

To: Mayor and Members of City Council

From: Thomas Douglas, Senior Planner – Development Review

Cc: Tim Commisso, City Manager
Craig Kummer, Acting Executive Director of CPRM
Jamie Tellier, Director of Community Planning
Kyle Plas, Manager of Development and Design
Bill Wallace, Supervisor of Development Review

Date: April 11, 2024

Re: Update on report PL-04-24, applications for Official Plan Amendment and Zoning By-law Amendment for 1120 Cooke Blvd (ward 1)

File Nos.: 505-01/22, 520-01/22

Recommendation:

Defer a decision on Official Plan and Zoning By-law amendments for 1120 Cooke Boulevard (PL-04-24) until such time as the Director of Community Planning advises that outstanding matters have been addressed and provides an updated recommendation if required.

Background and Discussion:

On March 5, 2024, Community Planning staff presented report PL-04-24 to Committee of the Whole. This report recommended approval of applications by Adi Developments for Official Plan Amendment and Zoning By-law Amendment to permit a mixed-use development at 1120 Cooke Boulevard in ward 1, comprising three tall buildings of maximum 34, 32, and 30 storeys (“the development applications”). The recommendations of PL-04-24 were considered by Committee and put on the March 19, 2024 Council meeting agenda for final approval.

Prior to the Council meeting of March 19, 2024, City Council received correspondence from legal counsel of CN Rail which introduced new information about noise modeling for CN’s Aldershot rail yard and asked Council to defer a decision on the development applications until their concerns could be addressed. Mike Bennett of WND Planning, representing Adi Developments, delegated at the March 19 Council meeting and requested that Council defer a decision to allow Adi an opportunity to address the concerns raised by CN. Community Planning staff supported the applicant’s request for a deferral. Council then passed a motion, “Refer item ah. Official Plan and Zoning By-law amendments for 1120 Cooke Boulevard (PL-04-24) to the April 16, 2024 Council meeting.”

Since the March Council meeting, CN Rail has provided updated noise modelling information to Adi Developments and the City, and Adi has undertaken a review of this information. As of April 11, 2024, Community Planning staff have received preliminary technical information from Adi reflecting their ongoing work to address CN’s concerns. To date, the City has not received a complete technical analysis of CN’s noise model, nor any further correspondence from CN that would indicate that their concerns have been addressed. Accordingly, staff are recommending that Council further defer a

decision on report PL-04-24 until such time as Community Planning staff advise that the outstanding matters have been resolved through review of updated technical analysis from the applicant by both CN Rail and the City's Development Engineering team. At such time, Community Planning staff will also advise Council whether any revisions to the recommendations of PL-04-24 are required.

Options Considered:

Council has the option to approve the recommendations of report PL-04-24 at this time, but this is not recommended by staff. A decision to approve the development applications prior to addressing the concerns of CN Rail could result in CN Rail appealing the decision of Council, which would result in further delays and costs associated with an Ontario Land Tribunal (OLT) appeal process for both the City and the applicant. Rather, staff recommend deferral to allow time for due consideration of the new information presented by CN Rail in their March correspondence, as this will ensure Council's decision-making is as well-informed as possible.

Council should be aware that deferring a decision, as recommended by staff, also presents a risk that the applicant could appeal to the OLT on the basis of non-decision. Nonetheless, staff recommend deferral for the reasons stated above. Because the subject applications were deemed complete prior to the passing of Bill 109, there is no risk of the City having to refund application fees.

Lastly, Council also has the option to refuse the development applications, but this is not recommended, would be contrary to the recommendations of report PL-04-24, and would risk an appeal by the applicant.

Conclusion

Staff are of the opinion that deferring a decision on report PL-04-24 as recommended in this memo is appropriate and will support informed decision-making. Decision-making must also be timely, and to this end staff will remain in contact with the applicant and CN to facilitate expedient resolution of the outstanding concerns regarding noise impacts and land use compatibility. At such time as these outstanding matters have been addressed, staff will report back to Council to recommend a decision on the development applications and report PL-04-24.

Respectfully submitted,

Thomas Douglas, MCIP RPP
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Community Planning Department