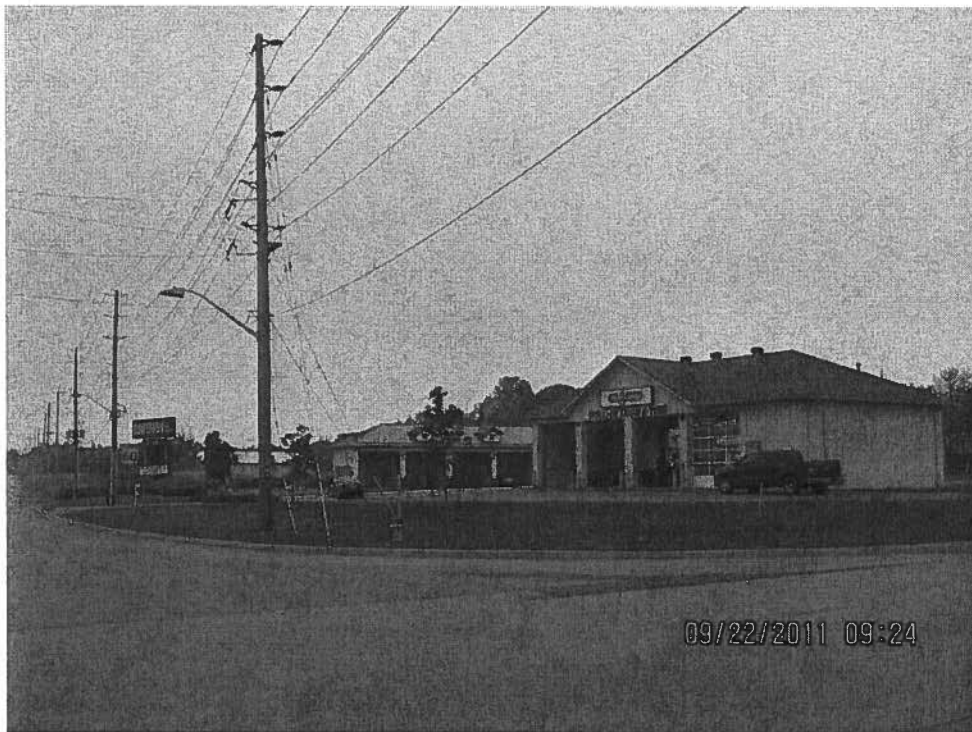


Bob Casselman
City Manager



Andrew McGinnis
Planner II

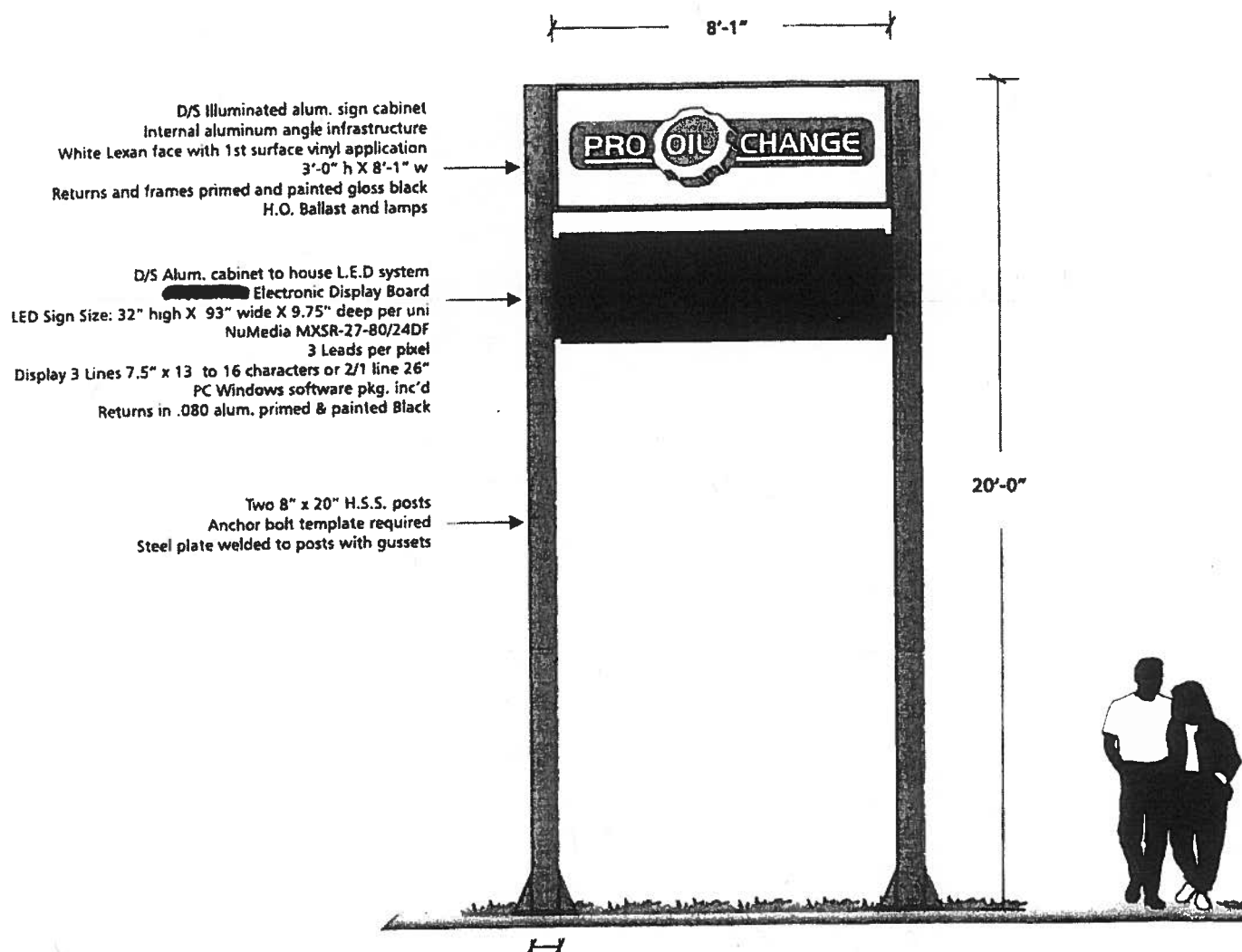
SCHEDULE "B" TO REPORT 2011-100-10





Zip Signs Ltd.
5040 North Service Road
Burlington, Ontario L7L 5R

SCHEDULE "C" TO REPORT 2011-100-10



26 Sept 2011

**REPORT TO THE ENVIRONMENT PLANNING DEVELOPMENT COMMITTEE – 04
OCTOBER 2011**

2011-102-10

**PROPOSED MURAL
26 KING STREET EAST, BROCKVILLE
OWNER: JOHN FULLARTON**

**M. PASCOE MERKLEY
DIRECTOR OF PLANNING
J. FAURSCHOU
PLANNER I**

RECOMMENDATION:

THAT approval be granted to erect a mural on the east wall of 26 King Street East, City of Brockville.

