

**Special Council Meeting Number 15-2021
Addendum
Tuesday, June 22, 2021**

Delegations

The consent of Council is requested for the **addition** of Delegation Numbers 3 and 4.

3. Greg Tilson will appear before Council to speak to Clause 7 of Report Number 60: Received from the Chief Administrative Officer (Recommend) with respect to Noise By-Law Number 2004-52 – Temporary Delegation of Authority for Exemptions to Support the Recovery of the Local Arts and Culture Sectors.

4. Moved by Councillor McLaren

Seconded by Councillor Kiley

That Clauses 12.9 and 12.11 of the City of Kingston Procedural By-Law 2021-41 be waived in order to allow Alanna Jane and Ishita Aggarwal to speak to New Motion Number 2 with respect to Homelessness and Precarious Housing.

Reports

Report Number 60: Received from the Chief Administrative Officer (Recommend)

The consent of Council is requested for the **addition** of Clause 7.

7. **Noise By-Law Number 2004-52 – Temporary Delegation of Authority for the Exemptions to Support the Recovery of the Local Arts and Culture Sectors**

That the Director of Arts & Culture, or his delegate, be delegated authority to review, approve and/or refuse requests for exemptions under By-Law Number 2004-52, "A By-Law to Regulate Noise", during the period June 23, 2021 to October 10, 2021, with respect to arts and culture events and programs in the City of Kingston, based on the terms and conditions outlined in Report Number 21-179; and

That Council waive the fee required under By-Law Number 2005-10, 'A By-Law To Establish Fees And Charges To Be Collected By The Corporation Of The City Of Kingston', for exemptions approved by the Director of Arts & Culture, or his delegate, under By-Law Number 2004-52, 'A By-Law to Regulate Noise', during the period June 23, 2021 to October 10, 2021, in respect of temporary arts and culture events and programs in the City of Kingston.

(The Report of the Commissioner, Business, Environment & Projects (21-179) is attached to the Addendum as schedule pages 1-8)

Special Council Meeting Number 15-2021
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Tuesday, June 22, 2021

The consent of Council is requested for the **addition** of Report Number 64: Received from the Planning Committee.

Report Number 64: Received from the Planning Committee

To the Mayor and Members of Council:

The Planning Committee reports and recommends as follows:

All items listed on this Committee Report shall be the subject of one motion. Any member may ask for any item(s) included in the Committee Report to be separated from that motion, whereupon the Report of the Committee without the separated item(s) shall be put and the separated item(s) shall be considered immediately thereafter.

1. Approval of Application for Zoning By-Law Amendment – 1316 and 1318 Princess Street and parts of 1330, 1334, and 1338 Princess Street

That the application for a zoning By-Law amendment (File Number D14-028-2020) submitted by City of Kingston and Fotenn Consultants Inc., on behalf of City of Kingston, Marion and Beata Farklas, Shala Doyle, and Kingston Co-operative Homes Inc., for the property municipally known as 1316 and 1318 Princess Street, and parts of 1330, 1334, and 1338 Princess Street, be approved; and

That By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended, be further amended, as per Exhibit A (Draft By-Law and Schedule A to Amend Zoning By-Law Number 8499) to Report Number PC-21-038; and

That Council determines that in accordance with Section 34(17) of the Planning Act, no further notice is required prior to the passage of the By-Law; and

That in accordance with the provisions of subsection 45(1.4) of the Planning Act, the owner(s) of the properties municipally known as 1316-1318 Princess Street and 1338 Princess Street shall be permitted to apply to the Committee of Adjustment for minor variances from the provisions of Zoning By-Law Number 8499 (as amended or replaced), before the second anniversary of the day on which the zoning By-Law was amended; and

That the amending By-Law be presented to Council for all three readings.

(See By-Law Number (19), 2021-116 attached to the Addendum as schedule pages 9-12)

**Special Council Meeting Number 15-2021
Addendum
Tuesday, June 22, 2021**

By-Laws

The consent of Council is requested for the **addition** of By-Law Number (19).

