

Mandatory Pre-Application Consultation: Proposed Amendments to the Official Plan and to the Municipal Code - Proposals Report

Date: May 26, 2021

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning, and Chief Operating Officer, Development

Wards: All

SUMMARY

This report brings forward a proposed improvement to the City's development review process.

In response to the City's End-to-End Review of the Development Review Process and because development will play a vital role in supporting Toronto's economic recovery post-COVID-19, the City is implementing the Concept 2 Keys (C2K) program. C2K is transforming the City's development review process from pre-application consultation to occupancy by reimagining organizational structures, processes and technology.

The proposed Official Plan Amendment and Municipal Code by-law principles related to mandatory pre-application consultation included in this report arise from a recommendation of the End-to-End Review that the City "standardize a formal internal and external meeting cadence and project schedule to enhance cooperation and customer service," beginning with pre-application consultation. Inconsistencies at this initial step in the development review process have implications for application quality, shared productivity, overall time to decision and city-building outcomes.

In addition to addressing existing inconsistencies, pre-application consultation is encouraged and supported as a component of the Province's land use planning system, and its use is one of the key elements to the successful implementation of the reduced statutory review timelines introduced by Bill 108, the *More Homes, More Choices Act, 2019*.

The C2K team engaged both internal and external stakeholders in consultation regarding the purpose, scope and current practices around pre-application consultation. The team also carried out jurisdictional research indicating wide use of *Planning Act* provisions to require, by by-law, pre-application consultation in other Ontario municipalities. Jurisdictional research also indicates that such a by-law is typically

supported by Official Plan policy. Based on the above, City staff are advancing two streams of work related to mandatory pre-application consultation:

1. Amendments to the Official Plan and Municipal Code to require pre-application consultation as a pre-requisite to the submission of an application; and
2. Operational improvements to support implementation and improve consistency and outcomes of pre-application consultation.

This report focuses on establishing the legislative and policy basis for requiring pre-application consultation. A final report will outline any operational improvements needed to support implementation, including, but not limited to, staff resourcing and team structure, cost-recovery and administration and technology.

The two streams of work are expected to culminate in a city-wide roll-out of mandatory pre-application consultation in 2022, following a potential transition period once the Official Plan Amendment has come into force and effect.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning, and Chief Operating Officer, Development, recommend that:

1. Planning and Housing Committee direct appropriate City staff to undertake stakeholder and public consultation, including any virtual stakeholder meetings and a virtual public open house on the proposed Official Plan Amendment and Municipal Code by-law principles regarding mandatory pre-application consultation, as shown in Attachment 1 and Attachment 2 of this report.
2. Planning and Housing Committee request the Chief Planner and Executive Director, City Planning, and Chief Operating Officer, Development, to report back with a final report to a Q4 2021 meeting of the Planning and Housing Committee on recommendations for mandatory pre-application consultation.

FINANCIAL IMPACT

There is no financial impact in adopting the recommendations of this report.

Any costs associated with a virtual public open house identified in Recommendation 1 of this report are included in the 2021 operating budget of the Office of the City Manager, of which the C2K Program is a part.

City staff are currently undertaking a review of planning application fees, which will consider mechanisms for cost-recovery related to required pre-application consultation. It is anticipated this work will be completed prior to a final report to Council on Municipal

Code and Official Plan amendments related to mandatory pre-application consultation. Any financial impacts will be included in that report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications.

EQUITY IMPACT STATEMENT

The proposed Official Plan Amendment and changes to the Municipal Code have been analysed at the definition and planning stage for potential impacts on Indigenous, Black and Equity-seeking groups of Toronto. It is anticipated that the proposed changes will maintain or improve the liveability of the city for all residents, as mandatory pre-application consultation ensures more consistent application of City development policy, guidelines and standards at the outset of the development review process.

