



SUBJECT: Major Transit Station Area (MTSA) update and Community Planning permit system exploration

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Community Planning

Report Number: PL-40-23

Wards Affected: 1, 2, 4, 6

Date to Committee: June 27, 2023

Date to Council: July 11, 2023

Recommendation:

Direct the Director of Community Planning to prepare a draft Community Planning Permit By-law for consultation in the Fall of 2023 at the same time as the release of draft Official Plan policies; and

Direct the Director of Community Planning to prepare a scope change to the existing engagement with Dillon Consulting in the amount of \$120,000 to complete a CPP By-law for the MTSA's by the end of 2023; and

Receive the technical documents completed as of June 27, 2023 (Appendices B-H) as follows:

Major Transit Station Area (MTSA) Phase 2 Flood Hazard Assessment Burlington GO and Downtown (March 6, 2023), as prepared by WSP, and contained in Appendix B of community planning department report PL-40-23;

Major Transit Station Areas Land Use Compatibility Study (May 2023), as prepared by Dillon Consulting, and contained in Appendix C of community planning department report PL-40-23;

Flood Hazard and Scoped Stormwater Management Assessment, Aldershot GO Major Transit Station Area (June 5, 2023), as prepared by WSP, and contained in Appendix D of community planning department report PL-40-23;

Flood Hazard and Scoped Stormwater Management Assessment, Appleby GO Major Transit Station Area (June 5, 2023), as prepared by WSP, and contained in Appendix E of community planning department report PL-40-23;

Scoped Environmental Impact Study, Aldershot Mobility Hub (August 2022), as prepared by Dillon Consulting, and contained in Appendix F of community planning department report PL-40-23;

Scoped Environmental Impact Study, Burlington Mobility Hub (August 2022), as prepared by Dillon Consulting, and contained in Appendix G of community planning department report PL-40-23;

Scoped Environmental Impact Study, Appleby Mobility Hub (August 2022), as prepared by Dillon Consulting, and contained in Appendix H of community planning department report PL-40-23.

PURPOSE:

The purpose of this report is to provide an update on the MTSA ASP Planning Project, including the Appleby GO MTSA Area Specific Plan, as well as to deliver any technical studies which have been completed since June 2022. This report also provides Council with an overview of the Community Planning Permit System (CPPS) tool in the *Planning Act*. It includes an exploration of the tool, its benefits and the potential application of the CPPS within Burlington's Major Transit Station Areas (MTSAs), to align and support the implementation of the concurrent MTSA Area-Specific Plan (ASP) Planning Study. This report presents a framework and a work plan for the creation of a draft CPP By-law by Fall 2023.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth
- Deliver customer centric services with a focus on efficiency and technology transformation

Background and Discussion:

1. MTSA ASP Planning Project Update

Project Update

On July 5, 2022, staff presented PL-10-22, Major Transit Station Areas - Area Specific Plans Planning Study Update to the Community Planning, Regulation & Mobility Committee. The report outlined the MTSA ASP Planning Study Process from January to July 2022 and presented the findings of the MTSA ASP Planning Study through Dillon Consulting Limited's MTSA Area-Specific Plan (ASP) Planning Study Final Report. The report transmitted two pieces of technical work which had been completed between January and July (Market Analysis Update and Air Quality Assessment) and provided an overview of the modifications made to the Recommended Preferred Precinct Plans and discussed next steps for the project. The report also provided an update on the Appleby GO MTSA ASP work, noting that the work had paused in order to allow the City to further explore land use compatibility as it relates to this MTSA.

As a result of Committee discussion around the staff report, the following staff direction was provided:

- Direct the Director of Community Planning to re-examine the Burlington GO Central Precinct with respect to requirements related to achieving maximum height permissions on a given site, alongside the provision of community amenities, affordable housing and community facilities commensurate with those maximum height permissions and the supporting policies and policy directions. (SD-20-22)

In addition to the staff direction, Council identified the issue of transitions from areas inside the MTSAs to existing low rise residential areas outside of the MTSAs which staff committed to further exploring.