ORIGIN:

An application was received in the Planning Department on 22 September 2011 requesting permission for a mural to be installed on the east wall of 26 King Street East, City of Brockville.

ANALYSIS:

Various sections of the Municipal Act provide municipalities with the authority to pass by-laws to control signage and other advertising devices. Signs within the Corporation of the City of Brockville are regulated under City of Brockville By-law 84-89, known as the Sign By-law.

City of Brockville Sign By-law 84-89, as amended, addresses murals as follows:

“2.25 Murals, means a graphic representation applied directly to an exterior building face or to another surface and mounted on a building, regardless of media or application technique, the primary purpose of which is decorative.”

The proposed painting has been determined to fall within the definition of a “mural” as defined under City of Brockville Sign By-law 84-89, as amended, Section 2.25, above.

“7.10 Murals

No person shall erect a mural except upon receiving approval of Council for the Corporation of the City of Brockville and obtaining the appropriate permits(s).”

A Sign Permit is required to be received prior to erecting a mural within the City of Brockville.

In addition, various provisions required to be met are identified under City of Brockville Sign By-law 84-89, as amended, Parts 7.3 and 7.10.

A photograph of the mural and the location on the building has been submitted and is shown on **Schedule "A"** to this report and is entitled "Half Moon Bay". The mural consists of a series of painted and weather protected wood panels secured to the building face. Lighting and method of securing the mural will be assessed at that time.

Should support be granted, a permit shall be considered for issuance by the Planning Department-Building Division.

FINANCIAL CONSIDERATION:


All costs associated with the mural are the responsibility of the Owner.

CONCLUSIONS

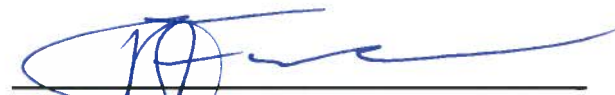
Based on the foregoing discussion, the Planning Department has no objection to approval being granted to erect a mural on the east wall of 26 King Street East, City of Brockville, subject to issuance of a building permit.