- 19) A By-Law to Amend By-Law Number 8499, "Restricted Area (Zoning) By-Law of The Corporation of the City of Kingston" (Zone Change from One-Family Dwelling (A2) Zone, Arterial Commercial (C2) Zone, Site-Specific Arterial Commercial (C2.305) Zone, Site Specific Arterial Commercial (C2.288) Zone, Site-Specific Arterial Commercial (C2.322) Zone to Site-Specific Multiple Family Dwelling (Unified Ownership) (B2.410) Zone to Site-Specific Multiple Family Dwelling (B3.606) Zone and Site-Specific Multiple Family Dwelling (B3.607) Zone, 1316-1318 Princess Street and Part of 1338 Princess Street)

Three Readings

Proposed Number 2021-116

(Clause 1, Report 64)



**City of Kingston
Report to Council
Report Number 21-179**

To: Mayor and Members of Council
From: Peter Huigenbos, Commissioner, Business, Environment & Projects
Resource Staff: Colin Wiginton, Director, Arts & Culture Services
Date of Meeting: June 22, 2021
Subject: Noise By-Law Number 2004-52 - Temporary Delegation of Authority for Exemptions to Support the Recovery of the Local Arts and Culture Sectors

Council Strategic Plan Alignment:

Theme: 4. Strengthen economic development opportunities

Goal: 4.2 Foster Innovative arts, culture and social enterprises

Executive Summary:

The purpose of this report is to request that Council approve a delegation of authority related to the Noise By-Law, on a temporary and limited basis, as part of a strategy to support the recovery of the local arts and culture sectors this summer. This temporary delegation of authority is mostly related to the issue of amplification within residential areas and would coincide with the implementation of the Provincial Roadmap to Reopen to allow artists, arts groups and arts organizations based in Kingston to present events and programs outdoors while adhering to all limits, constraints and public health guidelines as required.

In Canada, and around the world, the arts, entertainment and recreation sectors have been among the hardest hit as a result of the COVID-19 pandemic. Artists and arts organizations have been struggling to create and present work and to earn income because of the limits and constraints that have been imposed. Arts and culture-related events and programs have been severely impacted for over a year and artists and arts organizations have had to shift toward performing and/or presenting work online and outdoors to continue to work.

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The situation in Kingston is no different and Council has taken steps in recent months to support the needs of artists and the arts and culture sectors and to support their immediate recovery in the short-term as well as their sustainability in the longer term. That has included the approval of \$200,000 in additional funding in 2021 to support artists and arts organizations through the City of Kingston Arts Fund and the approval of the City's first-ever Creative Industries Strategy that identifies music and theatre as subsectors requiring promotion and investment.

It is currently understood that local artists, arts groups and arts organizations are depending upon being able to offer events and programs outdoors this summer using a combination of public and private property. It is also known that event and program planning timelines are being impacted due to the implementation of the Provincial Roadmap to Reopen, which means artists, arts groups and arts organizations are having to adjust program plans on a regular and on-going basis in response to changing Provincial and public health guidelines. Cost is also an issue given the impact the pandemic has had on revenue generation. These issues have been discussed with a select number of local arts organizations and these issues, and possible solutions, were also a topic of discussion at the most recent meeting of the Arts Advisory Committee held on June 10, 2021.

It is apparent that it will be challenging for local artists, arts groups and arts organizations in Kingston to meet the requirements set out in relation to requesting exemptions to the Noise By-Law when necessary, so staff are recommending an alternate approach, on a temporary and limited basis, that would allow for greater flexibility for a fixed amount of time to allow for events with a modest amount of amplified sound. This would be through a delegation of authority that also considers potential impacts on residents. As much as possible, local artists, arts groups and arts organizations will be required to work within the Noise By-Law as it exists, but exemptions may be approved based on the terms and conditions outlined in this report. It should also be noted that the Noise By-Law already allows musical instruments (without amplification) to be played up to 9:00 pm in residential areas and up to 11:00 pm in non-residential areas. The by-law also allows for exemptions related to cultural events in parks and other public places that have been authorized by the City, typically through park bookings and issuing park permits.

