



Meeting Date: September 8, 2021

Submitted by: Robert Cascaden, Director of Public Works and Engineering
Tim Williams, Senior Planner

Report No: PWE 26-2021

Subject: Request for Redesignation of Noise Classification for the lands north of the Wellness Centre; Filed by Design for Happiness

Recommendation:

THAT Report PWE 26-2021 regarding a noise classification request for 1 Tunks Lane be received;

AND THAT Request for re-designation of noise classification, filed by Design for Happiness, to permit a Class 2 to Class 4, be APPROVED;

AND FURTHER THAT a By-Law be passed to Designate Class 4 Areas as per Appendix A appended to Report PWE-26-2021.

Purpose:

This report is to provide Council with a recommendation regarding a proposal to re-designate the noise classification from Class 2 to Class 4 for a property located on the lands north of the Wellness Centre at the southwest corner of Railway Avenue and Tunks Lane. The land is legally described as Part lot 6, Concession 2, being Part of Part 2, 33R-11771, Being Part of PIN 09664-0250, Geographic Township of Lobo, Municipality of Middlesex Centre, and known municipally as 1 Tunks Lane.

A location map is included as Attachment 1.

Background:

The purpose and effect of the proposed re-designation will be to change to the Noise Classification for the property to recognize the suburban nature of the property and the proposal to provide infill residential townhouses on the subject lands. Council will recall that as part of the planning process for the DFH Development, a noise study was requested by the Municipality. The grain elevators (rail line) were highlighted as a potential noise source for consideration. Noise studies use the NPC-300 guideline

published by the Ministry of the Environment, Conservation and Parks (MECP) as a basis for maximum noise levels for sensitive noise sources (including residential). In October, 2013 the Ministry of Environment and Climate Control (MOECC now MECP) published a guideline, the Environmental Noise Guideline for Approval and Guidance (NPC-300) replacing four different noise guidelines. The new guideline provides the basis for proper control of sources of noise emissions. One of the purposes of the guideline is *“To provide advice, sound level limits and guidance that may be used when land use planning decisions are made under the Planning Act,”* and *“To provide sound level limits that are applied by the MOE to stationary sources, such as industrial and commercial establishments and auxiliary transportation facilities. Compliance with the sound level limits is required for existing, planned, new, expanded, or modified stationary sources of sound through an Environmental Compliance Approval”*.

One of the goals of the new guidelines is the attempt to resolve conflicts between stationary sources (industrial/commercial activity) and noise sensitive land uses (residential). One of the substantial changes is the introduction of a Class 4 Area, which 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 to promote intensification as compared to the typical Class 1 Area designation which is applied to residential areas.

As part of the NPC-300 guideline, area lands for study need to be categorized into one of four classes. Classes 1 to 3 are fairly straight-forward to determine. A Class 4 area classification is applied to urban and suburban settings where new sensitive uses are introduced such as an infill development and is applied on a site specific basis through a formal confirmation of the designation of the classification from the land use planning authority.

The attached request and this report is the start of this process with Council, a decision of passage of the associated by-law represents the completion of this process. The municipality, as planning authority, provides the formal recognition of the classification.

The subject lands are purposed for development of 69 townhouses in 15 blocks and is currently classified as a Class 2 – semi-urban. DFH has submitted a request to Council to classify their proposed development site as a Class 4 –Transitional Area designation. This will acknowledge and permit existing Ministry approved noise sources, which are deemed to impact the proposed sensitive land use. In other words, the residential area that is designated a Class 4 area can be subjected to higher noise levels.

When sources of noise are found to be higher than permitted in a classification, mitigation can be used by developers to meet the guidelines set by the MOECC. Examples of this are sound proofing building materials and sound barriers. In the proposal DFH has proposed modified exterior cladding (masonry) and noise wall at the end of unit 15 adjacent to that units back deck. A sketch of the proposal is included as Attachment 2.

The entire land is approximately 4.182 ha (10.33 ac) in area and currently vacant and most recently was used as agricultural land in crop production. The property has frontage onto Railway Avenue and Tunks Lane.

The property was the subject of an Official Plan Amendment and Zoning By-law Amendment that resulted in the property being subject to a site specific Official Plan Policy and within a site specific “Urban Residential Third Density (UR3-10) with holding symbols (h-2, h-3, h-9)” zone. One of the holds was to address the noise and vibration from the CN railway and the Masterfeeds Grain Elevator. The requirement to address this represents good planning in general but is also specifically noted in the Middlesex Centre Official Plan.

Consultation:

Notice of the request re-designation was circulated to the adjacent owners (Masterfeeds Inc.) on July 29, 2021. At the time of writing this report, no comments or concerns have been received.

