



SUBJECT: Completeness Review for Official Plan and Zoning By-law Amendment Applications for 1120 Cooke Blvd (PL-63-21)

TO: Mayor and Members of Council

FROM: Community Planning Department

Report Number: PL-63-21

Wards Affected: 1

File Numbers: n/a

Date to Committee: n/a

Date to Council: December 14, 2021

Recommendation:

Deem, in accordance with sections 22(6) and 34(10.3) of the Planning Act, that applications submitted on November 25, 2021, by Adi Developments (Masonry) Inc. to amend the Official Plan and Zoning By-law for lands at 1120 Cooke Blvd are incomplete as the required information and materials have not been provided.

Direct the Director of Community Planning to notify Adi Developments (Masonry) 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 1120 Cooke Blvd, 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:

Preconsultation Requirement

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.

Preconsultation for 1120 Cooke Blvd

On August 26, 2020, City and agency staff attended a preconsultation meeting with representatives of Adi Developments (Masonry) Inc., owners of property known as 1120 Cooke Blvd. 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 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 Adi Developments (Masonry) Inc. (“the applicant”) by City staff by email on October 1, 2020. 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 held a virtual Pre-Application Consultation Meeting via Zoom on September 29, 2020 that was attended by the Mayor, Councillor Galbraith, City staff, and members of the public. The City created a Development Pre-Application webpage, www.burlington.ca/1120cooke, to provide information to the public about the development proposal and the Pre-Application Consultation Meeting.

The applicant also consulted the Burlington Urban Design Panel regarding their proposed development on November 17, 2020.

2021 Preconsultation Update

In March 2021, City staff advised the applicant of the need for the preconsultation package to be updated due to the amount of time that had elapsed since the preconsultation meeting. In response, the applicant provided updated information about their proposal, and City staff provided an updated preconsultation package on July 7, 2021. This preconsultation package dated July 7, 2021, replaces the previous version as the record of what type of applications are needed and what fees, information, and material are required to be submitted with the applications.

2021 Application Submission

The applicant paid the required application fees to the City on November 24, 2021, and on November 25, 2021, City staff received their submission package requesting amendments to the City's Official Plan and Zoning By-law to permit the proposed development at 1120 Cooke Blvd. City staff confirmed receipt of these materials and fees as of November 25 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. Hydrogeology Study;
2. Letters of Reliance;
3. Housing Impact Statement;
4. Height Survey of Adjacent Buildings;
5. Angular Plane Study;
6. Area Servicing Plan;
7. Sustainable Building and Development Guidelines Checklist;
8. Response to Comments Received at Pre-Application Community Meeting;
9. PIN Reports;
10. Erosion and Sediment Control Plan;
11. Lighting and Photometrics Plan;
12. Utility Co-ordination Plan.

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 1120 Cooke Blvd to be incomplete and direct staff to provide notice of this determination to the applicant.

Options Considered

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 December 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.

If the City does not notify the applicant that the application is incomplete by December 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 "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 Adi Developments (Masonry) 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,

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Senior Planner

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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.