

# Backgrounder

November 20, 1998

ACS1998-PW-PLN-0023

## **By Ward Market Nightclub Zoning Study**

## **L'étude de zonage des boîtes de nuit dans le secteur du Marché By**

### **Issue**

- In February, 1998, Council passed an interim by-law prohibiting the establishment of new nightclubs in the By Ward Market for one year to provide time for a study on the zoning of this use in the area.
- a marked increase in the number of nightclubs over the past decade has made it difficult to manage the growing crowds generated by these establishments at closing time

### **What's New**

- it is proposed to amend the zoning by-law to require:
  - separation of at least one block between nightclubs that provide areas for dancing and are between 250 and 500 square metres in size
  - separation of at least one block between nightclubs providing areas for dancing which are between 250 and 500 square metres in size, and residential properties
  - a limit of 500 square metres to the floor space of nightclubs providing areas for dancing
  - outdoor patios are permitted with nightclubs as they are with restaurants.
- the intent is to maintain a balanced mix of uses in the Market consistent with the Official Plan direction for the area.

### **Impact**

- the proposed changes in regulations will be effective in maintaining a balance of land uses in the Market area and in contributing to the overall quality of the environment in this district of the city.

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November 20, 1998

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Department of Urban Planning and Public  
Works

Ward/Quartier  
OT5 - Bruyère-Strathcona

- Planning and Economic Development  
Committee/Comité de l'urbanisme et de  
l'expansion économique
- City Council/Conseil municipal

Action/Exécution

### **By Ward Market Nightclub Zoning Study**

### **L'étude de zonage des boîtes de nuit dans le secteur du Marché By**

#### **Recommendation**

That Zoning By-law Z-2K be amended as detailed in Document 4.



January 18, 1999 (11:40a)

E. M. Robinson  
Commissioner of Urban Planning and Public  
Works



January 18, 1999 (1:09p)

Approved by  
John S. Burke  
Chief Administrative Officer

CWL:cwl

Contact: Charles Lanktree - 244-5300 ext. 1-3859

#### **Financial Comment**

The study was conducted by staff and there are no financial implications to the zoning change.



January 18, 1999 (11:21a)

for Mona Monkman  
City Treasurer

BH:cds

## **Executive Report**

### Reasons Behind Recommendation

#### Background

Interim Control By-law Number 30-98 was passed by City Council on February 4, 1998. The intent of this by-law was to prohibit the establishment of new nightclubs in the By Ward Market for one year to provide time for a study to be undertaken concerning the zoning of this use in the area. This process was initiated in response to recent events in and around the By Ward Market that have raised concern within the community that a trend to unruly crowds, disturbances and criminal activity resulting in violence, is underway in the area.

A number of factors have acted as a catalyst to this trend. The recession in the early part of this decade led to the closing of retail stores and created opportunities for nightclubs to open. In May, 1996, Ontario advanced its drinking hours to 2:00 a.m.. In February, 1997, Hull reduced its hours of operation for bars from 3:00 a.m. to 2:00 a.m.. Later that year Hull City Council purchased some of the remaining bars with the intent to reduce the longstanding problems associated with these establishments.

Whether these factors are directly related is not clear, however, since the early part of this decade the number of new nightclubs and patrons attending these establishments in the By Ward Market area has taken a marked increase. From ongoing checks conducted by the police on the number of patrons of licensed establishments, it is apparent that they are also operating at or near capacity at the present time. As a result, the management of the crowds generated by these establishments at closing time has become increasingly difficult.

Remedies have been implemented in an attempt to mitigate the impacts of nightclubs in the By Ward Market area, including an increase in police presence and restrictions on the hours of operation of mobile vendors. The recommendations of this report present a number of zoning controls to supplement the existing crowd management strategy in the By Ward Market. The intent of these controls is to maintain a balanced mix of uses in the By Ward Market consistent with the Official Plan direction for this area.

