

# Committee of the Whole (1) Report

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**DATE:** Tuesday, May 2, 2023

**WARD:** 5

**TITLE:** NOISE EXEMPTION REQUEST FOR CONSTRUCTION OF HIGH-RISE RESIDENTIAL BUILDING AT 1 PROMENADE CIRCLE, VAUGHAN

**FROM:**

Gus Michaels, Deputy City Manager, Community Services

**ACTION:** DECISION

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**Purpose**

This report is to seek Council approval for a noise exemption to By-law 121-2021, for work required for the construction of two high-rise mixed-use residential condominium and commercial space towers by DMF Construction Management Inc. (the Applicant), located at 1 Promenade Circle, Vaughan from May 2, 2023, to December 31, 2024.

**Report Highlights**

- A noise exemption from By-law 121-2021, is being requested for a variety of work related to the construction of a residential and commercial development.
- The exemption is being requested to ensure construction is completed in a timely manner and to ensure the structural integrity of the building.
- The request aligns with other exemptions previously granted for similar projects in Vaughan.

**Recommendations**

1. That the Applicant, DMF Construction Management Inc., be granted a noise exemption, in accordance with the City's Noise Control By-Law 121-2021, for the purposes of construction of two mixed-use residential and commercial towers located at 1 Promenade Circle, for the period of May 2, 2023, through May 2, 2024, 6:00 a.m. to 12:00 a.m., except on Saturdays, Sundays and statutory holidays;

2. That the applicant be able to renew the noise exemption through an administrative renewal for an additional seven-month exemption; and
3. That this request for exemption be granted with the following conditions for the Applicant:
  - a) That construction communication notices be sent to surrounding residents and business owners within a 60-metre radius, in a manner approved by the City;
  - b) That construction communication notices be sent to surrounding residents and business owners within 60-metre radius 24 hours prior to the start of any work which will go past 9:00 pm;
  - c) That the construction communication notices to residents and businesses include 24-hour contact information for the Applicants, including the construction supervisor and/or any person having care, control and oversight over all construction activity taking place on the subject property;
  - d) That the Applicant monitor, investigate, and respond to any complaints received regarding construction noise;
  - e) That the applicant takes measures to minimize any unnecessary noise, including but not limited to idling of construction vehicles, unnecessary revving of engines, use of air brakes, and to maintain equipment in good working order (including muffling devices) to minimize noise impacts; and
  - f) That no construction outside of hours permitted by the by-law take place Saturdays, Sundays, or Statutory Holidays.

## **Background**

### ***Legislation***

The City of Vaughan's Noise Control By-law No. 121-2021, prohibits noise created from the use of "construction equipment" as defined, between the hours of 7:00pm of one day to 7:00 am the following day, and on Sundays and statutory holidays.

Any noise created by construction activity during these prescribed hours requires an exemption to the provisions of the By-law. Exemption requests for construction noise are governed by the By-law provisions of Section 20, Exemption for Construction Equipment.

### **Requested Work Period**

The Applicant is requesting a work period of May 2, 2023, through December 31, 2024, to work between the hours of 6:00 am and 12:00 am, Monday to Saturday, excluding Sundays and statutory holidays, at the site of the former Sears department store located at 1 Promenade Circle.

The intent of the work is to complete construction of two mixed-use residential condominium and commercial towers at the Promenade Mall.

The applicant is requesting the ability to perform a variety of construction work utilizing various types of equipment including tower cranes, concrete pumps, and concrete mixers. The primary reason for the request is due to the need for the continuity of the casting of the concrete floors and large extent of the casting in each pour session. Once a concrete pour is started, it must continue to ensure the structural integrity of the slab.

### ***Stakeholder Engagement***

If the noise exemption is approved, the Applicant will distribute communication notices with details of the project to all residents and businesses within 60 metres of the project site which will include contact information for the Applicant, as well as the on-site supervisor.

### **Previous Reports/Authority**

[City of Vaughan Noise Control By-law.](#)

### **Analysis and Options**

#### ***Supporting New Development***

This project supports the construction of a Council approved mixed-use residential and commercial development in the area of Bathurst and Centre Streets that is compatible with the existing and planned uses of the surrounding area, represents good planning, and achieves the desired vision for the growth of the City by providing housing options in the area. Staff have confirmed that, as of the time of the preparation of this report, the applicant has obtained all necessary building permits.

#### ***Noise mitigation***

The construction supervisor will comply with standard noise exemption mitigation measures, including that they minimize idling of construction vehicles, avoid unnecessary revving of engines, use of airbrakes, as well as the requirement to maintain equipment in good working order (including the use of muffling devices) to minimize noise impacts.

#### ***Minimizing Disruption to Residents***

The exemption is being requested so that concrete pours and finishing work can be completed in a manner to ensure safe construction and structural integrity of the building. Staff understand that this is necessary, however also take disruption to residents in the area into account when determining conditions for noise exemptions.

Staff have received four complaints regarding construction noise from this project. The complaints were investigated, and a verbal caution was provided on the occasion when the officer observed minor noise that was not at levels to warrant enforcement action. Therefore, staff are recommending that notices be sent to all residents within a 60-metre radius 24hrs prior to any work that will take place past 9 p.m. in hopes that by receiving additional notice, residents will be able to prepare and take any steps necessary to mitigate any inconvenience caused by the late night/early morning noise. This requirement aligns with other the conditions of other noise exemptions that have recently been granted for similar projects.

Also, in alignment with other exemptions, as the length of the exemption is more than one year, staff are recommending a 1-year exemption be granted with the possibility to renew for an additional 7 months via administrative renewal, which will take into consideration any complaints received during the previous year and the status of the project. At the time of the renewal, if the applicant wishes to change the scope of the request they may do so, however any such changes will require Council approval and a report shall be prepared accordingly.

### **Financial Impact**

Adoption of this noise exemption has no economic impact for the City.

### **Operational Impact**

Prior to preparing this report, Building Standards staff were consulted to ensure appropriate permits are in place.

### **Broader Regional Impacts/Considerations**

This project supports the development of new residential units and commercial units, providing a vibrant new live-work-visit area in the Thornhill neighbourhood.

### **Conclusion**

Staff believe that the noise exemption for this project should be endorsed by Council pursuant to the recommendations set out in this report.

**For more information**, please contact: Susan Kelly, Director and Chief Licensing Officer, By-law & Compliance, Licensing & Permit Services, ext. 8952.

### **Attachments**

1. Notice to Residents and Businesses
2. Site Map

**Prepared by**

Alexandra Scarr, Policy Implementation Specialist, Extension 8448.

**Approved by**

A handwritten signature in blue ink, appearing to read "Gus Michaels".

Gus Michaels, Deputy City Manager  
Community Services

**Reviewed by**

A handwritten signature in black ink, appearing to read "Nick Spensieri".

Nick Spensieri, City Manager