M. Maureen Pascoe Merkley
Director of Planning

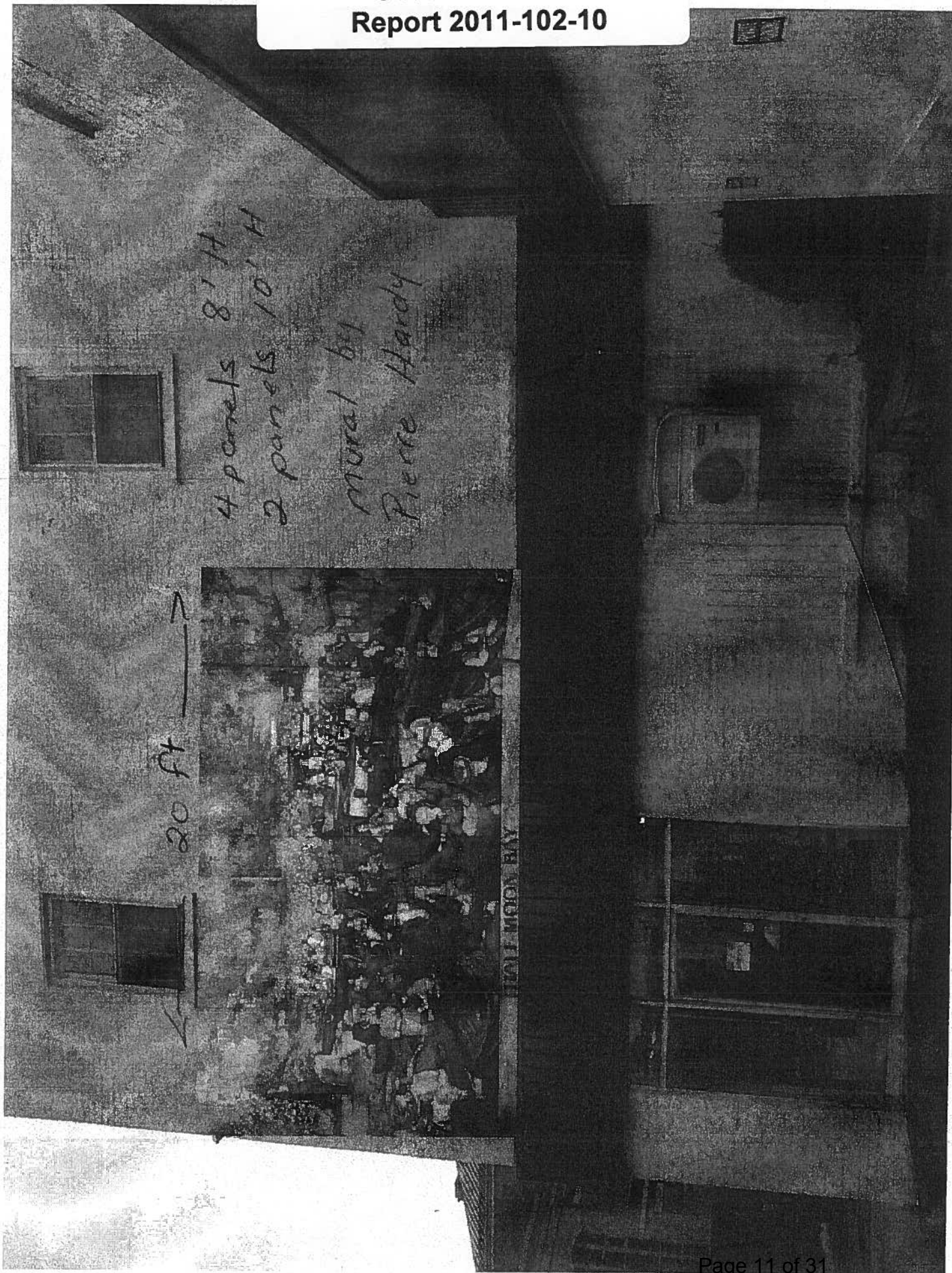


B. Casselman
City Manager



J. Faurschou
Planner I

SCHEDULE "A"
Report 2011-102-10





HALF MOON BAY

27 Sept 2011

REPORT TO ECONOMIC DEVELOPMENT PLANNING COMMITTEE– 04 OCTOBER 2011

2011-103-10

**AMENDMENT TO CONDOMINIUM AGREEMENT
REMOVAL OF ACCESS TO CHILDREN'S PLAY AREA
LEEDS CONDOMINIUM PLAN NO. 31
(THE CAMELOT)**

**M. PASCOE MERKLEY
DIRECTOR OF PLANNING
J. FAURSCHOU
PLANNER I**

OWNER: 653973 ONTARIO LTD.

AGENT: DAVID A. HAIN

FILE: 08-CD-945002

RECOMMENDATION:

THAT approval be granted to Leeds Condominium No. 31 to amend the Declaration of Condominium to release its interest in an easement described as Parts of Lots 1, 2 and 3 on Registered Plan 380 designated as Parts 3 and 4 on Reference Plan 28R-8849.

PURPOSE:

The purpose of this report is to outline a request for an amendment to the Declaration of Condominium for Leeds Condominium No. 31 to release its interest in an easement described as Parts of Lots 1, 2 and 3 on Registered Plan 380 designated as Parts 3 and 4 on Reference Plan 28R-8849 to provide recommendations on same.

BACKGROUND:

On 11 May 1993, a Site Plan Control Agreement was authorised by By-law 109-93 and registered as Instrument Number 241859, dated 22 June 1993 (File 609-211) to enable construction of a forty seven (47) unit residential apartment building located at 21 Liston Avenue. The legal description of the site included *"an easement over, along and upon Lots 1, 2 and 3 on Registered Plan 380 designated as Parts 9 and 10 on Reference Plan 28R-7542"*. The subject property and the easement are shown on **Schedule "A"** to this Report.

On 22 November 1994 Council granted final approval for 21 Liston Avenue to be converted from residential rental status to residential condominium status. Declaration under the Condominium Act to create Condominium No. 31 was registered on title under Instrument Number 0269390, dated 06 June 1996 (File 08-CD-945002). An easement in perpetuity for shared access to, and use of, a children's play area was included in the description for Condominium No. 31 and is described as Parts of Lots 1, 2 and 3 on Registered Plan 380 designated as Parts 3 and 4 on Reference Plan 28R-8849. The location of the easement is consistent with the easement identified under the above-noted Site Plan Control Agreement as shown on **Schedule "A"** to this Report.

Amendment To Condominium Agreement, Removal Of Access To Children's Play Area, Leeds Condominium Plan No. 31 (The Camelot)**Owner:** 653973 Ontario Ltd.**Agent:** David A. Hain**FILE:** 08-CD-945002

On 15 August 2011, Mr. David Hain, acting as Agent for Leeds Condominium No. 31 submitted a request for approval to amend the Declaration of Condominium to remove the easement providing access for residents of 21 Liston Avenue to a children's play area located west of the building. The letter of request and supporting documentation has been attached to this report as **Schedule "B"** to this Report. This matter is being brought forward as a direct result of a new subdivision proposed to be constructed to the west of 21 Liston Avenue in which the children's play area is proposed to be relocated from the approved site to a new centrally located site with access to the general public rather than only to 21 Liston Avenue. **Schedule "C"** to this report identifies the proposed new location of the children's play area.

ANALYSIS:

Access to the children's play area was a requirement of Site Plan Control Agreement, File 609-209. The Site Plan Control Agreement was designed to accommodate the construction of three (3) high-rise residential apartment buildings. One (1) building containing eighty (80) dwelling units and two (2) buildings each to contain forty seven (47) dwelling units. The children's play area was a requirement for apartment buildings under City of Brockville Zoning By-law 47-82, the Zoning By-law in place at the time.

Actual development has resulted in construction of one (1) apartment building containing forty seven (47) dwelling units, that being 21 Liston Avenue (File 609-211). The remaining portions of the Plan have been developed or are slated for townhouse development. Site Plan Control Agreement (File 609-211) included within Schedule "A" an easement to ensure access to the children's play area.

A children's play area remains a requirement under City of Brockville Zoning By-law 194-94, as amended, but only for an apartment building. The vacant lands west of 21 Liston Avenue have received draft Plan of Subdivision approval and are currently being serviced under a Pre-Servicing Agreement for townhouse dwelling and a future apartment building. A children's play area will be a requirement under Site Plan Control Agreement when the future apartment building is constructed.

Following extensive discussions with the developer, Coombe Custom Homes, the developer has committed to construct a children's play area centrally located within the proposed subdivision. The location of the children's play area and a concept plan is shown on **Schedule "C"** to this Report. Construction of the children's play area in this location in close proximity to 21 Liston Avenue will provide unfettered public access which also meets the intent of the zoning by-law. Accordingly, the Planning Department has no objection to

**Amendment To Condominium Agreement, Removal Of Access To Children's
Play Area, Leeds Condominium Plan No. 31 (The Camelot)**

Owner: 653973 Ontario Ltd.

Agent: David A. Hain

FILE: 08-CD-945002

the request for an amendment to the Declaration of Condominium for Leeds Condominium No. 31 to release its interest in an easement described as Parts of Lots 1, 2 and 3 on Registered Plan 380 designated as Parts 3 and 4 on Reference Plan 28R-8849

The request has been circulated to the Operations Department, Environmental Service Department, the City Clerk and the City Solicitor. No objections have been received.