Since the July 5, 2022, CPRM, staff have continued to work with Dillon and their consulting partners on:

- Completing any remaining technical studies
- Finalizing any outstanding work from the Terms of Reference
- Exploring the height maximum in the Burlington GO Central Precinct
- Examining transitions between areas inside MTSAs and residential low-density areas outside of the MTSAs
- Investigating the implementation tools available for the MTSAs
- Investigating land use compatibility impacts on the Appleby GO MTSA and resuming the ASP work for the Appleby GO MTSA
- Updating population and employment growth projections
- Writing draft Official Plan polices

At the same time, staff have continued working with colleagues in Community Planning and Legal Services to better understand the impacts of the appeals to the Burlington Official Plan (BOP) 2020 as well as a myriad of changes impacting the project including

the Minister's approval of ROPA 48 and ROPA 49, and multiple changes to the Planning Act and planning system in Ontario and the regulatory tools to achieve those changes. These changes have been documented through a number of staff reports and are summarized in PL-45-23 Burlington Official Plan, 2020 Targeted Realignment Exercise – Initial Work Plan. There remains significant uncertainty around many of the changes proposed by the Province. This uncertainty is a concern both for staff and the development industry.

Appleby GO MTSA

In July 2022, Council directed staff to continue to explore next steps to address land use compatibility matters in the Appleby GO MTSA. Following that direction, staff worked with Dillon to explore the options identified through the Land Use Compatibility Study (Appendix D). The study identified the need for additional information to support the introduction of sensitive land uses in areas with existing employment uses. The study also identified multiple paths to achieve that additional information.

As the provincial planning structure has evolved and the urgency to build more home faster has become a critical goal of both the City and interested/affected parties, staff acknowledge the importance of completing the policy work for Appleby. Part of that work includes the advancement of the vision and objectives for the MTSA while also identifying a path forward for the development industry to resolve land use compatibility matters through the completion of detailed Land Use Compatibility studies at the development application stage. This approach allows for the assessment of impacts of the introduction of sensitive land uses using real building design information and guided by the technical requirements provided in the Land Use Compatibility Study for the MTSAs to identify innovative approaches to mitigate adverse effects.

As such, in the Spring of 2023, staff resumed work on the Appleby GO MTSA, including the drafting of policies for the Appleby GO MTSA.

Official Plan Policies and CPPS Alignment

Since staff began the initial work with Dillon to explore the use of a Community Planning Permit System (CPPS) to implement the MTSAs, it has become clear that should Council wish to pursue a CPPS for Burlington's MTSAs, it would be advantageous to ensure alignment between the draft OP policies and the framework for any future CPP By-law.

Should Council decide to pursue the use of a CPPS in the MTSAs, input from discussion at CPRM will be used to inform the creation of the CPP By-law which will inform changes to draft Official Plan policies for the three MTSAs. Staff intend to draft and present the OPA and CPP By-laws together for concurrent consultation.

Technical Studies

Since staff last presented PL-10-22 to Council in July 2022, staff have continued to work with Dillon and their consulting partners to finalize any remaining technical studies. All technical studies available at the time of the writing of this report have been included as appendices to this report as follows:

Study Name	Study Location
Major Transit Station Area (MTSA) Phase 2 Flood Hazard Assessment Burlington GO and Downtown (March 6, 2023) WSP	Appendix B to PL-40-23
Major Transit Station Areas Land Use Compatibility Study (May 2023) Dillon Consulting	Appendix C to PL-40-23
Flood Hazard and Scoped Stormwater Management Assessments (June 5, 2023), WSP	Aldershot: Appendix D to PL-40-23 Appleby: Appendix E to PL-40-23
Scoped Environmental Impact Studies (August 2022), Dillon Consulting	Aldershot Appendix F to PL-40-23 Burlington Appendix G to PL-40-23 Appleby Appendix H to PL-40-23

The following studies are in progress but have yet to be finalized:

- Transportation Assessment
- Functional Servicing Study
- Fiscal Impact Study

Staff will make any remaining technical studies available on the project webpage, [Get Involved Burlington](#) as soon as possible and will transmit them to Council at the next possible opportunity.

MTSA Phase 2 Flood Hazard Assessment (Burlington GO & Downtown)

In consultation with Conservation Halton (CH), the City recently completed a Phase 2 Flood Hazard and Scoped Stormwater Management Assessment for Downtown Burlington and the Burlington GO MTSA (Phase 2). The Phase 2 Flood Hazard Assessment is considered the best available information for decision-making when development is contemplated in hazardous areas. For more information on the Phase 2 Flood Hazard Assessment, please visit at [Get Involved Burlington](#).

With the completion of the study, CH will be updating its approximate regulation limit mapping for the Lower Rambo and Lower Hager Creeks in order to reflect the Phase 2 study findings. CH will begin consultation in June and will update their mapping following CH Board approval in Fall 2023. For more information or to consult on the regulatory mapping, please visit [CH's Mapping & Data](#) page or contact [Conservation Halton](#).

