



SUBJECT: New Burlington Official Plan– proposed modifications for ROPA 48 conformity

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Community Planning Department

Report Number: PL-30-22

Wards Affected: All

File Numbers: 505-08

Date to Committee: May 10, 2022

Date to Council: May 17, 2022

Recommendation:

Direct the Director of Community Planning to consider agency and public comments on the proposed modifications to the Burlington Official Plan, 2020 that would present a means to resolve matters of non-conformity, where possible, to Regional Official Plan Amendment No. 48, and to report back with final recommendations at the July 5, 2022, Community Planning, Regulation and Mobility committee meeting.

PURPOSE:

To provide an overview of the process to resolve certain matters of non-conformity to Regional Official Plan Amendment No. 48 (ROPA 48), including proposed modifications to the Burlington Official Plan, 2020 for consideration by the Ontario Land Tribunal (OLT) through case number PL210040.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth
 - Improve integrated city mobility
 - Support sustainable infrastructure and a resilient environment
 - Building more citizen engagement, community health and culture
-

Background and Discussion:

As outlined in report [PL-41-22 Regional Official Plan Amendment 48 – Approach to achieve conformity](#) and further described in a [memo](#) prepared for consideration by Council, the Regional Official Plan Review (ROPR) is being advanced in a phased approach through several official plan amendments. The first of these amendments, Regional Official Plan Amendment 48 (ROPA 48), was approved by the Minister of Municipal Affairs and Housing on November 10, 2021.

ROPA 48 established the non-discretionary components of a Regional Urban Structure that supported local plans and priorities and advanced some of the necessary components of the ROPR to conform with the Provincial Growth Plan requirement to identify strategic growth areas.

ROPA 48 came into full effect on the day it was approved by the Minister. This means that ROPA 48 must be considered in all planning decisions, from development applications to Orders of the Ontario Land Tribunal (OLT).

ROPA 48 and Burlington Official Plan, 2020

Staff have assessed the Burlington Official Plan, 2020 with respect to ROPA 48 and have divided the areas of non-conformity into five categories, according to the respective process required to resolve the conformity issue:

Category 1: Policies and schedules of the Burlington Official Plan, 2020 which are in effect and conform to ROPA 48

On Dec 22, 2020 some policies and schedules of the Official Plan came into effect as a result of those policies and schedules not being appealed. At time of writing, staff note that on May 6, 2022 the City will be seeking an order from the OLT confirming the policies and schedules that were not appealed and which are therefore in effect. A review of the policies that the City intends to indicate will be in effect as of December 22, 2020 has confirmed that all of those policies conform to or are not impacted by ROPA 48.

Category 2: Policies and schedules of the Burlington Official Plan, 2020 which are in effect and do not conform to ROPA 48

If the staff review of policies of the Burlington Official Plan, 2020 had confirmed that any of the policies that were determined to be in effect were not in conformity with ROPA 48, the City would have needed to address non-conformity through an Official Plan Amendment, per the requirements of the *Planning Act*. As staff did not identify any areas of non-conformity in relation to the policies and schedules being put forward to the OLT for confirmation as being in effect, these policies and schedules are not impacted by this report.

Category 3: Policies and schedules of the Burlington Official Plan which are under appeal and conform to ROPA 48

As noted above the Burlington Official Plan, 2020 is currently under appeal. A number of the policies and schedules currently under appeal are already in conformity with ROPA 48. In those cases, the resolution of appeals will occur through the standard OLT process. These policies and schedules are not expressly identified and are not impacted by this report.

Category 4: Policies and schedules of the Burlington Official Plan which are under appeal and do not conform to ROPA 48

A number of the policies and schedules currently under appeal are not in conformity with ROPA 48. A review of the policies and schedules identified that from a high-level perspective there are two categories of policies and schedules:

- Category 4a: Policies and schedules where modifications can be proposed to address conformity with ROPA 48 at this time (see “Process, Discussion and Proposed Modifications” below for further detail). These policies and schedules are identified in Appendix A and are directly impacted by this report; and
- Category 4b: Policies and schedules where modifications are not possible at this time because additional local study is required. For these components addressing conformity to ROPA 48 relies on another process. The specific example being the completion of the Protected Major Transit Station Areas area-specific plans. While this matter of non-conformity cannot be addressed today, the absence of these more detailed future policies relating to development within the Protected Major Transit Station Areas does not create a conflict with ROPA 48. These policies and schedules are not expressly identified and are not impacted by this report.

The focus of this report is to identify a process by which matters of non-conformity within Category 4a may be resolved.