POLICY IMPLICATIONS:

The proposed changes, as noted, are consistent with policies within the City of Brockville as the area is currently designated and zoned for residential development and the intent of the zoning by-law to provide an accessible children's' play area is maintained.

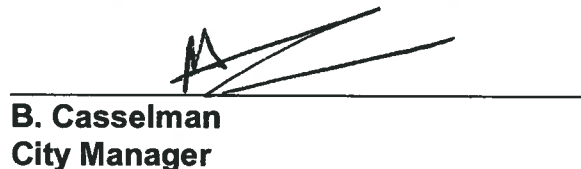
FINANCIAL CONSIDERATIONS:

There are no financial considerations to the City at this time. All costs associated with the amendment to the description in the Declaration of Condominium, including but not limited to, preparation of appropriate documentation and registration of documentation are the responsibility of the applicant.

CONCLUSIONS:

The Planning Department supports the various changes and is recommending approvals as described in the recommendations of this report.

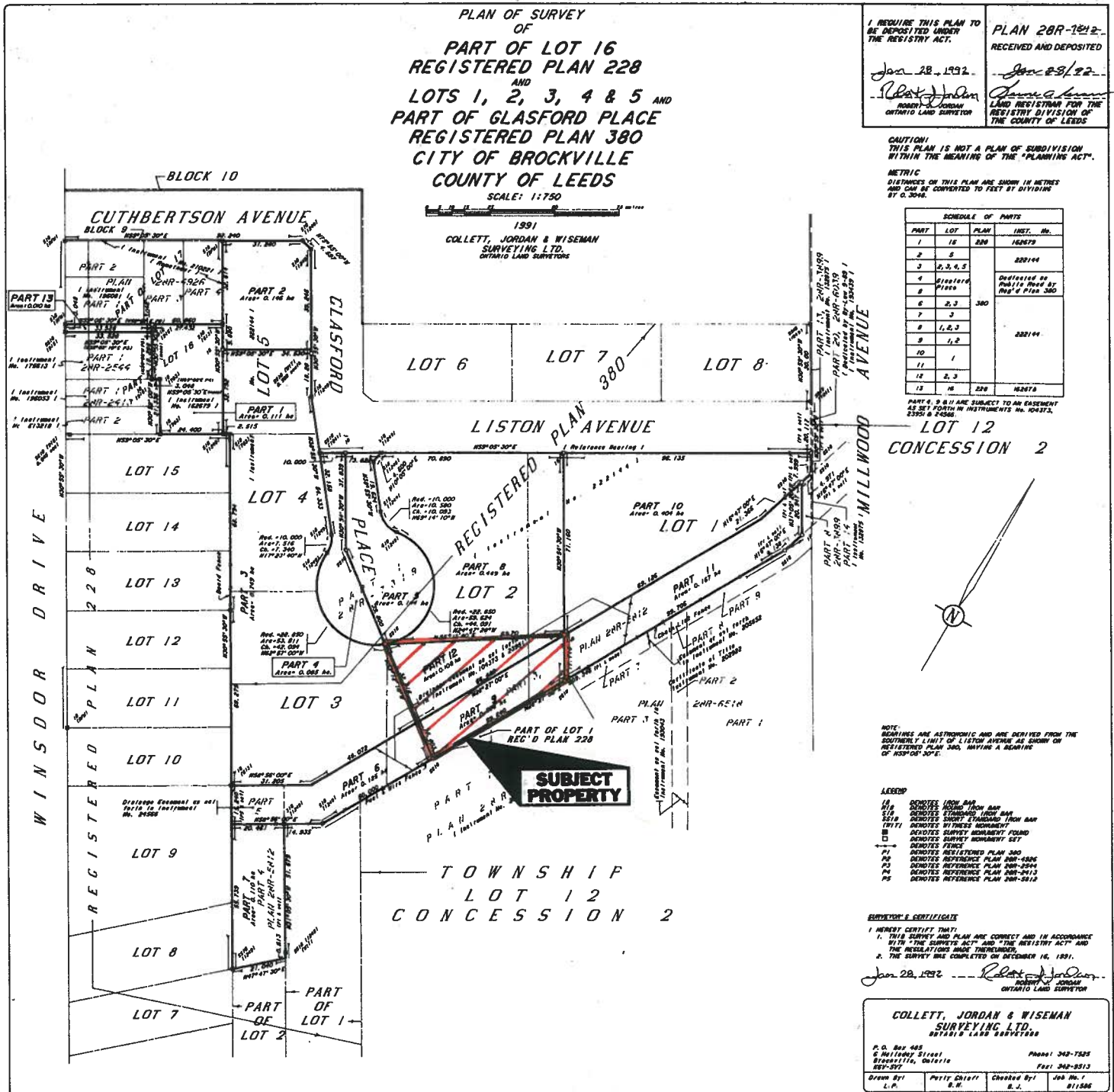

M. Pascoe Merkley
Director of Planning


B. Casselman
City Manager


J. Faurschou
Planner I

SCHEDULE "A"

Report 2011-103-10



SCHEDULE "B"
Report 2011-103-10

DAVID A. HAIN

LAWYER PROFESSIONAL CORPORATION

BARRISTER, SOLICITOR & NOTARY PUBLIC

Telephone (613) 342-5577

Facsimile (613) 342-1773

david@hainlaw.com

58 King Street East

P.O. Box 757

BROCKVILLE, Ontario

K6V 5W1

2011 August 15

Ms. Maureen Pascoe-Merkley
City Planner
City of Brockville
Victoria Building
Brockville, Ontario

By hand

Dear Madam:

Re: Leeds Condominium #31
Amendment of Description in Declaration

I enclose a copy of the Proposed Amendment to the Declaration of the Condominium. It has been approved by the Board of Directors of the Condominium.

The proposed Amendment to the Description will remove an easement which was created for the benefit of the Condominium Corporation. The easement was for shared access to and use of a children's playground area - a tot lot - located some yards to the west of the condominium building. The municipality required this tot lot as a condition of the development. It was originally contemplated that another proposed nearby development would share in the use of and maintenance of the tot lot. This proposed nearby development has not happened. A new reconfigured development is contemplated and the municipality has directed that a public parkette replace the tot lot in a nearby location.

