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September 6, 2023

By E-mail and Hand Delivery

Mr. Michael E. Wrinn -- Director of Planning and Land Use Management
Town Hall Annex
238 Danbury Road
Wilton, CT 06897

Re: 962 Danbury Road, LLC - Noise Complaint
Premises: 962 Danbury Road, Wilton, Connecticut

Dear Mr. Wrinn:

I write to update you on further actions that our client, 962 Danbury Road, LLC and the Bruce Bennett Nissan dealership (the "Dealership"), have taken to address both noise mitigation at the 962 Danbury Road premises and use of the local roads by delivery trucks. This letter is in response to Mr. Setterlund's complaint of July 31, 2023 (the "Complaint") which alleges that the Dealership is in violation of Special Permit #471 because it has not eliminated all Dealership generated noise, that Dealership bound trucks continue on occasion to use local residential streets, that Dealership test drives and car deliveries have not been eliminated (we assume he means from local residential streets) and the use of vehicle alarms continues (we assume that Mr. Setterlund means key fob sounds ("chirps") as well as vehicle alarms as the details of this complaint states car alarm usage but details chirps). As you are aware the Complaint evidences Mr. Setterlund's continued monitoring of the activities and noises in the neighborhood and at the Premises as Mr. Setterlund has continuously done since 2004 when he purchased his home and coincidentally when the prior owner of the dealership property completed construction and opened the showroom building that currently exists at the Premises.

Mr. Setterlund's Complaint identifies two (2) categories of concern: (1) noises emanating from the dealership, primarily the chirp that sounds when a car is locked; and (2) use of local roads.

As to the noise concerns the complaints are based on General Condition #4 of Special Permit #471 which states: "No outdoor speakers, intercoms or chirping of key fobs or car alarms or the like shall be used for any purpose on the property".

As noted in our prior letters to you, the Dealership has ceased using outdoor speakers and intercoms. In a continued effort to minimize both the sound of key fobs at the Premises and the use of key fobs and car alarms the Dealership has:

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- 1) Changed the location of vehicle deliveries from the 962 Danbury Road facility to its storage location in Georgetown.
- 2) Implemented the pre-delivery work, during which the (alarm and?) key fob lock function is silenced, at the Georgetown location so that vehicles capable of having the key fob sound silenced are silenced before arriving at the 962 Danbury Road site.
- 3) Implemented a parking space numbering system for both service and car detailing so vehicles are easy to locate thus eliminating the need to “chirp” the cars.
- 4) Implemented weekly training sessions. One session happens on Friday mornings at 7:30am in the Service Department and the second session happens on Friday mornings at 8:30am in the Showroom. These training sessions include noise mitigation measures and the restrictions regarding local road usage.
- 5) Advises those taking test drives to refrain from using the local roads identified in a series of colored maps. Please note, since COVID, Dealership employees no longer ride along during test drives.
- 6) When practicable given space constraints, moves the used vehicle selection to a portion of the parking lot away from Mr. Setterlund’s property.

As the Dealership works with the Town to obtain a Certificate of Occupancy for the new parking lot, we note that vehicle deliveries may again occur at the Premises but most of those deliveries will occur on the northern portion of the Premises as far removed from Mr. Setterlund’s property as possible.

As we noted in prior letters on these topics, there are a number of third party entities that may be responsible for some or a majority of the key fob chirps including: (1) Customers and potential customers locking their personal cars in order to shop for new and used cars; (2) Customers dropping off vehicles for service and or detailing who lock their vehicles before leaving the Dealership property; and (3) Drivers from third party delivery companies that lock their delivery vehicles.

In addition to the above, it has recently come to the Dealership’s attention, as the Dealership Management has investigated chirping noise in real time, that there is a fair amount of chirping that occurs at the Heibeck’s stand and parking lot, located just across Danbury Road from the southernmost parking area of the Dealership.