At this juncture, the intent is for the City to support the recovery of the arts and culture sectors through a combination of tactics and initiatives. The tactic being recommended through this report is to simplify the application and public notification processes associated with the Noise By-Law on a temporary and limited basis and to extend potential exemptions to cultural events using amplified sound on private property in addition to parks and public places. It is difficult to know how much uptake there may be in relation to the process being recommended. Staff have had discussions with representatives from the arts and culture sectors who have expressed the need for a more flexible and streamlined process related to the Noise By-Law and that need may increase as there is a greater understanding of what is allowable in relation to the Provincial Roadmap to Reopen. In addition to the tactic being recommended through this report, staff within Arts & Culture Services are also pursuing a diversity of initiatives designed to support the recovery of the local arts and culture sectors that include initiatives that pay fees directly to artists (i.e. Love Kingston Marketplace, YGK Music, Local Arts Residency Program being hosted at the Grand Theatre and the public art program).

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Also, staff will begin work later this year to develop a music strategy for Kingston that is expected to include an analysis of existing City policies to ensure Kingston is positioned as a City that is music and musician friendly to benefit the sector in ways that are more than short-term and temporary. It is anticipated the development of a music strategy will benefit the sector in ways that are both long-term and sustainable and staff will be reporting back to Council regarding that work in 2022. As an interim step, staff will also report back to Council later this year regarding the uptake of the temporary delegation of authority being proposed through this report.

Recommendation:

That the Director of Arts & Culture, or his delegate, be delegated authority to review, approve and/or refuse requests for exemptions under By-Law Number 2004-52, "A By-Law to Regulate Noise", during the period June 23, 2021 to October 10, 2021, with respect to arts and culture events and programs in the City of Kingston, based on the terms and conditions outlined in Report Number 21-179; and

That Council waive the fee required under By-Law Number 2005-10, 'A By-Law To Establish Fees And Charges To Be Collected By The Corporation Of The City Of Kingston', for exemptions approved by the Director of Arts & Culture, or his delegate, under By-Law Number 2004-52, 'A By-Law to Regulate Noise', during the period June 23, 2021 to October 10, 2021, in respect of temporary arts and culture events and programs in the City of Kingston.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

Peter Huigenbos, Commissioner,
Business, Environment &
Projects

ORIGINAL SIGNED BY CHIEF
ADMINISTRATIVE OFFICER

Lanie Hurdle, Chief
Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Paige Agnew, Commissioner, Community Services

Brad Joyce, Commissioner, Corporate Services

Not required

Jim Keech, President & CEO, Utilities Kingston

Not required

Desirée Kennedy, Chief Financial Officer & City Treasurer

Not required

Sheila Kidd, Commissioner, Transportation & Public Works

Not required

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Options/Discussion:

Council has already demonstrated a commitment to supporting the recovery of numerous sectors in Kingston, including the arts and culture sectors. Additional funding has been provided that includes a one-time investment of \$200,000 through the City of Kingston Arts Fund to support local artists and arts organizations. Council also approved the City's first-ever Creative Industries Strategy through [Report Number 21-114](#) that identifies music and theatre as subsectors requiring promotion and investment.

In 2021, staff will begin the work needed to develop a music strategy for Kingston that is expected to include an analysis of existing City policies to ensure Kingston is positioned as a City that is music and musician friendly. That analysis is expected to take time and, until that work can be completed, it has been identified that the Noise By-Law, as it exists, presents significant challenges for the arts and culture sectors in relation to amplification and the public notice periods. Those issues are additionally challenging when coupled with the requirements outlined as part of the Provincial Roadmap to Reopen and the associated limits, constraints and public health guidelines that must be followed.

