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STAFF REPORT: Planning & Development Services – By-law Division



REPORT TO: Committee of The Whole
MEETING DATE: May 16, 2016
REPORT NO.: PDS.16.56
SUBJECT: Blue Mountain Resorts LP Noise By-law Relief Request – 115 Swiss Meadows Boulevard
PREPARED BY: Sharon Long, Administrative Assistant, Planning & Development Services

A. Recommendations

THAT Council receive Staff Report PDS.16.56 “Blue Mountain Resorts LP Noise By-law Relief Request – 115 Swiss Meadows Boulevard”; and

THAT Council provide direction to Staff with respect to their request as follows:

Municipal Information & Systems Association - Top of Hill Event

Date: Sunday June 5, 2016
Location: Top of Silver Bullet Lift - 115 Swiss Meadows Boulevard
Function Time: 7:00PM to 9:00PM
Type of Event: Cocktail Reception
Source of Sound: Acoustic Guitarist (7:00-9:00PM)

Meridian – Top of Hill Event

Date: Thursday June 9, 2016
Location: Top of Silver Bullet Lift - 115 Swiss Meadows Boulevard
Function Time: 6:00PM to 11:00PM
Type of Event: Cocktail Reception & Dinner
Source of Sound: Hypnotist (9:15-10:30PM) & Background Music (6:00-9:15PM; 10:30-11:00PM)

B. Background

The Town is in receipt of an e-mail request for Noise By-law Exemption from the Blue Mountain Village Association for relief from the provisions of the Noise By-law (Attachment 1) as follows:

Municipal Information & Systems Association - Top of Hill Event

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Function Time: 7:00PM to 9:00PM
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Blue Mountain Resorts advised the reason(s) the applicant feels the exemption should be granted:

- a. The events are 'expected to promote the community provincially, nationally, or internationally.'
- b. BMR has hosted a large number of conference groups at the Top of the Hill without previous incident.
- c. The conference group is aware of the Town's Noise By-law and understands that the level of noise will be monitored by BMR representatives on site.

Blue Mountain Resorts advised of the following mitigating measures considered to reduce the impact of noise on potentially affected residential premise(s):

- a. BMR staff will monitor noise levels and mitigate as necessary;
- b. Speakers will be directed inwards to the site (away from surrounding properties) and BMR representatives will monitor noise volume at all times.

By-law Enforcement did not receive any complaints in 2015 and nothing so far in 2016.

The properties within 60 metres of 115 Swiss Meadows Boulevard are all vacant properties so the neighbours were not circulated with this request.

C. The Blue Mountains' Strategic Plan

Goal #1 - Create opportunities for sustainability – promote a diversified economy

D. Environmental Impacts

N/A

E. Financial Impact

N/A

F. In Consultation With

Greg Miller, Manager Building & By-law Division

G. Attached

- G.1 Copy of the Application for a Noise By-law Exemption.
- G.2 Office Consolidation of the Noise By-law.

Prepared by:

Respectfully submitted,

Sharon Long
Administrative Assistant
Planning & Development
Services

Greg Miller
Manager, Building & By-law/
CBO

Michael Benner
Director, Planning &
Development Services

From: [Lindsay Ayers \(BMR\)](#)
To: [Greg Miller](#)
Cc: [Sharon Long](#); [Stacey Lindsay \(BMR\)](#); [Jenna Perry \(BMR\)](#); [Angela Carson \(BMR\)](#)
Subject: BMR Noise By-Law Exemption Requests
Date: May-06-16 4:11:46 PM
Attachments: [image006.png](#)

Hi Greg,

I hope you are enjoying this beautiful spring weather!

Blue Mountain Resorts LP (BMR) has a few upcoming conference group events that we are seeking Noise By-law exemption requests for.

As you are aware, BMR has a history of hosting events on its various properties and we are unaware of any noise by-law complaints associated with the address provided below.

I believe all of the details you require to move forward with processing these requests are provided below. If there is anything further you need – please do not hesitate to contact me. Given two of these events are scheduled for early June, it is our hope that you may be in a position to bring a Staff Report to the Committee of the Whole meeting scheduled for Monday May 16 and it can then go to the May 30 Council meeting for (hopefully) final approval. I appreciate there is typically time allocated for notification to nearby property owners. However, I'm unaware of any residential neighbours within 60 metres of this particular location. If you could confirm your anticipated timing on this, it would be greatly appreciated.

Thanks and happy weekend!

Lindsay

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The reason(s) the applicant feels the exemption should be granted:

- a. The events are 'expected to promote the community provincially, nationally, or internationally.'
- b. BMR has hosted a large number of conference groups at the Top of the Hill without previous incident.

- c. The conference group is aware of the Town's Noise by-law and understands that the level of noise will be monitored by BMR representatives on site.

Mitigating measures considered to reduce the impact of noise on potentially affected residential premise(s):

- a. BMR staff will monitor noise levels and mitigate as necessary;
- b. Speakers will be directed inwards to the site (away from surrounding properties) and BMR representatives will monitor noise volume at all times.

