



TO: GENERAL COMMITTEE

SUBJECT: SECOND REQUEST FOR TEMPORARY NOISE EXEMPTION AT 37 JOHNSON STREET, BARRIE FOR FRAM + SLOKKER

WARD: 1

PREPARED BY AND KEY CONTACT: B. KEENE, SUPERVISOR OF ENFORCEMENT SERVICES EXT. 4586
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SUBMITTED BY: W. COOKE, CITY CLERK/DIRECTOR OF LEGISLATIVE AND COURT SERVICES

GENERAL MANAGER APPROVAL: D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That motion 22-G-163 adopted by City Council on November 30, 2022, be maintained and the second temporary noise exemption request from FRAM + Slokker representing the development at 37 Johnson Street, Barrie, be denied and that the parameters of the Noise By-law 2006-140 be upheld.

PURPOSE & BACKGROUND

Purpose

2. The purpose of this Staff Report is to provide information pertaining to a second request for an exemption from the City of Barrie Noise By-law for construction work at 37 Johnson Street. The scope of the request is outside of the Clerk's authority to provide minor exemptions from the by-law. The Report recommends upholding the previous decision of Council and once again recommends the denial of the latest request dated December 19th, 2022.

Background

3. On December 19, 2022, a second Temporary Noise Exemption application was received from Lucas du Mont of Fram + Slokker (the applicant), requesting the City Clerk grant an exemption to the Noise By-law 2006-140.
4. The applicant continues to request an extension to the normal work hours permitted in the Noise By-law 2006-140 as amended of 7:00 a.m. to 5:00 p.m., to 7:00 a.m. to 10:00 p.m. one day per week to accommodate superstructure concrete pours.
5. The following details the rationale provided by the applicant, for the exemption request:
 - The applicant notes the need to extend their hours of construction outside of the permitted hours after each concrete slab is poured, 1 day per week from January 2023 to June 2023. The pours will not take place on Fridays or Saturdays.

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- The finishing of the concrete can be lengthy and will result in workers staying after the pour is complete at 5pm, and contractors utilizing up to 3 gas powered machines to trowel the concrete floor slabs, these machines are approximately 5hp per machine.
 - A chemical accelerate will be used to decrease the concrete's curing time and decrease resident disruptions. The applicant will begin the concrete pours early in the morning (7am) the formworks below the areas being concreted will be enclosed and heated and an accelerator will be added to the concrete mix. Workers will be offsite by 10pm on slab pour days as per the applicant.
 - While they will endeavor to keep the construction noise to a minimum, it will still infringe on the current by-law requirements.
 - The applicant will ensure the main crane lights are turned off by 8pm or when not required to meet jobsite safety requirements. The applicant will also attempt to block or point temporary site lighting devices used during the curing process away from adjacent homes and residences where possible.
 - Attempts will be made to block or deflect noise from the troweling machines from being transmitted towards neighboring properties and residences.
 - The applicant also submitted with their application an engineer's report from Petra Consultants Ltd. regarding sound level readings taken from around the site at 37 Johnson Street during the last concrete pour. While the effort of the applicant is appreciated, the information is not relevant as the Noise Bylaw references construction noise by time of day and not by decibel readings.
6. Noise By-law 2006-140 as amended regulates many types of noise, with some noises prohibited by time and area while other types are regulated by sound level. Noise related to Construction is defined and regulated as noted in the following excerpts:

Definition Sections:

- 3.1.25 "Quiet Zone" means an area within a distance of 500 metres of Royal Victoria Hospital, or other hospital, long term care facility as regulated by the Ministry of Health, City Hall, or any Provincial or Federal Courthouse.
- 3.1.6 "Construction" means the erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, and includes any work in connection therewith;
- 3.1.7 "Construction Equipment" means any equipment or device designed and intended for use in construction, or material handling, including but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;

- 3.1.8 “Construction Site” means the area or portion of land used for or under construction or any other area used for any purpose related to the construction or for any related purpose;

Specific restrictions related to construction noise in Table 1 of the By-law :

Reference	Quiet Zone	Residential Area
The operation of any construction equipment in connection with construction, unless otherwise exempt under the provisions of this by-law	5:00 p.m. of one day to 7:00 a.m. of the next day All day Sundays and Statutory Holidays	7:00 p.m. of one day to 7:00 a.m. of the next day, and All-day Sundays and Statutory Holidays
The operation of any construction equipment without effective muffling devices in good working order and in constant operation	At any time	At any time

Council has provided the City Clerk with the authority to provide exemptions from the Noise By-law provisions when the requested exemption is both minor and in keeping with the overall intent of the By-law. As this request has been deemed neither minor nor in keeping with the intent of the By-law, the request is being presented to General Committee.

