

MAIDENCREEK TOWNSHIP

1 QUARRY ROAD, PO BOX 319
BLANDON, PA

January 11, 2023

Board of Supervisors

Press Release

David K. Franke
Chairman

Joshua G. Meck
Vice Chairman

Heidi E. Fiedler
Supervisor

--Township Staff--

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Township Manager

Christina L. Hafer
Township Secretary

Keith A. Shuman
Road Foreman

Andrew E. Letchse

Tyler R. Nolt

Michael D. Stern

Earl B. Weber

Brian S. Wise

The Board of Supervisors was made aware of litigation that has been filed against Maiden Creek Township by the organization Maiden Creek Associates. For context, this is the same organization that the Township is currently undergoing a Conditional Use Hearing for with for a 930,000 square foot warehouse.

The suit alleges that the Township's Noise Ordinance is not compliant with state law. The Board of Supervisors will review the suit thoroughly with the Township Solicitor and will respond appropriately. As this is a matter of ongoing litigation, the amount of comment that the Township will offer publicly will be limited.

As we go through this process, the Board of Supervisors will continue to follow its ordinances, state regulations and statutes as we work towards the best interest of the residents.

Board of Township Supervisors

David Franke

Josh Meck

Heidi Fiedler

hla

hlahrens@maidencreek.net or clhafer@maidencreek.net

Office: (610) 926-4920

FOUNDED 1746

KAPLIN STEWART MELOFF REITER & STEIN, P.C.

By: Marc B. Kaplin, Esquire
Gregg I. Adelman, Esquire
Daniel R. Utain, Esquire
Attorney I.D. Nos. 04465, 84137, 85619
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Blue Bell, PA 19422
(610) 260-6000

Attorneys for Plaintiff

MAIDEN CREEK ASSOCIATES, L.P.	:	IN THE COURT OF COMMON PLEAS
120 West Germantown Pike, Suite 120	:	BERKS COUNTY, PENNSYLVANIA
Plymouth Meeting, PA 19462,	:	
Plaintiff,	:	
v.	:	CASE NO.
	:	
MAIDENCREEK TOWNSHIP	:	
1 Quarry Road	:	
Reading, PA 19605	:	
Defendant.	:	

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITHIN FORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL AND INFORMATION SERVICE

**Berks County Bar Association
544 Court Street
P.O. Box 1058
Reading, PA 19603
(610) 375-4591**

KAPLIN STEWART MELOFF REITER & STEIN, P.C.

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1 Quarry Road	:	
Reading, PA 19605	:	
Defendant.	:	

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff, Maiden Creek Associates, L.P., by and through its attorneys, Kaplin Stewart Meloff Reiter & Stein, P.C., hereby files this Complaint against Maiden creek Township (“**Defendant**” or “**Township**”) and in support thereof, avers as follows:

INTRODUCTION

Plaintiff is filing this action under the Pennsylvania Declaratory Judgments Act [42 Pa.C.S.A. § 7531] seeking a declaration that the Township’s Noise Ordinance (defined below) is invalid for being arbitrary and unduly restrictive, and that as applied to Plaintiff’s Property (defined below) and Proposed Development (defined below) the Noise Ordinance is illegal, invalid and cannot be enforced.

Plaintiff owns a parcel of real estate in the Township, i.e., the Property, in the Township’s C-2 Regional Commercial District that abuts a major interstate – U.S. Route 222 – and seeks to

develop the Property with a warehouse and related improvements similar to those warehouse/distribution uses located in the vicinity of the Property.

In order to obtain approval for the Proposed Development, Plaintiff is required to obtain a conditional use approval from the Township. As part of the conditional use approval, the Township required Plaintiff to prepare a noise impact or sound study in accordance with the Township's Noise Ordinance. During its preparation of the sound study, Plaintiff discovered that Plaintiff cannot develop the Property with a permitted use that would satisfy the Noise Ordinance because the Noise Ordinance is arbitrary and unduly restrictive in that it requires Plaintiff to limit the noise that will emanate from the Property to levels consistent with the current (as opposed to permitted) use(s) of the surrounding properties. As explained in more detail below, the Property is surrounded by various commercially-zoned properties that are currently undeveloped and a cemetery. The current uses on those adjacent properties generate low ambient sound levels making it virtually impossible to develop the Property with the Proposed Development, or any permitted use, having a comparable sound level.

The Noise Ordinance is also arbitrary and unduly restrictive as applied to the Property because the sound emanating from the abutting Interstate (U.S. Route 222) already violates the Noise Ordinance

As explained in more detail below, Plaintiff seeks a declaration that the Township's Noise Ordinance is invalid for being arbitrary and unduly restrictive, and that as applied to Plaintiff's Property and Proposed Development the Noise Ordinance is illegal, invalid and cannot be enforced.

A. The Parties

1. Plaintiff Maiden Creek Associates, L.P. is a Pennsylvania limited partnership

which maintains a business address located at 120 W. Germantown Pike, Suite 120, Plymouth Meeting, PA 19462.

2. Defendant Maiden creek Township is a Second-Class Township formed under the laws of the Commonwealth of Pennsylvania with its principal office located at 1 Quarry Road, P.O. Box 319, Blandon, PA 19510.

3. The Board of Supervisors (“**Board**”) is the governing body of the Township.

B. Factual Background.

4. Plaintiff is the legal owner a tract of land (identified as Berks County Parcel Identification No. 61-5411-16-74-8787) located northwest of the intersection of U.S. Route 222 (a/k/a Allentown Pike) (“**Interstate**”) and Schaeffer Road in Maiden creek Township, Berks County, Pennsylvania (“**Property**”).

5. The Property is approximately 80.77 acres and has extensive frontage along the Interstate.

6. Pursuant to the Maiden creek Township Zoning Ordinance (Chapter 200 of the Code of the Township of Maiden creek)(“**Zoning Ordinance**”) and the Maiden creek Township Zoning District Map, the Property is located in the C-2 Regional Commercial District.

7. The Property is currently used for farming and/or agriculture purposes and consists primarily of cultivated farm fields.

8. An Allentown Cement Company rock quarry is located approximately 2,500 feet north/northeast of the Property.

9. Most of the parcels surrounding the Property are located in the C-1 Local Commercial District, the C-2 Regional Commercial District, and C-R Commercial-Residential

District and could be developed, by right, with a number of commercial uses such as truck sale centers, conference centers and shopping centers.

10. While the surrounding properties could be developed with commercial uses, most of those properties are largely undeveloped and, thus, generate low ambient sound levels.

11. The parcel abutting the Property to the west is currently being used as agricultural or farmed land.

12. The parcel abutting the Property to the east is being used as a cemetery.

13. The properties directly across the Interstate to the south are also in the C-1 Local Commercial District and C-R Commercial-Residential District and portions are used as agricultural/farmland.

14. There are also several residential and commercial development areas in the vicinity of the Property. For example, there are also residential and commercial development areas located across the Interstate to the southwest and southeast of the Property located in the C-1 Local Commercial District and the CR Commercial Residential District.

15. An aerial photograph showing the Property and its surrounding area is attached as **Exhibit “A”**.

16. Figure 1 (depicted below) shows the Maidencreek Township Zoning Map, including the Property, as follows:

- Outlined in Red: The Property boundary and approximate location of the proposed new building;
- C-1 Local Commercial District;
- C-2 Regional Commercial District;
- C-R Commercial-Residential District;

- R-2 Moderate-Density Residential District; and
- R-2A High-Density Residential District.

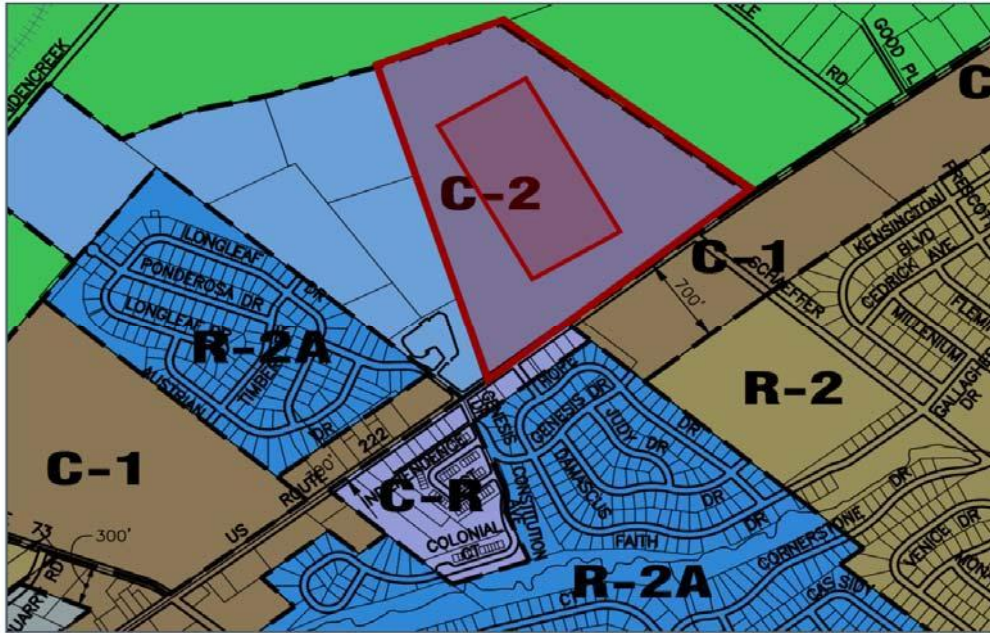


Figure 1. Zoning Map Markup

17. Plaintiff proposes to develop a warehouse facility on the Property together with access drives, stormwater management areas, employee parking spaces, trailer parking spaces, loading bays and other development-related improvements (collectively, the “**Proposed Development**”).

