

## 4181 Sheppard Avenue East – Class 4 Noise Area Classification (NPC-300) – Final Report

<b>Date:</b>	May 26, 2017
<b>To:</b>	Scarborough Community Council
<b>From:</b>	Director, Community Planning, Scarborough District
<b>Wards:</b>	Ward 41 – Scarborough-Rouge River
<b>Reference Number:</b>	12 262328 ESC 41 OZ & 14 119126 ESC 41 SB

### SUMMARY

This report recommends that City Council classify the townhouse blocks within a draft plan of subdivision as described below as a Class 4 noise area under relevant provincial noise guidelines.

The Ontario Municipal Board (OMB) recently issued a Decision approving in principle, a City-supported zoning by-law amendment and draft plan of subdivision conditions. The development proposal will subdivide and rezone a 1.9 hectare (4.7 acre) site in order to create five residential development blocks for 80 townhouse units, a new public road system, a public park, a future mixed use development block, and a block adjacent to the Canadian Pacific Railway (CPR) to accommodate an integrated noise wall and detached garages.

All parties to the OMB hearing (City, applicant and a nearby industrial operator, The International Group Inc.) agreed that the OMB should withhold its Order until specified matters, intended to ensure land use compatibility, are properly secured. One of those measures involves this recommended Class 4 classification.

A Class 4 noise area classification allows for higher daytime and night-time sound



level limits than would otherwise be permitted in relation to a noise sensitive land use such as residential dwellings and associated outdoor living areas. The impact of such higher levels is mitigated by specified noise control measures.

Environmental noise impact assessments prepared in support of this development confirm that the townhouse blocks within the proposed plan of subdivision can be appropriately considered for a Class 4 noise area classification provided specific noise control measures are incorporated within the design of the development. Required measures will be secured in the site specific zoning by-law amendment, draft plan of subdivision conditions and site plan approval as appropriate. Further, the owners and the nearby industrial operator have agreed to specific conditions to be included in agreements registered on title related to the provision and maintenance of these specific noise control measures.

A Class 4 Noise Area classification will allow for The International Group (IGI) to use this noise classification and sound level limits in applications for required provincial approvals.

## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. City Council classify the lands municipally known as 4181 Sheppard Avenue East, being subject to draft plan of subdivision approval in Plan of Subdivision Application No. 14 119126 ESC 41 SB, as a Class 4 Noise Area pursuant to Publication NPC-300 (MOECC Environmental Noise Guideline – Stationary and Transportation Sources – Approval and Planning) with the exception of Blocks 6, 7, 8 and 9 on the draft plan of subdivision as shown on Attachment 1 to this report.
2. The Chief Planner and Executive Director, City Planning or her/his designate be directed to provide a copy of the City Council Decision Document to the Ministry of Environment and Climate Change (MOECC), International Group Inc. and to Freedent Sheppard Inc. in accordance with the Ontario Municipal Board Order issued May 11, 2017 (Case No.: PL150001).

### **Financial Impact**

The recommendations in this report have no financial impact.

## **DECISION HISTORY**

### **City Council**

City Council, on March 28, 2017, adopted the staff recommendations contained within a Request for Direction Report prepared for these zoning by-law amendment and plan of subdivision applications after they had been appealed to the Ontario Municipal Board

(OMB) by the owner citing Council's failure to make a decision within the prescribed time frames set out in the *Planning Act*.

The Request for Direction Report and City Council decision can be found at this link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.MM27.51>

### **Ontario Municipal Board**

An OMB Hearing was held on April 25, 2017. The City and the appellant, with the consensus of the nearby industrial land owner, supported Council's position at the settlement hearing. On May 11, 2017, the OMB issued a Decision approving in principle, considerations for a site specific zoning by-law amendment and draft plan of subdivision conditions. The OMB will withhold its Order until a number of specific pre-conditions are satisfied. One of these conditions is a requirement that City Council designates the development site, with the exception of Blocks 7, 8 and 9 on the draft plan of subdivision, as a Class 4 area pursuant to NPC-300 (Provincial Noise Guideline).

A related appeal of the site plan control application was adjourned indefinitely with an expectation that the City will inform the OMB of the status of the site plan review at regular intervals.