#### Rationale

A marked increase in late night noise, crowds and disturbances associated with nightclubs in the By Ward Market area over the last few years has raised concern that there is a potentially disproportionate number of these establishments concentrated in this area relative to other uses. A survey of development activity with respect to night clubs in the By Ward Market indicates that between the years 1994 and 1997 there was an increase in the number of these establishments within the study area from 23 to 34 or an increase of 68%. During this same period there was an increase in gross leasable space of nightclubs from 4 285.75 square metres to 7 340.40 square metres or an increase of 58%.

This dramatic increase in the number and size of nightclubs over this brief period indicates that external forces, including the reduced number of bars in Hull and later bar closing hours in Ontario, have had an influence in this area of the city. Coupled with an increase in the number and size of nightclubs is the capacity attendance of these establishments according to ongoing police spot checks relative to provincial liquor license capacity restrictions. In concert, these factors generate a crowd control situation which is difficult to manage.

The Official Plan is clear in its direction to provide a mix of uses within the Central Area which recognizes the value of business, residential, retail, entertainment, cultural and leisure uses and which ensures diversity, vitality and its role as a "people-place". It recognizes the value of residential uses near, and adjacent to the Central Area, in neighbourhoods like Lowertown and Sandy Hill West, and commits to undertake appropriate actions to increase the number of residential units in the Central Area. Policies with respect to the By Ward Market and Rideau Street also promote a mix of residential and office uses above the commercial uses on the ground floor to support a vibrant and secure environment.

In order to achieve these policy objectives of the Official Plan it is necessary to continuously monitor the mix of uses in the Central Area and respond to any imbalance that may develop in the mix of uses over the course of time. An imbalance in the mix of uses may be manifested in a range of impacts on companion uses throughout a district. Such impacts have become apparent in the By Ward Market and surrounding area over the past few years. As cited above, impacts of late night noise, crowds and disturbances emanating from nightclubs have negatively impacted residences in and adjacent to the By Ward Market. These impacts are most directly associated with the nightclubs where dancing is the principal form of entertainment. While entertainment uses are considered important to the vitality of this area, the potential exists that a concentration of these uses can create an imbalance in the desired general mix of uses. The prevalence of certain uses can also lead to the devaluation and deterioration of entire districts over time.

A literature search and review of the approaches of other municipalities to the various issues generated by nightclub uses revealed a number of common zoning remedies. Generally these fall within three distinct categories: the requirement of a separation distance between individual nightclubs; between a nightclub and residentially zoned properties; and a limitation on the size of individual nightclub establishments.

As a precursor to these types of zoning regulations there is a need for a definition of the specific use which is to be affected. Zoning By-law Z-2K, which presently applies to the Central Area, does not include a definition of "nightclub". However, as "nightclub" is a defined term in Zoning By-law, 1998 and this new by-law will soon be enacted for the Central Area, it was decided to use this new definition.

The introduction of a required separation distance between nightclubs with a designated area for dancing is considered necessary to mitigate the negative impacts created by this use. This separation distance will apply to larger nightclubs between 250 and 500 square metres in size. A separation distance of 150 metres is proposed between these uses and was common in the literature reviewed. This distance is the common block length in the By Ward Market. It would ensure that nightclubs will not cluster together in one area and are less likely to impact negatively

on other uses in the area . However it would maintain nightclubs as essential to the entertainment activities which are part of the character of the area.

A separation distance of 150 metres is also proposed for nightclubs between 250 and 500 square metres in size with a designated area for dancing, and residentially zoned properties. This distance is intended to ensure that nightclubs do not impact negatively on adjacent residential neighbourhoods.

A restriction of the gross floor area of a nightclub with a designated area for dancing limits the size of individual establishments and the related potential size of the crowd generated, thus mitigating the impacts of noise and disturbances created by this use. The proposal for a size limit of 500 square metres would potentially affect 12% of the existing nightclubs in the By Ward Market area which have a gross floor area larger than this.

Given the unique character of the By Ward Market one further regulation is proposed which will control "outdoor patios" in association with nightclubs in the same way as those which are part of a restaurant. This is due to the noise that is potentially emitted by these uses in combination.