18. Warehousing is a permitted use by conditional use in the Township’s C-2 Regional Commercial District pursuant to §220-44.B.(1) of the Zoning Ordinance.

19. Warehousing is also a permitted use in the Township’s I Industrial District pursuant to §220-48.A.(2) of the Zoning Ordinance.

20. There are warehouses in the Township that are located near the Property, including along the Interstate. Some of those warehouses are located immediately adjacent to residential developments, as depicted in the images below:



21. The warehousing operations associated with the Proposed Development will primarily occur between the hours of 6:00 a.m. and 10:00 p.m. However, it is possible that the tractor trailer trucks may operate on the Property after 10:00 p.m. The rooftop mechanical equipment for the Proposed Development may operate 24 hours a day. The Township code has no restriction imposing hours-of-operation limitations on the Proposed Development.

22. By permitting the Proposed Development as a permitted conditional use in the C-2 Regional Commercial District, the Township determined that a similarly situated permitted use will not have an adverse impact on public health and safety.

23. As a conditional use, the Proposed Development cannot be denied unless it is proved that the impact from the proposed use is abnormal and that abnormality causes an adverse impact to public health and safety.

24. On March 11, 2022, Plaintiff submitted to the Township an application seeking conditional use approval for the Proposed Development (“**Conditional Use Application**”).

25. Concurrent with the submission of the Conditional Use Application, Plaintiff also submitted to the Township a preliminary land development plan application for the Proposed Development (“**Preliminary Plan Application**”).

26. A hearing on the Conditional Use Application commenced before the Board on November 30, 2022.

C. The Noise Ordinance

27. Pursuant to Sections 66506 and 66601 of the Second Class Township Code [53 P.S. §66506, §66601], the Township adopted a noise ordinance (Chapter 133 of the Code of the

Township of Maiden creek) (“**Noise Ordinance**”). A copy of the Noise Ordinance is attached as **Exhibit “B”**.

28. The Noise Ordinance establishes the sound level limitation noise criteria to be followed when evaluating noise levels within the Township. § 133-3.

29. The Noise Ordinance requires, *inter alia*, that a particular use may not exceed certain sound levels and may not exceed the ambient sound level of neighboring properties by more than 10dBA during the day and 5dBA at night:

A. Maximum allowable noise increase. No person shall allow, cause, transmit, or propose the operation of any sound source on a particular property, zoning district, public right-of-way, or public space in such a manner as to create a sound level¹ that exceeds average hourly equivalent A-weighted [Leq(h)]² background sound levels by 10 dBA or greater during daytime hours (6:00 a.m. until 10:00 p.m.) and by five dBA³ or greater during nighttime hours (10:00 p.m. until 6:00 a.m.), when measured at or within the property line of the receiving property. Such a sound level increase would constitute a noise disturbance and a violation of this chapter.

B. Maximum permissible noise level. Additionally, noise levels from existing and/or proposed facilities may not exceed the absolute noise level limitations identified in Table 1. Sound levels at or above those shown in Table 1 would constitute a noise disturbance and a violation of this chapter.

Table 1
Maximum Permissible 1-Hour Leq(h)
Receiving Property

	Residential	Commercial/Industrial
6:00 a.m. to 10:00 p.m.	10:00 p.m. to 6:00 a.m.	All times
60 dBA	55 dBA	65 dBA

¹ The Noise Ordinance defines Sound Level as: The instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow response speed, unless otherwise noted.

² The Noise Ordinance defines Leq(h) as: The steady-state, equivalent noise level over a given one-hour period of time that would have the same acoustical energy as the actual varying noise level over that same time period.

³ The Noise Ordinance defines dB(A) (A-Weighted Decibel): The symbol designation of a noise level, reported in decibels, using the A-weighted network of a sound level meter, as defined by ANSI S1.4, Specification for Sound Level Meters.

D. Any noise made between the hours of 10:00 p.m. and 6:00 a.m. which can be heard at a distance of a one-mile radius or more from the source of the sound by a reasonable person of normal sensibilities shall be deemed to be at a level which violates this chapter without the necessity of performance of a measurement and is considered a per se violation of this chapter.

30. Pursuant to Section 133-4.A of the Noise Ordinance, certain activities violate the Noise Ordinance and constitute a noise disturbance if the activity occurs between the hours of 10:00 p.m. and 6:00 a.m. and causes a sound that “*annoys or disturbs a reasonable person of normal sensibilities*” on a residential receiving property, including:

(8) Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, trash dumpsters, garbage cans, or similar objects.

31. Section 133-7 of the Noise Ordinance provides that the Board may require an applicant to submit a noise impact study with a conditional use application or subdivision/land development application to evaluate the compliance of the proposed use with the Township’s Noise Ordinance.

D. Plaintiff’s Sound Study (Noise Impact Study)

32. In connection with the Conditional Use Application, the Board required Plaintiff to submit a noise impact study for the Proposed Development.

33. Plaintiff retained Metropolitan Acoustics, LLC (“**Metropolitan**”) to prepare a sound study for the Proposed Development. A copy of the Environmental Sound Study prepared by Metropolitan dated August 30, 2022 is attached as **Exhibit “C” (“Sound Study”)**.

34. Metropolitan prepared the Sound Study by: visiting adjacent properties to measure existing sound levels; building a sound propagation model of the Proposed Development; and

predicting the sound levels generated by the trucking activity and rooftop mechanical equipment of the Proposed Development on adjacent properties.

35. Sound pressure level measurements were taken from July 6 to July 8, 2022, and again from July 13 to July 15, 2022, The Sound Study predicted sound levels of the trucking activity expected by the Proposed Development, such as trucks moving in the driving lanes, trucks sounding backup beepers while moving into the loading docks, trucks releasing the pressure of their air brakes at the loading docks and trucks idling. The Sound Study also predicted the level of sound propagation from the rooftop mechanical equipment for the Proposed Development to adjacent locations.

36. The Sound Study captured the ambient⁴ sound levels throughout the surrounding area during daytime (6:00 a.m. to 10:00 p.m.) and nighttime (10:00 p.m. to 6:00 a.m.) hours.

37. The approximate locations of the sound level meters that captured the ambient sound levels in the surrounding area are indicated by the red numbered dots as shown in Figure 6 (depicted below).

⁴ *Ambient Sound*: Ambient sound is the all-encompassing sound associated with a given environment at a specified time and is usually composed of sound from many sources and directions, including the specific sound sources of interest. See, *Sound Study*, p. 1.



Figure 6. Sound Level Meter Locations

38. The locations of the sound level meters were selected for the following reasons:

a. Location 1 was selected to provide Noise Ordinance criteria for the residential properties located in the C-R Commercial Residential District along the Interstate.

b. Location 2 was selected to provide Noise Ordinance criteria for the residential properties located in the R-2A High-Density Residential District in the neighborhood west of the Property.

c. Location 3 was selected to provide Noise Ordinance criteria for the residential properties located in the R-2 Moderate-Density Residential District in the neighborhood southeast of the Property.

d. Location 4 was selected to provide Noise Ordinance criteria for the residential properties located in the R-2A High-Density Residential District in the neighborhood southwest of the Property.

39. Pursuant to Section 133-3.B of the Noise Ordinance, the maximum permissible noise level for receiving residential properties is 60 dBA from 6:00 a.m. to 10:00 p.m. and 55 dBA from 10:00 p.m. through 6:00 a.m.

40. For comparison purposes, a noise level of 60 dBA is the equivalent of the sound of heavy traffic from 300 feet away, and a noise level of 55 dBA is slightly louder than the sound of a dishwasher from a neighboring room.

41. Pursuant to Section 133-3.B of the Noise Ordinance, the maximum permissible noise level for commercial/industrial properties is 65 dBA at all times.

42. Noise levels at 65dBA is equivalent of the sound of normal conversation from three (3) feet away.

43. Below is Metropolitan’s Figure 9 detailing the six (6) receiver locations used to evaluate the sound levels at the surrounding properties:

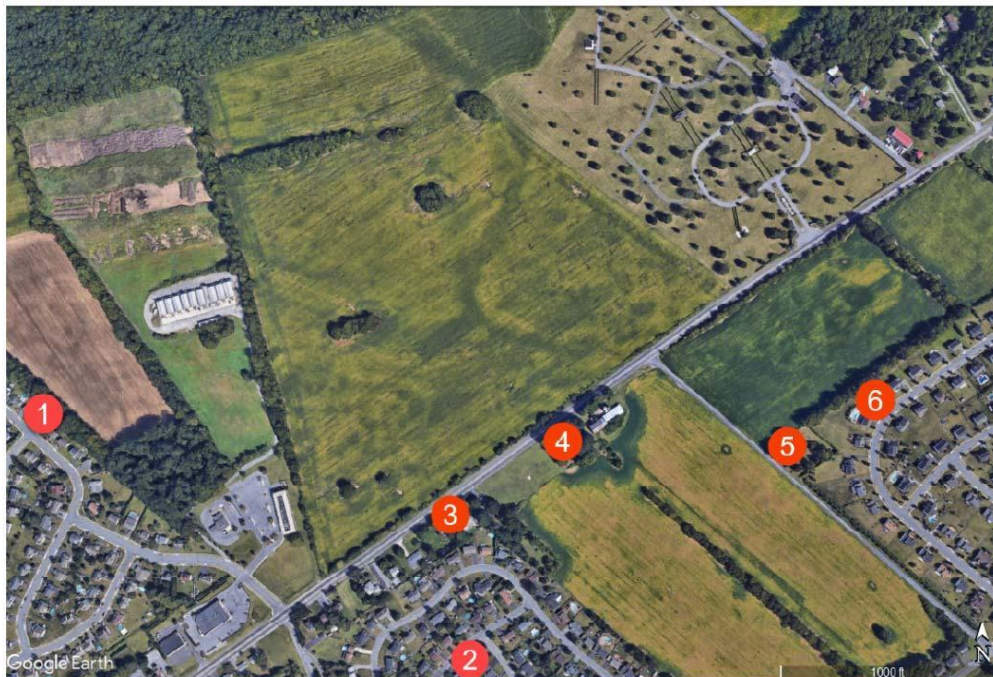


Figure 9. Sound Model Site Plan – Receiver Locations

44. Table 6 and Table 7 (depicted below) show: (i) the lowest measured sound level at the receiver locations on Figure 9 above; (ii) the predicted sound levels at those receiver locations; and (iii) the comparison to the requirements of the Noise Ordinance contained in Section 133-3.A and 133-3.B. Cells highlighted in green indicate locations where the daytime and/or nighttime Noise Ordinance requirements were met. Orange highlighted cells indicate where the nighttime Noise Ordinance requirements were exceeded.