The Board of Directors has decided that it is appropriate to release its interest in the easement for the following reasons:

1. The tot lot is not used by any residents of Leeds Condominium no. 31.
2. This condominium is solely responsible for the costs of maintaining the tot lot. Release of the easement for the tot lot will relieve the Condominium from possible liability for claimed injuries or damages.
3. Removal of liability for possible damages should enhance the value of the units.

After the Condominium Declaration is amended to remove the easement for the tot lot from the

description, the Condominium will execute a Transfer Release and Abandonment of the easement.

Section 9.(3) of the Condominium Act requires that

9.(3) A description or an amendment to a description shall not be registered unless

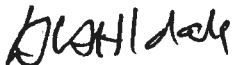
- (a) the approval authority has approved it; or
- (b) the approval authority has exempted it from those provisions of sections 51 and 51.1 of the Planning Act that would normally apply to it under subsection (2) and it is accompanied by a certificate of exemption issued by the approval authority.

Would you kindly provide a suitable certificate of exemption. I enclose my cheque in the amount of \$349.00 in payment of the city's fees in this application.

If you have comments or questions please contact me at your convenience.

I look forward to hearing from you.

Yours very truly,



David A. Hain

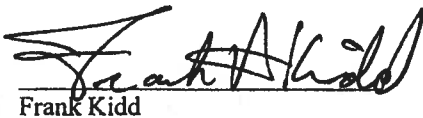
DAH/dah
encl.

RESOLUTION OF THE BOARD OF DIRECTORS OF LEEDS CONDOMINIUM CORPORATION #31

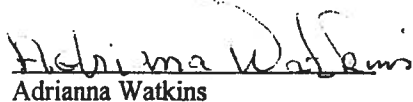
WHEREAS: the Board of Directors of Leeds Condominium Corporation #31, the Camelot, wishes to amend the Declaration of the Corporation by deleting from the description in Schedule "A" thereof the easement described as follows: "together with an easement in perpetuity, as set in instrument no. 229275, in common with all other entitled thereto, over, along and upon those parts of Lots 1,2 and 3 on registered Plan 380 designated as Parts 3 and 4 on Reference Plan 28R-8849", and thereafter releasing its interest in the said easement, the Board therefore resolves that:

- 1) the Declaration of the Corporation be amended by deleting from the description in schedule "A" thereof the easement described a follows: "together with an easement in perpetuity, as set in instrument no. 229275, in common with all others entitled thereto, over, along and upon those Parts of lots 1,2 and 3 on registered Plan 380 designated as Parts 3 and 4 on Reference Plan 28R-8849";
- 2) subject to the approval of the owners, the President of the Corporation is authorized to execute a Transfer, Release and Abandonment of such easement or such other documentation as may be reasonably required to release the Corporation's interest in the easement.

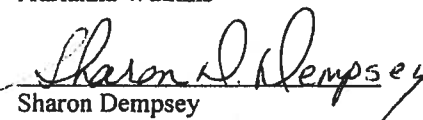
Dated and signed this 12th day of August, 2011


Frank Kidd

Director


Adrianna Watkins

Director


Sharon Dempsey

Director

I REQUIRE THIS PLAN TO
BE TESTED UNDER
THE REGISTRY ACT.

PLAN 28R-1642

RECEIVED AND DEPOSITED

Jan 28 1992

Jan 28/92

Robert Jordan

LAND REGISTRAR FOR THE
REGISTRY DIVISION OF
THE COUNTY OF LEEDS

ROBERT JORDAN
ONTARIO LAND SURVEYOR

**CAUTION:
THIS PLAN IS NOT A PLAN OF SUBDIVISION
WITHIN THE MEANING OF THE "PLANNING ACT".**

METRIC
DISTANCES ON THIS PLAN ARE SHOWN IN METRES
AND CAN BE CONVERTED TO FEET BY DIVIDING
BY 0.3048.

SCHEDULE OF PARTS			
PART	LOT	PLAN	DET. No.
1	10	220	16R79
2	8		
3	2, 3, 4, 5		22100
4	Winford Place		Ordinated as Public Road by Reg'd Plan 350
5	2, 3	350	
7	3		
8	1, 2, 3		
9	1, 2		22100
10			
11	1		
12	2, 3		
13	15	220	16R79

PART 4, 9 & 11 ARE SUBJECT TO AN EASEMENT
AS SET FORTH IN INSTRUMENTS No. 104373,
23051 & 24085.

NOTE:
BEARINGS ARE ASTRONOMIC AND ARE DERIVED FROM THE
SOUTHERLY LINE OF LISTON AVENUE AS SHOWN ON
REGISTERED PLAN 300, HAVING A BEARING
OF $N53^{\circ}08'30''E$.

LEADS

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18 DENOTES 100% BAR
20 DENOTES 100% 100% BAR
210 DENOTES STANDARD 100% BAR
210 DENOTES SHORT STANDARD 100% BAR
210 DENOTES 11 THRESH MOVEMENT
DENOTES SURVEY MOVEMENT FOUND
DENOTES SURVEY MOVEMENT SET
DENOTES 100% BAR
P1 DENOTES REGISTERED PLAN 200-6000
P2 DENOTES REFERENCE PLAN 200-6000
P3 DENOTES REFERENCE PLAN 200-6000
P4 DENOTES REFERENCE PLAN 200-6013
P5 DENOTES REFERENCE PLAN 200-6018

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SUPPLEMENTAL CERTIFICATE

I HEREBY CERTIFY THAT:

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH "THE SURVEYS ACT" AND "THE REGISTRY ACT" AND THE REGULATIONS MADE THEREUNDER,
2. THE SURVEY WAS COMPLETED ON DECEMBER 16, 1991.