ANALYSIS

Overview

7. As previously noted in Staff Report LCS002-22, staff confirmed that the surrounding area is deemed a quiet zone under By-law 2006-140 as amended due to its proximity to a retirement/long term care facility at the corner of Johnson Street and Blake Street. As a result, this requires construction noise at 37 Johnson Street to cease at 5:00 p.m. Monday to Saturday. A map illustrating the quiet zone is included as Appendix “A” to Staff Report LCS002-23.
8. Barrie Manor Enhanced Care Community is located approximately 190 metres from the construction site at 37 Johnson Street, well within the 500-metre buffer area.
9. Enforcement Services has received several noise complaints related to the construction project at 37 Johnson Street between February 2022 and September 2022. The majority of the complaints related to construction noise taking place outside of the currently permitted times noted in the By-law.
10. Since this second request for temporary noise complaint, we have received further complaints between September 2022 and December 2022. The complaints received include construction noise outside of permitted hours, parking of contractor vehicles, offloading of trucks on neighboring streets, lighting issues as well as a notice that was circulated to all tenants of the existing 37 Johnson Street apartment building outlining that construction work would be taking place once per week between 7am and 11pm, contrary to the Noise By-law.
11. In addition to the noise complaints received, Enforcement Services has received several complaints regarding lights on the construction site crane system, however that was not found to be a direct violation of a City by-law.

12. Although the applicant submitted with an engineer's report from Petra Consultants Ltd. regarding sound level reading taken from around the site at 37 Johnson Street during the last concrete pour. The Noise Bylaw references construction noise by time of day and not by decibel readings. While the consultant believe they are maintaining sound levels and decibels under the bylaw, the construction noise section of the bylaw is bound by time of day.
13. Lastly, complaints regarding parking have also been received related to the large construction vehicles as well as the employees of the site parking in a manner that was impacting the surrounding streets. These complaints have been addressed by Municipal Law Enforcement staff.

Staff Findings

14. Due to the proximity of the long-term care facility, and previous complaints or concerns received, staff recommend that the request for the Temporary Noise Exemption at 37 Johnson Street be denied.
15. While some considerations and adjustments have been made by the applicant since the original application was made, this application does not significantly change the request which was submitted and reviewed by Council on November 30, 2022. Therefore, staff continue to recommend that the request for an exemption be denied.

ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS

16. The recommendation(s) included in this Staff Report are not specifically related to the goals identified in the 2022-2026 Strategic Plan.

ALTERNATIVES

17. The following alternatives are available for consideration by General Committee:

Alternative #1 General Committee could grant a temporary noise exemption to the applicant with the following conditions:

Extend the permitted times as outlined in the Noise By-law 2006-140 as amended for construction noise within a quiet zone from the permitted times of 7:00 a.m. – 5:00 p.m. Monday to Saturday excluding all day Sundays and Statutory holidays, to 7:00 a.m.- 8:00 p.m. one day per week Monday to Thursday excluding all day Sundays and Statutory holidays.

As a condition of the temporary exemption the applicant be required to circulate to all residents located within a 500-metre perimeter (see appendix “A”) of 37 Johnson Street, a Notice of Temporary Construction Noise Exemption, immediately prior to the commencement of any work. That such notice includes details as to the nature of the work, purpose, type of construction equipment which will be operated during the period of the exemption and contact information for a representative should residents have any particular questions or concerns. That a copy of this notice be filed with the Legislative and Court Services Department and the Enforcement Services Branch together with a listing of all residents to whom the Notice has been delivered.

The applicant be requested, despite the granting of this temporary exemption, to undertake all reasonable efforts to restrict the noise resulting from its activities to the hours of 7:00 a.m. to 5:00 p.m. wherever possible.

That applicant be requested, despite the granting of this temporary exemption, to exercise all reasonable measures to mitigate the level and duration of noise created during the time period of the exemption.

This alternative is not recommended, due to the inhabitants in the area and the vulnerability of those residents.

FINANCIAL

18. There are no financial implications for The Corporation directly related to the recommendation to deny the exemption request.

LINKAGE TO 2022-2026 STRATEGIC PLAN

19. The recommendation included in this Staff Report is not specifically related to the goals identified in the 2022-2026 Strategic Plan.

APPENDIX "A"

500 metre "quite zone" buffer map.