Table 6. Predicted Receiver Location Sound Levels – Trucking and RTU Noise Maidencreek, PA – Distribution Facility					
Receiver Location	Lowest Measured Background Sound Level (dBA)		Predicted Sound Level (dBA)	Maximum Permissible Sound Level Limit (dBA)	
	Daytime	Nighttime		Daytime	Nighttime
1	49	43	44	59	48
2	48	44	39	58	49
3	66	65	57*	60	55*
4	66	65	51*	60	55
5	50	44	48	60	49
6	50	44	45	60	49

Table 7. Predicted Receiver Location Sound Levels – RTU Noise Only Maidencreek, PA – Distribution Facility					
Receiver Location	Lowest Measured Background Sound Level (dBA)		Predicted Sound Level (dBA)	Maximum Permissible Sound Level Limit (dBA)	
	Daytime	Nighttime		Daytime	Nighttime
1	49	43	33	59	48
2	48	44	32	58	49
3	66	65	38*	60	55
4	66	65	40*	60	55
5	50	44	33	60	49
6	50	44	31	60	49

45. The results of the Sound Study demonstrate that the sound levels from the trucking activity and building mechanical systems associated with the Proposed Development are **not** projected to exceed the applicable requirements of Section 133-3.B of the Noise Ordinance during both daytime and night time hours at Receiver Locations 1, 2, 4, 5, and 6 as depicted in Figure 9 above.

46. As detailed in Table 6 and Table 7 above, the results of the Sound Study demonstrate that the noise generated by traffic on the Interstate (Locations 3 and 4) exceeds the Noise Ordinance requirements during both daytime and nighttime hours.

47. As such, the Proposed Development cannot strictly comply with the Noise Ordinance requirements of Section 133-3.B at the property boundaries adjacent to the Interstate since the ambient sound level already exceeds the maximum permissible sound levels.

48. In addition, Section 133-3.A of the Noise Ordinance limits the Proposed Development's sound levels so as not to exceed the existing background or ambient sound levels at the receiving property lines by 10 dBA during daytime hours and 5 dBA during nighttime hours.

49. As noted above, the parcels immediately adjacent to the Property include a cemetery to the east, located in the Agricultural Preservation District, and mostly undeveloped agricultural or farmed land to the west, located in the C-2 Regional Commercial District, both of which currently generate low ambient sound levels.

50. Government agencies have measured the average sound level for agricultural or farmed land at less than 45dBA.

51. Only permitting the Proposed Development to increase the existing low ambient sound levels by 10dBA during daytime hours and 5dBA during nighttime hours effectively prohibits the use of the Property for the Proposed Development.

52. Based upon the government's published average measured sound levels for the current use of the surrounding cemetery and agricultural land, the Noise Ordinance would restrict the use of the Property to one which emits sounds no louder than 55dBA during the daytime hours

and 50dBA during nighttime hours. For comparison, 50 dBA is the approximate decibel level of a floor fan and 60dBA is quieter than the sound of normal conversation.

53. Therefore, as applied to the Proposed Development and this Property, where adjacent properties generate low ambient sound levels, the Noise Ordinance effectively prohibits new activities (including specifically permitted uses) from taking place on the Property.

COUNT I
Challenge to the Validity of the Noise Ordinance

54. Each of the preceding paragraphs is hereby incorporated by reference as though fully set forth at length herein.

55. Pursuant to Section 66601(f) of the Second Class Township Code [53 P.S. §66601(f)], Plaintiff may complain as to the legality of the Noise Ordinance to the Court.

56. Sections 133-3.A, 133-3.B, 133-3.D, 133-4.A of the Noise Ordinance are arbitrary, unduly restrictive and invalid as applied to the Property and the Proposed Development.

57. Section 133-3.A of the Noise Ordinance is arbitrary, unduly restrictive and invalid as applied to the Property and the Proposed Development because it fails to consider situations where adjacent receiving properties are undeveloped and/or generate low ambient sound levels.

58. Section 133-3.B of the Noise Ordinance is arbitrary, unduly restrictive and invalid as applied to the Property and the Proposed Development because it fails to consider situations where the background or ambient sound levels already exceed the maximum permitted sound levels.

59. Section 133-3.D of the Noise Ordinance is arbitrary, unduly restrictive and invalid as applied to the Property and the Proposed Development because the “a reasonable person of normal sensibilities” standard is subjective and unenforceable.

60. Section 133-4.A of the Noise Ordinance is arbitrary, unduly restrictive and invalid as applied to the Property and the Proposed Development because the annoyance or disturbance of “a reasonable person of normal sensibilities” standard is subjective and unenforceable.

61. Sections 133-3.A, 133-3.B, 133-3.D and 133-4.A of the Noise Ordinance effectively prevent Plaintiff from developing and/or using the Property for the Proposed Development, which is a permitted use of the Property in the C-2 Regional Commercial District.

62. The Noise Ordinance, as applied to the Property and the Proposed Development, is invalid and illegal.

63. All conditions precedent have occurred, have been performed or have been waived.

COUNT II
Declaratory Judgment

64. Each of the preceding paragraphs is hereby incorporated by reference as though fully set forth at length herein.

65. Section 7532 of the Declaratory Judgment Act gives Pennsylvania courts the power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. [42 Pa.C.S.A. § 7532.]

66. The Declaratory Judgment Act further provides that any person, “whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute,

ordinance, contract, or franchise, and obtain a declaration of rights, status, or other legal relations thereunder.” [42 Pa. C.S.A. § 7533.]

67. The issues in the instant matter are ripe for judicial determination because an actual case and controversy exists.

68. Plaintiff has a direct substantial and present interest in the outcome of the controversy.

69. Plaintiff has no other adequate remedy at law.

WHEREFORE, Maiden Creek Associates, L.P. respectfully requests that this Honorable Court grant judgment in its favor and against the Township and further requests that the Court enter an Order declaring that:

a. The Noise Ordinance as applied to the Property and the Proposed Development is invalid and illegal;

b. Specifically, Sections 133-3.A, 133-3.B and 133-4.A of the Noise Ordinance as applied to the Property and Proposed Development are invalid and illegal;

c. The Township cannot require Plaintiff to comply with the Noise Ordinance in connection with the Proposed Development; and

d. Grant such other relief as the Court deems proper and just.

**KAPLIN STEWART MELOFF REITER &
STEIN, P.C.**

By: /s/ Marc B. Kaplin
Marc B. Kaplin, Esquire
Gregg I. Adelman, Esquire
Daniel R. Utain, Esquire

Dated: January 6, 2023

KAPLIN STEWART MELOFF REITER & STEIN, P.C.

By: Marc B. Kaplin, Esquire
Gregg I. Adelman, Esquire
Daniel R. Utain, Esquire
Attorney I.D. Nos. 04465, 84137, 85619
910 Harvest Drive
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Attorneys for Plaintiff

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120 West Germantown Pike, Suite 120	:	BERKS COUNTY, PENNSYLVANIA
Plymouth Meeting, PA 19462,	:	
Plaintiff,	:	
v.	:	CASE NO.
	:	
MAIDENCREEK TOWNSHIP	:	
1 Quarry Road	:	
Reading, PA 19605	:	
Defendant.	:	

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

KAPLIN STEWART MELOFF REITER & STEIN, P.C.

By: /s/ Marc B. Kaplin
Marc B. Kaplin, Esquire
Gregg I. Adelman, Esquire
Daniel R. Utain, Esquire

Dated: January 6, 2023

VERIFICATION

I, **STEVEN B. WOLFSON**, hereby depose and state that:

- I am an authorized signatory for Plaintiff Maiden Creek Associates, L.P.;
- I am authorized to execute this Verification on Plaintiff's behalf; and
- The facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief.