As a result of the introduction of these new zoning regulations the existing nightclubs with a designated area for dancing would be placed in a non-conforming status to the zoning by-law. They would be permitted to continue operation at their existing location and size, however, they would not be permitted to expand beyond 500 square metres if they were not yet this size. New nightclubs with a designated area for dancing which are between 250 and 500 square metres, would be required to maintain the 150 metre separation distance from similar nightclubs and from any residentially zoned property. This would effectively limit the establishment of a new nightclub with a designated area for dancing within the area demarcated on the attached Location Map (Document 2).

It is considered that the proposed package of regulations will be effective in maintaining a balance of land uses in the By Ward Market area, and in contributing to the overall quality of the environment in this district of the city.

## Economic Impact Statement

The introduction of new zoning controls for nightclub uses in the By Ward Market area will have no appreciable economic impact on the City.

## Consultation

An open house public meeting was held at the By Ward Market Building on October 29, 1998. Thirty-two individual written responses and a petition with 18 names were submitted during and following the open house. A separate meeting of the bar and nightclub industry in the By Ward Market and Rideau Street area was held on July 14, 1998 which was well attended by owners and operators of these establishments, and included representatives present from the provincial Alcohol and Gaming Commission, Regional Police Department, City Fire Department and City licencing and by-law enforcement personnel.

## Disposition

### Department of Corporate Services

1. Statutory Services Branch to notify the Regional Municipality of Ottawa-Carleton, Plans Administration Division of City Council's decision.
2. City Solicitor's Office to forward implementing by-law to City Council

Department of Urban Planning and Public Works to write and circulate the implementing by-law.

## **List of Supporting Documentation**

Document 1	Explanatory Note
Document 2	Location Map - Study Area and Surroundings - Zoning
Document 3a	Bars and Taverns - 1994
Document 3b	Bars and Taverns - 1997
Document 4	Zoning Details
Document 5	Consultation Details

## **Part II - Supporting Documentation**

Document 1

### EXPLANATORY NOTE TO THE PROPOSED BY-LAW NUMBER

By-law Number \_\_\_\_\_ amends By-law Z-2K, the City's Comprehensive Zoning By-law. The amendment affects the area shown as the shaded area on the attached location map.

