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## MEMORANDUM

**Subject:** Confederation West (Tuliptree Rd.) Noise Wall Encroachments

**To:** Mayor and Members of City Council

**From:** Geoff Holman, Director of Public Works and Community Services

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In anticipation of this matter being brought forward at the next Council meeting on October 1<sup>st</sup>, 2024, I am providing some background information to assist you when providing direction to staff on this matter.

The construction of the Confederation West Phase 1 Plan of Subdivision was completed over 20 years ago. One of the conditions of approval required by the Ministry of Environment and Ministry of Transportation was the construction a noise attenuation barrier (Noise Wall) designed to mitigate traffic noise emanating from the adjacent Hwy.406. These Noise Walls are constructed on top of an earth berm, and to a height that provides noise mitigation in the rear yards of the new lots being developed. The “wall”, as opposed to a typical “fence”, is constructed using higher density material and is supported with steel supports typically to address issues such as wind loading, collisions and deterioration. The wall design provides noise mitigation to multiple properties backing onto Hwy. 406 (not just the property immediately adjacent to it). As a required design element for the subdivision, it was installed on land transferred to the City of Thorold by the developer upon registration of the Plan. The work was completed and the infrastructure was assumed by the City.

In recent years, the Noise Wall has come to the end of its service life requiring repair and replacement. The City Council approved funding to replace the damaged sections over the course of 3 years. There are a few sections remaining that will require repairs/replacement in the next couple of years.

On June 15<sup>th</sup>, 2021, (see PWCS 2021-44) Council was informed that access to the Noise Wall was being limited due to encroaching fence extensions and landscaping constructed by homeowners on the City-owned portion of the berm/wall.

On May 3<sup>rd</sup>, 2022, (see PWCS 047-22) Council approved the award of the Construction Contract which included a process to notify affected homeowners of the need to address the encroachments on City-owned land. Staff have met with individual homeowners prior to the Noise Wall construction to address the encroachment issue. (See Appendix 3 to Report PWCS047-22).

To date, staff have not been able to advance a solution to this matter. The By-law Enforcement Division has issued 6 orders to date this year for Pool By-law contraventions and there are 4 files currently under investigation. Thirteen (13) Pool Permits have been issued on Tuliptree Drive.

There may also be options currently not under consideration at this time. It is suggested that Council consider Legal advice and feedback from the City's Insurer prior to issuing any further direction to Staff.

Respectfully submitted and signed by

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Geoff Holman, C.E.T  
Director of Public Works and Community Services

Attach.