2. Exploring a CPPS in Burlington's MTSA's

A component of the work plan for the MTSA Project included an exploration of innovative planning and development tools that may be used in the MTSA's. This advice was prepared recently in consideration of the evolving planning policy and legislative framework and culminates as the "Innovative Tools to Implement the Area Specific Plans Memo", contained in Appendix A. The "Innovative Tools to Implement the Area Specific Plans Memo" highlights the value of the use of a CPPS in achieving the objectives of the MTSA's and is referenced below.

Additionally, on March 28, 2023 at the Community Planning, Regulation & Mobility Committee of Council (CPRM), through [Report ES-02-23](#) which delivered the Parks Provisioning Master Plan, Council approved the following recommendations:

Direct the Director of Community Planning to conduct an exploration of a Community Planning Permit System as a tool to aid in the acquisition of infrastructure, parkland or monetary contribution, in exchange for

offering a more streamline and transparent approval process within the Major Transit Station Area (MTSA) specific planning process; and

Direct the Director of Community Planning to begin work with landowners in the MTSA's or any area of the City subject to an area-specific planning process to guide future development and to identify specific City infrastructure needs.

Given the Council approved staff recommendation related to exploring a CPPS contained in report ES-02-23 and the advice outlined in the "Innovative Tools to Implement the Area Specific Plans Memo," staff reoriented the scope of work and funding associated with Phase 5, (Implementation) of the MTSA ASP Planning project to support the exploration of the potential for implementing a CPPS in Burlington's MTSA's contained within this report.

The following sections of this staff report explore the CPPS tool and its potential value in implementing the MTSA's in Burlington.

Burlington Official Plan

Advanced consideration of a CPPS in the policies of an Official Plan is required to enable a municipality to use the tool. Section 12.1.14 of Burlington's Official Plan (2020) contains policies which permit the use of a CPPS in Burlington and establishes the process to establish more detailed enabling policies should the City seek to explore a CPPS within the City. These policies mirror the requirements of O. Reg 173/16.

Section 12.1.14(2) c) of Burlington's Official Plan (2020) requires:

Prior to adopting a Community Planning Permit By-law, the City shall identify one or more areas as Community Planning Permit Areas by way of an amendment to this Plan. The amendment shall:

- (i) identify the proposed community planning permit area(s);
- (ii) contain a statement of the City's goals, objectives and policies in proposing a community planning permit system for the area(s);
- (iii) include types of conditions within a community planning permit area, as provided in the applicable Ontario Regulation;
- (iv) set out the types of criteria that may be included in the community planning permit by-law, and determining whether any class of development or any use of land may be permitted by the proposed community planning permit; and

- (v) set out the scope of the authority that may be delegated and any limitations on the designation, if City Council intends to delegate any authority under the community planning permit by-law.

CPPS Enabling Policies

The contents of the required enabling policies in support of a CPPS are prescribed in O. Reg. 173/16 and must be adopted in an Official Plan prior to the adoption of a CPP By-law. Given the advantages and efficiencies of working simultaneously on the ASPs, Dillon is preparing the draft CPPS Enabling Policies, in accordance with O. Reg. 173/16 and Section 12.1.14(2) c of the Official Plan (2020) and will be included in the draft Official Plan policies upon their release, should Council choose to pursue a CPPS, .

Context for Burlington's Community Planning Permit System

What is a CPPS

A Community Planning Permit System (CPPS) is a land use planning tool available to municipalities in Ontario that combines Zoning By-law Regulations/Amendments, Minor Variance and Site Plan applications into one single application and approval process. A CPPS is administered through a Community Planning Permit By-law (CPP By-law) and replaces a traditional Zoning By-law for the area where the system applies. A CPPS can be applied city-wide or in selected areas.

The CPPS tool was originally introduced through amendments to the Planning Act in 2007 as the Development Permit System (DPS). The DPS framework was modified and re-introduced in 2017 as the Community Planning Permit System (CPPS). The CPPS tool is regulated by [Ontario Regulation 173/16 \(O. Reg. 173/16\)](#).

Some of the key components of a CPP By-law are as follows:

- Establishes requirements, such as setbacks for buildings, height of buildings, number of residential units, setbacks from the water, and parking requirements, which is similar to a Zoning By-law.
- Identifies development rules and requirements that are usually covered under separate processes (Minor Variance, Zoning, Site Plan).