Strategy/process

To move forward with the resolution of various appeals, the OLT will need to address certain matters of non-conformity to ROPA 48 by modifying some of the existing components of the Burlington Official Plan (2020). These modifications will be introduced incrementally through the issuance of Orders by the OLT, related to each of the nine phases (and five sub-phases) of the appeal process:

Phase 1: Rural

Phase 1A: Agriculture Phase 1B: Natural Heritage Phase 1C: Aggregates

Phase 2: Implementation / Development Approvals Process

Phase 3: Growth Framework/Urban Structure/Land Use

Phase 4: Downtown Urban Centre & Urban Design

Phase 5: Major Transit Station Areas

Phase 6: Supporting Growth

Phase 6A: Parkland

Phase 6B: Public Service Facilities, Infrastructure & Utilities

Phase 7: Housing

Phase 8: Employment

Phase 9: Site-Specific

Staff are proposing the development of recommended modifications for consideration by the OLT as a means to streamline this process and ensure that the City's position is clearly established/communicated in advance.

Process, Discussion and Proposed Modifications

Staff have undertaken a conformity analysis of the Burlington Official Plan (2020) to assess the effect of ROPA 48 and inform proposed modifications to resolve certain matters of non-conformity. The focus of the analysis was to identify non-discretionary elements that do not require significant study or interpretation to confirm local implementation requirements. For example, the policies of the Regional Official Plan setting out the Regional Urban Structure, including Protected Major Transit Station Areas, density targets, and terminology and mapping changes, which have been approved by the Minister and cannot be appealed. These components fall under Category 4a, as outlined above, and are addressed in Appendix A: Proposed Official Plan Modifications, to this report.

The high-level effects of ROPA 48 as it relates to Burlington, and the general effect of the proposed Official Plan modifications found in Appendix A are as follows:

1. Regional Urban Structure

ROPA 48 establishes a Regional Urban Structure and a hierarchy of strategic growth areas that directs intensification growth to Urban Growth Centres, Major Transit Station Areas, Regional Nodes and Regional Corridors. The modifications proposed in Appendix A would embed this hierarchy within the City's new official plan growth framework.

2. Burlington Urban Growth Centre

ROPA 48 adjusts the boundary of the Urban Growth Centre to align with the adjusted Downtown Burlington Urban Growth Centre / Burlington GO MTSA. Appendix A sets out required changes to both policy and mapping.

3. Major Transit Station Areas

ROPA 48 delineates the boundaries of the Appleby GO and Aldershot GO MTSA and establishes a policy framework that identifies these stations, along with the Downtown Burlington Urban Growth Centre / Burlington GO MTSA as Protected MTSA's under Section 16(16) of the *Planning Act*. Appendix A suggests modifications that would establish the delineated boundaries in the new Official Plan as well as identify the mapping changes necessary to achieve conformity to ROPA 48. These modifications are prepared in accordance with Section 16(16) of the *Planning Act* and cannot be appealed by virtue of Section 17(36.1.4) of the *Planning Act*.

4. Primary and Secondary Regional Nodes

ROPA 48 establishes a policy framework that recognizes Regionally-significant Strategy Growth areas as Primary and Secondary Regional Nodes to support the hierarchy of strategic growth areas. This identifies the Uptown Urban Centre as a Primary Regional Node and the Downtown Urban Centre as a Secondary Regional Node. The modifications proposed in Appendix A would implement this change in the City's new official plan.

5. Population and Employment Targets

ROPA 48 updates the minimum density targets for the Protected Major Transit Station Areas in accordance with Section 16(16) of the *Planning Act*. ROPA 48 also identifies a general proportional target mix of residents and jobs to be planned for the MTSA's and Primary Regional Nodes. The modifications in Appendix A conform to these targets. As it relates to the minimum density targets for the Protected Major Transit Station Areas the modifications are prepared in accordance with Section 16(16) of the *Planning Act* and cannot be appealed by virtue of Section 17(36.1.4) of the *Planning Act*.

6. Strategic Employment Conversions

ROPA 48 advances a number of strategic employment conversions throughout the city, including within the Major Transit Station Areas. Some of the proposed modifications in Appendix A, of this report, reflect the conversions advanced through ROPA 48 and would change the extent of the Region's Employment Area overlay. Most of these converted sites are located within a Major Transit Station Area and will be assigned an appropriate land use designation through the MTSA Area-Specific Planning process. However, there are also a number of converted sites that are located outside of the MTSA's for which a different process must be determined. Staff will consider those select sites and their respective details as set out in [Appendix D \(Lands Recommended for Employment Conversion that are located within the Region of Halton\)](#)

[Employment Area overlay](#)) to PB-04-18: Revised Proposed Official Plan recommended for Adoption and will determine options.