#### CURRENT ZONING

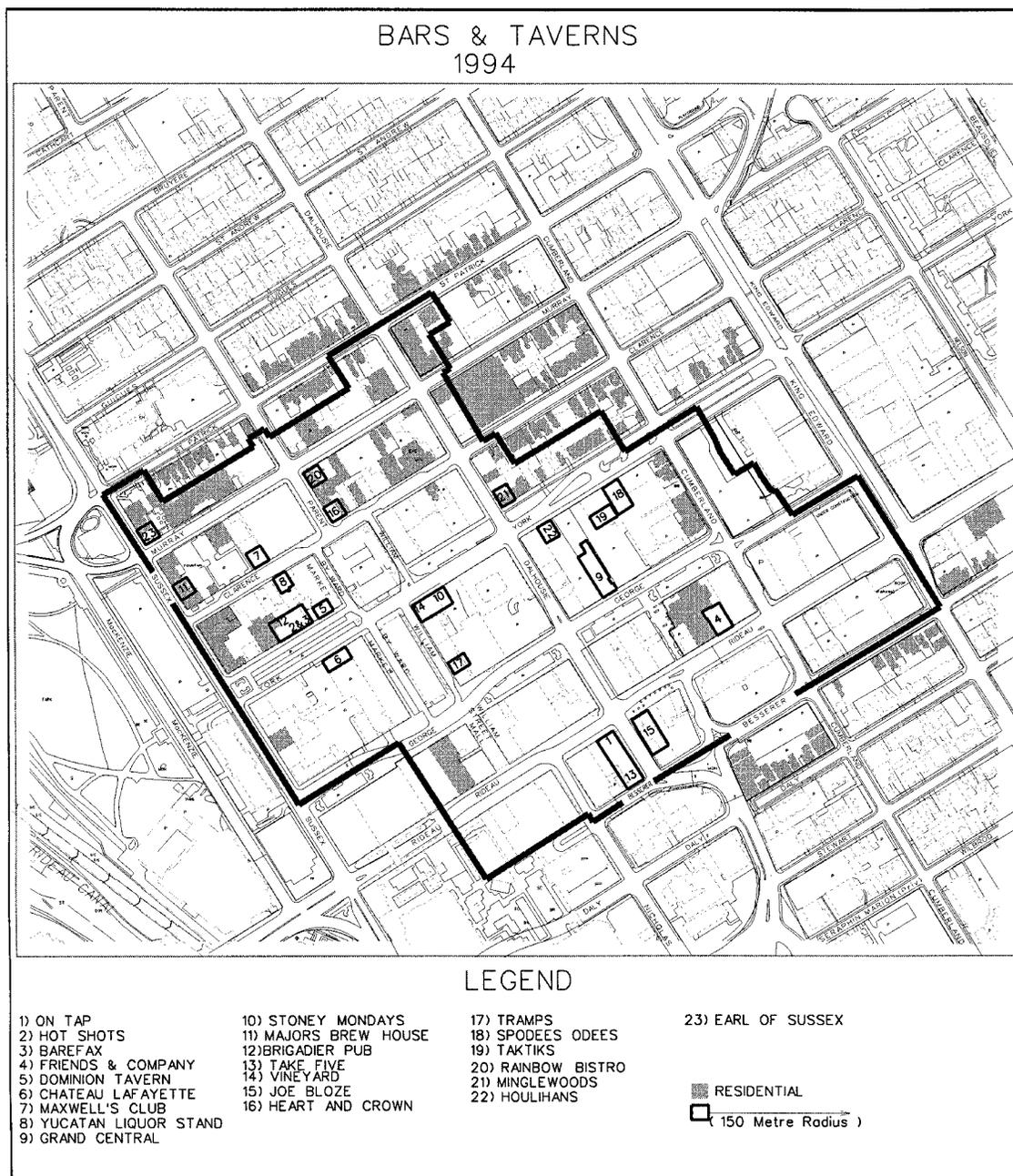
The predominant zoning in the affected area is the By Ward Market (BWM) zone with exceptions which permits a broad range of public, commercial and residential uses in an area designated under Part V of the Ontario Heritage Act. Along Rideau Street the zoning is C2 with exceptions, which is the principal zoning of the Central Area and also permits a broad range of public, commercial and residential uses. The RO zone is found in a limited area between Dalhousie and Cumberland Street, which permits a mix of office and residential uses with retail on the ground floor.