As you will remember, during the Planning and Zoning Commission hearings regarding Special Permit #471, acoustic professional, Mark Reber from Jaffe Holden, conducted a robust analysis of Dealership operational noises and determined that those operational noises were within the ambient noise created by other sources including vehicular traffic from Danbury Road (State Route 7). The report notes that all Dealership operational noises were within Wilton’s Noise regulations (Section 29-9.H.7) of 80 decibels during daylight hours and 55 decibels from 10pm to 7am.

The Jaffe Holden report of November 2, 2020 is attached. Notably, as is set out at the survey results in table 2 at page 2, the “maximum noise level due to dealership operational sources” at the Setterlund property was 54 dBA. The noise survey was taken during daylight hours. At 54 dBA, the maximum dealership noise, which was intentionally generated for the purpose of the testing, was below the nighttime noise limit of 55 dB and far below the daytime limit of 80 dB.

Our client respectfully requests that the pre-existing and still current noise regulations at Section 29-9.H.7 represent a standard of reasonableness for daytime, and also nighttime noise. This reasonableness standard is of particular importance all along the central north/south axis of the town as the commercially zoned properties along Route Seven intersect with immediately adjoining residential properties.

In conclusion, as required by the Commission's Special Permit approval #471, our client has worked diligently to reduce the noises emanating from the property including:

- 1) Ceasing to use an intercom system
- 2) No longer power washing vehicles
- 3) Adding a muffler to the compressor to eliminate that noise
- 4) Parking new vehicle inventory by model
- 5) Disabling the system that makes the chirp noise on new and used vehicles during the predelivery inspection that occurs at the dealership property
- 6) Training by our firm on the chirping mitigation strategies and the reasons why
- 7) Weekly training by Dealership Management that includes noise mitigation and local road restrictions

As noted above, our client acknowledges that it is unable to control third party chirping noises that may be generated by:

- 1) Customers and potential customers
- 2) Those dropping their vehicles off for service, including detailing
- 3) Delivery drivers locking their vehicles
- 4) Others in parking lots located close to the Dealership

As to the use of local roads, the Dealership:

- 1) Currently has all vehicles delivered to its storage facility in Georgetown
- 2) Continues to explore measures to educate delivery truck drivers, however, the rotation in drivers and the use of GPS for directions by those drivers, does occasionally result in trucks using the local roads even though there are signs indicating trucks should not use those roads

As noted above, the Dealership has implemented many measures to address noise and use of local roads and is committed to exploring new ways to address and manage these issues with Staff moving forward.

Respectfully submitted,
Gregory and Adams, P.C.

By: 
James D'Alton Murphy

JD'AM/kr

cc w/enclosures

Mr. Christian Setterlund
Mr. Paul Pawlowski
Mr. Brian Soboh

November 2, 2020

Mr. James D'Alton Murphy, Esq.
Gregory and Adams, P.C.
190 Old Ridgefield Road
Wilton, CT 06897

**Re: 978 Danbury Road / Bruce Bennett Nissan Auto Dealership
Noise Study**

Mr. Murphy:

At your request, we have conducted a study of noise generated by operational activities at the Bruce Bennett Nissan auto dealership and its impact on neighboring residential properties. This letter submits our findings and comments.

Summary

1. Dealership operational noises are at times clearly audible at neighboring residential properties. The most significantly audible noises are vehicle alarms and the electronic locking / unlocking of vehicles.
2. The *level* of noise created by dealership operational noises, as measured at adjoining residential properties, is within the normal range of ambient noise created by other sources, which most predominantly include vehicular traffic on Danbury Road. However, the *character* of the dealership operational sources is such that the noise tends to stand out against other ambient noise.
3. Instrumented measurements of the operational noise at adjoining residential properties indicate that the dealership is not in violation of noise provisions contained within the Town of Wilton Zoning Regulations.
4. The dealership has or indicated that they will implement measures to eliminate the occurrence of the most predominant noises such as chirping, honking, PA system, power washing, and compressor discharge . Thus it is expected that the overall perceived noise impact on the residential properties will be significantly reduced.

