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Ontario Ministry of the Environment, Conservation and Parks NPC-300 Guideline 17645 Yonge Street Staff Report to Council

Report Number: 2021-54

Department(s): Planning and Building Services

Author(s): Meghan White

Meeting Date: August 23, 2021

Recommendations

1. That the report entitled Ontario Ministry of the Environment, Conservation and Parks NPC-300 Guideline – 17645 Yonge St dated August 23 2021 be received; and,
2. That the designation of 17645 Yonge St to a Class 4 Noise Area be approved; and,
3. That Council approve the By-law, substantially in accordance with Attachment 1, authorizing the designation; and,
4. That Redwood Properties, 330 New Huntington Rd, Suite 201, Vaughan ON L4H 4C9, be notified of this action; and,
5. That Groundswell Urban Planners Inc. 30 West Beaver Creek Rd Unit 109, Richmond Hill ON L4B 3K1, be notified of this action; and,
6. That the owners of 17725 Yonge Street and their tenant, Food Basics, be notified of this action; and
7. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

Purpose of this report is to recommend the classification of 17645 Yonge Street as a Class 4 Area to acknowledge the existing surrounding noise sources.

Background

As Council is aware, there is a development proposal for three buildings on the subject lands (17645 Yonge Street). The development proposal has been in progress since approximately 2012, and it has been through several Planning Act applications, with two different owners, and it is now nearing the end of the site plan approval; it is now in the detailed design phase. A thorough review of noise levels has been undertaken by the Town's Consulting Engineer R.J. Burnside & Associates (RJB).

The Ontario Ministry of the Environment, Conservation and Parks (MECP) provides guidance to what is acceptable noise levels for developments. Typically, when new residential units are proposed, the applicant must demonstrate that the noise levels at the residences are within acceptable levels in accordance with the MECP Noise Guideline.

In 2013, the MECP released a new guideline Publication NPC-300, "Environmental Noise Guideline – Stationary and Transportation Noise Sources – Approval and Planning (NPC-300)". As infill developments have become more prevalent in the province, there is an acknowledgment that the previous guideline has not provided adequate consideration for infill development and at times there are situations where external noise cannot be fully mitigated to the standards accepted in greenfield developments due to existing surrounding uses.

One of the significant changes of the new guideline was the introduction of a new area classification designated as Class 4 Area. Area classification is based on the acoustic environment typical for the specific area; whether it be urban area (Class 1 Area), rural area (Class 3 Area), or a mixture of both (Class 2 Area). Class 4 Area intends to capture new developments in close proximity to existing commercial/industrial operations. NPC-300 clearly defines the requirement for the introduced new Class 4 Area. An area can be designated as Class 4 Area by the land use planning authority if following conditions are satisfied:

- an area otherwise would be defined as Class 1 or 2 Area,
- an area is intended for development with new noise sensitive receptors that are not yet built,
- areas with existing noise sensitive land use cannot be reclassified,
- an area with existing noise sensitive land uses is replaced, redeveloped or rebuilt, and,
- an area is in proximity to existing, lawfully established stationary sources.

NPC-300 permits less stringent noise criteria for Class 4 Areas. Typically for Class 1 to 3 Areas, acceptable sound levels at the residence assumes the windows to be opened, while the limits for a Class 4 Area assumes the windows to be closed; therefore, the level of acceptable noise from surrounding uses can be higher.

Classifying an area as Class 4 is generally achieved through formal confirmation from the land use planning authority (i.e., Council) during the planning process. Examples of such confirmation could include:

- Official Plan Designation/Amendment,
- Section 37 Agreement under Planning Act, or
- Zoning by-law provision.

Discussion

For this case specifically, the applicant attempted to work with the established adjacent commercial use to mitigate noise from their mechanical units located on the roof; however, that work was not successful and it was determined that designating the property as a Class 4 Noise Area was the best approach.

In this instance, staff are bringing forward a separate report and by-law outside the processes mentioned in the previous section, as the decision to proceed with the re-classification was made after the other processes had been completed.

The proposal meets the conditions required by the Ministry as follows:

1. An area otherwise would be defined as Class 1 or 2 Area:

This property is typically considered a Class 1 Area as it is in an urban area.

2. An area is intended for development with new noise sensitive receptors that are not yet built:

The residential units have not yet been constructed and the Official Plan and Zoning By-law allow for residential development.

3. Areas with existing noise sensitive land use cannot be reclassified:

There are currently no residential units, or other sensitive land uses on the property.

4. An area with existing noise sensitive land uses is replaced, redeveloped or rebuilt:

This condition is not applicable as the proposal is not replacing, redeveloping or rebuilding existing noise sensitive land uses.

5. An area is in proximity to existing, lawfully established stationary sources:

The established stationary sources, the mechanical equipment from the plaza to the north, are lawfully established in that they are permitted uses under the Zoning By-law.

To further ensure that future residents are aware of the possible noise exceedance by pre-existing conditions and to mitigate it as much as possible the Site Plan Agreement will include clauses that will address: physical mitigation measures to limit the amount of noise transfer, adherence to the Ministry's requirements to contact the surrounding emitters, proof from an acoustical consultant that the appropriate measures have been installed, and that all Purchase and Sale Agreements or Lease Agreements have warning clauses about potential noise annoyances and excesses.

Conclusion

In conclusion, it is advisable to designate the property, 17645 Yonge Street, as a Class 4 Area to allow for less stringent noise criteria on the subject property as deemed appropriate in accordance with the MECP Guideline NPC-300. The applicant will be held to account for providing physical mitigation measures and warning clauses to purchasers through wording in the Site Plan Agreement.

Business Plan and Strategic Plan Linkages

Vibrancy on Yonge and Mulock.

Consultation

Engineering Services has been consulted.

Human Resource Considerations

None.

Budget Impact

None.

Attachments

1. Draft By-law authorizing the re-designation.

Approval

Adrian Cammaert, Manager Planning Services

Jason Unger, Director Planning & Building Services

Contact

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