Jan. 28, 1972 --- Robert A. Jordan
ROBERT A. JORDAN
ONTARIO LAND SURVEYOR

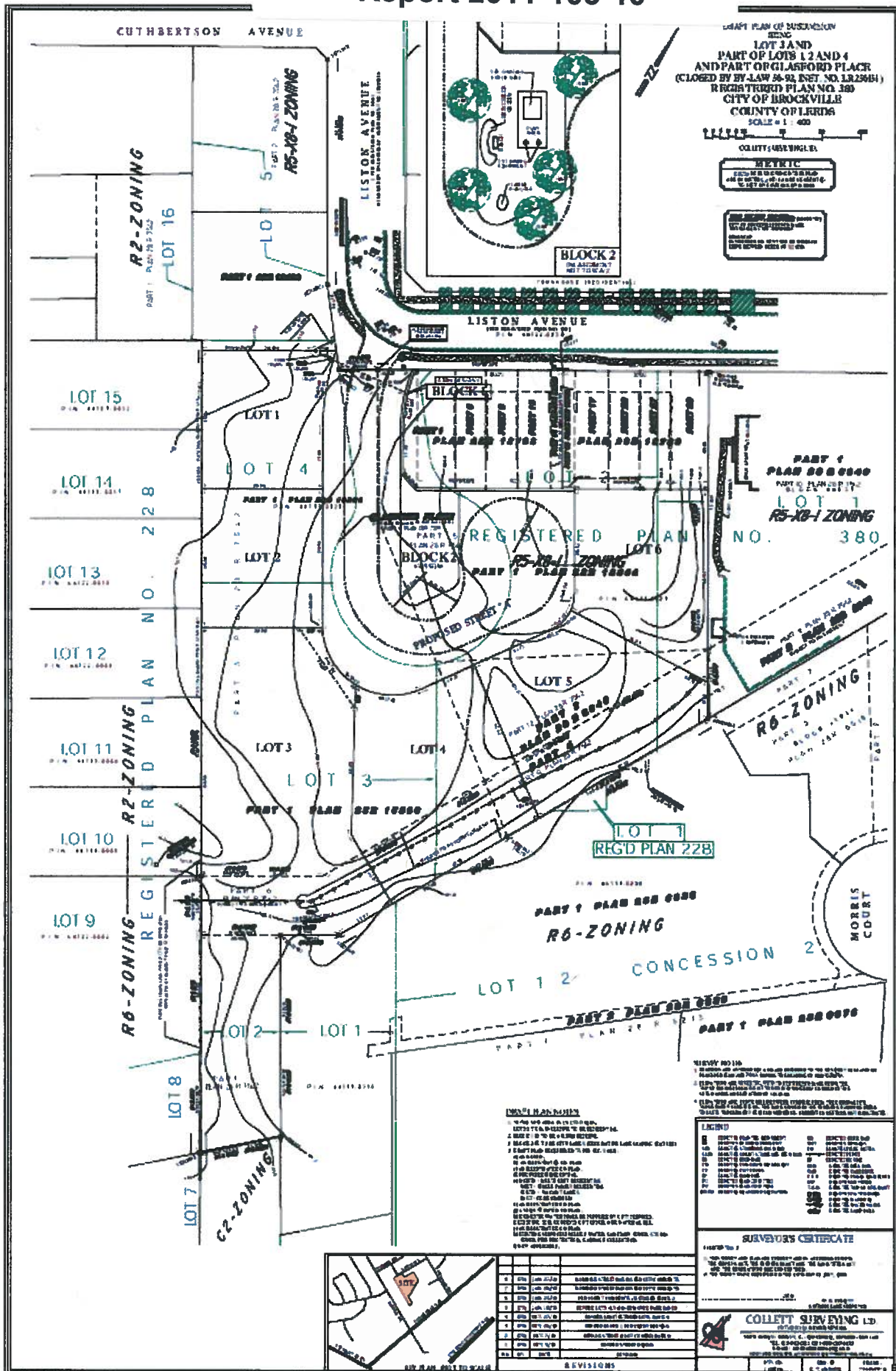
**COLLETT, JORDAN & WISEMAN
SURVEYING LTD.**
DETROIT, LANSING, ANN ARBOR

P.O. Box 468
6 Holladay Street
Brookville, Ontario
M5Y-5V7

Phone: 342-7525
Fax: 342-2513

Drawn By L. P.	Payroll Chief R. E.	Checked By R. J.	Job No. 1 81158
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SCHEDULE "C" Report 2011-103-10



29Sept2011

**REPORT TO ECONOMIC DEVELOPMENT PLANNING COMMITTEE
4 October 2011**

**ADDENDUM TO 2011-089-09
REVIEW OF NOISE BY-LAW**

**M. PASCOE MERKLEY
DIRECTOR OF PLANNING
ANDREW MCGINNIS
PLANNER II**

RECOMMENDATION

THAT a revised by-law to regulate noise in the City of Brockville, attached to Report 2011-089-09 as Schedule "A", be received, and be referred back to staff for review by relevant Provincial ministries.

PURPOSE

To consider and receive a working draft of a revised Noise By-law, prepared in response to Council's direction and comment received from the Economic Development and Planning Committee on 6 September 2011, and to respond to submissions related thereto.

BACKGROUND

At it's meeting of 6 September 2011, the Economic Development and Planning Committee considered Report 2011-089-09 Review of Noise By-law, and the EDP Committee directed Staff to review the temporary exemption section such that Council should have discretion for requests exceeding 6 months, and not the Chief Planning Officer. The specific direction from the EDP Committee reads as follows:

**"2011-089-09
Review of Noise By-law**

Moved by: Councillor Beatty

THAT a revised by-law to regulate noise in the City of Brockville, attached to Report 2011-089-09 as Schedule "A", be received, and be referred back to staff for review by relevant Provincial ministries.

CARRIED, AS AMENDED

Amendment to Motion

Moved by: Councillor Beatty

THAT staff revise the Chief Planning Official's delegated authority from a time period of 6 months for application for temporary exemption.

CARRIED

Amended Motion

THAT a revised by-law to regulate noise in the City of Brockville, attached to Report 2011-089-09 as Schedule "A", be received, and be referred back to staff for revision and brought back to the EDP Committee at the meeting of October 4th, 2011.

CARRIED

The minutes of the meeting of 6 September 2011 are attached as *Schedule "A"*.

On 6 September 2011 at 3:41 pm, an email was sent from Ms. Deborah Jackett-Simpson on behalf of Mr. Simon Fuller with respect to the draft/proposed changes to the City's Noise By-law. This email has been attached to this report as *Schedule "B"*.