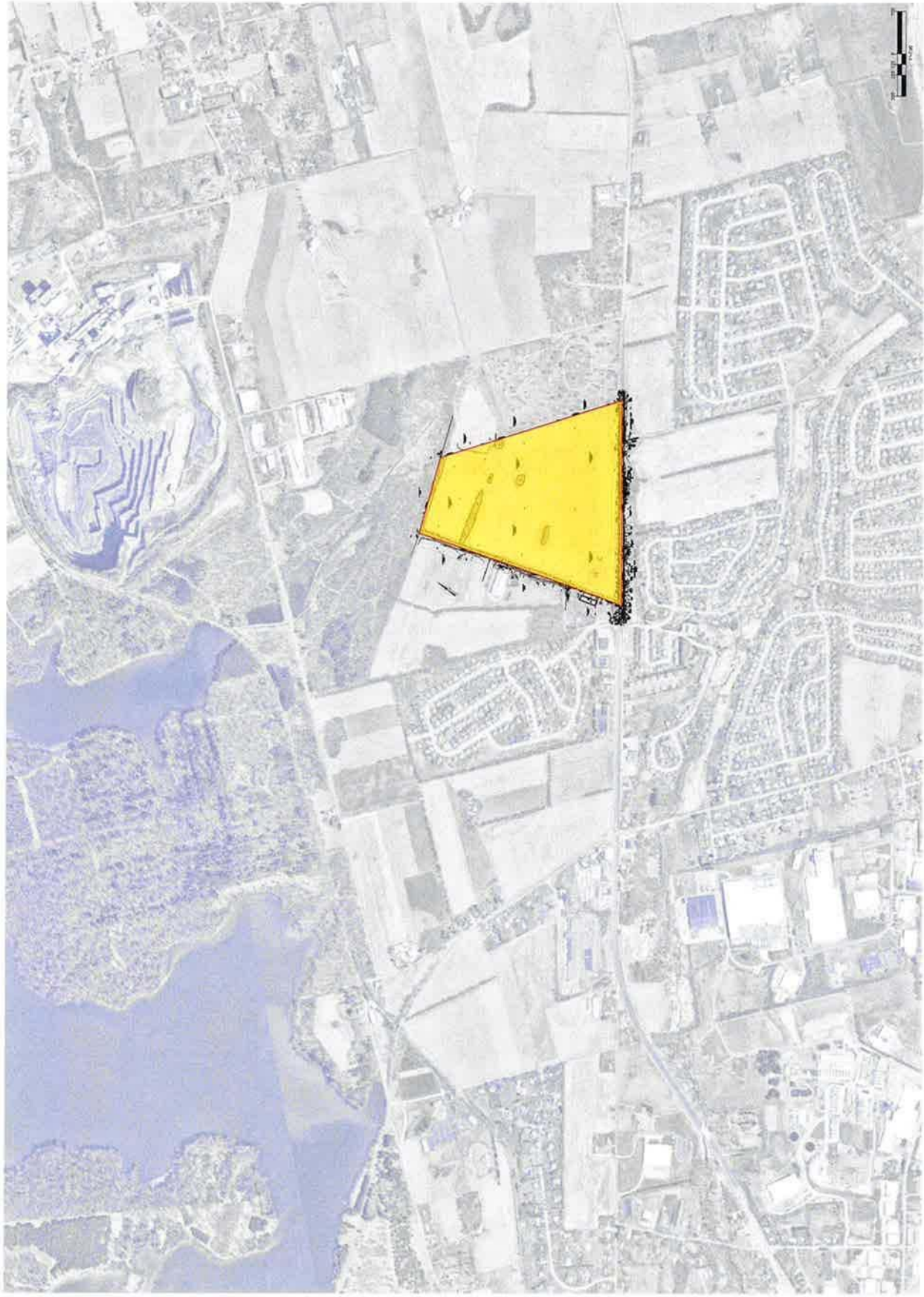
I acknowledge that I am subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.



STEVEN B. WOLFSON

Dated: 1-6-2023

EXHIBIT "A"



BOHLER 

SITE CIVIL AND CONSTRUCTION ENGINEERING
PROGRAM MANAGER
LAND SURVEYING
PROFESSIONAL ENGINEER
LANDSCAPE ARCHITECTURE
LABORATORY SERVICES
SUSTAINABLE DESIGN
MARKETING SERVICES
TRANSPORTATION SERVICES

REVISED	
REV.	COMMENTS

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PA 2017-000165

FOR CONCEPT PURPOSES ONLY

PROJECT: 11518 MARKET STREET, SUITE 200
PHILADELPHIA, PA 19102
DATE: 01/06/2023
CREATED BY: J.L.D.
DATE: 01/06/2023
PROJECT: 11518 MARKET STREET, SUITE 200
PHILADELPHIA, PA 19102

AERIAL EXHIBIT

FOR:
MAIDEN CREEK ASSOCIATES, L.P.

PROPOSED DEVELOPMENT:
**ROUTE 222
HARDWICK TOWNSHIP
BERKS COUNTY, PA 19311**

BOHLER 

11518 MARKET STREET, SUITE 200
PHILADELPHIA, PA 19102
TEL: (215) 381-1100
FAX: (215) 381-1110
www.BohlerEngineering.com

C. BROWN

PROFESSIONAL ENGINEER
PA No. 006510

11518 MARKET STREET, SUITE 200
PHILADELPHIA, PA 19102

AERIAL EXHIBIT

DATE PLOTTED:

CONS. DATE: 01/06/2023

EXHIBIT "B"

Chapter 133

NOISE

[HISTORY: Adopted by the Board of Supervisors of the Township of Maiden Creek 5-10-2001 by Ord. No. 176; amended in its entirety 7-15-2009 by Ord. No. 220. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 67.

Peace and good order — See Ch. 147.

§ 133-1. Purpose, intent and authority.

Noise is characterized as unwanted sound. Excessive noise can be a serious threat to the comfort, convenience, health, safety, welfare, and overall quality of life of the residents of Maiden Creek Township, Berks County, Pennsylvania. It is the intent of this chapter to establish requirements and criteria to prevent excessive noise that may jeopardize the health and welfare of its residents or degrade their quality of life. Therefore, it intends hereby to prohibit all excessive and unreasonable noise from all sources subject to its police power in order to preserve, protect, and promote health, safety, welfare and the peace, quiet and comfort of the residents within Maiden Creek Township limits. This chapter is enacted pursuant to the general powers of the Board of Supervisors, contained in the Second Class Township Code, 53 P.S. § 66506, and associated enforcement provisions related to noise pollution, 53 P.S. § 66601(c.1)(2).

§ 133-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AMBIENT NOISE — The total noise level in a given acoustical environment. Ambient noise is usually a composite of sounds near and far.

BACKGROUND SOUND LEVEL — The typical total sound pressure level in a given acoustical environment, excluding the sound(s) of interest/concern.

COMMERCIAL — Any property receiving noise where the receiving property is located within the Local Commercial Zoning District or Regional Commercial Zoning District or such successor districts as shall be utilized by the Township of Maiden Creek on future zoning maps.

dB(A) (A-WEIGHTED DECIBEL) — The symbol designation of a noise level, reported in decibels, using the A-weighted network of a sound level meter, as defined by ANSI S1.4, Specification for Sound Level Meters.

DECIBEL (dB) — A unit of measure of the sound pressure level at a specific location.

EMERGENCY SERVICES — Any work necessary to deliver essential services, including but not limited to fire suppression and related services, medical care and related services, emergency management services, repairing gas, water, electric, telephone, sewer facilities, or public transportation facilities, removing fallen trees from

public rights-of-way, or abating life-threatening conditions.

IMPULSIVE SOUND — A sound having a duration of less than one second with rapid onset and decay rates.

INDUSTRIAL — Any property receiving noise where the receiving property is located within the Industrial Zoning District or Special Intensified Agricultural Zoning District or such successor districts as shall be utilized by the Township of Maiden creek on future zoning maps.

LEQ(H) — The steady-state, equivalent noise level over a given one-hour period of time that would have the same acoustical energy as the actual varying noise level over that same time period.

MOTOR VEHICLE — Any vehicle propelled or drawn on land by an engine or motor used for power.

MUFFLER — A device for abating the sound of escaping gases of an internal combustion engine or motor.

NOISE — Characterized as unwanted sound. Any sound that annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE — Any sound at or exceeding any or all of the sound level limitation noise criteria identified in this chapter, and/or any specific acts constituting a noise disturbance identified in this chapter.

PERSON — Any individual, corporation or other legal entity.

POWERED MODEL VEHICLE — Any self-propelled airborne, waterborne, or landborne plane, vessel or vehicle, which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

PROPERTY LINE — The real or imaginary line and its vertical extension which separates real property owned or controlled by one person from that which is owned or controlled by another person.

PROPOSED NOISE LEVEL — The future noise level associated with a proposed subdivision, land development, facility/land use, derived by noise monitoring, noise modeling, and/or other mathematical computation.

PUBLIC RIGHT-OF-WAY — Any street, highway, road, sidewalk, avenue, alley, or boulevard which is leased, owned or controlled by a governmental entity.

RESIDENTIAL — Any property where the receiving property is located within the Agricultural Zoning District, Low-Density Residential Zoning District, Moderate-Density Residential Zoning District, High-Density Residential Zoning District, Village Density Residential Zoning District, Multifamily Residential Zoning District or Commercial Residential Zoning District, or such successor district as shall be utilized by the Township of Maiden creek on future zoning maps.

SOUND LEVEL — The instantaneous sound pressure level measured in decibels with a sound level meter set for A-weighting on slow response speed, unless otherwise noted.

SOUND LEVEL METER — An instrument, including a microphone, an amplifier, an output meter and frequency-weighting networks, used for measurement of sound pressure levels conforming to Type 1 or Type 2 standards as specified in ANSI Standard

S1.4, Specifications of Sound Level Meters, 1983 (R1990), or the latest version thereof.
 TOWNSHIP — The Township of Maiden Creek, Berks County, Pennsylvania acting by and through its Board of Supervisors or its authorized designees.

§ 133-3. Sound level limitations.