- Ability to include details on site alteration, grading, tree removal, natural feature protection, shoreline controls, and floodplain and natural hazard limitations, due to its broader definition of “development”.
- Establishes permitted uses, discretionary uses and variations.
- Includes classes of approvals (e.g., Class 1 delegated to staff, Class 2 to Staff or Committee and Class 3 to Council).
- Establishes an approval timeline of 45 days for Community Planning Permit applications.
- Identifies the applicant as the only one who has the right to appeal a decision on a Community Planning Permit application to the Ontario Land Tribunal (OLT)
- Does not require mandatory public meetings as part of a Community Planning Permit application.
- Enactment of a CPP By-law by Council is subject to appeal, unless directed by the Minister of Municipal Affairs and Housing to do so.
- Amendments to the relevant official plan policies and the CPP by-law are not permitted under the legislation within five years of passing the CPP By-law, unless it has been declared by Council resolution that such a request be permitted.
- Requires upfront public consultation, including on enabling Official Plan policies and the draft by-law, but does not require mandatory public meetings on development applications once enacted.
- Does not replace the need for a building permit or the need for consent/land subdivision or other requirements not covered by a CPPS which is required once a community planning permit is approved.

While a CPPS is a relatively underutilized tool in Ontario, it has slowly been gaining traction due to the number of benefits it provides municipalities. However, given that it is a new tool for the City of Burlington some of the potential challenges associated with implementing a CPPS relate to change management. The adoption of a CPP By-law is a shift in how public consultation is typically conducted under the tools currently employed in Burlington. The CPP By-law will build upon the consultation done since 2017 through the Mobility Hubs Study and establish that vision in regulation. When a development proponent wishes to develop within the parameters set out in that vision, it is possible that they could receive a development permit through delegated authority to staff without public consultation. Other proponents may propose an application beyond the thresholds set through the CPP By-law and will require a Council approval. As such, input from Council and the public into the framework currently being established is critical prior to the adoption of any CPP By-law.

Council should be aware of these additional considerations:

- A CPPS is a new and untested tool within the Burlington context.
- Since a CPPS is a relatively underutilized tool in Ontario, other municipalities have created user guides for staff and stakeholders to support implementation. Some municipalities have also completed targeted outreach to stakeholders who are engaging with the by-law on a regular basis to support broader education.
- Both the CPP enabling Official Plan policies and the CPP By-law may be appealed, similar to any other Official Plan Amendment and Zoning By-law. However, once in force and effect, the CPP By-law cannot be amended within the first five-years of the day the by-law is passed (without Council resolution) as outlined under *O. Reg. 173/16* and there are no third-party appeals on applications.
- A decision on a Community Planning Permit application is required within 45 days of complete application to meet the Planning Act timelines. This may require broader development approvals efficiencies to meet reduced review timelines.
- Creating a new CPP By-law for Burlington's MTSA's is a large undertaking. Given the importance in balancing the need for prescription with flexibility, further refinements may need to be made once the CPP By-law is in force and effect. Other municipalities have made amendments to their CPP By-law to clarify administration, interpretation, enforcement, application class, application requirements, application process and agreement/permit requirements; provide further detail on key issues identified through the use of the By-law (e.g., outdoor storage, parking, secondary suites); and add clarification and additions to definitions after a few years of implementing the new process.
- Under a CPP By-law, community benefit charges no longer apply as the CPP By-law can require the provision of specified facilities, services and matters in exchange for a specified height or density of development.

Examples of the use of CPPS in Ontario

Across Canada there are many communities that utilize development permit systems to successfully manage growth and development approvals. In Ontario the tool has been primarily used to assist with the protection of shorelines and natural features (Innisfill) or to replace conventional zoning, town or city wide (Lake of Bays and Huntsville). While the tool has been explored in an urban context (Markham) staff is not aware of any municipality that has adopted a CPP by-law within an MTSA context to date. If adopted, Burlington would be the first municipality to implement a CPPS for an MTSA. Staff notes

that Brampton has implanted a DPS for its Main Street North Area under the former regulations.

3. Recommendation: Establish A CPPS and CPP By-law for Burlington's MTSAs

Why are staff and Dillon recommending a CPPS for Burlington's MTSAs

Given the changes to planning in Ontario and the need to ensure Burlington's MTSAs develop in a complete and comprehensive way, staff is recommending that Council move to establish a CPPS immediately, to align with the ASP work.

