

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2020
SUBJECT/REPORT NO:	Roof Top Amenity Area for 600 North Service Road, Stoney Creek (PED20037) (Ward 10)
WARD(S) AFFECTED:	Ward 10
PREPARED BY:	Anita Fabac (905) 546-2424 Ext. 1258
SUBMITTED BY:	Steve Robichaud Director of Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

Council Direction

At the December 3, 2019, Planning Committee, staff were “directed to report back to the January 14, 2020 Planning Committee respecting options that may permit CoMo Condos (600 North Service Road) roof top amenity area as proposed without additional noise mitigation and instead requiring the use of Warning Clauses registered on title and signage at the entry point, including a Class 4 designation and input from legal staff”.

This report provides clarification on the applicable Provincial Policy Statement and Urban Hamilton Official Plan policies and application of the Class 4 designation.

Background

Site Plan Control application DA-19-053 was received by the City on February 26, 2019 and deemed complete on March 7, 2019. Conditional Approval was granted for the development of a 140-unit, six storey multiple dwelling with a total of 183 parking spaces on May 17, 2019. A special condition was added to the Conditional Approval letter dated May 17, 2019 which required the completion of a Detailed Noise Study with recommendations implemented prior to the issuance of a building permit. An Environmental Noise Report, dated September 9, 2019 and prepared by Valcoustics Canada Ltd. was submitted on September 10, 2019 which identified noise levels ranging from 65dBA to 70dBA for all outdoor living areas on site after all proposed mitigation measures had been provided on site.

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The noise study notes that at the common outdoor amenity areas, the unmitigated daytime sound levels are predicted to be 70 dBA at the rooftop terrace. The study concluded the following:

- Excesses over the noise guideline limits are predicted to occur at the common amenity patio at the northeast corner of the building and the rooftop terrace.
- At the rooftop terrace, a 4.4 m high sound barrier would be required around the south, east and west sides of the terrace to mitigate the sound levels to the MECP guidelines.
- This sound barrier is not considered feasible as it would significantly alter the building aesthetics and interfere with the lake view. It is, however, noted that the intention is to include 1.5 m to 1.8 m high sound barriers around the south and west sides of the terrace such that the road traffic noise at this location is mitigated to the extent that is feasible. It is unclear how much mitigation these sound barriers will provide.

The noise study concluded that as it is not feasible to mitigate the outdoor sound levels to the guideline limits, and a sound barrier would interfere with the lake view, warning clauses should be included in purchase and sale agreements indicating that the outdoor spaces in the buildings will have elevated noise levels and have not been designed to meet the MECP noise guidelines.

On December 10, 2019, the City received a revised site plan which removed the rooftop amenity area from the site plan and on December 17, 2019, the City received an addendum to the Environmental Noise Assessment which removed the rooftop amenity area from the building design.

Provincial Policy Statement and Urban Hamilton Official Plan

With respect to noise, Policy 1.2.6.1 of the Provincial Policy Statement states:

“Major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of major facilities.”

With respect to noise, the following policies of the Urban Hamilton Official Plan are applicable to the proposed development:

- “B.3.6.3.1 Development of noise sensitive land uses, in the vicinity of provincial highways, parkways, minor or major arterial roads, collector roads, truck routes, railway lines, railway yards, airports, or other uses considered to

be noise generators shall comply with all applicable provincial and municipal guidelines and standards.

