



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	August 10, 2021
SUBJECT/REPORT NO:	Request to Deem Lands located at 323 Rymal Road East, Hamilton, as a Class 4 Area pursuant to the Ministry of the Environment, Conservation and Parks' (MECP) Noise Guidelines NPC-300 (PED21160) (Ward 7)
WARD(S) AFFECTED:	Ward 7
PREPARED BY:	James Van Rooi (905) 546-2424 Ext. 4283
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the request by IBI Group on behalf of 133364 Ontario Inc., to deem the lands located at 323 Rymal Road East (see Appendix "A" attached to Report PED21160) as a Class 4 Area pursuant to the Ministry of the Environment, Conservation and Parks' (MECP) Noise Guidelines NPC-300 (Stationary and Transportation Sources – Approval and Planning) be approved by Council;
- (b) That the Class 4 Area designation apply only to the development proposal attached as Appendix "B" to Report PED21160 with the requirement that all noise mitigation and warning clauses be secured and implemented through the applicable Site Plan Control Approval and future Draft Plan of Condominium applications.

EXECUTIVE SUMMARY

The subject property is municipally known as 323 Rymal Road East. On June 15th, 2021, IBI Group on behalf of 1333664 Ontario Inc. requested Planning Committee to consider deeming the lands a Class 4 Area. Planning Committee directed staff to

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report back with a formal recommendation supported with rationale for deeming the lands as a Class 4 Area pursuant to the MECP Noise Guidelines NPC-300.

The subject property is located in proximity to stationary noise sources and the practicality of adopting mitigation measures to meet MECP Class 1 Area sound level is limited. As a result, the applicant is seeking to have the subject property classified a Class 4 Area by City Council pursuant to the MECP Noise Guidelines NPC-300. As per MECP NPC-300 Section B9.2, the land use planning authority may classify lands a Class 4 Area where it is considered to be appropriate.

Staff are supportive of the request to deem the lands as a Class 4 Area provided through the applicable Site Plan and Condominium approvals processes, purchasers and/or tenants are notified of the Class 4 Area noise classification and appropriate warning clauses are registered on title. These requirements will be reiterated through the Draft Plan of Condominium approvals process.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

The subject lands were subject to Zoning By-law Amendment application ZAC-19-031, which rezoned the lands from the “AA” (Agricultural) District to the “DE-2/S-1798-H” (Multiple Dwellings) District, Modified, Holding. On July 17, 2020 Council passed By-law No. 20-153 to permit a three storey, 21 unit multiple dwelling with 26 surface parking spaces. The Holding Provision was required to allow for further investigation into the stationary noise sources such as the HVAC equipment and any potential conflict with the proposed sensitive land use.

On September 30, 2020, Site Plan Control application DA-20-009 received Conditional Approval for the construction of the three storey, 21 unit multiple dwelling. The applicants submitted an Environmental Noise Feasibility study and an addendum study, which was reviewed through Site Plan Control application (DA-20-009).

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On June 15, 2021, IBI Group on behalf of 1333664 Ontario Inc. made a delegation to Planning Committee requesting the lands be deemed a Class 4 Area. Staff were directed to report back to Planning Committee respecting, the request to classify 323 Rymal Road East as a Class 4 Area. A Class 4 Area designation can only be applied to new development.

Deeming a new development as a Class 4 Area, although infrequent, has occurred previously in the City. In 2018, Council passed a motion that delegated the authority to the Director of Planning and Chief Planner to deem an area subject to development approval as a Class 4 Area in Hamilton's Downtown Secondary Plan area. However, as the subject lands are not within the Downtown Secondary Plan the applicant has requested that Council consider and deem the subject lands a Class 4 Area in accordance with MECP NPC-300, Section B9.2.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Environmental Noise Guideline (NPC-300) & Urban Hamilton Official Plan (UHOP)

The MECP has a noise criteria guideline entitled "Environmental Noise Guideline: Stationary and Transportation Noise Sources – Approval and Planning (NPC-300)". This publication provides advice on sound level limits and guidance that may be used when land use planning decisions are made to minimize potential land use conflicts.

In addition to the MECP Noise requirements, the City also has UHOP policies regarding noise, including but not limited to:

- "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:
 - b) 400 metres of a major arterial road, as identified on Schedule C – Functional Road Classification;

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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:

- 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.3.6.3.20 Where noise attenuation measures are required to address noise from stationary sources, noise barriers shall only be used where other attenuation methods are not feasible or sufficient. If noise barriers must be used, the barrier shall be designed to complement the streetscape and community design.”