The following are sound level limitation noise criteria to be followed when evaluating noise levels within the Township:

- A. Maximum allowable noise increase. No person shall allow, cause, transmit, or propose the operation of any sound source on a particular property, zoning district, public right-of-way, or public space in such a manner as to create a sound level that exceeds average hourly equivalent A-weighted [Leq(h)] background sound levels by 10 dBA or greater during daytime hours (6:00 a.m. until 10:00 p.m.) and by five dBA or greater during nighttime hours (10:00 p.m. until 6:00 a.m.), when measured at or within the property line of the receiving property. Such a sound level increase would constitute a noise disturbance and a violation of this chapter.
- B. Maximum permissible noise level. Additionally, noise levels from existing and/or proposed facilities may not exceed the absolute noise level limitations identified in Table 1. Sound levels at or above those shown in Table 1 would constitute a noise disturbance and a violation of this chapter.

Table 1

**Maximum Permissible 1-Hour Leq(h)
 Receiving Property**

Residential		Commercial/Industrial
6:00 a.m. to 10:00 p.m.	10:00 p.m. to 6:00 a.m.	All times
60 dBA	55 dBA	65 dBA

- C. Impulsive sounds. Impulsive sounds are sounds that last for short durations (usually less than one second), with an abrupt onset and a rapid decay. Some examples would include explosions from mining operations, the discharge of firearms, discharge of fireworks, test revving of engines or motors, or other sounds of a similar nature. Sounds of this nature may not equal or exceed a maximum noise level (Lmax) of 80 dBA, when measured at or within the property line of the receiving property. Impulsive sounds at or above 80 dBA (Lmax) would constitute a noise disturbance and a violation of this chapter. [Note: Noise measurements, estimates, and/or predictions should be performed to represent worst-case conditions or noise hour(s). As such, it may be necessary to evaluate the fluctuations in noise over a typical twenty-four-hour day and identify those periods/hours that would have the greatest potential for noise levels or noise level increases (between existing to future conditions).]
- D. Any noise made between the hours of 10:00 p.m. and 6:00 a.m. which can be heard at a distance of a one-mile radius or more from the source of the sound by a reasonable person of normal sensibilities shall be deemed to be at a level which violates this chapter without the necessity of performance of a measurement and is

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considered a per se violation of this chapter.

§ 133-4. Specific acts constituting a noise disturbance.

- A. In addition to the violations of noise level limitations set forth above, the following items and the causes thereof are declared to be in violation of this Noise Ordinance and constitute a noise disturbance if the use or activity occurs between the hours of 10:00 p.m. and 6:00 a.m. and causes sound that annoys or disturbs a reasonable person of normal sensibilities on a residential receiving property:
- (1) Operating, playing, or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces, or amplifies sound either indoors or outdoors at a place of public entertainment, on private property, public right-of-way, or public space;
 - (2) The operation of any sound amplification or reproduction device in a vehicle;
 - (3) The operation of a motor vehicle without an adequate muffler or exhaust system to prevent any unreasonable noise;
 - (4) The use and operation of any lawn maintenance device, including lawn mowers, edgers, leaf blowers, trimmers, as well as other similar equipment such as snow blowers;
 - (5) The use of any tools or equipment used in construction, drilling, earthmoving, excavating, or demolition work;
 - (6) The repairing, rebuilding or testing of any motor vehicle, motorcycle, motorboat, or aircraft (with or without mufflers);
 - (7) Discharge of firearms or fireworks.
 - (8) Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, trash dumpsters, garbage cans, or similar objects.
 - (9) Operating or permitting the operation of powered model vehicles.
- B. In addition to the violations of noise level limitations set forth above, the following items and the causes thereof are declared to be in violation of this Noise Ordinance and constitute a noise disturbance if the use or activity causes sound that annoys or disturbs a reasonable person of normal sensibilities on a residential receiving property at any time of day:
- (1) Owning, possessing, harboring or controlling any animal or bird which howls, barks, meows, squawks, or makes other sounds continuously and/or incessantly for a period of 10 minutes or makes such noise intermittently for 1/2 hour or more, regardless of whether the animal or bird is situated in or on private property: provided, however, that at the time the animal or bird is making such noise, no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or for any other legitimate cause which teased or provoked the animal or bird.

- (2) Engaging in loud or raucous yelling, hooting, or other disturbing-noise-producing conduct.

§ 133-5. Promulgation of regulations by Supervisors.

The Supervisors of the Township may at any time and from time to time promulgate regulations concerning this chapter and implementing its provisions by resolution adopted at any duly constituted public meeting.

§ 133-6. Exemptions.

The following noise is exempted from the provisions of this chapter:

- A. Noise generated to request assistance or warn of a hazardous situation, as part of providing emergency services, or is part of responding to natural emergencies;
- B. Noise generated from an authorized warning alarm or siren, emergency vehicle or a vehicle operated by a gas, electric, communications or water/sewer utility;
- C. Noise generated from a bell, chime or similar device used by a church, mosque, synagogue or a school;
- D. Noise generated from lawn care and other household maintenance equipment and tools used between 6:00 a.m. and 10:00 p.m.;
- E. Noise generated from construction activities properly permitted by Maiden Creek Township between 6:00 a.m. and 10:00 p.m.;
- F. Noise generated from the engine of a motor vehicle on a public highway that is subject to regulation exclusively by the Pennsylvania Department of Transportation;
- G. Noise generated from community, school or municipality sponsored or approved celebrations or special events;
- H. Noise generated from emergency backup generators used during a power failure or other emergency situation, except that no recharge shall occur between the hours of 10:00 p.m. and 6:00 a.m.; and
- I. Noise generated from agricultural production activities involving agricultural animals, equipment, and field machinery (used and maintained in accordance with the manufacturer's specifications).

§ 133-7. Plan submission.

- A. For subdivision and land development applications where intensification or change of existing uses on the property are being proposed by the applicant, the Township may require that noise impact studies be submitted for review and approval with preliminary or final subdivision/land development plan application.
- B. Where public health, safety and welfare are at issue, the Township may also, through its Board of Supervisors, require that noise impact studies be submitted with an application for amendment or change of the Zoning Ordinance¹ or Official

Zoning Map, building permit applications or conditional use applications; and through its Zoning Hearing Board, require that noise impact studies be submitted for consideration as part of any special exception, variance, or appeal applications.

§ 133-8. Compliance monitoring.

- A. Township designees and associated technical advisors shall be afforded the right to enter the originating and receiving properties to monitor and investigate compliance with this chapter.
- B. Where property owners cooperate with the Township designee and associated technical advisors, and corrective action is deemed to be necessary to comply with this chapter, the Township may provide an initial informal notification to the originating property regarding the appropriate remedial action necessary.
- C. Where cooperation and/or corrective action is not provided, or where the nature of the violation does not allow for the initial informal notification, the Township shall have the right of entry and may also pursue other appropriate legal action.

§ 133-9. Violations and penalties; enforcement.

- A. Any person who creates any noise disturbance shall be guilty of a violation of this chapter and shall pay a fine not to exceed \$1,000 for each offense. This chapter shall be enforced by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Municipal Solicitor or the Code Enforcement Officer may assume charge of the prosecution without the consent of the District Attorney as required by Pa. R. Crim. P. No. 83 (relating to trial in summary cases). Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.
- B. The Maiden creek Township Board of Supervisors may also take any other appropriate action at law or equity, civil or criminal, to enforce the provisions of this chapter and recover the fees, expenses and costs associated with enforcement. This chapter shall in no way restrict any other remedies, including but not limited to injunctive relief, and other remedies otherwise available and provided by law.

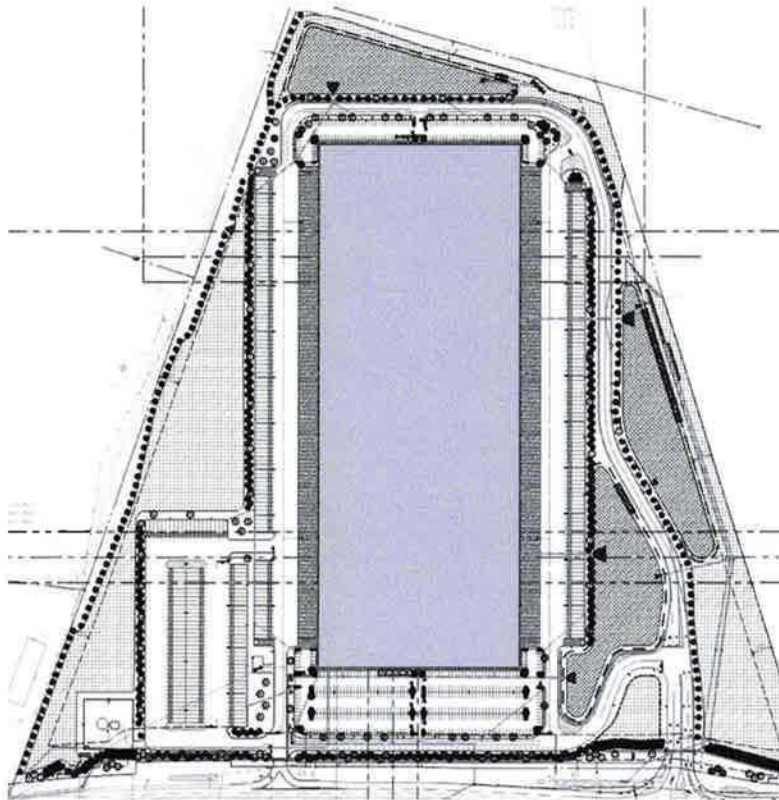
1. Editor's Note: See Ch. 220, Zoning.

