



SUBJECT: Completeness Review for Official Plan and Zoning By-law Amendment Applications for 2020 Lakeshore Road

TO: Mayor and Members of Council

FROM: Community Planning Department

Report Number: PL-59-21

Wards Affected: 2

File Numbers: n/a

Date to Committee: n/a

Date to Council: November 23, 2021

Recommendation:

Deem, in accordance with sections 22(6) and 34(10.3) of the Planning Act, that applications submitted on October 26, 2021 by Burlington 2020 Lakeshore Inc. to amend the Official Plan and Zoning By-law for lands at 2020 Lakeshore Road are incomplete as the required information and materials have not been provided.

Direct the Director of Community Planning to notify Burlington 2020 Lakeshore Inc. that the required information and material have not been provided for the applications to amend the Official Plan and Zoning By-law for lands at 2020 Lakeshore Road, in accordance with sections 22(6.1) and 34(10.4) of the Planning Act.

PURPOSE:

This report provides information about applications that have been submitted to the City under the Planning Act and recommends that these applications be deemed incomplete in accordance with sections 22(6) and 34(10.3) of the Act, and that the applicant be notified accordingly.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth

Background and Discussion:

The City of Burlington requires that preconsultation with City and agency staff occur prior to the submission of applications for Official Plan Amendment and/or Zoning By-law Amendment. This requirement is in accordance with sections 22(3.1) and 34(10.0.1) of the Planning Act as well as Part VI, section 1.3(e) of the Official Plan (1997, as amended) (“the Official Plan”) and section 12.1.2(1.2) of the Official Plan (2020) (“the new Official Plan”) and By-law 40-2007.

On April 28, 2021, City and agency staff attended a preconsultation meeting with representatives of Burlington 2020 Lakeshore Inc., owners of property known as 2020 Lakeshore Road. The purpose of the meeting was to determine the requirements for complete applications to amend the City’s Official Plan and Zoning By-law to facilitate the owner’s proposal to redevelop the site with a mixed-use development that does not conform to in-effect Official Plan policies or Zoning By-law regulations.

The preconsultation meeting resulted in the creation of a preconsultation package that was provided to the representatives of Burlington 2020 Lakeshore Inc. (“the applicant”) by City staff by email on May 5, 2021. The preconsultation package outlines the following, in accordance with sections 22(4), 22(5), 34(10.1), and 34(10.2) of the Planning Act; Part VI, sections 1.3(f) and (g) of the Official Plan, sections 12.1.2(1.2)(c) and (d) of the new Official Plan, and By-law 40-2007:

- Types of applications required (Official Plan Amendment and Zoning By-law Amendment);
- Application fees required;
- Requirement to hold a Pre-Application Public Consultation Meeting prior to submitting an application;
- Required Information for Complete Application.

In accordance with the requirements set out in the preconsultation package, the applicant consulted the Burlington Urban Design Panel regarding their proposed development on August 19, 2021 and held a virtual Pre-Application Consultation Meeting via Zoom on September 8, 2021. The latter meeting was attended by the Mayor, Councillor Kearns, City staff, and members of the public. The City created a Development Pre-Application webpage, www.burlington.ca/2020lakeshore, to provide information to the public about the development proposal and the Pre-Application Consultation Meeting.

On October 22, 2021, City staff received a submission package from the applicant requesting amendments to the City’s Official Plan and Zoning By-law to permit the proposed development at 2020 Lakeshore Road. On October 26, the City received the application fees set out in the preconsultation package. City staff confirmed receipt of these materials and fees as of October 26 and initiated a completeness review to

determine whether the required information and material, as identified in the preconsultation package, had been provided.

Strategy/process

City staff have determined that the required information and material have not been provided. Specifically, the following required information and material were not included in the applicant's submission:

1. Phase Two Environmental Site Assessment;
2. Park Concept Plan;
3. Angular Plane Study;

In accordance with sections 22(6) and 34(10.3) of the Planning Act, until Council has received the required information and material and fee, Council "may refuse to accept or further consider the request for an amendment" to its Official Plan and Zoning By-law, and the statutory time periods for review of the applications do not begin. The statutory time period for the City to make a decision on an application is 120 days for an Official Plan Amendment application and 90 days for a Zoning By-law Amendment application. Part VI, section 1.3(h) of the Official Plan, and section 12.1.2(1.2)(e) of the new Official Plan state that the required information and material must be provided before the City considers application(s) for Official Plan Amendment and/or Zoning By-law amendment to be complete under the Planning Act.

The City's Preconsultation By-law 40-2007, section 3, states "that in the absence of a preconsultation meeting and the submission of all required supporting information or material, the City of Burlington may deem an application incomplete and refuse to accept the application".

On this basis, staff recommend that Council deem the subject applications for 2020 Lakeshore Road to be incomplete and direct staff to provide notice of this determination to the applicant.

If Council deems the submitted applications to be incomplete as recommended in this report, the City shall notify the applicant of this fact within 30 days after the receipt of the application fee, i.e.: notice must be given on or before November 24, 2021. Within 30 days after receiving the negative notice from the City, the applicant may make a motion for the Ontario Land Tribunal to determine whether the information and material have in fact been provided, or whether the requirement to provide this information and material is reasonable.

Options Considered

If the City does not notify the applicant that the application is incomplete by November 24, the applicant may make a motion at any time (not limited to 30-day time limit) for the

Ontario Land Tribunal to determine whether the information and material have in fact been provided, or whether the requirement to provide this information and material is reasonable.

Financial Matters:

If Council deems the submitted applications to be incomplete as recommended in this report, or if the City fails to give notice of its determination to the applicant within the legislated timeframe, the applicant may make motions to the Ontario Land Tribunal as described under “Strategy/process” and “Options Considered” above, and the City may incur costs in association with such motions.

Climate Implications

Not applicable.

Engagement Matters:

Not applicable.

Conclusion:

The City has received submissions from Burlington 2020 Lakeshore Inc. requesting amendments to the Official Plan and Zoning By-law. The applicant’s submissions did not include required information and material. This report recommends that these applications be deemed incomplete in accordance with sections 22(6) and 34(10.3) of the Act, and that the applicant be notified accordingly.

Respectfully submitted,

Thomas Douglas MCIP RPP

Senior Planner

(905) 335-7600 ext. 7811

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.