Appendix A addresses areas of non-conformity in the Burlington Official Plan, 2020, with respect to ROPA 48 and the policies and schedules identified within Category 4a. To build an understanding of the nature of the proposed changes, the tables in Appendix A provide:

- the relevant items of ROPA 48;
- an explanation of the effect of the amendment and why the Burlington Official Plan, 2020 does not conform; and
- proposed modifications to resolve areas non-conformity, for consideration through the OLT process for the Burlington Official Plan, 2020.

Proposed modifications to policies and definitions are captured in Table A: Policy Analysis and proposed modifications to mapping are captured in Table B: Mapping Analysis. For ease of reference, proposed modifications relating to policies/mapping that are explicitly required under the *Planning Act* (section 16(16), Protected Major Transit Station Areas) have been flagged in green.

Proposed modifications to the schedules of the Official Plan have been described in text format only in Appendix A. For visual context, mapping prepared by the Region has been attached as Appendix B: ROPA 48 Mapping, to this report. Note that all proposed modifications to mapping are strictly reflective of ROPA 48.

Upon further staff review, and after considering public, Council and agency comments, staff may identify changes to the proposed modifications which would inform the final recommendations. At the appropriate time, staff will prepare a tracked changes version of the Burlington Official Plan, including updated mapping and schedules, and any required changes to policy and schedule cross-references.

Options Considered

While conformity to the Regional Official Plan would typically be achieved by amending the Burlington Official Plan through a public process under the *Planning Act*, policies that are under appeal cannot be modified outside of the OLT process. In May, the OLT will be asked to confirm which policies of the new Official Plan came into effect as of December 22, 2020, as a result of certain policies not being under appeal. It is expected that only a small number of policies will be in effect. Therefore, it is not possible to achieve conformity to ROPA 48 through an Official Plan Amendment.

Also being considered during the May cycle of Community Planning, Regulation and Mobility is the related report PL- 37-22: Regional Official Plan Amendment 49: City of Burlington Comments. At this time, Appendix A does not consider recommended ROPA 49. Once ROPA 49 has received Ministerial approval staff will consider options

to achieving conformity and will recommend an approach for moving forward through a future report.

Financial Matters:

Not applicable.

Total Financial Impact

Not applicable.

Source of Funding

Not applicable.

Other Resource Impacts

Not applicable.

Climate Implications

Not applicable.

Engagement Matters:

While there is no required statutory or public process required by the *Planning Act* for modifications to policies that are the subject of active appeals to the OLT, the proposed modifications have been brought forward for Council consideration to enable public review and comment in advance of submission to the OLT. To alert the public to this process, an explanatory report was brought to the Community Planning, Regulation and Mobility Committee meeting on April 5, 2022.

The public posting of report PL-30-22 as part of the May 10, 2022, CPRM agenda will also be communicated on the City's New Official Plan Project webpage, through the Official Plan subscription list, and to the relevant agencies. Parties to the new Official Plan appeal process will also be notified at the May 6, 2022, OLT Case Management Conference.

The public and stakeholders have a number of ways to provide feedback on the proposed modifications. Comments provided to City staff by June 3, 2022, will be considered in providing recommendations to Council targeted for July. In addition,

members of the public and stakeholders may register to delegate on the item targeted to be considered in July.

After considering public, Council and agency comments, staff may identify changes to the proposed modifications which would inform the final recommendations. At the appropriate time, staff will prepare a tracked changes version of the Burlington Official Plan, including updated mapping and schedules, and any required changes to policy and schedule cross-references.

Conclusion:

Staff recommend that the proposed modifications remain available for agency/public review and comment until June 3, 2022. Staff will then consider comments received and target to report back to Council with recommendations at the July 5, 2022, Community Planning, Regulation and Mobility Committee meeting.

Respectfully submitted,

Kelly Cook

Senior Planner, Community Planning Department

905-335-7600 x 7641

Karyn Poad, MCIP, RPP

Senior Planner, Community Planning Department

905-335-7600 x 7365

Alison Enns, MCIP, RPP

Manager of Policy and Community, Community Planning Department

905-335-7600 x 7787

Appendices:

- A. Proposed Official Plan Modifications
- B. ROPA 48 Mapping

Notifications:

Office of the City Clerk to consult Community Planning Department in preparation of notifications.

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.