EXHIBIT "C"

Maidencreek, PA – Distribution Facility

ENVIRONMENTAL SOUND STUDY

August 30, 2022



PREPARED FOR
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August 30, 2022

Roger Vanderklok, NCARB, CRX, CDP
Director of Construction and Development
Maidencreek Associates, L.P.
120 West Germantown Pike, Suite 120
Plymouth Meeting, PA 19462

Re: Maidencreek, PA – Distribution Facility
Environmental Sound Study

Dear Mr. Vanderklok:

Metropolitan Acoustics has completed an environmental acoustic analysis for the proposed distribution facility along Allentown Pike in Maidencreek, PA. This project entails the development of an approximately 930,000 SF warehouse building adjacent to various property boundaries, including residential properties. The proposed building will contain approximately 216 loading dock stalls for interstate tractor trailers. There is concern that sound generated by truck traffic at the site will exceed the Maidencreek Township Noise Ordinance. Our scope of work included visiting the properties adjacent to the site to measure existing sound levels for the noise ordinance, building a sound propagation model of the site, and predicting sound levels generated by trucking activities to several residential locations. Additionally, we predicted the level of sound propagation from the rooftop mechanical equipment to the same locations.

The information in this report is intended to be used as a guide for architectural and engineering disciplines so appropriate acoustical performance can be achieved. These findings are based on sound level measurements taken July 6 to July 8, 2022 and July 13 to July 15, 2022; documentation including site and topographic plans received on August 26, 2022; our June 15, 2022 kick-off call, and ongoing correspondence with Maidencreek Associates, L.P.

For the readers' convenience, [blue text](#) indicates an external link to a product and the *blue italicized text* indicates an internal link to another section of this document. Please let us know if you have any questions regarding this information.

Best regards,

metropolitan acoustics

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INTRODUCTION

ACOUSTICAL TERMINOLOGY

Sound Level

Sound pressure levels (SPL) are commonly expressed on a logarithmic scale in decibels (dB). The human ear is most sensitive at mid-frequencies (speech) and less sensitive at high and low frequencies at typical listening levels. To account for this, sound pressure can be expressed in units of A-weighted decibels (dBA). A higher number corresponds to louder sound levels. For reference, a change of 3 decibels represents a just-noticeable difference, a change of 5-6 decibels is clearly noticeable, and a sound level that is 10 decibels higher is perceived to be twice as loud.

Ambient Sound

Ambient sound is the all-encompassing sound associated with a given environment at a specified time and is usually composed of sound from many sources and directions, including the specific sound sources of interest.

Statistical Sound Level Metrics

Sound levels can be measured using various statistical averaging techniques. The L_{EQ} is the continuous-equivalent sound pressure level, which is the sound level that contains the same amount of sound energy as the fluctuating level over the course of the measurement period and is commonly accepted as the average.

The L_{EQ} can be reported in A-weighted decibels, transitioning the nomenclature to LA_{EQ} .

APPLICABLE NOISE ORDINANCE

The Maiden Creek Township Noise Ordinance, which applies to this project, is located within [Chapter 133, Section 133-3 of the Noise Zoning Code](#). The ordinance states the following:

"§ 133-3 Sound level limitations.

The following are sound level limitation noise criteria to be followed when evaluating noise levels within the Township:

- A.** *Maximum allowable noise increase. No person shall allow, cause, transmit, or propose the operation of any sound source on a particular property, zoning district, public right-of-way, or public space in such a manner as to create a sound level that exceeds average hourly equivalent A-weighted [$L_{eq}(h)$] background sound levels by 10 dBA or greater during daytime hours (6:00 a.m. until 10:00 p.m.) and by five dBA or greater during nighttime hours (10:00 p.m. until 6:00 a.m.), when measured at or within the property line of the receiving property. Such a sound level increase would constitute a noise disturbance and a violation of this chapter.*
- B.** *Maximum permissible noise level. Additionally, noise levels from existing and/or proposed facilities may not exceed the absolute noise level limitations identified in Table 1. Sound levels at or above those shown in Table 1 would constitute a noise disturbance and a violation of this chapter.*

**Table 1
Maximum Permissible 1-Hour $L_{eq}(h)$
Receiving Property**

Residential		Commercial/Industrial
6:00 a.m. to 10:00 p.m.	10:00 p.m. to 6:00 a.m.	All times
60 dBA	55 dBA	65 dBA

- C.** *Impulsive sounds. Impulsive sounds are sounds that last for short durations (usually less than one second), with an abrupt onset and a rapid decay. Some examples would include explosions from mining operations, the discharge of firearms, discharge of fireworks, test revving of engines or motors, or other sounds of a similar nature. Sounds of this nature may not equal or exceed a maximum noise level (L_{max}) of 80 dBA, when measured at or within the property line of the receiving property. Impulsive sounds at or above 80 dBA (L_{max}) would constitute a noise disturbance and a violation of this chapter. [Note: Noise measurements, estimates, and/or predictions should be performed to represent worst-case conditions or noise hour(s). As such, it may be necessary to evaluate the fluctuations in noise over a typical twenty-four-hour day and identify those periods/hours that would have the greatest potential for noise levels or noise level increases (between existing to future conditions).]*
- D.** *Any noise made between the hours of 10:00 p.m. and 6:00 a.m. which can be heard at a distance of a one-mile radius or more from the source of the sound by a reasonable person of normal sensibilities shall be deemed to be at a level which violates this chapter without the necessity of performance of a measurement and is considered a per se violation of this chapter."*

Per correspondence with Maiden Creek Associates, L.P., we understand that this distribution facility will mainly operate between the hours of 6:00am to 10:00pm; however, there is a possibility that the trucks may operate onsite after 10:00pm as well. Therefore, to meet the noise ordinance, the sound level from the trucking center must not exceed the existing background sound level at the receiving property lines by 10 dBA during daytime hours and 5 dBA during nighttime hours, with a maximum level of 60 dBA during daytime hours and 55 dBA during nighttime hours at residential properties. The rooftop equipment has the ability to operate 24 hours a day.



SITE SURVEY

SITE OVERVIEW

Figure 1 shows the Maiden Creek Township zoning map of the site which includes the following:

- Red: Property boundary and building location of the distribution facility where all trucking activity will take place
- C-1: Local commercial with residential properties
- C-2: Regional commercial
- C-R: Commercial-Residential
- R-2: Moderate density residential
- R-2A: High density residential

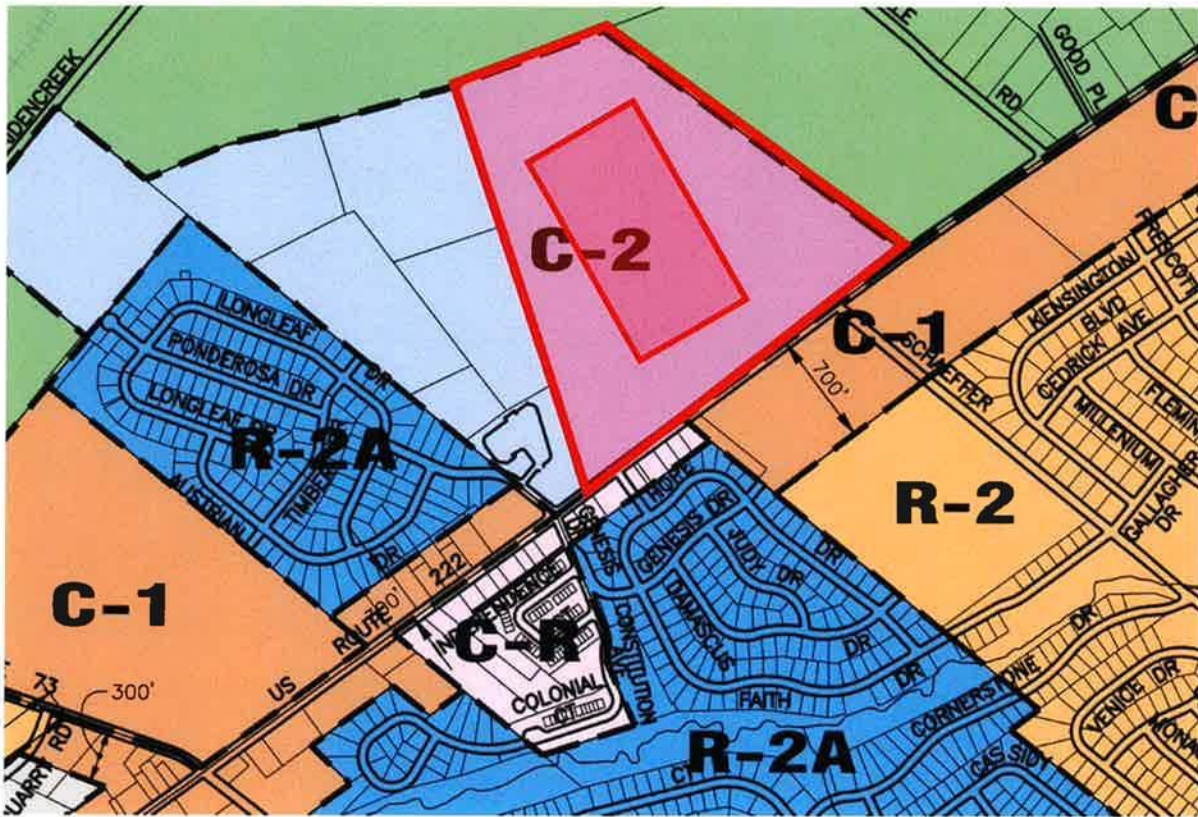


Figure 1. Zoning Map Markup

SURVEY PROCEDURES

From July 6 to July 8, 2022, sound pressure levels were measured at the site using two Larson Davis integrating sound level analyzers, model 831c, and one NTi model XL2 sound level analyzer, all of which meet the ANSI S1.4 criteria for Type 1 sound level meters. Additional sound pressure level measurements were taken from July 13 to July 15, 2022 to supplement the original survey by adding additional measurement locations using the same equipment. Prior to each round of testing, the meters were calibrated on site and set to measure sound in one-hour increments over the duration of the measurement period. Sound levels were measured across the audible frequency spectrum from 20 Hz to 20,000 Hz. Figure 2 through Figure 5 display the sound level meters installed onsite with meter locations circled in blue.