The City of Burlington has committed to working toward its assigned aspirational housing target of 29,000 units by 2031. As Strategic Growth Areas and the focal point for investment and growth, the MTSAs play a key role in the City's ability to meet its housing pledge.

A CPPS represents an innovative opportunity for the City to build upon years of public engagement in our MTSA areas and to work collaboratively with our industry partners in a streamlined way to not only deliver on the pledge for housing but may present opportunities to deliver complete community elements such as affordable housing, public service facilities, parks and open spaces as well as infrastructure improvements to support the growth planned for the MTSAs. While staff caution that there are risks to all approaches, the CPPS presents an enhanced opportunity to achieve MTSA objectives. The development of a CPPS for these key areas may lead to a permit process that is quicker and embeds regular and granular discussion of the community elements required to support the development of complete communities.

The following analysis has been provided by Dillon Consulting with respect to the benefits of the use of a CPPS in Burlington's MTSAs

Achieving MTSA Objectives:

A CPPS provides a number of benefits to the City compared to a zoning by-law to implement the objectives of the ASPs for managing growth within the MTSAs, including:

- Can streamline the development process: Combines zoning, site plan and minor variance into one application and approval process with shorter approval timelines (45 days).
- Utilizes the significant upfront community engagement undertaken as part of the ASPs: The CPPS relies on upfront engagement as part of the development of the CPP By-law. There are no legislated public notification/consultation requirements once a CPP by-law is in place (though many municipalities decide to incorporate some public notification as part of the CPP By-law planning permitting process).

In addition, by undertaking a CPP By-law now, it reduces the amount of time and effort needed to implement as it will leverage the significant community engagement undertaken since 2017. If this was a standalone process to implement a CPPS, significant additional effort would be needed.

- More certainty in implementation and reduced likelihood of appeals: Given that a CPP By-law clearly specifies the rule for development and any variations or discretionary uses that may be permitted, there is more certainty from the community, applicant and stakeholders on the type of development that will ultimately be approved. In addition, at the permit stage, only the applicant has the right to appeal a decision, there are no third-party appeals for Community Planning Permit applications (unlike a zoning by-law which can be held up in lengthy third party appeals). In addition, there are no requests for amendments for the first 5 years after a CPP By-law is passed, providing further certainty to the community that the vision and rule will be maintained¹.
- Broader catchment of projects: Broader definition of “development” than Site Plan Control, which adds site alteration and vegetation removal. Everything requires a permit unless otherwise exempt. The CPPS tool could capture these developments and provide a framework to guide permit requirements.
- Provides a framework for delegation of approvals: Delegation is based on classes of approvals, such as: Class 1: Standard – staff approval, Class 2: Variation – staff approval, Class 3: Variation requiring Committee or Council approval (above established thresholds). This could reduce staff effort for council reporting for applications that meet the requirements of the by-law or are within the identified staff variation. This provides a broader framework than a zoning by-law, site plan and minor variance which each have different approval bodies.
- Ability to require the provision of specified facilities, services and matters in exchange for a specified height or density of development: Under a CPPS, a municipality may identify criteria where increased height and density would be considered and tie this to a community benefits-like structure. Given the framework, the City could tie increased height and density to other community objectives, such as affordable housing. This tool is not available under a zoning by-law.
- Ability to conditionally ‘zone’: Under Zoning you may establish permitted uses only, any variations require a Zoning By-law Amendment or Minor Variance. Under a CPPS precincts/districts include permitted uses, discretionary uses and variations that will be considered (by staff and council). This allows the municipality to establish conditions in which additional permitted uses will be considered. Conditional zoning is still awaiting regulations and at this time is still not available to municipalities through a zoning by-law.

In addition, recent legislation modifies a number of elements of the Zoning By-law and Site Plan Control tools, including excluding Site Plan Control for residential buildings where the parcel will contain no more than 10 residential units, limiting the scope of Site Plan Control regarding matters related to exterior design and introducing the need to refund application fees for applications that go beyond the *Planning Act* timelines. We understand these changes do not apply to development applications under a CPPS.

Key Drivers for a CPPS

The following sections summarize the three critical factors which had led staff to recommend pursuing a CPPS instead of conventional zoning.

The Need for Affordable and Rental Housing

The MTSA ASP Planning work has identified a number of objectives that need to be achieved including planning for a diverse mix of uses, including a variety of housing options, such as additional residential units and affordable housing, where appropriate.