Operational Noise Sources

The following sources of dealership operational noise were identified by neighboring residents:

1. Vehicle alarms
2. Remote electronic locking and unlocking of vehicles

3. Public address / paging system in use in the dealership service bays
4. Power washing of vehicles
5. Discharge of air compressor located within dealership service bay area

Survey of Existing Noise Conditions

A survey was conducted on October 22, 2020 during which instrumented measurements of noise levels and other observations were made on the dealership premises as well as at neighboring residential properties. The survey was conducted while normal operations occurred at the dealership, and some sources (i.e. vehicle alarms and electronic locking and unlocking of vehicles) were demonstrated for the purposes of the survey. (A further detailed description of the survey and results is included as Exhibit A attached to this letter).

For discussion of sound levels expressed in decibels (dB), because the decibel is a logarithmic unit, the following table may be useful in gauging the perception of *differences* in sound levels:

Table 1 – Perception of *Differences* in Sound Levels

1-2 dB (decibels)	Not perceptible
3 dB	Just or barely perceptible
6 dB	Readily noticeable
10 dB	A doubling or halving of loudness
20 dB	A dramatic difference

Survey Results

Results of the instrumented noise level measurements were as follows:

Table 2 – Summary of Measured Noise Levels

At Setterlund and Troost Properties:	
Range of ambient noise levels	47-59 dBA
Average ambient noise level	51 dBA
Maximum noise level due to dealership operational sources	54 dBA
At Ouellette Property:	
Range of ambient noise levels	41-52 dBA
Average ambient noise level	44 dBA
Maximum noise level due to dealership operational sources	50 dBA

(dBA refers to A-weighted decibels, which are corrected to account for the characteristics of human hearing.)

Findings and Observations

1. The ambient noise level at all locations is predominated by vehicular traffic on Danbury Road. The ambient noise level varies from moment to moment due to flow of traffic and the passage of individual vehicles of varying loudness, while the average noise level remains relatively constant during daytime hours. In the table above, the lower value in the range of ambient noise levels represents the residual or background noise level, which is the basic noise level that occurs in the absence of any significant sources of noise passing by the site. The upper value in the range of ambient noise levels represents the maximum noise level occurring occasionally as a result of, for example, a large truck or other noisy vehicle passing by the site.
2. The maximum noise level due to dealership operational sources was, in every case, due to vehicle alarms in the dealership inventory parking areas. The alarms consisted of intermittent, short term, successive activation of the vehicle warning signal (honking horn). In most instances, the alarms were clearly audible above the ambient noise level at the residential properties.
3. Locations at which measurements and observations were made on the residential properties are somewhat shielded from both ambient noise from Danbury Road and dealership operational noise by natural topographic features; more so at the Ouellette property than at the others.
4. The Ouellette property line adjoining the dealership site occurs near the top of a natural ridge, from which there is direct line-of-site to the dealership inventory parking area. At this property line, a maximum noise level due to vehicle alarms of 69 dBA was measured (refer to Table 2 above).
5. Section 29-9.H.7 (Noise) of the Zoning Regulations of the Town of Wilton, Connecticut requires that "No noise shall be transmitted outside the property from which it originates at a level that exceeds 80 decibels during daylight hours or 55 decibels from 10:00 p.m. to 7:00 a.m. at any lot line, as registered on A-weighted network of a sound level meter manufactured according to standards prescribed by the American National Standards Institute, ANSI S1.4, type 1 or type 2."
6. Since the maximum noise level measured at the lot line does not exceed 80 dBA as specified in the Zoning Regulations, it is concluded that the dealership is not currently in violation of the regulations.

Noise Mitigation Measures

We are advised by management of the dealership that measures have been or will be implemented to address each of the primary sources of operational noise as follows (refer to Jason Reis letter of October 28, 2020 attached to this letter as Exhibit B):

1. Vehicle alarms. Vehicle alarms will be de-activated while on the dealership site until delivered to customers.
2. Remote electronic locking and unlocking of vehicles. The chirping sounds due to locking and unlocking of vehicles has previously been used by dealership staff to identify specific vehicles in

the parking lot. The dealership will organize vehicles in the lot by model / type to eliminate the need for identifying the vehicles by chirping sound.