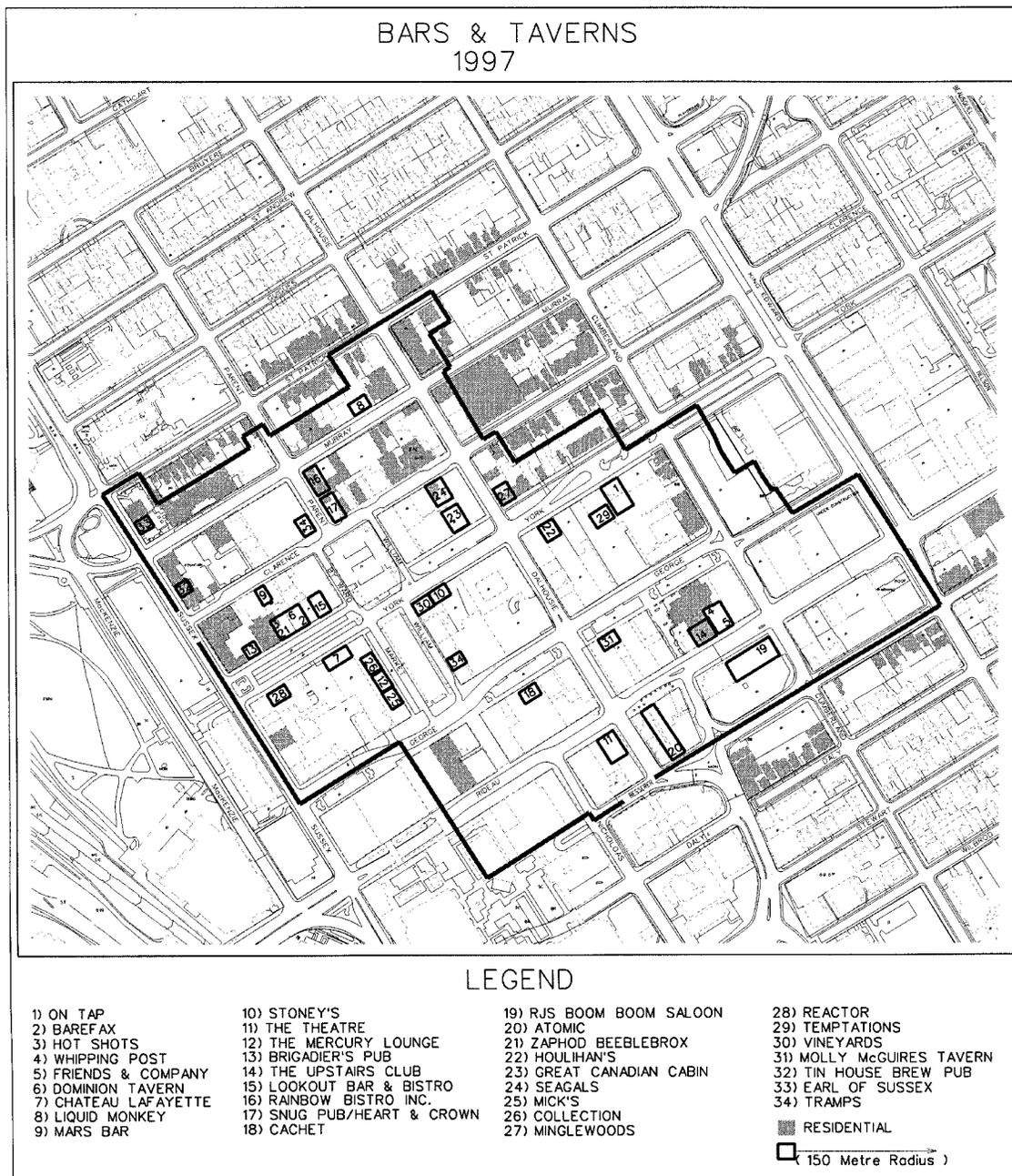
#### PROPOSED ZONING

The proposed zoning regulations would not alter the mix of uses permitted in the affected area but would introduce restrictions on nightclubs as defined. Those nightclubs which provide a designated area for dancing and which have a gross floor area between 250 and 500 square metres would be required to be separated 150 metres between individual establishments, and between individual establishments and residentially-zoned properties. A nightclub with a designated area for dancing must not exceed a gross floor area of 500 square metres. An outdoor patio operating as part of a nightclub or on the same lot as a nightclub is treated in the same way as one associated with a restaurant.

This constitutes the proposed amendment to Zoning By-law Z-2K. For information on this amendment contact Charles Lanktree at 244-5300 ext. 3859.







**Zoning Details**

## Document 4

1. Define nightclub to mean "a bar or restaurant where a designated area for dancing or entertainment is provided".
2. In addition to the regulations that apply to a bar or restaurant, the following regulations will apply to a nightclub that is located in the area demarcated on Document 2:
  - (A) A nightclub with a designated area for dancing must not exceed a gross floor area of 500 square metres.
  - (B) A nightclub with a designated area for dancing and which has a gross floor area of between 250 and 500 square metres, must be at least 150 metres from
    1. another nightclub that has a designated area for dancing and which has a gross floor area of between 250 and 500 square metres, and
    2. of a standard or exception P, HR-1, HR-2, HR-3, HR-4, HR-5, R1, R2, R3, R4, R5, R6, R7, and RO zone
  - (C) An outdoor patio will be permitted if operated as part of a nightclub where a nightclub use is permitted.
  - (D) Sections 29 (C) and (D) of by-law Number Z-2K will be modified, only as they apply to a patio in the area demarcated on document 2, to include the RO zone as one of the category of zones that the regulations, set out in the subsections, will apply to.

## Consultation Details

Document 5

Notification of the passage of the Interim Control By-law was given in accordance with Section 38 of the Planning Act. Notice of a public open house with respect to the study of nightclubs in the By Ward Market area was given by hand delivery to all stakeholder groups within the affected area.