Challenges

City staff have been approached by local artists, arts groups and organizations that have expressed concerns about their ability to work within the constraints of the Provincial Roadmap to Reopen as well as existing City by-laws. They are willing to do what they can to adhere to Provincial and public health guidelines but strict adherence to the City's Noise By-Law severely limits the kinds of outdoor events and programs that can be presented for two main reasons.

The first challenge created by the Noise By-Law is related to amplification. As it exists, the Noise By-Law does not allow for any amplification within residential areas within the City at any time. This is challenging for many arts groups and organizations that offer events and programs that are neighbourhood-based. Often, they can work with the City to secure access to public parks, meaning it is possible to request an exemption as per Schedule C, Exemption #8, as it relates to "Cultural, recreational, educational and political events in parks and other public places that have been authorized by the City". Some arts groups and organizations are also seeking opportunities to partner with private property owners at this time to present smaller scale events and programs; however, these events and programs would not be allowed if they require any kind of amplification. The City's Noise By-Law means amplification cannot be used in relation to music that is low volume or in relation to talks, readings, art installations, live theatre or film screenings that may also require a certain amount of amplification.

The second challenge created in relation to the Noise By-Law has to do with the timelines required to request exemptions. A lead time of eight weeks is required to process each exemption request and to facilitate the necessary public notice period. Given the circumstances, and in relation to ever-changing Provincial and public health guidelines, local arts groups and organizations are not able to confirm their events and programming schedules so are unable to submit requests for exemptions as their plans keep changing. Right now, it is anticipated outdoor events may be viable again starting in July in tandem with Step Two and Step Three of

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the Roadmap to Reopen. Currently, the timelines required to request exemptions to the Noise By-Law, coupled with the reduced number of Council meetings scheduled in July and August, means arts groups and organizations may not be able to secure the approvals they need until the late summer or early fall.

Recommending an Alternate Approach on a Temporary Basis

To support the recovery of the local arts and culture sectors this summer, staff from multiple City departments have met to review various possibilities and are recommending an approach that would delegate authority to the Director of Arts & Culture, on a temporary and limited basis, to issue exemptions to the Noise By-Law. This would be solely in relation to arts and culture events and programs in the City of Kingston for the period June 23, 2021 to October 10, 2021, and would be subject to the following terms and conditions:

- Exemptions shall be with respect to arts or culture events and/or programs held on public or private property that ideally pay artists fees and that are accessible to the public that require a modest level of amplified sound;
- Events must have a clear start and end time and requests must include information about the location, set-up and rationale for the exemption along with contact information for the lead event/program organizer;
- Exemptions shall be limited to the hours of 9:00 am to 9:00 pm but may be extended to 11:00 pm for special programming, such as for film screenings and/or events on long weekends;
- Before an exemption is approved, a seven-day public notice period will be required that includes a public notice published on the City of Kingston website and the distribution of a public notice by the applicant to all residents/businesses within a sixty (60) metre radius of the event and/or program to allow for public awareness and input. The District Councillor will also receive notification seven days in advance of the event and adjustments to the event and/or program plans may be required based on public input received;
- The exemption shall require the applicant to comply with the provisions of the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* and all regulations thereunder, and the advice, recommendations and instructions of public health officials;
- The Director of Arts & Culture shall have the right to impose such additional terms and conditions, as they consider appropriate, in respect of any exemption and/or to limit the number of events and/or programs applied for by individuals, groups and/or organizations to ensure there is equitable distribution across the City; and
- Where an exemption is granted, a breach of any condition of the exemption will immediately render the exemption null and void.