DECISION HISTORY

At its meeting of May 14, 2019, Toronto City Council adopted a report from the Chief Planner and Executive Director, City Planning, "Proposed Bill 108 (*More Homes, More Choice Act, 2019*) and the Housing Supply Action Plan - Preliminary City Comments." This report provided Council with City Planning staff comments on Bill 108, including matters related to reduced review timelines for certain planning applications.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC7.3>

At its meeting of September 17, 2019, in consideration of item [PH8.7 \(End-to-end review of Development Review Process\)](#), the Planning and Housing Committee received the report from the Chief Planner and Executive Director, City Planning and the Deputy City Manager, Infrastructure and Development Services for information.

At its meeting of May 31, 2017, in consideration of item [PG21.5 \(Work Plan for the Review of the Development Review Process\)](#), the Planning and Growth Management Committee made the decision to refer this review to the Chief Transformation Officer with the request that the Officer:

- Chair and lead a Steering Committee comprising representatives from City corporations, divisions and agencies which comment on development applications to conduct the end to end review of the City's development review process; and,
- Ensure that the end-to-end review of the City's development review process be holistic in nature and consider best practices for planning applications.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG21.5>

At its meeting of January 31, 2017, in consideration of item [PG17.4 \(Additional Staffing Resources for Development Application Review\)](#), City Council directed the Deputy City Manager, Cluster B, the Deputy City Manager, Cluster A, the Deputy City Manager &

Chief Financial Officer and the City Solicitor to conduct an end-to-end development process review and to report to the Planning and Growth Management Committee. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG17.4>

COMMENTS

Toronto's Development Review Process

A Robust System

Toronto's development review process is complex and interdivisional in nature, involving up to 25 City divisions and entities across all four service areas and over 30 potential external commenting partners. It is a mature and robust development review system that supports and informs engagement with public stakeholders. With extensive community consultation, the development review and approval system is crucial in developing affordable housing, securing parkland, driving economic growth and job creation, supporting landmark projects, expanding infrastructure and delivering complete communities for the city. More recently, it has also emerged as one of the key opportunities to accelerate the recovery from the COVID-19 pandemic.

City Planning's Development Pipeline 2020 report (Item [PH17.9](#)) confirms that the city continues to be an exceptionally attractive location for development in the Greater Toronto Area (GTA). In the first half of 2020, the COVID-19 pandemic had not deterred development activity in Toronto. At the time the report was presented to Planning and Housing Committee in October 2020, there were more residential units and more non-residential gross floor area (GFA) proposed in the current Development Pipeline than in any other Pipeline over the last five years (January 1, 2015 - December 31, 2019).

In 2020, the City received a total of 448 development applications. This represents only a slight decrease from the 478 applications submitted in 2019. Between January and April 2021, the City received 142 development applications.

Pre-application Consultation in Development Review

The current development review process includes voluntary pre-application consultation. Applicants may request a pre-application consultation meeting with City staff to discuss, among other matters, application submission requirements with staff. To better navigate the complexities of the development review process, the *Planning Act* and the *City of Toronto Act, 2006* permit, and authorize the City to require, applicants to consult with the municipality prior to submitting a planning application.

For clarity, while the focus of this report is pre-application consultation with City staff, the Official Plan also contemplates pre-application consultation with the Ward Councillor and the local community, which is "encouraged" in policy. No changes are proposed to this policy.

In 2019, the City received 495 requests for pre-application consultation meetings from potential applicants. Of those requests, 349 (71%) meetings were scheduled with staff.

In 2020, despite the COVID-19 pandemic, the City received 449 requests for pre-application consultation meetings and 301 (67%) of those meetings were scheduled. Between January and April 2021, the City received 198 pre-application consultation meeting requests. At the time of this report, 143 (72%) of those meetings had been scheduled.

The increasing volume and complexity of applications and demonstrated interest on the part of applicants in pre-application consultation with City staff prior to submission of a formal proposal indicates that pre-application consultation is a recognized and well-used practice in Toronto.

Jurisdictional research indicates that improvements to the early stages of the development review process, including requiring pre-application consultation, results in the submission of higher-quality applications, increases the number of applications moving from pre-application consultation to actual submission, reduces the overall number of circulations and helps to establish mutual accountability early on. Improving and making pre-application consultation a mandatory rather than voluntary step in the development review process has been identified by internal and external stakeholders, and through jurisdictional review, as a first step in addressing inconsistencies that have implications for application quality, staff productivity, overall time to decision and city-building outcomes.