### Supplemental Notification and Consultation

An open house format public meeting was held at the By Ward Market Building October 30, 1998. A separate meeting with representatives of the nightclub industry in the By Ward Market and Rideau Street area was held on July 14, 1998.

### Summary of Public Input

In response to the public notification of the study of nightclubs in the By Ward Market area 32 individual written comments and a petition were submitted by the various stakeholder groups. The following are the major themes expressed in these comments:

- This is a multi-dimensional problem which should not be seen in isolation, and therefore, needs a comprehensive approach.
- Noise is a major problem for residents in the area and adjacent neighbourhoods. Noise generated by nightclubs should not be broadcast to the public. Doors and windows of clubs should remain closed. Music should be muted in outdoor patios. Generally the Noise By-law should be strengthened and vigorously enforced.
- Consider concentrating nightclubs in a type of “mall” arrangement.
- Confine nightclubs into less inhabited parts of the Market.
- It is a working residential/commercial community and we would like to coordinate with our commercial office and retail neighbours to keep it in balance.
- There is concern with the “big box” type bars in the area which draw police and other security services off of the general. The effect of these nightclubs has been to spill large numbers of patrons onto the streets late at night with negative impacts on others in the area who are not involved in the revelry.
- Enforce earlier closing hours for the existing bars and don’t permit any new bars to open.
- The Market goes through changes from time to time and when left alone remains healthy. When the City intervenes we end up with vacancies which is bad for the whole Market area.
- The Zoning By-law is not the correct mechanism to control a policing problem. Let the By Ward Market evolve on its own and instruct the police to do their job.

- The freeze on new nightclubs should remain in force.
- Outdoor patios and especially rooftop patios are a major source of noise and disturbance in the area.
- Lift the ban. The Market is a tourist area. Increase enforcement if there is a problem with unruly patrons.
- There is concern that bar owners from Hull will flood By Ward Market.
- Residents are supportive of the Market as a “fun” place. However, there is a difference between fun and gross bestiality and drug dealing. The area of the Market has been extended east beyond Dalhousie. Please realign it to the old parameters so that bright parking lights and noise can be contained.
- Limit the number and size of bars as well as the outdoor lineups. Establishments should be properly insulated. We don’t need more parking lots. We should be encouraging use of public transit.
- There are enough bars and nightclubs in the Market to fulfill the needs of the city, therefore, preventing any new establishments is a good idea.
- Stop any new liquor licences for bars and nightclubs.
- The current regulations are not enough. Strengthen controls on patios and especially those attached to nightclubs. More responsibility should rest with the nightclub operators to maintain order inside and outside their establishments. The number of nightclubs has increased between 1994 and 1997 while residential accommodation is increasing. A ceiling to the number of bars and clubs should be set or tensions between residents and revellers will start rising.

#### Staff Response to Comments

- The proposed package of zoning regulations should assist in mitigating the deleterious effects of nightclubs in the By Ward Market area. Zoning is one aspect of a multi-faceted approach to maintaining an environment with is conducive to working, living and playing in this area.
- The authority to draft and enforce certain other types of controls, such as liquor licensing and associated hours of operation are regulated by the Province.
- There is documented evidence that the concentration of nightclubs in a district can lead to general deterioration and reduced property values. The proposal for required separation distances between nightclubs is intended to deal with this potential impact given the trend to the increased number and size of nightclubs in the By Ward Market area.

- The interim control by-law which prohibits the establishment of new nightclubs can remain in effect for a period of one year and can be extended for one additional year by City Council in accordance with Section 38 of the Planning Act (RSO 1990). City Council is not enabled to extend the “freeze” on new nightclubs beyond this timeframe other than by the establishment of new zoning controls on this use, such as are being proposed. Such zoning controls are limited by the land use policy direction of the Official Plan which calls for a mix of uses in this area including entertainment type uses.

#### Councillor’s Comment

Councillor Émard-Chabot initiated the interim control by-law which set in motion the process to study and recommend zoning controls on nightclubs in the By Ward Market area. He has sought to maintain channels of communication between the various stakeholders in this issue and has facilitated the public consultation forums that took place. He is supportive of the recommendation for the new zoning regulations contained herein.