In June of 2022, the City of Burlington's Housing Strategy was approved by Council. The City's Housing Strategy establishes a road map and acts as a guiding document for the City to use in order to take action and work towards meeting the housing needs of the community and move the City closer to the Vision for housing in Burlington. As the Region is the housing provider for subsidized affordable housing, the Housing Strategy highlights the importance of partnering with all levels of government and the development industry to work together to deliver affordable housing. The Housing Strategy identifies a number of Actions to be implemented within the MTSAs, to support a healthy rental stock (through supporting the creation of new rental units) and a broad variety of housing types and forms.

Inclusionary zoning, also known as "IZ", is a planning tool that enables municipalities to secure affordable housing units (i.e., housing units that are sold or leased at an affordable price or rent) to be provided as part of certain developments and is available to municipalities for use in protected MTSAs. The City was undertaking a formal assessment (Municipal Assessment Report) of the potential to introduce inclusionary zoning, which was being considered through the MTSA project and the Housing Strategy project, however recent legislative changes which establish an upper limit on the total number of affordable units and prescribing the approach to determine the lowest price/rent, as well as unstable market conditions has put this initiative on hold.

As part of implementing the ASPs, it is essential that the City establish a framework to maximize the creation of a broad range of housing types and tenures. Given that a CPP By-law may establish criteria where increased height and density would be considered tied to community benefits, the municipality may tie additional density provisions to the provision for affordable housing or rental housing, as defined in the by-law.

This community benefit framework is something not available through a Zoning By-law. In order to achieve similar objectives, a municipality may be able to use a 'Holding' provision with criteria for lifting however this method provides uncertainty, adds other administrative tasks to the process and may not yield the same outcomes.

Need for Community Services, Facilities and Parks

The Area Specific Plans require development to deliver community service facilities identified through City studies and identifies a Public Realm Plan for each MTSA, which includes potential locations of new parks, public plazas, active transportation connections and new complete streets. It establishes the need for new park space through parkland dedication as well as privately owned publicly accessible open spaces (POPS). The ASP work also establishes the need to capture funds through the City's Community Benefit Charge (CBC) to contribute towards the cost of growth within the MTSA's and precincts.

Given the legislative framework for CBC and parkland dedication and the significant amount of growth and need for a full range of community service facilities within the MTSA's, additional tools need to be explored. The recent City Parks Provisioning Master Plan identified a CPPS as a tool to secure community services, facilities and parks and Council directed the further exploration of this tool. The combined single process, the ability to register agreements on title (similar to a Site Plan Agreement) and the ability to include conditions requiring the provision of specified facilities, services and matters in exchange for a specified height or density of development, may position the City better for implementing the necessary parks, services and facilities needed within the MTSA's.

Need for Employment in Mixed Use Precincts

The Area Specific Plans have identified an objective of supporting the retention and expansion of existing employment functions and encouraging new employment functions and employment uses which are compatible with other uses and serve to make each MTSA an employment destination within the City. One concern in implementing the MTSA land use plan is the mechanism the municipality can use to ensure that within the mixed use precincts sufficient opportunity for non-residential uses is provided for to meet the overall ratio of people and jobs established and support complete community objectives.

A zoning by-law has limited tools available for the City to secure office and other non-residential uses within the mixed use precincts. Some creative methods might include Zoning the first floor for non-residential uses, or creatively using a 'Holding' provision, but given the dynamic nature of site development, there is a significant risk that the non-residential and office uses do not get realized once residential uses are permitted 'as of right', given market pressures.

Since a CPP By-law may outline discretionary uses and variances that might be acceptable with associated criteria, the permission for residential can be tied to specific criteria/conditions for non-residential uses and only be provided if those established conditions have been met.

4. Next Steps

Should Council approve the staff recommendation to undertake the development of a CPP By-law, for Burlington's MTSA's, staff, in consultation with Dillon will prepare a draft CPP By-law for public consultation in the Fall, in alignment with the release of the draft Official Plan policies

Given the significant connection to the MTSA draft Official Plan Policies/Amendment, staff will be undertaking public consultation on both the draft OPA and draft CPP By-law simultaneously in the Fall and through a formal statutory process for both the OPA and CPP By-law to implement the MTSA ASPs, should Council approve staff's recommendation.

