

File No.: 19-9930

March 13, 2020

Sent Via Email

Confidential

Town of LaSalle
5950 Malden Road
LaSalle, ON
N9H 1S4

Attention: Larry Silani, M.Pl. MCIP RPP,
Director of Development & Strategic Initiatives

Noise Area Classification
Proposed Creekside Condominium Development
Formerly the Nedin Property
0 Ellis Street
LaSalle, Ontario

On behalf of our client, Valente Development Corporation (Valente), Dillon Consulting Limited (Dillon) has provided this letter requesting a Class 4 designation under the Ministry of Environment, Conservation and Parks for the proposed residential development, referred to as the Creekside Condominium Development, located on Ellis Street, adjacent to the Malden Town Centre (Zehrs).

Council's support in the designation of the Ellis Street property is required to reach a settlement with the appellants.

Background

In October 2019, Valente and Dillon brought forward a Zoning By-Law Amendment application to council removing ground floor commercial uses and maintaining multi-unit residential mid-rise as of right. The amendment requested a change in zoning to an R5-9(h) zone to permit the subject site to be developed for three multi-unit apartment buildings comprising of one (1) four (4) storey, 38-unit apartment building, and two (2) six (6) storey, 70-unit apartment buildings on one (1) property (refer to Attachment A). Council passed the Zoning By-Law amendment, however there was an appeal by Choice Properties and Loblaw's, (land owner to the north of Building 'B') (Appellant), regarding noise concerns surrounding Zehrs loading docks and the proximity to the proposed building.



3200 Deziel Drive
Suite 608
Windsor, Ontario
Canada
N8W 5K8
Telephone
519.948.5000
Fax
519.948.5054

Dillon Consulting
Limited

The proposed development is considered an urban infill development currently encouraged and supported by the Provincial Policy Statement, the County of Essex Official Plan and the Town of LaSalle's Official Plan. Draft Plan of Condominium, Removal of Holding and Site Plan Control Approval are required prior to construction, which are currently being prepared; however, the applications cannot be submitted until a resolution is reached with regards to the LPAT Appeal.

Upon receipt of the appeal, Valente contacted the appellant to discuss the issues and concerns in an attempt to find a resolution and a settlement. To date, the following has been prepared for Council consideration.

Noise Assessment

As part of the preparation for the LPAT hearing and to aid in consultations with the appellant, Dillon prepared a Noise Assessment that focused solely on potential stationary impacts from Zehrs on the proposed development. Zehrs is a multi-purpose grocery store that features a variety of services outside of food purchasing. These include, among others, optical, dietician, and pharmacy services. Zehrs is located at 5890 Malden Road in Windsor, Ontario, directly northwest of the site. It was understood that Zehrs operates from 08:00 to 23:00 (daytime and evening hours) however, mechanical and electric equipment with loading and shipping operations occur at nighttime.

The appellants provided a Draft Acoustic Assessment Report (AAR) for Zehrs that was performed in April, 2019 by Aeroustics Engineering Ltd. (Aeroustics) and utilized to conduct the stationary noise assessment of Zehrs. The information gathered from the AAR was input into a predictive noise modelling software to determine potential impacts on the proposed development should a 'peak shaving' generator be installed on site to assist Hydro One with peak electrical demands (not installed).

The noise assessment was prepared in accordance with the requirements of the Town of LaSalle and the Ontario Ministry of Environment, Conservation and Parks (MECP) noise publication NPC-300. The assessment focused on the noise impacts of the nearby Zehrs store on the proposed residential development (see attached **Appendix A**). Presently, the predictive noise levels are slightly above the MECP Guidelines.