Transforming Development Review

Concept 2 Keys - A Transformational Program

The City's Concept 2 Keys (C2K) program will transform, enhance and improve how the City delivers effective and coordinated development review services and competes globally for development. The desired outcome of C2K is to create a process that is more consistent and transparent and enables a more collaborative and accountable relationship between the City and development applicants.

Development will play a vital role in supporting Toronto's economic recovery post-COVID-19. Understanding this and the need for rapid change, C2K has adopted an iterative, customer-centric approach to transforming the development review process. This includes implementing improvements to discrete aspects of the development review process - including mandatory pre-application consultation - and piloting new approaches prior to city-wide roll-out.

End-to-End Review - Rationale for Change

The End-to-End Review of the Development Review Process identified systemic challenges impacting the efficiency, consistency, transparency, timeliness and outcomes of the development review process. Chief among these challenges is a lack of communication around and shared understanding of the process both internally (i.e., between interdivisional partners) and between City staff and applicants. The End-to-End Review recommended standardizing a formal internal and external meeting cadence to facilitate interdivisional alignment on application requirements, identify solutions to application-related challenges and improve customer service. While not an explicit recommendation of the End-to-End Review, requiring pre-application consultation

supports the direction to formalize and improve internal and external communication at the outset of the development review process.

Bill 108 - Impacts of Legislative Change

The Province's Bill 108, the *More Homes, More Choices Act, 2019*, was proclaimed in part on September 3, 2019, and includes significant reductions to the statutory timelines for processing Official Plan amendment (120 days from 180 days), Zoning By-law amendment (90 days from 120 days) and Draft Plan of Subdivision (120 days from 180 days) applications. Complete applications received since Bill 108 received Royal Assent on June 6, 2019 are now subject to the new timelines for appeal to the Local Planning Appeal Tribunal where Council fails to make a decision within time provided.

Process, operational and/or administrative changes, such as requiring pre-application consultation, are anticipated to improve the current application review process.

Understanding the Current State

Initial Input from Internal and External Stakeholders

In Spring 2020, building on the recommendations of the End-to-End Review, the C2K team surveyed City Planning staff engaged in development review to identify and prioritize pain points in the process. Of the 19 pain points identified, pre-application consultation was the one most frequently noted by staff. Building on this initial outreach, in early 2021, the C2K team interviewed subject matter experts across City Planning and interdivisional commenting partners to gather their input on current pre-application consultation practices. Key issues identified through this round of internal engagement include:

- Inconsistencies in the scope and purpose of pre-application consultation;
- Poor or irregular internal and external communication; and
- Staff resourcing constraints and inefficient use of staff time.

Subject matter experts agreed that inconsistencies in current practices around pre-application consultation result in an onerous and time-consuming process for staff, and can contribute to the submission of incomplete and/or inadequate applications and delays in application review. In addition, subject matter experts noted that differences in staff resourcing and pre-application consultation practices between districts contribute to inconsistent customer experience city-wide. Adequate staff resourcing to ensure a more predictable and consistent approach to internal review of preliminary submission materials and consultation with applicants was identified as a critical need. Most subject matter experts also emphasized the need to formally establish and communicate the purpose and scope of pre-application consultation, both internally and externally, in order to support productive meetings.

In addition to the pre-application consultation process, subject matter experts identified a series of administrative materials that support the intake of pre-application consultation requests (i.e., Pre-Application Meeting Request form), review of preliminary submission materials (i.e., internal commenting templates), mutual understanding of application submission requirements (i.e., Planning Application Checklist) and the

submission of high-quality plans, studies and information as part of a complete application (i.e., Development Guide Terms of Reference). Subject matter experts agreed that these administrative materials either do not exist across all commenting partner divisions, are not commonly used, are out of date or are otherwise inadequate.