The email outlines concerns that the term "Residential Area" applies to anywhere that residential use is permitted, and requests that the Central Business District (CBD) be separated as the CBD is an area currently designated for residential use as outlined within the City of Brockville Zoning By-law. Mr. Fuller contends that the CBD should not have the same rules as a residential subdivision and that the DBIA should be contacted regarding the vibrancy of downtown and to protect the hospitality facilities by permitting operation beyond 11 pm.

The DBIA Board of Directors have also submitted a letter in support of Mr. Fuller's comments and state, "given that it is a mixed use area; Commercial and Residential; we feel it imperative that you consider the potential impact of not revising the By-Law when it pertains to the definition of 'residential area'". A copy of the DBIA's letter is also attached to this report as *Schedule "C"*.

ANALYSIS

Exemptions

In accordance with the direction of the EDP Committee, Staff has revised Section 5 Grant of Exemption in the draft by-law such that the Chief Planning Officer is the delegated approval authority to a maximum of six (6) months to grant exemptions. Thus, any exemption requested over a period of six (6) months must be considered at the Council level.

"Residential" Areas vs. Central Business District

City Staff has reviewed the request from Mr. Fuller, supported by the DBIA, in relation to other municipalities' noise by-laws, and can report that although some municipalities do separate their CBD from residential areas within their cities, noise limits for "patios" and other commercial related activity are all still in effect at 11 pm.

Mr. Fuller's request for extension of the evening hour at which time the prohibitions on specified noise comes into effect under the Noise By-law as it pertains to the downtown area was also discussed with senior City managers including Police Chief John Gardiner. Chief Gardiner advises that the Noise By-law is enforced in response to complaints using a common sense approach. Warnings are given, and only if there is no willingness to comply is it followed up by other action. In most instances, a warning is sufficient to get the response requested, that is, to reduce the noise at issue. Furthermore, Chief Gardiner notes that the extension to 11:30 pm., midnight or beyond would also result in police intervention only after the established time, therefore noise potentially could continue until a much later hour when compliance is eventually achieved.

Staff also took the opportunity to discuss the submission by Mr. Fuller with John Ackerman, the owner/proprietor of Bud's on the Bay Patio and Restaurant and O² Nightclub. Mr. Ackerman has previously shown an interest in potential changes to the Noise By-law. In discussions, Mr. Ackerman advised that his house rule is consistent with the parameters of the Noise By-law, such that summertime entertainment on the patio is to curtail at 11 pm. The nightclub is indoor and only occasionally would there be neighbourhood issues from noise if the doors are opened for additional ventilation. Mr. Ackerman's view is that the existing provisions under the Noise By-law do not cause a concern with respect to his business.

Staff reiterates that the Noise by-law, with the minimal adjustments being recommended, is a reasonable and balanced approach. From our review, it does not seem necessary to amend the by-law to separate residential areas from the downtown and to provide different restrictions for each, provided that the hour at which quiet enjoyment is to be achieved remains at 11 pm. across the City. It is suggested that the situation which Mr. Fuller describes would best be evaluated once the new restaurant in Tall Ships Landing is in operation, at which time, if business opportunities are hampered in light of the parameters of the Noise By-law, it would be the proprietor's prerogative to approach the City for an exemption or amendment to the by-law.

It is still the intent, once received by Council, to refer the draft by-law back to staff so that there can be consultation with Ministry of the Environment respecting the technical aspects of the proposed by-law. The Ministry of the Attorney General will also review the proposed by-law to determine whether the language is appropriate to meet short form wording guidelines for ease of enforcement.

POLICY IMPLICATIONS

Section 129 of the *Municipal Act 2001* allows municipalities to pass bylaws to prohibit and regulate noise. Also as noted in Report 2011-089-09, Section 23.1 of the *Municipal Act, 2001*, as amended authorizes a municipality to delegate its powers and duties to a person or body, subject to some restrictions. The delegation of routine administrative matters, such as temporary exemptions (3 month maximum) to the Noise By-law, leaves Council to focus on policy and strategic decision-making.

FINANCIAL CONSIDERATIONS

The revised by-law proposes the establishment of fees for processing applications for exemption to the noise by-law, and for processing of appeals filed respecting decisions on applications filed for exemption. The fees will be established through the City's User Fee By-law.

CONCLUSION

Upon review of the current noise by-law, other municipal noise by-laws and comments received, staff believes that some revisions are warranted. A draft by-law has been prepared, and it is recommended that it be received and referred back to staff so that review by provincial Ministries of the Environment and Attorney General can be conducted.



M. Maureen Pascoe-Merkley, MCIP, RPP
Director of Planning



Andrew McGinnis, MCIP, RPP
Planner II



B. Casselman
City Manager

SCHEDULE "A" – ADDENDUM TO 2011-089-09



COMMITTEE MINUTES

Economic Development & Planning Committee

Tuesday, September 06, 2011, 5: 30 p.m.
City Hall, Council Chambers

Roll Call

Committee Members:

Councillor M. Kalivas, Chair
Councillor J. Baker
Councillor D. Beatty
Councillor J. Earle

Regrets:

Mayor D. Henderson, Ex-Officio

Staff:

Mr. J. Faurschou, Planner I
Ms. D. Livingstone, Deputy City Clerk (Recording Secretary)
Mr. A. McGinnis, Planner II
Ms. S. Seale, City Clerk

Others:

Ron Zajac, Recorder & Times

The Chair called the meeting to order at 5:30 p.m.

DISCLOSURE OF INTEREST

Nil.

MOTION TO MOVE INTO CLOSED SESSION (5:17 PM)

Moved by: Councillor Baker
Seconded by: Councillor Earle

THAT pursuant to Municipal Act, 2001, Section 239 Sub. 2 (c), Council resolve itself into the Committee of the Whole, In Camera, closed to the public to consider:

1. a proposed or pending acquisition or disposition of land by the municipality or local board.