Strategy/process/risk

City building as we know it has changed dramatically over the past couple of years and the City's ability to fund or achieve the objectives of complete communities has become more challenging. At the same time, there is a significant need to bring new development and create new homes and jobs in Burlington, and these new residents and employees will need access to amenities to meet their daily needs. Given the recent and ongoing legislative changes, cities across the Province are exploring new and innovative ways to provide land use controls that best support growth management objectives while securing the necessary community services, facilities and parks to support complete communities.

While there may be some creative methods to establish a framework through a variety of well-crafted by-laws (zoning, site alteration, municipal capital facilities, etc.) that can achieve several elements of the MTSA objectives, there is a significant potential for conflict, misinterpretation and appeals in a piecemeal approach. In addition, there are several limitations of a zoning by-law, as described above. A comprehensive CPP by-law that builds on the significant community and stakeholder engagement through the

Mobility Hubs/MTSA processes, establishes a framework to guide growth with clear expectations for all parties involved would best support the City's community building objectives.

The City of Burlington is at a critical point in planning its MTSA's. There is significant risk that the City will not be able to achieve the objectives set out for the MTSA's. This is true regardless of the path Council takes for implementing the MTSA's. While there is no perfect tool to achieve the City's objectives, through the adoption of OPAs and implementation of the MTSA's through traditional zoning alone, the City will be less likely to achieve many of its objectives. The implementation of the MTSA's using a CPP By-law is likely the City's best chance at achieving the objectives of the MTSA work.

It is imperative that the implementing or regulatory framework, the proposed CPP By-law, be closely aligned to the OPA for the MTSA to ensure that the potential for these areas is unlocked and that both the development industry and the City can work towards the aspirational housing pledge to 2031. The City needs to explore new and innovative ways to implement the vision of the MTSA's, secure community amenities that reflect the values and priorities of the community and establish a framework to capture value and land to support sustainable long term growth. The use of a CPPS will allow the City to better ensure that the MTSA's develop in a streamlined and flexible way while encouraging the faster approval of new housing units and achieving the supporting elements necessary to make these areas great places to live, work and play.

Burlington's MTSA's have been identified as Protected MTSA's (PMTSA's) in the Halton Regional Official Plan. As such, certain elements of any adopted OPA are not subject to appeal as outlined in the Planning Act, however the remaining elements of the OPA are appealable. The adoption of an OPA for the MTSA's is a critical step in unlocking the potential of these areas however it is not the last step. It is important that the supporting and detailed CPP By-law be brought forward to provide the regulatory framework that is the catalyst for the critical discussions between the City and our development partners which will lead to better communities in our MTSA's.

Financial Matters:

Total Financial Impact

Following the staff recommendation approved through report ES-02-23 at CPRM on March 28, 2023, Community Planning staff have been exploring the use of a CPPS in our MTSAs to support the City's objectives of achieving parkland and other complete community elements. To date, the work to inform the use of a CPPS in Burlington's MTSAs has been funded through the MTSA ASP Planning Project. Phase 5 (Implementation) of the original MTSA ASP Planning Project included establishing the framework to establish Urban Design Guidelines for the MTSAs as well as for regulation of the MTSAs through Zoning. In consultation with Dillon, the Phase 5 budget for the project has been reallocated from a focus on both Urban Design and Zoning guidance to better support the implementation of the MTSAs through the exploration of a CPPS. Staff has used the project budget for Phase 5 to complete the background and directions report in consultation with Dillon.

Should Council choose to proceed with a CPPS for the MTSAs, additional budget in the amount of \$120,000 exclusive of HST would be required. This budget includes a \$20,000 contingency amount which is being identified for the purposes of staff training on the administration of this new system.

Source of Funding

Staff recommends that the funding be sourced from the Planning Fee Stabilization Reserve Fund. The Planning Fee Stabilization Reserve Fund is to be used to alleviate fluctuations in planning revenues. Investment in a CPPS in our MTSAs, as an alternative regulatory tool that streamlines development, would mean that areas expecting significant growth over the long term would not be subject to Bill 109 fee refunds. A CPPS should mitigate Bill 109 fee refunds by supporting faster processes and decision making, while maintaining the reliability of planning fee revenues, thus reducing the need to rely on stabilization fees in the long term.

Other Resource Impacts

The amount of \$120,000.00 is attributable to consulting work related to the creation of a CPP By-law. Should Council approve proceeding with a CPPS, significant staff time will be required support Dillon on the creation of the CPP By-law through project management and support, all mapping/schedule work and all engagement and communications matters related to the project and in close alignment to the statutory components of the MTSA ASP Planning Project, occurring simultaneously.

