



The Corporation of the Town of Milton

Report To: Council

From: Jill Hogan, Commissioner, Development Services

Date: March 6, 2023

Report No: DS-014-23

Subject: 130 Thompson Road - Class 4 Noise Classification and Removal of Holding Provision (H31)

Recommendation: THAT Town Council classify the lands municipally known as 130 Thompson Road (Part Lot 13, Con. 3, Former Geographic Township of Trafalgar) currently subject to site plan approval (Town File SP-23-21) as a Class 4 Noise Area pursuant to Publication NPC-300 (Ministry of Environment and Climate Change Class 4 Noise Area Classification (NPC-300);

AND THAT the Town Clerk forward a copy of the Town Council resolution to the Ministry of Environment Conservation and Parks (MECP);

AND FURTHER THAT Town Council adopt the amending zoning bylaw provided as Appendix 1 to this report removing the "H31" holding provision on the subject lands.

EXECUTIVE SUMMARY

This report recommends Town Council classify the site at 130 Thompson Road as a Class 4 Noise Area under Provincial Noise Guidelines (NPC-300) as administered by the Ministry of Environment, Conservation and Parks (MECP). A Class 4 Noise Area classification allows for higher daytime and nighttime sound level limits than would otherwise be permitted in relation to a noise sensitive land use such as residential dwellings and associated outdoor living areas. The impact of such higher levels is mitigated by specified noises control measures.

A Noise and Vibration Impact Study was submitted as part of the site plan application. A third party peer review of the Study supports the recommendation for a classification of the site to Class 4 Noise Area Classification. The owner has agreed to all of the environmental noise mitigation requirements set out in the peer reviewer's report, including the classification of the site to a Class 4 Noise Area.

This report also recommends that should Council recommend that the site at 130 Thompson Road be classified as a Class 4 Noise Area, that the existing holding provision

EXECUTIVE SUMMARY

(H31) on the subject lands be lifted as all of the conditions have been satisfied to the satisfaction of Town and Regional staff.

REPORT

Background

The subject lands are bounded by Thompson Road to the east, the CP Railway to the south, and Drew Centre to the north (see Figure 1). The proposed site consists of three high-rise buildings with rooftop amenity areas. Surrounding land uses include a commercial complex (Milton Common) to the north consisting of a number of service commercial, retail shops, restaurants, banks, and anchored by the Real Canadian Superstore. There are leisure and recreational uses to the east and northeast (i.e., Lions Sports Park, Milton Memorial Arena, FirstOntario Arts Centre Milton, Milton Public Library and Milton Leisure Centre). Immediately west is the Milton GO Station and the main hub for Milton Transit. The CP Rail line abuts the subject lands immediately to the south and further south along Nipissing Road is a mixture of commercial, industrial and institutional land uses. There are existing low density residential land uses south of the subject lands along Childs Drive and southeast, opposite Thompson Road South.

The subject lands were formerly owned by Jacal Holdings Ltd. who had submitted Official Plan and Zoning By-law amendment applications in order to re-designate and rezone the property to allow for high density residential mixed use buildings. The applications were approved by Council in March of 2019 (By-law No. 022-2019) subject to a holding provision (H31). The holding provision placed a number of conditions that required to be satisfied including a Letter of Reliance for the Phase 1 and 2 ESA and MECP acknowledged Record of Site Condition, implementation of a number of Traffic Demand Management (TDM) measures, an updated Pedestrian Wind Study, submission of a site plan application and an updated Noise Mitigation report with mitigation measures to meet Class 1 NPC requirements. Jacal Holdings Ltd. subsequently sold the lands to Ossory Properties Corp. who then made application for site plan approval in 2021. Ossory is in the process of obtaining final site plan approval and requires the classification to a Class 4 Noise Area in order to remove the holding provision (H31) on the lands.