Staff will also work to ensure the number of events and/or programs allowed in any one location will be limited to allow for an equitable distribution of event and program offerings across the City and to mitigate impacts on residents. It should also be noted the Provincial Roadmap to Reopen includes language related to live music performed on patios that states “music must not be played at a decibel level that exceeds the level at which normal conversation is possible”, so adherence to Provincial and public health guidelines should also help with managing noise

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levels. In addition, the Noise By-Law already allows for exemptions related to cultural events in parks and other public places that have been authorized by the City (By-Law Number 2004-52, Schedule C, Clause 8) so the intent is to simplify the application and public notification processes and to extend potential exemptions to cultural events on private property on a temporary and limited basis. It is also recommended the fee of \$318.25 associated with requesting a noise exemption be waived to reduce the burden of cost as the arts and culture sectors work to recover.

In terms of process, staff from the Arts & Culture Services Department would work with artists, arts groups and arts organizations that would benefit from what is being recommended to determine their needs and to support their event and program plans. Where possible, these artists, arts groups and arts organizations would be encouraged to work within the Noise By-Law, as it exists, to minimize the need for exemptions and to mitigate impacts on residents.

If it is determined an exemption would be beneficial, staff from Arts & Culture Services would work with the artists, arts group and/or arts organization to compile the information required and to facilitate the public notice process as outlined above. Any public input received in response to the public notice process would be considered in determining the potential for additional conditions with respect to the exemption.

Next Steps

With Council's approval, staff within the Arts & Culture Services Department will reach out to artists, arts groups and arts organizations to determine their needs and to outline how they can work with the City to plan their events and programs in the coming months. Staff within the Arts & Culture Services Department will also work with staff from the Licensing & Enforcement Department to track, assess and manage potential exemption requests. Data and input gathered in relation to the exemption process will be compiled for the purposes of reporting back and in relation to the future development of a music strategy for Kingston.

Existing Policy/By-Law:

By-Law Number 2004-52, A By-Law To Regulate Noise

By-Law Number 2005-10, A By-Law To Establish Fees And Charges To Be Collected By The Corporation Of The City Of Kingston

Notice Provisions:

A seven-day public notice period will be required as part of the exemption request process that includes a public notice published on the City of Kingston website and the distribution of a public notice by the applicant to all residents/businesses within a thirty (30) metre radius of the event to allow for public awareness and input. The public notice must include contact information for the City's Licensing & Enforcement Division as well as contact information for the event/program organizer.

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Accessibility Considerations:

None

Financial Considerations:

The fee associated with requesting a noise exemption is currently \$318.25 per exemption application and it is being recommended this fee would be waived in relation to the delegated authority as described to reduce the burden of cost as the arts and culture sectors work to recover.

Contacts:

Colin Wiginton, Director, Arts & Culture Services 613-546-4291 extension 1357

Other City of Kingston Staff Consulted:

Lisa Capener-Hunt, Director, Building & Enforcement

Kyle Compeau, Manager, Licensing & Enforcement

Jenna Morley, Associate Legal Counsel, Legal Services

Lacricia Turner, Director, Recreation & Leisure Services

Jaclyn Grimmon, Manager, Recreation Programs, Recreation & Leisure Services

Danika Lochhead, Manager, Arts and Sector Development, Arts & Culture Services

Exhibits Attached:

None

By-Law Number 2021-XX

A By-Law to Amend By-Law Number 8499, “Restricted Area (Zoning) By-Law of The Corporation of the City of Kingston” (Zone Change from One-Family Dwelling (A2) Zone, Arterial Commercial (C2) Zone, Site-Specific Arterial Commercial (C2.305) Zone, Site-Specific Arterial Commercial (C2.288) Zone, Site-Specific Arterial Commercial (C2.322) Zone, Site-Specific Multiple Family Dwelling (Unified Ownership) (B2.410) Zone to Site-Specific Multiple Family Dwelling (B3.606) Zone and Site-Specific Multiple Family Dwelling (B3.607) Zone, 1316-1318 Princess Street and Part of 1338 Princess Street)

Passed: [Meeting Date]

Whereas by Order of the Minister of Municipal Affairs and Housing, The Corporation of the Township of Kingston, The Corporation of the Township of Pittsburgh and The Corporation of the City of Kingston were amalgamated on January 1, 1998 to form The Corporation of the City of Kingston as the successor municipal corporation and pursuant to the Minister’s Order, any by-laws of the former municipality passed under the *Planning Act* continue as the by-laws covering the area of the former municipality now forming part of the new City; and

