



## **The Corporation of the Town of LaSalle**

**To:** Mayor and Members of Council

**Prepared by:** L. Silani, RPP, MCIP, Director of Development & Strategic Initiatives

**Department:** Development & Strategic Initiatives

**Date of Report:** June 1, 2020

**Report Number:** DS-17-2020

**Subject:** Valente/Nedin lands – Request to Designate as Class 4 under the NPC-300 Noise Guidelines

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### **Recommendation**

That the report of the Director of Development & Strategic Initiatives, dated June 1, 2020 (DS-17-2020) regarding a request that has been submitted by the Valente Development Corporation BE RECEIVED, and lands legally described as LT 5 PL 1555 SANDWICH WEST; LT 6 PL 1555 SANDWICH WEST; LT 7 PL 1555 SANDWICH WEST S/T R1120784; S/T R1300816; LASALLE, BEING ALL OF PIN 70546-0431 (LT) situated on the southwestern corner of Ellis Street and Trinity Avenue, BE CLASSIFIED as a Class 4 area pursuant to Publication NPC- 300 (MOECP Environmental Noise Guideline -Stationary and Transportation Sources -Approval and Planning), AND FURTHER THAT the Director of Development & Strategic Initiatives or their designate BE DIRECTED to incorporate additional or modify existing, mitigation measures including warning clauses required for a Class 4 designation pursuant to the Publication NPC-300 in the site plan approval and site plan agreement, AND FURTHER THAT the Director of Development & Strategic Initiatives or their designate BE DIRECTED to provide a copy of the Council Resolution approving Class 4 area classification and a copy of any Site Plan Control Agreement for the subject lands that incorporates noise mitigation measures to Loblaw's Inc.

### **Report**

On October 21, 2020, Planning Consultants working for CP REIT Ontario Properties Limited/Zehrs/Loblaw's, submitted a letter to the Town, indicating that:

- Their clients were generally not opposed to the development of Valente multi-unit residential development adjacent to the CP REIT lands --- however, they were concerned about the impacts of noise associated with the existing rooftop mechanical equipment and loading areas associated with Zehrs and in close proximity to the proposed residential uses;
- Until such time that their concerns were addressed, it was their opinion that this rezoning application was premature.

On October 22, 2019, Council adopted a zoning by-law amendment (By-law 8358), rezoning approximately 2.1 hectares of land located along the west side of Ellis Street, between the Town Hall/Civic Centre lands and the lands owned by CP REIT Ontario Properties Limited (Zehrs Malden Village Plaza), for 3 new multi-storey apartment style residential buildings with a total of 178 new dwelling units.

This property was placed in a site-specific “R5-9(h)” holding zone, to address the CP REIT lands concerns, and to ensure that the following studies/documents and additional applications were submitted to the Town and approved by Council before the holding zone symbol would be removed from this site:

- That a noise study be carried out by the Applicant, and approved by the Town – including recommended mitigation measures;
- That a site plan control application be submitted by the Applicant, and approved by the Town. This would require detailed site plans, site servicing, landscaping and elevation drawings to be prepared and submitted as part of this application. A site plan control agreement will need to be prepared, executed and registered on title before the holding zone could be removed. Details pertaining to on-site and off-site servicing, construction traffic, fencing, lighting, noise mitigation, internal and external pedestrian access/walkways, etc. will form part of those detailed drawings and will be reviewed and approved by the Town as part of the required site plan control approval application.

It should be noted that the Applicant intends to construct and sell these new apartment style dwellings units as Condominiums, and will be applying to the Town and to the County of Essex for Draft Plan of Condominium approval under the Planning Act.

On November 13, 2020, Borden Ladner Gervais (solicitors for CP REIT/Zehrs/Loblaws) submitted a formal appeal of the Town’s Zoning By-law Amendment (By-law 8358), pursuant to subsection 34(19) of the Planning Act. The reason for their appeal relates to the fact that they want their noise concerns addressed up-front, and not as part of a

future site plan control approval --- due to the fact that they have no rights of appeal to a site plan control approval.

Since that time, the Applicant (Valente) and their consultant team (Dillon Consulting) have had meetings/discussions with the Appellant and their consultants --- and as we understand have arrived at a settlement agreement in principle (without prejudice) with respect to this outstanding Planning Act appeal to LPAT.

Attached, as Figure 1, is a copy of the a confidential letter from Dillon Consulting to the Town (dated March 13, 2020), formally requesting that Council designate the subject 2.1 hectares of land owned by Valente as Class 4, under the Ministry of Environment, Conservation and Parks NPC-300 Environmental Noise Guideline.

The rationale for this Class 4 designation request being made at this time is set out in Dillon's attached letter. This designation will assist Mr. Valente in reaching a final settlement agreement that is acceptable by CP REIT (the Appellant). A copy of Dillon Consulting's Noise Study is included as part of the March 13, 2020 correspondence.

It should be noted that in 2013, the Ontario Government revised the NPC-300 Environmental Noise Guidelines, to allow developers to apply to their municipality for a Class 4 designation --- to permit the construction of new sensitive land uses in proximity to existing, lawfully established and approved stationary noise sources.

Should Council agree to designate this property as Class 4, prospective purchasers of the new apartment units would be informed of this designation by way of warning clauses related to the potential of elevated noise levels from the adjacent grocery store site.

After reviewing the contents of the March 13<sup>th</sup> correspondence, Town Staff asked Dillon Consultation to provide the following:

- The wording of the resolution required for Council to make this designation;
- Confirmation from their noise expert, pertaining to the parties to be notified of this Council resolution;
- A draft of the warning clause that the Applicant will be using to inform prospective purchasers/tenants of the noise that they can expect to hear from the Zehrs Store; and

- A copy of the revised site plan/elevation drawings – depicting the changes that are being made to address the noise issues, as agreed to with CP REIT/Zehrs/Loblaws.

On May 7, 2020, Dillon Consulting submitted additional correspondence (copy attached as Figure 2), to address the 4 points noted above.

Based on the contents of this additional correspondence, Town Staff agree with the Applicant's request to designate their property as Class 4 under the Ministry of Environment, Conservation and Parks NPC-300 Environmental Noise Guideline --- and Town Staff also concur with the recommended noise mitigation measures to be incorporated in the final site plan, the elevation drawings, the warning clauses, and other provisions that will form part of the future site plan control agreement for these lands.

## **Consultations**

Legal Services

## **Financial Implications**

None

## **Prepared By:**



Director, Development and  
Strategic Initiatives

L. Silani

**Link to Strategic Goals**

	Enhancing organizational excellence
	Sustain strong public services and infrastructure
	Strengthen the community's engagement with the Town
Yes	Grow and diversify the local economy
Yes	Build on our high-quality of life

**Communications**

None	Not applicable
	Website
	Social Media
	News Release
	Local Newspaper
	Bids & Tenders
	Notification pursuant to the Planning Act

**Notifications**

Name	Address	Email

**Report Approval Details**

Document Title:	Valente and Nedin Lands - Request for a Class 4 Designation under the NPC-300 Guidelines.docx
Attachments:	- March 13, 2020.pdf - May 7, 2020 correspondence.pdf
Final Approval Date:	Jun 2, 2020

This report and all of its attachments were approved and signed as outlined below:



Chief Administrative Officer

Joe Milicia