

6.3.1

From: Mark Milne [mailto:mark@sonicunyon.com]

Sent: Wednesday, September 07, 2011 12:19 AM

To: Office of the Mayor

Cc: McHattie, Brian; Farr, Jason; Morelli, Bernie; Merulla, Sam; Collins, Chad; Jackson, Tom; Duvall, Scott; Whitehead, Terry; Clark, Brad; Pearson, Maria; Johnson, Brenda; Ferguson, Lloyd; Powers, Russ; Pasuta, Robert; Partridge, Judi

Subject: re. Item 6.3 of Today's Agenda - Zoning By-law Amendment Application File No. ZAR-11-003 (The Courtyard)

Dear Mayor & Councillors,

My wife and newborn first child are coming home today during today's Council meeting so unfortunately I will not be able to make it to Council's Chambers to speak before the decision on the Zoning By-law Amendment Application re. the lands located at 252-254 Locke Street South, Hamilton (File No. ZAR-11-003) known as The Courtyard.

I'm hoping that in my absence this letter can be read aloud to Council. I know that Council has far more pressing matters to deal with so I will make this brief.

Previously, this property had gone through the process to attempt exemptions from by-law 6593 to have changes that would allow a licensed patio in the rear yard of this property where it abuts residential properties. Although it passed through the Committee of adjustment it did not pass the OMB when the decision was appealed. At the time that the decision was rendered the Chair had the following to say...

Hamilton By-law 6593 "does not regulate or even define unlicensed □patios□..."

"...The City has no policy for outdoor patios in the rear yards of restaurants abutting residential."

"The City has no policy on rear outdoor patios and no evidence was adduced that any such patios exist elsewhere. The City therefore need to review, as a public policy, on how to deal with rear yard licensed patios and clarify in its By-law the difference between "patio" and "outdoor patio" which is tied in with LLBO."

The facts remain as they did at the time of the appeal and no one expects them to change over night. It is my understanding that Zoning and By-Laws in Hamilton are being reviewed comprehensively and I would urge council to include this subject in their review process given the changes we have seen in past entertainment districts and those that are up and coming.

Previously myself, Planner Allan Ramsay, and my counsel Kieran Dickson of Evans Philp successfully argued at the Ontario Municipal Board hearing the allowance of a

licensed rear yard patio does not reflect good planning. It is our opinion that the overall objective here today is essentially the same as it has been in the past and that again it is still poor planning. We all want our downtown to be successful and want to attract a balance of business and urban living that is fair and equitable to both parties. I've worked **AND** lived in downtown Hamilton for the better part of two decades through what I consider to be some of Hamilton's most depressed years and am encouraged by the changes in recent years. I have never objected to a patio of any kind, but I believe that their rightful place is in front of most businesses and not in the zone that separates them from area residents. Locke Street has numerous amazing businesses and eateries all of whom seem to be thriving without such extra advantages. Certainly other area establishments will take their cue from this decision. If City Staff feels that situation exemplifies good planning, staff will have a difficult time not supporting other similar applications in the area even if they are evaluated on a case by case basis.

When I started Sonic Unyon Records with my business partner I intended to work here, live here and stay here for a long time. Working downtown and not escaping to the burbs or surrounding farmland at night is a tall order for some but we were determined to stay and make a difference. When I go home this Sunday after Supercrawl to enjoy time with my family I will do so knowing that staying here as a resident and business owner has made a difference in the future of this City. I hope to do the same thing next year with the same level of enjoyment that no doubt those on Council do - that is, without a licensed patio in a rear yard in close proximity to my place for relaxation with my family. I don't think it's too much to ask, and I think that those who created our by-laws did so with just such good intentions.

For more details on this matter please refer to the letters forwarded previously by myself and planner Alan Ramsay. Both documents look at this issue from a planning perspective.

Best,
Mark Milne,

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