The C2K team also engaged industry stakeholders through the Building Industry and Land Development Association (BILD) in a discussion of current practices. Industry stakeholders echoed internal subject matter expert sentiments regarding inconsistencies in staff resourcing and pre-application consultation practices between City districts. Industry stakeholders noted the importance of having access to senior staff from City Planning and commenting partner divisions early in the development review process to ensure application submission requirements are clearly articulated and mutually understood. Industry stakeholders also provided examples of their experiences in other GTA jurisdictions where pre-application consultation is required, and identified fixed meeting schedules, access to interdivisional staff and discussion of key issues related to a proposal as beneficial aspects of a mandatory process.

Jurisdictional Review

As part of the internal review of proposing mandatory pre-application consultation, City staff reviewed other municipalities within Ontario and their current processes. Other municipalities within the GTHA and Ottawa require pre-application consultation with staff and relevant external agencies, as required.

City staff have reviewed the various Official Plans and public-facing materials related to pre-application consultation, determination of complete application and the development review process of the cities of Mississauga, Hamilton, Vaughan, Markham, Brampton and Ottawa. In addition to this research, in early 2021, City staff conducted key informant interviews with planning staff in Ottawa, Markham and Mississauga to better understand how mandatory pre-application consultation is structured and carried out by each municipality.

Generally, the municipalities included in the jurisdictional review address pre-application consultation in some form in their Official Plans, providing direction for staff and applicants on pre-application consultation as a requirement prior to submission of an application to the City. In some cases, the purpose and scope of pre-application consultation, and the option to waive the requirement, is also established in policy and/or the municipal by-law.

In Ottawa, Markham and Mississauga, key informant interviews identified a number of common best practices, including:

- Interdivisional pre-meetings to review and align staff comments on a proposal prior to meeting with the applicant;
- Meetings scheduled through an established committee process (e.g., the Development Application Review Committee in Mississauga) or on certain days of the week to ensure attendance of all relevant interdivisional staff; and

- Up-to-date internal process manuals, templates and forms to ensure consistency and assist staff in administering pre-application consultation meetings.

In addition, key informants in these jurisdictions attributed a number of improvements in the development review process to the introduction of required pre-application consultation, including:

- Early identification of issues, opportunities and risks related to an application;
- Increased staff and applicant accountability for the quality of application submission requirements;
- An increased number of higher-quality proposals advancing from pre-application consultation to formal application submission; and
- Development and implementation of improved internal administrative procedures and processes (e.g., improved technology, commenting templates, etc.) that ensure consistency and save staff time.

Improving Pre-Application Consultation

City staff have engaged internal and external stakeholders and jurisdictional key informants in consultation regarding the purpose, scope and current best practices around pre-application consultation to identify key issues that an improved pre-application consultation process should address, including:

- Provide an improved level of service to all applicants;
- Improve consistency;
- Be grounded by site and application context;
- Establish a collaborative and mutually accountable working relationship between staff and applicants;
- Ensure staff and applicants have a shared understanding of application submission requirements;
- Identify key issues and opportunities to be addressed in the formal application review process; and
- Be a discrete process with clear beginning and end, so as not to pre-empt the formal application review process.

This report recommends that City staff consult on the proposed amendment to the Official Plan (Attachment 1) and Municipal Code by-law principles (Attachment 2) to require pre-application consultation. It also recommends that City staff provide a final report in Q4 2021 on the outcome of consultation and recommendations for City Council's consideration. Should City Council approve the changes to the Official Plan and Municipal Code in Q4 2021, a series of operational improvements will be made to achieve the following transformational objectives:

- Improve consistency of approach and staff productivity city-wide;
- Increase applicant and staff satisfaction with the process through improved communication and application quality;

- Reduce the overall time to decision by providing consistent information about application requirements and resolving critical issues early in the application review process; and
- Achieve broader city-building outcomes through consistent application of requirements and continuous collaboration.

Proposed Amendments to the Toronto Official Plan and Municipal Code

Basis in the *Planning Act* and *City of Toronto Act*

Bill 51, the *Planning and Conservation Land Statute Law Amendment Act, 2006*, introduced requirements for pre-application consultation under the *Planning Act*. Bill 51 clarified two issues, including:

- a municipality's obligation to provide an opportunity for applicants to discuss application submission requirements with staff; and
- provisions to enable a municipality to pass a by-law to require pre-application consultation.

