



SUBJECT: Completeness Review for Zoning By-law Amendment Application for 5030-5045 Tico Creek Common

TO: Mayor and Members of Council

FROM: Community Planning Department

Report Number: PL-16-22

Wards Affected: 5

File Numbers: n/a

Date to Committee: n/a

Date to Council: January 18, 2022

Recommendation:

Deem, in accordance with section 34(10.4) of the Planning Act, that the application submitted by Wellings Planning Consultants Inc. to amend the Zoning By-law for lands at 5030-5045 Tico Creek Common, as the required information and materials were provided on December 23, 2021; and

Direct the Director of Community Planning to notify Wellings Planning Consultants Inc. that the required information and material have been provided for the applications to amend the Zoning By-law for lands at 5030-5045 Tico Creek Common, in accordance with section 34(10.4) of the Planning Act; and

Direct the Director of Community Planning to provide notification of receipt of a complete application to prescribed persons and public bodies, pursuant to Section Section 34(10.7) of the *Planning Act*.

PURPOSE:

The purpose of this report is to provide a recommendation to Council to deem an application for a Zoning By-law Amendment 'complete', pursuant to the *Planning Act* and applicable policies of the City of Burlington Official Plan and for notification to be circulated to the applicant and prescribed persons and public bodies.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth

Background and Discussion:

On December 20, 2021, the City of Burlington Community Planning Department received an application for a Zoning By-law Amendment by Wellings Planning Consultants Inc. with respect to lands municipally known as 5030, 5035, 5040 & 5045 Tico Creek Common (formerly known as 1215 Appleby Line). Included with the submission package were technical reports, plans and studies in support of the proposed development. On December 23, 2021, the City received the applicable development application fee.

Prior to accepting and proceeding to process a development application, the City of Burlington Official Plan and the *Planning Act* require that certain information is provided as part of a 'complete' application. Once an application (and applicable fee) has been submitted and received by the City, the City has 30 days to review the submission to ensure that all required information and materials have been provided and to respond to the applicant. A response to the applicant regarding completeness of the subject application is required by no later than January 22, 2022.

Proposal History

The City of Burlington requires that preconsultation with City and agency staff occur prior to the submission of an application for a Zoning By-law Amendment. This requirement is in accordance with section 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 May 12, 2021, City and agency staff attended a preconsultation meeting with representatives of 1215 Appleby Holdings Inc., owners of the lands known as 5030, 5035, 5040 & 5045 Tico Creek Common. The purpose of the meeting was to determine the requirements for complete applications to amend the City's Zoning By-law to facilitate the owner's proposal to develop the site with commercial buildings that do not conform to current Zoning By-law regulations.

The preconsultation meeting resulted in the creation of a preconsultation package that was provided to the representatives of 1215 Appleby Holdings Inc. ("the applicant") by City staff by email on May 17, 2021. The preconsultation package outlines the following, in accordance with sections 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 (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 August 12, 2021. Notice of the meeting was sent to all property owners and tenants within 120 m of the subject site on July 26, 2021. The meeting was attended by the Councillor Sharman and City staff; no general members of the public attended the meeting. The City created a Development Pre-Application webpage, www.burlington.ca/ticocreek, to provide information to the public about the development proposal and the Pre-Application Consultation Meeting.

Strategy/process

City staff confirmed receipt of the submitted information, materials and fees as of December 23, 2021 and initiated a completeness review to determine whether the required information and material, as identified in the preconsultation package, had been provided. City staff have determined that the required information and materials have been provided.

On this basis, staff recommend that Council deem the subject application to be complete and direct staff to provide notice of this determination to the applicant. If the application is deemed to be complete as recommended in this report, the *Planning Act* requires the City to 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 January 22, 2022.

Within 15 days after notice is given to the applicant regarding receipt of a complete application, the *Planning Act* also requires notice of the application to be provided to prescribed persons and public bodies. The manner in which notification is to be provided as well as to whom notification is to be provided are pursuant to Section 34(10.7) of the *Planning Act* and applicable regulations. Accordingly, staff also recommend that Council direct staff to notify prescribed persons and public bodies in accordance with the *Planning Act*, pending the deeming of the application 'complete'.

Lastly, staff note that if the application is deemed complete, if Council does not make a decision on the application within 90 days of deeming the application complete, the applicant has the ability to submit an appeal for non-decision any time after the 90-day timeframe.

Options Considered

The City is required by the *Planning Act* to notify the applicant of Council's determination with respect to the completeness of the subject application on or before January 22, 2022.

If the City deems the subject application to be incomplete, or if the City deems the subject application to be complete (as recommended in this report) but fails to notify the applicant of this determination by January 22, 2022, the applicant may make a motion to the Ontario Land Tribunal to determine whether the information have in fact been provided or whether the information required by the City is reasonable.

Financial Matters:

If the City fails to give notice of its Ontario Land Tribunal proceedings occur in relation to this matter as described under “Options Considered” above, the City may incur costs in association with such proceedings.

Climate Implications

Not applicable.

Engagement Matters:

Not applicable.

Conclusion:

The City has received a submission from Wellings Planning Consultants Inc. requesting an amendment to the Zoning By-law. The applicant’s submission included the required information and material. This report recommends that this application be deemed complete in accordance with section 34(10.4) of the Act, and that the applicant, and prescribed persons and public bodies be notified accordingly.

Respectfully submitted,

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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.