B.3.6.3.7 A noise feasibility study, or detailed noise study, or both, shall be submitted as determined by the City prior to or at the time of application submission, for development of residential or other noise sensitive land uses on lands in the following locations:

- d) 400 metres of an existing or proposed parkway or provincial highway (controlled access), as identified on Schedule C – Functional Road Classification; and,

B.3.6.3.8 Proponents of development proposals for which noise studies are submitted shall satisfy all of the following requirements and conditions to the satisfaction of the City and in accordance with provincial guidelines:

- a) Proponents shall provide evidence that predicted noise levels in outdoor living areas meet the daytime objective of 55 dBA.
- b) If predicted noise levels in outdoor living areas exceed 55 dBA but are less than or equal to 60 dBA, noise mitigation measures may be required.
- c) If predicted noise levels in outdoor living areas exceed 60 dBA, noise mitigation measures shall be required.
- d) Every effort should be made to reduce noise levels in the outdoor living area to as close to 55 dBA as technically, economically, and administratively feasible. If noise levels will not be reduced to 55 dBA, the proponent shall demonstrate with options and cost estimates why it is not feasible or practical to achieve 55 dBA, or shall provide justification as to why it may not be aesthetically appropriate or desired to mitigate noise levels to 55 dBA. If noise levels will not be mitigated to 55 dBA, appropriate warning clauses shall be included in lease or rental agreements, agreements of purchase and sale, and within required development agreements.
- e) Provide evidence that provincial indoor sound level criteria are met. If sound levels exceed provincial guidelines for either daytime or nighttime hours, appropriate mitigation measures shall be incorporated into the development, according to provincial guidelines, and appropriate warning clauses shall be included in

lease or rental agreements, agreements of purchase and sale, and within development agreements.

- B. 3.6.3.9 New residential and other noise sensitive land uses that include outdoor living areas shall not be permitted in locations where attenuated outdoor noise levels from road and railway traffic are forecast to exceed 60 dBA.”

As the subject lands are within 400 metres of a provincial highway, a noise feasibility study was required as part of the Site Plan Control application to address both City and provincial noise guidelines. As the predicted noise levels of the rooftop outdoor living area outlined in the noise study will exceed 60dBA, in accordance with provincial and municipal requirements, noise mitigation measures shall be required.

Environmental Noise Guideline (Publication NPC-300)

The Ministry of the Environmental and Climate Change has a noise criteria guideline entitled “Environmental Noise Guideline: Stationary and Transportation Noise Sources – Approval and Planning (NPC-300) to provide advice, sound level limits and guidance that may be used when land use planning decisions are made under the *Planning Act* to minimize potential conflict.

The Guideline includes definitions of four class areas:

- Class 1 area means an area with an acoustical environment typical of a major population centre where the background sound level is dominated by the activities of people, usually road traffic, often referred to as “urban hum”.
- Class 2 means an area with an acoustical environment that has qualities representative of both Class 1 and Class 3 areas:
 - Sound levels characteristic of Class 1 during daytime and low evening and night background sound level defined by natural environment and infrequent human activity as early as 19:00 hours.
- Class 3 area means a rural area with an acoustical environment that is dominated by natural sounds having little or no road traffic.
- Class 4 means an area or specific site that would otherwise be defined as Class 1 or 2 and which:
 - Is an area intended for development with new noise sensitive land uses(s) that are not yet built;
 - Is in proximity to existing, lawfully established stationary source(s); and,

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- Has formal confirmation from the land use planning authority with the Class 4 area classification which is determined during the land use planning process.

Additionally, areas with existing noise sensitive land use(s) cannot be classified as Class 4 areas.

The Guideline further states that sources not considered as stationary sources in the context of Part B and Part C of this guideline include:

- Transportation corridors, ie railways and roadways (including off-site haul routes).

The use of Class 4 Area is meant to be a tool to allow municipalities to approve a noise sensitive land use with relaxed noise limit levels in an area of existing stationary noise sources.

In accordance with direction established in the Downtown Hamilton Secondary Plan, the Director of Planning and Chief Planner, City of Hamilton may authorize, where in conformity with the Class 4 Area criteria, and upon the submission of a noise study with recommendations, that an area be designated as Class 4.

Based on the definitions in the guideline, the lands would not be in conformity with the Class 4 criteria, as the noise source is road traffic and not an existing, lawfully established stationary noise source and development with new noise sensitive land uses is intended as the zoning permits residential uses.

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