NPC-300 Guidelines

The MECP Publication NPC-300 outlines applicable noise criteria for the proposed development from surrounding industrial and commercial stationary noise sources. The noise criteria are defined using area classifications, which are based on the existing acoustical environment in the area of the points of reception. NPC-300 classification outlines are as follows:

- Class 1 – Urban Area
- Class 2 – Semi-Urban / Semi – Rural
- Class 3 – Rural Area
- Class 4 – Areas of Redevelopment and Infill

Different noise guideline limits for steady/varying sound apply to each area classification. We are recommending that Council consider designating the subject site as a Class 4, as it is an infill development. Due to the proximity of the proposed development to the Zehrs, in particular the loading docks, roof top unit and several other noise sources, a stationary noise assessment suggested the Class 4 designation was appropriate.

As outlined in the Ontario Ministry of the Environment, Conservation and Parks (MECP) noise publication NPC-300, a Class 4 area can be applied to a proposed site under the following conditions:

1. The site would otherwise be defined as a Class 1 (Urban) or Class 2 (Semi-Urban/Semi-Rural) area.
2. The proposed site is an area intended for development with new noise sensitive land uses that are not yet built.
3. The site is in proximity to existing, lawfully established stationary sources.
4. The site has formal confirmation from the land use planning authority (Town of LaSalle) regarding the Class 4 area designation.

The proposed development meets conditions 1 to 3 (above). As such, it is considered reasonable for the land use planning authority of the Town of LaSalle to designate the subject site as a Class 4, as stipulated in MECP's noise publication NPC-300.

Should the Town of LaSalle decide to designate the subject site as Class 4, as per NPC-300 guidelines, prospective purchasers of the units at the proposed residential development will be informed of the Class 4 designation and other relevant warning clause related to potential of elevated noise levels (e.g., Warning Clause F, as per Section C8.3 of the NPC-300).

Relevant warning clauses will be included on title for the new residential units. This will ensure that future residences are aware of potential exposure to higher noise levels due to Loblaw's activities and would likely discourage noise complaints.

A Class 4 area designation is beneficial for Loblaw's for two main reasons:

- In case of a noise complaint, the company can effectively defend its position and its current operations as compliance with Class 4 area can be demonstrated with relatively minor operational adjustments; and

- In case the company decides (or gets ordered by MECP) to obtain an environmental approval (i.e., EASR Approval), minor operational adjustment would be sufficient to meet the applicable Class 4 noise criteria at the proposed development.

It should be noted that the appellants have agreed to operational changes on site to ease and assist in the mitigation of potential noise concerns.

Resolution

Along with our client, Dillon met with the appellant and came to a resolution to the appeal. As part of the potential resolution, the proposed development would seek a Class 4 designation approval from the land use planning authority of the Town of LaSalle. For uses like this, a Class 4 designation is appropriate as it not only protects the potential residents but also allows for the noise issues to be dealt with in a fair and equitable way. It is our opinion that the request is appropriate and is in keeping with actions of other approval authorities in the region and province.

In addition to the Class 4 designation request, the appellant and our client have agreed to implement the following noise mitigation measures to further protect the residents from future issues:

- A warning clause will be included on all leases and Agreement of Purchase and Sale (APS) agreements warning tenants and Buyers that from time to time they may hear noise relating to activities at the Zehrs grocery store;
- Zehrs will not allow reefer trucks to park on the South loading dock during the nighttime;
- There will be no balconies on floors 2, 3, 4, 5, & 6 on the west elevation of Building "B" (a main floor patio will be permitted on that facade only);
- A high performance wood 6ft high fence will be install by our client along the property line between Zehrs and the subject site from the eastern garage building and the Eastern limit of our shared property line;
- Loblaws will prepare an agreement of settlement for Valente's review and execution;
- The agreement will be executed as soon as possible but not later than April 20, 2020; and
- Dillon will provide an updated model based on the above and submit it for the appellants review.

If the Class 4 Designation and the above noted mitigation measures are enacted for the site, the appeal will be abandoned and the development can proceed.

At this time, we are requesting Council consider a resolution designating the property as Class 4 under the NPC-300 Guidelines.