The OMB Decision can be found at this link: <http://www.omb.gov.on.ca/e-decisions/pl150001-may-11-2017.pdf>

After the issuance of the OMB Order, it became apparent that Block 6 should also be excluded from the Class 4 noise area classification as it will not contain any noise sensitive land uses. All parties are agreeable to this and the OMB will be advised accordingly.

## **ISSUE BACKGROUND**

### **PROPOSAL**

The zoning by-law amendment and draft plan of subdivision applications propose the creation of five (5) residential development blocks containing 80, four storey townhouse units, a future mixed use areas block, a public park block, a block adjacent to the Canadian Pacific Railway CPR) to accommodate an integrated noise wall and detached garages, and a new public road network (see Attachment 1).

Details are contained in the Request for Direction report. For ease of reference, relevant development details are included below.

Blocks 1 through 5 are proposed to accommodate a total of 80, four storey townhouse units of different styles and tenure types. Parking spaces are provided within either an integrated garage, an underground parking structure or garages provided within an integrated multi-garage/noise wall structure(s) abutting the CPR rail corridor on Block 6.

**Block Summary:**

Block No.	Area (square metres)	Proposed Use
Block 1	400.51	7 townhouse units
Block 2	669.18	13 townhouse units
Block 3	822.04	12 townhouse units
Block 4	1492.88	20 townhouse units
Block 5	1347.56	28 townhouse units
Block 6	2144.75	garages/noise wall
Block 7	283.73	road widening
Block 8	3172.64	future mixed use
Block 9	1066.67	Park

The proposed public street system, including right-of-way widths (R-O-W), is as follows:

- Street A: 14.8 metre R-O-W, north-south street along the west limit of the site which intersects with Sheppard Avenue East and is intended to have an ultimate R-O-W of 18.5 metres should the adjacent lands at 4171 Sheppard Avenue East be redeveloped.
- Street B: 18.5 metre R-O-W, east-west street intersecting with Midland Avenue and terminating at Street A. This maintains the option for a future extension west onto the 4171 Sheppard Avenue lands to achieve a planned road link to Lamont Avenue.
- Street C & D: 16.5 metre R-O-W, streets servicing proposed townhouse units on Blocks 1 to 5.
- Street C: 16.5 metre R-O-W, located on the south portion of the site and providing (south leg) access to the proposed integrated garage/noise wall structures on Block 6 abutting the CPR rail corridor.

**Site and Surrounding Area**

The site is located at the south-west corner of Sheppard Avenue East and Midland Avenue and is approximately 19,440 square metres (1.9 ha) in area. The site has approximately 91 metres (298.5 feet) of frontage on the south side of Sheppard Avenue East and approximately 146 metres (479 feet) of frontage on the west side of Midland Avenue. Midland Avenue slopes to the south in order to cross under the Canadian Pacific Railway (CPR) tracks. The site, historically, has had three vehicular access points, two full turn accesses from Sheppard Avenue East and one from Midland Avenue which is right-in, right-out only due to the presence of a median.

A vacant, one storey building is located on the site. The site was previously occupied by a Lumber King Home Centre and later by a flea market use, along with related surface parking. A gas station was previously located at the north-east portion of the property. Used car sales were also conducted from the site.

The site has been entirely fenced (chain-link) for some time, initially to accommodate on-site soil testing and remediation.

Abutting uses are as follows:

North: Retail commercial uses on the north side of Sheppard Avenue East, along with a funeral home use and related surface parking.

South: The CPR line runs parallel to the south property line. To the south of the CPR line are various employment related uses located on Midland Avenue and Weybright Court.

East: A one to two storey commercial building containing office and retail uses at the south-east corner of Sheppard and Midland. An industrial facility (IGI) is located east of Midland Avenue and south of the CPR corridor on both sides of Salome Drive.

West: Bell Canada office and switching station. The rear portion of the site is vacant.

### **Provincial Noise Guidelines**

New provincial noise guidelines (NPC-300) were introduced in 2013 which replace and consolidate previous related guidelines. Among other matters, the guidelines provide advice, sound level limits and guidance that may be used when land use planning decisions are made under the *Planning Act*. They are intended to minimize the potential conflict between noise sensitive land uses and sources of noise emissions. Generally, the proponent of a new noise sensitive land use is responsible for ensuring compliance with applicable sound level limits.