Lindsay Ayers

Director, Planning & Environment

Blue Mountain Resorts LP

190 Gord Canning Drive, Blue Mountains, Ontario, L9Y 3Z2

P: 705-445-0231 x.6611 | F: 705-445-8437 | layers@bluemountain.ca

Find us:  



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CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW 2002 – 9

Office Consolidation
(By-laws 2002-60 & 2004-16)

Being a By-law to prohibit or regulate noises within the municipality likely to disturb.

WHEREAS Section 210 (138) of the *Municipal Act*, chap. M.45, R.S.O. 1990 and amendments thereto enables the councils of local municipalities to pass by-laws for prohibition or regulation within the municipality of noises likely to disturb the inhabitants;

AND WHEREAS section 61 of the *Provincial Offences Act*, chap. P.33, R.S.O. 1990 and amendments thereto provides for a general maximum penalty upon conviction not to exceed \$5,000.00;

AND WHEREAS it is deemed expedient to pass a by-law for the prohibition or regulation of noise within the municipality in a format that would allow enforcement by both a Municipal Law Enforcement Officer and the Ontario Provincial Police;

NOW THEREFORE the Council of the Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. THAT no person shall make noise or cause noise to be made or permit noise to be made that would be likely to disturb the inhabitants of the municipality.
2. THAT for the purposes of Section 1, the following noises or sounds, among others, shall be deemed likely to disturb the inhabitants of the municipality:
 - (a) The sound or noise from, or created by, any radio, television, phonograph, or any other electronic device, or any musical or sound producing instrument of whatsoever kind when such radio, television, phonograph, device or instrument is played or operated in such a manner or with such volume likely to disturb the peace, quiet, comfort or repose of any inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel, or any other type of residence.
 - (b) The yelling, shouting, hooting, whistling, singing, or any other sound made by an individual in such a manner which is likely to disturb the peace, quiet, comfort or repose of any other inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence.
 - (c) The operation of construction vehicles or the act of construction between the hours of 19:00 hours of any weekday to 07:00 hours of the next weekday save and except Saturday from 08:00 hours to 13:00 hours which is likely to disturb the peace, quiet, comfort or repose of any other inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence, unless written permission to specifically extend or alter the hereinbefore mentioned time periods has been given in writing by Council.

- (d) The sound from the operation of any powered or non-powered tool, for domestic purposes (other than snow removal) which is operated in such a manner likely to disturb the peace, quiet, comfort or repose of any inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence, between the hours of 23:00 hours of one day to 07:00 hours of the next day (09:00 hours on Sundays).
- (e) The persistent noise made by any domestic pet, or any animals kept for commercial purposes, likely to disturb the peace, quiet, comfort, or repose of any inhabitant in the same building or in the neighbourhood, at any time.
- (f) The grating, grinding, rattling noise or any other noise caused by a condition of disrepair or maladjustment of any motor vehicle or other vehicle whatsoever or part or accessory thereof likely to disturb the peace, quiet, comfort or repose of any other inhabitant within the municipality.

3. THAT this By-law does not affect:

- a) Any bona fide agricultural use or practice engaged in by a bona fide farmer or employee thereof.
- b) The operation of snow-making machinery or snow-grooming vehicles.
- c) The operation of snow-removal equipment.
- d) Noises or sounds authorized by the municipality. (By-law No. 2002-60)
- e) Noises or sounds related to the non-residential use of land that is permitted by a by-law enacted by the municipality pursuant to Section 34 of the *Planning Act* between the hours of 07:00 hours and 19:00 hours. (By-law 2002-60)
- f) Noises or sounds related to the non-residential use of land that is permitted pursuant to the regulations made under the *Niagara Escarpment Planning And Development Act* between the hours of 07:00 hours and 19:00 hours. (By-law 2002-60)
- g) Noises or sounds authorized by the Blue Mountain Village Association originating within the "Village at Blue Mountain" (Parts 1-40, 16R-7451) between the hours of 07:00 hours and 23:00 hours. (By-law No. 2002-60)
- h)** Noises or sounds related to the use of lands known as Part of Lot 5 and Part of Lot 6, Concession 8, Roll No.: 7-046-02, by the Blue Ridge Sportsmen's Club Inc. between the hours of 08:00 and 21:00 on any day, subject to any Provincial or Federal Statute or Regulation with regard to the discharge of firearms and/or weapons. (By-law 2004-16)

4. THAT every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a penalty as provided in the *Provincial Offences Act*.

5. THAT should any section, clause or provision of this By-law be declared by a court of a competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or in part hereof, other than the part which was declared to be invalid.

6. THAT Township of Collingwood By-laws No. 92-28, 95-37 and 96-9, Town of Thornbury By-law No. 20A-1983 and Town of The Blue Mountain By-law No. 2000-44 are hereby rescinded and repealed.

Read a first and second time this 28 day of January, 2002.

Read a third time and passed this 28 day of January, 2002

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Ross Arthur, Mayor

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Stephen Keast, Clerk