Creekside Development – Noise Area Classification

Page 5

March 13, 2020

Should you have any additional questions, feel free to contact the undersigned at your convenience.

Yours sincerely,

DILLON CONSULTING LIMITED



Karl Tanner, MCIP RPP

Partner

AAI:dlt

cc: Jeff Hewitt – Hewitt Law
Peter Valente – Valente Development Corporation

APPENDIX A
Noise Assessment



MEMO

TO: Peter Valente – President, Valente Development Corporation
FROM: Amir A. Iravani
Patrick McGrath
CC: Karl Tanner **DRAFT**
DATE: January 22, 2020
SUBJECT: Valente Creekside (Nedin) Development Project – Stationary Noise Impact Analysis
OUR FILE: 19-9330

This memo summarizes the results of a stationary noise impact assessment completed by Dillon Consulting Limited (Dillon) for the proposed multi-storey residential development (Creekside development project) in Windsor, Ontario.

Subject Site and Surrounding Areas

The site is located on a vacant lot north of Normandy Street and south of Delmar St in the City of Windsor. Directly to the east of the site, across Ellis St, are residential properties and to the west is a parking lot for commercial properties, including the Zehrs store. The Zehrs store is located directly northwest of the site. There are LaSalle Police and Fire Services buildings to the south of the site and a residential property to the north. There are also two mid-rise apartment buildings to the southeast of the site.

The current phase of the proposed development will consist of three apartment buildings, two of which will be six-storeys and one will be four-storeys. The development will also have four garages, two of which will be suited for nine cars and two will be for 12 cars. There will also be a pavilion located in the center of the site.

Stationary Noise Source Assessment

This assessment focuses on potential impacts from Zehrs on the proposed development. Zehrs is a multi-purpose grocery store that features a variety of services outside of food purchasing. These include, among others, optical, dietician, and pharmacy services. Zehrs is located at 5890 Malden Rd in Windsor, Ontario, directly northwest of the site. It is understood that Zehrs operates from 08:00 to 23:00 (daytime and evening hours) however, mechanical and electric equipment and loading and shipping operations occur at nighttime as well. The store has rooftop solar panels and power inverters to convert DC current to AC.

Noise Criteria

MECP Publication NPC-300 outlines applicable noise criteria for the proposed development from surrounding industrial and commercial stationary noise sources. The noise criteria are defined using

area classifications, which are based on the existing acoustical environment in the area of the points of reception. NPC-300 classification outlines are as follows:

- Class 1 – Urban Area
- Class 2 – Semi-Urban / Semi – Rural
- Class 3 – Rural Area
- Class 4 – Areas of Redevelopment and Infill

Different noise guideline limits for steady/varying sound apply to each area classification, as shown below in **Table 1**.

Table 1: Stationary Source Steady/Varying Noise Exclusionary Limits

Assessment Location	Time Period	Exclusionary Sound Level Limit - L_{eq} 1hr			
		Class 1	Class 2	Class 3	Class 4
Plane of window for living area or sleeping quarters	Daytime (07:00 - 19:00)	50 dBA	50 dBA	45 dBA	60 dBA
	Evening (19:00 - 23:00)	50 dBA	50 dBA	40 dBA	60 dBA
	Night-time (23:00 - 07:00)	45 dBA	45 dBA	40 dBA	55 dBA
Outdoor points of reception	Daytime (07:00 - 19:00)	50 dBA	50 dBA	45 dBA	55 dBA
	Evening (19:00 - 23:00)	50 dBA	45 dBA	40 dBA	55 dBA

The noise guidelines for impulsive sounds based on assessment location, impulsive sound frequency, area classification, and time of day as outlined in NPC-300 are summarized in **Table 2**.