The *Planning Act* provisions apply to certain planning applications under the *Act*, relevant to the City of Toronto, including Official Plan Amendments (Section 22), Zoning By-law Amendments (Section 34) and Plans of Subdivision (Section 51). Section 41 of the *Planning Act*, regarding Site Plan Control does not apply to the City of Toronto. Authority to require pre-application consultation for Site Plan Control Approval is granted under the *City of Toronto Act, 2006* (Section 114).

Pre-application consultation can be a mutually beneficial practice for municipalities and applicants at the outset of the development review process. The *Planning Act* and the *City of Toronto Act, 2006* enable municipalities to require pre-application consultation prior to the submission of an application under the relevant *Act*. In this case, pre-application consultation would be a mandatory prerequisite prior to submission of an application. The requirement for pre-application consultation, once in place through the Municipal Code by-law, is regulatory and must be met. The result, and the common practice, is for the municipality to require an applicant to engage in pre-application consultation with staff prior to the submission of a planning application. An application will not be permitted to be submitted unless this pre-requisite is met under the Municipal Code, pursuant to the *Planning Act* and the *City of Toronto Act, 2006*.

While requiring pre-application consultation with City staff does not, in and of itself, address existing and future operational issues, it establishes the legal basis and policy direction to support improving the practice within the City of Toronto. As noted above, the *Planning Act* and *City of Toronto Act, 2006* require the municipality to pass a by-law to require pre-application consultation. Jurisdictional research indicates that including policy direction related to pre-application consultation and its role in the development review process in a municipality's Official Plan is generally a best practice in Ontario.

The proposed Official Plan Amendment (Attachment 1) and by-law principles (Attachment 2) are introduced together in this report for consultation and described in detail below.

Proposed Official Plan Amendment

Section 5.5 of the City of Toronto Official Plan provides direction regarding the planning process. It currently includes policy guidance on consultation to ensure the process of amending, implementing and reviewing the Official Plan is fair, open and accessible to the public. In addition, it describes the complete application submission requirements of the *Planning Act* and Schedule 3 of the Official Plan.

The intent of the proposed Official Plan Amendment is to establish the mandatory requirement for pre-application consultation with City staff, and external agencies as may be required, in the Official Plan as a prerequisite to the submission of a planning application for Official Plan Amendments, Zoning By-law Amendments, Draft Plan of Subdivision and/or Site Plan Control. Administrative details and implementation will be set out in a pre-application consultation by-law to be incorporated into Chapter 415 of the Municipal Code.

Explanatory text in Section 5.5 currently indicates that an applicant is "encouraged, but not required to consult with the Ward Councillor, City staff and local community prior to formal submission of a planning application." A technical change is proposed to remove "City staff" from the existing sentence and incorporate new explanatory text to address the mandatory requirement for pre-application consultation with City staff as provided for in the *Planning Act* and the *City of Toronto Act, 2006*.

The proposed Official Plan Amendment continues to support engagement with the Ward Councillor and local community prior to the submission of an application. Consultation with the Ward Councillor and local community remains as "encouraged." Section 5.5.1 Public Involvement also remains unchanged, providing specific policy guidance with regard to encouraging pre-application community consultation (see 5.5.1 (c) (i) in Attachment 1).

Proposed amendments to Section 5.5.2 Complete Applications, reflect the importance of pre-application consultation prior to the submission of a planning application. A new policy has been added in this section to require that an applicant meet with City staff, and any relevant external public agencies, prior to the submission of an Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision, and/or Site Plan Control Approval.

Proposed Amendments to the Municipal Code

Chapter 415 of the Municipal Code addresses authority respecting completeness of planning applications. It is proposed that Chapter 415 be updated to require pre-application consultation as a prerequisite to the submission of an application under Sections 22, 34 and 51 of the *Planning Act* or Section 114 of the *City of Toronto Act, 2006*. Attachment 2 contains the by-law principles to be addressed in an update to Chapter 415 of the Municipal Code, including required consultation and effective date and potential transition. These principles are described in detail below.