Figure 2. Long-term Measurement Location 1



Figure 3. Long-term Measurement Location 2



Figure 4. Long-term Measurement Location 3



Figure 5. Long-term Measurement Location 4

The approximate locations of the four sound level meters are indicated by red numbered dots as shown in Figure 6.



Figure 6. Sound Level Meter Locations

Each measurement location was selected to provide noise ordinance criteria for the surrounding areas as described below:

- Location 1:
 - Residential properties along Route 222
- Location 2:
 - Residential properties in the neighborhood west of proposed distribution center
- Location 3:
 - Residential properties in the neighborhood southeast of proposed distribution center
- Location 4:
 - Residential properties in the neighborhood southwest of proposed distribution center

SURVEY RESULTS

The intent of the long-term sound study was to capture the ambient sound levels throughout the surrounding property boundaries of concern during daytime (6:00am to 10:00pm) and nighttime (10:00pm to 6:00am) hours for comparison to the requirements set in the Maiden Creek Noise Ordinance.

Table 2 shows the lowest measured one-hour LA_{EQ} throughout the duration of the testing at each location, which indicates the most stringent noise ordinance requirement.

Measurement Location	Lowest Measured LA _{EQ} (dBA)	
	Day (1-hour LA _{EQ})	Night (1-hour LA _{EQ})
1	66	65
2	49	43
3	50	44
4	48	44

NOISE ORDINANCE REQUIREMENTS

Based on the measured data shown in Table 2, we developed the noise ordinance criteria for each residential area for daytime and nighttime hours, as shown in Table 3. For the residential properties represented by Measurement Location 1, the maximum allowable values are given from Table 1 in the *Applicable Noise Ordinance* section above, as the measured results exceeded the maximum noise ordinance criteria.

Measurement Location	Lowest Measured LA _{EQ} (dBA)		Noise Ordinance Requirements (dBA)	
	Day (1-hour LA _{EQ})	Night (1-hour LA _{EQ})	Day	Night
1	66	65	60	55
2	49	43	59	48
3	50	44	60	49
4	48	44	58	49

Sound levels from trucking activity and building mechanical systems should not exceed the requirements outlined above at each respective receiving property boundary. At the properties represented by measurements taken at Location 1, the noise ordinance is exceeded by traffic on Route 222 during both daytime and nighttime hours. As such, it is impossible to achieve the noise ordinance requirements at property boundaries adjacent to Route 222.



ENVIRONMENTAL SOUND STUDY

PROPOSED SITE CONDITIONS

Figure 7 displays the site plan for the distribution facility. The loading docks are located on the east and west sides of the building, as circled in blue.

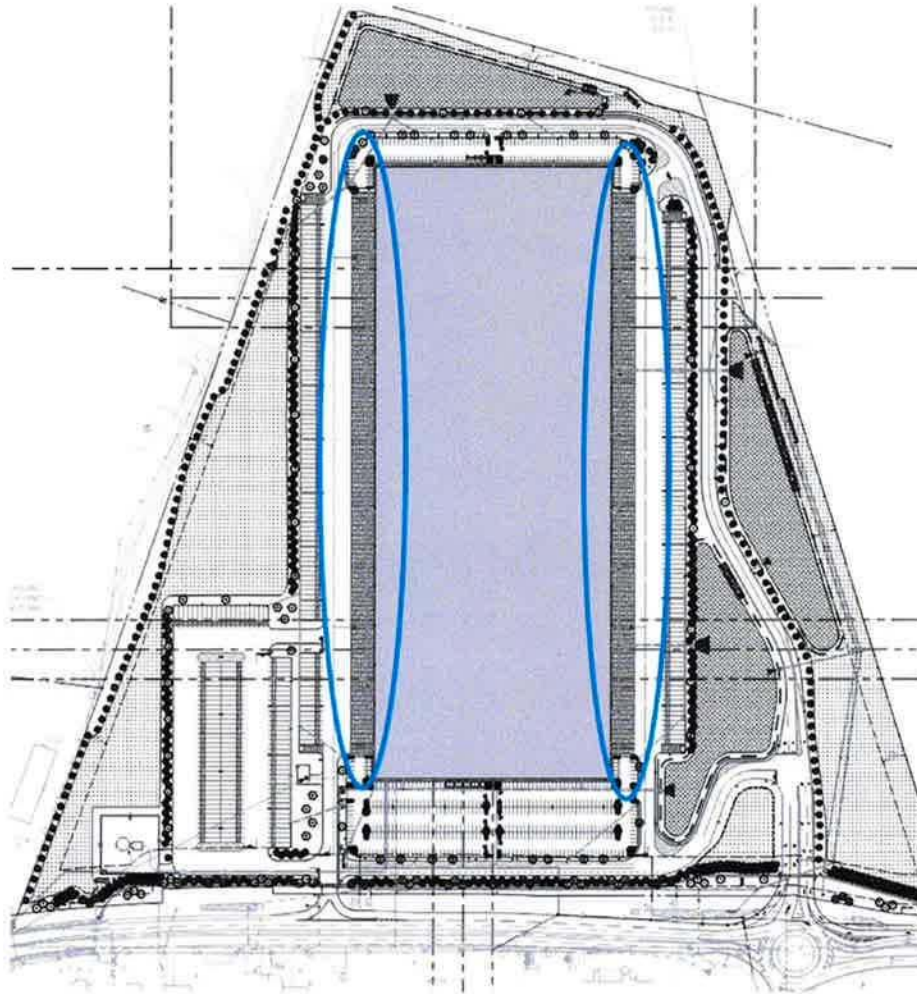


Figure 7. Site Plan for Proposed Distribution Facility

Based on correspondence with Maiden Creek Associates, L.P., we understand that the proposed facility will be used as follows:

- There will be approximately 216 loading docks in total; however, not all loading docks will be in use at one time.
 - The east and west loading docks will be used equally.
- Trucks will drive around the entire perimeter of the site as needed.
- Trucks will be allowed to idle onsite for up to five minutes at a time.
- One truck will be active in the southwestern trailer storage lot at a time.
- Per the traffic study documentation, a maximum of 19 trucks will be operating per hour; this is predicted to occur during peak weekday morning hours, between 7am and 9am.

ANALYSIS PROCEDURE – TRUCKING ACTIVITY

We understand that activities at the site will mostly consist of moving and parking tractor-trailer trucks; it is assumed that typical sounds produced by these activities include:

- Trucks moving in the driving lanes
- Trucks sounding backup beepers while moving into the loading docks
- Trucks releasing the pressure of their air brakes at the loading docks
- Trucks idling

Our analysis utilized measured sound levels of typical truck activity at previous site surveys related to other projects Metropolitan Acoustics has completed. The resultant levels of the sound data collected are summarized in Table 4.

Sources	Octave Band Center Frequency (dB)								Overall Level (dBA)
	63 Hz	125 Hz	250 Hz	500 Hz	1000 Hz	2000 Hz	4000 Hz	8000 Hz	
<i>Truck air brake at 3 ft</i>	85	80	77	80	85	92	95	97	101
<i>Truck beeper at 3 ft</i>	81	72	76	69	66	91	88	63	94
<i>Truck revving/driving at 3 ft</i>	87	88	87	87	90	86	87	81	94
<i>Truck idling at 3 ft</i>	84	78	76	77	80	77	75	67	84

The following are descriptions of the sources used in our model:

- Ten (10) trucks driving or revving their engines placed throughout the site in the driving lanes.
 - This is shown in Figure 8 as red dots.
- Four (4) trucks sounding their backup beepers placed near the ends of the parking spots parallel to the loading dock areas on each side of the building.
 - This is shown in Figure 8 as yellow dots.
- Four (4) trucks activating their air brakes placed in the center of the loading dock areas.
 - This is shown in Figure 8 as green dots.
- Four (4) trucks idling distributed throughout the site.
 - This is shown in Figure 8 as blue dots.