Table 2: Stationary Impulsive Noise Source Exclusionary Limits

Assessment Location	Number of Impulses per hour	Exclusionary Sound Level Limit – L_{LM} (dBAI) ^[1]			
		Class 1 (07:00-23:00)/(23:00-07:00)	Class 2 (07:00-23:00)/(23:00-07:00)	Class 3 (07:00-23:00)/(23:00-07:00)	Class 4 (07:00-23:00)/(23:00-07:00)
Plane of window for living area or sleeping quarters	9	50/45	50/45	45/40	60/55
	7 to 8	55/50	55/50	50/45	65/60
	5 to 6	60/55	60/55	55/50	70/65
	4	65/60	65/60	60/55	75/70
	3	70/65	70/65	65/60	80/75
	2	75/70	75/70	70/65	85/80
	1	80/75	80/75	75/70	90/85
Outdoor points of reception ^[2]	9	50	50	45	55
	7 to 8	55	55	50	60
	5 to 6	60	60	55	65
	4	65	65	60	70

Assessment Location	Number of Impulses per hour	Exclusionary Sound Level Limit – L_{LM} (dBAI) ^[1]			
		Class 1 (07:00-23:00)/(23:00-07:00)	Class 2 (07:00-23:00)/(23:00-07:00)	Class 3 (07:00-23:00)/(23:00-07:00)	Class 4 (07:00-23:00)/(23:00-07:00)
	3	70	70	65	75
	2	75	75	70	80
	1	80	80	75	85

Notes: [1] dBAI refers to the A-weighted sound pressure level of an impulsive sound.

[2] Outdoor points of reception are only assessed during daytime/evening hours (07:00-23:00) for impulse noise sources.

Stationary Noise Sources

The stationary noise sources related to operations at the nearby Loblaws store [Loblaws 521 – Zehrs Malden] located at 5890 Malden Road, in Windsor, Ontario. The noise sources include: reefer trucks, garbage compactors, onsite travel of reefer and regular trucks, as well as rooftop condensing units, chillers, RTUs, solar power inverters, exhausts and HVACs. The analysis was completed using noise data from Aercoustics' draft Acoustic Assessment Report (Project: 17175.01), dated April 24, 2018. The noise sources considered in the assessment and their associated characteristics and sound power levels are presented in Table 3.

Table 3: Noise Source Summary Table

Source ID	Source Description	Sound Power Level (dBA)	Source Locations ^[1]	Sound Characteristic ^[2]
PG1	Proposed Genset GTA50	98	O	S
S01	Keeprite Air cooled condenser	89	O	S
S02	Keeprite Air cooled condenser	91	O	S
S03	Keeprite Air cooled condenser	89	O	S
S04	Keeprite Air cooled condenser	89	O	S
S05	Keeprite Air cooled condenser	91	O	S
S06	Compressor Room Exhaust	82	O	S
S07	Compressor Room Exhaust	82	O	S
S08	Compressor Room Exhaust	82	O	S
S09	Compressor Room Exhaust	82	O	S

Source ID	Source Description	Sound Power Level (dBA)	Source Locations ^[1]	Sound Characteristic ^[2]
S10	Compressor Room Intake	78	O	S
S11	Compressor Room Intake	78	O	S
S12	York 5-ton RTU	81	O	S
S13	York 7-ton RTU	82	O	S
S14	York 15-ton RTU	87	O	S
S15	York 5-ton RTU	81	O	S
S16	York 5-ton RTU	81	O	S
S17	York 5-ton RTU	81	O	S
S18	York 5-ton RTU	81	O	S
S19	York 5-ton RTU	81	O	S
S20	York 5-ton RTU	81	O	S
S21	York 5-ton RTU	81	O	S
S22	York 5-ton RTU	81	O	S
S23	Solar Inverter	83	O	T
S24	Garbage Compactor	83	O	S
S25	Garbage Compactor	83	O	S
S26	Garbage Compactor	83	O	S
S27	Idling Refrigerated Trailer	98	O	S
T01	Refrigerated Truck Movements	109	O	S
T02	Regular Truck Movements	99	O	S

Note: [1] O – located/installed outside the building, I – located/installed inside the building

