

Mandatory Pre-Application Consultation Coming to the City of Toronto

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The City of Toronto is formalizing its pre-application consultation process for certain applications under the *Planning Act*, making pre-application consultation mandatory for all official plan amendment (OPA), zoning bylaw amendment (ZBA), site plan approval (SPA), and plan of subdivision (Subdivision) applications. The City-wide requirements will come into effect on November 1, 2022.

At its February 2 & 3, 2022 meeting, City Council adopted Official Plan Amendment 550 (OPA 550) and an amendment to Chapter 415 of the Toronto Municipal Code (Code Amendment) to establish the legislative and policy basis to require mandatory pre-application consultation for certain development applications under the *Planning Act*.

Landowners, developers and builders should be aware that after November 1, 2022, OPA, ZBLA, SPA and Subdivision applications will not be accepted, and the time periods under the *Planning Act* will not commence, unless the pre-application consultation process has been completed. These changes are part of the ongoing review of the City's development process being undertaken by the Concept 2 Keys (C2K) Office. The C2K Office was created in response to the recommendations made in the City's 2019 "End-to-End Review of the Development Review Process". The objective of the C2K Office is to implement improvements to the development review process and foster better collaboration between City divisions and between development applicants and City staff.

Existing Pre-Application Consultation Procedures

Pre-application consultation is a preliminary meeting between applicants and City staff to discuss the development proposal and confirm the materials and information that are required to be provided as part of a complete development application. Currently, pre-application consultation is encouraged but voluntary in the City of Toronto. Pre-application meetings can allow for a clear understanding of requirements for a complete development application, and many applicants currently participate in pre-application consultation prior to submission. The *Planning Act* allows for pre-application consultation to occur for OPA, ZBA, SPA, and Subdivision applications, however municipalities must pass a by-law in order to require mandatory pre-application consultation.

As the City of Toronto receives an increasing number of development applications every year, it also receives an increasing number of requests for pre-application consultation meetings. Staff report that in

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2020 alone, there were 483 development applications, and 449 requests for a pre-application consultation meeting, demonstrating a clear desire of applicants to meet with staff in advance of submitting a development application. However, staff also report that in 2020 the City was only able to grant a meeting within the same year to 67% of applicants.

While pre-application consultation is considered to be an important step in the development process, stakeholders have raised concerns that mandatory pre-consultation will result in delays to the application process, further increasing costs and exacerbating existing delays in the delivery of housing and other much needed development.

Mandatory Pre-Application Consultation Requirements

The Code Amendments set out the following requirements:

- *Applicants must make a request for a pre-application consultation meeting in writing through the prescribed form;*
- *The written request is to be accompanied by any required information and materials.* Stakeholders should be aware that the by-law authority is broader than the statutory requirements for a planning application. While not set out in the proposed amendment to the Code, City staff have indicated that the information to be required will be consistent with the existing voluntary pre-application consultation process. Currently, applicants requesting a pre-application meeting are required to prepare a submission package including:
 - Completed Pre-Application Meeting Request form;
 - Survey (if available), identifying any City owned lands if known;
 - Concept Site Plan, fully dimensioned in metric showing all proposed setbacks, entrances, parking areas, landscaped and hard surface areas, and existing public and private trees and/or significant vegetation;
 - Concept Elevations or Renderings, fully dimensioned in metric showing proposed height, building materials, window and entrance locations, and any balconies or roof amenity areas; and,
 - Any additional information that may assist staff in the review of the proposal;
- *One pre-application meeting is required with relevant City staff and external commenting agencies, as deemed necessary.* While requiring external agencies to be present may be potentially beneficial, this may further strain resources and lead to further delays;
- *Additional meetings may be requested by City staff, on a voluntary basis;*
- *For concurrent applications that require pre-application consultation, one meeting may satisfy consultation requirements, however, City staff have the ability to require additional pre-application meetings depending on the nature and timing of subsequent applications.* The City's discretion to require duplicative meetings may result in further delay;
- *The introduction of a new prescribed fee for pre-application consultation; and,*

- *No application may be filed until a pre-application consultation meeting has been held, yet no set timeframe for obtaining such meeting has been provided.*

Stakeholder Concerns

Stakeholders have raised a number of concerns, including meeting timelines, number of meetings, clear application requirements, complete application checklists, and adequate resourcing. It is expected that demand will only increase with a mandatory pre-application consultation meeting process and the inability to obtain a meeting with City staff due to lack of resources has been raised as a significant concern by the development industry. If a pre-application consultation meeting cannot be scheduled and held, an application cannot be submitted, and therefore, the statutory timelines under the *Planning Act* do not begin.

Municipal engagement with industry stakeholders is ongoing.

Implementation

During the transition period, City staff are expected to develop a Pre-Application Consultation Procedures Guide that will form part of the existing Development Guide and provide additional information regarding timelines, material requirements, meeting protocols, administrative considerations, and other procedural requirements for implementation. The Guide is anticipated to be finalized prior to November 1, 2022. To support implementation of the program, City staff have indicated that they will be adding new staff resources to increase administrative capacity and will adopt process improvements, which are currently being piloted by C2K to ensure the City is ready to accommodate mandatory pre-application consultation by November 2022.

Further details regarding the fee for pre-application consultation will be provided as part of the ongoing Development Application Fee Review undertaken by the C2K Office.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.