



**SUBJECT:** Recommendation Report for Official Plan and Zoning By-law Amendments for 1120 Cooke Blvd

**TO:** Mayor and Members of Council

**FROM:** Community Planning Department

Report Number: PL-57-24

Wards Affected: 1

Date to Committee: Not applicable

Date to Council: June 18, 2024

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### **Recommendation:**

Approve the recommendations of Community Planning Department report PL-04-24.

### **PURPOSE:**

#### **Vision to Focus Alignment:**

- ☒ Designing and delivering complete communities
- ☐ Providing the best services and experiences
- ☐ Protecting and improving the natural environment and taking action on climate change
- ☐ Driving organizational performance

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### **Executive Summary:**

This report provides an update on the applications for Official Plan Amendment and Zoning By-law Amendment for 1120 Cooke Boulevard (file numbers 505-01/22, 520-01/22). Staff had recommended approval of these applications in March 2024 through report PL-04-24; however, a decision was deferred by Council pending review of new information presented by CN Rail. The current report describes this review and recommends that approval of the recommendations of report PL-04-24 is appropriate at this time.

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## 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 (Adi) for Official Plan Amendment and Zoning By-law Amendment to permit a mixed-use development at 1120 Cooke Boulevard in ward 1, comprising three towers of maximum 34, 32, and 30 storeys (“the development applications”).

Report PL-04-24 described staff’s review of the subject development applications, including with respect to matters of land use compatibility such as noise impacts and air quality impacts. As stated on page 12 of the report:

“Staff Opinion: Staff are satisfied that the proposed development provides needed housing and is appropriately located in the Aldershot Major Transit Station Area in close proximity to existing and planned transit. Staff are of the opinion that the proposed development of sensitive uses is compatible with surrounding major facilities, subject to the implementation of mitigation measures that will be designed in greater detail through a future Site Plan application.”

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 CN’s 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.”

Following the March Council meeting, legal counsel for CN Rail provided updated noise modelling information to Adi Developments for analysis by their noise consultant, SLR Consulting (Canada) Ltd. At the April 16, 2024 meeting of City Council, Community Planning staff presented a memo entitled [“Update on report PL-04-24, applications for Official Plan Amendment and Zoning By-law Amendment for 1120 Cooke Blvd \(ward 1\)”](#). This memo advised that the CN noise matter remained outstanding and recommended that Council again defer a decision. Accordingly, Council passed a motion, “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.”

On June 10, 2024, the applicant submitted to the City a letter entitled “Opinion Letter on CN Rail Aldershot Rail Yard Environmental Noise – 1120 Cooke Boulevard, Burlington”,

prepared by SLR Consulting (Canada) Ltd., and dated June 7, 2024. The SLR opinion letter, attached to this memo as Appendix A, describes SLR's analysis of the information provided by CN Rail, and contains the following relevant excerpts:

"SLR has reviewed the acoustic model prepared by Jade, received on March 18, 2024. It is SLR's opinion that the acoustic model is overly conservative and not likely representative of the predictable worst-case scenario for the CN Aldershot Rail Yard."

"The February 2023 [by SLR] study demonstrates that the Project site is anticipated to be compliant with MECP Publication NPC-300 Class 4 guideline limits"

"It is SLR's opinion that the new acoustic model received from CN on 2024 represents an absolute worst-case scenario, rather than a predictable worst-case scenario, and therefore significantly overstates potential impacts."

The June 7, 2024 SLR Opinion Letter goes on to conclude as follows:

"It is SLR's opinion that MECP Publication NPC-300 Class 4 Area guidelines will be met at the proposed development, based on predictable worst-case noise impacts from the CN Rail Aldershot Yard, as per SLR Report dated February 23, 2023."

The SLR opinion letter has been reviewed by staff in Development Engineering and Community Planning. On the basis of staff's review of this letter, considered together with staff's review of the overall development applications for 1120 Cooke Boulevard, staff continue to support approval of the applications for Official Plan Amendment and Zoning By-law Amendment applications for 1120 Cooke Boulevard. Accordingly staff now recommend that Council approve the recommendations of Community Planning Department report [PL-04-24](#) without modifications.

Staff advised CN Rail of this recommendation by email to their legal counsel on June 14, 2024.

### **Strategy/process/risk**

Should Council approve staff's recommendation, staff will provide notice of the decision in accordance with the requirements of the Planning Act. Council's decision may be appealed to the Ontario Land Tribunal (OLT) by interested parties with appeal rights under the Planning Act, including CN Rail. Should Council's decision be appealed, the City will incur costs associated with defending Council's decision at the OLT.

### **Options Considered**

Council has the option to again defer a decision, but this is not recommended by staff. Should Council defer a decision, the applicant could appeal to the OLT on the basis of

non-decision. 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.

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

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### **Financial Matters:**

Refer to Community Planning Department report PL-04-24.

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### **Climate Implications:**

Refer to Community Planning Department report PL-04-24.

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### **Engagement Matters:**

Refer to Community Planning Department report PL-04-24.

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### **Conclusion:**

The new information presented by CN Rail in March 2024 has been analyzed by the applicant's noise consultant, SLR Consulting (Canada) Ltd. City staff have reviewed an opinion letter from SLR wherein SLR concluded that MECP Publication NEPC-300 Class 4 Area guidelines will be met. Staff have considered this opinion alongside staff's overall review of the development applications for 1120 Cooke Blvd and determined that approval of the applications for Official Plan Amendment and Zoning By-law Amendment for 1120 Cooke Boulevard is appropriate at this time. Accordingly, staff now recommend that Council approve the recommendations of Community Planning Department report PL-04-24 without modifications.

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Respectfully submitted,

Thomas Douglas, MCIP RPP

Senior Planner – Development Review

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**Appendices:**

- A. “Opinion Letter on CN Rail Aldershot Rail Yard Environmental Noise – 1120 Cooke Boulevard, Burlington”, prepared by SLR Consulting (Canada) Ltd., dated June 7, 2024

**Notifications:**

Mike Bennett and Andrew Ferancik, WND Associates Ltd.

**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.