### **Class 4 Noise Area**

The above-noted guidelines introduce the option of a new acoustical environment area to be established where relaxed (higher) daytime and night time sound level limits from that otherwise permitted in an urban area, for both indoor and outdoor areas, may be considered. Areas with existing noise sensitive land use(s) cannot be classified as Class 4 areas. A Class 4 area permits receptor based noise control measures to be used within a proposed new sensitive land use within the vicinity of an industrial use.

Class 4 areas require formal confirmation of the classification by the land use planning authority. City Council is considered to be that authority.

Only the proposed townhouse blocks (Blocks 1 to 5) on the draft plan of subdivision (see Attachment 1) warrant a Class 4 area classification at this time as they will contain residential dwelling units which are a noise sensitive land use.

Excluded from this consideration are blocks on the draft plan of subdivision where no noise sensitive land use permissions are proposed including: Block 6 (noise wall and integrated garages), Block 7 (road widening), Block 8 (future mixed use areas block) and Block 9 (park).

The park (Block 9) has been excluded as it is not considered a development site. This does not preclude the City's ability to design and program the park to address adjacency matters as appropriate.

## **COMMENTS**

### **Required Environmental Mitigation Measures**

An environmental noise impact assessment was submitted in support of the development applications and a peer review was conducted by noise consultants retained by a nearby industry on Salome Drive (The International Group Inc.), which had party status at the OMB hearing. Both reports confirm that the townhouse blocks within the proposed plan of subdivision can be appropriately considered for a Class 4 noise area classification by the City, provided specific noise control measures are incorporated within the design of the development.

A Class 4 Noise Area classification will allow for The International Group (IGI) to use this noise classification and sound level limits in applications for required provincial approvals.

In tandem with the Class 4 area classification, specific measures are required to be incorporated into the townhouse development and included in the planning approvals and related agreements.

Although the purpose of this report is solely to have Council confirm a Class 4 noise area under provincial guidelines for the proposed townhouse blocks, air quality information has also been included below as some of the recommended mitigation measures address potential adverse effects related to both potential odour and noise emissions.

### **Air Quality**

The following mitigation measures are recommended to reduce the potential impact of IGI odour emissions on the proposed development:

- warning clauses on title;
- central air conditioning for all units;
- all air intakes for central air conditioning serving dwelling units to be located away from and protected from IGI emissions;
- all dwelling units shall have heat recovery units with fresh air intake receivers to be located from and protected from IGI emissions; and
- no rooftop patios, terraces and building balconies on buildings closest to IGI, being Blocks 1, 2, 3 and the east face of Block 4.

### **Noise**

The following mitigation measures are recommended:

- central air conditioning for all units;

- exterior building components on specific dwelling units on specific blocks are required to meet minimum acoustic insulation factors;
- exterior walls of all dwelling units shall be finished entirely with brick veneer or acoustically equivalent light frame construction material;
- rooftop patios and/or top floor balconies may be considered optional;
- despite the inclusion of noise control features within the development: that numerous warning clauses be included in agreements and offers of sale and purchase or lease relating, but not limited, to: surrounding stationary noise sources and nearby rail operations; sound levels from increasing road and rail traffic; and nearby industrial facilities (and specifically IGI).

The City will also require that a warning clause be included in agreements and offers of sale and purchase or lease advising residents and tenants of the townhouse development that these lands have been formally classified as a Class 4 area by the City and that higher sound level limits are permitted .

The zoning will also limit the maximum height of the townhouse dwelling units to four (4) storeys in height.

### **Site Plan Control**

A site plan control application has been filed and was appealed to the OMB. As noted earlier, the OMB has adjourned the site plan approval indefinitely.

Required noise and air quality (odour) control measures, as appropriate, will be secured through the site plan approvals process. A Noise Control Conformance stamp, by a qualified acoustical engineer, confirming that the recommended measures are included on the plans, will be required.