An Environmental Noise Feasibility study based on MECP guidelines was prepared by Valcoustics dated April 25, 2019. The Environmental Noise Feasibility study reviewed the acoustic requirements with respect to transportation sources, such as Rymal Road East, and stationary noise sources from the YMCA and Turner Park Hamilton Public Library. The results of the study are discussed below.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

1. The Environmental Noise Feasibility study identified that the daytime and night time noise levels from the transportation noise sources will be approximately 66 dBa during the daytime and 59 dBa at night. As per MECP's NPC-300 Section C7.1, daytime noise levels exceeding 65 dBa and nighttime noise levels exceeding 60 dBa require the installation of central air conditioning or an approved equivalent ventilation system.

The applicant will be providing central air conditioning and including warning clauses in all agreements of purchase and sale and lease agreements to meet the above noted guideline for transportation noise sources.

2. With respect to stationary noise sources, the applicants submitted an addendum to the Environmental Noise Feasibility Study dated November 18, 2020. This addendum further assessed the stationary noise sources and identified that the evening and night time noise levels exceeded MECP's NPC-300 Class 1 Area requirements at three receptor locations being:

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- The southern façade of the building measured at the third floor at the exterior plane of the window;
- The eastern façade of the building, toward the front of the building measured at the third floor at the exterior plane of window; and,
- The eastern façade of the building toward the rear of the building.

All of the above locations exceeded the Class 1 Area night time noise levels, and the receptor that was located at the eastern façade toward the rear also exceeded the evening sound level requirement for Class 1 Area.

The noise mitigation measures proposed by the addendum study offered two options to comply with the MECP's NPC-300 Class 1 Area requirements:

- Option 1: provide rooftop acoustic screens 3.5 metres in height around the HVAC units located on the northern end of the YMCA and Turner Park Library building.
- Option 2: provide custom enclosures to five of the HVAC units and/or replace the HVAC units with quieter units.

The Addendum Study advised that noise mitigation at the source could result in implications as these noise sources are located off-site and would be difficult to implement. Furthermore, the implementation of 3.5 metre screens could have an impact on the perceived height and could increase the visual impact of the Library and the YMCA building from the street.

Given the extent of the mitigation measures required to achieve compliance with the MECP Class 1 Area for stationary noise sources, staff are in agreement that 3.5 metre high barriers or enclosures are not appropriate.

The Environmental Noise Feasibility study and the Addendum Study recommended that where it is not possible to comply with the MECP requirements, the lands may be considered by Council for re-classification from a Class 1 Area to a Class 4 Area in accordance with MECP's NPC-300.

The noise mitigation measures that will be implemented for the proposed development respecting both transportation noise sources and stationary noise sources are as follows:

- Standard building materials, required under the Ontario Building Code for windows and exterior walls;
- Centralized air conditioning will be provided in order to allow windows to remain closed;

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- A warning clause advising prospective purchasers and tenants that sound levels due to increased road traffic may exceed the MECP requirements;
 - A warning clause advising prospective purchasers and tenants that centralized air conditioning is being established in order to allow windows and exterior doors to remain closed;
 - A warning clause advising prospective purchasers and tenants that the property has been deemed a Class 4 Area; and,
 - A warning clause advising prospective purchasers and tenants that due to proximity of the Hamilton Public Library, YMCA, police station, and works yard noise from these facilities may at times be audible.
3. The proposed identification of the subject lands as a Class 4 Area is necessary for the implementation of required noise mitigation measures and warning clauses, which will include informing all prospective purchasers and tenants that the lands have been classified as a Class 4 Area through the Site Plan Control process.

Additionally, the owner is expected to apply for a draft plan of condominium application, which will include conditions advising prospective purchasers and tenants that the units are located in a Class 4 Area and will include the appropriate noise warning clauses to be registered on title and in any lease or rental agreements.

As such, staff support deeming the lands as a Class 4 Area applicable only to the development proposal attached as Appendix "B" to Report PED21160 with the requirement that all noise mitigation and warning clauses be secured through the Site Plan Control Approval and a future Draft Plan of Condominium application.

ALTERNATIVES FOR CONSIDERATION

Should Council deny the request for deeming the property as a Class 4 Area, the property would be considered a Class 1 Area and the developer be required to implement appropriate off-site mitigation to address noise.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

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Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED21160 – Location Map

Appendix "B" to Report PED21160 – Development Proposal

Appendix "C" to Report PED21160 – Noise Study Addendum

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