CARRIED

SCHEDULE "B" – ADDENDUM TO 2011-089-09

Andrew McGinnis

From: Maureen Pascoe Merkley
Sent: Thursday, September 08, 2011 1:41 PM
To: Andrew McGinnis
Subject: FW: Comments related to draft/proposed changes to City's Noise Control Bylaw

FYI

M. Maureen Pascoe Merkley, MCIP, RPP
Director of Planning
City of Brockville
1 King Street West, P.O. Box 5000
Brockville, ON K6V 7A5
Tel. (613) 342-8772 ext. 444
Fax (613) 498-2793
Email: mpmerkley@brockville.com

From: Deborah Jackett-Simpson [<mailto:djsimpson@fuller.ca>]
Sent: September 6, 2011 3:41 PM
To: Maureen Pascoe Merkley
Cc: bclarke@downtownbrockville.com; anne@brockvillechamber.com
Subject: Comments related to draft/proposed changes to City's Noise Control Bylaw

Attn: Ms M. Pascoe Merkley, Chief Planning Officer

Dear Ms Pascoe Merkley

Further to our phone conversation today, this e-mail will serve to clarify our concerns with respect to the draft revisions to the City's Noise Control Bylaw.

In respect of its application and definitions, it is our understanding that "residential area" is intended to cover any area within the city in which a residential use is permitted, and not solely areas of the city "designated for residential use" (if this is the correct interpretation, then there should be a clarification of the wording to remove any ambiguity) .

In other words, this bylaw is intended to apply equally to the central business district which has a residential component, as well as a residential exclusive area (subdivision) that has no commercial component within it.

Given the current interpretation above, we are concerned that the bylaw does not clearly differentiate between a residential neighbourhood and a residential component of the central business district. It would not appear practical for a homeowner living within a mixed use within the central business district, to expect the same level of peace and quiet as if they were living in a residential subdivision outside of the core. It should be expected that the vibrancy of the downtown would protect hospitality facilities to operate outdoor patios beyond 11 pm at night. The definition of noise as it applies to Table 1 has a zero tolerance (with no minimum threshold) with respect to hooting, whistling or singing after 11 pm.

We would urge the committee and council to permit the DBIA and downtown businesses the opportunity to comment on the intended application of this bylaw, with a view that the final bylaw would acknowledge the realities and the need to strike a balance between the vibrancy of non-residential activities, with a reasonable protection of the quiet enjoyment for residents who has chosen to live within the central business district.

With respect to Tall Ships Landing, the city has urged us to include mixed use components such as a restaurant and shops to compliment the MDC in a way that will result in a mini conference/special events facility. It is a concern to us that nearby residents would, under the proposed interpretation of the bylaw, have the opportunity to seriously curtail activities after 11 pm which otherwise would be perfectly reasonable in other vibrant downtown settings.

In summary, we feel there is a need to recognise the vibrancy of the downtown core as an area distinct from exclusively residential areas in the application of any noise control bylaw.

Notwithstanding that there are no changes being proposed to the definition of "residential area", it would appear to us that a new interpretation is being placed upon this definition so as to apply to the downtown core in a new way. If there is to be no differentiation between the mixed use and exclusively residential areas, then we foresee a resulting disincentive for hospitality businesses to operate after 11pm.

Regards

Simon Fuller

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_____ Information from ESET NOD32 Antivirus, version of virus signature database 6448 (20110908)

_____ The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

REPORT OF THE COMMITTEE OF THE WHOLE IN CAMERA

Moved by: Councillor Earle
Seconded by: Councillor Baker

THAT Council rise from Committee of the Whole In Camera and the Chairman report that all recommendations be adopted in Committee of the Whole, in Camera, be adopted.

CARRIED

STAFF REPORTS

2011-089-09
Review of Noise By-law

Moved by: Councillor Beatty

THAT a revised by-law to regulate noise in the City of Brockville, attached to Report 2011-089-09 as Schedule "A", be received, and be referred back to staff for review by relevant Provincial ministries.

CARRIED, AS AMENDED

Amendment to Motion

Moved by: Councillor Beatty

THAT staff revise the Chief Planning Official's delegated authority from a time period of 6 months for application for temporary exemption.

CARRIED

The vote on the original motion, as amended, was now taken and the motion, as amended, was carried.

Amended Motion

THAT a revised by-law to regulate noise in the City of Brockville, attached to Report 2011-089-09 as Schedule "A", be received, and be referred back to staff for revision and brought back to the EDP Committee at the meeting of October 4th, 2011.

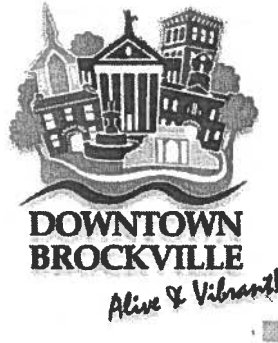
CARRIED

Mr. Andrew McGinnis spoke to the report and reviewed the proposed by-law. He indicated that 15 municipal noise by-laws were reviewed. Ms. Sandra Seale indicated that the review has established essential changes that meet the noise guidelines under the Ministry of Environment. It was staff's approach that the existing Noise By-law 138-80 will be repealed and replaced by this by-law. The prohibitions remain the same except decibel level for construction with some process changes. It is noted that enforcement remains unchanged. Number of charges has been about 12 in a five year period. Ms. Seale noted that the majority of complaints are related to animal control and dogs barking and are covered under the Animal Control by-law.

Councillor Baker indicated that council should have discretion for up to 6 months and not the Chief Planning Official. Quality of life issues should come before Council.

The meeting adjourned at 6:04 p.m.

SCHEDULE "C" – ADDENDUM TO 2011-089-09



September 13, 2011,

Attn: Maureen Pascoe Merkley
Director of Planning
City of Brockville

Re: Revision to Noise By-Law

Dear Ms. Pascoe Merkley

The DBIA Board of Directors would like to take this opportunity to offer this letter of support to the recommendations made by Mr. Simon Fuller sent to you on Tuesday September 6, 2011.

We are asking the City of Brockville's planning department to take into consideration the Downtown district when revising the Noise By-Law. Given that it is a mixed use area; Commercial and Residential; we feel it imperative that you consider the potential impact of not revising the By-Law when it pertains to the definition of "residential area". The DBIA's tag line is "Alive and Vibrant" and we are seeing a number of projects that are helping bring this to fruition. We are asking you to consider the potential impact of what this could mean to other businesses and festivals if the amendments that have been recommended do not occur.

Thank you for your consideration to this matter and please feel free to contact us if you would like to discuss this further.

Sincerely,

Kent Henderson
Chair
DBIA Board of Directors