[2] S – Steady, T – Tonal, I – Impulsive

Results & Discussions

The noise analysis was completed using CADNA/A, an outdoor noise propagation model, based on ISO Standard 9613, Part 1: Calculation of the absorption of sound by the atmosphere, 1993 and Part 2: General method of calculation (ISO-9613-2:1996). The model is capable of incorporating various site specific features, such as elevation, berms, absorptive grounds, and barriers to accurately predict noise levels at specific receptors, pertaining to noise emissions from a particular source / sources. The ISO based model accounts for reduction in sound level due to increased distance and geometrical spreading, air absorption, ground attenuation, and acoustical shielding by intervening structures and topography. The model is considered conservative since it represents atmospheric conditions that promote propagation of sound from the source to the receiver.

The stationary acoustic model was developed based on source locations, sound power level inputs, building geometries, operation times, and duty cycles from the information outlined in the AAR received from Aercoustics. In the AAR, Aercoustics presented a series of noise control measures that are required

for the Zehrs facility to be in compliance with the exclusionary limits presented in NPC-300. These noise control measure are not included in the results presented herein.

The predicted receptor noise levels for daytime, evening and nighttime hours, as well as noise level contours (at 4.5m above grade, dBA levels) are presented in **Figure 1**. The predicted receptors noise levels, corresponding to the worst-case impact (i.e., most exposed and closest sides of receptors to the stationary noise sources) are summarized in **Table 4**. Also presented in the table are the daytime/evening and nighttime MECP noise criteria for Class 1 (current area classification for the proposed development lot) and Class 4 (desired designation for the proposed development lot).

The analysis indicate that the operations at Zehrs results in exceedances of the applicable noise criteria for the existing receptor R1 (including its Outdoor Living Area).

If the lot for the proposed development was to maintain its existing area classification (i.e., Class 1), there are significant noise level exceedances at all three buildings. However, if a class 4 designation is granted by the municipality for the subject lot, the exceedance will be limited to a minor nighttime overage of approximately 0.7 dBA at Building B. This level of exceedance can be easily mitigated by relatively minor operational adjustments at Zehrs.

Table 4 – Acoustic Assessment Summary

Receptor		Assessed Receptor Height (m)	Predicted Maximum Noise Level (dBA)			MECP Class 1 Noise Criteria		MECP Class 4 Noise Criteria	
ID	Description		Daytime	Evening	Nighttime	Daytime / Evening	Nighttime	Daytime / Evening	Nighttime
R1	Existing 2-storey Apartment	4.5	53.7	52.7	51.5	50	45	N/A	N/A
R1_OLA	Outdoor Living Area for the existing 2-storey Apartment	1.5	53.1	52	51.6	50	N/A	60	N/A
R2	Proposed 6-storey Residential Building	18	56.9	56.2	55.7	50	45	60	55
R3	Proposed 4-storey Residential Building	12	47.8	47.2	46.4	50	45	60	55
R4	Proposed 6-storey Residential Building	18	53.9	53.7	51.6	50	45	60	55

