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**TO:** CITY MANAGER **DATE:** 2011 May 03

**FROM:** DIRECTOR PLANNING AND BUILDING **FILE:** 49500 20

**SUBJECT:** **RESPONSE TO ISSUES RAISED AT PUBLIC HEARING  
PTN. OF 6664 DEER LAKE AVENUE, REZONING REFERENCE #11-07  
Hart House Restaurant Operations**

**PURPOSE:** To respond to the noise-related issues and concerns raised at Public Hearing regarding the operations of the Hart House Restaurant.

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**RECOMMENDATION:**

1. **THAT** copies of this report be forwarded to Mr. Eugene Kozier at 5177 Sperling Avenue and to Mr. Paul Smolen, Hart House Restaurant at 6664 Deer Lake Avenue.

**REPORT**

**1.0 INTRODUCTION**

At the Public Hearing held on 2011 April 19, Mr. Eugene Kozier, a resident at 5177 Sperling Avenue, appeared before Council expressing concern regarding the subject rezoning application, Rezoning Reference #11-07. The rezoning of a portion of 6664 Deer Lake Avenue from the P3 Park and Public Use District to the CD Comprehensive Development District, based on P2 District Administration and Assembly District as guideline, is to allow the expansion of the restaurant use within the subject portion of Deer Lake Park in order to accommodate the siting of a 50 ft. x 80 ft. seasonal tent structure. The intended structure is to be used on a seasonal basis for hosting events, including weddings, festivals, and other social events, as part of the restaurant operations. Mr. Kozier advised Council of concerns related to excessive noise generated by some on-site events due to the use of amplified music (i.e. disc jockeys). It was also noted by Mr. Kozier at the Public Hearing that live music has not been an issue.

Arising from discussion, Council directed staff to prepare a report responding to the noise issues and concerns raised at the Public Hearing for the subject rezoning. This report responds to that request.

**2.0 CURRENT PRACTICE**

- 2.1 The level of noise or sound on permitted to be generated at the subject Deer Lake Park is regulated under the Burnaby Noise or Sound Abatement Bylaw, 1972. The intent of the Bylaw is to protect the enjoyment of such lands by the public, as well as to ensure minimal land use conflict with adjacent land uses, particularly nearby residential areas.

To: City Manager  
From: Director Planning and Building  
Re: Rezoning Reference #11-07  
Portion of 6664 Deer Lake Avenue

2011 May 03..... Page 2

2.2 The Noise Bylaw is enforced through the Environmental Services Division – Engineering Department on a complaint basis. The protocol for after hours noise complaints/response for restaurants and banquet facilities are generally as follows:

- Engineering Dispatch Personnel or RCMP would contact Environmental Services to assess a noise-related complaint at a site;
- A Service Request regarding the noise complaint would be recorded into the City's system (staff note that only one Service Request would be recorded into the system, although multiple complaints may be received regarding a single incident);
- Depending on the nature of the complaint and the site history, Environmental Services staff, with the assistance of RCMP where required, would measure the level of noise being generated at a site from the property line to confirm whether the level of noise exceeds the provisions of the Bylaw. The property owner would subsequently be informed of the complaint and the noise readings. If the noise levels exceed the provisions of the Bylaw, the property owner would be required to reduce the noise levels to be in compliance with the Bylaw; and
- The complainant would be informed of City staff follow-up to the complaint the following work day. A letter would be also sent to the property owner advising them of the complaint and the provisions of the Noise Bylaw. If the Bylaw infractions continue subsequently, staff would initiate the process of pursuing tickets/fines.

2.3 With regard to the Hart House Restaurant venue, it is noted that two Service Requests have been recorded regarding after hours noise (live and/or amplified music related to private social events) at the subject site in 2005 and 2010. The Environmental Services staff advise that the number of complaints filed with the City does not necessarily include any complaints/calls regarding noise which neighbouring residents may have made directly to the Hart House Restaurant. The Hart House has advised that they receive on average one complaint a year.

The RCMP has indicated that they have received 2 noise-related complaints regarding the Hart House site over the past year.

It is acknowledged that the Hart House Restaurant and surrounding estate which forms part of Deer Lake Park is an active park and public venue. As such, noise from private and public social events (including live or amplified music) could potentially be in excess of the Bylaw provisions and become an issue for adjacent residential land uses, similar to other public venues in the City (i.e. community and banquet halls). With regard to the Hart House Restaurant, staff have followed the established protocol for following up on complaints received in 2005 and 2010. In future, should further complaints be received, City staff will again work with the Hart House Restaurant management through the established City protocol to ensure that after hours noise related to private social events at

To: City Manager  
From: Director Planning and Building  
Re: Rezoning Reference #11-07  
Portion of 6664 Deer Lake Avenue  
2011 May 03..... Page 3

the subject site is appropriately managed in accordance with the Bylaw to limit impacts on adjacent residential land uses.

As the noise complaint relates primarily to amplified music entertainment provided by disc jockeys, the Hart House management will be requested to specifically inform disc jockeys of the need to abide by the Burnaby Noise or Sound Abatement Bylaw.

### 3.0 CONCLUSION

A concern has been expressed that the rezoning and expansion of the Hart House Restaurant lease area to accommodate a seasonal tent structure for the hosting events, including weddings, festivals, and other social events, as part of the restaurant operations, would pose noise impacts on adjacent residential land uses. This report provides a summary of City staff protocol for the enforcement of the Noise or Sound Abatement Bylaw on restaurant and other public venue sites, including the Hart House Restaurant. City staff will work with the Hart House Restaurant management through the established City protocol to ensure that after hours noise related to private social events at the subject site is appropriately managed in accordance with the Bylaw to limit impacts on adjacent residential land uses.

  
B. Luksun, Director  
PLANNING AND BUILDING

ZM:tn

cc: Deputy City Managers  
Director Finance  
Director Engineering  
Director Parks, Recreation & Cultural Services  
O.I.C. - RCMP  
City Clerk  
City Solicitor