3. Public address / paging system in use in the dealership service bays. The current system will no longer be used. Communication with employees will take place via two-way radios.
4. Power washing of vehicles. Vehicles are no longer being washed via powered methods; only a garden hose is in use.
5. Discharge of air compressor located within dealership service bay area. Means have already been implemented to muffle the sound of air periodically being discharged from the air compressor. The air discharge noise is now essentially inaudible.

Conclusion

1. Dealership operational noises are at times clearly audible at adjacent residential properties. The most predominant sources of noise are the vehicle alarms and chirping from locking and unlocking of vehicles.
2. The subject noises are intermittent and short term in nature, and occur within the range of ambient noise created by other sources.
3. Thus from a strictly noise *level* standpoint, the operational noise does not create a significant impact on neighboring residential properties.
4. On the other hand, the *character* of the noises – intermittent, short term, repetitive signals, which are in fact designed to be heard and draw attention to themselves – is readily distinguishable from other ambient noises.
5. However, with the measures that have been or will be implemented by the dealership, audibility of the most obvious noises will be eliminated.
6. Thus the overall impact of dealership operational noise on neighboring residential properties will be significantly reduced.

We trust this information will be useful. Should you have any questions, don't hesitate to contact us.

Sincerely,

Jaffe Holden Acoustics, Inc.