Staff supporting the work of Dillon Consulting, with significant experience in establishing CPPS frameworks is an important capacity building opportunity for staff.

Climate Implications:

Burlington's MTSA's play a key role in the sustainable growth of our city and to battle climate change. The draft Official Plan policies and draft CPP By-laws will both reflect the importance of sustainable development and its role in fighting climate change.

Engagement Matters:

Staff have engaged with interested/affected parties since the July 5th CPRM both informally and formally including the Food for Feedback event held on Saturday, September 17, 2022. At Food for Feedback, staff presented a posterboard that summarized the feedback received to date which had been summarized into 10 themes. Attendees were asked to review the feedback, place dot stickers on the themes that they agreed with as mattering to them when planning for complete communities and write on a Post-it note anything they felt was missing or would like to elaborate on.

Approximately 600 people attended the Food for Feedback event. The event confirmed that all themes were important to the public, as each theme received at least one dot sticker during the event. 'Variety of Housing Options and Affordability', 'Climate Change', and 'Traffic Congestion and Multi-Modal Connectivity' were most frequently identified by attendees as being important issues. 35 Post-it notes were also filled out and added to the board by the public. The most frequent comments written on the Post-it notes related to the desire for specific types of parks and community facilities, such as community gardens and shade/sheltered spaces, late night transit service, and increase in housing affordability and housing options.

Staff have engaged with a number of interested/affected stakeholders including many members of the development community on the MTSA ASP Planning Study Final

Report, the precinct plans and policy directions. Feedback from engagement initiatives since July 2022 has reinforced the importance of achieving complete communities in the MTSA's, including the provision of parks and other public service/community amenities as well as the need to collaborate and innovate with our development partners to achieve the City's housing goals and MTSA Objectives.

CPPS Engagement:

To this point, staff have been exploring the possibilities of the use of the CPPS tool to implement and support growth in Burlington's MTSA's internally and with Dillon. Any feedback received from the consideration of this staff report will inform the creation of a Draft CPP By-law and the draft Official Plan Amendment, as appropriate. Staff are available for the duration of the summer to discuss a CPPS/CPP By-law with the public and have committed to on-going dialogue with HDLC and development partners in the creation of the CPP By-law. Staff will be reserving time beginning in July for on-going discussions with interested/affected parties and specifically members of the development community on the development of a CPP By-law which will be posted on the project's Get Involved Burlington page.

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Should Council approve Staff's recommendations, staff will release draft Official Plan policies and a draft CPP By-law for engagement in August in preparation for the initiation of the statutory public meeting process. Beginning in September, Staff will undertake an engagement and communication initiative around the contents of both documents. Dates of this engagement will be posted to Get Involved Burlington as soon as they are available.

Staff are interested in working collaboratively with our development industry partners to jointly achieve the objectives of the MTSA Area Specific Plan and invite them to share their development plans and visions for their respective sites so that we can achieve alignment of those visions in the draft Official Plan Amendment and draft CPP By-law, should Council approve staff's recommendation.

Conclusion:

The Community Planning Permit System presents a promising approach to clarify expectations for development, to streamline development approvals and to achieve the objectives of the MTSA's based on extensive community conversations.

Respectfully submitted,

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Karyn Poad, Senior Planner, Policy & Community

Rebecca Lau, Planner, Policy & Community

Samantha Romlewski, Senior Planner, Policy & Community

Appendices:

- A. Innovative tools to implement the Area Specific Plans Memo (June 6, 2023), as prepared by Dillon Consulting Limited
- B. Major Transit Station Area (MTSA) Phase 2 Flood Hazard Assessment Burlington GO and Downtown (March 6, 2023), as prepared by WSP
- C. Major Transit Station Areas Land Use Compatibility Study (May 2023), as prepared by Dillon Consulting
- D. Flood Hazard and Scoped Stormwater Management Assessment – Aldershot (June 5, 2023), as prepared by WSP
- E. Flood Hazard and Scoped Stormwater Management Assessment – Appleby (June 5, 2023), as prepared by WSP
- F. Scoped Environmental Impact Study – Aldershot (August 2022), as prepared by Dillon Consulting
- G. Scoped Environmental Impact Study – Burlington (August 2022), as prepared by Dillon Consulting
- H. Scoped Environmental Impact Study – Appleby (August 2022), as prepared by Dillon Consulting

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.