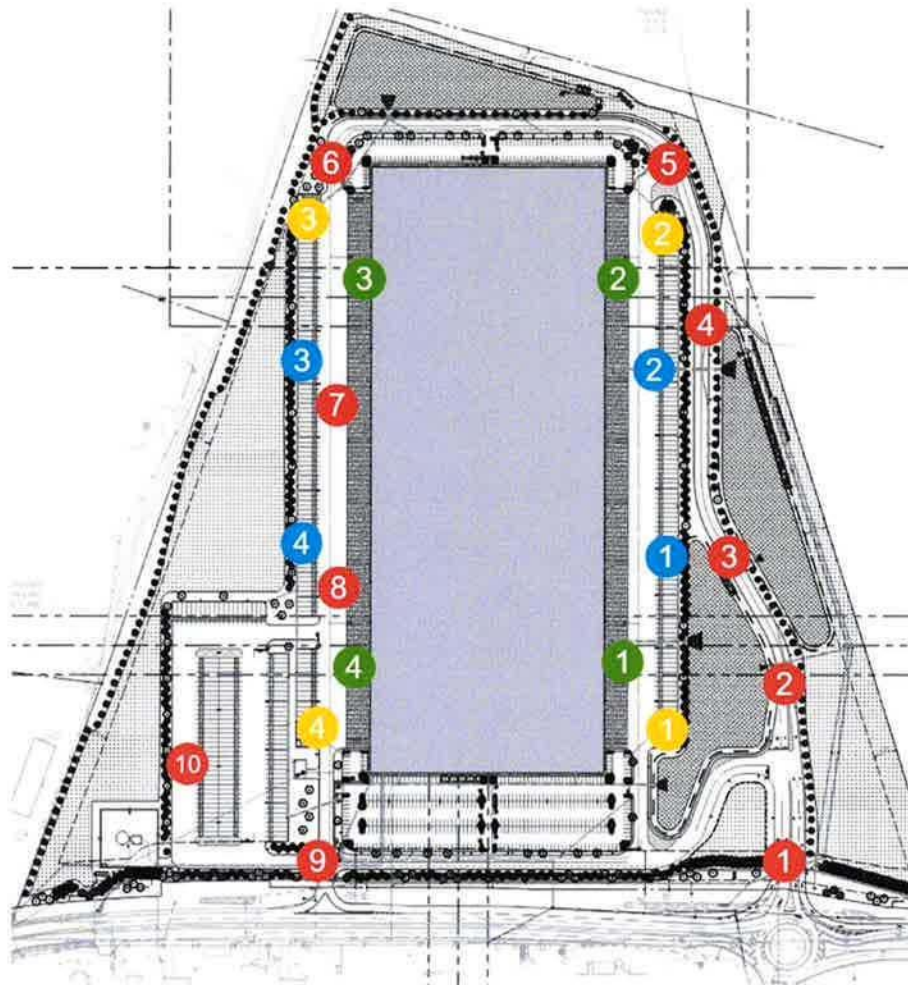


Figure 8. Sound Model Site Plan – Trucking Source Locations

Our sound propagation model considers all of the sources listed above to be occurring at the same time. As such, the predicted sound level at each receiver location is likely the worst-case sound level. There are 22 sound sources in our model and as stated above, it is anticipated that vehicular trip generation during peak morning hours will be 19 trucks. Due to size of property and distance between the sources, a receiver at any one location will only hear the sources that are within the vicinity of that receiver. For example, one receiver will not hear sources on the other side of the building. Therefore, our model includes more active trucks than the traffic study anticipates at any one time to provide worst-case scenario sound level predictions. Note that our model is based on a combination of Google Earth terrain data and the August 26, 2022 Topographic Plans. The topographic plans were used to model the distribution site, while the Google Earth terrain data was used for the receiver locations.

Figure 9 below displays the receiver locations used in our study. Red numbered circles indicate the residential receivers.



Figure 9. Sound Model Site Plan – Receiver Locations

Table 5 outlines the studied receiver locations, their distance from the closest sound source location on the distribution center site, and the daytime and nighttime maximum permissible sound level limits based on the Maiden Creek Noise Ordinance.

Table 5. Receiver Locations of Concern Maiden Creek, PA – Distribution Facility			
Receiver Location	Approx. Distance from Closest Sound Source (ft)	Maximum Permissible Sound Level Limit (dBA)	
		Daytime	Nighttime
1	1320'	59	48
2	925'	58	49
3	240'	60	55
4	570'	60	55
5	845'	60	49
6	1165'	60	49

Note: Per the [Noise Ordinance Requirements](#) section above, the lower of the two requirements must be met for both daytime and nighttime hours. The first number is set by Section A of the Maiden Creek Noise Ordinance, while the second number is set by the single number requirements in Section B of the ordinance. This table shows the lower of the two requirements.

Using the truck sound data and the topography of the region, we developed sound propagation prediction models for the area surrounding the proposed distribution facility using acoustic simulation software. Sound sources were modeled at 12' above grade to account for the height of the trucks. Our model is based on the site plans dated August 26, 2022.

ANALYSIS PROCEDURE – MECHANICAL SYSTEM NOISE

Using the mechanical drawings and equipment sound data for radiated noise, we incorporated noise generated by the building's rooftop mechanical systems into our sound propagation models. The Basis of Design (BOD) unit information is taken from the mechanical schedule and cut sheets provided by Maiden Creek Associates, L.P. on June 20 and June 27, 2022; see Appendix A for BOD unit information and sound power data used in our analysis. The sound power levels for alternates to the BOD should be less than or equal to the sound power levels of the BOD selections to meet the predicted sound levels described in the following analyses. If the sound power levels for alternates to the mechanical systems BOD are greater than the sound power levels of the BOD, our analysis would need to be updated for comparison to the noise ordinance requirements.

Per correspondence with Maiden Creek Associates, L.P., we understand that only one of the conditions below will be active at a time; therefore, three different models were generated to analyze these three conditions.

- Condition 1: Trucking activity in combination with 70% of rooftop air handling units (RTUs or rooftop air conditioning units)
 - The RTUs are shown in Figure 10 as red dots.
- Condition 2: Trucking activity in combination with 70% of rooftop heating units
 - The heaters are shown in Figure 10 as green dots.
- Condition 3: Trucking activity in combination with 70% of rooftop exhaust fans
 - The exhaust fans are shown in Figure 10 as blue dots.

Figure 10 outlines the rooftop mechanical source locations used in our study:



Figure 10. Rooftop Mechanical Equipment Source Locations

ANALYSIS RESULTS

The RTUs (rooftop air conditioning units) produce the highest sound levels as compared to the heaters and the exhaust fans; therefore, they are used for the worst-case prediction. The predicted sound level at the receiving property lines from the mechanical systems are much less than the sound levels from trucking activity.

Our models predict sound levels at various heights above the ground. For every residential receiver that had a second story, we used a receiver height of 18' above the ground as they would have a direct line of site from an open window on the second floor to the distribution center; this included Receiver Locations 1, 2, 4, 5, and 6. Location 3 was modeled at 5' above the ground as these houses are single-story. Refer to Figure 9 above for receiver locations.

Table 6 and Table 7 show the lowest measured sound level at the receiver locations, predicted sound levels for both conditions summarized above, and comparison to the noise ordinance. Cells highlighted in green indicate locations where the daytime and/or nighttime noise ordinance requirements are met. Orange highlighted cells indicate where only the nighttime noise ordinance requirements are exceeded.

Table 6. Predicted Receiver Location Sound Levels – Trucking and RTU Noise Maidencreek, PA – Distribution Facility					
Receiver Location	Lowest Measured Background Sound Level (dBA)		Predicted Sound Level (dBA)	Maximum Permissible Sound Level Limit (dBA)	
	Daytime	Nighttime		Daytime	Nighttime
1	49	43	44	59	48
2	48	44	39	58	49
3	66	65	57*	60	55*
4	66	65	51*	60	55
5	50	44	48	60	49
6	50	44	45	60	49

**Note: The predicted value will not represent the true sound level at this location as the sound level is dominated by traffic noise on Route 222, which exceeds the noise ordinance requirements with the existing conditions. Therefore, it is impossible to meet the noise ordinance at these locations.*

Table 7. Predicted Receiver Location Sound Levels – RTU Noise Only Maidencreek, PA – Distribution Facility					
Receiver Location	Lowest Measured Background Sound Level (dBA)		Predicted Sound Level (dBA)	Maximum Permissible Sound Level Limit (dBA)	
	Daytime	Nighttime		Daytime	Nighttime
1	49	43	33	59	48
2	48	44	32	58	49
3	66	65	38*	60	55
4	66	65	40*	60	55
5	50	44	33	60	49
6	50	44	31	60	49

**Note: The predicted value will not represent the true sound level at this location as the sound level is dominated by traffic noise on Route 222, which exceeds the noise ordinance requirements with the existing conditions. Therefore, it is impossible to meet the noise ordinance at these locations.*

CONCLUSION

As shown by the green highlighted cells in Table 6 and Table 7 above, the predicted sound levels at all residential receiver locations meet the noise ordinance requirements from trucking noise and rooftop mechanical noise, except for Location 3, which is directly on Route 222. Due to the traffic on Route 222, the ambient sound level at this location is dominated by traffic noise, which already exceeds the maximum noise ordinance requirements. Therefore, it is not possible to meet the noise ordinance at this location.

Disclaimer Note

This study only considers intruding sound from truck activity and base building rooftop mechanical system noise to the closest zoned properties. Any other sources of noise from the facility were not considered in our analysis.

Additionally, the emergency generators to be installed onsite were not included in our analysis; per correspondence with Maidencreek Associates, L.P., we understand that noise generated by the testing and use of emergency generators is exempt from the Maidencreek Township Noise Ordinance requirements; the portion of the noise ordinance referencing this exemption is Chapter 133, Section 6, Item H.

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APPENDIX A

MECHANICAL EQUIPMENT SOUND DATA

Table 8: BOD Sound Power Levels for RTUs Maidencreek, PA – Distribution Facility									
Manuf./ Model	Path	Octave Band Sound Power Levels (dB)							
		63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz
Trane Voyager II YKD-YKH 155 (15 Ton)	Radiated*	90.4	83.9	79.6	80.4	79.6	77.6	71.7	69.8
Trane Voyager III TKD-TKH 275 (25 Ton)	Radiated*	100.9	90.0	87.1	86.0	83.1	78.1	70.9	57.8

**Note: The manufacturer provided sound power level were shown as A-weighted values. The values shown in the table above are the converted unweighted values for use in our analysis.*

Table 9: BOD Sound Power Levels for Rooftop Heating Units Maidencreek, PA – Distribution Facility									
Manuf./ Model	Path	Octave Band Sound Power Levels (dB)							
		63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz
Cambridge S2200	Radiated	85	86	86	89	84	84	80	73

Table 10: BOD Sound Power Levels for Rooftop Exhaust Fans Maidencreek, PA – Distribution Facility									
Manuf./ Model	Path	Octave Band Sound Power Levels (dB)							
		63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz
Greenheck RBU-2L-48	Radiated	80	89	90	88	83	79	77	70