Whereas the Council of The Corporation of the City of Kingston deems it advisable to amend By-Law Number 8499, as amended, of the former City of Kingston;

Therefore be it resolved that the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. By-Law Number 8499 of The Corporation of the City of Kingston, entitled “Restricted Area (Zoning) By-Law of The Corporation of the City of Kingston”, as amended, is hereby further amended as follows:
 - 1.1. Map 12 of Schedule “A”, as amended, is hereby further amended by changing the zone symbol of the subject site from A2, C2, C2.305, C2.288, C2.322, and B2.410 to B3.606 and B3.607, as shown on Schedule “A” attached to and forming part of By-Law Number 2021-____.
 - 1.2. By adding the following sections in Part VIII – Exceptions to the Various Zone Classifications, as follows:

“606. 1316-1318 Princess Street

Notwithstanding the provisions of Sections 5 and 16 hereof to the contrary, on the lands designated ‘B3.606’ on Schedule “A” hereto, the following regulations shall apply:

- (i) Lands located within the B3.606 zone shall be treated as one lot for the purposes of zoning.
- (ii) Lot Lines:
 - a. Front: lot line abutting Princess Street
 - b. Rear: southern most lot line
 - c. Other lot lines: all lot lines, except the front lot line and rear lot line
- (iii) Front Yard (minimum): 6.0 metres
- (iv) Rear Yard (minimum): 10.0 metres
- (v) Other Lot Lines Setback (minimum): 4.0 metres each
- (vi) Maximum Lot Occupancy: 130%
- (vii) Maximum Density: 145 dwelling units per net hectare
- (viii) Minimum Parking Ratio: A minimum of 0.5 parking spaces shall be provided per dwelling unit
- (ix) Parking Location: Parking may be located up to the front wall of the main building
- (x) Parking Design Standards: The minimum size of a parking space shall be 2.6 metres wide and 6.0 metres long.

607. Part of 1338 Princess Street (as shown on Schedule “A” attached hereto)

Notwithstanding the provisions of Sections 5 and 16 hereof to the contrary, on the lands designated ‘B3.607’ on Schedule “A” hereto, the following regulations shall apply:

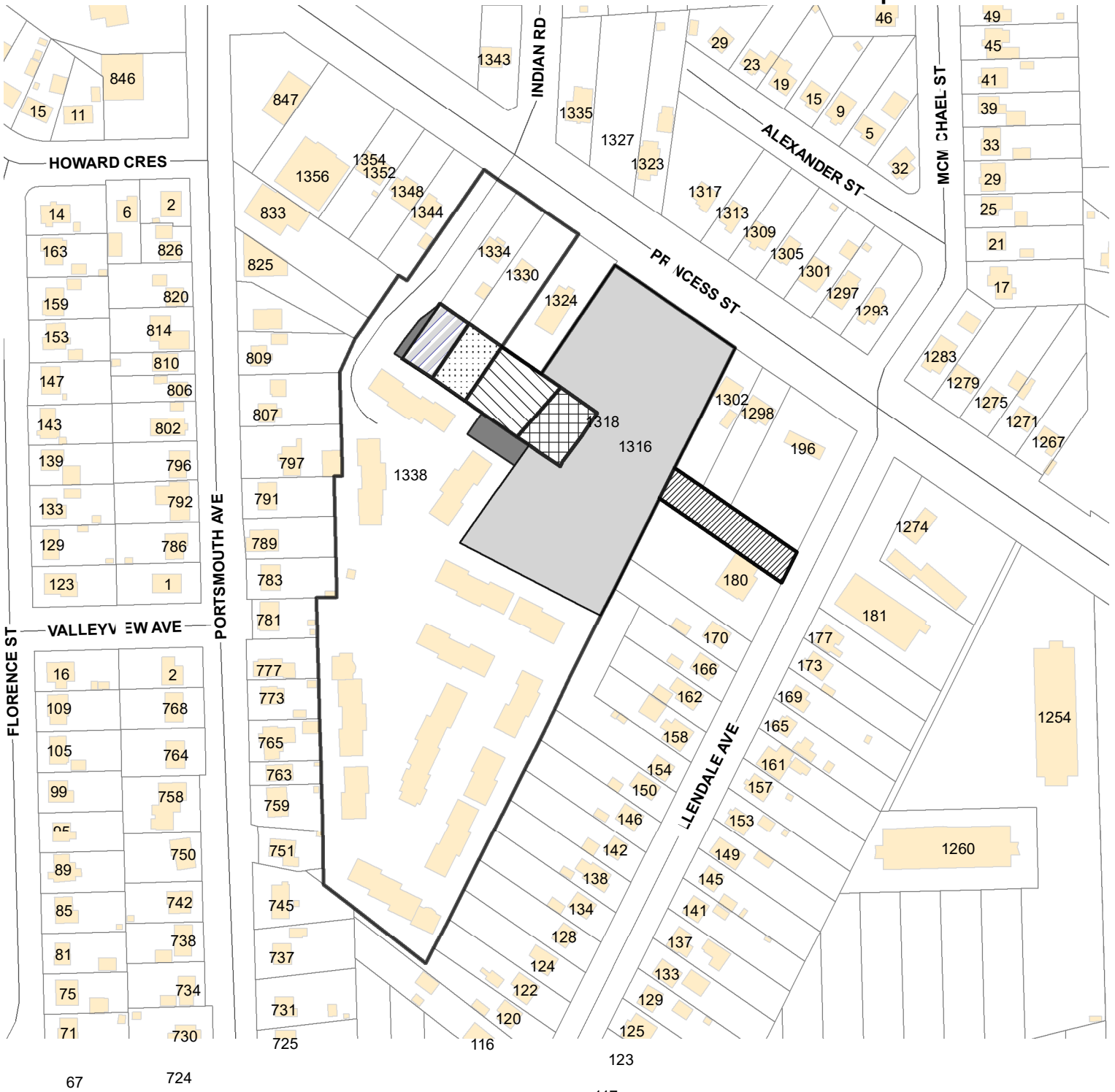
- (i) For the purposes of the B3.607, setbacks and other relevant zoning provisions are to be measured from and based on the zone boundary.
- (ii) Lot Lines:
 - a. Front: lot line abutting private driveway
 - b. Other lot lines: all lot lines, except front lot line
- (iii) Other Lot Lines Setback (minimum): 3.0 metres each
- (iv) Maximum Density: 130 dwelling units per net hectare
- (v) Minimum Parking Ratio: A minimum of 0.5 parking spaces shall be provided per dwelling unit
- (vi) Parking Location: Parking may be located in front of the front wall of the main building

2. That this By-Law shall come into force in accordance with the provisions of the *Planning Act*.

Given all Three Readings and Passed: [Meeting Date]

John Bolognone
City Clerk

Bryan Paterson
Mayor



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**SCHEDULE 'A'
TO BY-LAW NUMBER**

File Number: D14-028-2020
Address: 1316, 1318, 1330, 1334, 1338
Princess St

Reference By-Law 8499, Map 12

- Rezoned from C2 to B3.606
- Rezoned from A2 to B3.606
- Rezoned from C2 to B3.607
- Rezoned from C2.288 to B3.607
- Rezoned from C2.322 to B3.607
- Rezoned from B2.410 to B3.607
- Rezoned from C2.305 to B3.607

Certificate of Authentication

This is Schedule 'A' to By-Law Number _____,
passed this _____ day of _____ 2021.

Prepared By: adowker
Date: 2021-05-20
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Metres Addendum Meeting 15 June 22 2021
Mayor

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Clerk