

## **EXECUTIVE SUMMARY**

### **PLN019-11**

Council Motion 10-G-393 directed staff, in consultation with the Barrie Downtown Business Improvement Association (BIA) and the Barrie Downtown Neighbourhood Association (BDNA) and other interested Stakeholders, to develop a definition for establishments that are primarily in the business of serving alcohol and the merits of implementing a minimum distance separation of these establishments in the downtown core as well as all parts of the City of Barrie, and report back to General Committee.

Based on a review of other zoning by-laws in Ontario, consultation with the BIA, BDNA and internal departments, staff concluded that defining restaurants as distinct from taverns or bars is problematic for a number of reasons which are explained in the report. Instead, staff considers it more appropriate to regulate nightclubs as separate from restaurants, taverns and bars. Further, there is some merit in applying a minimum distance separation to nightclubs and applying some additional regulations to nightclubs and restaurants (taverns and bars) on a city wide basis and within the City Centre Planning Area.

Accordingly, staff recommends that a public meeting be held to present the following proposed zoning changes which will allow for further stakeholder input and comment on the proposed changes:

#### **Proposed Zoning changes for Nightclubs and Restaurants City Wide**

- The current zoning definition for restaurants includes taverns, bars and nightclubs, and a new definition is proposed for nightclubs in order to apply specific regulations to these establishments as distinct from restaurants (taverns and bars).
- The proposed definition of nightclubs is based on serving alcohol and having a dance floor or providing entertainment including live or recorded music.
- Nightclubs, as defined, are proposed to be permitted in the City Centre Commercial C1 zone, the Transition Centre Commercial C2 zone and the, General Commercial C4 zone only.
- New zone provisions for nightclubs are proposed to limit the capacity to a maximum of 600 persons.
- A distance separation of 200m between nightclubs is proposed to separate these establishments from each other.
- A 200m distance separation from Residential Zones is to apply to all restaurants and nightclubs.

#### **Proposed Zoning changes for Nightclubs and Restaurants within the City Centre Revitalization area** (This area corresponds with the area covered by the Downtown and Allandale CIPs / and the Urban Growth Centre (UGC).

- Nightclubs and Restaurants are proposed to have a maximum capacity of 350 persons, including patios.
- The 200m distance separation from other nightclubs and the 200m separation from residential zones as noted above would also apply in the City Centre Revitalization area.
- An exemption from these recommended zone provisions is proposed for restaurants and nightclubs in association with hotel/convention centre.

Residential uses included in mixed use commercial zones will not be separated, however the following process changes are recommended for mixed use proposals that include residential uses in the City Centre as follows:

- A requirement for a noise impact assessment – so that noise issues can be dealt with at the design stage, through measures such as sound proofing.
- A requirement to prepare a community information map, advising prospective purchasers of the nature of the downtown, highlighting entertainment uses and nightclubs amongst other community information to be included. This is currently being required for draft plans of subdivision, a similar map for showing relevant information for the downtown is proposed for site plans and plans of condominiums that include residential uses.

Staff is also recommending that the Alcohol and Gaming Commission of Ontario (AGCO) be requested to limit the size of these establishments based on the proposed recommendations; noting however, that the AGCO places greater priority on by-law provisions in effect.

### **Implications**

The public meeting will enable further consultation with the affected stakeholders including the BIA and BDNA and owners of restaurants (taverns and bars) and nightclubs.

Most of the restaurants (taverns and bars) in the City Centre are at capacity of 280 persons or less, including patios. They are therefore under the recommended maximums.

There are 5 nightclubs that exceed the recommended maximum capacity in the City Centre. These would be legal non-conforming with respect to capacity if the recommendations are implemented.

Under the current provisions, nightclubs are considered to be restaurants and would be permitted in all commercial zones including the Shopping Centre C3 zone, and the Convenience Commercial C5 zone and subject to some limitation in the Business Park EM1 zone, the Highway 400 Industrial EM2 zone, the Service Industrial EM3 zone and, General Industrial EM4 zone. Nightclubs under the proposed changes will not be listed as permitted uses in the C3, C5 and all of the foregoing industrial zones under the proposed changes.

If implemented, there may be some initial financial implications in terms of staff resources. The anticipated impact is provided in an appendix to the report.

### **Limitations**

The report notes the limitations of zoning provisions to address many of the behavioural issues raised.

The recommended changes may also potentially result in a new set of problems and present other challenges which are flagged in the report and summarized as follows:

- The entertainment and hospitality sector are considered to be an important part of downtown vision, and over-regulation may dampen revitalization efforts.
- Distribution of nightclubs (by applying a distance separation) within the City Centre has the potential to have a greater impact on the residential neighbourhoods around the City Centre compared to a concentration of these uses.
- These establishments may be driven to locate outside of the City Centre stretching enforcement and policing resources, and potentially creating a quieter less vibrant downtown.
- Implementation and enforcement will present challenges, because some legal non-conforming uses will result.

- Some restaurants may convert to nightclubs after the dinner hour by moving some chairs and tables, these would not be captured through the review of liquor license applications or building permit applications and site plan applications, and they would then potentially become an enforcement issue.
- Larger scale franchise type restaurants may be prevented from locating in the City Centre Revitalization Area, given the capacity limitation proposed.
- There may be a rush to apply for expanded capacity prior to implementation of these provisions which would be contrary to the desired outcome.
- Other non-planning / zoning measures may be more effective in addressing the behavioral issues raised including enforcement, good neighbour agreements and patron and operator awareness campaigns.

### **Merits of the Proposed Regulations**

In balance, the recommended measures have the potential to address some of the issues raised in the long term and may have some preventative merit in the future. The potential advantages and benefits of the proposed changes if implemented are summarized below:

- Capacity limitations, once implemented in a zoning by-law, are expected to carry more weight with the AGCO in terms of issuing liquor licenses.
- The creation of some buffering between residential zones from restaurants and nightclubs will reduce spillover impacts of nighttime activities into nearby residential neighbourhoods.
- The distribution of nightclubs may limit closed frontages during regular business hours and will allow for active streets at all hours in the City Centre.
- The distribution of nightclubs may allow for easier clearance of streets after closing hours, and may potentially improve operator accountability outside of their establishments.
- The proposed changes may ultimately promote a healthy mix and distribution of uses by day and night and will limit concentration of these uses. As such, this supports the objectives of maintaining a high quality of living, working and business environment in the downtown and elsewhere in the City.
- The proposed changes may potentially address some of the concerns that have been repeatedly raised by residential neighbourhoods.
- The proposed measures to require a noise impact assessment and a community information map with residential development proposals in the Urban Growth Centre may enable some impacts on residential development to be dealt with at the design stage and may improve an understanding of the choice to live in the downtown, and the uses that are inherently part of the downtown.