Discussion

Provincial Noise Guidelines

The MECP published guidelines address noise issues as they relate to land use planning and permitted requirements (as part of an Environmental Compliance Approval) for industrial and commercial establishments, or transportation facilities located in proximity

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to sensitive land uses, including residential uses. In 2013, the Ministry of Environment and Climate Change (now MECP) released "Environmental Noise Guideline, Stationary and Transportation Sources - Approval and Planning (Publication NPC-300)", which replaced previous guidelines.

NPC-300 is a Provincial Guideline published in 2013 that provides guidance for the appropriate control of source of noise emissions to the environment. The purpose of NPC-300 is as follows:

- To provide sound level limits that are applied by the MECP to stationary sources, such as industrial and commercial establishments and auxiliary transportation facilities;
- To provide advice, sound level limits and guidance that may be used when land use decisions are made under the *Planning Act*;
- To provide sound level limits that may be incorporated into noise control by-laws, which may be developed by municipalities; and
- To provide sound level limits that may be applied under the provisions of the *Aggregate Resources Act*.

NPC-300 classifies noise sensitive receptors by area. The four classes of receptors are as follows: Class 1 - Urban Areas; Class 2 - Suburban/Semi-Rural Areas; Class 3 - Rural Areas; and Class 4 - Infill Areas.

Depending on the receptor area classification, different guideline sound limits apply. The Class 4 Noise Area classification was introduced by the Ministry of Environment in 2013. It is intended to allow for residential infill and redevelopment in proximity to existing stationary sources of noise, such as industry, while still protecting residences from undue noise. It should be noted that a Class 4 Noise Area is defined as "an area of specific site that would otherwise be defined as Class 1 or Class 2 and which:

- Is an area intended for development with new noise sensitive land use(s) that are not yet built;
- Is in proximity to existing lawfully established stationary sources; and
- Has formal confirmation from the land use planning authority with the Class 4 Noise Area classification which is determined during the land use planning process.

Class 4 Noise Area

A Class 4 Noise Area classification allows for higher daytime and nighttime sound level limits than would otherwise be permitted in relation to a noise sensitive land use such as residential dwellings and associated outdoor living areas. The impact of such higher levels is mitigated by specified noise control measures at the sensitive land use. Class 4 alleviates some of the burden from the proximate noise-generating industry making it easier for industry to remain in compliance with MECP requirements while also allowing

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municipalities to achieve sensitive infill development goals in accordance with their land use policies in proximity to industrial uses.

The Class 4 designation would allow stationary source sound level to reach a maximum of 60 decibel (dB) daytime (versus maximum of 50 dB for Class 1) and 55 dB (versus maximum of 45 dB for Class 1) nighttime or higher where the ambient sound level are above these limits.

A Noise and Vibration Impact Study prepared by J.E Coulter was submitted in support of their site plan application. The report identified the main sources of stationary noise as the Superstore at the Milton Common Plaza including truck deliveries and rooftop mechanical units, CP Rail (snow clearing fan), rooftop mechanical equipment associated with 917 Nipissing Road, St Mary's CBM Ready Mix Plant at 805 Nipissing Road, Davis Wire at 873 Nipissing Road and Altec Industries Ltd. rooftop mechanical units at 831 Nipissing Road. The report noted that the main source of noise from the Superstore was a result of the operation of the refrigeration unit ("reefer") located at the southeast receiving dock. In order to mitigate this noise to meet Class 1, Ossory has an executed agreement with securities with Loblaw Companies Ltd. (Loblaw) to allow for the construction of enclosed loading docks.

Further investigation into meeting Class 1 limits were investigated and were determined to not be feasible to meet for this project as a result of noise impacts from St. Mary's CBM Ready Mix Plant. CBM's current Environmental Compliance Approval (ECA) allows operations to continue until 11:00 pm with noise impacts from the concrete slumping area at the east end of their operation exceeding the MECP maximum evening (7:00 pm to 11:00 pm) noise levels by 3 dB. Ossory has had ongoing discussions with St. Mary's CBM for the installation of at source noise mitigation in order to meet Class 1; however, these options were extremely cost prohibitive and interruptive to St. Mary's operation. There would also be no cost recovery mechanism from other benefiting land owners. As such, a reclassification to a Class 4 Noise Area was deemed the most viable option.

