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STAFF REPORT: Planning & Building Services Department



REPORT TO: Council
MEETING DATE: November 25, 2013
REPORT NO.: B.13.40
SUBJECT: Request for Relief to the Noise By-law - Windfall Phase 1
PREPARED BY: Sharon Long, Administrative Assistant, Planning & Building Services

A. Recommendations

THAT Council receive Staff Report B.13.40 with respect to “Request for Relief to the Noise By-law - Windfall Phase 1” and that Council either:

1. Authorize relief from the provisions of the Noise By-law so as to permit construction noise on Saturdays from December 7, 2013 through to August 31, 2014 from 7 AM to 5 PM, except for any Statutory Holiday or long weekend;

Or,

2. Deny the request for relief to the provisions of the Noise By-law.

B. Background

The Town is in receipt of a request received November 19, 2013 from Arnott Construction Ltd. for relief from the provisions of the Noise By-law with respect to the Windfall Phase 1 Project (Attachment 1) to accommodate working on Saturday from 8:00 a.m. to 5:00 from now until August 31, 2014, except on any Statutory Holiday or long weekend.

Section 2 (c) of the Town’s Noise By-law, By-law No. 2002-9, as amended, states:

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.

The subject request was received on November 19, 2013 which has not allowed for the canvassing of neighbours to allow them to comment on this request as set out in the Town’s Policy and Procedures related to Noise By-law Relief Requests however it is noted that the area of work is distant from most residential dwellings.

Should Council grant this request, staff will provide notice to neighbouring property owners.

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Environmental Impacts

N/A

E. Financial Impact

N/A

F. In Consultation With

N/A

G. Attached

G.1 Copy of letter from Arnott Construction Ltd.

G.2 Copy of the Policy & Procedures in dealing with Noise By-law Relief Requests.

Prepared by:

Respectfully submitted:

Sharon Long
Administrative Assistant
Planning & Building
Services

Greg Miller
Manager Building & By-law/
CBO

David Finbow
Director Planning &
Building Services



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RECEIVED

NOV 19 2013

TOWN OF THE BLUE MOUNTAINS
PLANNING & BUILDING SERVICES

PER 

November 18, 2013

Town of The Blue Mountains
32 Mill Street, P.O. Box 310
Thornbury, ON N0H 2P0

Attention: Michael G. Campbell, C.E.T.
Construction Coordinator

Re: Windfall Phase 1
Town of The Blue Mountains

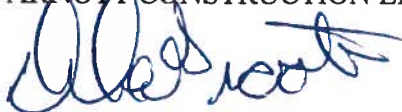
Dear Sir,

We have been contracted by Windfall Limited Partnership to complete the underground services and roadwork on the above project. Construction began in early October, and due to the heavier than normal rainfall this fall, we have only been able to work two to three days per week.

In order to get the project back on schedule we are considering working Saturdays, weather permitting, as required. In order to make working Saturdays feasible, we respectfully request relief from the time constraints of By-Law 2000-44. More specifically we would like to work from 8:00 am to 5:00 pm on Saturdays from now until August 31, 2014. No work would be completed on any Statutory Holiday or long weekends.

Looking forward to a favourable response. Should you require any further information, please contact the undersigned.

Yours truly,
ARNOTT CONSTRUCTION LIMITED



Dave DeGroote, C.E.T.
Director of Corporate Accounts

TOWN OF THE BLUE MOUNTAINS

POLICY & PROCEDURES

Subject Title: **Criteria & Process - Noise By-law Relief Requests**

Corporate Policy: (Approved by Council) [X] Date Approved: May 26, 2008

Administrative Policy (Approved by CAO) [] By-Law No: 2002-09

Department Policy: (Approved by Mgr.) [] Name of Dept: Building & By-law

Policy Statement

From time to time, requests for relief from the provisions of the Noise By-law are received and, in some instances, are supportable in that they promote charitable, educational, community or other objectives of the Town, or, there is an overwhelming need due to weather and/or significant time constraints. This Policy has been developed to provide direction to stakeholders with respect to process as well as to provide guidelines to stakeholders as to the types of applications for relief that may potentially be considered favourably by the Town.

It is acknowledged that each applicant may consider that their proposal will meet the guidelines contained in this policy however Town Council will continue to have sole discretion as to determining if a request is in the best interests of the community.

Purpose

The purpose of this policy is to provide direction to stakeholders with respect to process as well as provide guidelines to stakeholders as to the types of applications for relief that may potentially be considered favourably by the Town.

Application

This policy applies to all requests for relief to the Town's Noise By-law.

Definitions

N/A

Criteria & Procedures

Criteria

The following types of applications for relief from the Noise By-law will be considered by Council. In addition, Council may consider other requests at its sole discretion.

1. Events promoting charitable, educational or community objectives as determined by Council.
2. Events expected to promote the community provincially, nationally or internationally as determined by Council.
3. Events that promote the community's cultural, natural or artistic heritage as determined by Council.
4. Events financially supported by the Town.
5. Weddings, funerals, family gatherings and religious events.
6. Events associated with declared Statutory Holidays.
7. Public gatherings recognized by way of a permit or approval by the Town.
8. Temporary construction related requests in instances where it is demonstrated that the related noise will not be significantly detrimental to the use of a residential premise.

Procedures

1. Every request must be submitted a minimum of four weeks in advance of the event.
2. Every request must be in writing and be addressed to the Director, Building & By-law, and shall contain:
 - a. The name and address of the applicant;
 - b. The date and time of the event;
 - c. A description of the source of the sound in respect of the exemption being sought;
 - d. The reasons for which, in the applicant's opinion, that the exemption should be granted with same being aligned with the criteria outlined in this Policy; and,

- e. The provisions contemplated to mitigate the impact of the noise on potentially affected residential premise.
 - f. Deleted (*"The application fee (\$100.00)" – This was not approved by Council*)
3. The Administrative Assistant, Building & By-law, will prepare a letter for circulation to residents within 60 metres of the property for which relief is requested identifying the nature of the request and request comments on the requested relief by a specific date. Where possible, letters will be hand delivered.
 4. The Administrative Assistant, Building & By-law, will prepare a Staff Report for Council's consideration outlining the request and enclosing any comments received from neighbouring property owners.
 5. Following the posting of the Council Agenda, the Administrative Assistant, Building & By-law, will forward a copy of the Staff Report to the proponent.

Exclusions

None.

References and Related Policies

1. Noise By-law No. 2002-9 (Office Consolidation).

Consequences of Non-Compliance

N/A

Review Cycle

This policy will be reviewed as needed by the Director, Building & By-law/Chief Building Official.

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