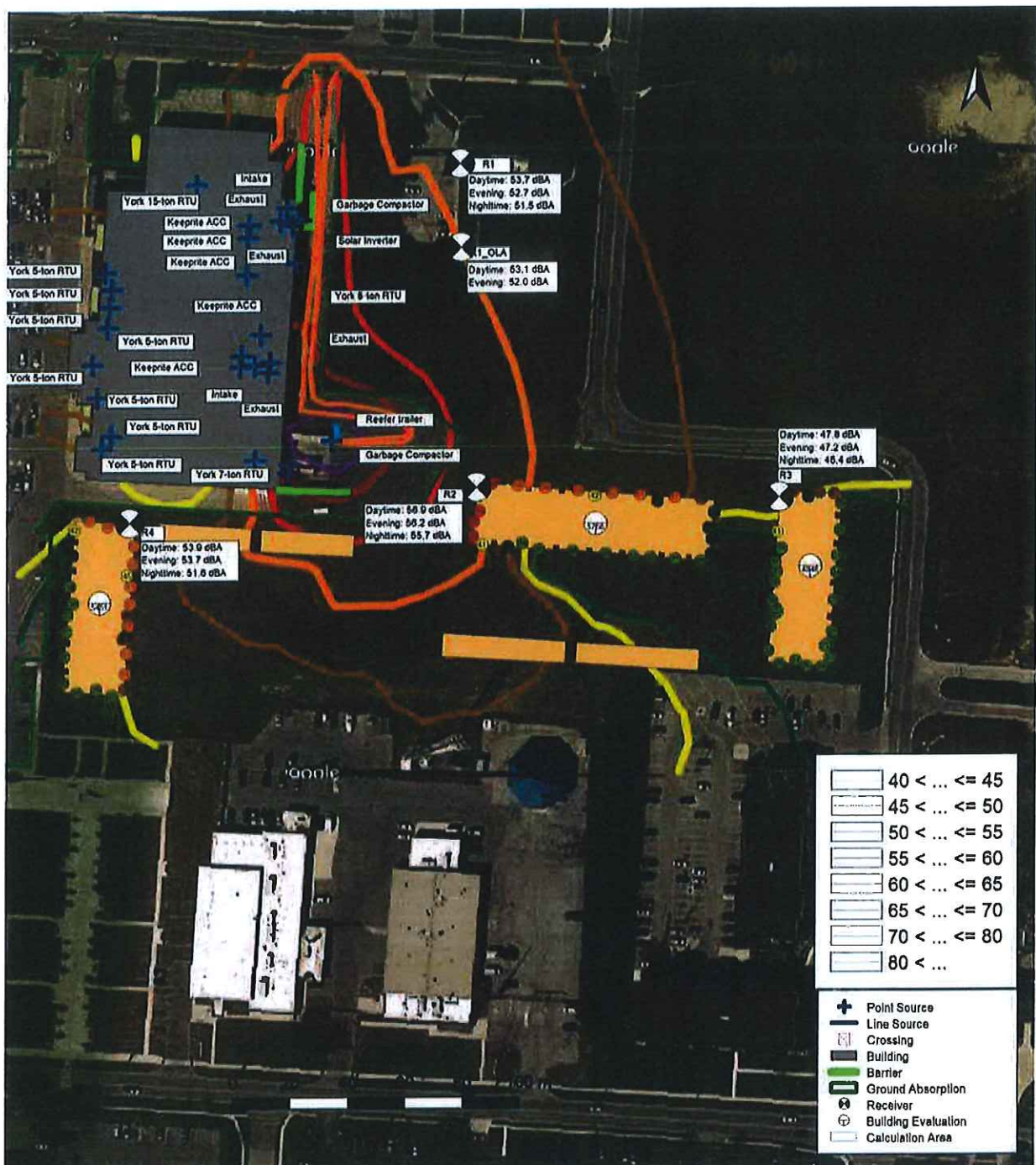


Figure 1 – Predicted Noise Level Contours and Receptor Noise Levels – Stationary Noise Impact

Approval Requirement for Stationary Noise Sources

The current regulation in Ontario requires that the nearby Zehrs store obtain a provincial approval for its current operations, specifically related to noise emissions. The requirement is triggered by the operation of the following sources at the site:

- Reefer trailers
- Rooftop units (e.g., chillers) used for in-store fridges and freezers (Considered process cooling)

Provincial exemptions under O.Reg. 524/98 do not apply for the Zehrs store and as such a site-wide Acoustic Assessment, demonstrating noise compliance at existing and proposed receptor locations is required.

If a Class 4 designation (in-fill) is granted for the proposed site, minor mitigations measures can be implemented either at the proposed residential buildings or at key dominant noise sources located at Zehrs to meet the nighttime noise criterion of 55 dBA.