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**Date:** January 30, 2019

**To:** Mayor and Council

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**RE:** Compliance Timeline – 281 Main St W.

**Report No.:** PDS 2019-005

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## **AIM**

To provide the Mayor and Council with a background timeline regarding the compliance of 281 Main St. W with the noise requirement provisions in the approved site plan agreement.

## **BACKGROUND**

In May of 2017 Council granted two approvals for the development of a commercial property at 281 Main St. W. Site plan approval for the development of a combination, lube shop, carwash and laundromat along with a zoning amendment to remove the H-Holding Symbol.

During the review process concerns were raised with the development, particularly the carwash given its placement and potential for traffic and noise that would impact on residential lands to the west. To specifically address the noise research was undertaken to determine what the existing noise levels were in the area and what was considered an acceptable level in several other similar development settings. On site noise levels were measured and it was determined that the general low-end ambient noise level was 60 dBs. This is the level of most typical conversions. This is not to say that the noise levels in this area are always at this level. The range during both the initial site visit and subsequent visits since have seen the level vary from 55 to 80 dBs. Requirements for noise are based on the lowest level of ambient noise at a site during the noise generators hours of operation. In other words, if you operate between 6 am and 11 pm and the lowest ambient noise level is 55 dBs then that is the recommended upset limit at a residential property line. However, based on researching other carwash developments in a variety of locations the standard in each case was 60 dBs. As such it was outlined in the site plan agreement that the property owners would have to maintain a standard of not more than 60 dBs at the nearest residential lot line.

## **DISCUSSION**

The carwash on the site became operational in May of 2018 and immediately staff received noise complaints. Prior to this there had been no information submitted to planning staff for review and no notification of the opening or request to review noise levels prior to operation. The site was visited immediately and levels measured at over 85 dBs. The owners were notified that corrective actions were necessary as per the agreement.

The owners did take actions in the form of installing silencers on four of the six dryer units in the carwash within about 4 to 6 days. Re-measurement was completed. Some improvement was noted but it was still not within the required 60 dBs. The owners installed silencers on the remaining two dryer units and repositioned the lower mounted units further from the door. Noise levels were tested again May 17<sup>th</sup>. A significant improvement in the noise level was noted but still not at or below the 60 dBs mark.

At this point the owners contested that they should not have to be quieter than the upper ambient noise level which was generally in the 70 to 75 plus dBs range for the area. They did several tests and provided information on noise levels at the carwash and typical ambient noise levels in the area around the carwash. This was reviewed by staff and although there was some agreement with their argument it was only limited to the hours of 8am to 6pm when ambient levels are higher. After this timeframe the 60 dBs level would still be applicable. They were advised if their hours of operation were limited to 8am to 6pm that there might be agreement to amend the site plan however, this would require Council approval. The property owners took no further actions at this point.

The owners were provided with letters on July 5, August 10 and December 4 all advising that corrective actions had to be taken. The only reply to these was after the July 5<sup>th</sup> letter that was outlined above. The most recent letter was sent January 7<sup>th</sup> from Planning Services legal counsel advising that full enforcement actions were to be taken including contracting Dillon Consulting to undertake a review of the situation and advise what corrective actions were necessary to resolve the issue.

The owners did reply to the January 7<sup>th</sup> letter suggesting actions that could be taken however the Town's position is that whatever actions are taken need to be prepared by a qualified person with some form of demonstration that those actions will resolve the noise issue prior to completing any additional work.

## **LINK TO STRATEGIC PLAN**

There is no link to the Strategic Plan.

## **FINANCIAL CONSIDERATIONS**

All legal, engineering and corrective actions required to comply with the site plan agreement will be the responsibility of the owners.

## **CONSULTATIONS**

In consultation with the CAO and Director of Corporate Services there is general agreement that the owners took no actions during the development of the carwash to address the noise level requirement in the site plan agreement before beginning operations. They have provided no written confirmation from the manufacturer of the carwash equipment that there is no additional action that can correct the noise issue. They have provided no information from a qualified engineer or sound expert to dispute the Town's required noise level.

## **RECOMMENDATION**

It is recommended that Council receive the report on compliance time lines at 281 Main St. E. for information purposes and direct staff to continue with full enforcement actions to achieve the required noise limit of 60 dBs at the nearest residential property line as per Section 22 (v) of the site plan agreement.

*Robert Brown*

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*Peggy Van Mierlo-West*

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