



July 11, 2025

349-20

Via Email

Dhruv Mehta, RPP, MCIP, MSc
Development Planner II

City of Hamilton,
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

Dear Mr. Mehta,

**RE: Request for Class 4 Area Noise Designation
338 & 338 ½ Cumberland Avenue, Hamilton – ZAC-22-049**

UrbanSolutions Planning & Land Development Consultants Inc. (“UrbanSolutions”) is the authorized planning consultant acting on behalf of Sam’s Scrap Metal Ltd. c/o Mr. Frank Bisignani, the registered owner of the lands municipally known as 338 & 338 ½ Cumberland Avenue in the City of Hamilton (“Subject Lands”).

Background

On June 28, 2022, UrbanSolutions made a comprehensive submission in support of the subject Zoning By-law Amendment application (ZAC-22-049), for a proposed development concept consisting of thirteen (13) townhouse dwellings across two (2) separate blocks. This submission included a Noise and Vibration Impact Study (“NVIS”) prepared by Thornton Tomasetti which assessed the noise and vibration impact on the proposed development from surrounding noise and vibration sources (mainly the abutting Canadian Pacific Kansas City (CPKC) Kinnear Rail Yard located south of the subject site).

Technical review comments were received from City staff and external agencies in October 2022, and a revised NVIS was included within a comprehensive resubmission made on May 15, 2023. As recommended by staff, this iteration of the Study was updated to include an analysis of the proposed development in accordance with the MECP requirements for a Class 4 Noise Area (“Class 4 Area”), as well as a Letter prepared by UrbanSolutions requesting Council’s permission to redesignate the subject lands to a Class 4 Area.

In light of this request, City Planning staff retained RDWI to conduct a Peer Review of the updated NVIS, which was completed on November 10, 2023. This Peer Review contained an assessment of the request for Class 4 Area designation as well as additional information and associated requirements. The enclosed submission package includes an updated NVIS, a revised development concept, as well as a corresponding Comment Matrix prepared by Thornton Tomasetti in response to concerns raised in RDWI’s Peer Review.

This Letter is intended to build-off the previous iteration included within the above-noted May 2023 resubmission package by providing additional information in support of the requested redesignation of the subject lands from a Class 1 to a Class 4 Noise Area.

Applicable Provincial Guidelines

The Ministry of the Environment, Conservation and Parks (MECP) has established guidelines for addressing noise issues related to land use planning. In 2013, the MECP released “Environmental Noise Guideline, Stationary and Transportation Sources – Approval and Planning (Publication NPC-300)” which replaced the previous guidelines. The NPC-300 introduced the Class 4 Area designation which allows for higher daytime and nighttime sound level limits than would otherwise be permitted in relation to noise sensitive land uses and associated outdoor living areas. This designation is intended to allow for residential infill and redevelopment in proximity to existing stationary noise sources, while ensuring that appropriate noise control measures are employed to protect residences from undue noise.

Noise & Vibration Impact Study

Among other measures, the enclosed NVIS prepared by Thornton Tomasetti recommends that a request be submitted to Planning Committee to redesignate the subject lands from a “Class 1” to a “Class 4” area to sufficiently address noise concerns. While not a mitigation measure in and of itself, this designation permits NPC-300 guidelines to be applied to the sound levels measured on the *interior* wall of the proposed building rather than the *exterior* wall, thus allowing for a wider array of on-building mitigation measures (including upgraded façade materials, window glazing, and enclosed noise buffers) to be considered in determining appropriate noise levels on-site.

As noted in Section 4.3.1 of the NVIS, the project *can* meet the criteria set out by the MECP for Class 4 area designation, which are as follows:

- The Project would normally be defined as a Class 1 or Class 2;
- The Project is a new development of noise sensitive land uses, on a site that has not previously been noise sensitive;
- The Project is impacted by existing, lawfully established stationary noise sources; and,
- The Project needs a formal confirmation from the Land Use Planning Authority (LUPA) that the Class 4 designation is/will be approved.

Additionally, the Report indicates that LUPAs typically only approve Class 4 designations when all other options for compliance have been exhausted. The following mitigation measures were considered and ultimately determined to be unfeasible for the proposal:

Increased Noise Barrier

The height and extent of the noise barrier (located at the rear lot line shared with the CPKC Rail Yard) required to meet NPC-300 noise levels (for a Class 1 area) at the exterior façade of the proposed building were determined to be unfeasible and would not meet the applicable urban design characteristics and objectives related to massing and compatibility contained in Section 3.3 of the Urban Hamilton Official Plan.

Architectural Design

Additionally, mitigation measures through architectural design (such as the removal of south-facing windows) were also considered and ultimately determined to be unfeasible. The Ontario Building Code (“OBC”) requires all bedrooms and living rooms to contain a minimum percentage of windows due to the importance of natural light to health and wellbeing. Accordingly, the possibility for blank walls or the removal of windows into habitable rooms is not feasible, as such would not meet the minimum standards for natural light exposure.