A recommended by-law detailing amendments to the Municipal Code will be included in a final report to Council in Q4 2021.

Required Consultation

The proposed Official Plan Amendment and the Municipal Code by-law are intended to require applicants to attend a pre-application consultation meeting with City staff prior to the submission of certain planning applications. The Municipal Code by-law will also formalize improvements to the City's existing pre-application consultation process.

The intent of the Municipal Code by-law is to require applicants to attend at least one pre-application consultation meeting with relevant City staff and external agencies, as necessary. Based on the scope, complexity, issues, opportunities or other matters to be addressed in the review of a proposal, applicants may be required to attend additional meetings at the discretion of City staff.

Often, more than one application related to a single development proposal is anticipated (e.g., a Zoning By-law Amendment followed by a Site Plan Control Application). In these cases, one pre-application consultation meeting may satisfy the requirement for consultation. However, depending on the nature and timing of subsequent applications, additional pre-application consultation meetings may be required. Additional meetings may be appropriate to address complex applications or in cases where significant changes have been made to the City's policy framework or a prescribed period of time has lapsed between subsequent applications.

The proposed Municipal Code by-law will also address certain administrative requirements related to pre-application consultation. Similar to current practice, applicants will be expected to submit a written request for pre-application consultation to the City, and include a preliminary package of materials for City staff review. The by-law will prescribe the number of days within which City staff will schedule a meeting and provide notice of the meeting, in writing, to the applicant. City staff will also notify the applicant prior to the meeting of which City staff and representatives of external agencies have been invited to attend. If requested in writing by the Ward Councillor, the Chief Planner will inform the Councillor that a pre-application consultation meeting has been requested in their Ward.

The by-law will also specify that within a prescribed number of days of a pre-consultation meeting, City staff will provide the applicant with a written checklist of the plans, studies and other information required as part of a complete application.

Effective Date and Transition

Absent any specific transition, the Municipal Code by-law will come into force and effect on the day that the Official Plan Amendment comes into force and effect. Through consultation, City staff will review the need for a transition period following the effective date of the Official Plan Amendment to enable City staff and applicants to prepare for implementation. Based on the reporting schedule identified in this report, and subject to Council approval, pre-application consultation will become required city-wide in 2022. If recommended for approval, the length of the transition period and anticipated effective date will be addressed in a final report to Council in Q4 2021.

Future Operational Improvements to Support Implementation

As noted above, this report proposes a draft Official Plan Amendment and Municipal Code by-law principles to establish the legal and policy basis for requiring pre-application consultation in the City of Toronto. A final report that includes the recommended Official Plan Amendment and Municipal Code by-law is anticipated in Q4 2021. In addition, the final report will outline any operational improvements needed to support implementation.

Drawing on internal and external consultation and jurisdictional research, the C2K team has identified priority operational improvements to be addressed in the final report, including those described below.

Staff resourcing and team structure: The City's current pre-application consultation process relies on the community planner as the central point of internal and external contact and coordination. Differences in approach between and the workload of individual planners, interdivisional commenting partners and districts shape current practices. Staff resourcing and team structure are closely tied to the purpose and scope of a pre-application consultation.

Cost-recovery: The City currently accounts for an estimated cost of delivering pre-application consultations within planning application fees, but does not charge a specific stand-alone fee for pre-application consultation. Precedents exist within the City for a non-refundable deposit against future application and/or permit fees in order to aid in up-front cost-recovery. Jurisdictional research indicates that most Ontario municipalities that require pre-application consultation also charge a nominal set fee or require a non-refundable deposit against future application fees.

Administration and Technology: The City will need to introduce administrative and system changes to support a new required process step, including updates to how pre-application consultation meetings are requested and scheduled and, potentially, payment processing.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Proposed Official Plan Amendment, Incorporated into Section 5.5
Attachment 2: Pre-Application Consultation Principles to be addressed in Chapter 415 of the Municipal Code