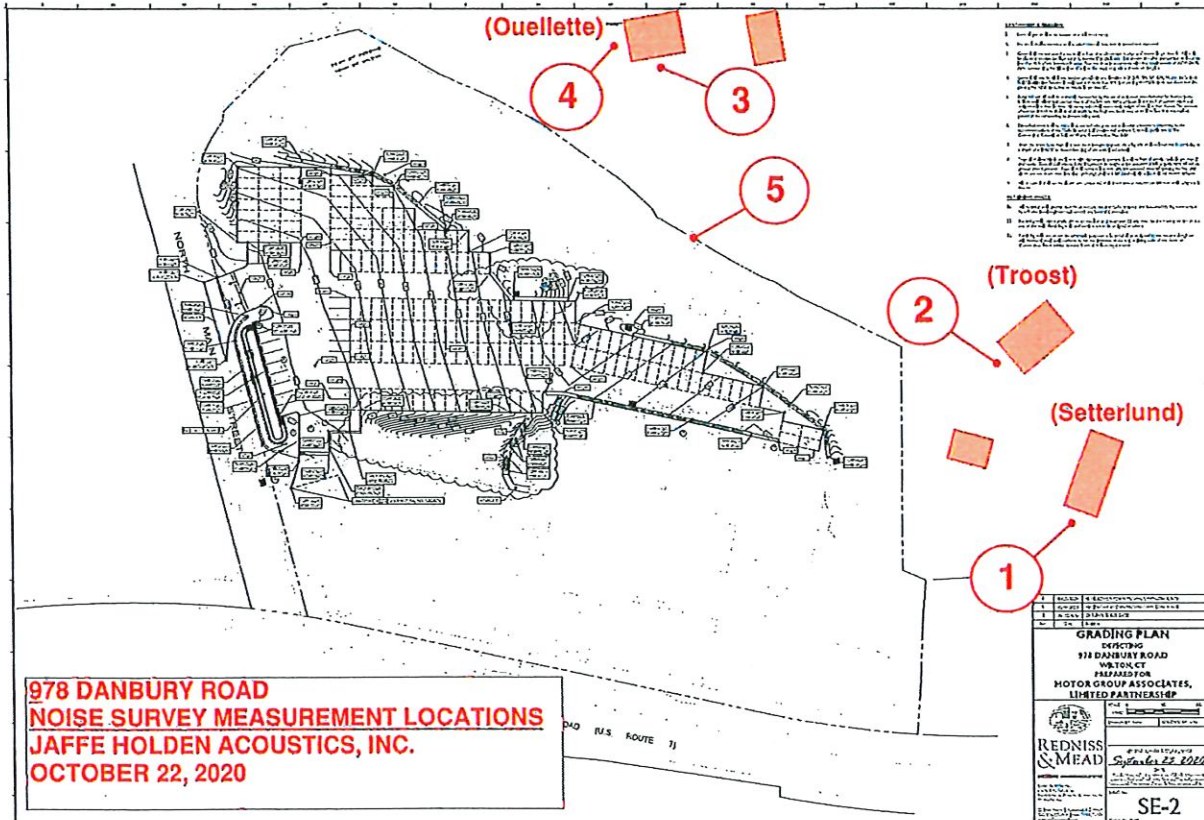


Mark Reber
Principal

EXHIBIT A – SITE NOISE SURVEY

An instrumented survey was conducted on the morning of October 22, 2020 for the purposes of gauging ambient noise levels and noise levels generated by dealership operations at neighboring residential properties. A handheld Bruel & Kjaer type 2250 precision integrating type 1 sound level meter was utilized to monitor noise levels for a period of 3-5 minutes at each location noted in Figure A1 below. Separate measurements were conducted to capture demonstrated vehicle alarm and locking / unlocking sources.

Figure A1 – Noise Measurement Locations



For each measurement location and period, the following values were measured in dBA (A-weighted decibels) with the sound level meter set to fast response:

1. L_{eq} : Equivalent Signal Level, or 'average' noise level over the measurement period
2. L_{90} : The 90th percentile level, i.e. the actual noise level is higher than this value 90% of the time. Represents the 'residual' or 'background' ambient noise level.
3. L_{10} : The 10th percentile level, i.e. the actual noise level is higher than this value only 10% of the time. Represents the 'maximum' noise level occurring during the measurement period.
4. Source: The maximum noise level recorded during demonstration of dealership operational activities.

Results of the measurements are as follows:

Table A1 – Measurement Results

Location Number	Location	L _{eq} (Average Ambient)	L ₉₀ (Minimum Ambient)	L ₁₀ (Maximum Ambient)	Maximum due to Demonstrated Source (e.g. honking, chirping)
1	Setterlund Rear Yard	51 dBA	47 dBA	59 dBA	54 dBA
2	Troost Rear Yard	51 dBA	48 dBA	58 dBA	53 dBA
3	Ouellette Rear Yard	44 dBA	41 dBA	51 dBA	50 dBA
4	Ouellette Side Yard	44 dBA	43 dBA	52 dBA	49 dBA
5	Ouellette Rear Lot Line	56 dBA	51 dBA	61 dBA	69 dBA

Bruce Bennett

— Love your car. Love your dealership. —



10/28/2020

Dear Attorney Murphy,

I would like to confirm that a number of pre-existing noise sources have been or will be eliminated as follows:

The car alarms (honking horn) and key fob unlocking chirps will no longer occur; the new cars arrive with their sound producing systems disabled and the dealership will not enable those functions until the car is being delivered to the new owner.

In addition, the new car inventory will be parked/stored in designated sections so the employees will no longer have a need to honk the horn or chirp the unlocking mechanism in order to find any particular car. Instead, the cars will be located by the porters who are the employees who put the car in storage in the first place. A diagram of the model-based storage system is attached.

The noise from the pressure relief valve on the compressor has been completely eliminated by virtue of the addition of an exhaust hose leading to a muffler which is placed inside a 5 gallon tub filled with insulation.

The noise from the public address system will be eliminated by the use of either walkie-talkies or small VHF radios.

The noise from the power washer has been eliminated because the power washer has been eliminated and the cars are now washed using only a garden hose.

Thank you for taking the time to review the progress we have made with our process here at Bruce Bennett Nissan

Jason Reis

General Manager

Bruce Bennett Nissan