Mitigation Measures at the Source

Given that Class 1 areas require NPC-300 noise limits to be met at the exterior façade of a building, the potential for effective on-site mitigation beyond the proposed noise barrier is limited. Additionally, CPCK was contacted by Thornton Tomasetti to explore the possibility of implementing off-site mitigation measures (on CPCK lands) and based on the correspondence, the Study concludes that there is no option to reduce the predicted noise impacts through this approach.

Class 4 Noise Area Designation Request

Alternatively, Council can approve this request to redesignate the subject lands from a Class 1 to a Class 4 area which allows for minor exceedances from the standard Class 1 and 2 requirements. The Class 4 area designation has been used previously on future residential development projects in proximity to existing industrial noise sources, including those located in proximity to Pier 6, 7, and 8. As this is a common scenario within the Downtown Secondary Plan Area, Council has passed a general resolution in response to various delegations over the years to allow the City’s Chief Planner to deem an area a ‘Class 4 area’ through the subsequent Site Plan Control application process.

The enclosed Study recommends several mitigation measures which collectively allow the proposal to comply with the applicable NPC-300 requirements for transportation and stationary noise sources. In addition to the redesignation to a Class 4 area, such include:

Central Air Conditioning

One mitigation measure includes the use of Central Air Conditioning for all proposed units, in combination with acoustically enhanced windows and wall construction. This would allow future residents to remain comfortable during warmer months with a combination of both operable and non-operable windows.

Noise Barrier

The enclosed NVIS also recommends the construction of a 3.0 metre tall noise barrier with returns along the east and west boundaries, in addition to the proposed 6.5-metre-tall crash wall recommend by the enclosed Development Viability Assessment prepared by GHD. These noise barrier wall extensions are proposed to extend 24 metres north of proposed crash wall’s easterly termination point and 15 metres north of the wall’s westerly termination point, as shown in Figure 3 of the enclosed

NVIS. These extensions are to be constructed with a sound absorptive side facing the subject site and appropriately designed to withstand wind and snow loads. To improve the visual characteristics of the barrier, the Study also recommends the inclusion of transparent elements and or landscaped soil berms subject to meeting the above-noted conditions. These finer details will be explored and secured through the future Site Plan approval process.

Enclosed Noise Buffers

Another recommended mitigation measure is the inclusion of enclosed noise buffers (“ENBs”) on the windows of noise sensitive spaces along the east, south, and west sides of the proposed building. Such would comprise of an enclosed buffer balcony area with the outer-most set of windows being inoperable and the inner-most windows being operable. The objective of an ENB is to attenuate sound levels at the outer place of the window glazing in order to comply with NPC-300 noise requirements for Class 4 areas. As noted by Thornton Tomasetti, ENBs have been previously accepted by Land Use Planning Authorities on high-rise buildings, townhouses, and detached homes located in proximity to rail yards. For more information on the specifications of such barriers, please refer to Section 4.3.4.2 of the enclosed NVIS prepared by Thornton Tomasetti, as well as the enclosed Elevation Drawings prepared by KNYMH Architects.

Warning Clauses

In addition to the above-noted measures, the Study also recommends the inclusion of the following Type E and Type F Warning Clauses within future Development and Rental Agreements:

- **Type E:** *“Purchasers/tenants are advised that due to the proximity of the adjacent rail yard, noise from the rail yard may at times be audible.”*
- **Type F:** *“Purchasers/tenants are advised that sound levels due to the adjacent Railyard are expected to comply with the sound level limits that are protective of indoor areas and are based on the assumption that windows and exterior doors are closed. This building has been supplied with a ventilation/air conditioning system which will allow windows and exterior doors to remain closed.”*

A combination of these measures can easily be implemented on site to ensure compliance with NPC-300 guideline limits for Class 4 Area designated properties. The construction of the proposed noise barrier will provide significant buffering for outdoor areas, while upgraded façade and glazing materiality, as well as the installation of ENBs would allow each unit to achieve the required indoor noise levels without having to sacrifice access to natural light. It should also be noted that these specific mitigation measures will be evaluated through a more detailed review process at the future Building Permit stage, wherein specific window and material performance details will be confirmed in coordination with the project noise consultant and the City to ensure compliance with both municipal and MECF standards.

As the subject lands are located outside of the Downtown Secondary Plan area, we are requesting direction from Planning Committee to approve a Class 4 area designation for the subject lands to recognize the existing noise conditions associated with the adjacent CPOK Railyard.

Should you have any questions or require anything further, please do not hesitate to contact the undersigned.

Kind Regards,
UrbanSolutions



Matt Johnston, MCIP, RPP
Principal



Matthew LeBlanc, MPL, BA (Hons)
Planner

cc: Sam's Scrap Metal Ltd. c/o Mr. Sam Bisignani