Accordingly, in order to meet MECP's *NPC-300* noise criteria (Class 4) for stationary sources the J.E. Coulter report recommended the following noise mitigation measures to be put in place:

- Construct two enclosed loading docks at the southeast and southwest part of the Superstore as agreed to as part of the settlement between Ossory and Loblaw;
- The St. Mary's plant requires two permanent stationary blowers that are silenced so that the truck-mounted blowers are not used to unload powder. The agreement to undertake this work with St. Mary's has been agreed to in principle and is being finalized.
- Agreements of Purchase and Sale for all residential units in Towers 1, 2 and 3 are to

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- include a warning clause notifying prospective owners of the existing commercial/industrial uses in the area (see Appendix C, Warning Clause “E”).
- Purchasers/tenants are advised that sound levels due to the adjacent industries (CBM St. Marys and the Superstore) are required to comply with sound level limits that are protective of indoor areas and are based on the assumption that windows and exterior doors are closed. Agreements of Purchase and Sale for all residential units in Towers 1, 2 and 3 are to include a warning clause notifying prospective owners of the existing commercial/industrial uses in the area (see Appendix C, Warning Clause “F”).

In addition, warning clause requirements, installation of central air conditioning, increased parapet heights for outdoor amenity areas, upgraded façade requirements (including wall and glazing) are required to ensure transportation noise is mitigated in accordance with MECP requirements.

Town staff retained an independent Environmental Noise Engineer, SLR Consulting, to undertake a peer review of the J.E. Coulter report and who had also peer reviewed the previous noise impact studies submitted as part of the OPA and Rezoning applications. SLR agreed with the findings of the report and concurred that it was appropriate for a reclassification to Class 4 for the property subject to appropriate warning clauses and noise abatement measures to be put in place.

The owner has agreed to all of the environmental requirements set out in report, including the classification of the site to a Class 4 Noise Area. All recommended mitigation measures identified above and associated with the classification of Class 4 Noise Area will be included in the Site Plan Approval conditions. The final design of noise mitigation measures and applicable warning clauses would be secured through the Site Plan application review process.

Holding Provision Conditions

With respect to all of the other conditions associated with “H31” holding provision as noted above in this report, the Applicant has demonstrated that they have been successfully satisfied. Regional Staff has provided a formal clearance noting that the applicant has submitted a Phase 1 and Phase 2 Environmental Site Assessment, Letter of Reliance, as well as a Record of Site Condition which demonstrates that the lands are suitable for the proposed residential development. The applicant has made application for site plan application and through that process has submitted an updated Pedestrian Wind Study which was peer reviewed by WSP on the Town’s behalf. It was deemed satisfactory and any mitigation measures will be implemented through the site plan process. The TDM measures are no longer required as the proposed parking is in compliance with the site-specific Zoning that was put in place as part of the Milton Mobility Hub Study that was approved by Council in 2022 (By-law 089-2022).



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Conclusion

The Class 4 Noise Area classification is recommended for the site and is an appropriate mechanism to facilitate the redevelopment of the site, while allowing for the existing and future non-residential users to operate. All recommended mitigation measures identified above and associated with the classification of Class 4 Noise Area will be included in the Site Plan Approval agreement. Accordingly, staff recommends that the “H31” holding provision be lifted from the subject property as all of the required conditions have been adequately satisfied.

Financial Impact

None arising from approval of this report.

Respectfully submitted,

Jill Hogan
Commissioner, Development Services

For questions, please contact: Christian Lupis, MCIP, RPP Phone: Ext. 2305

Attachments

Figure 1- Location Map

Appendix 1 – Draft Bylaw and Schedule A

Approved by CAO
Andrew M. Siltala
Chief Administrative Officer

Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.



The Corporation of the Town of Milton

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