Discussion:

The noise study submitted by DFH for their proposed development that reviewed the noise sources confirming that noise sources include CN rail line to the north and public road (surrounding) primarily to the south at Glendon Drive and the Masterfeeds grain elevator as requested by the Municipality. In the study, a Class 4 designation was recommended by HGC engineering. The submitted noise study shows there are levels of noise from the elevator that at times are above a Class 2.

Options for council;

- That the area remains a Class 2 and additional testing be done to determine noise levels. The developer will be required to introduce additional mitigation for the development to move forward with the current layout or significantly modify the site plan.
- That the area be classified as a Class 4.
- That no decision be made on the classification at this time and that a request for further justification from the developer of the need for a Class 4 designation be provided.

There are a few established activities in this area that emit noise as well as lands to the east of the subject lands that are currently under developed that could be developed in a manner that would generate noise and there is no desire to hinder these existing businesses. A Class 4 designation would make it easier for current and future businesses to function in this area. There is already existing residential properties along the north side of Railway Avenue near some of the noise sources with no mitigation.

It should be noted that Masterfeeds is required to complete an updated Noise Action Plan (NAP) and file this with the MECP to address the potential impacts on the existing residential lots which are a Class 2 designation. The completion of this NAP has been on hold pending the confirmation whether the lands at 1 Tunks Lane would be designated as Class 4.

It should also be noted as part of a Class 4 area, when property is purchased the buyer would be made aware of the possibility of higher noise levels with warning clauses registered on title.

There is a case for a Class 4 designation and Council does have the right to grant a Class 4. If the Class 2 designation remains in place the costs associated with mitigation for a small development may force the development not to move forward or may impose undue hardship for source noise mitigation on a long running business on adjacent lands. There is only one other example of other developments in the County that has been reclassified to a Class 4 area. The preference has always been not to go to Class 4 but to use mitigation to control the noise level.

To ensure the long term operation and viability of the existing industrial operations on the east side of Tunks Lane, staff are seeking Council's approval of the designation of the subject property as a Class 4 Area as defined by the Ontario Ministry of Environment, Conservation and Parks noise guidelines NPC-300. A Class 4 Area designation will allow for industrial and manufacturing operations to use this noise classification and sound level limits in applications for required provincial approvals including operating certificates.

IBI Group is the Municipality's third party reviewer of the noise report and has not raised any concerns with the final report or the report's recommendation to re-designate the site to Class 4. In light of this, staff are supportive of the proposed re-designation to a Class 4 Area be made by Council Resolution.

Financial Implications:

The change of designation to a Class 4 area will have no direct financial impact to the Municipality. Indirectly, there will be a longer term financial benefit from the facilitating the development of the subject lands.

Strategic Plan:

This matter aligns with following strategic priorities:

- Balanced Growth
- Responsive Municipal Government

Council approval of this recommendation is a step towards increased infill development to diversify the local housing options while taking measures to lessen the impact existing, established local businesses.

Attachments:

Attachment 1 – Location Map

Attachment 2 – Sketch of Proposed Mitigation

Attachment 3 – Request for Re-designation from DFH

Attachment 1 – Location Map

Design for Happiness Inc., Part lot 6, Concession 2, being Part of Part 2, 33R-11771, Being Part of PIN 09664-0250, a Parcel of approximately 10 acres, Geographic Township of Lobo, Municipality of Middlesex Centre.



Attachment 3 – Request for Redesignation from DFH



June 21, 2021

Michael Di Lullo,
Chief Administrative Officer
Municipality of Middlesex Centre
10227 Ilderton Road
Ilderton, Ontario, N0M 2A0

Dear Michael,

RE: Request for Class 4 area designation

Please consider this letter an official request for the reclassification of the Wellness Centre Lands to be developed by Design for Happiness (DFH) Inc., from a Class 2 area to a Class 4 area under the Ministry of the Environment Conservation and Parks, Environmental Noise Guidelines (NPC-300).

This reclassification is required to meet the vision and objectives set forth in RFP# CAO 2-2017, issued by the Municipality of Middlesex Centre and awarded to DFH. Due diligence by both the municipality and DFH have discovered higher than expected stationary noise generated by a local agricultural processing plant. To proceed with the intended housing development a reclassification to Class 4 is one of the items necessary to fulfill our shared vision. For additional information on the noise levels and mitigation techniques, please refer to the Noise & Vibration Feasibility Study and Memorandums issued by HGC Engineering included in our Site Plan Application documentation submitted to Middlesex Centre.

Our commitment to our shared vision with Middlesex Centre on this project remains steadfast and we look forward to hearing from you and continuing to move this important project forward.

Yours truly,

A handwritten signature in black ink, appearing to read "Ken Stuart".

Ken Stuart, M.E.Sc., P.Eng.
Chief Operating Officer,
Design for Happiness (DFH) Inc.

Cc'd: Rob Cascaden, Tim Williams, Jake DeRidder

Design For Happiness (DFH) Inc.
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