### **CONTACT**

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### **SIGNATURE**

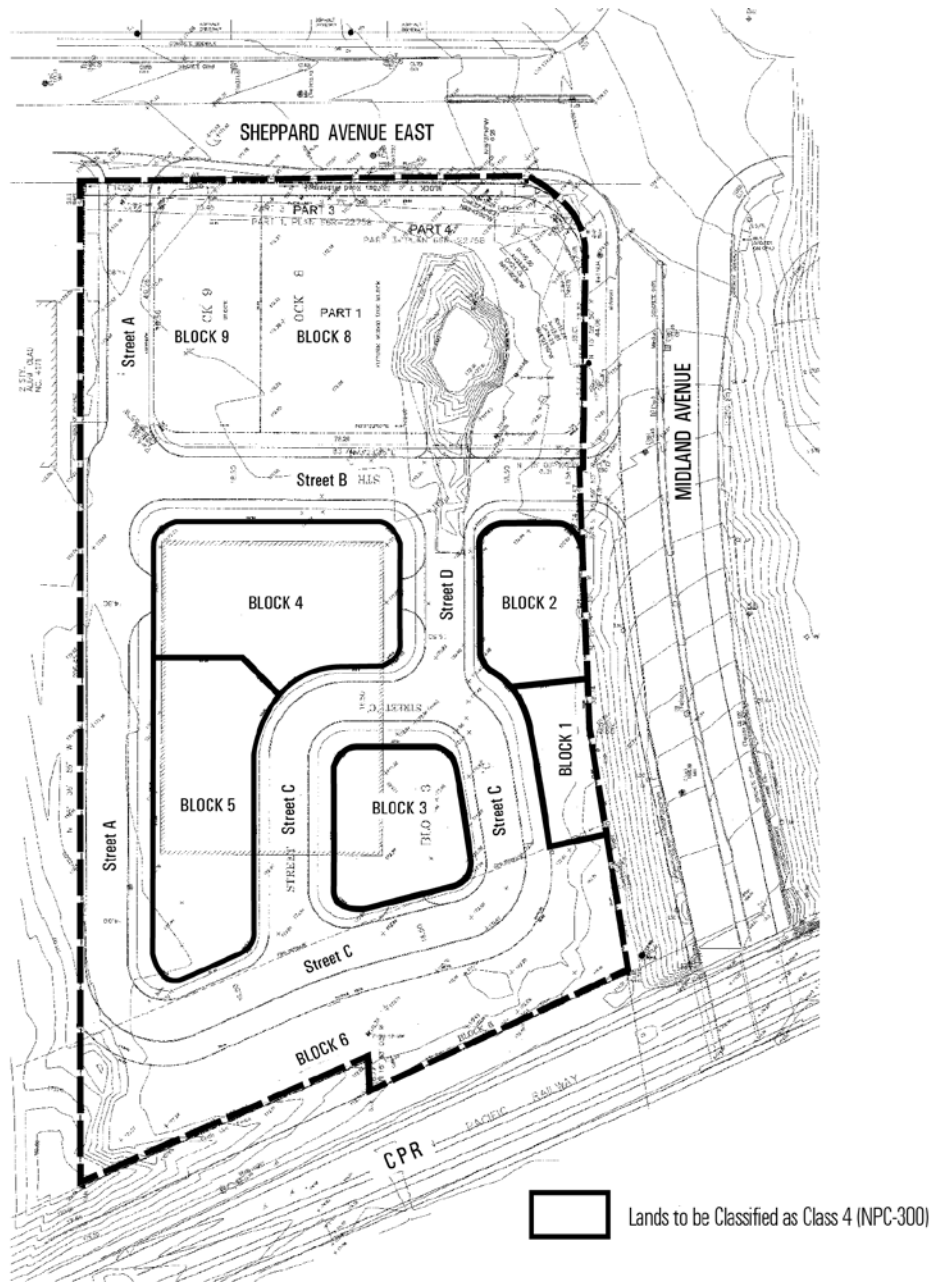
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Paul Zuliani, Director  
 Community Planning, Scarborough District

### **ATTACHMENTS**

Attachment 1: Draft Plan of Subdivision (Class 4 Areas)

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### Subdivision Plan

Applicant's Submitted Drawing

Not to Scale  
03/08/17



4181 Sheppard Avenue East

File # 14 119126 ESC 41 SB